

# RIBBLE VALLEY BOROUGH COUNCIL

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Dear Councillor

The next meeting of the **LICENSING COMMITTEE** is at **6.30pm** on **TUESDAY, 18 JUNE 2013** in the **TOWN HALL, CHURCH STREET, CLITHEROE.**

I do hope you will be there.

Yours sincerely

CHIEF EXECUTIVE

To: Committee Members (Copy for information to all other members of the Council)  
Directors  
Press

## AGENDA

### Part I – items of business to be discussed in public

1. Apologies for absence.
- ✓ 2. Minutes of the meeting held on 19 March 2013 – copy enclosed.
3. Declarations of Interest (if any).
4. Public Participation (if any).

### FOR DECISION

- ✓ 5. Revised Hackney Carriage Conditions and Infringement Scheme - report of Chief Executive – copy enclosed.
- ✓ 6. GP Medical Reports and Hackney Carriage and Private Hire Driver's Licence Applications - report of Chief Executive – copy enclosed.
- ✓ 7. Introduction of Intended Use Policy - report of Chief Executive - copy enclosed.

FOR INFORMATION

- ✓ 8. Scrap Metal Dealers Act 2013 - report of Chief Executive – copy enclosed.
- ✓ 9. Minutes of Ribble Valley Safety Advisory Group - copy enclosed.

Part II - Items of business **not** to be discussed in public

FOR INFORMATION

- ✓ 10. CAN Volunteer - report of Chief Executive – copy enclosed.

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

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Agenda Item No.

meeting date: 18 June 2013  
title: Review of Council's standard conditions of licence and infringement scheme for Hackney Carriage drivers and vehicles.  
submitted by: Chief Executive  
principal author: Mair Hill

### 1 PURPOSE

- 1.1 To inform Committee of the review which has been carried out of the standard conditions of licence and infringement scheme for Hackney Carriage, drivers and vehicles and to seek committee's approval of the revised standard conditions and infringement scheme.
- 1.2 Relevance to the Council's ambitions and priorities
- Community Objectives – The revised conditions and penalty point scheme will promote the Council's aim of being a well managed Council.
  - Corporate Priorities - N/A
  - Other Considerations – N/A

### 2 BACKGROUND

- 2.1 On 20 March 2012, the Head of Legal and Democratic Services was authorised by committee to consult licence holders on various proposed changes to the standard conditions which had been discussed at committee. As a result of this consultation, a complete review of the standard conditions and the corresponding infringement scheme has been carried out and the revised versions of each are appended as **Appendix 1 and 2**.

### 3 ISSUES

- 3.1 The revised versions:
- 3.1.1 incorporate all changes which have previously been approved by committee;
- 3.1.2 update the legislation referred to within the conditions;
- 3.1.3 simplify and clarify the drafting; and
- 3.1.4 ensure that all the conditions are included in the infringement scheme and vice versa.

### 4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications
- Resources – Resources will be needed within the Legal and Democratic Services Department to inform hackney carriage drivers and vehicle proprietors of the revised standard conditions and to ensure that these have been replaced in their vehicles.
  - Technical, Environmental and Legal – None
  - Political - None
  - Reputation – Revising the conditions will enhance the Council's reputation as a well-managed Council.
  - Equality & Diversity – None

5 RECOMMENDED THAT COMMITTEE

- 5.1 Approve the revised standard conditions and infringement scheme for hackney carriage, drivers and vehicles.

MARSHAL SCOTT  
CHIEF EXECUTIVE

MAIR HILL  
SOLICITOR

BACKGROUND PAPERS

REF: MJH/Licensing Committee/18 June 2013

For further information please ask for Mair Hill, extension 3216



**RIBBLE VALLEY BOROUGH COUNCIL HACKNEY CARRIAGE DRIVER'S LICENCE**  
**(the "Driver's Licence")**

***The Council has the power to suspend, revoke or refuse to renew any Driver's Licence if any of these standard conditions are not complied with.***

The following standard conditions are attached to the issue of a Hackney Carriage Driver's Licence (the "Driver's Licence") in the Ribble Valley.

**REQUIREMENTS FOR THE ISSUE OF A DRIVER'S LICENCE**

**Age and qualifications of Driver**

1. An applicant for a Driver's Licence must have attained the age of 21 years and for the twelve months immediately prior to the application either:
  - a. have been the holder of a licence (not being a provisional licence) granted under Part III of the Road Traffic Act 1988 ("**RTA**") (as amended from time to time or under any successor legislation); or
  - b. be authorised by virtue of Section 99 A(1) or Section 109(1) of the RTA (as amended from time to time or under any successor legislation) to drive a motor car in Great Britain.

**Health of a Driver**

2. A mandatory Group 2 Medical Certificate (which is a requirement of "Fitness to Drive: A Guide for Health Professionals" published in 2006 by The Royal Society of Medicine Press Limited on behalf of the Department for Transport) signed by your own doctor must be produced at the time of the initial application.

3. Applicants over the age of 60 years may be asked to submit themselves for examination by a Medical Practitioner nominated by the Council. The applicant must pay the costs of such an examination.
4. Drivers who are 65 or over will be subject to an annual medical examination.
5. In the event of the onset or worsening of a health condition likely to cause a driver to be a source of danger to the public, when driving either now or in the future they must inform the Council immediately.

Examples of health conditions, which must be reported, are:

- giddiness;
- fainting;
- black-outs;
- Epilepsy;
- Strokes;
- Multiple Sclerosis;
- Parkinson's Disease;
- heart disease;
- Angina;
- Coronaries;
- high blood pressure;
- Arthritis;
- disorder of vision;
- mental illness;
- alcoholism;
- drug taking and
- the loss of a limb or use of a limb.

**THIS LIST DOES NOT INCLUDE ALL THE CONDITIONS THAT MUST BE REPORTED. THESE EXAMPLES ARE GIVEN ONLY TO INDICATE THE TYPES OF CONDITIONS.**

Drivers, who are in doubt about whether or not their health condition is one, which should be reported, should consult their doctor.

### **Test of Fit and Proper Person**

All applicants must satisfy the Council that they are a fit and proper person to hold a Driver's Licence. The following issues are considered when applying that test:

#### **Disclosure and Barring Service check ("DBS check")**

6. All applicants must apply for an enhanced DBS check, the contents of which will form part of the process of assessing whether an applicant is a fit and proper person.

#### **Knowledge Test**

7. All applicants must pass the Council's knowledge test before a Driver's Licence will be issued. The knowledge test can be taken either as a written test or as a mobile test in the applicant's vehicle. Applicants must contact the Council to make an appointment to take the knowledge test. An applicant will be allowed no more than four attempts to pass the knowledge test.

#### **Steering to Success Course**

8. All applicants must produce evidence of having passed the steering to success course at Rossendale College.

#### **Address on driving licence**

9. Applicants must ensure that their VOSA driving licence shows their current address.

## THE LICENCE

### Duration of Driver's Licence

10. Save as set out at condition 11 below, and subject to suspension and/or revocation a Driver's Licence will be valid for 12 months from the date of issue.

### Suspension/Revocation/Refusal to renew

11. A Driver's Licence may be suspended, revoked and/or not renewed by the Council if:
  - a. a driver fails to comply with these standard conditions;
  - b. a driver is convicted of an offence involving dishonesty, indecency or violence; or
  - c. on any other reasonable grounds.

## DRIVER'S RESPONSIBILITIES

### Driver's Badge/Licence

12. The driver of a Hackney Carriage **MUST** wear their Hackney Carriage Driver's Badge in such a position and manner as to be visible at all times whilst in the course of their duty.
13. The badge will serve as evidence of the driver's licence and they shall, if requested, show the badge to the hirer of the vehicle, a police officer or any authorised officer of the Council.
14. A badge relates only to the driver it was issued to, it **cannot** be transferred.
15. Upon expiry, revocation or suspension of a Driver's Licence, the driver shall return their badge to the Council within 7 days.
16. Section 48 of the Town and Police Clauses Act 1847 requires Hackney Carriage Proprietors to obtain and retain custody of the Hackney Carriage Licences of the drivers they employ.

