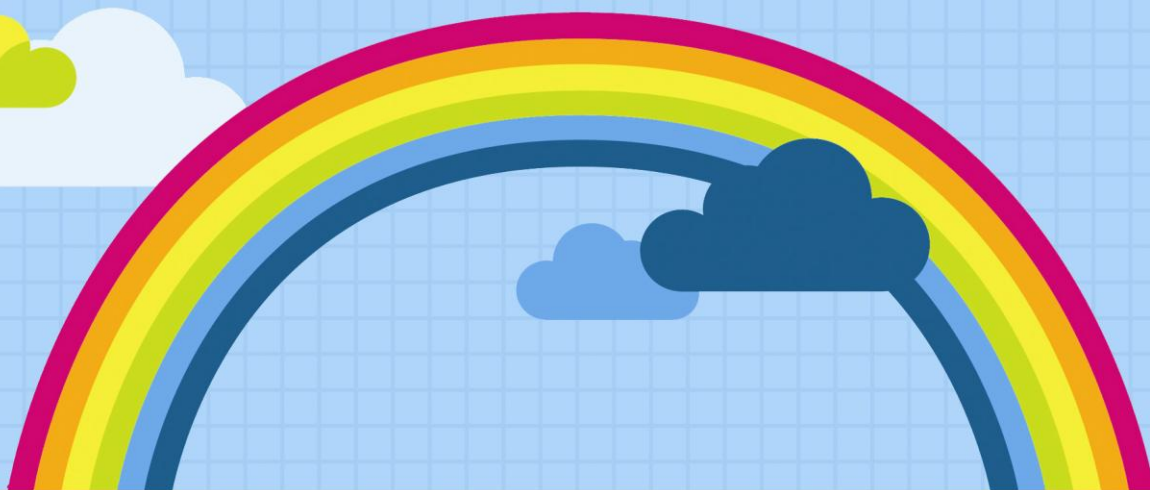


Getting it right
**FOR YOUNG
PERFORMERS**



An analysis of Consultation Responses



Consultation on the national arrangements for child performance: an analysis of consultation responses

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EXECUTIVE SUMMARY

Background

1. The Getting it Right for Young Performers consultation, which took place between 4 April and 6 June 2014, sought comments on the proposed revision of the current licensing arrangements in relation to child performances and activities. These proposals were informed by the contribution of a national working group.

Overview of Responses

2. The consultation received 21 responses, including from local authorities, production companies, children's organisations and individuals. Details of non-confidential respondents are attached in Annex A.

3. In addition, using a slightly adapted consultation document, the Scottish Youth Theatre and Strange Town sought the views of 225 children and approximately 40 parents in relation to the proposals. Annex B of this document contains detailed information on the questions put to the children and parents and the responses received.

4. The majority of responses to the consultation supported the proposals. However, a number of comments suggested the need for more detailed guidance in relation to specific aspects of the proposed policies. Other respondents did not consider areas of the consultation to be relevant to their work and, therefore, opted not to provide a response to individual questions.

5. Two of the consultation questions divided opinion clearly amongst the responses: that relating to the timescales in which an application for a licence should be submitted to the licensing authority (question 3) and the proposal in respect of the numbers of children who can be taught by a private tutor at any one time (question 12). These are discussed in more detail at paragraphs 2.7 and 2.32 below.

6. Overall, the responses emphasised the need for licensing authorities, when determining an application for a licence, to prioritise the needs of individual children, taking account of their age, maturity and wellbeing.

The Children (Performances and Activities)(Scotland) Regulations 2014

7. The Children (Performances and Activities)(Scotland) Regulations 2014 (2014 Regulations) were laid before the Scottish Parliament on 19 December 2014. If approved, they will come into force on 20 February 2015.

8. Informed by the consultation exercise, the finalised proposals aim to deliver a modernised licensing system that operates effectively for Scotland's young performers, whilst at the same time ensuring appropriate safeguards are in place to promote and protect their wellbeing.

1. INTRODUCTION

Background

1.1 The Scottish Government is committed to making Scotland the best place in the world to grow up. This means placing the rights and wellbeing of our children at the centre of everything that we do.

1.2 Our understanding of children's wellbeing builds on the rights included in the United Nations Convention on the Rights of the Child (UNCRC), an international treaty which sets out the guarantees that each and every child must have if they are to enjoy a healthy and happy life.

1.3 It is undeniable that the opportunity to perform, whether on stage or screen, or to participate in sporting or modelling activities, can benefit the health and wellbeing of our children and young people significantly. Indeed, article 31 of the United Nations Convention on the Rights of the Child (UNCRC)¹ recognises the right of every child to participate freely in culture, artistic, recreational and leisure activity.

1.4 However, there is potential for children involved in such activities to be exposed to risks to their immediate safety and longer term wellbeing as a direct consequence of their participation. In order to minimise these risks, all local authorities in Scotland operate a licensing system for children below school leaving age who wish to be involved in performances or activities.

Current Legislation

1.5 The Children and Young Persons Act 1963 (the 1963 Act) and the Children (Performances) Regulations 1968 (the 1968 Regulations) provide for the current licensing arrangements.

1.6 In addition to this, section 94 of the Children and Young People (Scotland) Act 2014, which was commenced in August 2014, repealed previous restrictions on the types of performances in which children under 14 years could participate.²

Getting it Right for Young Performers Consultation

1.7 The range and nature of performance opportunities and sporting and modelling activities available to children and young people has increased significantly since the establishment of the current licensing arrangements. New genres of programmes and emerging media technologies have undoubtedly influenced the shape of our creative industries. Alongside these developments, our approach to protecting, promoting and supporting the wellbeing of our children has been strengthened over the years including, more recently, through relevant provisions in the Children and Young People (Scotland) Act 2014.

