

**HMG&pedlars1** 17.25,16.11.2009

to: Deba Hussain, BIS

I refer to our telephone conversation today between 09.08 and 10.02 in which I offered my contact details, which you are deemed to have, and that you offered to give me information about details as here in note:1. and about others in a plain form for me to understand

- may I suggest you issue an individual reference number for me as an individual as part of your process of government which enables your department to conform to good practice in administration and so to be judged to be fair;  
it is also a necessary and an intrinsic part of your department fulfilling its remit, which is the preliminary question I have asked you to answer in note: 1. - to assist all further responses I may be able to make to your document: **URN 09/1074**

In the absence of other authors referred to in your document other than yourself and Roger, and without you nominating others, you are both deemed to be responsible for the document and its contents and thus its outcome, and so able to be referred to in any further action that may be taken by any party either jointly or severally.

For the purposes of this and subsequent emails using similarly coded reference to this header "HMG & pedlars" you are able to provide the justiciable route of origin for the process you are undertaking and without prejudice to its outcome.

I reserve the right to be not prejudiced by my communication with you and your department but also to be able to hold my view in the public domain and to be able as I may to inform the public in the general interest.

**note: 1.** the specific origin (the paper trail) of this process which has to have been initiated by a person, who that person is with what authority about what definition of task and towards what objective this document URN 09/1074 forms a part;

notes as also outlined by me in contact with you this morning:

**a)** it is probable and for you possible to be of better purpose to set aside time and place for a group to include pedlars to be able to edit your document page by page and to note differences in order to offset any of its inadequacy to elicit any valid response;

**b)** as an example and without prejudice to any previous or subsequent submissions made to you and your department by myself, pedlars or through pedlars.info: your document states law without any substantive or authoritative reference for example: at **4.1.44** "*terms and phrases that are not used today...*", which is wholly inaccurate and misleading.

This confusion of origin and text continues throughout the document and its format as with its title **STREET TRADING AND PEDLAR LAWS**, "*Ways of making the street trading and pedlary regulatory regime...*": - because there is no one statute law of street trading that defines a pedlar except by exemption from regulation and there is no one **pedlary regulatory regime** other than that of the Pedlars Act which defines precisely how a pedlar commits an offence, but which you disable by attaching arbitrary conjunctive statements such as "*the law regulating street trading and pedlary*".

Such a law does not exist, it is more that your document is attempting to construct a law that does, and that in itself is not an approved route for justification to abolish the Pedlars Act which appears in your document as your "*Government's preferred option*" and with which

your department has already demonstrated its approval in its attack on the Pedlars Act through the **Services Directive SI**: - as I evidenced to your Kevin Davies, in conversation and by email 04.11.09 at 14.56 & 1700 hours.

Your stated policy objective “*to provide for more effective enforcement powers*” about street trading cannot impinge upon the Pedlars Act unless the Pedlars Act is abolished because the Pedlars Act is unique in its allowance in law for a qualified person to be able to go throughout the United Kingdom without the burden of onerous administration; it does not define nor condition street trading other than a person “**goes**”, and all of that interpretation is subject to law and not as you indicate a matter required to be defined, codified, or regulated other than in determination.

As the law stands, courts are able to make this determination, and despite your anecdotal references, each case is judged on its merits; that there may be parties discontent with the outcome of deliberation can be reviewed, but your proposals for an arbitrary levy exercised by appointed officers assessing the balance of financial or fiduciary cost is not appropriate jurisprudence, and despite the evidence brought before you and heard by courts, your attempts to write law as in your document contents **11 Annexe B 1. “unlawful Pedlary”**, is not only wrong, it is incompetent and goes more towards the thrust of the private interests exemplified by their private Acts that have been brought through Parliament but which as yet go untested in law.

I look forward to you calling in your document for more thorough and better scrutiny and with the actual participation of pedlars to redress the balance of what you are indicating which is, despite the **Report Recommendations**, not likely to be “*less burdensome alternatives*” for pedlars, but is more likely to bring about the continuing rupture of people away from experiencing fair administration in law, in trust and with a belief in good governance.

