



PROCEDURE FOR FILM CLASSIFICATION

INTRODUCTION

Any premises exhibiting films to members of the public for the purposes of entertainment must ensure that access to that film is restricted in accordance with any age certificate or recommendation made by either a film classification body or by the licensing authority in which that premises is located.

The majority of films shown at premises in the UK will be certified by the BBFC on behalf of all local authorities. However, there may be some instances where certification is desired to be done by the Local Authority, for instance:

- Films without a BBFC certificate intended to be shown in a small number of locations;
- Art film's or amateur productions with a limited or one off showing;
- An old or cult film with an outdated certification/rating;
- Where a film is proposed to be shown to the cast, some of whom are under the certified age, such as at a premiere.
- Where a film with a BBFC rating is proposed to be shown in an edited form which may necessitate a different rating;
- Parent and baby screenings – where a film with a rating above PG is intended to be shown to parents or carers of babies and an offence would be caused by admitting the child, albeit the children cannot and will not actually watch the film.

This procedure applies where the Council is requested to classify a film for public exhibition from premises within the Borough of Hertsmere.

APPLICATION PROCESS

Applicants must pay the relevant fee and provide:

- A completed application form;
- A synopsis of the Film;
- Any history or background of the film and the themes it contains;
- Any certification given by any other authority in any other jurisdiction;
- The certification requested and the reason why;
- The measures that will be in place to control admission in line with the certification;
- A copy of the film or means for the Council to view it;

- Confirmation that they have copyright permission to exhibit the film.

Copy of the Film

The film must be provided in a format capable of reasonably being viewed by the Council. This may be DVD, Blue-Ray or digital format. Applicants should either agree with the Council the format the film will be provided in and consider that potential displays can occur as the Council will not necessarily have all technology solutions instantly available to. The applicant may be required to arrange for the film to be viewed at the location the film intends to be exhibited at.

The copy to be viewed by the Council:

- Must be in English or with English Sub-titles;
- Must contain an on-screen title within the body of the work. If the work does not include a title by design, then a title slate or menu must be placed before the start of the disc;
- Must be the exact version of the film to be shown from start to finish;
- May contain security markings, such as a watermark, are acceptable provided they do not inhibit the viewing and assessment of the film.

The applicant must confirm the format that will be used to exhibit the film, explain any difference between that format and that provided to the Council.

Foreign language films

Films that are submitted for classification that are either partly or entirely in a foreign language must contain a subtitled track for all non-English speaking sections.

The applicant should confirm the source of the subtitles to warrant for their accuracy. If there is any doubt the applicant will be required to pay the costs of an independent interpreter – this could delay the film being certified by the time it is due to be shown.

Editing films/Scene Cutting

The Council shall only view and rate the footage provided to it. It will not make recommendations as to the effect of any scenes being cut. If an applicant is seeking a lower rating than that given by the Council, the BBFC or that their own assessment indicates, the applicant should provide an edited version of the films themselves that meets the required standard first.

GUIDELINES FOR RATING FILMS AND CERTIFICATIONS USED

The Council shall adopt and apply the BBFC guidelines when making a decision on the rating of film. The ratings that may be given are:

U -	Suitable for all
PG -	Parental guidance
12A-	Cinema release suitable for 12 years and over
15 -	Suitable only for 15 years and over
18 -	Suitable only for adults

Officers will apply the BBFC guidelines to the best of their ability and seek to make the same decision that would be made by the BBFC. Officers will not depart from those guidelines when making their recommendation or decision. Where a decision is to be made on the recommendation of the Licensing Committee or one of its sub-committees the decision may depart from the guidelines as the Council's complete discretion.

R18 Certificates

The BBFC guidelines also contain an R18 certification for explicit works. The Council will not view or rate any film requiring this type of certification for three reasons; firstly the lack of expertise in being able to judge the material in line with the legal requirements of what is acceptable. Secondly, such material could cause harm, disturbance or offence to any officer viewing the film and the Council must observe its duty of care to its employees. Thirdly, there are no premises currently licensed in the Borough who are permitted to exhibit such a film.

Any person wishing for an R18 certificate to be given to a film and believes they have good reason for the Council to depart from the above statement may submit a written request, with reasons, to the Council.

REQUESTS TO DEPART FROM A BBFC CERTIFICATION

The Council respects the independence and knowledge of the BBFC and therefore presumes that any certification given by it to a film is correct. An alternative classification may be appropriate in instances such as where the film is to be shown to students who are only a year younger than the certification, where parents or carers have consented and teachers are on hand to provide support and guidance in relation to the content of the film.

Applicants will be required to state the reasons for the departure from the BBFC certificate and any additional measures in place to protect Children from harm.

A request to provide an alternative classification (i.e. to permit persons under a certain age to view a film that the BBFC consider unsuitable for them) will be treated with care.

For this reason decisions will be made by the Head of EHLR following the recommendation of a Film Classification Panel.

Departure from BBFC guidelines is likely only to be warranted where there is additional assurance by the applicant as to the measures in place to protect For instance where the intended audience is close to the certification age, or the intended audience has been involved in the production of the film and understand the work is fictional.

