

Culture and Communities Committee

10.00am, Tuesday, 26 April 2022

Amplification of Sound in Public Spaces – Response to Motion

Executive/routine

Wards

Council Commitments

Executive

All, particularly Ward 11 – City Centre

1. Recommendations

- 1.1 Culture and Communities Committee is asked to note the contents of this report.

Paul Lawrence

Executive Director of Place

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Amplification of Sound in Public Spaces – Response to Motion

2. Executive Summary

- 2.1 This report responds to the motion by Councillor Neil Ross on the Amplification of Sound in Public Spaces from the Council meeting on 28 October 2021.

3. Background

Amplification of Sound in Public Spaces – Motion by Councillor Neil Ross

- 3.1 On 28 October 2021, the Council approved the following motion by Councillor Neil Ross on the Amplification of Sound in Public Spaces. Council:
- 3.1.1 Welcomes buskers and street entertainers who liven up our city and who follow the Council's advice to do so at a considerate volume so passers-by can hear but nearby businesses and residents are not disturbed;
 - 3.1.2 Recognises the concerns of residents, businesses and visitors, in particular in the city centre, about the negative auditory impact of overamplification of sound by some buskers and street entertainers in public spaces when the advice at 3.1.1) above is ignored;
 - 3.1.3 Notes that a level of noise at or above 85 decibels can damage hearing or inflict pain on the hearer;
 - 3.1.4 Notes that there is a limitation on the amplification of sound for open air events in the standard conditions of the Council's Public Entertainment Licence;
 - 3.1.5 Notes the failure of the Council to bring forward any proposals to control the amplification of sound in public spaces in response to the motion approved by the Council on 22 August 2019;
 - 3.1.6 Notes the answers given on 23 September 2021 to questions on the control of noise from street entertainers and the lack of powers available to the Council to achieve balanced, fair, sensible and positive street performing behaviours;

- 3.1.7 Therefore, requests the Convener of the Regulatory Committee to write to Ben Macpherson MSP, the Minister for Local Government in Scotland:
- 3.1.7.1 To highlight the negative auditory impact of amplified sound from buskers and street entertainers in public spaces in Edinburgh;
 - 3.1.7.2 To request additional powers to allow the Council to effectively control the amplification of sound in public spaces under the Civic Government (Scotland) Act 1982, whether through an extension of the arrangements governing the licensing of public entertainment or by other means; and
 - 3.1.7.3 To report to the Regulatory Committee within two cycles to provide details of the correspondence with the Minister, including the response received from the Minister and details of any progress made.
- 3.1.8 Also requests the Council's Street Enforcement team to actively engage with buskers and street entertainers to encourage adherence to the Council's advice on busking, as noted on the Council's website.
- 3.1.9 Also requests that officers explore the feasibility of creating straight forward ways for residents and businesses to report disturbances to the Council arising from the amplification of sound in public spaces.

Regulatory Committee – 28 February 2022

- 3.2 In response to the action outlined in paragraph 3.1.7, an update was provided to Regulatory Committee on [28 February 2022](#).
- 3.3 Following a letter from the Convener of Regulatory Committee, the update included a response from the Minister for Social Security and Local Government explaining that the Scottish Government officials are considering how the Scottish Government may confer powers to allow Scottish Local Authorities to effectively control the amplification of sound in public spaces under the Civic Government (Scotland) Act 1982 through an extension of the arrangement government the licensing of public entertainment. The Minister also confirmed that they will raise this issue with other local authorities to determine whether the problem is widespread and how it may be addressed.
- 3.4 Regulatory Committee noted the update and welcomed the response to the Minister.

