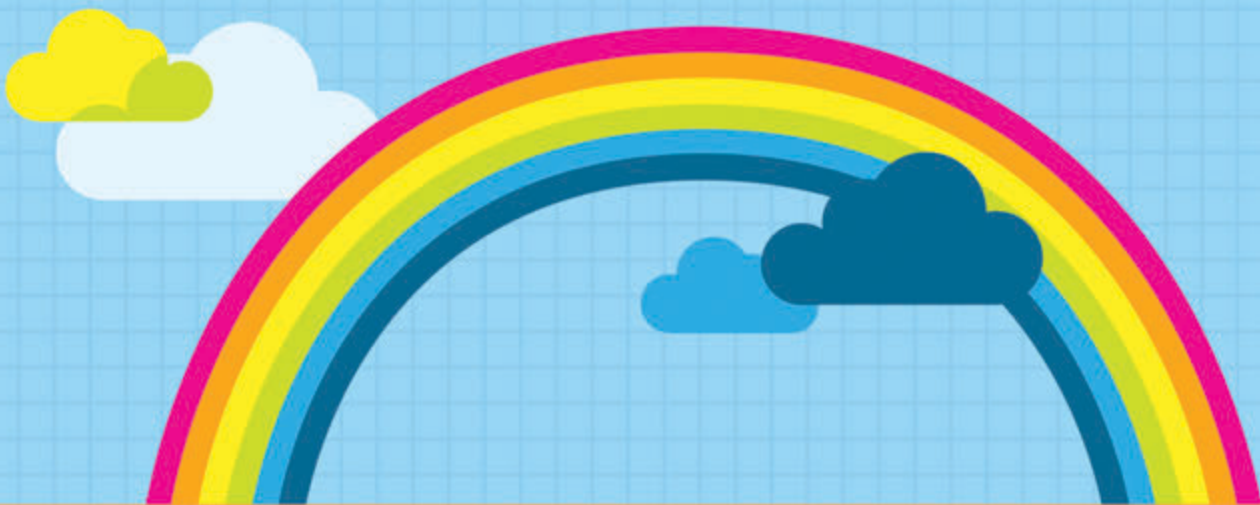


Getting it right **FOR YOUNG PERFORMERS**



National consultation on the arrangements
for ensuring the wellbeing of children
involved in performances



Getting it Right for Young Performers

Getting it Right for Young Performers

National consultation on the arrangements for ensuring the wellbeing of children involved in performances

Introduction

Purpose

This consultation sets out proposals to update and improve the existing arrangements for ensuring the wellbeing of children under school leaving age who are involved in performances. Its content has been informed by the recommendations of an independent National working group tasked by Scottish Ministers with reviewing current practice in this area.

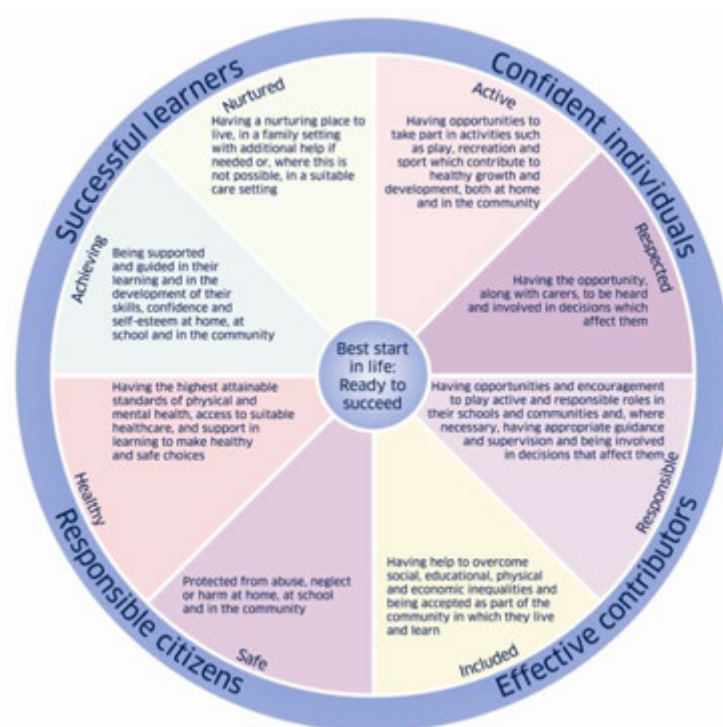
Scottish Ministers are content that the legislative framework afforded by existing primary legislation in this area remains broadly fit for purpose. Accordingly, this paper focuses on improvements to be delivered through either revised secondary legislation or non-statutory guidance. It provides us with an opportunity to discuss, test and refine proposals which, we believe, would result in a more streamlined and effective system for supporting children involved in performances. The deadline for response is Friday 6 June 2014.

Background

The Scottish Government is committed to making Scotland the best place in the world to grow up. That means placing the rights and wellbeing of our children at the centre of everything that we do. Our understanding of children's wellbeing builds on the rights set out in the United Nations Convention on the Rights of the Child (UNCRC), an international law which sets out the guarantees that each and every child must have if they are to enjoy a healthy and happy life.

