

SCRAP METAL DEALERS DETERMINATION HEARING

WEDNESDAY 9 APRIL 2014 AT 10.00AM

PRESENT:

Councillor Dr Tickner (Finance, Governance and Resources Portfolio Holder)
Mr M Lambert (Director of Governance)

OTHER ATTENDEES:

Detective Sergeant Peter Goulston (Cumbria Police)

OFFICERS:

Licensing Manager
Licensing Officer

APOLOGY FOR ABSENCE

There were no apologies for absence submitted.

DECLARATIONS OF INTEREST

There were no declarations of interest affecting the business to be transacted at the meeting.

SMD.03/14 PUBLIC AND PRESS

RESOLVED – That in accordance with Section 100A(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraph number (as indicated in brackets against each minute) of Part 1 of Schedule 12A of the 1972 Local Government Act.

SMD.04/14 DETERMINATION OF APPLICATION FOR SCRAP METAL DEALERS COLLECTORS LICENCE (Paragraph 1)

Portfolio Finance, Governance and Resources

Subject Matter

The Licensing Officer submitted report GD.17/14 regarding the proposal to refuse an application for a Scrap Metal Dealers Collectors Licence.

The Applicant, GF, was in attendance at the meeting.

The Director of Governance outlined the procedure the Hearing would follow. The Applicant confirmed that he had received and read the Licensing Officer's report. The Director of Governance advised the Applicant that he had a right to be represented but he indicated that he did not wish to be so represented.

The Licensing Officer reported that it had come to the attention of the Licensing Office, through Police communications and other observations that the Applicant may have been trading in scrap metal without a licence. The Licensing Office wrote to the Applicant inviting him to apply for a Scrap Metal Dealers Licence and reminding him of the penalty for trading without a licence.

On receipt of the letter the Applicant immediately submitted an application along with the necessary fee and documentation, including his Criminal Disclosure which contained a number of offences. The Applicant had not provided any proof of a business bank account. The Environment Agency Waste Carrier's Permit the Applicant had supplied had belonged to a business which was not in operation. The Applicant's former business partner had submitted a written statement. An acknowledgement letter was sent to the Applicant informing him that he was not permitted to trade until his application was determined.

The Licensing Officer outlined the Applicant's relevant convictions. She informed the Hearing that compliance checks had been undertaken by the Licensing Officer at Scrap Metal Sites. During a visit to one Site records had been obtained showing that the Applicant had weighed in scrap metal without a licence after two warning letters had been sent out from the Licensing Office informing him he must not trade without a licence. The information had been passed onto the Police with a view to possible prosecution action.

The application had been carefully considered by the Licensing Manager. As well as being unable to establish if a bank account was used for the conduct of his business, his relevant convictions, along with possible pending Police prosecutions, it was proposed that the application be refused on the grounds of suitability under Section 3 (2,6 & 7) of the Scrap Metal Dealers Act 2013.

The Applicant had been informed of the proposed refusal and his right to make representations. The Applicant confirmed he wished to appeal against the proposed refusal. Cumbria Police also confirmed that they wished to object and make formal representations at the Hearing.

In response to questions the Licensing Officer clarified the following:

- The basic Disclosures for all of the United Kingdom were carried out by Disclosure (Scotland).
- The receipts obtained from the Scrap Metal Site had been issued to the Applicant as the Site had understood that the applicant was working with a licensed Scrap Metal Dealer.

The Applicant explained that he had always gone to the Scrap Metal Site with a licensed Dealer and had mistakenly thought that he would be covered by the Dealer's licence. He understood now that this was incorrect. He added that the licensed Dealer would have records of dealings with the Site.

Detective Sergeant Goulston addressed the Hearing. He stated that the Police primarily had concerns with regard to the Applicant's relevant convictions which he gave a detailed report of. He also gave a brief overview of the pending prosecutions. He finished by stating the Police based their objections on the Applicant's suitability and that they would have objected to the issue of a licence to him irrespective of the pending prosecutions.

In response to questions Detective Sergeant Goulston clarified the penalties the Applicant had received for the two relevant convictions.

The Applicant then addressed the Hearing. He clarified the situation with regard to the Environment Agency permit and confirmed that he had not applied for a new permit in his name until the Hearing determined his application. He gave a detailed overview of the circumstances of the convictions and clarified the circumstances of the pending prosecutions. He added that he had made mistakes in the past and he wanted a second chance to prove that he could carry out a business in the correct way. He understood any mistakes that he made could result in him losing his licence or being prosecuted.

In response to questions the Applicant clarified the following:

- He had stopped working in December 2013 for medical reasons.
- The scrap that he had weighed in at the Scrap Metal Site had been his.
- He was not currently employed by another Scrap Metal Dealer.
- He had mistakenly thought that selling scrap was different to collecting scrap under the licence.
- He had opened a Post Office account which had a cheque book but it had not arrived to date.

At the request of the Hearing the Applicant detailed the processes required for buying and selling scrap metal and the documentation that would be required.

The Licensing Officer reminded the Hearing of the relevant Legislation and outlined the options open to the Hearing.

In summing up the Applicant urged the Hearing to give him a second chance adding that he would be happy to have conditions on his licence and for the Licensing Office to review it, or his business dealings at any time.

The respective parties then withdrew from the meeting whilst the Hearing Panel gave detailed consideration to the matter.

The Hearing's decision was:

**CONSIDERATION OF AN APPLICATION FOR A SCRAP METAL DEALERS
COLLECTORS LICENCE
Section 1, Scrap Metal Dealers Act 2013**

This matter concerned the submission by GF of an application for a Scrap Metal Dealers Collectors Licence under the Scrap Metal Dealers Act 2013.

The Hearing Panel had considered the application and had taken into account the evidence before it. In particular, it had listened to the submissions made by:

1. GF, the Applicant
2. Detective Sergeant Peter Goulston (Cumbria Police)
3. The Licensing Manager
4. The Licensing Officer

The Hearing Panel had also considered written evidence in the form of a witness statement from DF (GF's former business partner).

After careful consideration, the Hearing had decided to refuse GF a Scrap Metal Dealers Collectors Licence as they were not satisfied that the applicant was a suitable person to carry on a business as a Scrap Metal Dealer in accordance with Section 3 of the Scrap Metal Dealers Act 2013.

The Hearing gave the following reasons:

1. Section 3(2)(a) the Applicant had relevant convictions
2. Section 3(2)f) the Applicant was not able to demonstrate that there would be in place adequate procedures to ensure that the provisions of the Act were complied with namely he did not have evidence of a bank account or Environment Agency permit

The Hearing was grateful for the Applicant's openness and wanted to support him in his willingness to work to the regulations. They, therefore, advised the Applicant that it was open to him to re-apply for a Scrap Metal Dealers Collectors Licence following a suitable conviction free period and submission of evidence that he had obtained the relevant Environment Agency Registration and a cheque account.

The decision would be confirmed in writing.

(The meeting ended at 11.25am)