



# Licensing Committee Report

Date	<b>04 December 2023</b>
Classification	<b>For General Release</b>
Title or report	<b>Busking and Street Entertainment Licensing Policy Review</b>
Report of	<b>Executive Director of Innovation and Change and Executive Director of Environment, Climate and Public Protection</b>
Decision maker	<b>Licensing Committee</b>
Wards involved	<b>All</b>
Financial summary	<b>None</b>
Report author and email.	<b>Mr Kerry Simpkin, Head of Licensing, Place and Infrastructure Policy – Email: <a href="mailto:ksimpkin@westminster.gov.uk">ksimpkin@westminster.gov.uk</a></b>

## 1. Executive Summary

- 1.1 The implementation of the busking and street entertainment licensing regime in Westminster was introduced with the dual purpose of supporting performers and addressing concerns related to noise, obstruction, and inappropriate locations. Recognising the diverse nature of busking and street entertainment, the policy (attached at Appendix 1) strives to enrich the city's public spaces while taking into account the perspectives of pedestrians, residents, and businesses.
- 1.2 In fulfilment of the Council's commitment to transparency and responsiveness, a comprehensive review of the Busking and Street Entertainment Licensing Policy was conducted after one year of the scheme's operation. The report setting out the reviews findings is attached to this report as Appendix 2. The review report delineates the approach adopted by Officers for the review, encompassing engagement with external stakeholders and the data collected. The findings of this review put forth potential options and recommendations for the Council's thoughtful consideration.
- 1.3 The review process unfolded through multiple stages, comprising an internal officer review, active engagement with stakeholders, consultation within the Council's policy and scrutiny process, and the subsequent publication of the Council's consultation and adoption process.
- 1.4 Throughout the review process, officers actively collaborated with key stakeholders, undertook targeted engagement initiatives, and meticulously analysed available evidence. The data gleaned from this process revealed a generally positive trend in the issuance of licenses by the Council over the two years of operation. Nevertheless, a noteworthy surge in

complaints related to busking and street entertainment was observed, predominantly concentrated in specific areas of the city, with a significant number of repeat complainants.

- 1.5 Stakeholder engagement highlighted challenges in maintaining compliance and enforcing regulations against illegal performers, particularly in Leicester Square and Covent Garden. The original scheme aimed for a light-touch approach, emphasising self-regulation based on a code of conduct. Buskers preferred self-regulation, while concerns from businesses and residents focused on noise and obstruction. The proposed scheme, balancing self-regulation and designated pitch locations with low licence fees, was generally supported. However, it did not cover the full scheme costs.
- 1.6 The licensing policy aimed to address concerns and enable effective action against non-compliance and illegal activities, but challenges arose in enforcement, with safety concerns for officers. Police support was limited due to other priorities, leading to increased illegal activity post-Covid restrictions. Collaborative enforcement actions yielded positive outcomes, but fines imposed were relatively low. The review highlighted persistent issues with non-compliance and illegal behaviour, prompting the need for evaluating resource implications. Limited resources, financial constraints, and prioritising essential functions must be considered. Despite challenges, businesses and residents expressed a consensus to maintain the scheme, citing its effectiveness in mitigating local issues.
- 1.7 The review focused on Leicester Square, identifying persistent challenges related to noise nuisance and non-compliant or illegal busking and street entertainment. The architectural design, high buildings, and layout of the square contribute to the difficulty in managing noise from performances. The Northeast pitch faces high demand, exacerbating noise issues as performers may increase volume to attract larger crowds.
- 1.8 To address these challenges, the review recommends a collaborative approach involving buskers, street entertainers, businesses, and the Council to explore strategies for mitigating noise on the Northeast pitch. Simultaneously, it suggests proceeding with the process to consider the removal of amplification from pitch 9, Leicester Square Northeast to ensure prompt action. If the collaborative approach proves successful, this process could be suspended or terminated accordingly, allowing for a comprehensive solution while maintaining a proactive stance.
- 1.9 Additionally, the review highlights issues with the Northwest corner pitch, where performers often deviate from the designated location, contributing to obstruction and noise disturbances. Addressing these challenges requires comprehensive enforcement of regulations, tackling illegal busking, and ensuring compliance with designated pitch locations. This comprehensive approach may necessitate a significant investment in resources and costs, with ongoing support from the Police. A review of the scheme fees may also be needed to cover associated costs and support additional resourcing requirements.
- 1.10 The proposed amendments to the policy aim to address concerns related to Children and Young Performers, copyright issues, and truthfulness in applications. Regarding young performers, the policy suggests restricting individuals under the age of 14 from busking or providing street entertainment. Applicants under 18 should be required to obtain parental or guardian consent. To clarify responsibilities, information on copyrighted material and royalties will be included in the policy, specifying that the busker or street entertainer is accountable for payment.
- 1.11 Additionally, the policy and application documentation will explicitly outline the consequences for providing untruthful statements. It emphasises the significance of accuracy and

truthfulness during the application process, emphasising that such information is crucial for officers to assess the applicant's suitability for holding a licence.

- 1.12 The proposal recommends a comprehensive review of existing codes of conduct and licence conditions, with necessary adjustments to ensure proportionality and reasonableness. Changes to the Codes of Conduct include incorporating provisions on providing truthful information during the application process and addressing behaviour. A new condition is suggested to address abusive or threatening actions towards Authorised Officers and the Police.
- 1.13 The council is urged to assess current pitch locations, considering factors like pedestrian safety, accessibility for disabled performers, prevention of highway obstruction, and reduction of noise nuisance. There is a suggestion to relocate or modify underused pitches or those causing localised noise issues. Additionally, exploring new pitches in areas with high demand or frequent pitch suspensions due to events is recommended, especially near Leicester Square and Trafalgar Square.
- 1.14 An assessment of worn-out pitch markings is proposed, exploring cost-effective alternatives while maintaining visibility and functionality. Through these policy changes, reviewing codes of conduct and licence conditions, and adjusting pitch locations and markings, the Council aims to enhance the overall effectiveness and fairness of the busking and street entertainment licensing scheme.
- 1.15 The Council's Communities, City Management, and Air Quality Policy and Scrutiny Committee convened on the 31<sup>st</sup> July 2023, to review the draft Busking and Street Entertainment Licensing Policy Review Report. During this session, Committee Members examined the report, engaging with the Cabinet Member and Officers, posing various inquiries. Apart from deliberating on the recommendations outlined in the draft report, the Committee also discussed several suggestions related to the busking and street entertainment scheme. The insights and feedback from the Scrutiny Committee have been thoroughly considered, and this report recommendations incorporates the Committees views and comments. For further details, the minutes of the Communities, City Management, and Air Quality Policy and Scrutiny Committee meeting held on the 31<sup>st</sup> July 2023, are provided in Appendix 3.
- 1.16 This report, which is part of stage three of the policy review process provides a concise summary of the Busking and Street Entertainment Licensing Policy Review, highlighting its key findings and recommendations. The report presents various options for the Committee's consideration and invites agreement on implementing specific recommendations as part of moving to the final stage (stage four) of this review process.

## **2. Recommendations**

- 2.1 The Committee is asked to consider the Busking and Street Entertainment Licensing Policy Review Report (Appendix 2) recommendations and approve it.
- 2.2 Conditional on the decision regarding paragraph 2.1 above, following a comprehensive review of the Busking and Street Entertainment Licensing Policy, the Committee recognises and endorses the continuation of the busking and street entertainment licensing regime under Part V of the London Local Authorities Act 2000, as set out in paragraph 4.18 of this report and in line with option BSE/3 of the review report at Appendix 2.
- 2.3 Subject to the view expressed relating to paragraphs 2.1 and 2.2, the Committee steer is also sought on the proposals to implement stage four of this review process and recommend to the Cabinet Member for Communities and Public Protection that she approves the

commencement of public consultation from the 8<sup>th</sup> January to the 18<sup>th</sup> March 2024 (10 weeks) on the following proposals:

