

# ANNEX B

# Ryedale District Council's

## FILM AUTHORISATION PROCEDURES

DRAFT JUNE 2013

## 1. PURPOSE

- 1.1 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 either by 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 recommendations made by the Licensing Authority.
- 1.2 The purpose of this Procedure is to set out the formal approach the Licensing Authority will take in determining the classification of previously unclassified films, appeals by distributors against the BBFC decisions or requests to reclassify films.
- 1.3 Where a premise seeks or intends to exhibit film(s) that venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003
- 1.4 The definition of children is any person under the age of 18 years.
- 1.5 Under the Licensing Act 2003, the definition of the exhibition of a film is the exhibition of moving pictures.
- 1.6 In summary, the public exhibition of all films on licensed premises must either be classified by the BBFC or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.7 The Licensing Authority when authorising film(s) shall at all times take into account the Guidance issued under Section 182 of the Licensing Act 2003 (the National Guidance).
- 1.8 The Licensing Authority may be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) in two different circumstances:
- a) A distributor of a film may 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); and
  - b) A member of the public may request that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions).
- 1.9 In addition, the Licensing Authority may be requested to authorise the showing of an unclassified film(s). This normally occurs in the following cases:
- A film festival covering a specific period of time
  - A one off screening of a film

- A trailer for a film

## GENERAL PROCEDURE

- 1.10 In accordance with paragraph 10.15 of the National Guidance, “other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitations should normally be imposed.”

In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.

### Protection of Children from Harm

Paragraph 2.25 of the National Guidance states:

“The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated with alcohol but also wider harms such as exposure to strong language and sexual expletives ( for example, in the context of exposure to certain films or adult entertainment).”

## **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. Paragraph 10.54 of National Guidance under Section 182 of the Act states that:
- “The 2003 Act 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 the recommendations given either by a body designated under section 4 of the Video Recording Act 1984 specified in the licence (currently only the British Board of Film Classification-BBFC) or by the licensing authority itself”.
- 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 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.
- 2.3 Where a licensed premise seeks to exhibit a film that has not been classified by the BBFC then it will be the responsibility of the Licensing Authority to authorise that film. As such the procedures outlined later in this document will be followed.
- 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 the criminal law, including material judged to be obscene under the

current interpretation of the Obscene Publications Act 1959 or has been created through the commission of a criminal offence.

- 2.5 Applicants must ensure that all material that is the subject of the 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 offence.
- 2.6 Any authorisations for the exhibition of film(s) issued by the Licensing Authority shall only apply when the film(s) is exhibited within the District of Ryedale and does not effect the authorisation or recommendations in any other district.
- 2.7 Once authorised by the Licensing Authority a film will be authorised for a particular showing or festival only subject to the recommendations imposed by the Licensing Authority (unless further application for re-classification is made). Details of the authorisation including any recommendations shall be available from the Council's Licensing Services.
- 2.8 The issue of any authorisation by Ryedale District Council is strictly limited to the authorisation within the District of Ryedale and it is assumed that all relevant third party consents and licences in respect of any and all copyright, confidential information and all other intellectual property rights have been obtained.
- 2.9 The Licensing Authority will consider each authorisation on its own merit and may impose additional and more specific recommendations where it deems necessary in order to comply with the Protection of Children from Harm Licensing Objective.
- 2.10 Where the Licensing Authority authorises unclassified material to be shown the Licensing Authority will require an undertaking from the applicant that he has satisfied himself after proper enquiry that no material to be exhibited contravenes 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 offence. The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.
- 2.11 Where the Licensing Authority has determined to refuse authorisation of a film(s) clear and concise reasons shall be given.

### **3 PROCEDURE FOR RECLASSIFICATION AUTHORISATION REQUESTS FOR APPROVAL OF FILMS ALREADY CLASSIFIED BY THE BBFC**

- 3.1 **Applications from distributors etc for the authorisation of films already classified by the BBFC** shall be referred to and determined by the Licensing Sub Committee on behalf of the Licensing Authority. This Sub Committee shall consist of 3 Members of the Licensing Committee.  
Applications should be submitted in writing to the Licensing service.
- 3.2 All requests shall be accompanied by the film(s) where possible in DVD format or any other means agreed by the local authority. The cost to be borne by the applicant. If DVD format is not possible then arrangements will be made for a suitable venue to view the film. This will allow the Licensing Sub Committee time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on

age restrictions the Licensing Authority may impose. In any event, all requests should be submitted on the Licensing Authority's application form a minimum of **42 days** before the proposed screening.

- 3.3 **Where a member of the public or organisation 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 then make suitable arrangements to view the film. It is also accepted that in these circumstances, it may not be possible to give **42 days'** notice before the proposed screening.
- 3.4 All requests must be accompanied by detailed reasons for the request. 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.
- 3.5 The Sub Committee will then view the entire film and assess it against the BBFC guidelines and National Guidance. The Sub Committee shall issue a Notice of Determination of the authorisation within 5 working days from the date of viewing. The Licensing Authority will then formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 3.6 Requests must be relevant to the protection of children from harm licensing objective and not 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.
- 3.7 In line with the National Guidance, where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.
- 3.8 In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall have regard to National Guidance, eg:

"PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME"

Or

"PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CAN 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 OR RYEDALE DISTRICT COUNCIL**

- 4.1 Applications for authorisation will in the first instance be considered by the Health and Environment Manager and other authorised officers under delegated powers. Any request to authorise an unclassified film may however, be referred by the Health

and Environment Manager and/or authorised officers at their discretion to the Licensing Sub Committee for determination.

