

Scrap Metal Licensing Policy 2017



SCRAP METAL LICENSING POLICY 2017

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1 POLICY STATEMENT

- 1.1 This document states the Council's 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. This includes the issuing, reviewing and enforcement of scrap metal site and collectors' licences.
- 1.2 The power of issuing, reviewing, revoking and enforcing licences regulated by the Scrap Metal Dealers Act 2013 is an executive function delegated to officers of the council.
- 1.3 Where there are any changes to legislation or its interpretation by the courts that have an impact on this policy the conflicting elements will be amended at the earliest opportunity.
- 1.4 The Council will share information with other agencies including the Police and Environment Agency in respect of potential illegal activities and enter into joint enforcement operations with other agencies.
- 1.5 Nothing in this policy will prevent an applicant from requesting that the Council considers the individual merits of his/ her application and give reasonable consideration to departing from its policy.

2. LEGISLATION

- 2.1 The Scrap Metal Dealers Act 2013 ("the Act") received Royal Assent on 28 February 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. The Act is supplemented by The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 which came into force on 1 October 2013 ("the Regulations"); the Scrap Metal Dealers Act 2013 (Prescribed Documents and Information for Verification of Name and Address) Regulations 2013; the Scrap Metal Dealers Act 2013: Guidance on Licence Fee Charges issued by the Home Office and Guidance on issued by the Home Office.

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 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. It is an offence under section 1 (3) of the Act to carry on a business as a scrap metal dealer without a licence, the penalty for which on summary conviction is an unlimited fine.

- 2.2 Definition of a Scrap Metal Dealer
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
- 2.3 Motor salvage operation is defined in the Act as a business that consists of: - :
 - a) wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the remainder of the vehicle for scrap
 - b) wholly or mainly buying written-off vehicles and subsequently repairing and reselling them

- c) wholly or mainly buying or selling motor vehicles which are to be, either immediately or on a subsequent re-sale, the subject of any of the activities mentioned in (a) or (b)
- d) wholly or mainly 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

3. TYPES OF LICENCE

3.1 Anyone wishing to operate a business as a scrap metal dealer will require a “scrap metal licence” issued by a local authority. The scrap metal licence must be one of the following types:-

- I. a site licence; or
- II. 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.

3.2 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 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

3.3 Collectors 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

4. SUITABILITY OF APPLICANTS

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

- 4.2 In determining this, the Council 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 the Act are complied with.

- 4.3 “Relevant offence” means an offence which is prescribed for the purposes of the Act in regulations made by the Secretary of State. See here; <http://www.legislation.gov.uk/ukxi/2013/2258/made>

A person is the subject of “relevant enforcement action” if-

- a) the person has been charged with an offence specified in the Schedule to the Regulations and criminal proceedings in respect of that offence have not yet concluded; or
- b) an environmental 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.

Relevant offences and relevant enforcement action are specified under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013. See here; <http://www.legislation.gov.uk/ukxi/2013/2258/made>

- 4.4 In determining whether a company is suitable to carry on business as a scrap metal dealer, the Council is to have regard, in particular, to whether any of the following is 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)
- 4.5 In determining whether a partnership is suitable to carry on business as a scrap metal dealer, the Council is to have regard, in particular, to whether each of the partners is a suitable person.
- 4.6 The Council may consult other persons regarding the suitability of an applicant, including in particular:
- a) any other local authority;
 - b) the Environment Agency;
 - c) the Natural Resources Body for Wales
 - d) an officer of a police force;

- 4.7 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.
- 4.8 The Council must also have regard to any guidance on determining suitability which is issued from time to time by the Secretary of State, including the Scrap Metal Dealers Act 2013, Guidance on Determining Suitability to Hold a Scrap Metal Dealer's Licence.

5. APPLICATION PROCEDURE

5.1 Term of Licence

A licence is valid for three years beginning from the day it is issued. A renewal application must be received prior to the licence expiry.

If a renewal application is withdrawn the licence expires at the end of the day of withdrawal.

If refused, the licence expires when no appeal is possible or any such appeal is finally determined or withdrawn.

