

# Children's Work Permits, Children's Performance Licensing and Chaperone Approvals Policy

**2023 to 2028**

## Consultation on Policy

This policy governs the regulation of many activities relating to the employment and protection of children in working and performing environments. There have not been any significant legislative changes, however changes have been proposed to improve clarity of process.

James Sloan Licensing Officer



<b>Date</b>	<b>Version</b>	<b>Author</b>	<b>Comments</b>
<b>June 2016</b>	<b>1.0</b>	<b>Ed Fisher</b>	<b>Draft for consultation</b>
<b>November 2016</b>	<b>1.1</b>	<b>Ed Fisher</b>	<b>Draft for committee endorsement</b>
<b>January 2017</b>	<b>1.2</b>	<b>Ed Fisher</b>	<b>Draft for adoption</b>
<b>March 2017</b>	<b>1.3</b>	<b>Ed Fisher</b>	<b>Adopted policy</b>
<b>April 2023</b>	<b>2.0</b>	<b>James Sloan</b>	<b>Draft for consultation</b>

## Contents

## Page

1.	Scope of Policy	3
2.	Powers and Duties	4
3.	Children's Performance and Activities Licensing	5
4.	Chaperone Approvals	6
5.	Work Permits	6
6.	Enforcement	6
7.	Delegated Powers & Decision Making	7
8.		
9.		

## Annex

Annex A	List of Consultees
Annex B	Children's Performance and Activities Licensing
Annex C	Chaperone Approvals
Annex D:	Work Permits
Annex E	Milton Keynes Council Byelaws on employment
Annex F	Prohibited Employment

## 1. Purpose and scope of this policy

- 1.1. This policy contains information about legal requirements, published guidance; Council policy; procedures and conditions relevant to the licensing process that allows young persons to perform or work when a licence or permit is required under legislation.
- 1.2. The policy also covers the grant of chaperone approvals to those adults supervising and caring for children taking part in performances.
- 1.3. Appendices that form part of this policy may be updated from time to time.
- 1.4. The Authority processed more than 200 Performance licence application, 40 Body of Person Approval in 2022 and 70 chaperones are currently registered with Milton Keynes.
- 1.5. The aim of the licensing process is to safeguard children and the Council considers that the welfare of a child must be of paramount importance. The Council will therefore seek to apply the legislation concerned consistently and where the law is unclear to interpret what is required by having clear policy requirements.

Change: move text from section 3 to here
Reason: better follow to document

Change: removed
Reason: not required

## 2. Powers and Duties

- 2.1. The Council is required to process applications for persons and bodies' resident / operating in their administrative area for the following:
  - a) For children taking part in performances requiring a licence as defined under the relevant legislation.
  - b) For children engaged in activities of paid sport and/ or modelling.
  - c) For chaperones who undertake supervision of children under the performance licensing framework.
  - d) For children requiring a work permit as detailed under the relevant legislation.
- 2.2. The Council is also responsible for undertaking inspections and carrying out any appropriate enforcement action for the activities detailed at 4.1 that occur within its boundaries. The Council can also consider enforcement action against persons

who have been granted a licence by the Council that applies to activities taking place outside of the borough.

2.3. Undertaking these duties will entail information sharing with relevant agencies including service areas of the Council itself; the Police and other Local Authorities.

2.4. In exercising its discretion in carrying out regulatory functions, the Council will have regard to this policy document as well as any corporate policy statement on the safeguarding of children.

2.5. Notwithstanding the existence of this Policy, each application or enforcement measure will be considered on its own merits. Where it is appropriate for the Council to depart substantially from its Policy, clear reasons will be given for doing so.

2.6. Nothing in this Policy prevents an applicant or licence / permit holder from requesting that the Council considers the individual merits of their case and or to depart from its Policy. Such request may either be in writing to, or made orally before, a Regulatory Sub-Committee, or Officers of the Council as deemed appropriate in the circumstances of the case.

2.7. This Policy (and associated work procedures) will provide guidelines for applicants, employers, parents and to staff required to administer and enforce the licensing function with appropriate guidelines

Change: add text
------------------

Reason: further clarity
-------------------------

2.8. This Policy shall be kept under review and revised as appropriate and in any event not more than every five years.

2.9. This Policy does not override legal requirements detailed in primary and secondary legislation.

2.10. Any enforcement action will have regard to the Councils' adopted enforcement policy and national enforcement guidance (for example the Regulators code or equivalent).

