

Crawley Borough Council

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Report to Licensing Committee

4th September 2013

Scrap Metal Dealers Act 2013

1. Key Points

- 1.1 New legislation is coming into force on 1 October 2013.
- 1.2 The legislation replaces the old registration system for scrap metal dealers with a licensing system.
- 1.3 Crawley Borough Council will be the licensing authority for the new scrap metal licensing regime for the borough of Crawley. The purpose of this report is to provide details of the new legislation, consider the proposed delegation of powers and consider and approve the recommended fee level.

2. Recommendations

It is **RECOMMENDED** that the Licensing Committee:

- 2.1 Consider and note the contents of this report.
- 2.2 Approve the fees and charges as proposed in this report.
- 2.3 Request that Full Council approve the proposed delegations as set out in Appendix A to this report.
- 2.4 Request Full Council authorise the Head of Legal and Democratic Services to amend the Constitution to give effect to (2.3) above and to delete any delegations relating to legislation repealed by the Scrap Metal Dealers Act 2013.

ANGELA TANNER
Head of Planning and Environmental Services

3. Background

- 3.1 The Scrap Metal Dealers Act 2013 received Royal Assent on 28th February 2013 and with a commencement date of 1st October 2013.
- 3.2 The Act will require scrap metal dealers to be assessed for suitability before licences are granted or renewed. It will give local authorities the power to impose conditions on licences where the dealer or site manager has been convicted of a relevant offence, revoke licences and tighten up how trading is conducted and allow local authorities and the Police to close down unauthorised sites.
- 3.3 Regulation has applied to scrap metal dealers since at least the late 19th Century. The current legislation is set out in the Scrap Metal Dealers Act 1964. This required district councils to maintain a register of persons trading in their area as scrap metal dealers. Failure for the metal dealer to inform the council of their operations attracted a fine of up to £1000 and registration would take place every three years.
- 3.4 In recent years the demand for metals has never been stronger and the metal recycling industry is booming, with a total worth of £5 billion in 2011. This in turn has seen a dramatic rise in metal theft and a significant impact on communities. Nine out of ten councils have been affected by the theft of metal e.g. drain covers etc and elsewhere there has been disruption to rail services, loss of power to homes, interruptions to telecommunications, theft of bus shelters and even grave memorials.
- 3.5 On 20th June 2012, Richard Ottaway, MP for Croydon South introduced a Private Members' Bill to substantially amend the law relating scrap metal dealers. The main thrust of the proposed changes were to:-
- Create a robust licensing scheme for scrap metal dealers replacing the registration scheme, retaining councils as the licensing authority but working in close liaison with the police.
 - Require scrap metal yards, itinerant collectors, motor salvage operators and merchants who buy and sell scrap gold, platinum and silver to have a licence.
 - Give local powers to inspect, review, suspend and revoke a licence as well as financial penalties for breaches of conditions.
- 3.6 The Scrap Metal Dealers Act 2013 was passed on 28 February 2013. The new Act repeals the Scrap Metal Dealers Act 1964 and parts of the Vehicles (Crime) Act 2001 that deal with Motor Salvage Operators to provide a revised regulatory regime for the scrap metal dealing and vehicle dismantling industries.
- 3.7 The Act creates two different types of scrap metal licences either a site licence or a collector's licence. Collector's licences cover dealers who do not have a site and regularly collect through door-to-door collections. A collector's licence issued by Crawley Borough Council would not allow a dealer to operate in any other local authority area, so a separate licence from each authority would have to be obtained. A site licence allows the dealer to carry

on business at any sites in the council's area listed on the licence and also allows them to collect in the locality. A person may not have both licences in the same local authority area.

3.8 Other powers contained in the Act provide for:

- Licences to be displayed.
- Dealer's to carry out stricter identity checks on anyone they receive scrap metal from and record their details.
- Dealer's to keep records of any scrap metal received or disposed of.
- Prohibits the payment of cash for metal. Payment can only be made by non-transferable cheque or an electronic transfer of funds.
- Local authorities and Police to enter and inspect licensed premises, inspect and take copies of records and require inspection of any scrap metal.
- The closure of unlicensed sites through the Police/Local Authority seeking closure orders from a Magistrates' Court.
- Prosecution of new offences created by the Act, which include the offence of carrying on business as a scrap metal dealer without a licence.

3.9 Before issuing a licence the local authority is required to be satisfied an applicant is a suitable person to operate as a dealer, and may consult with any other local authority, the Environment Agency and the Police. In deciding if someone is suitable a local authority can consider any information deemed as relevant, including whether the dealer or their site manager has been convicted of a relevant offence. Where the applicant for a licence is a company, in determining whether the company is a suitable person to carry on the business as a scrap metal dealer a local authority must regard to other matters, such as whether any director, secretary and any shadow director is a suitable person.

3.10 Licences will last for 3 years unless revoked, but the Act also gives licensing authorities the powers to refuse a licence, add specific conditions to a licence or to revoke the licence. Where the authority proposes to refuse a licence, add conditions or revoke a licence then the person affected can make representations or request a hearing before such a decision can take effect. The proposed scheme of delegations provides for such hearings to be undertaken by the Licensing Committee. There is then a right of appeal to the Magistrates' Court.

3.11 According to the Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013, a scrap metal dealer who, immediately before 1st October 2013, was registered under either section 1 of the Scrap Metal Dealers Act 1964(2) or section 1 of the Vehicles (Crime) Act 2001(3) shall be deemed to be authorised by a licence under section 1 of the 2013 Act, and deemed to be licensed accordingly. This deemed licence has effect from 1st October 2013 until the local authority to whom he applies for a licence either issues him with a licence or gives him a notice of the decision to refuse him a licence. However if a scrap metal dealer who was so previously registered fails to submit an application for a licence on or before 15th October 2013, his deemed licence will lapse on 16th October 2013.

