

**CABINET
30 JULY 2019**

PART 1 – PUBLIC DOCUMENT

TITLE OF REPORT: **ADOPTION OF A SCRAP METAL DEALERS LICENSING POLICY**

REPORT OF: **THE LICENSING MANAGER**

EXECUTIVE MEMBER: **HOUSING AND ENVIRONMENTAL HEALTH**

COUNCIL PRIORITY: **PROSPER AND PROTECT / RESPONSIVE AND EFFICIENT**

1. EXECUTIVE SUMMARY

- 1.1 The purpose of the report is to inform Cabinet of the outcome of a public consultation in respect of a policy for the licensing of scrap metal dealers, to enable a formal policy document to be adopted.

2. RECOMMENDATION

- 2.1 That Cabinet adopts the Scrap Metal Dealers Licensing Policy as attached at Appendix A (subject to consultation responses).

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that the Council has a clear and transparent policy for the determination of applications and the enforcement of licences.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The Council could continue to process applications and enforce licensing requirements without a policy however that will leave the Council at risk of legal challenge.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

- 5.1 A public consultation took place between 28 June 2019 and 26 July 2019 on the Council's website. A summary of all responses will be tabled before the meeting as Appendix B; at the time of writing this report no public responses had been received.
- 5.2 All existing scrap metal dealer licence holders, the police, the Environment Policy and the Environment Agency were invited to respond to the consultation.
- 5.3 The Executive Member for Housing and Environmental Health was consulted prior to the consultation commencing and was supportive of the proposed Policy.

6. FORWARD PLAN

- 6.1 This report contains a recommendation on a key decision that was first notified to the public in the Forward Plan on 1 July 2019.

7. BACKGROUND

- 7.1 The Scrap Metal Dealers Act 2013 took effect from 1 October 2013 with its enforcement powers subsequently coming into force on 1 December 2013. The Act repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (Crime) Act 2001 creating a combined licensing regime for the recycling of scrap metal and the dismantling of vehicles.
- 7.2 In order to ensure a consistent and transparent interpretation of the Act and Guidance, the publication of a Policy will assist applicants and licence holders to understand the licensing requirements of North Hertfordshire. It will also inform the public of the requirements of scrap metal licensing, in particular promoting the importance of only using licensed collectors when disposing of unwanted scrap metal.
- 7.3 The Policy seeks to strike a balance between appropriate regulation and ensuring no disproportionate administrative burdens for businesses. It outlines the Council's expectations of licence holders in promoting its licensing objectives, whilst advising on the Council's obligations under the Act.

8. RELEVANT CONSIDERATIONS

- 8.1 The majority of the requirements and definitions under the Scrap Metal Dealers Act 2013 are prescriptive however there is no single document available for prospective licence holders. This policy provides a single point of reference for prospective and existing licence holders.
- 8.2 The Policy provides an opportunity for the Council to expand on some of the more subjective points, for example record keeping, by further detailing our specific requirements.
- 8.3 Having processed original applications in 2013 and subsequent three-yearly renewals in 2016, officers have had the opportunity to fine tune administrative and enforcement matters that have informed the development of this policy.
- 8.4 A review of policies published by other local authorities have confirmed that the approach proposed by the Council is consistent with other local authorities.

9. LEGAL IMPLICATIONS

- 9.1 Section 5.6.1 of the Council Constitution states that the Cabinet may, by resolution, exercise the following function:

"To prepare and agree to implement policies and strategies other than those reserved to Council"

- 9.2 As the Scrap Metal Dealers Act 2013 is not included within Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended, the licensing of scrap metal dealers is an Executive function by virtue of section 13(2) of the Local Government Act 2000, which provides:

“Subject to any provision made by this Act or by any enactment which is passed or made after the day on which this Act is passed, any function of a local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements”.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no financial implications arising from the adoption of this policy.
- 10.2 Legislation permits the Council to recover its reasonable costs of administration and enforcement of the scrap metal dealers licensing regime through licence fees.
- 10.3 Licence fees are set annually in accordance with the Medium Term Financial Strategy and a resolution of the Licensing and Appeals Committee held on 12 December 2013.

11. RISK IMPLICATIONS

- 11.1 The refusal to grant, or revocation of, licences has an appeal to the Magistrates Court therefore it is essential that the Council exercises its discretion reasonably and consistently to avoid the risk of a successful appeal. It is normal practice in the Magistrates Court that the losing party pays the successful party's costs. The provision of a robust policy will help mitigate this risk.
- 11.2 Scrap metal dealers and the associated licensing/enforcement activity is not considered to represent a significant risk to the Council so there is no corresponding entry on the Council's Risk Register.

12. EQUALITIES IMPLICATIONS

- 12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.
- 12.2 The Policy does not place any barriers or unique requirements on any person on the grounds of ethnicity, gender, religion, or any other protected characteristic. Officers work with all applicants and licence holders, where appropriate, to ensure that the Council's duty under the Equality Act 2010 is met, for example, guidance notes could be provided in other languages upon request.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and “go local” policy do not apply to this report.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 There are no human resource implications arising from the adoption of this policy.

15. APPENDICES

- 15.1 Appendix A Proposed Policy
- 15.2 Appendix B Summary of Responses (to be tabled at the meeting)

16. CONTACT OFFICERS

Report Author

- 16.1 Steve Cobb, Licensing Manager
steven.cobb@north-herts.gov.uk; ext 4833

Consultees

- 16.2 Jeanette Thompson, Service Director - Legal and Community
jeanette.thompson@north-herts.gov.uk; ext 4370
- 16.3 James Ellis, Legal Regulatory Team Manager
james.ellis@north-herts.gov.uk; ext 4319
- 16.4 Rachel Cooper, Controls, Risk & Performance Manager
rachel.cooper@north-herts.gov.uk; ext 4606
- 16.5 Anne Miller, Assistant Accountant
anne.miller@north-herts.gov.uk; ext 4374
- 16.6 Reuben Ayavoo, Policy and Community Engagement Manager
reuben.ayavoo@north-herts.gov.uk; ext 4212

17. BACKGROUND PAPERS

[Scrap Metal Dealers Act 2013](#)
[Scrap Metal Dealers Act 2013 Supplementary Guidance](#)
[Public consultation webpage](#)