

LICENSING AND SAFETY COMMITTEE

18 SEPTEMBER 2013

SCRAP METAL DEALERS ACT 2013 – UPDATE ADDENDUM REPORT

Report from: Perry Holmes, Assistant Director, Legal and
Corporate Services

Author: Mandy Francis, Senior Licensing and Enforcement
Officer

Summary

This addendum report provides revised recommendations, which replace those that were in the original report, to reflect changes required to the Council's Constitution. An additional appendix is also attached.

1. Revised Recommendations:

- 1.1 Members are asked to note the contents of the report, particularly the requirement to set fees for the licensing functions within the Scrap Metal Dealers Act 2013 (the Act), which falls to full Council.
- 1.2 The Committee is asked to recommend the Council at its meeting on 17 October 2013 to add responsibility for dealing with all matters relating to the functions of the Council under the Scrap Metal Dealers Act 2013 to the terms of reference of the Licensing and Safety Committee, and, subject to this being agreed by the Council, to agree that the Licensing Sub Committee should consider and determine the action to be taken when representations are received from an applicant where it is proposed to refuse, vary or revoke a scrap metal licence
- 1.3 That subject to 7.2 above the Committee agrees that the powers and duties of the council as the licensing authority relating to the determination of applications made under the Scrap Metal Dealers Act 2013 be delegated to the Assistant Director, Legal and Corporate Services.
- 1.4 That subject to 7.2 above the Committee agrees that the setting of fees under the Scrap Metal Dealers Act 2013 be delegated to the Assistant Director, Legal and Corporate Services
- 1.5 That the Council be recommended to agree the consequential changes to the Council's Constitution as set out in Appendix D.

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Background papers

None

Licensing and Safety Committee

Wednesday 18th September 2013

Item 6: Scrap Metal Dealers Act 2013 – Update

Recommended changes to the Constitution

Page 3.7 Part 2 – Responsibility for Council Functions

Licensing and Safety	Between 10 – 15 members of the authority	<p>Taxi, gaming, alcohol, entertainment, food, scrap metal, and miscellaneous licensing</p> <p>Functions relating to licensing and registration as set out in Schedule 1 to the Functions Regulations, the Licensing Act 2003, Gambling Act 2005, Scrap Metal Dealers Act 2013 and other licensing functions reserved by law to the Council's Licensing and Safety Committee and its Sub-Committees.</p>	Chief Executive
		<p>Health and safety</p> <p>Functions relating to health and safety under any “relevant statutory provision” within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.</p>	Chief Executive

Page 3.15 and 3.16 Terms of Reference for Committees

Licensing and Safety Committee

- Functions relating to licensing and registration as set out in schedule 1 to the Functions Regulations, the Licensing Act 2003, Gambling Act 2005, Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27 of the Policing and Crime Act 2009, ***the Scrap Metal Dealers Act 2013*** and other licensing functions reserved by law to the Council's Licensing and Safety Committee and its Sub-Committees;
- To act in a quasi-judicial capacity to consider appeals that may require determination upon receipt of representation from an aggrieved party where a licence has either been refused, amended or revoked by officers and make decisions related thereto;
- To act in a quasi-judicial capacity to determine application of licences where there is substantial objection by other parties to the grant of a licence or where in the officer's opinion the issue is of a sensitive nature and make decisions related thereto;
- ***To act in a quasi-judicial capacity to consider representations from applicants for licences under the Scrap Metal Dealers Act 2013 where the authority is minded to refuse, vary or revoke a licence.***
- To consider objectively other ad hoc matters relating to the licensing process which officers or the Council deems appropriate;
- To recommend to Council to determine a policy not to permit casinos, in accordance with section 166 of the Gambling Act 2005;
- To recommend to Council final approval of the Statement of Gambling Act Policy;
- To recommend to Council approval of the Statement of Licensing Policy;
- To recommend to Council approval of the Statement of Policy in respect of Sex Establishments and Sexual Entertainment Venues;
- To determine matters relating to health and safety under any 'relevant statutory provision' within the meaning of Part 1 of the Health and Safety at Work Act 1974, to the extent that those functions are discharged otherwise than in the Council's capacity as employer.

Note: For the purpose of these terms of reference the term "licence" or "licensing" includes any such controlling measure such as permit, certificate or registration.

(A) Licensing Sub-Committee

- To determine hackney carriage private hire, **scrap metal dealers** and other licensing issues not covered by the Licensing Act 2003 nor the Gambling Act 2005.

