

AGENDA

Regulatory Panel

**Wednesday, 17 April 2013 AT 14:00
In the Flensburg Room, Civic Centre, Carlisle, CA3 8QG**

Apologies for Absence

To receive apologies for absence and notification of substitutions.

Declarations of Interest

Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

Public and Press

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

Minutes of Previous Meeting

To agree the minutes of the meeting held on 6 February 2013.
[Copy Minutes in Minute Book 39(5)].

PART A

To be considered when the Public and Press are present

A.1 SCRAP METAL DEALER REGISTRATION

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The Licensing Manager to submit an application from a scrap metal dealer to register as an itinerant.
(Copy Report GD.15/13 herewith)

PART B

To be considered when the Public and Press are excluded from the meeting

Enquiries to Committee Clerk: Rachel Rooney (01228 817039)

Meeting Date: 17 April 2013
 Portfolio: Finance, Governance and Resources
 Key Decision: Not Applicable:
 Within Policy and Budget Framework NO
 Public / Private Public

Title: SCRAP METAL DEALER REGISTRATION – ANTHONY MCALLISTER
 Report of: Director of Governance
 Report Number: GD 15/13

Purpose / Summary:

Anthony McAllister has been registered as a Scrap Metal Dealer with this Council since 13th December 2012. During the application procedure Mr McAllister asked to be registered as an Itinerant Scrap Metal Collector, however Cumbria Constabulary made representations and he was registered as a full Scrap Metal Dealer and not an Itinerant collector. He now makes application to the Panel for registration as an itinerant collector.

Recommendations:

To reach a decision from the options available, after hearing the evidence and any response from Mr McAllister, in accordance with Section 3 (1) of Scrap Metal Dealers Act 1964

Tracking

Executive:	n/a
Overview and Scrutiny:	n/a
Council:	n/a

1.0 BACKGROUND

Applicant Name: Anthony McAllister
Address: Todhills, Blackford, Carlisle

1.1 Application History

- 1.2 On 6th December 2012 Mr McAllister submitted an application to Carlisle City Council for registration as a Scrap Metal Dealer under the Scrap Metal Dealers Act 1964 (The Act).
- 1.3 The application indicated that Mr McAllister wished to be considered as an Itinerant Collector as no place is occupied by him as a scrap metal store in the area of the local authority or elsewhere, and his usual place of residence is within Carlisle City Council area (**Appendix 1**).
- 1.4 Section 2 of the Act requires that every scrap metal dealer shall, at each place occupied by him as a scrap metal store, keep a book for the purpose of this section, and shall enter in the book the particulars required by this section with respect to –
- (a) All scrap metal received at that place, and
 - (b) All scrap metal either processed at, or despatched from, that place.

The particulars required include:

- description and weight of scrap
- date and time of receipt
- the price paid
- if price paid not known at time of entry, estimated value of scrap
- registration number of delivering vehicle

- 1.5 Section 3 of the Act allows special provisions with regard to records maintained by Scrap Metal Dealers as part of the business of an itinerant collector.
- 1.6 Section 3 (1) states where a person who is registered by a local authority under this Act as a scrap metal dealer, satisfies the authority that he carries on, or proposes to carry on, the business of a scrap metal dealer as part of the business of an itinerant collector, and not otherwise, the authority may make an order directing that, while the order remains in force, he shall be exempt from the requirements under section 2 of the Act of keeping all records of purchases and sales made by him but he must:

(a) on any sale by him of any scrap metal, he shall obtain from the purchaser a receipt showing weight of the scrap metal comprised in the sale and the aggregate price at which it was sold; and

(b) shall keep every receipt as he is required to obtain until the end of the period of two years beginning with the day on which the receipt is obtained, in such a way as to be able to produce it on demand to any person authorised.

- 1.7 Section 3(2) states that a local authority shall not make an order under the preceding subsection except after consultation with the chief officer of police for the police area in which the area of the local authority, or any part of their area, is compromised.
- 1.8 In the case of Mr McAllister's, the police were consulted by the Licensing Office regarding the application and they made representations stating he 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 21st February 2013 for carrying on a business as a Scrap Metal Dealer and failing to register with the local authority. He pleaded guilty and was fined £90. The offence had occurred prior to him applying for registration with Carlisle City Council. **(Appendix 2)**
- 1.9 As a result Mr McAllister was registered with Carlisle City Council as a Scrap Metal Dealer and not as an Itinerant Collector therefore having to maintain full complete records of all purchases and sales.
- 1.10 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 came into force on 3 December 2012. This legislation sets out changes to the Scrap Metal Dealers Act 1964, removing the rewards that make metal theft a low risk enterprise for metal thieves and unscrupulous dealers.
- 1.11 Section 146 of the LASPO Act 2012 creates a new criminal offence which prohibits scrap metal dealers from paying for scrap metal in cash, the only exemption from this measure is for itinerant collectors.
- 1.12 Mr McAllister has stated that after having been registered as a Scrap Metal Dealer and not as an Itinerant Collector, his business has suffered financial difficulties as most of his customers prefer to be paid in cash. His business is finding considerable hardship and he requests the Regulatory Panel considers 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 can purchase scrap from his customers by cash. **(Appendix 3)**

- 1.13 Cumbria Constabulary will be in attendance at the meeting and will comment as to the reason for their representations and Mr McAllister will also be in attendance to explain his reasons for this application.

