

## SUBMISSION TO CITY MANAGEMENT AND PUBLIC PROTECTION POLICY AND SCRUTINY COMMITTEE ON STREET PERFORMING

### Heart of London Business Alliance and New West End Company

03 September 2018

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#### Executive summary

Heart of London Business Alliance and New West End Company represent over 1,000 businesses and property owners across the West End.

The West End has a proud and deserved reputation as a vibrant and unique centre for art, heritage, entertainment and culture. Maintaining and improving this image necessitates active and deliberate management of the competing interests and desires for the area.

Street performers have the potential to add to the vibrancy of the area and as such the best performers should be welcomed and celebrated whilst those who detract from the area should be deterred. This requires management and structure, measures and controls, cohesive regulations and ownership. The absence of this across the West End has resulted in chaos with businesses, residents and visitors being forced to endure increasing noise disruption, intimidation, obstruction of premises, anti-social behaviour.

Technological improvements have led to more powerful batteries and amplifiers, which have exacerbated the problem and to make matters worse, many neighbouring areas have successfully taken control of the issue to the detriment of the West End as displacement takes hold.

Over the years, there have been a succession of well-intentioned voluntary schemes trialled but to no avail. At best they were woefully ineffective and a complete distraction, wasting money and valuable time.

The introduction of a mandatory license for street performers is essential across Leicester Square, Piccadilly, Piccadilly Circus, Bond Street, Oxford Street and Regent Street.

#### Current issues

Street performers do not need permission to perform in Westminster, nor are they restricted to any designated locations or standards.

Current issues associated with street performers in Westminster include:

- **Noise levels** – Many acts are simply too loud, causing material disturbance to local businesses and visitors. The buskers code said 6db above ambient noise was acceptable, i.e. about 75-78 db. This is completely ignored. Many acts even flout World Health Organisation levels of safety. Noises of up to 100db are often recorded. Al fresco diners, pedestrians, residents, people working in shops and offices etc. are all detrimentally affected
- **Number of acts** - Hotspots across Westminster are in huge demand. In areas such as the north terrace of Leicester Square, there can be up to a dozen different types of acts at peak times.
- **Quality of act** – Many of the ‘acts’ are poor and are often combined with aggressive touting for money.
- **Appropriateness of acts** - More recently there has been the introduction of horror-movie characters, with menacing costumes and accessories (costume knives and axes).
- **Obstructing pathways** – The larger, louder acts often create large circles, resulting in overcrowding, with pavements and public spaces obstructed. This has obvious public safety and crime implications.
- **Absence of performance timetable** - Responsible, longstanding performers can be subject to intimidation, while new performers find it difficult to establish themselves. Both businesses and street performers are often intimidated. Request for noise levels to be reduced can turn into verbal abuse using microphones.
- **Cumulative impact** - The lack of control of street performers lends itself to normalising and condoning poor behaviour. The performance areas attract antisocial behaviour, pickpocketing, drug dealing and consuming, begging and street urination, litter and cleanliness issues, unlicensed traders attracted by crowds etc.

## Noise reporting

A statutory nuisance can occur when the activity of an individual or business on their own premises unreasonably detracts from another’s enjoyment of their property or causes a risk to public health; and action can be taken by local authorities or individuals under the Environmental Protection Act 1990 (EPA).<sup>1</sup>

There is an overwhelming consensus among Heart of London members that the method of noise reporting is not fit for purpose. Members complain that:

- When the inspector arrives at the scene the act has often changed or moved on;
- If the inspector does approach the act, the act will turn down the amplification until the officer has left the area; or, indeed, the act may disperse and reappear;

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<sup>1</sup> House of Commons Library: <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8040#fullreport>

- There are so few noise officers that resources are spread too thinly to be effective.

Over the period 01/04/2014 and the end of 2017, there were 65,735 noise complaints in Westminster; 2,015 of which were within the Heart of London area – making up 3% of the borough’s complaints in an area just under 2% of the size of Westminster. The top street for noise complaints within the Heart of London area was Leicester Square with 474 noise complaints over the period. In Westminster as a whole, the most noise complaints occurred on Oxford Street, with a total of 2,472 complaints.

Moreover, businesses have so little confidence in the reporting system, they are much less inclined to make a complaint. This is remarkable given the current high volume of complaints.

## Leicester Square

Leicester Square is one of the most iconic squares in the world. Westminster City Council refurbished the square in 2012 at a cost of £15 million, which greatly improved its aspect and appeal.

With weekly footfall in the Square running at well over 2million per week, Leicester Square is one of the busiest areas in Europe.

