



Meeting Agenda

**Licensing Committee
Town Hall
Lytham St Annes
2 March 2007, 10.30a.m.**

Membership Licensing Committee

CHAIRMAN - Councillor Dawn Prestwich

VICE-CHAIRMAN – Councillor Christine Akeroyd

Councillors

Elizabeth Clarkson

Janine Owen

Peter Collins

Albert Pounder

Susan Fazackerley

Louis Rigby

Trevor Fiddler

Heather Speak

Karen Henshaw JP

Martin Taylor

Alfred Jealous

Keith Wright

Steve Mason

Contact: Lyndsey Lacey, St. Annes (01253) 658504, Email: lyndsey1@fylde.gov.uk



Licensing Objectives

Fylde Borough Council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives.

The licensing objectives are:

- 1. The prevention of crime and disorder;**
- 2. Public safety;**
- 3. The prevention of public nuisance; and**
- 4. The protection of children from harm.**

In carrying out its licensing functions, Fylde Borough Council must also have regard to:

- 1. Our licensing statement published under section 5 of the Licensing Act, and**
- 2. Any guidance issued by the Secretary of State under section 182 of the Licensing Act**



AGENDA

PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
1. DECLARATIONS OF INTEREST: <i>In accordance with the Council's Code of Conduct, members are reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.</i>	4
2. CLASSIFICATION OF THE FILM "DISPLACED"	5

REPORT



REPORT OF	MEETING	DATE	ITEM NO
UNIT BUSINESS MANAGER CONSUMER WELLBEING AND PROTECTION	LICENSING COMMITTEE	2 ND MARCH 2007	2

CLASSIFICATION OF THE FILM “DISPLACED”

Public item

This item is for consideration in the public part of the meeting.

Summary

A formal request has been received for the movie “Displaced” to be screened at a Cinema operating in the Borough.

The film does not benefit from a classification from the British Board of Film Classification and as such the Committee is requested to determine a classification

Recommendation/s

That the committee view the film and determine a classification to be applied.

Executive brief

The item falls within the following Portfolio Holders Brief: Community & Social Wellbeing (Councillor Mrs Fieldhouse)

Report

1. A request has been received from the operator of Cinema 4 at the Island, Pleasure Island, St Annes to screen the movie “Displaced” between the 7th and 14th March 2006. “Displaced” does not benefit from a classification laid down by the British Board of Film Classification (BBFC).

2. The BBFC is an independent, non-governmental body funded through the fees it charges to those who submit films, videos, DVD's and digital games for classification.
3. The BBFC also classifies films on behalf of Local Authorities who licence cinemas under the Licensing Act 2003.
4. S20 of the Licensing Act 2003 lays down a requirement on Licensing Authorities to attach a mandatory condition on Premises Licences benefiting from the licensable activity of film exhibitions and as such, the following condition has been attached to the Premises Licence of Cinema 4 at the Island
"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 by
 - a) *the British Board of Film Classification (BBFC) where the film has been classified by that Board, or*
 - b) *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. "*
5. Due to financial cost of obtaining classification from the BBFC, the applicant has, at the suggestion of the BBFC, approached the Licensing Authority in order to obtain a classification recommendation to enable the film to be shown.
6. Fylde Borough Council's Statement of Licensing Policy comments at 7.41 that
"In the case of a film exhibition that has not been classified, the Licensing Authority will also expect a premises licence holder to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary."
7. It is therefore recommended that members view and consider the film and make a recommendation as to an appropriate classification.
8. For the information and use of members, information from the BBFC is annexed to this Report providing guidance as basic principles given consideration by them when determining film classifications.

