

Committee Report



City of Westminster

Date	25 November 2020
Classification	For General Release
Title of report	Busking and Street Entertainment Policy
Report of	Raj Mistry, Executive Director Environment and City Management
Decision maker	Licensing Committee
Wards involved	All
Report author	Kirsty Munro, Principal Policy Officer

1.0 Executive Summary

- 1.1 Located in the heart of central London, Westminster's streets are brought to life with performances by buskers and street entertainers, who come from all over the world to perform here and play an important role in the vibrancy of our City.
- 1.2 However, at the same time, buskers and street entertainers share the streets with everyone else who lives, works, and visits our City, and, typically we receive around 2,200 complaints each year relating to noise. Certain locations see a high number of loud or amplified performances daily, which means local residents and businesses get little or no respite for lengthy periods of time, which impacts significantly on their health and wellbeing. At busy times, we also witness risks to public safety where pedestrians spill out onto roads to get past street entertainers and their audience.
- 1.3 Views between stakeholders on the most appropriate response to these issues are varied. Residents and businesses have advocated for strong controls, particularly around the use of amplification. Buskers and street entertainers support a continuation of voluntary approaches with strengthened engagement and using the current powers already available to officers.
- 1.4 The council has previously supported buskers and street entertainers to set up informal management groups, self-regulate and (more recently) abide by the 'Busk In London' Code in order to give buskers the opportunity to make a success of self-regulation. Options for self-regulation were included in our initial draft policy, consulted on in January 2020. However, residents and business respondents felt strongly that these voluntary measures alone are not enough to offer effective protection against the adverse impacts of street entertainment.

- 1.5 Busking and street entertainment continues to cause adverse impacts to those who live and work in the area, despite the good intentions of voluntary approaches. The council continues to receive a high number of complaints and existing powers are not effective in tackling irresponsible busking and street entertainment. Through existing powers, we are also unable to prevent the cumulative adverse impact of responsible and considerate performances which, in certain busking hotspots, can be heard for up to eight hours a day. Appropriate regulation is therefore considered the only option.
- 1.6 However, the council does not take the introduction of regulation lightly and understands that this is a difficult balance to achieve. The council recognises many street entertainers have built their livelihoods performing in the public space and wants to continue to support opportunities for buskers and street entertainers in our City. At the same time, the council also wants to protect the needs and rights of residents and businesses. To this end, we have carried out extensive engagement with stakeholders over two years including holding two formal consultations to develop and shape the council's policy approach.
- 1.7 The council consulted on an initial draft policy in January 2020, which proposed a mixture of licensing and self-regulation in key busking hotspots. Following feedback from residents and businesses that more was needed to be done to protect them from adverse impacts and displacement, we updated our proposals to broaden licensing across the centre of our City where in these areas, performers will need to apply for a licence to perform, keep to designated pitches, and abide by the conditions of the licence. This Committee approved that a second public consultation be held in September on the following policy proposals:
- a voluntary City-wide Westminster Code of Conduct
 - details of the Busking and Street Entertainment Forum
 - adoption of Part V of the London Local Authorities Act 2000 including detailed maps of the proposed 'licensed streets'. The policy would prohibit busking and street entertainment on these streets, apart from 25 designated pitches where busking and street entertainment will be permitted under and in accordance with the standard licensing conditions and terms and conditions of the pitch. These streets are located in the areas of:

Paddington	Soho	Embankment
Mayfair	Leicester Square	Trafalgar Square
Marylebone	Chinatown	Whitehall
Bayswater	Piccadilly	Parliament Square
Oxford Street	Covent Garden	Victoria
Regent Street	The Strand	Knightsbridge
New Bond Street	Charing Cross	Belgravia

- details of the Licensing Application process (including the procedure to vary the standard conditions)
 - 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
- 1.8 The consultation was held between 24th September and 1st November, and the council received 893 responses to our consultation survey, 30 written responses from individuals as well as collective organisations, associations and Business Improvement Districts (BIDs), and feedback from three engagement sessions with stakeholders. Analysis of the consultation survey results is provided in Appendix A.
- 1.9 The results demonstrated that the majority of residents and businesses were in agreement with the proposals to regulate busking, and this support is increased when considering written responses from collective groups who both live and work close to our busking hotspots. Concerns however remain about the control of amplification, as well as how the policy will be implemented and enforced.
- 1.10 The majority of buskers, street entertainers and visitors disagreed with the proposals indicating that they feel licensing regulation is unnecessary, is not cost effective, and will damage livelihoods. Many feel regulations will end busking in the City, due to limited pitches and restrictions placed on amplification. An argument is also presented that the council should make better use of their existing powers to manage the issues arising, as well as to do more to work closely with the busking and street entertainment community to deliver workable results.
- 1.11 As a result of the consultation, and in our continued efforts to listen to and strike a balance between needs of stakeholders, several amendments are proposed to the policy including:
- Addition of an unamplified pitch in Covent Garden near to the London Transport Museum
 - Amendment to the terms and conditions of Pitch 12 (Market Square/James Street) to permit vocal amplification
 - Removal of Villiers street pitch from its current location, and relocation to Northumberland Avenue/Hungerford Bridge
 - Standard Licence Condition 12 to remove reference to a 20-minute break between performances; this will remain in the guidance under the Code of Conduct
 - A £10 licence will be made available for buskers and street entertainers wanting to apply for a shorter length licence of 1 month
 - There will be a 50% discounted fee for registered students
 - Alternative forms of identification for buskers and street entertainers who may not have a passport or driving licence will be permitted when applying for a licence

- When making an application for a licence, for buskers and street entertainers who may not have a permanent UK home address, the wording has been amended to make clear this means any address in the UK where the individual will be residing (including hostels, hotels, friends/family addresses)

1.12 It is considered that this policy proposal will best balance the needs of stakeholders and provide several benefits for all, including:

