

## MUNICIPAL YEAR 2013/2014 REPORT NO. 21

**MEETING TITLE AND DATE:**

**Crime & Safety & Strong  
Communities Scrutiny  
Panel 18<sup>th</sup> April 2013  
CMB: 4th June 2013  
Cabinet: 10 July 2013**

**REPORT OF: Crime &  
Safety & Strong  
Communities Scrutiny  
Panel**

**Agenda – Part: 1**

**Item: 6.1**

**Subject: Metal theft**

**Cabinet Member consulted: N/A**

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### **1. EXECUTIVE SUMMARY**

- 1.1 This report identifies a number of recommendations following the scrutiny review into metal theft in Enfield.
- 1.2 The Council has suffered significant financial losses due to metal theft from parks and of gullies.
- 1.3 This is a national issue due to the large increase in prices of metal driven by global economies and increased demand. No metals are immune to being stolen, but a combination of value, demand, quantity, uses and ease of theft makes some metals more prone to being targeted than others.
- 1.4 A Local Government Association survey undertaken in February 2012 covering England and Wales found that 7 out of 10 councils had suffered metal theft.
- 1.5 Both the police and scrap metal dealers have highlighted the difficulty in identifying stolen metals.
- 1.6 A new Scrap Metal Dealers Act 2013 received Royal Assent on the 28th February 2013. It is designed to bring reform to the industry and providing a key element in the fight against metal theft. The Home Office is responsible for the Act's implementation. The anticipated date for this is October 2013; guidance and regulations will follow in due course.

## **2 RECOMMENDATIONS**

Cabinet is asked to consider the report and approve recommendations 2.1, 2.3,2.5, 2.6,2.7 and 2.8. Please note that recommendations 2.2 and 2.4 will be forwarded to the Metropolitan Police:

### **Prevention**

- 2.1 When a new application for registration is received from an address where there is already a registration in place under a different surname; the system should automatically flag this as a potential issue for investigation.
- 2.2 Local police should undertake training on metal theft in the same manner as the British Transport Police. Currently this training is provided by Metal & Waste Recycling Limited.
- 2.3 Council should consider replacing existing metal at the end of its lifetime or when stolen with an alternative material, particularly in areas with low public or council footprint.

### **Enforcement**

- 2.4 Prompt response requested from the police when scrap metal dealers phone to report a suspicious transaction.
- 2.5 The Council request that consideration is given by the Home Office for a new crime classification for metal theft and for this to be made a national requirement. This is to allow metal theft to be recorded as part of the standard report rather than being a searchable crime. (subject to approval by English Heritage in areas with a conservation status). In addition the three Enfield MP's be asked to formally support this request.

### **Other**

- 2.6 Consideration is given to publishing an annual report on scrap metal dealers and itinerants flagging up examples of good and bad practice.
- 2.7 During the winter period metal mechanical and grass cutting equipment not in use by parks should be stored in a more secure location.
- 2.8 The Council consider collecting white goods for free. The Council should consider using an incentive to encourage residents to use the Council to pick up white goods. This service should provide a date and time for collection to ensure that the goods are collected by the council.

- 2.9 Note the following recommendation has gone to the Cabinet Members for Environment and Community Wellbeing and Public Health for an immediate response:

Until the charges for the new Licensing scheme are in place the Panel would recommend that the Council examine how it can be more robust in the current registration process and where possible a charging mechanism should be introduced for enhanced services within the registration scheme prior to implementation of the Act. This could contain training for those wishing to register to cover their responsibilities under current legislation and under the new Act. This could also include an explanation of the Council's responsibilities and enforcement activities and provide an ID badge confirming registration details for display in vehicle or on site. The charge should be made using a cashless system mirroring the amendment to the Scrap Metal Dealers Act.