17. If carrying out private hire work a driver must show their Driver's Licence to the operator/proprietor at the beginning of their employment as a private hire driver.
18. A Hackney Carriage driver must only carry out private hire work through a private hire operator licensed by Ribble Valley Borough Council.

### **Conduct of Driver**

19. The Driver shall:

- a. at all times be clean and respectable in their dress and person and behave in a civil and orderly manner;
- b. ensure that the vehicle driven by them is kept in a clean and tidy condition;
- c. take all reasonable steps to ensure the safety of passengers conveyed in, entering or alighting from the vehicle driven by them;
- d. not without the express consent of the hirer, eat or drink in the vehicle;
- e. not smoke in the vehicle or permit any passenger to smoke in the vehicle;
- f. not use any mobile phone (including a hands free mobile phone) whilst driving;
- g. not without the express consent of the hirer, play any radio or other sound reproducing instrument or equipment in the vehicle, other than for the purpose of sending or receiving messages in connection with the operation of the vehicle;
- h. not cause or permit the noise emitted by any radio or other previously mentioned equipment in the vehicle which they are driving, to be a source of nuisance or annoyance to any person, whether inside or outside the vehicle;
- i. convey a reasonable quantity of luggage on behalf of the hirer and/or passengers;
- j. afford reasonable assistance with loading or unloading luggage;

- k. afford reasonable assistance in removing luggage to or from the entrance of any building, station or place at which they may take up or set down the hirer and/or passenger(s);
- l. if they are aware that the vehicle has been hired, to be in attendance at an appointed time and place, or they have otherwise been instructed by the Operator or proprietor of the vehicle to be in attendance at an appointed time and place, attend at that appointed time and place unless delayed or prevented by sufficient cause;
- m. If carrying out private hire work not operate the horn of the vehicle as a means of signalling that the vehicle has arrived; and
- n. Provide a written receipt for the fare paid if requested by the hirer.

### **Lost Property**

20. A driver of a Hackney Carriage shall, immediately after the termination of any hiring or as soon as practicable thereafter, carefully search the vehicle for any property which may have been accidentally left therein.

21. A driver of a Hackney Carriage shall, on finding such lost property, take it as soon as possible and in any event within 48 hours if not claimed by its owner, to a Police Station within the district where they should report it to the officer in charge of the station.

### **Passengers**

22. Section 51 and 52 of the Town Police Clauses Act 1847 and this Council's Byelaws provide that the permitted maximum number of passengers is marked on plates both inside and outside a Hackney Carriage. A driver must not carry more passengers than the stated maximum number.

23. A driver shall not convey or allow there to be conveyed in the front seat of a Hackney Carriage:

- a. any child below the age of 10 years; or
- b. more than one person above that age.

24. The driver of a Hackney Carriage shall not permit any person to be conveyed in the vehicle without the consent of the hirer.

### **Unauthorised/Uninsured/unlicensed Drivers**

25. No person being unauthorised, uninsured or unlicensed shall drive a Hackney Carriage.

26. The holder of a Driver's Licence shall not permit an unauthorised, uninsured or unlicensed person to drive a Hackney Carriage.

### **Advertisement**

27. Save with the consent of the Council, a driver of a Hackney Carriage shall not place or allow to be placed any printed, written or other matter by way of advertisement on any part of the vehicle.

### **Shortest Route**

28. Subject to any directions given by the hirer, a driver of a Hackney Carriage, when hired, shall drive to the hirer's required destination, by the shortest available route.

### **Licence Plate**

29. The Hackney Carriage Licence plate provided by the Council, which identifies the vehicle as a Hackney Carriage, must remain attached to the vehicle using the Council's approved bracket, by the method and in the position specified by the Council, **AT ALL TIMES** (including when the vehicle is not in use) and should not be removed unless required to do so by an authorised officer of the Council or by the police.

30. The driver of a Hackney Carriage shall not wilfully or negligently cause or suffer any licence plate to be concealed from public view at any time or to be defaced.

## **Licence Conditions/Bye Laws**

31. A driver shall at all times when driving a Hackney Carriage keep a copy of these Conditions and the Hackney Carriage Bye Laws within the vehicle and shall make them available for inspection by the hirer or any other passenger on request.

## **Fares**

32. A driver shall ensure that a statement of fares, in the form issued by the Council is exhibited at all times inside the Hackney Carriage and is fitted and maintained in such a position so as to be clearly visible at all times to the hirer.

## **Use of Taximeter**

33. A driver of a Hackney Carriage shall:
  - a. ensure that the taximeter is started as soon as the hirer commences their journey;
  - b. ensure that the dial/display of the taximeter is kept properly illuminated throughout any part of the hiring which is during the hours of darkness and/or at any other time at the request of the hirer.
  - c. ensure that the fare recorded on the taximeter is not cancelled or concealed until the hirer has had reasonable opportunity of examining it and has paid the fare (unless credit is to be given).
  - d. not tamper with or permit any person to tamper with, the taximeter, its fittings or seals attached to it and/or with any other equipment attached to or forming part of the vehicle.

## **Animals**

34. The Equality Act 2010, imposes duties on a driver of a Hackney Carriage which has been hired by:
- a. a disabled person or a person who is accompanied by an assistance dog;  
or
  - b. by another person who wished to be accompanied by a disabled person with an assistance dog.
35. The driver must:
- a. carry the disabled person's dog and allow it to remain with that person;  
and
  - b. not make any additional charge for doing so.
36. An exemption to this obligation can only be given on medical grounds.
37. Failure to comply with this obligation will lead on summary conviction to a fine not exceeding level 3 on the standard scale, currently **£1,000**.
38. A driver shall not convey in a Hackney Carriage any animal belonging to or in the custody of himself or the proprietor of the vehicle.
39. A driver shall ensure that any animal carried in the Hackney Carriage at the request of the hirer/passenger is properly secured before the journey commences.

## **Accident to Vehicle**

40. If a driver of a Hackney Carriage is involved in an accident or incident the driver **MUST** report this to the Council as soon as reasonably practicable, but in any case within 72 hours of the accident or incident. Compliance with this condition does not exempt the driver from his statutory liability to report all accidents to the police.

## **DISCLOSURE OF INFORMATION**

### **Convictions**

41. Any person who holds a Driver's Licence **MUST** disclose to the Council, within **seven days**, in writing full details of any conviction and/or police caution received or imposed on them.

### **Change of Address**

42. Any person holding a Driver's Licence **MUST** notify the Council in writing of a change to their address within seven days.

### **Change of Employment**

43. Any person holding a Driver's Licence **MUST** notify the Council within seven days of the commencement or termination of employment of the name and address of the Operator or proprietor and the date when the employment either started or ended.

## **APPENDIX 2**

### **INFRINGEMENTS POINTS SCHEME**

#### **RIBBLE VALLEY BOROUGH COUNCIL'S LICENSING DEPARTMENT**

<b>VEHICLES</b>		
<b>Hackney Carriage Standard Conditions</b>		
<b>Paragraph</b>	<b>Offence</b>	<b>Points</b>
	Allowing a vehicle to be used for hire by a person who does not hold a current private hire or hackney driver's licence	8
	Permitting the vehicle to be used for any illegal or immoral purposes.	6
	No insurance or inappropriate insurance for the vehicle.	12
	Failure to ensure that a copy of the current motor insurance is kept in the vehicle for inspection.	3
	Failure to produce the Vehicle Licence and policy or motor insurance for inspection within 7 days of a request from an authorised officer of the Council or a police officer	3
	Operating a vehicle which does not comply with the Council's Vehicle Specification	5
	Alterations made to a vehicle without the consent of the Council.	2
	Failure to submit vehicle for inspection at the place authorised and on the dates notified by the Council	3
	Failure to carry a fire extinguisher authorised by the Council	3

	Failure to carry an appropriate first aid kit, dressings and appliances.	3
	Failure to ensure that the Safety Equipment is readily available to the driver, hirer/passengers and third parties or that it is available for immediate use.	3
	Radio equipment not fitted in accordance with Council requirements.	2
	Failure to comply with the Council's requirements as to signage.	5
	Failure to display a current vehicle excise licence (car tax disc) in the correct place on the vehicle windscreen	3
	Failure to report an accident/incident involving the vehicle to the Council within 72 hours of its occurrence.	3
	Failing to notify change or transfer of ownership of the vehicle within 7 days of its occurrence.	3