- 2.3.1 To revise the terms and conditions of pitch 9, Leicester Square Northeast terms and conditions to change the conditions of use from an amplified to non-amplified pitch.
- 2.3.2 To revise the Licensing Policy so as to:
- (a) Revise the “Join our busking and street entertainment community” section so that it sets out the new focus of the dedicated Forum for licensed buskers and street entertainers to use to engage with the Council in issues that they face, to share information and to promote improved engagement between licensees and the Council.
  - (b) include a new section on the Council’s approach to age restrictions and safeguarding of children and other vulnerable adults (see Appendix 4),
  - (c) include a new section associated with royalty liability on buskers and street entertainers (see Appendix 4),
  - (d) The "Performer self-regulation and street performers associations" section will be revised to incorporate supplementary details highlighting the advantages of Street Performer Associations (SPAs) in representing licensed buskers and street entertainers. It will emphasise that the Council will exclusively engage with SPAs representing licensed individuals actively participating in the licensing process. To ensure up-to-date information, any references to current or previous SPAs will be removed. Instead, readers will be directed to the Council's dedicated busking and street entertainment webpage for a comprehensive list of registered SPAs.
  - (e) subject to approving the recommendation in paragraph 2.3.1 above, amend the map on page 19 of the current policy to amend pitch 9 to non-amplified and amend the description of that pitch to recognise the change from amplification to non-amplification,
  - (f) include within the Licensing Application Process and Procedures section the proposed age restrictions and requirement to make a statement of truth and repercussions if a false declaration is made as part of the application process (see Appendix 4),
  - (g) subject to approving the recommendation in paragraph 2.3.3 below, amend the Codes of Conduct to reflect the amendments and additions as described,
  - (h) subject to approving the recommendation in paragraph 2.3.4 below, amend the Standard Conditions to reflect the proposed additional condition associated with behaviour towards Authorised Officers of the Council and the Police, licensed child buskers and street entertainers and royalty liability, and
  - (i) make any further minor or non-consequential amendments as required.
- 2.3.3 To revise the Westminster Busking and Street Entertainment Code of Conduct as set out in Appendix 5 so as to include the following:
- (a) strengthen code provision 5 – “Co-operate with Authorised Officers and the Police” to set out behaviours that are not acceptable and what the possible ramifications may be if licensed buskers and street entertainers fail to meet this code,
  - (b) include a new code provision on age restrictions associated with obtaining a busking and street entertainment licence,
  - (c) include a new code provision associated with the requirement to safeguard children and other vulnerable adults,

- (d) include a new code provision for the requirement to make a true statement during that application process, and
- (e) amend code 7 – “Talk to the council and the local community and use the Forum” to clarify the communication channels and approaches to community engagement between the Council and set out the new Forum dedicated to facilitating communication between licensed buskers and street entertainers and the Council.

2.3.4 To revise the Westminster Busking and Street Entertainment Standard Conditions as set out in Appendix 6 so as to include new conditions associated with the behaviour towards Authorised Officers of the Council and the Police, restricting children who are licensed from performing during school term dates, excluding weekends and national bank holidays and restricting children who hold a licence from performing, when permitted beyond 8pm and before 8am and the requirement for licensees to ensure that they have obtained the correct permissions or paid the required royalties for the use of copyrighted or protected material.

- 2.4 If the Committee concurs that during the proposed public consultation process regarding the proposal to transition the Northeast Pitch in Leicester Square from an amplified to a non-amplified pitch, Officers should collaborate with representatives of licensed buskers, street entertainers, businesses in Leicester Square, and the Council City Inspectors and Environmental Sciences Team. This collaborative effort aims to explore alternative solutions or agreements that effectively address the issues of noise nuisance resulting from the use of amplification at this pitch. The engagement process will be diligently conducted, and any outcomes will be presented to the Licensing Committee when it reconvenes to consider the consultation responses specific to this proposal. This discussion will precede any formal decision-making regarding the potential removal of amplification from this pitch, ensuring a comprehensive and inclusive evaluation of all available options.
- 2.5 The Committee is invited to endorse a proposal for officer collaboration with the Music Union and Licensed Street Performers Associations (SPAs) to establish a professional and formalised association. This initiative aims to elevate the existing SPA by establishing transparent membership criteria, a clear constitution, and robust rules to ensure adherence to both their membership guidelines and the Council’s licensing conditions and Code of Conduct for buskers and street performers.

### **3. Background**

- 3.1 Westminster, adorned with residential and business spaces, thrives in the vicinity of nationally and internationally renowned commercial, cultural, and tourist destinations. This dynamic environment fosters a vibrant and exciting atmosphere, attracting buskers and street entertainers, contributing to the city's unique and lively street scene.
- 3.2 Busking and street entertainment, encompassing evolving performance art in public spaces, feature performances by musicians, magicians, comedians, artists, dancers, acrobats, and mime artists. These expressions of creativity play a pivotal role in our placemaking and public space design approaches, ensuring our city centres remain appealing for all. While the Council acknowledges the cultural enrichment these activities bring to the city's vibrancy, certain locations experience adverse impacts. The excessive volume of daily loud or amplified performances disrupts residents and businesses, prompting complaints. Some areas, due to their nature, design, and use, prove unsuitable for busking, causing pedestrian congestion and safety issues.

- 3.3 On the 9<sup>th</sup> December 2020, a report and evidence were presented at a Full Council hearing, demonstrating the necessity of introducing a Busking and Street Entertainment licensing regime and associated Licensing Policy. The Policy aimed to address safety risks, undue interference, and inconvenience caused by busking and street entertainment in specific city locations. The Council proposed adopting Part V of the London Local Authorities Act 2000, designating areas like Piccadilly Circus, Chinatown, Leicester Square, Oxford Street, Regent Street, Soho, Covent Garden, The Strand, Charing Cross, and Trafalgar Square as places where busking is prohibited, except for licensed buskers within twenty-seven designated busking pitches.
- 3.4 The Policy sought to support busking and street entertainment while minimising interference and inconvenience for street users, as well as mitigating disruptions for nearby residents and businesses. Following the debate, Full Council approved the adoption of the Policy and Part V of the London Local Authorities Act 2000 (the 2000 Act) to the City of Westminster, and the draft designating resolution for specific streets.
- 3.5 Subsequently, the Council conducted formal consultation on the designation order between 10<sup>th</sup> December 2020, and the 31<sup>st</sup> January 2021. A report presented to Full Council on the 3<sup>rd</sup> March 2021, sought the formal adoption of the designation order, which the Council agreed to, which became effective from 5<sup>th</sup> April 2021. The busking and street entertainment licensing regime became operational on this date.
- 3.6 Recognising the cultural contribution of busking and street entertainment, the Council acknowledges adverse impacts in certain locations. The high volume of loud or amplified performances led to disruptions, prompting complaints from residents and businesses. Inappropriate locations, characterised by design and usage issues, contributed to pedestrian congestion and safety concerns. The Council seeks to strike a balance between preserving the city's vibrancy and addressing these challenges through effective placemaking and public space design.
- 3.7 On the 9<sup>th</sup> December 2020, the Council deliberated on a report emphasising the need for a Busking and Street Entertainment licensing regime and associated Licensing Policy. Acknowledging safety risks, inconvenience, and interference in specific city areas due to busking and street entertainment, the Council proposed adopting Part V of the London Local Authorities Act 2000. This adoption aimed to prohibit busking in designated areas while allowing exceptions for licensed buskers within specified pitches.
- 3.8 Following a change in the Council's Administration in May 2022, discussions between Officers and the Cabinet Member outlined the scope of this review. The review, committed to during the adoption of the regime and policy on 9<sup>th</sup> December 2020, focused on evaluating the Policy's effectiveness only. Compliance and enforcement were not part of the initial scope of this review. However, it was quickly identified that compliance and enforcement issues were contributing factors to elements of the policy's implementation and use. While this report does not delve into the enforcement strategy, it acknowledges its consideration in parallel.
- 3.9 The review of the busking and street entertainment policy was conducted in four stages:

Stage	Stage title	Summary of stage	Completed, ongoing or to commence.
1	Internal Officer review	This stage focused on gathering input from Council teams and services which had the role of administering and/or enforcing the licensing regime and its Policy or had direct interactions	Completed October 2022

		or specific challenges associated with the regime and its Policy. This phase would also include collecting initial data sets on the scheme's operation and identifying previous individuals, groups, bodies, and partners involved in the initial development and consultation on the Policy for targeted engagement.	
2	Engagement and evidence gathering with external stakeholders	This stage focused on targeted engagement to gather information and feedback on the scheme and the Policy, including what had been achieved in its first year and the areas which required changes or further consideration.	Completed – September 2022 to May 2023.
3	Initial review findings and Councillor Scrutiny to consider next steps	This stage will set out the initial findings from stages 1 and 2 and consider what the options may be to make changes to the Policy to refine it further or make changes to address the specific issues identified in the review report. The initial review findings will be consulted with Members of the Licensing Committee and Policy and Scrutiny Committee. The outcome of those hearings will enable Officers to develop formal proposals for the Council to consider before moving on to the process of making changes to the Policy and/or process.	Ongoing – June to November 2023
4	Proposals for the revision of the licensing scheme and Policy are published for consultation prior to formal adoption	This stage will be subject to the findings of this report and whether following Councillor Scrutiny and Licensing Committee consultation the Cabinet Member for Communities and Public Protection agrees that proposals to revise the Policy should be consulted upon. The Council should undertake public consultation on the proposals for any revisions to the policy, code of conduct or standard conditions and then any subsequent responses should be considered before they are approved.	To commence – November 2023 to July 2024

- 3.10 During the initial review of the Policy, Council Officers examined data related to the licensing regime, encompassing information on complaints, compliance, and enforcement. Collaboration extended across various Council teams and services directly or indirectly impacted by the busking and street entertainment licensing regime and the associated Policy.
- 3.11 In fostering a comprehensive understanding, Officers actively engaged with key stakeholders, including street entertainers, Business Improvement Districts (BIDs), landowners, and businesses. This engagement involved email correspondence, virtual and in-person meetings, and targeted online surveys. Stakeholders shared their perspectives, raised concerns, and provided valuable evidence on their experiences with the licensing regime and Policy.
- 3.12 The Busking and Street Entertainment Licensing Policy Review report presents the insights and evidence collected during stages 1 and 2 of the review process. The identified findings

aim to empower Members of the Licensing Committee, Policy and Scrutiny Committee, and the Cabinet Member to assess available options regarding potential revisions to the Policy and the nature of those revisions.

