

# Child Performers Policy

Holy Trinity is a Catholic Primary School where Core Values, underpin every aspect of school life. Our Mission Statement is:

*Inspired by Christ and His teaching,  
Holy Trinity Catholic Primary School educates, nurtures and celebrates  
the unique nature and worth of every member of its diverse family.*

The Mission Statement is summed up in our school motto: **'Aspire not to have more, but to be more'**  
The aims for all of our school family are:

- *to promote excellence in all aspects of school life, developing each person's ability to recognize and strive for this;*
- *place Christ at the centre of our daily lives, so that our school family may be the leaven of the Gospel values promoted in our mission*
- *to recognize that all members of the community are life-long learners, prepared to accept challenges with confidence and determination*
- *to promote self-discipline and respect, never accepting bullying of any kind and to communicate this belief in a positive and proactive manner.*

These aims are revisited regularly to ensure their relevance and we work to ensure our statement on equality of opportunity and values are understood by all.

## **1 Introduction**

- 1.1 To help keep children safe and protect their rights, there are laws governing what kinds of work they can do, how they are paid, and when they can work.
- 1.2 An employer can be prosecuted for breaking these laws.
- 1.3 In most cases, businesses intending to employ school-aged children need to apply to their local authority for a child employment permit before the child can start work.
- 1.4 Children are only allowed to work:
  - at certain hours of the day - for example they can't work during school hours, early in the morning or late at night. They also need to have regular breaks.
  - in places that are considered safe for children - for example children can't work in a factory or industrial site, or in most jobs in a pub or betting shop.
  - if it doesn't affect their health, wellbeing and education
- 1.5 Our Local Authority, Wolverhampton City Council, will not allow a child to do any job they think may be harmful to them. Local bylaws may also restrict the kind of work children can do.
- 1.6 Children at Holy Trinity Catholic Primary School have been involved in modelling, TV and film work and theatre work. Therefore, this policy exists to make clear the school's processes when parents make a request for time off from school, or when it becomes known that a child is involved in these activities.

## **2 National Guidance and Regulations**

- 2.1 The Children (Performances and Activities) (England) Regulations 2014 came into effect on 6th February 2015. These regulations replaced the Children Performances Regulations 1968 as amended which were repealed in their entirety together with all guidance that related to them.  
<http://www.legislation.gov.uk/id/uksi/2014/3309>
- 2.2 To support the 2014 regulations the Department for Education issued guidance: Child performance and activities licensing legislation in England – Departmental advice for local authorities and individuals working with children in all types of professional or amateur performances, paid sport and paid modelling.  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/401345/Child\\_performance\\_and\\_activities\\_licensing\\_legislation\\_in\\_England\\_-\\_departmental\\_advice\\_-\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/401345/Child_performance_and_activities_licensing_legislation_in_England_-_departmental_advice_-_final.pdf)
- 2.3 The Department for Education issued a report from the 2014 consultation on child performance hours and breaks. The report gives useful background information which informed the changes to the regulations.  
<http://www.gov.uk/government/consultations/child-performance-regulationsperformance-hours-and-breaks>
- 2.4 Since the introduction of new regulations a number of issues have been identified not least the varying interpretations by licensing officers and the industry and varying working practices. Following discussion with the Department for Education it was agreed that a comprehensive document giving further advice on the legislation and information on effective best practice should be produced from within the sector. A publication written by practitioners on "the front line" has the credibility to ensure the adoption of a consistent approach and working practices. The National Network for Children in Employment and Entertainment was identified as being best placed to deliver this publication.
- 2.5 Holy Trinity will have due regard to these regulations when requests are made for time away from school and when in consultation with Wolverhampton City Council Licensing Officer.

