

# Regulatory Committee

1.15pm, Monday, 11 March 2019

## Cinema Licensing: Update and Proposed Licensing Conditions

Item number	7.3
Executive/routine	
Wards	Citywide
Council Commitments	N/A

### 1. Recommendations

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- 1.1 The Regulatory Committee is asked to:
  - 1.1.1 Note the contents of this report; and
  - 1.1.2 Agree proposed conditions of licence for cinemas as set out in Appendix 1; these to be effective from 1 April 2019.

**Paul Lawrence**

Executive Director of Place

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# Report

## Cinema Licensing: Update and Proposed Licensing Conditions

### 2. Executive Summary

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- 2.1 On 22 October 2018 the Regulatory Committee approved in principle proposals to introduce revised conditions for licences issued under the Cinemas Act 1985. This report provides an update after statutory consultation was carried out.

### 3. Background

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- 3.1 Any public performance of a film exhibition is controlled by the Cinemas Act 1985. A cinema licence allows 'any exhibition of moving pictures' other than TV programmes on terrestrial TV or cable programmes which are licensed under the Cable and Broadcasting Act 1984.
- 3.2 The operation of cinemas is licensed by means of cinema licensing. At present there are 14 licensed cinemas in the city.

### 4. Main report

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- 4.1 The Council has previously approved draft standard licensing conditions for cinemas.
- 4.2 Following the in principle decision of the Regulatory Committee to amend licensing conditions for cinema licensing, the Committee instructed the Executive Director of Place to consult on the proposed revised conditions and to report back to the Regulatory Committee.
- 4.3 The proposed revised conditions are attached at Appendix 2 and, if agreed, will thereafter be applicable in respect of any Cinema Licence granted or renewed from 1 April 2019.
- 4.4 A consultation on the proposed changes was published on the council's Consultation Hub between 14 November and 12 December 2018. There were 10 responses in total.

- 4.5 60% of respondents either agreed or strongly agreed with the proposed conditions. 30% disagreed or strongly disagreed. Respondents were asked for further comments and these are attached at Appendix 3.
- 4.6 Having reviewed the comments, the Directorate has made one change to the draft conditions, amending the proposed condition 4 (Appendix 2) to reproduce the current condition (condition 4 in Appendix 1). The Directorate does not propose any further amendments and does not recommend any further change to the draft conditions.
- 4.7 Queries were raised about draft condition 4. This has been reworded to make it more restricted, similar to a previous condition. Members will wish to consider the comments made. Any exercise of the power contained in condition 4 would require a committee hearing. In respect of draft condition 2, concerns have been raised but members are advised that the condition (as read with draft condition 3) is necessary to regulate which films are suitable to be shown to children.
- 4.8 Respondents were also asked for comments on the policy on parent/infant screenings agreed by the committee on 26 June 2018. Responses are attached at Appendix 4. Having reviewed the comments, the Directorate does not propose any amendments and does not recommend any change to the agreed policy.
- 4.9 The Regulatory Committee is asked to approve the proposed revised conditions (Appendix 2). It is proposed that these conditions would take effect from 1 April 2019 and therefore would be attached to any licence granted or renewed after that date.

## **5. Next Steps**

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- 5.1 The Council's website will be updated with the new conditions.
- 5.2 Any renewal granted after 1 April 2019 will have the new conditions of licence attached.

## **6. Financial impact**

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- 6.1 The Council's current scale of fees for licensing applications was approved with effect from 1 April 2018. Any costs implementing policy changes will be contained within the current ring-fenced income generated from licence application fees.
- 6.2 Cinema licence fees are fixed by legislation.

## **7. Stakeholder/Community Impact**

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- 7.1 The development of policy in respect of licensing of cinemas is part of a wider place-making role for the Council. It is essential that all the strategic aims of the Council are considered and that the revised conditions are consistent with these.

- 7.2 There is a recognised process for amending the policy and this approach is in line with the statutory requirements.
- 7.3 No protected groups are affected.
- 7.4 A consultation on the proposed revised conditions was posted on the Council's Consultation Hub between 14 November and 12 December 2018.

## **8. Background reading/external references**

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- 8.1 [Regulatory Committee report – Cinemas Act 1985 - 22 October 2018](#)

## **9. Appendices**

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- 9.1 Current conditions: Cinemas Act 1985
- 9.2 Proposed conditions: Cinemas Act 1985
- 9.3 Comments on proposed conditions
- 9.4 Comments on policy regarding parent/infant screenings

## **Appendix 1 – current cinema licensing conditions**

### **Cinemas Act 1985**

#### **LICENCE CONDITIONS**

1 'Film' in these conditions means 'Film exhibition' as defined in the Cinemas Act 1985. 'Council' means the Council as Licensing Authority under the 1985 Act.