<b>DRIVERS</b>		
<b>Breach of Hackney Carriage Driver's Standard Conditions</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>
	Failure to provide medical certificate or not notifying a medical condition	3
	Failure to wear a Hackney Carriage driver's badge in a prominent position at all times whilst in the course of their duty.	3
	Failure to show badge on request to authorised officer of the council or police officers.	2
	Failure to surrender a driver's licence, badge or plate to the Council on expiry, suspension or revocation.	3
	Failure to show driver's licence to the proprietor at the beginning of an employment when carrying out private hire work.	2
	Failure to be clean and respectable in their dress and person and behave in a civil and orderly manner	3
	Failure to ensure that the vehicle driven by them is kept in a	2

	clean and tidy condition	
	Failure to take all reasonable steps to ensure the safety of the passengers conveyed in, entering or alighting from the vehicle.	4
	Drinking or eating in the vehicle without permission of passenger.	2
	Smoking in the vehicle or allowing any passenger to smoke in the vehicle.	4
	Using mobile phone whilst driving	3
	Playing a radio or other sound reproducing instrument or equipment in the vehicle, other than for the purpose of sending or receiving messages in connection with the operation of the vehicle.	3
	Causing or permitting the noise emitted by any radio or other sound reproducing equipment to be a source of nuisance or annoyance to any person, whether inside or outside of the vehicle.	2
	Failure to convey a reasonable quantity of or give assistance with the hirer or passenger's luggage.	3
	Failure to attend on time for pre-arranged booking without sufficient cause.	2
	Operating the horn as a means of signalling that the vehicle has arrived.	3
	Soliciting to hire or accepting hire not pre-booked.	4
	Allowing the vehicle to stand in such a position as to suggest that it is plying for hire, or using a hackney carriage stand.	2
	Failure to search vehicle after journey or failure to take found property to a police station within the district within 48 hours of finding lost property.	2
	Conveying a greater number of passengers than prescribed in the Vehicle Licence.	6
	Conveying a child below the age of 10 or more than one person in the front seat of the vehicle	6
	Permitting a person to be conveyed without the consent of the hirer	6

	Driving a Hackney Carriage whilst unauthorised, unlicensed and/or uninsured.	5
	Allowing printed, written or other advertisements to appear on the vehicle without the consent of the Council	3
	Failure to proceed to destination by the shortest available route.	4
	Failure to ensure that the licence plate attached to the vehicle in the specified place at all times.	4
	Concealing or defacing a licence plate.	4
	Failure to keep a copy of the standard conditions within the vehicle and make them available for inspection by the hirer or passenger.	4
	Failure to provide a receipt when requested.	2
	Failure to carry assistance dog without exemption certificate.	5
	Carrying an animal other than one with passenger.	2
	Carrying an animal, which is not safely restrained.	3
	Failure to report an accident or incident within 72 hours.	3
	Failing to disclose a conviction or police caution within 7 days.	12
	Failing to notify of change of address within 7 days.	3
	Failure to notify within 7 days of starting or terminating employment, the name and address of the proprietor and the date when the employment either started or ended.	2

<b>Bye-laws Hackney Carriages</b>		
<b>Bye-law</b>	<b>Offence</b>	<b>Points</b>
2	Failure to display or maintain the external licence plates in the correct position or to conceal or deface the same	4

3	Failure to provide communications with the driver	2
3	Failure to meet standards in respect of vehicle furnishings	3
3	Operating a vehicle that is not clean and tidy	3
3	Failure to carry an efficient fire extinguisher.	3
4-5	Operating a vehicle with a taximeter which does not comply with bye-laws	5
4-5	Using a taximeter not in compliance with bye-laws including failure to bring the taximeter into operation and failure to keep the dial of the taximeter illuminated.	5
6	Tampering with a taximeter	10
7	Failure to observe rank discipline as per bye-law requirements (Failure to proceed etc).	2
8	Calling out or importuning persons to use the hackney carriage when standing or plying for hire.	3
9	Failure to behave in a civil and orderly manner.	3
9	Failure to ensure the safety of passengers	5
10	Failure to attend punctually for a hiring without good reason.	2
(see SC)	Failure to proceed to destination by the shortest available route	3
11	Conveying more persons than permitted	6
12	Failure to wear a badge	3
13	Failure to give assistance with passenger's luggage.	3
(see SC)	Failure to produce a copy of byelaws.	2
15	Failure to display a statement of fares or concealing or defacing the same	2
16	Failure to search vehicle after journey.	2
17	Failure to take found property to the Council Offices within 48 hours of finding.	2

<b>Town Police Clauses Act 1847</b>		
<b>Section</b>	<b>Offence</b>	<b>Points</b>
<b>40</b>	Giving false information on application for HC proprietor's licence.	5-10
<b>44</b>	Failure to notify change of address of HC proprietor.	2
<b>45</b>	Plying for hire without HC Proprietor's licence.	8-12
<b>47</b>	Driving a HC without HC driver's licence.	8-12
<b>47</b>	Lending or parting with HC driver's licence.	4
<b>47</b>	HC Proprietor employing unlicensed driver.	8
<b>48</b>	Failure by HC proprietor to hold HC driver's licence.	6
<b>48</b>	Failure by HC proprietor to produce HC driver's licence.	3
<b>52</b>	Failure to display HC plate.	4
<b>53</b>	Refusal to take a fare without reasonable excuse	4
<b>54</b>	Charging more than the agreed fare.	6
<b>55</b>	Obtaining more than the legal fare. (Failure to refund)	6



## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

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Agenda Item No. 6

meeting date: 18 June 2013  
title: GP Medical Reports  
submitted by: Chief Executive  
principal author: Mair Hill

### 1 PURPOSE

- 1.1 To seek Committee's opinion on the current arrangements for medical reports in respect of Private Hire and Hackney Carriage drivers.
- 1.2 Relevance to the Council's ambitions and priorities
- Community Objectives – Consideration of the current arrangements will promote the Council's aim of being a well-managed Council.
  - Corporate Priorities - N/A
  - Other Considerations – N/A

### 2 BACKGROUND

- 2.1 Currently, both the Private Hire and Hackney Carriage driver's conditions require applicants to have a medical carried out by their own doctor. This provision was put in place to ensure that the doctor carrying out the assessment would have access to all relevant information about the health of the individual.
- 2.2 This system has been in place for sometime without issue, however, recently an applicant contacted the Council stating that his own doctor had informed him that he was no longer carrying out such assessments. The applicant asked what he was to do in these circumstances and was informed that could try another GP within the same practice. No response has been received and so it may be that the situation has resolved itself for this particular applicant.

### 3 ISSUES

- 3.1 In light of the above however, Committee is asked to consider whether the current arrangements are sufficient or whether the conditions should be extended so that an applicant could be referred to an independent practice selected by the Council in circumstances where an applicant's own doctor or indeed any other GP within that practice was unwilling to carry out the medical assessment.

### 4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications
- Resources – Resources would be required to carry out a review and ultimately establish an agreement with a GP's practice to which applicant's could be referred.
  - Technical, Environmental and Legal – None
  - Political - None

- Reputation – reviewing the arrangements for medical assessments in light of this issue will enhance the Council's reputation as a well-managed Council.
- Equality & Diversity – None

5 RECOMMENDED THAT COMMITTEE

- 5.1 Committee confirm whether it is content with the current arrangements or whether it requires a review of the arrangements and a further report to be submitted to committee once such review has been completed.

MARSHAL SCOTT  
CHIEF EXECUTIVE

MAIR HILL  
SOLICITOR

BACKGROUND PAPERS

REF: MJH/Licensing Committee/18 June 2013

For further information please ask for Mair Hill, extension 3216

# RIBBLE VALLEY BOROUGH COUNCIL

## REPORT TO LICENSING COMMITTEE

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Agenda Item No. 7

meeting date: 18 June 2013  
title: Proposed introduction of intended use policy.  
submitted by: Chief Executive  
principal author: Mair Hill

### 1 PURPOSE

1.1 To inform and seek Committee's opinion of the proposed introduction of intended use policies across Lancashire.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives – The consideration of an intended use policy will promote the Council's aim of being a well-managed Council.
- Corporate Priorities - N/A
- Other Considerations – N/A

### 2 BACKGROUND

2.1 Following recent decisions in the high court the current legal position is as follows:

2.1.1 A hackney carriage, which is licensed in one area, can be used to carry out pre booked private hire work on behalf of an operator licensed by a different local authority (i.e they are able to work anywhere in the country).

