



Regulatory Committee:	Safety and Licensing Committee
Date:	Monday 25 th March
Chair:	
Presenting Officer:	Victoria Burt
Item Type:	For information
Purpose of Report:	Provide information to the Safety & Licensing Committee on the statutory requirements within Children in Entertainment and Employment (CIEE) and the numbers of licences issued for both areas.
Recommendations or Actions Sought:	To note the report.
Background Documents:	None
Forthcoming Decisions:	N/A
Appendices:	None
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Report for Safety and Licensing Committee on Gloucestershire County Council Children licensing procedures for Children in Entertainment and Employment - March 2024.

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1.0 Overview

The primary objective of the regulations around employment and entertainment are safeguarding of children and avoiding exploitation.

These statutory duties are carried out by the Education Inclusion Service, which sits within Education in Children’s Services. The Education Inclusion Service undertakes duties in many areas (statutory and preventative) and as such all officers undertake work across multiple areas, with CIEE being part of their allocated time. The team consists of:

- Strategic lead
- Operational Lead (2 days a week)
- 3 Inclusion officers (1.5 days a week each)
- Administration support

The ethos of the CIEE team is preventative rather than reactive. As such we develop positive relationships with organisations, provide extensive support and guidance and utilise BOPA’s for performance organisations.

2.0 Who regulations apply to

2.1 Entertainment

The Licensing regulations relate to children, under the age of 16, taking part in public performances. This includes children who have attained age 16 during the academic year i.e. are still of compulsory school age:

A child ceases to be of compulsory school age on the last Friday in June in the academic year in which he reaches the age of 16 or if he reaches 16 after the last Friday in June but before the start of the new school year.

2.2 Employment

The term ‘child’ is defined, by section 558 of the Education Act 1996, for the purpose of any enactment relating to the prohibition or regulation of the employment of children or young persons, as anyone not over compulsory school age. A child under 13 years of age cannot work. Between 13 and 15 there are different requirements around working hours/times.

3.0 Legislation and Guidance

3.1 Entertainment

The child performance licensing and activities legislation sets out the arrangements that must be made to safeguard children when they take part in certain types of performances, paid sport or paid modelling.

The legislation sets out what the law requires of people responsible for putting on performances with children or engaging them in paid sport or paid modelling.

The relevant primary legislation is Part II of the Children and Young Persons Act 1933 and Part II of the Children and Young Persons Act 1963.

Streamlined and simplified regulations, the Children (Performances and Activities) (England) Regulations 2014, came into force on 6 February 2015.

Relevant documentation can be found at:

- Part II of the Children and Young Persons Act 1933
<http://www.legislation.gov.uk/ukpga/Geo5/23-24/12/part/II>
- Part II of the Children and Young Persons Act 1963
<https://www.legislation.gov.uk/ukpga/1963/37/part/II>
- the Children (Performances and Activities) (England) Regulations 2014
<http://www.legislation.gov.uk/uksi/2014/3309/contents/made>

Guidance on the regulations has been provided by the Department for Education in February 2015. Additional guidance, and best practice advice, by the National Network for Child Employment & Entertainment (NNCEE) was issued in May 2016.

- DfE 2014:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/401345/Child_performance_and_activities_licensing_legislation_in_England_-_departmental_advice_-_final.pdf
- NNCEE 2016:
<http://www.nncee.org.uk/attachments/article/225/A%20Guide%20to%20Child%20Performance%20Licensing%20May%202016.pdf>

Under section 37 (3)(b) of the 1963 Act, a licence is not required where the performance in which the child is taking part is given under the arrangements made by a school. The school must be responsible for organising and producing the performance. In these cases, a school must fit the criteria in the relevant Education Acts – an educational institution that provides primary and/or secondary education.

The Local Authority MUST NOT issue a licence for a child performing abroad (except the republic of Ireland). For performances abroad the licence must be issued by a justice of the peace from the magistrate's court in the district where the child resides.

3.2 Employment

The general law on the employment of children under school leaving age is contained in the **Children and Young Persons Act 1933**, as amended, most recently by the Children (Protection at Work) Regulations 1998, SI No 276, the Children (Protection at Work) Regulations 2000, SI No 1333 and the Children (Protection at Work) (No 2) Regulations 2000, SI No 2548.

Section 18 of the 1933 Act, sets out the restrictions of child employment.

Section 21 of the 1933 Act, as amended, provides that if a child is employed in contravention of section 18 or any byelaws made under it, the employer and any other person (other than the child employed) to whose act or default the contravention is attributable shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

In addition to national regulations Gloucestershire has separate Byelaws [gloucestershire-byelaws-for-child-employment-vmarch2017.pdf](http://www.gloucestershire.gov.uk/childrens-services/child-protection/child-protection-byelaws-for-child-employment-vmarch2017.pdf)

The main Acts and regulations which govern employment of children are:

