

COUNCIL	AGENDA ITEM No. 15(d)
30 JANUARY 2013	PUBLIC REPORT

CHANGES TO THE CONSTITUTION REQUIRED TO REFLECT CURRENT LEGISLATIVE REQUIREMENTS REGARDING SCRAP METAL DEALERS

R E C O M M E N D A T I O N S
FROM : Teresa Martin - Regulatory Officer - Licensing
That Council: approve the amendments to ensure the constitution is correct in administering the functions and provisions of the Scrap Metal Dealers Act 1964

1. PURPOSE AND REASON FOR REPORT

- 1.1 Within the constitution Scrap Metal Dealers are currently under the planning and environmental protection committee. It is proposed that the licensing committee take over this function.
- 1.2 To add orders of exemption (for itinerant dealers) under Section 3 of the Act to the constitution

2. BACKGROUND (& CONSULTATION)

- 2.1 Currently the licensing department deal with registrations under the Scrap Metal Dealers Act, and will also consider applications for orders of exemption. It provides clarity to move this provision to the licensing committee. Also the legislation for Scrap Metal Dealers will be changing from a registration to a licensing matter in due course.
- 2.2 The council has a duty to consider applications for 'orders of exemption' in relation to itinerant collectors under Section 3 of the Scrap Metal Dealers Act 1964. Currently the constitution does not reflect this provision.

3. LEGISLATION

- 3.1 The Scrap Metal Dealers Act 1964 has recently been amended by The Legal Aid Sentencing and Punishment of Offenders Act 2012, which effectively makes the buying of scrap metal for cash an offence unless the dealer is registered with the local authority and also has an order of exemption under Section 3 of the Act. This change in legislation took effect on 3 December 2012.
- 3.2 The proposed changes will ensure that the constitution makes it clear how orders of exemption will be considered and determined.

4. IMPLICATIONS

4.1 Legal

Legal Services have reviewed the proposals and confirm that they meet with the legislative requirements described above. Guidance has also been sought from the Legal Section on the compilation of this report.

- 4.2 By not amending the constitution, it could leave the council open to criticism or judicial review.

4.2 Financial

No financial implications have been identified.

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