2.1.2 In the proper exercise of its statutory discretion under section 37 of the Town Police Clauses Act 1847 a licensing authority is obliged to have regard (a) to whether the applicant intends that the hackney carriage if licensed will be used to ply for hire within the area of that authority, and (b) whether the applicant intends the hackney carriage will be used (either entirely or predominantly) for private hire remotely from the area of that authority.

- 2.1.3 A licensing authority may in the proper exercise of its discretion under the said section 37 refuse to grant a licence in respect of a hackney carriage that is not intended to be used to ply for hire within its area and/or is intended to be used (either entirely or predominantly) for private hire remotely from the area of that authority.
- 2.1.4 In determining whether to grant a licence under the said section 37 a licensing authority may require an applicant to submit information pursuant to section 57 of the Local Government (Miscellaneous Provisions) Act 1976 in order to ascertain the intended usage of the vehicle.
- 2.2 There has over recent years been an increasing problem within certain areas of Lancashire of Hackney Carriages being licensed as Hackney Carriages by Rossendale Borough Council but exclusively carrying out private hire work within another area. At a recent meeting of the Lancashire Licensing Officers Group this issue was discussed and the Licensing Officer from Preston City Council confirmed that it had recently introduced an intended use policy. It was suggested that if all Council's within Lancashire were to do the same collectively this could eradicate the problem. A copy of the Intended Use Policy adopted by Preston City Council is enclosed as **Appendix 1** to this report.
- 2.3 Currently, Ribble Valley Borough Council does not have an intended use policy, however the Private Hire Operators, Hackney Carriage Drivers and Hackney Carriage Vehicle conditions all contain a condition that Hackney Carriage licence holders must only carry out private hire work through a Ribble Valley Borough Council licensed operator and that such operators must only employ Hackney Carriage drivers licensed by Ribble Valley Borough Council.

### **3 ISSUES**

- 3.1 An intended use policy would introduce an additional element to the application process so that the Council will assesses the intended use of a vehicle at the point of application for a new licence, renewal of a licence, transfer of ownership, and/or a change of vehicle. It could also include a presumption that a licence holder will be referred to committee if they are found to be using the vehicle contrary to its previously stated use. Each instance would of course be assessed on its own merits.
- 3.2 If Committee resolves that the Council should adopt such a policy a consultation and consideration of the results of that consideration will need to be carried out with Hackney Carriage licence holders.

#### 4 RISK ASSESSMENT

##### 4.1 The approval of this report may have the following implications

- Resources – Resources will be needed within the Legal and Democratic Services Department to formulate an intended use policy and to consult with the relevant organisations.
- Technical, Environmental and Legal – None
- Political - None
- Reputation – The consideration of the introduction of an intended use policy will enhance the Council’s reputation as a well-managed Council.
- Equality & Diversity – None

#### 5 RECOMMENDED THAT COMMITTEE

##### 5.1 Decide whether the Council should introduce an intended use policy or whether it is satisfied that the current arrangements provide sufficient control.

MARSHAL SCOTT  
CHIEF EXECUTIVE

MAIR HILL  
SOLICITOR

#### BACKGROUND PAPERS

REF: MJH/Licensing Committee/18 June 2013

For further information please ask for Mair Hill, extension 3216

## RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

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Agenda Item No. 8

meeting date: 18 June 2013  
title: Scrap Metal Dealers Act 2013  
submitted by: Chief Executive  
principal author: Mair Hill

### 1 PURPOSE

- 1.1 To inform Committee of impending changes to the regulatory regime for Scrap Metal to be implemented through the provisions of the Scrap Metal Dealers Act 2013 and the increased duties and powers which this gives to the Council.
- 1.2 Relevance to the Council's ambitions and priorities
- Community Objectives – Consideration of these issues will promote the Council's aim to be a well-managed Council.
  - Corporate Priorities -
  - Other Considerations -

### 2 BACKGROUND

- 2.1 The Council currently regulates Scrap Metal Dealers ("**SMD**") within its area under the provisions of the Scrap Metal Dealers Act 1964 ("**1964 Act**"), and the Vehicle(Crime) Act 2001 and Motor Salvage Operators Regulations 2002. Under this regime SMD must register with the Council. No fee is payable by the SMD.
- 2.2 The increase in metal theft offences in recent years has highlighted the ineffectiveness of the currently regulatory regime, and the Government felt that reform was necessary.
- 2.2 From 3 December 2012 the Government introduced some changes to this regime through sections 145-147 of the Legal Aid Sentencing and Punishment of Offenders Act 2012 ("**LASPO 2012**"). In particular, it increased the penalties for the existing offences contained in the 1964 Act and introduced a new offence of buying scrap metal for cash.
- 2.3 In addition during the course 2012 the Scrap Metal Dealers Act 2013 ("**2013 Act**") was introduced as a private members bill. It received Royal Assent on 28 February 2013 and will come into force by means of a commencement order, which is anticipated to be on 1 October 2013.
- 2.4 A detailed explanation of the provisions of the 2013 Act is contained in the note enclosed as **Appendix 1** and also in the document entitled "*The Legislative Response to Metal Theft*" issued by the Home Office March 2013 enclosed as **Appendix 2**.
- 2.5 The main aim of the 2013 Act is to raise standards within the scrap metal industry, by replacing the overlapping regimes for vehicle salvage and scrap metal with one regulatory regime, and by giving Councils the responsibility for the licensing and enforcement of the Act in conjunction with the police. The 2013 Act will repeal the 1964

Act, Sections 145-147 of LASPO 2012 and Part 1, section 35 and paragraphs 1 & 2 of the Schedule of the Vehicles (crime) Act 2001.

- 2.6 The main provisions of the 2013 Act are:
- 2.6.1 An extended regime to include a wide range of businesses (see paragraphs 1 & 2 of Appendix 1.
  - 2.6.2 Amended definition of scrap metal (see paragraph 3 of Appendix 1.
  - 2.6.3 The introduction of a national register of licenses to be held by the Environment Agency. Each Council previously held a register individually.
  - 2.6.4 The introduction of two different types of licences, Site and Collector (see paragraphs 4-9 of Appendix 1.
  - 2.6.5 The introduction of a suitability test for applications and licensees (see paragraphs 17-19 of Appendix 1.
  - 2.6.6 The introduction of a licence fee to be determined by the Council (see paragraph 15 of Appendix 1.
  - 2.6.7 The introduction of the power to revoke a licence (see paragraphs 23 to 31 of Appendix 1.
  - 2.6.8 The introduction of entry and inspection powers (see paragraphs 59 to 61 of Appendix 1.
  - 2.6.9 The power to obtain closure notices for unlicensed sites (see paragraphs 62 to 67 of Appendix 1.
  - 2.6.10 The introduction of increased record keeping requirements (see paragraphs 50 to 58 of Appendix 1.
  - 2.6.11 The introduction of a requirement to display licenses (see paragraphs 38 to 40 of Appendix 1.
  - 2.6.12 The continuation of the offence of buying scrap metal for cash and additional offences relating each of the powers and duties contained in the 2013 Act.
- 2.7 Page 40 of Appendix 2 contains a useful diagram of how the licensing model is intended to work.

### 3 ISSUES

- 3.1 In preparation for the implementation of these new powers and duties the Council will need to make arrangements for dealing with applications, setting a fee (with regard to any statutory guidance issued by the Secretary of State) and providing the resources to deal with enforcement.
- 3.2 It is proposed therefore that a further report be submitted to committee once the commencement date has been confirmed and the Secretary of State has issued any guidance.

