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Ribble Valley
Borough Council

www.ribblevalley.gov.uk

Dear Councillor

The next meeting of the **LICENSING** Committee will be held at **6.30 pm** on **TUESDAY, 21 MARCH 2023** in the **Council Chamber**.

I do hope you can be there.

Yours sincerely

M. H. Scott

CHIEF EXECUTIVE

AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **TO APPROVE THE MINUTES OF THE PREVIOUS MEETING** (Pages 3 - 6)
3. **DECLARATIONS OF DISCLOSABLE PECUNIARY, OTHER REGISTRABLE AND NON REGISTRABLE INTERESTS**

Members are reminded of their responsibility to declare any disclosable pecuniary, other registrable or non-registrable interest in respect of matters contained in the agenda.

4. **PUBLIC PARTICIPATION**

ITEMS FOR DECISION

5. **SCRAP METAL DEALERS ACT 2013 - UPDATED GUIDANCE AND POLICY CHANGES** (Pages 7 - 46)

Report of Chief Executive enclosed

ITEMS FOR INFORMATION

6. **TAXIS AND PRIVATE HIRE VEHICLES (SAFEGUARDING AND ROAD SAFETY) ACT 2022** (Pages 47 - 50)

Report of Chief Executive enclosed

7. **RELAXATION OF THE LICENSING HOURS FOR THE CORONATION** (Pages 51 - 52)

Report of Chief Executive enclosed

8. **MINUTES OF THE LICENSING SUB-COMMITTEE** - (Pages 53 - 54)
15/12/22
9. **MINUTES OF THE LICENSING SUB-COMMITTEE** - (Pages 55 - 58)
03/02/23
10. **REPORTS FROM REPRESENTATIVES ON OUTSIDE BODIES**
11. **EXCLUSION OF PRESS AND PUBLIC**

ITEMS FOR DECISION

ITEMS FOR INFORMATION

Electronic agendas sent to members of Licensing – Councillor Stella Brunskill JP (Chair), Councillor Jan Alcock JP, Councillor Richard Bennett (Vice-Chair), Councillor Ian Brown, Councillor Steve Farmer, Councillor Gaynor Hibbert, Councillor Simon Hore, Councillor Angeline Humphreys, Councillor Richard Newmark, Councillor Donna O'Rourke, Councillor Simon O'Rourke, Councillor Sarah Rainford, Councillor James (Jim) Rogerson, Councillor Gary Scott and Councillor Robin Walsh.

Contact: Democratic Services on 01200 414408 or committee.services@ribblevalley.gov.uk

Minutes of Licensing

Meeting Date: Tuesday, 31 January 2023, starting at 6.30 pm
Present: Councillor S Brunskill (Chair)

Councillors:

R Bennett	R Newmark
I Brown	D O'Rourke
S Farmer	S O'Rourke
G Hibbert	S Rainford
A Humpheys	

In attendance: Head of Legal and Democratic Services and Solicitor

671 APOLOGIES FOR ABSENCE

Apologies for the meeting were received from Councillors J Alcock, S Hore, J Rogerson, G Scott and R Walsh

672 TO APPROVE THE MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 1 November 2022 were approved as a correct record and signed by the Chairman.

673 DECLARATIONS OF DISCLOSABLE PECUNIARY, OTHER REGISTRABLE AND NON REGISTRABLE INTERESTS

There were no declarations of disclosable pecuniary, other registrable or non-registrable interests.

674 PUBLIC PARTICIPATION

There was no public participation.

675 FEES AND CHARGES

The Chief Executive submitted a report seeking to determine the annual fees for hackney carriage, private hire, scrap metal and sex establishment licences.

It was recommended to Members that the fees be uplifted by reference to inflation, based on 10.1%. The exception to this is the cost of a replacement plate and bracket for Hackney Carriage and Private Hire Licences, which will remain the same as these are charged at cost and the costs have not increased.

RESOLVED THAT COMMITTEE:

1. Agreed to set the fees for Hackney Carriage and Private Hire Licences for the year 2023/2024 as those set out in **Appendix 1** of the Report.
2. Agreed to set the fees for Scrap Metal Dealers Licences for the year 2023/2024 as those set out in **Appendix 2** of the Report.

3. Agree to set the fees for Sex Establishment Licences for the year 2023/2024 as those set out in **Appendix 3** of the Report.

676

AMENDMENT TO COMMITTEE MEETING SCHEDULE

The Council set the dates for the Committee cycle at its Annual Meeting on 9 May 2022. The dates for the final cycle of meeting include Policy and Finance as being held on 4 April 2023. This is the same date as close of nominations in the District and Parish elections. As such the Council's Chief Executive, Director of Resources and Head of Legal and Democratic Services will be heavily involved in preparing and checking the nomination papers so that the data can be submitted to the printers.

The closing of Nomination is at 4pm on 4 April 2023 and the work checking the nominations is likely to take a considerable amount of time that evening. It was proposed therefore that the date for Policy and Finance Committee be brought forward a week to 28 March 2023 and that Licensing Committee be brought forward a week to 21 March

RESOLVED THAT COMMITTEE:

****Approved and agreed to recommend to Full Council that the date for Licensing Committee be amended from 28 March 2023 to 21 March 2023.****

677

TAXIS AND PRIVATE HIRE VEHICLES DISABLED PERSONS ACT 2022

The Chief Executive submitted a report to inform Committee of the outcome of consultation on proposed amendments to conditions of licences for drivers and operators, to infringement schemes and the Private Hire and Hackney Carriage Licensing Policy, to reflect the requirements of the Equality Act 2010, as amended by the Taxi and Private Hire Vehicles (Disabled Persons) Act 2022 ("the Act"), and to seek Committee's formal approval of such amendments.

Members were informed that the Council's Head of Legal and Democratic Services wrote to all Private Hire drivers, Private Hire operators and Hackney Carriage drivers. The Council received no responses to this aspect of the consultation.

RESOLVED THAT COMMITTEE:

1. Approved amendment of the conditions, schemes and policy as identified in paragraph 2.1 of the Report.
2. Approved the introduction of the requirement for Hackney Carriage and Private Hire drivers to undergo training on the equality duties provided by the Blue Lamp Trust

678

HACKNEY CARRIAGE SIGNAGE

The Chief Executive submitted a report to inform Committee of the outcome of consultation on signage on Hackney Carriages and to ask Committee to decide whether there should be an amendment to the Council's Hackney Carriage Vehicle conditions.

The Council received 11 responses to the consultation.

Members were informed that nine respondents, all being Hackney Carriage drivers, did not support the proposal. The majority (eight) considered that the sign on the roof and plates are sufficient. Three respondents were concerned about additional expenses for drivers, and two expressed concerns about additional expense for the Council. One driver perceived that passengers are less likely to travel in a vehicle with more signage, and another stated simply that door signage was not required.

Two respondents had stated that they supported the proposal, with one Private Hire licence holder referring to introduction of a possible colour scheme for Hackney Carriages.

Members considered the representations and balanced the views of the licensed trade with the possible public benefit that might arise from adoption of the proposed signage.

RESOLVED THAT COMMITTEE:

Agreed that condition 25 of the Council's Hackney Carriage Vehicle conditions be amended to require Hackney Carriage Vehicles to display door signage reading 'Ribble Valley Licensed Hackney Carriage'.

679

SECTION 182 GUIDANCE LICENSING ACT 2003

The Chief Executive submitted a report to inform Committee of the revision of the guidance issued under Section 182 of the Licensing Act 2003.

The Home Office revised the guidance in December 2022 in respect of the following issues:

- Entitlement to work in the UK.
- Relevant offences.
- Temporary Event Notices – Section 7.
- Full Variation Process.
- Conditions attached to a Premises Licence.
- Planning and Building Control.

The Committee noted the contents of the report.

680

REPORTS FROM REPRESENTATIVES ON OUTSIDE BODIES

There were no reports from representatives on outside bodies.

681

EXCLUSION OF PRESS AND PUBLIC

There were no reports requiring the exclusion of the press and public.

The meeting closed at 7.03 pm

If you have any queries on these minutes please contact the committee clerk, Jenny Martin 01200 413214 rebecca.tait@ribblevalley.gov.uk.

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

meeting date: TUESDAY, 21 MARCH 2023
title: REVIEW OF SCRAP METAL LICENSING POLICY AND UPDATED HOME OFFICE GUIDANCE
submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE
principal author: STEPHEN BARKER – SOLICITOR

1 PURPOSE

- 1.1 To seek Committee's approval of draft revisions to the Scrap Metal Dealers' Act Policy, and to authorise the Head of Legal and Democratic Services to consult upon it.
- 1.2 To inform Committee of the issue of updated guidance by the Home Office on the Scrap Metal Dealers' Act 2013.
- 1.3 Relevance to the Council's ambitions and priorities:
 - Community Objectives – }
 - Corporate Priorities – }
 - Other Considerations – }

The Council aims to be a well-managed authority. These proposals support that objective.

2 BACKGROUND

- 2.1 The Scrap Metal Dealers' Act 2013 ("the Act") came into force on 1 October 2013. Committee approved a Scrap Metal Dealers' Policy in March 2015, which was revised and updated in September 2018 ("the Policy").
- 2.2 The purpose of the Policy is to provide guidance on the way in which the Council will administer and enforce the requirements of the Act. While there is no requirement under the Act for the Policy to be reviewed, the Policy itself states that it will be reviewed every 5 years or sooner to reflect any legislative or other changes.
- 2.3 The Act was supported by Home Office guidance issues in 2013. That guidance has been updated in January 2023. A copy of the updated guidance is attached at **Appendix 1**. The guidance helpfully includes a list of amendments at page 2.

3 ISSUES

- 3.1 In light of the above, it was thought that this was an opportune moment for the Council to review the Policy, shortly before its 5 year anniversary. Since the commencement of the Act and introduction of the Policy, there have been relatively few licences applied for and only one application has gone to a hearing of the Licensing Sub-Committee. Currently, there are 2 licensed mobile collectors and 1 licensed scrap metal site.
- 3.2 The Policy has been revised to reflect minor textual corrections and clarification from the January 2023 guidance. These revisions are shown in track changes and enclosed at Appendix 2.

3.3 In preparation for the publication of the revised policy, the Council will consult the bodies named in paragraph 1.1 of the Policy.

3.4 Committee is asked to consider the contents of the draft revised Policy and, should it be approved, to authorise the Head of Legal and Democratic Services to consult upon it with those parties listed in the Policy. The results of the consultation will then be reported to Committee.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – No implications identified.
- Technical, Environmental and Legal - No implications identified.
- Political – No implications identified.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

5 **RECOMMENDED THAT COMMITTEE**

5.1 Approve the revisions to the Scrap Metal Dealers' Policy.

5.2 Authorise the Head of Legal and Democratic Services to consult upon the revised Policy.

5.3 Note the updated Home Office guidance.

STEPHEN BARKER
SOLICITOR

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

None.

