



Welsh Government

## Consultation – summary of responses

Child performance regulations:  
when children can take part in  
performances and the breaks they  
must have

Date of issue: October 2015

# Child performance regulations: when children can take part in performances and the breaks they must have

<b>Audience</b>	Local authorities; headteachers and governing bodies of maintained schools; headteachers and governing bodies of voluntary aided and foundation schools; teachers in charge of pupil referral units; church diocesan authorities; proprietors of independent schools; principals of further education institutions; school staff unions; Governors Wales; Careers Wales; teacher unions; higher education authorities and Local Safeguarding Children Board Chairs; broadcasting companies; theatre companies; operatic organisations. It should also be read by staff within those organisations that have a lead responsibility for safeguarding children.
<b>Overview</b>	This document contains the summary of responses from stakeholders regarding the <i>Child performance regulations: when children can take part in performances and the breaks they must have</i> .
<b>Action required</b>	None – for information only.
<b>Further information</b>	Enquiries about this document should be directed to: Debbie Campbell Diverse Learners and Safeguarding Team Infrastructure, Curriculum, Qualifications and Learner Support Directorate Welsh Government Cathays Park Cardiff CF10 3NQ Tel: 029 2082 5807 e-mail: <a href="mailto:ChildPerformanceConsultation@wales.gsi.gov.uk">ChildPerformanceConsultation@wales.gsi.gov.uk</a>
<b>Additional copies</b>	This document can be accessed from the Welsh Government's website at <a href="http://www.gov.wales/consultations">www.gov.wales/consultations</a>
<b>Related documents</b>	<i>Child performance regulations: when children can take part in performances and the breaks they must have</i> (2014)

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## Background

The Welsh Government is of the view that there should continue to be rules about when children can perform, to safeguard their health, well-being and education. But the current rules are complicated and restrictive, and not always in the best interests of children.

Between August and October 2014, the Welsh Government issued a public consultation which proposed to lift these unnecessary restrictions while keeping essential safeguards in place. The consultation sought views on a proposed new framework that prescribes the circumstances that children can take part in performances and the breaks they must have, according to age. It also consulted on proposals to remove of the distinction between broadcast and non-broadcast events. The consultation sought views on strengthening the role of the (local authority approved) chaperone proposing that a chaperon has limited discretion to vary certain rules, if they think it is in the best interests of the child. The consultation also signalled our intention to remove the requirement for a medical certificate which was decided as a result of the consultation held in 2012.

In total, there were 21 responses to the consultation, all of which welcomed a revision to the current system and broadly agreed to the draft proposals.

The consultation responses informed the development of the Children (Performances and Activities) (Wales) Regulations 2015.

The main changes are:

- the removal of the requirement to provide medical certificate before a licence can be issued;
- the removal of differences between the rules for broadcast and non-broadcast performances;
- the lifting of restrictions on the different types of performances a child can take part in;
- revised earliest and latest times a child can perform;
- a new framework which sets out minimum requirements for breaks and maximum hours for attending and performance by age range.
- chaperones will have some discretion to be flexible with times and breaks if it is in the interest of the child.
- local authorities must consider travel time when issuing a licence.

The Children (Performances and Activities) (Wales) Regulations 2015 will come into force on the 30 October and non-statutory guidance will be published to clarify the new framework.

## The consultation

The consultation document asked thirteen specific questions on when children can take part in performances and the breaks they must have, and one general question providing respondents with the opportunity to provide any further comments.

## Responses received

In total 21 responses to the consultation were received. The responses were received from the following sectors:

<b>Name of Organisation</b>
Estyn
Blaenau Gwent County Borough Council
Rondo Media
National Union of Teachers
Monmouthshire County Council
The Association of School and College Leaders
Neath Port Talbot County Borough Council
Caerphilly County Borough Council
New Swansea Bay
Boom Cymru
The City of Cardiff Council
Welsh Local Authority Group
Hartwood Films
Vale of Glamorgan Council
Wrexham County Borough Council
Capital Law
S4C
Society of London Theatre
City and County of Swansea
ITV
One anonymous response

This document highlights key issues and themes arising from the consultation exercise but does not attempt to address each and every point raised in consultation.

## Response to consultation questions

In total, 21 responses were received to the consultation.

Of the 21 responses, 18 replied using the consultation response form. The following is a breakdown of the responses per question.

### **1. Do you agree with the proposed maximum attendance outlined below? If you disagree, please give your reasons in the comments box?**

- A 9.5 hours for children aged over 9
- B 8 hours for children aged 5-8
- C 5 hours for children aged 2-4
- D 3 hours for children aged 0-2

	Total
Number of respondents	18
Agree	17
Disagree	1
Neither Agree Nor Disagree	0

A clear majority of responses were in agreement with this proposal, with only one in disagreement. One stakeholder who agreed said the new proposed hours are well thought out and would ensure that children are protected from over working.

