
REPORT TO THE MEETING OF THE EXECUTIVE 4 DECEMBER 2013

PORTFOLIO: ENVIRONMENT, LEISURE, ARTS AND CULTURE

REPORT FROM HEAD OF ENVIRONMENTAL SERVICES

SUBJECT: STATEMENT OF LICENSING POLICY SCRAP METAL DEALERS ACT 2013

1 DECISION BEING RECOMMENDED

- 1.1 That the Statement of Licensing Policy Scrap Dealers Act 2013, as appended, is approved and adopted.

2 REASONS FOR RECOMMENDATION

- 2.1 The Scrap Metal Dealers Act 2013 repeals the Scrap Metal Dealers Act 1964 and brings forward a revised regulatory regime for scrap metal dealers and vehicle dismantling industries. It is necessary to have a policy framework in place within which to determine applications by December 2013.
- 2.2 A draft policy was considered and approved for consultation by the Licensing Committee on 6 August 2013 and consultation took place between 9 and 26 September 2013.
- 2.3 The Licensing Committee considered consultation responses, including proposed amendments to the policy and fees at its meeting on 3 October 2013. These were also agreed for submission to Full Council. At this time, however, due to an omission by the Home Office, it was not legally possible for the Council to delegate this function to the Licensing Committee. This report, therefore, proposes that an interim arrangement is put in place whereby decisions are determined by the Portfolio Holder.
- 2.4 The appended policy includes full details as to how the regime will be administered. The fees have been approved separately by the Portfolio Holder.

3 SALIENT INFORMATION

- 3.1 Initial guidance from the Home Office indicated that this legislation was to be a non-executive function and would, therefore, be administered by the Licensing Committee in a similar manner to other Licensing functions. To date, however, the necessary Statutory Instrument has not been passed and this new regime is, therefore, an Executive function by default.
- 3.2 Once the necessary Statutory Instrument has been made to define this activity as a non-executive function, a report will be placed before Council to delegate appropriate functions to the Licensing Committee.

4 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 To implement this regime as a non-Executive function.

5 RISK IMPLICATIONS

- 5.1 There are considered to be risks of legal challenge and potential compensation claims if this regime were to be administered as a non-Executive function.

6 RESOURCE IMPLICATIONS

- 6.1 No additional resources are necessary to administer this new regime. The fees have been set in accordance with guidance to ensure cost recovery of appropriate functions.

7 LEGAL IMPLICATIONS

- 7.1 Once the necessary Statutory Instrument has been made to define this activity as a non-executive function, a report will be placed before Council to delegate appropriate functions to the Licensing Committee and Officers.

I confirm that the above recommendation does not depart from Council policy and that appropriate consideration has been given to any budgetary and legal implications.

SMT Lead Officer Signature: _____

Head of Environmental Services

Background Papers:-

None.

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SCRAP METAL DEALERS ACT 2013

STATEMENT OF LICENSING POLICY

CONTENTS

	Page
1 Introduction	2
2 Consultation	4
3 Types of Licences	4
4 Transitional Process	5
5 Application Process	5
6 Suitability of Applicants	6
7 Determination of Applications/Issue of Licence	6
8 Variation of Licence	7
9 Revocation of Licence/Imposition of Conditions	7
10 Register of Licences	8
11 Notification Requirements	8
12 Display of Licence	9
13 Verification of Supplier's Identity	9
14 Payment for Scrap	10
15 Records: Receipt of Metal	10
16 Records: Disposal of Metal	10
17 Records: Supplementary	11
18 Fees	11
19 Compliance	12
20 Closure of Unlicensed Sites	12
21 Delegation of Authority	16

APPENDICIES

Appendix 1 Transitional provisions	17
Appendix 2 Application Process	18
Appendix 3 Relevant Offences & Penalties	21
Appendix 4 Compliance	23
Appendix 5 Appeals	25
Appendix 6 Fees	26
Appendix 7 Delegation of Powers	27

1. Introduction

- 1.1 This document states Rochford District Council's Policy on the regulation of Scrap Metal Dealers.

