

Parliament misled by corrupt use of language.

13 January 2014

The indented extract that follows is from parliamentary advice to Alun Cairns MP issued by the House of Commons Library.

Alun Cairns requested clarification about an issue raised by one of his constituents: a pedlar concerned about how the Library is stating policy that has yet to have full debate in Parliament and without a test in law.

Pedlars alerted Lorraine Conway, author of the Library Standard Note [SN/HA/5693](#) dated 12 June 2012 that it is considered to be misleading as it fails to establish a clear Principle to help Members of Parliament recognise the similarity of persons street trading: those with a Pedlars Certificate but also the difference in means of pedlars and those of licensed street traders.

BIS the Department of Business, Innovation, and Skills through its Consumer and Competition policy directorate invited [pedlars.info](#) to remedy misdirection in the Standard Note by [rebuttal](#) - sent to the HC Library, published online by [pedlars.info](#) 5 November 2013 and notified to Adrian Bailey MP Chair of the BIS Committee in Parliament requesting removal of the document as not fit for purpose other than for it to be amended.

Lorraine Conway's second Library Note [2013/12/55-HAS](#) to Alun Cairns MP dated 18 December 2013 fails again to address the underlying Principle.

Pedlars seeing that the HC Library Standard Note amendment reflects entirely the view of BIS as proposed to stakeholders in the BIS document URN 12/605-606 wrote to Martin Donnelly Permanent Secretary for BIS to notify him 1 January 2014 about [Official Conduct at BIS](#) .

With no response from Martin Donnelly or Adrian Bailey and without complete edit and effective amendment to the Standard Note to establish clear principle, pedlars contend that there is a deliberate and co-ordinated attempt to mislead Parliament.

Pedlars call upon their MPs to rectify this situation as it is an offence against Parliament not to be tolerated by Parliament and those Members of Parliament alert to the commitment of offence.

The Speaker of the House, the Sergeant at Arms and the Secretary of State for Justice need be aware.

Second HC Library Note extract (page 3):

The certification system for pedlars is untenable [1] (we do not think such a system can be justified within the terms of the directive as it is too restrictive). Not only does the certification regime contain a residency requirement (banned under the directive) but we have no evidence to support the need to impose an authorisation regime based on a test of "good character" (which would be the most significant remaining criterion). We do not therefore think that continuing the certification regime can be justified as acceptable under the Directive.

Further, we do not believe pedlars should in general be regulated under other schemes. In other words, the European Services Directive and our preference both suggest we should deregulate pedlary and help pedlars be freer to trade across the UK.

Some elements of the street trader licensing regimes are also not, in our view, compatible with the Directive and will need changing. But we believe the **principle of street trader [2]** licensing and consent is compatible with the Directive in relation to **established traders [3]** (i.e. traders established in the UK) and temporary providers (i.e. traders established in another EEA state) **where it can be justified for each in accordance with the Directive [4], but it is not in general**

compatible with the directive to apply such regimes to pedlars [5]. Because the possible grounds in the Directive for justifying the existence of an authorisation regime are more limited for temporary traders than for established traders, we anticipate that two separate street trading licensing regimes may be required - one for temporary traders and one for all other traders.

[1] Pedlars contend that this statement is corrupt for the following reasons:

[2] The Note reiterates a BIS ‘belief’ that the **principle of street trader** is reserved solely for a “street trader” subject to “licensing and consent” whilst acknowledging in the introduction to the Note that “*case law has established that a trader may act as a pedlar..*” - this statement establishes that a pedlar is a street trader as much as a licensed street trader is “a trader”. Any other attempt to corrupt the sense, meaning and effect of language is a devious corruption to advance a certain purpose but also corrupts the efficacy of law.

[3] The Note ignores pedlars as **established traders** and refers only to a licensed local authority street trader as “established” by authority of a “licence” that carries fixed terms of local conditions of application.

These terms and conditions are not different in principle from those of an “established pedlar” - a pedlar established by fixed term “certificate” and conditions that pedlars act in good faith.

[4] The Note fails to show where it [the principle] can be justified for each [trader] in accordance with the Directive and why established ‘licensed’ traders are to be treated differently to established ‘certified’ traders.