4.0 Options considered and recommended proposals

4.1 Local Authorities will only have discretion over the following issues:

4.2 The information it considers to be relevant when assessing an applicant's suitability.

The Act permits local authorities to consider convictions for a relevant offence, previous relevant enforcement action, previous refusal or revocation of a scrap metal licence, demonstrating adequate compliance measures and anything else it considers relevant. It suggested Crawley Borough Council also will also take into consideration any relevant complaints received.

4.3 The persons/bodies that it will consult on applications.

The Act provides for consultation with the police, other local authorities and the Environment Agency. It is considered that this local authority will also consult with relevant internal departments e.g. Planning, Trading Standards.

4.4 Revocation of a licence or addition of conditions.

The factors provided in 4.2 above will be considered whether such condition or revocation is required.

4.5 The information required on an application form can be anything that is considered to be relevant.

The Act provides the documents that are required to be accompanied with the application form. It is recommended that Crawley Borough Council will also require that photographic ID from each applicant before considering an application.

5.0 Raising industry awareness

5.1 It is proposed that officers will undertake a public awareness campaign between 4th September 2013 and 1st October 2013 to seek to make the industry and the public aware of the new licensing regime. This exercise will include sending letters will to all existing scrap metal dealers and motor salvage operators registered with Crawley Borough Council under the old regime.

5.2 The awareness campaign will also involve publishing information on our website, and applications forms will soon appear on the Council's website.

6.0 Implementation

6.1 The urgent action procedure to update the Constitution has been used to delegate the fee setting function for these new licences to the Licensing Committee to ensure the applications can be received and processed in time for the implementation of the Act. It is proposed that the remaining matters requiring delegation are approved on 23rd October by the Licensing Committee recommending this report to Full Council.

6.2 At present there are 5 people registered with the Council as scrap metal dealers and 1 licensed motor salvage operator. It is possible that a further 4

collector's licences may be issued based on research concerning mobile collectors thought to currently operate in Crawley.

- 6.3 The commencement date for the Act is 1st October 2013 and initial applications from existing scrap metal dealers could have been received from 1st August 2013 although none have yet been submitted.

7. Ward Members' Views

- 7.1. Ward Members are able to comment via the public consultation process.

8. Staffing, Financial and Legal Implications/Powers

- 8.1 The Act provides that an application must be accompanied by a fee set by the authority. In setting a fee the authority must have regard to guidance issued from time to time by the Secretary of State with the approval of the Treasury.

- 8.2 Fee levels for applications will be set for full cost recovery in relation to processing applications and monitoring compliance with licences issued.

- 8.3 The Home Office Guidance on setting fees for Scrap Metal Licences was issued on 13 August 2013. A proposed initial fee has been calculated by officers at £595.52 for site licences and £514.27 for collectors' licences and covers a licence period of 3 years. The fee has been calculated to recover the administrative expenses incurred to date shared equally amongst known traders and the administrative expenses arising from the processing of applications. The expected fee income for these licences is difficult to predict and will depend on the uptake of the new licences. The income will also not be received uniformly in each financial year due to the 3 year licence period and subsequent renewal dates for applicants.

- 8.4 It is proposed that the fee be reviewed after a three year period at which time it may be reduced as the initial start costs will no longer apply.

- 8.5 The costs of consultation and publication on the proposed fee will be met from existing budgets.

- 8.6 Regulations have been made which provide for transitional arrangements which include the bringing into force on 1 September the sections regarding the setting of fees which allows councils to set fees ahead of the commencement of the balance of the provisions of the Act.

- 8.8 There are no staffing implications.

9.0 Risks of Not Having a Suitable Fee Structure and Delegation Scheme in Place

- 9.1 The Local would not effectively contribute towards the key targets for the Community Safety Partnership.

- 9.2 If the arrangements proposed in this report are not in place in the above timeframe, Crawley Borough Council will not be able to perform its function under the Act.

- 9.3 It is considered that the reform of the Scrap Metal Dealers Act 1964 will improve the impact on metal theft affecting national transport infrastructure, electricity, telecommunication links and street furniture etc. any delays would therefore be regrettable.
- 9.4 The Police will have an opportunity to consider all applications for scrap metal dealers. They are currently provided with registration applications and had powers of entry under the old regime. It is therefore not anticipated that the adoption of the new provisions will have a significant impact on police resources.

10.0 Reasons for the Recommendation

- 10.1 To comply with the Council's statutory obligations under Scrap Metal Dealers Act 2013.
- 10.2 To improve the control of scrap metal sales and contribute the Safer Crawley Partnership objectives concerning crime and disorder.

Contact Officer:- Tony Baldock, Environmental Health Manager
Direct Line:- 01293 438220
E-Mail: tony.baldock@crawley.gov.uk

Appendix A Proposed Delegation Scheme

For Recommendation to Full Council 23rd October 2013

| Matters to be Dealt With | Full Council | Licensing Committee | Head of Service or delegation to suitable officers |
|--|--------------|-------------------------------------|--|
| Fee Setting | | X* | |
| Processing and supply of applications and supply of applications for external agencies | | | X |
| Entry inspection and enforcement | | | X |
| Inclusion of conditions under Sec. 3(8) | | | X |
| Refusal of Licence | | If the applicant requests a hearing | If no hearing is requested |
| Variation or imposition of conditions on a licence under Sec. 4 | | If the applicant requests a hearing | If no hearing is requested |
| Revocation of licence | | If the applicant requests a hearing | If no hearing is requested |

*This delegation has already been approved through an amendment to the Constitution as authorised by the Acting Chief Executive using urgent action procedure.