

Busking Guidelines Consultation Results 2020

Final Decision-Maker	Council
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Lorraine Neale
Classification	Non-exempt
Wards affected	All

Executive Summary

This report provides a summary of the Council's recent consultation on the draft Busking Guidelines and asks the Committee to recommend the draft document for adoption by CHE Committee.

Purpose of Report

This report summarises the results of the Council's recent consultation on the draft Busking Guidelines and outlines the next steps to take. The full consultation report is attached as Appendix 1.

This report makes the following recommendations to this Committee:

1. To consider the options given at 3.1 and 3.2 and advise accordingly

Timetable

Meeting	Date
Licensing Committee	14 January 2021
Communities, Housing and Environment Committee	2 February 2021

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1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer
Cross Cutting Objectives	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer
Risk Management	<ul style="list-style-type: none"> <i>Street entertainers and buskers must take full responsibility for their performance taking reasonable steps to ensure that the performance does not put the public at risk of injury, that the law is observed at all times. It is recommended that all entertainers carry suitable Public Liability insurance.</i> 	Senior Licensing Officer
Financial	<ul style="list-style-type: none"> <i>Staff resource may be required for enforcement purposes in exceptional circumstances. There may be financial costs involved where legal action may be required.</i> 	Senior Licensing Officer
Staffing	<ul style="list-style-type: none"> <i>There are no licensing implications but this could be subject to review following a trial period</i> 	Senior Licensing Officer
Legal	<ul style="list-style-type: none"> <i>Busking does not generally require a licence under the Licensing Act 2003. Use of legislation under: The Environmental Protection Act 1990, The Highways Act, 1980, The Public Order Act 1986, The Noise and Statutory Nuisance Act 1993, The Anti-Social Behaviour, Crime and Policing Act 2014, Control of pollution Act 1974, Children under the age of 14 are not allowed to busk by law.</i> 	Legal Team
Privacy and Data Protection	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Policy and Information Team

Equalities	<ul style="list-style-type: none"> <i>Common-sense, care and judgement will be critical in deciding on performance space. Performance should not cause any distress, offence or similar. The Voluntary Guidelines seeks to promote positive community engagement.</i> 	Senior Licensing Officer
Public Health	<ul style="list-style-type: none"> <i>No implications have been identified</i> 	Senior Licensing Officer
Crime and Disorder	<ul style="list-style-type: none"> <i>There are public spaces where people live and work and as such there is a greater potential for performances to cause unintentional disturbance. The Police also have powers where they consider a public nuisance, obstruction or anti-social behaviour is being caused and may also take action, on receiving a complaint. To minimise the potential impact entertainers and buskers are advised to follow the Voluntary Guidelines</i> 	Senior Licensing Officer
Procurement	<ul style="list-style-type: none"> <i>No implications have been identified.</i> 	Senior Licensing Officer

2. INTRODUCTION AND BACKGROUND

2.1 The Council recognises the contribution that busking and street entertainment brings to the vibrancy and character of our town but there must be a balance with the needs and rights of local residents and workers so they are not adversely impacted by it, especially for those near to popular busking locations.

2.2 On 18th June 2020, this Committee heard the Council's proposal to adopt new Busking Guidelines which are intended to encourage good community practice in shared spaces for performers, business and residents alike. Committee agreed that the document be consulted on and the consultation period ran from 9 September to the 1 November 2020.

Busking Guidelines Consultation

2.3 The consultation was launched on the Council website and promoted through social media by the Policy, Communications and Governance Team. Alternate arrangements were made for those unable to access online services.

2.4 The consultation sought feedback on the whether they were in favour of the introduction of Busking Guidelines, out of a total 93 responses, 79 (84.9%) answered yes.

2.5 They were also asked if the proposed Guidelines were proportionate, again out of 93 responses, 67 (72.0%) answered yes.

2.6 The detailed consultation report can be found at Appendix 1, a small percentage of the respondents made comments where they felt the Guidelines did not adequately address some areas and may require further consideration:-

1. **Set performance spaces and set the distances between them.**

Do not currently specify pitches/areas for performances to take place in, we could consider having specific performance areas with set distances between them. (2 set performance spaces, 3 set distances)

2. **Limit the length of a performance.**

Do not specify time durations for performances but does imply that 2 hours should be a maximum and that a break should be taken after 45 minutes, we could consider setting the performance times for entertainers. (2)

3. **Deal with amplification issues**

There are no fixed levels for volume and it is expected most street entertainers would use battery powered portable amps, we have dealt with noise levels in the Guidelines by including "If your volume is loud enough to be heard inside buildings in the surrounding area or from the opposite side of a street, it is likely this is too loud and would be considered unreasonable" However, we could consider banning any amplification or specifying the acceptable decibel levels in the Guidelines. (6 in total, 2 problem, 1 ban, 3 clarify)

4. **Concern that the principles outlined in the Guidelines are too vague and could not be enforced against.**

The Busking Guidelines are a set of rules which are purely voluntary and gives a picture of how the Council expects all parties to behave, currently as they are written it expects all buskers to comply with our requested recommendations. In any first instance where a busker does not, we expect the business or member of the public to remind the busker of the guidelines. If it becomes clear that a busker shows regular non-compliance then they will be dealt with by the relevant Council department dependant on the offence deemed committed.

District Councils do not benefit from the provisions found in the London Local Authorities Act (LLAA) 2000, which enables London Councils to adopt enforceable policy around busking. For Maidstone to have similar powers would require a bye-law, which is time-consuming and expensive to achieve. In view of the relatively low number of complaints about busking, this would not be a proportionate course of action to pursue.

Given the lack of enforcement powers the Licensing Department have over street entertainers the Guidelines stipulate what actions can be taken by other departments/parties. (4)

Next Steps

- 2.7 The Council does not take the introduction of regulating busking and street entertainment lightly, but considers it necessary due to complaints received about some buskers and the detrimental impact it can have on the daily lives of our residents and workers. Our current lack of licensing enforcement powers over buskers and not having a dedicated resource to respond to any impact effectively needs to be considered if we make the Guidelines too prescriptive.
 - 2.8 Currently there is nothing in place to regulate street entertainment in Maidstone and the Guidelines are considered the starting point and will be kept under review. Overall the majority of the respondents agreed with the Guidelines and only a small number made comments or suggestions.
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3. AVAILABLE OPTIONS

- 3.1 To recommend that CHE Committee agrees the proposed draft voluntary Busking Guidelines as attached at Appendix 2.
 - 3.2 To further investigate the matters raised from the consultation and decide whether to incorporate all or some into the Guidelines. The amended document will be subject to a further consultation.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 To recommend that CHE Committee agrees to the proposed draft voluntary Busking Guidelines, although we have received complaints about street entertaining in Maidstone it tends to be in relation to specific individuals rather than busking as a whole. As we have not managed busking or street entertainers before in Maidstone it's felt that this voluntary document be implemented as the starting point which will be kept under review and replaced with a more prescriptive version if future circumstance determine it should be.
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5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Guidelines.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 Consultation results are addressed in this document and attached as Appendix 1

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Officers will update the Council Webpages to include the minutes of the meeting.
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8. REPORT APPENDICES

1. Consultation response summary
 2. Draft Busking Guidelines
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9. BACKGROUND PAPERS

N/A