Research Brief

The regulation of child employment and options for reform

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Background

Substantial numbers of children in Britain have part-time jobs before they reach the minimum school leaving age. Legislation is in place aimed at protecting these children from harm. However, a number of previous research studies suggest that this legislation is not effective in practice. Local authorities are given the responsibility of regulating child employment in their area. They are required to develop by-laws covering the types and conditions of work which school-aged children may undertake. These by-laws must be compatible with the requirements specified in national legislation.

Regulation involves requiring employers to ensure that any children of school age whom they employ obtain permission from the local authority. Local authorities have typically relied upon a work permit system to regulate such employment. The key finding of previous research is that the great majority of children with jobs do not have the necessary work permit. They are thus working illegally and the local authority, being unaware of the fact of their employment, is unable to check that they work within the parameters laid down by national legislation and local by-laws.

The Department for Education, aware of these circumstances, commissioned the Child Employment Research Group at the University of the West of Scotland and the Centre for Educational Sociology at Edinburgh University to investigate the regulation of child employment in England and to consider options for reform.

About the research

The project had three broad aims:

- To investigate the effectiveness of the current registration system in England
- Identify the main barriers to the effectiveness of the current system
- To obtain views on alternative approaches to registration

The research used qualitative approaches to allow the research team to explore the views of a range of participants on the current registration system and alternative approaches. The study involved a number of inter-related elements:

Literature review: national and international material was reviewed to provide an overview of registration practices and to develop a range of alternative approaches to registration. In addition a secondary analysis of existing work permit data was carried out.

Stakeholder interviews: six stakeholder interviews were carried out with representatives of organisations that had, over the years, expressed interest in this area. The interviews explored views on the current registration system; its strengths and weaknesses; potential solutions to identified problems; their views on alternative registration systems and the rationale underpinning these alternatives.

Local authority survey: One third of local authorities in England were surveyed (n=51). The sample reflected variations in the type of authority, geographical location and socioeconomic indicators. The survey explored a range of issues including: numbers currently registered to work, the monitoring process, how changes in employment status are handled, resources assigned to registration system and staffing levels, initiatives to publicise regulations and information on prosecutions. Respondents were also asked to identify advantages and disadvantages of the current registration system and alternative registration approaches.

School student focus groups: participants were drawn from two schools and comprised of students from Year 9 to 11. An initial screening survey was completed by students in each school (n= 809). A total of 368 (45.5%) students had experience of paid employment and a sample of students from this group was invited to participate in the focus groups. A total of 20 students participated in three focus groups. The focus groups explored a range of employment issues including the views of young people on part-time employment, its regulation, the existing registration system and ideas for improving engagement with any registration system.

In-depth local authority case studies: in total five local authorities participated in the in-depth case studies. Across all five authorities eleven authority staff were interviewed. The staff had responsibility for a range of child employment issues covering policy, practice and resources. The interviews explored current practices, views on alternative approaches and resource implications.

Employer interviews: telephone interviews were carried out with 25 employers (Catering – 9; Delivery – 9; Retail – 6; Hairdressing – 1). The interviews focused on: the extent of their employment of child workers, views on the current registration system, advantages and disadvantages of registration, consideration of alternative systems and their implications for their business and their employment of young people.

Current Registration System

The local authority survey provided information on how authorities implement the current registration system:

- All of the authorities relied upon a work permit system.
- Just over one-third (36%) of the authorities have staff where child employment and entertainment is their sole responsibility. In the majority of authorities child employment responsibility is combined with other duties.
- The majority of local authorities produce information for a range of end-users e.g. parents, children, employers and schools.
- A number of authorities indicated that they have been involved in awareness raising activities. However, many of these activities are "one off" events.

- Just over three quarters (78%) of authorities indicated that they had system for checking employer's compliance. There was some variability in the robustness of these systems.

Work Permits
Each authority in the survey was asked to provide information on the number of work permits issued. Of the 51 surveyed authorities:
- 39 were able to provide information for 2009-10
- 37 were able to provide information for 2008-09
- 31 were able to provide information for 2005-08

The remaining authorities were able to indicate if work permits had been issued in these time periods but record keeping in this area shows some variability.

Collecting contemporaneous data on the number of child employees within each authority was not within the remit of this project. However, projections, based on previous research findings, of the number of potential employees within each area indicated a significant gap between permits issued and the number of potential employees.

Effectiveness of the system
Survey responses showed that 61% of respondents do not consider that the current system is effective in protecting child employees. This view was reflected in other evidence sources including stakeholder interviews and in depth case studies.

Barriers to Effectiveness
Participants across all of the evidence sources indicated a number of reasons for the lack of effectiveness of the current registration system. Four main themes were identified as barriers to the effectiveness of the current system. These are:

Awareness: there is little knowledge of the issue of child employment in wider society. However, this is also evident amongst a range of professionals who should have a greater understanding of this issues e.g. teachers, social workers etc. While local authorities produce information on child employment it is failing to reach target audiences e.g. employers. Research has shown that increasing awareness through proactive interventions can have a significant impact on work permit levels. However, such interventions have implications for resources in this area.

Resources and prioritsation: the findings from the project question whether current resource levels could cope with the projected number of child employees. There was no evidence that resources allocated to this area are based on evidence relating to the number of potential child employees. Staffing for child employment in local authorities varies considerably and some of these staff also deal with entertainment issues. A number of interviewees expressed the view that this topic is largely neglected within authorities.

