

<b>Policy Development and Review Committee</b>		<b>Agenda Item: 6</b>
<b>Meeting Date</b>	23 March 2016	
<b>Report Title</b>	Voluntary Code of Conduct for Street Entertaining and Busking In Swale	
<b>Cabinet Member</b>	Cllr Ken Pugh, Cabinet Member for Community Safety and Health	
<b>SMT Lead</b>	Kathryn Carr, Director of Regeneration	
<b>Head of Service</b>	Emma Wiggins, Head of Economy and Communities	
<b>Lead Officer</b>	Lyn Newton, Economy and Community Services Manager	
<b>Key Decision</b>	Yes	
<b>Classification</b>	<b>Open</b>	
<b>Forward Plan</b>	Yes	
<b>Recommendations</b>	1. To provide feedback and input into the draft Voluntary Code of Conduct for street entertaining and busking in Swale prior to consultation	

## **1 Purpose of Report and Executive Summary**

- 1.1 This report provides details regarding a draft Voluntary Code of Conduct for street entertaining and busking in town centre locations in Swale (Appendix I).
- 1.2 The Council now wishes to consult residents and business organisations that may have an interest before seeking approval to adopt the draft Voluntary Code of Conduct for street entertaining and busking. It is proposed that a review is undertaken within two years following an initial trial period.

## **2 Background**

- 2.1 In 2014, the Musician's Union requested policy details for street entertainers and buskers performing in public places. Swale does not currently have such a policy. In order to 'build a picture', an information call-out and general comments around street entertainment and busking nationally have come via the Local Government Association, British Destinations, Statistical Neighbours and the multi-agency Safety Advisory Group.
- 2.2 The Council is keen to encourage a vibrant street scene providing a platform for performances of music, dance, street theatre or song in public places with the intention of attracting and engaging an audience.

- 2.3 The Council does not licence street entertainers or buskers but does have an obligation in law relating to noise, obstruction and anti-social behaviour.
- 2.4 A Voluntary Code of Conduct is intended to encourage good community practice in shared spaces allowing performers and buskers to co-exist with business and residents.
- 2.5 The performances are normally impromptu and informal but set within the parameters of the Voluntary Code of Conduct. Performers are not paid or hired for performances but may receive contributions from members of the public.

### **3 Proposals**

- 3.1 This report invites the Committee to consider the draft Voluntary Code of Conduct.
- 3.2 Feedback from the Committee is specifically sought on the following issues
- Do you agree with the proposed hours of operation?
  - Are the performance exceptions adequate?
  - Is the restriction of two hours performance for entertainers and buskers in any one area correct?
  - Do you agree with the proposed outcomes for the towns arising from the Voluntary Code of Conduct?
  - Do you agree that the policy should be reviewed within two years?
  - Are there any potential unintended negative consequences to groups with protected characteristics from implementing this Voluntary Code of Conduct?
  - Are there any general comments?

### **4 Alternative Options**

- 4.1 Not to agree to consult and adopt the Voluntary Code of Conduct. This is not recommended as the Council is keen to encourage a vibrant street scene and to take a view from local business and residents to measure the level of support for developing a culture within our town centres which supports performances of music, dances, street theatre or song in public places. The Council suggests the performances meet the standards set out in a Voluntary Code of Conduct for street entertaining and busking in Swale.

### **5 Consultation Undertaken or Proposed**

- 5.1 Informal consultation has been undertaken to source good practice through the Local Government Association, British Destinations, CIPFA Statistical Near Neighbours and the multi-agency Safety Advisory Group..

- 5.2 An 8 week consultation will be undertaken with local businesses, residents, The Musician’s Union, The Keep Streets Live Campaign, Equity (incorporating the Variety Artistes’ Federation) and other stakeholders (statutory agencies, town teams, market co-operatives) and internal service areas (e.g. licensing)

