



LICENSING COMMITTEE

Monday, 16 January 2023

Subject	Policy for the Classification of Films
Report by	Councillor Mary Rudd – Cabinet Member with Responsibility for Community Health
Supporting Officer	Martin Clarke Licensing Manager and Housing Lead Lawyer 01502 523226 Martin.clarke@east Suffolk.gov.uk

Is the report Open or Exempt?	OPEN
-------------------------------	------

Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not applicable
Wards Affected:	All Wards

Purpose and high-level overview

Purpose of Report:

To seek the Licensing Committee's approval for the adoption of a policy for the classification of films.

Options:

- 1) To approve the policy.
- 2) To not approve the policy.
- 3) To approve the policy following modification.

Recommendation/s:

To approve the draft policy for dealing with the classification of films for use immediately.

Corporate Impact Assessment

Governance:

Licensing is a Council function exercised by Licensing Committee and Licensing Sub-Committees

ESC policies and strategies that directly apply to the proposal:

Statement of Licensing Policy

Environmental:

No impact

Equalities and Diversity:

No impact

Financial:

No impact

Human Resources:

No impact

ICT:

No impact

Legal:

No impact

Risk:

No impact

External Consultees:	None
-----------------------------	------

Strategic Plan Priorities

Select the priorities of the Strategic Plan which are supported by this proposal: (Select only one primary and as many secondary as appropriate)		Primary priority	Secondary priorities
T01	Growing our Economy		
P01	Build the right environment for East Suffolk	<input checked="" type="checkbox"/>	<input type="checkbox"/>
P02	Attract and stimulate inward investment	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P03	Maximise and grow the unique selling points of East Suffolk	<input type="checkbox"/>	<input type="checkbox"/>
P04	Business partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P05	Support and deliver infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T02	Enabling our Communities		
P06	Community Partnerships	<input type="checkbox"/>	<input type="checkbox"/>
P07	Taking positive action on what matters most	<input type="checkbox"/>	<input type="checkbox"/>
P08	Maximising health, well-being and safety in our District	<input type="checkbox"/>	<input checked="" type="checkbox"/>
P09	Community Pride	<input type="checkbox"/>	<input type="checkbox"/>
T03	Maintaining Financial Sustainability		
P10	Organisational design and streamlining services	<input type="checkbox"/>	<input type="checkbox"/>
P11	Making best use of and investing in our assets	<input type="checkbox"/>	<input type="checkbox"/>
P12	Being commercially astute	<input type="checkbox"/>	<input type="checkbox"/>
P13	Optimising our financial investments and grant opportunities	<input type="checkbox"/>	<input type="checkbox"/>
P14	Review service delivery with partners	<input type="checkbox"/>	<input type="checkbox"/>
T04	Delivering Digital Transformation		
P15	Digital by default	<input type="checkbox"/>	<input type="checkbox"/>
P16	Lean and efficient streamlined services	<input type="checkbox"/>	<input type="checkbox"/>
P17	Effective use of data	<input type="checkbox"/>	<input type="checkbox"/>
P18	Skills and training	<input type="checkbox"/>	<input type="checkbox"/>
P19	District-wide digital infrastructure	<input type="checkbox"/>	<input type="checkbox"/>
T05	Caring for our Environment		
P20	Lead by example	<input type="checkbox"/>	<input type="checkbox"/>
P21	Minimise waste, reuse materials, increase recycling	<input type="checkbox"/>	<input type="checkbox"/>
P22	Renewable energy	<input type="checkbox"/>	<input type="checkbox"/>
P23	Protection, education and influence	<input type="checkbox"/>	<input type="checkbox"/>
XXX	Governance		
XXX	How ESC governs itself as an authority	<input type="checkbox"/>	<input type="checkbox"/>
How does this proposal support the priorities selected? Licensing plays an important role in the themes in the Council's Strategic Plan of growing our economy and enabling our community's. There are many young and new film makers, producers and directors who wish to exhibit their films within East Suffolk and by ensuring new films are given an appropriate classification, the Council can protect the younger audience and support the many film festivals and viewings that take place in the district.			

