

Title: Tackling Metal Theft - prohibit cash payments and higher fines IA No: HO 0058 Lead department or agency: Home Office Other departments or agencies: MOJ, BIS, Defra, DfT, DECC, and Treasury	Impact Assessment (IA)			
	Date: 22/02/2012			
	Stage: Final			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: Home Office				

Summary: Intervention and Options	RPC Opinion: AMBER
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£26m	-£50m	-£5.8m	Yes IN

What is the problem under consideration? Why is government intervention necessary?

Incidences of metal theft are increasing rapidly inline with the rising price of certain metals on the world's commodity market. Driven by the widespread availability of valuable metals (e.g. copper & lead), the ease with which metals can be traded anonymously for cash through scrap metal dealers has seen metal theft become a fast growing acquisitive crime with over 7,000 police reported crimes a month. The scrap metal industry is governed by the Scrap Metal Dealers Act 1964; the Act is out dated and does not provide sufficient powers to tackle criminality within the industry. Government intervention is necessary as non-legislative responses are proving unsuccessful.

What are the policy objectives and the intended effects?

The Home Office wishes to tackle the principal market for stolen metal, the metal recycling industry. The Home Office wants to create a new robust regulatory regime to replace the outdated requirements under the Scrap Metal Dealers Act (SMDA) 1964. Potentially through the Legal Aid, Sentencing and Punishment of Offenders Bill (LASPO) some elements can be implemented sooner; namely criminally prohibiting cash payments for the purchase of scrap metal and increase penalties under the existing Act. Prohibiting cash will remove a significant driver behind the crime due to the ease in which offenders can receive cash in hand for their metal; whilst raising existing penalties will act as a further deterrent.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The options include: 1) do nothing; 2) seek a Government amendment to the LASPO Bill to i) prohibit cash payments for scrap metal including amending the transaction recording requirement on dealers in order to evidence non-cash payments; and ii) increase penalties for all offences under the current Scrap Metal Dealers Act 1964.

The Home Office is exploring the possibility of future measures to govern the scrap metal industry including the creation of a revised regulatory regime under further legislation. The Government has agreed that positive intervention is needed and that introducing a new regime is necessary. The Home Office has not obtained a suitable legislative vehicle for this revised regime although one is being sought. Therefore an amendment to the LASPO Bill is sought so that urgent action can be taken in the absence of the wider regime. Option 2 is therefore the preferred option.

Will the policy be reviewed? It will be reviewed. If applicable, set review date: 01/17					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister:

LORD HENLEY

Date: 22/02/2012

Summary: Analysis & Evidence

Policy Option 2

Description: I) PROHIBIT CASH PAYMENTS FOR SCRAP METAL AND II) INCREASE PENALTIES FOR ALL OFFENCES UNDER THE CURRENT SCRAP METAL DEALERS ACT 1964

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -40	High: 111	Best Estimate: 26

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	4.8	41
High	0.3	6.8	59
Best Estimate	0.15	5.8	50

Description and scale of key monetised costs by 'main affected groups'

Start-up costs and transaction fees for the 1/3 of scrap metal dealers estimated to deal in cash transactions estimated at £0.15m initially and then £5.8m per year.

Other key non-monetised costs by 'main affected groups'

Costs may fall on the police, local authorities, HMCTS, CPS and legal aid due to availability of more severe fines and additional cases entering the criminal justice system.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low		2.2	19
High		17.6	152
Best Estimate	0	8.8	76

Description and scale of key monetised benefits by 'main affected groups'

Reduction in metal theft of 1-8% per year with central assumption of 4% against baseline annual costs of £220m resulting in in-direct benefits of £8.8m per year.

Other key non-monetised benefits by 'main affected groups'

It is believed that an estimated £1 billion worth of cash transactions within the scrap metal industry avoids direct and indirect taxes due to evasive record keeping. Removing cash and requiring more accurate records should consequentially bring benefits to HMRC/HMT through reducing the tax gap.

Key assumptions/sensitivities/risks

Discount rate (%) 3.5

It is believed that the majority of scrap metal dealers have the capability to trade cashless, and it is estimated by the British Metals Recycling Association that 2/3 of transactions are currently completed without cash. However there are uncertainties over the distributional impacts on scrap metal dealers that may be most affected.

Crime reduction percentages and total cost of metal theft are highly uncertain.

Net impact on CJS of higher fines unknown.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 5.8	Benefits: 0	Net: -£5.8m	Yes	IN

Evidence Base (for summary sheets)

A. Strategic Overview

A.1 Background

There are a number of drivers behind the dramatic rise in metal theft offences over recent years including rising commodity prices, the widespread availability of materials, low risk of detection and relatively low sentences if convicted.

However the scrap metal industry have also played its part in driving this crime; namely that thieves can sell stolen metal to scrap metal dealers without proving personal identification and title to the goods whilst obtaining cash in hand for their stolen metals.

This is facilitated by some scrap metal dealers deliberately compiling incomplete records of their transactions.

Metal theft continues to rise, in part driven by:

- the potentially high cash return – driven by high commodity prices which are predicted by the London Metals Exchange to continue to rise until 2015;
- the anonymity of transactions, with no need to provide proof of identity;
- the widespread accessibility of metals such as copper, lead, and aluminium;
- the difficulty in identifying stolen metal once within the scrap metal chain;
- the low risk of detection and prosecution by enforcement agencies; and
- the inherent flaws of the existing regulation of the scrap metal industry.

There were between 80,000-100,000 police recorded metal theft offences in 2010/11, although it is not possible to ascertain the number of prosecutions for metal related theft and handling offences as there is currently no separate category for metal theft offences.

The impact of metal theft has been felt across a range of sectors in the UK including power, transport and telecommunications; other affected sectors include wireless, water supply, religious/heritage buildings, construction, local authorities and scrap metal dealers. This has resulted in a serious threat to the security of the national infrastructure. In a recent example, on 13 December 2011, the theft of copper cable in South Wales cut the power to a hospital resulting in many cancelled operations. The most recent studies estimate the total cost of metal theft to the UK at £220m per year (Home Office, 2011), between £220m-£260m per year (Deloitte, 2011) and £777m (ACPO, 2010).

Protecting national infrastructure on this scale causes particular problems, especially where it is across a large physical area, as is the case with the rail network. There is an increasing sense amongst business that they are reaching the limits of what they can do. In addition, metal theft is officially a risk to the Olympics, not least because of its potential impact on transport networks during the period of the games.

Whilst a range of non-legislative actions are being taken to try and tackle metal theft, the only sustainable approach is to legislate.

The Home Office therefore want to put into place a new, robust licence regime for scrap metal dealers. We propose a coherent single package to tackle metal theft with a number of complementary elements. We want to:

- deter both thieves and metal dealers through more focussed enforcement and tougher penalties;
- cut out the reward for metal thieves by banning cash payments for scrap metal; and

- reduce the incentives for dealers to trade in stolen metals through a more rigorous licensing regime, revising the existing registration regime for scrap metal dealers under the SMDA1964.

There is a desire from ministers for measures to be introduced as soon as is possible and the Home Office is actively looking for suitable legislative vehicle(s) for these amendments. Discussions with the Public Bills Office state that the full licence regime falls outside the scope of the Legal Aid, Sentencing and Punishment of Offenders Bill (LASPO) that is currently going through the House; however some elements may fall in scope, namely prohibiting cash payments to purchase scrap metal and increasing the fines under the existing Scrap Metal Dealers Act 1964.

Due to the desire to tackle the escalating nature of metal theft as soon as is possible, the Home Office will therefore seek to table a Government amendment to the Bill to take the measures that are possible if clearance is obtained.

What is metal theft?

“Metal Theft” is not a separate crime defined in law, nor is it separately flagged in crime datasets. The offence is commonly understood to refer to thefts of items for the value of their constituent metals, most commonly non-ferrous metals including copper, lead and aluminium.

