



# Examples of Best Practice - Child Performance and Activities Licensing by Local Authorities in England

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# 1. Introduction

## 1.1 About this document

This document sets out examples of best practice for safeguarding children when they take part in all performances (professional or amateur), and in paid sport or paid modelling (in the rest of this document, paid sport and paid modelling are referred to as 'activities'). It also sets out examples of best practice in relation to the granting of licences by local authorities in England for children taking part in performances or activities within Great Britain, where such licences are required.

This best practice has been developed by a group of representatives from local authorities; the UK film and broadcasting industry; regulators; professional and amateur theatre; music and dance sectors; casting agencies; and the modelling and advertising industry. The group was convened and the work facilitated by officials from the Department for Education.

These interests have worked together, volunteering their time and expertise, to produce these examples of best practice. It is hoped that these examples will be added to, so that lessons and tips that improve the experience and opportunities for children can be shared and adopted. If you have examples of best practice you would like to suggest please send them to: <http://www.nncee.org.uk/contacts/nncee-enquiries>

This document will be reviewed in September 2015. Additions will be made where they are agreed by the group.

## 1.2 Who is this for?

This document is aimed at:

- all those who work with child performers or with children paid to take part in sport or modelling, or who plan to work with such children;
- local authorities with responsibility for keeping children safe;
- chaperones, i.e. people who supervise children taking part in these activities;
- schools; and
- sports, music, dance and drama groups.

## 1.3 What does this document do?

We hope this document will improve consistency in local approaches to licensing and make it easier to apply for licences. A consistent approach is important so that children are not disadvantaged by different approaches taken in different local areas. Children should be able to take up opportunities on an equal basis wherever they live, and should

not be prevented from doing so by unnecessary bureaucracy. Our shared ambition is to shift the focus of effort and hard-pressed resources away from bureaucracy and onto the measures that help to protect children.

## 1.4 Related documents

The report from the 2014 consultation on child performance hours and breaks:

<https://www.gov.uk/government/consultations/child-performance-regulations-performance-hours-and-breaks>

Children and Young Persons Act 1933:

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

Children and Young Persons Act 1963:

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

The Children (Performances and Activities) (England) Regulations 2014:

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

## 1.5 Ofcom

Television and radio broadcasters are subject to an independent statutory regulator, Ofcom. Broadcasters are required to comply with rules set out in the Ofcom Broadcasting Code. This includes rules to protect children who participate in programmes. The rules apply irrespective of whether a licence is required for their participation.

Ofcom has also published extensive guidance for broadcasters about the application of these rules and details of precedent cases. You can find information about the Ofcom Broadcasting Code at: <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/>, and a copy of the guidance at pages 11-14 at: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section1.pdf>.

Any broadcaster or local authority with queries about the application of the rules or guidance should contact Ofcom by emailing [OfcomStandardsTeam@ofcom.org.uk](mailto:OfcomStandardsTeam@ofcom.org.uk).

## 2. Licensing requirement

### 2.1. The purpose of licensing

Those who involve children in performances (professional or amateur), or paid sport or modelling, have a legal obligation to apply for a child performance or activities licence when one is required. The licensing system is designed to provide a **check** that suitable and sufficient arrangements have been made to safeguard the child involved.

Forms are needed to exchange information, to clarify the risks to the child and the actions to mitigate them, and to evidence child and parental consent. We cannot eliminate the paperwork, and local authorities need to have an audit trail for the decisions they make. The most important aspect of the licensing system, however, is the consideration of the child's well-being and the steps taken to ensure it. The licensing process is a safeguarding measure and should not be viewed only as a paper exercise.

#### Licensing authority best practice

Sometimes the best way for a local authority to establish whether the arrangements to protect the child are suitable is to pick up the telephone and have a quick discussion with the responsible person. This is quicker and more efficient than written correspondence, as further clarification about what the child is being asked to do and what steps are being taken to mitigate risks can be provided.

