

LICENSING COMMITTEE

Wednesday, 6 March 2019

5.00 pm

Committee Room 2, City Hall

Membership:	Councillors Kathleen Brothwell (Chair), Loraine Woolley (Vice-Chair), Biff Bean, Bill Bilton, Gill Clayton-Hewson, Ronald Hills, Andy Kerry, Adrianna McNulty, Fay Smith, Ralph Toofany, Pat Vaughan and Keith Weaver
Substitute member(s):	Councillor(s) Bob Bushell, Gary Hewson and Jackie Kirk
External attendees:	None.
Officers attending:	Tom Charlesworth, Ian Cullen, John Cunliffe, Democratic Services, Legal Services and Becky Scott

A G E N D A

SECTION A	Page(s)
1. Confirmation of Minutes - 21 November 2018	3 - 4
2. Declarations of Interest	
Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.	
3. Hackney Carriage and Private Hire minutes of previous meeting	
(a) 3 January 2019	5 - 6
(b) 31 January 2019	7 - 10
4. Licensing Act 2003 - Determining Film Classifications	11 - 18

Date of Next Meeting: Wednesday, 20 March 2019 (5.30 pm)

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Present: Councillor Kathleen Brothwell (*in the Chair*),
Councillor Biff Bean, Councillor Adrianna McNulty,
Councillor Fay Smith, Councillor Ralph Toofany and
Councillor Pat Vaughan

Apologies for Absence: Councillor Loraine Woolley, Councillor Bill Bilton,
Councillor Gill Clayton-Hewson, Councillor Ronald Hills,
Councillor Andy Kerry and Councillor Keith Weaver

47. Confirmation of Minutes - 18 September 2018

RESOLVED that the minutes of the meeting held on 18 September 2018 be confirmed, subject to Cllr Bilton's attendance at the meeting being recorded.

48. Declarations of Interest

No declarations of interest were received.

49. Hackney Carriage and Private Hire Minutes of Previous Meetings
50. 6 September 2018

RESOLVED that the minutes of the Hackney Carriage and Private Hire Sub-Committee held on 6 September 2018 be confirmed.

51. 27 September 2018

RESOLVED that the minutes of the Hackney Carriage and Private Hire Sub-Committee held on 27 September 2018 be confirmed, subject to Councillor Fay Smith's attendance at the meeting being recorded.

52. Gambling Act 2005 Triennial Review of Statement of Licensing Policy

The Licensing Team Leader:

- a. presented a report to update Licensing Committee on the result of the consultation on the Statement of Licensing Policy (the Policy) under the Gambling Act 2005 ('the Act')
- b. advised that if approved at Licensing Committee members were asked to forward the policy to Full Council for adoption.
- c. informed members that the Act required the Licensing Authority to publish its Statement of Licensing Policy at least every three years, which in this case must be published by 31 January 2019
- d. highlighted that the draft policy had been forwarded to 51 persons/organisations, and all members of Licensing Committee as part of the consultation process.
- e. advised that there had been five responses resulting from the consultation process as detailed at paragraph 4 and associated appendices to the report

- f. detailed minor amendments made to the policy as a result of the consultation process also covered within paragraph 4 of the officers report
- g. invited members' questions and comments.

Members discussed the content of the report in further detail.

Members queried whether proposed changes in parliament to reduce the maximum stakes for Fixed Odds Betting Terminals may result in the policy having to be referred back to Licensing Committee for amendment.

The Licensing Team Leader confirmed that:

- A link was provided within the City of Lincoln Statement of Policy to the Gambling Commission's official website which was regularly updated to accommodate any legislative changes.
- The Licensing Authority would need to monitor any potential negative impact on the wellbeing of members of the public in the event that stakes on fixed odds betting terminals were drastically reduced and betting shops turned their focus to new 'income streams' to compensate for loss of earnings.