¹ UN General Assembly (1989). UN Convention on the Rights of the Child (Article 31)

² Section 94 of the Children and Young People (Scotland) Act 2014 repealed section 38 of the 1963 Act in so far as it extended to Scotland.

1.8 To ensure that the current licensing system continues to operate in the best interests of young performers and businesses in Scotland, the Scottish Ministers established a working group of relevant stakeholders in 2013 to review the effectiveness of existing licensing arrangements. Following detailed consideration, the group concluded that the current system was in need of modernisation.

1.9 The Scottish Government's considered response to the working group's recommendations underpinned the proposed policies set out in the consultation, which took place between 4 April and 6 June 2014, including in relation to the following:

- Definition of performance
- Applying for a licence
- Education
- Chaperones
- Working hour limit

1.10 Scottish Ministers were content that the legislative framework afforded by the current primary legislation remained fit for purpose. The proposed revisions to the licensing arrangements, therefore, focused on modernising the current system through secondary legislation and non-statutory guidance.

1.11 The consultation received 21 responses, including from local authorities, production companies, children's organisations and individuals.

1.12 The non-confidential responses were published on 16 July 2014: <http://www.scotland.gov.uk/Publications/2014/07/4746>.

1.13 A profile of responses received is set out below:

Table 1: profile of respondents

| | Total |
|---------------------------------------|--------------|
| Local authorities | 5 |
| Individuals | 3 |
| Third sector organisations | 3 |
| Organisation involved in performances | 10 |
| | 21 |

1.14 The Scottish Youth Theatre and Strange Town (both members of the National Working Group) also sought the views of 225 children and approximately 40 parents in relation to the proposals. These are attached at **Annex B**.

Structure of the Report

1.15 The remainder of this report presents a question by question analysis of the responses provided in relation to the individual questions set out within the consultation document.

1.16 Each question contained a 'yes/ no' tick box option to better enable the respondents to indicate their support or otherwise for the proposals. The analysis of the individual consultation questions, therefore, contain tables summarising the views expressed in the tick box options. A more detailed summary of the comments received and the main themes that emerged across the issues consulted upon is also provided.

1.17 This document should be read in conjunction with the consultation document, which is available at the attached link:

<http://www.scotland.gov.uk/Publications/2014/04/9664>.

2. THE PROPOSALS AND RESPONSES

Consultation Questions

Question 1

Do you agree as outlined that national guidance is required to clarify what is meant by the term 'performance' for the purposes of licensing arrangements?

Question 1 - total responses

| Yes | No | No Response/ Not Answered |
|-----|----|---------------------------|
| 17 | 1 | 3 |

2.1 The majority of respondents agreed that national guidance was necessary to define the term 'performance' for licensing arrangements. Comments received included the following:

We welcome the proposal to produce non-statutory guidance clearly identifying licensable activities. (Federation of Scottish Theatre)

The media world has changed significantly in recent years, so clarification important. (Renfrewshire Council)

2.2 The detailed response provided by PACT included a number of qualifications to the organisation's stated support for this proposal.

2.3 South Ayrshire Council suggested that the proposal "*should not, however, impede a child's right to express an opinion. The definition of what constitutes a performance would offer clarification to all involved.*"

2.4 One anonymous respondent did not consider a definition in national guidance to be necessary.

Question 2

Do you agree that a licence should continue to be required for each performance a child is involved in?

Question 2 - total responses

| Yes | No | No Response/ Not Answered |
|-----|----|---------------------------|
| 14 | 2 | 5 |

2.5 The majority of respondents agreed that a licence should continue to be required for each individual performance in which a child is involved. It was also noted that the child's wellbeing must remain the paramount consideration. Comments received included the following:

Yes all performances are different and what is required from a young person during each performance will be different. Each licence for an individual performance should include a risk assessment which indicates the specific needs of the young person for that specific performance.(Barnardo's Scotland)

We see no reason why this should be changed (East Ayrshire)

Yes, however, we would welcome any move to streamline the process It would make sense to create an application form/ process that enables companies to bypass areas where information stored from any previous applications remains applicable. (Scottish Opera)

2.6 One anonymous respondent considered that licences for individual performances created too much of a burden on parents of children who wish to be involved in the arts.

Question 3

Do you agree that all licence applications should be submitted to the licensing authority no less than 21 days in advance of the performance?

Question 3 - total responses

| Yes | No | No Response/ Not Answered |
|-----|----|---------------------------|
| 9 | 8 | 4 |

2.7 Opinions were divided in relation to this issue. A slightly higher number of respondents, 9, supported the proposal to retain the 21 day limit. However, 8 respondents considered that this timescale should be reduced to 14 days.

2.8 The comments received from those in favour of the proposal included the following:

Yes, the timescales are adequate, licensing authorities need to have enough time between receiving the application and the performance in order to carry out necessary checks and make informed decisions regarding approval of licences. (Barnardo's Scotland)

This is welcomed as current practice shows that requests are made to local authorities with less than a few days' notice (South Lanarkshire Council)

2.9 Comments received from those who disagreed with the proposal included the following:

We would prefer that the 21 day period for the submission of licence applications be reduced to 14 days (as suggested by the Working Group). Members commented that a shorter notice period would work better with the usual casting process and its timing. (UK Theatre and SOLT)

The 21 day advance notice period does not allow sufficient flexibility to fit with tight filming schedules. If this rule is to be introduced as a standard timeframe, there should be a fast-track route through which urgent requests can be reviewed if required. (PACT)

2.10 A number of respondents, including both supporters of and those against the 21 day timescale proposal, suggested that, where possible, the application process should be streamlined. The development of an online application process was also raised within this context.

