

# **Street Trading and Pedlary in Great Britain**

A report of research into the application and perception of local authority controls and pedlar legislation

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# EXECUTIVE SUMMARY

This report has been produced by the Policy Research Group at St. Chad's College, Durham, on behalf of Department for Business, Enterprise and Regulatory Reform (BERR) and is based on a study carried out during June-September 2008. . It is about street trading and its permissions and focused on licensing, rather than on safety (CE marks), food safety, insurance and other concerns closer to trading standards. The report draws special attention to the question of the current practices in licensing and enforcement and whether these are appropriate and sufficient to effectively manage the issues of pedlary and illegal street trading. It is based on information supplied by local authorities, the police, street traders and pedlars, collected using a combination of interviews and focus groups, and a number of surveys carried out over the telephone, by email, by post and on the street. Direct quotes are presented as stated to researchers. The views therein are not endorsed by BERR.

- Local authorities expressed confusion between the different identities of pedlars, illegal traders and rogues. A considerable portion of the evidence submitted by local authorities referred to illegal street trading rather than the legal activities of genuine pedlars. An illegal street trader is one who trades from a static position without a licence and with or without a pedlar's certificate. This view was pervasive throughout their answers.
- Many local authorities indicated that there were few, if any, difficulties stemming from illegal street trading in their area – in fact, only half of local authority respondents wished to change the existing legislation. Some believed that existing powers were not always effectively used, and that the introduction of a Private Act in their area or more general modified powers would make little difference to this situation.
- Where greater powers were desired, the most common option was more flexible and powerful sanctions for local authority officers to exercise – for example, seizure of goods, fixed penalty notices, ability to move traders on.
- Some authorities wished to integrate pedlars into the existing street trader framework, in order to regulate their activities. The majority of police respondents also saw the responsibility of licensing pedlars as sitting more naturally within the remit of local authorities, which issue other permissions to trade.
- Pedlars reported some overzealous enforcement of laws, which they believed to be unfair, more often by local authority officers than the police. They believed, therefore, that they would not be treated fairly should they be brought fully under local authority control. By contrast, street traders had a more positive opinion of the existing local authority licensing and enforcement regime.
- The scale of pedlary in Great Britain is relatively modest, with an estimated 3,000-4,500 pedlars being granted certificates to trade by police forces. There is little evidence that certificated pedlars present problems in city centres, nor are they generally in direct competition with shops or street traders. Indeed, consumers valued their presence in town centres and regarded buying from pedlars as a positive experience.

- The scale of *illegal* street trading is hard to quantify, since such lawbreakers are often simply moved on rather than prosecuted due to the high legal costs, the relatively low chance of success, and the relatively low fines imposed by courts. Little concrete evidence was presented relating to the amount of nuisance caused by illegal trading - most complaints come from retailers concerned with competition, rather than, for example, illegal trading *per se* or obstruction.
- The most clearly evident concern was related to issues of obstruction or public safety caused by large numbers of street traders gathering in small areas – for example, around football grounds or in city centres in the run-up to Christmas.
- Pedlars (and police respondents) recognised a need to modernise and standardise - rather than repealing or replacing – the Pedlars Acts 1871 and 1881. The inadequacies of the current system lead to inconsistency in enforcement practice between areas, exacerbated by a degree of ignorance among enforcement officers.
- Possible changes to procedures relating to pedlars include: (a) a more concrete and nationally applicable set of definitions and guidelines relating to the issuing of the certificate and their activities (based on statute and case law); (b) a redesign and standardisation of the pedlars certificate and (c) a greater burden on the pedlar to prove him/herself to be a legitimate trader (e.g. presentation of proof of insurance and eligibility to work in the UK, registration as self-employed with HMRC).
- Recognising the additional administrative costs which would accrue due to any such changes, pedlars would be willing to pay more than the current £12.25 for their certificate. The disparity between this cost and the average cost of a street trading licence or consent (£1,000, rising to £2,000 in London) was also noted.
- Pedlars trade in a highly mobile and flexible manner, varying their selling location - and possibly the goods they carry - depending on where they consider the best returns would be on any particular day. As such, they value the freedom the Pedlars Certificate grants to trade in any location without giving prior notice. Pedlars strongly opposed any proposal to change the Pedlars Acts such as to restrict their activities to door-to-door selling.

# I INTRODUCTION

## I.1 Context of the Research

1. This report has been produced by the Policy Research Group at St. Chad's College, Durham, on behalf of Department for Business, Enterprise and Regulatory Reform (BERR) and is based on a study carried out during June-September 2008. The Consumer and Competition Policy Directorate in BERR have policy responsibility in Government for street trading and pedlary matters and were responsible for overseeing this research. It is about street trading and its permissions and focused on licensing, rather than on safety (CE marks), food safety, insurance and other concerns closer to trading standards.
2. Regulatory practices can be utilised to shape the retail geography of a town and influence the character and contribution of street trading. A number of factors inform the regulation process and public and private interests act as important drivers. Public interests can be represented and reflected in a positive way, using regulation to add vitality to town centres and determine their ambience, as well as to limit nuisance and assist in crime prevention. Private interests can be reflected in the desire to protect the commercial interests of established retailers<sup>1</sup> and businesses.
3. The purpose of this study is to assemble qualitative and quantitative evidence on how the prevailing street trading and pedlary laws are currently working across Great Britain. The report draws on a variety of evidence from different interest groups and stakeholders at a national level (LGA, COSLA, WLGA, Which?, the Welsh and Scottish Consumer groups, National Market Traders Federation, Sharpe Pritchard, Association of Town Centre Managers and National Association of British Market Authorities); those who are responsible for formulating local operational procedures in terms of licensing and enforcement; as well as people who operate as street traders and pedlars. As such the research aims to report on actual custom and practice, rather than to present a theoretical consideration of the law and how it is supposed to operate.

## I.2 Legislative framework

4. Street trading is an ancient tradition, with a long and varied history, and one which continues to have a place in modern society. Although such trading has its own culture and identity, the law differentiates between various types of activity and, in doing so, distinguishes between different types of trader.
5. The main legislation relating to street trading in England and Wales is contained in Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and its counterpart in Scotland, the Civic Government (Scotland) Act 1982.<sup>2</sup> Street

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<sup>1</sup> For a more extensive discussion see Jones, P., Comfort, D. and Hillier, D. (2004) *The Regulation of Street Trading in the UK*, *Geography*, 89, 3, 248-253

<sup>2</sup> Street trading and pedlary in Northern Ireland are covered by different statutes, and this report will not include evidence relating to Northern Ireland. Some local authorities have passed Private Acts which modify their powers relating to street trading and pedlary – these are dealt with in Section 1.3.

trading in England and Wales is defined as ‘the selling or exposing or offering for sale any article or the supplying or offering to supply any service in a street for gain or reward’. In Scotland, the definition is: ‘(a)hawking, selling or offering or exposing for sale any article; (b)offering to carry out or carrying out for money or money’s worth any service, to any person in the public place’. Street trading licences are issued by individual local authorities (at district council level). In England and Wales, all local authorities have powers to designate streets within their area as either:

- *Prohibited streets - which are **not** open to street traders;*
  - *Consent streets – where street trading is prohibited without prior local authority **consent**; such consent can be charged for and conditions related to locations, times and operating conditions can be attached. Consents are granted for a maximum of twelve months, and there is no right of appeal if revoked; or*
  - *Licence streets – where trading is prohibited without a local authority **licence**. This category is similar to consent streets but with more conditions attached, and a greater presumption of renewal, as well as rights of appeal to magistrates in cases of refusal or revocation. As such, a licence can be seen as a more formal and ongoing permission to street trade than a consent.*
6. In Scotland, local authorities issue licences to street traders under the Civic Government (Scotland) Act 1982. They have powers to review the suitability of licences in any particular area, without following the exact designation of streets as indicated above.
  7. These categories do not apply in Scotland, where local authorities cannot formally designate streets in this way, nor make distinctions between licences and consents, issuing instead a simple street trading licence when an application is accepted.
  8. Trading in prohibited streets, or in consent or licence streets without the necessary permission, are offences under the Acts, carrying a maximum penalty of a ‘level three fine’ (currently defined as a maximum of £1,000). Local authorities can also use more general Trading Standards powers to tackle illegal trading in relation to counterfeit or dangerous goods, while the police can arrest traders for obstruction, although these sanctions and controls are not the express focus of the current study.
  9. The powers granted by the Local Government (Miscellaneous Provisions) Act 1982 are *adoptive* – that is, the local authority must explicitly choose to adopt Schedule 4 in order to exercise these powers and must designate streets according to a stated rationale before licences and consent can be issued. If the powers are not adopted, the Act cannot be used to prosecute illegal street traders – in this case, such traders would be controlled by the police under the Pedlars Acts 1871 and 1881 (see below). This does not apply to the Scottish Act, where the powers are granted more generally, and are not adoptive.
  10. Where local authorities choose to issue permissions, they typically seek to control the maximum number of street traders, the locations from which they operate and the type of goods they sell (usually so that street traders are not in

conflict with local shops). Street trading licences are only valid for the local authority area in which they are issued and limit the operations of traders to specific places/pitches. Licence costs are set to reflect the costs of administration to the local authorities, and vary considerably from area to area (and even within areas) – licence costs revealed by our survey vary between £10 and £10,000 per annum. Both the Local Government (Miscellaneous Provisions) Act 1982 and the Civic Governance (Scotland) Act 1982 create the identity of someone acting as a **street trader**, with a licence or consent from a local authority to trade under particular terms (selling particular goods, on particular days and times, at a particular location).

11. There are a number of exemptions to the need for a street trading licence explicitly mentioned in both Acts – for example, news vendors using a small fixed stall and markets operating under ancient charter. For the purposes of this report, the main exemption we are concerned with is that granted to ‘holders of certificates issued under the Pedlars Act 1871’. This Act identifies **pedlars** as: *‘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’* This authorises both the sale of goods and the provision of services, to be offered to the customer immediately, rather than delivered later. This means that sales reps are exempt from the need for a certificate. Other types of traders operating door-to-door – for example, roundsmen – also do not require a pedlars certificate.
12. The expectation, clarified by case law, is that they would not be trading from a stall or fixed location and that such trading would be regarded as street trading, rather than pedlaring. Police forces (rather than local authorities) are charged with vetting applications and issuing **pedlars certificates**. The 1871 Act originally enabled pedlars to trade only within the immediate area of the issuing police force; the Pedlars Act 1881 extended the right to trade to the whole of the United Kingdom (subsequently altered to Great Britain after Northern Ireland was excluded from the Acts’ provisions), regardless of where the certificate was issued<sup>3</sup>. Subsequent case law has clarified some of the ambiguities in the original Acts, leading to, in effect, a series of guidelines which can be used to identify the extent of a pedlar’s legitimate activity.
13. Thus the regulation of pedlars differs significantly from that of street traders. Certified pedlars (under the provisions of the 1871 and 1881 Acts) are permitted to sell door-to-door and in the street anywhere in Great Britain, as long as they do not sell from a stall or other fixed location. Provided they are pedlaring in this way, they are exempt from local authority street trading

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<sup>3</sup> The 1881 Act states ‘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’



controls and are able - in fact, obliged<sup>4</sup> - to roam around a town, in order to trade.

14. Control for certification does not rest with local authorities but with the police. Costs are much lower - certificates have a fixed annual cost of £12.25. This inevitably represents something of a lack of control for local authorities – they are unable to limit (or effectively monitor) pedlar numbers. This is in conflict with the desire (on the part of local authorities) to reflect public interests in the issue of street trading licences to protect local businesses and limit the number of traders in a town centre.
15. The list of legislation above is not exhaustive, but simply outlines the main national legislation directly governing street trading and pedlary. Other Acts also apply to street traders – for example, traders could be guilty of obstruction under the Highways Act (1980), while those selling food would require environmental health inspections and certificates. Pedlars operating door-to-door would also be covered by the Cancellation of Contracts made in a Consumer's Home or Place of Work etc. Regulations 2008, whereby, for any goods or services costing more than £35, the trader must provide a written copy of cancellation rights and allow the customer 7 days in which to cancel their purchase.

### **1.3 Local authorities' rationales for revoking pedlar's exemption in prohibited areas**

16. Local authorities usually designate busy shopping streets as prohibited streets, particularly if they are not pedestrianised, effectively banning street traders who could potentially cause an obstruction. This tends to restrict street traders to more peripheral or marginal areas away from the streets with the highest footfall. However, pedlars are exempt from these designations, and can continue to trade in prohibited areas.
17. According to those local authorities which have already exerted, or are seeking to exert greater control over their streets (including limiting the activities of pedlars), many would-be street traders apply for a pedlars certificate to take advantage of the statutory exemption. However, rather than acting as pedlars (who must 'travel to trade') the authorities assert that they continue to operate as street traders, with a static site in the same town every day. They are therefore regarded by local authorities as **illegal street traders**<sup>5</sup>.
18. A number of local authorities, therefore, have sought private Acts to modify their legal powers in relation to street trading, by removing the pedlary exemption, i.e. by removing the right of pedlars to trade in the street at all, restricting them to door to door trading. Although this was intended to combat the issue of high numbers of illegal street traders operating in a town, it

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<sup>4</sup> Case law has established that a pedlar must 'travel to trade' i.e. they cannot set up a fixed stall, nor remain static for more than a short period of time unless they are actively selling.

<sup>5</sup> There are other offences that render someone an illegal street trader, including trading without a pedlars certificate or any legitimate permission, although it is the use of a pedlars certificate by static traders that attracts the greatest criticism.

also penalises those who are operating lawfully within the terms and specifications of the Pedlars Certificate. These **genuine pedlars** would argue that they are *not* simply door to door traders, and that this has been established by the Pedlars Acts and subsequent case law. The first such Act applied to the City of Westminster (1999); similar legislation has subsequently been passed in Newcastle (2000), the remainder of London (2003), Medway (2004), Maidstone (2006), Liverpool (2006) and Leicester (2006). Manchester and Bournemouth also have Bills that have been introduced to Parliament (and which both received a Second Reading on October 29<sup>th</sup> 2008). Four other local authorities (Canterbury, Leeds, Nottingham and Reading) introduced new bills into Parliament in June 2008; Canterbury received its Second Reading alongside Manchester and Bournemouth; at the time of writing, the other three Bills are awaiting a slot for Second Reading. The provisions in all these Acts and Bills are broadly similar, seeking to restrict the legal activities of pedlars and increase the range and severity of sanctions that authorities have at their disposal, providing new powers of seizure for officers of the council or police, coupled with powers of forfeiture for the courts, and the issue of on-the-spot fixed penalty notices.

19. The process of Private Bills is relatively resource-intensive for local authorities, in terms of both financial cost (generally estimated as between £40,000 and £70,000, with these costs liable to rise with the volume of objections) and the time of officers involved, as well as for Parliament. Accordingly, since so many local authorities have requested private legislation, there is a case to be made to implement similar provisions more widely, in the form of national legislation that would render further Private Bills unnecessary (and which would repeal part of or the entirety of those already passed). Dr Brian Iddon MP has introduced a Private Members' Bill to accomplish this purpose, including some, but not all, of the existing legislation's provisions (e.g. on-the-spot fines are omitted). If passed, this Act would be adoptive - i.e. each local authority would have to choose to adopt the powers granted – and the provisions would apply to England and Wales only.
20. In addition to these recent Acts, two Private Acts which cover similar ground were passed in the 1980s: the Hampshire Act 1983 and the Essex Act 1987. Certain clauses in these Acts have the effect of modifying the powers available to local authorities under the Local Government (Miscellaneous Provisions) Act 1982, but *only* apply in areas where that Act has *not* been applied. In other words, these two local authorities seem to have chosen to not implement the adoptive powers of the Act, opting instead to use their own Private Acts to control street trading (alongside touting for business and commercial photographers, which are matters for the Home Office, rather than BERR, and therefore outside the remit of this report). However, the Acts do not make reference to the Pedlars Acts 1871 and 1881, and do not refer to 'pedlars', instead using terms such as 'hawking' and 'selling or offering or exposing for sale'. The websites of some local authorities within these counties (e.g. Southend) indicate that these Acts impart the right to ban pedlars from certain areas of towns, although whether this is correct in law or has been tested in the courts is unclear.

21. Passed prior to the Local Government (Miscellaneous Provisions) Act 1982, the Cheshire Act 1980 also contained provisions for street trading couched in similar terms to Hampshire and Essex. Only two local authorities in the county appear to still be utilising these powers, with others (e.g. Chester) opting to use the 1982 Act's provisions instead. The two which still use the Private Act are Halton, where the website explicitly states that pedlars need a license from the council in addition to a pedlar's certificate in certain streets, and Warrington. Considering that it was passed prior to the 1982 Act, the extent to which the Private Act is still valid is unclear, as is the extent to which it applies to pedlars.
22. A previous consultation on licensing in Scotland<sup>6</sup>, conducted by COSLA on behalf of the Scottish Executive in 2002-04, covered similar topics to this report. This report could fairly be said to represent the views of Scottish local authorities, of which COSLA is the umbrella organisation. COSLA largely recommended that the regime remain the same as outlined in the Civic Government (Scotland) Act 1982. The Scottish Executive Task Group agreed with this, noting that *'there was a continuing need to license street traders, whether trading on their own account or as an employee. It considers that licensing should continue to be optional on the grounds that there may be some areas where licensing is not required and local authorities are best placed to determine the need for, and extent of, any licensing requirements.'*
23. However, COSLA did make recommendations for two changes to the law. These changes were: (a) that licensing should be extended to cover all employees of a street trading business, not just those who deal with the public; and (b) that the exemption for the lawful activities of pedlars should be removed from the Act. The Task Group rejected both these recommendations; in the case of the removal of the pedlars exemption, they noted that it seemed to be based on a misunderstanding by the report's authors, namely that pedlars were allowed to street trade (i.e. trade while static) in addition to trading while travelling.
24. While Northern Ireland is not directly included in this consultation, it has made separate provision for street trading under the Street Trading (Northern Ireland) Act 2001. The provisions of this Act are similar to the Local Government (Miscellaneous Provisions) Act 1982, being based around a system of street trader licences and designated streets, with a more extensive and clearly delineated set of guidelines on the grounds for refusal or revocation. It also limits traders using a pedlars certificate to trading door-to-door only (in the same manner as the recent Private Acts outlined above) and introduces greater powers relating to seizure, forfeiture and the issuing of fixed penalty notices by local authority officers.

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<sup>6</sup> See [www.scotland.gov.uk/Publications/2002/07/15094/8716](http://www.scotland.gov.uk/Publications/2002/07/15094/8716) for a summary of the recommendations relating to street trading and the Task Group's responses.

## **1.4 Research questions**

25. The Bills currently before Parliament, and the Private Acts already passed, provide the impetus for this research, as well as raising questions about the evidence base to justify their introduction. Broadly, the questions raised by our research cover the following areas:

### **Before Bills are passed**

- What is the actual prevalence of illegal street trading? What types of nuisance do illegal street traders cause? What consumer detriment is experienced?
- How extensively are the current legal framework and powers of enforcement used? Do they *need* to be replaced?
- How is the current law or enforcement insufficient to respond to problems faced? In particular, is the scope of legislation not wide enough, or are the right enforcement tools unavailable?
- To what extent are deficiencies in the law addressed by the Regulatory Enforcement Sanctions (RES) Act?
- Are current powers sufficient for a majority of local authorities?
- What are the costs of enforcement activity? Are they lower after bills are passed?

### **After Acts are passed**

- Generally, do issues persist after Acts are passed?
- Does illegal trading disappear? Does new illegal activity emerge?
- What is the impact on the activities and livelihoods of genuine pedlars? What steps can be taken to enable genuine pedlars to continue to work in these areas?
- Is illegal street trading and legal pedlary activity displaced to neighbouring towns?
- What levels of enforcement activity persist after Acts are passed?
- Is the experience of consumers tangibly improved?

## 2 METHODOLOGY

26. The chosen methodology developed customised research instruments for use with each of the principal interest groups (local authorities, police, pedlars and street traders). In all cases the preferred method of gathering information was on a one-to-one basis, via a telephone or face-to-face interview using a structured questionnaire. The research questions used were drawn from those outlined in Section 1.4, selected and presented according to their relevance to each of the interest groups. Broadly these covered the same topic areas, but with questions specifically posed to emphasise relevance and pertinence to each group and evoke their particular perspectives. Overall, the method used was standard for applied policy research, in which the questions posed to interviewees relate directly to the principal issues under consideration. The evidence collected was used to develop a number of hypothetical scenarios for change which were presented for consideration to focus groups of pedlars, in three locations across England (London, Manchester and Leicester) in the latter stages of the research.
27. The data generated by the different strands of the study are treated as individual elements in the analysis which follows: (i) they create a body of evidence which facilitates comparison across groups, sliced according to particular areas of enquiry; (ii) they provide an opportunity to compare descriptions of the operation of licensing service(s), as provided by licensing authorities with the perceptions and experiences of recipients or user groups; (iii) they also allow a synthesis of all responses in order to generate an overall picture. For instance, the local authority survey (2.1) and the police survey (2.2) asked a number of similar questions, permitting comparison, for example (see Section 7), of relative numbers of traders, the relative costs of licenses and of operating licensing services, the contributions of the different agencies to enforcement, information on a range of metrics as provided by administrators, views on existing and proposed policy and exploration of the relevant knowledge of front-line enforcement staff. Similarly, pedlars' (2.3) and street traders' (2.4) surveys had common questions which facilitated comparison between the different types of trader, involving the backgrounds of traders, the types of goods sold, working patterns and experiences of issuing and enforcement authorities.

