

Ref. No.	PL/RE/22
Category (Y/N)	
People	
Place	Y
Corporate	
In Constitution	

Scrap Metal Dealers (2 policies)

Policy Details

What is this policy for?	To ensure that only suitable persons are licensed to collect scrap metal and/or run a scrap metal site.
Who does this policy affect?	Persons who carry on a business which consists wholly or partly in buying or selling scrap metal whether or not the metal is sold in the form it was bought in or carries on a business as a motor salvage operator; members of the public/businesses using such services.
Keywords	Scrap metal, motor salvage, scrap yard, mobile scrap metal dealer
Author	<ul style="list-style-type: none"> Steve Ricketts, Team Leader Public Health & Protection, East Dorset District Council Peter Davis, Licensing & Community Safety Manager, North Dorset District Council
Dorset Council policy adopted from	<p>North Dorset District Council West Dorset District Council Weymouth & Portland Borough Council</p> <p>Dorset Council has adopted policies from its constituent councils. Please be aware varying policies apply within the Dorset Council area. Policies will be reviewed and/or harmonised by 1 April 2021.</p>
Does this policy relate to any laws?	Scrap Metal Dealers Act, 2013
Is this policy linked to any other Dorset Council policies?	No
Equality Impact Assessment (EqIA)	An EQIA will be completed when the policies are harmonised for Dorset Council.
Other Impact Assessments	None

Status and Approvals

Status	Live	Version	
Last review date		Next review date	
Approved by (Director)		Date approved	
Member/ Partnership Board Approval	<p>North Dorset District Council</p> <p>West Dorset District Council</p> <p>Weymouth & Portland Borough Council</p>	Date approved	

Scrap Metal Dealers Act 2013 Fees

Fees should reflect the cost of:

- Assessing and administering applications;
- Processing them;
- Having experienced licensing officers review them;
- Storing them;
- Consulting on the suitability of an applicant and reviewing relevant offences;
- Time taken to make a decision on whether to issue a licence;
- The cost of issuing licences in a format that can be displayed;
- Any costs associated with contested licence applications;
- Consulting the local authority's enforcement records to determine the suitability of the applicant.
- Compliance (entry and inspection) visits which might affect the renewal of a scrap metal dealer licence.

If a scrap metal dealer has multiple sites within one local authority the costs associated with visiting multiple sites should be reflected in the fee that the scrap metal dealer is charged;

The licence fee cannot be used to support enforcement activity against unlicensed scrap metal dealers;

- Any activity taken against unlicensed operators must be funded through existing funds. Such activity against unlicensed operators includes issuing closure notices; with applications for closure orders subsequently made to a magistrates court.
- The cost of applying to the Magistrates Court for a warrant (Sections 16(5) (6) & (7) of the 2013 Act) for entry to any premises (licensed or unlicensed), by force if necessary, will incur legal costs to be borne by the local authority and police.

Fees this year have not included costs for any hearings, the production of a policy document or support for the EA register. Any adjustments to the fees to include these costs, where applicable, will be carried out after the initial 12 month period. No enforcement costs have been included within these fees.

Fees have been calculated using the Councils figure of £30.26 per hour for officers and £50 per hour for legal advisers, which includes all officer on-costs associated with working for the Council. The numbers of scrap metal dealers used in the calculation are as per the number on our scrap metal dealer and motor salvage operators registers as of 30th August 2013. This totals 6 in number of which 3 were deemed equivalent to collectors and 3 sites.

The licence is issued for a 3 year period which equates to £199 per year for a collectors licence and £244 for a site licence. Fees will be reviewed annually and will be adjusted either up or down depending on the actual cost incurred.

SCRAP METAL DEALERS ACT 2013 FEES

COLLECTORS LICENCE	£597
SITE LICENCE	£733
VARIATION	£60
REPLACEMENT LICENCE	£45
PRE-APPLICATION ADVICE	£50



SCRAP METAL DEALING GUIDANCE

Contents

Section	Content	Page No.
1	Introduction	3
2	Background	4
3	Definition of a Scrap Metal Dealer	4
4	Definition of Scrap Metal	5
5	Types of Licence	5
6	Suitability of Applicant	7
7	Supply of information by the Council	8
8	Application Procedure	8
9	Determination of application and issue of licence	9
10	Appeals	9
11	Licence conditions	9
12	Revocation	10
13	Variation of Licence	10
14	Register of Licences	10
15	Display of Licence	11
16	Notification of Convictions	11
17	Verification of Identity	11
18	Payment for Scrap Metal	12
19	Receipt of Scrap Metal	13
20	Disposal of Scrap Metal	14
21	Supplementary Records	14
22	Delegation of Authority	15
23	Offences and Penalties	15
24	Relevant offences	15
Appendix A	Enforcement	16
Appendix B	Delegation of Authority	20
Appendix C	Offences and Penalties	21
Appendix D	Relevant Offences under the Scrap Metal Act	22

