

Street Entertainment (Busking) Policy

Draft Proposal for [Busking Policy](#)



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

Section 1 – Executive Summary

- 1.1 This policy sets out The Royal Borough of Kensington and Chelsea’s (the “Council’s”) approach to “Street Entertainment”, which is commonly referred to as “Busking”. The Policy is being introduced to a pilot area where busking has given rise to complaints from residents, business and market traders.
- 1.2 The Policy will apply within in the Portobello Road, Pembridge Road, Golborne Road and Notting Hill Gate Area (“The Pilot Area”) of the Royal Borough of Kensington and Chelsea (the “Royal Borough”). The policy sets out the circumstances where those Busking will require to be licensed. The policy also sets out in Section 4 when a licence is not required for Busking. The introduction of the Street Entertainment (Busking) Policy will limit Busking in the Pilot Area to 7 sites, and will control the hours during which Busking will be licensed in these areas. The Pilot Area is shown in Appendix A.
- 1.3 Balancing the contributions of the local communities, in this instance through licensing of Busking, with the need to respect residents’ and businesses’ desire for protection from nuisance or inconvenience is central to the development of the Street Entertainment (Busking) Policy; and is a proportionate response to the concerns raised as a result of the impact of Busking in the Pilot Area.
- 1.4 As part of the approach to maintaining this balance the Council intends to adopt Part V of the London Local Authorities Act (LLAA) 2000, which provides London Councils with the power to licence Busking. Part V of the LLAA allows a local authority to control Busking by either having a complete ban on Busking or to designate those streets in which Busking would be permitted provided a licence is obtained under the LLAA. The Council has not opted for a complete ban on busking, instead choosing to designate Streets where busking will be controlled. Within those designated Streets, the Council will licence specific busking sites.

Policy SE 1

Street Entertainment (Busking) Policy

The Council will control Street Entertainment (Busking) in areas where it is believes the activity causes nuisance or inconvenience to residents, businesses or visitors by requiring “buskers” to have a valid licence issued by the Council and by designating the locations, times, type of busking, and duration of Street Entertainment at specified times.

Section 2 – Streets where a licence is needed and permitted hours for street (busking) entertainment

- 2.1 Busking will be required to be licensed in some streets during certain days and times. The Street Entertainment (Busking) Policy will apply to a Pilot Area (see Appendix A for the Pilot Area map).
- 2.2 The LLAA and the Policy apply to the Pilot Area of the Royal Borough and specifically the sites identified on the Pilot Area map where Busking will be required to be licensed. The Pilot Area busking sites will have a controlled area 100m from Portobello and Golborne Road, as identified on the map; this is to prevent Buskers setting up too close to the markets.
- 2.2 Within the Pilot Area, Busking will be unlawful and not permitted in any area with the exception of the following designated busking sites on Fridays and Saturdays (see Appendix A: Busking Pilot Area map):
- Site 1 - Opposite trading site 203 Portobello Road
 - Site 2 - In front of gates to Council depot on Portobello Road
 - Site 3 - At rear of Portobello Square
 - Site 4 - Next to trading site 113 on Portobello Road
 - Site 5 - Next to trading site 96 on Portobello Road
 - Site 6 - Opposite trading site 74 Portobello Road
 - Site 7 - Next to trading site 13 on Portobello Road (next to entrance to Portobello Court)
- 2.3 The permitted hours for Busking on the designated Streets and designated Busking Sites in the Pilot Area are from 10:00 to 18:00 on Friday and Saturday and at no other times.
- 2.4. A licence will be issued for a Busker to provide Street Entertainment/Busking during the permitted hours specified in paragraph 2.3 above. A Busker needs to setup and pack up within this time allocation.
- 2.5 Between the hours of 10:00 and 18:00 there are 8 hours available and this will allow for 6 time slots of 70 minutes to be allocated to Buskers per day. In managing these time slots a certain allocation of slots will be unfilled to ensure the balance between the needs of the various stakeholders in the area is maintained. In addition the slots will be allocated for certain types of performance. This will allow for a greater circulation of the Buskers.
- 2.6. Buskers will be allowed to take two slots out of the 42 that will be available per day. Of those 42 slots a number will be unfilled as already stated. This will be reviewed based on demand and changes will be approved by the Council's Regulation and Enforcement Review Committee (RERC) or such other Committee or Officer who takes over the responsibilities for these applications. If the slots on a particular day have not been filled via the booking system, then Buskers will be allowed to attend the Street Trading Office on the day up to midday to take up another slot, provided they have not already used that same site on the same day.

