

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Classification of Film

Meeting/Date: Licensing Committee - 20 October 2015

Executive Portfolio: Councillor Roger Harrison, Executive Councillor for Strategic Economic Development and Legal

Report by: Chris Stopford, Head of Community

Ward(s) affected: All

Executive Summary:

The Council's responsibilities relating to film classification are now incorporated into the Licensing Act 2003 so it is necessary to adopt a policy and procedure and to delegate powers for authorisation. The Council's existing Constitution delegates all functions under the Licensing Act 2003 to the Licensing Committee.

This report presents an updated policy for the determination of applications, and seeks to further delegate the responsibility for determining applications.

The cost of undertaking the function will be absorbed within the Licensing Team.

Recommendation(s):

- (a) That members consider and approve the adoption of the policy and procedure for the classification of film, attached as Appendix 1 to the report.
- (b) That the Head of Community, or in his absence the Licensing Manager; in consultation with the Chair and Vice Chair of the Licensing Committee or a nominated representative of the Licensing Committee, be authorised to determine requests to amend the classification of films by the British Board of Film Classification (the BBFC) and to classify films that have not been classified which are intended for public exhibition in the District.

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1. WHAT IS THIS REPORT ABOUT/PURPOSE?

- 1.1 In June 2002, the Licensing and Protection Panel authorised the Licensing and Applications Sub-Group to determine requests to amend the classification of films by the British Board of Film Classification (the BBFC) and to classify films that had not so been classified, but were intended for public exhibition in the District.
- 1.2 Since then, the Council's responsibilities relating to film classification have been amended and incorporated into the Licensing Act 2003. This report seeks approval of the Licensing Committee therefore, to approve a policy and procedure for dealing with such matters and to delegate the powers of authorisation.
- 1.3 Section 26 of the Counter-Terrorism and Security Act 2015 places a duty on Huntingdonshire District Council to have 'due regard to the need to prevent people from being drawn into terrorism'. The use of unclassified film to promote terrorism is considered to be a National threat. The proposed policy includes measures to ensure that the Council has regard to this additional duty.

2. WHY IS THIS REPORT NECESSARY/BACKGROUND

- 2.1 Section 20 of the Licensing Act 2003 contains a mandatory condition that the admission of children be restricted in accordance with any recommendation made by a person or persons designated as a 'film classification body' under Section 4 of the Video Recordings Act 1984 (currently only the BBFC). Where the film classification body is not specified, then the admission of children must be restricted in accordance with any recommendations made by the Licensing Authority.
- 2.2 The BBFC performs a national film classification role on behalf of local authorities, acting as regulator across the United Kingdom in classifying films, trailers and advertisements. However there is not a single legal system and account is taken of different legal systems that coexist, including the Licensing Act 2003.
- 2.3 We should not duplicate the role of the BBFC; however the Council, as the Licensing Authority, is the classification body for the public exhibition of unclassified film shown in the district. It may also be asked to reclassify films or receive appeals from distributors against BBFC decisions.
- 2.4 In addition the Licensing Authority can issue a classification waiver which permits the exhibition of film within the local area without a classification, but subject to certain conditions and restrictions.

3. OPTIONS CONSIDERED/ANALYSIS

- 3.1 To enable the Council to perform its statutory functions under the Licensing Act 2003, relating to the exhibition of film, it must have a policy and procedure in place for dealing with such matters. Having a policy in place will enable a consistency of practice and leave us less open to challenge.
- 3.2 Attached as Appendix 1 is a Policy for Determining Film Classification, setting out matters such as the background, procedure, process, classification, authorisation and exemptions. It also addresses the protection of children from harm objective.

**4. KEY IMPACTS/RISKS?
HOW WILL THEY BE ADDRESSED?**

- 4.1 Having a procedure in place will ensure films are classified appropriately and negate the risk of moral or psychological harm being caused to members of the public, in particular children, by film exhibitions containing strong language, horror/violence or sexual expletives.

5. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION

- 5.1 The procedure and scheme of delegation will be brought into effect immediately.

6. LINK TO THE CORPORATE PLAN

- 6.1 A strong local economy, working with our communities, ensuring we are a customer-focused and service-led council.

7. LEGAL IMPLICATIONS

- 7.1 The public exhibition of film on licensed premises must either be classified by the BBFC or authorised by the Licensing Authority under the powers of the Licensing Act 2003. Paragraph 2(1) (b) of Schedule 1 of the Act defines the exhibition of a film as regulated entertainment. Section 20(3) states that where film is not classified by the relevant classification body, the admission of children to the screening of that film must be restricted in accordance with any recommendation made by the Licensing Authority. The admission of children to the public screening of material unclassified by the film classification body is therefore subject to authorisation by the Licensing Authority in accordance with the powers of the Act.

- 7.2 Section 136 of the Act states that a person commits an offence if they carry on, or attempt to carry on a licensable activity on or from any premises otherwise than in accordance with an authorisation, or knowingly allows a licensable activity to be so carried on. A person guilty of such an offence is liable on summary conviction to up to six months imprisonment and/or a fine not exceeding £20,000.

- 7.3 It is vital therefore that we have the correct policy and procedures in place to enable us to fulfil our statutory duties.

8. RESOURCE IMPLICATIONS

- 8.1 The cost of carrying out any form of film classification will be met from within existing licensing budgets. The service will be delivered from within the existing Licensing Team resource.

9. OTHER IMPLICATIONS

- 9.1 The Licensing Authority has a duty under the Licensing Act 2003 to promote the Licensing Objectives. Of particular importance in this respect is the protection of children from harm. The Licensing Authority must have regard to its Statement of Licensing Policy, any Statutory Guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1988. The Council must also fulfil its obligations under Section 17 of the Crime and Disorder Act 1988 to do all that it reasonably can to prevent crime and disorder in its district.

9.2 Paragraphs of the Home Office Guidance issued under S182 of the Licensing Act 2003 (March 2015 edition) of particular relevance are:

- Paragraph 2.21 – the protection of children from harm
- Paragraph 2.26 – conditions relating to the protection of children from harm
- Paragraph 2.29 – Mandatory condition in relation to the admission of children for films to be restricted.
- Paragraph 10.17 – Censorship
- Paragraphs 10.61 & 10.62 - Exhibition of film
- Paragraph 13.55 – Children and cinemas

10 REASONS FOR THE RECOMMENDED DECISIONS

10.1 Having a policy and procedure in place will aid consistency of practice. The proposed scheme of delegation to Officers, in consultation with the Chair and Vice Chair, or nominated representative of the Licensing Committee will promote efficiency and speed up the determination period.

11. LIST OF APPENDICES INCLUDED

Appendix 1 – Policy for Determining Film Classification

BACKGROUND PAPERS

BBFC classification guidelines – latest edition - June 2104
Statement of Licensing Policy

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