Page 3.34 and 3.35 Part 4 Employee Delegation Scheme – Assistant Director, Legal and Corporate Services

6.14 Licensing:

- Except where a specific Council side responsibility, to manage all licensing and registration functions of the Council including the licensing and registration of pleasure boats, hackney carriage and private hire, sex establishments, street and house to house collections, motor *salvage*, scrap metal dealers, street trading consents and such other services as may be authorised.

Description of delegation

- With regard to Licensing Act 2003 matters, to determine:
 - (i) An application for a personal licence, if no objection made;
 - (ii) An application for a premises licence/club premises certificate, if no relevant representation made;
 - (iii) An application for a provisional statement, if no relevant representation made;
 - (iv) An application to vary a premises licence/club premises certificate, if no relevant representation made;
 - (v) An application to vary a designated premises supervisor in all cases other than where there is a police objection;
 - (vi) A request to be removed as a designated premises supervisor;
 - (vii) An application for transfer of premises licence in all cases other than where there is a police objection;
 - (viii) Applications for interim authorities in all cases other than where there is a police objection;
 - (ix) A decision on whether a complaint is irrelevant, frivolous, vexatious, etc.

Note: A relevant representation is one which relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives specified in the Licensing Act 2003 (Council 9 December 2004 & 22 November 2007).

- With regard to the Gambling Act 2005, to determine:
 - (i) Fee setting (when appropriate);
 - (ii) An application for a premises licence, where no representations received/representations have been withdrawn;
 - (iii) An application for a variation to a licence, where no representations received/representations have been withdrawn;
 - (iv) An application for a transfer of a licence, where no representations received from the Commission;
 - (v) An application for a provisional statement, where no representations received/representations have been withdrawn;

Description of delegation
<ul style="list-style-type: none"> (vi) An application for club gaming/club machine permits, where no objections made/objections have been withdrawn; (vii) Applications for other permits; (viii) A cancellation of licensed premises gaming machine permits; (ix) The consideration of a temporary use notice (Council 7 December 2006). • With regard to the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009; <ul style="list-style-type: none"> (i) To grant any applications for sex establishments and sexual entertainment venues whereby no representations have been received and the Assistant Director is able to agree suitable conditions with the applicant. • <i>With regard to the Scrap Metal Dealers Act 2013, to determine:</i> <ul style="list-style-type: none"> <i>(i) Fee setting (when appropriate);</i> <i>(ii) Application for or renewal of a Site or Collector's licences, where no representations have been received from the applicant or where their representations have been withdrawn;</i> <i>(iii) Application for a variation to a licence, where no representations have been received from the applicant or where their representations have been withdrawn;</i> <i>(iv) To issue a closure notice on non-residential premises being used as a scrap metal dealer's site</i> <i>(v) Application to the Magistrates Court for a closure order</i> <i>(vi) Termination of a closure order</i> <i>(vii) Application to the Magistrate's Court to discharge a closure order</i> <i>(viii) Revocation of a licence, where no representations have been received from the applicant or where their representations have been withdrawn;</i> <i>(ix) Consideration of and imposition of conditions</i>

- (vi) An application for club gaming/club machine permits, where no objections made/objections have been withdrawn;
- (vii) Applications for other permits;
- (viii) A cancellation of licensed premises gaming machine permits;
- (ix) The consideration of a temporary use notice (Council 7 December 2006).

- With regard to the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009;
 - (i) To grant any applications for sex establishments and sexual entertainment venues whereby no representations have been received and the Assistant Director is able to agree suitable conditions with the applicant.
- ***With regard to the Scrap Metal Dealers Act 2013, to determine:***
 - (i) Fee setting (when appropriate);***
 - (ii) Application for or renewal of a Site or Collector's licences, where no representations have been received from the applicant or where their representations have been withdrawn;***
 - (iii) Application for a variation to a licence, where no representations have been received from the applicant or where their representations have been withdrawn;***
 - (iv) To issue a closure notice on non-residential premises being used as a scrap metal dealer's site***
 - (v) Application to the Magistrates Court for a closure order***
 - (vi) Termination of a closure order***
 - (vii) Application to the Magistrate's Court to discharge a closure order***
 - (viii) Revocation of a licence, where no representations have been received from the applicant or where their representations have been withdrawn;***
 - (ix) Consideration of and imposition of conditions***