

**To: The Members of the Licensing Committee
(Councillors Morson, Butcher, Davis, Forwood,
Freer, Holland, Lewis, M Moss, Payne, Pickard,
Sherratt, A Stanley, Y Stanley, Watkins and
Wykes)**

For the information of other Members of the Council

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For enquiries about specific reports please contact the officer named in the reports.

LICENSING COMMITTEE AGENDA

23 SEPTEMBER 2013

The Licensing Committee will meet in the Council Chamber, Council House, South Street, Atherstone on Monday 23 September 2013 at **5.00 pm**

AGENDA

PART I - PUBLIC BUSINESS

- 1 Evacuation Procedure**
- 2 Apologies for Absence**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**

- 4 **Minutes of the meeting of the Committee held on 28 January 2013** – copy herewith to be approved as a correct record and signed by the Chairman.

**PART A
ITEMS FOR DISCUSSION AND DECISION
(WHITE PAPER)**

- 5 **Scrap Metal Dealers Act 2013** - Report of the Assistant Chief Executive and Solicitor to the Council

Summary

The report informs the Committee of the above Act and proposes procedures for the functions to be discharged.

The Contact Officer for this report is Steve Maxey (719438).

- 6 **Scrap Metal Dealers Act 2013 - Setting of Fees** - Report of the Assistant Chief Executive and Solicitor to the Council

Summary

This report asks the Committee to consider agreeing a scale of fees in respect of the grant of licences under the Scrap Metal Dealers Act 2013.

The Contact Officer for this report is Stephen Whiles (719326).

- 7 **Budgetary Control Report 2013/14 Period Ended 31 August 2013** - Report of the Assistant Director (Finance and Human Resources)

Summary

The report covers revenue expenditure and income for the period from 1 April 2013 to 31 August 2013. The 2013/2014 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Committee.

The Contact Officer for this report is Nigel Lane (719371).

JERRY HUTCHINSON
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE LICENSING COMMITTEE

28 January 2013

Present: Councillor Morson in the Chair

Councillors Butcher, Forwood, Holland, Lewis,
M Moss, Payne, Pickard, Sherratt, Y Stanley, Watkins and Wykes.

Apologies for absence were received from Councillors Davis, Freer and A Stanley.

14 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

15 **Minutes**

The minutes of the meeting of the Committee held on 22 October 2012, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

16 **Service Plan for the Licensing Section**

The Assistant Chief Executive and Solicitor to the Council sought approval to the 2013/14 Service Plan for the Licensing Section.

Resolved:

That the Service Plan as set out in the Appendix to the report of the Assistant Chief Executive and Solicitor to the Council be agreed.

17 **General Fund Fees and Charges 2013/2014**

The Committee was asked to consider the fees and charges for 2012/13 and the proposed fees and charges for 2013/14.

Resolved:

That the schedule of fees and charges for 2013/14 as set out in the report of the Assistant Chief Executive and Solicitor to the Council, be accepted.

18 **General Fund Revenue Estimates 2013/14**

The Deputy Chief Executive reported on the revised budget for 2012/13 and an estimate of expenditure for 2013/14, together with forward commitments for 2014/15, 2015/16 and 2016/17.

Resolved:

- a That the revised budget for 2012/13, be accepted; and**

Recommendation to Executive Board:

- b That the Estimates of Expenditure for 2013//14 as submitted in the report of the Deputy Chief Executive be accepted, and included in the budget to be brought before the meeting of the Executive Board on 12 February 2013.**

19 Licensing Act 2003 – Proposals to Deregulate Schedule One

The Assistant Chief Executive and Solicitor to the Council informed Members about the Governments proposals to deregulate Schedule One of the Licensing Act 2003 dealing with the provision of regulated entertainment.

Resolved:

- a That the report be noted; and**
- b That the Committee be provided with further detail when available.**

20 Consultation on delivering the Government’s policies to cut alcohol fuelled crime and anti-social behaviour

The Assistant Chief Executive and Solicitor to the Council sought Members views on the Government’s consultation on key issues in their alcohol strategy published in March 2012.

