

Name of decision maker: Steven Baker

Service Area: Licensing

Title of Decision: Approval of Licence Fees For Scrap Metal Dealers 2015/16

Decision made and reasons:

Decision:

To set the fees and charges which are to be paid by applicants in respect of applications for licences under the Scrap Metal Dealers Act 2013, and renewals and variations thereof, with effect from 1 April 2015 to 31 March 2016, as follows:

Item		Fee
Application for new scrap metal licence	Site licence	£257.00
	Collectors licence	£184.00
Application to renew scrap metal licence	Site licence	£242.00
	Collectors licence	£169.00
Application to vary scrap metal licence	Change of licensee details	£12.00
	Change of licensed sites	£70.00
	Change of site managers	£41.00
	Site to collectors licence	£24.00
	Collectors to site licence	£125.00

Reason:

1. The Council's licensing duties under the Scrap Metal Dealers Act 2013 commenced on 1 October 2013, and an explanatory report was presented to Cabinet on 17 September 2013. At that meeting Cabinet set the fees payable in connection with licence applications for the period from 1 October 2013 to 31 March 2015.
2. To date, nine scrap metal site licences and eight scrap metal collector licences have been issued within Dacorum. Licences are valid for a period of three years.
3. Schedule 3, section A, paragraph 46 of Part 3 of the Council's Constitution 'Responsibility For Functions' delegates authority to exercise all of the functions, duties and powers under the 2013 Act to the Assistant Director (Chief Executive's Unit).
4. The power to set fees is contained within paragraph 6 of Schedule 1 to the Act. Paragraph 6(2) requires that, *"in setting a fee under this paragraph, the authority must have regard to any guidance issued from time to time by the Secretary of State with the approval of the Treasury"*. Guidance was last issued in August

2013¹, and relevant extracts from this document are included at Annex A. With regards this decision particular attention has been paid to the highlighted passages.

5. The Licensing Team Leader has recently reviewed the costs incurred by the Council in administering applications for licences and ensuring compliance on the part of licensed dealers under this Act, and as a consequence proposed that fees be increased from their current levels to ensure that they remain on a cost-recovery level for the next financial year. The calculated costs, taking into account the matters set out in the fees guidance which may be taken into account in the setting of fees, as well as the principles set out in the HM Treasury guidance document, Managing Public Money, were as follows:

Item		LA cost
Application for new scrap metal licence	Site licence	£257.01
	Collectors licence	£184.33
Application to renew scrap metal licence	Site licence	£241.77
	Collectors licence	£169.09
Application to vary scrap metal licence	Change of licensee details	£11.87
	Change of licensed sites	£69.74
	Change of site managers	£40.97
	Site to collector's licence	£23.98
	Collector's to site licence	£125.13

Reports considered:

The report submitted by the Licensing Team Leader.
The relevant Home Office Guidance (see attached)

Officers/Councillors/Ward Councillors/Stakeholders Consulted:

The Licensing Team Leader

Financial Comments:

See financial implications

Monitoring Officer Comments:

This is a decision taken by the Monitoring Officer

S151 Officer Comments:

In future, these increases should be proposed, along with all of the Council's other fees and charges, as part of the wider annual budget-setting process.

Implications:

Value for Money:

See financial implications

Financial:

The approved schedule of fees and charges will mean that the Council will be able to

¹ <https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

recover the actual cost to the Licensing Service of the administration of the licences and ensuring compliance.

Risk:

If the schedule of fees and charges was not approved there would an under recovery of the cost to the Council of administering the licences. If higher fees than those in the schedule were charged there would be a high risk that they would be challenged as unlawful by applicants for the licences.

Officer Signature:

Date:

Annex - Extracts from Home Office guidance on scrap metal licence fees
(www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges)

What costs can local authorities charge for when issuing a licence?

The 2013 Act provides that an application for a licence must be accompanied by a fee set by the local authority. **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.**

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.**

LAs should specify fees for each category of application. Specifically we would expect a fee to be specified 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.

Local authorities should specify fees which are payable by licence applicants for the assessment and administration activity within the new licensing regime brought about by the 2013 Act. They should do this by identifying what they need to do to assess the type of licence in question and calculating their best estimate of the cost to be incurred by the LA. The authority will then be able to calculate a best estimate of unit cost for each case.

In effect, **the costs of a licence should reflect the time spent assessing and administering applications, processing them, having experienced licensing officers review them, storing them, consulting on the suitability of an applicant, reviewing relevant offences, the decision on whether to issue a licence, as well as the cost of issuing licences in a format that can be displayed. Consulting the local authority's enforcement records in order to determine the suitability of the applicant is chargeable within the licence fee costs as are costs associated with contested licence applications.**

Registering authorities should review fees regularly to check whether they remain appropriate.

Can a local authority charge for enforcement activity?

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.

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Do different fees apply?

Yes. Fees charged for a site licence would reflect the extra work involved in processing these licences and will vary from a collector's licence.

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Police objections to licence applications

The police may object to a licence application where they believe that the applicant is not a suitable person as defined within the act. The police can object where, for example, the applicant has been convicted of a relevant offence. LAs should also consider representations from other organisations or individuals in considering the applicant's suitability

Where the police do object, the local authority should take this into consideration but must use their own judgement and discretion when taking a licence decision. The local authority must allow for the person whose licence is about to be refused or revoked to be afforded the right to make representations. The local authority considering the matter must restrict its consideration to the issue of suitability of applicant and provide comprehensive reasons for its decision.

Costs associated with considering oral and written representations should be included in licence fee charges.

Appeals

There is a right of appeal to the Magistrates' Court against a decision to refuse a licence application, to include a condition within the licence, to revoke the licence or to vary the licence. **The costs associated with appeals and the costs of defending an appeal in the Magistrate Court should not be included in licence fee charges.**

The costs associated with defending a Judicial Review into whether the local authority has failed to have regard to the guidance on fees is not chargeable under the licence regime.