The Law

- 1.2 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and main provision come into force on 1 December 2013.
- 1.3 The Scrap Metal Dealers Act 2013, hereinafter referred to as the 'Act' repeals the Scrap Metal Dealers Act 1964 and Part 1 section 35, and paragraphs 1 and 2 of the Schedule of the Vehicle (Crime) Act 2001, Paragraph 1 of schedule 3 of the Vehicle Excise and Registration Act 1994, paragraph 168 of schedule 17 to the Communications Act 2003 and section 145 to 147 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Act brings forward a new regime for scrap metal dealing and vehicle dismantling industries.
- 1.4 The Act maintains local authorities as the principal regulator. It also gives them better powers to regulate these industries by allowing them to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.
- 1.5 Rochford District Council hereinafter referred to as 'the Council' is the Licensing Authority under the Act and is responsible for granting site licences and collector's licences in the Rochford District in respect of businesses that deal in scrap metal and vehicle dismantling.
- 1.6 When assessing applications, the Council must be satisfied that the applicant is a 'suitable' person to hold a licence. Unsuitability will be based on a number of factors including any relevant criminal convictions.
- 1.7 The Act makes it a requirement for a scrap metal dealer to have a licence in order to carry on in business as a dealer. It is an offence to carry on a business without first obtaining a licence. The Act incorporates the separate regulatory scheme for motor salvage operators under the Vehicle (Crime) Act 2001 into this new regime. This is to replace the current overlapping regimes for vehicle salvage and scrap metal industries with a single regulatory scheme.

Definition of a Scrap Metal Dealer

- 1.8 A person carries on business as a scrap metal dealer if:-
- a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought in) or;
 - b) they carry on business as a motor salvage operator (see 1.10).

- 1.9 A person selling scrap metal as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.
- 1.10 Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:-
- a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap;
 - b) buying written-off vehicles, repairing and reselling them;
 - c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b);
 - d) wholly or mainly in activities falling within paragraphs (b) and (c).
- 1.11 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.
- 1.12 Scrap Metal does not include:-
- a) Gold;
 - b) Silver; or
 - c) Any alloy of which 2% or more by weight is attributable to gold or silver.

2. Consultation

- 2.1 There is no requirement, in the Act, for a Council to have in place a formal policy for dealing with applications. The Council has chosen to adopt a formal policy for this purpose as this represents best practice.
- 2.2 In developing this policy statement, the Council will consult with existing scrap metal dealers/motor salvage operators, Essex Police, British Transport Police, Environment Agency and Industry Associations.

3. Types of Licences

- 3.1 Anyone wishing to operate a scrap metal dealers business will require a Site Licence or a Collectors Licence. The licence is valid for three years and permits the holder to operate within the boundaries of the Council. These are:-
- **Site Licence** – 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 Council area, to be identified and a site

manager to be named for each site. This will permit the licensee to operate from those sites including transporting scrap metal to and from those sites from any local authority area. A person/business holding a Site Licence may collect from any local authority area.

- **Collectors Licence** – A licence will be issued by the Council in whose area a licence holder wishes to operate as a ‘mobile collector.’ This permits them to collect any scrap metal as appropriate, including commercial and domestic scrap metal. It does not permit the collector to collect from any other local authority area, as separate licences should be obtained from each local authority. Also, the licence does not permit a licensee to carry on a business at a site within any other area. If a collector wishes to use a fixed site, they will need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their material.

- 3.2 A person may hold more than one licence issued by different Councils, but cannot hold more than one licence issued by any one Council.

4. Transitional Process ‘Grandfather Rights’

- 4.1 During the transitional period, there will be special arrangements in place, (Guidance to be issued by Secretary of State). The procedure for conversion is detailed in Appendix 1.

5. Application Process

- 5.1 When the Council is considering an application, it will give regard to:-
- The Act;
 - Guidance issued by the Secretary of State;
 - Any supporting regulations;
 - This Statement of Licensing Policy.
- 5.2 This does not undermine the rights of any person to apply under the Act for a licence and have the application considered on its individual merits.
- 5.3 A person carrying on, or proposing to carry on, a business as a scrap metal dealer may apply to the Council to be licensed. Further information on this process together with the required mandatory and other information particulars, are set out in Appendix 2.
- 5.4 The application must be in writing and be accompanied by the appropriate fee.
- 5.5 If the applicant fails to provide the information requested, including the additional supporting documentation, or the fee, the Council may decline to accept the application as a valid application.

