

READING BOROUGH COUNCIL

DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES

TO:	LICENSING APPLICATIONS SUB-COMMITTEE 3		
DATE:	7 MARCH 2017	AGENDA ITEM:	4
TITLE:	SCRAP METAL DEALERS ACT 2013, SCRAP METAL STATEMENT OF LICENSING POLICY.		
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1. PURPOSE AND SUMMARY OF REPORT

- 1.1 To consider the proposed statement of Scrap Metal licensing policy. see **Appendix 1** to this report

2. RECOMMENDED ACTION

- 2.1 That the Sub-Committee approve the Scrap Metal Licensing policy.

3. BACKGROUND

- 3.1 The legislation covering scrap metal dealers was contained in the Scrap Metal Dealers Act 1964, which is repealed with effect from 1st October 2013. This required Local Authorities to maintain a simple register of persons trading in their area as scrap metal dealers. The offence of carrying on a business as a scrap metal dealer without being registered attracts a fine of up to £5000 for the operator. Registration lasted for three years. The Act was amended in December 2012 to create an offence of paying cash for scrap metal and to require additional records to be kept of transactions.
- 3.2 The Scrap Metal Dealers Act 2013 received Royal Assent on 28th February 2013 with its provision to be implemented with effect from 1st October 2013. The new Act repeals the Scrap Metal Dealers Act 1964 in total and Part 1 of the Vehicles (Crime) Act 2001, thus creating a revised single point regulatory regime for the scrap metal recycling and vehicle dismantling operations in England and Wales. Motor salvage operators are now included in the scrap metal dealers regime.
- 3.3 The new Act is in response to the growth in metal theft offences resulting from a booming metal recycling industry worth £5 Billion in 2011. In addition to the direct

impact of theft there are significant impacts on national infrastructure. Nine of every ten councils have been affected by the theft of metal e.g. drain covers, cables, street furniture etc. there has been disruption to rail services, loss of power to homes, interruptions to telecommunications, theft of bus shelters and even grave memorials.

- 3.4 Local Authorities remain the principal regulators of the 2013 Act with powers to issue or refuse to grant a licence to “unsuitable” applicants and to revoke licences if the dealer becomes “unsuitable”. It retains a cashless trading system first brought into force through the Legal Aid, Sentencing and Punishment of Offenders Act 2012. It closes off loopholes relating to vehicle dismantlers and itinerant collectors by bringing them into the cashless trading scheme. All applications are subject to a fee which must be set on a cost recovery basis, having regard to guidance issued by the Secretary of State.

4. PROPOSAL

- 4.1 The Scrap Metal Act 2013 does not require the local authority to have a scrap metal policy in place, when officers sought powers in 2013 no scrap metal policy was drafted or approved
- 4.2 During 2013 the council issued a number of licences permitting individuals and companies to collect and sell Scrap Metal, these licences are currently under renewal.
- 4.3 The institute of licensing has recommended that council’s who have and are authorising licences under the Scrap Metal Dealers Act 2013 should have a policy in place which has been approved by a suitable body which can be used by the licensing committee when making decisions, In light of this recommendation the attached policy was drafted for your consideration.

5. CONTRIBUTION TO STRATEGIC AIMS

- 5.1 The Licensing Service contributes to the Council’s Strategic Aim of Developing Reading as a Green City with sustainable environment and economy at the heart of the Thames Valley.

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 A formal consultation was carried from 1ST November 2016, letters and e-mails were sent to various local and national bodies, licensed dealers and was posted on the councils web site for comment. The closing date for comments was 15 January 2017.
- 6.2 We have received no comments regarding the proposed policy.

7. EQUALITIES IMPACT ASSESSMENT

- 7.1 This change does not impact on equalities.

8. LEGAL IMPLICATIONS

- 8.1 The new Act imposes new legal duties on the Council. Failure to discharge these duties adequately may result in legal challenges from scrap metal dealers, members of the public and aggrieved parties.

9. FINANCIAL IMPLICATIONS

- 9.1 None

Appendix 1 Proposed statement of licensing policy (Scrap Metal)

SCRAP METAL DEALERS ACT 2013

STATEMENT OF LICENSING POLICY

CONTENTS

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

APPENDICIES

Appendix 1	Application Process
Appendix 2	Relevant Offences & Penalties
Appendix 3	Compliance
Appendix 4	Appeals
Appendix 5	Delegation of Powers

1.Introduction

1.1 This document states Reading Borough 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 came into force on 1 October 2013.

