

**Wiltshire Council**

**Licensing Committee**

**5 December 2022**

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**Film Classification: Amendment to Procedure & New Fees and Charges**

**Summary**

The Licensing Authority already operates its own film classification procedure where films do not already have a film classification from the British Board of Film Classification (BBFC), but this involves members of the Licensing Committee viewing the films.

Historically we have not charged for this process but officers are aware that other Licensing Authorities do make a charge for providing a film classification.

The Licensing Authority proposes to introduce a fee scheme run on a cost recovery basis and as a result is not intended to impact upon community-run events.

The fees charged will cover the costs associated with the film classification process.

To amend the procedure for classification of films for showing in Wiltshire.

**Proposal(s)**

To amend the current procedures for classification of films in Wiltshire, by revising the delegation to officers and to introduce a fee structure for film classifications.

**Reason for Proposal**

By introducing a fee for the classification of films, the Licensing Team is proposing to recover reasonable costs to cover the classification process.

To streamline the current process for film classification and reduce the burden on Members and Officers and reduce the time taken to process a request for a classification.

This is proposed as the practicality of classifying films can be more effectively dealt with by Officers.

**Sarah Valdus**

**Assistant Director - Environment**

# **Wiltshire Council**

## **Licensing Committee**

**5 December 2022**

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### **Film Classification Amendment to Procedure and New Fees and Charges**

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#### **Purpose of Report**

- 1.1 For Members to consider a charging regime in relation to the classification of films by Wiltshire Council.
- 1.2 To review the Film Classification procedure and implement an associated fee structure.
- 1.3 It is also proposed to introduce appropriate deadlines when applying for a film classification. The Licensing Authority proposes that film classifications are received at least 6 weeks before the date of a film screening for individual film classification requests, and at least 8 weeks before the date of any film festival. Any late submissions will only be considered on a case-by-case basis. However, it is likely that late requests will be refused based upon the impact it will cause on the workload of the Licensing Team.

#### **Relevance to the Council's Business Plan**

- 2.1 The policy helps the Council to meet the policy objectives of delivering a cost-effective regime, customer focused services, and working towards safe and healthier local communities.

#### **Main Considerations for the Council**

- 3.1 The Licensing Authority can be required to classify previously unclassified films, consider appeals by distributors against BBFC's decisions or determine requests to reclassify films. The Council's responsibilities in relation to film classification are now incorporated in the Licensing Act 2003. It is necessary for the Licensing Committee to have a procedure to deal with these matters.

#### **Background**

- 4.1 Wiltshire Council is the classification body for the public exhibition of films shown within its area, by virtue of the Licensing Act 2003 (the Act). As such the Council has the right to classify films that are shown in premises such as cinemas, hotels, clubs public houses and community premises.
- 4.2 Sections 20 and 74 of the Act provide that a mandatory condition shall be applied to all premises licences and club premises that authorise the exhibition of films. This relates to the restriction of the admission of children (defined as 'persons aged under 18')
- 4.3 Premises must restrict the admission of children to the exhibition of any film to either the film classification recommended by the BBFC, or to such classification recommended by Wiltshire Council.

## **Current position**

- 5.1 Members will be aware that on 2<sup>nd</sup> September 2019, Wiltshire Council adopted a procedure to be followed when issuing a certificate to a film.
- 5.2 Since this time, a number of films and film festivals have received classifications issued by this Authority.
- 5.3 The current process for correctly issuing a classification is a lengthy one, involving significant resources and time and currently with no fee charged for this work.
- 5.4 Wiltshire Council is entitled to charge a fee which is appropriate to recover the costs of any activity associated with the film classification function, and Members are therefore asked to consider adopting a suitable fee.
- 5.5 In order to carry out a thorough classification, the time taken to undertake a film classification function is often double the length of the film.
- 5.6 Currently film classification requests are carried out by a Licensing Sub-Committee supported by a number of relevant officers.