If the UNCRC describes the guarantees that each and every child can expect, then the term 'wellbeing' describes the outcomes that children are likely to experience as a result of those guarantees being delivered. Those experiences are captured under 8 broad headings:

Safe, healthy, achieving, nurtured, active, respected, responsible and included.



It is undeniable that the opportunity to perform, whether it be on stage or screen, can significantly benefit the wellbeing of our children and young people. More often than not, it helps them to be healthier, more active and included, respected, responsible individuals who are better placed to achieve, both now and in the future. It is for this reason that we are keen to open up as many opportunities as possible for our young people to take part in performances.

That being said, as with most things in life there is the potential for children to encounter risks as a result of their involvement in a performance, both in terms of their immediate safety and their longer term wellbeing. It is important that these risks are considered and properly mitigated.

The existing regulatory arrangements

Primary legislation focussing on the protection of children involved in performances was last reviewed in the early 1960s. The Children and Young Persons Act 1963 ("the 1963 Act") places restrictions on the types of performances that children under school leaving age can participate in. It does this by prescribing those performances for which a child requires a licence to be granted. However, it does not define the term 'performance'. Accordingly, the standard dictionary definition should be applied:

Oxford English Dictionary:

an act of performing a dramatic role, song, or piece of music

Taking the above into account, licences require to be granted in respect of the following performances by children under school leaving age:

- Any performance being made to a paying audience.
- Any performance taking place in premises licensed to sell alcohol.
- Appearing in public broadcast material or material filmed for the purpose of future public broadcast.

As well as the above performances, licences are also required for:

- Paid modelling by children under school leaving age.
- Paid sporting activity by children under school leaving age.

There are a limited number of exceptions, meaning that licences need not be sought for the above performances where:

- No payment is being made to the child (other than to cover their expenses) and they have not taken part in a licensable performance (as defined above) on more than three other days in the last six months.
- A Body of Persons Approval has been granted in respect of the performance.
- The performance is given under arrangements made by a school.

Licences are granted by the local authority within which the child normally lives (known as the licensing authority). The Act also previously placed additional restrictions on the types of performances that children under 14 could be involved in, limiting them to certain acting, dancing and musical roles which could not be performed except by a child of that age. However, these restrictions are being repealed through the Children and Young People (Scotland) Act 2014¹.

Details regarding the practical operation of the licensing arrangements as well as the conditions associated with children's involvement in licensable performances are set out in secondary legislation made under the 1963 Act. A copy of the Children (Performances) Regulations 1968 ("the 1968 Regulations") can be found at: <http://www.legislation.gov.uk/ukxi/1968/1728/contents/made>²

¹ See section 94 of the 2014 Act which will repeal section 38 of the 1963 Act in so far as it extends to Scotland when brought into force.

² link to original "as made" version of Children (Performances) Regulations 1968. The Regulations have since been amended several times, including through Statutory Instrument 1998/1678.

The need for change

The range and nature of performance opportunities available to children and young people has increased significantly since the current licensing arrangements were put in place. New genres of programmes and emerging media technologies have undoubtedly influenced the shape of our creative industries. Furthermore, our approach to protecting, promoting and supporting the wellbeing of our children has been strengthened considerably in recent times.

Scottish Ministers have been approached on several occasions in recent years by a number of individuals and organisations highlighting the challenges now being faced by both organisations hosting performances and by children and young people who want to perform, as a result of a licensing regime which is no longer considered fit for purpose.

Ministers took these concerns on board and in summer 2013 established a working group to review the existing arrangements. The group had input from the following organisations:

- BBC
- BAFTA
- Producers Alliance for Children & Television (PACT)
- OFCOM
- Strange Town
- Barnardo's Scotland
- Glasgow City Council
- Chaperones & Tutors (CAT)
- Scottish Youth Theatre
- British Psychological Society

Following detailed consideration, the group concluded that the current licensing system was in need of modernisation and made a series of recommendations in 4 key areas:

- The process of applying for a licence.
- Working hour limits for children participating in licensable performances.
- Education provision for children participating in licensable performances.
- The role of child performance chaperones.

Those recommendations have been considered by Ministers and have informed the proposals set out in this paper. A copy of the recommendations are included at **Annex A**.

Proposals

The Scottish Government is proposing that a number of improvements be made to the current licensing process. We have been careful to ensure that all of the changes can be delivered through either revised secondary legislation or non-statutory guidance. There are currently no plans to amend the relevant primary legislation in this area, except for those changes being delivered through the Children and Young People (Scotland) Act 2014 (see page 3).

The secondary legislation in this area (i.e. the 1968 Regulations) covers a number of other issues linked to the participation of children and young people in performances, including for example the provision of overnight accommodation for young performers and arrangements for those involved in troupe work. These aspects of the current arrangements are not considered problematic and so we are not proposing that they be revised. For the purposes of this paper we have only described those aspects of the legislation that we intend to change.

Identifying those performances which require a licence

Current arrangement

A number of stakeholders have highlighted that it can often be difficult to establish which performances by children require a licence, mainly because the term 'performance' has not been defined in the 1963 Act for the purposes of the current licensing arrangements. In particular, questions have been raised regarding the participation of children and young people in observational documentaries and *vox populi* (recording of interviews and opinions with members of the public) and whether their involvement in such activities would require a performance licence.

