

**Decision Session – Cabinet Member for
Crime & Stronger Communities**

25 October 2013

Report of the Assistant Director – Housing &
Community Safety.

Scrap Metal Dealers Act 2013

Summary

1. The purpose of this report is to asked the Cabinet Member to consider arrangements to enable the council to discharge its functions under the Scrap Metal Dealers Act 2013.

Background

2. The Scrap Metal Dealers Act 2013 (the Act) received Royal Assent on 28th February 2013 and will come fully into force from 1st October 2013.
3. The Act repeals the Scrap Metal Dealers Act 1964, including linked legislations, and Part 1 of the Vehicles (Crime) Act 2001, relating to motor salvage operators, both of which only made operators register with a local authority.
4. The new Act creates a revised regulatory regime for the scrap metal and vehicle dismantling industries. Local Authorities remains as the principal regulator under the Act, which offers more powers to better regulate this industry.
5. The Act allows local authorities to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
6. The Act aims to raise standards in the scrap metal industry by requiring operators to keep more detailed and accurate records of transactions, and verifying the identity of those selling scrap metal to them.

7. Applications for a licence must be accompanied by a fee which is set locally by each authority on a cost recovery basis.

The Act

8. The Act defines a 'scrap metal dealer' as a person who is for the time being carrying on business as a scrap metal dealer, whether or not authorised by a licence. It states that 'scrap metal' includes:
 - a. any old, waste or discarded metal or metallic material, and
 - b. any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

The following is not considered to be 'scrap metal':

- a. gold
 - b. silver, and
 - c. any alloy of which 2 per cent or more by weight is attributable to gold or silver.
9. The Act requires that a scrap metal dealer obtains a licence from the local authority in order to carry on business as a scrap metal dealer. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction with a fine not exceeding level 5 (£5,000) on the standard scale.
 10. There will be two types of licence, one for a site and the other for a mobile collector (for those carrying on business otherwise than at a site). A power is provided for the Secretary of State to prescribe the form and content of the licences in Regulations.
 11. A site licence authorises the licensee to carry on business at any site in the authority's area which is identified in the licence. A site licence must –
 - a) name the licensee,
 - b) name the authority,
 - c) identify all the sites in the authority's area at which the licensee is authorised to carry on business,

- d) name the site manager of each site, and
 - e) state the date on which the licence is due to expire.
12. A collector's licence authorises the licensee to carry on business as a mobile collector in the authorities area. A collector's licence must –
- a) name the licensee,
 - b) name the authority, and
 - c) state the date on which the licence is due to expire.
13. A licence will be issued for a period of three years from the date of issue.
14. Licensing authority have to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In considering suitability, the local authority may have regard to any relevant information, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. The Secretary of State has a power to prescribe in regulations the meaning of relevant offence and relevant enforcement action. The authority must also have regard to any guidance on determining suitability which will be issued from time to time by the Secretary of State, and the authority may consult with other organisations to assist in determining suitability.
15. The Act allows local authorities, when issuing a licence, to include conditions on it if the licensee or site manager has been convicted of a relevant offence. The Act specifies the two conditions that can be imposed by local authorities on a licence, namely:
- that the dealer must not receive scrap metal except between 9 a.m. and 5p.m. on any day;
 - that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
16. The Act allows the licensing authority to revoke a licence or to vary a licence, imposing the conditions above, if the licensee or a site manager is convicted of a relevant offence.

17. The Act places a duty on the local authority to supply any such information as requested relating to a scrap metal licence to any other local authority, the Environment Agency, the Natural Resources Body for Wales and to police forces.

18. The Act requires that a register of licences issued under the Act should be maintained by the Environment Agency in England. Local authorities will provide the appropriate information on all licences issued in their areas in order that this register can be updated regularly. The register will be open for inspection to the public and will include –
 - a) the name of the authority which issued the licence,
 - b) the name of the licensee,
 - c) any trading name of the licensee,
 - d) the address of any site identified in the licence,
 - e) the type of licence, and
 - f) the expiry date of the licence.

19. The Act requires that the licensee display a copy of their licence. For site operators this must be in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil these requirements. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale (£1000).

20. The Act places a requirement on scrap metal dealers to verify the identity of the person they are receiving metal from and the person's address. This verification must be done by reference to documents, data or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Agency, a bank or utility company etc. The Secretary of State will prescribe in regulations the data or documents which are sufficient, or not sufficient as the case may be, for verifying identity. It will be an offence not to obtain and verify the seller's

identity, punishable by a fine not exceeding level 3 on the standard scale. The offence will apply to the scrap metal dealer, the site manager and any person, who under arrangements made by either the scrap metal dealer or the site manager, has responsibility for fulfilling this requirement on behalf of the business.

21. The Act places a requirement on the scrap metal dealer not to pay for scrap metal except –
- a) by a cheque which is under section 81A of the Bills of Exchange Act 1882 is not transferable, or
 - b) by an electronic transfer of funds (authorised by credit or debit card or otherwise).

Failure to comply with the requirement is an offence attracting a penalty up to level 5 on the standard scale.

