

# WARRINGTON Borough Council



To: **Executive Board**

Professor Steven Broomhead  
Interim Chief Executive

**Councillors:**

**T O'Neill (Chair), M Hannon (Deputy Chair),  
R Bowden, L Dirir, C Froggatt, K Hannon,  
D Keane, H Patel, P Wright**

Town Hall  
Sankey Street  
Warrington  
WA1 1UH

1 November 2013

**Warrington Borough Council Executive Board Meeting**  
**Monday, 11 November 2013 at 6.30pm**  
**Council Chamber, Town Hall**

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Contact: Christine Oliver, Democratic and Member Services  
(Tel: 01925 442104; Email: [coliver@warrington.gov.uk](mailto:coliver@warrington.gov.uk))

## **AGENDA**

### **Part 1**

Items during the consideration of which the meeting is expected to be open to members of the public (including the press) subject to any statutory right of exclusion.

**1. Code of Conduct – Declaration of Interests**  
**Relevant Authorities (Disclosable Pecuniary Interests)**  
**Regulations 2012**

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.

**2. Minutes**

**Page 1**

Minutes of the meeting of the Executive Board held on 14 October 2013.

**3. Executive Decisions - Forward Plan**

**Page 7**

Report of Solicitor to the Council and Assistant Director,  
Corporate Governance.

4. **Referral from Organisational Improvement and Development Policy Committee – Living Wage (Forward Plan No NKD-012/13)** Page 19

Report of Councillor H Patel, Executive Board Member, Personnel and Communications.

**Please note: Councillor J Kerr-Brown, Chair of the Organisational Improvement and Development Policy Committee is attending the meeting to present the Committee’s report and answer questions.**

5. **Referral from Organisational Improvement and Development Policy Committee – Co-Operative Councils and Mutuals as a Delivery Model for Council Services (Forward Plan No NKD-013/13)** Page 29

Report of Councillor H Patel, Executive Board Member, Personnel and Communications.

**Please note: Councillor J Kerr-Brown, Chair of the Organisational Improvement and Development Policy Committee is attending the meeting to present the Committee’s report and answer questions.**

6. **Changes to Council Tax 2014-2015 (Forward Plan No 031/13)** Page 41

Report of Councillor R Bowden, Executive Board Member, Corporate Resources and Assignments.

7. **Changes to Business Rates - Mandatory, Discretionary and Hardship Reliefs (Forward Plan No 032/13)** Page 45

Report of Councillor R Bowden, Executive Board Member, Corporate Resources and Assignments.

8. **Blacklisting – Minimising Risks to the Council and local businesses** Page 49

Report of Councillor R Bowden, Executive Board Member, Corporate Resources and Assignments.

9. **Scrap Metal Dealers Act 2013 (Forward Plan No 039/13)** Page 55

Report of Councillor D Keane, Executive Board Member. Environment and Public Protection.

## **Part 2**

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

The following information comprises the formal notice under Paragraph 5(4) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that a decision has been taken to hold this part of the meeting in private. Information is also provided against each item heading about the reasons for holding this part of the meeting in private, any representations received and the response to those representations.

### **10. Bridge Street Quarter – Relocation of the Market Hall (Forward Plan No 002/13)**

Joint report of Leader of the Council, Councillor T O’Neill and Councillor M Hannon, Deputy Leader.

#### Reasons for Considering in Private:

Exempt information - Category 3, Schedule 12A, Local Government Act 1972.

#### Representations Received:

Nil

#### Response to Representations:

Nil

**NB. Please note agenda item 10 is to be considered under the urgency provisions for private meetings in the access to information rules, under Regulations 5(6) of the (Meetings and Access to Information) Regulations 2012.**

***If you would like this information provided in another language or format, including large print, Braille, audio or British Sign Language, please call 01925 443322 or ask at the reception desk in Contact Warrington, Horsemarket Street, Warrington***



**EXECUTIVE BOARD – 14 October 2013**

Present:

Executive Board Members

Councillors:

Leader  
Deputy Leader  
Corporate Resources & Assignments  
Highways, Transportation & Climate Change  
Children and Young People's Services  
Leisure, Community and Culture  
Environment and Public Protection  
Personnel and Communications  
Health and Wellbeing & Adult Services

T O'Neill  
M Hannon  
R Bowden  
L Dirir  
C Froggatt  
K Hannon  
D Keane  
H Patel  
P Wright

**EB 61 Apologies**

Nil.

**EB 62 Minutes**

Decision – That the Minutes of the meeting of the Executive Board held on 16 September 2013 be signed by the Leader as a correct record.

**EB 63 Executive Decisions - Forward Plan**

The Executive Board considered a report of the Solicitor to the Council and Assistant Director, Corporate Governance on the contents of the Executive Decisions - Forward Plan for the period 1 November 2013 – 28 February 2014.

Decision – That the report be noted.

**EB 64 Organisational Improvement & Development Policy Committee Report – 'Living Wage' (Forward Plan Decision No. NKD-012/13)**

Decision – That the item be deferred to a future meeting of the Board.

Reasons for Decision: The Chairman of the Policy Committee, Councillor J Kerr-Brown was not able to attend the Board as planned.

**EB 65 Key Decisions and the Contracting Process (Forward Plan Decision No. NKD-029/13)**

The Executive Board considered a report of Councillor R Bowden, Executive Board Member, Corporate Resources and Assignments which reviewed the impact of the Key Decision process for some Goods Service contracts over £250k and which proposed an alternate more efficient approach.

Minutes Issued on Thursday, 17 October 2013. Call In expires midnight on Monday, 21 October 2013. Decisions can be implemented from Tuesday, 22 October 2013.

Decision – That the Executive Board agreed:

- (1) to an optional shortened contract approval process for an initial period of 12 months for suitable Goods and Service contracts that are expected to exceed the Key Decision (+£250k) threshold;
- (2) to a “non-Key Decision” process for the above, such that it will ensure scrutiny and oversight from Senior Officers but will not be subject to the current Executive Board document process; and
- (3) that the matter be reviewed following the initial 12 month period before agreeing to any permanent change

Reasons for Decision:

- (1) To recognise the opportunity to shorten the contract approval process under circumstances related to certain goods and services contracts, to ensure less reason from challenge and to ensure that the best price continues to be achieved.
- (2) To note that the existing constitution allows for these decisions to be taken under the existing delegations.

**EB 66     Business Rate Retention – Pooling Proposal (Forward Plan Decision No. NKD-030/13)**

The Executive Board considered a report of Councillor R Bowden, Executive Board Member, Corporate Resources and Assignments which sought delegated authority for the Director of Finance and Information Services, following consultation with the Executive Board Member, Corporate Resources and Assignments to submit to the Department for Communities and Local Government (DCLG) an application for Warrington Borough Council to join a Business Rate Retention Scheme Pool with Halton Borough Council and St Helens Borough Council.

Decision – That the Executive Board agreed to delegate authority to the Director of Finance and Information Services, following consultation with the Executive Board Member, Corporate Resources and Assignments to submit a proposal to the DCLG to apply for Warrington to join a Business Rate pool with Halton Borough Council and St Helens Metropolitan Borough Council.

Reason for Decision:

- (1) All applications need to be agreed by all the local authorities involved and submitted by 31 October 2013, there will not be time to bring the full application to the Executive Board in advance of the submission
- (2) Local authorities can withdraw from the Business Rate Pool arrangement within 28 days of the publication of the draft Local Government Finance Report. The final decision on entering a business rates pool will need to be formally agreed by the Executive Board before this date. It is expected that this will be possible as part of the existing budget process.

Minutes Issued on Thursday, 17 October 2013. Call In expires midnight on Monday, 21 October 2013. Decisions can be implemented from Tuesday, 22 October 2013.

**EB 67 Marsh House Bridge, Fiddlers Ferry, Station Road, Penketh, Warrington: Proposals and Options (Forward Plan Decision No. 038/13)**

The Executive Board considered a joint report of Councillor M Hannon, Deputy Leader and Councillor L Dirir, Executive Board Member, Highways, Transportation and Climate Change which detailed the background surrounding the recent collapse of the Marsh House Bridge at Fiddlers Ferry and which proposed purchase of the bridge in order to address immediate access problems and deliver a long term sustainable solution.

Decision – That the Executive Board agreed to –

- (1) approve the acquisition of Marsh House Bridge from the Duchy of Lancaster at a nominal price;
- (2) authorise the Solicitor to the Council to execute and legally complete all necessary documents; and
- (3) authorise the Executive Director, Economic Regeneration, Growth and Environment, following consultation with the Executive Board Member, Highways Transportation and Climate Change, to determine the most appropriate temporary and long term options to be implemented at this site. Depending on the final cost of the preferred option a further report will be referred back to Executive Board for approval if the value is above delegated limits.

Reasons for Decision: The acquisition of the existing bridge in its dilapidated condition will enable the Council to take action to arrange for repairs and/or a replacement bridge to be installed to help support the businesses on the south side of St Helens Canal. However if the Council decides not to proceed with the purchase another party may acquire it and arrange for a replacement at their own cost. This may result in elements of “control” being enforced regarding access which are not inclusive for all business interests including our own.

**EB 68 Appointments of Directors to the Southern Gateway Joint Venture Company (Forward Plan Decision No. 027/13)**

The Executive Board considered a report of the Leader, Councillor Terry O’Neill, which sought approval to appoint elected members and the interim Chief Executive to represent the authority as Directors of a new joint-venture company being established for the purposes of regenerating the Southern Gateway.

That the Executive Board agreed to –

- (1) approve the appointment of the Leader of the Council, the Executive Board Member, Corporate Resources and Assignments and the interim

Chief Executive to the board of the Southern Gateway Joint Venture Company with Langtree Land and Property PLC; and

- (2) Seek an opportunity to appoint a fourth Local Authority representative through further discussion and agreement with partners and the matter being reported back to the Executive Board.

Reasons for Decision: The appointment of Elected Members and the interim Chief Executive to the Board of the Joint Venture Company will enable the incorporation of the company with Langtree Land and Property PLC to proceed with the regeneration of the Southern Gateway.

**EB 69     Exclusion of the Public (including the Press)**

Decision – That members of the public (including the press) be excluded from the meeting by reasons of the confidential nature of the following items of business to be transacted being within category 3 of Schedule 12a Local Government Act 1972 (Rule 10 of the Access to Information Procedure Rules) and the public interest in disclosing the information is outweighed by the need to keep the information confidential.

**EB 70     Code of Conduct – Declarations of Interest**

Councillors T O'Neill and R Bowden declared a voluntary non-pecuniary interest in the following item: minute EB 71 and remained in the room whilst the item was under consideration and voted on the matter.

**EB 71     Capital Investment in the Southern Gateway Joint Venture Company (Forward Plan Decision No. 028/13)**

The Executive Board considered a report of the Leader, Councillor Terry O'Neill, which sought approval to make a £1.38m capital investment in the Southern Gateway Joint Company that is being created for the purpose of regenerating the Southern Gateway, in order to establish a 50% equity shareholding.

Decision – That the Executive Board agreed –

- (1) to approve the borrowing of the capital investment of £1.38m in the new Joint Venture Company; and
- (2) that any detailed contractual issues regarding Council owned land to be transferred to the Joint Venture Company are to be delegated to the Executive Director, Economic Regeneration, Growth and the Environment, following consultation with the Leader of the Council;

Reasons for Decision:

- (1) The capital investment of £1.38m will enable the Council to obtain a 50% equity shareholding of a new Joint Venture Company with

## Agenda Item 2

Langtree Land and the Property PLC for the purposes of regenerating the Southern Gateway.

(2) The capital investment will allow the Joint Venture Company to be incorporated subsequently will enable master planning activity to commence for the Southern Gateway.

Signed.....

Dated.....

## Agenda Item 2

Minutes Issued on Thursday, 17 October 2013. Call In expires midnight on Monday, 21 October 2013. Decisions can be implemented from Tuesday, 22 October 2013.

# WARRINGTON BOROUGH COUNCIL

## EXECUTIVE BOARD – 11 November 2013

**Report of** The Solicitor to the Council and Assistant Director Corporate Governance

**Executive Director:** Steven Broomhead, Interim Chief Executive

**Senior Responsible Officer/Report** Bryan Magan, Head of Democratic and Member Services

**Author:**

**Contact Details:** **Email Address:** bmagan@warrington.gov.uk **Telephone:** 01925 442120

**Key Decision No.** N/A

**Ward Members:** All

### TITLE OF REPORT: EXECUTIVE DECISIONS - FORWARD PLAN

#### 1. PURPOSE

1.1 To consider the current Forward Plan covering the period 1 December 2013 to 31 March 2014.

#### 2. CONFIDENTIAL OR EXEMPT

2.1 The report is not confidential or exempt.

#### 3. INTRODUCTION AND BACKGROUND

3.1 Key Decisions are Executive decisions of the authority which are decisions of the Executive Board or an Officer under delegated powers which are likely to –

- Result in Warrington Borough Council incurring expenditure, making savings or vireing £250,000 or more having regard to the Local Authority budget for the service or functions to which the decision relates, or
- Be significant in terms of its effects on communities living or working within Warrington Borough Council's area comprising two or more Wards.

3.2 To comply with the legislation 'Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012', the Council is required –

- (1) to publish a notice of its intention to discuss confidential or exempt items at least 28 days in advance of the meeting; and

- (2) to publish a further notice at least 5 clear days' before a private meeting which must include a statement of the reasons for the meeting to be held in private, details of any representations received and a statement of its response to any such representations.

