

Cabinet – 12 December 2012

Scrap Metal Working Group Report

Portfolio:	Public Protection – Councillor Zahid Ali Area Partnerships and Community Engagement - Councillor Ian Shires Environment and Transport – Councillor Tom Ansell
Service:	Communities and Partnerships
Wards:	All
Key decision:	No
Forward plan:	No

1. Summary

A number of organisations in Walsall have been actively working together over the past 18 months to tackle the issues of scrap metal trading. These issues bring considerable problems to Walsall ranging from the theft of metal to sell as scrap to the blighting of residential areas where scrap metal is collected and stored.

This active approach together with changes in national legislation has resulted in scrap metal thefts reducing by over 50% in Walsall, however the problems associated with rogue metal traders are still significant.

This report details the work undertaken within the Environment Scrutiny and Performance Panel and by partners on tackling the issues of rogue scrap metal trading.

2. Recommendations

That Cabinet

1. notes the work undertaken by the Environment Scrutiny and Performance Panel on tackling the issues of rogue scrap metal trading in Walsall
2. endorses the work undertaken in Walsall to tackle scrap metal problems and receives future updates on progress
3. approves the revised action plan at **Appendix A**.

3. Report detail

3.1 Rogue scrap metal dealing has been a considerable problem in Walsall for

several years. The increase in the value of metal has resulted in an active trade in the acquiring and selling of metal, scrap or otherwise. Three areas in particular have become a problem:

1. The theft of metal to be sold as scrap, often from older buildings or memorials.
2. Degradation of residential areas blighted by metal storage and sorting at private residences.
3. Anti-social behaviour and intimidation of residents and businesses that confront rogue metal dealing.

3.2 The Environment Scrutiny and Performance Panel (ESPP) considered a report on the effects of scrap metal dealing in October 2011. Following the report, ESPP established a working group to specifically investigate the consequences of scrap metal dealing in Walsall. The working group established a number of recommendations from its investigations between November 2011 and February 2012. The presentation of the recommendations to ESPP resulted in 23 recommendations being made to Cabinet.

3.3 The North Walsall Area Partnership has established a workstream through its Area Plan to tackle scrap metal issues as many associated problems were prevalent in the North Walsall Area. Over the past twelve months, a number of activities have taken place to reduce the impact of scrap metal problems. Some of these included:

- Co-ordinated enforcement campaigns by local partners including Operation Steel and mini-Operation Steel resulting in a number of illegal scrap metal dealers being apprehended.
- Developed an extensive communications campaign around the problems of scrap metal dealing which included publicity on local television news reports and the production of a video.
- The establishment of an e-petition to halt cash sales of metal gathering over 55,000 signatures.
- A pilot project to replace metal gully and manhole covers with plastic alternatives.
- The recent launch of Operation Tornado to visit and inspect every scrap metal dealer to ensure they are fully compliant with the legal requirements of their trade.
- Developed a Working Smarter approach to scrap metal to determine alternative approaches to reduce the problem.
- Considered the feasibility for a Local Act of Parliament to develop a licensing scheme for local scrap metal traders.
- Promoted Smartwater products to deter metal thefts.
- Deployed CCTV cameras in hot spots to observe potential illegal activity.

3.4 Councillors with portfolios affected by scrap metal activities have requested that additional activities were undertaken prior to reporting back to Cabinet. These included detailed investigation into certain areas to consider case studies or additional analysis. A full update of these additional actions, responses to ESPP's recommendations and key initiatives is included in **Appendix A** of this report.