Question 4

Do you agree to the development of a new standard application form including the following information (outlined at page 9 of the consultation paper) :

- Name, address and date of birth of the child;
- The name, nature and place of performance;
- Start and end date of performance and number of days on which the child will be performing;
- Details of any health conditions which may impact the child's ability to participate in the performance; and
- Details of the individual who will be taking on the role of chaperone to the child for the duration of the performance.

Question 4 - total Responses

| Yes | No | No Response/ Not Answered |
|-----|----|---------------------------|
| 16 | 1 | 4 |

2.11 The majority of respondents agreed with this proposal. Comments received included the following:

The application should be made simple and include the information as identified in the proposal. It seems proportionate and sensible. (South Ayrshire)

We believe the standard application form (along with the standard definitions and guidelines) will ensure consistency of approach across licensing authorities, which is critical to theatres covering broad catchment areas and to touring theatre companies. (Federation of Scottish Theatre)

*We think it may be helpful to replace 'start and end date of performance' with 'start **and or** end date of performance' in order to give flexibility to performances which may be delayed or go on for longer than expected. (Barnardo's Scotland)*

2.12 PACT made a similar point about the need for flexibility in relation to the start and end dates of the performance. Other comments received included the following:

Together recommends that children should have the opportunity to play an active role in completing a licensing application form and that information regarding this process should be provided and explained in a child-friendly format, taking the age and maturity of the child into consideration. (Together)

2.13. An anonymous respondent, who disagreed with this proposal, highlighted that there should not be a requirement to list previous performances.

Question 5

Do you agree that, alongside an application form, the organisation hosting the performance should provide the following additional information:

- A completed risk assessment based on an agreed national model;
- Relevant information from the child's Named Person where there are known risks to wellbeing

Question 5 – Total responses

| Yes | No | No Response/ Not Answered |
|------------|-----------|----------------------------------|
| 15 | 1 | 5 |

2.14. The majority of respondents agreed with the proposal for the inclusion of a completed risk assessment with the application for a licence. They also agreed that relevant information should be shared with the child's Named Person when there are known risks to wellbeing. Comments received included:

Travel must be detailed as this can sometimes be excessive (Number 003 of the published responses)

This will help to reinforce the importance of the child's safety and well-being. (South Lanarkshire Council)

2.15. A number of responses, however, highlighted the need for guidance on the development of risk assessments whilst others stressed the requirement for such assessments to be proportionate. For example, the Federation of Scottish Theatre noted:

We would recommend that the risk assessment for each child should be relatively light touch, unless a specific risk has been identified, in order to minimise the administrative resource required, particularly where there are large numbers of children involved in a performance.

2.16. Another respondent stressed the need for the development of an online risk assessment tool.

2.17. Responses in relation to the proposal for the applicant to provide relevant information from the child's Named Person where there are known risks to wellbeing, included the following comments:

With reference to the proposals....about when information is shared by the Named Person or when a licensing authority requests additional reports, Article 16³ must be upheld. Information shared within additional reports by the child's chaperone, private tutor, Named Person (which includes head teacher or health visitor) and any other party must be relevant and proportionate. (Together)

2.18. One anonymous respondent did not agree with the proposals.

Question 6

Where a child is required to be absent less than 5 school days over the course of a performance, do you agree that the organisation hosting the performance should be required to agree a course of study with the local authority in dialogue with the child's teacher (or, where a child is home educated, agreed with the parents)?

Question 6 – Total responses

| Yes | No | No Response/ Not Answered |
|------------|-----------|----------------------------------|
| 10 | 5 | 6 |

2.19. The majority of respondents including Aberdeenshire Council, Renfrewshire Council, Macrobert Arts Centre and the National Theatre of Scotland agreed with this proposal. Comments received included the following:

This would be appropriate to support the child's education while recognising the clear learning benefits of involvement in the production. (South Ayrshire Council)

The production company should seek a dialogue with the appropriate teacher and with the agreement of the local authority as to the appropriate course of study. PACT agrees that there should be some consideration as to the child's involvement in the performance contributing and if appropriate applicable to the course of study. As in some cases the experience in being involved in making a programme could itself be educational - and in fact some of the children's involvement may be for educational programmes. (PACT)

³ UN General Assembly (1989). UN Convention on the Rights of the Child (Article 16)

Agree, though for secondary age children a programme of study would have to be agreed with subject teachers perhaps liaised in school through pupil support or guidance staff'. (East Ayrshire Council)

2.20. Comments received from those who disagreed with the proposal included the following:

The level of detail and oversight required in the provision of a suitable course of study should be proportionate to the length of absence and should not be unnecessarily detailed for short periods of absence. Any programme should also take account of the educational value of participation in a performance. (Federation of Scottish Theatre)

Given our irregular performance model and our intent, as a rule, to minimise time spent away from school for children in our performances, we expect that responsibility for the child's education rests between the parents and the child's Teacher and Head Teacher and that we would not become involved with this. (Scottish Opera)

Question 7

Where a child is required to be absent more than 5 school days over the course of the performance, do you agree with the proposals where the organisation hosting the performance agree a course of study with the licensing authority (in dialogue with the child's teacher) and must make arrangements for the provision of a private tutor?