**4. THE REPORT**

- 4.1 The current Executive Decisions - Forward Plan is attached at Appendix A.
- 4.2 The following amendments/changes to the Forward Plan are reported for information:

<b>NO.</b>	<b>CHANGES MADE TO THE FORWARD PLAN</b>
002/13	Bridge Street Quarter – relocation of the Market Hall. 11 November Executive Board Meeting. Previously on the forward plan as Part 1. The item has been amended to Part 2 and a notice of this change has been placed in the public domain.
009/13	Stadium Quarter Regeneration Scheme Phase 1 – Heads of Terms for the Joint Venture Company – Withdrawn from the Forward Plan. <b>Reason:</b> Exploring alternative commercial models with the Developer.
012/13	Referral from Organisational Development Improvement Policy Committee - The Warrington Living Wage – Moved from 14 October to 11 November 2013 Executive Board. <b>Reason:</b> Deferred as the Chairman of the Policy Committee was unable to attend the meeting as planned.
019/13	Award of Contract for the Operation and Management of the Household Waste Recycling Centre – Moved from 11 November 2013 to 10 February 2014 Executive Board. <b>Reason:</b> Deferred due to time required to resolve legal issues with the current contractor.
017/13	Award of Contract for the Supply of Tyres and Tyre Services – withdrawn from the Forward Plan. <b>Reason:</b> To be considered by the Strategic Procurement Panel Committee following the decision/agreement at the Executive Board meeting on 14 October 2013.
034/13	Local Plan Annual Monitoring Report – Moved from 9 December to 13 January 2014. <b>Reason:</b> to allow for consideration at an appropriate time.
NKD-040/13	Proposed Business Survey – recommendation from Supporting the Local Economy Policy Committee – withdrawn from the Forward Plan. <b>Reason:</b> the funding for the proposed business survey has been found, therefore, request for funding is not required any more.
<b>NO.</b>	<b>NEW ITEMS</b>
	<b>9 December 2013</b>
041/13	Affordable Housing Programme: Acquisition Business Case.
042/13	Priority Infrastructure – Warrington Waterfront. Approval to carry out public and stakeholder consultation.

043/13	Delivering Wellbeing in Bewsey and Dallam.
044/13	Transfer of Active Warrington Team to LiveWire
	Grant Thornton Annual Audit Letter 2012/13 – information item.
	<b>13 January 2014</b>
045/13	Proposed schedule for the implementation of Asset Transfers for community centres

**5. FINANCIAL CONSIDERATIONS**

5.1 None.

**6. RISK ASSESSMENT**

6.1 N/A

**7. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

7.1 Democratic and Member Services has an up to date Equalities Impact Assessment in place for its functions and policies and has produced an Action Plan to deal with key matters arising. There are no specific equalities issues in relation to the content of this report.

**8. CONSULTATION**

8.1 N/A.

**9. REASONS FOR RECOMMENDATION**

9.1 The report is submitted for information and comment.

**10. RECOMMENDATION**

10.1 That the Executive Board receives the contents of the Forward Plan and make comments as appropriate.

**11. BACKGROUND PAPERS**

Papers held within Democratic and Member Services about items for inclusion and changes to the Forward Plan.

**Contacts for Background Papers:**

Name	E-mail	Telephone
Julie Ramskill	jramskill@warrington.gov.uk	01925 442114





Updated: 1 November 2013

## **EXECUTIVE DECISIONS – FORWARD PLAN**

**1 December 2013 – 31 March 2014**

Report of the Solicitor to the Council and Assistant Director,  
Corporate Governance

This is formal notice under the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012 of Key Decisions due to be taken by the Authority and that those parts of the Executive Board meeting identified in this Forward Plan will be held in private because the agenda and reports for the meeting will contain confidential or exempt information as defined in the Regulations.

Contact Information:  
Democratic & Member Services  
Town Hall  
Warrington  
WA1 1UH  
Email: [jramskill@warrington.gov.uk](mailto:jramskill@warrington.gov.uk)  
Tel: 01925 442114/01925 442104

## EXECUTIVE DECISIONS - FORWARD PLAN 1 December 2013 – 31 March 2014

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#### **What is the Forward Plan?**

The Forward Plan contains all the key decisions the Council expects to take over the next four months. It will be refreshed regularly and will give at least 28 days' notice of any Key Decisions and, if applicable, the Executive Board's intention to discuss an item in private and the reason for this.

#### **What is a Key Decision?**

Key Decisions are Executive decisions of the authority which are decisions of the Executive Board or an Officer under delegated powers which are likely to –

- Result in Warrington Borough Council incurring expenditure or the making of savings of £250,000 or more, having regard to the Local Authority budget for the service or function to which the decision relates, or
- Be significant in terms of its effects on communities living or working within Warrington Borough Council's area comprising two or more Wards.

For information, the Forward Plan also includes some other matters expected to come before the Executive Board or that the Executive Board is likely to recommend to full Council whether or not they may give rise to Key Decisions.

#### **What does the Forward Plan tell me?**

The Plan gives information about:

- what key decisions are to be made in the next four months;
- the matter in respect of which the decision is to be made;
- who will make the key decisions;
- when those key decisions are likely to be made;
- what documents will be considered;
- who you can contact for further information.

#### **Who takes Key Decisions?**

Under the Authority's Constitution, Key Decisions are taken by the Executive Board or individual officers acting under delegated powers.

Most Key Decisions are taken at public meetings of the Executive Board. Executive Board meets at 6.30 pm at the Town Hall, Warrington.

#### **Further Information and Representations about Items Proposed to be Heard in Private**

Names of contact officers are included in the Plan and can be reached via (01925) 442114. If you are unsure, please contact Democratic & Member Services on the same number and staff there will be able to assist you. If you wish to make representations about an item proposed to be heard in private, you should contact Democratic and Member Services by no later than six clear working days before the meeting.

**EXECUTIVE DECISIONS - FORWARD PLAN**  
**1 December 2013 – 31 March 2014**

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**Last forward plan entry No. 045/13**  
**If you have any questions about any of the items listed please contact Julie Ramskill on 01925 442114.**

**Key Decisions – 9 December 2013**

Decision Reference Number	Date added to the Forward Plan	Item	£s to be spent/saved /vired	Statement of Reason why the item of business is private	Wards Affected	Lead Executive Board Member	List of Policy/Reference Documents	Directorate and Contact for Further Information	Key Decision (Y/N)
026/13	5/9/13	Quarter 2 – 2013/14 Capital Programme Monitoring Report		N/A	All	Councillor R Bowden Corporate Resources and Assignments		Resources and Strategic Commissioning Danny Mather Tel 01925 442344 <a href="mailto:dmather@warrington.gov.uk">dmather@warrington.gov.uk</a>	Yes
035/13	26/9/13	Local Plan Statement of Community Involvement		N/A	All	Councillor D Keane, Environment & Public Protection		Economic Regeneration, Growth and Environment Garry Legg Tel 01925 442795 <a href="mailto:glegg@warrington.gov.uk">glegg@warrington.gov.uk</a>	Yes
036/13	1/10/13	Business Plan for Adult Social Care Provider Services Social Enterprise		N/A	All	Councillor P Wright Health and Wellbeing and Adult Services		Families & Wellbeing Steve Reddy Tel 01925 444251 <a href="mailto:sreddy@warrington.gov.uk">sreddy@warrington.gov.uk</a>	Yes
041/13	17/10/13	Affordable Housing Programme: Acquisition		N/A	All	Councillor D Keane Environment & Public Protection	Housing Strategy	Families & Wellbeing David Cowley Tel 01925 246980 <a href="mailto:dcowley@warrington.gov.uk">dcowley@warrington.gov.uk</a>	Yes
042/13	17/10/13	Priority Infrastructure – Warrington Waterfront – Approval to carry out public and stakeholder consultation.		N/A	Great Sankey South, Bewsey & Whitecross, Hatton, Stretton & Walton,	Councillor T O'Neill, Leader Councillor L Dirir, Highways, Transportation and Climate Change	Warrington Means Business	Economic Regeneration, Growth & Environment Jamie Birtles Tel 01925 442687 Alan Dickin Tel 0125	Yes

**EXECUTIVE DECISIONS - FORWARD PLAN**  
**1 December 2013 – 31 March 2014**

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					Latchford West, Penketh & Cuerdley, Fairfield & Howley			442685 Warrington & Co – Eddie Cottrell	
<b>043/13</b>	28/10/13	Delivering Wellbeing in Bewsey and Dallam	Over 250K	<b>**Part 2 confidential (see notes below)</b>	Bewsey & Whitecross	Councillor M Hannon Deputy Leader		Economic Regeneration, Growth & Environment Stewart Brown Dave Cowley Deborah McArdie Tel 01925 442850 <a href="mailto:sbrown@warrington.gov.uk">sbrown@warrington.gov.uk</a>	Yes
<b>044/13</b>	1/11/13	Transfer of Active Warrington Team to LiveWire	approx £275k budget to transfer	<b>N/A</b>	All	Councillor K Hannon Leisure, Community and Culture		Resources and Strategic Commissioning Simon Kenton Tel: 01925 444321 <a href="mailto:skenton@warrington.gov.uk">skenton@warrington.gov.uk</a>	Yes
<b>Non Key Decisions – 9 December 2013</b>									
<b>NKD-033/13</b>	17/9/13	Hot Food Takeaway – Supplementary Planning Document (SPD)		<b>N/A</b>	All	Councillor D Keane Environment & Public Protection	Local Development Framework	Economic Regeneration, Growth and Environment Joanne McGrath Tel 01925 442801 <a href="mailto:jmcgrath@warrington.gov.uk">jmcgrath@warrington.gov.uk</a>	No
<b>Information Items – 9 December 2013</b>									
	5/9/13	Budget Monitoring 2013/14 – Quarter 2 Update		<b>N/A</b>	All	Councillor R Bowden Corporate Resources and Assignments		Resources and Strategic Commissioning Danny Mather Tel 01925 442344 <a href="mailto:dmather@warrington.gov.uk">dmather@warrington.gov.uk</a>	No
	5/9/13	Performance Report – Quarter 2 2013/14		<b>N/A</b>	All	Councillor T O'Neill Leader		Resources and Strategic Commissioning Kathryn Griffiths	No

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								Tel 01925 442797 <a href="mailto:kgriffiths@warrington.gov.uk">kgriffiths@warrington.gov.uk</a>	
	1/11/13	Grant Thornton Annual Audit Letter 2012/13			All	Russ Bowden, Executive Member for Corporate Resources and Assignments		Resources and Strategic Commissioning S Halewood Tel: 01925 442766 <a href="mailto:Shalewood1@warrington.gov.uk">Shalewood1@warrington.gov.uk</a>	No
<b>Key Decisions – 13 January 2014</b>									
Decision Reference Number	Date added to the Forward Plan	Item	£s to be spent/saved /vired	Statement of Reason why the item of business is private	Wards Affected	Lead Executive Board Member	List of Policy/Reference Documents	Directorate and Contact for Further Information	Key Decision (Y/N)
018/13	17/7/13	Award of the Contract for the Provision of a material Recovery Facility Service (Joint Procurement)	£2.2m over 3 yrs	<b>**Part 2 confidential (see notes below)</b>	All	Councillor D Keane, Environment & Public Protection		Economic Regeneration, Growth and Environment P McHenry Tel: 01925 442654 <a href="mailto:pmchenry@warrington.gov.uk">pmchenry@warrington.gov.uk</a>	
020/13	17/7/13	Award of contract for the Hire of Vehicles		<b>**Part 2 confidential (see notes below)</b>	All	Councillor D Keane, Environment & Public Protection		Economic Regeneration, Growth and Environment D Smith Tel: 01925 443041 <a href="mailto:dsmith@warrington.gov.uk">dsmith@warrington.gov.uk</a>	Yes
034/13	26/9/13	Local Plan Annual Monitoring Report		N/A	All	Councillor D Keane, Environment & Public Protection		Economic Regeneration, Growth and Environment Garry Legg Tel: 01925 442795 <a href="mailto:glegg@warrington.gov.uk">glegg@warrington.gov.uk</a>	Yes
045/13	1/11/13	Proposed schedule for the implementation of Asset Transfers for community centres	<b>savings to be realised in 2016/17/18</b>	N/A	All	Councillor K Hannon Leisure, Community and Culture		Families and Wellbeing Jane Critchley Tel: 444413 <a href="mailto:jcritchley1@warrington.gov.uk">jcritchley1@warrington.gov.uk</a>	Yes

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<b>Non Key Decisions – 13 January 2014</b>									
NIL									
<b>Information Items – 13 January 2014</b>									
NIL									
<b>Key Decisions – 10 February 2014</b>									
Decision Reference Number	Date added to the Forward Plan	Item	£s to be spent/saved /vired	Statement of Reason why the item of business is private	Wards Affected	Lead Executive Board Member	List of Policy/Reference Documents	Directorate and Contact for Further Information	Key Decision (Y/N)
019/13	17/7/13	Award of Contract for the Operation and Management of the Household Waste Recycling Centre	£800,000 (estimated) over 2 years	<b>**Part 2 confidential (see notes below)</b>	All	Councillor D Keane, Environment & Public Protection	Municipal Waste Management Strategy	Economic Regeneration, Growth and Environment P McHenry Tel: 01925 442654 <a href="mailto:pmchenry@warrington.gov.uk">pmchenry@warrington.gov.uk</a>	Yes
037/13	1/10/13	Contract for the Provision of Health Services -0 – 19 years old.	£453,735	<b>**Part 2 confidential (see notes below)</b>	All	Councillor P Wright Health and Wellbeing and Adult Services		Resources and Strategic Commissioning Christopher Luke Tel: 01925 442879 <a href="mailto:cluke@warrington.gov.uk">cluke@warrington.gov.uk</a>	Yes
<b>Non Key Decisions – 10 February 2014</b>									
<b>Information Items – 10 February 2014</b>									
<b>Key Decisions – 10 March 2014</b>									
Decision Reference Number	Date added to the Forward Plan	Item	£s to be spent/saved /vired	Statement of Reason why the item of business is private	Wards Affected	Lead Executive Board Member	List of Policy/Reference Documents	Directorate and Contact for Further Information	Key Decision (Y/N)

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<b>Non Key Decisions – 10 March 2014</b>									
<b>Information Items – 10 March 2014</b>									

**\*\*Note: Part 2 confidential**

**Exempt Information – Schedule 12A, Local Government Act 1972:**

**It is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence**

**OFFICER KEY DECISIONS**

Decision Reference Number	Date added to the Forward Plan	Item	£s to be spent/saved /vired	Statement of Reason why the item of business is private	Wards Affected	Decision Maker and Contact for Further Information	Lead Executive Board Member	List of Policy/Reference Documents	Key Decision (Y/N)
<b>Date Decision to be taken: week commencing – to be advised</b>									
094/12	25/9/13	Future Delivery of Parking Services		N/A	All	Executive Director, Economic Regeneration, Growth and Environment	Councillor L Dirir Highways, Transportation & Climate Change		Officer
021/13	25/9/13	Residential & Nursing Fee Review		N/A	All	Executive Director, Families and Wellbeing	Councillor P Wright, Health & Wellbeing and Adult Services		Officer
The definition of a Key Decision is a decision of the Executive Board or an Officer under delegated powers which is likely to: Result in Warrington Borough Council incurring expenditure, making savings or vireing £250,000 or more having regard to the Local Authority budget for the service or functions to which the decision relates; or Be significant in terms of its effects on communities living or working within Warrington Borough Council's area comprising two or more Wards.									

