

Band in the USA: why's it so hard for UK musicians to tour The States?

Music

Artists and industry insiders reveal the tricks, trials and tribulations that come with booking an American tour.

Words: Will Pritchard

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The initial stages of the race to be the UK's biggest Tory, and eventually the new Prime Minister, were derailed somewhat last month when discussion swerved away from the minutiae of each candidate's policies in favour of a front page tournament to determine who had huffed the most shovel in their younger, more frivolous days.

This was triggered by an admission from reanimated wax sculpture (and Environment Secretary) Michael Gove that he'd once been partial to a bit of gear. He evaded suggestions that he may have lied about this on US entry applications and argued that, should he be elected Prime Minister by Conservative party members, his dalliances shouldn't prevent him from entering the States. Obviously this provoked the usual flurry of commentary on the double standards and hypocrisy of the privileged classes – and it hit a nerve given the current US administration's stance on who should and shouldn't be allowed to enter the country and under which circumstances.

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Trump rose to power on promises of building a wall (or fence, depending on how you look at it) on the southern US border and banning Muslims from entering the country. His government has most recently been accused of housing migrants in conditions comparable to concentration camps. Draconian laws are seemingly implemented and upheld at every opportunity; recently, a British citizen was denied entry and slapped with a 10-year ban after officials claimed to have found messages relating to cocaine on her phone.

For musicians whose career prospects are limited if they're unable to engage a US audience, this general sense of anxiety is felt strongly. And it's been a major concern for acts with criminal records long before Trump took office.

Social media and streaming technologies have made it easier than ever for musicians to build a global fan base. The drop-off in record sale earnings brought on by digitisation has also made incomes from live performance all the more important. But while plenty of UK artists frequently travel to play shows throughout Europe and beyond, the USA remains a lucrative but untrodden ground for all but a few – in spite of increasing cultural cross-pollination between artists on both sides of the Atlantic. All of this is happening against a backdrop of escalating visa issues for artists from all corners of the globe and should, some would argue, serve as an opportunity for the UK and US to lead reform on the issue.

As it stands, however, securing the relevant legal permissions to perform in the US is a lengthy, complex, expensive, and precarious process. Despite their growing fanbases across the pond, high profile acts such as Giggs, Wiley, and Skepta have all faced issues with acquiring US work permissions. In 2017, visa discrepancies shone an ugly light on SXSW festival after a number of acts were denied entry to the country. London jazz duo Yussef Kamaal put their denial down to “discrimination based on religion and race.”



Big Smoke -

@Skeptat



Love to everybody that wanted to see me on tour this month, my U.S visa has been denied and I am not allowed in America right now.

12:17 PM · Apr 15, 2016



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Matthew Covey is the founder of Tamizdat, a US non-profit organisation that aims to facilitate international cultural exchange. The organisation takes its name from the Russian word for literature smuggled out of the Soviet Union and published abroad, and the dissident passion implied by this moniker is audible in Covey's voice. "The regulations controlling performing artists' ability to come and legally work in the US are extremely strict," he says, "much more strict than almost any other country in the world."

The O-1 visa authorisation process begins with a petition that has to be filed by someone in the US – typically an agent, promoter, or label – which proves that the artist or group in question has "extraordinary ability". Covey says this document requires proof that "an individual or ensemble has something irreplaceable to offer" – irreplaceable, that is, by an artist already residing in the US. "These rules were all originally written for US laws by the labour unions," Covey explains, "so the purpose of them is exclusively to control and protect the interests of US musicians and performing artists from foreign competition."

One artist booking agent, speaking on condition of anonymity, described a folder containing dozens of documents that he'd compiled to prove that one of the artists on his roster – a producer and DJ with 15 years experience on the circuit – should be considered eligible. Along with this petition, artists are expected to prove that they have "a bonafide contractual reason" to be in the US, which opens up a chicken-and-egg situation for performers looking to secure bookings in the country.

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Once – or rather, if – the work authorisation petition is approved in the US, the artist will be invited to their local US embassy to apply for a visa. "That's where all the other stuff, the subjective stuff, gets pretty involved," says Covey. "If the artist has a criminal record (or any of the million other different factors) that's where it will get weighed by the embassy."

Falling foul of one of these criteria can see your application denied or “rendered inadmissible”, at which point it’s then necessary to seek a waiver of inadmissibility. This could take a week, or alternatively, it might never come through. “That’s where it becomes challenging for touring artists,” Covey explains, “because obviously if you have a significant criminal record going into this process, you know you’re going to have to get a waiver but there’s no particularly predictable way of knowing how long it’s going to take. And if you’ve got a tour coming up in six months, well...”