Question 7 – Total responses

| Yes | No | No Response/ Not Answered |
|------------|-----------|----------------------------------|
| 9 | 4 | 8 |

2.21. The majority of responses received supported this proposal. Comments received included:

Yes it is important that education are clearly involved in the planning for a child's education if they are to be absent during school time (South Ayrshire Council)

Together welcomes the proposal to continue the current case that licensing authorities cannot grant a licence unless they are satisfied that a child's education will not suffer. This reflects Article 32 which requires that children must be protected from performing any work likely to be hazardous or to interfere with their right to education (as outlined in Article 28 of the UNCRC).⁴ (Together)

⁴ UN General Assembly (1989). UN Convention on the Rights of the Child (Articles 32 & 28)

2.22. Comments received from those who did not support the proposal included the following:

We are concerned that the proposed threshold is too inflexible as it takes away the licensing authority's discretion to take account of all relevant circumstances (for example, in the case of a performance taking place over just 6 school days, the administrative and financial costs of organising tuition may be disproportionate). An alternative would be to set a higher threshold. (UK Theatre and SOLT)

Question 8

Do you agree that a child involved in a performance should receive no less than 3 hours and no more than 5 hours of education for each school day?

Question 8 – Total Responses

| Yes | No | No Response/ Not Answered |
|------------|-----------|----------------------------------|
| 13 | 1 | 7 |

2.23. While the majority of respondents agreed with the proposal, a number of responses highlighted the need for guidance on the hours of the day during which it would be permissible for learning to take place. For example, East Ayrshire Council noted:

No issue with overall timings but there should be some guidance on the times of the day when learning takes place.

2.24. Positive comments received included the following:

We agree that setting a maximum limit on any tutoring is certainly necessary to prevent the child(ren) from becoming too tired in advance of, or during, the performance. (Scottish Opera)

Agree that a child requires the aforementioned educational requirement. However, where the local authority and school considers that the child's involvement in the performance can contribute towards the child's course of study, this should also be taken into account. (PACT)

2.25. One anonymous respondent did not agree with the proposal.

Question 9

Do you agree that if the child is involved in a broadcast performance or requires to be on location for a period of more than one week then they can receive less than 3 hours of education each day as long as it is made up on another day in a four week period?

Question 9 – total responses

| Yes | No | No Response/ Not Answered |
|------------|-----------|----------------------------------|
| 12 | 2 | 7 |

2.26. The majority of respondents who answered this question expressed their support for the proposal. Comments received included the following:

It should be made explicit that block sessions over 5 hours are not appropriate and education sessions must not be run back to back in order to make up for lost time. The young person must be at the centre of the process regardless of the pressure on the production company to meet deadlines and keep to timescales. (Barnardo's Scotland)

Yes however this requires careful monitoring to ensure the child's wellbeing is not compromised. (South Ayrshire Council)

2.27. One anonymous respondent and East Ayrshire Council did not support the proposal. The latter noted:

With effective planning, learning time can easily be built into production schedules and assistant directors can work around it. There may be a tendency to 'cram' learning into this extra day which would not be beneficial for child performers. (East Ayrshire Council)

Question 10

Do you agree that periods of education lasting less than half an hour should not count towards these totals?

Question 10 – total responses

| Yes | No | No Response/ Not Answered |
|-----|----|---------------------------|
| 11 | 1 | 9 |

2.28. The majority of respondents, including Macrobert Arts Centre, Renfrewshire Council, UK Theatre and SOLT and the Federation of Scottish Theatre, expressed their support for the proposal. Comments received included the following:

Agree, difficult to see how such short periods of time can allow for focused and extended learning of any great value. (East Ayrshire Council)

2.29. One anonymous respondent disagreed with this proposal, while PACT chose not to include a 'yes' or 'no' response, stating that:

PACT is not in a position to comment on this as this is dependent on the child's ability and how they learn. There may be some instances where a child is able to learn in short periods of time. Pact considers this should be allowed to count provided that this has been agreed as appropriate and suitable based on the child and having been agreed with the school, local authority and tutor.

Question 11

Do you agree that any education must be delivered within the working hour limits for children involved in performances?

Question 11 – total responses

| Yes | No | No Response/ Not Answered |
|-----|----|---------------------------|
| 13 | 2 | 6 |

2.30. The majority of respondents, including the National Theatre of Scotland, Macrobert Arts Centre and Renfrewshire Council, supported the suggestion that any education must be delivered within the working hour limits for children involved in performances. Comments received included the following:

Yes, children involved in performances should receive an appropriate amount of time to relax and recuperate where they are not required to be working or studying towards their education. Summer holidays, and other extended holiday periods should also be considered by the licensing authority. A young person might be away

every summer working on a licensed production but not miss out on any education. However they may well be missing out on other things young people do such as playing with friends, socialising etc. which may impact on them when they return to school. (Barnardo's Scotland)

We would also need to think about if a child is working late hours. Would they be expected to go to school during the day and then work in the evening? (BBC)

2.31. PACT did not support the proposal, noting that in exceptional circumstances, it may be appropriate to allow the child to receive education outside the working hours:

For example, if the child becomes unwell and it may be more appropriate to make up the hours on a 5th day if agreed with the local authority and school.

Question 12

Do you agree that no more than 5 children can be taught by a private tutor at any time?

Question 12 – total responses

| Yes | No | No Response/ Not Answered |
|------------|-----------|----------------------------------|
| 8 | 6 | 7 |

2.32. Mixed views were received in relation to this question. However, the majority of respondents, including published response 003 and Aberdeenshire Council supported the proposal. Supportive comments included the following:

Yes this would seem an appropriate level. The children will require bespoke teaching and may have very varied educational needs. (South Ayrshire Council)

Given the possible range of curricular stages this is reasonable. (East Ayrshire Council)

Yes, but there may be occasion where children are from the same school and/ or in the same class and it could be appropriate for the tutor to manage a slightly larger group. (Scottish Opera)

2.33. Comments received from those who did not support the proposal included the following:

If the facility exists to teach more this should be allowed. It should also be dependent on the age range and age of the children. (National Theatre of Scotland)

We are concerned that this maximum limit could be too inflexible as it does not give the licensing authority sufficient discretion to take account of all relevant circumstances (for example, if a group of children are all of the same school age, a tutor could potentially teach a larger number of children). (UK Theatre and SOLT)

This is a matter that should be determined by the age and stage of the children. (South Lanarkshire Council)

Question 13

Do you agree that chaperones should be allowed to support a maximum of ten children at any time or a maximum of three where they are also taking on the role of private tutor?

