

**SCRAP
METAL
DEALERS**

DRAFT
Licensing Policy

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1 INTRODUCTION AND GENERAL PRINCIPLES

Bath & North East Somerset Council (the Council) is the Licensing Authority under the Scrap Metal Dealers Act 2013 which received Royal Assent on 28 February 2013.

The Act repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of the Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.

The Act maintains Local Authorities as the principal regulator and gives them the power to better regulate these industries by allowing them to refuse to grant a licence to “unsuitable” applicants and a power to revoke licences if the dealer becomes “unsuitable”.

The Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer.

In setting out its policy, the Licensing Authority shall promote the following objectives:

- (i) Protection of the public through the reduction of metal theft;
- (ii) Promotion of effective scrap metal recycling and vehicle dismantling;
- (iii) Delivery of a regulatory service proportionate to the risks involved.

In exercising its discretion in carrying out its licensing functions, the Licensing Authority shall have regard to this procedure document, the objectives set out above, and legislative requirements outlined in Appendix A

Despite the existence of this procedure document, each application or enforcement measure shall be considered on its own merits. Where it is necessary for the Licensing Authority to depart from its procedures, reasons shall be given for so doing.

The aim of the licensing process is to regulate scrap metal trade in order to promote the above objectives. It is the Licensing Authority’s wish to facilitate well-run and responsible businesses that are responsive to the wishes and needs of the general public.

The Council, in undertaking its licensing functions, shall have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

The following principles will be adhered to when carrying out enforcement activities:

Openness: The Council shall be open about how it enforces the legislation in relation to scrap metal licensing.

Helpfulness: The Council will work with people to advise them on and assist with compliance of the relevant legislation. It will also strive to provide a courteous and efficient service to its customers.

Proportionality: The Council will minimise the cost of compliance for businesses and individuals by ensuring that any action taken is proportionate to the risk

or wider public benefit. Officers shall have regard to the human rights of all parties involved in its enforcement activities.

Consistency: The Council shall carry out its duties in a fair, equitable and consistent manner. Officers shall have regard to national legislation and guidance; local byelaws; corporate policies and procedures: the contents of this document.

This policy shall take effect from 1 October 2013 and shall remain in existence during which it shall be kept under review and revised as appropriate.

Definition of a Scrap Metal Dealer

A person carries on a 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

People selling scrap metal as surplus materials or as a by-product of manufacturing articles, is NOT regarded as a scrap metal dealer.

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).

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.

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.

1.16 Types of Licence

Anyone wishing to operate a business as a scrap metal dealer will require a site licence or a collector's licence. The licence is valid for three years and permits the licence holder to operate within the boundaries of the issuing Authority.

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

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

The site licence must include:

- (a) The name of the licensee.
- (b) The name of the local 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.

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

Collector's Licence

The collector's licence authorises the licensee to carry on business as a mobile collector within the Authority's area.

The collector's licence must include:

- (a) The name of the licensee.
- (b) The name of the Authority.
- (c) The date of expiry.

2 SUITABILITY OF APPLICANTS

The Council shall determine whether the applicant is a suitable person to carry on business as a scrap metal dealer.

In determining this, the Authority may have regard to any information which it considers to be relevant, in particular:

- (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) Any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal).
- (d) Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal).
- (e) Any previous revocation of a scrap metal licence (and the reasons for the revocation).
- (f) Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

2.1 Criminal Records Disclosures

Applicants shall be required to submit as part of any application a criminal records check from the Disclosure Barring Service. Applicants shall be charged an appropriate fee determined by the Disclosure Barring Service.

The Council is bound by rules of confidentiality, and shall not divulge information obtained to any third parties. The applicant for a DBS disclosure shall be sent a disclosure report to their home address; this must be shown to the Council prior to the issue or continuation of a licence.

The Council shall operate policies and procedures in accordance with Guidance and Codes of Practice issued by The Disclosure Barring Service.

