



**Statement of Policy and Guidelines for the Licensing of
Scrap Metal Dealers**

DRAFT

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1. Introduction

1.1 Metal theft over the last few years has had a significant impact upon our communities, businesses and the local authority. Such thefts have seen communications and the train networks disrupted, as well as significant costs to the local authorities in relation to stolen drainage gully covers and stolen road signs.

1.2 The Scrap Metal Dealers Act 2013 has been introduced to address these issues, ensuring that the sale, collection, storage and disposal of scrap metal, is carried out lawfully.

2. Policy Purpose

2.1 The purpose of this policy is to:

- outlines the requirements of the Scrap Metal Dealers Act 2013 (the act)
- give guidance to new applicants, existing licence holders, consultees and members of the public as to how the Council will administer and enforce the requirements of the Act.

2.2 The policy will be reviewed where there are legislative changes or if not every three years.

3. Legislation

3.1 The Scrap Metal Dealers Act 2013 (the act) came into force on 1 December 2013. The Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.

3.2 Lichfield District Council (“the Council”) is the Licensing Authority under the Scrap Metal Dealers Act 2013 and is responsible for granting site licences and collectors licences in the District of Lichfield in respect of businesses that deal in scrap metal and vehicle dismantling.

3.3 The Act maintains local authorities as the principal regulator, but replaces the old registration system with a full licensing regime. It grants power to refuse a licence to “unsuitable” applicants and a power to revoke licences if the dealer becomes “unsuitable”.

3.4 The Act states that “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 it’s last holder as having reached the end of its useful life.

3.5 This definition does not include platinum and other rare metals now being used in catalytic converters in vehicle exhausts.

3.6 The following is not considered to be scrap metal

- Gold
- Silver
- Any alloy of which two per cent or more by weight is attributable to gold or silver.

- 3.7 The act defines a “scrap metal dealer” as a person who carries on a business which wholly or in part involves the buying and selling of scrap metal, whether or not the metal is sold in the form it was purchased.
- 3.8 This does not include manufacturing operations that sell metal as a by-product of the operation. However it does include the business of collecting scrap metal, i.e. door to door collectors.
- 3.9 The definition of a scrap metal dealer is wide and may include skip hire firms, and tradesman, such as plumbers and builders who sell scrap metal resulting from their businesses.
- 3.10 A dealer also includes someone carrying on the business as a motor salvage operator. This is defined as a business that:-
- Wholly or in part recovers salvageable parts from motor vehicles for re-use or re-sale, and then sells the rest of the vehicle for scrap
 - Wholly or mainly involves buying written off vehicles and then repairing and re-selling them
 - Wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and re-selling them.
- 3.11 The Act is not intended to include second hand goods. Jewellers or businesses trading in second hand gold, silver and products are not included in this legislation.
- 3.12 However only vehicles without a certificate of destruction or are capable of being driven without repair, with or without a valid MOT are likely to be classed as second hand goods. Other vehicles are likely to be considered scrap. These aspects will be considered when the council determines whether or not a scrap metal dealer licence is required. It should also help prevent any motor salvage operators attempting to circumvent the legislation and it’s requirements

4. Types of licence

- 4.1 In order for anyone to carry on a business as a scrap metal dealer, or collector they must have a licence. A licence is valid for three years from the date of issue. Trading without a licence is a criminal offence
- 4.2 There are two types of licences specified in the Act:

5. Site Licence

- 5.1 All sites operating as a scrap metal business must be licensed. A site licence allows the licence holder to transport scrap to and from the site from any local authority area.
- 5.2 A licence will be issued by the Council in whose area a scrap metal site is situated. A site licence will require all of the sites at which the licensee carries on the business as a scrap metal dealer, within the local authority area to be identified and a site manager to be named for each site.

5.3 This will permit them to operate from those sites including transporting scrap metal to and from those sites from any local authority area. If a site licence holder uses self-employed mobile collectors to collect scrap metal which will be processed by the site, each collector would need a mobile collectors 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).

6. Collectors licence

6.1 This licence allows the holder to collect scrap within the area of the issuing local authority. This licence does not permit the holder to operate a scrap metal site, nor does it allow collection outside of the area of the issuing authority. If a person collects scrap from numerous local authority areas, a collector's licence will be required from each local authority he/she collects scrap within. This means a dealer will require a licence for an office, even if they do not operate a metal store or yard from those premises.