## **Amendment to Procedure**

- 6.1 Following a review of the process it would appear more effective to bring film classification in line with other licensing processes. With all other licensing applications there is a delegation to officer level so that the officers deal with the more straight forward matters. Should the matter be more complex, only then, will the matter be submitted to the sub-committee for determination.
- 6.2 At the Licensing Committee meeting on 17<sup>th</sup> October 2022 members views were sought on whether a change to the procedure would be appropriate and if delegation to Officers would be supported. Following the feedback received the proposal is to amend the procedures to reflect this.
- 6.3 Members are asked to consider amendments to the current procedures to delegate any applications received by Wiltshire Council for Film classification or reclassification to the Licensing Manager and / or Licensing Officers.
- 6.4 This is recommended for consideration by Members as the practicality of classifying films can be more effectively dealt with by Officers. It should be noted there is currently no legal right of appeal for film classification decisions and a challenge to a film classification can only be made by an application to judicially review the decision.

## **Fees**

- 7.1 The BBFC charges a fee for the classification of films. The standard fee is a £500 per film, a discount of 50% is provided to UK registered charities
- 7.2 Commercial releases will be submitted to the BBFC as a matter of course, and therefore submissions to local authorities usually originate from local students and arts groups.

7.3 **New proposed process** - Two officers will view the film and reach an agreement on the appropriate certification of the film.

The current hourly rate for the Licensing Manager is £67

The current hourly rate for a Licensing Officer is £45.

**Fee for Film classification per Film:**

- The proposal is to charge £100 for first hour plus £20 for each additional 15 minutes or apart thereof.
- The administrative fee per single film will be £25

$$1 \text{ hour film} = £100 + £25 = £125$$

$$1 \text{ hour 20 minute film} = £100 + £40 + £25 = £165$$

**Fees for Film Classification for Film Festivals:**

- Film festivals (1 - 25) films £110 first hour plus £20 for each 15 minutes or part thereof + one off £35 admin (charge to cover all films viewed in one siting)

$$\text{Film festival with 10 short length films} = 90 \text{ minutes} = £110 + £40 + £35 = £185$$

- Film festivals (25-50) films £130 first hour plus £20 for each 15 minutes or part thereof + one off £35 admin (charge to cover all films viewed in one siting)

$$\text{Film festival with 31 short length films} = 310 \text{ minutes} = £130 + £300 + £35 = £465$$

7.4 Fees have been proposed following consideration of other local authority charges to ensure that they are reasonable and proportionate to the work involved. These will be reviewed on an annual basis as part of the budget setting process. See **Appendix 2** for other Local Authority charges.

7.5 The proposed fee is lower than that charged by the BBFC which is appropriate given the nature of the films that will be submitted to the Council, to encourage local film making talent. These films are generally low budget and would have a limited release.

**Safeguarding Implications**

None

**Public Health Implications**

None

**Environmental and Climate Change Considerations**

None

### **Corporate Procurement Implications**

None

### **Equalities Impact of the Proposal**

None

### **Risk Assessment**

13.1. The correct classification of films will prevent them being viewed by inappropriate audiences, and there are no significant risks arising from amendment to the procedure and adoption of fees.

#### **Risks that may arise if the proposed decision and related work is not taken**

14.1. There are no particular risk identified from any of the proposals.

#### **Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks**

15.1. There are no identified risks from any of the proposals.

### **Financial Implications**

16.1 There is a cost to the Council to deal with any film classification requests, the fees proposed will recover this cost.

### **Legal Implications**

17.1 There is no right of appeal when a decision to classify a film is made by the Council, but any decision could be the subject of a judicial review which would result in the Council incurring legal fees to defend the review and further costs which the Council would seek to recover if the judicial review was unsuccessful. In the event of a successful review the Council may also be ordered to pay the applicants costs. This risk is considered to be reduced by having in place a film classification procedure following the BBFC guidance and ensuring that classification decisions are made in line with the Licensing Act 2003, the Revised Guidance 2018 issued under s.182 of the Licensing Act 2003 and the Council's Licensing Policy 2019 - 2024.

### **Options Considered**

18.1 To implement no change and hence no cost recovery which would mean incurring cost to the authority on each discretionary request.

18.2 To stop offering the discretionary service to local businesses when certification is required signposting them to the BBFC service only.

