



<u>Committee and Date</u>
Strategic Licensing Committee
25 th September 2013

<u>Item</u>
8
Public

Scrap Metal Dealers Act 2013

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1. Summary

- 1.1 Regulation has applied to scrap metal dealers since at least the late 19th Century. The legislation was set out in the Scrap Metal Dealers Act 1964 until this year when the Scrap Metal Dealers Act 2013 received Royal Assent. The 1964 Act required district councils to maintain a register of persons trading in their area as scrap metal dealers. Failure for the metal dealer to inform the council of their operations attracted a fine of up to £1000 and registration would take place every three years.
- 1.2 In recent years the demand for metals has never been stronger and the metal recycling industry is booming, with a total worth of £5 billion in 2011. This in turn has seen a dramatic rise in metal theft and a significant impact on communities. Nine out of ten councils have been affected by the theft of metal e.g. drain covers etc and elsewhere there has been disruption to rail services, loss of power to homes, interruptions to telecommunications, theft of bus shelters and even grave memorials.
- 1.3 The Scrap Metal Dealers Act 2013 (the Act) received Royal Assent on 28th February 2013 and will be phased in between 1st September 2013 and 1st December 2013. The Act provides the legislative framework in relation to the licensing of Scrap Metal Dealers including Motor Salvage Operators.
- 1.4 The Act will require scrap metal dealers to be assessed for suitability before licences are granted or renewed. It will give local authorities the power to impose conditions on licences, revoke licences and tighten up how trading is conducted and allow local authorities and the Police to close down unauthorised sites.
- 1.5 The purpose of this report is to provide details of the new legislation, consider the proposed delegation of powers and to propose the application fees.

2 Recommendation

- 2.1 Consider the proposed application requirements and scheme of delegations as reported.
- 2.2 Consider the level of the proposed fees.

REPORT

3 Risk Assessment and Human Rights Act Appraisal

- 3.1 The recommendations are not at variance with the Human Rights Act 1998 and are unlikely to result in any adverse Human Rights Act implications. The recommendations are in line with current legal procedures laid down in relevant licensing legislation.

4 Financial Implications

- 4.1 The Act provides that an application must be accompanied by a fee set by the Authority. The fee levels for applications are set for full cost recovery in relation to processing applications and monitoring compliance with licenses issued but not for enforcement against unlicensed operators.
- 4.2 Shropshire Council currently licences 30 Scrap Metal Dealers and 12 Motor Salvage Operators. (Under the new legislation Scrap Metal Dealers and Motor Salvage Operators will be licenced as Scrap Metal Dealers – Site Licences.)
- 4.3 Shropshire Council do not currently licence any door to door collectors. (Under the new legislation door to door collectors will be licenced as Scrap Metal Dealers - Collectors Licences.)
- 4.4 Scrap Metal Dealers - Site Licence fees have been calculated as £494.00 per 3 year licence.
- 4.5 Scrap Metal Dealers - Collectors Licence fees have been calculated as £202.00 per 3 year licence.
- 4.6 Re-licensing the existing licence holders under the new legislation will generate £20,748.00 in licence fees.

5 Background

The Scrap Metal Dealers Act 2013 provides the legislative framework in relation to licensing of Scrap Metal Dealers. The new legislation repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crimes) Act 2001 and brings forward a revised regulatory regime for the scrap metal dealing and vehicle dismantling industries.

