
Report to: Licensing & Regulatory Committee **Date of Meeting:** 24th September 2012

Subject: Provisions contained within the Scrap Metal Dealers Bill 2012.

Report of: Director of Built Environment

Wards Affected: All

Is this a Key Decision? No

Is it included in the Forward Plan?
No

Exempt/Confidential No

Purpose/Summary

To inform Members regarding proposals contained within the Scrap Metal Dealers Bill 2012.

Recommendation(s)

That Members:

- i) note this Report and its contents;
- ii) note that further Reports will be brought forward to up date Members on the progress of the Bill.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		√	
2	Jobs and Prosperity		√	
3	Environmental Sustainability		√	
4	Health and Well-Being		√	
5	Children and Young People		√	
6	Creating Safe Communities	√		
7	Creating Inclusive Communities		√	
8	Improving the Quality of Council Services and Strengthening Local Democracy		√	

Reasons for the Recommendation:

To give Members an overview of the provisions contained within the Scrap Metal Dealers Bill 2012.

What will it cost and how will it be financed?

(A) Revenue Costs

Costs would be met from within the proposed regime’s licensing fees.

(B) Capital Costs

None.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Legal	The Head of Corporate Legal Services (LD1033/11) has been consulted and has no comments to add.
Finance	The Head of Finance and ICT (FD1703) has been consulted and notes costs would be met from within the proposed regime’s licensing fees. The Bill will provide that an application for a licence must be accompanied by a fee, with a power for the Secretary of State to set out or to determine the applicable fee in Regulations. The Secretary of State may determine a maximum fee whilst providing local authorities with some discretion as to the level of fee set.
Human Resources	None
Equality	
1. No Equality Implication	<input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated	<input type="checkbox"/>
3. Equality Implication identified and risk remains	<input type="checkbox"/>

Impact on Service Delivery:

It is currently not known how the provisions will impact on the other work of the Unit if enacted.

What consultations have taken place on the proposals and when?

None.

Are there any other options available for consideration?

N/A

Implementation Date for the Decision

N/A

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Background Papers:

- The Scrap Metal Dealers Bill 2012.
- The Scrap Metal Dealers Act 1964.
- The Environmental Protection Act 1990.
- The Vehicle (Crime) Act 2001.
- The Legal Aid, Sentencing and Punishment of Offenders Act 2012.

1. Background

- 1.1 Incidences of metal theft are thought to have grown in recent years with rising global metal prices. Metal theft is estimated to cost the UK economy some £220-260 million per year (although some estimates state that the total costs could be up to £800 million).
- 1.2 The Government believes that additional regulatory controls on scrap metal dealers are required to reduce the opportunities for metal thieves to sell stolen material.
- 1.3 The Government produced a “hand-out Bill” setting out proposals for a new licensing regime for scrap metal dealers. This was taken up by Richard Ottaway MP, who will take it through the House of Commons as the Scrap Metal Dealers Bill 2012. The Bill has Government support. It extends to England and Wales. It had its First Reading on 20th June 2012 and the Second Reading was on 13th July 2012.
- 1.4 A “hand-out Bill” is where the Government offers a Bill to a backbench MP to take forward as a Private Members' Bill. These are usually Bills for which the Government has not been able to find time for in its programme or, for some other reason, it does not want to present itself. Since such Bills come with government support, they stand a good chance of becoming law and are often taken up.

2. Current situation

- 2.1 Scrap metal dealers are covered by a range of legislation including the Scrap Metal Dealers Act 1964 (“the 1964 Act”), the Environmental Protection Act 1990 (“the 1990 Act”) and the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the 2012 Act”). The regulatory regimes overlap considerably.