2.11. The Council will have regard to relevant policy documents in respect of the discharge of its functions.

2.12. The Council will accept applications submitted electronically (for example by email). Confirmation of some original documents maybe required in the case of **criminal record checks (DBS etc)**.

Change: add text about document submission
--

Reason: To provide clarity about application process
--

2.13. **Although the legislation and this policy specify the information that applicants need to provide when making an application it is the expectation that the Standard Child Performance and Activities Licence Application Form (England) is used.**

Change: add text about application
------------------------------------

Reason: Is now a standard application form
--

- 2.14. The Council consulted those organisations; businesses and individuals as listed at Annex A in respect of this policy. The list of consultees will be updated from time to time.
- 2.15. The Council reserves the right to charge an administration fee for replacement; lost or additional copy licenses or approvals where so doing is beyond the requirements specified in the legislation concerned

### 3. Children’s Performance and Activities Licensing

- 3.1. Legal requirements are set out in the Children’s and Young Persons Acts 1933 and 1963 together with the Children (Performances and Activities [England] Regulations 2014. This policy does not reiterate the legal requirements but provides supplementary information on how the law will be applied where interpretation is appropriate.
- 3.2. Details on the Councils interpretation of specific legal requirements and its allied procedures and policies are outlined at Appendix B. .

Change: remove text
Reason: Regulation document not included in policy, is accessible online.

### 4. Chaperone Approvals

- 4.1. Legal requirements are to be found in the Children’s and Young Persons Act 1933 and 1963 together with the Children (Performances and Activities [England] Regulations 2014. This policy does not reiterate the legislation but provides supplementary information on how the laws will be applied where interpretation is appropriate.

Details on the Councils interpretation of specific legal requirements and its allied procedures and policies are outlined at Appendix C.

Change: remove text
Reason: Regulation document not included in policy, is accessible online.

### 5. Work Permits

- 5.1. Legal requirements are to be found in the Children’s and Young Persons Act 1933 and 1963 together with the other regulations in respect of young people such as the Children (Protection at Work) Regulations 1998. This policy does not reiterate the legislation but provides supplementary information on how the law will be applied where interpretation is appropriate and also details the byelaws we have adopted in this area.

5.2. Details on the Councils interpretation of specific legal requirements and its allied procedures and policies are outlined at Appendix D and E.

## 6. Enforcement

- 6.1. The Council will take appropriate action upon receipt of evidence that an offence has been committed in relation to the legislation concerned; a breach of policy; or other matter of importance. Details of the Milton Keynes City Council enforcement policy is available on the Council website or can be provided on request. Any action shall be proportional, reasonable, transparent and appropriately directed. Details on enforcement action taken will be shared with appropriate agencies and Council services.
- 6.2. Issues arising at Milton Keynes venues operating under licences issued by other Authorities will normally be referred back to the issuing authority for consideration of appropriate legal proceedings and action but Milton Keynes City Council may still gather evidence; undertake investigations, inspections and take action we consider necessary (including legal action) within our borough on issues arising.
- 6.3. The Council will aim to undertake targeted enforcement operations (including out of normal office hours) based on intelligence received as well as for compliance purposes.
- 6.4. The Council will investigate complaints received in respect of licensed and unlicensed individuals or events that required participants to hold a licence.
- 6.5. The Council will share information with other agencies in respect of potential illegal activities and safeguarding concerns and conduct joint enforcement activities when necessary. This will include providing information and using enforcement activity in respect of licence holders where agreements and necessary delegations are in place.
- 6.6. Failure to comply with the legal requirements laid down in the legislation listed at 5.1.1 can lead to criminal proceedings against any person (for example licence holders; chaperones and employers). A parent or guardian is also legally responsible where they have allowed a contravention to take place. Fines on conviction are set at standard Level 3 and / or imprisonment not exceeding three months.

Change: amend text
--------------------

Reason: slight aesthetic changes to wording
---

Change: remove text
---------------------

Reason: Such hearings are not held
------------------------------------

## 7. Delegated Powers & Decision Making

7.1. The Council has delegated responsibility as per the table below for exercising functions under the legislation.

7.2. Officers of the Council are permitted to issue informal and formal written or otherwise as well as cautions and may instigate prosecutions where appropriate.

7.3. In general terms where an applicant is aggrieved by the Council's decision to refuse to grant a licence or by any conditions imposed or where a licence is revoked the applicant or licence holder normally has a right of appeal to the Magistrates Court within 21 days of the applicant being notified of the Council's decision.

