



# Committee Report

City of Westminster

---

Date	<b>10 January 2019</b>
Classification	<b>For General Release</b>
<hr/>	
Title of report	<b>Busking and Street Entertainment Policy</b>
Report of	<b>Ezra Wallace, Head of City Policy and Strategy Annette Acik, Director of Public Protection and Licensing</b>
Decision maker	<b>Licensing Committee</b>
Wards involved	<b>All wards, with a Licensing focus on:</b> <ul style="list-style-type: none"><li>• <b>St James's</b></li><li>• <b>West End</b></li><li>• <b>Marylebone</b></li></ul>
<hr/>	
Report author and telephone	<b>Kirsty Munro, Principal Policy Officer Tel: 020 7641 3639 kmunro1@westminster.gov.uk</b>

---

## 1.0 Executive Summary

- 1.1 Westminster is populated with residential and business premises sited close to and within nationally and internationally recognised commercial, cultural and tourist destinations and this creates a vibrant and exciting atmosphere. These areas of high footfall are also attractive to buskers and street entertainers, helping to create a lively and diverse street scene unique to our City.
- 1.2 Busking and street entertainment has been and will remain a consideration for our placemaking and public space design approaches ensuring our City and town centres remain an attractive experience for all. However, whilst we recognise the cultural contribution that busking and street entertainment adds to the City's vibrancy and character, it does cause adverse impacts as certain locations have a high number of loud or amplified performances daily, meaning locals get little or no respite for lengthy periods of time. In addition to the complaints received, in some areas in our City it is not appropriate for busking and street entertainment. This is because of the nature and design and use of the areas, which can at times cause pedestrians to spill out onto roads to get past buskers and street entertainers and their audience or impede on pedestrian flow in already highly congested areas.

- 1.3 The council considers that the City should adopt a new policy that:
- promotes responsible busking and street entertainment by developing a voluntary Code of Conduct tailored to our City
  - encourages buskers and street entertainers to integrate into our community by developing a dedicated busker and street entertainment forum
  - recognises the established self-regulation of buskers and street entertainers already present in our City
  - supports newly created self-regulation schemes with buskers and street entertainers in identified suitable areas
  - balances the needs and rights of residents and businesses that are near to popular busking and street entertainment locations so they are not adversely impacted (inflicted) by introducing a light touch approach to control and regulation.
- 1.4 The council is seeking to implement a targeted and area specific policy approach to busking and street entertainment that considers:
- the number and nature of complaints received
  - the level of engagement with buskers and street entertainers and their willingness to work with the council
  - engagement with the local community including buskers and street entertainers, residents and businesses
  - what we know about the area's design, use and characteristics
- 1.5 Based upon careful consideration of evidence and collaborative engagement, the draft Busking and Street Entertainment Policy (Appendix A) contains:
- the voluntary City-wide Westminster Code of Conduct and Policy
  - details of the Busking and Street Entertainment Forum
  - details of the self-regulation and Street Performers Association (SPA) arrangements in Covent Garden and Trafalgar Square
  - detailed maps of where the council is seeking to adopt Part V of the London Local Authorities Act 2000 to either prohibit busking and street entertainment or to licence busking and street entertainment in designated areas and locations namely areas centred around Piccadilly Circus, Chinatown, Leicester Square and Oxford Street
  - busking and street entertainment licence conditions
  - details of the Licensing Application process
  - details of how the council will manage complaints and enforcement
  - a commitment to monitor and review the approach during and after the first full calendar year of implementation

1.6 The report sets out the rationale for the policy development and design and seeks approval from the Committee to hold a 6-week consultation on the council's first draft of the Policy from 14<sup>th</sup> January – 24<sup>rd</sup> February 2020.

## **2.0 Recommendations**

2.1 The Committee is recommended to approve that the council hold a 6-week consultation between 14<sup>th</sup> January – 24<sup>rd</sup> February 2020 on the following:

- (1) The creation of a Busking and Street Entertainment Policy, Code of Conduct, and a dedicated Buskers and Street Entertainers Forum.
- (2) Supporting established self-regulation of busking and street entertainment in Covent Garden with enhanced council officer presence to encourage compliance outside of the SPA operating area and times.
- (3) Piloting newly established self-regulation of busking and street entertainment in Trafalgar Square by promoting the Code of Conduct, having a Memorandum of Understanding with the buskers and street entertainers, and establishing and monitoring pitches.
- (4) Adoption of a Licensing Regime under Part V of the London Local Authorities Act 2000 for the control and regulation of busking and street entertainment in designated streets and areas:
  - (4.1) Busking and street entertainment is prohibited in all the areas to which Part V of the 2000 Act will apply apart from those designated pitches where busking and street entertainment will only be permitted under and in accordance with a licence to busk
  - (4.2) permit busking and street entertainment in identified pitches
  - (4.3) permit only licensed buskers and street entertainers on the pitches subject to the conditions of the licence
  - (4.4) the designated streets and areas are centred on Piccadilly Circus, Chinatown, Leicester Square and Oxford Street
- (5) Carrying out ongoing and quarterly monitoring, and an annual review after one full calendar year of operation.

## **3.0 Reason for Decision**

3.1 This draft policy seeks to balance the interests of buskers and street entertainers with those who live, work and visit our streets and shared public spaces by promoting the best of busking and street entertainment through a voluntary City-Wide Code of Conduct, supporting buskers and street entertainers to self-regulate, and promoting membership to the Westminster Busking and Street Entertainment Forum.

- 3.2 The draft policy also recognises that in certain locations within our City, there is good reason to believe that as a result of busking and street entertainment there has been, is being, and will continue to be undue interference with or inconvenience to or risk to safety of persons using a street in that part of their area or other streets within the vicinity of that street; and /or nuisance to the occupiers of property in or in the vicinity of a street in that part of their area (hereon referred to as adverse impacts). It is therefore proposed to adopt Part V of the London Local Authorities Act 2000 for the areas of Piccadilly Circus, Chinatown, Leicester Square and Oxford Street so as to prohibit busking in those areas apart from busking that is carried on by licensed buskers within the eight designated busking pitches.
- 3.3 The Committee is being asked to approve that a 6-week consultation on the draft Busking and Street Entertainment Policy and invite representations. Following consultation, the Committee will review the representations and responses received at a Committee meeting to be held in Spring 2020 where the Committee will make their recommendation on the draft Policy for the consideration of Full Council.

