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**REPORT TO:** COUNCIL

**DATE:** 5 SEPTEMBER 2013

**REPORT OF THE:** HEAD OF ENVIRONMENT,STREETSCENE,FACILITIES,ITC  
PHIL LONG

**TITLE OF REPORT:** SCRAP METAL DEALERS ACT 2013

**WARDS AFFECTED:** ALL

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 The Scrap Metal Dealers Act 2013 replaces existing legislation and brings new duties with respect to both licensing of scrap metal dealers and enforcement of the licensing regime alongside the police. In order to ensure effective and proportionate regulation it is recommended that delegated powers be given to the Licensing Committee in order that it can provide a more robust licensing regime and be allowed to approve proposed fees charged under that process.

### **2.0 RECOMMENDATION**

- 2.1 That Council is recommended to approve that the Council give delegated powers to the Licensing Committee to allow the implementation of the provisions contained within the Scrap Metal Dealers Act 2013 and to seek the approval of that Committee for proposed fees to be charged under that process.

### **3.0 REASON FOR RECOMMENDATION**

- 3.1 The Scrap Metal Dealers Act 2013 is new legislation and as such requires delegating to an appropriate Committee. The Licensing Committee are the appropriate Committee to discharge the Councils functions in relation to the Act both in relation to protocols and the setting of appropriate fees.

### **4.0 SIGNIFICANT RISKS**

- 4.1 The timescale between the issue of the LGA Guidance and commencement of the Act has provided a very tight timetable in which to progress implementation around the issues in section 6 of this report and the setting of fees.

### **5.0 POLICY CONTEXT AND CONSULTATION**

- 5.1 Implementation of the anticipated legislation identified in the Health and Environment Service Delivery Plan 2013/14. The legislation also contributes to the following

Council Plan 2013-17, Corporate Aims:

- Aim 2: To create the conditions for economic success
- Aim 3: to have a high quality, clean and sustainable environment
- Aim 5: To transform the Council.

5.2 Consultation was undertaken by the government during the transition of the Act. There is no requirement in either the Act or the LGA guidance to consult on the licence fee.

## **REPORT**

### **6.0 REPORT DETAILS**

#### **Introduction and background**

6.1 The Scrap Metal Dealers Act 2013 will be brought into force between 1 October and 1 December 2013 to better control the industry and to help tackle metal theft and the second hand metal market. The regime envisages that applications for site and collectors licences may be granted or refused by the council and that licences granted can be varied and revoked subject to a right to a hearing. The Act also creates a number of offences of failing to be licensed or breaching the terms of a licence to support the aims of the Act. There will also be a need to set an appropriate and proportionate fee structure

6.2 This report is to inform the Council of impending changes to the regulatory regime and the increased duties and powers this legislation by necessity involves.

#### **Key features of the Act**

6.3 The Scrap Metal Dealers Act 2013 contains additional provisions to raise standards in the industry, replacing the Scrap Metal Dealers Act 1964 and part of the Vehicle Crime Act 2001 that deals with motor salvage operators into a revised regulatory regime for scrap metal and motor salvage operators. The Act makes Councils responsible for the licensing and enforcement of the Act alongside the police.

6.4 The Act brings two types of licences, either a site licence or a collector's licence. A person can only hold one licence in a local authority area but can hold a licence in more than one local authority.

6.5 The majority of the provisions of the Act come into force on 1 October 2013. Scrap metal dealers and motor salvage operators registered before 1 October will be deemed to have a licence under the Act from 1 October. Provided the dealer submits an application for a licence on or before 15 October their deemed licence will last until the Council either issues them with a licence or gives them notice of the decision to refuse them a licence, although they will be able to continue trading pending an appeal against the decision not to grant a licence.

6.6 Under the Act the Local Authority remains as the principal regulator but is given the power to better regulate operators by permitting the refusal of licences to 'unsuitable' applicants and allowing the authority to revoke licences if the holder acts inappropriately.

6.7 Licences will be issued where the Authority is satisfied that the applicant is a suitable person to hold a licence. Where the Authority is not so satisfied there is a right to make verbal representations i.e. a licensing hearing. The licences last for 3 years and so there is a process for variation and revocation which is likewise subject to a hearing.

- 6.8 The Act provides that an application for a licence must be accompanied by a fee which can be set locally. However, the Council has a duty, having regard to guidance issued by the Secretary of State, to ensure the fee is set on a cost recovery basis.
- 6.9 The provisions in the Act are similar in nature to existing licensing processes which are delegated to the Licensing Committee. The Members of that Committee are experienced in applying such provisions and it seems sensible for the new licensing powers to be exercised by the Committee under delegated powers.
- 6.10 In addition, as the fees are set locally subject to a requirement that they are proportionate to the regulatory activity, it seems appropriate that the delegation should include the power to set the relevant fees. An exercise must be undertaken to determine the costs of the regime before officers can suggest suitable fees for approval.

## **7.0 IMPLICATIONS**

- 7.1 The following implications have been identified:
- a) Financial  
There will be financial implications as the new Act includes the imposition of fees for new permits. However, the Council has yet to propose such fees which will be dealt with in a more detailed report to the Licensing Committee in the event of the recommendation which are the subject of this report being approved.
  - b) Legal  
The Constitution requires amendment to specify the delegation of these functions so that they may be exercised lawfully.
  - c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)  
There are no significant issues around

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**Background Papers:**  
The Scrap Metal Dealers Act 2013  
LGA Guide to the Scrap Metal Dealers Act 2013

**Background Papers are available for inspection at:**  
Ryedale House  
<http://www.legislation.gov.uk/ukpga/2013/10/enacted>