

## **REGULATION OF "POLLSTERS" (Min 133(5)/00)**

### **1       SUMMARY**

- 1.1    This report advises Members that the Council has no powers to regulate the activity of "pollsters", persons speaking to members of the public in the street trying to arrange an appointment for a salesperson to make a home visit.
- 1.2    In addition, the Police do not have any power to regulate this activity, providing the "pollster" does not commit a public order offence.

### **2       INTRODUCTION**

- 2.1    Councillor V H Leach made the following Notice of Motion to the meeting of the Council on 18 April 2000 requesting this report.

"Given the increase in companies employing "pollsters" to secure appointments with a specific aim of securing sales of double glazing, kitchens and other products and services to our residents, could Officers bring a report to the appropriate Committee determining the best way to regulate this activity which could be seen as street trading".

- 2.2    This Motion was referred to this Committee.

### **3       STREET TRADING**

- 3.1    Rochford District has adopted the provisions of Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 to regulate street trading, which is defined as the selling or exposing or offering for sale of any article (including a living thing) in a street, subject to a list of exemptions eg. trading as a news vendor.
- 3.2    Southend Council use the provisions of Section 11 of the Essex Act 1987 to regulate street trading, which requires consent for hawking, selling or offering or exposing anything for sale in a designated road. The legislation only allows this power or Schedule 4 to be used.
- 3.3    The Head of Legal Services has confirmed that the activity of "pollsters" is not street trading under either Act because it does not involve a sale or offer for sale at the time that they speak to a member of the public. The "pollsters" job is not to sell something; they are trying to make an appointment for a possible future sale in a person's home.
- 3.4    The Head of Legal Services has also confirmed that there are no Model ByeLaws that would address this situation.

**4      PAVEMENT PERMISSION**

- 4.1    Rochford District has adopted the provisions of the Highways Act 1980 to grant permission to use objects or structures on the highway.
- 4.2    Pavement Permission would, therefore, be required if the "pollsters" operated from a table and chair positioned on the highway, instead of just using a clipboard.
- 4.3    However, District Councils do not have power to prosecute if a person requires a Pavement Permission but continues to operate without one. Only the Highways Authority may prosecute in such cases.

**5.     ESSEX POLICE'S COMMENTS**

- 5.1    Essex Police have advised that they have no powers to regulate this activity, providing the "pollster" does not commit a public order offence by being threatening, abusive or rude, or cause wilful obstruction.

**6      PARISH IMPLICATIONS**

- 6.1    "Pollsters" may operate in busy shopping areas.
- 6.2    Members may wish to consider the benefit of greater public awareness that the activity of "pollsters" is not unlawful providing they do not create a public order offence, which should be reported to the police. This may however encourage more "pollsters" to the area, and therefore an item in Rochford Matters is not recommended.

**7      RECOMMENDATION**

It is proposed that the Committee **RESOLVES**

To note the contents of this report.(HHHCC)

G P Woolhouse

Head of Housing, Health and Community Care

---

For further information please contact Rob Peacey on (01702) 318053