- improved safety for both buskers and street entertainers as well as the public
- designated pitches providing opportunities for buskers and street entertainers to perform
- reduced noise nuisance for residents and businesses
- appropriate pitches to permit amplification for those buskers and street entertainers who require it to perform
- clear parameters for enforcement and improved powers to tackle issues
- the continuation of busker and street entertainer self-regulated approaches to support a culture and community of considerate performers and to enable the council to keep regulation light touch
- improved communication and updates for all through the dedicated busking and street entertainment website
- improved complaint mechanisms to enable officers to take a proportionate and targeted approach
- a direct avenue for ongoing engagement including the Forum and through the commitment to keep the policy under review
- a quick and simple licencing application process
- the ability to request a licence variation to the standard conditions to suit more unique performances
- subsidised fees
- bespoke street trading permit
- encouraging new opportunities for performances for young people and students

1.13 As part of the wider strategy, the council remains committed to supporting a diverse platform of opportunities for buskers and street entertainers including working with residents, businesses, buskers and street entertainers, as well as other music, art and theatre institutions to curate the performer spaces for collaborative and inspired performances, competitions and events.

1.14 Should the Committee recommend to Full Council to adopt the Policy, as set out in the Part V of the London Local Authorities Act 2000 there are different statutory notification requirements and time-limits that must be complied with. The 5th April 2021 is therefore the most appropriate date for the policy and regime to come into effect.

2.0 Recommendations

The Committee is asked to recommend to Full Council to adopt:

(1) A Busking and Street Entertainment Policy for the City of Westminster which includes:

- the adoption of a city-wide Busking and Street Entertainment Code of Conduct;
- the creation of a dedicated Buskers and Street Entertainers Forum; and
- ongoing seasonal (quarterly) monitoring and an annual review of the policy after one full year of operation.

(2) A resolution to adopt Part V (Licensing of Buskers) of the London Local Authorities Act 2000 to apply to all the area of the City of Westminster.

(3) The draft designating resolution for consultation to prohibit busking and street entertainment from all licensed streets save that busking and street entertainment will be permitted under and in accordance with (a) the terms and conditions of designated pitches and (b) the terms and conditions of a busking and street entertainment licence.

(4) The draft designating resolution for consultation contains.

(4.1) the designated streets and areas where busking and street entertainment is to be prohibited – the licensed streets, namely:

Paddington	Soho	Embankment
Mayfair	Leicester Square	Trafalgar Square
Marylebone	Chinatown	Whitehall
Bayswater	Piccadilly	Parliament Square
Oxford Street	Covent Garden	Victoria
Regent Street	The Strand	Knightsbridge
New Bond Street	Charing Cross	Belgravia

(4.2) the busking and street entertainment pitches where busking and street entertainment will be permitted (under and in accordance with (a) the terms and conditions of designated pitches and (b) the terms and conditions of a busking and street entertainment licence – the busking pitches, namely:

Pitch 1: Marble Arch	Pitch 14: London Transport Museum
Pitch 2: Old Quebec Street	Pitch 15: St Pauls Church

Pitch 3: Vere Street	Pitch 16: St Martins
Pitch 4: Princes Street	Pitch 17: Trafalgar Square Charing Cross Road
Pitch 5: Glasshouse Street	Pitch 18: Trafalgar Square North Terrace
Pitch 6: Eros Statue	Pitch 19: Trafalgar Square North Terrace
Pitch 7: Chinatown	Pitch 20: Trafalgar Square North Terrace
Pitch 8: Leicester Square North West	Pitch 21: Trafalgar Square North Terrace
Pitch 9: Leicester Square North East	Pitch 22: Trafalgar Square North Terrace
Pitch 10: Covent Garden James Street	Pitch 23: King Charles Statue
Pitch 11: Covent Garden James Street	Pitch 24: Northumberland Avenue
Pitch 12: Market Square James Street	Pitch 25: Charing Cross Station
Pitch 13: Royal Opera House	Pitch 26: Northumberland Avenue/ Hungerford Bridge

- (4.3) the terms and conditions that apply for each busking pitch;
 - (4.4) the terms and conditions for a busking and street entertainment licence;
 - (4.5) the application process (and fee) for a busking and street entertainment licence, including the process for applying for a variation of the standard terms and conditions.
- (5) The following time-table:
- (5.1) For the city-wide Busking and Street Entertainment Code of Conduct; dedicated Buskers and Street Entertainers Forum; and ongoing seasonal (quarterly) monitoring and an annual review of the policy after one full year of operation to have effect from 5th April, 2021.
 - (5.2) Resolution to Adopt Part V of the 2000 Act 9th December 2020 coming into operation on the 5th April, 2021.
 - (5.3) Consultation upon the draft designating resolution from the 10th December 2020 to the 31st January 2021 (a seven week period)

(5.4) 3rd March, 2021 the Full Council may adopt, amend and adopt, or reject the designating resolution; in the event of adoption it shall come into effect on the 5th April, 2021.

3.0 Reason for Decision

- 3.1 On balance busking and street entertainment is and continues to cause adverse impacts despite the good intentions of voluntary approaches. The council continue to receive a high volume of complaints and are challenged by the very low effective use of existing powers to tackle the issue. Appropriate regulation is therefore considered the only option.
- 3.2 This 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 and supporting buskers and street entertainers to integrate into our communities, through membership to the Westminster Busking and Street Entertainment Forum.
- 3.3 The 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. It is therefore proposed to adopt Part V of the London Local Authorities Act 2000 and to further designate licensed streets for the areas listed below so as to prohibit busking in those areas apart from busking that is carried on by licensed buskers within the twenty-six designated busking pitches.