### 2.2 When licences are required

Child performance legislation<sup>1</sup> sets out when a licence is required. This is supplemented by advice produced by the Department for Education which aims to aid understanding of the legal provisions<sup>2</sup>. If a responsible person remains unclear as to whether a child needs a licence, they should ask the child's home local authority<sup>3</sup>. It is for the local authority to determine, in each case, whether the performance or activity requires a licence. The table below provides some examples of the sorts of performance or activity that may require a licence, for illustrative purposes – but this must not be regarded as an authoritative statement:

<sup>1</sup> The Children and Young Persons Act 1933 and 1963 and the Children (Performance) (England) Regulations 2014.

<sup>2</sup> <https://www.gov.uk/government/publications/child-performance-and-activities-licensing-legislation>

<sup>3</sup> Or, if the child is not resident in Great Britain, the local authority where the applicant resides or has their place of business.

A licence may be required for	A licence may not be required <sup>4</sup> 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. (See case study)
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 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 <sup>5</sup> held on the same day of the performance at a different venue
Photo-shoots and modelling where the child (or someone else in respect of the child's	Photo-shoots and modelling where no payment is made in respect of the child's

<sup>4</sup> Broadcasters must comply with rules in the Ofcom Broadcasting Code on the participation of children in programmes, irrespective of whether a licence is required.

<sup>5</sup> 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.

taking part) receives payment.	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 <sup>6</sup> .

**Best practice case study of a part directed performance and part observational documentary programme**

A production company was filming a programme that was observational in nature but had constructed elements, in that a number of aspects were organised and the children would, in some cases, be directed.

The programme was about children who want to learn a new sport. The production company arranged for well-known Olympic athletes to help the children improve their technique, learn about the rules, and become better skilled at their sport of choice over the summer holidays. They also went to a sport boot camp for one week. At the end the children took part in a sporting competition to see how well they had improved and whether they would like to continue with the sport. Although the majority of the filming was observing the children being themselves, certain elements were directed and controlled by the production company and these elements therefore required a licence and were subject to the licence restrictions with regard to hours of performance and requirements for breaks.

The production company, with the support of the relevant local authorities, identified all the aspects where the children would require a licence because they were directed, and agreed which aspects should be deemed as a performance requiring a licence. A schedule was drawn up, as the framework for the hours the children can perform and the breaks they needed to have would apply to the licensable activity.

Filming the children in their homes, practising the sport at the boot camp, and going on a trip to see a football game involved the children being themselves and not being directed for the purpose of entertainment. The local authorities agreed that these elements did not need a performance licence and need not be subject to the limits and restrictions that would apply to the licensable activity.

Even so, the production company made arrangements for chaperones and for tuition to be provided throughout the period of the programme. It worked with the local authority on all aspects of the programme including the boot camp and the visit to a football match to ensure that, even though these aspects were not under the auspices of a licence,

<sup>6</sup> If they were actually 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.

arrangements were in place throughout to ensure the children were supervised, looked after and safeguarded at all times.

There are also some exemptions from the need for a licence – these are set out in the legislation<sup>7</sup> and further explained in the Department for Education advice. This document provides best practice examples at section 4 in relation to Body of Persons Approvals, which are available as an exemption to the licensing requirement. Wider use could be made of this exemption to reduce costs and unnecessary bureaucracy, without reducing important protections for children. This document does not, however, encourage producers and organisers of performances to rely on the ‘four day rule’ exemption as it can be difficult for practitioners to confirm that they can rely on it.

#### **Best practice for a responsible person if they do rely on the 4 day rule**

Make sure that you do have **reasonable grounds** to believe that the child has not performed on more than three days in the last 6 months and therefore qualifies for this exemption. Best practice is to have this confirmed by the child’s parent in writing.

## **2.3 Rehearsals**

#### **Best practice for producers**

If a child is to take part in a physical performance such as a dance, it is best practice to ensure they have a proper warm up.

## **2.4 Auditions**

It is unlikely that a licence will be required for castings or auditions that are part of a selection process to determine whether a child will be given a part or a role in a performance, or engaged in an activity. This applies even if the child is reading or acting as part of the audition, and it can also apply when the auditions are filmed (unless this is recorded with the intention it be included in a programme to be broadcast on television – see section 1 of the Department for Education advice).

A licence is likely to be required when the audition is planned and directed and otherwise meets the criteria for a performance that needs licensing, but every case should be addressed on its own facts.

