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Hinckley & Bosworth
Borough Council

Bill Cullen MBA (ISM), BA(Hons) MRTPI
Chief Executive

Date: 31 January 2020

To: Members of the Licensing Committee

Mr MC Sheppard-Bools (Chairman)	Mr K Morrell
Mrs DT Glenville (Vice-Chairman)	Mr MT Mullaney
Mrs CM Allen	Mr K Nichols
Mr RG Allen	Mr LJP O'Shea
Mr MB Cartwright	Mr R Webber-Jones
Mrs L Hodgkins	

Copy to all other Members of the Council

(other recipients for information)

Dear member,

There will be a meeting of the **LICENSING COMMITTEE** in the De Montfort Suite - Hub on **MONDAY, 10 FEBRUARY 2020 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen
Democratic Services Manager

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- *There are two escape routes from the Council Chamber – at the side and rear. Leave via the door closest to you.*
- Proceed to **Willowbank Road car park**, accessed from Rugby Road then Willowbank Road.
- **Do not** use the lifts.
- **Do not** stop to collect belongings.

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Thank you

LICENSING COMMITTEE - 10 FEBRUARY 2020

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

2. MINUTES (Pages 1 - 2)

To confirm the minutes of the meeting held on 25 September 2019.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.

4. DECLARATIONS OF INTEREST

To receive verbally from Members any disclosures which they are required to make in accordance with the Council's Code of Conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the agenda.**

5. QUESTIONS

To hear any questions in accordance with Council Procedure Rule 12.

6. SCRAP METAL DEALERS POLICY (Pages 3 - 24)

To endorse the policy following consultation.

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Agenda Item 2

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

LICENSING COMMITTEE

25 SEPTEMBER 2019 AT 6.30 PM

PRESENT: Mr MC Sheppard-Bools - Chairman
Mrs DT Glenville – Vice-Chairman
Mrs CM Allen, Mr RG Allen, Mr SL Bray (for Mr R Webber-Jones), Mr MB Cartwright,
Mrs L Hodgkins, Mr MT Mullaney and Mr BR Walker (for Mr K Nichols)

Officers in attendance: Mark Brymer and Rebecca Owen

159 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Morrell, Nichols and Webber Jones with the following substitutions authorised in accordance with council procedure rule 10:

Councillor Bray for Councillor Webber-Jones;
Councillor Walker for Councillor Nichols.

160 MINUTES

It was moved by Councillor Cartwright, seconded by Councillor Hodgkins and

RESOLVED – the minutes of the meeting held on 27 September 2018 be confirmed and signed by the chairman.

161 DECLARATIONS OF INTEREST

No interests were declared.

162 SCRAP METAL DEALERS POLICY

Members received a report on the Scrap Metal Dealers Act 2013 and related policy. In response to members' questions, it was noted that:

- Public registers of all licenses were available on the council's website;
- Licenses were displayed at all licensed sites;
- Over the last six years, two closure notices had been served;
- Visits to sites were undertaken in conjunction with the Licensing Officer from the police;
- If reports of unlicensed collectors were received, they would receive a visit from officers.

It was moved by Councillor Cartwright, seconded by Councillor R Allen and

RESOLVED – the Scrap Metal Dealers Policy be approved for consultation.

(The Meeting closed at 6.37 pm)

CHAIRMAN

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Hinckley & Bosworth Borough Council

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

LICENSING COMMITTEE 10 FEBRUARY 2020
COUNCIL 24 MARCH 2020

WARDS AFFECTED: ALL WARDS

SCRAP METAL DEALERS POLICY

Report of Director (Environment & Planning)

1. PURPOSE OF REPORT

- 1.1 To consider the policy in light of the recent consultation exercise and for the Licensing Committee to recommend the policy for adoption by the Council.

2. RECOMMENDATION

- 2.1 That Licensing Committee agrees the Scrap Metal Dealers Policy as set out in Appendix A to this report for approval to Council for adoption.

3. BACKGROUND TO THE REPORT

- 3.1 The Scrap Metal Dealers Act 2013 revised the regulatory regime for the scrap metal recycling and vehicle dismantling industries.
- 3.2 The 2013 Act repealed the Scrap Metal Dealers Act 1964 and the Vehicle Crime Act 2001, replacing them with a more robust licensing regime that gives a local authority the powers to refuse the grant of a licence where the applicant is deemed unsuitable; and the powers to revoke a licence should a licence holder become unsuitable.
- 3.3 The 2013 Act aims are to raise the standards across the scrap metal industry and to help achieve this, licensed operators have to keep detailed records of their transactions, and verify the identity of those selling scrap metals to them.