1. Introduction

This guidance outlines the requirements of the Scrap Metal Dealers Act 2013 (“the Act”). It advises new applicants, existing licence holders, consultees and members of the public as to how Weymouth and Portland Borough Council (WPBC) and West Dorset District Council (WDDC) will administer and enforce the requirements of the Act.

The Scrap Metal Dealers Act 2013 replaces the previous registration system under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002 and establishes a new licensing regime. Every scrap metal dealer is required to have a licence and operating without one is a criminal offence. The definition of scrap metal dealers also incorporates motor salvage operators. WPBC and/or WDDC (“the Council”) is the Licensing Authority under the Scrap Metal Dealers Act 2013 and is responsible for granting site licences and collector’s licences in the Council area in respect of businesses that deal in scrap metal and vehicle dismantling.

The Act maintains local authorities as the principle regulator. It also gives them better powers to regulate these industries by allowing them to refuse to grant a licence to ‘unsuitable’ applicants and a power to revoke licences if the dealer becomes ‘unsuitable’.

The Act makes it a requirement for a scrap metal dealer to have a licence in order to carry on in business as a dealer. It is an offence to carry on a business without first obtaining a licence. The Act incorporates the separate regulatory scheme for motor salvage operators under the Vehicle (Crime) Act 2001 into this new regime. This is to replace the current overlapping regimes for vehicle salvage and scrap metal industries with a single regulatory scheme.

2. Background

The Act was introduced in response to the growth in metal theft offences, driven by the increased cost of metal worldwide. Wide ranges of sectors have become victims of metal theft including national transport, residential buildings including churches and schools, together with electricity and telephone links.

The Government introduced changes in 2012 that took steps to prohibit cash payments for scrap metal and amend the powers of entry into unregistered scrap metal sites and increase the existing financial penalties for offences under the Scrap Metal Dealers Act 1964.

3. Definition of a Scrap Metal Dealer

The definition of a scrap metal dealer is widely drawn and varies according to individual circumstances, but generally where the sale of metal is incidental to the main type of work or business undertaken then a licence will not be needed. In the cases of most tradesmen such as plumbers and electricians and some skip hire firms the sale of scrap metal is not an integral part of their business and they will not require to be licensed as a scrap metal dealer. However, where the material deposited in a skip contains significant amounts of scrap metal (such as skips used where there is demolition activity or sites at engineering manufacturing establishments or plumbers' yards) then the skip hire company will generally require a scrap metal dealer's licence.

The definition of scrap metal does not include second hand goods, i.e. jewellers or businesses trading in second hand gold and silver jewellery/products and therefore these will not need to be registered under the Act.

Certain operators may argue that they are dealing with second hand motor vehicles rather than breaking up vehicles for scrap to avoid the ban on buying scrap metal for cash. If a certificate of destruction has been issued then clearly this would indicate the vehicle is scrap. Where a certificate is not issued, factors such as whether the car has a valid MOT, is driveable without repair and also whether the dealer has facilities for repairing vehicles and a history of selling vehicles would indicate that they are likely to be classed as second hand goods.

A person carries on a business as a scrap metal dealer if:

- a) They carry on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or
- b) They carry on a business as a motor salvage operator

A person who manufactures articles is not regarded as selling scrap metal if the metal is sold only as a by-product of manufacturing articles or as surplus materials not required for manufacturing.

A person carries on a business as a motor salvage operator if:

- a) Recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap
- b) Buying written off vehicles, repairing and reselling them
- c) Buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b)

d) Wholly or mainly in activities falling within paragraphs (b) and (c)

4. Definition of Scrap Metal

Scrap metal includes any old, waste or discarded metal or metallic material and any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last owner as having reached the end of its useful life. This does not include second hand goods unless they are made from or contain metal that is broken or worn out.

Platinum and a range of other rare metals now being used in catalytic converters are included within the above definition.