RESOLVED that:

1. The draft City of Lincoln Gambling Act Statement of Policy be forward to Full Council for adoption.
2. Member's comments be noted.

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Andy Kerry and Councillor Biff Bean

Apologies for Absence: Councillor Loraine Woolley, Councillor Kathleen Brothwell
and Councillor Adrianna McNulty

11. Confirmation of Minutes - 27 September 2018

Received.

12. Declarations of Interest

No declarations of interest were received.

13. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

14. To Interview an Applicant for a Private Hire Driver's Licence who is Unable to Provide a Certificate of Good Conduct (01/2019)

The Licensing Officer:

- a) explained that the applicant came into City Hall for an appointment to apply for a new Hackney Carriage Drivers Licence on 24 August 2018
- b) highlighted that the applicant had been unable to provide the Licensing Team with a certificate of good conduct from Afghanistan where he was originally from
- c) stated that the applicant came to the UK in 2009
- d) highlighted that the applicant had held a full UK driving licence since October 2013
- e) explained that the applicant passed the knowledge test on his second attempt as well as achieving a low risk on the Driver Improvement Programme.

Members asked the applicant relevant questions in relation to his application

Decision

That the Private Hire Drivers licence be granted

Reasons for the Decision

- The applicant had a clean drivers licence and DBS check
- The applicant was very pleasant and presentable
- The applicant was currently employed within the City
- The applicant came to the UK aged 15 as a refugee

Present: Councillor Pat Vaughan (*in the Chair*),
Councillor Loraine Woolley, Councillor Kathleen Brothwell
and Councillor Andy Kerry

Apologies for Absence: Councillor Adrianna McNulty

15. Confirmation of Minutes - 3 January 2019

RESOLVED that the minutes of the meeting held on 3 January 2019 be noted.

16. Declarations of Interest

No declarations of interest were received.

17. Exclusion of Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

18. To Interview an Existing Driver who has 9 Current Penalty Points

The Licensing Officer:

- a) Stated that the licensee had held a private hire drivers licence since December 2015.
- b) Explained that the licensee came into City Hall for a re-licence appointment on Monday 22 November 2018.
- c) Explained that the licensee was asked during his re-licence appointment whether he had received any convictions or criminal findings of guilt such as fixed penalty notices. The licensee then disclosed that he had received 6 points for failing to give information as to the identity of a driver, an offence which occurred on 13 November 2017, and 3 points for a speeding offence, an offence which occurred on 1 May 2018.
- a) Stated that the licensee did not disclose his offences to the licensing team until his renewal application came around. This meant that the driver was in contravention of Condition 10 of his licence conditions, which requires the licensee to inform the Licensing Authority in writing of any criminal findings of guilt immediately after the date of conviction, including fixed penalty tickets.

The Sub-Committee questioned the licence holder about his offences and his failure to inform the Licensing Authority.

For the offence of failure to give information as to the identity of the driver, the licensee explained that his partner had just had a baby and he had changed

address, hence the letter went to his old address. He eventually went to court for the offence in August 2018 and was fined and issued with 6 penalty points.

The licence holder responded that for the offence of exceeding the statutory speed limit on a public road, he had made a genuine mistake on a stretch of road with average speed camera restrictions. He had not realised that the road suddenly went from 50 mph to 40 mph and he had exceeded the average speed limit.

Decision

That the Private Hire Vehicle Driver's Licence be granted with the condition that the licensee be sent a warning letter to remind him of his responsibilities and of the conditions of his licence.

Reasons for the Decision

1. The Sub-Committee believed that the licence holder was genuinely remorseful for his behaviour.
2. The licensee had been distracted at the time of the first offence by a lot going on in his personal life with the delivery of a new baby.
3. The licensee had been punished by being unable to carry-on his trade since 10 December 2018 as his licence could not be renewed until the Sub-Committee had heard the case.
4. The Sub-Committee believed that the licensee was truly remorseful and that it was extremely unlikely that he would re-offend as this job was vital to him being able to support his family.

