

# Communities, City Management & Air Quality Policy and Scrutiny Committee

<b>Date:</b>	31 <sup>st</sup> July 2023
<b>Classification:</b>	General Release
<b>Title:</b>	Busking and Street Entertainment Licensing Policy Review
<b>Report of:</b>	Frances Martin, Executive Director of Environment and City Management and Pedro Wrobel, Executive Director of Innovation and Change
<b>Cabinet Member Portfolio</b>	Councillor Aisha Less, Deputy Leader and Cabinet Member for Communities and Public Protection
<b>Wards Involved:</b>	All
<b>Policy Context:</b>	Busking and Street Entertainment Licensing Policy under the London Local Authorities Act 2000.
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## 1. Executive Summary

- 1.1 The introduction of the busking and street entertainment licensing regime in Westminster aimed to strike a balance between supporting performers and addressing concerns related to noise, obstruction, and inappropriate locations. The council undertook a review of the Busking and Street Entertainment Licensing Policy. This review process involved engaging with stakeholders, collecting data, and analysing the effectiveness of the scheme. While there was generally positive uptake of licenses, complaints related to busking and street entertainment increased in specific areas. The draft Busking and Street Entertainment Licensing Policy Review Report is attached as Appendix A.
- 1.2 Compliance and enforcement challenges were identified, particularly in Leicester Square and Covent Garden. The scheme initially emphasised self-regulation, but issues with noise and obstruction prompted the need for designated pitch locations. The low licence fees aimed to facilitate participation without financial barriers, but full cost recovery was not achieved.

- 1.3 The Council continues to face difficulties enforcing against illegal performers without sufficient police support. Officer safety was a concern due to threats and abuse. Collaboration with the police led to some positive outcomes, but illegal activity increased after the easing of Covid restrictions.
- 1.4 The review highlighted the need to evaluate the cost and resource implications of addressing non-compliance and illegal performers. Limited resources and competing priorities must be considered. Businesses and residents support maintaining the scheme, which effectively mitigated local issues in certain areas.
- 1.5 In Leicester Square, noise nuisance and non-compliant or illegal busking were significant challenges. A collaborative approach involving stakeholders was recommended to address the noise issues associated with a particular pitch. Simultaneously, the Council should proceed with the statutory process to remove amplification from the pitch, ensuring progress is not delayed.
- 1.6 The Northwest corner pitch in Leicester Square experienced issues with performers deviating from the designated location and illegal buskers causing obstruction and noise disturbances. Enforcing regulations and ensuring compliance with designated pitch locations are essential to address these issues.
- 1.7 Policy changes include addressing children and young performers, clarifying responsibilities for copyrighted material and royalties, and outlining the ramifications for providing untruthful information in the application process. The code of conduct, licence conditions, pitch locations, and markings should be reviewed and amended as necessary.
- 1.8 Implementing these policy changes, reviewing the code of conduct and licence conditions, and assessing and adjusting pitch locations and markings will enhance the fairness and effectiveness of the busking and street entertainment licensing scheme.

## **2. Key Matters for the Committee's Consideration**

- 2.1 The Committee plays a key role as a consultee in the policy review process and is requested to provide their views on the draft Busking and Street Entertainment Licensing Policy Review Report presented in Appendix A. The Committee's comments and views, alongside those expressed by other stakeholders, will be carefully considered by the Licensing Committee, and ultimately evaluated by the Cabinet member for Communities and Public Protection. Any necessary amendments will be made to the final licensing policy report based on this collective input. Subsequently, the Cabinet Member for Communities and Public Protection will consider the final licensing policy review report to recommend to Full Council which options and recommendations should be pursued in light of the report's findings. Full Council will determine what options should be implemented and what changes, if any, should be made to the Busking and Street Entertainment Licensing Policy and the process.
- 2.2 The Policy and Scrutiny Committee is asked to:
  - 2.2.1 Evaluate whether the findings presented in the attached report accurately reflect the views and understanding of the current situation regarding busking and street entertainment within the city. If not, identify any specific areas that may be missing or unclear in the report.

