

Ward: All

Scrap Metal Dealers Act 2013

Report by the Executive Head of Housing, Health & Community Safety

1.0 Summary

- 1.1 The Scrap Metal Dealers Act 2013 (The Act) was passed on 28 February 2013 and is due to come into force on 1st October this year. The new Act replaces the Scrap Metal Dealers Act 1964 and parts of the Vehicles (Crime) Act 2001 that deal with motor salvage operators.

The latest Government information states that delays in the release of the official guidance and associated papers have resulted in the implementation date being moved back to 1st December 2013, and therefore the transitional arrangements for existing registered dealers will probably start on the 1st October 2013.

- 1.2 The Act has revised the regulatory regimes for scrap metal dealing and vehicle dismantling. Local Authorities will continue to act as the principal regulator but the new act will give authorities more powers to refuse or revoke licences, if the dealer is considered unsuitable. In addition, local authorities and police have been given powers to enter and inspect premises.
- The cost of issuing and enforcing licences, but not taking action against unlicensed operators, will be met by the fee charged to applicants for licences. The cost of taking action against unlicensed operators would be a cost to the council. Administering and enforcing the regime could require additional staff resources.

2.0 Background

- 2.1 The increased cost of metal world-wide has resulted in an increase in metal theft across the UK. A wide range of sectors have been hit including national transport, electricity and telephone links, street furniture, memorials and commercial and residential buildings including churches and schools.
- 2.2 The Government introduced initial changes in 2012 that took steps to prohibit cash payments for scrap metal, amend the powers of entry into unregistered scrap metal sites and increase the financial penalties for offences under the Scrap Metal Dealers Act 1964. These changes were brought in under the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Scrap Metal Dealers Act 2013 will further extend the powers to control dealing in scrap metal.

3.0 Proposals

- 3.1 The Act creates two different types of licence. A site licence allowing a dealer to carry on business at any sites in that licensing authority district as listed on the licence. Plus a collector's licence, this is to cover dealers who do not have a site and regularly collect through door to door collections. The collector's licence will only allow collection in a particular licensing authority area; therefore collectors covering several Council areas will require more than one licence. There are currently 4 registered scrap metal dealers and 1 motor salvage operators within the Worthing Borough.
- 3.2 Both licences will be issued for a three year period and must be displayed on the site premises in an area open to the public, and also clearly on view on any vehicle used by a collector.
- 3.3 The Act introduces a "suitable person" test, similar to the existing "fit and proper" test used for taxi drivers, requiring the licensing authority to be satisfied that any applicant is a suitable person to operate as a dealer. In reaching a decision over suitability, the council will be able to consider any relevant information; this includes a basic DBS (Disclosure and Barring Service) check and other enforcement information from the police and Environment Agency.
- 3.4 The licensing authority will be able to add conditions to a licence where dealers or their site managers have been convicted of relevant offences. The power to vary, refuse or revoke an existing licence is also contained in the Act. The Act also contains extensive powers of entry for Police and authorised officers from local authorities, and requires a more stringent record keeping system for the dealers.

4.0 Legal

- 4.1 In accordance with the scheme of delegation, determination of applications where the applicant meets the criteria, no objections were received, and where there are no grounds for refusal is delegated to the Executive Head of Housing, Health and Community Safety. Any application on which there would be grounds to consider refusal, either due to applicant not meeting the criteria or where objections were received, or any revocation, would be referred to the Licensing Committee for consideration. The over-riding position being that officers are able to refer any application to the committee for consideration, where appropriate to do so.
- 4.2 It is a statutory requirement to implement a scheme of licensing scrap metal dealers. Provided the authority undertakes to implement the Act within the timescales prescribed it is unlikely that the authority will be subject to any legal challenge. But, setting fees at a level which recovers more than is permitted by law is likely to give rise to a challenge.

5.0 Financial implications

- 5.1 The current scrap metal dealer legislation permits registration with basic information and there is no fee payable, whilst the current motor salvage operators' legislation does permit for more information to be requested and a fee charged for an operator's licence. The new act will require more detailed information to be

submitted on application and will allow the local authority to set a fee. The fee must be the true cost of the administration and enforcement of a licence.

- 5.2 The Act also introduces the requirement for the Environment Agency to keep and maintain a register of all Scrap Metal Licences issued in England and that register will be open for public inspection. Each council will be required to pay an annual fee to the Environment Agency for the maintenance and upkeep of this register, (this fee has not been advised yet) and this will need to be factored in to the fee charged to applicants.

6.0 Recommendation

- 6.1 To note the content of the report and authorise the Executive Head of Housing, Health & Community Safety to make the practical arrangements necessary to implement the new licensing systems, including agreeing the fees to be charged in the Worthing Borough.

Local Government Act 1972

Background Papers:

Scrap Metal Dealers Act 2013
Fee setting guidance

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Schedule of Other Matters

[To be completed on all reports. If no issues are identified under a heading then it should read "Matter considered and no issues identified."]

1.0 Council Priority

1.1 [Set out which of the Council's priorities the proposal meets and how.]

2.0 Specific Action Plans

2.1 (A) [Set out the specific outcomes from the Corporate Plan the proposal is aimed at achieving and how]

(B) [Set out any specific government target the proposal is aimed to achieve]

3.0 Sustainability Issues

3.1 [Details of any sustainability issues, checklist to be completed and submitted to Community Wellbeing]

4.0 Equality Issues

4.1 [Details of any equality issues or how the proposal improves the current position]

5.0 Community Safety Issues (Section 17)

5.1 [Details of how the proposal helps reduce crime and disorder and to meet the Council's duty regards crime and disorder reduction targets]

6.0 Human Rights Issues

6.1 [Does the proposal impinge on anyone's human rights and if so how is it justified under the Human Rights Act? Human rights include:

Right to a fair trial, respect for family life, private life, home and correspondence, freedom of thought, expression, assembly and association and protection and quiet enjoyment of property and possessions. Also ask, is the action proportionate to the anticipated response or outcome?]

7.0 Reputation

7.1 [Is the proposal likely to have an impact on the reputation of the Council(s)]

8.0 Consultations

8.1 (A) [Details of relevant internal (staff UNISON etc) and external (including Stakeholder Groups; etc.) consultation]

(B) Include how have you used the feedback from the consultation in this proposal

9.0 Risk Assessment

9.1 [Details of risks of doing or not doing? Are there insurance or public liability issues? Is there a statutory duty on the Council to do what is proposed and what are the

consequences of not doing it? Highlight if this report meets an element in the corporate business continuity plan]

10.0 Health & Safety Issues

10.1 [Details of any health and safety issues]

11.0 Procurement Strategy

11.1 [Confirm that the report complies with the Procurement Strategy or explain why the Strategy had not been complied with. Include how your recommendation meets the strategy making reference to Best Value principles if necessary]

12.0 Partnership Working

12.1 [Detail any partnership working the report/proposal seeks to promote]