

TONBRIDGE & MALLING BOROUGH COUNCIL

LICENSING & APPEALS COMMITTEE

25 April 2016

Report of the Director of Central Services and Monitoring Officer

Part 1- Public

Delegated

1 CLASSIFICATION OF A FILM "FEAR ITSELF"

1.1 Executive Summary

1.1.1 The Licensing and Appeals Committee is asked to classify a film which is a documentary about horror cinema which is due to be shown at the Angel Centre, Tonbridge in May and June.

1.1.2 The film has not received a classification from the British Board of Film Classification (BBFC)

1.2 Background

1.2.1 Whilst the British Board of Film Classification (BBFC) performs a national film classification role, the Council, as a Licensing Authority, is the classification body for the public exhibition of films shown in the Borough by virtue of the Licensing Act 2003. As such the Licensing Authority has the right to classify films that are shown in premises licensed under the Act such as cinemas, hotels, clubs and public houses. A copy of the Guidance issued by the BBFC is shown at **Annex 1**.

1.2.2 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 of the admission of children (defined in the Act as "persons aged under 18") to the exhibition of any film to either the film classification recommended by the BBFC or, if the Licensing Authority does not agree with that recommendation, to such other classification recommended by the Licensing Authority.

1.2.3 A distributor of a film or other party may also appeal to the Licensing Authority against a decision of the BBFC and request that the Licensing Authority reclassifies the film for local screening. This is a very rare occurrence however procedures must be in place should a formal request be made. Charlie Lyne, the produce of the film "Fear Itself" has confirmed to me in an email that the film is aimed at adults and features a fair amount of violence. A copy of the email sent from Charlie Lyne is shown at **Annex 2**.

1.2.4 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.

1.2.5 Under the Act, 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

1.2.6 In terms of film exhibitions, 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. In such a case, evidence would have to be produced that a particular film would lead to crime and disorder.

1.2.7 The BBFC is an independent, non-governmental body funded through the fees it charges to those who submit films, videos, DVDs and digital games for classification. The BBFC classifies films intended for public exhibition on behalf of the local authorities that licence premises for that purpose under the Licensing Act 2003. The BBFC also classifies videos, DVDs and digital games under the Video Recordings Act 1984.

1.2.8 The Secretary of State's Guidance issued under Section 182 of the Licensing Act 2003, recommends that:

“Licensing authorities should not duplicate the BBFC's work by choosing to classify films themselves. The classifications recommended by the BBFC should be those normally applied unless there are very good local reasons for a Licensing Authority to adopt this role. Licensing Authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.”

Form to be completed by Members

1.2.9 Members have been invited to review the film in advance of the meeting. A copy of the review form to be completed by members of the Licensing and Appeals Committee is shown at **Annex 3**.

1.3 Legal Implications

1.3.1 As set out above

1.4 Financial and Value for Money Considerations

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

1.5 Risk Assessment

- 1.5.1 Without the correct film classification in place there is a risk that young people will view a film that is not suitable.

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 film "Fear Itself" be given a film classification of 18.

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