Proposal

Scottish Ministers propose that non-statutory guidance be produced to support children, parents, producers and licensing authorities in establishing whether a performance is likely to require a licence.

In short, the guidance would suggest that a licence only be required in those instances where a child is being asked to perform a dramatic role, meaning:

- Acting or behaving in a contrived manner for dramatic effect.
- Singing, dancing or performing music.
- Expressing fabricated views for dramatic effect.

A child who has simply been asked to express their own opinions is unlikely to be considered to be in a dramatic role and so a licence would not usually be necessary. Similarly, observing and recording a child's normal behaviour would not normally require a licence to be granted. Nevertheless, parental consent should always be sought prior to the child's involvement and, where appropriate, the OFCOM Broadcasting Code should be adhered to.

Rehearsals and preparation for a performance should be considered licensable activities. A single licence can be granted for a series of performances of the same role.

Applying for a licence

Current arrangement

Under the current arrangements, each time a child requires a performance licence it is the responsibility of the organisation hosting the performance to obtain that licence from the local authority in which the child lives (known as the licensing authority). Any application for a licence must be countersigned by the parent and must include details of:

- The child's name and contact details
- The name, dates (or number of days) and place of performance
- Details of the chaperone who will be supporting the child for the duration of the performance.
- A photograph of the child

Details of a medical examination in the last six months must also be provided in respect of those children undertaking the following:

- A performance for film or television
- Any other broadcast performance which involves a child performing for more than 6 days in a 6 month period
- Any other performance which requires a child to work the maximum number of licensable days for a period of more than one week.

In addition to the material included in the application, the licensing authority may also request:

- A report from the child's head teacher
- An interview with the applicant
- An interview with the child
- An interview with the child's parent(s)
- An interview with the child's chaperone
- An interview with the child's private tutor (should they require one for the duration of their performance)

Applications must be submitted 21 days in advance of the performance commencing.

Proposal

Scottish Ministers propose a broadly similar approach to that currently in place. A licence will continue to be required for each performance that a child is involved in and it will be the responsibility of the organisation hosting the performance to apply to the licensing authority for the licence. We are suggesting retaining the current 21 day time frame for the approval of licences as we feel the Working Group's recommended 14 day time frame will be challenging to meet in some instances. A revised and updated application form will be produced by the Scottish Government for use by all licensing authorities in order to ensure greater consistency and clarity and to minimise bureaucracy, particularly for those organisations who host performances involving children from several local authorities.

The application form will request the following details:

- Name, address and date of birth of the child.
- The name, nature and place of performance.
- Details of any previous licensable performances by the child in the last 12 months.
- 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.
- Details of the individual who will be taking on the role of chaperone to the child for the duration of the performance.

Both the parent and the child will usually be required to sign any application for a licence although the licensing authority will have some discretion when deciding whether a signature from the child is necessary. This will allow the licensing authority to take account of the child's maturity. Furthermore, it will allow for a licence to be granted in respect of a child for a performance which relies on an element of surprise on their part.

Alongside the application form, the organisation hosting the performance will provide:

- A completed risk assessment, detailing any potential risks arising from the child's participation in the performance along with information on the steps being taken to mitigate those risks. There has been suggestion that any risk assessment process should operate on a 'RAG' (Red, Amber, Green) basis as this would support licensing authorities in determining the range of additional evidence that may be necessary in order to inform their decision in relation to any application.
- Where the child requires to be absent from school for a period of more than 5 school days, a letter from the production company, countersigned by the child's teacher confirming alternative education provision by a private tutor. Further proposals on the provision of education are set out on page 10.

In future, a medical examination will not be required unless there has been a disclosure of a medical condition which may impact the child's ability to participate in a performance.

In addition to the application form and supplementary information described above, the licensing authority will continue (under the 1968 Regulations) to be able to request reports from:

- the organisation hosting the performance.
- the child.
- the child's parent(s).
- the child's chaperone.
- the child's private tutor (should they require one for the duration of their performance).
- the child's head teacher.
- any other persons or organisation that they consider relevant.

We would suggest that the licensing authority approach the head teacher, or health visitor for children under school age, for relevant information. These individuals are best placed to give advice on a child's wellbeing in their role as Named Person (Annex B).

The following existing statutory test will continue to be applied in relation to all licensing decisions:

"a local authority shall not grant a licence for a child to do anything unless they are satisfied that he is fit to do it, that proper provision has been made to secure his health and kind treatment and that, having regard to such provision (if any) as has been or will be made therefor, his education will not suffer"

When applying this test, licensing authorities will be advised to consider whether the child's involvement in the performance is likely to result in any additional risk to their wellbeing beyond that which they would experience in the ordinary course of their life. In doing so, licensing authorities should take into account any steps by the organisation hosting the performance to mitigate potential risks.

Education

Current arrangement

Under current arrangements, a licensing authority is not permitted to grant a licence unless they are satisfied that a child's education will not suffer as a result of their involvement in a performance.

It is the responsibility of the organisation hosting the performance to make arrangements for the child's education for the duration of their performance. It is the responsibility of the licensing authority to approve those arrangements and they will only do so if:

- The course of study being proposed is satisfactory.
- The private tutor (should one be required) is a suitable to teach the child in question. However, the current arrangements do not make clear when private tutoring is necessary.
- Arrangements are in place in order to ensure that not more than five children are being taught by the private tutor at any one time unless all of the children being taught have reached a similar standard in the subject. Where all of the children have reached a similar standard, the private tutor may not teach more than 11 children at any one time.