7.4. Prior to refusal a committee hearing may be held to determine any application which is contested or where there are questions as to the suitability of the applicant or where they wish to make oral representations against a proposed decision. A referral to committee is unlikely to be made where a respondent has not made representations to that effect as outlined under 4.6

### Table of Delegation of Functions

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Executive (cabinet)</b>	<b>Regulatory Committee</b>	<b>Regulatory sub- committee</b>	<b>Officers</b>
Policy		All cases			
Applications for Work Permits including grant; refusal; variation and rescinding of such permits				If referred by Officer	All cases unless referred
Applications for chaperone licence / approvals including the grant; refusal; withdrawal and amendment of such licenses				If referred by Officer	All cases unless referred
Applications for children's performance and activities licensing including the grant; refusal; revocation or amendment of such licenses				If referred by Officer	All cases unless referred
Applications for Body of Persons Approval including the grant; refusal; withdrawal or				If referred by Officer	All cases unless referred



amendment of such approvals					
Adoption of byelaws applicable to work permits	All cases				

## Annex A

### List of Consultees

#### Milton Keynes City Council

- Equalities
- Members
- Environmental Health
- Social Services
- Education Welfare
- Education schools
- MK Together Safeguarding Partnership
- MASH
- LADO

#### Thames Valley Police

- Licensing
- Thames Valley Police – CSE

National Network for Child Employment and Entertainment

Neighbouring Local Authorities

Performing Arts and Dance Schools in Milton Keynes

Existing holders of Body of Persons Approvals

Principal venues in Milton Keynes that host performances

Representative agents who submit applications

Representative licence holders and chaperones

Change: remove specifics of consultees
--

Reason: These are subject to change, removal allows greater flexibility
---

## Annex B

### Children's Performance licensing

B1 Unless an exemption applies, a licence is required until a child reaches the compulsory school leaving age. This is defined as the last Friday in June of the school year that they reach 16. This means that a child who becomes 16 between September and June will still require a licence until the last Friday in June of that school year. For children with a birthday in July or August and in such cases the Council will require a licence until the date of their 16<sup>th</sup> birthday.

Change: remove text
---------------------

Reason: Clarity
-----------------

B2 The legislation allows that a Council may refuse an application if it is not submitted a minimum 21 days before a licence is required. The Council recognises that this time period is not always attainable for applicants to achieve and will generally accept complete applications up to 5 working days before the first day of a licensable activity. Incomplete applications, or those received less than 5 working days (not including the day of application) before a performance will normally be rejected and the Council retains the right to refuse applications received between 5 working days and the 21 days due to other pressures.

Change: amended text
----------------------

Reason: Clarity
-----------------

B3 A complete application includes all documents and information provided and an application form satisfactorily completed as per the regulations and primary legislation. The council will accept a passport as equivalent to a birth certificate but expect applicants to obtain the necessary leave of absence from the school as part of the documentation accompanying an application together with either a medical certificate or a parent's statement of fitness for their child dated within the last six months.

B4 Applications need to be made by the person who is responsible for the arrangements and operational decisions during the course of a performance for the purpose of protecting the child and ensuring their wellbeing. **This would normally be the producer of the performance or activity.** Applications signed by someone other than this will be returned.

Change: added text
--------------------

Reason: Clarity
-----------------

B5 In the event of a refusal, revocation or variation of a licence or application there is a right of appeal to the Magistrates Court. Clear reasons for the decision taken will be given in writing.

B6 Where a child does not live in Great Britain applications can be made by applicants on their behalf if they live or have their place of business in Milton Keynes. When neither the child nor applicant resides in Great Britain the Council will accept applications if the performance or first performance (if part of a tour) takes place within our administrative boundary.

