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 March 2013.**

Name:
Organisation (if applicable):
Address:

Please return completed forms to:

Name:	Rachel Onikosi, Policy Manager
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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) Sole Trader. Intent on trading as a certified pedlar but seriously concerned by existing and future behaviours of Local Government towards even certified pedlars.

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 ☒ No

Comments:

I have written an email to you (BIS) on 6 February 2013. The response failed to address my email. Instead I received a "stock letter" that demonstrated a failure to understand Pedlary, was suggestive of "having ears" only for the representations of Local Authorities but none for certified Pedlars. In overall terms the response gave me a clear impression of "incompetents on the loose".

I responded to your "stock letter" and my responses provide much information about why I do not see the "government position" (aka "BIS position" aka "What Local Government would like to happen"). I also noted how the House of Lords appear to have a better understanding of Pedlary and the national nature of Pedlary than the BIS/Government have.

I wrote to my MP and got a different "stock letter" that also suggests HM Government (especially BIS) has no clear understanding of Pedlary at any level.

So, I do not wish the Pedlary Acts to be repealed on the grounds of

1. a failure to properly communicate with pedlars (and with prospective pedlars like myself). If the BIS is failing to communicate effectively with myself (as a prospective pedlar) and established pedlars are complaining that they are not being properly consulted then there is a clear case of failure to consult and ESPECIALLY to LISTEN effectively.
2. incompetent and/or defective understanding of Pedlary (in the broadest sense). This seriously undermines the entire process of consultation.
3. an apparent over-reliance and over-familiarity within BIS on Local Authority opinions, even though they are, in the most part, little more than pure speculation and wild nonsense. This has lead to serious bias in the consultation so far as I can see the situation.

4. I have looked to but I have not found anything that remotely looks like a well-considered impact assessment. I note that recent activities in the House of Lords demonstrates that THEY have the measure of Pedlary and the adverse behaviours of Local Government. Interesting that BIS are self-evidently clueless about Pedlary, listen only to Local Government and are unable to produce a competent impact assessment.
5. Finally, as pointed out in my email response, I see no rational reason for repeal when I, like established certified pedlars, see merit in AMENDMENT of the pedlary legislation rather than repeal. I note the BIS are not proposing amendment to the legislation as an option which again demonstrates bias and/or incompetence.

Refer to my email response to your "babble" for further clarification.

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

I am a prospective pedlar. The only thing stopping me from becoming an actual pedlar is the uncertainty of what is happening which in turn is in consequence of what I see to be completely bizarre behaviours and attitudes coming out of your (BIS) department.

I have NO wish for repeal of the Pedlary Acts as they provide (minimial) protection from the nasty-minded behaviours and actions of Local Authorities that are not only demonstrably there (vis court cases) but have been "clocked" by the House of Lords in their recent work relating to the ever-increasing numbers of Private Bills.

Repeal will do nothing more than increase the nasty-minded behaviours of Local Authorities in their ever-increasing attempts to "control the streets". With no Pedlary Acts there is no protection from them. They will spend more on "policing" with ill-trained staff that results in even higher incidence of equally ill-considered litigation that as usual costs the taxpayer more and more money.

Look closely and analyse the behaviours and attitudes of the Local Authorities both in terms of their submissions to the consultations over the years and also to their private bills. You will see there is a clear intent to "control" rather than to "serve" the public.

For certified Pedlars I understand the threat to be physical and psychological (ie bullying and harassment from Local Authority ill-trained staff but less so with Police) as well as the threat and costs associated with an increased incidence of unwarranted interference, unwarranted confiscation of goods, unwarranted litigation against the pedlars and in consequence loss of trade and excessive costs to protect against the over-zealous ill-mannered ill-trained aggressive nasty-minded local authority "jobsworths" that represent local authorities in their attempts to "control the streets".

Refer to my email response to your "babble" for further clarification.

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

Yes. By repealing the Pedlary Act I would definitely NOT consider trading as a pedlar. It affects any person who is eligible to trade as a pedlar. How many adults are there in the UK? How many make things as a hobby and cannot afford hundreds of pounds for a static street trading license from a local authority? How many of them might only wish to wander around a few times a year to sell the results of a hobby?