Each child involved in a performance must receive not less than three hours of education for each school day. However, where a child is involved in a broadcast performance or requires to be on location for a period of more than one week, there is scope for a child to receive less than three hours of education on a given day so long as that time is made up on another day within a four week period. For all types of performance, children should not receive education for more than 5 hours each day. Periods of education lasting less than half an hour do not count towards these daily totals and all education must be delivered within the working hour limits for children involved in performances.

Finally, under existing arrangements it is the responsibility of the local authority in which the performance is taking place to approve the classroom/place of education to be used for the duration of the performance.

Proposal

It will continue to be the case that licensing authorities cannot grant a licence unless they are satisfied that a child's education will not suffer.

For all periods of absence from school, we are proposing the following requirements:

- The organisation hosting the performance agree a course of study with the licensing authority. In practice, the course of study will be produced in partnership with the child's teacher and approved by the licensing authority. Where the child is home educated, the course of study should be agreed with the child's parent(s) and approved by the licensing authority. The course of study should take account of the curriculum being taught to the child (Curriculum for Excellence in the case of most children). However, the course of study should also expressly recognise the learning opportunities offered to children through their involvement in a performance. Accordingly, the child's involvement in a performance could be considered part of their course of study.
- The licensing authority must approve the classroom/place of education to be used for the duration of the performance.

Where a child requires to be absent for **more than five school days** over the course of the performance, we are proposing that:

- The organisation hosting the performance make arrangements for the provision of a private tutor to support the child with the course of study. The licensing authority must be satisfied that the tutor has the necessary skills for the role. In reaching a decision, they will want to consider a range of factors including, for example, whether the tutor is registered with the General Teaching Council for Scotland (or an equivalent).
- The child must receive not less than three hours of education for each school day. However, where a child is involved in a broadcast performance for a period of more than one week, there is scope for a child to receive less than three hours of education on a given day so long as that time is made up on another day within a four week period. For all types of performance, children should not receive education for more than 5 hours each day. Periods of education lasting less than half an hour do not count towards these daily totals and all education must be delivered within the working hour limits for children involved in performances.

No more than five children should be taught by a private tutor at any time (in line with current practice).

Chaperones

Current arrangement

The chaperone (also referred to as the 'matron') is perhaps the single most important person for ensuring a child's wellbeing whilst they are in a place of performance. Their role is to '*have care and control over the child with a view to securing their health, comfort, kind treatment and moral welfare*'.

A chaperone must be identified and appointed by the organisation hosting a performance and the appointment must be approved by the licensing authority. A licensing authority may only approve a chaperone if they are satisfied that the individual is competent to exercise proper control over the child and will not be prevented from carrying out their responsibilities towards the child by other activities or duties towards other children. However, there are currently no standard requirements in terms of the skills and knowledge that an individual must have in order to take on the role of chaperone.

A parent may act as a chaperone but only in respect of their own child. Otherwise, a chaperone cannot take on the role for more than 12 children involved in a performance. Where the chaperone is also a private tutor to the child, they may not take on the role of chaperone for more than 3 children involved in the performance.

Proposal

Scottish Ministers consider it important to place the role of chaperone on a more professional standing. This means ensuring that each and every individual taking on that role has the skills necessary in order to safeguard, support and promote the wellbeing of a child whilst they are in the place of performance. The updated legislation and new non-statutory guidance will be developed with this aim in mind.

In future, chaperones will be allowed to support a maximum of 10 children at any one time. However, any decision on the number of children in the care of a chaperone must be based on the wellbeing needs of the children in question. Where the chaperone is also a private tutor to the child, they may not take on the role of chaperone for more than three children involved in the performance, in line with the current arrangements. As is currently the case, a parent acting as a chaperone in respect of their own child cannot fulfil the role in respect of any other child involved in the performance.

Ministers intend to develop guidance setting out the basic skills and knowledge that every chaperone should have, whether they be an individual paid by an organisation hosting a performance, a volunteer or a child's parent. In summary, the guidance would support chaperones to have a clear understanding of:

- The concept of 'wellbeing' and a knowledge of how to promote the wellbeing of children of varying ages who find themselves in performance settings.
- The 'Getting it right for every child' approach to children's services.

- All relevant child protection processes and procedures.
- A clear understanding of the common core of skills, knowledge and understanding & values for the children's workforce in Scotland (<http://www.scotland.gov.uk/Publications/2012/06/5565>)
- Restrictions on working times for children involved in performances.
- The education requirements for children involved in performances.
- Best practice with regards to transport arrangements for children involved in performances.
- An understanding of production processes linked to performances.

Chaperones will also require to be members of the Protecting Vulnerable Groups scheme (unless the chaperone is the child's parent).

As well as supporting chaperones in developing the necessary skills and knowledge, the guidance will support licensing authorities in adopting a consistent approach when assessing whether an individual is suitable to take on the role of a chaperone.