### 4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications
  - Resources – Increased resources will be required to implement and run the new licensing regime.
  - Technical, Environmental and Legal – The Council will have responsibility for both the licensing and enforcement of the Act. The Council will also have to set and charge a licence fee, which must have regard to any guidance, which is issued by the Secretary of State.
  - Political - None

- Reputation –The implementation and enforcement of the regime will enhance the Council’s reputation.
- Equality & Diversity – None

5 CONCLUSION

5.1 Committee are asked to note the report and receive a further update once the date of the commencement order is known.

MARSHAL SCOTT  
CHIEF EXECUTIVE

MAIR HILL  
SOLICITOR

BACKGROUND PAPERS

REF: MJH/Licensing Committee/18 June 2013

For further information please ask for Mair Hill, extension 3216

# APPENDIX 1

## THE SCRAP METAL DEALERS ACT 2013 (“Act”)

### Definition of Scrap Metal Dealer

1. A person carries on business as a scrap metal dealer (“SMD”) for the purposes of this

Act if the person:

- a. Carries on business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or
- b. Carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).

This will not include persons who manufacture articles if the selling of scrap metal is only a by-product of that or are surplus materials not needed in the manufacturing.

2. A person carries on business as a motor salvage operator if the person carries on business which consists:

- a. Wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
- b. Wholly or mainly in buying written off vehicles and subsequently repairing and reselling them,
- c. Wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b), nor
- d. Wholly or mainly in activities falling within paragraph (b) and (c).

3. Scrap metal includes:

- a. Any old, waste or discarded metal or metallic material, and

- b. Any product, article or assembly which is made from or contains metal and is broken worn out or regarded by its last holder as having reached the end of its useful life.

This does not however include gold, silver or any alloy, which contains 2% or more (by weight) of gold or silver. There is also provision for the Secretary of State to amend the definition of scrap metal.

### **Requirement for Licence**

4. The Act repeals the previous regulatory regime contained in the Scrap Metal Dealers Act 1964, and introduces a licensing regime under which:
  - a. No person may carry on business as a scrap metal dealer unless authorised by a licence under the Act ("**Scrap Metal Licence**").
  - b. Introduces an offence for failure to comply with 1(a) above, which is punishable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).
5. The Licence will be issued by the Local Authority and must be one of the following types:
  - a. A site licence; or
  - B. A collector's licence.

### **Site licence**

6. This will authorise the licensee to carry on business at any site in the authority's area, which is identified in the licence.
7. It must include:
  - a. Name of licensee;
  - b. Name of authority;
  - c. Identify all sites in the authority's area at which the licensee is authorised to carry on business;
  - d. Name the site manager of each site, and
  - e. State the date on which the licence is due to expire.

### **Collector's licence**

8. This authorises the licensee to carry on business as a mobile collector in the authority's area.
9. It must:
  - a. Name the licensee;
  - b. Name the authority; and
  - c. State the date on which the licence is due to expire.

### **Term of the Licence**

10. A licence expires at the end of the period of **3 years** beginning with the day on which it is issued.
11. But if an application to renew a licence is received before the licence expires, the licence continues in effect and –
  - a. If the application is withdrawn, the licence expires at the end of the day on which the application is withdrawn;
  - b. If the application is refused, the licence expires when no appeal is either possible or is finally determined or withdrawn;
  - c. If the licence is renewed, it expires at the end of the period of 3 years beginning with the day on which it is renewed or (if renewed more than once) the day on which it is last renewed.

### **Applications**

12. A licence is to be issued or renewed on an application, which must be accompanied by-
  - a. If the applicant is an individual, the full name, date of birth and usual place of residence of the applicant,
  - b. If the applicant is a company, the name and registered number of the applicant and the address of the applicant's registered office,

- c. If the applicant is a partnership the full name, date of birth, and usual place of residence of each partner,
- d. Any proposed trading name,
- e. The telephone number and email address (if any) of the applicant,
- f. The address of any site in the area of any other local authority at which the applicant carries on business as a scrap metal dealer or proposes to do so,
- g. Details of any relevant environmental permit or registration in relation to the applicant,
- h. Details of any other scrap metal licence issued (whether or not by the local authority) to the applicant within the period of 3 years ending with the date of the application,
- i. Details of the bank account, which is proposed to be used in order to comply with section 12 (scrap metal not be bought for cash etc).

If the application relates to a site licence, it must also be accompanied by-

- j. The address of each site proposed to be identified in the licence (or, in the case of an application to renew, of each site identified in the licence whose renewal is sought), and
- k. The full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant).

13. The Local authority may request (either when the application is made or later) that the applicant provide such further information as the authority considers relevant for the purpose of considering the application.

14. An applicant who in response made to a request under 10 above:

- a. Makes a statement knowing it to be false in a material particular, or
- b. Recklessly makes a statement which is false in a material particular,

Is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

### **Fee**

15. The Local Authority must set the fee to accompany the application and in doing so must have regard to the guidance issued from time to time by the Secretary of State.

### **Issue of Licence**

16. The Council must not issue or renew a Scrap Metal Licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer.

### **Suitable person**

17. In determining whether an applicant is a suitable person the Council may have regard to any information which it considers relevant including:

- a. Whether the applicant or site manager has been convicted of any relevant offence (as defined by regulations to follow);
- b. Whether the applicant or site manager has been the subject of any relevant enforcement action (as defined by regulations to follow);
- c. Any previous refusal of any application for the issue or renewal of a Scrap Metal Licence (and the reasons for refusal);
- d. Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- e. Any previous revocation of a Scrap Metal Licence (and the reasons for the revocation);
- f. Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.
- g. Any guidance issued by the Secretary of State on determining suitability.

18. When considering applications from companies or partnerships the Council shall apply the criteria set out in 8 to any director, secretary, shadow director (i.e. any person in accordance with whose directions or instructions the directors of the company are accustomed to act) of the company and each partner within a partnership.

19. The Council may also consult the following on the suitability of an applicant:
- a. Any other local authority;
  - b. The environment agency;
  - c. The Natural Resources Body for Wales;
  - d. An officer of a police force.

### **Conditions on Licence**

20. If the applicant or any site manager has been convicted of a relevant offence, the authority may include in the licence one or both of the following conditions:
- a. That the dealer must not receive scrap metal except during the hours 9am to 5pm;
  - b. All scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

### **Variation of licence**

21. A local authority may, on application vary a licence by changing it from one type of licence to the other, but the licence cannot be transferred from one person to another.
22. If any of the details of the licence or its sites changes the Licensee must apply for a variation. A Licensee who fails to do so is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000). It is a defence to this offence that the person took all reasonable steps to avoid committing the offence.

### **Revocation of Licence**

23. The Council may revoke a Scrap Metal Licence if it is:
- a. satisfied that the Licensee does not carry on business at any of the sites identified in the licence;
  - b. satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence;

- c. no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer.
24. If the licensee or any site manager is convicted of a relevant offence the Council can vary the licence to add the conditions at 11(a-b) above.
25. The revocation comes into effect when either an appeal is not made within the allotted time or when the appeal is finally determined or withdrawn.
26. If during the appeal period the Council considers that the licence should not continue in force without conditions it may by notice provide:
- a. That until revocation comes into effect the Scrap Metal Licence is subject to the conditions set out at 11(a-b) above.
  - b. That a variation as in 13 above comes into effect immediately.

#### **Right to make representations**

27. If a Local Authority proposes to:
- a. Refuse an application;
  - b. Revoke a licence;
- It must give the applicant or licensee a notice that sets out what the authority proposes to do and the reasons for it.
28. The applicant or Licensee will have not less than 14 days to either make a representation or inform the Council that it wishes to do so. If the applicant or licensee informs the Council that it wishes to make representation then it must be allowed a further reasonable period in which to do so.
29. The Council must consider the representations made and if the applicant or licensee wishes to make oral representations the Council must allow them to do so by giving them the opportunity of appearing before and being heard by a person appointed by the Council.

#### **Notice of Decision**

30. If the Authority refuses an application or revokes or varies the licence it must give a notice setting out the decision and the reasons for it.
31. The notice must state:
- a. That they may appeal against the decision;
  - b. The time within which they may appeal;
  - c. In the case of a revocation or variation when that will take effect.