Repeal removes the minimal protection from the nasty-minded behaviours of Local Authorities that are not only demonstrably there (vis court cases) but have been "clocked" by the House of Lords in their recent work relating to the ever-increasing numbers of Private Bills.

And, at this late stage in your consultation, over several years, is it not rather a disgrace that you are asking who might be affected? This research should have been completed years ago!

You might start by taking to and LISTENING to pedlars. They are the real and major stakeholders and you do not appear to be doing this!

Refer to my email response to your "babble" for further clarification.

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 ☒ No

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

Comments:

You have not listed your definition in this document. Tut tut.

Why is the existing definition no longer acceptable?

Why do you believe an over-specified definition IS acceptable?

Refer to my email response to your “babble” for further clarification.

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:

Are you asking about static trading or pedlary??????

Why are you asking such a TRIVIAL question when you can't apparently get the BIG PICTURE right????

My local police (Cheshire) ask for two ACTUAL passport-sized photos for a pedlary certificate.

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).**

☐ Yes ☐ No

Comments:

Who are you asking this question of?

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:

Applications for what?

Street trading license?

For whatever local authorities try to introduce by the 'back door' to stamp out pedlary or at least control it?

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:

from what I have seen so far, I wouldn't trust BIS to issue any guidance that is worthwhile based on what I've seen being produced that relates to Pedlary.

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).**

☐ Yes ☐ No

Comments:

I am now bored silly reading these excessively narrow-focussed questions that show INTENT to repeal the Pedlary Acts and “do what we've already decided”.

I can see this consultation is mere whitewash.

Refer to my email response to your “babble” for further clarification.

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)

☐ Yes ☐ No

Comments:

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?

☐ Yes ☐ No

Comments:

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

☐ 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:

Whatever Local Authorities can do to control or restrict pedlary they will do. Evidence is already around you to study! Refer to my email response to your “babble” for further clarification.

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:

Whatever Local Authorities can do to control or restrict pedlary they will do. Evidence is already around you to study! Refer to my email response to your “babble” for further clarification.

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?**

☐ Yes ☐ No

Comments:

Refer to my email response to your “babble” for further clarification.

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 ☐ No

Comments:

Whatever Local Authorities can do to control or restrict pedlary they will do. Evidence is already around you to study!

Refer to my email response to your “babble” for further clarification.

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:

Whatever Local Authorities can do to control or restrict pedlary they will do. Evidence is already around you to study!

Refer to my email response to your “babble” for further clarification.

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:

Whatever Local Authorities can do to control or restrict pedlary they will do. Evidence is already around you to study!

Refer to my email response to your “babble” for further clarification.

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)

☐ Yes ☐ No

Comments:

Whatever Local Authorities can do to control or restrict pedlary they will do. Evidence is already around you to study!

Based on your understanding of Pedlary I would not trust you to produce any competent guidance on anything.

Refer to my email response to your “babble” for further clarification.

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:

Whatever Local Authorities can do to control or restrict pedlary they will do.
I see “temprary trading” being their route to “control” pedlary in the future, and when it fails, to use unwarranted litigation.

Evidence is already around you to study!

Refer to my email response to your “babble” for further clarification.

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:

Whatever Local Authorities can do to control or restrict pedlary they will do. Evidence is already around you to study!

Refer to my email response to your “babble” for further clarification.

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

☐ Yes ☐ 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)

☐ Yes ☐ No

Comments:

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)

☐ Yes ☐ No

Comments:

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

☐ Yes ☐ No

Comments:

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:

Monitor and assess their responses carefully!

Whatever Local Authorities can do to control or restrict pedlary they will do. Evidence is already around you to study!

Refer to my email response to your “babble” for further clarification

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:

Try communicating properly. That includes Pedlars. That also includes LISTENING actively.

Never before in my life have I encountered such a shambled as the BIS in relation to Pedlary.

Refer to my first email to you – you still have not answered my FIRST email.

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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