



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 14TH NOVEMBER 2016
AT 6.00 P.M.

PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE, B61 8DA

MEMBERS: Councillors C. J. Spencer (Vice-Chairman), M. T. Buxton,
B. T. Cooper, R. L. Dent, J. M. L. A. Griffiths, C. M. McDonald,
S. R. Peters, S. P. Shannon, P.L. Thomas, L. J. Turner and
S. A. Webb

AGENDA

1. Election of Chairman
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
4. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 13th June 2016 (Pages 1 - 8)
5. Draft Scrap Metal Licensing Policy - Consultation Results (Pages 9 - 32)
6. Hackney Carriage and Private Hire Penalty Points Scheme (Pages 33 - 36)
7. Licensing Committee Work Programme (Pages 37 - 38)

8. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

K. DICKS
Chief Executive

Parkside
Market Street
BROMSGROVE
Worcestershire
B61 8DA

31st October 2016



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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 13TH JUNE 2016 AT 6.10 P.M.

PRESENT: Councillors M. T. Buxton, R. L. Dent, P. Lammas, C. M. McDonald, K.J. May, S. P. Shannon, P.L. Thomas and S. A. Webb

Observers: Councillor R. J. Laight, Portfolio Holder for Environmental Services and Regulatory Services

Officers: Mrs. V. Brown, Mr. D. Etheridge, Mrs. A. May and Mrs. P. Ross

1/16 **ELECTION OF CHAIRMAN**

Nominations for Chairman were received in respect of Councillors M. T. Buxton and B. T. Cooper.

RESOLVED that Councillor B. T. Cooper be elected as Chairman for the ensuing municipal year.

2/16 **ELECTION OF VICE-CHAIRMAN**

A nomination for Vice-Chairman was received in respect of Councillor C. J. Spencer.

RESOLVED that Councillor C. J. Spencer be elected as Vice-Chairman for the ensuing municipal year.

3/16 **ELECTION OF CHAIRMAN TO PRESIDE AT THE MEETING**

In the absence of the elected Chairman, Councillor B. T. Cooper and the elected Vice-Chairman, Councillor C. J. Spencer for the ensuing municipal year; a nomination for Chairman to preside at the meeting was received in respect of Councillor P. L. Thomas.

RESOLVED that Councillor P. L. Thomas be elected as Chairman to preside at the meeting.

4/16 **APOLOGIES**

Apologies for absence were received from Councillors B. T. Cooper, S. R. Peters, C. J. Spencer and L. J. Turner. The Committee was advised that Councillor K. J. May was attending as the substitute member for Councillor C. J. Spencer.

5/16 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

6/16 **MINUTES**

The minutes of the meeting of the Licensing Committee held on 14th March 2016 were submitted.

RESOLVED that, subject to it being noted with regard to the misspelling of Royal Assent, that the minutes of the meeting held on 14th March 2016 be approved as a correct record.

7/16 **LICENSING ANNUAL REPORT 2015/ 2016**

The Committee considered the Licensing Annual Report 2015/2016 which provided an overall view of the activities, under the Licensing Act 2003, Gambling Act 2005 and other aspects of Licensing, and to inform the Committee on any issues anticipated in the ensuing year. The report detailed the work carried out by Worcestershire Regulatory Services (WRS) Enforcement and Licensing Teams for Bromsgrove District Council.

The Senior Licensing Practitioner, WRS, introduced the report and in doing so informed the Committee that the Street Amenity Policy had now been approved and that a Street Amenity application had been received by WRS.

During 2015/2016 the Council's Statement of Principles under the Gambling Act 2005 was reviewed and a revised Statement of Principles was published with effect from 31st January 2016.

The Council's current Statement of Licensing Policy under the Licensing Act 2003 was published with effect from 1st May 2014. The Statement of Licensing Policy was due to be revised prior to the 1st May 2019. In 2016 the Council also consulted on and adopted the first comprehensive policy on the licensing of Sex Establishments within the District.

The report further informed Members that during December 2015 a late night enforcement operation in partnership with West Mercia Police had been conducted. WRS licensing officers and police officers had visited a number of licensed premises in order to carry out spot checks on licensed vehicles. The Council's depot was utilised to carry out mechanical safety checks on vehicles that had been checked at the roadside but also required additional scrutiny.

The report also detailed the following information:-

- New licences issued and granted by Bromsgrove District Council in 2015/2016, under the Licensing Act 2003.
- Premises that continued to be licensed by Bromsgrove District Council under the Gambling Act 2005.

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- The number of Hackney Carriage and Private Hire licensed vehicles and drivers, which had increased slightly over the course of the year.
- The number of Site Licenses and Mobile Collector Licences issued under the Scrap Metal Dealers Act 2013.

WRS licensing officers kept in regular contact with the appointed taxi trade representatives by phone and one to one meetings when required and regularly attended and represented Bromsgrove District Council at a number of local and regional meetings.

In 2014 a site management agreement was negotiated and entered into with the Public Fundraising Regulatory Association (PFRA) in order to regulate face-to-face fundraisers in the town centre.

In response to Members, the Senior Licensing Practitioner, WRS informed the Committee that there was no specific legislation to consider when imposing a 'cap' on the number of Hackney Carriage Vehicles licensed in the district. Not many authorities imposed a 'cap' on the number of Hackney Carriage Vehicles licensed. Worcester City Council had recently imposed a 'cap' whereby no new hackney carriages were granted a licence unless they replaced an existing vehicle.

The Senior Licensing Practitioner, WRS highlighted that the Council would be required to have robust evidence in place in order to impose a 'cap' on the number of Hackney Carriage Vehicles licensed in the district

A survey would need to be conducted every three years and consultation with the taxi trade in order to provide robust evidence that there was a need to impose a 'cap' on the number of Hackney Carriage Vehicles licensed in the district; and that any imposed 'cap' would not leave any unmet demand in the district. Any imposed 'cap' could be challenged; hence the reason to ensure that there was robust evidence in place before imposing a 'cap'.

