

Executive Decision Report

Decision maker and date of Leadership Team meeting or (in the case of individual Lead Member decisions) the earliest date the decision will be taken	Leadership Team 7 October 2020 Forward Plan reference: KD05612/20/E/A. Portfolio: Councillor Cem Kemahli, Lead Member for Environment	 <p>THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA</p>
Report title	Review of the Busking and Street Entertainment Policy and PSPO	
Reporting officer	TERRY OLIVER – Director of Cleaner, Greener and Cultural Services	
Key decision	Yes	
Access to information classification	Public	

1 EXECUTIVE SUMMARY

1.1. In July 2019, the Council established the Busking and Street Entertainment Policy which included establishing two Public Space Protection Orders (PSPOs).

1.2 A red zone (Zone 1) PSPO which prohibited most busking and street entertainment in the areas within that zone and regulated busking and street entertainment that was exempted from the prohibition. This allowed the following busking and street entertainment to take place:

- Performances of mime, living statue and similar performances, excluding the use of any form of musical or percussive device or instrument.
- Performances of clowning, excluding singing or the use of any form of musical or percussive device or instrument.
- Performances of theatrical presentations or other spoken word, excluding singing or the use of any form of musical or percussive device or instrument.
- Performances of magic tricks, magician shows and similar performances, excluding singing or the use of any form of musical or percussive device or instrument.
- Performances of juggling with balls, clubs or rings or similar objects but not knives, other sharp objects of live flame (excluding singing or the use of any form of musical or percussive device or instrument).

1.3 The second PSPO was the purple zone (Zone 2) PSPO which allowed regulated busking and street entertainment. The Policy and PSPOs are intended to promote responsible busking and street entertainment but to regulate busking in areas where activity is anti-social and has a detrimental impact on the local community (residents, businesses, organisations and road users).

1.4 The purple zone (Zone 2) PSPO regulated busking and street entertainment as follows:

- A performance of busking or street entertainment in any one location must be for no more than 45 minutes in duration.
- Once a performance of busking or street entertainment has taken place in a particular location, the individual performers providing that entertainment shall not perform in the same location on the same calendar day. A performance is deemed to have taken place as soon as any entertainment has begun, whether or not the performers make full use of the 45 minutes allowed for the performance.
- Buskers and street entertainers shall ensure that each new location is at least 100 meters away from any previous location (that is at least the length of a football pitch).
- Busking or street entertainment is only permitted between the hours of 10:00 and 19:00.
- Buskers and street entertainers shall not use any amplifiers, loudspeakers, megaphones or any similar equipment in their performance.
- Buskers and street entertainers shall ensure that sound levels are not intrusive. Sound that prevents or hinders normal conversation taking place 10 meters or more from a performance will generally be considered intrusive.
- Buskers and street entertainers shall ensure a full and varied repertoire (avoiding excessive repetition of any song or piece of music).
- Buskers and street entertainers shall ensure that performances shall *generally* consist of no more than six performers. Except that in the Purple Regulated Areas the maximum number of performers is limited to three; and in the Red Restricted and Regulated Areas the maximum number of performers is limited to two.
- Buskers and street entertainers must have public liability indemnity insurance in place for up to £2 million and must be able to immediately produce evidence of the policy to any person authorised by the Council or the Police or any Police Community Support Officers
- Buskers and street entertainers shall ensure that their performance does not cause an unreasonable obstruction to other pedestrians and road users.

- Buskers and street entertainers must not sell any goods (such as CD recordings) without the requisite authority from the Council.
 - Buskers and street entertainers must act on the reasonable instructions given to them by any person authorised by the Council or the Police or Police Community Support Officers in particular where those instructions are based on their assessment that the busking or street entertainment is having a detrimental effect on the quality of life of those in the locality.
- 1.5 The Key Decision taken in July 2019 stated a six-month review of the PSPOs would be undertaken to review the effectiveness of the PSPOs and to identify if any variations are required to deal with displacement and remaining high impact areas.
- 1.6 This report sets out the findings of the six-month review and the details the resulting proposed variations to the PSPOs, and the supporting evidence for each variation.
- 1.7 The PSPOs have reduced busking complaints by 54% in the first three months (July to Oct 2019) and between July and February by 15.5%, compared to the same period in 2018/19.
- 1.8 The proposed variations to the red zone (Zone 1) PSPO include one new zone outside **Sloane Square Underground Station**.
- 1.9 The remaining proposed variations involve removing some areas from the purple zone (Zone 2) PSPO and adding them to the red zone (Zone 1) PSPO at the following locations:
- Around Harrods, to include all the shop frontages up to 63 Brompton Road and extended along half of Basil Street from Hans Crescent.
 - The stretch of Exhibition Road from the Science Museum up to Imperial College Road which was previously included within the purple zone.
 - The area outside High Street Kensington Underground Station up to Derry Street and part of Wright's Lane,
- 1.10 The purple zone (Zone 2) PSPO variation proposals include incorporating the following new locations:
- Outside Gloucester Road Underground Station from Cromwell Road to Courtfield Road.
 - From 63 Brompton Road, to Knightsbridge Underground Station at the junction with Sloane Street

- Sloane Square and the junctions of King's Road, Symons Street, Sloane Street and Lower Sloane Street (apart from the area outside the underground station that is proposed as a restricted area within the red zone)
- High Street Kensington from Campden Hill Road to Kensington Church Street and on both sides of Kensington High Street from Derry Street to Young Street.

- 1.11 See **Appendix 1** for the original PSPO location maps and updated maps showing the proposed variations listed above.
- 1.12 Due to the Covid-19 pandemic and the associated lock down measures put in place in March 2020, the footfall in the Borough was significantly reduced and impacted the viability of busking and street entertainment. As the lock down measures ease and footfall increases again, it is anticipated busking and street entertainment will also return.
- 1.13 This report seeks the approval of the Lead Member for Environment to approve a six-week public consultation on the proposed variations, following the review. Once the consultation is completed a new Key Decision can be made to approve the updated Policy and variations to the PSPOs (subject to the consultation findings).

2 RECOMMENDATIONS

- 2.1 The Lead Member for Environment is recommended to approve the commencement of a six-week statutory public consultation on the proposed PSPOs variations identified by the review.
- 2.2 The consultation findings will be used to update the Busking and Street Entertainment Policy and PSPO's, then formal approval by the Leadership Team will be sought on the updated Policy and PSPOs.

3 REASONS FOR DECISION

- 3.1 The Council produced a Busking and Street Entertainment Policy and PSPOs in July 2019 to promote responsible busking and street entertainment, but also to regulate busking and street entertainment in areas where activity is anti-social and causes a detrimental impact to the local community. The July 2019 Key Decision highlighted a six-month review would be conducted.
- 3.2 ***“The PSPOs, Policy and Guide have been slightly amended following on from the consultation findings, this includes some minor changes to the PSPOs regulated activities and the Policy, Guide and PSPOs***

will be reviewed again after six-months to ensure effective and additional amendments considered”

Para 7.8 of the KDR tabled at Leadership Team on July 10, 2019

- 3.3 The Policy and PSPOs has successfully reduced busking and street entertainment related complaints the Council has received between July 2019 and the end of February 2020 by 15.5%, compared to the same period in 2018/19. Overall, the Policy and PSPOs has been effective at reducing the detrimental impact busking and street entertainment has had on local residents, businesses, organisations and road users.

“The busking [PSPO] has had a transformational effect on my mental health, wellbeing and productivity at work. A major source of debilitating stress has been removed from my daily life, allowing me to give my work the full and proper attention it deserves. Thanks”

“My office faces Cromwell Road and the corner of Exhibition and Cromwell roads, where the buskers used to play. Having the [PSPO] has made an immense difference to my work Before I was distracted by the loud noise, but also the repetitive nature of the songs being played. I do feel it was affecting me badly and making it very difficult to work effectively”.

“The busking ban has been effective and has greatly improved the work environment in my office. As a scientist having to concentrate on reading and writing complex research papers the loud and endlessly repeated music produced along Exhibition Road was a serious distraction, affecting my productivity and quality of work. It is vitally important for my day-to-day functioning that the busking ban stays in place permanently.

NB: I write this as an enthusiastic musician, who has done a fair bit of busking in the past”

Feedback from workers whose offices are located at the junction of Exhibition Road and Cromwell Road

- 3.4 That said, busking and street entertainment is still problematic in certain areas of the borough and the PSPOs have caused some displacement issues. The six-month review allowed complaint data to be reviewed and feedback to be obtained from residents, organisations, businesses and Councillors on how effective and/or ineffective the Policy and PSPOs had been.

