

**Decision Maker:** GENERAL PURPOSES AND LICENSING COMMITTEE

**Date:** Wednesday 25 September 2013

**Decision Type:** Non-Urgent Non-Executive Non-Key

**Title:** SCRAP METAL DEALERS ACT 2013

**Contact Officer:** Paul Lehane, Head of Food Safety, Occupational Safety and Licensing  
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**Chief Officer:** Nigel Davies, Executive Director of Environment & Community Services

**Ward:** (All Wards);

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1. Reason for report

To outline the provisions of this new Act and seek delegated authority for the Executive Director of Environment and Community Services.

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2. **RECOMMENDATION(S)**

**Members are asked to**

- 2.1 **Note that the Scrap Metal Dealers Act 2013 is being brought in to force between 1 October and 1 December 2013 and that the Council has a duty to enforce it.**
- 2.2 **Agree that Licensing Sub Committee retain authority to determine applications where refusal to grant a licence is being considered.**
- 2.3 **Agree that the Executive Director of Environment and Community Services be authorised as set out in this report**

## Corporate Policy

1. Policy Status: Not Applicable
  2. BBB Priority: Excellent Council Quality Environment Safer Bromley:
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## Financial

1. Cost of proposal: Not Applicable:
  2. Ongoing costs: Income of up to £3k per annum
  3. Budget head/performance centre: Public Protection & Community Safety
  4. Total current budget for this head: £3.5m
  5. Source of funding: Existing revenue budget 2013/14
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## Staff

1. Number of staff (current and additional): 59 fte
  2. If from existing staff resources, number of staff hours: N/A
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## Legal

1. Legal Requirement: Statutory Requirement
  2. Call-in: Not Applicable:
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): We anticipate issuing about 6 site licences and between 10-20 collectors licences. All residents and businesses should benefit from the provisions as they are designed to reduce the theft of metals
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

### 3. COMMENTARY

- 3.1 Theft of metal has had a significant impact on communities, businesses and councils over the last few years. A survey by the Local Government Association conducted in early 2012 showed that seven out of ten councils had been the victims of metal theft, and that this cost councils over £5.25 million in 2010/11.
- 3.2 The Local Government Association, along with a range of other bodies, pressed the government to reform the regulation of scrap metal dealers. The result was the Scrap Metal Dealers Act 2013, taken through Parliament by Richard Ottaway MP as a private members' bill.
- 3.3 The Scrap Metal Dealers Act 2013 replaces the previous registration system for scrap metal dealers created by the 1964 Scrap Metal Dealers Act. In its place it establishes a new licensing regime. This scheme will be run and administered by local authorities. Every scrap metal dealer will be required to have a licence, and operating without one will be a criminal offence. Under the new legislation the definition of scrap metal dealers is extended so it now includes motor salvage operators, and the provisions in the Vehicles (Crime) Act 2001 under which they operate will end once the new Act comes into effect.
- 3.4 The transition timeline is:
- The Commencement Order will be made in August 2013
  - This will allow local authorities to set a licence fee from 1 September.
  - The main provisions of the Act commence on 1 October including the offence of buying scrap metal for cash.
  - Dealers and motor salvage operators registered immediately 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.
  - Where a dealer submits an application on or before 15 October but does not supply all the required information with the application form then the deemed licence remains in effect after 15 October.
  - Where a dealer with a deemed licence fails to submit an application on or before 15 October the deemed licence will lapse on 16 October.
  - Other scrap metal dealers, not previously registered, will be able to apply for a licence from 1 October but will have to wait until a licence is granted before they can legally trade.
  - Local authorities will complete suitability checks on applicants and decide whether to issue licences. We recommend that decisions on whether to grant or refuse a licence to previously registered dealers are made before 1 December.
  - All other enforcement provisions within the Act commence on 1 December.