We are proposing the introduction of a system which supplements the chaperone approval process with a new, voluntary registration scheme to be operated on a non-statutory basis. When an individual first applies to take on the role of chaperone in respect of a child performer, they will be the subject of a detailed assessment by a licensing authority, building on the guidance described above. The licensing authority with responsibility for licensing the child in question will also be responsible for assessing and approving the chaperone.

If the chaperone is approved, they will be offered the opportunity to be included on an administrative chaperone register held and published by the licensing authority. Parents acting as a chaperone for their own child will not be included on the register.

That register will not remove the need for a chaperone to be approved by a licensing authority for any future roles. However, it will deliver two key benefits:

- Registers will be used by organisations hosting performances who are looking to identify suitable chaperones in future.
- A chaperone's inclusion on a register may be taken into account by any licensing authority who is being asked to approve them for a role in future and could be viewed as an indicator of suitability.

A chaperone may only be voluntarily included on one licensing authority's chaperone register at any given time and would be included on that register for a period of three years. Chaperones would be removed from a licensing authority's register if it is established that:

- The individual is no longer a member of the PVG scheme.
- The individual is considered to no longer have the necessary skills and knowledge to undertake the role.

Working hour limits

Current arrangement

The current working hour limits linked to licensable performances are complex, with some stakeholders considering them to be unnecessarily restrictive.

Children under the age of 13 can perform on a maximum of 39 days in a single year, with limited extensions available on occasion. Children aged 13 and over can work for up to 79 days, again with limited extensions available.

Separate daily working hour limits apply for broadcast and non-broadcast performances.

Proposal

We intend to simplify the existing working hour restrictions by applying the following limits for all types of performance. Some stakeholders have suggested that separate limits be applied for children aged 5-8 and those aged 8-10 (who are likely to display increased resilience). However, there is no consensus about what those limits should be and, as such, we would welcome views on that specific issue and the proposals set out in the following table

Number of Days on which a child can perform		
Age of Child	No of Days performance in 12 month period	Extensions
Any child up to school leaving age.	No more than 80 days.	This period can be extended subject to the agreement of the licensing authority.
	Maximum of 5 days in a 7 day period and a child cannot perform on more than 5 consecutive days. In exceptional circumstances a child may perform on a 6 th day with the agreement of the licensing authority.	

Hours per day			
Age of Child	Maximum duration of attendance and performance per day	Latest and earliest hours of attendance	Breaks
0-4	Attend 5 hours. Perform 2 hours.	08:00 – 20:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A minimum of a 15 minute break after every 45 minutes performing or rehearsing. Suitable arrangements must be made to protect, promote and support the wellbeing of the child whenever they are not performing or rehearsing. This should include access to food, play opportunities, etc.
5-10	Attend 8 hours. Perform 3 hours.	07:00 – 23:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A minimum of a 15 minute break after every hour of performing or rehearsing. A food break of 1 hour if present for more than 3 and ½ hours.
11-school leaving age	Attend 9 ½ hours. Perform 4 hours.	07:00 – 23:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A minimum of a 15 minute break after every hour of performing or rehearsing. A food break of 1 hour if present for more than 3 and ½ hours. A further 30 minute break for food if present for more than 8 hours.
There must be a 12 hour period between a child leaving a place of performance on one day and arriving the next day.			

Conclusion

Should they be accepted, we believe the above proposals will result in a more streamlined and effective regulatory regime for child performances in Scotland. They will ensure that our children have access to opportunities which promote their wellbeing and they will provide our creative industries with a clear and workable set of arrangements which offer a degree of flexibility whilst continuing to offer robust safeguards and appropriate accountability.

All of the changes can be delivered through either revised secondary legislation or non-statutory guidance (see **Annex C**) and, subject to the views expressed through this consultation, we intend to give effect to the proposals later this calendar year. We would very much welcome your views on what is being proposed. A separate Respondent Information Form has been prepared.

Response deadline: Friday 6 June 2014.

Michael Russell MSP
Cabinet Secretary for Education & Lifelong Learning
Scottish Government
Room T3.07
The Scottish Parliament
Edinburgh
EH99 1SP

18 February 2014

Dear Michael,

REVIEW OF LICENSING ARRANGEMENTS FOR CHILDREN INVOLVED IN PERFORMANCES

Following detailed discussions with your officials over a period of months, we are delighted to be in a position to share with you the recommendations of the National Working Group tasked with reviewing the current licensing arrangements for those children who wish to participate in performances.

The recommendations fall into four broad categories which, if fully implemented, will result in a more streamlined licensing regime which delivers both improved protections and enhanced opportunities for children.

We are satisfied that all of the changes being proposed can be delivered through revised secondary legislation, accompanied by non-statutory guidance. In the course of our discussions, it has become clear that the current lack of guidance for use by children, their parents, chaperones and licensing authorities has significantly hindered the effectiveness of current safeguards.

The Group would urge the Government to use these recommendations as a basis for broader public consultation on how the existing regulatory system in this area might be strengthened and we remain happy to assist with that exercise in any way can.

We trust this is helpful.

