



SCRAP METAL DEALER POLICY

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SCRAP METAL POLICY

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.

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.

- 1.2 This policy outlines the requirements of the Scrap Metal Dealers Act 2013. It also provides guidance to new applicants, existing licence holders and members of the public as how the Council will undertake its role in the administration and enforcement of the act.
- 1.3 Stafford Borough Council (the licensing authority) may depart from its own policy if individual circumstances warrant such a deviation.
- 1.4 The policy will be reviewed every 3 years, and the following will be consulted
- a) Staffordshire Police
 - b) Staffordshire Fire and Rescue
 - c) Staffordshire Trading Standards
 - d) Stafford Borough Council Environmental Services
 - e) Relevant trade associations
 - f) Neighbouring local authorities

2. **Background**

- 2.1 The Scrap Metal Dealers Act 2013 came into force on 1 December 2013. It repeals previous legislation and creates a new regulatory regime for scrap metal recycling and vehicle dismantling.
- 2.2 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.
- 2.3 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.
- 2.4 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
- 2.5 The Act identifies the local authority as the principal regulator and gives them powers to regulate, refuse and to revoke licences.
- 2.6 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 its last holder as having reached the end of its useful life.

This definition does include platinum and other rare metals now being used in catalytic converters in vehicle exhausts.

- 2.7 The following is not considered to be “scrap metal”:
- gold
 - silver, and
 - any alloy of which two per cent or more by weight is attributable to gold or silver.

2.8 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. **Types of Licence**

3.1 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.

3.2 There are two types of licences specified in the Act:

Site Licence

All sites operating as a scrap metal business must be licensed. Each site must have a named site manager. A site licence allows the licence holder to transport scrap to and from the site from any local authority area.

Collector's Licence

This licence allows the holder to collect scrap within the area of the issuing local authority, (Stafford Borough Council) 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.

A dealer can only hold **ONE** type of licence in any one local authority.

3.3 A site under the Act is defined as 'any premises used in the course of carrying on a business as a scrap metal dealer, (whether or not metal is kept there)'. 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.

3.4 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.

4. **Suitability of Applicant**

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

4.2 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
- g) Whether the applicant has demonstrated there will be adequate procedures in place to ensure compliance with the Act.

4.3 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.

4.4 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.

5. **Supply of Information by the Authority**

5.1 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.

This does not limit any other power the authority has to supply that information.

6. **Register of Licences**

6.1 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 the 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.

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

7. Display of Licence

- 7.1 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.
- 7.2 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.
- 7.3 A mobile collector and site manager must also have with him/her the prescribed form of identity displayed or available for inspection at all times that they are carrying out activities under the Scrap Metal Dealers act 2013

8. Verification of Supplier's identity

- 8.1 Before receiving scrap metal, the dealer must verify a person's full name and address, by reference to documents or data from a reliable and independent source.
- 8.2 In the course of collecting door to door, it may not be possible for a mobile collector to verify the name and address of the supplier if the waste materials and old, broken, worn out or defaced articles have been left on the roadside.
- 8.3 However, a mobile collector must record 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 and the date and time of its receipt.
- 8.4 If suitable verification is not obtained the scrap metal dealer, or site manager, or person who has been delegated responsibility shall be guilty of an offence.

9. Payment for Scrap Metal

- 9.1 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 exemptions. Only payment by a non-transferable cheque or an electronic transfer of funds will be acceptable.
- 9.2 This will mean that the payment will be linked to a readily identifiable account, for both the payee and the payer. Payment includes paying in kind with goods and services.

10 **Records**

10.1 The scrap metal dealer must keep three types of records:

- a) Receipt of Metal
- b) Disposal of Metal
- c) Supplementary

10.2 Receipt of Metal

If metal is received in the course of the dealer's business, the following must be recorded:

- a) Description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features;
- b) Date and time of receipt;
- c) The registration mark of the vehicle it was delivered by;
- d) Full name and address of the person delivering it, and
- e) Full name of the person making payment on behalf of the dealer.

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

10.4 If payment is by cheque a copy of the cheque must be retained.

10.5 If payment is by electronic transfer a receipt identifying the transfer must be retained, or the details of the transfer.

10.6 Disposal of Metal

10.6.1 Disposal under the Act covers metal:

- a) Whether or not it is in the same form when it was purchased;
- b) Whether or not it is to another person; or
- c) Whether or not it is despatched from a site.

10.6.2 Disposal records must be recorded, including:

- a) Description of the metal, including its type (types if mixed), form, weight
- b) Date and time of disposal;
- c) If to another person, their full name and address, and
- d) If payment is received for the metal (sale or exchange) the price or other consideration received.

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

- a) Date and time of disposal, and,
- b) If to another person, their full name and address.

11. **Supplementary**

11.1 The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easily identified.

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

11.3 Records must be kept for a period of 3 years beginning on the day of receipt, or disposal (as may be).

11.4 If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records, shall be guilty of an offence.

11.5 A dealer or site manager may have a defence if they can prove arrangements had been made to ensure the requirement to keep records was fulfilled, or that they took all reasonable steps to ensure those arrangements were complied with.

