



## LICENSING COMMITTEE

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MEETING TO BE HELD IN CIVIC HALL, LEEDS ON  
TUESDAY, 10TH SEPTEMBER, 2013 AT 10.00 AM

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### MEMBERSHIP

#### Councillors

K Bruce - Rothwell;  
N Buckley - Alwoodley;  
R Charwood (Chair) - Moortown;  
R Downes - Otley and Yeadon;  
J Dunn - Ardsley and Robin Hood;  
B Gettings - Morley North;  
T Hanley - Bramley and Stanningley;  
M Harland - Kippax and Methley;  
G Hussain - Roundhay;  
G Hyde - Killingbeck and Seacroft;  
A Khan - Burmantofts and Richmond Hill;  
P Latty - Guiseley and Rawdon;  
B Selby - Killingbeck and Seacroft;  
C Townsley - Horsforth;  
G Wilkinson - Wetherby;

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# A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p><b>RESOLVED</b> – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p><b>LATE ITEMS</b></p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p><b>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</b></p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct.</p>	
5			<p><b>APOLOGIES FOR ABSENCE</b></p> <p>To receive apologies for absence (If any)</p>	
6			<p><b>MINUTES OF THE PREVIOUS MEETING</b></p> <p>To approve the minutes of the previous meeting held on 13<sup>th</sup> August 2013</p> <p>(Copy attached)</p>	1 - 4
7			<p><b>INFORMATION REPORT - TAXI AND PRIVATE HIRE LICENSING PROCESS FOR EQUALITY MONITORING</b></p> <p>To consider the report of the Head of Licensing and Registration providing information on how the Taxi and Private Hire Licensing Section intends to capture equality monitoring information to better understand the profile of service users.</p> <p>(Report attached)</p>	5 - 12

Item No	Ward/Equal Opportunities	Item Not Open		Page No
8			<p><b>SCRAP METAL DEALERS ACT 2013</b></p> <p>To receive the report of the Head of Licensing and Registration advising Members of the provisions of the Scrap Metal Dealers Act 2013 and the new licensing regime to be implemented</p> <p>(Report attached)</p>	13 - 20
9	City and Hunslet		<p><b>SPECIALIST SUB COMMITTEE - SEXUAL ENTERTAINMENT VENUE RENEWALS</b></p> <p>To consider the report of the Head of Licensing and Registration which requests the Committee to consider the establishing of a specialist Licensing Sub-Committee to determine applications for sex establishments, specifically for sexual entertainment venues.</p> <p>(Report attached)</p>	21 - 24
10			<p><b>WORK PROGRAMME 2013/14</b></p> <p>To note and comment on the contents of the Licensing Work Programme for 2013/14</p> <p>(Copy attached)</p>	25 - 26
11			<p><b>DATE AND TIME OF NEXT MEETING</b></p> <p>To note that the next meeting will take place on Tuesday 15<sup>th</sup> October 2013 at 10.00am in the Civic Hall, Leeds.</p>	

## Licensing Committee

Tuesday, 13th August, 2013

**PRESENT:** Councillor R Charwood in the Chair

Councillors N Buckley, R Downes,  
B Gettings, T Hanley, M Harland,  
G Hussain, G Hyde, A Khan and  
G Wilkinson

**33 Exempt Information - Possible Exclusion of the Press and Public**

**RESOLVED** – That, the public be excluded from the meeting where Members consider that part of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information so designated. Appendix B of the report entitled ‘Leeds Festival 2013 Update’ (Minute No.39 refers) is designated as exempt in accordance with paragraphs 10.4 (3,7) of Schedule 12A(3) of the Local Government Act 1972 on the grounds that it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) and information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. As such, on this occasion, it is deemed that the benefit of keeping the information confidential is greater than that of allowing public access to it.

**34 Late Items**

No formal late items of business were added to the agenda, however Members acknowledged receipt of a letter received from Mr F Patterson QC in response to their comments on the Interim Statement from the Law Commission “Reviewing the Law of Taxi and Private Hire Services” (minute 15 of the meeting held 25<sup>th</sup> June 2013 refers).

**35 Declaration of Disclosable Pecuniary Interests**

There were no declarations of interest.

**36 Apologies for Absence**

Apologies were received from Councillors Bruce, Dunn, P Latty, Selby and Townsley

**37 Minutes of the Previous Meeting**

**RESOLVED** – That the minutes of the previous meeting held 23<sup>rd</sup> July 2013 be agreed as a correct record

**38 Delegated Decisions taken by Taxi and Private Hire Licensing - 1st January to 30th June 2013**

The Head of Licensing and Registration submitted a report providing an update on the delegated decisions taken by officers at Taxi and Private Hire Licensing Section. Members had previously received statistical information in

February 2013. This report contained information on decisions taken from 1<sup>st</sup> January to 30<sup>th</sup> June 2013.