2 Subject to conditions 3 and 4:

- (a) No film shall be exhibited unless it has received a 'U', 'PG', '12A', '15' OR '18' certificate from the British Board of Film Classification.
- (b) No one under the age of 18 shall be admitted to see a film with an '18' certificate.
- (c) No one under the age of 15 years shall be admitted to see a film with a '15' certificate.
- (d) No one under the age of 12 years shall be admitted to see a film with a '12A' certificate unless accompanied by a responsible adult.

3 Any film may be exhibited if the permission of the Council is first obtained and any conditions of such permission are complied with.

4 The Council may prohibit the showing of any film by giving written notice to the Licensee.

5 The terms of any certificate given by the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates.

6 There shall be prominently exhibited at each public entrance whenever premises are open to the public for the showing of films a notice indicating clearly:-

- (a) the title of each film to be shown on that day, other than trailers and films of less than 5 minutes duration.
- (b) the approximate time of commencement of each film;
- (c) whether each film has received a 'U', 'PG', '12A', '15' OR '18' certificate from the British Board of Film Classification and (d) the effect of the certificates on the admission of persons under the age of 18 years.

7 The type of certificate received from the British Board of Film Classification shall be clearly indicated by 'U', 'PG', '12A', '15' OR '18' in any advertisement of the film displayed at the premises.

8 No advertisement displayed at the premises of a film to be exhibited there shall depict any scene or incident not included in the film as certified by the British Board of Film Classification or as approved for exhibition by the Council.

9 Where the Council has given notice in writing to the Licensee objecting to an advertisement, that advertisement shall not be displayed at the premises.

10 The premises shall only open between 8am and 1am the following day unless the written consent of the Council is given to open earlier or later.

11 No animals shall be permitted in the premises during the exhibition of a film except guide dogs. The Licensee shall not refuse admission to patrons with guide dogs.

12 All attendants on duty shall wear a distinguishing uniform or armband, and shall, have in their possession an electric torch in working condition.

13 Films in the 'RESTRICTED (18)' category shall not be shown without the consent in writing of the Council.

Any consent granted in terms of this condition shall be subject to all the following conditions being complied with and any other conditions the Council consider necessary.

(a) Films in the 'RESTRICTED (18)' category shall not be exhibited except at licensed premises being operated as a club.

(b) No films in the 'RESTRICTED (18)' category shall be shown in a multi-screen complex unless the area used for such films and all facilities (including foyers, lavatories, and refreshment areas) are wholly segregated and accessible only through a separate entrance and box office.

(c) A register of members shall be maintained and made available for immediate inspection by Council officials or police constables. A membership card (with a photograph of the member) shall be issued to each member.

(d) Tickets shall not be sold to persons other than members.

(e) No one shall be admitted to view a film in the 'RESTRICTED (18)' category unless a valid membership card for that person is displayed at the time of admission.

(f) Advertising for films in the 'RESTRICTED (18)' category shall specify only the title of the film and the category and will not include pictorial material or other information about the names of performers or the plot.

(g) No one under 18 years shall be employed in any capacity at premises showing films in the 'RESTRICTED (18)' category.

(h) Membership rules for club cinemas shall include the following:-

(i) Membership shall only be open to people of not less than 18 years of age. Applications for membership, including name and address, shall be in writing and signed by the applicant. Applicants shall provide proof of their age to the Licensee.

(ii) No one shall be admitted to membership until at least 24 hours after the application has been approved by the Licensee.

(iii) Membership cards shall not be transferable.

14 The Licensee or Manager shall be responsible for the day to day running of the premises. There shall be sufficient staff on duty when the premises are open to the public.

15 The Licensee or Manager shall give clear instructions to staff on their duties in the event of fire. A legible statement of such duties shall be posted in conspicuous positions in the premises. The Licensee shall comply with any requirements of the Firemaster.

16 The number of people admitted to the premises shall be strictly controlled to ensure that there is no overcrowding.

17 The general layout and arrangement of the premises shall be such as to allow safe and orderly evacuation to the Council's satisfaction, in the event of an emergency.

18 All approaches, staircases and passageways shall be kept free from obstruction. No seat or other obstruction shall be placed in any of the passageways and no-one shall be allowed to stand or sit in any passageway during performances.

19 All doors and barriers shall open outwards and shall not be fastened or locked except by push bar mechanisms which release the door under pressure.

20 All exit doors in the premises shall be indicated by a fixed lighting transparency bearing the word 'EXIT' in letters no less than 10 centimetres high. All exit doors shall be useable at the end of each performance. The transparency shall be illuminated by a maintained system of lighting and must be visible from the auditorium at all times when the premises are open to the public.

21 Any decorative surface finishes shall be either non-combustible or durably flame-proofed.

22 All scenery, curtain drapes and fabrics shall be flame resistant.

23 The use of smoke bombs, smoke generators, flash powder, flash boxes, detonators and similar items is not permitted without the written approval of the Firemaster and the Council.

