

CAMBRIDGE CITY COUNCIL

REPORT OF: Jas Lally
Head of Refuse and Environment

TO: Environment Scrutiny Committee 8/10/2013

WARDS: All

IMPLEMENTATION OF THE SCRAP METAL DEALERS ACT 2013

1 Executive Summary

- 1.1 The Scrap Metal Dealers Act 2013 replaces the Scrap Metal Dealers Act 1964 and Part 1 of Vehicles (Crime) Act 2001 and introduces a new licensing regime for scrap metal and vehicle dismantling industries.
- 1.2 The City Council will have powers to grant or refuse licences and to revoke them if the dealer is considered to have become 'unsuitable'.
- 1.3 The Local Authority (Functions and Responsibilities)(England) Regulations 2000 state in section 2 that Schedule 1 sets out the functions that are not to be the responsibility of the executive authority. In that Schedule, under licensing and registration functions there is reference to the power to license scrap yards under section 1 Scrap Metal Dealers Act 1964.
- 1.4 The Scrap Metal Dealers Act 1964 is repealed by section 19 of the Scrap Metal Dealer's Act 2013. The 2013 Act comes into force on 1st October 2013. Reference to scrap metal dealers Act 1964 in Schedule 1 will cease to have any relevance after that date; it effectively disappears from the Schedule, and therefore automatically falls to the Executive function of the Council
- 1.5 It is therefore necessary to bring this report to the Environment Scrutiny Committee for approval rather than Licensing Committee. A report will go to Licensing Committee for information.

- 1.6 It is likely that The Local Authority (Functions and Responsibilities) (England) Regulation 2000 will be updated by December 2013 to allow this function to return to Licensing Committee, whereby a report will then be taken to Licensing Committee for approval

2. RECOMMENDATIONS

The Executive Councillor for Environmental and Waste Services is recommended:

- 2.1 To note the powers conferred by the Scrap Metal Dealers Act 2013
- 2.2 To approve the scheme of delegations as set out in Appendix A and refer to Civic Affairs Committee for to amend the Constitution.
- 2.3 To approve the fee structure as set out in Appendix B and for it to be reviewed on an annual basis

3. BACKGROUND

- 3.1 The increased value of metal has resulted in significant increases in metal thefts throughout the UK in recent years, with a wide range of sectors targeted, including transport infrastructure, electricity and telephone links, street furniture, memorials, commercial and residential buildings, including churches and schools.
- 3.2 The Government has prohibited cash payments for scrap metal and provided police with increased powers of entry into sites and the Scrap Metal Dealers Act 2013 (“the Act”) received Royal Assent on 28th February 2013 and it is will come into force from 1st October 2013.
- 3.3 The Act creates a revised scheme of regulation for scrap metal dealers and vehicle dismantlers, which replaces automatic registration and gives new powers to refuse to grant a licence to ‘unsuitable’ applicants and a power to revoke licences if the dealer becomes ‘unsuitable’.
- 3.4 The Act defines a “scrap metal dealer” as a person who is for the time being carrying on a business as a scrap metal dealer, whether or not authorised by a licence.

3.5 It also provides a definition of what Scrap metal includes and does not include. A scrap metal dealer must obtain a licence from the City Council in order to carry on business as a scrap metal dealer in the city. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence punishable, on summary conviction, with a fine not exceeding level 5 on the standard scale which is £5,000.

3.6 There will be two types of licence:

- Site Licence

Site licences will permit licensees to operate from their site as a scrap metal dealer, including transporting scrap metal to and from their site from any local authority area. A site manager must be named for each site.

- Collector's Licence

Collector's licences will authorise the licensee to operate as a mobile collector, permitting them to collect commercial and domestic scrap metal in the City only.

Separate licences would need to be obtained from each local authority in whose area the individual wished to collect, but there is no restriction as to the location where the licensed collector can transport and sell their metals.

