

*PART A

Report to: Licensing Committee
Date of meeting: 9 January 2012
Report of: Head of Environmental Services
Title: Licensing Act 2003 Annual Report for 2011

1.0 **SUMMARY**

1.1 The Council is responsible under the Licensing Act 2003 for licensing alcohol, regulated entertainment and late night refreshment within the Borough, which came into force on 24 November 2005. This is the fifth annual report on the operation of the Act within the Borough.

1.2 The national economic position has affected local premises, with several premises being closed, transferred or changed as a result. At the same time, new premises (principally off-licences) have opened. Nationally, the Government has both introduced and proposed new legislation to amend the Licensing Act.

2.0 **RECOMMENDATIONS**

2.1 That the Licensing Committee notes the report and makes any recommendations it feels fit.

Contact Officer:

For further information on this report please contact: Jeffrey Leib (Licensing Manager) on telephone extension: 8429, email: jeffrey.leib@watford.gov.uk.

Report approved by: Alan Gough, Head of Environmental Services

3.0 Introduction

3.1 Under the Licensing Act 2003, Watford Borough Council has responsibility for licensing alcohol, regulated entertainment and late night refreshment. This encompasses the determination, grant, administration and enforcement of premises licences, club premises certificates, personal licences and temporary event notices to authorise those activities to take place.

3.2 The Act requires the licensing authority to produce a statement of licensing policy in consultation with specified stakeholders. Any decisions in relation to the Act must be in furtherance of the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm. The licensing authority is required to have regard to statutory guidance issued by the Secretary of State and approved by Parliament in the exercise of its functions.

3.3 There are now 294 premises (included qualifying clubs) licensed under the Act, one fewer than last year. However, during 2011 we received thirteen applications for new premises licences. Although two were to replace existing premises licences, there was one more application than during 2010. There is one less qualifying club this year following the surrender of the certificate for West Watford Conservative Club.

3.4 Twenty seven hearings were scheduled for licensing sub-committees during 2011, six more than 2010. Thirteen of those were vacated, one fewer than during 2010.

Interested parties made representations concerning eighteen applications. The Police made representations about seven applications (three fewer than in 2010). Councillors and Environmental Health made representations on two applications apiece, and Fire and Planning made representations on one application each. These all relate to representations that were not withdrawn.

	2008	2009	2010	2011
Scheduled hearings	30	21	28	27
Vacated hearings	7	7	13	7

Nationally, on average 12 applications per local authority go to committee.

3.5 The table at appendix 1 sets out a comparison of hearings and appeals over the last few years. Officers again conducted several successful mediation meetings that resulted in representations being withdrawn without the need for hearings.

3.6 Eighteen new premises licences were applied for in 2011 (compared to eleven in 2010 and 19 in 2009) in respect of:

<i>Alcohol on-sales and other licensable activities</i> (6 applications in 2010)	Paparazzi* (formerly licensed as Kandi Klub)
<i>Alcohol off-sales</i> (2 applications made in 2010)	Watford Off-Licence Rose Grocers Icely Done Ltd News Plus (refused) DKSR* (2 applications refused) Tesco, High Street
<i>Restaurants</i> (0 applications made in 2010)	Chimichanga Jimmy Spices Wagamama Steakhouse Carluccio's Caffè Zizzi 36 Market Street Its Rodells Best Café* (previously licensed as Sunrise Café) Bellissimo
<i>Late-night refreshment only</i> (1 applications made in 2010)	None (but all the above restaurants have late night refreshment on their licences)
<i>Regulated entertainment only</i> (2 applications made in 2010)	None

* New application for previously licensed premises

3.7

Changes to licences

The table below sets out the amount of licence variations, transfers and variations to designated premises supervisors in 2007 - 2010. No objections to changes in designated premises supervisors or premises licence holders were lodged by the Police.