2.0 NEW LEGISLATION

- 2.1 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and its measures are expected to be implemented with effect from 1st October 2013. As well as combining scrap metal and vehicle salvage legislation, this Act will create cashless trading measures for all Scrap Metal Dealers including Itinerant Collectors.

3.0 OPTIONS

1. To register Mr McAllister as an Itinerant Collector under section 3(1) of the Act which will exempt him from keeping all required records under section 2(2) of the Act and allow cash transactions at this time.
2. To refuse Mr McAllister's request to be registered as an Itinerant Collector, thereby requiring him to maintain all records in accordance with section 2(2) of the Act and consequently make no cash transactions.

4.0 RECOMMENDATIONS

To reach a decision from the options available, after hearing the evidence and any response from Mr McAllister, in accordance with Section 3 (1) of Scrap Metal Dealers Act 1964.

Contact Officer: Sue Stashkiw Ext: 7029

**Appendices attached to report: A – SMD application
B – Representation from Cumbria Constabulary
C – Letter from Mr McAllister**

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers:

- **Scrap Metal Dealers Act 1964, Cumbria Constabulary representations**

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's – Not applicable

Community Engagement – Not applicable

Economic Development – Not applicable

Governance – Included within report

Local Environment – Not applicable

Resources – Not applicable

App. 1.



SCRAP METAL DEALERS ACT 1964

Application for Registration as a Scrap Metal Dealer

To: Carlisle City Council

I/We ANTHONY McALLISTER
of
Telephone No. { } TODHILLS, BLACKFORD, CARLISLE
being a (proposed) Dealer in Scrap Metal in the area of the above-mentioned local authority HEREBY APPLY for registration of the following particulars under the provisions of the Scrap Metal Dealers Act 1964:-


Full name of dealer: MR ANTHONY McALLISTER

Usual place of residence (if individual): TODHILLS, BLACKFORD, CARLISLE CA

TODHILLS, BLACKFORD, CARLISLE CA

Registered or principal office (if body corporate): _____

I/WE HEREBY DECLARE as follows:-

- * That the address of each place in the area of the local authority which is (proposed to be) occupied by me/us as a scrap metal store is as follows:-
- *  That no place is occupied by me/us as a scrap metal store, whether in the area of the local authority or elsewhere, but my/our usual place of residence is within the area.
- * That no place is occupied by me/us as a scrap metal store, whether in the area of the local authority or elsewhere, but a place in the area is (proposed to be) occupied by me/us wholly or partly for the purposes of that business and that its address is as follows:-
- * (Delete as appropriate)

DATED the SIXTH day of DECEMBER 2012

(Signed).....

Appendix 2

Representation from Cumbria Constabulary (Extract from email)

Anthony McAllister

A summary of the investigation is as follows:

Mr McAllister came to notice of an Op Amber metal theft investigation in West Cumbria due to the volume of metal he had weighed in at Moss Bay Metals, Workington. Between Sept 2011 & Sept 2012 he was paid in excess of £31,000 for metal weighed in at the yard. All the receipts bear the same signature purporting to be 'A. McAllister'. All except two receipts were weighed in using the two vehicles attributable to McAllister. Intelligence showed that he traded under the title McAllister's Scrap Metal Merchants.

Analysis of metal thefts across the Force conducted against the description of metal weighed in indicated he may have been in possession of metal stolen from the offences. He was therefore invited to attend Carlisle Police Station for interview on 5/12/12. He denied involvement in any theft but admitted to trading in the £31,000 worth of metal without any licence from the local authority to trade as a metal collector. He was subsequently convicted of that offence at North Cumbria Magistrates Court on 21 February 2013 when he pleaded guilty and was fined £90 with £20 victim surcharge and £50 costs.

When he applied for an Itinerant Collectors Licence the facts of this case were disclosed upon receipt of a request for information from Carlisle City Council.

I will obtain a copy of the full case summary which can be disclosed at the Panel as it has already been disclosed in open court. The relevant information contained in this representation may also be disclosed to Mr McAllister or anyone representing him.

Peter Goulston
DS 1666
North Area Intelligence Unit
4 April 2013

App. 3.

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Anthony McAllister
T/A McAllister's
Tidhills
Blackford
Carlisle

Dear Sir,

I am writing in connection to our recent meeting, regarding the intinerant conditions imposed on my scrap metal licence.

As you are aware, I am not a scrap yard owner, I am merely a collector and disposer of the material. This licence has been issued to me with the conditions I pay for scrap metal with cheques. This is where the problems with my business arises.

I mainly collect from rural areas and have done for many, many years. Thus letting my business run smoothly. But now due to the conditions imposed, my business is finding considerable hardship.

My customers from past and present are refusing to accept the payment of cheque for there materials. This is where I would humbly like to ask for you to consider removing these conditions.

I am a legitamate business and I do understand the problems that are arising with scrap metal theft. But I never have, nor will, associate myself or my business with this criminal activity.

I would like to ask for your help and support in these difficult times of which are arising. Due to me not being able to pay cash, I have not received any income in the past four weeks plus. With the hardship my business is facing, at this moment in time, I can only see a bleak future. As without a steady income I will not be able to maintain my vehicles, purchase my licences, or continue in scrap metal collection. The only other option for me will be to cease trading and apply for government benefits. This of which I do not wish to happen, as I am happy collecting and disposing and being of a service to the enviroment.

I hope you can see the position I am in, and how much I would like for my business to continue. As I enjoy my work, being a working man and providing for my family.

Yours thankfully

