



# City Management and Public Protection Policy and Scrutiny Committee

<b>Date:</b>	Thursday 20 <sup>th</sup> September 2018
<b>Classification:</b>	General Release
<b>Title:</b>	Proposal to introduce a Street Entertainment Policy
<b>Report of:</b>	Sara Sutton, Director of Public Protection & Licensing
<b>Cabinet Member Portfolio</b>	Councillor Ian Adams, Cabinet Member for Public Protection and Licensing
<b>Wards Involved:</b>	<ul style="list-style-type: none"><li>• St James's</li><li>• West End</li><li>• Marylebone</li></ul>
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<b>Policy Context:</b>	City for All

## **1.0 Executive Summary**

- 1.1 Street entertainment (also commonly known as busking) means music, dance, street theatre, comedy, performance and art offered live in public spaces for the purposes of entertaining, interacting with members of the public, and receiving voluntary contributions.
- 1.2 The council values the dynamic artistry, cultural contribution, and diversity that street entertainment brings, and helps make our city so vibrant. Entertainment from across the globe has always had an equal opportunity and platform to perform here, and historically we have encouraged the industry to grow by proactively supporting performers to self-regulate and abide by the voluntary Busk in London Code<sup>1</sup>.
- 1.3 However, the number of complaints from businesses and residents about excessive noise related to street entertainment continues to be high, and we recognise that more

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<sup>1</sup> The Busk in London Code is a Mayor of London Initiative that sets out a set of simple ground rules to ensure performers are considerate to their surroundings, prevent a risk to public safety and are fair to other performers.

needs to be done to balance the needs of the industry, with the comfort and needs of others. The council is also mindful that in our high footfall areas, increased provisions are required for the management of crowds on already congested streets in order to protect public safety.

- 1.4 The current powers available to the council do not permit us to enforce equal and fair opportunities for performers, nor enable us to take any direct action should performances be a risk or cause excessive disruption to businesses and residents.
- 1.5 We are therefore proposing to introduce a Street Entertainment Policy, which will require street entertainers to apply for permission to perform through a licensing scheme and abide by prescribed area based conditions.
- 1.6 To ensure the policy encourages a better environment for all, the principles of any licensing scheme will:
  - Manage the volume of performers within designated areas to prevent ‘noise clash’ in the surrounding environment, and support the management of crowds.
  - Encourage more diversity in performances that reduces the cumulative impact of consecutive amplified or ‘loud’ acts.
  - Ensure all acts have an equal opportunity to perform in the most sought after areas
  - Improve public safety and comfort of using the public space by restricting or preventing performances in areas where there is an identified risk for pedestrians to spill out onto roads.
- 1.7 The policy will only be implemented in areas where we receive a high volume of street entertainment complaints and/or where there is an identified public protection risk.
- 1.8 To ensure that this approach is the right one to take, the council intends to trial a 12-month pilot in the following three areas, ahead of any wider implementation:
  - Oxford Street
  - Leicester Square
  - North Terrace of Trafalgar Square.
- 1.9 These three geographical areas have been selected for the pilot as they receive a high volume of complaints from residents and businesses related to street entertainment each year. The pilot will help us to assess the impact of the policy, the resource and cost implications, and enable us to use the lessons learnt to help adapt and inform any final scheme.
- 1.10 We want to make sure everyone who has a stake in the policy has their opportunity to help us shape its development. We have therefore planned a thorough engagement and consultation process with businesses, residents and the street entertainment industry, as well as reviewing what other local authorities and cities have done, to ensure

we mitigate any potential risks and also incorporate best practice. Using this information, we will then take a balanced approach to its delivery.

1.11 We anticipate that the pilot will be implemented in August 2019.

## **2.0 Key Matters for the Committee's Consideration**

2.1 The Committee is asked to provide their steer on the following:

- i. Do you think the development of the policy will result in a balanced approach?
- ii. Should the council consider anything further?
- iii. The council will engage with local businesses, BIDS, residents and the street entertainment industry including artistic institutions, in addition to taking lessons learnt from other local authorities and cities who have sought to introduce street entertainment regulations. Are there any other groups the council would benefit from engaging with?

2.2 The responses will form the basis of recommendations to be submitted to the Cabinet Member for Public Protection and Licensing for a response.

