



<b>Decision Maker:</b>	Councillor Matthew Green, Cabinet Members for Business, Licensing and Planning
<b>Date:</b>	14 December 2021
<b>Classification:</b>	Open
<b>Title:</b>	Film Classification
<b>Wards Affected:</b>	All
<b>Key Decision:</b>	To formalise the Film Classification Procedure and Implement a fee structure.
<b>Financial Summary:</b>	Fees to be set
<b>Report of:</b>	Director of Public Protection and Licensing

## 1.0 Executive Summary

1.1 Westminster City Council is the Licensing Authority under the provisions of the Licensing Act 2003 (the Act). A function of the Licensing Authority under the Act is to receive, consider and determine applications for Premises Licences or Club Premises Certificates. The Act regulates various activities (known as licensable activities or in the case of a private club operating pursuant to a Club Premises Certificate, qualifying club activities). Those activities include the provision of regulated entertainment.

1.2 The Act seeks to promote 4 licensing objectives. These are:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

1.3 Schedule 1 of the Licensing Act 2003 sets out what activities are regarded as the provision of regulated entertainment. The description of entertainment activities licensable under the Act include the exhibition of film. To be licensable, an activity needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

- Take place in the presence of a public audience, or

- Where that activity takes place in private, be the subject of a charge made with a view to profit.
- 1.4 All premises licences that permit regulated entertainment in the form of the exhibition of films have a mandatory condition attached to it relating to the admission of children to that premises. Children under the Licensing Act 2003 are defined as anyone under the age of 18. The mandatory condition is a requirement under Section 20 of the Licensing Act 2003. The mandatory condition reads as follows:
- “Admission of children to the premises must be restricted in accordance with the film classification recommended by the British Board of Film Classification or recommended by this licensing authority as appropriate.”*
- 1.5 When considering any film which has been put forward for a classification, the Licensing Authority will consider it in terms of how the exhibition of this film will impact on the licensing objectives, namely the protection of children from harm. This will apply to any films that have been put forward for a classification that will allow children to watch it. There are seven classification tiers (U, PG, 12, 12A, 15, 18 & R18) relating to what age a child may be permitted to watch the film on their own or whether there should be any parental or adult supervision.
- 1.6 The Licensing Authority nominates the British Board of Film Classification (BBFC) as its standard classification body for films. However, the Licensing Authority is ultimately responsible for film classifications relating to the exhibition of films within Westminster and has the power to classify films. When classifying any film, the Licensing Authority will have regard to the BBFC Guidelines which can be found at Appendix 1.
- 1.7 There are specific factors that may influence a classification decision such as:
- Discrimination
  - Drugs
  - Imitable behaviour
  - Language
  - Nudity
  - Sex
  - Threat
  - Violence
- 1.8 The impact of these factors in regard to each classification is detailed within the BBFC guidelines attached at Appendix 1.
- 1.9 In an average year before the pandemic, the Licensing Authority would receive over 20 feature length film classification requests. A feature-length film is a film with a running time of over 20 minutes long. Some of these requests received by the licensing authority can be over 3 hours long.
- 1.10 Westminster also hosts over 20 film festivals per year. Film festivals are made up of multiple films, both feature and short in length. These festivals can contain well over 150 films to be shown during the festival, some of which can be spread out over a range of dates and venues. The majority of the films for exhibition at these film festivals have not

been classified by the BBFC classification process and require classification by the Licensing Authority.

- 1.11 As a result, the Licensing Authority already operates its own film classification process. However, there is currently no fee charged for providing a film classification.
- 1.12 The Licensing Authority proposes to introduce a fee scheme run on a cost recovery basis and as a result is not intended to impact upon community-run events. The fees charged will cover the costs associated with the film classification process. A full break down of costs can be found at Appendix 3. It is anticipated that nearly £25,000 could be generated through this fee scheme. This is something which many other local authorities already do.
- 1.13 It is also proposed to introduce appropriate deadlines when applying for a film classification. The Licensing Authority proposes that film classifications are received to it at least 4 weeks (28 days) before the date of a film screening for individual film classification requests, and at least 6 weeks before the date of any film festival. Any late submissions will be considered on a case-by-case basis. However, it is likely that requests will be refused based upon the impact it will cause on the workload of the Licensing Service.