**EXECUTIVE DECISIONS - FORWARD PLAN**  
**1 December 2013 – 31 March 2014**

**Agenda Item 3**

# WARRINGTON BOROUGH COUNCIL

## EXECUTIVE BOARD – 11 November 2013

<b>Report of Executive Board Member:</b>	Councillor Hitesh Patel, Executive Board Member, Personnel and Communications	
<b>Executive Director :</b>	Katherine Fairclough, Deputy Chief Executive	
<b>Senior Responsible Officer:</b>	Gareth Hopkins, Assistant Director, Human Resources	
<b>Contact Details:</b>	<b>Email Address:</b>	<b>Telephone:</b>
	ghopkins@warrington.gov.uk	01925 443932
<b>Key Decision No.</b>	NKD-012/13	
<b>Ward Members:</b>	All	

### TITLE OF REPORT: ORGANISATIONAL IMPROVEMENT & DEVELOPMENT POLICY COMMITTEE REPORT – ‘LIVING WAGE’

#### 1. PURPOSE

- 1.1 The purpose of this report is for the Organisational Improvement and Development Policy Committee to update Executive Board on its findings from undertaking a review of the implications of introducing the ‘Living Wage’ to Warrington Borough Council.

#### 2. CONFIDENTIAL OR EXEMPT

- 2.1 The report is not confidential or exempt.

#### 3. INTRODUCTION AND BACKGROUND

- 3.1 Executive Board agreed at their 21 January 2013 meeting to support the referral of the issue of the ‘Living Wage’ to the Organisational Development and Improvement Policy Committee for further investigation, and requested that a report to be presented back to the Executive Board by 30 October 2013.
- 3.2 The report from the Organisational Development and Improvement Policy Committee is attached (see Appendix 1 (page 21)).

**4. FINANCIAL CONSIDERATIONS**

4.1 Details are included in the attached report at Appendix 1.

**5. RISK ASSESSMENT**

5.1 Details are included in the attached report at Appendix 1.

**6. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

6.1 Details are included in the attached report at Appendix 1.

**7. CONSULTATION**

7.1 Details are included in the attached report at Appendix 1.

**8. RECOMMENDATION**

8.1 The Executive Board is recommended to consider the recommendations as made by the Organisational Improvement and Development Policy Committee as follows (also see Appendix 1):

- (i) Warrington Borough Council does not implement the Living Wage due to the concerns detailed at 4.4.
- (ii) That Executive Board recognise the difficulties in organisations seeking to implement the Living Wage locally and independently rather than via the legally enforceable minimum wage.
- (iii) That a further review of the Council and Borough's partners' position is undertaken once the outcome of the Living Wage Commission is made public.
- (iv) That any future review of the Council's current pay and grading structure takes account of the Living Wage with regards any proposals that affect Spinal Column Points 1-5.

**9. BACKGROUND PAPERS**

N/A.

# WARRINGTON BOROUGH COUNCIL

## EXECUTIVE BOARD – 11 November 2013

**Report of:** Councillor John Kerr-Brown, Chair of the Organisation Improvement and Development Committee

**Executive Director :** Katherine Fairclough, Deputy Chief Executive

**Report Author:** Gareth Hopkins, Assistant Director, Human Resources

**Contact Details:**      **Email Address:**      **Telephone:**  
ghopkins@warrington.gov.uk      01925 443932

**Key Decision No.**      NKD-012/13

**Ward Members:**      All

### **TITLE OF REPORT: ORGANISATIONAL IMPROVEMENT & DEVELOPMENT POLICY COMMITTEE REPORT – ‘LIVING WAGE’**

#### **1. PURPOSE**

- 1.1 The purpose of this report is for the Organisational Improvement and Development Policy Committee to update Executive Board on its findings from undertaking a review of the implications of introducing the ‘Living Wage’ to Warrington Borough Council.

#### **2. CONFIDENTIAL OR EXEMPT**

- 2.1 This report is not confidential or exempt.

#### **3. INTRODUCTION AND BACKGROUND**

- 3.1 The ‘Living Wage’ is an independently set, annually updated figure that the charitable Living Wage Foundation believes means that ‘workers earn enough to provide their families with the essentials of life’. The rate of the Living Wage as at the date of the report is £7.45 (in London it is £8.55).
- 3.2 Executive Board agreed at their 21 January 2013 meeting to support the referral of the issue of the ‘Living Wage’ to the Organisational Development and Improvement Policy Committee for further investigation, and requested that a report to be presented back to the Executive Board by 30 October 2013 (Appendix 2 – see page 25)

- 3.3 At their meeting on 28 January 2013, the Organisational Development and Improvement Policy Committee resolved to form a working group to look at the Living Wage issue, in order that a report could be back to the Committee to meet the requirement from Executive Board as detailed at 3.2.

#### **4. LIVING WAGE WORKING GROUP**

- 4.1 The Living Wage Working Group, made up of Councillors from the main policy committee, began its work on 11 February with regular meetings being held, and with support provided by the Assistant Director – HR, and Democratic Services.
- 4.2 The Working Group felt that the majority of its work should focus on the issues regarding the Council adopting the living wage. The group felt that a full understanding of the impact on the Council was required before it is well placed to lead a borough-wide debate on the issue.
- 4.3 The areas the Working Group considered were as follows:
- a) Information provided by the Living Wage Foundation, UNISON and GMB as to the benefits of introducing the Living Wage.
  - b) The Council's pay and grading structure and the profile of the workforce currently paid less than the Living Wage.
  - c) Details on the methods by which the Living Wage could be introduced at Warrington Borough Council.
  - d) The national and regional position with regard to other councils implementing the Living Wage.
  - e) Potential impacts on services if their staffing costs were to increase.
  - f) The legal position regarding paying staff the same salary as others despite being graded differently under the council's Job Evaluation scheme.
  - g) The effect on other benefits received by staff if their pay were to be increased to the rate of the Living Wage.
  - h) How Warrington may engage its partner agencies in the Living Wage debate.

**Agenda Item 4**  
**APPENDIX 1**

- 4.4 Trade Union representatives were invited to provide their views to the Working Group, as was a Service Manager from Building Cleaning and Caretaker Consultancy Services.
- 4.5 At the working group's final meeting, it was agreed by all present that they were not in a position to recommend the implementation of the Living Wage due to the following specific concerns:
- The potential for the increased costs to services to result in a reduction in staffing for those services in order that they could remain competitive.
  - The sustainability of introducing an uncontrollable element to the pay structure, outside of national pay negotiations, for posts covered by the National Joint Council for Local Government Services.
  - Fundamental and costly changes to the council's agreed pay and grading structure or alternatively, the use of a legally, untested, 'Living Wage' supplement 4.6. At the Organisation Improvement and Development Policy Committee's meeting on 10 September, the Committee agreed the recommendations at 10.1.

**5. NEXT STEPS**

- 5.1 Whilst the Policy Committee has not recommended the implementation of the Living Wage at this point, it believes that the issue remains of national importance. The Committee recommends therefore that the Council review its position in light of any further developments.
- 5.2 One of the developments that the Committee believe will be influential is the Living Wage Commission. This is a national, independent, 12 month inquiry into the future of the Living Wage, bringing together leading figures from business, trade unions and civil society. Commissioners will research and assess evidence on the value of the Living Wage, barriers to its implementation and how these could be overcome. The chair of the Commission is the Archbishop of York, John Sentamu, and findings are expected in 2014.

**6. FINANCIAL CONSIDERATIONS**

- 6.1 It is estimated that the implementation of the Living Wage, by way of a supplement to Spinal Column Points 1-5 would cost an additional £400,000 per annum.

**7. RISK ASSESSMENT**

- 7.1 The implementation of a Living Wage by way of a supplement to Spinal Column Points 1-5 carries the potential for equal pay claims to be made as the concept of the has yet to be tested in the employment law system. In addition, a commitment to pay the Living Wage on an on-going basis introduces a further non-controllable element to salary costs.

**8. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

- 8.1 This paper provides details of the equal pay concerns at paragraph 7.1.

**9. CONSULTATION**

- 9.1 A number of stakeholders were asked to either provide information or their views on the Living Wage by the Working Group. These included:

- UNISON (Local branch) on behalf of the council's workforce
- GMB (Local branch) on behalf of the council's workforce
- Building Cleaning & Caretaker Consultancy Services
- North West Employers Organisation
- Other Local Authorities

**10. RECOMMENDATION**

- 10.1 Executive Board is asked to accept the following recommendations:

- Warrington Borough Council does not implement the Living Wage due to the concerns detailed at 4.4.
- That Executive Board recognise the difficulties in organisations seeking to implement the Living Wage locally and independently rather than via the legally enforceable minimum wage.
- That a further review of the Council and Borough's partners' position is undertaken once the outcome of the Living Wage Commission is made public.
- That any future review of the council's current pay and grading structure takes account of the Living Wage with regards any proposals that affect Spinal Column Points 1-5.

# WARRINGTON BOROUGH COUNCIL

## EXECUTIVE BOARD – 21 January 2013

<b>Report of Executive Board Member:</b>	Councillor R Bowden, Executive Board Member, Corporate Resources and Assignments Councillor M Hannon, Deputy Leader	
<b>Executive Director:</b>	Katherine Fairclough, Assistant Chief Executive	
<b>Report Author:</b>	Julie Holt, Service Manager Human Resources	
<b>Contact Details:</b>	<b>Email:</b> jholt@warrington.gov.uk	<b>Telephone:</b> 01925 442843
<b>Key Decision No.</b>	NKD-063/12	
<b>Ward Members:</b>	All	

### TITLE OF REPORT: THE WARRINGTON LIVING WAGE

#### 1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to outline the key features of the national Living Wage campaign and to recommend that a review be undertaken into the policy implications for Warrington Borough.
- 1.2 That this review be undertaken by the Organisational Development and Improvement Policy Committee.

#### 2. BACKGROUND

- 2.1 Since 2001, The Living Wage Foundation have been campaigning for public and private organisations to adopt a policy to set their lowest hourly pay rate to the living wage rate. This is an independently set, annually updated figure that claims that 'workers earn enough to provide their families with the essentials of life. Many participating organisations have commented on the potential benefits of the Living Wage.
- 2.2 The rate for organisations outside of London, as calculated by the Centre for Research in Social Policy at Loughborough University, is currently £7.45 per hour (set in early November 2012). This rate is above the national minimum wage of £6.19 and the campaign encourages employers to choose to pay the Living Wage on a voluntary basis.

**APPENDIX 2**

2.3 The Living Wage Foundation promotes the potential benefits to both employers and employees. These include for example:

- a 'significant' positive impact on recruitment and retention levels;
- higher worker morale, motivation and productivity & enhanced quality of work;
- reputational benefits of being an 'ethical employer';
- 50% of employees felt that the Living Wage had made them more willing to change their working practices and more likely to accept change in the work place;
- over 15,000 families have been lifted out of working poverty as a result of the Living Wage.

**3. NATIONAL, REGIONAL AND LOCAL PICTURE**

3.1 The national pay negotiations are not expected to make any commitment or establish a national process for the adoption of the Living Wage. It is anticipated that this is likely to remain for local determination until at least 2015.

3.2 This is an issue that could potentially affect many organisations including Councils in the country. Initial research has highlighted a mixed picture with many public and private sector organisations exploring the impact of the Living Wage and in particular a Living Wage for the local area rather than a single agency.

**4. POINTS FOR CONSIDERATION BY THE POLICY COMMITTEE**

4.1 There is no legislative requirement to implement the Living Wage and the review is advised to explore pay levels across the major public and private sector bodies in Warrington and to assess as far as is possible the impact of the Living Wage on Warrington's economy and the feasibility of a Warrington living wage.

4.2 However, implementing the Living Wage would be a significant cost to organisations – and the review should consider the on-going commercial viability of services as current contracts may be compromised if salary costs increase significantly. The review should also consider the impact/expectations of suppliers of services – would larger organisations expect their suppliers to adopt the Living Wage?

4.3 The views on public, private and third sector organisations should be considered including schools. These sectors should be invited make representations in writing or in person to the Committee.

4.4 The review should consider the equality implications and risks, both financial and non financial, in making its recommendations.

