

A Guide to

Child Employment Legislation and Practice

In England & Wales

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Aim of this Guidance

This document has been put together by members of the NNCEE as a guide for Local Authority employees who are responsible for the safeguarding and enforcement of children in employment for their local authority. It is specifically for practitioners working in England.

The aim of this document is to offer guidance to employees when working in child employment. It is to help understand the law, how to process applications and the issuing of work permits. It covers the employer's, parents, and local authority's responsibilities.

Additional information can be found on the NNCEE website, which offers members an array of information, including access to legislation, guidance, various forms, letters, and procedures for members to utilise. For the enforcement aspect of the role please see the separate guidance booklet, A Guide to *Enforcement and Investigations, Employment and Performance*.

Statutory Duties & Legislation

Local Authorities have a statutory responsibility for issuing work permits, the enforcement of the licensing requirements and have several powers to carry out inspections to ensure a child's welfare is maintained. The work is governed by a combination of primary legislation, statutory regulations, and byelaws. The legislation outlines the penalties to impose where there is a breach in the regulations and the legal proceedings to be followed by the LA.

The law that underpins child employment is based on a two-tier framework which combines the primary legislation and local authority byelaws. The primary legislation is national (applies to England & Wales and parallel legislation exists in Scotland and Northern Ireland).

The legislation that underpins the employment of children of compulsory school age is:

- The Children and Young People's Act 1933, section 18.

Employment (part-time work) - NNCEE - National Network for Children in Employment & Entertainment
http://www.legislation.gov.uk/ukpga/Geo5/23-24/12

There is other legislation that can further restrict or prohibit child employment. The Hidden Army Booklet (page 23) contains a list of legislation, which is not an exhaustive list and some of the legislation may now have been updated so it is important to check if it is current, before citing. For example, the Licence Act, 1964 has been replaced with Licensing Act 2003.
Hidden Army - NNCEE - National Network for Children in Employment & Entertainment

Byelaws

A local authority may make byelaws with respect to the employment of children, and any such byelaws may distinguish between children of different ages, sexes and between different localities, trades, occupations, and circumstances and may contain certain provisions. It is imperative to check the most up to date byelaws within your local authority.

It is important to remember that the basic restrictions on the employment of children are contained within the primary legislation of the Children and Young Persons Act 1933. Section 18 of the Act empowers local authorities to make local byelaws with further conditions. A template for the byelaws and information on the model byelaws can be found on the NNCEE website:
Byelaws - NNCEE - National Network for Children in Employment & Entertainment

Street Trading

Though Street Trading falls under Children and Young Person Act 1933, not all LA's have this in their byelaws. Section 20 states "A local authority may make byelaws authorising children who have attained the age of fourteen years to be employed by their parents in street trading to such extent as may be specified in the byelaws, and for regulating street trading under the byelaws by persons who are so authorised to be employed in such trading." http://www.legislation.gov.uk/ukpga/Geo5/23-24/12/section/20

A street traders licence condition is:

- Prohibit the holder from engaging in street trading on a Sunday.
- Be valid for no more than twelve months.
- Expire on the 31 December each year.
- Prohibit the holder from touting or importuning to the annoyance of any member of the public in any public place.
- Notify the local authority of any change.

The young person's permit would also be subject to the street traders' conditions too. The penalties for illegal street trading are found in the Children and Young People Act 1933, section 21. This is the only area whereby the young person themselves, as the holder of a street traders' licence, can be found guilty of an offence and directly prosecuted. Street licences can be applied for from the relevant council Street trading licence (England and Wales) - GOV.UK (www.gov.uk)

Busking

The government website states that, "Children under 14 aren't allowed to busk." https://www.gov.uk/busking-licence. There is no further advice from the government regarding children busking but there is usually guidance on local authorities websites on what busking they allow and if **or** how to apply for a permit for busking. Local authorities guidance varies and some do not stipulate an age that a person can start busking. You could take the view that busking is a form of street trading. **Note:** definition of "street trading" in the interpretation (section 30) of this part of the 1933 Act includes playing, singing, or performing for profit in streets or public places. http://www.legislation.gov.uk/ukpga/Geo5/23-24/12/section/30
Taking in to consideration, the legislation, model byelaws and government information, this leads to the following conclusions:

- No child under the age of 14 may busk (where we understand this as playing, singing, or performing for profit in streets or public places).
- A child aged 14 or over may busk but only in connection with their parent's retail business and under the employment and direct supervision of said parent, subject to a street trader's licence issued by the local authority. So, for example, a parent could employ their child to stand in the street outside their shop and sing or play to attract trade (which would be for profit), subject to parental supervision and the requisite licence – and assuming there were no restrictions on them blocking the highway, making excessive noise, etc.
- In other words, no child of any age may busk in the commonly understood sense of playing, singing, or performing in streets or public places for 'tips'/donations from which they personally profit.
- If a child is busking but not for profit, this falls outside the definition of "street trading." This seems to allow that a child of any age could busk, e.g., to raise money for charity. But as the legal minimum age for collecting money for charity is 16, a child below that age would have to be accompanied by a person aged 16 or over who would be responsible for taking and looking after the money. That is without considering the general safeguarding concerns.

Permitted and Prohibited Employment

Permitted employment is not listed in legislation or the model byelaws, but some local authorities list them in their byelaws. The Children and Young People's Act 1933, section 18, permits employment for children from the age of 14. However, some local authorities byelaws state that children aged 13 years can undertake light duties but only in permitted employments.

Examples of permitted employment are,

- delivery of newspapers, journals, and other printed material subject to conditions
- shop work, including shelf stacking (subject to conditions)
- hairdressing salons
- office or clerical work
- in a café or restaurant subject to conditions
- in riding stables*

The permitted list is not extensive. It is important that you check with your local authority for permitted employment.

***Riding stables** is a permitted employment and if a young person is employed at a riding stable, providing an appropriate risk assessment is in place, then a permit can be issued. A young person who is helping at a riding school or volunteering in exchange for free lessons they are technically employed.

