



# HILLINGDON

LONDON

## FILM AUTHORISATION PROCEDURES

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## 1. INTRODUCTION

- 1.1. The council, as the Licensing Authority, is responsible for authorising the public exhibition of films under Section 20 of the Licensing Act 2003. Section 20 of the Act provides that where a Premises Licence or Club Premises Certificate authorises the *Exhibition of Films*, the licence must include the following condition:-
  - *The admission of children shall be restricted according to the classification given by the British Board of Film Classification (or by the Licensing Authority) for the film being shown.*
- 1.2 Where a venue wishes to exhibit films, there must be a Premises Licence, Club Premises Certificate or Temporary Event Notice in place under the Licensing Act 2003.
- 1.3 The definition of a *child* is any person under the age of 18 years.
- 1.4 Under the Licensing Act 2003, the definition of the *exhibition of a film* is the exhibition of moving pictures.
- 1.5 In summary, all films which are used for public exhibition under a Premises Licence or Club Premises Certificate must either be classified by the British Board of Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.6 The Licensing Authority shall at all times taken into account the Guidance issued under Section 182 of the Licensing Act 2003, when authorising/classifying films.
- 1.7 The Licensing Authority can be requested to authorise a film that has already been classified by the BBFC in the following circumstances:-
  - A distributor of a film may appeal against the decision of the BBFC and request that a Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions): or
  - An independent party may request that the Licensing Authority re-classifies/authorises a film for local screening (with recommendations on age restrictions).



1.8 In addition, the Licensing Authority ;may be requested to authorise the showing of an unclassified film. This could be for:-

- A film festival covering a specific period of time
- A one off screening of a film
- A trailer for a film

1.9 In accordance with paragraph 10.31 of the LA03 Guidance, the Licensing Authority will concern itself primarily with the *Protection of Children from Harm*. It must not use its powers to censor films, except where there is clear cause to believe that this is required to promote the licensing objectives.

1.10 Paragraph 2.41 of the LA03 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.*

## 2. PRINCIPLES IN DETERMINING APPLICATIONS

2.1 The BBFC classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The LA03 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.”*

2.2 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 recommendations on the restriction of access by children to films. It should be noted however that the Licensing Authority is not obliged to follow these guidelines.

2.3 Where a premises seeks to exhibit a film under a Club Premises Certificate or Premises Licence that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film. The procedures outlined in item 3 will be followed.



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- 2.4 The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. Material should not be in breach of criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 or have been created through the commission of a criminal offence.
- 2.5 Applicants must ensure all material that is the subject of an 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 act.
- 2.6 Any authorisations for the exhibition of films issued by the Licensing Authority shall only apply when the films are exhibited within the London Borough of Hillingdon and does not affect the authorisation or recommendations in any other borough. It will be assumed that all relevant third party consents and licences in respect of any copyright, confidential information and all other intellectual property rights have been obtained and a written undertaking to this effect will be required. **It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.**
- 2.7 When authorised by the Licensing Authority, a film will be authorised for a particular showing or festival only and subject to the recommendations imposed by the Licensing Authority (unless a further application for re-classification is made). Details of the authorisations including any recommendations will be available from the Licensing Service and will be listed on the council's website.
- 2.8 The Licensing Authority will consider each application for authorisation on its own merits and may impose additional or more specific recommendations where it deems necessary in order to comply with the *Protection of Children from Harm* licensing objective. Specimen recommendations for inclusion are detailed at Appendix 1.
- 2.9 When the Licensing Authority determines to refuse authorisation of a film, clear and concise reasons will be given.

### 3. **PROCEDURE FOR AUTHORISATION REQUESTS FOR FILMS ALREADY CLASSIFIED BY THE BBFC**

- 3.1 Applications for authorisation of films already classified by the BBFC will be referred to, and determined by, the Licensing Sub Committee on behalf of the Licensing Authority. This Sub Committee will consist of 3 Members of the Licensing Committee.
- 3.2 Applications should be made in writing and should be accompanied by the film synopsis form at Appendix 2.



- 3.3 Where an individual or organisation which is not connected with the film(s), requests re-classification of a BBFC classified film they are not expected to provide a copy of the film(s). The Licensing Authority will endeavour make suitable arrangements for a Licensing Sub Committee to view the film. However, this may not be possible if a short period of notice is given.
- 3.4 All requests must be accompanied by detailed reasons for the request. Requests will be dealt with as quickly as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.
- 3.5 Requests must be relevant to the *Protection of Children from Harm* licensing objective and must not be frivolous, vexatious or repetitive. Requests 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.
- 3.6 The Sub Committee will then view the entire film and assess it against the BBFC guidelines and the LA03 Guidance. The Sub Committee will issue a *Notice of Determination* of the application within 5 working days from the date of viewing. The Licensing Authority will also formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 3.7 In line with Annex D Part 5 of the LA03 Guidance, where a film is recommended by the Licensing Authority as being in an age restrictive category, no person under the age specified shall admitted.

Where a film is recommended by the Licensing Authority as being in a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.

- 3.8 In the above circumstances, the premises licence holder or club certificate holder will be required to display a notice clearly stating the relevant age restrictions and requirements in a conspicuous position. With regard to the wording of such notices, the Licensing Authority shall have regard to the LA03 Guidance, e.g.
- “PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) WILL NOT BE ADMITTED TO ANY PART OF THE PROGRAMME”
  - or
  - “PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) WILL ONLY BE ADMITTED TO THE PROGRAMME IF ACCOMPANIED BY AN ADULT”



#### 4. **PROCEDURE FOR AUTHORISATION OF FILMS WHICH HAVE NOT BEEN CLASSIFIED BY THE BBFC**

4.1 Applications for authorisation of films not already classified by the BBFC will be referred to, and determined by, the Licensing Sub Committee on behalf of the Licensing Authority. This Sub Committee will consist of 3 Members of the Licensing Committee.

