

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE LICENSING AND
REGULATORY COMMITTEE – 25 JULY 2013

SUBMITTED TO THE COUNCIL MEETING – 15 OCTOBER 2013

(To be read in conjunction with the Agenda for the Meeting)

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|---------------------------------------|------------------------|
| * Cllr Elizabeth Cable (Chairman) | Cllr Lynn Graffham |
| * Cllr Simon Inchbald (Vice-Chairman) | * Cllr Peter Isherwood |
| Cllr Brian Adams | * Cllr Carole King |
| * Cllr Gillian Beel | * Cllr Bryn Morgan |
| Cllr Jenny Else | Cllr Brett Vorley |
| * Cllr Tony Gordon-Smith | * Cllr Andrew Wilson |

*Present

15. MINUTES (Agenda Item 1)

The Minutes of the Meeting held on 30 May 2013 were confirmed and signed.

16. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS (Agenda Item 2)

Apologies were received from Cllrs Jenny Else, Lynn Graffham and Brett Vorley.

17. DISCLOSURE OF INTERESTS (Agenda Item 3)

There were no interests declared under this heading.

PART I – RECOMMENDATIONS TO THE COUNCIL

There were no matters falling within this category.

PART II - MATTERS OF REPORT

18. LICENCE FEES FOR SEX ESTABLISHMENTS (Agenda Item 6; Appendix A)

18.1 Legislation relating to the licensing of a premise as a sex establishment gives the Council the discretion to set the fee in respect of applications for the grant, renewal, variation and transfer of a licence.

18.2 Licence fees for sex establishments had been subject to legal challenge in some local authorities. Any fees must be reasonable and proportionate to, and must not exceed the cost of the procedures and formalities under the authorisation scheme. In 2012 the current fees were set and agreed by Council. They were designed to meet and recover the costs of processing and administering any application and licences

- 18.3 The Council had as yet not received any applications. Should the Council receive any, application costs would be monitored and, if appropriate, amendments to the fees would be proposed.
- 18.4 Following consideration of the existing fees the Committee RESOLVED
1. not to increase existing fees for the 2013/14 financial budget; and
 2. to add the review of fees for sex establishments to the schedule of Licensing and Regulatory Fees and Charges as part of the annual budget process.

PART III – Brief summaries of other matters dealt with

19. **MINUTES OF THE MEETING OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE** (Agenda Item 7; Appendix B)

RESOLVED that the minutes of the meeting of the Licensing (General Purposes) Sub-Committee held on 30 May 2013 be noted.

20. **MINUTES OF THE MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEES** (Agenda Item 8: Appendix C)

RESOLVED that the minutes of the Licensing Act 2003 Sub-Committee A held on 13 May 2013 be noted with an amendment to the members' attendance as follows:

Cllr Gillian Beel was not in attendance
Cllr Elizabeth Cable was in attendance

The meeting commenced at 10.00 a.m. and concluded at 10.06 a.m.

Chairman

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE MEETING OF THE LICENSING AND
REGULATORY COMMITTEE – 26 SEPTEMBER 2013

SUBMITTED TO THE COUNCIL MEETING – 15 OCTOBER 2013

(To be read in conjunction with the Agenda for the Meeting)

Cllr Elizabeth Cable (Chairman)	Cllr Lynn Graffham
Cllr Simon Inchbald (Vice-Chairman)	Cllr Peter Isherwood
Cllr Brian Adams	Cllr Carole King
Cllr Gillian Beel	Cllr Bryn Morgan
Cllr Jenny Else	Cllr Brett Vorley
Cllr Tony Gordon-Smith	Cllr Andrew Wilson

*Present

21. MINUTES (Agenda Item 1)

The Minutes of the Meeting held on 25 July 2013 were confirmed and signed.

22. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS (Agenda Item 2)

Apologies were received from

23. DISCLOSURE OF INTERESTS (Agenda Item 3)

There were no interests declared under this heading.

PART I – RECOMMENDATIONS TO THE COUNCIL

24. SCRAP METAL LICENSING – NEW LEGISLATION (Agenda Item 6; Appendix A)

24.1 There are a small number of businesses in Waverley that deal with scrap metal (Scrap Metal Dealers and Motor Salvage Operators) and they are required to register this. To reduce the potential for metal theft, fraud and money laundering, changes to the record keeping processes and payments were introduced by central government in September 2012.

24.2 Since then, government has looked again and decided to remove the registration requirement on such businesses and replace it with one licensing system covering both arms of scrap metal dealing, under the Scrap Metal Dealers Act 2103 (the 2013 Act). New transitional arrangements were released in August and the report is based on the information contained in these updates and a guidance document was released by the Local Government Association, but a number of issues remain outstanding (see 24.5 below).