24 All upholstered furniture shall comply with the Smouldering Cigarette Test and Butane Flame Test in British Standard 5852, Part 2; 1982.

25 The Licensee or the Manager shall intimate every outbreak of fire to the Firemaster immediately.

26 Lasers or other similar devices shall not be used without the Council's written permission.

27 The premises shall be lit to the satisfaction of the Council. A maintained system of secondary lighting shall be provided throughout the building, kept in proper working order and kept on when the premises are open to the public.

28 The electric installation of the premises shall be kept in proper working order to the satisfaction of the Council. No alterations or additions to the electrical installation shall be made without the Council's written approval.

29 No temporary electric lighting installation shall be used in any part of the premises without the Council's written consent. All temporary connections to the permanent installation in the premises shall be disconnected immediately after each performance.

30 All electrical lighting switches to public areas shall be inaccessible to the public.

31 The premises shall be properly ventilated and heated to the satisfaction of the Council. Temporary or moveable forms of heating shall not be used without the Firemaster's written approval.

32 Sanitary accommodation shall be provided to the satisfaction of the Council.

33 The Food Hygiene Regulations and The Health and Safety at Work Act 1974 shall be complied with.

34 Any amplified music and speech shall be controlled so as not to cause annoyance to the satisfaction of the Director of Environmental and Consumer Services.

35 A telephone shall be installed in the premises.

36 The Licensee shall display the Cinema Licence and Conditions in a prominent position.

37 No alteration shall be made to the structure, seating arrangements or exists without the Council's written consent.

38 The Firemaster, any Police Constable and any authorised Council Officer shall be permitted free access to the premises at any time.

39 The Council or Firemaster shall have the power to set a limit on the maximum number of people to be admitted to the premises for any performance.

40 One or more leakage circuit breakers must be installed if live amplified music is to be performed on the premises. The installation should comply with the current Institute of Electrical Engineers Regulations.

## Appendix 2 – proposed revised cinema licensing conditions

### Cinemas Act 1985

#### LICENCE CONDITIONS

- 1 'Film' in these conditions means 'Film exhibition' as defined in the Cinemas Act 1985. 'Council' means the Council as Licensing Authority under the 1985 Act.
- 2 Subject to conditions 3 and 4:
  - (a) No film shall be exhibited unless it has received a 'U', 'PG', '12', '12A', '15' OR '18' certificate from the British Board of Film Classification;
  - (b) No one under the age of 18 shall be admitted to see a film with an '18' certificate;
  - (c) No one under the age of 15 years shall be admitted to see a film with a '15' certificate;
  - (d) No one under the age of 12 years shall be admitted to see a film with a '12' certificate;
  - (e) No one under the age of 12 years shall be admitted to see a film with a '12A' certificate unless accompanied by an adult.
- 3 Any other film may be exhibited if the permission of the Council is first obtained and any conditions of such permission are complied with.
- 4 The Council may prohibit the showing of any film by giving written notice to the Licensee.
- 5 The terms of any certificate given by the British Board of Film Classification shall be shown on the screen immediately before the showing of any film to which it relates.
- 6 There shall be prominently exhibited at each public entrance whenever premises are open to the public for the showing of films a notice indicating clearly:
  - (a) the title of each film to be shown on that day, other than trailers and films of less than 5 minutes duration;
  - (b) the approximate time of commencement of each film;
  - (c) whether each film has received a 'U', 'PG', '12', '12A', '15' OR '18' certificate from the British Board of Film Classification; and
  - (d) the effect of the certificates on the admission of persons under the age of 18 years.
- 7 The type of certificate received from the British Board of Film Classification shall be clearly indicated by 'U', 'PG', '12', '12A', '15' OR '18' in any advertisement of the film displayed at the premises.

- 8 No advertisement displayed at the premises of a film to be exhibited there shall depict any scene or incident not included in the film as certified by the British Board of Film Classification or as approved for exhibition by the Council.
- 9 Where the Council has given notice in writing to the Licence holder objecting to an advertisement, that advertisement shall not be displayed at the premises.
- 10 The premises shall only open between 8am and 1am the following day, unless the written consent of the Council is given to open earlier or later.
- 11 No animals shall be permitted in the premises during the exhibition of a film except assistance dogs. The licence holder shall not refuse admission to patrons with recognised assistance dogs.
- 12 All staff on duty shall wear a distinguishing uniform or armband or otherwise be identified by name badge, and shall, have in their possession an electric torch in working condition.
- 13 Films in the 'RESTRICTED (18)' category shall not be shown without the consent in writing of the Council. Any consent granted in terms of this condition shall be subject to all the following conditions being complied with and any other conditions the Council consider necessary.
  - (a) Films in the 'RESTRICTED (18)' category shall not be exhibited except at licensed premises being operated as a club.
  - (b) No films in the 'RESTRICTED (18)' category shall be shown in a multi-screen complex unless the area used for such films and all facilities (including foyers, lavatories, and refreshment areas) are wholly segregated and accessible only through a separate entrance and box office.
  - (c) A register of members shall be maintained and made available for inspection by Council officials or police constables. A membership card (with a photograph of the member) shall be issued to each member.
  - (d) Tickets shall not be sold to persons other than members.
  - (e) No one shall be admitted to view a film in the 'RESTRICTED (18)' category unless a valid membership card for that person is displayed at the time of admission.
  - (f) Advertising for films in the 'RESTRICTED (18)' category shall specify only the title of the film and the category and will not include pictorial material or other information about the names of performers or the plot.