- 3.5 The data obtained shows areas of high impact busking activity caused by displacement, such as Sloane Square. This location was not included in the July 2019 PSPOs as the Council wanted to be proportionate and reasonable. During 1 July 2018 and 1 June 2019, 34 busking complaints were recorded at Sloane Square, this increased to 62 complaints being recorded between July 2019 and the end of February 2020, an increase of 83% or 10% of all busking complaints received during this period.

- 3.6 Impact statements from residents, businesses and organisations have also been obtained which show the detrimental impact busking is having on people's lives.

".....As previously mentioned this is having a material impact on our household, driving my autistic daughter mad and seriously distracting my older daughter's 11+ exams revisions. Given that he is consistently there every day from 5:30pm...."

"....Don't we have a right, as residents of the Borough, to live peacefully and quietly in Sloane Square? Sadly, this is getting to the point where we are considering moving to a different address."

A statement from a Local Resident

Therefore, additional proportionate, reasonable and evidence-based variations to the PSPO's which are shown in **Appendix 1** are needed to mitigate against this detrimental impact.

4 BACKGROUND

- 4.1 The Council recognises the contributions that busking and street entertainment can make to the vibrancy and character of the Borough. This must be balanced with the needs and rights of local residents, organisations and businesses so they are not detrimentally impacted by it, especially for those near to popular busking locations.
- 4.2 Kensington and Chelsea is densely populated with residential areas sited close to and within nationally and internationally recognised commercial, cultural and tourist destinations. Areas of high footfall are attractive to buskers and street entertainers, but this can cause significant intrusion, annoyance and detrimental impact to the local community (residents, local workers, businesses and organisations) as certain locations have a high number of performances on a daily basis, meaning locals get no respite for lengthy periods of time.
- 4.3 Therefore, in July 2019 a Busking and Street Entertainment Policy and PSPOs were introduced to address the detrimental impact of busking and street entertainment on local residents, businesses, organisations and road users. It was important the Policy and PSPOs were evidence based, proportionate and reasonable and only targeted areas where there was a detrimental impact if busking and street entertainment took place.
- 4.4 The Policy and PSPOs have successfully reduced busking related complaints to the Council by 15.5% since it was introduced but has also had unintended consequences of displacing busking and street entertainment to other areas in the borough. The six-month review allowed a borough-wide analysis of busking and the impact it was having, since the Policy and PSPOs come into effect in July 2019. The review also allowed variations to the Policy and PSPOs to be identified which would help to

mitigate the remaining detrimental impact caused by busking and street entertainment.

- 4.5 The complaints data since July 2019 highlights problems with busking in Sloane Square, around Gloucester Road tube station, around Harrods and Kensington High Street.

5 PROPOSAL AND ISSUES

- 5.1 The review (July 2019 to the end of Feb 2020) of the current Busking and Street Entertainment Policy and PSPOs, which included analysing complaint data and liaising with key stakeholders (residents, businesses, Councillors and organisations) on what works well and what, if any additional measures are needed to address on-going busking related issues. This review has resulted in the proposed variations to the PSPOs as set out in this report.
- 5.2 Overall, Busking complaints between July 2019 to and the end of Feb 2020 have reduced by 15.5% from 709 to 599, compared to the same period in 2018/19. See Table 1 below;

Date range	Overall no. of busking complaints
1 July 2013 – 30 June 2014	264
1 July 2014 – 30 June 2015	424
1 July 2015 – 30 June 2016	1,137
1 July 2016 – 30 June 2017	1,601
1 July 2017 – 30 June 2018	1,128
1 July 2018 – 30 June 2019	1,164
1 July 2018 – 28 Feb 2020	709
1 July 2019 – 28 Feb 2020	599

Table 1: Busking Complaint Data for the whole Borough between 2013-present

- 5.3 Busking hasn't reduced in all areas and some displacement of busking activity has taken place. This is shown by the busking complaint data for Sloane Square see **Table 2** below, which has increased by nearly 85% since the introduction of the PSPOs and now accounts for over 10% of busking complaints.

Date range	Sloane Square complaints	% Sloane Square complaints of overall
1 July 2013 – 30 June 2014	3	1.1%

1 July 2014 – 30 June 2015	10	2.3%
1 July 2015 – 30 June 2016	14	1.2%
1 July 2016 – 30 June 2017	12	0.75%
1 July 2017 – 30 June 2018	83	7.3%
1 July 2018 – 30 June 2019	34	2.9%
1 July 2019 – 4 March 2020	62	10.3%
<i>1 July 2019 – 30 June 2020 Projected</i>	93	

Table 2: Busking Complaint Data for Sloane Square

5.4 There has also been limited reduction or similar increases due to displacement in other areas, these include areas around Gloucester Road Underground Station, Kensington High Street, the northern stretch of Exhibition Road, and areas between Harrods and Knightsbridge Station.

See Table 3 below

Location	July 2019 – March 2020	July 2018 – June 2019	July 2017- June 2018	July 2016- June 2017
Sloane Square	62	34	83	12
Gloucester Road	4	0	1	1
The northern stretch of Exhibition Road	42	65	50	77
Around Harrods	106	73	154	352
Kensington High Street	112	147	124	154

Table 3 – Busking Complaints at high impact sites

5.5 Gloucester Road Underground Station has limited complaints at present but seems to be becoming a more popular busking location due to displacement. Therefore, this location has been incorporated into the purple zone (Zone 2).

5.6 Due to the complaint data it is proposed that the following high impact locations are incorporated in an updated red zone (Zone 1) PSPO:

- A new red zone (Zone 1) area outside Sloane Square Underground Station

- Around Harrods. Changing the existing purple zones (Zone 2) to red zones (Zone 1)
- Exhibition Road from the Science Museum up to Imperial College Road which was previously included within the purple zone
- The area outside High Street Kensington Underground station, which was previously included within the purple zone

5.7 Plus it is proposed the following locations are incorporated in an updated purple zone (Zone 2) PSPO:

- A new area outside Gloucester Road Underground Station
- A new area from 63 Brompton Road to Knightsbridge Underground Station
- A new area around Sloane Square and the junctions of King's Road, Symons Street, Sloane Street and Lower Sloane Street (apart from the area outside the underground station that is proposed as a restricted area within the red zone)
- A new area including Kensington High Street from Campden Hill Road to Kensington Church Street and both sides of Kensington High Street from Derry Street to Young Street.

5.8 See **Appendix 1** for the original PSPO location maps and updated maps showing the proposed variations listed above.

5.9 Once the proposed consultation is completed (and dependent on the consultation findings) the variations in the PSPO zones will require both PSPOs to be updated, along with the Busking and Street Entertainment Policy to reflect these changes and before these are formally approved by a Leadership Team Key Decision.

6 OPTIONS AND ANALYSIS

- 6.1 The Council did not take the adoption of the Busking and Street Entertainment Policy and PSPOs lightly in July 2019. Busking and street entertainment had been causing serious issues for a long time (since 2009).
- 6.2 The Busking and Street Entertainment Policy and PSPOs have reduced busking related complaints but has caused unintended displacement. Therefore, as stated in the Key Decision Report agreed at Leadership Team Meeting on 10 July 2019 a review of the Policy and PSPOs would take place after six-months to ensure it is effective and additional amendments to the PSPOs can be considered.
- 6.3 The findings from the review include complaint data, feedback from residents, resident associations, businesses, community groups and organisations. These findings clearly show busking is still causing a detrimental impact in limited areas of the borough which were not included in the original PSPOs or where included in Zone 2 (purple zone) PSPO. Therefore, in order to address the impact caused by busking, variations to the PSPOs are being proposed, which are proportionate, evidence-based and reasonable.
- 6.4 Busking complaints have decreased overall by 15.5% from July 2019 to the end of February 2020, but have increased at the following locations as a result of displacement:
- **Sloane Square:** Increased from 12 busking complaints in July 2016 to June 2017 up to 62 in July 2019 to March 2020, an increase of over 500%
 - **Gloucester Road:** Increased from 1 busking complaints in July 2016 to June 2017 up to 4 in July 2019 to March 2020, an increase of 400%
- 6.5 Busking also remains a persistent and detrimental problem at some locations where the PSPOs were established, especially in some of the purple zones (Zone 2). The current PSPO does permit regulated busking to take place but this is still causing a detrimental impact to local residents, businesses, organisations and road users. Hence, the need to extend the area of the PSPOs and change some of the PSPO zones from the purple zone (Zone 2) to the red zone (Zone 1) for the following locations:
- **The northern stretch of Exhibition Road:** Busking complaints have decreased from 77 busking complaints in July 2016 to June 2017 down to 42 in July 2019 to end of February 2020.
 - **Around Harrods:** Busking complaints have increased from 73 busking complaints in July 2018 to June 2019 up to 106 in July 2019 to end of February 2020.