- 2.2.2 Assess the alignment between the proposed options and recommendations outlined in the report and the findings it presents. Provide their comments as to whether these proposed measures sufficiently address the issues identified or if further steps need to be taken.
- 2.2.3 Provide additional information or considerations that the Cabinet Member can take into account when reviewing the attached report and considering what options and recommendations should be made to the Council.

### **3. Background**

- 3.1 As part of the commitment made by the Council, a review of the Licensing Policy was undertaken after one year of the scheme's operation. This draft report, attached at Appendix A, outlines the approach taken by officers for the review, including engagement with external stakeholders and data collection. The draft findings of the review present potential options and recommendations for the Council's consideration.
- 3.2 The review process involves multiple stages, including an internal officer review, engagement with stakeholders, consultation through the Council's policy and scrutiny process, and the publication of formal proposals for statutory consultation and adoption.
- 3.3 During the review process, officers engaged with key stakeholders, conducted targeted engagement, and analysed available evidence. The data indicated a generally positive uptake of licences issued by the Council during the two years of operation. However, there was a notable increase in complaints related to busking and street entertainment, primarily concentrated in specific areas of the city, with a significant number of repeat complainants.

#### Compliance and enforcement

- 3.4 Stakeholder engagement revealed several issues with maintaining compliance and enforcing against illegal performers within the scheme. Non-compliance and illegal activity were particularly prevalent in Leicester Square and Covent Garden.
- 3.5 The original intention of the scheme was to have a light touch approach, emphasising self-regulation based on a code of conduct. Buskers and street entertainers expressed their desire to continue self-regulation, while businesses and residents were primarily concerned with noise nuisance and obstruction. The proposed scheme, which aimed to strike a balance between self-regulation and designated pitch locations, was considered appropriate. The low licence fees were set to facilitate busking and street entertainment without being a financial barrier, although they did not cover the full costs of running the scheme for the Council.
- 3.6 The licensing scheme and associated policy aimed to address concerns and enable effective action against non-compliance and illegal busking and street entertainment. However, challenges have arisen, particularly regarding compliance and enforcement. Council officers have faced difficulties enforcing against illegal performers without police support, and officer safety has been a concern due to threats and abuse from illegal buskers and street entertainers, as well as hostile audience reactions. The police, although key partners, have been limited in their support due to other pressing priorities. As a result, there has been a rise in illegal activity since the easing of Covid restrictions and the return of high footfall. Council officers have collaborated with the police to carry out enforcement actions, resulting

in some positive outcomes. Additionally, a prosecution was pursued against an illegal busker, which led to a conviction, although the fine imposed by the court was relatively low.

- 3.7 While the review primarily focused on the effectiveness of the Licensing Policy, the issues stemming from non-compliance and illegal behaviour by buskers and street entertainers were consistently raised by all stakeholders. Based on the review and engagement conducted, council officers acknowledge the need to evaluate the cost and resource implications of addressing persistent non-compliant and illegal buskers and street performers. The limited resources available to the council, financial constraints, and the importance of prioritising higher-risk and essential functions must be taken into account. The commitment of the police, who prioritise other policing issues in the West End, would also be crucial in effectively addressing these concerns. Despite these challenges, there is a clear consensus among businesses and residents to maintain the scheme, as it has proven effective in mitigating local issues such as noise and obstruction in certain areas of the city.

#### Leicester Square

- 3.8 The review has identified Leicester Square as a specific case study due to the persistent challenges related to noise nuisance and non-compliant or illegal busking and street entertainment. Managing noise from outside performances is particularly difficult in Leicester due to its architectural design, high buildings, and the positioning of adjoining streets. The layout of the square can cause wind to carry noise further, and some buildings' facades act to redirect noise towards certain buildings, particularly those along the East side. The issue of noise nuisance is further amplified by the high demand for the Northeast pitch in Leicester Square. When multiple licensed performers seek to use the pitch, they may increase the volume of their performances to attract larger crowds and generate income.
- 3.9 Based on the review findings and the identified challenges in Leicester Square, it is recommended to initiate a collaborative approach involving representatives of buskers and street entertainers, businesses, and the Council. The aim would be to collectively explore and implement strategies to mitigate the noise nuisance associated with the pitch in question.
- 3.10 However, it is also recommended that while the collaborative approach is underway, the Council may wish to proceed with the statutory process to remove amplification from the pitch. This ensures that progress is not delayed and that measures are put in place to address the noise issues promptly. If the collaborative approach yields positive results, the Council may decide whether or not to remove amplification after going through the formal statutory process. Such a decision would also have to be published for 28 days before it comes into effect.
- 3.11 This approach allows for a comprehensive and multi-stakeholder effort to find a viable solution to the noise nuisance while also maintaining a proactive stance in addressing the issue through the statutory process.
- 3.12 In addition to the challenges associated with noise in Leicester Square, the review has identified issues related to the Northwest corner pitch. This pitch is designated as unamplified and is situated away from the main north thoroughfare. However, performers are frequently found not on the designated pitch but closer to the main north thoroughfare, deviating from the intended location.