Please also note as a matter of vital constitutional concern that there is more than 40 million people in the UK to be considered in terms of the HRA and more within the ECHR in terms of “**Impact Assessment**” and within the context of “**proportionality**”.

Currently under terms of your freedom of information and as part of this consultation I request information provided by **Sharpe Pritchard**, the **IoL**, the **ATCM**, and the **LGA**. These bodies and others such as the NABMA are disproportionate in their ability to amass effect and to be able to guide your content and lay-out, and who will in the course of this consultation seek to continue to exert influence over and above that of individual pedlars.

In order to avoid any collapse in the principle of “*consultation*” it is important for pedlars to be given recourse to, and the resource of, full and open disclosure of all information that effects them.

I look forward to your quick and precise replies.

## **HMG&pedlars2**

to: BIS/CCP, Deba Hussain & Roger Dennison, 13.42/17.11.2009

reference: **URN09/1074** "STREET TRADING AND PEDLAR LAWS", (their document)

I draw your attention to this email, which although now needing some amendment (see below\*) is in context a working document and although predating yours reflects on your **URN09/1074** which shows you have largely ignored the results of the Durham research and to have largely ignored the input of pedlars.

This email to the Durham researchers in August 2008 is on behalf of pedlars by my fellow agent Robert Campbell Lloyd:

- most of it remains pertinent and current although some of the content has been updated by pedlars.info\*, and some of it requires your input with reference to your ministers, origination of instructions, specification of procedure & process, and direct reference to origin of legal opinion;

- on this please also see my following email HMG&pedlars3

I intersperse my update comments in **altered typeface** and attach **notes** to each paragraph\*.

**To:** BRAIDFORD P. <paul.braidford@durham.ac.uk>

**Cc:** SMITH K.M. <k.m.smith@durham.ac.uk>; ALLINSON G.F. <g.f.allinson@durham.ac.uk>; genuinepedlar@yahoo.co.uk

**Sent:** Tuesday, 12 August, 2008 8:31:10

**Subject:** BERR pedlar research

The government Department for Business Enterprise & Regulatory Reform, BERR, (now BIS) is researching private legislation to restrict the lawful activities of pedlars **(1)**. The National Association of British Market Authorities, NABMA, represents the most powerful lobby influencing policy with the published aim to repeal the Pedlars Act 1871 & Pedlars Act 1881. **(2)**

**note:1.** In the absence of full declaration by HMG about the origin of HMG's interest in the repeal of the Pedlars Act, as now made obvious by the current document

**URN09/1074**, pedlars subject to the vicissitudes of private Acts then as now continue to assume that both policy and the derived research to validate it has been preconditioned by private interests and driven by the firm most likely to draw benefit;

**note:2.** NABMA from its more extreme and scurrilous output, has toned down its vitriol no doubt pleased with the success it has achieved in alliance with its LGA & private business partners, BUT there remains however, its published intention to "cut" out the Pedlars Act, thus effectively to cut out pedlars and the Durham report is set out on this direction in as much as its web address contains "*market trading*" as its focus for the BERR "*whatwedo*";

**URN09/1074** does not alter this in any respect other than to reinforce those stated intentions by adding government weight to the private lobby, this is further reflected in the following email HMG&pedlars3.

With no public interest or support to repeal the Statutes, a more devious back-door route is applied - Private bills have been introduced via Parliament by wealthy local authorities using charge payers money, without any consultation which effectively subvert Statute by meddling with the adoptive Local Government (Miscellaneous Provisions) Act 1982. **(3)** These private bills in effect directly reverse the Pedlars Act 1881 which clearly gives a pedlar the right to trade anywhere in the United Kingdom - they attempt to force pedlars onto private residents as only door to door sellers by prohibiting all free and social contact with citizens on the streets as they travel from place to place. **(4)**

**note:3.** The lack of consultation was made in evidence to HC Select Committee on the Bournemouth Borough Council bill, and by personal testimony of pedlars at the time of the City of Westminster Act 1999 (CoW); meddling & lack of consultation persists now carried on by HMG/BIS with undeclared opinion on the necessity to remove two elements of description from the Pedlars Act for compliance with the Services Directive;

**note:4.** HC Select Committee hearing the Manchester City Council & Bournemouth Borough Council bills, have made clear statement about the requirement to reverse this construction, but which has been ignored by **URN09/1074**; see also HMG&pedlars3.

