

City of London Child Performance Licensing and Inspection Policy v1



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Section 1: Introduction

Working in the entertainment industry can be a rewarding and valuable experience for children. However, legislation exists to ensure that children are not exploited, are employed safely and that their education and health does not suffer. It is illegal for any child to work in entertainment without a performance licence or authorisation from their local council, unless an exemption applies.

The local authority has statutory responsibilities for safeguarding the welfare of children working in the entertainment industry. These responsibilities fall into three areas and are explained in more detail within the body of this policy:

- a. Issuing Performance Licences
- b. Issuing Body of Person Approvals (BOPAs)
- c. Inspecting performances taking place with the City of London Corporation (the City) locality

Section 2: Overview of Child Performance Licensing Legislation

2.1 Primary Legislation

The Children and Young Persons Act 1933 and The Children and Young Persons Act 1963 (as amended) form the primary legislation that covers child performance, and this underpins the licensing system. It is this legislation which determines whether a licence is required and gives local authorities the power of enforcement.

<http://www.legislation.gov.uk/ukpga/Geo5/23-24/12>

<http://www.legislation.gov.uk/ukpga/1963/37>

2.2 Secondary legislation

The Children (Performances and Activities) (England) Regulations 2014 came into effect on 6th February 2015. These Regulations set out requirement in relation to licences sought under the 1933 and 1963 Acts and replace earlier regulations.

<http://www.legislation.gov.uk/id/uksi/2014/3309>

The legislation applies to any child or young person who is of statutory school age or younger, which is 0-16.

A young person is of statutory school age until the last Friday in June, within the academic year they turn 16. This means that a young person can be aged 15 and no longer be of statutory school age if they turn 16 in July or August.

2.3 Licencing requirement

Under section 37 of the 1963 Act, a licence must be obtained before a child can take part in certain types of performance and activities in Great Britain.

These include:

- any performance for which a charge is made, whether for admission or otherwise;

- performances on premises licensed to sell alcohol, for example in a hotel, a pub, or theatre;
- any live broadcast performance, for example a television or radio broadcast, internet streaming;
- any performance recorded (by whatever means) with a view to its use in a broadcast or such service or in a film intended for public exhibition. For example, a live stage performance recorded for a cinema screening, a feature film, a video or sound recording of a performance on a website. (Note that this does not extend to user generated content, for e.g. where young people or a family record themselves and share it on a website or social media);
- taking part in a sport or modelling for which payment is made (to the child or to someone else in respect of the child taking part) other than for defraying expenses.

2.4 Exemptions from the licensing requirement for performances

Exemptions are set out in section 37(3) of the 1963 Act, which only apply where **no payment in respect of the child taking part in the performance is made to the child or another person**, other than expenses. These exemptions do not apply to paid sport or paid modelling. The exemptions are:

- The 'four-day rule' - 37(3)(a) of the 1963 Act

If a child has **not performed on more than four days in the last six months**, they will not need a licence for performance on a fourth day. Once a child has performed on four days in a six month period (in any performance, regardless of whether a licence was in place on any of those days or the child was taking part in a performance arranged under a body of persons approval) then a licence is required for any further performances.

If a child is to be absent from school this exemption cannot be relied upon and a licence will be required.

- Performances given under arrangements made by a school - 37(3)(b) of the 1963 Act.

2.4.1 Performances given under arrangements made by a school

Department for Education guidance states the following:

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 **arrangements made by a school**. The deciding factor is whether the school is responsible for organising and producing the performance. The school in question must fall within the meaning of a "school" in the relevant Education Acts i.e. an educational institution that provides primary and/or secondary education. The table below sets out when a performance would meet the criteria for this exemption and when it would not.