6.2 A mobile collector is a person who:

- a) carries on business as a scrap metal dealer otherwise than at a site, and
- b) regularly engages in the course of that business in collecting waste materials and old broken worn out or defaced articles by means of visits from door to door.; This permits them to collect any scrap metal as appropriate, including commercial and domestic scrap metal.

6.3 It does not permit the collector to collect from any other local areas, separate licences should be obtained from each local authority. A mobile collectors licence will cover any employees working for that business. If they are not employed directly by that mobile collectors business and are self-employed they will need their own collectors licence even if they are collecting metal from the same van as a person who has a mobile collectors licence.

6.4 A person may hold more than one licence issued by different authorities, but may not hold more than one licence issued by any one local authority.

6.5 Mobile collectors and site licence holders need to ensure they comply with all relevant environmental legislation and regulation when carrying out their business. Holding a site or collector's licence does exempt the licensee from the requirements for any other licence or permit to operate their scrap metal business. i.e. waste carrier's certificate.

7. Determining suitability

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

7.2 The Council may have regard to any information which it consider to be relevant, this may include:

- a) Whether the applicant or site manager has been convicted of any relevant offence; or
- b) Whether the applicant or site manager has been the subject of any relevant enforcement action; or

c) Whether there has been any refusal of an application of the issue or renewal of a scrap metal licence, and the reasons for the refusal; or

d) Whether there has been any refusal of an application for a relevant environmental permit or registration, and the reasons for the refusal; or

e) If there has been any previous revocation of a scrap metal licence, and the reasons for the revocation; or

f) Whether the applicant has demonstrated there will be adequate procedures in place to ensure compliance with the Act.

7.3 Relevant offences or relevant enforcement action are those listed under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

7.4 The Council must also have regard to any guidance on determining suitability which is issued from time to time by the secretary of state.

7.5 When establishing the applicant's suitability, the Council may consult with the following agencies:

a) Staffordshire Police.

b) Her Majesty's Revenue and Customs;

c) Environment Agency;

d) The Council's Environmental Health Dept.

e) Staffordshire Trading Standards

f) Any other local authority.

7.6 If the applicant or any site manager has been convicted of a relevant offence the authority may include in the licence one or both of the following conditions:

7.7 That the dealer must not receive scrap metal except between 9am and 5pm on any day;

7.8 That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

7.9 In assessing an applicant's suitability the council can consider any other information it considers relevant including the applicants behaviour in the operation of their business or the details of any relevant convictions.

8. Application procedure

8.1 The application form, available from the Council's website or the Licensing Team must be completed, together with the correct fee and a current Basic Disclosure of Criminal Convictions. A Basic Disclosure will be valid for 3 months from the date of issue.

8.2 The fee is set by the Council under guidance issued by the Home Office with the approval of the Treasury. Fees are set after taking into account the cost of processing, administering and compliance costs associated with the licence.

8.3 Certified copies of the disclosure certificate will be sufficient to allow for the fact that applicants who wish to apply in other authorities. To certify a document applicants should ask a professional person such as a bank or building society official, councillor, dentist, police officer, solicitor or teacher. Persons related to the applicant, living at the same address or in a relationship with the applicant are not permitted persons to certify the disclosure certificate. In order to certify a certificate the applicant should take the photocopied document and the original to the professional person and ask the person to certify the copy by;

- Writing 'certified to be a true copy of the original seen by me' on the document
- Signing and dating it
- Printing their name under the signature
- Adding their occupation, address and telephone number.

8.4 A licence once granted is valid for 3 years.

8.5 A renewal application must be received before the expiry of the current licence. If renewed, the licence expires at the end of the three year period from the date of renewal. When in receipt of a renewal application, which is subsequently withdrawn, the licence expires at the end of the day on which the application was withdrawn.

8.6 If a licence application is refused, the licence expires when no appeal is possible, or an appeal is determined or withdrawn.

8.7 The Council may request additional information is provided for the consideration of the application. Failure to provide such information may result in the application being refused.

9. Right to make representations

9.1 If the Council proposes to refuse an application or to revoke/vary a licence a notice shall be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for this. The notice shall also state that within the period specified the applicant/licensee can either:-

- Make representation about the proposal, or
- Inform the authority that the applicant/licensee wishes to do so.

9.2 The period specified in the notice shall be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify the council whether the applicant/licensee wishes to make representations. Should this period expire and the applicant/licensee has not made representations or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.

