



Lewes District Council

To all Members of the Licensing Committee

A meeting of the **Licensing Committee** will be held in the **Telscombe Room, Southover House, Southover Road, Lewes** on **Thursday, 14 September 2017** at **14:00** which you are requested to attend.

Please note the venue for this meeting which is wheelchair accessible and has an induction loop to help people who are hearing impaired.

This meeting may be filmed, recorded or broadcast by any person or organisation. Anyone wishing to film or record must notify the Chair prior to the start of the meeting. Members of the public attending the meeting are deemed to have consented to be filmed or recorded, as liability for this is not within the Council's control.

05/09/2017

Catherine Knight
Assistant Director of Legal and Democratic Services

Agenda

- 1 Minutes (page 3)**
To approve the Minutes of the meeting held on 9 February 2017 (copy previously circulated - attached herewith for information)
- 2 Apologies for Absence/Declaration of Substitute Members**
- 3 Declarations of Interest**
Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Urgent Items**
Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972.
- 5 Written Questions**
To deal with written questions from councillors pursuant to Council

Procedure Rule 12.3 (page D8 of the Constitution).

- 6 Review of Statement of Licensing Policy for 2017-2022 (page 9)**
To consider the Report of the Director of Service Delivery (Report No 120/17 herewith)
- 7 Adoption of the District Council's Film Authorisation Procedures (page 38)**
To consider the Report of the Director of Service Delivery (Report No 121/17 herewith)
- 8 Date of Next Meeting**
To note that the next meeting of the Licensing Committee will be called as necessary.

For further information about items appearing on this Agenda, please contact Jen Norman at Southover House, Southover Road, Lewes, East Sussex BN7 1AB. Telephone 01273 471600

Distribution: Councillors S Adeniji (Chair), L Boorman, W Botting, B Bovington, W Elliott, S Gauntlett, J Harrison-Hicks, I Linington, A Loraine and T Rowell

Licensing Committee

Minutes of a meeting of the **Licensing Committee** held in the **Ditchling Room, Southover House, Southover Road, Lewes** on **Thursday, 9 February 2017** at 10.00am

Present:

Councillor I Linington (Chair on election)
 Councillors W Botting, B Bovington, M Chartier, P Gander and T Rowell

Officers Present:

E Hele, Environmental Health Service Manager
 S Lindsey, Licensing Officer
 J Norman, Committee Officer
 M Wilkinson, Solicitor
 R Wynn, Environmental Health Specialist

	Minutes	Action
12	<p>Election of Chair of this Meeting</p> <p><u>Resolved:</u></p> <p>12.1 That Councillor Linington be elected Chair of the Licensing Committee for the duration of this meeting.</p>	
13	<p>Minutes</p> <p>The Minutes of the meeting held on 8 December 2016 were approved as a correct record and signed by the Chair.</p>	
14	<p>Apologies for Absence/Declaration of Substitute Members</p> <p>Apologies for absence had been received from Councillors S Adeniji, S Gauntlett and A Loraine.</p>	

15 Determination of Operator's Licence Uber Britannia UK

The Committee considered Report No 35/17 relating to the granting of a Private Hire Operator's Licence to Uber Britannia UK.

The Environmental Health Services Manager explained that although he had the authority to grant the Licence to Uber Britannia UK, he thought it good practice, in consultation with the Chair of the Committee, to bring the application before the Committee so that it could make the final decision whether or not to grant the Licence.

He highlighted that it was appropriate that the application detailed in Report No 35/17 be considered properly on its own merits, as Uber Britannia UK operated differently from other private hire operators within the District.

The Environmental Health Services Manager explained that Uber Britannia UK had its own booking and payment system via a mobile phone app. He further explained the process for booking, types of vehicles available, fares and payments, and safety features as detailed in paragraphs 1.3 to 1.6 on pages 12 to 14 of the Report.

The Environmental Health Services Manager brought to the Committee's attention legislation and policy regarding Private Hire Operators and Private Hire Vehicles, as set out in paragraphs 2.1 to 2.2 on pages 14 to 15 of the Report. He noted that Uber Britannia UK only used individuals who held a Hackney Carriage or Private Hire Drivers Licence, having had the individual's suitability and rights to work checked with a Licensing Authority.

He highlighted paragraph 6 on pages 15 to 16 of the Report, which explained that under Section 55 of the Local Government (Miscellaneous Provisions) Act 1976 Act, the Council should not grant a Licence unless it was satisfied that the applicant was a fit and proper person to hold an Operator's Licence. This was the only grounds on which an application could be refused.

The Environmental Health Services Manager brought the Committee's attention to paragraph 7 on pages 16 to 17 of the Report, which listed the following options available to the Committee when making its decision:

- To grant the application in full without any additional conditions (other than the amended mandatory conditions imposed by Lewes District Council);
- To grant the application imposing conditions under Section 51(2) of the Local Government (Miscellaneous Provisions) Act 1976; or
- To refuse the application.

The Committee queried whether or not the refusal to grant the application for a Private Hire Operator's Licence to Uber Britannia UK may eventually be taken to a Magistrates' Court. The Environmental Health Services

Manager confirmed that if it refused to grant the application and this was appealed, the decision would go to a Magistrates' Court and the Council would be responsible for any costs incurred. He further explained that the Committee would have to have substantial reasons for why it did not feel that the Operator was fit and proper in accordance with the legislation on paragraph 6 on pages 15 to 16 of the Report.

Resolved:

- 15.1** That the application for the granting of a Private Hire Operator's Licence to Uber Britannia UK as set out in Report No 35/17, be approved.

The Resolution was put to the meeting and the vote thereon was recorded in accordance with Council Procedure Rule 18.5 as follows:

For the Resolution:

Councillors Botting, Bovington and Linington.

Against the Resolution:

Councillors Chartier, Gander and Rowell.

Casting Vote:

The Chair of the Committee, Councillor Linington, voted for the Resolution.

16 Street Trading in Lewes District

The Committee considered Report No 36/17 which sought the Committee's approval of the findings of the consultation on the Committee's preliminary decision to un-designate streets within Lewes District as Consent Streets, with the exception of those named in paragraph 1 of the officer recommendations on page 38 of Report No 36/17.

The Environmental Health Service Manager highlighted paragraphs 1.1 and 1.2 on page 39 of the Report when he reminded councillors that at its meeting on 8 December 2016, the Committee had authorised officers to publicise the preliminary decision to un-designate Consent Streets, in accordance with the provisions set out in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. It was also resolved that the Committee be requested to reconvene once the 28 day period had elapsed following publication of the statement of intention in order to consider the representations, if any, that were received.

The Environmental Health Service Manager referred to paragraphs 2.1 and 2.2 on page 39 of the Report as he explained that an advertisement was placed in a local newspaper on 15 December 2016, and that the consultation period had ended on 15 January 2017. The consultation was sent to Town and Parish Councils, existing traders and stakeholders. During

the consultation period comments were received from Falmer Parish Council and Highways England. Seaford Town Council had supported the proposal, but no other comments were received.

The Environmental Health Services Manager highlighted paragraphs 2.3 to 2.4 on page 39 of the Report, which detailed that Falmer Parish Council had requested to keep the current controls in Falmer Village, as it protected the village on football match dates hosted at the Amex Stadium. In addition, Highways England had advised whilst it did not object to any proposals, it respectfully requested that the A26 and A27 in Lewes District remain Consent Streets in order to retain control over trading, so as to maintain the safe and efficient operation of the strategic road network.

Resolved:

- 16.1** That the responses to the 28 day consultation period, as detailed in section 2 of Report No 36/17, be noted;
- 16.2** That the A26 and A27 within Lewes District and the named streets in Falmer, as detailed in paragraph 2.3 on page 39 and in Appendix 1 of Report No 36/17, be included as Consent Streets;
- 16.3** That the preliminary decision to un-designate streets within Lewes District as Consent Streets, with the exception of the streets listed in paragraph 4 of the officer recommendations on page 38 of Report No 36/17 be approved, subject to the amendment of Lewes Town – High Street being amended to read “Lewes Town – High Street (up to junction of Rotten Row)”; and
- 16.4** That the Environmental Health Service Manager be authorised to undertake the necessary steps to designate streets identified on pages 38 to 39 of Report No 36/17.

EHSM

Recommended:

- 16.5** That the Licensing Committee recommend to Council that it formally ratifies that the designation of Consent Streets as detailed in Report No 36/17 take effect on 1 April 2017.

17 Taxi Licensing Fees

The Committee considered Report No 37/17 relating to responses to the Taxi Licensing Fees which had been advertised to apply from 1 April 2017.

The Environmental Health Service Manager referred to paragraphs 3.1 and 3.2 of the Report when he reminded the Committee that it had approved the fees set out in Appendix 1 to Report No 37/17 at its meeting on 8 December 2017, subject to any responses received during the consultation period. He noted that no responses were received despite an advert which was placed in the Sussex Express on 29 December 2016, which asked for objections to the proposals to be submitted no later than 1 February 2017. A copy of the

advertisement which was published in the Sussex Express could be found as Appendix 2 to the Report, and a copy of the advertisement had been available for inspection at Council offices at Southover House Reception.

The Environmental Health Service Manager highlighted paragraphs 3.3 to 3.6 of the Report which reminded the Committee that it had queried the £40K surplus for Taxi Licensing at a previous meeting on 8 December 2016 and had requested that a financial appraisal of income and expenditure be provided to the Committee. He brought the Committee's attention to the table in paragraph 3.6 of the Report which detailed the outcome of the requested financial appraisal.

The Environmental Health Service Manager reminded the Committee that there was an intention to use the £40K surplus to modernise the metal license plates to paper and plastic plates, and that the surplus would also be used to offset the cost of having CCTV cameras installed in taxis. He also reminded the Committee that a full review of taxi licensing costs was reported at the previous meeting on 8 December 2016, which resulted in some fees going up and some fees going down.

Resolved:

- 17.1 That officer recommendation 1.3 to Report No 37/17 be amended to read "That the Licensing Committee recommends to Council that it formally ratifies the new fees to take effect on 1 April 2017";
- 17.2 That it be noted that no responses had been received following the consultation on the scale of fees for Taxi Licensing as detailed in Report No 37/17; and
- 17.3 That the scale of Taxi Licensing Fees proposed in Appendix 1 to Report No 37/17 be approved.

Recommended:

- 17.4 That the Licensing Committee recommend to Council that it formally ratifies the new fees as detailed in Report No 37/17, subject to the amendment that the new fees take effect on 1 April 2017.

18 Residential Mobile Home Sites Licensing and Enforcement Policy

The Committee considered Report No 38/17 which sought its approval of the Residential Mobile Homes Sites Licensing and Enforcement Policy.

The Environmental Health Specialist referred to paragraphs 2.1 to 3.6 on pages 46 and 47 of the Report, when she explained that there were five relevant protected mobile home sites in Lewes District: three large residential mobile home parks and two single unit sites. All the current sites had site licence conditions attached to their licences as reflected in the 1960 model conditions of the Caravan Site and Control of Development Act (CSCD) 1960. She further explained that new model conditions were

published in 2008 and that the Council had powers to attach licence conditions under Section 5 of the CSCD 1960. The aim of the Residential Mobile Home Sites Licensing and Enforcement Policy was to upgrade the site conditions to reflect the new model standards and to clearly set out the legislation which related to mobile home sites.

The Environmental Health Specialist highlighted Table 1 on page 48 of the Report, which detailed the impact of the new model standards on the Council, site owners and residents.