Who is making the arrangements	Is a licence required?
The child's school	No

<p>A school within the meaning of the relevant Education Acts (but which the child does not attend) – this can include: a performing arts school which also provides a child's main education; and a school providing a child's main education working alongside a performing arts school (education is jointly provided), providing each is a school.</p> <p>A child who is home educated could qualify under this exemption if the arrangements for the performance are made by a school. This exemption would not be affected by a broadcaster filming the event as part of an observational documentary – as long as the children are not directed to act in a particular way.</p>	<p>No</p>
<p>Dance schools, circus schools, conservatoires and similar organisations where the child is attending purely for training in that performance activity (as opposed to receiving their main education).</p>	<p>Yes (assuming no other exemption applies)</p>
<p>A third party. For example, where children from a school or several schools take part in a performance where arrangements are made by a third party such as a broadcasting company or a local authority or arts group i.e. the third party is responsible for the production.</p>	<p>Yes (assuming no other exemption applies)</p>

2.5 Who should apply for a licence or BOPA?

The responsible person must apply for the licence. Examples of a responsible person would include the producer of a performance or the person responsible for organising an activity or, in either case, the person to whom this responsibility has been delegated. Applications should not be signed by a child's agent.

Section 3: Requirements for a child performance licence

3.1 Performance Licences

An individual performance licence is assigned to a child. The person responsible for the proposed production, not the parent, applies for the licence on behalf of the child through the City. Applicants do this by completing the Child Performance Licence application form and submitting it along with the required supporting documentation. The child must usually be a resident of the City. If the child does not reside in the City, then the licence should be issued by the local authority where the child lives.

If a child is taking part in a performance abroad, the application will need to be made to a Magistrates Court and not the local authority. The issuing of licences for children performing abroad is outside the remit of a local authority and under no circumstances is a local authority able to issue a licence. It should be noted that the Republic of Ireland is not classed as "abroad" by the magistrates' court. If a child resident in Great Britain is performing in the Republic of Ireland, a licence should be issued by the local authority where the child resides.

Given the wide range of possible performances and differing levels of involvement of children, it is not always immediately clear when a licence is required. The following table (Examples of Best Practice – Child Performance and Activities Licensing by Local Authorities in England) gives examples of when a licence may be required and when it may not. It is for illustrative purposes only and should not be considered an authoritative or complete list.

A licence may be required for	A licence may <u>not</u> be required for
Performances that meet the criteria in section 37(2) of the 1963 Act. These can include: acting; singing; dancing; playing in an orchestra; stand-up comedy; magic act; and any production where the activity is contrived or constructed for dramatic effect.	Observational documentaries where a child is filmed carrying out normal day to day activities for example playing in the street, participating in an ordinary lesson, training for their sport.
So-called "reality" television where the activity in which the child participates is manipulated/controlled or directed for the purpose of the entertainment.	Elements of a programme where the child is not being directed but is being observed doing normal activities are treated as observational documentary provided the child is filmed being themselves without direction.
Presenting or compering (where this has an element of contrived performance).	Daily news reporting, news reports (including investigations in the public interest, for e.g. testing if shops sell goods to a child underage).
Entertaining or performing where the performance meets any of the criteria under section 37(2) of the Act e.g. for a paying audience, on licensed premises, a recording for broadcast or public exhibition.	Being interviewed as a member of the public; Self-generated content e.g. a child records themselves and puts that on the internet; Castings and auditions that are not recorded for public exhibition; Being part of an audience (watching a show either in a s studio, theatre or stadium).
Dancing at a community dance festival or performance that meets any of the criteria set out under section 37(2) of the Act.	Dance workshops held on the same day of the performance at a different venue. (Practical dance sessions led by a dance teacher or artist. They may explore an idea or practice some dance movement; they introduce the participants to different dance styles or techniques; and encourage interaction between participants from different schools or groups).
Photo-shoots and modelling where the child (or someone else in respect of the child's taking part) receives payment.	Photo-shoots and modelling where no payment is made in respect of the child's participation.
Taking part in a sport where the child (or someone else in respect of the child's taking part) receives payment, other than expenses.	Being a ball boy or girl (If they were playing football or tennis and payment other than expenses was made then they could well fall within the remit of the child performance legislation. But they are not playing and therefore we do not think they could be said to be taking part in a performance or a paid sport)

3.2 Applying for a Child Performance Licence

A complete application is required; this must include all of the following documents:

- 1) A completed application form with both Part 1 (Applicant) and Part 2 (Parent) completed.
- 2) A full rehearsal and performance schedule clearly listing the time of arrival, activity times, break times and departure time.

