

Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Cabinet	
MEETING/ DECISION DATE:	12th February 2014	EXECUTIVE FORWARD PLAN REFERENCE: E2619
TITLE:	Policy and Delegations for the Scrap Metal Dealers Act 2013	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix A – Scrap Metal Dealers Licensing Policy		

1 THE ISSUE

- 1.1 The Scrap Metal Dealers Act 2013 introduces a new licensing scheme from 1 October 2013, replacing the previous simple registration requirements for Scrap Metal Dealers and Motor Salvage Operators. The function of delegation has been deemed to fall to the Cabinet pending anticipated changes to the Local Authorities (Functions and Responsibilities) Regulations 2000.

2 RECOMMENDATION

- 2.1 To accept the Scrap Metal Dealers Policy provided in Appendix A.
- 2.2 To note and agree the fees associated with the function provided in paragraph 5.6.
- 2.3 That the Cabinet recommends to delegate to the Divisional Director Environmental Services:
- the administration and enforcement of the function;
 - the power to request further information of applicants;
 - to review and amend the fees on an annual basis;
 - to determine applications (including refusal), revoke licences, or impose conditions under Section 3(8);

- the power to issue or cancel a closure notice for unlicensed sites, and where appropriate, to apply for closure orders (Schedule 2) and take such other action in this respect as may be required.; and
- to note that Council will be asked to delegate the function to the Licensing Committee when the power to do so is available.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 Financial: The proposed licence fees have been calculated to ensure that the full costs of carrying out the function are met, in respect of administration and compliance. The net impact on the Licensing budget is anticipated to be nil.
- 3.2 Staffing: The administration and compliance will be undertaken by existing officers; this will be achieved by retaining the resources of existing officers, which would otherwise been lost or reallocated. The cost of retaining the officers will be subsidised by the above fee. The staffing input will be reviewed on a regular basis and the fees adjusted accordingly.
- 3.3 Equalities: An Equalities Impact Assessment has been completed and there are no implications with regard to the implementation of this new legislation.
- 3.4 Economic: None arising directly from this report.
- 3.5 Environment: None arising directly from this report.
- 3.6 Council Wide Impacts: None arising directly from this report.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Scrap Metal Dealers Act 2013 gives the Council new statutory licensing powers replacing existing powers with effect from 1 October 2013.
- 4.2 The Council is required to carry out the function, although, at the date of this report, it has not been made clear whether this will be an executive or non-executive function.
- 4.3 Section 17 of the Crime and Disorder Act 1998 requires that: “Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can prevent crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment) ...” The licensing of scrap metal dealers clearly engages with this requirement..

5 THE REPORT

- 5.1 In recent years scrap metal theft has been one of the fastest growing crimes in the UK. It affects communities; businesses, and Councils themselves. Local Government Association (LGA) survey showed that metal theft had cost Councils more than £5.25 million in 2010/2011.
- 5.2 Since 2011 a number of organisations including the Police, Councils and the Environment Agency through “Operation Tornado” have been successful in reducing the amount of metal theft in the UK. This led to the LGA along with

other bodies pressing the Government to update the Regulations relating to scrap metal dealers.

- 5.3 Scrap Metal is defined in the Act as “any old, waste or discarded metal or metallic material or any product, article or assembly which is made from or contains metal and is broken, worn out, or regarded by its last holder as having reached the end of its useful life. But gold, silver and any alloy of which 2 per cent or more by weight is attributable to gold or silver is not considered scrap metal”.
- 5.4 The Scrap Metal Dealers Act 2013 came into force from 1 October 2013 and repealed the Scrap Metal Dealers Act 1964, and Part 1 of the Vehicles (Crime) Act 2001 (Motor Salvage Operators), replacing them with a new system of licensing to be administered by Local Authorities.
- 5.5 Significant differences between this and the previous scrap metal dealer and Motor Salvage Operator functions are as follows:
- Licences, as opposed to registrations, with a consequent power to consider suitability of applicants.
 - Scrap metal dealer and motor salvage operators are now both regulated by the same legislation.
 - Requirement not to issue a licence unless the Council is satisfied as to the applicant’s suitability, and power to revoke a licence.
 - Power to impose licence conditions in case of conviction as to the times when scrap may be received, and that scrap metal must be kept in its original form for a specified period following receipt.
 - Two categories of licence – sites and collectors.
 - No cash payments for scrap metal, although an exception remains for the purchase of vehicles in limited circumstances.
 - Power to give notice to close unauthorised sites.
 - Licences are for a three year period.
 - The holder of a licence can only hold one licence in each Local Authority’s area, but may hold licences in multiple Local Authority areas. Thus the holder of a site licence in one area might hold a collector’s licence in another.
 - The legislation requires that an application for a licence is accompanied by a fee set by the Local Authority.
 - Specific compliance and enforcement powers for the Council and police.
- 5.6 The following fees have been calculated in accordance with the legal requirements and recent Home Office guidance to ensure, so far as is possible, that the costs of administering the function and ensuring compliance by licence holders can be met:
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| Site Licence - grant | £630.00 |
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Site Licence - renewal	£592.00
Site Licence variation	£102.00
Collector's Licence - grant	£542.00
Collector's Licence – renewal	£475.00
Collector's Licence variation	£102.00
Replacement Licence	£ 22.00
Change of Details	£ 22.00

5.7 Determinations of applications will be subject to the policy provided in Appendix A and guidance by the Home Office.

5.8 Where an application is refused or a licence revoked, there will be a right of appeal to the Magistrates' Court against the decision.

5.9 Currently, because the Government has yet to amend the Local Authorities (Functions and Responsibilities) Regulations 2000, the default responsibility for this function is with the Executive.

5.10 When these Regulations have been amended, it is recommended that the Council should delegate the function to the Licensing Committee as a non-executive matter.

5.11 Under the scheme of delegation, it is proposed that the function be delegated to the Divisional Director Environmental Services, save that where it is proposed that an application should be refused; a licence revoked, or conditions imposed and the applicant or licence holder exercises their right to make representations. These representations should be dealt with by the Licensing Sub-Committee, when the legal power to delegate the function to that committee is available.

6 RATIONALE

6.1 Given the statutory nature of the function, there are no other alternative options.

7 OTHER OPTIONS CONSIDERED

7.1 Given the statutory nature of the function, there are no other alternative options.

8 CONSULTATION

8.1 This report has not been sent to the Trades Unions because there are no staffing issues.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

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Background papers	Scrap Metal Dealers Act 2013
Please contact the report author if you need to access this report in an alternative format	