

Spurious On-line information 15 October 2009

Researched by pedlars.admin@gmail.com

It has come to the attention of pedlars.info that some local authorities are producing spurious information to spike the legal process concerning pedlary, whilst ignoring the findings of government and Parliament.

Two examples are herewith considered; firstly Nottingham City Council:

click this link to the page: <http://www.nottinghamcity.gov.uk/index.aspx?articleid=1449>

The screenshot shows the Nottingham City Council website. The header features the 'My Nottingham' logo and the council's name. A navigation menu includes 'Home', 'Services', 'Where I live', 'Jobs', 'Planning', 'Councillors', 'Council Tax', and 'Contact us'. A search bar is present. The main content area is titled 'Street trading' and contains the following text:

Nottingham City Council controls street trading under the Local Government (Miscellaneous Provisions) Act 1982.

Under this Act streets within the City Centre and some outside of the centre are designated as either "prohibited" or "consent". Street trading is not allowed on "prohibited" streets. On "consent" streets trading is only allowed with the consent of the council and consent agreements are issued for set positions.

There is currently an on-going review of street trading and until this is complete, there are no street trading opportunities available.

If you have a query regarding street trading please call 0115 9156970.

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On the left side of the page, there is a sidebar with 'My Services' (Business and street trading licences, Street trading), 'Contacts' (Contact the Licensing Section, Email: general.licensing@no..., Tel: 0115 9156771), and 'Share this page' (On this site).

This page makes a false and misleading claim by inferring that the council controls all street trading. Under the quoted Act Council controls only those fixed pitches which it Licences. The Act clearly states that pedlars are exempt from street trading controls. The Council is causing undue harassment and intimidation of law-abiding pedlars by issuing them with a letter in which it is stated that:

- 1 It is a **CRIMINAL OFFENCE** to engage in street trading
- 2 Pedlars will have to prove that they are acting lawfully
- 3 Remaining stationary is an indication of illegal street trading
- 4 If prosecuted, Council will attempt to revoke the pedlar's Certificate

Firstly a pedlar is lawfully entitled to trade in the street.

In legal proceedings it is the prosecution that must prove that a pedlar, beyond reasonable doubt, was not acting as a pedlar.

There are many lawful reasons why a pedlar can be "remaining stationary": to trade, to exhibit, to discuss or to demonstrate skill in handicraft etc.

If prosecuted pedlars are entitled to seek an immediate Appeal of the decision.

The second example is Oxford City Council:

click this link to the page: <http://www.oxford.gov.uk/business/street-trading.cfm>

The screenshot shows the Oxford City Council website. At the top left is the council's logo, a blue shield with a white lion and a red cross, with the text 'OXFORD CITY COUNCIL' below it. To the right of the logo is a search bar and a 'Search' button. Further right are links for 'Contact us', 'A to Z', 'FAQs', and '15.10.09'. On the far right is an orange button that says 'click to listen' with a speaker icon and the text 'oxford text to speech' below it. A dark blue banner across the top contains the text 'Welcome to Oxford' and 'Text only | A | A | A'. Below this is a light blue navigation bar with links for 'Business', 'Council', 'Environment', 'Housing', 'Leisure', 'Planning', 'Parking', 'Tax & Benefits', 'Community', and 'Youth'. A breadcrumb trail reads 'You are here: Home page > Business > Street Trading'. On the left side, there are two blue buttons: 'Home page' and 'Business'. The main content area is titled 'Street Trading' and contains the text: 'There are controls on Street Trading in Central Oxford in an effort to improve the environment. please see the following links for further information:'. Below this text is a list of links, each in a light blue box with a dark blue border: 'Local Government (Miscellaneous Provisions) Act 1982 (61kB PDF)', 'General Conditions Annual Consents and Fees (58kB PDF)', 'General Conditions Weekly Consents and Fees (57kB PDF)', 'Street Trading Fees (10kB PDF)', 'Consent Streets (93kB PDF)', 'Prohibited Streets (107kB PDF)', 'Map of City Centre', 'Consents Application Form', 'Peddling and the Peddler's Act 1871 (96kB PDF)', 'Leafleting The Local Government Act 1972 (61kB PDF)', and 'Leafleting The Clean Neighbourhoods and Environment Act 2005 (58kB PDF)'. To the right of the links is a section titled 'Where you live' with a small image of a street scene. Below the image is the text: 'Leafleting The Clean Neighbourhoods and Environment Act 2005 (58kB PDF)', 'Street Trading Fees 2009-10 (10 kB PDF)', and 'Help with PDFs'. Further down is a 'See also' section with links for 'Where To Find Our Offices', 'Consents Application Form', 'Premises Licences', and 'New Premises Licence'. At the bottom right is a 'News' section with the link 'Business news'.

This 2 page .pdf document selects case law to suit without indicating any case law which found the pedlar innocent. The Pedlar's Advice given includes:

- 1 You must not frequent Oxford City Centre every day
- 2 A pedlar using a portable stall in a street is not classed as a pedlar
- 3 You must remain in perpetual motion and not remain in one street
- 4 Other Councils rely on private Acts to alter the definition of pedlary

Firstly, no law exists that prevents a pedlar trading in Oxford every day.

A pedlar and a hawker are defined as the same – a pedlar carries goods and a hawker has a means of carrying goods. The definition and case law provides for a pedlar to use a small means.

Recent Select Committee Hearing on Bournemouth Borough Council bill found the notion of perpetual motion a nonsense and no law supports the claim that a pedlar may not remain in one street.

Other Councils have introduced private Acts to restrict pedlars but the two most recent being Bournemouth and Manchester have been blocked from proceeding on the grounds that pedlars activities include “other than only door-to-door” – ie in support of the Pedlars Act 1881 they “may act within any part of the United Kingdom”.

The third example is being handed to pedlars by Middlesbrough Council:

Middlesbrough Council

www.middlesbrough.gov.uk

COMMUNITY PROTECTION SERVICES

Licensing

PO Box 65, Vancouver House, Gurney Street,
Middlesbrough TS1 1QP
Tel: (01642) 245432



12 November 2009

Direct Line : (01642) 728011

Switchboard: (01642) 245432

Fax: 728902

Our Ref:

Your Ref:

When telephoning please ask for:

Licensing

Dear Sir/Madam

Pedlar's Certificate

8. If a person keeps 'resting' while displaying goods for sale, he is likely to lose the status of 'pedlar'.

The Council has taken the view that if you visit Middlesbrough on a regular basis you are not 'going from town to town'. In addition, if you are not constantly moving but frequently creating a pitch at which people approach you, rather than only stopping to sell, you will be deemed as acting as a street trader.

If any 'stall' is found to be of such construction which indicates it is designed for displaying wares rather than for the transport of goods, the Council's view will be that there is an intention by the stall holder to set up for business as a street trader.

If you are prosecuted under any of the above opinions (they are not statements of law) then you have very good grounds for Appeal. Please send the full set of Summons documents to pedlars.admin@gmail.com to review and assist you to overturn the judgment.