



## **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**.

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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.

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government

<input type="checkbox"/>	Charity or social enterprise
<input type="checkbox"/>	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input type="checkbox"/>	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<b>x</b>	Other (please describe) <b>Business Improvement District</b>

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:**

This would have a severe impact on the functionality of the town centre. Please see response to Question 2

**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:**

Not applicable – we are a Business Improvement District

**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**

Not applicable

**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**

We believe the repeal would have a major and negative impact on current licensed street traders, markets, businesses and members of the public, particularly the elderly and those with disabilities. Our reasons are explained in Question 2.

**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:**

We believe that the Local Authorities Act 1990 which allows peddling for house to house sales should be retained. Allowing pedlars to trade in the streets without restriction would have a severe impact on town centres. From our own perspective we have reached the following conclusions:

We are firstly concerned by concerned by 1.15 (b) within the consultation document and the reference to ‘trading with pedestrians while travelling through the streets’. This method of trading could be extremely damaging to established businesses along the chosen route which might sell or trade in the same product as that the pedlar sells. More of a concern, however, is the effect unregulated trading could have on pedestrian traffic. Upper Street, here at Angel, has a high footfall volume, particularly along the High Pavement which is lined with retail units and is regularly targeted by illegal traders. We can envisage a number of pedlars trading simultaneously along a short stretch of pavement which is also plagued by charity collectors. This could have an extremely negative impact on retail trade, particularly if there are no checks being made on the trade in counterfeit goods. We are an organisation dedicated to making the town centre a thriving hub for our member businesses and a destination for shoppers and this attempt could be compromised by these proposals.

We have no doubt that the rule which limits a pedlar from being static for no more than 10 minutes will be abused. This will be extremely labour intensive to police and a pedlar determined to break the rule will easily arrange for diversions or fake potential customers to ensure that he/she does not have to move.

The allowed size for a receptacle is, in our opinion, far too large. As there is no limit on the number of pedlars allowed to trade in any one place, we could easily end up with impromptu 'markets' developing along shopping streets again, affecting both pedestrian traffic and retail trade. Added to this is the possibility that some pedlars will also trade in live animals, adding to the chaos. Have any provisions been put in place to ensure the welfare of animals being traded?

We have recently created a new market in the BID area bringing the total to three within the area. All three are licensed and well managed and intended to jumpstart the local economy by increasing footfall. We are concerned that the proposals put forward by BIS would put all traders within these markets at a serious disadvantage. We have carefully managed the creation of the new market to ensure complementary sales for the stallholders and the retailers which could be severely compromised by mobile pedlars working amongst them.

In addition to the above, we are working within the Angel town centre to make it age and disabilities friendly. In order to do this we have to ensure that there is adequate access to shops and facilities and minimum impediments along pavements and streets. This attempt could be severely compromised if there was no control over who could set up to trade – however temporarily – on pedestrian access routes.

#### **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:**

Not applicable. We are a Business Improvement District

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

☒ Yes

☐ No

**Comments:**

Although we are not a Licensing Authority, we believe that electronic applications should be facilitated.

**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:**

We have no objection to this

**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:**

Not applicable

**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:**

We would welcome new guidance notes being issued to the Local Authority with whom we enjoy a good working relationship which ensures the town centre is efficiently managed



**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:**

We believe that the Local Authority has responsibility for getting the right mix in our markets and street trade and we trust them to make the right decisions. We want balance and diversity and want to ensure that the Local Authority has the power to refuse unsuitable applications.

**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:**

Yes, in order to achieve a balance within the town centre and ensure that businesses and traders alike can thrive.

**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:**

We are not a local authority but as a business organisation we believe that the suitability requirements should be maintained to support the economic viability of the town centre.

**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:**

We are concerned about the impact the replacement ground could have on the town centre.

**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:**

We have been informed by the local authority that bit allows equal access to their markets for both casual and permanent traders and they have, therefore not considered these grounds in relation to the Directorate

**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:**

We want all pitches to be in constant use. Empty pitches give a negative perception of an area.

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

☐ Yes

☐ No

**Comments:**

As a BID we hope that the local authority will ensure that all market pitches are taken up and that ball markets thrive. We would also like the local authority to have the ability to choose who it lets pitches to.

**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:**

We want the local authority to be able to use discretion when letting available pitches.

**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:**

**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:**

We can see no problem with this but would like to see the present policy of a six month 'probationary period' being allowed to continue.

**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:**

No applicable

**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:**

Not applicable

**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:**

We are concerned about erosion of the local authority's ability to revoke a license

**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:**

We would like to see the continuation of the local authority's right to revoke licenses in appropriate circumstances

**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:**

Not applicable

**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:**

As at 11.1

**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:**

We would welcome the local authority being able to make these decisions

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

☐ Yes

☒ No

**Comments:**

As above

**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:**

We are not a local authority

**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:**

We are not a local authority

**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:**

We are not a local authority

**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 any other provisions 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:**

We are not a local authority

**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:**

We believe that any changes should enhance rather than damage the viability of businesses and should enhance the visitor/shopper experience within a town centre.

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 **X**

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?

**X** Yes

☐ No

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