- The Children and Young Persons Act 1933 Part II and section 107, amended by the Children (Protection at Work) Regulations 1998 (S.I. 1998/276), the Children (Protection at Work) Regulations 2000 (S.I. 2000/1333) and the Children (Protection at Work) (No 2) Regulations 2000 (S.I.2000/2548).
- Children and Young Persons Act 1963 section 35(2).
- The Criminal Justice and Court Services Act 2000 Part II.
- The Education Act 1996, sections 558 to 560.
- The Employment of Women, Young Persons and Children Act 1920.
- The Gambling Act 2005, sections 51 to 55.
- The House to House Collections Regulations 1947 (SR&O 1947/2662) amended by the House to House Collections Regulations 1963 (S.I. 1963/684), regulation 8.
- The Licensing Act 2003, sections 145 and 153.
- The Merchant Shipping Act 1995 section 55. See also Merchant Shipping Notice MSN 1776(M).
- The Riding Establishments Act 1964, amended by the Riding Establishments Act 1970, section 1(4A).
- The Safeguarding Vulnerable Groups Act 2006.
- The Management of Health and Safety at Work Regulations 1999 (S.I. 1999/3242) amended by the Management of Health and Safety at Work and Fire Precautions workplace) (Amendment) Regulations 2003 (S.I. 2003/2457).
- The Working Time Regulations 1998 (S.I.1998/1833).

4.0 Local Authority duties under the legislation

4.1 Entertainment

4.1.1 Issuing performance licences, ensuring children's performances are within the legal framework and ensuring they are safeguarded within entertainment.

- The regulations direct the licensing authority as to the information required on a license and actions taken once a licence is agreed. This includes sending a copy of the licence to the host authority where a performance or activity takes place in the area of a host authority other than the licensing authority.
- The licensing authority must approve any place where the child will perform, rehearse or take part in any activity. The licensing authority must not approve the place of performance, rehearsal or activity unless it is satisfied that, having regard to the age of the child and the nature, time and duration of the performance, rehearsal or activity suitable arrangements have been made for—
 - the provision of meals for the child.
 - the child to dress for the performance, rehearsal or activity; and
 - the child's rest and recreation, when not taking part in a performance, rehearsal or activity.
 - the place has suitable and sufficient toilets and washing facilities; and
 - the child will be adequately protected against inclement weather.
- The licensing authority may give its approval subject to such conditions as it considers necessary.
- The guidance sets out the licensing requirements as well as the exemptions from the licensing requirements for performances.
- The local authority must not grant a licence unless it is satisfied that the child's education will not suffer as a result of taking part in a performance. The Local Authority must be satisfied that the course of study and private teacher are suitable arrangements for education of the child during the term of the licence. The numbers of children to be taught at the same time must not exceed limits set in regulations.
- The maximum number of consecutive days upon which a child can perform is six. As this is a maximum. Local Authorities should consider whether it would be appropriate for the child in question to perform for this maximum.
- If a producer is relying on the four-day rule as a basis for not applying for a licence, they should have reasonable grounds for believing the child has not performed on more than 3 days in the previous 6 months.
- If a local authority refuses to grant a license it MUST provide the reasons for this decision in writing. The responsible person may appeal to a magistrate's court against the refusal, revocation or variation, and against any condition under which the license is granted or an approval is given.
- Local Authorities have powers to amend or revoke existing licences, including those issued by local authorities in Wales and education authorities in Scotland where the performance or activity to which the licence relates takes place within their area.
- Section 23, Prohibition against children taking part in performances endangering life or limb. It is clear that in order to fulfil their safeguarding responsibilities the licensing

authority must protect a child and ensure that their life and limbs are not endangered by taking part in a performance. Local authorities should look at each situation on a case-by-case basis and seek advice from their legal departments; however, the overriding concern must be the safety of the children.

- Section 24, the restrictions on training for performances of a dangerous nature. Children under 12 CANNOT be trained to take part in a performance of a dangerous nature. LA CAN grant licence to children over 12 but may wish to impose conditions. In these situations, best practice is for licensing authority to enter into full discussions regarding what child is going to do and arrangements in place to minimise risks. The LA should take legal advice before issuing a license in these circumstances.

4.1.2 Body of Persons Approval (BOPA)

- The Local Authority can issue a Body of Persons Approval (BOPA) to a performance (or limited period of time) which takes place within the Local Authority. (In exceptional circumstances the Secretary of State can issue BOPAs)
- GCC does use BOPAs as by working with organisations in advance of performances we are able to ensure safeguarding and welfare procedures more confidently are in place. The process to access a BOPA requires the organisation to:
 - have engaged with GCC previously in this area,
 - to complete an application form and submit with risk assessments and safeguarding policies.
 - Attend an interview with CIEE officers.
 - Attend a site visit with CIE officers to check physical provision for welfare and walk through processes.
- GCC BOPAs are issued for a single event or for a year and the renewal process is as above.

4.1.3 Approving Chaperones

- The regulations state that the licensing authority must approve a person to be a chaperone. The licensing authority must not approve a person as a chaperone unless it is satisfied that the person:
 - (a) is suitable and competent to exercise proper care and control of a child of the age and sex of the child in question; and
 - (b) will not be prevented from carrying out duties towards the child by duties towards other children
- GCC follows safer recruitment processes for approving chaperones. Applicant must complete application form, provide references, undertake Safeguarding level 1 training, complete interview with focus on chaperone duties and wider safeguarding as well as receive a clear enhanced DBS.
- Chaperone licences are issued for 3 years, and renewal requires the same process as initial application.