- 3.5 Changes in national laws during this time have also impacted on scrap metal problems. The Legal Aid, Sentencing and Punishment of Offenders Bill has made it illegal for scrap metal to be sold for cash and without identification. The government is supporting the replacement of the Scrap Metal Dealers Bill with a regime to regulate the scrap metal trade and that gives the Police and local authorities new powers over scrap metal sites.
- 3.6 Activities taken by the Council and its partners have resulted in scrap metal thefts reducing by over 50% in Walsall over 18 months. However, scrap metal problems are still a significant problem in Walsall and mainly fall into three categories:
1. Ongoing, but reduced, levels of metal thefts.
 2. Associated illegal activity around scrap metal dealing including untaxed vehicles, trading in stolen property, intimidation of residents and failing to pay proper employment taxes.
 3. Anti-social behaviour, such as metal collecting and storage in residential areas.
- 3.7 The additional activities requested by councillors with portfolios affected by scrap metal activities included greater investigation into the causes of some issues. These activities included:
- Increased linking of different partners' enforcement activities.
 - Feasibility of a community business to be established to displace illegal activity.
 - Enforcement of a by-law to address children riding horse-drawn carriages.
 - Feasibility of developing a licensing scheme for scrap metal wagons, similar to taxi vehicle licensing.
- 3.8 The enforcement activities were targeted at two properties in Willenhall and Green Rock as case studies for the problems faced in residential areas and effectiveness of enforcement. Increased enforcement activities included installation of CCTV to monitor activity to ensure trading was not taking place at the properties as well as advice from the Police and Legal Services about vehicle parking and obstruction.
- 3.9 It is apparent that suspected rogue traders have learnt to legalise their activities enough to evade prosecution and so will ensure all vehicles parked on the highway are taxed or will transfer metal from vehicle to vehicle so that metal does not touch the ground which would then classify the location as a store. Dealers will move their trading out of sight of CCTV cameras or block their activities using other vehicles.
- 3.10 This minimal legal status is compounded by the level of evidence needed to ensure a prosecution, or that the perceived level of anti-social behaviour does not warrant further enforcement. One dealer won a prosecution case by claiming that metal collecting was his hobby. In the absence of any evidence to prove otherwise, the case by the Council was lost. While vehicles parked on verges are inconvenient for pedestrians, where these roads are major bus routes, the Police regard the verge parking as less inconvenient than blocking

the movement of buses.

- 3.11 The acquiring of suitable evidence is likely to be made more difficult unless better targeted in the future. Since 1st November, the Council is not able to enforce direct surveillance of residents' properties unless for a crime with a potential sentence of greater than six months and approved by a magistrate.
- 3.12 A feasibility study was undertaken into the establishment of a new community enterprise in Walsall to collect metal waste and displace rogue activity. The study considered the history and viability of social enterprises that collected and recycled waste materials, locally as well as considering case studies from around the UK.
- 3.13 While there have been many good examples of social enterprises and charitable trusts undertaking recycling work, they have usually been dependant on either grants or service contracts from local authorities to be viable. Much of this work has been subsumed by local authorities as they have increased their recycling rates and reduced the market size for other enterprises. As it is unlikely that grants could be afforded by the Council to support a new enterprise during its establishment, portfolio members thought that a new enterprise was unlikely to be feasible. There was also a concern that the enterprise might displace the activity of legal traders, reducing the employment of reputable scrap metal dealers, while not actually addressing the neighbourhood nuisance issues.
- 3.14 Advice has been received from officers from Legal Services regarding children riding horse-drawn carriages. The Council has no effective criminal enforcement powers to deal with children and road safety, which instead rests with the Police. The Police were unsure on how a likely a prosecution could be managed in the circumstances.
- 3.15 Consideration was given to attempting to prosecute parents under a by-law prohibiting the employment of children. Legal advice is that the chances of successfully prosecuting a parent rely largely on evidence obtained from their child and so successful prosecutions are highly unlikely.
- 3.16 It could be possible to regard this issue as a child safety issue rather than concentrating on the use of the horse-drawn carts as the central issue. While this might highlight instances where children and parents require additional support, it appears unlikely to have a significant impact on the scrap metal problems in Walsall.
- 3.17 A licensing scheme for scrap metal vehicles could operate in a similar manner to a taxi licensing scheme. This could ensure that a common standard should apply both to the vehicles that are licensed and to all the drivers who operate them. Vehicles would have to be presented in a professional manner and drivers abide by a code of practice to ensure a professional service is maintained.
- 3.18 Officers have sought legal advice on the most appropriate method for implementing such a scheme, which has recommended that a Local Act of Parliament should be applied for. This requires a substantial level of information to be successful, and Council officers are currently working with partners to

gather relevant information.