If renewed, the licence expires at the end of the three year period from the date of the renewal.

5.2 Application

The application form must be accompanied by:

- a) if the applicant is an individual, the full name, date of birth and usual place of residence of individual
- b) If the applicant is a company, the name and registered number and registered office of the company
- c) if the applicant is a partnership, full name, date of birth and usual place of residence of each partner
- d) any proposed trading name
- e) the telephone number and email address (if any) of the applicant
- f) the address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so
- g) details of any relevant environmental permit or registration in relation to the applicant
- h) details of any other scrap metal licence issued (whether or not by the Council) to the applicant within a period of 3 years ending with the date of the application.
- i) details of the bank account which is proposed to be used – if is an offence to buy scrap metal for cash (see section 8 below)
- j) details of any relevant conviction or enforcement action taken against the applicant.

For a site licence, the applicant must also provide:

- a) the address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought)
- b) 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 (other than the applicant).

c) site manager details to be included for (g) (h) and (j) above

A collector's licence allows a business or individual to operate only within that Council's area, therefore individuals wishing to collect across borders will be required to obtain a collector's licence from the relevant Council of each area in which the collector intends carry on business

All applicants are required to provide a basic disclosure of criminal convictions with the application.

5.3 Variation of Licence

A licence may be varied from one type to the other. A variation application must be made to reflect changes to:

- Site licence – the name of licensee, the sites, site manager
- Collector's licence – name of licensee

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

Failure to make an application to vary the changes above is an offence under section 3 (5) of the Act, the penalty for which on summary conviction is a fine not exceeding level 3 on the standard scale.

5.4 Renewal

An application to renew will need to be submitted prior to the expiration of the current licence. Incomplete applications will be returned so please bear this in mind when submitting as any complete application will need to be received prior to the expiry of the current licence.

When a licence has expired it cannot be renewed. Any application submitted after an expiry date will be treated as a new application.

Where a renewal application has been refused – the licence expires when no appeal has been lodged or any such appeal has resulted in confirmation of the refusal.

5.5 Further Information

The Council may request at the time of application or later that the applicant provide such further information as the Council considers is relevant for the consideration of the application.

5.6 Application Offences

Under paragraph 5 of Schedule 1 of the Act, it is an offence when making an application or in responding to a request for information from the Council during consideration of the application to knowingly or recklessly make a false statement. Upon summary conviction a person guilty of this offence is liable to fine not exceeding level 3 on the standard scale.

5.7 Fee

The application must be accompanied by the relevant fee as set by the Council in accordance with the Scrap Metal Dealers Act 2013: Guidance on Licence Fee Charges as issued by the Home Office. Current fees can be found here for South Northants Council; <http://www.southnorthants.gov.uk/licensing.htm> and here for Cherwell District Council; <http://www.cherwell.gov.uk/index.cfm?articleid=1322>

5.8 Right to Make Representations

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.

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. Within this time the applicant/ licensee must notify the Council whether the applicant/ licensee wishes to make representations. Should this period expire and the applicant/ licensee has not made representations or informed the Council of the wish to do so the Council may refuse the application, or revoke or vary the licence.

If, within the period specified, the applicant/ licensee informs the Council of the wish to make representations, the Council shall allow a reasonable period to make representations and may refuse the application or revoke or vary the licence if the representations are not made within that period.

The Council will consider any representations made within the specified time period.

If the applicant/ licensee notifies the Council of the wish to make oral representations, the Council shall give the applicant/ licensee the opportunity of appearing before, and being heard by, a person appointed by the authority.

If the Council refuses an application, or revokes or varies a licence it will provide the applicant/ licensee with a notice setting out the decision and the reasons for it. If a licence has been revoked or varied, the effective date of the revocation or variation will be included in the decision notice.

6. APPEALS

6.1 An applicant may appeal to a magistrates' court against the refusal of an application or renewal application, or an application to vary one type of licence to another.

6.2 A licensee may appeal to a magistrates' court against the inclusion in a licence of a condition or the revocation or variation of a licence.

6.3 Any appeal must be made to the magistrates' court within 21 days beginning with the day on which notice of the decision to be appealed is made.

