

# LICENSING COMMITTEE (Licensing Act 2003) Functions

## Agenda Item 21

Brighton & Hove City Council

<b>Subject:</b>	<b>Film Classification</b>		
<b>Date of Meeting:</b>	<b>27 November 2008</b>		
<b>Report of:</b>	<b>Assistant Director Public Safety</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jean Cranford</b>	<b>Tel:</b> <b>292550</b>
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<b>Wards Affected:</b>	<b>All</b>		

### FOR GENERAL RELEASE.

#### 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The British Board of Film Classification (BBFC) and the Licensing Authority are the classification bodies for films shown in the city, and as such has the right to issue film classifications to films that are shown in premises such as cinemas. Recent films that have been classified in Brighton and Hove City Council have been for the Duke of York's and Sallis Benney Theatre. Some films and film festivals are sponsored by Brighton and Hove City Council (BHCC) and/or the Arts Council and under such circumstances it could be imprudent to refuse permission.
- 1.2 At present no formal process is in place to classify films. In practice, officers may view films in advance, and determine classification, commonly after consultation with the Chairman. There is also no process to refer films to the Licensing Committee for classification where those films give rise to concerns regarding the licensing objective "the protection of children from harm."
- 1.3 The British Board of Film Classification (BBFC) classifies films to be exhibited in cinemas on behalf of Licensing Authorities, and as such Brighton and Hove rarely uses its right to classify films.
- 1.4 Under the Licensing Act 2003 any premises that has permission to show films as part of their permitted licensable activity, such as a cinema, has mandatory conditions attached to the licence regarding the exhibition of films. Premises that were previously licensed under the Cinemas Act 1985 will also have additional conditions attached, unless an application has been made to remove these. A schedule of the relevant conditions is attached as **APPENDIX 1**.
- 1.5 The Licensing Authority can be requested to classify a film that has not yet been classified by the BBFC. A typical example of this would be a locally

made film, such as a student production, to be shown at a film festival in the borough.

- 1.6 A distributor of a film can appeal to the Licensing Authority against a decision of the BBFC.
- 1.7 Any classification issued by the Licensing Authority only applies when the film is exhibited within the city, and does not effect the classification in other areas.

## **2. RECOMMENDATIONS:**

- 2.1 To agree the procedure to be taken in respect of the Licensing Authority issuing a classification for a film to be exhibited in Brighton & Hove.

## **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

### **Current Process**

- 3.1 There is currently no process to issue a classification for a one off screening, a film festival or film trailer.
- 3.2 Where a request is made to classify a film, a full copy of the film is requested. **(See APPENDIX 3)**. An officer will view the film and assess the film against guidelines issued by the BBFC. Officers will then issue a certificate with a classification for each film viewed. Conditions are attached to a waiver, and these are shown on **APPENDIX 2**.
- 3.3 A decision will be made at an officer level regarding the classification to be issued. This decision will be based on the BBFC guidelines and in agreement with the Chairman of the Licensing Committee.
- 3.4 Where a number of films are received at the same time, officers will view all the films submitted and issue a certificate prior to screening.

### **Commentary on licensing policy**

- 3.5 The following extract from Brighton & Hove Licensing Policy is considered relevant to this report:

“5.5 Licensees of premises giving film exhibitions will be expected to include in their operating schedules arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, or in specific cases where such certificates have not been granted, the licensing authority. The licensing authority does not intend to adopt its own system of film classification”.

## **Recommended Process**

### 3.6 Classification Requirements when films are not viewed in advance

Requests for an 18 certificate classification requirements be determined on an officer basis subject to the conditions shown in **APPENDIX 2**. An 18 certificate would be issued based only on the synopsis of the film and would be appropriate in the following cases:

- (a) A film festival
- (b) A one off screening of a film
- (c) A trailer for a film

## **Film Classification Requests**

- 3.7 Any request to classify a film will be considered by the licensing authority and must be accompanied by both the synopsis of the film and a full copy of the film in DVD or video format.
- 3.8 All requests must be made with a minimum of 7 days notice of the proposed screening or 28 days for multiple requests.
- 3.9 It is recommended that officers from the Licensing Authority view the entire film and assess against the BBFC guidelines, and a recommendation is made on the classification.
- 3.10 Where the appropriate classification is deemed to be a rating up to and including 15, then a classification will be issued by officers.
- 3.11 In sensitive cases, officers would consult with the Chairman or Deputy.

## **4. CONSULTATION**

- 4.1 None

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### 5.1 Financial Implications:

Any costs associated with film classification requests will be met from within existing revenue budgets.