Section 3 – Busking that does not require a busking licence

- 3.1. The LLAA exempts some other forms of entertainment from requiring a Busking Licence, such as:
- a) entertainment of a class, which from time to time is by resolution of the participating council excluded from the operation of Part V of the LLAA,
 - b) entertainment provided and in accordance with the terms of a licence granted under paragraph 1 of Schedule 12 of the London Government Act 1963;
 - c) entertainment which is authorised specifically to take place in a Street under any other enactment or consisting of music performed as an incident of a religious meeting, procession or service;
 - d) entertainment authorised under the Licensing Act 2003, or a Temporary Event Notice;
 - e) all Busking which takes places outside the Pilot Area of the Royal Borough;
- 3.2. Beyond the Pilot Area, the Council will encourage Buskers to follow the guidance of the Considerate Buskers' Scheme, based on the Standard Conditions issued to licensed Buskers.
- 3.3. Entertainment or Busking that is provided as part of a wider event has also been excluded. Such events generally require some form of approval, which can include a road closure, or permission to use an open space, and therefore additional restrictions are not considered necessary at present.
- 3.4. When Busking is carried out on private land, then the land owner's permission should always be sought in the first instance.
- 3.5. Entertainment and Busking which do not require a Buskers licence do not give the Busker or performer the right to trade in the Street. Any Busker Street Trading without a licence will be prosecuted as an illegal street trader.

Section 4 – Application requirements

- 4.1. An application for a Busking Licence must be made in writing to the Council using the form provided, which can include applications made by email or online (when the online system has been developed).
- 4.2. The following documents need to be submitted with the application:
- a) a completed Busking Licence application form, duly completed with the details required in Council's regulations (**Appendix C**);
 - b) a passport sized photograph of the applicant;
 - c) the licence fee in full;
 - d) two forms of identification;
 - e) proof of national insurance number;
 - f) third party public liability insurance (£5million).

- 4.3. Applications can be completed at the Street Trading Office Otherwise they can be completed (<http://www.rbkc.gov.uk/leisureandlibraries.aspx>) online subject to all documentation being provided
- 4.4 All Buskers are required to complete the same process and to produce the original licence immediately upon request by the Council's Authorised Officer.
- 4.5 The fee for applying for a Buskers Licence initially will be £15. This will be for a maximum period of 6 months. The fees will be reviewed annually.
- 4.6. The fee for a Street Trading licence to sell associated items such as CDs, T shirts or other merchandise will be £40 for a period of 4 weeks. The fees will be reviewed on an annual basis. This licence is not valid without a valid Buskers Licence and is only valid for trading on the designated busking site in the Pilot Area when the licensee is busking.

Section 5 – Decision Making

- 5.1 The procedure for determining applications is set out in the regulations made by the Council and attached in **Appendix C**.

Summary of the decision making process

- 5.2 Busking licences will normally be granted on the following basis:
 - a) usually for a six month period, but may be for a shorter time depending on the circumstances;
 - b) subject to compliance with the Standard Conditions, unless expressly removed or varied by the Council;
 - c) to permit Busking in designated Streets and busking sites within the Pilot Areas between the hours of 10:00 to 18:00, on Friday and Saturdays unless otherwise specified on the licence.
- 5.3 Busking licences will be determined according to the procedure prescribed through the Council's regulations, which are summarised as:

Grant: All applications will be decided on their own merits and those which provide all the relevant documentation, unless there have been previous enforcement/compliance issues and provided the Busking is sought within the times, on the days and in the designated Streets specified in this policy will normally be granted;

Grant or Refuse: All other applications, which seek to exclude any of the standard conditions, extend the hours sought or where a licence has previously been revoked, or where there have been other compliance issues.

5.4 Applications that are not granted administratively on the paper will be determined by the Regulation and Enforcement Review Committee (RERC) of the Royal Borough or such other Committee or Officer who takes over the responsibilities for these applications.

Refusal of Applications

5.5 The Royal Borough may refuse an application on any of the grounds listed in Table 1 below. The table also provides a brief, and non-exhaustive explanation, of what the Council considers can be relevant for each of those grounds for refusal.