#### **4.0 Introduction**

- 4.1 Busking and street entertainment is a form of evolving performance art consisting of entertainment in a street or areas where the public commonly have access. The phrase 'busking and street entertainment' should be given its ordinary meaning as commonly applied in everyday language which can include (but is not limited to) performances by musicians, magicians, comedians, artists, dancers, acrobats and mime artists.
- 4.2 Every day our streets are brought to life with performances. Musicians, magicians, comedians, artists and dancers come from all over the world to perform here and play an important role in the vibrancy of our City. At the same time, buskers and street entertainers share the streets and open spaces with everyone else who lives, works, and visits our City, and we receive around 1,800 complaints each year typically relating to noise and obstruction. At busy times, we also witness risks to public safety caused by busking and street entertainment where pedestrians spill out onto roads to get past buskers and street entertainers and their audience.
- 4.3 It is considered that the Council needs to take a new approach to busking that balances the interests of buskers and street entertainers by supporting a culture of consideration for others whilst ensuring those in our busking hotspots are better protected from adverse impacts.
- 4.4 Alongside the management of busking and street entertainment, the council also wants to ensure we continue to encourage talent that contributes to our City's lively and diverse street scene. A report by The Busking Project<sup>1</sup> compares the approach taken by cities

---

<sup>1</sup> The busking Project is a Community Interest Company for street performers and has a membership of c7500 buskers from around the world. The report conducted is entitled 'The Beat of the Street Report' 2014

across the globe to manage busking and street entertainment and concluded that cities with moderate regulations, which also offer support and/or promote the busking community, are more likely to be considered as cities that encourage busking. With this in mind, officers are therefore working with the buskers and street entertainers and the SPAs to:

- establish a dedicated street entertainment website that provides information and relevant updates to buskers and street entertainers
- promote the community through events
- formalise an ongoing platform of engagement to ensure that buskers and street entertainers have a voice in the decisions we and our wider community take

## 5.0 Existing Enforcement Powers

5.1 The council currently uses several existing enforcement powers to tackle any busking and street entertainment that is causing adverse impacts on the surroundings. However, these are considered imperfect tools to deal with buskers and street entertainers<sup>2</sup> and we come across various challenges in our attempts to use them. These enforcement tools and their associated challenges are detailed below:

- ***Antisocial Behaviour, Crime and Policing Act 2014***

The council can issue Community Protection Notices (CPNs) when there is evidence that the conduct of a busker or street entertainer is 'causing intimidation, alarm, harassment or distress which is having a detrimental effect on the quality of life of those in the locality, is persistent in nature, and is unreasonable'. Admissible evidence considered by the courts include witness statements from those impacted. These must demonstrate that nuisance or harm is being caused to their quality of life, beyond the level that could be considered as 'irritating'.

In order to issue a CPN the council must witness the anti-social behaviour from the same individual on a number of occasions and go through numerous stages, including issuing a warning, then a statutory notice, followed by a Fixed Penalty Notice. This process is slow, rendering the enforcement action ineffective. This is further compounded by the transient nature of buskers and street entertainers which makes it difficult to evidence a persistent issue.

- ***Environmental Protection Act 1990 (EPA) amended by the Noise and Statutory Nuisance Act 1993***

The council can issue Noise Abatement Notices if the performance is considered a statutory nuisance by a determining Environmental Health Officer. A statutory

---

<sup>2</sup> Keep Street Live Campaign Ltd V London Borough of Camden 2014: "Mrs Justice Patterson said that "Taken individually or in combination the alternative means suggested do not address the issues that have been experienced by the growth of busking within the Borough of Camden. I have no hesitation in holding that the alternative measures are not less restrictive and, certainly, are not equivalent to the powers under the 2000 Act for dealing in a comprehensive way with buskers".

nuisance is an objective standard defined as having a persistent or detrimental effect on a person's quality of life.

Similarly to the process with CPNs (described above) there are a number of stages to achieving enforcement. In addition, noise from buskers and street entertainers, whilst often considered unreasonably loud, do not necessarily meet the threshold to be considered a statutory nuisance.

- ***Section 137 of the Highways Act 1980***

Enforcement officers can use this power to move people along if they are causing an unlawful obstruction to the Highway, however, it is difficult for officers to demonstrate that a busker or street entertainer has wilfully caused an obstruction and often it is not the busker or street entertainer themselves but the audience that is causing an obstruction. In addition, it does not apply to any busking that takes place in open spaces that do not constitute the highway.

- ***Section 62 of the Control of Pollution Act 1974***

If a busker or street entertainer chooses to use a loudspeaker during a performance between the hours of 9 pm and 8 am the following morning, this is an offence under the Control of Pollution Act. However, this does not deal with loud performances that are non-amplified such as brass, wind and percussion instruments. Moreover, it cannot be used to deal with noise from loudspeakers during the day when such noise can be having a detrimental impact on businesses and residents who are not at work.

- ***Byelaws made under section 235 of the Local Government Act for Good Rule and Government (no.2) as amended***

This byelaw applies across the City and enables the council to seize noise equipment pending prosecution for anyone playing a musical instrument or amplifier which is so loud, continuous or repeated as to give reasonable cause for annoyance. However, demonstrating evidence of when a busker or street entertainer has contravened this byelaw without clear guidelines is problematic. This byelaw also fails to have any penalty associated with non-amplified loud performances such as singing.

5.2 Wider challenges to current enforcement also include:

- Buskers and street entertainers only temporarily act on the instructions of officers (i.e. stopping or turning down the volume when asked for a few minutes but then increasing the volume once the enforcement officer has walked away).
- Warning letters or enforcement notices can only be effectively issued to an individual if the council has access to the perpetrator's full name and address. Council officers alone cannot compel buskers and street entertainers to provide their personal details and if this information is not volunteered, then officers require the support of the Police. Current Police resources are understandably prioritised for the prevention of

high-harm criminal activity which means there are ongoing challenges for enforcement officers to secure Police support.

- Statutory notices are location specific. This means that if statutory notices are served, this does not prevent the busker or street entertainer from relocating their performance and causing nuisance in another area, and the enforcement process must begin again.
- The transient nature of buskers and street entertainers means that even if one inconsiderate busker and street entertainer is moved on, or enforcement action is taken, they are replaced by more of the same.

### Recent Interventions

5.3 Against a backdrop of the challenges with existing enforcement powers and consistently high complaints, the council has recently taken a number of different approaches in an attempt to reduce the adverse impacts caused by busking and street entertainment. These include:

- In 2015, the council worked with 'BuskinLondon', which was introduced by the Mayor of London. This scheme identified appropriate areas for busking across London, including within Westminster, developed a Code of Conduct, and had a busking taskforce to help ensure the Code was followed. This taskforce however is no longer operational and the scheme is less effective without the taskforce presence.
- In 2017, a dedicated busking enforcement team of 4 City Inspectors was introduced, which helped to encourage pro-active compliance and achieved a 30% reduction in complaints. However, a combination of resourcing pressures and the challenges of achieving effective enforcement with existing powers meant that dedicated and constant patrols could not be a sustainable long-term solution, and this taskforce is no longer operational.