Paddington	Soho	Embankment
Mayfair	Leicester Square	Trafalgar Square
Marylebone	Chinatown	Whitehall
Bayswater	Piccadilly	Parliament Square
Oxford Street	Covent Garden	Victoria
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4.0 Background

- 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 Westminster is populated with residential and business property 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. Every day our streets are enlivened with performances, by buskers and street entertainers who 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, typically, we receive around 2,200 complaints each year relating to noise and with certain locations having a high number of loud or amplified performances daily, meaning locals get little or no respite for lengthy periods of time. 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 In 2015 the council fully supported the Mayor Of London's 'Busk in London' scheme which promoted busker and street entertainer self-regulated approaches, identified appropriate areas for busking, developed a voluntary Code of Conduct and introduced a dedicated busking taskforce to help ensure the Code was followed. However, in 2016 the Busk in London taskforce ceased to operate, and the scheme became less effective without their presence.
- 4.4 Following the removal of the Busk in London taskforce, in January 2017 the council took a targeted approach and deployed four dedicated City Inspectors – the Busking Enforcement Team – who actively monitored and responded to any issues raised by the performers, or complainants. Officers proactively observed and monitored c.2200¹ during their year of operation. Officers observations included regular interventions to correct behaviours that were non-compliant with the Busk in London code.
- 4.5 Whilst the implementation of these officers saw a 30% reduction in complaints from 2016/17 – 2017/18, the Busk in London voluntary approach and deployment of dedicated teams was faced with several challenges including:
- whilst behaviours were not consistent with the code they were also not so severe to result in formal enforcement action.
 - Officers ability to effectively manage issues raised were limited to voluntary requests for performers to cease, offers of advice and guidance, and using deterrents to tackle bad practices.
 - a tendency for volumes to be increased as soon as officers had left the area.
 - the powers the council have available to use are not fit for purpose against performers who are causing adverse impact - only in very serious incidences where officers can strongly evidence over a period of time an individual persistently causing a negative impact by acting unreasonably or refusing to co-operate, can the council intervene with stronger action - resulting in frustration from both the responsible

¹ To note that this is the number of observations made only and is not reflective of the total number of performances or buskers operating across our borough.

busking and street entertainers as well as residents and businesses that effective action cannot be taken quickly or effectively.

- this approach is considerably resource intensive and officers and the police cannot be exclusively concerned with busking and street entertainment alone.
- the council is not able to protect residents and businesses from the cumulative impact that even responsible busking and street entertainment can create when consecutive performances are heard up to eight hours every day.

4.6 It was therefore considered that the council needed to take a new approach to busking and street entertainment. This should be one that balances the interests of buskers and street entertainers by supporting a culture of consideration for others, continuing to encourage talent that contributes to our City's lively and diverse street scene, whilst still ensuring those in our busking hotspots are better protected from adverse impacts. An evidential review and engagement with stakeholders (including residents, businesses, buskers and street entertainers, visitors and enforcement officers) was commissioned by this Committee in 2018 to understand and consider:

- the experiences and complaints from residents and businesses close to busking hotspots
- how buskers and street entertainers operate and develop their shows, as well as the challenges they face
- the observations and interventions from police officers
- the use of and challenges with existing enforcement measures and interventions
- how this issue is managed across other cities both in the UK and globally
- targeted powers available to adopt by the council to manage issues arising

4.7 A summary overview of the journey to date has been provided below, with detailed reports on considerations provided in background committee reports (attached as background reports):

- 28th November 2018
- 10th January 2020
- 7th July 2020
- 23rd September 2020

Complaints

4.6 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:

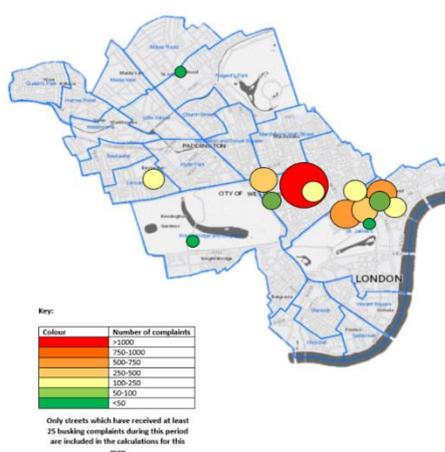
- Unreasonable levels of noise often (but not exclusively) from the use of amplifiers and loud instruments including percussion and items used as percussive instruments such as pots and pans, brass and wind instruments
- Sound clash from multiple loud buskers and street entertainers in the same area
- 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 (including transport services and those street businesses that themselves operate in our public spaces such as street traders)
- The quality of some performances (*Please note, however, the council does not comment upon or judge the creativity or artistic choices of buskers and street entertainers*).

4.7 Requests for officers to intervene with busking and street entertainment that is causing adverse impacts in real time are received through the council’s online complaint report it mechanism, or over the phone. The number and location of complaints received in this way each year is provided in table 1 and figure 1 below, with the detailed complaint data since 2015 attached as Appendix C.

Table 1: Number of complaints received about busking and street entertainment by financial year through the councils online complaint report-it and over the phone since 2015

2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	Total
2352	2546	1730 ²	1922	2486	414 ((Apr – Oct) ³	11,450

Figure 1: Hotspot map of Busking and Street Entertainment complaints received across the City of Westminster, April 2017 to November 2020



² This reduction comparative to the previous year was a result of the council employing four dedicated officers to support and manage street entertainers explained further in para 4.5.

³ The reduction comparative to the previous year is a result of the Covid19 pandemic and national restriction measures

- 4.8 The council receives on average 2,200 of these complaints each year. Complaints follow a seasonal trend, peaking over the summer months as tourism and footfall across the City increases during the day and later into the night. Figure 1 highlights that most complaints received are across the West End and centre of our City, but complaints are also received beyond this concentrated area further north and south.
- 4.9 The council has kept under review the validity of our complaint data, following an argument being presented that a small number of complainants are solely responsible for the volume of complaints received. The council acknowledges whilst multiple complaints may be made by one individual (but not in every case), this does not invalidate the adverse impacts experienced by the complainant. In addition, the council acknowledge that not every complaint made against a busker or street entertainer is considered reasonable when officers have gone to witness the event. However, it is also recognised that for some residents and businesses the impact of consecutive performances that omit sound, even when done so responsibly, can create a cumulative experience of adverse impacts resulting in a complaint being made. The council has also heard from residents and businesses that there is for them an element of reporting fatigue, whereby they no longer make efforts to report an individual, as the council is unable to manage the concerns effectively, through a lack of powers. Instead general complaints are made about the cumulative adverse impact this activity has on their health and wellbeing, and comfort of living and working in the City through other fora available to residents and businesses. Care is also taken within our recording system to separate other on-street noise such as amplified music heard from pedicabs. Nonetheless, officers both acknowledge and have accounted for a low margin of error for incorrectly categorised complaints.

