

**COLCHESTER BOROUGH COUNCIL
LICENSING COMMITTEE
11 September 2013 at 6:30pm**

SUPPLEMENTARY AGENDA

Part A

(open to the public including the media)

Pages

3. Urgent Items

1 - 4

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

SUPPLEMENTARY AGENDA

Part B

(not open to the public or the media)

Pages

There are no Section B Items

Urgent Item

That the Chairman be asked to agree pursuant to the provisions of Section 100B(4)(b) of the Local Government Act 1972 to consider the following item at the meeting as a matter of urgency because the need to have the governance arrangements in place to enable the Council to discharge its functions under the Scrap Metal Dealers Act 2013 which comes into effect on 1 October 2013.

The report concerns the necessary changes to the terms of reference of the Licensing Committee and to the scheme of delegation to the Licensing Committee and officers.

See report by the Monitoring Officer (attached).



Licensing Committee

Item
3

11 September 2013

Report of	Monitoring Officer	Author	Andrew Weavers ☎ 282213
Title	Scrap Metal Dealers Act 2013		
Wards affected	All		

This report requests the Committee to agree the amendment to its terms of reference and delegations to officers

1. Decision(s) Required

- 1.1 To recommend to Council that it approves the changes to the Licensing Committee's terms of reference as set out in paragraphs 2.8 (a) and (c) of this report.
- 1.2 That subject to 1.1 above that the Committee approves the amendments to the Scheme of Delegation to Officers as set out in paragraph 2.8 (b) and (d) of this report.
- 1.3 That the Monitoring Officer be authorised to make all necessary amendments to the Constitution to give effect to the contents of this report.

2. Background

- 2.1 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and its measures are being implemented with effect from 1 October 2013. The new Act repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001, creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries in England and Wales.
- 2.2 The Act was introduced in response to the growth in metal theft offences, driven by increased commodity costs, which in addition to the direct impact on the victims of theft have also had a damaging and disruptive effect on the country's infrastructure. The current regulation of the scrap metal industry consists of a simple registration scheme which has done little to prevent this type of crime.
- 2.3 Local authorities remain the principal regulators but a new licensing regime provides stronger regulation, including the power to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'. The cashless trading measures brought into force via the Legal Aid, Sentencing and Punishment of Offenders Act 2012 are incorporated into the new Act, which also closes off loopholes in the earlier legislation by drawing vehicle dismantlers and former itinerant collectors into the cashless trading regime. Other changes include a national register and a requirement for scrap metal dealers to verify the full names and addresses of sellers.
- 2.4 The Act provides that an application for a licence must be accompanied by a fee. The fee is required to be set locally by each local authority on a cost recovery basis. Local authorities have a duty to have regard to the Guidance issued by the Home Secretary which outlines the issues that should be considered 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 legislation and

ensure compliance. The level of the fee will be agreed by the Portfolio Holder for Street and Waste Services.

- 2.5 The Home Office Guidance published on 12 August 2013 includes a transitional arrangement that allows existing Scrap Metal Dealers to make applications from September 2013. It is therefore necessary to have the governance arrangements in place as soon as possible.
- 2.6 The licensing regime introduced by the new Act is very similar to the licensing of taxi drivers and the issuing of Personal Licences under the Licensing Act. The suitability of applicants is based on a number of factors as outlined in the Act including any unspent relevant criminal convictions. Whilst it is expected that straightforward applications will be decided under delegated powers to Officers, any disputed decisions would need to be heard by a Member Panel with a further option to appeal to the Magistrates' Court.
- 2.7 Current arrangements for the Scrap Metal Dealer Act 1964 fall within the Terms of Reference of the Licensing Committee, with delegation of functions to the Head of Professional Services. This reflects the simplicity and largely environmental background of the earlier legislation. Part 1 of the Vehicles (Crime) Act 2001 falls within the remit of the Licensing Committee, reflecting the potential requirement for Member hearings. The wider aims of the new licensing regime sit more comfortably within the licensing related Terms of Reference of the Licensing Committee. They particularly require the ability for disputed applications to be heard by the Panel drawn from the Licensing Committee.
- 2.8 The following changes to terms of reference and delegations are proposed:
- (a) To the terms of reference of the Licensing Committee, effective from the 1 October 2013, delete reference to power to licence scrap yards under Scrap Metal Dealers Act 1964.
 - (b) To the scheme of delegation to officers from the Licensing Committee, effective from the 1 October 2013, delete the delegation to Head of Professional Services to determine and issue licences, permits, registrations and certificates where no objections have been received in respect of Scrap Metal Dealers.
 - (c) To the terms of reference for the Licensing Committee, add

"To determine licence applications under the Scrap Metal Dealers Act 2013 where the Head of Professional Services is minded to refuse the application and representations have been received; and

To revoke or vary licence applications under the Scrap Metal Dealers Act 2013 where representations have been received".
 - (d) To the Scheme of Delegation to Officers from the Licensing Committee, add to the Head of Professional Services:
 - (i) The grant, issue, renewal or variation of a Scrap Metal Dealer Licence where the applicant is deemed to be a suitable person and no objections are received;
 - (ii) The refusal or rejection of an application for a Scrap Metal Dealer Licence where no representations are received;
 - (iii) The revocation of a Scrap Metal Dealers Licence where no representations are received;
 - (iv) To ensure all Scrap Metal Dealer Licences are reported to the National database."

4. Strategic Plan References

- 4.1 The new provisions introduced by the Scrap Metal Dealers Act will introduce a stronger licensing regime which will strengthen the Council's licensing function and will link to the Council's strategic plan for improving our streets and local environment.

5. Publicity Considerations

- 5.1 The changes to the Council's procedures will be reflected in the Constitution and published on the website. The new licence process for scrap metal dealers will also be published on the website.

6. Financial, Equality, Diversity and Human Rights, Consultation, Community Safety, Health and Safety and Risk Management Implications

- 6.1 None.