The following are not considered to be scrap metal:

- a) Gold
- b) Silver, and
- c) Any alloy of which 2 per cent or more by weight is attributable to gold or silver

5. Types of Licence

A licence is required in order to carry on a business as a scrap metal dealer, a licence lasts for a period of three years and trading without a licence is a criminal offence.

There are two types of licence specified by the Act:

- Site Licence

A site licence authorises the licence holder to carry on a business at any site in the Council's area which is identified in the licence. A site licence holder cannot regularly engage in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door in the area they are licensed or elsewhere, as this would constitute carrying on a business as a mobile collector. It would be acceptable to collect by arrangement, for instance where a motor salvage operator is asked to transport a damaged vehicle from an address to their site.

It is not possible to hold both a mobile collector's licence and a site licence from the same council.

If a site licence holder uses self-employed mobile collector's to collect scrap metal which will be processed by the site, each collector would need a mobile collector's licence.

A site is defined in the Act as any premises used in the course of carrying on a business as a scrap metal dealer (whether or not metal is kept there). A site could therefore be an office where records of transactions are kept and processed for example.

- **Collector's Licence**

A collector's licence authorises the licensee to carry on a business as a mobile collector in the licensing council's area only. A separate collector's licence is needed for each council area that a mobile collector collects scrap metal. A mobile collector can dispose of or sell scrap metal in any local council area regardless of whether a collector's licence is held for that area.

A mobile collector will need a licence to buy or sell any scrap metal collected. Even if the material is provided free of charge, a licence is required to sell it on. The definition of a scrap metal dealer includes any person who "carries on a business which consists wholly or partly in buying or selling scrap metal".

A mobile collector's licence will cover any employees working for that business. If they are not employed directly by that mobile collector's business and are self-employed, they will need their own collector's licence even if they are collecting metal from the same van as a person who has a mobile collector's licence.

Mobile collectors and site licence holders need to ensure they comply with relevant environmental legislation and regulation when carrying out their business.

For example: Scrap metal dealers are required to have planning permission to operate a site and are required to have permits or exemptions from the Environment Agency to operate a scrap metal site under the Environmental Protection Act 1990. Those transporting metal to a scrap metal site for profit are required to be registered as a 'waste carrier'. Waste carriers must ensure that the waste goes to a properly licensed or exempt site, they must complete a waste transfer note which must include a description of the waste and be signed by the carrier and the person to whom the waste is given or sold.

All licences are issued for a period of three years, and renewal applications must be received before the expiry of the existing licence.

6. Suitability of Applicant

The Council must determine whether the applicant is a suitable person to carry on a business as a scrap metal dealer.

In determining whether a company is a suitable person the Council will have regard to any director, secretary or shadow director of that company.

In determining this, the authority may have regard to any information which it considers to be relevant, in particular:

- a) Whether the applicant or any site manager has been convicted of any relevant offence*;
- b) Whether the applicant or any site manager has been the subject of any relevant enforcement action;
- c) Any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
- d) Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- e) Any previous revocation of a scrap metal licence (and the reasons for the revocation);
- f) Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

* The list of relevant offences is attached at Appendix D

The Council may also consult the following bodies regarding the suitability of an applicant:

- a) Dorset Police
- b) Dorset Fire and Rescue Service
- c) Her Majesty's Revenue and Customs
- d) The Environment Agency
- e) Neighbouring Local Authorities
- f) Dorset Trading Standards
- g) The Council's Environmental Health department
- h) The Council's Planning department
- i) Dorset County Council

A Basic Disclosure Certificate must be provided with the application form for all company directors and appointed site managers. The certificates must be no more than three months old at the time of application. CRB Scotland can be contacted on 0870 609 6006 or by emailing info@disclosurescotland.co.uk

7. Supply of information by the Council

The local authority must supply any such information to any of the following persons who requests it for the purposes relating to this Act e.g. the prevention of crime and disorder:

- a) Any other local authority
- b) The Environment Agency
- c) A police officer

8. Application Procedure

Application forms are available from the Council's website or on request from Business Licensing. Forms must be submitted together with the appropriate fee and a current Basic Disclosure.

The Council will then consult with the relevant bodies to assess the suitability of the applicant.

Where it is proposed to reject an application (or revoke/vary it) the applicant will be notified as soon as is reasonably practicable what the council has decided and the reasons for it. If having conducted the initial assessment of an applicants suitability the council is minded to refuse an application, the applicant will be written to, to inform them and the application will be referred to a hearing of the appropriate Council Committee.