For further information please ask for Stephen Barker, extension 3216.

REF: SB/LICENSING/21 MARCH 2023

Scrap Metal Dealers Act 2013

Supplementary guidance

Last updated: January 2023

Revisions to the guidance

Date	Revision
11 December 2013	Wording of section 5.4 regarding a collector's licence.
January 2023	<ul style="list-style-type: none"> • Removed information about transitional arrangements when the Scrap Metal Dealers Act was introduced in 2013. • Some re-ordering of the document, for example to move the definition of scrap metal to the beginning of the document. • Clarified the definition of scrap metal regarding catalytic converters and heritage metal in paragraphs 1.3 and 9.8. Paragraph 1.4 added. • Clarified that for some businesses the volume of scrap metal may be relatively small, but the value of it may represent a significant part of the business' income, in paragraph 2.3. • Added that scrap metal dealers may wish to undergo training from the National Infrastructure Crime Reduction Partnership, paragraphs 2.5 and 4.4. Paragraph 4.4 also states that the licensing authority may take training into account when considering whether an applicant is a suitable person to hold a licence. • Clarified the requirements for motor salvage operators in paragraphs 2.7. • Amended paragraph 3.6 regarding producers of ferrous and non-ferrous metals to accurately reflect the legal position. • Clarified the requirements for vehicle collection companies in paragraph 3.12. • Added detail about the information that has to be provided with an application at paragraph 4.5 onwards. • Explained changes made by the Finance Act 2021 regarding tax checks to be undertaken as part of an application, at paragraphs 4.6 – 4.8. • Added that if the dealer is uncertain about the provenance of an item it is good practice for the dealer to delay payment in order to verify this, at paragraph 9.9. • Added a new section 13 on closure notices and orders, and the right to enter and inspect premises. • Added a paragraph about the review of the Act undertaken in 2017, at section 14.

Introduction

The purpose of this document is to provide guidance on commonly raised issues in relation to the Scrap Metal Dealers Act 2013 which can be found using the following link:

<http://www.legislation.gov.uk/ukpga/2013/10/enacted>

This guidance document represents the Home Office's interpretation of the Scrap Metal Dealers' Act 2013 at the point that it is published. However, ultimately, it will be for the courts to interpret the meaning of the legislation, and their construction will be binding.

Useful documents

Scrap Metal Dealers Act 2013 Licence fee charges:

<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013: <http://www.legislation.gov.uk/uksi/2013/2258/made>.

The Scrap Metal Dealers Act (Prescribed documents and information for verification of name and address) Regulations 2013: <http://www.legislation.gov.uk/uksi/2013/2276/contents/made>.

The Scrap Metal Dealers Act 2013: Determining suitability to hold a scrap metal dealer's licence (statutory guidance for local authorities in England and Wales):

<https://www.gov.uk/government/publications/determining-suitability-to-hold-a-scrap-metaldealers-licence>

Local authorities may wish to visit the Local Government Association's Knowledge Hub (<https://khub.net/lga>) and join the Tackling Metal Theft group which will provide access to the latest advice about the licensing regime.

Useful contacts

- British Metals Recycling Association
Tel: 01480 455249 admin@recyclemetals.org
<http://www.recyclemetals.org/>
- Vehicle Recyclers Association
Tel: 0330 4005380 info@vrauk.org
www.vrauk.org
- British Vehicle Salvage Federation
Tel: 01303 814325 email@bvsf.org.uk
<http://www.bvsf.org.uk/cms/>
- National Infrastructure Crime Reduction Partnership
info@nicrp.org
www.nicrp.org

1. Scrap metal

- 1.1 All scrap metal dealers previously registered under the Scrap Metal Dealers Act 1964 or Vehicles (Crime) Act 2001 must now hold a licence issued under the Scrap Metal Dealers Act 2013 in order to trade legally.
- 1.2 Section 21(6) of the Scrap Metal Dealers Act 2013 ('the Act') provides that scrap metal includes any old, waste or discarded metal or metallic material, and any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life. However, gold, silver, and any alloy of which 2 per cent or more by weight is attributable to gold or silver are not scrap metal, as per section 21(7) of the Act.
- 1.3 When considering whether a metal item is deemed to be scrap metal, it is important to note the definition in the Act focuses on the condition of the metal rather than the purpose of the sale. For example, a vehicle part such as a catalytic converter that is broken or has been removed from a vehicle in a destructive manner, or is otherwise unable to be reused without rework and/or the addition, removal or substitution of matching and/or corresponding parts, is likely to meet the definition of scrap metal regardless of whether it is being offered for sale as a spare part. A catalytic converter that has been removed from a vehicle by cutting rather than unbolting should be considered to be removed in a destructive manner. Likewise, heritage metal that has been stolen from a historic site is likely to meet the definition of scrap metal regardless of whether it is being offered for sale as a salvaged item. This applies where a metal item is sold to a dealer who processes or refurbishes the item and offers it for sale in a different form or condition (see paragraph 2.1 below).
- 1.4 Vehicle parts that are correctly dismantled from a vehicle for the purpose of being re-used are unlikely to be considered scrap metal under the Act. Once all re-usable parts are removed from the vehicle, the rest of the vehicle would be considered to have reached the end of its useful life and therefore meet the definition of scrap metal.

2. Scrap metal dealer licences

- 2.1 Section 1(1) of the Act states that "*No person may carry on business as a scrap metal dealer unless authorised by a licence under this Act (a "scrap metal licence")*". Section 21(2) of the Act states that a person carries on business as a scrap metal dealer if a person "*(a) carries on a business which consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought, or (b) carries on business as a motor salvage operator (so far as that does not fall within paragraph (a))*".
- 2.2 From 1 December 2013, a person must have a scrap metal dealer's licence in order to carry on business as a scrap metal dealer. It is an offence to carry on business as a scrap metal dealer without a licence and, if convicted, a person may receive a fine of an unlimited amount (level 5 on the standard scale).
- 2.3 It will be a question of fact for a court to decide whether, under all the circumstances, the buying or selling of scrap metal forms the whole or part of a person's business, or

alternatively, whether the buying or selling of scrap metal forms such a minimal part of their overall business dealings that the definition of scrap metal dealer in the Act is not made out. There are many factors a court may consider in reaching its judgment, such as the proportion of the business related to scrap metal in terms of value or volume. For some businesses the volume of scrap metal may be relatively small, but the value of it may be such that it represents a significant part of the business' income.

- 2.4 An exemption is provided for manufacturers selling scrap only as a by-product or as surplus materials not required for manufacturing.
- 2.5 Scrap metal dealers should ensure they understand the legal obligations of holding a scrap metal dealer's licence, and may wish to undertake training to ensure they understand the requirements they must comply with under the Act. Training may be available from the licensing authority or the National Infrastructure Crime Reduction Partnership (see contact details on page 3). Additional guidance to assist in the identification of specialist metals, for example heritage metals, is available from Historic England at www.historicengland.org.uk.
- 2.6 Scrap metal dealer's licences are valid for three years and there are two types: a site licence or a mobile collector's licence (section 2(2) of the Act). A licence can be issued to an individual, a partnership or a company. A person may hold more than one licence if each is issued by a different licensing authority, but cannot hold more than one licence issued by any one authority.

A site licence

- 2.7 A site licence authorises the licence holder to carry on business at any site in the council's area which is identified in the licence (section 2(3) of the Act). A site licence holder can transport scrap metal from third party businesses by arrangement from any other local council area provided it is in the course of the business from that site. A site licence holder cannot regularly engage in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door in the area they are licensed or elsewhere, as this would constitute carrying on a business as a mobile collector. It would be acceptable to collect by arrangement, for instance where a motor salvage operator is asked to transport a damaged vehicle from an address to their site. It is not possible to hold both a mobile collector's licence and a site licence from the same council (section 2(9) of the Act).
- 2.8 If a site licence holder uses self-employed mobile collectors to collect scrap metal which will be processed by the site, each collector would need a mobile collector's licence.

A collector's licence

- 2.9 A collector's licence authorises the licensee to carry on business as a mobile collector in the licensing council's area only (section 2(5)). A mobile collector is a person who "(a) carries on business as a scrap metal dealer otherwise than at a site, and (b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door (section 22(4)). A person carries on business as a scrap metal dealer if a person "carries on a business which consists wholly or partly in buying **or** selling scrap metal..." (section 21(2)(a)).

- 2.10 A mobile collector's licence will cover any employees working for that business. If they are not employed directly by that mobile collector's business and are self-employed, they will need their own collector's licence even if they are collecting metal from the same van as a person who has a mobile collector's licence.
- 2.11 Mobile collectors and site licence holders need to ensure they comply with relevant environmental legislation and regulation when carrying out their business.

3. Who needs a scrap metal licence?

Motor salvage operators

- 3.1 Motor salvage operators need to hold a scrap metal dealer's licence. The Act repealed Part 1 of the Vehicles (Crime) Act 2001 which required motor salvage operators to register with the licensing authority.
- 3.2 Section 21(4) of the Act defines a motor salvage operator as a person who carries on business which consists (a) wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and then selling or otherwise disposing of the rest of the vehicle for scrap; (b) wholly or mainly in buying written-off vehicles and then repairing and reselling them; (c) wholly or mainly in buying or selling motor vehicles which are to be subject, either immediately or following resale, to any of the activities in paragraphs (a) or (b); or (d) wholly or mainly in activities falling within paragraphs (b) and (c). It will be a question of fact for a court to decide whether any of the above activities form the whole, the main part or a part of a person's business.
- 3.3 If a motor salvage operator's business partly consists of receiving salvageable or reusable vehicle parts without the purchase of a whole vehicle, they are still captured by the definition of a motor salvage operator if they meet any of the conditions in section 21(4) of the Act.
- 3.4 However, a motor salvage operator who buys and sells salvageable or reusable vehicle parts but never receives the remainder of a vehicle would not meet the definition of motor salvage operator under 21(4) of the Act.
- 3.5 A motor salvage operator who buys or sells unsalvageable or non-reusable vehicle parts without purchase of a whole vehicle will still require a scrap metal dealer's licence if they meet the definition of a scrap metal dealer under section 21(2)(a) of the Act (carrying on a business consisting wholly or partly of buying or selling scrap metal – see paragraph 2.1 above).

Producers of ferrous and non-ferrous metals

- 3.6 Producers of ferrous and non-ferrous metals purchase processed scrap metal as a raw material used in their manufacturing process. They must hold a scrap metal dealer's licence if their business meets the test for carrying on business as a scrap metal dealer under section 21 of the Act.