## **3.0 Cultural Contribution of Street Entertainment in Westminster**

3.1 Street Entertainment in Westminster is a historical and significant practice for transforming our spaces into places – providing energy and character aligned with well-being and urban vitality. Our city is not just about shops, bars, and public transport, it is about people, and street entertainment provides a rare opportunity that encourages people to pause within the inner city bustle, engage with, and share cultural experiences with strangers. Importantly this is available at no charge, or for a nominal voluntary amount, which helps to shape the experiential offer of our city.

3.2 In Westminster we are lucky to have such a variety of local, national, and international street entertainers, helping us to diversify our economic offer. The types of street entertainment we see include the elaborately dressed living statues in Covent Garden, dance groups and portrait artists in Leicester square, musicians and singers along Oxford Street, amongst many others across our borough. This range encourages a diverse and inclusive environment that captures all interests from across generations, and is an extremely popular cultural asset with our visitors.

3.3 Live performance helps to support our economy. It helps to increase dwell time in public spaces and businesses can benefit from increased trade from the buzz that performances create, that keeps tourists coming back and builds London's creative reputation.

3.3 For the performers themselves Westminster provides a high profile platform that gives the chance for artists to develop and grow in front of the public, with some world famous

acts having started their careers performing on our streets. Our central location also attracts high footfall, which supports performers to maximise their income.

#### 4.0 Unintended adverse impacts of Street Entertainment

4.1 As with all use of public space, there is the expectation that everyone will act reasonably and considerately in sharing the space with everyone (i.e. residents, business, visitors and other buskers). However, street entertainment when conducted unreasonably, is a risk to safety, or when considering the cumulative impact of 'loud' acts, can all adversely impact on the surroundings.

##### Impact of excessive or cumulative noise

4.2 Our city is a vital part of the wider global economy and inconsiderate noisy street entertainment can lead to meetings being disrupted, rooms having to be taken out of use, and customers choosing to take their business elsewhere. In addition, whilst a single amplified or loud performance may not be bothersome, street entertainers need to be mindful that a consecutive series of 'loud' acts throughout the day in a localised area can cause severe distress and discomfort for businesses and residents.

4.3 The table below demonstrates the number of predominantly noise related complaints received annually to the council about street entertainers since 2015/16.

Table 1: Number of complaints received about Street Entertainers by year

2015/16	2016/17	2017/18	2018/19 (to date)
2357	2557	1733 <sup>2</sup>	745 (August)

4.5 Many of the complaints received were between the hours of 2pm and 7pm (up to 8pm in the summer) and the highest volume are from the following areas:

- Leicester Square, Piccadilly Circus, Gerrard Street and Lisle Street
- Villiers Street outside the tube station and Charing Cross Road outside the station
- Oxford Street
- North Terrace of Trafalgar Square and St Martin's place and the Strand
- The corner of Great Newport Street and Cranbourne Street

##### Risk to safety and security

4.6 In addition to the impact of noise, street entertainment can indirectly pose a risk to public safety. Whilst the council do not receive many complaints of this nature, our officers often observe and experience that street entertainment on already congested streets can:

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<sup>2</sup> This reduction was a result of the council employing 4 dedicated officers to support and manage street entertainers explained further in para 5.3.

- create bottle necks in pedestrian traffic
- prevent the ease of flow of pedestrian traffic
- cause crowds to spill onto roads
- cause obstructions
- create opportunities for anti-social behaviour and crime.

4.7 There are also sometimes risks associated with exploitation of street performers, and officers are recently observing an increase in the use of animals as part of performances, which has worrying welfare implications.

4.8 The council also recognises that to future proof public safety on our already congested streets, we need to prohibit street entertainment from causing crowds to congregate where this is dangerously close to roads.

## **5.0 Current Council interventions**

5.1 Westminster have historically taken the approach to encourage Street Entertainers to self-regulate and abide by the 'Busk In London' Code – a Mayor of London initiative that provides best practice guidance on how to busk responsibly. Self-regulation has delivered a managed scheme in Covent Garden area, however complaints are still received from businesses and residents despite their being private security provided by the landowner and two WCC Inspectors provided 08:00 to 20:00 hours. Self-regulation in the West End and Queensway also has not provided an effective response to complaints raised.

5.2 In response to rising complaints, since January 2017 the council has deployed 4 dedicated City Inspectors who actively monitor and respond to any issues raised by the performers, or complainants. Our officers have proactively observed and monitored c.2200<sup>3</sup> performances since their implementation. Officers observations include regular interventions to correct behaviours that are non-compliant with the Busk in London code, however whilst behaviours are not consistent with code they are not so severe as to result in formal enforcement action.