The Environmental Health Specialist noted that all of the legislation listed in paragraph 3.1 on page 47 of the Report was written assuming that all homes on relevant protected sites were owner occupied. She further noted in paragraphs 4.1 to 4.2 on pages 48 to 49 of the Report, that it was the experience of the Council that a proportion of the mobile homes were privately rented and as such were not covered by the legislation and were also exempt from the Housing Act 2004, which regulated the private rented sector. The Council would therefore consider the Health and Safety at Work Act 1974 and the Public Health Act 1936 to resolve issues which related to the fabric of the homes that were privately rented.

The Committee thanked the Environmental Health Specialist for all of her hard work in researching and writing the Report.

Resolved:

- 18.1** That the Residential Mobile Home Sites Licensing and Enforcement Policy as detailed in Report No 38/17, be approved.

The meeting ended at 11:15am.

I Linington
Chair

Agenda Item No: 6

Report No: 120/17

Report Title: Review of Statement of Licensing Policy for 2017-2022

Report To: Licensing Committee

Date: 14 September 2017

Cabinet Member: Councillor Paul Franklin

Ward(s) Affected: All wards

Report By: Ian Fitzpatrick, Director of Service Delivery

Contact Officer(s)-

Name(s): Susan Lindsey

Post Title(s): Licensing Officer, Environmental Health

E-mail(s): sue.lindsey@lewes.gov.uk

Purpose of Report

To consider and approve the amended Statement of Licensing Policy at Appendix 1.

Officers' Recommendations

- That the Committee considers the proposed minor changes made to the Licensing Policy, largely arising from changes affected by the Immigration Act 2016 and other legislative changes.
- That the Licensing Committee agree to a 28 day consultation period for the revised Licensing Policy.
- That following the consultation period, the Functional Lead Quality Environment Specialist Services, in consultation with the Chair of the Licensing Committee is delegated to consider the consultation responses, if any, and decide whether the Licensing Policy should be recommended to Full Council or whether the Licensing Committee should be reconvened to consider the consultation responses.
- That the Committee recommend to Full Council that the revised Licensing Policy be effective for a 5 year period from *7th December 2017*

1. Reasons for Recommendations:

To comply with the provisions of the Licensing Act 2003 to enable the proper discharge of the Council's responsibilities for the regulation of alcohol sales, regulated entertainment and late night refreshment in the District.

2. Information

- 2.1 The Licensing Act 2003 requires the Licensing Authority, Lewes District Council, to have a Statement of Licensing Policy for their area and for this policy to be reviewed every 5 years.
- 2.2 The Statement of Licensing Policy should be regarded as a local framework for decision making when considering licensing applications and the licensing committee and its sub-committees are required to have due regard to this when forming a decision.

3. Background to changes to Licensing Policy

3.1 Immigration Act 2016

The general purpose of this Act is to make it more difficult to live and work illegally in the United Kingdom.

The following licensing provisions came into force on 6th April 2017.

- Home Office Immigration has become a responsible authority
- A premises or a personal licence holder must be entitled to work in the United Kingdom
- An immigration offence will be considered a 'relevant offence' in relation to personal licences
- An immigration officer has the right to enter a licensed premises
- An immigration officer has the power to issue illegal working closure notices and apply for compliance orders

3.2 Late Night Levy & Early Morning Restriction Order

Reference to these provisions has been included within the Licensing Policy and guidance attached at appendix 2 and appendix 3 for information

3.3 Entertainment Deregulation (for information)

There has been a 'phased' approach to the deregulation of entertainment licensing over the past 5 years, and although this is not referenced in the Policy, it is included in this report for your information.

3.3.1 Live Music Act 2012

Live unamplified music deregulated between 8am and 11pm on any premises.

Live amplified music deregulated between 8am and 11pm provided the audience does not exceed 500 at premises licensed for on sales of alcohol. Alcohol must be available

Live music can become licensable in on-licensed premises if the Licensing Authority removes the effect of the deregulation following a licence review.

Deregulation of live music also applies to 'workplaces' – this includes beer gardens.

3.3.2 Licensing Act (Description of Entertainment)(Amendment) Order 2013

Deregulation of the performance of a play and the performance of dance at any premises provided the audience does not exceed 500.

Deregulated indoor sporting events at any premises provided the audience does not exceed 1000

3.3.3 Legislative Reform (Entertainment licensing) Order 2014

Recorded music deregulated between 8am and 11pm in on-licensed premises provided the audience does not exceed 500. Alcohol must be available.

Recorded music can become licensable if the licensing authority removes the effect of the deregulation following a licence review.

Unlike live music, the deregulation of recorded music does not apply to workplaces.

A contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling deregulated between 8am and 11pm provided that the audience does not exceed 1000.

No licence required for a 'not-for-profit' film exhibition held in community premises between 8am and 11pm provided that the audience does not exceed 500.

Local Authorities, Schools & Hospitals can now provide live or recorded music between 8am and 11pm on hospital premises/school premises or the non residential premises of a local authority provided that

- a) The audience does not exceed 500
 - b) The organisers get consent from the LA, School or Hospital
- Any entertainment provided by or on behalf of the LA, School or Hospital on their own premises between 8am and 11pm with no limit on audience size.

Live music or recorded music deregulated between the hours of 8am and 11pm in a Church Hall / Village Hall / Community Hall or similar, that is NOT licensed to sell alcohol provided that the audience does not exceed 500 and the organiser gets consent for the performance from a person responsible for the premises.

Any entertainment taking place at a travelling circus provided it takes place within a moveable structure that accommodates the audience and has not been located on the same site for more than 28 consecutive days.

3.4 Temporary Event Notices

From January 2016 the number of Temporary Event Notices you can apply for in each calendar year was increased from 12 to 15 for each premises

4. Consultation

The scope of consultation is provided for in the Statutory Guidance. We propose to consult with the responsible authorities, the licensing trade, the legal profession and public interested groups. We will publish the policy for consultation on the Lewes District Council web page for the public residents and businesses to make comments for a period of 28 consecutive days. Appendix 4

5. Financial Appraisal

The changes outlined in this report will have no significant impact on the Council's General Fund budget. Costs associated with consulting on and implementing the revised Licensing Policy will be met from existing budgets.

6. Legal Implications

6.1 Section 5 Licensing Act 2003 (as amended) requires the Council as the Licensing Authority to prepare and publish a statement of its Licensing Policy at least every 5 years.

6.2 Before determining the Policy the Council must under section 5(3) consult with the Police, Fire and Rescue Authority, the Director of Public Health, representatives of local premises licence holders, representatives of local club premises, representatives of personal licence holders and representatives of businesses and residents in its area. The consultation process will include all the Responsible Authorities and the general public. Those views should be given appropriate weight.

6.3 During the five year period of the Licensing Policy the Council must keep the Policy under review and make such revisions as it considers appropriate.

7. Environmental Implications:

I have completed the Environmental Implications questionnaire and there are no significant effects as a result of these recommendations.

8. Background Papers

Revised Guidance issued under Section 182 of the Licensing Act 2003

9. Appendices

- Appendix 1: Amended Statement of Licensing Policy
- Appendix 2: Home Office information sheet on the Late Night Levy
- Appendix 3: Home Office information sheet on Early Morning Restriction Orders
- Appendix 4: Public Notice (for circulation via e.mail and to be placed on Lewes District Council website)



Lewes District Council

STATEMENT OF LICENSING POLICY

Licensing Act 2003

**Lewes District Council
Licensing Section
Southover House
Southover Road
Lewes
East Sussex BN7 1AB**

licensing@lewes.gov.uk

Telephone number: 01273 471600

1. INTRODUCTION

Lewes District Council makes this Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003, 'the Act'.

Licensing is about regulating licensable activities on licensed premises, qualifying clubs and at permitted temporary activities.

1.1 THE SCOPE OF THIS POLICY COVERS THE FOLLOWING

- Retail sale of alcohol
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club
- The provision of regulated entertainment ~~(as defined in Schedule 1 of the Act)~~
- The provision of late night refreshment

1.2 THE AIMS OF THIS POLICY ARE TO:

- Secure the safety and amenity of residential communities
- Help to ensure a sustainable environment and provide regulation of the cultural/entertainment industry
- Promote the Licensing Objectives as set out in the Act

1.3 THE LICENSING OBJECTIVES ARE:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

IN MAKING THIS POLICY, LEWES DISTRICT COUNCIL RECOGNISES THE FOLLOWING:

- ~~• Residents within the District need a safe and healthy environment to live and work in.~~
- ~~• Safe and well run entertainment premises are important to the local economy and vibrancy of the District.~~
- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises,
- Giving the Police and Licensing Authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems,
- The important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden and business, encouraging innovation and supporting responsible premises,

- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

1.4 **THIS STATEMENT PROVIDES GUIDANCE ..**

to the police, applicants, objectors and residents on the general approach that the Council (acting through its Licensing Committee) will take when making licensing decisions.

The following will be taken into account when licensing decisions are being made:

- The Council as licensing authority must carry out its functions under the Act with a view to promoting the Licensing Objectives.
- Each licence application will be given individual consideration on its merits.
- When making its decisions, the council will have regard to the matters contained in this Statement and to any government guidance that is issued from time to time.
- That the Council will have regard to the provisions of the Human Rights Act 1998 and, in particular, Article 6 (right to a fair and public hearing); Article 8 (right to respect for home, private and family life) and Article 1 of the First Protocol (right to peaceful enjoyment of property and possessions)
- That the Council will have due regard to its Equality Duty under the Equality Act 2010 to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender re-assignment, marriage and civil partnership (but only in respect of eliminating unlawful discrimination), pregnancy and maternity, race – this includes ethnic or national origins, colour or nationality, religion or ~~believe~~ belief – this includes lack of belief, sex (gender) and sexual orientation. In accordance with this Duty the Council publish equalities information annually on the Council's website.
- That when exercising a licensing function, the Council will have due regard to its duty under section 17 of the Crime and Disorder Act 1998, the provisions of the Police Reform and Social Responsibility Act 2011 and any local public service agreements relating to the reduction of public place violence, **and the Immigration Act 2016.**

- 1.5 This Statement takes effect on ~~1st November 2012~~ **7th December 2017** for a period of 5 years and will be kept under review and revised/amended as required, following consultation.

2. **LOCAL FEATURES**

- 2.1 Lewes District Council covers an area of ~~113 square miles~~ 292 sq km and is home to ~~nearly 90,000~~ 99479 people. Bordered by the varied landscape of the Downs to the south and the Weald to the north, it has ~~9 miles~~ 14.5 km of coastline. From coastal strip to rural countryside, Lewes District comprises a rich mix of town and village communities. The District population is concentrated to the coast with half of all residents living in the towns of Seaford, Newhaven, Peacehaven, Telscombe Cliffs and East Saltdean, while inland Lewes is the County Town of East Sussex. There are also numerous villages and hamlets within the area, which vary in size and form, and the District has one of the fastest growing populations in the South of England.
- 2.2 The main focus for licensed activities is in the Town Centres where there is a varied mix of premises from clubs, pubs, café/bars, restaurants, and large stores to smaller retail outlets for ~~off~~ licence sales. In the rural area there are a great number of village pubs, which are very much part of the community and supporting leisure and local activities.
- 2.3 Overall, the District has approximately ~~320~~ 340 premises licensed under the Act, ~~evenly spread across the towns and rural area~~, catering for the needs of the community and with few late night venues, club culture at the moment is not highly developed or wide spread.