- **Kensington High Street:** Busking complaints have decreased from 147 busking complaints in July 2018 to June 2019 down to 112 in July 2019 to end of February 2020.

6.6 Impact statements have been obtained from residents in the above areas detailing the detrimental impact busking is having on their daily life. Please see **Appendix 2** for the impact statements.

7 CONSULTATION AND COMMUNITY ENGAGEMENT

7.1 The six-month review sought feedback on the Policy and PSPO from Councillors, residents, resident associations, businesses, community groups and organisations, plus analysed the relevant complaint data to identify any variations needed.

7.2 This included feedback from the following:

- Market Streets Action Group
- Colville Forum
- Portobello and Golborne Market Group
- Colville, Hans Town & Brompton and Royal Hospital ward Councillors
- Knightsbridge Association
- Exhibition Road Culture Group (representing the institutions in and around Exhibition Road)
- Old Court House Residents' Group
- Residents
- Council Enforcement Officers

7.3 The proposed Policy and PSPOs variations will then be consulted on for six weeks. This will include consulting Councillors, residents, road users, buskers, businesses and organisations. An online survey will be produced which will include the proposed variations and will seek the views on the proposals. The consultation will be sent to all Resident Associations, promoted on social media and the Council's webpage.

7.4 Depending on the consultation findings it is proposed the variations area then added to the existing Busking and Street Entertainment Policy and PSPO, via a Key Decision agreed by the RBKC Leadership Team in early Summer 2020.

8 HUMAN RESOURCES AND EQUALITIES IMPLICATIONS

8.1 An Equality Impact Assessment on the proposed changes has been conducted, **see Appendix 3**.

9 LEGAL IMPLICATIONS

- 9.1 The ability to make or vary a Public Spaces Protection Order (PSPO) is governed by Part 4, Chapter 2 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the 2014 Act”).
- 9.2 In making the proposals in this report, the Council and its officers have had regard to the statutory guidance for frontline professions (as updated in December 2017) that has been issued by the Secretary of State pursuant to section 73 of the 2014 Act. The guidance requires the Council and other agencies to recognise the debilitating impact that persistent or repeated anti-social behaviour can have on its victims, and the cumulative impact if that behaviour persists over a period of time, whilst also emphasising the importance of ensuring that powers are used appropriately to provide a proportionate response to the specific behaviour that is causing harm or nuisance without impacting adversely on behaviour that is neither unlawful nor anti-social.
- 9.3 A Public Spaces Protection Order has to identify the area in which the busking and street entertainment activities will be restricted in some way (“the restricted area”) and will (a) prohibit specified things being done in the restricted area, (b) require specified things to be done by persons carrying on specified activities in that area, or (c) do both of those things.
- 9.4 A prohibition or requirement may be framed (a) so as to apply to all persons, or only to persons in specified categories, or to all persons except those in specified categories.
- 9.5 The power to vary a Public Spaces Protection Order is set out in section 61 of the 2014 Act. The Council can vary a PSPO by increasing the restricted area only if it is satisfied on reasonable grounds that busking or street entertainment that is carried out, or likely to be carried out, in that increased restricted area:
- has had, or is likely to have, a detrimental effect on the quality of life of those in the locality;
 - is, or is likely to be, persistent or continuing in nature;
 - is, or is likely to be, unreasonable; and
 - justifies the restrictions imposed.
- 9.6 The Council can vary a PSPO by altering or removing a prohibition or requirement included in the Order or adding a new one and can only make a prohibition or requirement more extensive or add a new one if the prohibitions and requirements imposed by the Order as varied are ones that section 59 of the 2014 Act allows to be imposed. Given that a Public Spaces Protection Order can restrict what people can do and how they behave in public spaces, the only prohibitions or requirements that may be imposed are ones that are reasonable to impose in order (a) to prevent the detrimental effect caused by busking or street entertainment from continuing, occurring or recurring, or (b) to reduce that detrimental effect or to reduce the risk of its continuance, occurrence or recurrence.

- 9.7 The maximum duration of a Public Spaces Protection Order is three years, but they can last for shorter periods of time where more appropriate. At any point before expiry, the Council can extend a Public Spaces Protection Order by up to three years if it is satisfied on reasonable grounds that doing so is necessary to prevent the original behaviour from occurring or recurring or to prevent any increase in the frequency or seriousness of that behaviour. The proposals in this report do not involve an extension of the duration of the existing PSPOs even if they are varied following consultation.
- 9.8 Section 72 of the 2014 Act states that, in deciding whether to vary a Public Space Protection Order (and if so how), the Council MUST 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.
- 9.9 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.
- 9.10 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.
- 9.11 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.
- 9.12 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.
- 9.13 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. The Council has undertaken an Equalities Impact Assessment (EIA) in accordance with its Public-Sector Equalities Duty under Section 149 of the Equality Act 2010 and found that there is not anticipated to be a negative impact on protected groups if the variations proposed in this report are implemented.

- 9.14 Concern has been expressed about the potential use of Public Spaces Protection Orders to interfere with legitimate and reasonable activity such as peaceful protests and busking. The variation proposals in this report are intended to support responsible busking and to be a proportionate response to the irresponsible and anti-social busking that has been identified from complaints submitted by residents and businesses in the restricted areas. As indicated above, a balance must be struck between the rights of individuals who wish to engage in busking and street entertainment and the interests of the community as a whole. Even if significant members of the public are enjoying the busking entertainment, the “right” of the public to enjoy that busking must be balanced against the detrimental effect that it might be causing if it is too loud or intense or too persistent etc. What might be acceptable in one public place might not be acceptable in a public place within a highly residential area or even an area with many commercial operators if the busking unreasonably interferes with their ability to work.
- 9.15 Before varying a Public Spaces Protection Order, the Council must consult with the police. This is an opportunity for the police and Council to share information about the area and the problems being caused as well as discussing the practicalities of enforcement. The Council must also consult whatever community representatives they think appropriate. It is strongly recommended that the Council engages in an open and public consultation to give the users of the proposed restricted areas the opportunity to comment on whether the proposed restrictions are appropriate, proportionate or needed at all. The Council should also ensure that specific groups likely to have a particular interest are consulted, such as residents’ associations, representatives of local businesses or those who engage in or represent buskers and other street entertainers.
- 9.16 Before a Public Spaces Protection Order is varied, the Council must publish the text of the proposed variation to the Order. This must identify the activities having the detrimental effect; explain the potential sanctions available on breach; and specify the period for which the Order has effect. When and if a final set of measures is agreed, the Order, as varied, must be published in accordance with regulations made by the Secretary of State (The Anti-Social Behaviour, Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014). These regulations require the Order, as varied, to be published on the Council’s website and require the Council to cause to be erected on or adjacent to the public places to which the Order relates such notice or notices as it considers sufficient to draw the attention of any member of the public using the place

or places to the fact that the Order has been varied and the effect of that Order being varied.

- 9.17 It is an offence for a person, without reasonable excuse, to do anything that the person is prohibited from doing by a Public Spaces Protection Order or to fail to comply with a requirement to which the person is subject under a Public Spaces Protection Order. A person guilty of an offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale. (currently £1,000).
- 9.18 Depending on the behaviour in question, the enforcing officer could decide that a fixed penalty notice would be the most appropriate sanction. This can be issued by a police officer, a police community support officer, council officer or other person designated by the council. In making the decision to issue a fixed penalty notice, the officer should consider that if issued, payment would discharge any liability to conviction for the offence. However, if payment is not made within the required timescale, court proceedings can be initiated. It is proposed in this report that the fixed penalty should be £100 if payment is made within 14 days; reduced to £60 if payment is made within 7 days.
- 9.19 Any challenge to the variation of a Public Spaces Protection Order can be made in the High Court by an interested person within six weeks of the variation being made. An interested person is someone who lives in, regularly works in, or visits the restricted area. This means that only those who are directly affected by the restrictions have the power to challenge. Interested persons can challenge the validity of an Order on two grounds. They could argue that the council does not have power to make the variation to the Order, or to include particular prohibitions or requirements imposed by the Order as varied. In addition, the interested person could argue that one of the requirements (for instance, consultation) had not been complied with. When the application is made, the High Court can decide to suspend the operation of the variation to the Public Spaces Protection Order pending the verdict in part or in totality. The High Court has the ability to uphold the Public Spaces Protection Order as varied, or to quash the variation, or any of the prohibitions or requirements imposed by the Order as varied.

