

<b>Committee(s):</b>	<b>Date(s):</b>
Port Health & Environmental Services Committee	Urgency
<b>Subject:</b>	<b>Non-Public/Public:</b>
Delegation of Powers to the Director of Markets & Consumer Protection	Public
<b>Report of:</b>	<b>For Decision</b>
Director of Markets and Consumer Protection	
<b>Summary</b>	
<p>Chief Officers and designated post holders within City of London Corporation are required to implement various legal acts under the authority of delegated powers.</p> <p>The following Acts have recently come into force:</p> <ul style="list-style-type: none"> <li>• City of London (Various Powers) Act 2013 (re street trading matters)</li> <li>• Scrap Metal Dealers Act 2013</li> </ul> <p>Both pieces of legislation fall within the terms of reference of your Committee</p> <p>The purpose of the City of London (Various Powers) Act 2013 is to amend the provision for the control of street trading in the City of London; to make provision relating to City walkways; and for related purposes.</p> <p>The important new matters under this Act is to amend the City of London (Various Powers) Act 1987 to allow for temporary street trading licences in specific circumstances which were defined in the report to your Committee on April 29 in the street trading policy. In addition it allows for authorised officers and constables to use enhanced powers, including seizure of articles and vehicles involved in street trading.</p> <p>In discussion with Comptroller and City Solicitor on the significant new enforcement powers the 2013 Act gives, amending the 1987 Act, his advice was that it would be prudent to ask for confirmation of these new powers to remove any subsequent risk of legal challenge before these powers are exercised. As Members requested utilising these powers prior to the sitting of the next Grand Committee, especially in relation to ice cream traders, it is proposed that this report is dealt with by the Chairman and Deputy Chairman of your Committee as a matter of urgency and then reported to main Committee.</p> <p>The purpose of the Scrap Metal Dealers Act 2013 is to amend the law relating to scrap metal dealers; and for connected purposes. It amends the Scrap Metal Dealers Act 1964, for which your Committee has previously delegated powers to the Director of Markets and Consumer Protection.</p>	

It was not anticipated that the City would be involved with issuing of such licences however the guidance from government is unclear, and due to be amended in the near future. We have been approached to issue collection licences by four companies operating in the City in relation to development site activity.

### **Recommendation(s)**

It is recommended that this Committee delegate to the Director of Markets and Consumer Protection, and in his absence the Port Health and Public Protection Director, the following additional powers :

#### City of London (Various Powers) Act 1987 (as amended by the City of London (Various Powers) Act 2013))

1. To issue temporary street trading licences under the provisions of S.11A of the Act;
2. To authorise officers of the Department of Markets and Public Protection and the Department of the Built Environment to exercise the power of seizure under S.16A of the Act;
3. To authorise disposal order applications under the provisions of S.16G of the Act

#### Scrap Metal Dealers Act 2013

1. To authorise proceedings under S.1 of the Act;
2. To issue and renew licences under S.3 of the Act;
3. To issue notices and apply for closure orders under the provisions of S.9 and Schedule 2 of the Act;
4. To authorise officers to exercise the powers of entry and inspection contained in S.16 of the Act and to apply for warrants of entry where necessary;

## **Main Report**

### **Background**

1. The City of London Various Powers Act 2013 received Royal Assent on December 18 2013. The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013. The Common Council of the City of London in its capacity as a Local Authority is responsible for enforcing the provisions of these Acts within the City of London. Both pieces of legislation fall within your Committee's terms of reference.

### **Current Position**

2. The clear identification of delegations has become increasingly important in recent years in view of the growing number of legal challenges which have been made and upheld in other local authority areas. It is therefore of the

upmost importance to ensure these new Acts are incorporated into the comprehensive list of delegations already approved by Members of the Port Health and Environmental Services Committee which is reviewed annually.

3. These new powers will enable the Director of Markets and Consumer Protection to authorise his officers to enforce the requirements of the City of London Various Powers Act 2013 and Scrap Metal Dealers Act 2013, continuing the implementation of a wide range of enforcement powers in the area of Environmental Health, Licensing and Trading Standards. The specific delegations sought are as follows:-

City of London (Various Powers) Act 1987  
(as amended by the City of London (Various Powers) Act 2013))

- a. To issue temporary street trading licences under the provisions of S.11A of the Act;
- b. To authorise officers of the Department of Markets and Public Protection and the Department of the Built Environment to exercise the power of seizure under S.16A of the Act;
- c. To authorise disposal order applications under the provisions of S.16G of the Act

Scrap Metal Dealers Act 2013

- d. To authorise proceedings under S.1 of the Act;
  - e. To issue and renew licences under S.3 of the Act;
  - f. To issue notices and apply for closure orders under the provisions of S.9 and Schedule 2 of the Act;
  - g. To authorise officers to exercise the powers of entry and inspection contained in S.16 of the Act and to apply for warrants of entry where necessary;
4. Existing officers who are experienced in carrying out enforcement duties in relation to business, such as Environmental Health Officers, Licensing Officers and Trading Standards Officers from Markets and Consumer protection Department and Street Environment Officers from Department of the Built Environment, will carry out this work and will incorporate this work into their other inspection activities.
  5. At your last Committee in May a report was agreed which sets out the City's new Street Trading Policy. During the discussion of that Policy which, along with specific training, is required prior to using the new enforcement powers Members expressed their wish that these powers be exercised as soon as practically possible.
  6. The Director of Markets and Consumer Protection, and in his absence, the Port Health and Public Protection Director already has delegated powers for street trading enforcement through the main Act (City of London (Various Powers) Act 1987. The necessary training for carrying out this work has been undertaken since your May Committee however, in discussion with

Comptroller and City Solicitor on the significant new enforcement powers the 2013 Act gives amending the 1987 Act, his advice was that it would be prudent to ask for confirmation of these new powers to remove any risk of subsequent legal challenge before officers start exercising them. Consequently and to remove this risk, it is suggested that this report be dealt with as a matter of urgency before the meeting of the next Grand Committee.

7. There has been liaison with the Comptroller and City Solicitor on the format of the required delegation.

### **Proposals**

8. I propose that the delegation of powers contained within the City of London Various Powers Act 2013 and the Scrap Metal Dealers Act 2013 relating to enforcement of the Acts and the appointment of authorised officers be approved by your Committee so that they may be added to the existing powers of Licensing Officers and other officers delegated authority by the Director of Markets and Consumer Protection, and in his absence the Port Health and Public Protection Director, to ensure that the specified post holders are able to carry out necessary enforcement action in accordance with the statute.
9. As the City wish to start utilising these powers prior to the sitting of the next Grand Committee, especially in relation to ice cream traders, it is proposed that this report is dealt with by the Chairman and Deputy Chairman of your Committee as a matter of urgency and then reported to main Committee.

### **Implications**

10. The Comptroller and City Solicitor has been consulted and his comments are incorporated in the body of the report.

### **Conclusion**

11. To ensure the department's Officers can effectively enforce the provisions of the City of London Various Powers Act 2013 and the Scrap Metal Dealers Act 2013 the authority should be delegated to the Director of Markets and Consumer Protection and in his absence the Port Health and Public Protection Director to appoint authorised officers and authorise the commencement of legal proceedings subject to the Comptroller and City Solicitor being satisfied that the evidence is sufficient to merit the commencement of such proceedings.

### **Appendices**

None

### **Contact**

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