

TONBRIDGE & MALLING BOROUGH COUNCIL



EXECUTIVE SERVICES

Chief Executive

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NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.

Contact: Committee Services
committee.services@tmbc.gov.uk

21 November 2016

To: MEMBERS OF THE LICENSING AND APPEALS COMMITTEE
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Licensing and Appeals Committee to be held in the Civic Suite, Gibson Building, Gibson Drive, Kings Hill, West Malling on Tuesday, 29th November, 2016 commencing at 7.30 pm

Yours faithfully

JULIE BEILBY

Chief Executive

A G E N D A

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Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

MEMBERSHIP

Cllr Mrs J A Anderson (Chairman)
Cllr Mrs P A Bates (Vice-Chairman)

Cllr O C Baldock
Cllr Mrs S M Barker
Cllr M C Base
Cllr Mrs B A Brown
Cllr M A Coffin
Cllr B T M Elks
Cllr Mrs F A Kemp

Cllr S M King
Cllr H S Rogers
Cllr R V Roud
Cllr A K Sullivan
Cllr M Taylor
Cllr F G Tombolis

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Apologies for absence

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Declarations of interest

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TONBRIDGE AND MALLING BOROUGH COUNCIL

LICENSING AND APPEALS COMMITTEE

Monday, 10th October, 2016

Present: Cllr Mrs J A Anderson (Chairman), Cllr Mrs P A Bates (Vice-Chairman), Cllr Mrs S M Barker, Cllr Mrs B A Brown, Cllr M A Coffin, Cllr B T M Elks, Cllr S M King, Cllr H S Rogers and Cllr A K Sullivan

Apologies for absence were received from Councillors O C Baldock, M C Base, Mrs F A Kemp, R V Roud and M Taylor

PART 1 - PUBLIC

LA 16/82 DECLARATIONS OF INTEREST

There were no declarations of interest made in accordance with the Code of Conduct.

LA 16/83 MINUTES

RESOLVED: That the Minutes of the meetings of the Licensing and Appeals Committee held on 16 March and 25 April 2016 be approved as a correct record and signed by the Chairman.

LA 16/84 MINUTES OF PANEL

RESOLVED: That the Minutes of the meetings of the Licensing and Appeals Committee sitting as a Panel held on 15 March, 6 April, 9 June, 10 June, 18 July, 27 July, 26 August and 26 September 2016 be received and noted.

DECISIONS TAKEN UNDER DELEGATED POWERS IN ACCORDANCE WITH PARAGRAPH 3, PART 3 OF THE CONSTITUTION

LA 16/85 SEX ESTABLISHMENTS AND SEXUAL ENTERTAINMENT VENUES - POLICY FOR 2017-2020

The report of the Director of Central Services and Monitoring Officer set out details of the process and timescale for consultation on the Council's proposed policy for the Licensing of Sex Establishments and Sexual Entertainment Venues from 2017.

RESOLVED: That

- (1) the draft policy, as set out at Annex A to the report, and the model pool of conditions set out in Annex B be approved for consultation as set out at paragraph 1.2.6 of the report; and

- (2) the existing version of the policy, approved for three years in 2013, be re-adopted until the new policy comes into force in April 2017.

MATTERS SUBMITTED FOR INFORMATION

LA 16/86 UPDATE ON LOCAL AUTHORITY LOTTERY - VERBAL PRESENTATION

The Committee received a verbal presentation on the Council's recently launched Local Authority Lottery, HIVE.

LA 16/87 OVERVIEW OF LICENSING 2015-16 - VERBAL PRESENTATION

The Committee received a verbal presentation on licensing activity for 2015-16. Comparison was made between national statistical reports and licensing activity within Tonbridge and Malling with particular reference to the private hire and hackney carriage trade.

LA 16/88 CHAIRMAN'S ANNOUNCEMENT

The Chairman referred to the recent death of Councillor Jean Atkinson and invited Members to observe a minute's silence in her memory.

MATTERS FOR CONSIDERATION IN PRIVATE

PART 2 - PRIVATE

LA 16/89 EXCLUSION OF PRESS AND PUBLIC

There were no items considered in private.

The meeting ended at 8.30 pm

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

29 November 2016

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Matters for Recommendation to Council

1 DELEGATION OF FILM CLASSIFICATION

1.1 Overview

- 1.1.1 To propose that authority for the classification of films be delegated to the Director of Central Services.
- 1.1.2 The public exhibition of all films on licensed premises must either be classified by the British Board of Film Classification (BBFC) or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.1.3 It is usual for most films to be released across the Country and therefore be classified by the BBFC; however 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.

Background

- 1.1.4 Over the last 18 months Tonbridge & Malling Borough Council have been asked to classify one small budget films, both of which were made in the local area The Licensing and Appeals Committee carried out this function on this occasion.
- 1.1.5 This has proved to be time consuming and often difficult to find a convenient time for all Licensing and Appeals Committee members to meet at relatively short notice.
- 1.1.6 In the Council's constitution Licensing and Appeals Committee has the power "to classify films". It is therefore recommended that the authority to classify films be delegated to the Director of Central Services.
- 1.1.7 A copy of The British Board of Film Classification (BBFC) "Age Ratings You Trust" guidelines is shown at **Annex 1**

1.2 Legal Implications

- 1.2.1 Section 20 of the Licensing Act 2003 provides that a mandatory condition shall be applied to all premises licences that authorise the exhibition of films. This relates

to the restriction on 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 classification recommended by the Licensing Authority.

1.2.2 Under the Licensing Act 2003, the Licensing Authority must carry out its functions with a view to promoting the licensing objectives. The objectives are:

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

1.2.3 In terms of film exhibitions, clearly the most relevant licensing objective is the protection of children from harm. There may, however, be instances where there could be a case for relying on the prevention of crime and disorder objective, although evidence would have to be produced that a particular film would lead to crime and disorder.

1.3 Financial and Value for Money Considerations

1.3.1 Tonbridge & Malling Borough Council does not have a fee in place for Film Classification.

1.4 Risk Assessment

1.4.1 The classification of films ensures that unclassified and inappropriate films will not be shown to the wrong age group.

1.5 Equality Impact Assessment

1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.6 Recommendations

1.6.1 Licensing and Appeals Committee delegate authority for the classification of films to the Director of Central Services.

Background papers:

Nil

contact:

Anthony Garnett 6151

Adrian Stanfield

Director of Central Services and Monitoring Officer



bbfc

Age Ratings You Trust

Guidelines





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Introduction

The British Board of Film Classification (BBFC) is an independent, non-governmental, not-for-profit, co-regulatory body. We are funded through fees charged to those who submit films and video works for classification.

We classify:

- films, trailers and advertisements on behalf of local authorities who license cinemas
- video works under the Video Recordings Act 1984
- video works which are distributed over the internet under a voluntary, self-regulatory service
- commercial and internet content distributed via mobile networks under a voluntary, self-regulatory service

Our Classification Guidelines follow extensive public consultation, as well as other research, expert advice and our accumulated experience over many years. The Guidelines, and our practice in applying them, pay particular attention to changes in public taste, attitudes and concerns, and changes in the law. They also take account of new evidence from research or expert sources. The Guidelines are reviewed periodically, and how we apply them is reviewed when necessary.

We take responsibility for the Guidelines and for their interpretation. This responsibility is subject to normal considerations of fairness and reasonableness.

Here, and throughout the Guidelines, video works are taken to include films and programmes released on DVD or Blu-ray, or distributed by means of download or streaming on the internet.

