

## **BUSKING & STREET ENTERTAINMENT IN WESTMINSTER**

### **Response to be submitted to Westminster City Council**

#### **Summary**

Westminster City Council has launched for a second round of consultation a revised Draft Policy to regulate and manage Busking & Street Entertainment in Westminster. The policy follows on from the initial consultation earlier this year and sets out a Westminster-wide voluntary Code of Conduct that seeks to ensure buskers are considerate of the local community and those sharing the public space.

The draft policy continues to encourage buskers in Covent Garden to join the Street Performers Association (SPA), supports the creation of an SPA for Westminster (which is already in existence and incorporates Leicester Square), and designates 4 dedicated pitches (out of 25) as the only sites appropriate for busking with amplified music in the borough (Marble Arch, North East Leicester Square, St Paul's Church in Covent Garden and King Charles Statue in Trafalgar Square).

The draft voluntary Code of Conduct is also amended to focus on 5 principles (from 7):

- Safety first – ensuring buskers have public liability insurance preventing trip hazards etc.
- Performance hours – limiting these to 10am to 9pm in most areas.
- Avoid creating a nuisance – regarding sound not being heard by nearby premises, limitations on amplifications, music, proximity to other buskers and 20-minute breaks between performances
- Don't cause an obstruction – defining the distance by which people should be able to get past and managing audiences
- Cooperation with Authorised Officers and the Police – mandating buskers to cooperate with authorities which also now covers the sale of merchandise and being encouraged to participate in a Street Entertainers Forum which talks to the council and other bodies on a 6-monthly basis.

The policy also continues to commit to a full review after 12 months of operation.

#### **Piccadilly Circus, Chinatown and Leicester Square**

The drive in this area continues to be to encourage performers to self-regulate as much as possible and to join the new Westminster Street Performers Associations. There are 5 pitches in this area, two in Leicester Square, two around Piccadilly Circus and one in Chinatown.

In the case of Leicester Square, as well as being encouraged to join the Westminster SPA, performers will need a licence to perform in one of the two designated pitch areas. The North-West pitch is designated as inappropriate for amplified noise, whilst the North-East pitch continues to be deemed appropriate for amplified noise. This is despite concerns raised previously by Heart of London Business Alliance with members such as the Hippodrome Casino as to the evidence-base for amplified music in Leicester Square and the lack of clarity as to what constitutes a "nuisance" – with the draft code of conduct still referring to being heard within premises, but elsewhere the policy focuses on where amplified sound is causing a nuisance.

Piccadilly Circus is also within the proposed Busking and Street Entertainment Regulation Area (below) with 2 pitches identified as acceptable – at the Anteros Statue and Glasshouse Street. Neither pitch is designated as appropriate for amplified noise.

#### **Busking and Street Entertainment Regulation Areas**

The key change from the previous policy is to take a new wider approach to Westminster. Whereas before, the draft policy focused on four areas where competition was considered to be greatest and there is the greatest footfall and potential risk to public safety (Oxford Street – 3 pitches, Piccadilly Circus – 2 pitches, Chinatown – 1 pitch, and Leicester Square – 2 pitches) it now clarifies that the Code of Conduct is applicable across a wider West End (including Paddington and Knightsbridge) and covers 25 pitches (including the Strand area).

## Conclusion

Whilst the principles of what is proposed is no doubt welcome as is the intent to move forward and there are some significant amendments, particularly the expanded clarification of the 25 pitches where busking will only be permitted across 4 major areas and clarification of where busking is not permitted across the wider West End, there remains some ambiguities.

The continued drive towards self-regulation and joining a voluntary code of conduct remains disappointing, given the failures of the Busk in London initiative where it has become clear that self-regulation only works for established performers, rather than short-term operators who are less sensitive to issues of public safety. The consultation also fails to recognise that a SPA has been in place for Piccadilly Circus for some years and has failed to address the impacts of street performance and busking at that location.

The evidence-base behind the policies is also unclear at times and requires greater clarification, particularly why amplified music continues to be proposed to be permitted in the North East corner of Leicester Square.

The other question is, given the lack of willingness to enforce, does this mean that the limited resources will now be wholly allocated to enforcing in the four designated areas – and again what does that mean for other areas of high footfall in the borough. The code does however provide more clarity as to the enforcement process, on page 29 of the revised policy.