- B7 The Council cannot grant licences for children residing here but with an intention of performing abroad. This is a Magistrates Court function.
- B8 Conditions will be applied to licences as considered appropriate to the welfare of the child / children. In addition, as the roles that child performers undertake can be varied there are occasions when they can be exposed to issues of physiological and physical concern (for example a part in a horror film; scenes of death; simulated drowning etc.). The Council may therefore require a suitable and sufficient risk assessment covering issues of concern and information as part of an application detailing the synopsis of a role including a script.
- B9 The Council will have regard to any relevant guidance (such as the NNCEE Guide to Child Performance Licensing and Department of Education) advice on interpretation of the legal requirements when considering applications.
- B10 The Council does not interpret the law as to allow the extension of a licence once it has expired. In such cases a new application would need to be made. Applications to vary (including to extend) a licence will be considered provided the licence concerned is still current or the permission concerned has not yet commenced.
- B11 The Council expects organisations working with children and young people to have child protection policies in place and for these to be provided with applications. Such policies should comply with good practice guidance and identify a safeguarding lead for the licence concerned and provide an awareness of safeguarding issues
- B12 Council policy is that children taking part in performances or licensed rehearsals should have one break of at least an hour when present for four or more consecutive hours unless the chaperone present believes the minimum 45 minute break prescribed in legislation is appropriate. This is because although the Council recognises that Regulations stipulate performance breaks after certain periods of time, these are minimum requirements and the Council reserves the right to require additional breaks beyond these, dependant on the role concerned and the age of the child
- B13 In respect of overnight breaks it is expected that most children should have a break of no less than 14 hours duration.
- B14 Where a licence holder is arranging education for a child through private tuition the council may require evidence of that teacher's suitability and also that the children are being tutored in appropriate surroundings
- B15 Tutoring for children absent from school may only take place on days on which the child would normally be required to attend a Local Authority maintained school. Thus weekend and school holiday tutoring is not permitted. On days when tutoring is permitted it should not be provided after 5pm.
- B16 Children are not expected to be left to travel home or to their temporary living accommodation unless accompanied by a suitably competent adult. As part of its assessment of the suitability of accommodation the Council may also consider the

distance from the performance; the method of travel to and from the place of performance; and availability of interconnecting rooms

B17 The Council recognises that there can be exemptions on certain performance licensing where a child performs on fewer than four days in a six month period. Certain caveats are listed in the legislation for the exemptions to apply. The six month period will be based on the six months immediately preceding the first date when a new licence may be required.

Change: general amended text
------------------------------

Reason: Clarity
-----------------

B18 An exemption from a licence under this rule does not mean an exemption from regulations on the hours of performance etc.

B19 The Council will issue an exemption notice on request where they are formally advised that a child is performing under the four day or other exemption rule so that this can be produced at the place of performance if required. Supply of an exemption notice will only take place if the person seeking the notice has provided sufficient information to the satisfaction of the Council.

B20 The Council recognises the chaperone discretion in respect of performance hours for children as detailed at Regulation 29 of the Children (Performance and Activities) (England) Regulations 2014. In addition, as the chaperone is the main person responsible for a child's welfare during a performance the licence holder should have due regard to any concerns raised to them in respect of a child's health and kind treatment under the jurisdiction of a licence. Where such situations occur, the Council would expect to be notified by the chaperone concerned within 24hours in case further intervention by the Council was justified.

B21 The Council may condition a performance licence in respect how a child's earnings are appropriated. This is more likely for those children receiving significant monies for performances and would be to ensure such earnings are not unjustly spent by those with parental responsibility. As a result, the Council may require a percentage of monies earned to be deposited in a bank account for the sole use of child. In considering a child's earnings (or payment) the Council may consider 'expenses' received if these are decided to be unreasonably high in the circumstances and considered to be in effect a 'disguised' payment.

B22 The Council expects separate toilet facilities for children and adults to be available at places licensed for rehearsals and performances.

B23 The Council respects the legal requirement that chaperones can supervise a maximum of 12 children but believes there may be occasions where a lower maximum number is justified. Factors that can be relevant include the nature of the production; the layout of the premises; the ratio of boys and girls; the ages of the children.

### **Body of Persons Approvals (BOPA)**

B24 A BOPA can reduce the requirement for obtaining performance licenses on certain organisations arranging performances in the area of Milton Keynes but there can be

no compromise in safeguarding arrangements in deciding an application for an approval. The Council consider that performances under a BOPA should therefore be undertaken with the requisite number of approved chaperones unless equivalent safeguarding controls can be demonstrated, for example if children are being cared for by their parent or the teacher who would ordinarily provide the child's education it may be that approved chaperones are not required. Where they are able to demonstrate acceptable procedures are in place then the council may agree a mix of supervision options consisting of local authority chaperones, DBS checked adults, teachers and a child's own parent.

Where they are unable to demonstrate acceptable procedures are in place then only the use of local authority approved chaperones will enable the group to be considered for a body of persons approval.

Change: added text
--------------------

Reason: To bring in line with NNCEE guidance
--

B25 Applicants for a BOPA should provide an up to date suitable Child Protection Policy. Such policies should comply with good practice guidance and identify a safeguarding lead provide an awareness of safeguarding issues.

B26 Applications should be submitted a minimum of 21 days before the date of first performance.

B27 The Council may issue a BOPA for a period not exceeding 12 months or a shorter timescale if deemed appropriate.

B28 The Council may impose appropriate conditions on an approval to ensure the wellbeing of the children.

