

Gloucester City Council

Meeting:	Licensing and Enforcement Committee	Date:	10th September 2013
	Cabinet (for Information)		11th September 2013
	Council		12th September 2013
Subject:	Scrap Metal Dealers Act 2013		
Report Of:	Corporate Director for Services and Neighbourhoods		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
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Appendices:	1. None		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To present to Members an update of the new legislation covering scrap metal dealers and motor salvage operators and the changes proposed to the role of the Licensing and Enforcement Committee, the Licensing and Enforcement Sub-Committees and Officers within the Council's scheme of delegated functions.

2.0 Recommendations

- 2.1 Licensing and Enforcement Committee is asked to **RECOMMEND** that:
- (1) Council delegates the function to consider appeals against officer decisions or contentious applications for scrap metal dealer licences to the Licensing and Enforcement Committee with sub-delegation to Licensing and Enforcement (Enforcement) Sub-Committee;
 - (2) Council delegates the function to determine and approve policy for implementation and delivery of the Scrap Metal Dealers Act 2013 to the Licensing and Enforcement Committee;

- (3) Council delegates the function to determine fees for Scrap Metal Dealers licence applications to the Licensing and Enforcement Committee;
- (4) Council delegates the function of processing minor amendments to policy as a result of pending guidance, to the Director of Services & Neighbourhoods in consultation with the Chair of Licensing and Enforcement Committee; and
- (5) Council delegates the function of considering and approving non-contentious applications for scrap metal dealer licences to the Food and Licensing Service Manager

2.2 **Cabinet** is asked to **NOTE** the content of this report for information.

2.3 **Council** is asked to **RESOLVE** that:

- (1) The delegated function to consider appeals against officer decisions and contentious applications for scrap metal dealer licences is delegated to the Licensing and Enforcement Committee with sub-delegation to Licensing and Enforcement Sub-Committees.
- (2) The delegated function to determine and approve policy for implementation and delivery of the Scrap Metal Dealers Act 2013 is delegated to the Licensing and Enforcement Committee;
- (3) The delegated function to determine fees for Scrap Metal Dealers licence applications is delegated to the Licensing and Enforcement Committee.
- (4) The delegated the function of processing minor amendments to policy as a result of pending guidance, is delegated to the Director of Services & Neighbourhoods in consultation with the Chair of Licensing and Enforcement Committee; and
- (5) The delegated the function of considering and approving non-contentious applications for scrap metal dealer licences is delegated to the Food and Licensing Service Manager

3.0 Background and Key Issues

3.1 The Scrap Metal Dealers Act 2013 (“the new Act”) received Royal Assent on 28 February 2013 and this repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001 (relating to motor salvage operators). The measures are expected to come into force by 1st October 2013, however, this is dependent on a national register of scrap metal dealers being established by the Environment Agency.

3.2 Growth in metal theft has driven a rise in commodity prices, which has cost the economy between £220 million and £777 million a year according to two estimates. Metal theft has caused disruption to energy supplies, transport and telecommunications, as well as seeing stolen manhole covers and desecrated war memorials. These problems have highlighted how ineffective the current regulation of scrap metal dealers has become, triggering a need to revise this legislative framework.