Additional comments included issues that these times might cause. A maximum limit of five hours for 2-4 year olds might pose a problem in performing an afternoon and night performance. The respondent suggested to overcome this when calculating time present, it should be possible to split the attendance (e.g. that a child could attend for technical rehearsals in the morning and then return for an evening performance).

Another respondents thought that it is essential that flexibility is built into the proposed maximum attendance times to deal with over-runs or other unforeseen circumstances (e.g. if a technical fault means the performance is delayed) which is common in the industry.

### **2. Do you agree with the proposed maximum durations? If you disagree, please use the comments box to state, and give reasons for, what limits you think should apply.**

- A 5 hours in total, 2.5 hours single duration, for children over 9
- B 3 hours in total, 2.5 hours single duration, for children aged 5-8
- C 2 hours in total, 30 minutes duration, for children aged 2-4
- D 1 hour in total, 20 minutes single duration, for children aged 0-2

	<b>Total</b>
Number of respondents	18
Agree	7
Disagree	11
Neither Agree Nor Disagree	0

Seven agreed with the proposals. Eleven respondents disagreed, however no comments were provided which disagreed about the total number of hours. Those who disagreed said that the single duration of 2.5 hours for 5-8 year olds is too long.

One response said that the existing framework in respect of time on set should continue to apply for broadcast performance as broadcast and non-broadcast have different working environments and it is not possible to implement an identical set of rules in terms of breaks.

Another respondent supported the proposal to introduce a single set of time limits for broadcast and non-broadcast performances, and supported the proposal to increase the duration of performance for children of nine years and over from four to five hours.

One comment requested that children aged under two years, they would prefer to extend the performance time to two hours, with a maximum duration of 30 minutes.

### **3. Do you agree that the earliest start time should be 7a.m. for all age groups? If you disagree, what time(s) do you propose, and why?**

	<b>Total</b>
Number of respondents	18
Agree	9
Disagree	8
Neither Agree Nor Disagree	1

Half of those who responded agreed with this proposal. Of those who disagreed one of the key issues raised was around travel time, that if 7am was the earliest start time then travel time should be taken into consideration so as not to extend the day further.

Some of those who disagreed said that a 7am start time should only be applied to children over nine years old. Another suggested that they would prefer a later start time for different ages groups such as 8am for children aged 2 – 4 years old and 9.30 for children aged under 2 years old.

One respondent reported that that whilst they welcomed the approach to align the rules for broadcast and non-broadcast performances, that this proposal is more relevant for children taking part in broadcast performances as it is difficult to justify such as early start other than for the purpose of filming.

**4. Do you agree with the proposals for the latest times children can be at the place of performance? If you disagree, what times would you propose, and why? Please give your reasons in the comments box.**

- A Children over age 5 not to be present after 11pm
- B Children aged 2-4 not to be present after 10pm
- C Children aged under 2 not to be present after 4pm

	<b>Total</b>
Number of respondents	18
Agree	8
Disagree	8
Neither Agree Nor Disagree	2

Of all 18 responses, almost half agreed with the proposed latest times children can be at the place of performance. There were a number of reasons why respondents disagreed.

One reason for disagreement was that the difference between under age 2 and 2-4 year olds is too great.

There was strong disagreement with the proposal to restrict children aged under 2 to a 4pm latest time. Some suggested that babies in particular usually sleep a lot of the time and this proposal is more restrictive than the rules which currently apply to broadcast performances by children under 5 which set the latest attendance time at 4:30pm. Another response highlighted that would prevent children under 2 from participating in theatrical productions as most productions start after 4pm. It was pointed out that the proposed new rules are much more restrictive for non-broadcast performances than under the current rules, where all children aged under 13 taking part in non-broadcast performances are permitted to attend until 10pm.

Another reason for disagreeing was around the concern that 11pm might be too late, especially if the child has school the next day. In addition, respondents raised the issue of travel time, and how that may add significant periods of time onto the child's day.

**5. Do you think we need to specify a minimum frequency of breaks? If so, do you agree with the framework? If you disagree, please give your reasons in the comments box.**

- A Children aged over 5 must have a break every 2.5 hours, 3 breaks in 8 hours and 1 must be for a meal
- B Children aged 2-4 must have a break every 30 minutes
- C Children aged 0-2 must have a break every 20 minutes.

	<b>Total</b>
Number of respondents	18
Agree	11
Disagree	7



Neither Agree Nor Disagree	0
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Eleven of the eighteen responses agreed with this proposal, however some said that the difference between 2-4 years old and over 5 was too great. Some said that more frequent breaks were preferable; one suggested that those over 5 should have a break every 1.5 hours.

