



Marcelle Janssis & Rachel Onikosi
Consumer & Competition Policy Directorate
BIS

7 October 2011

Dear Rachael & Marcelle

Administrative Court Judicial Review into Potential Victim Status

Pedlars.info has evidence of three cases of successful LA prosecutions under private legislation against “genuine pedlars” found guilty of trading without a licence. The facts of each case are similar in that each “certified” defendant was found trading whilst travelling through a designated street.

Magistrates disregarded submissions of lawful exemption from street trading regulation for “acting as a pedlar”.

Severe penalties by way of fines were imposed by the lower courts on grounds considered by each defendant as unjustifiable but each was limited by financial means to further the defence: that the exemption qualification “*only by means of visits from house to house*” also allows pedlary the option of “*other than house to house*” - Bournemouth Borough Council Act & Manchester City Council Act 2010 as consistent with the Pedlars Act.

This evidence raises the “public interest” matter that has been referred to BIS under the title of “potential victim status”.

It is noted that BIS has to date maintained a deaf response on the basis that “government does not make comment on private business”.

During 2009 pedlars.info researched the legal issues regarding the City of Westminster bill 2009 and those issues remain the same issues with all similar bills and Acts.

Since 2009 pedlars have found themselves exhausted by all their attempts at inquiry and with the intransigence of HMG to address the fundamental cause of the problem that results in the damaging impact of badly drawn legislation. As a result of this lack of scrutiny by government, pedlars have resolved to approach the matter for judicial process.

Attached is the 2009 research making the case for Judicial Review into the *City of Westminster Bill* – JR3.pdf.

The crux of Article 1 Protocol 1 of the European Convention and therefore of the Human

Rights Act is that pedlars, by virtue of the *Pedlars Act*, have been granted a “work instrument” which according to A1P1 - allows economic freedoms.

Pedlars consider that BIS legal counsel needs to consider the importance of this protocol along with others that have been submitted for your attention - before HMG in drafting amended legislation as proposed in *URN11/542* merely replicates the difficulties which are now seen to be obvious.

It is no longer sufficient to respond with the phrase “government does not make comment on private business” because public policy is the concern of *URN11/542*.

We urge you to bring this issue of “potential victim status” to the Attorney General, the Ministry of Justice and your Counsel for BIS.

We await your reply to this pre-action enquiry.

Sincerely

Robert Campbell-Lloyd
admin pedlars.info

attachment JR3.pdf