3. DELEGATION OF FUNCTIONS

Licensing decisions and functions may be taken or carried out by the Council’s Licensing Committee or delegated to a Licensing Sub-Committee or in appropriate cases, officers of the Council. The scheme of delegation for dealing with licensing matters, **under the Licensing Act 2003**, is set out below:

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for a personal licence		If police objection made	If no objection made
Application for personal licence with unspent convictions and police objection		All cases	
Determination of minor variation			All cases
Application for premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application for provisional settlement		If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If police objection made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If police objection made	All other cases
Application for Interim Authorities		If police objection made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Council is a consultee and not the Licensing Authority		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If police objection made	All cases
Determination of an objection to a temporary Event Notice		All cases	
Decision to make a representation on behalf of the Licensing Authority			All cases
Application for authorisation of films already classified by British Board of Film Classification (BBFC)		All cases	
Application for authorisation of films not already classified by British Board of Film Classification (BBFC), or the Council			All cases

4. **GENERAL STATEMENT OF GUIDING PRINCIPLES**

4.1 The following principles have been adopted by the Council as a licensing authority. These principles will serve as a general guide to the Council when it carries out its licensing functions.

PRINCIPLE 1

Issues of nuisance, noise, public safety and crime and disorder associated with the character, number and proximity of licensed premises in any one area (cumulative impact) will be addressed by the means set out in paragraph 5.1.5 of this Statement. However, if there is evidence to suggest that these means are unsuccessful in combating the issues referred to above, then the Council will consider reviewing its policy with a view to restricting the grant of licences to new premises in the affected area.

PRINCIPLE 2

The Council acknowledges that longer opening hours can help to ensure that the number of people leaving licensed premises at the same time is reduced.

PRINCIPLE 3

The Council will limit the access of children to licensed premises where this is appropriate to protect them from harm.

5. **THE PRINCIPLES IN DETAIL**

5.1 **PRINCIPLE 1**

Issues of nuisance, noise, public safety and crime and disorder associated with the character, number and proximity of licensed premises in any one area (cumulative impact) will be addressed by the means set out in paragraph 5.1.5 of this Statement. However, if there is evidence to suggest that these means are unsuccessful in combating the issues referred to above, then the Council will consider reviewing its policy with a view to restricting the grant of licences to new premises in the affected areas.

5.1.1 This is intended to:

- Promote the prevention of crime and disorder
- Promote public safety
- Address the issue of cumulative impact

5.1.2 The ~~matter~~ **question** of need for an additional licensed facility whether pub, club etc. is not covered by this policy but will be a matter for planning policies and strategies and for the area/district as a whole

5.1.3 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment (for large numbers of people) can be a source of crime and disorder and applicants are recommended to seek advice from the Council's Licensing Officer and the Police as well as taking into account local planning and transport policies, tourism, cultural and crime prevention strategies and local social demographic characteristics when preparing application

and operation schedules which will be of benefit to the Licensing Authority when determining the application. Guidance regarding these policies and other specific local matters can be obtained from the Council's Licensing Officer – see contact details (paragraph 8)

5.1.4 The Council will support:

- diversity of premises to ensure a mix of a different type of licensed premises, particularly in areas where there is a high density of such premises
- care and control of premises by effective management and supervision both within and outside the premises. This is a key factor in reducing crime and disorder and applicants for premises licences in particular should address these issues within their respective operating schedules
- good quality training for staff employed within the licensing trade and the obtaining of the accredited licensing qualification for bar staff and personal licence holders. The Council believes that proper staff training plays an important role in the promotion of the licencing objectives
- café bar conditions where the sale of alcohol and other beverages are by a waiter/waitress service for consumption by persons seated at tables or equivalent and substantial refreshments are available during operating hours.

5.1.5 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the licence holder, ~~certificate the club or authorisation~~ responsible person concerned. **Nonetheless, it is a key aspect of such control and licensing plays a part in the management of the night-time economy.** If there are problems in a particular area with nuisance, crime and disorder and those problems are associated with the character, number or proximity of licenced premises in the area, the Council will seek to address those problems by the following means:

- Planning Controls
- The use of relevant and appropriate licence conditions.
(However, see paragraph 6.5)
- Positive measures to create a safe and clean environment in partnership with local businesses, transport operations and other Council departments
- Application of the powers of the Council to designate parts of the district as places where alcohol may not be consumed in public and the confiscation of alcohol from adults and children in such designated places
- **Liaise with** Police **over the** enforcement of disorder and anti-social behaviour, including the issue of fixed penalty notices
- The seeking of anti-social behaviour orders by the Council in appropriate cases
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or under age
- ~~The application of closure powers under the Act~~ **Work in partnership with Police to utilise powers to close down instantly for up to 24 hours any**

licensed premises or temporary event on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance.

The list is not exhaustive of the measures that the Council may consider or take.

- 5.1.6 Any objection to a licence application or variation on the grounds of negative cumulative impact must be relevant and impact on one or more of the licensing objectives.

5.2

PRINCIPLE 2

The Council acknowledges that longer opening hours can help to ensure that the number of people leaving licensed premises at the same time is reduced.

- 5.2.1 This is intended to:
- promote the prevention of crime and disorder
 - promote public safety
 - promote the prevention of public nuisance
- 5.2.2 It is recognised by the Council that longer licensing hours (with regard to the sale of alcohol) may help to ensure that the number of customers leaving premises simultaneously is avoided. Fixed and artificially early closing times can encourage, in the case of sales of alcohol, rapid binge drinking close to closing times and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises at the same time.
- 5.2.3 However, there is no general presumption in favour of lengthening licensing hours. The four licensing objectives will be paramount considerations at all times and each case judged on its individual merits.
- 5.2.4 Any person has a right to make representations concerning applications for premises licences and club certificates and hours of trading and to have those representations given equal weight regardless of where they live ~~due regard~~.
- 5.2.5 In each case that arises following objections/representations the Council will:
- consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of residents to peace and quiet
 - examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation
 - consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives will be or are being undermined

5.3 **PRINCIPLE 3**

5.3.1 The Council will limit the access of children to licences premises where this is necessary to protect them from harm.

This is intended to:

- promote the protection of children from harm
- address the issue of children in licensed premises, including cinemas and other public entertainment

5.3.2 No policy can anticipate every issue of concern that could arise in respect of children with regard to individual premises. Consideration of the individual merits of each application are therefore the best mechanism for judging such matters.

5.3.3 The Council will take particular account when:

- there have been convictions for serving alcohol to minors
- there is evidence of underage drinking
- there is evidence of drug taking or dealing
- there is a strong element of gambling
- entertainment of an adult or sexual nature is commonly provided
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at those premises

5.3.4 Complete bans will be rare, but the options for limiting the access of children, where appropriate, to prevent harm include:

- limitations on the hours when children may be present
- age limitations (below 18 years)
- limitations or exclusions when certain activities are taking place
- requirements for an accompanying adult
- full exclusion of people under 18 years from the premises when any licensable activities are taking place

5.3.5 The Council will not impose conditions that require licensed premises to admit children. Where it is not appropriate for a licensing restriction the decision to admit children will be a matter for the discretion of the individual licensee or club.

5.3.6 **CHILDREN AND CINEMAS**

In the case of premises giving film exhibitions, the Council expects licensees to impose conditions that children will be restricted from viewing age-restricted films classified in accordance with the recommendations of the British Board of Film Classifications **or the Local Authority**.

5.3.7 CHILDREN AND PUBLIC ENTERTAINMENTS

Where such entertainments are due to take place, the Council will expect an adequate number of adults to be present for health and safety reasons. The number of adults required should be calculated on the basis of a risk assessment. The Council will also take into account considerations such as the size of the venue, the number and ages of the children present and the type of activity involved.

6. OTHER CONSIDERATIONS

6.1 LIVE MUSIC, DANCING & THEATRE

The Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefits of the community. The Council will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities, particularly for children, and will not allow the views of the few to predominate over the general interests of the community.

The Council will only attach licence conditions that are reasonable, proportionate and appropriate for the promotion of the licencing objectives. The Council is aware of the need to avoid measures as far as possible that deter live music, dancing and theatre for example by imposing indirect costs of a disproportionate nature.

The Council is aware of the value to the community of a broad range of cultural entertainments, particularly live music, dancing and theatre. The Council wishes to encourage them for the benefit of all.

6.2 SHOPS, STORES AND SUPERMARKETS

6.2.1 Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open.

6.2.2 The Council will generally permit the sale of alcohol when the retail outlet is open for shopping.

6.2.3 In certain circumstances, however, it may be appropriate to impose a limitation, for example, following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

6.2.4 When determining an application for a premises licence the Council has no obligation to consider the rights of workers employed. These are covered by separate legislation.

6.2.5 The impact on workers of extended hours permitted by a premises licence is a contractual matter to be resolved between the employer and employee, and the Council will not seek to intervene in these matters.

6.3 INTEGRATION OF STRATEGIES

- 6.3.1 The Council is ensuring that this Statement of Policy integrates with crime prevention, anti-social behaviour, planning, transport, tourism and cultural strategies by:
- Having regard to the Lead Agency Protocol drawn up between Sussex Police, Local Authorities, the Fire and Rescue Service and Trading Standards.
 - Liaising and consulting with Sussex Police, with the Crime and Community Disorder Reduction Partnership and by following the guidance in community safety and crime disorder strategies
 - Liaising and consulting with East Sussex Fire and Rescue Service and by following the guidance in fire safety strategies and protocols
 - Liaising and consulting with the Local Strategic Partnership and Area Partnerships
 - Liaising and consulting with the Planning Authority
 - Liaising and consulting with the Highway Authority
 - Liaising and consulting with the Local Health Authority
 - Liaising and consulting with the Immigration Authority
 - Liaising and consulting with tourism, stakeholder and business groups such as the local Chamber of Commerce
 - Liaising and consulting with East Sussex County Council's Trading Standards Department
 - Having regard to any future guidance issued in relation to the Private Security Industry Act 2001 including any liaison or information sharing protocols
 - Having regard to the Home Office "Safer Clubbing Guide"
- 6.3.2 Specific conditions may be attached to premises licences to reflect local crime prevention strategies (however see paragraph 6.5).
- Such conditions may include:
- the use of closed circuit television cameras
 - the provision and use of shatterproof drinking containers
 - a drugs and weapons search policy
 - the use of registered door supervisors under Private Security Industry Act 2001
 - specialised lighting requirements
 - restrictions on hours opening
- 6.3.3 Certificates issued to club premises will reflect local crime prevention strategies and may include any or all of the requirements listed above. Account will also be taken of any designated public spaces protection orders and guidelines that regulate street drinking.

- 6.3.4 Club owners and promoters will be expected to have regard to safer clubbing guidance for Licencing Authorities, club managers and promoters. The Council will ensure that licenced premises are designed and run in a way that maximises the safety of customers and staff.
- 6.3.5 The Council will take account of the need to disperse people quickly and safely from town centres to avoid concentrations which may produce disorder and disturbance. The Council will also take into account any protocols agreed between the police and other licencing enforcement agencies.
- 6.3.6 The Council's planning and licencing regimes are separate, they involve consideration of different (albeit related) matters. The Licencing Committee will not consider representations that relate to planning rather than licencing issues and will not be bound by decisions that are made by the Planning Committee, and vice versa.
- 6.3.7 The grant of a premises licence shall not be regarded as an indication that planning permission or building regulations approval has been (or will in the future be) granted. A separate application for planning consent, change of use and/or building regulations approval must always be made. Ideally, planning consent should be obtained before a licencing application is submitted.

6.4 OTHER LEGISLATION

- 6.4.1 This policy shall avoid duplication with other regulatory regimes wherever possible. In this regard, reference shall be made to the following notes:

6.4.2 HEALTH AND SAFETY

The Council's Environmental Health inspection staff will normally have visited licenced premises to assess/enforce health and safety requirements.

