



# Licensing Committee Report

<b>Meeting:</b>	Licensing Committee
<b>Date:</b>	20 November 2013
<b>Classification:</b>	For General Release
<b>Title:</b>	Effective management of Portrait Artists at suitable and appropriate trading locations
<b>Report of:</b>	Operational Director for Premises Management
<b>Financial Summary:</b>	Section 5g refers to the administration costs of the pilot scheme.
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## **1. Executive Summary**

- 1.1 A Cabinet Member Report will be sent to the Cabinet Member for Business, Skills and Housing seeking approval for proposals ensuring effective management of portrait artists in suitable and appropriate trading locations. Members of the Committee's views on this report are sought prior to a Cabinet Member Report being submitted to Councillor Astaire.

## **2. Recommendations**

- 2.1 The Committee's views are sought prior to a Cabinet Member Report being submitted on this issue.

### **3. Background Information**

- 3.1 Street portrait artists are regulated by a temporary licence under street trading provisions contained within section 8 and 21 of the City of Westminster Act 1999. This Act controls the details of street trading and in particular the fitness of the license holder, commodities sold and the times of trading. Temporary licenses for portrait artists can be issued for a period of up to six months.
- 3.2 The Act allows the licensing authority to impose conditions and to charge fees (section 22) to recover reasonable costs associated with the granting, administering and enforcing of the licence.
- 3.3 A portrait artists is defined as a person who sketches/paints and only sells his/her own work, who has no fixed location, but with consent trades from identified pitches.
- 3.4 Westminster has 11 pitches for portrait drawing each offering two trading slots per day - afternoon 12noon until 5.30pm and evening 6.00pm until midnight - 7 days a week.
- 3.5 Portrait artists are required to register with the Council. Once registered, portrait artists can apply for a temporary licence to trade from an identified pitch. Temporary licences are issued monthly with payment made in advance.
- 3.6 The portrait drawing pitches were originally located in the North terrace of Leicester Square. During the redevelopment works of Leicester Square all of the pitches were temporarily relocated outside of Leicester Square.

### **4. Pilot Scheme**

- 4.1 In October 2012, Westminster City Council conducted a three month experimental scheme for portrait artists with a view to effectively managing the artists at suitable and appropriate trading locations.
- 4.2 Three locations were identified with a total of 13 pitches:
  - 1) 4 in Swiss Court, around the base of the Glockenspiel
  - 2) 5 in Leicester Street
  - 3) 4 in Charing Cross Road
- 4.3 The Licensing Authority applied the following criteria for the assessment of the experimental scheme:
  - 1. Impact on the pedestrian flow and safety
  - 2. Impact on localised crime and anti social behaviour rates
  - 3. Utilisation of the pitches by portrait artists through the pitch attendance rates
  - 4. Compliance with the conditions of the scheme
  - 5. Complaints received by Westminster Council
  - 6. Views of artists and other local stakeholders
  - 7. Cost and ease of administration.
- 4.4 The Licensing Service set a rota to ensure fair allocation of pitches to artists and guidelines to ensure the smooth running of the scheme during the trial period. *Please see **Appendix A** for the scheme guidelines.*

- 4.5 In April 2013 the Council made a decision to continue with the pilot scheme until 1<sup>st</sup> October 2013.

## **5. Pilot Scheme Findings**

### **a. Impact on Pedestrian Flow and Safety**

- 5.1 In September 2012, a survey by West One was commissioned to look at pedestrian flow and safety. Information was gathered before the pilot scheme began and during the pilot scheme. The survey concluded that “no evidence has been found that the presence of portrait artists operating from designated pitches in Leicester Street and Swiss Court had any notable impact upon pedestrian comfort on the survey days”.
- 5.2 The Licensing Service commissioned a further survey for September 2013. This found that “The decrease in pedestrian comfort as a result of the portrait artists’ presence in Swiss Court reduces the overall PCL to below a ‘comfortable’ level”.
- 5.3 The survey also found that “Pedestrian flows were significantly higher than those recorded in 2012”. Consultation between officers in Licensing and the Special Events team indicated that on the day of the count there was a special event in Leicester Square (the count took place during the BFI Film Festival) and significant numbers of additional pedestrians were expected in the area.

*Please see **Appendix B** for a copy of the report.*

### **b. Impact on Crime and Disorder**

- 5.4 The Neighbourhood Crime Reduction Team has provided some general figures to show that the level of crime has reduced as follows:
- Oct 2010 – Dec 2010 - 392  
Oct 2011 – Dec 2011 - 471  
Oct 2012 – Dec 2012 – 384
- 5.5 The Licensing Enforcement Team’s data analyst has reviewed the figures for June to August, 2010 to 2013 which show that crime has reduced as follows:
- June 2010 – August 2010 – 314  
June 2011 – August 2011 – 311  
June 2012 – August 2012 – 290  
June 2013 – August 2013 – 314
- 5.6 Although there is no direct evidence to show that the offences were directly related to portrait artists, the figures do show that there has been a general decrease in the level of offences over the years.