- 3) Electronic photograph of the child.
- 4) A copy of the birth certificate of the child or other evidence of the child's age (such as a copy of the child's passport) to the satisfaction of the City.
- 5) A copy of the contract / draft contract or other documents containing particulars of the agreement regulating the child's appearance in the performances.
- 6) A school permission letter (if absence from school is required).
- 7) A copy of the child protection policy.
- 8) A copy of the risk assessment

All information must be sent to us within at least **10 working days** of the date of the performance. Failure to do so may result in the licence not being issued.

It is the responsibility of the applicant and parent to ensure all documentation is submitted correctly and within the time scales. If you have any further queries relating to the application process, please contact us

Section 4: Body of Person's Approval (BOPA) - 37(3)(b) of the 1963 Act.

Under the Children (Performances and Activities) (England) Regulations 2014, the City has the authority to issue an exemption to an organisation that would normally be required to individually license any children taking part in performances. Depending on the type of school a child attends, this exemption can allow children to take part in performances without the need for individual licences being applied for. These are known as Body of Persons Approvals (BOPAs). A full list of applicable schools can be found in section 6.2.1 of this policy.

A BOPA can be issued for an organisation for a specific performance located within the City or for a limited period as set out in the approval, to put on performances involving children.

4.1 Who can apply

The organisation responsible for putting on the performance, and for ensuring the safety and wellbeing of the children taking part may apply for a BOPA.

All information must be sent to us within at least **10 working days** of the date of the performance. Failure to do so may result in the licence not being issued.

A complete application is required, and this must include all of the following documents:

- 1) A completed application form;
- 2) Total number of DBS registered chaperones – they must be briefed on safety procedures such as: fire assembly points, where the accident book is kept, first aid box location and safeguarding concerns reporting channels. Note that the City requires at least one local authority registered chaperone to accompany children during the performance;
- 3) A copy of a general risk assessment of the performance;
- 4) A copy of a safeguarding risk assessment, which should include:
 - (a) An account of what the children will be doing and how they are safeguarded when they are not performing;
 - (b) whether or not there is a first aider on site;

- (c) details of travel arrangements to the venue and back home. Is there parental consent if travelling alone?;
- (d) arrangements for designated toilets for children;
- (e) a sign in, sign out system in place;
- (f) the likelihood of children being exposed to adult environment inappropriate for children (language, viewing materials);
- (g) whether consent has been received for photos/video or interviewing children;
- (h) how opportunities for adults to behave inappropriately with children are minimised;
- (i) a full rehearsal and performance schedule, clearly listing the time of arrival, activity times, break times and departure time;
- (j) confirmation that parental consent has been received that children are fit and healthy to perform;
- (k) a copy of the organisation's safeguarding policy.

The contract will be issued to the organisation once the City is satisfied with the application and safeguarding arrangements. A BOPA award notification will be sent as soon as the contract is signed and sent back to the City.

4.2 Who issues a BOPA

The decision whether to issue a BOPA is at the discretion of the local authority (or Secretary of State in exceptional circumstances, e.g. where there are multiple performances by a large number of children across various local authority areas). The City requires that applicants have clear, robust and well embedded policies for safeguarding children.

The City can place conditions on any approval as it considers necessary in order to ensure the wellbeing of children, for example stipulations in relation to the travel arrangements, the hours a child can perform and the breaks they must have.

4.3 Performance under a BOPA

The applicant must be able to demonstrate adequate competency in safeguarding practices. The City's conditions for issuing a BOPA are listed below:

- (a) Children or young people have performed on four or more occasions, whether licensed or unlicensed in a six-month period.
- (b) No payment is made to the child or anyone else in respect of the child taking part in the performance (except expenses). If a child (or someone on their behalf) is being paid to take part in a performance (other than expenses), a licence is required.
- (c) The production must have five or more children.
- (d) The production company agrees to comply with Regulation 11 and Regulations 15 to 29 of The Children (Performances and Activities) (England) Regulations 2014.

If performances are in multiple locations and across multiple boroughs applicants must approach the secretary of state for a BOPA in the first instance.

4.4 BOPA timeframe

A BOPA application must be made for each individual performance. The City will consider processing an annual BOPA for an organisation that has four or more performances scheduled in the City within a 12 month timeframe.