6.4 The appeal procedure is in accordance with the Magistrates' Court Act 1980

6.5 On an appeal, the magistrates' court may confirm, vary or reverse the decision of the Council, and may give such directions as it considers appropriate having regard to the Scrap metal Dealers Act 2013.

6.6 For the Cherwell District Council area, appeals should be made to:-
Oxford Magistrates' Court

For the South Northamptonshire Council area, appeals should be made to:-
Northampton Magistrates' Court

7. DISPLAY OF LICENCE

- 7.1 Once granted, a copy of the licence must be displayed at each site identified on the licence in a prominent place accessible to members of the public.
- 7.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of a dealer's business. It must be displayed in a prominent position so that it can be easily read from outside the vehicle.
- 7.3 Failure to display a licence as required is an offence under section 10 (5) of the Act, the penalty for which upon summary conviction is a fine not exceeding level 3 on the standard scale.

8. REGISTER OF LICENSES

- 8.1 The Environment Agency must maintain a register of scrap metal licenses issued by authorities in England.

The Natural Resources Body for Wales must maintain a register of scrap metal licenses issued by authorities in Wales.

Each entry in the registers must record—

- a) the name of the authority which issued the licence,
- b) the name of the licensee,
- c) any trading name of the licensee,
- d) the address of any site identified in the licence,
- e) the type of licence, and
- f) the date on which the licence is due to expire.

(4) The registers are to be open for inspection to the public.

(5) The Environment Agency or the Natural Resources Body for Wales may combine its register with any other register maintained by it.

- 8.2 The Council will supply the Environment Agency with all of the above details as well as maintaining its own register.

9. NOTIFICATION REQUIREMENTS

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

A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority of that fact.

Notification under subsection (2) must be given within 28 days of the beginning of the period in which the licensee is not carrying on business in that area while licensed.

If a licensee carries on business under a trading name, the licensee must notify the authority which issued the licence of any change to that name.

Notification under subsection (4) must be given within 28 days of the change occurring.

An authority must notify the relevant environment body of—

- (a) any notification given to the authority under subsection (2) or (4),

- (b) any variation made by the authority under paragraph 3 of Schedule 1 (variation of type of licence or matters set out in licence), and
- (c) any revocation by the authority of a licence.

Notification under subsection (6) must be given within 28 days of the notification, variation or revocation in question.

Where an authority notifies the relevant environment body under subsection (6), the body must amend the register under section 7 accordingly.

An applicant or licensee who fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

It is a defence for a person charged with an offence under this section to prove that the person took all reasonable steps to avoid committing the offence.

In this section “the relevant environment body” means—

- (a) for an authority in England, the Environment Agency;
- (b) for an authority in Wales, the Natural Resources Body for Wales.

10. VERIFICATION OF SUPPLIER'S IDENTITY

10.1 Before receiving scrap metal the scrap metal dealer must verify a person's full name and address. The scrap metal dealer must verify a person's full name and address by reference to one of the documents listed below, if it bears the person's full name, date of birth, photograph and residential address:-

- a valid United Kingdom passport, or
- a valid passport issued by an EEA state, or
- a valid Great Britain or Northern Ireland photo-card driving licence, or
- a valid UK biometric immigration document, issued in accordance with the UK Borders Act 2007

If one of the documents listed above does bears a person's full name, date of birth and photograph, but not the residential address, the scrap metal dealer must also verify the person's address by also referring to one of the following, additional documents which must bear the person's full name and address:-

- a bank or building society statement
- a credit or debit card statement
- a council tax demand letter
- a utility bill (but not a mobile phone bill)

The issue date of any of the documents listed immediately above must be no more than three months before the date on which the scrap metal was collected.

10.2 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 scrap has been left on the roadside.

10.3 However, a mobile collector must record the description of the metal including its type, form, condition, weight and any marks identifying previous owners or other distinguishing features. The date and time of collection must also be recorded.

