

Regulatory Committee

2.00pm, Monday, 17 November 2014

Second Hand Dealers: Update of Standard Conditions

Item number	6.4
Report number	
Executive/routine	Executive
Wards	City Wide

Executive summary

The Civic Government (Scotland) Act 1982, as amended, permits the licensing authority to determine its own sets of conditions to which licences granted by the authority are to be subject. These conditions are referred to as the “standard conditions”. One of these licence categories is Second Hand Dealer.

Following consultation with the Police, Trading Standards and Legal Services, amendments to the current conditions have been proposed.

The draft amended conditions cover all second hand dealers, including those dealing in clothing and textiles.

Links

Coalition pledges P28

Council outcomes CO26

Single Outcome Agreement SO1

Second Hand Dealer: Update of Standard Conditions

Recommendations

It is recommended that the Regulatory Committee:

- 1.1 agrees in principle the amended conditions, which update the standard conditions in relation to second hand dealers; and
- 1.2 instructs the Director of Services for Communities to engage in further consultation with licence holders and other stakeholders on these draft conditions, and thereafter to report back to Committee in six months.

Background

- 2.1 The conditions attached to licences granted and renewed by the Council as the licensing authority are governed by the Civic Government Scotland Act (CGSA), as amended by the Criminal Justice and Licensing (Scotland) Act 2010. The 2010 Act introduced the concept of “mandatory” and “standard” licence conditions. Mandatory conditions are those which Scottish Ministers may make by statutory instrument. The Scottish Ministers have not yet issued any pertaining mandatory conditions. Standard conditions are determined by the licensing authority. To have proper effect, standard conditions should be published. Publishing the conditions on the Council’s website meets this requirement.
- 2.2 In the event of the Scottish Ministers issuing sets of mandatory conditions which have an impact on the Council’s duly identified standard conditions, the Council’s conditions will be required to be reviewed to ensure that there is no inconsistency.
- 2.3 In granting or renewing a licence, the Council may disapply or vary any standard conditions which apply to the licence and/ or impose additional conditions. In other words, the standard conditions will apply in the event of the grant of licence unless the Council expressly decides otherwise.
- 2.4 Changes to the standard conditions for second hand dealers were last agreed by the Regulatory Committee at its meeting of 9 March 2012. This change was restricted to clothing and textile goods.

Main report

- 3.1 The current standard conditions for second hand dealers are attached at Appendix 2. This report proposes a number of changes, with the aim of

modernising and clarifying Standard Licence Conditions for Second Hand Dealers. These proposed changes are attached at Appendix 1.

3.2 The proposed amendments are summarised in the following paragraphs.

Record Keeping

3.3 Many dealers have sought and been granted an exemption to the licence condition requiring records to be kept in a “properly bound book with consecutively numbered pages”. Many now keep such records electronically in the form of a spreadsheet or similar. Police Scotland is content with this approach, and reports that the standard of electronic record keeping and general co-operation in Edinburgh is extremely good. It is suggested that, if kept electronically, records should be saved to a back up at least weekly in order that any loss of records due to technical fault is controlled.

3.4 It is proposed that the details of records to be kept are varied depending on the type of goods traded, with three identified categories:

- Motor Vehicles
- Clothing and Textiles
- All other goods

3.4 The wording of the details required for motor vehicles has been amended to address confusion over the details required concerning acquisition and disposal.

3.5 The conditions for second hand sales of clothing and textiles were last updated in April 2012 and those amended conditions are included within the draft Standard Conditions for Second Hand Dealers.

3.6 It is suggested that ‘Price Paid’ be added to the records required for each category. It is suggested by Police Scotland that this would assist its monitoring of the records for any suspicious transactions.

3.7 The Standard Conditions require that, as well as a full description of the goods at the time of purchase, a further description of the articles at the time of sale be recorded. This is no longer considered necessary as neither the Police or Trading Standards Officers make use of the information. Therefore it is recommended that it be removed as there is no justification for imposing that condition.

