

CHILDREN IN ENTERTAINMENT: A GUIDE TO PERFORMANCE REGULATIONS

THIS GUIDANCE IS INTENDED TO SET OUT THE KEY PROVISIONS OF THE LAW, WHICH APPLY TO CHILD PERFORMANCE.

Many children enjoy performing on stage, in films, on TV, as models or in sport and parents are usually very supportive. However, laws exist to protect the children's welfare and prevent them from being exploited (Children & Young Persons Act 1963 and the Children (Performance & Activities) (England) Regulations 2014).

The person responsible for the production* has a legal obligation to obtain Performance Licences for the children involved with the production. They must apply to the Local Authority in which the child resides. The holder of the licence is the person who is responsible for observing the restrictions and conditions subject to which the licence is granted.

***This is not the proprietor of a drama or dancing school or other person (such as an agent) who provides children for a production, but does not himself present it, although they may assist in gathering the information.**

In North Tyneside, the Attendance & Placement Service are responsible for licensing children who live in North Tyneside and must be satisfied that:

- The child's education, health and well-being will not suffer
- The place of performance/rehearsal is satisfactory
- Safeguarding arrangements are appropriate
- The conditions of the licence will be adhered to

Which children require a performance licence?

The regulations apply to all children from birth until they have completed their compulsory education (currently the last Friday in June during the school year in which they reach 16 – Year 11).



What type of performances may need child performance licences?

Any performance:

- In connection with which a charge is made (whether for admission or otherwise)
- At premises licensed to sell alcohol, eg. hotel, pub, club, theatre.
- Any broadcast or performance recorded by any means with a view to its use in a broadcast, or film intended for public exhibition
- Any live broadcast performance such as a TV or radio broadcast or internet streaming

Licences are also required for:

- Children employed in modelling work (photographic or catwalk)
- Children working in paid/professional sport

A performance licence may be required whether or not the child is paid. Amateur groups, musical performances, student productions or films are not exempt from the requirements.

Rehearsals and warm ups for performances

Rehearsals taking place from the first to the last day of the performance period require a licence and are subject to the same restrictions and conditions as performances. A child may not take part in performances (including rehearsals) on more than six consecutive days. Any rehearsal on the day of a performance or activity counts towards the permitted hours the child can be at the place of performance or activity. Warm-up time should be taken into account when assessing the amount of time that a child spends in rehearsal.

When is a licence not required?

- If the child does not perform on more than four days in any period of six months (providing that no absence from school is necessary)
- In a performance under arrangements made by a school.
- For a performance under arrangements made by a “body of persons” approved by the Secretary of State or the Local Authority in whose area the performance takes place. (See Appendix 3).
- For any activity which the Local Education Authority does not consider to be a performance

Even when a licence is not required, the rules and regulations still apply.

Why is a licence necessary?

A licence is issued to enforce conditions that must be observed to ensure the safety and well-being of the child. **No child may be absent from **school for a performance without a licence.**

School Performances

Performances under arrangements made by a school do not require licences. The deciding factor is whether the school is responsible for organising and producing the performance. The school in question has to fall within the meaning of “school” in the relevant Education Acts i.e. an educational institution that provides primary and/or secondary education.

Licences are required where children from a school or a number of schools take part in a performance where arrangements are made by a third party.

