

LICENCE CONDITIONS MADE UNDER SECTION 21(2)(b) OF THE CITY OF WESTMINSTER ACT 1999 (the Act) APPLICABLE TO TEMPORARY LICENCES FOR PORTRAIT ARTISTS WITH EFFECT FROM 1st SEPTEMBER 2015

For the purposes of these conditions, any reference to an artist is a reference to an artist who has been issued with a temporary licence for up to 28 days (or four week period) allowing them to provide the services of a portrait artist in accordance with Council Guidelines.

The Council will maintain a Register of Approved Temporary Traders under section 21(6) of the Act to whom they would be prepared to grant a temporary licence to trade as a portrait artist in authorised locations in Westminster.

1. Exhibition of Registration Plate and related matters

- a) The registration plate shall be prominently displayed at all times when an artist is utilising a pitch so as to be readily and easily seen by all persons using the service. The registration plate remains the property of Westminster City Council and must be returned to the Council if an artist's name is removed from the register.
- b) The artist must display an example of their own original work to indicate the style of the artistic work that they will undertake. The artist will be expected to draw or paint etc. in a similar style. The example of work displayed must include a disclaimer from Westminster City Council to the effect that the Council does not itself assert that the artistic work is of any particular standard and will not accept any responsibility for any disputes that arise between the artist and the customer.
- c) The artist must display the charges for the service provided clearly at the front of their pitch.

2. Trading Pitch and Hours

- a) The artist shall only trade in the Approved Trading Locations as detailed on the relevant location plans (Swiss Court, Leicester Street or Charing Cross Road) and where applicable, marked on the ground.
- b) The artist shall only trade in the approved trading locations in accordance to the active 4 week rota period issued by the Council and during the times stated on that rota. The artist must produce this rota when requested by an authorised Officer of the Council, Licensing Inspector or Police Officer.
- c) The artist can select any unoccupied pitch to trade from within the location plan and shall not re-position themselves to:

- i) another unoccupied pitch within that area;
 - ii) accommodate another artist.
- d) A pitch is deemed to be unoccupied if an artist is not present at the pitch for any reason. (Excluding any temporary breaks from trading)

NOTE: (i) It is not permitted for an artist to dispose of another trader's registration plate under any circumstances.

- e) The artist cannot move from a pitch in an allocated area to a pitch in an area that has not been allocated for that particular shift.
- f) (a) An artist is not permitted to set up their pitch before the permitted trading hours. The permitted trading hours are defined as:
 - (i) Swiss Court: 12:00 (midday) to 18:00 and 18:00 to 00:00 (midnight).
 - (ii) Charing Cross & Leicester Street: 12:00 (midday) to 18:00 and 18:00 to 00:00 (midnight)
 - (iii) The artist shall be required to set up within the first 30 minutes of the permitted trading hours

(b) Failure to set up within the allocated time period will result in the artist being marked for non-attendance and shall not be permitted to trade for that period.

NOTE: Failure by an artist to set up during the allotted time will not entitle the artist to obtain a refund for any charges paid.

(c) An Artist shall be required to vacate their pitch at the end of the permitted trading hours.

- (i) The artist shall be required to pack their equipment away 15 minutes prior to the terminal hour to enable trading to end by the terminal hour.

NOTE: Failure by an artist to vacate their pitch at the end the permitted trading hours shall result in an appropriate enforcement action taken against them

- g) All portrait artists must maintain an attendance record of 80% of shifts booked, during a 6 month period. Such 6 monthly period shall be defined as September to February and March to August.

3. Responsibility of Artists

- a) The artist's right to trade is a personal right that cannot be delegated to anyone else. The licence cannot be transferred to any other person for any period of time under any circumstances.
- b) All artistic work must be personally undertaken by the artist named on the licence.
- c) The artist shall take all reasonable precautions for the safety of the public.
- d) The artist shall not obstruct the highway nor shall his/her artistic work lead to the highway being obstructed by people gathering to watch the artist at work.
- e) The artist shall not make use of any street furniture such as public seats, lamp posts, railings, walls etc.
- f) The artist shall provide written notification to the Council of any change of address as soon as it occurs.
- g) The artist shall take out third party insurance cover with a minimum liability of at least £2 million or to the cover mutually agreed between the Council and the relevant street traders Association. A copy of this insurance shall be sent to the Council's Licensing Service within 7 days upon being issued or renewed.
- h) A trader without valid insurance shall not be permitted to trade and/or book extra shifts.

4. Conduct of Artists

- a) The artist shall deal with all members of the public, other artists, all council staff, police and contractors fairly and respectfully.
- b) The artist shall co-operate with all authorised officers of the Council and police officers and will immediately cease trading if required to do so by such officers for the purposes of protecting public safety or the prevention of crime or disorder.
- c) The Artist must not engage in any criminal activity or anti-social behaviour and, in particular, shall ensure that none of the following shall take place at the pitch:
 - i) Unlawful possession and/or supply of controlled drugs contrary to the Misuse of Drugs Act 1971 (as amended or replaced);
 - ii) Indecent behaviour towards the public or with another portrait artist;
 - iii) Acts of violence against any person or property and/or the attempt or threat of such acts;

- iv) Verbal abuse and/or aggression displayed towards any person (including other portrait artists);
- v) Intimidation towards other portrait artists and/or criticism of their work; and
- vi) Touching, moving or interfering with another artist's equipment.
- vii) Convicted of Criminal or Civil matter which is brought to the attention of the Licensing Authority.

5. Pitch Use, Appearance and Equipment

- a) The artist shall keep the pitch clean, tidy and in good order throughout trading hours and in particular shall:
 - i) Dispose of all rubbish appropriately;
 - ii) Not use radios or any amplified sound equipment;
 - iii) Not cause any damage to the highway and shall clear up any spillages of paint or ink etc. from the highway surface.
- b) The equipment at the pitch shall be restricted to that which is permitted by the City Council:
 - i) one chair each for artist and subject
 - ii) one easel
 - iii) one free standing display of their work not exceeding 1.5m x 1.5m in size
 - iv) one umbrella.

6. Enforcement of conditions:

- a) Regular checks shall take place on all Artists to ensure compliance with their licence conditions. Enforcement action will depend on the nature and extent of the breach.
- b) A breach of any condition will result in a written warning being given and may result in a refusal of a further licence. Persistent breaches may result in your name being removed from the Register of Approved Temporary Traders - Portrait Artists.
- c) Any artist found to be in breach of any conditions above and/or in respect of any serious breaches (which shall include acts of violence against any person, intimidation and verbal abuse towards other portrait artists and indecent behavior) may result in the immediate suspension of their temporary licence and:

- i) referral to the Licensing Officer Panel to consider the removal of their name from the Register of Approved Temporary Traders - Portrait Artists; and/or
- ii) referral to the Licensing Officer Panel to consider revocation of their licence.

NOTE: (i) A consequence of a name being removed from the Register will prevent a person being issued a temporary licence.

(ii) There are no specific grounds to appeal against any decision to refuse a temporary licence or to remove a name from the Register of Approved Temporary Traders to whom the City Council is prepared to grant a temporary licence.

(iii) Any procedural deficiencies may be challenged by an application to the high court for Judicial Review.