

THE MAGISTRATES' ASSOCIATION
JUDICIAL POLICY & PRACTICE COMMITTEE

Response to consultation on Modernizing Street Trading and Pedlar Legislation

Annex A - Summary of Questions

Q1 *Do you agree that the definition is in need of updating and clarifying? If not, please provide your reasons.*

Yes

Q2 *Do you think anything should be taken out or added to the list and why?*

This says any poor individual must keep moving except when actually making a sale. Words need changing.

Q5 *In your view, will updating the certificate as described above make verification and identification of lawful pedlars easier for enforcement officers?*

A common certificate must be an advantage, but why should it cost more money if it is simpler?

Q7 *Do you think that a national database of pedlars' certificates will improve the current system of enforcement and certification?*

Q8 *Do you agree that the list of information to be held on the database is complete and correct? If not, please state what information you would remove/add and why.*

Q10 *Do you think the proposed criteria will offer greater clarity of what is expected of a pedlar in terms of their suitability to hold a certificate?*

Q12 *In your view, should responsibility for issuing pedlars' certificates be transferred from the police to local authorities?*

Yes to Qs 7, 8,10 & 12. In relation to Q12 other similar activities are managed by Local Authorities this seems to fit with them.

Q13 *Do you think that clear terms for refusal of applications in the legislation, coupled with a right of appeal, are sufficient safeguards to ensure a fair and non-discriminatory certification regime? If not, what alternative or additional safeguards do you think are required?*

Right of Appeal should be heard in a Magistrates' Court as for Licensing disagreements

Enforcement

Q18 *Which of the above options do you favour?*

Option D

Q19 *Should Local Authority Enforcement Officers be given powers to:*

- i) issue fixed penalty notices*
- ii) seize goods, with forfeiture by order of the Court?*

Yes. However, there must be further sanctions for repeat offenders via the court with the maximum fine of £1000 as now.

Q28 *Should street trading appeals in London be determined by the Magistrates' Court or the Secretary of State? Please give reasons for your answer.*

Yes to be consistent nationally.

Q33 *If you have any other comments or observations, in particular any information on possible costs relating to the options (see Impact Assessment), we are happy to receive them as well.*

Para 83 describes the consideration of revoking the Pedlars Act remove any requirement for certificates and allow pedlars to trade only within local restrictions. In recent times there has been a significant increase in rogue traders operating in many areas. Removal of such controls as described would send the wrong messages to both the public and those committing offences even though they might not come under the definition of "pedlar".

8 February 2010