### 2.1 Survey of local authorities

28. The local authority survey was issued to all local authorities in England, Scotland and Wales. The information requested required the compilation of data specifically for this survey, data which would not normally be recorded in an aggregate form (number of renewed licences, classifications of goods sold); it therefore represented a resource implication for respondents. A further complication was the co-ordination required, as input was necessary from more than one source within an authority - from an administrative function with responsibility for issuing licences, as well as from front-line officers. The 'home' of the administrative function varied widely across authorities, complicating the process of identifying the correct person or department to which enquiries had to be addressed.

29. No purposive sampling framework was employed; the entire population of local authorities was contacted, with responses collected from those willing and able to participate, and probably influenced by the resource implications of co-operation. The sample therefore includes larger metropolitan authorities and smaller rural districts, as well as a mix of those that have adopted Private Bills, those that hope to, those that have not, or have no declared intention to do so. Section 3.1 discusses the achieved sample.
30. The local authority questionnaire principally covered the following areas (the full questionnaire is shown as Appendix 1):
- Current provisions under the LG(MP) Act
  - Authorities' understanding of street trading and pedlary
  - Details of street trader licenses issued, including:
    - types of licence, numbers and costs
    - renewals and revocations
    - types of goods sold by those licensed
  - Information on any guidance notes and statements of responsibilities issued to applicants – incidence and content
  - Numbers of complaints, court cases and convictions
  - Costs to local authorities and defendants
  - Issues which remain following the adoption of the LG (MP) Act and views on seeking additional powers
  - Any other changes to the law in relation to street trading and pedlary that local authorities might be interested in
31. Inconsistencies in the data gathered are inevitable, principally because of the different licences or consents which operate and the different terms that apply to each licence. Data cleaning was undertaken by the research team in order to facilitate comparisons (e.g. fees for annual licences). Qualitative data was coded into categories for analysis.

## **2.2 Police consultation**

32. Postal questionnaires were sent to every police force in Great Britain (each Basic Command Unit or Division) and followed up with a telephone interview. Section 4.1 discusses the achieved sample. Questions covered the following areas (the full questionnaire is shown as Appendix 2):
- Use of policies and procedures for police officers
  - Availability of information for applicants
  - What security checks are made
  - Number of certificates renewed, refused and revoked
  - Views on problems with the current system

- Views on whether a harmonised system of pedlary and street trading would be appropriate and whether local authorities should assume this responsibility
- A number of questions relating to front-line policing, in particular how the law is interpreted by officers.

## 2.3 Pedlars

33. A mixed strategy was employed to recruit the sample of pedlars. This involved on-street recruiting, as well as snowball sampling, whereby contacts were invited to submit the names of associates and known acquaintances who would be likely to participate in the research. Pedlars were asked the following questions (the full questionnaire is shown as Appendix 3):

- Background (age, gender, education, employment history)
- Type of goods sold
- Patterns of working, including how far they travel and how goods are carried
- What relations with other traders are like
- The processes involved in the issue of pedlars' certificates, from their perspective
- Views and experiences about obtaining additional permissions (e.g. temporary local authority licences)
- Experience of dealing with enforcement officers and views on officers' conduct
- Experience of prosecution where appropriate
- Views on likely impacts that a ban from town centres might have on trade
- Opinions on changes to operating practices in licensing and enforcement and the law applying to pedlars, with a view to eliminating illegal traders.

34. Additionally three focus groups were convened with pedlars, in which potential options for change, arising from the evidence collected were discussed, focusing on:

- Being licensed by local authorities
- Options for changing the content of the certificate and improving identification (photograph etc.)
- Options for tightening the application procedure
- Options for clarifying the definition of a pedlar (size of trolley for carrying goods)

35. Pedlars themselves initiated a further exercise, a short questionnaire designed to elicit the views of the public towards pedlars. This principally consisted of two questions, relating to their experiences of interacting with pedlars and views on how they would feel about such experience being limited in the future.

## 2.4 Street traders

36. Street traders were recruited through a variety of means. This involved on-street recruiting, as well as the help of local authorities in nominating participants to help with the research. Street traders were asked the following questions (the full questionnaire is shown as Appendix 4):

- Background (age, gender, education, employment history)
- Type of goods sold
- Patterns of working (hours and days)
- What relations with other traders are like
- The processes involved in the issue of street traders licences from their perspective
- Experience of dealing with enforcement officers and views on officers' conduct
- Experience of prosecution where appropriate
- Opinions on changes to operating practices in licensing and enforcement, with a view to eliminating illegal traders.



### 3 LOCAL AUTHORITIES SURVEY

37. The results shown in this section are based on a sample of 157 observations from across England, Scotland and Wales. The achieved sample represents a response rate of 38.4%. The distribution of responses is somewhat uneven, with higher responses from North East authorities and lower responses from the East and West Midlands (Table 1). Ordinarily the report will not address the regional trends, but will consider whether Scotland and Wales exhibit any special need for new legislation, because of different legal implications in the devolved administrations.

**Table 1 Response rates by Government Office Region**

Region	Response
East	43.8%
East Midlands	22.5%
London	30.3%
North East	60.9%
North West	46.5%
South East	47.8%
South West	51.1%
West Midlands	17.6%
Yorkshire and Humber	38.1%
Scotland	15.6%
Wales	40.9%

**Table 2 Response rates by local authority population**

Resident population	% of responses
<100,000	31.2%
100,000-199,999	46.1%
>200,000	38.4%

38. Table 2 presents the responses, according to the resident population of each local authority. Smaller local authorities were the least likely to respond, although as the evidence shows they are the least likely to have problems and the least likely to seek solutions through Private Acts. In addition to these breakdowns it is possible to consider the response rates in terms of the extent of their current status with regard to street trading and pedlary. Each reply was coded into categories according to: whether they had passed **Private Acts**; had **adopted** the LG(MP)Act; or had **not adopted** the LG(MP)Act.

**Table 3 Responses from authorities according to legislative adoption<sup>7</sup>**

	Survey responses	Average population
Not adopted LG(MP)Act	25	105,514
Adopted LG(MP)Act	115	140,045
Private Acts	12	249,312

39. Table 3 shows that 12 authorities that have passed Private Acts replied to the survey and in addition a further three of the authorities with Private Bills also replied, and where relevant attention will be drawn to their responses. Authorities that have not yet adopted the LG(MP)Act are relatively small, whilst authorities that have adopted the legislation are somewhat larger, whilst authorities that have passed Private Acts have more than twice the population of non-adoptive councils.
40. Responsibility for street trading usually resided in licensing departments but some replies were also received from environmental health. The job titles of respondents also varied considerably, from different grades of licensing officers, licensing enforcement officers, town centre managers, environmental health officers, commercial managers and trading standards managers.

### **3.1 Adoption of street trader legislation**

41. Most authorities in England and Wales had taken some form of action under the Local Government (Miscellaneous Provisions) Act 1982 in response to street trading (Table 3). Principally, this action has been the designation of streets, with more than three quarters of authorities stipulating which streets are prohibited, license or consent (Table 4). A minority indicated that their current designation, having been undertaken shortly after the Act was passed, is in need of review to reflect subsequent changes. Those that have not adopted the provisions in the Act indicated that there was no (or a very low) incidence of street trading for them to regulate; many of these are smaller rural districts.
42. The incidence of non-adoption may well be higher than reported by our survey because authorities who had *not* adopted the powers were the least inclined to reply (several contacted to us to say that they would not or could not fill in the questionnaire for this reason). Because of their lack of towns attractive to street traders, such authorities also tended to record few noticeable incidences of illegal street trading or pedlars, either genuine (i.e. with a certificate and behaving lawfully) or rogue (i.e. lacking a certificate and/or behaving illegally). One typical response was, '*It's not really a problem, if it was then we would have adopted the legislation already*'. Street traders are often limited to one or two food sellers, usually in exempt areas (e.g. operating on private land). However, these still have to be regulated under environmental health and/or licensing acts;

<sup>7</sup> It is known that there are 38 councils with Private Acts and therefore a response rate of 31.5%, but it is not known how many local authorities have adopted the 1982 LG(MP)Act and so further response rates can not be deduced. Scottish authorities are omitted from this question, because they are covered under the Civic Governance (Scotland) Act 1982.

i.e. even if the street trading powers have not been adopted, local authorities are usually responsible for regulating at least some street trading in some form.

**Table 4 Local Authority Action in relation to Street Trading (n=157)**

	Yes	No	No response
Have you designated streets?	128	22	7
Have you issued licences/consents?	122	20	15
Have you prosecuted?	43	29	85

43. Almost every authority that had designated streets also issued licences or consents, as opposed to similarly prohibiting trading in every street. Some respondents thought that the terms licence and consent were somewhat interchangeable, although the conditions attached to each are actually different, and they are intended to be used in different ways (*‘licences provides reasons for refusal, consents are issued as the council sees fit’*). Some local authorities would welcome rationalisation or clarification on the understanding of these two terms.
44. The process of issuing licences often began with an initial informal enquiry from the applicant, at which stage the licensing department would advise its suitability, possibly attempting to deter or change the application if it was felt to be unlikely to succeed. Once past this ‘vetting’, licensing officers generally adopted an enabling approach in helping applicants submit a valid application, rather than penalise them for not following the expected conventions<sup>8</sup>. Indeed, a minority of local authorities noted that, if they came across someone trading without permission out of ignorance of the law, they would attempt to legitimise the trader rather than criminalise them. A typical approach would be to allow the trader to carry on trading for the day, on condition they submitted a street trading application as soon as possible and did not trade again until approval was granted. In a similar vein, 90% of authorities which issued permissions provided applicants with guidance notes, while a similar proportion issue statements of street traders’ responsibilities to successful applicants.
45. A significant minority of authorities (27.3% of those answering the question) have used street trading legislation to prosecute a trader, with both rural and metropolitan authorities having done so. Often, local authorities will try to mediate with traders before using the courts as a last resort, partly because of the potential costs of lawsuits, whilst others appear to be less patient or tolerant. A minority of local authorities, in response to large perceived problems with rogue pedlars (or genuine pedlars thought to be abusing the terms of their certificate), have launched major crackdowns to both rid the streets of existing problem traders and deter others from coming to the town in the future. For example, one local authority launched 50 prosecutions against traders simultaneously, following which word spread among pedlars that this was a town to be avoided for the next few years. This also partly depends on the personality of the lead licensing officer – a change in the officer can

<sup>8</sup> This approach suppresses the numbers of refusals

sometimes lead to a different attitude towards street trading. These factors may lead to differences between areas that do not have an immediately obvious explanation from the data.

### **Designation of street trading areas**

46. Overall, more than one-third of local authorities operated a system of designated street trading sites; these 62 authorities contained 1,102 pitches in total. Both rural districts and metropolitan areas operated designated pitches, although rural authorities tend to have many fewer sites. The authorities with Private Acts had an average of 47 designated pitches, whilst other authorities had only 15; some of this difference in scale is simply due to the fact that authorities with Private Acts tend to have a higher resident population.
47. Patterns of street designation vary widely between local authorities. This may be caused by different interpretations and conditions of 'licences' and 'consents' rather than deliberate policy decisions. Several authorities mentioned a spate of activity following the 1982 Act followed by a long dormancy. In some cases, a long-awaited review is yet to occur, while recent changes in the trading situation have precipitated changes in others. Where such reviews extend the scope of coverage, this has usually also led to an increase in the numbers of traders brought into the licensing regime.
48. There are a wide variety of rationales for the pattern of street designation. In some cases, prohibited streets simply encompass most of the town centre, i.e. the areas with the greatest footfall and related safety and 'street scene' issues. In fact, safety is often stated as the principal aim of designation, although the lobbying power of retailers plays a part in shaping decisions. Town centres represent areas where potential conflict between rate-paying shops and street traders may occur, leading local authorities to exercise their powers to protect the businesses that are most highly valued, by either banning trading or restricting the type of goods sold: '*We protect the town centre shops*'. Public and police complaints also feed into the decision-making process.
49. One common approach is to name a few streets (usually in the town centre and/or those with a high volume of footfall from tourists or leisure visitors) as either licensed or prohibited, and recognise every other street as a consent street. Failure to designate a street as a consent street means that traders can operate in those areas without the permission of the local authority. The virtue of consent streets is that they permit greater flexibility for traders, although the council must still approve these traders, and so bring them within their control. Indeed it has been suggested by some pedlars that issues of power and control lie at the heart of decisions – this leads to the logic that if street traders must have their freedom limited, so should pedlars. In many areas, this corresponds with the fact that pitches are fixed, such that penalties are imposed for movement of even a few feet outside the stipulated pitch.
50. In some towns, the lines of demarcation for prohibited streets are partly decided by ancient boundaries and charters: '*it relates to the old city wall and market charter held by the council*'. Indeed, there could occasionally be very strict

limits placed on street trading because well-established markets took precedence, such that trading had to be within the confines (time and place) of the market. However, local authorities often bow to the pressure to issue licences in areas that experience large crowds (e.g. seaside towns, or major city centres), where it can be shown there are no safety issues. These streets are usually designated as licensed streets, which are more likely to attract applicants desiring a longer-term pitch (due to the conditions of licences vis-à-vis consents). Licences are often issued for the streets around football grounds for similar reasons (to sell to large crowds), but this is also often an attempt – supported by the club - to endorse approved traders and displace illegal traders, who often sell goods not licensed by the club.<sup>9</sup>

### **3.2 Information on licences and license holders**

51. Relatively few local authorities – 52 out of 157 respondents - could readily supply information on the cost of administering their licensing system. This reflects the difficulty of disaggregating overall departmental budgets or apportioning an appropriate share of officers’ salaries to the task, as most have multiple responsibilities beyond simply administering or enforcing street trading rules. Those that replied supplied a variety of rounded estimates, as well as more accurate figures reflecting the budget for street trading in terms of all of its components.
52. Annual budgets ranged between £250 and £150,000, usually corresponding closely to the fees that were earned from street trading. The average budget in councils with Private Acts was £41,000, compared to £14,209 for other councils. Some smaller rural councils indicated that set-up costs, as they devised policies and designated streets, were relatively high, but ongoing costs were relatively low, because they had so few traders - 15 authorities had an annual budget below £2,000.
53. The costs, types and valid length of individual licences varied considerably. Some licences were highly specific in terms of the rates for:
  - different goods (principally food and non-food)
  - different days (Sunday-Friday and Saturday)
  - different hours (daytime and evening)
  - premium sites offered at premium rates (town centres/out of town)
  - residents/non-residents
  - charitable/street collections shown alongside street trader charges
  - initial registrations versus renewals

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<sup>9</sup> These are not counterfeit goods, or ones which infringe intellectual property, but may be better characterised as ‘generic’ merchandise – for example, scarves in colours similar to those of the club, but without the club’s name/logo.

54. In short, licences are highly heterogeneous, hindering direct comparability between (or even within) authorities. Insofar as a comparison was possible, 97 authorities offered prices for their licences/consents in a way which could be converted to an annual cost. However, these tariffs did not always apply in practice, because there was no actual uptake by street traders. In other cases respondents did not supply the numbers of traders; in total, 75 authorities indicated the number of permissions issued, representing a total of 962 street traders.
55. Overall, the range of prices for annual licences/consents varied between £0 and £10,000.<sup>10</sup> The mean price across all authorities was £1,189 and the median was £670. The weighted mean (taking account of the number of licenses issued) was £1,009 and the median £580. Authorities with Private Acts charged more for their licences using all measures of cost (Table 5). There was some variation in licence costs between Government Office regions - the costs in all English regions were substantially higher than Scotland (mean cost =£141) and Wales (mean cost =£575).

**Table 5 Price charged by local authorities for licences/consents (per annum)**

	Mean	Median	Weighted mean of licence fees/trader	Weighted median of licence fees/trader
LAs with Private Acts	£2,653	£1,360	£2,119	£1,360
LAs who have adopted powers under 1982 Act	£1,131	£650	£995	£556
<b>All authorities</b>	<b>£1,189</b>	<b>£670</b>	<b>£1,009</b>	<b>£580</b>

56. As well as annual licences, 31 authorities were able to quote figures for one-off daily charges. These ranged from £6.50 to £155, with a mean of £39.58 and a median of £25.00. The daily licence varied between 1% and 12% of the value of the annual licence. One authority stated that they had a policy which granted exemption for any trader operating for no more than two days within a 12 month period<sup>11</sup>. Many pedlars were resistant to paying a daily rate at all, but where there was an interest in securing a daily permission, these amounts were thought to be reasonable for one day. The main objection pedlars have to daily licences is that they may become subject to other local authority controls, such as defining where they might stand, denying the liberty provided by the pedlar's certificate.

### Trends in street licences

57. More than half of authorities that responded were able to supply the total number of licences/consents issued across each of the last three financial years,

<sup>10</sup> This figure is far from typical, and well above the average for the local authority in which it is located – the high cost is due to the stall being located in one of the busiest areas of London.

<sup>11</sup> The questionnaires explicitly asked for licences/consents and their costs. The full disclosure of 'free' temporary licences or exemptions was not discussed and such practice may be more widespread.

2005-08. The total number has increased slightly over the period (Table 6), confounding the general decline witnessed by markets (as reported in our interview with NABMA). Although the numbers appear relatively static it is not possible to ascertain whether sales turnover or profit margins have been affected over this period. However, the renewal figures (Table 7) do offer some evidence of business survival, indicating that at least four out of every five street trader businesses survive for at least one year. This may indicate that there has not been a general downturn in trading conditions (although this may clearly change in the current economic climate), and, possibly, that trading is not being unduly harmed by growing numbers of illegal traders.

**Table 6 Total number of licences/consents (n=92)**

	Total
2005/06	2,456
2006/07	2,500
2007/08	2,645

58. Interviewees suggested that many sites were sufficiently prized by street traders so that applications for renewals would normally be expected year-on-year. The rate of refusals is not usually high (often due to the 'pre-vetting' process mentioned above), although in one authority, for every one licence issued, there were 22 refusals.

**Table 7 Renewals and refusals (n=78)**

	Renewals	Refusals
2005/06	81.3%	9.2%
2006/07	78.0%	8.9%
2007/08	75.5%	12.9%

### **Types of stalls and goods sold**

59. Information from questionnaires on goods sold and services provided by street traders was coded into the categories shown in Table 8. More than half of all street traders sold food, mainly hot food (which cannot be sold by holders of a pedlar's certificate). The main area of crossover between street traders and pedlars would appear to be in the event-related merchandise category. Only three stalls in the sample were explicitly recorded as selling clothing, an area that is sometimes cited as being an area of conflict between pedlars and other vendors; this may be due to local authorities not licensing clothes stalls as this would conflict with local shops. Only four traders out of the 1,800 reported by local authorities offered services, rather than goods (2 henna tattooists and 2 hair braiders).

**Table 8 Goods sold by street traders (n=91)**

Goods sold/service provided	No. of licences/consents
Hot food	911
Misc. (plants, books, Christmas goods)	405
Ice cream/confectionery	242
Cold food/sandwiches	225
Event Related Merchandise (e.g. football)	154
Fruit, vegetables and flowers	135
<b>Total</b>	<b>2,072</b>

60. In terms of the type of stall used, the largest category was carts and barrows (44%), followed by motor vehicles (34%, largely corresponding to the numbers of traders selling hot food), compared with only one in five stalls which were not mobile (Table 9).

**Table 9 Type of stall used (n=94)**

Type of stall	% of licences/consents
Fixed stall	22.1%
Cart/barrow	44.2%
Motor Vehicle	33.7%

### Information held on street traders

61. Local authorities were also asked about characteristics of the traders that they issue licences/consents to. Most were able to supply an indication of the numbers of licensed traders operating within the local authority in which they resided (which amounted to slightly more than 90%). A very small number of traders (9%) were operating as employees of a company, rather than trading as individuals. However, this figure may be artificially low, because applications usually have to be made in the name of the individual, rather than a company, in order to provide local authorities with a definite contact name of the person responsible for a stall.

### 3.3 Understanding of the terms ‘street trader’ and ‘pedlar’

62. Local authority respondents were asked about the differences between street trading and pedlary. Most responses were correct in theory, but often failed to address practical matters of differentiating between pedlars and street traders. Two respondents noted that in practice differentiation was often difficult, because of imprecision in extant legislation and case law. More generally, answers made reference to the fundamental differences between street traders and pedlars that emerge from the legislation. Most answers referred to the difference between street traders working from stalls and pedlars being mobile, and/or not having stalls. (Table 10). The other most common observation was



that street traders should secure their permission from local authorities, whilst pedlars must obtain a certificate from the police. A number of respondents indicated that they believed that pedlars could only sell door-to-door; unfortunately, none of these respondents were from authorities with Private Acts to this effect.

63. A small number of respondents commented on the variability in trading hours, emphasising the fact that street traders are committed to open their stall between particular hours, whilst pedlars can act more spontaneously.

