

**HUNTINGDONSHIRE DISTRICT COUNCIL**

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

**Meeting/Date:** Council  
13 November 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 the Council of 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 Terms of Reference of the Licensing Committee to be extended to enable it to deal with all matters which are the responsibility of the Council under the Act and 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 used within the 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 functions of the Licensing Committee are expanded to include the new Act and a Sub-Committee is established 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.

## **Recommendations**

**In light of the duties established under the Scrap Metal Dealers Act 2013, the Council be recommended to: -**

- a. 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 to convene a relevant sub-committee when appropriate, to deal with contested applications and applications hearings;**
- 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; and**
- e. 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.**

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

- 1.1 The purpose of this report is to inform the Council of 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 functions of the Licensing Committee are expanded to include the new Act and that sub-committees be established 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 that 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 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 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 Because of the timescale for the implementation of the Act, the Head of Environmental and Community Health Services proposed a scale of fees to enable licence applications to be dealt with from 1st October. The Chairman and Vice-Chairman of the Committee were consulted on the proposed level of fees and subject to these being approved formally by the Committee at the earliest possible opportunity, indicated their consent to them being applied, in the event that licences required to be issued during this interim period.
- 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 The 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 A proposed scale of fees is presented at Appendix A. 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 A – Licence fees

## **BACKGROUND PAPERS**

Scrap Metal Dealers Act 2013

## **CONTACT OFFICER**

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