3.8 The current Standard Condition requiring a record to be kept of the name and address of the purchaser of goods is an onerous one. It is proposed to limit this requirement to transactions involving goods valued at £50 or more.

Proof of Identity

3.9 Police Scotland routinely request that further conditions be attached to the Council’s Standard Conditions, to require that the dealer verifies the identity of those selling goods. This verification currently requires two forms of identification, one photographic, and another such as a utility bill not more than six weeks old. Police Scotland states that these conditions are routinely

accepted, but the process currently requires consideration of each licence application. Police Scotland proposes amending these conditions to requiring photographic identification, where available, and utility bills not more than three months old. If adopted within the Standard Conditions this would negate the Police seeking amended conditions and streamline the workload of the Committee. Any applicant who has a concern could seek an exemption.

Disposal of Goods

- 3.10 The CGSA prohibits the disposal of acquired goods for a period of 48 hours. This is intended to aid the tracing and recovery of stolen goods. For electronic goods such as smart phones, laptop and tablet computers, when their memories are wiped or reformatted they effectively lose their identity and may not be identifiable if stolen goods. It is proposed to specifically prohibit the reformatting, reprogramming or change in any way such electrical goods within the stipulated 48 hour period.

Other Issues

- 3.11 It is proposed that the Licensee's records must be made available, not just to a Police Constable, but to other authorised Police staff and duly authorised council officers.
- 3.12 It is proposed to replace reference to the Shops and Railway Premises Act with reference to the Workplace (Health, Safety, and Welfare) Regulations as the current statutory equivalent.

Measures of success

- 4.1 New standard licence conditions for second hand dealers agreed and implemented, subject to successful consultation exercise. The conditions are proportionate and do not impose undue burdens on licenceholders.
- 4.2 Licensing service improved and modernised.

Financial impact

- 5.1 There is unlikely to be any financial impact as a result of these changes. Licensing fees are unaffected. The standard conditions are not so substantially changed as to have a significant impact on the number of applicants likely to seek a second hand dealers licence.

Risk, policy, compliance and governance impact

- 6.1 Updated standard conditions will assist in improving and modernising the licensing service.

Equalities impact

- 7.1 The contents, analysis and recommendations neither contribute to, nor detract from, the delivery of the three Public Sector Equality Duties.

- 7.2 The contents, analysis and recommendations described in the report do not deliver any outcomes relating to the ten areas of rights, nor do they enhance or infringe upon them.

Sustainability impact

- 8.1 The need to build resilience to climate change impacts is not relevant to the proposals in this report because the proposals are neither positively nor negatively affected by climate change. The issues identified will have no impact as relating to the Climate Change (Scotland) Act 2009.
- 8.2 Social justice is not considered to have an impact on the proposals in this report, because the proposals do not change social conditions.

Consultation and engagement

- 9.1 It is a legislative requirement that consultation take place with licence holders, as the new standard conditions will be imposed on each licence unless specially exempted by committee.

Background reading/external references

[Regulatory Committee Report, 9 March 2012 Second Hand Dealers in Clothing and Textiles](#)

John Bury

Acting Director of Services for Communities

Contact: Name, Susan Mooney

E-mail: susan.mooney@edinburgh.gov.uk Tel: 0131 529 7587

Contact: Name, Andrew Mitchell

E-mail: andrew.mitchell@edinburgh.gov.uk Tel: 0131 469 5822

Links

Coalition pledges	P28 – Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city
Council outcomes	CO26 – The Council engages with stakeholders and works in partnership to improve services and deliver on agreed objectives
Single Outcome Agreement	SO1 – Edinburgh's economy delivers increased investment, jobs and opportunities for all
Appendices	Appendix 1 Draft Standard Conditions for Second Hand Dealers Appendix 2 Existing Standard Conditions – Second Hand Dealers (Includes Additional Standard Conditions for Clothing etc.