**Table 10 Differentiating between street trading and pedlaring (n=116)**

Response	No.
Street trading operates from fixed locations (no explicit mention of pedlars)	40
Pedlars are mobile (no explicit mention of street traders)	5
Both 'pedlars are mobile' and 'street traders fixed' mentioned	49
Types of permission held (licences and certificates)	25
Street trading is selling on the street	23

64. In conjunction with these responses, it should be noted that some local authorities showed a tendency to conflate rogues, illegal street traders and pedlars into a single group, and/or use inflammatory or pejorative language in association with pedlars: *'Pedlars regard themselves as untouchable and are often quite rude if challenged'; 'These traders are 'hit and run merchants' who come from nowhere and disappear again into the night. They may be selling counterfeit goods, or non CE marked goods'*.
65. One respondent indicated that they used CCTV to monitor how long pedlars were stationary; evidence from interviews corroborates that CCTV is used by a number of councils, often to simply identify traders operating in town centres to be brought to the attention of local authority officers for checks, though we do not know how common this practice is. Several answers made reference to the practicalities of enforcement: *'In practice, differentiation [between street traders and pedlars] is made through the direct observation of selling practices, CCTV evidence in the town centre or through supportive information supplied by complainants'*.
66. Interviewees were also asked about pedlars' lawful activities. This was an open question, leaving respondents to write as much or as little as they wished. Inevitably, this means that respondents mostly touched on the aspects they regarded as most important or pertinent, or, possibly, areas of contention and dispute which they had encountered in the course of their duties.
67. Most of the features of legal trading were covered by at least some respondents, but some were emphasised far more than others (Table 11). The most common category of response concerned the idea of mobility, which expressed itself broadly as 'moving from place to place', often more specifically as the phrase 'trade as they travel and not travel to trade', with a number referring to the principle that a pedlar 'goes to their customers', rather than

vice versa. Associated with this was the notion of not operating from a static pitch, with opinions varying as to the length of time permissible to stand in one place (between 10-40 minutes); one respondent stated that pedlars did not need to move at all: *'Pedlars move from location to location but from case law can trade from one position'*.

**Table 11 Understanding of pedlars' lawful activities (n=115)**

Lawful activity	No. responses
Should be mobile	66
Must hold valid Certificate	34
Able to move from town to town	30
Able to sell door-to-door	27
Should trade on foot (carry all goods)	23
Approaches customer	20
Referred to Pedlars Act	14
Not static (10-40 minutes stationary)	14
Not a street trading licence	14
Can use trolley	10
Valid nationwide	6
Can trade in prohibited streets	2
Don't know	9

68. Several respondents simply quoted the definition of a pedlar from the Pedlars Act 1871 verbatim. Many others simply made vague reference to the provisions in the Act, with the qualification that case law had subsequently added some stipulations to more clearly define the parameters of permitted activity. Thirteen respondents observed that holding a pedlars certificate meant that no street trading licences were necessary. However, only two respondents explicitly noted that it was possible for pedlars to trade in prohibited streets.
69. There was also a degree of ignorance or misinterpretation of the law. As noted above, a relatively large number of respondents (27) suggested that door-to-door trading was the *only* permissible activity for pedlars; just two of this group were in authorities which had passed Private Acts. The following quote was typical of this group of respondents: *'I understand the law on Pedlars, travelling from town to town and door to door. If pedlars were to sell in the street, I would determine this as unlawful, in my opinion that is not door to door and not within the spirit of the act'*. Some 23 respondents contended that a pedlar had to carry their goods on their person, ignoring case law that a small trolley is permissible (as acknowledged by nine respondents). One local authority went as far as to suggest that they issued pedlars certificates, rather than the police.
70. A relatively small minority of respondents confessed ignorance of the issue, largely corresponding with those authorities that had not adopted street trading designations or that rated the issue as less important in their area. In one

instance the respondent simply admitted that the present situation was highly confusing.

### 3.4 Outstanding street trading issues

71. Local authorities were asked about issues which remained problematic following the designation of streets. The largest category of responses concerned pedlars (Table 12), though it was not always clear whether respondents were referring to genuine pedlars, rather than illegal street traders. Where this was made explicit, illegal traders were thought to be the source of the problem: *‘Chinese wire benders from London therefore are absolutely not pedlars. They arrive in transit vans along with another 20 or so other people’*. It was also noted that the practical interpretation of the law meant that differentiating between pedlars and illegal traders could be complicated. Overall, less than one third of the respondents noted problems with pedlars in general.
72. Legitimate street traders were also not exempt from local authority concerns, with several answers noting street traders who had failed to renew consents or were consistently late with the payment of fees. Hot food was mentioned as a special concern, with one respondent noting that there was a conflict between the 1982 Local Government Act and the Licensing Act 2003 for traders operating after 11pm.
73. Although 24 respondents explicitly noted that they had no problematic issues surrounding street trading, several indicated that, were they to devote fewer resources to enforcement activity, they could well be viewed as a ‘soft target’ and problems would re-emerge.

**Table 12 Prevalence of street trading issues (n=120)**

Issue mentioned	No. responses
‘Pedlars’ (in general)	36
Others flouting the law (buskers, charity collections, car sales)	33
Illegal street traders/organised gangs	25
Problems differentiating genuine pedlars and illegal street traders	20
No enforcement powers for local authority officers	14
Issues with licensed street traders	12
Inadequate internal processes	12
Police intervention inadequate	6
Laws applying to services inadequate	5
Court costs expensive, penalties low	3
None (explicitly stated, rather than a blank response)	20

74. In addition to difficulties with pedlars and licensed street traders, local authorities identified a third category of problems, associated with other types of traders on the street, which are generally not within BERR’s remit. These included: illegal activity associated with cigarettes and tobacco; parked cars for sale at the roadside; buskers; insurance sellers, ticket touts, charity collectors,

especially those soliciting for direct debit contributions; and people claiming to be involved in market research, but with goods for sale. Although some of these complaints are covered under existing provision (cigarettes and alcohol), the majority of concerns are not. Many authorities view these traders as being relatively more problematic than pedlars, and would seek to make one wholesale change to the law to address all current perceived anomalies and loopholes, rather than piecemeal changes to address individual concerns. Individual respondents chose different elements of the menu for legislative reform and the overall form of wholesale change differed between respondents. Some of the suggested reforms are already subject to some controls, such as the Clean Neighbourhoods and Environment Act 2005 has provision for restricting the roadside sale of cars and the use of ASBOs to restrict the activity of ticket touts and the like if their behaviour constitutes harassment. In the course of interviewees the deficiencies of current laws governing other forms of street activity were less than fully considered, as well as being tangential to the main theme of research, but they are noted to establish a general perspective on pedlary and illegal street trading.

75. Some local authorities blamed other organisations for creating or exacerbating problems, rather than individual traders. For example, some expressed the opinion that the police vetting procedure was not stringent enough. Furthermore, the police were sometimes thought to be unsympathetic to the cause of local authorities in controlling town centre trading, or simply ignorant of the law: *'we need to persuade police sometimes in the merits of the law on street trading and why someone with a pedlars certificate is not peddling but illegal street trading by their particular actions'*.
76. Other aspects of the control of itinerant trading include the inability of local authorities to impose quotas, as they can with street trading, and to enforce the laws themselves, having to rely on police officers to seize goods and arrest suspects. Allied to this is the fact that the legal process is costly, yet often results in relatively small fines and low costs for offenders. Many illegal traders may view these costs as more of an overhead than a punishment or deterrent, while itinerants that are unknown to the authorities often provide false addresses and so fail to respond to summons. Although not reported as a particularly prevalent factor in Table 12, authorities would often be more vocal when specifically asked about the costs of prosecution. These are reported in Table 13.

**Table 13 Total reported court costs and fines<sup>12</sup> (n=41)**

	Cost to local authority			Cost to defendant		
	Officer cost	Court costs	Total	Fines	Costs awarded	Total
Non-adoptive	-	-	-	-	-	-
Adoptive	£376,119	£62,733	£438,852	£21,956	£16,020	£37,976
Private Acts	£87,270	£4,850	£92,120	£730	£1,319	£2,049
<b>Totals</b>	<b>£463,389</b>	<b>£67,583</b>	<b>£530,972</b>	<b>£22,686</b>	<b>£17,339</b>	<b>£40,025</b>

77. Many local authorities take a pragmatic stance, arguing that the costs are so high and the penalties are so small that they do not justify drawing on the public purse when they have little direct effect on the perpetrators<sup>13</sup>. Others were more idealistic, arguing that it is their public duty to prosecute in order to uphold justice. The evidence from Table 13 shows that the cost to local authorities greatly outweighs the cost to defendants by a ratio of more than 10:1. The figures also suggest that authorities with Private Acts were not especially overzealous in their cases of prosecution, bringing few cases and applying limited resources to secure convictions (although this may be because of their greater summary powers, or that illegal traders avoid these areas, knowing of the existence of these powers and the more restrictive environment for trading).

### Complaints, court cases and prosecutions

78. Secondary data collected by Consumer Direct (Table 14) permits a comparison of the volumes of complaints from the consumer against different types of trader. The table shows that street selling attracts very few complaints, compared to other types of selling excluding shops. Street selling as a whole attracts just one in twenty of these complaints from consumers and only one third of the complaints directed at market stalls. The greatest number of complaints came from uninvited doorstep selling and the number of these complaints is steadily rising over time.

79. Although it is not possible to determine how many complaints relate to pedlars, street traders and illegal street traders, the proportion of complaints from consumers against street selling in general is relatively modest. Commentators often observe that redefining pedlars as door-to-door traders creates problems in itself and the present situation should not be exacerbated any further.

<sup>12</sup> Some authorities were able to supply officers time only and unable to supply court costs and judgements. There were seven instances where costs had been incurred by local authorities with no resultant fines or costs for the defendant to pay.

<sup>13</sup> The street traders section notes the changed behaviour of a street trader following conviction. The size and scale of the penalty may not be the prompt necessary to change behaviour, but the process of prosecution itself may reform some.

**Table 14 Complaints submitted to Consumer Direct<sup>14</sup>**

	2006		2007		2008 <sup>15</sup>	
	No.	%	No.	%	No.	%
Boot Sale	163	1.5%	131	1.1%	85	1.0%
Doorstep (uninvited)	7,768	71.8%	8,836	73.9%	6,559	76.5%
Market Stall	1,780	16.5%	1,892	15.8%	1,181	13.8%
One day sale/mock auction	207	1.9%	149	1.2%	85	1.0%
Street canvasser	351	3.2%	347	2.9%	261	3.0%
Street seller	545	5.0%	597	5.0%	399	4.7%
	<b>10,814</b>		<b>11,952</b>		<b>8,570</b>	

Source: Consumer Direct

80. Table 15 shows the number of complaints, court cases and prosecutions by type of trader recorded by the Durham research. It is noticeable that street traders in general attract remarkably few complaints to local authorities – an average of around 12 per year per authority, or fewer than one per month. Of this relatively small number, pedlars attract the highest number of complaints, although, given the tendency of local authorities to conflate different types of trader, this may refer to a combination of genuine pedlars, illegal street traders and/or rogues. By comparison street traders attract roughly one third of the number of complaints directed at pedlars. The ‘other’ category was not defined but may include illegal traders without any permission, as well as other traders, including shops and markets. It is not possible to determine the source of these complaints and, although only speculation, it may be that complaints against pedlars emerge from other traders (particularly street traders and market traders), and may reflect competition issues.

**Table 15 Complaints, court cases and prosecutions by trader (n=87)**

	Street traders	‘Pedlars’	Other traders	Total
Complaints	216	456	317	<b>989</b>
Court cases	6	27	30	<b>63</b>
Convictions	6	15	27	<b>48</b>
<i>Ratio Complaints: Cases</i>	<i>36.0</i>	<i>16.9</i>	<i>10.6</i>	<b><i>15.7</i></b>
<i>Ratio Complaints: Convictions</i>	<i>36.0</i>	<i>30.4</i>	<i>11.7</i>	<b><i>20.6</i></b>

81. Complaints are most likely to escalate into actual prosecutions in the case of pedlars. However, cases against pedlars are also the least likely to result in a conviction, which may be due to the weak (and often unfounded) evidence against pedlars, or the vague nature of the law which surrounds pedlary. More anecdotal evidence suggests that (rogue) pedlars are often not taken to court because they

<sup>14</sup> Sourced from Consumer Direct who capture information as given by the consumer and that no opinion on the truth or verification of facts has been made by the Consumer Direct service

<sup>15</sup> Data provided as at August 2008

do not offer valid addresses, and authorities often reason that, once moved on, they will usually not return.

### Source of complaints

82. Local authorities were also asked for more information on the source and precise nature of complaints (Table 16). Again, it should be borne in mind that the number of complaints made is small, in absolute terms. Retailers were most likely to make a complaint (46 authorities), and market traders least likely, both tending to target issues of unwelcome competition or illegal trading (Table 17), mostly concerning pedlars, but also against street traders in some instances. Retailers' complaints are most often expressed as a general resentment that such traders have relatively low costs and overheads in comparison to themselves: *'very high business rates paid in the prime locations which illegal street traders do not pay, yet cream off money which would otherwise find its way into the towns economy'*. At other times the complaint is specifically related only to those traders that create a conflict between street traders and stores selling very similar goods.

**Table 16 Local Authorities reporting sources of complaints (n=58)**

Source of complaint	No.
Retailers	46
Residents	32
Consumers	22
Market traders	19

**Table 17 Local Authorities reporting of complaints from retailers**

Complaint	No.
Unfair competition	27
Illegal trading	10
Obstruction	5
Quality of goods	3

83. The extremely low number of complaints from consumers concentrated on the sale of low quality goods or 'unwelcome approaches', while residents focused on nuisance (odour, noise, litter, obstruction). Interviewees noted that the latter group of complaints were generally directed at food stalls and vans, with very few, if any, complaints from residents concerning pedlars. This reinforces the view of the consumer organisations we contacted – none had received any complaints about pedlars or street traders *per se*, nor was street trading in general regarded as an area of major concern. Indeed, two admitted they were not even aware of the laws surrounding pedlary nor the existence of pedlars, and struggled to find anyone who could deal with such issues. One raised concerns about counterfeit goods, especially pirated DVDs, but noted that these are not sold by genuine pedlars, nor are they often openly sold on the

street – pubs and car boot sales were more likely venues for illegal sales of this type.

84. Several local authority respondents noted that complaints were taken seriously (involving councillors and committees), but were often unfounded: *'We have the odd complaint but they're usually frivolous. Every complaint is investigated but they're most usually related to a resident's dislike of or disapproval of a particular trading activity rather than the trade or trader being a nuisance in the legal sense'; 'It's often just down to someone's taste – you'll get a complaint about Bob Marley blaring out from a stall, but Bing Crosby is OK at the same volume'*.

### 3.5 Additional powers

85. Local authorities were asked whether their powers were sufficient; a slight majority (51%) indicated that they were not. Authorities with Private Acts or where there were few reported issues with street trading and pedlary were largely satisfied, while those with Bills currently before Parliament were, unsurprisingly, most likely to believe that their current powers were insufficient. The reasons for requesting greater powers relate to the ability to penalise the offender sufficiently to deter misdemeanours, and reduce the officer time spent on individual cases: *'There's too much evidence-gathering and paperwork. ...the prosecution process can be labour intensive; a simpler fixed penalty would be a useful addition to the prosecution armoury'. 'the costs and resultant fine are not sufficient deterrent'*. Others emphasised the relatively minor powers of local authority officers: *'[We have] no immediate sanction if informal request fails to curb illegal activity except through court action'*.
86. Interestingly, two busy tourist towns reported that, rather than seeking extra powers, they had found that stronger enforcement using existing legislation had been effective, both against current problems as a deterrent against future difficulties: *'enforcement is about getting a no-nonsense reputation'*. Similarly, responses indicating a desire for greater powers were sometimes qualified by the indication that the authority was not optimally using existing powers. Some admitted that if they adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, this would probably be sufficient. Others thought that councils were culpable of poor implementation of local provision and/or a lack of joined-up working, either between district and town councils, or internally between departments. Some believed that existing legislation was sufficient, but they had insufficient resources (primarily inputs of officer time) to respond to the demands of enforcing street trading, or that others were at fault: *'the police don't use their powers of arrest enough'*. On the other hand, a minority of those who currently believed they had sufficient powers (mostly those with little street trading) would like new legislation in case a problem did arise in the future.
87. Based on these opinions given by local authority officers, a case could be made that new national legislation is *not* needed; instead local authorities and police could be encouraged to implement existing laws more effectively. This would also imply that the current situation, where local authorities argue in favour of a Private Act because of an exceptional problem which cannot be tackled through



current powers, should continue, but that a greater weight of evidence would be needed to justify the passing of any Act. It also indicates the need for clearer guidance, to help both traders and officers in the interpretation and application of the law. A lesser alternative to new legislation would be relatively minor modifications to the existing law – for example, increasing the fines for illegal street trading or allowing on-the-spot penalties or seizure of goods by local authority officers when there are clear breaches of the legislation.

88. In terms of changes to the law, local authorities were asked what additional powers they would wish to see introduced to allow enforcement of street trading legislation to be more effective in general, and how, if at all, they believed the law on pedlary should be changed. The answers to these questions often overlapped, and have thus been categorised together (Table 18).

**Table 18 Changes to legislation sought by local authorities (n=95)**

Change sought	No.
Single regime for street traders and pedlars	48
Right to seize/confiscate goods	30
Repeal 1871 Pedlars Act/abolish pedlars	25
Fixed Penalty Notice	14
Pedlar exemption to trade in streets removed (i.e. restrict trade to door-to-door)	11
Ability to move on traders (assume powers equivalent to Police)	8
Allow pedlars to only trade in streets outside town centres (and door-to-door)	6
Misc. revisions/clarifications to permissions and definitions relating to pedlars	21
Misc. changes relating to street trading (cars for sale/charity collections/buskers etc.)	16

89. Of the 95 authorities who provided an answer to either or both questions, around half favoured the harmonisation of street trading and pedlary, such that local authorities would issue both standard street trading licences/consents and some form of permission for pedlars to operate within local authority boundaries. In other words, a pedlar would have to obtain (and pay for) permission to trade in each local authority they visited, and may (by implication) be restricted to a static pitch, rather than being allowed to roam freely. In a similar vein, some 25 local authorities wished to repeal the Pedlars Acts, and abolish pedlary altogether. This would implicitly entail pedlars being brought under a street trading regime in some way if they wished to carry on trading. In total, some 62 authorities (two-thirds of those providing an answer) provided one of both of these responses, reiterating the strong desire to regulate and control the activities of pedlars: *‘Every trader should have to meet the same criteria and all regulations should cover everyone’*. The case study below shows that many pedlars are amenable to such a scheme on a one-off basis and that local authorities can successfully run such an event, although a year-round scheme may be more complicated for both parties.

### Case Study

An interesting experiment in the issuing of licences for street trading and the incorporation of pedlars into this regime was carried out at the 2008 Sidmouth Folk Festival by East Devon Council. Only two streets – the Esplanade and Promenade – are designated as consent streets, and consents are only issued for the week of the folk festival. In 2008, for the first time, the council decided to try and control the number and activities of the large numbers of pedlars who traded in the town for the duration of the festival, the only period viewed as problematic in terms of the volume of pedlary. Therefore, they issued 50 consents, to be issued at a daily rate of £15, overseen by the organisers of the festival. In practical terms, 46 consents for each day were issued in advance, with four held over for any traders who turned up unexpectedly on the day. The consents related to fixed pitches on the Esplanade, but there was scope for traders to move between pitches if they so desired, and to act as a pedlar ‘en route’ between the fixed pitches. Other conditions were also attached, most pertinently that the stall/barrow etc. used had to be in keeping with the tone of the area and the festival and added ‘colour and character’ (for which purpose, a photo of the stall had to be supplied) and that each trader had to possess a minimum public liability insurance cover of £2m.

These pitches were not exclusively reserved for pedlars (i.e. anyone could apply for one) but, in the event, virtually all consents were issued to holders of pedlars certificates. In addition, few, if any, traders opted to exercise the right to move about, preferring to remain in their fixed pitch for the duration of the day’s trading (8am to 8pm), and no pedlars attempted to work the Esplanade without purchasing a consent (although they would have been fully within their rights to do so). After the consent period ended, at 8pm, some pedlars continued to trade among the thinner evening crowds, following the standard pedlary rules, which, in the council’s view, was not a problem and – as with the daytime trading – contributed to the atmosphere of the festival. The experiment was regarded as largely successful, and is intended to be repeated – with minor alterations – next year. There are no current plans to extend the consent period outside festival week, nor to extend the geographical area covered, although these are possibilities for discussion in the future.

90. Other local authorities also wished to curtail the activities of pedlars, but to a lesser degree and using modifications to the current system – for example, restricting them to door-to-door and/or only trading on streets outside the busiest areas of town centres (*‘places where the concentration of people make their activities a nuisance’*). More generally, some indicated that they would like clarification of the definition and permissible activities of pedlars. These suggestions were more sympathetic to preserving the identity of a genuine pedlar, whilst recognising the need to create an identity distinct from illegal street traders.
91. In terms of provisions relating to street trading more generally, authorities tended to opt for greater summary powers intended to stop illegal trading more rapidly and reduce the expense of taking the trader to court: 32 authorities indicated that they would like greater powers of seizure and 12 powers to issue fixed penalty notices (FPNs). However, FPNs lose their viability if the officer

cannot establish the address of the offender. Furthermore, they are already available to local authorities on application of the RES Act 2008, although any local authority wishing to adopt the powers must make a convincing case for the need to extend their powers to a government minister.

### 3.6 Evidence of effectiveness of Private Acts

92. This section considers the extent to which Private Acts have been effective in their aim of ridding areas of illegal traders. Table 15 shows the aggregate numbers of complaints, court cases and successful prosecutions, but this can be further broken down as shown in Table 19. This table shows that very few non-adoptive authorities experienced complaints across any of the categories. Adoptive authorities were more than six times as likely to receive a complaint about any type of trader as non-adoptive authorities, with over half relating to 'pedlars' (again, recognising that this most probably refers to illegal street trading, rather than genuine pedlary). Local authorities with Private Acts had the highest average number of complaints of any type of authority, although they have larger resident populations and so this would be expected. However, the most notable feature of the table is that there were no incidences of complaints relating to pedlars among authorities with Private Acts.

