

Allerdale Borough Council

Licensing Panel – 15 February 2019

Application for Film Classification under the Licensing Act 2003

The Reason for the Decision	To consider and determine an application to classify a film.
Summary of options considered	To rate the film using the guidance contained in the report and classify the film for viewing in a premises where the premises licence has the ability to show a film.
Recommendations	It is recommended that the Panel view the film and come to a decision using the guidance document from the BBFC which can be found at Appendix A. Full reasons for the classification should be given as part of the decision.
Financial / Resource Implications	None
Legal / Governance Implications	None
Community Safety Implications	The protection of children from harm
Health and Safety and Risk Management Implications	None
Equality Duty considered / Impact Assessment completed	No
Wards Affected	All
The contribution this decision would make to the Council's priorities	N/A
Is this a Key Decision	No
Portfolio Holder	Councillor Joan Ellis
Lead Officer	Deborah Fletcher Licensing & Compliance Officer Tel: 0303 123 1702 Email: deborah.fletcher@allerdale.gov.uk

Report Implications

Community Safety	Y	Employment (external to the Council)	Y
Financial	Y	Employment (internal)	N
Legal	Y	Partnership	N
Social Inclusion	N	Asset Management	N
Equality Duty	N	Health and Safety	Y

Background papers:

Appendix A – BBFC Guidelines

1.0 Introduction

- 1.1 The Licensing Authority (subsequently referred to as the Council) is responsible for authorising the public exhibition of films.
- 1.2 Under section 20 of the Licensing Act 2013 (The Act), a mandatory condition is applied to all premises licences that authorise the exhibition of films. This mandatory condition relates to the restriction of the admission of children. The condition is as follows:
- The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made:
- a) by the British Board of Film Classification (BBFC) where the film has been classified by that board, or
 - b) by the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) of the Licensing Act 2003 applies to the film.
- 1.3 BBFC classifications for film exhibitions in cinemas are not legally binding in their own right, but become so under the mandatory condition which the Council are required to attach to premises licences and club premises certificates. The Council can override the BBFC recommendation as it remains ultimately responsible for determining access restrictions to film exhibitions in licensed premises.
- 1.4 The Licensing Authority may be requested to authorise a film that has already been classified by the BBFC where an independent party requests that the Licensing Authority re-classifies/authorises the film for local screening (with recommendations on age restrictions).

- 1.5 The Council when authorising films shall at all times take into account the Guidance issued under section 182 of the Licensing Act 2003 (the National Guidance).
- 1.5 Any authorisations for the exhibition of films issued by the Council shall only apply when the film is exhibited within the Borough of Allerdale. This does not affect the authorisation or recommendations in any other council area.

2.0 Application

- 2.1 The applicant is Keswick Alhambra Cinema, Keswick. The film in question is Mary Queen of Scots. The title has been rated by the BBFC as a 15 certificate. Keswick Alhambra Cinema are requesting children under the age of 24 months be admitted to the screening with their parents at a special screening of the film.
- 2.2 The BBFC classification scheme includes 6 standard 'certificates' for exhibitions.

U	Universal – Suitable for all 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	Suitable for 12 years and over Films classified 12A... 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.
15	Suitable only for 15 years and over No one younger than 15 may see a 15 film in a cinema.
18	Suitable only for adults No one younger than 18 may see an 18 film in a cinema.
R18	To be shown only in specially licensed cinemas, ... 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... <i>[N.B. Exhibition of R18 films requires a sex establishment licence]</i>

- 2.3 In line with the recommendations, under 18's may be admitted to U and PG rated films without restriction, and to 12A rated films if they are accompanied by an appropriate adult.
- 2.4 Parent and baby screenings have become increasingly common in recent years. The screenings allow parents or carers with very young children to watch films without needing to make childcare arrangements. Typically the screenings have lower sound levels and brighter ambient lighting than usual.
- 2.5 Keswick Alhambra Cinema have had two screenings where parents and carers were admitted with children. The two screenings were of Mary Poppins and Christopher Robin which were rated as U and PG respectively. The next session will be to show Stan and Ollie which is rated as a PG.
- 2.6 The parents and carers attending the previous sessions have requested film titles which have been rated by the BBFC as not suitable for children under the age of 15. The first request was A Star is Born (certificate 15) and more recently Mary Queen of Scots (certificate 15). Keswick Alhambra Cinema contacted the Council after the first request but have only decided to proceed with the request for a special screening of Mary Queen of Scots.
- 2.7 The 2003 Act, the statutory Home Office guidance, and the BBFC guidelines are all silent on babies and toddlers being present during the exhibition of films. The simplest interpretation of the mandatory condition is that any child aged 0-14 must be excluded from a 15 certificate film, and 0-17 from an 18 certificate film.

3.0 Policy Framework

- 3.1 When considering the application, the panel must give appropriate weight to:
- a) Statutory guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
 - b) The Council's Statement of Licensing Policy
 - c) The Licensing Objectives which are:
 - i) The Prevention of Crime and Disorder
 - ii) Public Safety
 - iii) The Prevention of Public Nuisance
 - iv) The Protection of Children from Harm

4.0 Key Points for consideration

- 4.1 The British Board of Film Classification (BBFC) is an independent body that makes recommendations on behalf of local licensing authorities for the classification of films. This then allows for that film to be shown throughout the UK in premises that are licensed for the exhibition of films.

- 4.2 The mandatory condition states that where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to be restricted in accordance with any recommendation made by a film classification body.
- 4.3 Licensing authorities can override a BBFC classification but that decision would only be valid in that local authority area.
- 4.4 Where a film has not been classified by the BBFC it is the responsibility of the licensing authority to do so. This is normally the case with locally made titles where the intention is only to release the film in one area.
- 4.5 The BBFC publish guidelines for their classification categories and consider matters including discrimination, drugs, imitable behaviour, language, nudity, sex, threat and violence.
- 4.8 The Licensing Authority may impose conditions and specific restrictions upon an authorisation where deemed necessary to comply with the licensing objectives.
- 4.9 The Protection of Children from Harm is the most relevant of the licensing objectives in relation to film exhibitions. Paragraph 2.22 of the National Guidance states:

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).

5.0 Options available to the Licensing Panel

- 5.1 The Panel must consider the application to classify the film known as Mary Queen of Scots for audiences under the age of 24 months if accompanied by an appropriate adult.
- 5.2 The overriding consideration should be the protection of children from harm. The Panel must consider this whilst seeking to ensure the film reaches the widest audience appropriate.

6.0 Recommendations

- 6.1 It is recommended that the Panel view the film and come to a decision using the guidance document from the BBFC which can be found at Appendix A. Full reasons for the classification should be given as part of the decision.

Deborah Fletcher
Licensing and Compliance Officer