

Subject:	Implementation of the Scrap Metal Dealers Act 2013 – Licence Fees	Status:	For Publication
Report to:	Council	Date:	11 th December 2013
Report of:	Health, Housing and Regeneration	Portfolio Holder:	Health and Housing
Key Decision:	<input type="checkbox"/> Forward Plan <input checked="" type="checkbox"/>	General Exception	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
Equality Impact Assessment:	Required:	Yes	Attached: Yes
Biodiversity Impact Assessment	Required:	No	Attached: No
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1.	RECOMMENDATION(S)
1.1	To seek approval that the fees contained in Table 1 of this report are approved with immediate effect, and agree amendments to delegations, relating to the Scrap Metal Dealers Act (SMDA) 2013.

2. PURPOSE OF REPORT

- 2.1 To seek approval to set fees, and agree amendments to delegations, relating to the Scrap Metal Dealers Act (SMDA) 2013.

3. CORPORATE PRIORITIES

- 3.1 The matters discussed in this report impact directly on the following corporate priorities:
- **Responsive Value for Money Services:** This priority is about the Council working collaboratively, being a provider, procurer and a commissioner of services that are efficient and that meet the needs of local people.

4. RISK ASSESSMENT IMPLICATIONS

- 4.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:
- The Council has a legal duty to carry out the functions of this Act. Any failure to do so could lead to legal action being taken against the Council with the potential for sanction and/or associated costs. The proposed fees contained in this report are levied at a rate that serves to cover the costs to the Council based on the relevant legislation and available guidance. Accordingly, there is a potential impact upon scrap metal dealers and mobile operators within the Borough and associated operations.

5. BACKGROUND AND OPTIONS

- 5.1 The Scrap Metal Dealers Act 2013 received Royal Assent on 28th February 2013.
- 5.2 The 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'.
- 5.3 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 outlines the issues

that should be considered by them when setting the fee and what activities that fee can cover. This fee is to be an essential component of the new regime as it will provide local authorities with the funding they need to administer the regime and to ensure compliance.

- 5.4 The Act incorporates the separate regulatory scheme for motor salvage operators under the Vehicles (Crime) Act 2001 into this new regime. This is to replace the current overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory scheme. The Act also revises the definition of ‘scrap metal dealer’ and ‘scrap metal’.

Summary of the Provisions of the Act

- 5.5 The Act defines a “scrap metal dealer” as, *a person who is for the time being carrying on business as a scrap metal dealer, whether or not authorised by a licence*. It further states that “scrap metal” includes:
- (a) Any old, waste or discarded metal or metallic material; and
 - (b) Any product, article or assembly which is made from or contains metal and is broken, Worn out or regarded by its last holder as having reached the end of its useful life.
- 5.6 Section 1 of the Act requires that a scrap metal dealer obtains 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.
- 5.7 Section 2 provides further detail in respect of the licence, including that there will be two types of licence, one for a site and the other for a mobile collector (for those carrying on business otherwise than at a site). A site licence will be issued by the local authority in whose area a scrap metal site is situated and will require all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. In doing so, they will be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area.
- 5.8 A mobile collector’s licence will authorise the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal. The licence does not permit the collector to collect from any other local authority area; a separate licence would need to be obtained from each local authority in whose area the individual wished to collect in. There is no restriction as to the location where the collector can transport and sell their metals.
- 5.9 A licence will be issued for a period of three years from the date of issue.
- 5.10 Section 3 requires that the licensing authority has to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In considering suitability, the local authority may have regard to any relevant information, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. The Secretary of State has a power to prescribe in regulations the meaning of relevant offence and relevant enforcement action. It is intended that this will be in line with the criteria used by the Environment Agency when issuing environmental permits under the Environmental Protection Act 1990. The authority must also have regard to any guidance on determining suitability which will be issued from time to time by the Secretary of State, and the authority may consult with other organisations to assist in determining suitability.
- 5.11 Section 3 also allows local authorities, when issuing a licence, to include conditions on it if the licensee or site manager has been convicted of a relevant offence. Subsection (8) specifies the two conditions that can be imposed by local authorities on a licence, namely:
- (a) That the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any