4.5 The review to consider how Warrington employers could influence the Living Wage campaign.

**5. FINANCIAL CONSIDERATIONS**

The review to be undertaken within existing resources.

**6. RISK ASSESSMENT**

An initial risk assessment has been done and the Policy Committee are requested to undertake a full risk assessment of any proposals.

**7. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

An initial EIA has been completed and the Policy Committee are requested to undertake a full equality assessment of any proposals.

**8. CONSULTATION**

Councillors Hannon and Bowden have been consulted.

**9. REASONS FOR RECOMMENDATION**

That a policy review be instigated into the impact of the Living Wage campaign on Warrington Borough.

**10. RECOMMENDATIONS**

- 10.1 The Executive Board is recommended to support the referral of this important policy issue to the Organisational Development and Improvement Committee for further investigation. A report to be presented back to the Executive Board by 30 October 2013.

**11. BACKGROUND PAPERS**

Directorate Business and Team Plans

**Contacts for Background Papers:**

Name	E-mail	Telephone
Katherine Fairclough	kfairclough@warrington.gov.uk	01925 442311

12.	Clearance Details:	Name	Consulted		Date Approved
			Yes	No	
	Relevant Executive Board Members	Cllr R Bowden Cllr M Hannon	✓ ✓		4.1.13
	SMT		✓		4.1.13
	Relevant Executive Director	Katherine Fairclough	✓		4.1.13
	Solicitor to the Council	Tim Date/Ian Mason	✓		4.1.13
	S151 Officer	Lynton Green	✓		4.1.13
	Relevant Assistant Director	N/A	✓		4.1.13



# WARRINGTON BOROUGH COUNCIL

## EXECUTIVE BOARD – 11 November 2013

<b>Report of Executive Board Member:</b>	Councillor Hitesh Patel, Executive Board Member, Personnel and Communications	
<b>Executive Director :</b>	Katherine Fairclough, Deputy Chief Executive	
<b>Senior Responsible Officer:</b>	Jan Boon, Performance, Policy and Partnership Manager	
<b>Contact Details:</b>	<b>Email Address:</b> <a href="mailto:jboon@warrington.gov.uk">jboon@warrington.gov.uk</a>	<b>Telephone:</b> 01925 443866
<b>Key Decision No.</b>	NKD-012/13	
<b>Ward Members:</b>	All	

**TITLE OF REPORT: ORGANISATIONAL IMPROVEMENT & DEVELOPMENT  
POLICY COMMITTEE REPORT CO-OPERATIVE COUNCILS  
AND MUTUALS AS A DELIVERY MODEL FOR COUNCIL  
SERVICES**

### 1. PURPOSE

- 1.1 The purpose of this report is for the Organisational Improvement and Development Policy Committee to report on its research project to examine the concept of Co-operative and Mutual models of delivery; with the intention to assess whether these models could be applicable and beneficial to Warrington Borough Council.

### 2. CONFIDENTIAL OR EXEMPT

- 2.1 The report is not confidential or exempt.

### 3. INTRODUCTION AND BACKGROUND

- 3.1 Appendix 1 (attached to this report, see Page 31) summarises the Committee's investigations and conclusions and puts forward its recommendations to the Executive Board.

### 4. FINANCIAL CONSIDERATIONS

- 4.1 There are no financial implications at this stage.

**5. RISK ASSESSMENT**

5.1 No risks are identified at this stage.

**6. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

6.1 An Equality Impact Assessment is not required at this stage.

**7. CONSULTATION**

7.1 Not applicable at this stage.

**8. RECOMMENDATION**

8.1 The Executive Board is recommended to consider the recommendations as made by the Organisational Improvement and Development Policy Committee as follows (also see Appendix 1):

- (i) Co-operative and mutual models of operation (and the benefits they bring) warrant consideration within any future options appraisals for service delivery; alongside a broad range of other delivery options.
- (ii) Ultimate decisions on service delivery models should be supported by robust appraisal of options and based on value for money and the effective delivery of outcomes.
- (iii) Where options for significant alternative service delivery are being considered the Organisational Improvement and Development Committee request that they are involved from an early stage.

**9. BACKGROUND PAPERS**

See Appendix 1.

# WARRINGTON BOROUGH COUNCIL

## EXECUTIVE BOARD – 11 November 2013

**Report of:** Councillor John Kerr- Brown, Chair of the Organisational Improvement and Development Policy Committee

**Senior Responsible Officer:** Jan Boon, Performance, Policy and Partnerships Manager

**Contact Details:** **Email Address:** [jboon@warrington.gov.uk](mailto:jboon@warrington.gov.uk) **Telephone:** 01925 44 3866

**Ward Members:** All

### **TITLE OF REPORT: CO-OPERATIVE COUNCILS AND MUTUALS AS A DELIVERY MODEL FOR COUNCIL SERVICES**

#### **1. PURPOSE**

- 1.1 The Organisational Improvement and Development Committee undertook a research project to examine the concept of Co-operative and Mutual models of delivery; with the intention to assess whether these models could be applicable and beneficial to Warrington Borough Council.
- 1.2 This report summarises the committee's investigations and conclusions and puts forward its recommendations to the Executive Board.

#### **2. CONFIDENTIAL OR EXEMPT**

The report is not confidential or exempt.

#### **3. INTRODUCTION AND BACKGROUND**

- 3.1 The review was undertaken by a committee working group comprised of Councillors Dan Price, Peter Walker, Jan Davidson, John Kerr-Brown and Laurence Murphy. The working group considered:
  - The concept of co-operatives and mutuals as customer and/or employee led organisations. The Co-operative Council's Network and the benefits of membership for this council.
  - Examples of co-operatives and mutuals delivering services in the public sector.
  - The spectrum of potential models for council delivery.
  - Research on the benefits of co-operative and mutual models in practice.
  - An analysis of the current delivery models used by Warrington Council.

- The options for future delivery of Adult Social Care Provider Services which include consideration of the development of a mutual model of delivery.

#### 4. SUMMARY OF FINDINGS

- 4.1 The group clarified the **definitions** of cooperative, mutual and social enterprises (as all are slightly different) and considered the key **policy drivers** for adoption of these models. These models of service delivery are not new and have operated both within the private and public sector for some time. Recently there has been increased focus and impetus on these models of power decentralisation through the Big Society and Localism Act 2012. **Examples of cooperative and mutuals** were reviewed including some currently in operation in Warrington (see Appendix).
- 4.2 Consideration was given to the **Cooperative Councils Network**, which has 25 Local Authority members. Members of the network aspire to values based on self-help, self-responsibility, democracy, equality, equity and with the council engaging and involving all stakeholders in actively reviewing and shaping service delivery. The network lacks funding for its activities and is developing an alternative delivery model (known as the Co-operative Councils Innovation Network) funded by contributions from local authority members. There is a sliding scale for subscriptions according to the size of the Local Authority. The estimated cost for Warrington Council to join is £6,300 PA and a 20% discount on the 2013-14 subscription is available for joining halfway through the year.
- 4.3 Other commonly referenced **alternative models of service delivery** were also reviewed to understand the range of options available to the Council, such as the ensuring council, the commissioning council, entrepreneurial provision, shared service and consortia and partnerships with other agencies (see appendix).
- 4.4 **Evidence of Effectiveness** - in addition to researching examples of cooperatives and mutuals the working group also researched evidence of their effectiveness. It was found that at this time there is little objective evidence to evaluate the success or benefits of either model.
- 4.5 **Analysis of models currently in use** within the council - this review identified that there are already a range of different models being used. These include:
- Community Interest Companies e.g. Livewire, Culture Warrington, Golden Gates
  - Over 90% of adults social care domiciliary services are commissioned from private companies
  - Shared services with other local authorities e.g. Adoption, Youth Offending, Trading Standards
  - Partnerships with local agencies e.g. Intermediate Care, Community Equipment
  - Options for delivery of Adult Social Care Provider services are currently being considered and these include the option for a staff mutual which is

being developed by the service itself – with support from the governments Mutual Support Programme.

- 4.6 **Further Information** - of the research can be found in the Appendix. In addition the Committee will produce a booklet detailing the research and findings, which will be circulated to all members and made available to officers as a useful reference document.

## **5. CONCLUSIONS**

- 5.1 Given consideration of its research and associated findings the Organisational Improvement and Development Policy Committee have drawn the following conclusions:

5.2 The research the group conducted has highlighted that a range of different delivery models are already used by Warrington Council. This includes direct delivery of core services, commissioned services, shared services, traded services, and Community Interest Companies.

5.3 It is clear from this research that the delivery of services through mutuals and co-operatives and understanding of the benefits this brings is still in its infancy within local authorities. There is no evidence of long term outcomes as yet with regard to public services. At present it is about exploring new and innovative models of service delivery. The Committee gave its full support to council activity that enabled and facilitated innovation of this kind within the workforce.

5.4 The working group concluded that there may be merit in the use of mutuals and co-operatives for delivering services. This should not be at the expense of value for money, efficiency and effectiveness and it considers that a full appraisal of all service delivery options should be conducted wherever the council is considering moving services outside the remit of the Council.

5.5 The working group does not believe that at this stage Warrington Council should join the Co-operative Councils' network. The group felt the current engagement activities in place in Warrington could potentially lend itself well to the concept of a Co-operative Council for the future; providing a local interface where residents could be actively involved in decision making, planning and overseeing local services. Engagement and involvement mechanisms may be an area of future review for the committee.

## **6. RECOMMENDATIONS**

- 6.1 In drawing the above conclusions the Committee would like to make the following recommendations to the Executive Board:

- (a) Co-operative and mutual models of operation (and the benefits they bring) warrant consideration within any future options appraisals for service delivery; alongside a broad range of other delivery options.

- (b) Ultimate decisions on service delivery models should be supported by robust appraisal of options and based on value for money and the effective delivery of outcomes.
- (c) Where options for significant alternative service delivery are being considered the Organisational Improvement and Development Committee request that they are involved from an early stage.

**7. FINANCIAL IMPLICATIONS**

There are no financial implications at this stage.

**8. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

An Equality Impact Assessment is not required at this stage

**9. RISK ASSESSMENT**

No risks are identified at this stage.

**10. CONSULTATION**

Not applicable at this stage.

**11. BACKGROUND PAPERS**

- Co-operatives and Mutuels Briefing note January 2013
- Co-operatives and Mutuels Briefing note March 2013
- Council Service Provision 2013
- Local Authority Delivery Models

**Contact for Background Papers:**

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Jan Boon	Jboon@warrington.gov.uk	01925 443866

**APPENDIX: - FURTHER INFORMATION – ORGANISATIONAL IMPROVEMENT AND DEVELOPMENT POLICY COMMITTEE RESEARCH INTO MUTUAL AND COOPERATIVE SERVICE DELIVERY**

**DEFINITION OF CO-OPERATIVES AND MUTUALS**

- Mutuals and Co-operatives can broadly be defined as employee, user or citizen led organisations.
- Co-operatives are autonomous organisations consisting of people who have united voluntarily to meet their common economic, social and/or cultural needs and aspirations through a jointly owned and democratically controlled enterprise.
- Mutuals are organisations which are owned by and run for the benefit of their current and future members.
- Both of these differ from Social Enterprises in that a large proportion of the business should be owned by either employees, service users and/or the local community.

**POLICY DRIVERS**

- The model is not a new one as co-operatives and mutuals have operated within the private sector for some time. The most well known of these is the John Lewis Partnership which runs the John Lewis department stores and Waitrose Supermarkets where all employees are partners in the business. It has also operated in a public sector context for some years, most notably in housing provision as tenant management co-operatives.
- The Big Society agenda and the Localism Act 2012 promote the concept of decentralising power and funding to the level of the local people as well as promoting the concept of local services delivered as mutuals.
- The Coalition Government expressed commitment to “support the creation and expansion of mutuals, co-operatives, charities and social enterprises, and enable these groups to have much greater involvement in the running of public services”.
- A key part of this is the Cabinet Office’s Mutual Pathfinder Programme, launched in August 2010. The government gave government employees a ‘right to provide’ to enable them to form employee-owned mutuals. The pathfinder programme led to 12 pilot schemes which was extended to a further nine projects in 2011.
- The programme has put the following support in place:
  - A Cabinet Office Mutual Information Service (<http://mutuals.cabinetoffice.gov.uk/>) is an information resource for local authority commissioners, staff and suppliers.
  - A Mutual Support Programme, which is a £10 million fund to provide professional support and advice (HR, Legal, Business Planning, etc). No money passes to the organisation, rather the awards are used to provide the professional support, procured by the Cabinet Office. (Warrington Council has been awarded some of this support to assist in developing a business case for a mutual model of delivery for Adult Day Care Services).
  - To address an apparent lack of commissioning skills in local authorities, a Commissioning Academy was launched in January as a practical development programme for commissioning organisations in the public sector.

