

Arts and Recreation Committee
Ethnic Minorities Committee
Ethnic Arts Sub-Committee
Staff Committee
Finance and General Purposes
Committee

Report (10.04.85) by

Controller of Operational Services
Director of Recreation and the Arts
Principal Race Relations Adviser

Item	
10	AR 2200
LONDON AGAINST RACISM IN THE ARTS: USE OF COUNCIL FACILITIES AND PREMISES - SOUTH BANK CONCERT HALLS (Lambeth/Vauxhall) Prog. Ref. A22	

FOR DECISION

- (i) Will the Committee please decide whether or not they wish to withhold the use of the Council's facilities and premises at the SBCH from performers, artists or groups of such persons who are willing to perform in South Africa Namibia and the homelands? and if so
- (ii) Will the Committee please decide whether this policy should be applied only to performances before all-white audiences in South Africa, or any audiences in Namibia and the homelands (ie a partial ban) or to performances before any audiences in South Africa, Namibia and the Homelands (ie a total ban).

RECOMMENDATIONS -

If the committee do so decide, the following recommendations are put forward -

- (a) That the policy only be applied to individual artists or groups named in advance publicity;
- (b) That the policy only be applied until the system of apartheid ceases to prevail in any of the above territories as decided by The Director of the United Nations Centre against Apartheid in case of dispute;
- (c) That with effect from 1 June 1985 the undertaking contained in Appendices C1 or C2 be applied in future to all new contracts with directly engaged artists/groups and with promoters and that the Special Conditions contained in Appendix C be inserted in all such contracts;
- (d) That an initial payment (or payment in lieu thereof and damages in some cases) be claimed when appropriate and that the Council's decision to terminate the contract shall not be subject to any right of arbitration, but that the Council's claim to retain the initial payment or payment in lieu thereof will be subject to the right of arbitration;

Note:

Only Appendix A is attached.

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- (e) That the policy be monitored and a report on its effects be submitted after six months;
- (f) that the staffing complement of the Department for Recreation and the Arts be varied as follows:-

- + 1 x MG9
 - + 1 x MG11

and approval be given to revenue expenditure of up to £19,645;

- (g) that the staff levels be reviewed after six months.
- (h) that a further detailed report be submitted as a matter of urgency, reviewing the arrangements for the hiring of artists and performers at other venues and events run by the Council and bringing forward proposals for the speedy implementation of the policy decided upon.

RA/COOS/6783
RA/D/5348
DG/EMU/PRRA/4258

Introduction

1 Since 1981 the Greater London Council has incorporated a racial dimension explicitly into all its policy - making an implementation, as well as adopting a wide range of policies and practices in line with its statutory duties under the Race Relations Act 1976, particularly under Sec.71:

"To make appropriate arrangements with a view to securing that their activities are carried out with due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good race relations among different racial groups."

The Council has fulfilled its obligation to Londoners by instituting a wide range of initiatives to combat racism and promote equality of opportunity not only within the Greater London Council but throughout London. Consequently the Council created an Ethnic Minorities Committee serviced by a Unit, which assists in the formulation of relevant policies and programmes for minority groups in London. A determined and concerted attack by the Council on all forms of racism has been the result of the work of the Committee; furthermore, in the absence of a nationally co-ordinated strategy for providing all racial groups with genuine equality of opportunity, the Greater London Council has taken the lead for London.

The strategic importance of the Greater London Council and the range of resources at its disposal make it inevitable that its actions have wide-ranging consequences the impact of which goes beyond London.

By declaring 1984 Anti-Racist Year and designating London an Anti-Racist Zone, the Council was concerned that its work to combat racism be given greater effect; and the enthusiastic response to the Campaign not only from black and white Londoners but other London Boroughs, has meant that the Council has been responsible for heightening public and institutional perception of racism which permeates all aspects of life in Britain. The Council also adopted an Anti-Apartheid Declaration as it recognised that racism in London gains credibility from Apartheid in South Africa and that the fight against racism could not be confined to London as many Londoners were concerned by the policy of Apartheid in South Africa. Historically London has many links with South Africa and the City in particular still supports apartheid through investment and other means. In this way apartheid is undoubtedly a relevant issue for Londoners. Its continued existence help to perpetuate many of the myths and stereotypes which seed racism in London. It was in response to this that the Council began to initiate a policy that could show that its desire to combat racism and promote better race relations was an extensive and far-reaching measure.

2 In December 1983, the Council approved a report 'Anti-Apartheid Policy for the Greater London Council' and adopted an anti-Apartheid declaration as an affirmation of its commitment to challenge racism wherever it exists, and to take practical action in line with its existing anti-racist stances to expose and remove London's links with the racist South African regime.

3 On 9 January 1984 the Declaration was formally presented at a ceremony held at County Hall attended by delegations from the United Nations, the Front Line States, the African National Congress, the Commonwealth Secretariat, the South West African People's Organisation and the Anti-Apartheid Movement. The Declaration received widespread support from many sections of London's population and, at the ceremony, statements of support were announced from the Leaders of the Labour and Liberal parties.