The notice will give the applicant/licensee the opportunity to make representation, and representations must be made within 21 days. Where the applicant makes representations the council will consider them at a licensing sub-committee hearing.

Where the Council refuses an application, revokes or varies it a decision notice giving the Council's reasons will be sent to the applicant. The notice will inform the applicant of the appeal procedure.

9. Determination of application/issue of licence

Where the Council is satisfied that an applicant is a suitable person to hold a licence then it must issue a licence.

If an applicant or any site manager has been convicted of a relevant offence, the Council (through the appropriate Committee) may include in the licence one or both of the following conditions:

- To limit the dealer to receiving any metal within the hours of 09:00 to 17:00 and
- That any scrap metal must be kept in the form in which it is received for a specified period of time, not exceeding 72 hours

Where the Council is not satisfied that an applicant is a suitable person (or where a licence holder is no longer considered suitable) then the Council must consider refusing or revoking the application. These matters will be referred to the appropriate Council Committee for determination.

10. Appeals

An applicant may appeal to the Magistrates' Court against the Council's decision to refuse an application or a variation.

An existing licensee may also appeal to the Magistrates' Court against the inclusion on the licence of a condition under Section 3(8) of the Act, or a revocation or variation of a licence under Section 4 of the Act.

An appeal must be lodged within 21 days of receipt of the decision notice.

On appeal the Magistrates' Court may confirm, vary or reverse the Council's decision and give such directions as it considers appropriate having regard to the provision of the Act.

11. Licence Conditions

The ability to impose conditions on licences is limited. Conditions can only be imposed where the applicant or any site manager has been convicted of a relevant offence or where the council is revoking a licence when a condition can be imposed, until the revocation comes into effect. One or both of the conditions shown at paragraph 9 above can be imposed in these circumstances.

12. Revocation

The Council may revoke a scrap metal licence if it is satisfied that the licence holder does not carry on a scrap metal business at any of the sites named on the licence.

The licence may also be revoked if the Council is satisfied that the site manager named on the licence does not act as a site manager at any of the named sites on the licence.

The Council may revoke a licence if it is no longer satisfied that the licence holder is a suitable person to carry on a business.

13. Variation of licence

Dealers can apply to vary a licence from a collector's licence to a site licence. Variations are also required to reflect changes to:

- Name of licensee, site manager or sites on a site licence, or
- Name of licensee on a collector's licence

A variation cannot be used to transfer the licence to another person, only to amend the name of the existing licensee.

14. Register of Licences

The Council is required to notify the Environment Agency of all licences issued, revoked or varied in order that a national register can be maintained of all scrap metal dealers licences issued in England. The register will include the following information and access is available to members of the general public:

- a) The name of the Council which issued the licence
- b) The name of the licensee
- c) Any trading name under which the licensee conducts business as a dealer
- d) The address of any site identified in the licence
- e) The type of licence (site or collector)
- f) The date the licence expires

15. Display of Licences

A site licence holder must display a copy of the licence in a prominent place that is accessible to the public, at each site identified in the licence.

A scrap metal dealer who holds a mobile collector's licence must display a copy of the licence on any vehicle that is being used in the course of the dealer's business so as to be read easily by a person outside the vehicle.

It is an offence not to comply with the above; see Appendix C for the appropriate penalty.

A site licence holder may wish to carry a copy of the relevant site licence in their vehicle so they are not mistaken for an unlicensed mobile collector.

If a mobile collector holds several scrap metal licences, they must ensure that the correct licence is displayed when collecting in the relevant licensing council area. Failure to do so is an offence; see Appendix C for the appropriate penalty.

16. Notification of Convictions

All licence holders must inform the Council, in writing, if they are convicted of any relevant offence within 7 days of the date of conviction.

17. Verification of Supplier's Identity

- a) A scrap metal dealer must not receive scrap metal from a person without verifying the person's full name and address.
- b) That verification must be by reference to documents, data or other information obtained from a reliable and independent source.

Any person failing to comply with the above will be guilty of an offence.

It is an offence for any person delivering scrap metal to give a false name or address.

A full list of all offences and penalties is attached at Appendix C.

