



# **WOKINGHAM BOROUGH COUNCIL**

## Children in Employment Policy

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## **Executive Summary**

Wokingham Borough Council is committed to supporting all children and young people, aged between 13 and 16 years old, who wish to take up employment.

The Council has a duty to safeguard children and young people in a workplace and will therefore ensure that such employment complies with child employment regulations and local byelaws and does not adversely affect the child's school attendance, or health and wellbeing.

Wokingham Borough Council's statutory responsibilities for Child Employment apply to children and young people from any borough who wish to take up employment in Wokingham. This includes children and young people who are Electively Home Educated.

Wokingham Borough Council will work with employers, parents, and schools to ensure children and young people can benefit from being employed without detriment to their education.

This policy outlines how Wokingham Borough Council, through its Child Employment Officer and other staff, will enable children and young people to be safely and legally employed in Wokingham.

*Any questions or concerns about the contents of this policy should be raised with the Quality Assurance and Policy Team via email at:*

***[ImpactAndInspectionTeam@wokingham.gov.uk](mailto:ImpactAndInspectionTeam@wokingham.gov.uk)***

## Policy Context

This policy is underpinned by national legislation and local byelaws:

- *The Children and Young Person Act 1933 Part 11 and section 107, amended by the Children (Protection at Work) Regulations 1998 (S.I. 1998/276), the Children (Protection at Work) Regulations 2000 (S.I. 2000/1333) and the Children (Protection at Work) (No 2) Regulations 2000 (S.I.2000/2548)*
- *Children and Young Persons Act 1963 section 35(2)*
- *The Criminal Justice and Court Services Act 2000 Part 11*
- *The Education Act 1996, sections 558 to 560*
- *The Employment of Women, Young Persons and Children Act 1920*
- *The Gambling Act 2005, sections 51 to 55*
- *The House to House Collections Regulations 1947 (SR&O 1947/2662) amended by the House to House Collections Regulations 1963 (S.I. 1963/684), regulation 8*
- *The Licensing Act 2003, sections 145 and 153*
- *The Merchant Shipping Act 1995 section 55. See also Merchant Shipping Notice MSN 1776(M)*
- *The Riding Establishments Act 1964, amended by the Riding Establishments Act 1970, section 1(4A)*
- *The Safeguarding Vulnerable Groups Act 2006*
- *The Management of Health and Safety at Work Regulations 1999 (S.I. 1999/3242) amended by the Management of Health and Safety at Work and Fire Precautions (Workplace) (Amendment) Regulations 2003 (S.I. 2003/2457)*
- *The Working Time Regulations 1998 (S.I.1998/1833)*
- *The Data Protection Act 2018*
- *Wokingham Borough Council Bylaws 1998*

It should be read in conjunction with other local procedures:

- *Children in Entertainment Policy*

***This policy applies to:***

- ***all employers in Wokingham Borough who employ children and young people between 13 and 16 years old who are under the school leaving age;***
- ***the parents of children and young people seeking employment or who are already employed in Wokingham Borough;***
- ***all Wokingham Borough maintained schools, academies, free schools, special schools, and pupil referral units; and***
- ***all Wokingham Borough Council staff who have contact with employers or with school age children and their parents.***

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## **1. Introduction**

Wokingham Borough Council (WBC) is committed to supporting all children and young people, under the school leaving age, who wish to take up employment. The Council has a statutory duty to keep these children and young people safe from being exploited in the workplace and this policy will outline how this duty will be delivered through its Child Employment Officer and other staff. It will also explain the procedures in place to do this.

## **2. Glossary**

- **School Leaving Age**

A child reaches the school leaving age on the last Friday in June in the school year in which they have their 16<sup>th</sup> birthday. This means that a child can still be 15 when reaching the school leaving age if their birthday is in the school summer holidays.

- **Employment**

As well as employment in its normal meaning, the Children and Young Persons Act 1933 states that a “person who assists in a trade or occupation carried on for profit” is considered as employed even though he or she may receive no payment. So, the rules in the Children and Young Persons Act will apply where, for example, children help their parents in the family’s business without receiving any payment. The Department for Education considers that any occupation where the aim is to make a surplus would be considered as a trade or occupation carried on for profit so, unpaid work at a charity shop would count as employment, but not, for example, unpaid work at a youth club.

## **3. The Law**

This policy will set out the key provisions of the law on child employment. It will explain the special rules which apply to the employment of children under the school leaving age. However, it will not cover general employment law which, apart from the national minimum wage and the rules requiring four weeks holiday, apply to the employment of children just as it does to the employment of adults. This means that the rules against discrimination in employment on the grounds of race, sex, religion or belief, sexual orientation, gender reassignment or age will apply to the employment of children just as they apply to the employment of adults.