In response to Councillor S. P. Shannon, the Senior Licensing Practitioner, WRS informed the Committee that there was no ability to 'cap' the number of scrap metal collector licenses issued in the district.

In response to questions from Members the Senior Licensing Practitioner, WRS reminded the Committee of the recent site management agreement that was negotiated and entered into with the Public Fundraising Regulatory Association (PFRA) in order to regulate face-to-face fundraisers in the town centre. With regards to street collections, the Council has a street collection policy that was approved by Licensing Committee Members on 22nd September 2014.

RESOLVED: that the Licensing Annual Report 2015/2016 be noted.

8/16

DRAFT SCRAP METAL LICENSING POLICY - APPROVAL FOR CONSULTATION

The Committee considered a report to approve, for the purpose of consultation with relevant parties, the draft Scrap Metal Licensing Policy and Guidelines, as detailed at Appendix 1 to the report, for the licensing of scrap metal sites and collectors in the district.

The Senior Licensing Practitioner, Worcestershire Regulatory Service (WRS) introduced the report and in doing so, reminded Members that the Scrap Metal Dealers Act 2013 was introduced to replace the previous regulatory scheme for scrap metal dealers and for vehicle dismantlers. The Scrap Metal Dealers Act 2013 required anyone who dealt in scrap metal to obtain and display a relevant licence and provided both the police and local authorities with more powers of entry and inspection; as well as allowing a more thorough application process whereby licences could be refused and subsequently revoked if scrap metal dealers were deemed 'unsuitable'.

Licensing Committee Members had previously received briefing reports during Licensing Committee meetings held on 20th March 2013 and 17th March 2014, on the provisions of the Scrap Metal Dealers Act 2013. The Act came into force on 1st October 2013, with full enforcement powers coming into effect on 1st December 2013.

The Senior Licensing Practitioner, WRS drew Members' attention to page 19 of the report, paragraph 1.4, which detailed those to be consulted with on the draft Scrap Metal Licensing Policy and Guidelines, as detailed at Appendix 1 to the report.

RESOLVED:

- (a) that the draft Scrap Metal Licensing Policy and Guidelines, as detailed at Appendix to the report, be approved for the purpose of consultation with relevant parties, as detailed in the report; and
- (b) that following consultation the responses received be presented to a future meeting of the Licensing Committee.

9/16

WHEELCHAIR ACCESSIBLE VEHICLES (WAV'S) - CONSULTATION RESULTS

Following on from the Licensing Committee meeting held on 9th November 2015; whereby Members agreed to a further consultation being conducted in order to ascertain if there was an unmet demand for Wheelchair Accessible Vehicles (WAVs) within the district. Members were asked to consider the results of the additional consultation undertaken by Worcestershire Regulatory Services (WRS) with regards to WAVs.

The Senior Licensing Practitioner, WRS, presented the report and in doing so reminded Members that following consideration of the initial consultation results, Members had expressed their concerns about the

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low number of licensed Wheelchair Accessible Vehicles (WAVs) within the district. Licensing Committee Members had therefore agreed that a further consultation be conducted in order to ascertain if there was currently an unmet demand for WAVs as Hackney Carriages within the district or if this was the perception.

In late November 2015 licence holders were sent a copy of the questionnaire, as detailed at Appendix 1 to the report. An additional questionnaire, as detailed at Appendix 2 to the report, was sent to all members of the Bromsgrove Engagement and Equalities Forum, all members of Bromsgrove and Redditch Network (BARN), the Worcestershire and Warwickshire Royal Voluntary Service and the Life After Stroke Centre. A copy was also placed on the Council's website, a press release was issued in order to draw attention to the consultation and social media channels were also utilised in order to raise awareness of the consultation.

The Senior Licensing Practitioner, WRS, drew Members' attention to the responses received, as detailed at Appendices 3 and 4 to the report.

The Senior Licensing Practitioner, WRS, highlighted that only two responses had been returned from licence holders, as detailed at Appendix 3. Neither of the respondents currently owned a hackney carriage vehicle capable of carrying a passenger who could remain seated in their wheelchair whilst travelling. Neither respondent had identified any factors that would encourage them to purchase a WAV.

The Senior Licensing Practitioner, WRS, further informed the Committee that there had been considerable opposition from the taxi trade as they did not consider that there was currently a demand for WAVs in the district.

Only seven completed surveys were received to the consultation survey sent out to the relevant organisations, as detailed in the preamble above. A table of those responses was detailed at Appendix 4 to the report. The majority (71%) of respondents strongly agreed that there were not enough WAVs in Bromsgrove. Only one respondent agreed that they found WAVs difficult to access and preferred saloon style vehicles. Six out of the seven who responded either used a wheelchair or cared for a person who did. The vast majority of respondents said that they preferred to travel in a taxi whilst they remained seated in their wheelchair. All of those who responded agreed that they pre-booked taxis that met their requirements.

The Senior Licensing Practitioner, WRS, informed Members that passengers who wanted to remain seated in their wheelchair whilst travelling in a taxi would struggle to find a suitable vehicle on the taxi ranks in the district.

Councillor S.P. Shannon raised several questions with regard to the improved facilities for wheelchair users that would be provided at the

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new railway station. He felt that there was some resistance to supply a suitable taxi service. It was a slow change getting buses adapted, but this had now been achieved and had made it easier for wheelchair users to access the bus services provided. With the facilities that would be made available at the new railway station there could be a potential increase in wheelchair users visiting Bromsgrove, which would potentially see an increased need in the number of WAVs needed within the district. Councillor S. P. Shannon further asked if there was a quota requirement in other authorities for WAVs.