Targets for metal theft commonly includes theft of copper wire and cable from transport and utility networks causing disruption to connected networks; theft of lead from churches and other heritage buildings; thefts of catalytic converters and theft of street furniture such as aluminium road signs and lead drain covers.

There is broad consensus that metal theft is closely associated with international metal commodity prices. Over 430,000 tonnes of copper was exported to China from the UK in July 2011, the highest ever. The demand for copper in the Far East is rising by over 10 percent each month, with market experts predicting that copper prices will reach an all time high over the next six months on both the London Metal Exchange and Shanghai markets. With the prices expected to continue to rise and copper currently trading at over £5,000 per tonne and lead £1,400 (as of September 2011), certain metals remain valuable commodities.

One hypothesis presented to explain the increases in metal theft is that it offers offenders a lower risk (and potentially higher yield) alternative to other acquisitive offences such as burglary and vehicle crime. With household and vehicle security improving, metal theft is an appealing alternative, especially as some metals do not have adequate security. It has proved difficult for police forces in some cases to prove theft offences; and where convictions have been obtained, metal theft offenders have historically received lower sentences than other acquisitive crimes due to the lower value of the material stolen. This view is now altering with courts reflecting the full consequential costs from an offence.

The Scrap Metal Industry

There were around 3,600 permitted scrap metal dealers operating in the United Kingdom as of 1 August 2011; this figure relates to the number of Environment Permits (and exemptions) issued by the Environment Agency under the Environment Permitting Regulations 2010. Scrap Metal Dealers are also registered by the local authority where they operate under the SMDA 1964 but there is no central database which records these registrations.

The scrap metal industry forms a “pyramid” with metal being moved from dealership to dealership until it reaches a small number of operators who are equipped to process and refine material. Once stolen metal enters the chain, it becomes extremely difficult, if not impossible, to identify.

HM Revenue & Customs consider the scrap metal industry to contain an un-identified “Tax Gap”. The Metal Recovery Standard Industrial Classification Group has 7,300 businesses – this trade class contains more than solely scrap metal dealers. Due to the high levels of recycled/scrap metal exports from the UK; the metal recovery sector was in a net repayment position during 2010/11.

The Association of Chief Police Officers metal theft lead, DCC Paul Crowther, believes the vast majority of stolen metal is sold to the scrap metal recycling industry rather than being directly exported; therefore our focus to tackle the market for this material is on this sector. His force have undertaken significant intelligence and information gathering and have not identified any evidence to show metal being directly exported. Law enforcement will continue to monitor and act upon any displacement.

The scrap metal industry in England and Wales play a vital role in the green economy with the collection, processing, exportation and recycling of all scrap metals. However they also offer a low risk disposal route for stolen metals, often paying cash in hand with very few questions asked as to the identity of the seller and the ownership of the materials.

The Scrap Metal Dealers Act 1964 (SMDA 1964)

Scrap metal dealers are regulated by the SMDA 1964. The Act carries eight criminal offences that would be heard before a Magistrate with sanctions no higher than a maximum level 3 (£1,000) fine. These offences are:

- a. s1(7) - failure to register as a trading scrap metal dealer under section 1(1) or failure to comply with the requirements under section 1(5) as to the notice specified in 1(5)(a) – liable on summary conviction to a sum not exceeding level 3 on the standard scale;
- b. s1(8) – failure to comply with the requirements under section 1(5) as to the notice specified in 1(5)(b) that they have ceased to carry on business – liable on summary conviction to a sum not exceeding level 3 on the standard scale;
- c. s2(6) – failure of a scrap metal dealer to complete and keep for two years a record of dealings – liable on summary conviction to a sum not exceeding level 3 on the standard scale;
- d. s3(4) – the failure of itinerant collectors from keeping records and receipts – liable on summary conviction to a sum not exceeding level 3 on the standard scale;
- e. s4(4) – breaching an additional requirement imposed on a convicted dealer – liable on summary conviction to a sum not exceeding level 3 on the standard scale;
- f. s5(1) – purchasing scrap metal from a person apparently under the age of 16 – liable on summary conviction to a sum not exceeding level 1 on the standard scale;
- g. s5(2) – giving a false name or address when selling scrap metal to a dealer - liable on summary conviction to a sum not exceeding level 1 on the standard scale; and
- h. s6(5) – obstructing the exercise of any right of entry or inspection conferred under section 6, or failing to produce any book or record or other person which a person has a right to inspect - liable on summary conviction to a sum not exceeding level 1 on the standard scale.

It is widely accepted that the SMDA 1964 has severe limitations and flaws, with little purchase on the transaction between the offender and the scrap metal dealer. The requirement to keep a record of transactions is widely ignored, and there is no requirement for the dealer to satisfy himself that the goods are not stolen or to verify the seller's identity. The penalties and enforcement powers are weak and the widespread use of cash means that transactions are difficult to trace and tax. In effect, the current model is ripe for criminal exploitation with adverse incentives placed on both dealers and thieves, and little prospect of offenders being caught.

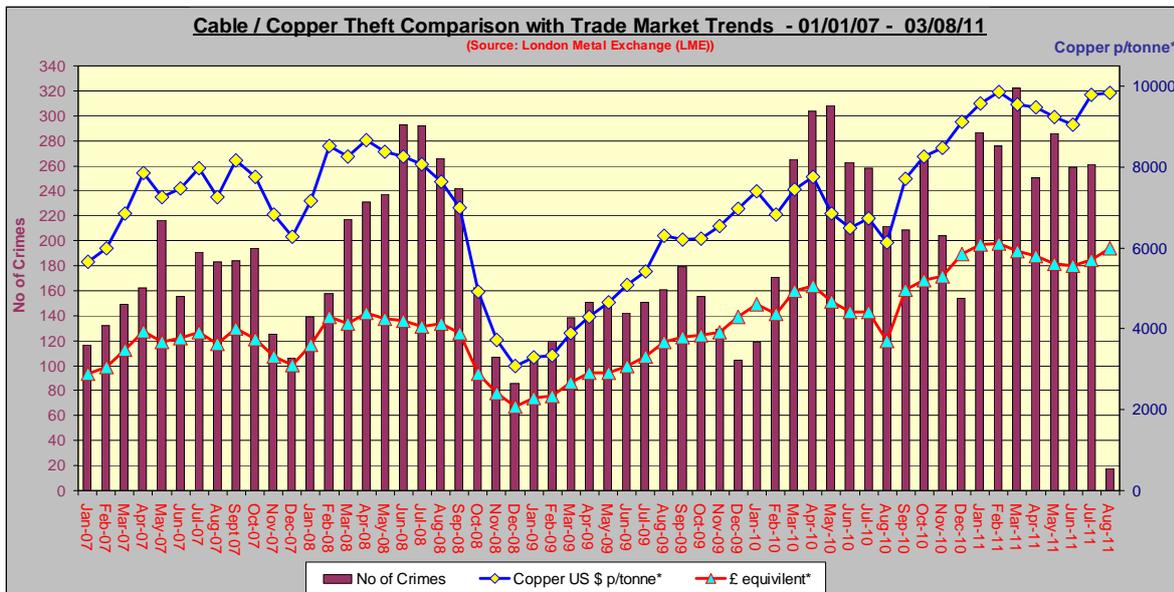
Metal theft offence numbers

The latest crime statistics, "Crime in England and Wales: Quarterly Update to September 2011" showed a 4 per cent three month increase in "other theft" offences – there is no stand alone category for metal theft, so metal theft offences are usually recorded as "other theft". This category rose by 10% between 2009/10 and 2010/11 to 481,659¹, of which it is estimated 80,000-100,000 were metal theft related. Whilst metal theft information is not centrally available from the police recorded crime series, this will change from April 2012. Published figures from the British Transport

¹ <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/hosb1011/hosb1011?view=Binary>
table 2.04

Police² who do record metal theft separately, showed that thefts on the railway network rose by 16 per cent between 2009/10 and 2010/11. However metal theft offences are likely to be under-reported with some offences not recorded accurately as metal theft related, other offences being unclear whether the items were targeted for their intrinsic value or for their value as scrap metal. In addition, unsuccessful attempts to steal metal have been recorded as criminal damage.

