



Hull
City Council

**SCRAP METAL DEALERS
LICENSING POLICY
10 February 2014**

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Scrap Metal Dealers Licensing Policy

1. Introduction

- 1.1 Hull City Council (hereinafter referred to as the Council) is responsible for the licensing of Scrap Metal Dealers in the City in accordance with powers conferred by the Scrap Metal Dealers Act 2013 (“the Act”)
 - 1.1.1 The Act repeals the Scrap Metal Dealers Act 1964 (and its subordinate legislation) and Part 1 of Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.
 - 1.1.2 The Act requires all scrap metal dealers to obtain a licence in order to carry on business as a scrap metal dealer.
- 1.2 This document sets out the policies and principles that the Council will apply when making decisions on applications for:
 - A Site Licence
 - A Collectors Licence
- 1.3 In setting out this policy, the Council seeks to promote the following objectives:
 - The prevention of crime
 - The protection of public health and safety
 - The protection of the environment
 - Maintain and improve the operating standards of Scrap Metal Dealers
 - To take all reasonable steps to ensure that those dealers who operate illegally are no longer able to do so.
- 1.4 The purpose of licensing is to regulate the scrap metal trade within the provisions of the legislation and the objectives set out above. The Council will work in partnership with other relevant departments, neighbouring authorities, the police, the Environment Agency, local businesses and local people towards the promotion of the objectives as outlined.
- 1.5 In preparing this policy statement the Council has consulted with the following: -
 - Individuals & companies currently registered as scrap metal dealers

- Individuals & companies currently registered as motor salvage operators
- Hull City Councillors
- Hull City Council Planning Department
- Hull City Council Environmental Crime Unit
- Humberside Police
- Other relevant bodies

1.6 The Council is committed to the implementation and application of this policy in such a manner as to ensure that no applicant or interested party is treated less favourably on the grounds of sex, marital status, race, nationality, ethnic or national origin, colour, disability or age, nor is disadvantaged by the application of a rule, condition or requirement, which has a discriminatory effect which cannot be justified either in licensing terms or as a requirement of law.

1.7 Notwithstanding the existence of this policy, each application or enforcement measure will be considered on its own merits. Where it is necessary for the Council to depart substantially from its policy, clear and compelling reasons will be given for so doing.

2. **Definitions**

Licensed Site

A site used in the course of carrying on business as a scrap metal dealer as identified in a scrap metal licence.

Mobile Collector

A person who:

- carries on business as a scrap metal dealer otherwise than at a site; and
- 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.

Motor Salvage Operator

conducts a business that consists wholly or mainly of:

- recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap;
- buying written-off vehicles, repairing and reselling them;
- buying or selling motor vehicles which are to be the subject of any of the activities mentioned above.

Premises

Any land or other place (whether enclosed or not).

Relevant Environmental Permit or Registration

- a) any environmental permit under regulation 13 of the Environmental (Permitting) Regulations 2010 authorising any operation by the holder in the Council'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

An offence which is prescribed for the purposes of the Act in regulations made by the Secretary of State. (See Appendix A)

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.

Does not include:

- Gold
- Silver
- Any alloy of which 2% or more by weight is attributable to gold or silver

Scrap Metal Dealer

Any person who carries on business as a scrap metal dealer if:

- they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought); or
- they carry on business as a motor salvage operator;

A person selling scrap metal merely as surplus materials or as a waste or by-product of manufacturing articles is **NOT** regarded as a scrap metal dealer.

Significant Offence

Any offence which the Council may consider as significant in relation to the suitability of the applicant to hold a licence, but is not prescribed as a "relevant offence" for the purposes of the Act. (See Appendix A)

Site

Any premise used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there).

Site Manager

The individual who exercises the 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).