The Committee noted and discussed in detail the number and nature of the decisions made outlined in the report, including

- The number of suspensions and the reasons for the suspension
- The number and nature of complaints received from the public in respect of licensed drivers, vehicles and operators
- The number of appeals against officer decisions and the nature of the appeal and outcome

The Committee noted the recent media interest in the contents of the report and commented on the style of the presentation of the statistics, seeking more comparable information and requested the following be included within future reports:

- information on the types of enforcement action available for the Authority to take and the role of enforcement action in changing the behaviour of drivers/operators in terms of education/personal development
  - information on the nature of complaints received from the public, and the outcomes of the investigations into those complaints
  - detail of complaints made against officers by members of the trade.
- In response, it was noted that new ICT software would enable the presentation of more detail in support of the statistical information

The Committee noted the concern expressed by one Member over the length of time some cases took to resolve and the report from the same Member in respect of one driver case which had taken five months to resolve from time of first application to outcome of appeal to the Magistrates Court. Members noted that the Court, in reaching its' decision, had supported the officer decision making process. The Committee also noted comments from another Member in respect of a number of cases he had followed, and comments in respect of the appeals process at the Magistrates Court. It was agreed that discussions on those individual cases would be most appropriately held outside of the formal committee meeting.

Having regard to the nature of complaints received, the Committee also considered measures previously employed to promote the safety of the travelling public and agreed to review and publicise the measures and initiatives to promote the safety of the travelling public

In response to a query regarding ethnicity monitoring, Members noted that a report on the collection of relevant monitoring data for TPH Licences would be presented to the next Committee meeting for consideration.

**RESOLVED** - That the contents of the report and the comments made by Members be noted

### **39 The Leeds Festival 2013 Update**

The Head of Licensing and Registration submitted a report on the progress of the multi-agency meetings and the Event Management Plan for the Leeds

Festival 2013, scheduled to be held within the grounds of Bramham Park from Friday 23 August to Sunday 25 August 2013.

Officers provided an update on the most recent multi agency meetings. The report included a copy of the current premises licence for Bramham Park (attached at Appendix A) and a copy of the summary of changes made to the Event Management Plan (Appendix B). A site plan was table at the meeting for Members' reference.

**RESOLVED –**

- a) That authority be delegated to the Head of Licensing and Registration to approve the Event Management Plan prior to the start of the event; and
- b) That authority be delegated to the Head of Licensing and Registration to approve any minor amendments to the Event Management Plan, as necessary, prior to the start of the event.
- c) To note that, should the Event Management Plan be subject to amendment without the relevant agency consent, or be of a nature which officers consider may impact on the licensing objectives, then the Event Management Plan will be brought back before the Licensing Committee prior to the event taking place.

**40 Work Programme**

**RESOLVED –** That, subject to the inclusion of any additional matters identified at this meeting, the contents of the Licensing Work programme be noted

**41 Date and Time of next meeting**

**RESOLVED –** To note the date and time of the next meeting as 10<sup>th</sup> September 2013 at 10:00 am

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Report author: Kate Coldwell

Tel: 3781563

**Report of**    **Head of Licensing and Registration**

**Report to**    **Licensing Committee**

**Date:**        **10 September 2013**

**Subject:**    **Information Report – Taxi and Private Hire Licensing Process for Equality Monitoring**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Summary of main issues

- 1     This report contains information as to how the Taxi and Private Hire Licensing Section intend to capture equality monitoring information to better understand the profile of our service users.
  
- 2     The report aims to inform Members of the administration process the Taxi and Private Hire Licensing Section could undertake to capture this information.

### Recommendations

- 3     That Members consider the information in this report and make any observations they may have.
  
- 4     That Members specify which reports they would like to see presented to Licensing Committee in future.
  
- 5     That a further report is prepared for Licensing Committee after 12 months worth of data has been collected, collated and analysed.

## **1 Purpose of this report**

- 1.1 To inform Members of the administration process the Taxi and Private Hire Licensing Section will undertake to capture equality monitoring information.
- 1.2 To advise Members that this information is provided entirely on a voluntary basis by the service users, this is in accordance with legislation.
- 1.3 To provide information on the timescales involved to capture equality monitoring information to ensure the Taxi and Private Hire Licensing Section is able to produce meaningful information.

## **2 Background information**

- 2.1 The law does not say that equality monitoring must be undertaken, however the general public sector duty within the Equality Act 2010 requires public bodies to have due regard to the need to;
  - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
  - Advance equality of opportunity within and between people who share a protected characteristic and those who do not
  - Foster good relations between people who share a protected characteristic and those who do not
- 2.2 Characteristics protected by the duty include: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 2.3 The Council has standard categories for equality monitoring. These have been informed by categories included in the National Census and those characteristics protected by equality legislation (appendix 1).
- 2.4 New applicants to the taxi and private hire licensed trade have previously had the opportunity to supply equality monitoring information on a voluntary basis but the return rate has been poor.
- 2.5 Due to this, the Taxi and Private Hire Licensing Section has not previously used equality monitoring data for analytical purposes. In addition, the data currently contained within the licensing system is unreliable as it was collected within a previous licensing system, is out of date and may have become corrupted at the time of transfer onto the current system.

