

## **REGULATORY PANEL**

**WEDNESDAY 17 APRIL 2013 AT 2.00 PM**

**PRESENT:** Councillor Ms Franklin (Chairman) Councillors Allison, Craig, Mrs Parsons, Scarborough, Mrs Stevenson, Stothard (as substitute for Councillor Bell) Mrs Warwick and Whalen (as substitute for Councillor Cape).

**OFFICERS:** Acting Legal Services Manager  
Licensing Officer  
Licensing Manager

### **RP.14/13 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors Bell, Cape and Morton.

### **RP.15/13 DECLARATIONS OF INTEREST**

There were no declarations of interest submitted.

### **RP.16/13 AGENDA**

**RESOLVED** – That the Panel would consider a verbal update on a previous matter from the Licensing Manager as item B.1.

### **RP.17/13 MINUTES OF PREVIOUS MEETINGS**

**RESOLVED** – That the minutes of the meeting held on 6 February 2013 be agreed as a correct record of the meeting and signed by the Chairman.

### **RP.18/13 SCRAP METAL DEALER REGISTRATION**

The Licensing Officer submitted report GD.15/13 regarding an application from a scrap metal dealer who wished to register as an itinerant collector.

Mr McAllister, the applicant, Mrs McAllister, the applicant's wife and DS Goulston, representing Cumbria Constabulary were in attendance at the meeting.

The Acting Legal Services Manager outlined the procedure the Panel would follow. Mr McAllister confirmed that he had received and read the Licensing Officer's report. The Acting Legal Services Manager advised Mr McAllister that he had a right to be represented but he indicated that he did not wish to be so represented.

The Licensing Officer outlined the difference in legislation between scrap metal dealers and itinerant collectors. She then gave Mr McAllister's application history explaining that he had submitted an application to Carlisle City Council on 6 December 2012 for registration as a Scrap Metal Dealer under the Scrap Metal Dealers Act 1985 (The Act). Following representations from Cumbria Constabulary Mr McAllister had been registered with Carlisle City Council as a Scrap metal Dealer and not as an Itinerant Collector therefore he had to maintain full and complete records of all purchases and sales. The

application before the Panel indicated that Mr McAllister now wished to be considered as an Itinerant Collector. She clarified that a full Scrap Metal Dealer had sites or depots where they stored scrap for trading purposes. An Itinerant Dealer had no site or depot but resided within the authority and only travelled around buying and selling scrap from their vehicle.

The Licensing Officer summarised Section 2 of the Act and highlighted Section 3 of the Act which allowed special provisions with regard to records maintained by Scrap Metal Dealers as part of the business of an Itinerant Collector. She explained that Section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force on 3 December 2012 and created a new criminal offence which prohibited scrap metal dealers from paying for scrap metal in cash, the only exemption from this measure was for itinerant collectors.

Mr McAllister had stated that being registered as a Scrap metal Dealer and not an Itinerant Collector had affected him financially as most of his customers preferred to be paid in cash. He claimed that his business had considerable hardship and he requested that the Regulatory Panel considered making an order under Section 3(1) of the Scrap Metal Dealers Act 1964, exempting him from being classed as a Scrap Metal Dealer but as an Itinerant Collector who could purchase scrap from his customers by cash.

Cumbria Constabulary had been consulted on the application and they made representations which stated that Mr McAllister should not be exempted from the requirements under Section 2 of the Act. Following a police investigation Mr McAllister had appeared before West Allerdale Magistrates Court on 21 February 2013 for carrying on a business as a Scrap Metal Dealer and failing to register with the Local Authority. Mr McAllister had pleaded guilty and was fined £90. The offence had occurred prior to him applying for registration with Carlisle City Council.

The Licensing Officer reported that new legislation had received Royal Assent in February 2013. The Scrap Metal Dealers Act 2013 was expected to be implemented from 1 October 2013 and would create cashless trading for all Scrap Metal Dealers including Itinerant Collectors.

In response to questions the Licensing Officer confirmed that the new legislation would mean all Scrap Metal Dealers including Itinerant Collectors would have to keep full records and only be able to use cashless trading measures.

