

APPENDIX A



Lewes District Council

**Lewes District Council
FILM AUTHORISATION
PROCEDURES**

Date of Approval: 14th September 2017

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 **and local authority pre-viewing** will not be required.

An 18 certificate would be issued based only on the synopsis of the film and would be appropriate in the following cases:

- i) a film festival
 - ii) a one off screening of a film
 - iii) a trailer for a film
- (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.

The conditions listed below are attached by Lewes District Council on films which have not been classified by the BBFC or Lewes District Council:

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