5.3 Whilst the implementation of these officers saw a 30% reduction in complaints from 2016/17 – 2017/18, their ability to effectively manage issues raised are restricted by the powers available, and are limited to voluntary requests for performers to cease, offers of advice and guidance, and using deterrents to tackle bad practices. Only in very serious incidences where officers can strongly evidence an individual persistently causing a negative impact by acting unreasonably or refusing to co-operate, can the council intervene with stronger action.

5.4 Since 2015, the council have had a temporary licensing scheme for our Portrait Artists, as this entertainment is a type of street trading which offers a level of expected service

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<sup>3</sup> To note that this is the number of observations made only and is not reflective of the total number of performances or buskers operating across our borough.

in exchange for a pre-agreed monetary amount. The Portrait Artist scheme currently runs with a set number of registered artists, and pitches are located in 3 areas:

- Swiss Court by the Glockenspiel
- Leicester street
- Charing Cross road

5.5 This scheme runs fairly successfully, however we are aware that improvements are needed. The council will be taking our lessons learnt from this scheme and integrating them as part of the wider street entertainment policy for the area.

5.6 Amplification is only permitted in law until 9pm, and Officers are able to take enforcement action under the Control of Pollution Act if heard after this time.

## 6.0 Interventions by other Agencies & Authorities

6.1 London has no city-wide system that effectively supports busking whilst balancing the needs of businesses and residents. In 2015, the Mayor of London introduced the 'Busk in London' initiative, which aimed to support and promote street performance, to *"make London the most busker friendly city in the world"*. It also provided comprehensive information on where street entertainers can perform, and a set of guidelines for performers, the police, councils, business, residents and visitors understand the law and best practice. However, the best practice guidelines are voluntary and do not effectively implement any tangible controls that tackle the adverse impacts, concerns and complaints arising from businesses and residents.

6.2 What continues to prevail therefore is individual Local Authorities and agencies, developing locally based schemes. For the performers this has meant that London has become a confusing myriad of rules and regulations, however in the absence of any London wide address it is becoming an increasingly necessary approach to strike this balance.

6.3 Some of the schemes across London include:

- **Camden Council:** In 2013, Camden adopted powers under Part V of the London Local Authorities Act 2000, to license busking. Anyone now wishing to perform must have a licence, or they are committing an offence. There are two types available to performers. 1) A Standard Licence is subject to Camden's Standard Conditions including restrictions on permitted times of 10am to 9pm, certain types of instruments such as percussion and wind instruments, and also amplification. Standard Licences can only be used by solo or duo performers. 2) A Special Licence is required when a performer seeks to amend or vary these conditions, for example performing with amplified or percussion instruments, or if there are more than two performers.

### Impact

Whilst the number of complaints about busking in Camden has not reduced, Camden's view is the success of their licensing regime can be measured in several different ways, in that it gives them the ability to influence exactly where a particular busker/s can perform to safeguard noise sensitive premises from excessive noise. Local residents and businesses are also supportive of the action as officers have improved powers to address them, and enforcement action has been taken against unlicensed performers unwilling to co-operate with the scheme.

- **Hillingdon Council:** licenses performers to busk in 4 designated pitches at specified times of the day, and prevents busking in any other area of the borough.
- **Transport for London:** has 35 official busking pitches on the Underground, and performers are assessed by a panel of music industry experts before they are granted a licence to busk.
- **Southwark (private land along the Southbank):** encourages street performers to use the designated street entertainment pitches along the bankside. These pitches are free to use without the requirement of a licence.
- **Hammersmith & Fulham Council:** allows all forms of busking across the borough, however implements a Public Space Protection Order (PSPO) outside shepherd's bush station to prevent all forms of busking in this area between prescribed times.
- **Royal Borough of Kensington & Chelsea:** recently had a street entertainment policy out for consultation which closed on 6<sup>th</sup> July 2018. Its consultation says the council is considering introducing PSPOs, and the survey included questions such as whether street entertainment should be prevented everywhere at all times, prevented just outside underground stations or limited to certain hours.