B29 The Council reserves the right to withdraw (or revoke) or to amend or refuse a BOPA if it considers it appropriate to do so. Where such actions take place reasons will be provided in writing.

B30 There is no renewal procedure in the law for a BOPA so a new application will need to be made each year to retain an approval.

## Annex C

### Chaperone Approvals

C1 The role of a chaperone is to safeguard, support and promote the wellbeing of a child / children as well as to have care and control of that child / children. They are the key person who protects; safeguards and supports a child under the licensing system. Chaperones are required for licensed and other approved events unless the child is being cared for by their parent or the teacher who would ordinarily provide the child's education. As an approved chaperone the Council expects such adults to safeguard children and to prevent and report any neglect or abuse as well as to raise concerns about the safety or welfare of a child and to act where they can.

C2 The Council reserves the right to refuse; withdraw (or revoke) or to amend a chaperone approval if it considers it appropriate to do so.

C3 The Council recognises the important role that the voluntary sector play in society but the tests in terms of suitability to grant an approval remain the same as a 'standard' chaperone. Any 'volunteer chaperone approval' will not allow the chaperone to undertake paid or employed chaperone work. Guidance on this matter will be available on request.

Change: amended text
----------------------

Reason: Clarity
-----------------

C4 In considering if a person is suitable and competent to exercise proper control the Council will require applicants to attend relevant training and if required an interview on the role and duties of a chaperone before an approval is granted or renewed. Applicants and holders of an approval may also be interviewed on issues arising that cause concern to the Council. The Council will provide a suitable training course or direct applicants to alternative provision (such as another local authority provider) or the NSPCC Protecting children in entertainment training for chaperones.

Cx The Council acknowledges that the NNCEE guidance promotes a face-to-face interview for chaperone applicants. However, the requirement for DBS, completion of a specific training programme and consultation with other departments circumvents the need for interview except under officer discretion.

Change: added text
--------------------

Reason: detail qualification expectations for chaperones and whether applicant interviewed.
---

C5 The Council will consider an individual's criminal record and other information gained by enquiry when deciding if a person is suitable to be approved or remain as a chaperone.

C6 Any person seeking to be approved as a chaperone is required to declare convictions; cautions; and ongoing Police or Court bail matters when they apply for an approval and if such matters occur during the term of their chaperone approval. Where such matters arise during the course of an approval or application they need to be declared to the Licensing body within the Council without delay and in any event, no more than 7 days after they occur.

C7 When considering an individual's application the Council will consider each case on its merits, but will take a particularly cautious view of any offences and or information involving violence; dishonesty; sexual related matters; substance abuse; offences or

inappropriate behaviour in relation to young people or health issues that could cause concern in respect of the role of chaperone.

- C8 Individuals with information recorded on their Barring Service certificate will be interviewed as part of the decision-making process unless the decision is to refuse the application.

Change: amended text
----------------------

Reason: To remove requirement for interview when DBS clearly shows applicant not to be acceptable.
--

- C9 Applicants are expected to ensure renewal applications are received by the Council at least two months in advance of their approval expiry date to ensure that their application can be decided in time. Responsibility for ensuring a renewal application is made rests with the licence holder. If an application is received late or is incomplete there may be insufficient time to process the application before the existing approval expires and the person concerned may therefore be unable to chaperone for a period of time.

- C10 An application must be made on the appropriate application form correctly completed in full by the applicant. Applicants should consider the time it takes to obtain an enhanced disclosure from the Disclosure Barring Service.

Change: amended text
----------------------

Reason: Informative to applicants
-----------------------------------

- C11 Chaperone approvals are granted for a maximum of three years but may be granted for a shorter period if considered appropriate.

- C12 The Council will not grant an approval to someone residing outside the administrative area of the authority.

- C13 The applicant must provide the following to satisfy the Council that they are suitable to be issued an approval. These are detailed below:

**A) A satisfactory enhanced disclosure and barring service (DBS). The Council may process a DBS application or utilise a third party company to allow applicants to obtain a criminal record check. Details of which will be listed on the Milton Keynes City Council website.**

Change: amended text
----------------------

Reason: Informative on how to obtain DBS
--

- b) In the event that the applicant has not resided within the UK for the last twenty years, an equivalent DBS check (for example a Certificate of Good Conduct from the relevant embassy or consulate for each country in which they have resided or where this cannot be obtained a statutory declaration or equivalent) is required covering their adult life after they attained the age of 18 until they reached the UK.
- c) Appropriate documentation from a list provided by the Council to confirm identity and address dated within the last three months.
- d) To demonstrate to the satisfaction of the Council an adequate knowledge of the law relating specifically to the legislation governing children's performance

licensing and safeguarding issues. The Council will provide a suitable training course or direct applicants to alternative provision (such as another local authority provider or the NSPCC Protecting children in entertainment training for chaperones)

Change: amended text
Reason: Clarity of qualification required.

e) A passport size photograph for each application made.

f) Suitable references.