Legislation: consensus emerged across a number of evidence sources that the current legislation hampers the effectiveness of the system. The main issues to emerge are the:
- multiplicity of legislation which covers child employment
- existence of local authority by-laws and their variability
- failure of legislation to reflect contemporary society and the twenty-first century childhood experience
- specific details of the underlying legislation and by-laws stop employers from engaging with the current registration system,

Monitoring and enforcement: the current registration system is undermined by the lack of any perceived consequences for non-compliance. Many employers are unaware of the possibility of a penalty for breaking the law. This view was raised in one form or another in stakeholder interviews, survey responses and in the employer interviews. The lack of enforcement or monitoring of compliance is linked to the issue of resources. There is little evidence that authorities are proactive in visiting and checking up on employment situations. The implication appears to be that this is not possible with the current level of resource. Other interviewees were of the view that those charged with responsibility for child employment registration should have stronger powers to undertake inspection of employment premises.

Alternative Registration Options

The effectiveness of the current system is hampered by the existence of a number of barriers. Would the removal of these barriers improve the effectiveness of the current registrations system? For some participants this is one way forward and acknowledges the positive aspects of the current system which are its clarity and simplicity and its focus on the individual child. Others suggest that the way forward is to change the registration system.

Four alternative approaches to registration were considered within this project.

Figure 1. Alternative approaches to registration

A: enhanced version of the current regulatory framework.
In this case part-time work would continue to be regulated by local authorities. This would involve the continuation of a work permit registration system. A more pro-active approach would be required from local authorities and this would need to be supported by the necessary resources.

B: adopt a national regulatory framework.
In this case the flexibility afforded to local authorities to introduce their own by-laws would be removed. Instead central government would specify the regulatory framework, removing any variation or confusion created by regional variation in by-laws. Local authorities would still maintain and administer the work permit system within this framework set by central government.

C: adopt an employer registration system.
For this option work permit registration would be replaced by an employer registration system. Employers would inform local authorities if they had any child employees. The local authority would then have the responsibility of ensuring that such employment complied with the legislation.

D: extension of the rights of adult workers to school students working while still within compulsory education.
In this option children would be issued with a national insurance number at the minimum age for work. There would be an explicit extension of adult workers' rights to cover young people who are working while at school in the compulsory school stage. For example the National Minimum Wage would be extended downward to cover this group of employees.

The views of participants to each of these alternatives were explored and a number of positive and negative consequences of each approach were identified.

Enhanced version of the current system. This was favoured by many local authority respondents, but some employers feared it would lead to increased "red tape". There was a recognition that the level of resource needed to improve effectiveness may be problematic.

Adopt a national regulatory framework. Support for this option was found across a number of evidence sources. This option was perceived as a positive step towards increased awareness, since local by-law variations may be confusing. However, it would require legislation and would not in itself tackle resource problems. Concerns over the loss of local autonomy did not undermine support for this option.

Employer registration. This was seen as potentially increasing awareness amongst employers, particularly with respect to health and safety. It could also offer the opportunity to develop a code of practice for employers. However, doubts were expressed about the cost of this approach as it would require an effective inspection system. Furthermore, it would not deal with cases where an individual child was unsuited to employment because of health or educational problems.

Extension of the rights of adult workers to school students. The principles underpinning this option were viewed positively. However, as an alternative approach it did not receive a great deal of support. It was thought that it might discourage employers from offering children the opportunity to work. It was also suggested that it might lead employers to overlook the special protection younger workers require. However, it should be noted that child workers are unhappy that, unlike adults, they are not protected by a Minimum Wage.

It was clear that no single solution to current problems seems available. However, the possibility of improvements arising from the selective use of elements from the different approaches was noted.

Conclusions and recommendations

Regulation and legislation
Any registration system must be built upon a base of rules and regulations that are credible and command the respect of those who must apply and comply with them. At present it is clear that the child employment regulations do not achieve this. We recommend that:

1. The legislation dealing with child employment be reviewed, simplified and updated. This is a pre-requisite for any other change in this area.

2. The current by-law system be replaced with a national regulatory framework. Adopting this system will reduce confusion and address concerns over the credibility of the regulatory framework.

Implementing recommendations 1 and 2, in and of themselves, have the potential to improve compliance with any child employment registration system.

Registration system
The findings from this study show that there was agreement across a range of participants on the principles underpinning any registration system. These were that it should:
- safeguard the individual child
- not reduce employment opportunities

Four alternative approaches were considered (enhanced version of current system, national regulatory framework, employer registration and extending employment rights to child employees) and Recommendation 2 adopts the approach that had the greatest degree of consensus.

Employer registration has been proposed as an alternative to the current registration system by previous reports e.g. Better Regulation Task Force (2004). Based on the views of our participants there is no consensus that this would be any more effective than the current registration system. We recommend that:

3. There needs to be empirical evidence from which to evaluate the impact of employer registration. The report identifies two employer based systems currently in use. These should be monitored and evaluated to assess the extent to which an employer registration system impacts upon levels of compliance prior to any decision to adopt this approach.

In the short to medium term we recommend that:

4. The barriers to the efficacy of the current registration system be tackled. Recommendations 1 and 2 address two key barriers and could impact positively on levels of compliance. This should be monitored and the current project provides base information for this monitoring.

Addressing the remaining barriers of resources and prioritisation and monitoring and enforcement will be challenging. Tackling these barriers will be dependent on resources. We would recommend that:

5. There is a need to agree the minimum data to be in the information base that local authorities should be able to provide on child employment e.g. work permits issued. This would help local authorities set priorities in this area and identify resource needs.

The literature review and the evidence base collated within this project indicate that the issue of child employment regulation has been a low priority. There needs to be a clearer recognition of levels of child employment in the UK and a clarification of societal attitudes toward this. We recommend that:

6. Central and local government need to demonstrate a commitment to the regulation of child employment if they wish employers to take this issue seriously. Recommendations 1 and 2 provide the opportunity to open a debate in this area and to establish a framework for considering child employment in contemporary society. This debate should consider issues such as a national minimum wage, the role of schools and the work-education relationship.