You should also note the legislation does not prohibit anyone under the age of 18 being left in charge of a riding establishment business.

Riding Establishments Act 1970 S1 4 states (Riding Establishments Act 1970 (legislation.gov.uk):

(b) no horse will be let out on hire for riding or used for providing instruction in riding without supervision by a responsible person of the age of 16 years or over unless (in the case of a horse let out for riding) the holder of the licence is satisfied that the hirer of the horse is competent to ride without supervision.
(c) the carrying on of the business of a riding establishment shall at no time be left in the charge of a person under 16 years of age.

The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 requires stables to ensure that they have adequate supervision in place for those young people aged 16 and they are competent, and the needs and welfare of the animals are met too.

Young people will as a part of the Duke of Edinburgh, volunteer at a riding school (see Page 21 for further guidance of DoE). Riding schools also offer pony care courses in exchange for lessons it is worth consulting with the establishments in your area that these courses are approved from the equestrian society and are in fact courses and not employment.

Prohibited. There are certain employments that are prohibited within the model byelaws. Many local authorities will have adopted these in their entirety, but some have allowed specific variations. *(It is important to check the actual byelaws made by the authority where the employment is to take place).*

Prohibited employments in the model byelaws that prevent children of any age being employed are:

a) in a cinema, theatre, discotheque, dance hall or night club, except in connection with a performance given entirely by children.

Additional information

This byelaw does not apply to performances by children issued with a licence within the performance regulations but prohibits any other work on the premises, for example ticket sales, ushering and the selling of confection items, or a franchised coffee shop in a cinema or theatre, as this could result in unsupervised access to an inappropriate production or event.

b) to sell or deliver alcohol, except in sealed containers.

Additional information

Under the Licensing Act 2003 it is an offence for an unaccompanied child under 16 to be present in premises solely or mainly involved in the sale of alcohol. The Act also restricts the unsupervised sale of alcohol by anyone under 18 **except** where it is sold or supplied for consumption with a table meal in a part of the premises used only for that purpose. The effect of this exemption is that, for example, a child under the school leaving age working as a waitress or waiter is, under the Act, **only** able to serve alcohol lawfully in a restaurant.

However, authorities may have byelaws prohibiting or restricting the employment of children in the sale of alcohol except in sealed containers and any such byelaws will remain effective. So, if an authority has such a byelaw, it will be an offence under that byelaw to employ a child in the sale of alcohol in a restaurant (unless it is in a sealed container) even though the Licensing Act **permits** the unsupervised sale of alcohol by children in these circumstances.

Note: Some local authorities allow young people to work in a public house, doing light work for example serving tables. They **cannot** serve alcohol or work in a commercial kitchen. It is advisable you seek guidance from your legal services before issuing a permit.

c) to deliver milk.

Additional information

Not all authorities include this prohibition in their byelaws and some authorities' byelaws only prohibit delivery of milk if the vehicle is not fitted with a seatbelt.

d) to deliver fuel oils.

Additional information

The Petroleum (Consolidation) Regulations 2014, General prohibitions on dispensing and supply of petrol:12 (2) No person under the age of *16 years is to operate a dispenser on dispensing premises. (3) No person is to supply, or allow the supply of, petrol to a person under the age of *16.
Health and Safety guidance on the HSE website (August 2021) makes it clear that people under the age of *16 are not allowed to buy petrol (including self-service) or operate dispensers (pumps) and that nobody under the age of 18 must be left in sole charge of a filling station. However, it must be noted that the byelaws applies to children of statutory school age (including those who are aged *16).

e) in a commercial kitchen.

Additional information

There is no definition of 'kitchen' in the legislation. The dictionary defines 'kitchen' as a room or area where food is prepared and cooked and 'commercial' as concerned with or engaged in commerce making or intended to make a profit. This means a commercial kitchen could be defined as a room where food is prepared or cooked with profit as the primary aim. Therefore, a domestic kitchen in a residential home used to prepare food for consumption by paying residents would be a commercial kitchen.
Some local authorities prohibit all 'kitchen work' whilst others allow 'washing up' in a separate area. It is best practice to undertake a site visit to have a clear plan of agreed permitted working areas and conditions to be recorded on the work permit.

In addition, the Department of Education (DfE) guidance, page 9 (which can be found in pdf format on the NNCEE website) https://www.nncee.org.uk/page/45/employment states that their view is that this byelaw is aimed at the process of cooking and would not prevent:

- serving at the counter of a fish and chip shop provided this does not involve getting fish or chips out of a deep fryer or working in an area where fish or chips are prepared.
- washing up in an area separate from where food is prepared.
- making sandwiches at the counter of a sandwich bar (however, if sharp knives or slicers must be used, this may be prohibited under health and safety grounds).
- collecting meals from a kitchen or returning empty plates to a kitchen. Care needs to be taken to ensure the young person is not going up and down walkways near where food is being cooked, i.e., fryers, ovens, or hobs. If they are unable to return to the kitchen without encountering these areas, then it would be advisable to not allow this duty. Further guidance on catering and hospitality can be found on the HSE website.

f) to collect or sort refuse.

Additional information

This would apply to children being employed in the local refuse centre, collecting and sorting rubbish for scrap or recycling as well as being employed with scrap metal collectors that go round the streets collecting scrap metal then sorting and selling on. It is worth noting that this byelaw is not preventing a child from picking up litter. It is quite common for school aged children of all ages to take part in community litter picking activities. Most Local Authorities have health and safety guidance on their websites for litter picking which includes risks to consider if children are involved. They may also provide kits for volunteers including Personal Protective Equipment (PPE).

In addition, some local authorities may allow a child to have a cleaning job where one of the duties is emptying bins. Therefore, particular care needs to be taken with risk assessment and training for the young person and the provision of (PPE).

g) in any work which is more than three metres above ground level or, in the case of internal work, more than three metres above floor level.