Metal theft and metal commodity prices have tended to show a seasonal pattern with lower levels during the winter months and peaks in the summer; however there was no seasonal dip in either theft numbers or commodity prices during the winter of 2010/11. The link between copper offences and the commodity price is illustrated in the following diagram. This diagram illustrates cable theft offences against the copper price (£) per tonne as recorded by the British Transport Police.



Despite considerable work from law enforcement agencies and significant metal owners (including seeking design solutions to find alternatives to metal and target hardening), incidents of metal theft appear to be increasing. Data returned from 18 out of the 43 police forces across England and Wales showed that there had been a 56 percent increase in the number of metal theft police recorded offences in the first 6 months of 2011, compared to the first 6 months of 2010.

Costs of metal theft

There are a range of costs associated with metal theft, including the cost of replacements, the cost of repairing the damage, service disruption, customer reimbursement/compensation and loss of revenue.

The significant impact to the power and transport sectors sees notable disruption and downtime to their services. This in turn results in disruption to businesses and communities, as well as the provision of critical services. Data on the extent of metal theft in different sectors and its corresponding economic and social costs is sparse. In order to provide an indication of the likely scale of the problem, two modelling approaches have been attempted:

1. **Top down approach:** It is believed that there were 80,000-100,000 police recorded metal theft incidents in England and Wales during 2010/11. Multiplying this volume by the most comparable published unit cost of crime (<http://www.homeoffice.gov.uk/publications/crime/reducing-reoffending/IOM-phase2-costs-multipliers>) – theft (not vehicle) against individuals and households, results in an estimated cost of £61-76m.

However, the cost of crime components, *value of property stolen, property damaged/destroyed, and lost output*, are likely to be considerably higher for metal theft

² <http://www.btp.presscentre.com/Media-Releases/CABLE-THEFT-MARS-PICTURE-OF-FALLING-CRIME-ON-BRITAIN-S-RAILWAYS-1520.aspx>

than for theft against individuals and households due to the sheer scale and impact on national infrastructure. In addition, no adjustment has been made for potential under-reporting of metal theft because no estimate of the total volume of incidents is available (for crimes against individuals and households, 'multipliers' are constructed based upon the ratio of police recorded crime to total crime from the British Crime Survey).

For both these reasons, £61-76m is likely to be a significantly conservative estimate.

- 2. Bottom up approach:** Information has been gathered from other Government departments and from the private sector which provides some data on the social and economic costs of metal theft at the individual company and market sector level. In theory this could be scaled up to give an alternative estimate of the total cost. However the information is patchy and so the bottom up estimate is currently subject to a number of gaps and assumptions. It is hoped that this estimate can be firmed up following further research. The bottom up estimate currently stands at £220m. More detail is provided in Annex A. Again, this is likely to be a conservative estimate.

In addition, there have been two recent independent estimates of the social and economic costs of metal theft per annum to the UK: £220m-£260m (Deloitte, 2011) and £777m (ACPO, 2010). These figures are subject to considerable uncertainty. The Deloitte figure relates to self-reported part cost information from a small number of sectors; likewise the ACPO figure relates to self-reported data from just five companies and a simple scaling up approach. However both serve to illustrate the potential scale and impact of metal theft.

The Deloitte report, "Assessment the Economic Impact of Metal Theft on Great Britain", has been attached separately.

Current approach to tackle metal theft (including enforcement)

Through the multi-agency ACPO Metal Theft Working Group, a range of actions are being taken to voluntarily tackle metal theft including making metal more difficult to steal; increasing the risk to the offender; reducing the rewards for stealing metal and increasing standards across the scrap metal dealer industry. Design solutions are also being taken forward through the work of the Forum for Innovation in Crime Prevention, and the Home Office is working with private industry to develop other crime preventative solutions. Particular design projects include target hardening copper and lead to make them both harder to steal and easier to trace, and developments such as fibre optic cable which is moving away from using copper.

The Home Office is working with the Association of Chief Police Officers and Home Office police forces to strengthen existing law enforcement activity. The current prevalence of metal theft is a relatively new problem for UK policing which coincided with the recent dramatic rise in metal commodity prices. Enforcement was previously patchy across the country with pockets of local activity; however over the past 18-24 months, metal theft has grown in significance across the majority of police forces with dedicated resource now allocated – for example the British Transport Police have over 120 officers dedicated to tackling metal theft at a cost of over £5m per annum. ACPO further estimate that there are a further 200 officers in England and Wales police forces dedicated to tackling metal theft.

Tackling metal theft is now added onto a number of force strategies with dedicated operations being run by many with activity in this area now forming normal police activity.

The British Transport Police (BTP) have the ACPO lead for metal theft. The force has undertaken significant work to understand and tackle metal theft and routinely provides the 43 local Home Office forces with advice and intelligence to run effective operations. BTP also coordinates monthly "Days of Action", involving other police forces and law enforcement organisations. In May 2011, a new central metal theft intelligence hub was created by the BTP. The hub collates data from police and private industry so that analysts can provide more effective intelligence and analysis in this area, focusing resources to protect assets and better understanding the offenders. Current police activity includes stop and searches and inspections (some of which are intelligence based).

In addition to police enforcement activity, the Environment Agency has a significant role in the permitting and enforcement of scrap metal yards in relation to meeting environmental standards. It is understood that the current priority of the Agency is to tackle those waste sites operating illegally without a permit; there are 661 illegal sites in the UK, 120-140 of which are involved in metal recycling. Likewise, local authorities have the duty to enforce the requirements of the Scrap Metal Dealers Act 1964 in their respective areas. The Home Office is seeking to encourage greater involvement to tackle metal theft from the Environment Agency and local authorities; discussions are underway with relevant organisations.

Recognising the damage that metal theft is causing to our economy, the National Infrastructure Plan (published in November 2011) committed £5m of Government funds to establish a dedicated metal theft task force; this taskforce became operational in January and will run until the end of the 2012/13 financial year. This funding is to provide additional enforcement activity and is not to be used to fund current activity, thereby complementing and expanding existing enforcement activity by a range of law enforcement agencies including the Environment Agency, HM Revenue and Customs and the Crown Prosecution Service. It is not anticipated at this stage that any further Government money will be provided after the 2012/13 financial year. It is anticipated that the development and expansion of intelligence capability provided by this £5m, will ensure that continuing enforcement activity will be more effectively targeted and focused providing better value from existing law enforcement resources..

A range of individual and multi-agency operations have been developed to tackle metal theft. The most recent, Operation Tornado, a six month joint initiative between the BTP, the three police forces in the region (Durham, Northumbria and Cleveland) and the scrap metal industry requiring participating scrap metal dealers to take voluntary additional steps to check the identity of individuals selling scrap metal, and a more focused, coordinated law enforcement response, went live on 2 January 2012. This is the latest attempt to seek enhanced voluntary actions by the industry to increase trading standards. As part of Tornado, and as an example of the enforcement action that is underway, a multi-agency operation was staged on 18 January which resulted in 35 arrests at 10 scrap metal dealer in the North East, including several company directors. At one site, over half a million pounds in cash was recovered and plans are in place for asset seizures and court restraining orders.

In addition, the Metropolitan Police launched Operation Ferrous in December 2011, a new multi-agency Waste and Metal Theft Taskforce (whose team includes experts from BT and a local authority's environmental crime unit) in Bexley, one of the London Boroughs most severely affected by metal theft due to its high number of scrap metal yards.

The new national taskforce should have a significant and immediate impact in cutting metal theft across the country including developing a comprehensive common intelligence picture across all enforcement agencies and affected private sector companies, visiting every scrap metal dealer to undertake an assessment of risk and harm and working to disrupt illegal operators and criminal behaviour with a stronger enforcement model, including organised criminal groups.

