



Street Trading and Pedlary Laws – Compliance with the European Services Directive

Response to Consultation

Introduction

1. The Association of North East Councils is the representative voice for local government in the North East. It represents all 12 local authorities in the North East, throughout Northumberland, Tyne and Wear, Durham and the Tees Valley on issues of concern to them and the communities they serve. It is a cross-party organisation, with all of its members democratically elected and accountable politicians.
2. The Association also works closely with partners in the public, private and voluntary sectors. In responding to the present consultation it has taken particular note of strong representations from Durham Constabulary.
3. We have the following comments on the key questions in the consultation paper. We would ask the Government to note that these comments reflect the practical experience of police officers and local authority enforcement officers who are charged with upholding the law and protecting the public.

Response to Consultation Questions

Q1. Do you agree with the proposed repeal of the Pedlars Acts 1871 and 1881 UK-wide?

We are very concerned about the proposed repeal of the Pedlars Acts as we believe this would have significant and damaging implications for public safety in the absence of some other means for regulating the activities of pedlars, such as an enhanced street trading regime.

Pedlars, by the nature of their occupation, go on to people's private land and knock on the doors of private dwellings, often those of the most vulnerable members of society. It is therefore essential to have some mechanism for screening out those whose past history makes them likely to present a risk to the public.

It is clear from the examples presented by Durham Constabulary in their response to this consultation that a number of people who have applied for pedlar's certificates in the past have been found, on investigation, to have

come to the attention of Police for a variety of reasons which clearly make them unsuitable to visit people's homes. These include reports of, and convictions for, dishonesty, trading standards offences, tax offences and sexual offences. It is our view that simply repealing the Pedlars Acts without putting anything in their place would have a real and substantial impact on law enforcement agencies' ability to prevent crime and protect the public in their own homes.

We note that Durham Constabulary estimate the cost in police time of processing an application for a pedlar's certificate as £42 per application, so it is hardly 'unnecessarily burdensome' as suggested by the consultation paper (paragraph 1.11).

The issue of compliance with the European Services Directive is of course an important one. However, we note from the paper that the need for an 'authorisation scheme' can be justified by an 'overriding reason relating to the public interest', and that such reasons can include public safety, public security and the protection of consumers. We would urge the Government to take legal advice – if it has not already done so – on whether the existing Pedlars Acts regime, or something akin to it, can be justified on these grounds as it seems to us that there are compelling reasons of public safety for councils to retain the ability to exercise some control over pedlars' activities.

Q2. 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?

We have concerns about the proposed pedlar exemption from the street trading regime, in particular the proposed paragraph 1(2A)(b) of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982.

One of our member authorities has brought to our attention its experience of the activities of licensed pedlars who travel in large numbers to this City from other parts of England and trade in consent streets during and/or prior to events which attract large number of people e.g. air show, Christmas Lights Switch On and music concerts at a football stadium. These organised gangs set up, in effect, illegal street trading pitches and necessitate the commitment of a considerable amount of enforcement resources in response. Their activities have a negative impact upon the Council's efforts to stage successful events, and thus attract investment to the City, and constitute unfair competition for the legitimate traders who have paid for the necessary consents.

The current law, which provides no power of seizure or obstruction offence, is already inadequate to deal with the activities of these gangs and we believe that its effectiveness will be lessened further by the proposed amendment. It is easy to foresee, in a similar way to what happens at present, numbers of traders each pushing a trolley laden with goods for sale through crowds of people at an event, standing still for a period of time (it would be the task of the local authority to observe and time these pauses) then moving some distance along the road (it would be the task of local authority to measure the distance travelled – in all likelihood impossible at the time due to the number of people along the route). After 'peddling' with the trolleys for a while, the

sellers could hand them to accomplices who could repeat the procedure (it would be the task of the local authority to prove that two or more people were collectively engaged in street trading).

The practical problems associated with proving that a street trader was not a 'pedlar' in the terms of the proposed definition (especially when faced with multiple traders at events) would make the offence of trading in a consent street without authorisation more difficult to enforce.

Q3. 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?

We do not envisage a situation where a street should be designated as a consent street for established but not temporary traders. In practice, temporary traders usually want to use streets when they are at their busiest or are being used for purposes other than the passage of pedestrians e.g. the viewing of entertainments. It is important to the local authority to be able to manage the use of consent streets at such times for the purposes of ensuring the safety of people in the street, as well as encouraging economic vitality.