5.4 The council is seeking to enhance the enforcement powers available in areas where busking and street entertainment cause adverse impacts to ensure we are able to take targeted action against the challenges faced.

## **6.0 Evidence**

6.1 To inform the development of a new busking and street entertainment policy, officers reviewed the data and evidence available to the council, considered the general use and characteristics of locations in our City and how busking and street entertainment interacts with this, and undertook extensive engagement with our community. An overview of the data and evidence collated is attached as Appendix B and a summary is provided below.

### Complaints

6.2 The council receives complaints about busking and street entertainment in numerous ways, including through scheduled and ad hoc officer meetings with residents and businesses, written complaints, anti-social behaviour logs, impact statements, environmental health requests and petitions. The most common complaints received include:

- Unreasonable levels of noise often (but not exclusively) from the use of amplifiers and loud instruments including percussion and items used as percussive instruments such as pots and pans, brass and wind instruments
- Sound clash from multiple loud buskers and street entertainers in the same area
- Performance fatigue due to buskers and street entertainers performing one after another in the same place for up to eight hours every day
- Limited and repetitive repertoire
- Obstructions caused by performance audiences that can impede on entrances or exits to businesses
- The quality of some performances

6.3 Table 1 below demonstrates that the annual volume of busking and street entertainment related noise complaints the council receives is consistently high.

*Table 1: Number of busking and street entertainment complaints from April 2017 to November 2019*

Year	Apr 2017 – Apr 2018	Apr 2018 – Apr 2019	Apr 2019 – Nov 2019 (8 months)
Number of complaints	1733	1923	1503

6.4 Table 2 demonstrates the areas across the City where these complaints are most frequently received (areas have been determined by grouping streets that fall into natural visitor circuits, thoroughfares or destinations).



Table 2: Busking and street entertainment complaints by area April 2017 – November 2019 (only streets where more than 25 complaints were received during this time have been included in the calculations below)

Area	Number of Complaints
Oxford Street	1,303
Piccadilly Circus, Chinatown & Leicester Square <sup>3</sup>	745
Embankment <sup>4</sup>	596
Theatreland <sup>5</sup>	376
James Street <sup>6</sup>	293
Piccadilly <sup>7</sup>	163
Bayswater <sup>8</sup>	149
The Strand	129
Trafalgar Square <sup>9</sup>	113
Covent Garden <sup>10</sup>	94
Regent Street <sup>11</sup>	74
Whitehall <sup>12</sup>	49
Circus Road	32
No Location Recorded	26
<b>Total</b>	<b>4,142</b>

### Observations

- 6.5 Enforcement Officers witness risks to public safety where pedestrians spill out onto roads to get past buskers or street entertainer and their audience, or witness performances and their audience impeding on pedestrian flow in already highly congested areas of footfall. Officers often need to intervene to ask buskers and street entertainers to control their audience or cease their performance and move to another location. The pictures below demonstrate the performance space and audience size used by some buskers and street entertainers and frequently seen by enforcement officers, and how this can adversely impact on pedestrian flow in already congested areas.

<sup>3</sup> Leicester Square, Wardour Street, Charing Cross Road, Piccadilly Circus, Gerrard Street, Coventry Street, Newport Place

<sup>4</sup> Villiers Street, Embankment Place, Victoria Embankment

<sup>5</sup> Great Newport Street, Cranbourn Street, St Martin's Place, St Martin's Lane

<sup>6</sup> James Street, New Oxford Street

<sup>7</sup> Piccadilly Street, Glasshouse Street

<sup>8</sup> Queensway, Bayswater Road

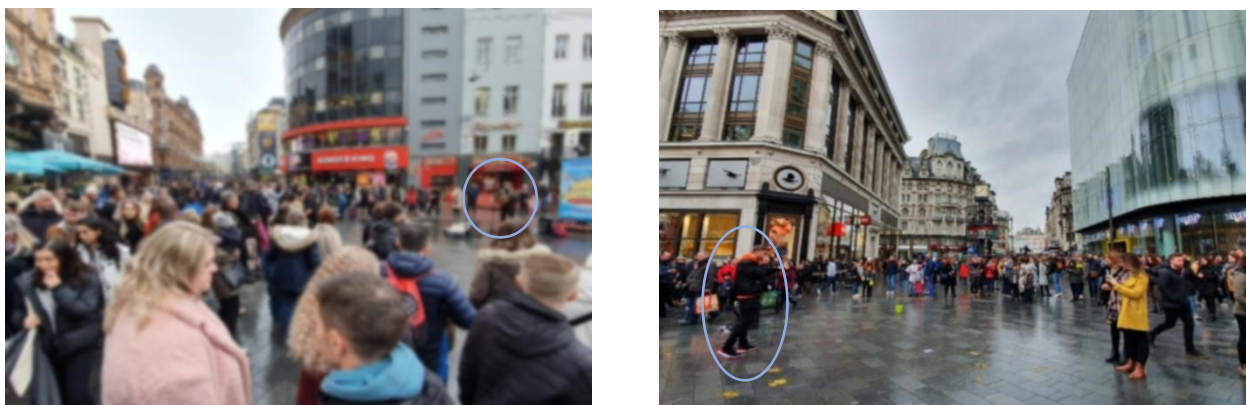
<sup>9</sup> Trafalgar Square, Northumberland Avenue

<sup>10</sup> Covent Garden, James Street, Long Acre

<sup>11</sup> Regent Street, South Molton Street

<sup>12</sup> Parliament Street

Figure 1: Pictures taken November 2019 in Leicester Square. The Pictures have been blurred to protect the identity of those in the image. The circle demonstrates the position of the busker in this image.



