

LCQ3: Noise nuisance caused by music performances in parks

Following is a question by the Hon Kwong Chun-yu and a written reply by the Secretary for Home Affairs, Mr Lau Kong-wah, in the Legislative Council today (May 8):

Question:

It has been reported that from time to time, quite a number of people stage music performances without permission in the parks under the Leisure and Cultural Services Department (LCSD), and some performers generate loud noise by using amplifiers during their performances. For many years, Tuen Mun Park has been a black spot of music performances causing noise nuisance. Notwithstanding that LCSD has set up, at corners in the Park that are far away from residential areas, two self-entertainment zones for registered music activities without the use of amplifiers, very few music performers have applied for the use of the zones. They continue to use amplifiers to stage performances elsewhere in the Park, thereby causing noise nuisance to visitors and nearby residents. In this connection, will the Government inform this Council:

(1) of the respective numbers of persons staging music performances in the parks under LCSD who were (i) issued warning letters by LCSD under the Noise Control Guidelines and (ii) prosecuted by the Noise Control Authority under the Noise Control Ordinance (Cap. 400), in the past three years for generating excessive noise; the number of convictions and, among them, the number of cases of repeated offences;

(2) whether the persons who stage performances, (i) with or (ii) without permission respectively, in the parks under LCSD and receive rewards or remunerations contravene the Pleasure Grounds Regulation (Cap. 132BC) or other legislation; and

(3) of the respective numbers of applications received and approved by LCSD in the past three years for staging performances in the self-entertainment zones in Tuen Mun Park; given that the authorities have recently proposed that Cap. 132BC be amended for more effective control of the noise nuisance problem in the parks under LCSD, whether LCSD has assessed if such measure can eradicate the noise problem caused by music performers staging performances in Tuen Mun Park?

Reply:

President,

My reply to the Hon Kwong Chun-yu's question is as follows:

(1) The noises referred to in the "Noise Control Guidelines" fall under the regulation of the Noise Control Ordinance (Cap. 400), the provisions of which are enforced by the Director of Environmental Protection and the Commissioner of Police. The Leisure and Cultural Services Department (LCSD) takes enforcement actions in its public pleasure grounds (PPGs) to step up regulation of noise nuisance primarily under section 25 of the Pleasure Grounds Regulation (Cap. 132BC).

Section 25 of the Pleasure Grounds Regulation stipulates that "Save where the Director has, in writing, permitted the operation or playing of, or the making of any sounds by means of, any such instrument or the singing of any song, no person shall, in any pleasure ground, to the annoyance of any other user thereof operate or play, or make any sounds on, any musical or other instrument, including any gramophone or radio apparatus or sing any song."

Under normal circumstances, members of the public who play music instruments or sing songs in parks for self-entertainment will not be interfered by park keepers as long as these activities do not cause nuisance to other venue users. However, when excessive noise is generated from the activities and a complaint of annoyance is lodged to LCSD, management staff of the venue will advise the person concerned to lower the volume. If the advice is ignored, the management staff will, having regard to the actual circumstances, consider instigating prosecution against the person(s) in breach of the regulation under section 25 of the Pleasure Grounds Regulation when there is a venue user who had been annoyed willing to act as prosecution witness and there is sufficient evidence. There were two successful prosecutions involving Tuen Mun Park in the past three years.

(2) At present, the Pleasure Grounds Regulation and other legislation do not prohibit members of the public from tipping others in the form of "lai see" in parks. Hence, performers who accept "lai see" from members of the public in parks are not in breach of the legislation. However, it is up to the court to adjudicate each prosecution case with regard to the circumstances of the case and evidences found.

LCSD will issue a letter of approval to the successful group applicant for using a LCSD venue for non-designated activities (e.g. performance activities). The letter will set out the conditions for hiring the leisure venue for non-designated use. For example, the hirer shall not allow any distribution or sale of refreshments or commodities, or charge admission fees or solicit donations from participants in the activity, or accept any form of pecuniary reward except prior permission has been given by LCSD. LCSD may demand the hirer to surrender the venue if the hirer breaches any of the department's conditions of use.

(3) Two self-entertainment zones and one Amphitheatre in Tuen Mun Park are available for application by groups for singing activities, etc. The numbers of applications received and approved regarding the above-mentioned self-entertainment zones and Amphitheatre in the past 3 years (May 2016 to April 2019) are set out in the table below:

Year	Number of applications		Total	Number of approved applications		Total
	Self-entertainment zone	Amphitheatre		Self-entertainment zone	Amphitheatre	
May 2016 to April 2017	423	745	1 168	370	304	674
May 2017 to April 2018	382	699	1 081	372	297	669
May 2018 to April 2019	390	812	1 202	370	279	649
Total	1 195	2 256	3 451	1 112	880	1 992

LCSD has been monitoring closely the noise nuisance problem and implemented a number of noise control measures such as designating suitable areas for activities by singing groups, conducting joint operation with the Police, strengthening manpower to monitor singing activities and drawing up house rules to regulate the use of speakers in designated parks, so as to mitigate and regulate the noise nuisance in parks. At present, if enforcement action is taken by LCSD under section 25 of the Pleasure Ground Regulation, it has to be established that a "venue user" had been annoyed, and the venue user has to be willing to serve as a prosecution witness. To address public demand for proper and effective regulation of noise nuisance in parks, we propose a simple legislative amendment to section 25 of Cap. 132BC by replacing "user thereof" with "person". The amendment will help promote responsible and respectful behaviours in PPGs and deter the irresponsible use of loudspeakers and similar equipment which cause annoyance to other park users, nearby residents or park keepers. Under the proposed amendment, LCSD park keepers and any other persons (in particular the nearby residents) who are annoyed by the noise may act as prosecution witnesses in LCSD's enforcement action. For more effective regulation of noise nuisance in PPGs, we aim to table the amendment regulation at meeting of the Legislative Council for negative vetting within this year.