Observations

- 4.10 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. 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.

Challenges with existing legislation

4.11 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 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 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.

4.12 Wider challenges to the current enforcement options 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 their 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 volume and 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.
- Consecutive performances that omit sound, even when done so responsibly and not contravening any of the above enforcement thresholds, can create a cumulative experience of adverse impact. However, there is nothing the council can do with existing powers to tackle this challenge.

4.13 Given these challenges, the council has only been able to make effective use of these powers in very limited circumstances as set out in the table below. The successful use of powers is flooded by the volume of complaints, and emphasises the ineffective nature of currently available enforcement powers.

Table 2: Council interventions with existing powers 2017 – 2020 (to note that this does not include any informal or formal warnings provided ahead of action being taken)

	2017	2018	2019	2020
CPN	7			
Noise Abatement Notices		2	6	1
Obstruction on the Highway				
Control of Pollution Act		1		
Bylaws				

Considering the use of a PSPO

4.14 The council considered the available powers it has at its discretion to introduce to support us in tackling this issue. One such power includes the use of a Public Space Protection Order (PSPO). PSPOs sit amongst a broad range of powers and tools to help tackle anti-social behaviour and are aimed at ensuring public spaces can be enjoyed free from anti-social behaviour and help deal with persistent issues that harm communities, by designating an area to prohibit or control activities that are detrimental.

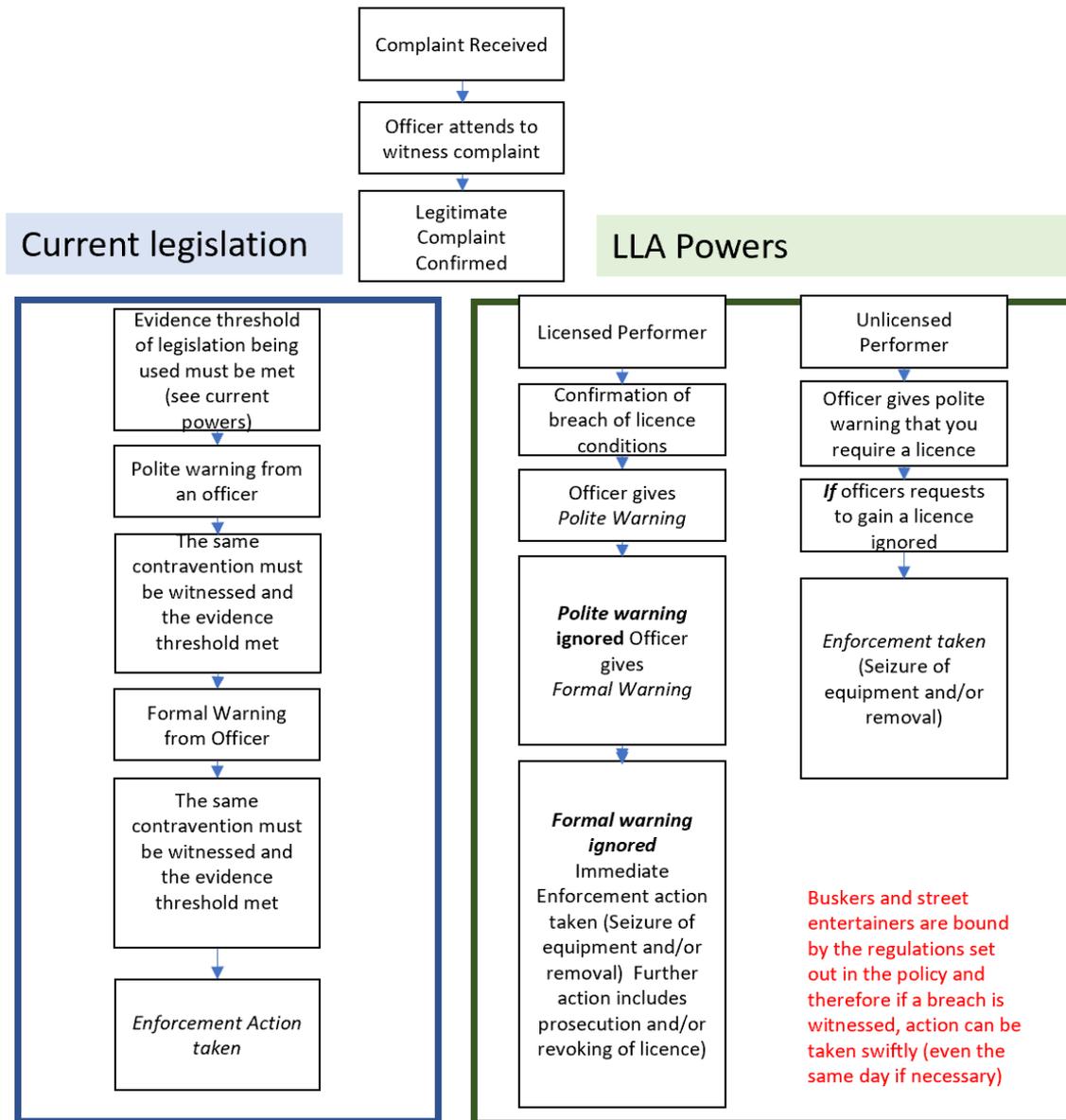
4.15 Whilst PSPOs can be considered appropriate for addressing behaviours such as the use of noise-enhancing equipment like amplifiers, officers concluded that busking and street entertainment is not an activity or behaviour that is anti-social and that this form of regulation goes against the spirit in which the council are seeking to strike a balance between protecting communities from adverse impacts whilst continuing to find opportunities and for busking and street entertainment to take place.