## **CO-OPERATIVE COUNCILS NETWORK**

- The concept of co-operatives and mutuals is promoted by the Co-operative organisation and their use as a model of public sector delivery is promoted by the Co-operative Councils Network. The network acts as a forum where councils and councillors supporting this approach can share best practice and ideas. The group currently has 25 Local Authority Members - both Labour councils and Labour opposition group members, who have signed up to the ideals of the co-operative network which focuses on collective action, co-operation, empowerment and enterprise in order to help transform local services and local communities. Members of this network aspire to values based on self-help, self-responsibility, democracy, equality, equity and solidarity.
- The co-operative council model is not just about commissioning individual services from mutual or co-operative organisations but is seen as a constructive way for a council to engage and involve all stakeholders (service users, citizens, employees, etc) in actively reviewing and shaping service delivery. This is achieved through engagement forums which enable participants to get involved in decision making, co-production and supporting communities to help themselves.
- The Co-operative Council enshrines a partnership with the community giving local people the opportunity to be involved and have their voice heard in the design and delivery of public services. Public services are planned by staff, users and the community and delivered through a variety of organisations that will improve outcomes, empower citizens and users, and strengthen civic society.
- Co-operative councils often seek to harness the model to develop local employment. By engaging in civic society, residents are able to develop new skills and enhance their employment opportunities.
- The working group were informed by the Co-operative Councils Network that it currently lacks funding for its activities and that Oldham Council was considering taking the lead using contributions from network members. An alternative model of delivery – the Co-operative Councils Innovation Network is now under development. Details can be found at <http://www.coopinovation.co.uk/>
- The cost to councils to join this is on a sliding scale based on the size of the local authority. The estimated cost for Warrington Council to join is £6,300 PA and a 20% discount on the 2013-14 subscription is available for joining halfway through the year.

## **OTHER MODELS OF COUNCIL SERVICE DELIVERY**

The working group examined alternative models of service delivery to understand the range of options available to councils:

### **Ensuring Council**

- Core services are provided in house and the council is a major local employer.
- Core capacity is retained within the council.
- Collaborative relationships are built with partner agencies.

- Services can be joined-up across the council to meet the needs of local communities.

### **Commissioning/contracting Council**

- Services are contracted to private and voluntary sector service providers.
- The Council monitors delivery through contractual agreements.
- Market democracy and individual choice determines who provides services.
- Emphasis is on individual user outcomes.
- Services are fragmented and can lack overall strategic co-ordination.

### **Entrepreneurial provision**

- Councils can extend their current service provision by selling their services to other parts of the public sector (including other councils) or to private entities.
- Additional income which is generated and profits or surpluses made through such trading activity can be redirected or invested to meet other local authority objectives and purposes.

### **Shared Services/consortia**

- Working across borough boundaries and joining up departments and services enables local authorities to secure efficiencies of operations in the fashion long deployed by private sector.
- Flexible ways of working with neighbouring councils (who too face similar pressures) in order to secure efficiencies, eliminate waste and duplication, and generate economies of scale
- Joint procurement can lower transaction costs and reduce overheads.
- Good practice, skills and know-how can be shared.

### **Partnerships with other agencies**

- Councils enter into partnerships with other agencies such as health to provide services within an integrated framework.
- Management sits with one of the partner agencies and resources and/or budgets are pooled.
- Services work collaboratively and flexibly and there are reduced management and overhead costs.
- Benefits from the user perspective are more joined-up, person centred services.

## **EXAMPLES OF CO-OPERATIVES AND MUTUALS**

- The working group looked at examples of the work of Co-operative Councils and co-operative and mutual models of delivery
- Liverpool invested £1m in **credit unions** to tackle legal loan sharking (£700,000 of the investment) and to introduce Liverpool's first mutual micro financing initiative for businesses (the remaining £300,000 of the investment). A consortium of seven of Liverpool's credit unions covering the whole city has come together so that all residents can potentially benefit from this.
- **Co-operative schools** are an alternative to academies, which allows pupils, teachers, parents, local people and employers to become members of the trust, forming a community-based mutual organisation.
- Oldham **Community Leisure** is a community benefit society responsible for the management of fifteen sports and leisure centres.
- Pearls of Rochdale is a **play, education and child development service**. In April 2010 they transitioned away from Rochdale council to become a workers' co-operative.

- London Borough of Hammersmith and Fulham is leading a pathfinder which is part of a tri-borough business model with Kensington and Chelsea and Westminster. This delivers **education support services** to schools and will sell some services back to the Local Authority.
- Swindon **Intermediate Care Centre** - Commissioned by NHS Swindon and Swindon Borough Council is one of the first Mutual Pathfinders.
- Lambeth Council have involved its residents in working alongside them to design and create a completely new **website** for the council in a major co-operative project.
- Through neighbourhood working, within Warrington two **food co-operatives** have been set up, with support from the council and Golden Gates Housing. This is linked to Change4Life activity promoting healthy eating on a budget.
- Four Parish Councils in Telford & Wrekin have each contributed £25,000 to fund new **environmental teams**, covering tasks such as litter picking, weeding, planting, etc., The council contributed £12,500 to each of these teams. The partnership contract will run for five years.
- A team of **social workers** formerly employed by Lambeth council, launched as a social enterprise in July 2012. The team, called TOPAZ or Team Offering People Advice and Support, work alongside health services, voluntary organisations and faith groups to give residents advice and support. They work with people who have been assessed by the council but who don't meet their eligibility criteria. Their aim is prevention for those not eligible for council services.
- Amsterdam District West Council's 22 **Neighbourhood Boards** developed their own agenda with an annual neighbourhood budget of around 50,000 Euros to be spent on neighbourhood priorities. The neighbourhood areas can select their own community led initiatives, which are decided through a neighbourhood level voting system.
- These Community led initiatives have included a training programme for young men to combat disastrous crime rates and provide **community safety guards**. This involved local youths being trained and offered work experience in teams working alongside the police. This project grew to be the largest service provider – offering youth work, girl empowerment training and care for young disabled people and mother and father groups.
- Oldham's vision for a **Co-operative Council** seeks to fundamentally reshape the council's relationship with its communities by helping them to become more resilient and to assume more self-responsibility for council services through co-production – a move towards treating people as “active participants” rather than “passive recipients”, bolstered by improved procurement and commissioning. It also aims to reduce demand for services over the long-term, by encouraging behaviour change and self-help initiatives, such as through a '**Love Where You Live**' campaign to inculcate positive behavioural choices, civic pride and greater levels of community activism.

### EFFECTIVENESS OF CO-OPERATIVE AND MUTUAL MODELS

- Advocates of co-operatives and mutuals claim that the structure and design of these models has inherent advantages over other forms of delivery including financial benefits, employee commitment and responsiveness to customers.
- The Association of Public Service Excellence (APSE) reviewed the role of co-operatives and mutuals in local public service provision in August 2011. They

found that there was little objective evidence available for them to be able to evaluate how successful these types of organisations are in delivering outcomes.

- They did however find some critical conditions for success including the length of contract awarded and ensuring that the contract 'locks in' particularly valued ways of working. They also viewed buy-in from staff and citizens as a critical success factor and highlighted the importance of access to expert advice and support.
- The Co-operative Society published a policy document 'Towards Co-operative Councils: empowering people to change their lives'. This provides statements from MPs and council officers from across Europe advocating the need for co-operatives and gives some examples of how the model is being used. Throughout, it confirms the key role of local authority in facilitating the shift and empowering communities.
- The House of Commons: Communities and Local Government Commons Departmental Select Committee report on mutual and co-operative approaches to delivering local services found that there is currently limited evidence of concrete benefits for mutuals and co-operatives in local government and describes this as a "chicken and egg" situation which calls for more support to develop effective models.





- By increasing the availability of housing within Warrington the proposals would remove the adverse effects that the presence of such properties has on local communities and residents.
- The changes would generate additional income for the Council which could be used to support work to reduce the problem of empty homes as well as helping deal with the significant financial pressures facing the Council.

3.3 There are some 1,784 dwellings likely to be affected by the proposals in Warrington.

#### **4. CONSULTATION OUTCOMES**

4.1 The Council undertook a consultation exercise on the proposed changes. Consultation took place in the summer and consisted of the following strands:

- Mailings to Landlords
- Media release at the start of the exercise
- Web-site promotion

4.2 The consultation focussed on the importance of each of the five proposals. Although viewed by 72 residents only three offered feedback on the proposals. No firm conclusions or themes can be drawn from the limited response.

#### **5. THE PREFERRED SCHEME FOR WARRINGTON**

5.1 A number of authorities “rushed through” these changes in time for them to take effect from April 2013. Warrington decided to monitor the impact at other authorities before proposing implementation.

5.2 In choosing the below proposals Warrington has benchmarked with AGMA authorities and opted for a scheme that retains some supportive provision for owners of empty dwellings but delivers additional revenue to the Council.

5.3 The five proposals for Warrington are as follows:

Description	Current Position	Proposal from 01/04/2014
Proposal 1 Where an empty and unfurnished property is undergoing or requiring major repairs or alterations to render it habitable	100% discount – a full discount (nil charge) for a maximum of 12 months	100% discount (nil charge) for a maximum of 12 months – <b>NO CHANGE</b>
Proposal 2 Where a property becomes empty and unfurnished	100% discount – (nil charge) for a maximum of 6 months	100% discount (nil charge) for a maximum of 3 months – <b>PROPOSED CHANGE</b>

## Agenda Item 6

Proposal 3 Empty Property Discounts – where a property remains empty and unfurnished for up to 2 years	A 50% discount is granted – 50% of the Council Tax is payable	To grant a 25% discount – 75% of the Council Tax is payable after the 3 or 12 month period above has expired - <b>PROPOSED CHANGE</b>
Proposal 4 Long-Term Empty Property Discounts – where a property has been empty and unfurnished for over 2 years	A 50% discount is granted – 50% of the Council Tax is payable	A premium of 50% will be charged in addition to the full Council Tax. A net 150% of the Council Tax charge will be payable <b>PROPOSED CHANGE</b>
Proposal 5 Second Homes and furnished Empty Properties	A 10% discount is awarded – 90% of the Council Tax is payable	No Discount granted – 100% of the Council Tax is payable <b>PROPOSED CHANGE</b>

### 6. BENEFITS TO THE COUNCIL

6.1 Point 3 highlights the additional revenue that would result from implementing the proposals. The potential revenue generated from each option is as follows:

	Potential Additional Income (2014-15)
Proposal 1 - award a 100% Discount for a maximum of 12 months	Nil
Proposal 2 - award a 100% Discount for a maximum of 3 months	£250,000
Proposal 3 - Empty Property Discounts – charge 75% of Council Tax after either 3 or 12 months	£60,000
Proposal 4 - Long-Term Empty Discounts – charge a premium of 50% Council Tax	£44,000
Proposal 5 - Second Homes – to charge 100% Council Tax	£47,000
<b>Total</b>	<b>£401,000</b>

6.2 If the proposals are implemented it is anticipated the above revenue stream will be only available in the short term and will incrementally diminish from 2015 onwards, as the changes start to influence behaviour and empty dwellings are returned to occupation. However this action will also benefit Warrington financially through the New Homes Bonus.

### 7. FINANCIAL CONSIDERATIONS

7.1 Have been undertaken – details are above at part 6.1.

**8. RISK ASSESSMENT**

- 8.1 Introducing the proposed changes does carry risk – the charges will be more difficult and expensive to collect so provision may need to be made for additional bad debts and increased administration costs.
- 8.2 A full and detailed risk assessment has been undertaken. Risks have been identified, their impact analysed and management actions planned.

**9. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

- 9.1 An equality impact assessment of the changes has been undertaken. It confirms no groups are adversely affected by the proposed scheme.

**10. CONSULTATION**

- 10.1 Local consultation on the proposed scheme for Warrington has been completed. A summary can be found at part 4 above.
- 10.2 In addition the proposals have been reviewed and endorsed by the Supporting the Local Economy Policy Committee (September meeting).

**11. REASON FOR RECOMMENDATION**

- 11.1 The proposed scheme offers the best fit for Warrington. It retains supportive provision for owners of empty dwellings but will deliver additional revenue to the Council.

**12. RECOMMENDATION**

- 12.1 The Executive Board is recommended to:
  - (i) Note the proposed options for amendments to the council tax scheme
  - (ii) Approve implementation of the changes from April 2014.



3.3 The change in legislation has provided the Council with the opportunity to:

- Update and consolidate existing policies in relation to charitable mandatory and discretionary reliefs.
- Put in place a new policy to deal with hardship relief
- Consider policy options for the Council from powers derived from the Localism Act

The appendices to this report are attached for the Executive Board Members and will also be available in each of the Members room. These outline both the current reliefs available and the proposed new scheme.

3.4 Implementation of the proposed scheme has been reviewed and endorsed by the Supporting the Local Economy Policy Committee (September meeting).

#### **4. FINANCIAL CONSIDERATIONS**

4.1 Have been undertaken and also considered by the Supporting the Local Economy Policy Committee at its meeting held on 30 September.

#### **5. RISK ASSESSMENT**

5.1 Introducing the proposed changes does carry risk as each discretionary award has a direct impact on the tax payers of Warrington and the Council's overall budget.

5.2 A full and detailed risk assessment has been undertaken. Risks have been identified, their impact analysed and management actions planned.

#### **6. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

6.1 An equality impact assessment of the changes has been undertaken. It confirms no groups are adversely affected by the proposals.

#### **7. REASON FOR RECOMMENDATION**

7.1 Adoption of the relief policies offers the best fit for Warrington. If approved the policies will:

- Retain supportive provision for business rate payers facing hardship and requiring assistance
- Provide the Council with the opportunity and flexibility to develop innovative schemes to assist with local regeneration initiatives.

#### **8. RECOMMENDATION**

8.1 The Executive Board is recommended to:

- (i) Note the proposed policies for administering applications for business rates reliefs

- (ii) Approve implementation of the changes to policy from April 2014.

**9. BACKGROUND PAPERS**

Supporting the Local Economy Policy Committee report – 30.9.2013





- strengthening the Council’s commissioning/procurement arrangements with external organisations, such that the council does not engage organisations who participate in ‘blacklisting’ activities;
- how the council can discourage such practices by local businesses.

3.3 The issue of ‘blacklisting’ originally came to light in 2009, when the Information Commissioner’s Office (ICO) seized a database naming over 3,000 construction workers. The database had been used as a ‘blacklist’ by 44 construction companies and had been compiled without the knowledge or consent of those named in it, contrary to the requirements of the Data Protection Act 1998.

