



Department
for Education

Child Performance Regulations: report of the consultation on performance hours and breaks

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Summary

Regulations made in 1968¹ (referred to in this report as the 1968 regulations) set out the times that children² can take part in performances and the breaks they must have. The rules are intended to protect child performers. There have been many developments in the performance arts, television and media since the 1960's. In today's context, some of the legal provisions seem unnecessary and work against the best interests of children.

Between June and August 2014 the Department for Education consulted on proposals to simplify and streamline the rules about when children can take part in performances. We proposed to replace the regulations and remove unnecessary restrictions, without removing important protections for children. More than 400 children shared their views about performing, we also received a number of supportive and helpful comments from parents, professional chaperones and others with an interest in performance arts, and 185 responses were provided to the formal consultation.

There was strong support for a single set of rules about when children can take part in performances and the breaks they must have. Children, chaperones, and parents generally feel that there must be some flexibility and discretion to allow for unforeseen circumstances and to ensure that the legal requirements are not so fixed that they could operate against the best interests of children.

The message from child performers is that they love performing and do not want unnecessary restrictions to limit their opportunities. They do want: proper lunch breaks; sufficient rest overnight; chaperones to support and champion them; stronger protections for younger children; time with family; and support for their education. They said that performing increases their skills and confidence and benefits their education, but school is also important and producers and agents should respect that and hold auditions and castings outside of school hours.

Parents feel they should have greater say in decisions made by local authorities about issuing licences to allow children to take part in performances. They value the safeguards of the system but think that licensing officers should consult parents and that their views should be taken into account.

¹ The Children (Performances) Regulations 1968

² The requirements apply to all children from babies to compulsory school leaving age. This is not changed by the raising of the participation age, which requires that 16-18s must participate in some form of education or training.

The consultation responses have informed the development of new draft regulations. The main changes are that they:

- remove the requirement for a medical certificate to be provided before a child performance licence can be issued;
- lift unnecessary restrictions on the different types of performance a child can take part in on one day; and
- remove unhelpful differences between the rules for performances which are not recorded or broadcast and those which are.

The new draft regulations also allow licensing authorities and chaperones to exercise discretion to be flexible about the times of performance and breaks in all types of performance, not just those that are recorded or broadcast, when they judge some flexibility to be in the child's best interest. The regulations set out minimum requirements for breaks and maximum hours for attending and performing, according to a child's age. A licensing authority can also set conditions on the licence, such as more frequent breaks or shorter performance times, as they think necessary for the wellbeing of the child in each case.

The regulations will be laid before parliament in December 2014. Subject to the parliamentary process, they will come into force in February 2015. The regulations are self-explanatory, but the department will issue short non-statutory guidance to explain the changes in the legislation. A working group of sector interests have also been developing best practice guidance, designed to encourage greater consistency of approach to the administration of the licensing system and illustrate best practice for keeping child performers safe. This will be published early in 2015.

Background and Introduction

Legislation³ sets out that a licence must be obtained before children can take part in certain types of performance (professional or amateur) and in paid sport or paid modelling. The licensing system is designed to provide a check that those responsible for such activities make suitable arrangements to safeguard the children involved. Producers have a responsibility to ensure that each child is kept safe when they take part in a performance or activity, and that their education does not suffer.

From 24th May to 3rd August 2012 the Department for Education held a public consultation on proposals for wholesale reform of the child performance licensing system. The responses were divided on many proposals, particularly where they may have affected the balance between increasing opportunities for children and protecting them from undue risk. We could not be confident that the overall package of proposals got that balance right. The government does not intend to take any action which would reduce important protections for children.

Some proposals in the 2012 consultation were widely supported and so we have taken them forward without consulting again. One of those changes required primary legislation; Section 90 of the Children and Families Act 2014 has removed the restriction⁴, in England and Wales, on the types of performance that children under 14 can be licensed to take part in.

The proposal to remove the requirement that a medical certificate be provided for a licence to be issued was supported by 100% of respondents to the 2012 consultation. Given the clear support we have not consulted on this again but have removed the requirement in the new regulations.

The new regulations also lift the restriction on the different types of performance children can take part in on one day. A professional theatre company told us that this is an extremely important change, as currently a publicity event is deemed to be a different job to the performance itself. Therefore a child cannot, for instance, appear in a televised publicity event for a show in the afternoon and then perform in that show in the evening. Under the new regulations they could do both, as long as the maximum number of hours in one day are not exceeded.

³ The legislative framework that governs children taking part in performances and activities is contained within Part II of the Children and Young Persons Act 1933 and Part II of the Children and Young Persons Act 1963. Under these Acts, the Secretary of State has powers to make regulations which set out details of this framework.