4.1.4 Site inspections

- Section 28, Powers of entry. Subsection (1) allows courts to issue an order to the local authority or the police to enter a place of performance if it believes that child performance legislation is being contravened. Best practice is that concerns should be referred to the LA legal team for advice prior to taking this action.
- The local authority has a responsibility to enforce the licensing requirements. They may carry out inspections of the premises -
 - Where rehearsals during the performance are taking place
 - Where performances or activities are taking place
 - Where the child is receiving their education
 - In order to check that the licensing conditions are met.
- The regulations set out the requirements regarding working hours and employment implications. The host authority has a duty to monitor that these are complied with.
- Authorising officer may enter any place used as a broadcasting or film studio to make enquiries about any child performing to which section 37 (2) of the 1963 Act applies.
- Authorised officers may during the currency of the licence enter any place to make enquiries about the child – this refers to concerns in relation to specific child/children.
- Subsection (3) states that any person who obstructs an authorised officer or refuses to answer or falsely answers any enquiry is committing an offence.
- GCC carry out random inspections without notification. On average we conduct 2 visits a month, however this increase at Christmas and in summer. In addition, we will carry out regular visits for organisation operating under BOPA or if there are identified concerns. Site inspections include Children and Young people licensed by other authorities and reports are sent to those authorities.

4.1.5 Legal Prosecution

- It is a legal requirement to seek a licence when one is required and any person who causes or procures any child to do anything in contravention of the licensing requirement commits an offence and may be subject to a fine, imprisonment or both. If a producer is relying on the four-day rule as a basis for not applying for a licence, they should have reasonable grounds for believing the child has not performed on more than 3 days in the previous 6 months.
- GCC CIEE team will carry out legal procedures to support appropriate prosecutions.

4.2 employment

4.2.1 Issuing employment licences, ensuring children's employment is within the legal framework and ensuring they are safeguarded within employment.

- “The local authority will issue an employment permit to the child if it is satisfied that the proposed employment is lawful, that the child's health, welfare, or ability to take

full advantage of his or her education would not be jeopardised, and that the child is fit to undertake the work for which he or she is to be employed.”

- “The local authority may revoke a child’s employment permit if the authority thinks that:
 - the child is being illegally employed, or
 - the child’s health, welfare, or ability to take advantage of education is likely to suffer.”

Byelaw 9 states.

Within one week of employing a child, the employer must send to the authority written notification stating:

- (a) his own name and address;
- (b) the name, address and date of birth of the child;
- (c) the hours and days on which the child is to be employed, the occupation in which the child is to be employed, details of the task involved and, if different from (a) above, the place of employment;
- (d) a statement of the child’s fitness to work, and of approval for the child to be employed, completed by the child’s parent;
- (e) details of the school at which the child is a registered pupil; and
- (f) a statement to the effect that an appropriate risk assessment has been carried out by the employer.

GCC CIEE team request that risk assessments and an application check list is included with the applications to ensure appropriate safeguarding checks can be carried out.

4.2.2 Oversight of by-laws and legal prosecution if required.

- The power for a Local Education Authority to authorise an officer to act on its behalf in relation to child employment investigation and prosecution matters is found in the Local Government Act 1972 section 223 (as amended by schedule 14 of the Local Government Act 1985) Authorisation has to be granted through a local authority committee and it is always advisable to ensure you have authorisation, in writing and carry it with you whilst engaged in relevant business.
- **Legal prosecutions:** The power for a Local Authority to institute proceedings in relation to Parts 1 and 11 of the Children and Young persons Act 1933 is found in section 98 of the same act. It is Part 11 of the act which refers to child employment matters. We have legal prosecution procedures in line with Trading Standards procedures.
- **Child Employment concerns reported.**
The Local authority receives concerns about children in employment from a range of sources including Schools, Social care. Members of the public (anonymous and named) and other education teams. Where a concern is raised the LA officer will, in the first instance, phone the employer to ascertain the situation and outline the legal duties on the employer in relation to the employment of children. Depending on the

situation, actions will be agreed by the employer in order to comply with the regulations. In all cases a formal letter is sent following the conversation:

- Where the employer states there are no children being employed then the letter sets out what the employer has said and clearly states the legal duties on employers and possible prosecution if the employed is contravening the regulations.
- Where the employer acknowledges children are employed then the steps to gaining in work permit with clearly stated timescales are included.

4.2.3 Raising awareness and co-ordinating the approach to children within work across a range of agencies.

The LA has a duty to raise awareness of child employment across agencies. We provide quick guides for services, training to other services, raise awareness at multi agency meetings, liaise with trading standards and other organisations.

5.0 Numbers of Licences issued.

5.1 Annual totals

These totals are based on Academic year: Sept 1 st to August 31 st .	2021 - 22	2022 - 23	2023 – 24 (to 09/02/2024)
Employment Licences	297	298	127
Entertainment Licences	349	349	181
Chaperone Licences	73	39	16

5.2 Breakdown of issued. licences across year