(g) Membership rules for club cinemas shall include the following:

- (i) Membership shall only be open to people of not less than 18 years of age. Applications for membership, including name and address, shall be in writing and signed by the applicant. Applicants shall provide proof of their age to the Licence holder;
- (ii) No one shall be admitted to membership until at least 24 hours after the application has been approved by the licence holder;
- (iii) Membership cards shall not be transferable.

- 14 The number of people admitted to the premises shall be strictly controlled to ensure that there is no overcrowding., in line with the capacity stated on the licence.
- 15 All approaches, staircases and passageways shall be kept free from obstruction. No seat or other obstruction shall be placed in any of the passageways and no-one shall be allowed to stand or sit in any passageway during performances.
- 16 All doors and barriers shall open outwards and shall not be fastened or locked except by push bar mechanisms which release the door under pressure.
- 17 Emergency lighting signs should be either internally illuminated or illuminated by a light no more than 2 metres away and from a maintained system with 3 hours duration, in accordance with BS 5266: Part 1: 2011 at all material times. All exit doors shall be useable at the end of each performance. The transparency shall be illuminated by a maintained system of lighting and must be visible from the auditorium at all times when the premises are open to the public.
- 18 Any decorative surface finishes shall be either non-combustible or durably flame-proofed.
- 19 The premises shall be lit to the satisfaction of the Council. A maintained system of secondary lighting shall be provided throughout the building, kept in proper working order and kept on when the premises are open to the public.
- 20 The electric installation of the premises shall be kept in proper working order.
- 21 No temporary electric lighting installation shall be used in any part of the premises without the correct certification being in place. All temporary connections to the permanent installation in the premises shall be disconnected immediately after each performance

- 22 Any amplified music and speech shall be controlled so as not to be an audible nuisance to the satisfaction of the relevant Executive Directors.
- 23 The licence holder shall display the Cinema Licence and Conditions in a prominent position.
- 24 The relevant fire authority, any Police Constable and any authorised Council Officer shall be permitted free access to the premises at any time.

- END -

### Appendix 3 – comments on proposed conditions

- In general most of these proposals are fine (safety etc) However, I am rather uncomfortable with the proposals that the Council can refuse to allow a cinema to show an film that it deems unsuitable. Film is often made to provoke debate about difficult and divisive subjects. How is the Council to decide what is unsuitable for viewing -surely that is subjective? This feels like a step back to censorship and a continuation of the nanny state attitude that is discouraging adults practising self responsibility.
- While I don't have an objection to the vast majority of the proposed changes, I do have take issue with conditions 2 and 4. I do not believe it is fare to legislate to allow the council to undermine the decision of a board set up specifically to regulate cinema content. Especially when the bases of that decision is as subjective as finding the content distasteful. Cinema is often powerful and provocative and there to make it's audience think in a way they did not before or would not normally. Allowing the council to make the decision not to screen some of these types of films is censorship and I will not agree to allow you to do this.

In addition needing to obtain a licence to show films that are not rated by the BFI could be damaging to local film and arts festivals who are often independently run and may not have the time to go through the review board at the BFI. The Edinburgh international film festival, Edinburgh short film festival and Hidden Door are some that spring to mind. There are also universities within Edinburgh that screen their final year degree films at the Filmhouse that would have to rethink their exhibitions because there is already a tight enough turn around between completion and exhibition. They would loose the chance to screen their work to an audience and that is a real shame.

- Clause 4 is a blatant attempt to curb or deny free speech in subjects which could be nationally important.
- The prohibition of films not given a classification, or that "would offend against good taste or decency" is open to misuse and may effectively be seen as censorship.

#### **Appendix 4 – comments on policy on parent/infant screenings**

- I'd be interested to know the justification as to why 12 months. There's enough research to suggest that children shouldn't be watching any screen media before the age of 2 so I feel as though 12 months is a little arbitrary.

Also I feel as though beginning parental status at the age of 16 will not allow some parents in with their infants as there are groups of mothers in Edinburgh who fall beneath that age.

- Seems reasonable.