⁴ Set out in section 38 of the Children and Young Persons Act 1963

Other aspects of the 1968 regulations have become out-dated. Different time limits are set for when children can take part in performances that are recorded or broadcast as opposed to performances which are not. This means, for example, that a child under 13 cannot perform after 7pm if the show is filmed for broadcast, whereas if it isn't filmed they can be on stage until 10pm. This restriction provides no clear benefit for children's safety or wellbeing, but has prevented children from taking part in performances simply because those performances are filmed.

We see no benefit in having two different sets of rules about when children can take part in performances and the breaks they must have. This adds complexity and confusion, and does not reflect developments in media and performance that have taken place since the 1960s. To reach a wider audience and increase access to performance arts many organisations (including the Royal Ballet and the Royal Shakespeare Company) arrange for live stage performances to be streamed to cinemas throughout the United Kingdom, and indeed the world. Children licenced to take part in these productions currently become subject to the restrictions that apply to broadcast performances.

The government wants children to be able to take up opportunities without unnecessary barriers. We see no good reason for this disparity between the rules that apply to performances that are broadcast or recorded and those that are not. This is why, from 23 June to 29 August 2014, we consulted on proposals to amend the 1968 regulations to replace the different regimes with a single, streamlined framework.

This report sets out the findings from the consultation exercise, which asked about specific proposals for aligning the rules and also sought the views of children through a questionnaire and interactive workshops. We received 185 responses to the formal consultation (which was aimed at adults). A total of 443 children took part in the exercise to seek their opinions about performing and the protections they should have. This has informed the development of new and streamlined draft regulations for England which will be laid before Parliament in December 2014.

Views of child performers

We think it is important to consult children about policies that directly affect them. We developed six open questions aimed at child performers. They were:

1. Should there be time limits on when you perform?
2. Do you think there should be set break times for rest or meals?
3. What does a chaperone do? Are they needed for all children?
Are they needed at all?
4. Do you think performing is good or bad for your education?
5. What is best about taking part in performances?
6. What are the downsides of performing?

Children's views were sought in two ways. First, a questionnaire was published and circulated to cast members, performance groups, parents and chaperones. From the questionnaire we received 77 individual child responses, plus reports from group discussions that involved another 154 children.⁵ The responses came from children who perform and model professionally as well as those who perform just for fun, and they ranged in age from six to sixteen years old.

Second, we designed a workshop so that groups of children could engage with the questions, record and share their comments and views and vote on the points they felt were the most important. We published a toolkit so that drama groups could run the workshop themselves. Officials from the department led three workshops involving a total of 60 children, and the workshop toolkit was used by drama groups with a further 150 children, aged from six to seventeen.

Two children also responded to the consultation document that was published online. We are grateful to all the children who took part in the consultation and workshops.

There were differences of individual opinion, but some clear and powerful messages came through about the framework of rules they feel are needed for their wellbeing and safety. The views that were most often expressed by children, and the comments that received most votes in workshops, are quoted below.

⁵ One report didn't say how many children were in the group – so is not included in this count or total, although the views provided were noted and taken into consideration.

Question 1: Should there be time limits for performing?

Some children said that there should not be any limits, because:

- some people enjoy performing;
- if you work for a whole week you will get a whole weeks wages;
- it is important to work hard as much as possible as this will be our future career;
- it restricts exposure and learning;
- we think we should be able to perform all performances in a row except in the case of long runs in a show in which case alternate performances should be done for each child involved.

The majority of children felt that there should be limits, set out in regulations, on the times and days that children can take part in performances:

- otherwise people might take advantage of you;
- education is needed, children also need a break and family and friends time;
- if it gets too late you may get very tired;
- for family reasons (you might miss your Mum);
- otherwise you don't know how long it might last.

Some children from an amateur group wanted the maximum number of consecutive days they can perform extended to 8. They may work on a single production over the summer holidays, and a longer run would “maximise the opportunity to perform to an audience and showcase all our hard work.”

Many children felt that there should be a limit but that there should be some flexibility, as filming schedules in particular can depend on factors that are hard to control and plan for, such as the weather, or the number of takes needed for a scene. They said that the limit should depend on the individual child and the activity. It should be decided by the chaperone and team behind the activity, and agreed with the parent, depending on what would be best for the child.

Question 2: Should there be set times for breaks and meals?

Most children had strong views on the need for a proper lunch break, and linked this to having the energy needed to perform, especially for live shows and where the performance may be physically demanding. In one workshop the comment that received the most votes of all was: “We should have a 3 course meal!”

There was less consistency over whether shorter breaks should be fixed or regulated for. Many children saw a need for flexibility, depending on the activity, the circumstances and needs of the child:

“Yes and no. Your bladder is not necessarily going to match the schedule for the performance.”

“You might not want to lose your concentration.”

They also felt that younger children need more rest and breaks than older children:

“Yes, there should be set break times. I have worked in quite a lot of T.V. and film projects and you do spend a lot of time waiting to go on set, therefore, the rests and snacks are generally available a lot of the time. However, I think it needs to be more careful on live theatre work which is more intense. As long as you have nibbles in-between takes, I am happy. I started acting when I was 8 years old and I definitely don’t need as much rest now I am nearly 14.”

