

[REDACTED]
[REDACTED]
London
[REDACTED]
e-mail: [REDACTED]
Date: 12th March 2012

NOTICE OF APPLICATION FOR A HEARING TO EUROPEAN COURT OF HUMAN RIGHTS

Complaint by [REDACTED] against the EC Member State of the United Kingdom and the United Kingdom Borough of Brent Council being in breach of Articles of the European Convention on Human Rights (the ECHR) and of the European Services Directive (the SD) in its effect on these articles:

Article 6

Right to a fair trial

Article 7

No punishment without law

Article 13

Right to an effective remedy

Article 14

Prohibition of discrimination

Article 1 Protocol 1

Protection of Property

Services Directive 2006/123/EC

Article 1.5, Article 9

Member States may not restrict the freedom (a national civil freedom under the authority of a pedlars certificate with exemption from requirement for a street trading licence) by applying criminal sanctions (of street trading without a local licence)

To:

The European Courts of Human Rights concerning the complaint of [REDACTED] and in consideration of these facts as set out in synopsis as follows:

ECHR Article 6 – Right to a fair trial:

1. I am [REDACTED] and according to the facts stated to UK Brent magistrates I acted within terms of the the *Pedlars Act 1871 & 1881* and with the lawful authority of a United Kingdom (the UK) Pedlars Certificate.

2. The activity of N.A. is protected by the civil and statutory law of the UK and in accord with the the profession of pedlary in terms of the European *Services Directive* (the SD).
3. The UK Pedlars Certificate provides the common and statutory civil law right to act as a pedlar anywhere “*within any part of the UK*”(the *Pedlars Act 1881*).
4. The LG(MP)A - the *United Kingdom Local Government (Miscellaneous Provisions) Act 1982* grants exemption to pedlars from street trading regulation.
5. The UK Local Government of the London Borough of Brent has adopted the LLAA - the *London Local Authorities Act 1990* (amended 2004) as a local interpretation of the national UK adoptive statute of the LG(MP)A.
6. A criminal prosecution was brought against [REDACTED] for trading without a local street trading licence in terms of the street trading regulation of the UK Council for the London Borough of Brent.
7. A certified professional pedlar is not required by UK law to hold a local street trading licence.
8. UK street trading regulation provides “*the following are not street trading (a) trading by a person acting as a pedlar under the authority of a pedlars certificate granted under the Pedlars Act 1871*” with amendment in 2004: “*if the trading is carried out only by means of visits from house to house*”.
9. The amendment is not defined in law and there is no street trading regulation for trade on or about private premises with the amendment open to interpretation.
10. The *Pedlars Act* allows for trading at or about private premises as in “*to other mens houses*” (*Pedlars Act 1871*) but does not require that this is the sole or only means of trade “*within any part of the United Kingdom.*” (*Pedlars Act 1881*).
11. The prosecution of [REDACTED] by the UK Borough of Brent succeeded with Brent Magistrates because of the claim that there is no exemption from street trading regulation for a pedlar not trading at a house.
12. [REDACTED] at Harrow Crown Court in appeal of the Brent Magistrates submitted that interpretation of the LLAA and its amendment is to be considered within the context of the *Pedlars Act* but was denied that right.
13. [REDACTED] on Appeal at Harrow Crown Court was denied an adjournment for N.A. to be heard with legal representation on the proper interpretation of the LLAA and the *Pedlars Act*.
14. [REDACTED] was prosecuted without any interpretation of the LLAA or that of the *Pedlars Act* being heard either by Brent Magistrates or the judge Mr Jay, Recorder at Harrow Crown Court.
15. An Appeal was denied on the basis that the judge would only accept his constructed interpretation of the law without regard to either the context,

interpretation or priority of emphasis to the meaning of exemption from prosecution within terms of the LLAA.

16. [REDACTED] has been denied the right of further Appeal, as an Appeal against the prosecution found in the UK Brent Magistrates Court was denied by Mr Jay in the UK Harrow Crown Court.
17. The right to a fair trial was denied.