4 The Declaration commits the Council to a nine point action plan to secure implementation of its commitment. Officers are taking appropriate action to effect the Declaration in its entirety and, wherever necessary, reports will be presented for necessary authority to introduce new policies and procedures. This report deals with the use of Council owned premises and cultural facilities by artists and entertainers who perform in apartheid South Africa - an expression which includes the homelands (bantustans) and Namibia (South West Africa). South Africa has refused to give up the territory of Namibia despite repeated requests from the UN (ref: UN Resolution 435).

5 On 13 June 1984, the Committee noted the contents of the report (AR 1595) and resolved to consider it again for final decision at their meeting on 4 July 1984 when those bodies, who would be affected by the implementation of any agreed policy, had been consulted and their views made available. A further report AR 1644A was presented to Committee on 4 July, together with the views of the organisations which had been consulted and with advice from Stephen Sedley QC and W. Birtles. The report was withdrawn by the Chair because he considered that Counsel's advice did not present sufficiently clear conclusions on legal issues and that a second opinion should therefore be obtained.

An opinion has now been received from Lord Gifford QC who advises clearly that if the Council decide to adopt the proposal after weighing all the considerations in the report, the decision could not be successfully challenged on administrative law grounds or on grounds of restraint of trade. Both sets of legal advice are appended to the concurrent report by the Head of Legal Branch.

Cultural Boycott - Background

6 Calls for a "cultural boycott" against South Africa are not new and indeed several resolutions from the General Assembly of the United Nations have done so. For more than two decades, many prominent writers, artists, musicians, cultural personalities and entertainers have boycotted South Africa in protest against racial discrimination and segregation. They have often lent their services for the benefit of the oppressed people of South Africa and of anti-apartheid movements in their countries. Trade unions of musicians, actors and others have taken action to persuade their members not to perform in South Africa. Many playwrights have prohibited the staging of their plays in South Africa. (A summary of some important developments in the movement for a cultural boycott against South Africa taken from a background paper produced by the Centre Against Apartheid of the UN is set out at Appendix A.)

7 Over the years, many musicians, entertainers, artists, writers and others joined the boycott of South Africa. Many of them joined anti-apartheid movements and campaigns and lent their services for the benefit of the oppressed people of South Africa and their national liberation movement, as well as anti-apartheid movements. The movement for a cultural boycott against South Africa, gathered momentum in 1965 when the apartheid regime in South Africa enacted stringent regulations prohibiting multi-racial performances or audiences. The UN Special Committee against apartheid held consultations with a number of anti-apartheid movements and cultural personalities and decided that the United Nations should promote and encourage the cultural boycott of South Africa. On its recommendation the General Assembly - in resolution 2396 (XXIII) of 2 December 1968 - requested all States and organisations to suspend cultural, educational, sports and other exchanges with the racist regime and with organisations and institutions in South Africa which practise apartheid'.

8 The apartheid regime defied international demands for an end to racial discrimination and segregation in the cultural field. In recent years, however, it became concerned over increasing isolation and tried to restore international cultural and sporting contacts. It relaxed some regulations so as to allow some mixed performances and mixed audiences in some theatres, under permit. (Segregation in theatres is still the rule, and exceptions are allowed mainly to attract foreign performers. The cinema theatres are totally segregated.) The South African government and its supporters tried to persuade artists that since multi-racial performances and audiences were now possible, they should no more boycott South Africa.

9 Many entertainers rejected South African offers, some at considerable sacrifice, because of their opposition to racism. They appreciated the position of the black people of South Africa and of anti-apartheid movements that the so-called 'reforms' were only a cover to divert attention from the entrenchment of apartheid, particularly through the bantustan policy designed to deprive the African majority even of citizenship, from forced removals of millions of African people from their homes and from brutal repression of opponents of apartheid, including the indiscriminate killing of schoolchildren protesting against racial discrimination.

10 To counteract the effects of the international campaign against apartheid through the cultural boycott the South African Government and its supporters undertook a massive effort, including propaganda about 'reforms' in South Africa and started offering exorbitant fees to lure prominent artists to South Africa. A key role in these efforts has been played by the management of 'Sun City', a gambling and entertainment complex in the bantustan of Bophuthatswana which the apartheid regime regards as an 'independent' territory in its plan to dispossess and denationalize the African majority of South Africa. The 'independence' is denounced by the international community and no government in the world recognises it. While there is legally no racial segregation in the complex, the high admission fees are beyond the means of most Africans.

11 Some entertainers were enticed by the propaganda and the tempting financial offers of apartheid to defy the boycott and perform in South Africa.

