



CABINET - 16TH OCTOBER 2013

SUBJECT: SCRAP METAL DEALERS ACT 2013

REPORT BY: ACTING DEPUTY CHIEF EXECUTIVE

1. PURPOSE OF REPORT

- 1.1 To adopt procedures for the determination of disputed applications and where applicants have convictions for relevant offences under the Scrap Metal Dealers Act 2013.

2. SUMMARY

- 2.1 The Scrap Metal Dealers Act 2013 (referred to in this report as “the Act”) came into force on 1st of October 2013 and introduced 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(s) in which the itinerants collect. Previously scrap metal dealers were only required to register with the authority, free of charge with no means of refusal or revocation of the registration. The Act also brings Motor Salvage operators under the same controls as Scrap Metal Sites.
- 2.2 A local authority must not issue or renew a scrap metal dealer licence unless it is satisfied that the applicant is a suitable person to carry out business as a scrap metal dealer. Local authorities may have regard to any relevant information in considering suitability, including convictions for relevant offences, previous or impending enforcement action, previous refusal of the applicant or revocation of a licence.
- 2.3 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 and/or the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations are triggered giving responsibility for exercising the function to the Executive.

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 came into force on 1st of October 2013 and aims to regulate the sector via a local authority-licensing regime, which will support legitimate dealers but provide powers to effectively tackle unscrupulous operators. There are transitional arrangements for existing traders who apply by the 15th of October with the majority of enforcement provisions coming into force from the 1st of December 2013.

- 4.2 Section 1 of the Act requires a scrap metal dealer to obtain a licence in order to carry on a business as a scrap metal dealer. Site operators require a licence in the authority where the site is located. Itinerant collectors require a licence for every local authority area in which they collect. Anyone who carries on a business without a licence will commit an offence punishable on summary conviction with a maximum fine of £5000.
- 4.3 Members will recall that the process for dealing with applications was initially considered by Cabinet on 18th September 2013 (see background paper). For the reasons set out in that report, as the function under the Act is an Executive function, members were asked to determine a process for dealing with applications received under the Act.
- 4.4 Following consideration of the report, Cabinet resolved as follows
- 4.4.1 To note the implementation of the Scrap Metal Dealers Act 2013.
 - 4.4.2 To delegate authority to Licensing Officers to issue licences under the Scrap Metal Dealers Act 2013 in accordance with paragraph 4.7 of the report.
 - 4.4.3 To delegate authority to Trading Standards Officers to take enforcement action under the Scrap Metal Dealers Act 2013.
 - 4.4.4 The fee structure set out at paragraph 4.15 of the report was approved.
 - 4.4.5 To vary the Scheme of Delegation and Council's Constitution as necessary by the Council's Monitoring Officer to reflect the implementation of the Scrap Metal Dealers Act 2013.
- 4.5 In accordance with the above decision, the majority of applications are now being dealt with by officers under delegated powers and will be determined by officers in accordance with the Act. However this does not extend to the determination of disputed applications and those where the applicant has convictions for relevant offences. Cabinet were advised previously that such applications may be delegated to a Cabinet Sub-Committee and the proposed determination arrangements would be the subject of a further report.

Determination of Disputed Applications and those where the applicant has convictions for relevant offences

- 4.6 Following consideration of an application, if officers propose to reject, revoke or vary an application; the applicant has to be notified of the proposals and the reasons for it. In doing so the notice has to give the applicant the opportunity to make representations or let the Council know that they wish to. Where an applicant makes representations they have to be considered and if the applicant states that they want to make oral representations they must be provided with an opportunity to do so.
- 4.7 It was proposed in the earlier report to Cabinet that determination of these applications could be dealt with by a Cabinet Sub-Committee.
- 4.8 Officers have however reviewed this proposal and are mindful of the significant workload the function would create for the nominated Cabinet members. In addition, the position being taken by other Local Authorities across Wales has been considered. In the circumstances officers are now recommending to Cabinet that the responsibility to determine disputed applications and those where the applicant has convictions for relevant offences is delegated to the Head of Public Protection and the Head of Legal and Democratic Services or his representative in consultation with the relevant Cabinet member. Cabinet are asked to consider whether this is appropriate.

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 suitability to hold a licence. 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 approve the following recommendations
- (a) that disputed applications and where applicants have convictions for relevant offences, offences are determined by the Head of Public Protection and Head of Legal and Democratic Services or his representative in consultation with the relevant Cabinet Member
 - (b) that the Scheme of Delegation and Council's Constitution be varied as necessary to reflect recommendation (a)

10. REASONS FOR THE RECOMMENDATIONS

- 10.1 In order to comply with statutory requirements and to enable the authority to determine disputed applications and where applicants have convictions for relevant offences under the Act.

11. STATUTORY POWER

- 11.1 The Scrap Metal Dealers Act 2013.

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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)
Susan Ead, Solicitor

Background Papers:
Cabinet report Scrap Metal Dealers Act 2013 18th September 2013.