



Department  
for Education

**Launch date: 23 June 2014**  
**Respond by: 29 August 2014**  
**Ref: Department for Education**

## **Child performance regulations: performance hours and breaks**

# Child performance consultation

This consultation seeks views on our proposals to simplify and streamline the rules about the times that children can take part in performances that require a local authority licence and the breaks and time off they must have.

- To**
- Children who take part in performances such as acting, singing, dancing, or playing a musical instrument – whether they are paid to do so or not - in front of an audience or filmed or recorded for broadcast;
  - Parents of children who take part in performances;
  - Producers and organisers of performances involving children (professional and amateur);
  - Broadcasting and film companies;
  - Dance, drama, music and performance arts schools;
  - Local authorities;
  - Chaperones;
  - Other interested parties.

**Issued** 23 June 2014

**Scope** Please note this consultation is about Regulations as they apply in England only.

**Enquiries to** If your enquiry is related to the policy content of the consultation, or if you would like to help us to seek the views of children and young people, please email the Department at: [childperformanceregs.CONSULTATION@education.gsi.gov.uk](mailto:childperformanceregs.CONSULTATION@education.gsi.gov.uk)

## Contact Details:

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by e-mail: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288.

# 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 a number of restrictions on when children can perform, which differ between broadcast and non-broadcast performances.
- 1.2** We think that there should continue to be rules about when children can perform, in order to safeguard their health, wellbeing and education. But the current rules are too complicated and restrictive, and not always in the best interests of children. The Department for Education proposes to lift unnecessary restrictions while keeping essential safeguards in place.
- 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.

# 2. Background and context

- 2.1** People who plan to put on a performance involving children need to make arrangements for their safety and wellbeing. 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 won't suffer, and that the producer has made suitable and sufficient arrangements to protect 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** During the passage of the Children and Families Act 2014 the Government gave a firm commitment to make some changes to the child performance licensing framework:
- To remove the restriction on the types of performance that children under the age of 14 can be licensed to take part in. This change in primary legislation has been introduced through Part 5 of the Act.

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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.

- 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 we consulted on this in 2012, 100% of respondents were in favour of removing this requirement. We are not consulting on this again.
- To support local authorities and others to develop best practice guidance. This should be published in the autumn.
- To remove unnecessary restrictions, which are set out in the regulations, on: the different types of performance a child can take part in on one day; and unhelpful differences 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.

**2.4** We propose to replace the current array of rules about when children can perform and the breaks they must have with a streamlined framework. In developing the framework we have followed five broad principles:

- 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.

The table at Annex A summarises 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 actually 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 but only on 2 days during a single week and then only if they are not present for more than 6 hours. This restriction applies regardless of the duration of the session, so we intend 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 because the child has not taken part in performances on more than 3 days in the preceding 6 months. 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 preceding 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**

The regulations set out the earliest times that a child can be at the place of performance. These currently range from 7am to 10.00am, 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.**

The regulations also set out the latest times that a child can be at the place of performance. Again, 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<sup>3</sup>. 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 because the child has not taken part in performances on more than 3 days in the preceding 6 months. 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 do get the breaks and the meals that they need. We propose that the minimum

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<sup>3</sup> There are some exceptions permitted for the BBC in certain circumstances. We intend to align the requirements for all types of performance covered by the regulations, and all types of licence holder.

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, however, 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.**

Annex A illustrates what the new minimum requirements would look like.

### 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 extend the session for up to an hour rather than just 30 minutes.

**Please see Question 8 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>4</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 told us in a 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>5</sup> to twelve should have a minimum break of 14 hours between the end of one performance and a performance the next day;
- that children aged thirteen and over should have a minimum break between performances of 12 hours.

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

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<sup>4</sup> The Royal College of Psychiatrists:

<http://www.rcpsych.ac.uk/healthadvice/parentsandyounginfo/parentscarers/sleepproblems.aspx>

<sup>5</sup> Our assumption is that children aged under 2 can sleep in travel cots, and are protected by the latest times of attendance also.

### **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 GOV.UK (link). The form has space for you to add your comments. The response form should be completed on-line if possible.

Alternatively, you can submit your response via email to: [childperformanceregs.CONULTATION@education.gsi.gov.uk](mailto:childperformanceregs.CONULTATION@education.gsi.gov.uk)

Or by post to:

Nicola Palumbo, child performance consultation, Department for Education, Level 1, Sanctuary Buildings, Great Smith Street, London SW1P 3BT

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

- 5.1** The responses will be analysed and the results of the consultation and the Department for Education's response will be published on GOV.UK in the autumn 2014.