In view of this, and on the recommendation of the UN Special Committee, the UN General Assembly adopted a separate resolution on 16 December 1980, calling for 'cultural, academic and other boycotts of South Africa'. (Resolution 35/206 E). The Assembly adopted another separate resolution on the matter on 17 December 1981, as resolution 36/172 I. The UN Special Committee intensified its efforts for a cultural boycott by appeals to artists and cultural groups which were reported to be planning tours of South Africa, and by publicity to the General Assembly resolutions on the matter. It encouraged and assisted anti-apartheid groups active in promoting the cultural boycott. It also initiated active efforts to mobilize cultural personalities in the international campaign against apartheid. It held hearings with several cultural personalities and assisted in the organisation of an international art exhibit against apartheid and other projects. It appealed to governments to take appropriate measures such as the denial of visa-free entry to South Africans. The United Nations Centre against apartheid keeps a register of entertainers, actors and others who have performed in S. Africa since the beginning of 1981, and this is part of the campaign for a cultural boycott against S. Africa called for by the General Assembly.

12 The efforts of the Special Committee found an encouraging response among governments, cultural organisations and personalities. The Government of Japan announced in June 1974 that no visas would be issued to South African nationals for the purpose of interchanges in the field of sports, culture and education. The Government of the Netherlands suspended its cultural agreement with South Africa after the Soweto massacre in 1976 and abrogated it in 1981. Several countries which had formerly provided visa-free entry to South Africans instituted visas. Many cultural organisations and artists boycotted South Africa in response to appeals by the Special Committee in co-operation with anti-apartheid groups. To give but two recent examples: Sir Richard Attenborough, director of the film 'Gandhi', cancelled plans to attend the showing of the film in South Africa in April 1983, and the South African delegation was obliged to leave the film festival in Capri in September 1983.

13 The Special Committee also encouraged support for the cultural activities of the South African liberation movements recognised by the Organisation of African Unity - the African National Congress of South Africa and the Pan Africanist Congress of Azania and welcomed events which express solidarity with the cultural workers in the struggle for liberation in South Africa.

14 All four leading political parties have at different times indicated their opposition to apartheid South Africa. The British Government has enunciated a position of being opposed to apartheid. Recent evidence of this is exemplified in the government's unsuccessful attempt to dissuade the English Rugby Football Union from sending a team to play in South Africa. The Liberal Party leader Mr David Steel sent a written message of support for the Council's Anti-Apartheid Declaration and recently condemned the invitation extended by the Prime Minister for the South African Minister Botha to visit Britain. A similar position to that of the Liberal Party is held by the Social Democratic Party. The Labour Party has expressed its total opposition to apartheid South Africa and has pledged full support for the Council's Anti-Apartheid Declaration. Thus there is all party opposition to apartheid South Africa even though there is not all party agreement about what action must be taken to give effect to such opposition.

Cultural Boycott - Action in South Africa

15 The cultural boycott, strongly advocated by the liberation movements of South Africa which are banned in the country, received an impetus in 1980 when several legal organisations inside South Africa courageously called for action to dissuade foreign artists from performing in the country. In October 1980, the Azanian People's Organisation (AZAPO), persuaded two Soweto promoters to cancel plans to bring well known international entertainers for performances in South Africa.

16 In October 1980, AZAPO, the Congress of South African Students and other organisations organised boycotts and demonstrations against concerts by a leading American singer, and forced closure of his concert in Soweto. A concert in Soweto by a well known black American singer, was cancelled on 26 February 1981 because of a boycott. AZAPO and others also organised a boycott of another well known black American entertainer, in February-March 1981. His performance in Welkom had to be cancelled and there was a large protest demonstration in Soweto.

17 In March 1981, there was an effective boycott of the tour by an American singing group. (The group subsequently decided to support the boycott of South Africa.) In March 1981, AZAPO called for a world-wide boycott of artists who performed in South Africa. The call was supported by other South African organisations such as the Congress of South African Students, Music, Drama, Art and Literature Institute (MDALI, a black cultural organisation), and the Port Elizabeth Black Community Organisation, and by numerous black leaders.

Cultural Boycott - London's response

18 Artists, actors, musicians and other entertainers from London have been involved in making their own protests against apartheid South Africa by not performing there. Both Equity and the Musicians Union have clear statements of condemnation against racism and apartheid which are spelt out in their responses attached at Appendix D.

19 Despite this, there are other artists, actors, musicians and other entertainers who continue to perform in South Africa before segregated and mixed audiences. These performers originate from many countries but some actually perform regularly in London at its concert venues and auditoriums.

20 Over recent years, there has been widespread abhorrence in London of apartheid South Africa and the council has received many complaints about allowing its facilities and concert halls to be used by artists, actors, musicians and other entertainers and groups of such persons who have performed and continue to perform in South Africa in defiance of advice, boycotts, union policies, pleadings from native Africans and urgings from London anti-apartheid supporters. Many members of the Council will be aware of such representations and from their contacts with the public will also be aware of the level of support for the Council's anti-racist programme and anti-apartheid declaration. This concern has been particularly marked in black and white anti-racist and anti-apartheid organisations as well as organisations representing the interests of London's ethnic minorities.

