



DEMOCRATIC AND ELECTORAL SERVICES

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Date: 13 July 2016 Direct Line: 01895 837225/837224

Dear Councillor

COUNCIL

The next meeting of the Council will be held as follows:

DATE: **TUESDAY, 19TH JULY, 2016**

TIME: **6.00 PM**

VENUE: **COUNCIL CHAMBER, CAPSWOOD, OXFORD ROAD, DENHAM**

Only apologies for absence received prior to the meeting will be recorded.

Yours faithfully

Jim Burness

Director of Resources

To: All Members of the Council

Audio/Visual Recording of Meetings

Please note: This meeting might be filmed, photographed, audio-recorded or reported by a party other than South Bucks District Council for subsequent broadcast or publication.

If you intend to film, photograph or audio record the proceedings or if you have any questions please contact the Democratic Services Officer (members of the press please contact the Communications Officer).

Declarations of Interest

Any Member attending the meeting is reminded of the requirement to declare if he/she has a personal interest in any item of business, as defined in the Code of Conduct. If that interest is a prejudicial interest as defined in the Code the Member should also withdraw from the meeting.

A G E N D A

(Pages)

8. Overview and Scrutiny Committee

To receive the minutes of the meeting of the Overview and Scrutiny Committee held on:

30 June 2016

(5 - 8)

9. Licensing Committee

To receive the minutes of the meeting of the Licensing Committee held on:

*29 June 2016 - and to consider a recommendation in the following Minute:
Minute 7 - Film Classification and Reclassification under The Licensing Act 2003*

**(9 - 10)
(11 - 24)**

The next meeting is due to take place on Tuesday, 8 November 2016

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OVERVIEW AND SCRUTINY COMMITTEE

Meeting - 30 June 2016

Present: Mr Hollis (Chairman)
Mrs Lowen-Cooper, Mr Read, Mr Sangster, Mr Walters MBE and Mrs Gibbs

Also Present: Mr Bagge and Mr Naylor

Apologies for absence: Mr Harding and Mr Bastiman

3. MINUTES

The minutes of the meeting held on 14 March 2016 and 10 May 2016 were confirmed by the Chairman.

4. SOUTH BUCKS DISTRICT COUNCIL PERFORMANCE REPORT ANNUAL REPORT 2015-16

Members of the Overview and Scrutiny Committee received a report outlining the performance of Council Services against indicators and service objectives during the year 2015-16.

The Committee noted that this year's report had been reduced to a two-sided info-graphic, from the 40+ page report of previous years. Officers clarified to the Committee that the info-graphic was designed in order to highlight key achievements in a more user-friendly format, which was deemed better in terms of engagement with residents and the media.

Members were able to view further detail through the performance tables attached as:

- Appendix A – Annual Report SBDC 2015-16;
- Appendix B – Priority Indicators 2015-16;
- Appendix C – Quarterly corporate indicators 2015-16.

Within the report, Members of the Committee found it of interest to note that voluntary leavers as a percentage of the workforce had increased, with officers assuring Members that the detail was discussed comprehensively at Personnel Committee.

In terms of the off-target PIs, these fell within the Housing remit, and reflected the issues discussed within various forums by Members prior to this meeting of the Overview and Scrutiny Committee, primarily around the provision of affordable housing. Members wished to be updated on the current situation regarding affordable housing, with officers explaining that developers often buy land in order to provide affordable housing, later claiming viability issues, therefore frequently providing an affordable housing contribution, as opposed to providing the actual affordable housing.

The Head of Healthy Communities clarified that flexibility within the use of funds allocated would help in terms of how affordable housing could be acquired, and incentivised, including within the private sector.

The Chairman noted in particular that the indicators pertaining to Licensing matters needed to be supported by increased surveying, with short, simpler surveys in order to provide more reliable statistics. The Chairman raised further questions in regards to the Evreham Centre satisfaction survey indicators, which were explained by the Head of Healthy Communities as being mostly due to a faulty air conditioning unit, which had now been replaced.

The Committee therefore **RESOLVED** that:

1. the Performance Reports and the Annual Report be noted.

5. **ADVICE SERVICES IN SOUTH BUCKS**

The Committee received a report requested by Members, updating the Committee on the advice services operating in the South Bucks District Council area.

The report summarised the range of services, highlighting that the SBDC website identifies a range of organisations that can provide advice and support on wide-ranging issues. It was seen that South Bucks District Council seeks to support the organisations and volunteers via promotion of activities on the website, as well as directly through the Subs and Donations programme as detailed in Appendix 1. The Committee were also able to garner an overview of the main organisations that the Council refer residents to, including: Community Impact Bucks, Northgate, L&Q, Three Rivers CAB, Mediation Bucks and Wycombe's Women's aid. Detailed within the report were those organisations that had previously accessed the Subs and Donations Grants.

