



Consultation Response form for England and Wales ONLY

Consultation on Street Trading and Pedlary Laws – Compliance with the requirements of the European Services Directive

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **15 March 2013** extended by BIS to **5 April 2013**.

Name: the following named persons have given written authority to attach their name to a **secondary** joint reply by pedlars.info to URN12/605 & 606 and accept that information to be made public:

Alain Sandenbergh
Alan Mills
Alex Davidson
Alexander Campbell-Lloyd
Alexandra Lort Phillips
Alexsandra Rakic
Alyosha Kositzki-Metzner
Amber Moss
Angus Pedrick
Anthony Miller
Bo Poraj
Chris Hunt
Chris Noonan
Claire Fernando
Clive Kanharn
Daz Windsor
Ellen Harty
Frank Brooke
Frankie Fernando
Gordon Elliott
Greg Cox
Ian Kruger
Ioan Urs
John Swift-Simpkin
Josua Lloyd
Joy Swift-Simpkin

Julian McDonnell
Justin Edmonds
Keith Brock
Leslie Maisey
Luzviminda Casey
Mark Bowen
Mark Davison
Mayumi Rakic
Meriel Campbell-Lloyd
Mick Mack
Naomi Aptowitzer
Natalie Cookson
Nelson Reid
Nicholas McGerr
Pancho Elliott
Paul Andrew
Paul Marshall
Paul Vale
Phil Duffield
Robert Campbell-Lloyd
Robert Mills
Shazia Wahab
Simon Bundred
Sydney Williams
Talhah Khan
Ted Bowen
Tim Bat
Tony Furnivalis
Tony Hawkins
Walter Cuba
Zoe Lees

Organisation (if applicable):

Address:

C/o www.pedlars.info email: pedlars.admin@gmail.com

Please return completed forms to: .pdf copy emailed to Onikosi Rachel (CCP) rachel.onikosi@bis.gsi.gov.uk 5 April 2013 & stcompliance@bis.gsi.gov.uk and to each of above named persons

Name: Rachel Onikosi, Policy Manager

Postal address: Department of Business, Innovation and Skills
Consumer and Competition Policy Directorate,

1 Victoria Street, London,

SW1H 0ET

Tel: 020 7 215 5898

Email: stcompliance@bis.gsi.gov.uk

If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group from the list below.

<input type="checkbox"/>	Business representative organisation/trade body
<input type="checkbox"/>	Central government
<input type="checkbox"/>	Charity or social enterprise
<input checked="" type="checkbox"/> tick	Individual
<input type="checkbox"/>	Large business (over 250 staff)
<input type="checkbox"/>	Legal representative
<input type="checkbox"/>	Local Government
<input type="checkbox"/>	Medium business (50 to 250 staff)
<input checked="" type="checkbox"/> tick	Micro business (up to 9 staff)
<input type="checkbox"/>	Small business (10 to 49 staff)
<input type="checkbox"/>	Trade union or staff association
<input checked="" type="checkbox"/> tick	Other (please describe) EU recognised profession of pedlary

Below we set out a variety of questions in relation to our draft set of regulations attached at Annex A of the consultation document

We would like all consultees to fully consider our proposals and **explain the reasons for your answers as fully as possible.**

Repeal of the Pedlars Acts:

Question 1: Do you agree with the proposed repeal of the Pedlars Acts 1871 and 1881 UK-wide?

Yes

tick No

Comments:

See below for reasons to the answer NO...

2nd Reply to URN12/605 & 606 by pedlar stakeholders sent to BIS 2nd April 2013

This second reply is based on stakeholder exchanges resulting from BIS notification that the consultation deadline was extended to 5 April. A letter from Mr McGerr 28 March was responded to by pedlars.info. These communications outline the concerns that have been registered at pedlars.info and are herewith submitted to BIS for publication as a second separate formal response to the consultation URN12/605 & 606 as follows:

Dear Mr McGerr

You have responded to pedlars.info notification "pedlars alert 32" 23 March 2013 that can be found as an addendum at the bottom of this letter.

Thank you for your response to this latest extended deadline on the BIS URN (now 5 April).

The feedback at pedlars.info concurs with your succinct assessment of the BIS "so called" consultation.

There is general astonishment that civil servants who by their own admission are detached from reality are advising HMG on Option 1 "do nothing" or Option 2 "destroy a civil liberty".

The consultation point of contact refuses to engage with genuine pedlars except on abhorrent terms of servile obedience to a pre-arranged agenda.

The BIS Briefing Paper reply that arrived after the 15 March deadline is no more than rhetorical repetition intent on avoidance/evasion/obfuscation.

BIS Onikosi informs pedlars.info that BIS has now closed ranks to include the minister and the Secretary of State and that pedlars have a 50/50 chance only of communicating with an anonymous Team BIS.