3.7 The Environment Agency is required to maintain a public register, based on information supplied by local authorities.

3.8 Both Site Licences and Collectors' Licences must be displayed in a prescribed format, and it is an offence not to do so.

3.9 A licence will be issued for a period of three years from the date of issue. The Secretary of State will have the power under section 1(4) of the Act to alter the duration of the licence.

3.10 Licensees will be required to verify the identity of persons from whom they purchase scrap metal and to keep detailed records for inspection by the Council and the Police, who have a shared responsibility for enforcement of the Act, as a statutory duty.

3.11 There is power to revoke or refuse a licence on particular grounds, including where the City Council is no longer satisfied that the

licensee is a suitable person to carry out the business as a scrap metal.

- 3.12 The is also a power for the authority to attach either of 2 conditions if the applicant or any site manager has been convicted of a relevant offence (the definition of relevant offence means an offence which is prescribed in regulations made by the secretary of state). The conditions which can be attached are as follows:
- a. That the dealer must not receive scrap metal except between 9 am and 5 pm on any day;
 - b. That all scrap metal received must be kept in the form in which it is received for a specific period, not exceeding 72 hours, beginning with the time when it is received.
- 3.13 The City Council must supply information relating to scrap metal licences to any other local authority in England and Wales, the Environment Agency and to Police forces, on request.
- 3.14 Fees for processing applications need to be set locally, having regard to Guidance from the Secretary of State but essentially, on the basis of cost recovery only. The guidance outlines what local authorities can charge for when issuing a licence.
- 3.15 Local authorities should specify fees which are payable by the licence applicants for the assessment and administration activity within the new licensing regime. The guidance states that this should be carried out by identifying what the authority needs to do to assess the type of license in question and calculate the best estimate of the cost to be incurred by the local authority, giving a best estimate of unit cost for each case.
- 3.16 In effect, the cost of a licence should reflect the time spent assessing and administering applications, consulting on the suitability of the applicant, reviewing relevant offences, the decision as to whether to issue the licence, costs to make the decision in cases that are not straight forward, and the cost to issue the license in a format that can be displayed.
- 3.17 The license fee cannot be used to support enforcement activity against unlicensed scrap metal dealers.
- 3.18 Officers have followed the above guidance and have come to a conclusion that the schedule of fees set out in Appendix B allow for cost recovery of the service without making a surplus.

- 3.19 However, it is important that these fees are reviewed regularly to check whether they remain appropriate.
- 3.20 The Secretary of State has made an order that the Act will commence on the 1st October 2013. It has also introduced transitional arrangements for existing scrap metal dealers and motor salvage operators who were registered under the old Acts prior to 1st October 2013.
- 3.15 Existing scrap metal dealers and motor salvage operators will automatically be deemed to have a license under the new Act from 1st October 2013. However existing operators must submit an application for a new license on or before the 15th October 2013 and the deemed license will last until a new license has been issued or a notice a notice of a decision to refuse a license has been given.
- 3.21 Where an applicant with a deemed license fails to submit any application on or before 15th October then the deemed license will lapse on 16th October and they will be unable to continue to trade.
- 3.22 In Cambridge City there is currently 1 scrap metal dealer site and 13 collectors. These are currently being contacted to inform them of the new legislation. The application form is attached as Appendix C and can be found on e)the website.

4. OPTIONS

- 4.1 The Council must resolve how it intends to determine applications and set out a scheme of delegations which will enable it to discharge its functions under the Act effectively.
- 4.2 Members could:
- a. Delegate to officers approval of applications where there are no concerns about the applicant's suitability and also to take compliance and enforcement action, as indicated in the Act, with applications where there are concerns about the suitability of applicants or an application is contested being referred to Executive Councillor for Environment and Waste Services for determination.
 - b. Delegate to officers approval of applications where there are no concerns about the applicant's suitability and also to take

compliance and enforcement action, as indicated in the Act, with applications where there are concerns about the suitability of applicants or an application is contested being referred to Head of Refuse and Environment

Appendix A sets out a scheme of delegations which it is recommended that Members should agree in line with 5.2 (b)

- 4.3 The Council must resolve what fees should be determined in relation to the different types of applications that will be processed in line with the guidance from the Secretary of State.