## **2.0 Background**

- 2.1 The current process requires all classification requests to be submitted to the Licensing Authority with suggested age classifications from the film maker. All requests are dealt with by a Senior Licensing Officer who assesses the film based on the synopsis provided by the applicant, their own research into the film and by viewing the film.
- 2.2 The processing officer will follow the guidelines set out by the BBFC which are explained in more detail in section 1 of this report. The officer's aim is to always protect children and vulnerable adults from potentially harmful or unsuitable content.
- 2.3 A minimum of a 4 weeks' notice period is required by the Licensing Authority to consider a film for classification. However, as this is not a formal process advertised by the Licensing Authority, acceptance of late classification requests is decided upon by the Licensing Team Manager on a case-by-case basis, subject to the availability of the team.
- 2.4 Numerous hours of officer time is spent classifying these films and it is an application process that the Licensing Authority does not currently recover the costs for. Since April 2019, over 260 hours of officer time has been dedicated to the classification of films. This is the equivalent of around £25,000 of officer time spent to support this free classification service.

## **3.0 Financial Implications**

- 3.1 The statutory authority for charging reasonable costs falls within section 93 of the Local Government Act 2003. Details on the act can be found at Appendix 5.

3.2 By introducing a fee for the classification of films, the Licensing Service is proposing to recover for officer time and other associated costs. It is estimated the level of income earned will be approximately £25,000 per annum.

#### **4.0 Legal Implications**

4.1 Whilst the actual classification of films under Section 20 of the Licensing Act 2003 is a Council side function, the fee setting element under Section 93 of the Local Government Act 2003 is an Executive side function. The Council therefore has a discretionary power to charge for such film classifications as outlined above.

4.2 Regard has been had to the Council's Public Sector Equality Duty contained in Section 149 of the Equality Act 2010.

#### **5.0 Equalities Implications**

5.1 The council must have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

5.2 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

5.3 The council believes that these proposals do not adversely impact or unlawfully discriminate against any protected characteristics.

#### **6.0 Decision**

6.1 The Cabinet Member for Business, Licensing and Planning agrees to adopt the film classification process outlined and has agreed the reasonable costs to cover the classification process.

6.2 The fee charged to the applicant will be based on the following criteria as shown in appendix 3:

- The length of the film submitted is based on a Band 3.5 officer minute rate.
- The application fee is based on a Band 3.5 officer hourly rate.
- The appeal classification, where the applicant is requesting the film to be re-classified will be referred to the Team Manager and will be charged based on band 4.4 (Team Manger minute rate).

## 7.0 Appendices

<b>Appendix 1</b>	BBFC Guidelines
<b>Appendix 2</b>	Application form
<b>Appendix 3</b>	Proposed Fees
<b>Appendix 4</b>	Proposed Process
<b>Appendix 5</b>	Section 93 of the Local Government Act 2003.

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City of Westminster

LICENSING TEAM – 020 7641 6500 / [licensing@westminster.gov.uk](mailto:licensing@westminster.gov.uk)  
APPLICATION FOR A FILM CLASSIFICATION

I/We \_\_\_\_\_  
[Insert Applicant/Festival Name(s)]

Hereby apply to the licensing authority to classify a film to be shown within Westminster that is not currently classified; or to reclassify a film already classified by the BBFC.

