

## Contents

1.	Background .....	2
1.1	Referral Process in the Case of Queries .....	3
1.2	What to do in the event of a Breach .....	3
1.3	National definitions of School Leaving Date .....	4
1.4	Children in Higher Education .....	4
2.	Licensing Process .....	5
2.1	Determining the licensing authority .....	5
2.1.1	Special Consideration: Children at boarding schools and children normally resident abroad .....	5
2.2	Application Process .....	5
2.2.1	Application Process - What You Need .....	6
2.2.2	Application Process - Timescales .....	7
2.2.3	Special Consideration –Body of Persons .....	7
2.2.4	Special Consideration - Agencies .....	7
2.2.5	Special Consideration - Filming Abroad .....	8
3.	Filming - Regulatory Requirements & Restrictions .....	9
3.1	Travel requirements .....	9
3.2	Lodgings, Hotels, Places of Performances and Location Arrangements .....	9
3.3	Education .....	9
3.3.1	Definition of “Course of Study” .....	10
3.3.2	Definition of “Tuition Time” .....	10
3.3.3	Guidance on Aggregating Tuition Time .....	11
3.4	Record Keeping - Licence .....	11
3.5	Record Keeping - Log of Hours .....	11
3.6	Right of Inspection .....	11
3.7	Chaperones .....	12
3.7.1	The Role of the Chaperone .....	12
3.7.2	Duties of Chaperones .....	12
3.7.3	Hiring a Chaperone .....	13
3.7.4	Applying to be a Chaperone .....	13
3.7.5	Fees for Chaperones .....	14
3.7.6	BBC Genre Requirements for the use of Chaperones .....	14
3.8	Hours of Work, Rest Breaks and Meal Breaks .....	15
3.8.1	Special Consideration - Time in Wardrobe/make-up and re Early Attendance .....	15
3.8.2	Special Consideration – Auditions and Night Work .....	15
3.8.3	Hours of Work, Rest Breaks and Meal Breaks - England .....	16
3.8.3. A	Hours of Work, Rest Breaks and Meal Breaks -Wales .....	16
3.8.4	Hours of Work, Rest Breaks and Meal Breaks - Scotland .....	18
3.8.5	Hours of Work, Rest Breaks and Meal Breaks - Northern Ireland .....	19
Appendix 1:	Code of Conduct for Agencies .....	20
A1.1	General Instruction .....	20
A1.2	Aim of these Guidelines .....	20
A1.3	Terms .....	20
Appendix 2:	Supplementary Information - for Referral .....	22
A2.1.	More Information .....	22
A2.2	Licensing Process .....	22
A2.2.1	Special Consideration: Use of the 4-day rule where the child is unpaid .....	22
A2.2.2	Special Consideration: Licensing of Babies .....	22
A2.3	Chaperones .....	22
A2.3.1	Special Consideration: A child living away from home .....	22
A2.3.2	Special Consideration: If the Chaperone is taken ill .....	23
A2.3.2	Special Note: Production’s Ultimate responsibility for the well-being of children .....	23

## **1. Background**

The relevant primary legislation is Part II of the Children and Young Persons Act 1932 and Part II of the Children and Young Persons Act 1963.

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

Streamlined and simplified regulations, the Children (Performances and Activities) (England) Regulations 2014, came into force on 6 February 2015. The regulations are self-explanatory, so the government does not intend to set out detailed explanation of each of the provisions.

The Children (Performances and Activities) (Scotland) Regulations 2014 came into force on 20<sup>th</sup> February 2015

The child performance licensing and activities legislation sets out the arrangements that must be made to safeguard children. Of course, the most important aspect of our relationship with child performers is that the welfare of the child is paramount.

All children who are under official school leaving age [current information detailed below] and who **perform** in BBC programmes, radio, TV and online live or recorded, need to be licensed unless certain exceptions apply (see below).

**It is a criminal offence to breach the child licensing law. Although there have to date not been any prosecutions under the Act local authorities can take and have been taking punitive action such as cautions and warnings against appropriate people and the BBC. If a child is licensed and there is a breach of the law the person whose name is on the licence would be liable to prosecution.**

### **Note:**

While all the nations in the UK adhere to the Child Performing Regulations, there are differences in the way that legislation is managed and the terms under which a child can be used. (see 3.8.3)

Please check for national differences before progressing with licensing a child **and ensure that you adhere to the regulations of the nation where the child is resident and the licence issued apart from NI (see below)**. Therefore, for example, if an English child is working in Scotland you would need to adhere to English regulations. However if you have children from across the UK in one particular nation, it is possible to contact the various LAs and see if they will agree to using English regs (if English children being used) which allow for longer working hours. Speak to the child's LA but they are quite within their rights to refuse

If you are filming with a child resident in Northern Ireland, the (Children) Northern Ireland Order 1995 only relates to children being filmed in Northern Ireland. However, if you are using a NI child in another part of the UK then you will need to speak to the LA for the area where the production is based and get them to issue a licence for the child. If a child from the rest of the UK is filming in NI, you will need to get a licence not only from the child's LA but also one from the area where you will be filming in Northern Ireland

### **What constitutes a performance?**

The word 'perform' is not defined but definitely includes acting, dancing, modelling and singing. It has been suggested that it can also mean being put into a contrived or constructed environment or experience. This could include some gameshows or other non-fiction programming. (See Examples of Best Practice document – When licences are required section)

### **What are the exceptions?**

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'**

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If a child has not performed on more than 3 days in the last 6 months, they will not need a licence for performance on a fourth day. Once a child has performed on 4 days in a 6 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 (unless one of the other exemptions referred to below applies). Northern Ireland do not recognise the 4 day rule

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

It is a legal requirement to seek a licence when one is required and any person who causes or procures any child to do anything in contravention of the licensing legislation can be prosecuted

Whether a child is performing under license or not, the same duty of care applies. Other exceptions cover school and amateur dramatic productions which are not directly relevant to the BBC.

### **Ofcom Guidance.**

Ofcom has published guidance relating to the protection of under 18s. The guidance covers the safeguards that should be put in place for all phases of programme making regardless as to whether the children are licensed or not.

#### **1.1 Referral Process in the Case of Queries**

In the case of any query or need for clarification or if uncertain about whether to licence children or not, please refer in the first instance to your Child Protection Adviser or to Alison Cresswell, Senior Adviser, Working with Children for specialist support.

