

**Wiltshire Council**

**Licensing Committee**

**2 September 2019**

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**Licensing Act 2003: Film Classification**

**Summary**

1. The Licensing Act 2003 places a mandatory condition on premises authorised to show films that restricts the admission of children to the exhibition of any film unless it has been classified either by;
  - (a) a film classification body (the British Board of Film Classification (BBFC)), or
  - (b) such other classification as recommended by the licensing authority.
2. This condition may require the licensing authority to classify previously unclassified films, consider appeals by distributors against the British Board of Film Classification's decisions, or determine requests to reclassify films. As 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 adopt a procedure to deal with these matters.
3. A draft procedure is attached to this report as Appendix 1.

**Proposal(s)**

1. To approve the procedure as set out in Appendix 1 for dealing with film classification matters which are the responsibility of Wiltshire Council, as the Licensing Authority.
2. To delegate the licensing authority's responsibility for film classification to a Licensing Sub Committee.
3. To arrange the classification of a film following a request from Bradford on Avon Film Society to show a film in October 2019 that does not have a British Board of Film Classification.

**Reason for Proposal**

A request to classify a film that has not been age certified by the British Board of Film Classification has been received from Bradford on Avon Film Society.

The Licensing Authority is required to put in place a process and procedure to address this and any future requests in line with relevant legislation.

**Presenter name:** Linda Holland - **Title:** Licensing Manager

## **Wiltshire Council**

### **Licensing Committee**

**2 September 2019**

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#### **Licensing Act 2003: Film Classification**

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#### **Purpose of Report**

1. A request to classify a film called “Marcello, Marcello”, which has not been age certified by the British Board of Film Classification (BBFC), has been received by the Licensing Authority from Bradford on Avon Film Society for a film to be shown in October 2019.
- 1.1 This report proposes a process and procedure to address future requests for film classification in line with relevant legislation.

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

2. The Wiltshire Council Business Plan 2017- 2027 sets out the vision to create strong communities, with priorities for growing the economy and protecting the vulnerable and where people are protected from harm and feel safe.

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

3. 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 adopt a procedure to deal with these matters.

#### **Background**

4. There are statutory powers in relation to showing of films and classification under Section 20 of the Licensing Act 2003 (the Act) which places a mandatory condition on all premises licences or club premises certificates authorising the public exhibition of films. This section restricts the admission of children (defined in the Act as “persons aged under 18”) to the exhibition of any film unless it has been classified either by a film classification body or, if the licensing authority does not agree with that recommendation, to such other classification recommended by the licensing authority.
- 4.2. The Act also exempts certain types of film from the above condition such as those exhibited for the purposes of advertisement, information, education etc. Films exhibited in a museum or art gallery that consist of or form part of an exhibit are also exempt.

## **British Board of Film Classification (BBFC)**

5. The BBFC is an independent, non-government, not-for-profit, co-regulatory body.
- 5.1 Statutory powers on film remain with the local councils, which may overrule any of the BBFC's decisions, passing films we reject, banning films we have passed, and even waiving cuts, instituting new ones, or altering categories for films exhibited under their own licensing jurisdiction.
- 5.2 All classification decisions are based on the BBFC's published and regularly updated Guidelines. The Guidelines are the product of extensive public consultation, research and the accumulated experience of the BBFC over many years. They reflect current views on film, DVD and video game regulation. A copy of its guidelines is attached as **Appendix 2**.

## **Licensing Policy**

6. Whilst Wiltshire Council's Statement of Licensing Policy acknowledges the BBFC's role as the national film classification body, the Council, as the Licensing Authority, is the classification body for the public exhibition of films shown in the County by virtue of the Act, and as such has the overriding right to classify films that are shown in licensed premises such as cinemas, hotels, village halls, clubs and public houses.
- 6.1. There are several possible scenarios where the Council may be requested to exercise its responsibilities, for example;
  - a. Request to classify a film that has not been classified by the BBFC, a typical example of this would be a locally made film to be shown at a film festival within the county, or a foreign film not already classified in Britain.
  - b. A distributor of a film or other party may appeal to the Council against a decision of the BBFC and request that the film is reclassified for local screening. This right seems to be rarely used by distributors because any decision taken by the Council only affects the showing of that particular film in the County. A distributor who disagrees with the BBFC's classification may, in any case, appeal against it directly to the BBFC so is more likely to use that process as the outcome of the appeal will affect the showing of the film across the country.
- 6.2 Under the Act, the Council must carry out its functions with a view to promoting the licensing objectives which are:
  - The prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm
- 6.3 In terms of film exhibitions, the most relevant licensing objective is the protection of children from harm.

## **Recent request**

7. A request has been received from the Bradford on Avon Film Society to classify a film that they wish to show in October 2019. The film "Marcello, Marcello" has been distributed around Europe but has never been put on release in the United Kingdom so has not been given an age certification by the BBFC.
- 7.1. The film is a romantic comedy, directed by Denis Rabaglia and runs to about 95 minutes. It has received classification in Europe which is the equivalent of a PG certificate.

## **Safeguarding Implications**

8. Where appropriate, ensuring films are correctly classified before viewed by the public seeks to safeguard children from viewing inappropriate material.

## **Public Health Implications**

9. None

## **Environmental and Climate Change Considerations**

10. None

## **Corporate Procurement Implications**

11. None

## **Equalities Impact of the Proposal**

12. None

## **Risk Assessment**

13. There are no significant risks arising from adoption of the procedure.

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

14. Wiltshire Council will not able to demonstrate it has a procedure in place to address film classification under the Licensing Act 2003.

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

15. None

## **Financial Implications**

16. This process does not attract a statutory fee and therefore the cost of carrying out any film classifications will need to be met from within the existing licensing budget.

### **Legal Implications**

17. There are no legal implications arising from this report.

### **Options Considered**

18. The options are very limited as the function in respect to film certification is required under the Licensing Act 2003.

### **Licensing Act guidance**

19. In the Secretary of State's Guidance issued under Section 182 of the Act it is recommended 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". The Licensing Committee must therefore ensure that it has in place procedures to deal with any requests such as those mentioned in paragraph 6.1.

### **Proposal**

20. The Licensing Committee is asked to:
- Approve the adoption of Film Classification procedure as set out in Appendix 1,
  - Delegate the Licensing Authority's responsibility for film classification to the Licensing Sub Committee,
  - Arrange for a Licensing Sub Committee to view the film "Marcello Marcello" as requested by Bradford on Avon Film Society, and for the Sub Committee to reach an agreement on its classification.

**David Redfern**  
**Director Communities and Neighbourhoods (Acting)**

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### **Background Papers**

#### **Appendices**

- 1. Procedure for the classification of films**
- 2. British Board of Film Classification ratings guidelines 2019**