



HERTSMERE BOROUGH COUNCIL SCRAP METAL POLICY 2024-2029

ADOPTED BY CABINET SEPTEMBER 11 2024

A Policy to regulate those carrying out the business of a Scrap Metal Dealer under the Scrap Metal Dealers Act 2013.

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1. INTRODUCTION

- 1.1. Hertsmere Borough Council (“The Council”) is the regulatory body for those operating as Scrap Metal Dealers in its Borough under the Scrap Metal Dealers Act 2013 (“The Act”).
- 1.2. The Act replaced the previous registration system found under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002 and established a new licensing regime from 2013. Every person that deals in scrap metal must have a licence.
- 1.3. This document sets out the Council’s approach to discharging its powers and responsibilities under the Act and the policies it shall apply when considering the suitability of applicants to hold licences or to carry out enforcement action.
- 1.4. This policy does not override the legal requirements embodied in any primary or secondary legislation either in force at the time of its adoption or as may be enacted in the future. Where there are any subsequent changes made to the applicable legislation or its interpretation by the Courts, that conflict with this Policy, the conflicting elements of this Policy shall not apply and will be amended at the earliest opportunity.
- 1.5. The Council will share information with other agencies in respect of potential illegal activities and enter into joint enforcement operations with other agencies and authorities.
- 1.6. Nothing in this policy will prevent an applicant or licence holder from requesting that the Council considers the individual merits of their case and give reasonable consideration to departing from its policy.
- 1.7. When a licence is issued by the council the details are sent to the Environment Agency who will maintain a national register of all licences issued in England. Any licences that are revoked must also be notified to the Environment Agency as with any variations that are granted.

2. PURPOSE OF THE ACT AND THIS POLICY

- 2.1. New legislation was enacted in 2013 following a rise in metal thefts driven by an increase in commodity prices. It was estimated to cost the economy between £220million and £777 million each year. Furthermore the act of stealing metal can cause much wider harm to affected members of the public, businesses and organisations than the simple financial cost. The theft of a car, or part of it, resulting in missed hospital appointments, days off work, inconvenience and increased insurance premiums can impose a cost that outstrips the value of the metal stolen.
- 2.2. The Act intended to reduce thefts by ensuring that all metal is traceable and has been successful in this regard.
- 2.3. Key requirements of the Act are that every licensed dealer should confirm and record the identity of any person they obtain scrap metal from (whether they pay for that metal or not) or where they obtained it. Payment for scrap metal must not be by cash. Dealers must keep a record of all metal that they receive and its disposal.
- 2.4. However, the effect has only been to limit the ways in which criminals dispose of stolen metals or assist the Police in identifying perpetrators. The increase in value of metals and the ability to dispose of it overseas or through legitimate sites via proxies continues to provide encouragement to those who wish to commit crime in return for financial reward.
- 2.5. The Act requires the Council to assess the suitability of those wishing to deal in scrap metal in its borough in order to meet the objectives of the Act and reduce the ways in which stolen metal can be disposed of for reward.
- 2.6. The Councils aim in administering and enforcing the provisions of the Licensing regime is to ensure that all those dealing in scrap metal are correctly licensed and suitable.

3. WHAT IS SCRAP METAL

- 3.1. “Scrap metal” includes—
- a) any old, waste or discarded metal or metallic material, and
 - b) 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.
- 3.2. The following are not “Scrap metal”:
- a) gold,
 - b) silver,
 - c) any alloy of which 2 per cent or more by weight is attributable to gold or silver.
- 3.3. The definition of “scrap metal” for the purposes of the Act may be amended by an order of the Secretary of State. Any changes made to the Act shall take precedence over any definition in the above paragraph and the above paragraph shall be updated by the Licensing Authority upon notification to the chair of the Licensing Committee.

4. WHO NEEDS A LICENCE?

- 4.1. Any person that carries on business as a scrap metal dealer must be licensed.
- 4.2. A person carries on business as a scrap metal dealer if the person—
- a) carries 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) carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).
- 4.3. For the purposes of the Act a person carries on business as a motor salvage operator if the person carries on a business which consists—
- a) wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
 - b) wholly or mainly in buying written-off vehicles and subsequently repairing and reselling them,