- 3.19 The success of such a scheme would be limited if it was restricted to a single borough as dealers who refused to conform to the scheme might partially trade in a neighbouring borough. While this might reduce the effects of rogue dealing slightly, much greater impact could be achieved by attempting the scheme on a larger area. To consider this on a broader geographical basis, Walsall Council is hosting a meeting in December with representatives from neighbouring local authorities and other relevant agencies.
- 3.20 Activities within Area Partnerships tackling scrap metal problems across the Borough are now being focussed along three new priorities for future work:
1. Implementing partnership-led enforcement activity against rogue metal dealers.
 2. Supporting the responsible scrap metal trade.
 3. Improving support for residents and businesses affected by illegal scrap metal trading.
- 3.21 Under these revised priorities, the Area Plans have been refreshed taking into consideration changes in legislation. It is likely that as legislation gives more power to enforcement agencies to prosecute criminal activity around scrap metal dealing, the work of the workstreams will focus more on the anti-social activities of rogue scrap metal trading. Feedback from residents indicate that some of these anti-social activities together with an inability to prosecute, cause high levels of dissatisfaction with Council and other associated partners' services.
- 3.22 Area Partnerships are willing to integrate any future priorities and recommendations of ESPP into their Area Plans and provide regular updates on progress.

4. Council priorities

Supporting and engaging with a healthy and vibrant Voluntary and Community Sector is vital in order to assist the Council achieve its priorities of:

- Communities and neighbourhoods
- Economy
- Health and well-being.

The report proposals will help create and develop sustainable places and communities, one of the key objectives of the Marmot review.

5. Risk management

As rogue scrap metal dealing in Walsall causes considerable anguish to residents and businesses that are negatively affected by the activities, an active approach to reducing the problems could reduce the potential for anti-social behaviour and criminal activity.

6. Financial implications

There are no financial implications arising from the report. An active approach to reducing rogue scrap metal dealing will ultimately reduce enforcement activities and so reduce future costs.

Any costs associated with the introduction of a licensing scheme will be offset by income from the scheme, as so not call on the Authority's finite revenue resources.

7. Legal implications

There are no legal implications from this report. Ongoing work may present an opportunity to develop a local by-law to further increase the Council's management of the scrap metal trade.

8. Property implications

There are no property implications from this report.

9. Staffing implications

There are no staffing implications arising from the report.

10. Equality implications

There are no equality implications arising from the report.

11. Consultation

A number of organisations and individuals have been consulted on the ESPP's working group and North Walsall Area Partnership's scrap metal workstream, including:

- Elected members
- West Midlands Police
- Various Walsall Council officers with legal and enforcement responsibilities
- Environment Agency
- Scrap metal dealers and merchants operating in Walsall
- Walsall Housing Group
- Operations Group
- Local residents.

Background papers

1. Environment Scrutiny and Performance Panel – Scrap Metal Working Group Report, 9 February 2012.
2. North Walsall Area Partnerships Area Plan.

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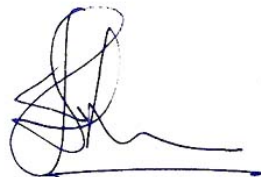
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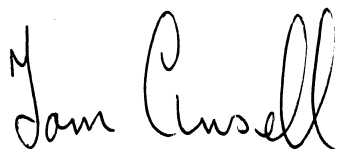
4 December 2012