### **c. Utilisation of Pitches by Portrait Artists**

- 5.7 The pitches were underutilised throughout a large part of the scheme. This was in part due to the weather and in part due to some of the locations being preferred by artists, who chose not to trade if their favoured location was not available.

Month	Swiss Court Occupancy %	Leicester Street Occupancy %	Charing Cross Road Occupancy %	Total Monthly Occupancy %
Oct 2012	85	26	22	43
Nov 2012	82	33	3	31
Dec 2012	66	12	0	25
Jan 2013	33	20	6	19
Feb 2013	36	22	4	20
March 2013	70	35	5	36
April 2013	89	57	16	54.5
May 2013	99	77	8	62.4
June 2013	100	72	5	60.3
July 2013	98.6	88	12.9	68.1
August 2013	100	87	22	71

**d. Compliance with the conditions of the scheme.**

- 5.8 Some issues were encountered during the scheme whereby artists traded outside their pitch locations. This issue was exacerbated by the lack of pitch markings throughout the scheme. One artist was issued with a warning letter for trading outside his pitch location during the start of the start of the pilot scheme. No other enforcement action was taken.
- 5.9 Some issues were also encountered with the positioning of the portrait artists in Leicester Street where the artists would position themselves perpendicular to Leicester Street rather than parallel to it in breach of the scheme. No formal action has been taken at this time.
- 5.10 Furthermore, an issue has been encountered regarding the conduct of one licensee towards another licensee. No formal action has been taken at this time. The matter is now being dealt with by the Street Management Team.

**e. Complaints received by Westminster Council**

- 5.11 The Licensing Service has received no public complaints about the portrait artists throughout the duration of the pilot scheme.

**f. Views of artists and other local stakeholders**

- 5.12 Responses to the scheme were received from the Heart of London Business Alliance, the Leicester Square Association, the Ward Councillor and registered Portrait Artists following a summer consultation on the pilot scheme carried out in August 2013.
- 5.13 The response from HOLBA made several recommendations/comments, most significantly:
- Leicester square is no longer an appropriate location for the portrait artists.
  - The scheme does not contribute to the vision of Leicester Square.
  - Charing Cross Road is a suitable location for the artists.
  - The portrait artists are trading outside of their 'designated' area and there is no enforcement action taken to correct them.
  - The positioning of artists is perpendicular to Leicester Street rather than parallel as described in the original scheme map.

- The proposed construction work due to the north façade of Swiss Court shall further restrict the already congested thoroughfare therefore relocation from Swiss Court is necessary.
- 5.14 The response from the Leicester Square Association was in support of the artists and made the following recommendation:
- The artists identify themselves to the public clearly via generic branding
- 5.15 The response from the Ward Councillor also agreed that the artists must brand themselves so they are identifiable to the tourists but also recommended that:
- Prices of portraits are on display at all times
  - The licences issued should be reviewed regularly.
- 5.16 5 responses were received from registered portrait artists. All feedback focused on the locations of pitches. The following points were raised:
- The Swiss Court location is the most successful for the artists. The majority of responses suggested the number of pitches at this location should be increased.
  - The lack of lighting at Leicester Street and Charing Cross Road was highlighted as a reason for impacting on business in the evening.
  - One response suggested that Swiss Court could accommodate another four artists taking the total number of available pitches in this location from 4 to 8.
  - One response also highlighted that the artists were unhappy with the telephone booking system.
  - One response made suggestions to improve the conduct of artists with the public and between each other.
  - One response provided a rota system suggesting that the proposed rota would allow the allocation of pitches to be fairer to all.

*Please see **Appendix C** for copies of the responses to the summer consultation.*

- 5.17 Following the responses received during this consultation, the Licensing Service decided to review the current scheme and has advised all portrait artists that the current pilot scheme shall continue to take effect (as of 1<sup>st</sup> October 2013) until the review has been completed.

#### **g. Cost and ease of administration**

- 5.18 The current daily charge, for each session, on Monday to Thursday is £7.00; on Friday and Sunday is £8, and on Saturday is £12.00. The scheme is designed to be self-financing, including inspection and enforcement costs as well as the administration.
- 5.19 The total income received this financial year up to the end of 12/13 was £26,398. This figure includes the busier summer months, and is broadly similar to that of last year.
- 5.20 It is estimated that the administration costs of the pilot scheme on the three locations entail approximately one and a half hour's work for each application, including issue of renewal letter, telephone queries, receipt of application, making an appointment to see the applicant, issue of licence(s) and updating records. There is also the opportunity for artists to book additional pitches throughout the month. Administrative time for this is estimated at 2 hours per week. Anticipating 156 individual applications being received during the year, this would result in total administrative costs (including processing, dealing with complaints and management issues) for the year of £23,998.