Certain premises will fall outside the responsibility of the Environmental Health Department and will be subject to regulation/enforcement by the Health and Safety Executive (HSE).

Health and Safety regulations impose a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated regulations will not be addressed by the imposition of licencing conditions unless they are appropriate for the promotion of the licencing objectives.

6.4.3 SMOKING

The Health Act 2006 introduced the smoke free provisions that protect employees and the public from the harmful effects of second hand smoke. The Council will be responsible for enforcing these provisions law and will offer information advice and support to businesses so they can meet their legal obligations. Managers of licensed premises will have a legal responsibility to prevent smoking.

6.4.4 FIRE SAFETY

Operators of licensed premises have duties under various fire safety regulations and the same considerations as above will apply.

6.4.5 FOOD HYGIENE

Premises selling alcohol and/or premises engaged in a food business will be registered with Lewes District Council and subject to risk-based food hygiene inspections at regular intervals.

6.4.6 NOISE

Statutory and Public nuisances are dealt with by the Environmental Health Department under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may also be covered by the legislation.

6.4.7 WASTE

Complaints relating to the accumulation and storage of waste will be dealt with by the Council under the provisions of any appropriate legislation.

6.5 STANDARD CONDITIONS

If a responsible authority or any other person do not raise any representations about a licencing application made to the Council, it is the duty of the Council to grant the licence or Club Premises Certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the 2003 Act itself.

The Council may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations. It may then only impose such conditions that are appropriate to promote the licensing objectives arising out of consideration of the representations.

The Council will tailor its own conditions to the size, type, location and characteristics and activities taking place at the premises concerned.

6.6

REVIEW AND ENFORCEMENT

- 6.6.1 The Licensing Authority is a responsible authority under the Licensing Act and can make representations and call a review. The Licencing Authority through the Licencing Officer will always pursue partnership working between agencies and other responsible authorities to resolve problems and concerns regarding premises under the licencing objectives.
- 6.6.2 Enforcement of the licensing law, public safety and the inspection of licensed/club premises will be undertaken by the relevant authorities in accordance with local agreements between Sussex Police, East Sussex Fire & Rescue Service, Trading Standards and the Licencing Authorities in Sussex.
- 6.6.3 Attention is drawn to the targeting of agreed problems and high risk premises requiring greater attention as may be identified from time to time by the relevant enforcement agencies. Inspections of premises will be on a risk assessed basis, to be undertaken when and if necessary.
- 6.6.4 The provisions set out in the Act for calling a review or making representations represent a key protector for the community where there are concerns about an application or problems associated with premises under crime and disorder, public safety, public nuisance and the protection of children from harm.
- 6.6.5 Following the grant of a premises licence or club certificate a responsible authority or any other person regardless of where they live, may ask the Council to review the licence/club certificate because of matters arising at the premises in connection with any of the four licensing objectives.
- 6.6.6 In every case, the application for a review must relate to particular premises for which a premises licence or club certificate is in existence and must be relevant to the promotion of the licencing objectives.
- 6.6.7 The Council will endeavour to give licence/certificate holders early notification of their concerns about problems identified at particular premises in partnership with the other enforcement agencies. This does not affect the right of any other person to call a review under the provisions of the Act.
- 6.6.8 Where concerns are raised by residents or any other person about an application or grounds to seek a review the Licencing Authority would expect those affected parties to make a relevant representation or apply for a review in their own right.
- 6.6.9 The Licencing Authority may choose to exercise its powers as a responsible authority and to call a review or make representations in any situation that it deems appropriate on the merits of any individual case.

7. LATE NIGHT LEVY

Following the introduction of the Police Reform and Social Responsibility Act 2011 the licensing authority may introduce a late night levy. The levy would relate to a late night supply period which begins at or after midnight and ends at or before 6am. Any premises which are not subject to an exemption who supply alcohol during the supply period on any night of the year would be required to pay the late night levy, the level of which is based on rateable value. The late night levy will not be introduced without the required consultation as detailed in the legislation and accompanying guidance.

At present the Council does not propose to introduce a Late Night Levy

8. EARLY MORNING RESTRICTION ORDER (EMRO)

Following the introduction of the Police Reform and Social Responsibility Act 2011, if the licensing authority considers it appropriate for the promotion of the licensing objectives they can make an early morning alcohol restriction order.

An order would mean that any premises licence, club premises certificate or temporary event notice that authorises the sale of alcohol during the period specified in the order would not have effect. The period specified must begin no earlier than midnight and end no later than 6am.

At present the Council does not propose to introduce an Early Morning Restriction Order

9. DETAILS OF RESPONSIBLE AUTHORITIES

As well as applying to the Council in the prescribed manner, copies of each licence application must be served on the following authorities by the applicant:

The Licencing Officer
Bexhill Police Station
Terminus Road
Bexhill-on-Sea
East Sussex
TN39 3NR
T 0845 6070 999

The Chief Officer
East Sussex Fire & Rescue Service
Fire Safety Department
Lewes Fire Station
North Street
Lewes
East Sussex
BN7 2PE
T 01323 462132/462154

Head of Children's Safeguards and Quality Assurance PO
Box 5 East Sussex County Council
County Hall
Lewes
East Sussex
BN7 1SW
T 01273 481000

Planning Officer
Lewes District Council
Southover House
Southover Road
Lewes
East Sussex
BN7 1AB
T 01273 471600

Head of Trading Standards
St Mary's House
52 St Leonards Road
Eastbourne
East Sussex
BN21 3UU
T 01323 418200

The Health & Safety Officer
Environmental Health
Southover House
Southover Road
Lewes
East Sussex
BN7 1AB
T 01273 471600

Public Health Authority
Helen Foreman
Public Health Network and Business Manager
E1C County Hall
St Anne's Crescent
Lewes
East Sussex
BN7 1UE
T 0345 60 80 190

Alcohol Licensing Team
Home Office (Immigration)
Lunar House
40 Wellesley Road

Croydon
CR9 2BY
E Alcohol@homeoffice.gsi.gov.uk

8 CONTACT DETAILS

Members of the public can obtain advice and help about this policy, the review procedures or other matters concerning whether or not activities fall to be licenced by contacting the Licencing Officer, Lewes District Council, Southover House, Southover Road, Lewes, East Sussex, BN7 1AB

Telephone 01273 471600

Email licensing@lewes.gov.uk

Further information can also be found on the Council's website www.lewes.gov.uk

Advice and guidance may also be sought from the Police and Fire and Rescue Service by contacting them direct.

Police Reform and Social Responsibility Act 2011

Late Night Levy**What is the late night levy?**

The late night levy ('the levy') will enable licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. It will be a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority's area. However, the licensing authority will also choose the period during which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations.

What is the policy's aim?

The levy will empower local areas to charge businesses that supply alcohol late into the night for the extra enforcement costs that the night-time economy generates for police and licensing authorities.

Why is the late night levy needed?

The Coalition Agreement included the commitment to permit local councils to charge more for late night licences to pay for additional policing. We believe it is right that businesses which profit by selling alcohol in the night-time economy should contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.

Who will the late night levy affect?

If a licensing authority chooses to introduce the levy in their area, all licensed premises which are authorised to supply alcohol in the levy period will be affected. Premises that do not wish to operate in the levy period will be able to make a free minor variation to their licence before the levy is introduced.

Exemptions

We do not wish to unfairly penalise premises which are not part of the wider night-time economy, and licensing authorities will therefore have the discretion to offer an exemption from the levy to the following categories of premises and schemes:

- Premises with overnight accommodation
- Theatres and cinemas
- Bingo halls
- Community Amateur Sports Clubs ('CASCs')
- Community premises
- Country village pubs
- Business Improvement Districts ('BIDs')

Premises will have to meet specific criteria to be considered for these exemptions. Licensing authorities will also have the discretion to exempt premises that only open late on New Year's Eve. Guidance on exemptions will be published on the Home Office's website in October 2012.

Reductions

Licensing authorities will have the discretion to offer a 30% reduction from the levy to premises that are either a member of a best practice scheme (the scheme must fulfil specific criteria), or in receipt of Small Business Rate Relief and have a rateable value of less than £12,000. Guidance on reductions will also be published on the Home Office's website in October 2012.

What amount will be charged under the late night levy?

The amount of the late night levy will be set at a national level. The charge is calculated according to rateable value. This system applies to the existing licence fee and the levy charge will be collected alongside the annual licence fee. The following charges will apply to the levy:

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Annual levy charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises. This will ensure that larger clubs and bars make a higher contribution towards the levy.

Who will receive the revenue raised by the late night levy?

The police will receive at least 70% of the net levy revenue. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. There will be restrictions on the types of services that licensing authorities can fund with the levy revenue to ensure that levy is spent on tackling alcohol-related crime and disorder and services connected to the management of the night-time economy. The licensing authority will be able to deduct permitted administration, collection and enforcement costs from the gross levy revenue.

Why is the late night levy not targeted at individual premises or areas?

The levy will apply to the whole local authority area because it is the fairest way for all premises that benefit from selling alcohol in the late night economy to contribute towards the additional enforcement costs generated by this practice. Application across the whole licensing authority area will also ensure that the levy raises a meaningful amount for the police and is simple to adopt and administer. We are keen to avoid the mistakes of the previous Government's Alcohol Disorder Zones (ADZs), which were not adopted by any local authority because they were deemed too bureaucratic.

When will the late night levy come into force?

The levy will come into force in October 2012. Licensing authorities will need to consult the police, licensed premises and other relevant parties before deciding whether to introduce the levy in their area. We anticipate that the earliest date that a licensing authority could introduce a levy would be approximately June 2013.

Police Reform and Social Responsibility Act 2011

Early Morning Alcohol Restriction Orders

What are Early Morning Alcohol Restriction Orders?

An Early Morning Alcohol Restriction Order (EMRO) is an uncommenced power in the Licensing Act 2003 that will enable licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 12 midnight and 6 am, if they consider this appropriate for the promotion of the licensing objectives.

What is the policy's aim?

The Police Reform and Social Responsibility Act 2011 extended the flexibility of the existing EMRO power in the 2003 Act to provide licensing authorities with an additional tool to shape and determine local licensing, and to address specific problems caused by late night drinking. The 2011 Act extended these uncommenced powers to cover a longer period each night and lowered the threshold for introducing them. Licensing authorities will now have the power to make EMROs if they consider this appropriate for the promotion of licensing objectives, rather than necessary. EMROs are being introduced alongside various other measures aimed at rebalancing the Licensing Act 2003 in favour of local communities, and to increase the tools and powers available to licensing authorities and the police to tackle alcohol-related problems in local areas.

Who will EMROs affect?

EMROs are a local power that licensing authorities can choose whether or not to exercise. If a licensing authority introduces an EMRO, it will apply to premises licences, club premises certificates and temporary event notices that operate within the specified EMRO period. Licensing authorities will be required to advertise the proposal to make the EMRO and demonstrate that they have evidence to justify doing so, as well as considering representations, before its introduction.

Are there any exemptions or exceptions?

Following its public consultation, *Dealing with the Problems of Late Night Drinking*, the Government has announced that in relation to EMROs there will be no exemptions for types of premises, as there are in relation to the late night levy. This will ensure that EMROs will be a simple, pre-packaged tool for licensing authorities to use to readjust the focus of their night-time economy away from problem drinking, if such a measure would promote the licensing objectives.

We will ensure that the provision to supply alcohol to residents through mini-bars and room service in premises with overnight accommodation is not subject to an EMRO.

In recognition of New Year Eve's status as a night of national celebration, EMROs will not apply on New Year's Eve. This is a national exemption and will apply to every EMRO made.

