

Appendices:  
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**NORTHAMPTON**  
BOROUGH COUNCIL

## LICENSING COMMITTEE REPORT

<b>Report Title</b>	<b>The Scrap Metal Dealers Act 2013</b>
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**AGENDA STATUS: PUBLIC**

<b>Committee Meeting Date:</b>	<b>5<sup>th</sup> November 2013</b>
<b>Policy Document:</b>	<b>Scrap Metal Dealers Licensing</b>
<b>Directorate:</b>	<b>Customers and Communities</b>

### 1. Purpose

- 1.1 To inform the committee of the licensing requirements of the Scrap Metal Dealers Act 2013 and to seek approval for the scheme of delegation and licensing fees

### 2. Recommendations

- 2.1 That the Head of Customers and Communities be authorised to set the fees to accompany applications made under the Scrap Metal Dealers Act 2013 (The 2013 Act).
- 2.2 To delegate powers to the Officers within Regulatory Services to determine suitability of applicants to hold a licence and dispose of the responsibilities provided to the Council within the 2013 Act.

### 3. Issues and Choices

#### 3.1 Report Background

- 3.1.1 The growth of metal theft offences has highlighted the ineffectiveness of the previous registration scheme in preventing the sale of stolen metal. Government therefore decided that regulatory reform of the scrap metal sector was needed.

- 3.1.2 The 2013 Act contains additional provisions to raise standards in the industry, replacing the overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory scheme and making Councils responsible for the licensing and enforcement of the Act alongside the Police.
- 3.1.3 The 2013 Act will allow the Council to decide who should and should not be licensed, allowing refusal of a licence upon application or revocation of a licence at any time if the Council is not satisfied that the applicant is a suitable person to carry on a business as a scrap metal dealer. The Act also creates closure powers for unlicensed dealers. It extends the record keeping requirements placed upon scrap metal dealers and requires scrap metal dealers to verify the identity of people they undertake transactions with. The Act will integrate the separate regulation for motor salvage operators with the scrap metal sector and bring an end to the exemption relating to cash transactions given to some collectors under the 1964 Act.
- 3.1.4 The 2013 Act creates a fee raising power, to allow local authorities to recover the costs stemming from administering and seeking compliance with the regime.
- 3.1.5 In order for anyone to carry on a business as a scrap metal dealer they must obtain a licence. The licence will be valid for three years and trading without a licence will be a criminal offence.

There are two types of licence specified in the 2013 Act:

- **Site licence**

All the sites where a licensee carries on business as a scrap metal dealer have to be identified, and 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. It does not allow the collector to operate in any other local authority area, so a separate licence has to be obtained from each Council the collector wishes to operate in. The licence does not authorise the licensee to operate a site; to do so they will need a site licence from the relevant local authority.

- 3.1.6 An applicant for a licence must be suitable and the local authority, when determining suitability, 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 or renewal of a Scrap Metal Licence.
- Any previous refusal for an 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 2013 Act.

3.1.7 In order to ensure that the application process is open and transparent it is proposed that all representations are heard by the Licensing Committee. It is anticipated that the hearings would be managed in the same way to those currently heard by the Committee in relation to Licensing Act hearings, where Members hear representations from all parties involved before making a decision.

3.1.8 There is a right of appeal to the Magistrate's Court against the decision to refuse a licence application, to include a condition within the licence, to revoke the licence or to vary the licence.

### **Application Fees**

3.1.9 Any application to receive a licence must be accompanied by a fee. The fee is set by the local authority having had regard to guidance issued by the Home Office.

3.1.10 Based on calculations, using the criteria on which fees may be set, it is considered that the following fee structure will be sufficient to cover the council's reasonable costs associated with licence applications and enforcement. All licences will be issued for three years:

- Site licence application/renewal - £325
- Collectors licence application/renewal - £240
- Variations to an existing licence - £65 per request

3.1.11 The proposed costings and derived fees are based on the estimated times to process applications. The fee structure will be reviewed at a later date when the actual level of involvement is established.

## **4.1 Choices (Options)**

4.1.1. Confirm the formal adoption of the procedure outlined.

4.1.2 Confirm the fee setting procedure as set out

4.1.3. Confirm the delegation of the powers as outlined in the report to officer level.

## **5. Implications (including financial implications)**

### **5.1.1 Policy**

This report will form the basis for the policy.

### **5.1.2 Financial implications**

The licensing scheme will be funded by the licence holders but the cost of enforcing unlicensed dealers will have to be met by the tax-payer from central funds.

## **5.2 Resources and Risk**

5.2.1 Resources will continue to be managed within the existing Regulatory Services budget.

5.2.2 We aim to apply the principles set down in the Legislative and Regulatory Reform Act 2006 to all of our regulatory activities, including, but not limited to, those that are specified in regulations made under the Act. The principles are that:

- Regulatory activities should be carried out in a way, which is transparent, accountable, proportionate and consistent;
- Regulatory activities should be targeted only at cases in which action is needed.

5.2.3 The primary function of local government regulatory activity is to protect the public, the environment, and groups such as consumers and residents.

5.2.4 However, it is important that these enforcement functions are carried out in an equitable, practical and consistent manner, and that those subject to regulation and those on whose behalf enforcement is carried out are aware of the Council's policy on enforcement.

5.2.5 This Enforcement Procedure helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens on those subject to regulation.

5.2.6 This Policy has been developed with due regard to the Principles of Good Enforcement set out in the following guiding documents:

- The Regulators' Compliance Code, a code issued under the Legislative and Regulatory Reform Act 2006 in respect of certain specified Council regulatory functions
- The Code for Crown Prosecutors issued by the Director of Public Prosecutions under the Prosecution of Offenders Act 1985

In certain circumstances we may conclude that a provision contained in one or more of these codes is either not relevant or is outweighed by another provision or relevant factor.

5.2.7 We will ensure that any decision to depart from relevant policy guidelines will be properly reasoned and based on material evidence.

## **5.3 Legal**

5.3.1 The 2013 Act replaces the current registration regime for Scrap metal dealers and vehicle dismantlers. The Council will be responsible for both licensing and enforcement of the Act.

5.3.2 All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the Council's statutory obligations.

5.3.3 Council enforcement officers should act within the scope of their delegated authority and with due regard to all relevant legislation, such as:

- The Police and Criminal Evidence Act 1984,
- The Criminal Procedure and Investigations Act 1996
- The Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000
- The Criminal Justice and Police Act 2001
- Criminal Justice Act 2003
- The Legislative and Regulatory Reform Act 2006

and legislation designed to tackle discrimination and promote equality.

5.3.4 Officers will have due regard to any relevant formal procedures and codes of practice made under such legislation and will be guided in their work by the principles laid down in legislation and underpinning this policy.

## **5.4 Equality**

5.4.1 An Environmental Impact Needs Assessment has not been conducted as this is primary legislation and applies nationally. There are no implications locally as enforcement work in respect of scrap metal dealers will be carried out consistently on the basis of risk for all premises across the whole Borough.

## **5.5 Consultees (Internal and External)**

5.5.1 Legal

## **5.6. Background Papers**

5.6.1. The Scrap Metal Dealers Act 2013

5.6.2 The Scrap Metal Dealers Act 1964