6.6 A summary of the general representative position of authorised officers' experience with busking and street entertainment is provided below:

- ***City Inspector Council Officers (24 hour 365 days a year shift workers)***  
Officers feel that responsible busking can contribute culturally to the borough, but that due to adverse impacts, stronger controls are required. They feel they are unable to carry out effective enforcement to tackle issues with existing resources and powers, and whilst busking is permitted in all areas of our City. This is especially the case in our popular busking and street entertainment areas.
- ***Busking Enforcement Team (a taskforce of four dedicated busking and street entertainment City Inspector Officers operating in 2017)***  
This team built a strong relationship with many of the established buskers and street entertainers in our City but also came across a high volume of transient and new buskers and street entertainers daily. Officers felt the majority of the buskers and street entertainers were responsible, especially those that were established, and most were generally compliant when asked to adjust their behaviours. However, deterring irresponsible practices was only effective when officers were a visible presence in the area, and due to the size and distance between the locations they needed to cover, and the daily churn of new buskers and street entertainers, this was not always possible and would ultimately require an investment of significantly more dedicated resources. They felt that pro-active controls were needed to make clear to all buskers and street entertainers wanting to perform in the City how they should carry out their performance. This would both reduce the impacts and provide clear rules for when enforcement should take place.
- ***Metropolitan Police Service***  
The Metropolitan police have cited that crowding as a result of street entertainment and busking has attracted crime and created safety risks. There are concerns about exploitation of vulnerable people and the current lack of effective legislation and

responses. The Police are supportive of a scheme to improve vibrancy, quality and behaviours of buskers.

### Use and Characteristics of areas

6.7 The council has also considered that the experience of busking and street entertainment in our City can be remarkably different from one location to another, which can be attributable to how buskers and street entertainers interact with the general use, design and characteristics of an area.

- **Covent Garden**

Covent Garden is a globally recognised visitor destination that offers the opportunity for people to experience a few hours wandering through a myriad of shops, markets, restaurants and bars. The area is entirely pedestrianised with shared public spaces that comfortably host both large performances and passing pedestrians.

In Covent Garden North Hall, West Piazza and Courtyard, a Street Performers Association (SPA)<sup>13</sup> which has been established for over 30 years operates to foster a wide-ranging repertoire of world leading buskers and street entertainers. The SPA holds auditions, does not permit any performances that use instruments or equipment that are likely to cause a nuisance (including wind instruments, brass instruments, electric guitars, drums, accordions, bagpipes or didgeridoos, and battery powered amplifiers unless used to play a backing track), and provide self-regulatory support until 9pm each evening. To ensure equity and fairness for buskers and street entertainers sharing the space, the SPA holds a daily randomised ballot that selects the order of permitted busker and street entertainers each day. The SPA is also the representative voice of buskers and street entertainers.

Complaints about busking and street entertainment are still received here, however these tend to relate to the areas of Covent Garden outside of the SPA managed locations and hours of operation – in particular James Street and the East Piazza.

- **Trafalgar Square**

Trafalgar Square is a destination known for the National Galleries, fountains, Nelsons column, historical and contemporary statues and public artwork. The council only manages the north terrace and surrounding streets of Trafalgar Square, with the remainder being managed by the Greater London Authority (who do not permit busking and street entertainment on their land without their permission). The north terrace of Trafalgar Square, similar to Covent Garden, is a small localised area that is entirely pedestrianised with shared public spaces that can comfortably host both large

---

<sup>13</sup> This is a self-managed group of street performers

performances and passing pedestrians. There are no residents and only a few businesses that operate close to this area.

The design of the space means that businesses and residents are less impacted by noise from buskers and street entertainers than in other hotspot areas in our City. Instead, the nature of complaints about buskers and street entertainers tends to be focused on the number and quality of buskers and street entertainers in a small concentrated space.

In response to the council's engagement with the community to design a new policy, the busking and street entertainment community here have formed a new SPA called the Westminster SPA. The Westminster SPA however only operates in the areas of Trafalgar Square and Leicester Square and has representatives in each of these areas to work with the council and local residents and businesses. They have also set up a website which residents and businesses can contact if they have a complaint or concern.

- ***Oxford Street***

Oxford Street is located in the West End and runs from Tottenham Court Road to Marble Arch via Oxford Circus. It is Europe's busiest shopping street with around half a million daily visitors. It is also a main thoroughfare for London buses and taxis, and there are a number of residents in the surrounding streets.

Competition for both performance space and to be heard above the ambient noise is a significant challenge, and this has meant that some buskers and street entertainers have chosen to perform in inappropriate locations. This can cause pedestrians to spill out into the roads to get past, cause obstructions on already congested streets for passing pedestrians trying to move past busker and street entertainer audiences and can result in buskers and street entertainers raising their volume to unreasonable levels, creating a nuisance for surrounding businesses and residents.

There is not a sense of familiar busking and street entertainment community in Oxford Street nor of consistent locations for performances. Instead buskers and street entertainers tend to be more transient and are typically spread out, making self-regulation along this expanse of road a challenge. There is also an increasing trend in this area where some activity would appear to be more aligned with begging than street entertainment, often using animals to attract more income.

- ***Piccadilly Circus, Chinatown & Leicester Square***

These areas, whilst distinctly named and individually recognised, are only a few minutes' walk away from each other and together they form a single popular visitor destination. This destination is host to internationally recognised venues, cultural attractions and the UK's film premiers. This area is also a busy pedestrian and traffic thoroughfare throughout the day and night, connecting people across the West End.

Similar to Oxford Street, competition for both performance space and to be heard above the ambient noise is a significant challenge, and this has meant that some buskers and street entertainers have chosen to perform in inappropriate locations. This causes pedestrians to spill out into the roads to get past, causes obstructions on already congested streets for passing pedestrians trying to move past busker and street entertainer audiences, and results in buskers and street entertainers raising their volume to unreasonable levels creating a nuisance for surrounding businesses.

Unlike Oxford Street however, because of the large pedestrianised space, there are a number of established buskers and street entertainers in this area that have joined the newly created Westminster SPA to improve self-regulation. These buskers and street entertainers typically perform in the North Terrace of Leicester Square. However, there are still a high number of transient buskers and street entertainers that use this area, and beyond the North Terrace many of these performance spaces are out of the sight and hearing of the SPA, making effective self-regulation challenging.

### Engagement

6.8 Since September 2018 we have been engaging with our community, and in particular with our stakeholders in the City's busking hotspots, to listen to their views and understand what they would like to see a new busking and street entertainment policy address. In addition, we brought all stakeholders together on a number of occasions to offer them the opportunity to listen and understand each other's perspectives. The aim was to try and arrive at collaborative solutions that successfully protect our businesses and residents from the adverse impacts of busking and street entertainment, whilst ensuring our streets remain vibrant and open to artistic talent.

6.9 Stakeholders included: Councillors, residents, businesses, BIDs, Landowners, individual buskers and street entertainers, Street Performers Association, Keep Streets Live, the Musicians' Union and the GLA. A list of the engagement undertaken can be found in Appendix C, and below is a summary of the general representative position of each stakeholder group. These demonstrate the polarised viewpoints on this issue.

