



Walsall Council

REPORT OF THE INTERIM REGULATORY MANAGER

LICENSING AND SAFETY COMMITTEE

25 SEPTEMBER 2013

SCRAP METAL DEALERS ACT 2013

FEE SETTING LEVELS

1.0 Summary of Report

- 1.1 On the 8 July 2013 Council delegated authorisation to Licensing and Safety Committee to set an appropriate schedule of fees under the provisions of the Scrap Metal Dealers Act 2013 taking into account any statutory guidance. It also delegated the discharge of its functions, powers and responsibilities under the Scrap Metal Dealers Act 2013 to the Licensing and Safety Committee, such Committee to be the “local authority” for the purposes of the Act.
- 1.2 This report recommends the appropriate schedule of fees to be set by Licensing and Safety Committee to administer the provisions of the Scrap Metal Dealers Act 2013.

2.0 Recommendations

- 2.1 That Members agree the schedule of fees set out in paragraph 4 as appropriate licensing fees under the provisions of the Scrap Metal Dealers Act 2013 to be effective from 26 September 2013.
- 2.2 That Members note the delegated authorisation to discharge all of the functions of Walsall Council under the Scrap Metal Dealers Act 2013.

3.0 Background information

- 3.1 The national growth of metal theft offences, driven by increased commodity costs, has highlighted the ineffectiveness of the existing registration scheme in the Scrap Metal Dealers Act 1964 which has not prevented the scrap metal industry being the central market for stolen metal.

- 3.2 In 2010/11, the Home Office estimated that there were 80,000 - 100,000 reported metal theft offences a year which cost the economy at least £220-£260m (Deloitte, 2011) and up to £777m per year (the Association of Chief Police Officers, 2010). The impact of metal theft was felt across the United Kingdom by a range of sectors – including national transport infrastructure, electricity and telecommunication links; street furniture; heritage buildings; memorials; and commercial and residential buildings.
- 3.3 It was widely considered that regulatory reform of the scrap metal sector was needed. Initial legislative steps to prohibit cash payments for scrap metal, amend police powers of entry into unregistered scrap metal sites and increase the existing financial penalties for offences in the Scrap Metal Dealers Act 1964 were contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which amended the Scrap Metal Dealers Act 1964. These were brought into force in December 2012.
- 3.4 Locally Walsall partners have been campaigning to raise the profile of scrap metal theft. The work has helped to increase momentum and pressure on the Government to consider changing legislation. Our initial campaign work aimed to ban cash transactions for scrap metal sales. The e-petition we launched in August 2011 received local, national and regional interest and attracted over 55,000 signatures.
- 3.5 This Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001, creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The Act maintains local authorities as the principal regulator but gives them the power to better regulate these industries by allowing them to refuse to grant a licence to ‘unsuitable’ applicants and a power to revoke licences if the dealer becomes ‘unsuitable’. Suitability will be judged on the basis of a number of factors as outlined in section 3 of the Act including any unspent relevant criminal convictions. The Act will also provide local authorities and police officers with appropriate powers of entry and inspection.
- 3.6 The Act regulates sites where a scrap metal dealer carries on business as well as mobile collectors of scrap. In the case of a mobile collector, it is every person who acts as a collector who must have a licence from every local authority in whose area they wish to operate. In relation to sites, the proprietor, every director of a company and every partner in a partnership operating the site must pass the suitability test as well as a nominated site manager. Penalties for contravening the Act on summary conviction are currently £5,000 but indications are that some may be raised to an unlimited fine.
- 3.7 The Act provides that an application for a licence must be accompanied by a fee. The fee will be set locally by each local authority on a cost recovery basis, but local authorities will have a duty to have regard to guidance issued by the Secretary of State which will outline the issues that should be considered by local authorities when setting the fee and what activities the fee can cover. This fee will be an essential component of the new regime as it will provide local authorities with the funding they need to administer the regime and ensure compliance.