10.4 If suitable verification is not obtained the scrap metal dealer, site manager or person who has been delegated responsibility for the verifying the name and address shall be guilty of an offence under section 11 (4) of the Act. It is also an offence under section 11 (7) of the Act for a person delivering scrap metal to a

dealer to give a false name or false address. A person guilty of an offence under section 11 (4) or section 11 (7) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

11. PAYMENT FOR SCRAP METAL

11.1 Cash cannot be used by any scrap metal dealer to buy scrap. It is an offence under section 12 of the Act and there are not any exemptions. Only payment by a non-transferable cheque or an electronic transfer of funds will be acceptable. A person guilty of this offence is liable on summary conviction to an unlimited fine.

12. RECORDS

12.1 The scrap metal dealer must keep three types of record:

- Receipt of Metal
- Disposal of Metal
- Supplementary

12.2 Receipt of Metal

This section applies if a scrap metal dealer receives any scrap metal during the course of the dealer's business.

If metal is received in the course of the scrap metal dealer's business, the following must be recorded:

- 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) at the and time of receipt;
- c) the registration mark of the vehicle it was delivered by;
- d) the full name and address of the person delivering it, and
- e) the full name of the person making payment on behalf of the dealer.

The dealer must keep a copy of the documents used to verify the delivery person's name and address.

If payment is by cheque a copy of the cheque must be retained.

If payment is by electronic transfer a receipt identifying the transfer must be retained, or details of the transfer.

12.3 Disposal of Metal

This section applies if a scrap metal dealer disposes of any scrap metal in the course of the dealer's business.

Metal is disposed of:-

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

The disposal of scrap metal must be recorded and must include:-

- a) description of the metal, including its type (types if mixed), form and weight
- b) date and time of disposal;
- c) if to another person, their full name and address, and
- d) if payment is received for the metal (sale or exchange) the price or other consideration received.

If disposal is in the course of business conducted under a collector's licence the dealer must record:

- a) date and time of disposal, and,
- b) if to another person, their full name and address.

12.4 Supplementary

The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easily identified by reference to each other.

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

Records must be kept for a period of 3 years beginning on the day of receipt or disposal (as may be).

If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records shall be guilty of an offence under section 15 (4) of the Act and liable upon summary conviction to an unlimited fine.

13. RIGHT TO ENTER AND INSPECT

A constable or an officer of a local authority may enter and inspect a licensed site at any reasonable time on notice to the site manager.

A constable or an officer of a local authority 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 such notice have been made and have 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 notice would defeat that purpose.

Subsections (1) and (2) do not apply to residential premises.

A constable or an officer of a local authority is not entitled to use force to enter premises in the exercise of the powers under subsections (1) and (2).

A justice of the peace may issue a warrant authorising entry (in accordance with subsection (7)) to any premises within subsection (6) if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of—

- a) securing compliance with the provisions of this Act, or
- b) ascertaining whether those provisions are being complied with.

Premises are within this subsection if—

- a) the premises are a licensed site, or
- b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business.

The warrant is a warrant signed by the justice which—

- a) specifies the premises concerned, and
- b) authorises a constable or an officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.

A constable or an officer of a local authority may, if necessary, use reasonable force in the exercise of the powers under a warrant under subsection (5).

A constable or an officer of a local authority may—

- a) require production of, and inspect, any scrap metal kept at any premises mentioned in subsection (1) or (2) or in a warrant under subsection (5);
- b) require production of, and inspect, any records kept in accordance with section 13 or 14 and any other records relating to payment for scrap metal;
- c) take copies of or extracts from any such records.

Subsection (11) applies if a constable or an officer of a local authority (“the officer”) seeks to exercise powers under this section in relation to any premises.

If the owner, occupier or other person in charge of the premises requires the officer to produce—

- a) evidence of the officer's identity, or
- b) evidence of the officer's authority to exercise those powers, the officer must produce that evidence.

In the case of an officer of a local authority, the powers under this section are exercisable only in relation to premises in the area of the authority.

