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**Legislation Update – Metal theft**

**Purpose of report**

For information and decision.

**Summary**

This report updates the Board on progress with legislation designed to tackle metal theft.

**Recommendations**

Members are asked to:

1. note the progress with legislation affecting metal theft including the publication of the Scrap Metal Dealers Bill; and
2. Note amendments to the Scrap Metal Dealers Bill allowing the setting of local conditions and locally set fees for scrap metal licences.

**Action**

LGA officers to progress as appropriate.

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**Legislation Update – Metal Theft**

**The Scrap Metal Dealers Bill**

1. Since the LGA's General Assembly in 2011 the Board has been lobbying to replace the Scrap Metal Dealers Act 1964 with a more robust licensing regime for scrap metal dealers as one means of reducing metal theft. It had been hoped that the Queen's Speech would contain a government Bill to amend the 1964 legislation. However there was no government Bill on metal theft announced. The LGA therefore welcomed the announcement by Mr Richard Ottaway MP, who came second in the private member's Bill ballot, that he would be taking a Scrap Metal Dealers Bill through parliament.
2. The Bill was published ahead of its second reading on 13 July. In liaison with Richard Ottaway MP's office and in order to ensure that the Bill passed smoothly through the second reading stage, members of this and other LGA Boards encouraged MPs to attend the House even though it was a constituency day. Central Bedfordshire, which has been especially active in pursuing greater powers to regulate scrap metal dealers, was particularly helpful in this respect. The results of the LGA's metal theft survey were also used to generate media interest in the Bill. As a result the LGA was mentioned by a number of MPs from across the House of Commons in the second reading debate and the Bill passed this stage without any opposition. The Board's Chair has already written to those MPs who spoke or supported our case to thank them for their participation. The LGA also continues to be involved with the All Party Parliamentary Group on metal theft as it brings together parliamentarians in both Houses who are keen to see changes to the 1964 Act.
3. Under the Bill anyone buying or selling scrap metal or operating as a motor salvage operator will need to obtain a scrap metal licence from their council, which will last for 3 years. As with other licences the local authority will be able to refuse an application where the applicant is not deemed suitable to run a scrap metal business. Councils will also be able to revoke the licence if for example they are no longer satisfied that the licensee is a suitable person. Appeals against decisions by the council will be heard by a magistrates' court. Details of all licences will be kept in an open register run by the Environment Agency.
4. Other provisions in the Bill require dealers to verify the name and address of people they buy metal from, keep a record of the metal they receive, and prohibits them from buying metal for cash. The Bill also gives powers to the police and local authority officers to enter and inspect licensed premises, and allows the police or council to apply for a closure order against any unlicensed business.
5. Mr Ottaway's Bill also provides for conditions to be inserted into the licence. These are limited to two conditions specified in the Bill: a condition that prohibits the dealer from receiving metal after a set time; and one that requires the dealer to keep any metal received in the form in which it is received for up to 72 hours. All other licensing regimes operated by local authorities allow councils to insert local conditions into the licence as this makes for better regulation and takes account of local circumstances. When the Bill enters committee stage the LGA will therefore be looking to amend it to

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allow councils to insert their own conditions in addition to the two provided for in the Bill.

6. As the Bill has government support it has been allocated additional time for the committee stage, and it is anticipated this will take place in the middle of September, before parliament breaks for the party conference season. It is then hoped that the Bill will have its third reading in November before progressing to the House of Lords. As in July Board members' assistance in encouraging MPs to attend the third reading debate and support the Bill will be important. We have already written to Baroness Browning, who will be leading on the Bill when it reaches the House of Lords, to request a meeting.

**Fees for scrap metal licences**

7. The Bill would allow councils to charge a fee for licence applications, some of which would be used to pay for the register maintained by the Environment Agency. The LGA has consistently argued that councils should be free to set their own licensing fee within the constraints of the European Union Services Directive, which only allows for recovery of the costs of running any licensing regime. It was for this reason that the Board lobbied successfully for an amendment to the Police Reform and Social Responsibility Act that allows for locally set alcohol licensing fees, and will be implemented in April 2013.
8. The proposals in the Scrap Metal Dealers Bill would allow the Home Secretary to either cap the amount that councils can charge for the fee or set what fee councils can charge through regulations. A cap might mean some local authorities are unable to recover all their costs, and there would need to be a regular increase in the cap if inflation was not to erode the fees councils could recover. Therefore the LGA is seeking to amend the fees clause in the Bill to remove the ability of the Home Secretary to centrally set or cap the fees that could be charged. The Home Office have already been made aware of the LGA's concerns about the fees proposals in the Bill and the Chair of the Board is due to meet Lord Henley, the responsible minister at the Home Office, about this in mid-October.

**Cashless transactions**

9. Following lobbying by the LGA the Legal Aid, Sentencing and Punishment of Offenders (LAPSO) Act 2012 amended the Scrap Metal Dealers Act 1964 by making it an offence for scrap metal dealers to pay cash for scrap metal. There is however an exemption for those dealers who apply to their council to be registered as itinerant collectors. The LAPSO Act provisions are likely to come into force at the end of the year and the Home Office is currently working on regulations that will define what a cashless transaction is, as well as guidance on what these changes will mean for dealers, councils and the police. The implications of these changes will be covered in a guide for councillors on tackling metal theft which will be published in early September, and will be accompanied by a reissue of the metal theft toolkit the LGA published at the start of the year. In both publications the role of councils in registering itinerant scrap metal collectors will be covered and they will include guidance produced by the Home Office on how applications to register as an itinerant collector should be dealt with. Assuming

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Mr Ottaway's Bill becomes law the exemption for itinerant collectors will be removed and dealers will not be able to buy or sell metal for cash.

**Next steps**

10. Officers will continue to let Board Members have information about MPs on the Bill Committee and progress of our amendments.

**Financial Implications**

11. Any work arising out of this report will be met from existing resources so there are no financial implications for the Board.