IMPLICATIONS	
Finance	
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	From the publicity material for the film on the internet it appears that the film contains violence and will be

	unsuitable for some viewers
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REPORT AUTHOR	TEL	DATE	DOC ID
Chris Hambly	(01253) 658422	13 th February 2007	

LIST OF BACKGROUND PAPERS		
NAME OF DOCUMENT	DATE	WHERE AVAILABLE FOR INSPECTION
None		Consumer Wellbeing and Protection Unit, Town Hall, St Annes

Attached documents

1. Formal Request from Cinema 4 at the Island
2. British Board of Film Classification Guidelines

F.A.O. Chris Hambley
Licensing Department

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St. Annes-on-Sea
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F 01253 722 620
W www.the-island.ws

Dear Mr Hambley,

Further to our recent conversations, I am writing to you formally request permission to screen the film "Displaced" at Cinemafour, The Island, South Promenade, from the 15 March 2007. This date is the intended world premiere of the film, followed by a theatrical run of 7 – 14 days.

The movie is the debut feature of two very committed North West film makers – Mark Strange & Martin Holland – and has been seven years in the making.

The film has been written, directed, shot and edited by Martin Holland, whilst Mark Strange was producer, fight co-ordinator, fixer and also played two lead roles.

Mark's sheer dedication and commitment, with no budget to speak of, has seen him persuade the Army, Jodrell Bank, Hollywood armourers, a privately owned military helicopter & nameless others to help him achieve his vision. Perhaps his greatest coup was to manage to impress Sir Ian McKellen so much with his enthusiasm and focus, that the world renowned actor lent his support, and it is Sir Ian who provides the voice over introduction to the film.

The film is shot entirely in and around the North West & provided parts for hundreds of extras, all of whom were recruited locally.

Set for International DVD release this year, Cinemafour would like to provide the venue for a World Premiere and the only theatrical run of this film. We also plan a Charity Screening to raise funds for charities chosen by the film makers & Sir Ian McKellen.

Since the budget is severely restricted on this project, the British Board of Film Classification has suggested that we approach yourselves for a special licence to screen the film, since their fees for a classification would be in the region of £750.


It is my opinion that the film would rate a 12A certificate. There is no use of bad language and contains no sexual references. There is no gore / blood, although there is gunplay and martial arts. I would say that 12A films such as the Lord Of The Rings trilogy or, as I watched last night – The Bourne Identity, contain stronger content than Displaced.

I enclosed a DVD of the film & also two documentaries on it's making, which I'm sure you would find interesting. I also enclose some guidelines from the BBFC for your reference.

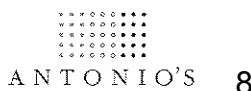
I hope that you will allow us to show this film as I think Mark & Martin deserve to see their project on the big screen. The premiere will certainly attract both press and television, as well as guests from the film industry in the North West and further a field. Sir Ian McKellen will be invited and it is hoped he would attend, his schedule permitting.

If you have any questions, please do not hesitate to call me on 01253 722620.

Yours faithfully,


Nigel Lingings - Cinemafour

IT'S ALL AT THE ISLAND. LOOK FOR THE  SIGN ON SOUTH PROMENADE, ST. ANNES-ON-SEA










The Guidelines



Contents

Introduction	4
Legal Considerations	6
The Catagories	8
Main Issues	10
Theme	10
Language	10
Nudity	10
Sex	10
Violence	11
Imitable Techniques	11
Horror	11
Drugs	11
	12
	14
 	16
	18
	20
	22
Rejects	24
Appeals	24

Introduction

i The British Board of Film Classification (BBFC) is an independent, non-governmental body funded through the fees it charges to those who submit films, videos, DVDs and digital games for classification.

ii The BBFC classifies films on behalf of the local authorities who license cinemas under the Licensing Act 2003.

iii The BBFC classifies videos, DVDs and some digital works under the Video Recordings Act 1984. (The digital works covered by the VRA are those whose exemption is forfeited under section 2(2) because they depict human sexual activity, gross violence or other matters of concern.)

iv The BBFC will not classify material which it believes to be in breach of the criminal law.

v Where possible the BBFC will carry out its responsibilities through appropriate use of the classification categories, particularly in order to protect children from actual or potential harm. If necessary, however, the Board may cut or even reject a film, video, DVD or digital work. The Board's approach to rejects is set out at the end of these Guidelines.

vi In line with domestic administrative law principles and the requirements of the Human Rights Act 1998, there is a particular need to make the classification criteria clear. This is fulfilled by the publication of these Guidelines and their availability on the BBFC website (www.bbfc.co.uk) or directly from the Board.

