

WYRE FOREST DISTRICT COUNCIL

LICENSING AND ENVIRONMENTAL COMMITTEE
7TH JANUARY 2011

**Policy for the Exhibition of Unclassified Films
 Licensing Act 2003**

OPEN	
DIRECTOR:	Director of Planning and Regulatory Services
CONTACT OFFICER:	Brian Kent – Ext. 2593 Brian.Kent@wyreforestdc.gov.uk
APPENDICES:	Appendix 1 - Policy for the Classification of Films Appendix 2 – Mandatory Conditions

1. PURPOSE OF REPORT

- 1.1 There is currently no policy for the Council to deal with films that are unclassified by the British Board of Film Classifiers for Public Exhibition, or requests to reclassify such films.

2. RECOMMENDATION

The Committee is asked to DECIDE:

- 2.1 **Whether or not to recommend the approval of the Policy for dealing with unclassified films, and**
- 2.2 **To delegate responsibility for the authorisation of films which have not already been classified by the British Board of Film Classification (BBFC) to the Director of Planning and Regulatory Services.**

3. BACKGROUND

- 3.1 Whilst the British Board of Film Classification (BBFC) performs a national film classification role, the Council, as a Licensing Authority, is the classification body for the public exhibition of unclassified films shown in the District by virtue of the Licensing Act 2003 (LA03).
- 3.2 The Licensing Authority has the right to classify films that are shown in premises licensed under the Licensing Act 2003, e.g. cinemas, hotels, clubs and public houses.

4. KEY ISSUES

- 4.1 The public exhibition of films on licensed premises must either be classified by the BBFC or authorised by the Licensing Authority under the powers of the Licensing Act 2003.

- 4.2 The draft Policy for dealing with an application to exhibit unclassified films is attached (copy at Appendix 1).
- 4.3 Any authorisations for the exhibition of film(s) issued by the Licensing Authority shall only apply when the film(s) is exhibited within the District of Wyre Forest.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications arising from the adoption of this procedure. The service will be delivered from within existing resource.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 The Council's responsibilities in relation to film classification are incorporated in the Licensing Act 2003 and Guidelines issued by the Secretary of State.

- 6.2 Section 20 of the Licensing Act 2003 provides that mandatory conditions shall be applied to all premises licences that authorise the exhibition of films (copy at Appendix 2).

This relates to the restriction of the admission of children (defined in Licensing Act 2003 as "persons aged under 18") to the exhibition of any film to either the film classification recommended by the BBFC or, if the Licensing Authority does not agree with that recommendation, to such other classification recommended by the Licensing Authority.

- 6.3 The Licensing Authority may be required to classify a film that has not been classified by the BBFC.
- 6.4 A typical example of this would be a locally made film to be shown at a film festival within the District.
- 6.5 The Licensing Authority must have a policy in place to consider and determine a classification.
- 6.6 A distributor of a film or other party may also appeal to the Licensing Authority against a decision of the BBFC and request that the Licensing Authority reclassifies the film for local screening.
- 6.7 In addition to classifying films, the Licensing Authority can issue a classification waiver which permits the exhibition of the film or films within the local area without a classification, but subject to certain conditions and restrictions.
- 6.8 The Secretary of State's Guidance issued 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.”

7. RISK MANAGEMENT

- 7.1 Not having a policy in respect of unclassified films might result in the moral and psychological harm being caused to members of the public, in particular children, by film exhibitions containing strong language, horror/violence or sexual images.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 This report adheres to the Council's Equality and Diversity Scheme and does not discriminate on the grounds of race, gender, disability, age, religion or belief or sexual orientation.

9. CONCLUSION

- 9.1 Policies have several advantages, ensuring transparencies so that individuals know where they stand and can plan their affairs, like cases are dealt with similarly so there is fairness and consistency, and there is promotion of efficient administration.
- 9.2 The Licensing Authority is not entitled to adopt a policy that allows it to dispose of cases without any consideration of the merits of the individual application. To do so would fetter the discretion conferred on the Authority.

10. CONSULTEES

- 10.1 Director of Legal and Corporate Services.

11. BACKGROUND PAPERS

- 11.1 Guidance issued under S182 of the Licensing Act 2003.