An organisation that operates on an academic calendar and has four or more performances planned can make a request for a 'one off' short BOPA approval until 31st August. A new annual application must be made that runs from 1st September.

Section 5: Performance licence inspections taking place in the City of London

The City has responsibility for enforcement of the licensing requirements and has a number of powers (including powers of entry under section 28 1933 Act) to carry out inspections within its locality to ensure a child's welfare is maintained. It is essential that the City recognises this statutory duty and actively fulfils its safeguarding responsibility towards children taking part in performances, paid sport and modelling. A piece of paper i.e. the licence does not protect the child and it is only by carrying out unannounced inspections that that we can be sure that licence conditions are met and children are protected.

5.1 Making an inspection

An authorised officer from the City can carry out an inspection at venues and locations within the local authority's geographical boundaries. The authorised officer cannot carry out inspections at venues within another authority's boundaries even if children resident in the City are taking part. The inspecting authority may invite a child licensing officer from a neighbouring authority to accompany them on an inspection if they so wish.

It is important that the inspection is unannounced. If the date and time of the inspection are known it is very likely that all will be in order. A far better picture of what is going on will be determined if the officers are not expected.

5.2 What happens during an inspection

There are several stages to carrying out an inspection. When possible, two City officers will attend an inspection, to ensure that any findings are corroborated, particularly if there are issues to be resolved.

Officers will need to ensure that the following are brought to the venue:

- ID badge and authorisation
- Inspection report checklist
- Copies of the children's licenses
- List of names and contact numbers of colleagues from other licensing authorities who have issued licences
- A copy of the performance regulations
- Spare Daily Record Sheets
- Full address of venue/location including postcode
- Contact details for licence applicant

5.2.1 The Children

Officers should ensure that they are introduced to the children and given an explanation as to why they are there. It is the duty of the officer to check that the children are content and well cared for.

5.2.2 The Chaperones, parent and Tutor

All chaperones and any parents who are present should be introduced to the officers. All the chaperone licences should be checked, noting the local authority which issued the licence and the expiry date. Checks should be made to determine if there are any DBS checked additional helpers.

Measures should be taken to clarify which children the chaperone is responsible for and check there are sufficient chaperones for the number of children present. A discussion is required between the officer and the chaperones about fire exits, first aid and to check what information they are holding. It is equally important to observe what is happening, how good the supervision is and make notes.

If there is a tutor available then it will be important to see what work the children are doing and to check tutoring record sheets to ensure the correct amount of tuition is being given at the appropriate time.

5.2.3 What needs to be seen

The Licences

Copies of licences should be available whilst carrying out the inspection. There should be a licence for every child. The details of any children performing under an exemption i.e. four-day rule should be taken.

Daily record sheets

Daily record sheets should be available during the inspection, preferably the ones the chaperones are completing in real time. Officers must check they are complying with the regulations. Other, previous days' records should be reviewed too - arrival and departure times should be examined and checked to ensure that suitable breaks in accordance with age are being complied with.

Facilities

Key things to look at:

- That dressing rooms are big enough, not too hot or too cold and are clean. There should be blinds at the windows. Dressing rooms for the children should be separate from the adults - adults should not be able to pass through or walk into the children's room.
- The school room should be suitable and the children should have all they need in terms of resources.
- The toilets should be clean, working and sufficient in number and are designated for children. If there are no separate toilets, then procedures should be in place to manage this.
- If 'quick change' areas are being used, then how this happens should be checked; when and where and can the child be viewed by others.

- If the children are using the 'green room' and adults using the room too then arrangements need to be in place to manage this.
- Arrangements should be in place for meals and refreshments. Are the children getting the required breaks, what happens between matinee and evening performances, are the children suitably chaperoned? For broadcast performances are the children getting one-hour meal break, is the food provided suitable, are suitable drinks and water available?
- Adequate first aid/medical provision should be available, are trained staff on duty? On film sets there is usually a paramedic on site.

Observation and curiosity are key when making an inspection; as much time as possible should be spent watching what is going on and how the children are reacting to the chaperones and with other key people.

