

## **The following terms and conditions are those of the Video Appeals Committee, not the BBFC.**

### THE VIDEO APPEALS COMMITTEE PROVISIONS 1985

#### RIGHT OF APPEAL

1. Any person aggrieved (the Appellant) by a determination of the British Board of Film Classification (the Board) under the Video Recordings Act 1984 (the Act)
  - (a) that a video work submitted by him for the issue of a classification certificate
    - (i) is not suitable for a classification certificate to be issued in respect of it, or
    - (ii) is not suitable for viewing by persons who have not attained the age specified in the determination, or
  - (b) that no video recording containing the video work submitted by him is to be supplied other than in a licensed sex shop may, in accordance with these provisions, appeal against that determination to the Video Appeals Committee (the Committee).

#### THE APPEAL PROCEDURE

2.
  - (1) An appeal against the determination of the Board shall be commenced not later than 42 days from the date on which the Appellant receives notice of the Board's determination (whether by means of an Interim Clearance Form or otherwise in writing) by the Appellant sending to the Committee a Notice of Appeal together with a copy of the video work and the appeal fee; and the appeal fee shall be equivalent to two thirds of the original examining fee charged by the Board.
  - (2) Notice of the Board's determination shall be either delivered personally or sent by post, and every notice sent by post shall for the purpose of paragraph (1) above be deemed to have been received within 48 hours of posting.

#### APPELLANT'S NOTICE OF APPEAL

- (3) A Notice of Appeal shall be in writing and shall:
  - (a) set out the name of the Appellant and his address for the service of documents,
  - (b) identify the determination by which the Appellant is aggrieved,
  - (c) contain a concise statement of the grounds of appeal
    - (i) giving particulars of any reason and a copy of any document upon which the Appellant relies, and
    - (ii) indicating any point on which the Appellant relies which appears to him to be a point of law,
  - (d) state the nature of the decision which the Appellant wishes the Committee to take in accordance with Provision 8(1), and
  - (e) be signed by on behalf of the Appellant.
- (4) At any time within fourteen days of the receipt of a Notice of Appeal by the Committee, the Board shall be entitled to view the video work delivered to the Committee and shall either certify that it is identical to the video work in respect of which the determination was made or, if it appears to the Board not to be identical, shall inform the Committee, who shall give such directions as it considers appropriate.

#### BOARD'S REPLY

- (5) The Board shall within the period of fourteen days beginning with the date on which the Notice of Appeal is given to it by the Committee send to the Committee.
  - (a) a copy of the notice of the determination in respect of the video work given by the Board,
  - (b) a notice setting out any representations which the Board wishes to make, and
  - (c) a copy of any document which it wishes to produce.

#### APPELLANT'S REPLY

- (6) The Appellant may within a period of fourteen days beginning with the date on which a copy of the Board's reply is given to him give to the Committee a notice setting out any further representations he wishes to make and a copy of any further document he wishes to produce.

#### SERVICE OF DOCUMENTS

3. (1) The Committee shall, upon receipt from either party of any notice or document served pursuant to these Provisions, forthwith give a copy thereof to the other party.
  - (2) Any notice or document required under this Provision to be given by the Committee to either party shall be delivered personally or sent by post; and every notice sent by post shall be deemed to have been received within 48 hours of posting.

#### INTERESTED PERSONS

4. (1) The Committee may at its discretion accept for consideration by it any written representations, documents or other material submitted to it by any person other than the Appellant of the Board who appears to the Committee to have an interest in the outcome or determination of the appeal.
  - (2) If the Committee accepts any such written representations, documents or other material, it shall forthwith send copies thereof to the parties to the appeal so that each party can consider whether to request that person to attend as a witness or to rely upon such written representations, documents or other submitted material.