6. Suitability of Applicants

- 6.1 The Council must determine whether the applicant's Site Manager(s), Director(s), Company Secretary and Partner(s) (as is appropriate to the business structure) are suitable persons to carry on a business as a Scrap Metal Dealer.
- 6.2 In determining this, the Council may have regard to any information it considers to be relevant, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. A list of relevant offences is set out in Appendix 3.
- 6.3 The Council must also have regard to any guidance on determining suitability which is issued by the Secretary of State.
- 6.4 The Council may consult other agencies regarding the suitability of a applicant, including:
- Any other local authority;
 - The Environment Agency;
 - The Natural Resources Body for Wales; and
 - An officer of a Police force.

7. Determination of Application/Issue of Licence

- 7.1 Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence.
- 7.2 If the applicant has been convicted of a relevant offence, the Council may include, in the licence, one or both of the following conditions:-
- To limit the dealer to receiving any metal within the hours of 9.00am to 5.00pm on any day; and
 - That any scrap metal must be kept in the form in which it is received for a specified period of time, not exceeding 72 hours.
- 7.3 Where the Council is not satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, or a licence holder is no longer considered 'suitable' to continue to hold a licence, the Council must consider refusing the application or revoking the licence, where a licence has been issued.

Right to Make Representations

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

- a) make representations about the proposal; or
 - b) inform the Council that the applicant/licensee wishes to do so.
- 7.5 The period specified in the notice must 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 that they do not wish to make representations. Should this period expire and the applicant/licensee has not made representations, or informed the Council of their wish to do so, the Council may refuse the application or revoke or vary the licence.
- 7.6 If, within the period specified, the applicant/licensee informs the Council that they wish to make representations, the Council must allow a reasonable period of time to make representations and may refuse the application or revoke or vary the licence if they fail to make representations within that period.
- 7.7 The Council may revoke a scrap metal dealer's licence in certain circumstances. (Refer to Section 9 for circumstance of revocation).

Notice of Decisions

- 7.8 If the application is refused, or the licence is revoked or varied, the Council must give a notice to the applicant/licensee setting out the decision and the reasons for it. The notice must also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought and, if revoked or varied, the date on which the revocation or variation is to take effect. (Refer to Appendix 5 for the appeal process).

8. Variation of Licence

- 8.1 An applicant can, on application, apply to the Council to vary a licence by changing it from one type to another, or change any details on the licence. The variation application must be made to reflect changes to:-
- Site licence – name of licensee, the sites, site manager
 - Collector's licence – name of licensee

The variation can amend the name of the licensee but not transfer the licence to another person.

- 8.2 Application is to be made to the Council and contain particulars of the changes to be made to the licence.

9. Revocation of Licence/Imposition of Conditions

- 9.1 The Council may revoke a scrap metal licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.

- 9.2 The Council may revoke a licence if it is satisfied that a site manager named in the licence does not act as the site manager at any of the sites identified in the licence.
- 9.3 The Council may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer.
- 9.4 If the licensee or any site manager named in a licence is convicted of a relevant offence, the Council may vary the licence by adding one or both of the conditions set out in section 7.2.
- 9.5 A revocation or variation comes into effect when no appeal under paragraph 9 of Schedule 1, is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 9.6 If the Council considers that the licence should not continue without conditions, it may by notice provide:-
- a) that, until a revocation under this section comes into effect, the licence is subject to one or both of the conditions set out in section 7.2; or
 - b) that a variation under this section comes into effect immediately.

10. Register of Licences

- 10.1 The Environment Agency must maintain a register of scrap metal licences issued by Councils in England.
- 10.2 Each entry must record:-
- a) the 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 in the licence;
 - e) the type of licence; and
 - f) the date on which the licence is due to expire.
- 10.3 The registers are to be open for inspection to the public.

11. Notification Requirements

- 11.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the Council to which the application was made of any changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.

- 11.2 A licensee who is not carrying on business as a scrap metal dealer in the area of the Council which issued the licence must notify the Council within 28 days.
- 11.3 If a licence is issued to a business under a trading name the licensee must notify the Council which issued the licence of any change to that name within 28 days.
- 11.4 A Council must notify the Environment Agency, of:-
- a) any notification given to the authority under section 11.2 or 11.3;
 - b) any variation made by the authority under section 8 (variation of type of licence or matters set out in licence); and
 - c) any revocation of the authority of a licence.
- 11.5 Notification under subsection 11.4 must be given within 28 days of the notification, variation or revocation in question.
- 11.6 Where the Council notifies the Environment Agency under subsection 11.4, the body must amend the register under section 10 accordingly.

