

# Gloucester City Council

<b>Meeting:</b>	<b>Licensing &amp; Enforcement Committee</b>	<b>Date:</b>	<b>15 July 2014</b>
<b>Subject:</b>	<b>Final Draft Statement of Licensing Policy and Guidelines for Scrap Metal following 12 week consultation period</b>		
<b>Report Of:</b>	<b>Gill Ragon – Head of Public Protection</b>		
<b>Wards Affected:</b>	<b>All</b>		
<b>Key Decision:</b>	<b>No</b>	<b>Budget/Policy Framework:</b>	<b>No</b>
<b>Contact Officer:</b>	<b>Rebecca Tuck – Licensing &amp; Enforcement Officer</b>		
	<b>Email: Rebecca.Tuck@gloucester.gov.uk</b>	<b>Tel:</b>	<b>396678</b>
<b>Appendices:</b>	<b>A. Draft Statement of Licensing Policy and Guidelines for Scrap Metal incorporating amendments from the Consultation</b>		
	<b>B. List of Consultees</b>		
	<b>C. Consultation Responses</b>		

## FOR GENERAL RELEASE

### 1.0 Purpose of Report

- 1.1 To present to Members the result of the consultation on the Draft Statement of Licensing Policy and Guidelines for Scrap Metal.
- 1.2 To agree a final draft version of the Statement of Licensing Policy and Guidelines for Scrap Metal for adoption by the Council at this meeting.

### 2.0 Recommendations

- 2.1 Licensing and Enforcement Committee are asked to **RESOLVE** that:
  - (1) The Draft Statement of Licensing Policy and Guidelines for scrap metal and consultation feedback be noted by Members and that a final Draft Policy is approved and adopted by the Committee, to take immediate effect.

### 3.0 Background and Key Issues

- 3.1 The Scrap Metal Dealers Act 2013 (“the Act”) has been introduced to replace the previous regulatory scheme for scrap metal dealers and for vehicle dismantlers. It requires anyone who deals in scrap metal to obtain and display a relevant licence and gives the police and local authorities more powers of entry and inspection as well as allowing a more thorough application process where licenses can be refused and subsequently revoked if dealers are deemed ‘unsuitable’.
- 3.2 On 10<sup>th</sup> December 2013 the Licensing & Enforcement Committee was briefed on the provisions of the Act, which came into force on 1<sup>st</sup> October 2013 with full

enforcement powers coming into force on 1<sup>st</sup> December 2013, and agreed the fees and the delegation of functions relating to the licensing processes under the Act.

- 3.3 On 11<sup>th</sup> March 2014 a Draft Statement of Licensing Policy and Guidelines for Scrap Metal was presented to Members for a period of 12 weeks consultation.

### **Consultation Progress**

- 3.4 The Consultation ran from the 17<sup>th</sup> March 2014 to the 9<sup>th</sup> June 2014.
- 3.5 A list of the consultees is attached as Appendix B.
- 3.6 In addition the Consultation documents were also published on the Council's website with a feedback form inviting responses.
- 3.7 In total three formal written responses were received and these are attached as Appendix C.

### **Consultation Feedback**

- 3.6 C1 **Response from the Environment Agency**

No Comments made. The response is attached as page 1 of Appendix C.

- 3.7 C2 **Response from the British Vehicle Salvage Federation**

This response queries part of paragraph 2.9 of the draft policy and is detailed on page 1 of Appendix C.

This comment is recommended by officers as a reasonable suggestion and the Draft Policy in Appendix A reflects this.

- 3.8 C3 **British Metals Recycling Association**

This response queries several paragraphs of the Draft Policy as detailed on page 2 and 3 of Appendix C. The comments in respect of paragraphs 2.2, 2.4, 3.2, 3.3, 8.1, 10.1 and 12.6 are all recommended by Officers for inclusion in the final policy. The document attached as Appendix A has been amended to reflect these comments. .

