

REPORT TO: Licensing Sub-Committee

MEETING DATE: 11 September 2014

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Licensing of Window Cleaners & Second Hand Dealers

1 PURPOSE

- 1.1 To advise the Sub-Committee of the final confirmed conditions that shall apply to the licensing of window cleaners and second hand dealers.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee confirm the proposed licence conditions for window cleaners and second hand dealers which are outlined herein.

3 BACKGROUND

- 3.1 Following a request from Police Scotland and a subsequent public consultation process in late 2013, the Sub-Committee formally approved resolutions in respect of the licensing of window cleaners and Second hand dealers at their meeting on 12 December 2013.
- 3.2 Standard Conditions for the new licences were produced and these were approved by the Sub-Committee on 12 June 2014, subject to an alteration relative to a reference to instructions from police officers “in uniform” to simply read as a reference to police officers “in the course of their duties”. This alteration has been made.
- 3.3 At the meeting on 12 June, Police Scotland also suggested other possible conditions to be included with respect to Second Hand Dealers, relating to premises being equipped with CCTV cameras, and the obtaining of photographic proof of identity of customers. It was agreed that these suggestions would be considered in terms of their feasibility and the matter would be confirmed at the next meeting of the Committee.

- 3.4 It is now proposed that these suggestions are not adopted at this time. There is some doubt as to the practicality of enforcement of such conditions, and also regarding the licensing regime being used, in effect, to regulate private persons who happen to be customers of the licence-holder, rather than to regulate the licence-holders themselves. It is noted that such conditions are not widely found at present in the conditions imposed by other Authorities in respect of this activity. It is also noted that provisions similar to those suggested are being proposed in the current Air Weapons & Licensing (Scotland) Bill, relative to the licensing of metal dealers, which is currently going through the Scottish Parliament. It will presumably be some time before that Bill becomes legislation. It will be open for the Sub-Committee to reconsider the position regarding these licences once that Bill has been enacted. At the present time, however, it is proposed that the licence conditions do not contain provisions along the lines suggested by Police Scotland.
- 3.5 The amended conditions are attached hereto for confirmation. The Sub-Committee are reminded that the new licences for these two activities shall come into effect on 15 September 2014. The fee structure was approved at the meeting on 12 June. Application forms and guidance material have been prepared in anticipation of this date and the new licences becoming live. A Press release has also been prepared alerting the public to these new licences coming into effect.

4 POLICY IMPLICATIONS

- 4.1 None. The Council as Licensing Authority have the statutory power to resolve to licence any activity listed in the 1982 Act as an “optional” activity. The proposals herein are in implement of the resolutions to licence these activities.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the well being of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial- The new licensed activities will create new licence fee income streams for the Council on the foregoing basis.
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Letter from Police Scotland dated 30 May 2013
- 7.2 Civic Government (Scotland) Act 1982
- 7.3 Report to Licensing Sub-Committee dated 13.6.13, 10.10.13, 12.12.13 & 12.6.14

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CIVIC GOVERNMENT (SCOTLAND) ACT 1982, SECTION 43

WINDOW CLEANERS LICENCE

CONDITIONS OF LICENCE

- (1) The licence holder shall at all times while engaged in the business of window cleaning wear or otherwise display on his/her person the identity card issued by the Council in connection with his/her licence. Said identity card must not be altered, erased or defaced in any way and must remain clean and legible at all times. Should the card become defaced or illegible, or require to be replaced for any other reason, the licence holder shall obtain a replacement from the Council on payment of the appropriate fee. The licence holder shall report immediately to the Council the theft or loss of the said identity card.
- (2) The license holder shall not lend or allow any person to use his/her licence or identity card.
- (3) The licence holder shall notify the Council as soon as reasonably practical of any material change of circumstances that affects the information supplied on his/her application form. Such material circumstances shall include but not be limited to changes in residential address, employment status, and conviction of any criminal offence.
- (4) Notification to the Council in terms of any condition of this licence shall be submitted in writing to Licensing, East Lothian Council, John Muir House, Brewery Park, Haddington, East Lothian, EH41 3HA and/or by email to licensing@eastlothian.gov.uk.
- (5) If a licence has been granted to a licence holder on receipt of a cheque that is subsequently dishonoured, the licence shall be void as from the date when it was granted. The licence holder shall in such circumstances return the licence and identity card to the Council within 48 hours of receipt of notification to that effect.
- (6) The licence holder shall produce his/her licence within 5 days of being requested to do so by an authorised officer of the Council or of Police Scotland. The licence holder shall produce on demand his/her identity card to an authorised officer of the Council or of Police Scotland.
- (7) The licence holder shall comply with any order or instruction given a Police Officer in exercise of their duties for the prevention of obstruction or annoyance to the public or to the occupiers of any premises or in connection with any emergency or disturbance or on any other occasion when such Officer in his/her discretion may consider it necessary to issue such order or instruction.
- (8) A licence holder, if trading as a window cleaner, shall not employ for the purposes of cleaning windows any person who does not hold a window cleaning licence, and shall keep a register showing the name, age and address of all licence holders

employed by them and shall on demand produce such register for inspection by an authorised officer of the Council or a Police officer.

