

A meeting of the **LICENSING COMMITTEE** will be held in **CIVIC SUITE 1A, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **TUESDAY, 29 OCTOBER 2013 ON THE RISING OF THE LICENSING AND PROTECTION PANEL** and you are requested to attend for the transaction of the following business:-

**Contact  
(01480)**

## **APOLOGIES**

### **1. MINUTES (Pages 1 - 4)**

To approve as a correct record the Minutes of the meetings of the Committee held on 23rd October 2012 and 15th May 2013.

### **2. MEMBERS' INTERESTS**

To receive from Members declarations as to disclosable pecuniary, non-disclosable pecuniary or non pecuniary interests in relation to any Agenda item. See Notes below.

### **3. SCRAP METAL DEALERS ACT 2013 - DELEGATIONS (Pages 5 - 14)**

To receive a report by the Health Protection Manager providing details of the Scrap Metal Dealers Act 2013.

**C Lloyd  
388290**

Dated this 21 day of October 2013



Head of Paid Service

## **Notes**

### **1. Disclosable Pecuniary Interests**

(1) *Members are required to declare any disclosable pecuniary interests and unless you have obtained dispensation, cannot discuss or vote on the matter at the meeting and must also leave the room whilst the matter is being debated or voted on.*

(2) *A Member has a disclosable pecuniary interest if it -*

*(a) relates to you, or*

*(b) is an interest of -*

*(i) your spouse or civil partner; or*

*(ii) a person with whom you are living as husband and wife; or*

(iii) a person with whom you are living as if you were civil partners

and you are aware that the other person has the interest.

(3) Disclosable pecuniary interests includes -

- (a) any employment or profession carried out for profit or gain;
- (b) any financial benefit received by the Member in respect of expenses incurred carrying out his or her duties as a Member (except from the Council);
- (c) any current contracts with the Council;
- (d) any beneficial interest in land/property within the Council's area;
- (e) any licence for a month or longer to occupy land in the Council's area;
- (f) any tenancy where the Council is landlord and the Member (or person in (2)(b) above) has a beneficial interest; or
- (g) a beneficial interest (above the specified level) in the shares of any body which has a place of business or land in the Council's area.

#### **Other Interests**

(4) If a Member has a non-disclosable pecuniary interest or a non-pecuniary interest then you are required to declare that interest, but may remain to discuss and vote.

(5) A Member has a non-disclosable pecuniary interest or a non-pecuniary interest where -

- (a) a decision in relation to the business being considered might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or
- (b) it relates to or is likely to affect any of the descriptions referred to above, but in respect of a member of your family (other than specified in (2)(b) above) or a person with whom you have a close association

and that interest is not a disclosable pecuniary interest.

## **2. Filming, Photography and Recording at Council Meetings**

The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (such as Twitter and Facebook) to communicate with people about what is happening at meetings. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and available via the following link - [filming, photography-and-recording-at-council-meetings.pdf](#) or on request from the Democratic Services Team. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chairman of the meeting will facilitate this preference by ensuring that any such request not to be recorded is respected.

**Please contact Mrs A Jerrom, Democratic Services on Tel No. 01480 388009/e email: [Amanda.Jerrom@huntingdonshire.gov.uk](mailto:Amanda.Jerrom@huntingdonshire.gov.uk) if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee/Panel.**

**Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.**

**Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.**

Agenda and enclosures can be viewed on the District Council's website – [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk) (*under Councils and Democracy*).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Democratic Services Manager and we will try to accommodate your needs.

***Emergency Procedure***

*In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.*

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# Agenda Item 1

## HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING COMMITTEE held in Civic Suite 1A, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Tuesday, 23 October 2012.

PRESENT: Councillor J W Davies – Chairman.  
Councillors I J Curtis, R S Farrer, R Fuller, G J Harlock, A J Mackender-Lawrence, M C Oliver, T D Sanderson and S M Van De Kerkhove

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors K M Baker, C R Hyams and Mrs P A Jordan.

### 7. MINUTES

The Minutes of the meeting of the Committee held on 20th June 2012 were approved as a correct record and signed by the Chairman.

### 8. MEMBERS' INTERESTS

No declarations were received.

### 9. GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES

Consideration was given to a report by the Head of Legal and Democratic Services (a copy of which is appended in the Minute Book) to which was attached a revised draft Statement of Principles under the Gambling Act 2005.

The draft Statement had been approved for public consultation by the Licensing Committee at its meeting on 20th June 2012 in accordance with the Act which required the Statement to be reviewed every three years.

Having noted that the Statement had now been amended to take into account both Gambling Commission guidance and, where appropriate, consultation responses, it was

#### RESOLVED

that the Council be recommended to approve the Statement of Principles under Section 349 of the Gambling Act 2005 as set out in Appendix 1 of the report now submitted, for a period of three years commencing on 31st January 2013.

