



## AGENDA ITEM: 7

### SUMMARY

<b>Report for:</b>	<b>Licensing, Health &amp; Safety and Enforcement Committee</b>
<b>Date of meeting:</b>	<b>28 July 2015</b>
<b>PART:</b>	<b>I</b>
If Part II, reason:	

<b>Title of report:</b>	<b>Film classification guidelines</b>
Contact:	Ross Hill – Licensing Team Leader, Legal Governance
Purpose of report:	To approve guidelines for the classification of films by officers under section 20 of the Licensing Act 2003, pending adoption of revisions to the Statement of Licensing Policy
Recommendations	<ol style="list-style-type: none"> <li>1. That the Committee delegate to the Assistant Director (Chief Executive’s Unit), the Group Manager (Legal Governance), and the Team Leader (Licensing) 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</li> <li>2. That the Committee approve the interim guidelines in section 3 of this report for use by officers when exercising the above power, until superseded by the publication of the Council’s Statement of Licensing Policy (2016 – 2021).</li> </ol>
Corporate objectives:	Dacorum Delivers <ul style="list-style-type: none"> <li>• Efficiencies</li> </ul>
Implications:	<p><u>Financial / Value for Money</u>            Work will be carried out by budgeted licensing staff. If the volume of work undertaken reaches a significant level, it may be possible to look at introducing a charge for the discretionary service, following a review of costs incurred.</p> <p><u>Risk / Equalities / Health And Safety Implications</u>            None identified</p>
Consultees:	None

Background papers:	BBFC Classification Guidelines ( <a href="http://www.bbfc.co.uk/what-classification/guidelines">www.bbfc.co.uk/what-classification/guidelines</a> )
Glossary of acronyms and any other abbreviations used in this report:	

## 1. BACKGROUND

- 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 other certificate issued by the BBFC, within the local area only. 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 slightly modified scheme applies to video recordings sold for home viewing):

Extracts from the BBFC Classification Guidelines 2014	
<b>U</b>	<b>Universal – Suitable for all</b> 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.
<b>PG</b>	<b>Parental Guidance – General viewing, but some scenes may be unsuitable for young children</b> 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
<b>12A</b>	<b>Suitable for 12 years and over</b> 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.
<b>15</b>	<b>Suitable only for 15 years and over</b> No one younger than 15 may see a 15 film in a cinema.
<b>18</b>	<b>Suitable only for adults</b> No one younger than 18 may see an 18 film in a cinema.

## Extracts from the BBFC Classification Guidelines 2014

<b>R18</b>	<b>To be shown only in specially licensed cinemas, ... to adults only</b> The R18 category is a special and legally-restricted classification primarily for explicit works of consenting sex or strong fetish material involving adults. Films may only be shown to adults in specially licensed cinemas... <i>[N.B. Exhibition of R18 films requires a sex establishment licence]</i>
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- 1.4. BBFC classifications for film exhibitions in cinemas are not legally binding in their own right, but become so under the mandatory condition which local licensing authorities are required to attach to premises licences and club premises certificates, as 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. In line with the recommendations, under-18's may be admitted to U- and PG-rated films without restriction or accompaniment, and 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 are all silent on babies and toddlers being present during the exhibition of films, with no lower age threshold specified within the recommendation. The simplest interpretation of the mandatory condition is therefore 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 an increasingly common offering 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 alternate 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 admission of babies or toddlers to 15- or 18-rated films would constitute a technical breach of the mandatory condition, and thus an offence under section 136 of the 2003 Act. Licensing officers have previously given advice to cinemas within Dacorum about this issue, after receiving complaints from members of the public about the admission of young children and their exposure to adult content.
- 2.2. A number of cinemas have experienced demand for higher-certificate films to be shown at such events. One licensed cinema in Dacorum has recently applied for the variation of their premises licence to allow the showing of higher-certificate films at such events, subject to the licensing authority agreeing to this on a film-by-film basis and issuing alternate recommendations. After an initial representation was made by licensing

officers on a technical issue, discussions led to a modification to the application, and the variation has since been granted under delegated authority.

2.3. The Committee has previously delegated authority to officers to issue admission recommendations in respect of unrated films. It is now proposed that this delegation be extended to any film, so that officers can respond quickly and efficiently to requests for alternate recommendations in the above scenario.

2.4. As the same time, officers are also asking the Committee to approve a set of interim guidelines for the classification of films in these situations. These will ultimately be contained within the revised Statement of Licensing Policy when it is published next year, and so these guidelines are intended simply as a stopgap until that time.

### **3. GUIDELINES FOR ALTERNATE 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/what-classification/guidelines](http://www.bbfc.co.uk/what-classification/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 recommendation to facilitate a 'parent and baby' screening, in the first instance officers will have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If officers believe that the content will not present any issues if viewed by children under 24 months of age, then they may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 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 strong language, mild nudity and discriminatory content will.

3.3. Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, officers may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless officers are satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

### **4. RECOMMENDATION**

- 4.1. That the Committee delegate to the Assistant Director (Chief Executive's Unit), the Group Manager (Legal Governance), and the Team Leader (Licensing) 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
- 4.2. That the Committee approve the interim guidelines in section 3 of this report for use by officers when exercising the above power, until superseded by the publication of the Council's Statement of Licensing Policy (2016 – 2021).