#### **4. Review Findings and Recommendations**

4.1 The busking and street entertainment licensing regime, coupled with its associated Licensing Policy, has been operational for over two years. Throughout its establishment, extensive efforts were invested in engaging with stakeholders to formulate a scheme that strikes a delicate balance. The goal was to license responsible buskers and street entertainers while preventing obstruction of the highway and minimising inconvenience to residents and businesses. Following a comprehensive evaluation of the licensing scheme, Policy, and stakeholder input, Officers are of the view that the scheme itself is well-structured and does not necessitate significant alterations. Nevertheless, certain amendments to the policy and a thorough review of pitch locations are deemed necessary, as outlined in the proposed recommendations and options below.

4.2 Despite endeavours to establish a light-touch licensing regime aimed at fostering self-regulation, challenges related to compliance and the presence of illegal buskers in specific city areas have impeded the scheme from achieving its intended objectives. While positive changes have been observed in certain regions regarding noise, nuisance, and obstruction, considerable challenges persist in particular locations. Businesses and residents harboured high expectations for the scheme, anticipating its effectiveness in addressing these issues and empowering the Council to actively enforce and prosecute individuals violating the scheme's terms and conditions. Unfortunately, for various reasons, these expectations have not been met, necessitating significant Council resources and close collaboration with the police to fulfil them.

##### Options for the continuation or varying the scope of the licensing scheme.

4.3 While this review has predominantly focused on policy assessment, it is imperative to also address the challenges associated with non-compliance and illegal activity. Determining how the Council should proceed in managing the scheme is crucial, particularly assessing whether the cost and resources required to ensure compliance and prevent illegal activity would be proportionate to the needs for resourcing higher-risk priorities.

4.4 The evaluation of the Busking and Street Entertainment Licensing Policy's scope aimed to assess its implementation, effectiveness, and the need for any adjustments to enhance its alignment with future operational requirements. Throughout this review, the prevailing concerns raised by stakeholders revolved around issues related to compliance and the enforcement actions taken, or lack thereof, to address non-compliance and illegal activities in specific locations. Leicester Square and Covent Garden have been focal points in these discussions, as non-compliance, illegal performances, and the associated impacts of noise and obstruction have been evident. In contrast, the remaining areas covered by the scheme have not generated the same level of issues or complaints.

4.5 The scheme's overall success cannot be fully determined due to the challenges surrounding compliance and illegal performances. While the scheme was designed to address issues such as noise and obstruction caused by busking and street entertainment, the persistent challenges in Leicester Square and Covent Garden have prevented a comprehensive assessment of its effectiveness. Although improvements have been observed in most covered areas, these two locations remain significant sources of complaints and issues related to compliance.



- 4.6 The original intent of the licensing scheme was to adopt a light-touch approach, reflected in the very low fee levels. The expectation was that the busking and street entertainment scheme would be self-regulating, a concept referenced in the policy. Unfortunately, this ideal has not materialised.
- 4.7 Targeted engagement with stakeholders indicates a considerable appetite for the continued regulation of busking and street performers. In a targeted survey, 68% of respondents favored the scheme more than before, while 24% maintained unchanged views about the licensing scheme.
- 4.8 Compliance with the licensing requirements and policy by buskers and street entertainers results in minimal issues. However, when licensed individuals fail to adhere to their terms and conditions, especially related to amplification, significant complaints and harm are incurred at the performance location.
- 4.9 The review identifies two types of non-compliant buskers and street entertainers. The first group consists of individuals who are typically unaware of or knowingly ignore the licensing regime, creating noise issues and potential obstruction. The second group comprises individuals or groups fully aware of the licensing requirements but deliberately perform illegally, likely causing issues in high-profile areas.
- 4.10 Non-compliance from licensed performers and illegal buskers in Leicester Square, in particular, indicates that the current arrangements for the licensing regime and the Policy are not effective in that area.
- 4.11 Recent joint compliance and enforcement actions between the Council's City Inspectors and the Police have yielded positive results, utilising additional police powers to obtain information from performers for legal action.
- 4.12 Addressing non-compliance and illegal performances in Leicester Square and Covent Garden will require substantial Council and Police resources over an extended period. Deciding whether to prioritise this enforcement over other pressing priorities hinges on resource allocation and prioritisation.
- 4.13 Excluding non-compliance and illegal activity issues, the licensing scheme is deemed sound, albeit requiring some amendments. The combination of a detailed Licensing Policy and a clear licensing process is considered best practice.
- 4.14 The current fee levels are extremely low and do not cover the full costs of operating the scheme. Revisiting these fee levels may be necessary, considering the scheme's resource requirements and the broader impact on general funds.
- 4.15 A decision is needed on whether the scheme should continue in its current form. The significant resources and costs associated with addressing non-compliance and illegal busking may not be proportionate to other demands on limited Council and Police resources. While the scheme itself is sound, ensuring compliance will continue to require substantial unfunded resources. The presented options offer considerations for the scheme's future.

**Option BSE/1 – Discontinue the scheme.**

A licensing regime will only be successful if the scheme has reasonable compliance and there is a robust enforcement approach in place to respond to non-compliance and illegal busking. However, if the cost and resources cannot be actively diverted to address the levels of non-compliance or illegal busking and therefore meet resident and business expectation then the scheme may never be effective. However, without the licensing

regime busking and street entertainment will continue and the issues of noise nuisance and obstruction of the highway will continue without an active mechanism to enforce it.

**Option BSE/2 – Vary the scope of the scheme.**

If the scheme is too large to actively ensure compliance and enforce illegal busking the scope of the scheme could be varied. The regime could focus on the key busking areas of the city and remove the restrictions and controls from other parts of the city. However, the areas of significant busking activity are the areas that have the highest levels of non-compliance and illegal busking. Resources would still be needed to maintain a sufficient level of enforcement in these areas to actively respond to non-compliance and illegal busking.

**Option BSE/3 – Continue with the current scheme and prioritise resources to address non-compliance and illegal busking.**

If the scheme should continue and resources can be prioritised to effectively enforce the regime, then the scheme may become more manageable and self-regulation could become more evident. An active compliance and enforcement response would be required to address non-compliance and illegal busking as and when it is reported. However, fee levels and the following recommendations may be necessary to assist in achieving this.

- 4.16 In the event of a decision to terminate the scheme, the Council would be obligated to adhere to a statutory process for revoking the existing resolutions that adopted the scheme. This formal procedure would entail conducting a comprehensive consultation, with the ultimate decision resting with the Full Council.
- 4.17 Alternatively, if adjustments to the current scheme are deemed appropriate, careful consideration must be given to the objectives of any proposed variation and how enforcement and compliance can be assured. Potential modifications might include designating noise-sensitive locations where busking is not permitted, while allowing it in other parts of the city or making substantial changes to where and when busking and amplification are allowed. Like the first option, any alterations to the current regime would require consultation, and then formal approval of any proposed changes.
- 4.18 If the decision is to continue with the existing scheme, it will be crucial to manage expectations regarding the Council's capacity to address noise and obstruction issues related to busking and street entertainment. While the licensing regime provides enforcement powers, cooperation from those regulated under the scheme is equally essential. Businesses and residents should understand that, while the Council will strive to respond to complaints about noise and obstruction, it must balance these concerns with other priorities and existing resources. In instances where a specific location is significantly impacted by persistent offenders, the Council, with support from the Police, may consider targeted operational measures on a case-by-case basis. If the consensus from the Policy and Scrutiny and Licensing Committees, as well as the Cabinet Member for Communities and Public Protection, is to retain the current scheme, the report presents several recommendations and options to enhance the scheme where possible and address specific issues identified during the review.

**Recommendation 1 – Partnership with the police.**

The Council and the Metropolitan Police should engage in further discussions associated with conducting further partnership compliance and enforcement action to tackle persistent non-compliance and illegal operators, focusing on key high impact areas, such as Leicester Square area and Covent Garden.

**Recommendation 2 – Undertake a fee review.**

The Council should consider the current licence fees for busking and street entertainment licences considering the need to prevent the fee becoming a barrier to buskers and street entertainers, the known processing and compliance costs and the financial implications of the scheme being unable to provide full cost recovery.

Licensing Policy

- 4.19 The Licensing Policy is meticulously crafted, offering a comprehensive guide to the purpose of the licensing scheme, the licensing process, codes of conduct, terms and conditions, and designated areas for busking and street entertainment. Developed through effective engagement, it adeptly delineates the Council's approach to administering and ensuring compliance with the scheme. Nonetheless, there are specific changes that could be considered to address elements overlooked during the initial development or that have surfaced since the scheme's implementation.
- 4.20 The Council has identified a gap in the Policy concerning applicants who may be under the age of 18. Insights from conversations with buskers and street entertainers have unveiled instances of individuals commencing their performances during their teenage years. While the scheme should not preclude children or young people from busking in Westminster, measures need to be in place to safeguard and protect them, ensuring parental or guardian consent. The Policy should undergo an amendment to include a provision specifically addressing children and young people, incorporating robust safeguarding measures. Any proposed changes in this regard should undergo consideration by child safeguarding experts from the Council and other pertinent agencies.