#### **Main Provisions of the Act**

- 3.5 In order for anyone to carry on business as a scrap metal dealer they have to have a licence. These licences will last for three years. Trading without a licence is a criminal offence and if convicted the offender can be fined.
- 3.6 There are two types of licence specified in the Act:
- **Site licence** All the sites where a licensee carries on business as a scrap metal dealer have to be identified, and a site manager has to be named for each site. This licence

allows the licensee to transport scrap metal to and from those sites from any local authority area.

- **Collector's licence** This allows the licensee to operate as a collector in the area of the issuing local authority. It does not allow the collector to operate in any other local authority area, so a separate licence has to be obtained from each council the collector wishes to operate in. The licence does not authorise the licensee to operate a site; to do so they will need a site licence from the relevant local authority.

3.7 It should be noted that a dealer can only hold one type of licence in any one local authority area. They have to decide whether they are going to have a site or a mobile licence in any one area. They cannot hold both a site and mobile collector's licence from the same council.

- The Environment Agency will maintain a national register of scrap metal dealers.
- A copy of the scrap metal licence must be displayed at the site and on collector's vehicles.
- Scrap metal dealers cannot buy scrap metal for cash.
- Dealers will have to keep records of metal purchased and sold.

### **Fees**

3.8 The Council can charge a fee for site licences and collectors licences. Fees will be submitted to the Public Protection and Community Safety Portfolio Holder for approval

### **Decision Making**

3.9 The Council will be required to grant licences for three year periods subject to being satisfied that the applicant is a suitable person.

3.10 If there is doubt about the applicants suitability a procedure is set out in the Act which allows the applicant to make written representations, but also to request to make oral representations and appear before a person appointed by the authority.

3.11 In all other areas of licensing dealt with by this Committee, Members have retained the authority to refuse licences, whilst delegating authority to grant licences to the Executive Director of Environment and Community. Members may wish to continue with that arrangement under the Scrap Metal Dealers Act 2013. If so all applications where there was doubt about the suitability of the application would be referred to a Licensing sub Committee where the applicant can make oral representations (in keeping with provisions of Schedule 1 paragraph 8).

3.12 If the applicant chooses not to exercise that right Members can determine the application based on any written representations obtained through the procedures set out in the Act in Schedule 1 paragraph 7.

### **Delegation of Authority**

3.13 The Council is under a duty to enforce the Act and issue licences. Day to day operation administration of the Act needs to be exercised by officers. Members are requested to approve that the Director of Environment and Community Services be authorised to undertake all necessary duties, but in particular to

- Grant licences for site and collectors licences where there is no prospect of refusal
- Impose conditions set out in section 4(9) where the applicant or site manager has relevant conditions.
- Revoke licences where the conditions set out in Section 4 apply, these are :-

- The authority may revoke a scrap metal licence if it is satisfied that the licensee does not carry on business at any of the sites identified in the licence.
  - The authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.
  - The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer.
  - If the licensee or any site manager named in a licence is convicted of a relevant offence, the authority may vary the licence by adding one or both of the conditions set out in section 3(8).
  - A revocation or variation under this section comes into effect when no appeal under paragraph 9 of Schedule 1 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- Exercise the right to enter and inspect licenced sites,
  - Apply to the Magistrates court for a warrant to enter.
  - Close unlicensed sites (Schedule 2).

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The Council can set a fee for licence applications and renewals to recover the cost of the administration. The proposed fees will be submitted to the Public Protection and Community Safety Portfolio Holder for approval.
- 4.2 It is expected that income of up to £3k per annum could be received depending on the number of applications, to cover administration costs.

#### **5. LEGAL IMPLICATIONS**

- 5.1 The Council is under a duty to enforce the provisions of the Act

<b>Non-Applicable Sections:</b>	Policy and Personnel Implications
Background Documents: (Access via Contact Officer)	Scrap Metal Dealers Act 2013. Local Government Association guidance on the Scrap Metal Dealers Act 2013.