## **3 Main issues**

- 3.1 The Council's equality monitoring guidance recognises that it is important that customers are confident as to the reason why they are being asked for their information, they know what the information will be used for and how the data will be stored confidentially.
- 3.2 Currently all licence application forms contain an equality monitoring form although the completion of this information is not mandatory and Licensing Officers do not

request that this information is completed at the time of application. To do so might be considered intrusive, conducted in too public an area, would cause delays for other customers and would remove the anonymity required when collating such information.

- 3.3 Licence renewal forms do not currently include the equality monitoring form. In order to establish a baseline of all existing licence holders it will be necessary for an equality monitoring form to be completed by existing licence holders at the time of renewal.
- 3.4 The Taxi and Private Hire Licensing Section would need to actively promote any new emphasis on equality monitoring, the reasons for this and offer reassurance as to how data will be stored. This could be done by;
  - Information sheet contained within the renewal letter
  - Email to existing licence holders
  - Information screens in Reception
  - Trade forums
  - Newsletter
  - Licensing Officer briefings at the Counter
- 3.5 The Council's equality monitoring guidance also states that collecting equality monitoring data should be done anonymously, as far as is possible and that if any equality monitoring information is collected and stored against a person's personal details it must be stored in hidden fields that, once entered, can only be accessed by authorised staff and that it is preferable not to attach monitoring information to personal details if possible.
- 3.1 To overcome this, staff will input equality information into a separate database that complies with both confidentiality and data protection requirements. A Fair Processing Notice (or Privacy Notice) will be included within the equality monitoring forms to ensure that applicants are made aware as to how we intend to use the information they provide.
- 3.2 Everyone is legally obliged to complete and return the Census form and a limited number of people have been prosecuted for failing to comply with this obligation. In contrast, completing equality monitoring forms is voluntary.
- 3.3 This will be the first time the Taxi and Private Hire Licensing Section will proactively encourage the collection of this data and there is a requirement to set a baseline target over a 12 month period to cover all renewals. Moving forward, the information will be used to identify any changes and/ or trends amongst our service users.
- 3.4 Some suggested reports could include;
  - ethnicity broken down across private hire drivers, private hire operators and Hackney carriage drivers
  - suspensions and/ or revocations by ethnicity/ age/ gender
  - age and gender profiles across licence holders

## **4 Corporate Considerations**

### **4.5 Consultation and Engagement**

4.1.1 The information contained in this report has not been the subject of consultation with the trade as it is an information report only but if Members are satisfied with the proposed approach, information and guidance would be comprehensively supplied.

### **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 This is an information report relating to Taxi and Private Hire Licensing process for equality monitoring. We are using the council approach and guidance to equality monitoring and data protection requirements to inform our proposals. As such, an equality screening/ impact assessment is not required.

4.2.2 Information collected will be used to profile the licensed trade, identify trends and take appropriate positive action. It is anticipated that this will support the service to meet the general public sector duty within the Equality Act 2010.

### **4.3 Council policies and City Priorities**

4.3.1 The Taxi & Private Hire Licensing policies contribute to the following aims:

#### **Best Council Plan 2013 -17**

#### **Towards being an Enterprising Council**

#### **Our Ambition and Approach**

**Our Ambition** is for Leeds to be the best city and Leeds City Council to be the best council in the UK – fair, open and welcoming with an economy that is both prosperous and sustainable so all our communities are successful.

**Our Approach** is to adopt a new leadership style of civic enterprise, where the council becomes more enterprising, business and partners become more civic, and citizens become more actively engaged in the work of the city.

#### **Our Best Council Outcomes**

Make it easier for people to do business with us

#### **Our Best Council Objectives**

Promoting sustainable and inclusive economic growth – Improving the economic wellbeing of local people and businesses. With a focus on:

- Helping people into jobs,
- Boosting the local economy
- Generating income for the council

Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city. With a focus on;

- Getting services right first time

- Improving customer satisfaction

4.3.2 The Taxi & Private Hire Licensing policies contribute to priorities:

- Reduce crime levels and their impact across Leeds
- Effectively tackle and reduce anti-social behaviour in communities

#### **4.3 Resources and value for money**

4.4.1 There are resource implications in respect of handling and storing the information but it is felt that is manageable within the existing structure. There are no value for money issues to consider.

#### **4.5 Legal Implications, Access to Information and Call In**

4.5.1 All equality monitoring information is classed as personal data under the Data Protection Act 1998. The law states that we must keep the information accurate and up to date, must only keep it for as long as it is needed for a specific purpose and we must keep it secure.

#### **4.6 Risk Management**

4.6.1 The completion of equality monitoring forms is entirely voluntary and some service users may have concerns about how the information will be used. This may be overcome to some extent if there is an understanding that this is a positive development by the Licensing Committee.

4.6.2 Service users may not respond fully.

### **5 Conclusions**

5.1 That any renewed emphasis on equality monitoring must be in line with the Council's standard categories and equality monitoring guidelines.