The Guidelines cannot be a comprehensive account of everything that may at any time be of concern. If issues arise which are not specifically covered here, they will be dealt with by us on their merits and in line with the standards expressed and implied in these Guidelines. The Guidelines are not a legal document and should be interpreted in the spirit of what is intended as well as in the letter.

We will provide guidance on the interpretation of these Guidelines on request.

Guiding Principles

Our guiding principles are:

- to protect children and vulnerable adults from potentially harmful or otherwise unsuitable media content
- to empower consumers, particularly parents and those with responsibility for children, to make informed viewing decisions

We fulfil these roles by providing age classifications and publishing advice (known as BBFCinsight) for individual films and videos. We do this without infringing the right of adults to choose what they view provided that it remains within the law and is not potentially harmful. We seek to ensure that films and videos reach the widest audience that is appropriate for their theme and treatment.

Media effects research and expert opinion on issues of suitability and harm can be inconclusive or contradictory. In such cases we must rely on our own experience and expertise to make a judgement as to the suitability of a work for classification at a particular age category, taking into consideration whether the availability of the material, to the age group concerned, is clearly unacceptable to broad public opinion. Our extensive research into public opinion guides us as we seek to ensure that classification decisions generally reflect public sensibilities and expectations as these change over time.

In relation to harm, we will consider whether the material, either on its own, or in combination with other content of a similar nature, may cause any harm at the category concerned. This includes not just any harm that may result from the behaviour of potential viewers, but also any moral harm that may be caused by, for example, desensitising a potential viewer to the effects of violence, degrading a potential viewer's sense of empathy, encouraging a dehumanised view of others, suppressing pro-social attitudes, encouraging anti-social attitudes, reinforcing unhealthy fantasies, or eroding a sense of moral responsibility. Especially with regard to children, harm may also include retarding social and moral development, distorting a viewer's sense of right and wrong, and limiting their capacity for compassion.

We will not classify material which is in conflict with the criminal law, or has been created through the commission of a criminal offence.

We act as a regulator across the United Kingdom. However, the United Kingdom does not have a single legal system, and so we take account of the different legal systems that coexist in the UK. Further details about the applicable legislation can be found in the Annex.

General Classification Considerations

There are general factors that may influence a classification decision at any level and in connection with any issue. These factors are of particular importance when a work lies on the borderline between two age categories.

Context

Context is central to the question of acceptability of film and video content. When considering context therefore, we take into account issues such as public expectation in general and the expectations of a work's audience in particular.

We consider the context in which an issue (such as sex, language or violence) is presented within a film or video. In doing this we take account of factors such as the setting of a work (historical, fantasy, realistic, contemporary); the manner of presentation (for example, an aggressive and directed use of bad language may result in a higher classification than a light-hearted and self-referential use of the same term); the apparent intention of the film; the original production date of the work (for example, outdated attitudes might be considered less offensive, and consequently classified at a lower category, in an old, obviously dated, work); and any special merits of the work.

Theme

Classification decisions will take into account the theme of a work, but will depend significantly on the treatment of that theme, and especially the sensitivity of its presentation. The most challenging themes (for example, drug misuse, sexual violence, paedophilia, racial hatred or violence) are unlikely to be appropriate at the most junior levels of classification. However, there is no reason in principle why most themes, however difficult, could not be presented in a manner which allows classification at 18 or even, where suitable, at lower levels.

Tone and impact

The overall tone of a work may also affect the classification decision. While the presentation of specific issues, such as sex and violence, may not be problematic at a particular category, a work with a dark or unsettling tone may receive a higher classification. Other tonal considerations which might have an influence on classification include the extent to which the work presents a despairing view of the world or the extent to which transgressive or harmful behaviour is condoned or made to appear normal.

We take into account the impact of a work (i.e. how it makes the audience feel), for example in relation to horror films where threat may be more significant than the level of violence.

Specific Classification Considerations

This section of the Guidelines identifies concerns which apply, to a greater or a lesser degree, at all classification levels, and sets out the general approach that we take. The concerns are listed in alphabetical order.

Pages 12 to 24 of the Guidelines provide specific guidance for U through to R18 with regard to such concerns. This should be read together with the General Classification Considerations.

Discrimination

Potentially offensive content relating to matters such as race, gender, religion, disability or sexuality may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion. The context in which such content may appear also has a bearing. Works with such content may receive a lower category where discriminatory language and behaviour is implicitly or explicitly criticised; or the work as a whole seeks to challenge such attitudes; or the work is obviously dated, with little or no appeal to children.

Drugs

No work taken as a whole may promote the misuse of drugs and any detailed portrayal of drug misuse likely to promote the activity may be cut. Works which normalise or glamorise drug misuse are likely to receive a higher classification than works which show drug misuse while emphasising the dangers.

Where smoking, alcohol abuse or substance misuse feature to a significant extent in works which appeal to children, this will normally be indicated in BBFCinsight. Classification decisions will also take into account any promotion or glamorisation of such activities.

Imitable behaviour

Classification decisions will take into account any detailed portrayal of criminal and violent techniques, and glamorisation of easily accessible weapons, such as knives. Works which portray anti-social behaviour (for example, bullying) uncritically are likely to receive a higher classification. Works which, taken as a whole, actively promote illegal behaviour may be cut or refused a classification.

Portrayals of potentially dangerous behaviour (especially relating to hanging, suicide and self-harm) which children and young people may potentially copy, will be cut if a higher classification is not appropriate.

Language

Language which people may find offensive includes the use of expletives with a sexual, religious or racial association, derogatory language about minority groups and commonly understood rude gestures. The extent of offence may vary according to age, gender, race, background, beliefs and expectations brought by viewers to the work as well as the context in which the word, expression or gesture is used.

For these reasons, it is impossible to set out comprehensive lists of words, expressions or gestures which are acceptable at each category. The advice at different classification levels, therefore, provides general guidance taking account of the views expressed in public consultation exercises.

Nudity

Nudity with no sexual context is in principle acceptable at all classification levels, but will not generally occur more than occasionally at U.

Nudity with a sexual context will receive a higher classification. Strong detail in such a context will usually only be passed at the adult categories (18 or R18).

Sex

The portrayal of sexual activity can range from kissing to detail of unsimulated sex. The normalisation of overtly sexualised behaviour is a concern at the junior categories. The classification system allows progressively stronger portrayals of sexual behaviour as the categories rise.

Sex works (works whose primary purpose is sexual arousal or stimulation) will normally only be passed at the adult categories. Sex works which only contain sex which may be simulated will usually be passed at 18. The R18 category is suitable for sex works containing clear images of real sex, strong fetish material, sexually explicit animated images, or other very strong sexual images. R18 video works may be supplied only in licensed sex shops which no one under 18 may enter. R18 films may be shown only in specially licensed cinemas.

We will apply these Guidelines in relation to sex to the same standard regardless of sexual orientation of the activity portrayed.

Threat

Where films are targeted at a younger audience, classification decisions will take into account factors such as the frequency, length and detail of scary or otherwise unsettling scenes as well as factors such as the impact of music and sound, and whether there is a swift and reassuring outcome.

The classification of threat and horror will take account of the general tone, impact, realism and supernatural elements of a work as well as the level of detail in individual scenes. Fantasy settings may be a mitigating factor.

Violence

Classification decisions will take account of the degree and nature of violence in a work.

Works which feature the following are likely to receive higher classifications:

- portrayal of violence as a normal solution to problems
- heroes who inflict pain and injury
- callousness towards victims
- the encouragement of aggressive attitudes
- characters taking pleasure in pain or humiliation
- the glorification or glamorisation of violence

Sadistic or sexual violence is likely to receive a higher classification. Any depiction of sadistic or sexual violence which is likely to pose a harm risk will be subject to intervention through classification, cuts or even, as a last resort, a refusal to classify.