Resolved:

- a That the consultation papers be noted; and**
- b That the views of the Committee on the proposals be forwarded to the Home Office as the Council’s response to the consultation paper.**

21 Animal Boarding Establishments Act 1963 – Adoption of Conditions in respect of dog day care

The Assistant Chief Executive and Solicitor to the Council asked the Committee to consider adopting standard conditions in respect of the grant of licences under the Animal Boarding Establishments Act 1963 for establishments offering dog day care. The Committee were also asked to consider making a minor amendment to the existing conditions for conventional animal boarding establishments.

Resolved:

- a That conditions relating to the granting of licences for dog day care as set out in Appendix A to the report of the Assistant Chief Executive and Solicitor be adopted; and**
- b That kennel cough be added to the list of immunisations required by the existing animal boarding conditions.**

P Morson
Chairman

Agenda Item No 5

Licensing Committee

23 September 2013

**Report of the
Assistant Chief Executive and Solicitor to
the Council**

Scrap Metal Dealers Act 2013

1 Summary

- 1.1 The report informs the Committee of the above Act and proposes procedures for the functions to be discharged.

2 Recommendation to Executive Board

- a. That the functions within the Scrap Metal Dealers Act 2013 be added to the terms of reference of the Licensing Committee;
- b. That the delegations to Officers detailed in the report be approved and included in the constitution within the terms of reference for the Licensing Committee from the Community and Environment Board; and

Recommendation to the Committee

- c. That applications under the Scrap Metal Dealers be determined as detailed in the report.

3 Scrap Metal Dealers Act 2013

- 3.1 The background to the changes being introduced by the Scrap Metal Dealers Act 2013 ("the Act") is set out in another report to this Committee and is not therefore repeated here. This report recommends the arrangements for determining applications and dealing with proposed revocations.
- 3.2 It is clear that the functions detailed in the Act should be dealt with by this Committee. For all other Licensing applications the Assistant Chief Executive and Solicitor to the Council has delegated powers to approve any applications or renewals unless objections are received following the consultation process. Any proposed revocations are also dealt with by Members. Such cases would be heard by the Licensing Sub-Committee and for consistency therefore it is suggested that applications, renewals and revocations under this Act be dealt with in the same way. The Executive Board would therefore be asked to approve the necessary constitutional amendments.

- 3.3 The enforcements powers under the Scrap Metal Dealers Act 1964 are currently part of the Community and Environment Board's delegated powers, given that it was part of the general Environmental Health function. It is proposed that the enforcement powers remain the same and be delegated to the same staff within the Environmental Health Division but that the Licensing Officer be added to the list of those officers and that it moves under this Committee's remit given the change in legislation. Again the Executive Board would be asked to approve that change to the constitution.

The contact officer for this report is Steve Maxey (719438)

Agenda Item No 6

Licensing Committee

23 September 2013

**Report of the
Assistant Chief Executive and Solicitor to
the Council**

**Scrap Metal Dealers Act 2013.
Setting of Fees.**

1 Summary

- 1.1 This report asks the Committee to consider agreeing a scale of fees in respect of the grant of licences under the Scrap Metal Dealers Act 2013.

Recommendation to the Committee

That the scale of fees set out in paragraph 3.7 be agreed.

2 Consultation

- 2.1 Councillors Morson (Chairman) and Payne (Vice-Chairman) have been sent an advanced copy of this report for comment. Any comments received will be reported verbally at the meeting.

3 Report

- 3.1 The Scrap Metal Dealers Act 2013 (the 2013 Act) received Royal Assent on the 28 February 2013, delivering much needed reform of the scrap metal sector. The 2013 Act will provide effective and proportionate regulation of the sector, creating a more robust, local authority run, licensing regime that will support legitimate dealers yet provide the powers to effectively tackle unscrupulous operators. It will raise trading standards across the whole sector.
- 3.2 The 2013 Act will allow local authorities to decide who should and should not be licensed, allowing them to refuse a licence upon application or to revoke a licence at any time if they are not satisfied that the applicant is a suitable person to carry on business as a Scrap Metal Dealer. The act also creates closure powers for unscrupulous dealers who operate without a licence. It extends the record keeping requirements placed upon scrap metal dealers and requires the verification of the people Scrap Metal Dealers are transacting with. The act will integrate the separate regulation for motor salvage operators with the scrap metal sector.
- 3.3 Finally, the 2013 Act creates a fee raising power, to allow local authorities to recover the costs stemming from administering and seeking compliance with the regime.