Additional information

The risks from heights are self-explanatory (the obvious being falls). If children are working at a height less than three metres above ground or internal floor level, particular care needs to be taken with risk assessment, training of the young person, the provision of equipment and its correct use. Example of this type of work would be stacking shelfs in a shop.

h) in employment involving harmful exposure to physical, biological, or chemical agents.

Additional information

These are listed in the Annex to the EC Directive 94/33 on the protection of young people at work. This is a non-exhaustive list of agents, processes and work which are considered unsuitable for young people to be employed in connection with.

- **Beyond** their physical or psychological capacity
- Involves harmful exposure to substances that are toxic, can cause cancer, can damage, or harm an unborn child, or can chronically affect human health in any other way
- Involves **harmful** exposure to radiation
- Has a risk to health from **extreme** cold, heat, noise, or vibration
- Work in a high-pressure atmosphere such as pressurised containers or diving
- Exposure to biological agents listed in EC Directive 90/679/EEC.
- Exposure to chemical agents, substances and preparations classified according to EC Directive 67/548/ECC.
- Substances and preparations which are highly flammable or may cause sensitisation by inhalation or skin contact.
- Exposure to lead and compounds thereof
- Exposure to asbestos
- Manufacture and handling of devices, fireworks or other objects containing explosives.
- Fierce or poisonous animals
- Animal slaughtering on an industrial scale
- The handling of equipment to produce storage or application of compressed, liquefied, or dissolved gasses.
- Vats, tanks, reservoirs, or carboys containing chemical agents.
- High voltage electrical hazards as far as hairdressing products are concerned, employers should also note the COSHH and hairdressers - key messages - COSHH (hse.gov.uk)

There is also further guidance on risk on the HSE website Young people at work - Risks - HSE

i) to collect money or to sell or canvass door to door, except under the supervision of an adult.

Additional information

Many local authorities' byelaws have a complete prohibition on these activities. If your byelaws have an exception for collecting money etc, under the supervision of an adult the adult must, in the DfE's view, accompany the child at all times (Department of Education guidance (page 10).There is also a prohibition in the House-to-House Collection Regulations 1947 on children under 16 making house to house collections for charities. uksro_19472662_en.pdf (legislation.gov.uk)

j) in work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children.

Additional information

This may apply to businesses whose main purpose is the sale or hire of adults' videos or publications. For example, Local Authorities may consider having a condition added to a permit to prevent a child from selling any adult themed magazine if they are working in a newsagent or any establishment that sells any material of an adult nature.

k) in telephone sales.

Additional information

To prevent children working in telesales, as the direct contact with members of the public may expose the child to age-inappropriate responses and attitudes.

i) in any slaughterhouse or in that part of any butcher's shop or other premises connected with the killing of livestock, butchery, or the preparation of carcasses or meat for sale.

Additional information

Employment would only be permissible in parts of the premises where no meat preparation takes place. This could include standing at a till taking money, cleaning, or tidying areas of the shop where no meat preparation takes place, serving customers. Cleaning the butchers blocks or knives or other equipment is not permissible.

DfE guidance (page 10) states: preparation of meat for sale" here would include slicing meat but not simply weighing meat in a butcher's shop or putting it into a packet.

Further guidance on health and safety in slaughterhouses and preparation of meat can be found on the HSE website.

m) as an attendant or assistant in a fairground or amusement arcade or in any other premises used for the purpose of public amusement by means of automatic machines, games of chance or skill or similar devices.

Additional information

A prohibition founded on two areas of concern. The moral aspect of employing young people in premises where 'gambling' takes place and the safety aspects of working around moving machinery. Like butcher's shops the ban is premises based, not task specific, so any job within the grounds of the fairground or amusement arcade is prohibited.

Gambling: The employment of children under 16 in all forms of gambling is forbidden. This includes casinos, bingo, lotteries (including the National Lottery, however, young people aged 16 are permitted to sell lottery tickets) betting shops, machine arcades and the pools. More information can be found in the Gambling Act 2005.

n) in the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult.

Additional information

In the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult. However, the National Minimum Standards issued under the Care Standards Act 2000 require staff providing personal care to be aged at least 18 and so a byelaw in this form would be redundant.

The Employment of Women, Young Persons, and Children Act, 1920

This legislation prohibits and restricts other types of employment.

Section 1 of the Act prohibits any child from working in any industrial undertaking. The act defines what is meant by an industrial undertaking including, mines, quarries, construction, and transport. A particular type of work can be defined as an industrial undertaking and not permitted, for example, working in an office on the site of a factory. Therefore, if the premises is defined as an industrial undertaking even if the work is light, it is still prohibited. The full Act can be found at https://www.legislation.gov.uk/ukpga/Geo5/10-11/65/introduction.

Please also see the TAG Booklet ewypc-1920-a.pdf (nncee.org.uk) on the NNCEE website Hidden Army - NNCEE - National Network for Children in Employment & Entertainment for further advice.

Note: Family Run Businesses; There is an exemption to this in Article 2 of Part 1 of the above Act, in which the definition 'industrial undertaking ' is removed in situations where only members of the same family are employed.

DfE guidance 2009, Page 8, states: There is however an exception for family undertakings. A child can be employed in an industrial undertaking if it is an undertaking where only members of the same family are employed, although if a child is employed in such an undertaking the child must, in DCSF's view, only be employed to do light work. Employment (part-time work) - NNCEE - National Network for Children in Employment & Entertainment

Do young people working for their parents in a family business need a work permit?
Yes, the definition of employment included in section 30 of the Children and Young Persons Act 1933 (as amended) includes 'assistance in any trade or occupation carried out for profit, whether or not payment is received for that assistance'. Young people helping out in a family business as a chore or expectation or for 'pocket money' are employed and need to be covered by a work permit. TAG Booklet, page 69 Hidden Army - NNCEE - National Network for Children in Employment & Entertainment

Age limits and hours

Hours

The restrictions on working hours and age limits, for the employment of children under the school leaving age are mainly found in the Children and Young Persons Act 1933, The Children (Protection at Work) Regulations 2000, (Statutory Instrument 2000 No. 2548) introduced further restrictions as do local authority byelaws made under the Children and Young Persons Act 1933 sections 18 (2) and 20 (2).