Whilst we anticipate the taskforce having some successes in this area, with the remainder of the work only having a limited affect with incidences of metal theft continuing to rise, it is apparent that the only sustainable long term solution is to legislate.

A.2 Groups Affected

- i) Scrap metal dealer industry – the focus is on making the industry a more hostile trading environment for individuals wishing to trade in stolen scrap metal. Creating a licensed trading regime and prohibiting cash payments will have an impact on the business practices of scrap metal dealers. The British Metal Recyclers Association estimates that 8,000 individuals are employed in this industry.
- ii) Public – members of the public who wish to recycle legitimately owned scrap metal.
- iii) Police forces – possible increased workload in upholding new laws, resources may be re-allocated from other areas.

- iv) Local authorities – currently required under the Scrap Metal Dealers Act 1964 to maintain a register of all individuals registering, at no cost for three year periods, to be a scrap metal dealer within their boundaries and to enforce this process. A move to a wider licensed regime would see additional requirements fall on to them, potentially offset if a license fee is required. Both local authorities and the police will be expected to enforce the prohibition on cash and the existing Scrap Metal Dealers Act 1964; they are already required to do the latter.
- v) Environment Agency – currently issues permits to companies to process, store and transport waste materials.
- vi) HMRC, HM Treasury – increased regulation may make marginal businesses unprofitable, thus shrinking the sector and reducing tax revenues; however more transparent record keeping should ensure greater compliance with tax payment to close the existing tax gap that exists within this sector. A representative of the metal recycling sector stated that the £1.5 billion of cash transactions each year creates the opportunity for tax fraud and avoids direct and indirect taxes. Requiring cashless transactions and greater record keeping should reduce tax avoidance opportunities.
- vii) HMCTS, Legal Aid services – the availability of higher level fines may affect court services.
- viii) Banks/payment processing companies – likely to see an increase in demand for cheques/electronic payments with this industry being prohibited from trading in cash. Discussions are ongoing with HM Treasury on this issue.
- ix) Business and the wider UK economy – any reductions in metal theft would reduce the social and economic costs estimated at around £220m per annum.

A.3 Consultation

Within Government

These proposals have been developed in partnership with colleagues across Government – in particular HM Treasury; the Department for the Environment, Food and Rural Affairs; the Department for Transport; the Department for Energy and Climate Change and the Department for Business, Innovation and Skills. Discussions have also been had with the Cabinet Office and Number 10.

Public Consultation

The proposals outlined in this Impact Assessment have been developed in partnership with a range of public and private organisations, the majority of which are members of the ACPO Metal Theft Working Group. This working group comprises representatives from law enforcement, business sectors (e.g. transport, telecommunications, power and communities) and appropriate Government departments. Whilst every affected group is not represented, the attendees speak on behalf of their sector and are expected to consult with their sector as appropriate.

The view of the scrap metal dealers industry has been obtained through the British Metal Recyclers' Association, the representative trade body of the scrap metal industry.

B. Rationale

Metal theft has risen significantly over the last three years, causing significant damage to critical national infrastructure including power, transport and communication supplies. The true cost of metal theft to England and Wales is difficult to ascertain, although a recent Deloitte study put the cost to the UK at between £220m-£260m per annum, with the majority of the costs falling on the infrastructure and business sectors. The increase in offence numbers, coupled with significant cost to the UK economy through inconvenience, down time and cost of replacements and the failure of non-legislative measures to tackle this crime necessitates a Government response.

The crime is driven by a number of factors, however the demand for metal and the ease with which individuals can sell metal, often anonymously, has been a particular driver.

Offences exist under the Theft Act 1968 for metal theft and handling offences are widely brought for metal theft offenders. We have seen recently some significant sentences on conviction for individuals convicted of stealing metal; supported by sentencing guidelines which include as an aggravating factor consideration of the full consequential costs of the offence. However the high evidential burden for these offences causes a problem, in particular proving the actual act. .

The scrap metal industry was first legislated in 1964. The Scrap Metal Dealers Act 1964 is considered to be outdated and does not reflect the £5.6 billion annual industry that the British Metals Recycling Association now believes it now is – this figure is lower than the £6.7 billion figure that HMRC refers to as that “class” is wider than metal recyclers. Government involvement is required to revise the regulation governing this industry to ensure it better reflects current circumstances, that it falls in line with other licensed sectors and that it provides significant powers to tackle illegal behaviour.

With regards to prohibiting cash, there are no other cashless sectors in operation in the UK so comparisons cannot be drawn; however prohibition on cash payments has been legislated upon overseas and the Home Office are looking to learn appropriate lessons where possible. Direct comparisons are problematic however, Oregon in the United States report a reduction in metal theft offences of 67% since enacting legislative measures in 2009, which includes prohibiting cash, but the significant size of the state (larger in area than the entire UK and largely rural) sees displacement as being very unlikely. France however enacted cashless legislation in August 2011. Whilst there is no data on any percentage drop in metal theft since its enactment there is evidence that the throughput into scrap metal dealer yards has decreased by 30 per cent; the likely explanation is that metal is being transported over France's borders to scrap metal yards in other jurisdictions (especially Belgium, Germany and Holland) to take advantage of their lighter regulation.

Removing cash from the industry will tackle the reward for stealing metal. . By removing the attractiveness of stealing metal and restricting the market, the Home Office believe that this will reduce metal thefts as the material should prove no longer attractive to the criminal. Cashless transactions will require a degree of identification to be taken to make payment; we would expect receipts, statements and/or copies of payment to be retained that visibly identify the payer and payee. Whilst there is already a requirement under the current registration scheme to keep a record of dealings, the accuracy of this record can be questioned. Cashless transactions should therefore result in a greater ability to trace transactions, providing law enforcement agencies with the evidence of the sale of stolen metal. It is acknowledged that bringing any charges will still necessitate identifying material, but obtaining the identification of potential seller's will be a vital first step.

Likewise, removing cash and obtaining greater traceability of records will also reduce the opportunities for tax evasion which is thought to occur within the scrap metal industry with an estimated £1-1.5 billion worth of transactions avoiding direct or indirect taxes by the industry and by businesses selling into the industry.

Greater fines for offences under the Scrap Metal Dealers Act 1964 should act as a greater deterrent for the industry to ensure their compliance; likewise encourage enforcement activity by law enforcement organisations.

If no action is taken to tackle metal theft, the scale of metal theft is anticipated to rise, continuing to track the escalating commodity prices on the world market. Metal markets are predicting that prices will continue to rise, albeit at a slower rate, until 2015 reflecting demand from the Far East. In addition, options used by private industry to tackle the theft of their metals are proving unsuccessful and will soon be exhausted, necessitating the need for some Government involvement.

C. Objectives

The overall policy objective is to:

Reduce occurrences of metal theft and significant metal theft related impacts on critical national infrastructure.

This will be achieved by:

- i) Putting in place a robust licence regime that supports lawful scrap metal dealers, yet has the penalties to target illegal operators.
- ii) Raising operating standards across the scrap metal industry by creating a more hostile trading environment for the trade of stolen scrap metal.
- iii) Taking firm action against those scrap metal dealers who are intentionally breaking the law to trade in stolen materials.
- iv) Supporting the lawful scrap metal industry and the green economy.
- v) Raising awareness of metal theft and effective enforcement responses to all law enforcement organisations/agencies who are concerned with the industry.

In relation to the specific proposals that we wish to take forward under the LASPO Bill, it will contribute to the overall objective as well as to all the sub-objectives listed above. In addition:

- i) To tackle the drivers behind metal theft offences, including the prevalence of anonymous transactions assisted by the use of cash and evasive record keeping.
- ii) To seek greater compliance with existing regulation of the scrap metal dealer industry, by providing enhanced deterrents and more effective law enforcement.

More effective law enforcement activity will be provided by the additional resources provided by the National Infrastructure Plan to establish a dedicated taskforce.

D. Options

Option 1 - Make no changes at present (do nothing).