- c) wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b), or
 - d) wholly or mainly in activities falling within paragraphs (b) and (c).
- 4.4. For the purposes of the Act, a person who manufactures articles is not to be regarded as selling scrap metal if that person sells scrap metal only as a by-product of manufacturing articles or as surplus materials not required for manufacturing them.
- 4.5. Producers of Ferrous and non-ferrous metals made out of scrap metal will require a licence.
- 4.6. Agents, traders and brokers buying and selling scrap metal will require a licence even if the purchasing and sale of the metal takes place only on paper and not physically handled.
- 4.7. Some people carry on a business in which they may come to possess scrap metal and seek to dispose of it. This is common amongst certain trades people like plumbers or electricians. Many other businesses may come to possess scrap metal such as skip hire companies, waste collectors, civic amenity sites, recycling centres, vehicle collection companies, auctioneers, artists and used car dealers.
- 4.8. Whether such a business falls into the definition of “carrying on a business of a scrap metal dealer” is a question of fact in all cases. When having to determine if a business should be licensed the Council will likely consider the purpose or intent of the business, the volume of scrap metal received/disposed of, the value of the scrap metal received or disposed of and the overall level of income generated from dealing in scrap metal as opposed to other sources of income generated by the business activity.
- 4.9. All businesses, or those seeking to carry out a business activity, are expected to ensure they conduct their activities lawfully. Misunderstanding or not knowing of the legislative requirement is not an excuse. Businesses are therefore expected to make appropriate enquiries before carry out any activity.

5. LICENCES

5.1. A licence must be held in order to carry on business as a scrap metal dealer. Licences last for 3 years. There are two types of licence:

- a) Site licence
- b) Collectors licence

5.2. Site Licences

5.3. Site licences must be held at all sites where a person carries on a business as a scrap metal dealer and a site manager must be named for that site. The holding of a licence allows the licensee to transport scrap metal to and from that site regardless of which local authority area they may collect from or pass through.

5.4. 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). This includes motor salvage operations.

5.5. Sites must also have the relevant planning approval and relevant permits or exemptions from the Environment Agency to operate a scrap metal site under the Environmental Protection Act.

5.6. Collectors Licence

5.7. A collector's licence is required for an individual who does not operate from a site. This licence allows the collector to collect scrap metal only in the area in which they are licensed. The licence does not authorise the licensee to operate a site at all or to collect in the area of another authority.

5.8. A collector is defined in the Act as a person who carries on a business as a scrap metal dealer otherwise than at or from a site, and regularly engages in the course of that business in collecting waste metal including old, broken, worn out or defaced articles by means of door to door visits. It is not necessary to physically visit 'door to door' to fall within the definition. Any form of peripatetic activity with the intent of obtaining discarded items that may have value for profit will meet the definition.

5.9. The Council will consider a collector to be any person travelling from place to place or around the borough seeking to either specifically obtain scrap metal or to obtain discarded objects that may include scrap metal. This includes scavenging.

5.10. 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.

- 5.11. An individual can only hold one type of licence in any one local authority area. A business that holds a site licence should not need a collectors licence in any other authorities area. However, an individual who operates without a site would need to have a licence with every authority in whose area they collect. The holding of a collectors licence with one authority does not authorise collection in another authority's area. It is the collector's responsibility to ensure that they understand the law applicable to them and they only operate in the area(s) in which they are licensed.
- 5.12. A business who holds a site licence may collect scrap metal in any other authority area without the need for a collectors licence provided that any metal collected is recorded and processed at the licensed site. However, any person collecting on behalf of the site may need a collectors licence if, on the facts, they are carrying out their own business as a scrap metal dealer.
- 5.13. This would not be the case if the person collecting is the holder of the site licence or a direct employee of the business who holds the site licence. Alternatively if the collector is self-employed but their business is to transport a variety of items and goods, only a small proportion of which is scrap metal they may not need a licence.
- 5.14. A person who is self-employed and engages in the business of collecting scrap metal will not be covered by another businesses site licence even if that site is the primary or only location from which they dispose of scrap metal.

6. LICENCE APPLICATIONS (INCLUDING RENEWALS)

6.1. Applications to operate a business from a site, or to collect, in the Borough of Hertsmere must be made to the Council on the Council's prescribed application form. The application makes provision for the applicant to provide the relevant information required by the Act, which be amended by the relevant Secretary of State from time to time, and any additional information required by the Council.

6.2. A licence can be held by an individual, company or partnership and the application form requires the following information:

6.3. Individual applicants

6.3.1. If the application is made by one or more individuals the following information must be provided:

- a) Full name, date of birth and usual place of residence
- b) Details of any conviction of the applicant for a relevant offence, or any relevant enforcement action taken against the applicant.
- c) A basic criminal record disclosure for each individual dated in the last three months.
- d) Declaration that no relevant offences have been committed abroad by the individual.
- e) Details of any relevant environmental permit or registration in relation to the applicant;
- f) Details of any other scrap metal licence issued (whether or not by the local authority) to the applicant within the period of 3 years prior to the date of the application,

6.4. Companies

6.4.1. If the application is made by a company the following information must be provided:

- a) Name and registered number of the applicant and the address of the applicant's registered office.
- b) Full name, date of birth and usual place of residence of each director;
- c) Details of any conviction for a relevant offence, or any relevant enforcement action taken against each director.
- d) A basic criminal record disclosure for each director dated in the last three months.
- e) Declaration that no relevant offences have been committed abroad by any director.
- f) Details of any relevant environmental permit or registration in relation to the applicant or any director.

