

CHILD PERFORMANCE LICENSING INFORMATION SHEET



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UPDATE, April 2022

This information sheet provides a reminder and an update on the position regarding Child Performance Licensing now that live performances have resumed post pandemic. There is still significant inconsistency of approach from Local Authority personnel. However, the information below can be referenced if you are having issues.

Summary:

1. In 2018, the DFE recommended the 'effective use of BOPAs' by third party event producers (non-school) as the way to comply with the current legislation without undertaking widespread individual child licences, given that there is no prospect of changing the legislation to allow for wider exemptions within the music education sector.
2. BOPAs replace the need for individual licences. They are issued by LAs for individual events, or an agreed schedule of events over a defined period (usually one year).
3. BOPAs do not permit absence from school. However, permission can be granted by headteachers (for free schools, academies, independents and special schools). In maintained schools, headteachers can record the pupil as participating in an approved off-site educational activity [Code B], which means the child is not technically absent.
4. Licensed chaperones are not required if the children are under *the direct supervision of their parent or a person who has legal parental responsibility or their teacher*.
5. The updated NNCEE guidance (August 2020) reduced the amount of information required from event producers for events licensed under a BOPA (in addition to the event contract). The requirements are:
 - *the number of children taking part*
 - *gender split*
 - *age range*
 - *any disability/medical concerns*

It is likely that not all Local Authority licensing officers are aware of this revised guidance.

USEFUL REFERENCES:

[DFE 2015 regulations guidance states¹:](#)

Body of Persons approval (BOPA)

1.3.7 Also under section 37(3)(b) of the 1963 Act, a licence is not required where a performance is given under arrangements made by a 'body of persons' approved by the local authority in whose area the performance takes place or, in a few exceptional circumstances, by the Secretary of State. Further detail is set out below.

What is a BOPA?

- *A BOPA can be issued for an organisation (known as a 'body of persons' for these purposes) for a specific performance or for a limited period of time as set out in the approval, to put on performances involving children.*

¹ 2015 DFE regulations guidance, see P.10 for BOPAs

- *The granting of a BOPA to an organisation replaces the need to apply for individual licences from each child's home local authority during the period of approval – as long as the BOPA criteria and conditions continue to be fulfilled.*

NNCEE guidance (August 2020)² on reduced information required by organisers

See section 4, BOPAs [p54]

See Section 8, Performance organised by School Music Hubs / Music Services [p78]

'It is not a requirement that the organiser must provide the local authority with the names, dates of birth, address and school of the children taking part. Such detailed information does not inform the licensing officer's decision to issue an approval. The licensing officer should request the number of children taking part, gender split, age range and any disability/medical concerns and this should be taken into consideration to ensure satisfactory supervision and safeguarding arrangements are in place.

There may be other conditions that a local authority may wish to impose depending on the individual circumstances of the performance.

Note: Department for Education advice 1.3.7 states: Where a performance is taking place under the auspices of a BOPA the legislation does not require that the child be supervised by a chaperone approved by the local authority.'

DFE response to MEC working group letter (2018)

They stated the following:

'...the coverage of the legislation is not based on the status of the performance organisers, but on whether any of the following apply:

- *Child performers are being paid;*
- *The audience are paying for entry (or, possibly, whether the performers are paying to take part);*
- *The premises are licensed, whether the bar is open or not;*
- *The performance is being broadcast live, or recorded for future broadcast.*

If one or more apply, then each child performer needs a licence, unless an exemption applies, most frequently Body of Persons Approval (BOPA)....'

In school hours activities:

'If children perform under a BOPA, there is no automatic approval of absence....maintained schools cannot approve absence from school for a child to take part in a licensable activity unless the child has a licence. Academies and independent schools are not subject to that limitation and it is for the head teacher to decide whether to approve absence. (For maintained schools,)....a solution has been when a maintained school is willing to record the pupil as participating in an approved off-site educational activity, which means the child is not technically absent.'

Chaperones:

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.

Music Mark is currently researching whether a national BOPA scheme, akin to that run by Brass Bands England for their membership, might be developed. An update on this research will be shared with the Music Mark Membership in the Summer.

Written by Judith Webster, for Music Mark

² [NNCEE 2020 guidance](#) see page 57 for updated requirements quoted