day; and / or

- (b) That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
- 5.12 Section 4 provides the licensing authority with the discretion to revoke a licence on particular grounds, including where the local authority is no longer satisfied that the licensee is a suitable person to carry on the business as a scrap metal dealer. The revocation of a licence can only be carried out by a local authority as the licensing authority. Section 4 also allows the licensing authority to vary a licence, imposing the conditions as stipulated above, if the licensee or a site manager is convicted of a relevant offence.
- 5.13 If the licensing authority proposes to refuse an application for the grant or variation of a licence, or intends to revoke a licence, it must give the applicant or licensee a notice which sets out what the authority proposes to do and the reasons for it. The notice must state that the applicant may make representations against any of these decisions within 14 days.
- 5.14 Section 6 places a duty on the local authority to supply any such information as requested relating to a scrap metal licence to any other local authority in England and Wales, the Environment Agency, the Natural Resources Body for Wales and to police forces.
- 5.15 Section 7 requires that a register of licences issued under the Act should be maintained by the Environment Agency in England and the Natural Resources Body for Wales in Wales. Local authorities will provide the appropriate information on all licences issued in their geographic areas in order that this register can be updated regularly. The register will be made openly accessible to the public and will include: the name of the authority which issued the licence; the name of the licensee; any trading name; the type of licence; the site(s) covered by the licence and the expiry date of the licence.
- 5.16 Section 10 requires that the licensee display a copy of their licence. For site operators this must be in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil these requirements. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.
- 5.17 Section 11 places a requirement on scrap metal dealers, site managers and employees who have been delegated the responsibility to do so, to verify the identity of the person they are receiving metal from and the person's address. This verification must be done by reference to data, documents or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Agency, a bank or utility company etc. The Secretary of State will prescribe in regulations the data or documents which are sufficient, or not sufficient as the case may be, for verifying identity. It will be an offence not to obtain and verify the seller's identity, punishable by a fine not exceeding level 3 on the standard scale. The offence will apply to the scrap metal dealer, the site manager and any person, who under arrangements made by either the scrap metal dealer or the site manager, has responsibility for fulfilling this requirement on behalf of the business.
- 5.18 Section 13 sets out the record-keeping requirements in respect of any scrap metal received by a scrap metal dealer in the course of their business. Information that is required to be recorded includes the type of metal being purchased; the time/date of the transaction; personal information on the seller; who is acting on behalf of the dealer and proof of the non-cash transaction. Failure to comply with the requirements of this section is an offence attracting a penalty up to level 5 on the standard scale.

Delegation of Powers

5.19 Licensing Committee

The hearing of representations and the determination of applications for a licence of a Scrap Metal Dealer, under the Scrap Metal Dealers Act 2013, where the Director of Business proposes to refuse or to cancel a licence or to vary a licence under section 4 of the Act and the applicant has given notice to the authority, within the prescribed time, that they require the opportunity to make representations about that proposal.

5.20 Director of Business

To serve Notice of his proposal to refuse or cancel a licence of a Scrap Metal Dealer under the Scrap Metal Dealers Act 2013.

To serve Notice of his proposal to vary a licence of a Scrap Metal Dealer under section 4 of the Scrap Metal Dealers Act 2013.

The determination of applications for a licence of a Scrap Metal Dealer, under the Scrap Metal Dealers Act 2013 where it is the intention to refuse or cancel a licence or to vary a licence under section 4 of the Act, where the applicant has not served notice requiring the opportunity to make representations to the authority in respect of the proposal to refuse or cancel a licence, or to impose conditions on a licence.

Proposed Licence Fees

5.21 Schedule 1, Paragraph 6 of the Act and the corresponding delegation to the Licensing and Appeals Committee allow a fee to be set for all relevant applications under the Act. In setting these fees, the Authority must have regard to the Home Office guidance, published on 12 August 2013.

5.22 Furthermore, the EU Services Directive states that a licence fee can only be used to pay for the cost associated with the licensing process. Therefore, the Authority must ensure that the income from fees does not exceed the costs of providing the service. In addition, the cost of enforcement activity against unlicensed scrap metal dealers cannot be included in the licence fees. Any activity taken against unlicensed operators must be funded through existing resources.

5.23 The proposed fees detailed in Table 1 below have been calculated using the information detailed in paragraphs 5.21 and 5.22 of this report. Accordingly, the proposed fee for each category of application under the Act is based on the anticipated costs of providing the service. This may be reviewed on an annual basis depending on service pressures.

Table 1

New and renewal applications (3 year licence)	
Site Licence	£320
- additional named site on Site Licence (per site)	£225
Collectors' Licence	£180
Variation to existing licences	
Site Licence	£90
Collectors' Licence	£75
Inconsequential administrative changes or replacement licence	
Site and Collectors' Licences	£40

COMMENTS FROM STATUTORY OFFICERS:

6. SECTION 151 OFFICER

6.1 The average total revenue generated per annum is expected to be about £1k.

7. MONITORING OFFICER

7.1 The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority. The fees contained in this report include all applicable costs to ensure that the income from application fees meets the costs of providing the service.

7.2 Based on current information, there will be 3 Site Licences and 9 Collector's Licences issued in the Borough. The proposed fees contained in this report will be kept under review to ensure the requirements of Home Office guidance and relevant legislation are met.

8. POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

8.1 The Council is required to implement the legislation without consultation. However, applicants/licence holders can make representations to Committee regarding refusals, revocations and/or variations – with a subsequent right of appeal to the Magistrates' Court.