**Recommendation 3 – Age restrictions and safeguarding**

The Council should consider the inclusion of sections associated with buskers and performers under the age of 18 that includes factors relating to parental or guardian consent, whether adult supervision is needed whilst the child or young person is performing, safeguarding issues, including safeguarding from other buskers and reporting of concerns relating to child buskers and street entertainers.

- 4.21 The Council acknowledges a deficiency in the current Policy regarding the obligation of buskers and street performers to pay royalties for the performance or use of copyrighted works. It is crucial to apprise buskers and street entertainers that acquiring a Performing Rights Society (PRS) license may be necessary when incorporating copyrighted material into their performances. The Policy should explicitly outline this requirement, emphasising the responsibility of buskers and street entertainers to remit any associated royalties for copyrighted material or content. Furthermore, the Policy should include guidance on the process of applying for a PRS license to ensure clarity and compliance.

**Recommendation 4 – Royalties liability**

The Council should provide an advisory section within the Policy relating to the liability associated with royalties and that this rest solely with the licensed busker or street performer.

- 4.22 It is imperative that license applicants furnish truthful and accurate information. The provision of false information not only undermines the integrity of the licensing process but also raises concerns about the applicant's suitability to hold a license. The Council strongly condemns the submission of false information and views it as an attempt to circumvent the fit and properness test.
- 4.23 To address this issue, the Council should explicitly convey the consequences of providing false information in license applications. These consequences may encompass the rejection of an application, the revocation of an existing license, and potential prosecution under section 42(d) of the relevant legislation. The Council's approach to handling false information should be clearly articulated in the Policy, codes of practice, and throughout the licensing application process, including on the website and application form.

**Recommendation 5 – Statement of truth and making a false declaration.**

The Council should include its position on the requirement for applicants to sign a statement of truth associated with the information that they have provided and what the Council's actions will be if they have made a false declaration within its Policy.

Code of Conduct

- 4.24 The Code of Conduct serves a pivotal role in providing clarity to buskers and street entertainers regarding acceptable behaviour during performances. As per the targeted engagement survey, 66% of respondents from the busking and street entertainment community found the Code of Conduct to be clear and understandable.
- 4.25 The existing Code of Conduct should be fortified to explicitly state that certain behaviours towards Authorised Officers of the Council and the Police will not be tolerated. The Code, associated with the requirement to cooperate with Authorised Officers and the Police, should delineate that unacceptable behaviours or actions, such as verbal or physical abuse, or inciting the crowd against officers when carrying out their role under the 2000 Act, will not be tolerated and could result in the suspension or revocation of their license.
- 4.26 Based on the review's findings, some revisions may be necessary for the Code of Conduct. These may include adding additional codes, such as those related to licensees under the age of 18, safeguarding of children and young people, or the consequences of making false statements. The current Code related to communication with the council and the local community via the Forum should also be revised to emphasise the need to enable communication between licensees and the Council rather than the inclusion of residents and businesses.
- 4.27 During the revision of the Codes of Practice, the Council should consider engaging with licensed buskers and street entertainers to gather their input on proposed changes. This engagement is crucial before proceeding with the regulatory requirements for adopting the new Codes.

**Recommendation 6 – Strengthen the Co-operate with Authorised Officers and the Police to the Codes of Conduct Provision**

The Council should strengthen the current Code of Conduct relating to the requirement to co-operate with Authorised Officers and the Police to make it clearer about what behaviour will not be acceptable and what the possible ramifications are if a licensed busker or street entertainer fails to meet this Code.

### **Recommendation 7 – Revisions and additions to the Codes of Conduct**

The Council should consider reviewing the current Codes of Practice to ensure that they reflect any necessary changes to the Council Policy or application process, including buskers and street performers under the age of 18 seeking licences, safeguarding of children, the consequences of making a false statement and communication channels between the Council and licensees via a Forum.

#### Standard Licence Conditions

- 4.28 The standard license conditions for busking and street entertainment were crafted to mitigate nuisance, anti-social behaviour, and highway obstruction that could compromise public safety. These conditions establish clear parameters for license holders and enforcing bodies, aiming to be reasonable and proportionate, allowing licensed performers to comply without undue impact. Violating the license may result in warnings, revocation, or prosecution under relevant legislation.
- 4.29 During the engagement process of this review, buskers and street entertainers were surveyed about their perception of the conditions. A targeted survey revealed that 57% of respondents did not consider the conditions reasonable and proportionate. In meetings with representatives of licensed performers, concerns were expressed about certain conditions being overly restrictive and unreasonable, although specific problematic conditions were not identified.
- 4.30 After reviewing the standard conditions, Officers believe they are reasonable and not unduly burdensome or disproportionate. Nevertheless, considering other findings and recommendations, the Council should consistently review the standard conditions and make necessary changes through appropriate engagement and consultation with licensees.
- 4.31 However, in line with the issues associated with unacceptable behaviour towards Authorised Officers and the Police, it is proposed to add a new condition to the standard terms and conditions for all Busking and Street Entertainment Licenses relating to the prevention of unacceptable behaviour. The new condition could take the following form:
- (1) *A busker and street entertainer shall:*
- (a) *Not use threatening, abusive, or offensive language, either verbally or in any performance material directed at or associated with the actions of an Authorised Officer of the Council, a Police Constable, or Police Community Support Officer.*
  - (b) *Not engage in any physical assault or aggressive behaviour towards an Authorised Officer of the Council, a Police Constable, or Police Community Support Officer.*
  - (c) *Not incite, encourage, or provoke crowds to act in a threatening, abusive, or physically aggressive manner towards an Authorised Officer of the Council, a Police Constable, or Police Community Support Officer.*
  - (d) *Comply promptly with any lawful instruction or request given by Authorised Officers of the Council, Police Constable, or Police Community Support Officer in the course of performing their duties.*
  - (e) *Not obstruct, hinder, or interfere with an Authorised Officer of the Council, a Police Constable, or Police Community Support Officer while they are carrying out their official duties.*
  - (f) *Fully cooperate with any investigation carried out by the Council or the Police in response to reported incidents or allegations of unacceptable behaviour.*

(2) *In relation to (1)(f) above, reference to cooperate with any investigation includes providing relevant information, attending meetings or interviews if requested, and assisting in the identification of any involved parties.*

4.32 This licence condition aims to ensure a safe and respectful environment for Authorised Officers of the Council and the police while maintaining a positive and enjoyable atmosphere for the public during busking and street entertainment performances.

**Recommendation 8 – New condition relating to behaviour towards Authorised Officers and the Police.**

It is recommended that a new condition, such as the one proposed above is added to the standard licence conditions that addresses licensee behaviour or acts which create a risk to Authorised Officers of the Council and/or the Police or inhibits their actions or ability to investigate breaches of the licensing regime or offences under the 2000 Act.

**Recommendation 9 – Standard conditions to be kept under review.**

It is recommended that the standard conditions should remain under constant review and if necessary, proportionate, and reasonable conditions could be added, varied or removed as required.

Leicester Square (Pitches 8 and 9)

4.33 Action is imperative to address the noise nuisance stemming from amplification on adjacent properties, non-compliance among licensed buskers and street entertainers, and the prevalence of illegal busking in the Leicester Square area. Four options have been identified by Officers for the Council's consideration.

4.34 The first option involves a collaborative initiative between the Council, licensed buskers and street performers, and local businesses to tackle the issues at the grassroots level. If all parties commit to actively managing the situation, demonstrating collaboration and enhanced compliance, this approach could result in a reduction of noise nuisance and the preservation of the amplified pitch. The objective is to minimise the impact on the livelihoods of licensed buskers and street performers and prevent their displacement to other amplified pitches or engagement in illegal busking.

4.35 However, inherent risks are associated with this option. Past collaborative efforts have seen limited success, and given the unique nature of Leicester Square, challenges may persist, leading to continued noise nuisance. Enforcing against illegal buskers causing obstructions and nuisance within the Square might also pose difficulties, even if licensed buskers adhere to compliance.

4.36 This option could be pursued concurrently with one of the other options. If positive outcomes materialise through collaboration and robust enforcement, the Council may consider suspending the implementation of other options and continue monitoring the situation.

**Option LS/1 – Seek an agreement between all parties to ensure compliance with current pitch requirements.**

Utilise the period between the report publication and any formal decision to enable the SPA, Businesses, and the Council to consider the pitch locations, directions that amplification is directed, noise levels and monitoring to establish if other controls and agreements could be put in place to prevent the loss of amplification or the removal of that pitch all together. If no agreement is found to everyone's satisfaction, then the Council will have no option to consider moving forward with the alternative options.

**Option LS/2 – Remove permission to use amplification, etc from Leicester Square (Northeast) pitch on weekdays.**

The Council moves forward to revise the Leicester Square (Northeast) pitch to remove the use of any amplification, brass, wind, percussion, and percussive instruments during weekdays.