In response the Senior Licensing Practitioner, WRS, informed the Committee that Redditch Borough Council had adopted a policy that applications for additional licences for Hackney Carriages would only be granted to approved new vehicles with facilities for carrying a disabled person in a wheelchair within the vehicle. All Hackney Carriage vehicles licensed by Coventry City Council must have access for wheelchairs. Wyre Forest District Council only licenced new vehicles of a purpose built design for use as Hackney Carriages. The vehicle must be designed and developed exclusively for use as a wheelchair accessible taxi.

The Senior Licensing Practitioner, WRS, further informed the Committee that the perception within the taxi trade was that WAVs were expensive to purchase and maintain and that the taxi trade felt there was not a huge demand for WAVs in the district. He felt that perhaps the taxi trade needed more information about the cost of purchasing and maintaining WAVs. The low number of WAVs in the district was not good, hopefully the new railway station could make drivers realise there was a demand. Licensing officers could look at incentives to encourage drivers to purchase WAVs. He would reiterate that robust evidence would need to be documented if Members were minded to change the Council's current policy.

Members continued with further questions and debate with regard to the Council having a duty to ensure that the demand for WAVs was met. Some Members expressed their concerns in respect of amending the Council's current policy and felt it would be unfair to demand that Hackney Carriage applications only be approved if the vehicle has access for wheelchairs; whilst other Members felt that the Council's current policy should be changed. Wyre Forest had been challenged legally regards their policy but had won the challenge. There was a requirement to ensure equality and diversity and that everyone was treated equally, the responses received to the survey sent to relevant organisations had shown that 71% of respondents strongly agreed that there were not enough WAVs in Bromsgrove.

The Council's Legal Advisor further reiterated the comments made earlier by the Senior Licensing Practitioner, WRS, robust evidence would be needed to support any policy changes. She would agree that perhaps the taxi trade needed more information about the costs of purchasing and maintaining WAVs.

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The Senior Licensing Practitioner, WRS, clarified that he had not been provided with any information from the agencies, as detailed in paragraph 3.10 in the report, as to the number of clients they had asked to respond to the survey.

Following further debate it was agreed that

RESOLVED:

- (a) that Licensing Officers, WRS, explore other options to potentially increase the number of Wheelchair Accessible Vehicles (WAVs) licensed as hackney carriages in the Bromsgrove district; and
- (b) that the findings be brought back to a future meeting of the Licensing Committee.

10/16

LICENSING COMMITTEE WORK PROGRAMME 2016 / 2017

The Committee considered the Work Programme for 2016/2017.

RESOLVED that the Licensing Committee Work Programme be updated to include the items discussed and agreed during the course of the meeting.

The meeting closed at 7.15 p.m.

Chairman

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SCRAP METAL LICENSING POLICY AND GUIDELINES

Relevant Portfolio Holder	Councillor R Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Bromsgrove District Council is responsible for issuing site and collector licences under the Scrap Metal Dealers Act 2013. This report presents the responses received during the consultation on a draft policy and guidelines for the licensing of scrap metal sites and collectors in the District and asks Members to approve the finalised policy and guidelines.

2. RECOMMENDATIONS

Members are asked to note the consultation responses and RESOLVE to approve the finalised policy and guidelines at Appendix 2.

3. KEY ISSUES

Financial Implications

- 3.1 The costs involved in carrying out the consultation were met by existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Council is under no legal obligation to have a policy in place. However, this policy will assist the Council in achieving consistency, fairness and transparency in its decision making process.
- 3.3 Application of the policy in the decision making process will enable the Council to minimise successful legal challenges and appeals. Officers and the Committee should have regard to all the circumstances of a particular case and would be entitled to have due regard to this policy.

Service / Operational Implications

- 3.4 The Scrap Metal Dealers Act 2013 (the Act) was introduced to replace the previous regulatory scheme for scrap metal dealers and for vehicle dismantlers. It requires anyone who deals in scrap metal to obtain and display a relevant licence and gives the police and local authorities more powers of entry and inspection as well as allowing a more thorough application process where licences can be refused and subsequently revoked if dealers are deemed 'unsuitable'.
- 3.5 The Committee has previously received reports to brief them on the provisions of the Act, which came into force on 1st October 2013, with full enforcement powers coming into effect on 1st December 2013. The Council has agreed the fees to be charged and the delegation of functions relating to the licensing processes under the Act.
- 3.6 A draft policy was then produced which aims to give clear guidance as to how the Council will administer and enforce the requirements of the Act. The draft policy was prepared in accordance with the Act and the regulations that govern it.
- 3.7 The provision of a policy and guidelines aims to provide residents, applicants and other agencies with a benchmark of the licensing authority's expectations and will assist them in understanding statutory requirements. This document will also assist people to submit complete and accurate applications thereby reducing unnecessary work and delays.
- 3.8 It is intended to ask each of the six district Councils in Worcestershire to adopt a similar policy to improve consistency of practise and decision making across the County.
- 3.9 Members approved the draft policy for the purpose of consultation at the Licensing Committee meeting on 13 June 2016.
- 3.10 Consultation subsequently took place with relevant partners and representatives of the metal recycling industry. Consultation took place electronically and approximately eleven weeks was provided for people to provide their feedback on the draft policy.
- 3.11 Only one response was received during the consultation. The response was received from Robin Edwards a Director of Obis Consultancy, who was part of the team that drafted the guidance on the Scrap Metal Dealers Act 2013, when the Act was first being implemented.
- 3.12 Mr Edwards could see no issues with the document and wished to commend the Council for reinforcing the importance of the Act to the recycling industry through the draft policy. Mr Edward's response can be seen in full at **Appendix 1**.