- 4.16 In addition a PSPO can last for up to three years, after which it must be reviewed. If the review supports an extension and other requirements are satisfied, it may be extended for up to a further three years. The council however are seeking to introduce a longer term form of regulation, whilst having the freedom to amend and vary measures as they embed.

Benefits of Part V London Local Authorities Act 2000

- 4.17 Part V of the London Local Authorities Act 2000 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. This legislation affords the Local Authority the ability to create a localised and balanced approach that is bespoke and site specific.
- 4.18 Officers have considered that adopting this legislation in areas of adverse 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, audible sound levels and the cumulative experience of adverse impacts through licensing conditions.
- 4.19 In addition adopting this legislation within a wider policy will bring about benefits to buskers and street entertainers including clarity of parameters for appropriate locations and types of performances across the City as well as clear enforcement measures, supporting buskers and street entertainers with subsidised fees, providing a quick and simple application process, the ability to vary the conditions to suit performances, as well as providing a bespoke street trading permit. Licensing will also open up opportunities for new performers wanting a safe and authorised space to perform, free from bullying tactics and monopolies held on certain sites by some buskers and street entertainers. The council are also seeking through the wider policy that this legislation will sit, to provide a dedicated avenue for ongoing engagement and discussion through the busking and street entertainment forum - whose members are also expected to play a key role in the ongoing seasonal monitoring and annual review to ascertain the full impact on buskers and street entertainers.
- 4.20 Officers have also considered that a key 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 (Figure 2 below). These powers will improve the targeted enforcement of irresponsible buskers and street entertainers, which will ease the current frustrations of residents, businesses, responsible buskers and street entertainers, and enforcement officers alike - about the ineffective use of powers officers currently hold. 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

Figure 2: Process map of current and London Local Authority Act enforcement



Voluntary busker managed approaches

4.21 Against a backdrop of the challenges with existing enforcement powers and consistently high complaints, the regulation of busking and street entertainment has been periodically proposed and considered over several years. The council has however previously avoided formal regulation of buskers and street entertainers, choosing to instead encourage buskers and street entertainers to set up informal management groups, self-regulate and (more recently) abide by the ‘Busk In London’ Code in order to give buskers the opportunity to make a success of self-regulation and for the council to observe self-regulation in practice. Despite some successes self-regulation fails to strike the right balance and achieve the reduction of adverse impacts.

- 4.22 To date this approach has delivered an established managed scheme on the West Piazza of Covent Garden, where performers are required to join a Street Performers Association (SPA) voluntarily run by the performers themselves and enter a draw each morning to determine who will be performing that day. Having a SPA has provided the council and businesses in the area a location-based Code of Conduct designed specifically for the area and an organised point of contact to raise issues of concern. Complaints however continue to arise even here, as well as the remainder of Covent Garden not managed by the SPA, despite their being private security provided by the landowner and two dedicated council officers provided 8am – 8pm each day.
- 4.23 In other popular informal pitches in Westminster, including Leicester Square and Trafalgar Square, informal queuing systems have been created and performers employ a ‘first come first perform’ approach, and take it upon themselves to talk with others who are being too loud, or support in reducing crowd obstructions. In these areas since 2019 a new SPA has been formed by buskers and street entertainers who use these pitches frequently to formalise the approach they take, including setting up a complaint system where residents and businesses can contact the busker and street entertainment representatives directly if they have a complaint. Whilst the majority will act upon this peer advice, there continues to be those who are not part of the SPA that act unreasonably and employ bullying tactics with other performers and does not effectively protect businesses and residents from adverse impacts.
- 4.24 In other popular informal pitches including Piccadilly and Oxford Street, there is a higher transience, spread, and volume of buskers and street entertainers and no performer managed approach or accountability - lending itself to increased levels of inconsiderate performances which is also reflected in the higher number of complaints we receive in these areas.
- 4.25 The council recognises the significant value in collaborative engagement with responsible buskers and street entertainers and through the organisation of dedicated SPAs. Working to the same mission, to ensure busking and street entertainment continues its historic legacy of bringing vibrancy to our streets whilst seeking to reduce adverse impacts, the council considers that busker and street entertainer led engagement must underpin as well as drive any policy. However, the variances in approach between locations and even within the same locality - ranging from no busker and street entertainer groups holding others to account, to organised groups holding auditions or introducing complaint systems and varying codes of conduct - needs to be better co-ordinated. The council therefore considers that a dedicated busker and street entertainment forum to include all the different area schemes and the wider community, would help to increase engagement across the piece and facilitate co-ordination and improvements. In addition the council have launched a dedicated website that keeps both established performers, as well as transient performers, informed of issues that may impact them such as the development of this policy, and more practical support such as a calendar of pre-planned events across the City to help buskers and street entertainers plan for where and when they should work.

Developing the Policy & Engagement

4.26 Since 2018, officers have undertaken extensive engagement to listen to everyone's views bringing 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 buskers and street entertainers. A summary of the representative views from stakeholders is summarised below

- **Buskers and Street Entertainers:** Enjoy the opportunity to perform in Westminster and recognise the City as a global platform for street entertainment. The majority of buskers and street entertainers are opposed to the premise of regulation as it would impact on their ability to work and risks the alienation of 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 eight hours each day with no respite, and audiences cause obstructions to entrances and exits to business premises.

4.27 Officers also heard that the experience of busking and street entertainment in our City can be 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.

4.28 Following the evidential review and engagement, a policy was designed that took a targeted and area specific approach including:

- promoting responsible busking and street entertainment by developing a voluntary Code of Conduct tailored to our City
- encouraging buskers and street entertainers to integrate into our community by developing a dedicated busker and street entertainment forum
- recognising the established self-regulation of buskers and street entertainers already present in our City (Covent Garden)

- supporting newly created self-regulation schemes with buskers and street entertainers in identified suitable areas (Trafalgar Square)
- balancing the needs and rights of residents and businesses that are near to popular busking and street entertainment locations experiencing the highest levels of adverse impacts by introducing a light touch approach to control and regulation (Oxford Street, Piccadilly, Chinatown and Leicester Square) through adoption of Part V London Local Authorities Act.