Table 1 – Refusal of Applications	
Refusal reason	Relevant considerations include
That the applicant could be reasonably regarded as not being a fit and proper person to hold a licence.	<ul style="list-style-type: none"> • A licence has previously been revoked • Previous history of non-compliance with licence conditions • Previous complaints about conduct that have been substantiated • Advice from the Police
That there is not enough space in the street in respect of which the application is made for busking to take place without causing nuisance to occupiers or undue interference with, or inconvenience to, or risk to the safety of persons using the street, or other streets within the vicinity of the street.	<ul style="list-style-type: none"> • The type of performance and equipment being used • Number of people in the band or performance • Numbers of people attracted by the performance • Footfall in the area • Crime problems in the area • Proximity to road junctions, pedestrian crossings, stations, bus stops etc. • Previous complaints about Street Performing at that location • Advice from the Police or relevant Council officers

Revocation of Licence

5.6. Where a Police Officer or authorised Officer of the Council requests that a Busking Licence be considered for revocation, the general procedure set out for determining variation applications shall be followed.

5.7. The person making the revocation request shall not be a member of the RERC that makes the decision, but may provide evidence to the Committee either in person or in writing.

5.8. RERC may revoke a licence on any of the following grounds:

- a) that there has been a breach of the conditions of the licence;
- b) that nuisance has been caused to occupiers or undue interference with, or inconvenience to, or risk to the safety of persons using the

- street, or other streets within the vicinity of the street, has been caused as a result of the Busking taking place;
- c) that nuisance has been caused as a result of the street entertainment to occupiers of property in or in the vicinity of the street in respect of which the licence was granted.

Section 6 – Conditions

- 6.1 The Council has made regulations prescribing Standard Conditions, which should be attached to the licence as specified in Appendix B.
- 6.2 The Standard Conditions are to be attached to all licences. The Standard Conditions will outline the regulations for Busking on the designated Streets in the Pilot Area. Additionally if a Busker has opted for a street trading licence they will then need to abide by these additional regulations.
- 6.3 In summary the Standard Conditions focus on controlling Buskers on key specific issues:
- a) the permitted times for Busking in the Pilot Area on the identified days
 - b) levels of noise that are allowed
 - c) dealing with the public and others in the Pilot Area

Section 7 – Appeals

- 7.1 There is a right of appeal under section 41 of the Act, in the following situations:
- a) an applicant for the grant of a licence whose application is refused;
 - b) a licence holder who is aggrieved by any term, condition or restriction on or subject to which the licence is held; or
 - c) a licence holder whose licence has been revoked;
- 7.2 Any appeal to the Magistrates' Court must be made within 21 days from the date on which the person is notified of the decision in writing. Where the decision is notified by post to the applicant or licence holder, the 21 days begins 7 days after the notification was posted by first class post.
- 7.3 A further appeal against the Magistrates' Court decision may be made to the Crown Court.
- 7.4 An appeal to the Magistrates' Court or to the Crown Court, the court may make any such order as it thinks fit.