19. To Interview an Applicant for a Private Hire Driver's Licence who has Failed to Disclose a Previous Offence

The Licensing Officer:

- a) Explained that the licensee came into City Hall to apply for a new Private Hire Vehicle Driver's Licence on Monday 7 November 2018.
- b) Explained that the licensee was asked during his application appointment whether he had received any convictions or criminal findings of guilt such as fixed penalty notices. The applicant said he had no convictions and failed to disclose a simple caution which had been issued to him for using threatening, abusive, insulting words or behaviour with intent to cause fear or provocation of violence, an offence which occurred on 23 June 2017. This conviction was discovered upon sight of the DBS.

The Sub-Committee questioned the applicant about his offence. The applicant responded that he was not aware that he had been issued with a simple caution whilst he was held at the police station. The applicant explained that he had been defending his work colleagues who were being threatened during a social evening, which resulted in a fracas to which the police had been called. The applicant said he had confronted the police regarding the arrest of a work colleague, which he felt was unjust. This subsequently led to the applicant also being arrested and issued with a simple caution, although he was unaware that

this had happened until the DBS check was returned as part of his licence application.

Decision

That the Private Hire Vehicle Driver's Licence be granted.

Reasons for the Decision

1. The applicant gave a plausible and reasonable explanation for the events that led to him being issued with a simple caution and for his lack of awareness that a simple caution had been issued until his DBS check was returned.
2. A simple caution was on the very lowest end of the scale of possible disposals for such an offence, which was an indication that whatever had happened was very minor.
3. The applicant produced evidence to the Sub-Committee of his exemplary behaviour and good conduct during the course of his employment as a manager in the hospitality industry for a number of years previously. This persuaded the Sub-Committee that the applicant was familiar with difficult customer interactions, which they considered would be of benefit in his employment as a licensed Private Hire Vehicle Driver.
4. The Sub-Committee believed that the applicant was truly remorseful and that it was extremely unlikely that he would re-offend.

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SUBJECT: LICENSING ACT 2003 – DETERMINING FILM CLASSIFICATIONS

DIRECTORATE: COMMUNITIES AND ENVIRONMENT

REPORT AUTHOR THOMAS CHARLESWORTH, LICENSING OFFICER

1. Purpose of Report

1.1 To seek an indication on the Committee's views in regards to the certification of films not already classified by The British Board of Film Classification (BBFC).

2. Executive Summary

2.1 To seek approval from the Licensing Committee in regards to creating a scheme of delegation in determining requests to certify films not already classified by the BBFC.

3. Background

3.1 The Council has received a request to certify a short film, which is to be shown in multiple locations within the district. This is a requirement of the Council because the film has not been classified by the BBFC.

3.2 Mr Richard Hall, on behalf of the Lincoln Film Society, has requested the Council to classify the film 'Born a Rebel'. Mr Hall has submitted a synopsis of the film, which can be seen at Appendix A.

3.3 Mr Hall has also submitted a letter from North Somerset Council who certified 'Born A Rebel' 12A in February this year, a copy of this letter can be seen at Appendix B.

4. Legislation

4.1 The Licensing Act 2003 (the Act) deals with the exhibition of films as 'regulated entertainment'. This means that when a film is shown to entertain an audience and either takes place in the presence of a public audience or, if in private, with a charge made with a view to profit, the activity is licensable. As a result, the premises will need to hold a Premises Licence, Club Premises Certificate or a Temporary Event Notice (TEN).

4.2 Additionally, a community premises can now benefit from an exemption in specific situations, which means that they can show films without requiring a Premises Licence, Club Premises Certificate or a TEN.

- 4.3 When a film is shown in a premises which has a Premises Licence, Club Premises Certificate or is a premises considered 'exempt' (i.e. a community premises), the following condition applies:

No children shall be admitted to the exhibition of any film unless they have reached the age specified in the BBFC Certificate, or the Classification issued by the Licensing Authority.