Change: removed text
Reason: Not required

C15 Where a licence holder allows an approval to lapse or it is surrendered or revoked then a new application will need to be made to be licensed. The council does not class applications received after an approval has expired as a renewal. When the holder of an approval allows it to lapse, or it is surrendered then a new application will need to be made and granted for them to be approved again. The Council does not class applications received after an approval has expired as a renewal.

C16 An Disclosure and Barring Service enhanced certificate will be required as part of an application or renewal process. The certificate needs to be presented to the Licensing Office where a copy will be made with the certificate holders consent. The Council will accept an existing enhanced DBS certificate from another body or from the on line DBS updating service but such certificates must refer to the correct role / occupation and need to be current. The DBS update service provides a way of making sure a certificate remains 'current' but certificates produced otherwise will be considered out of date if they are over three months old.

Change: amended text
Reason: Clarity.

C17 The Council can refuse a renewal application (or rescind an approval) if it considers the suitability test has not been satisfied. For example:

- a) Where the applicant has been convicted of a criminal offence, since the grant of the licence.
- b) Any other reasons to do so, including but not restricted to breach of legal requirement and / or policy requirements, justified complaints, evidence of dishonesty or breach of trust, failure to act in the interests of a child

C18 The Council may require another disclosure at any time if a further check is considered necessary.

C19 A serious view will be taken of any application that seeks to conceal any caution or conviction in order to aid the process of obtaining an approval.



## Annex D

### Work Permits

- D1 A permit is required until a child reaches the legal school leaving age. This is defined as the last Friday in June of the school year that they reach 16. This means that a child who becomes 16 between September and June will still require a licence until the last Friday in June of that school year. For children with a birthday in July or August the Council will require a licence until the date of their 16th birthday.

Change: amended text
----------------------

Reason: Clarity.
------------------

- D2 Work Permits are issued subject to Council byelaws (see Appendix D). These cover the nature of work activity the Council considers potentially appropriate and are in addition to those restrictions laid down in the legislation.
- D3 A child undertaking work experience arranged by the local authority or by the governing body of a school acting on behalf of the local authority will not require a work permit. This relaxation of rules is contained in section 560 of the Education Act 1996. The work experience must be in the last two school years during which the child is of compulsory school age. This does not remove the need for any such

employer etc. to undertake and comply with appropriate risk assessments under the Health and Safety at Work Act 1974 and its subordinate regulations.

Change: amended text
----------------------

Reason: Confirm work experience guidance for NNCEE.
---

- D4 As part of applications for a work permit the Council will require a suitable and sufficient (young persons) risk assessment covering the work involved as part of consideration that the work will not be harmful to the safety and health of the child. Advice is available on the Council website.
- D5 Applications need to be submitted on the correct and fully completed application form.
- D6 To ensure the proposed work activity will not be harmful to a child's attendance at school or their overall health and development applications for work permits will be notified to the child's school and any comments received will be taken into consideration as part of the decision making process.

- D7 The legislation details the maximum number of hours a day / a week that a child can work

Change: removed text
----------------------

Reason: too prescriptive.
---------------------------

- D8 Permits can only be granted for businesses based in Milton Keynes.

Change: removed text
----------------------

Reason: Clarity.
------------------

- D9 The council may rescind or vary a permit if it considers necessary or refuse to grant a permit.

- D10 The legislation applies to 'employment'. **As well as employment in its normal meaning, a person who assists in a trade or occupation carried on for profit is considered as employed even though he or she may receive no payment. For example, children who help their parents in a shop without receiving any payment. Any occupation where the aim is to make a surplus would be considered as a trade or occupation carried on for profit therefore unpaid work at a charity shop would count as employment, but not, for example, unpaid work at a youth club**

Change: amended text
----------------------

Reason: Clarity
-----------------

- D11 As part of an application for a work permit the Council requires parental consent including contact details of the parent concerned.