	2007	2008	2009	2010	2011
Licence variation	25	20	11	12	37
Licence transfer	26	27	26	25	28
Variation to designated premises supervisor	22	91	94	55	80
Interim authority notices	0	2	2	0	3

3.8

During 2011, eight premises surrendered their authorisations compared to nine in 2010:

- (1) Bellissimo
- (2) Trattoria Carnevale

- (3) Polish Village
- (4) Ring-a-Delivery Ltd
- (5) Vogue
- (6) Agora Sports Bar
- (7) Agora Gaming Centre
- (8) 230 St Albans Road (off-licence)

3.9 Minor Variations

A procedure to allow minor variations to be made to premises licences and club premises certificates was introduced in July 2009. This allows minor changes to be made to premises (such as the addition of live music, or minor structural alterations) without the need for the full lengthy and expensive variation process. The table below illustrates the number of applications:

	2009	2010	2011
Minor variation applications received	5	13	19
Minor variation applications approved	3	12	19

3.10 Premises supervisors in community premises

For the third year, there have been no applications under the arrangements to allow community premises to sell alcohol under the authority of a management committee rather than a designated premises supervisor.

3.11 Temporary Event Notices

The chart below indicates the number of temporary event notices (TENs) received each year by the council. The Police issued 14 objection notices in 2011 (against 17 in 2010) on the grounds that the TEN would be likely to undermine the crime prevention objective.

Year	Number of TENs
2005	81*
2006	177
2007	410
2008	207
2009	255
2010	338
2011	202

* Only relates to 24 November (when the Act commenced) to 31 December 2005

3.12 The Police made representations about 14 temporary event notices (compared to just 13 in 2010) and seven sub-committees were convened to consider those (one less than during the previous year). Seven TENs were refused, one was withdrawn and a number were not valid.

3.13 Twenty temporary event notices rejected for reasons such as failing to give insufficient notice of their event rather than the ten clear working days demanded by the legislation.

3.14 Personal licences

As initially predicted in 2005, the number of personal licence applications has declined considerably, partly because many licence-holders under the previous legislation now hold personal licences, and partly due to the factors mentioned elsewhere in this report. The table below shows the numbers of personal licences issued since 2005. There were no applications referred to the Licensing Sub-Committee owing to Police representations during the year.

Year	Number of personal licences
2005	303
2006	115
2007	74
2008	80
2009	81
2010	72
2011	62

3.15 As far as officers are aware, none of the personal licences issued by the licensing authority has been revoked by the courts following convictions for a relevant offence. However there remains concerns nationally that not all licensees appearing before criminal courts disclose the fact they are personal licence holders (as legally obliged to), and that the courts do not properly understand their powers in such circumstances.

3.16 **Statement of licensing policy**

The table below sets out applications for premises licences within the town centre covered by policy LP3 Creating a Family-Friendly Town Centre, although it should be borne in mind that the area was slightly enlarged from January 2011.

3.17

	Applications	Hearings not required	Applications where special saturation policy did not apply ¹	Appeals against sub-committee's decisions
2005/6	27	3	12	3
2007	10	1	5	0
2008	14	2	4	2
2009	11	1	0	1
2010	7	0	1	1
2011	8	2	0 ²	0

¹ This is because either alcohol sales were not the principal activity or where the application was not intended to extend the hours beyond midnight.

² New exceptions set out in policy LP3 applied to applications from January 2011

3.18 According to Government figures, as of 31 March 2010 there were over 129 cumulative impact areas in England and Wales, an increase of 5 since March 2009, although it is understood Watford's is the only one in Hertfordshire and one of only five in the East of England.

3.19 Interaction with other policies:

The Council's approach to licensing continues to fit in with a number of other relevant strategies:

- (a) Making Watford a safer town, in the current sustainable community strategy 2026;
- (b) the Watford community safety partnership's a mandatory alcohol harm reduction plan. Reducing alcohol-related crime is a current strategic priority for 2011 – 2014;
- (c) the Council's 24-hour economy strategy, agreed in 2009.

