

On behalf of South Yorkshire Police the response to the consultation regarding the proposal to repeal the Pedlars Acts.

On the whole South Yorkshire Police agree and echo the answers provided by Sheffield City Council that are copied below.

From a policing point of view and in response to the consultation we would also like to make the following comments and suggestions.

We have read the research carried out by Durham University and agree that the issues around pedlars are in the main caused by traders trying to use a pedlars licence in order to street trade. However, we still believe that repealing the act will give rise to an increase of traders that are not vetted for any form of suitability and this in turn will lead to a potential increase in low level and organised crime and disorder and the sale of counterfeit goods. There is also be a valid concern surrounding public safety that needs to be addressed with potential issues around child grooming, child exploitation and the possibility of increased cold calling on vulnerable residents by potential criminals.

We appreciate that in some areas, there may be little to no control/ enforcement of the pedlars licence but we feel this should be addressed rather than simply dismissed.

An option would be for a national system and process for the issuing of pedlars certificates and reviewing of issued certificates to be introduced. The reviewing of certificates is necessary to ensure that a holder of a certificate still remains a fit and proper person to hold a licence. Persons who have been convicted of an offence under the theft act, a sexual offence, supply of drugs or fraud should have their application reviewed by a designated officer before being issued with a licence. Persons who are convicted of such an offence whilst in possession of a permit should also be subjected to the same review process with the power to revoke the licence if appropriate.

A Tenants and Residents Association has raised concerns with the Chief Constable about the potential impact that the proposed changes to the law would have on "cold calling exclusion zones".

South Yorkshire Police's response to question 1.1 is as follows;

Question 1.1 If you are a police force: *what is the approximate annual cost of administering the pedlar certification scheme?*

SYP granted approximately 90 pedlars certificates each year across its four districts. The time spent on each application is not currently recorded however it is estimated that each application takes 1 hour of a PC's time (which is charged at £58 in line with "Paying the Bill"), and 1 hour of administrative time (band B which is charged at £10 per hour on SYP's pay scale) we would anticipate that an additional charge of £10 should be added that would covers petrol etc. Given the above costs, the scheme currently costs South Yorkshire Police around £7,000 annually that is not recouped from the application fee.

What impacts would repeal of the Acts have in terms of cost, time and/ or other factors?

If the current process for applying for a pedlars certificate was changed the impact would be that SYP would not have to use time and resources processing the applications.

The relevant parts of the response of Sheffield City Council which South Yorkshire Police echo are copied below;

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

Yes, we agree with the proposed repeal of the Pedlars Acts 1871 and 1881 UK wide as the legislation is now outdated and it is increasingly difficult to enforce Pedlars as different police areas adopt different approaches with some making greater checks than others and there being no central database of those issued with a pedlars certificate and with no expiry date once issued the appropriateness cannot be reviewed.

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

We do not agree with the proposed new definition of a pedlar for the purposes of the pedlar exemption from the ‘national’ street trading regime.

We feel that a Pedlar should not remain an exemption under schedule 4 of the LG(MP)A.

Should it remain an exemption, there should be an authorisation scheme which would clearly be justified by an overriding reason to the public interest (Art 9). There are significant public safety and security issues as well as public health and protection of consumers. We feel it is extremely important that any person who is permitted to trade should go through an authorisation scheme, to ensure they are fit and proper. This could include a police check or equivalent vetting. Traders come into contact with children and other vulnerable people who we need to afford extra protection. Local Authorities would not know whether Pedlars have a right to work, if they are claiming benefits or if they are illegal immigrants. Failure to implement an authorisation scheme would cost Local Authorities and other agencies time and money on enforcement.

The proposed definition also allows pedlars to trade in pedestrian areas. We feel that this should be omitted from the definition as other authorisation schemes are in place should they wish to do this. Most pedestrian areas likely to be used by pedlars are city/town centres which are managed by council departments taking into account local economy needs accordingly. Pedlars under this definition would overcrowd, cause obstruction and limit how the area is used. We feel that a pedlar should be trading on foot by means of visits from house to house and town to town as was originally intended.

Paragraph 2A of the draft regulations state that pedlars would be trading on foot, would this be from their place of residence? Do the pedlars have any resting time? The regulations need to be clear and concise so pedlars and local authorities are aware of what is permitted.

Local Authorities continually receive complaints regarding pedlars and their receptacles from businesses and the general public. The definition should therefore reduce the size of the ‘receptacle’

permitted by a pedlar. The dimensions listed in the proposed draft regulations are too generous and would cause problems on any street/road with regards to obstruction, public safety and protection of the environment.

