

Cabinet - 10 November 2014

Council – 19 November 2014

Employment of Children Bylaws

Wards: All

Report Authorised by: Strategic Director for Delivery – Sue Foster OBE

Portfolio: Cabinet Member for Children & Adult Services: Councillor Jackie Meldrum

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Report summary

The purpose of this report is to seek approval from Cabinet and Council to adopt the revised Child Employment bylaws attached as Appendix A. The bylaws will:

1. Provide a robust and legal framework for employers operating within the London Borough of Lambeth
2. Safeguard all children between the ages of 13 – 16 who are seeking employment/working in establishments/businesses based in Lambeth.

Finance summary

There will be some associated cost around the consultation, marketing and awareness of the new Bylaws.

Recommendations

Cabinet

- a) To note the contents of the Employment of Children Bylaws attached at Appendix A
- b) To recommend to Council that it adopt the Bylaws:-

Council

- (a) To adopt the Employment of Children Bylaws as set out at Appendix A
- (b) To delegate authority to the Director of Corporate Affairs to implement the statutory procedure for making Bylaws and to apply to the Secretary of State for their confirmation in accordance with the process as detailed at paragraph 4 of this report and to authorise officers to take all steps necessary to give effect to, conducive to or calculated to facilitate the recommendations in this report and the bringing into force of the Bylaws

1. Context

- 1.1 The Council is responsible for enforcing the law in relation to the employment of children and young persons.
- 1.2 A key part of this duty includes safeguarding the health, welfare and/or physical development of the child and ensuring that employment will not render the child unfit to obtain proper benefit from his or her education.
- 1.3 The main provisions governing the employment of children are set out in section 18 of the Children and Young Persons Act 1933 (as amended), prescribing, inter alia, the maximum number of hours and core times during which children of different ages may work.
- 1.4 Sections 18(2) and 20(2) of the Children and Young Persons Act 1933 supplement these provisions by extending Councils with the power to make Bylaws regulating, amongst other things, the types of employment in which children and young persons may be engaged in, as well as their hours and conditions of work and for a locally administered system of employment permits.
- 1.5 Section 21 of the said Act, makes it a criminal offence to employ a child in contravention of section 18 or any Bylaws made under it, punishable on summary conviction by a fine not exceeding level 3 on the standard scale (currently £1,000).

2. Proposal and Reasons

- 2.1 The Employment of Children Bylaws currently in force in the Borough were adopted in 1968 by the Inner London Education Authority (ILEA) and amended in 1973. Upon the abolition of ILEA those Bylaws transferred to Lambeth Council when the Council became the Education Authority for the Borough.
- 2.2 The Bylaws the Council inherited need updating.
- 2.3 In 1998 the then Department for Children, Schools and Families published model child employment Bylaws for local authorities to adopt, with some provision for the model to be adapted to meet particular local circumstances. 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 and the model Bylaws duly amended to reflect these changes. The document at appendix A is fashioned on the model Bylaws.

3. Finance

- 3.1 Much of the cost related to these Bylaws will be based on the consultation and marketing processes we will follow to ensure citizens are aware of the Bylaws.
- 3.2 Further clarity regarding sufficiency of budgets:
 - The Child Employment Team currently sits with Lambeth's School Admissions Team and is line managed by senior School Admission managers. The cost centre for this piece of work will come from the School Admissions budget.
 - The Bylaws will be publicised in the local press – this may come with an associated cost.