3.3 Key features of the new Act:-

- Requires all individuals and businesses to complete an enhanced application process to obtain a scrap metal dealer licences. □The new Act brings in two types of licences either a site/premises licence or a mobile collectors' licence. The licence allows a business to trade as a scrap metal dealer at the premises identified, or in the case of a collectors licence to collect scrap metal within the City Council's boundary.
- The City Council will have the power to refuse unsuitable applicants. Applicants for a licence must be deemed to be suitable and in determining this the City Council can have regard to:
 - Whether the applicant or any site manager has been convicted of any relevant offence
 - Whether the applicant or any site manager has been the subject of any relevant enforcement action
 - Any previous refusal for issue of or renewal of a scrap metal licence
 - Any previous refusal for a environmental permit or registration
 - Any previous revocation of a scrap metal licence
 - Whether the applicant has demonstrated that there will be adequate procedures to comply with the new Act.
- Gives the City Council the power to vary or revoke a licence.
- Requires all sellers of metal to provide personal identification at the point of sale, which is then recorded by the scrap metal dealer. □Scrap metal dealers will need to obtain the full name and address of the metal supplier and keep copies of the proof of identification. In addition the dealer must keep records of the type and description of the metal(s) including weight and identifying marks, the date and time of receipt, the vehicle registration of any vehicle delivering the metal and copies of cheques used to pay for metal. All records must be kept for 3 years.
- The new Act reaffirms the offence of scrap yards buying metal with cash and is also extended to include itinerant metal collectors.
- Police officers and City Council officers will be given powers to inspect licensed premises and can require production of any scrap metal at the premises, inspect records kept and take copies of those records.

Additionally, the Act provides the Police and the City Council with power to issue closure notices and apply to a justice of the peace for a closure order.

- Creates a central public register, hosted by the Environment Agency, of all individuals and businesses licensed as scrap metal dealers.
- Widens the definition of a scrap metal dealer to include motor salvage operators.
- The current legislation permits registration with minimal information and no fee payable. The new Act will require more detailed information to be submitted on application and will allow the City Council to set a fee. The fee must be on a cost recovery basis and local authorities will have to have regard to guidance issued by the Secretary of State in determining the activities that can be funded by the licence fee. This fee will be an essential component of the new regime as it will provide local authorities with the funding they need to administer the regime and to ensure compliance.

4.0 Alternative Options Considered

- 4.1 At the time of preparing this report the full expected guidance on implementation of the new Act has not been published. However, it has been reported that the Home Office is allowing a transitional arrangement that allows existing Scrap Metal Dealers to make applications as early as September 2013. It is therefore necessary to have the governance arrangements in place as soon as reasonably possible to allow us to be able to determine fees and consider applications.

5.0 Reasons for Recommendations

- 5.1 The new Act gives the City Council the power to better regulate these industries by providing a power to refuse to grant a licence and revoke licences if the dealer is considered 'unsuitable'. Unsuitability will be based on a number of factors including any relevant convictions.
- 5.2 The licensing regime introduced by the new Act is very similar to the licensing of taxi and private hire drivers and the issuing of Personal Licences under the Licensing Act 2003. The determination of the suitability of applicants is based on a number of factors as outlined in section 3 of the Act including any unspent relevant criminal convictions. It is therefore proposed that, subject to satisfactory negotiation, the administration of the new licences will be integrated into the City Council's current licensing arrangements.
- 5.3 Whilst it is expected that straightforward applications will be decided under delegation to officers, any disputed decisions would need to be heard by a Member panel with a further right of an applicant to appeal a decision to the Magistrates' Court.

5.4 A Licensing and Enforcement Sub-Committee system provides a suitable Member panel to determine applications that are contentious or involve judgements about the past criminal record of applicants.

6.0 Future Work and Conclusions

6.1 The new Act introduces a licensing process similar to the City Council's mainstream licensing functions. It is proposed to integrate the new processes into the licensing service currently provided by the City Council.

6.2 The nature of the new licensing regime and the requirement for disputed applications to be considered by a Member panel relate to the functions of the Licensing and Enforcement Committee. It is therefore proposed that the new provisions are added to the functions of the Licensing and Enforcement Committee with sub-delegation to the Licensing and Enforcement (Enforcement) Sub-Committee and the Food and Licensing Service Manager reflecting those procedures already in place for other licensing functions.

6.3 Currently registered scrap metal dealers are able to apply for a new licence from 1st October 2013. Provided they make their applications before 15th October, currently registered scrap metal dealers will automatically be issued with a temporary licence pending completion of formal suitability assessments. Temporary licences will run until the 1st December by which time Licensing Authorities are expected to have completed and embedded its licensing process.

6.4 It is further understood that Licensing Authorities that are not in a position to process new applications by the 1st December will not have grounds to make a Closure Order against a temporarily-licensed site and successful prosecutions will not be possible unless a licence is subsequently refused.