#### **1.2 What to do in the event of a Breach**

If it is thought that there has been a breach of a licence then the senior production person or a senior line manager must be informed as soon as possible. That person should then inform Alison Cresswell and immediate consideration must be given as to what further action (if any) needs to be taken. A breach of a license is a child protection issue and will be recorded on the myRisks Tools Child Protection module.

An LA is quite within its rights to refuse a licence if they believe that it will be detrimental to the child but they would have to give just reason

They can also amend or revoke a licence issued by authorities in Wales or Scotland if the performance of activity relating to that licence takes place in their area

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## **1.3 National definitions of School Leaving Date**

- ❖ In England and Wales, the school leaving date is the last Friday of June of the school year in which they are 16.
- ❖ In Northern Ireland the school leaving date is 30th June of the school year in which they are 16.
- ❖ In Scotland, there are two school leavings dates in a year.  
The date for a particular pupil depends on when s/he becomes 16:

<b>Date of 16th birthday</b>	<b>School leaving date*</b>
Between 1 March and 30 September	31 May of that year
Between 1 October and following 28 February	First day of Christmas holidays
*if child has completed 4 full years of secondary school education	

Note if a child has left school but not yet reached 16, they still need to be licensed.

Example: a child is 16 on 1 February 2010. They leave school on the first day of the 2009 Christmas holidays (having completed 4 full years of secondary school education). If shooting is in January 2010 they still need a licence. If shooting in March 2010 then they do not need a licence.

## **1.4 Children in Higher Education**

If the child/young person is in higher education, then they don't need to have a licence as this is deemed to be "voluntary education". However, they may still need to seek permission from the school/college if they are likely to miss lessons.

The Government has changed the law so that from start of the 2013/14 academic year, all young people are required to continue in education or training until the end of the academic year in which they turn 17. From summer 2015 this will be until their 18th birthday.

The current legislation relates to England only. However, the Education and Skills Act 2008 sets out a procedure to enable a corresponding provision to be made in Wales in the future.

While there will be no new legal duties on the employers of young people in relation to RPA (unlike for under 16s) there may be considerations for production teams working with children who are continuing their training or education.

## 2. Licensing Process

Under section 37(4) of the 1963 Act, a licence must only be granted by the local authority to which the application is submitted once it is assured that:

- the child's education, health and wellbeing will not suffer; and
- the conditions of the licence will be observed

A child can work for 6 consecutive days for a period of 8 weeks. After this the child must have a break of at least 14 days following the last performance where the child has been performing on the maximum number of consecutive days over a period of 8 weeks, unless the period for which the licence applies is less than 60 days

A child may now take part in more than one activity in a day...e.g. publicity and performance

The more complex the performance, the more important it is to have an early discussion with the child's local authority

### 2.1 Determining the licensing authority

The licensing authority is the Local Authority (Education Authority in Scotland, Library Board in NI) where the child lives.

Check the postcode of the home address as councils (and thus Local Authority) can change from one side of the road to another.

There is a standard application form in England that you must fill in. This can be found here:

[http://explore.gateway.bbc.co.uk/GatewayCMS01Live/working\\_with\\_children/3\\_consent\\_and\\_licensing.aspx](http://explore.gateway.bbc.co.uk/GatewayCMS01Live/working_with_children/3_consent_and_licensing.aspx)

In the other nations you may need to contact the individual local authorities or Library Board in NI

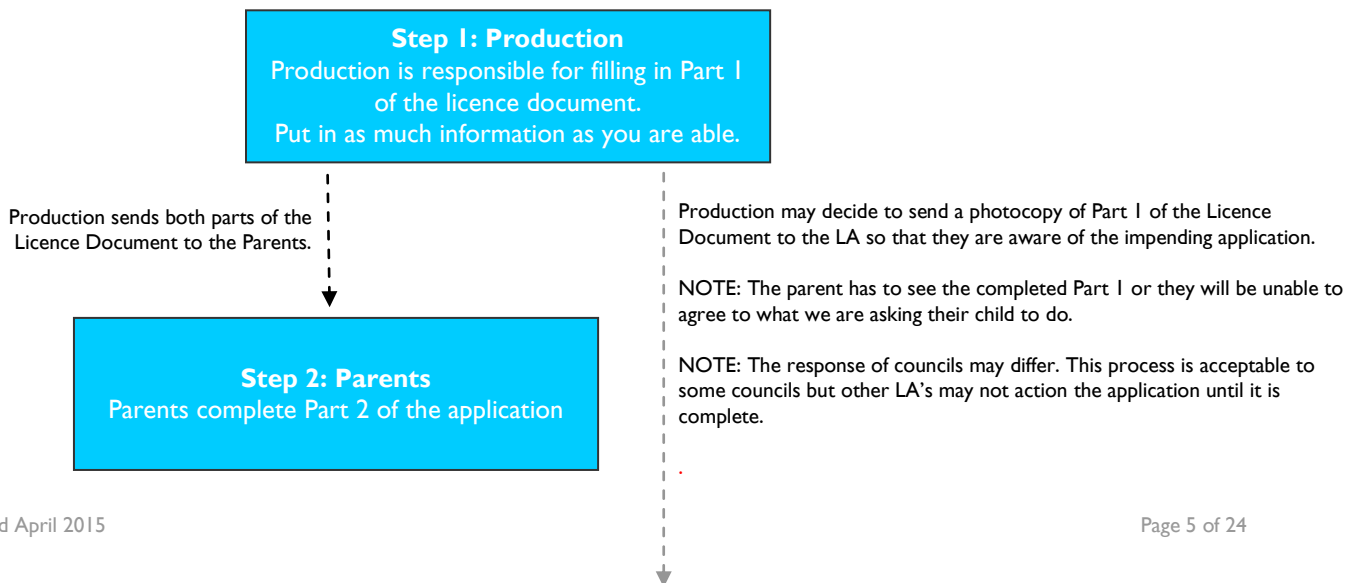
#### 2.1.1 Special Consideration: Children at boarding schools and children normally resident abroad

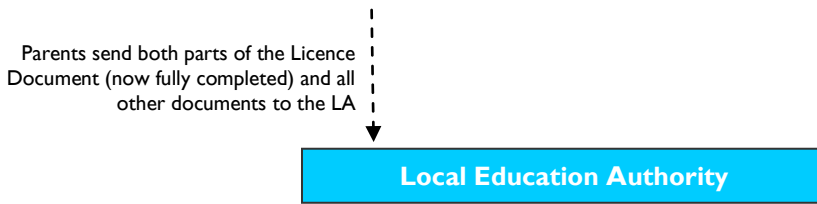
Where a child does not live in Great Britain, the application must be made to the local authority in whose area the applicant lives or has their place of business. This includes all performances that take place in England, Scotland and Wales and this means, for example, that where a child is resident in Northern Ireland or the Republic of Ireland, the licence application should be submitted to the local authority where the responsible person either resides or has his place of business.