One respondent said that the proposed minimum requirements for frequency and duration of breaks were reasonable, but suggested that the regulations should include scope for some flexibility in the frequency of breaks with the prior agreement of the chaperone, in particular relating to the 0-2 age group.

A few of the comments included suggestion to reconcile the numbers of breaks for 0-2 year olds and 2-4 year olds to 30 minutes.

One respondent suggested adding an additional age grouping for children over 7.

**6. Currently, children over 5 must have a break of 1.5 hours between live performances. If the performance is of short duration, say 10 minutes, the requirement for a 1.5 hour break seems disproportionate. We are minded to reduce the minimum required break for performances that last for less than one hour to 45 minutes. Do you agree that the minimum break required between performances of less than one hour should be reduced to 45 minutes? Please give your reasons in the comments box.**

	Total
Number of respondents	18
Agree	17
Disagree	1
Neither Agree Nor Disagree	0

All but one respondent agreed with this proposal suggesting strong agreement. Comments suggested that those who responded agreed that that a break of 45 minutes between performances of less than 1 hour is sufficient and proportionate to the length of time the child would be present at the place of performance, with the added benefit that the proposal could shorten a child's working day as, depending on the circumstances, it might be possible for producers to schedule performances closer together.

Comments in support included the suggestion that a shorter break may lead to a shorter working day which is often too long and unnecessary.

**7. For all age groups, we propose that no break should be for less than 15 minutes (as now), but are considering whether the minimum duration for meal breaks could be reduced from one hour (as it is now) to 45 minutes. Do you think the minimum duration for a meal break should be reduced to 45 minutes? Please give your reasons in the comments box.**

	<b>Total</b>
Number of respondents	18
Agree	7
Disagree	4
Neither Agree Nor Disagree	7

There was some agreement to this proposal, with one respondent highlighting that 45 minutes is length of lunch breaks in many schools. However some said that while a meal break should not be less than 45 minutes, a longer break may be required dependant on the individual needs of the child, length of the day, nature and location of the performance.

Four of those who responded disagreed, stating they wish to continue with the minimum duration of one hour.

**8a. Do you agree that, in exceptional circumstances, chaperones should have the discretion to agree an extension to the latest time a child can take part in all types of performance?**

	<b>Total</b>
Number of respondents	18
Agree	13
Disagree	3
Neither Agree Nor Disagree	2

Thirteen of the respondents agreed with this proposal, some with the reservation that the discretion should be used in 'exceptional circumstance' and not as a norm. One respondent suggested that a list of exceptional circumstances would be useful to ensure consistency of application. Some responses suggested that this offered flexibility which would be very useful in the case of unforeseen circumstances such as when technical difficulties are encountered, however at all times the welfare of the child should remain the priority.

**8b. If so, should the discretion the chaperone have:**

A. 30 mins	11
B. Up to an hour	3
C. Other	3
No answer	1

*Option A – 30 minutes*

Most responses indicated a preference for the discretion of the chaperone to extend the child's working day to for up to 30 minutes. Some responses highlighted a potential conflict of interest, as chaperones are sometimes employed by production companies. Therefore discretion above 30 minutes could put additional pressure on the individual chaperone.

*Option B - Up to an hour*

There was some support for the chaperone to extend the session for up to an hour. Responses suggested that this added flexibility would be useful, where it is clear this would not be detrimental to the health and well-being of the child.

There were concerns around the use of this discretion, and it was suggested that a chaperone should be required to report back to the licencing authority when, where and why they exercised the 'exceptional circumstance' rule to monitor and prevent over use of this discretion.

**9. Do you agree that the minimum overnight break for children aged 2–12 should be 14 hours?**

	<b>Total</b>
Number of respondents	18
Agree	12
Disagree	6
Neither Agree Nor Disagree	0

Twelve of the eighteen respondents agreed that a 14 hour minimum overnight break for children aged 2-12 is appropriate. Some disagreed with various reasons provided. One response suggested that they were concerned that given the proposed latest attendance times referred to in question 3, this will mean that a child in attendance until 11pm the night before will not be able to attend until 2pm the next day. This could exclude attendance at rehearsals or press calls in the morning. In these circumstances a limit of 12 hours would be preferred.

Some of those who disagreed suggested splitting the age groups so that 2-8 year olds would have a 14 hour minimum overnight break and 9-12 year olds would have a 12 hour break.

**10. Do you agree that the minimum overnight break for children aged 13-16 should be 12 hours.**

	<b>Total</b>
Number of respondents	18
Agree	15
Disagree	3
Neither Agree Nor Disagree	0

Most agreed with this proposal. Some disagreed suggesting it should remain 14 hours, as it is currently. Travel time was again, highlighted as a key issue to consider.

