

PLYMOUTH CITY COUNCIL

Subject: Scrap Metal Dealers Act 2013
Committee: Licensing Committee
Date: 17 September 2013
Cabinet Member: Cllr Vincent
CMT Member: Anthony Payne, Director for Place
Author: Andy Netherton
Contact details: Email: Andy.netherton@plymouth.gov.uk
Ref:
Key Decision: No
Part: I

Purpose of the report:

The existing law that controls the buying and selling of scrap metal has been repealed and replaced by the Scrap Metal Dealers Act 2013. The changes introduced by this Act are in response to increasing metal theft.

This report has been prepared to provide information to the Committee regarding the changes and details of how the licensing process will be operated within the City.

The Licensing Committee will continue to determine applications where objections are received and will also determine variations and revocations. There are certain aspects of the licensing process that may be suitable for delegation to officers and recommendations for delegations are contained within the report.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

Growing –

The regulation of illegal operators will ensure that correctly operated businesses are not unfairly disadvantaged.

The administration of the licensing regime for scrap metal dealers will be undertaken in a way that minimises burdens on business but will ensure the reduction of metal theft within the City.

The reduction of metal theft will reduce the financial costs borne by those businesses that are affected.

Implications for Medium Term Financial Plan and Resource Implications:

Including finance, human, IT and land:

The Act allows for the introduction of locally set fees to cover the costs of administering and ensuring business compliance.

Fees will be determined through a delegated decision by the Cabinet Member for the Environment.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

The increase in metal theft has particularly affected the railways and other transport infrastructure. Local communities have suffered through the theft of roof materials from places of worship, schools and other buildings. The reduction of metal theft will benefit businesses, local communities and public authorities.

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No

Recommendations and Reasons for recommended action:

1. Members note the contents of the report
2. That the Assistant Director and Head of Service responsible for the licensing function be authorised to:-
 - Serve a notice of a proposal to refuse an application for a scrap metal dealer licence under the Scrap Metal Dealers Act 2013.
 - Serve a notice of a proposal to vary or revoke a scrap metal dealer licence issued under the Scrap Metal Dealers Act 2013.
 - Issue a notice of determination for the refusal, variation or revocation of a licence under the Scrap Metal Dealers Act 2013 where the applicant has not made representations to the authority in respect of the proposal to refuse or vary or revoke a licence.
3. That Members note that the Licensing Sub Committee will determine cases where an applicant or licensee has made a representation in response to a notice of proposal to refuse, vary or revoke a licence issued under the Scrap Metal Dealers Act 2013 in accordance with the Council's existing scheme of delegation.

The recommended delegations will provide an efficient and effective decision making process whilst retaining an appropriate level of oversight and decision making by the Licensing Committee.

Alternative options considered and rejected:

Further delegation to officers would not be compliant with the current scheme of delegation contained within the Council's Constitution.

The retention of all functions by the Licensing Committee would place additional burdens on the Committee and could raise issues of predetermination where representations are received by applicants or licensees.

Published work / information:

[Scrap Metal Dealers Act 2013](#)

[Plymouth City Council Constitution \(Updated 18 July 2013\)](#)

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7

Sign off:

Fin		Leg	18334/ag /3.9.13	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? Yes													

Scrap Metal Dealers Act 2013

1.0 Purpose

- 1.1 This report is intended to inform the Licensing Committee of the key provisions of the Scrap Metal Dealers Act 2013 and the proposed local implementation arrangements, including the future role for Committee members.
- 1.2 The Licensing Committee is also asked to note the compliance and enforcement arrangements which will be put into place.

2.0 Background

- 2.1 The international price of ferrous scrap metal increased dramatically over recent years. The consequences of this at a national level has been a significant increase in the theft and illegal trade of stolen metal, which is estimated to cost the economy £220m per year. The growth of metal theft across the country has included thieves regularly targeting infrastructure such as power lines, railway signals and manhole covers. Metal theft has also included parts of local war memorials.
- 2.2 In response to this national trend Richard Otterway MP tabled a Private Members Bill which was sponsored by the Home Office. The Bill proposed an overhaul of the regulatory framework governing the trade of scrap metal. The Bill received Royal Assent on 28 February this year and became the Scrap Metal Dealers Act 2013.

3.0 Current Legal Controls

- 3.1 The Scrap Metal Dealers Act 1964 obliges every licensing authority to maintain a register of all persons carrying on a business in their area operating as a Scrap Metal Dealer. A Scrap Metal Dealer is defined as someone whose business is to buy and sell scrap metal.
- 3.2 There are currently 24 scrap metal dealers or itinerant collectors registered with the Public Protection Service. There is no registration fee.
- 3.3 The Vehicle (Crimes) Act 2001 and the Motor Salvage Operators Regulations 2002 provide the framework for the registration of people or businesses if they operate a business which involves the disposal of written off vehicles and the sale/re-use of salvageable parts from motor vehicles. The purpose of this registration scheme was to curtail the illegal trade in stolen vehicles.
- 3.4 There are currently 7 Motor Salvage Operators registered. The registration lasts for three years and a fee of £81.50 is required.
- 3.5 Legislative changes in 2012 prevented cash payments for scrap metal with some exemptions for itinerant collectors. All enforcement activities under the current Scrap Metal Dealer and Motor Salvage Operator regimes are carried out by the police.