- 4.4 The majority of commercial films are classified by the BBFC who essentially rate films on behalf of Local Authorities, with the Local Authority then licensing premises to show films under the Licensing Act 2003. However, on some occasions people request that a film is classified by the Local Authority.

- 4.5 In most cases these films are relatively small scale, made regionally and the cost of having the film classified by the BBFC is prohibitive. As a result, Local Authorities are requested to classify the film.

5. Current Policy

- 5.1 Currently the Council does not have a policy for determining film classifications and this function does not feature in the scheme of delegations attached to the statement of licensing policy.

6. Considerations

- 6.1 When considering the classification of a film, the Council must have regard to the Licensing Act 2003, which requires the Licensing Authority to carry out its functions with a view to promoting the 4 licensing objectives, which are:

- The Prevention of Crime and Disorder;
- Public Safety;
- The Prevention of Public Nuisance; and
- The Protection of Children from Harm

- 6.2 The most relevant objective in relation to these matters is the Protection of Children from Harm.

- 6.3 In carrying out its licensing functions, the Licensing Authority must have regard to its Statement of Licensing Policy and Guidance issued under S182 of the Licensing Act. A copy of both of these documents will be made available at the hearing.

- 6.4 Paragraph 5.5 of the Statement of Licensing Policy covers the Protection of Children from Harm. The Policy does not currently cover the classification of films in detail and this will be reviewed by the Licensing Team in due course.

- 6.5 Section 182 Guidance issued under the Licensing Act contains some information which is particularly relevant to these decisions and this is highlighted below:

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, 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. (Paragraph 2.22)

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. (Paragraph 10.59)

7. British Board of Film Classification (BBFC)

7.1 In terms of guidance on how to classify a film, it is recommended that the Council use 'The British Board of Film Classification Guidelines'. A copy of this will be provided at the hearing

8. Delegated Authority

8.1 The purpose of this report is not for the Committee to determine a certification for the film 'Born a Rebel' today but to determine whether to delegate authority for this decision to the Licensing Sub-Committee or to Licensing Officers. Alternatively, the Committee may decide to keep the authority with the full Licensing Committee.

8.2 If the Committee is minded to either keep the authority with the full Licensing Committee or to delegate to the Licensing Sub-Committee then it is recommended that members receive formal training before determining any requests.

9. Options

9.1 The Licensing Committee has the following options in regards to the determination of requests to certify films not classified by the BBFC:

- To delegate authority to Licensing Officers, (with referral to Licensing Sub-Committee/Licensing Committee if deemed necessary)
- To delegate authority to the Licensing Sub-Committee
- To keep the authority with the Licensing Committee

9.2 If the authority is kept with the Licensing Committee or the authority is delegated to the sub-committee then it is recommended that before any requests are determined, adequate member training be completed.

10. Organisational Impacts

10.1 Legal Implications

10.2 The applicant has a right of appeal if he is unhappy with the decision made.

10.3 Finance

10.4 Any costs associated with member training or an appeal will be met via existing financial resources.

11. Recommendation

11.1 Members are required to make a determination as outlined in paragraph 9.1 above.

Key Decision No

Key Decision Reference No. N/A

Do the Exempt Information Categories Apply No

Call in and Urgency: Is the decision one to which Rule 15 of the Scrutiny Procedure Rules apply? No

Does the report contain Appendices? Yes

List of Background Papers: Appendix A – Film Synopsis
Appendix B – Letter from North Somerset Council