vii The detail of the Guidelines is contained in the following pages. But it is right to set out here the general underlying grounds on which the Board exercises the broad discretion conferred on it. There are three main considerations:

- is the material in conflict with the law?
- is the material, at the age group concerned, likely to be harmful?
- is the material, at the age group concerned, clearly unacceptable to broad public opinion? (It is on this ground, for example, that the Board intervenes in respect of language. This ground also applies at '18', although here it is balanced against the public expectation that adults should be free to choose their entertainment, within the law.)

viii The BBFC Classification Guidelines reflect all these considerations and others set out later. They are the product also of public consultation, research and the accumulated experience of the BBFC over many years.

ix The Guidelines, however, are not a legal document and should be interpreted in the spirit of what is intended as well as in the letter. They cannot be a comprehensive account of everything that may at any time be of concern. Should issues arise which are not specifically covered here, they will be dealt with by the BBFC on their merits and in line with the standards expressed and implied generally.

x Responsibility for the Guidelines and for their interpretation rests with the BBFC and is subject to normal considerations of fairness and reasonableness.

xi The BBFC undertakes to provide guidance on the interpretation of these Guidelines at any time.

Legal Considerations

The Video Recordings Act 1984

The Act requires the BBFC to have special regard (among the other relevant factors) to the likelihood of works being viewed in the home, and to

- any harm to those likely to view a video
- any harm to society through the behaviour of those viewers afterwards

In considering these issues the Board has in mind the possible effect not only on children but also on other vulnerable people.

The Act further requires that special regard is paid to the manner in which the work deals with

- criminal behaviour
- use of illegal drugs
- violent behaviour or incidents
- horrific behaviour or incidents
- human sexual activity

The Cinematograph Films (Animals) Act 1937

It is illegal to show any scene ‘organised or directed’ for the purposes of the film to involve actual cruelty to animals.

The Protection of Children Act 1978

It is illegal to show indecent photographs or pseudo-photographs of a child (under the age of 18).

The Obscene Publications Act 1959

It is illegal to show a work which is obscene. A work may be found obscene if, taken as a whole, it has a tendency to deprave and corrupt (ie make morally bad) a significant proportion of those likely to see it.

The Human Rights Act 1998

Among the rights established under this Act are the right to respect for private and family life, and the right to freedom of expression. When classifying works, the BBFC will have regard to the impact of any decision on the rights of any relevant person.

The Act permits such restrictions on freedom of expression as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the

prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

The Licensing Act 2003

Cinemas require a licence from the local authority in which they operate. The licence must include a condition requiring the admission of children (under 18) to any film to be restricted having regard to the recommendations of the BBFC. The licensing objectives are

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

Other unlawful material

In carrying out its responsibilities, the Board will have regard to whether the material itself appears to be unlawful in the United Kingdom, or has arisen from the commission of an unlawful act.

The Categories

In classifying films, videos or digital media, the BBFC also gives consideration to the following basic principles

- adults should as far as possible be free to choose what they see, providing that it remains within the law and is not potentially harmful to society
- works should be allowed to reach the widest audience that is appropriate for their theme and treatment
- the context in which something (eg sex or violence) is presented is central to the question of its acceptability
- the BBFC's Guidelines will be reviewed periodically. The Guidelines, and the Board's practice in applying them, have particular regard to any changes in public taste, attitudes and concerns; changes in the law; or new evidence from research or expert sources

The Classification categories are:



Universal – Suitable for all



Parental Guidance – General viewing, but some scenes may be unsuitable for young children



Suitable for 12 years and over. No-one younger than 12 may see a '12A' film in a cinema unless accompanied by an adult.

No-one younger than 12 may rent or buy a '12' rated video or DVD. Responsibility for allowing under-12s to view lies with the accompanying or supervising adult.



Suitable only for 15 years and over. No-one younger than 15 may see a '15' film in a cinema. No-one younger than 15 may rent or buy a '15' rated video or DVD.

The Categories continued



Suitable only for adults. No-one younger than 18 may see an '18' film in a cinema. No-one younger than 18 may rent or buy an '18' rated video.