In either case, the responsible person should consider what arrangements should be made to ensure the welfare of the child or children. For example, are there suitable toilets

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<sup>7</sup> Section 37(3) of the 1963 Act



and separate changing facilities? Are refreshments available whilst the child is waiting to audition? Should there be chaperones to supervise the child or children?

**Best practice for producers** is to ensure that, even if the performance is not licensed, no child is ever alone with an adult who is not their parent, carer or chaperone, at an audition or rehearsals, whether that person is the director, production manager, singing or dancing coach, or other performer or artist. It is best practice that a parent, chaperone or independent third party is on hand at all times.

### 3. Licensing process

#### 3.1 Who should apply for a licence?

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. Licence applications should not be signed by a child's agent.

##### **Best practice for the responsible person**

If the responsible person leaves the organisation, the new responsible person should notify the relevant local authorities and replace the signature on the licence.

The responsible person must submit a licence application form to the child's home local authority<sup>8</sup>, allowing sufficient time for the local authority to consider and process it. A local authority may refuse to grant the licence if the application is not received at least 21 days before the day on which the first performance/activity is to take place.

However, local authorities can use their discretion in relation to timing and consider each application according to the circumstances. For example, these days, many broadcast programmes are made quite quickly with production team members often joining only a couple of weeks before shooting begins. Although forward planning is encouraged, and principals will be cast sometime in advance, final casting for smaller parts may be less than 21 days before the performance or activity takes place. This is particularly true of commercials where production companies often work quite close to the intended date of performance.

On occasions, there may be mitigating circumstances which justify a licence being granted at short notice, for example to replace a child that might have fallen ill or broken a limb or whose voice has broken. Consideration should be given to the granting of a licence quickly in circumstances where the production would be in jeopardy should a replacement for the child in question not be licensed in time. Whilst this consideration should be given, the local authority will need to seek assurances and request the relevant information to make a proper assessment on which to base their decision. The education, health, safety and wellbeing of the child in question, is paramount.

Communication between the local authority and the responsible person is key and the earlier in the process that this takes place, the better. This will enable local authorities, for example, to plan and prioritise workload accordingly, but will also give the responsible

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<sup>8</sup> If the child is not resident in Great Britain then the application should be made to the local authority where the responsible person resides or has his/her place of business.

person time to respond to any requirements or conditions required by the local authority rather than having to make changes at the last minute.

**Best practice example (from a broadcaster engaging a blind child performer)**

The production wanted a boy who was blind to take part in a series. The responsible person contacted the licensing authority at an early stage to discuss what arrangements might be needed to support the child in the performance and ensure his wellbeing.

The licensing officer discussed the child's needs with his school. A chaperone with experience of working with blind children was approved to supervise the child at all times during the production. The chaperone and the production team worked together to ensure the child could be walked round the set after each camera change, whilst minimising the potential for disruption to the filming. The child really enjoyed the experience of taking part.

**Best practice example (from a TV production company)**

We wanted to film with a baby who was less than 10 days old. We contacted the licensing authority to ask how to go about it and provided them with all the child's details, including health visitor information and information about the film. The authority was able to contact the health visitor who confirmed there was no reason for the baby not to be involved. However, the baby had been born by Caesarean section and Mum was due to chaperone. The necessary arrangements for a Mum and a very young baby on set were discussed. We arranged for medical staff to be present on set, limited the times for filming, and provided Mum and baby with suitable transport to and from the filming.

**Best practice by a licensing authority where a child frequently performs/takes part in activities** is to hold the details of the child, as provided by the parent, together with a copy of the birth certificate and photographs for a period of 6 - 12 months. This will speed up the issue of a licence when the application is received from the responsible person.

This approach can also be adapted for venues and premises, so that the licensing authority can retain records from inspections etc.

**Best practice for licensing authorities is to:**

- adopt the standard model application form (see Annex) and not impose any additional requirements for the application;
- accept applications submitted by email;
- accept scanned documents and jpeg files for photographs, rather than hard copies or originals;
- allow applications to be made on-line; and
- consider whether there are options for streamlining the 'front end' of the process

across a number of local authority areas, to simplify the administration for applicants and for authorities.

Licensing authorities need to know what a child is being asked to do in order to make an informed decision. In order to ensure appropriate safeguards are in place, it is relevant to know, for example, whether a child will be working with animals, exposed to scenes of a sexual or violent nature, or asked to ride a bicycle on a road.