### Media Response

- 6.5 Attempts to increase regulation within the Street Entertainment industry has been met with negative media coverage, which often describes diminishing talent resulting from harsh or confusing rules, a negative attitude towards buskers, and the plight of street performers. Headlines such as those below are often supported by high profile celebrities who had begun their careers as street performers:

*"Busking in London is dying, leaving a hole in the heart of the city"*

*"Blitz on buskers wrecks Camden's reputation for music, warns comedian Bill Bailey"*

*"Trafalgar Square hula-hoop girl faces £5,000 fine after council ban"*

- 6.5 The council is committed to creating a policy that does not discourage street entertainment, but is easy to understand, encourages equality and diversity, and

supports a safe and sustainable environment for all those who live, work and visit our city’.

## **7.0 Westminster Council’s Proposal**

### Street Entertainment Policy

7.1 In order to preserve the freedom of expression from within the street entertainment industry, the council will not decide what is and what is not an artistic contribution, nor will we impose fixed ‘pitches’, however we are considering ways to:

- Nurture and encourage great performances in our borough by ensuring acts have an equal opportunity to perform in the areas most sought after
- Encourage more diversity in performances that reduces the cumulative impact of consecutive amplified or ‘loud’ acts.
- Manage the volume of performers within designated areas to prevent ‘noise clash’ in the surrounding environment, and support the management of crowds.
- Improve public safety and comfort of using public space by restricting or preventing performances in areas where there is an identified risk for pedestrians to spill out onto roads.

7.2 Under the provisions within Part V London Local Authorities Act 2000, the council have identified that the most effective approach will be to introduce a licensing scheme.

7.3 The licensing scheme will only be implemented in areas where we receive our highest volume of complaints and/or where there is an identified public protection risk.

7.4 In these designated areas, Street Entertainers will be required to apply for a licence that provides permission to perform and abide by prescribed area based conditions. Any performer found not to have a licence, or is not abiding by the conditions set out in the licence may be subject to enforcement action.

### Pilot scheme

7.5 We want to ensure that the licensing approach is the right one to take, therefore we initially propose to trial a 12 month pilot in three localised areas:

- Oxford Street
- North Terrace of Trafalgar Square
- Leicester Square

7.6 These three geographical areas have been selected for the pilot as they receive a high volume of complaints from residents and businesses related to street entertainment each year.



7.7 Having a trialled 12 month pilot will support our understanding of what does and does not work across different areas and allow us to amend our scheme in response, allow us to manage our resources responsibly, and provide us with considerations to review ahead of implementing any wider scheme.

#### *Developing the detail through engagement*

7.8 We recognise that to continue to attract the best street entertainment talent, our policy must make the best performers want to work here. Equally, our policy must satisfy the needs of our businesses and residents by giving the council improved powers to manage those who are being inconsiderate or acting unreasonably. To achieve this balance, the policy and scheme will be developed in close co-operation with performers, the art industry, businesses and residents.

7.9 We want to open our dialogue early in the policy development and work with our stakeholders to help us shape and develop the detail of the scheme. Our engagement with the above groups will look at the following:

- Fairness and Opportunity
- Complaints and Risks
- Area based nuances
- Obtaining a licence
- Licensing conditions and fees
- Managing Compliance

7.10 In addition once we have a completed draft of the policy we will open a public consultation for wider review and scrutiny.

#### *Communicating the policy*

7.11 The council recognises that having a new localised area based policy may result in some confusion as to its implementation. To help mitigate this we will develop a robust communications plan that will include our Officers going out onto the streets to talk with performers, social media activity, promotion via industry platforms, and comprehensive information on our website.

## **8.0 Next Steps**

8.1 The following timetable maps out the steps we will take:

<b>Activity</b>	<b>Timescale</b>
<i>Engagement with stakeholders to inform the draft proposal</i>	Sept/Oct 18
<i>Draft policy proposal developed</i>	Nov 18
<i>Licensing Committee approval for consultation</i>	Nov 18
<i>12 week public consultation</i>	Dec - Feb 19
<i>Revised policy and recommendations to Licensing Committee</i>	Mar 19
<i>Full Council Decision</i>	Apr 19
<i>(if approved) 90 day public notification period running concurrently with 28 day notification of designated spaces</i>	May - Jul 19
<i>Implementation</i>	Aug 19

**If you have any queries about this Report or wish to inspect any of the Background Papers please contact Kirsty Munro x3639 kmunro1@westminster.gov.uk**

**APPENDICES:** None

**BACKGROUND PAPERS:** None