LICENSING COMMITTEE

14 November 2016

- 3.13 As there were no adverse comments in relation to the draft policy, Members are now asked to approve this as the finalised document as shown at **Appendix 2**.

4. RISK MANAGEMENT

- 4.1 Application of the policy will provide clarity when determining applications and reduces the risk of challenge and appeal. Consultation with relevant stakeholders will minimise the risk of challenge.

5. APPENDICES

Appendix 1 – Consultation Response
Appendix 2 – Finalised Policy and Guidelines

AUTHOR OF REPORT

Name: Dave Etheridge – Senior Practitioner (Licensing)
Worcestershire Regulatory Services

E Mail: dave.etheridge@worcsregservices.gov.uk

Tel: (01905) 822799

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From: Robin Edwards
Sent: 22 July 2016 09:12
To: Dave Etheridge
Subject: RE: Voice your views on council's scrap metal policy

Hi Dave,

I have read through the document and I see no issues at all with it, in fact I want to commend you on re-enforcing the importance of the act to the recycling industry.

I'm afraid to say that over the last 6 months or so the last of the dedicated teams have been disbanded and this is a real shame. You may be aware of the problems we are facing in the East of England with lead theft. It's becoming a significant problem and in Norfolk they had seven churches hit in as many weeks and they are not alone. At the end of last year I trained over a hundred police officers and not one of them had any knowledge of the SMDA 2013 or what to look for when visiting a scrap yard.

One of the other problems which is re-emerging is the use of cash; I am receiving reports of cash returning on a daily basis, and we are not just talking about small amounts but also the larger quantities between businesses. I report this via my contacts in the NCA and HMRC, but as you can imagine this is resource intensive and is often ignored.

Most of my work is focused on corporate asset theft which is the hidden problem that is often ignored or missed. Businesses are losing, millions of pounds as a result of unscrupulous contractors, employees and scrap dealers. However, all of this material is being sold to scrap dealers who now (with exceptions) facing very little if any scrutiny from enforcement agencies.

Again I would like to congratulate you on your efforts and if more areas took the same stance we might be able to keep a lid on this.

Thanks

Rob

Kind Regards

Robin Edwards BA (Hons)
Director
Onis Consulting Limited

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Bromsgrove District Council

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BROMSGROVE DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY AND GUIDELINES FOR SCRAP METAL

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1. Introduction

- 1.1 Metal theft over recent years has had a significant impact on communities, businesses and local authorities alike. Such thefts have seen communications and the train network disrupted, historic buildings, churches etc. desecrated, and everybody's safety put at risk with inspection covers, drainage gully covers and road signage being stolen. The Scrap Metal Dealers Act 2013 has been created to help prevent some of the previous issues surrounding the sale, collection, storage and disposal of scrap metal. The Act provides a stronger legislative framework to empower local authorities and police forces in their fight against metal thieves, whilst strengthening and supporting legitimate scrap metal dealers.
- 1.2 This Policy outlines the requirements of the Scrap Metal Dealers Act 2013 (the Act). It gives guidance to new applicants, existing licence holders, consultees and members of the public as to how the Council will administer and enforce the requirements of the Act.
- 1.3 Bromsgrove District Council (the Authority) under the Act may depart from this policy if individual circumstances of any case warrant such a deviation. In such cases the Authority must give full reasons for doing so.
- 1.4 This Policy will be reviewed on a regular basis. In the preparation and publication of this Policy in addition to residents and scrap metal dealers, the following will be consulted:
 - a) West Mercia Police
 - b) The Environment Agency
 - c) Environmental Health
 - d) Trading Standards
 - e) British Transport Police
 - f) Existing Licence Holders
 - g) Relevant Trade Associations
 - h) The Council's Development Control Team
 - i) Parish Council's
 - j) Hereford and Worcester Fire & Rescue Service

2. Background

- 2.1 The Scrap Metal Dealers Act 2013 came into effect on 1st October 2013, with full enforcement powers coming into effect on 1st December 2013. It repeals previous legislation and creates a revised regulatory regime for scrap metal recycling and vehicle dismantling industries across England and Wales.
- 2.2 The Act defines a 'scrap metal dealer' as a person who carries on the business which consists wholly or in part of the buying or selling of scrap metal, whether or not the metal is sold in the form it was bought. This does not include manufacturing operations that sell metal as a by-product of the processes being used in that operation. It does, however, include the business of collecting scrap metal, i.e. door to door collectors even if no money is paid for scrap metal collected.
- 2.3 The definition of scrap metal dealer is wide and may include skip hire firms, and tradesmen, such as plumbers and builders who sell scrap metal resulting from their businesses.
- 2.4 In these circumstances, each business will be considered on its own merits, but consideration will be given to the amount of metal sold and how incidental the sale is to the main business. So, in most cases, for plumbers, electricians and builders etc. the sale of metal will be incidental and should not require a licence. However, skips sited at demolition sites, or at engineering manufacturing sites or plumbers' yards, are likely to contain a significant amount of metal, so the skip hire company may require a licence if they are involved in the buying or selling of scrap metal.
- 2.5 The Act identifies the local authority of each district as the principal regulator for their area and gives them the power to regulate these industries by the ability to refuse licences to 'unsuitable' applicants and the power to revoke those licences held by licence holders who become 'unsuitable'.
- 2.6 The Act states that 'scrap metal' includes:
- any old, waste or discarded metal or metallic material, and
 - 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 definition includes platinum and other rare metals now being used in catalytic converters and vehicle exhausts.
- 2.7 The following is **not** considered to be 'scrap metal'
- gold;
 - silver, and
 - any alloy of which 2 per cent or more by weight is attributable to gold or silver.
- 2.8 A scrap metal dealer also includes someone carrying on the business as a motor salvage operator. Motor salvage operator is defined as a business that:

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

2.9 The Act is not intended to include second hand goods. Jewellers or businesses trading in second hand gold, silver and products are not included in this legislation. However, if they buy or sell any other metals at scrap value they may fall within the definition of a scrap metal dealer.