Section 8 – Enforcement

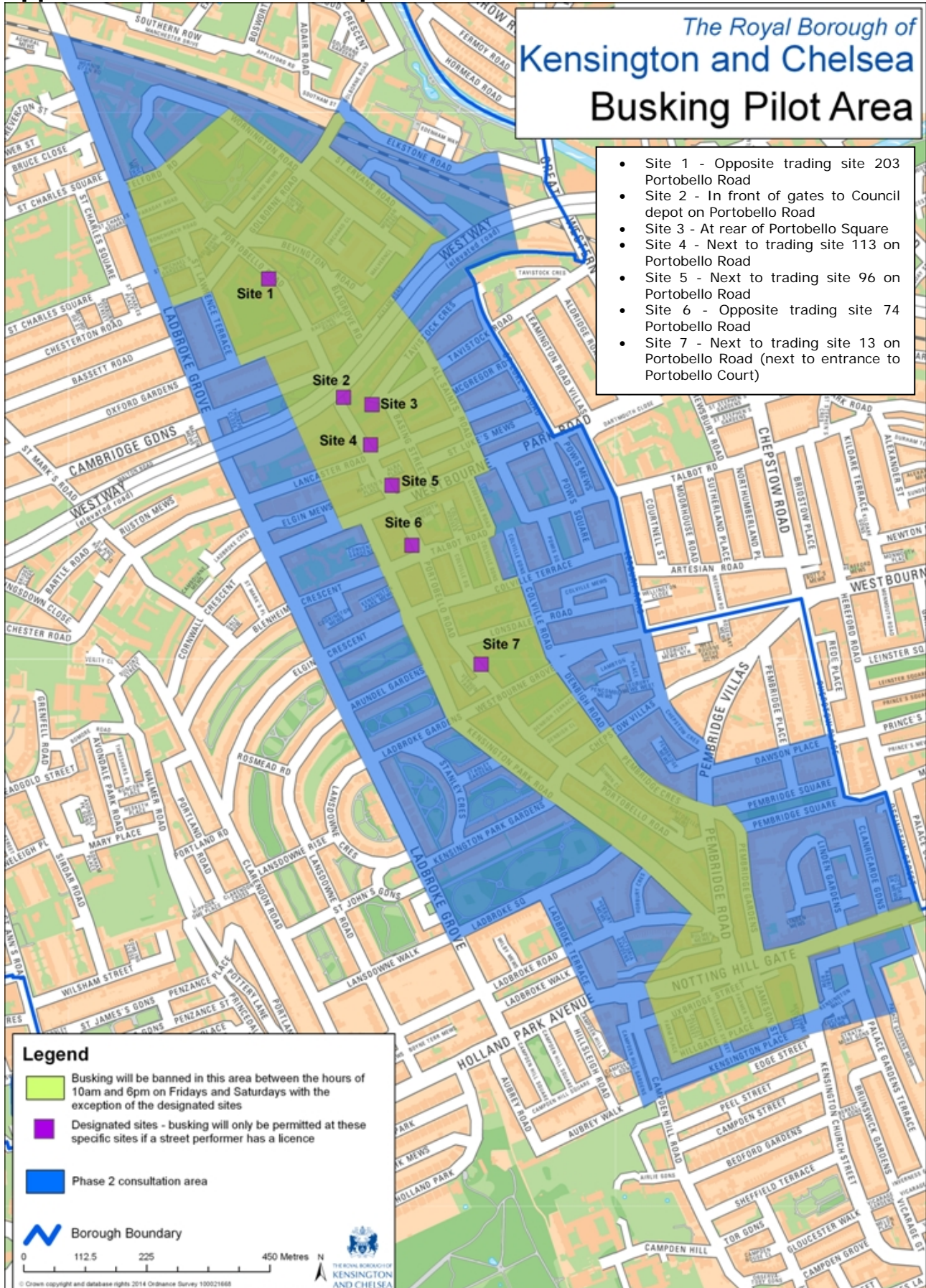
- 8.1 The Council will seek to ensure that any person who is granted a Buskers licence complies with the Standard Conditions attached to the licence, and that appropriate action is taken for non-compliance or where unlicensed Busking occurs in the Pilot Area. This is as set out in section 42 and 43 of the Act.

- 8.2 Any person who;
- a) busks in any street to which the Policy applies (as set out in Section 3 of the Policy) without the authority of a licence; or
 - b) is concerned with the organisation or management of busking which is not authorised by a licence; or
 - c) contravenes any condition of his licence; or
 - d) in connection with his application for a licence makes a statement which he knows to be false in a material particular;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale (£1000 at the time of approving the Policy). The current legislation does not provide the ability for offenders to be offered a Fixed Penalty Notice (FPN) to discharge their liability to prosecution.

- 8.3 Where a Busking licence is required, and Busking is taking place or is about to take place without a licence or in breach of the Standard Conditions of a licence, the following options are available to an authorised officer or a police officer:
- a) they may require that the Busking either cease or not take place;
 - b) where unlicensed Busking is taking place, equipment (including instruments) connected with the Busking may be seized;
 - c) proceedings may be instigated to prosecute the person for offences under the Act.
- 8.4 Where the Busking is considered to be in breach of the conditions on the licence, then the authorised officer or Police officer may request that the Council considers revoking the licence. Where this happens, the procedure set out in Section 5 of the Policy shall be followed.