**Table 19 Number of complaints by adoption of legislation, and average per local authority (n=87)**

	Street traders		'Pedlars'		Other traders		Total	
	No.	Average	No.	Average	No.	Average	No.	Average
Non-adoptive	13	2.60	10	2.00	0	-	23	4.60
Adoptive	160	2.11	446	5.87	199	2.62	805	10.59
Private Acts	43	7.17	0	-	118	19.67	161	26.83

93. Table 20 shows the number of defendants found guilty under the 1871 Pedlar's Act across most of England and Wales across the period 2002-2006. There are some strong caveats that would have to be applied in reading the table, namely that the number of guilty verdicts, depends a great deal on the detection and subsequent decision to prosecute, as well as the prevailing trends among local magistrates. In addition, where a private act has been passed concerning street trading, prosecutions may occur under that act, rather than the Pedlars Act, depending on the nature of the offence. For example, any genuine or rogue pedlar (i.e. whether they had a certificate or not) trading in a town centre covered by a private act would be prosecuted under that act, while those trading door-to-door without a certificate could still be prosecuted under the Pedlars Act.

94. Given these considerations it is clear there is tremendous variation between police force areas, with especially high rates of guilty verdicts in Derbyshire and Kent. In the latter case, this could be a result of an influx of pedlars from London, where the application of the London Local Authorities Act 2004 may have driven them out of the capital. In their supporting evidence for Private Acts, both Medway and Maidstone made reference to the in-migration of

pedlars from areas where other Acts had been passed – from London to Medway, initially, and following the successful passing of Medway’s Private Act, from there to Maidstone. The high numbers of prosecutions in 20004-05 seem to support this position, although it is also possible that both authorities simply launched a crackdown in order to demonstrate that they had a problem prior to introducing their Bills.

95. One interpretation of the figures in Table 20 could be the provision of evidence of the success of Private Acts, or the evidence of demand for the Acts. For example the low incidence of offences in London (4) might indicate that Private Acts are working effectively<sup>16</sup>, but, equally, prosecutions may simply be taking place under the London Local Authorities Act 2004 instead. Hampshire, meanwhile, has an older Private Act aimed at pedlars and street traders (see Section 1.3), but has the third highest number of prosecutions. The numbers of guilty verdicts in Merseyside (5) and Leicestershire (6) were low prior to the adoption of acts in Liverpool and Leicester respectively, which may indicate that either there were very few problems with pedlars, or simply that enforcement/prosecution was not widely practiced or practicable. There were also low numbers of guilty verdicts in Greater Manchester (5), Dorset (3) and West Yorkshire (5), which all contain local authorities with Private Bills in progress (Manchester, Bournemouth and Leeds respectively). It is also possible, as noted above, that local authorities take the pragmatic view not to prosecute for reasons of cost and low chance of success, preferring to simply move pedlars on – in this situation, the number of guilty verdicts would not reflect the degree of the problem as perceived by the local authority.

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<sup>16</sup> Other evidence comes from the Audit Commission. In 1998 there were 306 seizures of counterfeit goods, but none in 2000, 2001 and 2002: *Audit Commission Best Value Audit of Environmental Health & Trading Standards, February 2003, para 56.*

**Table 20 Number of defendants found guilty at all courts for offences under the Pedlars Act 1871, by Police Force Area (2002-06)<sup>17</sup>**

Force	2002	2003	2004	2005	2006	Total
Kent	2	7	29	29	7	<b>74</b>
Derbyshire	8	10	11	12	16	<b>57</b>
Hampshire	2	3	11	10	8	<b>34</b>
Nottinghamshire	4	11	4	7	2	<b>28</b>
Thames Valley	-	1	18	-	3	<b>22</b>
North Yorkshire	9	5	2	-	-	<b>16</b>
Sussex	1	-	2	5	7	<b>15</b>
Northumbria	3	3	3	4	2	<b>15</b>
Norfolk	-	2	2	10	1	<b>15</b>
Dyfed-Powys	1	1	1	-	10	<b>13</b>
Wiltshire	2	4	2	-	2	<b>10</b>
Surrey	-	3	2	4	-	<b>9</b>
South Yorkshire	3	1	1	1	2	<b>8</b>
Essex	2	1	-	5	-	<b>8</b>
West Mercia	1	-	1	1	4	<b>7</b>
Suffolk	1	2	1	2	1	<b>7</b>
Leicestershire	-	3	2	-	1	<b>6</b>
Hertfordshire	1	-	-	2	2	<b>5</b>
Merseyside	-	1	1	1	2	<b>5</b>
West Yorkshire	2	1	1	-	1	<b>5</b>
Cleveland	3	-	1	1	-	<b>5</b>
Greater Manchester	-	-	5	-	-	<b>5</b>
Lincolnshire	1	3	-	-	-	<b>4</b>
Metropolitan Police	-	1	3	-	-	<b>4</b>
West Midlands	1	2	1	-	-	<b>4</b>
South Wales	1	3	-	-	-	<b>4</b>
Dorset	2	-	1	-	-	<b>3</b>
Devon and Cornwall	-	-	1	-	1	<b>2</b>
Humberside	1	-	-	-	1	<b>2</b>
Durham	2	-	-	-	-	<b>2</b>
Gwent	-	-	-	-	1	<b>1</b>
City of London	-	-	1	-	-	<b>1</b>
Gloucestershire	1	-	-	-	-	<b>1</b>
Lancashire	-	1	-	-	-	<b>1</b>
Staffordshire	-	1	-	-	-	<b>1</b>
Warwickshire	-	1	-	-	-	<b>1</b>
North Wales	1	-	-	-	-	<b>1</b>
England & Wales	<b>55</b>	<b>71</b>	<b>107</b>	<b>94</b>	<b>74</b>	<b>401</b>

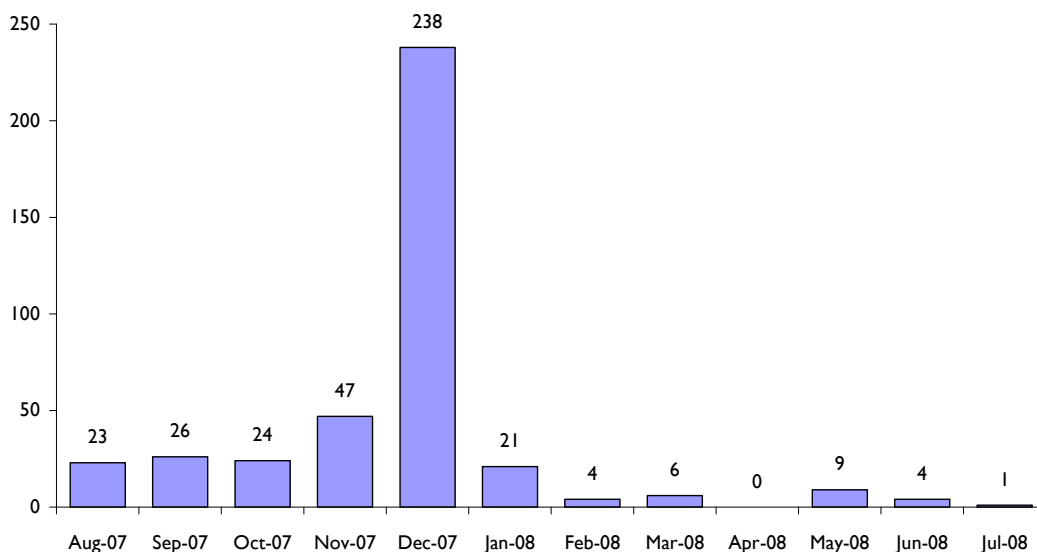
Source: Evidence & Analysis Unit, Office for Criminal Justice Reform

<sup>17</sup> Extracted from administrative data generated by the courts and police forces. There are no returns for Avon & Somerset, Bedfordshire, Cambridgeshire, Cheshire and Cumbria, and all of Scotland.

## Evidence of illegal street trading

96. One interviewee, a town centre manager, recorded all incidences of illegal street trading in prohibited areas (i.e. trading from a static site) from August 2007 to July 2008. This town ('Town A') was not in an area with a Private Act, nor was the local authority seeking to introduce a Private Bill before parliament. Although it is a Borough Council, the area is dominated by one large town and has a reasonably sized catchment area. The shopping facilities are dominated by a privately owned shopping centre, with two main pedestrianised streets radiating away from the mall, where illegal street traders tend to operate. As such, this is a reasonably typical medium/large town.
97. The town centre manager initiated a 12-month exercise of approaching traders who had been observed trading from a fixed stall or static pitch in prohibited streets. For every encounter, whether the trader held a valid pedlar's certificate or not, a single-page information sheet would be presented to the trader, showing the entitlements of a pedlar and expectations of their trading practices. Failure to produce a certificate would result in the trader being moved on (by the police, rather than local authority officers), while genuine pedlars would be urged to trade according to the standard conditions attached to the certificate.
98. Throughout this period, 409 traders operating illegally from a fixed pitch were recorded, involving more than 70 different individuals. There were multiple infringements by many traders – the ten most frequently encountered individuals were involved in 191 incidents, with the highest number of stops for one illegal trader being 27. Throughout the year the pattern of incidents was highly variable, with a particular concentration immediately before Christmas (Figure 1). Other interviewed authorities offered corroboration of this pattern, also mentioning local festivals and fairs that act as a 'honeypot' for traders at other times of the year. Insofar as there is a problem it may be tolerated for much of the year, but becomes a nuisance when numbers of traders are at their highest.

**Figure 1** Detected incidents of illegal street trading in Town A



99. Traders stopped by officers in Town A held pedlars certificates from nine different police forces, including some from over 200 miles from the town in question. This was caused practical problems in identifying the validity of certificates, simply because no central database was available to verify details. Only two of the traders in question did not have a valid pedlar's certificate, while one other trader held a forged certificate.

### **Displacement effects from authorities with Acts**

100. Only five authorities indicated that the displacement of pedlar activity from neighbouring towns resulted in increased numbers of pedlars in their own area. One authority declared that the Liverpool Act had affected them; another cited the Newcastle Act and three referred to the Private Acts in Kent and London. Those that seek new Private Bills often cite this displacement in supporting evidence, but many have no near-neighbours that have already adopted Private Acts (e.g. Bournemouth, Manchester, Leeds) – although pedlars do travel within an average radius of 150 miles from their home base, making the effects of restricting their activity in one area somewhat unpredictable in terms of exactly where they will new markets seek to replace lost trade. Authorities have expressed some concern that, although no problem exists in their area at present, any new Private Act in a nearby local authority may have adverse impacts in terms of the number of pedlars.

### **Summary points**

- Most local authorities have adopted the provisions of the LG(MP) Act 1982, although some have yet to do so. In those areas with no designation there was no pressure to do so, because there were so few traders and no pressing issues.
- Slightly more than one-third of authorities had prosecuted traders in their area, often choosing to warn traders of infringements and mediate in a dispute, using court action only as a last resort. Several authorities did not prosecute precisely because they did not believe that the cost to the public purse could be justified in terms of the low level of penalties and costs the courts imposed.
- The cost of licences varied between nil and £10,000, with an average price of approximately £1,000, although this rose to more than £2,000 in authorities with Private Acts. One-off daily licences cost between £10 and £155, with an average of £40.
- The number of licences issued appeared to be increasing across the three years from 2005/06 to 2007/08 and renewals were consistently close to 80% across all years. This indicates that street trading remains viable as a business proposition for most traders.
- The type of goods sold had only limited crossover with pedlars. The majority of licences were for food, although there were some for event merchandise and jewellery and novelty stalls.

- Local authorities' understanding of pedlars rights was varied, emphasising the mobility of pedlars and need to hold a valid certificate, but also wrongly suggesting that pedlars trade door-to-door only.
- Independent figures from Consumer Direct provide some context of the likely nuisance of street trading as a whole. In relation to sales outside of shops, by far the majority of complaints are directed at uninvited doorstep selling and market stalls, with only a small minority relating to street selling. The local authority survey revealed that they receive most complaints relating to street trading from retailers and these comments generally relate to competition, rather than practical concerns like illegal trading or obstruction.
- Only half of local authorities advocated the need to introduce any changes to respond to street trading issues. This change was principally in terms of a single regime for street trading, or repealing the Pedlar's Act which would have much the same effect. Some authorities also sought more powers, primarily seizure of goods, with a lesser demand for fixed penalty notices.
- Overall, there was little convincing evidence of the need for any further powers, in terms of the incidence of illegal street trading and the type of nuisance it caused. Insofar as a problem could be determined it appeared that there were particular problems during festivals, especially Christmas.
- There was also no convincing evidence that private acts effectively dealt with illegal street trading. The levels of complaints were substantially higher in areas with private acts and these areas continued to prosecute after the introduction of their private acts.



## 4 POLICE CONSULTATION

101. Questionnaires were received from 42 individual command areas and 5 force areas (covering a further 23 commands), providing information from a total of 65 command areas, or 25% of the 257 commands in Great Britain.<sup>18</sup> In addition, interviews were held on the telephone or in person with officers from 3 further forces, largely restricted to topics of policy and the actual policing of pedlars on the street; neither had access to the necessary information to complete the questionnaire more fully.

### 4.1 Numbers of certificates issued

102. The average number of certificates issued per command unit was generally between 5-20, with several units reporting that they had issued very few certificates in the recent past, or even none at all. The number of certificates issued per command unit tends to not vary greatly over time; several commands simply supplied the most recent year's figures, and noted that these were typical. Often, a high proportion of the certificates issued were 'renewals'<sup>19</sup> of existing certificates.

103. However, a small minority of units had issued very large numbers of certificates. One had issued 145 in the past 12 months, while another reported a figure of 120. Neither of these levels was outside the normal range for the area, with the majority being renewals of existing certificates. No reason was immediately apparent nor suggested by the respondent why these units would have such atypically large numbers of applications; indeed, given the lack of guidelines and communication between forces, they may be unaware that this level is so high. The reasons behind such concentrations may warrant further investigation. In addition, some respondents (not the two commands noted above) indicated that they had, although not frequently, received multiple applications on the same day, many in the same handwriting, and clearly from a company registering large numbers of employees as pedlars.

104. Given that forces are made up of different number of command units, and the occasional occurrences of exceptionally high numbers of applications, the number of certificates issued by each force varies widely. From information provided by respondents, or published online, we have information on total numbers of certificates issued by a number of forces (Table 21).

105. Using the figures from the survey, and those reported in Jones (2006), produces a crude estimate that the likely minimum number of pedlars certificates issued each year in Great Britain is roughly 3,000, and the maximum roughly 4,500.

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<sup>18</sup> All figures given in this section relate to the number of units, rather than forces, except where indicated. The terminology for the units we surveyed is not consistent across forces – the terms basic command units, districts and divisions are all used. For convenience, the term 'command unit' will be used to cover all units of responsibility at this level.

<sup>19</sup> Technically, a pedlars certificate cannot be 'renewed' – each year, the pedlar must make a new application, go through the same vetting process as for the first application, and receive a new certificate with a new identification number. Here, we use the term 'renewal' for brevity, to cover this reapplication process by existing pedlars.

More accurate estimates than this, given the amount of missing data, are not possible.

**Table 21 Certificates issued by police force area**

Survey responses	Other sources
Dumfries and Galloway: 1	Hampshire (2006)*: 69
South Wales: 7	Avon & Somerset (2006)*: 186
Lothian and Borders: 15	Sussex (2006)*: 73
Derbyshire: 37	Northern Scotland (2005-6) <sup>†</sup> : 3
Strathclyde: 42	Greater Manchester (2007) <sup>†</sup> : 204
Surrey: 43	

\* Derived from Freedom of Information requests<sup>20</sup> y published on police websites.

<sup>†</sup> Figures published on police websites.

106. We asked four questions about procedural aspects of issuing pedlar's certificates, and five questions designed to reveal how much information was collected during the application procedure (Tables 22 and 23). The common thread running throughout responses to these questions was the lack of consistency in procedures from force to force, and even sometimes within the same force. This latter situation arose where processing of applications was carried out at the command or station level, as opposed to the minority of cases where local stations did little more than issue application forms, which were returned to headquarters for processing.

**Table 22 Procedures in place**

Procedure	Yes	No	No answer/don't know
Written internal policy	26	18	1
Appointed officer	13	31	1
Statement for applicants	16	28	1
Photograph on certificate	16	29	

<sup>20</sup> All submitted by Steven Jones, a legal student at University of Wales, Aberystwyth – see Jones (2006). Of the 47 forces in England and Wales, 29 supplied figures to Jones for the number of certificates issued, giving a total of 1,861 or an average of 64 per force area. Individual force tallies were not given.

**Table 23 Backgrounds of applicants**

Application question	Total	No. of commands lacking information
Applicants with criminal record	83	4
Of which, no. relating to pedlary etc.	4	7
Applicants with certificate from elsewhere	1	15
Applicants wishing to trade outside force area	44*	17
% not UK citizens	Wide range of figures	7

\*All bar one from a single force area

## 4.2 Operational issues and resourcing

107. This apparent lack of consistency was reiterated by many respondents in regard to problems with the current system and other general comments. It echoes the view of many pedlars that procedures are vague, ill-defined and open to local variation. While a minority of forces did process certificates and collate data centrally, at most this function was devolved to command level or even to individual stations, without any central collection of data. Several explicitly stated that their system was paper-based only, making the extraction and collation of data difficult and time-consuming. Relatively few commands had an officer specifically appointed to deal with pedlars, since the number of applications was usually too low to justify the resource cost; in most cases, pedlary applications were dealt with by the licensing office. Responses indicated that pedlary – both applications and policing thereof – is regarded as a low priority. This was corroborated by the difficulties we encountered identifying the correct person in each area to deal with requests for information on this topic. Indeed, one helpdesk claimed that the force did not actually issue certificates themselves, instead collecting completed application forms and forwarding them to the local authority for checking and issuing.

108. Of the information requested, most commands were able to supply data relating to the number of applicants with a criminal record, as this is one of the basic checks made on receipt of an application. In forces where the respondent was aware of the procedures<sup>21</sup>, the Police National Computer was checked along with, in the majority of cases, local intelligence reports. In terms of the information that would lead to a refusal to issue a certificate, eight respondents answered ‘previous convictions’ or ‘relevant convictions’ with no further specifics. Among those providing more detail, the most frequently mentioned offences likely to lead to refusal were burglary and/or dishonesty (e.g. fraud), followed by violent or drug-related offences. Several pointed out the lack of guidance in this area when issuing pedlars’ certificates; one stated that ‘the language is ancient’ and there is ‘no standard meaning of good or bad character – a hopeless system’. The implication is that there are no widely used or systematic criteria for denying an application, and that in practice it usually

<sup>21</sup> Some ‘civilian’ respondents in administrative departments could only supply figures on certificates issued etc., rather than the procedures used by officers in checking the good character of applicants.

comes down to a decision by an experienced police officer, based on his assessment of the applicant's criminal record and/or local intelligence.

109. Other checks varied from force to force - some stipulated they visited applicants at their given address to check residency. Some also went to great lengths to confirm references, while others regarded this as far less important. Also common were attempts to distinguish whether the applicant was going to trade as a pedlar 'in good faith' – i.e. abiding by the pedlary statutes and case law, rather than operating in a manner which would more properly require a street trading licence. In at least one case, the application fee was refunded if it was discovered that the would-be pedlar should have instead applied to the local authority for street trading permission.
110. The stringency of vetting which an applicant must undergo is therefore variable across the country, a consequence of specific requirements not being laid down in any form at a national level, and priorities and resources available at the local level. In addition, some commands indicated that not all checks were undertaken for every applicant. Anecdotally, this was the case with renewals of certificates by pedlars who have had a lengthy (but healthy) relationship with a particular station and/or particular officers and were not 'troublemakers'.
111. In fact, few applications are turned down. Most respondents indicated that there were 1-2 refusals in an average year, if that. Refusals were equally as likely to be due to the pedlar planning to engage in activity that would require a street trading licence as due to previous convictions. The highest reported number of refusals in a single year was nine, all due to the pedlars actually wishing to street trade, rather than peddle.