If the child is at boarding school then the licensing authority is the council of their home residence.

If the child is at boarding school but the home residences (and parents) are abroad then the licensing authority is the council where the school is located.

### 2.2 Application Process





**Note:** For a child who is resident abroad you still need to get the parent to sign Part 2 of the Application Process.

## **2.2.1 Application Process - What You Need**

There is a lot of paper work that needs to accompany the licence application that takes time to collate, you will need:

- 2 Passport photos
- Copy of the child's Birth Certificate
- School permission letter
- The filled in license application form
- A declaration stating that the role cannot be played by an adult.
- Assurances that a Child Protection Policy is in place
- Proof that all the risks that the child may encounter have been assessed

## **N.B. SCOTLAND**

Under Schedule 1 of the Children (Performances and Activities) (Scotland) Regulations 2014 applicants are required to undertake a careful analysis of the risks and potential harms arising from the child's particular involvement in the performance or activity and to put in place measures to negate or mitigate any possible negative impact on the child's well being. This risk assessment must be submitted as part of the licence application process. A model risk assessment can be found here:

[http://explore.gateway.bbc.co.uk/GatewayCMS01Live/working\\_with\\_children/1\\_risk\\_assessment-1.aspx](http://explore.gateway.bbc.co.uk/GatewayCMS01Live/working_with_children/1_risk_assessment-1.aspx)

This template should act as a guide to help you identify areas that you need to cover. It is essential that this assessment is not used "off the shelf". It must be tailored for the specific circumstances of the event or production. [Square brackets] have been used to indicate where it is essential that specific details are added but these are not exhaustive. You may need to add details of people, of activities and controls that are additional to those listed and you must delete activities and controls that are not relevant. If you wish to include Safety issues unrelated to child protection you can do so by adding in new activities hazards and controls.

Also in line with Article 12 of the United Nations Convention on the Rights of the Child, the child's parent or guardian should discuss the application with the child and listen to their views about this. The application form allows for the child or young person to sign the form, indicating their approval. Whilst the child's signature is not mandatory, it should be sought as a matter of best practice unless the child is not sufficiently mature to understand what is being asked of them or the inclusion of a signature would compromise the performance in question. For example, where a performance requires an element of surprise on the part of the young person, it should not be required that the child signs the application form.

## **2.2.2 Application Process - Timescales**

Local Authorities require 21 working days' notice and they have no obligation to issue a licence in a shorter timeframe

Remember

- ❖ Be sensitive to the wider BBC relationship with the Local Authority. (you are probably not the only person dealing with that Local Authority)
- ❖ Factor in bank and school holidays and the time of year i.e. Christmas with lots of children in Pantomime

## **2.2.3 Special Consideration – Body of Persons**

### **What is a BOPA?**

- A BOPA can be issued for an organisation (known as a 'body of persons' for these purposes) for a specific performance or for a limited period of time as set out in the approval, to put on performances involving children.
- The granting of a BOPA to an organisation replaces the need to apply for individual licences from each child's home local authority during the period of approval – as long as the BOPA criteria and conditions continue to be fulfilled.

### **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 organization 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.

### **Who can issue a BOPA?**

- BOPAs are issued by the local authority where the performance is taking place.
- The Secretary of State has the power to issue a BOPA, but will not generally consider applications. This is because local authorities are better placed to assess arrangements made to safeguard children in local activities, to inspect those arrangements and enforce any requirements or conditions intended to protect children.
- The Secretary of State will not consider any applications that do not involve a large number of performances with a large number of children across a significant number of local authority areas.

### **What needs to be considered?**

- 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.
- A BOPA does not authorise absence from school for any child involved in the performances. If the performance involves absence from school that should be approved by the school – but see 3.2 in respect of the ability to approve absence from school.
- 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.

## **2.2.4 Special Consideration – Agencies**

On occasion, an agent may offer to assist in helping to obtain a licence. The responsibility does fall to the producer but if it is decided to go down this route, production have a duty to **physically** hold a copy of the child's licence before using a child supplied by an agency

A promise of a licence is not good enough. If you do not have the physical licence then you cannot use the child.

## **2.2.5 Special Consideration - Filming Abroad**

If you are taking a child abroad (defined as outside the UK and Republic of Ireland) to perform in a production you will need to apply for a “Young Persons Employment Abroad” licence.

When is a licence required?

A licence must be obtained before a child/young person under age 18 can go abroad for the purpose of:

- singing, playing (a musical instrument), performing or being exhibited ‘for profit’, including any broadcast performance. Therefore it may be necessary to get a licence even if a child is being themselves if it is for broadcast

Abroad is defined in section 30 of the 1933 Act as meaning outside Great Britain and Ireland. If a child is going to perform in Ireland for profit, there is no requirement to obtain a licence from a magistrate (the producer will need to comply with any requirements in the area that the performance is to take place).

Unlike a normal performance licence, it is a magistrate who grants any licence for a child to perform or take part in activities abroad.

Who should apply for the licence?

Unlike licences for children to perform in Great Britain, there is no stipulation in legislation as to who the applicant for the licence needs to be. However, under section 25(2), the licence cannot be issued unless the Magistrate (Justice of the Peace in Scotland) is satisfied that the application is made by or with the consent of the parent/guardian of the child.

A licence cannot be issued unless the magistrate is satisfied that:

- The child is going abroad to fulfil a particular engagement;
- the child is fit to perform, proper provision has been made to secure his/her health and wellbeing, and for his/her supervision, and for his/her return from abroad at the expiration or revocation of the licence; and
- A copy of the employment contract (or other document showing the terms and conditions of employment for the performance) has been drawn up in a language that the child understands and provided to him/her.

The person applying for the licence must send notice of the intended application together with a copy of the contract of employment or other document showing the terms and conditions of employment to the chief of police for the district in which the child resides at least 7 days before making the application, who may then make a report to the court as to why the licence should or should not be granted.

