



# Committee Report

Date	<b>28 November 2018</b>
Classification	<b>For General Release</b>
Title of report	<b>Street Entertainment Policy: Information Report</b>
Report of	<b>Director of Public Protection and Licensing</b>
Decision maker	<b>Licensing Committee</b>
Wards involved	<ul style="list-style-type: none"><li>• <b>St James's</b></li><li>• <b>West End</b></li><li>• <b>Marylebone</b></li></ul>
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## 1.0 Purpose of the Report

1.1 This report sets out the current work underway by officers to design a Street Entertainment Policy, which aims to ensure a better environment for performers, residents, businesses and visitors. A range of locally designed solutions to improve the management of Street Entertainment is currently being considered, including the option of introducing a licensing scheme, and therefore this opportunity is given to the Committee to feed in perspectives and early thinking to the proposals.

## 2.0 Cultural Contribution of Street Entertainment in Westminster

2.1 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 globally recognised destinations, shops, bars, restaurants 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.

2.2 Street entertainment (also commonly known as busking) in Westminster's public spaces includes an array of live music, dance, street theatre, comedy, performance and art for the purposes of entertaining, interacting with members of the public, and receiving voluntary contributions. Street entertainment also includes our portrait artists who

operate in fixed pitches in Leicester square, under street trading laws and charge an agreed fixed sum in exchange for their services. In our City we are lucky to have such a variety of local, national, and international street entertainers, which helps us to diversify our economic offer and encourages an inclusive environment that captures all interests from across generations, as well as being an extremely popular cultural asset with our visitors.

2.3 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. For the performers themselves Westminster provides a high profile platform that gives the chance for performers to develop and grow their acts 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.

### 3.0 Adverse impacts of Street Entertainment

3.1 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).

3.2 Our city is a vital part of the wider global economy and inconsiderate or excessive noise from street entertainment can lead to meetings being disrupted, rooms having to be taken out of use, and customers choosing to take their business elsewhere. Whilst a single amplified or loud performance may not have a detrimental impact, street entertainers need to be mindful that a consecutive series of loud, amplified and repetitive acts throughout the day can cause severe distress and discomfort for those businesses and residents who remain static in the surrounding area.

3.3 The table below demonstrates the total 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
2357	2557	1733 <sup>1</sup>	745 (August)

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

- prevent the ease of flow of pedestrian traffic

<sup>1</sup> This reduction comparative to the previous year was a result of the council employing 4 dedicated officers to support and manage street entertainers explained further in para 5.4.

- cause obstructions to through fares or business entrances/exits
- cause crowds to spill onto roads
- create opportunities for anti-social behaviour and crime

3.5 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 animal welfare implications.

#### **4.0 Legal framework for Street Entertainment Enforcement**

4.1 The council have a number of existing enforcement powers to tackle Street Entertainment that is deemed to be causing a nuisance during the day, and have achieved varying levels of success in individual cases. This includes Community Protection Notices, Noise Abatement Notices or Obstruction of highway notices.

4.2 Furthermore amplification is only permitted between 08:00 until 21:00, and Officers are able to take enforcement action under the Control of Pollution Act if heard outside of this time.

4.3 The Council however has been criticised by both performers and residents/businesses for not making better use of the available enforcement powers to tackle the worst offenders. However whilst an enforcement framework exists in law, the following problems arise in practice:

- Warning letters or enforcement notices can only be effectively issued to an individual if the council has access to the perpetrators full name and address. Council officers alone cannot compel street performers to provide their personal details, and require the support of the Police to gain this information. Current Police resources are understandably prioritised for the prevention of high level criminal activity.
- The threshold of evidence we are required to provide to the court when taking formal enforcement action is very high, requiring considerable support and resource to achieve, and which is further compounded by the transient nature of street performers making it difficult to evidence a persistent issue.
- When enforcement action is being pursued, the final decision on the action to take is made by the court.
- The transient nature of street performers means that even if one bad performer is moved on, or enforcement action is taken, they are replaced by more of the same.

#### **5.0 Historical Council Interventions**

5.1 Increasing regulation of Street Entertainment has been periodically considered over a number of years. Westminster has however always sought to avoid formal regulation of street entertainers, choosing to instead encourage Street Entertainers to set up

informal management groups, self-regulate and (more recently) abide by the 'Busk In London<sup>2</sup>' Code.

