

Petitioners' objections to Select Committee procedure: 24 November 2011
Opposed Private Bill Committee on Reading, Canterbury, Nottingham & Leeds
2nd 3rd & 9th November 2011

1. At column 42 the promoters mislead the committee into a wrong understanding of the term "services" which is clearly defined in Article 4 of the Services Directive as "any self-employed economic activity" and is not limited to "things like henna tattooing, teeth-whitening, those kinds of services...". BIS made the same error in 2009 – see point 5.
2. At col 44 the promoters attempt to mislead the committee that "the promoters and their legal advisors have very carefully considered the Services Directive... and... the bills have indeed been thoroughly screened [for compatibility]".
3. By col 441 the chairman noted that BIS has raised a "difficult matter... about whether all the measures before us are in conflict with the Services Directive... if there is not compliance that the legislation before us is actually perfectly kosher... we cannot continue".
4. At col 445 the petitioners' Agent raised a procedural concern about "whether we [the petitioners] will have an opportunity to examine [evidence from BIS]". Opportunity to examine this was denied.
5. At col 452 BIS refer to their "reasonable interpretation of the Services Directive". BIS has never admitted mis-interpreting the 2006 Services Directive meaning of the term "services" (see point 1 above). In November 2009 BIS introduced an erroneous Section 45 to the Provision of Services Regulation 2009 to the Grand Committee of the Lords. This Section 45 unlawfully removed protection by way of a pedlars certificate from "chair-menders" and those with "skill in handicraft". This issue remains unresolved.
6. By col 458 BIS confusion is manifest and by col 460 the Chair raises a "different burden" that her Committee is "not expert" to deal with the Services Directive.
7. At 461 BIS admits that it may not "give an opinion" on private bills because of "parliamentary protocols".
8. At col 469 Counsel for BIS submits possible justification for "restrictive measure on pedlars" but possible non-justification for "economic restrictions".
9. By col 472 Viscount Eccles reiterates the Chair's col 441 concern about "amending non-compliant legislation".
10. At col 474 & 475 BIS reiterates its 2009 policy that it can amend the qualification test for a Pedlars Certificate "by way of secondary legislation". BIS have ignored previous policy.
11. At col 476 Counsel for BIS disregards V. Eccles col 474 question "[BIS] intend to repeal the [Pedlars] Act because we do not think that the certification regime... complies with the Services Directive". Aside from this Hearing the petitioners have registered a Formal Complaint to the European Commission that BIS has breached its obligations to implement the Services Directive contrary to Article 1.5 and has instigated a Services Directive Pre-226 letter of enquiry to HMG.
12. At 484 BIS admits "exposure to non-compliance [of LGMPA] to European law".
13. At 486 L. Glasman - "concerned that we [the committee] is going to waste our time on this ambiguity".
14. At 496 BIS admit having interpreted the Services Directive "not in the correct way".
15. At 497 BIS say "we have been trying to understand it [the Services Directive]".
16. At 509 Counsel for BIS admits "intention to amend the LGMPA... each bill will piggy-back on that Act".
17. At 510 L. Blair "I am not sure we need to go any further [with these bills]".
18. At 511 BIS "if they [bills and Acts] are incompatible with the Services Directive they are already illegal".
19. At 517 BIS limits their objections in the bills "to two clauses 4 & 5" and at 527 Counsel for the promoters agrees but dismisses Services Directive concerns about other clauses.
20. At 528 V. Eccles reiterates BIS contention that the "existing regime [LGMPA] is non-compliant".
21. At 529 Counsel for the promoters says "potential non-compliance of the primary legislation

[LGMPA] is not a matter for this committee".

The petitioners consider that the Chairman for the Committee should have STOPPED the Hearing and dismissed Counsel for the promoters contention that non-compliance of the LGMPA to which the bills are piggy-backed is of no concern to the Committee. The petitioners contend that 529 is evidence of the promoters contempt for due process equaled in proportion to misleading arrogance shown in col 44. By the end of Day 1 the promoters' Counsel had accepted to amend the bills because of evidence from BIS.

At the beginning of Day 2 it was apparent to the petitioners that the Services Directive compliance had taken over all other concerns with the bills. At col 892 the Chair opened the day by reference to the promoters' bill amendments to allegedly satisfy the Services Directive which they claimed received approval from Counsel for the Lord Chairman. This regardless of the fundamental concern about primary legislation being "illegal".

22. At 909 petitioners concern with Procedure and Process was registered and at 918 L. Strasburger confirmed that "we can only consider the bills that we have before us [without promoters amendments]".
23. By 924 V. Eccles disregarded the above agreed procedure to ask another question about the promoters amendments.
24. At 925 the Chair should have ruled the question Out of Order but allowed it.
25. At 927 the promoters' Counsel obfuscated about conformity disregarding committee evidence from BIS during Day 1.

At this stage the Chair became agitated with the petitioner's agent for referring to Law saying that she was aware of the law [932], that the committee had heard this before and did not want to hear the "rules that this committee has to abide by". At no time during the deliberations was Section 22 PSR Act previously heard and the petitioners consider overruling and confusion from the Chair to lack due diligence.

The petitioners' Agent began his submission at 1690 and by 1721-4 referred to the conflict between the use of private bills to attack public statute [ref Portsmouth City Council Bill].

At 1820 he lists the bill's conflict in Principle with 5 Acts.

At 1821 he submits petitioners' Amendments to the bills to satisfy all issues.

At 1846 he scrutinises the promoters' amendments and at 1849 rejects them on Principle as they rely on the LGMPA which BIS finds illegal in not meeting the terms of the Services Directive.

At 1876-1900 he challenged the Chair about procedure in which much of the Hearing was focused on BIS considerations about the promoters' amendments without **Fair and Proportionate Balance** for consideration of the petitioners amendments.

Attached to this letter is correspondence [speakers corresp.pdf] with the Speaker HC dating back to November 2008 regarding petitioners objections to this Private bill process made worse by its attachment to the now unsound LGMPA.

This can no longer be considered a private matter and I trust your deliberations on this most important public matter will lead to good advice to all concerned.

R Campbell-Lloyd

Roll B Parliamentary Agent for Petitioners