1.3 The Scrap Metal Dealers Act 2013, hereinafter named 'the Act' repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicles (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 Reading Borough Council ('the Council') is the Licensing Authority under the Scrap Metal Dealers Act 2013 and is responsible for granting site licences and collector's licences in the Reading Borough 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 Scrap Metal Dealers Act 2013 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. Scrap Metal Dealers Act 2013 Section 21(6)

Scrap metal

- (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.

1.8 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 not for manufacture as a by-

product of manufacturing articles is NOT regarded as a scrap metal dealer.

Motor salvage operation is defined in the Scrap Metal Dealers Act 2013 Section 21(4) as a business that consists of:

- a) wholly or mainly of recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap;
- b) wholly or mainly of buying written-off vehicles and subsequently repairing and reselling them;
- c) wholly or mainly of buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b); whether immediately or on a subsequent re-sale;
- d) wholly or mainly in activities falling within paragraphs (b) and (c).

1.10 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.

1.11 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 made under the Scrap Metal Dealers Act 2013. As a process of 'Best Practice' the Council has chosen to adopt a formal policy for this purpose.

2.2 In developing this policy statement, the Council will consult with existing scrap metal dealers/motor salvage operators, Thames Valley Police, British Transport Police, Environment Agency and Industry Associations.

3. Types of Licences

3.1 Anyone wishing to operate a business will require a site licence or a collector's licence. The licence is valid for three years and permits the holder to operate within the boundaries of the issuing authority. 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 local authority area, to be identified and a site manager to be named for each site. This will permit them to operate from those sites including transporting scrap metal to and from those sites from any local authority area.
- Collector's Licence – authorises a licence holder to operate as a 'mobile collector' in the area of the issuing local authority area. 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, 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 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 authorities, but may NOT hold more than one licence issued by any one local authority.

4. Application Process

4.1 When the Council is considering an application, it will have regard to:

- The Scrap Metal Dealers Act 2013;
- Guidance issued by the Secretary of State;
- Any supporting regulations
- This statement of licensing policy

4.2 This does not undermine the rights of any person to apply under the 2013 Act for a licence and have the application considered on its individual merits.

4.3 A person carrying on, or proposing to carry on, a business as a scrap metal dealer may apply to the Council to be licensed. The application must be in writing and contain the appropriate mandatory particulars, as set out in Appendix 1.

4.4 A local authority may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant. The additional information that is required is set out in Appendix 1.

4.5 The application must be accompanied by the appropriate fee.

4.6 If the applicant fails to provide the information requested, including the additional supporting documentation, the Council may decline to accept the application as a valid application.

5. Suitability of Applicants

5.1 A local authority must determine whether the applicant is a suitable person to carry on a business as a Scrap Metal Dealer.

5.2 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 are set out in Appendix 2.

5.3 The Council must also have regard to any guidance on determining suitability which is issued by the Secretary of State.

5.4 The Council may consult other agencies regarding the suitability of an applicant, including:

- Any other local authority;
- The Environment Agency;

- The Natural Resources Body for Wales; and
- An officer of a police force.

6. Determination of Application/Issue of Licence

6.1 Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence.

6.2 In reaching its decision the Council will have regard to:

- 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 to issue or renew a scrap metal licence and reason for refusal.
- Any previous refusal for an environment permit or registration;
- Any previous revocation of a scrap metal licence and reason for revocation.
- Whether the applicant has demonstrated that there will be adequate procedures to comply with the Act.

All of the above will apply to any director, any secretary of a company or any shadow director of the company if the applicant is not an individual.

6.3 If an applicant or any site manager 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; 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, beginning with the time when it received.

6.4 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 may if this is the position refuse the application or revoking the licence where a licence has been issued. The matter will be referred to the Licensing Sub- Committee for determination.

Right to Make Representations

6.5 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 authority that the applicant/licensee wishes to do so.

6.6 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 the applicant/licensee has not made representations, or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.

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

6.8 If the applicant/licensee notifies the authority that they wish to make oral representations, the authority must give them the opportunity of appearing before, and being heard by, a person appointed by the authority. In this instance, this will be before the Licensing Sub-Committee.

6.9 The Council may revoke a scrap metal dealer's licence in certain circumstances. Please refer to Section 8 for circumstance of revocation.

Notice of Decisions

6.10 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. (Please see Appendix 4 for appeal process).

7. Variation of Licence

7.1 An applicant can, on application, apply to the Council to vary licence by changing it from one type to another. 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 does not transfer the licence to another person.

7.2 The application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

8. Revocation of Licence by the Licensing-Committee

8.1 The authority 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.

8.2 The authority may revoke a licence if it is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.

8.3 The authority 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.

8.4 A revocation or variation under this paragraph comes into effect when no appeal under section 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.