There will be no direct additional cost to private, public or the third sectors as a result of this policy. Incidents of metal theft will remain and will however continue to cause a cost to the UK economy.

The Government is considering additional measures to tackle Metal Theft which include revoking the existing Scrap Metal Dealers Act 1964 and introducing a more robust licence regime through legislation, which could incorporate both facets of Option 2. The Home Office do not have a suitable second session legislative vehicle at present and so there is no firm timetable to which legislative changes will be enacted.

Details of these measures will be considered as part of a separate Impact Assessment and will not be modelled as part of this Impact Assessment.

Options 2 – **(preferred)** seek a Government amendment to the Legal Aid, Sentencing and Punishment of Offenders Bill to:

- i) introduce an additional criminal offence to the Scrap Metal Dealers Act 1964 that prohibits the payment in cash for any scrap metal; and
- ii) increase all penalties for each existing offence under the Scrap Metal Dealers Act 1964 by 2 levels on the standard scale.

Option 2 is the preferred option. The extent of metal theft has become apparent over recent years with a number of Government departments informed by their relevant sectors. After reviewing the evidence, Government ministers have agreed that only positive Government intervention is the sustainable long term answer to tackle metal theft with measures introduced as soon as is possible to tackle the escalating problem.

Ideally the Home Office would prefer to introduce a single legislative solution for a package of proposals to tackle metal theft. However because there is no opportunity to do so in this session, and reflecting the urgency to take action as soon as is possible, we are seeking to make amendments to the LASPO Bill. In considering this assessment it should be noted that a wholesale revision of the current registration regime remains the ambition for the Government and the notional benefit of this considered for future years.

The Home Office is actively seeking a suitable legislative vehicle(s) for the wider licence amendments in the next parliamentary session that starts later this year but no assurance has yet been given.

Additional detail on the two possible amendments to the LASPO Bill that form Option 2 is provided below:

1. Prohibiting cash payments

It is proposed to create a new criminal offence for scrap metal dealers to purchase scrap metal using cash.

The policy justifications for the proposal are:

- Cash transactions are often completed without any proof of personal identification or proof that the individual legitimately owns the goods being sold. This leads to anonymous transactions creating a relatively low risk to the individual stealing and then selling on scrap metal as law enforcement agencies or the local authority cannot identify the transactions.
- The use of cash facilitates poor record keeping by the industry and possibly could support tax evasion activity.

We understand that this approach is without precedent in the UK, however it is an option taken by a number of countries overseas. France has recently made amendments to their General Tax Code requiring that any transaction on the retail purchase of ferrous and nonferrous metal is made by crossed cheque, bank or postal transfer or by credit card. This requirement does not apply to payments made by persons who are incapable of binding themselves by a cheque or other payment, as well as those who have no deposit account. Nor does it apply to payment made between individuals not acting for business purposes. The metal property laws of the state of Oregon in the United States also prohibits transactions in which the scrap metal business pays the individual other than by mailing a non-transferable cheque for the amount of the transaction to the address the individual provided not earlier than three business days after the date of the transaction.

It is intended that there should be no exceptions to the prohibition on purchasing scrap metal with cash. The intention is that this offence would cover all those carrying on the business as a scrap metal dealer within the definition in section 9 of the SMDA 1964: *'a person carries on business as a scrap metal dealer if he carries on a business which consists wholly or partly of buying and selling scrap metal, whether the scrap metal sold is in the form in which it was bought or otherwise, other than a business in the course of which scrap metal is not bought except as materials for the manufacture of other articles and is not sold except as a by-product of such manufacture or as surplus materials bought but not required for such manufacture.'*

Cash transactions would involve the payment for scrap metal using cash, including payment in a foreign currency e.g. Euros. This prohibition would cover any transaction for scrap metal so for example an individual could not receive part payment by cheque and the rest by cash. We seek to require only payment by non-negotiable and auditable means, namely electronic transfer, cross cheque direct debits, standing orders, credit transfers, on-line, phone and mobile banking as they are made from the payer's account to the payees account. We will also seek to include a clause to permit technological advances as appropriate. We would require a receipt of payment to be included as part of each transaction record.

The policy view is that there should be no de minimis exception and therefore that the prohibition should apply to all transactions whereby scrap metal dealers are purchasing scrap metal.

It is proposed that the offence would be committed by purchaser of metal, rather than the seller, drawing from the criminalising of the sale of alcohol to children in section 146 and 147 of the Licensing Act 2003.

It is not proposed that the offence would apply to itinerant collectors under section 3 of the Act. This is because it is thought that they would sell the metal on to established sites and therefore they would be subject to the prohibition at that point as they would not be able to sell the scrap metal that they have collected for cash.

An "itinerant collector", has defined by the Scrap Metal Dealers Act 1964 means a person regularly engaged in collecting waste materials, and old, broken, worn out or defaced articles, by means of visits from house to house.

2. Higher Fines

The current penalties were inserted into the SMDA 1964 by ss 37, 38 and 46 of the Criminal Justice Act 1982 which increased the maximum fines and converted them to levels on the standard scale. We seek to amend the level of penalties under the SMDA 1964 so that those offences that are currently punishable by a fine not exceeding level 1 on the standard scale (four in total) should be increased to a fine not exceeding level 3 on the standard scale. The offences that are currently punished with a maximum fine up to level 3 (£1,000) on the standard scale (four in total) should be increased so that the maximum penalty is a fine not exceeding level 5 (currently set at £5,000) on the standard scale. In effect this means that the fines will be unlimited as clause 79 of LASPO removes the limit on the maximum amount for level 5 fines.

As part of the longer term Option 1, we will seek to amend the offences should the Home Office be able to bring in legislation creating a new licence regime. However in the absence of that,

increasing the fines should seek greater compliance with the SMDA 1964 than is currently believed; providing a stronger deterrent to, and tougher sanctions against, illegal behaviour.

E. Appraisal (Costs and Benefits)

GENERAL ASSUMPTIONS & DATA

- Poor data availability means that the total cost of metal theft is difficult to truly ascertain. For the illustrative scenarios used in this section we assume that the annual cost of metal theft is £220m, equal to the estimate of Home Office analysts and the lower bound of the Deloitte estimates.
- Annex A highlights that the Home Office estimate can be broken down into direct and indirect costs. 100% of direct costs (£128m) fall on business while around 90% (£81m) of indirect costs, resulting from transport delays and loss of internet or electricity services, fall on business. The remainder is assumed to fall on members of the public from the inconvenience and loss of leisure time brought about through service disruption.
- The actual cost of metal theft will fluctuate against costs on the metal commodity market. If the price of certain metals continue to rise, it is likely that the incidence of metal theft will rise as well as their replacement cost. For simplicity, and because of the absence of a robust estimate of total cost, it has been assumed here that the total market value cost of metal will remain constant over the next 10 years.
- The exact number of scrap metal dealers is unclear, however the Environment Agency have permitted 2,190 sites and given exemptions to 1,400 as of 1 August, totalling 3,590. The number of illegal operators in the metal recycling field is estimated by the Environment Agency to be around 120-160. The scenarios modelled below assume a total of 3,600 dealers.
- There is no accurate information held centrally as to the number of police officers who are currently allocated to tackling metal theft in local police forces in England and Wales. ACPO estimates that there are in excess of 200 officers actively involved in tackling metal theft across the 43 forces. In addition, the British Transport Police have a further 120 officers dedicated to metal theft. The cost of this resource is not being met from the £5m funding from the National Infrastructure Plan in 2012/13
- Given the lack of reliable data on police officer time allocated to tackling metal theft, it is only possible to produce a rough estimate of the cost of this resource. Hourly police costs were calculated in 2008 using Chartered Institute for Public Finance and Accounts and Annual Survey of Hours and Earning data. The underlying data have not been updated but hourly costs have been updated to account for inflation using the Treasury GDP deflator series. Using this information we can estimate that this equates to an annual cost of over £20m.
- There is no direct evidence upon which to base estimates of the probable reduction in metal theft brought about through these policy options or the wider implementation of a new licence regime (which will be considered in a separate Impact Assessment). However, it is believed that the potential reductions, as a proportion of the total estimated cost, could be very large because:
 - Metal theft is largely driven by opportunity (for example, rising prices, ease of disposal and availability of metals make it attractive in comparison to other acquisitive crimes) and is highly variable compared to other crime types: the number of copper thefts has more than doubled since January 2009, probably because of the rising price of copper (see diagram under section A). Therefore the imposition of a large cost to offenders (through reducing the ease of disposal at scrap metal dealers) could produce a correspondingly large reduction in crimes.
 - The disposal of stolen metal at scrap metal dealers is thought to be the principal avenue for offenders to profit from stealing metal; estimated by ACPO to be in excess of 95% of the stolen metals market with no current intelligence to the direct export market. Taking steps to close the current market for stolen metal should therefore reduce the attractiveness of stealing metal in the first place. We are conscious of displacement and law enforcement agencies will seek to identify and tackle possible routes of displacement.
 - We propose to establish a tight framework around what payment is permitted.

