

# CHILTERN DISTRICT COUNCIL

King George V House, King George V Road, Amersham,  
Buckinghamshire, HP6 5AW

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**TO: ALL MEMBERS OF COUNCIL**

**Dear Councillor**

You are hereby summoned to attend the Meeting of the **CHILTERN DISTRICT COUNCIL** to be held in the **Council Chamber, King George V House, King George V Road, Amersham** on **Tuesday, 12th July, 2016** at **6.30 pm** when the business below is proposed to be transacted.

## AGENDA

- 1 Evacuation Procedures
- 2 Election of Chairman for the Meeting  
The Chairman and Vice-Chairman of the Council will not be in attendance at the meeting. The Council is therefore asked to elect a Chairman for this meeting only.
- 3 Minutes (*Pages 5 - 20*)  
To approve as a correct record and to sign the Minutes of the meetings of Ordinary Council and Annual Council held on 17 May 2016.
- 4 Apologies for Absence
- 5 Declarations of Interest
- 6 Announcements  
To receive any announcements from the Chairman, Cabinet Leader or the Head of Paid Service.


*Chairman and Vice Chairman's Diary (Pages 21 - 22)*

- 7 To receive and consider reports and recommendations of Committees of the Council, in date order of the meeting:
- 7.1 Film Classification & Reclassification under the Licensing Act 2003 - Licensing & Regulation Committee - 28 June (*Pages 23 - 26*)  
*Appendix 1: Film Classification Policy (Agreed by Licensing & Regulation Committee on 28 June 2016) (Pages 27 - 36)*
- 8 Cabinet Recommendations
- To receive and consider the recommendations of the Cabinet for the meeting held on 28 June 2016 and to receive questions and answers on any of those recommendations in accordance with Rule 8 of the Procedural Rules.
- There are no recommendations to Council from the Cabinet (28 June 2016)**
- 9 Cabinet Reports
- To receive and consider reports from the Cabinet Leader, Cabinet Members or Chairman of a Committee and receive questions and answers on any of those reports in accordance with Rule 9.1 of the Procedural Rules.
- 10 Questions
- To receive questions and answers of the Cabinet Leader, Cabinet Members or Chairman of a Committee (if any) in accordance with Rule 9.2 of the Council Procedure Rules.
- 11 Questions Without Notice
- To receive questions without notice from any Member of the Council to the Cabinet Leader, Cabinet Members or Chairman of a Committee (if any) in accordance with Rule 9.1 of the Council Procedure Rules.
- 12 Petitions (if any)
- To receive petitions and/or deputations (if any) from members of the public including provisions allowing members to ask questions of clarification at the discretion of the Chairman and restrictions on deputations covering the same subject or by the same speakers.
- 13 Joint Arrangements and Outside Organisations
- To receive reports about and receive questions and answers relating to any joint arrangements or external organisations.
- 14 Motions (if any)

15 Exclusion of the Public (if required)

To resolve that under Section 100(A)(4) of the Local Government Act 1972 the public be excluded from the meeting for the following item(s) of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Act.

**Note:** All Reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

A handwritten signature in black ink, appearing to read 'Bob Smith', written in a cursive style.

**Bob Smith**  
Acting Chief Executive

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**CHILTERN DISTRICT COUNCIL**

**MINUTES** of the Meeting of the  
**COUNCIL**

held on **17 MAY 2016**

**PRESENT:** Councillor M Harker - Chairman  
" P N Shepherd - Vice Chairman

Councillors: A K Bacon  
S P Berry  
D J Bray  
J A Burton  
J Cook  
E A Culverhouse  
I A Darby  
M Flys  
C J Ford  
A J Garth  
J L Gladwin  
A S Hardie  
G K Harris  
M J Harrold  
P J Hudson  
C J Jackson  
C M Jones  
P M Jones  
R J Jones  
D J Lacey  
J E MacBean  
P E C Martin  
S A Patel  
D W Phillips  
N M Rose  
C J Rouse  
J J Rush  
M W Shaw  
L M Smith  
M R Smith  
M J Stannard  
M W Titterington  
D M Varley  
N I Varley  
H M Wallace  
E A Walsh  
C J Wertheim  
F S Wilson

**APOLOGIES FOR LATENESS** were received from Councillors R Jones and D Phillips

Councillors observed a one minute's silence in memory of the late Honorary Alderman Bernard Curson who sadly died on 9 April 2016; and for Grace Wyatt, an ex- councillor, who had recently died at the age of 105.

**93 MINUTES**

The Minutes of the meeting of Council, and the Special Meeting of Council held on 24 February 2016 were approved as a correct record.

**94 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**95 ANNOUNCEMENTS****(a) Chairman's Engagements**

Councillor Robert Jones entered the meeting during consideration of this item at 6.34pm.