10 FINANCIAL, PROPERTY AND ANY OTHER RESOURCES IMPLICATIONS

- 10.1 Regulation and enforcement of the proposed policy and code of practice will be carried out by existing members of staff and the consultation will be carried out online at no cost to the service.
- 10.2 As such, there are no financial implications arising from the recommendations in this report

Terry Oliver

Director of Cleaner, Greener and Cultural Services

**Contact officer(s): Terry Oliver, Director of Cleaner, Greener and Cultural Services,
terry.oliver@rbkc.gov.uk, 079506275696**

Formal clearance requirements for all key decision reports

Cleared by Finance (officer's initials) [LV]

Cleared by Corporate Finance (officer's initials) [TE]

Cleared by Director of Law (officer's initials) [BP]

Cleared by Communications & Community Engagement (officer's initials) [LH
,GW,AC]

APPENDIX 1 – PSPO Location Maps-Existing and Proposed Variations

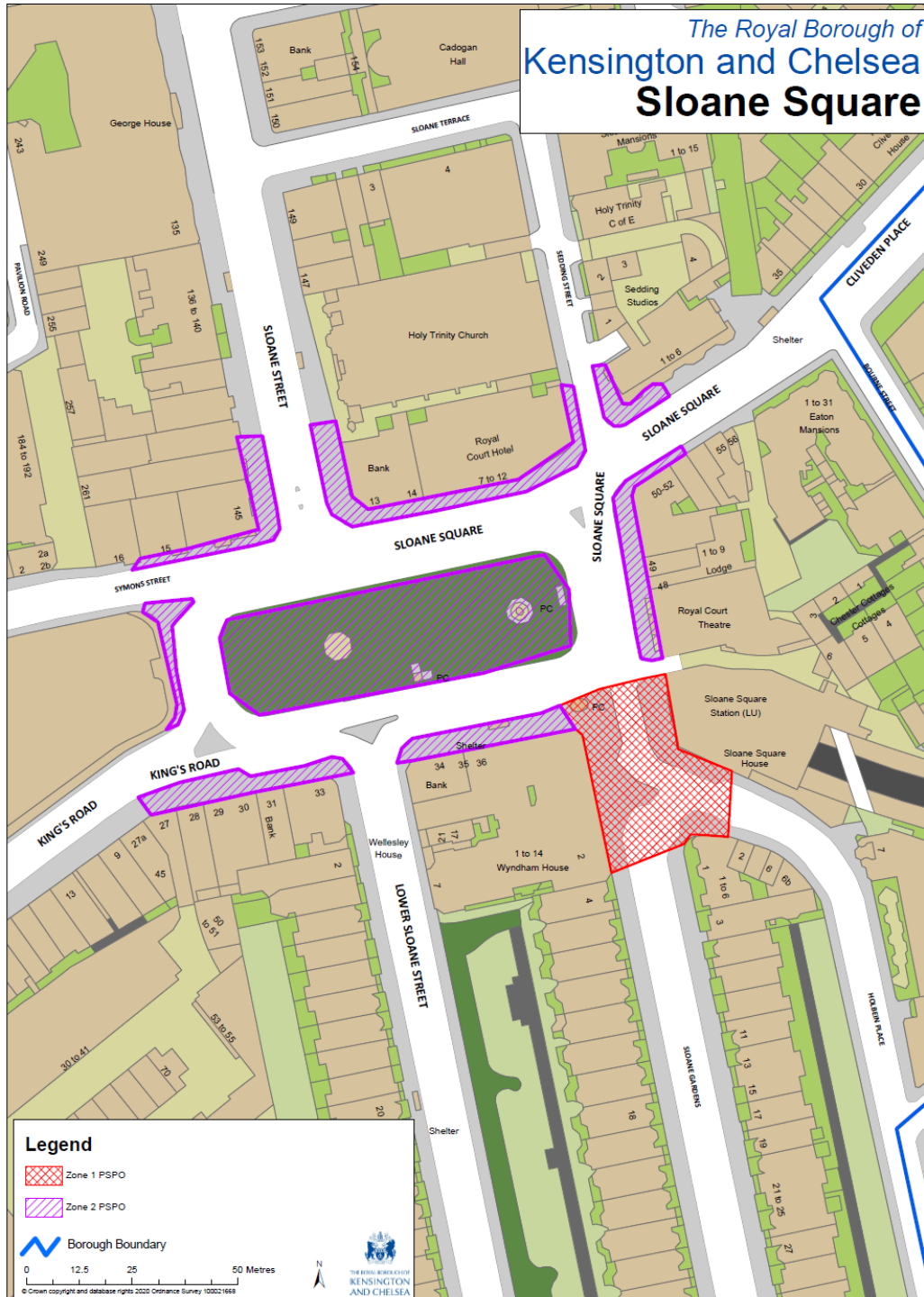
The proposed variations to the red zone (Zone 1) PSPO include extending this zone to the following locations:

- Outside Sloane Square Underground Station (**Map 1 new area**)
- Around Harrods so as to include all the shop frontages up to 63 Brompton Road and extended along half of Basil Street from Hans Crescent. (**Map 2 existing, Map 2A variation included**)
- The stretch of Exhibition Road from the Science Museum up to Imperial College Road which was previously included within the purple zone. **Map 3 existing, Map 3A variation included**)
- The area outside High Street Kensington Underground station up to Derry Street and part of Wright's Lane (**Map 4 existing, Map 4A variation included**).

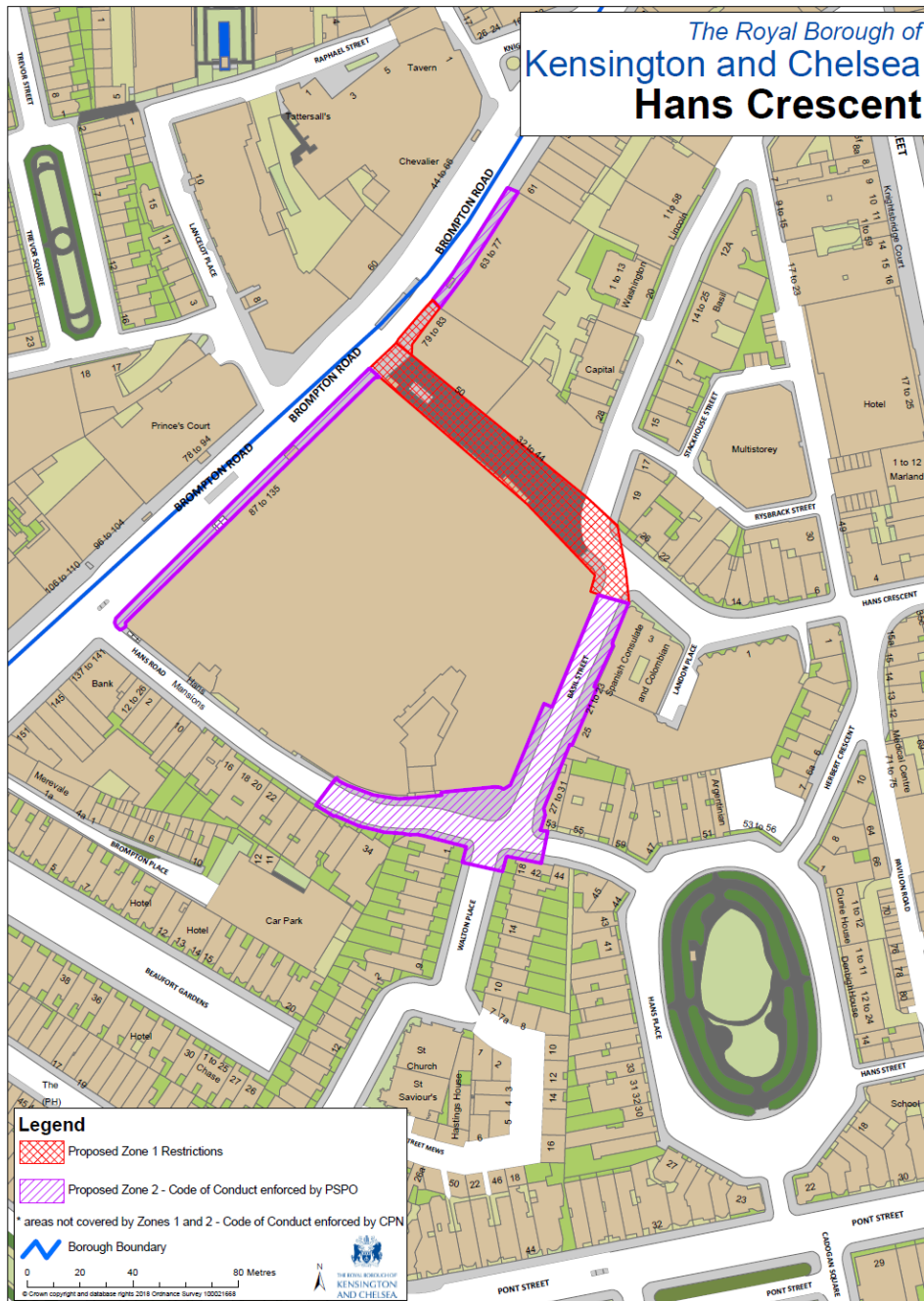
The purple zone (Zone 2) PSPO variation proposals include incorporating the following locations:

- Outside Gloucester Road Underground Station (**Map 5 new area**)
- From 63 Brompton Road, to Knightsbridge Underground Station at the junction with Sloane Street (**Map 2 existing, Map 2A variation included**)
- Sloane Square and the junctions of King's Road, Symons Street, Sloane Street and Lower Sloane Street (**Map1 new area**)
- High Street Kensington from Campden Hill Road to Kensington Church Street and on both sides of Kensington High Street from Derry Street to Young Street. (**Map 4 existing, Map 4A variation included**)

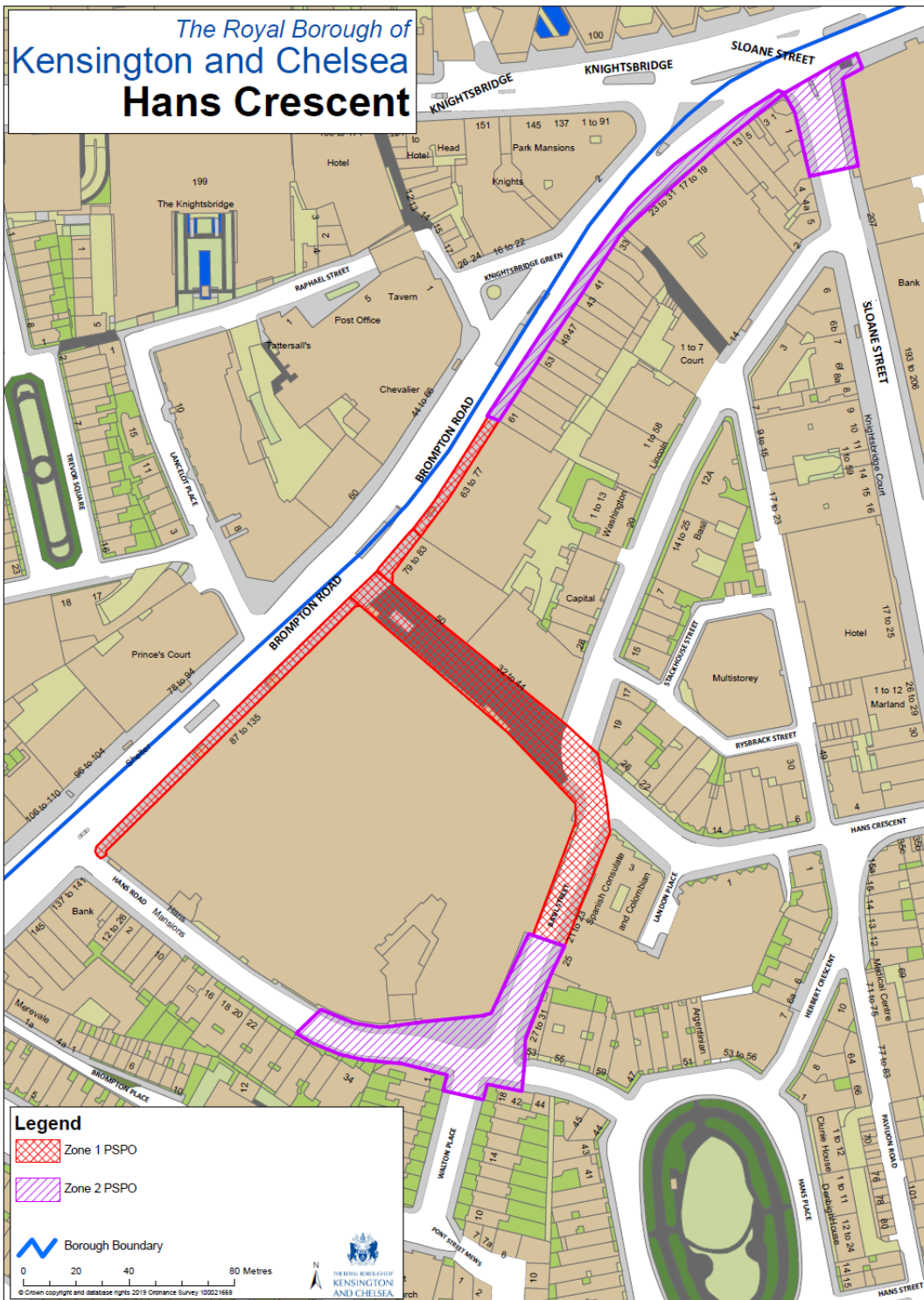
Map 1- Sloane Square



Map 2 and 2A – Hans Crescent, Harrods and Knightsbridge Station

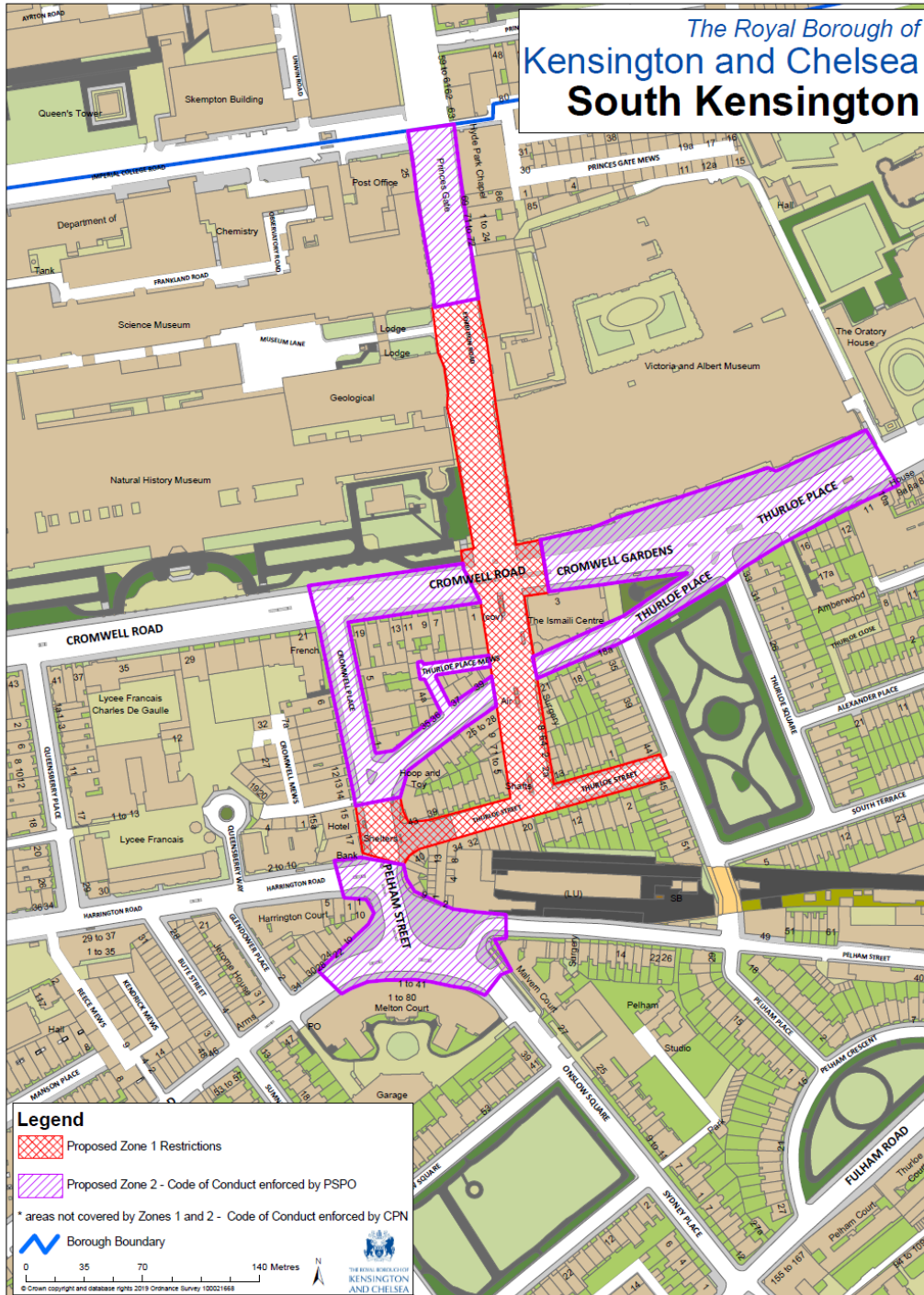


Map 2 showing the current location of the PSPOs

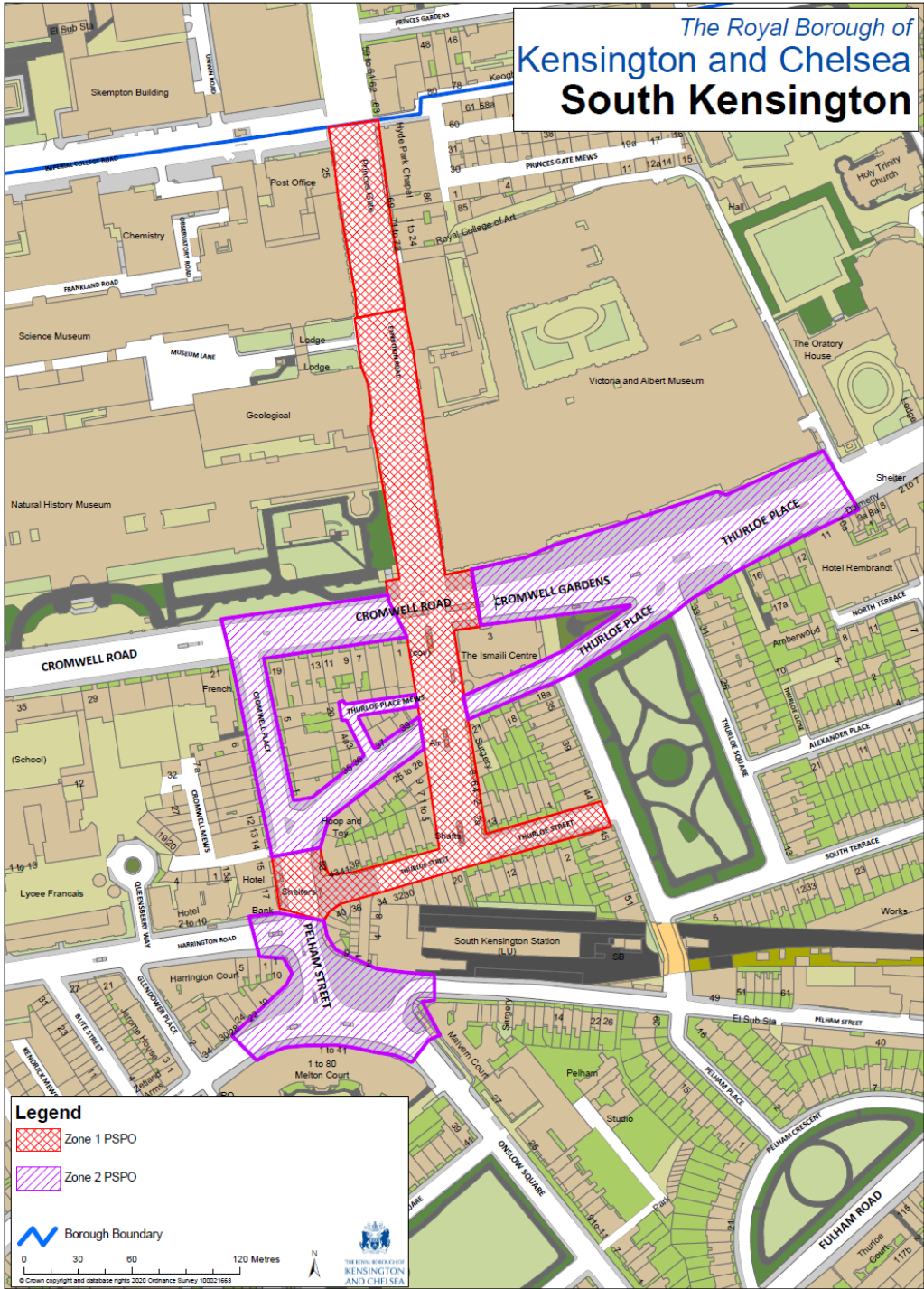


Map 2A showing the proposed variations to the PSPOs