- g) Details of any other scrap metal licence issued (whether or not by the local authority) to the applicant or a director in the period of 3 years prior to the date of the application.

6.4.2. Where any other person (who is not a director of the applicant company) has ownership or significant control of the applicant company the Council will require a criminal record disclosure for that person.

6.4.3. If that other person is another registered company criminal record disclosures would be needed for each director of that company, and the same would be required of any other person who has significant control of that company, and so on.

6.4.4. The reason for this is to ensure that the person licensed by the Council is the person carrying out the licensable activities and the business is not in fact operated by a shadow company or shadow directors.

6.5. Partnerships

6.5.1. If the application is made by a partnership the following information must be provided:

- a) Full name, date of birth and usual place of residence of each partner
- b) Details of any conviction of the applicant for a relevant offence, or any relevant enforcement action taken against each partner.
- c) A basic criminal record disclosure for each partner dated in the last three months.
- d) Details of any relevant environmental permit or registration in relation to the applicant or each partner.
- e) Declaration that no relevant offences have been committed abroad by any partner.
- f) Details of any other scrap metal licence issued (whether or not by the local authority) to the applicant or partner within the period of 3 years prior to the date of the application.

6.5.2. The partnership must be registered as a partnership with HMRC to be licensed as a scrap metal business. Each partner shall need to provide information confirming that they are registered to pay Tax as a self-employed person.

6.6. Additional information needed from all applicants

6.6.1. In addition to the above, all applicants shall need to provide the following:

- a) Proof of identity for each individual applicant, director or partner.
- b) A passport sized photograph of each individual applicant, director or partner;
- c) Confirmation of the right to work in the UK for each individual applicant and (if relevant) each director or partner.
- d) Confirmation (via HMRC share code) that each individual or partner, the partnership or company is registered to pay tax (or if new, understands their tax obligations).
- e) Proposed trading name;

- f) Telephone number and e-mail address of the applicant;
- g) Details of the bank account which is proposed to be used in order to comply with section 12 of the Act;
- h) Details how the applicant will comply with the requirements of the Act (scrap metal not to be bought for cash etc.)
- i) Safeguarding, Modern Slavery, Data Protection etc.

6.6.2. The bank account to be used must be in the applicant's name(s). The Council will not accept a bank account that is in the separate name of one director, partner or individual, that is a personal account, or is in the name of any person that is not the applicant.

6.6.3. Where an applicant fails to provide relevant information the Council may decline to proceed with an application.

6.7. Sites only

6.7.1. If the application relates to a site licence, it must also be accompanied by:

- a) The address of each site proposed to be licensed
- b) The designation of an individual to be the site manager for each site.
- c) A location plan of the site;
- d) A scale plan of the site (or each site) identifying any customer entrance, access and egress, any office, fire safety equipment, location of metal(s) and if relevant separate types of metal, the location of any other item on site (i.e. general waste), the location of any flammable, poisonous or other items, equipment and machinery that may pose harm to another if not suitably controlled.
- e) Location of any CCTV cameras in operation.
- f) The details of any vehicles owned by the company that shall be used to collect scrap metal in the borough or any other borough.

6.7.2. In respect to any person to be named as a site manager the Council requires:

- a) Full name, date of birth and usual place of residence
- b) Details of any conviction of the applicant for a relevant offence, or any relevant enforcement action taken against the individual.
- c) A basic criminal record disclosure.
- d) Details of any relevant environmental permit or registration in relation to the individual.
- e) Details of any other scrap metal licence issued (whether or not by the local authority) to the proposed site manager within the period of 3 years prior to the date of the application to name them as the site manager.

6.8. Collectors only

6.8.1. Collectors will be required to confirm the:

- a) Details of any vehicle(s) to be used by them;
- b) Confirmation of MOT for the vehicle;
- c) Confirmation of insurance (and that the vehicle is insured for business);

- d) Confirmation of how they will record the identity information of any person they collect from (and comply with Data Protection legislation).

6.9. Fees

- 6.9.1. Fees for all applications are set by the Council in line with current legislative requirements and shall be published on the Council's website.
- 6.9.2. The fee is in 2 parts – the first related to the processing and consideration of the application and the second related to the ongoing compliance, enforcement and supervision of the scrap metal licence regime in the borough for each year that the licence is granted.
- 6.9.3. If an application is refused the Council shall refund, or not levy, the second part of the fee. The Council reserves the right to charge an administration fee on the processing of any refund that is made unreasonably difficult by the conduct of the applicant.