- 3.4 The intention is for the act to be implemented in October 2013.
- 3.5 Section one of the 2013 Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer. It will be an offence to carry on a business as a scrap metal dealer in breach of the requirement to hold a licence. This offence is punishable on summary conviction with a fine not exceeding level 5 on the standard scale. In addition, Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the authority.
- 3.6 Local authorities will be responsible for administration and compliance activity in relation to the 2013 Act. Schedule 1(6) of the 2013 Act provides that an application must be accompanied by a fee set by the local authority. In setting a fee, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury. This fee raising power is an essential component of the legislation as it will provide local authorities with the funding they need to administer the regime and ensure compliance.
- 3.7 The power to set fees has been passed to individual local authorities, so that any fees levied in each local area is set by reference to the actual costs to each authority. The EU services directive states that a licence fee can only be used to pay for the cost associated with the licensing process. In effect, each local authority must ensure that the income from fees charged for each service does not exceed the costs of providing the service. Local Authorities should specify fees for each category of application i.e. for the assessment of an application for a licence, the assessment of an application to vary a licence, and the assessment of an application for licence renewal.
- 3.8 The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers. Any activity taken against unlicensed operators must be funded through existing funds. Such activity against unlicensed operators includes issuing closure notices; with applications for closure orders subsequently made to a magistrates court. The cost of applying to the Magistrates Court for a warrant (Section 16(5)(6) and (7) of the 2013 Act) for entry to unlicensed premises, by force if necessary, will incur legal costs to be borne by the local authority and police.
- 3.9 There are two types of licence specified within the act, one is for a site licence and the other is for a mobile collector licence (carrying on business otherwise than at a site). The licence authorises the licensee to carry on business as a scrap metal dealer at the sites listed in it (in the case of a site licence) or within the local authority area (in the case of a mobile collector's licence). A site licence requires all of the sites at which the licensee carries on the business as a scrap metal dealer within the local authority area to be identified and a site manager to be named for each site. In doing so, they will be permitted to operate from those sites as a scrap metal dealer, including transporting scrap metal to and from those sites from any local authority area. A collector's licence authorises the licensee to operate as a mobile collector in the area of the issuing local authority, permitting them to collect any scrap

metal as appropriate. This includes commercial as well as domestic scrap metal.

- 3.10 The licence does not permit the collector to collect from any other local authority area. A separate licence should be obtained from each local authority from which the individual wishes to collect in. A collector's licence does not authorise the licensee to carry on a business at a site within any area. Should a collector wish to use a fixed site, they will need to obtain a site licence from the relevant local authority.
- 3.11 The Act 2013 also specifies that a licence will be issued by the local authority in whose area a scrap metal site is situated, or (in respect of a mobile collector) in the area that the collector operates. All licensees are required to display a copy of their licence. For site operators the licence must be displayed in a prominent place in an area accessible to the public. For mobile collectors, it must be in a manner which enables the licence to be easily read by a person outside the vehicle. A criminal offence is committed by any scrap metal dealer who fails to fulfil this requirement. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.
- 3.12 Schedule 1 paragraph 1 of the 2013 Act specifies the terms of a licence. It indicates that a licence expires at the end of the period of 3 years beginning with the day on which it is issued.
- 3.13 The following fees are suggested

Type Of Application	Site Licence	Collectors Licence
New Licence	£300	£188
Variation Of Licence	£75	£75
Renewal Of Licence	£300	£188

4 Report Implications

4.1 Finance and Value for Money Implications

- 4.1.1 Under the EU Services Directive the Council can recover the cost of administering and checking compliance with the Act. However the cost of enforcement against unlicensed operators cannot be recovered and will have to be met from existing resources. The possible implications are unknown at the present time.

4.2 Safer Communities Implications

- 4.2.1 Metal theft is an increasing area of crime and it is intended that these provisions will lead to a fall in the amount of crime being committed.

4.3 Legal and Human Rights Implications

4.3.1 There are no material legal implications arising from the introduction of these powers provided the relevant statutory procedures are followed.

4.4 Environment and Sustainability Implications

4.4.1 There are no adverse environmental implications in the report. The proposals will help maintain the quality of the environment by reducing the amount of metal theft.

4.5 Health, Wellbeing and Leisure Implications

4.5.1 The powers will allow greater control over collectors and should reduce the noise and nuisance often associated with these activities

4.6 Human Resources Implications

4.6.1 Any applications that are received can be dealt with within existing resources due to the repeal of the existing legislation relating to scrap metal dealers and motor salvage operators.