- ***Buskers and Street Entertainers (including representative bodies Keep Streets Live and Musicians' Union)***

Enjoy the opportunity to perform in Westminster and recognise the City as a global platform for street entertainment. Keep Streets Live (an organisation created to support buskers and street entertainers and challenge regulation) have been the most strongly opposed to the premise of regulation as it would impact on their ability to work and risks the alienation of many buskers. Buskers and street entertainers believe that the majority of them are responsible and that those who are irresponsible and causing a problem should be managed by the council with the enforcement powers already in its gift. Most agreed that improved communication between businesses, buskers and street entertainers and the council would help to eradicate

the problem buskers and street entertainers without the need for regulation and that the council should do more to support self-regulation.

- ***Businesses and Residents***

Often recognise the importance of street entertainment in their district and the vibrancy this brings, but have expressed that current voluntary-based approaches with buskers and street entertainers, and current enforcement powers are not effective, and that regulation is needed to ban or control busking, especially in hotspot areas. Even responsible busking can cause a significant impact when loud performances are heard for up to 8 hours each day with no respite, and audiences cause obstructions to entrances and exits to business premises.

- ***Visitors and Tourists***

Whilst engagement opportunities were open to everyone, we received no specific engagement from visitors and tourists. However, the council is able to get an informal snapshot from social media that indicates that, in general, visitors and tourists welcome busking and street entertainment. For example, a general positivity is suggested by the fact that the Covent Garden experience has received 23,739 TripAdvisor reviews<sup>i</sup>, which rate this destination area 4.5 (out of 5).

## **7.0 A new Busking and Street Entertainment Policy for Westminster**

7.1 The evidence examined by the council identifies that we need to create a policy that balances the needs of our stakeholders by taking a targeted and area-specific approach.

7.2 We therefore want our policy target area specific approaches that both promote busker and street entertainer self-regulation across the City, whilst introducing regulation and control in our hotspot areas where adverse impacts are most acutely felt. The table below summarises the policy approach we are proposing and further detail on the design and rationale is provided in paragraphs 8.0 – 9.15.

*Table 3: Summary of draft policy approach*

<b>Policy Approach</b>	<b>Action</b>	<b>Location</b>
<b>Promoting Self-Regulation</b>	<b><i>Voluntary Code of Conduct and Guidance</i></b> Fostering a positive and co-operative relationship between all users of the shared space by setting clear guidelines on responsible busking.	<b>City-Wide</b>
	<b><i>Busking &amp; Street Entertainment Forum</i></b> Giving buskers and street entertainers a platform to raise issues and have questions answered, share ideas and work together on ways of promoting busking and street entertainment in our City.	<b>City-Wide</b>
	<b><i>Supporting Established SPAs</i></b> Providing a dedicated enforcement presence that promotes the Code of Conduct and supports the already established self-regulation scheme of the Street Performers Association.	<b>Covent Garden</b>
	<b><i>Supporting New SPAs</i></b> Supporting the development of a newly established Street Performers Association by promoting the Code of Conduct, and having a busker and street entertainer Memorandum of Understanding (MoU) that works to regulate and monitor marked performance zones.	<b>Trafalgar Square (&amp; Leicester Square)</b>
<b>Introducing Regulation and Control</b>	<b><i>Licensing Scheme</i></b> Introducing a licensing scheme for certain locations within our City, where there is reason to believe that as a result of busking and street entertainment there has been, is being, and will continue to be undue interference with or inconvenience to or risk to safety of persons using a street and/or nuisance to occupiers of nearby premises. Busking and street entertainment in these areas to be prohibited in these areas apart from performers who are licensed to operate from a number of designated pitches This will also give the council dedicated powers to tackle nuisance associated with busking and street entertainment.	<b>Oxford Street, Piccadilly Circus, Chinatown &amp; Leicester Square</b>

## **8.0 Promoting Self-Regulation of Busking and Street Entertainment**

### *Voluntary Code of Conduct*

- 8.1 In 2015 the council, alongside other London boroughs, worked with the Mayor of London to support the voluntary 'BuskinLondon' scheme, which aimed to promote a consistent self-regulatory approach to responsible busking across London through a single Code

of Conduct. Whilst 'BuskinLondon' provided a foundation for understanding what constitutes responsible busking, it does not address the particular challenges and circumstances of our City, including the length of time a performance should last, and at what time during the day performances should take place to reduce the risk of nuisance to surrounding businesses and residents.

- 8.2 Officers have therefore reflected the recognised BuskinLondon standards in our Code, whilst adapting them to focus on the specific local challenges we experience as the City at the heart of the Capital. Our draft Code of Conduct and Guidance is attached in the draft policy as Appendix A.

#### *The Busking and Street Entertainment Forum*

- 8.3 Buskers and Street Entertainers are also a recognised part of our City's community which is why we are creating a dedicated forum so we can listen to their views and ensure they have a voice in the decisions we and our wider community take. It is intended that the forum will meet with council officers twice a year to:

- Collect feedback, raise issues and have questions answered
- Share ideas and work together on ways of promoting the busking and street entertainment industry
- Ensure the information we provide is clear and being delivered in the most relevant way for both established and new buskers and street entertainers wanting to perform in the City

- 8.4 Representatives from this forum will also be invited to attend meetings with local residents and businesses. This will help ensure good relations between all of the people who want to make our City's public spaces a pleasure to be in, and will allow them to discuss and work together on joint issues of concern including keeping the implementation of this policy under review.

#### *Supporting the established SPA: Covent Garden*

- 8.5 In recognition that Covent Garden has a well-established SPA, the council will focus on the challenges experienced in this area outside of the SPA location and hours of operation - namely the East Piazza and James Street. The council will therefore promote our Code of Conduct here and invest in enforcement to monitor the continued viability of self-regulation.

#### *Supporting a newly created SPA: Trafalgar Square and Leicester Square*

- 8.6 The Westminster SPA operates in the areas of Trafalgar Square and Leicester Square and is keen to establish similar organisation and self-regulation of buskers and street entertainers as is seen in Covent Garden. The council however considers that the adverse impacts seen in Leicester Square are significant and therefore needs a targeted



and regulatory approach. However, as Trafalgar Square is a large, self-contained pedestrianised destination similar to Covent Garden, with businesses less affected by adverse impacts, the council is proposing that we should trial supporting the newly created SPA to become established and to self-regulate effectively. We will support the SPA to embed the Code of Conduct, support their self-regulation through drafting a Memorandum of Understanding between the SPA and council, identify appropriate zones for performances here, and monitor the approach through quarterly meetings with the buskers and street entertainers and the local community.

