

# WIRRAL COUNCIL

## CABINET

10 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>CABINET PORTFOLIO HOLDER</b>	<b>COUNCILLOR BRIAN KENNY</b>
<b>KEY DECISION?</b>	<b>NO</b>

### 1.0 EXECUTIVE SUMMARY

- 1.1 This report advises Cabinet of The Scrap Metal Dealers Act 2013 (The 2013 Act) and it seeks Cabinet approval for a proposed schedule of fees for the administration and processing of applications under this legislation and the delegation of duties and responsibilities to the Cabinet Member for Environment and Sustainability and Strategic Director for Regeneration and Environment..

### 2.0 BACKGROUND AND KEY ISSUES

- 2.1 The 2013 Act replaces the previous registration system for Scrap Metal Dealers created by the Scrap Metal Dealers Act 1964 which was a non-executive function. 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 also end once the new Act comes into effect.
- 2.3 Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provision is made for the Scrap Metal Dealers Act 1964 to be a Non – Executive function. However there is no specific reference in the 2013 Act for this Function to continue as a Non–Executive one. Whilst it is confirmed in its introduction that the 2013 Act “is an Act to amend the law relating to Scrap Metal Dealers and for connected purposes”, Section 19 of the Act confirms that the 1964 Act is expressly repealed as are relevant parts in the Vehicle (Crime) Act 2001. Advice from the Local Government Association confirms that the 2013 Act “completely replaces the previous registration scheme Local Authorities operated for scrap metal dealers”. Given the wording of Section 19 and the advice given referred to above it would not be appropriate to interpret the 2013 Act as an amendment to the 1964 Act and therefore allow the functions under the new legislation to continue to be Non Executive. The Head of Legal and Member Services has therefore advised that subject to further guidance or a change in the legislation the duties and responsibilities under the 2013 Act be deemed an Executive function .
- 2.4 The new regime commenced on 1 October 2013 with a transitional period for those businesses that are currently registered under the existing legislation.
- 2.5 Consequently 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 currently liable for a fine up to a maximum of £5,000.00.

2.6 There are two types of licence specified in the 2013 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 will have to decide whether they are going to have a site or a collector's licence in any one area but they will not be able to hold both from the same council.

### 3.0 DUTIES AND RESPONSIBILITIES

3.1 There are a number of duties and responsibilities under the 2013 Act. These are listed in appendix 1 which sets out the proposed delegation of these duties to the Cabinet Member for Environment and Sustainability and the Strategic Director Regeneration and Environment.

### 4.0 TRANSITIONAL ARRANGEMENTS

4.1 Whilst the 2013 Act was enacted on 28 February 2013, The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013 which sets out the transitional arrangements was not made until 6 August 2013 and further regulations and guidance were not published until September 2013.

4.2 The 2013 Act 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.

4.3 Any dealer currently registered under the Scrap Metal Dealers Act 1964, or a Motor Salvage Operator already registered under the Vehicles (Crime) Act 2001, 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.

4.4 There are 11, long established, scrap metal dealer businesses in Wirral and they operate across 13 sites with one business operating three sites. A list of these businesses and their locations is given in appendix 2 of this report. These businesses were advised at the beginning of September 2013 of the change in legislation which was

coming into force on October 1. It is from this date that they can apply for a licence under the 2013 Act so Council Officers have contacted all of these businesses again to ensure that they have the application forms and that they know that they need to submit their application by 15 October 2013.

- 4.5 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.

## **5.0 COSTS OF ADMINISTERING THE NEW ACT**

- 5.1 There is a cost implication to the Council in undertaking the provisions of the 2013 Act and this is recognised in the legislation which gives provision for the Council to recover the costs of administering the scheme and ensuring compliance.
- 5.2 An exercise has been undertaken to determine the licence fees which should be charged for licence applications and ensuring compliance. Members are therefore requested to approve the licence fees set out at appendix 3.

## **6.0 RELEVANT RISKS**

- 6.1 The Council has to ensure that it can meet its requirements under the Scrap Metal Dealers Act 2013.

## **7.0 OTHER OPTIONS CONSIDERED**

- 7.1 This legislation is an Act of Parliament and there is no provision for other options to be considered.

## **8.0 CONSULTATION**

- 8.1 There is no legal obligation to consult on the implementation of this legislation.

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

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

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

- 10.1 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.

## **11.0 LEGAL IMPLICATIONS**

- 11.1 Decisions made under the Scrap Metal Dealers Act 2013 may be subject to legal challenge.

## **12.0 EQUALITIES IMPLICATIONS**

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

No because there is no relevance to equality.

## **13.0 CARBON REDUCTION IMPLICATIONS**

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

## **14.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

14.1 There are no implications arising out of this report.

## **15.0 RECOMMENDATIONS**

15.1 That Cabinet agrees:

- a. the arrangements for discharging the duties and responsibilities arising under the Scrap Metal Dealers Act 2013 as set out in Appendix 1 of this report; and
- b. the charging of fees for Scrap Metal Licences in accordance with Appendix 3 of this report.
- c. that the Strategic Director of Regeneration and Environment (or his nominee) be authorised to implement all necessary administrative arrangements to give effect to (a) and (b) above.

## **13.0 REASON FOR RECOMMENDATIONS**

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

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