



**CONSULTATION SUMMARY ON A SCRAP METAL DEALERS (NI) BILL**

ISSUED BY

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## Background

The PSNI produced "Metal Theft in Northern Ireland: Quarterly Update to 31st March 2013" outlines a slight overall reduction in the figures of reported metal theft. However, it is startling that in the first quarter of 2013, the PSNI report that

299 reported burglary, robbery and theft offences include property items listed as metal.

It is therefore apparent that the theft of metal for sale as scrap is a lucrative business and action must be taken in order to help combat this.

It is my intention to put forward legislation which makes provision for the further regulation of scrap metal dealers in Northern Ireland. There has been significant cost to private individuals, churches, schools, public and private bodies as a result of stolen metal. At present there is no legislative requirement for those dealing in scrap metal to provide an audit trail and reduce the ease with which stolen property is being traded.

Having held discussions with those affected directly by metal theft, such as utility companies as well as churches, schools and home owners, I entered into correspondence with the Department for the Environment as well as the PSNI to enquire as to the strategy employed by these bodies regarding tackling metal theft. The Environment Minister at the time, Alex Atwood MLA informed me that he had no intention to bring about any further legislation, as he did not have the necessary authority to legislate in this area. He referred me to the Department of Justice. Similarly, the Justice Minister, David Ford MLA indicated that he had no intention to further legislate in this area.

Legislation has been passed in the Westminster Parliament which further regulates the sale of metal for scrap in England and Wales: the Scrap Metal Dealers Act 2013. Legislation has also been proposed in Scotland and in the Republic of Ireland. In the absence of new legislation, Northern Ireland would continue to suffer from metal being stolen and could become a sanctuary for scrap metal criminals who may wish to sell stolen metal for scrap. The legislation which I propose to bring forward will bring Northern Ireland into line with England and Wales, while ensuring that a local view is taken in order to address the particular concerns of Northern Ireland.

As a result, on Friday 22<sup>nd</sup> November I launched a public consultation on a proposed Scrap Metal Dealers Bill (NI) which is an attempt to rectify the issue of on-going metal theft. Letters and emails were sent to a wide group of interested parties and meetings were held at Stormont for MLAs and for Scrap Metal Dealers.

The results of this consultation are outlined in summary below and a more detailed analysis also included. Please do not hesitate to contact me with any queries.

Roy Beggs MLA

## Executive Summary

- A consultation was launched on 22<sup>nd</sup> November 2013 to gather public opinion on the introduction of a Scrap Metal Dealers Bill (NI).
- The closing date for responses was set at 01/02/2014 however there were 6 responses received between this date and 10/02/2014; these are included in the summary of responses. One response was received after this date and its responses have been noted for the purpose of analysis but not included in the statistical results.
- Responses were accepted online via Survey Monkey, by email, or by post.
- A copy of the consultation paper is available at the end of this document as Appendix 1
- There were a total of 66 responses to the consultation paper of which 56 were fully completed.
- There was one duplicate entry, whose details have been removed, meaning 65 valid responses were received, of which 55 were fully completed.
- 4 responses were received by post, 8 responses by email and the remainder via the online web collector, Survey Monkey.
- Many respondents opted to provide information on top of that which was requested, these responses have been included as Appendix 2.
- A copy of all of the consultation responses has been included as Appendix 3 – respondents were afforded the opportunity to withhold their contact details, as a result, these have been redacted in the necessary cases.
- Respondents were afforded the opportunity to make comments, these have been summarised below, in order to ascertain a general overview. Comments have not been edited; however they can be viewed in their entire context within the consultation responses below.
- Two information sessions were also held at Parliament Buildings at Stormont on 20<sup>th</sup> January to enable direct discussion and encourage responses. A lunchtime session was held to brief MLAs and interested parties and was well attended.
- Scrap Metal Dealers were invited to attend an evening information session and there were over 30 representatives present.

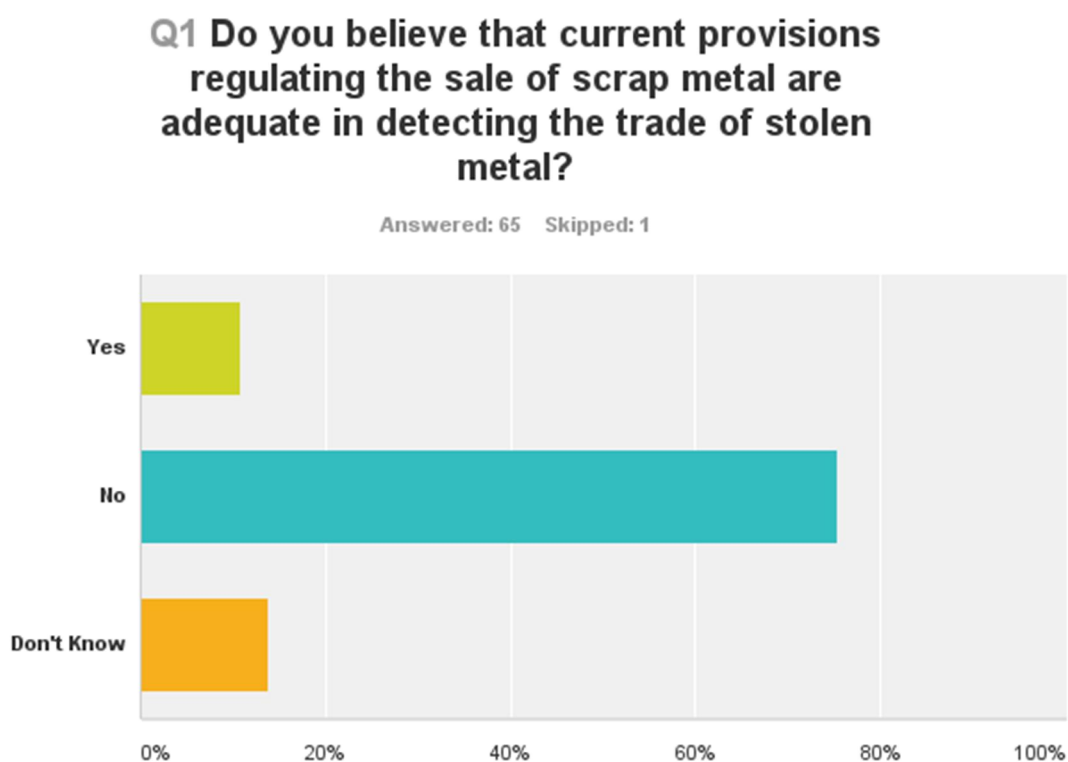
## Overview of Questions

The following overview of questions seeks to provide a brief ‘at a glance’ summary of information gathered from the consultation. Conclusions gathered from the information will be drawn later in this document; this section seeks to relay factual information only.

### Question 1

*Do you believe that current provisions regulating the sale of scrap metal are adequate in detecting the trade of stolen metal?*

65 respondents answered this question with 75.38% believing that current legislation was not adequate in detecting the trade of stolen metal.



Those who suggested that current legislation was not adequate included the PSNI who stated within their comments that “The current absence of Scrap Metal Act 1964 powers and the Scrap Metal

Dealers Act 2013 in Northern Ireland means we are not only more vulnerable to crimes related to any increase in metal prices, but exposed to additional displacement of thefts in the event of new legislation in the Republic of Ireland.” The PSNI also noted that they have made significant efforts in their attempts to reduce metal theft in Northern Ireland and continue to work closely with other agencies.

The FSB noted that “...FSB NI wants to see robust legislation in place including a licensing regime which is fit for the 21st century.”

Many contributors raised concerns that metal was not currently traceable, and therefore this aided criminality.

One contributor commented that scrap metal dealers should be licenced in the same fashion as bars and off licences; suggesting that they should report to a court, yearly, with all necessary documentation in order to renew a licence.

All those who commented agreed that legislation was necessary in order to help deter the theft of metal for sale as scrap.

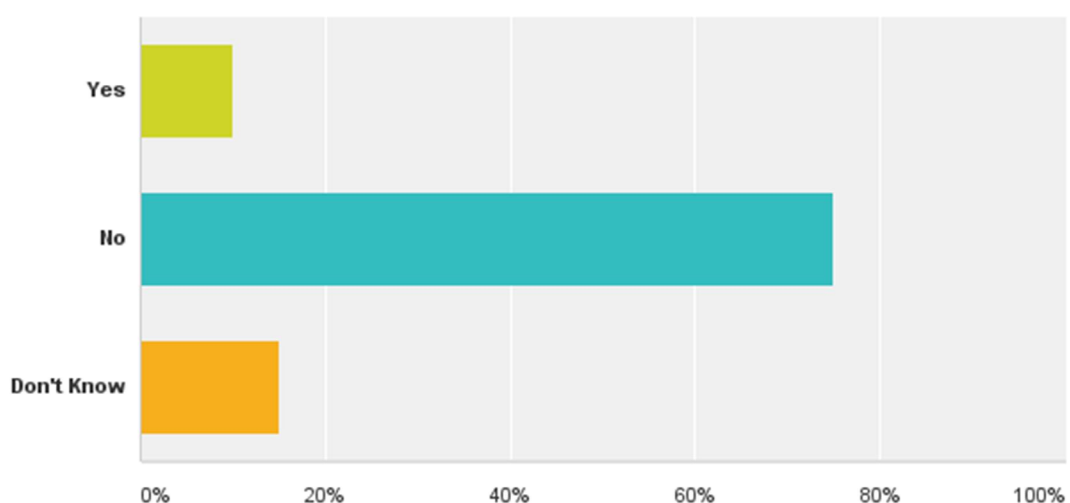
## Question 2

*Do you believe that a voluntary code of guidance on the operation of scrap metal dealers is adequate?*

60 respondents answered this question with 75% of those believing that a voluntary code of guidance was not adequate.