8.5 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:

- a) that, until a revocation under this paragraph comes into effect, the licence is subject to one or both of the conditions set out in Paragraph 6.3; or
- b) that a variation under this section comes into effect immediately.

9. Register of Licences

9.1 The Environment Agency must maintain a register of scrap metal licences issued by authorities in England.

9.2 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.

9.3 The registers are to be open for inspection to the public and the Environment Agency may combine with its register and another register mentioned by it .

10. Notification Requirements

10.1 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority 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.

10.2 A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days of change occurring.

10.3 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.

10.4 An authority must notify the Environment Agency, of –

- a) any notification given to the authority under paragraph 10.2 or 10.3;
- b) any variation made by the authority under paragraph 8 (variation of type of licence or matters set out in licence); and
- c) any revocation of the authority of a licence.

10.5 Notification under subsection 11.4 must be given within 28 days of the notification,

variation or revocation in question.

10.6 Where the authority notifies the Environment Agency under subsection

10.4, the body must amend the register under paragraph 9 accordingly.

11. Display of Licence

11.1 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.

11.2 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 easily to be read by a person outside the vehicle.

12. Verification of Supplier's Identity

12.1 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.

12.2 if the scrap metal dealers receives scrap metal without verification 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.

13. Payment for Scrap Metal

13.1 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).

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

13.3 If a scrap metal dealer pays for scrap metal in breach of paragraph 13.1 then these who may be guilty are mentioned at paragraph 12 (4) (a) to (c) of the Act

14. Records: Receipt of Metal

14.1 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 by which the metal was delivered ;
- d) full name and address of person from whom the metal is received;
- e) full name of the person making payment on behalf of the dealer, if the dealer is paying for it .

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

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

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

15. Records: Disposal of Metal

15.1 The Act regards the metal to be disposed of:

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

15.2 Where the disposal is in the course of business under a site licence, the dealer must record the following information:

- 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, the full name and address of that person;
- d) if payment is received for the metal (by sale or exchange) the price or other consideration received.

15.3 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.

16. Records: Supplementary

16.1 The information in paragraph 14 and 15 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.

16.2 The records mentioned in paragraph 14 must be marked so as to identify the scrap metal to which they relate.

16.3 Records as in paragraph 14.1 to 14.4 and 15.2 to 15.3 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.

16.4 If a scrap metal dealer fails to fulfil a requirement under paragraph 14 and 15 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.

16.5 It is a defence for a person within paragraph 16.4 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.

17. Fees

17.1 A Council may make a charge for a licence on a cost recovery basis (subject to Guidance issued by the Secretary of State).

18. Compliance

18.1 The Act provides a Police Constable and an Officer from 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 3 of this report.

18.2 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 authority.

18.3 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.

18.4 The administration and compliance of the licensing regime is one of these services.

18.5 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.

18.6 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.

19. Closure of Unlicensed Sites

19.1 Interpretation

A person with an interest in a premises is the owner, leaseholder or occupier of the premises. Local authority powers are exercisable only in relation to premises in the authority's area.

19.2 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 of the above, the reasons for that, that the constable or local authority may apply to the court for a closure order and specifies the steps which may be taken to ensure that the alleged use of the premises ceases.

The 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 form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

19.3 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.

19.4 Application for Closure Order

When a closure notice has been given, a constable or the local authority may make a complaint to the justices 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.

Where a complaint is made the Justices 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.

19.5 Closure Order

A closure order may in particular require that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate. The use of the premises by a scrap metal dealer in the course of business must be discontinued immediately and that any defendant pay 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 as in paragraph 6.3 as in a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of 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 in respect of which it was made.

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

19.6 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 constable or local authority may make a certificate. 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.

19.7 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. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person 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).

19.8 Appeal

Appeal may be made to the Crown Court against:

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

The Crown court may make such an order if it considers it appropriate.

19.9 Enforcement of Closure Order

A person is guilty of an offence, without reasonable excuse, if they permit a 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. A person is guilty of an offence if they intentionally obstruct a constable or an authorised person.

20. Delegation of Authority

20.1 Decisions on licensing matters will be taken in accordance with the approved scheme of delegation in Appendix 5 aimed at underlining the principles of timely, efficient and effective decision making.

20.2 This scheme will be subject to amendment from time to time as shown in the Council's constitution.

APPENDIX 1

1. Application Process

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

Licensing Team, Regulatory Services
Reading Borough Council
Civic Centre, Bridge Street
RG1 2LU

Or Via e-mail licensing@reading.gov.uk

To apply for a Scrap Metal Dealers Licence, applicants 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 of an individual applicant (including mobile collectors), and anyone proposed as a site manager for a site.;
- 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) Any proposed trading name for the business;
- e) Telephone number and email address (if any) of applicant;
- f) Address of any site within any other local authority where the applicant already carries on business as a scrap metal dealer or propose to do so
- g) Details of 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 of the Act;
- j) Details of any relevant conviction or enforcement action taken against the applicant.