The Council's role and responsibilities

21 As stated in the Head of Legal Branch's concurrent report and Councils opinion the Council has a duty under Section 71 of the Race Relations Act 1976 to make appropriate arrangements to secure that its functions are carried out with due regard to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

The Council has received many letters from people and organisations in London requesting that in the interests of good race relations in London (one in eight Londoners are now black) and in pursuance of its duty under Section 71 of the Race Relations Act 1976 the Council should take action to prevent artists who support apartheid from performing in Council owned premises. Copies of correspondence are attached as Appendix B.

22 Given the Council's unequivocal commitment to pursuing anti-racist policies it is suggested that the Council should reconsider its existing arrangements to ensure practices that accord with both the anti-racist policy and anti-apartheid declaration, and to review the appropriateness of artists, actors, musicians etc who are willing to appear as performers in apartheid South Africa appearing in GLC owned venues and facilities which are maintained for the benefit and enjoyment of all of London's residents irrespective of racial background. This report deals specifically with the use of the SBCH, a further report will review the arrangements for hiring artists at other Council owned venues.

23 The SBCH which are run by the GLC and are a much sought after venue, have from time to time housed performances involving artists, actors, musicians etc who have performed and are willing to perform in South Africa. The following paragraphs outline a policy for introducing an 'Artists Boycott pledge' or undertaking from all artists actors, promoters etc., who contract to use the Halls. A few other Local Authorities, including LB of Camden, Newcastle and S. Shields have introduced measures to prevent their facilities being used by performers who have performed in S. Africa. They have not sought to introduce an undertaking or 'Boycott Pledge' but have used the UN Black list (see para. 11) and banned anyone who appears on that list. While this method is administratively simpler, it has various shortcomings (i) the UN list is not totally accurate and up to date and (ii) it only deals with past appearances and not future intentions or plans. The introduction of a pledge is considered to be a more far reaching and thorough means of implementing the Council's anti-racist policies.

Artists Boycott Pledge - Aims and objectives

24 By introducing such a pledge the Committee will need to consider, in the light of the representations made to it by people in London, the impact it will have upon Londoners and the contribution it will make to the promotion of better relations between different racial groups in London. Factors to be considered are:

- (i) The value to good race relations in London of the Council taking a firm stand against racism (including racism in South Africa) and
- (ii) The damage which would be done to the overall policy of promoting good race relations in London if performers who perform regularly in South Africa continue to appear in The SBCH, and no steps are taken to prevent this.

Artists Boycott Pledge - Practical Implementation

25 There are two ways in which this policy can be implemented.

(i) TOTAL BAN

In this case the Council would withhold the use of the SBCH to all artists, musicians etc who were willing to perform in S. Africa, the homelands or Namibia at all (irrespective of whether the audience was all-white or mixed);

(ii) PARTIAL BAN

This would only apply to those artists etc., who are willing to perform before all-white or segregated audiences in South Africa, and any audiences in the homelands or Namibia. (Artists willing only to perform before mixed audiences in South Africa would not therefore be affected by this partial ban.)

TOTAL/PARTIAL BAN - ARGUMENTS FOR AND AGAINST

26 The introduction of a partial ban would make a distinction between performances before all-white audiences in South Africa and performances before mixed audiences. Either ban would apply to any audiences in Namibia or the homelands. By doing this the Council would be seeking to take account of the position of those persons who were supporters of anti-apartheid but considered it right to appear before mixed audiences in S. Africa, by allowing them to use its facilities and venues. Conversely, the Council would also be seeking to act reasonably in maintaining and implementing its anti-racist policies by withholding use of its facilities and venues to performers who would be willing to perform in South Africa and Namibia before segregated or all-white audiences and who thus seek to enhance the apartheid system by their actions, and bring the Council's anti-racist policies into disrepute.

27 Implementation of the partial ban would be easier in that the policy would be less likely to be regarded as an interference with personal convictions and beliefs. It is clear that there are artists and musicians who honestly believe that racial intolerance can most effectively be fought by their presence working in South Africa and Namibia.

28 In order to try and assess the likely response to any such ban from promoters and artists who use the Halls, consultation has been carried out and the results are summarised in paras 39 and 40 and their letters are appended (Appendix D). If a significant amount of custom is withdrawn from the SBCH, difficulties would arise with finding alternative lettings at short notice. This aspect is discussed in more detail in paras 41-42. To minimise these problems the Committee may wish to consider whether a partial ban ought to be applied as a first step, to be followed by a total ban later, in the light of experience.

29 A total ban accords with Musicians Union policy (see Appendix D) and would not be vulnerable to any ploy designed to give the appearance of a mixed audience when in reality it conforms with the practices of apartheid (see para 10 above ref to Sun City). A total ban is also consistent with the 1980 UN resolution (Para 10 above). Monitoring of a total ban would be a simpler matter, involving far less searching enquiries into the precise nature of performances etc. than would be required for a partial ban.