Age Limits

A child under 14 may not be employed, but this rule can be, and often is, relaxed by byelaws to allow the employment of 13-year-old children in certain occupations. The typical occupations in which a 13-year-old child can be employed under byelaws are described in permitted employment, but this may differ as not all local authorities' byelaws are the same.

Hours of Work

- A child may not be employed before 7.00 a.m. or after 7.00 p.m.
- A child may not be employed for more than two hours on a day on which he or she must go to school (1 hour before school and 1 hour after school **OR** 2 hours after school).
- A child may not be employed for more than two hours on a Sunday.
- All ages can only work a maximum 12 hours per week during term time.
- A 'Week' is a period of seven consecutive days.

Breaks and Holidays

- Children must have one hour break after 4 hours continuous work.
- A child under the school leaving age must have a two-week break from any employment in each year. 'Year' here is a calendar year, not a school year. This break must be taken during the school holidays.

The restrictions on hours are summarised in the table found on the NNCEE website; https://www.nncee.org.uk/page/488/hours-of-employment

Education

Part time work for young people can be viewed as greatly beneficial as it helps to introduce them into the world of work whilst developing valuable skills such as confidence, working with adults and different individuals, developing communication, organisational, time management and money skills. It is however important that the child's education must always come first. All children have the right to a full-time education and should their part time work be causing an issue then a review of the permit must happen.

It is advisable to have a good working relationship with all schools/academies in your area so should the child's attendance or attainment slip due to them working this can be investigated.

No child can be absent from school to work. If they are then the school must contact the Local Authority (LA) to inform them as this is a breach of the legislation and the LA officer can take appropriate action.

Children not at school

The restrictions on working hours and age limits are only references to the school day and any day on which the child must go to school. The Act does not deal with the position of home educated children or any other children who for any reason are not registered pupils at a school (Child Missing Education, CME). In response to any request for a permit for a child in these circumstances it is advisable to seek guidance from your Legal Services.

For children excluded from school, parents are at risk of a prosecution if their child is found in a public place during the school day[1]. Where a child has been excluded from school and is required to attend alternative educational provision, absence from the educational provision due to employment, whether paid or unpaid, would again be treated as unauthorised absence and could lead to action against the parents. If a young person has a part -time job outside of school hours, it is important to speak to the school and your Legal Services to decide if the part-time work can continue whilst they are excluded from school.

[1] https://www.gov.uk/school-discipline-exclusions/exclusions

Elective Home Education (EHE)

The government state that all children have the right to a full-time education whether that be at a school or otherwise if it provides the child with the opportunities to fulfil their potential. Parents/carers have the right to educate their children at home should they wish to *(The Education Act 1996, Section 7).*

The past few years have seen a significant increase in the number of children being educated at home, and this has in turn, seen an increase in calls to LA's informing the Child Employment Officers of young people, who are home educated and are working during the day. This is causing a lot of difficulties for LAs as there is no legal guidance on EHE and working.

The legislation around working hours relates to a child who attends school and refers to school hours, whereas for EHE children their hours and times of education will vary from that of a child who is on roll at a school. As the legislation defines children by their age, not how they are educated, the relevant laws will still apply regardless of whether they attend an education establishment or are home educated. When it comes to the provisions of local byelaws and other legislation around **permitted and prohibited categories of employment**, we should treat all applications in the same way, irrespective of whether the child is schooled at home; but when it comes to hours or times of employment, an LA may take a practical view when dealing with an employment permit application for a home educated child, and may permit to them to work at a time of day which is **prohibited by the legislation for a child who is on roll at a school**. It is advised that you consult with your local EHE team and Legal Services on such cases, but you also would not allow any child to work before 7am or after 7pm regardless of their education provision.

Occasionally the parents of children being home educated will refer to work experience as part of the proposed educational programme. Parents are not allowed to arrange work experience as part of their child's home education as such arrangements can only be made by a local authority. Therefore, parents must be informed that this is not work experience but employment and subject to the same regulation and restrictions. However, some local authorities may be able to assist the parents of home educated children who wish to pursue work experience through such arrangements. Where home educated children do participate in such schemes, it is for parents to ask about the extent the child is covered by, for example, the health and safety, child protection and insurance provision made on behalf of school children, often by intermediary bodies, which are necessary to safeguard the child. Where a child may be working during the day it is for the EHE team to ascertain whether this can be classed as work experience or actual paid work. *Elective Home Education, Departmental guidance for parents April 2019, 6.10 and 6.11.*

Process for issuing a work permit.

The administration process varies from each authority; some LAs have now moved to an electronic application process and some still require a paper copy. The system is not mandatory, and it is for authorities to decide how they wish to collate this information.

The model byelaws contain the information that is required from employers, parents, schools, and local authorities about the employment.

The **employer** must apply for the permit, to the local authority in whose area the employment takes place (not where the child lives or where the child goes to school) this is in accordance with the *Guidance on the Employment of Children 2009.*

Employers Responsibility

The employer is responsible for providing the information required by the LA within a week of employing a child. This is stated in the Model Byelaws 1998; however, these timescales do vary between authorities.

The employer must provide (usually through completing an application form).

- The employers name, business address, contact details including email address.
- The name of the young person, their date of birth, parents/carers contact details including email address.
- The hours that the child is going to work and on what days.
- Details of where the employment will take place and the duties that the young person will undertake for this role.
- Statement to say they have conducted a risk assessment appropriate for the young person and this has been shared with their parents/carers.
- The details of the school the young person attends.

