

LICENSING COMMITTEE

7 May 2013

FILM CERTIFICATION

Report of the Head of Legal and Democratic Services

RECOMMENDATION

It is recommended that delegated authority be given by the Licensing Committee for the Head of Legal and Democratic Services (or his nominee) to certificate films, in consultation with the Chair or Vice Chair of the Committee.

Summary

There is currently no formal procedure for the Council to deal with the classification of previously unclassified films, or appeals by distributors against the British Board of Film Classification's decisions or requests to reclassify films.

The Council's responsibilities in relation to film classification are now incorporated in the Licensing Act 2003 it is necessary to adopt such a procedure.

Statutory Powers

Licensing Act 2003

Introduction

1. The British Board of Film Classification (BBFC) is an independent, non-governmental body funded through the fees it charges to those who submit films, videos, DVDs and digital games for classification.

The BBFC classifies films on behalf of the local authorities who license cinemas under the Licensing Act 2003. It does not have any powers of enforcement.

2. Whilst the British Board of Film Classification (BBFC) performs a national film classification role, the Council, as Licensing Authority, is the classification body for the public exhibition of films shown in the Borough by virtue of the Licensing Act 2003 (LA03). As such the Licensing Authority has the right to classify films that are shown in premises licensed under the LA03 such as cinemas, hotels, clubs and public houses.

3. Public screening of material which has not been passed by the BBFC (for example films imported from overseas especially for a festival, or locally made films not entering formal UK distribution) is subject to local authority consent, usually with at least a month's notice in writing. Cinemas seeking to include such material in their programme usually have to submit in advance details of the unclassified films, and sometimes screening discs, to the local authority licensing committee.
4. Section 20 of the LA03 provides that a mandatory condition shall be applied to all premises licences that authorise the exhibition of films. This relates to the restriction on the admission of children (defined in LA03 as "persons aged under 18") to the exhibition of any film to either the film classification recommended by the BBFC or, if the Licensing Authority does not agree with that recommendation, to such other classification recommended by the Licensing Authority.
5. The Licensing Authority may be required to classify a film that has not been classified by the BBFC. A typical example of this would be a locally made film to be shown at a film festival within the Borough. Therefore, the Licensing Authority must have a formal procedure in place to determine this classification.
6. A distributor of a film or other party may appeal to the Licensing Authority against a decision of the BBFC requesting that the Licensing Authority reclassifies the film for local screening.
7. 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 is subject to certain conditions and restrictions.
8. The LA03 also provides for a number of exemptions for certain types of film such as those exhibited for the purposes of advertisement, information, education etc. Films exhibited in a museum or art gallery that consist of or form part of an exhibit are also exempt.
9. Under the LA03, the Licensing Authority must carry out its functions with a view to promoting the licensing objectives. The objectives are;
 - The prevention of crime and disorder
 - Public safety
 - Prevention of public nuisance
 - Protection of children from harm
10. In terms of film exhibitions, clearly the most relevant licensing objective is the protection of children from harm. There may, however, be instances where there could be a case for relying on the prevention of crime and disorder objective, although evidence would have to be produced that a particular film would lead to crime and disorder.

11. To date we have only received one request to deal with film classification, on this occasion members of the Licensing Committee met to decide the classification level required. This procedure proved to be rather cumbersome and unnecessarily time consuming for Members.

Financial Implications

12. The cost of carrying out any form of film classification will be met from within existing licensing budgets. The current proposal to delegate authority should not add any burden to current budgets, it is not expected that this situation will change however the situation may have to be reviewed in the future if the classification process proves to be time consuming or administratively complex.

Risk Assessment

13. Having the procedure to ensure films are classified appropriately negate the risk of psychological harm being caused to members of the public in particular children, by film exhibitions containing strong language, horror/violence or sexual images.

Equality and Diversity Implications

14. Fostering good relations by ensuring that film exhibitions do not promote poor relations between different people, which may also lead to crime and disorder. A full Equality Impact Assessment (EIA) has not been carried out, because while there are some equalities impacts, it is not proportionate to carry out a full EIA.”

Conclusion

15. Members are asked to approve the recommended procedures attached at Appendix A to deal with the classification and re-classification of a film, to determine any appeals against the BBFC decisions and to determine any request to waive a film classification. In addition Members are asked to approve the BBFC Guidelines attached at Appendix B to assist them in their determination

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Appendices Attached: 2
*Report No

LOCAL GOVERNMENT ACT 1972 - SECTION 100D

The following is a list of documents which disclose facts or matters on which this report or an important part of it is based and have been relied upon to a material extent in the preparation of this report. This list does not include any published works or documents which would disclose exempt or confidential information:

* List Background Papers or state None.

Appendix A

Procedure for the classification of currently unclassified film material.

An application should be made to the Head of Legal and Democratic Services in writing at least one month prior to the planned showing of the film.

Officers will watch the film and classify in accordance with the British Board of Film Certification (BBFC) guidance. Recommendation will then be made and forwarded to the Chair or Vice Chair of the Licensing Committee for their approval.

Should an officer at any time feel unable to classify the film in accordance with the BBFC guidelines, a sub-committee of the Licensing Committee will be convened to make a decision.

DEFINITION OF THE FIVE CATEGORIES USED BY THE BRITISH BOARD FOR FILM CLASSIFICATION

There are five classification categories for theatrically released films:

Advisory categories

U – Universal – suitable for all ages

PG – Parental Guidance – General viewing but some scenes may be unsuitable for some children. Unaccompanied children of any age may watch. A PG film should not disturb a child around 8 or older. However, parents are advised to consider whether the content may upset younger or more sensitive children.

12A – No one younger than 12 may see a ‘12A’ film in a cinema unless accompanied by an adult, and films classified ‘12A’ are not recommended for a child below 12. An adult may take a younger child if, in their judgement, the film is suitable for that particular child. In such circumstances, responsibility for allowing a child under 12 to view lies with the accompanying adult.

Mandatory categories

15 and 18 which restrict viewing by age i.e. a person has to be this age or older to view a film. Essentially, the BBFC considers the content of a film in relation to the following aspects - theme, language, nudity, sex, violence, imitable techniques, horror and drugs. All classification decisions are explained by the BBFC in these terms. For more details on how the guidelines are interpreted, contact the BBFC and ask for a copy of the latest guidelines.

It should be noted that the BBFC effectively carries out its functions on behalf of local authorities who issue licences to cinemas. Local authorities may, if they do not agree with the category assigned by the BBFC, at their discretion alter any category or indeed prohibit entirely the showing of any film, however this is not recommended unless extraordinary circumstances exist.

Unclassified material