30 Members should be aware that there may be cases of South African nationals (both black and white) who perform both in the South Bank Concert Halls, and in South Africa. The Council recognises the efforts made by artists such as Athol Fugard and Hugh Masekela in the fight against apartheid and fully supports their position. Officers are aware of no case where such persons are in any way supporters of apartheid, but it is evident that a total ban (which would have to be applied equally to black and white South Africans) might bear hardly upon these individuals by asking them to choose between performing in the South Bank Concert Halls and performing under any circumstances in their home country and this is considered to be a relevant factor in the Committee's consideration of this issue.

Counsel in his opinion suggests that there is no need for the Council to make particular provision for this type of performer at this stage; as with any policy, the Council is always entitled to make exceptions in particular cases and it would always be open to it not to require the Artists Boycott Pledge from an opponent of apartheid who was wishing to return and perform in South Africa.

AMENDMENTS TO SBCH LETTING AGREEMENT

31 There are two main types of promotion which determine who appears at the Council's concert halls. The first is direct promotions made by the Council who would engage the performers directly, and the second is by letting the halls to outside promoters who would put together the show and engage the artists themselves. Direct promotions by the Council comprise about 20% of all events whereas lettings of facilities for use by promoters and agents comprise the remaining 80%. The Council also joins with promoters in co-promotions. A person hiring one of the halls from the Council for an event is required to sign a standard form of letting agreement containing a comprehensive set of conditions.

32 If the Committee agree to the introduction of an 'Artists Boycott Pledge' we recommend that in respect of all contracts entered into after 1 June 1985 for lettings of any of the South Bank Concert halls, and any contracts entered into after that date by the Council in the case of direct promotions, suitable undertakings be sought from all artists, etc (subject as below) with regard to performing in South Africa, Namibia and the homelands in the future. Contracts already entered into by the Council cannot be altered, and all existing contracts will be honoured. In addition, it is not considered feasible to seek individual undertakings from all members of large orchestras, dance companies, choruses, etc., and we therefore recommend that the undertakings be sought individually only from soloist singers or musicians, conductors, etc., who are named in advance publicity. Counsel advises this in his opinion.

In the case of direct promotions, the undertakings would be given direct to the Council; in the case of third party promotions, the undertakings would be given to the promoters, and suitable conditions would be inserted in the standard letting conditions in order to bind the promoter to the Council's policy; in the case of co-promotions, the question to whom the undertakings should be given will have to be decided in the light of the circumstances. It is proposed that any breach of the undertakings/conditions should entitle the Council to terminate the contract and either retain any sums previously paid to the Council or, as the case may be, recover any sums previously paid by the Council.

33 The proposed forms of undertaking and amendments to the general letting conditions are set out in Appendix C (C1 applies to a total ban and C2 to a partial ban). If the Committee decide to proceed with the introduction of an Artists Boycott Pledge for the use of the auditoria at the South Bank Concert Halls, this will also extend to any use of the foyers by individual artists/Performers for exhibitions or performances. A similar undertaking to that being incorporated into the letting agreement will be sought as appropriate in these cases. As stated in the Head of Legal Branch's concurrent report, forms have been drawn up in consultation with leading counsel. The forms are proforma only and in practice it may be more practicable to have one version for individuals and one for groups.

RECOVERY OF FINANCIAL LOSSES IN CASE OF CANCELLATION

34 On preliminary consideration of report (AR 1595) on 13 June 1984, the Committee addressed the problem of whether the possible financial losses to the Council arising from a cancelled concert could be avoided by amending the draft undertaking and resolved that the undertaking be amended to require the promoter, in this event, to compensate the Council to the full extent of the resultant loss of income viz. basic and supplementary rentals and shops and catering commission.

35 Officers have investigated this further and Counsel has advised that a court might regard it as unreasonable for a promoter or a directly engaged artist/group to be responsible for losses caused by some other person's breach of their undertaking without any fault on the part of the promoter or other artist. Although in theory the promoter or other artist might have a claim against the defaulting artist/performer, in practice he might well be unable to recover a large sum. Accordingly Counsel has advised that in these circumstances it would be better to limit the claim for losses to the initial payment(s) made on signature of the contract. In this connection it should be noted that this initial payment is normally calculated as one-third of the basic rental (e.g. £650 in the Royal Festival Hall).

36 However a significant proportion of the promoters using the Halls benefit from a standing deposit arrangement, the effect of which is that no initial payment is required and could not therefore be retained by the Council in the event of any breach of contract. This arrangement is necessary for the organisations' cash flow position and it would be detrimental to the running of the Halls to alter it. Accordingly we suggest, if the main proposal goes ahead, that the conditions of contract be varied in the case of such promoters by adding a new stipulation. That they be required to make a payment equivalent to an initial payment in the event of default which could then be claimed by the Council.