18. Payment for Scrap Metal

From 1 October 2013, cash could not be used by any scrap metal dealer to buy scrap metal. **It is an offence to buy scrap metal for cash under Section 12 of the Act and there are no exceptions.**

Only payment by a non-transferable cheque or an electronic transfer of funds is acceptable. This means that the payment will be linked to a readily identifiable account, for both the payee and the payer.

Cheque payments

Cheque payments are acceptable within the cashless operating model but this is limited to non-transferable ("crossed cheques") which are payable to a named individual or firm and not made out to cash. The money will be paid to the intended beneficiary of the cheque.

Electronic Transfers

The Act provides a clear focus on electronic transfers of money. This means that non-paper forms of payment such as direct debit, standing orders, credit transfers, on-line, phone and mobile banking are all acceptable forms of payment within the legislation. These methods of payment all provide the required traceability with a record of the transaction from the payer's account to the payee's account.

Re-loadable electronic-money products which are issued to a named account (which verified the customers identification) and undertake full customer due diligence and “know your customer” checks under the Money Laundering Regulations are permitted. If scrap metal dealers are unclear whether an E-money product undertakes full customer diligence and “know your customer” checks they are strongly advised to make payment by other means.

The payment methods listed above ensure compliance with the Act. This list is not exhaustive though as the electronic payments market is rapidly evolving with new products regularly entering the market.

Unacceptable methods of payment

Payment instruments which do not come within the methods above (non-transferable cheque or electronic transfer) and which provide anonymous or near cash alternatives are not acceptable within the legislation. This includes the use of postal orders, foreign currency, electronic vouchers, virtual currencies, mobile phone airtime credits, retailer, supermarket gift cards and vouchers. Single, re-loadable pre-paid debit cards and reloadable debit cards which are anonymous in nature and require only simplified due diligence under the Money Laundering Regulations are unacceptable.

Buying vehicles for cash

Whether a vehicle will be considered to be scrap (and may not therefore be bought with cash) depends on all the circumstances of the case, and may not always be clear cut. If a certificate of destruction is issued, the car is considered to be scrap and a buyer must not pay cash for it. If a certificate of destruction is not issued, then it will depend on a number of other factors. For example, it may be argued that a car with a valid MOT certificate, that is driveable without repair is not scrap (therefore, a buyer may pay cash for it) regardless of the way in which the vehicle is subsequently handled by the buyer.

It is not possible to set out a precise checklist that can in every case guarantee to predict the decision a court may make where illegal payment for cash for scrap metal is alleged.

Potential buyers should note that, if they elect to pay cash for un-driveable vehicle that has no valid MOT certificate, they may have to justify their assessment of repairability in court. There needs to be a genuine potential for repair for re-sale in order for cash to be used. Cash cannot simply be paid for everything on the basis a buyer might repair and resell it if they have no facilities for repairing vehicles and no history of selling vehicles.

19. Receipt of metal

A dealer must record the following information if/when any scrap metal is received. These records must be retained for a three year period:

- a) The description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features
- b) The date and time of its receipt
- c) The registration mark of the vehicle delivering the scrap metal if applicable
- d) The name and address of the person delivering the scrap metal
- e) The full name of the person making the payment on behalf of the dealer

The dealer must keep a copy of all documentation used to verify the delivery person's name and address.

If payment is made by cheque, a copy of the cheque must be retained. If payment is by electronic transfer a receipt or details of the transfer must be retained.

20. Disposal of metal

20.1 Records must be kept showing the disposal of all scrap metal. Disposal under the Act covers the following;

- a) Whether or not it is in the same form in which it was received
- b) Whether or not the disposal is to another person
- c) Whether or not the metal is despatched from a site

20.2 Where the disposal is in the course of business under a site licence, the following must be recorded:

- a) The description of the metal, including its type (or types if mixed), form and weight
- b) The date and time of its disposal
- c) If the disposal is to another person, the full name and address of that person
- d) If the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received.

20.3 Where the disposal is in the course of business conducted under a collector's licence, the dealer must record:

- a) The date and time of the disposal
- b) If the disposal is to another person, the full name and address of that person.

21. Records: supplementary

All information recorded must be in a manner which allows the information and the scrap metal to which it relates to be easily identified.

All records of receipt must be marked so as to identify the metal to which they relate.

Records must be kept for a period of three years beginning on the day of receipt or disposal.

If a dealer fails to comply with the above then the dealer, site manager or person who had delegated authority will be guilty of an offence.

A dealer/site manager may have a defence if they can prove that they made arrangements to ensure that all requirements were fulfilled and took all reasonable steps to ensure that those arrangements were complied with.