A list of Engagements carried out by the Chairman and Vice-Chairman of the Council between 24 February and 17 May 2016 had been circulated.

Members were also reminded that an all Member Briefing on Progress of the Shared Services Programme – Stronger in Partnership was scheduled on Wednesday 1 June 2016 at 6.30pm at Chiltern District Council.

**(b) Chairman's Announcements**

The Chairman had no announcements to make.

**(c) Announcements from the Leader of the Cabinet**

The Leader of the Cabinet had no announcements to make.

**(d) Announcements from the Head of Paid Service**

The Chief Executive had no announcements to make.

**(e) Petitions**

No petitions were submitted.

**96 WASTE TEAM SHARED SERVICE - JOINT COMMITTEE - 4 APRIL 2016 - MINUTE 53**

Members considered the recommendation from the meeting of Joint Committee held on 29 February 2016, which requested consideration of the recommendations arising from the Waste Team shared services review.

Councillor M Smith highlighted the waste team shared service was the first service review to be undertaken between three local authorities and he was pleased to report that each local authority had been very cooperative and worked well together.

It was moved by Councillor M Smith, seconded by Councillor Darby and

**RESOLVED –**

- i) That the case for a Shared Waste Team was proven, and that Chiltern, South Bucks and Wycombe District Councils should proceed to establish a Shared Joint Waste Team;**
- ii) That subject to consultation with staff and a formal agreement between the Councils, the services of staff in Chiltern District Council's Waste Service be put at the disposal of South Bucks District Council under Section 113 of the Local Government Act 1972 so they can work across the three local authority areas; and**
- iii) That the Acting Chief Executive in consultation with the Cabinet Leader and the Head of Legal and Democratic Services be authorised to finalise the terms of any legal documentation required to give effect to recommendation 2 above.**

**97 CABINET REPORTS**

**a) Councillor Rose – HS2**

Councillor Rose reported on the progress of the High Speed Rail (London – West Midlands) Bill. The first and second reading of the Bill had now been completed in the House of Lords and the Lords Select Committee was to hold its first public meeting on Thursday 19 May 2016. The Select Committee was chaired by Lord David Walker and the members of the Select Committee were Lord Brabazon, Lord Freeman, Lord Jones, Baroness O’Cathain, Lord Plant and Lord Young.

Councillor Rose advised that to petition the House of Lords required a common theme and to get all statutory bodies and action groups to work together on this. There had been 820 personal petitions mainly in respect of a longer tunnel and noise issues. HS2 Ltd had challenged many of the petitions and for those challenged there was an opportunity for the petitioners to go before the Select Committee. There was a Chiltern and South Bucks HS2 Steering Group scheduled on Tuesday 28 June 2016.

It had been agreed that an AONB funding group be formed and two representatives from Chiltern District Council were proposed (an officer and a member). Councillor Rose wished to be the member representative.

A meeting was held on 21 April 2016 to consider the issues on the road next to Frith Hill and the impact on Great Missenden and the proposed Option 3 was considered the best option route by the majority but not all and this route was being pursued but before being endorsed, Buckinghamshire County Council were carrying out extensive consultation as the least worst option. This element was a Bucks County Council project.

It was noted that there was a Tunnel Working Group for England and Chiltern were pressing for a Tunnel Group for the Chilterns.

Councillor Berry pointed out that there was not unanimous agreement for Option 3 and there was concern from many over this option. Councillor Rose was aware and appreciated Councillor Berry's views but maintained that Option 3 was likely to be the least worst option within the given time constraints.

Councillor Shepherd requested that more clarity was sought in relation to the impact on Gore Hill. Councillor Shaw reported that Bucks County Council had looked into this and would be contacting relevant ward Councillors and Chiltern District Council soon in relation to Gore Hill.

Councillor Phillips entered the meeting towards the end of consideration of this item at 6.58pm.

**98 QUESTIONS**

There were no questions.

**99 QUESTIONS WITHOUT NOTICE**

There were no questions.

**100 PETITIONS (IF ANY)**

There were no petitions..

**101 JOINT ARRANGEMENTS AND OUTSIDE ORGANISATIONS**

There were no reports.

**102 MOTIONS (IF ANY)**

No Motions had been received.