### Q2 Do you believe that a voluntary code for guidance on the operation of scrap metal dealers is adequate?

Answered: 60 Skipped: 6



Flaws were identified by one respondent who noted that not all dealers were signed up to the code of guidance and as a result this is not enforceable.

The PSNI note that there has been a decrease of 23.1% in theft incidents involving metal since the introduction of the code of conduct. They also note that only some dealers were approached to join the code scheme. Furthermore, PSNI noted that evidence suggests that an increase in incidents can be expected when the price of metal begins to rise.

Another respondent noted that the 'cash economy' operating in the industry negated the positive effects of a voluntary code.

A flaw has been identified by many respondents who noted that those who seek to sell stolen metal can visit a scrap metal dealer who has not subscribed to the voluntary code of guidance, and as a result this code can easily be circumvented.

Some contributors commented that it is likely to be those whom would not deal in stolen metal that are most likely to sign up to this voluntary code.

Several contributors referred to the need for enforcement and that legislation was a way of guaranteeing this.

### Question 3

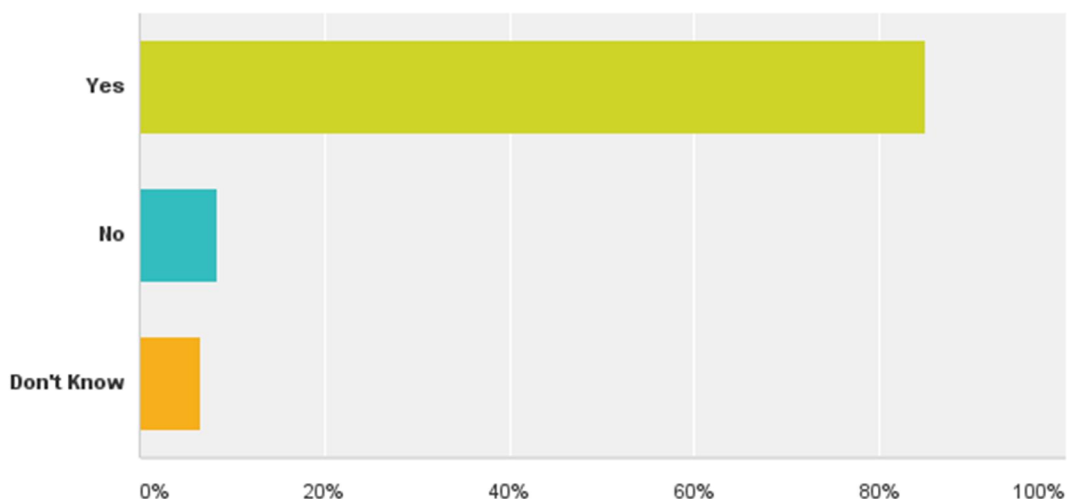
*Do you agree that legislation is required in order to assist in combating the problem of metal theft?*

60 respondents answered this question with 85% of them agreeing that legislation was necessary in order to assist in combating the problem of metal theft.



### Q3 Do you agree that legislation is required in order to assist in combating the problem of metal theft?

Answered: 60 Skipped: 6



The PSNI commented that they would not take a view on the exact contents of legislation, but that powers contained in the Scrap Metal Dealers Act 2013 “would be an excellent starting point for the debate re: powers to be considered”.

NILGA drew Mr Beggs attention to the ‘Mills Review’ of NIEA waste enforcement legislation and suggested that while good legislation might be progressed, that ‘adequate enforcement may not’.

Many contributors commented as in previous questions that a voluntary code of conduct was not working and as a result legislation would be required.

One respondent noted that there were health and safety concerns, such as from the theft of manhole covers, that legislation was required to solve.

A response was received which outlined that a person presenting metal must identify themselves and have payment made in line with the proposals outlined later in the consultation document. They note that there may be opposition to their proposals.

A majority of contributors noted the upset caused though the theft of metal and acknowledged that further action was required to combat the problem.

## Question 4

*It is my intention to bring forward a Bill which would legislate specifically the trading of scrap metal, in order to help combat the problem of scrap metal theft in Northern Ireland. I would plan to follow similar legislation which is making progress in Scotland and the Republic of Ireland and has been approved in England and Wales.*

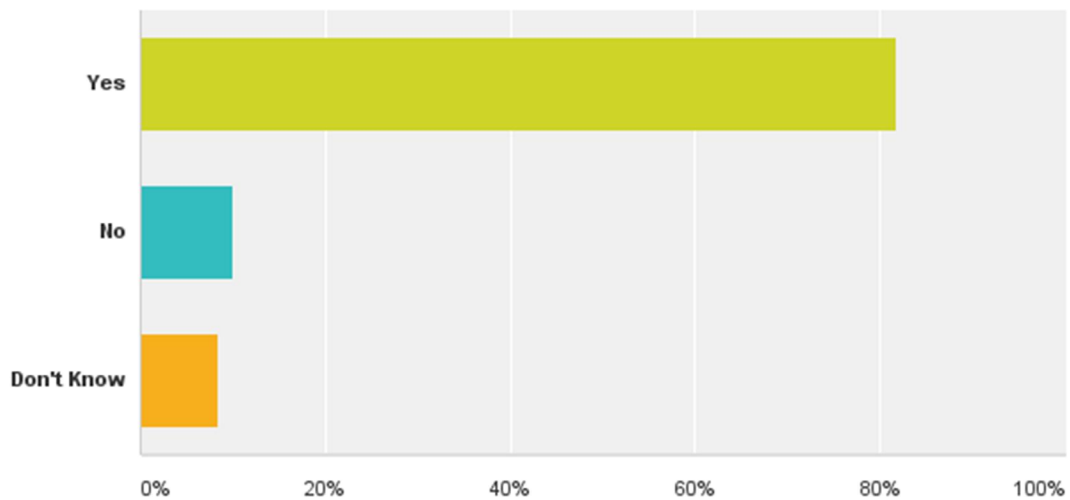
*My proposals include:*

- Providing traceability of the source of scrap metal by requiring specified photographic ID and proof of address to be provided to and recorded by the scrap metal merchant prior to purchase, and details to be kept on file for a period of not less than one year. Do you agree with this proposal?*

60 respondents answered this question with 81.67% of them agreeing with the proposal that photographic ID and proof of address should be recorded by scrap metal dealers and that their details should be kept on file for a period of not less than one year.

## Q4 Do you agree with this proposal?

Answered: 60 Skipped: 6



The vast majority of respondents who commented were in favour of the proposal.

One commenter noted that if a person were to be paid by cheque or by bank transfer that this might be unnecessary. They also noted that a situation could arise where a customer was well known to the dealer and as a result asking for ID might not be a sensible course of action.

Another response suggested that there were issues with the proposal, including a further level of administration. They further suggested that there was an issue where trade could be driven across the border.

Two responses suggested that criminals may have access to fake documents.

A respondent noted that a monetary limit could be imposed before a requirement to produce identity document was enforced.

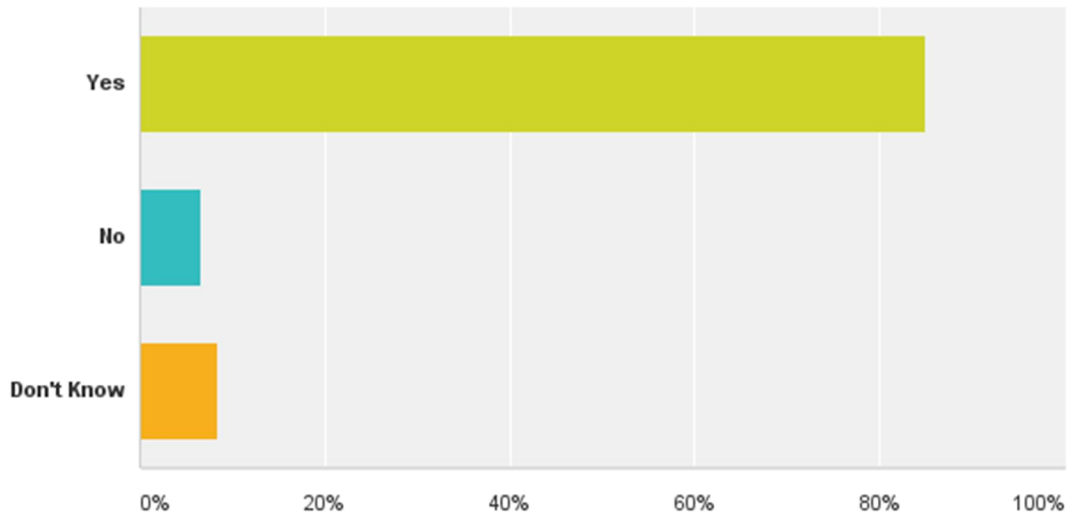
## Question 5

- *Requiring registration details of vehicles delivering scrap metal to merchants, to be recorded and details kept by the scrap metal merchant for a period of no less than one year. Do you agree with this proposal?*

60 respondents answered this question with 85% of them agreeing with the proposal that registration details of vehicles delivering scrap metal to merchants should be recorded and that their details should be kept on file for a period of not less than one year.