We may refuse to classify content which makes sexual or sadistic violence look appealing or acceptable, reinforces the suggestion that victims enjoy sexual violence, or invites viewer complicity in sexual violence or other harmful violent activities.

We are also unlikely to classify content which is so demeaning or degrading to human dignity (for example, it consists of strong abuse, torture or death without any significant mitigating factors) that it may pose a harm risk.

Other Matters

Education videos

When classifying an education video, including a sex education video, for use in schools, we will take account of the educational purpose of the video and the context in which it is to be viewed (for example in the classroom mediated by a teacher).

Music videos

The classification of a music video will take account of any elements which are of concern to parents, including glamorisation of behaviour which they consider inappropriate. Where music videos are short and self-contained, material may be less likely to be justified by context.

Photo or pattern sensitivity, motion sickness and reactions to low frequency sound

A small number of viewers are sensitive to flashing and flickering light, or some shapes and patterns, and may experience seizures or other serious physical effects. Some viewers experience feelings of motion sickness or other symptoms when viewing works which feature hand held or otherwise moving camerawork, or which feature very low frequency sounds.

It is the responsibility of film makers and distributors to identify works in which such issues arise and to ensure that, when required, appropriate warnings are given to viewers. However, if it is obvious during viewing that the work contains strong examples of such imagery or sounds, we will advise the distributor of the need to ensure that appropriate warnings are in place. Where necessary, we may require assurances regarding the display of appropriate warnings as a condition of classification.

Release format

Classification decisions may be stricter on video works than on film. This is because of the increased possibility of under-age viewing as recognised in the Video Recordings Act (see Annexe), as well as the increased possibility of works being replayed or sections viewed out of context. Accordingly, a video work (either packaged or online) may occasionally receive a higher classification than on film, or require new or different cuts. (Video works may also receive a higher classification because they contain additional content.)

The screen format or visual presentation of a submission may also alter a classification, for example, if the image has been processed in the 3D format or is shown with an altered aspect ratio such as on an IMAX screen.

Titles

We will require changes as a condition of classification if the title of a work incites racial or religious hatred, or other criminal behaviour, or encourages an interest in abusive or illegal sexual activity.

If the title of a work is likely to cause significant offence to a significant number of people if displayed in a public place, we will advise the distributor to consider carefully the places in which it is likely to be seen and to take appropriate action, for example, by obscuring certain words on packaging or marketing materials. (This advice is not given in relation to video works classified R18 as such works may only be supplied or offered for supply in a licensed sex shop.) Where necessary, assurances on public display of the full title, or changes to the title, may be required as a condition of classification.

Trailers and advertisements

Audiences may choose to see a full-length feature based on expectations of the particular genre at the given classification and on the published BBFCinsight. In contrast, audiences have no choice, and often no expectation, about the accompanying trailers or advertisements which may be very different in tone and content to the film the audience has chosen to view. In addition, because trailers and advertisements are short and self-contained, material is less likely to be justified by context and more likely to cause offence.

For these reasons, classification decisions for trailers and advertisements may be more restrictive than for equivalent material in a main feature. Strong language will not be allowed in trailers at the U, PG and 12A/12 categories.

The more restrictive approach set out above may be relaxed where an advertisement is part of a public information campaign or has a charitable purpose.

Cinemas are responsible for the exhibition of cinema trailers and advertisements, and we have no involvement in deciding which films they precede. Questions or complaints about the exhibition of trailers or advertisements should be directed to the cinema management in the first instance.

Video games

With a few limited exceptions we do not classify video games. We consider for classification those video games contained on discs which feature primarily linear video content and pornographic video games which include for example:

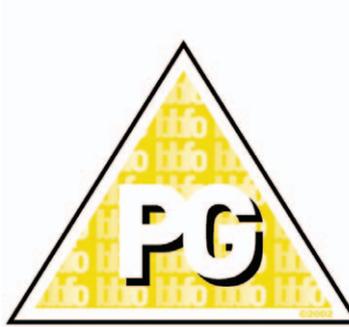
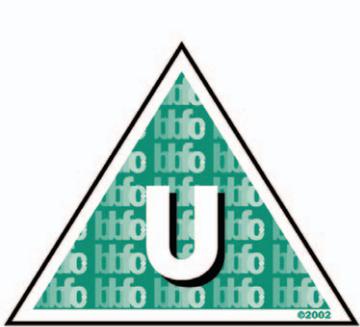
- images of unsimulated human sexual activity involving genitals or anus
- sexual fetish material, including bondage or sadomasochistic activity, urination and other bodily functions
- material likely to encourage an interest in sexually abusive activity
- the portrayal of sexual activity which involves lack of consent whether real or simulated
- sexual threats, humiliation or abuse
- penetration by any object associated with violence or likely to cause physical harm
- images of sexual activity with animals

whether such images or material are of real events or activity or are animated.

We also advise the Games Rating Authority on the classification of linear video footage contained in games which is not integral to the game. This includes, for example, rewards and video content in games which is designed to be viewed in its own right, without taking forward the narrative drive of the game.

The Classification Categories

We endeavour to classify submitted works in one of the following categories:

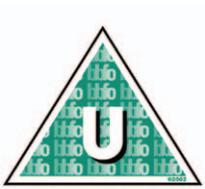




The following pages set out guidance on how the specific classification considerations (for example, sex and violence) are specifically applied from U through to R18. The criteria should be read in combination with the general approach set out earlier under ‘Guiding Principles’, ‘General Classification Considerations’ and ‘Specific Classification Considerations’.

Because works from time to time present issues in ways which cannot be anticipated, these criteria will not be applied in an over-literal way if such an interpretation would lead to an outcome which would confound audience expectations.





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.

If a work is particularly suitable for pre-school children, this will be indicated in the BBFCinsight.

Discrimination

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of.

Drugs

References to illegal drugs or drug misuse must be infrequent and innocuous, or have a clear educational purpose or anti-drug message suitable for young children.

Imitable behaviour

Potentially dangerous or anti-social behaviour which young children may copy must be clearly disapproved of. No emphasis on realistic or easily accessible weapons.

Language

Infrequent use only of very mild bad language.

Nudity

Occasional nudity, with no sexual context.

Sex

Only very mild sexual behaviour (for example, kissing) and references to such behaviour.

Threat

Scary or potentially unsettling sequences should be mild, brief and unlikely to cause undue anxiety to young children. The outcome should be reassuring.

Violence

Violence will generally be very mild. Mild violence may be acceptable if it is justified by context (for example, comedic, animated, wholly unrealistic).



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.

Discrimination

Discriminatory language or behaviour is unlikely to be acceptable unless clearly disapproved of, or in an educational or historical context, or in a particularly dated work with no likely appeal to children. Discrimination by a character with whom children can readily identify is unlikely to be acceptable.

Drugs

References to illegal drugs or drug misuse must be innocuous or carry a suitable anti-drug message.

Imitable behaviour

No detail of potentially dangerous behaviour which young children are likely to copy, if that behaviour is presented as safe or fun. No glamorisation of realistic or easily accessible weapons such as knives. No focus on anti-social behaviour which young children are likely to copy.

Language

Mild bad language only. Aggressive or very frequent use of mild bad language may result in a work being passed at a higher category.

Nudity

There may be nudity with no sexual context.

