

## PREMISES/PERSONAL LICENSING SUB-COMMITTEE

10 MARCH 2023

### REPORT OF ASSISTANT DIRECTOR (GOVERNANCE & LEGAL)

#### A.1 APPLICATION FOR THE GRANT OF PERMISSION TO SHOW UNCLASSIFIED FILM

##### PURPOSE OF THE REPORT

To determine a request for the licence holder to show to the public a number of short films that has not been classified by the British Board of Film Classification.

The request to show the short films has been made by Michael Offord of Electric Palace Harwich. The films would be shown at the Electric Palace Harwich towards the end of March 2023.

##### SUMMARY

The Electric Palace Harwich gives the opportunity to local film makers to show their films to the public by holding The Harwich Short Film Festival. The Electric Palace Harwich want to support local and regional talent and, as an exhibitor of films, the best way they feel this can be achieved is to provide an opportunity for Essex based creatives to show their films to new audiences. However, one of the major difficulties facing short film makers is the cost of obtaining BBFC classification.

The films submitted by The Electric Palace Harwich have been arranged by two separate organisations, namely Short Film Festival and The Essex Film Collective.

The short film circuit is how most up and coming filmmakers cut their teeth in the industry and is a hot bed for emerging talent. However most short films are entirely self-funded, difficult to screen and rarely generate income.

The Essex Film Collective is a network of Essex based professionals who work across all areas of film and TV. They provide support and opportunities for film makers in Essex and to help people connect within the county. They aim to help grow Essex's reputation as a thriving hub for independent Film and TV. The films submitted by the Essex Film Collective are designed to showcase the breadth of talent currently at work within our county and include films submitted by at least one Tendring based film maker.

By assisting the cinema in providing this classification service at a cost neutral fee, the Council through its Premises / Personal Sub-Committee is helping to promote and support the town, the District, the local tourist, leisure industries, and the work of local independent filmmakers. In addition, the Electric Palace Harwich is a special venue locally and provides for a diverse range of film and entertainment that is not always catered for by mainstream venues and which attracts and brings visitors into Harwich as a result. The theatre is therefore always an important destination and venue for Tendring's tourist and leisure industry.

## **SUPPORTING INFORMATION**

Mr Offord and the individual film producers have not requested the films to be classified by the British Board of Film Classification (BBFC) as the cost would make the project impossible. To classify a film for theatrical showing with the BBFC would cost over £1,000.

As the films which Mr Offord wishes to screen do not have the benefit of a certificate, the consent of the Council is required before the films can be shown.

The public exhibition of films upon licensed premises must either be classified by the British Board of Film Classification or authorised by the Licensing Authority under the powers of the Licensing Act 2003.

Should the Premises / Personal Sub-Committee be minded to recommend the granting for the films to the Assistant Director (Governance), then it may wish to suggest a suitable classification. To assist Members, the British Board of Film Classification [BBFC] Guidelines are attached at Appendix A.

Mr Offord has informed the Licensing Authority that some of the content in the films include Strong Adult themes – for example nudity, swearing, self-harm, drug misuse and murder. They are clearly not all suitable for younger audiences.

Mr Offord confirmed that as a cinema, enforcing the application of these restrictions is something that they undertake on a weekly basis. All of their staff and volunteers are appropriately trained and experienced in ensuring that only those that are old enough, are admitted to the screenings. Mr Offord has included a copy of the cinema safeguarding policy for information. Appendix B

The Licensing Act 2003 deals with the exhibition of films as regulated entertainment. There is a mandatory condition imposed on all licences that permit the exhibition of films, which requires that the recommendations of the British Board of Film classification (BBFC) are followed in respect of the admission of children. However, the licensing authority may give permission for a film that is not classified by the BBFC to be shown, provided the authority's own requirements are followed by the licence holder.

To ensure that the films are not available to the public for viewing until such time that the classifications have been approved; arrangements have been made for Members to view the films prior to the Premises / Personal Sub-Committee Meeting on 10 March 2023.

A summary of each of the films is attached at Appendix C. A member of the Licensing Team has viewed the films and confirms that the synopsis for each film is accurate. It is of the opinion of the Licensing Team Member that the films should be classified as listed in the Appendix. These suggestions have been made in accordance with the BBFC guidelines.

The BBFC is an independent body that classifies films, trailers and advertisements on behalf of local authorities who license cinemas. Its guidelines set out the classification categories, including the factors that determine which classification a film may be given. These guidelines are attached to the report for information.

Policy Guidelines Paragraphs 6.8, 6.9 and 6.10 of Tendring District Council's statement of licensing policy relates to Film Exhibitions and the promotion of the protection of children from

harm. See Appendix D

### **FINANCE, OTHER RESOURCES AND RISK**

Officers have taken into consideration the various costs to cover the work that is involved in dealing with this application including the production and printing of the covering Sub-Committee report and have invoiced Mr Offord £315 which is considered a fair, reasonable and proportionate amount that will enable the Licensing Service to recover its costs for the work that it has done on a cost neutral basis and is in accordance with the provisions made under Section 3 of the Localism Act 2011.

### **COUNCIL'S ADOPTED GUIDELINES AND LEGISLATION**

The application to Granting Permission to show Unclassified Films at Electric Palace Harwich was seeking 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 has not been able to locate the circular as the National Office has archived this. However, the 1985 Act was repealed by the Licensing Act 2003 in respect of England and Wales and therefore, is only in force for Scotland.

The public exhibition of films upon licensed premises must either be classified by the British Board of Film Classification or authorised by the Licensing Authority under the powers of the Licensing Act 2003.

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

Section 20(3) of the Licensing Act 2003 requires 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 is subject to authorisation by the licensing authority in accordance with the powers of the Licensing Act 2003.

When considering whether to authorise the exhibition, the Premises / Personal Sub-Committee should have regard to the Licensing Act 2003 objectives, which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and

- The protection of children from harm.

The most relevant licensing objective in respect of the exhibition of films is the protection of children from harm.

In carrying out its Licensing functions, the licensing authority when authorising film(s) shall at all times take into account the Guidance issued under section 182 of the Licensing Act 2003. See Appendix E. The parts of the Guidance of particular relevance to this application are:

- 2.30 The protection of children from harm
- 10.17 Censorship
- 10.59 and 10.60 Exhibition of films.
- 14.62 Children and Cinemas

It is recommended that the Sub-Committee use '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 this Guidance may be helpful to the Sub-Committee.

The Licensing Authority may impose conditions and specific restrictions upon an authorisation where deemed necessary to comply with the licensing objectives.

#### **RECOMMENDATION(S)**

The Sub-Committee is requested to:

- a) In accordance with the Council's Constitution, recommend to the Assistant Director (Governance) the screening of an unclassified film subject to Council officers viewing the film and imposing an appropriate age restriction, if any, having regard to the British Board of Film Classification guidelines;
- OR
- b) refuse permission to screen an unclassified film.

Whilst there is a general provision for appeals in relation to the conditions placed on Cinema Licences, there is no right of appeal in respect of this decision.

**APPENDICES**

Appendix A	-	BBFC Guidelines
Appendix B	-	Electric Palace Safeguarding Policy
Appendix C	-	Film Summaries
Appendix D	-	Extracts of the Licensing Act 2003 Policy
Appendix E	-	Extracts of the S.182 Guidance

**REPORT CONTACT OFFICER(S)**

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