**10. LICENSING ACT 2003 - RESPONSIBLE AUTHORITY DELEGATIONS**

Consideration was given to a report by the Head of Legal and Democratic Services (a copy of which is appended in the Minute Book) inviting the Committee to authorise officers to act on behalf of the Licensing Authority as a Responsible Authority, following an amendment to the Licensing Act 2003.

Members were advised that the amendment, which had been the result of certain provisions of the Police Reform and Social Responsibility Act which had come into effect on 25 April 2012, had resulted in the Licensing Authority being included as a new category of Responsible Authority. This would enable the Licensing Authority to make representations and initiate a review of a premises licence in addition to the local Planning Authority and Environmental Health Authority.

Having been advised that for consistency and the avoidance of doubt a clear distinction would be required between the officer acting as the Responsible Authority and the officer preparing the report and presenting it to the Sub-Committee on behalf of the Licensing Authority, the Committee

RESOLVED

the Head of Legal and Democratic Services be authorised to act as the Responsible Authority on behalf of the Licensing Authority under Section 13 (4) (za) of the Licensing Act 2003.

**11. LICENSING ACT 2003 - DELEGATION OF FUNCTIONS**

Consideration was given to a report by the Head of Legal and Democratic Services (a copy of which is appended in the Minute Book) recommending a schedule of delegations under the Licensing Act 2003. The delegations had been amended to incorporate certain provisions of the Police Reform and Social Responsibility Act 2011 which had come into effect on 25 April 2012 imposing additional duties on the Licensing Authority. Guidance issued by the Secretary of State recommended that, in the interests of speed and efficiency, decision making should be delegated to officers as far as was permissible under the legislation. In that context, it was

RESOLVED

that the Schedule of Delegations under the Licensing Act 2003 as set out in the appendix attached to the report now submitted be approved.

Chairman

## HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING COMMITTEE held in Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Wednesday, 15 May 2013.

PRESENT: Councillors J W Davies, K M Baker, I J Curtis, R Fuller, G J Harlock, C R Hyams, Ms L Kadic, S M Van De Kerkhove, T D Sanderson and R J West.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors W T Clough and M C Oliver.

### 1. ELECTION OF CHAIRMAN

RESOLVED

that Councillor J W Davies be elected Chairman of the Committee for the ensuing municipal year.

**Councillor J W Davies in the chair**

### 2. MEMBERS' INTERESTS

No declarations were received.

### 3. APPOINTMENT OF VICE CHAIRMAN

RESOLVED

that Councillor C R Hyams be appointed Vice-Chairman of the Committee for the ensuing municipal year.

Chairman

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**Public  
Key Decision - No\***

## HUNTINGDONSHIRE DISTRICT COUNCIL

**Title/Subject Matter:** Scrap Metal Dealers Act 2013

**Meeting/Date:** Licensing Committee  
29 October 2013

**Executive Portfolio:** Councillor Robin Howe – Executive Councillor for Healthy and Active Communities

**Report by:** Dr Susan Lammin  
Head of Environmental and Community Health Services

**Ward(s) affected:** All

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### **Executive Summary:**

The purpose of this report is to inform Members about the changes to the regulatory regime for controlling scrap metal dealing. This is to be implemented through the introduction of The Scrap Metal Dealers Act 2013. Delegated authority is being sought for the Head of Environmental and Community Health Services to both determine licensing fees and to appoint suitably qualified and competent officers, to enforce the provisions of the Act on behalf of the Council.

The Act replaces the previous registration system for scrap metal dealers and motor salvage operators, and introduces a licensing scheme which will be administered by local authorities. The procedures are based on those within regime for alcohol licences, created in the Licensing Act 2003. The local authority is entitled to set a licence fee which reasonably reflects the costs it will incur in administering the licensing process and ensuring compliance. It is proposed the fees will be set on a full-cost recovery basis.

The Act introduces the right for an applicant to make oral representations to the Council at a formal hearing if they have been notified that the council proposes to refuse them a licence or proposes to revoke their existing licence. In order to deal with contested applications it is recommended that the Licensing Committee expands its functions to include the new Act and establishes a sub-committee to deal with oral representations at application hearings.

Based on the current number of registered scrap metal dealers and motor salvage operators operating within Huntingdonshire it is estimated that total income from issuing three-year licences will be around £10K (£3.3K per annum).

The duties associated with the administration of the licenses and necessary monitoring will be absorbed by existing staff within Environmental and Community Health Services.