22. Delegation of Authority

Decisions on licensing matters will be taken in accordance with the approved delegation of functions approved by the Council. The delegations are listed at Appendix B of this policy.

23. Offences and Penalties

Offences relating to scrap metal dealing under the 2013 Act are listed at Appendix C of this policy.

24. Relevant offences

A list of all relevant offences in respect of the 2013 Act is listed at Appendix D of this policy.

ENFORCEMENT

In order to ensure compliance with the legislation and any conditions imposed, licences/sites will be inspected by the Council using a risk based approach.

This will allow resources to be more effectively targeted and prevent over enforcement on compliant and well managed licences.

All enforcement action will be taken in accordance with the legislation and any guidance issued under that legislation and any other enforcement protocols that may be agreed with other agencies.

Rights to enter and inspect

1. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.
2. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
 - a) Reasonable attempts to give notice have been made and failed, or
 - b) Entry to the site is reasonably required for the purpose of ascertaining whether the provisions of the Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.
3. (1) and (2) above do not apply to residential premises.
4. A constable or an officer of the Council is not entitled to use force to enter a premise in the exercise of the powers under (1) and (2) above.
5. A Justice of the Peace may issue a warrant authorising entry to any premises within section 6 below if the Justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:
 - a) Securing compliance with the provisions of the Act. Or
 - b) Ascertaining whether those provisions are being complied with.
6. Premises are within this section if:
 - a) The premises are a licensed site,

- b) The premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of their business.
7. The warrant is a warrant signed by the Justices which:
 - a) Specifies the premises concerned, and
 - b) Authorises a constable or an officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.
8. A constable or an officer of the Council, may if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.
9. A constable or an officer of the Council may:
 - a) Require production of, and inspect any scrap metal kept at any premises mentioned in section 1 or 2 or in a warrant under section 5;
 - b) Require production of, and inspect, any records kept in accordance with section 15 or 16 and any other records relating to payment for scrap metal;
 - c) Take copies of or extracts from any such records.
10. When requested by the owner, occupier or other person in charge of the premises the Officer must produce evidence of his/her identity and evidence of his/her authority to exercise his/her powers,
11. In the case of an officer of the Council, the powers under this section are exercisable only in relation to premises in the area of the authority.
12. Site licence holders whose site is also their residential premise may be required to produce all relevant records to the Council. A mutually convenient appointment will be arranged at least seven days in advance.

In exercising the above rights the Council will apply the following principles:

- Consistency of approach
- Fairness
- Transparency
- Proportionality
- Targeted enforcement action
- Accountability

Closure of unlicensed sites

A constable or an authorised local authority officer must be satisfied that the Premises (excluding residential premises) are being used by a scrap metal dealer in the course of his business without a licence.

A closure notice may be issued by a constable or local authority officer which states they are satisfied of the above, the reasons for that and that the constable or local authority may apply to the court for a closure order. The closure notice must also specify the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice must be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.

The notice must also be given to any person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the persons access to that other part would be impacted if a closure order were made in respect of the premises.

After a period of seven days the authorised officer may apply to a Justice of the Peace for a closure order.

The court must be satisfied that the premises will continue to be used by a scrap metal dealer, or there is a reasonable likelihood that the premises will be. A closure order will close the premises immediately, and the premises will remain closed to the public until the council makes a termination of the order by certificate. The scrap metal dealer must cease his/her business immediately. It will require the defendant to pay a sum into the court, which will not be released until the person has complied with the requirements of the order.

Such an order may have a condition relating to the admission of people into the premises, or may include a provision the court considers appropriate.

A copy of the order must be placed on the premises in a prominent position by the Council.

Once the requirements of the order have been complied with and the Council is satisfied the need for the order has ceased, a certificate may be made. This ceases the order and the sum of money paid into the court is released.

A copy of the certificate must be given to any person the closure order was made against, a copy will be forwarded to the court and a copy placed on the premises.

A copy must be given to anyone who requests one.

Anyone issued with a closure order may complain to a Justice of the Peace. The court may discharge the order, if it is satisfied there is no longer a need for a closure order.

The licensing authority may be required by the court to attend and answer the complaint made.

Notice of the hearing must be given to all people issued with the closure order.