### **6 Recommendations**

6.1 That Members consider the information in this report and make any observations they may have.

6.2 That Members specify which reports they would like to see presented to Licensing Committee in future.

6.3 That a further report is prepared after 12 months worth of data has been collected, collated and analysed.

### **7 Background documents**

Equality Monitoring Guidance

## Appendix 1

### Standard categories for equality monitoring

- Gender – male or female
- Date of birth
- Ethnic origin
- Disability – disability is split into two parts. First as whether a person considers themselves to be disabled or not. For those that do consider themselves to be disabled further questions can be asked about the nature of their impairment. The options provided should include:
  - Physical or mobility impairment
  - Visual impairment (such as being blind or partially sighted)
  - Hearing impairment (such as being deaf or hard of hearing)
  - Mental health condition (such as depression, schizophrenia)
  - Learning difficulty (such as downs syndrome or dyslexia) or cognitive impairment (such as autism or head injury)
  - Long-standing illness or health condition (such as cancer, HIV, diabetes, chronic heart disease, multiple sclerosis or epilepsy)
- Sexual orientation – heterosexual, lesbian/ Gay woman, Gay man and Bisexual
- Religion or belief
- Caring responsibilities – the Council considers that a ‘carer’ is someone who looks after, or gives unpaid help or support to family members, friends, neighbours or others on an unpaid basis because of either;
  - Long-term physical or mental ill health/ disability
  - Problems related to old age
  - Substance misuse/ dependency

## Appendix 2 Equality Monitoring Form



Leeds City Council is committed to fair treatment of all our existing and potential customers, our existing and potential employees and our partners. We are committed to ensuring that our practices and services are free from unlawful discrimination and they meet the needs of all sections of the community.

This means that clients using the services of the Taxi and Private Hire Licensing Section will be treated equally irrespective of their sex, ethnic origin, sexual orientation or age. To ensure the effectiveness of this policy and to assist in its development please will you complete the information below which will be treated as confidential and used for statistical purposes only and for monitoring the fairness and effectiveness of our service delivery.

You are under no obligation to provide the information requested and it will not make any difference to the service you receive if you do not answer them. However the more information we can collect the more effective our equality monitoring will be. The categories included have been informed by the National Census 2011 and characteristics protected by equality legislation.

The council is committed to keeping your information private and secure. The information you provide will be treated in the strictest confidence and in accordance with the Data Protection Act 1998.

<b>Gender:</b>	<input type="checkbox"/> Male	<input type="checkbox"/> Female
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<b>Date of Birth:</b>
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<b>Ethnic origin:</b> Please indicate which best describes your ethnic origin				
<b>A White</b> <input type="checkbox"/> English <input type="checkbox"/> Welsh <input type="checkbox"/> Scottish <input type="checkbox"/> Northern Irish <input type="checkbox"/> British <input type="checkbox"/> Irish <input type="checkbox"/> Any other White background - please write below  .....	<b>B Mixed/ multiple ethnic group</b> <input type="checkbox"/> White and Asian <input type="checkbox"/> White and Black African <input type="checkbox"/> White and Black Caribbean <input type="checkbox"/> Any other mixed/multiple ethnic group – please write below  .....	<b>C Asian or Asian British</b> <input type="checkbox"/> Bangladeshi <input type="checkbox"/> Chinese <input type="checkbox"/> Indian <input type="checkbox"/> Kashmiri <input type="checkbox"/> Pakistani <input type="checkbox"/> Any other Asian background – please write below  .....		
<b>D Black or Black British</b> <input type="checkbox"/> African <input type="checkbox"/> Caribbean <input type="checkbox"/> Any other Black background – please write below  .....	<b>E Other ethnic groups</b> <input type="checkbox"/> Arab <input type="checkbox"/> Gypsy or Traveller <input type="checkbox"/> Any other background – please write below  .....			
<table border="1"> <tr> <td>I prefer not to say</td> <td><input type="checkbox"/></td> </tr> </table>			I prefer not to say	<input type="checkbox"/>
I prefer not to say	<input type="checkbox"/>			

<b>Religion or Belief</b>	
Please indicate which best describes your religion or belief	
<input type="checkbox"/> Buddhist <input type="checkbox"/> Hindu <input type="checkbox"/> Muslim <input type="checkbox"/> Christian <input type="checkbox"/> Jewish	<input type="checkbox"/> Sikh <input type="checkbox"/> No religion <input type="checkbox"/> No belief <input type="checkbox"/> Other - please write below .....
Do you practice your religion or belief?	<input type="checkbox"/> Yes <input type="checkbox"/> No
I prefer not to say	<input type="checkbox"/>

<b>Where you live</b>	
What is the first part of your postcode? (for example LS10):	
I prefer not to say	<input type="checkbox"/>

Thank you for completing this equality monitoring form



## Report of the Head of Licensing and Registration

### Report to Licensing Committee

**Date: 10<sup>th</sup> September 2013**

**Subject: Scrap Metal Dealers Act 2013**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): All	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

1. The issue of metal theft has prompted HM Government, through the Home Office, to introduce a new licensing regime for scrap metal dealers to control the sale of metal and thereby reduce the theft of metal from railway lines, electricity substations and building sites.
2. The Scrap Metal Dealers Act 2013 was taken through Parliament by Richard Ottaway MP as a private members bill and received Royal Assent in February this year. The Home Office is now pressing to introduce the new measures as quickly as possible and have proposed a challenging implementation timetable.
3. This report details the licensing regime, proposed fee and the issue of delegation of powers to refuse licence applications made by unsuitable persons.