May Miller
BAFTA

Edel Walsh
Barnardo's Scotland

Alison Cresswell
BBC

Jim Wilson
Glasgow City Council

Arlene de Cruz
Chaperones & Tutors

Mary McCluskey
Scottish Youth
Theatre

Rosalind McInnes
BBC Scotland

Amanda Russell
PACT

Ruth Hollyman
Strange Town

Alan Stewart
OFCOM

John Oates
British Psychological Society

Ensuring the wellbeing of children who are involved in performances

National Working Group

RECOMMENDATIONS

Introduction

The National Working Group has been tasked with reviewing the current licensing arrangements for those children under school leaving age who are involved in performances. Following detailed consideration, we believe there is merit in simplifying the current complex and confusing arrangements to ensure greater consistency whilst also improving the protections offered to children.

This paper identifies those aspects of the existing arrangements which we believe could and should be strengthened, either through revised secondary legislation or the development of new non-statutory guidance.

The recommendations focus on the following key areas:

- Working hour limits for children involved in performances;
- The process of applying for a child performance licence;
- Chaperones for children involved in performances; and
- Education provision for children involved in performances.

We believe that the recommendations, if accepted, would provide for a more balanced and effective approach to the licensing of children who are involved in performances whilst at the same time maintaining the range of safeguards which are necessary in order to ensure their wellbeing. Accordingly, we would encourage Scottish Ministers to accept our proposals in full and to adopt them as a basis for further consultation in this area. The National Working Group would be happy to assist in any way we can in taking this forward.

Recommendations

1.) Child Performance: Working Hours

The working group recommends a simplified approach to the working hour limits for children involved in performances where a licence would normally be required:

Number of Days		
Age of Child	No of Days performance in 12 month period	Extensions
Any child up to school leaving age.	No more than 80 days.	This period can be extended subject to the agreement of the licensing authority.
	Maximum of 5 days in a 7 day period and a child cannot perform on more than 5 consecutive days. In exceptional circumstances a child may perform on a 6 th day with the agreement of the Licensing Authority.	

The Working Group suggests that any consultation on the revised working hour limits (page 20) specifically seeks views about whether it is appropriate to apply the same restrictions for all children aged 5-10 or, alternatively, whether it would be more suitable to apply different restrictions in recognition of the increased resilience likely to be displayed by children aged 8- 10.

Hours per day			
Age of Child	Maximum duration of attendance and performance per day	Latest and earliest hours of attendance	Breaks
0-4	Attend 5 hours. Perform 2 hours.	08:00 – 20:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A minimum of a 15 minute break after every 45 minutes performing or rehearsing. Suitable arrangements must be made to protect, promote and support the wellbeing of the child whenever they are not performing or rehearsing.
5-10	Attend 8 hours. Perform 3 hours.	07:00 – 23:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A minimum of a 15 minute break after every hour of performing or rehearsing. A food break of 1 hour if present for more than 3 and ½ hours.
11-school leaving age	Attend 9 ½ hours. Perform 4 hours.	07:00 – 23:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	A minimum of a 15 minute break after every hour of performing or rehearsing. A food break of 1 hour if present for more than 3 and ½ hours. A further 30 minute break for food if present for more than 8 hours.
There must be a 12 hour period between a child leaving a place of performance on one day and arriving the next day.			

2.) Child Performance: Applying for a licence

It is generally agreed that there is a need for revised application arrangements linked to the granting of child performance licences. The group has suggested a revised application process with the following characteristics:

A simplified application form: There is consensus that the language used in the majority of application forms adopted by local authorities is in need of modernisation and simplification. The group have also highlighted that it would be helpful if all local authorities adopted a standard application template.

A licence should continue to be required for each performance/job: The group agreed that it continued to make sense for a licence to be granted for each performance/job that a child undertakes.

The applicant for the licence should continue to be the production company: The production company should continue to be the primary applicant for the licence. However, the parent and (where appropriate) child should be counter-signatories to any application form.

Each time an application is submitted, relevant information should be sought by the production company from those professionals who are best placed to comment on the child's wellbeing: The production company should be required to establish which professionals (e.g. teacher, social worker, health professional etc.) are best placed to comment on the child's wellbeing. The production company should request that those professionals provide any relevant information regarding the child's wellbeing as part of the application process.

A Doctor's letter need not accompany a licence application as a matter of course: Only where it is disclosed by the child, parent or another professional involved in the child's life that a child has a medical condition which may significantly hinder their ability to participate in a performance should a Doctor's letter be required by the licensing authority as part of the licensing process. Where a Doctor's letter is required, it is the responsibility of the production company to secure that letter and share it with the licensing authority.

A risk assessment focussing on the nature of the child's performance should accompany the application: A risk assessment focussing on the nature of the child's performance should be prepared along with details of any planned action/activity to mitigate risks. Any assessment should take full account of the range of factors impacting on a child's wellbeing. A standard approach to risk assessment should be adopted nationally, with the findings of the assessment being submitted by the production company alongside the application. Any risk assessment model should make clear which professionals are required to be involved in the risk assessment process and at which point their involvement is necessary.

The criteria for granting a licence should be revised: The following test should be applied by the licensing authority whenever considering an application:

Taking into account mitigating factors, the child's involvement in a performance will not result in any additional risk to their wellbeing beyond that which they would experience in the ordinary course of their life.

