

CHESHIRE EAST COUNCIL

Licensing Committee

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| Date of Meeting: | 7 th March 2016 |
| Report of: | Environmental Protection Team Leader – Regulatory Services and Health |
| Subject/Title: | Review of the Scrap Metal Dealers Act 2013 fees and charges |

1.0 Report Summary

- 1.1 In accordance with the provisions of the Scrap Metal Dealers Act 2013, the Council is permitted to charge a fee for administering the statutory licensing for scrap metal dealers. The Council must set the fees on a cost recovery only basis as set out in the guidance issue by the Secretary of State. The purpose of this report is to request that the Licensing Committee approve the proposed fees as set out in the report.

2.0 Recommendation

- 2.1 To approve fees in relation to applications for Scrap Metal Dealers licences. The proposed fees for three year period from 2016-17 are:
- Site Licence Application – £194.00
 - Collectors Licence Application - £148.00

3.0 Reasons for Recommendations

- 3.1 In accordance with the Scrap Metal Dealers Act 2013, the Council must undertake an annual review the fees to reflect the costs of administering the licences.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications

- 6.1 Contained within the report.

7.0 Financial Implications

- 7.1 Fees must be set locally by Cheshire East Council on a cost recovery basis, in line with the guidance issued by the Secretary of State, which outlines what should be considered by the Council when setting the fee and what activities the fee can cover.
- 7.2 In accordance with the legislation, all licences are valid for three years and it is anticipated within each three year period the fees will be reviewed to ensure that they accurately reflect the full costs associated with the provision of the service.
- 7.3 The proposed fee for site licences are £194.00, which is an increase of £34.00 to reflect the extra officer time required for inspecting sites. The proposed fee for collectors is £148.00, which is a reduction of £12.00 and reflects the reduced time required to administer a collector's licences.

8.0 Legal Implications

- 8.1 Schedule 1(6) of the Scrap Metal Dealers Act 2013 provides that an application for a licence must be accompanied by a fee set by the local authority. In setting the fee the authority must have regard to any guidance issued by the Secretary of State. Guidance issued by the Secretary of State recommends that all fees are set on a cost recovery basis and this may be different for the different types of licences.
- 8.2 Since the introduction of the legislation in 2013 the Council has issued 97 licences, which comprises of 72 collectors licences and 25 site licences.

9.0 Risk Management

- 9.1 The Scrap Metal Dealers Act 2013 specifically empowers local authorities to set a local scheme of fees on a cost recovery only basis.
- 9.2 As with all locally set fees there is a risk of challenge by those to whom the fee relates. However it is hoped that the transparent approach to fee setting and the consideration of national guidance on this matter will minimise this risk.

10.0 Background

- 10.1 The Scrap Metal Dealers Act 2013 created a licensing regime, which replaced the previous registration system for scrap metal dealers created by the Scrap Metal Dealers Act 1964. The Act maintained local authorities as the principal regulator but gave them the power to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 10.2 The Act provides that an application for a licence must be accompanied by a fee, which will be set locally by each local authority on a cost recovery basis. When setting the fee local authorities must have regard to guidance issued by the Secretary of State, which sets out the issues that can be considered when setting the fee and what activities the fee can cover. The fee is an essential

component of the licensing regime as it provides local authorities with the funding they need to administer the regime and ensure compliance.

- 10.3 In accordance with the legislation, all licences are valid for three years and it is anticipated within each three year period the fees will be reviewed to ensure that they accurately reflect the full costs associated with the provision of the service. To support both this and future reviews of fees, more detailed time recording work will continue to be kept across a sample of licence applications to ensure the fees reflect the work involved in administering the licences.

11.0 Definitions under the Act

11.1 *Scrap Metal Dealer*

A dealer is defined under S21(2) of the Act as someone carrying on a business which consists wholly or in part of buying or selling scrap metal, whether or not the metal is sold in the form in which it is bought. However, where a manufacturing business that sells scrap metal as a by-product of the processes it uses, or because it has a surplus of materials is not captured by this definition (S21(3)).

Within this broad definition there is also a need to have consideration to further criteria to establish the applicability of the Act. Generally where the sale of the metal is incidental to the main type of work or business undertaken then a licence will not be needed.

A dealer also includes someone carrying on a business as a motor salvage operator. This is defined as a business that;

- Wholly or in part recovers salvageable parts from motor vehicles for reuse or resale and then sells the rest of the vehicle for scrap;
- Wholly or mainly involves buying written off vehicles and then repairing and selling them off;
- Wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them or selling them off.

11.2 *Scrap Metal Collectors*

A collector is defined (S22(4)) as a person who carries on a business as a scrap metal dealer otherwise than at a site, and regularly engages in the course of that business in collecting waste materials and old, broken, worn out or defaced articles by means of door to door visits.

11.3 *Scrap Metal Site*

A site is defined in the Act (S22(9)) as 'any premises used in the course of carrying on a business as a scrap metal dealer (whether or not metal is kept

there)'. Due to the wording of the definition this means that someone who trades in scrap metal and is thus defined as a dealer under S21(2) will need a site licence for their office even if they do not operate a scrap metal store or yard.

12.0 Access to Information

The background papers relating to this report are available from the following sources or by contacting the report writer.

The Scrap Metal Dealers Act 2013 is available here

<http://www.legislation.gov.uk/ukpga/2013/10/enacted/data.htm>

The Scrap Metal Dealers Act 2013: Licence Fee Charges Guidance is available here

<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

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