

**LICENSING SUB COMMITTEE
10 NOVEMBER 2017**

A HEARING TO CONSIDER A REQUEST TO SHOW AN UNCLASSIFIED FILM

Cabinet Member(s): Colin Slade
Responsible Officer: Tom Keating, Lead Licensing Officer

Reason for Report: The Council has received a request to classify a short film which is to be shown in the district. This is a requirement of the Council because the film has not been classified by the British Board of Film Classification (BBFC).

RECOMMENDATION: It is recommended that the Sub-Committee view the film, and in consideration of the information in this report, classify the movie with the appropriate rating.

Relationship to Corporate Plan: N/A

Financial Implications: The potential cost of defending an appeal in the courts.

Legal Implications: The applicant has a right of appeal if he is unhappy with the decision made.

Risk Assessment: In the event of a successful appeal the Council could be liable for costs. Arriving at the most appropriate film classification is an important judgment. Placing a film in an inappropriate classification may expose children to harm or conversely, artificially restrict a viewing audience for whom the content is acceptable. Guidance on managing this risk is given in the body of the report and the attached Annexes.

Equality Impact Assessment: The general public sector equality duty within the Equality Act 2010 has overarching application and requires public bodies to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity within and between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not.

When carrying out any of its functions, the Council must comply with this duty.

1.0 INTRODUCTION

1.1 The Licensing Act 2003 deals with the exhibition of films as 'regulated entertainment'. This means that when a film is shown to entertain an audience and either takes place in the presence of a public audience or, if in private, with a charge made with a view to profit, the activity is licensable. As a result, the premises will need to hold a Premises Licence, Club Premises Certificate or a Temporary Event Notice (TEN).

1.2 Additionally, a community premises can now benefit from an exemption in specific situations which means that they can show films without requiring a Premises Licence, Club Premises Certificate or a TEN.

1.3 When a film is shown in a premises which has a Premise Licence, Club Premises Certificate or is a premises considered 'exempt' (i.e. a community premises), the following condition applies:

No children shall be admitted to the exhibition of any film unless they have reached the age specified in the British Board of Film Classification ("BBFC") Certificate, or the Classification issued by the Licensing Authority.

1.4 The majority of commercial films are classified by the BBFC who essentially rate films on behalf of Local Authorities, with the Local Authority then licensing premises to show films under the Licensing Act 2003. However, on some occasions people request that a film is classified by the Local Authority.

1.5 In this particular case, the film is a relatively small scale, local affair and the cost of having the film classified by the BBFC is prohibitive. As a result, the applicant has requested that the Local Authority classify the film.

2.0 REQUEST TO CONSIDER

2.1 Mr Dominic Lee has requested the Sub-Committee classify the film 'Fort Box', which involved members of the Crediton community. The Licensing Team have requested some additional information from Mr Lee and the following has been provided:

Running time

Approximately 15 minutes

Synopsis of film

10 year old James enjoys creating cardboard models with his Mum such as rocket ships and cars. Mum has plans for their biggest cardboard creation yet - a massive box fort. When Mum is taken ill it is left to James, Dad and the local community to help bring the fort to life.

The parts of the film likely to cause concern

A main character dies which might be upsetting for any younger children.

Intended audience

Families with children aged 8/9 or over, adults and those who have followed the films progress.

Expected certificate

'U' or 'PG'.

- 2.2 More information on classifications is given in Section 4 of this report.
- 2.3 The Lead Licensing Officer has already viewed the film and can confirm that the synopsis is accurate.

3.0 CONSIDERATIONS

- 3.1 When considering the classification of a film, the Sub-Committee must have regard to the Licensing Act 2003, which requires the Licensing Authority to carry out its functions with a view to promoting the 4 Licensing Objectives, which are:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance and
 - The Protection of Children from Harm
- 3.2 The most relevant objective in relation to this hearing is the Protection of Children from harm.
- 3.3 In carrying out its licensing functions, the Licensing Authority must have regard to its Licensing Policy Statement and Guidance issued under S182 of the Licensing Act. A copy of both of these documents will be available at the hearing.
- 3.4 Paragraph 3.5 of the Licensing Policy covers the Protection of Children from Harm. The Policy does not currently cover the classification of films in detail and this will be reviewed by the Licensing Team in due course.
- 3.5 Section 182 Guidance issued under the Licensing Act contains some information which is particularly relevant to this decision and this is highlighted below:
- 3.6 *The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of*

exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions. (Paragraph 2.22)

- 3.7 *The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification (BBFC)) or by the licensing authority itself. (Paragraph 10.59)*

4.0 BRITISH BOARD OF FILM CLASSIFICATION (BBFC)

- 4.1 In terms of guidance on how to classify a film, it is recommended that the Sub-Committee use 'The British Board of Film Classification Guidelines'. A copy of this document is attached as **Annex 1**.

- 4.2 The classifications are listed and categorised as:

U Universal – Suitable for all

A U film should be 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.

PG Parental Guidance – General viewing, but some scenes may be unsuitable for young children

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.

12A/12 – Suitable for 12 years and over

Films classified 12A and video works classified 12 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. No one younger than 12 may rent or buy a 12 rated video work.

15 – 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 work.

18 – 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 work.

R18 - To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults only.

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, and video works may be supplied to adults only in licensed sex shops. R18 video works may not be supplied by mail order.

5.0 PROCESS AND DECISION MAKING

5.1 The film is viewable online and Mr Lee has provided the Licensing Team with a private link and the password. This link and password has been sent to the Sub-Committee for them to view the film prior to the hearing itself. It is a relatively short film (15 minutes) so it is recommended that at the hearing, the Sub-Committee adjourn to watch the movie again before finally considering its classification.

5.2 In order to assist the Sub-Committee further, **Annex 2** contains a table listing the things they may like to consider for each appropriate age rating (up to 15). This is based on the BBFC guidelines for trailers which are considered a useful starting point.

6.0 OPTIONS

6.1 The Sub-Committee have the following options:

- (1) Approve the film for all ages
- (2) Approve the film but with an age classification
- (3) Refuse to give approval for the film to be shown.

6.2 The Sub-Committee must give clear reasons for the decision that they make.

7.0 TIMESCALES

7.1 Members are asked to make their decision on the day of the hearing.