TYPE OF APPLICATION:	
<i>Please tick one option and complete the correction sections</i>	
A single one off feature film certification <i>[please complete section A of the application form]</i>	<input type="checkbox"/>
A Film Festival certification <i>[please complete section B of the application form]</i>	<input type="checkbox"/>

**PART A – Single one off feature film**

FILM-MAKER DETAILS: One off film	
NAME:	
ADDRESS:	
POST CODE:	
TEL:	
MOB:	
EMAIL:	

AGENT DETAILS:	
NAME:	
ADDRESS:	
POST CODE:	
TEL:	
MOB:	
EMAIL:	

FILM DETAILS: (use additional sheets if necessary)			
TITLE:			
LENGTH:	Hours		Minutes



**SYNOPSIS:**

*Provide a brief outline of the plot. Please do not concern yourself with “spoiling” the film and avoid using press release or media promotion language that seeks to “sell” it. It assists us to know the main protagonist and antagonist’s name(s), the nature of any conflict (the “dramatic question” the film seeks to resolve), the major turning points of the story, and the nature of and outcome of the climax the film.*



City of Westminster

<b>FOREIGN LANGUAGE / SUBTITLE DECLARATION:</b>	
<i>Please <b>tick one</b> option and add the name of any additional languages spoken or signed in the film in the space provided.</i>	
The film is entirely in English.	<input type="checkbox"/>
The film contains a spoken / written [LANGUAGE OTHER THAN ENGLISH]. These sections are subtitled, and I confirm the subtitles are wholly accurate.	<input type="checkbox"/>
<i>Please note, we are unable to classify films that contain a language other than English which are not subtitled. Subtitles do not have to appear in the final public version of the film, but they are required for classification purposes.</i>	

<b>ADDITION INFORMATION:</b>	
<b>IS YOUR FILM CLASSIFIED BY THE BBFC?:</b> (If "Yes", what rating was it awarded?)	
<b>DATE(S) OF FILM EXHIBITION:</b>	
<b>PRIMARY ADDRESS(ES) OF FILM EXHIBITION:</b>	
<b>ANY ADDITIONAL ADDRESS(ES) OF FILM EXHIBITIONS WITHIN WESTMINSTER:</b>	
<b>CERTIFICATION SOUGHT:</b> ("U", "PG", "12A", "15", "18") <i>Please note that the Certification granted may differ.</i>	

Please complete part c.

**PART B – Film Festival**

<b>FILM FESTIVAL APPLICANT DETAILS:</b>	
<b>NAME:</b>	
<b>ADDRESS:</b>	
<b>POST CODE:</b>	
<b>TEL:</b>	
<b>MOB:</b>	
<b>EMAIL:</b>	

<b>FOREIGN LANGUAGE / SUBTITLE DECLARATION:</b>	
<i>Please <b>tick one</b> option and add the name of any additional languages spoken or signed in the film in the space provided.</i>	
Number of films to be certified	
Number of total minutes of all films to be certified	

ADDITION INFORMATION:	
DATE(S) OF FILM FESTIVAL EXHIBITION:	
PRIMARY ADDRESS(ES) OF FILM FESTIVAL EXHIBITION:	
ANY ADDITIONAL ADDRESS(ES) OF FILM EXHIBITIONS WITHIN WESTMINSTER:	
TOTAL NUMBER OF FILMS TO BE CERTIFIED	

*Please complete part c.*

**PART C**

DECLARATION (Please read carefully, tick to confirm and sign below)		
The information provided in this application form is accurate and correct to the best of my knowledge and belief:		<input type="checkbox"/>
I have made or enclosed payment of the fee:		<input type="checkbox"/>
I have enclosed a copy of the film that meets the technical standards cited below:		<input type="checkbox"/>
I have read and understood the guidance written at the end of this application form:		<input type="checkbox"/>
<b>SIGNED:</b>	(FILM-MAKER/FILM FESTIVAL)	(AGENT/APPLICANT)
<b>PRINT NAME(S):</b>	(FILM-MAKER/FILM FESTIVAL)	(AGENT/APPLICANT)
<b>DATED:</b>	(FILM-MAKER/FILM FESTIVAL)	(AGENT/APPLICANT)



### **Guidance Notes for Applicants:**

This procedure applies both where you would like us to reclassify a film already classified by the BBFC, and where you require us to classify a film that is not currently classified.