To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults of not less than 18 years.

Occasionally, a work lies on the margin between two categories. In applying the criteria in these Guidelines in such a case, the BBFC takes into account the intentions of the film-maker, the expectations of the public in general and the work's audience in particular, and any special merits of the work.

Classification decisions may be stricter on video, DVD and digital works than on film. This is because of the increased possibility of under-age viewing recognised in the Video Recordings Act, and of works

being replayed or viewed out of context. Accordingly, a work may occasionally receive a higher age classification than on film, or require new or different cuts.

Classification decisions may be more restrictive with regard to trailers and advertisements. This is because difficult content in such short works may have a greater impact on an unprepared audience.

Consumer Advice

The BBFC provides Consumer Advice on all the works it classifies, and attaches importance to this. Consumer Advice enables the public to make informed choices. It covers in particular violence, sex, language, drugs and any other matters likely to be of concern to the public. The information should appear on publicity for all cinema works rated 'U' to '18', and on the packaging of all videos, DVDs and digital games rated 'U' to '18'. The display of this information in publicity or on packaging is ultimately a matter for the film and video industry. The Board's Consumer Advice is, however, available on its website, www.bbfc.co.uk.

Main Issues

This section of the Guidelines sets out some concerns which apply, to a greater or a lesser degree, at all classification levels. The concerns are listed in the same order on the pages following, which provide specific guidance for ‘U’ through to ‘18’.

The guidance there should be read in the light of this more general advice.

Theme

The acceptability of a theme depends significantly on its treatment, ie the context and sensitivity of its presentation. However, the most problematic themes (for example drug abuse, sexual violence, paedophilia, incitement to racial hatred or violence) are unlikely to be appropriate at the most junior levels of classification. Correspondingly, there is no reason in principle why most themes, however difficult, could not be satisfactorily handled at ‘18’ or even ‘15’.

Language

Many people are offended, some of them deeply, by bad language, including the use of expletives with a religious or racial association and language which offends other, sometimes vulnerable, minorities. The extent of that offence varies according to age, gender, race, background, beliefs and expectations brought by viewers to the genre on offer.

The depth of concern about any particular word or expression will also depend upon the context within which it is used.

For these reasons, it is impossible to set out comprehensive lists of acceptable words or expressions which will satisfy all sections of the public. The advice at different classification levels, therefore, provides general guidance taking account of the Board’s consultation with the public.

Nudity

Natural nudity, providing there is no sexual context, is acceptable at all classification levels except ‘Uc’.

Sex

The portrayal of human sexual activity can range from kissing and references to ‘making love’ to detail of real sex. This is reflected in the classification system, in which progressively stronger portrayal is allowed as the categories rise. The Guidelines apply the same standards to homosexual as to heterosexual activity.

The ‘R18’ category, required by Parliament under the Video Recordings Act, is primarily for ‘sex works’, whose primary purpose is sexual arousal or stimulation. ‘R18’ videos and DVDs may be supplied only in licensed sex shops which no-one under 18 may enter. ‘R18’ films may be shown only in specially licensed cinemas.

Main Issues_{continued}

Violence

Violence has always been a feature of entertainment for children and adults. We address the degree and nature of violence through our classification system.

In making decisions our concerns, especially at the lower categories, include

- ➔ portrayal of violence as a normal solution to problems
- ➔ heroes who inflict pain and injury
- ➔ callousness towards victims
- ➔ encouraging aggressive attitudes
- ➔ taking pleasure in pain or humiliation

Works which glorify, glamorise or sexualise violence will receive a more restrictive classification and may even be cut.

The BBFC has a strict policy on rape and sexual violence. With portrayals of sexual violence which might eg eroticise or endorse sexual assault the Board may require cuts at any classification level. This is more likely with DVD or video than film because DVD and video scenes can be replayed repeatedly.

Any association of sex with non-consensual restraint, pain or humiliation may be cut.