- 2.2 The Council currently implements the legislation contained within the 1964 Act. This Act was introduced to place controls on scrap metal dealers to discourage the trade in stolen metal. These controls include:
- That dealers have to register with the local authority;
 - That local authorities have to maintain a list of dealers; and,
 - That dealers are required to keep a variety of records including details of types of metal received, details of the processing of that metal and the names of those disposing of metal at their site.
- 2.3 Under the 1990 Act scrap metal dealers are required to have planning permission to operate a site and are required to have permits or exemptions issued under it from the Environment Agency to operate a scrap metal site.
- 2.4 The 1990 Act requires that those transporting metal to a scrap metal site for profit be registered as a 'waste carrier'. Waste carriers must comply with the waste Duty of Care. Breach of the Duty of Care is a criminal offence that can lead to large fines under the Act. Specific requirements of the Duty of Care include that waste carriers must:
- Ensure the waste goes to a properly licensed or exempt waste site; and,
 - Complete a Waste Transfer Note (WTN) - this must include a description of the waste and be signed by the carrier and the person that they give/sell the waste to. The WTN must be kept for a minimum of two years.
- 2.5 The 2012 Act (the provisions of which are expected to come into place in Autumn 2012) will introduce the following changes to the regulation of scrap metal dealers:
- Maximum fines for offences under the 1964 Act currently set at level 1 on the standard scale (£200) will be increased to level 3 (£1,000), and those currently set at level 3 will be increased to level 5 (£5,000);
 - Create a new offence of buying scrap metal for cash (the "cashless offence"), so that a "scrap metal dealer must not pay for scrap metal except... by a cheque... or... by an electronic transfer of funds"; and,
 - Introduce new powers for the police (on production of a warrant issued by a justice of the peace) to enter regulated scrap yards where there were reasonable grounds for believing that scrap metal paid for in cash was being (or had been) received or kept there.

3. Summary of the Bill

- 3.1 The Bill has 20 clauses and 2 schedules and will revise the definition of 'scrap metal dealer' and 'scrap metal' to ensure that they better reflect the 21st Century scrap metal industry.
- 3.2 It will repeal the 1964 Act and Part 1 of Vehicles (Crime) Act 2001 and will maintain local authorities as the principal regulator of these industries. The Bill will give local authorities the power to refuse to grant a licence and the power to revoke licences if the dealer is considered 'unsuitable'. Unsuitability will be based on a number of factors including any relevant criminal convictions. The Bill will also provide local authorities and police officers with suitable powers of entry and

inspection. Any licence issued will be for a period of three years from the date of issue.

- 3.3 A register of licences issued under the Bill will be held by the Environment Agency. Local authorities will provide the Environment Agency with information of all licences issued 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; the business name; the type of licence; the site(s) covered by the licence and the expiry date of the licence.
- 3.4 The Bill will provide that an application for a licence must be accompanied by a fee, with a power for the Secretary of State to set out or to determine the applicable fee in Regulations. This will allow the Secretary of State to set a maximum fee whilst providing local authorities with some discretion as to the level of fee set. 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 with it.
- 3.5 The Bill will require that more detailed and accurate records of transactions are kept. Scrap metal dealers will also be required to check the identity of those selling metal to them.
- 3.6 This verification would be done by reference to documents, data or other information obtained from a reliable or independent source, such as the Identity and Passport Service, the Driver and Vehicle Licensing Authority, a bank or utility company etc. Therefore the scrap metal dealer would have some discretion as to which documentation can be used for this purpose. There is also a power for the Secretary of State to prescribe in regulations the data or documents which are sufficient, or not sufficient as the case may be, for verifying identity.
- 3.7 Clause 12 of the Bill deals with "Records of dealings" and applies if a scrap metal dealer receives any scrap metal in the course of their business. The dealer will be required to record the following information:
 - (a) The description of the metal (including its type and weight);
 - (b) The date and time of its receipt;
 - (c) If the metal is delivered in or on a vehicle, the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) of the vehicle,
 - (d) If the metal is received from a person, the full name and address of that person;
 - (e) If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.
- 3.8 If the dealer receives the metal from a person, the dealer must keep a copy of any document which the dealer uses to verify the name or address of that person.
- 3.9 If the dealer pays for the metal, then the dealer will be required to keep -
 - (a) If the payment was by cheque, a copy of the cheque, or
 - (b) If the payment was by electronic transfer, the receipt (if any) identifying the transfer

If the dealer pays for the metal and –

- (a) The payment was by electronic transfer, and
- (b) No receipt identifying the transfer was obtained, then the dealer must record particulars identifying the transfer.

- 3.10 Clause 11 of the Bill will re-enact, with modifications, the prospective amendments made by section 146 of the 2012 Act, which inserted section 3A into the 1964 Act, creating the offence of purchasing scrap metal for cash (as indicated within Paragraph 2.5 above). This offence would apply to all scrap metal dealers.
- 3.11 This offence prohibits scrap metal dealers from paying for scrap metal other than by cheque or by electronic transfer – the Secretary of State will be able to make an order to permit other methods of payment, if considered appropriate, under subsection (2) of the Bill.
- 3.12 Finally the Bill will incorporate the separate registration scheme for motor salvage operators under the Vehicle (Crime) Act 2001 into this new regime. This being to replace the current overlapping regimes for the vehicle salvage and scrap metal industries with a single regulatory regime. The provisions of the 1990 Act will remain in force.