### **3 Compliance with the Licensing System**

- 3.1 The licensing system is designed to provide a check that those responsible for using children in performances (professional and amateur), in paid sport and modelling make suitable arrangements to safeguard them. The important word here is "safeguard" and should be the main focus when both applying for and processing performance licence applications. It should remain the focus throughout the time the child is performing.
- 3.2 This means the licensing of child performers cannot be viewed solely as an administrative process. The role of the Local Authority licensing officer is primarily one of safeguarding and enforcement. It should always be remembered that "a piece of paper" will not protect a child.
- 3.3 Holy Trinity will also ensure that it fulfils its safeguarding duties towards the child if under supervision or chaperoning during any time away from school or during education elsewhere through tutors for children under a performance licence.

### **4 Upholding the Children and Young Persons Act 1963**

- 4.1 Section 37 Restriction on persons under 16 taking part in public performances. This includes children who have attained age 16 during the academic year i.e. are still of compulsory school age.

This subsection means that children of compulsory school age and below cannot take part in a performance, paid sport or work as a model when they are being paid (other than out of pocket expenses) without a performance licence. The licence is to be issued by the local authority where the child resides.

This subsection states the types of performances which require a licence. This includes:

- any performance in connection with which a charge is made (whether for admission or otherwise);

- any performance in licenced premises within the meaning of the Licensing Act [1964] or the Licensing (Scotland) Act 1959 or in premises in respect of which a club is registered under said Act of 1959 or the Licensing Act [1964];
- any broadcasting performance;
- any performance not falling within paragraph (c) above but included in a programme service (within the meaning of the Broadcasting Act 1990);
- any performance recorded (by whatever means) with a view to its use in a broadcast or such service or in a film intended for public exhibition;

4.2 Department for Education advice states the following types of performances would be included in the above:

- Any broadcast performance to include internet streaming
- Any performance recorded (by whatever means) with a view to its use in a broadcast or such service or in a film intended for public exhibition. For example a live stage performance recorded for a cinema screening, a feature film, a video or sound recording of a performance on a website. (Note that this does not extend to user generated content, e.g. where young people or a family record themselves and share it on a website or social media); and also
- When children take part in sport or modelling for which payment is made (to the child or to someone else in respect of the child taking part) other than expenses.

4.3 An exemption from licensing can only be granted if the child is not being paid to take part and no other person is being paid for the child to take part other than out of pocket expenses. This would be applicable where Holy Trinity children take part in a performance in another venue during the evening such as the Shakespeare Festival.

4.4 The "four day rule"

Under section 37(3)(a) of the 1963 Act, if a child has not performed on more than 3 days in the last 6 months, they will not need a licence for performance on a fourth day. Once a child has performed on 4 days in a 6 month period (in any performance, regardless of whether a licence was in place on any of those days or the child was taking part in a performance arranged under a body of persons approval) then a licence is required for any further performances. If a child is to be absent from school this exemption cannot be relied on: a licence will be required. Holy Trinity would expect this to be in place.

4.5 It is a legal requirement to apply for a licence when one is required and any person who causes or procures any child to do anything in contravention of the licensing requirement commits an offence and may be subject to a fine, imprisonment or both. If a producer is relying on the four-day rule as a basis for not applying for a licence, they should have reasonable grounds for believing the child has not performed on more than 3 days in the previous 6 months. Holy Trinity would undertake its safeguarding role and inform the Local Authority Licensing Officer.

## **5 Compliance with Performances given under arrangements made by Holy Trinity Catholic Primary School**

5.1 Department for Education guidance states the following:

Under section 37(3)(b) of the 1963 Act, a licence is not required where the performance in which the child is taking part is given under the arrangements made by a school. The deciding factor is whether the school is responsible for organising and producing the performance. The school in question has to fall within the meaning of a "school" in the relevant Education Acts i.e. an educational institution that provides primary and/or secondary education. The table below sets out when a performance would meet the criteria for this exemption and when it would not.

5.2 This would also cover a broadcaster filming the event as part of an observational documentary – as long as the children are not directed to act in a particular way

5.3 Our children will not require a license for performances within school under the direction of staff. They would also not require them for performances within another venue under the direction of our staff.

