



**Please reply to:** Mr Steve Cox

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**Date:** 12<sup>th</sup> March 2013

Rachel Onikosi  
Policy Manager  
Department of Business, Innovation and Skills  
Consumer and Competition Policy Directorate  
1 Victoria Street  
London  
SW1H 0ET

Dear Ms Onikosi

**Re: BIS Consultation – Street Trading and Pedlary laws – Compliance with European Services Directive**

I am writing to respond on behalf of Torbay Council with respect to the proposed changes. I have previously worked very closely with Councillors on a review of Street trading in Torbay which resulted in a number of changes to the street designations for the town center areas, a new policy and a new approach. This response is based upon that working knowledge.

Several years ago the three town centre areas were littered with 'so called pedlars', pulling their carts of clothing, selling tattoos, etc. It was not welcomed by those who ran other businesses and paid their rates to Torbay Council, or by those who ran the town centers. Extensive consultation was undertaken with the businesses as part of this process and legal advice sought on what constituted street trading.

At that time, Licensing Committee agreed to changes in policy, street designations and that a policy of zero tolerance would be instigated regarding these sellers. This was implemented and now we have the town centre areas free of 'street sellers' who contribute little to the local economy.

The concern that Torbay Council has, are that these suggested changes will legalise an activity that isn't true pedaling, but in fact opportunism that litters our high street areas. It is simply street trading. These people do not move from town to town selling their wares as they travel. They target good shopping opportunities and only move on when forced to. The current street trading legislation along with enforcement enables Torbay Council to decide on the appearance of their town centre areas, which is the local democracy often referred to by the current government.

These suggested changes simply will reverse much of that hard work and allow people to by pass the businesses rates system and operate with impunity, again littering town centers with these sellers and their carts. It will create a whole new series of complaints and extra work for already over stretched Council enforcement staff.

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

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**If you require this in a different format or language, please contact me.**

Answer: Yes

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

Answer: No.

It is the view of Torbay Council that the existing definition, which is tried and tested in the court, be used as the exemption. To define something the size of 1meter by 1m by 2m is simply inviting traders to pull and push what are quite large barrows, around the streets with impunity. To say they only have to stay here for 10 minutes and then go there for another 10 minutes, with all these exemptions is just developing a loophole which will involve significant enforcement activity for no real gain. Pedlar law has been tested in the courts and so it is clear what a pedlar is and is not, and this will retain the status quo we currently have for those few genuine pedlars. **Torbay Council strongly urges the Department of Business Skills and Innovation to think again about its whole approach to this change.**

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?

Answer: Yes.

I think that if the proposed definition of pedlar is used then it is very likely that our town centre areas will be full of 'temporary' traders, though I have reservations on how temporary these traders will really be. I can envisage there being complaints and a request to limit some areas to only 'established' traders. However I am not clear if these changes would apply to those exempt under street trading, i.e. pedlars, If it doesn't then there would seem no advantage in doing so.

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

Answer: Yes

Question 5: Do you agree with this proposal to replace this 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.

Answer: Agree

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?

Answer: No information available.

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?

Answer: Maybe, but we use it so infrequently that it probably isn't an issue in Torbay, as Torbay Council owns most of the beaches and open spaces so can manage these areas through land ownership.

Questions 7, 8 & 9: Torbay Council has no views on these matters.

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?

Answer: No

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?

Answer: Torbay Council suspects the impact will be neutral.

Question 10.2: (i) Whether you are likely to issue licences for more than a 12 month period or indefinitely?

Answer: If Torbay Council was requested to do so, it would certainly consider this, but it comes down to ability to pay by the applicant.

(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?

Answer: Probably 2 years but further consideration would need to be given, as it would need to link to fees and charges.

Questions 11 to 14: Torbay Council has no views on these matters.

**Should you need to contact us please quote the reference number above.**

Yours sincerely

A handwritten signature in black ink that reads "Steve Cox". The signature is fluid and cursive, with the first name "Steve" and the last name "Cox" clearly distinguishable.

Mr Steve Cox  
Environmental Health Manager Commercial

*Please note that, apart from personal details subject to the Data Protection Act, information contained in this letter may be divulged to members of the public under the Freedom of Information Act 2000*