**Best practice example of a licensing authority querying what the child is being asked to do**

For example, a licensing authority received an application for a child to "play the son of a family" in a TV commercial for a holiday park. No further information was included. A decision could not be taken based on this information. When the licensing authority enquired about what the child would be expected to do they were informed that he would be swimming, riding on a speed boat, kayaking and taking part in archery classes. They needed to understand what actions would be taken to ensure the safety and wellbeing of the child in these activities.

**Best practice for film and television producers** is to consider and use techniques to protect children on set. The final edit of a programme may not show what actually happens. So, for example, when a child is shown watching a fight, it is normal for the shot of the child to be filmed separately from the fight. The whole scene, when the two are edited together, will give the impression that the child was there. It is best practice to outline such techniques to the local authority when making an application. It could speed up the issuing process.

**Best practice example (from a theatre)**

In the play, the children are murdered. One child appears to be stabbed and the other appears to be decapitated. In this case the scene was done in strobe lighting in a sequence lasting a few seconds – it looked quite gory. The sequence was rehearsed in full light and the inspecting local authorities were invited into the theatre to watch the performance. The scene was explained to the parents at the outset.

### 3.4 Risk assessments

**Best practice for the responsible person** is to conduct a risk assessment and attach it to the application form. This should identify any physical or psychological risks to the child that might arise from what they are being asked to do and the environment in which they will do it. It should set out proposed actions to be taken to remove or mitigate any

significant risks identified. Although it might not always be possible to provide detailed risk assessments containing all relevant information at the time the application is submitted, all the available information should be provided.

In assessing risks, the responsible person should take account of all factors that could affect the child's wellbeing, including those that may arise after the child has taken part in the performance or activity but as a consequence of it. Children and young people differ in their vulnerabilities and resilience: their age; gender; physical and mental capacity; maturity; cultural, ethnic and religious background; and their previous life experiences can all affect how they might respond to the specific circumstances and nature of a performance and should be considered when assessing risks.

Risk assessments should also identify the likely hazards that might crop up to help ensure they are adequately controlled, but should also include other information such as:

- general information such as site arrangements, welfare facilities, chaperone arrangements and first aid;
- general site information on slips, trips and falls, scenery movement and other performers;
- production specific information (this may not always be known when first making the assessment).

**Where it is too soon for a full risk assessment to be conducted, it is best practice** for the responsible person to provide as much information to the licensing authority as possible and explain the reasons why not all the information has been provided and provide an expected timeframe. The licensing authority should satisfy itself in respect of all other aspects of the application and, once they have done so, if at that stage the full risk assessment is still not available, might decide to issue the licence subject to an appropriate condition, for example that the risk assessment is provided prior to the first performance. If the condition is not complied with, then the local authority has the ability to revoke the licence.

### **3.5 Artistic and editorial freedom**

**Best practice for licensing authorities** is to assess an application on the basis of the measures that have been put in place to mitigate risks to children and to ensure their safety and wellbeing, and that their education does not suffer. Whilst licensing authorities are entitled to ask for any information that they feel is necessary to make an informed decision about whether to issue a licence, it is not practical and should not be required to see a script to make that decision. Indeed, the script might not reflect what the child is asked to do due to the nature of filming and editing and use of best practice in filming and staging techniques.



It should be noted that it is often not appropriate for a producer to share a script due to the confidential and commercially sensitive nature of the content. They are carefully protected and subject to restricted circulation.

### **3.6 Licensing decision and conditions**

The local authority, to which an application has been made, will decide whether to grant a licence or not.

The licence may also state any conditions that the local authority decides are necessary. For example, they may want assurance that the language, costumes and actions taking place on set (when the child is actually present) are child appropriate, or that suitable measures are taken to safeguard the child where inappropriate language, costumes or actions are a necessary part of the production. They may also want assurances that the child has adequate shelter, suitable clothing and refreshments when performing or taking part in an activity outdoors (both in hot and cold weather).

## **4. Body of Persons approvals (BOPAs)**

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

Individual licences are not required for all performances in every circumstance. A BOPA approves an organisation, for a specific performance or for a limited period of time as set out in the approval, to put on performances involving children without requiring those children to be licensed. A BOPA cannot be given for a child to take part in an activity.