## **9.0 Introducing Regulation and Control of Busking and Street Entertainment**

### *Adopting Part V of the London Local Authorities Act 2000*

- 9.1 As described in para 5.0, the powers currently afforded to the council are not effective to adequately enable officers to enforce against adverse impacts. The council has identified certain locations where adverse impacts require regulation under Part V of the London Local Authorities Act 2000 and satisfy the legal test to do so. These locations are centred around Piccadilly, Chinatown, Leicester Square and Oxford Street. Plans of the areas proposed for regulation under the 2000 Act have been incorporated into the draft policy attached as Appendix A.
- 9.2 This legislation has been specifically designed for London boroughs to prohibit busking and street entertainment and/or adopt a licencing scheme when there is or is likely to be undue interference with or inconvenience to or risk to safety of persons using a street in that part of their area or other streets within the vicinity of that street or nuisance to the occupiers of property in or in the vicinity of a street in that part of their area.
- 9.3 Officers have considered that adopting this legislation in areas of high impact will enable the council to influence, control and create clear enforcement measures around where it is appropriate to busk safely, as well as to control amplification and audible sound levels through licensing conditions.
- 9.4 Officers have also considered that an additional benefit of introducing licensing is that it will enable quicker and more effective penalties to be issued against irresponsible buskers without a licence, or those in breach of licensing conditions. Penalties include removing permission to perform through revoking a licence and seizing equipment or prosecuting should individuals fail to respond positively to informal requests to comply.

### *Identifying Designated Streets*

- 9.5 Officers have considered where busking and street entertainment should be prohibited and the appropriate size and locality of selected performance spaces, as well as the type of controls we may want to introduce through standard licence conditions (attached in the draft policy in Appendix A).

- 9.6 In summary, the methodology for identifying safe and appropriate locations for street entertainment began with a process of eliminating the following locations:
- anywhere in close vicinity of tube entrances and exits, business entrances or exits,
  - anywhere where the width of the pavement is reduced,
  - anywhere where there are long standing construction works, and
  - where other queues or audiences may also gather i.e. near bus stops, taxi ranks, ATMs and next to pedestrian crossings.
- 9.7 Officers also took into consideration the specific locations which the majority of buskers currently gravitate towards, as these provide a good indication of what would be considered from the buskers' perspective an attractive location to both perform and attract audiences. Where possible, we have sought to retain these areas.
- 9.8 Once general locations were identified, officers then determined that to ensure pedestrians could also comfortably pass by a busker or street entertainer and their audience, a gap of at least 2 metres must be kept from kerbs and fixed structures at all times (enough to allow a wheelchair or double buggy to pass). This then clearly defined the size of the performance space to include both the busker and street entertainer and their expected audience size. Identified performance spaces are commonly referred to as 'pitches'. A total of eight designated pitches are proposed in the regulated areas and plans of these designated pitches are also incorporated into the draft policy attached as Appendix A. It is proposed that busking and street entertainment will be prohibited in all the regulated areas apart from the designated pitches but subject to exceptions that are set out in the policy statement.
- 9.9 Officers then considered the types of performances and controls that we would want to put in place in these locations to minimise the impact of nuisance. Officers have designed tailored conditions to include responsibilities for:
- their performance
  - the management of their audience
  - the control of sound
- 9.10 The proposed standard conditions applying to the individual busking licences and the pitches have been incorporated into the draft policy attached as Appendix A.
- 9.11 Buskers and street entertainers will however be expected to continue to self-regulate their queuing systems, performance times and respite times, rather than the council having to introduce a managed booking system.

### Overview of Licensing Requirements

- 9.12 Details of the licence conditions, as well as procedures for applying for a busking and street entertainment licence are contained in the draft policy attached as Appendix A.
- 9.13 In summary, buskers and street entertainers wanting to apply for a licence will do so online and must provide evidence that they are 'fit and proper' to hold a licence and pay a nominal £20 application fee (detailed in para 13.0)
- 9.14 Delegated officers in the council will consider applications made and will usually grant a licence for six months unless there are grounds to consider refusal. Buskers and street entertainers will also be able to submit a request to vary the conditions of their licence which will be considered on a case by case basis.
- 9.15 Applications of a more complex nature may be escalated to senior manager for consideration.
- 9.16 In cases where the council considers that a licence should be revoked this will be decided by a Licensing Sub Committee hearing.

## **10.0 Complaints, managing compliance and carrying out enforcement**

### *How Businesses & Residents can complain*

- 10.1 To encourage positive community relationships and trust, in the first instance those with a complaint will be encouraged to resolve any concerns directly with the busker or street entertainer, or Street Performers Association. Where a problem persists however complainants will be encouraged to contact the council via the online 'report-it' tool or over the phone.

### *Taking a proportionate and graduated approach to enforcement*

- 10.2 In line with our Corporate Enforcement Policy, in most cases we will take a stepped approach to enforcement. This means we will in the first instance help buskers and street entertainers to be aware of and understand the rules across our City, which may include issuing a warning notice. Should the busker or street entertainer continue to act unreasonably or breach their licensing conditions, the council will take appropriate enforcement action.
- 10.3 The enforcement action taken will vary depending on whether the busker or street entertainer is in a non-regulated or regulated area, as outlined below:

### *Enforcement in Non-regulated / Self-regulated Areas*

- 10.4 In all non-regulated areas across our City the following enforcement options are available to an authorised officer or police officer:

- a) they may make reasonable requests that the busking or street entertainment is adjusted so as not to cause a nuisance, which may include requesting that the performance stops.
- b) they may issue a statutory notice that will clearly set out the actions which must be taken and the timescale to do so to ensure that any behaviour is rectified and/or prevented from recurring. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution.

### Enforcement in Regulated Areas

10.5 In addition to the enforcement options outlined above, where a busking and street entertainment licence is required, and busking and street entertainment is taking place or is about to take place without a licence or in breach of the conditions of the licence, the following additional options are available to an authorised officer or a police officer:

- c) equipment (including instruments) connected with the busking and street entertainment may be seized
- d) proceedings may be instigated to prosecute the person for offences under the London Local Authorities Act
- e) the council may consider revoking the licence and/or refusing any future application.

## **11.0 Policy Monitoring and Review**

11.1 This policy represents an entirely new approach to busking in our City and has been carefully designed to balance the needs of everyone that shares the public space, by taking a targeted and tailored area-based approach. However, the council will also commit to ongoing quarterly reviews, and an annual review after one full calendar year of operation to assess the policy impact and effectiveness.