**Q5 • Requiring registration details of vehicles delivering scrap metal to merchants, to be recorded and details kept by the scrap metal merchant for a period of no less than one year. Do you agree with this proposal?**

Answered: 60 Skipped: 6



Many respondents noted that this was already a common practice throughout the scrap metal industry.

Only one comment was negative and implied that those who steal metal may use a different car or have fake registration details. One response suggested that the metal merchant should be required to hold the details for a period of 6 years, and not one as proposed.

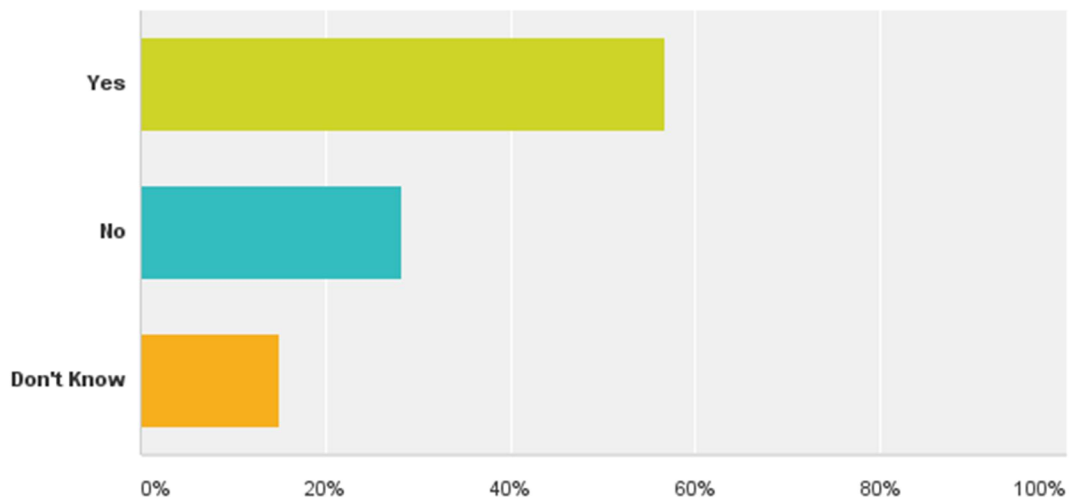
### Question 6

- *All transactions to be cashless (either an electronic transfer or a crossed cheque) to provide an audit trail to the person selling the scrap metal. Do you agree with this proposal?*

60 respondents answered this question with 56.67% of them agreeing with the proposal that all transactions should be cashless, in order to provide an audit trail to the person selling the scrap metal.

**Q6 • All transactions to be cashless (either an electronic transfer or a crossed cheque) to provide an audit trail to the person selling the scrap metal. Do you agree with the use of solely cashless transactions for the purchase of scrap metal?**

Answered: 60 Skipped: 6



Comments in regard to this proposal were mixed and contain various suggestions as to how this proposal could be improved.

Some respondents suggested that there should be some scope for cash use, provided a maximum limit was not exceeded – in order that costs could be kept to a minimum.

The PSNI, as well as other respondents urged against cashless trading as a sole measure and focus instead on avoiding ‘displacement of legitimate customer away from compliant businesses’, enforcement is also required.

A theme has arisen through responses that some people who use scrap metal dealers may not have a bank account and as a result scrap metal dealers may lose business.

Concern has also been raised that should a cash ban be implemented that paramilitaries would take control of a black market which would not be beneficial to Northern Ireland.

Other respondents thought of this idea as positive and some suggested that a bank transfer should be the only form of payment, and to eradicate cheque payments altogether.

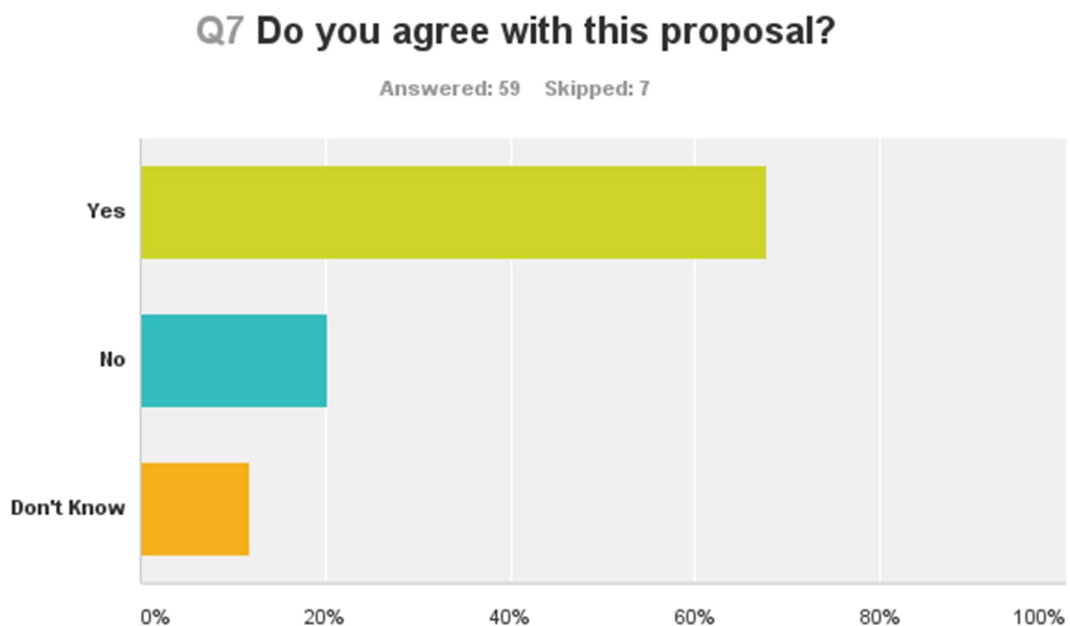
One respondent commented that cashless transactions may also be beneficial to the authorities in relation to tax evasion.

A response received noted that this policy would be difficult to enforce.

## Question 7

- A holding period during which metal would be retained and segregated and could be subject to inspection, which would increase the ability of PSNI to trace stolen metal.

59 respondents answered this question with 67.80% of them agreeing with the proposal that metal should be subject to a holding period, during which metal would be retained and segregated and could be subject to inspection.



Comments for this question were integrated as part of the process into the next question which provides a follow up.

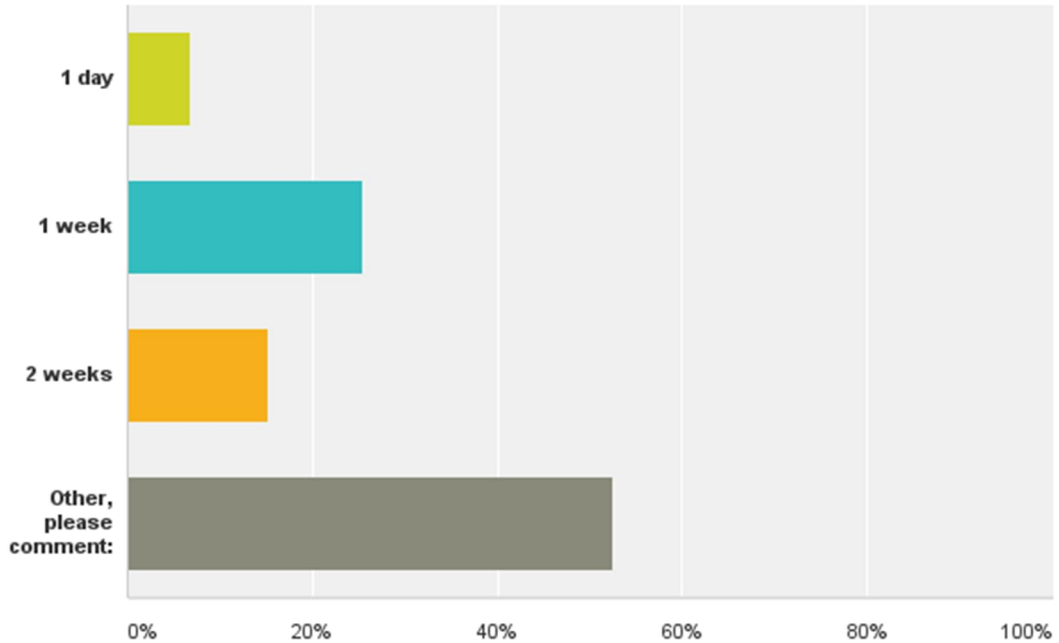
## Question 8

*If yes, how long should the holding period be?*

59 respondents answered this question with the majority (52.54%) indicating that they were unsure of the length of the holding period.