The issue of discrimination and malfeasance by Ms Onikosi in this consultation process remains outstanding.

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Pedlars contend that these URNs do not constitute a "genuine consultation" for all and more of the reasons you have noted.

BIS has denied engagement in "principle" matters of law, constitution, interpretation, reality & common sense.

Pedlars have consistently revealed the problem of "wrong interpretation" at the root of all Parliamentary attempts to resolve street trading & pedlary law since 1966.

The dedicated website pedlars.info exposes the chronology of all communications since 2007.

The LGMPA did not resolve "perceived problems" in 1982.

The LLAA did not resolve "perceived problems" in 1994, 1998 or 2004.

Private Acts did not resolve "perceived problems" since 1999.

The closest HMG has got to resolving "perceived problems" was following Simon Casey's Moreton's Fork breakdown in Select Committee that lead to HL Paper 242 identifying the only "actual problem".

Identifying "*scale & proportion as the only legitimate problem*" took Parliament...

- 46 years from abolition of the Hawkers Licence
- 30 years since regulating static street trading
- 13 years since the pedlary exemption was linguistically corrupted by Sharpe Pritchard/City of Westminster
- 6 years since BIS failed attempt to interpret the European Service Directive

BIS seeks a "national resolution" at a time when the UK is fragmenting into "nation fiefdoms" popularised by "localism" empowering "council fiefdoms" with private "enforcement fiefdoms".

Regulating static street trading operation is a local authority legal obligation on ORRPI grounds of public safety caused by "licensed obstacles".

HL found no grounds to regulate pedestrian traders/certified pedlars save for "size".

HL confirms that LA's have no remit to regulate pedestrians engaged in "private matters".

Pedlary is and always has been a "private contract matter" re-acknowledged in HC by Rees-Mogg MP.

Private contract between 2 parties is no business of government or LA's unless justified in the Public Interest.

BIS has not declared any objective that justifies HMG meddling in changes to Public Policy, Social Policy or Socio-economic freedom by pedlary.

Every attempt at pedlar prosecution in the last decade relies on “mis-interpretation of law” with the result that those who can afford a proper defence win and those who cannot loose.

Ten months ago pedlars proposed a national resolution of the "interpretation issue" within local Acts.

In hindsight pedlars realised that parliamentary protocol gags government opinion on LLAA and some 15 other local private Acts.

Therefore one month ago pedlars updated the "Third Option" from "local" to "national" resolution to the following:

- that the Pedlars Act be the only suitable vehicle for national resolution of street trading & pedlary law
- that 6 qualifications to the Pedlars Act provide clarity on what constitute the lawful activities of pedlary
- that the Pedlars Act is made compatible with the Services Directive
- that local Acts, private Acts and the Pedlars Act are compatible forthwith
- that no further parliamentary time be wasted
- that 46 years of wrong interpretation can be ended
- that the General Interest will be served

BIS intend the use of a Statutory Instrument (SI) signed off by the minister to repeal the Pedlars Act and amend the locally adoptive LGMPA but engages no powers to amend local private Acts.

This new government policy has no evidential or rational basis but relies solely on "wrong interpretation" supported not by the public but by LA's and private interests with unjustified bias.

A court of law has yet to rule on whether a private bill/Act can alter the “purpose” of primary statute (the

Pedlars Act) by amendment to another subsidiary and dependent statute – the LGMPA.

HMG / BIS seizing the “repeal” solution gamble on a without liability option having relied upon the advice and effect of private law specialists devising a tort that is an injury to the entire British population.

The intended SI route provides no guaranteed resolution of problems with local Acts outside the adoptive LGMPA and no guarantee that pedlars will not occupy significant Parliamentary time to petition Parliament on each and every attempt to amend some 15 local Acts as and when brought forward. Consequential use of Parliamentary time does not fulfill 2007 Parliamentary directions to government.

Simon Casey RIP researched BIS reliance on the European Communities Act 1972 that provides the minister with legislative powers to amend any legislation in order to ensure compatibility with European legislation and that there was nothing to prevent the minister applying such powers to all local Acts whether private or public, national or local.

Pedlars contend that the minister has powers to use the Statutory Instrument route to amend the Pedlars Act as per the Third Option.

Consultation in this regard is more suited to the Home Office whose duty is to oversee sovereign matters about public rights and freedoms contained within the Pedlars Act or any other.

The minister under the 1972 Act is also empowered to repeal or amend "private local Acts" to conform with BIS interpretation of the Services Directive (SD) in the public interest.

It will be up to BIS and LA's to make lawful all local Acts under the SD knowing that pedlars will constantly petition parliament against any infringement of their rights & liberties.

BIS is the proper department to resolve SD incompatibility of local Acts in 420 local jurisdictions and pedlars contend that it is unfair, unbalanced and disproportionate to shift the burden of monitoring compatibility onto them. BIS reliance that LA's have any competence in the matter requires serious reflection.