### Recommendations

4. That Licensing Committee notes the contents of this report.

## **1 Purpose of this report**

- 1.1 To advise Licensing Committee of the upcoming changes in the licensing of scrap metal dealers.

## **2 Background Information**

- 2.1 Over the last few years, metal theft has had a significant impact on communities, businesses and the council. A survey, conducted by the LGA in early 2012, showed that seven out of ten councils had been the victims of metal theft and that this cost councils over £5.25M in 2010/11.
- 2.2 The high metal prices we have seen recently, driven by industrialisation in China, are likely to continue to be a feature of the world economy over the next decade and possibly longer as other countries like India and Brazil follow a similar pattern of growth.
- 2.3 For this reason the Scrap Metal Dealers Act 2013 was taken through Parliament by Richard Ottaway MP as a private members bill and received Royal Assent in February this year. The Home Office is now pressing to introduce the new measures as quickly as possible and have proposed a challenging implementation timetable.

## **3 Main issues**

### Licensing Regime

- 3.1 The Scrap Metal Dealers Act 2013 replaces the previous registration scheme created by the Scrap Metal dealers Act 1964. Every scrap metal dealer will be required to hold a licence, whether they have a scrap yard or be a mobile collector. Under the new regime the definition of scrap metal dealer has been widened to include motor salvage operators.
- 3.2 Trading without a licence will be a criminal offence which will attract, on summary conviction, a fine not exceeding scale 5 on the standard scale. Under amendments to the fine levels included in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 the fine that can be imposed will be unlimited.
- 3.3 The licensing regime is relatively straight forward. There are two types of licence specified under the act; a site licence and a collector's licence. A licence will last for three years. The applicant is required to provide a basic disclosure which will specify any criminal convictions s/he may have. The council is encouraged to consult with the local police, the Environment Agency and any other relevant local authorities to determine is the applicant is a suitable person to hold a licence.
- 3.4 The decision to grant a licence will be judged on the person's criminal record, the criminal record of any site manager he might specify in his application, and any enforcement activity the relevant agencies have had with the applicant. Example guidance on refusals is attached at appendix 1.

## Fee Structure

- 3.4 The application must be accompanied by the reasonable fee set by the council. The fee can include the cost of administering the licence application process, including any compliance monitoring undertaken. The fee cannot include the cost of investigating unlicensed activity which remains at a cost to the council.
- 3.5 The proposed fee for a three year site licence is **£494**. This includes:
- Receipt, check and input of application details and banking of the fee. This also includes associated correspondence with the applicant.
  - Consultation with West Yorkshire Police, British Transport Police, Environment Agency and any other local authority who has processed an application for the same applicant or is a neighbouring authority.
  - Visits by enforcement staff to any site or vehicle to be used by the business and to check on-going compliance with the requirement of the licensing regime, with regards to cashless sales.
  - Communication with the applicant, including assistance in completing application forms. In future years the fee could include a share of the cost of translation of the form and guidance into other languages should it become apparent there is a need to do so.
  - A share of the cost of meetings to allow oral representation on request in the case of a refusal of a licence
- 3.6 The proposed fee for a three year collector's licence is **£159**. This includes the same elements as stated in 3.5 but does not include site visits.
- 3.7 The proposed fee for a variation of the licence (under Schedule 1(3) of the Act), which includes adding or changing site details or specifying a new site manager is **£327**.
- 3.8 The proposed fee to amend a site or collectors licence to change a licensee or site manager's name or address, for example due to marriage, is **£46**.
- 3.9 It is proposed that the fee is reviewed on an annual basis.

## Refusal of Applications

- 3.10 If the council is minded to refuse an application, the applicant has the right to inform the authority that they wish to make oral representations. In such instances the authority must give the applicant the opportunity of appearing before, and being heard by, a person appointed by the authority.
- 3.11 It would seem natural that any hearing would be heard by the council's Licensing Committee. However the functions under this Act are executive functions, and the Licensing Committee was formed under the Licensing Act 2003 to hear council functions that relate to specific licensing functions. Therefore there is no clear delegation route of executive functions to Licensing Committee in this instance.

- 3.12 The Executive has a number of options available regarding the exercise of the functions under the Scrap Metal Dealers Act. It could:
- Hear the matters at Executive Board
  - Delegate matters to a sub-committee of Executive Board
  - Delegate matters to Assistant Chief Executive (Citizen's and Communities) for further delegation to officers under the Officer Sub-delegation scheme
- 3.13 It is difficult to predict how many hearings may arise from this process, especially in the first year when all 124 scrap metal dealers currently registered would require licensing under a much more restrictive regime.
- 3.14 It is expected that this Act will be included in a later amendment to the relevant regulations to make it a non-executive function as it was the intention of the Home Office that these matters were considered by Licensing Committee. However it is not clear when that amendment may be made.
- 3.15 At this time it is expected that the matter of refusals will be dealt with by officers under the Officer sub-delegation scheme, until the matter is made a council function when it will be delegated to Licensing Committee.