3.20 **Compliance and Enforcement**

The Council's licensing enforcement officers, Police and Trading Standards have continued to work proactively and reactively to ensure compliance with licensing legislation.

3.21 The licensing authority received 117 service complaints from the public about all licensing activities during 2011, of which seventeen concerned licensed premises. This is partly due to the generally high standards of compliance amongst licence-holders and proactive enforcement by officers in co-operation with the Police licensing team.

	2007	2008	2009	2010	2011
Premises opening hours	3	4	1	4	1
Door supervisors	4	2	0	2	2
Noise from premises	11	11	5	8	5
Underage sales	1	4	3	0	2
Advertisements	1	0	2	0	0
Unlicensed activities/other	5	1	1	5	2
Public safety	*	0	0	1	3
Child protection	*	1	0	1	0
Crime and disorder	*	3	3	1	2

* Not separately recorded in 2007

3.22 Closure powers

Aside from reviews of premises licences and club premises certificates, the Police and Council have various powers to deal with premises that are being operated noisily, in a disorderly manner, or in breach of licensing conditions. These were not used in 2009 or 2010. In 2011, both licensing authority officers and Police licensing officers issued "closure notices" under section 19 of the Criminal Justice and Police Act 2001. In one case this was used where no appropriate designated premises supervisor was in place; the

second was to prevent the sale of alcohol after the premises licence had been surrendered.

3.23 Test purchases

The Licensing Act 2003 allows the licensing authority to bring prosecutions for under-age sales and proxy sales (where adults buy alcohol for children under 18 from on- and off-licensed premises). Trading Standards have a duty to conduct test-purchasing operations within off-licences and the Police take the lead for test-purchasing within other licensed premises.

3.24 The table below sets out test purchase operations conducted by Trading Standards in the Borough:

	2007	2008	2009	2010	2011
Number of operations	6		1	2	1
Number of premises tested	19	9	5	12	4
Number of failures, that is, sales made to under-age volunteer	1	3	0	0	0
Number of passes	18	6	5	12	4
Number of fixed penalty notices issued		2	0	0	0
Number of review applications made	1	0	0	0	0

3.25 Licensing Reviews

	2006	2007	2008	2009	2010	2011
Number of review applications	4	1	0	0	3	0

3.26 Inspections and monitoring

Regular inspections of premises are conducted by licensing enforcement officers from the Council and Police. These are based either on specific intelligence or on a risk-based approach.

3.27 Seventy-five premises were inspected in 2011, which is less than last year simply because there were fewer low-risk premises within the inspection cycle.

Year	2007	2008	2009	2010	2011
No of inspections	59	169	158	143	75

3.28 In 2011, as part of the Council's revised licensing policy, well-run and therefore low risk premises were inspected every three years instead of every two years under the previous policy. Further changes are being considered for 2012 which will see even fewer premises inspections being conducted in order to concentrate resources on higher-risk and proactive issues.

3.29 Gambling Act 2005

The Gambling Act imposes a duty on the licensing authority to issue permits for gaming machines in alcohol-licensed premises, and to regulate other

low-stake gambling, e.g. poker. Premises have an automatic entitlement to two gaming machines and may apply for a permit for more than two machines.

- 3.30 The number of *applications (including renewals) for permits* relating to alcohol-licensed premises is set out below. This does not reflect the number of *premises* that have gaming machines however, as many premises are still reliant on authorisations granted by the Magistrates' Court under the Gaming Act 1968.