### **4.3 Guidelines for and about pedlars**

112. The lack of national guidelines also hampers the issuing of a statement to applicants on the rights and responsibilities as a pedlar, with forces either (a) designing their own statements to hand out along with the certificate; (b) giving pedlars advice verbally or (c) in a small minority of cases, not providing any detailed guidance at all. For the most part, the guidance notes we have seen tend to restate the main provisions of the Pedlars Acts verbatim or in plainer language, alongside relevant case law. Often, the definition of a pedlar set out in *Chichester Council v Wood* (1997) is used with slight modifications to function as a list of 'dos and don'ts' for the conduct of pedlars. Some also quote *London Borough of Croydon v William Burden* (2002) to establish the difference between street trading and pedlary. Most of the advice given is accurate, but parts of these definitions are clearly misquoted at times. In particular, several sets of guidelines assert that 'a pedlar is a seller, rather than a mender', which is untrue (and essentially a distortion of a point in *Chichester v Wood*) and omit the reference (also in *Chichester v Wood*) that a pedlar is entitled to use 'some small means of assisting his transport of goods, such as a trolley', possibly on the grounds that they actually wish to discourage the use of such apparatus, or because there is no definition of the permissible size of such apparatus. The use

of wording in certificates implying that a pedlar can trade anywhere in the United Kingdom is also widespread, despite this being untrue.<sup>22</sup>

113. Several police forces produce guidance for pedlars online. The most comprehensive publicly available set of guidance notes seems to be produced by Kent police<sup>23</sup>, which goes into considerable depth defining a pedlar and into the procedures related to application and issue of certificates. Interestingly, while some forces demand photos of the applicant, the Kent website notes that though their form requests this, 'There is no requirement under the Act to do so; therefore failure of this alone is not a reason to refuse an application'. Similar caveats apply to other requests often made by the police but outside the scope of the Act (e.g. interviewing the pedlar). Other forces' guidelines tend to be briefer, and often simply advise that a potential applicant approaches his local police station.
114. Police and related bodies also provide advice for consumers related to pedlary and street trading. However, this often tends to either conflate genuine pedlars and illegal traders or assert that genuine pedlars are so few in number that all door-to-door traders need to be treated with suspicion. While the warning to be wary of traders is undeniably good sense, and pedlars are happy to show their certificate to prove they are 'genuine', some of the language used can be interpreted as alarmist or scaremongering, or is simply wrong.
115. The following examples were found in the public domain, as published on police websites. Although these views are not endorsed by BERR they are quoted to demonstrate the case for better education and guidance.
- 'In reality, genuine Pedlars' Certificates are almost as rare as hens' teeth and all forms of 'identification' offered to you by door-to-door sellers should always be viewed with the utmost suspicion.' (North Cotswolds Neighbourhood Watch Newsletter, No. 7, June 2008)
  - 'Traditional doorstep traders should have a Pedlar's certificate that can be verified in most cases with a phone call. They should only have samples or literature about their products. They are allowed to take orders for later delivery but they should not have goods for immediate sale.' (North Wales Police website) This is, in fact, the complete opposite of how a pedlar trades.
  - 'Genuine people selling on the door step must have a pedlars licence issued by the police, showing a photograph of themselves, the issuing authority and date. Please examine carefully. Do not entertain any others.' (Newnham Neighbourhood Watch Bulletin 022/06) Not all certificates have a photo of the holder.
  - 'You must not be stationary except whilst making a sale. Between sales you must keep moving until a customer stops you... Each application will be

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<sup>22</sup> Private Acts and the Street Trading (Northern Ireland) Act 2001 restrict pedlars to door-to-door selling only.

<sup>23</sup> [www.kent.police.uk/About%20Kent%20Police/Policy/m/m44.html](http://www.kent.police.uk/About%20Kent%20Police/Policy/m/m44.html) Note that this is not actually distributed to pedlars.

considered on its merits, but if you intend to sell items which require a stall, albeit on wheels, you are advised that it is likely your application will be refused. If you do not move around between sales, or if you set up a pitch or stall, you will be liable to prosecution and seizure of your goods.’ (Dorset Police Pedlars Policy, P15/2005) This overstates the requirement for a pedlar to trade while travelling by too narrowly interpreting the relevant case law (see Hough, 2003).

- ‘Pedlars are persons going door-to-door selling items, which are delivered there and then. Does not include food items or books. Such person should be in possession of a Pedlars Certificate and must be produced when required by anyone on whose land they are found. Contact the Police as a few such persons selling door-to-door often commit other offences such as burglary and theft’ (Wiltshire Police A-Z on Rural Matters).
- ‘Occasionally, we get visits from pedlars offering their wares. Pedlars may produce impressive-looking plastic identification cards that have no legal or meaningful endorsement. They may have an impediment, or play on your sympathy by telling you they are disadvantaged or reformed criminals trying to make a new life; this is what their sponsors frequently play on to sell their goods that are often overpriced. Any pedlar should possess a Pedlar’s Certificate issued by the Police. It does not matter which police force issues the certificate, but check the issue and expiry dates of the certificate (they are only valid for 12 months). If unable to produce a valid certificate ignore them. Phone the police Incident Number immediately and give details and a description.’ (North Wales Police Neighbourhood Watch Newsletter No. 3)
- ‘Recently we have had a large number of young men driven in to the area to sell goods from a bag, usually dusters and house cleaning items – these men are often referred to as ‘Nottingham Knockers’. To do this you require a ‘Pedlars License’ and many of these people do not have valid licenses. Please note, to work in Surrey, they must have a license issued by Surrey Police. I dealt with a group recently who had been driven up from Margate for the day. The report that came in was of a male who stated he was recently released from prison and was trying to get his life back together. When I arrived and did a check on him, his name wasn’t known to us. This didn’t tally with the story he had given, and when I asked him about it, he admitted that he hadn’t been to prison and only said this to make people feel sorry for him and buy his goods. He was given words of advice and told to leave the area. These people prey on your good nature and frequently will put pressure on you to buy their goods.’ (Surrey Police, *In Your Neighbourhood – Mole Valley*)

116. This is symptomatic of a wider ignorance among police officers - in particular, younger officers - of the details of pedlar legislation and case law. Older officers often indicated that their basic training had covered such matters in detail, but pedlary is an increasingly low priority for police forces, and specific training for beat officers on these issues is reportedly negligible (although this does vary from force to force). Both pedlars and police officers have reported occasions where a pedlar has been asked to move on by an officer who has professed ignorance of pedlars certificates and assumed that the pedlar was engaged in

illegal street trading. However, in most of these reported cases, the officer checked the relevant details with their station, and returned to assure the pedlar that he was acting within the law, sometimes going against the stated wishes of the local town centre manager. While many police respondents regard the law as archaic and unclear, they dealt with lone pedlars in an impartial manner, and relations with such pedlars, acting within the law, were generally cordial.

117. The situation is slightly different where there are multiple pedlars in an area – for example, at a major football match or festival (Halloween and the switching on of Christmas lights being the most often mentioned) - necessitating a more active role and sometimes pragmatic solutions to prevent potential public safety problems. An example of this is the policing of street trading around a major football ground, with all entrances to the stands on a single street. The council has provided for a number of street trading pitches, which are located at either end of the street, and the police have requested that pedlars restrict themselves to trading in the central area of this street, in order to (a) not cause obstruction problems in the surrounding area; and (b) not ‘pre-empt’ the licensed street traders, who supporters must pass before they reach the pedlars. This solution has, for the most part, worked reasonably well, and pedlars have abided by these requests.

118. However, the same police officer also provided independent confirmation of a situation which had frequently been the subject of allegations by pedlars, whereby the council requested that police prevent pedlars from trading in prohibited or consent streets. This was accomplished either by (mis)informing the police that all trading was banned in such streets without council consent, or that it was ‘in the public interest’ (or words to that effect) that pedlars be removed. In this particular case, the request was politely refused after the officer had researched the appropriate laws. This lends some credence to the allegations made by pedlars, although we cannot estimate how widespread attempts by local authorities to influence the police may be.

#### **4.4 Reform of the law**

119. On reform of the law, only a minority of police respondents favoured having certificates only usable within their force area. Most who proffered an opinion preferred harmonisation with the street trading regime, handing control over issuing to local authorities, in common with other ‘commercial’ licences. The general feeling among respondents was that the police should not be involved in issuing licences of this sort, albeit still retaining the responsibility to perform PNC and other checks on behalf of the local authority, as currently occurs in the issuing of street trading licences. The work involved in this is minimal - an officer indicated that the checks would normally take around 15 minutes. These are often accomplished through a simple email exchange with the relevant local authority, with the police providing approval or disapproval for each applicant.

120. Many respondents also noted that the definition of pedlars given in the 1871 and 1881 Acts is significantly out of date, and requires updating, as does the certificate itself. Not all forces require a photograph of the pedlar to be on the

certificate and the identifying descriptive attributes specified as requirements by the Pedlars Acts are minimal, but are often supplemented by individual forces. Comments from respondents and interviewees indicated that, if pedlars certificates are retained in some form, the most important modification would be to move them closer to being a proof of identity, akin to a driving licence. Common suggestions included the mandatory inclusion of a photograph and standardising the certificate across the country, including a 'national pedlar number', which could be easily checked on a database. This would significantly improve on the current system, whereby numbers are allocated at either force, command or station level, with no centralised storage. In addition, certain descriptive requirements laid out in the Pedlars Acts were felt to be problematic, notably the recording of 'complexion'. This is open both to interpretation and subjectivity – one pedlar recorded his complexion as 'fresh', while some black pedlars were described as 'dark'. A better option – already implemented by some forces – might be to ask the pedlar for their (self-described) ethnicity, using the same categories as in the Census, as well as insisting on a photograph.

### **Summary points**

- Due to deficiencies in data storage and retrieval by the police, it is difficult to estimate the total number of pedlars certificates issued. A reasonable estimate is that there are around 3,000-4,500 pedlars operating in Great Britain.
- Operationally, relations between pedlars and police on the streets are generally cordial, but enforcement is subject to local 'interpretation'. There is a degree of ignorance relating to pedlary among officers and some examples of alarmist or incorrect information and advice about pedlars emerging from police forces.
- The procedures by which a pedlars certificate is issued, and the collection of data pertaining to pedlars, are inconsistent. There are no standard guidelines on information to be collected from potential pedlars, grounds for refusal or the design of the certificate. Measures to update and standardise such guidelines, and to issue a single certificate on a national basis (rather than a slightly different certificate from each police force) would be welcomed.
- Police forces would prefer not to issue certificates, regarding this duty as an archaic remnant of the 1871 Pedlars Act. They see this responsibility as sitting more naturally within the remit of local authorities, which issue other permissions to trade.



## 5 PEDLAR CONSULTATION

121. This section considers evidence gathered through a standard questionnaire and three focus groups with pedlars, as well as other verbal and written evidence presented by pedlars. In all, 35 questionnaires were completed, with evidence also gathered from telephone interviews and correspondence with pedlars. In total, including focus group attendees, 62 pedlars were contacted during the research. These respondents all held pedlars certificates (i.e. they were 'genuine pedlars'); the research included only very limited interactions with rogues and other illegal traders.

### 5.1 Business Models of modern pedlars

122. The business sales model used by pedlars is one in which the products being sold lend themselves to the type of selling enabled by the pedlar's certificate. Goods such as small novelty items, seasonal accessories, football souvenirs, helium balloons etc. are best sold on the move in town centres or at festivals and events, rather than at a fixed pitch or door-to-door. Although local authorities argued that hair-braiding, henna tattoos, teeth whitening and other services were sometimes offered by traders using a pedlars certificate there was no evidence of such practice found in the course of this research. In this respect pedlars are similar to street traders in trading in goods, rather than services. Pedlars in the sample travelled between 1,500 and 30,000 miles per year (a mean of 12,000 miles and a median of 10,000 miles) in order to sell their goods. They visited between one and seventy towns in a year, with a mean of 25 and median of 20. Their operating radius varied between 15 and 450 miles of their home base, although a more typical operating distance was around 150 miles<sup>24</sup>.

123. As the figures above testify, mobility from town-to-town is a key feature of the practice of pedlars and therefore the right to trade anywhere in the UK is integral to their business model. Novelty goods are one-off or irregular purchases and, once consumers have been exposed to these goods for a limited time, there are diminishing returns from operating in the same area. Mobility optimises the level of returns by creating greater exposure to larger numbers of people. Pedlars also deliberately choose to attend a variety of events, festivals and fairs where there are relatively high levels of footfall and consumers are most disposed to make 'leisure-related' or 'fun' purchases. Goods related to a specific event are sometimes described as 'perishable' - the opportunity to sell is limited to particular days when the event is running (e.g. football merchandise relating to a particular match is out of date after that match has been played). Sport-related pedlars often sell goods related to teams in cups, creating an unpredictable pattern of travelling activity, dependent on the outcome of ties.

124. This example is a good illustration of particular facets of pedlaring often asserted by respondents to be integral characteristics of pedlars, their way of

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<sup>24</sup> Several pedlars also worked abroad a few days per year (e.g. following British football teams in European campaigns).

life and their 'culture'. Many pedlars characterise themselves as responsive to prevailing trends, which they are attuned to through their itinerant lifestyle and contact with a wide range of social groups – they can, literally, 'hear the word on street', which functions as an instinctual method for undertaking market research. They see themselves as highly entrepreneurial, often creating and selling merchandise at short notice, or selling unique merchandise unavailable elsewhere. Those pedlars who sell more 'mainstream' goods (e.g. character balloons) emphasise other aspects of entrepreneurialism - their salesmanship and ability to establish connections with people - as the key to their success.

125. This entrepreneurial spirit was often noted in questionnaires and focus groups, in terms of the responsiveness to consumer demand, pithily summarised as '*I sell sunglasses when its sunny and umbrellas when it rains*'. Another pedlar indicated that he sold, '*balloons, whistles and silly novelty items for a festival; flags, hats and horns for a football match or victory celebration; light-up items for an evening event late into Winter*'. Thus, although some traders had their own 'niche' and sold the same product wherever they travelled, others were highly flexible and customised their stock to suit the event, season or even the particular weather conditions prevalent on the day they were trading.
126. Pedlars also often regarded themselves as entertainers in addition to sellers, adding vibrancy and colour to town centres. As a by-product of their presence they could also provide an informal service, providing directions to passers-by and acting as 'eyes and ears' on the street, to help authorities and shops recognise shoplifters and petty criminals.
127. Pedlars had different patterns of trading, with some focusing on town centres, whilst others preferred festivals and sporting events. Two pedlars worked exclusively at festivals or sporting events, but the majority used their certificate in a varied manner, choosing appropriate venues where a sale could be made. Altogether the pedlars in the sample spent less than 28% of their working time at festivals and 68% in town centres and just 4% of their time in other places and never worked door-to-door. Pedlars had a rather different view of operating in town centres, rather than the sometimes quoted vision of local authorities of walking a route through a town, without returning to the same street twice. Pedlars generally respected the idea that they could not remain fixed in one place, but would not move in such a prescribed fashion and would recognise the need to not cause an obstruction. In practice pedlars were not especially mobile between streets in a town and would work in particular hotspots (generally prime retail areas, or those that appealed to tourists).
128. Businesses usually operated as sole traders, or partnerships encompassing a small number of owners. Pedlars sometimes made their own goods for sale (e.g. jewellery or puppets) or designed the goods to be manufactured elsewhere (occasionally in the Far East), thereby incorporating a craft tradition, but more commonly they bought their goods from a wholesaler. Either method was seen as an 'ideal' form of starting a business, with very low start-up costs (no premises, rent, rates and an affordable pedlar's certificate).

129. A further group of businesses were more substantial micro (5-10 employees) and small businesses (10-49 employees), utilising the pedlar model as a route to market for their goods. Some businesses had direct employees (with their own pedlars certificates), whilst others were self-employed agents, selling the same goods under a common brand.
130. In all, six respondents operated micro/small businesses used this 'pedlar model', involved in the manufacture of their stock and requiring a number of operatives (either staff or agents) in order to sell in volume. Interestingly, in the case of the three football-related manufacturers the 'pedlar model', is routinely used *alongside* street trading, with licensed static pitches close to the sporting venue supplemented by pedlars who work the crowd<sup>25</sup>. Pedlars' certificates are also versatile in that they allow these businesses to travel to other sporting venues where they do not hold street trader licences. Other sole traders and partnerships often followed this pattern of obtaining other permissions in addition to their pedlar's certificate, usually for carnivals, or other events on private land, rather than street trading permissions.
131. As noted above, pedlars often do not manufacture their own products, implying that any attempts to regulate or restrict pedlary may also have knock-on effects through their supply chain. In order to investigate the potential knock-on impacts, two short interviews were conducted with wholesalers with relatively high levels of their sales turnover accounted for by pedlars (one-third in one case and two-thirds in the other; in the latter case, some stock was bought to specifically serve the pedlar market). Although credit was extended to some pedlars, most paid in cash, generating good cashflow for the wholesaler. Pedlars were thought to be good customers, reliable in their payment habit and providing valuable repeat business, year-on-year. As such the wholesalers would be greatly affected, with survival probably dependent on redundancies if their market to pedlars disappeared.
132. Comments about pedlars from local authorities and trading standards often focus on their goods being counterfeit or of poor quality. The pedlars that were involved in the research strongly emphasised that they respected intellectual property and, where relevant, displayed CE Marks on their goods. If requested, they offered receipts or contact addresses to permit the return of goods if faulty. In addition, some obligations may clearly fall on the importer/wholesaler rather than the pedlar or business themselves. However, few actually received any returns or complaints, not just because their stock was of the same quality as sold in 'proper' shops but also because the typically low value of the goods sold and/or their 'perishability' meant that customers were not unduly put out if goods only lasted a few days. Indeed, some pedlars noted that customers even expected the goods to be short-lived when they bought them, and took this into account in the (often impulsive) purchase decision.

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<sup>25</sup> Additionally, three of the businesses also had a web presence and an online store. In these businesses pedlary represented another route to market for their products, but not the only source of sales.

133. Where pedlars were directly responsible for the production of their own goods they ensured that products satisfied the necessary legal conditions for sale, often researching specific intellectual property in some detail. For example, the pedlars were aware of what they could 'get away with' in terms of football-related memorabilia – using a team colour with the name of the town or city was legal, but using the actual name of the team was not allowed. Similarly, the 'new' Arsenal logo could not be displayed on merchandise, but the old, non-copyrightable version could be used instead.
134. The mean annual length of time spent trading as a pedlar was 148 days, while the median was 150 days. Some only worked from April-December (ending with the busy Christmas period), because takings were lower in winter, whilst others followed the football season, and some simply worked the whole year regardless of the weather. Where the business model incorporates elements of static street trading, complemented by working as a pedlar, the business owners were more likely to work on the higher-value stalls, with some using their pedlars certificate for as few as 10 days per year.
135. In addition to these selling days, pedlars indicated that they performed the regular functions found in every small business (paperwork, market research, buying stock etc.), meaning the time devoted to the business as a whole was greater than that spent trading. In addition, some pedlars would suggest they spent 365 days a year 'being' a pedlar and that it was part of a cultural identity that transcended being self-employed.

## **5.2 Characteristics of pedlars**

136. Pedlars are a diverse group, with a variety of employment and education backgrounds and different routes into pedlaring as an occupation. Most respondents worked full-time as pedlars with the remainder using pedlary to supplement their income from other work or (in some cases) their retirement pensions. This latter group tend to work as agents for larger businesses, usually dealing in sports/event merchandise and may only work a few days per year, a pattern which particularly suits the minority of pedlars who were also students. Some seasonal workers in other occupations (e.g. showmen) use the pedlar's certificate as a means of working in the off-season of their main profession.
137. More than half of pedlar respondents had some retail or customer service experience in their employment or family history, which they indicated was useful preparation for becoming pedlars. Some had experience of working on markets, fairs and carnivals, or had owned their own shops, whilst others had been an employee in a retailer or telesales. One-third of the pedlars had been self-employed prior to obtaining their pedlar's certificate. Many had also travelled extensively, which they cited this as contributory to their becoming a pedlar (often by learning to sell in those foreign countries). However, whilst these personal histories provided a good basis for pedlary, respondents had also worked in a wide range of previous jobs that were not directly relevant, both relatively low skilled (factory work, general building, gardening, postal worker etc.) and more highly skilled professions (journalist, engineer, geologist).

138. There was also a wide range of answers to the question of how they learnt of the opportunity of becoming a pedlar, including their family and friends, their travels abroad, invitations to apply for a job and having a business idea which subsequently found an outlet as a pedlar. Three individuals were unemployed when they started working as a pedlar, whilst several others had started trading alongside a portfolio of other working activity.
139. Respondents had worked as pedlars for between six months and 40 years, an average of 9 years and a median of 8½ years. The age range was wide - between 21 and 75 – with an average of 43 years old. Pedlars often operate collectively with their life-partner, and/or with other family members, such that pedlary represents practically all the household income. Pedlary could also be a family tradition - two respondents were third generation pedlars, recognising that a cultural tradition was sometimes pervasive among families.

### **5.3 Obtaining certificates and licences**

140. Pedlars usually obtained their certificates from their local Police Station in or near their place of residence, as stipulated in the conditions for application. Two-thirds of respondents stated that they had received instructions about the use of their certificate and the entitlements it granted. Section 4 includes examples of bad practice and similar anecdotal evidence was also provided by pedlars. The ‘misinformation’ included guidance restricting pedlars to door-to-door selling in areas where private legislation was not in effect, or that certificates were only valid within the Police Force area in which they were granted. Pedlars would welcome a standardisation of information and guidance, in order that a consistent message was presented across the country, to inform both pedlars and police and local authority staff in the day-to-day conduct of their duties and the rights and responsibilities of pedlars (see Section 5.6 for policy suggestions).
141. Pedlars were asked about their understanding of the entitlements a pedlars certificate conferred. The answers, summarised in Table 23, largely correspond with those of local authority respondents (Table 11). However, the emphasis differs somewhat, most particularly in terms of ability to trade on all streets (including prohibited streets) and the privilege to trade across the country, which pedlars were more likely to regard as important. Only one incorrect interpretation was made, which was the idea that it was not possible to revisit the same town on consecutive days (which may have stemmed from ‘unofficial’ guidance from a police officer or local authority representative). Overall, pedlars had a considerable appreciation of the entitlements of their certificates and many could cite the case law that granted them particular entitlements (e.g. *Croydon v Burdon* [2002] granting the entitlement to remain stationary for 15 minutes).