- 4.37 Option 2 suggests the elimination of amplified sound from the Northeast pitch in Leicester Square on weekdays. To effect this change, the Council would need to modifying the terms and conditions of the pitch, following a consultation period.
- 4.38 This approach, proposed by local businesses, aims to mitigate the overall impact of amplification during weekdays, particularly when offices have higher staffing levels. Under this option, only licensed buskers would be permitted to use the pitch, with active compliance checks by the Council to ensure no amplification is employed. However, a risk exists that businesses with staff working on weekends may still encounter noise disturbances from amplified performances.
- 4.39 Associated risks with this approach include potential non-compliance by licensed buskers and an increased need for enforcement. Noise disturbances could remain significant on weekends, affecting businesses despite reduced office occupancy. The removal of the only amplified pitch on weekdays might negatively impact the earning potential of licensed buskers and street entertainers in the area, potentially leading to displacement to other pitches and generating new noise-related challenges. Additionally, restricting amplification to weekends could intensify demand for spots on those days, considering the pitch's existing high desirability.

**Option LS/3 – Remove permission to use amplification, etc from Leicester Square (Northeast) pitch.**

The Council moves forward to revise the terms and conditions of the Leicester Square (Northeast) pitch to remove the use of any amplification, brass, wind, percussion, and percussive instruments altogether.

- 4.40 Option 3 proposes that the Council seeks to prohibit the use of amplification on the Leicester Square Northeast pitch. Consequently, no licensed busker or street entertainer relying on amplification would be permitted to perform in Leicester Square. This measure aims to effectively address the issue of noise nuisance for nearby properties emanating from that specific pitch. Active enforcement by the Council and the Police would be essential to control illegal busking in the area, facilitating more straightforward compliance management for City Inspectors and the Police.
- 4.41 Licensed buskers would inevitably experience a substantial impact on their income generation opportunities due to the restriction on amplification. Moreover, the demand for other amplified pitches in the area would likely surge, potentially prompting the Council to contemplate introducing additional amplified pitches in nearby streets to manage the heightened demand. Implementing this approach could lead to an increase in illegal busking and non-compliance from licensed buskers and street entertainers who can no longer use amplification at this pitch.

**Option LS/4 – Prohibition of busking and street entertainment from Leicester Square**

The Council moves forward to remove the Leicester Square (Northeast) and Leicester Square (Northwest) pitches and therefore make Leicester Square a prohibit street for busking or street entertainment.

- 4.42 Option 4 proposes a complete prohibition of busking and street entertainment in Leicester Square. By eliminating the designated pitches, the goal is to address the noise issues associated with these activities, provided there is robust enforcement. In the absence of designated pitches, it would be easier for Council City Inspectors and the Police to identify and take action against illegal buskers. This approach would involve the Police and our City Inspectors moving on buskers and street performers from the area or prosecuting illegal buskers and street entertainers if they persistently perform illegally in the area.
- 4.43 However, this option would have a significantly detrimental impact on licensed buskers and street entertainers who rely on these pitches. It would likely result in displacement and create a higher demand for pitches in the area. Additionally, there would be an increased risk of licensed performers resorting to performing illegally.

**Recommendation 10 – Attempt a collaborative solution whilst undertaking a formal process to remove amplification.**

It is recommended that the Council should start preparing to move forward with Option 3 which would make this pitch unamplified. However, whilst that option is being prepared and taken through consultation process, which can take several months Officers should work with businesses and licensed buskers and street entertainers should work together to attempt to find a solution through collaboration as set out in Option 1. If the collaborative approach between all parties shows signs of progress decision on changing this pitch to unamplified could be slowed or suspended if appropriate.

- 4.44 The noise nuisance attributed to busking and street entertainment in the area stems from two primary factors. The first factor involves licensed performers using amplification, and potential solutions are explored through the aforementioned options. The second factor is the presence of illegal buskers with amplification, necessitating active and robust enforcement collaboration between the Council and the Police.
- 4.45 Given the significant noise nuisance generated by amplification from the Leicester Square Northeast pitch, it is recommended to attempt Option 1. This option aims to assess whether the potential loss of amplification would incentivise compliance and collaboration from licensed buskers, street performers, and the local SPA (Street Performers Association). While Option 1 is being attempted, officers should proceed as described in Option 3, seeking the removal of amplification from this pitch. If progress is made with Option 1, the Council can slow down or suspend the implementation of Option 3.

Pitch Locations, Accessibility, and Markings

- 4.46 The location and availability of busking and street entertainment pitches have been identified as crucial issues by the Licensing Service, City Inspectors, and performers themselves. Currently, there are 27 designated pitches in the city, and their usage and income-generating potential vary based on footfall. Some pitches, particularly those in popular areas like Leicester Square and Trafalgar Square, often face suspensions due to events and market uses, leading to queues of performers waiting for their turn.
- 4.47 To address this, the Council needs to assess the adequacy of current pitch locations and their potential to cause disturbances or obstructions on the highway. Engagement with licensed buskers and street performers is necessary to gather input on pitch locations and identify possible additional pitches that can relieve pressure from high-demand pitches. In seeking new pitch locations, the existing methodology should be used. These new locations should provide similar opportunities for audience size and income generation when pitches are suspended for events.



- 4.48 The assessment of existing and potential new pitch locations should consider maximising opportunities for performers while ensuring they do not create obstructions or nuisances for businesses and residents. Flexibility in pitch use based on different times of the day or days of the week could be considered, allowing for variations in pitch availability to minimise impacts on nearby establishments. Similarly, the use of amplification could be regulated based on specific hours or days to balance performers' needs with the interests of businesses and residents. However, a comprehensive assessment was undertaken on pitch locations when the scheme was being developed, and changes to counter-terrorism measures in high footfall locations may result in an inability to identify suitable new pitch sites.
- 4.49 Under Section 149 of the Equality Act 2010, the Council has a duty to ensure that those with a protected characteristic are not excluded from accessing pitches and being able to obtain a busking and street entertainment licence. Anecdotal evidence suggests that the number of buskers with physical disabilities within the licensed areas is low. The available evidence of the prevalence of disability amongst buskers in the licensed areas is not considerably higher than in the general Westminster population. However, as part of any review of existing pitches or locations for new pitches, the Council should review the accessibility for disabled performers.
- 4.50 Improvements to the visibility and clarity of busking and street entertainment markings are also necessary. The current markings wear quickly and are costly to replace, so alternative, simpler, and more standardised marking templates should be considered to reduce future marking costs. Consideration may also need to be given to ensuring pitches can be located by performers who are visually impaired or blind. This may involve the use of braille markers on the floor or using pitch markings that enable visually impaired or blind performers to locate them and perform within them.

**Recommendation 11 – Pitch Location and Accessibility Assessment**

The Council should undertake an assessment of pitch locations that review the current pitches to determine whether they are still fit for use, are accessible to disabled performers, do not create an obstruction or nuisance. The review should also, using the existing methodology attempt to identify new pitch locations, especially in areas where there is a high demand to use existing pitches in the area. In carrying out the assessment Covent Garden's pitches and additional pitches around Leicester Square and Trafalgar Square should be prioritised.

**Recommendation 12 – Pitch Markings**

As part of the pitch assessment the markings for each pitch should be assessed and if they are worn should be replaced. The accessibility of the pitches, particularly for enabling visually impaired or blind performers to locate them should be considered and if necessary additional markers affixed to make the pitches more accessible to those performers. The full costs associated with a regular remarking schedule should also be considered as part of any future fee review as this will need to be funded by the income from the scheme.

Engagement with Licensed Buskers and Street Entertainers

- 4.51 Ongoing engagement and communication with licensed buskers and street entertainers are paramount. The original plan for the licensing scheme included a Forum designed to facilitate communication between licensees, businesses, residents, and the Council. However, due to various reasons, the Forum did not function as intended, resulting in concerns and issues being directly addressed to the Council.
- 4.52 To rectify this, there is a need to re-establish a Forum specifically tailored for licensed buskers and street entertainers in collaboration with the Council. The Forum should exclude resident

representatives and businesses, focusing solely on engaging with licensees or their representatives to address their challenges, provide feedback on issues, clarify license terms and conditions, and foster relationships and trust between Council Officers and licensees.

- 4.53 One concern raised by buskers and street entertainers is the lack of information about pitch suspensions due to events. The Council has implemented measures to provide advance warning on the suspension of pitches via the Council's website. However, the Council could explore additional options to enhance communication channels with buskers and street entertainers.

**Recommendation 13 – New Buskers and Street Entertainers Forum**

The Council should create a new Buskers and Street Entertainers Forum that meets quarterly to discuss the licensing scheme, key issues and future changes or potential improvements. This forum should enable an effective communication channel between licensed buskers and street entertainers or their representatives and Council Officers responsible for the licensing process or ensuring compliance.

**Recommendation 14 – Notification of Pitch Suspensions**

The Council could consider additional communication options that will provide buskers and street entertainers notification of pitch suspensions.

