

DELEGATION OF FUNCTIONS – SCRAP METAL DEALERS ACT 2013

Leader of the Council – 14 October 2013

Report of Chief Officer Legal and Governance

Status: For Decision

Key Decision: No

Portfolio Holder Cllr. Fleming

Contact Officer(s) David Lagzdins, Democratic Services Officer x7350

Recommendation to Leader of the Council:

That the delegations to Officers, the Portfolio Holder, Cabinet and the Hearing Panel be given as set out in the body to this report.

Reason for recommendation:

These delegations allow the Council to carry out efficiently its functions under the Scrap Metal Dealers Act 2013.

Introduction and background

1. The Scrap Metal Dealers Act 2013 repeals the Scrap Metal Dealers Act 1964 (and related legislation) and Part 1 of the 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'.
2. The licensing regime introduced by the 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 delegation to Officers, any applications with objections where the applicant wishes to make representations would need to be heard at a hearing, with an option to appeal their decision to the Magistrates' Court.
3. It had been expected that the Home Office would make regulations about the new Scrap Metal Dealer Act which would allow the Council to manage the licensing process in the same way it manages its other licensing functions, namely to delegate them to the Licensing Committee. Although the Act has come into force these regulations have not been made. This means that these matters must be considered as executive rather than non-executive functions.

Delegation of Functions

Officers

4. With the exception of those functions set out in paragraphs 5 to 8 of this report it is recommended that the Council's powers under the Scrap Metal Dealers Act 2013, including the determination of all licence applications, be delegated to the Chief Officer Environmental and Operational Services. It is considered that this is in the interests of efficient decision making.

Portfolio Holder

5. Licensing matters currently fall within the Housing, Welfare and Community Safety Portfolio. This Portfolio is led by Cllr. Ms. Lowe.
6. It is recommended that a decision be made to clarify that Scrap Metal Dealers Licensing would fall within those "Licensing" responsibilities currently delegated to the Portfolio Holder for Housing, Welfare and Community Safety.

Cabinet

7. The setting of fees is to be considered a key decision and therefore must be decided by the Cabinet except in cases considered by the Chief Executive to be only a minor variation.

Hearings

8. Where the applicant makes representations, the authority has to consider them in accordance with the Act. If the applicant wishes to make oral representations the authority will arrange a hearing. It is recommended that these hearings will have delegated power to determine the application and will follow the procedures for hearings under the Licensing Act 2003.

Other Options Considered and/or Rejected

Given the statutory requirements on the Council to licence Scrap Metal Dealers no alternative options have been considered.

Key Implications

Financial

Although the new licensing regime imposes greater responsibilities on the Council, this report only delegates those responsibilities and has no greater financial implications.

Legal Implications and Risk Assessment Statement

The Local Government Act 2000 says that any function should be considered as an executive function, unless there are regulations designating them otherwise (s.9D(2)). No such regulations have been made. The Council's functions under the Scrap Metal Dealers Act 2013 therefore fall as executive functions.

Equality Impacts

Consideration of impacts under the Public Sector Equality Duty:		
Question	Answer	Explanation / Evidence
a. Does the decision being made or recommended through this paper have potential to disadvantage or discriminate against different groups in the community?	No	There will be no community impacts arising from this report.
b. Does the decision being made or recommended through this paper have the potential to promote equality of opportunity?	No	
c. What steps can be taken to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

Conclusions

It is recommended that the above delegations are made to allow the Council to carry out its functions under the Scrap Metal Dealers Act 2013.

Appendices

None

Background Papers:

Local Government Act 2000

Scrap Metal Dealers Act 2013

[Local Government Association: Getting in on the Act](#)

[Home Office: Scrap Metal Dealers Act 2013 – Supplementary Guidance](#)

Mrs Christine Nuttall
Chief Officer for Legal and Governance