Who has the authority to apply for a Work Permit?

The Children and Young Persons Act 1933 and the (model) Byelaws use the word "employer", but they do not define what this means in terms of a manager or other titled person, within a company or business who may be responsible for recruitment. Therefore, you could take the view that the person signing the form certifies they are the employer and if it has been signed by a manager then they are the nominated person to apply for a permit and they are responsible for ensuring the child is working within the legal constraints. It is advisable to add a clause to the 'Employer Declaration' on the employment permit application form. For example; In completing this Declaration I confirm that I have authority to submit this application form on behalf of the company or business named herein", **or** "In completing this Declaration I assume responsibility for ensuring that the restrictions and conditions contained within an employment permit, if granted upon receipt of the application, are adhered to."

Parental Responsibility

- To certify that their child is fit to work.
- That they have seen the risk assessment
- They agree for the employment to be carried out.

Local Authority Responsibilities

Once the local authority receives an application, they must be satisfied that:

- The work carried out by the young person fits within the byelaws.
- The work will not affect the child's health, welfare, or ability to take full advantage of their education; *Model Byelaws Section 10(b).*
- The child is fit to undertake the job by ensuring the parent has confirmed this on their application.

The Byelaws state a work permit must include:

- name, address, and date of birth of the young person
- the hours and on what days they are employed.
- job title and tasks involved.
- the place of employment

Whilst the byelaws do not state it, it is considered good practice to include:

- information about how and where to report any safeguarding concerns

A copy of the permit should go to the parent/carer, employer, and school.

Some local authorities have an expiry date on their permits, usually a year, then they request for the employer to reapply after this date if the young person is still in employment with them.

If the rules of the permit are broken or a child is working without a permit, then it is likely that the employer's insurance will no longer be effective, and the child could be uninsured and therefore the employer is committing an offence and would be liable for prosecution.

Employer Checks & Site Visits

The LA may wish to carry out a new employer check or site visit to establish suitability of the proposed employment. The officer should inspect the premises to check they are suitable for the young person to work in, and the employment is permitted under their local byelaws. A New Employer Visit Form can be found on the website at the Child Employment - Guidance Document - NNCEE - National Network for Children in Employment & Entertainment. If the site inspection is in response to a report of a child working illegally or the employer refuses entry, refer to the document, A *Guide to Enforcement and Investigations Employment and Performance.*

Code Of Practice

Some authorities have adopted a Code of Practice agreement with employers, whereby the employers sign up to a standardised Code of Conduct and agree to working in a safe and responsible way with young people. Before a work permit is issued, they must sign the agreement. This was good practice adopted from Dudley LA and more information can be found on the NNCEE website Child Employment - Guidance Document - NNCEE - National Network for Children in Employment & Entertainment.

Risk Assessment

The Health and Safety (Young Persons) Regulations, 1997 requires employers to carry out an appropriate risk assessment, before a child is employed. This should be a suitable and sufficient assessment of the risks to the health and safety of the young person to which they are exposed whilst at work.

Health & Safety law recognises that young people in the workplace are particularly vulnerable and that extra precautions may be needed due to their lack of experience, training and awareness of risks.

The employer should ensure that the key findings of the risk assessment and the control measures introduced are reported to parents. Should it be identified that the young person requires specific equipment or clothing to fulfil the requirements of the job then the employer must provide these. The LA can also add conditions on to the work permit to prevent the young person carrying out certain duties if it is felt that they may be a risk.

The child employment officer is not responsible for conducting the risk assessment, but it is advisable that you check the employer and parent have declared that the risk assessment has been carried out. This can be done by stating on your application form the following:

"The Health and Safety (Young Persons) Regulations, 1997 require employers to carry out an appropriate risk assessment before a young person starts work and inform their parent/carers of the outcome and measures in place to reduce risk. Should you require more information on risk assessments contact your local Environmental Health Service or Health and Safety Executive"

Have a declaration on the application form for both employer and parent/carer, examples below:
***Employer** "I can confirm that an appropriate risk assessment has been carried out under the requirements of the Health and Safety (Young Persons) Regulations,1997 and the parents/carers have been informed of this.*
***Parent/carer** "I can confirm that the employer has provided me with information about the findings of the risk assessment and the control measures they have introduced to reduce any risk.*

Further information and guidance on ensuring an appropriate risk assessment has been carried out can be found at;* Young people at work - Risks - HSE and The Management of Health and Safety at Work Regulations 1999 (legislation.gov.uk) There are Risk Assessment templates and Health and Safety guidance documents on the NNCEE website for your information; https://www.nncee.org.uk/page/517/risk-assessment-and-health-safety. **Note:** as a child employment officer, your role is to ensure an appropriate risk assessment has been carried out and not to issue the work permit until this has been completed. If the employer is unsure what to put in a risk assessment then refer them to their local authorities health and safety officers and the Health and Safety Executive (HSE)*website.

Accidents at work

Employers are required to report accidents at work to the Health and Safety Executive under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDO) Reporting of Injuries, Diseases & Dangerous Occurrences RIDDOR (hse.gov.uk). It is also acknowledged that within the working sectors where young people are employed, accidents in the workplace are under reported. To prevent accidents in the workplace we need to understand the risks the young people are facing. Without employers applying for the work permit in the first-place local authorities struggle to know where these young people may be working. It is fair to say that factors such as stress and tiredness have been reported as contributing to accidents.

Safeguarding

Employers have a responsibility to keep all the children safe. As we know safeguarding is everyone's responsibility. Therefore, we need to ensure employers know how to report any concerns they have about a child by providing them with contact details on how to report a concern.

It is also imperative that employers know about the signs to look out for. Share information with them about how the relationships young people form outside of their families (whether online or community) can sometimes expose them to violence and/or abuse. These threats can take a variety of different forms and children can be vulnerable to multiple threats, including Child Criminal Exploitation (CCE) by criminal gangs and organised crime groups such as county lines; trafficking, online abuse; Child Sexual Exploitation (CSE) and the influences of extremism leading to radicalisation.