2.10 Vehicles without a certificate of destruction, with or without a valid MOT or re-usable & tested parts removed from an end of life scrap vehicle may not be considered as scrap but as a vehicle commodity and could therefore be classed as second hand goods. Other vehicles are likely to be considered scrap. These aspects will be considered when the Council determines whether or not a scrap metal dealer licence is required. It should also help prevent any motor salvage operators attempting to circumvent the legislation and its requirements.

2.11 Any words or expressions in this Policy have the meaning assigned to them under the Act.

3. Types of Licence

3.1 A licence is required to carry on business as a scrap metal dealer. A licence once granted lasts for three years. Trading without a licence is a criminal offence.

3.2 There are two types of licences specified in the Act:

Site Licence

All sites operating as a scrap metal business must be licensed. Each site must have a named site manager. A site licence allows the licence holder to transport scrap to and from the site from any local authority area.

Collector's Licence

This licence allows the holder to collect scrap within the area of the issuing local authority. This licence does not permit the holder to operate a scrap metal site, nor does it allow the collection outside of the area of the issuing authority. If a person collects scrap from more than one local authority area, a collector's licence will be required from each local authority he/she collects scrap within.

A scrap metal dealer may not hold more than **ONE** licence issued by any one local authority.

3.3 A site under the Act is defined as 'any premises used in the course of carrying on a business as a scrap metal dealer, (whether or not metal is kept there)'. This means a

dealer will require a site licence for an office, even if they do not operate a metal store or yard from those premises.

- 3.4 Holding a site or collector's licence does not exempt the licensee from requiring any other licence or permit to operate a scrap metal business. For example, a waste carrier registration issued by the Environment Agency.

4. Suitability of Applicant

- 4.1 The Council must determine if an applicant is a suitable person to carry on business as a scrap metal dealer.

- 4.2 The Council must have regard to any information which it considers to be relevant, this may include:

- a) Whether the applicant or site manager has been convicted of any relevant offence; or
- b) Whether the applicant or site manager has been the subject of any relevant enforcement action; or
- c) Whether there has been any refusal of an application for the issue or renewal of a scrap metal licence, and the reasons for the refusal; or
- d) Whether there has been any refusal of an application for a relevant environmental permit or registration, and the reasons for the refusal; or
- e) If there has been any previous revocation of a scrap metal licence, and the reasons for the revocation; or
- f) Whether the applicant has demonstrated there will be adequate procedures in place to ensure compliance with the Act.

- 4.3 When establishing the applicant's suitability, the Council may consult with other persons, including in particular:

- a) West Mercia Police;
- b) The Environment Agency;
- c) Environmental Health;
- d) Trading Standards;
- e) The Council's Development Control Team
- f) Any other Licensing Authority

- 4.4 Relevant offences or relevant enforcement action are those listed under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

5. Supply of Information by Authority

5.1 Information supplied to the Authority in relation to an application for, or relating to a scrap metal licence must be provided when requested relating to a licence to:

- a) any other local authority;
- b) the Environment Agency; or
- c) an officer of the police force.

This does not limit any other powers and duties the Council has to supply that information.

6. Register of Licences

6.1 The Environment Agency will maintain a register of scrap metal licences issued by all local authorities in England. The register will include the following information:

- a) name of the authority which issued the licence;
- b) the name of the licensee;
- c) any trading name of the licensee;
- d) the address of the site identified on the licence;
- e) the type of licence, and
- f) the date of expiry of the licence.

The register will be open for inspection by members of the public.

6.2 The Council are required to update the register on a regular basis. The Council will also check the accuracy of the information held on the Environment Agency register on a regular basis and highlight any inaccuracies.

7. Display of Licence

7.1 Once granted, a copy of the licence must be displayed at each site identified on the licence, in a prominent place accessible to members of the public.

7.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of a dealer's business. It must be displayed in a prominent position so that it can easily be read from outside the vehicle.

8. Verification of Supplier's Identity

8.1 Before receiving scrap metal, the dealer must verify a person's full name and address, by reference to documents, data or other information obtained from a reliable and independent source.

- 8.2 If suitable verification is not obtained the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for verifying the name and address, shall be guilty of an offence.
- 8.3 It should be noted that whilst Statutory Instrument 2276 of 2013 sets out documents that are sufficient to verify the identity of a person from whom scrap metal is received, the list is not exclusive and a court may consider other documents to be satisfactory.

9. Payment for Scrap Metal

- 9.1 A scrap metal dealer must only pay for scrap metal by either;
- a) a cheque (which is not transferrable under Section 81A of the Bills of Exchange Act 1882); or
 - b) electronic transfer of funds (authorised by a credit, debit card or otherwise).

Payment includes paying in kind with goods and services.

10. Records

- 10.1 The scrap metal dealer must keep two types of records:
- a) receipt of Metal
 - b) disposal of Metal

10.2 Receipt of Metal

If metal is received in the course of the dealer's business, the following must be recorded:

- a) description of the metal, including its type (types if mixed) form, condition, weight and any marks identifying previous owners or other distinguishing features;
 - b) date and time of receipt;
 - c) the registration mark of the vehicle it was delivered by;
 - d) full name and address of the person delivering it, and
 - e) full name of the person making payment on behalf of the dealer.
- 10.3 The dealer must keep a copy of the documents used to verify the delivery person's name and address.
- 10.4 If payment is by cheque a copy of the cheque must be retained.
- 10.5 If payment is by electronic transfer a receipt identifying the transfer must be retained, or the details of the transfer.

