



Department
for Education



Llywodraeth Cymru
Welsh Government

Safeguarding children: proposed changes to child performance legislation

Consultation Response Form

The closing date is: 3 August 2012

Your comments must reach us by that date.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.

Reason for confidentiality:

Name Gwen Thomas
Organisation (if applicable) Association of Photographers Ltd
Address: 81 Leonard Street, London EC2A 4QS

If your enquiry is related to the policy content of the consultation, and you are based in England you can contact Eilish Newman by telephone: 0370 000 2288 or by email at: childperformance.consultation@education.gsi.gov.uk

If your enquiry is related to the policy content of the consultation, and you are based in Wales you can contact Elaine Hepple by email at: CSD3SafeguardingChildren@wales.gsi.gov.uk

If you have a query relating to the consultation process you can contact the Children Young People and Families Division Team by telephone: 0370 000 2288 or via the Department's ['Contact Us'](#) page.

Please mark the category which best describes you as a respondent

<input type="checkbox"/> Film/Broadcasting/Production Company	<input type="checkbox"/> Modelling Agency	<input type="checkbox"/> Sports Association
<input type="checkbox"/> Advertising Industry	<input type="checkbox"/> Fashion Industry	<input type="checkbox"/> Local Authority
<input type="checkbox"/> Stage School	<input type="checkbox"/> Child Performer	<input type="checkbox"/> Parent/Carer
<input type="checkbox"/> Chaperone	<input type="checkbox"/> School/Academy	<input checked="" type="checkbox"/> Other

Please Specify:

Trade Association for professional commercial photographers working in the fields of fashion, editorial, advertising and design – www.the-aop.org

Our replies are only to the questions affecting the licensing of child models in photography (stills and moving image) – we do not have any knowledge of catwalk modelling

Please select the appropriate box to indicate whether you are responding from England or Wales.

<input checked="" type="checkbox"/> England	<input type="checkbox"/> Wales	<input type="checkbox"/> Other
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Please Specify:

1 Do you agree the activities at paragraph 5.2 should be included in the list of those that require a licence?

Yes

No

Not Sure

Comments:

Whilst we agree with the contents of the list, we would venture that the licensing of child models (in the realms of still and moving image) has different needs, in order to ensure it is effectual for both protecting children and encouraging compliance. We would request that this area be legislated for in it's own section given the difference between child performance and child modelling requirements – in hours worked, days worked and fast licence turnover requirements.

The consultation states “.... protection of children of compulsory school age” (2.1) implying pre-school children need not be licensed.

Currently the explanatory notes of the 1988 regulations state “a child means any person of compulsory school age”, and the Education Act states “any person who is not over compulsory school age”

This needs to be addressed as these discrepancies have meant some LEA's license babies and children under school age, but others don't, leading to photographers having problems when using children from different areas.

4 Do you think we should keep the four day rule, reduce the amount of days in the rule, or scrap the rule?

Keep the rule

Reduce the amount of days

Scrap the rule

Not sure

Comments:

We do not believe that this will generally affect child models – even if they are not professional models they will generally receive some form of compensation. However, there may be times when children are involved in shoots for charities where none of the parties are being paid.

7 How do you think local authorities can ensure a consistent approach across the country to deciding which activities require a licence, and which should be exempt?

Comments:

The legislation itself needs to be very clear and uncomplicated, stating the activity and listing, under that activity, any age restrictions, requirements needed etc for the licence to be issued.

9 Do the hours we have proposed in paragraph 7.16 seem reasonable? If you have concerns what do you think should be changed?

Yes

No

Not Sure

Comments:

Stills and moving image shoots rarely take up a long time period; there would always be many breaks during the day due to the process of photographing any person or object. Particularly with children, a photographer could not get the best out of child who was bored, tired or hungry. Twins are often used if the child required is very young.

Additionally, a good model agency supplying the child would ensure a start time was not an early one for a small child.

10 Do you think that licences should continue to specify dates of performance, or do you think that some flexibility in dates is appropriate?