**Table 23 Pedlars views of entitlements of pedlar's certificate**

Entitlement	No.
Allowed to trade on all streets	11
Must move/not fixed stall	9
Allowed to trade nationally	7
Must trade on foot	6
Should approach customers	5
Entitled to sell door to door	4
Not allowed to stop for more than 20 minutes	3
Should not create an obstruction	2
Not allowed in same town on consecutive days	1
Allowed to use a trolley	1

142. Pedlars were also asked about any other licences or permissions they held in addition to their pedlar's certificate. Two had joined NABMA in order to benefit from relatively cheap insurance (although this is only valid if they also hold a street trading licence, which they appeared not to have). Five had a street trading licence or consent, although this includes the micro/small businesses with their interests at football stadia. Just over half the respondents had, at some point, applied for a one-off temporary or event licence in addition to a pedlar's certificate. Others had made a 'donation' to the organising committee of carnivals and fairs in order to have permission to trade and consider this a separate issue to street trading permissions.
143. However, many pedlars regard the very principle of 'double charging' (for the certificate and a local permission) as an affront, because it weakened their case of being able to trade in any street using only their certificate. In addition, there was a concern that placing any such permission in the hands of the local authority, rather than the police, was a mistake due to the perceived harsh, unfair and inconsistent treatment pedlars considered they received from local authority representatives. Indeed, some reported that their applications for temporary licences had been rejected due to spurious criteria not being met.
144. Others, though, were more pragmatic and regarded a nominal amount as worthwhile provided the event presented the opportunity to sell to a sufficiently large number of people to justify the cost. Given the caveats of footfall, suitable clientele, the services offered by the issuing authority (do they provide a stall?, is it indoors?) and the expectation of fine weather the typical range within which pedlars considered the cost of a temporary licence to be 'fair' was typically £15-75. The micro/small businesses recognised that at some large events a permission could be worth as much as £500, although these figures were quoted as an absolute maximum, rather than a typical price.
145. More than three quarters of respondents thought there were no problems in obtaining a pedlar's certificate. Typical comments included '*you just have to fill out the form*', '*I used to get mine over the counter – but you only have to wait two weeks now*'. Others thought it was more rigorous and the process more drawn

out and officious - *'it's quite difficult, like getting a shotgun licence, you need two referees, no convictions and they come round to your house to see you'* – partly reflecting the inconsistency in procedures between different forces.

146. In fact, pedlars tend to complain more about policies in the more 'liberal' areas - some police stations known to be 'soft' might well be exploited by traders that were ineligible to work, usually because they failed residence criteria or had no work visa. It was this feeling of needing to protect 'genuine' pedlary even more stringently against rogue traders, and improve the image of pedlars, that led two-thirds of respondents to agree that more stringent vetting should be in place. Because they would have no problem meeting more stringent criteria - such as the presentation of NI details or a certificate confirming registration with HMRC as a self-employed taxpayer – they see no extra burden, and some positive benefits, in their introduction. Some were reluctant to make the procedure more bureaucratic, but the majority indicated that the potential benefits outweighed this. Similarly, pedlars had few objections to modernising the certificate, with the idea of making a photograph mandatory being particularly welcomed.

## 5.4 Enforcement and interpretation of the law

147. On average pedlars were approached by enforcement officers 33 times in a typical year, equivalent to roughly a one in three chance of being approached on any given day. They were also likely to be approached more than once in every town in which they visited, most often local licensing enforcement teams, followed by police officers and only very occasionally a body such as trading standards. The likelihood of being approached and the manner in which pedlars were approached varied considerably between areas. The attitudes of officers varied from a cordial request to see a valid certificate, to some who were abusive and bullying: *'they hate us and show contempt towards us'*. Local authority officers were substantially more likely to be characterised in a negative manner than the police, with trading standards officials tending to attract the most negative opinions. One pedlar continued to practice trading in tourist areas such as Covent Garden and the South Bank, recognising the risk of doing so, but with a strategy to evade the authorities: *'I try to be like I'm in the matrix – when I see an agent I run – I'm not Neo I can't stop bullets'*

148. Pedlars were split on the issue of unfair treatment. Some reported that as many as 90% of interactions being confrontational, whilst others quoted relatively low figures, or indicated they had never been treated unfairly.

149. While attracting the most negative opinions, local authority officers were also acknowledged to be the best informed about the law, with police officers having a generally poorer knowledge *'the police are like GPs they can't know everything'*. Some pedlars also argued that police officers would often leave them alone, precisely because they are ignorant of the law or regarded street trading issues as the remit of the local authority. When the police did stop pedlars their authority was greater, as they had powers of arrest unavailable to local authority officers. The ignorance of officers often mitigated against a fair hearing in a first encounter: *'Occasionally I have been stopped by the police who*

*have no idea what the pedlars law is and won't listen to anything I have to say'. However, it was also generally reported that once police officers had checked the legal situation, they were often somewhat apologetic about their ignorance on subsequent occasions, and were more 'neutral' in their application of the law than local authority enforcement teams - 'most of the officers are on a power trip and are very rude and treat us like criminals'. Pedlars also described how local authorities had rewritten their rules in such a way as to give their field staff 'misinformation' in an official guise, effectively creating a 'weapon' to use to disperse pedlars. The best defence pedlars could have would be to carry the rights of pedlars on the reverse of their certificate in order to show to officials: 'Something written would be great and you would have to carry it. You can show it to any PCs who come up to you to clarify – if I'm doing anything wrong, arrest me'*

150. Two thirds of pedlars believed that there was no way to report individual harassment or systemic malpractice. Some indicated that superiors in the management chain or councillors could respond to complaints, but there was suspicion that these higher authorities would be complicit in the process and defend their own staff.
151. In addition to unpleasant or aggressive behaviour, pedlars were also often simply moved on to another town, which often meant they had to cease trading for the day. In addition, local authorities were alleged to have seized goods without good reason. Respondents quoted several instances where local authorities had seized goods pending a court case, had subsequently not actively pursued the matter but not returned the goods. This both impacted on the pedlar's business and achieved the local authority aim of removing them from the street.
152. Pedlars unanimously agreed that there were inconsistencies in the application of the law between areas and all but one indicated that they had experienced inconsistency within the same area. Inconsistencies in interpretation centred around the use (and/or dimensions) of trolleys; the right to trade outside the issuing police force area; and remaining static for too long. These attitudes were less ingrained in a particular area than to the specific personnel and their own philosophies and beliefs: *'It depends on personalities, the head of department or the enforcement officer themselves', 'it all boils down to whether they like you or not'*. This led to a benign regime in one area, and more hostile ones elsewhere: *'there is now a concerted campaign to bully us off the streets'*. Similarly, when new personnel were appointed these attitudes could change with the change in staff.
153. Many pedlars that participated in the research believed that they were better informed or more prepared to stand their ground than some of their peers: *'I know people who meekly move on and give up'*. As such, their concern was for those less confident, articulate or educated about their rights: *'if we have a new and inexperienced pedlar selling products an officer will intimidate them and tell them to leave. I will phone the police, councils and licensing departments to sort it out'*. Even the better prepared would sometimes concede defeat: *'It was 2½ weeks to Christmas and I was threatened with having all my stock confiscated. I was not in a financial position to lose everything so I was weak and moved on'*.



154. There were relatively few court cases among our sample: pedlars were successfully moved on, the threatened case never materialised, or pedlars were able to defend themselves adequately such that no further proceedings occurred. Slightly fewer than one in three pedlars had been to court, but only two were found guilty and in one of these cases the interviewee admitted they were contravening the law *'I was done under the Westminster Act – bang to rights'*. The fines were £750 and £50 (plus £100 costs).
155. The reasons for acquittal usually involved there being no case to hear, such as where the Pedlars Act had been wrongly or too strictly interpreted by the relevant enforcement officer. One case sought to set a precedent in terms of the number of days traders were allowed in the same town. The pedlar had traded in the town for 7 out of 10 days, which was deemed to be excessive and not in the spirit of the law. Although the pedlar was found guilty by magistrates, the judgement was appealed, and the verdict overturned at crown court.

## 5.5 Relations with other traders and customers

156. Pedlars at all focus groups expressed a view that they felt victimised and inadequately protected by legislation. Pedlars appreciated that illegal street traders and rogues were an issue, but resented being tainted by the smear that all pedlars were alike. More than three-quarters of pedlars stated that they had come across other traders breaching goods standards of trading. However, some questioned the fundamental presumption that illegal street traders or rogues were particularly numerous, or that the law did not already have sufficient provision to effectively deal with them. In some areas this did appear to be the case: *'they're not a problem, because the authorities jump on them straight away; "as for traders without a certificate - they are obviously law breakers ...and will be quickly ejected from a town by officers'*.
157. In other areas authorities chose not to exercise their powers, or were unable to do so. The effect of leaving illegal street traders and rogues unchecked was that it represented a loss of earnings and tarnished reputations: *'consequently, we're stereotyped and classed together as one single entity'. 'Pedlars who have a large handcart selling cheap mass-produced items often stay in one place, hardly moving everyday in the same town, therefore causing bad feelings towards shop owners, giving all pedlars a bad name'*. The indirect reputation effects were cited by many as the greatest concern, with direct loss of earnings as less of an issue: *'luckily they do not sell the same products as us, so in terms of business we are not affected'*
158. By contrast pedlars generally had cordial relations with other traders. Some pedlars reported mutual respect with shopkeepers, particularly when they traded in a town regularly: *'they bring me tea and coffee'; 'they ask me for change'*. Many pedlars would also state that good relations were possible because they deliberately did not compete with shops: *'It's never a problem, because my marionettes are home-made'; 'if customers want birthday balloons I send them to Clintons'*. There has been some antagonism from market traders, although most pedlars tend to avoid fixed markets for this reason.

## Views from customers

159. The research team personally conducted some small-scale fieldwork in Edinburgh and Manchester interviewing members of the public making purchases from pedlars. In addition to these short interviews a further 108 replies were received to a citizen's questionnaire designed by pedlar stakeholders. The citizen's questionnaire was generally handed out to customers by pedlars and then forwarded on to the research team through the post. All the responses shown below relate to this questionnaire and the answers to postal questionnaires were consistent with the findings of short interviews carried out by the research team.
160. Of these, the vast majority reported that their (usually limited) experience with pedlars had been positive – comments ranged from '*fine*', '*OK*' and '*no problems*' to '*excellent*' and '*a great experience*'. A few had had no dealings with pedlars, but could see no harm in letting them continue trading. No respondent indicated that they thought pedlars should be banned from trading in the streets, while 22 respondents specifically mentioned that they were opposed to traders working door to door. Typical comments on the potential removal of pedlars from town centres included: '*It would be a shame to ban them*'; '*Sad*'; '*What's the point?*'.
161. Of those who volunteered more information, the most common response (44 respondents) was that they had found pedlars to be courteous and not aggressive in their selling techniques; only two respondents indicated that they had found some pedlars pushy, but were still broadly in favour of allowing pedlary to continue. A similarly small minority indicated that they thought pedlary in town centres was no problem, as long as numbers were restricted. Only one person alluded to shoddy goods being sold by pedlars.
162. Very few respondents mentioned either the goods sold or the cheapness of the products, concentrating instead on more general aspects of pedlary. For example, 30 respondents indicated that they thought pedlars added character or fun to town centres, making them a more attractive shopping and/or tourist destination. In a similar vein, nine respondents invoked the culture and heritage aspects associated with pedlary – it was a traditional method of making a living, and it would be a shame if it vanished from the streets. Some 23 respondents mentioned the loss on freedom to trade in some form as a reason not to ban pedlary – either because it would limit their choice of goods (i.e. pedlars as an alternative to chain stores) or because they felt it unfair that anybody should be barred from making a living in such a harmless way.

## 5.6 Policy and procedural changes

163. Most pedlars were broadly aware of legislation that had recently been applied through Private Acts and the restrictions that this created on their trade. Pedlars believed that they would lose on average 80% of their trade if legislation were brought in to restrict their activity door-to-door or at private fairs and carnivals. This would mean that sole traders and partnerships would no longer be viable, but owners of micro/small businesses were especially worried, since

they felt an obligation to protect their staff, as well as their own interests. The ‘insidious creep’ of private legislation that had already limited trading also concerned pedlars and their ultimate wish was that this legislation could be overturned as well. They opined that more private bills exacerbate problems for authorities without Private Acts, such that areas with no current problems will be affected in the future as illegal/rogue activity is displaced into the provinces.

164. Recognising that local authorities do suffer some problems with illegal/rogue traders pedlars were keen to make suggestions for reform, although many believed that they did not need to be radical, but in most cases added clarity was all that was necessary. Nearly three-quarters believed that the Pedlars Act was still fit for purpose and that it should continue to operate in a broadly similar manner, with some minor alterations. Pedlars at focus groups were asked an additional question about the continued use of the title of pedlar and were happy to continue using a term which had a definite meaning, rather than adopt another new alternative. The following amendments attracted broad support:

- Government guidelines on the entitlements of pedlars for circulation to Police and Local Authority enforcement. The guidelines should provide sufficient evidence to allow officers to differentiate between genuine pedlars and rogues. Widespread deficiencies such as stating the certificate applies throughout the UK should be corrected to reflect the areas where door-to-door trading is the only legal form of pedlary.
- Widespread training should accompany the new guidelines to reinforce the messages for frontline staff. Special attention should be paid to front desk staff in police stations to ascertain whether the applicant is likely to street trade. Police stations should make enquiries as to how the certificate is to be used and issue a proper permission for the type of trading the applicant hopes to engage in.
- Guidance should also be made widely available through electronic means and published on websites, including governmental intranets – to act as a reference point for issuing officers, as well as the general public. This could also include a download for a national pedlar’s certificate.
- Pedlars should have more checks applied, such that the Pedlars Act 1871 Schedule 2 should have Form A suitably amended. Form A could include standard details about the individual, such as name and address, supplemented by security details that would differentiate pedlars from rogues (NI number, a self-employed reference from HMRC, some assurance of holding public liability insurance) and finally a PNC check for relevant criminal offences.
- Similarly Form B (the pedlar’s certificate) should be amended. It should be similar to an identity card to contain name, address, photograph, expiry date and certificate number, as well as contact details of the issuing Police station to verify the authenticity of the certificate.

- The cost of a pedlar's certificate could be increased to £100, to recognise the additional costs of administration and deter rogues from applying.
- The current provision in the Act for the police to keep a register should reflect the increasing use of computers in record-keeping such that all records were held electronically and if possible on a searchable national database.
- The size of trolleys should be restricted to no more than 1m<sup>2</sup>

165. Although the propositions above represent the majority views, there was also a minority of respondents with differing opinions. Two respondents worked very locally to their home base and they saw no reason why certificates should not be local. A local certificate enabled the authorities to recognise the same traders, day-by-day, creating no problems associated with new and unknown traders entering town. Furthermore the proponents of this idea resented the influx of 'outsiders' when their town had large events, as it represented unfair competition on a day that should, in their opinion, directly favour local pedlars. This view would be widely criticised by pedlars because it provides grounds for the certificate to be subsumed within the local authority licensing procedure. The wishes of local authorities to assume control of a single regime for pedlars and street traders was wholeheartedly dismissed. The majority of pedlars rejected the idea of paying for both their certificate and a licence from a local authority, notwithstanding the possibility of applying for dozens of licences. Pedlars were also suspicious of local authorities being able to set effective quotas, without penalising some and limiting opportunity for many.

166. Pedlars also had mixed views about trolleys, principally because half of the interviewees used trolleys in their trading. The trolleys varied in size from a pram or 'granny trolley' to bread trolleys or structures approaching 1m<sup>2</sup>. Although the practices differed, all parties agreed for a minimum size to be set in order to establish guidelines for authorities in dealing with illegal street traders.

167. Pedlars were also consulted about a range of options giving local authorities greater powers. They viewed most offences associated with pedlaring as only misdemeanours and therefore thought the current £1000 fine was set at the right limit. They had reservations about enhanced powers of seizure, because they suspected they would be misused and this corresponded with the bad experiences that pedlars had previously endured. Fixed Penalty Notices also received no support and pedlars viewed such measures as merely helping local authorities and offering them nothing.

### **Summary points**

- Pedlars are highly mobile and flexible, and will vary their selling location, and in some cases the goods they carry, depending on where they consider the best returns would be on that particular day – for example, a busy commercial city centre, a festival or a tourist town. As such, they especially value the freedom the Pedlars Certificate grants to trade in any location without giving prior notice.

- Pedlars are generally very careful to trade within the terms and conditions attached to a Pedlars Certificate, and differentiate themselves from both 'rogues' - who trade without a certificate or abuse their rights – and street traders, who operate from a fixed pitch. While their stock is usually cheap, most pedlars ensure that it carries all relevant safety marks and does not infringe intellectual property rights. Goods are often purchased impulsively by consumers, who recognise that the goods may only last a few days.
- Pedlars regard themselves as contributing to the character, liveliness and consumer choice in town centres dominated by chains (with which pedlars do not generally compete, due to the nature of their stock), and operating as part of a historic culture, with pedlary often running in families.
- Enforcement of the laws relating to pedlary and street trading was thought to be inconsistent around the country, with local authorities more likely to attract criticism for heavy-handed enforcement and bias against pedlars than the police. They regarded systems for reporting malpractice among enforcement officers to be lacking. However, few pedlars had been prosecuted; they were generally either simply moved on if an infringement had occurred, or able to prove, when challenged, that they were within their rights.
- There was general support among pedlars for modernising - rather than repealing or replacing – the Pedlars Acts 1871 and 1881. This would entail a more concrete and nationally applicable set of definitions and guidelines relating to the issuing of the certificate and their activities (based on statute and case law), a redesign and standardisation of the pedlars certificate and a greater burden on the pedlar to prove him/herself to be a legitimate trader (e.g. presentation of proof of insurance and eligibility to work in the UK, registration as self-employed with HMRC). The cost of such proposals is recognised, and pedlars would be willing to pay more than the current £12.25 for their certificate, to cover additional administration.
- Pedlars were strongly against any attempt to restrict them to door-to-door trading or to be licensed by local authorities either on a day-to-day basis or on a longer term arrangement.

## 6 STREET TRADER INTERVIEWS

### 6.1 How street traders see themselves

168. There is a view<sup>26</sup> that the regulatory framework generally favours and protects established retailers rather than street traders. Opinions on this issue and how street traders view themselves emerged from our survey of street traders. Unlike pedlars (and understandably) the street traders interviewed typically have a well-developed sense of being part of the local business community and strong links with the enforcement authorities. These links are not just thought of in terms of being approved of, or being legitimate, but also in terms of entitlement to protection by the authorities from illegal trading and the provision of services such as rubbish collection.
169. In all contact was made with 28 street traders and formal interviews held with 23; 10 of whom were based in London, the remainder distributed throughout England (East, East Midlands, North East, North West, South East and South West<sup>27</sup>). Around 25% saw street trading as a first, relatively affordable step to establishing a more conventional retail business. For almost half the sample street trading was the family business and they were continuing in that tradition, with no intention or ambition to change. In terms of types of businesses, one-third of the sample sold clothing and classified themselves as fashion retailers, one-third sold fruit and vegetables and health foods, one sold hardware and DIY goods, the remainder sold fast food.
170. The ages of interviewees ranged from 28 to 65 years, with 16 of the 23 respondents 40 years or older. All but six were male and, while three held degree level qualifications, the remainder held qualifications up to GCSE. Though the range of backgrounds varied, they had little employment history outside of street or market trading, but most had prior experience in retail or catering relevant to their current business. All interviewees worked long hours (some up to 80 hours per week), usually with early starts (typically 7am but some as early as 3am) and most operated their businesses 6 days per week. Only one of the street traders interviewed worked on a seasonal basis, the others work full time for the entire year. Patterns of work differ in line with the particular trade being carried out. For example, a flower seller works for six days per week, beginning at 4.00am when he goes to collect the flowers from the market. His stall closes up at about 6.00pm. In contrast, an ice cream seller with a mobile round begins work at lunch time and continues until later in the evening, for seven days a week in peak season.
171. The work that these traders do is their principal line of business and main source of income. In some instances the business has been in the family for many years, with family members taking over as older generations retire. The pitches available to traders have been occupied by respondents for many years. There is a great sense of respondents being settled in their work patterns. Only

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<sup>26</sup> See Jones, Comfort & Hillier (2004) and Wrigley and Lowe (2002)

<sup>27</sup> The street traders interviewed in this section exclusively practice street trading, whilst some street traders in Section 5 use both street trading licences and pedlar's certificates.

one interviewee had operated for less than 12 months, the rest had all been in business for 3 years or more with over 50% trading for 15 years or longer. The typical pattern was ownership of a single stall, although three held multiple licences, covering two or three pitches within the same local authority and three interviews held licences in more than one local authority. All but three were the owner rather than employees

172. One interviewee was the owner of a hot food franchise business, with a total of 16 stalls using the brand identity. The business model involved the owner finding suitable sites across the country (a minimum population of 100,000 and reasonably high footfall) and then offering the franchise to candidates in that area. As such this owner had a breadth of experience in dealing with many different licensing authorities across the UK.

## **6.2 Understanding of current street trading environment**

173. Several respondents amongst those outside of London had become street traders because of the difficulties they had experienced with market trading. Market stalls were considered difficult to obtain and keep and the relationship between market stall holders could be extremely competitive. In contrast, a street trader would be working in a much less contested environment, generally with less competition. Others reported that they traded on the street because it was cheaper than renting a shop or market stall and offered more opportunity for flexibility: *Versus the overheads for a shop it's far better (Fashion retailer, Holborn)*

174. In town and city centres there was evidence of self-regulation of street traders, in addition to the formal enforcement framework: *It's good, everyone knows each other and looks out for each other (Fruit & Vegetable seller, Angel, Islington)*

175. On the one hand there were a strictly regulated number of pitches for street traders throughout a town or city centre, many of which were held within families. This secured the enforcement requirements by limiting the number of traders in a particular area. On the other hand there was evidence that those traders with pitches had banded together to secure their rights and negotiate with local authorities.