## **4. Age limits and working hours**

The Children and Young Persons Act 1933, as amended, together with local authority byelaws, govern the hours that children and young people can work. It should be noted that different local authorities’ byelaws may have different restrictions relating to

morning working times and Sunday working times, and it is therefore important for employers and parents to check with the local authority where the employment will take place to ensure regulations are being followed correctly.

***See Appendix A: Permitted Hours of Employment in Wokingham***

#### **4.1 Elective Home Education (EHE)**

The legislation around working hours relates to a child who attends school and refers to school hours, whereas for EHE children their hours and times of education will vary from that of a child who is on roll at a school. As the legislation defines children by their age, not how they are educated, the relevant laws will still apply regardless of whether they attend an education establishment or are home educated.

### **5. Permitted employment**

All children under the school leaving age may only be employed to do 'light work'. This is work which, due to its very nature or the conditions under which it is carried out, is unlikely to be harmful to the health, safety or development of the child and will not have a detrimental effect on their school attendance.

#### **5.1. Children under 13 years old**

All employment of children under the age of 13, in any type of work, is illegal.

#### **5.2. Children aged 13**

Wokingham Borough Council's byelaws allow the employment of children aged 13, to do light work, in one or more of the following:

- agricultural or horticultural work;
- delivery of newspapers, journals, and other printed material;
- shop work, including shelf stacking;
- hairdressing salons;
- car washing, by hand, in a private residential setting;
- in a café or restaurant (but not the kitchen);
- in riding stables;
- domestic work in hotels and other establishments offering accommodation.

## 5.2. Children aged 14 and above

Children aged 14 and above, but under the school leaving age, can do any light work except work prohibited or restricted as described in section 6.

## 6. Prohibited or restricted work

This section details the kinds of work children and young people may not do, together with restrictions on what they can do.

### 6.1. Health and safety

Children and young people under 18 years of age cannot be employed for work:

- which is beyond the child's physical or psychological capacity;
- involving harmful exposure to toxic or carcinogenic substances;
- involving harmful exposure to radiation;
- involving a risk which cannot be recognised or avoided by the child or young person because of their lack of attention to safety, or lack of experience or training;
- in which there is a risk to health from extreme, cold or heat, noise, or vibration.

#### 6.1.1 Additional health and safety requirements.

All employers have a general duty to ensure, so far as is reasonably practicable, the health, safety, and welfare of all their employees by carrying out Risk Assessments. When employing children and young people employers are required to:

- assess risks to all children and young people under 18 years of age **before** they start work;
- ensure that the risk assessment takes into account the inexperience, lack of awareness of risks, and the immaturity of young people; and
- introduce control measures to eliminate or minimise the risks, so far as is reasonably practicable.

Before employing a child under the school leaving age, the employer must let the parent or guardian of the child know the key findings or the risk assessment and the control measures introduced. WBC also requires this information when employers submit an Employment Permit application (see section 7).



## **6.2. Industrial undertakings**

As well as the rule restricting children to light work, the employment of children under the school leaving age in industrial undertakings is forbidden. 'Industrial undertakings' includes:

- mines and quarries;
- any manufacturing;
- construction or repair of buildings, roads etc;
- transport of passengers or goods, including handling goods in a warehouse.

## **6.3. Gambling**

The employment of children under 16 in almost all forms of gambling is forbidden. This includes casinos, bingo, lotteries (including the National Lottery) betting shops, machine arcades and the pools.

## **6.4. Employment on boats**

A child under the school leaving age cannot be employed on any United Kingdom registered ship. This includes those operating on inland waters, including rivers, lakes, and category A to D waters. 'Ship' includes all types of UK registered vessel. In addition, children under 16, including those over school leaving age, are prohibited from being employed on any UK registered sea-going ship. Advice on the employment of children in any work involving canoes, kayaks, sailing dinghies etc. will be sought from the relevant national sports governing bodies. All children working on boats must be given appropriate health, safety and welfare protection including relevant risk assessments.

## **6.5 Street Trading**

Wokingham Borough Council byelaws do not permit a child under the school leaving age to be engaged or employed in street trading. This includes the children of the street trader.

## **6.6 Busking**

Children playing, singing or performing for profit in the street is prohibited in Wokingham Borough.