Map 3 and 3A, showing of Exhibition Road and the extension of the PSPO



Map 3 showing the current location of the PSPOs

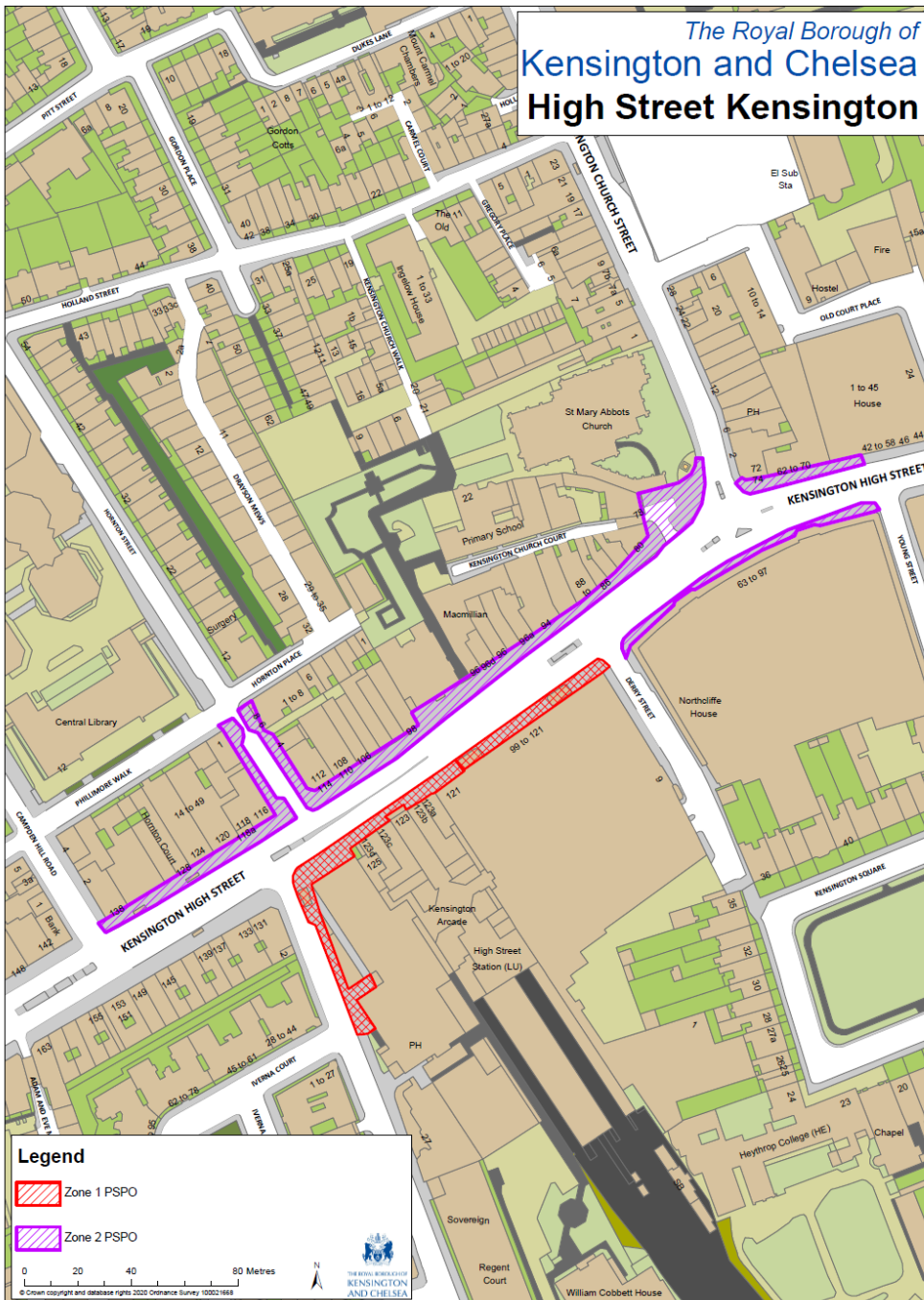


Map 3A showing the proposed variations to PSPOs

Map 4 and 4A, showing of Kensington High Street and the extension of the PSPO



Map 4 showing the current location of the PSPOs



Map 4A showing the proposed variations to PSPOs

Map 5- Gloucester Road



Appendix 2- Impact Statements

- **Email 1 – Resident Complaining about Busking at Sloane Square**

From>

Date: 7 August 2019 at 09:14:02 BST

To>

Subject: Re: Noise or Nuisance Report Confirmation - Case Reference Number

xxxxxx

This is really becoming intolerable and as you so rightly say it is a total invasion of our homes and peace. There must be some comeback - this is a residential area the law...

