Agenda item	**7**
Report no	**HLC/174/25**

THE HIGHLAND COUNCIL

Committee: **THE HIGHLAND LICENSING COMMITTEE**

Date: **2 December 2025**

Report title: **Foreign conviction check policy**

Report by: **The Principal Solicitor – Regulatory Services**

1. Purpose/Executive summary

1.1 This report provides the Committee with proposed amendments to the Highland Council's foreign convictions check policy for licensing to ensure it remains compliant with the European Convention on Human Rights.

2. Recommendation

2.1 This Committee are invited to approve the proposed amendments to the foreign conviction check policy.

3. Background

3.1 Under the Civic Government (Scotland) Act 1982, Police Scotland are consulted on all civic licensing applications. The purpose of this is to allow Police Scotland to conduct a criminal record check to allow them to assess whether, in their view, the applicant is a fit and proper person to hold a licence.

3.2 Police Scotland do not have the power to check whether any applicants have committed any offences outside of the UK. Accordingly, the Highland Licensing Committee have a policy which requires any applicants who were either born outwith the UK or have lived outwith the UK for a period of 6 months or more to provide a criminal record check from their country of origin, or any other country that they have resided in for a period of 6 months or more.

3.3 In 2018, the Equality and Human Rights Commission (EHRC) raised concerns with another Scottish local authority regarding the lawfulness of policies requiring a foreign conviction check which adhere to these timescales. It was their view that this may be considered discriminatory on the basis of race and contrary to the Equality Act 2010.

3.4 Officers have reviewed the Highland Licensing Committee's foreign conviction check policy in light of the views of the EHRC and have made the changes which can be seen in appendix one. The changes are:

3.5

- Extending the period for which a person can reside outwith the UK without having to provide a foreign conviction check from six months to twelve months;
- Only requiring a foreign convictions check for UK born applicants if they have lived outwith the UK for the qualifying period in the last ten years;
- Clarifying that if the applicant is unable to obtain foreign convictions check, that they can request that alternative evidence of their status is accepted, or provide valid reasons why it is not possible to obtain such a check.

3.6 The effect of these changes is that they ensure that there is a proportionate balance between the requirements of the Highland Licensing Committee to ensure that all civic licence holders are fit and proper persons, while ensuring that there is not an unnecessary barrier to application for those who have been born outwith the UK, or lived outwith the UK in the distant past.

3.7 If members agree to the changes, the new policy will come into effect from 1 January 2026.

4. Consultation with Police Scotland

4.1 Police Scotland have been consulted regarding the proposed changes and have no comments regarding the proposed changes.

5. Determining issues

5.1 It must be determined whether members are minded to amend the foreign conviction policy as proposed. In considering this, members must weigh up the requirements of the Committee to assess whether each applicant is a fit and proper person, with the duties of

the Highland Council as a whole to uphold the Equality Act 2010 in light of the comments made by the EHRC.

6. Implications

6.1 An Integrated Impact Assessment screening exercise has been carried out and determined that that impact of the proposed changes would be largely neutral. It has been assessed that there would be a positive impact on the protected characteristic of race. Accordingly a full impact assessment is not required.

Date: 15 October

Author: Iain Meredith

Background Papers: Appendix 1 – Proposed amendments to The Highland Council Foreign Convictions Check

Foreign Convictions Check Policy

New applicants for taxi or private hire car drivers licence who were born our have been resident outside the UK for 12 months or more

For applicants seeking a new licence, and who were born or have been resident outside the UK for 12 months or more in the last 10 years, there must be produced with the application form documentation in relation to criminal record checks.

Applicants need to provide:

- Where any person who is named on the application form was born outwith the United Kingdom, a criminal record check must be provided from their country of origin. They must also provide a criminal record check from any other country in which they have been resident for 12 months or more.

- If they were born in the United Kingdom but have lived in any other country or countries for 12 months or more, they must provide a criminal record check from these countries.

In all cases, the criminal record check provided must have been obtained within the six months prior to submitting the application and must be verified by the relevant UK based Embassy/High Commission where obtained from authorities outwith the United Kingdom.

If an applicant was born outwith the United Kingdom, or lived outwith the United Kingdom for a period of 12 months but is unable to obtain a foreign conviction check, they can request that the licensing authority accept alternative evidence regarding their foreign convictions. The applicant should submit this request in writing along with evidence of any attempts that have been made to obtain a criminal record check from the country of origin, or evidence of why this is not possible.

The Principal Solicitor will determine whether alternative evidence can be accepted, and their decision will be final.