Dance Schools, Drama/Theatre Groups and similar Organisations

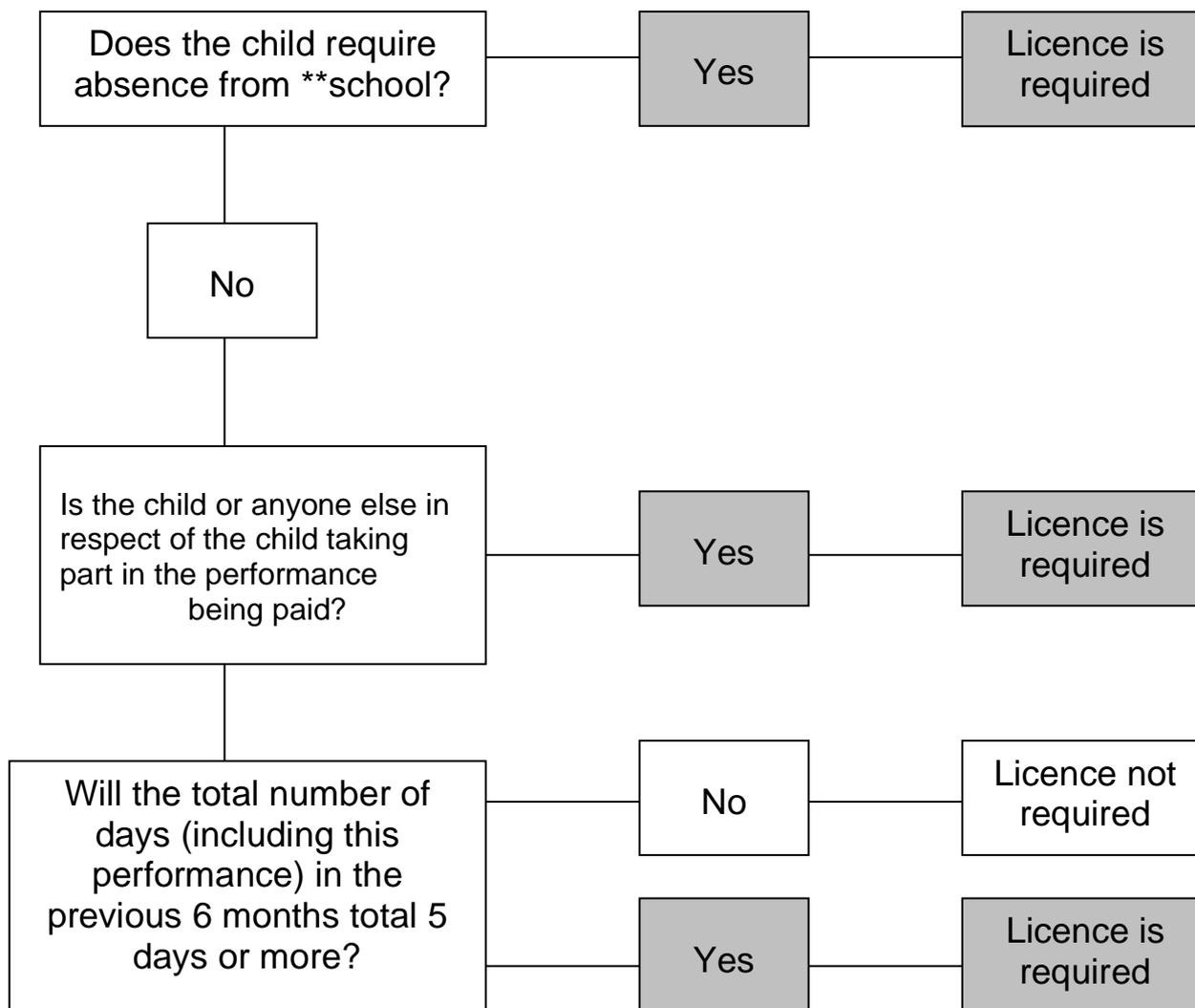
All children who attend dance schools, circus schools, conservatoires, drama/theatre groups and similar organisations may need a licence to take part in a performance.

Modelling

All children who work as models need a licence. A licence must be issued for each performance or “shoot” as and when it takes place.

**Local Authority maintained schools and special schools not maintained by the local authority.

Is a child performance licence required?



If the performance involves a group of children, the organisation responsible for the performance may prefer to apply to the local authority for a Body of Persons Approval. This replaces the need to apply for individual licences from each child's home local authority.

A BOPA may not be issued if the child (or anyone else in respect of the child taking part) is being paid nor if absence from school is required.

For more information please refer to Appendix 3.