- 5.2 This approach has delivered a well established managed scheme on the West Piazza of Covent Garden, where performers are required to join a Street Performers Association (SPA) voluntarily run by the performers themselves and enter a draw each morning to determine who will be performing that day. Having an SPA formed in this area has provided the council and CAPCO an organised point of contact to raise issues of concern. However the remainder of Covent Garden is not managed by the SPA and 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.
- 5.3 In many of the other popular 'pitches' in Westminster, e.g. Leicester Square, informal queuing systems have been created whereby performers will take a 'first come first perform' approach. Performers also take it upon themselves to talk with others who are being too loud, and whilst the majority will act upon this peer advice, there continues to be those who act unreasonably and employ bullying tactics with other performers. This current method of self-regulation does not provide the desired level of protection from excessive noise for businesses and residents.
- 5.4 Since January 2017 the council took a targeted approach and 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 the code they are not so severe as to result in formal enforcement action.
- 5.5 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.

### Portrait Artists

- 5.6 Since 2015, the council have managed a temporary licensing scheme for our Portrait Artists. This type of street entertainment differs slightly from other entertainment as it

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<sup>2</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.

<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.

aligns with a form of street trading i.e. the customer agrees to pay a fixed fee in exchange for an expected/advertised level of service.

5.7 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

5.8 This scheme runs fairly successfully, however improvements are required and the artists have requested that the Council review the current location of pitches. The council will therefore be reviewing the current scheme, taking our lessons learnt, and integrating them as part of the wider street entertainment policy proposals.

## **6.0 Policy Proposal: Taking a Different Approach**

6.1 Previous and current interventions have been unsuccessful at driving the right environment for all, therefore we now need to take a different approach that manages the needs and interests of all stakeholders in the fairest way possible.

6.2 As part of our new approach we will be considering a package of interventions including:

- Improvements to Street Entertainment Management
- Options to support and promote the Street Entertainment Industry, and facilitate ongoing communication between performers, residents and businesses
- Ways to support the small number of performers who may require additional social support.

6.3 Recognising that Street Entertainment and the challenges arising are different in our different local areas, we are proposing to deliver locally designed schemes in collaboration with performers, businesses and residents. We want to ensure that this approach is the right one to take, therefore we initially propose to pilot locally designed schemes in the following areas:

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

6.4 Having a pilot will support our understanding of what does and does not work across different areas and allow us to amend our schemes in response, allow us to manage our resources responsibly, and provide us with considerations to review ahead of rolling out the approach to other areas of the city.

6.5 Whilst the detail and implementation of locally designed schemes will be tailored to the area, each scheme must demonstrate they are sustainable for the long term and have met/mitigated the following principles:

- Nurture and encourage great diversity of performances in our borough by ensuring acts have an equal opportunity to perform in the areas most sought after.
- Reduce the impact and cumulative impact of 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 of obstruction or for pedestrians to spill out onto roads.

6.6 Engagement is already underway with the performers, residents and businesses to discuss needs and manage the balance of expectations. We have also to date held three independently run collaborative workshops which included officers from the council, performers, residents and businesses to begin co-designing solutions that strike the balance for all. Engagement with the surrounding pilot areas are also being held to manage concerns of displacement, as well as considering the lessons learnt from what other cities in London have implemented (Appendix A).

6.7 Collaborative engagement is set to continue until the end of the year, with some of the options being discussed including:

- Licensing (Under the provisions within Part V London Local Authorities Act 2000) – considering both a light touch and prescriptive approach
- Street Performers Associations – replicating the Covent Garden model
- Improved enforcement resources – review of how the council can improve its current interventions and response
- Street Entertainment Forums – developing a platform of consistent and ongoing engagement between all stakeholders
- An amalgamation of a range of solutions to create a holistic and sustainable response

## 7.0 Next Steps

7.1 The council have committed to delivering a Street Entertainment Policy by Summer of 2019. If licensing is an option to be pursued then a report on the detail of the scheme designs will be brought to the Committee in the New Year.

**If you have any queries about this report or wish to inspect any of the background papers, please contact:**

Kirsty Munro, Principal Policy Officer

## **Appendix A: Schemes other London cities have implemented**

**GLA:** 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 (which Westminster participated in), and a set of guidelines for performers, the police, councils, business, residents and visitors understand the law and best practice. However, the guidelines are voluntary and do not effectively implement any tangible controls that tackle the adverse impacts, concerns and complaints arising from businesses and residents. Therefore individual Local Authorities and agencies, are developing locally based schemes to strike this balance.

**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.

**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.

**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.

**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, and 70 % of respondents were in support of the council implementing a PSPO.