

Committee: Extraordinary LICENSING COMMITTEE

Agenda Item

Date: 7 February 2013

2

Title: SCREENING OF A FILM WITHOUT A
BRITISH BOARD OF FILM
CLASSIFICATION CERTIFICATE

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Item for decision

Summary

1. The council has received a request for certification of a film which does not have a BBFC classification which is intended to be shown at Saffron Screen in March. This report is to seek members' guidance as to how they wish to proceed to deal with this request.

Recommendations

2. That members appoint a Sub Committee to determine the age restriction for the film.
3. That members of the Sub Committee view the film.
4. That a meeting of the Sub Committee is convened immediately after the viewing of the film to determine the appropriate age certification.

Financial Implications

5. Local authorities can only charge for giving films certificates in accordance with a scheme approved by the Secretary of State. No such scheme currently exists and therefore it is not possible to make a charge for providing a certificate.

Background Papers

6. The following papers were referred to in the preparation of this report and are available for inspection from the author of the report.
 - Emails from the film-maker.

Impact

- 7.

Communication/Consultation	None.
Community Safety	None.

Equalities	None.
Health and Safety	None.
Human Rights/Legal Implications	Members can impose an age limit not greater than 18 below which children may not be admitted to a screening of the film. There is no appeal against a decision of the committee setting an age limit although such a decision may be susceptible to judicial review if it is claimed that the decision is wholly unreasonable. Other legal implications are as set out in the body of this report.
Sustainability	None.
Ward-specific impacts	Saffron Walden – Audley Ward
Workforce/Workplace	None.

Situation

8. Members will be well familiar with the BBFC system of classification of films. However, it is not necessary for a film to have such a classification to be shown to the public.
9. The exhibition of a film is regulated entertainment within the meaning of the Licensing Act 2003. Saffron Screen holds a premises licence permitting this licensable activity.
10. Section 20 of the Licensing Act 2003 imposes a mandatory condition for the exhibition of films. In summary where the film does not have a BBFC classification, admission of children must be restricted in accordance with any recommendation made by the licensing authority. Pursuant to this legislative requirement condition 1 of the premises licence for Saffron Screen provides “admission of children to the exhibition of any film must be restricted in accordance with any recommendation made by Uttlesford District Council”.
11. Although the committee have a discretion to impose any age, unless there are very good reasons for doing so it would be difficult to justify a classification other than those used by the BBFC. Those classifications are as follows:
 - U – all ages admitted, there is nothing unsuitable for children.
 - PG – all ages admitted but certain scenes may be unsuitable for young children. The film may contain mild language and sex/drugs references. It may also contain moderate violence if it is justified by the context (e.g. fantasy).

- 12A – films under this category are considered to be unsuitable for very young people. Those aged under 12 are only admitted if accompanied by an adult aged at least 18 years at all times during the motion picture. However, it is generally not recommended that children under 12 should watch the film. Films under this category can contain mature themes, discrimination, soft drugs, moderate swear words, infrequent strong language and moderate violence, sex references and nudity. Sexual activity may be briefly and discretely portrayed. Sexual violence may be implied or briefly indicated.
- 12 – Technically this rating only applies to home media. The content guidelines are identical to those used for the 12A certificate.
- 15 – Only those over 15 years are admitted. Films under this category can contain adult themes, hard drugs, frequent strong language and limited use of very strong language, strong violence and strong sex references, and nudity without graphic detail. Sexual activity may be portrayed but without any strong detail. Sexual violence may be shown if discrete and justified by context.
- 18 – Only adults are admitted. Films under this category do not have limitation on the bad language that is used. Hard drugs are generally allowed and explicit sex references along with detailed sexual activity are also allowed. Scenes of strong real sex may be permitted if justified by the context. Very strong, gory and/or sadistic violence is usually permitted. Strong sexual violence is permitted unless it is eroticised or excessively graphic.
- Restricted 18 can only be shown at licensed adult cinemas to those aged 18 or over. Films under this category are always hard core pornography, defined as material intended for sexual stimulation and containing clear images of real sexual activity, strong fetish material, explicit animated images, or the sight of certain acts such as triple simultaneous penetration and snow-balling.

12. If the committee agree with the recommended approach, members of the Sub Committee will need to view the whole film and reach a conclusion as to what is the appropriate age restriction for the film concerned. The promoter has indicated that the film is being released in a number of cinemas around the UK and it seems that a 12 or 15 certificate is likely. That opinion should not sway members of the Sub Committee.

13. The promoter also states that the film has received a degree of critical acclaim. We are informed that the film premiered at the Independent Film Festival 2012 where it won the best actor award for the film's lead and also won the best cinematography in the Cannes in a Van. It was also nominated for best feature and audience awards in other festivals including Braunschweig and New Horizons – Tehran.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
The council's decision on the application is subject to a judicial review.	1, the financial risk involved for any potential challenge and the length of time it would take for a judicial review to be dealt with makes such a course of action unlikely.	2, if the council's decision were to be overturned a film which the council considers unsuitable for viewing by certain children would be able to be viewed by such children but with judicial approval.	Members use their experience to determine what is the appropriate age limit for the film.
An unsuitable film for viewing by children is shown in the district.	1, members may impose an age not greater than 18 below which children will not be admitted.	1, apart from any limits imposed by members, it must be anticipated that the film will attract a fair degree of publicity and parents will exercise a degree of parental control in terms of what films they allow their children to see.	Members use their experience to determine what is the appropriate age limit for the film.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.