Question 13 – total responses

| Yes | No | No Response/ Not Answered |
|------------|-----------|----------------------------------|
| 14 | 2 | 5 |

2.34. The majority of respondents supported the proposed maximum number of children who can be supported by a chaperone at any one time. Many respondents stressed the importance of considering the child's needs based on their age and maturity, including the following:

The ratio of 1:10 seems reasonable, but again will be determined by the age and stage of the child. (South Lanarkshire)

There may be an argument for lowering this to eight children. (South Ayrshire Council)

Some thought should be given to the ratio/sex issues dependent on lone/group working of the chaperone. (Centre Stage Youth Theatre)

Depending on the number of children in the production and their age and gender, we find it is often necessary to have more than one chaperone for a group of less than ten. (Scottish Opera)

2.35. By contrast, an anonymous respondent, who did not agree with the proposal, was of the view that the current system operates effectively. The published response number 003, who also disagreed with the proposal, suggested that it would be too difficult for the chaperone to accommodate the individual needs of as many as 10 children. This respondent was also strongly of the view that the chaperone should not also act as a tutor, considering these to be two very different roles.

Question 14

Do you agree to the suggestion that licensing authorities introduce an administrative “registration system” for all chaperones (excluding parents who take on the role in respect of their own child)?

Question 14 – total responses

| Yes | No | No Response/ Not Answered |
|-----|----|---------------------------|
| 13 | 3 | 5 |

2.36. The majority of respondents agreed with this proposal. Comments received included the following:

It's worked effectively elsewhere for some time. (Centre Stage Youth Theatre)

This would allow for support, training and safeguarding networks to be put in place. It would also allow for reassurance with regards to a chaperone's competency. (South Ayrshire Council)

This protects both the chaperone and the employer – as well as the child. (Scottish Opera)

2.37. Although agreeing with the proposal, Barnardo's Scotland noted:

We are currently lacking the detail of who would administrate this system in practice and how consistency of registration would be achieved and maintained across all licensing authorities – the provision of a national toolkit would support consistency however licensing authorities may already be feeling overburdened.

2.38. Comments received from those who did not support the proposal included the following:

The impact and benefit of a registration system is not clear. The local authority does not have the capacity to vet and approve chaperones. The purpose, role and responsibilities require to be mapped out as it is more than an administrative system. The role of chaperone is an area that should be fully discussed with the parent/carer and the child to ensure that they are happy with the arrangements for all chaperones. (South Lanarkshire Council)

Question 15

Do you agree that chaperones should be required to engage in a 'professional update' every 3 years as part of their registration (which will require evidence of their continued suitability)?

Question 15 – total responses

| Yes | No | No Response/ Not Answered |
|------------|-----------|----------------------------------|
| 13 | 3 | 5 |

2.39. The majority of respondents agreed with this proposal. Comments received included the following:

Yes there is little point to registration if there is not a degree of quality assurance of those participating. (South Ayrshire Council)

The proposal that Scottish chaperones be required to engage in a 'professional update' every 3 years brings Scotland into line with the approach already taken in England and Wales where chaperones are licensed by the licensing authorities in which they live and are subject to a renewal process every 3 years. (UK Theatre and SOLT)

2.40. One anonymous respondent who did not agree with the proposal commented that organisations should be trusted to use fully disclosed individuals. Other comments received from those who disagreed with the proposal included the following:

Each risk assessment and chaperone engagement should be bespoke to the project/ production, a 3 year professional update does not allow for ongoing CPD or bespoke

responses to each situation. This could encourage a lack of scrutiny and thoroughness in risk assessment. (National Theatre of Scotland)

Question 16

Do you agree with the core sets of competencies required for chaperones as outlined at pages 13 and 14 of the consultation paper?

Question 16 – total responses

| Yes | No | No Response/ Not Answered/ unclear |
|------------|-----------|---|
| 14 | 1 | 6 |

2.41. Again the majority of respondents agreed with the proposed core set of competencies which all chaperones should have.

2.42. Whilst indicating their support for the proposals, Barnardo's Scotland further suggested that these could be:

...expanded to include SHANARRI wellbeing indicators to draw the competencies in line with GIRFEC. We also feel that it is important to include something in the competencies around whistle blowing in order to show chaperones that there is mechanism for escalating internal problems which may arise and having the confidence to go external if sufficiently concerned by the response/ lack of response of the production company.

2.43. Together commented in relation to the proposal that chaperones should have a clear understanding of the Common Core of Skills, knowledge and Understanding & Values for the Children's Workforce in Scotland⁵ noting that:

Together urges the Scottish Government to ensure that the Common Core of Skills is central within the guidance and that a clear understanding of this document is considered a fundamental requirement of all chaperones.

⁵ The Common Core of Skills, Knowledge and Understanding & Values for the Children's Workforce in Scotland, (June 2012) can be accessed at: <http://www.scotland.gov.uk/Publications/2012/06/5565>.

2.44. One anonymous respondent did not agree with the proposal.

Question 17

Do you agree that any child up to school leaving age should be able to work for a maximum of 80 days in a year (with the ability to extend on occasion)?