An appeal may be made to the Crown Court against:

- a) A closure order;
- b) A decision not to make a closure order;
- c) A discharge order, or
- d) A decision not to make a discharge order

Any appeal must be lodged within 21 days beginning on the day on which the order or decision was made.

Appeal a) and b) may be made by any person who was issued with an order.

Appeal c) and d) may be made by the Licensing Authority.

A person is guilty of an offence, if they allow the premises to be open in contravention of a closure order, without reasonable excuse, or fails to comply with, or contravenes a closure order.

An authorised officer of the Authority may enter the premises at any reasonable time to ensure compliance with the order. They may use reasonable force if necessary. The officer must produce evidence of their identity or evidence of their authority to exercise the powers under the Act, if requested to do so.

APPENDIX B

Delegation of Authorities:

Matters to be dealt with	Full Council	Executive Committee	Community Protection Manager and/or Officer	Community Protection Manager and/or Officer
Policy Approval	x			
Fee Setting		x		
Processing Applications and supply of information to external agencies				x
Entry, Inspection and Enforcement				x
Determination of licence where no relevant offences or Police representations				x
Determination of licence where applicant has relevant offences or Police representation received			x	
Refusal of Licence			x	
Variation/imposition of conditions			x	
Revocation of Licence			x	

APPENDIX C

OFFENCES AND PENALTIES

The following paragraphs are given as a guide only of the general offences and penalties. Independent legal advice should be sought for individual cases.

Offences relating to scrap metal dealing are described below under the relevant statute.

Section	Offence	Max Penalty
1	Carrying on the business as a scrap metal dealer without a licence	Level 5
8	Failure to notify the authority of any changes to details given with the application	Level 3
10	Failure to display site licence or collector's licence	Level 3
11 (6)	Receiving scrap metal without verifying persons full name and address	Level 3
11 (7)	Delivering scrap metal to dealer and giving false details	Level 3
12 (6)	Buying scrap metal for cash	Level 5
13	Failure to keep records regarding receipt of metal	Level 5
14	Failure to keep records regarding disposal of metal	Level 5
15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	Level 5
15 (2)	Failure to keep copy document used to verify name and address of person bringing scrap metal, or failure to keep a copy of the cheque issued	Level 5
15 (3)	Failure to keep information and records for three years	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

Current levels of fines:

Level 1	£200
Level 2	£500
Level 3	£1,000
Level 4	£2,500
Level 5	£5,000

Prescribed Relevant Offences under the Scrap Metal Dealers Act 2013

Primary Legislation

- a) An offence under section 1, 5 or 7 of the Control of Pollution (Amendment) Act 1989
- b) An offence under section 170 or 170B of the Customs and Excise Management Act 1979(d), where the specific offence concerned relates to scrap metal
- c) An offence under section 110 of the Environment Act 1995
- d) An offence under sections 33, 34 or 24B of the Environmental Protection Act 1990
- e) An offence under section 9 of the Food and Environment Protection Act 1985
- f) An offence under section 1 of the Fraud Act 2006(h) where the specific offence concerned relates to scrap metal, or is an environment related offence
- g) An offence under section 146 of the Legal Aid, Sentencing and Punishment to of Offenders Act 2012
- h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
- i) Any offence under the Scrap Metal Dealers Act 1964
- j) Any offence under the Scrap Metal Dealers Act 2013
- k) An offence under sections 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968(a), where the specific offence concerned relates to scrap metal, or is an environment-related offence
- l) Any offence under Part I of the Vehicles (Crime) Act 2001
- m) An offence under sections 85, 202, or 206 of the Water Resources Act 1991

Secondary Legislation

- a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- b) An offender under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
- c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005
- d) Any offence under the Hazardous Waste (Wales) Regulations 2005(g)
- e) An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- f) Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000

- g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- h) Any offence under the Transfrontier Shipment of Waste Regulations 1994
- i) Any offence under the Transfrontier Shipment of Waste Regulations 2007
- j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

For the purposes of section 3(3)(b) of the Scrap Metal Dealers Act 2013, “relevant offence” means any offence specified in the Schedule to these Regulations and includes an offence of:-

- a) Attempting or conspiring to commit any offence falling within the Schedule;
- b) Inciting or aiding, abetting, counselling or procuring the commission of any offence falling within the Schedule and
- c) An offence under part 2 of the Serious Crime Act 2007(a) (encouraging or assisting crime) committed in relation to any offence falling within the Schedule.

This list may be updated. Please check the Council’s website to check for any revisions.