	2005	2007	2008	2009	2010	2011
Automatic entitlement	0	0	8	10	12	5
More than two machines	1	4	6	5	11	6

3.31 Drinking Banning Orders

Powers under the Violent Crime Reduction Act 2006 for the Council or Police to apply for a drink banning order (dubbed "alcohol ASBOs") in the civil courts came into force in 2009, although none have been applied for in Watford. Post-conviction DBOs, under which criminal courts must consider whether to impose an order on defendants convicted of alcohol-related offences, were introduced locally in November 2010. It is understood that three post-conviction orders have been made locally since then. The following information was provided by the Ministry of Justice following a Freedom of Information Act request:

Number of orders given by magistrates' courts in Hertfordshire since the provisions were introduced

	Total
Hertfordshire	6

Source: HMCTS Libra Management Information System.
Data supplied up to and inclusive of 30 June 2011.

Regional breakdown of the number of orders issued under section 6

	Total
London	1
Midlands	48
North East	114
North West	20
South East	19
South West	152
Wales	9
Total	363

Source: HMCTS Libra Management Information System.

Data supplied up to and inclusive of 30 June 2011.

Note: volume variation is due to different rollout periods of the new provisions.

Work is continuing in conjunction with the Police Community Safety Unit to ensure magistrates are aware of the need to use their powers effectively.

3.32 **Crime and disorder**³

The Community Safety Partnership's draft strategic assessment for 2011/12 sets out the following headline figures for the year ending 31 July although the following figures are not audited or generally publicly available:

- (a) 875 alcohol related offences were committed in 2010/2011;
- (b) there was a 17.5% drop in alcohol-related offences compared to a 15.9% increase in 2009/10;
- (c) Watford is tenth-worst in the county for the third consecutive year for alcohol-related crime with a current ratio of 10.7 crimes per 1000 population;
- (d) 64.7% of alcohol-related offences in 2010/11 were "violent" (according to Home Office classifications) against 70.3% in 2009/10. Just over a quarter of the 2010/11 offences however included causing public fear, alarm or distress which would not perhaps be ordinarily considered to be a "violent" offence;
- (e) 68.6% (600 offences) of all alcohol-related crime occurred in the town centre (C1A beat), a decrease from 71.8% (763 offences) in 2010/1;
- (f) 22.7% of all alcohol-related offences in the Borough resulted in Actual Bodily Harm and other injury (199 of the 875 offences), with 119 of those occurring within C1A;
- (g) Callowland ward (C4A beat) recorded the second highest number of offences (6.4% of the total) , increasing from 31 to 40 offences;
- (h) Vicarage ward (C1E beat) has experienced a decline from 51 offences to 27 offences. This ward was the second-highest in 2009/10 and is now the third highest;
- (i) Crimes categorised as "violent" and "most serious violent" have both declined compared to the previous year's assessment. These are reported here but not all of them would be attributable to alcohol-related offences or associated with licensed premises.

3.33 88.8% of offenders are male and 78.3% of White European ethnic

³ The figures in this and the following paragraphs are drawn from the CSP's draft strategic assessment and so have not been officially verified at the time of compiling this report.

appearance. The average age for offenders was 28.

- 3.34 The young people substance misuse team report there are two residents of the district aged under 18 (down from 10 the previous year), who are currently receiving treatment for alcohol abuse; this places the Community Safety Partnership joint third out of ten within the county. Watford now however has the highest number of clients in Hertfordshire aged over 18 in alcohol treatment, with 234 clients.
- 3.35 **Alcohol and health information**
Appendix 2 shows relevant alcohol-related statistics that have been obtained from the Local Alcohol Profiles on the North West Public Health Observatory (www.nwph.net).
- 3.36 The 2009 figures for alcohol-attributable mortality show a decline compared to previous years, particularly for females, although alcohol-attributable hospital admissions for men and women are both higher in 2009 than the previous four years. Alcohol-related crime however follows a downward pattern.
- 3.37 Hertfordshire as a county compares well to other areas of the country. Watford compares “significantly worse” than the England average in only category, where it is ranked 276 out of 326 local authority areas where the main medical reason for claiming Incapacity Benefit or Severe Disablement Allowance is alcoholism (see appendix 2 for the full description of this indicator).
- 3.38 Watford is also significantly better than the England average in a number of areas:
- (a) alcohol-specific hospital admissions for under 18s;
 - (b) alcohol-specific hospital admissions for males and females over 18;
 - (c) alcohol-attribute hospital admissions for males (and no significant difference for females);
 - (d) number of employees in bars as a percentage of all employees although there is no comment in the LAPE on whether a better or worse figure is more desirable.
- 3.39 There is no significant difference between the rates of binge drinking in Watford compared to the England average.
- 3.40 **Licensing initiatives**
The licensing team has continued to work on and develop a number of initiatives involving licensed premises and licensable activities:
- 3.41 Pubwatch
Officers have continued to work with pubs and clubs through the three