In order to be able to guarantee that we will be able to process your application and issue you with a classification certificate your completed application, relevant fee, and a copy of the film (that is retained by Westminster City Council) must be submitted to us at least 4 weeks (28 days) before the film is scheduled to be shown for a one off feature film or 6 weeks for a film festival. The Licensing Authority may agree to accept applications received outside this timeframe, at its absolute discretion.

#### **A) Classification & Reclassification Requests:**

All requests for classification and reclassification of films will be determined by a Senior Licensing Officer, who will view the entire film and assess the film against the BBFC guidelines.

Applicants should be aware that we classify films on an “as submitted” basis. We do not make recommendations as to cuts to the film that may result in a lower classification, though can provide the reasoning for the certification we provide upon further request, administration fee will be applicable. Applicants seeking a low classification are encouraged to be mindful of the BBFC guidelines themselves when editing their film prior to submission for classification.

Applicants should also be aware that individual scenes containing bad language, violence, drug-use, discrimination, or scenes of a sexual nature (etc), even where infrequent, are likely to warrant a higher classification overall. The BBFC guidelines are freely available online.

At the end of the process we will either supply you with an appropriate certification that may or may not restrict the age of the audience that can view the film, though in rare circumstances we may reject the film as being “unclassifiable”.

With regards to the latter, we will only do so in one of two scenarios:

- (1) If any of the Film Submission Technical Standards listed below are not met; and
- (2) If we consider that the film is not suitable for public viewing and would require “compulsory cuts” as described within the Intervention section of the BBFC guidance.

Where we reject a film, we will provide in writing the reasons for our decision.

#### **B) Film Submission Technical Standards:**

Your application must be accompanied by a secured website link of USB. If submitted with a USB then this will be retained by the Council, as a record of the film classified.

- Non-English sections must contain subtitles.

#### **Please note that:**

- Security markings such as a watermark are permitted but must be subtle and not obscure the centre or a large part of the screen, or distract from the viewing of the film. I.e. full-screen, scrolling security marks stating “COUNCIL COPY” or similar are likely to be returned as uncertifiable and applicants shall have to reapply.



**C) Fees:**

Your request must be accompanied by the appropriate fee. The total fee payable can be found below:

You will pay an application fee and a film viewing fee charged at £1.60 per minute.

Type of film	Application fee	Film viewing fee
<b>Standard film</b>	£96.00	£1.60 per minute
<b>Film festival (1-25 films)</b>	£120.00	£1.60 per minute
<b>Film festival (26-50 films)</b>	£144.00	£1.60 per minute
<b>Film festival (51+ films)</b>	£168.00	£1.60 per minute
<b>Foreign language feature film with subtitles</b>	£96.00	£1.60 per minute
<b>Administration fee Applicable to additional requests</b>	£10.50	N/A

Fees based on Officer Band 3.5 £96.00 per hour, at 1.60 per minute

**Reconsideration of the classification decision**

Type of film	Film viewing fee
<b>Standard film</b>	£1.85 per minute

Fees based on Team Manager Band 4.4 at £1.85 per minute

If you have any difficulty in calculating the correct fee yourself, please contact our team, where we will be able to confirm it for you. **Please note that all fees are non-refundable once the work they each relate to has been commenced.**

**D) Foreign Languages:**

To enable us to accurately classify films that contain a language that is not spoken or written English, all such films must contain a subtitle track for each of these occurrences (even if it is not intended for the subtitles to appear in the public release version of the film). The subtitles should provide a full, accurate and precise translation.

