



AGENDA ITEM: 5(m)

CABINET: 12 November 2013

Report of: Borough Solicitor

Relevant Managing Director: Managing Director (People and Places)

Relevant Portfolio Holder: Councillor I Grant

**Contact for further information: Mr L R Gardner (Extn. 5023)
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SUBJECT: SCRAP METAL DEALERS ACT 2013

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To advise Cabinet of the requirements of the Scrap Metal Dealers Act 2013 (the Act) and to repeat appropriate delegations in the event that these functions be determined to be Executive (Cabinet) functions

2.0 RECOMMENDATIONS

2.1 That recommendation 2.2 to 2.6 of the Council report attached at Annex A on the Scrap Metal Dealers Act 2013 dated 17 July 2013 be approved.

2.2 That recommendation 2.1 in the report attached at Annex B to the Licensing & Appeal Committee dated 2nd October 2013 be approved

3.0 BACKGROUND

3.1 In contemplation of the Scrap Metal Dealers Act 2013 due to come into force on 1st October 2013, a report was prepared for Council to have the relevant delegations in place when the Act came into force. The Act was to replace the Scrap Metal Dealers Act 1964 ("1964 Act") and also set up a new licensing regime.

- 3.2 The 1964 Act was a Non-Executive function (Council), as the legislation replaced another Act it was considered that the new Act would also be a Non-Executive (Council).
- 3.3 Since the recommendations have been approved by Council the Local Government Association has said the Act does not replace the 1964 Act as it sets up a new licensing regime and as the Act is not defined as a Non-Executive (Council) function in legislation it will be, by default, an Executive (Cabinet) function.
- 3.4 So far the Home Office who is responsible for the implementation of this Act has not clarified the position despite requests from this and other Local Authorities. Under the Act the fees need to be set by 1st December 2013.
- 3.5 For the avoidance of doubt therefore until this issues has been clarified, Cabinet is asked to also approve the reports attached at Appendices A & B accordingly.
- 3.6 The Act allows for a right of appeal against any determination under the Act. This has been set up for the Licensing & Appeals Committee to deal with, but if this is an Executive (Cabinet) Function they would not be able to and the Council cannot have a dual appeals process. Therefore at present the appeals process should stay with Licensing and Appeals Committee and this can be reviewed once clarification has been gained or an appeal is received.

Background Documents

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

Home Office: Scrap Metal Dealers Act 2013 – license fee charges. Issued 12 August 2013

Home Office: Scrap Metal Dealers Act 2013 – supplementary guidance. Issued 2 October 2013

Equality Impact Assessment

There is a significant direct impact on members of the public, employees, elected members and / or stakeholders. Therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached to the appendices of this report, the results of which have been taken into account in the recommendations contain within this report.

Appendices

Appendix A - Report of Council dated 17th July 2013

Appendix B – Report of Licensing & Appeals Committee dated 22nd October 2013