4.7 Risk Management Implications

4.7.1 There are no risk management implications provided the relevant statutory procedures are followed.

4.8 Equalities Implications

4.8.1 There are no negative impacts of opportunity for any known group.

4.8.2 Applications will be considered in accordance with legislative requirements and Council policies and each case will be judged on its merits. Therefore there are no equality impact issues in respect of the granting of licences. Raising awareness of the legal requirements with members of the public will be a key part of the implementation of the licences both nationally and locally.

4.9 Links to Council's Priorities

4.9.1 Protecting and improving our environment. Working with our partners to tackle crime, the fear of crime and anti-social behaviour.

The Contact Officer for this report is Stephen Whiles (719326).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 7

Licensing Committee

23 September 2013

**Report of the Assistant Director
(Finance and Human Resources)**

**Budgetary Control Report 2013/14
Period Ended 31 August 2013**

1 Summary

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2013 to 31 August 2013. The 2013/2014 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Committee.

Recommendation to Committee

That the report be noted.

2 Consultation

- 2.1 Councilors N Dirveiks, Moore and Smith have been sent an advanced copy of this report for comment. Any comments received will be reported verbally to the Committee.

3 Report

3.1 Introduction

- 3.1.1 Under the Service Reporting Code of Practice (SeRCOP), services should be charged with the total cost of providing the service, which not only includes costs and income directly incurred, but also support costs relating to such areas as finance, office accommodation, telephone costs and IT services.

4 Overall Position

- 4.1 Net controllable expenditure for those services that report to the Licensing Committee as at 31 August 2013 is £8,141 compared with a profiled budgetary position of £4,985; an over spend of £3,156. Appendix A to this report provides details of the profiled and actual position for each service reporting to this Board, together with the variance for the period.

- 4.2 Where possible, the budget to date figure has been calculated with some allowance for seasonal variations, in order to give a better comparison with actual figures. Reasons for the variations are given, where appropriate, in more detail below.

4.3 Hackney Carriages

4.3.1 Income from Vehicle Licenses and Drivers Licenses is lower than profiled by £2,210, as a result of a small decline in the number of applications for licences. It is uncertain whether there will be sufficient new applications received in the year to generate the original budgeted income level.

5 Risks to the Budget

5.1 The key risks to the budgetary position of the Council from services under the control of this Committee are:

- Fee income – The levels of some licenses, especially those related to alcohol licensing, street trading, pet shops and other commercial enterprises are at risk from a continuing and prolonged downturn in the economy.
- Changes in the number of taxi firms in the Borough, which would impact on the income received for Vehicle and Drivers' Licences.

6 Estimated Out-turn

6.1 Members have requested that Budgetary Control Reports provide details on the likely out-turn position for each of the services reporting to this Board. The anticipated out-turn for this Board for 2013/14 is £13,440 as detailed in the table below: -

	£
Approved Budget 2013/14	11,240
Reduction in Hackney Licenses income	2,200
Expected Out-turn 2013/14	13,440

6.2 The figures provided above are based on current information as there is no indication that there will be any further reduction in license income. However this will be monitored and Members will be updated in future reports of any changes to the forecast out turn.

7 Report Implications

7.1 Finance and Value for Money Implications

7.1.1 The Council's budgeted contribution from General Fund balances for the 2013/2014 financial year is £458,470. This is expected to increase by £2,200, as shown above. Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this Board at future meetings.

7.2 **Environment and Sustainability Implications**

- 7.2.1 The Council has to ensure that it adopts and implements robust and comprehensive budgetary monitoring and control, to ensure not only the availability of services within the current financial year, but in future years.

The Contact Officer for this report is Nigel Lane (719371).

North Warwickshire Borough Council

Licensing Committee

Budgetary Control Report 2013/2014 as at 31 August 2013

Description	Approved Budget 2013/2014	Profiled Budget 31 August 2013	Actual 31 August 2013	Variance	Comments
Licensing Authority	8,800	2,589	3,361	772	
Licences and Registration	4,620	1,137	1,304	167	
Hackney Carriages & Private Hire Vehicles	3,450	344	2,486	2,142	Para 4.3
Gambling Act Authority	(5,630)	915	990	75	
Total Expenditure	11,240	4,985	8,141	3,156	