Engagement and Recognition of Street Performers Associations (SPA)

- 4.54 During a comprehensive review, officers engaged with two specific SPAs (Street Performers Associations) mentioned in the policy. The SPAs shared valuable information and personal experiences related to the licensing system and their interactions with Council Officers. However, despite the officers' request for written documentation concerning membership accessibility, transparency, rules for members, and the disciplinary process for rule breaches, these documents were not presented.
- 4.55 The Covent Garden SPA expressed fundamental opposition to licensing, stating that their members would not obtain a license from the Council. They believed Covent Garden should not be included in the licensing regime and suggested self-regulation or a scheme similar to one used in the past. Self-regulation had been considered previously, but issues with obstruction and noise persisted.
- 4.56 The review also explored the possibility of providing greater benefits or access to pitches for SPA members. However, due to the lack of written processes and rules within the SPAs, it was uncertain whether membership criteria were open and accessible to new buskers and street entertainers. The Covent Garden SPA opposed any involvement with the licensing regime, even if given special status within the policy.
- 4.57 The Leicester Square and Trafalgar Square SPA and their members were mostly licensed. While they expressed a willingness to collaborate with the Council, there were significant issues with nuisance, illegal activities, and non-compliance among buskers and street entertainers in Leicester Square. Officers suggested further engagement with the Leicester Square and Trafalgar Square SPA to assess their willingness to work collaboratively with the Council in the future, especially considering proposed options for the two pitches in Leicester Square.
- 4.58 The concept of SPAs is still seen as positive and worth supporting by the Council. However, it was emphasised that SPAs should represent licensed buskers and street entertainers. Direct communication channels with SPA representatives were deemed necessary to address issues or problems with specific pitches or performers. This would require the SPAs to

provide direct contact details for their SPA representatives. SPAs should also be regular attendees at the Forum for licensed Buskers and Street Entertainers and the Council. This Forum will provide an opportunity for the SPAs, along with other licensees and Council Officers, to discuss key issues, address questions, and set out any future improvements or changes to the licensing scheme.

- 4.59 However, engagement and interaction with SPAs that actively and intentionally busk illegally and who will not engage in the licensing process were not considered feasible. It is important that the views of licensed buskers and street entertainers are taken into account, and there is a conduit for communication between the Council and licensees.

**Recommendation 16 – Revision the SPA section with the Policy**

The Policy should continue to promote the designation of local SPAs who represent licensed buskers and street entertainers. However, direct references to the two current SPAs should be removed from the Policy itself. The Policy could be revised to add additional information on the benefits that SPAs can have in representing their members when communicating with the Council.

**Recommendation 16 – Provide SPA contact information on the Council's Busking and Street Entertainment Website Pages.**

The Council should consider listing recognised SPA's as well as their contact information on the Council's website within the Busking and Street Entertainment licensing scheme pages. This would enable new SPA's or updates to existing SPA contact information to be amended quickly without the need to undertake a formal revision of the Licensing Policy.

Other Minor or Non-consequential Amendments

- 4.60 In the course of implementing the changes outlined in this review, there may arise the necessity for other minor or non-consequential amendments to the Busking and Street Entertainment Licensing Policy. It is crucial that any required corrections, modifications, or additions to enhance the Policy or facilitate the full implementation of options or recommendations be undertaken by the Council. It is important to note that any alterations to this Licensing Policy or the scheme will be subject to consultation.

**Recommendation 17 – Minor or non-consequential amendments to the Licensing Policy**

The Council should make any corrections, additions, or amendments as necessary to improve the Busking and Street Entertainment Licensing Policy or to facilitate any revisions as considered necessary as a result of this review.

**5. Proposed Action for Stage Four of this Review and Public Consultation**

- 5.1 It is recognised that the busking and street entertainment licensing scheme has encountered notable challenges since its inception. Originally conceived as a light-touch regulatory framework with an inherent aspect of self-regulation, the scheme has, regrettably, grappled with issues of non-compliance and the inherent complexities in ensuring adherence to its stipulations. Consequently, the scheme has fallen short of fully realising its primary objectives, which were aimed at mitigating impact and fostering busking and street entertainment within designated areas.
- 5.2 The examination of the Licensing Policy and the licensing scheme revealed a fundamentally sound framework. While identified as robust, there exist opportunities to fortify the Policy further by incorporating adjustments or introducing supplementary code provisions and standard conditions to effectively address specific concerns. Officers maintain a positive view

of the licensing scheme, deeming it well-structured. The key belief is that, with a higher level of compliance, the scheme could fully realise its intended objectives.

- 5.3 There is minimal enthusiasm among businesses and residents for the removal of the scheme and a return to self-regulation. Before the scheme's implementation, various parts of the city grappled with prevalent issues such as noise nuisance, highway obstruction, and safety concerns. Presently, these challenges are more localised and have been pinpointed in specific areas highlighted in the review report.
- 5.4 The surge in complaints and heightened expectations regarding the scheme's effectiveness in managing busking and street entertainers in specific locations has resulted in increased strain on Council resources. The Council's Authorised Officers (City Inspectors) have faced substantial challenges, leading to growing frustration with the scheme's operations.
- 5.5 The review report explores three potential options: discontinuing the scheme, adjusting its scope (such as reducing the covered area), or maintaining the current scheme while making minor amendments to the policy, codes of conduct and standard conditions as well as prioritising resources to tackle non-compliance and illegal busking. The recommendation from Officers is to continue the scheme and strategically engage in targeted, proportionate compliance and enforcement actions in key locations where non-compliance is prevalent, notably Leicester Square and Covent Garden. The Committee is advised to endorse the Officers' recommendation to retain the scheme in its existing form, contingent on the proposed revisions to the Licensing Policy, Codes of Conduct, and Standard Conditions detailed in this report.
- 5.6 The Council has actively collaborated with the Police to establish partnerships aligned with specific Council priorities. Sustaining these collaborative efforts will be pivotal in bolstering the scheme's effectiveness in the future. Recommendation 1 from the review report reinforces this collaborative approach, and Officers will engage in focused discussions to evaluate the proportionate response to addressing non-compliance and illegal busking in key areas.
- 5.7 However, it is crucial to note that any resources allocated to the scheme must be balanced against the comprehensive scope of work, compliance initiatives, and enforcement priorities of the Council. Achieving this equilibrium is essential for ensuring the effective implementation of the scheme and parallel with other equally important priorities.
- 5.8 The initial fees established for the scheme fall short of achieving full cost recovery, leading to a reliance on central funds for subsidies. Although full cost recovery may be challenging, the existing fees are exceptionally low, and the generated income is insufficient to support the necessary administrative work and resources essential for ensuring compliance with the scheme.
- 5.9 In line with Recommendation 2 outlined in the review report, Officers propose conducting a comprehensive fee review. This review aims to ascertain an appropriate fee level that achieves a reasonable degree of cost recovery while mitigating the impact on broader Council budgets. Officers are committed to initiating this fee review for the scheme, which will be incorporated into the broader Licensing Service fee review process scheduled for 2024.
- 5.10 Although the Licensing Policy is adequate there are some revisions that have been identified that would enhance the current policy. Most of these revisions will provide greater clarity on the Council's position for certain considerations and expectations that are not present in the current version.

Licensing of children and safeguarding children and vulnerable adults.

- 5.11 The existing policy fails to address the specific considerations associated with applications for busking and street entertainment licenses concerning individuals under the age of 18. Additionally, there is an evident lack of provisions related to the safeguarding of children and vulnerable adults. In response to these gaps, Recommendation 3 recommends a revision of the Licensing Policy, introducing a dedicated section outlining the Council's stance on applicants under the age of 18.
- 5.12 The proposed policy advocates the prohibition of individuals under the age of 14 from obtaining a license for busking or providing street entertainment. For those aged between 14 and under 18, the policy outlines eligibility criteria:
- Proof of Age: Applicants must submit proof of age through appropriate identity documents.
  - Consent Form: A completed consent form signed by a parent, guardian, or responsible adult must accompany the application.
  - Identification of Adult Guardian: The parent, guardian, or responsible adult endorsing the application is also required to provide identification for verification purposes.
- 5.13 A new licensing condition will be implemented to prohibit children who are licensed buskers and street entertainers from performing during school term time, excluding weekends and public bank holidays. This condition will be added to the standard conditions and exclusively applicable to licenses issued by the Council for individuals who are children.
- 5.14 By incorporating these revisions into the Licensing Policy, the Council seeks to establish clear guidelines for individuals under the age of 18 who wish to apply for busking or street entertainment licences. This approach aims to strike a balance between promoting artistic expression among young individuals and ensuring their well-being and safety in accordance with established legal and ethical standards.
- 5.15 In conjunction with the new requirements pertaining to the licensing of children, there is a proposal to introduce an additional section within the policy specifically addressing safeguarding. This section will outline the overarching expectations placed on buskers and street entertainers in safeguarding children and vulnerable adults. Its purpose is to furnish fundamental guidance on recognising indicators of vulnerability, explain their responsibilities towards children and vulnerable adults, and outline the process for reporting concerns to the appropriate authorities.