9.3 If, within the period specified, the applicant/licensee informs the authority that they wish to make representations the authority shall allow a reasonable period to make representations and may refuse the application or revoke or vary the licence if they fail to make representations within that period.

9.4 If the applicant/licensee notifies the authority that they wish to make oral representations, the authority shall give them the opportunity of appearing before, and being heard by a panel of two Council Officers along with a legal advisor.

10. Notice of decision

10.1 If the application is refused, or the licence is revoked or varied, notice shall be given to the applicant/licensee setting out the decision and the reasons for it. The notice shall also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought (21 days beginning with the day on which the notice of the decision was given) and, if revoked or varied, the date on which the revocation or variation is to take effect.

11. Appeals

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

11.2 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.

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

11.4 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.

12. Variation of licence

12.1 A licence may be varied from one type to another, i.e. site licence to collector's licence. A variation application must be made to reflect changes to:

- Site licence – the name of the licensee, the sites, site manager
- Collectors Licence – name of licensee

12.2 A variation cannot be used to transfer the licence to another person, only to amend the name of a licensee. Application to vary must be made to the issuing authority.

12.3 Please note the collectors licence allows a business or individual to operate only within that authority's area, therefore individuals wishing to collect across borders will be required to obtain a collectors licence from the relevant local authority where they wish to collect and sell.

13. Revocation and Imposing Conditions

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

- 13.2 The Council may revoke a scrap metal licence if it is satisfied the site manager named on the licence does not act as a site manager at any of the named sites on the licence.
- 13.3 The Council may revoke a scrap metal licence if it is no longer satisfied the licence holder is no longer a suitable person to carry on the business.
- 13.4 If the licence holder, or site manager named on a licence is convicted of a relevant offence, the authority may impose one or both of the following conditions:
- a) The dealer must not receive scrap metal except between 9am and 5pm on any day;
 - b) All scrap metal received must be kept in the form in which it was received for a specified period, not exceeding 72 hours, beginning with the time when it was received.
- 13.5 A revocation or variation only comes into effect when no appeal under the Act is possible, or when such appeal has been determined or withdrawn.
- 13.6 If the Council considers the licence should not continue without the addition of one or more of the conditions in section
- 13.7 The licence holder will be given notice:
- a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions, or
 - b) that a variation comes into immediate effect

14. Notifications of Convictions

- 14.1 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

15. Supply of information by the Council

- 15.1 The Council has a duty to pass on information in relation to an application for, or relating to a scrap metal licence when requested by:
- a) Any other local authority;
 - b) The Environment Agency; or
 - c) An officer of a police force.
- 15.2 This does not limit any other power the authority has to supply that information.

16. Display of Licence

- 16.1 Once granted a copy of the licence must be displayed at each site identified on the licence, in a prominent place accessible to members of the public.
- 16.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of a dealer's business. It must be displayed in a prominent position so that it can be easily read from outside the vehicle.

17. Register

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

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

18. Payment for Scrap Metal

18.1 From 1 October 2013, cash cannot 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.

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

19. Records – Receipt of Metal

19.1 A dealer must record the following information:-

- 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
- The date and time of its receipt
- The Registration mark of the vehicle delivering the scrap metal
- 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 persons 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 obtained

20. Records – Disposal of Metal

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

- Whether or not it is in the same form in which it was received
- Whether or not the disposal is to another person
- Whether or not the metal is despatched from a site
- Where the disposal is in the course of the business under a site licence, the following must be recorded:

- The description of the metal, including its type (or types if mixed), form and weight
- The date and time of its disposal
- If the disposal is to another person, the full name and address of that person
- If the dealer received payment for the metal (whether by way of sale or exchange), the price or other consideration received.
- Where the disposal is in the course of business conducted under a collector's licence, the dealer must record:
 - The date and time of the disposal
 - If the disposal is to another person, the full name and address of that person.

21. Records – Supplementary

- 21.1 All information recorded must be in a manner which allows the information and the scrap metal to which it relates to be easily identified
- 21.2 All records of receipt must be marked so as to identify the metal to which they relate
- 21.3 Records must be kept for a period of 3 years beginning on the day of receipt or disposal
- 21.4 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.
- 21.5 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.
- 21.6 All reference in this policy to copy licenses shall be constructed as original copies officially endorsed and issued by the Council as the licensing authority.