Also, there remains no mention of partnership working with BIDs, in reporting or managing the streets or effects of busking or potentially giving a greater role to City Inspectors. This is particularly disappointing given the work of BIDs in areas such as Leicester Square and Piccadilly Circus to manage the problems by making additional resources available through on-street presence and initiatives such as My Local Bobby.

## Consultation Questions

Q1. To what extent do you agree or disagree with the area and streets where we are proposing to regulate busking and street entertainment?

*(Options – Strongly Agree to Strongly Disagree). If strongly disagree then supplementary question is “If you disagree with the proposed regulated area, please tell us why”*

Q2. Within the regulated area the Council wants to introduce designated busking and street entertainment pitches in locations where it may be appropriate to do so. To what extent do you agree or disagree with the locations of the pitches?

*Disagree*

Heart of London Business Alliance has no concerns with the pitches as proposed across the four designated areas and strongly welcomes the expansion of the designated areas which will minimise the likelihood of overspill into neighbouring areas which are less appropriate for street entertainment.

The successful operation of the pitches does however depend upon self-regulation and encouraging street performers to join a voluntary code of conduct which we retain significant concerns about given there are already a number of SPAs in place and the acknowledged failures of the Busk in London initiative. What these initiatives have demonstrated is that self-regulation has been unsuccessful so we cannot understand why this remains an integral part of the policy.

In terms of the specific pitches, Heart of London Business Alliance still strongly opposes the continued designation of the pitch on the North East corner of Leicester Square as being appropriate for amplified noise. In other areas the policy prohibits amplified and percussion performances in areas where they will cause nuisance and harm to neighbouring businesses. In Leicester Square an unamplified pitch is designated on the western side (where amplified performances are currently permitted) but still permits an amplified pitch in the North East corner despite it being nearer than many other pitches to hotels, a charity community centre, al-fresco diners and businesses.

As a principle, we do not support the playing of amplified music on these pitches as we cannot see why this is required, and the playing of amplified music presents even greater challenges and a burden on our businesses in needing to measure and evidence when entertainment may be causing a nuisance (or indeed is audible in their premises), with the measuring of noise frequently being open to challenge and dispute.

We also retain some concerns that some of the designated pitches are not in positions that will promote pedestrian safety and connectivity across the wider West End. We are concerned that Pitch 9 will have a further funnelling effect on Cranbourn Street, which is the main pedestrian thoroughfare between the two major attractions of Leicester Square and Covent Garden. The junction of Cranbourn Street and Charing Cross Road is one of the most dangerous in London and proposals have already been put forward, and received backing from London First' WEST Group, to improve the public realm and prioritise pedestrians. By designating the North East corner of the Square as an amplified pitch it runs the risk of exacerbating the bottle-neck situation that already exists.

*Q3. To what extent do you agree or disagree with the standard licence conditions?*

In terms of the standard conditions, we agree with the principle of requiring a license, however we remain concerned that the bar is set too low in terms of public liability insurance (condition 4).

We strongly welcome the clarity now provided in revised condition 7 of the draft policy which clarifies what would constitute an 'unreasonable obstruction' as being 'likely to be caused if a wheelchair or double pushchair cannot comfortably move past.' However, in the context of areas where there is significant footfall, such as in the North East corner of Leicester Square or in Piccadilly Circus, we would query whether this space would be sufficient given the volume of footfall and could lead to a bottleneck amongst pedestrians seeking to get through what is still a narrow gap.

We also note that there remains contradiction throughout the consultation on the noise levels, including within the proposed licensing condition 13, which states that amplified entertainment should 'not cause a nuisance to persons in nearby premises'. However, condition 3 of the draft Code of Conduct states that 'sound from any performance shall not be heard by persons in nearby premises.' This position requires urgent clarification in order for our members to have a consistent, objective, description that is easy to understand, measure and evaluate. As a result, we remain of the view that the most effective solution is to not have amplified street entertainment and busking in the borough.

We continue to believe that the authority should look to move away from the tort position on nuisance to the designation of a zone, as outlined below. This will remove ambiguity and allow for objective, pitch-dependent measures, instead of relying on outdated common-law.

*Q4. To what extent do you agree or disagree with the licence application process?*

*Neither Agree nor Disagree.*

We welcome the additional clarity provided in the updated draft policy as to the licence application process. However, we would suggest that where enforcement action is being taken and a revocation is being considered at a licensing sub-committee, given all of the 25 designated pitches are within BID areas, we would ask that BIDs are invited to comment given our on-street teams and members have extensive knowledge of performers in their areas.