#### Royalty Liability

- 5.16 The current policy lacks clarity regarding the obligation of buskers and street entertainers to pay royalties for the performance or use of copyrighted works. In response to this, Recommendation 4 suggests that the revised policy includes a new section specifying the responsibility of licensed buskers and street entertainers to seek appropriate permissions from the Performing Rights Society (PRS) for the use or performance of protected works. Furthermore, to ensure compliance with the use of protected or copyrighted material by buskers and street entertainers, it is advisable to introduce a new standard condition for licences. This addition aims to guarantee that performers have obtained the necessary permissions or paid the relevant fees for the use of copyrighted content during their acts.

#### Statement of Truth and making a false statement.

- 5.17 The current licence application process lacks a crucial element requiring applicants to affirm the accuracy of their submissions through a statement or declaration of truth. This oversight in the initial drafting of the policy and licensing application process is significant, as the veracity of information provided in a license application is paramount. A false statement in an application could lead to the issuance of a license to an unfit applicant.
- 5.18 Given the intended light-touch nature of the licensing application process, it is imperative that applicants explicitly confirm the accuracy of the information they submit. Equally vital is the understanding that making a false statement may have serious consequences. If the Council discovers a false statement, it reserves the right to revoke the license, refuse future applications from the individual on the grounds of being unfit to hold a license, or take legal action under section 42(d) of Part V of the London Local Authorities Act 2000, potentially resulting in a fine not exceeding £1,000.
- 5.19 To address this, it is proposed to amend the licensing policy and licensing application process by incorporating information on the requirement to make a statement or declaration of truth as part of the application form. This addition will serve to ensure that applicants explicitly affirm the accuracy of the information provided to the best of their knowledge. Additionally, accompanying this statement will be a clear outline of the potential repercussions should an applicant be found to have knowingly made a false statement.

#### Busking and Street Entertainment Forum

- 5.20 The initial plan included the establishment and administration of a Busking and Street Entertainment Forum by the Council, designed to facilitate dialogue among residents, businesses, buskers, street entertainers, and the Council. The Licensing Policy embraced this concept, offering a summary of the Forum's purpose and avenues for engagement. Unfortunately, this Forum did not materialise, and given the multitude of existing community and business engagement forums, creating a separate entity seems redundant. Stakeholder feedback suggests limited interest from residents and businesses in attending meetings specifically dedicated to busking and street entertainment issues.
- 5.21 In response to the recommendations outlined in the licensing policy review report, a revised approach is proposed—a forum tailored to foster improved communication between the Council and licensed buskers and street entertainers. This forum aims to facilitate closer interaction, providing a dedicated channel for expressing views, addressing concerns, and sharing information. In tandem with the proposed changes to the Code of Conduct provision, this section in the policy will be amended to reflect the modified approach, explicitly emphasising that it serves as a specialised engagement channel between licensed buskers, street entertainers, and the Council.
- 5.22 The "join our busking and street entertainment community" section in the current Licensing Policy will undergo revision to align with the updated Forum approach. Additionally, it will outline our process for notifying pitch suspensions (Recommendation 14)—an aspect highlighted as a significant concern by buskers and street entertainers, particularly in areas prone to frequent events. This adjustment aims to enhance transparency and streamline communication channels, addressing the specific concerns raised by the busking and street entertainment community.

#### Street Performers Association (SPA's)

- 5.23 Acknowledging the potential value of Street Performers Associations (SPAs) as a conduit for engagement and communication with licensed buskers and street entertainers, it is recognised that SPAs, typically established for specific locations, offer localised perspectives

on issues directly impacting them. The original intent behind incorporating SPAs into the regulatory framework was to leverage their role in self-regulation, contributing to the operation of a light-touch licensing regime. However, the desired outcomes have not been fully realised.

- 5.24 For instance, the SPA for Covent Garden has not actively engaged with the licensing process, and its members resist obtaining a licence to adhere to the regulatory framework. In contrast, the Leicester Square SPA has shown positive engagement with the Council, though local self-regulation has not effectively addressed non-compliance.
- 5.25 While the SPA approach has not fully achieved its intended impact on compliance through self-regulation, the concept remains valid. SPAs can still serve as crucial means of engagement with local licensed buskers and street entertainers, facilitating information sharing. It is proposed that the Council will only recognise SPAs representing licensed performers actively engaged with the licensing regime. There's potential for collaboration with the Music Union and the SPA's representing licensed buskers and street performers, to transform them into fully constituted associations equipped with a board, constitution, membership rules, and disciplinary policies.
- 5.26 In line with Recommendations 15 and 16 from the review report, it is proposed to revise the "Performer self-regulation and street performers associated" section of the policy. This revision will eliminate references to specific SPAs and instead provide additional information on the benefits and operation of an SPA for its members. The updated policy will explicitly state that the Council will only recognise and engage with SPAs representing licensed buskers and street entertainers in Westminster who are committed to actively participating in the licensing scheme. The policy will guide readers to the Council's busking and street entertainment webpage for a list of registered SPAs and their contact information.

#### Minor or non-consequential amendments to the Licensing Policy

- 527 As part of the ongoing review, minor or non-consequential amendments may be necessary to the Busking and Street Entertainment Licensing Policy. These changes aim to correct errors, incorporate improvements, or provide additional information or context. However, these changes will not change the policy.

#### Code of Conduct Revisions

- 5.28 The licensing policy review has highlighted that there is a need to review the current codes of conduct for busking and street entertainers. It is proposed in recommendation 6 to strengthen the current code provision 5 "Co-operate with Authorised Officers and the Police" code provision. This is considering the findings of the review associated with the behaviour and language used by some buskers and street entertainers towards the Council's Authorised Officers.
- 5.29 Code provision 7, titled "Talk to the Council and the Local Community, and use the Forum," requires a revision to enhance engagement between buskers, street entertainers, and the local community. Originally intended to facilitate regular forums for residents, businesses, and licensed performers to discuss concerns with the Council, this envisioned setup did not materialise. Considering the myriad of local engagement opportunities available to buskers and street entertainers, establishing a new community forum involving residents, businesses, and performers may prove unnecessary, potentially burdening the Council with setup, advertising, and operational demands.
- 5.30 In alignment with the approach outlined in Recommendation 13 of the review report, it is deemed appropriate to establish a dedicated forum for buskers and street entertainers to

interact with council officers, facilitating discussions on issues and information sharing. These meetings could be conducted quarterly, with invitations extended to all licensed buskers and street entertainers. While this introduces an additional responsibility for officers, it offers an avenue for improved communication and information exchange.

- 5.31 In light of evolving communication norms, the proposed amendment to this code provision reflects this new approach. Buskers and street entertainers are encouraged to actively participate in this forum to raise issues related to busking and street entertainment in the city. Moreover, the code will also advocate for buskers and street entertainers to engage with their local community through existing local meetings and by joining local Street Performers Associations. This adjustment aims to bring the code in line with contemporary communication channels, fostering a closer connection between performers and the local community while enhancing communication with the Council.
- 5.32 It is recommended to introduce additional code provisions to encompass the newly incorporated elements in the policy related to the licensing of children for busking and street entertainment, safeguarding of children and vulnerable adults, and the veracity of statements made during the application for a licence. These fresh code provisions will clearly articulate the expectations for buskers and street entertainers to adhere to these requirements and policy positions. By delineating these expectations, the updated code seeks to ensure a comprehensive understanding and compliance among performers, fostering responsible and ethically sound practices in alignment with the revised policy framework.

#### Standard Conditions Revisions

- 5.33 Following the policy review, the existing standard conditions were deemed reasonable and proportionate. However, in response to identified issues regarding the behaviour of some licensed buskers and street entertainers towards the Council's authorised officers, Recommendation 8 suggests the addition of a new standard condition addressing unacceptable conduct. This proposed condition mandates that licensed buskers and street entertainers conduct themselves in a manner that refrains from verbal or physical abuse or assault directed at Council or Police personnel. Additionally, it imposes an obligation to comply with directives from Council Officers and Police personnel, prohibiting any obstruction to officers carrying out their functions.
- 5.34 This condition is crucial for safeguarding Council Officers and Police personnel in the execution of their duties. Failure to adhere to or breach this condition may prompt the Council to assess the fitness and propriety of the licence holder. Non-compliance poses the risk of licence revocation, with potential implications for the refusal of future applications.
- 5.35 In response to the proposed inclusion of a new policy section addressing the licensing of children as buskers and street entertainers, it becomes imperative to introduce a corresponding standard condition exclusively applicable to licensees under the age of 18. These conditions explicitly prohibit any performances under the licence during England's school term dates, except for weekends and national bank holidays. Additionally, it sets boundaries by preventing performances from commencing before 8 am and after 8 pm. The primary objective of this condition is to ensure that children are not engaged in performances under their licence during school hours or in environments likely to pose a safeguarding risk. While contemplating potential flexibility to permit performances after school hours, it is recommended that such allowances could potentially compromise a child's development and negatively impact their education.