6.10. Duration of Licences and Renewals

- 6.10.1. Licences shall last for 3 years and may be renewed by the licence holder before the expiry date.
- 6.10.2. The Council shall not accept or process any renewal application made earlier than 3 months prior to the expiry of a licence. Once a licence has expired it cannot be renewed and licence holders wishing to renew need to submit a completed application to do so before their existing licence expires.
- 6.10.3. Only in exceptional circumstances will an application to renew be accepted after the expiry of a licence. The Council will not limit itself to what circumstances are "exceptional" and shall consider everything on its own merits. However, it expects exceptional circumstances to be those where the licence holder has physically been prevented from making, or instructing someone else to make, an application to renew or from contacting the Council. Merely forgetting ones renewal date or leaving the matter to the last minute is not exceptional.
- 6.10.4. The Council may at its discretion accept a part completed application as sufficient intent to renew in exceptional circumstances (for instance where a criminal record disclosure has been applied for in good time, but not yet issued).
- 6.11. If an application to renew a licence is received before the licence concerned expires then the licence continues in effect until the decision process (including any appeal) is concluded.
 - 6.11.1. If a licence expires without being renewed the licence holder must cease to operate a scrap metal business. If they wish to continue to operate a new application will need to be made.

6.12. Varying The Licence

- 6.12.1. Site licence holders can apply to vary a licence in order to add or remove a site or change a site manager;
- 6.12.2. All licence holders are required to notify the Council of any changes to their name or business name and address.
- 6.12.3. A site licence holder can vary their licence into a collector's licence, and a collector's licence holder can vary their licence into a site licence.

7. CONSULTATION AND DETERMINATION

- 7.1. The Scrap metal licensing regime focuses on the suitability of a person to operate a scrap metal dealing businesses. The Council's consideration is therefore limited to making an assessment of that individual, or, as the case may be, each director of a company or partner of a partnership.
- 7.2. There is no statutory requirement for applications to be publicly advertised or a statutory right for any person or body to be positively consulted about an application.
- 7.3. In the absence of a statutory consultation framework the Act gives discretion to the Council to consult other persons and specifically names the following:
 - a) any other local authority;
 - b) the Environment Agency;
 - c) the Natural Resources Body for Wales;
 - d) an officer of a police force.
- 7.4. This is not a limited list and the Council has full discretion on who to consult and when. However, it should be noted that the ability to consult relates solely to the question of the "suitability" of an applicant to carry out a scrap metal business, and not the suitability of the business in the location it is situated.
- 7.5. Due to this there is no reason for applications to be brought to the attention of members of the public or local residents. Matters likely to affect the public, such as nuisance, are dealt with firstly by the planning regime that authorise the use of land and, secondly, by the Councils environmental protection team.
- 7.6. The planning and environmental protection teams are however consulted. Environmental Protection may provide information in relation to environmental crimes such as fly tipping and, along with planning, any observations about an individual's compliance with regulations or other permissions designed to protect the public from nuisance.

- 7.7. Whilst applicants provide a basic criminal record disclosure the police will be consulted on all applications as they may be able to provide additional intelligence about an individual, clarify matters revealed on a criminal record disclosure or provide relevant updates.
- 7.8. Whilst the Environment Agency (EA) may be consulted by the Council on applications this ordinarily is not necessary. The EA publish their registers of licence holders as well as the details of enforcement action taken in respect to an individual or business. The Council has access to this information and will only directly consult the EA on rare occasions where further information beyond that which is published is necessary.
- 7.9. The table below indicates who the Council will normally consult and when.

Body	When consulted
Hertsmere Constabulary	On all applications
Hertsmere Borough Council's Environmental Protection	On all applications.
Hertsmere Borough Council's Health and Safety	On all applications.
Hertsmere Borough Council's Planning	On all applications.
Hertfordshire Fire and Rescue	On all New site applications or where a collector stores any materials at their home address.
Hertfordshire Trading Standards;	On all applications.
Environment Agency (EA)	If EA register does not corroborate information provided by applicant or reveals other relevant information.
National Resources Body for Wales (NRBW)	As above where applicant(s) holds permit with NRBW, lived or operated in wales.
Other Local Authorities	Where applicant/licence holder has been granted a relevant licence or been subject to relevant enforcement action by other local authority.
Any other Police Force	Where applicant/licence holder has been subject to relevant enforcement action by other police force.
British Transport Police (BTP)	Where applicant/licence holder has been subject to relevant enforcement action by other BTP
Her Majesty's Revenue and Customs (HMRC)	Where there is any concern in relation to applicant's compliance with Tax obligations.
Home Office	Where there is any concern in relation to the right to work in the UK status of the applicant or a person in their employee.

