

Title	Scrap Metal Dealers Act 2013
For further information about this report please contact	Jayne Bailey, Health and Community Protection. 01926 456742 jayne.bailey@warwickdc.gov.uk
Wards of the District directly affected	All
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No
Date and meeting when issue was last considered and relevant minute number	
Background Papers	Executive 9 October 2013 Council 23 October 2013 Executive 13 November 2013

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Yes
Equality and Sustainability Impact Assessment Undertaken	Yes

Officer/Councillor Approval

Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	28/08/14	Andy Jones
Head of Service	28/08/14	Richard Hall
CMT		
Section 151 Officer	28/08/14	Mike Snow
Monitoring Officer		
Finance	28/08/14	Andy Crump
Portfolio Holder(s)	28/08/14	Cllr Michael Coker

Consultation & Community Engagement

Final Decision?	Yes
Suggested next steps (if not final decision please set out below)	

1. SUMMARY

- 1.1 The Scrap Metal Dealers Act 2013 (the Act) came into force October 2013 which requires the need for scrap metal dealers to hold a licence with the Local Authority and this report is to formalise policy for dealing with the situation.

When the legislation was implemented government guidance was not available until the last minute and Local Authorities were not permitted to set fees prior to the guidance being available. The Chief Executive's emergency powers were therefore used to set licence fees. This report formalises the decisions taken.

2. RECOMMENDATIONS

- 2.1 That the policy, as set out in **Appendix 1**, for Determining Suitability of an Applicant for a Scrap Metal Dealers Licence under the Act is agreed.
- 2.2 That the licence fees set following use of emergency powers be approved as set out in **Appendix 3**.
- 2.3 That members retrospectively approve the income budget from scrap metal dealer licences is reduced from £5,000 to £2,000, financed from the General Fund Balance to reflect the level of activity.
- 2.4 That Executive approves the requirement for photographic identity when applications are made for Scrap Metal Dealers.

3. REASONS FOR THE RECOMMENDATION

- 3.1 The Act requires scrap metal dealers to be assessed for suitability before licences are granted or renewed. It gives local authorities the power to impose conditions on licences, revoke licences and tighten up how trading is conducted and allow Local Authorities and the Police to close down unauthorised sites. Even though legislation does not require a Local Authority to have a policy in place, having a policy will provide clarity and consistency for applicants and Warwick District Council when assessing applications and renewals.

Home Office guidance for Determining Suitability to hold a scrap metal dealer's licence is attached as **Appendix 2**.

- 3.2 Following the use of the Chief Executive's emergency powers on 01/10/13 for the Head of Health and Community Protection to set fees, confirmation is sought for those fees to be set which were included in the appendix of the meeting of the Executive on 13/11/13. **Appendix 3** attached shows the fees which were included in the report.
- 3.3 Local Government Association guidance was taken into account when calculating fees. The 2014-15 Original Budget was based upon anticipated uptake of licences which is now proving to be unrealistic.
- 3.4 Although the legislation does not insist on photographic identification on scrap metal licences, the Local Government Association guide to Scrap Metal Dealers Act 2013 suggests the use of photographic identification. It will assist with identifying that the dealers are the correct people who hold the licence and is in line with Police recommendations.

4. POLICY FRAMEWORK

- 4.1 The policy and other recommendations would provide guidance, clarity, consistency, transparency, proportionality and promotes safety and well-being to the community. In doing so this assists the Council's strategy of making Warwick District a great place to live, work and visit especially in respect of its policy priorities around community safety and health and well-being.

5. BUDGETARY FRAMEWORK

- 5.1 The original 2014-15 Budget (£5,000) for income from Scrap Metal Dealer Licenses was based upon anticipated income from the new regime. However, it now transpires that this will not be achieved, with income likely to be only in the region of some £2,000.
- 5.2 Members are asked to approve the reduction of this income budget by £3,000, which should be financed from the General Fund Balance. More details of the overall financial position of the Council should be within the November Budget Review report.

6. RISKS

- 6.1 Lack of clarity and consistency could have a detrimental effect on the impact of decision making.
- 6.2 By not having photographic identification would mean it is less likely to detect rogue traders having a negative impact on the community.

7. ALTERNATIVE OPTION(S) CONSIDERED

- 7.1 Not to have a Scrap Metal Dealers Act policy. This option is not considered sensible as it would result in a lack of clarity around how the Council intends to enforce the legislation which would result in confusion and wasted effort for both Council staff and legitimate scrap metal businesses. This would also leave open opportunities for rogue scrap metal traders to continue to operate because Council staff would not be clear on how to enforce the legislation and members of the public would not be clear about what standards are expected by the Council in terms of metal dealing businesses.

The policy will also help legitimate metal businesses ensure they are running their operations safely and effectively, to plan their operations and to reduce illegitimate competition from rogue businesses.

- 7.2 Not to have photographic ID on licences. This option is not considered sensible as it would allow the possibility of persons not considered fit and proper to operate as scrap metal dealers. For example without the need for photographic identification, those with repeat offences for stealing metal could easily pose as legitimate collector dealers under the banner of legitimate business.

When compliance/enforcement visits are made by either Police or Council staff, there will be someone who can be identified as being responsible. This will deter offences and also ensure that when offences are found, the offenders can be brought to justice more easily. This is in line with our obligation to consider crime and disorder prevention/reduction in the exercise of our functions.

8. BACKGROUND

- 8.1 Regulation has applied to scrap metal dealers since the 19th Century. Prior to the Scrap Metal Dealers Act 2013 coming into force, the relevant legislation was 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 3 years.

The new Act repeals the Scrap Metal Dealers Act 1964 that deals with Motor Salvage Operators to provide a revised regulatory regime for the scrap metal dealing and vehicle dismantling industries.

- 8.2 In recent years the demand for metals has never been stronger and the metal recycling industry has been booming, with a total worth of £5 billion in 2011. This in turn has seen dramatic rise in metal theft and a significant impact on communities. 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.

- 8.3 In 2012 a Private Members' Bill was introduced to substantially amend the law relating to scrap metal dealers. The main thrusts 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 who buy and sell scrap metal to have a licence.
- Give local powers to inspect, review, suspend and revoke a licence as well as financial penalties for breaches of conditions.

- 8.4 The Act creates two different types of scrap metal licences, either a site licence or a collectors' licence. Collectors' licences cover dealers who do not have a site and regularly collect through door-to-door collections. A collectors' licence issued by Warwick District 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 a business at any sites in the council's area listed on the licence and also allows them to collect in the locality.

- 8.5 Other powers contained in the Act provide for:

- Licences to be displayed
- Dealers to carry out stricter identity checks on anyone they receive scrap metal from.
- Dealers 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.