**Local Authority maintained schools and special schools not maintained by the local authority.

School Absence

No child may be absent from **school for a performance without a licence. Agreement from **school does not authorise the absence unless a performance licence has been issued. Section 7 of the The Education (Pupil Registration) (England) Regulations 2006 state:

Leave of absence

7.—(1) Leave of absence may only be granted by a person authorised in that behalf by the Proprietor of the school.

(2) Leave of absence shall not be granted to enable a pupil to undertake employment (whether paid or unpaid) during school hours except—

(a) employment for the purpose of taking part in a performance within the meaning of section 37 of the Children and Young Persons Act 1963(c) under the authority of a licence granted by the local authority under that section;

Regulation 7 applies only in relation to local authority maintained schools and special schools not maintained by the local authority. This means that if they choose, the Head Teacher of an independent school, academy or free school is able to authorise absence to take in a performance irrespective of whether a licence has been issued providing the remaining exemption criteria has been met.

Maximum days permitted to perform

A child may not take part in any performance, or rehearsal on more six days in any seven day period.

Permitted performance hours and breaks

A child must only appear in one performance or rehearsal on any day that they attend school for the whole day.

A child must not take part in any other employment on the day of or the day following a performance.

The table in Appendix 1 details the restrictions in relation to all performances.

Medical Requirements

North Tyneside Council require a parental declaration of the child's fitness to perform, giving details of any health issues or special requirements.

Time Limits

It is essential for the licence to be issued before the performance takes place. Ideally, the application should be made at least 21 days before the performance date. If the application is late, there is no guarantee that the licence will be issued.

Travel Arrangements

The licence holder must ensure that suitable arrangements are made for the child to be returned home (or to an alternative agreed destination) at the end of the performance/rehearsal each day. The child's age should be taken into account when making these arrangements.

Chaperones

A child performing, rehearsing for a performance during the performance period, taking part in an activity or staying in accommodation in order to take part in a performance or activity under a licence must be supervised at all times by a local authority approved chaperone unless they are under the direct supervision of either their parent or a teacher from their school.

Note: grandparents, family members, child minders, etc. are NOT legal guardians (unless they are recognised as such by the courts) and therefore, need to be approved in order to chaperone a child. Parents (unless they are also licensed chaperones), cannot chaperone children other than their own. The licence holder is responsible for engaging the chaperone. The name of the proposed chaperone and the LA who has approved them must be included on the licence application.

Further information on the role of the chaperone and the approval process; please contact the Attendance & Placement Service.

Accommodation

Where a child is to live away from home in order to take part in a performance or activity under a licence, the local authority issuing the licence must approve that place as being suitable for the child in question. The local authority may impose conditions in respect of the accommodation including transport and meal arrangements.

Place of performance and place of rehearsal

The local authority issuing the licence must approve the place where the performance, rehearsal (during the performance period) or activity is to take place. In order to do so, the local authority must be satisfied that suitable arrangements will be made for meals for the child and for changing/washing facilities. When providing its approval, the local authority may impose such conditions as it feels necessary.

Records to be kept by the Licence Holder

Child Performance Regulations state that the holder of a licence is responsible for keeping the following records:

1. The licence.
2. The following particulars in respect of each day (or night) on which the child is present at the place of performance:—
 - (a) the date
 - (b) the time of arrival at the place of performance
 - (c) the time of departure from the place of performance
 - (d) the time of each period during which the child took part in a performance or rehearsal
 - (e) the time of each rest interval
 - (f) the time of each meal interval
 - (g) time of any night-work authorised by the local authority

3. Where arrangements are made for the education of the child by a private teacher, the date and duration of each lesson and the subject taught.
4. Details of injuries and illnesses (if any) suffered by the child at the place of performance or place of rehearsal, including the dates on which such injuries occurred and stating whether such injuries or illnesses prevented the child from being present at the place of performance or place of rehearsal.
5. The dates of the breaks in performances required under the Children (Performance & Activities) (England) Regulations 2014.
6. The amount of all monies earned by the child by reason of taking part in the performance and the names, addresses and description of the persons to whom such sums were paid.
7. Where the licensing authority grant a licence subject to the condition that sums earned by the child shall be dealt with in a manner approved by them, the amount of the sums and the manner in which they have been dealt with.