Place information on your local authority website to share information with young people, parents and employers, it is good practice to put on the bottom of the work permit details of

who to contact or how to report any safeguarding concerns, it is also recommend that this is shared on your council's web page so people can see this, and it is easy for them to report in concerns to be investigated. Suggestions below:

If I have any safeguarding concerns, who can I speak to?
If you wish to speak to someone or report a concern, contact details can be found on our website. You can also report this to the Child Employment Officer.
What do I do if I am unhappy about an incident at work?
If an incident happens that you are unhappy about or makes you feel uncomfortable it is very important that you share your concerns with someone. Talk to an adult that you feel will be able to help in this matter. This could be your parent, legal guardian or a teacher who can support you and report this to the Child Employment Officer. Further support can be found on the following website: www.childline.org.uk

Local Authority Child Employment Officers

Many local authorities have a dedicated Child Employment Officer or Team (dependant on resources). The National Network for Children in Employment and Entertainment (NNCEE) is an association of mostly local authority officers who have responsibility for the licensing of children of compulsory school age who are working part-time or taking part in performances and entertainment. It is strongly recommended that each local authority has at least one member of staff assigned to child employment, as the named member could then attend and participate in regional NNCEE meetings. Members also have full access to the NNCEE website and can attend the AGM. The purpose of being a member of this valuable organisation is to: offer mutual support, share good practice, promote, and encourage safeguarding of all children who are employed, offer a national voice, seek dialogue with government and other organisations about all issues affecting child employment, promote an interagency approach and to promote consistency of practice nationally for local authorities and other organisations in the field of child employment.

An Inter-agency Approach.

The role of the Child Employment Officer is primarily one of safeguarding and enforcement. Multi-agency working is paramount to effective safeguarding of children in employment. Child Employment Officers are the lead professionals concerned with child employment on behalf of their Local Authority and it is crucial they develop an inter-agency approach through which they can fulfil their responsibilities. Agencies cannot and should not work in isolation when dealing with child protection issues and it has been long established that collaboration is essential and mandatory through Working Together to Safeguard Children (statutory guidance on inter-agency working to safeguard and promote the welfare of children). Working together to safeguard children - GOV.UK (www.gov.uk)

The NNCEE views the monitoring of child employment as an important aspect of child safeguarding work. It is vital that practitioners work together to gain a full overview of a child's situation and have a co-ordinated approach to provision of support. In addition, working alongside other agencies is a reminder to others of their responsibilities and accountability should a case of grave concern become known. There is still limited knowledge on child employment amongst other professionals, and the public. Developing an interagency approach is a positive way of raising the profile and spreading the message that child employment is legislated and local authorities have a statutory responsibility for issuing work permits, investigating referrals of suspected illegal child employment, inspection of premises where children are employed, enforcement of the licensing requirements and has several powers to carry out inspections to ensure a child's welfare is maintained.

Working together with other Agencies – There are many agencies to network with, due to the detailed list, we have produced this guidance which can be found on the NNCEE website; Child Employment - Guidance Document - NNCEE - National Network for Children in Employment & Entertainment

Using the media to your advantage

Media coverage gets your message across to a wider audience and is an opportunity to raise awareness of child employment. Regularly putting messages out on different social media platforms, especially those that young people most commonly use can really help in raising awareness amongst these groups. If you have good news stories or businesses that carry out good practice or even if you have had a prosecution or an accident in the workplace these can be used to raise awareness in the media.

Use your Local Authority Communications Team to support with distributing a story/information. They can offer guidance in the layout and the distinct types of marketing for your local communities.

The various trade press publications also offer good opportunities to address specific employer or professional groups. The National Federation of Retail Newsagents, for instance, has published articles in the past.

Approaching your senior leaders

Child Employment is a statutory responsibility for the Local Authority. It is important that senior leaders are aware of this work and reviews of the work are undertaken and supported where appropriate. Let them know what you are doing, what you are supposed to be doing and what you cannot do through lack of resources or other priorities. It is your responsibility to ensure your managers are aware of the law.

Campaigns- Targeting employers and empowering young people.

Think broadly about child employment issues and opportunities to promote them. National child employment week/month provides an annual national focus. There are plenty of resources that are updated regularly on the NNCEE website that can help you with raising awareness within your LA.

Work Experience

Legislation on work experience is based in a different legislative framework and falls under Section 560 of the Education Act 1996. This Act states work experience may take place in the last two years of compulsory education. It is clearly seen as part of the young person's education not employment. It is unpaid, subject to different insurance arrangements and an health, and safety criteria. The enactments (Acts of Parliament, Regulations or Byelaws for instance) that prohibit or restrict the employment of children do not apply, where the employment is work experience.

Work experience must be arranged by the local authority or by the governing body of a school acting on behalf of the local authority if these rules are to be relaxed. This relaxation of rules is contained in section 560 of the Education Act 1996. A Local Education Authority could choose within its work experience arrangements, to further restrict the types of activity permitted. It may wish to prevent or control work experience within factories or an 'industrial undertaking' for instance.

None of the restrictions relating to hours apply but there are other rules, which normally apply to 16- and 17-year-olds rather than children under the school leaving age. Children on work experience should normally only work for no more than eight hours each day and 40 hours each week. In some cases, this will be a legal requirement under the Working Time Regulations 1998 (https://www.legislation.gov.uk/uksi/1998/1833/contents/made).
In other cases, although it may not be a legal requirement, it is recommended that children on work experience should not work longer than these hours.
None of the restrictions relating to light work apply.

Prohibitions: The following will still apply:

- The rules under the heading 'health and safety.'
- The rules governing employment in the sale of alcohol.
- The rules prohibiting employment in gambling.
- The rules prohibiting employment in boats.
- In addition, the Education Act 1996 preserves the effect of any rules about employment of persons below any specified age. This means that if any byelaws go beyond the model and set out additional prohibitions on, say, employment of children under fifteen then those prohibitions will continue to apply.