- (9) The holder of a window cleaners licence must be over the age of 16 years.
- (10) The licence holder shall return his/her licence and identity card to the Council within seven days of ceasing to act as a window cleaner, of his/her licence expiring, or of his/her licence being suspended.
- (11) The Council may order suspension of this licence if, in its opinion, the licence holder is no longer a fit and proper person to be the holder of the licence, whether due to conviction of a criminal offence or to any other relevant cause, or if the carrying out of the activity to which the licence relates is causing undue public nuisance or is a threat to public order or safety.

CIVIC GOVERNMENT (SCOTLAND) ACT 1982, SECTION 24

SECOND HAND DEALERS LICENCE

CONDITIONS OF LICENCE

- (1) The licence holder shall at all times while engaged in the business of second hand dealing have with them their licence. If the business is being carried on from premises, the licence shall be clearly displayed within said premises. Said licence must not be altered, erased or defaced in any way and must remain clean and legible at all times.
- (2) The licence holder shall not lend or allow any other person to use his/her licence.
- (3) The licence holder shall notify the Council as soon as reasonably practical of any material change of circumstances that affects the information supplied in his/her application form. Such material circumstances shall include but not be limited to changes in residential address, employment status, the day to day running of the business, and conviction of any criminal offence.
- (4) Notification to the Council in terms of any condition of this licence shall be submitted in writing to Licensing, East Lothian Council, John Muir House, Brewery Park, Haddington, East Lothian, EH41 3HA and/or by email to licensing@eastlothian.gov.uk.
- (5) If a licence has been granted to a licence holder on receipt of a cheque that is subsequently dishonoured, the licence shall be void as from the date when it was granted. The licence holder shall in such circumstances return the licence to the Council within 48 hours of receipt of notification to that effect.
- (6) The licence holder shall produce his/her licence within 5 days of being requested to do so by an authorised officer of the Council or of Police Scotland.
- (7) The licence holder shall comply with any order or instruction given a Police Officer in exercise of their duties for the prevention of obstruction or annoyance to the public or to the occupiers of any premises or in connection with any emergency or disturbance or on any other occasion when such Officer in his/her discretion may consider it necessary to issue such order or instruction.
- (8) The licence holder shall not dispose of any stock in trade until the expiry of 48 hours (not including weekends) from the time of acquisition.
- (9) The licence holder shall not accept a pawn ticket issued by a pawnbroker for any article which has been pawned and shall not carry on business as a second hand dealer in any premises in which the business of a pawnbroker is carried on.
- (10) The licence holder shall store items purchased in the course of his/her business only on the business premises specified in the licence or in such other premises as may be approved by the Council.
- (11) The Licence holder shall comply with all fire precaution requirements to the satisfaction of the Fire Officer.

(12) The licence holder shall keep comprehensive records from the date of any transaction with a customer and retain such records for a period of three years from that date which records shall contain the following information:

- (a) Time and date of purchase of item
- (b) Name and address of person from whom purchased
- (c) Description of items including serial numbers etc
- (d) Price paid
- (e) Date of sale
- (f) Name and address of buyer

The licence holder shall make their records available for inspection at any reasonable time by an authorised officer of the Council or the Police.

(13) In the case of dealers in vehicles or motorcycles, the records shall additionally contain the following information:

- (a) the mileage recorded on the odometer at the time of purchase, which entry should be countersigned by the seller.
- (b) The mileage recorded on the odometer on the sale of the vehicle, which entry should be countersigned by the buyer.
- (c) The engine and chassis numbers and registration mark
- (d) A statement as to whether vehicle registration document V5 was completed
- (e) A statement as to whether the vehicle registration document was delivered to the purchaser.

(14) If the licence holder intends to display for sale/sell any vehicle to a member of the public he/she shall:

- (a) Carry out an inspection and prepare a full Used Vehicle Pre-Sales Inspection Report on the vehicle prior to it being displayed for sale/sold and make a copy of the said Report available for inspection by any prospective purchaser while the sales premises are open.
- (b) Display a Used Vehicle Pre-Sales Information Sheet, in a prominent position in the vehicle displayed for sale so that it is clearly visible, indicating that the vehicle has been inspected, that a full Inspection Report may be consulted in the office/showroom prior to sale and that the purchaser will receive a copy of the Inspection Report at the time of sale.
- (c) Complete all sections of the Inspection Report as appropriate and provide the purchaser with a copy of the Inspection Report, which should be signed by both the purchaser and the licence holder and dated, at the time of sale.
- (d) Retain one copy of the Inspection Report as part of his/her records for a period of three years from the date of sale.

(15) The licence holder shall not keep or permit to be kept on his premises any smelting pot or implement for smelting, altering or defacing gold, silver or other precious metals without the consent of the Council.

- (16) The licence holder shall not dispose of any goods or articles to, or acquire articles from, any person who appears to be under 16 years of age, whether such person is acting on his/her own behalf or on behalf of another person. It shall be the responsibility of the licence holder to seek proof of age of a customer in appropriate circumstances and keep a record of the proof provided.
- (17) The licence holder shall return his/her licence to the Council within seven days of ceasing to act as a second hand dealer, of his/her licence expiring, or of his/her licence being suspended.
- (18) The Council may order suspension of this licence if, in its opinion, the licence holder is no longer a fit and proper person to be the holder of the licence, whether due to conviction of a criminal offence or to any other relevant cause, or if the carrying out of the activity to which the licence relates is causing undue public nuisance or is a threat to public order or safety.