*Finance Officer Consulted:* Karen Brookshaw

*Date:* 22/10/2008

5.2 Legal Implications:

The 2003 Act provides that where a premises licence authorises exhibition of a film, it must include a condition requiring the restriction of admission of children in accordance with a body designated under the Video Recordings Act 1984 (currently only BBFC) or by the licensing authority itself.

*Lawyer Consulted:* Rebecca Sidell

*Date:* 24.10.08

Equalities Implications:

- 5.3 Diversity is valued and strong, safe communities are vital to future prosperity. Protection of children from harm is a licensing objective

Sustainability Implications:

- 5.4 Cinemas need flexibility in order to prosper.

Crime & Disorder Implications:

- 5.5 Domestic violence is a priority for Brighton and Hove's Crime and Disorder Reduction Partnership.

Risk and Opportunity Management Implications:

- 5.6 A balance needs to be struck between protection of children and freedom of expression.

Corporate / Citywide Implications:

- 5.7 The Statement of Licensing Policy recognises that the city is a major centre for culture, hosting an international arts festival. It has a very diverse community with two universities, the City College and many language schools.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

### **APPENDIX 1**

#### ***Mandatory Conditions - Licensing Act 2003***

The Conditions detailed below are mandatory conditions required to be placed on all Premises Licenses where the showing of films is authorised under the Licensing Act 2003

#### **Exhibition of films**

S 20; mandatory condition: exhibition of films

- the admission of children is to be restricted in accordance with the following
  - (a) where the film classification body is specified in the licence, unless subsection (3)(b) of S 20 applies, admission of children must be restricted in accordance with any recommendation made by that body
  - (b) where the film classification body is not specified, or [(S20 (3)(b)] the relevant licensing authority has notified the holder of the licence that this subsections applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority

#### **Additional Conditions Attached to Cinema Licences**

##### **Embedded Conditions:**

- Cinematographic (Safety) Regulations 1955
- Cinemas Act 1985
- Licence to Use Premises for Cinematograph Exhibitions

### **Conditions Attached to an 18 Certificate Film Classification Requirements where films have not been viewed in advance**

The conditions listed below are attached by BHCC on all waivers to the film classification requirements:

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



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Carol Theobald  
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BN1 1JP

8<sup>th</sup> July 2008

Dear Carol Theobald

I am writing to address the issue of film classification for films that screen during film festivals in Brighton and Hove. Having spoken to members of the Environmental Health and Licensing department at Brighton and Hove City Council it would appear that there is not at present a set policy for dealing with requests for a waiver of film certification during a film festival.

The normal procedure for screening films without a BBFC issued certificate in Brighton and Hove is to submit the film to the Licensing department for them to view prior to screening and a certificate be issued by them. However for a festival the size of CINECITY The Brighton Film Festival, which annually holds around 100 events, the number of unclassified films can run into in excess of 50 hours worth of screening material. In addition to the time factor it is also difficult to get hold of copies of all the films within the programme prior to the start of the festival.

## APPENDIX 3

The type of films we screen which may not have a BBFC certificate include films from the Screen Archive South East, short and feature films by local film makers, films that have been screening on the film festival circuit in the UK and abroad but do not have a UK film distribution deal, and finally advance previews of films due to screen in British cinemas but yet to have a release date set.

With the above information in mind we would like to request a waiver to the classification requirements during CINECITY The Brighton Film Festival. The festival runs from November 20<sup>th</sup> to December 7<sup>th</sup> 2008 at The Duke Of York's Cinema and The Sallis Benney Theatre.

If a waiver were to be granted we would ensure that the following conditions were met:

1. The films screened will not encourage or incite crime; or lead to disorder; or stir up hatred against any section of the public in Great Britain on grounds of colour, race or ethnic or national origins, sexual orientation or sex; or promote sexual humiliation or degradation of or violence towards women.
2. The films screened will not have the effect such as to deprave and corrupt persons who see them.
3. The films will not contain a grossly indecent performance thereby outraging the standards of public decency.
5. Persons under 18 will not be admitted to any film without a certificate without a prior agreement from the Licensing authority.
6. Synopses of films to be screened will be submitted to the Licensing authority prior to the festival.

Please can you consider the waiver based on the above conditions. CINECITY is an annual event so it would be useful to know if a policy to deal with this sort of request is put in place for future years.



Yours sincerely

Nicky Beaumont  
Festival Manager  
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cc Tim Nicholls  
Jackie Chambers

### **Documents In Members' Rooms**

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008):  
The Licensing Act 2003 – Brighton & Hove City Council Statement on Licensing  
Policy.

### **Background Documents**

1. None