



FILM CLASSIFICATION POLICY

January 2023

1. INTRODUCTION

- 1.1 Sections 20 and 74 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/Certificate must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given by the British Board of Film Classification (the BBFC) or by the Council itself.
- 1.2 The public exhibition of films on licensed premises must therefore either be classified by the BBFC or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.3 The purpose of this Policy is to set out the formal procedure for the Council to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification's decisions, or request to reclassify films.
- 1.4 Where a premises seeks or intends to exhibit a film(s), that premises must be covered by a Premises Licence, Club Premises Certificate, or a Temporary Event Notice under the Licensing Act 2003.
- 1.5 The Licensing Act 2003 defines children as 'any person under the age of 18' and defines the exhibition of a film as 'the exhibition of moving pictures'.

2. WHEN THE LICENSING AUTHORITY MAY CLASSIFY A FILM

- 2.1 The Licensing Authority may be requested to authorise the showing of an unclassified film(s) within the East Suffolk Council district. Typically, this will be for:
- A film festival covering a specific period of time
 - A one off screening of a film(s)
 - A trailer for a film
- 2.2 The Licensing Authority may also be requested to authorise a film that has already been classified by the BBFC when:
- A distributor of a film wishes to 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) or;
 - An independent party may request that the Licensing Authority reclassifies/authorises the film for local screening (with recommendations on age restrictions).

3. POLICY

- 3.1 In accordance with the s.182 Statutory Guidance issued to Licensing Authorities; the Council shall concern itself primarily with the protection of children from harm. It will not use its powers to censor films save where there is clear cause to believe that this is required to promote the licensing objectives.
- 3.2 Under the Licensing Act 2003, the Council must carry out its function with a view to promoting the licensing objectives -
- a. The prevention of crime and disorder
 - b. Public safety
 - c. Prevention of public nuisance
 - d. Protection of children from harm
- 3.3 In terms of film exhibitions and festivals, the most relevant licensing objective is the Protection of Children from Harm.

Protection of Children from Harm

Paragraph 2.41 of the Statutory Guidance issued to Authorities 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).

4. PRINCIPLES IN DETERMINING FILM CLASSIFICATIONS

- 4.1 The BBFC classifies films in accordance with its published Guidelines, which are based on extensive research into public opinion and professional advice.
- 4.2 The Council 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 recommendations(s) on the restriction of access of children to the film(s). It should be noted however that the Council is not obliged to follow these guidelines.
- 4.3 Where a licensed premises seeks to exhibit a film that has not been classified by the BBFC then it will be responsibility of the Council to authorise that film. As such, the procedures outlined later in this document will be followed.

4.4 The Council recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. Material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959, the Copyright, Designs and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

4.5 Applicants must ensure that all material that is the subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright, Designs and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

4.6 Any authorisations for the exhibition of film(s) issued by the Council shall only apply when the film(s) is exhibited within the East Suffolk Council district and does not affect the authorisation or recommendations in any other council area.

4.7 Once authorised by the Council, a film will be authorised for a particular showing or festival only subject to the recommendations imposed by the Council (unless further application for re-classification is made). Details of the authorisation including any recommendations shall be available from the Council's Licensing Team.

4.8 The issue of any authorisation by the Council is strictly limited to the authorisation within the East Suffolk Council 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.

4.9 The Council 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.

4.10 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, Designs and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

4.11 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.

4.12 Where the Council has determined to refuse authorisation of a film(s) clear and concise reasons shall be given.

5. EXEMPTIONS

5.1 The provision of the exhibition of a film(s) is exempt from regulation by the Licensing Act 2003 if either:

- a. It consists of or forms part of an exhibit put on show for any purpose of a museum or art gallery (the Licensing Act 2003 does not define a museum or art gallery so the ordinary meaning of the term is taken).
- b. Its sole or main purpose is to:
 - Demonstrate any product
 - Advertise any goods or services (excluding the advertising or films) or
 - Provide information, education or instruction.
- c. The film is shown on a 'not-for-profit' basis held in a community premises between the hours of 08:00 and 23:00 on any day provided that the audience does not exceed 500, and the exhibitor of the film
 - Obtains consent to the screening from a person who is responsible for the premises
 - Ensures that each screening abides by age classification ratings (the film must still be classified by either the BBFC or the Licensing Authority).

6. PROCEDURE FOR SUBMISSION OF FILM(S)

6.1 Applications for authorisation of films not classified by the BBFC shall be referred to and determined by the Licensing Sub-committee on behalf of the Licensing Authority.

6.2 Applications should be submitted to the Licensing Authority, for the attention of the Licensing Team, **at least 28 days before** the proposed screening.

6.3 An application for authorisation needs to be in a form that can be viewed, read, and understood, should state detailed reasons for the request and include the following information:

- The date(s), time(s) and proposed venue for the exhibition of the film(s)
- The name of the film maker
- A brief synopsis of the film(s)
- Any recommendation that may have been made by the film maker regarding an age limit for the intended audience for exhibition of the film
- Any existing classification issues by an existing classification body, whether within or outside the UK
- If the film has previously been classified by another Licensing Authority, details of

the classification awarded by that authority, together with the date and venue at which it was shown

- Information 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
- The language spoken in the film and whether there are subtitles in English
- Details of how any age restrictions will be enforced

6.4 All requests shall be accompanied by the film(s). This may be in DVD format or links via email. If DVD(s) have to be sent then the cost will be borne by the applicant.

6.5 If the film contains dialogue in a language other than English, an interpreter, approved by the Licensing Authority may be required for the classification, the cost to be borne by the applicant.

6.6 The Licensing Sub-committee will view the entire film(s) and assess it against the BBFC guidelines and any national Government guidance.

6.7 A notice of determination will be issued within 5 working days of the classification being determined.

6.8 Where the Licensing Authority has determined to refuse the authorisation of a film, reasons for the decision will be given.

7. AUTHORISATION

7.1 Any authorisation(s) for the exhibition of film issued by the Licensing Authority will only apply when the film is exhibited within the area covered by East Suffolk Council and does not affect the authorisations of any other Council.

7.2 Once authorised by the Licensing Authority a film(s) will be authorised for a particular showing or festival only and subject to the recommendations imposed by the Licensing Authority.

7.3 The issue of any authorisation by the Licensing Authority is strictly limited to the determination of film classification and it will be 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.

7.4 Where the Licensing Authority has authorised unclassified material to be shown, it will require an undertaking from the applicant of that they are satisfied, after making proper enquiry, that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright, Designs and

Patents Act 1988, Counter Terrorism and Security Act 2015 or any other relevant legislation and has not been created through the commission of a criminal offence.

7.5 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.

7.6 Each application will be considered on its individual merits. There is no right of appeal to the classification imposed by the Licensing Authority, save by way of Judicial Review of the decision.

7.7 All authorisations issued under a Premises Licence or Club Premises Certificate will be subject to the mandatory conditions contained in the Act relating to the exhibition of film.

Licensing Team
East Suffolk Council
Riverside
4 Canning Road
Lowestoft
Suffolk
NR33 0EQ

Licensing@eastsuffolk.gov.uk

Tel. 01394 444802