Councillor Ian Shires
Portfolio Holder



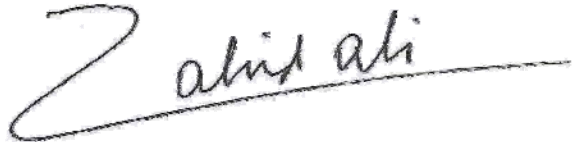
4 December 2012

Councillor Tom Ansell
Portfolio Holder



4 December 2012

Councillor Zahid Ali
Portfolio Holder



4 December 2012

Appendix A – Actions taken to tackle scrap metal problems in Walsall

Scrap Metal Environment Scrutiny and Performance Panel Recommendations

No.	Recommendation	Action taken/proposed
1.	That Legal Services be requested to provide clarity on whether or not itinerant scrap metal collectors are required to be registered with the Council as scrap metal dealers.	<p>There is no legal requirement to register with the Council and there is no penalty for not doing so.</p> <p>Itinerant collector is a sub-category of scrap metal dealer. It is important to note that those who collect scrap metal but do not buy it are not required to register with the Council. A person carries on a business as a scrap metal dealer if he or she's business consists wholly or partly of buying and selling scrap. The Scrap Metal Dealers Act 1964 states no person may carry on business as a scrap metal dealer unless details are entered on a register.</p> <p>A person collecting scrap metal but not buying it, is not carrying on a business which consists wholly or partly of buying and selling scrap metal. Legal opinion is that in order to be required to register a person must both buy and sell scrap metal, not collect and sell scrap metal.</p>
2.	That a more robust approach be taken in respect of enforcement action, by all with powers of enforcement, increasing resources if necessary, to enable swift action to be undertaken against those found to be contravening legislation.	This matter was referred to the Borough Operations Group on 17 th May 2012 where it was agreed that the North Walsall Area Manager would lead a team to further develop the approach to enforcement action using 'Working Smarter' principles, in order to ensure action is taken in the most efficient and effective way.
3.	That the Council undertake an exercise to establish the number of illegal scrap metal merchants/itinerant collectors and their locations.	The Environment Agency website holds a list of registered carriers. They are also collating a list of Walsall Scrap Merchants. Walsall Council has a list of approximately 200 itinerant collectors.
4.	That the Council, together with partners, undertake a publicity campaign to raise awareness of the tools available to take enforcement	<p>A compliance leaflet has been produced that lists the 'do's' and 'don'ts' of scrap metal trading and has already been distributed in the Green Rock area.</p> <p>The Walsall Partnership website is constantly updated with relevant information and contact numbers.</p>

	<p>action/prosecute illegal operatives and provide relevant contact numbers, such as a telephone line to anonymously report instances of unauthorised scrap metal dealers.</p>	<p>A YouTube video has been produced that highlights the negative impact of metal theft and the nuisance caused by some scrap metal collectors in communities. The video also outlines some of the work been done in Walsall to combat this issue and provides contact numbers as well as a link to the Walsall Partnership website. The video has been circulated to relevant stakeholders and will be screened in places such as the First Stop Express and doctors' surgeries.</p>
5.	<p>That the Council investigates the feasibility of introducing a licensing scheme locally.</p>	<p>The terms of a proposed licensing scheme have been discussed initially as part of a by-law. This would require that a licence is granted by Walsall Council only when the applicant passes a 'fit and proper person' test. It would be a mandatory requirement that the license be displayed on the vehicle. Walsall Housing Group would also like to be included in the application process to enable checks to be made about tenancy. Walsall Council would enforce the by-law, conducting checks and administering fines. A sign at the borders to Walsall Council could help to warn those traders coming into the borough.</p> <p>Legal Services have investigated the feasibility and likelihood of achieving a government approved by-law and have been advised by the Department for Communities and Local Government that a Local Act of Parliament would be the better option to pursue. However, comprehensive evidence must be produced to support the case for a Local Act of Parliament. It is proposed that this is progressed, working with partners to collate the evidence required.</p> <p>Neighbouring authorities are keen to adopt this as best practice which would prevent the displacement of problems over the border. This could also add weight to, and strengthen the case for a Local Act of Parliament.</p> <p>As an interim measure a pilot licensing scheme is being considered where the 200 or so collectors on Walsall Council's register will be invited to opt into a licensing scheme. If effective, this could also serve as evidence for the need for the Local Act of Parliament.</p>
6.	<p>That further (intelligence led) days of Operation Steel be carried with consideration given to carrying out regional days of action.</p>	<p>Operation Steel has been conducted with British Transport Police and Network Rail in attendance for the first time. British Transport Police together with Smartwater are providing intelligence for the operations. A subsequent Operation Steel day was filmed by the BBC for a 50 minute documentary. Channel 4 are also looking to do a documentary where filming will take place over a 2 to 3 weeks period.</p> <p>The Police have completed a strategy assessment of Operation Steel which has been fed back to senior officers who want more intelligence-led operations.</p>

		<p>West Midlands Police has secured £120,000 of Government funding for a full time regional inspector and sergeant. Another bid of £160,000 is being submitted to fund eight full-time PCs to work regionally.</p> <p>There are two intelligence analysts in Walsall who look through the reports of metal theft and develop intelligence based on the information.</p> <p>Further Operation Steel action days are scheduled.</p> <p>The Walsall Council Benefits Team is currently looking at evidence resulting from Operation Steel action days conducted in Walsall and neighbouring authorities. They also reported on the changes to investigating fraud where a new Single Fraud Investigation Service, comprising the local authority, DWP and HMRC will be established and operational by April 2013. This will enable a joined up approach to fraud investigation. The drive by central government to break down barriers around information sharing will give agencies access to information previously hard to gain. The Welfare Reform Act will amalgamate these powers so all agencies can use them from April 2013. Fines will be greater under the Single Fraud Investigation Service and benefits claimed could be withdrawn for up to three years.</p>
7.	That the Council implements a programme of replacing gully-covers with non-metal composite at such time that existing gulleys are stolen or come to the end of their life subject to successful trials.	Two trials are ongoing. The trials will last for 12 months to ensure a thorough test of durability under exposure to long-term traffic flow, varied temperatures and varied weather conditions.
8.	That the Council investigates the possibility of introducing non-metal alternatives for other road installations such as man-hole covers.	Two trials are ongoing. The trials will last for 12 months to ensure a thorough test of durability under exposure to long-term traffic flow, varied temperatures and varied weather conditions.
9.	That an update on the success of the trial and outcome of the investigation into alternative materials for road installations be reported to the Environment Scrutiny Panel no later	This will be provided in January 2013 at the end of the 12 month trial.