#### Implementation Timetable

- 3.15 The Home Office has set a challenging timetable for the implementation of the new regime:

1 <sup>st</sup> September	Power to set fees commence
1 <sup>st</sup> October	Scrap Metal Dealers Act commence
14 <sup>th</sup> October	Transitional licences commence for existing registered operators
1 <sup>st</sup> December	New Scrap Metal Licences come into effect and operating without a licence becomes an offence.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 Due to the short timetable provided by the Home Office for implementation of this scheme it has not been possible to provide even a short consultation with the citizens of Leeds or with the 120 registered scrap metal dealers and motor salvage operators.
- 4.1.2 During August, guidance on the new legislation was sent to all local scrap metal dealers and motor salvage operators and they were encouraged to contact the council to discuss any concerns they had with the new regime, that the fee would be around £500 and the timescales. Entertainment Licensing received a number of calls, mostly from motor salvage operators, who were concerned about the increase in fee from the existing regime (which was £70) and the additional requirements.

4.1.3 In addition the Home Office has been consulting with the trade organisation such as the British Metal Recycling Association to ensure that the licensing regime is developed fit for purpose. Further communication with local dealers will be undertaken to ensure that they are provided with information and assistance to enable them to transition into the new regime.

## **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are a number of mobile scrap metal collectors who do not speak English as a first language. However, due to the diversity of the languages spoken, and the cost of translation it is not possible to pre-emptively translate the guidance documents. This will be undertaken once a specific language need has been identified.

4.2.2 An Equality, Diversity, Cohesion and Integration Impact Assessment Screening has been undertaken.

## **4.3 Council policies and City Priorities**

4.3.1 The Government, through the Home Office, has devised a licensing regime that all licensing authorities must follow when licensing scrap metal dealers.

4.3.2 The licensing regime contributes to the following Best Council Plan 2013-17 outcomes:

- Improve the quality of life for our residents, particularly for those who are vulnerable or in poverty;
- Make it easier for people to do business with us.

4.3.3 The licensing regime contributes to our best council objective:

- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city.

## **4.4 Resources and value for money**

4.4.1 The licensing of scrap metal dealers attracts a fee which must be based on cost recovery only. It can only be used to pay for the costs associated with the licence application and cannot be used to cover the cost of enforcement or investigation of unlicensed activity. This should mean the licensing of scrap metal dealers is cost-neutral to the council; however the cost of the investigation of unlicensed scrap metal dealers remains at a cost to the council.

## **4.5 Legal Implications, Access to Information and Call In**

4.5.1 Under the Scrap Metal Dealers Act 1964, scrap metal dealers were required to register with the council. There was no fee associated with this registration, and the council was not able to refuse such a registration. As such it is not known at this time how much of a risk of legal challenge this licensing regime represents. There are currently 124 scrap metal dealers and motor salvage operators registered with the council. Although registration has increased in recent years due to the proactive enforcement work undertaken by British Transport Police, this sector is not seen as high volume.

## **4.6 Risk Management**

4.6.1 This report is advisory, to inform Licensing Committee of a new licensing regime.

4.6.2 The new legislation is not adoptive and will commence on the 1<sup>st</sup> October. It will become an offence for any scrap metal dealer to operate without a licence after 1<sup>st</sup> December 2013. Therefore it is important that the council has an administrative regime in place in time for scrap metal dealers to make their application and for the council to hear any matters before determining the licences before this time. Delegating the matter to officers through the sub delegation scheme should reduce any delays in implementing the new regime.

## **5 Conclusions**

5.1 This report presents the council's new responsibilities under the Scrap Metal Dealers Act 2013 which will commence on 1<sup>st</sup> October.

## **6 Recommendations**

6.1 That Licensing Committee notes the contents of this report.

**7 Background documents<sup>1</sup>**            None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

The council is minded to refuse any application for a new scrap metal licence or a renewal of an existing scrap metal licence if the DBS basic disclosure of the applicant, partner or site managers has a relevant conviction. Consideration will be given to the date of the offence as well as any sentence given.

The Scrap Metal Dealers (Relevant Offences) Regulations 2013 specifies that offences that are relevant to the application for a scrap metal licence are:

- An offence under sections 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989
- An offence under sections 170 or 170B of the Customs and Excise Management Act 1979, where the specific offence concerned relates to scrap metal
- An offence under section 110 of the Environment Act 1995
- An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990
- An offence under section 9 of the Food and Environment Protection Act 1985
- An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
- Any offence under the Scrap Metal Dealers Act 1964
- Any offence under the Scrap Metal Dealers Act 2013.
- An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the specific offence concerned relates to scrap metal, or is an environment-related offence.
- Any offence under Part 1 of the Vehicles (Crime) Act 2001
- An offence under sections 85, 202, or 206 of the Water Resources Act 1991
- An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
- Any offence under the Hazardous Waste (England and Wales) Regulations 2005
- Any offence under the Hazardous Waste (Wales) Regulations 2005
- Any offence under the Landfill (England and Wales) Regulations 2002
- Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- Any offence under the Transfrontier Shipment of Waste Regulations 1994
- Any offence under the Transfrontier Shipment of Waste Regulations 2007
- Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

In addition the applicant will also have been convicted of a relevant offence where they have:

- Attempted or conspired to commit any of the offences listed above;
- Incited or aided, abetted, counselled or procured the commission of any offence listed above; and
- Committed an offence under Part 2 of the Serious Crime Act 2007(a) (encouraging or assisting crime) in relation to any of the offences listed above.

