



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**.

[Redacted]

Organisation (if applicable): Islington Council

Address:

222 Upper Street, Islington London N1 1XR

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.

<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 checked="" 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
<input type="checkbox"/>	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

☒ No

Comments:

Please see comments in 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:

Question not relevant as we are a Local Authority

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 not relevant as we are a Local Authority

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 that the repeal and subsequent proposals for a new definition would have a major impact on existing market traders and businesses in Islington.

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:

The London Local Authorities Act 1990 (as amended) currently restricts peddling in London to “house to house” sales only. We believe that this should remain the case in London and that any amendments should ensure that this is taken into account. We believe that to allow Pedlars to trade in the street in the manner described would be detrimental for the following reasons;

Street Trading

Islington is fully supportive of its Street Markets and actively encourages and supports individuals who wish to trade in the borough.

We have thriving street markets and also scattered trading sites around the borough. As well as the markets, Individuals can apply to trade on private land or can apply to have part of the public highway designated for street trading. In dealing with an application to designate part of a street the Street Trading team will take into account the comments of our Highways department and the Police to ensure that any such designation would not interfere with or affect the safety of others using the highway.

The proposals to allow pedlars to trade in the street in is complete contradiction to the above process. Also to allow pedlars to have a receptacle that is up to a metre square and portable makes nonsense of the current licensing requirement that have worked well for many years and take into account the interests of pedestrians, businesses and existing market traders. Under the proposals, what is to stop several pedlars turning up in or next to our current markets or other street traders, blocking the highway and taking business away from licensed street traders.

Trading Standards

Islington has suffered in the past with an influx of illegal street traders’ selling illicit tobacco and DVD’s. It is only through co-ordinated enforcement with the Council, Police and HMRC over a sustained period that we finally eliminated the problem. This had a serious effect on businesses in the area a saw an increase of other crimes and was a serious drain on resources to enforce.

Allowing pedlars to trade on the street will allow counterfeit, unsafe and mis-described goods to be openly sold to the public with no possibility of the trader or the goods being examined in advance. There will be no traceability of the

product making enforcement of trading standards nearly impossible. The current horsemeat scandal should act as a timely reminder that even when traceability is in place, things still go wrong. Trying to locate a pedlar to investigate a breach of regulations would be impossible. Apart from the issues created by pedlars being allowed to trade in the street, we would also argue that perhaps it is time to revoke the Pedlars Act completely to prevent people selling from door to door. Selling door to door can disguise Artifice burglary, and enable rogue traders to prey on innocent and quite often vulnerable consumers

Highways Act

Islington is a central London Authority with narrow and congested footways that have to carry a significant regular pedestrian traffic in addition to the overload from events such as football matches, transport hubs & shopping areas.

The proposed acts will not allow us to manage how this congested footway space is managed and exclude obstructive activities from inappropriate locations. Examples include:

A 1metre wide pedlars booth on a typical 1.8metre wide footway will not allow a standard wheelchair to pass;

Pedlars will work in areas with the highest footfall, our most congested footways;

With over 13,000 highway works and excavations by utility companies in our streets each year, pedestrian and traffic management can restrict footways and make them unsuitable to be used by pedlars, but the proposals remove any opportunity to regulate our streets;

Crowd surge routes from the Emirates stadium would not be able to be kept unobstructed and areas prone to rush hour congestion would not be able to be kept free.

Town Centre Management

Town Centre Managers have worked hard with businesses during some very difficult financial times to help small businesses in particular to continue to trade. Regulated street trading in Town Centre areas can have a positive impact in areas encouraging footfall and vibrancy in an area. Allowing pedlars to set up and trade in these areas with no control over the commodities that they sell will have a totally negative effect on existing businesses.

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:

Under the London Local Authorities Act 1990, we offer two types of licence, full and casual. Once a street is designated, both full and casual licence holders can apply to trade in the street.

Question 4:

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

☒ Yes

☐ No

Comments:

Yes, we agree that the legislation needs to be updated to recognise electronic applications.

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 can see no objection to the removal of the minimum age requirement.

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:

This is difficult to estimate. We do however work with local schools as part of their enterprise syllabus so it would be good to promote market trading at an earlier age.

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 believe that the grounds are fairly clear, but would have no objection to guidance notes being issues, providing of course, we had the opportunity to comment on the guidance.

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:

The current ground for refusal in 3(6)(b), is not about protecting existing traders or businesses, but is about ensuring a healthy balance within the market and street so that businesses can build and thrive by complementing and supporting each other. In Islington, we treat each application on its merits, We will often consult with Town Centre Managers and Market associations to ensure that we are getting the balance right. We currently receive hundreds of applications throughout the year for people to sell hot dogs and burgers. To grant a licence to all of them would have a devastating impact on both market traders and local businesses.

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:

For the reasons stated above, we do not believe that this “suitability” ground should be removed.

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:

See above.

We believe that serious consideration needs to be given to the overall impact of removing or changing any suitability requirements.

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:

See above.

We believe that serious consideration needs to be given to the overall impact of removing or changing any suitability requirements.

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 not considered these grounds in relation to the Directive as in Islington, under the London Local Authorities Act 1990 we allow equal access to our markets for both permanent and casual traders. If a permanent trader only wishes to trade for part of the week on his pitch, then we allow another trader to use the pitch for the remaining part of the week and adjust their licence accordingly.

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:

A trader who pays for a licence to trade for a whole week, and then only decides to trade for a few days leaves a market looking empty and unwelcome to visitors and shoppers.

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

☒ Yes

☐ No

Comments:

It is in everyone's interest to see a full market, with pitches being taken on all days, so if there was interest from more than one trader for a particular pitch, we would still wish to choose the trader that wanted to trade for a maximum number of days.

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:

See above

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:

In Islington, under the London Local Authorities Act, we issue all licences on a temporary 6 month period. This enables us to ensure that the market trader is able to meet his/her obligations under the Act including paying their pitch fees on time. Once the 6 month period is over, the licence is issue for a period of up to 3 years. We believe that it is important that we should be able to continue to issue licences for a temporary 6 month period and would agree that once issued, licences should be granted for longer than 12 months.

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:

Under the London Local Authorities Act, we currently issue licences for three years

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:

Three years

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:

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:

As mentioned previously, we would discuss trading patterns with the licensee before considering whether to revoke a licence. We would wish to retain the right to revoke a licence if no agreement could be made for the reasons stated above.

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:

Please see previous comments under refusal.

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:

Please see previous comments under refusal.

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:

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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:

None

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:

Westminster Council is leading on this.

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:

Westminster Council is leading on this.

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:

Westminster Council is leading on this.

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:

None

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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