



CABINET - 18TH SEPTEMBER 2013

SUBJECT: SCRAP METAL DEALERS ACT 2013

REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To inform Cabinet of new statutory legislation to licence scrap metal dealers.
- 1.2 To note and agree the proposals for determining the licence applications received by the Authority under the Scrap Metal Dealers Act 2013.
- 1.3 To seek the necessary authorisation for officers within Trading Standards to take enforcement action under the Scrap Metal Dealers Act 2013

2. SUMMARY

- 2.1 The Scrap Metal Dealers Act 2013 ("the Act") will be enacted on the 1st of October 2013 and introduces a new licensing system to control site operators and itinerant collectors. The Act requires that all scrap metal dealers are licensed either in the location of the site, or the area in which the itinerants collect.
- 2.2 The Act gives additional powers to authorised officers of a local authority and the police to inspect premises, check records and to issue a Closure Notice for premises that are trading without a licence. The Act also integrates controls on motor salvage operators with the scrap metal sector.

3. LINKS TO STRATEGY

- 3.1 Public protection is a statutory duty of the authority and contributes to the Prosperous Caerphilly and Safer Caerphilly Priorities within the Caerphilly Local Service Board single integrated plan, Caerphilly Delivers, and Objective 1 of the Council's Strategic Equality Plan 2012.

4. THE REPORT

- 4.1 The Act comes into force on 1st of October 2013 with transitional arrangements for existing traders until the 1st of December 2013. It aims to regulate the sector via a local authority - licensing regime, which will support legitimate dealers but provide powers to effectively tackle unscrupulous operators.
- 4.2 The Act repeals in full the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001 and creates a revised regulatory regime for scrap metal recycling and vehicle dismantling industries in England and Wales. It has been introduced in response to the growth in metal theft offences.

- 4.3 The Act and supporting Regulations are silent upon the issue of the responsibility for exercising the function under the Act. Consequently the provisions of S 9 (D) of the Local Government Act 2000 are triggered which provide if an Act is silent on this issue then by default the function will be exercised by the Executive.
- 4.4 It is anticipated that further Regulations will be implemented in the future that will permit the function to be Local Choice function, in other words a function that can be exercised by the Council or the Executive. A further Report will be issued on this matter as and when the Regulations come forward, as in terms of administering the process this is not a function that sits well with the Executive. Ideally this regime should be administered in the same way as the other licensing functions of the Authority, a Council function delegated to the Licensing Committee.
- 4.5 The final guidance from the Home Office has only been recently issued and the Authority is now working to very tight timescales to implement the new licensing arrangements.
- 4.6 The Licensing regime introduced by the Act is very similar to the licensing of taxi drivers. The suitability of the applicants is based on a number of factors outlined in Section 3 of the Act including any unspent relevant criminal convictions. For the reasons set out above the determination of applications under the Act is an Executive function, accordingly it is necessary for the Authority to determine a process to deal with applications received under the Act.
- 4.7 It is proposed that the majority of applications be dealt with by officers under delegated powers.
- 4.8 It is proposed that (where necessary) disputed applications and for those where the applicant has convictions for relevant offences will be determined by a sub committee of Cabinet consisting of three members. A further Report will be presented to members setting out the process in detail in the near future. It is hoped that the applications requiring determination by the Sub committee will be limited in number.
- 4.9 Members are asked to note that the proposals for determining Licence applications will be reviewed if and when the new Regulations are issued.
- 4.10 The Act introduces requirements for dealers to display licences at sites and on vehicles collecting scrap and to keep detailed records of scrap metal purchased and sold. It gives local authority officers and police rights to enter premises. It also enables local authorities to conduct checks on suitability of applicants and the power to revoke licences or introduce additional conditions.
- 4.11 Authorised officers and the police can also issue closure notices for unlicensed sites that are found operating illegally.
- 4.12 National Resources Wales will hold a national register of scrap metal dealers in Wales and the Environment Agency in England. Applicants, licensees must notify the authority of any relevant changes to their details and failure to do so constitutes an offence under the Act. The authority is also required to inform National Resources Wales of any changes so that the national register is kept up to date.
- 4.13 There are other requirements under the Act for cash less payments and verification of supplier's identity when dealers are purchasing scrap metal.
- 4.14 The Act requires that an application for a Licence must be accompanied by a fee. The fee is to be set locally by each local authority on a costs recovery basis. Local Authorities must have due regard to the guidance issued by the Secretary of State.