Pubwatch schemes. Apart from the town centre scheme in latter months, attendance at meetings by venue managers has been patchy.

3.42 Monthly door supervisor meetings have continued throughout most of the year, attended by council and Police officers.

3.43 Off-Watch

Officers have not devoted much resources to the Off-Watch scheme this year, as attendance and commitment at meetings by business owners has been very low. However, officers are confident in this level of activity given the very low level of failed test purchases; the lack of complaints about under-age and proxy sales in particular; and that there has been no identified need to run Operation Carbine during 2011 (our multi-agency anti-social behaviour and under-age drinking campaign).

3.44 Taxi marshalling

During the 2010/2011 financial year, the County Council funded 55% of the scheme for Friday and Saturday, with WBC arranging the funding for the remainder and for Monday evenings. In November the scheme was extended to provide two further marshals in Sainsbury's car park, and discussions are currently taking place with Hertfordshire County Council to implement a permanent traffic regulation order to facilitate a permanent taxi marshalling area there.

3.45 Contributions from licensed premises means that no contribution has been required from the Council tax-payers for the fourth successive year.

3.46 Three Strikes Scheme

This scheme has operated since December 2006, and was modified at the end of 2010. It now applies to all alcohol and drug-related offences committed in the town centre between 6 pm and 6 am. People who are arrested, charged or receive penalty notices for disorder (PND) are given a first 'yellow card' warning. A second arrest, charge or PND within twelve months leads to a referral to Pubwatch for a six-month Pubwatch ban, which can be reduced by half after attending an alcohol diversion education course. A total of 290 yellow cards had been issued to 24 November 2011, and only eight red cards, with most detected offences involving drugs (39.1%); public order/drunkenness (32.83%); and assaults (17.17%). The largest majority of offenders were Watford residents (33.76%) followed by other Hertfordshire residents (21.38%).

3.47 Officers currently provide the resources to send out the Three Strikes literature and to bring referrals to the Pubwatch scheme, but this is currently under review.

3.48 Safer Watford Partnership

During 2011, officers have helped to deliver the Council's statutory alcohol harm reduction strategy by participating in the work of the alcohol harm reduction plan, and in the work of the Anti-Social Behaviour Action Group. This has included analysis of Police data to try and identify trends for victims

of alcohol-related crime in order to consider designing suitable intervention projects.

3.49 Altogether A Safer Watford

This project was launched in 2010 by the Community Safety Partnership to address the increase in night-time alcohol-related crime. It introduced a number of measures including:

- (1) helping create a safer working environment for taxi drivers at night;
- (2) producing an educational DVD for showing in licensing premises and local cinemas to advise the public of the consequences of drunken behaviour;
- (3) a poster campaign to reinforce the above, targeting young people;
- (4) working with the Turning Point treatment agency to help distribute alcohol awareness “binge backs”;
- (5) use of Police officers, door supervisors, taxi drivers and CCTV operators early on in the evening to identify people who arrive in the town already drinking alcohol. Those individuals are refused entry to premises or are directed by the Police under the Violent Crime Reduction Act to leave the town centre for up to 24 hours;
- (6) production of a map for night-time economy users showing dispersal routes, taxi ranks, public transport etc;
- (7) an operation to target under-age drinkers.