176. There was a view that a general misunderstanding exists about the notion of 'street trading' within the general public, leading to confusion about the credibility and probity of such traders. Further investigation reveals that members of the public are unduly influenced by negative press coverage relating to illegal street traders being prosecuted, as well as outright misinformation about the practices of street traders (selling inferior or defective goods, associations with criminal gangs and tax and benefit fraud). This is understandable in some respects, as these people are trading on a street, but it does nothing to enhance the reputation of legitimate street traders, paying for and trading with proper licences or certificates.

### 6.3 Relations with other businesses

177. Most respondents see themselves as part of the established retail scene, with relatively good relationships with local shops. There is sometimes an ‘odd complaint’ from shops – usually competitors – but principally street traders perceive themselves as part of the retail environment, allied to fellow retailers and within the protection of the authorities and united in opposition to illegal traders: *I get on with the other businesses fine, but I don't think some of the other burger vans are licensed and the cafes, the long term traders, aren't happy about that (Hot food, Bromley)*. A minority of street traders did raise complaints about illegal street traders, but not in London. These street traders primarily cited competition as an issue and the unjust nature of the lower overheads of the pedlar's certificate.
178. The length of time traders have operated enables them to create a network of contacts within the formal business world. In Penzance, a woman making children's clothes has had a stall for many years. Other shops refer customers to her; the local cafeteria brings out coffee to her and allows her to use their toilet facilities. She also has regular repeat customers who expect to see her when they come on holiday. She is part of the local scene; an important element of the taxonomy of retail provision and, in some respects even counts as a ‘tourist attraction’ for visitors. Outside of London another interviewee described how a well established street trader was taken to court by a newly opened shop, on the grounds that the street trader sold poor quality goods. In the lead up to the case the trader was supported by local customers, councillors and the enforcement authorities and the case was unsuccessful when it came to court. The local retail community considered that this trader was an ‘established business’ and needed to be defended.

### 6.4 Interactions with authorities and enforcement issues

179. Older owners with experience of trading before the LG(MP)Act commented on the improvement in trading after the advent of improved regulation. The introduction of the Act saw a rationalisation in the numbers of traders and the quality and safety of goods sold: *'back in the 80s you could have seven guys in one street – it was a free-for-all'*. More generally, in and outside of London most street traders interviewed saw the enforcement regime as adequate and supportive. The way in which the regulatory framework is viewed is indicative of the way in which street traders perceive themselves and their activities – very much part of the system. It is seen to offer protection and support, not just legitimisation, though it also allows them to demonstrate compliance with required trading standards. It also provides a framework within which traders themselves can identify illicit activity and take steps to have illegal traders removed, by reporting them to enforcement authorities.
180. Respondents also commented that the enforcement structure meant any attempt by others to set up illegal activities could quickly be stopped. They reported they could contact local enforcement officers about illegal activity and were impressed by the speed at which action was taken to stop it. This type of relationship was seen to benefit both traders individually and the wider, local



business community. There was a firm understanding that the traders were part of a larger business world where reputation counted and maintaining a quality experience for customers was paramount and of commercial benefit to all concerned.

181. Although this was the general experience, those traders that were directly affected by illegal traders selling goods in direct competition sometimes held a different opinion. One such trader estimate he had lost at least £15,000 due to illegal street traders and indicated that he would like local authority officers to have more power: *'They don't have any teeth. Street wardens don't have any power and anyway if they did they might be frightened to use it, some are just too polite'*.

182. Licensing departments were thorough in the issuing of statements of responsibilities to all the street traders interviewed. Although these rules were explicit in themselves, the minutiae were often unresolved, or left to interpretation when applied by enforcement staff on the street. In some areas petty rules were considered to limit the activities of existing traders – some of these were complaints about pitch sizing, permitted lengths of awnings, and the overhanging of goods. This was really about the application of the rules and the biggest complaint (25% of respondents) was that rules are applied inconsistently: *'The (enforcement) officers are well informed but they can be inconsistent and they do have favourites' (Camden); Some traders are given more leeway than others (Covent Garden)*

183. This type of experience seemed to place respondents at odds with how they view themselves – as part of the establishment and a valuable element in the retail landscape. One interviewee observed that some traders were badly treated: *'some council officials can be very bullish... they don't show some people very much respect... they come down very heavy-handed'*. Town centre managers were reported as very influential and 'clued up'. Most interviewees thought enforcement officers are

*'Really good, no problems' (North London).*

*'They seem to know their stuff, not much interaction really' (Holborn)*

*'Not badly informed and with lots of give and take' (Covent Garden)*

*'Officers know what they're doing – there are no problems from them – and I know who to go to to report trouble' (Camden)*

184. Frequency of contact was very mixed, with many respondents indicating they had only three or four interactions per year. In other areas street traders were under more scrutiny, particularly where they were close to a market and in these situations contact could be on a daily basis. Overall the level of contact was less than one tenth of the frequency that pedlars experienced. Day-to-day contact would be with street wardens, whilst Trading Standards Officers made much more infrequent visits (once per year) and several had contact with Environmental Health because they served food. Another contrast between street traders and pedlars was relative absence of any contact with the police: 'I

see *Trading Standards twice a year, the community wardens every week but I never see the police* (Inverness St Camden)

185. Some also have contact with traffic wardens though were not clear whether this was within their remit. One respondent only, a Menswear street trader with 20 years experience, had been taken to court by Trading Standards and successfully prosecuted. He was fined £200 and had his goods confiscated. He did not seem to regard this as unfair treatment or harassment.

## 6.5 Licensing costs and related issues

186. In terms of costs and value for money there was evidence of considerable variation in the cost of licences across the country and the terms under which they are granted. 'Value for money' is not just seen in relation to income but also in relation to services provided – such as refuse collection. If these services are not adequate the appeal of the trading environment is reduced.

187. Respondents paid between £137 and £6,300 for a pitch for one year, with the average being £3,534 in London and £1,140 outside of London. Although the terms of the licence or consent vary – some hold the licences for 6 months, some for 12 months, some for 2,3 and 4 years – 12 months being the norm. The view was that this did not always represent value-for-money: *Licences are a bit expensive – especially in the current economic climate – and the annual rises are disproportionate (Camden); 'I don't get any services, I'm just buying a space on a street' (Cambridge)*

188. One licence holder that was affected by illegal street trading noted that the rents between street traders and the pedlar's certificate were so a substantially different (in his area) that those that were disinclined to pay the higher sum would resort to the cheaper alternative of the pedlar's certificate: *'I pay the council £6,000 rent, whilst a pedlar can pull up with 2 units and pay £24!'*

189. Methods of payment vary, some authorities setting up monthly payment schemes, while others require a single annual payment. One respondent in the North West reported that, while licences were free, they were liable for a 'pay to trade' fee on a daily or monthly basis. Respondents tended to compare costs to those incurred by local shops. In comparison to local shop rents a street trader's licence was seen as reasonable, although 'reasonable' in one locality could also be seen as 'very expensive' in another.

190. Outside of London respondents reported they were regularly approached by people interested in setting up a stall but this rarely translated into new stall holders coming into local areas. In Penzance, one trader has been called a 'one stall market' by tourists as hers is the only stall present on a regular basis. This is despite the fact that where she is located could (in her opinion) become a centre for the sale of unique, high quality craft goods. One reason for this may be the necessity to pay one month's rent in advance for a stall, a substantial investment for a new trader. It was suggested that this rule be modified for new stall holders, enabling them to pay one week's rent in advance until their business was more secure.

191. One restriction mentioned by around one third of respondents was the way in which activity and goods sold are limited by licences and, though a trader themselves has been approved, there is no flexibility or opportunity to diversify in response to market conditions: *'It's strange. After all we work in a street market, and especially in the current economic situation. Plus any changes to a licence have to be applied for and are chargeable'* (Angel Islington).
192. Most reported that obtaining a licence was not a burdensome process, again responses reflect traders' characteristics – most have been trading for a number of years:
- 'After the first time renewal was easy'*
- 'Fine, because it is just repeating'*
- 'It's clear, I understand the implications and the restrictions – I just object to the money side.'*
- 'The procedure is not too onerous – I don't see why others shouldn't go through it'*
- 'I think it's OK but very bureaucratic'*
193. There were differing experiences of 'other criteria' to be met before a licence is granted. Most commonly these related to insurance. In some instances councils insisted on Public Liability insurance being in place before trading, while others did not. Most traders took this cover out for their own peace of mind but there was no consistency.
194. The owner of the franchise business offered a view based on his years of experience and oversight from across the country about the changing opinions of local authorities towards street traders in general. In his opinion local authorities were seeking to progressively change the landscape of street traders, in terms of improving the image of traders and moving licence holders 'up market': *'They don't want old school traders any more – they want cleaner businesses that are more like retailers'*.

## **6.6 Should the law be changed?**

195. Only three respondents felt that changes to legislation are necessary to tackle illegal trading. Although this group are in a minority, where street traders are directly affected by other (often illegal) traders their comments are especially vociferous, precisely because they have suffered a direct loss in sales turnover. Amongst this group the following comment would be typical: *The system is a joke – 'pedlars' are rent free and rate free. The 1871 Act is too vague.* (Nottingham)
196. Around 20% of respondents commented that the enforcement regime was not rigorous enough; amongst these were those street traders who came forward of their own volition to report their views and experiences. They would welcome stricter controls as a means of demonstrating their own commitment to high quality trading and a willingness to be open to scrutiny. *'The system has*

*no teeth.* ‘Wardens have no power to do anything’ (Bromley). Openness and transparency in business practice were considered very important by these participants. Only ten of the interviews reported that they knew of any trader without licences and generally illegal street trading was not regarded as being a particular problem.

197. However, the majority of respondents did not think that anything needed to be done to reduce illegal activity by street traders in terms of legislative change. What was more commonly expressed (more than three-quarters of respondents) was the need to consistently enforce the existing regulatory framework. They wanted to see more inspectors, more checks by inspectors and greater powers for enforcement officers to seize goods etc: *Inspectors should be more visible and more active. (Covent Garden); Not enough is done to restrict illegal trade, particularly counterfeit and illegal goods (Camden)*

198. On the whole, respondents were happy with existing arrangements and felt their own activities were adequately covered. A consistent theme amongst interviewees, certainly outside London, was that those acting in good faith and within the rules had nothing to fear from regulation. The fact that a street trader’s licence has to be displayed prominently was viewed as a strength, giving confidence to customers. Meanwhile some pedlars and unlicensed traders were considered to act in contravention of this, to exploit their freedom to roam by bringing ‘huge trailers’ into town carrying their goods, and trade to the detriment of local businesses: *I have come across other traders (lots) without appropriate licences and in breach of standards (Angel Islington)*

## **6.7 Policy and procedural changes**

199. No firm preference for changes to regulation can be drawn from the street trader interviews. Overall, only two out of 23 interviews wanted tougher sanctions to apply to illegal traders and if anything, the maintenance of the status quo was preferred. Most respondents also described enforcement officers as well informed and competent. Complaints and suggestions focused on problems with the operation of the current system. Issues around inconsistent, under-resourced and insufficiently rigorous operation of the existing legislation were commonly raised, with considerable support for any action to address such deficiencies.

### **Summary points**

- Street traders are broadly satisfied with the service they receive from local authorities. They recognise the substantially lower charges (including licence fees) they face, compared with shops and believe this represents value for money. The fees they pay are, on average, close to one hundred times higher than the current charge for a pedlars certificate.
- Street traders regard themselves as being fairly treated by enforcement officers and are given adequate guidelines by local authorities that outline their obligations and entitlements. Any disputes that may occur are relatively minor and they experience a much lower incidence of scrutiny from authorities, relative to pedlars. Older traders regarded the introduction of

the LG(MP) Act as a very positive measure and believed that regulation had been a positive step.

- Street traders on the whole do not sell the same goods as pedlars, nor do they compete directly for customers. One Street trader did express a view of lost earnings to illegal street traders selling inferior goods, but overall levels of competition were low.

# 7 DISCUSSION

## 7.1 General summary of findings

### Identity of pedlars

200. While pedlars are a highly diverse and heterogeneous group, in terms of the goods they sell, their working patterns and business models, there are a number of common characteristics which are shared by many of the pedlars contacted. In particular, most travelled extensively, principally trading in town centres and avoiding door-to-door selling, as the type of goods sold did not lend themselves to this mode of selling. The majority were aware of some of their rights under the Pedlars Acts and case law, although there was also a degree of confusion and misinformation about various aspects. They were proud of the culture and heritage of pedlary, and wished to continue to be regulated with as light a touch as possible, avoiding the bureaucracy and control they associated with street trading and local authorities.
201. Nonetheless, there were some similarities between pedlars and street traders. Both groups tended to sell goods, rather than provide services. However, pedlars' stock is better suited to be sold on the move and at a range of locations – novelty items, event-related merchandise, seasonal items etc which are often purchased on impulse – which would not sit well within a local authority licensing schema. They saw pedlary or street trading as a longer term career choice – pedlars had been in business for an average of 12½ years, and street traders for 17 years, with the majority of both groups renewing their certificates or licences on an annual basis.
202. In particular, both groups saw themselves as good, law-abiding traders and condemned a wide variety of rogue and illegal traders, fly-by-nights and foreign nationals obtaining pedlars certificates under false pretences.
203. By contrast, local authorities regard pedlars as a group needing to be more tightly controlled, citing both certificated and uncertificated itinerant traders as a nuisance, and wrongly and pejoratively referring to both groups as simply 'pedlars'. Enforcement activities tend to be similarly indiscriminate in targeting legal and illegal pedlars, although the police are more careful in distinguishing genuine pedlars, despite some ignorance of the law among officers, and would usually endeavour to work cordially with pedlars.

### Efforts to eliminate illegal street traders and rogues

204. Although the exact extent of illegal street trading is difficult to quantify, many areas reported no real problems and are satisfied with the status quo. In other areas, problems with illegal traders (as opposed to pedlars) include obstruction, competition with other traders, allegations of illegal behaviour (often related to tax declarations), and poor quality goods. Local authorities tend to indicate that the most problematic periods are festivals, major events and the run-up to Christmas, when shopping streets are busiest and both genuine and illegal

pedlars wish to ply their trade. Both groups, in this instance, are regarded as a nuisance.

205. This prompts a desire by many local authorities for additional powers, which currently require Private Acts or, potentially, an application for extra powers under the Regulatory Enforcement and Sanctions Act 2008. Local authorities mentioned both additional summary powers, such as seizure or fixed penalty notices, in order to more efficiently and promptly stop illegal trading, as well as more wholesale changes to the law in order to bring pedlary and street trading under a single regime.
206. Pedlars are largely opposed to any such changes. In addition, a significant number of local authorities contended that they did not need any additional power, either due to the low volume of both legal and illegal street trading, or because they believed that existing powers, or the more effective implementation of these powers, was sufficient to deal with any problem. Much of the decision-making and rationale in this area depends on the opinion of the licensing officers, and how they regard street trading in their area – pedlars observed substantial differences in the enforcement regimes between areas with ‘easy-going’ officers and those with more ‘hardline’ licensing departments.

## **7.2 Improving guidance and procedures**

207. There was broad agreement that, if the law remained much as it stands, guidance and procedures relating to pedlary could be much improved, including clarification of points of ambiguity in law – for example, the permissible size of trolleys, or how long a pedlar is allowed to remain stationary – which would reduce the level of inconsistency of enforcement around the country, and provide pedlars with a better defence against harassment. Potential measures include:

- Standardised requirements relating to the application for and issuing of certificates. For example, several respondents recommended a nationwide database of pedlars, such that each pedlar has a unique ‘pedlar ID number’. This would facilitate checks on the legitimacy of pedlars and ‘renewals’ of certificates, if it was linked to the PNC and held records of previous checks on referees etc., but would have cost implications and it is not clear how it would be hosted, or which organisation would take responsibility for it. Other suggestions include: modernising and standardising the checks on ‘good character’, including clear criteria for turning down an application; asking for proof of registration for tax, national insurance and commercial insurance, and possibly proof of a self-employed registration. This would also facilitate the collation of data relating to pedlars.
- Improving pedlars certificates, in particular including a photograph of the holder; making them harder to forge or photocopy; and including a contact number to check that the pedlar is legitimate, a process which would be facilitated if a national database existed. Improving the design would also legitimise the trader in the eyes of the public, and make it easier to distinguish between genuine pedlars and rogues.

- Clear delineation of the lawful activities of a pedlar, to be issued to all pedlars, and be readily available to enforcement officers and the general public. This should be based on a combination of statute and case law, and should carefully differentiate between pedlary and street trading, such that pedlars can be redirected to local authorities if a street trading licence would be required for their proposed activities. It should also clearly state where pedlars can and cannot trade – for example, referring to the limitations laid down by Private Acts.

### 7.3 Responsibility for pedlars

208. The fact that police forces administer the pedlar's certificate is an accident of history, and virtually all police respondents wished to see the responsibility for issuing certificates handed to another organisation, usually the local authority, with their only role being PNC and intelligence checks, as per street trading procedures. Permission to trade as a 'standard' business is indeed usually granted by a local authority, rather than the police, and local authorities are more customer-focused<sup>28</sup> and better placed to maintain electronic records. Many local authorities wanted to initiate a single system of licensing to include all forms of street trading, although this view was not necessarily shared by all local authorities; the practicalities of this were not fully explored, although many recognised the difficulties of combining systems so that pedlars are satisfied with the results.

209. Indeed, pedlars were almost unanimous that local authorities do not assume control for issuing permissions for them to trade. On the basis of past experience, pedlars believed that they would be unfairly treated – certificates and permissions would not be forthcoming, and enforcement would be discriminatory – and they would inevitably pay more for the certificate. By contrast, street traders generally see enforcement as being fair, perhaps precisely because they are an integral part of a local authority system.

210. Pedlars tend to believe that submitting to local authority control would remove most of their freedoms to trade, in particular the right to trade in any location at any time. Many pedlars make last-minute decisions on where to trade, so that a licence would be difficult to obtain in advance, and the conditions would be too restrictive. In addition, bringing pedlars under the local authority may lead to the removal of the pedlars exemption from street trading rules, stopping them from trading in prohibited or licensed streets, which are often the most attractive. Pedlars were keen that gaining permission should be relatively straightforward, because of the volume of paperwork they were likely to face. If our sample were typical, an average pedlar would have to apply to 20 different towns to obtain permission to trade. The supply of occasional consents should also be fair in terms of quotas and prices.

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<sup>28</sup> 87% of local authorities issue guidance for applicants, whilst only 41% of police forces issue guidance to inform pedlars of their legal entitlements.



## **7.4 Evidence of problems**

211. Local authorities reported very few complaints about street trading in general - less than one complaint per month per authority. Similarly, there was an average less than one court case relating to street trading per year per authority. Some authorities admitted that the nature of complaints from the public was trivial, while complaints from business were in response to a fear of lost earnings through competition, rather than fundamental objections to illegal practices. The small-scale survey of the public indicated that they found genuine pedlars to be inoffensive and generally found their interactions with pedlars to be a positive experience. Accordingly, they saw little sense in withdrawing the livelihood of such inoffensive and well-meaning traders, and greatly preferred pedlars to operate in the street, rather than door-to-door. The spread of voluntary 'No Cold Calling' zones, supported by the police and Neighbourhood Watch, and the nature of the goods pedlars tend to sell, both suggest that restricting pedlars to door-to-door trading only would lead to a severe restriction on their livelihood.
212. Although the number of complaints is generally low, 5 local authorities received more than 50 complaints per year, while the number of guilty verdicts under the Pedlars Act also varied widely across the country. Similarly, pedlars noted that certain areas (city centres which are major shopping destinations, tourist towns etc) acted as magnets for both illegal and genuine pedlars, as did large-scale events. This suggests that any problems relating to pedlary are not consistent across the country, being largely localised to certain towns and cities. This does not lend support to the introduction of new national legislation. Instead, it may be more appropriate to encourage tougher enforcement action and/or Private Acts with a heavy burden of proof attached to establish genuine evidence of a local problem insurmountable through the use of existing powers.

### **Effects of private acts**

213. The direct effects of private acts are difficult to assess, in terms of being able to eliminate illegal street traders. With regard to the Acts introduced in 2006 (Leicester, Liverpool and Maidstone), the effects may not be fully understood for some time. One of their most obvious impacts is that genuine pedlars remove themselves from areas where they must trade from door-to-door or face possible criminalisation. Questions such as whether issues persist after acts are passed, or whether new problems emerge, have been left unanswered and such questions would require further research. The evidence for private acts should however be convincing, both in terms of the evidence of a problem, as well as the proposed solutions having the desired effects. Local authorities hoping to adopt legislation - whether a Private Act or the adoption of powers granted under the current Private Members Bill, if it becomes law - should provide a strong case to justify their adoption.

# Appendix I: Local Authority Questionnaire

## Introduction

The government are currently considering whether there is a case, supported by evidence, for making changes to the laws that apply to street traders and pedlars. During the summer research is being undertaken with those bodies that are responsible for the licensing and enforcement of street traders and certification of pedlars. Part of this consultation involves gathering as thorough as possible a data set from Local Authorities across Great Britain.