“All breaks should be set and at least 15 minutes for a morning or afternoon break and 45 minutes for lunch. Younger children i.e. 5-8 year olds might need more time.”

Question 3: What does a chaperone do? Are they needed for all children? Are they needed at all?

We have no proposals to amend provisions concerning chaperones in the 1968 regulations, but are often asked these questions. We used the consultation exercise as a way to find out what child performers think about chaperones.

On the question of whether chaperones are needed for all children, those over the age of 14 were keen to point out that older children need less supervision:

“I think over 14s should learn independence as long as there is an adult in the room at the time.”

In the workshops that we ran, all thought that younger children and those with learning difficulties need more support from chaperones.

Some children said they had poor experiences when the chaperone lacked experience or qualifications, or was not sufficiently focused on their individual needs. One or two said that their parents should be allowed to be their chaperones⁶, but recognised this was not practical for large casts of children. A few children suggested that chaperones ought to be allowed to do more than one role:

⁶ Parents can and often do chaperone their own children.

“Chaperones should be able to do more than one job at a time for example technicians.”

Generally, children were very much in favour of chaperones:

- chaperones take you to and from places and look after you for the duration of the day. I feel that all children should have a chaperone so that they are kept safe at all times, and so that parents know that their children are safe. I believe that they are necessary to have;
- chaperones are definitely required for children under the age of 16, in order to ensure that they keep quiet backstage, do what has been asked of them and learn to respect the theatre environment;
- a chaperone looks after children and supports them. A chaperone IS needed all the time to make sure nothing bad happens and making sure you are behaving. Needed until you are a proper adult;
- they are needed and valuable but should be ‘DBS⁷’ checked and experienced.

Question 4: Do you think performing is good or bad for your education?

We want to better understand what children think about the interaction between performing and learning. Their views may help licensing authorities, parents, schools and producers to consider how the performance experience can best be structured to support and complement a child’s education.

Nearly all of the children that we spoke to said that their education was enhanced through performing. They told us that:

- it can build team work and problem solving and teach responsibility and independence;
- I think it is absolutely good for confidence, and work ethic. I think it is good for your education because it puts you in a place of work. You have to be able to read well and apply yourself to the role. It teaches discipline and being part of a team;
- performing is GOOD for your education because you learn about how things are done like special effects, costume & make up and things like discipline, punctuality, cooperating and taking direction which means listening!

⁷ Disclosure and Barring Service checks have replaced Criminal Records Bureau (CRB) checks.

- I feel that performing is amazing for your education!! It helps build your confidence, before I started the performing arts I didn't have much confidence to speak up, but now it has given me a massive boost!
- drama has a lot to do with learning the structure of a script, as well as the essence of performing and that helps children with their English skills;
- I started doing drama to increase my confidence and I went from being a boy that hid to a boy who won a scholarship to my present school. I am sure acting helped with this.

A number of children mentioned that performing can help build fitness, physical and mental stamina, and so help keep you healthy. They said that some kinds of performance are beneficial for their physical education, and that:

“You have to be fit to perform, and performing keeps you fit.”

Children also commented on the support provided for their education:

- if the job is longer than perhaps a week a tutor/teacher should be asked for or maybe the child could get links to the school website to get work from there or video chat into the classroom at their school so that they are learning just as the rest of their classmates;
- my school does all homework via the internet so it is covered and my mum makes sure I am up to date;
- my chaperone was my tutor and she said she was qualified to teach, but she had only done primary level in one subject and couldn't teach me to my level in science or English;
- it's good because you learn about going on set and you also get tutored by a teacher, you can actually learn more things when you are on set than in class.

Children generally felt that it was their responsibility to keep up with their studies, especially when on location. They were clear, however, that their educational needs should be recognised and supported by producers. In one workshop, an 11 year old girl (professional actor and model) suggested that:

“producers should not arrange castings or auditions during school hours. They should have them after school or at weekends.”

Other children agreed. They saw no reason why castings can't take place in the evenings or at weekends, and said they should not have to miss any school before they have even got the job.

Question 5: What is the best thing about performing?

The children who took part in the consultation all clearly had an intense passion for performing, whether for fun or as a profession. Some are ambitious and from a young age are incredibly dedicated and work extremely hard in pursuit of their dream for a successful performing career. They are also aware that it is a competitive industry and that success may be rare or fleeting. This is why they placed importance on their education and getting qualifications:

“You need a back-up plan just in case.”

Children said that the best things about performing are:

- learning new things and learning about people’s experiences;
- I love being on a stage and the nerves and excitement! Especially when you finish a show and everyone in the audience is clapping and smiling and you feel that you have achieved something! That all of your hard work has paid off! And you just want to do it again and again!!
- I love performing to an audience as I think audience participation and reaction improves the show;
- gaining experience in our future careers;
- you express yourself in different art forms;
- making friends with people who love to do the same thing as you;
- having lots of FUN;
- developing your skills, meeting new people, the ENERGY;
- organising and working together to plan and seeing the final outcome;
- you get paid!