- 7.10. Despite the above the Council may consult, or agree not to consult, any of the above in any circumstances it chooses. The Council will also consider requests from any person or body wishing to be consulted on an application and where it is considered that person or body can provided relevant advice to the Council they will be added to the above list in such circumstances as the council deem appropriate.

- 7.11. The Act does not impose any timescale for consultation and this remains at the discretion of the Council. The Council however imposes the following timescales on itself as best practice:
- a) To consult with the relevant parties specified above within 5 working days of a valid application being received.
 - b) To give consultees one calendar month in which to respond.
 - c) Following the end of the consultation period the Council will determine the suitability of the applicant as soon as reasonably possible (see next section).

8. SUITABILITY

- 8.1. The Act states that the Council must not issue or renew a scrap metal licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer.
- 8.2. In determining this, the Act states that the authority may have regard to any information which it considers to be relevant to the question of the applicant's suitability. This will include consideration of legislation; guidance and this policy document.
- 8.3. The Council considers it reasonable to expect a scrap metal dealer:
- a) To be a person of integrity and honesty;
 - b) To be capable of understanding and complying with the requirements of the Act as well as other relevant legislation;
 - c) To conduct activities safely without causing unreasonable disturbance or danger to members of the public.
 - d) Not to be or have been associated with any criminal activity that causes any doubts about their honest and integrity;
 - e) Not to have been associated with any relevant criminal offences or enforcement action;
- 8.4. When assessing suitability the Act states that the Council should give particular consideration to the following:
- 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.
- 8.5. Applicants will provide their criminal record and any convictions (spent or otherwise) will form part of the assessment of whether an applicant is a suitable person to hold a licence.
- 8.6. The Council recognises 'relevant offences' specified in the Act but will also consider any other unspent offences as part of its assessment of an applicant's suitability to be a scrap metal dealer. Particular if the offence(s) appear to raise questions about whether an individual does not meet the expectations of the Council as set out in paragraph 8.3 above.
- 8.7. The Council shall also consider the previous compliance history of the individual, whether as a current licence holder, previous licence holder or in respect to their compliance with other regulatory regimes.
- 8.8. Non-compliance with other regulatory regimes indicates that an applicant is either incapable of understanding the requirements imposed on them or unwilling to abide by them.
- 8.9. Absence of the correct planning use / permission would be considered a relevant factor but would not on its own make a person unsuitable person but knowingly breaching planning permission would strongly indicate an applicant is not.
- 8.10. The failure to disclose or provide relevant information; an inability to understand legal obligations and an inability to keep records in a legible format are likely to lead to a conclusion that an individual is unsuitable.
- 8.11. Applicants may be expected to attend an interview so that their identification can be verified and their understanding of their responsibilities assessed and any suitability issues examined. This could involve a test and an assessment of an individual in keeping records in English.
- 8.12. The Council may also undertake site visits as part of its consideration including where a multiple site licence is sought or where the applicant also operates a licensed site in another area.

9. LICENSING AUTHORITY EXPECTATIONS, LEGAL REQUIREMENTS AND CONDITIONS

9.1. Restrictions on the Council's discretion

- 9.1.1. The ability to impose conditions on a licence is restricted by the Act to just 2 conditions in 2 limited scenarios (explained below). The Act itself however imposes specific requirements on how a dealer conducts their business.

9.2. Display of Licence

- 9.2.1. A scrap metal dealer who holds a site licence must display a copy of the licence at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.
- 9.2.2. A scrap metal dealer who holds a 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.
- 9.2.3. The copy must be displayed in a manner which enables it easily to be read by a person outside the vehicle.

9.3. Verification of suppliers Identity

- 9.3.1. A scrap metal dealer must not receive scrap metal from a person without verifying the person's full name and address. That verification must be by reference to documents, data or other information obtained from a reliable and independent source.
- 9.3.2. The documents that must be used are prescribed in regulations and contained at annex 2.

9.4. Not buy scrap metal for cash

- 9.4.1. A dealer can only pay for scrap metal by a non-transferable cheque or electronic transfer (bank transfer, debit or credit card).
- 9.4.2. An offence is committed if payment for scrap metal is made by any other method not permitted by the Act. This includes cash payments, payments in kind (i.e. in return for other goods or services), postal orders and cheques marked out for cash.

9.5. Records: receipt of metal

9.5.1. The following information must be recorded for any scrap metal received:

- 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) If the metal is delivered in or on a vehicle, the registration mark of that vehicle;
- d) If the metal is received from a person, the full name and address of that person as well as a copy of any document used to verify that person's identity;
- e) If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.
- f) If the dealer pays for the metal with a cheque the dealer must keep a copy of the cheque (i.e. this should be a photograph, photo copy or scan and not the stub).
- g) If the dealer pays for the metal by electronic bank transfer the dealer must keep the receipt or, if no receipt obtained, the dealer must record particulars identifying the transfer.