Appendix A - Pilot Area Map



Appendix B – Definitions used in this Policy

“**the LLA**” means Part V of the London Local Authorities Act 2000

“**authorised officer**” means an officer authorised to carry out functions under the Act on behalf of the Council

“**busking**” means the provision of entertainment in a street but does not include the provision of entertainment:

- a) of a class which excluded by the Council from the licensing requirements (see Section 3 of the Policy);
- b) under and in accordance with a premises licence under Part 3 of the Licensing Act 2003, or a temporary event notice having effect under Part 5 of that Act, which authorises the provision of regulated entertainment (within paragraph 2(1)(e) to (h) or 3(2) of Schedule 1 to that Act (music and dancing);
- c) which is authorised specifically to take place in a street under any other enactment; or
- d) consisting of music performed as an incident of a religious meeting, procession or service; and “busk” and “busks” shall be considered accordingly;

“**the Council**” means the Royal Borough of Kensington and Chelsea.

“**licence**” and “**busking licence**” means a licence under section 35 (Power to license) of the LLA and “licensed” shall be construed accordingly

“**nuisance**” is not defined but can include low-level nuisance, perhaps affecting a few people living, trading or carrying on a business locally, as well as major disturbance affecting the whole community. It may also include the reduction of the living and working amenity and environment of other persons living and working in the area.

“**the Policy**” means this Royal Borough of Kensington and Chelsea Policy document which may be varied and approved from time to time.

“**the Pilot Area**” means the area identified in Appendix E

“**Busking Sites**” means those sites within the Pilot Area that are designated sites where busking is permitted by those holding a valid Busking Licence.

“**Regulations**” means regulations prescribed by the Council under the Act.

“**Street**” includes:

- a) any street or way to which the public commonly have access, whether or not as of right;
- b) any place, not being within permanently enclosed premises, within 7 metres of any such street or way, to which the public commonly have access;
- c) any area in the open air to which the public commonly have access;
- d) any street, way or open area within any housing development provided or maintained by a local authority under Part II of the Housing Act 1985; but does not include any land in respect of which there are byelaws in force which regulate the provision of entertainment and which are made by London Transport Executive or London Regional Transport.

“**Busker**” means any person providing entertainment in the street including the following entertainment activities (although it must be emphasised that this is not exhaustive list) namely, singing, mime, juggling, live statue performance, use of giant bubbles, puppet shows, any vocal or instrumental music, whether produced on musical instruments, backing tracks or computer equipment, singing, dancing and plays for members of the public.

Appendix C – Standard Conditions

Part V of the London Local Authorities Act 2000

Regulations Prescribing Standard Conditions for Street Performing Licences

In these regulations, the expressions "Street" and "Busking", have the meaning as set out in Part V of the London Local Authorities Act 2000. The "Policy" means the Royal Borough of Kensington and Chelsea's Street Entertainment Policy.

The Standard Conditions are attached by default to every Busking Licence issued. The conditions may only be removed or varied on a licence unless varied by the Council, and following an application determination by the Council.

- 1.1. The Busking licence must be displayed when performing and must be produced immediately upon request to either an Authorised Officer or Police Officer on request.
- 1.2. The licence permits Busking on any licensed designated street or licensed site in Kensington and Chelsea between the hours of 10:00 to 18:00 on Fridays and Saturdays, unless restricted by an additional condition on the licence.
- 1.3. The licence only permits Busking by the person(s) named on the licence, and may not be used by, or transferred to, another person.
- 1.4. Music and singing shall not be performed at a level that causes disturbance, nuisance or undue interference with, or inconvenience to or risk to safety of persons using a Street annoyance to any business or resident.
- 1.5. Busking may only be carried on in a location with sufficient space for the entertainment (and taking into account the number of buskers and the expected audience size on the predetermined sites).
- 1.6. The Busking must not be carried on in a way that causes an obstruction to pedestrians or traffic or disturbance, nuisance or undue interference with, or inconvenience to or risk to safety of persons using a Street.
- 1.7. No pyrotechnics, fireworks or similar shall be used as part of the entertainment.
- 1.8. The licence holder must comply with any direction given by an Authorised Officer or Police Officer, which may include directions to stop busking or to move to another designated site, if available to prevent a nuisance or obstruction being caused.
- 1.9. The licence holder should be dressed appropriately and wear appropriate footwear to allow for ease of movement for emergency evacuations.
- 1.10. Buskers must not sell anything unless they have a street trading licence, and this is further restricted to when they are busking at a designated busking site and in receipt of a valid Busking Licence.

