Department for Business, Innovation & Skills

Consultation Response form for England and Wales ONLY

Consultation on Street Trading and Pedlary Laws – Compliance with the requirements of the European Services Directive

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **15 February 2013.**

Name: Margaret Leppard
Organisation (if applicable):
[redacted]

Please return completed forms to:

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If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group from the list below.

☐	Business representative organisation/trade body
☐	Central government

☐	Charity or social enterprise
☐	Individual
☐	Large business (over 250 staff)
☐	Legal representative
☐	Local Government
☐	Medium business (50 to 250 staff)
☐	Micro business (up to 9 staff)
☐	Small business (10 to 49 staff)
☐	Trade union or staff association
☐	Other (please describe)

Below we set out a variety of questions in relation to our draft set of regulations attached at Annex A of the consultation document

We would like all consultees to fully consider our proposals and **explain the reasons for your answers as fully as possible.**

Repeal of the Pedlars Acts:

Question 1: Do you agree with the proposed repeal of the Pedlars Acts 1871 and 1881 UK-wide?

☐ Yes X No

Comments:

My concern is less with street trading and more with pedalry, where goods and services are offered, exposed and sold house to house.

My argument has two strands. First, the cultural one epitomised in the phrase, 'An Englishman's home is his castle.' This is linked to the notion that inhabitants are able to control the boundaries of their home irrespective of whether they own or rent. In Scotland, I sense that the cultural construction of the notion of home is even stronger and most people select carefully those they will invite in.

The second strand of my argument is based on an understanding of current demographics and who is at home, when, and in what circumstances.

Let's start with the growing number of elderly people, some of whom are infirm either physically, mentally or both. If pedlars are encouraged as part of the Conservative policy to encourage entrepreneurship, and therefore multiply in number we might find that elderly infirm in their haste to answer the, now often rung, door might trip and fall at cost to the NHS . Other elders might be easily pressured into purchasing unwanted goods or services just to 'get rid of' the pedlar. At worse, unscrupulous and possibly uncertified pedlars might trick elders, get into their homes and effectively 'case the joint' on behalf of other criminal elements. Having leafleted for a sitting MP, I can see how easy it is to go from home to home, assess the type of home and identify security risks (including knowing when people are not at home).

The next group of people are those who are at home because they are unemployed or disabled and on benefits. These are people who can ill afford 'on the spot' impulsive purchases.

Finally, there is the group of people who are in employment. While they might be able to afford impulsive purchases, for them, with greater proportions of the working population working long and antisocial hours, they need even more the opportunity to close the door, relax, engage in re-creation and know that they will not be interrupted by door step callers. Neoliberalism has placed individuals in great tension. On the one hand, we are to be go-getting, risk taking entrepreneurs who work long hours to generate personal income and fuel national economic growth. On the other hand, the home is where caring, nurturing values are [supposed to be] sustained; individuals are energised for their role in the market economy and, interestingly where decisions about consumption are made. Despite its advertisements and increasingly well designed cookies that entice us to buy, we can turn the computer off. We sign up for Telephone Preference Service (although that does not protect us from highly intrusive international calls). If this legislation goes ahead how will we be protected from intrusive pedlars? We must have an effective opt out so that we can choose, in advance, not to have to answer the door to pedlars. Furthermore, Trading Standards must be better empowered to deal with increasingly common and persistent 'rogue traders'.

As a 'sole trader' I am aware of some of the challenges that face small businesses. Operating in the knowledge economy, I do not have need of bank loans to expand my business. However, this government needs to consider much more carefully how those who can work might work. This government has not been successful in encouraging banks to give loans to *sound*, small businesses. I support it in its very recent efforts to reduce tax avoidance (Amazon, Starbucks etc). When I worked in Bangladesh, you could go to the market and hire a day labourer. I need a day labourer to assist with clearing out a shed. Why can I not call the job centre to hire a fully disclosed, health and safety and lifting trained day labourer? I will not employ such a person, but I could pay a daily rate to the Job Centre that covers liability and insurance as well as a rate of pay that honors the labourer's basic qualifications. Where can I get a roofer to do such a 'small job' as replace the felt on my shed?

In summary, in the 21st Century we need to consider the needs of the small business entrepreneurs in radically different ways. I might need a chair mending but I don't need a pedlar to knock my door offering his/her services wares. We need to develop high quality technicians and traders, who pay their taxes and provide the goods and services that homemakers need, at the time they need them, at an affordable price … and I do have a phone and email to contact them. *Then* they are welcome to my home!!