9.6. Records: disposal of metal

9.6.1. If the dealer disposes of any metal in the course of the dealers business a record must also be made. For the purpose of the Act metal is disposed of—

- 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.

9.6.2. A site licence holder must record the following information:

- 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.

9.6.3. The holder of a collectors licence the dealer must record the following:

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

9.6.4. The records of receipt and disposal of any metal should be capable of being cross referenced. A dealer (and any enforcement officer) should be able to review the records to identify either the location of any metal received or when and where it was disposed of and to whom.

9.6.5. All records should be made available for inspection by an authorised officer at

any reasonable time and the Council expects records to be kept in English.

9.6.6. The council expects dealers to update the Council within 7 days if there is any change to:

- a) Their name/address;
- b) Their business name/address
- c) A site managers change in name/address
- d) Their vehicle(s) (if a collector)
- e) The lay out of their site.

9.6.7. The Council also expects dealers to provide them with updated insurance certificates following any renewal or expiry. For site licence holders this will be to their public liability insurance and for collectors it will relate to their vehicle insurance. It is expected that a collector will have their vehicle insured for the appropriate business use.

9.6.8. The Council also expects site dealers to take reasonable steps to identify if any person selling metal to them has a licence. Whilst it is not a requirement for a licence to be held in order to sell scrap metal, any site who regularly buys metal from the same person or business is expected to conclude that a licence could be necessary and to ask for a copy of it. If no licence is held the licence holder or site manager should record this and notify the Licensing Authority if they have concerns.

9.7. Conditions

9.7.1. Only one or both of the following conditions can be imposed:

- a) The dealer can receive scrap metal only between 09:00 and 17:00
- b) Any scrap metal received has to be kept in the form the dealer received it for a set period of time, which cannot be more than 72 hours.

9.7.2. However, these conditions can only be imposed in two instances. The first is where the applicant or any site manager has been convicted of a relevant offence. The second is where the Council has revoked a licence and the licence continues pending the resolution of any appeal period.

10. ENFORCEMENT

10.1. All enforcement action will be consistent with the Council's overall Enforcement Policy and the Regulators Compliance Code which aims to ensure a risk based targeted and transparent approach to enforcement.

10.2. The following principles will be applied:

- a) Proportionate in applying the law and ensuring compliance
- b) Consistency of approach

- c) Targeted enforcement action
- d) Transparent about how the local authority operates and what those regulated may expect;
- e) Accountable for the local authority's actions

10.3. Inspections

- 10.3.1. The Council will risk assess inspections of licensed sites based on local intelligence (predominantly as advised by the police) that may indicate concerns in the local area or with respect to a particular premises.
- 10.3.2. Where there is no evidence of concerns the number of inspections is expected to be reduced. The Council does however intend that licensed sites are inspected at least once during the period of their licence.

10.4. Enforcement Operations

- 10.4.1. Notwithstanding the above, it is usually the case that joint enforcement action between local authorities will usually occur at least once a year and involve all licensed sites being visited.
- 10.4.2. These enforcement operations often take place during publicised and targeted campaigns relating to metal thefts. However, where there is evidence of need they may be undertaken covertly and/or without any notice to the site holders.
- 10.4.3. Further joint enforcement operations occur targeting vehicles being used in the borough for business related activities, and would include mobile collectors.

10.5. Unlicensed sites and storage of metals

- 10.5.1. For the purposes of the Act, "site" means any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there). It is therefore not a requirement for a business to have a site on which it stores metals. Business that trade in commodities therefore still require a licence and may be licensed at the place they carry out their business activity, even if that place is not used to store metals.
- 10.5.2. It is clear from the Act that for a premises to be operating as a site it is not necessary for scrap metals to be stored there. However the presence of scrap metals at a location indicates that a business may be being carried out at that location.
- 10.5.3. Where metals are routinely found, stored, kept and worked on at any premises that does not hold a licence, the Council may investigate if it is being used as an unlicensed site. The Council would ordinarily seek to inspect the premises and if such an inspection request is refused, or it is otherwise considered necessary, the Council would seek a warrant from the magistrate's court to enter the premises.
- 10.5.4. Collectors (whether licensed or not) are not expected to routinely keep or store metals at their home address. Storing scrap metals that have been collected in the course of a business at a premises, creates the presumption that those premises are being used in the course of that scrap metal dealers business.

10.5.5. There is no prohibition in the Act against a person holding a site licence at their home address. This is of course subject to planning legislation and in the majority of instances, particularly where a house is in a residential area, the business of a scrap metal site would not be suitable.

10.5.6. However, a Collectors licence does not, and should not be used to, permit an individual to use their home as a “site” for which they would otherwise not receive a licence or planning permission for

10.6. Collectors without a licence

10.6.1. It is an offence for any person to collect scrap metal in the borough who does not hold either a site licence granted by any authority or a collector’s licence granted by the Council.