*Q5. To what extent do you agree with the proposed £20 licence fee for buskers?*

*Neither Agree nor Disagree*

*Q6. Do you have any final comments that have not been covered by the consultation questions that you would like us to consider?*

Heart of London Business Alliance welcomes Westminster City Council's revised policy to move forward on the issue of street performance and busking and the greater clarity that the draft policy now provides in most areas. We also welcome well-managed street performance, which is part of the unique character of London as a global city.

However, we are of the view that the draft policy still fails in some areas to strike the right balance between supporting busking and street entertainment whilst protecting those who are affected by it.

We been monitoring these issues for years with a number of member businesses complaining throughout that time, with many feeling the current complaints process is not effective and often not met with a successful response.

We remain concerned that the policy could result in a continuation of the status quo, which suffers from ambiguities and a lack of adequate enforcement. We are concerned the proposals will not address the harm currently caused by the activities under consideration. Ultimately, the licensing conditions still rely on the tort of 'nuisance' although elsewhere the code of conduct refers to entertainment not being heard in nearby premises. This requires urgent clarification.

Furthermore, in our view the policy does not go far enough in specifying those areas affected by activities under consideration. The West End is an economic powerhouse, with the Heart of London area alone accounting for £4.6bn in GVA. It is imperative therefore that the interests of buskers and street entertainers are not only balanced against the interests of those who live, visit and work in Westminster, but also those who trade in the borough and are continually impacted upon by street performers and buskers.

Although reference is made, and consideration given, to the proximity of businesses to the proposed pitches, this consideration is still applied in a seemingly inconsistent manner. For instance, amplification is deemed unacceptable as close to some businesses, yet acceptable in greater proximity to others, where an amplified pitch has been designated – as in the case of North-East Leicester Square. This does not strike the right balance with those businesses that are affected.

The policy also does not take into account the interrelationship between the activities under consideration and other on-street activities, which are – and will remain – in competition with buskers and street performers for pitches.

After consulting with our affected members of businesses and property owners and our own street management team, which forms part of the multi-agency approach adopted by Westminster City Council, we remain concerned that the policy will result in the continuation of the status-quo – despite extensive discussions and complaints submitted by our members about the impact of street performance and busking on their trade. Furthermore, the policy does not take into account the interrelationship of the activities covered by the policy, alongside other on-street activities and the potential that a more regulated approach in some areas, will result in gaps being filled by other unregulated activities.

The continued emphasis on self-regulation and encouraging street performers to join a voluntary code of conduct as set out in the consultation is particularly disappointing, given there are already a number of SPAs in place and the acknowledged failures of the Busk in London initiative. What these initiatives have demonstrated is that self-regulation does not work, so we cannot understand why this remains an integral part of the proposals put forward for consultation.

We do nonetheless strongly welcome the greater clarity on where busking is not acceptable within the West End which will help to mitigate previously concerns about the potential for confusing patchwork of initiatives and approaches and could have led to displacement in to neighbouring areas.

Heart of London Business Alliance along with members have been invested in improving the built environment at Piccadilly and Leicester Square over the past 10 years to create a world class destination which is attractive to visitors and workers alike. We do not want the benefits of this investment to be eroded without a more fundamental approach to street performance, entertainment and the management of these areas – including the recognition and adoption of a multi-agency approach.

Central London is unique. The challenges which are faced by Central London are equally unique in terms of accommodating the visitor numbers, footfall and general pressures on the public highway. We are therefore of the opinion that the proposed policy approach is a missed opportunity to test an equally unique, ground-breaking approach to managing on-street issues.

With all parties committed to addressing the disruption caused by busking and street entertainment, and creating a well-managed, world class, public realm, we still believe there is the opportunity to utilise the recognised West End area to create a more specific Street Entertainment and Activities zone. Within the zone, other potentially disruptive on-street activities (as

outlined above) would not permit without a licence or the express permission of the local authority. This would help to address the problem that a number of activities which cause disruption to our businesses and pedestrians, do not fall within the definition of a licensable activity or street performance.

Should the proposed new licencing regime be progressed, Heart of London Business Alliance looks forward to engaging with Westminster City Council to ensure active management and enforcement that delivers on the policy's objectives – and as part of an multi-agency approach to on-street performance which draws upon our first-hand experience of the current situation and ongoing monitoring of the effectiveness of the pilot areas and procedures.