Aside from the time and administrative resources this process sucks up, there’s considerable cost involved too. Covey has seen lawyers take as much as \$12,000 in fees for the petition stage alone. And it comes with huge risk too: “It’s just an absolute nightmare,” the booking agent recalled, “you don’t know whether your visa’s been granted until after you’ve paid, so if you pay and it gets denied you don’t get your money back. You just get a letter to say it’s been denied.” For many artists, that useless piece of paper could be the most expensive thing they’ve purchased in their lives. For artists operating independently, or without the support of a major label or booking entity, getting access can be near impossible. Any kind of black mark on their record only makes the situation even more difficult.

Some would argue that all misdeeds – including mistakes – have consequences, and artists should have to face them just as anyone else would. Others meanwhile (including those in power, when it suits them) would call for bygones to be bygones. One independent DJ, with over ten years experience of playing in the UK and abroad (but didn’t want to be named in case it might impact future visa applications) described having to unearth a historic conviction for possession of a controlled substance as a teenager. “Having to relive that all these years later has been quite a horrible experience, to be honest with you,” he said, emphasising the fact that his livelihood largely depends on being able to play shows. He’s been trying to get to the US for seven years.

Some artists feel forced to skirt the legal process entirely.

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“I’ve known people to go to America who, had they followed the rules and announced their past, would definitely not have been let in,” an A&R tells me under anonymity. “The idea that the American government is some sort of all-seeing-eye that can parse everyone’s records in nanoseconds the minute they get off the plane is complete bullshit, and has been disproven time and again by the number of people I know [artists]

with criminal records in England who go out there and are smart enough not to say anything. However, none of those people have been trying to get a work permit.”

The booking agent spoke of multiple artists who choose to fly into the US on an ESTA, which allows entry for 90 days at a cost of around \$14, and then tour illegally. So long as the artist’s face isn’t pictured on any promotional materials, he said, this can be relatively straightforward.

One independent producer and DJ who has prior convictions but has also made numerous trips to the US to play shows, described the process: “I go over on an ESTA and say I’m on holiday, then just tour. It’s easier to enter the USA as a visitor when you have a conviction than it is to get a visa with a conviction. I promote the tour [in advance] all over social media, then on the day I fly I deactivate all my socials so even if they Google me they won’t find me. Then when I’m through customs safely I reactivate them and tour. Once you’re in the USA you can fly freely without questions.”

This route is of course easier for a DJ with a laptop and a couple of USB sticks in their pocket than a band lugging a full load of instruments around – but the stakes are just as high: the booking agent recalled one prominent dubstep DJ being slapped with a three-year ban after being stopped by officials in California.

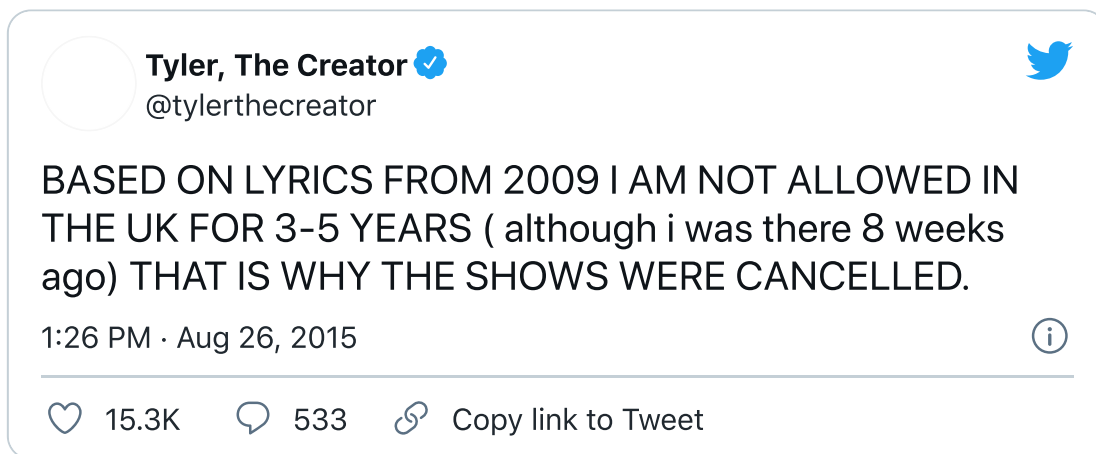
“I’m concerned with the social media aspect. There’s a huge chilling effect which this has on the free speech of the artist.” – Matthew Covey, founder of Tamizdat

The role social media plays in this situation is an important one, and not only because of its use as a promotional tool. Earlier this year the US Department of State made changes to the DS-160 visa process that ask applicants “to indicate the social media platforms that they have used during the five years preceding their visa application, and to provide any identifiers or handles they used on those platforms.” ESTA applicants are also now encouraged to include their social media handles on their form.