Mr Mackenzie's general comments that the Draft Licensing Policy Statement and Guidelines for Scrap Metal simply reiterates the contents of the Scrap Metal Dealers Act and should concentrate more on local management and administration of the licensing process, and on guidance on interpretation of aspects that are not clearly set out in legislation have been noted. However, the detail of this Draft Policy Statement clarifies the legislation for Officers, Members and applicants for the regulation of scrap metal dealers, avoiding the need to seek further clarification in guidance produced by the Home Office.

#### **4.0 Alternative Options Considered**

- 4.1 Consideration has been given to the consultation responses and where considered appropriate the final draft policy reflects the suggested amendments.

#### **5.0 Reasons for Recommendations**

- 5.1 The provision of a policy and guidance provides applicants and other agencies with a benchmark of the licensing authority's expectations and will assist them in understanding statutory requirements and in submitting complete and accurate applications thereby alleviating unnecessary work and delay.

#### **6.0 Future Work and Conclusions**

- 6.1 It is intended to review this policy at regular intervals. The next review of the Policy is scheduled for 2019, however it may be amended prior to this, depending on changes to the legislative framework, national guidance or changes to internal procedures/processes.
- 6.5 The Scrap Metal Dealers Act 2013 introduces a licensing process for all dealers which will be administered by the Council's Licensing Team. The final draft policy has been produced which sets out the procedures and principles that the Council will apply when making decisions regarding the application of the Act.
- 6.6 Members are asked to consider and approve the final policy as drafted, subject to any amendments considered appropriate.

#### **7.0 Financial Implications**

- 7.1 There are no direct financial implications associated with this report.

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

#### **8.0 Legal Implications**

- 8.1 Under the Scrap Metal Dealers Act 1964 scrap metal dealers were required to register with the Council. There was no fee associated with this registration and the Council was not able to refuse such a registration. As this is a new licensing regime it is not know at this stage how much of a risk of legal challenge the licensing with represent.
- 8.2 The Council is under no legal obligation to have a policy in place. However, this policy will assist the Council in achieving consistency, fairness and transparency in its decision making process. Application of the policy in the decision making process will enable the Council to minimise successful legal challenges and appeals. Licensing Officers and the Committee should have regard to all the circumstances of a particular case and would be entitled to have due regard to this policy.

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

## **9.0 Risk & Opportunity Management Implications**

- 9.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal.
- 9.2 Consultation with relevant stakeholders will minimise the risk of challenge.
- 9.3 Risks associated with public safety and crime prevention will now be fully approached through the consultation process to consider applications.
- 9.4 Opportunity to develop close partnerships with the Police and Environment Agency to tackle environmental crime and metal theft.

## **10.0 People Impact Assessment (PIA):**

- 10.1 The Screening stage considered risks to customers in the areas of gender, disability, age, ethnicity, sexual orientation and community cohesion.
- 10.2 The PIA Screening Stage was completed and did not identify any potential or actual negative impact. The need to carry out a full PIA will be assessed once representations have been considered following the consultation process.

## **11.0 Other Corporate Implications**

### Community Safety

- 11.1 Licensing Scrap Metal Dealers in accordance with the Act will ensure only genuine sites and collectors can obtain a licence and legally operate in scrap metal, enhancing public safety and the prevention of metal theft. The guidelines relating to the relevance of convictions are intended to protect all sectors of the community.

### Sustainability

- 11.2 Relevant stakeholders will be consulted on applications, the aim being to encourage intelligence sharing and joint working to eliminate theft and its impact on the environment by illegal and rogue traders.

### Staffing & Trade Union

- 11.3 The impact on human resources will be minimal.

**Background Documents:** Scrap Metal Dealers Act 2013  
Home Office – Scrap Metal Dealers Act 2013 -  
Supplementary Guidance  
LGA Guide to the Scrap Metal Dealers Act 2013  
Scrap Metal Dealers Act 2013 Associated Regulations