Legislative Framework

- 3.5 The principal powers to deal with nuisance caused by busking are found in the Civic Government (Scotland) Act 1982 ('the 1982 Act'). Police officers may seize sound-making equipment (no matter where located) if a person fails to stop the noise on being asked to do so. Police Constables may also serve Fixed Penalty Notices with respect to this offence. These powers are not available to the Council.
- 3.6 Statutory provisions under the Environmental Protection Act 1990 allow local authorities to require the abatement of a noise nuisance if the noise amounts to a

Statutory Nuisance. However, 'Statutory Nuisance' is not defined. It is normally determined by reference to the noise itself and its duration, volume, character, time of day and frequency. This means that the disturbance must be long-term and sustained. The noise must also be affecting an individual in a domestic property. This legislation is used when noise is emanating from premises or from a vehicle, machine or equipment in the road. It is not applicable to street noise such as buskers, as it is often difficult to establish that there is a sustained problem from the same person.

- 3.7 While the Control of Pollution Act 1974 technically allows a busker to amplify their music, provisions of the 1982 Act set out, in para 3.3, Police officers' powers (to seize equipment or issue a fixed penalty notice) will still apply.

Information for Buskers

- 3.8 The Council and Police Scotland have published information on busking on the [Council website](#) to encourage street musicians to be considerate of the public and any neighbouring businesses while performing.
- 3.9 In addition, temporary street signage regarding busking has been deployed in the city centre and officers have offered informal advice to residents and buskers in response to complaints.

4. Main report

- 4.1 Noise from busking and street entertainment has been a significant concern for some of the city's residents for a number of years and residents continue to raise concerns about the negative impact of amplified sound from buskers and street entertainers in public spaces in Edinburgh.
- 4.2 Typically, complaints are that the amplification of the noise is too loud, it continues for too long and, during the summer months, it continues well into the evening offering affected residents' little respite.
- 4.3 As part of their day to day duties, the Council's Street and Environmental Enforcement team proactively engage with local businesses to encourage compliance with statutory duties and responsibilities. The team also proactively engage with street performers to ensure the safety of residents and visitors moving around, particularly in the city centre.
- 4.4 In response to the action agreed by Council (paragraph 3.1.8 above), in the future, where resources permit and inconsiderate busking/amplified sound is observed, Street and Environmental Enforcement Officers will actively engage with street performers to remind them of them of the advice which the Council has published on busking.
- 4.5 In response to the request to explore the feasibility of creating ways for disturbances to be reported (paragraph 3.1.9 above), officers have carefully considered whether there are options which could enable residents and businesses to report disturbances arising from the amplification of sound in public spaces to the

Council. However, as there are no statutory powers available to the Council to take action in response to such issues, officers have concluded that it would not be appropriate to create a mechanism for these issues to be reported directly as this may raise expectations that the Council will take action.

- 4.6 To report a nuisance, officers will continue to encourage residents to report issues directly to Police Scotland by telephoning 101.
- 4.7 Officers will, however, continue to engage with residents and with buskers in response to complaints and, for persistent issues, will forward these to Police Scotland to consider using legal enforcement.
- 4.8 And, if as set out in paragraph 3.3 (above) further powers are conferred on local authorities, officers will consider options to enable residents and businesses to report such disturbances easily to the Council.

5. Next Steps

- 5.1 Officers will continue to encourage buskers to comply with the Council's published guidance for buskers and, where resources permit, the Street and Environmental Enforcement team will proactively promote these guidelines to those busking in the city.
- 5.2 Officers will continue to encourage residents and businesses to report any issues with the amplification of sound in public spaces to Police Scotland and will forward any persistent issues raised with the Council directly to Police Scotland.

6. Financial impact

- 6.1 There are no financial implications arising from this report.

7. Stakeholder/Community Impact

- 7.1 Council officers will continue to provide advice and guidance to both residents and buskers in respect of the amplification of noise in public spaces and, where resources permit, officers will proactively engage with street performers to promote the Council's published guidance.
- 7.2 Officers will also continue to report persistent issues to Police Scotland.

8. Background reading/external references

- 8.1 None.

9. Appendices

9.1 None.