5.2.4 How to deal with problems

During an inspection, it may become apparent that there are issues with the way that the production company or organisation manages the safety and welfare of children. Challenging current practice and offering advice is always worthwhile during the inspection. All identified problems and issues will need to be addressed with the production and how they have been or need to be resolved. If appropriate, advice should be offered on whether they are in breach of the regulations and that there is a duty to inform the child's local authority who may take legal action.

5.2.5 Writing an inspection report

Local authorities tend to use a similar report template which is a comprehensive list covering all aspects of the inspection. The report must be accurate - it is a legal document and may be used as evidence in the event of any legal action. It should be as detailed as possible and should give the licensing authority a flavour of what was happening on the day.

The report should include the details of all the children, the chaperones and parents. It is acceptable to state Yes/No to the more basic questions, however details should be expanded where possible and, in the comments, sections the following details should be provided:

- What areas were explored,
- what the inspector did,
- who was spoken to,
- what was observed.
- Any concerns and why. This should include any actions that were taken on the day and any actions that need to be taken in future. It should be clear who needs to ensure these actions are implemented.

A copy of the report should be sent by secure email to all the licensing authorities with children involved in the production. A copy together with a covering letter should also be sent to the licence applicant/producer.

Section 6: Other areas to consider

6.1 Tuition

The regulations do not state how long a child should be absent from school before arrangements for education by a private teacher must be made.

The decision must be based on whether the child's education will suffer by taking part in the performance. This must be taken based on the performance in question and the needs of the individual child. What is suitable for one child may not suit another.

6.2 Absence from School

For local authority-maintained schools and special schools not maintained by the local authority, a child may **not** be absent from school in order to perform or to take part in paid sport or modelling unless a licence has been obtained from the child's local authority. The following table sets out the circumstances when absence from school **may** be permitted under the exemptions in section 37(3). Headteachers of certain types of schools can authorise absences for performances without a licence being required. In other cases, an application will generally be accompanied by a permission letter from the school, but it is the local authority that ultimately decides whether a licence may be issued.

6.2.1 The following table details when a licence is required, or an exemption can be applied:

Type of school	Exemption	Can absence be authorised?
Local authority-maintained school	BOPA	No - a licence will be required
Special school not maintained by the local authority	BOPA	No - a licence will be required
Independent school, academy or free school	BOPA	Yes - if the head teacher choses to do so
Local authority-maintained school	Four-day rule	No - a licence will be required
Special school not maintained by the local authority	Four-day rule	No - a licence will be required
Independent school, academy or free school	Four-day rule	Yes - if the head teacher choses to do so

If the performance and rehearsals (on the same day of the performance) are being organised by a third party then a child performance licence will need to be obtained for children and young people who are attending a local authority maintained school or a special school not maintained by the local authority.

6.3 Chaperones

It is the responsibility of the production company to ensure that an appropriate number of suitable enhanced Disclosure and Barring checked adults and local authority registered chaperones are engaged to care for the children employed, having specific regard to their sex and age, ensuring that each child is supervised at all times. As a minimum this must be at a 1:12 ratio.

The appropriate number of suitable enhanced Disclosure and Barring checked adults and local authority registered chaperones must be maintained at both rehearsals and performances.

Where a performance is taking place under the auspices of a BOPA, the legislation does not require that the child be supervised by a chaperone approved by the local authority. However, local authority chaperones have knowledge and expertise about child performance licensing regulations and have experience working with children in the entertainment industry therefore are better suited to maintaining the safeguarding and wellbeing of

children. For this reason, The City has made it a condition that at least one local authority registered chaperone must be present during any production, the rest of the chaperones can be made up of suitable enhanced Disclosure and Barring checked adults.

Chaperones must have details of all children they are supervising, including emergency contact details and keep a record of the times of arrival, performances, breaks and departure.

Chaperones must have sight of the children they are supervising **at all times**.

Further guidance on Chaperones can be found in the City of London's Chaperone Approval Policy v1

6.4 Restrictions in relation to all performances

The following timings, which are based on statutory timings, apply where the child is at the place of performance or rehearsal.

