

# CLASSIFICATION OF FILMS IN CINEMAS

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| <b>Committee</b>          | Licensing Committee                     |
| <b>Officer Contact</b>    | Stephanie Waterford, Residents Services |
| <b>Papers with report</b> | none                                    |
| <b>Ward(s) affected</b>   | All                                     |

## SUMMARY

At the meeting of the Licensing Committee held in January 2014, Officers were instructed to research the regulatory powers in respect of film classifications. The information set out below outlines the powers in regulation and the powers available to the Council as the Licensing Authority.

## RECOMMENDATION

**That the Licensing Committee instructs Officers to begin working on a film classification policy and procedure for adoption by the Licensing Committee.**

## INFORMATION

The exhibition of films is licensed under the Licensing Act 2003. This includes Cinemas, Theatres and any other premises where films may be exhibited for profit. All film exhibitions are subject to a condition requiring restrictions on admission by children according to British Board of Film Classification (BBFC) film classifications.

Councils had provision to censor and classify films themselves in the early part of the 20<sup>th</sup> Century; however, the BBFC was formed in 1912 to ensure a consistent approach to film classifications across the UK.

Local Authorities do have powers to ignore the BBFC decision where they do not agree with the classification given. This rarely happens in practice and would very much depend on local circumstances. Film makers may also seek for their works to be classified by the Local Authority in the absence of a BBFC classification. A typical example of this would be an independent film maker screening works at a film festival.

The Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003, 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.”*

In order to classify a film for exhibition, Local Authorities must adopt a policy and have a clear procedure in place. Currently, Hillingdon has no such policy. The power is provided to Licensing Authorities under the Licensing Act 2003, so changes to the Council's Terms of Reference and delegations would not be necessary.

## **FINANCIAL IMPLICATIONS**

None.

## **LEGAL IMPLICATIONS**

Public exhibition of films is a form of Regulated Entertainment and constitutes a licensable activity under the Licensing Act 2003 ('the Act'). A premises which seeks or intends to carry on a business, which involves the use of the premises for the purposes of exhibiting a film, must operate under a premises licence (or a club premises certificate or a temporary event notice).

Where a premises licence authorises the exhibition of films, section 20 of the Act provides mandatory conditions, which must be attached to a licence (section 74 of the Act in the case of club premises certificates). One of the mandatory conditions relates to age restriction. In most cases, the classification body (i.e the BBFC) is specified in a licence and the premises must restrict the admission of children in accordance with the recommendation of that body.

However, the Council as a licensing authority may have cause or obligation to classify a film for exhibition in the following circumstances:

- where no classification body is specified in a premises licence the admission of children to premises exhibiting films must be restricted in accordance with any recommendation by that authority; or
- where it is decided to classify a film to restrict age for a particular film; or
- where the licensing authority is requested to authorise the showing of an unclassified film, for which classification in respect of age will be required.

A policy should set out how the Licensing Service would administer these scenarios.

A policy on the classification of films should take into account the Guidance of the Secretary of State issued under section 182 of the Act. It should also take into account obligations under the Human Rights Act 1998 and any restrictions on material that can be shown under other legislation such as the Obscene Publications Act 1959 and the Copyright Design and Patents Act 1988.

In accordance with paragraph 10.31 of the Secretary of State's Guidance, the Council, via its policy should concern itself primarily with the protection of children from harm. It should not seek to use its powers to censor films, save where there is clear cause to believe that this is required to promote the licensing objectives.

The policy should clarify definitions of 'films' and 'children' and set out the exemptions to exhibition of films as specified in the Act.

A policy should also consider whether any additional delegations from the Licensing Committee to Sub-Committees (or officers) are necessary in order to administer film classification.

## **BACKGROUND DOCUMENTS**

The Licensing Act 2003

Section 182 Guidance under the Licensing Act 2003