12. Right of Entry & Inspection

- 12.1 An authorised officer of the Council may enter and inspect a licensed site at any reasonable time, with or without notice to the site manager.
- 12.2 Entry and inspection without notice would occur, if:
- a) Reasonable attempts to give notice had been given 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.
- 12.3 An authorised officer of the Council is not entitled to use force to enter a premises, but may ask a justice of the peace to issue a warrant authorising entry, if they are satisfied there are reasonable grounds for 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.
- 12.4 'Premises' under this section include:
- a) licensed site, or
 - b) premises that are not licensed, but there are reasonable grounds for believing the premises are being used as a scrap metal dealing business.
- 12.5 An authorised officer of the Council may use reasonable force in the exercise of the powers under a warrant obtained under section 11.4
- 12.6 An authorised officer of the Council may require:
- a) production of, and inspect, any scrap metal kept at any licensed premises, and
 - b) require production of, and inspect, any records kept in respect of receipt and disposal of metal, and
 - c) to take copies of or extracts from any such record
- 12.7 An authorised officer of the Council must produce evidence of their identity, and evidence of their authority to exercise these powers, if requested by the owner, occupier, or other person in charge of the premises.

13. Application Procedure

- 13.1 An application form, available from the Council's website or from 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.
- 13.2 A licence once granted is valid for 3 years.
- 13.3 A renewal application must be received before the expiry of the current licence.
- 13.4 If a licence application is refused, the licence expires when no appeal is possible, or an appeal is determined or withdrawn.
- 13.5 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:

- a) name of licensee, site manager, or sites on a site licence, or
- b) 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 a licensee.

Application to vary must be made to the issuing authority.

- 13.6 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.
- 13.7 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.

- 13.8 The fee is set by the Council under guidance issued by the Home Office with the approval of the Treasury.
- 13.9 Fees are set after taking into account the cost of processing, administering and compliance costs associated with the licence. The Council is committed to reviewing fees on a regular basis.

13.10 If the Council proposes to refuse an application, or to revoke, or to vary a licence 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 notice will indicate the time period in which the applicant or licensee can either:

- a) can make representations about the proposal, or
- b) inform the Council that the applicant or licensee wishes to do so.

This time period must not be less than 14 days beginning on the day the notice was given to the applicant or licensee. The Council will stipulate a time period of 21 days for representations or intentions to be received.

13.11 If the applicant or licensee does not make representation or notify the Council that they wish to do so, the Council may refuse, revoke or vary the licence.

13.12 If a notification is received that the applicant or licensee wishes to make representation, the Council must allow a reasonable period for them to make their representation. The Council will allow 14 days for written representations to be received from the date the application becomes contested, or the Council receives notification of the applicant having a relevant offence. The applicant or licensee may wish to make an oral representation; if this is the case the person must notify the Council within the 14 day time period.

If this time period lapses, without a written representation, or a request for an oral representation being received, the Council may refuse, revoke or vary the licence.

13.13 Where there is a representation a hearing will be arranged, and the case will be presented before a panel of the Public Appeals Committee. The applicant or licensee will be invited to attend. The Council will give at least 10 working days' notice of the date and time of the hearing to the applicant or licensee.

13.14 In the event of a refusal of an application, revocation or variation of a licence, a notice outlining the Council's decision and the reasons for it will be given to the applicant / licensee. The notice will include the appeal procedure.

14. Appeals

14.1 An applicant may appeal to the magistrates' court against a refusal of an application or variation.

The licensee may 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.

The appeal procedure will be in accordance with the Magistrates' Courts Act 1980, and 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 provisions of the Act.

15. Revocation and Imposing Conditions

- 15.1 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.
- 15.2 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.
- 15.3 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.
- 15.4 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.
- 15.5 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.
- 15.6 If the authority considers the licence should not continue without the addition of one or more of the conditions in section 15.4, 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.

16. Closure of Unlicensed Sites

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

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.

- 16.2 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.

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.

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

- 16.3 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.

16.4 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.

16.5 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.

16.6 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.

16.7 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.

16.8 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.

17. Delegation of Functions

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

17.2 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 the Public Appeals Committee.

17.3 Table 1 below outlines the Delegation of Functions.

Table 1. Delegations of Functions			
Matter to be dealt with	Public Appeals Committee	Head of Environmental Services	Officers
Determination of policies and strategies		All cases	Officers
New or renewal application	All cases where there are unspent relevant convictions or contested cases following receipt of information from other statutory bodies		All cases where there are no unspent relevant convictions or where cases are uncontested
Variation of licence by the imposition of conditions following licence holder or site manager being convicted of a relevant offence			All cases
Revocation of licence	All cases		
Variation of licence under schedule 1/section 3			All cases

18. Enforcement

- 18.1 In order to ensure compliance with the legislation and any conditions imposed, premises will be inspected at least once a year, 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.

- 18.2 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.

19. Offences & Penalties

- 19.1 The following paragraphs are only indicative of the general offences and penalties. Independent legal advice should be sought for individual cases.

- 19.2 Offence relating to scrap metal dealing are described below under the relevant piece of legislation

19.3 Table of Offences – Scrap Metal Dealers Act 2013

Section	Offence	Maximum 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 within the application	Level 3
10	Failure to display site licence or collectors licence	Level 3
11 (6)	Receiving scrap metal without verifying persons full name and address	Level 3
11 (7)	Delivering scrap metal to a dealer and giving false details	Level 3
12 (6)	Buying scrap metal for cash	Level 5
13	Failing to keep records regarding receipt of metal	Level 5
14	Failing 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 metal, or failure to keep a copy of cheque issued	Level 5
15 (3)	Failure to keep information and records for 3 years	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

19.4 Current Level of Fines

Level 1 £200
 Level 2 £500
 Level 3 £1000
 Level 4 £2500
 Level 5 £5000

19.5 Offences by Bodies Corporate

Where an offence under the Act is committed by a body corporate and is proved:

- a) to have been committed with the consent or connivance of a director, manager, secretary or similar officer, or
- b) to be attributable to any neglect on the part of any such individual

the individual as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

Where the affairs of the body corporate are managed by its members, any acts or omissions committed by that member will be treated as though that member were a director of the body corporate.