Sex

Sexual activity may be implied, but should be discreet and infrequent. Mild sex references and innuendo only.

Threat

Frightening sequences or situations where characters are in danger should not be prolonged or intense. Fantasy settings may be a mitigating factor.

Violence

Violence will usually be mild. However there may be moderate violence, without detail, if justified by its context (for example, history, comedy or fantasy).







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. To help them decide, we recommend that they check the BBFCinsight for that film in advance.

No one younger than 12 may rent or buy a 12 rated video work.

Discrimination

Discriminatory language or behaviour must not be endorsed by the work as a whole. Aggressive discriminatory language or behaviour is unlikely to be acceptable unless clearly condemned.

Drugs

Misuse of drugs must be infrequent and should not be glamorised or give instructional detail.

Imitable behaviour

No promotion of potentially dangerous behaviour which children are likely to copy. No glamorisation of realistic or easily accessible weapons such as knives. No endorsement of anti-social behaviour.

Language

There may be moderate language. Strong language may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special contextual justification.

Nudity

There may be nudity, but in a sexual context it must be brief and discreet.

Sex

Sexual activity may be briefly and discreetly portrayed. Moderate sex references are permitted, but frequent crude references are unlikely to be acceptable.

Threat

There may be moderate physical and psychological threat and horror sequences. Although some scenes may be disturbing, the overall tone should not be. Horror sequences should not be frequent or sustained.

Violence

There may be moderate violence but it should not dwell on detail. There should be no emphasis on injuries or blood, but occasional gory moments may be permitted if justified by the context.

Sexual violence may only be implied or briefly and discreetly indicated, and its depiction must be justified by context.



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.

Discrimination

The work as a whole must not endorse discriminatory language or behaviour, although there may be racist, homophobic or other discriminatory themes and language.

Drugs

Drug taking may be shown but the work as a whole must not promote or encourage drug misuse (for example, through instructional detail). The misuse of easily accessible and highly dangerous substances (for example, aerosols or solvents) is unlikely to be acceptable.

Imitable behaviour

Dangerous behaviour (for example, hanging, suicide and self-harming) should not dwell on detail which could be copied. Whether the depiction of easily accessible weapons is acceptable will depend on factors such as realism, context and setting.

Language

There may be strong language. Very strong language may be permitted, depending on the manner in which it is used, who is using the language, its frequency within the work as a whole and any special contextual justification.

Nudity

There are no constraints on nudity in a non-sexual or educational context. There may be nudity in a sexual context but usually without strong detail.

Sex

Sexual activity may be portrayed, but usually without strong detail. There may be strong verbal references to sexual behaviour, but the strongest references are unlikely to be acceptable unless justified by context. Works whose primary purpose is sexual arousal or stimulation are unlikely to be acceptable.

Threat

There may be strong threat and horror. A sustained focus on sadistic or sexual threat is unlikely to be acceptable.

Violence

Violence may be strong but should not dwell on the infliction of pain or injury. The strongest gory images are unlikely to be acceptable. Strong sadistic violence is also unlikely to be acceptable.

There may be detailed verbal references to sexual violence but the depiction of sexual violence must be discreet and justified by context.







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.

Adults should be free to choose their own entertainment. Exceptions are most likely in the following areas:

- where the material is in breach of the criminal law, or has been created through the commission of a criminal offence
- where material or treatment appears to us to risk harm to individuals or, through their behaviour, to society. For example, the detailed portrayal of violent or dangerous acts, or of illegal drug use, which may cause harm to public health or morals. This may include portrayals of sadistic or sexual violence which make this violence look appealing; reinforce the suggestion that victims enjoy sexual violence; or which invite viewer complicity in sexual violence or other harmful violent activities

- where there are more explicit images of sexual activity in the context of a sex work (see below) or where the primary purpose of the images in question is sexual arousal

In the case of video works, which may be more accessible to younger viewers, intervention may be more frequent than for cinema films.

Sex education at 18

Where sex material genuinely seeks to inform and educate in matters such as human sexuality or safer sex and health, explicit images of sexual activity may be permitted.

Sex works at 18

Sex works are works whose primary purpose is sexual arousal or stimulation. Sex works containing only material which may be simulated are generally passed 18. Sex works containing clear images of real sex, strong fetish material, sexually explicit animated images, or other very strong sexual images will be confined to the R18 category. Material which is unacceptable in a sex work at R18 is also unacceptable in a sex work at 18.



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.

The following content is not acceptable:

- material which is in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959 (see Annexe)
- material (including dialogue) likely to encourage an interest in sexually abusive activity which may include adults role-playing as non-adults
- the portrayal of sexual activity which involves real or apparent lack of consent. Any form of physical restraint which prevents participants from indicating a withdrawal of consent
- the infliction of pain or acts which may cause lasting physical harm, whether real or (in a sexual context) simulated. Some allowance may be made for moderate, non-abusive, consensual activity
- penetration by any object associated with violence or likely to cause physical harm
- sexual threats, humiliation or abuse which do not form part of a clearly consenting role-playing game. Strong physical or verbal abuse, even if consensual, is unlikely to be acceptable

These Guidelines will be applied to the same standard regardless of sexual orientation of the activity portrayed.



Advice Viewings

A customer may submit works for advice at any stage of the production process.

We will inform them of the likely classification a work will receive, and where appropriate any changes required to achieve the customer's preferred classification. However advice given in such circumstances is not binding and we reserve the right to reach a different decision when the final version of the work is submitted formally for classification. If the final version of the work submitted for classification differs in any significant respect from that seen for advice, and if those changes appear to reflect advice we have given, then details of the changes will appear on our website.

Intervention

Where possible we will carry out our responsibilities through appropriate use of the classification categories, particularly in order to protect children from any potential harm. If necessary, however, we may cut or even refuse to classify a film or video work.

In some cases, we require assurances, cuts or other changes (for example, the addition of warning captions) as a condition of classification, or as a condition of classifying at a particular category. In some circumstances we may refuse to classify a work at any category. We publish details of all interventions on our website.

Cuts for category

If the submitted work is suitable for classification, but only at a category higher than that requested by the customer, we will consider whether a lower category could be achieved through relatively minor or simple changes. If so, we may offer the customer a choice of accepting either the higher or lower category (the latter with defined changes as necessary).

Cuts for category are unlikely to be available if the required changes would be very extensive or complex, or would not address for example, a tonal or thematic issue running throughout the work.

Compulsory cuts

If a submitted work raises issues or concerns that cannot be addressed by classification at a particular age category, we may require cuts or other changes as a condition of classification. Such intervention is most likely when the submitted work contains:

- material which may promote criminal activity
- material which is obscene or otherwise illegal
- material created by means of the commission of a criminal offence
- portrayals of children in a sexualised or abusive context

- material which makes sexual or sadistic violence look normal, appealing, or arousing
- graphic images of real injury, violence or death presented in a salacious or sensationalist manner which risks harm by encouraging callous or sadistic attitudes
- material which reinforces the suggestion that victims enjoy sexual violence
- material which invites viewer complicity in sexual violence or other harmful violent activities
- sex works which contain material listed as unacceptable at R18

When the issue relates to the circumstances of filming (for example, in relation to animal cruelty or public indecency) the customer will normally be given an opportunity to present evidence before a final decision is reached.

Refusal to classify

As a last resort, the BBFC may refuse to classify a work, in line with the objective of preventing non-trivial harm risks to potential viewers and, through their behaviour, to society. We may do so, for example, where a central concept of the work is unacceptable, such as a sustained focus on sexual or sadistic violence. Before refusing classification we will consider whether the problems could be adequately addressed through intervention such as cuts. In deciding whether to refuse to classify, we will keep in mind the inherent difficulty of using behavioural research to draw conclusions about real world risks, and will have regard to the full range of available evidence, including the views of the public and our own knowledge and experience.