**The meeting ended at 7.00pm**



## CHILTERN DISTRICT COUNCIL

### MINUTES of the Meeting of the COUNCIL

held on 17 MAY 2016

**PRESENT:** Councillor M Harker - Chairman  
" P N Shepherd - Vice Chairman

Councillors: A K Bacon  
S P Berry  
D J Bray  
J A Burton  
J Cook  
E A Culverhouse  
I A Darby  
M Flys  
C J Ford  
A J Garth  
J L Gladwin  
A S Hardie  
G K Harris  
M J Harrold  
P J Hudson  
C J Jackson  
C M Jones  
P M Jones  
R J Jones  
D J Lacey  
J E MacBean  
P E C Martin  
S A Patel  
D W Phillips  
N M Rose  
C J Rouse  
J J Rush  
M W Shaw  
L M Smith  
M R Smith  
M J Stannard  
M W Titterington  
D M Varley  
N I Varley  
H M Wallace  
E A Walsh  
C J Wertheim  
F S Wilson

**APOLOGIES FOR ABSENCE** were received from Councillors

**ALSO IN ATTENDANCE:** Councillors

The Acting Chief Executive requested nominations for the office of Chairman of the Council for the year 2016/2017. Councillor N Rose proposed; and Councillor P Jones seconded. There being no other nominations it was

**RESOLVED -**

**That Councillor M Harker be elected Chairman of the Council for 2016/17.**

Councillor M Harker was then invested with her Chairman's Badge of Office and made and signed the formal Declaration of Acceptance of Office. The Chairman thanked the Council for electing her.

**105 APPOINTMENT OF VICE-CHAIRMAN**

The Chairman invited nominations for the office of Vice-Chairman of the Council for the year 2016/17. Councillor G Harris proposed the name of Councillor N P Shepherd. The nomination was seconded by Councillor D Phillips. There being no other nominations it was

**RESOLVED -**

**That Councillor N P Shepherd be appointed Vice-Chairman of the Council for 2016/17.**

The Vice-Chairman was then invested with his Badge of Office and made and signed the formal Declaration of Acceptance of Office. Councillor N P Shepherd thanked the Council for his appointment.

**106 ELECTION OF THE CABINET LEADER**

Councillor I Darby had been elected as the Cabinet Leader for four years to 2019/20, at the Annual Meeting of the Council on 27 May 2015.

The Cabinet Leader thanked members for their ongoing support.

**107 APPOINTMENT OF CABINET MEMBERS**

The Cabinet Leader informed the meeting that she had there was no change to the appointed members to the Cabinet to carry out the roles stated below.

The Leader thanked Cabinet members for their continued hard work and particularly good progress of the shared service programme. There was an ongoing theme of doing more for less this year and there was to be a review of the Council's Constitution to ensure it was fit for purpose. She mentioned the all member briefing session on 1 June - Stronger in Partnership which would outline progress and future plans for increased partnership working and the continual work to strengthen relationships and continue to work together to do the best for our residents.

Councillor M Stannard	Support Services (Deputy Leader)
Councillor P E C Martin	Sustainable Development
Councillor G Harris	Community, Health and Housing
Councillor M Smith	Environment
Councillor F Wilson	Customer Services

Councillor Darby proceeded to outline the achievements of the previous year and the many opportunities facing the Council in the coming years.

**RESOLVED –**

**That the appointments to the Cabinet, be noted.**

#### **108 ESTABLISHMENT OF THE AUDIT & STANDARDS AND OVERVIEW COMMITTEES**

**RESOLVED –**

**That the following Committees be established:**

- **Audit & Standards Committee – 6 Members (plus the Chairman of Resources Overview as an ex-officio member)**
- **Services Overview Committee – 15 Members**
- **Resources Overview Committee – 15 Members**

#### **109 ESTABLISHMENT OF REGULATORY AND OTHER COMMITTEES**

**RESOLVED –**

**That the following Regulatory and other Committees be established:-**

- **Appeals & Complaints Committee – 11 Members**
- **Joint Appointments and Implementation – 5 Members (plus 5 South Bucks District Council Members)**
- **Licensing and Regulation – 15 Members**
- **Personnel – 7 Members**
- **Planning – 13 Members**

#### **110 ALLOCATION OF SEATS TO POLITICAL GROUPS**

The report detailed the allocation of seats to political groups in accordance with the political balance rules.

**RESOLVED –**

**That the seats on Committees for the Council Year 2016/17 be allocated to the political groups as follows (with the balance to be allocated to those Members who were not part of a political group):**

	Seats	Conservative	Liberal Democrat	Other
Appeals and Complaints *	11	9	1	1 - Lacey
Audit and Standards	9	8	1	
Governance and Electoral Arrangements	11	10	1	
Licensing & Regulation *	15	13	1	1 - Lacey
Resources Overview *	15	13	1	1 - Berry
Services Overview	15	13	1	
Personnel	7	6	1	
Planning	13	11	2	
Joint Appointments and Implementation	5	4	1	
<b>Total Ordinary</b>	<b>101</b>	<b>88</b>	<b>10</b>	