Question 6: What are the downsides to performing?

The most common response to this question was “There are none!” Discussions in the workshops began to tease out some negatives, including:

- getting bullied (jealousy);
- even close friends can get jealous;
- less family and friends time;
- that you might not be a good singer;
- messing up on stage/film set, forgetting lines, stage fright;
- having to work every day with people you don’t like;
- competition;
- it’s not fair when performers can’t perform because of licence issues.

Parents and chaperones

Some parents and professional chaperones also replied to the informal questionnaire and others took part in a workshop. There were mixed views. On whether there should be limits on when children can perform they said:

- yes – to avoid exploitation;
- no. If for e.g. filming until midnight then the parents should ensure the child has an early night the night before and a restful morning. We know from experience that there is rest time whilst on set so I do not see that the hours in a day etc. apply. A child can do the same on set as at home. They just have a lay in the next day or so;
- time limits should reflect the age of the child. Older children would need less breaks;
- travel time should also be taken into account;
- preferably not in school time.

On whether there should be set times for breaks and meals, we were told:

“No, because too many things affect what happens, i.e. if the lighting isn’t quite right, or the scenery isn’t ready, the kids may have to take their break then, rather than in the scheduled 30 minutes time when things would be up and running and ready. You and the kids need to be very flexible.”

“There is downtime on set or during rehearsals as a natural break between your parts/segments. At home we don’t always have meals at the same time every day due to commitments. It is a responsible parent’s job to have snacks/food/drink to hand.”

Parents and chaperones felt that chaperones are always needed, as “they supply continuity for the child, make sure they eat well, stay hydrated and are kept safe.”

As with the children, parents and chaperones said that performing can benefit a child’s education:

- yes! All parts of the education of life! Schools are there to bring out the best in a child and if the field of performing arts is where the child excels, then we should embrace that!
- life skills that children won’t get from normal schooling;
- learning skills on the industry (film, TV, theatre);
- it is good if the school supports the child;
- I think it is excellent! My child can walk into a room and talk to 200 people from a stage;
- if a child is acting for consecutive days a tutor is assigned. 1-2-1 education is even better than being in a class of 30.

Some parents said that their child's school was very supportive and sympathetic to time away from the classroom to take part in performances. This was not everyone's experience though:

"often when auditioning successfully for a part, after a competitive audition process, it is important that full support is given by schools so that the performance commitment can be fulfilled and children are not left disappointed. I feel that my child has gained many benefits from performing including confidence building, developing self-esteem, team work, listening to and following instructions - all beneficial skills that can be transferred back into the education system."

Parents told us that the best things about their children performing are:

- the children have fun, hopefully;
- seeing my child's eyes light up. These are memories we will never forget;
- that they get to know other people and build their confidence;
- on stage my child has just said "it is an amazing boost, the more I do the more my confidence grows."

Parents had mixed views about the downsides, ranging from:

- We have not found any yet! Our child has done TV work and stage productions;
to
- It is quite stressful and time consuming.

Parents agreed, however, that they know their child best and that their views ought to be taken into account; they should be able to exercise their discretion on some of the restrictions. All parents recognised the need for safeguards and that this is what the licensing system is for.

Responses to the formal consultation

We received 185 responses to the formal consultation. The level of support varied between the proposals, but overall respondents were in favour of a new framework, albeit with changes to some of the proposed durations and limits.

A point many respondents made was that the appropriate restrictions on the hours and times that children can perform ought to be decided according to the individual circumstances. Rather than strict adherence to limits set out in regulations, they suggested that decisions and conditions should be set by the local authority according to their assessment of all relevant factors, including: the nature of the performance (is it demanding, stressful, tiring); the length of the project and whether it is a long (e.g. 9 months on a film set) or a short one (e.g. a 2 hour photo shoot – and is that a one off or every week?); any travelling or commuting time; and the timing of the activity in relation to the child's education and school attendance.

There was a clear message, however, from local authorities and particularly the National Network for Children in Entertainment and Employment (NNCEE)⁸ that some minimum and maximum limits must be set out in regulations. Whilst there should be some flexibility built in (and the sector led guidance can add examples of good practice in this area), there must be a streamlined framework and some clear parameters within which licensing officers can operate.

Question 1.

We proposed that the maximum hours that children at different ages could attend a place of performance might be:

- A. 9.5 hours for children aged over 9;
- B. 8 hours for children aged 5-8;
- C. 5 hours for children aged 2-4;
- D. 3 hours for children aged 0-2.

70% of the responses to this question were in agreement with this proposal; 27% disagreed. The remainder were not sure.