5.3 **A third party.**

Where children from our school or a number of schools take part in a performance where arrangements are made by a third party such as a broadcasting company or a local authority or arts group i.e. the third party is responsible for the production our children would need a license or an exemption, organised by the third party.

5.4 Section 1.3.6 of the Department for Education Advice 2015 makes it clear that section 37(3)(b) of the 1963 Act only applies to 'schools' within the meaning of relevant Education Acts. This would not include Music Hubs, local authority Music Services, Arts Councils and other third parties, so performances arranged by them cannot be exempt under that section. Holy Trinity will seek to establish that the organisation has applied for the appropriate licence or exemption. Where, for example, the Music Hub seeks to take children out of school normally for a day or an afternoon; a performance licence will be required where these circumstances apply. They will be the Body of Approvals Person but this does not authorise absence from school.

## **6 Compliance with the General requirements applicable to all licensed performances or activities**

### **Regulation 13 Education – Learning and Attendance**

This regulation states that a licence must not be granted unless

- (1) the licensing authority is satisfied the child's education will not suffer by taking part in the performance or activities, it has approved the educational arrangements for the period of the licence and has approved the (school room) where the education will be delivered.
- (2) Subsection 2 states the responsible person (licence holder) must ensure the education arrangements are carried out.
- (3) Subsection 3 states the conditions that must be met in respect of the course of study, the teacher, the number of children to be taught and the minimum amount of aggregated hours.
- (4) Subsection 4 states how subsection 3(e) can be met in terms of hours of study.
- (5) Subsection 5 states what periods of education cannot be included to satisfy 3(e).

6.1 Holy Trinity would seek to ensure that under section 37(4) of the 1963 Act and regulation 13, the local authority, to whom the application is submitted, did not grant a licence unless it had consulted us on whether a child's education would not suffer as a result of taking part in a performance or activities for which the licence is requested. Our school would seek reassurances that, under given circumstances, the Local Authority had had sight of the robust safeguarding procedures and required legal documentation associated with protecting all children from harm.

6.2 When giving advice our school will look at the individual child. We do not adopt a generic policy, we look at the individual child in terms of attainment and attendance and if we believe the child's education will suffer we will provide written evidence to that effect e.g. lack of progress or attainment or both, missing homework, inability to catch up on work, additional support currently in place. We will expect the licensing authority to make a decision, based on this evidence, whether to refuse to issue a licence. Our school will ensure we state any concerns in writing to the authority.

6.2 Where arrangements are made for the education of the child during the term of the licence (i.e. because the child will be absent from school), these arrangements must be approved by the local authority. The local authority must be satisfied that the course of study and private teacher are suitable for the child in question, and that the numbers of children to be taught by the private teacher at the same time do not exceed the limits set out in the regulations. Holy Trinity would seek to reassure itself that this was being met.

6.3 Where arrangements are made for the education of the child, the child must receive education that, when taken together over the term of the licence, amounts to a minimum of 3 hours per day that the child would be required to attend a school maintained by the local authority issuing the licence. Holy Trinity would expect to set the minimum recommended hours of work and ensure that this covered the core curriculum areas of reading, writing and mathematics at least. Our school would expect this to be completed by the child,

supported by the tutor and, where appropriate, the chaperone or parent. Learning and work will be supplied for every day that the child misses school. However, the decision will be based on whether the child's education will suffer by taking part in the performance. This will be taken based on the particular performance in question and the needs of the individual child. What is suitable for one child may not suit another.

If a child is involved in a long running production e.g. a touring stage production, a feature film or drama series and requires considerable absence from school, the decision to put tuition in place is a straightforward one. It is less clear cut when the child is only required for 1 or 2 days or the child has taken part in a number of different performances for 1 or 2 days over a period of months.