## Q8 If yes, how long should the holding period be?

Answered: 59 Skipped: 7



Respondents have suggested that there are many problems in the implementation of this proposal.

Storage space was a recurring theme amongst many of the responses.

Several respondents also commented that they did not support the proposal of a holding period.

One commented suggested that a holding period was essential, however suggested that it would be for Mr Beggs to liaise with the PSNI in order to set the length of the holding period.

Many comments also sought to ensure that legitimate scrap metal dealers were not affected as a result of this proposal.

## Question 9

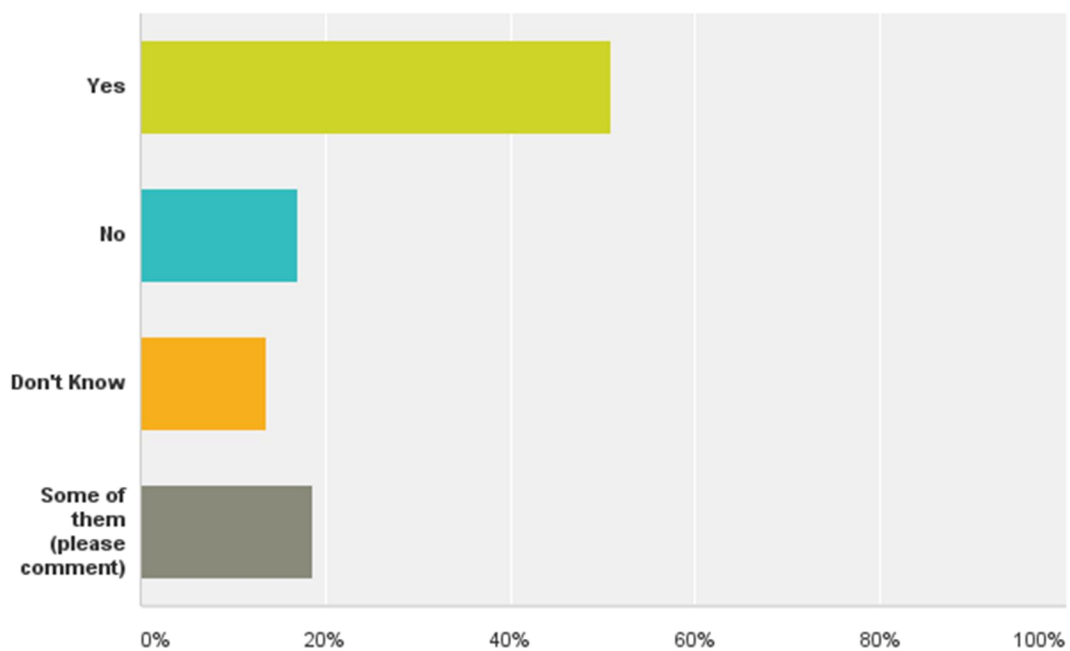
Scrap metal thieves have been reported as having burnt identification information from stolen metal, or removed this information in another way. This prevents easy traceability to the source of the stolen metal, which hampers the ability to bring about criminal convictions for theft.

- It is therefore proposed that restrictions are placed on the trade of metal which has been burnt or defaced to an extent where tracking information has been removed, and could therefore arouse suspicion of deliberate concealment. These restrictions could include reporting the trade of this type of metal to the responsible authority, either the Department of the Environment or the PSNI, or applying an increased holding time.

59 respondents answered this question with 50.85% of them agreeing with the proposal that would restrict the trade of metal which had been burnt or suspiciously defaced.

### Q9 Do you agree with these proposals?

Answered: 59 Skipped: 7



Respondents took differing views to this question with some welcoming the idea.

Some comments welcomed the idea and supported that this would help the PSNI detect crime and also act as a deterrent.

One response proposed that if the seller of the metal could verify the reasons for the burning or suspicious defacing of the metal that it should be accepted.



Some respondents questioned if tracking information was routinely printed on scrap metal as they had not noticed it previously.

Two comments suggested that the trade of scrap metal should be banned in its entirety.

Several comments suggested that applying an increased holding time, with one suggesting a week, would be sufficient in order to deter the trade of stolen metal of this type.

## Question 10

The following licensing recommendations are proposed as there is no current specific licence required in Northern Ireland for Scrap Metal Dealers. The proposal is to bring Northern Ireland into line with England and Wales.

- Requiring all scrap metal dealers to have a form of licence which would only be granted subject to suitability, which must be registered to an address in Northern Ireland. It is proposed that licences would not be granted to any unsuitable person<sup>1</sup>, as defined by the Scrap Metal Dealers Act 2013, which details some of the criteria for assessing such a person as having;

a) been convicted of any relevant offence, for example trading in scrap metal for cash, or failing to maintain proper records of scrap metal transactions

b) been subject to any relevant enforcement action, for example for the offences outlined above.

c) had a previous application for the issue of a scrap metal dealers licence refused

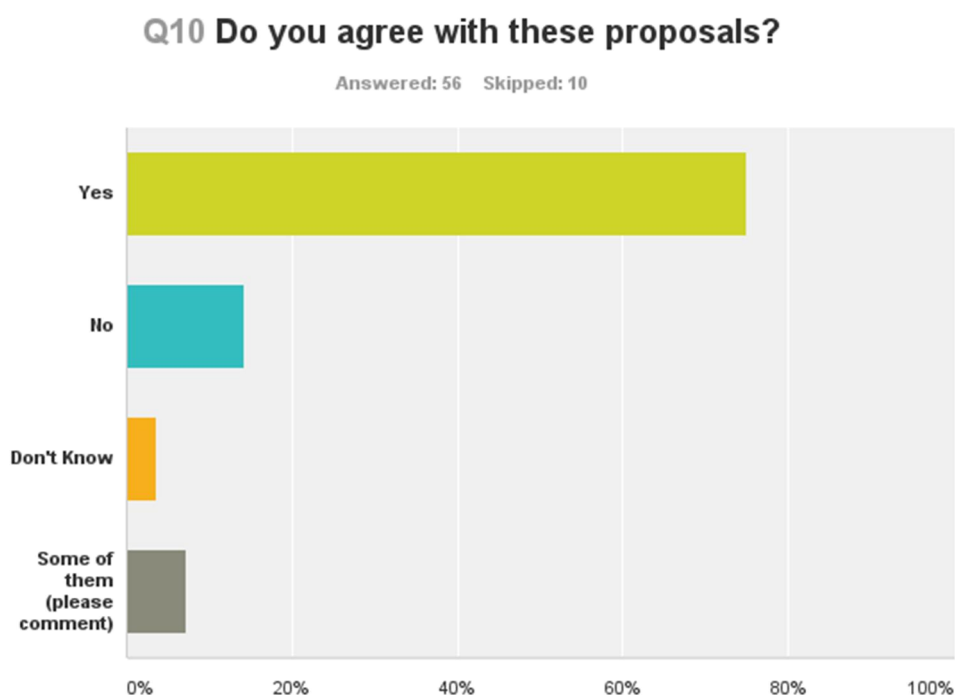
d) had a scrap metal dealers licence revoked

e) any other waste management licence or permit refused

f) failed to demonstrate their ability to comply with other proposals put forward in this consultation

Do you agree with these proposals?

56 respondents answered this question with 75% of them agreeing with the proposals outlined above.



<sup>1</sup> A proposed schedule of relevant offences is attached as Appendix 3

One response suggested alternate phraseology in terms of the proposed schedule of relevant offences.

The PSNI suggested that it would be important not to exclude honest traders who may have committed a procedural or technical breach, stressing again the need for effective and timely enforcement.

Several commenters noted that they already held a licence with NIEA.

One response noted that they would be unable to afford the costs of applying for and maintaining another licence as they are already in possession of many other licences.

Other responses were entirely in favour of the proposal, with one suggesting that a 'robust licencing regime should be the cornerstone of this legislation'.

One comment suggested that legislation should not be made for 'legislations sake'.