### 3. **BACKGROUND**

#### **Rationale for the review**

- 3.1 At the Annual planning meeting of the Crime & Safety & Strong Communities Scrutiny Panel a review of Metal Theft was agreed and a working group was formed (comprising Cllrs: Mike Rye, Lee Chamberlain, Simon Maynard and, Co-optee Brian Waters).
- 3.2 The issue of metal theft is of great concern to both the community, businesses, individuals and the Council and is a big issue both locally and nationally.
- 3.3 A Local Government association survey undertaken in February 2012 covering England and Wales found that 7 out of 10 councils had suffered metal theft. The most commonly taken items were gully/manhole/drainage covers and roofing materials. The number of metal theft offences in the UK has doubled over the last 5 years.
- 3.4 The Association of Chief Police Officers have estimated that the cost of metal theft is more than £770 million every year as thieves target the transport system, parks, schools , hospital and places of worship.
- 3.5 The prices of metal has risen considerably driven by global economies and increased demand. No metals are immune to being stolen, but a combination of value, demand, quantity, uses and ease of theft makes some metals more prone to being targeted than others. Copper and Lead are the most targeted.

#### **Issues**

- 3.6 The group learnt that it is very difficult for both the police and scrap metal dealers to identify stolen metal.
- 3.7 Should a case go to court it is very hard for the genuine owner of the metal to confirm beyond any doubt that the metal is theirs.

#### **Enforcement**

- 3.8 There is no specific offence of metal theft, which means incidents involving metal theft cannot be separately identified within standard police datasets. Consequently there are no precise estimates of all types of metal theft nationwide (including at a local level).
- 3.9 A new crime classification for metal theft would have to be instigated by the Home Office and made a national requirement. The MPS currently have flags that relate to metal theft in the crime reporting system which are searchable and in addition the analyst within Operation Ferrous London regional intelligence unit has developed a more extensive search.
- 3.10 *The Council request that consideration is given by the Home Office for a new crime classification for metal theft and for this to be made a national requirement. This is to allow metal theft to be recorded as*

*part of the standard report rather than being a searchable crime. In addition the three Enfield MP's be asked to formally support this request. Recommendation 2.5*

### **Prevention**

- 3.11 The cost to the council is significant with over £300,000 spent on metal replacement in 2010/11 on highways and over £24,000 on replacement of items stolen from Parks. This figure does not include the damage often caused by flooding when pipes are stolen from places such as changing rooms.  
*Council should consider replacing existing metal at the end of its lifetime or when stolen with an alternative material, particularly in areas with low public or council footprint (subject to approval by English Heritage in areas with a conservation status). Recommendation 2.3*
- 3.12 The working group attempted to organise a meeting with all scrap metal dealers and itinerants. They noted that 8 letters were returned gone away involving 8 names but only 2 addresses. No itinerants made themselves available.  
*When a new application is received from an address where there is already a registration in place under a different surname; the system should automatically flag this as a potential issue for investigation Recommendation 2.1*

### **Actions- meetings and visits**

- 3.13 The working group have met on 4 occasions and received information from the Community Safety Unit and met with officers from Environmental Crime, Licensing, Highways, Parks and the Metropolitan Police to collect evidence on the issue.

### **Visit to Scrap Metal Dealer**

- 3.14 The working group visited Metal and Waste Recycling in Kenninghall Road, meeting with its Director. This is the 3<sup>rd</sup> largest scrap metal dealer in the UK and a major employer in Enfield employing more than 88 people on site and dealing with 500 subcontractors. Their Head Office is in Edmonton and they have a further 15 sites across the UK.
- 3.15 There is a high turnover of metal from the site, with the site being completely cleared and refilled on a monthly basis. They have a turnover of £350 million. They are currently the sole contractor for the MOD and for the old BT cable.
- 3.16 The group heard at the visit of how metal theft affects scrap metal dealers and the challenges this crime causes. Scrap metal dealers themselves are highly susceptible to theft from their sites and this site pay £55k per month in security fees. Staff safety was also a cause of concern for them. He cited examples of staff being attacked and threatened.