## **6.7 Additional prohibitions under Wokingham Borough Council Byelaws**

Wokingham Borough Council's byelaws prohibit the employment of children:

- in a cinema, theatre, discotheque, dance hall, or night club, except in connection with a performance given entirely by children;
- to sell or deliver alcohol, except in sealed containers;
- to deliver milk or fuel oils;
- in a commercial kitchen;
- to collect or sort refuse;
- in any work which is more than three metres above ground / floor level;
- in employment involving harmful exposure to physical, biological, or chemical agents;
- in work involving exposure to adult material or in situations which are, for this reason, otherwise unsuitable for children;
- in telephone sales;
- in any slaughterhouse or in that part of a butcher's shop or other premises connected with the killing of livestock, butchery, or the preparations of meat for sale;
- as an attendant or assistant in a fairground, amusement arcade or in any other premises used for the purpose of amusement by means of automatic machines, games of chance or skill or similar devices;
- in the personal care of residents of any residential care or nursing home unless under the supervision of a responsible adult.

Wokingham Borough Council's byelaws also prohibit children from working, either outdoors or indoors, unless they are wearing suitable clothes and shoes.

## **7. Notification of employment and employment permits**

Wokingham Borough Council's byelaws require permits for the employment of children under the school leaving age. Within one week of employing a child, the employer must provide the following information by completing a Work Permit Application form:

- the employer's name and address;
- the name, address, and date of birth of the child;
- the hours and days on which the child will be employed;
- the job they will be doing, together with details of the tasks involved;
- the place of employment if different from the employer's address;

The application form also contains sections to be completed by the child's parent/carer and their school. The application form should then be submitted to WBC's Child

Employment department, together with a Risk Assessment (refer to Section 9) for the job and a photograph of the child. WBC will issue an employment permit if satisfied that:

- the proposed employment is lawful;
- the child's health, welfare, or ability to take full advantage of their education is not jeopardised; and
- the child is fit to undertake the work for which they are to be employed.

The permit will give details of the child, the hours, and days on which the child will be employed, the job they will be doing, the place of employment, and any other requirements or restrictions that apply. The permit will be issued to the child and a copy given to the employer, parent/carer, and school. If any details of the child's employment change, the employer can apply to have an amended employment permit issued. If a permit is refused or revoked, the employer must cease to employ the child.

Employment permits are specific to the child, the employer, and the employment. If a child has more than one job (whether it is with the same employer, another employer, or a different place of employment) each job needs to be registered separately with the appropriate local authority.

If these rules are not adhered to, it is likely that the employer's liability insurance, of the person employing the child, will no longer be effective. Therefore, if there was an accident involving the child, the employer would be uninsured and would commit an offence.

## **8. Offences**

An employer who employs a child of compulsory school age without an employment permit is in contravention of child employment regulations and action may be taken against them by the local authority in whose area the employment takes place.

In general, if a child is employed in contravention of any of the rules set out in sections 4 to 7 of this policy, the employer commits an offence. The case would be heard in the Magistrates' Court and the maximum fine is currently £1,000. In addition, any person other than the child, whose act or default contributed to the contravention, also commits the offence.

In some cases, the penalties are higher, or occasionally lower. In particular the maximum penalty for employing a child in any of the types of work described under the heading '**6.1 Health and safety**' is:

- if the case is heard in a Magistrates' Court, a fine of £20,000; or
- if the case is heard in the Crown Court, an unlimited fine.

## **9. Education and the role of schools**

Any absence from school due to employment, whether paid or unpaid, will be treated as unauthorised absence which may result in action being taken against the child's parent/carer and the employer. In addition, parents/carers are not permitted to grant permission for their child to work before or beyond permitted hours as outlined in Appendix A.

Schools should be aware that a pupil's absence may be a result of their employment during school hours. Such employment would be illegal, and schools should notify WBC's Child Employment Officer who will take appropriate action to enforce the law.

Even when lawfully employed, a part-time job may adversely affect a child's school performance, thereby putting their education at risk. If school suspects that a pupil's absence, poor punctuality, tiredness at school, or other problems with concentration or behaviour, may be related to their employment, school should contact WBC's Education Welfare Service to discuss their concerns. If the child's employment is clearly putting their education at risk, WBC's Child Employment Officer may revoke the child's work permit.

## **10. Employer checks and site visits**

WBC may wish to carry out new employer checks or site visits to establish suitability of the proposed employment. The Child Employment Officer will inspect premises to check they are suitable for the young person to work in and will ensure the employment is permitted under Wokingham's byelaws.

A site visit may also be in response to a report of a child working illegally. WBC's Child Employment Officer has the right to inspect a workplace in such circumstances but does not have power of entry. WBC work closely with Thames Valley Police, who do have power of entry, and undertake joint inspections when information has been received about a possible breach of child employment legislation and byelaws.