DS Goulston then addressed the Panel. He outlined the background to the investigation in West Cumbria which led to officers identifying Mr McAllister, along with a number of other dealers, who had weighed in a significant amount of scrap metal and had been paid in cash. The operation had been focussed on reducing the theft of metal and the Police had had concerns that some of the metal which had been weighed in had been criminal property. A twelve month period had been investigated during which Mr McAllister had made 84 transactions totalling £31,126; the North Cumbria Police investigated the transactions to establish if any of the scrap had been stolen and to check it complied with legislation.

On 5 December 2012 Mr McAllister had voluntarily attended the Carlisle Police Station to be interviewed with regard to the transactions. Mr McAllister had admitted to being a Scrap Metal Dealer during the period and admitted that the transactions had been made either by him or on his behalf. He had stated that he had been unaware that he had

been required to register with the Local Authority and therefore had no licence. Mr McAllister then appeared before West Allerdale Magistrate Court where he pleaded guilty and was fined.

The Police were consulted on Mr McAllister's application to register as Itinerant Dealer and made the Licensing Office aware of his offence at that time.

In response to questions DS Goulston clarified the following points:

- He had no further history regarding Mr McAllister as a Scrap Dealer and he had no further information on any convictions or offences Mr McAllister may have had.
- The Police investigation had focused on transactions made at Moss Bay Metals only, any other transactions made by Mr McAllister had not been part of the investigation.
- Mr McAllister's offence had been in relation to having no licence and not stolen scrap metal.
- Mr McAllister had sought a licence when the Police had made him aware that he required one.
- The decision regarding Mr McAllister's licence lay with the City Council, the Police could only submit their representations.
- The Police view was that the implementation of the cashless transactions had resulted in a reduction in the theft of metals but he understood that it was causing some issues for businesses. The Police had visited Scrap Metal Dealers to make them aware of the legislation and directed them to organisations that could support them. Dealers were also advised to write to their local MPs to highlight the issues caused by the new legislation.
- He confirmed that it was difficult for Dealers to identify stolen metal but the Dealers were aware of unusual materials which may lead them to question the origins of the metal.
- Cashless Transactions included payments by cheque, bank transfer, credit card and debit cards and there were organisations that Scrap Dealers could contact for information and advice on Cashless Transactions.

Mr McAllister, supported by Mrs McAllister, then addressed the Panel. He stated that he had to write between 30 and 40 cheques a day as he often collected small amounts of scrap each time. He felt that this was a waste of his time. He collected scrap from farmers and a number of them would not take cheques. He also felt that customers did not want the inconvenience of banking a cheque and waiting for it to clear. He said he kept receipts and was happy to receive a cheque when he weighed the scrap in the problem was not being able to purchase the scrap for cash. He felt if he had to remain cashless he would go out of business, He understood that he would have to become cashless in October but by then all scrap dealers would be cashless and all businesses would be equal. He added he had never been convicted for theft and the use of cheques did not guarantee that the scrap metal was not stolen.

In response to questions Mr McAllister clarified:

- He collected scrap in his wagon and did not have a yard
- He weighed his scrap in on a daily basis but occasionally had to store it in the wagon overnight
- He had been in the scrap business for eight years
- He was not aware he had to have a Scrap Dealers Licence but had obtained his operators licence and waste management licence
- He clarified that the £31,126 which he received for scrap had not included the purchase price

- He collected regularly from farms and garages and his weekly income depended on the scrap that was collected, some weeks he did not weigh any scrap in.
- He had two wagons; one had a crane which he used for farm equipment.
- He visited properties and if the scrap was too large for his wagon he would return with the other vehicle which had the crane on.

The Acting Legal Services Manager asked Mr McAllister if he had considered alternative means of payment that were available instead of just cheques as the legislation would require him to do so in the future. Members felt that this was an inappropriate question for scrap metal dealers.

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

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

**RESOLVED** – That, having given detailed consideration to the matter and taking into account the representations from Mr McAllister and Cumbria Constabulary the Panel agreed to register Mr McAllister as an Itinerant Collector under Section 3(1) of the Scrap Metal Dealers Act 1964 which will exempt him from keeping all required records under Section 2(2) of the Act and allow cash transactions at this time.

#### **RP.19/13 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.

#### **RP.20/13 VERBAL REPORT ON A PRIVATE HIRE DRIVER** (Public and Press excluded by virtue of Paragraph 7)

The Licensing Manager reminded the Panel of the case and the report that they had considered. He updated the Panel on the Police investigation and confirmed that the sanctions taken by the Panel had been justified.

(The meeting ended at 3.35pm)