Agent, broker or trader

- 3.7 A person that buys or sells scrap metal on paper without actually operating a scrap metal site carries on business as a scrap metal dealer and will require a licence. This person

will carry out their business as a scrap metal dealer from premises and will therefore need to hold a site licence, as a site is any “premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there)” (section 22(9) of the Act).

Skip Hire Company

- 3.8 Skip hire companies may need a scrap metal dealer’s licence. It will be a question of fact for a court to decide whether, under all the circumstances, the buying or selling of scrap metal forms the whole or part of the person’s business, or alternatively, whether the buying or selling of scrap metal forms such a minimal part of their overall business dealings that the definition of scrap metal dealer in the Act is not made out.
- 3.9 There are many factors a court may consider in reaching its judgment, such as the proportion of the business related to scrap metal in terms of value or volume. If a skip hire company places skips only at businesses or demolition sites to process and sell on the scrap metal this may be considered to be the whole or part of their business and therefore require a licence. However, a company that only rents skips to households where recoverable scrap metal forms a minor part of the skip contents and the company’s business may not require a licence.

Tradespersons

- 3.10 Tradespersons will not require a scrap metal dealer’s licence if buying or selling scrap metal is an incidental function of their business (e.g. being a plumber or electrician). It will be a question of fact for a court to decide whether, under all the circumstances, the buying or selling of scrap metal forms the whole or part of the person’s business, or alternatively, whether the buying or selling of scrap metal forms such a minimal part of their overall business dealings that the definition of scrap metal dealer in the Act is not made out.

Civic amenity sites

- 3.11 A civic amenity is a facility where the public can dispose of household waste and often contain recycling points. This is also known as a ‘household waste recycling centre’. Civic amenity sites, run by councils or contracted out to others, will not require a licence.

Vehicle collection companies

- 3.12 If a scrap metal dealer (who is a motor salvage operator) holds a site licence and sub-contracts a collection company to pick up cars on the scrap metal dealer’s behalf in the course of the business from that site, the collection company will not need a mobile collector’s licence solely on the basis of undertaking such work, as the collection company itself would not be carrying on business as a scrap metal dealer.
- 3.13 If the vehicle is to be scrapped, the collection company must verify the full name and address of the supplier on behalf of the site licence holder if the latter has made arrangements for such verification to be carried out by the collection company. Receipt of scrap metal by the scrap metal dealer without such verification is an offence and, if convicted, the scrap metal dealer and the collection company (where it was responsible for carrying out the verification on behalf of the scrap metal dealer) may each receive a fine not exceeding £1,000 (level 3 on the standard scale). Where the scrap metal dealer makes arrangements for the verification to be carried out by the collection company, the

scrap metal dealer will be responsible for taking all reasonable steps to ensure that the vehicle collection company complies with these requirements.

- 3.14 The collection company, acting on behalf of the scrap metal dealer, must not make payment for the vehicle in cash. If the payment method contravenes section 12 of the Act (which only permits payment by non-transferable cheque or by electronic transfer of funds), the collection company (where they made payment on behalf of the scrap metal dealer), as well as the scrap metal dealer subcontracting them, will have committed an offence. If convicted, they may each receive a fine of an unlimited amount (level 5 on the standard scale).

4. The application process

- 4.1 Scrap metal dealers can apply for a licence from the licensing authority – in this case the local council. It is a requirement under regulation 32 of the Provision of Services Regulations 2009 that applicants are able to complete applications online, therefore there should be no requirement for applications to be made in person. For further information, scrap metal dealers should contact their licensing council directly; the details can be found using <https://www.gov.uk/find-local-council>. Guidance is provided on how to complete the application form.

Licensing authority's duties

- 4.2 The licensing authority must not issue or renew a scrap metal licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer (section 3 of the Act). In determining whether the applicant is a suitable person, the licensing authority may have regard to any information it considers to be relevant. This may include whether the applicant or site manager has been convicted of a relevant offence or been the subject of relevant enforcement action; any previous refusal of a licence application or renewal; any previous refusal of a relevant environmental permit; any previous revocation of a scrap metal licence and/or whether the applicant has demonstrated that there will be adequate procedures in place to ensure the provisions of the Act are complied with. The Act defines 'site manager' at section 3(3)(a) as an individual proposed to be named in the licence as a site manager.
- 4.3 Licensing authorities may consult others regarding the suitability of an applicant, including any other licensing authority, the Environment Agency, the Natural Resources Body for Wales, and the police. They must also have regard to the guidance issued by the Secretary of State on determining suitability – this can be found here: <https://www.gov.uk/government/publications/determining-suitability-to-hold-a-scrap-metal-dealers-licence>.
- 4.4 Applicants should ensure they understand the legal obligations of holding a scrap metal dealer's licence, and training may be available from the licensing authority or the National Infrastructure Crime Reduction Partnership (see contact details on page 3). The licensing authority may take training into account when considering whether an applicant is a fit and suitable person to hold a licence, although the Act does not require a licence holder to undergo training and the licensing authority cannot impose a licensing condition on a dealer to undergo training. Applicants may also consider referring to guidance on identifying specialist materials, for example heritage metals (available from Historic

England at www.historicengland.org.uk), and how they could work with the National Infrastructure Crime Reduction Partnership.

Applicant's duties

- 4.5 Applications for issuance or renewal of a licence must be accompanied by:
- the full name, date of birth and usual place of residence of the applicant (or each partner in the case of a partnership), or if the applicant is a company, the name and registered number of the company and the address of the company's registered office;
 - any proposed trading name;
 - the telephone number and e-mail address of the applicant, if any;
 - the address of any site in the area of any other licensing authority at which the applicant carries on business as a scrap metal dealer or proposes to do so;
 - details of any relevant environmental permit or registration, as listed at section 22(7) of the Act;
 - details of any other scrap metal licence issued to the applicant within the previous 3 years;
 - details of the bank account which is proposed to be used to comply with payment requirements under section 12 of the Act; and
 - details of any conviction of the applicant for a relevant offence, or any other relevant enforcement action taken against the applicant. These are set out in the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

If the application relates to a site licence then it must also be accompanied by:

- the address of each site proposed to be identified in the licence (or in the case of a renewal, each site identified in the licence which needs to be renewed);
- the full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager;
- details of any relevant environmental permit or registration in relation to each individual proposed to be named in the licence as a site manager;
- details of any other scrap metal licence issued, within the previous 3 years, to each individual proposed to be named in the licence as a site manager; and
- details of any conviction for a relevant offence of each individual proposed to be named in the licence as a site manager, or any other relevant enforcement action taken against each individual.

- 4.6 From 4 April 2022 applicants must complete a tax check to confirm they are registered for tax, before applying to renew a site licence or a mobile collector's licence. An individual, company or partnership must complete a tax check when:
- renewing a licence;
 - applying for the same type of licence you previously held, that ceased to be valid less than a year ago;
 - applying for the same type of licence you already hold with another licensing authority (for example, a mobile collector's licence).

- 4.7 The applicant should go to gov.uk to complete the tax check [Complete a tax check for a taxi, private hire or scrap metal licence - GOV.UK \(www.gov.uk\)](#). On completing the tax check the applicant will be given a 9-character tax check code, which they need to supply to the licensing authority with their licence application. The licensing authority must not process the application without the tax check code.
- 4.8 Applicants who are applying for a licence for the first time, or who have already held a licence but that has not been valid for a year or more will not need to complete a tax check and should instead follow the 'confirm your tax responsibilities' guidance [Confirm your tax responsibilities when applying for a taxi, private hire or scrap metal licence - GOV.UK \(www.gov.uk\)](#)
- 4.9 The licensee must make an application to the licensing authority that issued the licence for the variation of the licence in the event of any changes to the licensee's name and/or, if the licence is a site licence, the sites in the authority's area at which the licensee is authorised to carry on business, or the name of the site manager of any site. Failure to apply for such a variation is an offence, and if convicted, the licensee may receive a fine not exceeding £1,000 (level 3 on the standard scale). It is a defence to prove that all reasonable steps to avoid committing an offence were taken.
- 4.10 The licensing authority's power to vary the licence by amending the name of the licensee does not include the power to transfer the licence from one person to another; an application would need to be made for a new licence in this case.
- 4.11 Licensing authorities can request, at the time the application is made or later, that the applicant provide such further information as they deem relevant to considering the application. Failure to provide the information requested may result in the application being declined.
- 4.12 Making a materially false statement, knowingly or recklessly, in an application or in a response to a request by the licensing authority for further information is an offence and if convicted, the person may receive a fine of up to £1,000 (level 3 on the standard scale).

Disclosing convictions

- 4.13 The application form must provide details of any conviction of the applicant for a relevant offence (Schedule 1, Para 2(1)(j)). Relevant Offences are set out in the Schedule to The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013. The Regulations can be found using the following link: <http://www.legislation.gov.uk/ukxi/2013/2258/made>. To verify the information provided in the application form, licensing authorities request that applicants submit a Basic Disclosure Certificate for themselves and any person listed on the application form including the site manager (if applying for a site licence), each partner if a partnership, and, if a company, for the director(s), shadow director and company secretary. The certificate will list unspent criminal convictions. If the certificate is not submitted, this may delay the consideration of the application.

- 4.14 When assessing the applicant, partnership or company's suitability to hold a scrap metal dealer's licence, the licensing authority will check each Basic Disclosure Certificate against the list of relevant offences.
- 4.15 Basic Disclosure Certificates can be applied for at www.apply-basic-criminal-record-check.service.gov.uk or the Disclosure and Barring Service (DBS) can be contacted on 03000 200 190 for information about other ways of applying. *Please note that the Disclosure and Barring Service will not be able to answer any questions about scrap metal dealer licensing.*
- 4.16 A certified copy¹ of the disclosure certificate will be sufficient to allow for the fact that many applicants will have businesses whose directors' suitability will need to be confirmed in several licensing areas. Licensing authorities should clearly set out who they consider to be an appropriate person to certify copies.
- 4.17 An applicant must not begin operating as a scrap metal dealer until their licence has been issued. Tacit consent should not apply in relation to scrap metal dealer licence applications as there is an overriding public interest in ensuring that the suitability of applicants is assessed before the licence is issued.
- 4.18 If the applicant or any site manager (if the application is for a site licence) has been convicted of a relevant offence, the licensing authority may include in the licence one or both of these conditions: (a) the scrap metal dealer must not receive scrap metal except between 9am and 5pm on any day; (b) all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

Renewals

- 4.19 Applications to renew a licence can be made before the licence expires, and the licence will continue in effect until:
- the licence is renewed;
 - if the application is withdrawn, the end of the day on which the application is withdrawn;
 - if the licensing authority requested further information from the applicant to enable it to make a request under paragraph 3(2) of Schedule 33 to the Finance Act 2021, 28 days from the day of the request, or the day on which the licence expires if that is later; if the licensing authority continues to be prevented from considering the application by virtue of that provision, the end of that 28 day period or the day on which the licence expires if that is later; or
 - if the application is refused, the day on which no appeal under paragraph 9 of Schedule 1 to the Act is possible in relation to the refusal or any such appeal is finally determined or withdrawn.
- 4.20 The renewed licence will expire in 3 years from the date it was renewed, or if renewed more than once, from the date it was last renewed.