\* one seat gifted to non-political group Member

#### 111 APPOINTMENT OF COUNCILLORS TO SERVE ON EACH COMMITTEE

APPOINTMENT OF EXTERNAL MEMBERS PANEL	
G Harris	Con
A Bacon	LD
<b>Council Chairman: M Harker OBE</b>	Con
<b>Leader: I Darby</b>	Con
<b>Conservative Group Chairman: P Hudson</b>	Con
<b>Lib Dem Group Leader: P Jones</b>	LD
<b>Restrictions on Membership: 1 Conservative appointment &amp; 1 Liberal Democrat appointment</b>	

APPEALS & COMPLAINTS COMMITTEE (11)	
S Patel	Con
E Culverhouse	Con
J MacBean	Con
D Varley	Con
J Gladwin	Con
G Harris	Con
P Martin	Con
J Burton	Con
D Bray	Con

S Berry	Ind
A Bacon	LD
<b>Restrictions on Membership:</b> All members eligible, but any who are also members of the Personnel Committee / JAIC will be ineligible to hear appeals that result from decisions of those Committees.	
<b>Political Balance (Seats):</b> 9 Conservative; 1 Liberal Democrat; 1 Other	

<b>AUDIT &amp; STANDARDS COMMITTEE (9)</b>	
<b>Chairman:</b> J Gladwin	Con
D Phillips	Con
J Wertheim	Con
N Varley	Con
C Jackson	Con
C Ford	Con
R Jones	Con
J Burton	Con
A Bacon	LD
<b>Restrictions on Membership:</b> CM and VCM of the Council and Members of the Cabinet may not be members.	
<b>Political Balance (Seats):</b> 8 Conservative; 1 Liberal Democrat	
<b>GOVERNANCE &amp; ELECTORAL ARRANGEMENTS COMMITTEE (11)</b>	
D Bray	Con
D Varley	Con
M Stannard	Con
I Darby	Con
L Walsh	Con
M Shaw	Con
A Garth	Con
J Burton	Con
N Rose	Con
H Wallace	Con

P Jones	LD
<b>Restrictions on Membership:</b> None	
<b>Political Balance (Seats):</b> 10 Conservative; 1 Liberal Democrat	
<b>LICENSING &amp; REGULATION (15)</b>	
<b>Chairman:</b> J Rush	Con
<b>Vice-Chairman:</b> C Jackson	Con
M Harrold	Con
E Culverhouse	Con
C Rouse	Con
N Shepherd	Con
R Jones	Con
C Jones	Con
L Walsh	Con
N Varley	Con
M Flys	Con
G Harris	Con
F Wilson	Con
D Lacey	Ind
P Jones	LD
<b>Restrictions on Membership:</b> Cabinet Leader may not be a member; Cabinet Members may not be CM/VCM. Membership of Licensing Sub Committees and the Taxi & Private Hire Sub Committee is drawn from this Committee. All Members must undergo annual training.	
<b>Political Balance (Seats):</b> 13 Conservative; 1 Liberal Democrat; 1 other	

<b>PERSONNEL COMMITTEE (7)</b>	
P Hudson	Con
<b>Leader:</b> I Darby	Con
<b>Cabinet Member:</b> M Stannard	Con
D Phillips	Con
C Jones	Con
M Smith	Con

P Jones	LD
<b>Restrictions on Membership: None.</b>	
<u>NB: Change to minimum of 7 Members pending SBDC decision on changes of membership</u>	
<b>Political Balance (Seats): 6 Conservative; 1 Liberal Democrat</b>	

<b>JAIC CDC MEMBERS (5)</b>	
I Darby	Con
M Stannard	Con
M Smith	Con
P Hudson	Con
P Jones	LD
<b>Restrictions on Membership: None.</b>	
<b>Political Balance (Seats): 4 Conservatives; 1 Liberal Democrat</b>	

<b>PLANNING COMMITTEE (13)</b>	
<b>Chairman:</b> D Phillips	Con
<b>Vice-Chairman:</b> A Hardie	Con
J Rush	Con
M Titterington	Con
N Rose	Con
J Gladwin	Con
J MacBean	Con
J Wertheim	Con
N Shepherd	Con
M Harrold	Con
J Burton	Con

J Cook	Con
P Jones	LD
<b>Restrictions on Membership:</b> Chairman of the Council may not be a member; Cabinet Members may not be CM/VCM. All Members must undergo training	
<b>Political Balance (Seats):</b> 11 Conservative; 2 Liberal Democrat	

<b>JOINT COMMITTEE (6 + 6 SBDC Members)</b>	
I Darby	Con
G Harris	Con
M Smith	Con
M Stannard	Con
P Martin	Con
F Wilson	Con
<b>Restrictions on Membership:</b> 6 Cabinet Members from each authority	