- The estimated number of scrap metal dealers is relatively small at 3,600, making effective enforcement by police forces, local authorities, the Environment Agency and HM Revenue and Customs of the proposed changes more possible. Enforcement resources have been expanded from the Government's financial commitment from the National Infrastructure Plan which will support ensuring compliance. Enforcement activity by a number of police forces and the Environment Agency is mostly intelligence based which will continue.
- Despite the expectation that the policy options could result in large reductions in metal theft, the cost-benefit analysis in this IA is based on conservative crime reduction estimates, in the absence of concrete evidence. ACPO has estimated that the prohibition of cash payments alone could reduce metal theft by around 40%; based upon their knowledge of the drivers behind this crime, the experience of overseas legislative action and their discussions with the scrap metal industry. We have made a more conservative estimate that the complete bundle of proposals (described in preceding sections) would reduce metal theft by at least 1% and no more than 10% with a central estimate of 5%. The elements proposed in this IA as potential amendments to the LASBO Bill are estimated to constitute around 80% of this effect. Therefore this appraisal models a range of crime reductions with the same lower bound of 1%, an upper bound of 8%, and a central estimate of 4%. Sensitivity analysis to these assumptions is provided in the Risks section below.
- It is assumed that the two LASPO amendments are agreed and tabled at Lords Report stage (March 2012) and enacted no earlier than Autumn 2012.

OPTION 2 – i) PROHIBIT CASH PAYMENTS FOR SCRAP METAL AND ii) INCREASE PENALTIES FOR ALL OFFENCES UNDER THE CURRENT SCRAP METAL DEALERS ACT 1964

COSTS

Option 2 would require the implementation of **non-cash, auditable payments**. : There is no standard cost for how much electronic transactions/use of cheques would cost with charges negotiated between individual companies and their banks. However a level of commission will be charged on each payment to the financial institution processing the transaction.

Suggested pricing includes set up costs of between £0 and £250; a monthly cost of around £10-£25 and individual charges per transaction of £0.25-£0.35 or 1%-4% per transaction (UK Payments). As these prices are negotiated individually these prices are subject to change, likewise there is a risk that smaller operators may be subject to higher costs.

It has been estimated by the British Metals Recyclers Association that scrap metal dealers process on average 65 transactions a day; this equates to 17,000 transactions a year per dealer over a five day working week.

The British Metal Recyclers Association also estimates that cash transactions account for about one third of all transactions in the industry. It is also their belief that the whole industry, if not a significant proportion of it, already has capability to process electronic payments. Certainly all of the medium to large scrap metal businesses should have this capability with a potential undefined gap with smaller businesses. Therefore the majority of costs are likely to involve the ongoing charge per transaction described above.

Multiplying out results in potential total costs ranging from £5.1m to £7.1m per year in addition to transitional costs of £0 to £0.3m. The central estimate is equal to the midpoint of these two ranges.

It should be noted that the scrap metal industry is already subjected to significant costs associated with the use of cash. The use of cash comes with a cost, including its secure storage, transportation, bank handling charges and processing. The British Retail Consortium estimates this cost to total 1.7p per transaction to the retail sector. Based on the same assumptions as above for costs, the 1,200 firms estimated to comply and currently engaging in cash transactions would receive a total benefit of £0.3m per year. Some elements of the scrap metal industry have anecdotally commented that they believe making payments using non-cash will result in a saving from using cash.

Scrap metal dealers will require a bank account to fulfil this requirement. It is thought the vast majority of scrap metal dealers do have a bank account considering the high financial sums involved in this industry. Therefore these additional costs are considered negligible. Consequentially, there will also be a need for sellers of scrap metal to have a bank account to receive payment. We do not have data to identify the proportion of metal recyclers who are commercial against private; it is assumed that the majority of recyclers are commercial operators who do have a bank account. Policy officials are identifying the consequences, mitigation and costings for public recyclers.

A move to cashless trading may see a loss of liquidity and/or transaction costs for some legitimate businesses and individuals who may rely on cash transactions to maintain cash flows. This effect could not be quantified.

The **net cost** of implementing mandatory electronic payments is therefore **£4.8m to £6.8m per year** in addition to **one-off transitional costs of £0 to £0.3m**.

By **increasing the level of fines** that can be imposed on scrap metal dealers, there is a possibility that an increased burden will be placed on courts. The Home Office have been informed by the Local Government Association that some local authorities have not given priority to enforcing requirements under the SMDA 1964 due to the low deterrents available. . We have therefore assumed that greater penalties are likely to lead to a higher number of cases being brought before the courts, consequentially requiring more court time. On the other hand, any increased deterrent effect resulting from this Option may decrease the volume of prosecutions (though the evidence on deterrent effects is mixed). It is therefore not possible to say whether a net increase in CJS costs is likely. Any costs which do occur will fall on HMCTS, the CPS and legal aid. No impact on prison or probation services is expected as sanctions will be restricted to additional fines only and not involve any custodial sentence.

Police enforcement resource aimed at metal theft is *already included in the baseline*. This includes resource specifically targeted at metal theft and funds committed under the National Infrastructure Plan (Section G expands on this). Additional enforcement resources are not fundamental to this policy option – the prohibition of cash payments and introduction of higher fines, backed up by *existing* enforcement resources are expected to drive the crime reduction benefits estimated below. However, it is acknowledged that some additional enforcement resource might be required and this is assumed to take the form of “opportunity cost” resulting from forces shifting resources from other priorities. The scale of this opportunity cost could not be estimated.

BENEFITS

i) Reduction in offending

The elements of Option 2 may result in some reduction in metal theft. As explained above, by removing cash, an incentive for stealing metal, this will reduce the attractiveness of stealing metal for the offender. In addition, an increase in fines for the industry should be seen as a deterrent and should result in an increase of trading standards, making the market more hostile for the trading of stolen metals. Therefore tackling the market and reducing the rewards should result in a significant impact on offence numbers. It should be noted that a revised licence regime for the industry should strengthen this further.

We assume that Option 2 will bring about a reduction in metal theft. We have estimated a range of reductions of 1% to 8% with a central estimate of 4% per year compared to the baseline. This translates into benefits of between **£2.2m and £17.6m per year** with a central estimate of around £8.8m per year.

Whilst the majority of costs from this policy will fall on the scrap metal industry, the industry is also a significant victim of metal theft with the British Metals Recycling Association estimating losses of around £1m per annum. This cost is therefore likely to be lowered following any reduction in offending.

ii) Cashless transactions

Cashless transactions are also expected to result in more accurate record keeping. This should result in a potential benefit to HM Revenue & Customs and HM Treasury by closing the scrap metal industry's tax gap, potentially reducing the £1-£1.5 billion of estimated cash transactions in the industry each year which avoids direct and indirect taxes. However there is insufficient information on this element to quantify exact estimates. It should be noted that any tax avoidance identified will result in a financial transfer between HM Revenue & Customs and the scrap metal industry.

iii) Fines

We estimate that an increase in income to the CJS should result from raising the fines under the existing SMDA 1964 through two routes; both through higher fines themselves, but also through a potentially higher volumes of cases due to law enforcement organisations having a greater incentive to take action than at present. The table below shows the number of convictions obtained for SMDA offences over the past five years. These baseline figures may rise if greater enforcement is incentivised by higher potential fines, or could fall due to a deterrence effect, though evidence on such effects is mixed. Because of uncertainty around this effect, no benefits have been quantified.