Background and Justification for Recommendation

1	Background facts
1.1	East Suffolk Council is the Licensing Authority under the provisions of the Licensing Act 2003 (the Act). It issues premises licences and club premises certificates which permit licensable activities as defined by the Act. One of the licensable activities is the provision of regulated entertainment.
1.2	Schedule 1 of the Act sets out what activities are regarded as regulated entertainment. The description of licensable activities includes the exhibition of a film.
1.3	<p>To be licensable, an activity needs to be provided for the purpose (at least partly) of entertaining an audience, has to be held on premises made available for the purpose of enabling that activity, and must also either:</p> <ul style="list-style-type: none"> • Take place in the presence of a public audience, or • Where the activity takes place in private, be the subject of a charge made with a view to a profit.
1.4	<p>All premises licences that permit regulated entertainment in the form of the exhibition of a film have a mandatory condition relating to the admission of children to that premises. Children under the Licensing Act 2003 are defined as anyone under the age of 18 years. The mandatory condition is a requirement under section 20 and 74 of the Act. The mandatory condition reads as follows:</p> <p>EXHIBITION OF FILMS</p> <p>1) Where the film classification body is specified in the licence, unless subsection (2) applies, admission of children must be restricted in accordance with any recommendation made by that body.</p> <p>2) Where 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.</p> <p>3) In this section -</p> <p>“children” means persons aged under 18; and</p> <p>“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).</p> <p>Note: the film classification body specified in this licence is the British Board of Film Classification.</p>
1.5	The Licensing Act 2003 provides a number of exemptions for certain types of film such as those exhibited for the purpose of advertisement, information, and education.
1.6	The Council is the classification body for the public exhibition of films shown within its area. The Council has the right to classify films that are shown in premises such as cinemas, hotels, clubs, public houses and community premises.
1.7	Premises must restrict the admission of children to either the film classification recommended by the British Board of Film Classification (BBFC) or, if the Council does not agree with that recommendation, to such other classification recommended by the Council.

1.8	If a film has not been classified by the BBFC it must not be shown at a premises without having first been classified by the area Council concerned. A typical example of this would be a locally made film to be shown at a local film festival.
-----	---

2 Current position

2.1	<p>In recent months the Council has received three last minute requests for film classifications. Each request has involved a number of films to be shown at film festivals and has meant an awful lot of time spent watching the films in a very short space of time. A film classification policy should ensure that appropriate notice is given for determining a classification.</p> <p>The Council will still have the option of considering late submissions on a case-by-case basis.</p>
-----	---

3 How to address current situation

3.1	In order to cater for film classification requests, it is prudent for the Council to have a formal policy and procedure in place. By approving the draft policy, the Council will adopt the BBFC guidelines for film classification.
3.2	As the matter of film classification is placed on the Council as a procedural matter for Licensing Authorities under the Licensing Act 2003, there is no proposal to carry out any form of consultation. If approval is given, the policy will have immediate effect.
3.3	It is the intention of the Licensing Team to write to all cinemas, village and community halls and other relevant organisations to remind them of the need to have independently and locally made films classified before they can be shown to members of the public, and to promote the new policy.
3.4	The Licensing Team believes no charge can be made for an application for a film classification as it is not a discretionary service for which a charge can be made under section 93 of the Local Government Act 2003. The Licensing Authority has the power and duty to recommend a classification and it does not amount to a discretionary service.

4 Reason/s for recommendation

4.1	To ensure enough time is given for the Licensing Committee to view films not previously classified, in order to give a suitable classification.
4.2	To promote the licensing objective The Protection of Children from Harm by awarding a suitable classification.
4.3	To provide a fair and consistent approach to film classification.

Appendices

Appendices:

Appendix A	Draft policy
Appendix B	BBFC Guidelines