- 4.2 Applications should be submitted to the Licensing Authority a minimum of **42 days** before the proposed screening. If less than **42 days'** notice is provided no request to review an officer decision upon application will be considered.
- 4.3 An application for authorisation should include the following information:
- (a) the film maker;
  - (b) such recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
  - (c) any existing classification issued by an existing classification body, whether within or outside the UK;
  - (d) a synopsis 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. Where an applicant seeks an authorisation allowing exhibition of the film to persons 18 years and over only, a detailed synopsis will not be required;
  - (e) if known, a legitimate and legal internet site where the film, or a portion of the film is available to view without charge;
  - (f) any proposals on age restrictions for viewing the film that the applicant intends to impose; and
  - (g) details of how age restrictions will be enforced.
- 4.4 Where authorised officers at their discretion determine it is possible to formulate recommendations to the licence holder in relation to the exhibition of the film on the basis of this information, recommendations may be made on this basis alone.
- 4.5 In accordance with this procedure the Health and Environment Manager or other authorised officers may at his/her discretion request a copy of the film(s) on DVD format or any other means agreed by the local authority. The cost to be borne by the applicant. If no suitable formats are available to view the film(s), authorised officers may agree to arrange for a suitable venue to view the film(s). This will allow officers time to view and authorise the film(s) so that the licence holder is able to adhere to any recommendations on age restrictions the Licensing Authority may impose. In any event, all requests should be submitted to the Licensing Authority a minimum of **42 days** before the proposed screening.
- 4.6 The authorised officer whilst viewing the film(s) will have regard to BBFC Guidelines and National Guidance and shall issue a Notice of Determination of the application within 5 working days from the date of the viewing.
- 4.7 When considering all such requests the Officer will pay particular attention to the Protection of Children from Harm Licensing Objective.

- 4.8 In line with the National Guidance, where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted. Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unaccompanied by an adult.
- 4.9 In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall adopt the example as laid out in the National Guidance:
- “PERSONS UNDER THE AGE OF *[INSERT APPROPRIATE AGE]* CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME”
- Or
- “PERSONS UNDER THE AGE OF *[INSERT APPROPRIATE AGE]* CAN ONLY BE ADMITTED TO THE PROGRAMME IF ACCOMPANIED BY AN ADULT”
- 4.10 In order to ensure the promotion of the Protection of Children from Harm and Prevention of Crime and Disorder licensing objectives, the Licensing Authority will formally advise the licence holder and applicant of any recommendation(s) on the restriction on the age of access for children to the film(s). This may also include any relevant notices required to be displayed by the licence holder inside and outside the premises. The licensed premises hosting the exhibition of film will be expected to comply with these recommendations.
- 4.11 Where requests are made to the Licensing Authority to exhibit a film(s) to be shown to persons 18 and over the licence holder will be required to display in a conspicuous position a notice clearly stating that the Licensing Authority has authorised the film(s) but has not viewed it. This statement should be incorporated within any promotional literature and on any relevant web site including where relevant the licence holder’s web site.
- 4.12 The Licensing Authority recognises the principle that adults should be free to choose their own entertainment and will not normally override this principle -as such requests shall 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.
- 4.13 Save where less than **42days’** notice of the application is given, the applicant will have a right to request a review of the Officer’s decision by the Licensing Sub Committee.

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

- 5.1 All premises permitted to exhibit films are subject to the following mandatory conditions:
1. Where a Premises Licence or Club Premise 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).

## **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 2003 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 meaning of the term is 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

## **7 REQUESTS TO WAIVE A FILM CLASSIFICATION**

- 7.1 The Licensing Authority can be requested to waive the film classification requirements.
- 7.2 All requests to waive a film classification must be made to the Licensing Authority within a minimum of **42 days** notice of the proposed screening. A determination on the classification waiver will be made within that time period.
- 7.3 All requests must be accompanied by a synopsis of the film and a confirmation from the applicant that the film is intended to be shown to an audience of 18 years old and over.
- 7.4 Waivers would be issued based only on the synopsis of the film and would be appropriate in the following cases:

- a) A foreign or locally made film being shown during a film festival
- b) A one-off screening of a film,
- c) A trailer for a film

7.5 Any classification waiver will have the following conditions attached:

- a) The film must not encourage or incite crime, or lead to disorder, or stir up hatred against any section of the public of Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex, or promote sexual humiliation or degradation.
- b) The film must not have the effect such as to tend to deprave and corrupt persons who see them.
- c) The films must not contain a grossly indecent performance thereby outraging the standards of public decency.
- d) Persons under the age of 18 must not be admitted to any such film exhibitions.

7.6 Waiver requests will be determined by authorised officers in conjunction with the Health and Environment Manager under delegated powers. If a waiver is not granted the applicant would be able to apply for classification of the film under the process above.