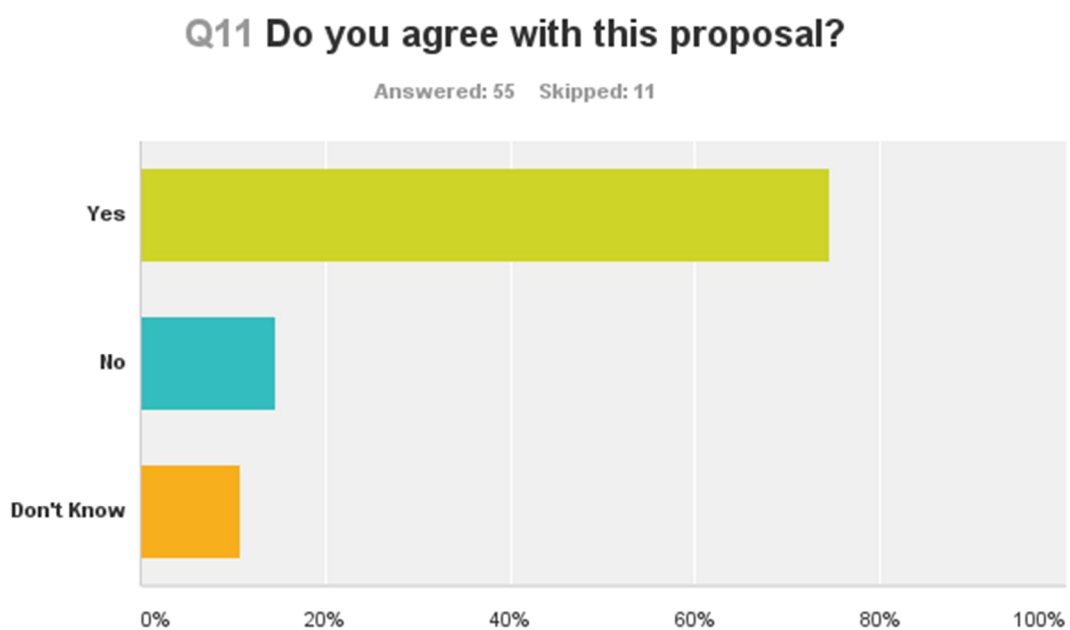
A response received suggested that a delay should take place before the implementation of this proposal in order to prepare scrap metal dealers for the consequences.

## Question 11

*The Department of the Environment is responsible for regulating waste and waste transfer. It is therefore proposed that they should also be responsible for the issue and regulation of scrap metal dealers licences.*

*Do you agree with this proposal?*

55 respondents answered this question with 74.55% of them agreeing with the proposal that the Department of the Environment should be responsible for the issue and regulation of scrap metal dealers licences.



Comments were limited in regard to this question with a majority in favour of this idea.

One response suggested that the PSNI should be responsible for issuing and regulating licences, while another suggested that it should be HMRC.

A comment also suggested that local councils could also have a role under the Reform of Public Administration.

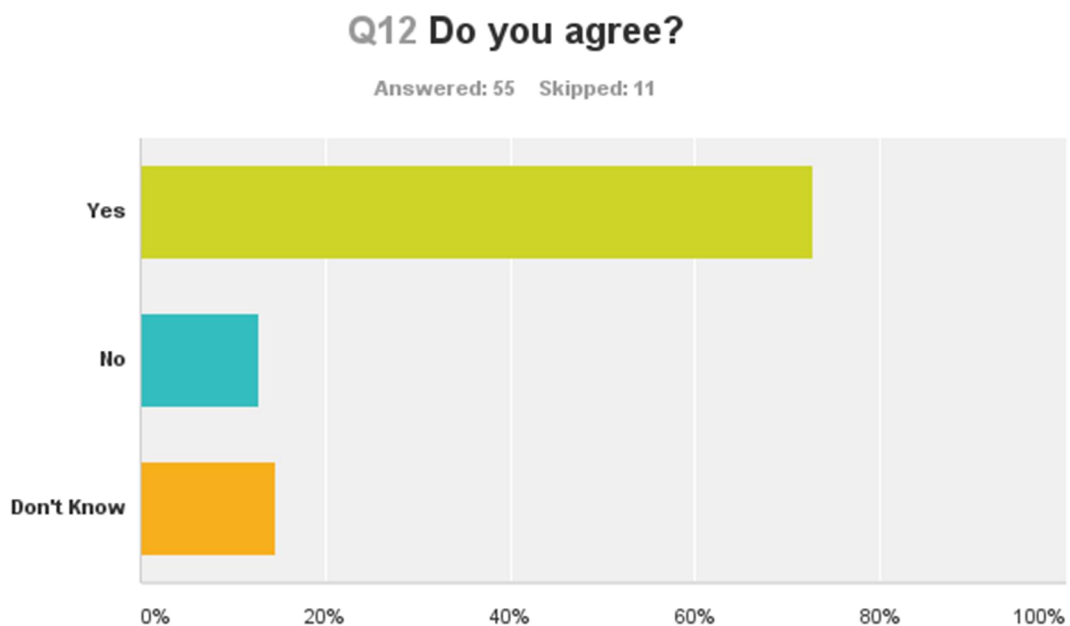
A response also suggested that proper resourcing would also be prudent.

## Question 12

*It is proposed to also make the Department of the Environment, in accordance with current waste management legislation, responsible for monitoring compliance with legislation. If a breach occurs, the scrap metal dealers licence could be revoked and the matter referred to the PSNI. Both the PSNI and DoE will have the authority to carry out inspections without giving prior notice.*

*Do you agree?*

55 respondents answered this question with 72.73% of them agreeing with the proposal that the Department of the Environment should be responsible with the proposals outlined above.



Most comments in this field suggested that this was already the common practice in terms of regulating other waste management licences.

One response suggested that smaller scrap yards may be under increased pressure and would result in an unfair advantage for larger companies.

Some comments suggested that if properly resourced this would be the best course of action.

One respondent questioned how this related to fighting metal theft.

A response suggested that the DoE would require extra funding to administer this process.

### Question 13

*It is proposed that contravention of the proposed regulations for scrap metal dealers could result in revocation of any scrap metal dealers' licence and waste management licenses and could be subject to a range of fines depending on the severity of the offences. For example:*

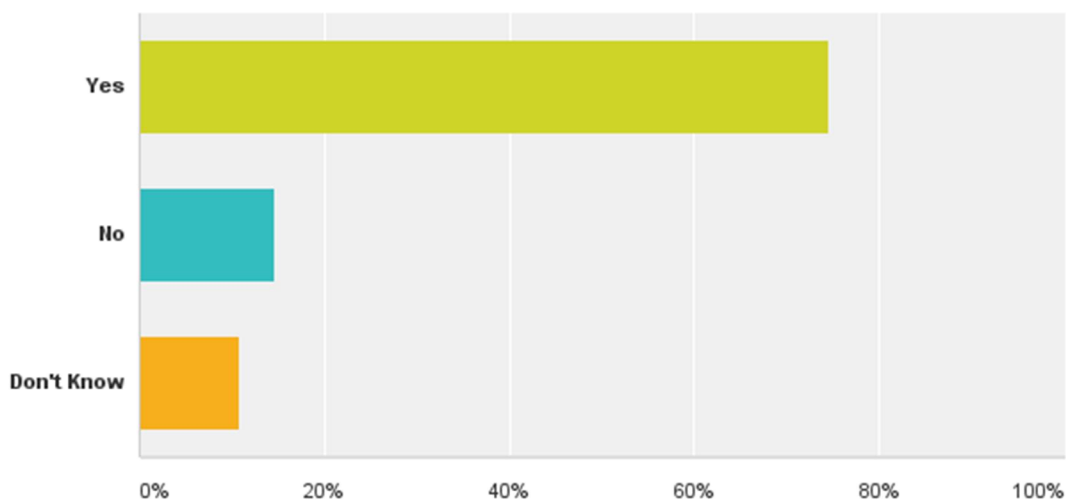
*Level 3 (£1,000) fine on summary conviction for offences such as minor, administrative offences, such as failing to keep accurate records or failing to appropriately identify the person selling the metal.*

*Do you agree with this sanction?*

55 respondents answered this question with 74.55% of them agreeing with the proposal outlined above relating to a Level 3 fine for minor, administrative offences.

#### **Q13 Level 3 (£1,000) fine on summary conviction for offences such as minor, administrative offences, such as failing to keep accurate records or failing to appropriately identify the person selling the metal. Do you agree with this sanction?**

Answered: 55 Skipped: 11



Three responses commented that £5000 would be a more suitable level of fine as £1000 would not prove an adequate deterrent.

Four other comments suggested that this sanction should be more severe, with one of these suggesting that the fine should be £50,000.

One response suggested that this fine may be less expensive than applying for a licence. Some other comments suggested that this is an acceptable fine and that they were content with its severity.

## Question 14

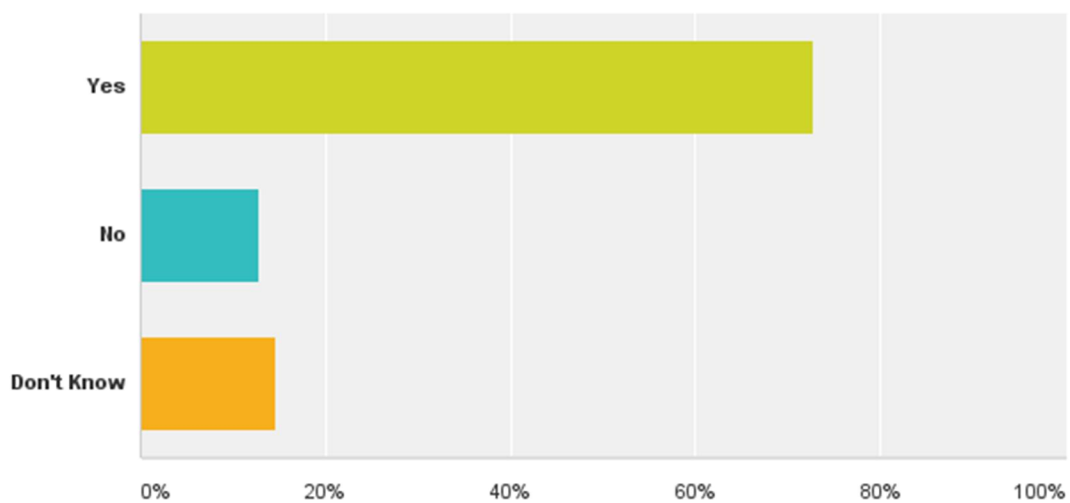
*Level 5 (£5,000) fine on summary conviction for multiple minor offences, or a major offence, such as dealing in cash for scrap metal or carrying on business as a scrap metal dealer without a licence.*

*Do you agree with this sanction?*

55 respondents answered this question with 72.73% of them agreeing with the proposal outlined above relating to a Level 5 fine for dealing in cash for scrap metal or carrying on business as a scrap metal dealer without a licence.