A point made by local authorities and the industry was that the limit proposed for younger children is too restrictive for theatre work, and could have consequences for matinee and

⁸ www.nncee.org.uk

evening performances, as the child could only take part in one performance a day. As a rehearsal on the day of performance counts toward this limit, it could also prevent a full technical rehearsal on the same day as a performance.

Many respondents felt that there was too big a jump between the categories and that we should merge C and D. It was suggested that the chaperone must have some discretion to determine if the maximum hours are too much for individual children on a case by case basis. Parents said that children under two get more rest in practice because they can sleep in a travel cot or pram. A lot of responses asked whether these limits include travel times to and from the place of performance.

Question 2.

We proposed a single set of time limits on the hours that children can perform overall and on the maximum durations of any performance, as follows:

- A. Five hours in total, 2.5 hours single duration, for children aged 9 and over;
- B. 3 hours in total, 2.5 hours single duration, for children aged 5–8;
- C. 2 hours in total, 30 minutes single duration, for children aged 2-4;
- D. 1 hour in total, 20 minutes single duration, for children aged 0-2.

57% of responses to this proposal were in agreement, 37% disagreed. The remainder were not sure.

Some people queried the rationale for allowing a single duration of 2.5 hours for children aged 5-8, as they thought it unlikely children of this age would be on set or stage continuously for this length of time. Representatives of the dance sector, however, argued for this. They told us it is important that children get a proper warm up before physical activity, such as dance, and the limits in regulations should not prevent that. As rehearsals on the same day as the performance count as performance time, a warm up before going on stage would count within this limit.

Again, many respondents suggested that C and D be merged into one rule for all children under the age of five.

Question 3.

We proposed that the earliest time a child can be at the place of performance should be 7am for all age groups. 68% of responses to this question agreed, 23% did not.

Some respondents felt that this was too early, especially if the day before was a long one and/or the child had a long journey. One comment was that 8am is agreed as the earliest time that adult actors can be required to attend when working in London theatres; it

should be the same for children. Others recognized that a lot of filming does take place early in the morning, and that this proposal is for the earliest time a child could attend – not the default expectation.

Question 4.

We proposed the latest time that a child can be at a place of performance might be:

- A. Children over the age of 5 not to be present after 11pm;
- B. Children aged 2-4 not to be present after 10pm;
- C. Children under 2 not to be present after 4pm.

60% of responses to this question were in agreement, 35% disagreed.

One actor wrote:

“I am nearly 14 and I recently had to miss out on being the main character at the end of a drama. The end of the drama had to be rewritten because I could not get licensed for what would have been a piece which would have taken no more than an hour to film. It was to do with licensing and the authority could not allow me to work the extra time needed. I was very disappointed when I found out that I would not be able to take part in the end of the production.”

Many respondents disagreed with a limit of 4pm for children under two. They pointed out that this would prevent children from taking part in most shows in a theatre, and would be difficult where the whole family may be taking part in a show as the child cannot leave before their parents.

A local authority said that travel time home would need to be taken into consideration, as would absence from school the next day. A number of respondents commented that this would remove the problem of children not being able to bow at the end of the show. Respondents from the film industry said that a more simple system would be welcome, with one respondent commenting:

“Film makers and children working with them will benefit from the increased flexibility that this gives to both productions and children.”

Question 5.

We proposed that the minimum frequency of breaks might be:

- A. Children aged over 5 must have: a break every 2.5 hours; 3 breaks in 8 hours; 1 must be for a meal;
- B. Children aged 2-4 must have a break every 30 minutes;

C. Children aged 0-2 must have a break every 20 minutes.

61% of respondents to this proposal agreed, 30% disagreed.

Again, it was suggested we could further simplify by merging B and C, and it was emphasized that the ability of the chaperone to exercise discretion continues to be important. This includes permitting a 5 minute overrun if that is in the child's best interests (e.g. they could finish for the day after that and go home earlier, or if they are in full creative flow in a rehearsal).

Others felt that protections ought to be strengthened for those aged 5-12, so that they should be required to have a break every 90 minutes:

"Whilst adults can make their own decisions about postponing their lunch/loo break, children are mostly dependent upon adults to determine when they eat - they need to know that they have a proper, fixed break time (as they do at school)."

The quality of break time was widely considered to be important:

"They should have proper down time where they can eat or speak with other children on the set. They should not be in makeup or rehearsing their lines."

Question 6.

Currently children over 5 must have a break of 1.5 hours between live performances. If the performance is of short duration this seems disproportionate. We proposed the minimum break between performances of less than 1 hour should be reduced to 45 minutes. 79% of the responses to this proposal agreed with it; 11% did not.

Some local authorities thought it important that the break should not be spent travelling between performances in different venues. A parent suggested this should be a case by case decision as although the performance might be short the build up and exit may be long and complex (e.g. for costume and make-up).

A chaperone wrote that:

"The children only get restless when they are bored and compulsory sitting around doing nothing for too long can be disruptive."