Appeals

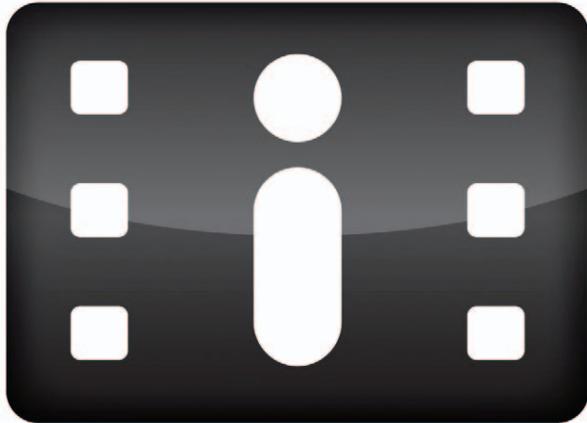
We offer a formal reconsideration procedure which is open to any customer dissatisfied with the determination made in respect of their work. The reconsideration is free of charge and will normally take fewer than 10 working days.

A customer may also appeal directly to an independent authority. Such an appeal may take place following, or instead of, our reconsideration. In the case of films, the customer (or any member of the public) may address itself to the local authority which licenses cinemas in a particular area. In the case of video works a customer may appeal to the Video Appeals Committee. The VAC is independent of the BBFC and can be contacted by post at **VAC, PO Box 6949, London, W1A 3TZ** or by email at **enquiries@vacappeal.co.uk**

Customers should note that a reconsideration or an appeal involves looking at the issues afresh. This means that the outcome could, in some circumstances, be more restrictive than the original determination.

Engagement with the Public

As part of our role we provide consumers, particularly parents, with as much information as possible to enable them to make a fully informed decision about what they will view. We therefore publish detailed information about the content of every film we classify. This is called BBFCinsight.



insight

BBFCinsight consists of the following:

- short content advice on film posters, some film advertising and video packaging, for example:



Strong language and sex references

- more detailed information, aimed particularly at parents, found on our website and free App

BBFCinsight is a short description of the issues found in a film or video work. It explains why an individual title received a particular classification. It highlights the key issues in a film, and gives examples of the content in the film, avoiding where possible any potential plot spoilers.

BBFCinsight also notes any other issues that might be important for parents, or those wishing to take younger viewers to see a film. This may include, for example, themes of divorce or bereavement, a film's overall suitability for family viewing and the likely familiarity of the audience with the film's source material or cast.

We encourage viewers to check BBFCinsight for a clear idea of the issues a work contains.

Websites



BBFC Website - www.bbfc.co.uk

Our website gives detailed information about every classification decision.

The website includes an online version of our Guidelines, detailed information about the different classifications, a library of our research, education tools and resources for use in the classroom and independent study, and a media centre including news and press releases.



Children's BBFC – www.cbbfc.co.uk

This website offers children clear information about how age classifications work and our role and history. It includes interactive elements, and material especially adapted for younger filmgoers and families.

The site also has an area for adults which contains information about BBFCinsight, the classification categories and details of our education and outreach work (for example, video conferencing) for schools.

BBFC App

We have a free App available to download for iOS and Android devices. It lets users check the latest film and video classifications on the go, along with BBFCinsight.

Twitter

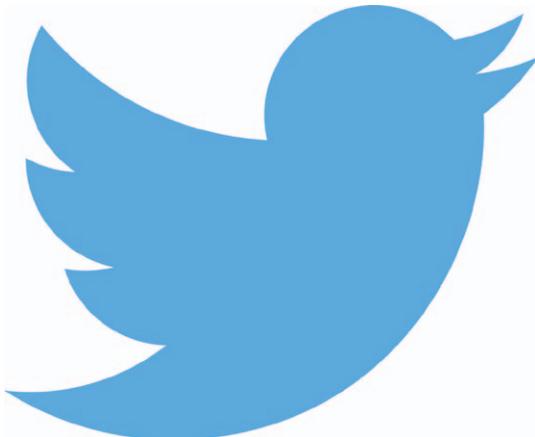
We regularly update our Twitter account, **@BBFC**, with BBFC news and the latest film and video classifications.

Newsletters

We produce regular newsletters for the industry, for those involved in education and for the general public. These give details about recent BBFC classification decisions as well as our resources, workshops and events. To sign up for any of the newsletters visit **www.bbfc.co.uk**.

Podcasts

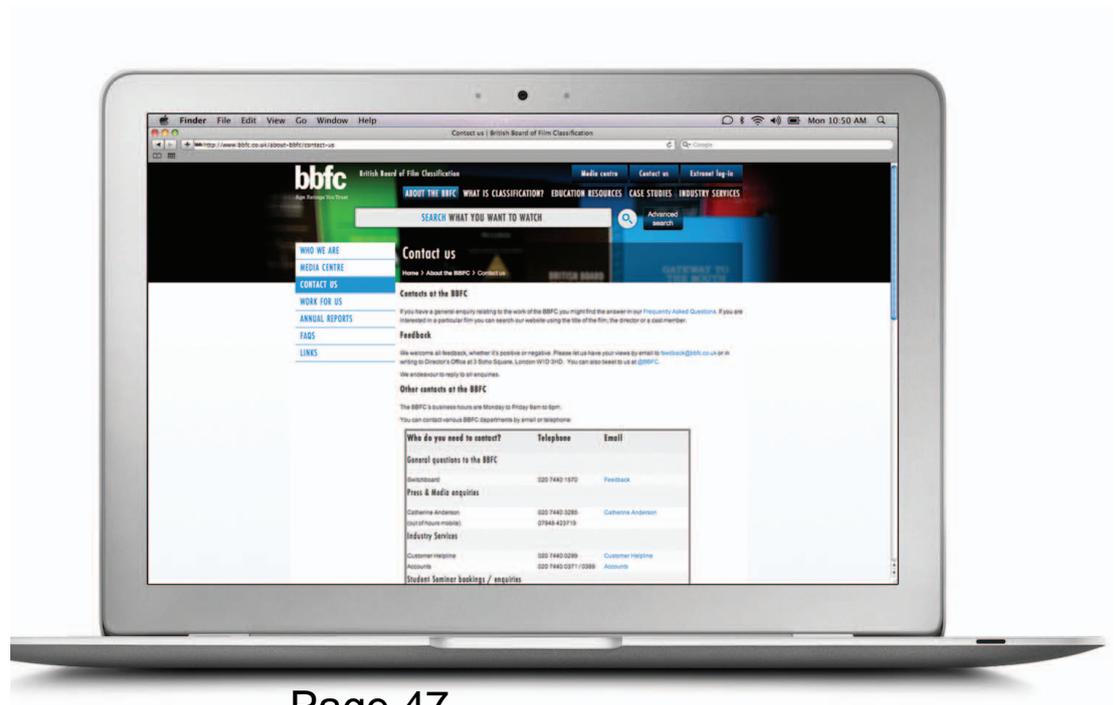
We produce themed podcasts which feature guest interviews, discussion of recent decisions and current classification issues. The podcasts can be downloaded from the website.