## **11. Work experience**

Work experience falls under Section 560 of the Education Act 1996 as it is considered to be part of a child's education not as employment. The Act states that work experience can take place during the last two years of a pupil's compulsory education. It is unpaid, subject to different insurance arrangements, and certain rules contained within Acts of Parliament, Regulations and Byelaws, do not apply where the employment is work experience. Work experience must be arranged by the local authority or by the governing body of a school acting on behalf of the local authority if these rules are to be relaxed.

Children on work experience should normally only work for a maximum of eight hours a day and 40 hours each week. In some cases, this will be a legal requirement under the Working Time Regulations 1998. In other cases, although it may not be a legal requirement, it is recommended that children on work experience do not work longer than these hours.

None of the restrictions relating to light work apply.

**Prohibitions:** The following will still apply:

- The rules under the section '**6.1 Health and safety**';
- The rules governing employment in the sale of alcohol;
- The rules prohibiting employment in gambling;
- The rules prohibiting employment in boats;
- In addition, the Education Act 1996 preserves the effect of any rules about employment of persons below any specified age. This means that if any byelaws go beyond the model and set out additional prohibitions on, say, employment of children under fifteen then those prohibitions will continue to apply.

The following will not apply:

- The restrictions in WBC's byelaws which means that permits are not required where the employment is work experience;
- The prohibition on employment in industrial undertakings.

The Health and Safety (Training for Employment) Regulation 1990 ensures that young people doing work experience are covered by health and safety law. Employers offering work experience placements to children must provide them with the same health, safety, welfare protection and relevant training, that they give their own employees.

## **12. Safeguarding**

Employers have a responsibility to keep children safe. If an employer is worried about a child or young person, they should make a referral as follows:

**If the child is in immediate danger call the Police on 999.**

To report other concerns about a child or young person:

- Phone: **0118 908 8002**
- Email: **[triage@wokingham.gov.uk](mailto:triage@wokingham.gov.uk)**

## **Out of hours**

For safeguarding emergencies after 5pm, or on weekends and bank holidays, that can't wait until the next working day:

- Phone: **01344 351 999**

### **13. Complaints**

WBC aims to work in partnership with parents/carers, schools and employers. Should a complaint arise, contact should be made in the first instance with the Child Employment Officer, preferably in writing, to [childemployment@wokingham.gov.uk](mailto:childemployment@wokingham.gov.uk)

If the response is considered to be unsatisfactory, or the complaint relates to the actions of the Child Employment Officer, contact should be made with the Principal Education Welfare Officer either by telephone in writing to:

Principal Education Welfare Officer

Phone: **0118 974 6000**

Email: [education.welfare@wokingham.gov.uk](mailto:education.welfare@wokingham.gov.uk)

## Appendix A - Permitted Hours of Employment in Wokingham

### 13 & 14 Year Olds

#### Term Time- Maximum 12 hours per week

Day	Times children may work	Maximum Hours
Monday to Friday	1 hour before school (after 7am) and 1 hour after school (before 7pm) OR 2 hours after school (before 7pm)	2 hours
Saturday	Between 7am and 7pm	5 hours
Sunday	Between 7am and 7pm	2 hours

#### School Holidays - Maximum 25 hours per week

Days	Times children may work	Maximum Hours
Monday to Friday	Between 7am and 7pm	5 hours
Saturday	Between 7am and 7pm	5 hours
Sunday	Between 7am and 7pm	2 hours

## 15 & 16 Year Olds

### Term Time- Maximum 12 hours per week

Day	Times children may work	Maximum Hours
Monday to Friday	1 hour before school (after 7am) and 1 hour after school (before 7pm) OR 2 hours after school (before 7pm)	2 hours
Saturday	Between 7am and 7pm	8 hours
Sunday	Between 7am and 7pm	2 hours

### School Holidays - Maximum 35 hours per week

Days	Times children may work	Maximum Hours
Monday to Friday	Between 7am and 7pm	8 hours
Saturday	Between 7am and 7pm	8 hours
Sunday	Between 7am and 7pm	2 hours

#### **Note:**

- 1. Morning working times and Sunday working times may vary with different local authorities. Contact the Local Authority in whose area the work takes place to be sure you are adhering to the regulations correctly.*
- 2. Children must have 1 hours break after 4 hours continuous work.*
- 3. A child under the school leaving age must have a two-week break from any employment in year calendar year. The break must be taken during the school holidays.*