At peak times, the north terrace of Leicester Square alone can have up to a dozen different types of street activity, including dance acts, musical performances, football-trick artists, magicians, movie characters, religious stalls, unlicensed advertising and free give-aways.

Irresponsible street performers can be noisy and intimidating. Noise, particularly from amplified performances, has a negative impact on businesses and is a major irritant for residents.

The problem is acute around Leicester Square, although not limited to these locations.

In a survey of Leicester Square businesses undertaken by Heart of London in August 2018 the following results were found:

- **66%** of respondents believed street performers had a ‘very negative’ or ‘negative’ impact on their business;
- **26%** were ‘neutral’; and
- **6%** felt street performers had a ‘positive’ impact on business.
- Common unprompted issues specified included:
  - excessive noise levels;
  - obstruction of pathways and pavements;
  - inappropriate acts;
  - anti-social behaviour;

- intimidation;
- litter and cleanliness;
- pickpocketing;
- putting people off;
- **93%** agreed they would like Westminster City Council to control street performances in the Square.

### Best practice

Staff across all Heart of London and New West End Company engage with performers to resolve problems, which relies on their cooperation. Westminster City Council can prevent any amplified noise after 9pm. If persistent anti-social behaviour or nuisance is established, the Council can also prosecute individuals for related offences.

Busk in London was established in 2015, bringing together street performers and the groups they affect to produce a voluntary Buskers' Code and identify appropriate locations and pitches for performance. The project was disbanded in Leicester Square the following year due to its inability to enforce best practice.

Our experience is that responsible street performers sign up to voluntary schemes and act appropriately. However, they are not the individuals who cause problems. Irresponsible performers either ignore or flout the schemes, which are not enforceable. For this reason, Heart of London did not offer any support to the recent Central London Associations of Street Performers (CLASP) initiative, as it did not address the fundamental issue.

A self-regulatory approach relies on all street performers choosing to abide by the rules of a scheme, whatever form it takes. An irresponsible minority will not adhere to voluntary rules and are damaging the reputation of the West End.

Part V of the London Local Authorities Act 2000 allows boroughs to license street entertainment. Schemes include:

- **London Borough of Hillingdon** – busking is only permitted in 4 designated pitches on Uxbridge High Street, which are subject to strict licensing conditions. It has been banned across the rest of the borough since 2011. Restrictions on performers include the nature and quality of their act, being 'neatly clothed' and avoiding 'anything likely to cause alarm, distress or offence to members of the public of any age'. Street performers must register as individuals and then apply for a daily permit costing £27.50.

- **London Borough of Camden** – adopted in 2013, the policy applies to any street act using amplification or live music anywhere in the borough. A Standard Busking License is available for acoustic instruments in normal hours, with a Special Busking License covering amplified performance and other circumstances. Licenses usually last for 12 months and can be refused under a ‘fit and proper person’ test. Performing in breach of conditions or without a license can result in a fine up to £1,000.
- **Royal Borough of Kensington & Chelsea** – after consulting on a pilot scheme in Portobello Road for 2015, which would have led to comprehensive licensing, the council dropped its plans. They were revived in May 2017 but have not progressed. RBKC is now examining an alternative Public Space Protection Order (PSPO) approach, due to failed trial of Community Protection Zone scheme.

And further afield:

- **Melbourne** - An example of where regulatory action has evoked a positive relationship between street performers and the council is in the City of Melbourne (CoM). The city’s council introduced a by-law in 2011 (revised 2017) requiring buskers to hold a permit to perform; a variety of permits can be attained, depending on the type of performance, where that performance is displayed and whether the busker or buskers are selling merchandise.
- CoM requires that all buskers undergo an audition and safety and amenity review. Furthermore, high profile sites with high footfall or an international reputation require a premium permit and can only be applied for six months after attaining a general permit. The premium permit is only attained once a more stringent set of criteria (appropriate for the location) are met.

## Desired outcome

The Busk in London initiative is an exemplary framework for a future statutory scheme. However, it can only be effective if it is backed by a mandatory licencing regime that is actively managed and enforced.

We ask that:

- Busk in London rules are re-enforced by law, and address all current issues – location, noise levels, number of acts, frequency, durations, quality, appropriateness, behaviour, performance schedule, obstructing pathways, litter and cleanliness, and unlicensed selling;
- A pilot in Leicester Square and Oxford Street should be introduced as a matter of urgency;
- A yearly review of the policy and assessment of enforcement should be conducted; and,
- City inspectors must be given effective powers of enforcement and necessary resource.

Heart of London Business Alliance and New West End Company are keen to support Westminster City Council to ensure effective implementation.