[5] That it is not in general compatible with the Directive to apply such regimes to pedlars has not been justified either in the consultation or in the Note but compatibility was justified in written BIS communications with pedlar stakeholders “*that the Pedlars Act should be amended as the Government has proposed in order to implement the Services Directive*”. Why BIS policy to amend the Pedlars Act was inverted to repeal the Pedlars Act has been denied public consultation even though the social impact extends to some 50+ million people.

The principle underlying different types of trading is an essential element missing from the Note but is required to be clearly stated for MP’s to understand how a Pedlars Certificate is able to be validated.

Without a clear statement of Principle attempts by the HC Library repeating erroneous advice from BIS/HMG must be considered a mischief without legal basis and at worst an attempt to mislead parliament.

Stakeholders contend that there are no grounds for the opening statement [1] as it constitutes a corruption in the use of language and law.

The opposite statement “**The certification system for pedlars is tenable**” has not only been put by BIS in 2009 but pedlars showed how this could be achieved by proposing draft legislation (**Third Option**) that resolves all anomalies and conflicts found to be present in national and local street trading legislation whilst satisfying compatibility with an uncorrupted interpretation of the Services Directive.

Appendix to note [1] above:

“within the terms of the directive as it is too restrictive..”

These terms are not fully elucidated by BIS whether the terms referred to are by BIS, are those of the Directive or those of Pedlars Act Application Form A for a Pedlars Certificate;

- there is no reference to how and from where “belief” arises or how it is that the Library along with BIS has arrived to “think” about the Principle initiating pedlars’ activity and that of street trading;
- there is no reference about how the belief or the thinking attached to this statement has been clarified with judgment and by direction of law.

“residency requirement (banned under the directive)..”

Here again is an absurdity if not a corruption of concept and syntax from either a direct transcription from the “belief” of BIS to “think” that a “residency requirement” is “banned under the directive” or that of Lorraine Conway: both the author and text need correction.

Pedlars have given explicit interpretation of the Directive requirements including that of the residency qualification (origin is no disbarment of Application with no specific requirement to place of residence..).

BIS and the Standard Note repeat an inversion of logic and corrupt the reality of the Directive’s principle effect.

“have no evidence to support the need to impose an authorisation regime based on a test of “good character”..”

BIS admits to not having sufficient data base of evidence (police returns of Application Form A); BIS (BERR) / HMG have not gathered sufficient evidence other than Durham University data numbering amount of certified pedlars estimated by simple multiplier of LGAs;

- all lawful activities have authority and “authorisation”, Pedlars Certificates are lawful;
- “regime based on a test of “good character”, a “good character” is sufficient enough test in law.

“Further, we do not believe pedlars should in general be regulated under other schemes.

In other words, the European Services Directive and our preference both suggest we should deregulate pedlary and help pedlars be freer to trade across the UK.”

It is a relief for pedlars to know that BIS/HMG/the HC Library “do not believe” there is a need for pedlars to “be regulated”

- but the statement is misleading and a corruption of the general law as pedlars are not “regulated” except within the general law, the statement is thus redundant unless having other purpose.

The Library statement allying itself with BIS: that the “European Services Directive and our preference both suggest” - is both putative but also corrupt by suggesting that a perverse interpretation of the EU Services Directive is allied to the UK government’s proposed removal of the safe and useful domestic statute of the Pedlars Act.

Parliament continues to be misled by this Library Standard Note contriving with BIS / HMG to “deregulate pedlary and help pedlars be freer to trade across the UK”.

Pedlars are not regulated “across the UK” other than by their own self regulation within the general law and by authority of the UK Pedlars Act.

Pedlars, people and Parliament are deliberately confused and misled by the uncorrected, uncorroberated Standard Note stating that somehow government, BIS/ HMG, and the HC Library will “help pedlars be freer to trade across the UK”.

There is absolutely no indication of how this putative objective to “help pedlars” (people) “be freer” can be achieved.

The HC Standard Note (HMG/BIS) discounts all factors within the general law such as the very proscriptive *Local Government (Miscellaneous Provisions) Act*, the *Town Police Clauses Act*, the *Crime and Disorder Act* with any and all proposed and future extensions into criminalising more and more people such as the *Antisocial Behaviour, Crime and Policing Bill*.

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