The exemption does not include any measure about how many are permitted in an area, or how far away they should be from other pedlars. There is also no restriction on the type of goods which would be a concern. We would have issues with a pedlar selling living things as we would need to ensure that the animals are kept adequately and safe (health of animals) which again is an overriding reason of public interest.

The exemption does not state anything about selling food. Any pedlar under this exemption selling foodstuff hot or cold causes danger (hot plates, gas bottles, food hygiene, etc) and nuisance (odour etc) which will require extensive enforcement activity to control.

Sub paragraph 2D gives a restriction of 3 hours, who would monitor and enforce this. Current issues regarding Pedlars are hitting Local Authorities with substantial time and costs enforcing Pedlars that are illegally street trading.

The definition does not state the minimum age a Pedlar can be. Whilst there is adequate provision for safeguarding children of compulsory school age in other primary legislation, existing legislation (CYP Act 1933, 1963 and local Byelaws) does not make adequate provision for safeguarding children of non compulsory school age (sometimes aged 15 years) working in the context of pedlary.

This would impact on the safety and welfare of young pedlars and on the statutory services for the following reasons:

(i) Children of non compulsory school age (as young as 15 years) working as pedlars would not be required to obtain consent to trade from the police. This would result in a

lack of supervisory, regulatory and protective arrangements for young people aged 15 or over. Pedlary involves working in transient, unpredictable environments, approaching strangers or being approached, for trade. Routinely a young person may carry about their person valuable goods or cash. The peddling environment is difficult to risk assess.

One impact of the proposal therefore would be that children aged 15 years or over may be at risk of harm, affecting their safety and welfare.

(ii) The activity of children peddling in an unregulated context may impact on the resources of the local statutory services, such as police, children's services and licensing authorities, which would need to make arrangements to monitor peddling activity to safeguard the children involved. (Such arrangements may include the administration and enforcement of a permit scheme; a requirement for a risk assessment to be undertaken and the provision of a registered adult who is appropriately vetted with designated responsibility for the supervision of the young pedlar; identity cards for young traders and supervisors.)

The draft definition and the requirements under it are not clear and are open to abuse, courts could interpret the regulations differently making it difficult for authorities to control and enforce.

South Yorkshire Police openly welcome legitimate traders, we regularly have continental markets however they are regulated as we need control of what is happening in the city centre.

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)

We do not see any problems with the proposal to give Local Authorities flexibility to grant licences/consent for longer than 12 months or indefinitely as long as the flexibility is a choice to grant up to a certain period and not for a minimum duration.

Although we are not against this proposal, primary legislation will need to be altered to deal with the impact of an indefinite consent, for example what happens if the consent holder dies, or other such circumstances?

As an Authority, we will need to review and re-assess consents annually to ensure that reasons relating to public interest such as public safety, public policy, security etc are considered within appropriate times (ORRPI).

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?

We would suggest that this would give a negative effect. Issuing long term or indefinite consents could affect the local economy and the closure of businesses. Local economic factors should be taken into account when issuing consents as areas change and the suitability of issuing such consents.

Question 10.2:

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

(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?

(i) Sheffield City Council would keep to issuing consents for a maximum of twelve months. This would give the Local Authority an opportunity to assess/review the application and the trader and what is happening within the locality of the consent area. This process would ensure all the overriding issues of public interest such as public safety, policy, security and health are considered on an annual basis.

(ii) Sheffield City Council would keep to a maximum of twelve months for a consent.

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

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

(ii) 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)

(i) We would foresee some problems as there may be other overriding reasons in the public interest that we may need to refuse an application other than mandatory grounds. We would need to ensure that the applicant is suitable as they could be in contact with children and vulnerable persons, there may be traffic regulation orders that make it unsafe for any trader to be located there.

(ii) As a Local Authority, we would prefer that we can put arrangements in place to disapply the regulation in other circumstances. We would then be able to take into account issues of public interest and present the case to a Licensing Committee for determination if required.

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)

We foresee no issues or problems with the proposals to allow a relaxation in paragraph 7(7) in its entirety where appropriate. Applicants would be treated fairly and give them more scope and variety of the type of business they wish to promote.

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

We foresee no problems with your proposals to amend paragraph 10(1)(d).

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).

There are no further local Acts to disclose other than the South Yorkshire Act 1980 – sections 67-78 which are already listed at Annex B of your document.”

If I can be of any further assistance please do not hesitate to contact me.

Gary Slinn
Legal Services