3.4 As a result of the ICO investigation, The Employment Relations Act 1999 (Blacklists) Regulations 2010 were issued to strengthen the law against ‘blacklisting’, such that denial of employment for discriminatory reasons such as Trade Union membership would be illegal.

#### **4. OVERVIEW OF THE PROCUREMENT PROCESS**

4.1 The procurement process broadly consists of three stages:

- pre qualification stage - organisations express an interest in the contract by completing a ‘pre qualification questionnaire’. The questionnaire is used to assess the organisation’s ability to deliver the requirements of the contract. Those who the council believes are in the ‘strongest’ position to deliver the contract are invited to tender;
- tender stage - the tender is evaluated in accordance with pre determined criteria, the successful tenderer is identified and the contract awarded;
- contract monitoring/management - the council ensures that the organisation delivers the agreed contract output/outcomes.

#### **5. AGREED APPROACH**

5.1 Pre qualification stage:

The council’s pre qualification questionnaire will include the following additional questions:

- Grounds for rejection:

<p>‘Blacklisting’ is the illegal use of personal data for the purpose of denying employment to an individual.</p>	
<p>In the last 5 years has your organisation been subject to formal investigation which resulted in a proven case of ‘blacklisting’?</p>	<p>Yes/No</p>

If you answered 'Yes' please describe the circumstances and steps that you have taken prevent reoccurrence.

The Officer evaluating this question will consider the extent and time of the infringement to determine whether the organisation's application merits rejection.

- For information:

<p>'Blacklisting' is the illegal use of personal data for the purpose of denying employment to an individual.</p> <p>Is your organisation currently subject to formal investigation with regards to alleged 'blacklisting' activities?</p>	<p>Yes/No</p>
<p>If you have answered 'Yes' please briefly describe the allegation and when you expect the investigation to be concluded.</p> <p><b><i>(your response to this question is for information only, it will not be assessed as part of the pre qualification process, and will not be disclosed to other parties outside of the council).</i></b></p>	

Although an organisation may not be rejected on the basis of unproven allegations, it is however important that the council are aware of such allegations and are able to respond accordingly should the investigation be proven.

### 5.2 Tender stage:

- The council's standard contract conditions already include a clause which allows a contract to be terminated where the council believes that the provider "is in material breach of contract which in the reasonable opinion of the Council has seriously prejudiced the interests of the Council or the Service Users." This clause could apply to such activities as 'blacklisting', however to reinforce the council's view, the following clause will be included in council contracts:

"The Council may terminate this Contract immediately by written notice to the Provider if, following formal investigation, the Provider has been proven to have been involved in 'blacklisting'."

### 5.3 Contract monitoring/management:

- The council's Contract Procedure Rules require the submission of an annual 'Contract Monitoring and Review Report' to the Central Commissioning and Procurement team.

- The report will be amended to include a requirement to submit the following additional information:

Has the contractor or any sub-contractor providing this service/supply been subject to formal investigation which has resulted in a proven case of 'blacklisting'?

If 'yes' what actions did you take?

Is the contractor or any sub-contractor providing this service/supply currently subject to formal investigation in respect of alleged 'blacklisting' activities?

If 'yes' what actions do you propose to take should the investigation be proven?

## **6. ENGAGING LOCAL BUSINESSES**

6.1 Warrington & Co, the council's public/private sector strategic regeneration partnership is ideally placed to engage with local businesses.

6.2 In order to ensure that local businesses are made aware of the council's position as to 'blacklisting' and are in a position themselves to guard against such activities, the following actions will be taken:

- amend the Warrington & Co internet site to clarify the council's position;
- contact local businesses to make them aware that the internet site has been updated (via the Chamber of Commerce for example);
- provide relevant contacts such that those who believe that they may have been subject to 'blacklisting' are able to challenge the process.

## **7. FINANCIAL CONSIDERATIONS**

7.1 There are no additional resource implications arising from this report.

## **8. RISK ASSESSMENT**

8.1 Robust policies and procedures already support the procurement process and mitigate risks to the council's reputation.

## **9. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

9.1 The changes to the procurement process will minimise the risk that the council is seen to be prejudicial to specific individuals or companies.

**10. CONSULTATION**

10.1 Not applicable.

**11. REASONS FOR RECOMMENDATION**

11.1 To ensure that the revised processes for mitigating the risks of 'blacklisting' are noted by the Executive Board.

**12. RECOMMENDATION**

12.1 The Executive Board is recommended to note the proposed changes to the Council's procurement process and the approach to be taken by Warrington & Co to mitigate risks associated with the activity of 'blacklisting' and propose the recommendation to Council.

**13. BACKGROUND PAPERS**

- Minutes of the 24 June 2013 full council meeting;
- Corporate 'Procurement Guide';
- Report and minutes of the Audit and Corporate Governance meeting of 26 September 2013.

**Contacts for Background Papers:**

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# WARRINGTON BOROUGH COUNCIL

## EXECUTIVE BOARD – 11 November 2013

<b>Report of Executive Board Member:</b>	Councillor David Keane, Executive Board Member, Environment and Public Protection	
<b>Executive Director:</b>	Andy Farrall, Executive Director, Economic Growth, Regeneration and Environment.	
<b>Senior Responsible Officer:</b>	Dave Watson, Community Safety and Licensing Manager, Public Protection.	
<b>Contact Details:</b>	<b>Email Address:</b> dwatson@warrington.gov.uk	<b>Telephone:</b> 01925 442590
<b>Key Decision No.</b>	039/13	
<b>Ward Members:</b>	ALL	

### TITLE OF REPORT: SCRAP METAL DEALERS ACT 2013

#### 1. PURPOSE

- 1.1 To advise the Executive Board of the implications of the Scrap Metal Dealers Act 2013 and to ensure that the necessary delegations, fees and approvals are in place.

#### 2. CONFIDENTIAL OR EXEMPT

- 2.1 The report is not confidential or exempt.

#### 3. INTRODUCTION AND BACKGROUND

- 3.1 Metal theft costs the UK approximately £750 million/year. It can result in loss of life, damage to infrastructure and the loss of valuable items of heritage.
- 3.2 The Scrap Metal Dealers Act 2013, which received Royal Assent on 28 February 2013, came into force on 1 October 2013. The Act is designed to:-
- Introduce a more robust regime to tackle metal theft
  - Support legitimate traders and to tackle any unscrupulous operators
  - Raise standards and improve record keeping.
- 3.3 The licensing regime is significantly different from the previous registration scheme under Scrap Metal Dealers Act 1964. Licences will last for three years unless revoked. The scope of businesses covered has been extended to

cover scrap metal dealers, mobile collectors (who do not have a site), motor salvage operators and all other businesses who buy or sell scrap metal in the course of their business.

- 3.4 The Department of Communities and Local Government has not yet amended the legal provisions in relation to the Act becoming a non executive function; and as such it remains a matter for the Council's Executive Board at this time.

#### **4. THE PROVISIONS OF THE ACT**

- 4.1 There is now the power to refuse a licence and revoke licences if the dealer is considered unsuitable. Unsuitability will be based on a number of factors including any relevant criminal convictions. The Act will also provide local authorities and police officers with suitable powers of entry and inspection.

- 4.2 Key Provisions of the Act include:

- Requiring all individuals and businesses to complete an enhanced application process to obtain a scrap metal dealers licence. Local authorities will have the power to refuse unsuitable applicants.
- Giving local authorities the power to revoke a licence.
- Requiring all sellers of metal to provide personal identification at the point of sale which is then recorded by the scrap metal dealer.
- Extending the offence of buying metal with cash to itinerant metal collectors.
- New powers for the police and local authorities to enter and inspect sites.
- Creating a central public register, hosted by the Environment Agency, of all individuals and businesses licensed as scrap metal dealers
- Widening the definition of a scrap metal dealer to include motor salvage operators

- 4.3 The Act provides for two types of licences:

- Site Licence – which allows the dealer to carry on the business at a site within the local authority area which is listed on the licence
- Collector's Licence – which covers dealers who do not have a site and regularly collect through door to door collections. These only allow collections in the area of the local authority issuing it.

- 4.4 Scrap metal dealers will be required to:

- Prominently display their licence in a publicly accessible place.
- Not buy metal for cash
- Verify and record the identification of the person selling the metal.
- Keep records of all metals received and disposed of.

- 4.5 A procedure for the issuing of licences is set out in the Act and includes a suitable person test. It is recommended that Local Authorities consult with other agencies (Police, Environment Agency, Planning, etc) when considering applications. Local authorities are also required to supply the Environment Agency with data which will allow them to host the public register.
- 4.6 The Government has recognised the need for transitional arrangements to aid in the administration of the new regime. Anyone who was registered under the Scrap Metal Dealers Act 1964 or the Vehicles (Crime) Act 2001 must have submitted their application on or by 15 October 2013. They will then be deemed to hold a temporary licence until the local authority has completed the necessary checks and issued the Licence. The Home office has recommended that a formal licence decision is issued by 1 December 2013.
- 4.7 We have written to all of our registered dealers to advise them of the transitional period and of the fact that their deemed licence will lapse on 16 October 2013. Any new trader may now apply for a licence but they must wait until the licence has been determined before they can trade.

### **5. DELEGATION OF FUNCTIONS**

- 5.1 There are various requirements under the Act that will require timely and clear decisions.
- 5.2 It is proposed that the following designated officers are authorised under the Act:-
- Public Protection Manager
  - Community Safety and Licensing Manager
  - Licensing Officers
  - Trading Standards Officers
  - Environmental Health Officers
- 5.3 The Act makes provision for the right of representation against any decision to reject an application or to revoke or vary it. As The Department of Communities and Local Government has not yet amended the legal provisions in relation to the Act becoming a non executive function; its is proposed that any contested decision is heard by the Executive Director Regeneration, Growth and Environment, or an officer appointed to act on their behalf, in consultation with the Executive Board Member. At such time as the administration of the Act becomes a non executive function, then it is proposed that any representations are determined by a Sub Committee of the Licensing Committee.

### **6. FINANCIAL CONSIDERATIONS**

- 6.1 The setting of fees and charges for licensing and consent regimes has been the subject of close scrutiny and legal challenge. The Provision of Services Regulations 2009 and the Westminster legal case have reinforced the need

for such fees and charges to be set on a cost recovery basis; based primarily on the administration of the regime.

6.2 The Act makes provision for the setting of a local fee and the Government has published guidance to assist local authorities in determining their fee. The guidance issued by the Home Office states that fees set for a licence should reflect the cost of:

- Administering applications
- Processing applications
- Reviewing applications
- Consulting of the suitability of applicants
- Deciding applications
- Issuing of licences in a format that will allow their display

6.3 The guidance states that the cost of enforcement activity against unlicensed scrap dealers cannot be included within the licence fee.

6.4 The Licensing Authority currently considers its fees and charges on an annual basis. It is proposed that the same process is followed with respect to the Scrap Metal Dealers Act. A simple initial fee of £65.30 has been charged, as part of the transitional arrangements, in order to enable existing traders, who have previously registered with the authority, to continue to trade. The proposed fee for all new applications has been calculated having close regard to guidance and our existing procedures. The proposed fees are set out in table 1:-

Table 1: Proposed Fees

<b>2013-2014</b>	<b>Site Licence</b>	<b>Collectors Licence</b>
New Licence	£303	£196.3
Renewal	£270.1	£174.0
Variation	£26	£26

6.5 A breakdown of each fee is provided in appendix 1. The calculation takes account of officer time and other recharge costs associated with the administration of the regime, such as building costs, and provision for any appeal.

## **7. RISK ASSESSMENT**

7.1 The applicant has the right of appeal to the Magistrates' Court beginning on the day on which the notice of the decision was given. The appeal can be against refusal of an application, inclusion of a condition or revocation of a licence.

7.2 Local authorities must also ensure that they have set their fees and charges on a cost recovery only basis.

7.3 It is therefore important that the necessary delegations are in place. Whilst, the Licensing Authority already has delegated approval to set fees and charges for consent regimes; it is necessary, in this instance, to obtain approval from the Executive Board, as the Act currently remains an Executive function.

7.4 It is proposed to adopt the policy, see appendix 2, in common with the Association of Greater Manchester Authorities, which sets out our responsibilities in relation to the Act.

## **8. EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT**

8.1 The Council has a legal duty to proactively promote race, gender and disability equality and to tackle discrimination experienced by vulnerable groups. It is the role of the Council to administer any licensing regime in accordance with the law.

## **9. CONSULTATION**

9.1 We have written to all registered dealers informing them of the transitional arrangements. There is no formal requirement to consult on the proposed fee and it is proposed that the fee be reviewed as part of the wider fee setting process for licensing and consent regimes.

## **10. REASONS FOR RECOMMENDATION**

10.1 To ensure that the correct procedures, fees and delegations are in place for the administration and enforcement of the Act.

## **11. RECOMMENDATION**

11.1 The Executive Board is recommended to:-

- (i) Formally adopt the provisions of the Act and to grant the necessary delegations in respect to the administration and enforcement of the Act.
- (ii) Adopt the proposed fee structure.
- (iii) Delegate the decision on uncontested applications, including any renewal or variation, including the imposition of conditions, to the officers set out in paragraph 5.2.
- (iv) Delegate the decision on any contested application, variation or revocation to Executive Director, Economic Regeneration, Growth and Environment, or officer appointed to act on their behalf, following consultation with the Executive Board Member, Environment and Public Protection.
- (v) Adopt the draft Policy in appendix 2.