- 3.13 Furthermore, the presence of illegal buskers is particularly prominent in this area, both on the pitch itself and along the North thoroughfare of Leicester Square. This unauthorised presence not only causes obstruction but also contributes to significant noise disturbances.
- 3.14 Addressing these issues requires a comprehensive approach that considers the enforcement of regulations, addressing illegal busking activities, and ensuring compliance with designated pitch locations to minimise obstruction and noise-related problems. This will be particularly challenging, requiring a significant investment in resources and costs as well as ongoing support from the Police to achieve. As part of this approach, a review of the fees for the scheme may be required to cover some of the costs associated with this scheme generally as well as support the need for additional resourcing.

#### Policy Changes

- 3.15 Addressing Children and Young Performers, it is proposed to amend the policy to clearly outline the requirements related to the age of performers and safeguarding. The policy should restrict individuals under the age of 14 from busking or providing street entertainment. Additionally, applicants under the age of 18 should be required to provide parental or guardian consent.
- 3.16 Information should be provided on copyrighted material and royalties within the policy to clarify that the responsibility for payment of royalties related to the performance or use of copyrighted material lies with the busker or street entertainer. This addition will inform applicants and licensees of this requirement.
- 3.17 The policy and application documentation clearly state the ramifications for applicants who provide untruthful statements. Emphasise the importance of providing accurate and truthful information as part of the application process, as this information is essential for officers to assess the applicant's suitability for holding a licence.

#### Code of Conduct and Licence Conditions

- 3.18 It is proposed that a review of the current codes of conduct and licence conditions should be undertaken, and any necessary changes are made to ensure they remain proportionate and reasonable. There may also be a need to consider updating some of the codes of conduct and licence conditions in light of the proposed changes identified in the review.

#### Pitch Locations and Markings

- 3.19 The council should assess the current pitch locations based on factors such as pedestrian safety, prevention of highway obstruction, and reduction of noise nuisance to businesses and residents. Consider moving or changing pitches that are not frequently used or where there are issues with localised noise nuisance. Explore the addition of new pitches in areas with significant demand or where existing pitches are often suspended due to events, e.g., in proximity to Leicester Square and Trafalgar Square.
- 3.20 Undertake an assessment of the markings of pitches that have significantly worn out. Consider cost-effective alternatives to the current versions used across the city to provide a cheaper alternative while still maintaining visibility and functionality.

3.21 By implementing these policy changes, reviewing the code of conduct and licence conditions, and assessing and potentially adjusting pitch locations and markings, the Council can enhance the effectiveness and fairness of the busking and street entertainment licensing scheme.

**4. Governance and steps to revise the policy, terms and conditions or other elements of the scheme itself.**

4.1 The governance process for making changes to the Busking and Street Entertainment Licensing Policy or making a resolution to change the terms or conditions, pitches, or the scope of the licensing scheme is a matter for Full Council. The draft Licensing Policy Review Report, along with any feedback from this Committee and the Licensing Committee, will be considered by the Cabinet Member for Communities and Public Protection. The Cabinet Member will recommend to Full Council what options and recommendations should be taken forward. The statutory process for making changes to the scheme or policy can take some time to achieve due to the need to go through a formal decision-making process via Full Council and the limited Council hearings available per year.