ECHR Article 7 – No punishment without law:

1. I am [REDACTED] and as a pedlar I submit that I have not committed any offence in terms of the UK *Pedlars Act*.
2. I submit that the UK civil law of the *Pedlars Act* allows me exemption from being prosecuted as a criminal for having committed the criminal offence of trading without a street trading licence in terms of a local application of the nationally adoptive LG(MP)A.
3. I believe that I have not committed a criminal offence whilst acting as a pedlar.
4. I believe that the "means" of acting as a pedlar are by ambulant means as compared to the static means of acting as a licensed trader.
5. I believe that the expression "house to house" means that I must trade whilst on the move and without establishing a static pitch as compared to static licensed traders.
6. I believe that the textual amendment to my exemption in the LLAA 2004 demands contextual interpretation within terms of the *Pedlars Act* without which interpretation is arbitrary.
7. The arbitrary interpretation made by the UK Brent Magistrates and upheld by Mr Jay, Recorder at Harrow Crown Court that I was obliged to trade only at a house is not the only interpretation of "house to house" whereas a consistent interpretation of the meaning of "house to house" in the *London Local Authorities Act* is of ambulant trading going "to other mens houses" in terms of the *Pedlars Act*.
8. I submit that my profession as a pedlar includes ambulant trading within terms of the UK *Pedlars Act* and cannot be held to be a criminal offence within terms of the LLAA.

ECHR Article 13 - Right to an effective remedy:

1. I contend that my rights and freedoms under the *Pedlars Act* have been violated by misinterpretation of regulations included within the LLAA but not intended to be applied to me acting as a pedlar but are limited to persons acting unlawfully without either a certificate or a licence.
2. I submit that at the time of the alleged offence I was acting as a pedlar in terms of my professional authority as recognised by my Certificate.

3. I have sought effective remedy in UK courts but have been denied the right to delay proceedings in order to obtain Legal Aid and legal representation to enable me to have a fair hearing. My Application for Legal Aid was accepted on a “Means Test” but refused on the “Interest of Justice Test”.
4. I contend that this case is a matter of public interest that affects the way the judiciary interprets law in regard to pedlary and that the only effective remedy is in clarifying the proper interpretation and application of law.
5. My Appeal to have my Case Stated has been refused because the Recorder, Mr Jay would not allow any opportunity for any other interpretation of the law aside from his own.
6. I have been prevented from making an Appeal to UK High Courts for my case to be remedied and that of the matter of public importance which rests in a correct interpretation of the law within a proper understanding of the terms and context of the *Pedlars Act*.

ECHR Article 14 – Prohibition of discrimination:

1. My lawful rights whilst acting as a pedlar have been discriminated against by the Brent and Harrow courts in only considering the regulations for one type of street trading, that of licensed street trading, and by those courts not considering the exemption provision for my type of certified street trading within the proper context of the *Pedlars Act*.
2. The Court has discriminated against me as a certified pedlar whose means of trade are selling or exposing any goods for sale in a street with that of a person not required to be a certified pedlar who trades only at the doors of houses.
3. A person who trades only at the doors of houses may have a pedlars certificate but is not required to have a pedlars certificate and that person is unregulated by the UK *Cancellation of Contracts made in a Consumers Home or Place of Work Regulations Act 2008 Schedule 3.5*.
4. My pedlars certificate provides me with lawful discretion about where I choose to trade.

ECHR Protocol 1 Article 1 – Protection of Property:

1. I am entitled to the peaceful enjoyment of my possessions provided by law.
2. The law which conditions me as a pedlar is the *Pedlars Act* and I pay due regard to the terms of exemption contained within local street trading regulations such that at all times I act and am seen to be acting as a pedlar.
3. I contend that if an offence has been committed then in the first instance it must be proved beyond reasonable doubt that I was not acting as a pedlar. I contend that such doubt exists because there is other valid interpretation of the pedlar exemption as amended in the LLAA and that I have been prohibited from submitting any other interpretation in both UK courts I have attended.

4. The initial seizure and subsequent interference with my property through confiscation of my goods by misapplication of law by the UK courts is an infringement of my right to protection of property.