The Licence Application

The producer of the performance must complete Part 1 of the Licence Application and the parent/carer of the child must complete Part 2 and sign the bottom of the application. Where time off school is required, written authorisation may be obtained from the child's school, signed by the Headteacher and may accompany the application. The licence application and supporting documentation (a copy of the child's birth certificate, a passport-style photograph and a copy of the contract or other documents (where they exist) containing details of the agreement regulating the child's participation in the performance or activity must be submitted to the Local Authority where the child normally resides. Electronic documentation is acceptable.

The parent/guardian and the chaperone should be given a copy of the whole completed form.

The Licence

Once submitted and subsequently approved, the Local Authority will issue a licence to the applicant. Information on each licence issued is held on file with details of:

- Name, address, date of birth and school attended
- Name and address of licence applicant
- Place, dates times and nature of performance
- Name of chaperone

The above information is shared with the child's school and if the performance is to take place outside of North Tyneside, a copy of the licence will be sent to the appropriate Local Authority.

A copy of the licence will be sent to the parent/guardian of the child who signed the licence application.

Checks are made to ensure that the applicant adheres to the conditions of the licence

Licence Withdrawal

North Tyneside Council works closely with producers, parents and schools to enable children to maximise their opportunities. However, the child's welfare is of paramount importance and should concerns arise, a licence may be withdrawn.

Agencies

When the agent obtains work for the child, the person responsible for the production/assignment must apply to the relevant Local Authority for a Performance Licence. The licence application must include precise details of the location, date/time of filming and chaperone arrangements. Where time off school is required, a letter from the Head Teacher authorising the absence may accompany the application.

The agent may work on their Client's behalf and assist with gathering this information but the application should be submitted by the production company.

A licence is required for each assignment and will only be issued once all the details have been submitted to the satisfaction of the Local Authority.

Inspections/Visits

The Local Authority has a duty to inspect places where children are performing, to make sure that they are suitable and that the children are being supervised appropriately and where appropriate, tutoring arrangements are in place. They may make enquiries regarding health & safety and risk assessments. If the performance takes place outside North Tyneside, then the appropriate local authority is responsible for the inspection.

The Licence Holder (applicant) is obliged to hold individual licences for each child in their care, at the place of performance (it is not adequate to hold these documents at the applicant or agent's office during a performance, which is at a different location from the performance). An inspecting LA Officer may wish to check each child's Licence together with record sheets detailing such things as arrival/departure times. An example of an Inspection Report is attached (Appendix 2).

Performances Abroad

No child is permitted to go abroad (outside Great Britain and Northern Ireland) for the purpose of performing for profit unless a licence has been granted for this purpose by the local Magistrate's Court within the area where the child resides.