### **Q14 Level 5 (£5,000) fine on summary conviction for multiple minor offences, or a major offence, such as dealing in cash for scrap metal or carrying on business as a scrap metal dealer without a licence. Do you agree with this sanction?**

Answered: 55 Skipped: 11



Similarly to the previous question, some responses here suggest that the level of fine should be increased, two comments suggest that the fine should be £20,000.

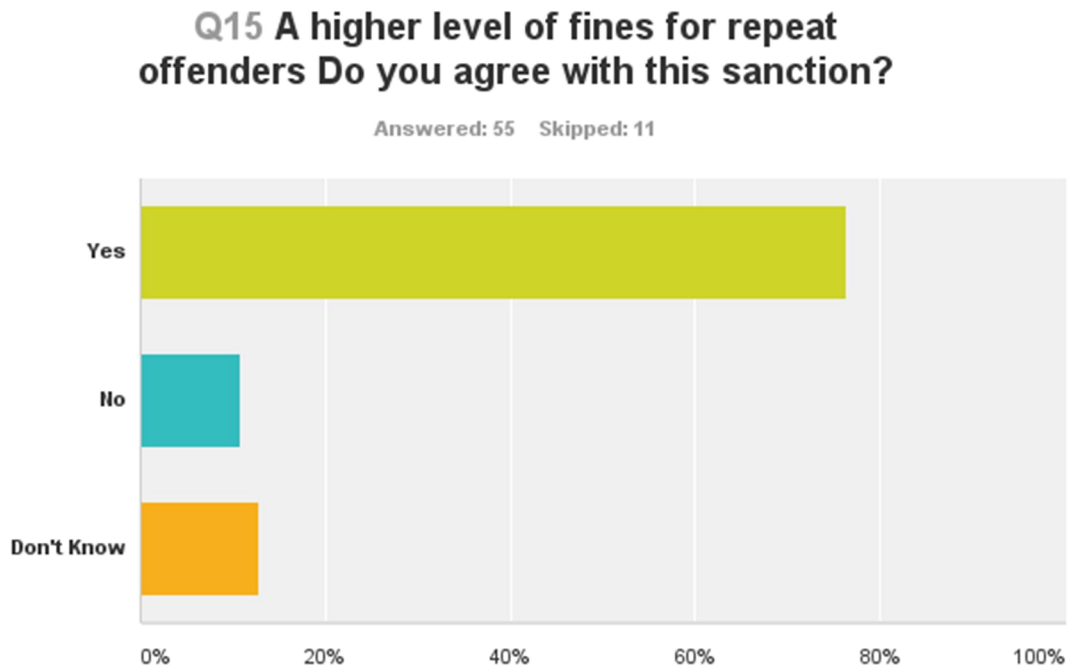
Most comments suggest that they are content with this proposal.

## Question 15

*A higher level of fines for repeat offenders*

*Do you agree with this sanction?*

55 respondents answered this question with 76.36% of them agreeing with the proposal for higher level of fines for repeat offenders.



Three proposals suggest that a prison term should be attracted for more serious or repeat offences.

The PSNI note that it is important to avoid displacement of legitimate custom away from compliant business.

Some comments note that under waste management legislation, there are already penalties in place.



## Question 16

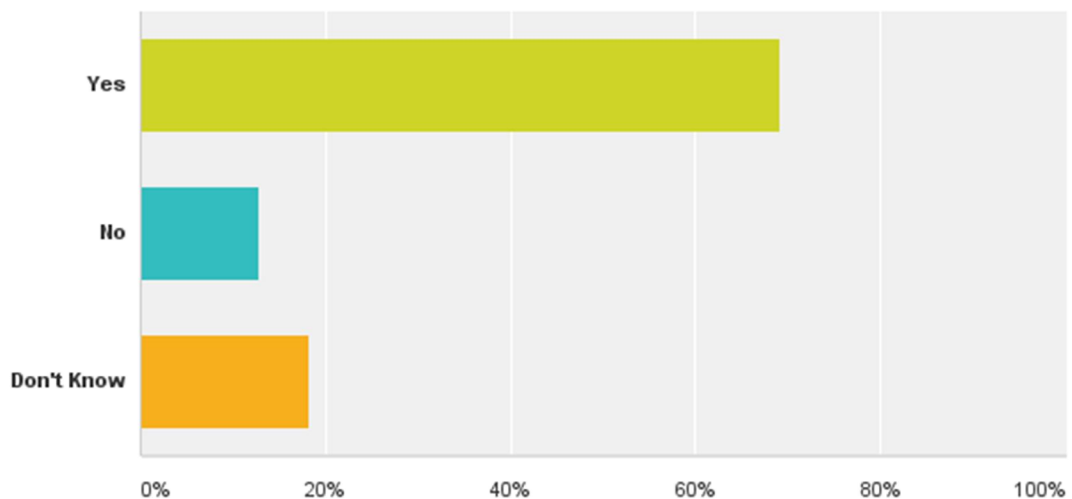
*More serious or persistent repeat offences should potentially attract a term of imprisonment*

*Do you agree with this sanction?*

55 respondents answered this question with 69.09% of them agreeing with the proposal that more serious or persistent repeat offences should potentially attract a term of imprisonment.

### Q16 More serious or persistent repeat offences should potentially attract a term of imprisonment Do you agree with this sanction?

Answered: 55 Skipped: 11



There were no comments of a negative nature towards this proposal.

One comment suggested that the word 'should' could be removed and replaced with a more severe one.

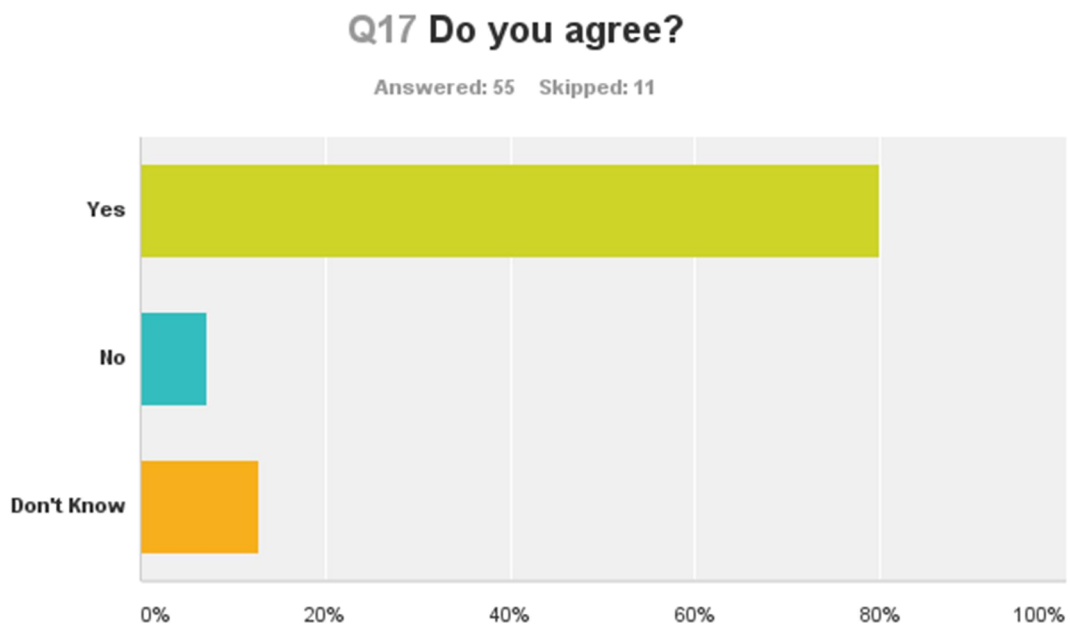
The Department of Justice offered to provide further guidance in terms of providing sentencing guidelines.

## Question 17

*It is proposed that the Bill will include an appeals mechanism against decisions by the Department in relation to the granting and regulation of licences, as well as enforcement.*

*Criminal proceedings have an established appeals process, through various levels of courts. This Bill makes no attempt to change this appeals process, therefore normal appeals procedures will apply.*

55 respondents answered this question with 80% of them agreeing that an appeals mechanism should be included within the Bill and that the criminal appeals process should not be altered.