**11. Do you agree that the local authority should be able to allow night work in both staged and filmed performances?**

	<b>Total</b>
Number of respondents	18
Agree	10
Disagree	7
Neither Agree Nor Disagree	1

Over half of those who responded agreed to the proposal to allow night work for both staged and filmed performances. Those who disagreed reported that although they welcomed the approach of aligning the rules for broadcast and non- broadcast performances; this proposal was more relevant to broadcast performances, rather than staged performances. Some reported that there was no or little requirement for night work in stage productions and it would not be utilised. Another respondent suggested that there should be consideration of the age of a child.

**12. Do you agree that the local authority should be able to allow night work in both indoor and outdoor performances?**

	<b>Total</b>
Number of respondents	18
Agree	9
Disagree	7
Neither Agree Nor Disagree	2

Half of those who responded agreed to the proposal to allow night work in both indoor and outdoor performances. Some noted that indoor scenes are rarely filmed at night, that usually it was only outdoor scenes filmed at night.

Seven respondents disagreed with this proposal, stating that they were concerned this will result in an increase in children working after 11pm. They argued that this should only be allowed where production genuinely require a level of light or darkness in order to create 'real life effect'. The latest time for this would be determined by the time of year, and should the proposal to extend the latest time at the place of performance to 10pm/11pm come into place, there some be limited use of this rule in the winter time.

A concern was raised that this proposal could be misused as an opportunity to utilise premises that are generally unused at night by offering them at discounted rates during unsocial hours.

**13. Do you agree that the maximum number of consecutive days a child can take part in any type of performance and rehearsals should be six?**

	<b>Total</b>
Number of respondents	18
Agree	10
Disagree	7
Neither Agree Nor Disagree	1

Ten of the respondents agreed that the maximum number of consecutive days a child can take part in any type of performance and rehearsals should be six.

One respondent who agreed stated that it was essential that the maximum number of consecutive days remains 6 for non-broadcast performances as it is the case that theatrical performances are typically scheduled Monday to Saturday.

Seven of the respondents disagreed, stating that this aspect of the performance regulations should not be harmonised. They said that to increase broadcast to six consecutive days will place greater strain on children who may be in a film lasting 6 to 9 months. The effect this would have on their education and wellbeing should be considered. Some of those that disagreed would prefer working 5 days consecutively with 2 days off.

**14. We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them.**

**A number of issues were raised as outlined below:**

*The licensing process*

Some respondents said they would welcome the opportunity to examine the licensing process, mainly to discuss the consistency of the process across the different authorities. Others commented that it would be helpful to have more consistency among the local authorities in the interpretation of regulations and administration of licenses. Additionally consistency of documentation and approach would be beneficial.

*Travel time.*

Many respondents raised the issue of travel time to and from the performance, arguing that this must be included when considering performance hours for a licence as it can significantly extend the child's day and impact on the child's wellbeing.

*Chaperone training*

One respondent requested common training for chaperones laid out by the Welsh Government.

*Medical certificate*

There were comments welcoming the decision to repeal the requirement for a medical certificate as standard suggesting that:

- this often slows the processing of licences
- doctors are often unaware of the process and can be resistant to providing a certificate as a result
- certificates are often based on historical medical records of the child and may not be up to date
- children sometimes miss school for a visit to the GPs
- cost.

The respondent said it would be far more useful to request a health statement from a parent / guardian of the children together and confirmation from the school to ascertain whether they are aware of any medical reason why the child can not participate in the performance. On a totally practical level, when a production company looking to employ a significant number of children to perform as background actors (extras) then demand a medical certificate for each child becomes an unnecessary and costly burden.

#### *Guidance required*

One stakeholder said it would be useful for the guidance to outline that maximum hours must stress that this should not be considered the norm and to highlight that children's individual needs must be considered in consultation with their parent/guardian, prior to the scheduling of days and call times.

#### *Summary of responses received through email*

Three responses were submitted via email containing more general comments which have been summarised below:

One of these responses stated that they did not have detailed comments to make, but welcomed the proposals in general, stating that they seemed reasonable and proportionate, and likely to have the desired effect of simplifying the regulations while not reducing the protection afforded to child performers.

Another respondent stated that the current rules are not always in the best interests of the children and are often quite difficult for production companies to implement as they are complicated and restrictive. They also highlighted that it would be helpful if the breaks could be more adaptable and if a local authority chaperone could adapt the rules if it is in the best interests of the child.

Another respondent agreed with the decision to remove the requirement to provide a medical certificate before providing a license, suggesting that this rule often acts as a barrier to a child participation in performances.

## **Next steps**

The responses to the consultation have been considered and have helped to shape Children (Performances and Activities) (Wales) Regulations 2015 which will be published on the Welsh Government website with accompanying guidance.