

SUBJECT:	Film Classification and Reclassification under The Licensing Act 2003
REPORT OF:	Head of Healthy Communities – Martin Holt
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1. Purpose of Report

1.1 The Licensing & Regulation Committee, at the meeting held on 28 June 2016, considered a report proposing the adoption of a policy for dealing with the classification of films. The Committee agreed the recommendation to approve the proposed policy attached at Appendix 1 for information. The Committee also agreed to recommend to make the following recommendations to full Council:

1.2 RECOMMENDATIONS

1. That the Head of Healthy Communities be authorised to determine the classification and re-classification of films including appeals under the licensing legislation in accordance with the Policy.
2. That all cases not determined by the Head of Healthy Communities under delegated authority be dealt with by the Licensing Sub-Committee.
3. To set the level of fee for the classification of films at £47, plus £1 per minute of the full length of the submitted film, plus any costs associated with the hire of any associated venue or equipment costs.

2. Reasons for Recommendations

- 2.1 The adoption of a policy and the BBFC Guidance will mean that the Council will have a policy and procedure in place for determining applications submitted to the Council for classification of films together with a delegation to the Head of Healthy Communities will allow such applications to be dealt with effectively, following the BBFC guidance which is the recognised and accepted approach nationally for the classification of commercially released films.
- 2.2 The recommended fee will ensure that the cost of dealing with any requests will be recovered by the Council.

3. Content of Report

- 3.1 The Council is the classification body for the public exhibition of films shown within its administrative area, by virtue of the Licensing Act 2003. As such the Council has the right to classify films that are shown in premises such as cinemas, hotels, clubs public houses and community premises.
- 3.2 The Council uses the decisions of the BBFC to determine the classification of films. In practice, therefore, the BBFC performs a national film classification role.
- 3.3 Sections 20 and 74 of the Licensing Act 2003 provides that a mandatory condition shall be applied to all premises licences and club premises certificates that authorise the exhibition of films. This relates to the restriction of the admission of children (defined as 'persons aged under 18').
- 3.4 Premises must restrict the admission of children to the exhibition of any film to either the film classification recommended by the BBFC or, if the Council does not agree with that recommendation, to such other classification recommended by the Council.
- 3.5 If a film has not been classified by the BBFC it must not be shown at a premise without first having been classified by the Council for the area concerned. A typical example of this would be a locally made film to be shown at a local film festival. To cater for this situation it is prudent for a Council to have a formal policy and procedure in place to determine the appropriate classification. As this requirement is placed on the Council to carry out this function it is not proposed to carry out any form of consultation regarding the draft Policy as this is a procedural matter for Licensing Authorities contained within the Licensing Act 2003. If approval is given the Policy will be implemented with immediate effect.
- 3.6 A distributor of a film or other party may appeal to the Council against a decision of the BBFC and request that the Council classifies or reclassifies the film for local screening.
- 3.7 The Licensing Act 2003 also provides for a number of exemptions for certain types of film such as those exhibited for the purposes of advertisement, information, education etc. If the premises and/or exhibition of a film is not regulated by the Licensing Act 2003, it may still necessary to comply with the recommendations issued by the BBFC or Licensing Authority regarding classification and the admission of children for example regarding community premises.
- 3.8 In addition to classifying films the Licensing Authority can issue a classification waiver which permits the exhibition of the film or films within the local area without a classification, but subject to certain conditions and restrictions.
- 3.9 A policy for the classification of films, as approved by the Licensing & Regulation Committee at the meeting held on 28 June 2016, is set out in Appendix 1 for information.
- 3.10 Fee

3.10.1 The BBFC charges a fee for the classification of films. The standard fee is a £101.50 handling charge plus £7.09 per minute of the full length of the work. A discount of 30% is provided to UK registered charities (making this fee £71.05 and £4.96 per minute).

3.10.2 Commercial releases will be submitted to the BBFC as a matter of course, and therefore submissions to local authorities usually originate from local students and arts groups. A fee of £47 (the average hourly cost of an officer within Healthy Communities) plus £1 per minute of the full length of the film, plus associated equipment and venue hire costs (as appropriate) is proposed as this should allow for full cost recovery.

3.10.3 The proposed fee is considerably lower than that charged by the BBFC which is appropriate given the nature of the films that will be submitted to the Council, to encourage local film making talent. These films are generally low budget, and would have a very limited release.

4. Options

Members have the following options:

- i. Agree the delegation to the Head of Healthy Communities (or the Licensing Sub-Committee) or alternatively require that the classification or re-classification of films including appeals be determined by the Licensing and Regulatory Committee. However this alternative is not recommended as the practicality of classifying films in accordance with the Policy can be more effectively dealt with by Officers or the Licensing Sub-Committee.
- ii. Agree the proposed fee plus associated costs or such other fee and associated costs as considered appropriate.

5. Corporate Implications

5.1 Financial

There is a cost to the Council to deal with any film classification requests, the fees proposed will recover this cost.

5.2 Legal

There is no right of appeal when a decision is made by the Council but any decision could be the subject of a judicial review which would result in legal fees to defend the review and further costs which we would seek to recover if the review was unsuccessful. In the event of a successful review the Council may also have to pay the applicants costs. This risk is minimised by adopting a policy, following the BBFC guidance and ensuring that classification decisions are made in line with the Licensing Act 2003 Section 182 Guidance.

5.3 Crime and Disorder

The policy will ensure that Children are not exposed to film material that could cause them harm. The policy will also ensure that any illegal material is not permitted to be shown and will be reported to the appropriate authority, most likely the police.

6. Links to Council Policy Objectives

Adopting the policy will help the Council to meet the policy objectives of delivering cost-effective, customer focused services, and working towards safe and healthier local communities.

7. Next Steps

The constitution will be amended to reflect the proposed delegations and the fees published on the Council's website.

Background Papers:	The BBFC Guidance (2014) http://www.bbfc.co.uk/what-classification/guidelines The Licensing Act 2003 Section 182 Guidance (March 2015) The Licensing Act 2003
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