Question 17 – total responses

| Yes | No | No Response/ Not Answered/ Unclear |
|-----|----|------------------------------------|
| 14 | 1 | 6 |

2.45. The majority of respondents, including the UK Theatre and SOLT, Scottish Opera and Renfrewshire Council, agreed with this proposal.

2.46. Respondents, again, stressed the need for licensing authorities to consider the age and maturity of the child when determining an application for a licence. Comments received included the following:

Whilst we appreciate the move to remove confusion by putting all ages of children in one category for the purposes of maximum working days, there needs to be a common sense approach taken. Decisions for how many days are allowed in each individual licence should be based on a thorough risk assessment of the young person, taking into account their age and stage and wellbeing. (Barnardo's Scotland)

Yes the suggested number of days would seem appropriate as long as there is a concern for the continued wellbeing of the child. The child's involvement should be reviewed at regular periods to ensure that the child's wellbeing is considered. (South Ayrshire Council)

2.47. Together wrote with regard to both the proposed working hours and working days limits:

Together would like to highlight that such guidelines are crucial to ensuring that Article 32⁶ is fully realised. Yet it is essential that such guidelines are able to take account of and recognise an individual child's evolving capacities and maturity, recognising their specific needs and the tailored approach necessary. Arrangements for working hours, times of attendance and breaks should involve consultation with the child involved in a performance, taking into account their views and preferences and keeping their best interests as a primary consideration.

⁶ UN General Assembly (1989). UN Convention on the Rights of the Child (Article 32)

2.48. East Ayrshire Council disagreed with the proposal, suggesting that:

There has to be some recognition that children under 13 may not have the resilience of older peers. Doubling the present maximum number of days may not be in the best interest of younger children and impact on their access to full-time learning while also missing out on social interaction with peers.

Question 18

Do you agree that a child should be allowed to work a maximum of 5 days in a 7 day period (with a limited ability to extend on occasion) as set out at page 15 of the consultation paper?

Question 18 – total responses

| Yes | No | No Response/ Not Answered |
|-----|----|---------------------------|
| 15 | 2 | 4 |

2.49. The majority of respondents, including Scottish Opera, Centre Stage Youth Theatre and PACT were in favour of this proposal, including the proposed limited ability, on occasion, to extend the maximum number of working days in a 7 day period. Comments received included the following:

It should be recognised that many amateur theatre groups show runs are often Monday to Saturday and an effective provision needs to be made. (Centre Stage Youth Theatre)

2.50. Those who disagreed with the proposal commented as follows:

We agree with the proposal that the maximum number of days per week that a child is allowed to work should be the same for children performing in broadcast and theatrical performances. However, theatrical productions typically have scheduled performances on 6 days per week. We would therefore prefer the limit on the number of performance days in any 7 day period to be a maximum of 6 days. (UK Theatre and SOLT)

Question 19

Do you agree with the proposed latest and earliest hours of attendance, maximum duration of attendance and performance per day and minimum break requirements based on a child's age as set out in the table at page 16 of the consultation paper?

Question 19 – total responses

| Yes | No | No Response/ Not Answered |
|-----|----|------------------------------|
| 13 | 4 | 4 |

2.51. The majority of respondents, including Centre Stage Youth Theatre, Scottish Opera and Macrobert Arts Centre were content with the proposed working hours limit. However, although supportive, a number of respondents considered the proposed hours in which very young children can attend a performance to be limiting. The following comment provides example of this point:

The time frames proposed for children in the 0-4 age group only allow attendance up to 8pm which is too early for children in this category to participate in theatrical performances. Although it is unusual, it is sometimes essential to a production that a baby or a very young child appears on stage. We would therefore like to suggest that whilst the maximum performance times in this category should stay the same, the time frames for attendance should be increased to allow attendance up to 10pm or 11pm. (UK Theatre and SOLT)

2.52. A number of respondents stressed the need for the licensing authority to take account of the child's age and maturity in considering an application for a licence, including the following:

Again a common sense approach must be taken in relation to the individual age and stage of development of the young person. This should be considered in any risk assessment and also have an element of flexibility in terms of how early and how late young people are allowed to work. (Barnardo's Scotland)

2.53. An anonymous respondent disagreed with the proposals and suggested that there was no need to provide for working time limits in legislation.

2.54. Published response number 003 also disagreed, suggesting that the proposed start and end times were too early in the morning and too late in the evening.

Question 20

Do you feel that separate restrictions should apply to children aged 5–8 and those aged 8–10, recognising the increased resilience of older children? Please provide an explanation for your response.

Question 20 – total responses

| Yes | No | No Response/ Not Answered |
|-----|----|------------------------------|
| 11 | 3 | 7 |

2.55. The majority of respondents agreed that children aged 5-8 were in need of additional protections. However, consensus was not reached on the need for specific conditions and restrictions in relation to performance and break times for children aged 8-10 years.

2.56. Many respondents, instead, stressed the need for licensing authorities to take account of the age and maturity of each individual performer when agreeing the terms of a performance licence. Comments received included the following:

Early primary years are more formative and the children require more care, attention and rest. (National Theatre of Scotland)

The restrictions put in place regarding each age group needs to be age and stage appropriate. Developmentally this needs to be taken account of in the range of restrictions. (Aberdeenshire Council)

For those children aged 5-8, it may be appropriate to factor in travel time so that it is included in the maximum daily duration of attendance. (East Ayrshire Council)

We agree that it would be appropriate to split the current 5-10 age range. We would recommend that the duration of attendance and performance should therefore be incrementally increased for the 8-10 age range. (Federation of Scottish Theatre)

2.57. Of those respondents who disagreed that children aged 5-8 required separate restrictions, the following comments were received:

PACT supports the breakdown of age ranges as currently adopted in England and we call on the Scottish Government to introduce similar age brackets in Scotland. PACT is concerned that failing to do so will result in children aged 9 and over in Scotland finding that they are not able to participate in TV and film productions in the same way as children of a similar age in England and Wales. (PACT)

2.58. Another anonymous individual disagreed with the proposal and considered that young children can be just as resilient as older children.