### **Appeals**

32. An applicant/licensee may appeal to the Magistrates court against:
- a. The refusal of an application;
  - b. The inclusion of a condition on a licensee;
  - c. The revocation/variation of a licensee.
33. The appeal must be made within 21 days beginning with the day on which the notice referred to above was given.
34. On appeal the Magistrates Court may:
- a. Confirm, vary or reverse the authority's decision, and
  - b. Give such directions as it considers appropriate having regard to the provisions of this Act.

### **Supply of information by authority**

35. The Council must supply any information (which has been supplied to it under this Act and which relates to a Scrap Metal Licence or to an application for or relating to a licence) to:
- a. Any other local authority;
  - b. The Environment Agency;
  - c. The Natural Resources Body for Wales; or
  - d. An officer of a police
- Who requests it for purposes relating to the Act.

36. This does not limit any other power the Council has to supply such information.

### **Register of Licences**

37. The ***Environment Agency*** must maintain a register of Scrap Metal Licences issued by authorities in England. This was previously the responsibility of the Council.

### **Display of Licence**

#### **Site Licence**

38. The licence holder must display a copy of the licence (in a prominent place in an area accessible to the public) at each site identified in the licence.

#### **Collector's Licence**

39. The licence holder must display a copy of the licence (in a manner which enables it easily to be read by a person outside the vehicle) on any vehicle that is being used in the course of the dealer's business.

### **Penalty**

40. A licence holder who fails to comply with the above is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

### **Verification of supplier's identity**

41. A SMD must not receive scrap metal from a person without verifying the person's full name and address.

42. Verification must be made by reference to documents, data or other information obtained from a reliable and independent source. Regulations may be made to specify what these will be.

43. Breach of the above is an offence for which the following are liable:

- a. The SMD;
- b. If the metal is received at site the site manager;
- c. Any person who, under arrangements made by a person within (a –b) above who has responsibility for verifying the name and address.

44. It is a defence to this offence to show that the person made arrangements to ensure that the metal was not received in breach of the Act and took all reasonable steps to ensure that those arrangements were complied with.

45. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

#### **Offence of buying scrap metal for cash**

46. A SMD must not pay (including paying in kind for goods or services) for scrap metal except by cheque or by electronic transfer. This may be amended by the Secretary of State to include other methods of payment.

47. If a SMD breaches this section the following persons are guilty of an offence:

- a. The SMD;
- b. If payment is made at a site, the site manager;
- c. Any person who makes the payment acting for the dealer.

48. It is an defence if the person made arrangements to ensure that the payment was not made in breach and took all reasonable steps to ensure that the payment was not made in breach.

49. A person guilty of an offence under this section is liable to a fine not exceeding level 5 on the standard scale (currently £5,000).

#### **Records: receipt of metal (Section 13)**

50. If the SMD receives any scrap metal in the course of their business they must record the following information:

- a. The description of the metal, including the type, form, condition, weight and any marks identifying previous owners or other distinguishing features;
- b. The date and time of its receipt;
- c. If the metal is delivered in or on a vehicle, the registration mark of the vehicle;
- d. If the metal is delivered from a person, the full name and address of that person;
- e. If the SMD pays for the metal the name of the person who makes the payment acting for the dealer.

51. The SMD must keep copies of any documents it uses to verify the name and address of that person.

52. If the SMD pays for the metal by cheque they must keep a copy of the cheque, or if they pay by electronic transfer a copy of the receipt identifying the transfer or the particulars identifying the transfer.

### **Records: disposal of metal**

53. If a SMD disposes of any scrap metal in the course of business (which applies whether or not it is in the same form in which it was received, it is disposed of to another person or it is despatched from site) it must record the information set out below:

#### Site licence

- a. The description of the metal, including its type (or types if mixed), form and weight;
- b. The date and time of its disposal;
- c. If the disposal is to another person, the full name and address of that person;

- d. If the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received.

#### Collector's Licence

- a. The date and time of disposal;
- b. If the disposal is to another person, the full name and address of that person.

#### Supplementary

54. The information must be recorded in a manner, which allows the information and the scrap metal to be readily identified by reference to each other.
55. The information must be kept for 3 years from when the metal was either received or disposed of.
56. If there is a breach of any of the requirements relating to record keeping the following persons will be guilty of an offence:
  - a. The SMD;
  - b. If metal is received at or (as the case may be) despatched from a site, the site manager;
  - c. Any person who, under arrangements made by a person within (a) or (b) has responsibility for fulfilling the requirement.
57. It is a defence to prove that the person:
  - a. Made arrangements to ensure that the requirement was fulfilled, and
  - b. Took all reasonable steps to ensure that those arrangements were complied with.
58. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

#### **Right to enter and inspect**

59. A constable or an officer of the local authority may enter and inspect a licensed site at any reasonable time on notice to the site manager, or without notice to the site manager if:

- a. Reasonable attempts to give such notice have been made and have failed, or
- b. Entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of notice would defeat the purpose.

This does not however apply to residential premises, nor is the constable or officer allowed to use force to enter the premises this can only be done in exercise of a warrant (which can be obtained under the act).

60. A constable or officer may require production of and inspect any scrap metal kept at any premises or mentioned in any warrant obtained under the Act.

61. A person who:

- a. Obstructs the exercise of a right of entry or inspection under this section, or
- b. Fails to produce a record required to be produced under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

### **Closure of Unlicensed Sites**

62. Where a constable or the local authority is satisfied that premises are being used by a SMD in the course of business and that it is not a licensed site they may issue a closure notice.

63. When the notice has been given the constable or LA may make a complaint to a justice of the peace for a closure order. This must be made not less than 7 days after or more than 6 months after the date on which the closure notice was given.

64. The justice may then issue a summons to answer the complaint.

65. A closure order may require:

- a. That the premises be closed immediately to the public and remain closed until a constable or LA make a certificate to terminate the order;

- b. That the use of the premises by a SMD in the course of business be terminated immediately;
- c. That any defendant pays into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

66. It may also make such conditions as the court considers appropriate to the admission of persons to the premises and the access by persons to another part of any building or other structure of which the premises form part.

67. The police and LA also have powers to enforce a closure order and any person who intentionally obstructs them in exercising those powers is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

### **Review of the Act**

68. Before the end of 5 years beginning with the day on which section 1 of the act comes into force the Secretary of State must carry out and publish the conclusion of its review of the Act.

69. The report must in particular:

- a. Set out the objectives intended to be achieved by this Act,
- b. Assess the extent to which those objectives have been achieved, and
- c. Assess whether it is appropriate to retain or repeal the Act or any of its provisions in order to achieve those objectives.



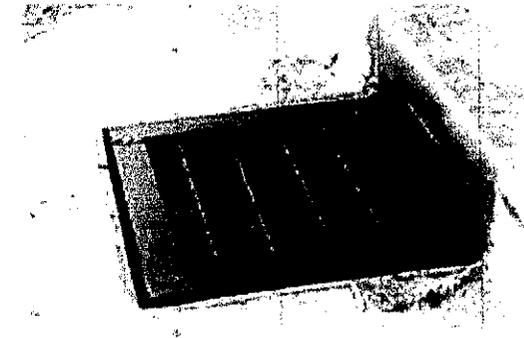
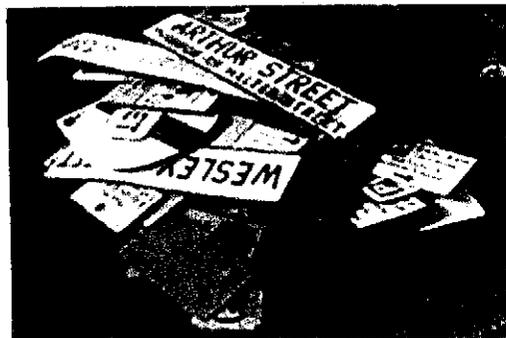
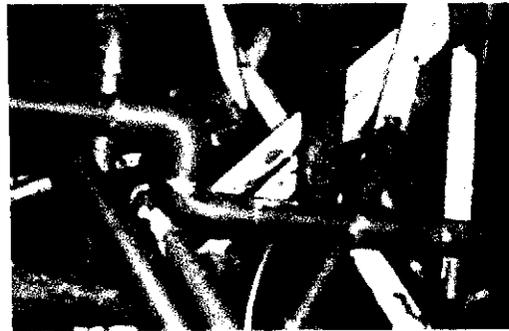
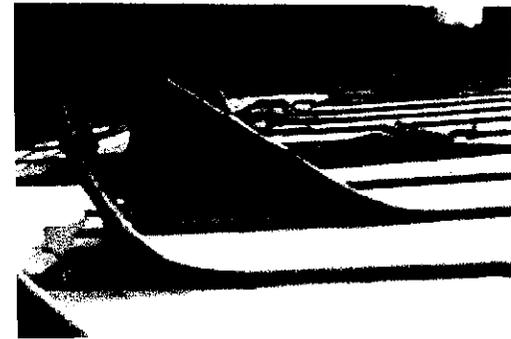
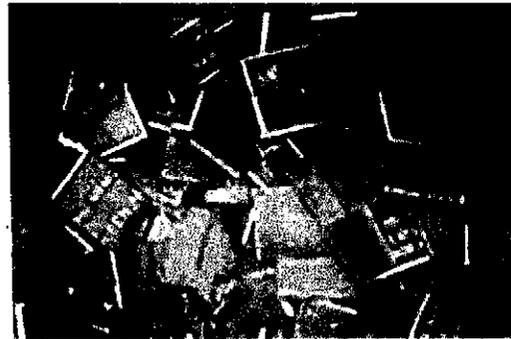
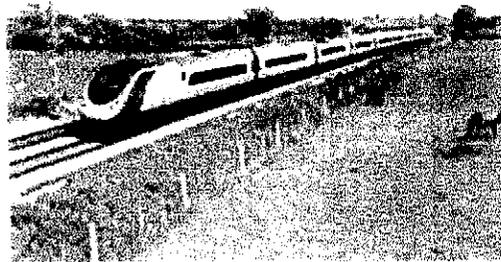