10.6.2. Any person found to be collecting in the course of a business as a scrap metal dealer without a licence will face prosecution.

10.6.3. Any person collecting under the auspices of a site licence will be required to prove this. This Councils view is that if the collector is not a direct employ of a site licence holder they are collecting without a licence.

10.6.4. Waste Collectors etc,

10.6.5. Whilst a licence is not needed if the buying or selling of scrap metal is a small and insignificant part of a business activity, some businesses are likely to be in possession of scrap metal on a regular basis. Regardless of the income received, if a business is frequently obtaining and disposing of scrap metal it is doing so as part of its business activity.

10.6.6. Each case will be considered on its own merits but businesses that collect waste, carry out building works or conduct house clearances should consider obtaining a collectors licence to protect their business. Otherwise a business should take steps to limit this part of their business. For instance, by either not taking scrap metal, giving the proceeds to the person they obtained it from or disposing of it at a Council run amenity site and not for profit.

10.7. The Council is aware that there are some individuals who carry out activities for profit which involve dealing in discarded materials, waste and scrap metal and who do so without complying with the correct legal requirements. These businesses may collect materials from a customer and, having taken anything of value dispose of the remainder unlawfully- for instance fly tipping. Some collectors or sites may also not comply with the requirements to have appropriate permits in place from the environment agency, commit damage to the environment or pollute local waterways.

10.8. Whilst there is in some cases a link between the regulations of scrap metal dealers and the regulation of these other activities. The Licensing Authority is not the primary authority responsible for their resolution.

10.9. The Licensing Authority will however support and share information with other

partners in reducing these types of offences.

- 10.10. Any person found to have committed such offences in the Borough is very unlikely to be considered a suitable person to be licensed and any future application for a licence refused and any licence held revoked.

11. SANCTIONS

11.1. Revocation of licence and imposition of conditions

- 11.1.1. The Council may revoke a scrap metal licence if it is satisfied that:
- a) The licensee does not carry on business at any of the sites identified in the licence;
 - b) A site manager named in the licence does not act as site manager at any of the sites identified in the licence.
 - c) The licensee is not a suitable person to carry on business as a scrap metal dealer.
- 11.1.2. If the licensee or any site manager named in a licence is convicted of a relevant offence, the authority may vary the licence by adding one or both of the conditions set out above. This is subject to the overall assessment of whether the licence holder is suitable to remain licensed.
- 11.1.3. A revocation or variation takes effect when any appeal period has expired, or where any appeal made is determined or withdrawn. However, if the Council considers that the licence should not continue in force without the applicable conditions it may give notice to that effect.
- 11.2. A closure notice can be issued if the Council or Police are satisfied that the premises are being used by a scrap metal dealer in the course of their business and that the premises are not licensed for such a purpose.
- 11.3. A closure notice if issued will state the reasons for the opinion and also that the Police or Council may apply to the Magistrates Court for a Closure Order.
- 11.4. If the premises continue to be used as part of the business or there is reasonable likelihood that it will be so used in the future after the service of a closure notice the Magistrates Court can make a Closure Order requiring the premises to be closed immediately and remain closed or for the use of the premises to be discontinued immediately.
- 11.5. A Closure Notice may be cancelled by a Cancellation Notice which takes effect when given to any person who is in receipt of a Closure Notice.
- 11.6. The Council may take other action, such as issuing written advice or warnings to a person where it is considered to be the appropriate course of action. Such letters would remain on a licence holder's file or for such other period as is

permitted by current data protection legislation.

12. REPRESENTATIONS BEFORE DECISIONS

12.1. Representations against refusal / imposed variation of an application

- 12.1.1. Following the receipt of an application and the close of any consultation, the Council will make an assessment as to whether the applicant is suitable to be licensed.
- 12.1.2. Where it is proposed to refuse an application the Council shall send written notification to the applicant detailing the reasons concerned. The applicant will have up to 14 days from the date the notification is sent to notify the Council if they wish to accept the Council's decision or to make representations against the proposed decision.
- 12.1.3. If the recipient does not respond within the 14 day period or confirms that they do not wish to make any representations the Council shall make its final determination.
- 12.1.4. If representations are to be made then a further period of 14 days (commencing after the expiry of the first 14) will be allowed for these to be submitted. The applicant will be given the opportunity to make oral representation to the Council if they wish.