2.59. Barnardo's Scotland also disagreed with the proposal noting that:

Whilst we recognise that there must be some differentiation between the ages of young people when looking at restrictions we do not believe that the 'resilience of older children' is an appropriate indicator. Older children are not necessarily more resilient than younger children, decisions should be based on a clear assessment of wellbeing and the particular stage that young person is at in their life.

3. OTHER ISSUES RAISED

3.1 The following observations were also made by the respondents to the consultation:

- The term “matron” should be replaced with “chaperone”.
- The need to raise awareness of the revised legislation and guidance, including amongst children and their families.
- The guidance accompanying the regulations should consider the possible consequences of non-compliance with the new statutory duties underpinning the modernised licensing system.
- All children under 18 years should have their rights in relation to performances as enshrined in the UNCRC respected, protected and fulfilled.

4. SUMMARY

4.1 The Scottish Government is committed to making Scotland the best place in the world to grow up.

4.2 The *Getting it Right for Young Performers* consultation set out proposals which aim to ensure that the licensing arrangements for young performers and those involved in specified activities remain fit for purpose.

4.3 The consultation received 21 responses including from local authorities, production companies, children's organisations and individuals.

4.4 The majority of responses supported the proposals included within the consultation, including in relation to:

- Definition of performance
- Applying for a licence
- Education
- Chaperones
- Working hour limit

4.5 However, the following issues divided opinion:

- The requirement for applications for a licence to be made no less than 21 days in advance of the performance; and
- The proposal that no more than 5 children should be taught by a private tutor at any one time.

Next Steps

4.6 The Children (Performance and Activities)(Scotland) Regulations 2014 and associated guidance have been informed by the consultation responses and other relevant evidence.

4.7 If approved by the Scottish Parliament, the new Regulations aim to place the interests and wellbeing of child performers, and those participating in licensed activities, at the centre of a modernised licensing system.

APPENDIX A: *Appendix of non-confidential respondents*

Organisations

Aberdeenshire Council

Barnardo's Scotland

BBC

Centre Stage Youth Theatre

Children in Scotland

East Ayrshire Council

Federation of Scottish Theatre

National Theatre of Scotland

Macrobert Arts Centre

PACT

Renfrewshire Council

Scottish Opera

Scottish Youth Theatre

South Ayrshire Council

South Lanarkshire Council

Strange Town

Together

UK Theatre and SOLT

Individuals

Dr F Robb

APPENDIX B: Consultation exercises with parents and young people

CONSULTATION EXERCISE WITH PARENTS

Scottish Youth Theatre worked with parents of young performers and asked them some questions.

Question 1

Has your child ever had to be licensed to participate in a performance?

| Yes | No |
|-----|----|
| 2 | 34 |

Question 2

What age is your child?

| 0-4 | 5-10 | 11-16 | 16+ |
|-----|------|-------|-----|
| 20 | 21 | 3 | 1 |

Question 3

We are thinking of changing the current arrangements so that children and young people aged between 5 and 16 can perform until 11pm at night (later than is currently allowed). This will mean that, in most cases, a child will be allowed to stay until the end of a performance they have taken part in. Does this seem sensible?

| Yes | No | Maybe |
|-----|----|-------|
| 29 | 6 | 1 |

Question 4

Should children under 5 also be allowed to stay until 11pm?

| Yes | No | Up to parent/child |
|-----|----|--------------------|
| 4 | 29 | 3 |

Question 5

Are there times when it would not be suitable for a child or young person to stay on set until 11pm? (e.g. when a child has school the next morning).

- Most parents felt that staying out late on a school night more than one night in a row would not be suitable.
- During exam times also featured in responses.
- Many parents felt that this would depend on the age of the child as there is a huge difference between a 5 year old and a 16 year old.

Question 6

In the future, do you think that young people should be involved in completing the application form for a child performance licence where possible? This does not happen at the moment.

| Yes | No | Don't know |
|-----|----|------------|
| 25 | 10 | 1 |

Question 7

Do you think that, as a general rule, children and young people should be required to sign the application form for a licence? This doesn't happen at the moment.

| Yes | No | Depends |
|-----|----|---------|
| 19 | 16 | 1 |

Question 8

Do you think young people should be involved in considering/ assessing the risks associated with their involvement in performances where appropriate?

| Yes | No |
|-----|----|
| 3 | 4 |

Question 9

Each time a young person is involved in a performance, an adult will be appointed to support them and ensure their safety. This individual is known as the child's chaperone. What key experience or skills do you think chaperones must have:

1-5: 1 = strongly agree; 5 = strongly disagree

- An understanding of the child's rights
- Knowledge of how best to respond where they are concerned about the child
- An understanding of how performances are managed
- To be approachable and friendly
- An understanding of the working hour limits for child performances
- An existing relationship with the child or young person
- An existing relationship with the people managing the performance

Most parents questioned agreed that all of the above qualities were important for a chaperone but particularly, 'Knowledge of how best to respond where they are concerned about the child' and 'To be approachable and friendly'. Parents felt these above others were most important.

Interestingly 'An existing relationship with the child or young person' often did not rank highly in importance for parents. Most felt that this was fairly low on the scale and it was far more important that their child was supported and looked after by someone professional and friendly that cared about the child's needs.