- 1.11. Buskers must not be drinking any alcohol or have any alcohol on display when busking. This includes when setting up, performing and packing down.
- 1.12. Buskers must not busk with pets or other animals unless they have the Council's prior written permission.
- 1.13. Busking cannot include sampling, selling or giving away food or drink.
- 1.14. Buskers are only allowed to take two slots per day on the allocation system for sites. If subsequently there are more available, then buskers need to return to the street trading office before noon on the day of to identify what further slots they wish to take. This is again limited to one additional slot per day.
- 1.15. Buskers must not commit any acts of harassment against any person. Harassment includes (but it is not limited to) violence or threats of violence, abusive or insulting words or behaviour, and damage or threats of damage to property belonging to another person.

Appendix D – Application Requirements and Decision Making

Part V of the London Local Authorities Act 2000

Regulations Prescribing Application Requirements and Procedure to Determine Applications

In these regulations, the expressions "Street" and "Busking", have the meaning as set out in Part V of the London Local Authorities Act 2000. The "Policy" means the Royal Borough of Kensington and Chelsea's Street Entertainment (Busking) Policy.

Application Requirements

- 1.1. All applications should be made on the application form provided by the Royal Borough of Kensington and Chelsea and should be accompanied by a passport size photograph of the performer, and the correct application fee.
- 1.2. The following information is required for all applications:
 - a) name and address (where the application is made by a group, the name and address of all members of that group);
 - b) contact details;
 - c) type of entertainment to be performed and description of equipment to be used;
 - d) two forms of identification
 - e) proof of national insurance number
 - f) proof of third party public liability insurance (£5million)
 - g) type of performance and how many people are involved
 - h) whether the applicant has previously been refused a street performing licence (in or Royal Borough of Kensington and Chelsea elsewhere) or has had a busking licence revoked.
- 1.3 If a group is performing each member of the group needs to register. Specifically the third party public liability insurance should cover all members of the group.

Procedure to Determine Applications

All Applications

- 1.4. Applications for any street (or area) that is not a designated Street will in all cases be refused (see **Section 3** of the Policy) in the Pilot Area.
- 1.5. A Licence will normally be granted for days and times as stated in the Policy.

New Applications

- 1.6. Applications granted by default will be granted subject to the Standard Conditions for a period of up to six months, and will permit busking on designated sites in the control area, designated as a designated Street.

- 1.7. Applications from buskers that have previously had an application refused, licences revoked, or have been the subject of complaints or enforcement action will be decided according to the procedure for variations (see procedure below).

Applications and Procedures

- 1.8. Applications that aren't granted by default will be determined by the Regulation and Enforcement Review Committee or any other committee that has responsibility for such applications and according to this Policy.
- 1.9. The Committee Sub Group will be formed of at least three Councillors and Council Officers who have knowledge and experience of busking or other relevant issues.
- 1.10. To ensure costs of processing applications are kept to a minimum and that applications can be determined as promptly as possible, the committee will normally determine applications according to written documents provided by the applicant and will not normally invite oral representations to be made in person by the applicant, however this does not preclude the ability to make oral representations if there is a hearing before committee if the licence is going to be refused or revoked.

Appendix E

Licensing Act 2003

- 1.0 Some entertainment may need to be licensed under the Licensing Act 2003, where this is the case, a Street Entertainment Licence will not be required. The types of entertainment covered by the Licensing Act and relevant to this Policy are; performances of plays; performances of dancing; exhibitions of films; live music and recorded music.
- 1.1 There are various exemptions to entertainment needing a licence but a performer may need a licence if the audience figure is over 499 or if licensable performances from a particular 'pitch' take place on more than 15 occasions or 21 days in a calendar year. If the audience figures are 499 or less a Temporary Event Notice may be given, but on no more than 12 occasions per year, to a maximum of 21 days. Entertainment may also be exempt if it takes place between 0800 and 2300.
- 1.2 In the case of amplified live and recorded music on the street, a licence is normally needed if a pitch or location is being provided for that entertainment, or if the event is to be promoted with music as one of the main attractions, unless that music is incidental to another activity which is not licensable entertainment, or if the music can be described as background music.