Licences may only be granted for up to a period of 3 months, although they may be renewed on application (where such an application is supported by the child’s parent or guardian and a report is provided from a ‘trustworthy person’ confirming that the conditions of the licence are being complied with).

When granting a licence, the magistrate must (unless satisfied that in the circumstances it is unnecessary) require the applicant to give security in order to ensure that the restrictions and conditions of the licence will be complied with.



## **3. Filming - Regulatory Requirements & Restrictions**

### **3.1 Travel requirements**

The licence holder must ensure that

- ❖ safe and suitable travel arrangements are made for the child
- ❖ the child is accompanied by a parent, guardian, licensed chaperone or teacher when transported on behalf of the BBC

In exceptional cases where a child/children who do not require a licence are to be transported unaccompanied by a parent, guardian, chaperone or teacher, this must be with BBC Transport 'approved' taxi companies, or by an employee who has a satisfactory DBS/Disclosure Scotland check, and in either case only with the specific prior consent of their parent or guardian.

### **3.2 Lodgings, Hotels, Places of Performances and Location Arrangements**

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. A local authority may impose conditions in respect of the accommodation, including that transport will be arranged for the child to get to and from the accommodation to the place of performance, rehearsal or activity, and that suitable arrangements must be made for meals for the child.

### **3.3 Education**

Under section 37(4) of the 1963 Act and regulation 13, the local authority to whom the application is submitted must not grant a licence unless it is satisfied that the child's education will not suffer as a result of taking part in a performance or activities for which the licence is requested.

In Scotland, child is required to be absent for more than 5 school days in total during the period for which the licence relates, arrangements must be made for the child to be taught by a private teacher. The licensing authority must approve the proposed course of study for the child and be satisfied that this will be taught properly by the private teacher.

Where arrangements are made for the education of the child during the term of the licence (i.e. because the child will be absent from school), these arrangements must be approved by the local authority. The local authority must be satisfied that the course of study and private teacher are suitable for the child in question. The teacher will not teach more than 6 children at any time unless the children are of the same educational standard, in which case the teacher may teach a maximum 12 children at one time.

The responsible person must ensure that where such arrangements are approved by the licensing authority, these arrangements are carried out.

Where arrangements are made for the education of the child, the child must receive education that, when taken together over the term of the licence, amounts to a minimum of 3 hours per day that the child would be required to attend a school maintained by the local authority issuing the licence

Hours required for education

- For not less than 6 hours a week; and
- During each complete period of 4 weeks (or if there is a period of less than 4 weeks, then during that period) for periods of time not less than the aggregate periods required by regulation 13(3) (e) (i.e. not less than 3 hours on each day); and
- On days on which the child would be required to attend school if he/she were attending a school maintained by the local authority (i.e. usual school days); and
- For not more than 5 hours on any such day.

Requirement for a tutor will depend on the length of the engagement and absence from school. Private tuition is considered essential for long engagements, especially those involving groups of children.

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An application for a licence needs to include details of whether a tutor is being supplied. .

A licence will only be granted if an authority is satisfied that the educational requirements of a child will not suffer as a result of the participation.

### **3.3.1 Definition of “Course of Study”**

The law requires that where a child is required to be tutored, there must be a suitable “course of study” in place.

Details of a 'course of study' should be requested from the child's school.

The purpose is to ensure the child's education does not suffer.

### **3.3.2 Definition of “Tuition Time”**

The standard rule is that the child must have 3 hours tuition on every school day, **in periods of not less than 30 minutes**. Where on location recording exceeds one week, alternative arrangements for schooling may be acceptable.

### **3.3.3 Guidance on Aggregating Tuition Time**

Example of practice

To illustrate this, if a child would be attending a maintained school for five days a week, over a four week period, a child would be required to undertake sixty hours education (three hours x five days x four weeks). This could be provided as follows:

- Week One – six hours (not more than five hours in any one day)
- Week Two – six hours (not more than five hours in any one day)
- Week Three – twenty-four hours (five hours on four days + four hours on one day)
- Week Four – twenty-four hours (five hours on four days + four hours on one day)
- TOTAL – sixty hours.

Note that that in any event the amount of tuition periods that a child will require, will vary from child to child (depending on what other performances they have done) and school to school. It will be for the Local Authority to decide if the requirement for tuition is being met by the production company.

### **3.4 Record Keeping - Licence**

Once the licence has been issued, the **original** licence needs to be with whoever is responsible for the child at the place of filming or performance. A copy of the licence will not suffice.

If there have been conditions on the licence i.e. night work, location or date change you **might also want to** keep the licence as proof of agreement for up to six months AFTER the child has finished on the production.

### **3.5 Record Keeping - Log of Hours**

For licensed children you are responsible for keeping a detailed log of the hours they are on site and what they are doing, what breaks they have taken, a record of the amount of time in tutoring, time they were on set, time in rehearsals etc. The daily working hours log, accident book etc. must be kept for 6 months after the child has finished on the production. The authorities have a right to see this document and can ask for a copy of the child's working hours up to six months AFTER the child has finished on the production.

Note that it is useful if production emphasise the end time of the child on any call sheets so that everyone is aware of the time constraints

BBC Working Hours documents are available for all nations

### **3.6 Right of Inspection**

**A local authority inspection can take place any time and without warning**

An authorised officer of a local area authority or police officer may under a magistrate's warrant:

- ❖ Enter any place where there is reasonable cause to believe that employment is taking place or a person is believed to be taking part in a performance or being trained for dangerous performances contrary to the provisions of the Act and make enquiries about that person.

An authorised officer of a local area authority or a police officer may also without a warrant:

- ❖ At any time, enter any place used as a broadcasting studio or film studio or used for the recording or rehearsals of a performance with a view to its use in a broadcast or in a film intended for public exhibition and make enquiries about any children taking part in performances
- ❖ At any time during the currency of any licence granted under S.37 or relating to training for dangerous performances enter any premises where the performance or training is authorised to take place and make enquiries about the person to whom the licence relates.

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- ❖ An inspecting Local Authority Officer will wish to check each child's Licence together with their record sheets.

Record sheets should detail such things as:

- ❖ Arrival/departure/tutoring and performing times, throughout a production for which the Licence was issued.
- ❖ Record sheets are completed by the chaperone.

Inspectors may also want to:

- ❖ Talk to the children, chaperones, parents and applicant
- ❖ Make enquiries regarding health and safety and risk assessments, especially where dangerous performances, under the regulations, are taking place.

