

REPORT TO	DATE OF MEETING
Cabinet	6th November 2013

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SUBJECT	PORTFOLIO	AUTHOR	ITEM
Scrap Metal Dealers Act 2013	Regeneration, Leisure and Healthy Communities	Niky Barrett	8

SUMMARY AND LINK TO CORPORATE PRIORITIES

Efficient, effective & exceptional council and Clean Green and Safe.

RECOMMENDATIONS

1. To Authorise the Licensing Act Committee and Director of Regeneration and Health Communities, to carry out the Authority's functions under the Scrap Metal Dealers Act 2013, in accordance with Appendix 1.
2. To delegate the responsibility for subsequent reviews of fees to the Director of Regeneration of Healthy Communities in conjunction with the appropriate Cabinet member.
3. To agree the necessary changes to the Constitution to reflect the recommendations above subject to confirmation by Council.
4. To agree that the period of time for representations to be made under the provisions of Schedule 1, paragraph 7 (6)(a), shall be 21 days in all cases.

DETAILS AND REASONING

- 1.1 The Scrap Metal Dealers Act 2013 (The Act) comes into effect on 1st October 2013 having received Royal Assent on 28th February 2013. The Commencement Order was then published on 1st August followed by the Home Office guidance on fees on 14th August.
- 1.2 The Act creates a new regulatory regime that replaces the Scrap Metal Dealers Act 1964 (the '64 Act) and Part 1 of the Vehicles (Crime) Act 2001 relating to Motor Salvage Operators.
- 1.3 It continues to give the primary regulatory powers to Local Authorities, but extends the previous registration scheme, to require a local Licensing Authority to grant a licence only where it is satisfied that the applicant is suitable to hold one. It also gives

the Licensing Authority the power to refuse or revoke a licence when it is not so satisfied.

- 1.4 This additional work is to be funded through licence fees which each Licensing Authority has the discretion to set, having had regard to any guidance issued by the Secretary of State with the approval of the Treasury
- 1.5 The Act revises the previous definitions of a scrap metal dealer and scrap metal to better reflect the current scrap metal industry and will incorporate motor salvage operators within its' control.

2. Summary of the provisions contained in the Act

- 2.1 The Act defines a 'scrap metal dealer' as "a person who is for the time being, carrying on business as a scrap metal dealer, whether or not authorised by a licence."
- 2.2 It also provides that scrap metal includes:
 - a) Any old, waste or discarded metal or metallic material and
 - b) Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last owner as having reached the end of its useful life.
- 2.3 Section 1 of the Act requires that all scrap metal dealers obtain a licence. Any person whose business falls within the definition of a scrap metal dealer, who fails to obtain a licence, would commit an offence, which on summary conviction will attract a maximum fine not exceeding level 5 on the standard scale.
- 2.4 Section 2 in conjunction with Schedule 1, sets out the two types of licence that will replace the existing registrations; a Site Licence and a Collector's Licence. Both types of licence will remain in force for 3 years from the date of issue although paragraph 1(4) of Schedule 1 to the Act, provides that the Secretary of State may alter the duration of the licence.
- 2.5 A Site Licence will be issued by the local authority in whose area the site is situated. Operators who have more than one site within a local authority area will only require one licence, but this must specify all the sites they operate within that area. Each site must have a named site manager. Once issued, a Site Licence authorises the operator to transport scrap metal to and from those sites from any area within England and Wales.
- 2.6 A Collector's Licence will be required for any scrap metal dealer who does not occupy a site but collects scrap metal within a local authority's area. Collector's Licences will be required from each authority in whose area the scrap metal dealer wishes to collect.
- 2.7 Section 3 of the Act requires that a local authority must be satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer before it grants a licence. Applicants will have to produce a basic disclosure certificate from the

Disclosure and Barring Service as part of the application process, which will be checked against the list of relevant offences.