6.5 Applications made after 15th October will be subject to the full licensing process and there is no guarantee that they will be complete before 1st December. Any merchant operating after 1st December 2013 without a licence will be in breach of the new legislation and may be served with a Closure Order.

6.6 The Licensing Team will be following the progress on the changes to the legislative framework closely. Although the primary legislation has been passed there is still a lot of work required by Government through provision of detailed Guidance for operators and Licensing Authorities, and passing of Statutory Instruments to set detailed Regulations, including:

- Issue of Regulations setting out the form & content of licences.
- Issue of formal Guidance to Local Authorities on suitability assessment.

- Issue of regulations setting out relevant offences to be considered in assessing suitability of applicants.
- Issue of regulations specifying requirements for verifying the identity of persons supplying scrap metal.
- Issue of Guidance for applicants on applying to “Disclosure Scotland” for basic criminal record checks.
- Publication of licence application forms by Local Authorities.
- Setting of licence application fees by Local Authorities.

6.7 It is anticipated that to enable a clear and transparent application process including the licensing authorities consideration of an applicant’s suitability, a Gloucester City Council’s Scrap Metal Dealers Act Policy will be developed and adopted once relevant Regulations and Guidance is received relating to these provisions.

6.8 Members are referred to the recommendations under paragraph 2.1 of this report.

7.0 Financial Implications

7.1 The main intention of the legislation is to reduce metal theft and the consequential financial impact upon property, equipment and infrastructure owners.

7.2 The City Council will be able to charge a licence fee, and must have regard to any guidance issued by the Secretary of State. Any costs arising from the proposals contained within the new Act will be met from within the proposed regime’s licensing fees.

7.3 Fees and charges will be considered by the Food and Licensing Service Manager in consultation with the Financial Services Manager before being presented to Licensing & Enforcement Committee for determination.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

8.1 The Legal Implications are adequately dealt with in the main body of the report.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

9.1 There is a risk that fee income will not cover the additional cost of licensing. This will be considered once further guidance is available and fees are set.

- 9.2 Risks associated with public safety and crime prevention will now be fully appraised through the consultation process to consider applications.
- 9.3 Opportunity to engage with hard to reach communities as many scrap metal collectors are from traveller backgrounds.
- 9.4 Opportunity to drive up standards in a business sector that has always suffered from a negative image.
- 9.5 Opportunity to develop partnerships with the Police and Environment Agency.
- 9.6 Opportunity to tackle illegal use of loudspeakers through formal engagement with scrap metal dealers that the new Act requires to hold a license with the City Council.
- 9.7 Opportunity to tackle environmental crime through formal engagement with scrap metal dealers that the new Act requires to hold a license with the City Council.

10.0 People Impact Assessment (PIA):

- 10.1 This change does not impact on equalities although it is noted that many itinerant scrap dealers are from traveller communities. A full predictive impact assessment has not been undertaken for this report because this will be conducted at the time of preparing a suitable policy to consider applications, following receipt of the Regulations and Guidance from Government.

11.0 Other Corporate Implications

Community Safety

- 11.1 The new Act introduces a licensing regime and controls that support the corporate goal of enabling, supporting and empowering our communities to be safe, active and healthy. This contributes to the high level outcome of feeling safe from crime and anti-social behavior, by driving out rogue traders which are likely to be the same traders who cause problems with illegal use of loudspeakers, theft and environmental crime.

Sustainability

- 11.2 The new licensing regime will encourage better intelligence sharing and joint working to drive out illegal and rogue traders. This approach will deal with environmental crime as well as theft.

Staffing & Trade Union

11.3 The impact on human resources will be minimal.

Background Documents: None

Home Office short guide 'Get in on the Act: Scrap Metal Dealers act 2013'

Home Office Guidance ' Scrap Metal Dealer Act 2013: guidance on licence fee charges'

Home Office Guidance ' Guide to the Scrap Metal Dealers Act 2013: Applications'