12.2. Representations against revocation imposed variation of a licence

- 12.2.1. Where it is proposed to refuse or impose a variation on a licence written notification will be provided to the licence holder detailing the reasons concerned.
- 12.2.2. The licensee will have up to 14 days from the date the notification is sent to notify the Council if they wish to make representations against the proposed decision. If the recipient does not respond within the 14 days or confirms they do not wish to make representations then the authority will deem it appropriate to proceed with its proposed course of action.
- 12.2.3. If representations are to be made then a further period of 14 days (commencing after the expiry of the first 14) will be allowed for these to be submitted. If the licence holder wishes to make oral representations as part of this the council will give the opportunity for these to be heard as part of the decision making process. Any decision to revoke or refuse will include details of any right of appeal.
- 12.2.4. Any decision to revoke or refuse will include details of any right of appeal.

12.3. Representations in respect to other enforcement action/prosecutions

- 12.3.1.** As stated above, the Council conducts any enforcement action in compliance with the regulators code. It shall normally discuss concerns with a person or business in the first instance on an informal basis in the hope of ascertaining facts and if necessary providing relevant advice on how to comply with the legislation.
- 12.3.2.** In some instances, where the Council has reasonable belief that offences have been committed it shall instead seek to interview the relevant parties on a formal basis.
- 12.3.3.** The Council will not make a decision without a further attempts at providing the relevant party an option to discuss the matter with the Council.

13. HEARINGS

- 13.1.** Where an applicant confirms that they wish to make oral representations an informal hearing will be arranged. This hearing will be before the Head of Environmental Health, Licensing and Resilience (EHLR) or any other officer they nominate for the purpose. The Head of EHLR may chose two other officers to assist them in considering the evidence.
- 13.2.** An applicant or licence holder will be given a notice of any decision made and which shall include information on the grounds for the decision. The notice will include information about any appeal process.
- 13.3.** Appeals against a decision to refuse or impose conditions on an application can be made to the magistrates' court. The applicant has 21 days from the day on which they were given notice of the decision in which to appeal. The magistrates court then has the power to confirm, vary or reverse the Council's decision and issue any directions it considers appropriate having regard to the

14. RELEVANT OFFENCES AND RELEVANT ENFORCEMENT ACTION

- 14.1. A number of offences are considered relevant to the suitability of a scrap metal dealer. Any person who has been found guilty of committing, attempting or conspiring to commit, inciting or aiding, abetting, counselling or procuring the commission by another person, of an offence listed in the schedule to the Act is guilty of a “relevant offence” for the purpose of the Act.
- 14.2. This also includes an offence under Part 2 of the Serious Crime Act 2007(2) (encouraging or assisting crime) committed in relation to any offence falling within the Schedule.
- 14.3. A person is the subject of “relevant enforcement action” if they have been charged with an offence specified in the Schedule, and criminal proceedings in respect of that offence have not yet concluded or an environmental permit granted to them under the Environmental Permitting (England and Wales) Regulations 2010 has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.
- 14.4. “Environment-related offence” means an offence which relates to the transportation, shipment or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water or land which may give rise to any harm;
- “Harm” means:
- a) harm to the health of human beings or other living organisms;
 - b) harm to the quality of the environment;
 - c) offence to the senses of human beings;
 - d) damage to property; or
 - e) impairment of, or interference with, amenities or other legitimate uses of the environment.
- 14.5. The list of relevant offences and enforcement action can be found at Annex 1 to this policy.

ANNEX 1

RELEVANT OFFENCES

PART 1 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, 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 34B 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, 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 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 where the specific offence concerned relates to scrap metal, or is an environment-related offence;
- l) Any offence under Part 1 of the Vehicles (Crime) Act 2001;
- m) An offence under sections 85, 202, or 206 of the Water Resources Act 1991.

PART 2 Secondary Legislation

- a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- b) An offence 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
- 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;

ANNEX 2

DOCUMENTS REQUIRED TO VERIFY IDENTITY FROM A PERSON SELLING SCRAP METAL

Documents required to verify a person's identity for the purpose of purchasing scrap metal.

For the purposes of the Act, in order to verify a person's name and address, it will be sufficient for the scrap metal dealer to refer to either one of the documents listed below which bears the person's full name, photograph and residential address;

- a) a valid United Kingdom passport, within the meaning of section 33(1) of the Immigration Act 1971(1); or
- b) a valid passport issued by an EEA state; or
- c) a valid Great Britain or Northern Ireland photo-card driving licence; or
- d) a valid UK biometric immigration document, issued in accordance with regulations made under section 5 of the UK Borders Act 2007(2).

If one of the above documents does not provide the persons full name, photograph and address a scrap metal dealer may verify the identity by using one of the above documents that includes the persons full name, photograph and date of birth and one of the following documents (provided it is issued no more than 3 months before the scrap metal is received by the dealer) that bears the persons full name and residential address:

- a) a bank or building society statement;
- b) a credit or debit card statement;
- c) a council tax demand letter or statement; or
- d) a utility bill, but not a mobile telephone bill