

Child Performance Licensing – Children in Brass Bands.

Does your band include children (16 years and under) amongst its players? If so read on – it is a legal requirement that they are licensed to perform with you.

If a child of Compulsory School Age (CSA) is involved in a performance outside school, that child must either have a licence, or be exempted from requiring one. Compulsory School Age for the purpose of performance licensing is 16 years and under (ie up to and including school year 11). There is a more complicated definition, but if a child is in school year 11, then it's pretty certain they will be caught by the regulations. Contests (which are actually a "performance") normally fall within the scope of the Regulations, but it is up to the Licencing Authority to decide if licences are actually required for a particular contest.

The Primary Legislation covering child performance is the Children and Young Persons Act (1963), so licensing has actually been a requirement since then. The government, being aware that everyone – with a few exceptions – has been happily ignoring the performance licensing part of the Act, brought in a new raft of Regulations to tighten compliance. These Regulations are the "Children (Performance and Activities) (England) Regulations 2014" The Regulations came into force on Feb 6 2015.

Let's deal with the exemption side of things first. A child does not need a licence if he/she complies with the following:-

Requirements for Exemptions

- The child is not getting paid for the performance (other than expenses)
- The child is not missing school to perform
- The child has not performed 4 times in the last 6 months – with any non-school group, not just the one you are working with.
- The performance must not be taking place on licenced premises. Theatres etc tend to be overlooked by most councils, but not pubs.

If the child meets these criteria, then you can apply for an exemption certificate. An Exemption Certificate is issued by the Local Education Authority (LEA) in whose area the child lives. All LEAs have a Child Performance website, where amongst other items there will be either an online form to complete, or a downloadable form to complete and email. The form asks quite a lot of questions about the child and the performance itself. Also, the form will ask who the "Registered Chaperone" will be, and which Authority licenced them. Other helpers can be named, but they cannot assist in the absence of a registered chaperone. The only alternative is for the child's parent or legal guardian to be present at all times (including backstage etc), but they can only supervise their own child. If no registered chaperone is available, then each CSA child must have their own parent/guardian with them.

Registered Chaperone.

This is a person who has been approved by their LEA to supervise children. There is a process to go through to become a Registered Chaperone, which includes providing references (which are taken up) and an enhanced DBS check. All LEAs require the applicant to attend a short meeting to verify their identity as part of the DBS process. There is a small charge, dependant on the LEA. The registration certificate lasts at least 1 year, but may be longer depending on the Authority.

Somewhat interestingly, teachers, in spite of their safeguarding training and enhanced DBS status, cannot automatically act as a chaperone in this context. Like everyone else, they need to go through the registration process to be able to take on the Registered Chaperone role.

Licensing

A Performance Licence is issued by the LEA in whose area the child lives. If the child cannot meet the criteria above, and your group does not have a “BOPA” (more about this later) then that child will need a licence to perform. Again, all LEAs have licence application forms on their websites. Unfortunately, applying for a licence is not a five-minute process! The application form is quite long, and is quite searching in the questions it asks. The licence is applied for by the leader (or other representative) of the group with which the child is to perform. It asks who the group is, what it does and what the performance is and what it entails. It also needs to know the date and location of the performance, how long the performance will be, and if any associated rehearsals will be held on the same day. It asks who the Registered Chaperone(s) will be if parents are not in attendance, how many CSA children are involved and their ages, how many performances the applicant child has done in the last 12 months and various other questions about overnight accommodation and travel time. It then goes on to ask questions about the child, some of which will need to be completed by the child’s parent/guardian, such as any medical issues. The parent/guardian will then need to sign the application. The completed form, together with a passport-style photo of the child plus a copy of the child’s birth certificate or passport is then submitted to the LEA. All LEAs require 21 days to turn a licence round, although it is usually much quicker if all the required information is present.

