

# **VIDEO APPEALS COMMITTEE – PROVISIONS**

## **1. Right of appeal**

Any person aggrieved (“the Appellant”) by a determination of the British Board of Film Classification (“the BBFC”) under the Video Recordings Act 1984 (“the VRA”)

(a) that a video work submitted by the Appellant 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 the Appellant for the issue of a classification certificate 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 VAC”).

## **2. The appeals process**

- (1) The Appellant must commence their appeal against a determination of the BBFC no later than 42 days from the date on which the BBFC issues its determination to the Appellant’s account on the BBFC’s classification portal. It should be noted that, if the Appellant formally accepts the determination that the BBFC has issued, the Appellant waives their right to appeal against the BBFC’s determination.
- (2) The Appellant shall commence the appeal against the determination by providing the VAC with a Notice of Appeal together with a copy of the video work and the appeal fee.
- (3) The appeal fee shall be in the sum of £2,500 plus VAT. The VAC will only consider the appeal if the Appellant has paid the appeal fee at the point of submitting a Notice of Appeal.

### **Appellant’s Notice of Appeal**

- (4) A Notice of Appeal shall be in writing and is to be sent by email to [secretary@vacappeal.co.uk](mailto:secretary@vacappeal.co.uk) and shall
  - (a) set out the name and email address of the Appellant for the service of documents;
  - (b) identify the determination by which the Appellant is aggrieved;
  - (c) contain a statement of the grounds of appeal:
    - (i) giving the reasons for the appeal and a copy of any documents to support the Appellant’s argument; and
    - (ii) indicating any point on which the Appellant relies that appears to the Appellant to be a point of law;

(d) state the nature of the decision that the Appellant wishes the VAC to take in accordance with the Right of Appeal;

(e) be signed by or on behalf of the Appellant; and

(f) be accompanied by a copy of the video work that is the subject of the appeal. If the Appellant is submitting a physical copy, the postal address to deliver it to is Secretary of the Video Appeals Committee, 3 Soho Square, London W1D 3HD. If the Appellant is submitting a digital file, the email address to send it to is secretary@vacappeal.co.uk.

- (5) At any time within 14 days of the receipt of a Notice of Appeal by the Secretary of the VAC (who is the BBFC's Finance Director), the BBFC shall be entitled to view the video work delivered to the VAC and shall certify that it is identical to the video work in respect of which the determination was made or, if it appears not to be identical, shall inform the Secretary of the VAC, who shall give such directions as considered appropriate.

### **BBFC's Reply**

- (6) The BBFC shall, within the period of 14 days beginning with the date on which the Notice of Appeal is given to it by the Secretary of the VAC, deliver to the VAC via email to secretary@vacappeal.co.uk
- (a) a copy of the BBFC rating and ratings info that comprise the determination being appealed against;
  - (b) a written rationale for the BBFC's determination; and
  - (c) a copy of any additional documents that it wishes to produce to support its rationale.

### **3. Sharing of documents**

- (1) The Secretary of the VAC shall, upon receipt of the submissions by the Appellant and the BBFC, provide each party with the other's submission for reference.
- (2) Any notice or document required under these Provisions to be given by the VAC to either the Appellant or the BBFC shall be sent by email, and every notice sent shall be deemed to have been received by the party to which it is addressed within one working day of emailing.

### **4. The Appeals Panel**

- (1) The Appeals Panel ("the Panel") shall decide each appeal on behalf of the VAC. The Panel for each appeal shall comprise the Chair of the VAC (who shall also be the Chair of each Panel) and two members of the VAC ("Panellists") appointed by the Chair for that appeal. The Secretary of the VAC shall contact the Chair of the VAC, who will decide which members of the VAC will join the Chair on the Panel for the appeal deliberations.
- (2) In the absence of any Panellist, the Panel's deliberations may proceed provided that the Chair of the VAC appoints a replacement Panellist for the purposes of the appeal.

- (3) In the event that the Chair of the VAC is unable to participate as a Panellist for an appeal, the Chair shall appoint a member of the VAC as Chair of the Panel for that appeal.

## **5. Scheduling the Panel's deliberations**

- (1) The Secretary of the VAC shall fix the date and time of the Panel's deliberations in coordination with the Chair. The Panel shall meet online.
- (2) The Chair shall, upon receipt of the Notice of Appeal and the BBFC's Reply, determine if any further representations or material need to be provided or additional steps taken by either the Appellant or the BBFC prior to the Panel's deliberations, and, if needed, shall notify the relevant party accordingly.
- (3) If the Chair determines that the specifics of the appeal require expertise in addition to what the Panel brings, the Chair may call upon an External Advisor.
- (4) The Panel shall meet to consider the Appeal as soon as is reasonably practicable to determine the Appeal, and the Appellant and the BBFC will be given at least 7 days' notice of the first day of the Panel's deliberations.
- (5) No oral evidence is required to be presented by the Appellant or the BBFC unless the Chair decides that there are very exceptional circumstances that require it. In such a case, the Chair may adjourn the Panel's deliberations, notify the Appellant and the BBFC that the Panel requires oral evidence, and make such appropriate arrangements to hear from the Appellant and the BBFC as the Chair thinks fit.
- (6) The failure of either the Appellant or the BBFC to comply with any procedural requirement in relation to the appeal shall not invalidate the appeals process as conducted by the VAC, and the VAC shall if it considers that any person may have been prejudiced take such steps as it thinks fit to cure any irregularity before deciding the appeal.

## **6. The Panel's deliberations**

- (1) The Panel shall view in full the video work that is the subject of the Appellant's appeal.
- (2) The Panel shall normally only consider in full the written submissions of the Appellant and the BBFC, other than in very exceptional circumstances as set out in 5(5).
- (3) The Panel shall have due regard to the Classification Guidelines of the BBFC that were material to the determination under appeal and shall not depart from them except to the extent the Panel is satisfied that the Guidelines do not reflect standards acceptable to the public.

## **7. Decision of the VAC**

- (1) In the exercise of its jurisdiction, the Panel may after considering the appeal
- (i) uphold the determination of the BBFC;
  - (ii) indicate that the determination must be varied in accordance with the decision of the Panel; or

(iii) submit the case to the BBFC to re-take its decision after it has fulfilled any procedural requirements set down by the Panel.

- (2) If the Panellists are unable to reach a unanimous decision, the votes of the majority shall prevail.
- (3) The decision of the Panel shall be in writing signed by the Chair and shall contain the reasons for the decision. The Chair shall, within 21 days of the final day of the Panel's deliberations, send a copy of that decision via email to the Appellant and the BBFC.

## **8. Costs**

- (1) Where it appears to the Panel that any proceedings brought by the Appellant may be frivolous or vexatious,
  - (a) the Chair shall so notify the Appellant and provide a written warning that the Appellant is at risk of being ordered to pay the expenses of the BBFC in accordance with clause (b) of this subparagraph, and
  - (b) if it appears to the Panel that the proceedings in the period subsequent to the written warning were frivolous or vexatious, the Chair may order the Appellant to pay the BBFC the whole or such part as it thinks fit of the expenses incurred by the BBFC (up to a maximum of £5,000 plus VAT, including the appeal fee) in connection with the appeal for that part of the proceedings after the Appellant had been warned.
- (2) The VAC shall if the appeal is wholly successful, as defined in (7)1 (ii) and (7)1 (iii), refund to the Appellant the whole of the appeal fee but the Appellant shall not be entitled to any other reimbursement of any costs incurred in connection with the appeal.

January 2022