<b>OVERVIEW COMMITTEE: SERVICES (15)</b>	
<b>Chairman:</b> J Burton	Con
<b>Vice-Chairman:</b> N Varley	Con
M Titterington	Con
S Patel	Con
J Rush	Con
L Walsh	Con
C Jackson	Con
E Culverhouse	Con
C Rouse	Con
L Smith	Con



D Bray	Con
A Hardie	Con
M Flys	Con
J Cook	Con
P Jones	LD
<b>Restrictions on Membership:</b> The Chairman and Vice-Chairman of the Overview Committee will be elected by the members of the Committee.	
<b>Political Balance (Seats):</b> 13 Conservative; 1 Liberal Democrat; 1 Other	

<b>OVERVIEW COMMITTEE: RESOURCES (15)</b>	
<b>Chairman:</b> N Rose	Con
<b>Vice-Chairman:</b> J MacBean	Con
M Harrold	Con
C Ford	Con
J Gladwin	Con
J Wertheim	Con
D Phillips	Con
A Garth	Con
R Jones	Con
D Varley	Con
C Jones	Con
M Shaw	Con

H Wallace	Con
S Berry	Ind
A Bacon	LD
<b>Restrictions on Membership:</b> The Chairman and Vice-Chairman of the Overview Committee will be elected by the members of the Committee.	
<b>Political Balance (Seats): 13 Conservative; 1 Liberal Democrat; 1 Other</b>	

## 112 APPOINTMENTS TO OUTSIDE BODIES

Tabled at the meeting as Item 11 (as attached to the Minutes) were the nominations to serve on outside bodies for the Council Year 2016/17.

### RESOLVED -

**That the list of appointments to Outside Bodies for 2016/17 as set out in Item 11 be approved.**

## 113 EXECUTIVE REPORTS TO THE LOCAL AUTHORITY

The Chief Executive advised that it was a statutory requirement to produce an annual report detailing urgent executive decisions taken. However, there had been no such urgent items since the Regulations had taken effect.

### RESOLVED –

**That the report be noted.**

## 114 ALLOCATION OF CABINET FUNCTIONS

In accordance with Cabinet Procedure Rule 2.1(2), Councillor I Darby proceeded to report on the services / functions allocated to each Cabinet Portfolio.

Portfolio	Functions
Leader	Policy, Performance, Communications, Personnel, Strategic Finance, Economic Development (delegated to Councillor F Wilson)
Support Services Deputy Leader	Business Transformation, ICT, Legal and Democratic Services, Audit, Finance Admin
Sustainable Development	Planning, Enforcement, Building Control, Strategic Transport

Environment	Property, Car Parks, Engineering, Waste Management
Community, Health & Housing	Community & Leisure, Environmental Health, Community Safety, Licensing, Housing, Carbon Management, Flooding
Customer Services	Revenues and Benefits, Customer Services, Economic Development (delegated from Leader's portfolio)

**RESOLVED –**

**That the allocation of Cabinet Functions, as detailed above, be noted.**

**The meeting ended at 7.16pm**



Classification: OFFICIAL  
 Classification: OFFICIAL

### CHAIRMAN'S DIARY 19 MAY – 11 JULY 2016

- 19 May - Opening of Audley Chalfont Dene, Chalfont St Peter
- 20 May - Prize Giving, Chalfont St Giles & Jordans Literary Festival, Chalfont  
St Giles Junior School and Jordan's Infant School
- 21 May - Opening of Botley Road Playing Fields, Chesham
- 22 May - Civic Service, St Mary's, Chesham
- 26 May - Bekonscot Model Village, Beaconsfield
- 31 May - BEM Investiture Ceremony, Penn
- 2 June - Speaker Ladies Electrical Society, Aylesbury
- 3 June - Speaker Macular Society, Amersham
- 4 June - Street Kids Direct Great Coin Race
- 5 June - Horses Trust, Speen
- 6 June - Rennie Grove Hospice, Adams Park
- 8 June - Clare Foundation, Saunderton
- 9 June - Volunteer Fair, St Michaels & All Angels Church, Amersham
- 9 June - Queen's birthday street party, Chalfont Valley E-Act Primary Academy, Little  
Chalfont
- 9 June - Community Impact Bucks Volunteer Fair
- 11 June - Little Chalfont Nature Park opening event
- 11 June - Bucks Open Studios, Matt Mullins Gallery
- 12 June - St Mary's Church, Chesham Queen's 90<sup>th</sup> Birthday celebration service
- 14 June - Clare Foundation, Saunderton
- 14 June - Feed the Minds Summer Drinks Reception, London
- 16 June - Abbeyfield Mansil House Sheltered Housing, Amersham
- 16 June - Misbourne Valley District Scout Council AGM
- 17 June - Chesham Bois Manor Care Home Open Day

