

## **Council Meeting – 12 September 2011**

### **Notice of Motion – Businesses dealing in scrap and other associated activities from their homes**

#### **Introduction**

The following notice has been submitted from Councillors Robertson, Thomas and Young:

*Council recognises that the escalation of numbers of itinerant scrap metal merchants and their activities amongst residential areas in the Borough continues to cause a great deal of problems in their neighbourhoods.*

*Council welcomes the activities of legitimate dealers who obey the law and in earning a living, also contribute to recycling targets in Walsall.*

*Council proposes to pursue the following actions:*

- (1) To support a national campaign to make a small legal change so that payments for scrap can only be paid into a bank account and payment in cash is not allowed.*
- (2) Facilitate a working group meeting under the relevant scrutiny committee with guidance of the area partnerships to which all relevant parties are invited to produce a report directly to Cabinet and Council within 3 months. This report to contain recommendations as to how this issue can be resolved. This working party to explore the drafting of a by law for this Borough to deal with this issue.*
- (3) If no agreement is reached Council instructs Officers to use the full powers of existing legislation with our partners to control this nuisance on our streets.*

#### **Background Information**

The issues raised in the notice of motion cover a number of different regulations and services provided by Walsall Council and its partners. The information below describes some of the ways in which this is being addressed. Details of relevant legislation and guidance are provided in the Appendix.

On the 19<sup>th</sup> July 2010 a Notice of Motion for 'Businesses dealing in scrap and other associated activities from their homes' was passed by council. Following this meeting the North Walsall Area Partnership, council officers and partners have worked together with elected members and the community to address the problems associated with scrap metal dealing in Walsall.

## **1      *Metal theft***

Due to a significant rise in value, metal has become a much sought after commodity. This increased demand has resulted in a sharp rise in metal theft both nationally and across the Walsall borough. Metal fencing, gates, padlocks, metal vases from gravestones and other metallic items are stolen on a regular basis. This includes manhole covers at a replacement cost to Walsall Council of £500 per manhole cover through its contract with Tarmac. Residential homes, void buildings, community property and business premises are raided for lead, copper and cabling. War memorials and statues have been taken. Overhead power lines have been stolen at serious risk to personal safety and life, resulting in power cuts. Car exhausts are stolen for the platinum in the catalytic converters.

The table below shows recorded metal theft incidents in Walsall between July 2010 and June 2011. (*Sourced by Walsall Police*);

<b>Ward</b>	<b>Offences</b>
Darlaston South	155
Willenhall North	132
Willenhall South	109
Blakenall	68
St. Matthews	68
Bentley and Darlaston North	63
Bloxwich West	63
Bloxwich East	61
Birchills Leamore	59
Short Heath	58
Brownhills	57
Pleck	56
Aldridge North and Walsall Wood	50
Palfrey	42
Rushall-Sheffield	38
Aldridge Central and South	34
Paddock	21
Streetly	14
Pheasey Park Farm	13
Pelsall	9
<b>Total</b>	<b>1125</b>

## **2      *Noise Pollution***

This occurs mainly on a weekend or early evening. Obtaining robust evidence of scrap metal dealers using loudspeakers contrary to S62 of the Control of pollution Act 1974 is essential in being able to take forward prosecutions that will satisfy close scrutiny of court proceedings.

In conjunction with neighbouring authorities, Pollution Control have taken the stance to write to first time perpetrators. In general terms this has worked in that the vast majority have not generated further complaints. The table below shows the number of complaints received by ward:

### *Noise complaints by ward*

<b>Ward</b>	<b>Noise Nuisance Complaints</b>
Streetly	20
Bloxwich West	11
Bentley and Darlaston North	11
Aldridge Central and South	11
Short Heath	6
Darlaston South	6
Brownhills	5
Pheasey Park Farm	4
Willenhall South	3
Pleck	2
St Matthews	2
Paddock	2
Pelsall	1
Bloxwich East	1
Birchills	1
Palfrey	1
Aldridge North and Walsall Wood	1
<b>Total</b>	<b>88</b>

### **3     *Anti Social Behaviour and General Nuisance***

A number of neighbourhoods have a high concentration of scrap metal dealers living in close proximity. These tend to be in the North Walsall area and have been identified as:

- Shakespeare Crescent
- Stag Hill
- Hunters Crescent
- Lower Farm
- Ingram Road
- Stag Hill Crescent
- Oakland Road
- Ryle Street
- Green Rock Lane
- Goscote Lane
- Chestnut Road

Problems experienced by residents in these areas include scrap metal dealers who are:

- Lighting fires in back gardens where wires are burned for the copper
- Driving and parking wagons overloaded with makeshift cages
- Parking across kerbs and footpaths and causing an obstruction
- Offloading and dismantling scrap metal on the footpath
- Using gardens and garages to store scrap
- Intimidating residents who wish to avoid confrontation or repercussions

The Area Manager for North Walsall has received a number of complaints from residents living in these neighbourhoods and from ward councillors.