¹ Guidance on certifying a document is available at <https://www.gov.uk/certifying-a-document>

5 Scrap metal dealer's licence fee

- 5.1 Each application for a scrap metal dealer's licence will need to be accompanied by a fee (Schedule 1, Para 6 (1)). The fee is set by each local council and is calculated on the basis of recovering certain costs of administering and ensuring compliance with the licensing scheme. The Home Office has issued guidance to local authorities on how to set scrap metal dealer licence fees which can be found at: <https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-feecharges>. Applicants should contact their licensing authority for details of the fees in their area.

6 Refusal of a scrap metal dealer's licence

- 6.1 If a licensing authority proposes to refuse an application, it must give the applicant notice of the proposed decision. The applicant may make representations, or inform the licensing authority of the wish to do so, within the period specified in the notice (which must not be less than 14 days from the date the notice is given). Where the applicant wishes to make representations and has informed the licensing authority of this within the specified period, the licensing authority must allow the applicant a further reasonable period to make representation. If the licensing authority refuses the application, it must provide the applicant with a notice of the decision with reasons. The applicant has 21 days in which to appeal to a magistrate's court. The licensing authority will advise the applicant how to do this.

7 Displaying a licence

- 7.1 A site licence holder must display a copy of the licence in a publicly accessible prominent place at each site identified in the licence (section 10(1) and (2)). A scrap metal dealer who holds a mobile collector's licence must display a copy of the licence on any vehicle that is being used in the course of the dealer's business so as to be read easily by a person outside the vehicle (section 10(3) and (4)). Failure to display the licence in the manner set out above is an offence and if convicted, the licence holder may receive a fine of up to £1,000 (level 3 on the standard scale).
- 7.2 A site licence holder may wish to carry a copy of the relevant site licence in their vehicle so they are not mistaken for an unlicensed mobile collector. However, there is no legal requirement to do this.
- 7.3 If a mobile collector holds several scrap metal licences, they must ensure that the correct licence is displayed when collecting in the relevant licensing council area. Failure to do so is an offence.

8 Revocation of a scrap metal dealer's licence

- 8.1 Under section 4 of the Act, licences can be revoked by the licensing authority for the following reasons:
- it is satisfied that the licensee does not carry on business at any of the sites identified in the licence;

- it is satisfied that a site manager named in the licence does not act as a site manager at any of the sites identified in the licence;
- it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer.

8.2 If a licensing authority proposes to revoke a licence, it must give the licensee notice of the proposed decision. The licensee may make representations, or inform the licensing authority of the wish to do so, within the period specified in the notice (which must not be less than 14 days from the date on which the notice is given). Where the applicant wishes to make representations and has informed the licensing authority of this within the specified period, the licensing authority must allow the applicant a further reasonable period to make representation. If the licensing authority decides to revoke the licensee's licence, it must provide the licensee with a notice of the decision with reasons. The licensee has 21 days in which to appeal to a magistrate's court. The licensing authority will advise how to do this.

9 Offence of buying scrap metal for cash

9.1 Cash cannot be used by any scrap metal dealer to buy scrap metal. It is an offence to buy scrap metal for cash under section 12 of the Act and there are no exemptions. Only payment by a non-transferable cheque or an electronic transfer of funds will be acceptable. This will mean that the payment will be linked to a readily identifiable account, for both the payee and the payer.

Payment methods

Cheque payments

9.2 Cheque payments are acceptable within the cashless operating model but this is limited to non-transferable ("crossed cheques"), which are payable to a named individual(s) or firm and not made out to cash. The money will be paid to the intended beneficiary of the cheque.

Electronic transfers

- 9.3 The Act provides a clear focus on electronic transfers of money. This means that non-paper forms of payment such as direct debit, direct credits, BACS payments, faster payments, standing orders, credit transfers, on-line, phone and mobile banking are all acceptable forms of payment within the legislation. These methods of payment all provide the required traceability with a record of the transaction from the payer's account to the payee's account.
- 9.4 Re-loadable Electronic-Money products which are issued to a named account (which verifies the customer's identification) and undertakes full customer due diligence and "Know Your Customer" checks under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ('the Money Laundering Regulations') are permitted. If a scrap metal dealer is unclear whether an E-Money product undertakes full customer due diligence and "know your customer" checks, they are strongly advised to make payment by other means.

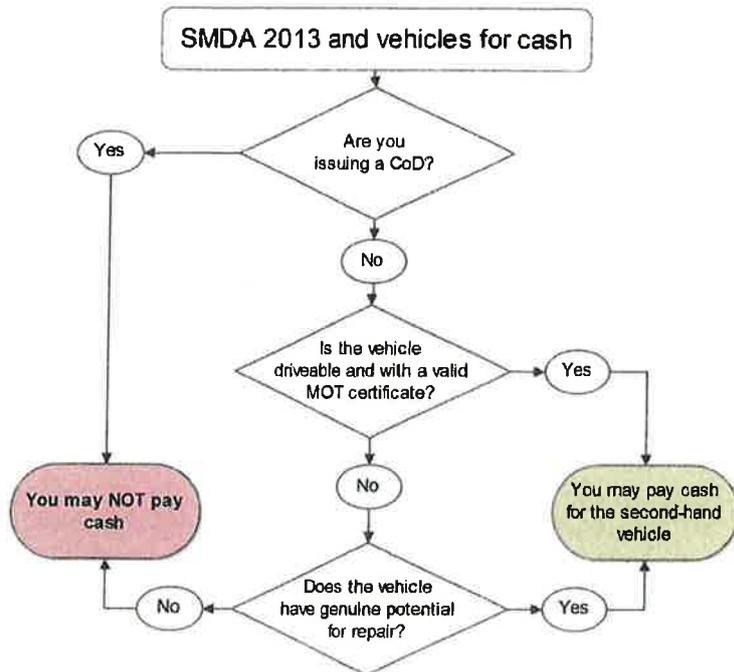
- 9.5 The payment methods listed above ensure compliance with the Act. The list is not, however, exhaustive. The electronic payments market is rapidly evolving with new products regularly entering the market.

Unacceptable methods of payment

- 9.6 Payment instruments which do not come within the methods above (non-transferable cheque or electronic transfer), or near cash alternatives are not acceptable. This includes the use of postal orders, foreign currency, electronic vouchers, virtual currencies, mobile phone airtime credits, retailer or supermarket gift cards and vouchers. Single, non-reloadable pre-paid debit cards and reloadable debit cards which are anonymous in nature and require only simplified due diligence under the Money Laundering Regulations are unacceptable.

Buying vehicles for cash

- 9.7 Whether a vehicle will be considered to be scrap (and may not therefore be bought with cash) depends on all the circumstances of the case, and may not always be clear-cut. If a certificate of destruction is issued, the car is considered to be scrap and a buyer must not pay cash for it. If a certificate of destruction is not issued, then it will depend on a number of other factors. For example, it may be argued that a car with a valid MOT certificate and that is driveable without repair is not scrap (therefore, a buyer may pay cash for it) regardless of the way in which the vehicle is subsequently handled by the buyer.
- 9.8 It is not possible to set out a precise checklist that can in every case guarantee to predict the decision a court may make where illegal payment of cash for scrap metal is alleged. However, the flowchart below should assist in deciding whether it may be permissible to pay cash. Potential buyers should note that, if you elect to pay cash for an un-driveable vehicle that has no valid MOT certificate, you may have to justify your assessment of repairability to the police or in court. There needs to be a genuine potential for repair and re-sale in order for cash to be used. Cash cannot simply be paid for everything on the basis a buyer might repair and resell it if they have no facilities for repairing vehicles and no history of selling vehicles. Similar issues may arise for the purchase of other items such as vehicle parts and components, and appliances. For example, a catalytic converter that has been removed from a vehicle in a destructive manner, or has been removed from the vehicle by cutting, is likely to meet the definition of scrap metal regardless of whether it is being offered for sale as a spare part. This applies where a metal item is sold to a dealer who processes or refurbishes the item and offers it for sale in a different form or condition
- 9.9 Section 13(2)(a) requires the dealer to record any distinguishing features of the metal, and this would include a serial number or other information on a vehicle component, for example if the component has been subject to after-market property marking. Other distinguishing features include historic etching, graffiti, memorial inscriptions, or sculptural forms, names, dates of construction or repair, or other information. If the dealer is uncertain about the provenance of an item, for example if the person selling it cannot provide documentation confirming ownership or purchase, it is good practice for the dealer to delay payment in order to verify the provenance of the item.



10 Record keeping requirements

- 10.1 Sections 13-15 of the Act require scrap metal dealers to keep records of metal received and disposed of as well as details of the person it was received from, documents used to verify the name and address of the supplier and the payment. Records must be recorded in a manner which allows the information and scrap metal to be easily identified by reference to each other (section 15(1)). Records must be kept for three years (section 15(3)).
- 10.2 The requirement to link recorded descriptions to the scrap metal to which they relate is intended to be proportionate and it may not be possible to go into the same level of detail for larger deliveries. If the scrap is for example, one washing machine, it would be sensible to say so rather than use a more generic term. The records should contain sufficient identification detail to ensure there is no intention to obscure the identity and type of metal being processed.

11 Scottish scrap metal dealers trading in England and Wales

Mobile collectors

- 11.1 A mobile collector who resides in Scotland but collects scrap metal in England or Wales will need to hold a licence for every licensing authority area in England and Wales where they collect scrap metal. The mobile collector will be subject to the licensing requirements and will need to comply with all the requirements in the Act.

Site licence holders

- 11.2 A scrap metal dealer who has a company that operates a site in Scotland will not require a scrap metal dealer's site licence under the Act. However, if that dealer travels to

England or Wales to trade they will need to follow the requirements within the Act; that is: they will not be able to buy scrap metal for cash (section 12); will be required to verify the name and address of the supplier before receiving scrap metal (section 11) and will need to keep records of the metal received (section 13).

12 Verifying the name and address of the supplier

- 12.1 Scrap metal dealers must not receive scrap metal from a person without verifying their full name and address by reference to documents or other information which are set out in The Scrap Metal Dealers Act (Prescribed Documents and Information for Verification of Name and Address) Regulations 2013 at:
<http://www.legislation.gov.uk/ukxi/2013/2276/contents/madc>.
- 12.2 A scrap metal dealer must keep a copy of any document used to verify the name and address of the supplier (section 13(3)). A scrap metal dealer can verify the name and address of repeat suppliers by referring to a copy of the document(s) retained in their records which were used to verify name and address before the first transaction.
- 12.3 In the course of collecting door to door, it may not be possible for a mobile collector to verify the name and address of the supplier if the waste materials and old, broken, worn out or defaced articles have been left on the roadside. However, a mobile collector must record the description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features (section 13(2)(a)) and the date and time of its receipt (section 13(2)(b)). If a mobile collector collects scrap metal from a person, they will need to verify the name and address of that person.