37 In the case of directly engaged artists/performers and promoters who are at fault in some way, it is suggested that the Council should be able to recover substantial damages to cover losses incurred. This means that the financial losses to the Council would be minimised and this would assist in any arguments concerning the Committee's fiduciary duty to the ratepayers. Counsel has recommended that although the Council's right of determination should not be subject to a right of arbitration, it would be far more acceptable for reasons of natural justice if the Council's financial remedies were subject to such a right.

38 It should however be pointed out that the greatest loss of income to the Council is likely to arise from an unwillingness by promoters or directly engaged artists to enter into any contract with the Council, rather than breaches of the undertaking when contracts have been signed, and this is dealt within more detail in paragraph 41 below.

Consultations with organisations likely to be affected by the proposed ban

39 As referred to in para 4 above, the Committee agreed to reach a final decision on this policy when the views of those bodies who would be affected were available. 17 organisations were consulted and copies of their replies are appended (Appendix D). Counsel has advised that the level of consultation has been quite adequate.

40 The Committee will note that the general tenor of the replies is that while Apartheid is to be abhorred, the bodies concerned do not wish to see the Council's present proposal enforced on their members. It is not clear however from the majority of letters what course of action they would take if this policy is adopted, although the implication is that they would not wish to enter into any contracts which included a specific undertaking regarding appearances in South Africa and Namibia.

The following specific points emerge:

- (i) The Musicians Union already operates a ban which they state has involved substantial sacrifices by their members. They state that to the extent that any measures by the GLC coincide with and reinforce their policy they would welcome it, but to the extent that any such measure imposed obligations and constraints upon their members that went beyond those arising from their membership of the Union, they would oppose it. However not all musicians belong to this Union (most soloists do not) and it is understood that the ban works imperfectly in practice since many musicians do in fact tour in South Africa;
- (ii) as indicated above, most of the other responses object to the policy but do not state what action will be taken by them if the ban is imposed. One exception to this is the Association of British Orchestras which alleges that the policy would constitute maladministration which the local ombudsman might declare unlawful. They also threaten court action on the basis of illegality for restraint of trade.

This matter is dealt with in the concurrent report by the Head of Legal Branch.

FINANCIAL IMPLICATIONS

41 It is impossible to quantify accurately the loss which would result to the Council if an event could not take place because of unwillingness on the part of an artist/promoter to accept the proposed conditions or if an artist etc., scheduled to appear breached his/her undertaking and an event had to be cancelled. The possibility of recovering these losses from the promoters in order to minimise the cost to the Council is discussed in paragraphs 34 to 37 above, but it appears more likely that promoters and artists will simply not 'co-operate' in signing any new form of contract. This could give rise to delays in signing contracts, causing last minute cancellations with no financial redress and little possibility of being able to successfully fill the resulting dark night. The cost of one dark night in the Royal Festival Hall would involve not only loss of rental but loss of ancillary income from catering and shops. From 1 September 1985 the average basic plus supplementary rental income for the three halls stands at approximately:

RFH	£3,300)
QEH	£750)
PR	£300)

Otherwise losses could depend on several variables, e.g., whether the GLC was itself the promoter; if so, the public appeal of the performer in question; the timing of the cancellation; and the cost of replacing the performance, either by an alternative letting or by a Council promotion. If the Council decided to promote in order to fill dates that were unlet as a result of the policy, then the cost would be the net cost of production and publicity. Typically, the net cost of comparable productions in the three halls might be:

RFH	£10,000
QEH	£4,500
PR	£1,000

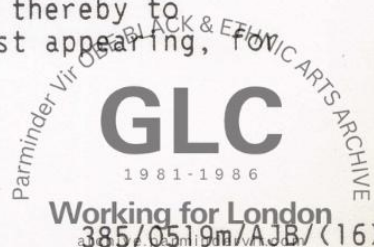
42 While the responses received indicate considerable opposition to the proposals in the main report, the Committee will wish to bear in mind that alternative facilities comparable to the South Bank Concert Halls are limited and the precise extent to which this policy might result in business leaving the Halls and going elsewhere is a matter which the Committee will need to consider. There may also be other artists/performers or promoters who would be willing to fill any resulting dark nights, with possibly different artistic standards and financial return to the Council. These are both significant factors in weighing up the financial effects of the proposals. Because of the long lead in time required for the programming of the South Bank Concert Halls, the Halls are contracted well in advance. The Royal Festival Hall and Queen Elizabeth Hall are largely contracted well up to July 1986. Contracts for the Purcell Room are not so advanced. On the basis of known bookings in the three Halls from 1 April 1985 - 31 March 1986, the following loss of rental income could arise in the 1985/86 financial year if all currently uncontracted dates remained dark because of unwillingness by promoters or artists to sign the Artists Boycott Pledge:

Royal Festival Hall	£240,000
Queen Elizabeth Hall	£115,000
Purcell Room	£ 65,500
	£420,500
TOTAL:	

This total loss of £420,500 in the 1985/86 financial year represents an estimate of the maximum loss of rental income to the Council if the dates remained dark and no alternative lettings were found. There would also be a consequential loss of catering and shop income of up to £850 for every dark night. Officers would make every effort to reduce these potential losses and Para 44 indicates a way in which this would be done. However committee will need to consider these possible financial consequences in the light of the other factors outlined above.