3.50 Purple Flag

Officers and partners have submitted an application in recent weeks for Purple Flag accreditation for management of the night-time economy. The Altogether A Safer Watford’s work has been temporarily subsumed into that group.

3.51 Safety Advisory Group

Officers continue to play a role in the non-statutory multi-agency Safety Advisory Group advising on safety and licensing.

3.52 **National initiatives**

There have been continuing national developments in relation to licensing and alcohol over the last year. The Government has indicated its support for the Live Music Bill which has passed through the Lords and is now before the Commons. It is expected the Bill will be given Royal Assent on 20 January 2012 and will allow alcohol-licensed premises to provide live music before a maximum of 200 people between 8 am and 11 pm without the need for specific authorisation or subject to licence conditions. However, following a successful application for review, such conditions can be added back onto that licence. Live unlicensed music will also be allowed

in premises that fit the description of a “workplace”, subject to the same occupancy and temporal restrictions. Live unamplified music will not require any licensing at all between the times stated.

- 3.53 The Council responded to the Government’s proposal to remove many of the licensing requirements surrounding regulated entertainment as currently defined in schedule 1 to the Licensing Act.
- 3.54 Policing Reform and Social Responsibility Act
This Act is expected to be introduced in two stages, in April and October 2012. It followed the Government’s consultation paper on ‘Rebalancing the Licensing Act to which the Council responded. The key implications contained in the legislation are set out in appendix 3.
- 3.55 Powers to implement early morning restriction orders or late-night levies are perhaps the two most contentious in the Act. Licensing authorities can choose to implement one of those measures if they wish, but not both at the same time. Although officers see there may be a case for considering an EMRO for the town centre, they are not persuaded that a late-night levy will be productive for a number of reasons including:
- (a) the significant amount of resources that will be needed to implement and administer the levy;
 - (b) that at least 70% of the proceeds will be passed to the Police authority and which may not be necessarily ring-fenced for policing Watford’s night-time economy;
 - (c) as indicated above, town centre venues already significantly contribute to the town’s taxi marshalling scheme on a voluntary basis. It is estimated (with a maximum late-night levy of £4400) that a levy will reduce the overall value of the voluntary contributions;
 - (d) if the licensing authority decided to apply the levy to all premises open after midnight, it would make premises outside the town centre pay for town centre services such as policing and street cleaning which may be unfairly penalising them. If the levy is applied to premises after 1 am or 2 am, it will probably capture a smaller number of premises although payments will be required from other premises such as late-night take-aways that do not currently contribute to the taxi marshalling scheme; and
 - (e) the economic impact of the levy should be considered against the new power to charge higher licensing fees.
- 3.56 Early in 2012 the Government is expected to publish an alcohol strategy to update the last Government’s alcohol plans. It is proposing to ban the “below cost” sale of alcohol, that is making it illegal to sell alcohol for less than the cost of duty and the VAT that ought to be paid on it. The minimum price for a can of lager for example will therefore be about 38p. It is

expected licensing authorities will have a role to play in enforcing this.

3.57 **Future Plans**

A business process review of all of the licensing team was conducted during 2011 in order to identify savings of around £42,000. Officers are still working through the conclusions from the review, which might see changes such as other officers becoming more involved in Licensing Act applications.

4.0 **IMPLICATIONS**

4.1 **Financial**

4.1.1 The Head of Strategic Finance comments that there are no financial implications arising from this report.

4.2 **Legal Issues** (Monitoring Officer)

4.2.1 The Head of Legal and Property Services comments that there are no legal implications arising from this report.

Appendices

Appendix 1 – Licensing hearings and appeals

Appendix 2 – Local Alcohol Profiles for Hertfordshire

Appendix 3 – Summary of Licensing Act amendments by Policing Reform & Social Responsibility Act

Background Papers

Local Alcohol Profiles for England

Policing Reform & Social Responsibility Act 2011

Safer Watford Draft Strategic Assessment 2011/12

File Reference

None