10.6 **Disposal of Metal**

10.7 Disposal under the Act covers metal:

- a) whether or not it is in the same form as when it was purchased;
- b) whether or not it is to another person; or
- c) whether or not it is despatched from a site.

10.8 Disposal records must be recorded, including:

- a) description of the metal, including type (types if mixed), form, weight
- b) date and time of disposal;
- c) if to another person, their full name and address, and;
- d) if payment is received for the metal (sale or exchange) the price or other consideration received.

10.9 If disposal is in the course of business conducted under a collector's licence, the dealer must record:

- a) date and time of disposal, and;
- b) if to another person, their full name and address.

10.10 **Supplementary**

10.11 The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easily identified.

10.12 The records of receipt must be marked so as to identify the metal to which they relate.

10.13 Records must be kept for a period of 3 years beginning on the day of receipt, or disposal (as may be).

10.14 If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records, shall be guilty of an offence.

10.15 A dealer or site manager may have a defence if they can prove arrangements had been made to ensure the requirement to keep records was fulfilled, or that they took all reasonable steps to ensure those arrangements were complied with.

11. Right of Entry & Inspection

- 11.1 An authorised officer of the Council may enter a licensed site at any reasonable time, with or without notice to the site manager.
- 11.2 Entry and inspection without notice would occur, if:
- a) reasonable attempts to give notice had been given and had failed, or
 - b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of the Act are being complied with or investigating an offence under it, and, in either case, the giving of the notice would defeat that purpose.
- 11.3 Paragraphs 11.1 and 11.2 do not apply to residential premises.
- 11.4 An authorised officer of the Council is not entitled to use force to enter a premises, but may ask a justice of the peace to issue a warrant authorising entry, if they are satisfied there are reasonable grounds for entry to the premises is reasonably required for the purpose of:
- a) securing compliance with the provisions of the Act, or
 - b) ascertaining whether those provisions are being complied with.
- 11.5 'Premises' under this section include:
- a) a licensed site, or
 - b) premises that are not licensed, but there are reasonable grounds for believing the premises are being used as a scrap metal dealing business.
- 11.6 An authorised officer of the Council may use reasonable force in the exercise of their powers under a warrant obtained under paragraph 11.4.
- 11.7 An authorised officer of the Council may:
- a) require the production of, and inspect, any scrap metal kept at an licensed premises, and
 - b) require production of, and inspect, any records kept in respect of receipt and disposal of metal, and
 - c) to take copies of or extracts from any such record
- 11.8 An authorised officer of the Council must produce evidence of their identity, and evidence of their authority to exercise these powers, if requested by the owner, occupier, or other person in charge of the premises.

12. Application Procedure

12.1 An application form, available from the Council's website or from the Council's Licensing Team must be completed, together with the correct fee and a current Basic Disclosure. A Basic Disclosure is a criminal record check that lists any unspent criminal convictions an applicant may have, and, can be applied for at www.disclosurescotland.co.uk

12.2 A Basic Disclosure will be valid for 3 months from the date of issue.

12.2 A licence once granted is valid for 3 years.

12.3 A renewal application must be received before the expiry of the current licence which will continue in effect until the application is determined. If the renewal application is withdrawn the licence expires on the date of expiry noted thereon or at the end of the day on which the application was withdrawn, whichever is later.

12.4 If a licence application is refused, the licence expires when no appeal is possible, or an appeal is determined or withdrawn.

12.5 A licence may be varied from one type to another, i.e. site licence to collector's licence.

A variation application must be made to reflect changes to:

- a) name of licensee, site manager, or sites on a site licence, or
- b) name of licensee on a collector's licence

A variation cannot be used to transfer the licence to another person, only to amend the name of a licensee.

An application to vary must be made to the issuing authority.

12.6 The Council may request additional information is provided for the consideration of the application.

Failure to provide such information may result in the application being refused.

12.7 The fee is set by the Council under guidance issued by the Home Office with the approval of the Treasury.

12.8 Fees are set after taking into account the cost of processing, administering and compliance costs associated with the licence. The Council is committed to reviewing fees on a regular basis.

12.9 If the Council proposes to refuse an application, or to revoke, or to vary a licence by imposing conditions, a notice must be issued to the licence holder setting out the council's proposals and the reasons for the decision. The notice will indicate the time period in which the applicant or licensee can either:

- a) Make representation about the proposal, or
- b) Inform the Council that the applicant or licensee wishes to do so

This time period must not be less than 14 days beginning on the day the notice was given to the applicant or licensee.

- 12.10 If a notification is received that the applicant or licensee wishes to make representation, the Council will consider each case on its merits and allow for a reasonable period to make representations.
- 12.11 If the applicant or licensee does not make representation or notify the council that they wish to do so, within the time period specified in the notice, the Council may refuse, revoke or vary the licence.
- 12.12 If the applicant or licensee makes representations within the time period specified in the notice or within a time period considered reasonable by the Council, the Council must consider the representations.
- 12.13 If the applicant or licensee informs the Council that they wish to make oral representations, the Council must give them the opportunity of appearing before, and being heard by, the Licensing Sub-Committee.
- 12.14 If the Council refuse the application, or revokes or varies the licence within the time period specified in the notice it will give the applicant or licensee a notice setting out the decision and the reasons for it.

The notice will state:

- a) That the applicant or licensee may appeal against the decision
- b) The time within which such appeal may be brought, and
- c) In the case of a revocation or variation within the time period specified in the notice the date on which the revocation or variation is to take effect.

13. Appeals

- 13.1 An applicant may appeal to the magistrates' court against a refusal of an application or variation,

A licensee may appeal to the magistrates' court against the inclusion on the licence of a condition under Section 3(8) of the Act, or a revocation or variation of a licence under Section 4 of the Act.