MONITORING OF THE POLICY - STAFFING IMPLICATIONS

43 In order to ensure against breaches of the policy it will be necessary for the Council to undertake continuous checks and investigations of promoters artists, actors, musicians and other entertainers and performers and groups of such persons appearing in South Africa and Namibia, as well as reports on allegations of performances in South Africa, links with promoting organisations, etc. It might be necessary to subscribe to the major theatres, opera houses, etc., in South Africa and Namibia and thereby to obtain future programme details and then to check on any artist appearing, for example by way of a telephone call.



This will be a more complex task if a partial rather than a total ban is imposed.

44 As indicated above in para 38 one of the main problems in implementing the ban will be the unwillingness of promoters/artists to enter into contracts and for finalisation of contracts to be delayed until the last minute, leaving the Halls with a dark night which cannot be filled. To avoid this and to ensure that sufficient time is allowed either to find an alternative letting or for the Council to promote its own concert, a deadline will have to be introduced for finalisation of all contracts. Given the long lead in time required to plan and effectively promote any letting, it is proposed that all contracts should be finalised six months before the date of the event. Where this does not happen the Council will retain the right to cancel the provisional booking. This approach will safeguard the Council's position and help to avoid loss of income from dark nights, but it will also involve additional work in finding an alternative lettings or promoting a GLC event.

45 In view of the additional workload which will arise for staff at the SBCH it is recommended that 2 additional members of staff be agreed; one MG9 and one MG11. The full year costs of these staff are broken down below:

	Basic Salary	NI	Supp	ON Costs	Total
MG9	12171	849	1004	1017	15041
MG11	8986	648	743	754	11153
	21179	1497	1747	1771	26194

A bid was made for this expenditure in the 1985/86 revenue new initiatives, but there is no specific provision for this expenditure in the 1985/86, base revenue estimates. Following reassessment of the 1985-6 base budget, it is proposed that this expenditure will be funded from savings within the provision for fuel and light at the SBCH. On this basis approval to expenditure of £19,645 to cover nine months staffing costs in 1985/86 is now sought.

If the Committee agree to the implementation of this policy from 1 June 1985, it is clear that the additional staff will not be in post at that time. Every effort will be made to recruit quickly, but in order to ensure that the policy can be effectively implemented from day one, and the workload adequately covered it will be necessary for staff from the Director-General's Ethnic Minority Unit to work closely with the staff in the South Bank concert halls. The situation will be closely monitored and if necessary additional temporary assistance will be recruited until the new posts are permanently filled.

46 CONSULTATION WITH STAFF

The staff side have been consulted and any observations received will be submitted to the Staff Committee. It is anticipated that Office accommodation for the staff will be found in the R.F.H.

Enforcement

47 On the advice of Leading Counsel, the form of undertaking and the proposed amendments to the general conditions set out in Appendix C do not provide for automatic termination on breach, but give the Council an option to terminate. This raises the question of how a decision to rescind a contract is to be taken. Ideally the matter should be reported to Committee for decision or at least taken on chair's action, but a report for chair's action could well be requisitioned to the next committee meeting, which might not be until after the event has taken place, and in any event such delay could

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create severe difficulties in the time scale of the South Bank Halls, who might have to attempt to re-let the hall, and find interested promoters, artists, etc in a very short space of time. An alternative would be to delegate authority to rescind a contract to an officer, but in view of the sensitive nature of the decision, and the possibly heavy cost of a cancellation, this is not recommended. In the circumstances it is proposed that decisions will have to be made by the Arts and Recreation Committee and it may be necessary for additional urgent meetings to be called at short notice. This procedure will be kept under review.

CONSIDERATIONS FOR WOMEN

48 There are no specific considerations in this report for women but see para 51 below.

CONSIDERATIONS FOR ETHNIC MINORITIES

49 The objective of this policy is to promote good race relations in London and to demonstrate the Council's future stand against racism and its commitment to taking all possible action to combat racism and ensure that Council premises are not used in such a way as to bring its anti-racism policies into disrepute.

CONSIDERATIONS FOR THOSE WITH DISABILITIES

50 There are no specific considerations for people with disabilities in this report but see para 51 below.

CONSIDERATIONS FOR GAY MEN AND LESBIAN WOMEN

51 Assurances can be given that recruitment of these posts will strictly follow the Council's equal opportunities policy which will benefit both existing staff and external applicants who may be gay or lesbian.