A person who—

- a) obstructs the exercise of a right of entry or inspection under this section, or
- b) fails to produce a record required to be produced under this section, is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

14. CLOSURE OF UNLICENSED SITES

14.1 Interpretation

- 1) for the purposes of this Schedule, a person has an interest in premises if the person is the owner, leaseholder or occupier of the premises.
- 2) in the case of a local authority, the powers conferred by this Schedule are exercisable only in relation to premises in the authority's area; and “the local authority”, in relation any premises, is to read accordingly.

14.2 Closure Notices

This paragraph applies if a constable or the local authority is satisfied—

- a) that premises are being used by a scrap metal dealer in the course of business, and
- b) that the premises are not a licensed site.

But this paragraph does not apply if the premises are residential premises.

The constable or authority may issue a notice (a “closure notice”) which—

- a) states that the constable or authority is satisfied as mentioned in subparagraph (1),
- b) gives the reasons for that,
- c) states that the constable or authority may apply to the court for a closure order (see paragraphs 4 and 5), and

- d) specifies the steps which may be taken to ensure that the alleged use of the premises ceases.

The constable or authority must give the closure notice to—

- a) the person who appears to the constable or authority to be the site manager of the premises, and
- b) any person (other than the person in paragraph (a)) who appears to the constable or authority to be a director, manager or other officer of the business in question.

The constable or authority may also give the notice to any person who has an interest in the premises.

Sub-paragraph (7) applies where—

- a) a person occupies another part of any building or structure of which the premises form part, and
- b) the constable or authority reasonably believes, at the time of giving the notice under sub-paragraph (4), that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

The constable or authority must give the notice to that person.

14.3 Cancellation of Closure Notices

A closure notice may be cancelled by a notice (a “cancellation notice”) issued by a constable or the local authority.

A cancellation notice takes effect when it is given to any one of the persons to whom the closure notice was given.

The cancellation notice must also be given to any other person to whom the closure notice was given.

14.4 Application for Closure Orders

Where a closure notice has been given under paragraph 2(4), a constable or the local authority may make a complaint to a justice of the peace for a closure order (see paragraph 5).

A complaint under this paragraph may not be made—

- a) less than 7 days after the date on which the closure notice was given, or
- b) more than 6 months after that date.

A complaint under this paragraph may not be made if the constable or authority is satisfied that—

- a) the premises are not (or are no longer) being used by a scrap metal dealer in the course of business, and
- b) there is no reasonable likelihood that the premises will be so used in the future.

Where a complaint has been made under this paragraph, the justice may issue a summons to answer to the complaint.

The summons must be directed to any person to whom the closure notice was given under paragraph 2(4).

If a summons is issued under sub-paragraph (4), notice of the date, time and place at which the complaint will be heard must be given to all the persons to whom the closure notice was given under paragraph 2(5) and (7).

The procedure on a complaint under this paragraph is to be in accordance with the Magistrates' Courts Act 1980.

14.5 Closure Order

This paragraph applies if, on hearing a complaint under paragraph 4, the court is satisfied that the closure notice was given under paragraph 2(4) and that—

- (a) the premises continue to be used by a scrap metal dealer in the course of business, or
- b) there is a reasonable likelihood that the premises will be so used in the future.

The court may make such order as it considers appropriate for the closure of the premises (a "closure order").

A closure order may, in particular, require—

- a) that the premises be closed immediately to the public and remain closed until a constable or the local authority makes a certificate under paragraph 6;
- b) that the use of the premises by a scrap metal dealer in the course of business be discontinued immediately;
- c) 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.

A closure order including a requirement mentioned in sub-paragraph (3)(a) may, in particular, include such conditions as the court considers appropriate relating to—

- a) the admission of persons onto the premises;
- b) the access by persons to another part of any building or other structure of which the premises form part.

A closure order may include such provision as the court considers appropriate for dealing with the consequences if the order should cease to have effect under paragraph 6.

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

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

14.6 Termination of Closure by Certificate of Constable of Authority

This paragraph applies where—

- a) a closure order has been made, but
- b) a constable or the local authority is satisfied that the need for the order has ceased.

The constable or authority may make a certificate to that effect.

The closure order ceases to have effect when the certificate is made.