24.3 It is understood that currently registered scrap metal dealers and motor salvage operators will be able to apply for a new licence from 1st October

2013. Provided they make their applications before 16th October currently registered scrap metal dealers will automatically be deemed to hold a temporary licence pending completion of formal suitability assessments. Deemed licences will run until the application is determined but the Home Office is recommending a completion date of 1st December, by which time Licensing Authorities are expected to have concluded their licensing processes.

24.4 Any scrap metal dealers caught by the new legislation who are not currently registered will be able to apply from 1st October but will not receive an interim licence. The application will be processed under the 2013 Act and determined accordingly; trading without a licence will be an offence and full enforcement of the provisions of the 2013 Act will commence 1st December 2013.

24.5 Although the primary legislation has been passed a lot of work is still required, mainly through provision of detailed guidance for operators and Licensing Authorities, and passing of Statutory Instruments to set detailed regulations, including:

- Issue of regulations setting out the form & content of licences.
- Issue of formal guidance to local authorities on suitability assessment.
- Issue of regulations setting out relevant offences to be considered in assessing suitability of applicants.
- Issue of regulations specifying requirements for verifying the identity of persons supplying scrap metal.
- Issue of guidance for applicants on applying to "Disclosure Scotland" for basic criminal record checks.

24.6 There are currently six registered scrap metal dealers (including one itinerant collector) and one motor salvage operator in Waverley. No fees are currently payable, although the Council introduced a registration fee of £109 for motor salvage in 2013-14 which would have fallen due to that one operator on renewal, in January 2014. Registration currently last 3 years and the new licensing regime mirrors this. The £109 fee will no longer be required but fees will need to be set for the two types of scrap metal dealer licences: Site licences and Collectors' licences, as well as for variations and renewals under each category.

24.7 Fees must be set locally by each local authority on a cost recovery basis, so will provide the funding needed to administer the regime and ensure compliance. In accordance with the EU Services Directive, the Provision of Services Regulations 2009 and current case law, fees set must not exceed the costs of providing the authorisation service. See the following table of proposed fees.

	SCRAP METAL DEALERS LICENCE by TYPE	PROPOSED FEE (£)
1	Site - new application	440
2	Collector's - new application	400
3	Site – renewal	248

4	Collector's – renewal	208
5	Site to Collector's – variation	377
6	Collector's to Site - variation	416

24.8 Local authorities have a duty to have regard to guidance issued by the Secretary of State which outlines issues to be considered when setting the fees and what activities the fees can cover. The guidance states the fees should reflect the time spent:

- assessing and administering applications
- processing applications
- having experienced licensing officers review applications
- storing applications
- consulting on the suitability of an applicant
- reviewing relevant offences
- the decision on whether to issue a licence

Licence fees can also include:

- the cost of issuing a licence in a format which can be displayed
- the cost of consulting the local authority's enforcement records in order to determine the suitability of the applicant
- costs associated with contested applications

24.9 The licence fee cannot be used to support enforcement action against unlicensed scrap metal dealers, and such action must be funded through existing resources.

24.10 Using the above guidance in the fee-setting process a charge of £440 for Site Licences and £400 for Collectors' Licences is recommended, with lower levels for renewals and variations. Some previously unregistered businesses may now fall under the 2013 Act and these will be identified, assessed and advised accordingly.

24.11 The new regime requires changes to the Scheme of Delegation in order to determine and issue, vary, revoke or renew, or carry out enforcement regarding scrap metal dealers licences. Day to day regulatory functions will be carried out by Environmental Health Officers and/or Technical Officers as part of the Council's Environmental Services functions.

24.12 Following consideration of the proposed fees the Committee had no comments they wished to pass to the Executive and accordingly RESOLVED to RECOMMEND to the COUNCIL

1. to set a fee of £440 and £400 for Site and Collectors' licences respectively; of £248 and £208 for their respective renewals, and of £377 and £416 for variations to Site and Collector's licences; and
2. amend the Scheme of Delegation to reflect the new Scrap Metal licensing regime, and that the previously identified errors in the scheme of delegation be corrected

PART II - MATTERS OF REPORT

There were no matters falling within this category.

PART III – Brief summaries of other matters dealt with

25. **MINUTES OF THE MEETING OF THE LICENSING (GENERAL PURPOSES) SUB-COMMITTEE** (Agenda Item 7; Appendix B)

RESOLVED that the minutes of the meeting of the Licensing (General Purposes) Sub-Committee held on 25 July 2013 be noted.

26. **MINUTES OF THE MEETING OF THE LICENSING ACT 2003 SUB-COMMITTEES** (Agenda Item 8: Appendix C)

RESOLVED that the minutes of the Licensing Act 2003 Sub-Committee B held on 8 July 2013 and Sub-Committee C held on 22 July 2013 be noted.

The meeting commenced at 10.00 a.m. and concluded at 10.05 a.m.

Chairman