- 4.15 Officers have used the guidance to establish a fee structure and are recommending the following fees:-

Three year Scrap Metal Site Operators Licence - £354

Three year Collectors Licence - £249

Variations -

Change of name, site details - £28

Change of Site Manager - £47

Change of type of licence - £47/ £28 depending on type of change.

- 4.16 Officers within the Trading Standards Service also require authorisation under the Act to enforce its provisions and utilise powers to inspect premises and records and to issue closure notices for unlicensed premises.

5. EQUALITIES IMPLICATIONS

- 5.1 There are no potential equalities implications of this report and its recommendations on groups or individuals who fall under the category identified in Section 8 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report.

6. FINANCIAL IMPLICATIONS

- 6.1 Previously Scrap Metal dealers were required to register with the authority but did not have to pay a fee, 270 are currently registered. The number of new licences is expected to vary from this figure, as itinerants will require a licence in the area that they collect rather than where they reside as with the current regime. An increase in income is expected but is difficult to predict until applications are received.

7. PERSONNEL IMPLICATIONS

- 7.1 The new licensing system will increase the workload of the licensing service as there is a requirement to consult with police, other local authorities and interested bodies and to check an applicant's fitness to hold a licence. It is anticipated that this can be met within existing staffing resources after the initial implementation. However, the workload would be monitored and consultation with staff and their representatives would be undertaken as appropriate. Officers within Trading Standards currently monitor the trade sector in partnership with Gwent Police and will continue to do so under the new Act.

8. CONSULTATIONS

- 8.1 The report has been sent to the consultees listed below and there are no responses that have not been reflected in this report.

9. RECOMMENDATIONS

- 9.1 That Cabinet consider the contents of this report and agree:
- a) To note the implementation of the Scrap Metal Dealers Act 2013.
 - b) That officers within Licensing be given delegated authority to issue Licences under the Scrap Metal Dealers Act 2013 in accordance with paragraph 4.7 of the report.

- c) That officers in Trading Standards be authorised and given delegated powers to take enforcement action under the Scrap Metal Dealers Act 2013.
- d) That the fee structure set out at paragraph 4.15 of the report is approved.
- e) That the Scheme of Delegation and Council's Constitution be varied as necessary by the Council's Monitoring Officer to reflect the implementation of the Scrap Metal Dealers Act 2013 .

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 In order to comply with statutory requirements and to ensure proper and effective enforcement of the legislation.

11. STATUTORY POWER

- 11.1 The Scrap Metal Dealers Act 2013.

12. URGENCY

- 12.1 This report is urgent as a result of the fact that the provisions of the Scrap Metal Dealers Act 2013 are to be implemented on 1st October 2013.
- 12.2 In accordance with the Council's Constitution it has been agreed by the Mayor that this decision should be treated as urgent and exempt from call in.

Author: Jacqui Morgan, Trading Standards, Licensing and Registration Manager
Consultees: Cllr Dave Poole, Cabinet Member for Community & Leisure Services
Stuart Rosser, Interim Chief Executive
Sandra Aspinall, Acting Deputy Chief Executive
Rob Hartshorn, Head of Public Protection
Paul Hotchkiss, Licensing Officer
Mike Eedy, Finance Manager
Gail Williams, Interim Monitoring Officer
Lynne Donovan, Personnel Manager
David A. Thomas, Senior Policy Officer (Equalities and Welsh Language)
Cllr. D.M. Gray, The Mayor