If a child is performing for one day, the schedule for such a short period is unlikely to allow time for tuition. It is also debatable as to whether one off tuition in this scenario will be of any benefit to the child. In this case, Holy Trinity will again provide work for the child to complete during periods when they are not working and put in place an agreement with parents that a child catches up on any work s/he has missed.

- 6.4 When making arrangements for education Holy Trinity considers it imperative that our school is included. We will ensure that we have an initial discussion with the tutor regarding the child's study requirements and that we liaise throughout the production to ensure the child is achieving agreed targets.
- 6.5 In line with our safeguarding duties we would seek assurance from the licensing authority approving the arrangements made that the private teacher proposed to engage is suitable to teach the child in question. If the private teacher does not have an Enhanced DBS disclosure then an approved chaperone should be present when the child is being taught.
- 6.6 Holy Trinity recognises its responsibilities with regard to what times during the day a child can be tutored. It is acknowledged that morning is the best time to tutor a child and whenever possible production should work their schedule to allow this. When this is not possible then tutoring should take place during the afternoon with a latest finish time of 4pm or 5pm depending on the age of the child.
- It is not acceptable for tutoring to take place in the evenings following the working day; this is not in the best interests of the child and will cause his education to suffer. We recognise that a child cannot be tutored on a Saturday and/or Sunday or during school holidays.
- 6.7 The attendance register will be marked with code B. We will ensure that the code we use is lawful in the given circumstances. Holy Trinity will check with our Education Welfare Officer and, if needed, the School Attendance Service.
- 6.8 **Regulation 15 Chaperones**  
This regulation states that a licensing authority must approve a chaperone to have care and control of a child and to safeguard, support and promote the wellbeing of the child while he is taking part in a performance, rehearsal, activity or living away from home during the period of the licence. A child taking part in a performance or activity under licence or a rehearsal within the licensing period must be supervised at all times by a local authority approved chaperone unless they are under the direct supervision of their parent or a person who has legal parental responsibility or their teacher. This also applies when the child is living away from home during the period of the licence.
- 6.9 The chaperone is the key person who protects, safeguards and supports the child. He or she is the point of safety a child can turn to and rely on should the need arise. The chaperone has a major part to play in ensuring that the child's experience is enjoyable and beneficial. Holy Trinity will continue to exercise its role of safe guardian to our children whilst involved in regulated activities. We will act upon any disclosures made in the usual way. Refer to our Safeguarding Policy.
- 6.10 **Regulation 23 Breaks on any day on which a child is performing or rehearsing**  
This regulation states what breaks according to their age a child must have when performing or rehearsing.

Subsection (1) states the breaks for children under 5 years.

Subsection (2) states the breaks for children aged five or over if present for more than 4 but less than 8 consecutive hours.

Subsection (3) states the breaks for children aged 5 or over if present for 8 or more consecutive hours.

Subsection (4) states the break a child must have between consecutive performances.

Subsection (5) states the break required if the performance or rehearsal is less than one hour in duration.

- 6.11 A child must have an overnight break of a minimum of twelve hours. Any time spent in education that is required by regulation 13 counts toward the maximum permitted hours in one day.
- 6.12 For children aged 5 until 9 the limit for continuous hours of performance or rehearsal (during the performance period) in one day is 2.5 hours. It is not expected that a child under nine would ever normally be on stage or in front of a camera continuously for such a long period. If a child is taking part in a physical performance (such as a dance) however, this allows them time to properly warm up. (A warm up is classed as rehearsal and if it takes place on or after the date of the first performance it counts toward the total permitted performance time.)
- 6.13 Holy Trinity would seek to ensure, for the good mental health and well-being of our children, that this was recognised and adhered to, including the amount of time spent in school. Failure to comply with this would result in our school reporting the matter to the Licensing Authority.

## **7 Restrictions and exceptions in relation to all licensed performances**

- 7.1 Holy Trinity knows a child must not take part in performances or rehearsals on more than six consecutive days. When receiving performance schedules for stage performances our school will check that the number of days is not exceeded due to there being no break between the date of the first performance and the rehearsal schedule. We recognise that amateur groups can often overlook this requirement when planning their schedule.