Specify dates

x Flexibility

Not sure

Comments:

This is one of the difficulties experienced by many photographers booking children. Dates are often flexible on photographic shoots – they may be weather dependant and clients change dates regularly. Whilst some shoots are booked well in advance (particularly large advertising jobs) editorial shoots tend to be last minute and changeable due to the magazines requirements. Allowing a six month licence per child, (as some LEA's do currently) with dates worked supplied as and when, would be of considerable help.

11 Should the producer be required to conduct a risk assessment as part of the application? If so, what factors should be considered?

x Yes

No

Not Sure

Comments:

In photography this would not necessarily be a producer, it may be the advertising agency or design group, photographers agent or the photographers themselves. Risk assessments for still and moving image photography are becoming more commonplace as a requirement from the client and/or the location where the shoot is taking place.

12 Do you think that local authorities should be able to give a 'Body of Persons' or single approval for large events where children aged thirteen and over are paid to take part?'

Yes

No

x Not Sure

Comments:

There may be occasions when a large number of children would be required for a shoot, however they may not all be from the same borough so I am unsure how this would work.

17 Is there anything you think we should do to improve equality of opportunity for child performers?

Comments:

Ensuring that all LEA's work in the same way, use the same forms, and work to the shortest time limits for issuing the licence would stop the current 'postcode lottery'. A central body issuing licences would be ideal, as would an online system for applying and issuing licences – cutting down on the staffing required, taking the pressure off individual LEA's and giving them more time to enforce the law.

18 Do you agree that a chaperone should be required for children taking part in all performance settings? If you disagree, please explain why.

Yes

x No

Not Sure

Comments:

Child models, when working in the UK on stills or moving image shoots, would have a parent or guardian with them. Given the short time a photographic shoot takes, in comparison with filming or stage productions, this is far better for the child as they are not being put into the care of someone they don't know – particularly if they are young.

However, this needs to be extended to close family members so as not to discriminate against low income or one parent families who need to work.

When working abroad, this would mean the shoot was a longer production and chaperones may be a better choice even if a parent was also in attendance.

20 Do you think that the maximum number of children a chaperone can look after at any one time should be reduced?

Yes

No

x Not Sure

Comments:

22 Do you think that tuition should continue to be required (as now) on the second day of absence from school?

Yes

x No

Not Sure

Comments:

Occasionally photographic shoots may take a few days, if they are large advertising shoots, and whilst schooling shouldn't be interrupted where possible, it would seem over the top to bring in a tutor after only 1 day of absence.

23 Do you agree that local authorities rather than magistrates should be responsible for licensing decisions for children to perform abroad?

Yes

No

x Not Sure

Comments:

This is an area that the advertising agencies and model agencies are in a better place to comment – individual photographers are unlikely to be co-ordinating a shoot of the size necessary for models to be taken abroad. Many agencies and client would also use models from the country they are visiting.

However, should the child be from the UK, there is a certain gravity of the responsibility needed if a Magistrate is required to give the decision.

25 Performances that take place abroad are not subject to inspection, which would not be practical. Are there any other measures you think would improve safeguards for children who take part in performances, including professional modelling, abroad?

Comments:

If those applying for the licence were registered already on a central register, and/or with the LEA this would go a step further to safeguarding children.

26 Do you agree that the notice period for a requirement for a licence should be reduced from 21 days to ten?

Yes

x No

Not Sure

Comments:

Speed is of the essence to ensure children can take part in modelling 10 days is still too long for child modelling, some LEA's manage to issue the licence in 2/3 days and this is workable. Children are missing out on the ability to work because their LEA cannot turn the licence around fast enough. Allowing a six month licence per child would also be helpful.

27 Are there other ways in which you think the process could be made quicker?

Comments:

1. As previously stated we believe that child modelling should be legislated for separately.
2. LEA's paperwork must be standardised, preferably with online applications and licences issued electronically
3. Clear legislation to show who needs to be licensed
4. All LEA's must work to the same guidelines
5. 12 or 6 month licences for modelling, in the style of a driving licence. Dates worked would then be emailed when confirmed.
6. Registration (and CRB checking of staff) of model agencies (and regulation), child photographers and studios with a central body or LEA's (see final question)

Do you agree with the proposals to remove local authority role and powers to:28 a) Approve place?