- 5.21 The wardens together with the Council's Enforcement Officers will carry out the monitoring of portrait artists. When accurate figures have been produced these will be reflected in the fees and charges. It is anticipated, however, that the total enforcement and administration costs will be covered by the predicted annual income of £30,000 approximately.
- 5.22 The charges for street trading are currently under review. Consequently, any restructuring of charges awaits the outcome of that review. It must be stressed that these figures are based partly on an estimate of the occupancy rates during the winter months, which may be subject to variation due to severity of weather conditions.
- 5.23 Administration of the scheme is entirely paperless. Artists are able to book and pay for all shifts over the telephone. This is a marked improvement on the previous administration of the scheme.

## **6. Proposed Modernisation of Portrait Artist Licensing**

- 6.1 A project is underway to modernise the licensing process for portrait artists to ensure the Service meets EU Services Compliance which includes online applications. Both IT and Legal Services have been consulted in the modernisation of the licensing process.
- 6.2 The modernised scheme will take effect in 2014 for approximately four years. We will review the scheme on an annual basis to ensure the areas being offered within the scheme are not affected by the ongoing Cross Rail project which is due to be complete by 2018.
- 6.3 All portrait artists will be asked to register on the system using the online portal. This process would involve:
- Completing the online form
  - Attaching a copy of their public liability insurance
  - Attaching a photograph of themselves
  - Attaching an example of their work (scanned copy)
  - Signing a disclaimer confirming the portrait work is their original work
  - Paying a fee to complete the online registration process
  - Back office validating their application and confirming their registration.
- 6.4 Please note: the existing 13 artists would be automatically registered by the Licensing Service as they would not need to go through the validation process above.
- 6.5 Once the artists are registered and they have received an email confirmation and a unique reference code, they would then be invited to book their pitches using the online booking portal. This process would be on a first come first serve basis and would involve:
- Entering their unique reference number provided at time of registration into the system
  - Choosing a location in which they wish to trade using the map provided
  - Choosing the pitches they want to trade in (maximum of 12 pitches per person per week, of which there will be a maximum of 4 pitches per location)
  - Paying for the pitches online and in turn the artist would receive a text message confirming the booking.

- 6.6 The online registration and booking platforms would allow the scheme to be available to a wider number of potential applicants, as mentioned earlier.

## **7. Conclusion and Decisions Required**

- 7.1 During the pilot scheme there has been an improvement in the efficiency of the administration of the portrait artist scheme. Surveys carried out on pedestrian foot-flow and crime and disorder figures suggest there is no negative impact caused by the existence of the portrait artists at their current locations. In addition, no complaints were received throughout the duration of the scheme.
- 7.2 Feedback from stakeholders raised a number of issues with the scheme but broadly recommended the appearance of the portrait artists be improved so they are more visible to the tourists.
- 7.3 The portrait artists themselves have concerns over the location of the pitches, the lack of markings defining the pitches and the process of calling the office to make their bookings.
- 7.4 However, the Heart of London Business Alliance does not feel that the portrait artists are suited to Leicester Square in its entirety.
- 7.5 Taking the findings from all assessment criteria into account, we ask that the Members consider the following recommendations:
- The Scheme is modernised and opened up to a wider number of potential licensees. The modernised scheme would also eliminate the need for the artists to call the office and in turn address their issues with the telephone booking process.
  - Pitches are marked out to ensure compliance with conditions and to allow enforcement action to be taken when required.
  - Conditions on the licence be updated to require the portrait artist to clearly display fees and licence at all times.
  - Within the existing lighting offer, the pitches at Charing Cross Road and Leicester Street are not viable for use after 5pm and therefore should only be available up to 5pm.
- 7.6 In conclusion we believe the above recommendations are the most efficient and cost effective way of managing the portrait artists. However, if the above is not agreeable and a decision is made to abolish the entire licensing scheme, we must ensure we do not have any legal obligations to the portrait artists before take any such decision.

**If you have any queries about this report or wish to inspect one of the background papers please contact Sumeet Anand-Patel on 020 7641 3285 or email [sanandpatel@westminster.gov.uk](mailto:sanandpatel@westminster.gov.uk).**

**Appendices:**

Appendix A- Portrait Artists scheme guidelines

Appendix B – Pedestrian flow report

Appendix C - Stakeholder responses to summer consultation and Portrait Artist responses to summer consultation