Scrap metal dealers are also becoming an increasing nuisance at household waste recycling centres where they frequently wait outside the centres in an attempt to intercept and remove metal items from visitors before they can deposit them in the correct disposal area.

Twenty nine complaints were received between July 2010 and June 2011 from Councils outside of the Walsall borough, complaining about wagons from Walsall trading and causing a nuisance in their areas.

#### **4      *Enforcement***

Because of the variety of problems which these actions can cause in neighbourhoods, there are numerous different types of enforcement powers. These are summarised in the Appendix.

The report sets out below a selection of actions the council has undertaken with partner organisations to deal with these issues:

**Operation Steel** - Operation Steel was launched in November 2010. Walsall Council joined forces with Walsall Police, Walsall Housing Group, Department of Work and Pensions, VOSA, representatives from Smartwater and the vehicle agency. So far six days of action have been coordinated with more planned. Other agencies involved include Eon, British Telecom, Environment Agency, HMRC and Virgin Media. Pupil Engagement teams have also been invited to identify pupils who may be truanting from school to find and sell metal.

Days of action involve vehicles laden with metal being stopped and checked to ensure they are operating legally. Visitors to scrap yards and mobile scrap dealers are checked to ensure they are working within the law and have no stolen items.

During one day of action a number of vehicles were stopped and nine scrap metal vehicles were issued with prohibition notices by VOSA.

On another occasion officers stopped a number of vehicles. Two were issued with prohibition notices and were taken off the road, two were being driven with provisional licences and two drivers of wagons were issued with tickets for not clearing their windscreens of ice.

On yet another occasion officers stopped a total of 19 vehicles. Two vehicles were seized for no insurance and a further two were taken off the road and reported for chassis defects. The driver of one of the recovered vehicles was summoned to make a court appearance for driving without a licence.

One driver received an on the spot fine of £500 for fuelling his vehicle with red diesel and another man was fined £60 and will receive three points on his licence for towing a trailer without displaying the registration number of his vehicle correctly.

**Smartwater** - Police and Walsall Housing Group in partnership with Area Partnerships have been marking metal and lead at houses and business across the borough with a high tech DNA solution (Smartwater). Once the metal is marked with the invisible solution, if stolen, it can be traced back to the premises. This acts as a deterrent to any would be thieves.

Scrap merchants are aware of the scheme and check metal for the solution. If found, they immediately report it to the police.

**Door-Knocks and Engagement** - Targeted days of action are being conducted via the North Walsall Area Partnership, coordinated with Operation Steel. A multi agency action team are knocking on the doors in residential neighbourhoods identified as areas with a high concentration of scrap metal dealers. The purpose is to:

- increase support for residents who may feel intimidated
- communicate clear rules of conduct to both scrap metal dealers and residents who don't trade
- warn scrap metal dealers of the consequences of not complying
- engage with compliant scrap metal dealers and those interested in cooperating with initiatives aimed at removing criminal activity, anti social behaviour, and general nuisance imposed by rogue scrap metal dealers on the community

**Outside of the borough** – Scrap metal dealers registered in Walsall are travelling further afield to obtain scrap metal. Public Safety have worked with East Staffordshire Council to provide them with facilities at Challenge Building to interview Walsall scrap dealers who have been working in their area. This arrangement has been exercised on four occasions where persons allegedly guilty of waste offences have been interviewed.

## **5 Cashless Scrap Metal Trading**

Historically the scrap metal trade has always been a cash in hand industry. This creates difficulties as there is no audit trail, making identification of individuals who may be trading stolen metal or who may be committing tax or benefits fraud, a difficult proposition. When the Benefits team conduct an investigation into fraud they need to know who the person is and where they live. They then look at their income gain and have to prove that these gains are linked to regular scrap metal dealing.

A number of MPs are asking for an amendment to the Scrap Metal Merchants Act 1964 to prohibit cash transactions, making payment by cheque or directly into a bank account mandatory. Walsall Partnership have posted an e-petition in support of this on the HM Government's e-petition website.

The Minister for Crime Prevention is currently exploring the feasibility of introducing a non-statutory cashless trading model for scrap metal dealers. This is being conducted with the 'Association of Chief Police Officers' (ACPO) - Conductive Metal Theft Working Group.

The ACPO group, which includes representatives from the British Metal Recycling Association (BMRA) has helped to draft a code of conduct for scrap metal dealers, setting out a number of conditions all dealers should adhere to, including:

- All reasonable steps should be taken to ensure stolen metals are not bought
- Metals should only be accepted from those who present sufficient proof of identity and ownership (paper trails make it far easier for authorities to trace those who bring in stolen metals)
- All staff should be trained in administrative processes and all paperwork should be relevant and kept up-to-date
- Suspicious people and transactions should be reported to the police
- Dealers should co-operate with police and local authorities by allowing access and inspection when requested In addition, ACPO would like to see an end to cash transactions at scrap dealers. This would stop thieves being able to make a 'quick buck' and would introduce a secondary level of identification as all payments would have to be made to a named account.