Question 10

Should a child or young person have a say in who is appointed as their chaperone?
This doesn't happen at the moment.

| Yes | No | Not easy to manage |
|-----|----|--------------------|
| 28 | 7 | 1 |

Question 11

There will be occasions where a child has to miss school because they are involved in a performance. This will have to be agreed with their head teacher and arrangements will have to be made for the child's education whilst they are away from school. What are the key things which will need to be considered when a child has to miss school?

1-5: 1 = strongly agree; 5 = strongly disagree

- Access to after school activities
- Maintaining contact with friends
- Maintaining contact with teaching staff
- The need to regularly feedback on progress with any school work done away from school
- The need to feedback on the things learnt through being involved in performances
- The need to make sure that any school work undertaken away from school is the same or similar to that being taught in the child's school

Parents felt that anything to do with their child's education was very important in particular 'The need to regularly feedback on progress with any school work done away from school' and 'The need to make sure that any school work undertaken away from school is the same or similar to that being taught in the child's school'. Less important was 'Access to after school activities' with most parents feeling that this was pretty low on the list of priorities.

Question 12

Where a child requires to be off school for more than 5 days, a private tutor will be appointed. Should a child or young person have a say on who is appointed as their private tutor?

| Yes | No |
|-----|----|
| 11 | 25 |

CONSULTATION EXERCISE WITH CHILDREN AND YOUNG PEOPLE

Both Scottish Youth Theatre and Strange Town

Question 1

Have you ever had to be licensed to participate in a performance?

| Yes | No | Don't Know |
|-----|-----|------------|
| 20 | 197 | 5 |

Question 2

What age are you?

| 0 – 4 | 5 - 10 | 11 - 16 | 16+ |
|-------|--------|---------|-----|
| 71 | 59 | 65 | 30 |

Question 3

We are thinking of changing the current arrangements so that children and young people aged between 5 and 16 can perform until 11pm at night (later than is currently allowed). This will mean that, in most cases, a child will be allowed to stay until the end of a performance they have taken part in. Does this seem sensible?

| Yes | No |
|-----|----|
| 156 | 69 |

Question 4

Should children under 5 also be allowed to stay until 11pm?

| Yes | No | Maybe |
|-----|-----|-------|
| 37 | 137 | 5 |

Question 5

Are there times when it would not be suitable for a child or young person to stay on set until 11pm? (e.g. when a child has school the next morning).

The young people felt that it would not be suitable to stay until 11pm if they had school, commitments or exams the next day. It may also simply create an unfeasible and tiring workload, or be damaging to the young performer.

Some felt that it would not be appropriate if the young person, or their parent disagreed.

Many also raised points about the content of the performance i.e. if it contained violence, sex or swearing then it would not be appropriate for them to stay.

Question 6

In the future, do you think that young people should be involved in completing the application form for a child performance licence where possible? This does not happen at the moment.

| Yes | No | Maybe |
|-----|----|-------|
| 173 | 50 | 2 |

Question 7

Do you think that, as a general rule, children and young people should be required to sign the application form for a licence? This doesn't happen at the moment.

| Yes | No | Don't Know |
|-----|----|------------|
| 179 | 41 | 5 |

Question 8

Do you think young people should be involved in considering/assessing the risks associated with their involvement in performances where appropriate?

| Yes | No |
|-----|----|
| 173 | 52 |

Question 9

Each time a young person is involved in a performance, an adult will be appointed to support them and ensure their safety. This individual is known as the child's chaperone. What key experience or skills do you think chaperones must have:

1-5: 1 = strongly agree; 5 = strongly disagree

- An understanding of your rights
- Knowledge of how best to respond where they are concerned about you
- An understanding of how performances are managed
- To be approachable and friendly
- An understanding of the working hour limits for child performances
- An existing relationship with the child or young person
- An existing relationship with the people managing the performance

The young people questioned felt that it was very important that their chaperone be 'approachable and friendly' and had 'knowledge of how best to respond where they were concerned about the young person'. Some also felt it would be beneficial for the chaperone to have 'An understanding of the young person's rights'.

In older age groups lower priority was given to 'An existing relationship with the child or young person'.

Many respondents felt it was important that chaperones know how to respond to concerns, understand how performances work and understand the working hour limits.

Question 10

Should a child or young person have a say in who is appointed as their chaperone?
This doesn't happen at the moment.

| Yes | No | Don't Know |
|-----|----|------------|
| 174 | 49 | 2 |

Question 11

There will be occasions where a child has to miss school because they are involved in a performance. This will have to be agreed with their head teacher and arrangements will have to be made for the child's education whilst they are away from school. What are the key things which will need to be considered when a child has to miss school?

1-5: 1 = *strongly agree*; 5 = *strongly disagree*

- Access to after school activities
- Maintaining contact with friends
- Maintaining contact with teaching staff
- The need to regularly feedback on progress with any school work done away from school
- The need to feedback on the things learnt through being involved in performances
- The need to make sure that any school work undertaken away from school is the same or similar to that being taught in the child's school

Generally, the older young people questioned (8+) were less interested in 'Access to after school activities' and more concerned with maintaining their education. Interestingly this did not necessarily mean they agreed with the statement 'The need to make sure that any school work undertaken away from school is the same or similar to that being taught in the child's school' or indeed 'Maintaining contact with teaching staff'. They particularly agreed with 'The need to regularly feedback on progress with any school work done away from school'. 'The need to feedback on the things learnt through being involved in performances' was not considered a priority by most of the young people who completed the questionnaire.

Many rated 'Maintaining contact with friends' highly.

Question 12.

Where a child requires to be off school for more than 5 days, a private tutor will be appointed. Should a child or young person have a say on who is appointed as their private tutor?

| Yes | No |
|-----|-----|
| 125 | 100 |



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