



# Deregulation Bill

The Government's Deregulation Bill was introduced to the Commons in January. Its Committee stage began in the House of Lords on 21 October and is scheduled to continue until 6 November.

Lord Clement-Jones (Lib-Dem), supported by Lord Tope, has tabled an amendment to the Bill concerning busking<sup>1</sup>. The amendment is in the following terms:

## 'After Clause 60

Insert the following new Clause –

"Busking deregulation

- (1) Omit paragraph 14 of section 54 of the Metropolitan Police Act 1839,
- (2) Omit sections 32 to 44 of the London Local Authorities Act 2000."

The provisions in question provide incidental controls over street performances and in the spirit of the Bill, the amendment, if accepted, would have the effect of repealing them.

Lord Clement-Jones is a Patron of the Music Venues Trust and has been active in the removal of musical entertainment from the ambit of the Licensing Act. During the Second Reading debate on the Bill, he explained his rationale for the amendment thus:

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'The Mayor of London has rightly been fulsome about the place of busking in London life. In the Bill we should explicitly remove Part 5 of the London Local Authorities Act 2000, which provides for busking licensing schemes at individual London councils' discretion. We should also remove Section 54(14) of the Metropolitan Police Act 1839, which was recently used against buskers in Leicester Square.'

He continued with a tale of a group of buskers allegedly arrested merely for performing their art, concluding

'There are more than adequate powers under separate legislation to deal with noise nuisance and anti-social behaviour. For example, there is the Environmental Protection Act 1990 or the Control of Pollution Act 1974. There

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<sup>1</sup> 'Busking' and 'to busk' are not a terms of art in legislation but refer traditionally to spontaneous performances by itinerant street musicians in return for donations.



# parliamentary briefing

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are also powers to make by-laws available to local authorities with respect to street nuisance. Camden, under the London Local Authorities Act, has banned street music at any time, amplified or unamplified, except through a special busking licence. Camden's approach runs completely counter to the arguments heard and accepted by government and Parliament during the Live Music Act debates.'

In the view of the CIEH, however, Lord Clement-Jones comments on 7 July could mislead listeners in several respects and his conclusions were mistaken.

In the first place, the Mayor of London was more discerning in his support for deregulating busking than might be implied, questioning (through a Press release on 9 April 2014) whether it might be possible to 'simplify the rules and regulations across London' and/or to create a 'London Code for busking', ie in clear support for continuing regulation of some kind. In a further reference to 'genuine buskers' the Mayor clearly recognised that some are not genuine and there should be powers to move them on.

In the second place, his comments fail to recognise the purposes both of the Metropolitan Police Act and the London Local Authorities Act. Section 54(14) of the 1839 Act is not an indiscriminate control on street music or even noise *per se* but on the use of noisy instruments in public places '*for the purpose (inter alia) of obtaining money or alms*' (and, as such, on the problems associated with that including possible intimidation, theft and vagrancy).

The London Local Authorities Act 2000 likewise is concerned with the non-noise incidents of street entertainment (not just music), in the words of s.33(2) with '*undue interference with or inconvenience to or risk of safety of persons using a street*', for example through the obstruction of pavements, perhaps forcing passers-by on to the roadway, blocking entrances to shops and public facilities and, again facilitating crimes such as pick-pocketing. As such, it shares similar aims to Transport for London's scheme which licences just 39 pitches on the Underground and came in for no criticism.

Noise legislation in the form of the Environmental Protection Act or the Control of Pollution Act or the model byelaw is not a substitute for these wider measures and in that respect, the London Borough of Camden's approach - to guide buskers to appropriate venues - is not counter to the arguments heard during debates on the Live Music Act. That Act, in any event, is concerned with the licensing of places of entertainment, not performers.

In the particular case of Camden, a licensing regime was introduced only after an upsurge in numbers, noise levels and regularity of busking activity noticed by the Police, accompanied by an escalation of public complaints to the Council. An open consultation preceded it to which the Police responded 'The current situation regarding legislation to deal with buskers in Camden is inadequate.'



A subsequent Judicial Review<sup>2</sup> of the scheme, instigated by the `Keep Streets Live Campaign` failed, the High Court expressly finding the Council`s policy *`..both necessary and a proportionate response to the issue of busking.`*

If further evidence of the negative impact of uncontrolled busking is needed, Members of the House may have noted media reports of the case of the busker who halted evensong at Bath Abbey recently. Asked to respect the service by members of the congregation, he is reported in The Times on 24 September to have called them *`aggressive reactionaries`* and claimed his *`freedom of artistic expression`* was being compromised.

Similar examples of public disturbance around the country are not hard to find<sup>3</sup>.

Talented buskers playing in the right place and at the right time may provide entertainment and colour to our streetscene but not all fit those criteria and uncontrolled, busking, like other forms of street trading, can have negative impacts on residents, businesses and visitors, and place unnecessary demands on the Police and local authorities.

It would be wrong in the CIEH`s view, and a disservice to considerate performers, dogmatically to sweep away necessary regulation and we oppose Lord Clement-Jones` amendment accordingly.

22 October 2014

*Founded in 1883, the Chartered Institute of Environmental Health is a professional and educational charity dedicated to the promotion of the discipline of environmental health and to encouraging the highest possible standards in the training and work of those who practice it. Based in London and with approximately 9,500 members working in both the public and private sectors throughout England, Wales and N Ireland, it received its Royal Charter in 1984.*

<sup>2</sup> R v London Borough of Camden (on the application of Keep Streets Live Campaign Ltd) (2014) EWHC 607 (Admin)

<sup>3</sup> See, for example, <http://www.bbc.co.uk/news/uk-england-cornwall-24124219?print=true> and <http://www.bbc.co.uk/news/uk-england-nottinghamshire-14273594?print=true> and <http://www.bbc.co.uk/news/uk-england-merseyside-18371755?print=true>