Parliament exposed the underlying intent of local Acts and the fallacious myth that pedlars will be better off under random "resolutions" about which they have no locus standii to petition.

Any concern that may arise amongst local authorities can be countered by government policy that the "open free market is self-regulating" and therefore outside the remit of "localism/vested" interests.

HMG having now consulted for 6 years is able to guide national policy to make compatible the European Services Directive and the UK Pedlars Act in a succinct form of words:

- The **Principle** of the Services Directive is open free trade without barriers
- The **Principle** of the Pedlars Act is open free trade without barriers

The Principle of local street trading Acts is to regulate static licensed pitches to meet public safety concerns.

Pedlar stakeholder's trust in BIS has been shattered by this exhaustive 6 year process despite which they maintain the purpose of their bona fides of good faith and good intent so common sense prevails.

Pedlars contend that there currently exists a clear and coherent way for the Secretary of State for BIS to “disentangle all mischief” by directing that:

- pedlary is not only street trading and is outside the scope of LA's remit and outside the scope of the current BIS consultation
- that the recent consultation is called-in to disentangle "national policy" from "local regulation"
- that legislation concerning the public freedom and public liberty is a sovereign matter for the Home Office and exempt from SD interference
- that regulation concerning licensed obstacles and the public safety is a local regulatory matter for LA's and subject to SD compatibility
- that pedlars Third Option "amendment of the Pedlars Act" be more appropriately considered as a public consultation through the Home Office

Mr McGerr you will be aware that some 50 pedlars have already lodged a reply to the current URN at the last deadline 15 March (extended 21 March to 5 April).

This reply to your concerns will be published on-line as a further reply by pedlar signatories to the current URN.

The website www.pedlars.info has 162 articles as a full public disclosure of pedlars consultation with government over the past 6 years and constitutes an evidential basis that is the pedlar stakeholder's

chronological reply to the ongoing government consultation.

Yours sincerely

Robert Campbell-Lloyd for the 57

Admin

Note: at the bottom of this communication is a chronology of correspondence between pedlars & BIS 19-26 March as background reference.



On 28 Mar 2013, at 12:23, Nic mcGerr wrote/mailed pedlars.info:

Robert,

Thank you for alerting me to the necessity of responding to BIS apparently now only possible through Rachel Onikosi.

I want pedlars.info to communicate my thoughts to BIS / HMG / Onikosi / Swinson/ Cable: that the URN 12/605 is not fit for purpose and for many reasons: most of them in default of the Services Directive (the SD) that BIS relies upon to scrap the Pedlars Act - although according to Onikosi not all the local legislation is to be altered, amended or scrapped as it could be and should be because there's not enough parliamentary "time" - not an answer that's good enough for Simon Casey.*

** Not only does LGMPA exempt pedlars according to the Pedlars Act but all local legislation relies on the the LGMPA that in turn relies on the Pedlars Act: remove the Pedlars Act - all this legislation is in default.*

I wrote to Vince Cable as soon as I received a copy of the URN 12/605 but I've not had the courtesy of a reply.

I wrote that the "consultation" was not an appropriate basis to change the law in the UK and especially disingenuous as its main objective is to scrap the Pedlars Act.

The question directed at pedlars in the URN has only one objective and that is to remove the prerogative of the Crown's lawful protection of the public by abolishing the Pedlars Certificate and replacing it with ill-defined and chaotic reliance on "offers" of haphazard "security services" such as G4S etc who have already on record demonstrated incompetence and ignorance of law.

The removal of the Pedlars Act in UK swaps the sanction of a civil penalty with that of criminal liability within a plethora of locally derived provisions couched as Control Orders and raised through what HMG/BIS envisage to be a "national" law as versions of the LGMPA.

Here's the HMG/BIS etc failure, of paradox, ignorance, illegibility and malfeasance:

- HMG/BIS etc has raised this URN as a vague and ill-defined proposal but HMG / Cable / Swinson / BIS / Onikosi etc have refused to answer how it is that this type of hyper legislative regulation can fit within the "de-regulation" spin that HMG states is its*

interpretation of the SD.

- *HMG uses the terms of the SD to go against the principle of the SD and to remove the Pedlars Act - a UK wide statute couched only with civil sanctions but to be replaced by a multitude of vigorous criminal penalties all against Article 1.5 of the European code: this is the code, the Directive, the Convention that BIS excuses itself to champion as a reason for the repeal of the Pedlars Act.*

This doesn't make any sense to me, it is perverse and unreasonable and in a court of law, especially in a European Court of Justice - an appropriate view is able to be made about how HMG is using the European Convention as an excuse to criminalise UK people.

