
Meeting	Licensing Committee
Date	13 November 2013
Subject	Film Classification and waiver – delegation of powers and policy
Report of	Director for Place
Summary of Report	To seek to approve and adopt the delegation to officers for decisions relating to film classification and waiver. Also to amend the policy in relation to this delegation

Officer Contributors	Emma Phasey - Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards Affected	Not applicable
Key Decision	Not applicable
Reason for urgency / exemption from call-in	Not applicable
Function of	Council
Enclosures	Appendix 1 - Draft Policy
Contact for Further Information:	Emma Phasey, Trading Standards and Licensing Manager: emma.phasey@barnet.gov.uk

1. RECOMMENDATION

- 1.1 **That the committee delegate authority to the Licensing Team to act on the Council's behalf in relation to film classification and waiver of film classification.**
- 1.2 **That the draft film classification Policy be approved by the Licensing Committee and recommended for adoption as policy by full Council on 21st January 2014.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Decision by Council on 17th April 2012 to move responsibility for film classification to the licensing committee
- 2.2 Decision by Council on 16 July 2013 to adopt the current policy

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 Films shown at local small film festivals supports the objectives contained within the Corporate Plan. In particular, in relation to "maintaining the right environment for a strong and diverse local economy"
- 3.2 It also supports the Sustainable Community Strategy 2010-2020 in relation to helping create a successful London Surburb as being able to classify films for performance at local small film festivals can contribute to the economic, cultural, environmental and social well being of the borough.

4. RISK MANAGEMENT ISSUES

- 4.1 The lack of a sound policy or the adoption of an unsound policy may result in poor decisions being taken and could cause difficulty to businesses and residents. This would leave the authority open to challenge by way of Judicial Review in relation to the policy and/or appeal of a Licensing Committee decision to the Magistrates' Court. This would adversely affect the Councils reputation.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Council has a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.
- 5.2 When considering applications, only issues provided for in the legislation and guidance and in addition to the authority's policy will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits, regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.

5.3 The community in Barnet has a richness of diversity with a broad range of cultural activities and entertainments. Applications will be dealt with in accordance with the Act.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 Administration of this function will be carried out by the Licensing team, together with support from Legal Services and from Governance Services, when arranging and co-ordinating arrangements for hearings

6.2 The current fees will be reviewed in line with the new delegation and will ensure they remain cost neutral.

7. LEGAL ISSUES

7.1 The licensing Act 2003 allows Local Authorities to classify films for exhibition. To ensure consistency in decision making an agreed sound policy is needed.

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including film classification and its ability to delegate functions.

9. BACKGROUND INFORMATION

9.1 The public exhibition of all films on licensed premises must either be classified by the British Board Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.

9.2 It is usual for most films to be released across the country and therefore be classified by the BBFC.

9.3 The Licensing Authority may be required 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 Borough. Therefore, the Licensing Authority must have a formal procedure in place to determine this classification.

9.4 A distributor of a film or other party may appeal to the Licensing Authority against a decision of the BBFC requesting that the Licensing Authority reclassifies the film for local screening.

9.5 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.

9.6 The London Borough of Barnet is a culturally diverse borough and therefore being able to classify films and encourage small scale film festivals is beneficial to the whole borough.

- 9.7 The responsibility for film classification moved to the Licensing Committee earlier in the year. The policy in relation to film classification was consulted on and agreed in July 2013. The fees for classification and waiver were set on a cost recovery basis.
- 9.8 The responsibility for film classification currently sits with the licensing committee as a whole. Therefore to classify a film a licensing sub committee meeting needs to be organised this is both a financial and time costly process. As the fees are set on a cost recovery basis the current fees range up to £500 per film. This is cost prohibitive for a number of small scale film festivals.
- 9.9 Following a review of the process it would appear more effective to bring film classification in line with other licensing processes in the London Borough of Barnet. With all other licensing application there is a delegation to officer level so that the officers deal with the more straight forward matters. Should the matter be more complex, only then, will the matter be submitted to the sub committee for determination.
- 9.10 Therefore by delegating film classification and film classification waiver to the licensing department, the film can be viewed by 2 officers and a consensus decision made. This is less time and resource intensive than a sub committee and therefore the cost for this process will reduce.
- 9.11 If the 2 officers cannot reach a consensus then the classification/waiver will be referred to the sub committee for their determination.
- 9.12 As a result of the proposed change to the process from this delegation the policy needs to be amended. A draft policy is attached at Appendix 1 – with all changes outlined in red. 3.1-3.3 the information is the same but has been rewritten to make this section easier to read. 5.2-5.3 is the insertion of the new procedure in relation to the licensing department. At section 8 the word authorisation has been replaced by waiver to make this section easier to read. All other amendments replace the word sub committee with licensing department.

10. LIST OF BACKGROUND PAPERS

10.1 None

Cleared by Finance (Officer's initials)	AD
Cleared by Legal (Officer's initials)	BH