This is new & unique - that Parliament is being used by private business to oblige trading activity only at private dwelling houses under threat of being made criminal, seizure, forfeiture and fine - no longer implemented by the police but delegated by government to zealous, local authority officials. The Reverse Burden imposed on a pedlar to prove his innocence at the Magistrates is insurmountable and therefore unlawful, bringing into conflict the Legislature and the Judiciary. **(5)**

**note:5.** see also HMG&pedlars3. for context about FPNs, private contractors & comment from the Magistrates Association

There are now seven Private Acts that reverse a Public Act and/or are in direct conflict with the Pedlars Act.

**note:** these amounts are now altered and vary

There are 6 further Private bills before Parliament and some **fifty** due in the next session.

Whilst government proclaims that it may not comment on Private legislation before Parliament, BERR states that "**the aim of these Bills is generally to restrict the legal activities of pedlars**". **(6)**

**note:6.** and BIS is required to answer under terms of open government, the FOIA and by note:1. to the email HMG&pedlars1 whether HMG current policy is similar to this aim: "**to restrict the legal activities of pedlars**" as indicated to pedlars by **URN09/1074**;

BERR has to date declined all comment on Petitions against private bills currently blocked at second reading. **(7)**

**note:7.** BERR now BIS, has also failed to register evidence in URN09/1074 as evidence from pedlars and pedlars.info, nor comprehensive precedent, nor the ground breaking statements in Parliament by the HC Select Committee hearing the Manchester City Council & Bournemouth Borough Council bills: see also following emails & [HMG&pedlars3](#).

Minister Gareth Thomas, BERR, (now BIS) persuaded by Dr Iddon MP (Pedlars Street Trading Regulation Bill) and free from restrictive protocol of no comment about private business in Parliament, is considering adopting Private legislation as Public legislation (identical text) and requires evidence that is not only word of mouth (anecdotal) and so has commissioned evidence gathering by Durham University. **(8)**

An "anecdotal" psychometric questionnaire is currently in circulation to interested parties that BERR (now BIS) says will enable it to assess the impact of adopting private legislation as a policy option to amending existing legislation - but the intentions of what is going to be done about it have not been revealed. **(9)**

**note:8.** Although this may appear speculation it is not entirely so; the direct information as to how this HMG process originated has not as yet been fully disclosed (see note 1 on [HMG&pedlars1](#)), Dr Iddon M.P. has referred to "his minister"; that minister may now be also other than Gareth Thomas, but without full and necessary disclosure to and actual consultation with pedlars, there is only surmise;

**note:9.** the technical term "psychometric" may be incorrect, as yet again it is surmise in the absence of proper instruction by either Durham or HMG; again it is not surmise about possible outcome as again there has been no definitive statement but all current indications are towards the original NABMA intent being taken up by HMG.

BERR's own Better Regulation Office, BRE, (now? BIS/CCP - **note 10**) in the "**Rogers Review of National Enforcement Priorities for Local Authority Regulatory Services 2007**" places street-trading issues at the lowest level of priority.

This evidence based report is from **Peter Rogers** the chief executive of [Westminster City Council](#) responsible for the first of these private bills, but **Butterfield**, the [Westminster Trading Standards Officer](#), in evidence before the [Select Committee on the London Local Authorities Bill c.299](#): stated that in Westminster 3 years after Assent (of the CoW) - pedlars are gone but significant illegal street trading persists.....**these bills do not resolve alleged problems, they simply harm pedlars!**

**note:10.** has this departmental nomenclature been altered consistently so that there is contiguous information? URN09/1074 does not indicate this to be so.

Lord Bach, for the government stated (Hansard 29 Nov 2007) that local authorities have adequate legislation to deal with illegal street trading and noted that the Regulatory Enforcement and Sanctions Act 2007 allows local authorities to impose a range of administrative sanctions as an alternative to criminal prosecution when enforcing existing legislation, thereby reducing the need for local authorities to promote private bills.

