

APP 1

**Policy for Determining Suitability
of an Applicant for a Scrap Metal Dealers
Licence under the Scrap Metal
Dealers Act 2013**



1. Introduction
2. Types of Licences
3. Considerations when considering licence applications
4. Decisions
5. Revocation and Imposing Conditions
6. Appeals
7. Registration of Licences

Appendix 1:

Application form including;
Relevant Offences
Relevant Enforcement Action

SCRAP METAL APPLICANT SUITABILITY POLICY

1. Introduction

Metal theft over recent years has had a significant impact on communities, businesses and local authorities. The Scrap Metal Dealers Act 2013 (The Act) has been introduced to help prevent some of the previous issues surrounding the sale, collection, storage and disposal of scrap metal.

The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is suitable to hold a Scrap Metal Dealers Licence.

This policy provides guidance to any person with an interest in the business of Scrap Metal Dealers and Motor Salvage Operators, in particular, but not exclusively:

- Applicants for Scrap Metal Dealers Licences
- Existing licensed Scrap Metal Dealers/Motor Salvage Operators
- Licensing Officers
- Members of the Executive Committee (or any relevant decision making body)
- Magistrates' hearing appeals against local authority decisions
- Members of the public

Delegated Officers and the Council's Executive Committee will have regard to the guidelines contained in this policy. **Each case will be considered on its individual merits and, the committee/officer may depart from the guidelines where there are good reasons for doing so.**

2. Types of Licences

There are two types of licences issued under the Scrap Metal Dealers Act 2013, a Site Licence and a Collector's Licence.

Once a licence is granted it is valid for 3 years.

A **site licence** allows the buying and selling of scrap metal at any site in the council area identified on the licence.

A **collector's licence** allows a person to carry on a business as a mobile collector within the council's area.

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

Section 3 of the Scrap Metal Dealers Act 2013 states that a council must not issue a licence unless it is satisfied that the applicant is a suitable person to carry on a business as a scrap metal dealer.

Application fees are set using Home Office Guidance and after taking into account the cost of assessing, administering, consulting on, and processing applications and issuing licences. The Council is committed to reviewing fees on a regular basis.

3. Considerations when determining licence applications

When assessing an application for suitability for a Site Licence or for a Collector's Licence the Council will consider the suitability of:

- the individual applicant
- each partner within a partnership
- any director(s), Secretary(s) or shadow director(s) of a company.
- the site manager (in the case of a Site Licence)

In assessing the suitability of the applicant, the Council will have regard to the Act and guidance issued by the Secretary of State.

When establishing the applicant's suitability, the Council may consult with other agencies as follows:

- a) other councils;
- b) the police;
- c) the Environment Agency and/or Natural Resources Wales;
- d) The Council's Health and Community Protection Team
- e) Trading Standards.

The Council will have regard to any information that it considers to be relevant but in particular will consider:

- a) whether the applicant or any site manager has been convicted of any relevant offence¹ and where there are relevant offences, the Council may consult the local police force for further details.

¹ Details of Relevant Offences can be found at appendix 1

b) whether the applicant or any site manager has been the subject of any relevant enforcement action.²

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 the Act are complied with.

g) in the case of site licences whether there is satisfactory planning permission in place for sites established after 01 November 1990.

h) the applicant's record of co-operation with the licensing authority in the application process and the operation of the business.

i) whether the applicant is registered with the Information Commissioner's Office (ICO) under the Data Protection Act 1998.

The Council requires every person listed on an application form to submit a Basic Disclosure Certificate.

The Council considers a Basic Disclosure Certificate to be only valid for three months from the date of issue prior to the date the application is made.

A relevant conviction may not automatically result in the Council refusing to grant a licence. The Council will take into account when the offence was committed, the nature of offences or enforcement action, the frequency of the offence, the gravity of the offence or enforcement action, along with any other relevant information.

It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particularly in giving information required by the application for a licence (Scrap Metal Dealers Act 2013 Schedule 1 paragraph 5). Where an applicant has made a false statement or a false declaration on their application for the grant, renewal or variation of a licence, the Council will normally propose to refuse the application.

² Details of Relevant Enforcement Action can be found at appendix 1

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 and attached in appendix 1.

4. Decisions

Where the Council proposes to refuse an application, revoke it or vary it by imposing conditions, a notice must be issued to the licence holder setting out the Council's proposals and the reasons for their decision. The applicant will have 14 days from the date of the notice to either a) make a representation or b) to inform the Council that they wish to make representations.

Where the applicant wishes to make oral representation, the Council will arrange a hearing for the application to be heard.

Where an application is refused, or a licence is not renewed, revoked or varied, the Council will issue a decision notice setting out the Council's reasons for the decision.

5. Revocation and Imposing Conditions

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.

The Council may revoke a scrap metal licence if it is satisfied the site manager named on the licence does not act as the site manager at any of the named sites on the licence.

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

If the licence holder, or site manager named on the licence is convicted of a relevant offence, the authority may vary the licence to include 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.

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. The authority may, however, consider that the licence should not continue without the addition of one or more of the conditions above. The licence holder will then be given notice:

- a) that, until a revocation comes into effect, the licences are subject to one or both of the conditions, or
- c) that a variation comes into immediate effect.

6. Appeals

Where the Council has refused an application, revoked the licence or varied the licence by imposing conditions, the applicant has a right to appeal to the Magistrates' Court within 21 days of the decision notice.

Compliance

In order to ensure compliance with the legislation and any conditions imposed, the Council will aim to inspect licences using a risk-based approach.

Appropriate action will be taken in accordance with the legislation and any guidance issued under that legislation, Council policies and any other protocols that may be agreed with other agencies.

7. Registration of Licences:

The Environment Agency will maintain a register of scrap metal licences issued by all local authorities in England. The register will include the following information:

- a) name of authority which issued the licence;
- b) the name of the licensee;
- c) any trading name of the licensee;
- d) the address of the site identified on the licence;
- e) the type of licence, and
- f) the date of expiry on the licence.

The register will be open for inspection by members of the public.

The Council are required to update the register on a regular basis.

Further Information

Application form

List of Relevant Offences

List of Relevant Enforcement Action