

To: CHAIRMAN AND MEMBERS OF THE
LICENSING COMMITTEE

(Councillors Mrs. Black (Chairman),
Mrs. Thorn (Vice-Chairman), Allen,
Botten, Mrs. Bradbury, Cooley, Harwood,
Mrs. Parker, Perkins, Prew and Warner).

If calling please ask for
Mrs. A. Wilson
on 01883 732975

mwilson@tandridge.gov.uk

c.c. All other Members of the Council

25th January 2017

Dear Sir/Madam,

LICENSING COMMITTEE
THURSDAY, THE 2ND FEBRUARY 2017 AT 7.30 P.M.

The Agenda for this meeting of the Committee to be held in the Council Chamber, Council Offices, Station Road East, Oxted is set out below. If a Member of the Committee is unable to attend the meeting, please notify the Committee Section accordingly.

Should Members require clarification about any items of business, they are urged to contact officers before the meeting. In this respect, reports contain authors' names and contact details.

If a Member of the Council not being a Member of the Committee proposes to attend the meeting, please let the Committee Section know by no later than noon on the day of the meeting.

Yours faithfully,



Louise Round
Chief Executive

AGENDA

1. **MINUTES OF THE MEETING HELD ON THE 21ST JULY 2016 (copy previously circulated within the Council Book)**
2. **APOLOGIES FOR ABSENCE (if any)**

3. DECLARATIONS OF INTEREST – All Members present are required to declare, at this point in the meeting or as soon as possible thereafter:

- (i) any Disclosable Pecuniary Interests (DPIs) and / or
- (ii) other interests arising under the Code of Conduct

in respect of any item(s) of business being considered at the meeting. Anyone with a DPI must, unless a dispensation has been granted, withdraw from the meeting during consideration of the relevant item of business. If in doubt, advice should be sought from the Monitoring Officer or his staff prior to the meeting.

4. TO DEAL WITH QUESTIONS SUBMITTED UNDER STANDING ORDER NO. 29

5. FILM CLASSIFICATION GUIDELINES (Page 3)

6. PRESENTATION/INDUCTION FOR MEMBERS- LICENSING ACT 2003

7. ANY OTHER BUSINESS WHICH THE CHAIRMAN IS OF THE OPINION SHOULD BE CONSIDERED AT THE MEETING AS A MATTER OF URGENCY

REPORT TO THE LICENSING COMMITTEE – 2ND FEBRUARY 2017	
AGENDA ITEM 5	
FILM CLASSIFICATION GUIDELINES	
Report of:	Paul Barton, Chief Community Services Officer - Tel: 01883 732840 pbarton@tandridge.gov.uk and David Beattie, Head of Environmental Health – Tel: 01883 732848 dbeattie@tandridge.gov.uk
Purpose of Report:	To approve guidelines for the classification of films by officers under section 20 of the Licensing Act 2003.
Publication status:	Unrestricted.
Recommendations:	That, in accordance with its delegated powers, the Committee A. delegates to the Chief Community Services Officer, the Head of Environmental Health and the Licensing Officers the power to make recommendations and notifications on behalf of the licensing authority in respect of the admission of children to films under section 20 of the Licensing Act 2003; and B. approves the interim guidelines in section 3 of this report for use by officers when exercising the above power.
Background papers:	BBFC Classification Guidelines (www.bbfc.co.uk/what-classification/guidelines)
Appendices:	None.

1. Background and Legal Implications

- 1.1. The Council is responsible for licensing cinemas and other venues which exhibit films for the entertainment of an audience, under the Licensing Act 2003. Most venues showing films on a regular basis will hold a premises licence to authorise this.
- 1.2. The Act requires that every premises licence authorising exhibitions of films is issued subject to a mandatory condition, contained at section 20 of the Act, requiring admission to the film to be restricted in accordance with any age-restriction recommendation made either by a film classification body, or by the licensing authority. Licensing authority recommendations override any recommendation made by the film classification body the British Board of Film Classification (BBFC) within the authority's own area. The cinema operator would commit an offence under section 136 of the Act if they were to admit children or young people to film exhibitions in breach of the applicable admission recommendation.
- 1.3. The main film classification body in the UK is the British Board of Film Classification (BBFC), which is an independent body that makes admission recommendations on behalf of local licensing authorities. Almost all major theatrical releases screened in UK cinemas will have been classified by the BBFC, in accordance with classification guidelines adopted by that

organisation. The BBFC's classification scheme includes 6 standard 'certificates' for film exhibitions. (A modified scheme applies to video recordings sold for home viewing). The certificates are:

U Universal	Suitable for all. Suitable for audiences aged four years and over, although it is impossible to predict what might upset any particular child. U films should be set within a positive framework and should offer reassuring counterbalances to any violence, threat or horror.
PG Parental Guidance	General viewing, but some scenes may be unsuitable for young children. A PG film should not unsettle a child aged around eight or older. Unaccompanied children of any age may watch, but parents are advised to consider whether the content may upset younger, or more sensitive children.
12A	Suitable for 12 years and over. Films classified 12A contain material that is not generally suitable for children aged under 12. No one younger than 12 may see a 12A film in a cinema unless accompanied by an adult. Adults planning to take a child under 12 to view a 12A film should consider whether the film is suitable for that child.
15	Suitable only for 15 years and over. No one younger than 15 may see a 15 film in a cinema.
18	Suitable only for adults. No one younger than 18 may see an 18 film in a cinema.
R18	To be shown only in specially licensed cinemas, to adults only. The R18 category is a special and legally-restricted classification primarily for explicit works showing consensual sex or strong fetish material involving adults. Films may be shown only to adults in cinemas in respect of which a sex establishment licence is in force.

- 1.4. BBFC classifications for film exhibitions in cinemas are legally binding under the mandatory condition set out above, unless the authority has resolved to override a BBFC recommendation for a particular film and issue its own recommendation. As such, local authorities remain ultimately responsible for determining access restrictions to film exhibitions at licensed cinemas, although it is comparatively rare for local authorities to depart from the recommendations made by the BBFC.
- 1.5. Where the BBFC have classified a film as a '15' or an '18', the effect of the mandatory condition is to require the operators of licensed premises to exclude children under the age of 15 years from showings of 15-rated films, and children under the age of 18 years from 18-rated films. (All persons under the age of 18 are regarded as "children" for the purposes of the Act). In line with the recommendations, under-18's may be admitted to U- and PG-rated films without restriction or accompaniment. Children aged between 12 and 17 may be admitted to 12A-rated films without restriction or accompaniment. Children under 12 may be admitted to 12A-rated films if they are accompanied by an appropriate adult.
- 1.6. The 2003 Act, the statutory Home Office guidance, and the BBFC guidelines make no specific provision relating to babies and toddlers being present during the exhibition of films, with no lower age threshold specified within the recommendation. The mandatory condition must therefore be interpreted to mean that any child aged 0-14 must be excluded from a 15 film, and 0-17 from an 18 film.

2. Parent and Baby Screenings

- 2.1. 'Parent and baby screenings' have become increasingly common in UK cinemas in recent years, allowing parents with very young children to watch films in the company of similar parents without needing to make alternative childcare arrangements. Typically these screenings will involve reduced sound levels and brighter-than-normal ambient lighting within the auditorium to provide a more comforting environment for babies or toddlers and to allow their parents to take care of the children while the film is playing. To comply with the mandatory condition, only U-, PG- or 12A-rated films may be shown during such events, as the admission of babies or toddlers to 15- or 18-rated films would constitute a breach of the mandatory condition, and thus an offence under section 136 of the 2003 Act.
- 2.2. A number of cinemas have experienced demand for higher-certificate films to be shown at such events. In the past admission recommendations in respect of unrated films have been dealt with by convening a meeting of the Licensing Sub-committee. It is now proposed that the power to issue admission recommendations in respect of unrated films and to deal with requests for alternative recommendations be delegated to officers so that they can respond quickly and efficiently to such requests without the need to convene a meeting of the Sub-committee. At the same time, officers are also asking the Committee to approve a set of guidelines for the classification of films in these situations.

3. Guidelines for Alternative Classifications

- 3.1. When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, it is proposed that officers will follow the BBFC's Classification Guidelines (www.bbfc.co.uk/whatclassification/guidelines), and where possible will issue a recommendation which is in accordance with one of the standard 'certificates'. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 3.2. Where the licensing authority receives a request to override an existing admission recommendation, officers will need to request that the cinema facilitates a viewing of the film in question in order that they may make a full assessment. When making their recommendation officers will have regard to the BBFC's Classification Guidelines but will need to use their own independent judgement and will not be bound by the BBFC's existing recommendation.
- 3.3. If the purpose of the request to override an existing recommendation is to facilitate a 'parent and baby' screening, officers will need to consider whether allowing young children below 12 months of age to be admitted will lead to the child protection licensing objective being undermined. If they consider that that objective would not be undermined, they may agree to issue an alternative recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 12 months of age, at screenings advertised and restricted to 'parent and baby' only. Issues will be assessed on a film-by-film basis, but it is anticipated that scenes of strong violence and gore, sex and strong threat will lead to greater concern around viewing by children of that age than will strong language, mild nudity and discriminatory content.
- 3.4. If officers consider that the child protection licensing objective would be undermined by allowing young children below 12 months of age to be admitted, they may not issue any alternative recommendation.