13 Right to enter and inspect sites

- 13.1 Section 16 of the Act provides police constables and licensing authority officers with a power to enter and inspect a licensed site at any reasonable time on notice to the site manager. They may also enter and inspect a licensed site at any reasonable time without 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 determining whether the Act is being complied with or investigating offences under it, and in either case, giving notice would defeat that purpose. This power is not applicable to residential premises.
- 13.2 Officers are not entitled to use force to enter premises, though they can use reasonable force in the exercise of powers under a warrant issued under section 16(5) of the Act if necessary. A justice of the peace may issue a warrant under section 16(5) of the Act authorising entry to a licensed site or to premises that are not a licensed site where there are reasonable grounds for believing they are used by a scrap metal dealer in the course of business, if they are satisfied that there are reasonable grounds for believing entry is required to ensure compliance with the provisions of the Act or to ascertain if provisions are being complied with.
- 13.3 A constable or licensing authority officer can require any scrap metal kept at any licensed premises, or premises for which a warrant has been issued, to be produced for inspection. They can also require any records kept in accordance with sections 13 or 14

and any records relating to the payment for scrap metal to be produced for inspection. They may also take copies of, or extracts from, any of these records.

- 13.4 The obstruction of the exercise of the right of entry or inspection, and failure to produce a record required to be produced, is an offence and if convicted, the person may receive a fine of up to £1,000 (level 3 on the standard scale).
- 13.5 If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of their identity or evidence of their authority to exercise the above powers, the officer must produce that evidence.

Closure notices and orders

- 13.6 A closure notice can be issued by a constable or the licensing authority if they are satisfied that the premises are not a licensed site but are being used by a scrap metal dealer in the course of business. The notice must be given to the person who appears to be the site manager and any person who appears to be a director, manager or other officer of the business. The notice may also be given to the owner, leaseholder or occupier of the premises. If anyone occupies another part of any building or structure of which the premises forms part, and the constable or the licensing authority reasonably believes the person's access to that other part would be impeded if a closure order were made, the notice must be given to that person as well. A closure notice can be cancelled by a cancellation notice issued by a constable or licensing authority, and takes effect when it is given to any one of the persons the closure notice was given to. The cancellation notice must also be given to any other person the closure notice was given to.
- 13.7 No less than 7 days after the closure notice was given, and no more than 6 months after that date, the constable or the licensing authority may make a complaint to a justice of the peace for a closure order. The justice may issue a summons to answer to the complaint, which must be given to any person who was given the closure notice, and notice of the date, time and place at which the complaint will be heard must be sent to all those who received a closure notice. The procedure for the hearing (the complaint procedure) is in accordance with the Magistrates' Court Act 1980 and the Magistrates' Courts Rules 1981. The Court Rules can be found here:
<https://www.gov.uk/guidance/other-procedure-rules-for-magistrates-courts-and-the-crown-court-with-statutory-instruments>
- 13.8 If on hearing the complaint the court is satisfied the closure notice was given and that the premises continue to be used by a scrap metal dealer in the course of business or there is reasonable likelihood it will be so used in the future, then the court may make a closure order. A closure order may require the premises to be closed immediately to the public and remain closed until a constable or the licensing authority makes a certificate that the need for the order has ceased (see paragraph 13.10 below). An order including such a requirement may include any conditions the court considers appropriate relating to the closure of the premises to the public, admission of persons onto the premises and the access by persons to another part of any building or other structure of which the premises forms part. As soon as practicable after the order is made, the complainant must fix a copy of it in a conspicuous position on the premises.

- 13.9 Permitting the premises to be open in contravention of a closure order, or otherwise failing to comply with or acting in contravention of a closure order, without reasonable excuse, is an offence. A constable or a person authorised by the licensing authority may enter the premises and do anything reasonably necessary to ensure compliance with the order, using reasonable force if necessary. The intentional obstruction of a constable or authorised person in the exercise of these powers is an offence. If convicted of either of these offences, the person may receive a fine of an unlimited amount (level 5 on the standard scale).
- 13.10 Closure orders can be terminated by a certificate made by a constable or licensing authority where they are satisfied that the order is no longer needed. The closure order ceases to have effect when the certificate is made. Copies of the certificate must be given to any person who the closure order was made against and the designated officer for the court which made the order, and a copy of it must be fixed in a conspicuous position on the premises in respect of which the order was made, as soon as practicable. Copies must also be given to any person who requests one.
- 13.11 Any person who was given the closure notice, or the owner, leaseholder or occupier of the premises if they were not given a closure notice, can make a complaint to a justice of the peace for an order to discharge the closure order. The court must be satisfied there is no longer a need for the closure order in order to make a discharge order.
- 13.12 Appeals can be made to the Crown Court within 21 days of the order or decision being made; appeals can be against a closure order, a decision to not make a closure order, a discharge order, or a decision to not make a discharge order. An appeal against a closure order or a decision not to make a discharge order may be made by any person who was given the closure notice or the owner, leaseholder or occupier of the premises if they were not given a closure notice. An appeal against a decision not to make a closure order or a discharge order may be made by a constable or the licensing authority.

14 Review of the Act

- 14.1 In line with the requirements of section 18 of the Act, the Home Office carried out a review of the measures within the Act in December 2017. The review found the Act had been effective in addressing metal theft and should be retained. A copy of the review can be found here: <https://www.gov.uk/government/publications/review-of-the-scrap-metal-dealers-act-2013>.

SCRAP METAL DEALERS' POLICY



Ribble Valley
Borough Council

www.ribblevalley.gov.uk

March 2023

~~[September 2018]~~

Contents

1.	Introduction	3
2.	Definitions under Scrap Metal Dealers Act 2013	3
3.	Types of Licence	5
4.	Applicant Suitability	5
5.	Revocation of Licence / Imposition of Conditions	8
6.	Supply of Information	9
7.	Register of Licences	9
8.	Notification Requirements	10
9.	Display of Licence	10
10.	Verification of Suppliers Identity	10
11.	Payment for Scrap Metal	10
12.	Record Keeping	11
13.	Rights of Entry & Inspection	12
14.	Application Procedure	13
15.	Variation of Licence	13
16.	Further Information	13
17.	Fee	14
18.	Right to Make Representations	14
19.	Closure of Unlicensed Sites	15
20.	Offences & Penalties	17
21.	Delegation of Functions	18

1. Introduction

The Policy

- 1.1 This document states Ribble Valley Borough Council's ('**Council**') policy on the regulation of Scrap Metal Dealers in its capacity as the relevant local authority for the purposes of the Scrap Metal Dealers Act 2013 ("**Act**").

The policy outlines the requirements of the Act. It gives guidance to new applicants, existing licence holders, consultees and members of the public as to how the Council will administer and enforce the requirements of the Act. The council may depart from its policy if the individual circumstances of any case warrant such a deviation. In such cases the Council must give full reasons for doing so.

This policy will be reviewed at least every five years, and was last reviewed in September 2018. In preparation for the publication of this policy, the following will be consulted.

- a) Lancashire Constabulary
- b) Lancashire Fire & Rescue Services
- c) The Environment Agency
- d) The Council's Environmental Health department
- e) Existing licence holders
- f) Relevant trade associations associates

The Law

- 1.2 The Act received Royal Assent on 28 February 2013 and came into force on 1 October 2013, with its enforcement powers subsequently coming into force on 1 December 2013. The Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.
- 1.3 The Act maintains local authorities as the principal regulator, but replaces the old registration system with a full licensing regime. It grants power to refuse a licence to "unsuitable" applicants and a power to revoke licences if the licence holder becomes "unsuitable".
- 1.4 The Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer.

2. Definitions under Scrap Metal Dealers Act 2013

- 2.1 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); or
 - (b) they carry on business as a motor salvage operator (see 2.1.3).
- 2.2 The selling of scrap metal merely as surplus materials or as a by-product of manufacturing articles is NOT to be regarded as 'carrying on a business' as a scrap metal dealer.
- 2.3 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);

2.4 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.

2.5 Scrap metal does not include:

- (a) Gold;
- (b) Silver;
- (c) any alloy of which 2% or more by weight is attributable to gold or silver.

"Licensed site" means a site identified in a scrap metal licence.

"Mobile collector" means a person who—

- (a) carries on business as a scrap metal dealer otherwise than at a site; and
- (b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door.

"Police officer" includes a constable of the British Transport Police Force.

"Premises" includes any land or other place (whether enclosed or not).

"Relevant environmental permit or registration" means—

- (a) any environmental permit under regulation 13 of the Environmental (Permitting) Regulations 2016 (SI 2016/1154) authorising any operation by the applicant in the local authority's area;
- (b) any registration of the applicant under Schedule 2 to those Regulations in relation to an exempt waste operation (within the meaning of regulation 5 of those Regulations) carried on in that area;
- (c) any registration of the applicant under Part 8 of the Waste (England and Wales) Regulations 2011 (carriers, brokers and dealers of controlled waste).

"Relevant offence" and "relevant enforcement action" have the meaning given by section 3(3) of the Scrap Metal Dealers Act 2013 and prescribed in the regulations made by the Secretary of State.

"Site" means any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there).

"Site manager", in relation to a site at which a scrap metal dealer carries on business, means the individual who exercises day-to-day control and management of activities at the site. (An individual may be named in a licence as site manager at more than one site; but no site may have more than one site manager named in relation to it).

"Trading name" means a name, other than that stated in the licence under which a licensee carries on business as a scrap metal dealer.

3. Types of Licence

3.1 Anyone wishing to operate a business as a scrap metal dealer will require either:

- (a) a site licence; or
- (b) a collector's licence;

3.2 The licence is valid for three years and permits the licence holder to operate within the boundaries of Ribble Valley.

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

Site Licence

3.4 The site licence authorises the licence holder to carry on business at the site(s) identified in the licence.

3.5 The site licence must include:

- (a) the name of the licensee;
- (b) the name of the authority;
- (c) identify all the sites in the authority's area at which the licensee is authorised to carry on business;
- (d) the name of the site manager of each site;
- (e) the date of expiry.

3.6 The site licence also permits the licence holder to act as a collector.

Collector's Licence

3.1 The collector's licence authorises the licensee to carry on business as a mobile collector within the boundaries of Ribble Valley.

3.2 The collector's licence must include:

- (a) the name of the licensee;
- (b) the name of the authority;
- (c) the date of expiry;

4. Applicant Suitability

General

4.1 The Council must determine whether the applicant is a suitable person to carry on a business as a scrap metal dealer; and may not issue a licence unless satisfied the applicant is suitable.