For site licence, must also provide:

- a) Address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought);
- b) 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);
- c) Site manager details to be included for g), h) and j) above.

Please note the collectors licence allows a business or individual to operate within that authority's area, therefore individuals wishing to collect across the boundary of the local authority 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 standard? DBS Certificate from the Disclosure & Barring service of your criminal convictions with your application. Please note that the disclosure is valid for one month from the date it was issued.

2. Further Evidence

3. In addition to that required above

the 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. The 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 (Residents Permit) where applicable;
- • National Insurance Number.

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 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.

The Council may require the following additional information:

Site licences

- what security arrangements exist to prevent the unlawful purchase, sale or theft of scrap metal
- details of the arrangements to be used to record sales, storage and purchase of scrap metal

Mobile collectors

- details of the vehicles to be used
- where the vehicles are stored when not being used.

4. 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.

5. 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.

APPENDIX 2

RELEVANT OFFENCES

- D Control of Pollution (Amendment) Act 1989: Sections 1, 5 or 7(3)
- D Customs and Excise Management Act 1979: Section 170 (for environmental/metal theft related offences only)
- D Environment Act 1995: Section 110(2)
- D Environmental Permitting Regulations 2007: Regulation 38
- D Environmental Permitting Regulations 2010: Regulation 38
- D Environmental Protection Act 1990: Sections 33 and 34
- D Food and Environment Protection Act 1985: Section 9(1)
- D Fraud Act 2006: Section 1 (for environmental/metal theft related offences only)
- D Hazardous Waste (England and Wales) Regulations 2005
- D Hazardous Waste (Wales) Regulations 2005
- D Landfill (England and Wales) Regulations 2002
- D Legal Aid, Sentencing and Punishment of Offenders Act 2012: Section 146
- D Pollution Prevention and Control (England and Wales) Regulations 2000
- D Proceeds of Crime Act 2002: Sections 327, 328, 330, 331 & 332 (for environmental/metal theft related offences only)
- D Producer Responsibility Obligations (Packaging Waste) Regulations 2007
- D Scrap Metal Dealers Act 1964 (for environmental/metal theft related offences only)
- D Scrap Metal Dealers Act 2013
- D Theft Act 1968: Sections 1, 8, 9, 10, 11, 17, 18, 22 & 25 (for environmental/metal theft related offences only)
- D Transfrontier Shipment of Waste Regulations 1994
- D Transfrontier Shipment of Waste Regulations 2007
- D Vehicles (Crime) Act 2001: Part 1
- D Waste Electrical and Electronic Equipment Regulations 2006
- D Waste (England and Wales) Regulations 2011: Regulation 42
- D Water Resources Act 1991: Section 85, 202 or 206

These are to be confirmed by Home Office Regulations and will be kept under review in accordance with the guidance.

APPENDIX 3

COMPLIANCE - RIGHT OF ENTRY

1. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.
2. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
 - 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.
3. (1) and (2) above do not apply to residential premises.
4. A constable or an officer of the Council is not entitled to use force to enter a premises in the exercise of the powers under sections (1) and (2) above.
5. A justice of the peace may issue a warrant authorising entry to any premises within section 6 below if the justice is satisfied by information on 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.
6. Premises are 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
7. The warrant is a warrant signed by the justice which:
 - a) specifies the premises concerned, and
 - b) authorises a constable or an officer of a local authority to enterand inspect the premises at any time within one month from the date of the warrant.
8. A constable or an officer of the Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.

9. A constable or an 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.

10. Section 11 below applies if a constable or an officer of the Council who seeks to exercise powers under this section in relation to any premises.

11. 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 powers the officer must produce that evidence.

12. 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.

APPENDIX 4

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 to refuse the application, to include the condition or to revoke or vary the licence under section 7 was given.

The procedure on an appeal under this paragraph is to be 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 Council's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

APPENDIX 5

DELEGATION OF POWERS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Licensing policy	All cases		
Fee Setting - when appropriate	All fees	-	
Application for or renewal of a Site or Collector' s licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
To issue a closure notice on non-residential premises being used as a scrap metal dealer' s site		All cases	All cases
Application to the Magistrates Court for a closure order		All cases	All cases
Termination of a closure order		All cases	All cases
Application to the Magistrates Court to discharge a closure order.		All cases	All cases
Revocation of a licence		All cases	All cases
Consideration of and imposition of conditions		All cases	All cases