Change: removed text
----------------------

Reason: included Annex F.
---------------------------

## Annex E

### MILTON KEYNES CITY COUNCIL BYELAWS

Made: 22 September 1998

Coming into force: 25th November 1998

Milton Keynes Council, in exercise of the powers conferred on it by sections 18(2) and 20(2) of the Children and Young Persons Act 1933, hereby makes the following Byelaws:

#### Citation and commencement

These Byelaws may be cited as the Milton Keynes Council Byelaws on the Employment of Children [1998] and shall come into force on 25th November 1998.

#### Interpretation and extent

2. In these Byelaws, unless the context otherwise requires:

“the authority” means Milton Keynes Council;

“Child” means a person who is not yet over compulsory school age as defined in section 8 of the Education Act 1996;

“employment” includes assistance in any trade or occupation which is carried on for profit, whether or not payment is received for that assistance;

“light work” means work which, on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed:

- a) Is not likely to be harmful to the safety, health or development of children; and
- b) Is not such as to be harmful to their attendance at school, their participations in work experience in accordance with section 560 of the Education Act 1996, or their capacity to benefit from the instruction received or, as the case may be, the experienced gained;

“Parent” includes any person who has for the time being parental responsibility for a child within the meaning of section 3 of the Children Act 1989;

“public place” includes any public park, garden, sea beach or railway station and any ground to which the public for the time being have or are permitted to have access, whether on payment or otherwise;

“street” includes any highway and any public bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not;

“street trading” includes the hawking of newspapers, matches, flowers and other articles, playing, singing or performing for profit, shoe blacking and other like occupations carried on in any street or public place;

“year” except in expressions of age, means a period of twelve months beginning with 1 January.

### **Prohibited Employment**

3. No child of any age may be employed:

- a) in a cinema, theatre, discotheque, dance hall or night club, except in connection with a performance given entirely by children;
- b) to sell or deliver alcohol, except in sealed containers;
- c) to deliver milk;
- d) to deliver fuel oils;
- e) in a commercial kitchen;
- f) to collect or sort refuse;
- 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;
- h) in employment involving harmful exposure to physical, biological or chemical agents;
- i) to collect money or to sell or canvass door to door;
- j) in work involving exposure to adult material or in situations which are for this reason otherwise unsuitable for children;
- k) in telephone sales;
- l) 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;
- 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;
- n) in the personal care of residents of any residential care home or nursing home.

### **Permitted employment of children aged 14 and over**

4. A child aged 14 or over may be employed only in light work.

### **Permitted employment of children aged 13**

5. A child aged 13 may not be employed except in light work in one or more of the following specified categories;

- a) agricultural or horticultural work;
- b) delivery of newspaper, journals and other printed material;
- c) shop work, including shelf stacking;
- d) hairdressing salons;
- e) office work;
- f) car washing by hand in a private residential setting;
- g) in a café or restaurant;
- h) in riding stables; and
- i) in domestic work in hotels and other establishments offering accommodation.

## **Employment before school**

6. Subject to the other provisions of these byelaws, children may be employed for up to one hour before the commencement of school hours on any day on which they are required to attend school.

## **Additional condition(s)**

7. No child may be employed in any work out of doors unless wearing suitable clothes and/or footwear.

## **Notification of Employment and employment permits**

8. Within one week of employing a child, the employer must send to the authority written notification stating:

- a) his own name and address;
- b) the name, address and date of birth of the child;
- c) the hours and days on which the child is to be employed, the occupation in which the child is to be employed, details of the task involved and, if different from (a) above, the place of employment;
- d) a statement of the child's fitness to work, and approval for the child to be employed completed by the child's parent;
- e) details of the school at which the child is a registered pupil; and
- f) a statement to the effect that an appropriate risk assessment has been carried out by the employer.

9. Where, on receipt of a notification, the local authority is satisfied that:

- a) The proposed employment is lawful;
- b) The child's health, welfare or ability to take full advantage of his education would not be jeopardised; and
- c) The child is fit to undertake the work for which he is to be employed;

It will issue the child with an employment permit.

10. Before issuing an employment permit a local authority may require a child to have a medical examination.

11. The employment permit will state:

- a) the name, address and date of birth of the child;
- b) the hours and days on which the child is to be employed, the occupation in which the child is to be employed, details of the task involved and the place of employment.

12. A child may be employed only in accordance with the details shown on his employment permit.

13. A local authority may amend a child's employment permit from time to time on the application of an employer.
14. The local authority may at any time revoke a child's employment permit if it has reasonable grounds to believe:
  - a) That the child is being unlawfully employed, or
  - b) That his health, welfare or ability to take advantage of his education is suffering or likely to suffer as a result of the employment.
15. A child must produce his employment permit for inspection when required to do so by an authorised officer of the authority or a police officer.