Feedback

We welcome all feedback, whether positive or negative, and any comments can be sent to feedback@bbfc.co.uk, or in writing to the **Director's Office, BBFC, 3 Soho Square, London, W1D 3HD.**

For further details see the 'Contact Us' page on www.bbfc.co.uk



Annexe

Legal Considerations

The following legislation is not listed according to chronology or importance. Instead, it reflects a useful way of explaining the structure of the legal framework that applies to our work.

The Licensing Act 2003 – England and Wales Cinemas (Northern Ireland) (Order 1991) – Northern Ireland

Cinemas Act 1985 – Scotland

Cinemas require a licence from the local authority in which they operate. The licence must include a condition requiring the admission of children (anyone under 18) to any film to be restricted in accordance with our recommendations or those of the licensing authority. One of the key reasons for the licensing requirement is the protection of children, including from potentially harmful content in films.

The Video Recordings Act 1984

Video works (including films, TV programmes and some video games) which are supplied on a disc, tape or any other device capable of storing data electronically must have a BBFC classification unless they fall within the definition of an exempted work.

When considering whether to award a certificate to a work, or whether a work is suitable at a particular category, we are required by the Act to have special regard to the likelihood of works being viewed in the home, and to any harm that may be caused to potential viewers or, through their behaviour, to society by the manner in which the work deals with:

- criminal behaviour
- illegal drugs
- violent behaviour or incidents

- horrific behaviour or incidents
- human sexual activity

In considering these issues we have in mind the possible effect not only on children but also on other vulnerable people.

The Obscene Publications Act 1959 & 1964 – England and Wales

The Obscene Publications Act 1857 – Northern Ireland

The Civic Government (Scotland) Act 1982 – Scotland

It is illegal to publish a work which is obscene. A work is obscene if, taken as a whole, it has a tendency to deprave and corrupt a significant proportion of those likely to see it. Under the Obscene Publications Act 1959, no offence is committed if publication is justified as being for the public good on the grounds that it is in the interests of science, art, literature or learning or other objects of general concern.

In Scotland, case law implies a similar test would be applied. In Northern Ireland, while there is no express defence of “public good” it is likely that English law would be taken into consideration.

Criminal Justice and Immigration Act 2008 – England, Northern Ireland and Wales

Criminal Justice and Licensing (Scotland) Act 2010 / Civic Government (Scotland) Act 1982 – Scotland

It is illegal to be in possession of an extreme pornographic image. Under the Criminal Justice and Immigration Act 2008 an extreme pornographic image is one which is pornographic and grossly offensive,

disgusting or otherwise of an obscene character, which features an apparently real person, and which portrays, in an explicit and realistic way, an act which:

- threatens a person's life
- results, or is likely to result, in serious injury to a person's anus, breasts or genitals
- involves sexual interference with a human corpse
- involves bestiality

In Scotland, the Civic Government (Scotland) Act 1982, includes as "extreme" for the purpose "an act which takes or threatens a person's life" and "rape or other non-consensual penetrative activity".

Works we classify under the Video Recordings Act are excluded from the scope of the offence across the UK.

The Protection of Children Act 1978 – England and Wales

Protection of Children (Northern Ireland) Order 1978 – Northern Ireland

Civic Government (Scotland) Act 1982 – Scotland

It is illegal to make, distribute, show or possess indecent photographs or pseudo-photographs of a child. It is also illegal to make, distribute, show or possess indecent images of children which have been derived from a photograph or pseudo-photograph (for example, by tracing). Offences relating to the possession of such images are contained within the Criminal Justice Act 1988 (England, Wales and Scotland), and the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988. A child is defined as a person under the age of 18.

The Coroners and Justice Act 2009 – England, Northern Ireland and Wales

The Criminal Justice and Licensing Act 2010 - Scotland

It is illegal to be in possession of a prohibited image of a child. A prohibited image of a child is a non-photographic or non-pseudo-photographic image which is pornographic and grossly offensive, disgusting, or otherwise of an obscene character, and which focuses solely or principally on a child's genitals or anal region, or which portrays specified sexual acts by, of, or in the presence of a child, including masturbation, oral sex or penetration, including sexual acts with animals. A child is defined as being under 18 and an image of a child or other person can include imaginary representations. Works we classify under the Video Recordings Act are excluded from the scope of the offence unless images have been extracted from such works for the purpose of sexual arousal.

The Sexual Offences Act 2003

It is illegal to expose oneself with intent to cause alarm or distress – this offence augments the common law misdemeanour of indecent exposure. The Act also prohibits a person recording the private act of another, where the intention of the recording is for the sexual gratification of himself or a third party and where the recorded party has not consented to so being filmed.

The Public Order Act 1986 – England, Scotland and Wales

The Public Order (Northern Ireland) Order 1987 – Northern Ireland

It is illegal to distribute, show or play to the public a recording of visual images or sounds which are threatening, abusive or insulting if the intention is

to stir up racial hatred or hatred on the grounds of sexual orientation, or if racial hatred or hatred on the grounds of sexual orientation is likely to be stirred up. It is also illegal to distribute, show or play to the public a recording of visual images or sounds which are threatening if the intention is to stir up religious hatred.

In Northern Ireland the relevant group of persons may be defined not only by colour, race, nationality or ethnic or national origins, but also by “religious belief” or “sexual orientation” or “disability”.

In Scotland, the communication of material that is threatening and is intended to stir up hatred on religious grounds is an offence under the Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012.

The Cinematograph Films (Animals) Act 1937

It is illegal to show any scene “organised or directed” for the purposes of the film that involves actual cruelty to animals. This Act applies to the exhibition of films in public cinemas but we also apply the same test to video works. For the purposes of this legislation and The Animal Welfare Act 2006, only vertebrates which are domesticated or otherwise under the control of man are defined as “animals”.

The Animal Welfare Act 2006 – England and Wales

The Welfare of Animals Act (Northern Ireland) 2011 – Northern Ireland

The Animal Health and Welfare (Scotland) Act 2006 – Scotland

It is illegal to supply, publish or show or possess with intent to supply a video recording of an “animal fight” that has taken place within the UK since 6 April 2007.

The Tobacco Advertising and Promotion Act 2002

It is illegal, in the course of a business, to publish a tobacco advertisement.

Blasphemy

In Scotland and Northern Ireland, the common law crime of blasphemy exists but has not been utilised for prosecution in modern times. The offences of blasphemy and blasphemous libel under the common law of England and Wales were abolished in The Criminal Justice and Immigration Act 2008.

Human Rights Act 1998

The Act permits such restrictions on freedom of expression as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Other unlawful material

In carrying out its responsibilities, we will have regard to whether the material itself appears to be unlawful in the United Kingdom, or has arisen from the commission of an unlawful act.



bbfc

Age Ratings You Trust

British Board of Film Classification

3 Soho Square, London, W1D 3HD

T 020 7440 1570

www.bbfc.co.uk

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

29 November 2016

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Matters for Recommendation to Council

1 Policy statement - for Tonbridge and Malling Borough Council Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information

1.1 Overview

1.1.1 As an organisation using the Disclosure and Barring Service (DBS) to help assess the suitability of an applicant to hold either a hackney carriage private hire or dual drivers licence, Tonbridge and Malling Borough Council (TMBC) complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and Disclosure information. TMBC also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see if on request.

Background

1.1.2 Licensing Services processes Disclosure and Barring Service (DBS) Enhanced and Standard disclosures for the following applications:

- Hackney Carriage Driving Licences (Enhanced)
- Private Hire Driving Licences (Enhanced)
- Probationary Private Hire Driving Licences (Enhanced)
- Private Hire Operator Licence (Enhanced)
- Personnel Licences (Basic)
- Scrap Metal Dealers (Basic)

1.1.3 Within the Licensing Team we have two named Counter Signatory officers to counter sign DBS forms who are Anthony Garnett and Katie Rigg. This will grow to three when Leann Leeds forms have been processed.