The following will not apply:

- The restrictions in the model byelaws, which means that permits are not required where the employment is work experience.
- The restrictions on street trading
- The prohibition on employment in industrial undertakings.

The Health and Safety (Training for Employment) Regulation 1990 ensures that young people doing work experience are covered by health and safety law. Employers offering work experience placements to children must provide them with the same health, safety, welfare protection and relevant training, that they give their own employees. Additional guidance on work experience for young people can be found on the Health and Safety Executive (HSE) website: www.hse.gov.uk/young-workers/employer/work-experience.htm

Extended Work Experience Placements

There is no statutory restriction on the length of any work experience placement. The guidance suggests two weeks, but it is only guidance and not enforceable. Some students at Key Stage Four with clear vocational plans and aspirations may fare better by being afforded the opportunity to pursue their vocational plans prior to their school leaving age. This is particularly the case when an academic pathway is not their intended route.

Students may participate in extended work experience from Year 10 until the last Friday in June of their Year 11. This must be arranged with the fully informed and explicit written consent of themselves and their parents. Extended work experience must be arranged by the Work Experience Co-ordinator of the student's school. They are responsible for assessing and monitoring the placement throughout their full duration. This includes the requisite checks and insurance cover.

Students must not receive payment or other renumeration from the work experience provider. The students are not employees, they are always enrolled school age students in receipt of work experience. They must remain on a school roll and continue to receive all the safeguarding protections and oversights that affords. It is the school's responsibility to check the student's attendance at work experience daily and follow up on absence. Should the student cease to attend work experience, they must return to full time attendance at school.

School leavers/young persons aged 16 and 17.

The legislation we work under ceases when a child leaves compulsory education. However, we are often asked the working rules for this age group. Though we have no responsibility to offer any guidance we can offer some basic information.

The law refers to young persons over compulsory school age (16 or 17), as a young worker. There are fewer restrictions on when they can work and for how long, but there are still some rules. They are only able to work for eight hours every day, or a total of 40 hours over the course of a week. They cannot usually work an overnight shift, but there are some exceptional circumstances where they can.

For children who are still fifteen after completing compulsory education, as they will turn 16 up until the end of August. The **Interpretation** section of **The Working Time Regulations 1998** defines a "young worker" as "a worker who has attained the age of 15 but not the age of 18 and who, as respects England and Wales, is over compulsory school age (construed in accordance with section 8 of the Education Act 1996) and, as respects Scotland, is over school age (construed in accordance with section 31 of the Education (Scotland) Act 1980)."

So, for example, an individual (in England) who in July 2022 was 15, with their sixteenth birthday falling in August 2022, and who therefore would have ceased to be of compulsory school age on the last Friday in June 2022, would, in July 2022, have been classed as a "young worker" under the definition quoted above; and any employment at that time (even though they were still 15) would have been subject to the Working Time Regulations.

For more detailed guidance you can sign post the enquirer to these websites:
The Working Time Regulations 1998 (legislation.gov.uk))
https://www.acas.org.uk/young-workers-apprentices-and-work-experience

Voluntary work

As well as employment in its normal meaning, the Children and Young Persons Act 1933 states that a person who assists in a trade or occupation carried out for profit is considered as employed even though he or she may receive no payment. So, the rules in the Children and Young Persons Act will apply where, for example, children help their parents in a shop without receiving any payment. The actual words used in the Act here are a "person who assists in a trade or occupation carried out for profit."

Guidance on the Employment of Children produced by the then department of children, schools, and families in 2009 considers that any occupation where the aim is to make a surplus would be considered as a trade or occupation carried on for profit so, in their view, unpaid work at a charity shop would count as employment, but not, for example, unpaid work at a youth club, therefore young people may still require a work permit if they are volunteering.

Duke of Edinburgh (DofE) Award

We are aware that several children will carry out volunteering work for the Duke of Edinburgh Award some LA's will issue work permits for this work and others will not. The DofE Assessor ensures that all necessary checks and risk assessments have been completed and are in place, so it could be said that a work permit is not required. Your LA needs to check with your legal services whether to issue permits.

Frequently Asked Questions

Whilst we have this guidance booklet, we know we cannot cover every scenario and there are often certain areas of child employment that are raised frequently at our regional and national meetings. Please look on the NNCEE website where there is an updated section of frequently asked questions Frequently Asked Questions - NNCEE - National Network for Children in Employment & Entertainment. There are also FAQs in the Hidden Army - NNCEE - National Network for Children in Employment & Entertainment and most of them in this book are still current, however it is recommended that you check any legislation quoted is still in statute before citing it.

Can a young person work for more than one employer?

Yes, but each separate job must be covered by a separate work permit. The limits on working times/hours will apply to the total hours of all jobs. For example, a child can work for two different employers on a Sunday, but the total hours for all jobs combined must not exceed the permitted two hour maximum.

Can a young person be self-employed?

Self-employed is not covered within the legislation. The legislation relies on the existence of an 'employer' to be legally responsible and in a self-employment situation, there is by definition, no employer.

Technically a child cannot employ themselves, however we are aware of young people setting up businesses such as cake making, recycling services, babysitting and car cleaning, to name a few. In such situations it would be good practice to understand what the young person is doing;

- are parents aware?
- are there boundaries and safety measures in place?
- could it be a situation where the parent could actually be the employer?

In such cases, consider contacting your local authority health and safety officers and the HSE for advice and then consult with your legal services.

Is a permit required for babysitting?

No, because babysitting does not fall under child employment regulations. There is more information on babysitting on The Royal Society for the Prevention of Accidents (ROSPA) website:www.rospa.com/school-college-safety/teaching-safety/whole-school-approach/babysitting

Do the laws apply to Gypsy, Roma, Traveller (GRT) children?