The appeals procedure will be in accordance with the Magistrates Courts Act 1980, and must be lodged within 21 days of receipt of the decision notice.

On appeal the magistrates' court may confirm, vary or reverse the Authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

14. Revocation and Imposing Conditions

- 14.1 The Council may revoke a scrap metal licence if it is satisfied the licence holder does not carry on a scrap metal business at any of the sites named on the licence.
- 14.2 The Council may revoke a scrap metal licence if it is satisfied the site manager named on the licence does not act as a site manager at any of the named sites on the licence.
- 14.3 The Council may revoke a scrap metal licence if it is no longer satisfied the licence holder is a suitable person to carry on the business.
- 14.4 If the licence holder, or site manager named on a licence is convicted of a relevant offence, the authority may impose one or both of the following conditions:
- a) the dealer must not receive scrap metal except between 9am and 5pm on any day;
 - b) all scrap metal received must be kept in the form in which it was received for a specified period, not exceeding 72 hours, beginning with the time when it was received.

Relevant offences are those listed under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

- 14.5 A revocation or variation only comes into effect when no appeal under the Act is possible, or when such appeal has been determined or withdrawn.
- 14.6 If the Council considers the licence should not continue without the addition of one or more of the conditions in paragraph 14.4 the licence holder will be given notice:
- a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions, or
 - b) that a variation comes into immediate effect

15. Closure of Unlicensed Sites

- 15.1 If an authorised officer of the Council is satisfied premises are being used by a scrap metal dealer in the course of their business and the premises are unlicensed, they may issue a closure notice.

A copy of the notice must be given to:

- a) a person who appears to be the site manager, and
- b) any person who appears to be a director, manager, or other officer of the business

A copy may also be given to any person who has an interest in the business, a person who occupies part of the premises, or where the closure may impede a person's access to that other part of the business.

- 15.2 After a period of 7 days, the Council's authorised officer may apply to a justice of the peace for a Closure Order.

The court must be satisfied the premises will continue to be used by a scrap metal dealer, or there is a reasonable likelihood that the premises will be.

A Closure Order may close the premises immediately, and the premises will remain closed to the public until the Council makes a termination of closure order by certificate. The scrap metal dealer must cease his business immediately. They may also be required to pay a sum into the court, which will not be released until they have complied with the requirements of the order.

Such an Order may have a condition relating to the admission of people into the premises, or may include any other provision the court considers appropriate.

A copy of the Order must be placed on the premises in a prominent position by the Council.

- 15.3 Once the requirements of the Order have been complied with and the Council is satisfied the need for the Order has ceased, a Certificate may be given. The effect of giving a Certificate is that it ceases the Order and the sum of money paid into the court is released.

A copy of the Certificate must be given to any person the closure order was made against, a copy must be given to the court and a copy must be placed on the premises.

A copy of the Certificate must also be given to anyone who requests one.

- 15.4 Anyone issued with a Closure Order may complain to a justice of the peace. The court may discharge the Order, if it is satisfied there is no longer a need for it.

The Licensing Authority may be required by the court to attend and answer the complaint made.

Notice of the hearing must be given to all people issued with the Closure Order.

- 15.5 Appeals may be made to the Crown Court against:

- a) a closure order;
- b) a decision not to make a closure order;
- c) a discharge order; or
- d) a decision not to make a discharge order

An appeal must be lodged within 21 days beginning on the day on which the order or decision was made.

Appeals against a) and b) may be made by any person who was issued with a Closure Order.

Appeals against c) and d) may be made by the Licensing Authority.

- 15.6 A person is guilty of an offence, if they allow the premises to be open in contravention of a Closure Order, without reasonable excuse, or fail to comply with, or contravene a Closure Order.
- 15.7 An authorised officer of the Council may enter the premises at any reasonable time to ensure compliance with the Closure Order. They may use reasonable force if necessary.
- 15.8 An authorised officer of the Council must produce evidence of their identity or evidence of their authority to exercise the powers under the Act, if requested to do so.

16. Delegation of Functions

- 16.1 Where there are uncontested applications, or where there are no questions about the suitability of the applicant the determination should be dealt with by officers under delegated powers.
- 16.2 Contested applications where there is relevant information from any of the consultees, or queries regarding an applicant's suitability, or involving the revocation of a licence or the imposition of conditions, will be determined by the Council's Licensing Sub-Committee.
- 16.3 Table 1 below outlines the Delegation of Functions

Table 1. Delegation of Functions			
Matter to be dealt with	Full Committee	Sub Committee	Officers
To determine fees for Scrap Metal Dealers licence applications	All Cases		
To determine and approve policy for the implementation and delivery of the Scrap Metal Dealers Act 2013	All Cases		
New or Renewal Applications		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Variation of licence by the imposition of conditions following licence holder or site manger being convicted of relevant offence		All Cases	
Revocation of licence		All Cases	
Variation of licence under Schedule 1, Section 3			All non-contentious cases

17. Enforcement

- 17.1 In order to ensure compliance with the legislation and any conditions imposed, licences will be inspected using a risk-based approach. This will allow resources to be more effectively targeted on high-risk or problematic licence holders and prevent over burdensome enforcement on compliant and well managed licences.
- 17.2 Appropriate enforcement action will be taken in accordance with the legislation and any guidance issued under that legislation, the Council's Enforcement Policy, the Governments Enforcement Concordat and any other enforcement protocols that may be agreed with other agencies.

18. Offences & Penalties

18.1 The following paragraphs are only indicative of the general offences and penalties. Independent legal advice should be sought for individual cases.