January Consultation

4.29 On 10th January 2020, this Committee approved that the council go out to consultation on the policy proposal and a public consultation was held between 14th January and 24rd February 2020.

4.30 On 1st July 2020 (following a delay in processes due to Covid19), this Committee reviewed the analysis of 729 consultation responses and heard a general representative position from both a resident and a street entertainer, and in summary this Committee discussed:

- that good and responsible busking and street entertainment are an important part of the cultural heritage of the City
- the introduction of control and regulation in Oxford Street, Piccadilly, Chinatown and Leicester Square to manage adverse impacts experienced was strongly supported by most residents and workers
- whilst the proposed self-regulation schemes in Covent Garden and Trafalgar Square were generally supported as an alternative approach to introducing control and regulation, there was strong consensus from those who live and work in the immediate vicinity of these busking hotspot areas that despite the councils commitment to enhance current ways of working, based on the historic support of voluntary approaches this would not be enough to effectively prevent or protect against the current adverse impacts experienced. Nor is it able to effectively prevent or protect against a likely increase in issues should buskers and street entertainers be displaced from licensed areas into self-regulation areas.

4.31 Following feedback from the consultation it was heard that the council should employ a more consistent approach to regulation across the City's busking hotspot areas to ensure our response and enforcement is pro-active, improved and consistent to issues arising, and to protect against the likelihood of displacement.

Policy Re-design

4.32 Officers considered that self-regulation through the Code of Conduct and support of buskers and street entertainers through the Forum as well as through SPAs, were key parts of the policy approach. However, underpinning this and to improve the balance

for business and residents, our licensing approach was expanded across the City where adverse impacts are experienced, as well as to immediate surrounding areas such as mainline train stations where footfall is high to protect against displacement.

4.33 In expanding the regulation, busking and street entertainment is prohibited in the following areas:

Paddington	Soho	Embankment
Mayfair	Leicester Square	Trafalgar Square
Marylebone	Chinatown	Whitehall
Bayswater	Piccadilly	Parliament Square
Oxford Street	Covent Garden	Victoria
Regent Street	The Strand	Knightsbridge
New Bond Street	Charing Cross	Belgravia

4.34 However, officers sought to identify within these areas safe and appropriate locations for performance space (commonly referred to as ‘pitches’) for buskers and street entertainers. In summary the methodology used to do so 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.

4.35 Officers also took into consideration the specific locations which most buskers and street entertainers currently gravitate towards, as these provide a good indication of what would be considered from their perspective an attractive and lucrative location to both perform and attract audiences. Where possible, we have sought to retain these areas.

4.36 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 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.

4.37 A total of twenty-five pitches were proposed. 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

4.38 In summary five pitches were identified as suitable for amplification, brass, wind percussion and percussive instruments; six pitches identified as suitable for larger acts and attracting larger audiences; five identified as suitable for walk by acts only; with the remainder of pitches suitable for attracting smaller audiences providing they do not cause an obstruction.

4.39 Officers considered at length the argument presented that prohibiting amplification apart from on five pitches, would effectively end busking and street entertainment in our City. However, on balance the council considers it necessary to restrict amplification to protect residents and businesses from adverse impacts, whilst providing opportunity for a variety of different buskers and street entertainers to continue performing in our City.

4.40 On 23rd September 2020, this Committee reviewed the Policy design and approved that the council consult on the new proposals.

5.0 November Consultation Results

5.1 The consultation ran from 24th September to 1st November 2020. The council invited responses to the council's proposals through an online survey, written responses to our dedicated mailbox, as well as attendance at open engagement sessions for all stakeholders to have their questions answered and views heard on the proposals. Results from the consultation are outlined below.

Survey Results

5.2 The consultation survey sought feedback on the areas to be regulated including the streets where busking and street entertainment would be prohibited, the pitch locations and terms and conditions where busking will be permitted, the licence terms and conditions, as well as the application process.

5.3 The consultation asked respondents to indicate on a 5-point scale (from strongly agree to strongly disagree) their views on the proposals, as well as providing an opportunity to provide open comment on any part of the council's proposals.

5.4 The detailed consultation report can be found at Appendix A, and a summary has been provided below.

5.5 The completion rate was high at 893 responses, this is 181 more responses than the consultation carried out in February due to a significant increase in the number of visitor responses received.

- 101 (10%) street entertainers

- 275 (28%) residents
- 140 (14%) respondents affiliated with a business or who work in Westminster
- 468 (47%) visitors (278 visitors from London, 156 visitors from UK, 34 visitors from abroad)

5.6 Figure 2 below demonstrates the split in responses by the respondent group, with buskers and street entertainers strongly opposing all proposals, whilst residents and businesses mostly in support.

Figure 3: Breakdown of survey response by respondent groups



5.7 **Busker and Street Entertainers** strongly oppose all proposals with common reference to the disagreement with regulation and control measures because the council already have sufficient powers to intervene with problematic performers. Concerns were repeatedly raised that licensing and the controls placed on pitches and amplification would end busking and street entertainment and damage livelihoods. This is further exasperated by the current Covid19 pandemic and economic climate.

5.8 **Residents and Businesses** disagreed with the licence terms and conditions proposed however in contrast, comments were more likely to cite that amplification should not be permitted at all. Reasons for disagreeing with overall proposals indicate that street entertainment should not be regulated, followed by the regulations not covering a wide enough area for residents and businesses. The pitch most unfavoured by residents and businesses is amplified Pitch 9 Leicester Square North East.

5.9 **Visitors** also strongly oppose all proposals often citing that the streets should be open to anybody who wants to perform on them and that busking and street entertainment is a valued and popular activity that brings about a unique artistic vibrancy and

spontaneity. Whilst the council encourage the input and views of visitors as it supports our wider understanding of the value of street entertainment, officers are also mindful that visitors experience is one that is very different to that of residents and businesses.

