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Employment of Children

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1 Introduction

- 1.1 The council is empowered by the Children & Young Persons (Scotland) Act 1937 (S28, 30) to make byelaws in respect of the employment of children aged from 13 to 16 years.
- 1.2 The Employment of Children Act 1973 empowers the Authority to prohibit or restrict the nature of a pupil’s employment, even though it would be lawful, if it is unsuitable for the pupil or prejudicial to his or her education.
- 1.3 The Children (Protection at Work) Regulations 1998, which effectively revoked previous byelaws, and The Children (Protection at Work) Regulations 2006 were introduced in order to implement the child employment provisions of EC Directive 94/33/EC on the protection of young people at work.
- 1.4 West Lothian Council byelaws, introduced as a consequence of the EC Directive and the 1998 Regulations, were in force from 17 April 2002.
- 1.5 Byelaws supplement the regulations and both items of legislation must be considered together. [Appendix 1](#) draws from these to provide full details of how and when a child may be employed. The byelaws and the terms of this document apply equally to paid and unpaid employment.
- 1.6 Young people over school age are not covered by byelaws, but by national legislation, e.g., the Management of Health & Safety at Work Regulations 1999; The Working Time Regulations 1998.
- 1.7 Work experience in the last year of school is governed by the Education (Work Experience) Act 1973, not by council byelaws nor covered by this document. See the policy guideline entitled “Extended Work Experience”.
- 1.8 Performances, modelling and taking part in paid sporting activities are regulated by the Children (Performances) Regulations 1968 under section 37 of the Children and Young Persons Act 1963 and are not covered in this document. Enquiries should be directed to Education Customer Services, West Lothian Civic Centre, Howden South Road, Livingston EH54 6FF (☎01506 281952).

2 Children (Protection At Work) Regulations

- 2.1 The main provisions of the EC Directive and, hence, the regulations are that children may only do light work, that is work not likely to be harmful to their safety, health or development, nor to their attendance or ability at school or in work experience.
- 2.2 The regulations restrict the employment of children to those aged 14 years and over, restrict the nature of their work, limit the number of hours which may be worked and set rest-breaks, and prohibit employment before the close of school on school-days.
- 2.3 The regulations also provide for the council to make byelaws to prescribe the categories of work in which children may not be employed; to permit the employment of 13 year olds and prescribe the categories of work in which they may employed; to allow the employment of children for up to one hour before school on school days and to impose conditions to be observed in relation to the employment of children including a requirement that employers obtain work permits from the education authority.

3 Effect of Byelaws

- 3.1 West Lothian Council byelaws prescribe the categories of work in which children may not be employed; permit the employment of 13 year olds and prescribe the categories of work in which they may employed; allow children to work for up to one hour before school on school days and impose other conditions to be observed in relation to the employment of children.
- 3.2 Byelaws include a requirement that employers obtain employment permits from the education authority for each child employed, giving the authority an opportunity to satisfy itself that the health, welfare and education of the child will not be adversely affected.
- 3.3 Byelaws require the employer to state in the permit application that he has carried out an assessment of the risk to the child's health and safety in terms of the Management of Health and Safety at Work Regulations 1999. The Regulations require an employer who employs five or more employees to keep a written record of the assessment.

4 Further Information

- 3.2 Enquiries regarding the information in this document should be made to Education Customer Services, West Lothian Civic Centre, Howden South Road, Livingston EH54 6FF (☎01506 281952).
- 3.3 Enquiries concerning the issue of a specific employment permit should be directed to the pupil's secondary school.

Rules Concerning the Employment of Children in West Lothian

This Appendix is intended as a guide only. It does not fully reproduce the terms of byelaws (available from Education Customer Services, West Lothian Civic Centre, Howden South Road, Livingston EH54 6FF (☎01506 281952) or regulations obtainable from The Stationery Office and is not a full or authoritative statement of the law