8.2 The equality impact has been considered in the development of this policy and associated fees for this service. All council decisions, including the consideration of reasonable adjustments will be taken in line with its existing equality policy and associated duties. Based on this, and the information available, it is not considered that the proposed policy will have any adverse or disproportionate impacts on any protected equality groups.

9. CONCLUSION

9.1 To approve the fees proposed and agree amendments to delegations, relating to the Scrap Metal Dealers Act (SMDA) 2013.

Background Papers

Document	Place of Inspection
Home Office: Scrap Metal Dealers Act 2013 - licence fee charges. Issued 12 August 2013.	https://www.gov.uk/government/collections/scrap-metal-dealers
Home Office: Scrap Metal Dealers Act 2013 - supplementary guidance. Issued 2 October 2013.	https://www.gov.uk/government/collections/scrap-metal-dealers

INITIAL EQUALITY IMPACT ASSESSMENT

Name of Policy, Decision, Strategy, Service or Function, Other: (please indicate)	Implementation of the Scrap Metal Dealers Act 2013 – Licence Fees	
Lead Officer Name(s) & Job Title(s) :	Rebecca Lawlor Health and Housing Manager	
Department/Service Area:	Health, Housing and Regeneration	
Telephone & E-mail Contact:	01706 252402 rebeccalawlor@rossendalebc.gov.uk	
Date Assessment:	Commenced: 28.11.13	Completed: 28.11.13

We carry out Equality Impact Assessments (EIAs) to analyse the effects of our decisions, policies or practices. The EIA should be undertaken/started at the beginning of the policy development process – before any decisions are made.

1. Overview

The main aims/objectives of this policy¹ are:
To seek approval to set fees, and agree amendments to delegations, relating to the implementation of the Scrap Metal Dealers Act (SMDA) 2013.
This EIA considers the impact on protected equality groups should this policy decision be approved for implementation.

(Refer to **EIA Guidance** for details)

Is the policy or decision under review (please tick)

New/proposed

Modified/adapted

Existing

¹ Policy refers to any policy, strategy, project, procedure, function, decision or delivery of service.

Responsible Section/Team	Health, Housing and Regeneration	Version	2
Responsible Author	R.Lawlor	Due for review	As required
Date last amended	03/12/2013	Page 1 of 3	

2. Equality Impact

Using the table below please indicate whether the policy/strategy/decision has a positive, negative or no impact **from an equalities perspective** on any of the protected equality groups listed below. **Please also give consideration to wider equality of opportunity and community cohesion impacts within and between the groups identified. If you have identified any negative impact and mitigating actions are not sufficient, you will need to complete a Full Equality Impact Assessment.**

Equality		Positive Impact (It could benefit)	Negative Impact (It could disadvantage)	Reason and any mitigating actions already in place (to reduce any adverse /negative impacts or reasons why it will be of positive benefit or contribution)	No Impact
Age	Older people	<input type="checkbox"/>	<input type="checkbox"/>	All Council decisions will be undertaken in line with the Equality Policy and associated duties. It is not considered that there will be an adverse or disproportionate impact on any protected equality group as a result of implementing the proposed policy.	<input checked="" type="checkbox"/>
	Younger people and children	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
Disability	Physical/learning/mental health	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
Gender Reassignment	Transsexual people	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
Pregnancy and Maternity		<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
Race (Ethnicity or Nationality)	Asian or Asian British people	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
	Black or black British people	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
	Irish people	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
	White British	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
	Chinese people	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
	Gypsies & Travellers	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
	Other minority communities not listed above (please state)	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
Belief or Religion		<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
Sex	Women	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
	Men	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
Sexual Orientation	Gay men, gay women / lesbians and bisexual people	<input type="checkbox"/>	<input type="checkbox"/>	As above	<input checked="" type="checkbox"/>
Marriage and Civil Partnership (employment only)		<input type="checkbox"/>	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Contribution to equality of opportunity		<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>
Contribution to fostering good relations between different		<input type="checkbox"/>	<input type="checkbox"/>		<input checked="" type="checkbox"/>

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Responsible Author	R.Lawlor	Due for review	As required
Date last amended	03/12/2013	Page 2 of 3	

Equality	Positive Impact (It could benefit)	Negative Impact (It could disadvantage)	Reason and any mitigating actions already in place (to reduce any adverse /negative impacts <u>or</u> reasons why it will be of positive benefit or contribution)	No Impact
groups (people getting on well together – valuing one another, respect and understanding)				
Human Rights http://intranet/site/scripts/documents_info.php?categoryID=86&documentID=251	<input type="checkbox"/>	<input type="checkbox"/>	All Council decisions will be carried out in compliance with the Human Rights Act 1998.	<input checked="" type="checkbox"/>

Responsible Section/Team	Health, Housing and Regeneration	Version	2
Responsible Author	R.Lawlor	Due for review	As required
Date last amended	03/12/2013	Page 3 of 3	