An environment related offence will mean an offence which relates to the transportation, shipment or transfer of waste; or the prevention, minimisation or control of pollution of the air, water or land which may give rise to any harm. In this context the expression “harm” means:

- Harm to the health of human beings or other living organisms;
- Harm to the quality of the environment;
- Offence to the senses of human beings;
- Damage to property; or
- Impairment of, or interference with, amenities or other legitimate uses of the environment.

During the application process, the council may consult with West Yorkshire Police, British Transport Police, the Environment Agency, local authorities that are listed in the application form, and any other neighbouring local authority. The council will take into consideration any report from the agencies on the suitability of the applicant in regard to any enforcement action they have taken against the applicant, partner or site manager listed in the application form.

Should the council be minded to refuse the application on the grounds of suitability, the applicant will be advised in writing. The applicant has the right to make written representations which should be made within 14 days of the date of the letter advising that the council is minded to refuse the licence application. If the applicant advises the council that they wish to make written representations but need more time, then the council will arrange a suitable date by which the representations can be received.

In addition the applicant has the right, on request, to make an oral representation to a person appointed by the council to hear such matters. Any such requests must be made in writing within 14 days of the receipt of the letter advising the council is minded to refuse the application.

If a request for an oral representation meeting is received the council will contact the applicant to arrange a suitable date and time for the meeting.

If no representations or request is received, the council will issue a notice of refusal. If a request is received the council will take into consideration the oral representation when making the determination. The decision will be provided in writing.

The applicant has the right to appeal the decision of the council to the Magistrates Court within 21 days of the receipt of the notice of refusal.



## Report of the Head of Licensing and Registration

### Report to Licensing Committee

**Date: 10<sup>th</sup> September 2013**

**Subject: Specialist Subcommittee – Sexual Entertainment Venue Renewals**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): City and Hunslet	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

### Summary of main issues

1. During October 2013 the Council will be processing the licence renewals for the Sex Establishment Licences for the city's sexual entertainment venues.
2. In May 2012, as part of a report detailing the annual governance arrangements, Licensing Committee formed specialist sub committees to deal with the initial grant of the sexual entertainment venue licences.
3. In May 2013, the decision to form a specialist subcommittee to deal with the renewal applications was deferred to September's meeting.

### Recommendations

4. Members of the Licensing Committee are asked to establish a specialist subcommittee to deal with any applications for sex establishment licence for sexual entertainment venues.

## **1 Purpose of this report**

- 1.1 This report is presented to Licensing Committee to appoint a specialist licensing sub-committee to determine applications for sex establishments, specifically for sexual entertainment venues.

## **2 Background Information**

- 2.1 The Council adopted the ability to licence lap dancing clubs and other premises which provide sexual entertainment in the same regime as sex shops and sex cinemas in January 2011. At the same time the council adopted a Statement of Licensing Policy to guide applicants.
- 2.2 Following the initial licensing of seven lap dancing clubs as sex establishments in June 2012, the council undertook to review the policy to ensure it still met the needs of the people of Leeds. The reviewed policy was approved by Executive Board in July 2013 and came into effect on the 1<sup>st</sup> September 2013.

## **3 Main issues**

- 3.1 In May 2012, Licensing Committee considered a report of the City Solicitor regarding the annual governance arrangements for that year. The Licensing Committee established a specialist licensing subcommittee to deal with the new licence applications for sexual entertainment venues. The purpose behind a specialist sub-committee was to ensure consistency across all seven decisions, with special consideration to be given to the decision regarding location and the number the council think are appropriate for the area.
- 3.2 In July 2012 the specialist licensing sub-committee dealt with the matter of seven applications for sex establishment licences which authorised the provision of sexual entertainment. These premises, called lap dancing clubs, were issued with licences that will expire on the 30<sup>th</sup> September 2013.
- 3.3 It is expected that the council will receive the renewal applications for these licences during September. Taking into consideration the consultation/notice period it is likely that these applications will be dealt with at the end of November.
- 3.3 In addition the council is in receipt of an application for a new sex establishment licence. This application has been submitted by new owners at an existing lap dancing club called Black Diamond. The current licence, due to expire at the end of September, authorised sexual entertainment on the first and second floors. The new application is seeking sexual entertainment on all four floors of the building. This application is due to be heard at the end of September.
- 3.4 Therefore, this report recommends that Licensing Committee consider forming a specialist sub-group to deal with all applications for sex establishment licences with regard to the sexual entertainment venues. Specialist training will be provided for members volunteering for the specialist subcommittee.

## **4 Corporate Considerations**

### **4.1 Consultation and Engagement**

- 4.1.1 There are no implications for consultation and engagement arising from this report.