**note:11.** Pedlars are consistent in their recognition of the law, and as having to be subject to the law as it is their entire existence and possibly their only means of survival, pedlars are able to recognise how much law is effective and required to give both themselves and the general public of whom pedlars are themselves members: safety, security and status; it is in recognition of the law that pedlars are prepared to participate in its evolution, but not to see its effectiveness corrupted by haphazard and maladroit alterations, of which there is a growing burden upon them and as yet not thoroughly challenged about lawfulness (see following email [HMG&pedlars3](#))

When interviewed 29 May 2008 with pedlar David Peter Murphy a Parliamentary Petitioner on BBC Radio 4 "You & Yours" Dr Brian Iddon M.P. had to concede fundamental misunderstanding about the activities of pedlars, had never ever met a pedlar, did not understand his own bill, and **stood corrected after verification** by his research assistant - **that pedlars are lawfully entitled to trade in the street. (12)**

Brian Iddon is Secretary of the All Party Parliamentary Group, APPG, representing the lobby of Market Traders to the Association of Town Centre Managers, ATCM, which seeks to powerfully influence government by its own concocted Policy Summary portraying Pedlars as "*Illegal Street Traders*". (13)

**note:12.** this **verification** has been clearly stated in Parliament: see note: 4.

**note:13.** "*Illegal Street Traders*" is the mildest form of slur used against pedlars, but is consistent with attacks upon them which the Pedlars Act by its introduction under progressive and consolidating legislation is there to remedy and to give pedlars authority now being overturned by HMG; this antiquated bias is perpetuated through government of all stripes, and emerges in public utterances such as that of David Chambers, now the progenitor of the IoL, then at Westminster promoting the CoW, and by the LGA amongst other well-funded bodies who likely as in the personal diatribe of Hazel Harding merit to be slanderous.

It is against this background already addressed to Minister Gareth Thomas by Parliamentary Agents that "genuine pedlars" are hereby alerted that the private interest doctrine of restraint of trade, outlawed in the Labour Settlement Acts of 1871, is seeking to re-emerge by sleight of hand couched in the private guidance of public law - not through the law or will and guidance of Parliament but based on a selective out-sourced and intellectually conditioned research.

Concern is raised that:

- questionnaires apply unscientific methodology;
- provide only for opinion and anecdotal comment **(a)**;
- leading questions seek pre-determined answers **(b)**;
- will produce inadequate objective analysis & will be misused as endorsement of policy pre-determined by private business **(c)** via BERR (now BIS) and the above objections to the Durham report also extends to URN09/1074 as it reflects in major part, the same form and content as the a,b,c above.

Questionnaires fail in that:

- they carry no legal preface outlining existing Statutes and/or Authorities;
- there is no reference to the Pedlars Act 1881;
- there is no reference to the legislative proposals and the effect on pedlars;
- those affected are least consulted - every police database provides pedlar's address for consultation;
- there is no reference to well documented objections to proposed text;
- they ignore proposed amendments by genuine pedlars;
- they offer no amendment to existing legislation;
- they deny access &/or comment from affected citizens;
- the rushed time scale to conclude research denies "good administration"

HRA6

(please see following email [HMG&pedlars3](#) to further substantiate this list)

Evidence is already available:

- in legal Authorities eg Wrexham v Roberts, Chichester v Wood
- in opposed & unopposed Select Committee hearings
- JCHR o/s human rights issues in Leicester Liverpool & Maidstone
- in Hansard HL 29.11.07& HC 01.07.98, 21.02.07
- in Government reports - Home Office, BRE
- in Petitions against private bills
- Petitioner's letter to JCHR re human rights infringements

HRA5,6,7,8,10,11,14,part2/first protocol/1

- extensive correspondence by Petitioners' Parliamentary Agents  
(please see following emails on [www.pedlars.info](http://www.pedlars.info) to add further to this list)

Evidence of intent to prejudice & mislead is well documented:

- PPE representations from NABMA 22.10.99
- Chambers presentation to APPG TCM 26.01.00
- promoters response to JCHR Medway 04
- NABMA website photo/article
- Policy Summary ATCM 2003
- Iddon's 10 minute rule bill 21.02.07
- Promoters Agent's Legal Framework 03.07.07
- Promoters' Agents Legal Opinion 11.06.08
- IOL website photo/article by Chambers 08.08  
(please see following emails on [www.pedlars.info](http://www.pedlars.info) to add further to this list)

We genuine pedlars are most directly affected by proposed legislation (and there are 48 million other citizens whose liberty to become a pedlar is also affected) and we are being hobbled into a process that must withstand the need for proof and close scrutiny as required by Good Administration under Article 6 of the Human Rights Act 2000.