**Recommendation(s):**

It is recommended that Members:

- a. note the content of this report and the duties established under the Act;
- b. authorise the Head of Environmental and Community Health Services to appoint suitably qualified and competent persons to act as “authorised persons” to determine and issue licences and enforce the provisions of the Scrap Metal Dealers Act as appropriate;
- c. authorise the Head of Environmental and Community Health Services to determine the licensing fees and review them annually and as appropriate;
- d. authorise the Head of Environmental and Community Health Services to initiate prosecutions under the legislation after consultation with the Chairman and Vice Chairman of the Licensing Committee;
- e. vary the terms of reference of the Licensing Committee to enable the Committee to discharge the functions of the Scrap Metal Dealers Act 2013 and convene a relevant sub-committee, when appropriate, to deal with contested applications and application hearings; and
- f. authorise the Head of Legal & Democratic Services to make the necessary amendments to the Scheme of Delegations and Table 2 – Responsibility for Council Functions contained in the Council’s Constitution.

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## **1. WHAT IS THIS REPORT ABOUT/PURPOSE?**

- 1.1 The purpose of this report is to inform Members about the introduction of the Scrap Metal Dealers Act 2013 and to seek delegated authority for the Head of Environmental and Community Health Services to set licensing fees and appoint suitably qualified and competent officers to enforce the provisions of the Act on behalf of the Council.
- 1.2 The Act replaces the previous registration system for scrap metal dealers created by the Scrap Metal Dealers Act 1964 and for motor salvage operators under Part 1 of Vehicles (Crime) Act 2001, and establishes a new licensing regime for the scrap metal dealing and vehicle dismantling industries. The scheme will be run and administered by local authorities and provides local authority appointed officers and the police with suitable powers of entry and inspection to both licensed and unlicensed sites.
- 1.3 The main provisions of the Act are as follows:
- Prohibits cash payments for scrap metal;
  - Requires licensees to verify the identity, including the full name and address, of metal suppliers and maintain accurate records of all scrap metal purchases and sales;
  - Allows the council to set appropriate licence fees;
  - Allows the council to determine the suitability of applicants;
  - Allows the council to refuse or revoke a licence;
  - Allows the Council and Police to issue closure notices on unlicensed scrap metal dealers; and
  - Increases the financial penalties for offences
- 1.4 The majority of the Act came into effect on 1 October 2013 with a transitional period to ensure a smooth hand over from the old regime to the new with minimal disruption to scrap metal dealers. Enforcement of the new licensing regime will commence on 1 December 2013.

## **2. WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 The recent growth of metal theft offences, driven by increased commodity costs, has highlighted the ineffectiveness of the existing regulatory regime under the Scrap Metal Dealers Act 1964 which has failed to prevent the scrap metal industry being the central market for stolen metal.
- 2.2 The Home Office estimated that there are around 100,000 reported metal theft offences a year with significant costs to the economy estimated at around £800m per year. Metal theft impacts on a wide range of sectors – including national transport infrastructure, electricity and telecommunication links; street furniture; heritage buildings; memorials; commercial and residential buildings including churches and schools. For instance within Huntingdonshire there have been reported incidents of the theft of lead flashing from buildings, drain covers and telephone cables. It is anticipated that the new Act will result in a significant reduction in criminal activity.
- 2.3 The current legislation for scrap metal dealers only requires basic information to be supplied and no fee is payable. The new Act will require more detailed information to be submitted upon application and will allow the local authority to set a fee. The fee must be fixed to allow cost recovery and local authorities will have to have regard to guidance issued by the Secretary of State. Each licence granted will be valid for a period of three years.

- 2.4 In determining licence applications the Council is required to carry out suitability checks on applicants and in doing so must formally consult with the Police, the Environment Agency and any other relevant authority. If the applicant is deemed to be unsuitable, for example because of previous criminal convictions, the council will not be able to issue a licence.
- 2.5 There are two types of licence specified in the Act:
- **Site licence.** 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.
- 2.6 The Act introduces the right for an applicant to make oral representations to the Council at a formal hearing if they have been notified that the council proposes to refuse them a licence or proposes to revoke their existing licence. In order to deal with contested applications it is recommended that the Licensing Committee expands its functions to include the new Act and establishes a sub-committee to deal with oral representations at application hearings.
- 2.7 The most obvious instance where an application should be referred to a licensing committee is where there is information available to the council that suggests the applicant may not be suitable to hold a scrap metal dealers licence. Existing good practice around the consideration of applications by licensing committees should be applied to the consideration of applications for scrap metal dealers licences.
- 2.8 In the event the committee is minded to refuse the application then it will need to carefully consider the grounds on which it has decided to do so. The applicant has to be given the reasons an application has been refused and if there is an appeal, the council will need to have robust grounds on which to defend its decision not to grant a licence.
- 2.9 There are currently 11 collectors and 19 Scrap Metal Dealers and Motor Salvage Operators registered and operating with the Huntingdonshire District Council area. These business operators are now required to apply to the council for a licence and must comply fully with the requirements of the Act.