Question 7.

We said that we were considering whether the minimum duration for a meal break should be reduced from 1 hour to 45 minutes. 57% of those who responded to this proposal agreed with it; 35% did not.

There were some strong views against any reduction from an hour. Some local authorities and parents felt this is the minimum time needed to eat and digest food properly. There are practical considerations too, for example:

“If you have a group of children in costume it is impossible to get them changed, fed, have a run about and back into costume in 45 minutes.”

Counter to this was the argument that children can get bored and restless in an hour, and allowing less than an hour might provide for a shorter day and earlier home time. This may be a judgment best made by the chaperone in each case.

Question 8.

We asked whether, in exceptional circumstances, chaperones should have the discretion to agree an extension to the latest time a child can take part in all types of performance. If so, should it be:

- A. For up to 30 minutes (as now)
- B. For up to 1 hour
- C. Other

71% of responses to this question agreed that chaperones should have discretion. 44% of those in favour of discretion felt this should be for up to an hour, and 37% that it should remain, as now, limited to 30 minutes.

20% said ‘other’ although there were different views as to what that should be. A small number suggested there should be no limit, but others thought that we should remove the scope for any discretion for younger children. One suggestion was to differentiate between ages by allowing up to 30 minutes to be agreed for children under 8 and up to an hour's extension for children aged 9 and over.

Local authorities and some chaperones expressed concern that chaperones can be put in a difficult position. They are employed by the production company and may be unduly pressured to routinely permit children to work late or long hours, which may cut production costs but could be detrimental to the child's wellbeing. One local authority felt there should be no extensions permitted at all, in any circumstances.

Another view was that permitting a child to stay for an extra 45 minutes could be in their best interests as it allows them to finish filming a scene and not have to attend the filming again the following day.

Many local authorities and parents thought that chaperones need to be better trained to make decisions in the child's best interests. They should take into account factors such as whether the child has already had a long day, has an early start the next or a long journey home.

A professional ballet company told us:

“We have had situations in the past where performances have been severely delayed for technical reasons. On at least two occasions, these have been performances where the children only appear in the final scene/ballet (in the case of a triple bill). Even though the time the children have spent at the theatre that day falls well within the legal restrictions and their overnight break would not have been affected, we have had to 'cut' them from the performance to avoid exceeding the latest time regulations. It seems that the distress caused by being sent home without performing is far greater than any potential harm from staying slightly later to perform; in these situations, the chaperones would have been able to use their discretion to allow the children to stay to perform.”

Questions 9 and 10.

We asked:

Do you agree that the minimum overnight break for children aged 2 to 12 should be 14 hours? And

Do you agree that the minimum overnight break for children aged 13 to 16 should be 12 hours?

71% of those that responded to question 9 agreed; 20% disagreed. 63% of those that responded to question 10 agreed; 36% disagreed.

Local authorities worried that travel time might eat into the overnight break and that children would not therefore get enough sleep. Some producers, both in theatre and broadcast, suggested that best practice was to ensure that children who would otherwise have a long journey be properly accommodated nearby and in those circumstances 12 hours break was plenty for all ages.

Generally it was thought that all children should have the same minimum overnight break, as other parts of the framework serve to protect children from overwork. The key issue, identified by all sectors, is how and whether any travel time should be taken into account:

“This should be dependent on travel time. i.e. Remain as a 12 hour break plus travel time or a 14 hour break including travel time.”

Questions 11 and 12.

Question 11 - Do you agree that the local authority should be able to allow night work in both staged and filmed performances?

Question 12 - Do you agree that the local authority should be able to allow night work in both indoor and outdoor performances?

62% of respondents to question 11 agreed that night work should be permitted in stage and filmed performances; 36% disagreed. 68% agreed that it should be possible to permit night work in both indoor and outdoor performances; 30% did not. Other respondents neither agreed nor disagreed.

Many of those who disagreed did not see in what circumstances it would be necessary for children to perform on stage or indoors at night. They did, however, recognize the need for it sometimes for filming that takes place outdoors:

“Night work should only apply where production genuinely require a level of light or darkness in order to create ‘real life effect’ i.e. sunrise, sunset, darkness. The latest time for this would be determined by the time of year. For example in August it isn’t dark until 10pm, whereas in December it is fully dark at 4.30pm and night work should not be required.”

A common concern was that this flexibility could be to the advantage of the production company but detrimental to children:

“There would have to be legitimate reasons that are not based on convenience or cost to the producer. For example filming an ad for a supermarket in the early hours of the morning should not be allowed just because it means that the store can be empty with minimal cost/disruption.”

There were also comments giving examples of where the restrictions have prevented children from taking part in performances that would not have been detrimental to their health, wellbeing or education. These included children not being able to perform in an outdoor staged production of *Midsummer Night’s Dream* (on mid summers night), and a televised event that was scheduled after midnight in order to link up to different parts of the world (and time zones) in a live performance.