Appendix 1 – Draft amended conditions

Standard Licence Conditions for Second Hand Dealers

1. A record of each transaction must be maintained.
2. These records must either be kept electronically or in a properly bound book with consecutively numbered pages. If kept electronically the records should be saved to back up drive at least weekly. A suitable book may be purchased from the Council and must be paid for in addition to the Licence Fee.

3. The Records must be kept on the premises at all times.

4. Records must be retained and available for inspection for at least two years.

5. The details to be recorded vary depending upon the type of goods being traded;

a) Second Hand Motor Vehicles;

- Date and time of acquisition of vehicle
- Colour, make and model of vehicle
- Engine, chassis and registration numbers
- Name and full address of person from whom purchased
- Name and full address of person the vehicle sold to
- Odometer reading on purchase and sale.

b) Clothing and Textiles

- A unique transaction number which links each item or a collection of items to the seller
- Date and time of purchase
- Name and full address of the seller
- The price paid
- An indication of the method of disposal of the items
- Where items are disposed of other than by means of retail sale the dealer shall record the name and address of the person acquiring the items.

c) All other goods

- Date and time of purchase
- Full description of each article
- The price paid
- The name and full address of the person from whom purchased
- Date and time of sale
- Name and full address of person the goods are sold to (only applicable to goods sold for over £50).

6. The name and address of the seller of goods must be verified by two acceptable forms of identification, one of which should be photographic where available.

Acceptable forms of identification are utility bills not more than three months old and official photographic identification such as passport, driving licence or PASS card.

7. As stipulated by the Civic Government (Scotland) Act 1982, no items shall be disposed of for at least 48 hours after acquisition, excluding Saturday and Sunday

unless specifically exempted. For clothing and textiles, items must be traceable to the seller using the unique transaction number for the 48 hour period. Electrical goods must not be reformatted, reprogrammed or changed in any way within the 48 hour period.

8. The Licensee shall not dispose of goods to, or acquire goods from, any person less than sixteen years of age, whether such person is acting on his own behalf or on behalf of another person. This condition shall not apply to the disposal of any video game or similar where the price paid is less than £25 per item. (N.B. Video game does not include any reference to the games console).

9. No goods or vehicles shall be stored or displayed outwith the licensed premises.

10. All acoustic and amplified music and/or vocals shall be controlled to the satisfaction of the Director of Services for Communities.

11. In relation to premises for the sale of motor vehicles, any noise associated with the servicing, repair, testing or valeting of such vehicles shall be controlled so as not to cause annoyance to the satisfaction of the Director of Services for Communities.

12. No burning of materials shall be allowed on the premises.

13. No goods shall be received or taken in pledge.

14. No pawn ticket shall be received or taken for any article which has been pawned nor shall the Licensee negotiate in any manner with the holder of any such pawn ticket or his agent for the purchase of any article to which the pawn ticket refers.

15. The Licensee shall not acquire in the course of his business:—

(a) Any voucher, note or other document issued by or under the authority of any Public or Local Authority or any Charitable Institution by virtue of which a person may receive any assistance whatsoever; or

(b) Any article of clothing issued by or on behalf of any such public authority, institution or utility company and legibly marked as being so issued or known by the dealer to be so issued.

16. The Licensee shall not carry on business as a Second-Hand Dealer in any premises in which the business of a Pawnbroker is carried on or in any other premises having access to such premises.

17. The Licensee shall not keep or permit to be kept on his premises any smelting pot or implement for melting, altering or defacing gold, silver, lead or other metals.

18. The Licensee's records must be available for inspection by any Police Constable, other authorised Police staff or duly authorised council officer when the premises are open for business.

19. The Health and Safety at Work Act 1974 and the Workplace (Health, Safety and Welfare) Regulations 1992 shall be complied with.

