
SUBJECT:	Scrap Metal Dealers Act 2013
REPORT OF:	Officer Management Team - Director of Services Prepared by - Head of Health & Housing

1. Purpose of Report

- 1.1 To outline the Scrap Metal Dealers Act 2013, review the current delegations and consider the proposed application fees.

2. Links to Council Policy Objectives

- 2.1 Enforcement of the Scrap Metal Dealers Act 2013 is a statutory function of the authority and links to Council Aim 3 of providing “safe communities” and Aim 4 namely “Improve health and well-being for all.”
- 2.2 The implementation of the provisions of the new Scrap Metal Dealers Act 2013 will help us work towards implementing all of our management principals including:
- Focus on customer needs
 - Improving services
 - Prudent use of resources
 - Fairness, honesty and respect

3. Background

- 3.1 The current legislation is set out in the Scrap Metal Dealers Act 1964. This requires Local Authorities to maintain a simple 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 attracts a fine of up to £1000 and registration is renewed every three years.
- 3.2 The Scrap Metal Dealers Act 2013 received Royal Assent on 28th February 2013 with its provisions to be implemented with effect from 1st October 2013. The new act repeals the Scrap Metal Dealers Act 1964 in total and Part 1 of the Vehicles (Crime) Act 2001, together with the Motor Salvage Regulations 2002, thus creating a revised single point regulatory regime for the scrap metal recycling and vehicle dismantling operations in England & Wales.
- 3.3 The new Act is in response to the growth in metal theft offences resulting from a booming metal recycling industry worth £5 Billion in 2011. In addition to the direct impact of theft there are significant impacts on national infrastructure. Nine of every ten councils have been affected by the theft of metal e.g. drain covers, cables, street furniture etc. there has been disruption to rail services, loss of power to homes, interruptions to telecommunications, theft of bus shelters and even grave memorials. Local Authorities remain the principal regulators of the 2013 Act with powers to issue or refuse to grant a license 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. All applications include a locally set fee set on a cost recovery basis with regard to guidance issued by the Secretary of State.

- 3.4 We have already received calls from one existing dealer for clarification and applications are expected to be received from September. The proposed regime is wholly different to the current registration scheme but is similar to the current Taxi and alcohol Licensing regime, including the assessment of suitability of applicants including any unspent relevant criminal convictions.

4. Discussion

- 4.1 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 and also allows them to collect in the locality.
- 4.2 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
 - Dealer's to carry out stricter identity checks on anyone they receive scrap metal from
 - Dealer's 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; and
 - Creating a National Public Register, hosted by the Environment Agency, of all individuals and businesses licensed as scrap metal dealers
- 4.3 **Suitability of an Applicant:** 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. LA's 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.

- 4.4 Period of Licence: 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.
- 4.5 Currently, there are 7 Scrap Metal Dealers and 4 Motor Salvage Operators, registered within South Bucks. The new scheme will broaden the definition and allow us to reconsider a number of currently exempt premises resulting in at least the current 11 Scrap Metal businesses in future plus any additional collectors or premises identified.
- 4.6 Fees are set on a cost recovery basis following the guidance issued by the Secretary of State. As this guidance has only recently been issued it is proposed that the setting of fees be delegated to the Head of Health and Housing in consultation with the Chairman of Licensing Committee with reference to the License Fees Toolkit.
- 4.7 The implementation date is 1st October 2013, although initial applications from existing scrap metal dealers could be received from 1st September 2013 and therefore we need arrangements in place as soon as possible, however there is no plan to issue interim licences prior to 1st October.
- 4.8 The Commencement and Transitional Provisions Order issued on 6 August 2013 sets out:
- Fee-setting in force from 1st September,
 - The main provisions of the Act to come into force on 1st October and
 - The criminal offences on 1st December.
 - Transitional provisions to enable dealers previously registered under the 1964 & 2001 Acts (immediately before 1st October 2013) to benefit from a deemed licence.