- 3.17 The metal is often received in broken down form with no identifying marks and it is not possible to tell whether or not it is stolen
- 3.18 The group heard that even if all metal was marked with smart water it would be unlikely to be detected by dealers. The metal often arrives in a skip and it is not viable to hand scan every single metal item. Current marking does not confirm whether or not an item is stolen or who owns it just that it is marked. There are many legal reasons why marked metals maybe offered as scrap.
- 3.19 The Director of Metal and Waste Recycling raised an issue of when thieves try to sell them metal which appeared to be stolen and the lack of response from the Police. An example was given of copper cable when the police were called. The thieves managed to take the cable to an industrial estate and cut it up into segments without any police intervention.  
*Prompt response requested from the police when scrap metal dealers phone to report suspicious transaction Recommendation 2.4*
- 3.20 A further issue can be that even if a case goes to court it is very hard for the genuine owner to confirm beyond any doubt that the metal is theirs.
- 3.21 The Director of Metal and Waste Recycling advised that he runs afternoon training sessions on a monthly basis for British Transport Police.

#### **4. Findings**

- 4.1 This section of the report provides a summary of the findings by the working group.
- 4.2 As there is no specific offence of metal theft, little information is recorded on either suspects or offending patterns.
- 4.3 At the time of this report there are currently 11 registered scrap metal dealers, 60 itinerants and 590 registered waste carriers registered in Enfield.
- 4.4 The difference between a Metal Dealer and an Itinerant Metal Dealer is that the Metal Dealer operates from specific premises where metal is taken to and from and stored. The Itinerant Metal Dealer disposes of the articles and does not have a store of their own nor do they use another's store. Where a person carries on business as a Metal Dealer and also as an Itinerant Metal Dealer they shall require a licence for each activity.
- 4.5 Over the last 10 years the type of Registration has changed dramatically. Since April 2011 only itinerants have registered, a large

number have registered between April and December 2011 often with multiple names registered at the same address.

- 4.6 Under the Scrap Metal Dealers Act 1964 all scrap metal dealers and itinerants must register with the Council. Registration does not require any decision to be made or any permission to be given. The applicant must complete and sign an application providing at least one proof of address. The Metropolitan Police Service also visit to confirm that they are actually residing at the address. If the address is confirmed the Council must register the applicant. There is currently no charge for this service.
- 4.7 The responsibilities under the 1964 Act are as follows. The Police investigate theft and identify stolen metal. Councils are responsible for maintaining a register of dealers in their locality; ensuring that dealers comply with their responsibilities under the Act; providing leadership in tackling the issue. The Environment Agency is responsible for issuing environmental permits and monitoring sites for pollution. Dealers in scrap metal are responsible for notifying authorities of their operation and keeping adequate records of transactions to fulfil the act.
- 4.8 From the Register it is apparent that multiple names are often registered at the same address. The working group were advised that this is an issue and if offences are committed in these situations they usually include in addition to metal theft, benefit fraud and electricity abstraction. Individuals often move around the country committing offences at each location.
- 4.9 It is believed that in the main the metal is exported before being recycled. Where metal is sold in the UK people will travel great distances to get the best prices.
- 4.10 The Police advised that they have a lack of expertise in this area and often refer to their colleagues in the British Transport Police for guidance.  
*Local police should undertake training on metal theft in the same way as the British Transport Police. Currently this training is provided by Metal & Waste Recycling Limited. Recommendation 2.2*
- 4.11 The Council were collecting white goods for free. Although there is a 5 day turnaround for this service. However from April 2013, a charge will be made for this service. The cost will be £20 for each collection with a maximum of 3 items per collection.
- 4.12 When a resident contacts the Customer Service Section to arrange this service, it is suggested to them that they use 123Recycle for free who operate who operate in many London Boroughs including Enfield. The call can either be redirected or the resident given the freephone number.

