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**PART A:**

**REPORT TO:** LICENSING COMMITTEE

**DATE:** 06 JUNE 2013

**REPORT OF THE:** HEAD OF ENVIRONMENT  
PHIL LONG

**TITLE OF REPORT:** PROCEDURE FOR THE CLASSIFICATION OF FILMS

**WARDS AFFECTED:** ALL

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**EXECUTIVE SUMMARY**

**1.0 PURPOSE OF REPORT**

1.1 For Members to consider proposals for a Council Procedure for the Classification of Films.

**2.0 RECOMMENDATIONS**

2.1 It is recommended that Members:

- (a) Approve the procedure for dealing with the classification of films (attached at Appendix A)
- (b) Agree to adopt the Guidance issued by the British Board of Film Classification (BBFC) to assist in the determination of classifying films.
- (c) Delegate responsibility for the authorisation of films which have not already been classified by the BBFC and requests to waiver a film classification to the Health and Environment Manager in conjunction with authorised officers.
- (d) Delegate responsibility for the authorisation of films which have not already been classified by the BBFC and requests to waiver a film classification and where the Health and Environment Manager and/or authorised officers are unable to make a formal classification or to waiver a film classification the films to be referred to the Licensing Sub Committee.
- (e) Delegate responsibility for the authorisation of films already classified by the BBFC to the Licensing Sub Committee.

**3.0 REASON FOR RECOMMENDATION**

3.1 The Council as the Licensing Authority is the responsible authority for authorising the public exhibition of films. 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 by either the British Board of Film Classification (the BBFC) or by the Licensing Authority itself. As such, the admission of children to the exhibition of any film(s) must be restricted in accordance with either the BBFC classification or where the film is not classified by the BBFC, any recommendation made by the Licensing Authority.

#### **4.0 SIGNIFICANT RISKS**

- 4.1 At present the Council does not have a procedure to deal with the classification of films and as such requires one in order to undertake its statutory responsibilities.

### **REPORT**

#### **5.0 BACKGROUND AND INTRODUCTION**

- 5.1 The Licensing Act 2003 provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under Section 4 of the Video Recordings Act 1984 specified in the licence (currently only the BBFC) or by the Licensing Authority itself.
- 5.2 In line with the above requirement it is this Authority's policy to attach the following mandatory condition to all premises licences and club premises certificates authorising the exhibition of a film:

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made

- (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or
- (b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) of the Licensing Act 2003 applies to the film.

- 5.3 The BBFC classifies films in accordance with its published Guidelines, which are based on extensive research into public opinion and professional advice. The Secretary of State has recommended in previous guidance that Licensing Authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are good local reasons for a Licensing Authority to adopt this role.
- 5.4 Members will note that this Authority's standard condition detailed in paragraph 5.2 above specifies the BBFC as the classifying authority
- 5.5 There are many films, including "topical films", which the BBFC never see and so will not have received a BBFC classification. However it is not to be supposed that a Licensing Authority could, at a whim, prohibit the showing of a film, simply because it had not been certified by the Board. If a licensed premises wishes to exhibit a film, which has not been classified by the BBFC, then it will be the responsibility of the Licensing Authority to classify the film.
- 5.6 Recently, this Authority received a request from the Helmsley Film Festival to classify films which were unclassified by the BBFC. This was the first request of this nature

received by this Authority since the introduction of the Licensing Act 2003 and it is not envisaged that this will be a regular occurrence. However, officers consider it prudent to put procedures in place for the classification of films should the Authority receive such requests in the future.

## **6.0 POLICY CONTEXT**

6.1 The following Policies have informed this report:

- Ryedale District Council's Licensing Policy

## **7.0 CONSULTATION**

7.1 Not applicable.

## **8.0 REPORT DETAILS**

8.1 The Council currently have no formal procedure 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.

8.2 Whilst the 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 District 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, clubs and public houses.

8.3 Section 20 of the Licensing Act 2003 provides that a mandatory condition shall be applied to all premises licences that authorise the exhibition of films. This relates to the restriction of the admission of children (defined in the Act 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.

8.4 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 District. Therefore, the Licensing Authority should have a formal procedure in place to determine the classification. The proposed procedure to be adopted is attached at Annex B.

8.5 A distributor of a film or other party may also appeal to the Licensing Authority against a decision of the BBFC and request that the Licensing Authority reclassifies the film for local screening. This would be a very rare occurrence however procedures should be in place should such a request be made.

8.6 In addition to classifying films the Licensing Authority can issue a classification waiver which permits the exhibition of film(s) within the district without a classification, but subject to certain conditions and restrictions (see proposed procedure document Paragraph 7.)

8.7 The Licensing Act 2003 also provides for a number of exemptions for certain types of film(s) such as those exhibited for the purpose of demonstration of products, advertising goods or services, information, education or instruction and films exhibited in a museum or art gallery that consists of, or form part of, an exhibition.

8.8 Under the Act, the Licensing Authority must carry out its function with a view to promoting the licensing objectives. These objectives are;

- a) The prevention of crime and disorder
- b) Public safety
- c) Prevention of public nuisance
- d) Protection of children from harm

In terms of film exhibitions, 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. In such a case, evidence would have to be produced that a particular film would lead to crime and disorder.

8.9 As a requirement is placed on the Licensing Authority to carry out this function it is not proposed to carry out any form of consultation as this is a procedural matter for Licensing Authorities contained within the Act. If approval of the recommendations are given the procedure would be implemented with immediate effect.

8.10 It will not be necessary to change the terms of reference of the Licensing Committee as stated within the Constitution. It is already responsible for all matters relating to the discharge, by the Council, of its functions relating to licensing under the Licensing Act 2003.

8.11 The adoption of the BBFC Guidance and the proposed procedure for determining film classifications will be incorporated into the next revision of the Councils Statement of Licensing Policy.

## **9.0 IMPLICATIONS**

9.1 The following implications have been identified:

- a) Financial  
The recommended procedures will be undertaken as part of the Authority's licensing function with no additional cost involved.
- b) Legal  
The Licensing Authority has a legal responsibility to classify or reclassify films and therefore requires a robust procedure.
- c) Others  
Not having a policy might result in the moral and psychological harm being caused to members of the public, in particular children, by film exhibitions containing strong language, horror/violence or sexual images. In adopting and approving the recommendations the Council will be exercising due diligence in licensing matters.

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**Background Papers:**

Licensing Act 2003

Guidance issued under Section 182 of the Licensing Act 2003

Ryedale District Councils Statement of Licensing Policy

British Board of Film Classification Guidelines.