Provided the existing scrap metal dealer applies for a licence on or before 15th October 2013 they shall be deemed to be licenced, which will continue until the Council grants a licence under the new Act or an appeal against a refusal of a licence is determined by the Magistrates Court. Should an existing dealer fail to apply before the end of 15th October their deemed licence will lapse as of 16th October 2013.

5. Resources, Risk and Other Implications

- 5.1 **Financial Implications** - The Government's intention is that the cost of administering the licensing regime will be met from fee income. The costs of investigation and enforcement will **not** form part of the cost recovery but be met by the Council. The numbers of existing operators is low and it is considered that the additional workload imposed will be absorbed within existing resources, however there is a risk that should the investigation and enforcement burden be more than expected there will be a shortfall which would be considered should it arise.
- 5.2 **Legal Implications** - 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.

5.3 **Impact on Communities** - The new Act is expected to reduce incidents of the anti-social and disruptive crime of metal theft and will benefit local residents and businesses. Members may be aware that theft from vehicles has seen a 72% increase and the theft of catalytic converters has risen by 236%. The new fee based licences will increase the costs of dealing in scrap metal which may impact on the viability of some small local businesses although this is expected to be offset by the creation of a fairer and more equal marketplace.

5.4 **Equalities Impact** - This change does not impact on equalities.

5.5 **Impact on the Environment** - The new licensing regime will encourage better intelligence sharing and joint working to drive out illegal and rogue traders. Enhanced regulation of scrap metal sites generally and environmental convictions will be able to be taken into account during consideration of applications. This approach will deal with environmental crime as well as theft.

6.0 Recommendation

6.1 Licensing Committee is asked to recommend to Council:

- i. That approval is given for a new delegation to the Director of Services to agree and adopt a policy for implementing these changes.
- ii. That the general setting of fees be delegated to the Licensing Committee. However in light of the short timescale, fees have to be set prior to 1st October 2013, setting of the initial fees to be delegated to Head of Health and Housing in consultation with the Chair of Licensing Committee (with reference to peer guidance and the License Fees Toolkit).
- iii. To revise the current scheme of delegations to for the Licensing Committee and Licensing Sub-Committee by adding "Scrap Metal Dealers" to the list of other Licensing functions
- iv. To revise the current scheme of delegations to the Health & Housing Unit to accommodate "other Licensing Functions"
- v. To approve and recommend the following detailed amendments to the scheme of delegations :
 - The Power in all cases to make enquiries and consult and to determine whether the applicant is a suitable person to carry on business as a scrap metal dealer.
 - The grant, issue, renewal or variation of a Scrap Metal Dealer Licence where the applicant is deemed to be a "suitable person" and no objections are received;
 - The refusal or rejection of an application for a Scrap Metal Dealer Licence where no representations are received;
 - To revoke vary or impose conditions on a licence under the Scrap Metal Dealer Act 2013 where representations have been received

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- To exercise the powers of entry outlined within the Act
 - To seek a warrant of entry to any premises in order to secure compliance with or to ascertain whether the provisions of the act are being complied with.
 - Power to enforce and initiate action in relation to relevant offences.
 - To supply information received under the act to the relevant bodies under the act.
 - In consultation with the Chairman of Licensing Sub-Committee, the revocation of a Scrap Metal Dealers Licence where no representations are received.
 - To ensure all details of Scrap Metal Dealers any notifications and variations, are reported to the National database maintained by the Environment Agency

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Background Papers:	<p>Scrap Metal Dealers Act 2013 with explanatory notes http://www.legislation.gov.uk/ukpga/2013/10/enacted Guidance relating to fee setting <u>Scrap Metal Dealer Act 2013: licence fee charges - Publications - GOV.UK</u> Commencement and Transitional Provisions Order http://www.legislation.gov.uk/uksi/2013/1966/pdfs/uksi_20131966_en.pdf</p>