- 1** No child may be employed without the employer having obtained an employment permit from the authority. See paragraph **12** for permit arrangements
- 2** No child under 13 years of age may be employed. (This does not prevent children taking part in performances, in modelling or in sport under the provisions of a licence granted in accordance with the Children and Young Persons Act 1963)
- 3** No child may be employed in the following categories of work:
 - ◆ in a cinema, theatre, discotheque, dance-hall or night-club, except in connection with a performance given entirely by children. (This does not prevent children taking part in performances under the provisions of a licence granted in accordance with the Children and Young Persons Act 1963)
 - ◆ to sell or deliver alcohol, except in sealed containers
 - ◆ to deliver fuel oils
 - ◆ in a commercial kitchen
 - ◆ to collect or sort refuse
 - ◆ in any work which is more than three metres above ground level or, in the case of internal work, more than three metres above floor level
 - ◆ in employment involving harmful exposure to physical, biological or chemical agents
 - ◆ to collect money or to sell or canvass door to door, except under the supervision of an adult
 - ◆ 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 any butcher's shop or other premises connected with the killing of livestock, butchery, or the preparation of carcasses or meat for sale
 - ◆ as an attendant or assistant in a fairground or amusement arcade or in any other premises used for the purpose of public amusement by means of automatic machines, games of chance or skill or similar devices
 - ◆ in the personal care of residents of any residential care home or nursing home unless under the supervision of a responsible adult
 - ◆ no child shall be employed on a commission only basis
- 4** A child aged 13 may be employed only in light work not likely to be harmful to the safety, health or development of children or harmful to their education in the following categories:
 - ◆ agricultural or horticultural work
 - ◆ delivery of newspapers, journals and other printed material, and collecting payment for same providing that the collection is under the supervision of an adult
 - ◆ shop work, including shelf stacking

- ◆ hairdressing salons
- ◆ office work
- ◆ car washing by hand in a private residential setting
- ◆ in a café or restaurant
- ◆ in riding stables
- ◆ domestic work in hotels and other establishments offering accommodation
- ◆ ball persons at football grounds

- 5 Children aged 14 or over may be employed only in light work not likely to be harmful to their safety, health or development or harmful to their education, but not in the prohibited categories of work shown at paragraph 3. They may be employed in street trading by their parent in connection with their retail business under their direct supervision and in compliance with a street trader's licence issued by the Miscellaneous Licensing Section of West Lothian Council.
- 6 Employers must carry out a risk assessment in terms of the Management of Health and Safety at Work Regulations 1999 before employing a child.
- 7 Employers are to ensure that children are wearing clothing and footwear appropriate to the prevailing weather conditions before employing them outdoors.
- 8 Employers are to provide suitable reflective over-garments such as a reflective smock or blouse or sash for work outdoors in the hours of darkness.
- 9 Permitted daily hours of employment**

<i>Weekdays when required to attend school and Sundays</i>	Maximum of 2 hours per day worked between 7.00 am and 7.00 pm, 1 hour of which may be before school
<i>Saturdays and weekdays when not required to attend school</i>	Under 15 years of age, a maximum of 5 hours. Over 15 years of age, a maximum of 8 hours.

10 Maximum weekly hours of employment

a In School Term-Time	12 hours maximum
b In School Vacations	
i) Aged 13 or 14 years:	25 hours maximum
ii) Aged 15 years:	35 hours maximum

11 Rest and breaks

A rest period of 1 hour is required after 4 hours work

Two consecutive weeks are required without employment during school holidays each year.

12 Employment Permits

The application form for a permit is shown at **Annex 1**. Applications must be submitted by or on behalf of the employer to the child's school.

Parts 1 and 2 must be completed by the employer and the parent, respectively and forwarded to the head teacher of the school attended. The head teacher should return the form, if incomplete, without further action to the employer or, if the employer's address is unknown, to the parent/carer.

Any application, which is not certified by the employer to the effect that a health and safety risk assessment has been carried out, is unlawful and must be refused.

Part 3 requires the head teacher to confirm the pupil's date of birth, that the employment:

- ◆ is lawful in terms of the council's Byelaws
- ◆ will not jeopardise the pupil's health, welfare or ability to take full advantage of education and/or work experience

and that the pupil:

- ◆ is fit to undertake the work shown on the application form

The parent's statement of fitness is acceptable unless the school has reason to believe otherwise. When any question exists concerning the fitness of a child to undertake the work applied for, a medical certificate submitted by a parent or employer (at their own expense) may be accepted. If it is considered necessary by the head teacher to refer the application to the School Health Service, the normal appointment procedure should be followed without delay. Any comments from the School Medical Officer should be entered in Part 4.

The Head Teacher's decision is to be recorded at Part 3 and, if an application is refused, the reason for refusal indicated. A Head Teacher is entitled to approve a permit for fewer hours or to prohibit employment at certain times if the employment applied for, though not unlawful, would jeopardise the pupil's health, welfare or ability to take full advantage of education and/or work experience.