**12. BACKGROUND PAPERS**

1. Scrap Metal Dealers Act 2013
2. LGA Guidance on the Scrap Metal Dealer Act 2013

**Contacts for Background Papers:**

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**Appendix 1: Summary of proposed fee structure**

Full Application: Site Licence

<b>Function</b>	<b>Operational time (hr)</b>	<b>Management Time (hr)</b>	<b>Unit Cost (£)</b>	<b>Sub Total (£)</b>
Preparation time for introducing the Act (averaged over 3 years)			32.9	32.9
General administration of the licence	0.5	0	-	12
Review relevant offences	0.5			12
Consultation	1.5			36
General enquiries	2			48
Decision and Issue	1	0.5		43.5
Cost of Licence			2	2
Contested Determination				29.6
Check of site records				87
<b>TOTAL</b>				<b>£303</b>

Renewal: Site Licence

<b>Function</b>	<b>Operational time (hr)</b>	<b>Management Time (hr)</b>	<b>Unit Cost (£)</b>	<b>Sub Total (£)</b>
General administration of licence	0.5	-	-	12
Consultation	1.5			36
Review relevant offences	0.5			12
Decision and Issue	1	0.5		43.5
Contested determination				29.6
General Enquiries	2			48
Cost of Licence			2	2
Check of site records			22.3	87
<b>TOTAL</b>				<b>£270.1</b>

## Agenda Item 9

### Variation: Site Licence and Collector

<b>Function</b>	<b>Operational time (hr)</b>	<b>Management Time (hr)</b>	<b>Unit Cost (£)</b>	<b>Sub Total (£)</b>
Assessing and administrating the application	1	-	-	24
Cost of Licence			1	2
<b>TOTAL</b>				<b>26</b>

### Collectors: Full Application

<b>Function</b>	<b>Operational time (hr)</b>	<b>Management Time (hr)</b>	<b>Unit Cost (£)</b>	<b>Sub Total (£)</b>
General administration of the licence	0.5	0	-	12
Review relevant offences	0.5			12
Consultation	1.5			36
General enquiries	2			48
Decision and Issue	1	0.5		43.5
Cost of Licence			2	2
Contested Determination				20.5
Set up costs			22.3	22.3
<b>TOTAL</b>				<b>£196.3</b>

### Collectors: Renewal

<b>Function</b>	<b>Operational time (hr)</b>	<b>Management Time (hr)</b>	<b>Unit Cost (£)</b>	<b>Sub Total (£)</b>
General administration of the licence	0.5	0	-	12
Review relevant offences	0.5			12
Consultation	1.5			36
General enquiries	2			48
Decision and Issue	1	0.5		43.5
Cost of Licence			2	2
Contested Determination				20.5
<b>TOTAL</b>				<b>£174</b>

N.B the collector's fee is lower as there is no requirement for a site check and the number of predicted traders is greater (approximately 50), which means that the average costs per trader are lower.

Appendix 2

**WARRINGTON BOROUGH COUNCIL  
SCRAP METAL DEALERS ACT 2013  
DRAFT POLICY**

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## 1 INTRODUCTION

### 1.1 The Policy

- 1.1.1 This document states Warrington Borough Council's policy on the regulation of Scrap Metal Dealers in its capacity as the relevant local authority for the purposes of the Scrap Metal Dealers Act 2013 (and the expressions "Council" and "local authority" shall be construed accordingly).

### 1.2 The Law

- 1.2.1 The Scrap Metal Dealers Act 2013 ("the Act") received Royal Assent on 28 February 2013. The Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. The Act maintains local authorities as the principal regulator, but replaces the old registration system with a full licensing regime. It grants power to refuse a licence to "unsuitable" applicants and a power to revoke licences if the dealer becomes "unsuitable". The Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer.

### 1.3 Definition of a Scrap Metal Dealer

- 1.3.1 A person carries on business as a scrap metal dealer if:
- (a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought); or
  - (b) they carry on business as a motor salvage operator (see 1.3.3).
- 1.3.2 Ancillary sales - a person selling scrap metal merely as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.
- 1.3.3 Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:
- (a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap
  - (b) buying written-off vehicles, repairing and reselling them
  - (c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b)
  - (d) wholly or mainly in activities falling within paragraphs (b) and (c)
- 1.3.4 Scrap metal includes:
- (a) Any old, waste or discarded metal or metallic material, and
  - (b) Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

1.3.5 Scrap metal does not include:

- (a) Gold
- (b) Silver
- (c) Any alloy of which 2% or more by weight is attributable to gold or silver

## **2 TYPES OF LICENCE**

2.1 Anyone wishing to operate a business as a scrap metal dealer will require:

- I. a site licence; or
- II. a collector's licence.

The licence is valid for three years and permits the licence holder to operate within the boundaries of the issuing authority.

A person may hold more than one licence issued by different local authorities but may not hold more than one licence issued by any one authority.

### **2.2 SITE LICENCE**

2.2.1 The site licence authorises the licensee to carry on business at the site(s) identified in the licence.

2.2.2 The site licence must include:

- (a) the name of the licensee
- (b) the name of the authority
- (c) identify all the sites in the authority's area at which the licensee is authorised to carry on business
- (d) the name of the site manager of each site
- (e) the date of expiry

2.2.3 The site licence also permits the licence holder to act as a collector.

### **2.3 COLLECTOR'S LICENCE**

2.3.1 The collector's licence authorises the licensee to carry on business as a mobile collector within the authority's area.

2.3.2 The collector's licence must include:

- (a) the name of the licensee
- (b) the name of the authority
- (c) the date of expiry

## **3 SUITABILITY OF APPLICANT**

3.1 A local authority must determine whether the applicant is a suitable person to carry on business as a scrap metal dealer and may not issue a licence unless satisfied that the applicant is suitable.

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- 3.2 In determining this, the authority may have regard to any information which it considers to be relevant, in particular:
- (a) whether the applicant or site manager has been convicted of any relevant offence;
  - (b) whether the applicant or site manager has been the subject of any relevant enforcement action;
  - (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
  - (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
  - (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
  - (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.
- 3.3 In this section:
- (a) “site manager” means an individual proposed to be named in the licence as a site manager
  - (b) “relevant offence” means an offence which is prescribed for the purposes of the Act in regulations made by the Secretary of State, and
  - (c) “relevant enforcement action” means enforcement action which is so prescribed by regulations.
- 3.4 In determining whether a company is suitable to carry on business as a scrap metal dealer, a local authority is to have regard, in particular, to whether any of the following is a suitable person:
- (a) any director of the company
  - (b) any secretary of the company
  - (c) any shadow director of the company (that is to say, any person in accordance with those directions or instructions the directors of the company are accustomed to act)
- 3.5 In determining whether a partnership is suitable to carry on business as a scrap metal dealer, a local authority is to have regard, in particular, to whether each of the partners is a suitable person.
- 3.6 The authority must also have regard to any guidance on determining suitability which is issued from time to time by the Secretary of State
- 3.7 The authority may consult other persons regarding the suitability of an applicant, including in particular:
- (a) any other local authority;
  - (b) the Environment Agency;
  - (c) an officer of a police force;

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- 3.8 If the applicant or any site manager has been convicted of a relevant offence, the authority may include in the licence one or both of the following conditions:
- (a) that the dealer must not receive scrap metal except between 9am and 5pm on any day;
  - (b) that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
- 3.9 Having regard to the objectives of the Act the authority has determined that it will presume that the applicant is unsuitable to be issued with a licence where an applicant or any other person required to be named or identified in the application has been convicted of any of the following offences within the period of three years prior to the application:
- An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989.
  - An offence under section 170 or 170B of the Customs and Excise Management Act 1979(5), where the specific offence concerned relates to scrap metal.
  - An offence under section 110 of the Environment Act 1995.
  - An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990.
  - An offence under section 9 of the Food and Environment Protection Act 1985.
  - An offence under section 1 of the Fraud Act 2006(9), where the specific offence concerned relates to scrap metal, or is an environment-related offence.
  - An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
  - An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002.
  - Any offence under the Scrap Metal Dealers Act 1964.
  - Any offence under the Scrap Metal Dealers Act 2013.
  - An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act 1968(13), where the specific offence concerned relates to scrap metal, or is an environment-related offence.
  - Any offence under Part 1 of the Vehicles (Crime) Act 2001.

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- An offence under sections 85, 202, or 206 of the Water Resources Act 1991.
  - An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007.
  - An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010.
  - Any offence under the Hazardous Waste (England and Wales) Regulations 2005.
  - Any offence under the Hazardous Waste (Wales) Regulations 2005.
  - An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002.
  - Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000.
  - Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007.
  - Any offence under the Transfrontier Shipment of Waste Regulations 1994.
  - Any offence under the Transfrontier Shipment of Waste Regulations 2007.
  - Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006.
  - An offence under regulation 42 of the Waste (England and Wales) Regulations 2011.
  - Assaults / offences against the person
- 3.10 The authority is aware of its duty not to fetter its discretion and shall permit representations from the applicant as to any exceptional circumstances indicating that it may nevertheless be appropriate to receive a licence. Insofar as any of the offences contained in 3.9 above are not prescribed as “relevant offences” for the purposes of the Act the authority may nevertheless require further information from the applicant to assist in determining the suitability of the applicant. The authority may not treat any such offence or enforcement action as a “relevant offence” or “relevant enforcement action” for the purposes of the Act but shall nevertheless consider such an offence as a significant offence in relation to the suitability of the applicant to hold a licence.
- 3.11 Having regard to the objectives of the Act the authority has determined that it will presume that the applicant is unsuitable to be issued with a licence where an

applicant or any other person required to be named or identified in the application has been the subject of any of the following forms of enforcement action within the period of three years prior to the application:

- Closure notice pursuant to the Act
- Closure order pursuant to the Act
- Action for recovery of possession of out of date or discontinued licences

The authority is aware of its duty not to fetter its discretion and shall permit representations from the applicant as to any exceptional circumstances indicating that it may nevertheless be appropriate to receive a licence. The authority may not treat any such enforcement action as a “relevant enforcement action” for the purposes of the Act but shall nevertheless consider such an action as a significant issue in relation to the suitability of the applicant to hold a licence.

3.12 Having regard to the objectives of the Act the authority has determined that it will consider the following offences or enforcement actions relating to any person relevant to the licence as being of particular relevance to the suitability of the licence holder:

- Written warning relating to scrap metal licence compliance
- Waste regulations 2011 – enforcement, compliance and stop notices
- Permitting regulations notices
- Planning Breach of Condition / Enforcement Notices
- Statutory nuisance abatement notice
- Breach of statutory nuisance abatement notice (noise? – presumed unsuitable or simply relevant?)

Code of Practice

3.13 In relation to all considerations of possible revocation or variation and all applications for grant or renewal of a licence the authority shall consider the suitability of the applicant or licence holder with regard to adherence or otherwise by the licence holder or any other person identified in the licence to the Code of Practice annexed to this policy at Appendix A or the applicant’s willingness to adhere to the Code of Practice or to any other relevant body or licensing authority’s Code of Practice in the case of a first application. Failure to adhere to the Code of Practice shall be considered particularly relevant to the suitability of the applicant or licence holder to hold a licence.

Without prejudice to the above, where an officer of the Council has reason to believe that a licence is not being operated in accordance with the Code of Practice but it is in that officer’s opinion reasonable to deal with the cause of complaint by way of a written warning or further written warning then the matter may be dealt with by written warning to the licence holder.

Where a licence holder has received a second written warning from an officer of the Council then the licence holder shall be asked to meet with the appropriate officer of the Council to discuss the reasons for the issue of the previous written warnings and the officer shall warn the licence holder that the licence shall be subject to revocation should there be any repetition of the matter of complaint, on the basis that the licence holder is no longer considered to be suitable to hold a licence.

Where an officer of the Council has reason to believe that there are grounds for issuing a third written warning then the relevant licence holder shall be presumed by the Council to be an unsuitable person to hold a licence, subject to any representation from the licence holder that there may be exceptional circumstances to justify the circumstances of the failure to remedy the cause of complaint.

#### **4 REVOCATION OF LICENCE/IMPOSITION OF CONDITIONS**

- 4.1 The authority may revoke a scrap metal licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.
- 4.2 The authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.
- 4.3 The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer and the authority shall have particular regard to any “relevant offences” and “relevant enforcement action” and to those matters contained in paragraphs 3.10, 3.11, 3.12 and 3.13 of this policy.
- 4.4 If the licensee or any site manager named in a licence is convicted of a relevant offence, the authority may vary the licence by adding one or both of the conditions set out in paragraph 3.8.
- 4.6 A revocation or variation comes into effect when no appeal under paragraph 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 4.7 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:
  - (a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions set out in paragraph 3.8, or
  - (b) that a variation under this paragraph comes into effect immediately.
- 4.8 All licences issued by the Council pursuant to the Act remain the physical property of the Council and must be returned to the Council as required on expiry or revocation of the relevant licence or copy licence. Action may be taken for the

recovery of any licence not returned as required by the Council and any such action may be taken into account in relation to any future application for a licence.

- 4.9 All reference in this policy to copy licences shall be construed as original copies officially endorsed and issued by the Council as the licensing authority.

## **5. SUPPLY OF INFORMATION BY AUTHORITY**

- 5.1 This section applies to information which has been supplied to a local authority under this Act and relates to a scrap metal licence or to an application for or relating to a licence.

- 5.2 The local authority must supply any such information to any of the following persons who request it for purposes relating to this Act:

- (a) any other local authority;
- (b) the Environment Agency;
- (c) an officer of a police force.

- 5.3 This section does not limit any other power the authority has to supply that information.

## **6. REGISTER OF LICENCES**

- 6.1 The Environment Agency maintains a register of scrap metal licences issued by authorities in England and each entry must record:

- (a) the name of the authority which issued the licence
- (b) the name of the licensee
- (c) any trading name of the licensee
- (d) the address of the site identified in the licence
- (e) the type of licence, and
- (f) the date on which the licence is due to expire

- 6.3 The registers are to open for inspection to the public

## **7. NOTIFICATION REQUIREMENTS**

- 7.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any changes which materially affect the accuracy of the information which the applicant has proved in connection with the application.