### **3.7 Chaperones**

#### **3.7.1 The Role of the Chaperone**

**The BBC prefers to hire professional chaperones wherever possible. It may be that the parent would also be present especially if the child is quite young but the responsibility will lie with the chaperone**

A chaperone is the key person to whom a child looks to for guidance, protection, clarification and support.

The chaperone will be acting in loco parentis and should exercise the care that a good parent might be reasonably expected to give a child.

The maximum number of children chaperones are allowed to have in their care at any one time is 12 except in Scotland where the ratio is 10: 1 although this is at the discretion of the children's Local Education Authority. The Local Authority may prefer a lower ratio (i.e. fewer children per chaperone) especially if there is a mix of sexes. We should also take a child's age (or mix of ages) into consideration.

Even if a parent is chaperoning their own child under agreed circumstances, they must know and adhere to the regulations and they are personally liable for fully undertaking the duties of the chaperone.

**Using a good chaperone who knows the regulations regarding children in performance inside out is vital.**

#### **3.7.2 Duties of Chaperones**

- (1) The primary duty of the Chaperone is to ensure they can see the child at all times
- (2) A chaperone can negotiate with the production team and can say 'no' when what is being requested of the child is contrary or detrimental to the child's health, well-being and/or education, for example, if the producer asks a child to work longer than the hours/times allowed.
- (3) The producer is legally responsible for keeping records of certain activities such as arrival and departure times, but may ask the chaperone to do this, but only if they are certain that the chaperone will carry this out properly.

The chaperone will:

- ❖ Record the times the child is on the set and the times the child rehearses and performs – to ensure that the periods permitted under the regulations are not exceeded
- ❖ Ensure the child gets the required number of breaks for rest and meals
- ❖ Ensure that the child has suitable opportunities for recreational activities and is protected from stress, strain, bad weather and any other conditions likely to harm him/her.

## **BBC** In-House Guidance for the Licensing of Children in Productions

- ❖ Children must be under the supervision of the chaperone at all times until they are handed over to the care of a parent or other authorised adult who will accompany them to their homes, except while they are actually performing or are in charge of an approved teacher.

It is part of the chaperone's responsibilities to make sure that the working hours timesheets are filled in correctly **but production are responsible for ensuring the timesheets are completed correctly and that the child is within their allowed hours.**

In an emergency, a chaperone may allow a child to work an extra hour in England or 30 mins in the rest of the UK. However this is completely at their discretion and has to be in the best interests of the child. The child's LA will also have to be informed as soon as possible after the extension.

They can also allow for a meal break to be reduced to 30 mins so long as the maximum number of hours is not exceeded. Further guidance on the role of the chaperone working on BBC productions can be found here: [INSERT LINK TO CHAPERONE GUIDANCE](#)

### **3.7.3 Hiring a Chaperone**

- ❖ **Productions need to ensure that Chaperones:**
  - (1) have an enhanced DBS check (PVG in Scotland)
  - (2) are able to produce a Licence to Chaperone from a Local Authority

Parents, unless they are also licensed chaperones, cannot chaperone children other than their own.

Extended family members such as Grandparents, Aunts/Uncles, or child care providers such as child minders etc., are NOT legal guardians unless they are recognised as such by the courts. They must be approved by the Local Authority as chaperones in order to chaperone a child.

### **3.7.4 Applying to be a Chaperone**

To be approved as a chaperone, applicants must apply to the local authority in whose area they normally live.

It is important to think ahead when applying for a chaperone licence, as the disclosure checks can take 6 weeks or more to come through.

Generally, applicants will be required to produce the following documentation when applying to become an approved chaperone to children in entertainment:

- ❖ Name
- ❖ Address
- ❖ References
- ❖ Passport photographs
- ❖ DBS/PVGS application

In Scotland, it may also be necessary to have an awareness of "Getting It Right for Every Child" and "Common Core Skills"

There is a requirement for the applicant to attend the local authority office in person.

The local authority will then send all documentation to the Disclosure & Barring Service (for England & Wales) Access NI for Northern Ireland. (In Scotland, the chaperone should already be registered with the Protection of Vulnerable Groups Scheme.

The results of this check will be sent to the applicant and the applicant's local authority separately.

Once this information is received by a local authority a decision will be made whether to issue a chaperone licence. There is often a charge for the full process.

### **3.7.5 Fees for Chaperones**

Information on fee rates for Chaperones and Tutors is available at:

[http://home.gateway.bbc.co.uk/rights/docs/feetables/chaperone\\_tutors.pdf](http://home.gateway.bbc.co.uk/rights/docs/feetables/chaperone_tutors.pdf)

### **3.7.6 BBC Genre Requirements for the use of Chaperones**

It is the preference within the BBC to employ professional chaperones whenever possible in order to help us ensure that we adhere to the legal regulations that must be met

## **3.8 Hours of Work, Rest Breaks and Meal Breaks**

You adhere to the rules of the area where the child has been licensed

There are variations in the different nations (See tables below)

### **3.8.1 Special Consideration - Time in Wardrobe/make-up and re Early Attendance**

- ❖ The time that a child spends in wardrobe or make up prior to going on set DOES count as work
- ❖ The moment a child arrives at the place of performance the clock starts ticking.
- ❖ This is the case even if the parent arrives with the child ahead of the 'call' time.

### **3.8.2 Special Consideration –Castings/Auditions and self- generated content**

User generated content does not usually need to be licensed. However if it is commissioned content, for example from YouTube vloggers, further advice should be sought, whether or not payment is involved.

### **3.8.2 Special Consideration – Night Work**

A licensing authority may permit a child to take part in a performance before the earliest and after the latest times

Where a licensing authority permits a child to take part in a performance before the earliest and after the latest times set out in

- (a) The number of hours during which the child takes part in a performance between the latest and earliest times must be included when calculating the maximum number of hours that the child may take part in a performance or rehearsal
- (b) the child must not take part in any other performance or rehearsal until at least sixteen hours have elapsed since the end of the child's part in the performance; and
- (c) Where the child takes part in a performance between the latest and earliest times on two consecutive days, the licensing authority must not permit the child to take part in any further performance in the hours between the latest and earliest times during the seven days immediately following those two days.

