

Allerdale Borough Council

Licensing Committee – 16 November 2017

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 Committee 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 licence 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 Where a film has not been classified by the BBFC it remains the responsibility of the licensing authority to do so.
- 1.4 The Council when authorising films shall at all time 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 and does not affect the authorisation or recommendations in any other council area.

2.0 Application

2.1 The applicant is Ben Brinicombe of 60 Curzon Street, Maryport. The film is called Definitive Therapy.

2.2 Mr Brinicombe submitted the application on 19 October 2017. The film has been given the following synopsis:

Hal Lewis is a psychiatrist specialising in the criminally insane. Hal gets the opportunity to work in one of the most infamous of secure Hospitals - Park Hill, located on the outskirts of the town of Blackwater. It is here that the dangerously insane criminal "Mr Punch" is incarcerated and after meeting with the mysterious Dr Angelus, Hal goes to meet Mr Punch for the first time.

Mr Punch is a cunning operator, somewhere between Hannibal Lector and The Joker. In their first therapy session, Mr Punch terrifies Hal and shows an unnerving level of knowledge about Hal's life.

Mr Punch quickly discovers that Hal bears a grudge against him for a heist he pulled in which Hal's favourite artist, Alan Whittier, was killed and all of his priceless works of art destroyed.

Over the course of a number of therapy sessions with Mr Punch, Hal finds the Therapy process being reversed and Mr Punch begins to have an increasing unwelcome influence on his life both inside and outside the Asylum. Other doctors have a strange, almost deferential relationship with Mr Punch, none more so than Judith Smith, a young doctor.

Hal decides that Mr Punch is evil and needs to be dealt with once and for all and convinces the other doctors that Mr Punch needs to undergo an intensive treatment. However, Hal's plans are thrown into confusion when Mr Punch gives him an original painting by Alan Whittier as an engagement gift.

Hal realises that Mr Punch may not have destroyed all the artwork after all and may instead have hidden them somewhere. There is a race against time for Hal to discover the location of the art work before Mr Punch undergoes life changing treatment and the location of the missing paintings is lost for ever.

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

Key Points for consideration

- 3.1 The British Board of Film Classification (BBFC) is an independent body that makes recommendations of 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.
- 3.2 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.
- 3.3 Licensing authorities can override a BBFC classification but that decision would only be valid in that local authority area. The title in question has not been considered by the BBFC.
- 3.4 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. 3.5The BBFC publish guidelines for their classification categories and consider matters including discrimination, drugs, imitable behaviour, language, nudity, sex, threat and violence. The category categories are:

U	Universal for all
PG	Parental Guidance – General viewing but some scenes may be unsuitable for young children
12A/12	Suitable for 12 years and over. No one younger than 12 may see a 12A film in a cinema unless accompanied by an adult
15	Suitable only for 15 years and over
18	Suitable only for adults
R18	To be shown only in specially licensed cinemas. Allerdale Borough Council do not have any specially licensed cinemas.

- 3.5 The film will be available to view at the meeting. It has been viewed by the Licensing and Compliance Officer and the following viewing notes are offered:

Time	Notes
00:00:40	Violence
Intro music missing	Currently being composed. Classical music to be used.
00:06:43	Violence
00:13:18	Language
00:15:54	Language
00:16:06	Language
00:17:15	Implied violence
00:19:19	Violence
00:19:30	Violence
00:27:43	Domestic violence
00:47:55	Language
00:48:04	Language
00:52:58	Language
00:53:02	Language
00:56:32	Language
01:02:00	Violence
01:02:50	Violence
01:08:50	Violence

- 3.6 It is recommended that the Panel use the British Board of Film Classification Guidelines as a reference point for its considerations concerning the access of children to the film. It should be noted that the Licensing Authority is not obliged to follow these guidelines, but where a deviation is considered there must be very good reasons for doing so. These Guidelines can be found at Appendix A.
- 3.7 The Licensing Authority may impose conditions and specific restrictions upon an authorisation where deemed necessary to comply with the licensing objectives.
- 3.8 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).

4.0 Options available to the Licensing Committee

- 4.1 The Committee must consider the application to classify the film work known as Definitive Therapy by Ben Brinicombe and give an age rating.
- 4.2 The overriding consideration should be the protection of children from harm. The Committee must consider this whilst seeking to ensure the film reaches the widest audience appropriate.
- 4.3 The classification categories mentioned in paragraph 3.5 are nationally understood and accepted so it is recommended that they should be used where possible. The Committee is not obliged to follow this recommendation should they find that an alternative age restriction would be more appropriate.

5.0 Recommendations

- 5.1 It is recommended that the Committee 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**