4. Legal and Democracy

- 4.1 The Council has a general power under Section 235 of the Local Government Act 1972 to make Bylaws for the good rule and government of the borough and suppression of nuisances therein.
- 4.2 Section 236 of the same Act sets out the procedure which must be followed by the Council in this connection. If the Council fails to follow this procedure, the Secretary of State will refuse to confirm the Bylaws. The procedure requires a resolution by full Council, notice of the intention to adopt the Bylaws being given in a local newspaper and then an application being made to the appropriate Secretary of State for confirmation of the proposed Bylaws (Appendix A refers).
- 4.3 Subject to Council approval, the Bylaws 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 Bylaws during that time. Following the close of the application period the Director of Corporate Affairs will apply to the Secretary of State for confirmation of the Bylaws. Any representations made during the notice will be sent to and considered by the Secretary of State. .
- 4.4 Section 149 of the Equality Act 2010 sets out the new public sector equality duty replacing the previous duties in relation to race, sex and disability and extending the duty to all the protected characteristics i.e. race, sex, disability, age, sexual orientation, religion or belief, pregnancy or maternity, marriage or civil partnership and gender reassignment.
- 4.5 The public sector equality duty requires public authorities to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation
 - Advance equality of opportunity and
 - Foster good relations between those who share a protected characteristic and those who do not.
- 4.6 Part of the duty to have “due regard” where there is disproportionate impact will be to take steps to mitigate the impact and the Council must demonstrate that this has been done, and/or justify the decision, on the basis that it is a proportionate means of achieving a legitimate aim. Accordingly, there is an expectation that a decision maker will explore other means which have less of a disproportionate impact.
- 4.7 The Equality Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Equality Duty by justifying a decision after it has been taken.
- 4.6 Section 1 of the Localism Act 2011 introduced a new “general power of competence” for local authorities, defined as “the power to do anything that an individual generally may do” and which expressly includes the power to do something for the benefit of the authority, its area or persons resident or present in its area.
- 4.7 The adoption of the bylaws is a key decision for which 28 days’ notice was given on the Forward Plan.

5. Risk management

5.1 There are three main risks to this if Bylaws do not exist or are not ratified:

5.2 **Safety of children** – The proposed Bylaws sets a standard which protects all children (both Lambeth and non-Lambeth residents) whilst employed in businesses in the Lambeth area. Without such Bylaws in place then children can be exposed to practices which could put them in danger.

5.3 **Lack of business structure** – Businesses who employ school aged children need to know their legal rights and have clear understanding of what they can or cannot do. These Bylaws will provide employers with that framework and by default give them context and protection.

5.4 **Reputation management** – Without updated Bylaws, children in the borough could be left vulnerable to poor employment practices and this could have a negative impact on the Councils reputation.

6. Community safety

6.1 Lambeth Legal Services have identified their view as per section 4 of this paper.

6.2 However, in addition to their input, these proposed Bylaws makes the child employment practices of the Child Employment Team legally compliant and promotes community safety at work.

7. Organisational implications

7.1 Environmental

None

7.2 Staffing and accommodation

None

7.3 Procurement

Gateway 3 forms will be drafted to ensure that all parties involved in the marketing and promoting of these Bylaws get paid. All invoices will be £1,000 or lower, except the costs for legal advice/assistance.

7.4 Health

None

8. Timetable for implementation

Date	Deadline
10 Nov 2014	Cabinet meeting
19 November 2014	Council Meeting
1 December 201	Go live date for bylaws and policies

Audit trail				
Consultation				
Name/Position	Department or Organisation	Date Sent	Date Received	Comments in para:
Cathy Twist – Delivery Director	Education, Learning & Skills Cluster	21/11/2013	Oct 2014	n/a
Jean-Marc Moocarme (Legal Services)	Governance and Democracy	Aug 2013	Oct 2014	Throughout
Katy Shaw (Democratic Services)	Governance and Democracy		12 June 2014	Throughout
Christina Thompson (Finance)			October	
Councillor Rachel Heywood	Former Cabinet Member: Children & Families	21/11/2013		n/a
Councillor Jackie Meldrum	Cabinet Member for children and Adult Services		Oct 2014	Throughout
External				
For internal reports, list internal meetings where issue has been considered				

Report history	
Original discussion with Cabinet Member	03/12/13, 20/01/2013 & 4/2/2014
Report deadline	
Date final report sent	
Report no.	88/14-15
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	Yes
Date first appeared on forward plan	14/11/2013
Key decision reasons	Community impact
Background information	Section 18 of the Children and Young Persons Act 1933 (as amended), http://www.legislation.gov.uk/ukpga/Geo5/23-24/12/section/18
Appendices	Proposed Bylaws