Statute	Offence	2006	2007	2008	2009	2010
Scrap Metal Dealers Act 1964	Offences by dealers in scrap metal and similar goods and in marine stores	1	5	12	5	18

Source: Justice Statistics Analytical Services - Ministry of Justice.

The Legal Aid, Sentencing and Punishment of Offenders Bill is seeking to remove the upper limit of Level 5 fines so that it can be unlimited, therefore potentially generating further income.

NET EFFECT

Total quantified costs to the scrap metal industry are rounded to £0m to £0.3m one-off costs initially, then £4.8m to £6.8m per year with a central estimate of £0.15m transitional and £5.8m per year ongoing. Total quantified benefits are £2.2m to £17.6m per year with a central estimate of £8.8m per year. Therefore net benefits, after rounding, range from **-£2.6m to £10.8m per year** with a central estimate of **£3.0m per year**.

The net present value, after discounting future costs and benefits, ranges from **-£22m to £93m** with a central estimate of **£26m**.

ONE-IN-ONE-OUT (OIOO)

Costs (INs)

An additional regulation to prohibit cash transactions with a central estimate of £0.15m transitional and £5.8m per year ongoing.

Benefits (OUTs)

None – no regulation is being removed. Although the policy proposal is expected to result in a benefit to wider business as a result of reducing offences of metal theft which we have estimated to total £8.4m per year, this is an indirect benefit.

NET

IN – net cost to business of approximately **£5.8m per year**. As a net present value, this works out as **-£50m**.

F. Risks

OPTION 1 – DO NOTHING AT PRESENT (WAIT UNTIL A SECOND OR THIRD SESSION BILL TO INTRODUCE A ROBUST LICENCE REGIME)

No suitable legislative vehicle is identified to bring about collective legislative changes

Mitigation:

It has been agreed that Government intervention is required to tackle metal theft and the existing non-legislative steps are not sufficient. The Home Office do not have a legislative vehicle to bring about all the proposed changes. Making an amendment to the LASPO Bill will close the gap and allow some legislative action to be taken. In addition, a £5m commitment has been made by the Government to strengthen the enforcement approach to tackle metal theft. The proposals under Option 2 can be stand alone, although the Home Office wish for them to be incorporated into a revised regime.

Metal Theft continues to escalate

Mitigation:

Steps proposed in option 2 will be an initial attempt to stem the existing rate of metal theft offences. Enforcement action by a number of agencies will continue.

OPTION 2 – PROHIBIT CASH AND RAISE FINES UNDER EXISTING SCRAP METAL DEALERS ACT 1964.

The cost of moving to a cashless system would be prohibitively expensive/unworkable.

Mitigation:

The new system will be designed with the industry; some elements of the industry are already using this approach and lessons could be learnt. It may be possible to facilitate low value cash transactions alongside enhanced identity checks. We do not have any information to identify the average value of a transaction; however it is thought that it would be above the value to make it feasible for completing it electronically.

Local Authorities do not prioritise enforcing this issue.

Mitigation:

Significant awareness raising is underway to promote action in this area amongst agencies. More effective deterrents should assist.

Displacement of metal theft, with criminals by-passing the legitimate scrap metal dealers who complying with this new proposal

Mitigation:

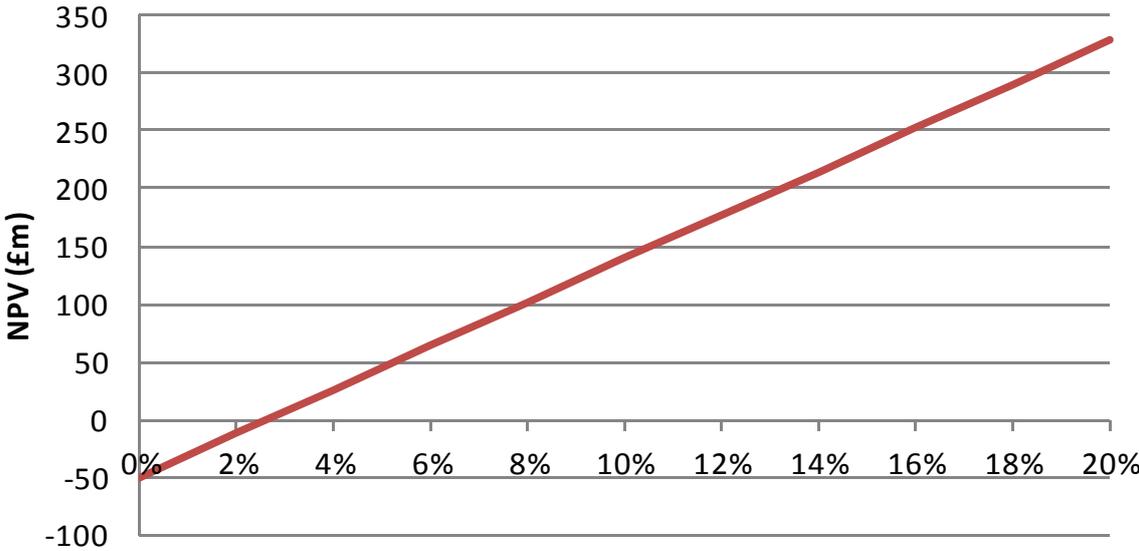
Work is underway to map the different routes where stolen metal can be purchased. ACPO believes the principal outlet for stolen metal is through scrap metal dealers, but work will be undertaken to tackle other outlets such as direct export, through vehicle dismantlers, demolition companies, lead makers and others. UKBA, SOCA, HMRC and police forces are already undertaking significant work to identify whether any stolen material is directly leaving the country at ports.

Crime reduction different to assumed

Mitigation:

The chart below displays NPVs for a range of potential crime reduction outcomes. This is based on central assumptions for the cost component of the NPV. This demonstrates that, in order for the NPV to be positive, crime has to be reduced by nearly 3% per year.

NPV (£m) of Option 2 with Varying Crime Reduction Assumptions



G. Enforcement

Over the past 18-24 months, enforcement activity to tackle metal theft has been undertaken by a range of law enforcement organisations, including police forces, the Environment Agency, HM Revenue and Customs and local authorities. The level of such activity varies and is dependent on the level of the problem locally, but a number of police forces have established small taskforces to tackle metal theft. We have also seen numerous individual and multi-agency operations and national 'days of action'. Over the past three months we have seen the establishment of dedicated taskforces in the Metropolitan Police Service (Operation Ferrous), the Greater Manchester Police (Operation Alloy) and Northumbria, Durham and Cleveland (Operation Tornado), with a number of other forces delivering similar.

We do not have any accurate information on the level of dedicated police resource across local forces allocated to tackling metal theft. The Association of Chief Police Officers have however estimated that each force has on average 5 dedicated officers (which multiplied by the 43 forces equates to 215) and the British Transport Police state that they have 120 dedicated officers. Using the Home Office's estimated unit cost of a police officer, this equates to over £20m in staffing costs.

Local Authorities are already required under the Scrap Metal Dealers Act 1964 to ensure that scrap metal dealers operating within their boundaries are registered and that they are keeping appropriate records of all their dealings. Providing that appropriate enforcement is already being undertaken by local authorities, this proposal should not require any significant additional work. We are aware that enforcement of the SMDA 1964 has not been prioritised by some local authorities for a number of reasons; heightened awareness coupled with greater financial penalties may address this and see local authority resources re-prioritised from elsewhere. The Home Office is in discussion with the Local Government Association and the Department for Communities and Local Government to take steps to address this issue and to promote local authority involvement.

