

DECISION-MAKER:	COUNCIL		
SUBJECT:	BYELAWS ON THE EMPLOYMENT OF CHILDREN 2010		
DATE OF DECISION:	17 MARCH 2010		
REPORT OF:	SOLICITOR TO THE COUNCIL		
AUTHOR:	Name:	Sarita Riley, Senior Solicitor (Corporate)	Tel: 023 8083 3218
	E-mail:	Sarita.riley@southampton.gov.uk	

STATEMENT OF CONFIDENTIALITY

N/A

SUMMARY

The existing Byelaws on the employment of children, made and confirmed in 1998, are now out of date and, like many other local authorities employment byelaws, do not reflect minor, but important, changes to the law that have been introduced. All Children's Services authorities have been requested to review their Byelaws accordingly. This report proposes that the Byelaws are amended to bring them into line with current legislation and that, once made by the Council and published, application is made for their confirmation to the Secretary of State in order for the revised Byelaws to come into force on 1st June 2010.

RECOMMENDATIONS:

- (i) To authorise the Solicitor to the Council to make and seal the Byelaws for the Employment of Children 2010 as attached at Appendix 1 ('the Byelaws').
- (ii) To authorise the Solicitor to the Council to give at least one months Notice of the intention to apply for confirmation of the Byelaws and make the Byelaws available on deposit for public inspection at all reasonable hours for at least one month prior to applying for confirmation of the Byelaws.
- (iii) To authorise the Solicitor to the Council, having completed all notice and deposit requirements under s.236 of the Local Government Act 1972, to apply to the Secretary of State for Children's Schools and Families for confirmation of the Byelaws.
- (iv) To authorise the Solicitor to the Council to take any action or decision necessary to give effect to, conducive to or calculated to facilitate the recommendations in this report and the bringing into force of the Byelaws.

REASONS FOR REPORT RECOMMENDATIONS

1. To update the existing Byelaws in line with changes in relevant legislation and to ensure that the Council's safeguarding duties in relation to the protection of children, in particular the protection of children from the possibility of exploitation or harm in a work place, are maintained.

CONSULTATION

2. Internal officer consultation has taken place with Children's Services & Learning who are responsible for the provision of education welfare services to children and for managing and enforcing the requirements in relation to the employment of children and young persons. Informal consultation in relation to the content and procedure for amending the proposed Byelaws has also been carried out with the Department for Children's Schools and Families (DCSF) and the proposals in the report are consistent with and wholly in accordance with the model Byelaws previously issued by the DCSF and the updated guidance issued to local authorities in November 2009.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. Not to seek to amend the Byelaws. This option has been rejected as the current Byelaws do not reflect current changes in the law relating to the employment of children.

DETAIL

4. Southampton City Council has, since the transfer of responsibility for Children's Services functions in it's area from Hampshire County Council, been responsible for ensuring that the law in relation to the employment of children and young person is enforced.
5. Under Sections 18(2) and 20(2) of the Children and Young Persons Act 1933 the Council has the power to make Byelaws regulating the types of employment in which children and young persons may be engaged, the manner under which any such employment should be carried out, the hours which a child may be employed and the arrangements for permits to be issued regulating the employment of children to ensure that employment does not or is not likely to harm the health or welfare of a child or their ability to take full advantage of their education.
6. In 1998 the DCSF published model byelaws for local authorities to adopt in this regard, with some provision for the model to be adapted to meet particular local circumstances. The existing Southampton City Council byelaws follow the model byelaws in all material respects, with the exception that they omit any permissive regime relating to street trading (which is an optional area that local authorities can include or not as they see fit depending on whether or not it is a particular concern or activity that takes place in it's area). Southampton City Council has historically chosen to regulate Street Trading through existing licensing and highways legislation.
7. In 2000 a number of minor changes to the law were introduced relating to the prohibition of the employment of children below the age of 13. As the City Council Byelaws in force at this time did not permit the employment of

children below the age of 13, no changes to the byelaws were proposed at that time. It has however, been brought to the attention of local authorities that a number of other minor changes have been introduced following that date, including a change in the types of work that children aged 13 may undertake and further changes introduced by the Licensing and Gambling Acts, and it is therefore appropriate to update the Byelaws to reflect these changes now. All local authorities have recently been sent a reminder of this requirement by DCSF with a request that existing byelaws be reviewed and amended where appropriate.

8. Other than the changes required to reflect the updates in legislation referred to above, it is not proposed to make any other changes to the Byelaws at this time.
9. The changes to the Byelaws attached at Appendix 1 may be summarised as follows:
 - New section 5 added to reflect the change in law specifying that children aged 13 years may no longer be employed in light agricultural or horticultural work unless employed by their parents or guardians and limited to an occasional basis only.
 - Section 6 (previously section 5) amended to delete 'light agricultural or horticultural work' from the list of permitted employment for children aged 13.
 - Explanatory notes 'Prohibited and permitted employment' section amended to reflect updates in recent legislation, particularly Licensing & Gaming Acts provisions and the Safeguarding Vulnerable Groups Act 2006.
10. All other provisions within the proposed Byelaws remain unchanged.
11. Subject to Council approving the proposed amendments, the Byelaws will be made under Seal and then placed on deposit in Council offices for a period of not less than one calendar month. Notices will also be placed in at least one newspaper circulating in the area. Any person may make representations in relation to the proposed Byelaws during that time. Following the close of the application period the Solicitor to the Council will apply to the Secretary of State for confirmation of the Byelaws. Any representations made during the notice will be sent to and considered by the Secretary of State for Children's Schools and families before deciding whether or not to confirm the Byelaws as proposed.

FINANCIAL/RESOURCE IMPLICATIONS

Capital

12. None

Revenue

13. None – the Byelaws will be regulated and enforced within existing Children's Services budgets for this area of work.

Property

14. N/A

Other

15. N/A

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

16. The main statutory provisions empowering the Council to make byelaws regulating the employment of children are set out in the body of the report and Appendix 1.
17. The process for making byelaws is regulated by Section 236 of the Local Government Act 1972 and this is reflected in the procedure set out in paragraph 11 above.

Other Legal Implications:

18. The proposed byelaws are consistent with the provisions of equalities and safeguarding legislation and the provisions of the Human Rights Act 1998.

POLICY FRAMEWORK IMPLICATIONS

19. The proposals set out in this report are wholly consistent with the Council's Policy Framework, in particular the provisions of the Children And Young People's Plan.

SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

1.	BYELAWS ON THE EMPLOYMENT OF CHILDREN 2010
2.	

Documents In Members' Rooms

1.	N/A
2.	

Background Documents

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	BYELAWS ON THE EMPLOYMENT OF CHILDREN 1998	N/A
2.	Guidance on the Employment of Children 2009 Published by DCSF	N/A

Background documents available for inspection at:

Legal & Democratic Services, Civic Centre