4.2 In determining a person's suitability the Council will have regard to:-

- (a) Statutory guidance on determining suitability which is issued from time to time by the Secretary of State; and
- (b) Its Policy.

4.3 Notwithstanding the existence of this policy, the Council, when determining a person's suitability for the purposes of the Act, will treat each case on its own individual merits.

Determining Suitability

4.4 As well as its policy and statutory guidance, the Council, when determining a person's suitability, may have regard to any other information it considers relevant, in particular, but not limited to:

- (a) whether the applicant or site manager has been convicted of any relevant offence;
- (b) whether the applicant or site manager has been the subject of any relevant enforcement action;
- (c) whether there has been any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
- (d) whether there has been any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- (e) whether there has been any previous revocation of a scrap metal licence (and the reasons for the revocation);
- (f) whether the applicant has demonstrated there will be adequate procedures in place to ensure compliance with the Act.

(g) guidance also indicates that whether the applicant has undergone training may be taken into account; however, there is no statutory requirement or power to introduce a condition in this respect.

4.5 In determining suitability the Council will require the applicant to produce a Disclosure and Barring Service Certificate.

4.6 In determining whether a company is suitable to carry on business as a scrap metal dealer, the Council will have particular regard as to whether any of the following are a suitable person:

- (a) any director of the company;
- (b) any secretary of the company;
- (c) any shadow director of the company (that is to say, any person in accordance with those directions or instructions the directors of the company are accustomed to act).

4.7 In determining whether a partnership is suitable to carry on business as a scrap metal dealer, the Council will have particular regard as to whether each of the partners are a suitable person.

4.8 The Council may consult other persons regarding the suitability of an applicant, including, but not limited to:

- (a) any other local authority;
- (b) the Environment Agency;
- (c) the Natural Resource Body for Wales;
- (d) an officer of a police force;

4.9 If the 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:

- (a) that the dealer must not receive scrap metal except between 9am and 5pm on any day;
- (b) that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.
- 4.10 Having regard to the objectives of the Act the Council have determined there will be a presumption to refuse an application where the applicant or any other person required to be named or identified in the application has been convicted of any of the relevant offences laid down in the Act.
- 4.11 The Act deems the following as relevant offences for the purpose of ascertaining an applicants suitability:-
- An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989;
 - An offence under section 170 or 170B of the Customs and Excise Management Act 1979(5), where the specific offence concerned relates to scrap metal;
 - An offence under section 110 of the Environment Act 1995;
 - An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990;
 - An offence under section 9 of the Food and Environment Protection Act 1985;
 - An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment- related offence;
 - An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;
 - An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002;
 - Any offence under the Scrap Metal Dealers Act 1964;
 - Any offence under the Scrap Metal Dealers Act 2013;
 - An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act 1968(13), where the specific offence concerned relates to scrap metal, or is an environment-related offence;
 - Any offence under Part 1 of the Vehicles (Crime) Act 2001;
 - An offence under sections 85, 202, or 206 of the Water Resources Act 1991;
 - An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007;
 - An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010;
 - An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2016.
 - Any offence under the Hazardous Waste (England and Wales) Regulations 2005;

- Any offence under the Hazardous Waste (Wales) Regulations 2005;
- An 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 Transfrontier Shipment of Waste Regulations 1994;
- Any offence under the Transfrontier Shipment of Waste Regulations 2007;
- Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006;
- An offence under regulation 42 of the Waste (England and Wales) Regulations 2011;

4.12 While the Act states the Council must have regard to the above-mentioned relevant offences, the Council is not limited to taking into account only those offences. As such the Council may consider other offences that, in the Council's opinion, may be relevant in determining an applicant's suitability.

4.13 Having regard to the objectives of the Act the Council have determined there will be a presumption to refuse an application where the applicant or any other person required to be named or identified in the application has been the subject of any of the following forms of enforcement action within the period of three years prior to the application:

- (a) closure notice pursuant to the Act;
- (b) closure order pursuant to the Act;
- (c) action for recovery of possession of out of date or discontinued licences.

4.14 Having regard to the objectives of the Act, the Council has determined it will consider the following offences, or enforcement actions relating to any person relevant to the licence, as being of particular relevance to the suitability of the licence holder:

- (a) Written warning relating to scrap metal licence compliance;
- (b) Waste regulations 2011 - enforcement, compliance and stop notices;
- (c) Permitting regulations notices;
- (d) Planning Breach of Condition / Enforcement Notices;
- (e) Statutory nuisance abatement notice;
- (f) Breach of statutory nuisance abatement notice;

4.15 The authority is aware of its duty not to fetter its discretion and, notwithstanding the matters that the Council may take into account when determining a person's suitability, each case shall be treated on its own individual merits.

5. Revocation of Licence / Imposition of Conditions

5.1 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.

- 5.2 The Council 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.
- 5.3 The Council may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer and the Council shall have particular regard to any "relevant offences" and "relevant enforcement action" and to those matters contained in section 4 of this policy.
- 5.4 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 paragraph 4.9
- 5.5 A revocation or variation comes into effect when no appeal is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 5.6 If the Council considers that the licence should not continue in force without conditions, it may by notice provide:
- (a) that, until a revocation comes into effect, the licence is subject to one or both of the conditions set out in paragraph 4.9, or
 - (b) that a variation under this paragraph comes into effect immediately.
- 5.7 All licences issued by the Council pursuant to the Act remain the physical property of the Council and must be returned to the Council as required on expiry or revocation of the relevant licence.
- 5.8 Action may be taken for the recovery of any licence not returned as required by the Council and any such action may be taken into account in relation to any future application for a licence.

6. Supply of Information

- 6.1 This section applies to information which has been supplied, to the Council, under the Act relating to a scrap metal licence or to an application for, or relating to, such licence.
- 6.2 The Council must supply any such information to any of the following persons who request it for purposes relating to this Act:
- (a) any other local authority;
 - (b) the Environment Agency;
 - (c) the Natural Resources Body for Wales;
 - (d) an officer of a police force.
- 6.3 This section does not limit any other power the Council may have to supply that information.

7. Register of Licences

- 7.1 The Environment Agency maintains a register of scrap metal licences issued by authorities in England and each entry will 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;

7.2 The registers are to open to the public for inspection.

8. Notification Requirements

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

8.2 A licensee who is not carrying on business as a scrap metal dealer in the Ribble Valley area must notify the Council within 28 days from the date on which the licence holder ceased to be carrying on their business.

8.3 If a licence is issued to a business under a trading name the licensee must notify the Council of any change to that name within 28 days of the change occurring.

8.4 The Council must notify the Environment Agency, of -

- (a) any notification given to the Council under paragraph 8.1 or 8.1
- (b) any variation made by the Council under paragraph 15 (variation of type of licence or matters set out in licence), and
- (c) any revocation by the Council of a licence

9. Display of Licence

9.1 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.

9.2 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.

10. Verification of Suppliers Identity

10.1 A scrap metal dealer must verify the name and address of any person they receive scrap metal from.

10.2 When verifying the person's name and address, the scrap metal dealer must do so by way of documents, data or other information obtained from a reliable and independent source.

10.3 Should verification not be gained then each of the following may be 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 sub-paragraph (a) or (b), has responsibility for verifying the name and address.

11. Payment for Scrap Metal

11.1 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).

11.2 Payment includes payment in kind, for example goods or services.

12. Record Keeping

12.1 A scrap metal dealer must keep three types of records:

12.1.1 Receipt of Metal

12.1.2 Disposal of Metal

12.1.3 Supplementary

Receipt of Metal

12.2 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 (or, 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;

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

12.4 If payment is made by cheque, the dealer must retain a copy of the cheque.

12.5 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer or, if there is no receipt identifying the transfer, a record of particulars identifying the transfer.

12.6 If unsure about the provenance of an item, it is good practice for the dealer to delay payment in order to verify such provenance.

Disposal of Metal

12.76 The Act regards metal as being 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;

12.87 Where a scrap metal dealer disposes of metal 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;

12.98 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;

Supplementary

12.109 The information collected during receipt and disposal 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.

12.1140 The records of receipt must be marked so as to identify the scrap metal to which they relate.

12.1244 Records must be kept for a period of 3 years beginning with the day on which the metal is received or disposed of as may be the case.

12.1342 If a scrap metal dealer fails to fulfil a requirement under paragraph 12 or this paragraph each of the following may be 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.

12.1443 A scrap metal dealer or site manager may have a defence to any offence if they can prove arrangements have been made to ensure the requirement to keep records was justified, or that they took all reasonable steps to ensure those arrangements were complied with.

13. Rights of Entry & Inspection

13.1 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.

13.2 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.

13.3 Paragraphs 13.1.1 and 13.1.2 do not apply to residential premises.

13.4 A constable or an officer of the Council may:

- (a) require production of, and inspect, any scrap metal kept at any licensed premises;
- (b) require production of, and inspect, any records that are required to be kept in accordance with the Act;
- (c) take copies of or extracts from any such records.

- 13.5 Officers of the Council will undertake where reasonable and practicable to give a notice of their powers and your rights on entry to any site licensed pursuant to the Act.

14. Application Procedure

Term of Licence/Renewal

- 14.1 A licence is valid for three years beginning from the date it is issued.
- 14.2 If a renewal is received before the expiry of the existing licence the existing licence will continue to have effect, and:
- (a) If withdrawn the licence expires at the end of the day of withdrawal.
 - (b) If refused, and there is no appeal possible the existing licence will expire or, where there is a right of appeal the licence will not expire until any such appeal is finally determined or withdrawn.
- 14.3 If a licence is renewed, the licence expires at the end of the three year period from the date of the renewal.

Application

- 14.4 The application form is available from the Licensing Department, or from the Council's website. Guidance notes on how to complete the application form are also available
- 14.5 Please note the collectors licence allows a business or individual to operate only within the Ribble Valley area, therefore individuals wishing to collect across borders will be required to obtain a collectors licence from the relevant local authority where they wish to collect and sell.
- 14.6 All applicants are required to provide a basic disclosure of criminal convictions with the application. Information on convictions held by those having lived outside the United Kingdom will also be required.
- 14.7 From 4 April 2022, applicants must complete a tax check to confirm that they registered for tax before applying to renew a site licence or a mobile collector's licence. New applicants (including those who have not held a licence in the preceding year) should follow the "confirm your tax responsibilities" guidance. Details are available from the Licensing Department, or from the Council's website.

15. Variation of Licence

- 15.1 A licence may be varied from one type to the other. A variation application must be made to reflect changes to:
- (a) Site licence - the name of licensee, the sites, site manager
 - (b) Collector's licence - name of licensee
- 15.2 The variation can amend the name of the licensee but cannot transfer the licence to another person.
- 15.3 The application to vary a licence must be made to the issuing authority and contain particulars of the changes to be made to the licence.