#### Amending the terms and conditions for the Leicester Square Northeast Pitch (Pitch 9)



- 5.36 Action is necessary to address noise issues caused by amplified performances, non-compliance from licensed buskers, and the presence of illegal buskers in the area. Four options have been put forward for consideration within the licensing policy review document. The first option proposes a collaborative approach involving the Council, licensed performers, and businesses to address local issues. While this could lead to reduced noise and the retention of amplified pitches, there are risks associated with limited success in past collaboration efforts and potential challenges in enforcing against illegal buskers. The option could be pursued alongside other alternatives, with the possibility of suspension if positive outcomes are achieved through collaboration and enforcement, allowing ongoing monitoring of the situation.
- 5.37 Option 2 suggests removing amplified sound from the Northeast pitch in Leicester Square on weekdays. This change, proposed by local businesses, aims to lessen the impact of amplification during weekdays with higher office staffing levels. Only licensed buskers would be allowed to use the pitch under this option, requiring active compliance checks by the Council. Risks include potential non-compliance, increased enforcement needs, and continued noise nuisance on weekends for businesses with staff working during that time. Removing the only weekday amplified pitch might adversely affect the earning potential of licensed buskers and street entertainers, potentially leading to displacement and creating new noise issues. The restriction of amplification to weekends could intensify competition for those slots due to the already high demand.
- 5.38 Option 3 proposes prohibiting the use of amplification on the Leicester Square Northeast pitch, aiming to address noise issues for nearby properties. This would mean no licensed busker or street entertainer relying on amplification could perform in Leicester Square. Active enforcement by the Council and the Police would be essential to control illegal busking, easing compliance management. However, licensed buskers would experience a significant impact on their income, and increased demand for other amplified pitches may necessitate introducing new locations. The implementation of this option could potentially lead to an uptick in illegal busking and non-compliance from licensed performers no longer allowed to use amplification on this pitch.
- 5.39 Option 4 suggests a complete prohibition of busking and street entertainment in Leicester Square by removing designated pitches to address associated noise issues. The absence of designated pitches would simplify enforcement against illegal buskers for Council City Inspectors and the Police. This approach involves moving on or prosecuting illegal buskers and street performers. However, the option would significantly harm licensed buskers and street entertainers who rely on these pitches, potentially leading to displacement and heightened demand for remaining pitches. Additionally, there is an increased risk of licensed performers resorting to performing illegally if this option is implemented.
- 5.40 The noise issues associated with busking and street entertainment primarily arise from two factors: some licensed performers using amplification at a level that is considered to cause a nuisance and illegal buskers with amplification. Following a thorough examination of the available options and the contributing factors, it is recommended to proceed with consultation on Option 3. This option involves amending the terms and conditions for the Northeast pitch in Leicester Square (Pitch 9) to remove amplification, transforming it into a non-amplified pitch. Given the necessity for consultation on this proposal, it is further recommended that Officers maintain ongoing engagement with representatives of the local licensed SPA, local businesses, City Inspectors, and the Council Environmental Sciences Team.
- 5.41 Initial engagement with the SPA for this area and the Music Union has been positive. Whilst there are significant concerns associate with this proposal form the members of the SPA they are willing to work with the Council and local businesses to attempt to find an alternative

solution. This continued engagement aims to collaboratively explore voluntary agreements and measures that could effectively address the impact of noise nuisance on local businesses. By working individually and collectively with these parties, Officers seek to identify practical solutions. If an approach is identified that sufficiently mitigates the noise nuisance impact from amplification on Pitch 9 in the Northeast corner of Leicester Square, the Council may consider deferring or cancelling any decision to remove amplification from this pitch in the future.

#### Pitch Location Review and Re-marking

- 5.42 The adequacy of current busking and street entertainment pitches in the city has been identified as a crucial concern by the Licensing Service, City Inspectors, and performers. With 27 designated pitches, disparities in usage and income potential exist, particularly in high-demand areas like Leicester Square and Trafalgar Square, where events often lead to suspensions and queues of performers waiting for their turn.
- 5.43 To address this, it is recommended in Recommendation 11 of the review report that an assessment of pitch locations is undertaken to consider whether existing pitches are still suitable and the potential sites for new pitch locations, including pitches that could be time limited. Engagement with licensed buskers and street entertainers is crucial for gathering input and identifying potential new pitches that could alleviate the existing pressure on the current 26 pitches. The assessment should consider maximising opportunities for performers while minimising impacts on businesses and residents. Flexibility in pitch use and regulation of amplification based on specific hours or days could be explored.
- 5.44 Under Section 149 of the Equality Act 2010, the Council is obligated to ensure access to pitches for individuals with protected characteristics. A review of accessibility for disabled performers is also recommended in Recommendation 11 of the review report. Additionally, improvements to the visibility and clarity of busking pitch markings are recommended in Recommendation 12 of the review report. Consideration should be given to the use of alternative, cost-effective pitch marking templates, and ensuring accessibility for the disabled and especially visually impaired or blind performers through the use of braille markers or specialised pitch markings.
- 5.45 The pitch location assessment is scheduled to be conducted from Spring of 2024, coinciding with increased pitch utilisation by licensed buskers and street performers. This evaluation will scrutinise the current use of the 26 operational pitches, assessing their continued suitability. Recognising that certain pitches are deemed problematic and may require relocation, Officers will explore alternative locations across the city.
- 5.46 In addition to appraising existing pitch locations, Officers will actively seek out alternative sites to address the challenges posed by high-demand areas. Following this comprehensive assessment, any proposed changes to existing pitches or the inclusion of new pitch locations will be presented to the Licensing Committee for consideration. This proactive approach aims to ensure that pitch allocations align with the evolving needs of performers and the community while minimising disruptions and addressing any identified issues with current locations.
- 5.47 As part of this assessment, Officers will delve into options for enhancing pitch markings to ensure accessibility for individuals with disabilities, facilitating their identification and utilisation. Furthermore, there is an exploration of potential collaborations with local Business Improvement Districts (BIDs) for the maintenance of pitch markings in specific locations.
- 5.48 A notable initiative in this regard is the proposal presented by the Heart of London Business Alliance (HOLBA), expressing interest in undertaking the marking and maintenance

responsibilities for pitches in Leicester Square and Piccadilly Circus. This collaborative opportunity not only holds the potential to enhance the upkeep of pitch markings but also envisages relieving the associated costs from the Council.

## **6. Legal Implications**

- 6.1 This is a review of the existing policy. The review covers proposals to amend the application and determination process and the application fee. The review also covers proposals to amend the standard terms, conditions, and restrictions.
- 6.2 The Council must conscientiously consider the responses to the consultation. If amendments to the application and determination process, fees or the standard terms, conditions and restrictions are required these will be determined by the Licensing Committee in accordance with sections 36 and 40 of the London Local Authorities Act 2000.

## **7. Equalities Implications**

- 7.1 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.
- 7.2 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.
- 7.3 The Council recognises that it will review its Busking and Street Entertainment Policy and the licensing regime having regard to its equality duty.
- 7.4 An Equalities Impact Assessment has been completed for the proposed recommendations to amend the Licensing Policy, Codes of Conduct and Standard Conditions for busking and street entertainment. A copy of this assessment has been included with this report as Appendix 7.

## **8. Human Rights implications**

- 8.1 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.

- 8.2 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.
- 8.3 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.
- 8.4 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.
- 8.5 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.

## **9. Financial and Staffing Implications**

- 9.1 There are no staffing implications as a result of this report.

## **Appendices**

- Appendix 1 – Busking and Street Entertainment Licensing Policy - 2021
- Appendix 2 – Busking and Street Entertainment Licensing Policy Review Findings Report dated November 2023.
- Appendix 3 – Communities, City Management and Air Quality Policy and Scrutiny Committee Minutes, dated 31<sup>st</sup> July 2023.
- Appendix 4 – Proposed new sections for the revised Busking and Street Entertainment Licensing Policy
- Appendix 5 - Proposed revised Busking and Street Entertainment Code of Conduct
- Appendix 6 – Proposed revised Busking and Street Entertainment Standard Licence Conditions
- Appendix 7 – Equalities Impact Assessment

If you have any queries about this report or wish to inspect any of the background papers, please contact:

Mr Kerry Simpkin, Head of Licensing, Place & Infrastructure Policy  
Innovation and Change. Telephone: 07583 108491, Email: [ksimpkin@westminster.gov.uk](mailto:ksimpkin@westminster.gov.uk)

## **Background Papers**

London Local Authorities Act 2000  
Westminster City Council's Busking and Street Entertainment Licensing Policy 2021  
Busking and Street Entertainment Licensing Policy Review – Communities, City Management & Air Quality Policy, and Scrutiny Committee Report – 31<sup>st</sup> July 2023  
Busking and Street Entertainment Policy – Full Council Report and Minutes – 3<sup>rd</sup> March 2020  
Busking and Street Entertainment Policy – Full Council Report and Minutes – 9<sup>th</sup> December 2020  
Busking and Street Entertainment Policy - Licensing Committee Report and Minutes – 25<sup>th</sup> November 2020  
Busking and Street Entertainment Policy – Licensing Committee Report and Minutes – 23<sup>rd</sup> September 2020  
Busking and Street Entertainment Policy Consultation Results - Licensing Committee Report and Minutes – 8<sup>th</sup> July 2020  
Busking and Street Entertainment Policy - Licensing Committee Report and Minutes – 10<sup>th</sup> January 2019  
Street Entertainment Policy: Information Report - Licensing Committee Report and Minutes – 28<sup>th</sup> November 2018