

Report To: Cabinet

Date of Meeting: 24th September 2013

Lead Member / Officer: Councillor David Smith

Report Author: Graham Boase, Head of Planning & Public Protection

Title: Scrap Metal Dealers Act 2013

1. What is the report about?

1.1 The Government has introduced The Scrap Metal Dealers Act 2013, which repeals the Scrap Metal Dealers Act 1964 and Part 1 of Vehicles (Crime) Act 2001 and brings forward a revised regulatory regime for the scrap metal dealing and vehicle dismantling industries, which will provide the Council with a strong legislative framework desperately needed to empower the council and police forces in the fight against offenders who wilfully plunder the country of metal, whilst also strengthening and supporting legitimate scrap metal dealers

2. What is the reason for making this report?

2.1 To inform Cabinet of the provisions of the Scrap Metal Dealers Act 2013 and request that they approve the suggested delegated powers and fee setting for the authority.

3. What are the Recommendations?

3.1 That Members delegate the powers under the Scrap Metal Dealers Act to the Head of Planning and Public Protection.

3.2 That Members delegate the decision of the adoption of the fee level for Scrap Metal licences to the Head of Planning and Public Protection, with approval from the Lead Member.

4. Report details.

4.1 Metal theft has a major impact on the economy costing a reported estimate of between £220 million and £777 million a year. To address this issue the regulation of scrap metal dealers, introduced in the 1960s, has now been revised. The Government has introduced the Scrap Metal Dealers Act 2013.

4.2 The Scrap Metal Dealers Act 2013 received Royal Assent on 28th February 2013 and is expected to come in to force from 1 October 2013.

4.3 The Act maintains Local Authorities as the principal regulator of these industries. It gives local authorities 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 criminal convictions. The Act will also provide local authorities and police officers with suitable powers of entry and inspection and to close down unauthorised sites.

- 4.4 The Act will create two different types of Scrap Metal Licence, either a “Site Licence” or a “Mobile Collectors Licence”. A Mobile Collector would have to have a licence in every Local Authority area in which they operate.
- 4.5 There is also a requirement for a public register to be maintained by the Natural Resources Body for Wales. In England, the register will be maintained by the Environment Agency.
- 4.6 Any dealer currently registered under the Scrap Metal Dealers Act 1964, or a motor salvage operator already registered under the Vehicles (Crime) Act 2001, will be permitted to continue to operate legally, providing that they apply for a licence under the new Act by 15 October 2013. Their existing licences will remain in force until the Local Authority issues a new licence. These transitional arrangements have been implemented via a Commencement Order.
- 4.7 Where an applicant is not registered under the Scrap Metal Dealers Act 1964 or the Vehicles (Crime) Act 2001 before 1 October then they will not be able to trade legally after 1 October until a licence has been issued. Full enforcement of the provisions in the 2013 Act will commence from 1 December 2013.
- 4.8 Under the 1964 Act councils had to register anyone who notifies them that they are operating as a scrap metal dealer. Under the 2013 Act councils will be able to refuse to grant a licence where the applicant is judged not to be a suitable person to operate as a scrap metal dealer. There is guidance on assessing the suitability of applicants and this would include information such as previous relevant convictions.
- 4.9 Where the Council considers it necessary to refuse to issue a licence, to vary a licence or revoke a licence then they must give the opportunity to an applicant/licensee to make oral representations. The Local Government Association (LGA) Guidance regarding the Act recommends the Council’s Licensing Committee as the appropriate body to hear such representations. Persons aggrieved by any decision can appeal to the Magistrate’s Court.
- 4.10 Those applications which are uncontested or where there are no questions about the suitability of the applicant can be delegated to Licensing Officers to make the decision on whether or not to grant the application.
- 4.11 Other powers contained in the Act provide for:
 - Licences to be displayed
 - Dealers to carry out identity checks on scrap metal providers
 - Dealers to keep records of any scrap received or disposed of

- Prohibition of cash payments. Payment can only be made by non-transferable cheque or transfer of funds
- Local Authorities and Police to enter and inspect licensed premises
- Variation of or refusal to vary a licence
- Revocation of a licence
- Closure of sites through Closure Orders from a Magistrates Court
- Establishment of a Public Register, hosted by the Environment Agency and Natural Resources Wales, of all individual and businesses licensed as scrap metal dealers

4.12 The licensing regime created by the Scrap Metal Dealers Act 2013 will commence on 1 October 2013. In order to provide time for councils to process applications without existing businesses being in a position where they cannot operate, the Home Office is implementing a transition process.

4.13 The transitional arrangements will be implemented by a commencement order which will be made in August 2013. This order will also allow councils to set a licence fee for applications from 1 September. It will also specify that the remaining sections in the Act commence on 1 October, apart from the majority of criminal offences and enforcement-related provisions, which will come into force on 1 December. The exception to this will be the ban on using cash to pay for scrap metal which will also come into force on 1 October.

4.14 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. The Home Office have produced guidance to assist Local Authorities. In setting fees the Authority must also comply with the EU Services Directorate and the Provision of Services Regulations 2009. The Authority can only charge a fee which reflects the actual cost of processing the licence application and checking compliance with the licence conditions and provisions of the Act.

4.15 The LGA and Home Office guidance relating to the implementation of the Act and also in relation to fee setting has been significantly delayed and were only published in August 2013.

5. How does the decision contribute to the Corporate Priorities?

5.1 The implementation of this Act will contribute to economic growth by regulating and enforcing the scrap metal industry.

6. What will it cost and how will it affect other services?

6.1 The implementation of the Act and enforcement will be undertaken by existing staff within the Licensing Service of the Council.

6.2 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.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision? The completed EqIA template should be attached as an appendix to the report.

7.1 The use of the new powers will be subject to an Equality Impact Assessment during the development of procedures, prior to implementation. The Service is committed to carrying out Equality Impact Assessments for all new policies and procedures.

8. What consultations have been carried out with Scrutiny and others?

8.1 There has been no formal consultation on this report. Consultation with Head of Service, Public Protection Manager and other Local Authorities in Wales on the implementation of the legislation has taken place.

9. Chief Finance Officer Statement

9.1 There are no obvious significant financial implications and any costs should be contained within existing budgets or covered by fees charged.

10. What risks are there and is there anything we can do to reduce them?

10.1 The Council may be open to legal challenge if a system is not in place for administering and enforcing scrap metal dealing.

11. Power to make the Decision

11.1 Scrap Metal Dealers Act 2013.