**E) Determination of your Film - Classification Certificates**

Approved films will be issued with a film classification certificate under one of the following categories:

	Universal. Suitable for All
	Parental Guidance. Films can be viewed by all ages, but some scenes may be unsuitable for young children.
	Rated 12A. Suitable for children aged 12 and over. However, people younger than 12 may see a 12A so long as they are accompanied by an adult.
	Rated 15. Suitable for children aged 15 and over. No one younger than 15 can go and see a 15 rated film.
	Rated 18. Suitable for adults only. No one younger than 18 can go and see an 18 rated film

We will provide a PDF copy of the certificate. This needs to be displayed at the commencement of each showing of the film.

**F) Contact Us:**

Licensing Team  
 Westminster City Council  
 15th Floor Westminster City Hall  
 64 Victoria Street  
 London  
 SW1E 6QP

Telephone **0207 641 6500**  
 Email: [licensing@westminster.gov.uk](mailto:licensing@westminster.gov.uk)

**Proposed Fee Schedule****Appendix 3****Fee List for the Classification of a Film**

You will pay an application fee and a film viewing fee charged at £1.60 per minute.

<b>Type of film</b>	<b>Application fee</b>	<b>Film viewing fee</b>
<b>Standard film</b>	£96.00	£1.60 per minute
<b>Film festival (1-25 films)</b>	£120.00	£1.60 per minute
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Fees based on Officer Band 3.5 £96.00 per hour, at 1.60 per minute

**Reconsideration of the classification decision**

<b>Type of film</b>	<b>Film viewing fee</b>
<b>Standard film</b>	£1.85 per minute

Fees based on Team Manager Band 4.4 at £1.85 per minute

**1. Westminster's Film Classification Process**

- 1.1 Westminster City Council has established a film classification process to ensure that films are considered effectively and that the classifications given for these films promote the licensing objectives. The application process is run on a cost recovery basis which will be reflected in the fees (Appendix 3).
- 1.2 Applicants can request a classification for a film which has not already been classified by the BBFC to be shown within Westminster only.

Films that already have a BBFC classification

- 1.3 The Licensing Authority has the right to consider any film already classified by the BBFC and whether the classification is correct in order to promote the protection of children licensing objective under the Act. The Licensing Authority will only use this power if it is felt necessary.
- 1.4 A request to re-classify a film which has already received a classification from the BBFC can be made by an applicant. In those circumstances they must set out the classification that they are seeking and the reasons why they feel the classification already provided by the BBFC is not appropriate.

**2. Making an application**

- 2.1 To apply for a classification of a film by the Licensing Authority, the applicant must complete the approved application form and provide a full copy of the film (with English subtitles if in a foreign language) together with a full synopsis and proposed age classification. Applications that have missing information will not be considered until the required information has been received.

Deadlines for submission

- 2.2 The application must be submitted to the Licensing Authority no later than 4 weeks (28 days) prior to the date in which the event will take place for individual films or 6 weeks for a film festival. Any late submissions will be considered on a case by case basis however it is likely that request will be refused based upon the impact it will cause on the workload of the Licensing Service.
- 2.3 The deadline for the submission of film classification applications is necessary to enable the Licensing Authority to properly consider the film and the classification sought.

Classification requested

- 2.4 The applicant, when making their application, must ensure that they provide, for each film they wish to be classified by the Licensing Authority, a full copy of the film (with English subtitles if in a foreign language) together with a full synopsis and their proposed age classification.

### Synopsis of the film

- 2.5 It is important that a synopsis of the film is provided as this assists the officers in assessing the film and the classification sought. The synopsis should be detailed enough to set out the main points of the film and its plot. It should be noted within the synopsis any relevant scenes or language used which may impact on the classification requested or be the reason for the requested classification. Applicants must have regard to the BBFC guidance associated with film classifications and consider this when providing the film synopsis.