What evidence will licensing authorities need to make an EMRO?

The licensing authority will need to be satisfied that an EMRO is appropriate in a particular area for the promotion of the licensing objectives under the Licensing Act 2003. We will provide further guidance to licensing authorities in revised statutory guidance issued under section 182 of the Licensing Act 2003.

The licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the prevention of children from harm.

What area will the EMRO apply to?

An EMRO may be applied to the whole or part of the licensing authority's area, if the licensing authority considers this is appropriate for the promotion of the licensing objectives.

Who can recommend the introduction of an EMRO?

The licensing authority decides whether or not to introduce an EMRO. The introduction of an EMRO could be suggested by the public or the Police and Crime Commissioner.

When will EMROs come into force?

The Government expects to bring EMROs into force in October 2012. Licensing authorities will be required to advertise their proposal to make an EMRO and consider any representations made about it before deciding whether to introduce an EMRO in their areas. We therefore anticipate that the earliest date that a licensing authority could make an EMRO would be approximately March 2013.

PUBLIC NOTICE LICENSING ACT 2003

The Licensing Act 2003 requires that Lewes District Council publicise a Statement of Licensing Policy every 5 years.

In accordance with the Statutory Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, the Council has to consult upon and prepare a Statement of Licensing Policy for a further 5 year period which will be in force with effect from 7th December 2017.

We have not received any challenges to our existing Policy Statement or any adverse comment from the licensing trade, legal profession, other stake holders and the general public. Taking this into consideration, along with our experience over the past 5 years, we have decided that there will be no material changes to the Policy other than minor and inconsequential amendments.

The revised Licensing Policy can be viewed in full on the Lewes District Council website www.lewes.gov.uk.

Comments on the Policy must be submitted in writing either by letter to the Licensing Team, Lewes District Council, Southover House, Southover Road, Lewes, East Sussex BN7 2AB, or by e.mail to licensing@lewes.gov.uk by ****

Agenda Item No: 7

Report No: 121/17

Report Title: Adoption of the District Council's Film Authorisation Procedures

Report To: Licensing Committee

Date: 14 September 2017

Cabinet Member:

Ward(s) Affected: All Wards

Report By:

Contact Officer(s)-

Name(s): Susan Lindsey
Post Title(s): Licensing Officer
E-mail(s): sue.lindsey@lewes.gov.uk
Tel No(s):

Purpose of Report:

To consider the draft Film Authorisation Procedures to make provision for authorising certified and un-certified films

Officers Recommendation(s):

- a. That the Licensing Committee approve the Film Authorisation Procedures attached at Appendix A
 - b. That the Licensing Committee delegate authorisation of film classifications, for those films which have not been classified by the British Board of Film Classification ("BBFC") or previously by the Council, to those Officers currently delegated to approve licence applications under the Licensing Act 2003 ("the Act")
 - c. That the Members note that the introduction of the Film Authorisation Procedures will necessitate a minor update to the Constitution (see paras 3.1 and 4.1 of the Procedures). It is considered that this change can be achieved under the powers already delegated to the Councils Senior Legal Officer.
-

1. Reasons for Recommendations

Lewes District Council do not currently have a Policy or procedure for dealing with the classification of films

2 Background

- 2.1** The exhibition of film is a licensable activity under the Act, with certain exceptions.
- 2.2** The vast majority of films are classified by the BBFC. Unclassified films might typically be shown at film clubs, but there is a possibility of these being shown at public cinemas such as the new Depot cinema in Lewes.
- 2.3** The Council does not have formal procedures in place to comply fully with Section 20 of the Act. This section states that the admission of children to the exhibition of any film must be restricted in accordance with either:

- the BBFC classification; or
- where the film is not classified by the BBFC, any recommendations on the restriction of the admission of children made by the Council.

The definition of the exhibition of a film is the exhibition of moving pictures and the definition of a child is any person under the age of 18 years.

- 2.4** The Council may also be requested to authorise a film that has already been classified by the BBFC in two different circumstances:
- a) a distributor of a film may appeal against the decision of the BBFC and request that the Council re-classifies (authorises) the film for local screening with recommendations on age restrictions; and
 - b) an independent party may request that the Council re-classify a film.
- 2.5** Under the Act the Council must carry out its functions with a view to promoting the four licensing objectives. In terms of film authorisation, this comes under the Protection of Children from Harm licensing objective. This involves the protection of children from moral and psychological harm such as exposure to strong language and sexual expletives.
- 2.6** In order to comply with Section 20 of the Act, the Council must ensure that it has in place procedures that will enable it to authorise the exhibition of films and where necessary place upon the licence certain restrictions on the admission of children. The Council must also be in a position to handle appeals by distributors or independent parties against any BBFC classification decision. At all times the Council must take into account the Protection of Children from Harm licensing objective.
- 2.7** On approval of these procedures Officers will circulate them to all licence holders authorised to exhibit films and to any known interested party wishing to hold a film festival in the District. Information will also be placed on the Lewes District Council Website

3. Financial Appraisal

3.1 There are no financial implications arising from the recommendations in this report

4. Legal Implications

4.1 The contents of this Report have been considered by the Legal Section (IKen 6135=MW 29.8.2017)

Background Papers

Lewes District Council Licensing Policy (relevant parts 5.3.6 and 5.3.7)

Guidance issued under Section 182 of the Licensing Act 2003

Appendices

Appendix A - Lewes District Council Film Authorisation Procedures

Appendix B - British Board of Film Classification Guidelines



**Lewes District Council
FILM AUTHORISATION
PROCEDURES**

Date of Approval:

1. INTRODUCTION

- 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 Where a premises 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.
- 1.3 The definition of children is any person under the age of 18 years.
- 1.4 Under the Licensing Act 2003, the definition of the exhibition of a film is the exhibition of moving pictures.
- 1.5 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.
- 1.6 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).
- 1.7 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) An independent party may request that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions).
- 1.8 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

- 1.9 Under the Licensing Act 2003, the Licensing Authority must carry out its functions with a view to promoting the licensing objectives. In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.

Protection of Children from Harm

- 1.10 Paragraph 2.21 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 directly with alcohol consumption 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). Licensing Authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

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. The National Guidance under Section 182 of the Licensing Act 2003 (para 10.59) recommends 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 recommendations given either by a body designated under section 4 of the Video Recordings 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 premises 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.
- 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 as amended, 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 Lewes District and does not effect the authorisation or recommendations in any other Borough or 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 authorization, including any recommendations, shall be available from the Licensing Team.
- 2.8 The issue of any authorisation by Lewes District Council is strictly limited to the authorisation within the Lewes District 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. Specimen Recommendations for inclusion are included at Appendix 1.
- 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 AUTHORISATION REQUESTS FOR APPROVAL OF FILMS ALREADY CLASSIFIED BY THE BBFC

- 3.1 Applications for authorisation of films already classified by the BBFC shall be 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 no later than 28 days before the proposed screening to the Licensing Team, Lewes District Council, Southover House, Southover Road, Lewes BN7 1AB
- 3.2 All requests shall be accompanied by the film(s) where possible in DVD format to avoid delays, 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 in writing to the Licensing Authority a minimum of 28 days before the proposed screening.

- 3.3 The Sub Committee will 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).
- 3.4 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.
- 3.5 In these circumstances, the licence holder will be required to display in a conspicuous position, both inside and outside of the premises, a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall recommend:

"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 LEWES DISTRICT COUNCIL

- 4.1 Applications for authorisation will in the first instance be considered by officers under delegated powers. Any request to authorise an unclassified film may however, be referred by the Licensing Officer or at his/her discretion to the Licensing Sub Committee for determination.
- 4.2 Applications should be submitted to the Licensing Authority in writing a minimum of 28 days before the proposed screening. If less than 28 days' notice is provided no request to review an officer decision upon the application will be considered.
- 4.3 An application for authorisation should include the following information:
- (a) the name of 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 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 However, the Licensing Officer may at his/her discretion request a copy of the film(s) on DVD format, the cost to be borne by the applicant. If DVD format is not possible, the Licensing Officer may agree to arrange for a suitable venue to view the film(s).
- 4.6 The Licensing Officer whilst viewing the film(s) may have regard to BBFC Guidelines 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 Licensing Officer will pay particular attention to the Protection of Children from Harm Licensing Objective.
- 4.8 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, both inside and outside of the premises, 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 28 days' notice of the application is given, the applicant will have a right to request a review of the Licensing 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 authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2 Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

3 where

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4 In this section

“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 (c. 39) (authority to determine suitability of video works for classification).

6 EXEMPTIONS FOR THE SHOWING OF FILMS

6.1 There are exemptions from the need for a licence for film entertainment, including:

- Places of public worship, village halls, church halls, and other similar buildings
- Film to demonstrate a product, advertise goods or services, provide information, education or instruction.
- Incidental film – moving pictures that are incidental to other activities that aren't classified as regulated entertainment
- Television broadcasts
- 'Not for profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided the audience does not exceed 500 and the organizer (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Film forming part of an exhibit put on show for any purposes of a museum or art gallery.

Appendix 1

Specimen Recommendations in relation to films authorised for exhibition:

a. The Age Recommendation 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"

- b. That the premises licence or club premises certificate holder adopt a suitable management policy and procedure to monitor and enforce the recommendations on age restrictions.
- c. That the premises licence or club premises certificate holder display in a conspicuous position a notice clearly stating that the Licensing Authority has authorised the film(s) for viewing by people aged *[INSERT APPROPRIATE AGE]* and above, but has not necessarily viewed it.
- d. That the age restriction applying to the exhibition of the film be incorporated within any promotional literature and on any relevant web site including where relevant the licence holder or exhibitor's web site.



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Age Ratings You Trust

Guidelines





Introduction	2
Guiding Principles	3
General Classification Considerations	4
Specific Classification Considerations	5
Other Matters	8
The Classification Categories	12
U	15
PG	16
12A/12	19
15	20
18	23
R18	24
Advice Viewings	26
Intervention	27
Appeals	29
Engagement with the Public	30
Feedback	33
Annexe	34

Introduction

The British Board of Film Classification (BBFC) is an independent, non-governmental, not-for-profit, co-regulatory body. We are funded through fees charged to those who submit films and video works for classification.

We classify:

- films, trailers and advertisements on behalf of local authorities who license cinemas
- video works under the Video Recordings Act 1984
- video works which are distributed over the internet under a voluntary, self-regulatory service
- commercial and internet content distributed via mobile networks under a voluntary, self-regulatory service

Our Classification Guidelines follow extensive public consultation, as well as other research, expert advice and our accumulated experience over many years. The Guidelines, and our practice in applying them, pay particular attention to changes in public taste, attitudes and concerns, and changes in the law. They also take account of new evidence from research or expert sources. The Guidelines are reviewed periodically, and how we apply them is reviewed when necessary.

We take responsibility for the Guidelines and for their interpretation. This responsibility is subject to normal considerations of fairness and reasonableness.

Here, and throughout the Guidelines, video works are taken to include films and programmes released on DVD or Blu-ray, or distributed by means of download or streaming on the internet.

The Guidelines cannot be a comprehensive account of everything that may at any time be of concern. If issues arise which are not specifically covered here, they will be dealt with by us on their merits and in line with the standards expressed and implied in these Guidelines. The Guidelines are not a legal document and should be interpreted in the spirit of what is intended as well as in the letter.

We will provide guidance on the interpretation of these Guidelines on request.

Guiding Principles

Our guiding principles are:

- to protect children and vulnerable adults from potentially harmful or otherwise unsuitable media content
- to empower consumers, particularly parents and those with responsibility for children, to make informed viewing decisions

We fulfil these roles by providing age classifications and publishing advice (known as BBFCinsight) for individual films and videos. We do this without infringing the right of adults to choose what they view provided that it remains within the law and is not potentially harmful. We seek to ensure that films and videos reach the widest audience that is appropriate for their theme and treatment.