Imitable techniques

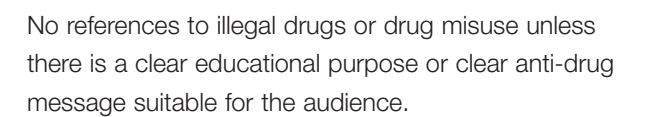
The BBFC is concerned about detailed portrayal of criminal and violent techniques and the glamorisation of easily accessible weapons. Action which may promote illegal or anti-social behaviour, and portrayals of potentially dangerous behaviour which young children are likely to copy, are of particular concern. Examples of the Board’s concerns in this area include combat techniques, hanging, suicide and self-harm.

Horror

The BBFC recognises that audiences pay to see horror films because they like being frightened. The Board does not cut films simply because they alarm or shock. Instead, it classifies them to ensure that the young and vulnerable are protected from too intense an experience.

Drugs

No work taken as a whole may promote or encourage the use of illegal drugs. Any detailed portrayal of drug use likely to promote or glamorise the activity may be cut. Works which promote or glamorise smoking, alcohol abuse or substance misuse may also be a concern, particularly at the junior categories.



Parental Guidance – General viewing, but some scenes may be unsuitable for young children

Unaccompanied children of any age may watch. A ‘PG’ film should not disturb a child aged around eight or older. However, parents are advised to consider whether the content may upset younger or more sensitive children.

Theme
Where more serious issues are featured (eg domestic violence, racist abuse) nothing in their treatment should condone the behaviour.

Language
Mild bad language only.

Nudity
Natural nudity, with no sexual context.

Sex
Sexual activity may be implied, but should be discreet and infrequent. Mild sex references and innuendo only.

Violence
Moderate violence, without detail, may be allowed, if justified by its setting (eg historic, comedy or fantasy).

Imitable techniques
No glamorisation of realistic or easily accessible weapons. No detail of potentially dangerous behaviour which young children are likely to copy.

Horror
Frightening sequences should not be prolonged or intense. Fantasy settings may be a mitigating factor.

Drugs
Any references to illegal drugs or drug misuse must be innocuous or carry a suitable anti-drug message.





12A

Suitable for 12 years and over.
No-one younger than 12 may see a ‘12A’ film in a cinema unless accompanied by an adult.

No-one younger than 12 may rent or buy a ‘12’ rated video or DVD. Responsibility for allowing under-12s to view lies with the accompanying or supervising adult.

Theme
Mature themes are acceptable, but their treatment must be suitable for young teenagers.

Language
The use of strong language (eg ‘fuck’) must be infrequent. Racist abuse is also of particular concern.

Nudity
Nudity is allowed, but in a sexual context must be brief and discreet.

Sex
Sexual activity may be implied. Sex references may reflect what is likely to be familiar to most adolescents but should not go beyond what is suitable for them.

Violence
Violence must not dwell on detail. There should be no emphasis on injuries or blood. Sexual violence may only be implied or briefly and discreetly indicated.

Imitable techniques
Dangerous techniques (eg combat techniques, hanging, suicide and self-harming) should not dwell on imitable detail or appear pain or harm free. Easily accessible weapons should not be glamorised.

Horror
Sustained moderate threat and menace are permitted. Occasional gory moments only.

Drugs
Any misuse of drugs must be infrequent and should not be glamorised or instructional.

Suitable only for 15 years and over

No-one younger than 15 may see a '15' film in a cinema. No-one younger than 15 may rent or buy a '15' rated video or DVD.

Theme

No theme is prohibited, provided the treatment is appropriate to 15 year olds.

Language

There may be frequent use of strong language (eg 'fuck'). But the strongest terms (eg 'cunt') will be acceptable only where justified by the context. Continued aggressive use of the strongest language is unlikely to be acceptable.

Nudity

Nudity may be allowed in a sexual context but without strong detail. There are no constraints on nudity in a non-sexual or educational context.

Sex

Sexual activity may be portrayed but without strong detail. There may be strong verbal references to sexual behaviour.

Violence

Violence may be strong but may not dwell on the infliction of pain or injury. Scenes of sexual violence must be discreet and brief.

Imitable techniques

Dangerous techniques (eg combat techniques, hanging, suicide and self-harming) should not dwell on imitable detail. Easily accessible weapons should not be glamorised.

