

# Guidance on Child Employment

## **Purpose of the Guidance**

This guidance is intended to set out the key provisions of the law on child employment including best practice advice. It applies specifically to the employment of children who are under school leaving age, i.e. under the age of 16 prior to 1<sup>st</sup> September of the current year. The guidance covers employment in England. The Welsh Assembly has made its own arrangements for guidance for Wales. Separate but similar legislation applies in Scotland and Northern Ireland.



Different Local Authorities have their own byelaws, so an employer must check the local position in their area before employing a child.

## **What is Employment?**

The Children and Young Persons Act (1933) which covers this area defines employment as follows:

A person who assists in a trade or occupation carried on for profit is considered as employed even though they may receive no payment.

This covers all circumstances where the public pay for a service such as all riding schools or other equestrian services. **For example**, any such establishment offering free riding lessons in return for assistance in the riding centre in any way is considered to be employing and paying the person taking up the offer.

A child may not be employed under the age of 14 years, but many Local Authorities allow 13-year olds to be employed in certain occupations. This is explained later in this document, but it is important to check with the Local Authority what byelaws are in place for the employment of children who are 13 years.

## **Permitted Hours of Employment**

- A child cannot be employed before 7am or after 7pm.
- They may not be employed before the end of the school day, but it is impossible for a byelaw to permit an hour's employment in the morning before school starts.
- They may not be employed for more than two hours on a day in which they have to go to school, or on a Sunday.
- If they are under 15 years, they may not be employed for more than 5 hours in any day on which they do not have to go to school.

- If they are 15 years or over, then they can be employed for up to 8 hours on days other than Sunday that they do not have to attend school.
- A child under 15 years may not be employed for more than 12 hour in a week (i.e. any period of 7 consecutive days) that includes a day on which they have to go to school, or more than 25 hours in a week which does not include a day in which they have to go to school.
- If the child is 15 or over, they may not be employed for more than 35 hours in a week which does not include a school day.
- Any employment whether paid or unpaid which leads to the child being absent from school will be treated as unauthorised absence and could lead to action against the parents.

These provisions do not apply to children who are on work experience placements as part of their education.

The permitted hours of work are summarised in the following table:

Age of Child	Daily Limit			Weekly Limit	
	School Day	Non-School Day (mon - sat)	Sunday (school terms or holidays)	School Term	School Holidays
Children under 15	2 hours	5 hours	2 hours	12 hours	25 hours
Children 15 or over, but under the school leaving age	2 hours	8 hours	2 hours	12 hours	35 hours

A child may not be employed for more than 4 hours without at least one full hour's break. This is regardless of any shorter breaks which may have been taken during the 4 hours. In addition, they must have a 2 week break from any employment in each calendar year. This must be taken during the school holidays.

### **What kind of work is permitted?**

A child under school leaving age may only be employed to do "light work" defined as: *Work which on account of the inherent nature of the tasks which it involves and the particular conditions under which they are performed is not likely to be harmful to the health, safety or development of children and is not such as to be harmful to their attendance at school or to their participation in work experience, or their capacity to benefit from the instruction received or the experience gained.*

Children aged 13 years may be allowed to do light work by the Local Authority byelaws. This type of work includes agricultural or horticultural work, but it may be specified that this is only on an occasional basis under the direct supervision of a parent. The child could be employed in riding stables but the license for the riding stables, under the Riding Establishments Act (1964), will contain certain restrictions that a child under 16 years cannot supervise riding or be left in charge of a riding stables. The work has to be light work so lifting bales of hay would not be permitted as this would not be considered light work.

A child aged 14 years and above, but under the school leaving age, can do any light work so long as it is not prohibited or restricted.