Media effects research and expert opinion on issues of suitability and harm can be inconclusive or contradictory. In such cases we must rely on our own experience and expertise to make a judgement as to the suitability of a work for classification at a particular age category, taking into consideration whether the availability of the material, to the age group concerned, is clearly unacceptable to broad public opinion. Our extensive research into public opinion guides us as we seek to ensure that classification decisions generally reflect public sensibilities and expectations as these change over time.

In relation to harm, we will consider whether the material, either on its own, or in combination with other content of a similar nature, may cause any harm at the category concerned. This includes not just any harm that may result from the behaviour of potential viewers, but also any moral harm that may be caused by, for example, desensitising a potential viewer to the effects of violence, degrading a potential viewer's sense of empathy, encouraging a dehumanised view of others, suppressing pro-social attitudes, encouraging anti-social attitudes, reinforcing unhealthy fantasies, or eroding a sense of moral responsibility. Especially with regard to children, harm may also include retarding social and moral development, distorting a viewer's sense of right and wrong, and limiting their capacity for compassion.

We will not classify material which is in conflict with the criminal law, or has been created through the commission of a criminal offence.

We act as a regulator across the United Kingdom. However, the United Kingdom does not have a single legal system, and so we take account of the different legal systems that coexist in the UK. Further details about the applicable legislation can be found in the Annex.

General Classification Considerations

There are general factors that may influence a classification decision at any level and in connection with any issue. These factors are of particular importance when a work lies on the borderline between two age categories.

Context

Context is central to the question of acceptability of film and video content. When considering context therefore, we take into account issues such as public expectation in general and the expectations of a work's audience in particular.

We consider the context in which an issue (such as sex, language or violence) is presented within a film or video. In doing this we take account of factors such as the setting of a work (historical, fantasy, realistic, contemporary); the manner of presentation (for example, an aggressive and directed use of bad language may result in a higher classification than a light-hearted and self-referential use of the same term); the apparent intention of the film; the original production date of the work (for example, outdated attitudes might be considered less offensive, and consequently classified at a lower category, in an old, obviously dated, work); and any special merits of the work.

Theme

Classification decisions will take into account the theme of a work, but will depend significantly on the treatment of that theme, and especially the sensitivity of its presentation. The most challenging themes (for example, drug misuse, sexual violence, paedophilia, racial hatred or violence) are unlikely to be appropriate at the most junior levels of classification. However, there is no reason in principle why most themes, however difficult, could not be presented in a manner which allows classification at 18 or even, where suitable, at lower levels.

Tone and impact

The overall tone of a work may also affect the classification decision. While the presentation of specific issues, such as sex and violence, may not be problematic at a particular category, a work with a dark or unsettling tone may receive a higher classification. Other tonal considerations which might have an influence on classification include the extent to which the work presents a despairing view of the world or the extent to which transgressive or harmful behaviour is condoned or made to appear normal.

We take into account the impact of a work (i.e. how it makes the audience feel), for example in relation to horror films where threat may be more significant than the level of violence.

Specific Classification Considerations

This section of the Guidelines identifies concerns which apply, to a greater or a lesser degree, at all classification levels, and sets out the general approach that we take. The concerns are listed in alphabetical order.

Pages 12 to 24 of the Guidelines provide specific guidance for U through to R18 with regard to such concerns. This should be read together with the General Classification Considerations.

Discrimination

Potentially offensive content relating to matters such as race, gender, religion, disability or sexuality may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion. The context in which such content may appear also has a bearing. Works with such content may receive a lower category where discriminatory language and behaviour is implicitly or explicitly criticised; or the work as a whole seeks to challenge such attitudes; or the work is obviously dated, with little or no appeal to children.

Drugs

No work taken as a whole may promote the misuse of drugs and any detailed portrayal of drug misuse likely to promote the activity may be cut. Works which normalise or glamorise drug misuse are likely to receive a higher classification than works which show drug misuse while emphasising the dangers.

Where smoking, alcohol abuse or substance misuse feature to a significant extent in works which appeal to children, this will normally be indicated in BBFCinsight. Classification decisions will also take into account any promotion or glamorisation of such activities.

Imitable behaviour

Classification decisions will take into account any detailed portrayal of criminal and violent techniques, and glamorisation of easily accessible weapons, such as knives. Works which portray anti-social behaviour (for example, bullying) uncritically are likely to receive a higher classification. Works which, taken as a whole, actively promote illegal behaviour may be cut or refused a classification.

Portrayals of potentially dangerous behaviour (especially relating to hanging, suicide and self-harm) which children and young people may potentially copy, will be cut if a higher classification is not appropriate.

Language

Language which people may find offensive includes the use of expletives with a sexual, religious or racial association, derogatory language about minority groups and commonly understood rude gestures. The extent of offence may vary according to age, gender, race, background, beliefs and expectations brought by viewers to the work as well as the context in which the word, expression or gesture is used.

For these reasons, it is impossible to set out comprehensive lists of words, expressions or gestures which are acceptable at each category. The advice at different classification levels, therefore, provides general guidance taking account of the views expressed in public consultation exercises.

Nudity

Nudity with no sexual context is in principle acceptable at all classification levels, but will not generally occur more than occasionally at U.

Nudity with a sexual context will receive a higher classification. Strong detail in such a context will usually only be passed at the adult categories (18 or R18).

Sex

The portrayal of sexual activity can range from kissing to detail of unsimulated sex. The normalisation of overtly sexualised behaviour is a concern at the junior categories. The classification system allows progressively stronger portrayals of sexual behaviour as the categories rise.

Sex works (works whose primary purpose is sexual arousal or stimulation) will normally only be passed at the adult categories. Sex works which only contain sex which may be simulated will usually be passed at 18. The R18 category is suitable for sex works containing clear images of real sex, strong fetish material, sexually explicit animated images, or other very strong sexual images. R18 video works may be supplied only in licensed sex shops which no one under 18 may enter. R18 films may be shown only in specially licensed cinemas.

We will apply these Guidelines in relation to sex to the same standard regardless of sexual orientation of the activity portrayed.

Threat

Where films are targeted at a younger audience, classification decisions will take into account factors such as the frequency, length and detail of scary or otherwise unsettling scenes as well as factors such as the impact of music and sound, and whether there is a swift and reassuring outcome.

The classification of threat and horror will take account of the general tone, impact, realism and supernatural elements of a work as well as the level of detail in individual scenes. Fantasy settings may be a mitigating factor.

Violence

Classification decisions will take account of the degree and nature of violence in a work.

Works which feature the following are likely to receive higher classifications:

- portrayal of violence as a normal solution to problems
- heroes who inflict pain and injury
- callousness towards victims
- the encouragement of aggressive attitudes
- characters taking pleasure in pain or humiliation
- the glorification or glamorisation of violence

Sadistic or sexual violence is likely to receive a higher classification. Any depiction of sadistic or sexual violence which is likely to pose a harm risk will be subject to intervention through classification, cuts or even, as a last resort, a refusal to classify.

We may refuse to classify content which makes sexual or sadistic violence look appealing or acceptable, reinforces the suggestion that victims enjoy sexual violence, or invites viewer complicity in sexual violence or other harmful violent activities.

We are also unlikely to classify content which is so demeaning or degrading to human dignity (for example, it consists of strong abuse, torture or death without any significant mitigating factors) that it may pose a harm risk.

Other Matters

Education videos

When classifying an education video, including a sex education video, for use in schools, we will take account of the educational purpose of the video and the context in which it is to be viewed (for example in the classroom mediated by a teacher).

Music videos

The classification of a music video will take account of any elements which are of concern to parents, including glamorisation of behaviour which they consider inappropriate. Where music videos are short and self-contained, material may be less likely to be justified by context.

Photo or pattern sensitivity, motion sickness and reactions to low frequency sound

A small number of viewers are sensitive to flashing and flickering light, or some shapes and patterns, and may experience seizures or other serious physical effects. Some viewers experience feelings of motion sickness or other symptoms when viewing works which feature hand held or otherwise moving camerawork, or which feature very low frequency sounds.

It is the responsibility of film makers and distributors to identify works in which such issues arise and to ensure that, when required, appropriate warnings are given to viewers. However, if it is obvious during viewing that the work contains strong examples of such imagery or sounds, we will advise the distributor of the need to ensure that appropriate warnings are in place. Where necessary, we may require assurances regarding the display of appropriate warnings as a condition of classification.

Release format

Classification decisions may be stricter on video works than on film. This is because of the increased possibility of under-age viewing as recognised in the Video Recordings Act (see Annexe), as well as the increased possibility of works being replayed or sections viewed out of context. Accordingly, a video work (either packaged or online) may occasionally receive a higher classification than on film, or require new or different cuts. (Video works may also receive a higher classification because they contain additional content.)

The screen format or visual presentation of a submission may also alter a classification, for example, if the image has been processed in the 3D format or is shown with an altered aspect ratio such as on an IMAX screen.

Titles

We will require changes as a condition of classification if the title of a work incites racial or religious hatred, or other criminal behaviour, or encourages an interest in abusive or illegal sexual activity.

If the title of a work is likely to cause significant offence to a significant number of people if displayed in a public place, we will advise the distributor to consider carefully the places in which it is likely to be seen and to take appropriate action, for example, by obscuring certain words on packaging or marketing materials. (This advice is not given in relation to video works classified R18 as such works may only be supplied or offered for supply in a licensed sex shop.) Where necessary, assurances on public display of the full title, or changes to the title, may be required as a condition of classification.

Trailers and advertisements

Audiences may choose to see a full-length feature based on expectations of the particular genre at the given classification and on the published BBFCinsight. In contrast, audiences have no choice, and often no expectation, about the accompanying trailers or advertisements which may be very different in tone and content to the film the audience has chosen to view. In addition, because trailers and advertisements are short and self-contained, material is less likely to be justified by context and more likely to cause offence.

For these reasons, classification decisions for trailers and advertisements may be more restrictive than for equivalent material in a main feature. Strong language will not be allowed in trailers at the U, PG and 12A/12 categories.

The more restrictive approach set out above may be relaxed where an advertisement is part of a public information campaign or has a charitable purpose.

Cinemas are responsible for the exhibition of cinema trailers and advertisements, and we have no involvement in deciding which films they precede. Questions or complaints about the exhibition of trailers or advertisements should be directed to the cinema management in the first instance.

Video games

With a few limited exceptions we do not classify video games. We consider for classification those video games contained on discs which feature primarily linear video content and pornographic video games which include for example:

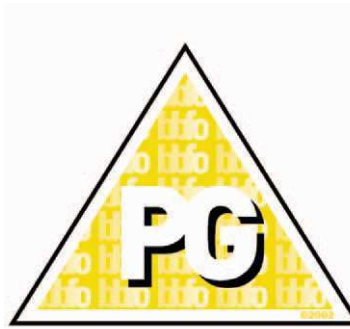
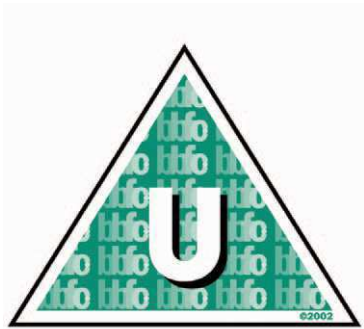
- images of unsimulated human sexual activity involving genitals or anus
- sexual fetish material, including bondage or sadomasochistic activity, urination and other bodily functions
- material likely to encourage an interest in sexually abusive activity
- the portrayal of sexual activity which involves lack of consent whether real or simulated
- sexual threats, humiliation or abuse
- penetration by any object associated with violence or likely to cause physical harm
- images of sexual activity with animals

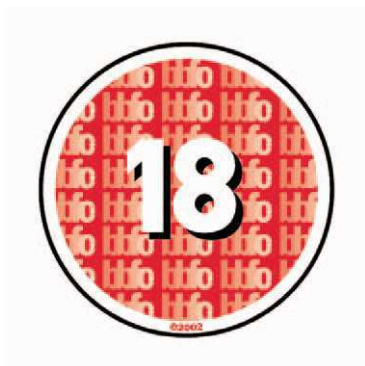
whether such images or material are of real events or activity or are animated.