20. Any conditions imposed by the Planning Authority shall be complied with.

Appendix 2 –Current Conditions

THE CITY OF EDINBURGH COUNCIL GENERAL LICENCE CONDITIONS — SECOND-HAND DEALERS

1. A record of all items bought and sold must be kept. The record must be in the form of a properly bound book with consecutively numbered pages and all articles must be numbered. The book must be kept on the premises at all times. A suitable book will be provided by the Council and must be paid for in addition to the Licence Fee.
2. Records must be preserved for at least two years.
3. Records must include the following details (except for dealers in second-hand motor vehicles in which connection see Condition 4):- Date and time of purchase; a full description of each article; the name and address of the seller; date and time of sale; a description of the articles at the time of the sale; and the name and address of the purchaser.
4. Dealers in second-hand motor vehicles shall keep a record book including the following details: - Date and time of purchase; colour; make and model of vehicle; engine; chassis and registration numbers; name and address of seller; odometer reading on purchase and sale; name and address of purchaser; and data and litre of sale.
5. Dealers in second-hand motor vehicles shall comply with the Scottish Motor Trade Association Code of Practice for the motor industry.
6. No pawn ticket shall be received or taken for any article which has been pawned nor shall the Licensee negotiate in any manner with the holder of any such pawn ticket or his agent for the purchase of any article to which the pawn ticket refers.
7. The Licensee shall not acquire in the course of his business:-
 - (a) Any voucher, note or other document issued by or under the authority of any Public or Local Authority or any Charitable Institution by virtue of which a person may receive any assistance whatsoever; or
 - (b) Any article of clothing issued by or on behalf of any such Authority or Institution and legibly marked as being so issued or known by the dealer to be so issued.
8. The Licensee shall not carry on business as a Second-Hand Dealer in any premises in which the business of a Pawnbroker is carried on or in any other premises having access to such premises.
9. The Licensee shall not dispose of goods to, or acquire goods from, any person who appears to be under sixteen years of age, whether such person is acting on his own behalf or on behalf of another person.
10. The Licensee shall not keep or permit to be kept on his premises any smelting pot or implement for melting, altering or defacing gold, silver, lead or other metals.

11. The Licensee's records must be available for inspection by any Police Constable when the premises are open for business.
12. Any amplified music and speech shall be controlled so as not to cause annoyance to the satisfaction of the Director of Environmental and Consumer Services or any authorised officer of the Council.
13. The Health and Safety at Work Act and the Offices, Shops and Railway Premises Act shall be complied with.
14. Any conditions imposed by the Planning and Development Committee shall be complied with.
15. No goods shall be stored or displayed outwith the premises.
16. No burning of materials shall be allowed on the premises.
17. In relation to premises for the sale of motor vehicles, any noise associated with the servicing, repair or testing of such vehicles shall be controlled so as not to cause annoyance to the satisfaction of the Director of Environmental and Consumer Services.

THE CITY OF EDINBURGH COUNCIL
STANDARD LICENCE CONDITIONS FOR SECOND HAND DEALERS - CLOTHING
ETC.

1. A record of each transaction must be maintained.
2. These records must be kept in a properly bound book with consecutively numbered pages
3. Each record must include the following details
 - Date and time of purchase.
 - Name and full address of the seller.
 - A unique transaction number which links each item or a collection of items to the seller.
 - The price paid.
 - An indication of the method of disposal of the items.
 - Where the items are disposed of other than by means of retail sale the dealer shall record the name and full address of the person acquiring the items
4. The book must be kept on the premises at all times.
5. Records must be retained and available for inspection for at least two years
6. The items must be traceable to the seller using the unique transaction number for the 48 hour period.
7. The Licensee shall not acquire in the course of his business any item of clothing issued by or on behalf of any Public Authority, Utility or Company and marked as being so issued or known by the dealer to be so issued. Provided that this requirement shall not apply when the item is obtained with the permission of said public authority, utility or company.
8. The Licensee shall not dispose of goods to, or acquire goods from, any person under sixteen years of age, whether such person is acting on his own behalf or on behalf of another person.
9. All amplified music and vocals shall be controlled to the satisfaction of the Director of Services for Communities.
10. No goods shall be stored or displayed out with the premises
11. No burning of materials shall be allowed on the premises