



MISCELLANEOUS LICENSING SUB-COMMITTEE

DATE:	Monday, 10 October 2022
TIME:	10.00 am
VENUE:	Connaught Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor V Guglielmi (Chairman)
Councillor Coley (Vice-Chairman)
Councillor Casey

Councillor Davis
Councillor J Henderson

Most Council meetings are open to the public and press. The space for the public and press will be made available on a first come first served basis. Agendas are available to view five working days prior to the meeting date and the Council aims to publish Minutes within five working days of the meeting. Meeting papers can be provided, on request, in large print, in Braille, or in other languages.

This meeting will not be filmed by the Council for live and/or subsequent broadcast on the Council's website.

If you have any queries contact Keith Durran Email: Kdurran@tendringdc.gov.uk or Telephone on 01255 686585

DATE OF PUBLICATION: Friday, 30 September 2022

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 1 - 4)

To confirm and sign as a correct record, the minutes of the last meeting of the Sub-Committee, held on Tuesday, 31 May 2022.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

4 Exclusion of Press and Public

The Sub-Committee is asked to consider passing the following resolution:

“That under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of Agenda Items 6, 7 and 8 on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A, as amended, of the Act.”

5 Report of Assistant Director, Governance and Legal B.1 - Application for the Grant/Renewal of a Hackney Carriage/Private Hire Drivers Licence (Pages 5 - 36)

To enable the Sub-Committee to consider an application for the grant of a Hackney Carriage/Private Hire Driver's Licence where the applicant has submitted medical certificates containing different information following the refusal of a renewal with an unfit medical.

6 Report of Assistant Director, Governance and Legal B.2 - Application for the Grant/Renewal of a Hackney Carriage/Private Hire Drivers Licence (Pages 37 - 42)

To enable the Sub-Committee to consider a request from an applicant to allow for a lapsed Hackney Carriage Driver's licence to be applied for on a grant basis without the need to carry out the suitability and knowledge test including the disability and driver assessment.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Miscellaneous Licensing Sub-Committee is to be held at time and date still to be confirmed.

Information for Visitors

FIRE EVACUATION PROCEDURE

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the room and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

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**MINUTES OF THE MEETING OF THE MISCELLANEOUS LICENSING SUB-COMMITTEE,
HELD ON TUESDAY, 31ST MAY, 2022 AT 10.00 AM
IN THE ESSEX HALL - TOWN HALL, STATION ROAD, CLACTON-ON-SEA, CO15
1SE**

Present:	Councillors V Guglielmi (Chairman), Coley (Vice-Chairman), Casey and Davis
In Attendance:	Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Michael Cook (Licensing Manager), Emma King (Licensing Officer), Debbie Bunce (Legal and Governance Administration Officer) and William Lodge (Communications Manager)

9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor J Henderson with no substitution.

10. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Sub-Committee held on 4 May 2022 were approved as a correct record and signed by the Chairman.

11. DECLARATIONS OF INTEREST

There were none.

12. REPORT OF ASSISTANT DIRECTOR, PARTNERSHIPS - A.1 - APPLICATION FOR THE GRANT OF PERMISSION TO SHOW AN UNCLASSIFIED FILM

The Sub-Committee had before it a report (A.1), which advised it of an application submitted by Michael Offord of The Electric Palace, Harwich, on behalf of Thomas Laurance, an Independent Film Maker for the grant of permission to show the public a full length film that had not been classified by the British Board of Film Classification.

The Sub-Committee was informed that The Electric Palace, Harwich had been closed for a number of years but, after working in partnership with Historic England and The National Lottery Heritage Fund the long running repair and restoration project had been completed, and the cinema was now open again.

It was considered that, by assisting the cinema in providing this classification service at a cost neutral fee, the Council, would be helping to promote and support the town, the District, the local tourist and leisure industries, and the work of local independent filmmakers. In addition, the Electric Palace, Harwich was a special, local venue that provided a diverse range of film and entertainment that was not always catered for by other, more mainstream venues and which attracted visitors into Harwich as a result.

The Electric Palace was therefore an important destination and venue for Tendring's tourist and leisure industry.

Members were advised that this application for permission to show an unclassified film sought to rely on Home Office Circular 98/1982 and Section 1(2) of the Cinemas Act 1985 (in addition to Section 20 of the Licensing Act 2003).

Unfortunately, the Licensing Team had not been able to locate the circular as the Home Office had now archived this. However, the Cinemas Act 1985 had been repealed by the Licensing Act 2003 in respect of England and Wales and therefore, was only in force for Scotland.

The Sub-Committee was made aware that public exhibition of films upon licensed premises must either be classified by the British Board of Film Classification or authorised by the local Licensing Authority under the powers of the Licensing Act 2003.

Paragraph 2(1)(b) of Schedule 1 of the Licensing Act 2003 defined the exhibition of a film as the provision of entertainment regulated in accordance with the Act.