16. Further Information

- 16.1 The Council may request (at the time of application or later) any additional information it considers relevant for the purpose of considering an application.

16.2 Failure to provide such information may result in an application being declined.

17. Fee

17.1 An application must be accompanied by the fee, set by the Council.

17.2 Any fee set will take into account guidance from the Secretary of State. Details of the current fees can be found on the Council's website.

18. Right to Make Representations

Notice Period

18.1 If the Council proposes to refuse an application or to revoke/vary a licence, a notice shall be issued to the applicant/licensee setting out what the Council proposes to do and the reasons for this. The notice shall 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.

18.2 The period specified in the notice shall be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee.

18.3 Within the period specified in the notice the applicant/licensee must notify the Council whether the applicant / licensee wishes to make representations.

18.4 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.

18.5 If, within the period specified in the notice, the applicant/licensee informs the Council that they wish to make representations, the Council will 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.

18.6 If the applicant/licensee notifies the Council that they wish to make oral representations, the Council will give them the opportunity of appearing before, and being heard by a sub-Committee of the Licensing Committee.

Notice of Decision

18.7 If the application is refused, or the licence is revoked or varied, notice shall be given to the applicant/licensee setting out the decision and the reasons for it. The notice shall also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought (21 days beginning with the day on which notice of the decision was given) and, if revoked or varied, the date on which the revocation of variation is to take effect.

Appeals

18.8 An applicant may appeal to a 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 3(8) of the Act or the revocation or variation of a licence.

18.9 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 was given.

18.1.3 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.

19. Closure of Unlicensed Sites

Closure Notice

- 19.1 An authorised officer of the Council or, a constable, may issue a closure notice where they are 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.
- 19.2 The closure notice will state the reasons for the closure notice being issued and specify the steps which may be taken to ensure that the alleged use of the premises ceases.
- 19.3 The closure notice will also state the Council may apply to the Courts for a 'closure order', should the notice not be complied with.
- 19.4 The notice shall 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.
- 19.5 A person with an interest in premises is the owner, leaseholder or occupier of the premises.
- 19.6 The notice shall 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 Council 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.

Cancellation of Closure Notice

- 19.7 A constable or the Council may cancel a closure notice. This takes effect when a cancellation notice 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.

Application for Closure Order

- 19.8 When a closure notice has been given, a constable or the Council shall make a complaint to a 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.
- 19.9 A complaint under this paragraph may not be made if the constable or the Council are 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.

Closure Order

- 19.10 A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the Council makes a termination of closure order by certificate, the use of the premises by a scrap metal dealer in the course of business 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.
- 19.11 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 of which the premises form part.
- 19.12 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.
- 19.13 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.

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

Termination of Closure Order by Certificate

- 19.15 Once a closure order has been made and a constable or the Council satisfied that the need for the order has ceased a certificate may be issued. This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

- 19.16 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.

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

Discharge of Closure Order by Court

- 19.18 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 not given.

- 19.19 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.

- 19.20 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).

Appeal in relation to Closure Orders

- 19.21 An appeal may be made to the Crown Court against a:

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

- 19.22 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.

- 19.23 An appeal under (a) or (b) above 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.

- 19.24 An appeal under (b) or (c) above may be made by a constable or the Council.

Enforcement of Closure Order

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

- 19.26 If the closure order has been made, a constable or an authorised officer of the Council 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.

- 19.27 If the owner, occupier or other person in charge of the premises requires the office to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

20 Offences & Penalties

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

- 20.2 The following are prescribed by the Act as Criminal Offences:

Section	Offence	Level
Section 1	Carrying on business as a scrap metal dealer without licence	5
Section 8	Failure to notify authority of any changes to details given with application	3
Section 10	Failure to display site licence or collectors licence	3
Section 11(6)	Receiving scrap metal without verifying persons full name and address	3
Section 11(7)	Delivering scrap metal to dealer and giving false details	3
Section 12(6)	Buying scrap metal for cash	5
Section 13	Failure to keep records regarding receipt of metal	5
Section 14	Failure to keep records regarding disposal of metal	5
Section 15(1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	5
Section 15(2)	Failure to keep copy of document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued	5
Section 15(3)	Failure to keep information and records for three years	5
Section 16	Obstruction to right of entry and failure to produce records	3

- 20.3 Current levels of Fines:

Level 1 - £200

Level 2 - £500

Level 3 - £1,000

Level 4 - £2,500

Level 5 – unlimited (for offences committed after 13 March 2015).

Offences by Bodies Corporate

- 20.4 Where an offence under this Act is committed by a body corporate and it 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 body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly;

where the affairs of a body corporate are managed by its members, subsection (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 body corporate.

21. Delegation of Functions

- 21.1 Where there are uncontested applications, or where there are no questions about the suitability of the applicant, the determination should be dealt with by the Council's Licensing Officers.
- 21.2 Contested applications where there is relevant information from any of the consultees, or queries regarding an applicant's suitability, revocation of a licence or the imposition of conditions will be presented to a sub-Committee of the Council's Licensing Committee.

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

meeting date: TUESDAY, 21 MARCH 2023
title: TAXIS AND PRIVATE HIRE VEHICLES (SAFEGUARDING AND ROAD SAFETY) ACT 2022
submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE
principal author: STEPHEN BARKER – SOLICITOR

1 PURPOSE

1.1 To inform Committee of the imminent introduction of a duty for local authorities to utilise the database operated by the National Anti-Fraud Network (NAFN) providing the National Register for Revocations, Refusals and Suspensions (NR3S).

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – }
- Corporate Priorities – } The Council aims to be a well-managed Council, providing efficient services based on identified customer needs.
- Other Considerations – }

2 BACKGROUND

2.1 Committee will recall that the Council had already voluntarily subscribed to the NR3 operated by NAFN, and a policy in respect of handling and disclosure of information in this respect was approved on 1 November 2022. This enables the Council to record revocations and refusals of licenses relating to hackney carriage and private hire drivers and to report such activity to the database operated by NAFN.

2.2 The Secretary of State for Transport has now written to licensing authorities announcing the designation of NAFN as the database provider under section 1(4) of the Act. In addition, what had been known as NR3 (National Register of Revocations and Refusals) under the voluntary scheme operated by NAFN has now become the NR3S (National Register of Revocations, Refusals and Suspensions) under the mandatory scheme.

2.3 It should be noted that licence suspensions are applicable in the relatively rare cases where an otherwise fit and proper person has not been able to satisfy a requirement that can be achieved, for example, by submission of a satisfactory medical certificate or DBS report, and the suspension is lifted on compliance.

2.4 A copy of the letter from the Secretary of State is attached at **Appendix 1**. Committee will note that the cost of access to the NR3S will be met by the Department for Transport, and therefore that element of the Council's access to NAFN databases will be free of charge to the Council.

3 ISSUES

3.1 Committee will note that it is intended to commence the remaining provisions of the Act on 27 April 2023, but that this relates principally to enabling those authorities not already registered with NAFN so to do.

3.2 It appears that the Council already has the appropriate processes and procedures in place. At the meeting on 1 November 2022, Committee approved the adoption of the Council's policy in respect of requests for information, disclosure of information, and use of information as a result of an entry on NR3. This policy was prepared from a template supplied by NAFN, and officers will monitor NAFN to establish whether a fresh template is prepared to reflect the mandatory use of the database and the incorporation of registration of suspensions. An updated policy will be submitted to a future meeting of this Committee, based either on a revised template from NAFN or incorporating amendments determined by officers.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – There may be some reduction in the annual fee paid to NAFN.
- Technical, Environmental and Legal – Some officer time will be expended in updating the policy.
- Political – No implications identified.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

5 CONCLUSION

5.1 Committee is asked to note the contents of the report.

STEPHEN BARKER
SOLICITOR

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

None.

For further information please ask for Stephen Barker, extension 3216.



Department
for Transport

Taxi and Private Hire Vehicle Licensing Authorities,
England

From the Secretary of State
The Rt Hon Mark Harper MP

Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: 0300 330 3000
E-Mail: mark.harper@dft.gov.uk

Web site: www.gov.uk/dft

28 February 2023

Dear Taxi and Private Hire Vehicle Licensing Authorities,

On 31 March 2022, the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022 received Royal Assent. The Act places duties on licensing authorities to improve information-sharing regarding taxi and private hire vehicle drivers. Some of the duties came into force on 31 May 2022. My department has been working to bring the remaining duties which require licensing authorities to use a licensing information database to record refusals, suspensions and revocations of taxi and private hire vehicle driver licences into force. The Act enables me to either provide the database or to designate a person to do so.

I am pleased to announce that my department has reached an agreement to designate the [National Anti-Fraud Network](#) as the database provider under [Section 4\(1\)\(a\) of the Act](#). The National Anti-Fraud Network's database, the National Register for Revocations, Refusals and Suspensions (NR3S), has been in use successfully for several years and use of it is recommended in the [Statutory Taxi and Private Hire Vehicle Standards](#) which licensing authorities must have regard to. As a result, the vast majority of licensing authorities, including your own, already have access to the NR3S.

Furthermore, to assist with this new mandatory requirement, I am pleased to announce that my department is covering the cost of access to the NR3S. All licensing authorities will be given access to the NR3S for free. If your authority is not consistently using the NR3S, you should review your processes to enable your authority to comply with the law when it comes into effect.

I intend to commence the remaining provisions of the Act on 27 April 2023 to give those final few authorities who do not currently have access to the NR3S time to put the appropriate processes in place. When the remaining duties on licensing authorities come into force, all licensing authorities will be required to use the NR3S to record taxi and private hire vehicle driver licences that have been refused, suspended or revoked for safeguarding or road safety

reasons. The [statutory guidance](#) issued to licensing authorities in May 2022 to support them in complying with the Act will be updated to reflect these new duties.

Finally, I would like to thank those licensing authorities who have been actively using the NR3S in recent years on a voluntary basis. This has ensured that more authorities have more of the information needed to make correct decisions to effectively regulate the taxi and private hire vehicle trades and protect the travelling public.

If you need any assistance relating to accessing or using the NR3S, please contact licencehelp@nafn.gov.uk. For queries relating to the Taxis and Private Hire Vehicles (Safeguarding and Road Safety) Act 2022, please contact my officials at TaxisandPHVs@dft.gov.uk.

Yours sincerely,

A handwritten signature in black ink that reads "Mark Harper". The signature is written in a cursive style with a long horizontal flourish at the end.

