



NOTIFICATION OF DECISION FOR URGENT IMPLEMENTATION

(Decision either included or not included on the current Forward Plan but needs to be implemented immediately by virtue of the urgency of the actions that need to be undertaken. This decision will not be subject to call-in.)

ORIGINATOR'S DETAILS

Name & Contact details: Richard Parkins, Health Safety Licensing & Environmental Protection Unit Manager, 020 7525 5767

DETAILS OF THE REPORT

Title: Scrap Metal Dealers Act 2013 – Fees & Charges

Summary: To approve the schedule of fees and charges for 2013-2014 in respect of applications for scrap metal dealers licences under the Scrap Metal Dealers Act 2013.

The Scrap Metal Dealers Act 2013 comes into effect on 1 October 2013. The Act establishes a new licensing regime for scrap metal dealers and motor salvage operators administered by the local licensing authority. The Act forms part of the response to the increase in metal theft experienced nationally in recent years.

Licence applications may be made to the council from 1 October 2013. A fee is payable in respect of every application made. Under the Act, each local licensing authority is able to set a schedule of fees and charges intended to recover the costs of administering the process. When determining fees and charges the authority must have regard to guidance issued by the Secretary of State.

The report seeks approval of the proposed schedule of fees and charges for 2013-2014.

Urgent implementation is being sought in order that the schedule of fees and charges may be confirmed and made public and so that existing operators, currently registered with the council under either the Scrap Metal Dealers Act 1964 or Part 1 of the Vehicles (Crime) Act 2001, have the maximum possible opportunity to make use of the transitional arrangements under the Act and ensure business continuity.

Under the transitional arrangements, registered operators have between 1 October 2013 and 15 October 2013 only to apply to 'convert' their registration to a licence. As long as application is made by 15 October 2013, the business may continue to operate until such time as their application is determined. If no application is received by 15 October 2013 the business loses the right to continue operating until a new licence has been sought and approved. Given this short timescale, it is imperative that those operators concerned are given proper opportunity to apply.

The Service has been aware that this decision would be necessary since confirmation of the implementation of the Act was received in August 2013. This confirmation was received with no notice and it had been understood that

implementation was to be delayed.

At the time that the implementation of Act was announced, the matter was listed to be considered by the October 2013 Cabinet. Our initial understanding was that applications under the transitional arrangements could be made from 1 September 2013. On this basis a variation of the decision maker to enable the decision to be taken by the Leader of the Council in August 2013 to meet the September deadline was agreed. As it was, our understanding was incorrect. While it was still necessary for the decision to be brought forward from the date indicated on the forward plan, applications under transition could not be made until 1 October 2013

The position was further complicated, however, when it was identified that separate guidance documents published on fees and charges under the Act, by the Home Office and the Local Government Association, while consistent in the main, gave rise to a number of questions of clarification which potentially impacted upon both process and process costs. It had been anticipated that clarifications sought would have been provided in time for the implementation of the new licensing regime. While several matters have been clarified one important issue continues to remain outstanding. This as to whether representations made under the Act in respect of potential refusal of applications or revocation of licences, should be heard by an individual or may be heard by a committee. This information has not been clarified and it is now necessary to move forward and seek agreement of the schedule of fees and charges without this clarification. Until such time as any contrary information may be received, representations are intended to be considered by a licensing sub-committee, consistent with other similar processes. This has had the effect of delaying the passage of this report.

If the council has not set fees and charges by 1 October 2013, there is some debate as to whether the council retains the right to make a charge for a licence as of day 1 of the new process and / or potential for claims against the council if existing operators are unable to apply for a licence to continue their trade within the window provided.

If the council were not in a position to charge licence fees through the transitional period this would result in a potential loss of around £5000.

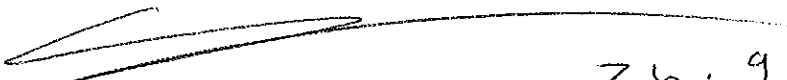
The schedule of fees and charges presented with the report, is considered to otherwise comply with all guidances and relevant case law.

Date decision to be taken on: Before 1 October 2013

Declaration

I agree/~~disagree~~* with the Chief Officer/Head of Service that the proposed Decision is reasonable and that it can be treated as a matter of urgency.

Reason for refusal

Signed.......... Dated..... 26.9.13.....

Chair of Overview & Scrutiny Committee/Mayor/Deputy Mayor*

* delete as appropriate

Please note reasons for refusal, additional points or further action required (as appropriate)

Please return completed form to Kenny Uzodike /Ian Millichap, Constitutional Team, 160 Tooley Street, PO Box 64529, London, SE1P 5LX – tel: 020 7525 7232 fax: 020 7525 7498