Section 20(3) of the Licensing Act 2003 required that:

“Where—

- (a) the film classification body is not specified in the licence, or
- (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.”

Therefore, the admission of children to the public screening of material unclassified by the British Board of Film Classification was subject to authorisation by the local licensing authority in accordance with the powers of the Licensing Act 2003.

In considering whether to authorise the requested exhibition, the Sub-Committee was advised that it should also have regard to the Licensing Act 2003 objectives, which were:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

The Sub-Committee was made aware that the most relevant licensing objective in respect of the exhibition of films was the protection of children from harm.

Members were also informed that, in carrying out its licensing functions, the licensing authority, when authorising film(s) had, at all times, to take into account the Guidance issued under section 182 of the Licensing Act 2003. The parts of the Guidance of particular relevance to this application were:-

- 2.30 The protection of children from harm
- 10.17 Censorship

- 10.59 and 10.60 Exhibition of films.
- 14.55 Children and Cinemas

It was recommended by Officers that the Sub-Committee used 'The British Board of Film Classification Guidelines' as a reference point for its considerations concerning the access of children to the film(s). In particular, the 'General Classifications Considerations' section of that Guidance was particularly helpful to the Sub-Committee.

The Sub-Committee was aware that the Licensing Authority could impose conditions and specific restrictions upon an authorisation where it was deemed necessary in order to comply with the licensing objectives.

Members were reminded that the Licensing Act 2003 dealt with the exhibition of films as regulated entertainment and that there was a mandatory condition imposed on all licences that permitted the exhibition of films, which required that the recommendations of the British Board of Film classification (BBFC) were followed in respect of the admission of children. However, the licensing authority could give permission for a film that was not classified by the BBFC to be shown, provided the Authority's own requirements were followed by the licence holder.

Arrangements had been made for Members to view the film prior to the Sub-Committee's meeting.

A summary of the film was attached to the report at Appendix B. A member of the Council's Licensing Team had viewed the film and had confirmed that the synopsis was accurate. It was the opinion of the Licensing Team Member that the film should be classified as 12A. This suggestion was made in accordance with the BBFC guidelines, as attached as Appendix D to the Report.

The Sub-Committee was aware that the BBFC was an independent body that classified films, trailers and advertisements on behalf of local authorities who licensed cinemas. Its guidelines set out the classification categories, including the factors that determined which classification a film could be given. Those guidelines were attached to the report for information.

In addition, paragraphs 6.8, 6.9 and 6.10 of Tendring District Council's Statement of Licensing Policy related to Film Exhibitions and the promotion of the protection of children from harm.

It was reported that the film in question had previously been shown at the Leeds Film Festival in November 2021. The Council's Licensing Officers had contacted Leeds City Council's Licensing Department for information on any classification that they had allocated to the film.

In response, Leeds City Council had confirmed that their Licensing Sub-Committee had awarded the appropriate classifications to a total of 134 films to be screened as part of the Leeds International Film Festival. Of those films the Licensing Authority had been provided with advance screeners for three only, requesting classifications less than 18.

The remaining films, including 'On Our Doorstep', had been classified 18 rating in accordance with their policy in which if the advance screening of a film was not

available, then Leeds City Council's Licensing Sub-Committee was required to classify them as an 18 rating.

The Chairman asked Mr Offord if he had any representations to make to the Sub-Committee regarding the classification of the Film. Mr Offord stated that the 12A classification which had been suggested was what he would have expected the film to be granted. He further explained that the film had been produced by a local filmmaker from Harwich and that the Electric Palace wanted to support him. The film was due to be shown as part of Refugee Week on 19th June 2022. The film had been shown at a number of other film festivals across the country.

Members were then invited to ask Mr Offord questions and he was asked by a Member why the film had not been classified as a documentary. He explained that, in order for the Electric Palace to be able to show the film, it had to be classed as a film and therefore it had to obtain a classification. He explained that a film classified as 12A would mean that parents would make the decision as to whether the film was suitable for a 12 year old.

Members asked if the film was likely to be shown in schools and Mr Offord said that Mr Laurance was in discussions with the local secondary school in Harwich.

Following discussion, it was moved by Councillor Coley, seconded by Councillor Casey and:-

RESOLVED that the application be approved and that the film be classified as 12A.

13. EXCLUSION OF PRESS AND PUBLIC

It was moved, seconded, and:-

RESOLVED – That under Schedule 100a(4) of the Local Government Act 1972, the public be excluded from the meeting for the item of business to be considered below on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act:-

Exempt Minutes of the meeting of the Miscellaneous Licensing Sub-Committee held on 4 May 2022.

14. EXEMPT MINUTES OF THE LAST MEETING

The exempt minutes of the meeting of the Sub-Committee held on 4 May 2022 were approved as a correct record and signed by the Chairman.

The meeting was declared closed at 10.28 am

Chairman

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of the Local Government Act 1972.

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