- 7.2 A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days.

- 7.3 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.

- 7.4 The authority must notify the Environment Agency, of –
- (a) any notification given to the authority under paragraph 7.2 or 7.3
  - (b) any variation made by the authority under paragraph 16.3 (variation of type of licence or matters set out in licence), and
  - (c) any revocation by the authority of a licence

7.5 Notification under paragraph 7.4 must be given within 28 days of the notification, variation or revocation in question.

## **8. DISPLAY OF LICENCE**

8.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.

8.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it easily to be read by a person outside the vehicle.

## **9. VERIFICATION OF SUPPLIER'S IDENTITY**

9.1 Prior to receiving scrap metal the scrap metal dealer must verify the person's full name and address by reference to documents, data or other information obtained from a reliable and independent source.

Should verification not be gained then each of the following are guilty of an offence :

- (a) the scrap metal dealer
- (b) if metal is received at the site, the site manager
- (c) any person who, under arrangements made by a person within sub-paragraph (a) or (b), has responsibility for verifying the name and address.

## **10. PAYMENT FOR SCRAP METAL**

10.1 A scrap metal dealer must only pay for scrap metal by either:

- (a) a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or
  - (b) electronic transfer of funds (authorised by a credit, debit card or otherwise)
- Payment includes paying in kind – with goods or services.

## **11. RECORDS: RECEIPT OF METAL**

11.1 If any metal is received in the course of the dealer's business the dealer must record the following information:

- (a) description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features

- (b) date and time of receipt
- (c) the registration mark of the vehicle delivered by
- (d) full name and address of person delivering it
- (e) full name of the person making payment on behalf of the dealer

- 11.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.
- 11.3 If payment is made via cheque, the dealer must retain a copy of the cheque.
- 11.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

## **12. RECORDS: DISPOSAL OF METAL**

- 12.1 The Act regards the metal to be disposed of:
- (a) whether or not in the same form it was purchased,
  - (b) whether or not the disposal is to another person
  - (c) whether or not the metal is despatched from a site
- 12.2 Where the disposal is in the course of business under a site licence, the following must be recorded:
- (a) description of the metal, including its type (or types if mixed), form and weight
  - (b) date and time of disposal
  - (c) if to another person, their full name and address
  - (d) if payment is received for the metal (by sale or exchange) the price or other consideration received
- 12.3 If disposal is in the course of business under a collector's licence, the dealer must record the following information:
- (a) the date and time of the disposal
  - (b) if to another person, their full name and address

## **13. RECORDS: SUPPLEMENTARY**

- 13.1 The information in paragraphs 11 and 12 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.
- 13.2 The records mentioned in paragraph 11 must be marked so as to identify the scrap metal to which they relate.
- 13.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of.

- 13.4 If a scrap metal dealer fails to fulfil a requirement under paragraph 11 or 12 or this paragraph each of the following is guilty of an offence by way of section 15 of the Act:
- (a) the scrap metal dealer
  - (b) if the metal is received at or (as the case may be) despatched from a site, the site manager
  - (c) any person who, under arrangements made by a person within paragraph(a)or (b) has responsibility for fulfilling the requirement.
- 13.5 It is a defence for a person within who is charged with an offence under section 15 of the Act to prove that the person:
- (a) made arrangements to ensure that the requirement was fulfilled, and
  - (b) took all reasonable steps to ensure that those arrangements were complied with

#### **14. RIGHT OF ENTRY & INSPECTION**

- 14.1 A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.
- 14.2 A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
- (a) reasonable attempts to give notice have been made and failed, or
  - (b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.
- 14.3 Paragraphs 14.1 and 14.2 do not apply to residential premises.
- 14.4 A constable or an officer of the Council is not entitled to use force to enter premises in the exercise of the powers identified in paragraphs 14.1 and 14.2.
- 14.5 A justice of the peace may issue a warrant authorising entry in accordance with section 16 of the Act to any premises within paragraph 14.6 if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:
- (a) securing compliance with the provisions of the Act, or
  - (b) ascertaining whether those provisions are being complied with
- 14.6 Premises are within this paragraph if
- (a) the premises are a licensed site, or
  - (b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business.

- 14.8 A constable or an officer of the Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 16 of the Act.
- 14.9 A constable or an officer of the Council may:
- (a) require production of, and inspect, any scrap metal kept at any premises mentioned in paragraphs 14.1 or 14.2 or in a warrant under section 16.
  - (b) require production of, and inspect, any records kept in accordance with section 13 or 14 of the Act and any other records relating to payment for scrap metal
  - (c) take copies of or extracts from any such records.
- 14.10 Officers of the Council will undertake where reasonable and practicable to give a notice of their powers and your rights on entry to any site licensed pursuant to the Act and the licence holder, site managers and other operatives should note that officers may use recording to assist them in their duties whilst on site.

## **15. APPLICATION PROCEDURE**

### 15.1 Term of Licence

A licence is valid for three years beginning from the day it is issued. A renewal application must be received prior to the licence expiry.

If withdrawn the licence expires at the end of the day of withdrawal.

If refused, the licence expires with no appeal is possible or any such appeal is finally determined or withdrawn.

If renewed, the licence expires at the end of the three year period from the date of the renewal.

### 15.2 Application

The application form, available from the Licensing Department, should be accompanied by:

- a) full name of applicant (if an individual), date of birth and usual place of residence
- b) name and registered number of the applicant (if a company) and registered office
- c) if a partnership – full name of each partner, date of birth and usual place of residence
- d) proposed trading name
- e) telephone number and email address (if any) of applicant
- f) address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so
- g) any relevant environmental permit or registration in relation to the applicant
- h) details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application.
- i) details of the bank account which is proposed to be used in order to comply with section 11

- j) details of any relevant conviction or enforcement action taken against the applicant.

For site licence, the applicant must also provide:

- a) the address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought)
- b) the full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant).
- c) site manager details to be included for (g) (h) and (j) above

Please note the collectors licence allows a business or individual to operate only within that authority's area, therefore individuals wishing to collect across borders will be required to obtain a collectors licence from the relevant local authority where they wish to collect and sell.

All applicants are required to provide a basic disclosure of criminal convictions with the application.

### 15.3 Variation of Licence

A licence may be varied from one type to the other. A variation application must be made to reflect changes to:

- o Site licence – the name of licensee, the sites, site manager
- o Collector's licence – name of licensee

The variation can amend the name of the licensee but cannot transfer the licence to another person.

Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

### 15.4 Renewal

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn.

Where a renewal application has been refused – the licence expires when no appeal has been made under paragraph 2 of Schedule 1 of the Act or any such appeal has resulted in confirmation of the refusal.

### 15.5 Further Information

The Council may request (at the time of application or later) that additional information is provided, as may be considered relevant for the purpose of considering the application.

Failure to provide such information may result in the application being declined.

15.6 Fee

The application must be accompanied by the fee set by the Council, under guidance from the Secretary of State with the approval of the Treasury.

15.7 Right to Make Representations

If the Council proposes to refuse an application or to revoke/vary a licence a notice shall be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for this.

The notice shall also state that within the period specified the applicant/licensee can either:

- a) make representations about the proposal, or
- b) inform the authority that the applicant/licensee wishes to do so.

The period specified in the notice shall be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify the Council whether the applicant / licensee wishes to make representations. Should this period expire and the applicant/licensee has not made representations or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.

If, within the period specified, the applicant/licensee informs the authority that they wish to make representations, the authority shall allow a reasonable period to make representations and may refuse the application or revoke or vary the licence if they fail to make representations within that period.

If the applicant/licensee notifies the authority that they wish to make oral representations, the authority shall give them the opportunity of appearing before, and being heard by a person appointed by the authority.

15.8 Notice of Decision

If the application is refused, or the licence is revoked or varied, notice shall be given to the applicant/licensee setting out the decision and the reasons for it. The notice shall also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought (21 days beginning with the day on which notice of the decision was given) and, if revoked or varied, the date on which the revocation of variation is to take effect.

15.9 Appeals

An applicant may appeal to a magistrates' court against the refusal of an application or a variation. The licensee may appeal to a magistrates' court against the inclusion in a licence of a condition under Section 3(8) of the Act or the revocation or variation of a licence.

An appeal must be made within 21 days beginning on the day the notice to refuse the application, to include the condition or to revoke or vary the licence under section 4 was given.

On appeal, the magistrates' court may confirm, vary or reverse the authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

The authority must comply with any directions given by the magistrates' court. Although the authority need not comply with such directions until the time for making an application under section 111 of the Magistrates' Courts Act 1980 has passed or if such an application is made, until the application is finally determined or withdrawn.

**16. CLOSURE OF UNLICENSED SITES**

**16.1 Interpretation**

A person with an interest in premises is the owner, leaseholder or occupier of the premises.

**16.2 Closure Notice**

These are not applicable if the premises are residential premises.

A constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.

In such circumstances a "closure notice" may be issued by a constable or local authority which states they are satisfied of the above, the reasons for that, that the constable or local authority may apply to the court for a closure order and the notice shall specify the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice shall be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.

The notice shall be given to a person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

**16.3 Cancellation of Closure Notice**

A "cancellation notice" issued by a constable or local authority may cancel a closure notice. This takes effect when it is given to any one of the persons to whom the closure notice was given. This must also be given to any other person to whom the closure notice was given.

**16.4 Application for Closure Order**

When a closure notice has been given, a constable or the local authority shall make a complaint to a justice of the peace for a closure order. This may not be made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

A complaint under this paragraph may not be made if the constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable likelihood that the

premises will be so used in the future.

**16.5 Closure Order**

A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate, the use of the premises by a scrap metal dealer in the course of business be discontinued immediately and that any defendant pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

The closure order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of which the premises form part.

A closure order may include such provision as the court considers appropriate for dealing with the consequences if the order should cease to have effect.

As soon as practicable after the closure order is made, the complainant must fix a copy of it in a conspicuous position on the premises in respect of which it was made.

A sum ordered to be paid into court under a closure order is to be paid to the designated officer for the court.

**16.6 Termination of Closure Order by Certificate**

Once a closure order has been made and a constable or the local authority is satisfied that the need for the order has ceased a certificate may be issued. This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

As soon as is practicable after making a certificate, a constable or local authority must give a copy to any person against whom the closure order was made, give a copy to the designated officer for the court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

A copy of the certificate must be given to any person who requests one.

**16.7 Discharge of Closure Order by Court**

A closure order may be discharged by complaint to a justice of the peace. This can be done by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

The court will make a discharge order if it is satisfied that there is no longer a need for the closure order. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person appear before the magistrates' court to answer to the complaint.

If a summons is issued, notice of the date, time and place at which the complaint will be heard must be given to all persons to whom the closure notice was given (other than the complainant).

**16.8 Appeal in relation to Closure Orders**

Appeal may be made to the Crown Court against:

- a) a closure order
- b) a decision not to make a closure order
- c) a discharge order
- d) a decision not to make a discharge order

The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made.

An appeal under (a) or (b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under (b) or (c) may be made by a constable or the local authority.

#### 16.9 Enforcement of Closure Order

A person is guilty of an offence, if without reasonable excuse they permit premises to be open in contravention of a closure order, or fail to comply with, or do an act in contravention of a closure order.

If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

### 17. OFFENCES & PENALTIES

The following are prescribed by the Act as criminal offences:

Section 1	Carrying on business as a scrap metal dealer without licence (level 5)
Section 8	Failure to notify authority of any changes to details given with application (level 3)
Section 10	Failure to display site licence or collectors licence (level 3)
Section 11(6)	Receiving scrap metal without verifying persons full name and address (level 3)
Section 11 (7)	Delivering scrap metal to dealer and giving false details (level 3)
Section 12 (6)	Buying scrap metal for cash (level 5)
Section 13	Failure to keep records regarding receipt of metal (level 5)
Section 14	Failure to keep records regarding disposal of metal (level 5)
Section 15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another (level 5)
Section 15 (2)	Failure to keep copy of document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued (level 5)
Section 15 (3)	Failure to keep information and records for three years (level 5)
Section 16	Obstruction to right of entry and failure to produce records (level 3)

Section 17           Where an offence under this Act is committed by a body corporate and it is proved—  
                          (a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer, or  
                          (b) to be attributable to any neglect on the part of any such individual  
                          the individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.  
(2)Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.

**DEFINITIONS**

“Licensed site” means a site identified in a scrap metal licence.

“Mobile collector” means a person who—

- a) carries on business as a scrap metal dealer otherwise than at a site, and
- b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door.

“police officer” includes a constable of the British Transport Police Force.

“Premises” includes any land or other place (whether enclosed or not).

“Relevant environmental permit or registration” means—

- a) any environmental permit under regulation 13 of the Environmental (Permitting) Regulations 2010 authorising any operation by the applicant in the local authority's area;
- b) any registration of the applicant under Schedule 2 to those Regulations in relation to an exempt waste operation (within the meaning of regulation 5 of those Regulations) carried on in that area;
- c) any registration of the applicant under Part 8 of the Waste (England and Wales) Regulations 2011 (carriers, brokers and dealers of controlled waste).

“Relevant offence” and “relevant enforcement action” have the meaning given by section 3(3) of the Scrap Metal Dealers Act 2013.

“Site” means any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there).

“Site manager”, in relation to a site at which a scrap metal dealer carries on business, means the individual who exercises day-to-day control and management of activities at the site. (An individual may be named in a licence as site manager at more than one site; but no site may have more than one site manager named in relation to it).

“Trading name” means a name, other than that stated in the licence under which a licensee carries on business as a scrap metal dealer.

**Agenda Item 9**