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## Consultation Document

# Child performance regulations: when children can take part in performances and the breaks they must have

Date of issue: **1 August 2014**

Action required: Responses by **31 October 2014**

# Child performance regulations: when children can take part in performances and the breaks they must have

<b>Overview</b>	This document seeks views on new arrangements to govern the regulation of child performance arrangements in so far as when children can attend and take part in performances and the breaks they must have.
<b>How to respond</b>	Responses to this consultation should be e-mailed/posted to the address below to arrive by <b>31 October 2014</b> at the latest.
<b>Further information and related documents</b>	<p>Large print, Braille and alternate language versions of this document are available on request.</p> <p>The consultation documents can be accessed from the Welsh Government's website at <a href="http://www.wales.gov.uk/consultations">www.wales.gov.uk/consultations</a></p>
<b>Contact details</b>	<p>For further information: Deborah Campbell Diverse Learners and Safeguarding Team Support for Learners Division Department for Education and Skills Welsh Government Cathays Park Cardiff CF10 3NQ</p> <p>e-mail: <a href="mailto:ChildPerformanceConsultation@wales.gsi.gov.uk">ChildPerformanceConsultation@wales.gsi.gov.uk</a> Tel: 029 2082 5807</p>

## **Data protection**

### **How the views and information you give us will be used**

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.

The Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. This helps to show that the consultation was carried out properly. If you do not want your name or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

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# 1. Introduction

- 1.1** This consultation is about the limits, which are set out in regulations<sup>1</sup>, on when children<sup>2</sup> can take part in performances and the breaks they must have. There are currently a number of restrictions on when children can perform, which differ between broadcast and non-broadcast performances.
- 1.2** The Welsh Government is of the view that there should continue to be rules about when children can perform, to safeguard their health, well-being and education. But the current rules are complicated and restrictive, and not always in the best interests of children. The Welsh Government proposes to lift unnecessary restrictions while keeping essential safeguards in place and are seeking your views on the proposed new framework that prescribes the circumstances that children can take part in performances, according to their age, the breaks they must have and proposals to allow a local authority approved chaperone to have limited discretion to vary these rules, if they think it is in the best interests of the child.
- 1.3** As these proposals directly affect children who take part in performances, we are particularly interested in hearing the views of child performers. Details of how to respond are in section 4.

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<sup>1</sup> The Children (Performances) Regulations 1968

<sup>2</sup> 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.

## **2. Background and context**

- 2.1** People who plan to put on a performance involving children need to make arrangements for their safety and well-being. The law requires the producer to apply for a licence from the child's local authority. The local authority should only issue a child performance licence if they are satisfied that the child's education will not suffer, and that the producer has made suitable and sufficient arrangements to safeguard the child. There are also a number of requirements and rules, set out in regulations, which the producer must follow.
- 2.2** The current legal framework has generally proved effective in its purpose of ensuring that child performers are kept safe. It has, however, been in place since the 1960s, and some aspects are now outdated.
- 2.3** In 2012, the Welsh Government and the Department for Education consulted on proposals to reform the legislation. Responses were divided on many of the consultation proposals, particularly where they affected the balance between allowing children to take up opportunities to perform and safeguarding them from unnecessary risk. The Welsh Government does not intend to take any action which could reduce safeguarding for children when they take part in performances, or to take forward wholesale reform of the legal framework.
- 2.4** The consultation identified some barriers that can prevent children from taking up performance opportunities, with limited purpose. These problems were highlighted in the passage of the Children and Families Act 2014 in the UK Parliament and restrictions have been removed in England and Wales on the types of performances that children under the age of 14 could be licenced to take part in. The Welsh Government proposes to take further action to:
- remove the requirement in the regulations for a medical certificate to be provided before a licence can be issued. The certificate is supposed to prove that the child is fit to perform, but local authorities tell us that in most circumstances this should not be necessary, and that parents often have to pay their GP to provide a certificate for no good reason. When the Welsh Government consulted on this in 2012, there was over-whelming support to remove this requirement.
  - support local authorities and others to develop best practice guidance. We will be working with the Department for Education and key partners on this guidance which it is anticipated will be published later this year.
  - remove unnecessary restrictions on the different types of performance a child can take part in on one day and inconsistencies between the rules for performances which are not recorded or broadcast and those which are. We

see no justification for these restrictions and differences, provided the overall safeguards about the number of hours spent performing and at what times of day (as covered in this consultation) are in force.

**2.5** We propose to replace the current array of rules about when children can perform and the breaks they must have within a streamlined framework. The following principles have guided this framework:

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

The table at Annex summarises the current position and our proposals. We would welcome your views on the following specific proposals.

### **3. The proposals**

#### **3.1 Hours a child can attend the place of performance**

The amount of time that a child spends at the theatre or on a film set may often be much greater than the time they spend performing. To safeguard the health and well-being of children, there are rules about the maximum hours that a child can attend the place of performance.

Currently, for performances other than broadcast or recorded, a child may take part in more than one performance or rehearsal if they are not present for more than 6 hours. This restriction is not mirrored in the rules for broadcast performances, so it is proposed to remove it.