If the closure order includes a requirement under paragraph 5(3)(c), any sum paid into court under the order is to be released by the court to the defendant (whether or not the court has made provision to that effect under paragraph 5(5)).

As soon as practicable after making a certificate, the constable or authority must—

- a) give a copy of it to any person against whom the closure order was made,
- b) give a copy of it to the designated officer for the court which made the order, and
- c) fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

The constable or authority must give a copy of the certificate to any person who requests one.

14.7 Discharge of closure order by court

Any of the following persons may make a complaint to a justice of the peace for an order that a closure order be discharged (a “discharge order”)—

- a) any person to whom the relevant closure notice was given under paragraph 2;
- b) any person who has an interest in the premises but to whom the closure notice was not given.

The court may not make a discharge order unless it is satisfied that there is no longer a need for the closure order.

Where a complaint has been made under this paragraph, the justice may issue a summons directed to—

- a) such constable as the justice considers appropriate, or
- b) the local authority,

requiring that person to appear before the magistrates' court to answer to the complaint.

If a summons is issued under sub-paragraph (3), notice of the date, time and place at which the complaint will be heard must be given to all the persons to whom the closure notice was given under paragraph 2 (other than the complainant).

The procedure on a complaint under this paragraph is to be in accordance with the Magistrates' Courts Act 1980.

14.8 Appeals

An appeal may be made to the Crown Court against—

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

Any appeal under this paragraph must be made before the end of the period of 21 days beginning with the day on which the order or the decision in question was made.

An appeal under this paragraph against a closure order or a decision not to make a discharge order may be made by—

- a) any person to whom the relevant closure notice was given under paragraph 2;
- b) any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under this paragraph against a decision not to make a closure order or against a discharge order may be made by a constable or (as the case may be) the local authority.

On an appeal under this paragraph the Crown Court may make such order as it considers appropriate.

14.9 Enforcement of Closure Order

A person is guilty of an offence if the person, without reasonable excuse,—

- a) permits premises to be open in contravention of a closure order, or
- b) otherwise fails to comply with, or does an act in contravention of, a closure order.

If a closure order has been made in respect of any premises, a constable or an authorised person may (if necessary using reasonable force)—

- a) enter the premises at any reasonable time, and
- b) having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

Sub-paragraph (4) applies if a constable or an authorised person (“the officer”) seeks to exercise powers under this paragraph in relation to any premises.

If the owner, occupier or other person in charge of the premises requires the officer to produce—

- a) evidence of the officer's identity, or
 - b) evidence of the officer's authority to exercise those powers,
- the officer must produce that evidence.

A person who intentionally obstructs a constable or an authorised person in the exercise of powers under this paragraph is guilty of an offence.

A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

In this paragraph “an authorised person” is a person authorised for the purposes of this paragraph by the local authority.

15. ENFORCEMENT AND COMPLIANCE

- 15.1 All enforcement activity will be consistent with both the Regulators Code and the Council’s Enforcement Policy. For Cherwell District Council it can be found here; <http://www.cherwell.gov.uk/index.cfm?articleid=10389> and for South Northants Council it can be found here; <http://www.southnorthants.gov.uk/3490.htm>

In order to ensure compliance with the legislation and any conditions imposed premises will be inspected at least once a year using a risk based approach.

This will allow resources to be more effectively targeted on high risk or problematic licence holders and prevent over burdensome regulation of compliant and well managed sites.

15.2 Offences and Penalties

All offences and penalties are prescribed by the Scrap Metal Dealers Act 2013
<http://www.legislation.gov.uk/ukpga/2013/10/enacted>

Appendix A

Useful Documents

The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013: <http://www.legislation.gov.uk/uksi/2013/1966/made>

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-metal-dealers-licence>

Useful Contacts

British Metals Recycling Association
Tel: 01480 455249
admin@recyclemetals.org
<http://www.recyclemetals.org/>

Motor Vehicle Dismantlers' Association of Great Britain
Tel: 01543 254254
mail@mvda.org.uk
www.mvda.org.uk

British Vehicle Salvage Federation
Tel: 01303 814325
email@bvsf.org.uk
<http://www.bvsf.org.uk/cms/>