11.2 This review will consider:

- The effectiveness of the Code of Conduct
- Whether the areas of SPA self-regulation are effective, any lessons learnt, and where this approach could be expanded
- A review of licensing including the areas, conditions of the licence, fees and duration of licences, and whether the scheme should be reduced or expanded beyond the current designated streets.
- Resource and finance implications

11.3 To assist in our review the council will:

- Review the data available and consider the views of our enforcement officers

- Use quarterly forum groups which include buskers and street entertainers, local businesses and residents to gather qualitative evidence on how the policy is operating
- Invite interested stakeholders to feed back to us with their views on how effective the policy has been. We will facilitate this process by using an open survey which will ask for views on aspects such as whether buskers and street entertainers are more compliant as a result of the policy, how well the complaints process is working, and how the policy has affected the look and feel of the City's public spaces.

### Displacement of adverse impacts

11.4 The council is aware that by creating a licensing scheme in designated areas this may have the unintended consequence of displacing issues to other non-regulated areas of the City. This will be closely monitored and kept under review, and the council will consider expanding any regulation to areas of displacement if required to prevent any nuisance or risk to safety.

## **12.0 Equalities Implications**

12.1 The Council must have regard to its public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

12.2 Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

12.3 An Equalities Impact Assessment has been conducted and the council believes that the busking and street entertainment proposals, including the licensing regime, does not adversely impact or unlawfully discriminate against any protected characteristics.

## **13.0 Financial Implications**

13.1 There will be set up and implementation costs of approximately £38,400 to introduce the policy, which will be met from existing resources within the Public Protection & Licensing Budget.

13.2 The council can recover its costs, however having considered and balanced the needs of our community with wanting to ensure we continue to encourage busking and street entertainment talent here, we believe that the costs to performers to obtain a licence must be kept low. The council is therefore choosing to absorb all the set up and ongoing costs of implementing a licensing scheme through existing budgets, and only charge a nominal fee for performer licence applications.

13.3 The introduction of the fee will result in very minimal income to the council approximately £800 based on 40 applications per year. The proposed nominal charges for buskers and street entertainers are summarised below:

Licence application fee	£20
Renewal application fee	£20
Variation application fee	£20

13.4 Complaint and regulation costs will be met through the distribution of existing resources and as such there are no additional costs for resource requirements to the council arising from the recommendations in the report. We are also working closely with BIDs and the Metropolitan Police to ensure that they are also aware of and prepared for resource demands.

13.5 The fee's and costs required to implement the policy will be reviewed following one full calendar year of implementation and may be subject to change.

#### **14.0 Resource implications**

14.1 As described above there are no additional resource costs attributed to the implementation of this policy, rather the resources needed to review licence applications and manage compliance will be met through the phased distribution of existing resources as set out below.

<p><b>Phase 1</b></p> <p><i>Preparing Buskers and Street Entertainers for the Changes</i></p>	<p>For a two-week period ahead of the policy implementation (if approved) 2 City Inspectors will be dedicated across the borough, to educate and support buskers understand and prepare for the changes, with a particular focus on the SPA and Licensing areas (Trafalgar Square, Oxford Street, Piccadilly Circus, Chinatown, Leicester Square)</p>
<p><b>Phase 2</b></p> <p><i>Embedding the changes</i></p>	<p>Following policy implementation, for up to two months<sup>14</sup> there will be 6 City Inspectors dedicated to the SPA and Licensing areas from 9am to 12pm to pro-actively help support buskers and street entertainers understand the new rules in the areas, as well as carrying out pro-active compliance and enforcement where necessary</p>
<p><b>Phase 3</b></p> <p><i>Business as Usual</i></p>	<p>Officers anticipate the requirement for dedicated resources will reduce, and instead City Inspectors will carry out compliance and enforcement pro-actively as part of their daily routine operations, as well as responding to any complaints made.</p>
<p><b>Phase 4</b></p> <p><i>Supporting the peak summer season</i></p>	<p>Acknowledging that many buskers and street entertainers are transient and may only come to Westminster to perform during the peak summer season, from May and up to two months there will be 6 City Inspectors dedicated to the SPA and Licensing areas from 9am – 12pm to pro-actively help support buskers and street entertainers understand the new rules in the areas, as well as carrying out pro-active compliance and enforcement where necessary</p>

## 15.0 Legal implications

15.1 Part V of the London Local Authorities Act 2000 (“the 2000 Act”) is enabling legislation that can potentially be implemented in Westminster to regulate busking, either by prohibiting busking or licensing busking.

### What busking will be regulated?

- 15.2 Busking means the provision of entertainment in a street but does not include the provision of entertainment:
- a. of a class which from time to time is by resolution excluded from the operation of the 2000 Act;
  - b. under and in accordance with a premises licence or a temporary event notice having effect under the Licensing Act 2003 and which authorises the performance of music or dancing;

<sup>14</sup> This period will be kept under review and extended if necessary

- c. which is authorised specifically to take place in a street under any other enactment; or
- d. consisting of music performed as an incident of a religious meeting, procession or service.

15.3 Subject to the above, busking and street entertainment is a form of evolving performance art consisting of entertainment in a street or areas where the public commonly have access. The phrase 'busking and street entertainment' should be given its ordinary meaning as commonly applied in everyday language which can include (but is not limited to) performances by musicians, magicians, comedians, artists, dancers, acrobats and mime artists.

*What is the meaning of a street for the purposes of the busking scheme?*

15.4 A "street" includes any street or way to which the public commonly have access, whether or not as of right; any place, not being within permanently enclosed premises, within 7 metres of any such street or way, to which the public commonly have access and any area in the open air to which the public commonly have access.

*Application of Part V*

15.5 A resolution to implement the legislation can only be passed if there is reason to believe that there has been, is being or is likely to be caused, as a result of the busking:

- a. Undue interference with or inconvenience to or risk to safety of persons using a street in that part of their area or other streets within the vicinity of that street; or
- b. Nuisance to the occupiers of property in or in the vicinity of a street in that part of their area.

15.6 The Council shall cause to be published in a local newspaper circulating in the City notice of the passing of the resolution and the date when Part V will apply to busking in the City and also of the general effect of the provisions of Part V coming into operation as from that day. The date when Part V is to apply must not be earlier than the expiration of three months from the publication of the said notice.

*The designation of licence streets*

15.7 Section 34 of the 2000 Act states that, if the Council considers that busking should be licensed in the area it may pass any of the following resolutions:

- a. A resolution designating any street or part of a street within the City as a licence street (a designating resolution); or
- b. A resolution prescribing in relation to any licence street or any part of a licence street any hours during which busking may take place.