Question 1.1 **If you are a police force:**

(i) what is the approximate annual cost of administering the pedlar certification scheme?

(ii)what impacts would repeal of the Acts have in terms of cost, time and/ or other factors?

Comments:

Question 1.2: **If you are a pedlar: what do you consider are the impacts of repeal, both in terms of costs, time and/ or other factors?**

Comments

Question 1.3: **Do you consider that repeal would have an impact on any other organisation, individual or group? If so, please provide details of that organisation etc and what you consider the impacts on them would be.**

Comments

See comments above on health service, Trading Standards.

Question 2: **Do you agree with our proposed new definition of a pedlar for the purposes of the pedlar exemption from the "national" street trading regime in England and Wales?**

☐ Yes X No

Please fully explain your reasons for agreeing or disagreeing with any element of the proposed definition.

Comments:

Impossible to police, especially given the cuts in local policing!

Amendments to Schedule 4 to the LG(MP)A

Question 3: **If you are a local authority, do you envisage that there might be circumstances in which you would be able to designate a street as a licence/ consent street in relation to established traders but not in relation to temporary traders?**

☐ Yes ☐ No

Comments:

Question 4: **Do you agree that only one photo needs to be submitted with street trading applications which are made electronically?**

☐ Yes ☐ No

Comments:

Question 5: **Do you agree with the proposal to replace the mandatory refusal ground? If not, please explain**

why you do not think that the 1933 Act provides adequate protection and why the minimum age requirement of 17 needs to be retained. (see paragraph 1.32).

X☐ No

Comments:

Sadly, the education system does not adequately prepare young people for respectful engagement with diverse populations, nor are they prepared to carry on a business … some do not even understand the principles of household budgeting. Young people need some work supervised experience before engaging in pedalry. There are grave risks that young people will be used and exploited by others.

Question 5.1: **If you are a local authority, can you indicate the approximate number of applications you would expect to be made from those under 17 years of age?**

Comments:

Question 6: **Would it be helpful for BIS to issue guidance on the circumstances in which the discretionary grounds in 3(6) (a), (d), (e) and (f) can be used? (see paragraphs 1.33 and 1.34 above).**

☐ Yes ☐ No

Comments:

Question 7: **Do you think there are any circumstances in which the existing paragraph 3(6)(b) ground could be used compatibly with the Directive and, if so, please give reasons. (see paragraphs 1.36 - 1.37).**

X Yes ☐ No

Comments:

See my comments earlier. I believe there are public health risks – falls and fractures and mental ill health resulting from hassle frompedlars

Question 7.1: **Do you consider that it is necessary to insert a new replacement "suitability" refusal ground into paragraph 3(6)? (see paragraph 1.38)**

X Yes ☐ No

Comments:

If a Neighbourhood Watch or [to be defined] number of households in a road wish then an area may be deemed unsuitable for pedalry

Question 7.2: In relation to this new ground, can you tell us:

(i) In what circumstances you would use this ground and how often?

(ii) Whether this ground would produce costs on you as a local authority, or on you as a business and what these costs are likely to be?

X Yes ☐ No

Comments:

These would be pre-emptive approaches, the development of Neighbourhood Watch and local residents groups could be considered genuine community development. The only risk is that these might develop into 'local militias'. There would need to be clear procedures for areas that has chosen to opt out of receiving pedlars to report pedlars to the police and resources for the police to respond immediately.

Question 7.3: Would it be helpful for BIS to issue guidance on the circumstances in which this replacement ground could be used?

X Yes ☐ No

Comments:

Question 8: **Do you think there are any circumstances in which either of these grounds could be used compatibly with the Directive in relation to temporary traders? (see paragraphs 1.39 -1.42)**

☐ Yes ☐ No

Comments:

Question 8:1: **Do you think it would be preferable to pursue our proposed approach of expressly preventing the grounds from being used in relation to temporary traders or to repeal the grounds completely?**

☐ Yes ☐ No

Comments:

Question 8.2: **Will local authorities continue to use these grounds in relation to established traders?**

☐ Yes ☐ No

Comments:

Question 8.3: **Do you foresee any difficulties with our proposals to limit the circumstances in which these grounds could be used in relation to established traders?**

☐ Yes ☐ No

Comments:

Question 9: **Do you foresee any problem resulting from the proposed repeal of paragraph 3(8) of Schedule 4 to the LG(MP)A? (see paragraph 1.43)**

☐ Yes ☐ No

Comments:

Question 9.1: **Do you agree with our assumption that those who may benefit from this provision are more likely to be UK nationals than nationals of other Member States?**

X Yes ☐ No

Comments:

Agreed that this might seem to be discriminatory but what measures will you put in place to ensure that well established UK and local traders are not threatened by incomers with a different cultural values? What do we know about how protection rackets work among pedlars and street traders?