- 4.13 Should the resident request that the Council collect the item then this will be arranged.  
*The Council should continue to collect white goods for free and consider using an incentive to encourage residents to use the Council to pick up white goods. This service should provide a date and time for collection to ensure that the goods are collected by the council. Recommendation 2.8*
- 4.14 Parks are extremely vulnerable to theft. Machinery has been taken from lock ups in parks. Locked facilities have been broken into overnight with further damage caused from flooding as water left on when pipes stolen. The working group was advised that Parks equipment is stored on site all year round.  
*During the winter period metal mechanical and grass cutting equipment not in use by parks should be stored in a more secure location. Recommendation 2.7*
- 4.15 Some examples of enforcement operations undertaken include inspections of both scrap metal dealers and itinerants, and Stop and Search patrols for waste carriers of metal.
- 4.16 The working group would like to see good practice encouraged amongst scrap metal dealers and itinerants and poor practices highlighted.  
*Consideration is given to publishing an annual report on scrap metal dealers and itinerants flagging up examples of good and bad practice. Recommendation 2.6*

## **5. Consultations on finding and recommendations**

This has occurred with the following:

- Metropolitan Police ( Acting Borough Commander)
- Acting Head of Community Safety
- Head of Regulatory Services
- Highways
- Parks and Open Spaces
- Director of Environment
- Councillor Bond
- Councillor Hamilton

## **6. Legislation**

- 6.1 The current legislation in this area is the 1964 Scrap Metal Dealers Act. This requires councils to maintain a register of persons trading in their area as scrap metal dealers. Failure to register attracts a fine of £1,000 and registration must occur every 3 years. Dealers must:
- Inform the local council of their operation
  - Maintain a book with details of metal received, processed or despatched
  - Record the description and weight of the metal

- Record the name and address of the person providing the metal
  - Record the registration of the delivery vehicle
- 6.2 In December 2012 a cashless system was introduced. It became an offence for anyone to buy scrap metal for cash or by any form of payment other than a crossed cheque or electronic money transfer under the Scrap Metal Dealers Act, amended by the Legal Aid, Sentencing and Punishment of Offenders Act. The interim recommendation is around a charge for registration to mirror this cashless system that requires the dealer/itinerant to provide bank details.
- 6.3 A new The Scrap Metal Dealers Act 2013 has been prioritised and received Royal Assent on the 28th February 2013. It is designed to bring reform to the industry and providing a key element in the fight against metal theft.
- 6.4 The Act builds on measures already taken by the government, including enhanced enforcement activity through the National Metal Theft Taskforce, design solutions to improve traceability of stolen metal and earlier legislative measures in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to ban the purchase of scrap metal with cash.
- 6.5 The Act replaces the outdated Scrap Metal Dealers Act 1964 with a more robust, fee-raising license scheme administered by local authorities. Features include the power for local authorities to refuse and revoke a licence; giving courts the power to close unlicensed dealers; requiring dealers to verify sellers' identity and creating a single publically available national register of licence holders maintained by the Environment Agency. The Act maintains the offence of purchasing scrap metal with cash that came into force in December but removes the exemptions for itinerant collectors and brings motor salvage operators within the definition of a scrap metal dealer for the first time.
- 6.6 The Home Office is responsible for the Act's implementation. This is anticipated in October 2013; guidance will follow the implementation.
- 6.7 The working group welcome the change in Legislation and look forward to its full implementation.
7. The working group would like to express thanks to all officers from the Council and the Metropolitan Police who gave their time and expertise to the review and to John Rice from Metal & Waste Recycling Ltd
8. **ALTERNATIVE OPTIONS CONSIDERED**  
None.



## **9. REASONS FOR RECOMMENDATIONS**

To support the 'Strong Communities' commitment from the Council's manifesto.

Provide strong community leadership and work in partnership with others to ensure Enfield is a safe and healthy place to live.

## **10. COMMENTS OF THE DIRECTOR OF FINANCE, RESOURCES AND CUSTOMER SERVICES AND OTHER DEPARTMENTS**

### **10.1 Financial Implications**

Any costs arising from implementing the recommendations in this report, will need to be met within existing resources.

### **10.2 Legal Implications**

10.2.1 This report sets out a recommendation that the council be more robust in the current registration process and consider introducing a charging mechanism for an enhanced registration scheme prior to implementation of the new Scrap Metal Dealers Act 2013 (the new Act) which was given Royal Assent on 28<sup>th</sup> February 2013.

10.2.2 The new Act repeals the Scrap Metal Act 1964 and introduces a rigorous new local-authority administered licensing system comparable to the alcohol and gambling licensing regimes and administered by councils. The commencement date of the new Act is not known but it is expected to come into force towards the end of the year.

