

FILM CLASSIFICATION POLICY

Head of Service/Contact: Rod Brown, Head of Housing & Community
Urgent Decision?(yes/no) No
If yes, reason urgent decision required: N/A
Annexes/Appendices (attached): Annexe 1: Draft Film Classification Policy
Other available papers (not attached): BBFC Film Classification Guidelines

Report summary

To consider a draft Policy for adoption regarding the classification of films by the Council.

Recommendation (s)	<i>Notes</i>
<p>(1) Approve the draft policy and procedure for dealing with the classification of films (attached as Annexe 1)</p> <p>(2) Delegate responsibility for the authorisation of films which have not already been classified by the BBFC to the Officers.</p> <p>(3) Delegate responsibility to grant exemptions from the payment of a classification fee to the Head of Housing & Community and the Licensing, Grants and HIA Manager.</p> <p>(4) That the Committee agree to recommend to Council the</p> <p>(1) adoption of a Film Classification Policy;</p> <p>(2) That the Head of Housing & Community Services and the Licensing, Grants and HIA Manager be authorised to determine the classification and re-classification of films including appeals in accordance with the Policy;</p> <p>(3) To set the level of fee for classification of a film (subject to exemptions) at £50, plus £1 per minute of the full length of the submitted film, plus any costs associated incurred to process the application (subject to the annual fees and charges review).</p>	

Licensing and Planning Policy Committee

10 July 2018

1 Implications for the Council's Key Priorities, Service Plans and Sustainable Community Strategy

- 1.1 Adopting the policy will help the Council to meet the policy objectives of supporting businesses and our Local Economy

2 Background

- 2.1 The public exhibition of all films on licensed premises must be either classified by the British Board of Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 2.2 It is usual for the majority of films to be released nationwide and therefore be classified by the BBFC. However, where a local film festival is taking place showing films that are not on general release in the United Kingdom, they can apply to the local authority for that area to authorise/classify the film.
- 2.3 In addition, where a film distributor believes a film has been classified incorrectly, they can apply to the local authority for the area they wish to show the film in for a reclassification.
- 2.4 Whilst the British Board of Film Classification (BBFC) performs a national film classification role, the Council, as a Licensing Authority, is the classification body for the public exhibition of films shown in the Borough by virtue of the Licensing Act 2003. As such the Licensing Authority has the right to classify films that are shown in premises licensed under the Act such as cinemas, hotels, clubs and public houses.
- 2.5 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.
- 2.6 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.
- 2.7 There is currently no formal procedure for the Council to deal with the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's (BBFC) decisions, or requests to reclassify films. As the Council's responsibilities in relation to film classifications are incorporated within the Licensing Act 2003 it is necessary to adopt such a procedure.

Licensing and Planning Policy Committee

10 July 2018

- 2.8 Views on the draft policy were sought from 16 May 2018 until 15 June 2018. (Responses received are attached as Annexe 2.)

3 Proposals

- 3.1 The Licensing Authority must have a formal procedure in place to determine this classification.
- 3.2 The proposed policy and procedure to be adopted is attached at Annexe 1.
- 3.3 The proposed classification fee is worked on the basis of cost recovery only. However, so as not to undermine the viability of films designed to be part of a film festival within the Borough, it is suggested that these instances be exempt from the payment of a classification fee. This should be operated through a determination process led by the Head of Housing & Community Services and Licensing, Grants and HIA Manager on a case by case basis.
- 3.4 The Committee is asked to agree the Policy and recommend to Council the adoption of the Film Classification Policy.

4 Financial and Manpower Implications

- 4.1 There is a cost to the Council to deal with any film classification requests, the fees proposed will recover this cost.
- 4.2 The adoption, implementation and application of the policy will be undertaken using existing resources.
- 4.3 **Chief Finance Officer's comments:** Any income generated from these fees is based on cost recovery so these charges are not expected to impact on the Council's finances

5 Legal Implications (including implications for matters relating to equality)

- 5.1 The purpose of the proposed policy to set a procedure for the determination of the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions, or requests to reclassify films. This will enable the Council to support, if needed any mandatory conditions imposed pursuant to section 20 of Licensing Act 2003 and also any other situation where the Council may be requested to authorise the showing of an unclassified file. Such examples could include a film festival covering a specific period of time, a one off screening of a film, a trailer for a film.
- 5.2 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. 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.

Licensing and Planning Policy Committee

10 July 2018

5.3 ***Monitoring Officer's comments: None arising from this report.***

6 Sustainability Policy and Community Safety Implications

6.1 None for the purposes of this report.

7 Partnerships

7.1 None for the purposes of this report.

8 Risk Assessment

8.1 There is currently no formal procedure or policy in place in relation to the classification of films. The introduction of a Film Classification Policy will ensure a robust and transparent procedure is followed.

9 Conclusion and Recommendations

9.1 That the Committee agree to recommend to Council the adoption of a Film Classification Policy.

Ward(s) affected: (All Wards);