Written Responses

- 5.10 The council received 30 written responses from those who live and/or work close to busking hotspots including several residents and street performers, businesses, performers associations, BIDs (representing c.3000 businesses), museums, neighbourhood organisations and housing providers

Key themes arising from written responses included:

- Busking and Street entertainment is a welcomed historical and cultural attraction across the City, but encourage that the council recognise the need to take a new approach to manage the issues arising
- The new proposals address the previous concerns of displacement, however require more detail and reassurance on how it will be enforced once implemented
- Requests for pitches to be removed due to the proximity of business and residents
- Requests for additional pitches to be included
- Requests for amplification to be banned
- The impact of licencing on busking and street entertainment community
- Requests for the council to use its existing powers

Engagement Sessions

- 5.11 Three open engagement sessions were held for stakeholders to engage with officers and the Cabinet Member for Public Protection and Licensing, to voice their views on the new proposals as well as have their questions answered.

- 5.12 In attendance these sessions represented views from residents, businesses, buskers and street entertainers, as well as institutions and associations. A summary of key themes included:

- Removal of amplification, particularly on Leicester Square
- Removal of Villiers Street pitch due to the proximity of residents and businesses
- Validity of the evidence and data the policy is based upon
- Not enough pitches
- Not enough engagement with buskers and street entertainers, and other institutions
- Not giving buskers and street entertainers the opportunity to work with the council on alternative proposals
- The council not using its existing powers effectively
- The impact on buskers and street entertainers' livelihoods and mental health
- The impact on residents and business livelihoods and mental health

- The 20minute break between performances considered unnecessary if no amplification is permitted, as this further restricts performance times and opportunities

Petition

5.13 The council are aware of a petition that has been created by the buskers and street entertainers to campaign against the proposals and there are a number of signatories on it. No formal approach has been made to the council

6.0 Proposed Policy Amendments

6.1 The varied views of our stakeholders mean that the council must consider all the available information it has and reach a balanced view that enables busking and street entertainment to take place in our City, whilst protecting residents and businesses from adverse impacts.

6.2 Following the consultation, the council proposes that the following key amendments to the policy should be made:

- Addition of an unamplified pitch in Covent Garden near to the London Transport Museum
- Amendment to the terms and conditions of Pitch 12 (Market Square/James Street) to permit vocal amplification
- Removal of Villiers street pitch from its current location, and relocation to Northumberland Avenue/Hungerford Bridge
- Standard Licence Condition 12 to remove reference to a 20-minute break between performances; this will remain in the guidance under the Code of Conduct
- A £10 licence will be made available for buskers and street entertainers wanting to apply for a shorter length licence of 1 month
- There will be a 50% discounted fee for registered students
- Alternative forms of identification for buskers and street entertainers who may not have a passport or driving licence will be permitted when applying for a licence
- When making an application for a licence, for buskers and street entertainers who may not have a permanent UK home address, the wording has been amended to make clear this means any address in the UK where the individual will be residing (including hostels, hotels, friends/family addresses)

6.3 The council has carefully considered the consultation responses from residents and businesses in the Leicester Square area to remove the proposed single amplified pitch following a high number of reports of this location being unsuitable due to the proximity of residents and businesses and sound travel. The council however does consider that this location currently remains suitable due to Leicester Square being an open pedestrianised public space surrounded by businesses with high footfall and outside

hospitality use, it is also an area that is recognised and associated with busking and street entertainment. Therefore, to achieve a balance in stakeholder needs, the council considers that one amplified pitch is proportionate in this area.

6.4 The council understands that a regulatory approach is one that is generally not supported by the busker and street entertainment community, however remain committed to balancing their interests by embedding this policy within a wider busking and street entertainment policy that ensures we continue to encourage and support talent that contributes to our City's lively and diverse street scene including:

- continuing to support busker and street entertainer self regulatory approaches and associations to enable the council to keep regulation light touch
- establishing a dedicated busker and street entertainment website that provides information and relevant updates to buskers and street entertainers as well as promoting the community.
- formalising an ongoing platform of engagement through the Forum to ensure that buskers and street entertainers have a voice in the decisions we and our wider community take, as well as considering changes to the policy as it embeds including the variation of pitch terms and conditions as well as the addition of any new pitches
- work with residents, businesses, buskers and street entertainers, as well as other music, art and theatre institutions to curate the performer spaces for collaborative and inspired performances, competitions and events.

7.0 Policy Proposal

7.1 The draft policy is attached as Appendix B. An outline of the policy including intentions on its implementation is summarised below.

Promoting Self-Regulation

- **Voluntary Code of Conduct:** Fostering a positive and co-operative relationship between all users of the shared space by setting clear guidelines on responsible busking whether a busker or street entertainer is in a regulated or non-regulated area.
- **Busking and Street Entertainment Forum:** This will be held twice a year and will be a formal meeting designed to regularise and support our engagement with the community. Giving buskers and street entertainers a platform to raise issues and have questions answered, share and develop ideas, and work together on ways of promoting busking and street entertainment in our City. It is also intended that this Forum will play a key role in co-ordinating and driving self-regulation standards across the City whilst being underpinned by regulation in some areas, as well as monitoring and reviewing the impact of this policy during its first year of implementation.

- **Supporting SPAs:** The council will continue to support established and newly created SPAs across the City who play a vital and important role in supporting engagement between performers and with the wider community to foster good relations with all users of the shared public space through
 - Operating a queuing or ballot system for popular busking and street entertainment locations.
 - Pro-actively asking other buskers and street entertainers who may be too loud to adjust their volume and helping to control audiences and prevent them from causing a nuisance.

Introducing Regulation and Control

7.2 Introducing a licensing scheme for certain locations within our City (below), 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 property. Busking and street entertainment to be prohibited in these areas apart from performers who are licensed to operate under a number of conditions from twenty-six identified designated pitches. This will also give the council dedicated powers to tackle nuisance associated with busking and street entertainment.