52 The amendments to the SBCH letting agreement which are proposed in this report do not require the consent of the Secretary of State under the Local Government (Interim Provisions) Act 1984. All individual lettings of the Halls after 1 April 1986 are however subject to the approval of the Secretary of State. (General Consent for all lettings for entertainment purposes up to 31 March 1986 was received from the Secretary of State for the Environment in October 1984.)

53 In the light of this report, the advice of leading Counsel attached and after consideration of the responses received from those bodies who have been consulted, the Committee are asked to make decisions about the scope and implementation of this policy as follows:

- (i) Whether they wish to impose a ban on artists etc who are willing to perform in South Africa Namibia and the homelands? and
- (ii) whether this ban should be total or partial (see paras 25-30).

Subject to the above decisions, the following recommendations are put forward.

- (a) That the policy only be applied to those named in advance publicity;
- (b) That a time limit be set, ie., when the apartheid regime ceases in South Africa and Namibia;
- (c) That the undertaking outlined in Appendix C be applied to all new contracts from 1 June 1985;
- (d) that provisions should be made in the contract to recover initial payments or to claim payments in lieu, or damages (in case of fault) in the event of breach of contract and that these decisions should be subject to arbitration;
- (e) that the effect of the policy be monitored and reported on after six months;
- (f) that two additional staff be authorised for the monitoring and implementation of this policy with a review after six months; and
- (g) that a further report be submitted as a matter of urgency reviewing the arrangements for the hiring of artists etc., for other GLC events and at other GLC venues.

EXTRACTS OF A BACKGROUND NOTE PREPARED BY
THE UNITED NATIONS CENTRE AGAINST APARTHEID

LONDON AGAINST RACISM IN THE ARTS
USE OF GLC OWNED FACILITIES AND PREMISES

Extracts of a background note prepared by the UN Centre against Apartheid.

The cultural boycott of South Africa became an important aspect of the anti-apartheid movement in 1961 when the British Musicians Union adopted a policy decision that its members should not perform in South Africa so long as apartheid exists.

In 1963, 45 prominent British playwrights signed a Declaration announcing that they had instructed their agents to insert a clause in all future contracts automatically refusing performing rights in any theatre 'where discrimination is made among audiences on grounds of colour'. Subsequently, the Declaration received adherence from many playwrights in other countries.

The boycott in the United Kingdom was encouraged in 1964 when Marlon Brando, on a visit to London, took part in a vigil outside the South African embassy for the release of South African political prisoners and launched an appeal to actors, producers, directors and script-writers to write a clause into all future contracts forbidding the screening of their films before segregated audiences.

Also in 1964, the Irish Anti-Apartheid Movement promoted a declaration signed by 28 Irish playwrights that they would not permit their works to be performed before segregated audiences in South Africa.

In 1965, the British Screenwriters Guild called for a ban on the distribution of British Films in South Africa. The British Actors' Equity invited individual members to sign a declaration pledging not to work in South Africa: it was signed by many of Britain's most prominent actors.

Also, in 1965, the American Committee on Africa sponsored a declaration which was signed by more than 60 cultural personalities. It read:-

'We say no to apartheid.

We take this pledge; in solemn resolve to refuse any encouragement of, or indeed, any professional association with the present Republic of South Africa, this until the day when all its people shall equally enjoy the educational and cultural advantages of that rich and beautiful land.'

Many others signed the Declaration when it was revived ten years later.

In 1969 the British Writers Guild proposed a co-ordinated policy by all film unions to prevent their films being shown in segregated cinemas in South Africa. That was accepted by the Association of Cinematography, Television and Allied Technicians (ACTT) and the British Musicians Union in 1971.

In 1972 the ACTT passed a resolution, concerning television, declaring a boycott on South Africa as a place of employment'. (This policy does not apply to news and current affairs.) In 1976 it voted to boycott material emanating from South Africa, especially advertisements for television.

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In 1976, the British Actors Union, Equity, decided to introduce a policy of refusing permission for television programmes featuring its members to be sold to South African television. The Council of Equity also reaffirmed its policy to advise its members not to work in South Africa.

In October 1977, the British Equity, in a referendum among its 4,000 members voted to maintain its ban on the sale of TV programmes to South Africa. It also confirmed that performers who went to South Africa should not be covered by Equity contracts and should be asked to sign a declaration that they would refuse to perform if they were prevented from doing so before multiracial audiences. But a move to extend the ban to sales of radio, film and cassette and other recorded material as defeated by a narrow margin of 1,921 votes to 1,909.

In 1976, anti-apartheid groups in New York demonstrated against and brought about the closure of 'Ipi Tombe', a South African theatrical production.

In 1978, anti-apartheid demonstrations in New York brought about the closure of 'Umbatha', a South African play.

In October 1981, the board of the Associated Actors and Artists of America - an umbrella organisation of all major actors' union with a total membership of over 240,000 actors - took a unanimous decision that its members should not perform in South Africa.