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- 18 June - RAF Wildfire Passing Out Ceremony
- 18 June - Book Launch, Chesham
- 18 June - Little Chalfont Village Day
- 21 June - CSP Youth Centre Awards Ceremony and Annual Meeting
- 22 June - Chesham Adult Learning, Certificates of Achievements
- 24 June - Stateside Skates, Presentation of Queens Award for Enterprise, Amersham
- 25 June - Armed Forces Day, Bletchley
- 26 June - Chiltern Junior Triathlon, prizegiving, Chesham
- 26 June - Mayor of Beaconsfield Civic Service
- 26 June - Aaron West Goalkeeping Academy, Fundraising Konga
- 28 June - Skipton Building Society 6th Birthday Little Chalfont
- 28 June - Screening of "Our County at War" Pinewood
- 30 June - Collection for Chiltern Foodbank at Tesco, Amersham
- 1 July - 100th Commemoration Service, The Battle of the Somme, Amersham
- 1 July - High Sheriff's Reception, Cuddington
- 2 July - Official Opening JPS Stationers, Chesham
- 2 July - Bucks Skills Hub Exhibition and Show, Aylesbury Campus
- 2 July - Chiltern Open Air Museum 40<sup>th</sup> Anniversary Party
- 3 July - Remembrance Service Chesham
- 5 July - Strawberry Tea, Chesham Bois Manor
- 8 July - Chairman's Tea Party for Her Majesty's 90th Birthday
- 9 July - Amersham Carnival
- 10 July - Buckinghamshire Scout Council Awards Presentation and AGM

Classification: OFFICIAL

Classification: OFFICIAL

<b>SUBJECT:</b>	<b>Film Classification and Reclassification under The Licensing Act 2003</b>
<b>REPORT OF:</b>	Head of Healthy Communities – Martin Holt
<b>RESPONSIBLE OFFICER</b>	Licensing Manager – Nathan March
<b>REPORT AUTHOR</b>	Nathan March, 01494 732249, nmarch@chiltern.gov.uk
<b>WARD/S AFFECTED</b>	All

### 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.

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**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.

<b>Background Papers:</b>	The BBFC Guidance (2014) <a href="http://www.bbfc.co.uk/what-classification/guidelines">http://www.bbfc.co.uk/what-classification/guidelines</a>  The Licensing Act 2003 Section 182 Guidance (March 2015) The Licensing Act 2003
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# CHILTERN DISTRICT COUNCIL

**Policy and Procedure for determining film classifications**

**Adopted on 28<sup>th</sup> June 2016  
Effective from 29<sup>th</sup> June 2016**

## 1. Purpose

- 1.1 The Council, as the Licensing Authority, is responsible for authorising the public exhibition of films. Where a premises seeks or intends to exhibit films that venue must be licensed by a premises licence, club premises certificate or temporary event notice under the Licensing Act 2003 unless an exemption applies under the Licensing Act 2003.
- 1.2 Section 20 and 74 of the Licensing Act 2003 provides that where a premises licence or club premises certificate authorises the exhibition of a film(s), it must include a mandatory condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board or the Licensing Authority.
- 1.3 The Licensing Act 2003 defines “children” as any person under the age of 18 years and defines “the exhibition of a film” as the exhibition of moving pictures.
- 1.4 If the premises and/or exhibition of a film is not regulated by the Licensing Act 2003, it is still necessary to comply with the recommendations issued by the BBFC or Licensing Authority regarding classification and the admission of children.
- 1.5 In summary, in order to publically exhibit a film, it must either be classified by the BBFC or by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.6 The purpose of this policy is to set out the formal procedure for the Licensing Authority to determine the classification of previously unclassified films, appeals by distributors against the BBFC’s decisions regarding classification or requests to reclassify films. This Policy shall be amended from time to time in accordance with current law, guidance and practice by the Head of Healthy Communities
- 1.7 The Licensing Authority when classifying or re-classifying films shall at all times take into account the guidance issued under section 182 of the Licensing Act 2003 (“the National Guidance”).
- 1.8 The Licensing Authority may be requested to classify or re-classify a film that has already been classified or refused a classification by the BBFC in two different circumstances:
  - (a) A distributor of a film may appeal against the decision of the BBFC and request that the Licensing Authority classifies or re-classifies the film for local screening (with recommendations on age restrictions) and
  - (b) An independent party may request that the Licensing Authority classifies or reclassifies the film for local screening (with recommendations on age restrictions).