Services Directive 2006/123/EU – Article 1.5, Article 9:

1. The *Services Directive* was implemented into UK law on 28 December 2009 but the UK government has failed in its duty to make all UK judiciary aware of the terms of the Directive.
2. Article 1.5 provides that "*the Directive does not affect the Member States' rules of criminal law*" which in my case is local street trading regulation in terms of the *London Local Authorities Act 2004*.
3. However the Directive continues with "*Member States may not restrict the freedom to provide services [pedlary] by applying criminal law provisions [street trading regulations] which specifically regulate or affect access to or exercise of a service activity [pedlary] in circumvention of the rules laid down in this Directive*."
4. I contend that the UK Local Authority of the Council of the London Borough of Brent in bringing a criminal prosecution against my civil right to act as a pedlar either through misapplication of law or by wrong interpretation is a violation of Article 1.5, a circumvention of the aims of the *Services Directive* to eliminate restrictions and provide competitiveness with social and economic cohesion across the open free market of Europe, and by this misapplication of UK law and the violation of Article 1.5 of the *Services Directive* is also a violation of the ECHR as herein explained.
5. Article 9 provides that "*the authorisation scheme does not discriminate against the provider*" and I contend that the UK courts have misinterpreted and misapplied the exemption for pedlars in the street trading authorisation scheme of the LLAA to discriminate against pedlars who have authority to trade "*within any part of the UK*" (the PA) in favour of those pedlars who have discretion to trade only at houses in terms of the *Pedlars Act 1881*.

██████████ – Pedlar & case defendant – electronic signature

Chronology of the case:

- 11 August 2010 the I was engaged in pedlary on the streets of Brent, London.
- 1 September 2010 I was issued with a Summons to appear at Brent Magistrates Court 28 September 2010 for an alleged offence of trading without a street trading licence Contrary to Section 38(1)(a) London Local Authorities Act 1990/1994/2004.
- 28 September 2010 I attended Brent Magistrates Court and pleaded “not guilty” but was found guilty of the offence and fined with costs
- October 2010 I applied for Legal Aid and adjournment of Appeal date through my solicitor
- 6 November 2010 I received notes from pedlars.info prepared for an Appeal hearing
- 30 November I attended Brent Magistrates Court re “case conference” – prosecution wanted me to plead guilty as I was not trading at a house and that a pedlar must go “house to house” only – Clerk of the Court accused me of “street trading” and that I will be 99% found guilty because I was exposing goods for sale – the Clerk did not accept my explanation that that is what a pedlar does with exemption from street trading regulation – trial date set 28 Jan 2011
- 18 Jan 2011 solicitor reports difficulty with Legal Aid application
- 27 Jan 2011 Legal Aid board accepted “means test” but refused Legal Aid on the “interest of justice test”
- 28 January 2011 I attended Harrow Crown Court on Appeal – conditional discharge with costs £3950 reduced on grounds of Legal Aid Means approval to £300 payable £5/week
- 28 January 2011 my contemporaneous notes of the hearing – 2 sets
- 18 Feb 2011 I was granted leave to Appeal set for 28 April at Harrow Crown Court
- 21 April my solicitor reports that Legal Aid Board has “messed up” my papers – see letter from Solicitor to Court
- 28 April I sought adjournment as Legal Aid Board had lost papers – refused – appeal refused with fine increased to £1050 repayable £20/week – 30 days to respond
- 12 May 2011 I respond on the refusal to appeal
- 28 May 2011 Harrow Crown Court judge Mr Jay refused to State a Case “*I am not going to state a case here: the application is frivolous and vexatious*”.

Appendices:

1. [REDACTED]
2. [REDACTED]
3. Pedlars Act 1871
4. Pedlars Act 1881
5. London Local Authorities Act 2004
6. London Local Authorities Act 1994
7. London Local Authorities Act 1990
8. [REDACTED]
9. [REDACTED]
10. [REDACTED]

Pedlars Certificate redacted

Summons redacted

Transcript redacted

Contemporaneous notes redacted

Advice redacted



Pedlars Act 1871

1871 CHAPTER 96 34_and_35_Vict

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Preliminary

1. Short title
2.
3. Interpretation of certain terms in this Act. "Pedlar"

3 Interpretation of certain terms in this Act. "Pedlar"

In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say,—

The term "pedlar" means any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs, or other person who, without any horse or other beast bearing or drawing burden, travels and trades on foot and goes from town to town or to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered, or selling or offering for sale his skill in handicraft;