As part of any new licence regime that we hope to implement from the second Parliamentary session, it is suggested that a new license scheme should come at a cost (unlike at present) to each scrap metal dealer who is applying. This will therefore provide local authorities with finance to cover all associated administration costs.

This existing enforcement activity will be complemented by additional Government funding of £5m through the National Infrastructure Plan to establish a dedicated metal theft taskforce which will complement and enhance all existing activity. The government expects that existing financial resources that are committed by law enforcement organisations to tackle metal theft will be maintained and that this funding will provide additional resource, rather than fund existing personnel and activity.

This funding is allocated for the 2011/12 and 2012/13 financial years; there has been no discussion as of yet as to whether this funding will be provided for subsequent years. This taskforce will:

- Developing a comprehensive common intelligence picture across all enforcement agencies, and affected utilities / companies.
- Implement a structure of visits to every Scrap Metal Dealer (SMD) in England and Wales based on an assessment of risk and harm.
- Disrupt Organised Crime networks involved in theft activity and disposal of proceeds.
- Compile a comprehensive, graded, risk based list of those SMDs considered non-compliant with the applicable law.
- Working with Local Government partners and Environment Agency enforcement teams disrupt unlicensed unpermitted or non exempt SMDs.
- Working with HMRC to ensure tax collection is maximised at SMDs.
- To expand the best practice developed by operation Tornado (BTP led pilot in North East) to bring about improved identification schemes at SMDs.
- Working with the CPS to bring to justice those who fail to comply with the law.

- Ensure compliance with:
 - o Scrap Metal Dealer Act 1964
 - o Environmental Protection Act 1990
- Increase multi-agency 'days of action' across all regions.
- Work with significant owners of metal to find design solutions and appropriate crime prevention measures in order to reduce the opportunity for offenders.

If no additional Government funding is available post 2012/13 for enhanced enforcement activity, we would expect law enforcement activity to continue, being funded through existing resources at a level dependant on local need and reflecting local priorities. It is anticipated that the taskforce's work over the next year will significantly develop the intelligence and knowledge capability of this stolen goods market, allowing for greater targeted and intelligence led enforcement activity over time which we expect should be delivered within existing law enforcement resources.

The aspiration is that the level of resource required by law enforcement organisations to tackle metal theft should decrease in this area over time once the attractiveness of metal is reduced, the markets for stolen metals are tackled and the scrap metal industry is better regulated with effective deterrents. There may be additional undefined "opportunity cost" at this stage with resources being diverted from other policing priorities.

It is proposed that the record keeping amendment under s2 of the SMDA 1964 will be amended to include information on the payment of each transaction; this will then be used to evidence how transactions were paid and to evidence the cashless offence. Law enforcement organisations already undertake inspections of sites to check records against goods and ensure the full completion of records; it is envisaged that this will continue and be expanded to ensure compliance with the cashless proposal. Cashless trading could also be enforced by the police undertaking test purchases. Tactical approaches are being developed by ACPO to outline how the police can effectively monitor and enforce the cashless provision; initial discussions suggest that activity is achievable and that it should be able to be delivered within existing police resources.

Cashless transactions will also result in greater recording of transactions as present, providing the police with investigative opportunities to trace unlawful transactions. Such investigative possibilities are limited at present through lax recording keeping by some elements of the scrap metal industry.

It is also anticipated that all law enforcement organisations will work together to share intelligence where appropriate in order to undertake targeted, intelligence led enforcement action. ACPO are expanding an intelligence hub for metal theft that was created in 2011 to include all relevant law enforcement organisations and private industry to ensure law enforcement activity is intelligence led. The work of the dedicated task force will strengthen this intelligence picture significantly, not least by risk assessing every metal purchaser.

H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

Option	Costs	Benefits
2	£50m (PV over 10 years)	£76m (PV over 10 years)
	Cost to business from cashless transactions	Benefits to business and society through reduction in metal theft

Source: HO analysis

Option 2 is the preferred option. Incidents of metal theft are rising and are causing a significant cost to all sectors of the UK. Whilst work is underway to tackle a range of issues associated with metal theft, a focus on the outlet for stolen metal will help reduce the perceived ease of offending. It is believed that the dual elements of Option 2 can form amendments to the LASPO Bill, thus satisfying the Government's desire to implement measures to tackle metal theft as soon as possible. The Home Office will continue to seek a suitable second session legislative vehicle to implement the full licence regime proposal.

I. Implementation

It is advised that any changes are implemented as soon as is possible. Primary legislation will be required to streamline existing requirements and to create a new licensed regime, and so implementation timeframes are reliant on the identification of a suitable legislative vehicle. It is proposed that an amendment is made to the LASPO Bill at Lords Report stage (late February) with a possible enactment date during the summer of 2012.

J. Monitoring and Evaluation

The effectiveness of the new regime would be monitored by the continued review and monitoring of police recorded crime statistics to identify trends in metal theft offences. In addition, to work with major users of metal (suggested BT, Network Rail, and Energy Network Association) to monitor the offences of metal theft that they suffer from. It is suggested that monitoring of crime numbers should be carried out over a period of 1-2 years, rather than in months.

K. Feedback

Feedback will be obtained through continued dialogue with the scrap metal industry through the British Metal Recyclers Association and through the multi-agency ACPO Metal Theft Working Group from a police and industry perspective.

It is not intended to undertake a full consultation on the proposals outlined. Correspondences from a wide range of stakeholders have expressed support to the proposals suggested; the Home Office is in discussion with organisations who have expressed reservations.

A wider consultation will take place for any new licence regime.

L. Specific Impact Tests

None

Annex A. Costing Methodology

The Home Office estimate of £220m can be broken down into direct costs to business, estimates of which were obtained for the Home Office's Metal Theft Information Hub (IH), and indirect costs to customers calculated using the DfT Transport Analysis Guidance website (WebTAG): <http://www.dft.gov.uk/webtag/index.php>.

The estimate is likely to be conservative because the Information Hub is *not* intended to represent a comprehensive database of all businesses and services affected, and not all the potential costs of metal theft have been quantified. For example, extra security measures taken, compensation to customers, opportunity costs to business of repairing or replacing damaged infrastructure, opportunity costs of police time devoted to investigating and dealing with incidents of metal theft, and downstream CJS costs from dealing with metal theft offences have not been calculated in this estimate.

Table A1: Total Estimated Annual Cost of Metal Theft in England & Wales

Sector	Data Source	Direct Costs	Indirect Costs	Assumptions/calculations used
Telecoms	Home Office Metal Theft Information Hub (IH) CIMTLG	Replacement costs: £12m	Cost to customers of service downtime: £79m	No. of customer incidents (IH) multiplied by average downtime (IH) multiplied by average cost of downtime (WebTAG) = indirect cost. Assuming 50% of customers are businesses, 50% of productivity is lost during downtime, 8 hours of productivity per day could be affected.
Rail transport	IH DfT estimates	Replacement costs: £16.5m	Cost to customers of delays: £12m	DfT estimates based on average cost of delay from WebTAG.
Utilities	IH	Replacement costs: £32m	Cost to customers of service downtime: £2m	No. of incidents (IH) multiplied by average downtime (IH) multiplied by average cost of downtime (WebTAG) = indirect cost. Assuming 50% of customers are businesses, 100% of productivity is lost during downtime.
Other	IH ACPO report	Local Authorities: £5m Religious buildings: £4m Education: £5m Pubs: £50m Other industries: £1m	None quantified	Estimates gathered in IH. Pub estimate reported to ACPO by British Beer and Pub Association based on cost of replacing stolen kegs and casks.
Total		£128m	£92m	
<i>Of which cost to business</i>		<i>£128m</i>	<i>£81m</i>	<i>Note proportion of indirect costs that falls on business is considerably more than 50% because the average cost of downtime/delay is much higher (WebTAG)</i>