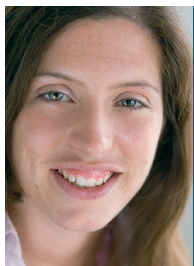


Licensing children in entertainment



BY LINDSAY
DAWSON
solicitor,
Harbottle &
Lewis LLP

FOR THE PAST THREE YEARS STAGECOACH THEATRE Arts, the national performing arts school franchise, has been leading a campaign to persuade the government to undertake a review of the entertainment licensing structure for children. The campaign culminated in May this year with Stagecoach's delivery of a petition to Ten Downing Street. The petition featured more than 10,000 signatures demanding that new guidelines on the child licensing legislation be issued or that the existing legislation be overhauled.

This article examines the current law on child entertainment licensing and considers why many people in the performance industry believe that the law is ready for a change.

THE LICENSING PROCESS

The relevant legislation relating to children in entertainment includes the Children and Young Persons Acts 1933 and 1963, and the Children (Performances) Regulations 1968, as amended. The legislation requires that all children, from birth until they cease to be of compulsory school age, be licensed if they take part in stage or broadcast performances. A child will be of compulsory school age until the last Friday in June in the academic year in which they turn 16.

Child performance licences are granted by the local education authority (LEA) for wherever the child lives. A licence is required for any performance for which a charge is made (even if no charge is made for admission), any performance at licensed premises or in a licensed club, and any performance that is broadcast or is being filmed or recorded for public exhibition or broadcast. Understudies must also be licensed. There are exceptions. Performances arranged by schools (not drama and performing arts schools) do not need to be licensed. Also exempt are performances put on by bodies approved by the Secretary of State or by the relevant LEA (for example, amateur dramatic societies, churches, Scout groups and youth organisations) and activities that the relevant LEA does not consider to be a performance (for example, children being interviewed or filmed while taking part in a normal activity such as attending ordinary school lessons, playing in the park or visiting a youth club).

It is the responsibility of the producer presenting a performance to apply for a child's performance licence, such application to be countersigned by the child's parent or guardian. The producer will be the licence-holder and, once a licence is granted, will be responsible for observing the restrictions and conditions of the licence and keeping appropriate

records. The licence application must be made at least 21 days before the first performance and should specify the number of performance days for which the licence is required and the period that the licence will cover (a maximum of six months), together with a lot of other information. Before granting a licence, the relevant LEA must be satisfied that the child's education will not suffer, the child's health will not suffer, the place of performance or rehearsal is satisfactory, and the conditions of the licence will be observed. The education, health and welfare of each child are paramount and LEAs are empowered to revoke licences if they consider that licence conditions are not being complied with.

All licences granted for child performers must contain conditions obliging the licence-holder to ensure that, during the performance period, the child is cared for by a chaperone licensed by the LEA and provision is made for that child's education to continue without interruption. The LEA may (and sometimes must) ask for a medical report on the child before, during or after performance. The licence conditions will also limit the days on which a child can perform (for stage performances this is six days out of seven and for film and television performances this is five days out of seven) and the earliest and latest times that a child may take part in a performance. The LEA must also approve venues for performances and rehearsals, including arrangements for meals, sanitary and washing facilities, and dressing rooms.

WHY THE LAW NEEDS UPDATING

Stagecoach and other industry bodies consider the current licence process to be seriously flawed, on the basis that it is too reliant on the discretion of the LEA in which the child lives. LEAs vary enormously in their interpretation of the legislation and also in the speed with which they process licence applications. This has led to what Stagecoach describes as a 'postcode lottery', whereby children based in LEAs that take a strict interpretation of the law or are poorly briefed are being refused licences and are therefore missing out on opportunities to appear in professional productions. Part of the reason for this so-called lottery is that LEAs do not have practical guidelines on how to interpret the law. Stagecoach has therefore been campaigning for the government to issue new, clear guidelines for use by LEAs.

Critics of the current licensing process also want the government to go further and revise the law on child performance licensing itself. They argue that the current system places too much emphasis on the imposition by the LEAs of licence conditions on

producers for each child licensed. Although LEAs are entitled to visit the place of performance or rehearsal to undertake spot-checks and venue assessments to ensure that child safety and welfare is being maintained, this is rarely done. Stagecoach has suggested a simpler system in which the employer, rather than the performer, is licensed and then checked regularly. Arguably this would remove a lot of the administrative burden currently being managed by the LEAs, which would in turn free up the LEAs to visit rehearsal and performance venues to ensure that child health and safety is being maintained.

FUTURE DEVELOPMENTS

In the past, the government has shown little inclination to make any changes to the law on child entertainment licensing. An earlier petition presented to Gordon Brown in March this year

elicited just a four-line response. Following the submission of Stagecoach's second, much larger, petition in May this year, the theatre industry newspaper *The Stage* was able to announce that Kevin Brennan, the Parliamentary Under-Secretary for the Department for Children, Schools and Families, has agreed to issue new guidelines relating to child performance licensing. It was also reported that he has agreed to meet with Stagecoach representatives to discuss a new prototype licence designed by the company. However, a date has yet to be set for this meeting, so it remains to be seen how long it will actually take the government to implement the changes that Stagecoach and other industry bodies claim need to be made.

Lindsay Dawson is a solicitor in the theatre group at Harbottle & Lewis LLP.