Home Office

# **The Legislative Response to Metal Theft**

Richard Pugh – Crime Directorate, Home Office  
22 March 2013

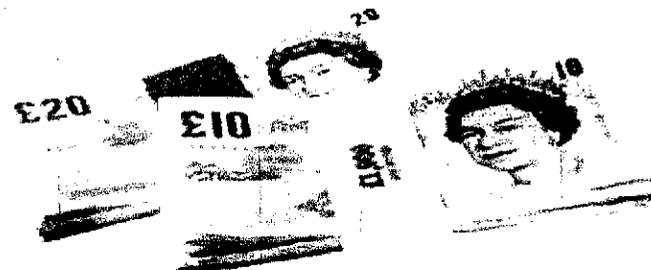
# The Problem – the theft of metal



Home Office

# Why the interest in scrap metal dealers?

- The scrap metal industry offers the principal outlet for stolen metal in the UK (ACPO).



# Existing regulation of the scrap metal sector – the Scrap Metal Dealers Act

- Parliament regulated (for the first time nationally) scrap metal dealers.

This Act is still in place today!



## Scrap Metal Dealers Act 1964

CHAPTER 69

### ARRANGEMENT OF SECTIONS

Section

1. Registration of scrap metal dealers.
2. Records of dealings.
3. Special provisions as to records in certain cases.
4. Power for court to impose additional requirements on convicted dealers.
5. Other offences relating to scrap metal.
6. Rights of entry and inspection.
7. Partnerships.
8. Financial provisions.
9. Interpretation.
10. Repeals.
11. Short title, commencement and extent.

SCHEDULE: Enactments repealed.

# The Scrap Metal Dealers Act 1990

- Local authority administered regime
- Has three requirements:
  1. Section 1 – that scrap metal dealers must register with their local authority every 3 years
  2. Section 2 – every scrap metal dealer must keep a book recording all metal received, processed and despatched
  3. Section 5 – no scrap metal dealer can acquire any scrap metal from a person “apparently” under the age of 16

# The prohibition of cash

- A fourth requirement was added to the 1964 Act by the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- From 3 December 2012 a scrap metal dealer must not pay for scrap metal except by:
  - (i) non-transferable cheque, or
  - (ii) by an electronic transfer of funds (authorised by credit or debit card).

# Who does this offence apply to?

- Businesses who purchase scrap metal including:
  - Any business that principally operates as a scrap metal dealer (whether or not they are registered under the SMDA 1964)
  - Metal “itinerant” collectors – (collectors who hold an Order under s3(1) of the SMDA 1964 are exempted)
  - Motor salvage operators - unless they are purchasing non-vehicle scrap metal, in which case they should be considered a scrap metal dealer



# Acceptable payment methods

## cheques

### 1) Crossed-cheques

- Must be to a verified named person
- A copy of the cheque must be recorded
- No time limits when cheques can be cashed
- Can be cashed by any third party – including by scrap metal dealers acting as an agent.
  - but any business wishing to cash cheques must be registered with HMRC as a “Money Service Business” and comply with the Money Laundering Regulations 2007

# Acceptable payment methods

## electronic transfer

### 2) Electronic transfer

- Must be via a method that is transparent and traceable
- The transfer must be to a named account
- A receipt must be produced and kept
- Some re-loadable cards are acceptable, providing they are issued and linked to a named person.

# Legal Aid, Sentencing and Punishment of Offenders Act 2012

- In addition to creating the new cash criminal offence, we were also able through the LASPO Act 2012 to:
  1. Increase the financial penalties by two levels for each of the offences in the SMDA 1964
  2. Revise police powers of entry into unregistered scrap metal sites
- The scope of the Bill did not allow us to do anymore.

# The time for regulatory change



## Scrap Metal Dealers Act 2013

CHAPTER 2

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Explanatory Notes have been produced to assist in the  
understanding of this Act and are available separately.

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Home Office

# The Scrap Metal Dealers Act 2013

- Home Office handout bill
- Adopted by Richard Ottaway MP
- Received Royal Assent on 28 February having passed both the Commons and the Lords
- The Home Office will lead on commencing the Act
- Anticipated commencement on 1 October 2013
- Will cover England and Wales only.
- Will be statutorily reviewed within 5 years



# The Scrap Metal Dealers Act 2013

## licences created

- The Act creates two different licences:
  - (1) SITE** - in the local authority area in which the site(s) is located  
*(a licence can cover multiple sites if operated by the same company)*
  - (2) COLLECTOR** - in the local authority area in which the collector wishes to collect from  
*(note - collectors will need a separate licence from each local authority in whose area they collect in)*



# The Scrap Metal Dealers Act 2013

## Key Features

- Will create a local authority administered, robust licensing regime for the scrap metal sector
- Suitability test
- Revocation of licence
- Closure powers for unlicensed sites
- Licence fee – determined by each LA locally
- Entry and inspection powers
- Greater record keeping requirements
- Site and vehicle badging
- National register of licensed dealers

# The new regime

- The following will be included – extended scope from the 1964 Act:
  - scrap metal dealers;
  - mobile collectors (who do not have a site);
  - motor salvage operators; and
  - all other businesses who buy or sell scrap metal “in the course of their business” - this does not include businesses who buy or sell scrap as the occasional result of their primary business (e.g. pawnbrokers)

