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**PART A: MATTERS DEALT WITH UNDER DELEGATED POWERS**

**REPORT TO: LICENSING COMMITTEE**

**DATE: 19 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 To advise Members of the implications of the Scrap Metal Dealers Act 2013, and to set fees under its powers of delegation.

### **2.0 RECOMMENDATIONS**

- 2.1 It is recommended that:

(i) The discharge of the Council's functions in relation to the Scrap Metal Dealers Act 2013 is delegated to the Head of Environment, Streetscene, Facilities, ITC, with the exception of the setting of fees and the dealing with refusals, revocations and variations where representations have been received.

- (ii) The fees are set at the following levels:

<b>Application</b>	Site £300 Collector £160
<b>Variation</b>	Site £160 Collector £160
<b>Renewal</b>	Site £300 Collector £160
<b>Change of name and address</b>	£40
<b>Copy of licence</b>	£26

- (iii) Where applications are recommended for refusal, revocation or variation, and representations have been received they should be referred to the Licensing Sub Committee for decision and the Constitution is amended accordingly.

### **3.0 REASON FOR RECOMMENDATIONS**

- 3.1 The Act 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. A report was submitted to Council on 5 September 2013, requesting 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 approval for this Committee for the setting of fees.

### **4.0 SIGNIFICANT RISKS**

- 4.1 The time between the issue of the Home Office guidance and commencement of the Act has provided a tight timetable in which to progress implementation around the issues identified in section 7 of this report.

### **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.

## **REPORT**

### **6.0 REPORT DETAILS**

#### **Background**

- 6.1 The growth of metal theft offences highlighted the ineffectiveness of the registration scheme under the Scrap Metal Dealers Act 1964. 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 is also a need to set an appropriate and proportionate fee structure.

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

- 6.2 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.
- 6.3 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. A separate licence must be obtained from each local

authority in whose area the individual wishes to collect. The licence lasts for 3 years from the day on which it is issued.

- 6.4 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.
- 6.5 Upon receipt of an application the local authority may consult with any other local authority, the Environment Agency and the police. 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 representations and also to make verbal representations i.e. a licensing hearing. There is also a process for variation and revocation which it is recommended are likewise subject to a hearing.
- 6.6 The creation of a central public register, hosted by the Environment Agency, of all businesses and individuals licensed as scrap metal dealers. The registers are to be open for public inspection.
- 6.7 The Act places an obligation on scrap metal dealers to verify the identity of and full name and address of the metal supplier and keep copies of proof of identification. In addition the dealer must keep records of the type and description of the metal including weight and identifying marks, the date and time of receipt, the vehicle registration of any vehicle delivering the metal and copies of cheques or electronic transfer receipt used to pay for metal. Records must also be kept in relation to the disposal of metal. All records must be kept for 3 years. The Act also prohibits the payment of cash for metal. All payments should be by non-transferable cheque or an electronic transfer of funds.
- 6.8 Police officers and local authority officers have been given powers to inspect licensed premises and can require production of any scrap metal at the premises, inspect records kept and take copies of those records. The Act provides the police or local authority powers to issue closure notices to unlicensed scrap metal dealing premises and apply to a justice of the peace for a closure order.
- 6.9 An application must be accompanied by a fee set by the authority. The fee must be set on a cost recovery basis and local authorities when setting their fee are required to have regard to the guidance issued by the Secretary of State, which was issued on 12 August 2013.
- 6.10 The power to set fees has been passed to individual local authorities, so any fees levied must be determined by reference to the actual cost to each authority. The EU Services Directive states that a licence fee can only be used to pay for the cost associated with the licensing process and each local authority must ensure that the income from fees charges for each service does not exceed the cost of providing this service. Although the cost of compliance visits can be included, the cost of enforcement against unlicensed sites or collectors cannot be included in these fees.
- 6.11 The Act commences on 1 October 2013 and there will be a short transitional phase from one scheme to the other:
  - Those registered under the Scrap metal dealers Act 1964 and Vehicles (Crime) Act

will be treated as having a temporary licence on condition that they apply for a licence by 15 October 2013.

- Full licence from 1 December will allow seven weeks for local authorities to complete the application process and checks.
- Allows legitimate dealers to trade during the transitional period.
- Licence fee would be payable from 1 October.
- Licence application received from an unregistered scrap metal dealer – no temporary licence would apply.
- New enforcement provisions would come into effect on 1 December except the cashless provision that would take effect from 1 October.

## **Fees**

- 6.12 There are at present 10 scrap metal dealers registered with the Council and 3 motor salvage operators. There is no fee payable for registration under the Scrap Metal dealers Act 1964 and the current fee for a motor salvage operators licence is £80. Both are valid for 3 years.
- 6.13 The 2013 Act provides that a licence application must be accompanied by a fee set by the local authority. Local authorities are required to specify fees for each application category, these being the assessment of an application for a site or collectors licence, the assessment of an application to vary a licence and the assessment of an application for licence renewal. To achieve this local authorities are required to identify what they need to do to assess the type of licence in question and calculating their best estimate of the overall cost incurred. The authority will then be able to calculate a best estimate of unit cost for each case.
- 6.14 The fee structure will be reviewed in future years to ensure they remain at the correct level to cover the appropriate costs. Fees will be included in the Licensing Committees annual review of fees and charges.
- 6.15 Based on the Home Office guidance to local authorities regarding the costs of assessing, administering and determining applications made under the Scrap Metal Dealers Act 2013, Members are recommended to adopt the following fee structure for Licences. Based on the information available at the time, the recommended fees are at the lower end of those proposed by other authorities.

<b>Application</b>	Site £300
	Collector £160
<b>Variation</b>	Site £160
	Collector £160
<b>Renewal</b>	Site £300
	Collector £160
<b>Change of name and address</b>	£40
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Details of the calculations of the charges are available in Annex B  
Costs of variations and renewals are based on the same figures.

## **7.0 IMPLICATIONS**

- 7.1 The following implications have been identified:
- a) Financial  
The Act requires the Council to charge a licence fee, which must have regard to the guidance issued by the Secretary of State.

- b) Legal  
The fees must be set in accordance with the Home Office guidance and EU services Directive and be kept under review. Applications that are recommended for refusal, revocation or variation are recommended to be heard by a Licensing Sub Committee to allow representations to be heard.
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)  
There are no significant issues around this decision.

**Phil Long**  
**Head of Environment, Streetscene, facilities, ITC**

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**Background Papers:**

The Scrap Metal Dealers Act 2013

LGA - Guide to the Scrap Metal Dealers Act 2013 August 2013  
Home Office – Scrap Metal dealers Act 2013:guidance on licence fee charges  
<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

**Background Papers are available for inspection at:**

Ryedale House  
<http://www.legislation.gov.uk/ukpga/2013/10/enacted>