- 15.8 If the Council passes a resolution under section 34, that resolution shall take effect on the day specified in the resolution which must not be before the expiration of the period of one month beginning with the day on which the resolution is passed.
- 15.9 The Council must not pass a resolution under section 34 unless it has published notice of its intention to do so in a local newspaper circulating in the area and have served a copy of that notice on the highway authority, the Metropolitan Police Commissioner, and any body which appears to be representative of persons carrying on busking in the area affected by the proposed resolution. The notice must state that representations or a request to hear representations relating to it may be made in writing within such period, not less than 28 days after the publication of the notice, as may be specified in the notice.
- 15.10 It is advised that the Council should use the process above to seek opinions on both the implementation of Part V of the Act itself and any proposals to license busking pursuant to section 34 of the 2000 Act. This will then give all persons who might be affected by the proposals the opportunity to comment on whether the proposed restrictions are appropriate, proportionate or needed at all.
- 15.11 The Council must consider any written representations relating to the proposed resolution which they have received in the specified time and must hear oral representations if requested to do so. Having considered the representations, the Council may, if it thinks fit, pass the proposed resolution with any modifications considered to be appropriate.
- 15.12 The Council must publish notice of the passing of such a resolution in a local newspaper circulating in the area on two consecutive weeks, the first of which shall not be later than 28 days before the day specified in the resolution from the coming into force of the designation.

#### Application process

- 15.13 An applicant for the grant of a licence shall provide such information as the council may by regulation prescribe. Regulations may, inter alia, prescribe the procedure for determining applications. An applicant for a licence shall pay such a fee determined by the council as may be sufficient to cover in whole or in part the reasonable administrative or other costs incurred in connection with their functions under Part V of the 2000 Act.
- 15.14 The council may refuse to grant a licence on any of the following grounds -
- a. that the applicant could be reasonably regarded as not being a fit and proper person to hold a licence;
  - b. that there is not enough space in the street in respect of which the application is made for busking to take place without causing undue interference with, or

inconvenience to, or risk to the safety of persons using the street, or other streets within the vicinity of the street;

c. that there is a likelihood of nuisance being caused to the occupiers of premises in or in the vicinity of the street in respect of which the application is made.

15.15 The council shall refuse to grant a licence in respect of an application which relates to any street other than a licence street.

15.16 The council may revoke a licence on any of the following grounds -

a. that there has been a breach of the conditions of the licence;

b. that undue interference with, or inconvenience to, or risk to the safety of persons using the street, or other streets within the vicinity of the street, has been caused as a result of the busking;

c. that nuisance has been caused as a result of the busking to occupiers of property in or in the vicinity of the street in respect of which the licence was granted.

15.17 The council may make regulations prescribing standard conditions applicable to all licences. Where the council have made such regulations, every licence granted by the Council shall be deemed to have been so granted subject to the standard conditions except so far as they are expressly excluded or amended in any particular case.

#### Human Rights implications

15.18 The powers need to be exercised appropriately so as to provide a proportionate response to the problems caused by busking. In deciding whether to prohibit or licence busking in any part of the City, the Council is advised to have particular regard to the rights of freedom of expression and freedom of assembly set out in articles 10 and 11 of the European Convention on Human Rights. The Human Rights Act 1998 incorporates the key articles of the European Convention on Human Rights into domestic law. It is unlawful for the Council to carry out its functions in a way which is incompatible with rights set out in the European Convention of Human Rights.

15.19 Article 10 states that everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. However, the exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

- 15.20 Article 11 states that everyone has the right to freedom of peaceful assembly and to freedom of association with others. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.
- 15.21 These rights must be balanced against the protection of the rights and freedoms of others, including the right that everyone has under Article 8 to respect for their private and family life and their home. In some circumstances, public authorities must take positive steps to prevent intrusions into a person's private life by other people, including those who engage in anti-social busking and street entertainment.
- 15.22 Article 14 of the convention (prohibition of discrimination) states that the enjoyment of the rights and freedoms set forth in the Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status. The Council has undertaken an Equalities Impact Assessment (EIA) in accordance with its Public-Sector Equalities Duty under Section 149 of the Equality Act 2010 and found that there is not anticipated to be a negative impact on protected groups.
- 15.23 Concern has been expressed about the potential use of the 2000 Act to interfere with legitimate and reasonable activity such as peaceful protests and busking. The proposals in this report are intended to support responsible busking and to be a proportionate response to the irresponsible and anti-social busking that has been identified from complaints submitted by residents and businesses in the identified areas.
- 15.24 As indicated above, a balance must be struck between the rights of individuals who wish to engage in busking and street entertainment and the interests of the local residential and business community. Even if significant members of the public are enjoying the busking entertainment, the "right" of the public to enjoy that busking must be balanced against the detrimental effect that it might be causing if it is too loud or intense or too persistent etc. What might be acceptable in one public place might not be acceptable in a public place within a highly residential area or even an area with many commercial operators if the busking unreasonably interferes with their ability to work.

### Appeals and Challenge

- 15.25 Any of the following persons, that is to say:
- a. An applicant for the grant of a licence whose application is refused;

- b. A licence holder who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
- c. A licence holder whose licence has been refused

may at any time before the expiration of a period of 21 days appeal to the magistrates' court acting for the area in which the licence street is situated. An appeal by either party against the decision of the magistrates' court may be made to the Crown Court.

15.26 There is no means within the legislation to challenge either the implementation of Part V or the designation of licence streets. Any person who is aggrieved by the implementation of the legislation or the licensing scheme itself can potentially seek permission to appeal to the Administrative Court by way of Judicial Review proceedings. The grounds for such a review would typically have to be based on illegality and/or irrationality and/or procedural impropriety.

### Enforcement

15.27 Any person who:

- a. busks in any street to which Part V of the 2000 Act applies without the authority of a licence; or
- b. is concerned with the organisation or management of busking which is not authorised by a licence; or
- c. contravenes any condition of his or her licence; or
- d. in connection with his or her application for a licence makes a statement which he or she knows to be false in a material particular,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1000).

15.28 An authorised officer or a constable who has reasonable cause to believe that busking is taking place or is about to take place without a licence or in breach of the terms and conditions of a licence or in a street which is not a licence street to which Part V of the 2000 Act applies may require that busking either cease or not take place. If the busking continues or takes place despite the requirement for the busking to either cease or not take place, the authorised officer or constable may seize and remove any apparatus or equipment used in connection with the busking which may be required to be used in evidence in respect of an offence under section 42 (Enforcement under Part V) of the 2000 Act.

## **16.0 Appendices**

Appendix A Draft Policy incorporating -

- Draft Code of Conduct
- Plans of the designated areas where busking will be licensed

- Draft regulations prescribing standard conditions
- Draft regulations prescribing application process

Appendix B Complaints and Impact Summary

Appendix C Engagement Summary

---