- *This URN proposes to be the death of honest people and pedlary throughout the UK as it welcomes the arrival of well organised gangs of racketeers from all EU, EEA and future ENP member states.*

This is not my vague terrified illusion: I've witnessed the effect this has on town and city streets - myself, other pedlars, shopkeepers and the public have been threatened, abused and in many instances physically attacked.

This is evidence although anecdotal that cannot be placed in the URN because HMG etc have not made provision for this sort of outcome to the consultation proposals - there is no effective Impact Assessment to provide for this outcome, neither is there an effective IA to take into account impact on the entire eligible population of the UK. HMG/BIS etc with the facility of cowed media and the LGA have put about the spin that pedlars are either "marauding hordes of foreigners" (LGA) or that pedlars are "welcome" (Leeds Licensing Sue Burgess) and that pedlars will be free of the "burden" (Jo Swinson).

What freedom? What burden?

- *The URN is a vessel of death for pedlary.*

It offers only the opposite to vibrant life on the highways and bye-ways of Britain.

- *This URN sets out to destroy the harmony of the British Isles - the opening pages of each of the two documents put up by HMG/BIS etc speak only of a national solution but not to what nation: an ill defined "England", an as yet unresolved Wales, an absent Scotland, and a remote province calling itself Northern Ireland.*

- *HMG/BIS etc has not set out what sort of "national law" can be applied throughout the United Kingdom to make up for the absence of fairness, honesty, and safety that is written into the Pedlars Act in its application throughout the UK.*

- *HMG/BIS etc has decided to ignore pedlars' proposals put forward throughout 14 years of consistent communication with government. HMG etc has decided to not assess the proportionality of impact to be made upon the people of the UK - some 48*

million people able to have the Pedlars Certificate of honesty and good intent but now to be denied by HMG/BIS etc.

Onikosi has written to me that she does not want me to communicate with her. This followed my request that she and her team colleague Marcelle Janssis respect the principle of the Pedlars Act and not merely obsess about applying inappropriate process. It is obvious to me and all pedlars that this team BIS is dominated by process thinking and have abandoned all thought about reason and principle.

The team although following a predetermined remit to scrap the Pedlars Act are not fit for purposes of setting fair governance and good administration. She has according to pedlars.info denied that she is capable of reading pedlars' proposals or knowing who to contact for explanation.

HMG/BIS put out that there is a full public consultation but members of the public I've questioned have no knowledge of it and neither have the majority of pedlars - a significant majority also do not have the privilege of being able to read and write.

Swinson relies on 4000 as a number of pedlars: a figure easily calculated by St Chads college commissioned to have an academic view of pedlars but this figure is an ad hoc calculation that does not accurately reflect the real and true potential of the Pedlars Act to give people freedom within law to go throughout the whole of the UK trading and displaying wares or "other" (the Pedlars Act).

This figure of 4000 or any other assessment has never been accurately calculated since the easy summary of the Durham University Research paper - this despite HMG/BIS resources being able to be directed specifically and with clarity to set legislative perspectives. However, other than that: Graham Branson team leader at BIS stated in the House of Lords Committee on the Leeds City Council etc bills that most of the proposed legislation was already likely "to be illegal".

HMG/BIS prefers to rely on dubious and unreliable reports from any spurious source set out in the URN as "TBA" = to be arranged: this is only an effective methodology as much as any of the evidence I can bring that has been written off by HMG/BIS etc as perhaps "anecdotal".

This cavalier attitude by HMG/BIS is why the URN is not fit for purpose and because it is without any stated accurate methodology or peer review it is unacceptable into law other than by compulsion and through constraint - therefore not good law.

- There has been no comprehensive and reliable statistical evaluation made for this URN: for HMG's proposal to rid the British state of the fair and reasonable Pedlars Act - nor for HMG to evaluate the "Third Option" provided by pedlars to satisfy both HMG and European requirements.

Ask HMG /BIS /Onikosi why pedlars' "Third Option" is denied the "full public consultation" that HMG etc has stated is enough to satisfy pedlars' questions and

concerns.

I have 20 years of experience to offer "pro bono" to HMG etc but have not been given the courtesy of a substantive, realistic and reasonable reply to why my offer to remain as a Certified Pedlar is to be removed only to be replaced by the status of being a potential victim as detailed by Article 1.5 of the European Convention and the SD that HMG/ BIS etc likes to misinterpret and use to promote only nefarious devices.

nic mcGer, @NicGerr, pedlar, parliamentary agent.

From: Pedlars Admin <Pedlars.admin@gmail.com>

Subject: Fwd: pedlars alert 32 - URN12/605 & 606

Date: 26 March 2013 09:53:14 GMT

To: Onikosi Rachel (CCP) rachel.onikosi@bis.gsi.gov.uk

Dear Ms Onikosi

You have sent the same email from 2 different addresses stating that "*only one will be monitored and used for further correspondence on this topic*" provides pedlars.info with a 50/50 chance of further communication.