3. The Licensing Process

- 3.1 The functions of the Council with regard to scrap metal dealer licensing may be exercised by the Licensing Committee or Officers acting under delegated authority.
- 3.2 All applications must be in the prescribed form and must include the necessary information including details of the bank account that is used or is to be used for the purchase of scrap metal.
- 3.3 Applicants including any directors, or other company officers, must provide a Basic Disclosure or subject access search, which is not more than 4 weeks old, to assess their suitability.
- 3.4 Should the Disclosure show that the applicant, and any other relevant person named on the application have been convicted of a relevant offence, or a significant offence, (see Appendix A) within the period of 5 years prior to the application, the details will be referred to the police for comment and may result in the application being refused
- 3.5 Photographic evidence of the applicant's identity will also be required in the form of a Passport or Driving Licence.
- 3.6 In assessing the suitability of the applicant the Council will take into account all information considered to be relevant. The operation of any previous business and the result of any previous application for a similar licence or environmental permit may also be taken into account.
- 3.7 Consultation will be undertaken with the Environment Agency, the Environmental Crime Unit the Planning Department and any other relevant bodies to ensure that both the applicant and the application are compliant with all relevant legislation
- 3.8 Amongst the factors that will be considered when determining the applicant's suitability are whether:

- The applicant or site manager has been subject to any relevant enforcement action.
- The applicant has previously been refused a scrap metal dealers licence or an application to renew a licence has been refused. The applicant has previously been refused a relevant environmental permit or registration.
- The applicant has previously held a scrap metal dealers licence that has been revoked.

3.9 Should the application be refused the applicant will be given a notice detailing the reasons for the proposed decision.

3.10 Should the applicant make a written representation against the proposed decision within the prescribed period of 14 days of receiving the notice, the application will be referred the Licensing Committee for a decision on whether or not the applicant is a suitable person to hold a licence.

3.11 Revocation of Licence/Imposition of Conditions

3.11.1 The Council may revoke a scrap metal dealer's site licence if it is satisfied that the licensee does not carry on the business of scrap metal dealing at any site identified in the licence.

3.11.2 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.

3.11.3 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 or significant offences" and "relevant enforcement action" and to those matters contained in paragraphs 3.4, 3.6, 3.7 and 3.8 of this policy.

3.11.4 If an applicant/licensee or any site manager named in a licence is convicted of a relevant offence, the authority may vary the licence by adding one or both of the conditions set out below:

- That the dealer must not receive scrap metal except between 9am and 5pm on any day;
- 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.

3.12 Notice of Decision

If, following a representation, the application is refused, or a licence is revoked or varied, notice shall be given to the applicant/licensee setting out the decision and the reasons for it. Such notice will be dispatched by first class post and will be deemed to have been received by the applicant/licensee on the second working day after posting. 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 received).

3.13 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. 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

3.14 Supply of Information by the Council

3.14.1 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) an officer of a police force.

4. Enforcement

4.1 The Council will operate an enforcement regime with a view to balancing the prevention of crime and the promotion of public safety with the need to allow individuals to promote their livelihood without undue interference. The Council will only intervene where it is necessary and proportionate to do so, having regard to the objectives outlined in 1.3 above and Hull City Council's Enforcement Policies.

4.2 The following principles will be applied:

- Proportionate in applying the law and ensuring compliance
- Consistency of approach
- Targeted enforcement action
- Transparent about how the local authority operates and what those regulated may expect
- Accountable for the local authority's actions

