

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

Agenda Item No. 7

meeting date: 12 APRIL 2016
 title: RECOMMENDATION ON POLICY AND PROCEDURE FOR FILM CLASSIFICATION
 submitted by: CHIEF EXECUTIVE
 principal author: MAIR HILL - SOLICITOR

1 PURPOSE

1.1 To seek Committee's approval for the adoption of a policy on film classification and to delegate authority for decision making.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives - }
- Corporate Priorities - } The Council aims to be a well-managed authority these proposals support that objective.
- Other Considerations - }

2 BACKGROUND

2.1 The Council is responsible for licensing cinemas and other venues which exhibit films for the entertainment of an audience, under the Licensing Act 2003 ("**Act**"). Most venues showing films on a regular basis will hold a premises licence to authorise this.

2.2 The Act requires that every premises licence authorising exhibitions of films is issued subject to mandatory condition, contained in section 20 of the Act, requiring admission to the film to be restricted in accordance with any age-restriction recommendation made wither by a film classification body, or by the licensing authority. Licensing Authority recommendations override any other certificate issued by the British Board of Film Classification, within the area of the licensing authority.

2.3 The main film classification body in the UK is the British Board of Film Classification (BBFC), which is an independent body that makes admission recommendations on behalf of local licensing authorities. Almost all major theatrical releases screened in UK will have been classified by the BBFC.

2.4 BBFC classifications for film exhibitions in cinemas are not legally binding in their own right, but become so under the mandatory condition which local licensing authorities are required to attach to premises licences and club premises certificates, as set out above, unless the authority has resolved to override a BBFC recommendation.

2.5 There are instances where films have not been classified by the BBFC and here it remains the responsibility of the licensing authority to do so.

3 ISSUES

- 3.1 The Council has recently received a request from a film maker for it to classify a documentary film (which is unclassified by the BBFC) so that it can be shown at a premises within the Ribble Valley. This is not yet a formal application.
- 3.2 All functions which the Council may carry out under the Licensing Act 2003 are delegated to the Licensing Committee under the Council's delegation scheme. However, the Council does not currently have a policy setting out how it will determine film classifications. It is proposed that the Council adopt the draft policy enclosed with this report at **Appendix 1** and that the Head of Legal and Democratic Services be authorised to consult upon its terms. Given the limited application of this policy it is proposed that a period of 8 weeks consultation should be allowed and that the matter then be referred back to Committee to consider the response to that consultation
- 3.3 Should a formal application be received before the draft policy has been approved then it is proposed that as an interim measure the film will be considered in line with the draft policy or if the applicant is not content with that they be informed it will be reviewed once the policy has been consulted upon and approved by committee.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications
- Resources – The Policy would require adoption and the Council would need to notify all licence holders.
 - Technical, Environmental and Legal - No implications identified.
 - Political - No implications identified.
 - Reputation – No implications identified.
 - Equality & Diversity – No implications identified.

5 **RECOMMENDED THAT COMMITTEE**

- 5.1 Approve the draft policy and authorise the Head of Legal and Democratic Services to consult upon it as set out above.

MAIR HILL
SOLICITOR

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

For further information please ask for Mair Hill, extension 3216.

REF: MJH/LICENSING/12 April 2016

APPENDIX 1



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

POLICY FOR DETERMINING FILM CLASSIFICATIONS

1. Introduction

- 1.1 The public exhibition of all films on licensed premises must either be classified by the British Broad Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.2 Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by the British Board of Film Classification (the BBFC) or by the Licensing Authority itself.
- 1.3 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 British Board of Film Classification's decisions or requests to reclassify films.

2. Definitions

- 2.1 "*Children*" means - any person under the age of 18 years.
- 2.2 "*Exhibition of a film*" means - the exhibition of moving pictures.

3. Circumstances the Licensing authority may classify a film

- 3.1 The Licensing Authority may be requested to authorise the showing of an unclassified film(s) within the area of Ribble Valley Borough Council.
- 3.2 The Licensing Authority may also be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) when:
 - 3.2.1 a distributor of a film wishes to appeal against the decision of the BBFC and request that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions); or

3.2.2 an independent party may request that the Licensing Authority reclassifies/authorises the film for local screening (with recommendations on age restrictions).

4. Submission of film

4.1 Applications for authorisation of films shall be referred to and determined by the Licensing Sub Committee on behalf of the Licensing Authority.

4.2 Applications should be submitted to the Licensing Authority with a minimum of **28 days** before the proposed screening.

4.3 An application for authorisation should include the following information:

1. the name of the film maker;
2. a brief synopsis of the film
3. any recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
4. any existing classification issued by an existing classification body, whether within or outside the UK;
5. information 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.
6. the language spoken in the film and whether there are subtitles in English.
7. details of how any age restrictions will be enforced.

4.4 All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays. The cost of supplying this shall be borne by the Applicant. If DVD format is not possible then arrangements will be made for a suitable venue to view the film.

4.5 If the film contains dialogue in a language other than English an interpreter will be required for the classification. Ribble Valley Borough Council will arrange for a suitable interpreter and the applicant will be responsible for the cost of this.

4.6 All requests must be accompanied by detailed reasons for the request.

4.7 Applicants must ensure that all material that is the subject of the application complies with all other relevant legislation and has not been created through the commission of a criminal offence.

5. Process

5.1 Requests 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.

5.2 The Sub Committee will view the entire film and assess it against the BBFC guidelines and Section 182 Guidance (**Guidance**).

5.3 The Chairman of the Sub Committee will have the final decision on the classification to be applied to the film.

5.4 The Sub Committee shall issue a Notice of Determination of the authorisation within 5 working days from the date of viewing.

5.5 The Licensing Authority will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).

5.6 Where the Licensing Authority has determined to refuse authorisation of a film clear and concise reasons shall be given.

6. Classification

6.1 In accordance with the Guidance, the licensing authority shall concern itself primarily with the protection of children from harm when classifying films. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the Licensing Objectives.

6.2 The 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.'

6.3 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 the film(s). It should be noted however that the Licensing Authority is not obliged to follow these guidelines.