### **Revocation**

16. The byelaws with respect to the employment of children made by Buckinghamshire County Council on the sixth day of October 1982 and confirmed by the Secretary of State on the 28th day of January 1983 are hereby revoked, insofar as they relate to Milton Keynes.

THE COMMON SEAL of Council was affixed to these Byelaws on 29 September 1998, in the presence of:

Signed: M. Jones  
HEAD OF LEGAL AND PROPERTY SERVICES

These Byelaws are hereby confirmed by the Secretary of State for Health on 25th November 1998 and shall come into operation on 25 November 1998.

Signed N. F. Duncan, Senior Civil Servant, On behalf of the Secretary  
Of State for Health

Explanatory Note  
(This note is not part of the Byelaws)

These Byelaws regulate the types of occupation in which children under school leaving age may be employed (byelaws 3-5), and other conditions of their employment. They provide for checks on a child's fitness for employment (byelaws 10 and 11) and for the issue of employment permits, setting out the occupation in which a child may be employed and his hours of work (byelaws 9-16). Employers are obliged to notify local authorities of their child employees (byelaw 9).

These byelaws are not a comprehensive statement of the law relating to the employment of children and should be read in conjunction with other legislation relating to prohibited occupations, hours of work and street trading in particular.

By virtue of section 560 Education Act 1996, enactments relating to the prohibition or regulation of the employment of children do not apply to children undertaking work experience within the meaning of the Act "Enactment" for this purpose includes byelaws having effect under an enactment, so nothing in these Byelaws applies to a child's work experience.

## Penalties

Section 21 of the Children and Young Persons' Act 1933, as amended provides, inter alia that:

If a person is employed in contravention of Section 18 of the Act, or the provisions of any Byelaws made thereunder, the employer and any other person (other than the person employed) to whose act or default the contravention is attributable shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale (£1,000).

If a person is employed in contravention of section 20 of the Act, the employer and any person (other than the person employed) to whose act or default the contravention is attributable shall be liable on summary conviction to a fine not exceeding level 3 on the Standard Scale (£1,000); a person under compulsory school age who engages in street trading in contravention of the provisions of section 20, or of any Byelaw made thereunder, shall be liable on summary conviction to a fine not exceeding level 1 on the Standard Scale (£200).

PRODUCED BY: EDUCATION WELFARE SERVICE,  
LEARNING AND DEVELOPMENT DIRECTORATE  
MILTON KEYNES COUNCIL

## **Annex F Prohibited Employment and definitions**

### **Street Trading**

A child of any age may not engage or be employed in street trading unless the child is aged 14 or over and employed by his or her parent who holds a licence

### **Outside**

A child of any age may not be employed outdoors unless the child is wearing suitable clothes and shoes.

### **Employment**

Employment, includes assistance in any trade or occupation which is carried on for profit, whether or not payment is received for that assistance; Any occupation where the aim is to make a surplus would be considered as a trade or occupation carried on for profit

### **Licensed Premises**

#### **Working behind the bar and the sale of alcohol**

Please note that under the Licensing Act 2003 (LA 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 LA 2003 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, able to serve alcohol lawfully in a restaurant.

However, the Milton Keynes Child Employment Byelaws 1998 restrict the employment of children in the sale of alcohol except when the alcohol is in sealed containers.

For the avoidance of doubt, these byelaws override the LA 2003 and 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.

If the child is working alongside a contractor doing maintenance and repair or painting and decorating on a licensed premises provided that they were always supervised by an adult (over 18 years of age) and that the work is not prohibited by other factors they could work within the premises.

### **Industrial undertakings**

The employment of children under the school leaving age in industrial undertakings is forbidden.

'Industrial undertakings' includes:



- mines and quarries;
- any manufacturing;
- construction or repair of buildings, roads etc; and
- transport of passengers or goods, including handling goods in a warehouse.

The relevant Act forbids employment in industrial undertakings rather than forbidding any particular type of employment. So employment in, for example, the office of a road haulage firm would be forbidden because the road haulage firm would be an industrial undertaking. 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, only be employed to do light work

### **Commercial Kitchen**

Employment in a commercial kitchen is not permitted, but this 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; and
- collecting meals from a kitchen or returning empty plates to a kitchen.

### **Butchers**

Working in a butchers or slaughterhouse is not permitted, **not simply weighing meat in a butcher's shop or putting it into a packet would be permitted.**

Change: Added section
-----------------------

Reason: Provides additional information for work permits
--

Change: Removed section
-------------------------

Reason: Regulations not required for policy inclusion
---