The report further detailed to Members that a review of the Subs and Donations and Community Development Grants was currently being undertaken in order to identify the outcomes delivered by the organisations and how they therefore link to the Council's key objectives and priorities, with the purpose of helping to identify future priorities for funding. In response to a question from the Chairman, it was clarified that a new application had to be made by each organisation annually if they wished to apply for a grant.

The Committee therefore **RESOLVED** that:

1. The report be noted.

6. **JOINT PRIVATE SECTOR HOUSING STRATEGY AND FINANCIAL ASSISTANCE POLICY**

The Committee received a report notifying the Chairman and Members of the Overview and Scrutiny Committee of the forthcoming consultation regarding the draft joint Private Sector Housing Strategy and associated policies covering financial assistance, Houses in Multiple Occupation and housing enforcement across South Buck District Council and Chiltern District Council, in order to seek the Committee's comments.

The report informed Members that the strategy and associated policies would encompass the Council's housing standards roles, which could broadly be split into two categories – assistance and enforcement. Officers clarified that assistance would cover improvements and help with housing issues, including support such as disabled grants. Regarding enforcement, this would include tackling poor quality accommodation, and ways to ensure housing standards, including those of HMOs.

The report further detailed that the Council has a statutory duty to review housing conditions in order to tackle serious housing health hazards: the Private Sector Housing Renewal Strategy 2007-2012 – setting out the Council's approach to improving local housing conditions – is now out of date. As such, the Council has prepared a draft strategy to reflect changes in national housing policy and to apply new legislative requirements and increased financial constraints. Additionally, amendments have been made to the financial assistance policy as seen in Appendix 2, with the main changes highlighted to Members in Appendix 3.

After questions from Members, Officers clarified that the Council's Policy and Budget Framework Procedure rules require Cabinet to publicise a timetable for proposals to the

Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, alongside arrangements for consultation after publication of initial proposals, with the consultation period being no less than 6 weeks. Officers further informed the Committee that they would be consulting with groups including the Landlords forum, Occupational Therapy, and those who had been (and were going) through the process in order to allow the consultation to be as wide-reaching as possible.

It was therefore **RESOLVED** by the Committee that:

1. The draft strategy and policy documents be considered by Cabinet;
2. Members note the intention to undertake a 6 week consultation on the joint strategy and associated policies as required by the Policy and Budget Framework procedure rules following the Cabinet meeting on 4 July.

7. **FREEDOM OF INFORMATION MANAGEMENT AND RIPA ANNUAL REPORT**

The Members of the Overview and Scrutiny Committee received a report updating them on public engagement with the Freedom of Information Act 2000, Environment Information Regulations 2004, the Data Protection Act 1998, the Transparency Code of Practice, the INSPIRE Regulations, RIPA, and Protection of Freedoms Act 2012.

The report analysed the FOI activities for the past year, which is shown to be the first year of material reduction in the number of requests received since the FOI requirements came into effect, with a decrease on last year of 9%. The Committee were informed that of those FOIs processed, 86% were responded to within 20 days, as per the standards laid down by the Information Commissioner's Office.

It was explained to the Committee that the introduction of a workflow tracking system had helped with the efficiencies of the services: the tracking of each request could be monitored by the Corporate Information Officer, with automated reminders to Officers dealing with the requests.

The report further detailed to Members that FOI requests that were repeatedly submitted – e.g. those concerning business rates data – were published on the website regularly, with staff signposting the enquirer, thereby reducing response times. This further enhances the promotion and support of digital transformation and transparency, with the Council progressively publishing its FOI datasets in order to improve proactive transparency and promoting the effective process of FOI in the public interest.

Officers updated the Members of the Committee as to the revised FOIA Code of Practice under section 45, which is being consulted on by the Government, with expectation that the emphasis will be on further publishing of certain information sets.

The report went on to cover the requirement to report to members on any authorisations issued under the Regulation of Investigatory Powers Act 2000 (RIPA). The Council had not undertaken any activities covered by RIPA, as had been the case for a number of years. The criterion surrounding the use of the Act has also been considerably tightened. After a question from a Member regarding the training provided to Council staff, Officers agreed that it may be a good idea to open up the training to those individuals, such as Parish Clerks, who may have to deal with FOIs, but may not otherwise receive training.

It was therefore **RESOLVED** that:

1. The report be noted.

8. **BUCKS HEALTH AND ADULT SOCIAL CARE SELECT COMMITTEE**

The minutes of the Bucks Health and Adult Social Care Select Committee held on 22 March, 18 April and 10 May 2016 were noted by the Committee.

