

Agenda Item No: 7 **Report No:** 177/13
Report Title: Scrap Metal Dealers Act 2013
Report To: Licensing Committee **Date:** 22 October 2013
Cabinet Member: Cllr Tony Nicholson
Wards Affected: All
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Purpose of Report:

- 1 To inform Members of the changes to national legislation concerning the introduction of the Scrap Metal Dealers Act 2013.
- 2 To set fees for the Scrap Metal Dealers Act 2013 Licences.

Officers' Recommendations:

- 1 To note the contents of this report.
- 2 To approve licensing fees for the Scrap Metal Dealers Act 2013 as from 1 October 2013.

1 Reasons for Recommendations

- 1.1 Central Government has responded to growing concerns over metal theft by the introduction of a new Act to replace old legislation. This introduces a new licensing regime to be implemented by Local Authorities; and approval is needed to implement the changes, including the setting of fees.

2 Information

- 2.1 Central Government has been reviewing various options to deal with the rapid rise in metal theft over the last few years. It had become obvious that the old and outdated existing legislation was not an effective tool to deal with this problem.

- 2.2** The existing legislation, The Scrap Metal Dealers Act 1964, only required Local Authorities to issue a registration to scrap dealers in their area. The registration lasts for three years; does not attract a fee; and there are very limited powers associated with it. Separate legislation deals with car breakers and the vehicle dismantling industry.
- 2.3** The new Scrap Metal Dealers Act 2013 has been devised to close the loopholes in the old legislation and bring the industry into the 21st century. It introduces a proper licensing regime with fees for the first time.
- 2.4** The new Act repeals the old legislation and brings forward a revised, combined regulatory regime for the scrap metal dealing and vehicle dismantling industries. The Act maintains Local Authorities as the principal regulator and increases their powers to refuse and revoke licences.
- 2.5** In addition, it requires a National Register of dealers to be set up and maintained by the Environment Agency, with all Local Authorities supplying regular, updated information for this Register.
- 2.6** Delays in the release of the official guidance, and associated papers, has resulted in the implementation date being moved back to 1st December 2013, and therefore the transitional arrangements for existing registered dealers started on the 1st October 2013.
- 2.7** The Act took effect from the 1st October 2013 and applications for Licences from the industry are already coming in.
- 2.8** The Act creates two different types of Licence: a Site Licence allowing a dealer to carry on business at any sites in that Licensing Authority district, as listed on the Licence; plus a Collector's Licence to cover dealers who do not have a site and regularly collect through door-to-door collections.
- 2.9** The Collector's Licence will only allow collection in a particular Licensing Authority area; therefore collectors covering several Council areas will require more than one Licence.
- 2.10** Both Licences will be issued for a three year period and must be displayed on the site premises in an area open to the public and also clearly on view on any vehicle used by a collector.
- 2.11** The Act introduces a "suitable person" test, similar to the existing "fit and proper" test used for taxi drivers, requiring the Licensing Authority to be satisfied that any applicant is a suitable person to operate as a dealer.
- 2.12** In reaching a decision over suitability, Licensing Authorities will be able to consider any relevant information; this includes a basic Disclosure and Barring Service (DBS) check and other enforcement information from the police and Environment Agency.

- 2.13** A Licensing Authority will be able to add conditions to a Licence where dealers, or their site managers, have been convicted of relevant offences. The power to vary, refuse or revoke an existing Licence is also contained in the Act. The Act also contains extensive Powers of Entry for Police and authorised Officers from Local Authorities, and requires a more stringent record keeping system for the dealers.
- 2.14** The Home Office is releasing Statutory Guidance which all Licensing Authorities must consider when making decisions under the Act. The application process, style of forms and methods of information storage are all contained in the Act or its associated regulations.
- 2.15** For the first time the process allows Licensing Authorities to set locally agreed fees for the Licences. The Government has decided not to impose either a set fee or a cap, but has stated that it expects Authorities to be broadly similar in their fee setting regime. It also expects different levels of fee for the two types of Licence; the Site Licence attracting the higher fee, due to the need for an inspection process.
- 2.16** The fee setting process further states that Authorities must have regard to the Guidance on such matters, which has very recently been issued by the Secretary of State. As with all Licence fees the European Court Directive is clear that they must be based on cost recovery of the process used, and cannot be set to generate surpluses for Licensing Authorities.
- 2.17** The Head of Environmental Health has consulted with his opposite numbers across the other Sussex Licensing Authorities to see if a broadly similar fee level can be agreed across the whole of Sussex.

3 Work Processes

- 3.1** Unlike the existing legislation, this new Act has significant implications for the work of the Licensing Team. Currently a scrap dealer has to register his/her business with the Council, but no specific inspection powers exist and no fee is collected. We therefore simply hold a Registration Form on file, which is renewed every three years.
- 3.2** The new system requires the Licensing Authority to issue Licences for all sites in their area, and separate, and different Licences to all collectors operating in their area. This includes operators from other parts of the country that, at some time, collect in our area.
- 3.3** This will require administrative support, Licensing Officer time and also Legal and Democratic Services Officer time to be deployed on this work area, than the existing 'light touch' registration process. The following processes will need to be in place:
- mail out of application forms to existing operators;
 - checking of applications received and data input;
 - checking of DBS records;

- checking with partner agencies for "Suitability of Applicant";
- checking of business partners, directors as above;
- issue of Site Licences;
- issue of Collectors Licences;
- issue of vehicle identity discs;
- maintainance of data base;
- exchange of information with Environment Agency;
- legal processes for determining contested applications, revocations, appeals etc; and
- all of the above for Variation or Transfer of Licences.

3.4 In addition, the new Act gives substantial inspection powers to the Authority and the Police and, as a result, compliance checks will need to be factored in to our work programme for the Licensing Team.

3.5 We currently know of 10 premises in the District that will need a Site Licence, and 10 mobile collectors who will need a Licence. However, one of the reasons for this new legislation is to 'flush out' scrap dealers and collectors that are operating without the knowledge of the Authorities. It is expected that some more will be identified operating within Lewes, especially collectors from other areas.

4 Financial Appraisal

4.1 The fee is meant to cover the cost of administering the new Licenses. The fee cannot cover wider enforcement costs and should not cover more than the costs of administration.

The proposed fee is as follows:

Site licence	Renewal of site licence	Collectors licence	Renewal of collectors licence	Variation of licence
£375	£375	£255	£255	£75

These fees are similar to the fees being implemented across Sussex.

5 Legal Implications

5.1 The Legal Services Department has made the following comments:

5.1.1 The Council's Solicitor has been consulted on these changes, and has advised that our existing scheme of delegation, which already covers the existing scrap metal legislation, is flexible enough to accommodate the new legislation without the need for it to be amended.

5.1.2 Consistent with most licensing legislation, all decisions made by the Licensing Authority under the new Act can be appealed by the applicants in the Magistrates Court.

6 Sustainability Implications

6.1 I have completed the Sustainability Implications Questionnaire (LDC 29767) and there are no significant effects as a result of these recommendations

7 Risk Management Implications

7.1 I have completed a risk assessment (reference LDC29766). No new risks will arise if the recommendations are implemented.

8 Equality Screening

8.1 The equality screening process has been undertaken (reference AF29756) and a full screen was not necessary as there are no significant implications.

9 Background Papers

9.1 Scrap Metal Dealers Act 2013

10 Appendices

10.1 There are no Appendices to this Report.