Each of the above documents referred to are available upon request.

sincerely

R Campbell-Lloyd  
Roll B pro-bono Parliamentary Agent for Petitioners Against Privatisation of  
Parliament

----- End of Forwarded Message



**HMG&pedlars3**, 15.45, 17.11.2009

to: BIS/CCP, Deba Hussain & Roger Dennison

reference: the constitution of the nation and the Pedlars Act: *a reflection & consideration on principle and substance; the need for declarations of origin & intent and on the importance of good process for fair administration in law.*

as noticed by your absence today I nonetheless forward this email to you subsequent to that previous "HMG & pedlars.2" in which I draw your attention to further items that require scrutiny.

I have to emphasise however that the priority in email "HMG & pedlars.1" is the note:1. which asks that you set out the origination, "the paper trail" that started the process that you are currently embarked upon of which your document URN09/1074 is a part; this question about the "paper trail" has also been put to my M.P. Mr Ian Liddell Grainger for him to raise to the minister in the House.

With regard to the notes attached to email *HMG & pedlars.2* please see the following, and please bear in mind the importance of you being able to establish exactly what ground you rely on: - this same question was asked of Roger and staff at our meeting in London on October 9th 2008, and most recently to Kevin Davies; there hasn't been any reply to this most direct of requests, something that in ordinary procedures of law is not allowed to be tolerated, and in the wider context of how we are to be consulting and especially towards compliance with Europe, can be judged to be more than an error, but most likely to be in serious default.

There is both an underlying and an overarching presence to your undertaking and without you being able to make a clear statement about its definition in law, any sound establishment is likely to be riven with failure; that there has been only attempts to either cut out the Pedlars Act or to somehow gerrymander a replacement within obscure processes of office-work without a forthright and clear declaration about what to do **for** pedlars, and by neglecting their unfettered co-operation as disclosed recently in Parliament with the rushed attack on the Pedlars Act by the Services Directive SI, there is onl complete disintegration of vital and intrinsic parts of the constitution of the nation.

URN09/1074 has to be withdrawn as incompetent to produce any practical evolution to the Pedlars Act, and all requirements for local authority legislation have to be met within terms of a national statute, and for the avoidance of doubt in terms of provisions for street trading, national legislation is current throughout the United Kingdom, is able to be applied where necessary and can be evolved to suit changing conditions: - this is not what URN09/1074 appears capable to achieve.

You need to address how it was that the Pedlars Act came into being in 1871 and now to follow it through with the same principle and objective; my reference to you about the failures of hodgepodge governance of Robespierre and the Directorate from 1798 in France is a simple caution as per:

**note 1,2,3** of [HMG&pedlars2](#) drawing attention to how your process has been determined by forces outside of government which whilst espousing the "general interest" are predominately in their own private interest; **note 5**, and following in part to [note 3](#) explains how private wealth is being used to overturn safe and protective national law, to allow for largely unregulated bounty hunting (PPPs & FPNs) and how this process is guided by business with client privilege and a secure access to the lobbies (Sharpe Pritchard); **note 4**, indicates the best way forward is to have an open session where and when all facts and matters of principle are able to be considered; URN09/1074 in its construction is incapable of allowing this procedure as it has not only ignored this important session in Parliament but is weighted by its content and outlook to satisfy only a perverse result – **see notes 6,7,& through to 10**; **note 11 to 13**, with [note 4](#), is how pedlars despite vile attacks upon them are able to stand by good law, promote safe conduct, and are willing to assist good governance.

njmcGerr & for [pedlars.info](#)