	than July 2012.	
10.	That Walsall Council seek to establish a regional scrap metal working group whose purpose would be to join forces with our neighbouring authorities to seek collaboration on all aspects of strategy including combating metal theft, introducing a licensing scheme and by-laws, as proposed within Walsall.	Contact has been made with Black Country local authorities and others including Birmingham, Solihull and Lichfield to form a regional scrap metal working group. Regional counterparts from relevant partner agencies will also participate.
11.	That Police, Council and registered social landlords engage with communities where anti-social behaviour, caused by the collection of scrap metal, is an issue and focus days such as Operation Steel in these locations.	Regular 'Mini' Operation Steel action days attended by relevant partners have been conducted in neighbourhoods that experience high levels of anti-social behaviour and nuisance due to scrap metal collector activity.
12.	That Police and partners focus on areas of heightened activity related to collection/theft of scrap metal and engage the public to instil confidence that work is being undertaken to resolve the difficulties faced.	This will be addressed through publicity and Operation Steel action days.
13.	That the photographs received from the public be forwarded to Legal Services as evidence to support the establishment of a by-law.	Implemented.
14.	That powers of enforcement be streamlined and redesigned to enable quicker, more effective	Through the Borough Operations Group meeting of 17 th May 2012, the North Walsall Area Manager was asked to lead a team to further develop the approach to enforcement action using 'Working Smarter' principles, in order to ensure action is taken in the most efficient and effective way. This will

	enforcement to take place.	include considering opportunities, where possible, for streamlining and redesigning the current enforcement system.
15.	That more stringent penalties be imposed for those proven to be carrying out an illegitimate scrap metal business.	Trading Standards are the regulators for the Scrap Metal Dealers Act 1964. However, it has been acknowledged by the government that the Act requires amending as enforcement is not sufficiently robust. The recently amended Legal Aid Act that received royal assent in early May 2012 will add more robust enforcement and fines to the Scrap Metal Dealers Act.
16.	That registered social landlords are urged to enforce breaches of tenancy conditions and that they be fully supported, where necessary, by the relevant enforcement powers of the Council and partners.	Landlords (Walsall Housing Group in particular) participate in Operation Steel and will also participate in Mini-Operation Steel action days with partners. Walsall Housing Group are also currently taking action against tenants who are accused of breaking their tenancy agreement by operating as scrap collectors.
17.	That the working group support the establishment of by-laws to: Address verge parking Introduce a licensing scheme for scrap metal collectors.	As outlined in response to recommendation number 5, a Local Act of Parliament is being assessed, part of which will be the licensing scheme. The feasibility of addressing verge parking problems will be considered as part of this Act.
18.	That an update report on the implementation of by-laws (including the cost to the Authority of implementing them) be submitted quarterly to the Environment Scrutiny and Performance Panel.	The Environment Scrutiny and Performance Panel will be updated as requested.
19.	That a review of procedure be instigated to evaluate the current practices the Council makes in securing its property assets when they are vacated so as to prevent metal theft, deterioration to the local environment and a loss in value to the asset if it is sought to be sold.	Property Services have been asked to undertake a review of current practices around securing Council assets. Security of privately owned properties is currently being looked at by the Void Property workgroup. Walsall Housing Group reported that metal theft from their properties is not currently an issue due to increased security, additional patrols and a quick response.