## Completing the questionnaire

The questionnaire seeks to collect a variety of answers and will possibly involve the input of several different people across departments responsible for licensing and trading standards.

We recognise that some of these questions may be asking for information you do not systematically collect. Please endeavour to complete statistical information in but leave blanks where questions are not appropriate.

Because this questionnaire may require input from different people and requires the formulation of considered opinions and special collation of data we would like to provide you with sight of the questions before we make contact.

We would prefer to conduct the interview by telephone – asking the questions as they appear on the form below. Alternatively, if you are willing and able to complete the form and would like to post it please return it to:

Gordon Allinson  
St. Chad's College, 18 North Bailey, Durham, DH1 3RH  
[g.f.allinson@durham.ac.uk](mailto:g.f.allinson@durham.ac.uk)

For more information about the project itself please view the following web address:  
<http://www.berr.gov.uk/consumers/business/market-trading/page46738.html>

Or contact:

Roger Dennison  
CCP2 Regulation of Consumer Markets  
Fair Markets Group  
Department for Business, Enterprise & Regulatory Reform, 417  
1 Victoria Street, London, SW1H 0ET  
020 7215 6893  
[Roger.Dennison@berr.gsi.gov.uk](mailto:Roger.Dennison@berr.gsi.gov.uk)

## I Your contact details

Name:

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Position:

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e-mail/phone:

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**2 How do you respond to street trading?**

2.1 What provision have you made for Street Traders under the *Local Government (Miscellaneous Provisions) Act 1982*? (please tick)

Designated streets as prohibited, consent and licensed

Issued street traders licences

Prosecuted in relation to this legislation

Not explicitly provided for 'street traders' but issued similar licences


2.2 What do you believe street trading entails? In practice how do you differentiate between 'street traders' and other people e.g. pedlars?

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2.3 What is your understanding of a pedlars' lawful activities?

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2.4 If you have implemented street trader rules in your area - what are the remaining issues you still face regarding street trading in its widest sense (pedlars, traders with appropriate licences, and others that flout the law)

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2.5 If you have not implemented Street Trading rules in your area – how does this affect your ability to effectively regulate trading in your area?

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2.6 If you have not implemented Street Trading rules in your area – how do you respond to trading such as fast food vendors?

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### 3 General conditions for street trading

3.1 Approximately, what percentage of streets are:

Prohibited streets	%
Licence streets	%
Consent streets	%

3.2 What rationale lay behind the decision to structure prohibited, licence and consent streets in the way you have?

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3.3 Do you have designated street trading sites? Y / N

3.3b How many?

3.4 What are your annual costs in administering the licensing procedure? £

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### 4 Application process

4.1 Do you have guidance notes for applicants? Y / N

4.2 Do you have a statement that makes clear the responsibilities of street traders? Y / N

4.3 Please list the costs of licences (list all applicable street trader licences) (e.g. Annual, quarterly, weekday, weekend etc.)

Description (include no. days)	Cost of licence	No. licences issued

Note: If prices per square foot then state square foot and 'average footage'

**5 Number of Applications granted/refused**

	1 <sup>st</sup> April 2007- 31 <sup>st</sup> March 2008	1 <sup>st</sup> April 2006- 31 <sup>st</sup> March 2007	1 <sup>st</sup> April 2005- 31 <sup>st</sup> March 2006
5.1 Total no. licences issued			
5.2 of these, how many are renewing existing licences			
5.3 Number refused			
5.4 Number revoked			

5.5 What are the main reasons for refusal to grant a licence?

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5.6 What are the main reasons for revoking a licence?

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**6 About the street trader**

6.1 What type of goods/services are sold?

Category (e.g. hot food) No. licences


6.2 What type of stall is used?

Number

Fixed Stall

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Moveable barrow/cart

--

Motor Vehicle

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- 6.3 How many traders are residents of borough? 

- 6.4 How many traders have previous convictions?
- 6.5 How many are for companies, rather than individuals?

**7 After licence granted/enforcement**

For the period 31<sup>st</sup> March  
2007 – 1<sup>st</sup> April 2008

	Holder of Street trader's licence	Holder of Pedlar's certificate	Neither pedlar nor street trader	Totals <i>(if can't supply detailed info)</i>
7.1 Number of complaints				
7.2 Number of court cases				
7.3 Number of convictions				

7.4 What were the main reasons for prosecution?

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7.5 Please estimate the costs of enforcement activity in relation to street trading. In terms of:

Total Officers' time £  
\_\_\_\_\_

Your total costs of prosecution £  
\_\_\_\_\_

7.6 Please estimate the costs you have recovered from court judgements

Total fines £  
\_\_\_\_\_

Costs awarded £  
\_\_\_\_\_

**8 Views from other stakeholders**

8.1 If you receive feedback from different interest groups please record their concerns

Consumers

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Residents

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Market traders

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Other retailers

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**9 Additional powers**

9.1 Are your powers to deal with illegal street trading adequate? Y / N

9.2 Why are your present powers inadequate?

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9.3 What additional powers would allow your enforcement to be more effective?

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9.4 Should pedlars be treated differently under the law? Y / N

9.5 What changes would you like to see in relation to pedlars?

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9.6 If applicable, how have private bills to regulate street trading in neighbouring authorities affected volumes/behaviour of traders (legal/illegal) your area?

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**10 Any further comments** *(Please use reverse if necessary)*

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## Appendix 2: Police Questionnaire

### Introduction

The government are currently considering whether there is a case, supported by evidence, for making changes to the laws that apply to street traders and pedlars. During the summer research is being undertaken with those bodies that are responsible for the licensing and enforcement of street traders and certification of pedlars. Part of this consultation involves gathering as thorough as possible a data set from police forces across Great Britain.

### The questionnaire

The questionnaire seeks to collect a variety of answers and will possibly involve the input of several different people. Sections 1 and 2 should be completed by someone with knowledge of the data held by your police force. Section 3 seeks opinions about the current arrangements. Section 4 asks questions about operational practice and the ability of police officers to apply current laws as they stand to real-life situations, and so some consensus should be sought from front-line officers.

### Completing the questionnaire

We recognise that some of these questions may be asking for information you do not systematically collect. Please endeavour to complete statistical information in Section 2, but leave blanks where questions are not appropriate.

Because this questionnaire may require input from different people and requires the formulation of considered opinions and special collation of data we would like to provide you with sight of the questions before we make contact.

We would prefer to conduct the interview by telephone – asking the questions as they appear on the form below. Alternatively, if you are willing and able to complete the form and would like to post it please return it to:

For more information about the project itself please view the following web address:

<http://www.berr.gov.uk/consumers/business/market-trading/page46738.html>

Or contact:

Roger Dennison

CCP2 Regulation of Consumer Markets, Fair Markets Group

Department for Business, Enterprise & Regulatory Reform, 417

1 Victoria Street, London, SW1H 0ET

020 7215 6893

[Roger.Dennison@berr.gsi.gov.uk](mailto:Roger.Dennison@berr.gsi.gov.uk)

### I Your contact details

Name:

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Position:

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e-mail/phone:

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## 2 Your Policy and procedures

- 2.1 Do you have a written policy for internal use? Y / N
- 2.2 Do you have an appointed officer to deal with this policy? Y / N
- 2.3 Do you have a statement for applicants clearly outlining the responsibilities of pedlars? Y / N
- 2.4 Do your certificates display the photograph of the holder? Y / N
- 2.5 What checks do you make on applicants? (PNC, CJS checks, references)? *(please list all)*

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- 2.6 Do you always make these checks? Y / N
- 2.7 What 'positive' results on police checks would cause you not to issue a certificate?

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- 2.8 Please estimate the annual costs of administering the pedlars certificate (staff time etc.) £ \_\_\_\_\_

## 3 Certificates issued

	1 <sup>st</sup> April 2007-31 <sup>st</sup> March 2008	1 <sup>st</sup> April 2006-31 <sup>st</sup> March 2007	1 <sup>st</sup> April 2005-31 <sup>st</sup> March 2006
3.1 No. certificates issued			
3.2 Number renewed			
3.3 Number refused			
3.4 Number revoked			

- 3.5 What are the main reasons for refusal to grant a certificate?

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- 3.6 No. applications with criminal record
- 3.6b How many of these convictions relate to street trading or pedlaring?
- 3.7 How many applicants previously had certificates from other police forces?
- 3.8 How many intend to use their present certificate outside your force area?
- 3.9 How many applicants are not UK citizens?  %

**4 Helping form government policy**

- 4.1 Is it a problem to have national registration of pedlars? Y / N
- 4.1b What problems are caused by the present system?

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- 4.2 Would you prefer local certificates which only apply to your force area? Y / N
- 4.3 Would you like to see street trading and pedlaring harmonised – with one authority responsible for both? Y / N
- 4.4 Do you believe the local authority would be better placed to look after pedlars certificates among their other licensing? Y / N

**5 Front-line policing**

- 5.1 Do officers ever find forged certificates? Y / N
- 5.2 If a pedlar was stopped without a certificate how long would you give for the certificate to be presented? \_\_\_\_\_ days
- 5.3 How do you communicate the law applying to pedlars to officers?

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5.4 Have you received a practical interpretation of the law from the local authority concerning their preferred approaches on pedlaring/street trading? Y / N

5.5 What were these instructions?

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5.5 Do officers have problems in identifying where there are infringements by pedlars? Y / N

5.6 Please provide examples where interpreting the law is difficult for officers

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**6 Any further comments** *(Please use reverse if necessary)*

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## Appendix 3: Pedlar questionnaire

### Introduction

The government is currently considering whether there is a case for making changes to the laws that apply to street traders and pedlars. During the summer research is being carried out to look at the evidence, with licensing and enforcement authorities, as well as interviews with street traders and pedlars.

### How will the information from this questionnaire be used?

- To build up a better understanding of pedlars and their patterns of work (Sections 2-5)
- Information about interactions with the authorities – those *issuing* pedlars' certificates (Section 6), as well as those involved in enforcement (Sections 7 and 8).
- Your views on the law as it stands (Section 9) and on possible changes to the law.

### Completing the questionnaire

- Where we ask for numbers please give approximate estimates, rather than leave blanks.
- Some answer may not be relevant – please mark them 'N/A'.

Ideally we would prefer to conduct the interview directly – face-to-face or by telephone. But, if you would like to complete the questionnaire and post it to us please return it to:

Gordon Allinson  
St. Chad's College, 18 North Bailey, Durham, DH1 3RH  
[g.f.allinson@durham.ac.uk](mailto:g.f.allinson@durham.ac.uk)

For more information about the project itself please view the following web address:  
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Roger Dennison  
CCP2 Regulation of Consumer Markets, Fair Markets Group  
Department for Business, Enterprise & Regulatory Reform, 417  
1 Victoria Street, London, SW1H 0ET  
020 7215 6893  
[Roger.Dennison@berr.gsi.gov.uk](mailto:Roger.Dennison@berr.gsi.gov.uk)

### I Your contact details

Name: \_\_\_\_\_

e-mail/phone: \_\_\_\_\_

**2 About you**

2.1 Age

2.2 Gender M/ F

2.3 Education (*please tick*)

- No formal qualifications
- GCSE/O level equivalent
- A level equivalent
- Degree
- Postgraduate qualifications

2.4 How long have you worked as a pedlar?

2.5 How did you get into pedlaring?

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2.6 Are you an employee of a company? **Y / N**

2.7 (*Briefly*) What is your previous employment history?

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2.8 What goods/services do you sell?

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**3 How often do you work?**

3.1 How many days per year

3.2 When do you work? (*months, seasons*)

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3.2 b Festivals/sports events  
Regular town centre trading  
Door-to-door  
Other

	%
	%
	%
	%

} To total 100%

**4 How extensive**

4.1 Where is your base?

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4.2 How many miles do you travel each year?

4.3 Furthest distance travelled from base?

4.4 How many different towns do you visit per year?

**5 Trading conditions**

5.1 Do you carry your goods on your person

**Y / N**

5.2 If not, how do you transport/display your goods for sale?

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5.3 What are your reasons for choosing the geographical areas you trade in?

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5.4 Describe your relations with other types of traders – especially shops?

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**6 Obtaining a certificate**

6.1 Do you have a pedlars' certificate? **Y / N**

6.2 Where did you obtain your certificate? \_\_\_\_\_

6.3 Have you been given instructions about what you can and can't do with your certificate? **Y / N**

6.4 What does your certificate allow you to do (and not do)?

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6.5 What other certificates, licenses, and permissions do you hold for trading?

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6.6 How burdensome is it to obtain all of these? (how much of your time/ total costs)

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6.7 What changes would improve the process?

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6.8 Would you be in favour of more stringent vetting? **Y / N**



6.9 Have you ever obtained a one-off temporary or event licence in addition to your pedlar's certificate? **Y / N**

6.10 How much would you be prepared to pay for such a licence £ \_\_\_\_\_

**7 Enforcement**

7.1 How many times per year are you approached by enforcement officers?

Police

Trading standards

Other (e.g.) Community wardens, community police

Total

7.2 How many of these occasions would you consider their action to represent a form of unfair treatment?

7.3 Please describe this unfair treatment

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7.4 Is there anyone to report harassment to? **Y / N**

7.5 Would you like there to be a representative body for pedlars? **Y / N**

7.6 How many times have you been prosecuted as a result of trading as a pedlar?

7.7 Why were you prosecuted?

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7.8 Were you found guilty? **Y / N**

7.9 How much was the fine?

7.10 What other penalties were applied?

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**8 Application/interpretation of the law**

8.1 How well informed do you think enforcement officers are?

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8.2 Have you personally found inconsistencies in interpretation of the law between different areas? **Y / N**

8.3 Have you personally found inconsistencies in interpretation of the law in the same area? **Y / N**

8.4 What differences have you found in officers interpreting the law?

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8.5 Have you come across other pedlars without a certificate or breaching standards of good trading? **Y / N**

8.5b How much are you affected by this?

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**9 Policy**

9.1 What do you think needs to be done to reduce illegal activity by street traders/pedlars?

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9.2 How would you be affected if national legislation prohibited you from trading in town centres?

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9.2b What proportion of your income would be lost?

	%
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9.3 Do you think the 1871 Pedlars Act is fit for purpose?

**Y / N**

9.4 What could be done to add clarity to the law?

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**10 Further contacts - do you know any other pedlars I can talk to?**

10.1 Name

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10.2 Phone/e-mail

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**11 Any further comments** *(Please use reverse if necessary)*

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## Appendix 4: Street trader questionnaire

### Introduction

The government is currently considering whether there is a case for making changes to the laws that apply to street traders and pedlars. During the summer research is being carried out to look at the evidence, with licensing and enforcement authorities, as well as interviews with street traders and pedlars.

### How will the information from this questionnaire be used?

- To build up a better understanding of street traders and their patterns of work (Sections 2-4)
- Information about interactions with the authorities – particularly those involved in enforcement (Sections 5 and 6).
- Your views on the law as it stands (Section 7) and on possible changes to the law.

### Completing the questionnaire

- Where we ask for numbers please give approximate estimates, rather than leave blanks.
- Some answer may not be relevant – please mark them 'N/A'.

Ideally we would prefer to conduct the interview directly – face-to-face or by telephone. But, if you would like to complete the questionnaire and post it to us please return it to:

Gordon Allinson  
St. Chad's College, 18 North Bailey, Durham, DH1 3RH  
[g.f.allinson@durham.ac.uk](mailto:g.f.allinson@durham.ac.uk)

For more information about the project itself please view the following web address:  
<http://www.berr.gov.uk/consumers/business/market-trading/page46738.html>

Or contact:

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[Roger.Dennison@berr.gsi.gov.uk](mailto:Roger.Dennison@berr.gsi.gov.uk)

### I Your contact details

Name:

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e-mail/phone:

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**2 About you**

2.1 Age

2.2 Gender M/ F

2.3 Education (*please tick*)

- No formal qualifications
- GCSE/O level equivalent
- A level equivalent
- Degree
- Postgraduate qualifications

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

2.4 How long have you worked as a street trader?

2.5 How did you get into street trading?

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2.6 Are you an employee of a company **Y / N**

2.7 (*Briefly*) What is your previous employment history?

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2.8 What goods/services do you sell?

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### 3 Scale of operations

#### 3.1 Days and times worked

	Hours
Monday	<input type="text"/>
Tuesday	<input type="text"/>
Wednesday	<input type="text"/>
Thursday	<input type="text"/>
Friday	<input type="text"/>
Saturday	<input type="text"/>
Sunday	<input type="text"/>

3.2 How long is your licence valid for?

3.3 Is your licence a fixed pitch OR  
Does it provide flexibility to move about?

3.4 How much do you pay for this licence?  £

3.5 Does it represent good value for money? **Y / N**

3.6 Please expand on your answer in 3.5

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3.7 Please list all your licences and permissions you have for street trading

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3.8 How burdensome is it to obtain these? (how much of your time/ total costs)

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3.9 Have you been given instructions about what you can and can't do with your licence? **Y / N**

3.10 What does your licence allow you to do (and not do)?

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**4 Trading conditions**

4.1 Do you trade in any other local authorities? **Y / N**

4.2 If yes, how many?

4.3 Do you trade near any markets? **Y / N**

4.4 Describe your relations with other types of traders – especially shops?

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**5 Enforcement**

5.1 How many times per year are you approached by enforcement officers?

Police

Trading standards

Other (e.g. Community wardens, community police)

Total


5.2 How many of these occasions would you consider their action to represent a form of unfair treatment?

5.3 Please describe this unfair treatment

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5.4 Is there anyone to report harassment to? **Y / N**

5.5 How many times have you been to court as a result of trading as a street trader?

5.6 Why were you taken to court?  
\_\_\_\_\_

5.7 Were you found guilty? **Y / N**

5.8 How much was the fine?

5.9 What other penalties were applied?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**6 Application/interpretation of the law**

6.1 How well informed do you think enforcement officers are?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6.2 Have you personally found inconsistencies in interpretation of the law in the same area? **Y / N**

6.3 What differences have you found in officers interpreting the law?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6.4 Have you come across other traders without appropriate licence or breaching standards of good trading? **Y / N**

6.4b How much are you affected by this?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**7 Policy**

7.1 Do you think anything needs to be done to reduce illegal activity by street traders/pedlars? **Y / N**

7.2 What action is appropriate to reduce this illegal trading?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7.3 Would you object to the local authority having tougher sanctions for illegal trading – i.e. seizure of goods? **Y / N**

**8 Further contacts - do you know any other street traders I can talk to?**

8.1 Name \_\_\_\_\_

8.2 Phone/e-mail \_\_\_\_\_

**9 Any further comments** *(Please use reverse if necessary)*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Glossary

Adoptive, adoption etc	Refers to those local authorities which have adopted the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, which provides the authority to designate streets and issue street trading licences and consents
ATCM	Association of Town Centre Managers
Chugger	'Charity mugger' – a pejorative term for those working for charities who solicit for direct debit details from passers-by. They are not covered by street-trading legislation.
Consent street	A street designated under the Local Government (Miscellaneous Provisions) Act 1982, where traders must apply to the local authority for a consent to trade
COSLA	Convention of Scottish Local Authorities, the representative voice of Scottish local government.
Designation	The process of determining which streets in a local authority area are prohibited, licence or consent streets.
FPN	Fixed Penalty Notice
Genuine pedlar	A trader acting lawfully under the conditions and specifications attached to a Pedlars Certificate, as laid out in the Pedlars Acts 1871 and 1881 and subsequent case law
Illegal street trader	A trader operating a fixed stall without holding a licence or consent from the relevant local authority or operates as a pedlar without holding a pedlars certificate. This category also includes genuine pedlars who, deliberately or inadvertently, breach the conditions of their certificate.
LGA	Local Government Association, a voluntary lobbying organisation, acting as the voice of the local government sector.
Licence street	A street designated under the Local Government (Miscellaneous Provisions) Act 1982, where traders must apply to the local authority for a licence to trade
Mean	The conventional 'average'. The arithmetic calculation of the sum of all the values, divided by the number of

	values.
Median	The middle number. If all the numbers are ranked from lowest to highest the median will be the value of the middle observation.
NABMA	National Association of British Market Authorities (representing market operators)
NMTF	National Market Traders Federation (representing traders, rather than operators of markets)
Parliamentary Agent	A firm which drafts private bills and conducts them through the House of Commons on behalf of the promoters of the bills, due to the complexities of the process. A 'Roll B' parliamentary agent is either a solicitor or a person holding a 'certificate of respectability' who is authorised by an individual or group of individuals to act on their behalf in depositing petitions against a bill.
Petitioning, petitioner	Persons or organisations that object to a bill may petition the House of Commons against it.
PNC	Police National Computer
Private Bill/Act	A bill promoted by organisations outside the House of Commons (in this report, mainly referring to local authorities) to obtain powers for themselves in excess of, or in conflict with, the general law. Once passed, a Private Bill becomes a Private Act.
Prohibited street	A street designated under the Local Government (Miscellaneous Provisions) Act 1982, where no street trading can take place
RES Act	The Regulatory Enforcement Sanctions Act.
Rogue pedlar	A trader who operates in the manner of a pedlar, but without holding a Pedlars Certificate. They can also be deemed illegal street traders.
Street trader	A trader lawfully operating a stall under the conditions and specifications laid out in a licence or consent issued by a local authority under the provisions of the Local Government (Miscellaneous Provisions) Act 1982, the Civic Governance (Scotland) Act 1982, or other local Acts covering street trading activities
WLGA	Welsh Local Government Association, which

represents the interests of local authorities in Wales.