- 3.8 Through the new Act there is an aim to raise trading standards across the scrap metal industry by requiring more detailed and accurate records of transactions to be kept. Scrap metal dealers will also be required to verify the identity of those selling metal to them.
- 3.9 The Act also repeals and re-enacts the amendment to the Scrap Metal Dealers Act 1964 in section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which created the offence of buying scrap metal for cash. This offence came into force on 3 December 2012. The other two measures within the Legal Aid, Sentencing and Punishment of Offenders Act 2012 relating to tackling metal theft, namely a revision of police entry powers into unregistered scrap metal stores and increasing the financial penalties for offences in the Scrap Metal Dealers Act 1964 have also been repealed on the grounds that these provisions are covered separately in the new Act.

4.0 Resource considerations

4.1 Financial

The Scrap Metal Dealers Act 2013 comes into effect on the 1 October 2013. However, the Authority has had the power to set the fees under the Act since the 1 September 2013. The Authority is required to set appropriate fees so that we can receive applications from the appointed time (1 October 2013). There were delays in publishing guidance on appropriate fees due to a pending court case against Westminster City Council. That case has now been resolved and the court ruled that licence fees could only be charged on a cost recovery basis. The full decision in that case will be taken into account when the Licensing and Safety Committee sets the fee on behalf of Walsall Council. The guidance notes are attached as **Appendix 1**.

Officers from Regulatory Services have discussed the matter with Finance Officers and taken into account a ruling in the Westminster case regarding cost recovery when arriving at the appropriate fee structure. The calculations are attached to this report as **Appendix 2**.

The appropriate fees (to the nearest £5) for licences under the Scrap Metal Dealers Act 2013 are as follows:-

SITE FEE	£540.00
COLLECTORS FEE	£170.00
REPLACEMENT LICENCE SITE OR COLLECTOR	£25.00
CHANGE OF LICENCE DETAILS	£30.00
CHANGE OF LICENCED SITES	£30.00
CHANGE SITE MANAGER	£70.00
SITE TO COLLECTORS LICENCE	£30.00
COLLECTORS TO SITE LICENCE	£255.00

4.2 **Legal**

Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury. This Guidance is therefore binding on all licensing authorities.

4.3 **Staffing**

A temporary Licensing Officer and Enforcement Officer will assist in the administration, enforcement and implementation of the provisions of the Scrap Metal Dealers Act 2013.

5.0 **Citizen impact**

5.1 None arising from this report.

6.0 **Community Safety**

6.1 None arising from this report.

7.0 **Environmental impact**

7.1 None arising from this report

8.0 **Performance and risk management issues**

8.1 Nothing arising from this report

9.0 **Equality implications**

9.1 Nothing arising from this report

10.0 **Consultation**

10.1 Legal and Financial Services

11.0 **Contact Officer**

11.1 Steve Knapper, Principal Licensing Officer, Extn. 3073
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12.0 **Appendices**

12.1 Appendix 1 and 2.

Scrap Metal Dealer Act 2013: guidance on licence fee charges

Context

The Scrap Metal Dealers Act 2013 (referred to in this guidance as the 2013 Act) received Royal Assent on the 28 February 2013, delivering much needed reform of the scrap metal sector. The 2013 Act will provide effective and proportionate regulation of the sector, creating a more robust, local authority run, licensing regime that will support legitimate dealers yet provide the powers to effectively tackle unscrupulous operators. It will raise trading standards across the whole sector.

Introduction

The 2013 Act will allow local authorities to decide who should and should not be licensed, allowing them to refuse a licence upon application or to revoke a licence at any time if they are not satisfied that the applicant is a suitable person to carry on business as a Scrap Metal Dealer. The act also creates closure powers for unscrupulous dealers who operate without a licence. It extends the record keeping requirements placed upon scrap metal dealers and requires the verification of the people Scrap Metal Dealers are transacting with. The act will integrate the separate regulation for motor salvage operators with the scrap metal sector and bring to an end the cash exemption given to some collectors under the 1964 Act.

Finally, the 2013 Act creates a fee raising power, to allow local authorities to recover the costs stemming from administering and seeking compliance with the regime. This element of the legislation will be the focus of this guidance.