20.	That a register of war memorials be kept to ensure that suitable replacements could be made in the event of a theft.	<p>Property Services has produced a register of war memorials.</p> <p>A national project called 'In Memoriam 2014' will identify, record and protect Britain's estimated 100,000 war memorials.</p>
21.	<p>That Council write to the Secretary of State requesting that Section 2 of the Control of Pollution (Amendment) Act 1989 be amended and also lobby through the Local Government Association to include the requirement that applicants for a carriers licence must provide proof of the company.</p> <p>In the absence of the above provide details of self employment codes.</p>	<p>Following discussions it was agreed that a letter will be sent from the Council to the Secretary of State requesting an amendment to the Control of Pollution Act.</p> <p>An approach has been made to the Local Government Association to assist the Council lobby the government.</p>
22.	That consideration be given by the Environment Scrutiny Panel to re-establish the scrap metal working group in the 2012/13 municipal year.	Implemented.
23.	That an update report be submitted to Environment Scrutiny and Performance Panel in June 2012.	Subject to this report.

Other actions and initiatives undertaken locally

Issue	Action taken/proposed
<p>Increased linking of different partners' enforcement activities to assess effectiveness of enforcement.</p>	<p>The co-ordinated enforcement campaigns by local partners have included Operation Steel and mini-Operation Steel, and have been successful in apprehending in a number of illegal scrap metal dealers. However, these campaigns have largely been restricted to reducing illegal activity rather than anti-social behaviour such as noise and parking issues.</p> <p>Two residential properties with scrap metal activities being undertaken were considered as case studies to see how different enforcement activities were combined. These will be reviewed on an on-going basis to understand to understand the blockages in enforcement activity and combined with a Working Smarter approach to determine alternative approaches to reduce the problems.</p>
<p>Feasibility of a community business to be established to displace illegal activity.</p>	<p>As most social enterprises and charitable trusts undertaking recycling work have usually been dependant on either grants or service contracts from local authorities to be viable, it was viewed that Council resources are not likely to be able to support a new venture. While a new enterprise could generate jobs for Walsall residents and deliver a large message that Walsall is tackling illegal metal trading, it is unlikely to be a cost-effective method of addressing the neighbourhood nuisance issues.</p> <p>There was also a concern that the enterprise might displace the activity of legal traders, reducing the employment of reputable scrap metal dealers.</p>
<p>Enforcement of a by-law to address children riding horse-drawn carriages.</p>	<p>Legal advice has been received stating the Council has no effective criminal enforcement powers to deal with children and road safety, which instead rests with the Police. It might be possible to prosecute parents under a by-law prohibiting the employment of children, however as the success of the prosecution relies on evidence obtained from their child, a successful prosecution is highly unlikely.</p>
<p>Greater intelligence-led approach to targeting scrap metal dealers.</p>	<p>The recent launch of Operation Tornado involved the Police visiting and inspecting every scrap metal dealer in Walsall to ensure they are fully compliant with the legal requirements of the scrap metal trade. A number of metal dealers were found to have stolen metal in the yards which will be pursued for a prosecution.</p> <p>The outcome of the surveys will be a red-amber-green rating of the compliance of the dealer, which will be shared with partners to focus potential enforcement activities on dealers who are potentially operating illegally rather than anti-socially.</p>

<p>Developed an extensive communications campaign around the problems of scrap metal dealing which included publicity on local television news reports and the production of a video.</p>	<p>A promotional campaign was delivered by partners to raise the profile of metal theft and scrap metal dealing problems to promote the active role Walsall partners were taking with regard to scrap metal. Television interviews were recorded for the BBC and as well as radio interviews.</p> <p>An e-petition was established to raise the profile of scrap metal issues and to specifically halt cash sales of metal. The e-petition gathered over 55,000 signatures before the government announced it was supporting a hand-out bill for the amendment of the Scrap Metal Dealers Bill. The approval of the Legal Aid, Sentencing and Punishment of Offenders Bill has made it illegal for scrap metal to be sold for cash and without identification.</p>
<p>Promoted SmartWater products to deter metal thefts.</p>	<p>SmartWater products were promoted as a proven crime prevention and risk management solution that protects metals at risk of theft, including copper cable and lead roofing materials.</p>
<p>Deployed CCTV cameras in hot spots to observe potential illegal activity.</p>	<p>CCTV cameras are being deployed at hot spots of potential scrap metal dealing sites to gather evidence that might be used in prosecutions. Changes to the regulations about CCTV surveillance in November means magistrates are required to approve the surveillance which must be for a crime with a potential sentence of greater than six months.</p>