A BOPA is granted to the organisation putting on the performance not to the child and is for the organisation named in the BOPA only. It is not transferable to other organisations or individual children taking part in performances organised by someone else.

### **4.2 Who can apply for a BOPA?**

A BOPA can only be issued where 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.

A BOPA cannot be issued for a child to take part in an activity, or for a child to travel abroad to perform for the purpose of profit.

A BOPA may be granted when it is clear and expected that the child would not normally be paid for performing, for example to take part in a charity fund raising event or where children traditionally are not paid as taking part is considered of wider benefit to their personal development or career progression.

However, if a child was taking part in a performance where it would normally be expected that they be paid, the local authority may take the view that a BOPA was not appropriate.

There are no other restrictions set out in legislation about the circumstances in which a BOPA can be issued. They can be a good option for amateur groups who otherwise might find the licensing process onerous and costly – to the extent that children may be deprived of good opportunities. They may also be appropriate for other types of organisation: the key requirement is that the child is not paid (and wouldn't normally be expected to) and, of course, that the organisation can demonstrate that it has robust and effective systems in place to protect children during rehearsals and performances. These case studies illustrate the potential benefits of a BOPA approach:

### **Youth Dance England**

At the start of planning for our annual national dance event involving over 250 young people, we contacted the local authority for the city in which the performance was taking place. The local authority agreed to issue a BOPA based on their assessment of our child protection procedures, that the event was taking place in the school holidays and that the performers were not being paid. For a one off event of this nature this made planning for the event much easier and removed obstacles which had put dance groups off from attending on previous occasions.

### **National Childrens Orchestra**

Licensing via a BOPA can significantly reduce the administrative burden for amateur organisations, as it is the organisation rather than individual, which is licensed. Thus for a children's choir, for example, which may have a very large number of members, and where the members are not paid for performing, having a BOPA removes the need to repeatedly approach individual parents on each occasion the choir perform to gather information for an individual licence. In addition it gives the organisation more flexibility as to which engagements they accept, enabling the choir to respond positively to performance requests which might be made at short notice, and which might provide the children with unique and exciting opportunities. Choir parents are often reluctant to make a firm commitment that their child will definitely participate in an event several weeks in advance. Not needing to licence each and every child means that children can elect to join in performances late in the day, if their homework load or other commitments allow, and thus more children are able to take advantage of the performing opportunities the choir offers them. If names of children performing had to be given to the local authority when the BOPA was applied for, this would reduce the flexibility of the choir to adjust the vocal mix, make it impossible to replace children who drop out, and would exclude children from the many families where making commitments several weeks in advance is difficult. Of course, having a BOPA does not remove the responsibility of the organisation to protect the wellbeing of their members and this includes being mindful if the number of performances any one child is involved in.

### **A professional production company**

Currently this company applies for individual child performance licences. They apply to each child's home local authority and notify the local authority where the child is to perform.

In this case the programme is a televised dance competition involving the participation of hundreds of amateur performers, some of whom are of compulsory school age. The



contestants are not paid: this is a competition.

The competition is comprised of various stages, as follows:

Stage One: The production holds open auditions that are not filmed or broadcast. In the most recent series, over 500 children auditioned.

Stage Two: Successful contestants move forward to a second audition that is filmed for broadcast. In a recent series, filming took place over six days in one location, with 314 children appearing across the week. Individual auditions would last around 90 seconds.

Stage Three: Successful contestants move forward to the semi-final stages of the programme. These are filmed live at a large television studio and/or concert venue. Further, additional filming will be carried out in the child's local borough, for the purposes of VTs and backstories.

Stage Four: A public vote determines which contestants will take part in the final stage of the programme. This programme is filmed live, at a large television studio and/or concert venue.

The production company has extensive experience of working with children, and have a comprehensive and regularly reviewed and updated child protection policy in place. The production team are required to attend meetings with professional organisations such as CATS (Chaperone and Tutor Service), where protection procedures and legal requirements are explained, in addition to follow up meetings where required. The company also operates an "open door policy" for crew members who are unsure of anything, so that they can talk to experts.

