

# **Film Classification Policy**

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# Foreword

The Council, as the Licensing Authority, is responsible for authorising the public exhibition of films.

Section 20 of the Licensing Act 2003 (the Act) states 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.

The purpose of this Policy is to set out the formal procedure for the Licensing Authority to determine the classification of previously unclassified films, appeals by distributors against the British Board of Film Classification’s decisions or requests to reclassify films.

The policy is being introduced to encourage the already diverse and thriving creative community in North Somerset to show locally created films at licensed premises.

A public consultation process was carried out with the policy being agreed by the Full Council for approval on .....

The Authority will look to review this policy regularly and will amend the content in light of any legislative or other relevant changes.

# 1. Introduction

- 1.1 North Somerset Council, the licensing authority for the District of North Somerset, has produced this Film Classification Policy in accordance with Section 5(1) of the Licensing Act 2003.
- 1.2 The Act requires that the licensing authority carry out its various licensing functions so as to promote the following four licensing objectives:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
- 1.3 Each objective is of equal importance and there are no other licensing objectives. These four objectives are of paramount consideration at all times and are considered in more detail in North Somerset Statement of Licensing Policy 2015-2020.
- 1.4 The Film Classification Policy is concerned primarily with the following two licensing objectives, the former being the most relevant:
- The protection of children from harm.
  - The prevention of crime and disorder;
- 1.5 The BBFC states two over-riding principles which this policy supports:
- To protect children and vulnerable adults from potentially harmful or otherwise unsuitable content
  - To help children and families choose what's right for them and avoid what's not
- 1.6 Where a premise seeks or intends to exhibit film(s), that venue must be covered by a Premise Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003. Under The Act, the definition of the exhibition of a film is "the exhibition of moving pictures."
- 1.7 The provision of the exhibition of a film(s) is exempt from regulation by the Licensing Act 2003 if **either**:
- It consists of, or forms part of, an exhibit put on show for any purposes of a museum or art gallery (the LA03 does not define a museum or art gallery so the ordinary meaning of the term is taken)
- or:**
- Its sole or main purpose is to:
    - (a) demonstrate any product,
    - (b) advertise any goods or services (excluding the advertising of films), or

- (c) provide information, education or instruction

It should be noted however, that advertisements for goods or services require clearance from The Cinema Advertising Association (CAA). From 1st April 2016 the CAA is the sole clearance body for commercial advertising in cinemas.

## **1.8 Reasons for Classification**

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).

- 1.9** The Licensing Authority may be requested to authorise a film that has already been classified by the British Board of Film Classification (BBFC) in the following 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); or
- (b) An independent party may request that the Licensing Authority reclassifies/authorises the film for local screening (with recommendations on age restrictions).

- 1.10** 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

## **2. Protection of Children from Harm**

In accordance with paragraph 10.31 of the National Guidance, the Licensing Authority 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.

Paragraph 2.41 of the National Guidance states:

*“The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.”*

### **3. Principles in determining film classifications**

#### **3.1 BBFC Classification**

The BBFC classifies films in accordance with its published Guidelines, which are based on extensive research into public opinion and professional advice. A copy of these guidelines is shown at **Appendix A**.

The National Guidance under Section 182 of the LA03 recommends that:

*“Licensing Authorities should not duplicate the BBFC’s work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.”*

- 3.1.2** 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.

- 3.1.3** Where a licensed premise 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. The procedures outlined later in this document will be followed.

#### **3.2 Human Rights**

The Licensing Authority 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 or has been created through the commission of a criminal offence.

#### **3.3 General Policy**

- 3.3.1** 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 Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence.

- 3.3.2** Any authorisations for the exhibition of film(s) issued by the Licensing Authority shall only apply when the film(s) is exhibited within North Somerset

Council and does not affect the authorisation or recommendations in any other borough.

- 3.3.3** 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 authorisation including any recommendations shall be available from the Council's Licensing Team.
- 3.3.4** 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.
- 3.3.5** 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.
- 3.3.6** Where the Licensing Authority has determined to refuse authorisation of a film(s) clear and concise reasons shall be given.

#### **4. Procedures for authorisation requests for approval of films already classified by the BBFC**

- 4.1** Applications for authorisation of films already classified by the BBFC shall be referred to and determined by the Licensing Sub Committee on behalf of the Licensing Authority. This Sub Committee shall consist of three Members of the Licensing Committee.
- 4.2** Applications should be submitted in writing to the Licensing Department using the film synopsis form shown at **Appendix B**.