Members could

- a. Adopt the fee structure as set out in Appendix B as recommended by Officers, or
- b. Amend the fee structure as set out in Appendix B

5. IMPLICATIONS

a) Financial Implications

Fees charged for administering the licensing regime and the cost of compliance monitoring are to be on the basis of cost neutral recovery.

(b) Staffing Implications

None

(c) Equal Opportunities Implications

None

(d) Environmental Implications

The Scrap Metal Dealers Act 2013 will not regulate pollution, such as noise and dust. These will continue to be regulated under the Environmental Permitting and Waste Carriers regimes managed by the Environment Agency and The Planning regime which is the responsibility of the County Council as the Minerals and Waste Planning Authority.

Environmental damage caused by metal theft is predicted to decrease as a result of licensing.

(e) **Procurement**

None

(f) **Consultation and communication**

Although no consultations are required under the Act, Officers have been involved in a number of liaison meetings with representatives of the police and of other local authorities in the county, with a view to establishing common procedures, so far as reasonably practicable and, in particular, arrangements for information sharing between authorities.

(g) **Community Safety**

None

6. BACKGROUND PAPERS: The following are the background papers that were used in the preparation of this report:

Additional information

1. Scrap Metal Dealers Act 2013, 28th February 2013, <http://www.legislation.gov.uk/ukpga/2013/10/enacted>
2. Get in on the Act (Scrap Metal Dealers Act 2013), Local Government Association, March 2013, http://www.local.gov.uk/c/document_library/get_file?uuid=b1d2fd76-dc1c-43b9-8ff5-253c2d20ab4f&groupId=10171
3. Tackling Metal Theft, a Councillor's Handbook, Local Government Association, July 2013, http://www.local.gov.uk/c/document_library/get_file?uuid=7abe5a20-985e-4cce-8ac4-c4dcdb69d65c&groupId=10171
4. Scrap Metal Dealer Act 2013: guidance on licence fee charges, Home Office, 12 August 2013, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/229459/SMDA_2013_Fees_Guidance.pdf

7. Appendices

Appendix A Scheme of delegations
Appendix B Schedule of fees
Appendix C Scrap Metal Dealer application form

8. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

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Report file: M:LICENSE\Licensing Committee\2013

Scheme of Delegations under the Scrap Metal Dealers Act 2013

Matter to be Dealt With	Full Committee	Head of Refuse & Environment
Determination of an application for a Scrap Metal licence - Site Licence		All Cases
Determination of an application for a Scrap Metal licence - Collector's Licence		All Cases
Determination of an application to update / amend a Scrap Metal Licence		All cases
The issue of a Scrap Metal Licence when an application has been determined to do so		All cases
Decision to refuse a Scrap Metal Licence		All cases
Decision to attach condition(s) to a Scrap Metal Licence (S.4)		All Cases
Decision to revoke or vary (add conditions to) a Scrap Metal Licence (S.4)		All cases

Matter to be Dealt With	Full Committee	Head of Refuse & Environment
Decision to consult with other persons (S.3)		All cases
Decision to request further information to consider the application (Sch1 Pt4)		All cases
Issue of Notice of Decision (Sch1 Pt8)		All cases
Matters relating to updating the Register of licences (S.7)		All cases
Authorisation of Officers Generally under the Act		All cases
Decision on whether any information is relevant (S.3)		All cases
Instigation of proceedings for an offence		All cases
Relevant Enforcement Action		All cases
Issuing copies Licences due to theft, lost etc.		All cases
Response to request for information from other persons (S.6)		All cases