

# WIRRAL COUNCIL

## LICENSING HEALTH AND SAFETY AND GENERAL PURPOSES COMMITTEE

2 OCTOBER 2013

<b>SUBJECT:</b>	<b>SCRAP METAL DEALERS ACT 2013</b>
<b>WARD AFFECTED:</b>	<b>ALL WARDS</b>
<b>REPORT OF:</b>	<b>STRATEGIC DIRECTOR OF REGENERATION &amp; ENVIRONMENT</b>
<b>KEY DECISION?</b>	<b>NO</b>

### 1.0 EXECUTIVE SUMMARY

1.1 The purpose of this report is to advise Members of the additional powers and responsibilities imposed on local authorities as a consequence of the implementation of the Scrap Metal Dealers Act 2013.

### 2.0 BACKGROUND AND KEY ISSUES

2.1 The Scrap Metal Dealers Act 2013 replaces the previous registration system for Scrap Metal Dealers created by the 1964 Scrap Metal Dealers Act. In its place it establishes a new licensing regime.

2.2 Under the new legislation the definition of Scrap Metal Dealers is extended so it now includes Motor Salvage Operators, and the provisions in the Vehicles (Crime) Act 2001 under which they operate will end once the new Act comes into effect.

2.3 The new regime commences on 1 October 2013 with a transitional period for those businesses that are currently registered under the existing legislation.

2.4 Every Scrap Metal Dealer will be required to have a licence that will be valid for a period of three years. Operating without a licence will be a criminal offence. If an offence is committed the person convicted will be liable for a fine up to a maximum of £5000.00.

2.5 There are two types of licence specified in the Act:

- **Site Licence**

All the sites where a licensee carries on a business as a Scrap Metal Dealer must be identified, and a site manager has to be named for each site. This licence allows the licensee to transport scrap metal to and from those sites from any local authority area.

- **Collector's Licence**

This allows the licensee to operate as a collector in the area of the issuing local authority. It does not allow the collector to operate in any other local authority area, so a separate licence has to be obtained from each council the collector wishes to operate in. The licence does not authorise the licensee to operate a site.

A dealer can only hold one type of licence in any one local authority area. They have to decide whether they are going to have a site or a mobile licence in any one area. They cannot hold both a Site and a Collector's licence from the same council.

### **Transitional Arrangements**

- 2.6 The transitional arrangements are set out in the Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013 which was made on 6 August 2013.
- 2.7 The Order allows councils to set a licence fee for applications from 1 September 2013. It also specifies that the remaining sections in the Act commence on 1 October 2013, apart from the majority of criminal offences and enforcement-related provisions, which will come into force on 1 December 2013. The exception to this is the ban on using cash to pay for scrap metal which will also come into force in respect of this legislation on 1 October 2013.
- 2.8 Any dealer currently registered under the 1964 Scrap Metal Dealers Act, or a Motor Salvage Operator already registered under the 2001 Vehicles (Crime) Act, will be deemed to have a licence under the 2013 Act until the council grants a licence or sends the dealer notice of its decision to refuse the licence, provided they submit an application on or before the 15 October 2013. If they do not submit an application their deemed licence will lapse on 16 October 2013. If they wish to trade in the future they would then need to submit an application, but would not be able to legally trade until a licence has been granted.
- 2.9 Scrap Metal Dealers, not previously registered, will be able to apply for a licence from 1 October 2013 but will have to wait until a licence is granted before they can legally trade.

### **Application Process**

- 2.10 The Council must not issue a licence unless it is satisfied that the applicant is a suitable person to carry on a business as a Scrap Metal Dealer. In the case of a partnership this means assessing the suitability of each partner and in the case of a company it means assessing the suitability of any directors, company secretaries or shadow directors.

Guidance issued by the Local Government Association makes reference to this suitability test and suggests that local authorities will want to satisfy themselves that an applicant is suitable by checking they do not have previous relevant convictions, been subject of any relevant enforcement action or have been refused a licence. Agreement has been reached between the Home Office and Disclosure Scotland allowing applicants for a Scrap Metal Dealers licence to apply for a Basic Disclosure as part of the application process.

If having conducted an initial assessment of an applicant's suitability the Council is minded to refuse the application, the Council must write to the applicant informing them of this proposal and advise them of their right to make representations.

- 2.11 Where an applicant states that they want to make representations in respect of the proposed refusal the Council must give the applicant an opportunity to make such representations.

- 2.12 There is a requirement on the Council to allow an applicant to make oral representations to the Licensing Authority. In determining applications the Council's ability to impose conditions on a licence is very limited. The conditions that can be imposed are as follows:
- the dealer can receive scrap metal only between 9.00am and 5.00pm on any day, in effect limiting the dealer's operating hours; and/or
  - any scrap metal received has to be kept in the form the dealer received it for a set period of time, which cannot be more than 72 hours.
- 2.13 Conditions can be imposed only where the applicant or any site manager has been convicted of a relevant offence, or, where the council is revoking a licence when a condition can be imposed, until the revocation comes into effect. For the majority of applicants therefore it is unlikely that the Council will be in a position of being able to consider imposing conditions.
- 2.14 There is a cost implication to the Council in undertaking this legal duty and this is recognised in the legislation which gives provision for the Council to recover the costs of administering the scheme and to ensure compliance.

### **3.0 RELEVANT RISKS**

- 3.1 There are none arising directly from this report.

### **4.0 OTHER OPTIONS CONSIDERED**

- 4.1 There is no provision for other options to be considered.

### **5.0 CONSULTATION**

- 5.1 There is no legal obligation to consult in the implementation of this legislation.

### **6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

- 6.1 There are no specific implications arising from this report.

### **7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS**

- 7.1 There are cost implications to the Council in undertaking this legal duty and this is recognised in the legislation which gives provision for the Council to recover the costs of administering the scheme and to ensure compliance.

### **8.0 LEGAL IMPLICATIONS**

- 8.1 A decision of the Committee may be subject to legal challenge.

### **9.0 EQUALITIES IMPLICATIONS**

- 9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

No because there is no relevance to equality.

## **10.0 CARBON REDUCTION IMPLICATIONS**

10.1 There are no specific carbon reduction implications arising from this report.

## **11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

11.1 There are no Planning implications arising out of this report.

## **12.0 RECOMMENDATION/S**

12.1 That Members note the additional powers and responsibilities imposed on local authorities as a consequence of the implementation of the Scrap Metal Dealers Act 2013.

## **13.0 REASON FOR RECOMMENDATION/S**

13.1 The Council has a legal obligation to implement the Scrap Metal Dealers Act 2013.

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