- 2.8 In addition to offences which are recordable and therefore will show up on a basic disclosure certificate, the local authority will also have to consult the Environment Agency to ascertain if the applicant has been the subject of any relevant enforcement action.
- 2.9 Section 3 also allows the Licensing Authority to 'request the applicant provide such further information as the authority considers relevant'.
- 2.10 In South Ribble applicants will be required to complete an application form and a disclosure of convictions form. They will also be required to submit one endorsed passport-sized photograph of each person named on the application.
- 2.11 Scrap Metal Dealers who are registered under the '64 Act, with South Ribble Borough Council on the 30th September 2013 and who make an application for a licence under the Act in the transitional period, (between the 1st and 15th October 2013) will be required to provide a basic disclosure certificate that was issued by Disclosure Scotland no more than 3 months prior to the application being made. There are currently two scrap metal yards and eight itinerant scrap metal collectors registered with the Council and no motor salvage operators.
- 2.12 All applicants not previously registered with South Ribble, or those who fail to make their application within the transitional period, will be required to provide a basic disclosure certificate that was issued by Disclosure Scotland no more than 1 month prior to the application being made. This requirement mirrors that for personal licence holders under the Licensing Act 2003.
- 2.13 Where there are concerns about the applicants' suitability and Licensing Authority officers are minded to refuse to grant an application, Schedule 1, paragraph 7 requires them to serve a notice on the applicant setting out the grounds for such a refusal and giving the applicant a minimum of 14 days to make representations.
- 2.14 If within this 14 day period the applicant has indicated that they wish to make representations, but have not actually done so, the Licensing Authority must under paragraph 7, sub-paragraph 6 "allow a further reasonable period to make representation".
- 2.15 In South Ribble it is proposed this further period will be 21 days.
- 2.16 Section 3 also provides that where the licensee or site manager has been convicted of a relevant offence the Licensing Authority may include in the licence one or both of the following conditions.
 - a) That the dealer must not receive scrap metal except between 09:00 and 17:00 on any day;
 - b) That all scrap metal received must be kept in the form in which it is received for a specified period not exceeding 72 hours, beginning with the time when it is received.

These are the only conditions that may be attached to a Licence. Parliament's intention when drafting them was to address the potential for a) the receipting of scrap metal under cover of darkness at a time when local authority officers would not normally be working and b) to give authorities investigating crimes involving stolen metal at least 3 days to check among licensed scrap metal dealers to try to locate the stolen items.

- 2.17 Section 4 provides discretion for the Licensing Authority to revoke a licence in the following circumstances:
- If it is satisfied that the licensee does not carry on business at any of the sites identified in the licence;
 - if it is satisfied that the site manager named in the licence does not act as a site manager at any of the sites identified in the licence
 - If it satisfied that the licensee is no longer a suitable person to carry on business as a scrap metal dealer.
- 2.18 In addition if a licensee or site manager is convicted of a relevant offence during the life of the licence the Licensing Authority may vary the licence to include one or both of the conditions set out in 2.16 above.
- 2.19 Section 6 requires the Licensing Authority to supply any such information as requested to any other local authority; the Environment Agency; the Natural Resources Body for Wales and any Police force, including the British Transport Police.
- 2.20 Section 7 provides that in England the Environment Agency must maintain a publicly accessible register of all licences issued under the Act.
- 2.21 Section 8 places a duty on all applicants to notify the relevant Licensing Authority of any changes which materially affect the accuracy of their licence; if they cease trading as a scrap metal dealer; or if there is any change in the name in which they are trading under.
- 2.22 Section 9, in conjunction with Schedule 2 of the Act makes provisions for the closure of unlicensed sites by either the local Licensing Authority or the Police.
- 2.23 Section 10 requires holders of Site Licences to display their licence in a prominent, publically accessible area and holders of Collector's Licences, to display their licence on any vehicle that is being used in the course of the dealers business, in a manner which enables it to be easily read by a person outside the vehicle. Failure to comply with this section is an offence punishable on summary conviction with a maximum fine not exceeding level 3 on the standard scale.
- 2.24 Section 11 requires scrap metal dealers, site managers and any employee who has been designated by a dealer or site manager, to verify the full name and address of any person that they receive scrap metal from. It creates an offence of receiving scrap metal where the identity of the person has not been verified, along with an offence of giving a false name or address when delivering scrap metal to a dealer, both of which are punishable with a maximum fine not exceeding level 3 on the standard scale.