#### PROCEDURE

5. (1) The Committee may make such directions as to the conduct of the appeal as it shall consider desirable in the interests of justice, including (but not by way of limitation) dispensing with the taking of any steps required or authorised by these Provisions, or directing that any such steps be taken in some manner other than that described by these Provisions, or extending the time limits set out in Provision 2.
  - (2) The failure of any party to comply with any procedural requirement provided for in these Provisions shall not invalidate the decision of the Committee; and the Committee shall if it considers that any person may have been prejudiced take such steps as it thinks fit to cure the irregularity before deciding the appeal.
  - (3) The Committee shall fix the date, time and place of the hearing of the appeal and shall also not less than fourteen days or such shorter time as may be agreed by it with each party to the appeal before the date is fixed send to each party to the appeal a notice of the hearing

## THE COMMITTEE

6. (1) The President for the time being of the Committee shall appoint from the Committee a panel consisting of not less than three members (the Panel), one of whom shall be nominated by him as Chairman and one as Vice Chairman to hear and decided each appeal.
- (2) The Chairman alone or in his absence the Vice Chairman shall exercise the jurisdiction of the Committee in all procedural matters prior to the hearing.
- (3) In the absence of any member or members of the panel the hearing may proceed in the absence of such member or members (provided only that the panel is not reduced to less than three), and if it be the case that the Chairman is absent, the Vice Chairman shall be the Chairman for that hearing and shall sign the decision. The hearing shall not proceed in the absence of both the Chairman and Vice Chairman but shall be adjourned to a date to be fixed by the President.

## THE HEARING

7. (1) The panel shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally conducive to the just handling of proceedings; it shall so far as appears to it appropriate seek to avoid formality in its proceedings and it shall not be bound by any enactment or rule of law relating to the admissibility of evidence before the Courts of Law.
- (2) Without prejudice to paragraph 1 above, at any hearing of or in connection with an appeal a party to the appeal may make an opening statement, give evidence on his own behalf, call witnesses, cross-examine any witness called by the other party and address the panel.
- (3) At any hearing of or in connection with an appeal, a party may appear before the panel in person or may be represented by Counsel or by a Solicitor or by any other person whom he desires to represent him.
- (4) If a party shall fail to appear or be represented at the time and place fixed for the hearing of an appeal, the panel may as it shall think fit either dispose of the appeal in the absence of that party or adjourn the hearing to a later date.
- (5) Any hearing of or in connection with an appeal shall take place in public unless it shall appear to the panel on the application of a party that a private hearing either in whole or in part is in the circumstances desirable.
- (6) Any member of the Council on Tribunals or of the Scottish Committee of the Council or of the Video Consultative Council shall be permitted to attend any hearing, public or private, in his capacity as such member.

## DECISION OF THE COMMITTEE

8. (1) In the exercise of its jurisdiction the panel may after hearing the appeal uphold the determination of the Board or, as the case may be, indicate that the determination should be varied in accordance with the decision of the panel.
- (2) The decision of the panel shall be in writing signed by the Chairman and shall contain the reasons for the decision; a copy of that decision shall within a period of 21 days from the final day of the hearing be sent by the Committee to each party to the appeal.
- (3) Without detracting from the obligations under paragraph (2) above, the panel may as a preliminary step provide an oral decision without supporting reasons.
- (4) If the members of the panel dealing with the appeal are unable to agree a unanimous decision, the decision shall be taken by the votes of the majority; and, in the event of an equality of votes, the Chairman shall exercise a second or casting vote.

## COSTS

9. (1) Where it appears to the panel that any proceedings brought by the Appellant may be frivolous or vexatious:-
  - (a) it shall so notify the Appellant and warn him in writing that he is at risk of being ordered to pay the expenses of the Board in accordance with clause (b) of this subparagraph, and
  - (b) if it appears to the Panel that the proceedings in the period after the warning was given were frivolous or vexatious, it may order the Appellant to pay the Board the whole or such part as it thinks fit of the expenses incurred by the Board in connection with the appeal for that part of the proceedings after the Appellant had been warned.
- (2) The Committee shall if the appeal is wholly successful refund to the Appellant the whole of the appeal fee and in any other circumstances may at its discretion refund all or any part of the appeal fee.