DBS checks are carried out on all members of the production team, with enhanced checks carried out on around six members of the team. In the most recent series of the programme, three members of the production team applied for and were awarded a local authority chaperone approval. They operate a policy of a maximum of six children per chaperone.

Seeking individual licences for each child from their home local authority is resource intensive. The time spent filling in applications and liaising with different authorities (who may have different approaches) could be more effectively spent on developing and building on the good practice that works to keep children safe.

### 4.3 How to apply for a BOPA?

BOPAs should be issued by the local authority where the performance is taking place. In certain circumstances the performance will take place in several authorities, in which case the organisation will have to apply to each local authority.

**It is best practice for local authorities** to liaise with each other about BOPA applications from the same organisation, and adopt a similar approach in assessing and responding to those applications.

A BOPA can also be issued by the Secretary of State. Applications will, however, only be considered by the Department for Education in exceptional circumstances, such as when an organisation is putting on performances in a large number of areas, involving hundreds or thousands of children.

**It is best practice for organisations to make BOPA applications to local authorities.** This is because they are better placed than central government to assess the arrangements that the organisation has in place to safeguard children taking part in performances in their local area.

Some information may not be available to the organisation at the time of the application – for example the number of children, their names and ages might not be known at an open mic event.

**Best practice for BOPA applicants** is to provide the information that they have readily available, and explain why it is limited, and at what point it may be available. It is better to apply well in advance of a performance as the local authority needs a reasonable amount of time to assess any application – and may need more information or action to be taken before they will grant a BOPA. Where the information cannot be provided in advance (e.g. an open mic event) the licensing authority can issue a BOPA on the condition that the information be provided when available, even if that is after the event.

There is no requirement, for the purposes of a BOPA, for local authority approved chaperone's to be appointed to supervise the children. The organisation may have its own staff and arrangements for supervising and protecting children. The important point is that suitable arrangements are made to ensure children are supervised at all times, and that the organisation has policies and procedures in place to ensure their safety and wellbeing.

**Best practice for the organisation when a BOPA is granted** is to inform the child's home local authority that the child is taking/or has taken part in a performance. This will enable the home local authority to understand the number of performances a child takes part in, as this has implications for whether that child may require a licence for any future performance.

#### **4.4 BOPA decisions**

The decision about whether to issue a BOPA is at the discretion of the local authority. The local authority can place conditions on any approval as they see fit for ensuring the wellbeing of children, for example in relation to the travel arrangements and to the hours a child can perform and the breaks they must have (whilst the framework for licensed performances does not automatically apply, a local authority might consider whether it is appropriate to place similar conditions on a BOPA).

##### **Best practice for licensing authorities**

If a BOPA is not granted, it is best practice for the local authority to write and give reason why the BOPA has not been approved.

The local authority may place a condition on the BOPA that the responsible person will allow the licensing authority to inspect the place of performance on request. The organisation should keep a copy of the BOPA at the place of performance together with any licences that may have been issued independently.

A BOPA can and should be revoked if the local authority has reason for concern about the safety and wellbeing of the children involved in the performance.

## 5. Chaperones

### 5.1 Requirement for chaperones

A child taking part in a performance or an activity under a licence, or a rehearsal during the licensing period, must be supervised at all times during the performance, activity or rehearsal by a chaperone that has been approved by the licensing authority, unless they are under the direct supervision of their parent, or a person who has parental responsibility for the child<sup>9</sup>, or their teacher. This also applies where the child is living elsewhere than they would normally live during the period in which the licence applies. This is to ensure that, at all times, a suitable person is responsible for the child's welfare and it is clear who that person is. For example, this means that if a child is taken to a photo-shoot by a grandparent and they stay with the child for the duration, a chaperone will also need to be present, unless the grandparent has parental responsibility.

### 5.2 Responsibilities of chaperones

Chaperones are an integral part of any production team or the organisation of any activity involving children. A check list of 'do's and don'ts' for chaperones is provided at Annex 1.

On occasions chaperones may be involved in projects from their inception, to ensure that the welfare of the child is considered from the planning stage onwards.

#### **Best practice example from a broadcast company**

We employ a Senior Chaperone who is able to work alongside scriptwriters and directors to talk through any upcoming storylines. She can then in turn work with the young actors and other chaperones to provide continuity of care and support. She is a very experienced chaperone herself so is able to nurture and train new chaperones in best practice.