Question 10: **Do you foresee any problems with our proposal to give local authorities flexibility to grant licences for longer than 12 months or indefinitely? (see paragraphs 1.44 – 1.47)**

☐ Yes X No

Comments:

So long as local authorities have the resources to identify and deal with traders whose practice becomes problematic.

If you are a local authority can you further tell us

Question 10.1: Whether lengthening the duration of licences would have a positive, negative or neutral impact on the ability of new street traders to obtain licences to trade in your licence streets?

☐ Yes ☐ No

Comments:

Question 10.2:

(i) Whether you are likely to issue licences for more than a 12 month period of indefinitely?

☐ Yes ☐ No

(ii) If you are likely to issue licences for a defined period which is longer than 12 months, what period you are likely to choose?

Comments:

Question 11: **Would it be helpful for BIS to issue guidance as to how the PSR may affect a local authority's ability to use some or all of the revocation grounds contained in paragraphs 5(1)(a) to (c) in relation to established traders/temporary traders? (see paragraphs 1.48 – 1.50)**

XYes ☐ No

Comments:

Question 11.1: **Do you think there are circumstances in which the paragraph 5(1)(d) ground could be used compatibly with the Directive in relation to temporary traders?**

☐ Yes ☐ No

Comments:

Question 11.2: **(i) Do you think it would be preferable to pursue our proposed approach of expressly preventing that ground from being used in relation to temporary traders or to repeal the ground completely?**

☐ Yes ☐ No

(ii) Will local authorities continue to use that ground in relation to established traders?

☐ Yes ☐ No

Comments:

Question 11.3: Do you foresee any difficulties with our proposals to limit the circumstances in which that ground can be used in relation to established traders?

☐ Yes ☐ No

Comments:

Question 12: Do you foresee any problems with our proposals -

To disapply regulation 19(5) of the PSR where a mandatory ground for refusal of the application exists; or

XYes ☐ No

To leave it to local authorities to decide whether to put arrangements in place to disapply the regulation in other

circumstances, or to specify what conditions will automatically attach to a licence which is deemed to have been granted under regulation 19(5)? Please give reasons for your views (see paragraphs 1.51 – 1.53)

X Yes ☐ No

Comments:

Yes, we need national standards otherwise certain areas will be overwhelmed with street traders and pedlars

Question 13: Do you foresee any problems with our proposals to allow local authorities to relax the prohibition in paragraph 7(7) in its entirety where appropriate? (see paragraphs 1.54 -1.57)

X Yes ☐ No

Comments:

Question 14: Do you foresee any problems with our proposals to amend paragraph 10(1)(d)? (See paragraph 1.59)

☐ Yes X No

Comments:

Providing enforcement is properly resourced.

Question 15: Please can local authorities tell us about any other local Acts regulating street trading which are not listed at Annex B of this document (or any Acts listed in Annex B which have in fact been repealed).

Comments:

Question 15.1: Please can local authorities tell us-

(i) whether having screened your local street trading Acts for compliance with the Directive, amendments /repeals need to be made to that legislation;

(ii) if such amendments/ repeals are needed whether you wish us to include them in our regulations.

Comments:

Question 16: Please can local authorities tell us-

(i) what consequential amendments are needed to the provisions listed in Annex C as a result of the repeal of the Pedlars Acts (and provide appropriately drafted provisions);

(ii) whether any consequential amendments are needed to other provisions of local Acts as a result of the repeal of the Pedlars Acts (and, if so, provide appropriately drafted provisions);

(iii) if any of the provisions listed in Annex C are no longer in force.

Comments:

Question 17: Can local authorities tell us-

(i) what consequential amendments are required to the provisions of local Acts listed above at paragraph 1.73 as a result of our proposed amendments to Schedule 4 to the LG(MP)A, and provide appropriately drafted provisions?

(ii) whether (and, if so, what) consequential amendments are required to <u>any other provisions</u> of local Acts as a result of our proposed amendments to Schedule 4 to the LG(MP)A (and again provide appropriately drafted provisions)?

Comments:

Do you have any other comments that might aid the consultation process as a whole? Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Comments:

Has made me more of a Eurosceptic!

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply ☐

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

☐ Yes ☐ No

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