2.2 Relevance of Convictions and Cautions

In assessing whether the applicant is a fit and proper person to hold a licence, the Licensing Authority shall take account of cautions and convictions, whether spent or unspent, but only in so far as they are relevant to an application for a licence.

Upon receipt of a disclosure from an applicant, an Officer of the Licensing Authority shall assess whether any or all of the convictions are capable of having a relevance as to whether the applicant is a fit and proper person to hold a licence.

3 ENFORCEMENT MEASURES

In order to encourage responsible licensed businesses, the Licensing Authority shall operate a firm but fair enforcement regime. To balance the promotion of public safety with the need to permit individuals to safeguard their livelihood without undue interference, the Licensing Authority as a general principle shall only intervene where it is necessary and proportionate to do so.

The Council shall, in order to discharge its role as the Licensing Authority, carry out routine and unannounced inspections of individuals, vehicles and businesses to ensure compliance with the relevant legislation.

The Licensing Authority may take any of the steps below upon receipt of evidence that an offence has been committed in relation to legislation enforced by the Council:

1. Informal verbal or written advice.
2. Service of Notice.
3. Revocation of the licence.
4. Refusal to renew.
5. Prosecution of an individual or company.

Minor or first-time transgressions are likely to attract either an oral or written warning.

A licence holder shall be referred to the appropriate Licensing Committee when either he/she has been found to be in breach of a licence issued or convicted of a serious criminal offence. The Committee shall consider the evidence and may either take no action, or revoke the licence.

The Licensing Authority shall consider the prosecution of licence holders for relevant offences where the allegation is of a serious nature or for alleged repeated offenders.

4 GENERAL ARRANGEMENTS

4.1 Licensing Committee and Hearings

The Committee has delegated its functions in the following way:

1. A licensing sub-committee shall deal with applications and disciplinary matters referred to it by Licensing Officers.
2. Licensing Officers have delegated powers to grant or refuse licences; to revoke licences in situations requiring immediate action; to issue oral and written warnings, notices, & formal cautions; and to instigate prosecutions where appropriate.

Licensing Hearings in relation to applicants and licensees shall be carried out to an agreed procedure that allows an individual the ability to present his/her case to the Committee; be represented, and ask questions. In certain circumstances the Committee shall hold licensing hearings without the public being present, where it is legally allowed to do so, for cases where personal matters are to be considered.

4.2 Licence Applications

An application for a Scrap Metal Dealer site licence and/or collectors licence shall be made on the specified application form issued by the Licensing Authority.

Applications will not be processed unless all the required documentation is produced and the licence fees have been paid.

No refunds will be given for unsuccessful licence applications, for unsuccessful licence renewal applications, or for applications where the process has begun and the applicant withdraws their application.

Holders of existing licences shall be reminded two months preceding the expiry, when their licences are due to be renewed. However, it is the responsibility of the individual licensee to renew an existing licence and the absence of a reminder letter will not discharge the licensee of his/her individual responsibility.

Application forms, appropriate fees, and supporting documentation should be submitted in sufficient time to allow processing of the application. It is recommended that applications are made at least 21 days prior to the expiry of the previous licence.

A licence that is not renewed by its expiry date will be deemed to have not been renewed and a fresh application for a new licence will be required, unless exceptional circumstances can be demonstrated to the satisfaction of the Licensing Authority.

4.3 Table of Tariffs and Licence Fees

The Licensing Authority shall annually review its licence fees and charges and implement any changes on 1 April each year.

4.4 Service Standards

Tacit consent will 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.

4.5 Complaints

The Council will investigate complaints against licensed or unlicensed, persons or businesses and take action proportionate to the matter being investigated. Complainants shall be encouraged in the first instance to raise their concerns directly with the licensee to seek a local resolution.

If a person making a complaint is not satisfied with the investigation of a complaint, the Council's formal complaint procedure shall be followed.