Horror

Strong threat and menace are permitted. The strongest gory images are unlikely to be acceptable.

Drugs

Drug taking may be shown but the film as a whole must not promote or encourage drug misuse.

15





18

Suitable only for adults

No-one younger than 18 may see an ‘18’ film in a cinema. No-one younger than 18 may rent or buy an ‘18’ rated video.

In line with the consistent findings of the BBFC’s public consultations, at ‘18’ the BBFC’s guideline concerns will not normally override the wish that adults should be free to chose their own entertainment, within the law. Exceptions are most likely in the following areas

- where material or treatment appears to the Board to risk harm to individuals or, through their behaviour, to society – eg any detailed portrayal of violent or dangerous acts, or of illegal drug use, which is likely to promote the activity. The Board may also intervene with portrayals of sexual violence which might, eg eroticise or endorse sexual assault
- the more explicit images of sexual activity – unless they can be exceptionally justified by context and the work is not a ‘sex work’ as defined below.

In the case of videos and DVDs, which may be more accessible to younger viewers, intervention may be more frequent. For the same reason, and because of the different way in which they are experienced, the Board may take a more precautionary approach in the case of those digital games which are covered by the Video Recordings Act.

Sex education at ‘18’

Where sex material genuinely seeks to inform and educate in matters such as human sexuality, safe sex and health, exceptions to the normal constraints on explicit images may be made in the public interest. Such explicit detail must be kept to the minimum necessary to illustrate the educational or instructional points being made.

Sex works at ‘18’

Sex works are works, normally on video or DVD, whose primary purpose is sexual arousal or stimulation. Sex works containing only material which may be simulated are generally passed ‘18’, while sex works containing clear images of real sex are confined to the ‘R18’ category.

8

To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to persons of not less than 18 years.

The ‘R18’ category is a special and legally restricted classification primarily for explicit works of consenting sex between adults. Films may only be shown to adults in specially licensed cinemas, and videos may be supplied to adults only in licensed sex shops. ‘R18’ videos may not be supplied by mail order.

The following content is not acceptable

- ➔ any material which is in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959
- ➔ material (including dialogue) likely to encourage an interest in sexually abusive activity (eg paedophilia, incest, rape) which may include adults role-playing as non-adults
- ➔ the portrayal of any sexual activity which involves lack of consent (whether real or simulated). Any form of physical restraint which prevents participants from indicating a withdrawal of consent
- ➔ the infliction of pain or physical harm, real or (in a sexual context) simulated. Some allowance may be made for mild consensual activity. Penetration by any object likely to cause actual harm or associated with violence
- ➔ any sexual threats, humiliation or abuse which does not form part of a clearly consenting role-playing game. Strong abuse, even if consensual, is unlikely to be acceptable.

These guidelines will be applied to the same standard whether the activity is heterosexual or homosexual.



Rejects

The Board will attempt to deal with films, videos or DVDs which are unacceptable at any category through intervention such as making cuts or requiring the addition of warning captions. If this is not possible or not acceptable to the distributor, works may be refused classification altogether. ‘Taboo’ themes are acceptable, but not if their treatment is likely to encourage harm to viewers or, through their behaviour, to society. The following are of particular concern

- graphic rape or torture
- sadistic violence or terrorism
- illegal and glamorised drug use
- material likely to incite racial hatred or violence
- portrayals of children in a sexualised or abusive context
- sex accompanied by non-consensual pain, injury or humiliation
- material likely to be found obscene by the courts.

Appeals

A distributor who disagrees with a classification decision for their work may appeal against it directly to the Board. Additionally, in the case of films, the company (or any member of the public) may address itself to the local authority which licenses cinemas in a particular area. In the case of videos, DVDs and games a company may appeal to the Video Appeals Committee which is independent of the Board.

The public can make its views known to the Board at any stage of the classification process.

British Board of Film Classification
3 Soho Square
London
W1D 3HD

Main website: www.bbfc.co.uk
Website for children (ages 9-12): www.cbbfc.co.uk
Website for students (age 12+): www.sbbfc.co.uk

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