4.0 Scrap Metal Dealers Act 2013

4.1 This Act brings together the current registration schemes for Scrap Metal Dealers and Motor Salvage Operators and replaces them with a single licensing regime.

4.2 The main provisions of the Act are as follows:-

- No person may carry on a business as a Scrap Metal Dealer unless licensed under the Act. Licences will be issued for three years. Licences can be refused, varied and revoked by the licensing authority with an appeal to the Magistrates Court. There is no ability to transfer a licence
- There are two types of licence
 - (i) A Site Licence (authorises any site in a local authority area).
 - (ii) A Collector's Licence (authorises the licensee to carry on a business as a mobile collector in a local authority area).
- The licensing authority will be able to set fees locally for licences. However when determining fees regard must be given to the Home Office guidance.
- Applicants and site managers will have to satisfy the licensing authority they are a 'suitable person' to carry on a business as a Scrap Metal Dealer. This includes a requirement for a Basic Disclosure Certificate and consultation with the Police and the Environment Agency. Future Home Office guidance will provide greater clarity as to the factors which will need to be considered in making this decision, including relevant offences.
- A national register of licences will be maintained by the Environment Agency.
- The Act makes it an offence for any Scrap Metal Dealer including collectors to buy scrap metal for cash. Detailed records are to be kept for receipt and disposal of metal, including the verification of a seller's full name and address, description of the metal and vehicle registration numbers.
- Provides the police and licensing authorities with new powers to enter and inspect sites. The Act introduces closure powers for unlicensed sites by the police and licensing authorities.
- Only where relevant offences have been committed can two specified conditions be added. No other conditions are available. These conditions relate to restrictions on opening hours (9.00am to 5.00pm) and metal received must not be altered for up to 72 hours.

4.3 The transition timeline is as follows:

1 September 2013

Licence fees may be set

1 October 2013

The main provisions of the Act commence including the offence of buying scrap metal for cash. Existing registered businesses will be deemed to have a licence under the Act from 1 October provided the dealer submits an application for a licence on or before 15 October. Their deemed licence will last until the council either issues them with a licence or gives them notice of the decision to refuse them a licence. They will be able to continue trading pending an appeal against the decision not to grant a licence.

Other scrap metal dealers, not previously registered, will be able to apply for a licence from 1 October but will have to wait until a licence is granted before they can legally trade.

1 December 2013

All offence provisions within the Act commence.

- 4.4 The definition of a scrap metal dealer is very wide and is defined as someone who carries on a business which consists wholly or partly of buying or selling scrap metal. The Act and its explanatory notes do not offer any further guidance on the interpretation of the definition. We are currently waiting for national guidance from the Home Office. It is likely that if the sale of metal is incidental to the main type of work then a licence may not be needed, for example plumbers and electricians. The Home Office and the Local Government Association have also indicated that waste collections and civic amenity sites operated by Local Authorities will not require a licence.

5.0 Compliance and Enforcement Arrangements

- 5.1 Operation Tornado is an existing multi-agency partnership led by the Police that monitor business compliance with the existing legislation and to minimise metal theft. This involves joint inspections to registered sites and the investigation of potentially illegal activities. Roadside checks of vehicles are also undertaken.
- 5.2 For applications under the new Act it is proposed that the licensing authority and the police will initially carry out joint visits to assess the level of compliance with licence conditions and ensure consistency throughout the trade.
- 5.3 A partnership approach is also proposed for investigating businesses that are suspected to be operating outside the licensing regime.

6.0 Role of the Licensing Committee

- 6.1 The 2013 Act provides a staged approach to the refusal, variation or revocation of an application and licence. Appendix 1 shows the process as a flow chart.

Stage 1

Where the authority considers it necessary to refuse, vary or revoke a licence the applicant or licensee must be given a notice specifying what the authority proposes to do and the reasons for it.

The applicant or licensee will be provided with a period of time in which to make a representation.

It is proposed that a decision to issue this notice would be made by the Head of Service or Assistant Director, with responsibility for the licensing function.

Stage 2

If no representation is received the licence may be refused, varied or revoked in accordance with the original notice.

If a representation is received it may also request for an oral hearing to determine any action

Stage 3

It is proposed that where any representation is received by an applicant or licensee the matter will be determined by the Licensing Sub Committee in accordance with the Council's existing scheme of delegation..

- 6.2 The existing scheme of delegation from the Council Constitution allows officers to approve applications where there are no objections.

7.0 Fees

- 7.1 Fees are to be locally set but must be in accordance with Home Office guidance. Any fee must also comply with the Provision of Services Regulations 2009 and as such must reflect on the costs associated with the administration and compliance work required under the 2013 Act.
- 7.2 In accordance with the Constitution, this will be a matter for the Cabinet Member for the Environment to determine.

APPENDIX I

Flow chart showing the process for the refusal, variation or revocation of a licence