....[He is] being a danger to pedestrians trying to cross a very busy junction. We are all going bonkers. Used to quite like sax music but never want to hear one again

Thanks for your gallant fight for our peace and sanity

- **Email 2 – Resident Complaining about Busking at Sloane Square**

And yet the busker goes on playing undisturbed, for nearly 5 hours straight now today. We must have certain rights as residents of the Borough to live peacefully. Please help us get rid of this terrible nuisance once and for all.

Many thanks in advance for your help and apologies for all the emails - but we have really had it!

- **Email 3 – Resident Complaining about Busking at Sloane Square**

We are now entering the sixth week of this ...[He] plays his sax under our windows sometimes all day long and certainly every day bar exceptional weather. Even without amplification it is loud enough to go through all our rooms with windows closed. He sits on the corner of Lower Sloane Street and Sloane Square often with his legs in the way of people trying to cross this busy junction.

He is disturbing our peace and quiet. The music invades our homes and is a constant irritation We have complained many times and several officials have responded with a visit which usually moves him on but he sometimes shortly after but certainly the following day

It is really becoming an infringement of our human rights to live quietly and normally in an ... residential area and especially on a Sunday. So we really feel enough is enough and he must be permanently banned from the whole area around the Square

What more do we the victims have to do to regain our peace and sanity? Help is required.

- **Email 4 Resident Complaining about Busking on Kensington High Street**

In summer time it is impossible to have windows open due to irritating accordion sounds which often start in the afternoon and can carry on until 10 pm. As chairman of our association I hear many complaints.

Even through closed windows during the rest of the year you can still hear it hour after hour.

- **Email 5 – Resident Complaining about Busking on Hans Crescent and around Harrods**

Her unwanted arrival is also due to the fact that the previous “buskers’ zone” by the entrance to Knightsbridge tube station is now in the Red Zone, therefore off limits to buskers. This noisy busker is the vanguard and will, no doubt, shortly be followed by other buskers taking up their stand in this part of Basil Street, a highly residential area.

xxx Hans Crescent is a large block which fronts onto Hans Crescent. A great number of the flats, however, give onto Basil Street as do flats further down that street, all of which are adversely impacted by noise from this anti-social busker[s]. Some of the other residents in Basil Street (a narrow thoroughfare) are also complaining about her to Noise & Nuisance. As a result, she has frequently been visited by Officers from Noise & Nuisance, who tell her to stop making a noise, which she pretends to do until they leave and then starts up again. The regulations in terms of time that apply to the Purple Zone are completely flouted by this busker, for instance, the one that stipulates that a busker may only play for 45 minutes per day and has to stop by 7pm. These inadequate regulations, combined with the lack of resources at Noise & Nuisance to effectively implement them, means that she can do as she likes.....

As a result of the persistent noise from this busker (it has been going on for weeks) I have not been able to open my windows during the hot weather we have experienced this summer. I do not have the radio on except first thing in the morning nor do I watch television (I work from home as I write for xxxxxxxx as well as creating the lectures and teaching material I need for engagements around the world) but, even with the windows shut, I can hear her terrible playing of two or three repetitive pieces in the front part of my flat, which is where I spend most of the day writing. I am an elder, who is a long-term resident of this area and her noise is causing myself and other residents constant aggravation.

.....As I’ve already stated, this is a highly residential part of Kensington & Chelsea not Piccadilly Circus – please do not let it deteriorate into a mini version of that, which is what

the pedestrianized section alongside Harrods is rapidly becoming with all the unsavoury elements of city life represented there already.

- **Email 6 – Feedback from the Exhibition Road Cultural Group, representing the institutions on Exhibition Road**

The Science Museum and the Dyson School of Design Engineering at Imperial College London have suffered from displacement activity, with disruptive noise outside their buildings during warmer weather. This is a particular issue for the Dyson School of Design Engineering, which only formally opened in May 2019.

The noise during the summer caused considerable disruption to students studying, taking exams and to meetings. See complaint number 223560 for further details. A change to the PSPO is badly needed before the return of the peak street entertainment season at Easter.

The Board of the Exhibition Road Cultural Group requests that the 'Red Zone' is extended up to the RBKC boundary at Princes Gate Mews/Imperial College Road.

Appendix 3 – Equalities Impact Assessment for the Variations to the PSPOs

Overall Information	Details of Full Equality Impact Analysis
Financial Year and Quarter	2019/20 Qtr 4
Name and details of policy, strategy, function, project, activity, or programme	<p>Title of EIA: Proposed Variations to the Busking and Street Entertainment Policy and PSPOs</p> <p>Short summary:</p> <p>The Busking and Street Entertainment Policy sets out The Royal Borough of Kensington and Chelsea’s approach to Busking and Street Entertainment. The Policy and PSPOs introduced in July 2019 was in response to the detrimental impact busking and street entertainment was having on residents, organisations and business in the certain areas of the Borough. The introduction of this Policy aims to define and promote responsible busking and street entertainment but recognises the detrimental impact irresponsible busking and street entertainment can have on the local community therefore, controls using limited Public Space Protection Orders (PSPOs) were put in place to restrict antisocial busking and street entertainment practices from 15 July 2019.</p> <p>Busking complaints have reduced since July 2019 to March by 23% and feedback from residents, businesses and organisations has been generally supportive and positive of the Policy and PSPOs. That said it has had unintended consequences of displacing high impact busking to areas not covered by the PSPOs, such as Sloane Square which has seen an 83% increase in busking since July 2019. Following a six-month review of the Policy and PSPOs some variations to these have been identified and proposed.</p> <p>This EqIA will assess the proposed variations to the Busking Policy and PSPOs, which include the following high impact locations are incorporated in an updated red zone (Zone 1) PSPO:</p>

	<ul style="list-style-type: none"> • Outside Sloane Square Underground Station • Around Harrods • The northern stretch of Exhibition Road • The area outside High Street Kensington Underground station and surrounding area <p>Plus, it is proposed the following locations are incorporated in an updated purple zone (Zone 2) PSPO:</p> <ul style="list-style-type: none"> • Outside Gloucester Road Underground Station • From Hans Crescent to Knightsbridge Underground Station • Around Sloane Square • The junction of Kensington High Street and Horton Street
Lead Officers	<p>Name: Terry Oliver Position : Director Cleaner, Greener and Cultural Services Email: terry.oliver@rbkc.gov.uk Telephone No: 07950627569</p>
Lead Borough	RBKC
Date of completion of final Full EIA	05 / 03 / 2020

Section 02	Scoping of Full EIA
Plan for completion	Timing:

Feedback from residents, Cllrs, organisations, resident associations, businesses and Enforcement Officers suggest the activities the PSPO are targeted to address occur mostly when footfall is highest this can vary at the different locations but more busking and street entertainment tends to take place during the weekend and Fridays (especially at Portobello Road).

Resources: Enforcement will be delivered by the Council’s Enforcement Officers (Street Scene Enforcement and Noise and Nuisance) and supported by the Police.

Analyse the impact of the policy, strategy, function, project, activity, or programme

Analyse the impact of the policy on the protected characteristics (including where people / groups may appear in more than one protected characteristic). You should use this to determine whether the policy will have a positive, neutral or negative impact on equality, giving due regard to relevance and proportionality.

Protected characteristic	Borough Analysis	Impact: Positive, Negative, Neutral
Age	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect age to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of age.	Neutral
Disability	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect disability to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of disability. There is no evidence to suggest disability of the performer/s would be affected by the order.	Neutral

	Gender reassignment	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect gender reassignment to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of gender reassignment. There is no evidence to suggest gender reassignment of the performer/s would be affected by the order.	Neutral
	Marriage and Civil Partnership	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect marriage and civil partnership to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of marriage and civil partnership. There is no evidence to suggest marriage and civil partnership of the performer/s would be affected by the order.	Neutral
Pregnancy and maternity	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect pregnancy and maternity to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of pregnancy and maternity. There is no evidence to suggest pregnancy and maternity of the performer/s would be affected by the order	Neutral	

	Race	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect race to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of race. There is no evidence to suggest race of the performer/s would be affected by the order	Neutral
	Religion/belief (including non-belief)	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect religion/belief to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of religion/belief. There is no evidence to suggest religion/belief of the performer/s would be affected by the order	Neutral
	Sex	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect sex to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of sex. There is no evidence to suggest sex of the performer/s would be affected by the order	Neutral
	Sexual Orientation	The process of carrying out the order (PSPO) is solely focused on busking and street entertainment during the period of enforcement therefore we do not expect sexual orientation to influence the actions of the enforcement officer or the execution of the order. The treatment and process of applying the order remains the same for all performers irrespective of sexual orientation There is no evidence to suggest sexual orientation of the performer/s would be affected by the order	Neutral

Human Rights or Children’s Rights

Both Article 10 of the Human Rights Act 1998 and Article 11 of EU Charter of Fundamental Rights and the right to Freedom of Expression have been carefully considered in this policy. The Council wants to encourage responsible busking and street entertainment but to balance this against the detrimental impact busking and street entertainment can have on residents, businesses and organisations.

