

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

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