### Providing a copy or access to the film

- 2.6 The applicant must provide to the Licensing Authority a suitable quality copy of the film to enable it to be considered for film classification. The Licensing Authority will only accept films submitted via USB or a secure streaming website.
- 2.7 If a film's dialogue is not in English then the version of the film provided as part of the classification process must have English subtitles.

### Agreement to exhibition rules

- 2.8 To exhibit films under the terms of this classification process, the applicant will confirm their agreement to the specific requirements relating to exhibiting the film and the information that will be provided to customers attending the film. These requirements are:
- 2.8.1 The film that is exhibited on a licensed premises will be the same as the version presented and classified by the Licensing Authority.
  - 2.8.2 The classification certificate will be displayed either on the screen prior to the film's exhibition or on the entrance to the room or premises where the film is being exhibited. If the certificate is displayed at the entrance to the room or premises then it must be on display prior to customers being permitted to enter and remain on display until the exhibition of the film has concluded.
  - 2.8.3 No one aged below the age classification will be permitted to watch the film.
  - 2.8.4 No one under the age of 12 will be permitted into a 12A film without an adult.

### Payment

- 2.9 The application must be accompanied by the relevant fee set out in the licensing fees document on the Council's website. The fee must be paid over the phone using a debit or credit card. Applicants can reach the Licensing Authority's payment line on 0207 641 6500.

### Returning films

- 2.10 The Licensing Authority will ensure that any films provided to the Licensing Authority on a USB are returned to the applicant when the classification decision has been made.
- 2.11 The Licensing Authority will not copy, reproduce or distribute the film in any way and the copy provided to the Licensing Authority will remain the property of the supplier/distributor.

### **3. Consideration of films for under 18 classification**

- 3.1 In considering the applications for film classification, the Licensing Authority will have regard to the BBFC guidelines. The Licensing Authority will make note of any specific points within the film that will meet certain requirements for specific classification tiers.
- 3.2 The officer considering the classification will have regard to the synopsis and any other relevant information provided in the application form. If the film has already been classified outside the United Kingdom, the Licensing Authority will either review the information about that classification from the relevant classifications bodies' website and may make contact with that classification body if there are any questions or queries.
- 3.3 Once the film has been assessed the Licensing Authority will set the classification for the film.
- 3.4 If the applicant is not satisfied with the decision, they can request that the decision is reviewed. This review will be completed by the Licensing Team Manager.
- 3.5 An applicant can request the reconsideration of the first classification decision. To request a reconsideration of a decision, the applicant must contact the Licensing Authority setting out the reasons they believe the classification should be reconsidered. A fee will be charged for this process and is set out in the licensing fees on the Council's website.
- 3.6 The reviewing Manager will make a decision to either uphold the original classification decision or amend the classification decision. The applicant will be informed of the reviewing Managers decision in writing.
- 3.7 An application for the reconsideration of the decision of the Licensing Authority can be made up to 4 weeks after the decision date. After that period, any requests to reconsider the Licensing Authority's decision will not be accepted.
- 3.8 Where the 4 week period has passed, the applicant will need to submit a new film classification request to the Licensing Authority for that film or apply to the BBFC for classification.
- 3.9 Once the classification has been provided the film can be shown subject to the classification requirements in Westminster.

### **4. Consulting the Police**

- 4.1 The Licensing Authority on rare occasions may also refer the film to Westminster's Metropolitan Police Licensing Unit if there are concerns associated with the content of the film and the impact on not only the protection of children from harm but also the prevention of crime and disorder.
- 4.2 The circumstances which may prompt the need for the Police to consider the films contents will be if the storyline may offend a minority group, religious group or other group within society and could give rise to violence or other forms of crime or disorder associated with the showing of that film. If the police have any concerns associated with

the film, they will contact the applicant directly and, if necessary, use their own statutory powers to prevent crime and disorder occurring as a result of the film.