1.1.4 The tracking sheet showing form number, applicants date of birth and Certificate Number when issued by the DBS. This information is securely stored with two levels of security to access the data.

1.1.5 Applications that are subject of Licensing Hearings are kept in a secure lockable filing cabinet while the application is being processed.

1.1.6 A copy of the Policy Statement is shown at **Annex 1**

1.2 Legal Implications

1.2.1 TMBC also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see if on request.

Hackney Carriage Drivers

1.2.2 Under section 61 of the Local Government (Miscellaneous Provisions) Act 1976 a district council may suspend or revoke or refuse to renew the licence of the driver of a hackney carriage or private hire vehicle on any of the following grounds

- (1) that he has since the grant of the licence
 - (a) been convicted of an offence involving dishonesty, indecency or violence; or
 - (b) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 (the Town Police Clauses Act 1847 which applies to hackney carriage drivers only) or of this part of this Act; or
- (2) any other reasonable cause.

Private Hire Drivers

1.2.3 Under Section 51 of the Local Government (Miscellaneous Provisions) Act 1976 a district council shall on the receipt of an application from any person for the grant to that person of a licence to drive private hire vehicles, grant to that person a driver's licence:

Provided that a district council shall not grant a licence—

- (a) unless they are satisfied that the applicant is a fit and proper person to hold a driver's licence; or
- (b) to any person who has not for at least twelve months been authorised to drive a motor car, or is not at the date of the application for a driver's licence so authorised.

A district council may attach to the grant of a licence under this section such conditions as they may consider reasonably necessary.

It shall be the duty of a council by which licences are granted in pursuance of this section to enter, in a register maintained by the council for the purpose, the following particulars of each such licence, namely—

- (a) the name of the person to whom it is granted;
- (b) the date on which and the period for which it is granted; and
- (c) if the licence has a serial number, that number,

and to keep the register available at its principal offices for inspection by members of the public during office hours free of charge.

1.3 Financial and Value for Money Considerations

- 1.3.1 Failure to comply with the Data Protection Act 1998 may lead to prosecution and fine.

1.4 Risk Assessment

1.5 Equality Impact Assessment

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.6 Recommendations

- 1.6.1 Members are requesting Council to approve the Licensing DBS Policy statement - for Tonbridge and Malling Borough Council in respect to Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information.

Background papers:

Nil

contact:
Leeann Leeds - 6368
Anthony Garnett – 6151

Adrian Stanfield
Director of Central Services and Monitoring Officer

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Tonbridge and Malling Borough Council Secure Storage, Handling, Use, Retention and Disposal of Disclosures and Disclosure Information

Policy Statement

General principles

As an organisation using the Disclosure and Barring Service (DBS) to help assess the suitability of an applicant to hold either a hackney carriage private hire or dual drivers licence, Tonbridge and Malling Borough Council (TMBC) complies fully with the DBS Code of Practice regarding the correct handling, use, storage, retention and disposal of disclosures and Disclosure information. TMBC also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of Disclosure information and has a written policy on these matters, which is available to those who wish to see it on request.

Storage and access

Disclosure information should be kept securely, in lockable, non-portable, storage containers and with access strictly controlled and limited to those who are entitled to see it as part of their duties.

Handling

In accordance with Section 124 of the Police Act 1997, Disclosure information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom Disclosures or Disclosure information has been revealed and it is a **criminal offence** to pass this information to anyone who is not entitled to receive it.

Usage

Disclosure information is only used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

Retention

Once a decision has been made, we do not keep Disclosure information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep Disclosure information for longer than six months, we will consult the DBS about this and will give full consideration to the data protection and human rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

Disposal

Once the retention period has elapsed, we will ensure that any Disclosure information is immediately destroyed by secure means, e.g. by shredding, pulping or burning. While awaiting destruction, Disclosure information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). We will not keep any photocopy or other image of the Disclosure or any copy

of representation of the contents of a Disclosure. However, notwithstanding the above, we may keep a record of the date of issue of a Disclosure, the name of the subject, the type of Disclosure requested, the position for which the Disclosure was requested, the unique reference number of the Disclosure and the details of the decision to grant a licence taken.

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

29 November 2016

Report of the Director of Central Service and Monitoring Officer

Part 1- Public

Delegated

1 REVIEW OF FEES AND CHARGES 2017/18 - LICENSING FEES

1.1 Executive Summary

1.1.1 The responsibility for setting the licensing fees and charges for 2017/18 is with the Licensing & Appeals Committee.

1.1.2 The review has been carried out by the Licensing and Community Safety Manager and the report sets out the recommended changes to the existing fee structure.

1.1.3 The levels of fees that may be charged for delivery of the licensing function are subject to a number of external constraints. For example,

(a) Fees for gambling licences have to be set within the parameters established by the law, and Tonbridge & Malling Borough Council's fees are already set at the maximum permissible levels.

(b) Fees for alcohol and entertainment licensing i.e. the Licensing Act 2003 are also fixed by the Government. These fees have not increased since the Act came into force.

This report therefore focuses on the fees to be charged for hackney carriage and private hire licensing, together with the other miscellaneous licences/ registrations handled by the licensing service.

1.1.4 A table showing the existing and proposed fees is attached as **Annex 1**.

1.2 Hackney Carriage & Private Hire

1.2.1 Fee levels for hackney carriage and private hire licensing are subject to various statutory controls. Whilst these controls provide the Council with some discretion as to the level of fee, the cost of a licence must be related to the overall cost of the licensing scheme itself.

1.2.2 Section 53 of the Local Government (Miscellaneous Provisions) Act 1976 provides that, in respect of hackney carriage and private hire drivers, the Council may

charge 'such a fee as they consider reasonable with a view to recovering the costs of issue and administration'.

- 1.2.3 For vehicle (both hackney carriage and private hire) and private hire operators' licences, fee levels are governed by s70 of the 1976 Act. This section allows the Council to charge such fees as may be sufficient in aggregate to cover in whole or in part –
- (a) the reasonable cost of carrying out inspections of hackney carriages/ private hire vehicles for the purpose of determining whether any such licence should be granted or renewed;
 - (b) the reasonable cost of providing hackney carriage stands;
 - (c) any other reasonable administrative or other costs in connection with the above and with the control and supervision of hackney carriage and private hire vehicles.
- 1.2.4 The Deregulation Act 2005 has increased the duration of the Operator's licence from 3 to 5 years and the proposed fee level is per vehicle.

Fee model

- 1.2.5 The fee model sheets for the main Taxi fee increase show officer cost and time in the validating, processing, issuing and enforcement cost where applicable. These sheets are shown as **Annex 2**.

Holders for plates

- 1.2.6 The cost for plate holders is not included in any plate costs and the fee charged is subject to manufacture pricing.

Other licensing & registration fees

- 1.2.7 A review has also been undertaken of the fees charged for a number of miscellaneous licences/ consents, including street trading, animal welfare and acupuncture/ tattooing etc. The proposed fees for 2017/18 are also contained in the table at **Annex 1**.

1.3 Legal Implications

- 1.3.1 As set out above.

1.4 Financial and Value for Money Considerations

- 1.4.1 As set out above.

1.5 Risk Assessment

- 1.5.1 The recommended fee levels have been calculated in order to ensure that the service remains self-financing, whilst at the same time not making a profit. This will minimise the risk of a challenge being made by a third party.