1.9 The Licensing Authority may also be requested to classify the showing of an unclassified film(s). This normally occurs in the following cases:

- (a) A film festival covering a specific period of time;
- (b) A one off screening of a film and
- (c) A trailer for a film

## 2. Fees

2.1 Unless prohibited by law the Council will always aim to recover the cost of undertaking its licensing functions. The fee for dealing with applications to classify or re-classify a film submitted to the Council is £47, plus £1 a minute of the full length of the film plus associated equipment and venue hire costs (as appropriate).

2.2 This fee covers the cost for viewing the film and for determining the application. This fee must be paid prior to a film being considered and is non-refundable once an application has been submitted to the Licensing Authority, including if an application is refused.

## 3. General policy

3.1 In accordance with paragraph 10.17 of the current National Guidance, the Licensing Authority shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the four Licensing Objectives.

3.2 Under the Licensing Act 2003, the Licensing Authority must carry out its functions with a view to promoting the Licensing Objectives. In terms of film exhibitions and festivals, the most relevant licensing objective is the protection of children from harm.

3.3 Protection of children from harm

3.3.1 Paragraph 2.21 of the National Guidance states:

*The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.*

3.4 Principles in determining film classifications

3.4.1 The BBFC classifies films in accordance with its published guidelines, which are based on extensive research into public opinion and professional advice. The

The National Guidance recommends that:

*Licensing authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film*

- 3.4.2 The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted. It will therefore use this system and any amendments thereto, as a reference point for determining its recommendation(s) on the restriction of access of children to films. However the Licensing Authority is not obliged to follow the BBFC guidelines.
- 3.4.2 Where an Applicant seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to determine the classification of that Film or refuse classification in accordance with the procedures outlined in this Policy.
- 3.4.3 The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment and will not normally override this principle. Therefore, applications will not normally be refused but in all cases, the Licensing Authority will expect the applicant to follow the BBFC's guidelines for 18 and R18 restricted films. However, material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or where it has been created through the commission of a criminal offence.
- 3.4.4 Therefore Applicants must ensure that all material that is the subject of their application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
- 3.4.5 Classifications or re-classifications of films determined by the Licensing Authority shall only apply when those films are exhibited within the Council's administrative area and does not affect the classifications or re-classifications in any other Council area. It will also be assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained prior to showing the films.
- 3.4.6 Once classified or re-classified by the Licensing Authority a film will be authorised for a particular showing or festival only subject to the recommendations and conditions imposed by the Licensing Authority (unless a further application for re-classification is made). Details of the classification or re-classification including any recommendations and conditions will be given to the Applicant and any Licence

Holder upon determination of an application and shall also be available from the Council's Licensing service.

- 3.4.7 The Licensing Authority will consider each application for classification or re-classification on its own merit and may impose additional and more specific conditions where it deems this necessary in order to comply with the protection of children from harm licensing objective.
- 3.4.8 Where the Licensing Authority is asked to classify unclassified material the Licensing Authority will require a written undertaking from the Applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.
- 3.4.9 The Licensing Authority shall not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the Applicant to ensure that no film or trailer contravenes the law.
- 3.4.10 Applications must be relevant to the protection of children from harm licensing objective and not frivolous, vexatious or repetitive. Applications may also be relevant to the prevention of crime and disorder licensing objective but only in relation to the contravention of the current interpretation of the Obscene Publications Act 1959 or any other relevant legislation.
- 3.4.11 Applications will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period. Where the Licensing Authority refuses to classify a film clear and concise reasons shall be given.
- 3. Procedure for determining applications regarding (i) the classification of previously unclassified films, (ii) appeals against the BBFC's decisions regarding classification or (iii) requests to reclassify films.**
- 3.1 Applications will be referred to and determined by the Head of Healthy Communities on behalf of the Licensing Authority (or referred to the Licensing Authority's Licensing-Sub-Committee for determination if considered appropriate in all the circumstances by the Head of Healthy Communities).
- 3.2 Applications must be made in writing using the application form on the Council's website and submitted to the Licensing service a minimum of 28 working days before the proposed screening of the film in order for the application to be determined and to ensure compliance with the age restrictions the Licensing Authority may impose.
- 3.3 All applications shall be accompanied by the film(s) in DVD format to avoid delays, the cost to be borne by the Applicant. If DVD format is not possible then

arrangements will be made by the Licensing Authority for a suitable venue to view the film.

3.4 If the Applicant is an individual or organisation not connected with the film(s) and is not able to provide a copy of the film(s) the Licensing Authority will make suitable arrangements to view the film.

