
Licensing and Gambling Acts Committee

8th January 2010

Report of the Director of Neighbourhood Services

STREET TRADING AND PEDLAR LAWS: A CONSULTATION ON MODERNISING STREET TRADING AND PEDLAR LEGISLATION.

Summary

1. The purpose of this report is for members of the Licensing Committee to examine the contents of the recently published government consultation document on street trading and pedlary laws. It also seeks members' views to enable officers to complete the consultation on modernising street trading and pedlar legislation.

Background

2. In 2008 the Government commissioned Durham University to look at the way that licensing and enforcement practices were applied in relation to street trading and pedlary laws. This was in response to an increasing number of local authorities seeking to extend their enforcement options in relation to street trading and to limit the activities of certified pedlars within their areas.
3. On publication of the research in 2009, the Consumer Minister announced that the Government would launch a full public consultation on national guidance and options for possible legislative changes to street trading and pedlary laws.
4. The UK and Scottish Governments are consulting on the case for amending and modernising the law as it applies to the control of street trading and the certification of pedlars. They are seeking stakeholder views on the draft guidance for pedlars, street traders and enforcers. The full consultation document can be found at www.bis.gov.uk by clicking on "consultation" and choosing "Street Trading and Pedlary Laws" and at Annex 1 to this report.
5. **Areas for consultation**
 - Ways of making the street trading and pedlary regulatory regime more proportionate and effective.
 - Providing local authorities with additional enforcement options in respect of illegal street trading.

- Updating the Pedlars Act 1871 to modernise the certification scheme and the definition of a pedlar.
- Consider introducing a means by which local authorities might exert limits on certified pedlar activity in designated areas.
- Options for revoking the Pedlars Act and providing for adequate regulation of itinerant traders within the street trading regime.
- Draft guidance on the application of the current regime in England and Wales for enforcement officers, street traders and pedlars looking at what constitutes acceptable street trading and pedlary practice.

Consultation

6. The deadline for the receipt of consultation responses has been extended to the 12th February 2010. The extension has been made to allow stakeholders more time to respond to the consultation which was launched on the 6th November 2009. The stakeholders consulted during the preparation of this report are the trading standards, licensing and city centre management departments. Officers' response to consultation can be found at Annex 2.

Options

7. Option 1: To approve the officers' response to the Government consultation.
Option 2: To amend the officers' response the Government consultation.

Analysis

8. From a licensing authority perspective it is vital to have modern legislation and guidance specifically designed to effectively regulate pedlars. Many of the problems with pedlars stem from a 100 year old law that allows them to take advantage of a rule that makes it very difficult for the police and local councils to move them on and exempts them from more recent trading laws.
9. York has a particular problem due to its narrow streets and popularity as a tourist and shopping centre. During the build up to Christmas this year up to ten pedlars selling their wares were in Coney Street using large display barrows and tables on wheels which, unless constantly supervised, they stand in one place selling their goods.
10. These actions are contrary to the terms of their licence and create an obstruction which makes it very difficult to pass up and down narrow streets like Coney Street. Experience from many towns, not just York, is that the time and effort spent by council officers and the police to try and control the pedlar problems is becoming unsustainable. In reality, some pedlars on our streets cost legitimate businesses millions of pounds each year.

Corporate Strategy

11. The effective exercise of the licensing legislation and guidance notes ensures the licensing function will impact on the council's priority to reduce the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.

Implications

12. **Financial:** None.

Human Resources (HR): None.

Equalities: None.

Legal: In carrying out its licensing functions, the Licensing Authority must have regard to all legislation.

Crime and Disorder: The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authorities responsibility to co-operate in the reduction of crime and disorder in the city.

Information Technology (IT): None.

Property: None.

Other: None.

Risk Management

13. In compliance with the Council's risk management strategy any decisions made which are unreasonable or unlawful could be open to legal challenge resulting in loss of image, reputation and potential financial penalty.

Recommendation

14. Members are recommended to instruct officers to respond to the Government consultation as set out at option 1.

Reason: To reflect the view of City of York in respect to the consultation paper.

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Wards Affected:

All

For further information please contact the author of the report

Background Papers

Annexes

Annex 1: Department for Business Innovation & Skills – Street Trading and Pedlary Laws: A joint consultation on modernising Street Trading and Pedlar Legislation, and on draft guidance on the current regime.

Annex 2: Officers' response to consultation – **To Follow**.