Section 03

Analysis of relevant data
Examples of data can range from census data to customer satisfaction surveys. Data should involve specialist data and information and where possible, be disaggregated by different equality strands.

Documents and data reviewed

The complaint data for busking and street entertainment has been reviewed. This data included describes and details the type of complaint. Busking complaints have increased year on year, in 2014, 243 busking complaints were received this increased to 969 complaints in 2017 and 1013 in 2018. The introduction of the Busking and Street Entertainment Policy has seen a reduction in busking complaints by 23% but has caused displacement of high impact busking activity to other areas, such as Sloane Square. Therefore the proposed variations attempt to reduce this impact caused to the quality of life of residents, local workers and road users in these areas.

Statements from residents, local businesses and organisations have been submitted and collated. The statements illustrate the detrimental impact caused by busking and street entertainment.

New research

If new research is required, please complete this section

N/A

Section 04	Consultation
	Complete this section if you have decided to supplement existing data by carrying out additional consultation.
Consultation in each borough	<p>A public consultation was carried out on developing the Code of Conduct and using PSPOs between May 2018 and July 2018. The results of the consultation have been considered and have helped to develop the Street Entertainment and Busking Policy</p> <p>A 28-day public consultation on the draft Busking and Street Entertainment Policy and Draft PSPOs took place in May and June 2019.</p> <p>The Key Decision approved by Leadership Team on 10 July 2019 stated a six-month review of the Policy and PSPOs would take place to see if effective and any variations required. This review has taken place and involved feedback from residents, Cllrs, businesses, community groups and organisations.</p> <p>A six-week public consultation on the proposed variations to the Policy and PSPOs is planned for Spring 2020 and the approval from the Lead Member for the Environment is being sought to commence this consultation.</p> <p>The proposed variations to be consulted on are:</p> <p>1.5 Extending the red zone (Zone 1) to the following locations:</p> <ul style="list-style-type: none"> • Outside Sloane Square Underground Station • Around Harrods • The northern stretch of Exhibition Road • The area outside High Street Kensington Underground station and surrounding area <p>2 Incorporating the following locations into the purple zone (Zone 2) PSPO:</p>

	<ul style="list-style-type: none"> • Outside Gloucester Road Underground Station • From Hans Crescent to Knightsbridge Underground Station • Around Sloane Square • The junction of Kensington High Street and Horton Street
Analysis of consultation outcomes for each borough	<p>The introduction of the Busking Policy and PSPOs has seen busking complaints reduce by 23% since July 2019 compared to the same period in 2018/19. That said Busking has increased by 83% in areas such as Sloane Square which were not included in the original PSPOs.</p> <p>Variations to the PSPOs, as listed above will be consulted on in Spring 2020 and depending on the findings, will be used to formally update the Policy and PSPOs at a Leadership Team meeting in late Spring.</p>

Section 05	Analysis of impact and outcomes
Analysis	<p>The key findings from the review and proposed consultation support the Council’s approach to develop an effective busking and street entertainment policy, which includes a code of conduct and the use of PSPOs to help address the detrimental impact busking and street entertainment has in certain locations.</p> <p>The feedback from residents, Cllrs, organisations and data from the noise and nuisance complaints highlights the introduction of the Policy and PSPOs has been effective in reducing the detrimental impact of busking. That said, it has also shown the issue of noise from busking and street entertainment is still an issue affecting residents, businesses and organisations in the following areas:</p>

- **Sloane Square**
- **The northern stretch of Exhibition Road**
- **High Street Kensington** - around the station entrance and surrounding area of Kensington High Street.
- **Around Harrods and along to Knightsbridge Station**

The proposed PSPOs variations will concentrate on these areas only as this is where the evidence shows the most detrimental impact to residents, businesses and organisations takes place.

Busking and street entertainment is still permitted across the whole of the borough.

For the Zone 1 PSPO the following performances are permitted.

- Performances of mime, living statue and similar performances, excluding the use of any form of musical or percussive instrument.
- Performances of clowning, excluding singing or the use of any form of musical or percussive instrument.
- Performances of theatrical presentations or other spoken word, excluding singing or the use of any form of musical or percussive instrument.
- Performances of magic tricks, magician shows and similar performances, excluding singing or the use of any form of musical or percussive instrument.
- Performances of juggling with balls, clubs or rings or similar objects but not knives, other sharp objects of live flame (excluding singing or the use of any form of musical or percussive instrument).

Zone 2 PSPO allows busking and street entertainment to conform with the code of conduct, as set out below:

- A performance of busking or street entertainment in any one location must be for no more than 45 minutes in duration.
- Buskers and street entertainers shall not perform in the same location in any one day.
- Buskers and street entertainers shall ensure that each new location is at least 100 meters away from any previous location (that is at least the length of a football pitch).
- There shall be no busking or street entertainment before 10:00 or after 19:00.
- Buskers and street entertainers shall not use any amplifiers, loud speakers, megaphones or any similar equipment in their performance.
- Buskers and street entertainers shall ensure that sound levels are not intrusive. Sound that prevents or hinders normal conversation taking place 10 meters or more from a performance will be considered intrusive.
- Buskers and street entertainers shall ensure a full and varied repertoire (avoiding excessive repetition) which incorporates consideration of lower sound impacts and rest breaks.
- Buskers and street entertainers shall ensure that performances shall *generally* consist of no more than six performers. Except that in the Purple Regulated Areas the maximum number of performers is limited to three; and in the Red Restricted Areas the maximum number of performers is limited to two.
- Buskers and street entertainers shall ensure that their performance is properly risk assessed and where appropriate ensure that they obtain the necessary public liability indemnity insurance.
- Buskers and street entertainers shall ensure that their performance does not cause an unreasonable obstruction to other pedestrians and road users. An unreasonable obstruction is likely to be caused where a wheel-chair user or person pushing a pram is unable to pass along the pavement or is forced into the road way. In those cases, a performer should pause the performance to allow the obstruction to clear.
- Buskers and street entertainers must act on the reasonable instructions given to them by an authorised officer of the Council or the Police.

The public consultation planned for Spring 2020 on the variations proposals to the Busking and Street Entertainment Policy and PSPOs will be reviewed and the analysis added to the EqlA.

Overall the Council believes the Busking and Street Entertainment Policy and PSPO does not have adverse impact or unlawfully discriminates against any protected characteristic. Instead sets out a clear, proportionate and reasonable approach to achieve a balance between performers and the quality of life for local residents and workers at local businesses and organisations.

Section 06	Reducing any adverse impacts and recommendations
Outcome of Analysis	<p>Include any specific actions you have identified that will remove or mitigate the risk of adverse impacts and / or unlawful discrimination. This should provide the outcome for each borough, and the overall outcome.</p> <p>The consultations taken place to date has included the views of the busking community. The Council has and will continue to engage with the busking community to ensure they take part in the consultation and discussions on the development and any variation of the Policy and PSPOs.</p>

Section 07	Action Plan
Action Plan	Note: You will only need to use this section if you have identified actions as a result of your analysis

	Issue identified	Action (s) to be taken	When	Lead officer and borough	Expected outcome	Date added to business/service plan

Section 08	
Chief Officers' sign-off	Name: Terry Oliver Position: Director, Cleaner, Greener and Cultural Services Email: terry.oliver@rbkc.gov.uk Telephone No:07950627569
Key Decision Report (if relevant)	Date of report to Cabinet/Cabinet Member: 17/ 3 / 2010 Key equalities issues have been included: Yes
Lead Equality Manager (where involved)	Name: Position: Date advice / guidance given: Email: Telephone No:

Please ensure that a final version of your EqIA is sent to the Equalities Officer, Angela Chaudhry, so that it can be published on our intranet