

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:**           **CABINET**

**DATE:**               **TUESDAY, 17 SEPTEMBER 2013**

**REPORT BY:**       **DIRECTOR OF ENVIRONMENT**

**SUBJECT:**           **SCRAP METAL DEALERS ACT 2013**

### **1.00 PURPOSE OF REPORT**

1.01 To provide details of the new legislation and to seek approval for the delegation of powers and the setting of fees.

### **2.00 BACKGROUND**

2.01 The Scrap Metal Dealers Act 2013 received Royal Assent on 28<sup>th</sup> February 2013 and is expected to come fully in to force from 1<sup>st</sup> October 2013.

2.02 The Act will require Scrap Metal Dealers to be assessed for suitability before licenses are granted or renewed. It will also give Local Authorities the power to impose conditions on licenses and to revoke licenses, and allows Local Authorities and the Police to close down unauthorised sites.

2.03 The Act will create two different types of Scrap Metal Licence. Either a 'Site Licence' or a 'Mobile Collectors Licence'. A Mobile Collector would have to have a licence in every Local Authority area in which he/she operates.

2.04 There is also a requirement for a Public Register to be maintained by the Natural Resources Body for Wales. In England, the register will be maintained by the Environment Agency.

2.05 Other powers contained in the Act provide for:

- Licenses to be displayed
- Dealers to carry out identity checks on scrap metal providers
- Dealers to keep records of any scrap received or disposed of
- Prohibition of cash payments. Payment can only be made by non-transferable cheque or transfer of funds
- Local Authorities and Police to enter and inspect licensed premises
- Closure of sites through Closure Orders from a Magistrates Court

- 2.06 The licensing regime will commence on 1<sup>st</sup> October 2013. In order to provide time to process applications without existing businesses being in a position where they cannot operate, the Home Office is implementing a transition process. Provided any dealer already registered with the Authority makes an application for a licence on or before 15<sup>th</sup> October 2013, their deemed licence will last until the Council either issues a licence or gives notice of the decision to refuse the licence. These transitional arrangements will be implemented by a Commencement Order which was made in August 2013.
- 2.07 Other Scrap Metal Dealers not previously registered will be able to apply for a licence from 1 October but will have to wait until a licence is granted before they can legally trade.
- 2.08 The Commencement Order also allows Councils to set a licence fee for applications from 1<sup>st</sup> September 2013.

### **3.00 CONSIDERATIONS**

- 3.01 The Local Government Association (LGA) Guide to the Scrap Metal Dealers Act was only released on 5<sup>th</sup> August 2013. This is a Home Office initiative and has not been devolved to the Welsh Government, therefore the LGA have been responsible for drafting the guidance and application forms.
- 3.02 The Council will have to assess the suitability of each application. This will be done by assessing applications against criteria set out in the Act and the Guide outlined in para 3.01 above; this will include visits to all scrap dealers in the County.
- 3.03 Schedule 1 Section 6(2) of The Scrap Metal Dealers Act 2013 states that 'In setting a fee under this paragraph, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury.
- 3.04 The LGA have confirmed that the fees guidance is still being discussed with the Treasury. The Home Office were hopeful that the guidance on fees would be issued during early August 2013. An update on this position will be given at the meeting.
- 3.05 The legislation contains provisions relating to the suitability of applicants. In the event of an applicant being deemed unsuitable, they are entitled to make representations. It is suggested that these representations are heard by the Licensing Sub Committee (as already happens in relation to alcohol and taxi licensing).

### **4.00 RECOMMENDATIONS**

- 4.01 That Cabinet delegates the Council's powers under the Scrap Metal Dealers Act to the Community Protection Manager.

4.02 That Cabinet delegates authority to set the fee level to the Director of Environment in consultation with the Cabinet Member for Public Protection, Waste and Recycling.

4.03 That Cabinet delegates responsibility for hearing representations where a finding of unsuitability to hold a licence has been made to the Licensing Sub Committee.

#### **5.00 FINANCIAL IMPLICATIONS**

5.01 It is anticipated that fees will be higher than under the current regime, however these costs will reflect the additional time spent on the administration of the licenses and the additional compliance checks. The fees will be reviewed after the initial three year period.

#### **6.00 ANTI POVERTY IMPACT**

6.01 None

#### **7.00 ENVIRONMENTAL IMPACT**

7.01 A register of Scrap Metal Licenses issued in Wales will be maintained by the Natural Resources Body for Wales

#### **8.00 EQUALITIES IMPACT**

8.01 None

#### **9.00 PERSONNEL IMPLICATIONS**

9.01 None

#### **10.00 CONSULTATION REQUIRED**

10.01 None

#### **11.00 CONSULTATION UNDERTAKEN**

11.01 None

#### **12.00 APPENDICES**

12.01 None

### **LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985 BACKGROUND DOCUMENTS**

Scrap Metal Dealers Act 2013  
LGA Guide to the Scrap Metal Dealers Act 2013

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