Lead Officer: Tom Charlesworth
Telephone 873263

FILM SYNOPSIS

Film Name	Born a Rebel	Produced	2018
Showing	Multiple screenings, between March 9th-16th at The Venue cinema, Bishop Grosseteste University, Lincoln & Mansions of the Future, Lincoln		
Film Synopsis – (please provide general outline of the film including its context, overall tone and impact. Also advise if any of the matters below may be considered mild, moderate, strong or very strong in nature and their frequency)			
General Description	15 minute short montage of footage from the Yorkshire, North East and North West Film Archives. Produced as part of 'Vote 100' by Cinema For All, which celebrates the centenary of women's suffrage, the film provides interesting educational content for those unaware of the history of the suffrage movement beyond the better known stories		
Discrimination	None		
Drugs	Infrequent (2 shots) people smoking		
Horror	None		
Imitable Behaviour	Mild protesting		
Language	One use of 'damn' otherwise none		
Nudity	None		
Sex	Mild - one kiss, husband and wife		
Theme	We Are Women, We Are Strong		
Violence	Mild. Archive footage of protests		
Premises Policies			
Child Protection Policy	Born a Rebel precedes some 15 certificate feature length films: admittance to those films is governed by ticket and no-one under that age will be admitted. It also precedes 3 arts workshop activities for children and young people. These events are pre-bookable: without pre-booking, no admittance will be possible		
Staff Policy	All events will be staffed by suitably qualified adults		
Feedback Procedures	Feedback forms are available for each event, provided by the organisers		
Notice Provisions	Events will be promoted via website, social media and printed flyer		
Usher Provision	Ushers familiar with each location's facilities and procedures, including evacuation procedures will be in attendance		
Proposed Age Restriction	Born a Rebel - 12a		

In order to recommend an appropriate restriction of access for children, the authority requires information to be provided by the proposed exhibitor –

- A synopsis of the film programmes(s) giving sufficiently detailed and accurate information on any potentially controversial issues such as – discrimination, drugs, horror, imitable behaviour, language, nudity, sex, theme, violence and in particular anything considered over 18 – R18 for example.
- Information of active and thorough Child Protection Policies including any permission processes required to be obtained for children to appear in any film exhibition.
- Information on how staff are informed on policies and matters that may be significant at the time of the exhibition.
- Information on feedback and evaluation processes
- Information as to the stops that will be taken to display notices inside and outside the premises so that persons entering can readily read them and be aware of the classification attached to the film.
- Information on the use of sufficient ushers/stewards (minimum 18 years old) to be in attendance at the entrance to the viewing room at all times, to ensure that only children who may view the film or exhibition are permitted access.

DISPLAY OF NOTICES

You will be advised of the notices to be displayed inside and outside the premises when the

PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME. CONTAINS (INSERT DESCRIPTION OF CONTENT OF FILM SUCH AS 'MILD LANGUAGE AND COMIC ACTION')

authority notify you of the classification. The notices will be on the lines of –

When you have completed this form, it must be submitted a minimum of 28 days before the proposed showing to:

Licensing Department
North Somerset Council
Walliscote Grove Road
Weston Super Mare
BS23 1RS

Tel: 01934 426800
Email: Licensing@n-somerset.gov.uk

Date: 6 February 2019
My ref: E&CS/LYC07/038304
Your ref:
Contact: Licensing
Direct dial: 01934 426800
Email: licensing@n-somerset.gov.uk



Licensing Team
Town Hall,
Walliscote Grove Road,
Weston-super-Mare
BS23 1UJ

Long Ashton Community Cinema
Long Ashton Community Hall
Keedwell Hill
Long Ashton

Dear Becci

Short Film – Born a Rebel

The above film has been classified as a **12A** by North Somerset Council.

12A – Suitable for 12 years and over. Not recommended for children under that age. Under 12s only admitted if accompanied by an adult. Responsibility for allowing children under 12 to view lies with the accompanying adult.

Where the Council authorises unclassified material to be shown the Council 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 Council 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.

I hope you have a successful evening, please let us know if we can be of any further help.

Yours sincerely

Amanda Hodge
Licensing Officer

This letter can be made available in large print, audio, easy read and other formats. Documents on our website can also be emailed to you as plain text files. Help is also available for people who require council information in languages other than English. For more information contact the sender of this letter.

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