## **8 The Children and Young Persons Act 1933**

### **Section 23 Prohibition against children taking part in performances endangering life or limb**

- 8.1 It is an offence for any person (or a parent who allows it) to allow a child under the school leaving age to take part in a performance in which his life or limbs are endangered. A "performance of a dangerous nature" includes all acrobatic performances and all performances as a contortionist. Holy Trinity, in order to fulfil our safeguarding responsibilities, would be alert to ensure that the life and limbs of any child are not endangered by taking part in a performance.
- 8.2 Children do not need a work permit for work experience arranged by their school.

# Appendix 1

## Overview of Child Performance Legislation

### Primary Legislation

- The Children and Young Persons Act 1933
- The Children and Young Persons Act 1963
- <http://www.legislation.gov.uk/ukpga/Geo5/23-24/12>
- <http://www.legislation.gov.uk/ukpga/1963/37>

This is the primary legislation that covers child performance and this underpins the licensing system. It is this legislation which determines whether a licence is required and gives local authorities the power of enforcement.

### Secondary legislation

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

Once it has been determined that a licence or in certain circumstances an exemption from licensing is required the regulations state the framework under which a licence or exemption can be issued.

### Guidance

- Department for Education: Child performance and activities licensing legislation in England
- NNCEE: A Guide to Child Performance Licensing in England

Gives guidance to be followed on the meaning and interpretation of the primary and secondary legislation. However, neither of these documents are classed as statutory guidance. NNCEE: A Guide to Child Performance Licensing in England will address the primary legislation and the regulations giving an explanation of each together with appropriate examples of working practice.

## Appendix 2

### When a licence is required

The following table gives examples of when a licence may be required and when it may not. It is for illustrative purposes only and should not be considered an authoritative or complete list.

<b>A licence may be required for</b>	<b>A licence may not be required for</b>
Performances that meet the criteria in section 37(2) of the 1963 Act. These can include: acting; singing; dancing; playing in an orchestra; stand-up comedy; magic act; and any production where the activity is contrived or constructed for dramatic effect.	Observational documentaries where a child is filmed carrying out normal day to day activities for example playing in the street, participating in an ordinary lesson, training for their sport.
So-called "reality" television where the activity in which the child participates is manipulated/ controlled or directed for the purpose of the entertainment.	Elements of a programme where the child is not being directed but is being observed doing normal activities are treated as observational documentary provided the child is filmed being themselves without direction.
Presenting or compering (where this has an element of contrived performance).	Daily news reporting, news reports (including investigations in the public interest, for e.g. testing if shops sell goods to a child underage).
Entertaining or performing where the performance meets any of the criteria under section 37(2) of the Act e.g. for a paying audience, on licensed premises, a recording for broadcast or public exhibition.	Being interviewed as a member of the public; Self-generated content e.g. a child records themselves and puts that on the internet; Castings and auditions that are not recorded for public exhibition; Being part of an audience (watching a show either in a studio, theatre or stadium).
Dancing at a community dance festival or performance that meets any of the criteria set out under section 37(2) of the Act.	Dance workshops held on the same day of the performance at a different venue. (Practical dance sessions led by a dance teacher or artist. They may explore an idea or practice some dance movement; they introduce the participants to different dance styles or techniques; and encourage interaction between participants from different schools or groups)
Photo-shoots and modelling where the child (or someone else in respect of the child's taking part) receives payment.	Photo-shoots and modelling where no payment is made in respect of the child's participation.
Taking part in a sport where the child (or someone else in respect of the child's taking part) receives payment, other than expenses.	Being a ball boy or girl (If they were actually playing football or tennis and payment other than expenses was made then they could well fall within the remit of the child performance legislation. But they are not playing and therefore we do not think they could be said to be taking part in a performance or a paid sport)