## 3.8.3 Hours of Work, Rest Breaks and Meal Breaks - England

Maximum Number of Shooting Days			
A child may perform for six consecutive days for 8 weeks but child's best interests should be considered			
Maximum Number of Hours a Child Can Work			
No maximum number of days a child can work but after 6 days for 8 weeks, they must have a 14 day break			
Rehearsal days count as work days			
<p><b>Note</b> These are earliest and latest permitted. They are not the default. They need to be considered alongside the parameters for attendance, duration and nature of performance. A child under 9 may be allowed to work for 2.5 hours continuously but this may not be in their best interests. There are other considerations such as travel times, and whether the child has school the next day, that should be taken into account.</p> <p>Regulation 5 allows the licensing authority to further restrict these permitted hours, breaks etc. and place additional conditions on the licence if these would be in the best interests of the individual child.</p>			
Hours of Work, Rest Breaks and Meal Breaks			
AGE	9 – 16	5 – 8	0 - 4 ( <i>Babies see below</i> )
Maximum number of hours at the place of rehearsal or performance	9.5 hours	8 hours	5 hours
Hours	07:00 – 23.00	07:00 – 23.00	07.00 – 22.00
Maximum period of continuous rehearsal or performance	2.5 hour	2.5 minutes	30 minutes
Maximum number of hours for the entire performance or rehearsal	5 hours	3 hours	2 hours
Rest and meal breaks	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 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	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 8 hours or more, they must have the breaks stated above plus another 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.	N/A
Education hours	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.	NIL
Tutoring time can be broken down but can be no less than 30 minutes			
Overnight breaks			
Whilst 12 hours is the minimum overnight break required for all children, it is generally expected that most children should have an overnight break of no less than 14 hours duration. Licensing authorities will want to consider the time that is required for travel, and can place conditions on the licence to ensure the child has an adequate overnight break.			
Notes – Nations			
If you are working in England with a child under licence from one of the other nations, you can ask their local authority if they would be happy to work to English hours			
Notes – Chaperones			
In an emergency, they can allow an extra hour to the end of the day but LA must be notified immediately the next day			



## 3.8.3 Hours of Work, Rest Breaks and Meal Breaks - Wales

Maximum Number of Shooting Days			
Max of 5 shooting days in any 7 day period			
Maximum Number of Hours a Child Can Work			
In Wales – Child over 13 – can work only 80 days in any 6 month period Child 5 to 13 – can work only 40 days in any 6 month period <i>NOTE: Rehearsal days in Wales do not count as work days whereas in England they do</i>			
Hours of Work, Rest Breaks and Meal Breaks			
AGE	9 – 16 (**see below)	5 – 8	0 - 4 (Babies see below)
Maximum number of hours at the place of rehearsal or performance	9.5 hours	7.5 hours	5 hours
Hours	07:00 – 19:00	09:00 – 16.30	09:30 – 16:30
Maximum period of continuous rehearsal or performance	1 hour	45 minutes	30 minutes
Maximum number of hours for the entire performance or rehearsal	4 hours	3 hours	2 hours
Rest and meal breaks	If present for 4 consecutive hours (including presence for educational purposes whether or not tuition takes place at place of performance): 2 breaks, one meal break for at least an hour, the other breaks at least 15 minutes	If present for more than 3.5 consecutive hours (including presence for educational purposes whether or not tuition takes place at place of performance): 2 breaks, one meal break for at least an hour, the other breaks at least 15 minutes	Any time not used for work must be used for meals or rest.
	If present for 8 consecutive hours: 3 breaks, 2 must be meal breaks of at least an hour each, the others at least 15 minutes		N/A
Education hours	3 hours	3 hours	NIL
Tutoring time can be broken down but can be no less than 30 minutes			
Exceptions in Place for a Child of 13 or over			
<p>** The normal permitted hours for a 13 year old are 9.5 hours at the place of performance between 0700 and 1900, with maximum of 4 hours filming during that period.</p> <p>The BBC is allowed several alternative exceptions for a child of 13 years or more.</p> <p>1) The time at place of performance can be changed to between 1000 and 2200, (max 4 hours filming still applies), for either:</p> <ul style="list-style-type: none"> <li>a) 12 hours on 1 day only</li> <li>b) 10 hours on 2 days only</li> <li>c) 9.5 hours on 3 days only</li> </ul> <p>Provided no other filming for the rest of the 7 day period and not filmed after 7pm on more than 20 days in previous 12 months. (only the licensing authority would know what other filming the child has done during the previous 12 months)</p> <p>2) The second alternative exception does allow for a child (13 years) to be at the place of performance for 12 hours, (still max of 4 hours of filming) on 1 day only, with limit to filming on some of the following days in the week for a maximum time of 2 hours of filming and 4 hours at the place of performance, Again the number of days the child has been filmed after 1900 in the past is also relevant. No filming is allowed at all on the day after the child has been filming late.</p>			
Notes - Babies			
Some education authorities are unwilling to licence children under 2. The licensing authority should always be consulted			
Working with a child of this age, if a licence is not provided, the child may not be at the place of performance or rehearsal for more than 3 hours, between the hours of 09.30 – 16.00 and max continuous work is 20 mins with total performance/rehearsal of 1 hour			
Notes - Chaperones			
In an emergency, they can allow an extra 30 minutes to the end of the day but LA must be notified the next day			