One respondent noted that there should be no appeals processes in order to overturn convictions.

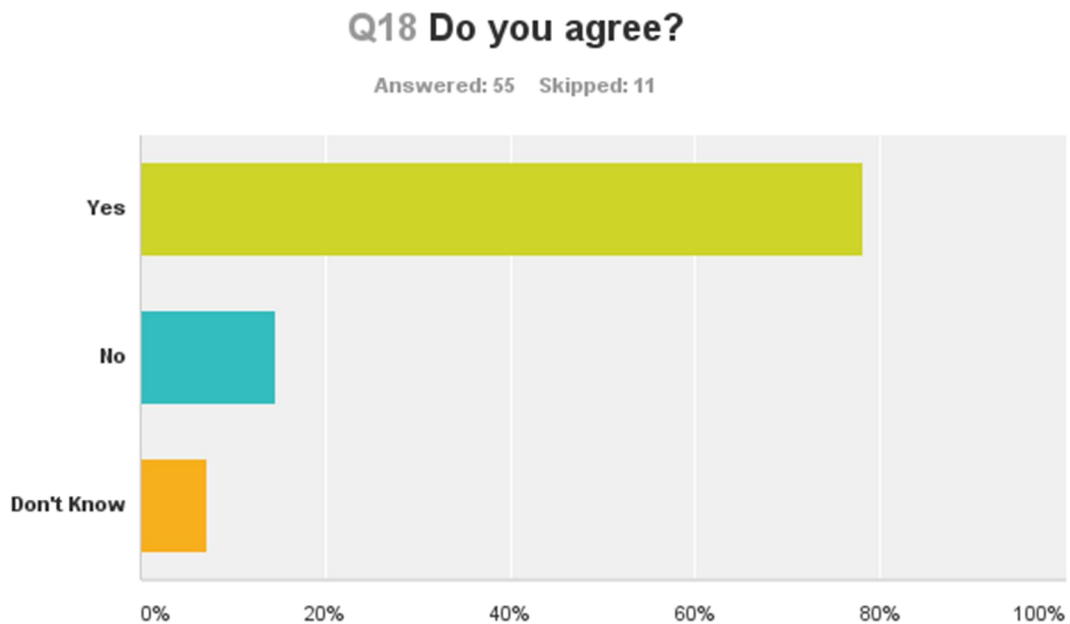
The majority of comments suggested that there should be no divergence from the existing format.

The Department of Justice noted that there could be an increased number of court cases due to the introduction of a fit and proper person test.

## Question 18

*It is proposed that the law should come into effect after a minimum period of 3 months has elapsed after the Bill has passed and a maximum period of 1 year, in order to afford Scrap Metal Dealers, as well as the Department, necessary time to prepare for the changes.*

55 respondents answered this question with 78.18% agreeing that the above timescales were suitable.



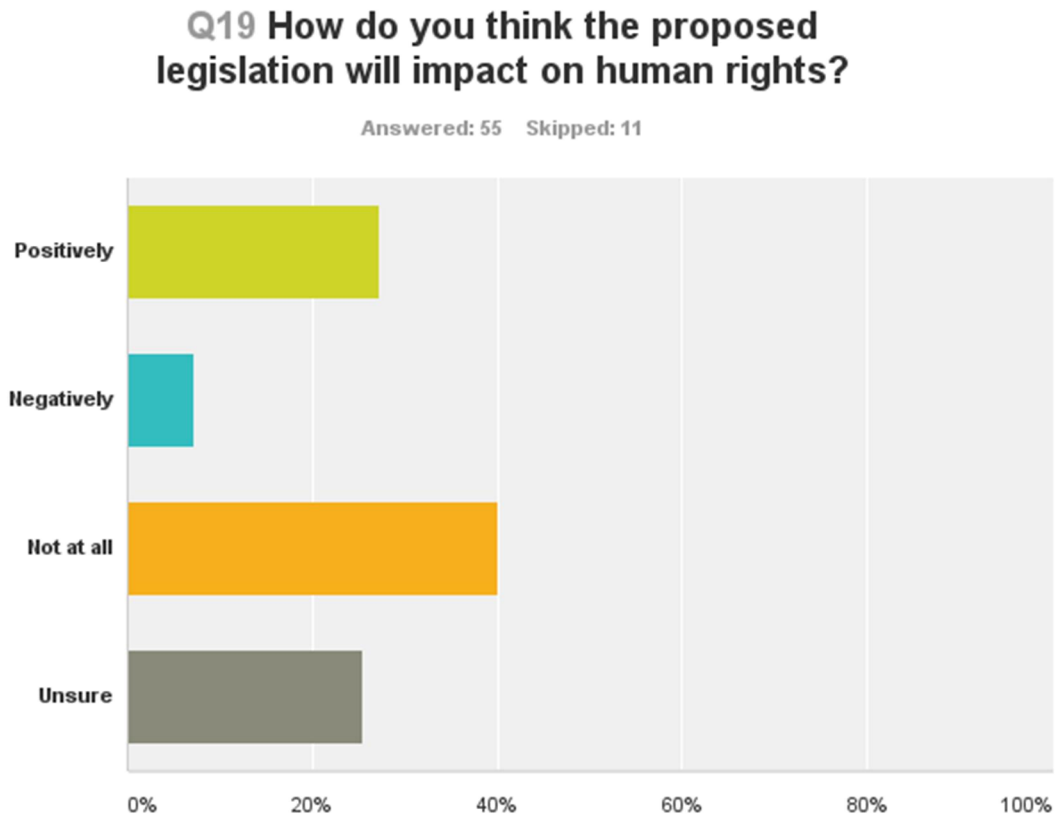
Comments were divided in response to this question with some proposing lengthening the time required to implement the legislation, such as the Department of Justice, as well as others suggesting that the period of time was adequate.

Some respondents suggested that the length of time should be decreased in order that the proposals could be implemented as soon as possible.

## Question 19

*How do you think the proposed legislation will impact on human rights?*

55 respondents answered this question with 67.27% of responses believing that human rights would either not be affected at all (40%) or positively (27.27%).



Several responses suggested that human rights would be positively impacted due to less likelihood of their metal being stolen.

Some comments outlined that some people do not have bank accounts and as a result their human rights would be affected.

Other respondents noted that this proposed legislation has no impact on human rights.

One comment noted that scrap metal dealers could be treated as 'second class citizens' when compared with jewellers and auction houses.

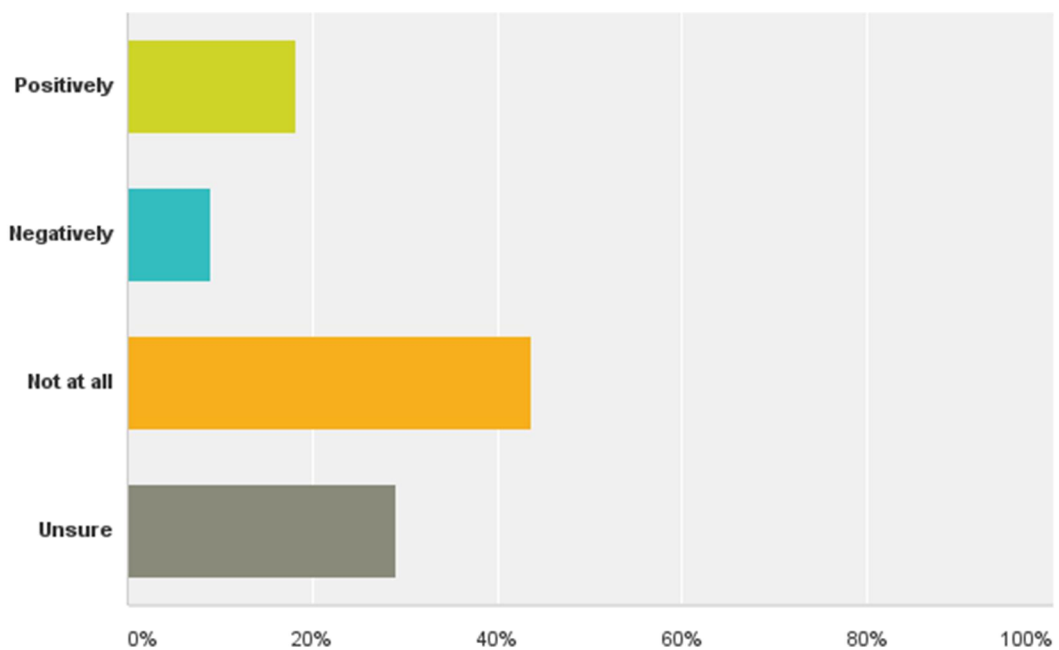
## Question 20

*How do you think the proposal will impact on equality of opportunity?*

55 respondents answered this question with 72.73% of those questioned suggesting that equality of opportunity would not be impacted at all (43.64%) or that they were unsure of an impact (29.09%).

### Q20 How do you think the proposal will impact on equality of opportunity?

Answered: 55 Skipped: 11



Some respondents noted that an equality impact assessment would be required to be carried out.