A chaperone's first priority is always to the child's best interest and wellbeing. In certain circumstances a chaperone has discretion to allow a child to take part in a performance for a period not exceeding 1 hour immediately following the latest time permitted at the place of performance (which is 11pm for children over 5 and 10pm for children under 5). The responsible person must ensure that when the chaperone exercises this discretion that the chaperone informs the licensing authority and the local authority where the performance is taking place, no later than the following day and that he or she explains the reason for exercising his/her discretion.

<sup>9</sup> As defined in section 3(1) of the Children Act 1989, 'parental responsibility' means all of the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property.

**In considering whether to permit a child to stay later, it is best practice for the chaperone to weigh up whether permitting the child to stay at the place of performance or activity for any extra time would be in the best interests of the child, for example because it allows them to finish filming a scene so they do not have to attend again the following day.**

### **5.3 The role of the local authority: approval and training**

The local authority that grants the licence to the child must not approve a chaperone unless it is satisfied that the chaperone is both suitable and competent to discharge their duty (i.e. to exercise proper care and control of a child of the age and sex of the child in question and that he/she will not be prevented from carrying out his/her duties towards the child by other activities or duties towards other children). This section of the best practice is aimed at addressing the criteria that should be borne in mind by the local authorities involved in approving chaperones.

**It is best practice when approving a chaperone that:**

- the licensing authority carries out an enhanced DBS check of all individuals applying to be approved as a chaperone;
- the application should be supported by two verifiable references from people who are not known solely to the applicant through the organisation for which they wish to become a chaperone;
- the applicant should be interviewed by the local authority as a means to assess their suitability and competency for the role but also so that the local authority may explain the expectations of being a local authority approved chaperone. This interview may take place on a 1:1 basis or through a structured training programme as determined by the local authority concerned.

Local authorities should provide training for new applicants. This training could be delivered through local authority managed training sessions, through the provision of manuals, DVDs or online training packages<sup>10</sup>.

**The key elements of basic training should at least include consideration of:**

- the legal requirements (e.g. earliest and latest time at place of performance or rehearsal, accommodation requirements);
- the role of the chaperone – what is expected of the chaperone and their purpose as set out in legislation (areas where judgement is needed for example in relation

<sup>10</sup> [www.nspcc.org.uk/what-you-can-do/get-expert-training](http://www.nspcc.org.uk/what-you-can-do/get-expert-training)



to the ratio of children to chaperone which should take into account variables such as the gender and age of the children to be supervised; the physical considerations of the performance area);

- child protection – signs to look out for when a child is distressed or fatigued, and referral procedures within and beyond the production company on issues of wellbeing. Moreover, in the rare situations where abuse is suspected, how to act and whom to inform.

Chaperones who work in a professional setting such as film, television or professional theatres are also encouraged to undertake additional training.

Additional training might cover:

- the production techniques and requirements of major theatre, TV or film productions and requirements on “location”;
- key aspects of child development for example attachment, cognitive abilities (ability to consent), conformity (sensitivity to overt and pressure), emotional vulnerability (sensitive topics such as body image), effects of anxiety and fatigue and non-verbal communication.

## 6. Education

Please see the regulations and Department for Education advice for information about the requirements.

### **Best practice case study from a licensing authority**

We were approached by a film production company that was proposing to make a feature length film involving 2 main cast children and 2 main cast child doubles. Filming was to take place over a period of 5 months including school holidays and the children were going to be in just about every scene. The children were between 13 and 16 years old and one main cast child was from the USA. The production company contacted us as soon as the main cast children were cast - several months before filming started - to discuss the tutoring requirements. As a consequence of our intervention the film company agreed to source a tutor for the American child who was familiar with the USA curriculum. Once filming started both main cast children were provided with individual tutors and tutoring rooms. The 2 main cast doubles were tutored together in a 3rd tutoring room. All tutoring rooms were equipped with computers and an internet connection as well as text books and specific equipment to meet the individual child's needs, for example a keyboard was available for one child to practise for music exams. The tutors were in contact with the children's individual schools to agree a course of work.