4.3 Requirements of the Act

- 4.3.1 A licensed dealer must not receive scrap metal from a person without verifying the persons full name and address by using an acceptable form of identification.
- 4.3.2 A licensed dealer must not pay for scrap metal except by a non transferable cheque, or electronic transfer. Payment in kind with goods or services is unlawful.
- 4.3.3 The following information must be recorded if any scrap metal is received. Records should be retained for a 3 year period.
- 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.
 - The date and time of its receipt.
 - If the metal is delivered in or on a vehicle, the registration mark.
 - If the metal is received from a person, the full name and address of that person
 - If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.
- 4.3.4 If the licensed dealer received the metal from a person, the licensed dealer must keep a copy of any document which the licensed dealer uses to verify the name and address of that person. If paid for by cheque the licensed dealer must keep a copy of the cheque, if paid for by electronic transfer the licensed dealer must keep any receipt identifying the transfer or, if no receipt was obtained, the licensed dealer must record particulars identifying the transfer.
- 4.3.5 If the dealer disposes of any metal, the dealer must record the following information:
- the description of the metal, including its type (or types if mixed), form and weight;
 - the date and time of its disposal;
 - if the disposal is to another person, the full name and address of that person;
 - if the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received;
- 4.3.6 Where the disposal is in the course of a business under a collectors licence the dealer must record the following information;
- the date and time of the disposal;
 - if to another person, their full name and address.

- 4.3.7 All records should be made available for inspection by an authorised officer at any reasonable time.
- 4.3.8 Compliance with these requirements does not relieve the licensed dealer from their obligations under the Environmental Protection Act 1998
- 4.3.9 A closure notice can be issued if the council is satisfied that any premises are being used by a scrap metal dealer, licensed or otherwise, in the course of their business and that the premises are not licensed for such a purpose.
- 4.3.10 If such premises continue to be used as part of a business or there is reasonable likelihood that it will be so used in the future after the service of a closure notice the magistrates court can make a closure order requiring the premises to be closed immediately and remain closed or for the use of the premises be discontinued immediately.

5. Review

- 5.1 The policy will be subject to continuous review and the Council may make revisions to it at such times, as it considers appropriate.

6 Advice and Guidance

- 6.1 For further advice, information or guidance please contact Hull City Council's Licensing Team at the address below:

Licensing Section
Kingston upon Hull City Council
33 Witham
Kingston upon Hull
HU9 1DB
Telephone: (01482) 300300
Fax: (01482) 615554
Email: licensing.requests@hullcc.gov.uk

APPENDIX A

RELEVANT OFFENCES AND RELEVANT ENFORCEMENT ACTION

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 specifies that offences that are relevant to the application for a scrap metal licence. This includes the offence of:

- An offence under sections 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989
- An offence under sections 170 or 170B of the Customs and Excise Management Act 1979, 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, 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
- Any offence under the Hazardous Waste (England and Wales) Regulations 2005
- Any offence under the Hazardous Waste (Wales) Regulations 2005
- Any offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- Any offence under the 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

In addition the applicant will also have been convicted of a relevant offence where they have been convicted of:

- Attempting or conspiring to commit any of the offences listed above;
- Inciting or aiding, abetting, counseling or procuring the commission of any offence listed above; and
- Committing an offence under Part 2 of the Serious Crime Act 2007(a) (encouraging or assisting crime) in relation to any of the offences listed above.

A person will be considered to have been subject of “relevant enforcement action” if:

- The person has been charged with an offence specified in the list of offences, and criminal proceedings in respect of that offence have not yet concluded; or
- An environment permit granted in respect of the person under the Environmental Permitting (England and Wales) Regulations 2010 has been revoked in whole or partially revoked to the extent that the permit no longer authorises the recovery of metal.

An environment related offence will mean an offence which relates to the transportation, shipment or transfer of waste; or the prevention, minimisation of control of pollution of the air, water or land which may give rise to any harm. In this context the expression “harm” means:

- Harm to the health of human beings or other living organisms;
- Harm to the quality of the environment;
- Offence to the senses of human beings;
- Damage to property; or
- Impairment of, or interference with, amenities or other legitimate uses of the environment.

Please note that in the case of an applicant having a conviction for offences which are not prescribed as “relevant offences for the purposes of the Act, the Council may still require further information from the applicant to assist in determining their suitability. The Council may not treat any such offence or enforcement action as a “relevant offence” or “relevant enforcement action” for the purposes of the Act but may nevertheless consider such an offence as a significant offence in relation to the suitability of the applicant to hold a licence.