12. Display of Licence

- 12.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.
- 12.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it to be easily read by a person outside the vehicle.
- 12.3 Vehicles used by licencees to collect scrap metal will carry a copy of the Site Licence for inspection, upon request by a Police or local authority officer.

13. Verification of Supplier's Identity

- 13.1 Prior to receiving scrap metal, the scrap metal dealer must verify the person's full name and address by reference to documents, data or other information obtained from a reliable and independent source.
- 13.2 Should verification not be gained then each of the following are guilty of an offence:-
- a) the scrap metal dealer;
 - b) if metal is received at the site, the site manager;
 - c) any person who, under arrangements made by a person within paragraph (a) or (b), has responsibility for verifying the name and address.

14. Payment for Scrap Metal

14.1 A scrap metal dealer must only pay for scrap metal by either:-

- a) a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or
- b) electronic transfer of funds (authorised by a credit, debit card or otherwise).

14.2 Payment includes payment in kind – with goods or services.

15. Records: Receipt of Metal

15.1 If any metal is received in the course of the dealer's business the dealer must record the following information:-

- 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 delivered by;
- d) full name and address of person delivering it;
- e) full name of the person making payment on behalf of the dealer.

15.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.

15.3 If payment is made via cheque, the dealer must retain a copy of the cheque.

15.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

16. Records: Disposal of Metal

16.1 The Act regards the metal to be disposed of:-

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

16.2 Where the disposal is in the course of business under a Site Licence, the following must be recorded:-

- a) description of the metal, including its type (or types if mixed), form and weight;
- b) date and time of disposal;
- c) if to another person, their full name and address;

- d) if payment is received for the metal (by sale or exchange) the price or other consideration received.
- 16.3 If disposal is in the course of business under a Collector's Licence, the dealer must record the following information:-
- a) the date and time of the disposal;
 - b) if to another person, their full name and address.

17. Records: Supplementary

- 17.1 The information in sections 15 and 16 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.
- 17.2 The records mentioned in section 15 must be marked so as to identify the scrap metal to which they relate.
- 17.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of.
- 17.4 If a scrap metal dealer fails to fulfil a requirement under section 15 and 16 or this section each of the following is guilty of an offence:-
- a) the scrap metal dealer;
 - b) if the metal is received at or (as the case may be) despatched from a site, the site manager;
 - c) any person who, under arrangements made by a person within paragraph (a) or (b) has responsibility for fulfilling the requirement.
- 17.5 A defence is available for a person within subsection 17.4 (a) or (b) who is charged with an offence under this section to prove that the person:-
- a) made arrangements to ensure that the requirement was fulfilled, and
 - b) took all reasonable steps to ensure that those arrangements were complied with.

18. Fees

- 18.1 A Council may make a charge for a licence on a cost recovery basis subject to Guidance issued by the Secretary of State. The fees set by the Council are shown in Appendix 6. These are subject to annual review.

19. Compliance

- 19.1 The Act provides a Constable or Officer of the Council with a right to enter and inspect the premises of licensed and unlicensed scrap metal dealers. The full provisions of the powers are set out in Appendix 4.
- 19.2 The Act does not provide an Officer of the Council with the power to inspect premises of licensed and unlicensed scrap metal dealers outside the area of the Council.
- 19.3 The Council delivers a wide range of compliance services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade.
- 19.4 The administration and compliance of the licensing regime is one of these services.
- 19.5 Compliance will be based on the principles that businesses should:-
- Receive clear explanations from regulators of what they need to do and by when;
 - Have an opportunity to resolve differences before compliance action is taken, unless immediate action is needed;
 - Receive an explanation of their right of appeal.
- 19.6 The Council recognises the interest of both citizens and businesses and will work closely with partners to assist licence holders to comply with the law. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law. The Council has set clear standards of service and performance that the public and businesses can expect.
- 19.7 In particular, a compliance policy has been created that explains how the Council will undertake its role as Licensing Authority and how the principles of effective compliance will be achieved
- 19.8 The Council has also established a compliance protocol with Essex Police and British Transport Police on compliance issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

20. Closure of Unlicensed Sites

20.1 Interpretation

A person with an interest in premises is the owner, leaseholder or occupier of the premises.

Council powers are exercisable only in relation to premises in the authority's area.

20.2 Closure Notice

Not applicable if the premises are residential premises.

A Constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.

A Closure Notice may be issued by a Constable or local authority which states they are satisfied that the premises are not a licensed site and the reasons for that decision. The Constable or local authority may apply to the Court for a Closure Order and specify the steps which may be taken to ensure that the alleged use of the premises ceases.

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

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

20.3 Cancellation of Closure Notice

A Cancellation Notice issued by a Constable or local authority may cancel a Closure Notice. This takes effect when it is given to any one of the persons to whom the closure notice was given. This must also be given to any other person to whom the closure notice was given.

20.4 Application for Closure Order

When a closure notice has been given, a Constable or the local authority may make a complaint to the Justice of the Peace for a closure order. This may not be made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

A complaint under this paragraph may not be made if the Constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable likelihood that the premises will be so used in the future.

The Justice of the Peace may issue a summons to answer to the complaint. This must be directed to anyone whom the closure notice was given and must include the date, time and place at which the complaint will be heard.

20.5 Closure Order

A Closure Order requires that the premises be closed immediately to the public and remain closed until a Constable or the local authority makes a termination of a closure order by certificate. The use of the premises by a scrap metal dealer in the course of business is discontinued immediately and that any defendant pays into Court such sum as the Court determines and that the sum will not be released by the Court to that person until the other requirements of the order are met.

The Closure Order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure to which the premises form part.

A Closure Order may include such provision as the Court considers appropriate for dealing with the consequences if the order should cease to have effect.

As soon as practicable after the closure order is made, the complainant must fix a copy of it in a conspicuous position on the premises affected.

A sum ordered to be paid into Court under a closure order is to be paid to the designated officer for the Court.

20.6 Termination of Closure Order by Certificate

Once a Closure Order has been made and a Constable or local authority is satisfied that the need for the order has ceased, a certificate may be made. This ceases the closure order and any sum paid into a Court is to be released by the Court to the defendant.

As soon as is practicable after making a certificate, a Constable or local authority must give a copy to any person against whom the closure order was made, give a copy to the designated officer for the Court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

A copy of the certificate must be given to any person who requests one.

20.7 Discharge of Closure Order by Court

A Closure Order may be discharged by complaint to a Justice of the Peace. This can be done by any person to whom the relevant Closure

Notice was given or any person who has an interest in the premises but to whom the Closure Notice was given.

The Court will make a Discharge Order if it is satisfied that there is no longer a need for the Closure Order. A Justice of the Peace may issue a summons directed to a constable or the Council, requiring that person to appear before the Magistrates' Court to answer to the complaint.

If a summons is issued, notice of the date, time and place at which the complaint will be heard must be given to all persons to whom the closure notice was given (other than the complainant).

20.8 Appeal

An appeal may be made to the Magistrates' Court against:-

- a) a closure order;
- b) a decision not to make a closure order;
- c) a discharge order;
- d) a decision not to make a discharge order.

The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made.

An appeal under a) or b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under b) and c) may be made by a Constable or the local authority.

20.9 Enforcement of Closure Order

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

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.

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.

21. Delegation of Authority

- 21.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision making.
- 21.2 Details of the delegation of powers are shown in Appendix 7.

TRANSITIONAL PROVISIONS

1. A registered scrap metal dealer will be able to apply for a licence between 1 and 15 October 2013 in order to be automatically issued with a temporary licence, pending completion of the suitability assessment carried out by the Council.
2. A temporary licence will be issued for a period of 2 months (1 October 2013 to 1 December 2013) when it is expected that the Council would be in a position to complete the licensing process and issue/refuse to grant a licence under the Act.
3. If an application is made within the transitional period and the Council fails to determine the application by 1 December 2013, the Council will then be unable to make a closure order against a temporary licensed site. Prosecution will also not be possible, unless there is a subsequent refusal.
4. Any dealer operating after 1 December 2013 without a licence will be in breach of the Act and may risk being issued with a closure order.
5. Continuing to operate, in breach of a closure order, may result in an unlimited fine.

