

LICENSING COMMITTEE

4 November 2013

PRESENT: Councillor Mrs Brandis (Chairman); Councillors Mrs Bloom, Cooper, Lambert, Mrs Phipps, Rand, and Vick.

APOLOGIES: Councillors Mrs Blake, Douglas-Bate, Huxley, Mills, Mrs Renshell and Sir Beville Stanier

1. MINUTES

RESOLVED –

That the Minutes of 2 September 2013 be approved as a correct record.

2. SCRAP METAL DEALERS ACT, 2013

At the Licensing Committee held on 2 September 2013, Members received a report relating to the new licensing regime for scrap metal dealers – the Scrap Metal Dealers Act 2013 ('the Act'). The new regime commenced on 1 October 2013. All existing registered businesses had to apply by 15 October 2013, and the scheme would be fully operational by 1 December 2013.

Council on 11 September 2013 had delegated to the Licensing Committee and, to the extent that the Act permits, the Licensing Services Manager, all the Council's licensing functions pursuant to and in connection with the Act. This allowed the Licensing Services Manager to ensure that all the necessary action could be taken before the due date.

The details of the Act were outlined in the report to Members.

In order to provide time for councils to process applications, the Home Office had implemented a transition process, which was also shown in detail in the report to Members.

Fees had been calculated in accordance with the Secretary of State's statutory guidance on fees and were attached as an appendix to the report. The licence fee could only be used to pay for the cost of administering the regime and ensuring compliance.

All registered dealers in the Vale had been contacted prior to 1 October 2013 urging them to make an application before 15 October 2013. All had applied, along with other new businesses, by 15 October.

The Home Office had issued guidance on 'Determining suitability to hold a Scrap Metal Dealers Licence' which included advice when considering applications. Other factors, such as the need for planning permission, could be taken into consideration. The Council had also been in consultation with Thames Valley Police and the Environment Agency regarding applications.

The Committee were reminded of the processes, as outlined in the report, which could be used when refusing an application. Either the applicant could make a written representation or request an oral hearing. If the applicant chose an oral hearing, the authority must provide 'the opportunity of appearing before and being heard by a person appointed by the authority'. It was suggested that in order to deal with contested cases consistently, that the person appointed to hear representations should be the Licensing Services Manager. Alternatively, Members could decide to hear all contested cases by way of a three Member sub-committee.

The Provision of Services Regulations, 2009 provided for 'tacit authorisation'. If applications were not decided within fixed and published time limits, applications were deemed to be granted. However, different arrangements could be justified by overriding reasons in the public interest, as the Home Office in its supplementary guidance published in October 2013 had stated "Tacit consent should not apply in relation to scrap metal dealer licence applications as there is an overriding public interest in ensuring that the suitability of applicants is assessed before the licence is issued."

Members sought clarification and commented on a number of points including the size of the sub-committee and its functions, the fees to be charged, the type of businesses included in the registration system, cross border licensing/trading, and how it would deal with contested cases.

As the full provisions of the Act did not come into force until 1 December 2013, it was suggested that a further report reviewing the Council's procedures under the Act would be presented to the Committee in March 2014.

RESOLVED

- (1) That arrangements made to implement the new licensing regime under the Scrap Metal Dealers Act 2013, be approved.
- (2) That decisions to refuse applications and to revoke or vary licences be taken by the Licensing Services Manager in consultation with the Chairman of the Licensing Committee or in the absence of the Chairman, the Vice Chairman.
- (3) That a further report be brought back to Committee at its meeting in March 2014 to review the arrangements as implemented by the Scrap Metal Dealers Act 2013.