### **What kind of work is prohibited or restricted?**

A child under 18 years cannot be employed for work:

- Which is beyond the child's physical or psychological capacity
- Involves harmful exposure to toxic or carcinogenic substances
- Involves harmful exposure to radiation
- Involves a risk which cannot be recognised or avoided by the young person because of their lack of attention to safety or lack of experience or training. This is likely to mean that any employment involving the use of sharp knives or slicers will be prohibited.
- In which there is a risk to health from extreme cold, heat, noise or vibration.
- Working in industrial undertakings including mines, quarries, manufacturing, construction or road repair, transport of passengers or goods including handling goods in a warehouse
- Involved in the sale or provision of alcohol, however this does not include working as a waiter or waitress
- Involved in any form of gambling
- Employment on a boat
- In a cinema, theatre, discotheque, dance hall or night club unless the performance was to be given entirely to children
- To deliver milk
- To deliver fuel oils including serving at a petrol station
- In a commercial kitchen, but serving at the counter of a fish and chip shop which does not involve deep frying or food preparation, washing up, making sandwiches, collecting meals and clear tables would be permitted.
- Collecting or sorting refuse including picking up litter
- Any work more than 3 metres above ground / floor level
- Harmful exposure to physical, biological and chemical agents which could include those in hairdressing
- To collect money or to sell or canvas door to door except under supervision of an adult
- Any work involving exposure to adult material
- In telephone sales
- In any slaughterhouse

- As an attendant or assistant in a fairground or similar amusement arcade
- In personal care unless under the supervision of a responsible adult
- Street trading

## **Permits**

Most Local Authorities will require a permit.

The employer has to provide the following information within a week of employing a child. This will include:

- Employer's name and address and the name, address and date of birth of the child.
- The hours and days on which the child is to be employed, the occupation, details of the tasks involved and the place of employment.
- A statement by the parent that the child is fit to work and that the parent agrees to the employment.
- Details of the child's school.
- A statement to the effect that an appropriate risk assessment has been carried out by the employer.

The Local Authority will issue a permit to the child if it is satisfied that the proposed employment is lawful, that the child's health, welfare or ability to take full advantage of their education would not be jeopardised, and that the child is fit to undertake the work. Sometimes a medical examination may be required.

The permit will give details of the child the hours and the days on which the child is to be employed, details of the tasks involved and the place of employment. The permit is given to the child, but a copy of may be given to the employer.

The permit can be amended if the employer applies to have it amended. The permit can be revoked if the Local Authority thinks the child is being illegally employed or the child's health, welfare or ability to take advantage of education is likely to suffer.

If the rules are broken by the employer it is likely that their liability insurance will no longer be effective, so if an incident happened involving the child, the employer would be uninsured and would be committing an offence.

## **Health & Safety Requirements**

All employers have a general duty to ensure the health, safety and welfare of all their young employees, particularly those risks which are a consequence for their lack of experience or absence of awareness of existing or potential risk or the fact that the young person has not fully matured. The employer has to consider the results of a risk assessment.

Employers are required to:

- Assess risks to all young people under 18 years before they start work.
- Ensure that the risk assessment takes into account the inexperience, lack of awareness of risk and immaturity of the young person.
- Introduce control measures to eliminate or minimise the risks so far as is reasonably practicable.
- If there are five or more employees, then the risk assessment must be recorded. Pony Club Linked Centres are required to have adequate risk assessments in place to cover employment of paid staff, self-employed staff, volunteers, members and the general public, and their presence onsite.
- The employer and any employees who will be in direct, unsupervised contact with the child must have a disclosure check and must not be on the list of those barred from working with children.
- Have contact details of the child's parents or any other person they may need to contact in the event of an emergency.

### **Information for Parents**

Before employing a child under the school leaving age, the employer must tell the parent of the key findings of the risk assessment and the control measures introduced. This does not have to be in writing but it would be good practice to do so.

### **Work Experience**

Work experience must be arranged by the Local Authority or the school and the employer. It must be in the last two school years during which the child is of compulsory school age. The child should normally work for no longer than 8 hours a day or 40 hours a week. Permits are not required. The duration of the work experience is generally no longer than a maximum of three weeks, but this can be varied.