

**CHILTERN DISTRICT COUNCIL  
CABINET 21<sup>st</sup> OCTOBER 2014**

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*Background Papers, if any, are specified at the end of the Report*

**SCRAP METAL DEALERS ACT 2013**

*Contact Officer: Nathan March 01494 732056*

**RECOMMENDATIONS**

**Cabinet are asked to;**

- 1) Note the new powers and responsibilities contained within the Scrap Metal Dealers Act 2013;**
- 2) Agree to amend the terms of reference of Cabinet to include reference to exercising any function relating to the Scrap Metal Dealers Act 2013 Act as amended;**
- 3) Agree the fee policy as attached at *Appendix 2* to be in place until such time as the fees are reviewed and to delegate any future reviews of the Fees Policy and Fees to the Head of Healthy Communities in consultation with the Portfolio Holder for the Healthy Communities;**
- 4) Agree that the scheme of officer delegation regarding Executive Functions be amended to give authority to the Head of Healthy Communities to exercise the functions, responsibilities and enforcement powers under the Scrap Metal Dealers Act 2013, as amended;**
- 5) Ratify all decisions taken to date by officers as set out in *Appendix 1*; and**
- 6) Authorise the Head of Legal and Democratic Services to make the necessary changes to the Council's Constitution.**

**Relationship to Council Objectives**

- (i) Objective 1: Efficient and Effective Customer Focused Services*
- (ii) Objective 2: Safe, Healthy and Cohesive Communities*

**Implications**

- (i) A key decision in Forward Plan*

(ii) *Within policy and budgetary framework*

### **Financial Implications**

*The cost of administering the new legislation will involve staff time and resources, but these costs will be met within the existing budget and funded from licence fees charged, with the exception of investigation and enforcement costs. .*

### **Risk Implications**

*None*

### **Equalities Implications**

*None*

### **Sustainability Implications**

*None*

### **Report**

- 1 On 22 August 2013 a report was circulated electronically to the Licensing and Regulation Committee outlining new legislation contained within the 2013 Act. This report recommended that the Licensing and Regulation Committee recommend to Council new delegations to officers including the setting of initial fees. On 10 September 2013 Full Council approved the Licensing and Regulation Committee's recommendations relating to the 2013 Act.
- 2 At the time of initial adoption of the legislation and delegation of functions as detailed above, legal advice was that the appropriate route for approval of these matters was via Council, rather than via Cabinet.
- 3 This view was taken because previous legislation governing the activities of scrap metal dealers and motor salvage operators was a Council function listed in the Functions and Responsibilities Regulations 2000. As the previous legislation was repealed and re-enacted by the 2013 Act it was considered that under section 17 of the Interpretation Act 1978, the 2013 Act could be read in place of the two previous Acts in the Functions and Responsibilities Regulations 2000. As a result officers progressed the adoption of the legislation through the Licensing and Regulation Committee and Council route. However, following requests from local authorities for clarification of the position, the Home Office has now indicated that it considers the 2013 Act is an executive function and will not be amending the Functions and Responsibilities Regulations to make it a Council function. Therefore, officers are now bringing this matter to Cabinet for approval.

- 4 The 2013 Act received Royal Assent on 28 February 2013 with its provisions being implemented with effect from 1 October 2013. The 2013 Act repealed the 1964 Act in total and Part 1 of the Vehicles (Crime) Act 2001, together with the 2002 Regulations, thus creating a revised single point regulatory regime for the scrap metal recycling and vehicle dismantling operations in England & Wales. This change in legislation was in response to the growth in metal theft offences resulting from a booming metal recycling industry.
- 5 Local Authorities remain the principal regulators of the 2013 Act with powers to issue or refuse to grant a licence to 'unsuitable' applicants and revoke licences if the dealer becomes 'unsuitable'. It introduces a cashless trading system brought into force through the Legal Aid, Sentencing and Punishment of Offenders Act 2012. It closes off loopholes relating to vehicle dismantlers and itinerant collectors by bringing them into the cashless trading scheme. The 1964 Act simply required local authorities to maintain a register of persons trading in their area as scrap metal dealers. Failure of the scrap metal dealer to inform the Local Authority of their operations attracted a fine of up to £1000 and registration was renewed every three years.
- 6 The Act creates two different types of scrap metal licences:
  - Collectors' Licence: The Collectors' Licence covers dealers who do not have a site and regularly collect through "door-to-door" collections. Once issued, the holder of a South Bucks Collectors' Licence can only operate within this authority's boundary and would need a licence from a neighbouring local authority if they wish to trade outside South Bucks.
  - Site Licence: A Site Licence allows a scrap metal dealer to carry on business at any sites in the Council's area listed on the Licence.
- 7 The Act introduces additional powers:
  - Requirement for all individuals and businesses to complete an enhanced application process to obtain a scrap metal dealers licence.
  - Issued Licences to be displayed.
  - Dealers to carry out stricter identity checks on anyone they receive scrap metal from.
  - Dealers to keep records of any scrap metal received or disposed of and all sellers of metal to provide personal identification at the point of sale.
  - Prohibits the payment of cash for metal. Payments can only be made by non-transferable cheque or an electronic transfer of funds.

- New powers for Local Authorities and Police to enter and inspect licensed premises, demand and take copies of records and require inspection of any scrap metal.
  - The closure of unlicensed sites through the Police/Local Authority seeking closure orders from Magistrates' Court.
  - Widening the definition of a scrap metal dealer to include motor salvage operators.
  - Creating a National Public Register, hosted by the Environment Agency, of all individuals and businesses licensed as scrap metal dealers.
- 8 Prior to issuing a licence the local authority needs to be satisfied that an applicant is a "suitable person" to operate as a scrap metal dealer. Local Authorities may consult with the Police other relevant local authorities and the Environment Agency and can consider any information deemed as relevant, including whether the dealer or their site manager has been convicted of a relevant offence.
- 9 Licences will last for three years unless revoked, but the Act also gives licensing authorities the powers to refuse a licence, add two specific conditions to a licence under certain circumstances or to revoke the licence.
- 10 Currently, there are 5 Scrap Metal Collectors licensed registered within Chiltern and 3 licensed sites, details of which are attached at **Appendix 1**.
- 11 Fees are set on a cost recovery basis (excluding costs of investigation and enforcement) following the guidance issued by the Secretary of State. When this matter was originally considered by Licensing and Regulation Committee and Council there was a very tight timescale for the setting of fees and therefore the setting of the initial fees was delegated to the Head of Health and Housing (now Head of Healthy Communities) in consultation with the Chair of Licensing and Regulation Committee and the Cabinet Members for Resource. Attached as **Appendix 2** are details of the fees set through this process. It is proposed that these fees are not changed, but ratified by Cabinet to remain chargeable until such time as they are reviewed.
- 12 The new act imposes new legal duties on the Council. Failure to discharge these duties adequately may result in legal challenge from scrap metal dealers, members of the public and aggrieved parties. If any prosecution was to be brought under the 2013 Act it could be a defence for a person charged to attempt to show that the legislation had not been lawfully adopted.

**Background Papers:**

**Local Government (Miscellaneous Provisions) Act 1982**

**Policing and Crime Act 2009**

**Report to Environmental Control Committee 10 November 1982**

**Report to Licensing Committee 3 November 2010**

Classification: OFFICIAL

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