APPENDIX 1 – RESTRICTIONS IN RELATION TO ALL PERFORMANCES

	Age 0 to 4	Age 5 to 8	Age 9 and over
Maximum number of hours at place or performance or rehearsal (Reg. 22)	5 hours	8 hours	9.5 hours
Earliest and latest permitted times at place of performance or rehearsal (Reg. 21)	7.00am to 10.00pm	7.00am to 11.00pm	7.00am to 11.00pm
Maximum period of continuous performance or rehearsal (Reg. 22)	30 minutes	2.5 hours	2.5 hours
Maximum total hours of performance or rehearsal (Reg.22)	2 hours	3 hours	5 hours
Minimum intervals for meals and rest (Reg. 23)	Any breaks must be for a minimum of 15 minutes. If at the place of performance or rehearsal for more than 4 hours, breaks must include at least one 45 minute meal break	<p>If present at the place of performance or rehearsal for more than 4 hours but less than 8 hours, there must be one meal break of 45 minutes and at least one break of 15 minutes</p> <p>If present at the place of performance or rehearsal for 8 hours or more, the breaks stated above apply plus another break of 15 minutes</p>	<p>If present at the place or rehearsal for more than 4 hours but less than 8 hours, there must be one meal break of 45 minutes and at least one break of 15 minutes</p> <p>If present at the place of performance or rehearsal for 8 hours or more, the breaks stated above apply plus another break of 15 minutes</p>
Education (Reg. 13)	N/A	3 hours per day (maximum of 5 hours per day). 15 hours per week, taught only on school days. Minimum or 6 hours in a week if aggregating over a 4 week period or less	3 hours per day (maximum of 5 hours per day). 15 hours per week, taught only on school days. Minimum or 6 hours in a week if aggregating over a 4 week period or less
Minimum break between performances (Reg.23)	1 hours 30 minutes	1 hour 30 minutes	1 hour 30 minutes
Maximum consecutive days to take part in performance or rehearsal (Reg. 26)	6 days	6 days	6 days

Note: Regulation 5 allows the licensing authority to further restrict these permitted hours, breaks, etc. and place additional conditions on the licence if this would be in the best interests of the individual child.

Regulation 29 Chaperone Discretion

This regulation states that the chaperone may allow a child to take part in a performance for a period not exceeding one hour immediately following the latest time specified in regulation 21 providing:

- *The total of performing hours (including the additional hour) the child takes part do not exceed the maximum hours under Reg. 22*
- *The chaperone believes the welfare of the child will not be prejudiced*
- *The conditions requiring this arose outside of the control of the licence holder*

Making use of this regulation must be the exception (not the rule) and productions must not view this as an additional hour they can take advantage of; this is not a decision the licence holder may make, the decision is the chaperone's alone. If the child has already performed for the maximum permitted hours according to their age then the chaperone may not exercise discretion whatever the circumstances.

The chaperone should only exercise discretion if the circumstances have arisen outside of the control of the licence holder i.e. unforeseen circumstances. An example of this might be equipment failure or power failure. It would not be acceptable in the instance of schedule overrun. Whenever they decide to exercise discretion, the chaperone must be sure that it is not to the detriment of the child's welfare.

When a chaperone allows a child to perform after the latest time specified in regulation 21, the licence holder must ensure that the chaperone notifies the licensing and host authorities on the following day. They should provide a reason for their decision.

Local authorities must monitor the use of this discretion carefully, review the reason for it and ensure it has been used appropriately. They must ensure that notifications are received within the timescale specified and best practice is to send written acknowledgement to the licence holder when used. If the licensing or host authority identifies inappropriate use, they must enter into discussion with the chaperone and the licence holder.

Subsection (3) of this regulation states that the chaperone may allow the meal break to be reduced when the child is taking part in a performance or rehearsal outdoors, providing it is not less than 30 minutes and the maximum hours that the child is permitted to perform is not exceeded.

Example: It might be appropriate to reduce the break if the weather was particularly cold and it would be in the best interests of the child to finish earlier, avoiding even colder weather as the day progressed. The same may be an option if the day was particularly hot.

APPENDIX 2 – TEMPLATE INSPECTION REPORT

CHILDREN AND YOUNG PERSONS ACT 1963, s. 37 The Children (Performances & Activities) (England) Regulations 2014