Four comments suggested that there would be no impact to equality of opportunity.

One response noted that working in conjunction with legislation in the Republic of Ireland was the only way to achieve success.

## Question 21

*It is proposed that the fees imposed for gaining a scrap metal dealers licence are to be set on a cost recovery basis for the Department.*

*Do you have any comments on the likely cost/financial implications of the proposed legislation?*

This was an open question and there were 32 responses received.

7 of the comments received indicated that they did not have a comment to make, therefore there were 25 substantive responses.

Several responses suggested that the cost would be a critical factor in influencing the effectiveness of the scrap metal dealer's licence.

Some suggested that costs might be high for dealers as a result of increasing enforcement costs. This would result in an extortionate fee to be passed to scrap metal dealers.

Other comments noted that a cost recovery basis would be the least burdensome manner with which to set prices.

## Question 22

*Do you have any further comments on the proposed legislation?*

This was an open question and there were 27 responses.

There were 8 responses which indicated that they had no comment to leave which resulted in 19 substantive responses for analysis.

Five responses made comment to the effect that they were content for legislation to be brought forward and made no further suggestions.

Four responses noted that a cross-border approach should be adopted in order to not drive the trade of scrap metal from the legitimate scrap metal dealers in Northern Ireland.

The FSB noted that within the Scrap Metal Dealers Act 2013, there was a review clause included which they suggest should be included within any similar legislation in Northern Ireland.

Some comments noted that there is a possibility of Northern Ireland becoming a sanctuary for scrap metal thieves if legislation was not brought into effect.

Other comments noted the damage that the theft of scrap continues to cause in Northern Ireland.

One comment suggested that the consultation paper was poorly researched.

## Public Meetings

There were two public information sessions held at Stormont on 20<sup>th</sup> January 2014 to enable discussion and encourage responses to the consultation. These were intended to brief interested parties on the then ongoing consultation on the proposal to bring forward legislation to further regulate the trade of scrap metal in Northern Ireland.

A lunchtime session was held, to which MLAs and other stakeholders were invited, such as utility companies and housing associations. Ian Heatherington from the British Metal Recyclers Association and Tony Glover of the Energy Networks Association were in attendance and briefed those present on the effect of the implementation of the Scrap Metal Dealers Act 2013 in England and Wales. Representatives of the NI Utilities Working Group and the Federation of Small Businesses also gave their insight into the problems their members faced as a result of metal theft.

An evening session was also held at which there were over thirty representatives from the scrap metal trade. The information gathered from this meeting is listed below:

- 1) There was opposition against a total cash ban as member feared that it could drive scrap dealing underground. There was also concern from dealers based near the border that dealers in Northern Ireland would be adversely affected due to trade being driven to the Republic of Ireland.
- 2) Concern was aired that paramilitaries could become involved in the trade of scrap metal – this was not further elaborated on.
- 3) It was noted that some scrap metal dealers received alerts from PSNI indicating the nature of recently stolen metal; other dealers suggested that this could be useful. It was recommended to dealers that they contacted PSNI in order to establish this communication channel.
- 4) Some dealers expressed their concern at an alleged lack of enforcement by the criminal justice system with some criminals not being prosecuted and others given sentences which appear to be lenient.
- 5) A suggestion was raised that parity should be maintained between legislation in Northern Ireland and the Republic of Ireland.
- 6) A potential increase in licencing costs was also raised by dealers as an issue.
- 7) Some dealers noted that they already had CCTV installed at their premises.
- 8) It was reinforced by many dealers that an effective monitoring system was required so that a level playing field was established for all dealers.
- 9) Some dealers noted that cash transactions would be necessary, especially for small amounts, in order not to drive away business.
- 10) Costs of various waste management licences were also raised as an issue, with a suggestion that £1400 was already spent on licences and a £500 scrap metal dealers licence may be a burden too great for a small dealer to bear.

## Analysis of Results

The consultation process on a proposed Private Members Bill to introduce legislation on the further regulation of scrap metal dealers in Northern Ireland was opened in order to gather public opinion. Having received a large number of responses, as well as meeting with stakeholders, an overwhelming opinion has been gathered that further legislation is required in order to help combat the problem of metal theft.

Over 75% of respondents to the consultation paper suggested that they did not believe that current provisions for regulating the sale of scrap metal were adequate in order to detect the trade of stolen metal. This startling figure is the premise from which further analysis of the results will take guidance.

Consultation is an integral part of the legislative process and as a result, changes have been made to the original proposal to bring about legislation. The new proposals for legislation are set out below.

## Revised Proposals

It is proposed that legislation is brought forward to the Northern Ireland Assembly which will make provision for the further regulation of scrap metal dealers in Northern Ireland, in order to help detect the trade of stolen metal. This comes as a result of 75% of respondents to a consultative process believing that a voluntary code of conduct was not adequate in detecting the trade of stolen metal. Eighty five percent of respondents to the consultation suggested that legislation was required in order to combat the problem of metal theft.

### Identification

It was originally proposed that providing traceability of the source of scrap metal by requiring a copy of photographic identification and proof of address details to be recorded by the scrap metal dealer and kept on file for a period of not less than one year.

Following consultation with dealers, it has been decided to amend this proposal, taking into account that there are many well-known customers within the scrap metal trade whose identity has no reason to be doubted, and could be stood over by the dealer. This proposal therefore has been amended to allow for a 'known customer' system (as applied within the Banking sector) to be introduced by scrap metal dealers.

Ordinarily, recognised identification documents must be supplied by all customers and recorded by the dealer. A 'known customer' system would allow for the dealer to record the name and address details of the person selling scrap, however not require them to produce identity documents, provided that the dealer is satisfied that they have no reason to doubt the identity of the seller. This will normally only be allowed if a business relationship has been continuously ongoing for a period of 3 months, where identity documents have been produced and copied.



## Cashless Transactions

It was originally proposed that all transactions should be cashless in order to provide a financial audit trail to the person selling scrap metal.

Most members of the public who responded to the consultation were in favour of this proposal. However, after direct consultation with scrap metal dealers it has been decided that this proposal should be amended.

It is now proposed to include provision within legislation that the Minister for the Department for the Environment should be given powers to set the maximum limit for cash transactions and enabling powers to ban the sale of scrap metal for cash at some point in the future using affirmative regulation.

It is proposed initially to ban the sale of scrap metal for cash, for amounts in excess of £100. The Minister would also have the power to vary this amount. Either an electronic transfer or a crossed cheque would be permissible for payment above the threshold in order to ensure traceability of the vendor.

## Holding Periods & Burnt Metal

It was originally proposed that scrap metal would be segregated and held subject to inspection, in order to increase the ability of PSNI to trace stolen metal.

After consultation and having examined the premises upon which this proposed legislation would take effect, it has been decided to remove its application for all metals. While some members of the public had suggested that this was a reasonable solution in order to provide traceability, it was accepted that the burden on scrap metal dealers in complying with this proposal would be too great.

In the case of metal which has been burnt or suspiciously defaced, in order to remove tracking information, such as company logos, a range of measures were proposed.

Following the consultation process, it has been accepted that the sale of burnt or defaced metal cable should face some additional monitoring. Due to the relatively low levels of the trade of burnt or defaced metal cable it is felt that it would be reasonable and proportionate that such metal could be subject to a holding period and notification to the PSNI and relevant authority. It is not believed that this would have a significant adverse effect on the scrap metal dealers.

## Granting of Licences

It was originally proposed that the granting of a scrap metal dealers licence should only be granted to a person if they met certain criteria which were listed in the consultation document.

It is proposed to build in a 'common-sense' approach into the licence granting process where a dealer should not be excluded from continuing to trade for a procedural or technical breach – this follows advice from PSNI.

It is also noted that the proposed schedule of offences which would preclude a scrap metal dealer from obtaining a licence did not include waste management offences, or an offence under the Scrap Metal Dealers Act 2013. It is proposed that offences from other jurisdictions should also be included in the proposed legislation.

### **Regulation of Licences**

It was originally proposed that the Department of the Environment should be responsible for the regulation of scrap metal dealers licences.

Following consultation, it has been decided that this proposal will remain unchanged.

Inspection powers would also be granted to PSNI, who would have the authority to carry out an inspection at any time, in order to ensure compliance with legislation.

It is proposed that a court order should be the only means of revocation of a scrap metal dealers licence.

### **Penalties**

A system of penalties was suggested throughout the consultation process and in most cases it was suggested that the proposed penalties were not severe enough in order to deter breaches of the legislation.

It is noted that the proposals replicating the penalties in the Scrap Metal Dealers Act 2013, are unlikely to drop in severity, and a period of imprisonment is intended to be included as the most severe penalty in extreme circumstances.

### **Implementation**

It is not proposed at this time to make a change to the proposed implementation time period. It is proposed that the legislation should come into effect between 3 months and 1 year after its successful passage through the legislative process.

## **Human Rights & Equality of Opportunity**

No evidence of a breach of human rights legislation or equality of opportunity legislation has been identified through the consultation process.

A Human Rights Impact Assessment and an Equality Impact Assessment are yet to be received from the appropriate bodies.