3.) Child Performance: Chaperones

The national working group tasked with reviewing the licensing arrangements for children involved in performances has highlighted a pressing need for national guidance focussing on the role of the chaperone. Some minor amendments are also proposed to the legislation relating to chaperones. Any revised arrangements should reflect the following requirements:

Role of the chaperone: A chaperone is an individual identified by a production company and approved by a licensing authority to *'have care and control of the child with a view to securing their health, comfort, kind treatment and moral welfare'* whilst they are in a place of performance. In keeping with the Scottish Government's increased focus on children's wellbeing, the group agree that the role of chaperone should be revised so as to *'promote, protect and safeguard the wellbeing of a child whilst they are in a place of performance or are travelling to that place'*.

In future, a chaperone should be required to notify the licensing authority should they become aware of any issue which has not been addressed by the production company and which, if left unaddressed, may pose a risk to a child's wellbeing. Furthermore, chaperones should be required to take immediate action in those instances where a child is placed at risk of significant harm.

Currently an individual can act as a chaperone for a maximum of twelve children unless the individual is also acting as a private tutor to those children, in which case the maximum number of children should be limited to 3. In line with suggested changes elsewhere in the UK, the Group would recommend that the legal maximum be reduced from 12 children to 10 children. However, guidance should make clear that the number of children in the care of a chaperone should be dependent on the age and maturity of the children in question as well as any other broader issues impacting on their wellbeing. A final decision regarding the maximum number of children should be taken on the basis of a documented risk assessment.

Identifying and appointing a chaperone: It is the responsibility of the production company to identify a chaperone at the point at which they apply for a performance licence for a child. It is the responsibility of the Licensing Authority to approve the appointment of the chaperone.

Who can be a chaperone: The following individuals may be approved to act in the role of chaperone:

- An individual who is a registered chaperone.
- the performing child's parent.

Registering chaperones: A chaperone can be registered by the licensing authority in which the child in question normally resides. Alternatively, a chaperone may be appointed if they are registered with another licensing authority.

All licensing authorities should work to a common set of criteria when considering the suitability of an individual to be registered as a chaperone. The licensing authority will have to be satisfied that the chaperone has the necessary skills to promote, protect and safeguard the wellbeing of children involved in performances. In reaching a view, the licensing authority will wish to ensure that:

- The individual is a member of the PVG scheme.
- The individual has a clear understanding of:
 - The concept of 'wellbeing' and a knowledge of how to promote the wellbeing of children of varying ages who find themselves in performance settings.
 - The 'Getting it right for every child' approach to children's services.
 - All relevant child protection processes and procedures.
 - A clear understanding of the common core of skills, knowledge and understanding & values for the children's workforce in Scotland.
 - any particular factors which may be impacting on the child's life.
 - Restrictions on working times for children involved in performances.
 - The education arrangements for the child.
 - Best practice with regards to transport arrangements for children involved in performances.
 - An understanding of production processes linked to performances.

Chaperones should be required to engage in a 'professional update' process every three years in order to satisfy the Licensing Authority of their continued suitability for the role. Licensing authorities should retain and make available lists of registered chaperones in their area.

Supporting chaperones: It is essential that Government clearly identifies the skills, processes and concepts that are central to the role of the chaperone. Accordingly, we would advise that Government prepare guidance to support chaperones in satisfying the assessment criteria to be used by licensing authorities as set out above. Similar materials should be developed to support parents who are acting in the role of chaperone.

4.) Child Performance: Education

It is important that a child's education is not adversely impacted as a consequence of their involvement in a performance. With this in mind, it has been suggested that the education arrangements for these children be revised to reflect the following requirements:

Short term absences: A short-term absence should be taken to mean an absence (or series of absences) totalling 5 school days or less, occurring during the performance period for which the licence has been granted. Any short term absences from school must be agreed by the child's head teacher and approved by the Licensing Authority. On those occasions where there is a need to change any planned short-term absences, revised arrangements should once again be agreed with the head teacher and approved by the Licensing Authority.

Tutoring: Private tutoring arrangements should be made where a child is expected to be absent for more than 5 separate school days as a result of their involvement in a performance.

Tutoring – course of study: Where private tutoring is necessary, the course of the study for the child should be agreed with the head teacher if the child is normally in mainstream education. If the child is normally taught the school curriculum then their course of study for the purposes of any private tutoring should reflect this. If the child is home educated then the course of study should be agreed with the child's parent(s). However, it is also important that both parents and teachers are made aware of the educational value of being involved in performances and should factor this in when identifying the course of study to be followed.

Tutoring – suitable private teachers: Where a child requires private tutoring, there should be a legal requirement for the private teacher to be registered with the General Teaching Council for Scotland (or equivalent). This should be confirmed with the Licensing Authority. The production company should also evidence that the private teacher has a sound understanding of the proposed course of study.

Tutoring – hours: Where a child is in receipt of private tutoring, they should not receive less than three hours or more than five hours of tuition for each school day that they are involved in a performance. All education should be delivered within the times in which they are permitted to be in the place of performance and periods of education lasting less than 30 minutes should not be counted. For the purposes of working hour limits, any time in private tutoring should be considered to count towards the hours that the child is present in a place of performance on a given day.

Tutoring – place of education: The production company should provide the Licensing Authority with details of the place in which the private tutoring is to take place in order to ensure it is a suitable learning environment. National Government should produce guidance detailing minimum standards for such teaching spaces.