Yes

No

Not Sure

Comments:

If studios were already registered with a central body or the LEA in their borough, they would have been required to comply with set standards; this would be an approval in itself.

28 b) Approve lodgings?

Yes

No

Not Sure

Comments:

28 c) Stipulate how a child's earnings should be saved?

Yes

No

Not Sure

Comments:

29 Do you agree we should streamline the requirements to keep records?

Yes

No

Not Sure

Comments:

If all other streamlining was done, this would all allow more time for LEAs to enforce licences and visit to ensure compliance with the terms of the licence so the records would not be required to be so intricate. If records are still to be kept then this should be the responsibility of the parent/guardian.

30 Do you think we should replace the power of entry with a condition in the licence or approval? (please consider the likely effect if the power was not available, and the impact on the ability of local authorities to enforce the relevant legislation for keeping children safe)

Yes

No

Not Sure

Comments:

If the power of entry was not an additional power and only part of the licence, then surely authorities would have no right to enter premises where they believed unlicensed children were working?

31 If you have any experience of these powers being used, did you think that was appropriate or necessary?

Yes

x No

Not Sure

Comments:

32 What do you think are the main reasons behind non-compliance with the licensing requirements?

Comments:

Child modelling came into the legislation late; those photographers who specialise in child photography know the legislation, those who are only occasionally called upon to use children as models do not. Whilst we (as a trade association) try and ensure members are educated we cannot reach everyone. Many amateur photographers now do professional jobs.

1. Many believe there is a difference between models who are professionals and friends children
2. Many believe that if the shoot is in school holidays then a licence is not required
3. Whilst licences take so long to be issued, some will go ahead with the shoot using children who aren't professional models
4. Modelling is not necessarily looked at as 'working' when compared with shop work for example

33 Have you experience or evidence that may help us assess the case for changing the penalties?

Yes

x No

Not Sure

Comments:

34 Please use this space for any other comments you would like to make.

Comments:

We believe that it is vitally important to protect children whilst allowing them to enjoy their modelling; our members are all professionals who would prefer to use professional, regulated, child model agencies. Since the de-regulation of model agencies, anyone can set up as an agency. Many people who own a digital camera and Photoshop software think they are a photographer and can work professionally.

If both agencies and photographers using children had to be vetted, staff CRB checked, be centrally registered, and model agencies regulated, this would have two effects. It would help stop just anyone setting up as a professional (both model agencies and photographers) with no understanding of the requirements needed for working with children; and would give LEA's an assurance of the professional standing and suitability of the person requesting the licence. Additionally if studios were also registered with their local LEA the health and safety aspect together with risk assessment would be enhanced. This should go some way towards speeding up the licensing procedure whilst ensuring children can enjoy their modelling in safety.

Emergency licences need to be allowed as children fall ill and have to be replaced at last minute.

We are happy to be contacted to help in anyway to implement changes.

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply x

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, would it be alright if we were to contact you again from time to time either for research or to send through consultation documents?

xYes

 No

All DfE public consultations are required to conform to the following criteria within the Government Code of Practice on Consultation:

Criterion 1: Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion 2: Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion 3: Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion 4: Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion 5: Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion 6: Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion 7: Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

If you have any comments on how DfE consultations are conducted, please contact Carole Edge, DfE Consultation Co-ordinator, tel: 0370 000 2288 / email: carole.edge@education.gsi.gov.uk

Thank you for taking time to respond to this consultation.

Completed questionnaires and other responses should be sent to the address shown below by 3 August 2012

If you are responding from England send by post to: Department for Education, Child Performance Consultation, Targeted Safeguarding Policy Unit, Sanctuary Buildings, Level 1, Great Smith Street, London SW1P 3BT, or by e-mail to: childperformance.consultation@education.gsi.gov.uk

If you are responding from Wales send by post to: Support for Learners Division, Department for Education and Skills, Welsh Government, Cathays Park, Cardiff, CF10 3NQ, or by email to: CSD3SafeguardingChildren@wales.gsi.gov.uk