

Application for Adjournment of Magistrates Court Proceedings

To: The Presiding Magistrate

Birmingham Magistrates Court, Victoria Law Courts, 1 Newton Street, Birmingham, B4
7NA

Re: Case of Mr. Andrew Logie – Application for Adjournment of Proceedings

Case Number: 00002180T BCC Licensing

Hearing Date: 30th September 2024

Applicant: Mr. Andrew Logie

Respondent: Birmingham City Council (BCC)

Introduction

1. I, Mr Andrew Logie, respectfully request the adjournment of the proceedings against me scheduled for the 30th September 2024, pending the outcome of a Judicial Review case before the High Court (Case No. **AC-2022-BHM-000164**).
2. The adjournment is sought on the grounds that the legal issues in the current proceedings are materially connected to those under review in the Judicial Review and that the outcome of the Judicial Review will directly impact the determination of this case.

Background

3. I am a pedlar who trades in Birmingham, holding a valid Pedlar's Certificate under the Pedlars Act 1871.
4. The current Magistrates Court case concerns alleged street trading offences brought by Birmingham City Council (BCC) based on their interpretation of the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, and the Pedlars Act 1871.
5. I am currently involved in an ongoing Judicial Review (Case No. **AC-2022-BHM-000164**) challenging BCC's interpretation and application of the Pedlars Act under the Local Government Act (LGA) in three separate incidents from 2022 on similar

grounds. My application for Judicial Review was granted on 26 July 2024, and a hearing date is expected within the next six months.

6. This Judicial Review application was made prior to the judgment issued by The Honourable Judge Ritchie on 23 May 2024 in a separate but closely related Judicial Review case (Case No. **AC-2023-BMH-00072**), which found in my favour against BCC regarding similar issues of law.

Judge Ritchie's Judgment and Its Relevance

7. In the judgment delivered on 23 May 2024, The Honourable Judge Ritchie outlined seven key points clarifying the proper interpretation of Section 3 of the Pedlars Act 1871 and the lawful conduct of pedlars in designated streets. The key findings include:
 - **Mobility Requirement:** A pedlar must trade on foot and not from a vehicle, stopping only temporarily to attract customers.
 - **Exemption from Street Trading Regulations:** Pedlars are specifically exempt from street trading regulations under the Local Government (Miscellaneous Provisions) Act 1982.
 - **Nature of Trade:** The judgment clarified that pedlars may carry or expose goods for sale using moveable equipment like bags or trolleys and may stop temporarily but must not operate in a manner resembling a fixed trader.
 - **Movement Requirements:** Judge Ritchie provided guidance on acceptable static periods and movement frequency, emphasizing that a pedlar's trade involves real movement between customer bases and does not align with street trading practices.
8. Judge Ritchie's judgment directly addresses the legal question at the heart of the current Magistrates Court proceedings—namely, the lawful distinction between pedlars and street traders, and the extent to which pedlars are exempt from local authority street trading controls.

Grounds for Adjournment

9. The grounds for adjournment are based on the principle that the determination of the Judicial Review case will provide authoritative guidance on the interpretation of

relevant laws, which will significantly impact the matters before the Magistrates Court. Specifically:

- **Consistency in Legal Interpretation:** The Judicial Review will further examine BCC's application of the Pedlars Act and Schedule 4 of the LGA. The issues overlap with those in the Magistrates Court proceedings, and an adjournment would ensure consistency in the application of the law.
- **Risk of Conflicting Decisions:** Proceeding with the Magistrates Court case before the Judicial Review is concluded risks conflicting decisions on the same legal questions, potentially undermining the fairness and consistency of judicial outcomes.
- **Judicial Economy and Fairness:** Adjourning the Magistrates Court case will prevent unnecessary duplication of arguments and avoid potentially having to re-litigate the same legal issues following the outcome of the Judicial Review.

Conclusion

10. In light of the above, it is respectfully submitted that the Magistrates Court should adjourn the hearing of the current proceedings until after the High Court has rendered its decision in the Judicial Review case AC-2022-BHM-000164. This approach would ensure that the correct legal principles are applied and prevent undue prejudice to my defence.
11. I respectfully request that this application for adjournment be granted in the interest of justice.