# **BBC** In-House Guidance for the Licensing of Children in Productions

## 3.8.4 Hours of Work, Rest Breaks and Meal Breaks - Scotland

<b>Maximum Number of Shooting Days</b>			
Maximum of 6 shooting days for 8 weeks then child must have a 14 day break			
<b>Maximum Number of Hours a Child Can Work</b>			
Child over 13 – can work only 80 days in any 6 month period Child 5 – 13 – can work only 40 days in any 6 month period It is possible to add an extra 10 days to a child’s schedule in an emergency if necessary to complete filming			
Under schedule 1 of the Children (Performances and Activities)(Scotland) Regulations 2014 applicants are required to undertake a careful analysis of the risks and potential harms arising from the child’s particular involvement in the performance or activity and to put in place measures to negate or mitigate a possible negative impact on the child’s wellbeing. This risk assessment must be submitted as part of the licence application process			
<b>Hours of Work, Rest Breaks and Meal Breaks</b>			
<b>AGE</b>	<b>13 – 16 years</b>	<b>5 – 8 years</b>	<b>0 - 4</b>
<b>Maximum number of hours at the place of rehearsal or performance</b>	9.5 hours	8 hours	5 hours
<b>Hours</b>	07:00 – 23:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	07:00 – 23:00 but can be extended by half an hour in exceptional circumstances and with the agreement of the chaperone. Any additional extension must be agreed with the licensing authority.	08:00 – 20:00 but can be extended by half an hour in exceptional circumstances and with agreement of the chaperone. Any additional extension must be agreed with the licensing authority.
<b>Maximum period of continuous rehearsal or performance</b>	1 hour	45 minutes	A break of at least 15 minutes after every 45 minutes performing or rehearsing.
<b>Maximum number of hours for the entire performance or rehearsal</b>	4 hours	3 hours	2 hours
<b>Rest and meal breaks</b>	A break of at least 15 minutes after every hour of performing or rehearsing.	A break of at least 15 minutes after every hour of performing or rehearsing.	Any time not used for work must be used for meals or rest.
	A food break of not less than 1 hour if present for more than 3½ consecutive hours. A further meal break of at least 30 minutes if present for more than 8 consecutive hours.	A food break of not less than 1 hour if present for more than 3½ consecutive hours.	N/A
<b>Education hours</b>	3	3	NIL
<b>Notes - Education</b>			
Where a child is required to be absent for more than 5 school days in total during the period for which the licence relates, arrangements must be made for the child to be taught by a private teacher. The licensing authority must approve the proposed course of study for the child and be satisfied that this will be taught properly by the private teacher.			
If over school leaving age but still in education, a licence isn’t necessary but permission from the Head Teacher must be given			
There must be a minimum 12 hour period between a child leaving a place of performance or rehearsal on one day and returning the next. Where the child has participated in a performance after the latest permitted hour, the child must not take part in any other performance or rehearsal until at least 16 hours have elapsed since the end of the performance.			
Where the child takes part in a performance after the latest permitted hour on 2 successive days, the licensing authority must not permit the child to participate in any further performance after the latest permitted hour during the 7 days immediately following those 2 days			

# BBC In-House Guidance for the Licensing of Children in Productions

## 3.8.5 Hours of Work, Rest Breaks and Meal Breaks - Northern Ireland

Maximum Number of Shooting Days			
Maximum of 5 days in any 7 day period			
Maximum Number of Hours a Child Can Work			
Child over 13 – Maximum number is 40 days in 12 months			
Child 5 – 13 – Maximum number is 20 days in 12 months			
Hours of Work, Rest Breaks and Meal Breaks			
AGE	Age 13 & Over	Age 5 – 12	Age 0 to 4
Maximum Time at Place of Performance	8 Hours	7½ Hours	5 Hours
Maximum Times Present	Between 09:00 – 19:00	Between 09:00 am 16:30	Between 09:00 am 16:30
Maximum Performing Time	3½ Hours	3 Hours	2 Hours
Maximum continuous Time to take part without a rest	1 Hour	45 Minutes	30 Minutes
Minimum rest/meal Times	Present 4 hours = 2 breaks 1 hr meal & 15 mins rest. Present 8 hours = 3 breaks 2 x 1 hr meal & 15 mins rest.	Present 3½ hours = 2 breaks 1 hr meal & 15 mins rest.	All times when not taking part
Education	3 hours per school day (see Education for aggregated hrs)	3 hours per school day (see Education for aggregated hrs)	NIL
Notes - Over-School Leaving Age But Still in Education			
Children no longer need licences when they reach the legal school leaving age but if still at school their Headteacher's permission must be given if they miss schooling.			
Notes – Shooting Restrictions			
<ol style="list-style-type: none"> <li>Time during which child is taught must be within maximum time allowed at rehearsal or recording place</li> <li>Local authorities have the discretion to permit a child to take part in a performance after the latest permitted hour if it must be recorded out of doors after such hour but only after midnight if it would be impractical for the performance to be completed earlier.</li> </ol>			
Exceptions: BBC/ITV and Contractors for children aged 13 and over only - (Ref 29(2)(a))			
Maximum time - 7 day week			
12 hrs any 1 day <b>OR</b> 10 hrs any 2 days <b>OR</b> 8 hrs any 3 days provided not present on any other day that week & not present after 1900 on maximum 20 days in previous 12 months (for under 13s) or 40 days in previous 12 months for over 13s.			
Times between 07:00 and 19:00 <b>OR</b> between 10:00 and 22:00			
Alternative To Above Exception (Ref 29(2)(b))			
Maximum time - 7 day week			
12 hrs 1 day provided not present more than 3.5hrs on any other day that week <b>AND</b>			
<ul style="list-style-type: none"> <li>❖ does not take part for more than 2 hrs any other day that week <b>AND</b></li> <li>❖ does not take part on day following a day on which he was present after 19:00 <b>AND</b></li> <li>❖ has not been present after 19:00 on any of the 6 previous days.</li> </ul>			
Times between 07:00 and 19:00 <b>OR</b> between 10:00 and 22:00			
Exception: Education & Library Board non-acceptance of 3 Unlicensed performances in previous 6 months			
ELBs don't accept the 3 unlicensed performances in the previous 6 months rule.			
Production have to make the call each time a child is being used - and they decide whether we need to licence the child - or the less formal process of providing a waiver. When they provide waiver - they only need name, address, DoB of child and details of the engagement			

## 3.8.6 Hours of Work, Rest Breaks and Meal Breaks - Abroad

While abroad, check the rules of the country we are taking the child to.

If the rules are less than the UK, then use the regulations based on where the child resides in the UK (as BBC good practice)

## **Appendix 1: Code of Conduct for Agencies**

### **BBC Child Performer Engagement Guidelines for BBC Programmes**

#### **A1.1 General Instruction**

Production should not use Agencies that are not on the BBC's Preferred Suppliers List

#### **A1.2 Aim of these Guidelines**

These Engagement Guidelines have been compiled to clearly define the requirements and obligations in the consistent fulfilment of child performer engagement across all forms of BBC content production.