22. Verification of Supplier's identity

- 22.1 A scrap metal dealer must not receive scrap metal from a person without verifying the person's full name and address.
- 22.2 That verification must be by reference to documents, data or other information obtained from a reliable and independent source.
- 22.3 Any person failing to comply with the above will be guilty of an offence.

23. Rights of entry & inspection

- 23.1 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.
- 23.2 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

- Reasonable attempts to give notice have been made and failed, or
- Entry to the site is reasonable required for the purpose of ascertaining whether the provisions of this act are being complied with or investigating officers under it and (in either case) the giving of the notice would defeat that purpose

23.3 The above paragraphs do not apply to residential premises.

23.4 A constable or an officer of the Council is not entitled to use force to enter premises in the exercise of the powers identified in the above paragraphs.

23.5 A justice of the peace may issue a warrant authorising entry in accordance with sections 16 of the Act to any premises within the paragraph below if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonable required for the purpose of:

- Securing compliance with the provisions of the act or
- Ascertain whether those provisions are being complied with

23.6 Premises are within this paragraph if:

- The premises are a licenced site or
- 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 business.

23.7 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 16 of the Act.

23.8 A constable or an officer of the council may:

- Require production of and inspect any scrap metal kept at any premises or in a warrant
- Require production of and inspect any records kept and any other records relating to payment for scrap metal
- Take copies of or extracts from any such records

23.9 Officers of the council will undertake where reasonable and practicable to give notice of their powers and your rights in entry to any site licensed pursuant to the Act and the licence holder, site managers and other operatives should note that officers may use recording to assist them in their duties whilst on site.

24. Closure of unlicensed sites

24.1 If an authorised officer of the Council is satisfied premises are being used by a scrap metal dealer in the course of their business and the premises are unlicensed, they may issue a closure notice. A copy of the notice must be given to:

- a person who appears to be the site manager, and
- any person who appears to be a director, manager, or other officer of the business

24.2 A copy may also be given to any person who has an interest in the business, a person who occupy part of the premises, or where the closure may impede a person's

access to that other part of the premises. A person with an interest in premises is the owner, leaseholder or occupier of the premises.

- 24.3 These are not applicable if the premises are residential premises.
- 24.4 After a period of 7 days, the authorised officer may apply to a justice of the peace for a closure order. The court must be satisfied the premises will continue to be used by a scrap metal dealer, or there is a reasonable likelihood that the premises will be.
- 24.5 A closure order will close the premises immediately, and the premises will remain closed to the public until the Council makes a termination of closure order by certificate. The scrap metal dealer must cease his business immediately. It will require the defendant to pay a sum into the court, which 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.
- 24.6 A copy of the order must be placed on the premises in a prominent position by the Council.
- 24.7 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, give a copy to the court and place a copy on the premises. A copy must be given to anyone who requests one.
- 24.8 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.
- 24.9 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.
- 24.10 Any appeal must be lodged within 21 days beginning on the day on which the order or decision was made.
- 24.11 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.
- 24.12 An authorised officer of the Council may enter the premises at any reasonable time to ensure compliance with the order. They may use reasonable force if necessary.
- 24.13 An authorised officer must produce evidence of their identity or evidence of their authority to exercise the powers under the Act, if requested to do so.

25. Enforcement of Closure Order

25.1 A person is guilty of an offence if without reasonable excuse they permit premises to be open in contravention of a closure order, or fail to comply with, or do an act in contravention of a closure order.

25.2 If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable time and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

25.3 If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

26. Delegations

26.1 Where there are uncontested applications, or where there are no questions about the suitability of the applicant the determination should be clearly dealt with by the Council's Licensing Officers.

26.2 Contested applications where there is relevant information from any of the consultees, or queries regarding an applicant's suitability, revocation of a licence or the imposition of conditions will be presented to a panel from the general licensing committee.

26.3 The table below outlines the delegations of functions.

Matter to be dealt with	General Licensing Committee	Licensing Panel	Officers
Determination of policies and strategies	All Cases		
New, Renewal or variation applications		Contested cases following receipt of representations or relevant information from consultees	All other cases
Variation of licence by the imposition of conditions following licence holder or sire manager being convicted or a relevant offence		All Cases	
Revocation of Licence		All Cases	

27. Enforcement

27.1 In order to ensure compliance with the legislation and any conditions imposed, premises will be inspected periodically, using a risk-based approach. This will allow resources

to be more effectively targeted on high risk or problematic licence holders and prevent over burdensome enforcement on compliant and well managed licences.

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

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