Topic	Age 0 to 4	Age 5 to 8	Age 9 and over
Maximum number of hours at place of performance or rehearsal	5 hours	8 hours	9.5 hours
Earliest and latest permitted times at place of performance or rehearsal	7am to 10pm	7am to 11pm	7am to 11pm
Maximum period of continuous performance or rehearsal	30 minutes	2.5 hours	2.5 hours
Maximum total hours of performance or rehearsal	2 hours	3 hours	5 hours
Minimum intervals for meals and rest	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.	If present at the place of performance or rehearsal for more than 4 hours but less than 8 hours, they must have one meal break of 45 minutes and at least one break of 15 minutes If present at the place of performance or rehearsal for 8 hours or more, they must have the breaks stated above plus	If present at the place of performance or rehearsal for more than 4 hours but less than 8 hours, they must have one meal break of 45 minutes and at least one break of 15 minutes If present at the place of performance or rehearsal for 8 hours or more, they must have the breaks stated above plus

		another break of 15 minutes.	another break of 15 minutes.
Education	N/A	3 hours per day (maximum of 5 hours per day). 15 hours per week, taught only on school days. Minimum of 6 hours in a week if aggregating over 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 of 6 hours in a week if aggregating over 4-week period or less.
Minimum break between performances and rehearsal	1 hour 30 minutes	1 hour 30 minutes	1 hour 30 minutes
Maximum consecutive days to take part in performance or rehearsal	6 days	6 days	6 days

6.5 Variation to minimum break between performances and rehearsal

Where the earlier performance or rehearsal is less than one hour in duration, and

(a) the following performance or rehearsal takes place at the same place of performance or rehearsal; and

(b) there is no time required for travel between the earlier and consecutive performance or rehearsal,

the break between those performances (or rehearsals) may be reduced to a minimum of forty-five minutes.

A request for "night work" can be made for all types of performances i.e. stage, television and filming. It is anticipated there will be minimal demand for stage productions as these performances usually end between 10pm and 11pm. The request can apply to a performance that is taking place either indoors or outdoors.

6.6 Other Requirements

The applicant must have an adequate and active child protection policy in place.

The applicant must have an adequate Disclosure and Barring Service policy.

The applicant must submit all required documents and information at least ten working days prior to the performance taking place. The application and contract must be signed by an appropriate person who has safeguarding responsibilities for the children.

A risk assessment must be submitted, which sets out an assessment of the venue, safeguarding and travel arrangements.

The applicant is responsible at all times for maintaining the safety and wellbeing of the children taking part. The applicant must have details of all the children they are responsible for and submit an anonymised list of children with their application. The list must indicate that:

- they have sought signed/confirmed parental declaration that the children are fit and healthy to perform;
- they are aware of any health conditions that children have;
- they have checked if the children and young people have brought their medication with them upon arrival to the venue etc.
- they have clarified travel arrangements with parents or guardians, ensuring vulnerable children are dropped off and pick-up by a responsible adult.

The City will expect to see the full version should an officer carry out a site visit inspection.

The production company will ensure signing in and out sheets and daily record sheets are completed for each performance.

The production company will ensure that a list of emergency contact details in respect of each child including any medical issues or additional needs is available at the place of performance.

A first aider should be present at each place of performance where a child has a severe medical condition, such as allergies that result in anaphylaxis. Suitable first aid arrangements must be in place such as:

- an accessible fully equipped first aid box on site;
- a responsible adult who is aware of how medicines should be administered, such as an Epi Pen or correct dosage of medicines.

A list of all children with medical conditions that require medication must be kept on site and checks carried out to ensure that children have their medication on them whilst taking part in rehearsals and performances.

6.7 Performance Compliance: licences, BOPA or Four-day rule

The production company agrees to any authorised officer of the City having unrestricted access at any dress or technical rehearsal or performance is taking place at any venue that the production company uses for such purposes.

The City will review concerns raised against a production company and may not issue future BOPAs based on the outcome.

Failure to comply with any of the above agreements or conditions is likely to result in the LA revoking the Body of Persons exemption with immediate effect.

Failure to comply with Children & Young Persons Act 1963 s.37 and The Children (Performances and Activities) (England) Regulations 2014 is a criminal offence, which on conviction carries a maximum penalty of £1,000 or three months imprisonment or both, for each offence.