An application for authorisation should include the following information:

- (a) 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 will not be required;
- (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.

- 4.3** In accordance with the National Guidance 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.

- 4.4** Where an individual or organisation not connected with the film(s) requests reclassification of a BBFC classified film, they are not expected to provide a copy of the film(s).

The Licensing Authority will then make suitable arrangements to view the film. It is also accepted that in these circumstances, it may not be possible to give **28 days'** notice before the proposed screening.

- 4.5** All requests must be accompanied by detailed reasons for the request. Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.

- 4.6** 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.

- 4.7** 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).

- 4.8** Requests must be relevant to the Protection of Children from Harm licensing objective and not frivolous, vexatious or repetitive. Requests may also be relevant to the Prevention of Crime and Disorder licensing objective but only in relation to the contravention of the current interpretation of the Obscene Publications Act 1959 or any other relevant legislation.

- 4.9** In line with the National Guidance, 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 unless accompanied by an adult.

- 4.10** In these circumstances, the licence holder will be required to display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. With regard to the wording of such Notices, the Licensing Authority shall have regard to National Guidance, e.g.:



- *Persons Under the Age Of [insert appropriate age] Cannot Be Admitted To Any Part of The Programme*
- *Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.*

## **5. Procedure for authorisation of films which have not been classified by the BBFC or North Somerset Council**

**5.1** Application 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 Manager to the Licensing Sub-Committee for determination.

**5.2** Applications should be submitted in writing to the Licensing Authority a minimum of **28 days** before the proposed screening.

**5.3** An application for authorisation should include the following information:

- the film maker;
- such recommendation as may have been made by the film maker upon age limit for the intended audience for exhibition of the film;
- any existing classification issued by an existing classification body, whether within or outside the UK;
- 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 will not be required;
- if known, a legitimate and legal internet site where the film, or a portion of the film is available to view without charge;
- any proposals on age restrictions for viewing the film that the applicant intends to impose; and
- details of how age restrictions will be enforced.

**5.4** In accordance with Annex D, Part 5 of the National Guidance 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 Department 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 on the Licensing Authority's application form a minimum of **28 days** before the proposed screening.

**5.5** The Licensing Department, whilst viewing the film(s) will have regard to BBFC Guidelines and National Guidance and shall issue a Notice of Determination of the application within **5** working days from the date of the viewing.

- 5.6** When considering all such requests the Licensing Sub-Committee will pay particular attention to the Protection of Children from Harm Licensing Objective.
- 5.7** In line with of the National Guidance, 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 unless accompanied by an adult.

- 5.8** In these circumstances, the licence holder will be required to display, in a conspicuous position, 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*
  - *Persons Under the Age Of [insert appropriate age] Can Only Be Admitted To The Programme If Accompanied By An Adult.*
- 5.9** 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.
- 5.10** 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.

**BBFC guidelines**

<https://bbfc.co.uk/sites/default/files/attachments/BBFC%20Guidelines%202019.pdf>

**APPENDIX B**

**FILM SYNOPSIS**

Film Name		Produced	
Showing			
<b>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)</b>			
General Description			
Discrimination			
Drugs			
Horror			
Imitable Behaviour			
Language			
Nudity			
Sex			
Theme			
Violence			
<b>Premises Policies</b>			
Child Protection Policy			
Staff Policy			
Feedback Procedures			
Notice Provisions			
Usher Provision			
Proposed Age Restriction			

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

**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')**

–

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](mailto:Licensing@n-somerset.gov.uk)

### **Useful contact details**

#### **Licensing Team**

North Somerset Council  
Walliscote Grove Road  
Weston Super Mare  
BS23 1UJ

01934 426800

[licensing@n-somerset.gov.uk](mailto:licensing@n-somerset.gov.uk)

#### **British Board Film Classification**

BBFC  
3 Soho Square  
London  
W1D 3HD

020 7440 0299

[helpline@bbfc.co.uk](mailto:helpline@bbfc.co.uk)

#### **Cinema Advertising Association**

Corinthian House  
279 Tottenham Court Road  
London W1T 7RJ

020 7199 2433

[submissions@cinemaadvertisingassociation.com](mailto:submissions@cinemaadvertisingassociation.com)