We propose to align the rules that apply to non-broadcast performances with those that currently apply to broadcast, which differ according to the age of the child. The proposed new maximums would be:

- A.** 9.5 hours for children aged over 9
- B.** 8 hours for children aged 5 – 8 (an increase of 30 minutes)
- C.** 5 hours for children aged 2 – 4
- D.** 3 hours for children aged 0 – 2\*

\*this limit for 0-2 currently applies only where no licence is required – we propose to extend this protection to encompass all performances where a licence is required.

**Please see question 1 in the response form.**

#### **3.2 Hours a child can perform for**

Within the overall limits on the hours a child can attend, there are limits on the hours that children can perform overall, and limits on the maximum duration of any performance. Again, these currently differ depending on whether the performance is broadcast or recorded or not. The limits for broadcast performances are more generous than those for non-broadcast.

We propose a single set of limits based on those currently in place for broadcast, but with an increase in total performance time for children aged over 9 from 4 hours to 5 hours. This increase is to allow the extra time that might be needed for older children who are taking part in dance or a performance of a physical nature to properly warm up, and be physically prepared for their performance.



The proposed limits are:

- A. 5 hours in total, 2.5 hours single duration, for children aged over 9
- 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\*

\*this limit for 0-2 currently applies only where no licence is required – because the child has not taken part in performances on more than 3 days in the previous 6 months. We propose to extend this protection to encompass all performances where a licence is required.

**Please see question 2 in the response form.**

### **3.3 Earliest time that a child can be at the place of performance**

These currently range from 7am to 10am, according to the age of the child and whether the performance is recorded or broadcast or not. It is not clear why the earliest times should differ by age group. Given that there are other protections about the hours that children can attend and perform, we are considering aligning the earliest start time for all age groups at 7am.

**Please see question 3 in the response form.**

### **3.4 Latest time that a child can be at the place of performance.**

Currently, the times vary for different age groups. The latest times are much more restrictive for performances that are broadcast or recorded than if they are not. The upper limit for broadcast performances is 7pm for children aged 9 and over, and 4.30pm for those under age 9. These limits are unduly restrictive, and have led to children being unable to be licensed to take part in evening performances that are filmed or broadcast.

We propose a single set of limits on the latest times that children can be present, based on their age:

- A. Children over the age of 5 not to be present after 11pm
- B. Children aged 2 – 4 not to be present after 10pm, and
- C. Children aged under 2 not to be present after 4pm\*.

\*this limit for 0-2 currently applies only where no licence is required – we propose to extend this protection to encompass all performances where a licence is required.

**Please see question 4 in the response form.**

### 3.5 Minimum breaks

Whatever the nature of the performance, children need proper breaks throughout the day for meals and for rest. It is important that children get the breaks and meals they need. We propose the minimum frequency and duration of breaks should continue to be set out in regulations, according to age group.

Currently, the requirements for performances other than broadcast or recorded are that there must be an interval of 1.5 hours between performances or rehearsals in any day. The regulations also make provision for this interval to be reduced to 45 minutes, but only on 2 days during a single week and then only when the child is not present at the place of performance for a total of more than 6 hours. There are no requirements about meal breaks.

Where a performance is broadcast or recorded the frequency and duration of breaks, including for meals, is set out in more detail. We are considering a framework for required breaks based on the current requirements for broadcast performances.

#### Frequency of breaks

We propose the following minimum requirements for frequency of breaks:

- 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.

**Please see question 5 in the response form.**

#### Duration of breaks

Currently children over 5 must have a break of 1.5 hours between live performances. If the performance is of short duration, say ten minutes, the requirement for a 1.5 hour break seems disproportionate. We are minded to reduce the minimum required break for performances that last for less than 1 hour to 45 minutes.

**Please see question 6 in the response form.**

For all age groups, we propose that no break should be for less than 15 minutes (as now), but are considering whether the minimum duration for

meal breaks could be reduced from 1 hour (as it is now) to 45 minutes. This would be in line with the proposal above.

**Please see question 7 in the response form.**

### **3.6 Chaperone discretion**

It is a requirement that children performing under a licence are accompanied by a chaperone. The chaperone is responsible for looking after children during all rehearsals and performances. Currently, the chaperone can allow a child to perform on stage for up to 30 minutes longer than set out in the rules. This only applies to licensed broadcast performances.

Whilst it is important to have a framework to ensure children are not overworked and have time for sufficient rest and sleep, it is a fact that both live shows and filming schedules can occasionally overrun. We propose that chaperones should be able to exercise their discretion in all types of performance, where it is clear that this is not detrimental to the health and well-being of the child. We are also considering whether they should have the discretion to be able to agree to end the session up to an hour later, rather than 30 minutes.

**Please see questions 8a and 8b in the response form.**

### **3.7 Minimum duration of overnight breaks**

The amount of sleep children need gradually decreases from infancy to adulthood. Every child is different, but as a general rule of thumb<sup>3</sup>:

- toddlers need about 12-14 hours' sleep (including daytime naps)
- pre-schoolers (aged 3-5) need 11-12 hours' sleep
- school-age children need 10-11 hours' sleep
- teenagers need 9-10 hours' sleep.