1. APPLICATION PROCESS

An application for a licence should be made to the following address:

Licensing Section
Environmental Services
Rochford District Council
South Street
Rochford
Essex SS4 1BW

To apply for a Scrap Metal Dealers Licence, applicants must be aged over 18 years of age (subject to confirmation) and will need to complete an application form and send it to the Licensing Authority together with:-

- a) Full name of applicant (if an individual), date of birth and usual place of residence;
- b) Name and registered number of the applicant (if a company) and registered office;
- c) If a partnership – full name of each partner, date of birth and usual place of residence;
- d) Proposed trading name;
- e) Telephone number and email address (if any) of applicant;
- f) Address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so;
- g) Any relevant environmental permit or registration in relation to the applicant;
- h) Details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application;
- i) Details of the bank account which is proposed to be used in order to comply with section 15;
- j) Details of any relevant conviction or enforcement action taken against the applicant.

For a Site Licence, applicants must also provide:-

- k) Address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought);
- l) Full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant);
- m) Site manager's details to be included on all site applications.

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

You are required to provide a basic disclosure of criminal convictions with your application.

This can be obtained direct from www.disclosurescotland.co.uk or by telephoning the Disclosure Scotland Helpline on 0870 609 6006. Please note that the disclosure is valid for one month from the date it was issued.

2. Further information, in addition to that required above

Rochford District Council may request (at the time of the application or later) an applicant to supply such further information as is considered relevant for the purpose of considering the application.

Rochford District Council requires the following additional evidence:-

- Photographic evidence (Current valid Passport, driving licence photo ID and counterpart);
- Birth Certificate;
- Utility bill or other recent document which confirms the address of the applicant (must be less than 3 months old);
- Certificate of good conduct for applicants that have been out of the country for long periods, from the age of 10 years;
- Document showing a right to work (Resident's Permit) where applicable;
- National Insurance Number.
- Basic Criminal Record check.

The Council may have regard to the following information, when considering the suitability of an applicant:-

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

All of the above will apply to any Directors, Secretaries, Partners and all named site managers of a company if the applicant is not an individual.

3. Fee

The application must be accompanied by the fee set by the Council, under guidance from the Secretary of State with the approval of the Treasury.

4. Renewal

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn.

Making a false statement

An applicant who, in an application or in response to a request, makes a statement knowing it to be false in a material particular or recklessly makes a false statement is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

RELEVANT OFFENCES, PENALTIES AND ENFORCEMENT ACTION

When considering the suitability of an applicant, the Council may have regard to any information which it considers to be relevant. Without prejudice to the generality of the foregoing this shall include offences and/or enforcement action under the following statutes:-

- Control of Pollution (Amendment) Act 1989 sections 1, 5, or 7
- Customs and Excise Management Act 1979 sections 170, 170B
- Environment Act 1995 section 110
- Environmental Protection Act 1990 sections 33, 34 or 34B
- Food and Environment Protection Act 1985 section 9
- Fraud Act 2006 where the specific offence concerned relates to scrap metal, or is an environment related offence.
- Legal Aid, Sentencing and Punishment of Offenders Act 2012 section 146
- Proceeds of Crime Act 2002 section 327, 328, or 330 to 332
- Scrap Metal Dealers Act 1964
- Scrap Metal Dealers Act 2013
- Theft Act 1968 section 1, 8, 9, 10, 11, 17, 18, 22 or 25 where the offence concerned relates to scrap metal or is environment related offence.
- Vehicles (Crime) Act 2001 any offence under part 1
- Water Resources Act 1991 section 85, 202 or 206
- Environmental Permitting (England and Wales) Regulations 2007 regulation 38
- Environmental Permitting (England and Wales) Regulations 2010 regulation 38
- Any offence under the Hazardous Waste (England and Wales) Regulations 2005(18), 2005
- Any offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- Any offence under the Trans frontier Shipment of Waste Regulations 1994
- Any offence under the Trans frontier Shipment of Waste Regulations 2007
- Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- Waste (England and Wales) regulations 2011 Regulation 42

This document should not be relied upon as an accurate statement of the law, only indicative of the general offences and penalties. You should seek independent legal advice if you are unsure of any information in this document.

Offences relating to scrap metal dealing and motor salvage under the Scrap Metal Dealer's Act 2013 are described below under the relevant statute.

