

SUPPLEMENTARY REPORT

Scrap Metal Dealers Act 2013

Submitted by: (Democratic Services Manager)

Portfolio: (Environment and Recycling)

Ward(s) affected: (all)

Purpose of the Report

To seek approval that three Cabinet Members be given delegated authority to vary or revoke licences issued under the Scrap Metal Dealers Act 2013.

A hearing will need to be held to determine any revocations or suspensions.

Recommendation:

- That three Cabinet Members, be given delegated authority to vary or revoke licences issued under the Scrap Metal Dealers Act 2013.

Background

The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and took effect from October this year.

Section 3 of the Act states that the Council must not issue a licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer. In assessing an applicant's suitability the Council can consider any information it considers relevant but the list specified in the legislation includes the following and a decision based on these factors will put the Council in a stronger position should it be asked to defend its decision:

- The applicant or site manager have been convicted of a relevant offence or subject to any relevant enforcement action
- The applicant has previously been refused a scrap metal dealers licence
- The applicant has previously been refused a relevant environmental permit or registration
- They had previously held a scrap metal dealers licence that has been revoked

Much of this information is set out in the application form and it is an offence for the applicant to make a false statement.

As part of the application process the applicant will be required to provide a basic disclosure certificate with the application form. Refusal by an applicant to supply a certificate would be grounds for the council to consider what further information it needs to judge whether the applicant is suitable.

In any case the Democratic Services Manager or relevant licensing officer will liaise with the Head of Environmental Health and the police prior to granting any scrap metal dealer licence.

At the present time, the Council's Scheme of delegation does not refer to the act.

This Council operates executive arrangements under the Local Authorities (Functions and Responsibilities)(England) Regulations 2000 All functions are Executive functions unless the regulations say otherwise. Although most Licensing Functions are exercisable by the Council this is

not the case with Scrap Metal Dealers. All functions in this connection are Executive functions and any delegations must be made by the Executive.

If the Council proposes to refuse, revoke or vary a licence then the applicant must be given notice of the reasons and be told that they can make representations. The representations need to be made within 14 days. If no representations are made then the Council may proceed with the desired course of action. If representations are made then they must be considered. If it is proposed by the Applicant that oral representations will be made then the Council must arrange a hearing.

If the Council refuses a licence, revokes or varies it then the applicant must be given notice of the decision and the reason for it. The notice must also detail the appeal provisions. The Applicant then has the right to appeal to the magistrates court within 21 days of the notice of decision.