Pedlars Act 1881

1881 CHAPTER 45 44_and_45_Vict

2 Alteration of 34 & 35 Vict. c. 96 so far as regards requiring indorsement of a pedlar's certificate

A pedlar's certificate granted under the Pedlars Act 1871, shall during the time for which it continues in force authorise the person to whom it is granted to act as a pedlar within any part of the United Kingdom

London Local Authorities Act 2004

2004 c. 1 ► SCHEDULE 4

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Section 20

SCHEDULE 4
AMENDMENTS TO PART III (STREET TRADING) OF THE LONDON LOCAL AUTHORITIES ACT 1990 (C. VII)

Section 21 (Interpretation of Part III)

1 In subsection (1) of section 21 for the definition of "street trading" the following definition is substituted—

"street trading" means subject to subsection (2) below—

(a) the selling or the exposure or offer for sale of any article (including a living thing); and

(b) the purchasing of or offering to purchase any ticket; and

(c) the supplying of or offering to supply any service,

in a street for gain or reward;".

2 In subsection (2) of section 21—

(a) in paragraph (a), at the end, the words "if the trading is carried out only by means of visits from house to house" are inserted;

London Local Authorities Act 1994

1994 c. xii ► SCHEDULE 19

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Section 6.

SCHEDULE 19
LONDON LOCAL AUTHORITIES ACT 1990 PART III AS HAVING EFFECT IN ACCORDANCE WITH SECTION 6 (STREET TRADING) OF THIS ACT
PART III
STREET TRADING

Interpretation of Part III

21 (1) In this Part of this Act—

"grant", unless the context otherwise requires, includes renew and renewal, and cognate words shall be construed accordingly;

"ice cream trading" means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionary or other similar commodities from a vehicle;

"itinerant ice cream trading" means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for short periods only;

"licence street" means a street designated under section 24 (designation of licence streets) of this Act;

"receptacle" includes a vehicle or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service;

"street" includes—

(a) any road or footway;

(b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;

(c) any part of such road, footway or area;

(d) any part of any housing development provided or maintained by a local authority under Part II of the [1985 c. 68.] Housing Act 1985;

"street trading" means subject to subsection (2) below the selling or exposing or the offering for sale of any article (including a living thing) or the supplying or offering to supply any service in a street for gain or reward;

"street trading licence" means a licence granted under this Part of this Act and valid for the period specified therein being not less than six months and not more than three years;

"temporary licence" means a licence granted under this Part of this Act valid for a single day or for such period as may be specified in the licence not exceeding six months.

(2) The following are not street trading for the purposes of this Part of this Act—

(a) trading by a person acting as a pedlar under the authority of a Pedlar's Certificate granted under the [1871 c. 96.] Pedlars Act 1871;

those conditions until the time for bringing an appeal under section 14 (Appeals) of this Act has expired and where an appeal is brought under the said section 14 against such conditions the licence shall be deemed to be free of them until the determination or abandonment of the appeal.

PART II
—cont.

20. Part VIII of the Greater London Council (General Powers) Act 1968 and the Late Night Refreshment Houses Act 1969 shall cease to have effect in a borough on the day which the council of that borough resolves to be the appointed day for the purposes of this Part of this Act.

Repeal,
1968 c. xxxix,
1969 c. 53.

PART III

STREET TRADING

21.—(1) In this Part of this Act—

Interpretation of
Part III.

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“ice cream trading” means the selling, exposing or offering for sale of goods consisting wholly or mainly of ice cream, frozen confectionery or other similar commodities from a vehicle;

“itinerant ice cream trading” means ice cream trading from a vehicle which goes from place to place remaining in any one location in the course of trading for short periods only;

“licence street” means a street designated under section 24 (Designation of licence streets) of this Act;

“receptacle” includes a vehicle or stall and any basket, bag, box, vessel, stand, easel, board, tray or thing which is used (whether or not constructed or adapted for such use) as a container for or for the display of any article or thing or equipment used in the provision of any service;

“street” includes—

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(b) any other area, not being within permanently enclosed premises, within 7 metres of any road or footway, to which the public have access without payment;

(c) any part of such road, footway or area;

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1985 c. 68.

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1871 c. 96.