1.6 Equality Impact Assessment

- 1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.7 Recommendations

- 1.7.1 It is RECOMMENDED that the proposed scale of fees for licences, consents and registrations set out in Annex 1 of this report be adopted with effect from the 1 April 2017.

Background papers:

Nil

contact:

Anthony Garnett 6151

Adrian Stanfield

Director of Central Services and Monitoring Officer

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Licensing Fee Review for 2017/2018 – Recommended changes

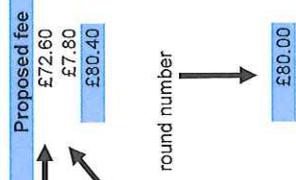
	Current Fee 2016/17	Proposed Fee 2017/18	Notes								
Driver licences											
Probationary Badge – Private Hire	40.00	45.00	A six month licence where the applicant has to work for one Operator								
Hackney Carriage/Private Hire Licence (3 years)	183.00	185.00	Applicants pay an additional fee of £44 for DBS check								
Dual Hackney Carriage/Private Hire Licence (3 years)	208.00	210.00	Applicants pay an additional fee of £44 for DBS check								
Additional DVLA check if required/original returned	6.00	6.00	£5 charged by DVLA – postage and admin								
Vehicle licences											
Hackney Carriage – (1 year) – New licence *	225.00	230.00	Plate holders not included in pricing (sold separately as required)								
Hackney Carriage – (1 year) – Renewal **	205.00	210.00									
Private Hire –(1 year) – New licence **	215.00	220.00									
Private Hire –(1 year) – Renewal **	205.00	210.00									
Private Hire – (6 months) New Licence for Probationary Drivers	107.50	110.00									
* Includes cost of plates and door insignia											
** Includes cost of plates											
Operator licences											
5 Year Licence – per vehicle	80	80	Deregulation Act changed duration to 5 years								
Transfer of vehicle licence											
Cost of renewal for a 1 year vehicle licence– months left on current plate -											
1	2	3	4	5	6	7	8	9	10	11	12
17	25	51	67	84	101	118	136	152	169	185	205

	Current Fee 2016/17	Proposed Fee 2017/18	Notes
Change of Ownership – same licensed vehicle	20	25	
Plate exemption certificate	42	42	
Insurance plates			
Hackney Carriage Vehicle (first month)	61	62	
Hackney Carriage Vehicle (for each additional month)	20	21	
Private Hire Vehicle (first month)	47	48	
Private Hire Vehicle (for each additional month)	17	18	
Administration charges			
General	40	40	
Transfer of vehicle - HCV to PHV or PHV to HCV	20	20	
Change of name and address / replacement paper or card licences	10.50	10.50	
Plates – (subject to manufacturer prices)			
Long External Licence Plate and holder	24.00	24.00	
Long External Licence Plate only	7.00	7.00	
Long External Licence Plate holder only	17.00	17.00	
Square External Licence Plate and holder	22.00	22.00	
Square External Licence Plate only	7.00	7.00	
Square External Licence Plate holder only	15.00	15.00	
Internal Plate and Holder	5.00	5.00	
Internal Plate only	2.50	2.50	
Internal Plate Holder only	2.50	2.50	
Door Insignia (per pair)	8.50	8.50	
Knowledge Test			
Attempting knowledge test	35	40	Reviewed admin

	Current Fee 2016/17	Proposed Fee 2017/18	Notes
Attempting knowledge test again after first failure	35	40	costs involved in test
Pleasure Boats and Boatmen			
Pleasure boats – 1 year (multi-seated)	165	165	
Pleasure boats – 1 year (other)	32	32	
Boatmen – 1 year	32	32	
Scrap Metal Dealers			
Scrap Metal – Mobile Collectors Licence (new and renewal)	275	280	
Scrap Metal –Site Licence	355	360	
Scrap Metal – Renewal of Site Licence	335	340	
Animal welfare licences			
Animal welfare/boarding	270	270	
Home Boarding licence	150	150	
Home Boarding licence renewal	50	50	
Breeding and sale of dogs	205	205	
Pet shop	260	260	
Riding establishments	350	350	
Dangerous wild animals	790	790	
Zoo	745	745	
Street trading consents - Tonbridge street Trading Control Area:			
Fixed pitch – annual consent	1255	1255	Street trading review across the Borough in 2017
Fixed pitch – occasional consent	325	325	
Other - annual consent	1150	1150	
Other - occasional consent	60	60	
Sex Establishments			
Sex Establishments: sex shop or sex cinema	2000	2000	

	Current Fee 2016/17	Proposed Fee 2017/18	Notes
Acupuncture, tattooing, ear piercing and electrolysis			
Acupuncture, tattooing, ear piercing and electrolysis (one registration only required)	170	170	
Additional practitioners at same premises	50	50	
Hypnotism licence			
Hypnotism licence	25	30	

Private Hire - Operators Licences	Officer rates per hour										total TMB	
	LM	LO	legal	COM	Fin	LM	LO	legal	COM	Fin		
LM LO Legal TMB Committee Fin												
telephone costs												
Documents cost												
Financial admin												
production of information												
documentation / awareness												
Assistance to applicant	0.025	0.075				£1.68	£2.40	£0.00	£0.00	£0.00	£4.09	4
Check information	0	0				£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	6
Pairing up garage documentation	0.0375	0.075				£2.52	£2.40	£0.00	£0.00	£0.00	£4.93	6
process application fee	0	0				£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	6
load application onto computer	0	0.05		0.025		£0.00	£1.60	£0.00	£0.00	£0.00	£1.60	6
Printplates / paper licence	0.025	0.075				£1.68	£2.40	£0.00	£0.00	£0.00	£4.09	6
contact applicant to clarify details	0.05	0.125				£3.36	£4.01	£0.00	£0.00	£0.00	£7.37	6
Office - overheads	0	0				£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	6
Cost of plates	0	0				£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	6
negotiation	0	0				£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	6
inspection visit	0	0				£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	6
Enforcement	0.185	0.185				£12.44	£5.93	£0.00	£0.00	£0.00	£18.37	6
determine application	0	0				£0.00	£0.00	£0.00	£0.00	£0.00	£0.00	6
sub total	0.3225	0.585	0	0	0	£21.68	£18.76	£0.00	£0.00	£0.00	£72.60	6
hearing to be arranged	1.8	0.5				£121.01	£16.03	£0.00	£0.00	£0.00	£137.04	6
determine application - Hearing	2.5	1	3	2.5		£168.08	£32.06	£219.00	£111.75		£530.89	6
notify relevant persons	0.5	0.5	0.03	0.03		£33.62	£16.03	£2.19	£1.34		£53.18	6
application granted	0.75	0.25				£50.42	£8.02	£0.00	£0.00		£58.44	6
update register		0.08				£0.00	£2.56	£0.00	£0.00		£2.56	6
hearing & Members allowance												
sub total						£394.81	£93.45	£221.19	£113.09		£779.54	6
application rejected - prepare for an appeal	20	2	12	1		£1,344.60	£64.12	£876.00	£44.70		£2,329.42	6
appeal hearing (1st Meeting / PTR)		0	13	0		£0.00	£0.00	£949.00	£0.00		£949.00	6
post appeal hearing		2.5	2	0		£0.00	£80.15	£146.00	£0.00		£226.15	6
total	25.8725	7.415	30.03	3.53		£1,739.41	£237.72	£2,192.19	£157.79		£3,504.57	6
						£389.77	£1,752.29					



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Agenda Item 8

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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Agenda Item 9

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT
INFORMATION**

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Agenda Item 10

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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