- 18.3 For consideration of an appeal process by way of a Licensing Sub Committee Hearing following Officers decision but there would be no legal right of appeal.

## **Conclusions**

- 19.1 Any amendments to the procedures agreed by Members will come into immediate effect regarding the classification of films by the Council
- 19.2 Any fees agreed by Members will come into effect from 1<sup>st</sup> April 2023.

## **Proposal**

- 20.1 Agree and adopt the amendments to the procedure.
- 20.2 Approve the delegation to the Licensing Manager and / or Licensing Officers the classification or reclassification of films, this is recommended as the practicality of classifying films in accordance with the procedure can be more effectively dealt with by Officers.
- 20.3 That Part 3, Section D of the Scheme of Delegation specific to Licensing Act 2003 in terms of reference of the Licensing function, be amended as follows: To determine film classification restrictions where there has been no classification by the British Board of Film Classification, be delegated to Officers. **See Appendix 3.**
- 20.4 Members consider and agree the proposed fees in respect of film classifications carried out by Wiltshire Council.
- 20.5 Recommend to Council that proposed fees plus associated cost or such other fee and associated costs as considered appropriate be approved .

## **Reason for Proposal**

- 21.1 To recover costs of Officers time involved in rating films but support local businesses by offering a discretionary service at rate lower than that of the equivalent BBFC service.
- 21.2 To reduce the burden on Members and Officers by streamlining the process for Film Classification and ensure an effective service for applicants.

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## **Background Papers**

Licensing Act 2003  
The BBFC Guidance

## **Appendices**

**Appendix 1** - Revised Film Classification Procedure

**Appendix 2** - Film Classification fees other Local Authorities

**Appendix 3** - Revised scheme of delegation

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## PROCEDURE FOR THE CLASSIFICATION OF FILMS

1. Occasionally Wiltshire Council receives requests from local cinemas, film producers and /or distributors to show small production unclassified films that due to their small-scale production and limited distribution will not go through the BBFC system. To be screened within the Council area, these films must be presented to the Council's licensing authority so that a classification can be awarded before they can be shown to the public.
2. Such requests will require an undertaking from the applicant that they have satisfied themselves after proper enquiry that no matter to be exhibited contravenes the current interpretation of the Obscene Publications Acts 1959, and 1964 the Copyright Design and Patents Act 1988 or any other relevant legislation and has not been created through the commission of a criminal offence. The licensing authority shall not be liable for any material that has been created through the commission of a criminal offence.
3. The licensing authority can also be requested to classify films that have already been classified by the BBFC under the following circumstances:
  - (a) Where at least three members of the Council give notice to the Head of Public Protection of their wish to call-in a film for classification by the licensing authority; or
  - (b) Where a distributor of a film appeals a decision of the BBFC and requests that the licensing authority classifies the film.
4. Any request to classify a film under the circumstances referred to in paragraphs 1 or 2 above shall be referred to and determined by Officers on behalf of the licensing authority.
5. Any request to classify a film made under paragraph 3(a) above must be accompanied by reasons for calling-in the film. Such requests will be dealt with as expeditiously as possible bearing in mind that films are generally only shown in cinemas for relatively short periods.
6. All requests submitted under the circumstances referred to in paragraphs 1 and 3(b) must:
  - (a) be accompanied by a synopsis of the film and a full copy of the film in DVD format and all films should include English subtitles or provide an English script in order for members to determine the classification; and
  - (b) give a minimum of 6 weeks before the date of a film screening for individual film classification requests, and at least 8 weeks before the date of any film festival. Any late submissions will be considered on a case-by-case basis. However, it is likely that requests will be refused based upon the impact it will cause on the workload of the Licensing Service



7. A report containing a brief synopsis of the film(s) and other relevant information will be completed. The Officers will view the entire film, assess it against the latest BBFC Guidance, and issue the appropriate classification. When considering classification requests, the Officers must do so with a view to promoting the relevant licensing objective(s).
8. The distributor and/or the party requesting the classification together with the premise's licence/club premises certificate holders of all relevant premises licensed for the exhibition of films will be notified of the Officers decision in writing, which will include reasons for the decision.
9. There is no right of appeal only a review of the decision by way of a judicial review.