Regulated Area	Pitches
Paddington	-
Mayfair	-
Marylebone	-
Bayswater	-
Oxford Street	Pitch 1: Marble Arch Pitch 2: Old Quebec Street Pitch 3: Vere Street
Regent Street	Pitch 4: Princes Street
New Bond Street	-
Soho	-
Piccadilly	Pitch 5: Glasshouse Street Pitch 6: Eros Statue
Chinatown	Pitch 7: Chinatown
Leicester Square	Pitch 8: Leicester Square North West Pitch 9: Leicester Square North East
Covent Garden	Pitch 10: Covent Garden James Street Pitch 11: Covent Garden James Street Pitch 12: Market Square James Street Pitch 13: Royal Opera House Pitch 14: London Transport Museum Pitch 15: St Pauls Church

Trafalgar Square	Pitch 16: St Martins Pitch 17: Trafalgar Square Charing Cross Road Pitch 18: Trafalgar Square North Terrace Pitch 19: Trafalgar Square North Terrace Pitch 20: Trafalgar Square North Terrace Pitch 21: Trafalgar Square North Terrace Pitch 22: Trafalgar Square North Terrace Pitch 23: King Charles Statue Pitch 24: Northumberland Avenue
Charing Cross	Pitch 25: Charing Cross Station
Embankment	Pitch 26: Northumberland Avenue/Hungerford Bridge
The Strand	-
Whitehall	-
Parliament Square	-
Victoria	-
Knightsbridge	-
Belgravia	-

Policy Monitoring and Review

7.3 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 approach. However, the council remains committed to ongoing quarterly monitoring to account for the seasonality changes, and an annual report of will be published after one full calendar year of operation that considers the policy impact and effectiveness.

7.4 This review will consider:

- The effectiveness of the Code of Conduct
- 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

7.5 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.

Complaints, Compliance and Enforcement

- 7.6 The council will provide a daily deployment of City Inspectors, to proactively ensure compliance with the new licensing approach, providing support and guidance to buskers, residents and business. The Officers will be deployed from the existing council resource, working on a rotational basis from within our Neighbourhood Teams. Officers will be trained on the new licensing scheme, supported by Senior City Inspectors, to ensure oversight and consistency of approach across the City Inspectorate.
- 7.7 As with the implementation of any new scheme, Officers will be mindful to balance the need for enforcement against the understanding of the new approach. All action will be taken as set out below and in accordance with the councils corporate enforcement policy.
- 7.8 Regulation and enforcement will be supported with the implementation of a new online platform, linked to a mobile working solution. This will make applying for a license simple and easy, as well as providing information and the ability to share concerns. City Inspectors will be tasked directly through the system and able to respond to any issues that have been identified.
- 7.9 The deployments and resource requirements will be regularly and reviewed, to ensure an effective regulation and advisory approach is taken.

8.0 Equalities Implications

- 8.1 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.
- 8.2 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.

8.3 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.

9.0 Financial Implications

9.1 Set up costs to develop the policy and business systems is estimated to be c.£73,500. With projected ongoing annual operational costs of £43,985.

9.2 In our efforts to keep costs as low and improve the efficiency of the application process, officers are seeking to introduce automated processes where possible.

9.3 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. The introduction of the fee will result in very minimal income to the council approximately £2,400 based on 120 applications per year.

9.4 The proposed nominal charges for buskers and street entertainers are summarised below:

6-month Licence Term

Busking and Street Entertainment Licence application fee	£20
Busking and Street Entertainment Renewal application fee	£20
Additional cost to vary a Busking and Street Entertainment Licence	£20
Temporary Street Trading Licence	£20

1-month Licence Term

Busking and Street Entertainment Licence application fee	£10
Busking and Street Entertainment Renewal application fee	£10
Additional cost to vary a Busking and Street Entertainment Licence	£20
Temporary Street Trading Licence	£10

9.5 For example if a busker and street entertainer wished to apply for a 6-month licence, required a variation on the licence conditions and wanted to sell merchandise associated with the performance, the total fee would amount to £60.

9.6 The council has considered that in our efforts to support new performances and provide a platform for students, a 50% discount will be applied to for those able to provide confirmation of their student status.

- 9.7 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.
- 9.8 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.

10.0 Resource implications

- 10.1 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. It is anticipated that to embed the policy 3000 City inspector hours will be required in advance and during the implementation period.

11.0 Legal implications

- 11.1 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?

- 11.2 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;
 - 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.
- 11.3 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.

11.4 For the purposes of this policy busking and street entertainment ***is not*** considered to be:

- Activities that incorporate the sale of goods and/or services, for example portrait artists, balloon sellers and tarot card reading. Such activities are regulated by the Street Trading regime and are subject to separate controls.
- Entertainment that is performed as part of a street party, community festival, charitable fundraising event, protest or similar activities.
- Entertainment related to a religious meeting, procession or service (this includes performances of carol concerts by members of the Salvation Army)
- Entertainment organised as part of a wider authorised event by the council's City Promotions Events and Filming team, including (but not limited to) Chinese New Year, Gay Pride, other seasonal parades and festivals, and Film Premiers.

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

11.5 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

11.6 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.

11.7 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

11.8 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.

- 11.9 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.
- 11.10 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.
- 11.11 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.
- 11.12 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.
- 11.13 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.
- 11.14 The Act makes provision for a resolution to adopt Part V, provision for a designating resolution, and provision for standard conditions and application procedures. As set out above there are different statutory notification requirements. In order to comply with these requirements and ensure compliance with time limits, the 5th April 2021 is the most appropriate date for the policy and regime to come into effect.

Application process

- 11.15 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.

- 11.16 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.
- 11.17 The council shall refuse to grant a licence in respect of an application which relates to any street other than a licence street.
- 11.18 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.
- 11.19 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

- 11.20 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.
- 11.21 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.

- 11.22 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.
- 11.23 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.
- 11.24 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.
- 11.25 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.
- 11.26 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

11.27 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.

11.28 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

11.29 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).

11.30 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.

12.0 Appendices

Appendix A Consultation Analysis

Appendix B 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 C Evidential Review

Appendix D Equalities Impact Assessment

13.0 Background Reports

- Licensing Committee 28th November 2018
- Licensing Committee 10th January 2020
- Licensing Committee 7th July 2020
- Licensing Committee 23rd September 2020