Body of Persons Approval “BOPA”

A BOPA is issued by the LEA in whose area the performance will take place. All the above may sound a bit daunting, but the BOPA offers a much simpler way to deal with licensing, as the government appreciates that performance licensing creates quite an admin burden, especially where multiple children are involved. So far, we have only dealt with licensing or exempting individual children, but the BOPA deals with the group the child performs within. Put simply, it puts the onus on the group to deal with child protection issues itself, but it must first prove to the authority that it is capable of doing so. A BOPA effectively exempts the group from having to licence children individually. It cannot however permit a child to perform where the child is paid, or will be missing school, but the “4 performances in 6 months” rule is overcome. At the LEA’s discretion, a BOPA can cover a single performance, or can run for a period of time thus covering several performances.

Unfortunately, many LEAs don’t advertise BOPAs on their websites, so it will mean an email or a call to their Child Licensing Team, these are usually located within Education Welfare Departments. Some LEAs are very happy to offer a BOPA, but some will refuse until they have had some experience of working with the group concerned. If they do refuse, then a licence or exemption certificate will be required. If they agree to offer a BOPA, they will forward you an application to complete and return to them. You will need to include a copy of your group’s Child Protection Policy. Also, the application asks if parents have confirmed their child is fit & healthy to be able to perform. Although the application doesn’t usually ask for documentary proof of this, it might be a good idea to obtain a signed note from a parent to be able to confirm this. If your application is successful, you will be awarded a contract for however long you have asked for and the LEA have agreed to. It doesn’t quite stop there unfortunately. Plenty of time before your performance, (although if your BOPA is for a one-off performance you can do this at the same time as you apply for your BOPA) you will need to email the LEA and tell them that under the terms of the BOPA, you are informing them that you will be performing on this date (state the venue, &

time), and that you require a “show letter” to authorise any CSA children in your group to perform. Along with your requesting email, you will need to attach a spreadsheet (the LEA will usually have a template for this) giving names, DOBs, school attended, address, and the LEA area in which they live if not the one you are dealing with. The LEA will then respond with your “Show Letter”, provided you have complied with all the requirements of your BOPA contract.

Performance Site Requirements

Assuming you now have a licence, an exemption certificate or a BOPA in place for the children in your group to perform, there are a few things you will need to have on site with you at the performance. These are: -

- A copy of the licence or exemption for each child, or your BOPA certificate approval to perform letter
- Chaperone licenses
- Childrens’ records – details of parent, emergency contact details, medical details and any child specific information
- A copy of your group’s Child Protection Policy
- A risk assessment of the site where you are performing
- A signing in-out sheet for the CSA children
- A first-aider must be present
- If parents are not present, or are present but are not able to have sight of their child at all times (eg backstage), you must have a licensed chaperone on site.

Inspections

LEAs all reserve the right to carry out an inspection while you are at the performance venue, and if they do attend, they will need to see all the information above. Experience suggests that the chances of an inspection are quite slim, but nevertheless the possibility does exist. Experience also shows that the LEA staff dealing with performance licensing are very helpful, and will “go the extra mile” in helping you fulfil the legal requirements. Those groups performing with CSA children without the necessary authority do so at considerable risk – an unofficial “amnesty period” cannot be relied upon! If an inspecting LEA officer finds children performing without a licence or exemption certificate, or in contravention of the performing site rules (eg no Licensed Chaperone on site), the officer has the power to stop the performance. The regulations have now been in force long enough for groups to have heard about them, and the excuse “we didn’t know anything about all this!” will fall on deaf ears. The penalties for performing with non-licensed CSA children are quite severe!

Here are a few useful links to further reading: -

[Government advice on licensing](https://www.gov.uk/government/publications/child-performance-and-activities-licensing-legislation) <https://www.gov.uk/government/publications/child-performance-and-activities-licensing-legislation>

[Which council covers the child’s address or performance venue?](https://www.gov.uk/apply-for-child-performance-licence)
<https://www.gov.uk/apply-for-child-performance-licence>

[How to become a Licensed Chaperone](https://www.gov.uk/chaperone-child-performers/northamptonshire) <https://www.gov.uk/chaperone-child-performers/northamptonshire>

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Licensing Flowchart