For Tamizdat’s Matthew Covey, this has been a worrying development. “There’s a really huge potential for a really significant civil liberties issue if the State Department starts denying people visas because of what they’re saying on social media, or because they have a reputation, but no criminal record,” he continues. “Personally, I’m concerned with the social media aspect because I feel like whether or not [the authorities] actually use this information, there’s a huge chilling effect on the free speech of the artist, if they’re concerned about a US tour.”

Covey suggests that negative reputation or a particularly abrasive political stance (to the current US administration at least) could end up further stacking the odds against artists pursuing a work permit. It feels like a reactionary move from the US government, and one out of step with the changing reality of global communications – even if it does fall in trend with the government’s well-documented desires for increased surveillance powers.

But the issue of travel restrictions between the UK and USA isn’t one directional. Matthew Covey says he’s begun to notice “a lot more problems with artists getting into the UK to perform than is being reported in the media.” Over years US acts such as Busta Rhymes, Snoop Dogg, Chris Brown and Tyler, the Creator (who was deemed “not conducive to the public good” by then-Home Secretary Theresa May for lyrics he wrote as a teenager) have made headlines for being banned from the UK. But usually these situations are hushed up, as artists don’t want to publicise their ineligibility to potential promoters. This can have its own knock-on effects. One promoter, who again wished to remain unidentified, told of a case in which a major US hip-hop artist had been deported on arrival at the UK border. They were deported on an outstanding US warrant that had, until that point, gone undeclared to the promoter – forcing cancellation of the show, and huge losses onto the promoter’s accounts.



Then, of course, the looming spectre of Brexit is only making the situation more shaky. “If Brexit happens, it will clearly have negative cultural consequences,” says Ian McQuaid, head of A&R at independent label Moves Recordings. “If you look at an American band coming over to Europe to tour, it’s a different matter if they have to get a different visa for Britain than the rest of Europe. You start thinking, ‘Well, is it worth it? I can just play Berlin, Paris, Amsterdam, Madrid, Milan; why play London as well if I have to then go through some extra rigmarole?’”

Performers with a higher profile will be subject to greater scrutiny, including from the press. Ian McQuaid cites the 2007 case in which Scottish indie band The View were forced to cancel a US tour (as well as their

album launch and a lucrative advertising campaign) after their guitarist, Kyle Falconer, was found in possession of a small amount of cocaine. In 2010 Pete Doherty was detained for 10 hours in JFK Airport and then denied entry to play a show, despite reportedly having a visa. Lily Allen was banned from the US in 2007 after being charged with assaulting a photographer in London. Yusuf Islam (formerly known as Cat Stevens) was denied US entry in 2004 over suspected links with terrorism. Amy Winehouse was forced to collect awards and perform at the 2008 Grammys via satellite link after being barred from entering the country.

Headline-grabbing cases aside, travel restriction is an issue that is rarely publicised, and artists, agents, and managers are wary about speaking out about their experiences with the system.

Ian McQuaid says that recent cases concerning the likes of Giggs and Skepta highlight the impact that years of imbalance in Britain's policing and judicial system has had. "I think we do need to recognise that the majority of vital UK music at the moment is – in general, not entirely – coming from the black British community," he says, "and that is a community that has been demonised. All the statistics back up the idea that it's been overly policed and overly criminalised. So the chances of an artist from the black British community having a criminal record, compared to, say, a white kid from whatever background, are just exponentially higher – which means that it's way more likely that they will have restrictions on going to America."

McQuaid argues that if the UK wants to protect its valuable music industry, then reassessing how past convictions are considered in the visa application process would be a good place to start. "With British politicians confessing their facile drug use and insisting that they should still be allowed to travel to the States, it's probably a good time to open the conversation about whether a drug record that's X amount of years in the past should be expunged," he contends. "I don't see why we should share [records like this] with America if it's going to impact negatively on careers that will benefit England culturally as a whole. We're a small country, we should be stacking the odds in our favour."

USA

Skepta

Wiley

Tyler, The Creator

Immigration