4.2 If it is recommended to revise the Policy and the scheme as set out in the following provisional timeline. This timeline will be subject to any decision made by the Cabinet Member to move forward with any of the options or recommendations within the report. The timeline provided is also subject to change.

<b>Date</b>	<b>Step</b>	<b>Action</b>
31 <sup>st</sup> July 2023	Consideration of review papers by P&S Committee	Provide feedback and comments on review and its findings.
4 <sup>th</sup> October 2023	Licensing Committee consider the draft Licensing Policy review report and the comments and views expressed by the Policy & Scrutiny Committee on consultation on proposed revisions to the Licensing Policy and provide their comments and changes to the draft proposals.	Members of the Licensing Committee to comment on the proposed draft Licensing Policy review report.
24 <sup>th</sup> October 2023	Consideration and review options and recommendations by the Cabinet Member for Communities and Public Protection	Provide recommendations on actions to be taken based on review
10 <sup>th</sup> November 2023	Begin public consultation on proposed revisions to the Licensing Policy and draft resolutions associated with amending the Northeast Leicester Square Pitch, other proposals and any changes to the process	Public consultation carried out and direct engagement with licensees and stakeholders.

	including the standard terms and conditions and restrictions under the Act	
31 <sup>st</sup> January 2023	Public consultation ends of proposed revisions to the policy and draft resolutions.	Officers to review responses to the consultation.
27 <sup>th</sup> February 2024	Cabinet Member for Communities and Public Protection to receive report on the outcome of the consultation and proposals for formal adoption of the proposed revisions of the licensing policy and recommend proposals to Full Council to make necessary resolutions and changes to the Policy and scheme.	To recommend to Full Council the revised Licensing Policy, any necessary resolutions and changes to the Policy and scheme including to the standard terms and conditions and restrictions under the Act.
TBC	Full Council consider and determine the proposed revisions to the Licensing Policy and to vary the existing resolutions and to make changes to the scheme including the standard terms and conditions and restrictions under the Act and agree to place a public notice of these changes and the decision.	Final decision by the Council to place public notice on the decision to vary the Council's resolution on this licensing scheme.
TBC	Public Notice for 28 days of the Council's intention to vary the resolutions and any changes associated with this policy and licensing regime.	Service of notice on statutory consultee and 28-day period commences for representations to the proposed intention to vary the Council's resolution.
TBC	Public notice consultation period ends.	Review of written representations received. An application for oral representations can be made.
TBC – May/June 2024	Full Licensing Committee and/or Cabinet Member for Communities and Public Protection to consider written representations and, if oral representations have been requested, hear those representations on the	Cabinet member for Communities and Public Protection to recommend to Full Council the revised Licensing Policy, any necessary resolutions and changes to the Policy and scheme.

	variation of the existing resolution.	
24 <sup>th</sup> June 2024	Full Council consider representations made and decide whether to approve the amended resolution and any changes to the Licensing Policy and to the scheme.	Full Council will need to make the formal decision to approve any changes to the Policy and amended Resolution and any changes to the scheme.
Summer 2024	Notice of passing of resolution and any other changes will be published and it will come into effect no later than 28 days after the resolution /changes are made.	Changes come into place on the date prescribed in this notice.

## 5. Legal Implications

- 5.1 The Council has adopted a Busking and Street Entertainment Policy under Part V of the London Local Authorities Act 2000. It has also made resolutions to designate certain streets and locations for busking which came into effect on 5 April 2021.
- 5.2 The Council is entitled to make changes to the resolutions made provided it complies with the statutory process as set out in the body of this report.

## 6. Equalities Implications

- 6.1 The Council must have due 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.
- 6.2 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.
- 6.3 The Council recognises that it will review its Busking and Street Entertainment Policy and the licensing regime having regard to its equality duty.



**If you have any queries about this Report or wish to inspect any of the Background Papers, please contact Kerry Simpkin, Head of Licensing, Place and Investment Policy. Email: [ksimpkin@westminster.gov.uk](mailto:ksimpkin@westminster.gov.uk)**

**APPENDICES:**

Appendix A – Busking and Street Entertainment Licensing Policy Review Report – June 2023.

**BACKGROUND PAPERS**

Busking and Street Entertainment Licensing Policy  
London Local Authorities Act 2000.