- 5.1 The Act maintains local authorities as the principal regulator of these industries and provides a better power to refuse to grant a licence and to revoke licenses if the dealer is considered unsuitable.
- 5.2 The Act creates two different types of scrap metal licences either a site licence or a collectors' licence. Collectors' licences cover dealers who do not have a site and regularly collect through door-to-door collections. A collectors' licence issued by Shropshire Council would not allow a dealer to operate in any other local authority area, so a separate licence from each authority would have to be obtained. A site licence allows the dealer to carry on business at any sites in the council's area listed on the licence.
- 5.3 Other powers contained in the Act provide for:-
- Licences to be displayed.
 - Dealer's to carry out stricter identity checks on anyone they receive scrap metal from.
 - Dealer's to keep records of any scrap metal received or disposed of.
 - Prohibits the payment of cash for metal. Payment can only be made by non-transferable cheque or an electronic transfer of funds.
 - Local authorities and Police to enter and inspect licensed premises, inspect and take copies of records and require inspection of any scrap metal.
 - The closure of unlicensed sites through the Police/Local Authority seeking closure orders from a Magistrates' Court.
- 5.4 Before issuing a licence the local authority is required to be satisfied an applicant is a suitable person to operate as a dealer, and may consult with any other local authority, the Environment Agency and the Police. In deciding if someone is suitable a local authority can consider any information deemed as relevant, including whether the dealer or their site manager has been convicted of a relevant offence.
- 5.5 Licences will last for 3 years unless revoked, but the Act also gives licensing authorities the powers to refuse a licence, add specific conditions to a licence or to revoke the licence. Where the authority proposes to refuse a licence, add conditions or revoke a licence then the person affected can make representations or request a hearing before such a decision can take effect. The proposed scheme of delegations provides for such hearings to be undertaken by the Licensing and Safety Sub Committee. There is then a right of appeal to the Magistrates' Court.
- 5.6 Local Authorities will only have discretion over the following issues:-
- The information it considers to be relevant when assessing an applicant's suitability.
 - The Act permits local authorities to consider convictions for a relevant offence, previous relevant enforcement action, previous refusal or revocation of a scrap metal licence, demonstrating adequate

compliance measures and anything else it considers to be relevant. This local authority will also take into consideration any relevant complaints received.

5.7 The persons/bodies that it will consult on applications.

- The Act provides for consultation with the police, other local authorities and the Environment Agency.
- It is considered that this local authority will also consult with relevant internal departments e.g. Planning, Trading Standards.

5.8 Revocation of a licence or addition of conditions:-

- The factors provided in 5.6 above will be considered whether such condition or revocation is required.

5.9 **Licence applications** - Schedule 1 of the Act sets out what information must accompany an application for a scrap metal dealers licence. This includes:

- the full name, date of birth and usual place of residence of an individual applicant (including mobile collectors), anyone proposed as a site manager for a site, and every partner where a partnership is applying for a licence.
- the company name, registered number and registered office address where it is the applicant.
- any proposed trading name for the business.
- the telephone number and email address (if any) of the applicant.
- where it is a site licence, the address of each proposed site to be included on the licence.
- the address of any site in another council area where the applicant already carries on business or proposes to do so.
- details of any relevant environmental permit or registration held by the applicant.
- details of any other scrap metal licences issued to the applicant within the three years before making this application.
- details of the bank account(s) to be used for cashless transactions – where a licensee operates multiple sites different bank accounts may be used.
- details of any relevant conviction or enforcement action that relates to the applicant.
- the Act provides the documents that are required to be accompanied with the application form. Shropshire Council will also require that each applicant provides photographic identification before considering an application.

5.10 The Act will come into force in phases:-

- 1st September 2013 – power to set fees.

- 1st October 2013 – power to receive/process applications.
- 1st December 2013 – power to enforce.

5.11 The Home Office have advised that there will be transitional arrangements for dealers currently registered under old Scrap Metal Dealers and Motor Salvage Acts. Under these arrangements, current existing traders will be able to make applications from 1st October 2013 until the 15th of October 2013. These traders can then continue trading whilst their applications are being determined. If they fail to re-apply by the 15th of October 2013 their current licence will expire and they will have to cease trading.

6. Consultation

6.1 Shropshire Council's Licensing Team wrote to all existing Licence holders on the 16th of September 2013 explaining the requirements for re-licensing and outlining the proposed fees. The existing licence holders were given 7 days to provide any comments prior to the Strategic Licensing Committee Meeting of the 25th of September 2013. (At the time of writing this report the existing licence holders still had time to provide comments and all relevant comments received will be brought before the committee on the 25th of September 2013).

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

- Scrap Metal Dealers Act 1964.
- Part 1, Vehicles (Crime) Act 2001.
- Scrap Metal Dealers Act 2013.
- Local Government Association – Get in on the Act, Scrap Metal Dealers Act 2013.
- Local Government Association – Metal Theft Toolkit, Let's Prove Our Mettle (2011).

Cabinet Member: Cllr Steve Charmley

Local Member: Not applicable

Appendices: None