Clarification please?

Please provide a link to the said notification on BIS website?

Today March 26 2013 is not a happy day for pedlars.

Last week signatories to pedlars.info response to URN were updated with **pedlars alert 32** inviting comment. Copy below for dissemination.

Please confirm that pedlars.info can expect replies to all outstanding issues listed on page 5 Briefing120113-5BIS.pdf as attached before 5 April? These are repeated herewith:

- **There has been no reply or challenge to the validity of the 16 background points.**
- **There has been no response to pedlars Briefing 29 September 2012 to the Secretary of State on "Problem/Solution".**
- **There has been no response to Simon Casey's legal question as to why HMG has not applied the same powers to amend/repeal private Acts as per its policy re the Pedlars Act.**
- **There has been no response by minister Jo Swinson to pedlars direct concerns – 10, 13, 18, 18 & 19 March regarding discrimination & malfeasance by BIS.**
- **There has been no response from the BIS formal complaints contact.**
- **There has been no response to pedlar's Third Option proposals submitted June 2012, updated 14 February 2013 in support of previous BIS policy to amend the Pedlars Act.**
- **There has been no comment on pedlars analysis of problems with BIS policy notified to BIS 10 February 2013.**

Please clarify the inference that minister Jo Swinson will not reply to any email "*correspondence on this topic*"?

Please confirm that preparations are being made for the meeting outlined 13 March to the minister?

Please confirm that the minister is addressing the issue of BIS discrimination and malfeasance?

Please confirm that BIS Complaints will respond before April 5?

Please confirm what Team BIS considers may restore pedlars.info Trust and Confidence?

yours sincerely

[Pedlars.info](http://pedlars.info)

Begin forwarded message:

From: Pedlars Admin <pedlars.admin@gmail.com>

Date: 23 March 2013 13:06:55 GMT

To: robert@pedlars.info

Subject: **pedlars alert 32 - URN12/605 & 606**

To only those who gave authority to join with pedlars.info reply to the BIS consultation.

Further to our reply 15 March to the BIS consultation we emailed the minister Jo Swinson several times without reply except for an auto-thanks to each of the following:

On 10 March we sent the **pedlars alert 31**.

On 13 March we sent:

Dear Jo

Pedlary Law & URN12/605 & 606

The nominated BIS point of contact for stakeholders has written that because she will not read our communications she cannot report the content to you as minister.

The nominated BIS complaints person will not respond to complaints.

The BIS Ministerial Correspondence Unit is authoring your letters with a delusional notion that HMG is justifying HMG policy on behalf of French pedlars.

Please be aware that there are no pedlars in France or any other EEA Member State except the UK.

The UK Pedlars Act is unique in Europe and enshrines a public liberty to exercise lawful private business in public without any interference whatsoever.

Under the European Services Directive HMG has authority to preserve its cultural heritage of the Pedlars Act.

In 2009 BIS made a terrible error in interpretation of the Services Directive and the mischief has become law in the PSRA2009 Section 45 that discriminates against some pedlars.

Your department is in denial of failure and prefers to destroy a UK civil liberty as a cover-up of gross misconduct.

Your department admits that it is not fit for purpose to understand the national picture but we who live with the consequences of street trading & pedlary law do understand.

Your department has argued both sides of this debate - for amendment and lately for repeal.

You & Vince are responsible for the socio-economic care of a nation and this email informs you that your BIS department is failing in its duty to the general interest.

I await your invitation to understand why and through BIS Counsel to engage with pedlars' Third Option policy & its justification in the general interest.

I live in Ireland and am happy to travel to a meeting or to skype conference with you & BIS Counsel.

Pedlars.info has done the work for BIS pro bono and with respect ask that you give good direction to your department to engage.

You are aware that time is of the essence.

Yours sincerely

On 18 March we then sent:

Dear Jo

FORMAL COMPLAINT: URN12/605 & 606 consultation on pedlary & street trading law

DISCRIMINATION & MALFEASANCE BY BIS OPERATIVES

It will become obvious why this letter is not directed to stakeholder's point of contact at BIS.

Pedlars response to the consultation URN12/605 & 606 awaited a BIS response to written points, questions and concerns.

The BIS point of contact was not short of regular reassurances that pedlars may expect a reply before the consultation period ended.

During this last week pedlars anxiety and concern escalated but still no reply from BIS.

My request for extension of time to allow for receipt of government reply was ignored.

My complaint to John Conway Friday 16:45 confirmed that you had been alerted to my concern that Rachel Onikosi was not responding as promised.

Under duress and possible procedural threat that any consultation reply arriving later than the deadline may not be accepted I emailed a response on behalf of some 50 pedlars at 22:13.