4.2 An application for authorisation should be made in writing to the Licensing Service, giving at least 28 days notice and should include the following information:-

- The film maker
- Such recommendation as may have been made by the film maker on age limit for the intended audience for exhibition of the film
- Any existing classification issued by an existing classification body, whether in the UK or abroad
- A synopsis identifying the material in 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.

Note: Where an applicant seeks an authorisation allowing the exhibition of the film to person aged 18 years and over only, a detailed synopsis will not be required.

- If known, a legitimate and legal internet site where the film or a portion of the film is available to view without charge
- Any proposals on age restrictions for viewing the film that the applicant intends to impose
- Details of how age restrictions will be enforced

4.3 When Members of the Licensing Authority, at their discretion, determine it is possible to formulate recommendations to the premises licence holder or club premises certificate holder in relation to the exhibition of the film on the basis of this information, recommendations may be made on this basis alone.

4.4 However, in accordance with Annex D Part 5 of the LA03 Guidance, the Licensing Sub Committee may, request a copy of the film(s) on DVD format with the cost to be borne by the applicant. If DVD format is not available, the Licensing Service may agree to arrange for a suitable venue to view the film(s).

4.5 The Licensing Sub Committee, whilst viewing the film, will have regard to the Guidelines and LA03 Guidance and will issue a Notice of Determination of the decision within 5 working days from the date of viewing.



- 4.6 When considering all such requests, the Licensing Sub Committee will pay particular attention to the *Protection of Children from Harm* licensing objective.
- 4.7 In line with Annex D Part 5 of the LA03 Guidance, where a film is recommended by the Licensing Authority as being in an age restrictive category, no person under the age specified shall admitted.

Where a film is recommended by the Licensing Authority as being in a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.

- 4.8 In the above circumstances, the premises licence holder or club premises certificate holder will be required to display a notice clearly stating the relevant age restrictions and requirements in a conspicuous position. With regard to the wording of such notices, the Licensing Authority shall have regard to the LA03 Guidance, e.g.

- “PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) WILL NOT BE ADMITTED TO ANY PART OF THE PROGRAMME”

OR

- “PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) WILL ONLY BE ADMITTED TO THE PROGRAMME IF ACCOMPANIED BY AN ADULT”

- 4.9 In order to ensure the promotion of the *Protection of Children from Harm* and the *Prevention of Crime and Disorder* licensing objectives, the Licensing Authority will formally advise the premises licence holder and/or applicant of any recommendation(s) on the restriction of access for children to the film(s). This may also include a requirement for relevant notices to be displayed by the premises licence holder both inside and outside the premises. The premises licence holder will be expected to comply with these recommendations.
- 4.10 Where requests are made to the Licensing Authority to exhibit a film to be shown to persons aged 18 and over only, the premises licence holder will be required to display in a conspicuous position a notice clearly stating that the Licensing Authority has authorised the film but has not viewed it. This statement should be incorporated in any promotional literature and on any relevant website including, where relevant, the premises licence holder’s web site.





4.11 The Licensing Authority recognises the principle that adults should be free to choose their own entertainment and will not normally over-ride this principle and as such, requests will not normally be refused. However, in all cases the Licensing Authority will expect the applicant to follow the BBFC's Guidelines for 18 and R18 restricted films.

## 5. SECTION 20 LICENSING ACT 2003: EXHIBITION OF FILMS

5.1 All premises licensed to exhibit films under a Premises Licence or Club Premises Certificate are subject to the following mandatory conditions:-

1. *Where a premises licence or club premises certificate authorises the exhibition of films, the licence or certificate must include a condition requiring the admission of children to the exhibition at any film to be restricted in accordance with these paragraphs.*
2. *Where a film classification body is specified in the licence or certificate, unless paragraph 3(b) below applies, admission of children must be restricted in accordance with any recommendation by that body.*
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 which 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.*
4. *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 (authority to determine suitability of video works for classification).*



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6. **EXEMPTIONS FOR THE SHOWING OF FILMS**

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

EITHER

It consists of, or forms part of, an exhibit put on show for any purposes of a museum or art gallery(the LA03) does not define a museum or art gallery so the ordinary mean of the terms are 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



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## Appendix 1

### Specimen Recommendations in relation to films authorised for exhibition:-

- a) The Age Recommendation, e.g.

"PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) WILL NOT BE ADMITTED TO ANY PART OF THE PROGRAMME"

or

"PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) WILL ONLY BE ADMITTED TO THE PROGRAMME WHEN ACCOMPANIED BY AN ADULT"

- b) That the premises licence or club premises certificate holder adopts a suitable management policy and procedure to monitor and enforce the recommendations on age restrictions.
- c) That the premises licence or club premises certificate holder displays in a conspicuous position a notice clearly stating that the Licensing Authority has authorised the film(s) for viewing by people ages (INSERT APPROPRIATE AGE) and above, but has not necessarily viewed it.
- d) That the age restriction applying to the exhibition of the film is incorporated into any promotional literature and onto any relevant web site including, where relevant, the licence holder's or exhibitor's web site.



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