9. **BUCKS CHILDREN'S SOCIAL CARE AND LEARNING SELECT COMMITTEE**

The minutes of the Bucks Children's Social Care and Learning Select Committee held on 23 February, 12 April and 24 May 2016 were noted by the Committee.

10. **MEMBERS QUESTIONS AND ANSWERS**

None.

11. **WORK PROGRAMME**

The Work Programme was noted by the Committee.

12. **ANY OTHER BUSINESS**

None.

The meeting terminated at 7.24 pm

LICENSING COMMITTEE

Meeting - 29 June 2016

Present: Mr Walters MBE (Chairman)
Mr D Smith, Mrs Jordan, Mr Pepler, Mr Read, Mr Samson,
Mr Sandy, Mr Sangster and Mrs Lewis

Apologies for absence: Mr Hogan

5. MINUTES

The minutes of the meeting of the Licensing Committee held on 23 March and 10 May 2016 were received.

6. LICENSING ACT 2003 - OFFICER DETERMINATIONS

The Committee received a report which informed Members of Officer Determinations during the period 3rd March 2016 to 7th June 2016.

RESOLVED that the report be noted.

7. FILM CLASSIFICATION AND RECLASSIFICATION UNDER THE LICENSING ACT 2003

The Committee considered a report regarding Film classification and reclassification under The Licensing Act 2003.

Officers explained to Members of the Committee that a request for film classification had led to the creation of a Policy that would deal with such requests. The report detailed that the Licensing Act does bestow local authorities with the responsibility for film classification, but that this is normally carried out by the BBFC.

The draft policy, attached as Appendix 1, proposed that the Council would follow the BBFC guidance to ensure that classifications are considered in line with the requirements of the Licensing Act and statutory guidance. The Committee were made aware that the function would be delegated to the Head of Healthy Communities in order that officers would be able to carry out the work required for each request, thereby preventing the need for the arrangement of a sub-committee, allowing requests to be dealt with as efficiently as possible. It was further noted by the Committee that the Head of Healthy Communities could waiver his delegation if considered appropriate for sub-committee to consider a classification case.

After questions from Members, it was clarified that the fees proposed ensure cost recovery, with £47 estimated to be the hourly cost of a Healthy Communities officer, and the time required for the administration of such a request. Similarly, the £1 per minute additional fee allows for recovering the cost of viewing the film.

It was therefore **RESOLVED** by the Licensing Committee to:

1. Approve the draft policy for dealing with the classification of films for adoption with immediate effect
2. Agree to adopt the Guidance issued by the BBFC to assist in the classification and re-classification of films.

It was further agreed that the Licensing Committee **RECOMMEND** to Council that:

1. 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. All cases not determined by the Head of Healthy Communities under delegated authority be dealt with by the Licensing Sub-Committee.
3. The level of fee for the classification of films be set 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.

8. **LICENSING SUB-COMMITTEE**

The Committee received a report which informed members of the Licensing Committee determination during the period 1 March 2016 to 9 June 2016, of which there were none.

RESOLVED that the report be noted.

9. **ANY OTHER BUSINESS**

None.

The meeting terminated at 5.12 pm

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|----------------------------|--|
| SUBJECT: | Film Classification and Reclassification under The Licensing Act 2003 |
| REPORT OF: | Head of Healthy Communities – Martin Holt |
| RESPONSIBLE OFFICER | Licensing Manager – Nathan March |
| REPORT AUTHOR | Nathan March, 01494 732249, nmarch@chiltern.gov.uk |
| WARD/S AFFECTED | Not applicable |

1. Purpose of Report

1.1 The Licensing Committee, at the meeting held on 29 June 2016, considered a report proposing the adoption of a policy for dealing with the classification of films. The Committee agreed the proposed policy which is attached at Appendix 1. The Committee also agreed 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 Committee at the meeting held on 29 June 2016, is set out in Appendix 1 for information.

Fee

- 3.10. 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).
- 3.11. 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.
- 3.12. 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 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.

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| <p>Background Papers:</p> | <p>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</p> |
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SOUTH BUCKS DISTRICT COUNCIL

Policy and Procedure for determining film classifications

Adopted on 29th June 2016
Effective from 30th 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 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.
- 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.
- 4. 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.**
- 4.1 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).
- 4.2 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.
- 4.3 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.

4.4 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.

4.5 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.

4.6 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.

4.7 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).

5. Age restricted film/s.

- 5.1 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.
- 5.2 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.
- 5.3 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.

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

- 6.1 All premises permitted to exhibit films are subject to the following mandatory conditions:
- 6.1.1 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.
- 6.1.2 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.
- 6.1.3 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.

6.2 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

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

7.1 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

7.2 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.

8. Requests to waive a film classification

8.1 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.

8.2 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.

- 8.3 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.
- 8.4 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).
- 8.5 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 as described within this policy.

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