Issue of Employment Permits

The Permit is to be issued to the employer (who for all purposes is the applicant) with one copy to the pupil, one copy to the parent/carer and a copy retained by the Head Teacher.

Permits are not transferable to other forms of employment. Should an employment cease or the type of work change, a further application must be submitted by the employer. A change of hours (if approved) will also require the issue of a new permit. All requests for changes to permit details require the written approval of a parent/carer.

Withdrawal of Employment Permits

A permit may be withdrawn at any time if the Head Teacher decides that there is reason to do so. The employer, pupil and parent must be informed in writing.

If a change in circumstances comes to light in which continued employment would jeopardise the pupil's health, welfare or ability to take full advantage of education and/or work experience, the Head Teacher must withdraw the permit.

A permit ceases to have effect as soon as the pupil reaches their school leaving date.

Contravention of Byelaws

An employer is committing an offence by employing a pupil without a permit or outwith the terms of a permit.

The Integrated Children & Young Peoples Support Team Leader (☎ 01506 776980) must be informed immediately of any case coming to light of a pupil being employed in breach of Council Byelaws.



Annex 1 - Application Form

FOR OFFICE USE	
Ref:	WLC/EP/

**APPLICATION BY AN EMPLOYER FOR A PERMIT
TO EMPLOY A CHILD UNDER SCHOOL LEAVING AGE**

This application is submitted under the council's Employment of Children byelaws
Copies of the byelaws may be obtained from
Education Customer Services, West Lothian Civic Centre, Howden South Road, LIVINGSTON

PART 1	TO BE COMPLETED BY THE EMPLOYER
(when complete, this form should be signed by the employer and a parent and passed to the child's school)	
Name of child	Date of birth
Home address	
Post code	
School attended	
Name & address of employer	
Post code	
Nature of trade or business	
Address at which the child will work	
Details of work the child will be doing	
Date on which a health and safety risk assessment was made or reviewed in respect of this child (Management of Health and Safety at Work Regulations 1999)	

ENTER THE HOURS TO BE WORKED ON PAGE 2

IN TERM-TIME

Daily hours of work on weekdays when required to attend school and on Sundays

this must not be more than 2 hours per day

	start time this must not be before 7.00am	finish time this must not be after 7.00pm
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Sunday		

IN TERM-TIME

Daily hours of work on Saturdays and weekdays when not required to attend school

this must not be more than 5 hours for a 13 or 14 year old nor more than 8 hours for a 15 year old

	start time	finish time
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Total number of hours employed per week		

In school term-time, this must not be more than 12 hours per week

DURING LONG VACATIONS

Daily hours of work on Saturdays and weekdays

this must not be more than 5 hours for a 13 or 14 year old nor more than 8 hours for a 15 year old

	start time	finish time
Monday		
Tuesday		
Wednesday		
Thursday		
Friday		
Saturday		
Total number of hours employed per week		

In school vacations, this must not be more than 25 hours for a 13 or 14 year old, nor more than 35 hours for a 15 year old

I confirm that I have carried out/reviewed a health and safety risk assessment in respect of this child and request a permit to employ him/her in accordance with the Council's Byelaws

Employer's
signature

Employer's name

(BLOCK CAPITALS)

date

PART 2

TO BE COMPLETED BY THE CHILD'S PARENT

when complete, this form should be passed to the child's school

I agree to my child's employment as described above and I confirm that he/she is in good health for such employment.

I expect that my child's travelling time from home to the place of work will be about minutes.

Parent's signature

date

PART 3

TO BE COMPLETED BY THE HEAD TEACHER

Pupil's year and class			
Pupil's date of birth correct	Yes	No	
Employment lawful in terms of byelaws 3 – 6			
Application signed by employer and parent			
Pupil's health, welfare and education likely to be OK			
Pupil fit for the work detailed in the application? If any reason for doubt exists: <ul style="list-style-type: none"> • a medical certificate may be required from the employer; • the application may be referred to the School Medical Officer; • the permit may be refused 			
Application granted			

Application refused because:

Date

Head Teacher

PART 4 SCHOOL MEDICAL OFFICER'S REPORT AS TO THE CHILD'S FITNESS FOR THE PROPOSED EMPLOYMENT (if appropriate)

Date

School Medical Officer

	Date	Initials
Certificate issued		
Letter of refusal sent		