During the weekend I was reliably informed that BIS had sent the anticipated government response to other parties during the week but not to me.

Why did your department not send the government response to me?

Why was my direct request ignored?

Are you aware of how your department is mistreating stakeholders?

I had informed you directly of pedlars alert about BIS stone-walling.

I consider that BIS has acted with malicious intent to discriminate with malfeasance.

Not for the first time.

This consultation has gone terribly wrong and pedlars have lost all trust that BIS understands the principles involved and its function to act in the general interest.

I understand that the government response makes no mention or consideration of the Third Option submitted to BIS as long ago as June 2012.

I ask you again to use your authority to implement a frank and open meeting between the authors of the Third Option and the authors of the government policy & Counsel for the draft legislation to slog out some degree of common ground upon which good policy can begin to evolve as an alternative to government ignoring stakeholders warnings and forcing such a mischievous agenda. You must acknowledge that it is pedlars who will carry the burden of changed government policy and as some more liberal thinking politicians now accept it is a duty and responsibility of practitioners to provide legislators with workable solutions. This we have done on the basis that your own department acknowledges it does not have a clear national picture... we do because since 2007 pedlars.info has done your work for you.

Please engage in kindness & goodness, listening & caring with those who carry the burden.

Only your moral leadership can offer some hope of lowering defensive positioning.

Yours sincerely

On 18 March we also sent:

Dear Jo

your letter to Simon Kirby MP re constituent pedlar

A pedlar has sent pedlars.info copy of your letter to Simon Kirby in response to a list of concerns raised by his constituent about pedlary and the consultation and asks why your reply does not address his concerns and what he might do to get BIS to engage with his genuine concerns.

Having read your letter it is apparent that you remain misguided by operatives at BIS and are repeating a wrong justification that pedlars will be better off under the BIS policy when by the BIS draft legislative proposals a UK pedlar will be less free than currently; burdened with potential criminal sanction; discriminated against by being obliged to maintain contemporaneous evidence of each and every moment of trading activity in case of the need to defend against allegations by zealous councils wishfully seeking prohibition to monopolise control of all trading activity and the lucrative licensing revenue stream from approved traders; limited in time and place that they can trade; subject to undue monitoring of trading activity verging on intimidation and harassment; prohibited geographically from all current trading locations that councils deem designated; effectively prohibited from local economic and cultural life.

You repeat the fallacious French pedlar argument that we have previously informed you about... that there is no such person as a French pedlar in French Law.

Your submission is that a UK pedlar will face no restrictions in selling their services in other EU countries.

Please provide evidence that all EU member states have ratified and harmonised that policy.

Please confirm that HMG will defend the rights of UK pedlars to trade without restriction in all member states.

Please provide evidence that each member state has approved designation of streets as per Clause 5 such that all persons of that state are subject to prohibition, consent or licensed designations except service providers from another EEA state.

With this evidence and reassurance pedlars may potentially see some virtue in contemplating further the BIS policy.

Sincerely

On 19 March we then sent:

Dear Jo

YOUR URN

The silence from BIS is deafening.

We have been struggling to understand the lack of continuity in BIS policy and conclude that by intent nobody has such responsibility.

We note the regular turnover of personalities whose disconnect is bizarre, whose lack of knowledge profound, whose justifications are watery.

Civil servants by their own admission do not have a national picture but claim a national resolution in the URN... bizarre?

The latest red-herring about French pedlars must have come from a casual glance at an image on www.pedlars.info showing a bicycle onion trader... bizarre?

The spin that pedlars will have less regulation & be better off has been dismissed by common-sense.

That HMG has identified a minor discrimination in the Pedlars Act means only that the discrimination be removed but please... not a civil liberty!... not a statute for the people!

We the people will not let our government through ignorance repeal a statutory unfettered right to pedestrian trade in public!

No matter what spin is presented.

Last year it came to my attention that Spain & Portugal no longer control traders on the streets - they accept that the market self-regulates in consumers best interests.

I am not able to produce the law supporting this but I offer it as real on-the-ground evidence of what may be

the intention of the Services Directive.

To remove all barriers to trade in member states... some say a form of European protectionism.

The URN Annex E provides evidence of who is sponsoring government policy... councils seeking total control - in other words protectionism.

So what is being protected?

Sue Burgess at Leeds City Council gave the insight last Friday on BBC:

What we [councils & BIS] are trying to do is:

control quality

control the offer

in all fairness to other business

not to prevent pedlars from coming

but not in areas creating a hazard

health & safety issues

BIS needs to instruct Local Authorities that civil servants agree or not with Baroness Knight's committee on street trading and pedlary law that what is fair or not fair competition is not the remit of local authorities.

Her Lords committee heard evidence that the clear motive for the private bills was to introduce restrictions and sanctions that were out of proportion to legitimate problems.

