

DECISION-MAKER:	LICENSING COMMITTEE		
	CABINET		
	COUNCIL		
SUBJECT:	SCRAP METAL DEALER LICENSING		
DATE OF DECISION:	26 SEPTEMBER 2013 (Licensing Committee)		
	15 OCTOBER 2013 (Cabinet)		
	20 NOVEMBER 2013 (Council)		
REPORT OF:	HEAD OF LEGAL, HR & DEMOCRATIC SERVICES		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY			
Not applicable			

BRIEF SUMMARY

The Scrap Metal Dealers Act 2013 introduces a new licensing scheme from 1 October 2013, replacing the previous simple registration requirements for scrap metal dealers and motor salvage operators.

Legal difficulties in the implementation by central government have resulted in a very tight timescale and the function being deemed to fall to the Cabinet pending anticipated changes to the Local Authorities (Functions and Responsibilities) Regulations 2000.

RECOMMENDATIONS:

Licensing Committee:

- (i.) To note the contents of this report;
- (ii.) To note the fees associated with the function determined under delegated powers by the Head of Legal, HR and Democratic Services;
- (iii.) The Committee recommends to Cabinet to delegate to the Head of Legal, HR and Democratic Services:
 - the administration and enforcement of the function and;
 - the power to request further information of applicants (paragraph 4, schedule 1);
 - to determine applications (including refusal), revoke licences or to impose conditions under section 3(8);
 - the power to issue or cancel a closure notice for unlicensed sites,

and, where appropriate, to apply for closure orders (schedule 2) and take such other action in this respect as may be required.

- (iv.) The Committee recommends to Council to delegate the function to the Licensing Committee, when the power to do so is available.

Cabinet:

- (i) To delegate to the Head of Legal, HR and Democratic Services:
- the administration and enforcement of the function and;
 - the power to request further information of applicants (paragraph 4, schedule 1);
 - to determine applications (including refusal), revoke licences or to impose conditions under section 3(8);
- the power to issue or cancel a closure notice for unlicensed sites, and, where appropriate, to apply for closure orders (schedule 2) and take such other action in this respect as may be required

Council:

- (i) To delegate the function to the Licensing Committee, when the power to do so is available.

REASONS FOR REPORT RECOMMENDATIONS

1. The legislation gives the Council new statutory licensing powers replacing existing registration powers with effect from 1 October 2013.
2. The Council is required to carry out the function, although, at the date of this report, it has not been made clear whether this will be an executive or non-executive function.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

3. Given the statutory nature of the function, there are no alternative options.

DETAIL (Including consultation carried out)

4. In recent years metal theft has been one of the fastest growing crimes in the UK. It affects communities, businesses and Councils themselves and a Local Government Association (LGA) survey shows that metal theft cost Councils over £5.25 million in 2010/2011.
5. Since 2011 a number of organisations including the Police, Councils and the Environment Agency through “Operation Tornado” have been successful in reducing the amount of metal theft in the UK. This led to the LGA along with other bodies pressing the Government to update the regulations relating to scrap metal dealers.
6. Scrap Metal is defined in the Act as “*any old, waste or discarded metal or metallic material or any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life. But gold, silver and any alloy of which 2 per cent or more by weight is attributable to gold or silver is not considered scrap metal*”.
7. The Scrap Metal Dealers Act 2013 comes into force from 1 October 2013 and repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime)

Act 2001 (motor salvage operators), replacing them with a new system of licensing to be administered by local authorities.

8. Significant differences between this and the previous scrap metal dealer and motor salvage operator functions are as follows:

- Licences, as opposed to registrations, with a consequent power to consider suitability of applicants
- Scrap metal dealer and motor salvage operators are now both regulated by the same legislation
- Requirement not to issue a licence unless the Council is satisfied as to the applicant's suitability and power to revoke a licence
- Power to impose licence conditions in case of conviction as to the times when scrap may be received and that scrap metal must be kept in its original form for a specified period following receipt
- Two categories of licence – sites and collectors
- No cash payments for scrap metal, although an exception remains for the purchase of vehicles in limited circumstances
- Power to give notice to close unauthorised sites
- Licences are for a three year period
- The holder of a licence can only hold one licence in each local authority's area, but may hold licences in multiple local authority areas. Thus the holder of a site licence in one area might hold a collector's licence in another.
- The legislation requires that an application for a licence is accompanied by a fee set by the local authority.
- Specific compliance and enforcement powers for the council and police

9. The following fees have been calculated in accordance with the legal requirements and recent Home Office guidance to ensure, so far as is possible, that the costs of administering the function and ensuring compliance by licence holders can be met.

Site licence - grant and renewal	£450.00
Site licence variation	£100.00
Collector's licence - grant and renewal	£300.00
Collector's licence variation	£100.00
Replacement licence	£25.00

10. These fees have been set by the Head of Legal, HR & Democratic Services under delegated powers after consultation with the Leader of the Council and will be reviewed on a periodic basis..

11. Under the scheme of delegation, it is proposed that the function be delegated to the Head of Legal, HR and Democratic Services, save that where it is proposed that an application should be refused, a licence revoked, or conditions imposed and the applicant or licence holder exercises their right to make representations, such hearings should be dealt with by the Licensing

(General) Sub-Committee, when the legal power to delegate the function to that sub-committee is available.

12. Determinations of applications will be subject to guidance by the Home Office, which had not been made available at the date writing this report.
13. Where an application is refused or a licence revoked, there will be a right of appeal to the Magistrates' Court against the decision.
14. Currently, because the government has yet to amend the Local Authorities (Functions and Responsibilities) Regulations 2000, the default responsibility for this function is with the Executive.
15. When these regulations have been amended, it is recommended that Council should delegate the function to the Licensing Committee as a non-executive matter.

RESOURCE IMPLICATIONS

Capital/Revenue

16. None, save that the proposed fees are intended to ensure that the costs of carrying out the function are met, in respect of administration and compliance, in their entirety.

Property/Other

17. It is anticipated that this function will be carried out within the Licensing Team within existing resource constraints.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

18. The Scrap Metal Dealer's Act 2013 comes into effect from 1 September 2013 in respect of setting fees, from 1 October 2013 in respect of the remainder of the legislation, save for the offences and powers of closure, which come into effect on 1 December 2013.
19. The Act imposes a duty on the Council to carry out the various functions it provides.

Other Legal Implications:

20. Section 17 of the Crime and Disorder Act 1998 requires that:
"Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can prevent crime and disorder in its area (including anti social behaviour and other behaviour adversely affecting the local environment) ..."
21. The licensing of scrap metal dealers clearly engages with this requirement and it is considered that the requirement will be met if the course of action indicated in this report is followed.

POLICY FRAMEWORK IMPLICATIONS

22. None.

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	Not applicable
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SUPPORTING DOCUMENTATION

Appendices

1.	None.
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Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	No
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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