We also advise the Games Rating Authority on the classification of linear video footage contained in games which is not integral to the game. This includes, for example, rewards and video content in games which is designed to be viewed in its own right, without taking forward the narrative drive of the game.

The Classification Categories

We endeavour to classify submitted works in one of the following categories:



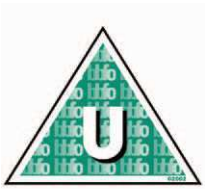


The following pages set out guidance on how the specific classification considerations (for example, sex and violence) are specifically applied from U through to R18. The criteria should be read in combination with the general approach set out earlier under ‘Guiding Principles’, ‘General Classification Considerations’ and ‘Specific Classification Considerations’.

Because works from time to time present issues in ways which cannot be anticipated, these criteria will not be applied in an over-literal way if such an interpretation would lead to an outcome which would confound audience expectations.



Page 65 of 89



U Universal – Suitable for all

A U film should be suitable for audiences aged four years and over, although it is impossible to predict what might upset any particular child. U films should be set within a positive framework and should offer reassuring counterbalances to any violence, threat or horror.

If a work is particularly suitable for pre-school children, this will be indicated in the BBFCinsight.

Discrimination

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of.

Drugs

References to illegal drugs or drug misuse must be infrequent and innocuous, or have a clear educational purpose or anti-drug message suitable for young children.

Imitable behaviour

Potentially dangerous or anti-social behaviour which young children may copy must be clearly disapproved of. No emphasis on realistic or easily accessible weapons.

Language

Infrequent use only of very mild bad language.

Nudity

Occasional nudity, with no sexual context.

Sex

Only very mild sexual behaviour (for example, kissing) and references to such behaviour.

Threat

Scary or potentially unsettling sequences should be mild, brief and unlikely to cause undue anxiety to young children. The outcome should be reassuring.

Violence

Violence will generally be very mild. Mild violence may be acceptable if it is justified by context (for example, comedic, animated, wholly unrealistic).



PG Parental Guidance – General viewing, but some scenes may be unsuitable for young children

A PG film should not unsettle a child aged around eight or older. Unaccompanied children of any age may watch, but parents are advised to consider whether the content may upset younger, or more sensitive, children.

Discrimination

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of, or in an educational or historical context, or in a particularly dated work with no likely appeal to children. Discrimination by a character with whom children can readily identify is unlikely to be acceptable.

Drugs

References to illegal drugs or drug misuse must be innocuous or carry a suitable anti-drug message.

Imitable behaviour

No detail of potentially dangerous behaviour which young children are likely to copy, if that behaviour is presented as safe or fun. No glamorisation of realistic or easily accessible weapons such as knives. No focus on anti-social behaviour which young children are likely to copy.

Language

Mild bad language only. Aggressive or very frequent use of mild bad language may result in a work being passed at a higher category.

Nudity

There may be nudity with no sexual context.

Sex

Sexual activity may be implied, but should be discreet and infrequent. Mild sex references and innuendo only.

Threat

Frightening sequences or situations where characters are in danger should not be prolonged or intense. Fantasy settings may be a mitigating factor.

Violence

Violence will usually be mild. However there may be moderate violence, without detail, if justified by its context (for example, history, comedy or fantasy).







12A/12 – Suitable for 12 years and over

Films classified 12A and video works classified 12 contain material that is not generally suitable for children aged under 12.

No one younger than 12 may see a 12A film in a cinema unless accompanied by an adult. Adults planning to take a child under 12 to view a 12A film should consider whether the film is suitable for that child. To help them decide, we recommend that they check the BBFCinsight for that film in advance.

No one younger than 12 may rent or buy a 12 rated video work.

Discrimination

Discriminatory language or behaviour must not be endorsed by the work as a whole. Aggressive discriminatory language or behaviour is unlikely to be acceptable unless clearly condemned.

Drugs

Misuse of drugs must be infrequent and should not be glamorised or give instructional detail.

Imitable behaviour

No promotion of potentially dangerous behaviour which children are likely to copy. No glamorisation of realistic or easily accessible weapons such as knives. No endorsement of anti-social behaviour.

Language

There may be moderate language. Strong language may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special contextual justification.

Nudity

There may be nudity, but in a sexual context it must be brief and discreet.

Sex

Sexual activity may be briefly and discreetly portrayed. Moderate sex references are permitted, but frequent crude references are unlikely to be acceptable.

Threat

There may be moderate physical and psychological threat and horror sequences. Although some scenes may be disturbing, the overall tone should not be. Horror sequences should not be frequent or sustained.

Violence

There may be moderate violence but it should not dwell on detail. There should be no emphasis on injuries or blood, but occasional gory moments may be permitted if justified by the context.

Sexual violence may only be implied or briefly and discreetly indicated, and its depiction must be justified by context.



15 – Suitable only for 15 years and over

No one younger than 15 may see a 15 film in a cinema. No one younger than 15 may rent or buy a 15 rated video work.

Discrimination

The work as a whole must not endorse discriminatory language or behaviour, although there may be racist, homophobic or other discriminatory themes and language.

Drugs

Drug taking may be shown but the work as a whole must not promote or encourage drug misuse (for example, through instructional detail). The misuse of easily accessible and highly dangerous substances (for example, aerosols or solvents) is unlikely to be acceptable.

Imitable behaviour

Dangerous behaviour (for example, hanging, suicide and self-harming) should not dwell on detail which could be copied. Whether the depiction of easily accessible weapons is acceptable will depend on factors such as realism, context and setting.

Language

There may be strong language. Very strong language may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special contextual justification.

Nudity

There are no constraints on nudity in a non-sexual or educational context. There may be nudity in a sexual context but usually without strong detail.

Sex

Sexual activity may be portrayed, but usually without strong detail. There may be strong verbal references to sexual behaviour, but the strongest references are unlikely to be acceptable unless justified by context. Works whose primary purpose is sexual arousal or stimulation are unlikely to be acceptable.

Threat

There may be strong threat and horror. A sustained focus on sadistic or sexual threat is unlikely to be acceptable.

Violence

Violence may be strong but should not dwell on the infliction of pain or injury. The strongest gory images are unlikely to be acceptable. Strong sadistic violence is also unlikely to be acceptable.

There may be detailed verbal references to sexual violence but the depiction of sexual violence must be discreet and justified by context.







18 – Suitable only for adults

No one younger than 18 may see an 18 film in a cinema. No one younger than 18 may rent or buy an 18 rated video work.

Adults should be free to choose their own entertainment. Exceptions are most likely in the following areas:

- where the material is in breach of the criminal law, or has been created through the commission of a criminal offence
- where material or treatment appears to us to risk harm to individuals or, through their behaviour, to society. For example, the detailed portrayal of violent or dangerous acts, or of illegal drug use, which may cause harm to public health or morals. This may include portrayals of sadistic or sexual violence which make this violence look appealing; reinforce the suggestion that victims enjoy sexual violence; or which invite viewer complicity in sexual violence or other harmful violent activities

- where there are more explicit images of sexual activity in the context of a sex work (see below) or where the primary purpose of the images in question is sexual arousal

In the case of video works, which may be more accessible to younger viewers, intervention may be more frequent than for cinema films.

Sex education at 18

Where sex material genuinely seeks to inform and educate in matters such as human sexuality or safer sex and health, explicit images of sexual activity may be permitted.

Sex works at 18

Sex works are works whose primary purpose is sexual arousal or stimulation. Sex works containing only material which may be simulated are generally passed 18. Sex works containing clear images of real sex, strong fetish material, sexually explicit animated images, or other very strong sexual images will be confined to the R18 category. Material which is unacceptable in a sex work at R18 is also unacceptable in a sex work at 18.



R18 - To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults only

The R18 category is a special and legally-restricted classification primarily for explicit works of consenting sex or strong fetish material involving adults. Films may only be shown to adults in specially licensed cinemas, and video works may be supplied to adults only in licensed sex shops. R18 video works may not be supplied by mail order.

The following content is not acceptable:

- material which is in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 (see Annexe)
- material (including dialogue) likely to encourage an interest in sexually abusive activity which may include adults role-playing as non-adults
- the portrayal of sexual activity which involves real or apparent lack of consent. Any form of physical restraint which prevents participants from indicating a withdrawal of consent
- the infliction of pain or acts which may cause lasting physical harm, whether real or (in a sexual context) simulated. Some allowance may be made for moderate, non-abusive, consensual activity
- penetration by any object associated with violence or likely to cause physical harm
- sexual threats, humiliation or abuse which do not form part of a clearly consenting role-playing game. Strong physical or verbal abuse, even if consensual, is unlikely to be acceptable

These Guidelines will be applied to the same standard regardless of sexual orientation of the activity portrayed.



Advice Viewings

A customer may submit works for advice at any stage of the production process.

We will inform them of the likely classification a work will receive, and where appropriate any changes required to achieve the customer's preferred classification. However advice given in such circumstances is not binding and we reserve the right to reach a different decision when the final version of the work is submitted formally for classification. If the final version of the work submitted for classification differs in any significant respect from that seen for advice, and if those changes appear to reflect advice we have given, then details of the changes will appear on our website.

Intervention

Where possible we will carry out our responsibilities through appropriate use of the classification categories, particularly in order to protect children from any potential harm. If necessary, however, we may cut or even refuse to classify a film or video work.

In some cases, we require assurances, cuts or other changes (for example, the addition of warning captions) as a condition of classification, or as a condition of classifying at a particular category. In some circumstances we may refuse to classify a work at any category. We publish details of all interventions on our website.

Cuts for category

If the submitted work is suitable for classification, but only at a category higher than that requested by the customer, we will consider whether a lower category could be achieved through relatively minor or simple changes. If so, we may offer the customer a choice of accepting either the higher or lower category (the latter with defined changes as necessary).

Cuts for category are unlikely to be available if the required changes would be very extensive or complex, or would not address for example, a tonal or thematic issue running throughout the work.

Compulsory cuts

If a submitted work raises issues or concerns that cannot be addressed by classification at a particular age category, we may require cuts or other changes as a condition of classification. Such intervention is most likely when the submitted work contains:

- material which may promote criminal activity
- material which is obscene or otherwise illegal
- material created by means of the commission of a criminal offence
- portrayals of children in a sexualised or abusive context

- material which makes sexual or sadistic violence look normal, appealing, or arousing
- graphic images of real injury, violence or death presented in a salacious or sensationalist manner which risks harm by encouraging callous or sadistic attitudes
- material which reinforces the suggestion that victims enjoy sexual violence
- material which invites viewer complicity in sexual violence or other harmful violent activities
- sex works which contain material listed as unacceptable at R18

When the issue relates to the circumstances of filming (for example, in relation to animal cruelty or public indecency) the customer will normally be given an opportunity to present evidence before a final decision is reached.