In regard to obstruction the committee rejected city wide designations limiting such to particular areas on the justification only to ensure road safety and the prevention of obstruction.

The Services Directive principle is free trade without barriers.

The Pedlars Act principle is free trade without barriers... and it already exists in UK Statute.

product quality is not for council to control

the service offer is not for council to control - it is a private contract

competition between businesses is not for council to control

preventing some traders and not others is not the remit of councils

alleging hazards without evidence is fallacious

Article 23 of the Services Directive - "health & safety" means, in relation to a recipient or a third person, the prevention of death or serious personal injury

it is not pedestrian traders but static traders who are the only cause of health & safety concern from their obstacles and obstruction otherwise pedestrians must also be considered a health & safety concern

It is wholly disproportionate that a pedlar will be required to monitor 420 local authority resolutions as and when raised to enable any challenge to arbitrary designation of areas especially when "area" is a subjective judgment open to interpretation.

This consultation is yet to begin and I expect you to desist ignoring public concern.

On 19 March we also sent evidence of "discrimination & malfeasance" by BIS to the minister and to the Secretary of State for BIS.

On 21 March we then received this reply from Onikosi Rachel (CCP) <rachel.onikosi@bis.gsi.gov.uk> and from Street Trading and Services Directive Compliance Consultation <stcompliance@bis.gsi.gov.uk>

Dear Mr Campbell Lloyd

Street Trading and Pedlary Laws - compliance with the European Services Directive

Please see the attached response to the questions you sent BIS on the consultation on street trading and pedlary. This response has now been cleared by the Consumer Minister and used to response to letters sent to her.

The consultation has now closed but we will accept further responses received by 5pm on 5 April. This decision will be posted on the website together with the attached response shortly.

Please note that this email address is the only one that will be monitored and used for further correspondence on this topic.

Yours sincerely

Consultation Team

We will keep you informed of further communications.

Your comments will be appreciated.

sincerely

admin at pedlars.info

Question 1.1 If you are a police force:

(i) what is the approximate annual cost of administering the pedlar certification scheme?

(ii) what impacts would repeal of the Acts have in terms of cost, time and/ or other factors?

Comments:

Question 1.2: If you are a pedlar: what do you consider are the impacts of repeal, both in terms of costs, time and/ or other factors?

Comments

See above

Question 1.3: Do you consider that repeal would have an impact on any other organisation, individual or group? If so, please provide details of that organisation etc and what you consider the impacts on them would be.

Comments

See above

Question 2: Do you agree with our proposed new definition of a pedlar for the purposes of the pedlar exemption from the “national” street trading regime in England and Wales?

Yes

tick No

Please fully explain your reasons for agreeing or disagreeing with any element of the proposed definition.

Comments:

See 5 above

<http://www.pedlars.info/latest-new-bulletin/154-10-february-2013-bis-pedlar-policy-scrutiny.html>

scroll to end of document to see list of problems

Amendments to Schedule 4 to the LG(MP)A

Question 3: If you are a local authority, do you envisage that there might be circumstances in which you would be able to designate a street as a licence/ consent street in relation to traders but not in relation to established temporary traders?

Yes

No

Comments:

Question 4: Do you agree that only one photo needs to be submitted with street trading applications which are made electronically?

Yes

No

Comments:

Question 5: Do you agree with the proposal to replace the mandatory refusal ground? If not, please explain why you do not think that the 1933 Act provides adequate protection and why the minimum age requirement of 17 needs to be retained. (see paragraph 1.32).

Yes

No

Comments:

Question 5.1: If you are a local authority, can you indicate the approximate number of applications you expect to be made from those under 17 years of age? would

Comments:

Question 6: Would it be helpful for BIS to issue guidance on the circumstances in which the discretionary grounds in 3(6) (a), (d), (e) and (f) can be used? (see paragraphs 1.33 and 1.34 above).

Yes No

Comments:

Question 7: Do you think there are any circumstances in which the existing paragraph 3(6)(b) ground could be used compatibly with the Directive and, if so, please give reasons. (see paragraphs 1.36 - 1.37).

Yes No

Comments:

Question 7.1: Do you consider that it is necessary to insert a new replacement “suitability” refusal ground into paragraph 3(6)? (see paragraph 1.38)

Yes No

Comments:

Question 7.2: In relation to this new ground, can you tell us:

(i) In what circumstances you would use this ground and how often?

(ii) Whether this ground would produce costs on you as a local authority, or on you as a business and what these costs are likely to be?

Yes No

Comments:

Question 7.3: Would it be helpful for BIS to issue guidance on the circumstances in which this replacement ground could be used?