3.5 An application must include the following information:

(a) the name and address of the filmmaker;

(b) such recommendation as may have been made by the filmmaker upon age limit for the intended audience for exhibition of the film;

(c) any existing classification issued by an existing classification body, whether within or outside the UK;

(d) a synopsis identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film. Where an applicant seeks an authorisation allowing exhibition of the film to persons 18 years and over only, a detailed synopsis will not be required;

(e) if known, a legitimate and legal internet site where the film or a portion of the film is available to view without charge;

(f) any proposals on age restrictions for viewing the film that the applicant intends to impose;

and

(g) details of how any age restrictions will be enforced.

3.6 The Head of Healthy Communities (or Licensing Sub-Committee as applicable) will view the entire film in private and assess it against the BBFC guidelines and the National Guidance and shall issue a written Notice of Determination of the Application within 5 working days from the date of viewing.

3.7 If the film has been given a classification the Notice of Determination will include any recommendation(s) and conditions restricting the admission of children to the film(s) and any other relevant conditions. If an application is refused the Notice of Determination will contain reasons for refusing to classify or re-classify the film. The Notice of Determination will be sent to the Applicant and the Licence Holder (if applicable).

**4. Age restricted film/s.**



- 4.1 Where a film is classified by the Licensing Authority as falling into an age restrictive category, no person under the age specified by the Licensing Authority shall be admitted to any part of the programme. Where a film is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted to any part of the programme unaccompanied by an adult.
- 4.2 The Notice of Determination will include a condition that no person appearing to be under the age specified shall be permitted to any part of the programme and/or a condition that no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult.
- 4.3 There shall also be displayed in conspicuous positions both inside and outside the premises notices clearly stating the relevant age restrictions and requirements having regard to National Guidance, so that persons entering the premises can readily be made aware of the classification attached to any film or trailer e.g.:
- A) Persons under the age of [insert appropriate age] cannot be admitted to any part of the programme.
  - B) Persons under the age of [insert appropriate age] can only be admitted to the programme if accompanied by an adult.

## 5. Section 20 and 74 of Licensing Act 2003: Exhibition of films

- 5.1 All premises permitted to exhibit films are subject to the following mandatory conditions:
- 5.1.1 Where a premises licence or club premise certificate authorises the exhibition of films, the licence or certificate must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with these paragraphs.
- 5.1.2 Where a film classification body is specified in the licence or certificate, unless paragraph 5.1.3 (b) below applies, admission of children must be restricted in accordance with any recommendation by that body.
- 5.1.3 Where:
- (a) the film classification body is not specified in the licence or certificate
  - or
  - (b) the Licensing Authority has notified the holder of the licence or the club that holds the certificate that this paragraph applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.

5.2 In these paragraphs "children" means persons aged under 18 and "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984

## 6. Exemptions under Schedule 1 Part 2 of the Licensing Act 2003.

6.1 The provision of the exhibition of a film(s) is exempt from regulation by the Licensing Act 2003 if either:

It consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery (the Licensing Act 2003 does not define a museum or art gallery so the ordinary meaning of the term is taken)

Or:

Its sole or main purpose is to:

- (a) demonstrate any product,
- (b) advertise any goods or services (excluding the advertising of films), or
- (c) provide information, education or instruction

6.2 In accordance with Schedule 1 Part 2 paragraph 6A Community Premises are exempt from requiring a licence under the Licensing Act 2003 when exhibiting films if specified conditions are satisfied. Accordingly, the admission of children is still subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children. See current National Guidance para 4.37 to 4.41 and 15.22 and 15.24.

## 7. Requests to Waive a Film Classification

7.1 All requests to waive the film classification will in the first instance be considered by the Head of Healthy Communities under delegated powers. However, any request to waive a Film Classification may be referred by the Head of Healthy Communities at his/her discretion to the Licensing Sub Committee for determination.

7.2 All requests to waive a film classification must be submitted on the Licensing Authority's application form a minimum of 42 days before the proposed screening with confirmation from the applicant that the film is intended to be shown to an audience of persons aged 18 years and over.

- 7.3 Waivers would be issued based on the synopsis of the film and would be appropriate in the following cases:
- a) A foreign or locally made film being shown during a film festival.
  - b) A one-off screening of a film.
  - c) A trailer for a film.
- 7.4 Any classification waiver will have the following conditions attached:
- a) The films must not encourage or incite crime; or lead to disorder; or stir up racial hatred against any section of the public of Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex, or promote sexual humiliation or degradation of or towards women.
  - b) The film must not have the effect such as to tend to deprave and corrupt persons who see them.
  - c) The films must not contain a grossly indecent performance thereby outraging the standards of public decency.
  - D) Persons under the age of 18 years must not be admitted to any such film exhibitions (with or without parental guidance).
- 7.5 If a waiver is not granted either by the Head of Healthy Communities or the Licensing Sub Committee the applicant would be able to apply for classification of the film under Section 4 above.