- 2.25 Section 12 prohibits the payment for scrap metal otherwise than by way of a non-transferable cheque or electronic transfer of funds. An offence under this section carries a maximum fine not exceeding level 5 on the standard scale.
- 2.26 Sections 13, 14 and 15 place legal requirements on all scrap metal dealers to keep comprehensive records in respect of all scrap metal they receive or dispose of for 3 years. These records must include a description of the scrap metal; the date and time received; details and proofs accepted, in respect of all persons they have received scrap metal from; details of any vehicles used to deliver scrap metal; copies of any cheques or receipts or particulars relating to electronic payments they have made for scrap metal and similar details covering the disposal of scrap metal in the course of the dealers business. An offence under these sections carries a maximum fine not exceeding level 5 on the standard scale.
- 2.27 Section 16 sets out the rights of a constable or local authority officer to enter and inspect licensed sites.

WIDER IMPLICATIONS

In the preparation of this report, consideration has been given to the impact of its proposals in all the areas listed below, and the table shows any implications in respect of each of these. The risk assessment which has been carried out forms part of the background papers to the report.

FINANCIAL	The fees for administering the Licensing scheme have been determined using anticipated costs. Actual costs will be monitored over the duration of the licences and future fees will be revised as appropriate.
LEGAL	The Licensing Authority is under a statutory duty to administer a Scrap Metal Dealers Licensing regime and failure to do so in accordance with legislation may invite challenge through the Courts.
RISK	The Licensing Authority is under a statutory duty to administer a Scrap Metal Dealers Licensing regime and failure to do so in accordance with legislation may invite challenge.
THE IMPACT ON EQUALITY	It is considered that there are no adverse impacts on equality issues arising from this report.

OTHER (see below)			
<i>Asset Management</i>	<i>Corporate Plans and Policies</i>	<i>Crime and Disorder</i>	<i>Efficiency Savings/Value for Money</i>
<i>Equality, Diversity and Community Cohesion</i>	<i>Freedom of Information/ Data Protection</i>	<i>Health and Safety</i>	<i>Health Inequalities</i>
<i>Human Rights Act 1998</i>	<i>Implementing Electronic Government</i>	<i>Staffing, Training and Development</i>	<i>Sustainability</i>

BACKGROUND DOCUMENTS

Risk Assessment

Delegation of powers to determine applications under the Scrap Metal Act 2013

- 1) A Licensing Sub Committee (consisting of 3 members) will determine all applications where:
 - The Director of Regeneration and Healthy Communities proposes to refuse to grant/renew a licence application made under Schedule 1 paragraph 2 or 3.
or
 - The Director of Regeneration and Healthy Communities proposes to revoke/vary a licence under section 4 of the Act.
AND
 - The Director of Regeneration and Health Communities has given the applicant or licensee a notice of these intentions, inviting them to make representations or inform the authority that they wish to do so, within 14 days.
 - *AND*
The applicant or licensee has made representations to the Licensing Authority within 14 days.
or
 - The applicant or licensee had indicated that they wished to make representations within the 14 day period and submitted them within the following 21 days.

- 2) The Director of Regeneration and Health Communities will determine all other applications.

Appendix 2

Fees for Applications made under the Scrap Metal Dealers Act 2013.

Having had regard to the guidance issued by the Home Office on 14th August 2013 and taking into account the anticipated costs of the following:

- Officer time required to process applications, consider the suitability of applicants, grant licences and provide information to other regulatory bodies in accordance with the Act.
- Ancillary costs, including stationery and ICT required to administer the new scrap metal dealers licensing regime.
- The cost of support services provided to the Licensing Unit by other parts of the Council e.g. Legal and Democratic Services, Finance and the customer contact centre.
- The costs associated with arranging and holding licensing sub-committee hearings to determine contested applications.
- The costs of compliance inspections for licensed dealers, including joint operations with other partner agencies.

It should be noted that following the recent *Hemming v Westminster* case, the ongoing costs of planned or reactive enforcement action, against unlicensed dealers has not been included in these calculations.

The fees as agreed under delegated decision No.721 are:

Grant / renewal of a Site Licence	£550
Grant / renewal of a Collector's Licence	£350
Variation to either a Site or a Collector's Licence	£90