Where possible, education arrangements for the child should be approved in advance of a licence being granted. However, this will not always be possible. Irrespective of whether this is the case, education arrangements must always be agreed in writing by the child's head teacher and the Licensing Authority.

The role of the Named Person

The Getting it right approach includes making available a Named Person for every child, from birth until they reach 18.

In most cases, the Named Person will not have to do anything more than they normally do in the course of their day-to-day work. The major difference will be that they use the *Getting it right for every child* National Practice Model as a starting point for recording both routine information about a child or young person and for when they have particular concerns.

Most children and young people get all the help and support they need from their families, from teachers and health practitioners, and from their wider communities. Some may need extra help and that's where the named person comes in.

Depending on the age of the child or young person, a health visitor or teacher usually takes the role of named person. This means that the child and their family have a point of contact who can work with them to sort out any further help, advice or support if they need it.

Once a concern has been brought to their attention, the Named Person – who will be the first point of contact for the child and their family – needs to take action, help, or arrange for the right help in order to promote the child's development and wellbeing.

Referring to the eight wellbeing indicators, they will need to ask these five questions:

- What is getting in the way of this child or young person's wellbeing?
- Do I have all the information I need to help this child or young person?
- What can I do now to help this child or young person?
- What can my agency do to help this child or young person?
- What additional help – if any – may be needed from others?

The Named Person also needs to help children and families feel confident they can raise concerns and talk about their worries to people who will listen and respect their point of view and work with them to sort things out. Above all, they will ensure that the child or young person's views are listened to and that the family (where appropriate) is kept informed.

Delivering our proposals

This paper sets out a range of proposals for reforming the current licensing arrangements for children involved in performances in Scotland. Scottish Ministers are content that the existing primary legislation in this area remains broadly fit for purpose and that is why the range of changes now being suggested will, subject to your views, be delivered through either revised secondary legislation or non-statutory guidance. The following table sets out the primary mechanism for delivering each change.

Issue	Amendment to secondary legislation required	To be included in non-statutory guidance
Clarification of the existing definition of child performance.		√
New application form for a child performance licence.	√	
Removal of requirement for a medical certificate as part of application process.	√	
Requirement for relevant information from a child's named person as part of application process.		√
Guidance regarding the test to be applied by licensing authorities when deciding whether to grant a licence.		√
Requirement for a course of study to be agreed with the child's teacher and approved by the licensing authority.		√
Requirement for child performers to be taught in line with their normal curriculum.		√
Introduction of thresholds for the provision of private tutoring.	√	
Requirement for the licensing authority to approve the place of study/classroom to be used for the duration of the performance.	√	
Requirement for private tutors to be registered with the GTCS.		√
Production of best practice guidance for chaperoning.		√
Introduction of registration arrangements for chaperones		√
Revised appointment approval criteria for chaperones	√	
Revised limit on the number of children in the care of a chaperone at any one time.	√	
Revised restrictions on number of days that children can perform in a 12 month period.	√	
Revised daily hour restrictions and rest requirements for children involved in performances.	√	

Responding to this Consultation

Consultation is an essential and important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.

The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.

Typically Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site enabling a wider audience to access the paper and submit their responses. Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library at Saughton House, Edinburgh (K Spur, Saughton House, Broomhouse Drive, Edinburgh, EH11 3XD, telephone 0131 244 4565).

All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: Scottish Government consultations (<http://www.scotland.gov.uk/consultations>)

The views and suggestions detailed in consultation responses are analysed and used as part of the decision making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

Responding to this consultation paper

We are inviting written responses to this consultation paper by Friday 6 June 2014. **Please send your response with the completed Respondent Information Form (see "Handling your Response" below) to:**

Katherine.Shippin@scotland.gsi.gov.uk

or

Child Performance Consultation

Scottish Government

Area 2-B Dockside

Victoria Quay

Edinburgh

EH6 6QQ

If you have any queries contact Kat Shippin on 0131 244 7667 or use the email address above.

We would be grateful if you would use the respondent information form provided or could clearly indicate in your response which questions or parts of the consultation paper you are responding to as this will aid our analysis of the responses received.

This consultation, and all other Scottish Government consultation exercises, can be viewed online on the consultation web pages of the Scottish Government website at <http://www.scotland.gov.uk/consultations>.

The Scottish Government has an email alert system for consultations, <http://register.scotland.gov.uk>. This system allows stakeholder individuals and organisations to register and receive a weekly email containing details of all new consultations (including web links). It complements, but in no way replaces Scottish Government distribution lists, and is designed to allow stakeholders to keep up to date with all Scottish Government consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

Handling responses

We need to know how you wish your response to be handled and, in particular, whether you are happy for your response to be made public. Please complete and return the **Respondent Information Form** as this will ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government are subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

Where respondents have given permission for their response to be made public and after we have checked that they contain no potentially defamatory material, responses will be made available to the public in the Scottish Government Library. You can make arrangements to view responses by contacting the Scottish Government Library on 0131 244 4552. Responses can be copied and sent to you, but a charge may be made for this service.

What happens next?

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us reach a decision on the revised arrangements.

Comments and complaints

If you have any comments about how this consultation exercise has been conducted, please send them to: Kat Shippin, whose contact details are listed above.



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