

Open Report on behalf of Heather Sandy, Interim Director of Education

Report to:	Children and Young People Scrutiny Committee
Date:	22 November 2019
Subject:	Child In Employment and Entertainment Prosecution Policy

Summary:

The purpose of this report is to present information in relation to the Child in Employment and Entertainment (CEE) function carried out by the Lincolnshire County Council's Inclusion and Attendance team, Children's Services. The team is responsible for ensuring that children who work and perform do so safely and legally. The report outlines the work carried out by the team and the strategies used to enforce the relevant laws around children working and performing. It outlines the power of the local authority to prosecute an employer or organisation if there is a breach of the law and presents the new prosecution policy for Children in Employment and Entertainment to the Committee for scrutiny.

Actions Required:

The Children and Young People Scrutiny Committee is invited to note the report and the attached Policy and make comments to the Executive Director of Children's Services.

1. Background

The Child in Employment and Entertainment function (CEE) is part of the Lincolnshire County Council's Inclusion & Attendance team, Children's Services. The dedicated officer and business support is responsible for ensuring that the safeguarding responsibilities placed upon the local authority are met in respect of children who are involved in entertainment and employment across Lincolnshire.

The service area is responsible for the licensing of all Lincolnshire children from birth until they cease to be of compulsory school age who appear in a performance either on the stage or on television, take part in certain sporting activities, work as models, or engaged in part time work. It is also responsible for issuing Chaperone Licences to adults who support, safeguard and oversee performances and activities.

In 2018/19 Lincolnshire local authority issued 293 work permits for children, 346 performance licences, 143 Body of Persons Approvals (involving 6913 children)

and 483 Chaperone licences. The table below shows the comparison for the last four years.

	2015/2016	2016/2017	2017/2018	2018/2019
Employment permits	336	280	288	293
Chaperone Licences	285	475	547	483
Performance Licences	337	427	307	346
Body of Persons Approval (BOPA)	37	73	104	143
No. of children in BOPA	1399	n/a	4400	6913

The most popular jobs are paper rounds, waiting on tables in cafés, restaurants & pubs serving food, retail shop work and office work. The current legislation dictates that a child cannot work after 7pm or for more than 2 hours on a Sunday. This can result in a child not seeking employment or an employer illegally employing a child during these hours. There is a suggestion from the National Network for Children in Employment and Entertainment body (NNCEE) that there may be changes to the law in relation to Sunday working hours.

The last amendment to the law in relation to child performance was in 2015. This included changes to the earliest and latest times a child may be in a place of rehearsal or performance, an increase in the number of breaks a child must have and permission to amalgamate hours of education over a four week period, as an example. As the promotion and awareness of the need for performance licences and chaperones has increased, so has the number of requests to issue, particularly as a body of persons (group approval).

The CEE processes are underpinned by legislation that dictate what actions can and should be taken by local authorities. The acts include: The Children and Young Persons Act 1933 and 1963, The Children (Performances and Activities) Regulations (England) 2014, Lincolnshire County Council Byelaws, The Children Act 1989 and The Education Act 1996.

The team provide guidance to officers of the County Council, employers, organisations involved in entertainment i.e. theatres, broadcasting etc., educational settings, young people and parents on the enforcement practices of the County Council relating to child employment and children in entertainment legislation. The purpose of enforcement is to ensure that legislation is complied with and children have every opportunity to work and perform in an environment that will not be detrimental to their health, welfare and education.

The local authority enforces these laws by using an appropriate mix of:

- advice to employers and entertainment groups
- specific, targeted enforcement campaigns (workshop in schools)
- general inspection of employment and entertainment premises
- investigation of the most serious complaints (referrals from school, police, parents)

It is recognised that prosecution is only a means to an end, the desired outcome being compliance with all legal requirements by all employers and entertainment groups and that this end may be achieved by means other than prosecution.

Employers and entertainment groups may fail to comply with legal requirements for a number of reasons, including:

- lack of awareness of legislation
- erroneous interpretation of legislation / failure to appreciate its practical implications
- inadequate implementation of measures necessary to comply
- accident / oversight / mistake

These may occur despite best efforts, or may occur because an employer/entertainment group does not make sufficient effort. Alternatively, there may be a deliberate attempt to exploit a legal ambiguity or a 'margin of tolerance', or an employer/entertainment group may consciously break the law. In these cases the decision to prosecute rests with this authority.

There is an expectation in terms of best practice and the ability to show a fair process in line with Article 6 (Human Rights UK), that the local authority has a prosecution policy to refer to. Also as a public prosecutions authority we are bound to comply with the Code for Crown Prosecutors and apply the evidential and public interest tests to all cases. Whilst some authorities have a generic prosecution policy as an umbrella policy, Lincolnshire does not and therefore all Prosecution policies are tailored to the area of work.

The power to licence the employment of children rests with the Executive Director of Children's Services with the power to authorise, in writing, any named officer or officers of the Council to carry out a specific or general function on their behalf. Therefore it is the Executive Director who can authorise officers within the Inclusion and Attendance Team, and also Trading Standards Officers should joint prosecution take place, to enforce all legislation and by-laws relating to the licencing of child employment.

In doing so the Executive Director is exercising non-executive functions of the Council.

It is important that those functions be exercised against a published policy and the draft Policy attached at Appendix A will be presented to the Executive Director of Children's Services for approval. The comments of the Scrutiny Committee are sought on the Policy before it is submitted for decision.

The powers in respect of child employment permits are contained in the Lincolnshire County Council Bye-Laws. They state that within one week of employing a child, the employer must send the local authority written notification containing certain information to satisfy the local authority that the proposed employment is lawful in terms of the age of the child, the hours worked, the work itself and that the child's health, welfare and ability to take full advantage of their

education will not be jeopardised. Only if these conditions are not met or at risk, would the local authority refused to issue a work permit.

2. Conclusion

The recommendation is that the Committee notes the report and the attached Policy and makes comments to the Executive Director of Children's Services.

3. Consultation

a) Have Risks and Impact Analysis been carried out?

Yes

b) Risks and Impact Analysis

No impact.

4. Appendices

These are listed below and attached at the back of the report	
Appendix A	Children in Employment and Entertainment: Prosecution Policy

5. Background Papers

No background papers within Section 100D of the Local Government Act 1972 were used in the preparation of this report.

This report was written by Jill Chandar-Nair, who can be contacted on 07717 320089 or jill.chandar-nair@lincolnshire.gov.uk.