The intention is for the act to be implemented in October 2013.

Licensing requirements placed upon scrap metal dealers

Section one of the 2013 Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction with a fine not exceeding level 5 on the standard scale. In addition, Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the authority.

Aim and scope

Local authorities will be responsible for administration and compliance activity in relation to the 2013 Act. This guidance is provided to local authorities in relation to the carrying out of their fee raising function. It also provides information for the benefit of those who will be applying for a scrap metal dealer's licence and the general public. This guidance applies to local authorities in England and Wales and is produced in accordance with the 2013 Act.

Legal status

Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury. This Guidance is therefore binding on all licensing authorities to that extent.

SCRAP METAL FEE SETTING YEAR ONE COSTS ONLY

	SITE LICENCE FEE 1ST OCTOBER 2013						
	Officers Time per application	Number of Officers per application	Total Time	Hourly Rate	Total Cost per application	Number of Expected Licences	Total Cost
Process							
PROCESSING & LICENCE ISSUE <i>Officer costs, Checked, processed, register update, licence cost and issue</i>	2.50	1.00	2.50	£14.38	58.45	15.00	876.75
ADVERSE INFORMATION <i>Consultation, report written, hearing</i>	0.50	4.00	2.00	£20.06	£14.02	3.00	£42.07
COMPLIANCE <i>2 visits Yr 1, 1 per year for 2 & 3 - 2 Officers per visit</i>	2.50	8.00	20.00	£20.95	£419.00	15.00	£6,285.00
TRAINING <i>Licensing and Enforcement Officers</i>	2.00	12.50	25.00	£19.50	£5.62	15.00	£84.34
COMMUNICATIONS <i>Guidance books, briefing sessions, leaflets, design costs</i>	-	-	-	-	£12.50	15.00	£187.50
OVERHEADS BASED ON 80 APPLICANTS <i>Head of Service, Senior Management, Finance, Legal, Administration, Office Accommodation</i>	-	-	-	-	£30.94	15.00	£464.07
	5.00	24.50	47.00	£60.51	£540.53	15.00	£8,108.02

COLLECTORS FEE 1ST OCTOBER 2013							
Process	Officers Time per application	Number of Officers per application	Total Time	Hourly Rate	Total Cost per application	Number of Expected Licences	Total Cost
PROCESSING & LICENCE ISSUE <i>Officer costs, Checked, processed, register update, licence cost and issue</i>	2.50	1.00	2.50	£14.38	58.45	65.00	3,799.25
ADVERSE INFORMATION <i>Consultation, report written, hearing</i>							
COMPLIANCE <i>2 visits Yr 1, 1 per year for 2 & 3 - 2 Officers per visit</i>	3.00	1.00	3.00	£21.00	£63.01	65.00	£4,095.65
TRAINING <i>Licensing and Enforcement Officers</i>	2.00	12.50	25.00	£19.50	£5.62	65.00	£365.46
COMMUNICATIONS <i>Guidance books, briefing sessions, leaflets, design costs</i>	-	-	-	£0.00	£12.50	65.00	£812.50
OVERHEADS BASED ON 80 APPLICANTS <i>Head of Service, Senior Management, Finance, Legal, Administration, Office Accommodation</i>					£30.94	65.00	£2,010.96
	5.00		28.00	£40.50	£170.52	65.00	£11,083.82

OTHER FEES - PER LICENCE, YEAR 1 COSTS

REPLACEMENT LICENCE SITE OR COLLECTOR	1.00	1.00	1.00	£14.38	£24.38
CHANGE OF LICENCE DETAILS	1.50	2.00	1.50	28.76	£31.57
CHANGE OF LICENCED SITES	1.50	2.00	1.50	28.76	£31.57
CHANGE SITE MANAGER	2.50	2.00	2.50	28.76	£70.14
SITE TO COLLECTORS LICENCE	1.50	2.00	1.50	£28.76	£31.57
COLLECTORS TO SITE LICENCE <i>Includes a contribution towards enforcement</i>	7.50	6.00	12.50	70.34	£253.85