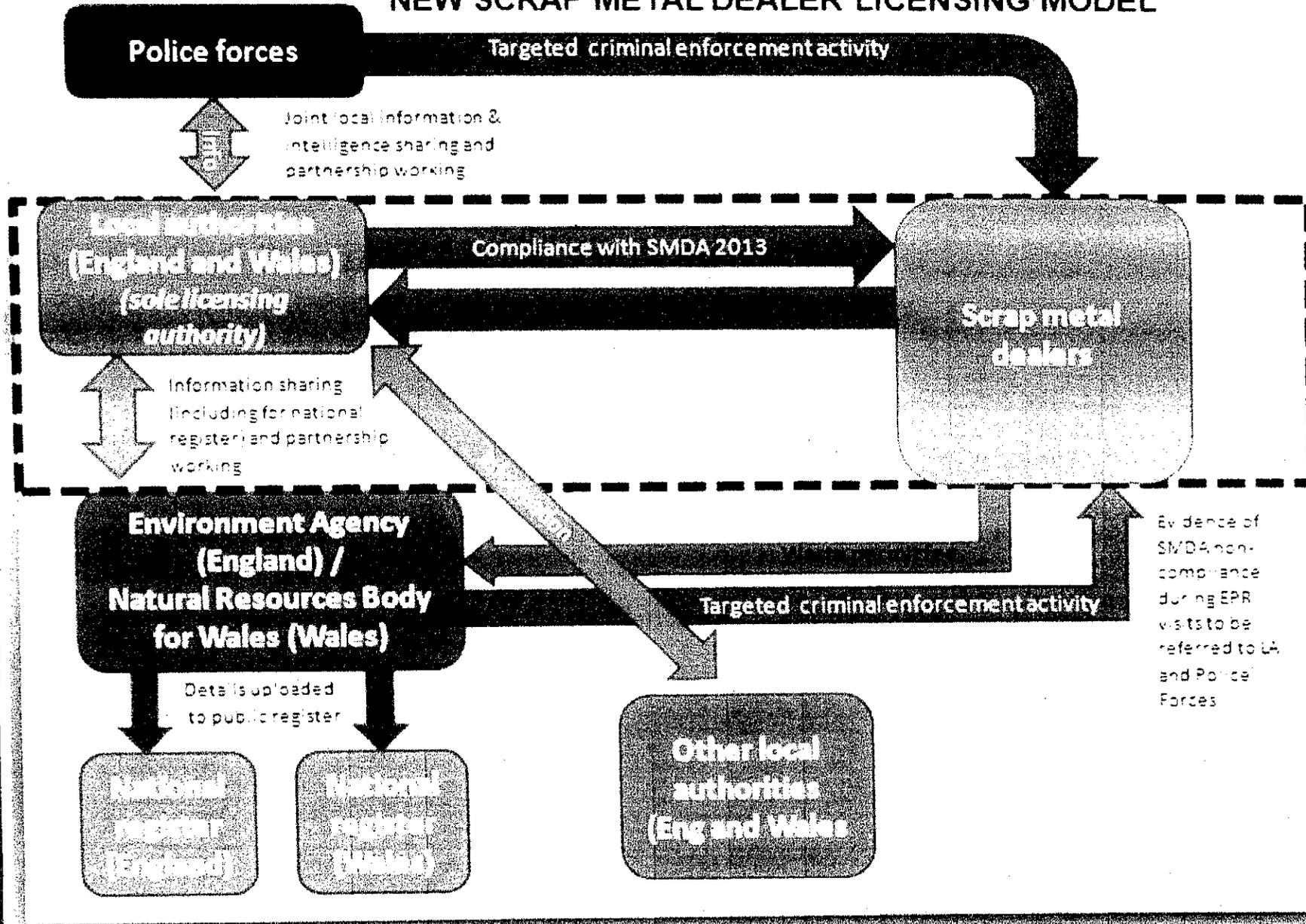
# What is scrap metal?

- The definition of scrap metal has been amended by the Act.
- “Un-worked” metal: “old, waste or discarded”
- “Worked” metal: “broken, worn out or regarded by its last holder as having reached the end of its useful life”.
- Includes all metals with the exception of gold and silver
- BUT – “scrap” does not mean “second hand”

# Licence conditions for scrap metal dealers

- Scrap metal dealers must:
  - obtain a licence (either a site or a collector's licence) to operate as a scrap metal dealer
  - prominently display their licence in a publically accessible place;
  - verify and record the identification of the person selling the metal;
  - not purchase metal for cash; and
  - keep records of all metals received and disposed of.

# NEW SCRAP METAL DEALER LICENSING MODEL



- For more information –

Richard Pugh

[richard.pugh@homeoffice.gsi.gov.uk](mailto:richard.pugh@homeoffice.gsi.gov.uk)

# MINUTES OF THE RV SAFETY ADVISORY GROUP

## THURSDAY 23 MAY 2013 @ 2.00pm

<u>PRESENT:</u>	Terry Longden (Chair)	RVBC
	Chris Shuttleworth	RVBC
	Phil Dodd	RVBC
	Linda Jones	RVBC
	Craig Jarrett	Police
	Dave Mangan	Police
	Peter Frazer	Fire & Rescue
	Eddie Mills	LCC Highways

	ACTION
<p><b>APOLOGIES</b></p> <p>Apologies for absence were submitted on behalf of Insp Lister, Pat Douglass (LCC) and Diane Rice, Catherine Moore, James Russell, Julie Whitwell (RVBC).</p> <p><b>INTRODUCTIONS</b></p> <p>Terry welcomed everyone to the meeting. Each person introduced themselves to the rest of the group.</p> <p><b>REVIEW OF PAST EVENTS / FEEDBACK (up to 23 May 2013)</b></p> <ul style="list-style-type: none"> <li>• 4 – 6 April – a few events in Hurst Green over a weekend that had ‘fed on each other’. This had caused some traffic issues for the Police.</li> <li>• 12 May – clash of cycle events, one of which was a race and the other a sponsored event. The race had changed their route late in the day that LCC had not been aware of. It was imperative that organisers inform LCC of their routes.</li> <li>• 4 May – Valley Gigs - a problem with an additional gazebo that had not been secured down. Quickly remedied once pointed out.</li> <li>• 19 May – Whit Walk, Read/Simonstone – although this event did not present any threat/risk it had been policed in the nature of ‘good community relations’. It was uncertain as to whether this could be done again next year. The organisers must consider what they can do to minimize the risk in future.</li> </ul> <p><b>CHANGES TO PROCESS</b></p> <p>Following the above review/feedback it was agreed that</p> <ul style="list-style-type: none"> <li>• the events calendar should be included on the website</li> <li>• additions to the events form should be made to include an agreement for details to be released on the website to facilitate the above and asking events organisers to check for events on the same date as their own</li> <li>• as much information as possible should be included on the events calendar eg cycle routes</li> </ul> <p>It was acknowledged that it was the event organisers responsibility to provide information as well as check details if they know another event is on the same day as their own.</p> <p>LCC are looking at the whole issue of road closures. Consideration would be given as to whether there could be a group of trained people that could be called upon; or whether organisers could be trained adequately to marshal their own</p>	<p>TL / OH</p> <p>TL</p> <p>OH</p>

events.

#### EVENT CALENDAR – FUTURE EVENTS

- Chipping Steam Fair – Julie Whitwell will attend
- Little Treasures Fun Run – flagged up with LCC
- Cycle Races – Terry will talk to Gary Makin about writing to British Cycle Association
- Beatherder – CS referred to the SAG policy as well as the conditions attached to the Licence with particular reference to having a contingency plan; crowd safety management plan and a major incident plan. Major incidents could include flooding, fire or collapsed staging that may require the movement of large numbers of people, alternative accommodation and facilities.  
CJ has received a comprehensive plan that may cover major incidents – he would check and let CS know.
- Food Festival – on-going
- LNOP – Terry would ask Clitheroe Town Council for a proportionate event plan, numbers, and discuss whether these should be ticketed events
- Ride with Brad – the current position with LCC was that organisers must take the initiative of checking the routes with LCC – Terry would speak to Andy Ashcroft about LCC contacting organisers rather than relying on organisers to contact them. Otherwise we would need to add something to the website information and events form.
- 7/8 Sept cycle ride/race – PF would chase up for further information
- Bonfire – PD was working with the organisers on an event plan. He was dealing with Mike Bryant. They had decided it would be a 5000 ticketed event sold in advance with no admissions on the night. 'Grounds Closed' signs would be put up in the Castle Grounds during the day. PF offered the services of Craig Hetherington (Fire Safety Enforcement) to train the bonfire marshals – he would contact PD direct. The organisers were looking to put something positive in the press soon about the event. DM indicated that there would be both neighbourhood police and contingency police on duty. This would help with the extra people in town who come just to watch the fireworks or arrive thinking they can get access to the bonfire site.

PF reported that he automatically passed information on to Dave McGrath @ Clitheroe Fire Station so that they were aware of closed roads etc for access reasons. He would also inform Olwen which events they would have input into.

DM asked that the Police column on the events calendar be changed to incorporate LCC and Traffic Management.

#### DATE OF NEXT CORE MEETING

The next meeting would be held on Thursday 5 September 2013 at 2pm in the Training Room, Level D of the Council Offices.

The meeting closed at 3.30pm

TL

CJ

TL

TL

PF

PF

TL / OH