**The British Board of Film Classification (BBFC) is the independent regulator of the film and the video industry in the UK. All films that have been classified by the BBFC are given a rating.**

The Universal Film Classifications are: **Uc | U | PG | 12A | 12 | 15 | 18 | R18**



### **Uc and U Classification**

It is impossible to predict what might upset any particular child. But a 'U' film should be suitable for audiences aged four years and over. U films should be set within a positive moral framework and should offer reassuring counterbalances to any violence, threat or horror.

Videos classified 'Uc' are particularly suitable for pre-school children and normally raise no issues of concern.

### **'PG' Parental Guidance Classification**

Suitable for general viewing, but some scenes may be unsuitable for young children

Unaccompanied children of any age may watch. A 'PG' film should not disturb a child

aged around eight or older. However, parents are advised to consider whether the content may upset younger or more sensitive children.

### **12A Classification**

Suitable for 12 years and over. No-one younger than 12 may see a '12A' film in a cinema unless accompanied by an adult. No-one younger than 12 may rent or buy a '12' rated video or DVD. Responsibility for allowing under-12s to view lies with the accompanying or supervising adult.

### **'15' Classification**

Suitable only for 15 years and over. No-one younger than 15 may see a '15' film in a cinema. No-one younger than 15 may rent or buy a '15' rated video or DVD.

### **'18' Classification**

Suitable only for adults. No-one younger than 18 may see an '18' film in a cinema. No-one younger than 18 may rent or buy an '18' rated video.

### **'R18' Classification**

Films rated R18 are to be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults of not less than 18 years.

The 'R18' category is a special and legally restricted classification primarily for explicit works of consenting sex between adults. Films may only be shown to adults in specially licensed cinemas, and videos may be supplied to adults only in licensed sex shops. 'R18' videos may not be supplied by mail order.

## Film Classification decision by Officers

On receipt of an application and fee for a film classification a worksheet will be created on M3.

**The Council's Licensing Officer**



**The film applicant**



**PRIVATE FILM (S)  
Viewing /  
&  
Deliberation**



**Officers announce their decision**



**Officers send film(s)  
certification to applicant**

The Licensing Officer will complete Film classification form completing the relevant information prior to viewing film

The Officers may contact the applicant for more information or / and invite to come to the office prior to the viewing. The film applicant or the person representing him/her will be invited to address the officers.

The Officers will view the film(s) and deliberate in order to make their decision, any other person's present will be asked to leave the room.

If applicant wishes they may return or arrive in time for the decision. In all cases the decision will be sent to the applicant in writing within 5 days.

M3 updated, certification and Film classification form saved onto worksheet.

### Film Classification fees other Local Authorities

Authority	Per film	Minutes	Other
Merton	<ul style="list-style-type: none"> <li>Fee per film issue - report and certification £97</li> <li>Fee per film for two viewing officers £164</li> </ul>		
City of Westminster	Standard film £96.00 Film festival (1 to 25 films) £120.00 Film festival (26 to 50 films) £144.00 Film festival (51 or more films) £168.00 Foreign language feature film with subtitles £96.00	£1.60 per minute – all	
Royal Borough of Greenwich	Standard Film £53.10 Foreign Language Film £66.38	£1.77 per minute all	£0.80 per minute
Tunbridge wells	Film £75 per hour		
Mendip	Film £51 per hour for each officer	£25.50 admin	
West Devon	Per film £103 Per film festival £515.00		
Barnet	Per film £80		
Oxford	£8.00 per 15 minutes	£8.00 for certificate	
Southwark	Up to 30 minutes £50 Additional 20 minute film duration £23.00		
Chelmsford	Per film £180		
Tower hamlets	£37 processing fee plus £25 per hour or part hereof.		
Bedford	Per film £75	Plus £1 per minute	
Leeds	£50 per 30 minutes	Each additional 20 minutes £23	
Barnet	£80 per film		
South Derbyshire	£50 admin and first half and hour of viewing	£20 for every additional half and hour or part thereof	