Those who agreed the proposals felt that licensing officers would need guidance about the circumstances in which to permit night work:

“However with this one I think the guidance will have to be quite clear otherwise there could be the possibility of this being interpreted differently by authorities, agents, producers etc. and it could cause problems if some requests are refused or granted.”

Question 13.

Do you agree that the maximum number of consecutive days a child can take part in any type of performance and rehearsals should be 6?

51% of respondents to this question agreed; 35% disagreed.

This was the question on which views were most split, even though 6 consecutive days is currently permitted in non-broadcast performances.

Those in favour argued that in the amateur sector children may only take part in one or two productions a year that tend to have a 6 day run, and that children's opportunities would be restricted if they could not take part for 6 consecutive days. They said that professional and semi-professional productions which have a much longer run ensure that the child's work commitment is manageable by having teams of child actors, so that each child is only performing on 3 or 4 days a week. This also allows more children more opportunities to perform and gain experience in the professional theatre.

Many people said that 6 consecutive days work in broadcasting, for long days over a long period of time, is not in the best interests of children. Very few noted that there are other protections within the existing and proposed framework. A few responses acknowledged that the proposal was for a maximum, and that local authorities can take all relevant factors into account, such as whether the days are long or short ones, or whether the child is on location, when considering a licence application and any conditions that might be needed.

Conclusions

Although this consultation was more narrowly targeted than the exercise in 2012, a wider range of interests contributed their views. We have carefully considered all of the views and suggestions in deciding on the shape of a new framework for when children can perform and the breaks they must have. Many contributors said that in some aspects proposals could go further in lifting unnecessary restrictions and introducing more flexibility to respond to different circumstances. We have taken those comments on board.

In the consultation document we set out 5 broad principles that should underpin the development of a new framework. We have referred to these in considering some of the more finely balanced arguments. Those principles are:

- that the same restrictions should apply, regardless of whether the performances are broadcast or not;
- that where the current restrictions between broadcast and non-broadcast performances are different, we should generally adopt the least restrictive and simplest of the two;
- that other restrictions should be removed or reduced if they clearly have no safeguarding benefit;
- that younger children should have stronger safeguards than older children to protect their health and wellbeing;
- and above all, that any current restrictions which serve a clear purpose in safeguarding child performers should be preserved.

Child performers and education

The rules are not just intended to protect children from exploitation, overwork, and to keep them physically and emotionally safe. They are also designed to protect their education. Some children will have a future career in performing; most will not. We want to ensure that every child can acquire the knowledge and learn the skills that they need to get a job and get on in life. This is why children should not routinely or regularly miss school to take part in auditions, castings, or photo-shoots. For long runs or tours - whether they are performing in theatres, concert halls, marquees, stadiums, arenas, television or film - suitable tuition must be provided for children.

We are not proposing to change the legislation⁹ that requires local authorities to be satisfied that the child’s education will not suffer before they issue a performance licence. But the comments made during the consultation, and especially those made by children, suggest this is an area that should be addressed in the best practice guidance that is being developed.

Rules for younger children and babies

The consultation proposed greater protections for the youngest children, and to differentiate between children under 2 years old and children aged 2 to 4. Many responses suggested that we should further simplify the framework and have one set of rules about the times that children under 5 can attend and perform, and the breaks they must have. We were told that children under 2 get more rest anyway, because they will nap and sleep in carrycots wherever they are. **We have therefore decided not to differentiate between children under 2 and children aged 2 to 4.**

Maximum hours and durations

We have decided that the following limits should apply:

<i>Age of child</i>	<i>Maximum number of hours in one day at place of performance or rehearsal</i>	<i>Maximum total number of hours of performance or rehearsal in one day</i>	<i>Maximum continuous number of hours of performance or rehearsal in one day</i>
Birth until child reaches 5	5	2	0.5
5 until child reaches 9	8	3	2.5
9 to school leaving age	9.5	5	2.5

Earliest and latest time at performance

We have decided that, with the exception of permitted night work, the earliest time a child can normally be required at the place of performance will be 7am. It should be noted that this is the earliest time that a producer would be permitted to schedule a child’s attendance. It is not proposed as the default or normal time a child can or should turn up.

⁹ Section 37(4) of the Children and Young Persons Act 1963

We heard that the proposals for the latest time that children can be at the place of performance, based on their age, did not sufficiently meet the needs of children in theatre, or indeed families taking part in a theatre production together. **We have decided to simplify the proposed framework so that the latest time children under the age of 5 can be at the place of performance would be 10pm.**

The latest time a child aged from 5 to school leaving age can be at the place of performance will be 11pm. These limits are set out in the table below:

<i>Age of child</i>	<i>Earliest time</i>	<i>Latest time</i>
Birth until child reaches 5	07.00	22.00
5 to school leaving age	07:00	23:00

Many respondents thought that travel time ought to be factored in to the earliest and latest times a child can be at a performance. We agree; travel time ought to be considered and local authorities may reflect that in the conditions that they might place on a performance licence. It would be helpful if the sector led guidance could give examples of best practice in this respect.