Refusal to classify

As a last resort, the BBFC may refuse to classify a work, in line with the objective of preventing non-trivial harm risks to potential viewers and, through their behaviour, to society. We may do so, for example, where a central concept of the work is unacceptable, such as a sustained focus on sexual or sadistic violence. Before refusing classification we will consider whether the problems could be adequately addressed through intervention such as cuts. In deciding whether to refuse to classify, we will keep in mind the inherent difficulty of using behavioural research to draw conclusions about real world risks, and will have regard to the full range of available evidence, including the views of the public and our own knowledge and experience.

Appeals

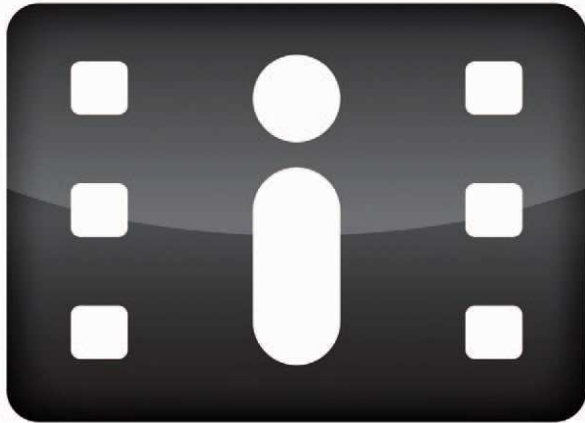
We offer a formal reconsideration procedure which is open to any customer dissatisfied with the determination made in respect of their work. The reconsideration is free of charge and will normally take fewer than 10 working days.

A customer may also appeal directly to an independent authority. Such an appeal may take place following, or instead of, our reconsideration. In the case of films, the customer (or any member of the public) may address itself to the local authority which licenses cinemas in a particular area. In the case of video works a customer may appeal to the Video Appeals Committee. The VAC is independent of the BBFC and can be contacted by post at **VAC, PO Box 6949, London, W1A 3TZ** or by email at **enquiries@vacappeal.co.uk**

Customers should note that a reconsideration or an appeal involves looking at the issues afresh. This means that the outcome could, in some circumstances, be more restrictive than the original determination.

Engagement with the Public

As part of our role we provide consumers, particularly parents, with as much information as possible to enable them to make a fully informed decision about what they will view. We therefore publish detailed information about the content of every film we classify. This is called BBFCinsight.



insight

BBFCinsight consists of the following:

- short content advice on film posters, some film advertising and video packaging, for example:



Strong language and sex references

- more detailed information, aimed particularly at parents, found on our website and free App

BBFCinsight is a short description of the issues found in a film or video work. It explains why an individual title received a particular classification. It highlights the key issues in a film, and gives examples of the content in the film, avoiding where possible any potential plot spoilers.

BBFCinsight also notes any other issues that might be important for parents, or those wishing to take younger viewers to see a film. This may include, for example, themes of divorce or bereavement, a film's overall suitability for family viewing and the likely familiarity of the audience with the film's source material or cast.

We encourage viewers to check BBFCinsight for a clear idea of the issues a work contains.

Websites



BBFC Website - www.bbfc.co.uk

Our website gives detailed information about every classification decision.

The website includes an online version of our Guidelines, detailed information about the different classifications, a library of our research, education tools and resources for use in the classroom and independent study, and a media centre including news and press releases.



Children's BBFC – www.cbbfc.co.uk

This website offers children clear information about how age classifications work and our role and history. It includes interactive elements, and material especially adapted for younger filmgoers and families.

The site also has an area for adults which contains information about BBFCinsight, the classification categories and details of our education and outreach work (for example, video conferencing) for schools.

BBFC App

We have a free App available to download for iOS and Android devices. It lets users check the latest film and video classifications on the go, along with BBFCinsight.

Twitter

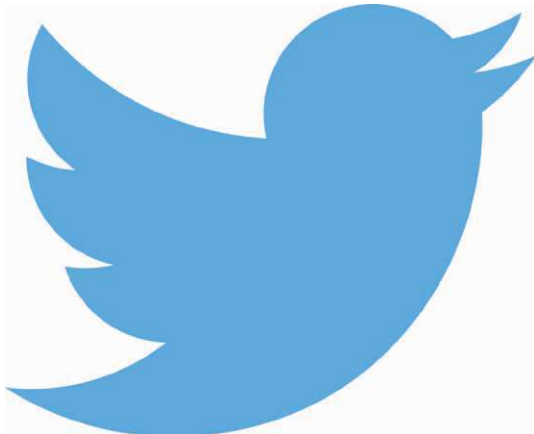
We regularly update our Twitter account, **@BBFC**, with BBFC news and the latest film and video classifications.

Newsletters

We produce regular newsletters for the industry, for those involved in education and for the general public. These give details about recent BBFC classification decisions as well as our resources, workshops and events. To sign up for any of the newsletters visit **www.bbfc.co.uk**.

Podcasts

We produce themed podcasts which feature guest interviews, discussion of recent decisions and current classification issues. The podcasts can be downloaded from the website.



Feedback

We welcome all feedback, whether positive or negative, and any comments can be sent to feedback@bbfc.co.uk, or in writing to the **Director's Office, BBFC, 3 Soho Square, London, W1D 3HD.**

For further details see the 'Contact Us' page on www.bbfc.co.uk



Annexe

Legal Considerations

The following legislation is not listed according to chronology or importance. Instead, it reflects a useful way of explaining the structure of the legal framework that applies to our work.

The Licensing Act 2003 – England and Wales Cinemas (Northern Ireland) (Order 1991) – Northern Ireland

Cinemas Act 1985 – Scotland

Cinemas require a licence from the local authority in which they operate. The licence must include a condition requiring the admission of children (anyone under 18) to any film to be restricted in accordance with our recommendations or those of the licensing authority. One of the key reasons for the licensing requirement is the protection of children, including from potentially harmful content in films.

The Video Recordings Act 1984

Video works (including films, TV programmes and some video games) which are supplied on a disc, tape or any other device capable of storing data electronically must have a BBFC classification unless they fall within the definition of an exempted work.

When considering whether to award a certificate to a work, or whether a work is suitable at a particular category, we are required by the Act to have special regard to the likelihood of works being viewed in the home, and to any harm that may be caused to potential viewers or, through their behaviour, to society by the manner in which the work deals with:

- criminal behaviour
- illegal drugs
- violent behaviour or incidents

- horrific behaviour or incidents
- human sexual activity

In considering these issues we have in mind the possible effect not only on children but also on other vulnerable people.

The Obscene Publications Act 1959 & 1964 – England and Wales

The Obscene Publications Act 1857 – Northern Ireland

The Civic Government (Scotland) Act 1982 – Scotland

It is illegal to publish a work which is obscene. A work is obscene if, taken as a whole, it has a tendency to deprave and corrupt a significant proportion of those likely to see it. Under the Obscene Publications Act 1959, no offence is committed if publication is justified as being for the public good on the grounds that it is in the interests of science, art, literature or learning or other objects of general concern.

In Scotland, case law implies a similar test would be applied. In Northern Ireland, while there is no express defence of “public good” it is likely that English law would be taken into consideration.

Criminal Justice and Immigration Act 2008 – England, Northern Ireland and Wales

Criminal Justice and Licensing (Scotland) Act 2010 / Civic Government (Scotland) Act 1982 – Scotland

It is illegal to be in possession of an extreme pornographic image. Under the Criminal Justice and Immigration Act 2008 an extreme pornographic image is one which is pornographic and grossly offensive,

disgusting or otherwise of an obscene character, which features an apparently real person, and which portrays, in an explicit and realistic way, an act which:

- threatens a person's life
- results, or is likely to result, in serious injury to a person's anus, breasts or genitals
- involves sexual interference with a human corpse
- involves bestiality

In Scotland, the Civic Government (Scotland) Act 1982, includes as "extreme" for the purpose "an act which takes or threatens a person's life" and "rape or other non-consensual penetrative activity".

Works we classify under the Video Recordings Act are excluded from the scope of the offence across the UK.

The Protection of Children Act 1978 – England and Wales

Protection of Children (Northern Ireland) Order 1978 – Northern Ireland

Civic Government (Scotland) Act 1982 – Scotland

It is illegal to make, distribute, show or possess indecent photographs or pseudo-photographs of a child. It is also illegal to make, distribute, show or possess indecent images of children which have been derived from a photograph or pseudo-photograph (for example, by tracing). Offences relating to the possession of such images are contained within the Criminal Justice Act 1988 (England, Wales and Scotland), and the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988. A child is defined as a person under the age of 18.

The Coroners and Justice Act 2009 – England, Northern Ireland and Wales

The Criminal Justice and Licensing Act 2010 - Scotland

It is illegal to be in possession of a prohibited image of a child. A prohibited image of a child is a non-photographic or non-pseudo-photographic image which is pornographic and grossly offensive, disgusting, or otherwise of an obscene character, and which focuses solely or principally on a child's genitals or anal region, or which portrays specified sexual acts by, of, or in the presence of a child, including masturbation, oral sex or penetration, including sexual acts with animals. A child is defined as being under 18 and an image of a child or other person can include imaginary representations. Works we classify under the Video Recordings Act are excluded from the scope of the offence unless images have been extracted from such works for the purpose of sexual arousal.

The Sexual Offences Act 2003

It is illegal to expose oneself with intent to cause alarm or distress – this offence augments the common law misdemeanour of indecent exposure. The Act also prohibits a person recording the private act of another, where the intention of the recording is for the sexual gratification of himself or a third party and where the recorded party has not consented to so being filmed.

The Public Order Act 1986 – England, Scotland and Wales

The Public Order (Northern Ireland) Order 1987 – Northern Ireland

It is illegal to distribute, show or play to the public a recording of visual images or sounds which are threatening, abusive or insulting if the intention is

to stir up racial hatred or hatred on the grounds of sexual orientation, or if racial hatred or hatred on the grounds of sexual orientation is likely to be stirred up. It is also illegal to distribute, show or play to the public a recording of visual images or sounds which are threatening if the intention is to stir up religious hatred.

In Northern Ireland the relevant group of persons may be defined not only by colour, race, nationality or ethnic or national origins, but also by “religious belief” or “sexual orientation” or “disability”.

In Scotland, the communication of material that is threatening and is intended to stir up hatred on religious grounds is an offence under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

The Cinematograph Films (Animals) Act 1937

It is illegal to show any scene “organised or directed” for the purposes of the film that involves actual cruelty to animals. This Act applies to the exhibition of films in public cinemas but we also apply the same test to video works. For the purposes of this legislation and The Animal Welfare Act 2006, only vertebrates which are domesticated or otherwise under the control of man are defined as “animals”.

The Animal Welfare Act 2006 – England and Wales

The Welfare of Animals Act (Northern Ireland) 2011 – Northern Ireland

The Animal Health and Welfare (Scotland) Act 2006 – Scotland

It is illegal to supply, publish or show or possess with intent to supply a video recording of an “animal fight” that has taken place within the UK since 6 April 2007.

The Tobacco Advertising and Promotion Act 2002

It is illegal, in the course of a business, to publish a tobacco advertisement.

Blasphemy

In Scotland and Northern Ireland, the common law crime of blasphemy exists but has not been utilised for prosecution in modern times. The offences of blasphemy and blasphemous libel under the common law of England and Wales were abolished in The Criminal Justice and Immigration Act 2008.

Human Rights Act 1998

The Act permits such restrictions on freedom of expression as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Other unlawful material

In carrying out its responsibilities, we will have regard to whether the material itself appears to be unlawful in the United Kingdom, or has arisen from the commission of an unlawful act.



bbfc

Age Ratings You Trust

British Board of Film Classification

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