Yes No

Comments:

Question 8: Do you think there are any circumstances in which either of these grounds could be used compatibly with the Directive in relation to temporary traders? (see paragraphs 1.39 -1.42)

Yes No

Comments:

Question 8:1: Do you think it would be preferable to pursue our proposed approach of expressly preventing the grounds from being used in relation to temporary traders or to repeal the grounds completely?

Yes No

Comments:

Question 8.2: Will local authorities continue to use these grounds in relation to established traders?

Yes No

Comments:

Question 8.3: Do you foresee any difficulties with our proposals to limit the circumstances in which grounds could be used in relation to traders? these established

Yes No

Comments:

Question 9: Do you foresee any problem resulting from the proposed repeal of paragraph 3(8) of Schedule 4 LG(MP)A? (see paragraph 1.43) to the

Yes No

Comments:

Question 9.1: Do you agree with our assumption that those who may benefit from this provision are more likely to be UK nationals than nationals of other Member States?

Yes

No

Comments:

Question 10: Do you foresee any problems with our proposal to give local authorities flexibility to grant licences for longer than 12 months or indefinitely? (see paragraphs 1.44 – 1.47)

Yes

No

Comments:

If you are a local authority can you further tell us

Question 10.1: Whether lengthening the duration of licences would have a positive, negative or neutral impact on the ability of new street traders to obtain licences to trade in your licence streets?

Yes

No

Comments:

Question 10.2:

(i) Whether you are likely to issue licences for more than a 12 month period of indefinitely?

- Yes No

(ii) If you are likely to issue licences for a defined period which is longer than 12 months, what period you are likely to choose?

Comments:

Question 11: Would it be helpful for BIS to issue guidance as to how the PSR may affect a local authority's ability to use some or all of the revocation grounds contained in paragraphs 5(1)(a) to (c) in relation to established traders/temporary traders? (see paragraphs 1.48 – 1.50)

- Yes No

Comments:

Question 11.1: Do you think there are circumstances in which the paragraph 5(1)(d) ground could be used compatibly with the Directive in relation to temporary traders?

Yes No

Comments:

Question 11.2: (i) Do you think it would be preferable to pursue our proposed approach of expressly preventing that ground from being used in relation to temporary traders or to repeal the ground completely?

Yes No

(ii) Will local authorities continue to use that ground in relation to established traders?

Yes No

Comments:

Question 11.3: Do you foresee any difficulties with our proposals to limit the circumstances in which ground can be used in relation to traders? that established

Yes

No

Comments:

Question 12: Do you foresee any problems with our proposals - To disapply regulation 19(5) of the PSR where a mandatory ground for refusal of the application exists; or

Yes

No

To leave it to local authorities to decide whether to put arrangements in place to disapply the regulation in other circumstances, or to specify what conditions will automatically attach to a licence which is deemed to have been granted under regulation 19(5)? Please give reasons for your views (see paragraphs 1.51 – 1.53)

Yes

No

Comments:

Question 13: Do you foresee any problems with our proposals to allow local authorities to relax the prohibition in paragraph 7(7) in its entirety where appropriate? (see paragraphs 1.54 -1.57)

Yes

No

Comments:

Question 14: Do you foresee any problems with our proposals to amend paragraph 10(1)(d)? (See paragraph 1.59)

Yes

No

Comments:

Question 15: Please can local authorities tell us about any other local Acts regulating street trading which are not listed at Annex B of this document (or any Acts listed in Annex B which have in fact been repealed).

Comments:

Question 15.1: Please can local authorities tell us-

- (i) whether having screened your local street trading Acts for compliance with the Directive, amendments /repeals need to be made to that legislation;**

- (ii) if such amendments/ repeals are needed whether you wish us to include them in our regulations.**

Comments:

Question 16: Please can local authorities tell us-

- (i) what consequential amendments are needed to the provisions listed in Annex C as a result of the repeal of the Pedlars Acts (and provide appropriately drafted provisions);**
- (ii) whether any consequential amendments are needed to other provisions of local Acts as a result of the repeal of the Pedlars Acts (and, if so, provide appropriately drafted provisions);**
- (iii) if any of the provisions listed in Annex C are no longer in force.**

Comments:

Question 17: Can local authorities tell us-

(i) what consequential amendments are required to the provisions of local Acts listed above at paragraph 1.73 as a result of our proposed amendments to Schedule 4 to the LG(MP)A, and provide appropriately drafted provisions?

(ii) whether (and, if so, what) consequential amendments are required to any other provisions of local Acts as a result of our proposed amendments to Schedule 4 to the LG(MP)A (and again provide appropriately drafted provisions)?

Comments:

Do you have any other comments that might aid the consultation process as a whole? Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Comments:

Pedlars consider this consultation not fit for purpose and intended only to seek endorsement of an ill-conceived agenda.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply **tick please acknowledge to**
pedlars.admin@gmail.com **and** robert@pedlars.info

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

tick No

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