There are no specific requirements relating to the GRT community within either the Children and Young Persons Act 1933 or the model byelaws. Though the values and culture of Gypsy, Roma and Traveller communities may differ, it is imperative that families are aware that the law applies to all children.

Does the minimum wage apply to young workers?

There is no minimum wage for children of compulsory school age. Young people become eligible for the National Minimum Wage (NMW) when they have officially reached school leaving age. The rate of NMW will then depend on their exact age. There is not a National Minimum Wage for people under 16 who are younger than the school leaving age. https://www.gov.uk/national-minimum-wage-rates

Do young referees need a work permit?

From the age of 14, young people can apply to their local FA to become a registered referee. The FA will ensure young persons have the relevant qualifications. They will receive a two-day course and then they can register with their local county FA, but they are not under any contract with the County FA. They will source games either via a league or a relationship with a particular club. The referees receive a payment for this from £20-£30 per match. It is the view of the NNCEE that this is considered to be working and a work permit should be issued. Currently, this is not done nationally and the NNCEE are not aware of any LA's issuing work permits for this. We are also aware that this could open the flood gates and create an influx of work permit applications coming into LA's which is why the NNCEE are working closely with the safeguarding team within the FA to consider all roles carried out by under 16-year-olds for all football clubs and at football games. Further advice will be issued in due course and will be published on the NNCEE website.

Can a child accompany their parents to work?

HSE guidance - There are no regulations that prevent a child from visiting the workplace. with their parent. Any child who attends the workplace should be appropriately supervised. depending upon the specific risk of the site.

SUMMARY on Roles - Responsibilities – Legislation	
LOCAL AUTHORITY (LA) *(Who you pay your Council Tax to)*	**STATUTORY RESPONSIBILITY TO ENFORCE CHILD EMPLOYMENT LEGISLATION** • S.101 Local Government Act 1972 (LGA72) • S.222 LGA72 gives power to prosecute & defend • S.223 LGA72 gives power to appear in legal proceedings
EMPLOYERS	**LEGAL RESPONSIBILITY TO ABIDE BY THIS LEGISLATION. CONTRAVENTIONS OF ANY PART OF THE LEGISLATION IS A CRIMINAL OFFENCE IF PROVED:** • Children & Young Person Act 1933 S.21 "employer & and any person (other than the person employed i.e., *the child)* to whose act or default the contravention is attributable". The Act says the responsibility is upon the employer to satisfy the court that the fault is attributable to someone other than himself. • Contraventions of any or all parts of S.18 • Contraventions of any or all parts of LA Byelaws S.18 (2)
PARENTS/LEGAL GUARDIANS	Also have a legal responsibility to abide by the legislation. Parents can be guilty of a criminal offence if it is proved that they knowingly condoned the employment.
CHILD	**IS NOT GUILTY OF AN OFFENCE**
COMPULSORY SCHOOL LEAVING AGE	Last Friday of June in the school year in which the child reaches the age of 16.
EMPLOYMENT	"Assistance in any trade or occupation which is carried on for profit, whether or not payment is received for that assistance." (includes paid, unpaid, gifts etc. etc.)
PLACE OF WORK	The area where the actual work takes place, i.e., where the Council Tax is paid is generally a good guide. **Note:** If you are unsure of the area, this website may help https://www.gov.uk/find-local-council
LIGHT WORK	Tasks, which are not harmful to the child safety, health, development, attendance at school or experience gained from it.
FACTORY *Factories Act 1961, Section 175*	"Any premises in which, or within the close or curtilage or precincts of which persons are employed in manual labour in any process for or incidental to any of the following purposes" ***full list can be found in the Act***
BYELAWS *Children & Young Person Act 1933 S.18(2)*	Empowers local authorities to make local byelaws with further conditions for children employed in their LA, it sets out the prohibited and permitted types of employment, age children can be employed, hours, times, rest and registration procedures.
RISK ASSESSMENT	"The Health and Safety (Young Persons) Regulations, 1997 requires **ALL** employers to carry out an appropriate risk assessment (there are special rules where young persons are to be employed). It should be a suitable and sufficient assessment of the risks to the health and safety of the young person to which he or she is exposed whilst at work. The key findings of the risk assessment and the control measures introduced must be reported to parents. Risk Assessments fall under the jurisdiction of Environmental Health & Health & Safety Executive. The Health and Safety Executive (HSE) have more information for employers on managing risks and risk assessment at work. There are many Risk Assessment templates available.
WORK EXPERIENCE	Legislation on work experience is based in a different legislation framework and falls under Section 560 of the Education Act 1996. It is considered as part of a child's education not as employment.

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Disclaimer

This guidance has been written based on information sourced from the booklet entitled A Guide to Legislation and Practice in the Regulation of Child Employment, written by Chris Small in 2001, on behalf of the NNCEE and Guidance on the Employment of Children produced by the then department of children, schools, and families in 2009. Though these booklets still refer to current Child Employment legislation, it was recognised in the absence of changes to legislation/new government guidance an updated booklet is required.

It also includes contributions of experience and good practice from officers working in the field; it reflects good sound advice based on practical experience. It should not be taken as providing an authoritative interpretation of the Acts, regulations, or byelaws, as that is a matter for the courts. NNCEE cannot be held legally responsible or liable for any losses or otherwise to local authorities, organisations and persons arising from interpretation of this guidance.

References

- 'Exposing the Hidden Army: A Guide to Legislation and Practice in the Regulation of Child Employment,' written by Chris Small 2001
- Guidance on the Employment of Children produced by the then Department of Children, Schools, and Families in 2009
- Elective Home Education, Departmental guidance for parents April 2019
- National Network of Children in Entertainment & Employment website (public and members area) NNCEE - National Network for Children in Employment & Entertainment
- Direct gov website Welcome to GOV.UK (www.gov.uk)
- Legislation.gov website Legislation.gov.uk
- HSE (Health and Safety Executive) Website HSE: Information about health and safety at work