The code of conduct is close to being ratified by the industry and could hold the key to further success in tackling metal theft. However, it is currently a voluntary code of conduct that would only cover members who could be disadvantaged, as non-members could flout the code and potentially earn more business as a result. This is why the ACPO group would like to see the practices of the code made enforceable across the industry – setting clear guidelines for all scrap metal dealers.

A handwritten signature in black ink, appearing to read 'Jamie Morris', with a stylized, cursive script.

Jamie Morris  
Executive Director

25 August 2011

## Summary Table of Enforcement across partnership

ISSUE	Agency/Team	Legislation	Purpose	Comment
Noise from premises	Environmental Health	Environmental Protection Act 1990 section 80	To deal with noise nuisance affecting domestic premises.	Generally one premises affecting another noise from loudspeakers in the street dealt with separately
Noise from Vehicles	Pollution Control	Control Of Pollution Act 1974	The use of a loudspeaker to advertise trade and/or business in a street.	Likely to take place away from where vehicle is stored
Smoke	Environmental Health (primarily)	Environmental Protection Act 1990 section 80	Smoke from a premises that can harm health or create a nuisance can be dealt with	Some associated powers under Highways Act and Clean air Act
Waste disposal	Environmental Health/ Environment Agency	Environmental Protection Act 1990 section 33 1a	It is an offence to deposit waste on land that hasn't got a waste management licence.	Doesn't include a persons own waste has to be waste brought from elsewhere.
Waste disposal and storage	Environmental Health/ Environment Agency	Environmental Protection Act 1990 section 33 1b	It is an offence to keep , treat or dispose of waste or permit the keeping treating or disposing of waste except in accordance with a waste management licence	Expands on the disposal to make treating and storing an offence also
Permission to deal in waste	Environment Agency	Environmental Protection Act 1990 sections 36-44	Issuing and enforcing waste management Licences	Has some cross over with Planning in that licensing of sites must take into account planning permissions.
Permission to transport waste	Environment Agency	The Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 (as amended)	Sets out the various procedures for waste carriers licensing	Not a Council function
Control of waste carriers	Environmental Health/ Environment	Control of Pollution (Amendment) Act 1989	An offence for any person who is not a registered carrier of controlled waste, in the course of	This can be dealt with through issuing of a notice requiring the person provides proof of being licensed–

	Agency	Clean Neighborhoods and Environmental Act 2005	any business of his or otherwise with a view to profit, to transport any controlled waste to or from any place in Great Britain	failure can be a Fixed Penalty Notice of £300 in the first instance
Storing waste – pest control	Environmental Health	Prevention of Damage by Pests Act 1949	Action can be taken to require the removal of waste likely to harbour or attract rats or mice to a property.	Basically a land owners responsibility generally requires evidence of rat/mice nesting or food likely to attract them – not for inert waste generally
Eyesores	Planning	Town and Country Planning Act 1980 s215	Notice can be served on the owner or occupier of land that appears to the Planning Authority to adversely affect the amenity of their area	
Incorrect use of property	Planning	Town and Country Planning Act 1980?	Action to be considered if premises are being used for purposes outside of the permission that has been granted for that property or land	
Incorrect use of property Breach of Tenancy	WHG/ Landlords	Tenancy Agreement	Power to evict for failure to comply with Tenancy Agreement	Civil action
Licensing of scrap dealers	Trading Standards/ Licensing	Scrap Metal Dealers Act of 1964	Every local authority shall maintain a register of persons carrying on business in their area as scrap metal dealers	
Repairing vehicles on the highway	Trading Standards/ Licensing	Clean Neighborhoods and Environment Act 2005	A person who carries out works for the repair, maintenance, servicing, improvement or dismantling of a motor vehicle or of any part of or accessory to a motor vehicle on a road is guilty	Defence is this is not being done for reward or as a business or is being done as part of a breakdown or accident



			of an offence	
Stopping moving vehicles	West Midlands Police	S 163 Road Traffic Act 1988 (as amended by the Road Traffic Act 1991) and section 49 of the Police Reform Act 2002	Power to stop a moving vehicle on the road	Although Env Health, Pollution and the Env Agency have varied powers to deal with these issues the Police are the only Authority to be able to stop the vehicle on the road to assist in investigations.
Anti Social Behaviour	Local Authority/Police	Anti-social Behaviour Act 2003  Crime and Disorder Act 1998	The individual subject of the CRASBO will have a set of prohibitions unique to the case to prevent anti-social behaviour re-occurring and protect the Community from such acts	Following conviction for an offence a 'CRASBO' can be requested to prevent further occurrences. May be changed as part of new Govt review of ASB.