18.2 Offences relating to scrap metal dealing are described under the relevant piece of legislation.

18.2 Table of Offences – Scrap Metal Dealers Act 2013

Section	Offence	Maximum Penalty
1	Carrying on business as a scrap metal dealer without a licence	Level 5
8	Failure to notify the authority of any changes to details given with the application	Level 3
10	Failure to display site licence or collector's licence	Level 3
11 (6)	Receiving scrap metal without verifying persons full name and address	Level 3
11 (7)	Delivering scrap metal to dealer and giving false details	Level 3
12 (6)	Buying scrap metal for cash	Level 5
13	Failure to keep records regarding receipt of metal	Level 5
14	Failure to keep records regarding disposal of metal	Level 5
15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	Level 5
15 (2)	Failure to keep copy document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

18.4 Current levels of fines:

- Level 1 - £200
- Level 2 - £500
- Level 3 - £1,000
- Level 4 - £2,500
- Level 5- £5,000

18.5 Offences by Bodies Corporate

Where an offence under the Act is committed by a body corporate and is proved:

- a) to have been committed with the consent or connivance of a director, manager, secretary or similar officer, or
- b) to be attributable to any neglect on the part of any such individual

the individual as well as the body corporate is guilty of the offence and liable to be prosecuted against and punished accordingly.

Where the affairs of the body corporate are managed by its members, any acts or omissions committed by that member will be treated as though that member were a director of the body corporate.

HACKNEY CARRIAGE AND PRIVATE HIRE PENALTY POINTS SCHEME

Relevant Portfolio Holder	Councillor R Smith
Portfolio Holder Consulted	Yes
Relevant Head of Service	Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

A number of local authorities operate a penalty points schemes as a tool to assist them in relation to ensuring the holders of hackney carriage and private hire licences are compliant with the requirements they have upon them as licence holders.

2. RECOMMENDATIONS

Members are asked to approve the draft Bromsgrove District Council Hackney Carriage and Private Hire Penalty Points Scheme for the purpose of consultation with licence holders and other relevant organisations.

3. KEY ISSUES

Financial Implications

- 3.1 The costs involved in carrying out the consultation exercise will be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 Many authorities across the UK operate penalty point schemes and there have been a number of legal challenges to some. In order to avoid such challenges being successful it is necessary to have a mechanism in place to allow for appeals against the imposition of penalty points, and to ensure that any decision in respect of whether, or not, to revoke a licence, once the maximum number of permissible points has been reached, is taken at the appropriate level, based on the merits of each individual case.

Service / Operational Implications

- 3.3 The holders of hackney carriage and private hire licences issued by the Council are subject to a number of legal requirements and licence conditions which govern how they carry out their businesses.
- 3.4 Worcestershire Regulatory Services, acting on behalf of the Council, is responsible for ensuring licence holders comply with these requirements and for taking appropriate action to deal with any licence holders who commit offences or fail to comply with their requirements.
- 3.5 The vast majority of licence holders comply with the requirements that are placed upon them; however there are various options available to officers when dealing with the small minority who are found to be committing offences or other acts of non-compliance, which can be summarised as follows:
- Verbal warnings
 - Written warnings
 - Formal cautions
 - Prosecution
 - Referral to Licensing Sub-Committee
- 3.6 The way in which offences and acts of non-compliance are dealt with by officers will depend on the circumstances of each individual case and appropriate regard is had to the Regulator's Code and relevant enforcement policies.
- 3.7 Some local authorities have introduced an additional mechanism for dealing with minor offences and acts of non-compliance with hackney carriage and private hire licensing requirements in the form of a penalty points scheme for their licence holders.
- 3.8 The basic principle of such a scheme is that individuals that are found to have committed relatively minor offences or acts of non-compliance have a number of penalty points logged against their licensing records held by the authority.
- 3.9 If an individual accumulates a given number of penalty points, within a defined period, this triggers an automatic referral of the licence holder to a Licensing Sub-Committee where consideration is given to whether the individual remains a fit and proper person to hold the relevant licence.

- 3.10 A penalty points scheme enables officers to deal quickly and efficiently with minor compliance issues and helps to identify those that are regularly not acting in compliance with their licensing requirements so that more serious action can be considered against these individuals in a targeted and proportionate way.
- 3.11 The introduction of a penalty points scheme would not affect the Council's ability to take formal enforcement action for any offence or act of non-compliance and every case will continue to be considered on its own merits.
- 3.12 For example, a penalty points scheme would not be an appropriate mechanism for dealing with serious offences or acts of non-compliance such as employing unlicensed drivers, driving without appropriate insurance or plying for hire in a private hire vehicle.
- 3.13 A draft penalty point scheme for Bromsgrove District Council has been produced by officers and can be seen at **Appendix 1**. Members are asked to approve the draft scheme for the purpose of consultation with licence holders and other relevant organisations.
- 3.14 The number of penalty points issued in respect of each proven act of non-compliance is intended to be proportionate to the seriousness of the non-compliance.
- 3.15 The results of the consultation exercise would be brought back before the Licensing Committee at a future meeting before a decision is taken as to whether to implement a penalty points scheme.

4. RISK MANAGEMENT

- 4.1 None

5. APPENDICES

Appendix 1 – Draft Penalty Points Scheme

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LICENSING COMMITTEE

14th November 2016

14th November 2016

Draft Scrap Metal Licensing Policy – Consultation Results

Hackney Carriage and Private Hire Penalty Points Scheme – Approval for Consultation

13th March 2017

Revised Street Trading Policy – Approval for Consultation

Hackney Carriage and Private Hire Penalty Points Scheme – Results of Consultation

To Be Allocated To Suitable Available Dates in 2017/2018

Review of Policy on the Relevance of Convictions for Hackney Carriage and Private Hire Drivers

Wheelchair Accessible Vehicles (WAV's) – Update report on options to potentially increase the number of WAVs licensed as hackney carriages in the Bromsgrove district.

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