An Agency in the context of this document which procures the services of child performers to the BBC

#### **A1.3 Terms**

Any Agent used by the BBC to engage child performers must adhere to the following requirements;

- ❖ All processes in the engagement of performers must be open, accountable, non-discriminatory and fair.
- ❖ Any engagement of a child performer is conditional upon the correct and relevant licence being obtained, where this is applicable
- ❖ Although the responsibility for obtaining a Child Performance Licence rests with the production, the Agent must support the production in meeting the legal requirements.
- ❖ In the event that an Agent undertakes to acquire a license for a child on behalf of a production they must ensure they do so in a timely manner and keep production informed at all times of the progress of the application. They must ensure that the license is delivered to the location where the child is performing prior to the performance commencing. The Agent must also immediately inform the production as soon as they become aware of any delay or impediment to the licence being issued.
- ❖ All Chaperones provided by the Agent must be licensed or, if they are the parent/legal guardian of the child, must as be briefed in full by the Agent on the responsibilities of Chaperones, including accurate record keeping and the nature of the child's engagement.
- ❖ Where professional Chaperones are not used, the Agent must ensure that relatives other than legal guardians of children do not act as Chaperones unless they are licensed Chaperones as they are not legally entitled to do so
- ❖ Chaperones should attend the production with a copy of the Child Performance license for inspection. Licensed Chaperones must also bring with them documentary proof of their Enhanced DBS check, Chaperone's licence and photo ID so that the production team may confirm their identity if necessary
- ❖ The Agent should contact their Local Education Authority (in England or Wales) for guidance or clarification if they have any queries about the licensing of child performers or Chaperones.
- ❖ The provision by the Agent of all performers will comply with all laws, regulations and any BBC Guidelines and/or policies <http://www.bbc.co.uk/guidelines/> and any updates or amendments to such guidelines and/or policies (as notified to the Agent by the BBC from time to time) relevant to the provision of the services
- ❖ The Agent will comply with Data Protection Law, and take such technical and organisational measures as are necessary to guard against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, at all times. The Agent will take reasonable steps to ensure the reliability of the Personnel who have access to Personal Data and ensure their compliance with the obligations set out herein. The agent will ensure that access to Personal Data is limited to those employees, auditors and subcontractors who absolutely need access to such Personal Data; and it will promptly notify the BBC about any complaint or request received by it in relation to the processing of Personal Data by either a member of the public or the Information Commissioner. <http://www.bbc.co.uk/foi/about/complaints.shtml>

## **BBC** In-House Guidance for the Licensing of Children in Productions

- ❖ Any legal action taken against the BBC or threats of such action will be notified to the Agent and the relevant BBC Manager. The BBC's rights will be reserved and in addition if the Agent is found to have been negligent then this may cause their removal from the preferred supplier list.
- ❖ The agent will answer all complaints within ten days of receipt and it will provide the BBC with a record of complaints and how they were resolved. The BBC reserves the right to access to audit processes and practices with prior written notification during normal working hours.
- ❖ The Agent will obtain any necessary consent, permissions and/or clearances necessary to enable it to provide child performers to the BBC.
- ❖ The BBC's name or any logo or any other trade mark or copyrighted material of or associated with the BBC (whether registered or unregistered) must only be used if approved in writing and in advance by the BBC and only on the terms of the BBC Trade Mark Licence.
- ❖ The Agent will not advertise or publicly announce that it is providing services to the BBC, nor make any public statement in respect of the BBC or any aspect of the services provided, nor reveal any details of any production which are not in the public domain nor refer to the BBC in any advertising, promotional or published material without the prior written consent of the BBC.
- ❖ The Agent will use its best endeavours to ensure that any individual engaged for the BBC is not discriminated against and that any access needs are established and managed in advance of the production. These needs should include but not be limited to; provision of disabled parking, access ramps and/or handrails

## Appendix 2: Supplementary Information - for Referral

### A2.1. More Information

<http://home.gateway.bbc.co.uk/rights/howto/contributors/children.html>

### A2.2 Licensing Process

#### A2.2.1 Special Consideration: Use of the 4-day rule where the child is unpaid

The BBC will use a child under the 4-day rule if appropriate but production should seek advice in advance

Programme makers should check with the child's parent/guardian to find out whether the child has performed in the past 6 months.

Some Local Authorities may say that they are unaware of the exemption but it is invariably mentioned on their websites.

There is no need to contact the Local Authority if you are using the exemption but there is no automatic right for children to be allowed to be away from school if there is no licence.

#### A2.2.2 Special Consideration: Licensing of Babies

The law makes no exemption for babies.

### A2.3 Chaperones

#### A2.3.1 Special Consideration: A child living away from home

The chaperone is responsible for the child throughout the period of the licence.

All communications (written or otherwise) with the child must be made through the chaperone.

The chaperone shall ensure that, except when the child would normally be on holiday, the course of education provided by the employer and approved by the licensing authority is followed.

The child must be in the constant charge of the chaperone, who must accompany them at all times when they are out in the streets. They must sleep in the house in which the child sleeps, near to the room occupied by the child. Adjoining rooms is preferable

This includes seeing that the lodgings are satisfactory in every way and that the child is properly occupied during any spare time. In general, they may need to exercise a greater amount of supervision than if the child were living at home.

The chaperone must not be given any other duties that will separate them from the children or in any way interfere with the proper supervision of the children.

The lodgings should be arranged before the application for a licence is made, so that the Local Authority has sufficient time in which to inspect them. They must be:

- ❖ Clean, comfortable
- ❖ Suitable for children with sufficient bedrooms, bedding, lavatories and washing facilities
- ❖ Have suitable facilities for meals, at both the lodgings and elsewhere, if all meals are not to be taken at the lodgings.

This is particularly important when a number of children from the area of different licensing authorities are involved, as the Local Authority must know in advance:

- ❖ Arrangements for accommodating them
- ❖ Number, ages and sex of the children expected
- ❖ Duration of their stay.

The Local Authority may impose any condition they think fit to:

- ❖ Bring a particular facility or item of equipment up to the standard they think necessary for the child's welfare
- ❖ Ensure the adequacy of the arrangements to take the child to and from the place of performance.

### **A2.3.2 Special Consideration: If the Chaperone/child is taken ill**

If the chaperone has left the set to accompany the ill child then then filming must stop until another chaperone is present on set.

In exceptional circumstances, if a crew member is a licensed chaperone, then in an emergency situation, they could be released from their production duties to act as a chaperone on a temporary basis.

If a child is taken ill, the parent should be informed immediately and a plan of action agreed with them. If this is during the night, it may require the parent to travel to location or for the chaperone to accompany the child home

### **A2.3.2 Special Note: Production's Ultimate responsibility for the well-being of children**

Production are ultimately responsible for the well-being of children and may overrule a chaperone in relation to the welfare of a child i.e. the chaperone is happy for child to be on set without a coat but production are concerned that the child is cold

However, they should not do anything that will contravene the regulations and if the chaperone says no in this instance, they have the final say