## **4.2 Equality and Diversity / Cohesion and Integration**

4.2.1 There are no implications from equality and diversity or cohesion and integration arising from this report.

## **4.3 Council policies and City Priorities**

4.3.1 The Government, through the Home Office, has devised a licensing regime that all licensing authorities must follow when licensing sex establishments.

4.3.2 The licensing regime contributes to the following Best Council Plan 2013-17 outcomes:

- Improve the quality of life for our residents, particularly for those who are vulnerable or in poverty;
- Make it easier for people to do business with us.

4.3.3 The licensing regime contributes to our best council objective:

- Ensuring high quality public services – improving quality, efficiency and involving people in shaping their city.

## **4.4 Resources and value for money**

4.4.1 Adopting the recommendation of this report will ensure efficient decision making and reduce legal challenges.

## **4.5 Legal Implications, Access to Information and Call In**

4.5.1 A clear delegation framework will minimise the risk of legal challenge.

4.5.2 There are no matters contained in this report which are potentially exempt from the press and public.

4.5.3 The matters in this report are not eligible for call in as they relate to council functions.

## **4.6 Risk Management**

4.6.1 The appointment of sub-committees to carry out the licensing functions is consistent with good corporate governance arrangements.

## **5 Conclusions**

5.1 That the Licensing Committee consider the arrangements set out in this report.

## **6 Recommendations**

6.1 Members of the Licensing Committee are asked to establish a specialist subcommittee to deal with any applications for sex establishment licence for sexual entertainment venues.

**7 Background documents<sup>1</sup>**                      None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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**LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 21/08/13 (hg)**

ITEM	DESCRIPTION	NOTES	TYPE OF ITEM
<b>Items Currently Unscheduled</b>			
<b>TPHL Policy Review – ongoing review of the policies/conditions</b>	Review timetable was agreed February 2011. Policies have been split into Groups 1, 2 and 3 and will return to Committee at the conclusion of the necessary consultation period (Group 1 Oct '12. Group 2 Jan '13)	D Broster	DP

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
<b>Meeting date: TUESDAY 4 JUNE 2013. HELD. Annual Governance arrangements, Annual Report</b>			
<b>Meeting date: 25 JUNE 2013. HELD. SEV policy, Law Commission interim statement, Executive PH policies</b>			
<b>Meeting date: 23 JULY 2013. HELD. Enforcement Activity Update, Trike PH applications, ELS Activity Update, Site Allocation Plan, Late Night Levy</b>			
<b>Meeting date: 13 AUGUST 2013. HELD. TPHL Decision Making Process, Leeds Festival</b>			
<b>Meeting date: 10 SEPTEMBER 2013</b>			
<b>Scrap Metal Dealers Act 2013</b>	To receive a report setting out the implications of the Scrap Metal Dealers Act 2013 on the work of the Licensing Committee	S Holden	PM
<b>TPHL Monitoring proposals</b>	To receive a report considering proposals for data collection in respect of HC and PH applicants and licence holders	D Broster	PM
<b>SEV update</b>	To receive a report presenting an update on the SEV process	S Holden	B
<b>Meeting date: 15 OCTOBER 2013</b>			
<b>WYP Presentation</b>	Policing and the Night time Economy		B
<b>Late Night Levy</b>	To receive a report back on the outcome of discussions regarding the governance arrangements for the implementation of the Late Night Levy, particularly the mechanism for overseeing the spending of the Levy	S Holden/WYP	PM
<b>Shisha Smoking issues</b>	To receive a report from LCC Health and Safety Team on shisha smoking in Leeds and the Service's remit on enforcing smoking regulations	S Rockliffe/R McCormack	B
<b>Meeting date: 12 NOVEMBER 2013</b>			

**LICENSING COMMITTEE WORK PROGRAMME 2013/14- LAST UPDATED 21/08/13 (hg)**

ITEM	DESCRIPTION	Officer	TYPE OF ITEM
<b>Meeting date: 17 DECEMBER 2013</b>			
<b>Disclosure and Barring Service</b>	To receive an update	D Broster	B
<b>Three Yearly Licences</b>	To receive a report on the findings of the Working Group established by the Committee	D Broster	PM/DP
<b>Meeting date: 14 JANUARY 2014</b>			
<b>TPHL – update on the Decision Making process suspensions/revocations</b>	To receive a six monthly update on the decision making process in respect of suspensions and revocations undertaken by the Taxi and Private Hire Licensing Section for the period June to November 2013	D Broster	PM
<b>Update on Enforcement Activity</b>	To receive a report providing an update on the enforcement activity undertaken by the Entertainment Licensing Enforcement & Liaison Team for the period June – November 2013	S Kennedy	PM
<b>ELS – update on activity</b>	To receive a six monthly update on the activity and applications processed by the Entertainment Licensing Section June to Nov 2013	N Raper	PM
<b>Meeting date: 11 FEBRUARY 2014</b>			
<b>Meeting date: 11 MARCH 2014</b>			
<b>Meeting date: 8 APRIL 2014</b>			
<b>Meeting date: 13 MAY 2014</b>			

Key: RP – Review of existing policy      DP – Development of new policy      PM – Performance management      B – Briefings      SC – Statutory consultation