10.2.3 A number of different charging provisions have been considered to enable the Council to adopt a charge for registration prior to the new Act coming into force. Under S1 of the Scrap Metal Dealers Act 1964 the Council is obliged to maintain a register of persons carrying on business in the borough as scrap metal dealers. The consequence of failing to register is that a dealer would be guilty of a criminal offence therefore it is implied that we cannot charge for this.

10.2.4 The council is precluded from using the general power of competence in the Localism Act 2011 to charge for registration. There are limits placed on use of the general power of competence and it cannot be used to charge for services which the council is obliged to provide by statute.

10.2.5 S93 of the Local Government Act 2003 covers charging for discretionary services if the recipient of the service has agreed to its provision. Although a service that a local authority has a duty to provide is not a discretionary service (and will not benefit from a s93 charging power), an enhancement to a mandatory service, resulting in a higher standard of service, may be considered discretionary. In this situation the Council can rely on s93 to charge for the enhanced element of the service. Any income should not exceed the costs of provision.

10.2.6 Para 11 of the ODPM guidance states that '*Services that an authority is mandated or has a duty to provide are not discretionary services and will not benefit from the new power at s93 of the 2003 Act. However additions or enhancements to such mandatory services above the level or standard than an authority has a duty to provide may be discretionary services*'.

10.2.7 The enhancement of the registration system for scrap metal dealers appears to satisfy the well-being criteria. It therefore seems, in principle at least, that the council can use s93 to charge for an enhanced element of registration. Careful consideration will need to be given to the detail of any such scheme to ensure that the council has a sufficiently robust case for using s93 and minimise any risk in doing so. The council could seek to ensure that the enhanced elements of registration mirror the provisions set out in the new Act to substantiate its case.

### **10.3 Property Implications**

10.3.1 Property Services acts as the Council's landlord and as such carries responsibility for the property portfolio together with the landlord's maintenance responsibilities especially within leased properties. The Royal Assent given to Scrap Metal Dealers Act 2013 is welcomed as a means to deter theft of metal from Council properties together with the associated cost of the damage caused and resultant repairs.

10.3.2 Since 1st September 2012 it has been a criminal offence to squat in residential properties which has led to a greater threat of squatting to commercial and operational properties. There is now concern that commercial and operational property that become vacant will be at a greater risk of squatting and metal theft.

10.3.3 With the introduction of cashless transactions this should make metal theft less attractive and lucrative and the recent legislation will hopefully act as a deterrent.

10.3.4 As a result of the current high value of metal any repairs carried out as landlord responsibility should be undertaken in materials other than metal, where possible, to deter theft and damage.

10.3.5 Where properties are deemed to be vulnerable, especially those that are vacant, it will be necessary to consider plans for additional robust security measures, which may incur additional cost, in order to protect the Council's property interests and also to maintain as far as possible the value of the investment portfolio.

## **11. KEY RISKS**

The issue of metal theft has become a significant risk in recent years and includes not only financial loss (e.g. damage to property) but also operational issues such as the disruption caused.

This report sets out some of the initiatives to help mitigate these risks, however further additional measures may need to be considered."

**12. IMPACT ON COUNCIL PRIORITIES**

**a. Fairness for All**

None.

**b. Growth and Sustainability**

Reducing the opportunities for metal theft and the activities of itinerant metal dealers will prevent damage and/or loss of Council and residents' property.

**c. Strong Communities**

Implementing the recommendation will reduce opportunities for criminal activity and contribute to making Enfield a safe and healthy place to live.

**13. EQUALITIES IMPACT IMPLICATIONS**

It is not relevant or proportionate to undertake an equality impact assessment/analysis of recommendations to reduce metal theft.

**14. PERFORMANCE MANAGEMENT IMPLICATIONS**

Establishing a system to monitor the progress and outcomes of the recommendations will enable the success of the recommendations to be measured.

**15. PUBLIC HEALTH IMPLICATIONS**

None

**Background Papers**

None