22. The Act sets out the record-keeping requirements in respect of any scrap metal received by a scrap metal dealer in the course of their business. Information that is required to be recorded includes the type of metal being purchased; the time/date of the transaction; personal information on the seller; who is acting on behalf of the dealer and proof of the non-cash transaction. Failure to comply with the requirement is an offence attracting a penalty up to level 5 on the standard scale.

23. The legislation places a shared enforcement responsibility for this new statutory duty on both City of York Council and the Police.

Implementation Timeframe

24. The main provisions of the Act will commence on 1 October 2013, including the offence of buying scrap metal for cash.
25. Dealers already registered with the council before 1 October will be deemed to have a licence under the Act from 1 October . Provided they submit an application for a licence on or before the 15 October their deemed licence will last until the council either issues them with a licence or gives them notice of the decision to refuse them a licence, although they will be able to continue trading pending an appeal against the decision not to grant a licence.

26. Where a dealer submits an application on or before 15 October but does not supply all the required information with the application form then the deemed licence remains in effect after 15 October.
27. Where a dealer with a deemed licence fails to submit an application on or before 15 October the deemed licence will lapse on 16 October.
28. Other scrap metal dealers, not previously registered, will be able to apply for a licence from 1 October but will have to wait until the licence is granted before they can legally trade.
29. Local authorities will complete suitability checks on applicants and decide whether to issue licences. It is recommended that decision on whether to grant or refuse a licence to previously registered dealers are made before 1 December.
30. All other enforcement within the Act will commence on 1 December 2013.

Delegation

31. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 have not yet been amended, so in the meantime, functions of the Act will be the responsibility of the Executive. It is therefore recommended that the Assistant Director (Housing and Community Safety) to be authorities to:
 - Grant or renew a licence of a Scrap Metal Dealer under the Scrap Metal Dealers Act 2013.
 - Serve notice of a proposal to refuse or cancel a licence of a scrap metal dealer under the Scrap Metal Dealers Act 2013.
 - Serve notice of a proposal to vary a licence of a scrap metal dealer under the Scrap Metal Dealers Act 2013.
 - Determine applications for a licence of a scrap metal dealer under the Scrap Metal Dealers Act 2013 where it is the intention to refuse or cancel a licence or to vary a licence under section 4 of the Act, where the applicant has not served notice requiring the opportunity to make representations to the authority in respect of

the proposal to refuse or cancel a licence, or to impose conditions on a licence.

32. Where the Assistant Director (Housing and Community Safety) proposes to refuse or to cancel a licence or to vary a licence under section 4 of the Act and the applicant has given notice to the authority, within the prescribed time that they require the opportunity to make representations about that proposal, the Act makes provision for a hearing of representations to be held. In such instances, it is recommended that the Director of communities and Neighbourhoods be authorities to conduct the hearing and determine the application on the Executives behalf.

Licence Fees

33. An application for a licence must be accompanied by a fee. Fees are set by each local authority on a cost recovery basis having had regard to the guidance from the Home Office. The council must also have regard to the European Service Directive 2006 and The Provision Service Regulations 2009 when setting fees.
34. 14 scrap metal dealers and 2 motor salvage operators are currently registered with this authority.
35. As the licensing of dealers is a new regime it is difficult to fully calculate the costs of the procedures. When calculating the fees officer have taken into consideration the time they believe it will take to process application, carry out consultation if required , inspection / enforcement of operators, deal with contested application and issue licences. It is therefore proposed that the fees are reviewed at the beginning of the next financial year. The proposed fees are:
- grant/renewal application site licence - £441.00
 - grant/renewal application site licence (2 sites) - £596.00
 - grant/renewal application site licence (3 sites) - £751.00
 - grant/renewal application collectors licence - £246.00
 - variation application - £120.00
 - variation application (change of name/address) - £52.00

Options

36. Option 1 – approve the officers recommendation regarding the delegation scheme and fees.
37. Option 2 – propose alternative delegation scheme and fees.

Analysis

38. Option 1 – will set a delegation scheme for dealing with licence application for scrap metal dealers and dealers who are already licensed. It will also set fees at a level that will be sufficient to meet the costs of operating this service.

Council Priorities

39. The new legislation will support the Council's Priorities to protect vulnerable people, build stronger communities and protect the environment by providing better regulations for the scrap metal industry.

Implications

40. **Financial** – the fees proposed will be sufficient to meet the cost of operating this service.
41. **Human Resources** – there are no implications.
42. **Equalities** – there are no implications
43. **Legal** – there are no implications if a delegation scheme is in place.
44. **Crime and Disorder** – there are no implications.
45. **Information Technology (IT)** – there are no implications.
46. **Property** – there are no implications.
47. **Risk Management** – there are no implications.

Recommendation:

It is recommended that Option 1 is approved.

Reason:

Option 1 will provide a delegation scheme for dealing with the new legislation, and set fees that are at a level which is sufficient to cover the costs of operating this service.

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**Report
Approved**

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Date *25 October
2013*

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Scrap Metal Dealers Act 2013