



**Report to: Licensing and Environmental Health Committee, 19<sup>th</sup> December 2016**

**Report of: The Head of Worcestershire Regulatory Services on behalf of Worcester City Council**

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**Subject: BUSKING**

**1. Recommendation**

**1.1 That the report on Busking be noted.**

**2. Purpose of Report**

2.1 The purpose of this report is to inform and update members on work which has taken place in relation to the control of busking in Worcester City Centre and give details on the various options which are open to the Council, and which are currently being explored by Officers.

**3. Background**

3.1 The definition of busking is "to play music in the street or other public place for voluntary donations".

3.2 Over the past few years there has been a noticeable rise in the number and variety of street entertainers and busking acts performing in Worcester City Centre during the week and also at weekends.

3.3 Buskers on the whole are seen to add to the vibrancy of the city centre, with the majority of acts being welcomed and enjoyed by members of the public and Worcester City Council is keen to encourage quality live music and performances which enhance the experience and encourage both visitors and shoppers to the City.

3.4 During the summer months some acts have caused concern and have allegedly had an adverse effect on some high street businesses, in terms of volume and the duration of performances.

3.5 Complaints have been received by the Council, Regulatory Services and Worcester BID and businesses have asked for action to be taken to remove busking activity from the city centre completely or limit the activities of the performers.

3.6 In an attempt to address these concerns, meetings have taken place involving the Council's Local Centres Officer, Licensing, Environmental Health, Community Safety and the Worcester BID. As part of the general discussions which have taken place, Officers have explored the different options open to the Council, with the aim of implementing the most appropriate and proportionate course of action.

## **4. Controls**

### **General**

- 4.1 There are no simple controls for busking as it is not illegal and outside of London there is no current legislation that allows councils to regulate the act of busking through licensing, authorisation or permit schemes.

### **Licensing**

- 4.2 Members will also be aware that the Licensing Act 2003 cannot be used to control busking as under this Act busking is not a licensable activity.

### **Environmental Health**

- 4.3 The Environmental Protection Act 1990 can be used to control noise nuisance, although this legislation is primarily used to protect people in their homes. It does require a subjective assessment of detriment caused by the performance / noise, based on volume, duration and the type of noise, and is therefore not straightforward.
- 4.4 In the case of transient noise, and multiple noise sources there can also be difficulties in obtaining evidence to put before the courts. It is therefore unlikely that this legislation can be used in all but exceptional cases.

### **Public Space Protection Orders (PSPO)**

- 4.5 The Anti-Social Behaviour, Crime and Policing Act 2014, allows Councils to introduce PSPOs, to deal with particular types of nuisance in identified areas that are having a detrimental effect on the quality of life for people in the local community. The types of activities which are normally included in PSPOs are things such as antisocial alcohol consumption in public places, dog fouling, begging etc.
- 4.6 To include an activity such as busking in a PSPO, a Council should consider two things:
- Is the activity or behaviour having a detrimental effect, or likely to have a detrimental effect
  - whether the effect/likely effect of the activities is of a persistent nature making the behaviour unreasonable and therefore rendering the notice justified
- 4.7 PSPO's can be limited to certain people and can be restricted to specific times. A PSPO can last no longer than 3 years but can be renewed if necessary. Failure to comply with order can result in a fine or a fixed penalty notice.
- 4.8 Very careful consideration should be given before seeking to implement a PSPO to prohibit busking. Members should note that in 2015 Birmingham City Council considered a blanket control for much of their street entertainment via a PSPO, however the overwhelming response to their public consultation was that they were not in favour of such a step, as the majority stated that they were in support of and enjoyed the entertainment that buskers provide.

### **Street Performers Code**

- 4.9 The Council's Local Centres Officer is currently in the process of producing a "Code of Best Practice" which will apply to all street performers busking in the city centre.
- 4.10 The code is designed to act as a guide to any person(s) wishing to busk in the city centre and gives perspective performers clear guidance on relevant topics such as Noise Levels, Locations, Timings, Collection of Money, Public Safety and the Ceasing of Performances. The code gives a clear expectation of the conduct of buskers in the city, in an attempt to minimize any potential issues that may be associated with busking.
- 4.11 The Code has been produced in liaison with Worcester BID, Street Live and Local musicians and Regulatory Services. Its main aim is to promote well managed street entertainers and strike a balance between those wishing to perform, the general public and local businesses operating in the City.
- 4.12 A draft code is attached to this report at **Appendix 1** for comment.

**Ward(s):** All  
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**Background Papers:** None