The Rt Hon Mark Harper MP

SECRETARY OF STATE FOR TRANSPORT

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO LICENSING COMMITTEE

meeting date: TUESDAY, 21 MARCH 2023
title: RELAXATION OF LICENSING HOURS FOR THE CORONATION
submitted by: MARSHAL SCOTT – CHIEF EXECUTIVE
principal author: STEPHEN BARKER – SOLICITOR

1 PURPOSE

1.1 To inform Committee of the relaxation of licensing hours on 5, 6 and 7 May 2023.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – }
 - Corporate Priorities – }
 - Other Considerations – }
- The Council aims to be a well-managed authority. These proposals support that objective.

2 BACKGROUND

2.1 The Government considers that the coronation of King Charles III is an event of exceptional national importance. On 19 December 2022, it launched a consultation to seek views on whether to relax licensing hours across England and Wales in accordance with Section 172 of the Licensing Act 2003. The consultation closed on 23 January 2023. This consultation included the public, responsible authorities' representatives and trade organisations.

2.2 The Government proposal was for extension of licensing hours for licensed premises and clubs during the celebration period, being 5 May 2023 to 8 May 2023. Provision was to be made for any licensed premises or clubs which would normally be open for licensed activities until or after 11.00pm (but closed before 1.00am) to remain open until 1.00am, if so desired, on each of 5 May, 6 May and 7 May 2023 (ie Friday, Saturday and Sunday night extensions, concluding the following morning). The extensions would only apply to sales and supply for on-site consumption, and late-night food premises may only remain open if they are also licensed to sell or supply alcohol for consumption on the premises at the specified times.

3 ISSUES

3.1 The Government has not published the response to the consultation at the time of preparation of this report (7 March 2023). However, it is reported that 77% of the public were in favour of the longer opening, and the Home Secretary has announced that there is to be a licensing hours order for the celebration period, in the terms stated in 2.2 above.

3.2 A draft licensing hours order in those terms was laid before Parliament on 6 March 2023, for approval by resolution of each House of Parliament under Section 197(4) of the Licensing Act 2003.

3.3 Subject to such approval, the order will be made. The Government considers that 1.00am is an acceptable cut-off time. Premises which do not fall within the

categories mentioned in 2.2 above, or premises which are within the categories and wish to extend their hours further, would need to apply for a Temporary Event Notice.

4 RISK ASSESSMENT

4.1 The approval of this report may have the following implications:

- Resources – No implications identified.
- Technical, Environmental and Legal - No implications identified.
- Political – No implications identified.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

5 CONCLUSION

5.1 Committee is asked to note the contents of the report.

STEPHEN BARKER
SOLICITOR

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

None.

For further information please ask for Stephen Barker, extension 3216.

REF: SB/CMS/LICENSING/21 MARCH 2023

Agenda Item 8

Minutes of Sub-Committee of the Licensing Committee

Meeting Date: Thursday, 15 December 2022, starting at 3.00 pm
Present: Councillor R Bennett (Chair)

Councillors:

J Alcock

S O'Rourke

In attendance: Head of Legal and Democratic Services, Electoral and Licensing Officer

553 WELCOME

554 APOLOGIES AND RE-CONSTITUTION OF THE COMMITTEE MEMBERSHIP

There were no apologies for absence.

555 DECLARATIONS OF DISCLOSABLE PECUNIARY, OTHER REGISTRABLE AND NON REGISTRABLE INTERESTS

There were no declarations of interest.

556 EXCLUSION OF PRESS AND PUBLIC

RESOLVED: That by virtue of the next items of business being exempt information under Paragraphs 1 of Schedule 12A of the Local Government Act 1972 the press and public be now excluded from the meeting.

557 LICENSING HEARING - TAXI

The Sub-Committee received a report from the Head of Legal and Democratic Services requesting that they determine whether the applicant of a hackney carriage drivers' licence be a fit and proper person to hold a licence due to the number of penalty points accumulated on the driver's DVLA licence exceeding 7, being the number which could be accepted under the Council's Policy and Guidelines on Relevant Convictions without reference to the Sub-committee.

The applicant and his representative attended the hearing and made submissions and responded to questions by the Sub-committee.

RESOLVED : That the hackney carriage driver's licence application be refused.

558 LICENSING HEARING - TAXI

The Sub-committee received a report from the Head of Legal and Democratic Services informing them of an application for a private hire driver's licence and requesting that the Sub-committee determine whether the applicant was a fit and proper person to hold such a licence in the light of information received from the other local authority he currently held a licence with.

The applicant attended the hearing and made submissions and responded to questions by the Sub-committee.

RESOLVED : That the private hire driver's licence application be approved.

The meeting closed at 3.20 pm

If you have any queries on these minutes please contact the committee clerk,
Rebecca Tait Rebecca.Tait@ribblevalley.gov.uk.

Agenda Item 9

Minutes of Sub-Committee of the Licensing Committee

Meeting Date: Friday, 3 February 2023, starting at 10.00 am
Present: Councillor S O'Rourke (Chair)

Councillors:

I Brown

D O'Rourke

In attendance: Solicitor, Licensing Officer and Administration Assistant (Licensing)

Also in attendance:

Everything Retreat - Mrs L Monk (Director of Everything Luxury Hamlet Limited), Mr C Monk (Director of Everything Luxury Hamlet Limited), Mr A Gregson (Director of Everything Luxury Hamlet Limited), Mr A Gregson (Representative for Everything Luxury Hamlet Limited), Mr I Thomson (relevant representative), Ms L Bell (relevant representative), Ms N Clay (relevant representative), Ms A Lucas (relevant representative)

Stanley House Marquee – Mr S Ahmed (Director of AF Events Blackburn Limited), Mr P Thompson (relevant representative), Ms K Davies (relevant representative), Ms A Walker (relevant representative), Mr A Gillett (relevant representative), Councillor S Brunskill (advancing relevant representation by Mellor Parish Council)

695 WELCOME

696 APOLOGIES AND RE-CONSTITUTION OF THE COMMITTEE MEMBERSHIP

There were no apologies received.

697 DECLARATIONS OF DISCLOSABLE PECUNIARY, OTHER REGISTRABLE AND NON REGISTRABLE INTERESTS

There were no declarations of disclosable pecuniary, other registrable or non-registrable interests.

698 EVERYTHING RETREAT, PRIMROSE LANE, MELLOR, BLACKBURN BB2 7EQ

The Sub-Committee met to consider the application by the Everything Luxury Hamlet Limited for a Premises Licence to be granted for the Everything Retreat, Primrose Lane, Mellor, Blackburn BB2 7EQ.

The Sub-Committee considered the contents of the report of the Head of Legal and Democratic Services and its appendices.

The Chairman introduced the premises licence application and the Council's Solicitor outlined the format that the hearing would take to allow for a fair, proportionate and proper decision to be made.

Initially the application had sought to allow the provision of films but this request had been withdrawn prior to the Hearing.

The Applicant's representative, Mr Gregson, made verbal representations advising that the application would promote the licensing objectives. He confirmed that the

application related solely to the sale of alcohol to visitors residing at the premises overnight and their guests between 8am and 10pm. He outlined that the lodges are situated on private grounds facing towards fields, and with proper management, he did not believe that noise levels would cause a nuisance. Taking into account the number of people who stay in the lodges (there are 12 lodges and each lodge accommodates 2 people), and the reason they are staying there, he did not believe there would be any nuisance caused.

There were four objectors in attendance. They relied on their previous written representations but, along with the Members and the Council's Solicitor, asked several questions of Mr Gregson to seek clarification on aspects of the application. With regards to the private meeting suite for corporate events, it was confirmed that this would just be available for use by guests who are staying overnight.

A resident expressed concern about additional traffic and the limited parking available in the event that additional guests were to be able to attend the premises, but it was noted that this could arise irrespective of the existence of a licence, and was a planning matter rather than a licensing issue. Concern was also expressed about the possibility of unruly behaviour due to there being a licence.

The Licensing Sub-Committee carefully considered the representations made by all parties, both written and verbal, together with the Licensing Act 2003 and relevant guidance, the regulations and the Council's Statement of Licensing Policy.

RESOLVED:

The Sub-Committee resolved to grant the Premise Licence for the Everything Retreat, Primrose Lane, Mellor, Blackburn BB2 7EQ as applied for, with the exception that the request to provide films had been withdrawn.

699

STANLEY HOUSE MARQUEE, FURTHER LANE, MELLOR BB2 7NP

The Sub-Committee met to consider the application of AF Events Blackburn Limited for a premises licence in respect of Stanley House Marquee, Further Lane, Mellor, Blackburn, BB2 7NP.

The Sub-Committee considered the contents of the report of the Head of Legal and Democratic Services and its appendices.

The Director of the Applicant had submitted an email and letter to the Licensing Authority the day preceding the hearing outlining the company ethos and in particular its event management strategy. As part of the strategy, the company proposed to gather data of neighbouring residents to be able to circulate them with details of proposed activities, and to carry out an assessment on how it should strengthen/install acoustic barriers to the marquee and closest residential areas. The director agreed to copies of this document being circulated to those who had attended in support of relevant representations.

There were five objectors in attendance and Mrs Davies had prepared notes for presentation of objections to the application by the residents. The Director of the Applicant agreed to these notes being copied and circulated to the Members of the Sub-Committee and others present. The notes remarked (amongst other issues) on the absence of evidence of a risk assessment having been carried out prior to submission of the application and (in the event that the application was not refused) that there should be a comprehensive noise impact assessment commissioned by the applicant from an independent suitably qualified and competent person.

The Sub-Committee noted that the applicant was proposing to carry out an assessment in respect of noise and the notes prepared by the objector considered that an assessment should already have been carried out or obtained prior to determination of the application.

RESOLVED:

In accordance with section 9 of the Ribble Valley Borough Council procedure for the conduct of hearings under the Licensing Act 2003 providing for adjournment of hearings to a specified date, the Sub-Committee determined that the application should be adjourned until 10am on Friday 17 March 2023 to enable the Applicant to commission an appropriate noise impact assessment from an independent and suitably qualified person. This would enable the Sub-Committee to have relevant evidence with which to decide the application.

700 EXCLUSION OF PRESS AND PUBLIC

That by virtue of the next items of business being exempt information under paragraph 1 of part 1 of Schedule 12A of the Local Government Act 1972 that press and public be now excluded from the meeting.

701 LICENSING - TAXI

The Sub-Committee received a report from the Head of Legal and Democratic Services requesting that they determine whether the Applicant was a fit and proper person to hold a private hire driver's licence due to the number of penalty points accumulated on the driver's DVLA licence exceeding 7, being the number which could be accepted under the Council's Policy and Guidelines on Relevant Convictions without reference to the Sub-Committee.

The Applicant attended the meeting and made submissions and responded to questions by the Sub-Committee.

RESOLVED:

That the private hire driver's licence application be refused.

The meeting closed at 1.40 pm

If you have any queries on these minutes please contact the committee clerk, Jenny Martin 01200 413214 or at Rebecca.Tait@ribblevalley.gov.uk.

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