Based on these averages, and what children said in response to the previous consultation (that the amount of sleep they get between sessions is more important than the length of the session and that they also need wind down time) we propose that children:

- aged 2<sup>4</sup> to twelve should have a minimum break of 14 hours between the end of one performance and a performance the next day

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<sup>3</sup> The Royal College of Psychiatrists:  
<http://www.rcpsych.ac.uk/healthadvice/parentsandyouthinfo/parentscarers/sleepproblems.aspx>

<sup>4</sup> Our assumption is that children aged under 2 can sleep in travel cots, and are protected by the latest times of attendance also.

- aged thirteen and over should have a minimum break between performances of 12 hours.

**Please see questions 9 and 10 in the response form.**

### **3.8 Night work**

The local authority can currently permit a child to take part in a performance after the last permitted hour, but only where the scene is filmed and takes place out of doors. We propose to extend this flexibility so that it covers both staged or filmed performances and both indoor and outdoor performances. In all cases, the local authority would need to satisfy itself that the arrangement was necessary. As now, we would keep the requirement that the child must have a break of at least 16 hours after any night work, and if she or he does night work on 2 consecutive nights they may not do any more for at least another week.

**Please see questions 11 and 12 in the response form.**

### **3.9 Limit on consecutive days of performance**

It is important that children are protected from overwork. Regulations currently specify different maximum periods for different types of performance: a maximum of 6 consecutive days are permitted for non-broadcast performances, whereas the maximum is 5 days in 7 if any of the performances are broadcast. We propose to make 6 consecutive days the maximum for all types of performance.

**Please see question 13 in the response form.**

## 4. How to respond

- 4.1 The consultation response form containing the questions is available on: <http://wales.gov.uk/consultations/education/when-children-can-take-part-in-performances-and-the-breaks-they-mush-have/?lang=en> The form has space for you to add your comments. The response form should be completed electronically if possible and sent to [ChildPerformanceConsultation@Wales.GSI.Gov.UK](mailto:ChildPerformanceConsultation@Wales.GSI.Gov.UK). Alternatively, postal responses can be sent to: Deborah Campbell, Diverse Learners and Safeguarding Team, Support for Learners, Welsh Government, Cathays Park, Cardiff CF10 3NQ.

## **5. Plans for making results public**

- 5.1** The responses will be analysed and the results of the consultation and the Welsh Government's response will be published on the Welsh Government's website in the autumn 2014.

## Annex: Proposed framework of time limits and required breaks by age group

Age	Maximum attendance and performance	Between the hours of	Minimum Breaks
13 - 16	<ul style="list-style-type: none"> <li>Attend 9.5 hours</li> <li>Perform 5 hours</li> <li>Maximum duration of performance 2.5 hours</li> </ul>	7am to 11pm	<ul style="list-style-type: none"> <li>A break every 2.5 hours.</li> <li>3 breaks in 8 hours, 1 for meals.</li> <li>1.5 hours between continuous performances*</li> <li>Overnight – 12 hours</li> </ul>
9 - 12	<ul style="list-style-type: none"> <li>Attend – 9.5 hours</li> <li>Perform - 5 hours</li> <li>Maximum duration 2.5 hours</li> </ul>	7am to 11pm	As above except: <ul style="list-style-type: none"> <li>Overnight – 14 hours</li> </ul>
5 - 8	<ul style="list-style-type: none"> <li>Attend – 8 hours</li> <li>Perform – 3 hours</li> <li>Maximum duration 2.5 hours</li> </ul>	7am to 11pm	As above
2-4	<ul style="list-style-type: none"> <li>Attend - 5 hours</li> <li>Perform - 2 hours</li> <li>Maximum duration 30 minutes</li> </ul>	8am to 10pm	<ul style="list-style-type: none"> <li>A break every 30 minutes</li> <li>Any time the child is not taking part in performance or rehearsal must be used for meals, rest and recreation.</li> <li>Overnight – 14 hours</li> </ul>
0-2	<ul style="list-style-type: none"> <li>Attend – 3 hours</li> <li>Perform – 1 hour</li> <li>Maximum duration 20 minutes</li> </ul>	9.30am – 4pm	<ul style="list-style-type: none"> <li>A break every 20 minutes</li> </ul>

- No break to be less than 15 minutes.
- Meal breaks to be no less than 45 minutes.
- The chaperone can extend the latest time of performance by up to 1 hour.
- The local authority can permit a child to take part any time between the latest permitted hour on one day and the earliest on the following day ('night work'), but the child must have a break of at least 16 hours afterwards and if he does night work on 2 consecutive nights he may not do any more for a week.
- The maximum number of consecutive days a child can perform is 6.
- If a child performs on the maximum number of days for eight weeks, then the child must then have two weeks off any performing.

\*The minimum interval between performances can be reduced to 45 minutes when the performance is less than 1 hour duration