Where the premises hold a premises licence the decision may be that the showing would promote the licensing objectives if certain conditions were imposed on the premises licence and caveat any certification to that end. The applicant would then be expected to take steps to amend their premises licence.

These decisions will be made in line with the Council's duties under the Licensing Act 2003 having regard to its statement of licensing policy and the Secretary of state's section 182 guidance.

HOW DECISIONS WILL BE MADE

Requests will be split into 3 categories and will determined by the Head of EHLR upon the recommendation of Council Officers or a Film Classification Panel (FCP).

Request Type	Recommendation by
Film not classified by the BBFC	Officers
Film with a BBFC classification	FCP
Appeal against a decision	FCP

This is further detailed below.

DECISIONS THAT WILL BE BASED ON OFFICER RECOMMENDATION

These decisions will predominantly relate to films that have not been released commercially or widely in the UK, such as foreign language films. The aim in viewing the film is to give it the most appropriate certification to protect children from harm using the BBFC guidelines.

Process Overview

1. Upon receipt of a completed request the Head of Environmental Health, Licensing and Resilience (EHLR) shall delegate 2 Officers to view the film.
2. The Officers shall view the film and write a report giving a recommended classification to the Head of EHLR who shall make a determination.
3. The Applicant will be notified of the decision and sent the formal certification;

4. The decision will be recorded and notified to the chair of the licensing committee as soon as reasonable after the decision has been made and notified to the Licensing Committee at its next meeting.

Where the Head of EHLR disagrees with the Officer recommendation

If the Head of EHLR disagrees (or is otherwise not satisfied) with the initial recommendation they may re-direct it back to the Officers to reconsider; appoint 2 other officers to review the film; review the film themselves and consult with any other person including the Council's head of legal, the chair of the licensing committee or the Licensing Committee itself.

The Head of EHLR may repeat the above process as many times as possible until satisfied with the certification to be given.

An appeal may be made against this decision within 7 days to be determined by a Film Classification Panel.

DECISIONS THAT WILL BE MADE BY A FILM CLASSIFICATION PANEL

A Film Classification Panel (FCP) shall make a recommendation on all films where there has been an appeal or where an applicant requests that the Council overrides a certification given by the BBFC. By its nature such a request can significantly undermine the licensing objective of the protection of children from harm. For this reason the decision will be made by the FCP.

A Film Classification Panel (FCP) shall be made up of at least two members of the licensing committee (one of whom will either be the chair of the committee, the vice chair or, if neither are available, a member nominated by the chair), and any other Officer the Head of EHLR may nominate.

An FCP shall normally be organised within 20 working days of receipt of a validated request. The FCP's role is to recommend a certificate rating to the Head of EHLR.

How the decision will be made

1. The FCP will be appointed to consider an officer report outlining the film to be certified and the reasons surrounding the request.
2. A viewing of the film will be arranged for the FCP to consider the film. The panel may view the film separate to each other and communicate via electronic means where appropriate.
3. The FCP will be permitted to question the officer writing the report in relation to its content and the BBFC guidelines.
4. The panel will make its recommendation with the overriding need to promote the licensing objective to protect children from harm.
5. The Head of EHLR shall certify the film in line with the FCP recommendation.

APPEALS

Any person aggrieved by a certification given to a film may appeal to the Head of EHLR in writing within 7 days of being notified of a decision. The applicant must pay a fee to appeal the decision which shall be refunded if the appeal is upheld by the committee. Decisions on appeal shall be made by a Film Classification Panel.

The applicant must submit sufficient written reasons explaining why the FCP recommendation was wrong and an alternative classification should apply. The Head of EHLR shall consult the Chair of the Licensing Committee to determine if an appeal should be allowed.

Appeals against the recommendation of a FCP may be accepted in exceptional circumstances. Appeals against an FCP are expected to be rare and not a mechanism simply to ask for a different opinion. A further FCP will be convened to determine the appeal if allowed.

RELEVANT TIMESCALES

An application and the means to view the film must be provided to the Council at least 20 working days prior to the expected showing. The Council cannot guarantee that it can process and make a decision with less than 20 working days' notice due to the need for certain Officers and resources to be available. In some instances an expedited process may be available but no application with less than 5 working days' notice will be processed.

An application will not be deemed to have been made until the Council has been provided with all required documents and a copy of the film.

Whilst the Council provides an appeal route for any one aggrieved at the certification given, this will take much longer. Applicants seeking to override a BBFC classification or who are not certain whether the certificate they require will be given, should consider applying well in advance of 20 working days to allow sufficient time for a decision to be made.

Time Limit for Decision

The Council will make a decision within 20 working days unless otherwise agreed with an applicant. Where less than 20 working days' notice is given or an expedited decision is requested the Council will endeavour to give a decision within that timescale.

EXPEDITED DECISIONS

Where a request is made for a decision to be given within a certain time scale (i.e. when the date of a showing has been set or an expedited decision has been requested) the Head of EHLR will issue a certificate for the highest rating that can be agreed between the Head of EHLR and the officers viewing the film.

For instance if the Officer recommendation is that the film is PG but agree with the Head of EHLR that it is no higher than a 12A, the film may be given the 12A certification.. This is notwithstanding that the head of EHLR may, if allowed time for further review or consultation, have agreed the lesser rating.