### **3. KEY IMPACTS/RISKS. HOW WILL THEY BE ADDRESSED?**

- 3.1 There is a financial risk to the council if licence fees are set too low and do not enable the council to recover the full costs of implementation and administering the licensing regime. Equally there is a risk if the council sets the fees too high and is challenged through an appeal process or discourages businesses from applying thereby creating additional compliance costs if they continue to trade without a licence. These would be non-recoverable costs.
- 3.2 There is also a risk that applicants could formally appeal if the council refuses to grant a licence following a hearing. Costs associated with appeals are not recoverable through the licensing regime.

#### **4. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION**

- 4.1 The transitional arrangements and implementation of the new Act imposes a challenging timetable for the council.
- 4.2 In order to ensure that the Head of Service could set appropriate licence fees and that officers were appointed to determine licence applications from 1 October, the Chairman and Vice-Chairman of the Licensing Committee gave their formal consent on 27 August 2013 to the authorisation of the Head of Environmental and Community Health Services to set licensing fees and appoint suitably qualified authorised officers to enforce the provision of the Act. This approval was granted on the understanding that a full report was presented to the meeting of the Licensing Committee on 29 October 2013.
- 4.3 Any dealer currently registered under the 1964 Scrap Metal Dealers Act, or a motor salvage operator already registered under the 2001 Vehicles (Crime) Act, will be deemed to have a licence under the 2013 Act until the council grants a licence or sends the dealer notice of its decision to refuse the licence, provided they submit an application on or before the 15 October. If they have not submitted an application their deemed licence will have lapsed on 16 October. If they wish to trade in the future they would then need to submit an application, but would not be able to legally trade until a licence had been granted
- 4.4 All known scrap metal dealers and motor salvage operators within the district have been contacted by letter and provided with guidance notes and an application form.

#### **5 LINK TO THE LEADERSHIP DIRECTION**

- 5.1 The implementation of the Scrap Metal dealers Act contributes towards the Council's Key Themes of 'Enable Sustainable Development' by protecting and improving our environment and 'Improve The Quality of Life in Huntingdonshire' by working with partners to minimise the fear of crime. It also supports the Council by maximising business and income generation opportunities.
- 5.2 Huntingdonshire District Council is a leading member of the Huntingdonshire Community Safety Partnership. One of the Partnership's key aims is to reduce crime and this includes acquisitive crime such as metal theft.

#### **6 CONSULTATION**

- 6.1 Local Authorities within Cambridgeshire have participated in a small working group with Cambridgeshire Police to discuss the implications of the Act, to agree liaison arrangements and to establish a consistent and efficient way of administering the licensing regime and ensuring compliance.
- 6.2 All registered scrap metal dealers and motor salvage operators known to be operating within Huntingdonshire have been advised in writing about the changes to legislation and have been provided with guidance notes and application forms. They have also been provided with a contact point for further information.

## **7. LEGAL IMPLICATIONS**

- 7.1 The Scrap Metal Dealers Act 2013 came into effect on 1 October 2013 with Transitional Arrangements taking effect from 1 September 2013. The Act places a statutory duty on the Council to enforce the provisions of the Act and determine licence applications

## **8 RESOURCE IMPLICATIONS**

- 8.1 There is no additional funding attached to the regulations although the local authority is entitled to set a licence fee which reasonably reflects the costs it will incur in administering the licensing process and ensuring compliance. There are staffing implications, in terms of administration and compliance activity as well as training requirements
- 8.2 Licensing fees have been set at a level identified in Appendix 1. It is estimated that the total income generated by the licensing regime, based on a 3 year licence, will be around £10K (£3K per annum)
- 8.3 The duties will be absorbed by existing staff within Environmental and Community Health Services.

## **9. OTHER IMPLICATIONS**

- 9.1 Each application will be dealt with on its own merits, therefore there are no inclusion, diversity and community cohesion implications arising from this report. Consideration has been given to the means and methods of communicating the licensing regime to target audiences.

## **10 REASONS FOR THE RECOMMENDED DECISIONS**

- 10.1 Under the Act the Council is the Licensing Authority and has a statutory duty to enforce the provisions of the Act and determine licence applications.

## **11. LIST OF APPENDICES INCLUDED**


Appendix 1 – Licence fees

## **BACKGROUND PAPERS**

Scrap Metal Dealers Act 2013

## **CONTACT OFFICER**

**Chris Lloyd – Health Protection Manager**

 **01480 388290**

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**Scrap Metal Dealers Act 2013**

<b>Licence Type</b>	<b>Fee</b>
<b>Site Licence</b>	<b>£415</b>
<b>Collectors Licence</b>	<b>£285</b>
<b>Collectors Licence holding existing Licence with another LA issued within three months of date of application to HDC.</b>	<b>£250</b>
<b>Variation of a Licence (Person)</b>	<b>£105</b>
<b>Variation of a Licence (Site)</b>	<b>£16</b>

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