Yours faithfully,

Andrew Logie

Applicant / Defendant

Overview of the Judicial Review Case: AC-2023-BMH-00072

On **23 May 2024**, the High Court delivered a landmark judgment in favour of Andrew Logie, an Appellant pedlar who successfully challenged Birmingham City Council in the case **AC-2023-BMH-00072**. The case centred on the council's failure to acknowledge the legitimate activities of pedlars, which are exempt from street trading regulations under the **Local Government (Miscellaneous Provisions) Act 1982, Schedule 4, Street Trading Section 1 (2)(a)**.

Core Argument of the Case

The crux of the case was that Birmingham City Council did not recognize that pedlary, as defined under the law, is explicitly **not** street trading. Therefore, legitimate pedlars are entitled to an exemption from the local authority's street trading regulations. This argument was rooted in both the **Local Government (Miscellaneous Provisions) Act 1982** and the **Pedlars Act 1871**.

Judge Ritchie's Key Findings

Judge Ritchie critically examined the legal arguments and evidence presented, summarizing ten authorities cited by Mr. Logie. In paragraph 44 of his judgment, Judge Ritchie set out seven fundamental points on the proper interpretation of **Section 3 of the Pedlars Act 1871** that clarify how pedlars are to operate lawfully while trading in designated streets.

Seven Key Points on the Proper Interpretation of Section 3 of the Pedlars Act 1871

- 1. Must Have Travelled from Town to Town:** The pedlar must have travelled between towns by horse, car, van, train, or other means during the year covered by their Pedlar's Certificate. This requirement emphasizes the itinerant nature of pedlary.
- 2. Must Be a Person Who Is Trading on Foot:** The pedlar's trade must be conducted on foot, maintaining their traditional mobile trading style, without relying on a fixed or semi-fixed location.
- 3. Must Not Be Trading from a Vehicle:** A pedlar must not trade directly from a horse, car, van, or other mechanized vehicle. The pedlar's trade must be distinct from that of traders who use vehicles as their primary trading base.
- 4. Carrying or Exposing Goods for Sale:** The pedlar must be actively carrying or exposing merchandise, goods, or wares for sale or procuring orders for immediate delivery, which is consistent with the historical and legal definition of pedlary.
- 5. Use of Moveable Equipment:** The pedlar may use bags, a trolley, or other moveable equipment, but such equipment must be hand-movable and not so large that it appears to be a fixed stall or barrow. The emphasis is on maintaining mobility.
- 6. Static Periods for Customer Attraction:** A pedlar may stop for short periods to attract potential customers in the immediate vicinity. Typically, they may remain static for around 20 minutes but not as long as an hour before moving on to another location to reach different customers. Movement between stops must be substantial, ensuring the trader reaches new customers rather than merely repositioning slightly.
- 7. Overall Assessment of Mobility:** After assessing the above factors, the court should consider the totality of circumstances to determine whether the trader is acting as a

mobile pedlar or a fixed street trader. The assessment should focus on the extent and nature of the trader's movements.

Additional Observations on Trading Times

Judge Ritchie also made observations regarding the acceptable stationary periods for pedlars. He noted:

- The law does not explicitly define whether a pedlar can remain static between 20 minutes and an hour. However, the stationary period must be balanced with the requirement that the pedlar "travels whilst he/she trades."
- In an 8-hour working day, moving every 20 minutes would involve 24 positional changes, every 30 minutes would involve 16 changes, and every hour would involve 8 changes. Each move involves setting up, packing up, and relocating, which naturally impacts trading time but is inherent in pedlary.
- Based on case law, a usual stopping time of around 20 minutes and a maximum approaching but not exceeding 30 minutes is considered reasonable, depending on the equipment's type and size.

Implications of the Judgment

This judgment clarifies the legal rights and responsibilities of pedlars, reinforcing the importance of mobility and distinguishing pedlary from street trading. The decision compels local authorities to correctly interpret and apply the law, recognizing the protected status of pedlars under the **Pedlars Act 1871** and the **Local Government (Miscellaneous Provisions) Act 1982**.

The case sets a significant precedent, ensuring that pedlars can continue their trade without unlawful restrictions from local councils, preserving the traditional practice of pedlary.