## 5. Display of classification information

- 5.1 The applicant must display the classification certificate either on the screen prior to the exhibition of the film or at the entrance to the room or premises where the film is to be screened so that it can be easily read by any customer attending the film exhibition.
- 5.2 The Licensing Authority will issue the applicant with the film classification certificate which will show the film title, directors names, the date of classification and classification number.
- 5.3 The classification certificate and notices are provided to inform the public of the classification for the film that are about to watch. The classification notices will also provide customers with the contact information for the Licensing Authority if they wish to comment on the film's classification.

## 6. Publication of Licensing Authority film classifications

- 6.1 The Licensing Authority will maintain a register of the films that it classifies on its website. The classification certificate will also be made public via the website register.
- 6.2 The register and other information about the Licensing Authority's film classification scheme is available via the Council's website at [www.westminster.gov.uk/film-classifications](http://www.westminster.gov.uk/film-classifications).

## 7. Westminster City Council Film Classification Tiers

18	<b>Suitable only for adults</b> No one under the age of 18 is permitted to see an 18 classified film within a licensed premises.
15	<b>Suitable for 15 years and over</b> No one under the age of 15 is permitted to see a 15 classified film within a licensed premises.
12A	<b>Suitable for 12 years and over (anyone under the age of 12 must be accompanied by an adult)</b> No one under the age of 12 is permitted to see a 12A classified film within a licensed premises unless they are accompanied by an adult.
PG	<b>Parental Guidance</b> The film is generally recommended as being suitable for general viewing, but some scenes may be unsuitable for children under 8 years of age.

U	<b>Universal</b> The film is generally recommended as being suitable for children 4 years and over
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Power to charge for discretionary services

- (1) Subject to the following provisions, a relevant authority may charge a person for providing a service to him if—
  - (a) the authority is authorised, but not required, by an enactment to provide the service to him, and
  - (b) he has agreed to its provision.
- (2) Subsection (1) does not apply if the authority—
  - (a) has power apart from this section to charge for the provision of the service, or
  - (b) is expressly prohibited from charging for the provision of the service.
- (3) The power under subsection (1) is subject to a duty to secure that, taking one financial year with another, the income from charges under that subsection does not exceed the costs of provision.
- (4) The duty under subsection (3) shall apply separately in relation to each kind of service.
- (5) Within the framework set by subsections (3) and (4), a relevant authority may set charges as it thinks fit and may, in particular—
  - (a) charge only some persons for providing a service;
  - (b) charge different persons different amounts for the provision of a service.
- (6) In carrying out functions under this section, a relevant authority shall have regard to such guidance as the appropriate person may issue.
- (7) The following shall be disregarded for the purposes of subsection (2)(b)—
  - (a) section 111(3) of the Local Government Act 1972 (c. 70) (subsidiary powers of local authorities not to include power to raise money),
  - (b) section 34(2) of the Greater London Authority Act 1999 (c. 29) (corresponding provision for Greater London Authority),
  - (c) section 3(2) of the Local Government Act 2000 (well-being powers not to include power to raise money).
  - (d) section 100(2) of the Local Transport Act 2008 (well-being powers of Integrated Transport Authorities and combined authorities),
  - (e) section 102C(4) of that Act (Integrated Transport Authorities),
  - (f) section 10B(4) of the Transport Act 1968 (Passenger Transport Executives), and
  - (g) section 113B(4) of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities).
- (8) In subsection (1), “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).
- (9) In this section, “relevant authority” means—
  - (a) a best value authority;
    - (aa) a Welsh improvement authority;
    - (ab) the Passenger Transport Executive of an integrated transport area in England;
  - (b) a parish council;

- (c) a parish meeting of a parish which does not have a separate parish council; or
- (d) a community council.

<b>Background Documents</b>		
<b>1</b>	BBFC Guidance	2019
<b>2</b>	Section 93 of the Local Government Act 2003.	1 November 2019
<b>3</b>	Schedule 1 of the Licensing Act 2003	6 <sup>th</sup> April 2018