

Agenda item	6
Report no	HLC/079/18

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 4 December 2018

Report title: Amendment to second hand dealer's and second hand vehicle dealer's standard conditions of licence

Report by: The Principal Solicitor – Regulatory Services

Purpose/Executive Summary

This Report relates to the Council's standard conditions to which all second hand dealer and second hand dealer vehicle licences are subject. A minor modification to these conditions is recommended to allow the mandatory records which dealers require to keep to be kept electronically instead of in bound books.

Recommendation

Members are asked to agree

- (a) the modification to standard conditions proposed in the Report,
- (b) that the standard conditions as so modified will be applied to all future new or renewal applications for second hand dealer's and second hand vehicle dealer's licences, and
- (c) that delegated power be granted to the Principal Solicitor and the Solicitor, Regulatory Services, subject to there being no objection or adverse representation from Police Scotland, to vary existing licences to include the standard conditions as so modified in the event that existing licence holders should so request in writing.

1. Background

- 1.1** Second hand dealing is an activity which the Council has resolved to licence under the Civic Government (Scotland) Act 1982 (the "Act").
- 1.2** Where a licensing authority has resolved to licence second hand dealing activities (which may include second hand vehicle dealing), the Act allows the authority to attach conditions to these types of licence requiring the keeping of records in relation to the dealer's stock-in-trade. Such conditions may also stipulate the information to be included in these records, their form, where they are to be kept and the period for which they are to be kept.
- 1.3** The Council has adopted standard conditions requiring second hand dealers and second hand vehicle dealers to keep records in relation to their stock-in-trade. In both cases, these conditions require that records of details of all items or vehicles bought and sold be kept in the form of a properly bound book with consecutively numbered pages, or in another form approved by the Council, and that each item purchased by the licence holder be numbered.
- 1.4** Record keeping conditions also apply to metal dealer licences. Metal dealing is one of the activities for which licensing is mandatory under the Act. The record keeping conditions applies as a requirement of the Act and not simply at the discretion of licensing authorities. However, the metal dealer licensing legislation allows the required records to be kept "by means of a device for storing and processing information" as an alternative to bound books with serially numbered pages. Computerised record keeping by metal dealers is accordingly permitted, albeit that where a computer is used for storing and processing records, the dealer must also keep particulars of all modifications made in the computerised records.
- 1.5** By analogy, it seems reasonable that, in the case of second hand dealers and vehicle dealers, computerised record keeping should be allowed on similar terms, as an alternative to record keeping in bound books. It is accordingly recommended that the relevant standard conditions for second hand dealer and second hand vehicle dealer licences be permanently modified to this effect.
- 1.6** A separate report later in the agenda for this meeting of the Licensing Committee deals with a specific application for a second hand dealer's licence in which the applicant has requested variation of the standard condition to allow them to keep computerised records in lieu of bound books. That application has required to be brought to the Committee because of this specific request. No delegated power exists to grant such a request at this time. If, however, the Committee is minded to modify the standard condition as recommended, applicants for new or renewed licences will not require to make such a specific request as the modified conditions will be applied automatically when the licence is granted.
- 1.7** It is, however, also recommended that the Committee grant delegated power to the Principal Solicitor and the Solicitor, Regulatory Services, subject to there being no objection or adverse representation from Police Scotland, to grant applications from existing licence holders that their licence conditions be varied to include these modified standard conditions. This will avoid the need for such

variation applications to be brought before the Committee, unless there is any Police objection or adverse representation in relation to the grant of the variation application.

2. Policies

2.1 The following policies are relevant to this Report:

2.2 Standard second hand dealer's licence conditions and second hand dealer's vehicle licence conditions. A copy of these can accessed at

https://www.highland.gov.uk/downloads/file/3443/second_hand_dealers_conditions_of_licence

https://www.highland.gov.uk/downloads/file/3448/second_hand_vehicle_dealer_conditions_of_licence

or a hard copy can be supplied where requested.

3. Implications

3.1 Not applicable.

Date: 21 November 2018

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Background Papers: Civic Government (Scotland) Act 1982