## 6 Implications

Issue	Implications
Corporate Plan	<p>A Borough To Be Proud Of – priority theme focuses on actions with promote Swale as a physical place</p> <p>A Community To Be Proud Of – priority theme focuses on the Council’s aspirations for the people of Swale</p>
Financial, Resource and Property	<p>One-off corporate communication costs associated with the creation of a web-based promotional leaflet promoting the Voluntary Code of Conduct. Staff resource may be required for conflict resolution (Environment Warden/Police) but this would be exceptional rather than a regular occurrence based on other local authority experiences. In exceptional cases where legal action may be required there could be financial costs arising from legal action. There are no licensing implications but this could be subject to review following a trial period.</p>
Legal and Statutory	<p>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 Noise and Statutory Nuisance Act 1993 and The Anti-Social Behaviour, Crime and Policing Act 2014.</p> <p>Children under the age of 14 are not allowed to busk by law.</p>
Crime and Disorder	<p>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 Code of Conduct.</p>
Sustainability	<p>The Voluntary Code of Conduct should be reviewed after a period of up to two years to measure the benefits and/or disbenefits to entertainers and buskers as well as residents and businesses.</p>
Health and Wellbeing	<p>Where possible street entertainers and buskers should speak to residents and businesses in close proximity to performance areas anticipating the impact that performance will have on other users of the space. Sharing public space and co-operating with others is an important aspect of outdoor performances. A willingness to</p>

	compromise and to engage with others will help to resolve any issues.
Risk Management and Health and Safety	There are no recommendations around fixed street entertainment or busking pitches in Swale. There will be ever-changing considerations according to the time of the day and season. The Voluntary Code of Conduct provides guidelines in using shared spaces and the value and importance of dialogue between all users of the space. 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.
Equality and Diversity	Common-sense, care and judgement will be critical in deciding on performance space. Performance should not cause any distress, offence or similar. The Voluntary Code of Conduct seeks to promote positive community engagement.

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Voluntary Code of Conduct for Street Entertaining and Busking

## 8 Background Papers

None

## The Voluntary Code of Conduct for Street Entertaining and Busking in Swale

Swale welcomes street entertainers and buskers on Council-owned land and between the hours of 10am and 4pm. No licence is required for street entertainment or busking in Swale but please respect the guidelines set out:

- Noise – music and voice – should not be so loud that it can be heard beyond the immediate audience. Drumming should only be included as a minor part of the entertainment. Keep noise at a reasonable level so local shops and businesses can continue their business without interruption
- Please do not use mains or generator power for amplification
- Performances should **not** include fire, knives, weapons, removal of clothing, nudity, live animals (other than registered assistance dogs); performers should not act in such a way, say something or use language that is likely to cause offence
- Do not obstruct the flow of pedestrians on the pavement or vehicles on the highway (this includes pavements and pedestrianised areas) and leave access clear on the street at all times for emergency vehicles. Crowds can cause a problem with access. If you know your act will draw a crowd please select an appropriate area that can accommodate them
- An entertainer or busker should have consideration for people who live, work and visit the locality and limit the length and volume of their performance. We recommend that each performance should last no longer than 20 minutes with a break of at least 30 minutes. Entertainers or buskers are advised to move to another pitch after a **maximum** of two hours and should not perform again at that location for three hours. This helps keep complaints to a minimum
- An entertainer or busker should not locate within earshot of another entertainer or busker who is already performing or in close proximity to a public telephone shop entrance/ window display or cash machine either because of noise or obstruction
- An entertainer or busker should move on or stop performing if requested to do so by a Police Officer or an Environment Warden from the Council
- Please do not make use of street furniture or trees (Memorials, lamp columns, cycle stands, waste bins, walls, shelters, public seats, flower planters or baskets)
- We do not permit selling by street entertainers or buskers. If you wish to sell copies of your performance as ancillary to the street entertainment or busking you will require a street trading licence from Swale Borough Council (01795 XXXXXX) or [licensing@swale.gov.uk](mailto:licensing@swale.gov.uk) or see [www.swale.gov.uk/licensing](http://www.swale.gov.uk/licensing); donations from the public may be collected in a small receptacle (e.g. hat, music case, box)
- An entertainer or busker is not permitted to collect for charitable purposes. This would be a 'street collection' and requires a permit

- The quality of the performance should demonstrate a positive intention to passers-by, not to solicit money through sympathy
- It is advised the Public Liability Insurance be obtained for all performers
- If you play or perform music in public, a licence fee must be paid to the Performing Rights society (PRS) for the copyright. You can contact the Performing rights Society on Freephone 08000 68 48 28, or email [musiclicence@prs.co.uk](mailto:musiclicence@prs.co.uk)
- If the music is played in public on sound recordings such as CDs or tapes, an additional licence fee is also required for the sound recording copyright, paid to the Phonographic Performance Ltd (PPL) and distributed to record companies and performers

Please check on [www.visit-swale.co.uk](http://www.visit-swale.co.uk) for any major events or festivals on the day you are planning to visit and liaise with the event or festival organiser to see how you might get involved

#### Feedback

The Council welcomes feedback via [csc@swale.gov.uk](mailto:csc@swale.gov.uk) or on 01795 41 6421