Frequency and duration of breaks

It is important to note that the regulations specify the *minimum* requirements for breaks. In issuing a licence, the local authority can require that a child has more breaks if they feel that is necessary. On a day to day basis, however, the chaperone is responsible for ensuring the wellbeing of the child during the performance and will be best placed to judge if a child needs an extra break. The chaperone is responsible for ensuring the wellbeing of the child at all times and should be able to exercise some discretion over when the child has breaks. In all circumstances, the child's best interests must take precedence over any production concerns.

We have decided that:

For children under 5:

- breaks must be for a minimum of 15 minutes, except where a child is present for four or more consecutive hours breaks must include at least one break of 45 minutes for a meal; and
- all breaks must be used for meals, rest, education or recreation.

When a child aged 5 or over is present for more than four but less than eight consecutive hours the child must have a minimum of:

- one meal break for a minimum duration of 45 minutes; and
- at least one other break of a minimum duration of 15 minutes.

When a child aged 5 or over is present for eight or more consecutive hours the child must have a minimum of:

- one meal break of a minimum duration of 45 minutes; and
- at least two other breaks of a minimum duration of 15 minutes.

Minimum break between performances

The proposal that the minimum break between performances could be reduced to 45 minutes where the performances are less than an hour received most support from respondents to the consultation. Local authorities were concerned that the break must be a break, and not spent travelling to a different venue. Whilst the regulations will allow the break between performances to be reduced in these circumstances, it is important that the decision is taken on a case by case basis, so that any lead in or exit time is also considered. **We have decided to allow flexibility so that the minimum break between performances can be reduced to 45 minutes, where the performances are less than 1 hour and take place in the same venue.**

Lunch breaks

We have concluded that on most occasions **it is right that children have a one hour break for lunch.** Guidance should clarify that this is the expectation and should normally be met. **The regulations will provide that the child must have a minimum meal break of 45 minutes, but guidance will clarify that, unless the chaperone considers it appropriate to reduce the break to 45 minutes, the break should always be an hour.** This allows the individual circumstances to be taken into account, without introducing a blanket reduction to meal breaks. Best practice guidance should also clarify that a break must be a break, i.e. time spent in make up or wardrobe is excluded.

Chaperone discretion

We have decided that chaperones should have discretion to extend the latest time by up to an hour, but only in unforeseen circumstances. This should not be routinely relied on, but is to ensure that technical hitches or power cuts etc. that could not have been predicted or planned for do not prevent the child from finishing the show. The regulations already require the licence holder to ensure that the chaperone notifies the local authority whenever they have exercised discretion beyond the latest permitted hour – which means local authorities are well placed to spot if this provision is being utilised regularly rather than as an exception. **We have extended this requirement so that the chaperone must provide the host authority and the licensing authority (where they are different) with the reason for the extension.**

Overnight breaks

The regulations will specify a *minimum* overnight break of 12 hours for all age groups, but guidance must clarify that 14 hours is optimal for younger children

and should be the norm. The local authority can take travelling time (and other relevant factors) into account when determining whether to strengthen the requirements by placing conditions on the licence.

Night work

The regulations will allow a local authority to permit night work in a wider range of circumstances (where previously this was only permitted in relation to broadcast and recorded performances), but again it is for the local authority to take this decision according to the circumstances in each case. There may occasionally be a good reason for a producer to request night work; we think a compelling case must be made before a local authority would permit it. For example, we would expect a request for a child to work at night so the producer could save costs would be refused. This topic will be addressed in the best practice guidance.

Maximum days

The proposal that received the least support, with only 51% of respondents in favour, was to set a maximum limit of 6 consecutive days that a child can take part in any type of performance. This is the current limit for performances that are not broadcast or recorded, so the proposal would extend the same limit that currently applies to non-broadcast or non-recorded performances to those that are broadcast.

Those against the proposal thought that the limit should be reduced to 5 days in a row, as this is the typical pattern of employment for most adults in other types of work. To reduce the existing limit would impose a new restriction on non-broadcast performances.

We do not intend to introduce new restrictions, so propose to retain the existing limit of 6 days as the maximum that can be permitted by law, and extend that to all types of performance.

This is a maximum, and in assessing whether to allow it in any particular case the local authority issuing the licence might consider factors such as whether those days are long or short ones, or whether the performance is on location. They have discretion to place conditions on the licence as they deem necessary to ensure that the child is not over-worked and has sufficient breaks.

Next steps

The new regulations will be laid before Parliament for its consideration. If they are agreed then they will come into force early in 2015. The department will work with the sector interests who are developing best practice guidance, which we expect to be published at the same time as the regulations commence, to raise awareness of the requirements and ensure that the reforms are widely communicated.



Department
for Education

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