As the inspecting local authority, we received records of tutoring periods on a weekly basis. Unannounced inspections were made regularly and we made sure we spoke to the tutors, building a supportive and strong relationship, and providing contact details for them to get in touch with us if they had any concerns. The film company did struggle to tutor the main cast children for the required number of hours. However, by working with the company from the outset, we were able to alert them to any possible shortfalls and they agreed to change some scenes so they could involve the 'doubles' more and reduce the burden on the main cast children.

The standard of tuition was excellent and feedback from parents was that their children were enjoying and benefitting from the 1:1 or 1:2 tuition.

## 7. Compliance

The local authority has responsibility for enforcement of the licensing requirements. When granting a licence for a child to perform or take part in activities in another local authority area, the local authority must send a copy of the licence, the application form and any other appropriate information, as required by the regulations, to the child employment officer in that area (as well as to the child's parent).

This information is required by the inspecting authority (the authority in which the performance or activity is taking place) when carrying out an inspection of the premises where rehearsals, performances or activities are taking place, in order to enforce the licensing requirements. Ideally, the local authority which issued the licence should give the inspecting authority sufficient notice of the performance or activity to be able to schedule an inspection within current workloads. In practice, the industry operates in such a way that timescales are extremely short and the local authority that issued the licence may only be able to give 24 to 48 hours' notice. It is best practice for a local authority responsible for issuing a licence, as soon as the application is received, to advise the inspecting authority that a performance is going to take place in their area and that a copy of the licence, application form and other documentation as required will follow as soon as the licence has been issued.

### 7.1 Inspection and enforcement

Local authorities have been provided through statute with a number of areas where they must ensure a child's welfare is maintained and a set of offences to consider for further action should those engaging children not meet the standards set.

Key areas that the local authority may look for when inspecting a place of performance or activity are:

- ensuring the children taking part in the performance are happy, fit and not overworked;
- inspection of the facilities i.e. accommodation, shelter, whether the children have been provided with suitable clothing, food and drink;
- chaperones – supervision, relationship with the child;
- tuition – discussion with tutor, child and parent, inspecting records;
- health and safety – (availability/access to/provision of) first aid, medical facilities;
- record keeping – inspecting licences and daily record sheets;
- observation and discussion with child, parent, chaperone and production team. This is likely to form an integral part of the inspection.



## 7.2 Record keeping

**It is best practice for the responsible person** to keep copies of the licence at the place of performance (or the place of rehearsal if different) or the place where the activity to which the licence relates takes place as it is a legal requirement that the responsible person must on request produce the licence at all reasonable hours at such locations to an authorised officer of the local authority or the police.

Licence holders are legally required to retain certain records for six months from the date of the last performance or activity to which a licence relates. For example, records of a child's hours (including rehearsals, breaks, tuition). It is therefore vital that these records are updated in real time or "as it happens" if the records are to be meaningful.

These records should remain onsite for the duration of the performance or activity and be available for inspection to an authorised officer of the host authority. They can be requested up to 6 months after the last performance.

## ANNEX 1: Dos and don'ts for chaperones:

### DO:

- **check the child is comfortable** – you are the person to whom the child looks to for guidance, protection, clarification and support;
- **stand up for the child above production pressures** - one of a chaperone's greatest strengths is their ability to negotiate with the production company 'on site' and be able to say no when what is being requested of the child is contrary or detrimental to the child's health, well-being and/or education;
- **be the child's champion;**
- **report any concerns and know who to report them to and know what to do in each case** - chaperones should keep a note of important contacts, for example, the child's licensing authority, the local authority in whose area the child is performing, the child's agent and the child's parent/legal guardian;
- **ask to see a copy of the licence** (where a licence is required);
- **Exercise discretion where that is in the best interest of the child;**
- **Be alert to all possible risks to the child;**
- **Challenge people and / or behaviours.**

### DON'T:

- **let the child perform if they are unwell;**
- **leave the child alone with another adult (unless it's their parent or teacher);**
- **take photos of the child;**
- **seek autographs from performers or get star struck;**
- **ignore or down play questionable behaviour from adults or other children;**
- **allow the child to be pushed into things that they don't want to do;**
- **use inappropriate language or smoke whilst on duty;**
- **consume alcohol or be under the influence of alcohol whilst on duty;**
- **wear inappropriate clothing.**