Section	Offence	Max Penalty
1	Carry on business as a scrap metal dealer without a licence	Level 5
8	Failure to notify authority of any changes to details given within application	Level 3
10	Failure to display site licence or collectors licence	Level 3
11 (6)	Receiving scrap metal without verifying the 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	Failure to keep records regarding receipt of metal	Level 5
14	Failure to keep records regarding disposal of metal	Level 5
15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	Level 5
15 (2)	Failure to keep a copy of documents used to verify the name and address of a person bringing metal, or failure to keep a copy of a cheque issued	Level 5
15 (3)	Failure to keep information and records for three years	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

In relation to the maximum penalties specified, the levels of fine are currently as follows:-

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

OFFENCES BY CORPORATE BODIES

1. Where an offence under the Act is committed by a corporate body and is proved:-
 - a) to have been committed with the consent or connivance of a Director, Manager, Secretary or other similar officer; or
 - b) to be attributable to any neglect on the part of any such individual.

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

2. Where the affairs of a corporate body are managed by its members, Section 1 applies in relation to the acts and omissions of a member in connection with that management as if the member were a Director of the corporate body.

COMPLIANCE

RIGHT OF ENTRY

- a. A Constable or an authorised officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.
- b. A Constable or an authorised officer of the Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
 - a) reasonable attempts to give notice have been made and failed, or
 - b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.
- c. (1) and (2) above do not apply to residential premises.
- d. A Constable or an authorised officer of the Council is not entitled to use force to enter premises in the exercise of the powers under sections (1) and (2) above.

ENTRY BY WARRANT

- e. A Justice of the Peace may issue a warrant authorising entry (in accordance with section 7 below) to any premises within section 6 if the JP is satisfied by information given under oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:-
 - a) securing compliance with the provisions of the Act, or
 - b) ascertaining whether those provisions are being complied with.
- f. Premises fall within this section if:-
 - a) the premises are a licensed site, or
 - b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business
- g. The warrant is a warrant signed by the Justice of the Peace which:-
 - a) specifies the premises concerned, and

- b) authorises a Constable or an authorised officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.
- h. A Constable or an authorised officer of the Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.

INSPECTION OF MATERIAL AND RECORDS

- i. A Constable or an authorised officer of the Council may:-
 - a) require production of, and inspect, any scrap metal kept at any premises mentioned in section 1 or 2 or in a warrant under section 5;
 - b) require production of, and inspect, any records kept in accordance with section 15 or 16 and any other records relating to payment for scrap metal;
 - c) take copies of or extracts from any such records.
- j. Section 11 applies if a Constable or an authorised officer of the Council seeks to exercise powers under this section in relation to any premises.
- k. If the owner, occupier or other person in charge of the premises requires the officer to produce:-
 - a) evidence of the officer's identity, or
 - b) evidence of the officer's authority to exercise those powersthe officer must produce that evidence.
- l. In the case of an officer of the Council, the powers under this section are exercisable only in relation to premises in the area of the authority.

APPEALS

An applicant may appeal to the Magistrates' Court against the refusal of an application or a variation. The licensee may appeal to a Magistrates' Court against the inclusion in a licence of a condition under section 7.2 or the revocation or variation of a licence under section 9.

An appeal must be made within 21 days beginning on the day the notice was given to refuse the application, to include the condition or to revoke or vary the licence under section 7.

The procedure for an appeal under this paragraph is by way of complaint for an order and in accordance with the Magistrates' Court Act 1980.

For the purposes of the time limit for making an appeal, the making of the complaint is to be treated as the making of the appeal.

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

The Council must comply with any directions given by the Magistrates' Court. Although the Council need not comply with such directions until the time for making an application under section 111 of the Magistrates' Courts Act 1980 has passed, or, if such an application is made, until the application is finally determined or withdrawn.

Fees

Application Type	Fee
New Site Licence	£327
Renewal Site Licence	£260
Site Variation	£63
New Collectors Licence	£217
Renewal Collectors Licence	£180
Variation of Collectors licence	£63
Duplicate Licence	£11

The proposed fees are calculated on the basis of estimated officer time. To be reviewed annually in April.

DELEGATION OF POWERS

Full details of the Council's Constitution can be found on the Council website <http://cmisrdc.rochford.gov.uk/cm5/PublicDocuments.aspx>

The Council has delegated all aspects of licensing under the Act and the Executive has approved the Statement of Licensing Policy. The Portfolio Holder for Environment, Leisure, Arts and Culture will determine all applications for which valid representations have been made on the basis of written representations.

The Head of Environmental Services is authorised:-

- To be the Responsible Officer for and take decisions and exercise discretion on matters within Environmental Services. This includes the determination and issue licences for all applications for which valid representations have not been made.

Individual officers are delegated by the Head of Environmental Services to undertake functions under the Act.