INSPECTION REPORT

Date of Inspection:		
Venue:		
Visiting Officer:		
Name of Production:		
Production Company:		
Licence/BOP Holder:		
Number of chaperones on duty:		
How many children is each chaperone supervising?		
Number of children present in each dressing room (including gender):		
Supervision:	Satisfactory?	YES/NO
	Any Difficulties?	YES/NO
Do the chaperones have access to contact details for parents?		YES/NO
Are first aid/medical arrangements in place?		YES/NO
Is there an accident book at the venue?		YES/NO
Does each chaperone know the procedure to record accidents?		YES/NO
Have there been any accidents/illness?		YES/NO
Details (including whether the records show what happened):		
Safeguarding:		
Are children handed over to the chaperone by the Parents?		YES/NO
Are signing in/signing out arrangements satisfactory?		YES/NO
Are children supervised at all times when not on stage?		YES/NO
Are children handed over to Parents by the Chaperone?		YES/NO
Is each chaperone aware of the fire evacuation procedure at the venue?		YES/NO
Accommodation:		
Dressing rooms separate from adults?		YES/NO
Single sex dressing rooms:		YES/NO
Are dressing rooms satisfactory:		YES/NO
Are sanitary facilities satisfactory:		YES/NO
Are children suitably occupied when not performing?		YES/NO
Record Keeping:		
Is there a copy licence at the venue for each child present or a BOPA?		YES/NO
Is there a copy of the approval certificate at the venue for each chaperone present?		YES/NO

Children's Well-Being	
Did they appear to be fit and well?	YES/NO
Did they appear to be enjoying the experience?	YES/NO
Is their relationship with their Chaperone satisfactory?	YES/NO
Are refreshments available?	YES/NO/NA
Comments:	
Action Required as a result of this inspection:	

Signed..... **Date**.....

Print Name..... **Position**.....

APPENDIX 3 – BODY OF PERSONS APPROVAL

THIS GUIDANCE IS INTENDED TO OFFER GUIDANCE FOR OBTAINING BODY OF PERSONS APPROVAL.

Section 37(3) of the Children and young Persons Act 1963 & Children (Performances & Activities) (England) Regulations 2014

There is a sub-section of the legislation which states that:

“where the performance is given under arrangements by a school or by a body of persons approved by the Secretary of State or by the local authority in whose area the performance takes place”.....an individual licence for each child need not be sought.

This is known as “Body of Persons Approval”.

The decision whether to issue a BOPA is at the discretion of the local authority (or Secretary of State). They would want assurance that the body had clear, robust and well embedded policies for safeguarding children.

Who can apply?

The organisation responsible for putting on the performance and for ensuring the safety and wellbeing of the children taking part must apply

Any type of organisation can apply; it doesn't matter if they are a professional company, amateur group, stage or broadcast – as long as no payment (other than expenses) is made for the child to take part and they do not require absence from school.

Restrictions and Conditions

- North Tyneside Council can only authorise BOP Approvals for an organisation in relation to performances taking place in North Tyneside and can do so even if that production involves children from other local authority areas. It is the organisation putting on the performance which is approved, rather than the individual children. North Tyneside Council may share the information with the relevant local authorities
- A licence would still be required for a child if payment is made for them to participate
- BOP cannot authorise absence from school – a licence must be sought to authorise school absence
- BOP cannot authorise performances abroad

Requisites to obtain a body of Persons Approval from North Tyneside Council

1. No payment is being made to enable the children to participate and school absence is not required.
2. The applicant organisation has a Child Protection Policy (reviewed/updated every 12 months) and a procedure in place for how this is communicated and followed.
3. The organisation has a designated child protection/safeguarding officer.
4. The applicant organisation has carried out a risk assessment for the venue being used for the performance
5. There will be qualified First Aider present at the venue
6. There will be sufficient Chaperones present at each performance
7. The Child Performance Regulations must be adhered to in every respect with particular regard to designated changing rooms, toilets, performance hours, etc.
8. The applicant organisation has supplied contact details for the person in charge of the organisation.
9. The application organisation must provide details of the number of children taking part including age range and gender at least 21 days prior to the date of the first performance.
10. A Parental Health Declaration must be obtained for each child performing
11. A register must be completed and available for inspection noting the arrival and departure time of each child engaged in the performance.
12. An Accident Book is kept and made available for inspection, recording all accidents or incidents that may have occurred.

North Tyneside Council will have the right to make any inspection deemed appropriate.

To obtain further information, please contact:

Attendance & Placement Service
3rd Floor Quadrant East
Cobalt Business Park
Newcastle upon Tyne
NE27 0BY

Tel: (0191) 6438392

linda.whitehead@northtyneside.gov.uk