- 3.4 In order for anyone to carry on business as a scrap metal dealer they must obtain a licence. Scrap metal dealer licences are valid for three years and trading without a licence is a criminal offence.

There are two types of licence specified in the Act:

Site licence

- 3.5 An individual may hold more than one licence issued by different local authorities, but may not hold more than one licence issued by any one authority.
- 3.6 A Site Licence authorises the licensee to carry on a business at any site in the authority's area which is identified in the licence and must:
- name the licensee;
 - name the authority;
 - identify all the sites in the authority's area at which the licensee is authorised to carry on business;
 - name the site manager of each site; and
 - state the date on which the licence is due to expire.
- 3.7 A site licence holder can transport scrap metal from third party businesses by arrangement from any other local authority area providing 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.
- 3.8 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.

Collector's licence

- 3.9 A Collector's Licence authorises the licensee to carry on business as a mobile collector in the authority's area only and must:
- name the licensee;
 - name the authority; and
 - state the date on which the licence is due to expire.
- 3.10 A separate collector's licence is needed for each council area that a mobile collector collects scrap metal. A mobile collector can dispose of or sell scrap metal in any local council area regardless of whether a collector's licence is held for that area.
- 3.11 A mobile collector will need a licence to buy or sell any scrap metal collected. Even if the material is provided free of charge, a licence is required in order to sell it on as, in contrast to the 1964 Act, definition of a scrap metal dealer in this Act includes any person who "carries on a business which consists wholly or partly in buying or selling scrap metal."

- 3.12 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.
- 3.13 Mobile collectors and site licence holders need to ensure they comply with relevant environmental legislation and regulation when carrying out their business.

Council Policy

- 3.14 There is no statutory requirement for a local authority to have a formal Scrap Metal Dealers policy; however, a Council can choose to adopt such a policy. This is for the benefit of business owners as well as reassuring the general public and other public bodies. It also reinforces the Regulators Code when dealing with applications by promoting effective practice, and ensuring proportionate, consistent and targeted activity, whilst developing an understanding between regulators and those we regulate.

Alternative Option

- 3.15 The Council could choose not to introduce a policy on Scrap Metal Dealers, however to do so would be contrary to best practice and may lead to a lack of clarity on the application of the legislation.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

- 4.1 The report is to be taken in open session.

5. FINANCIAL IMPLICATIONS [AG]

- 5.1 None arising from this report.

6. LEGAL IMPLICATIONS [MR]

- 6.1 Set out in the report.

7. CORPORATE PLAN IMPLICATIONS

- 7.1 The policy will contribute towards the Councils priority ambitions of helping people to stay healthy, active and protected from harm along with encouraging growth, attracting business, improving skills and supporting regeneration.

8. CONSULTATION

- 8.1 The draft policy was approved by the Licensing Committee for consultation.

- 8.2 The draft policy was sent to the following consultees:-

- Leicestershire Force Licensing
- The Environment Agency
- British Transport Police;
- Neighbouring Authorities;
- British Metals Recycling Association (BMRA)

- Neighbouring local authorities;
- HBBC Licensed Scrap Metal Dealers and Hinckley BID

8.3 Three responses were received from licensed dealers as well as a response from Hinckley BID all responses were positive. No amendments to the policy have been made.

9. RISK IMPLICATIONS

9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Reputation, Legal, Regulatory	The Council has implemented the Act, Officers are trained and we follow the Home Office Guidance.	Mark Brymer

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 An equality impact assessment has not been conducted as this is primary legislation and applies nationally and there are no implications locally as enforcement work in respect of scrap metal will be carried out consistently on the basis of risk for all premises across the whole Borough.

11. CORPORATE IMPLICATIONS

11.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- Procurement implications
- Planning implications
- Data Protection implications

Background papers: Scrap Metal Dealers Act 2013
 Get in on the Act – LGA Briefing
 Home Office Guidance SMDA
 Home Office Suitability Guidance SMDA

Contact Officer: Mark Brymer, 5645
 Executive Member: Councillor Martin Cartwright



Hinckley & Bosworth
Borough Council

A Borough to be proud of

Scrap Metal Dealers Act 2013

Statement of Licensing Policy

This policy provides information and guidance on how Hinckley & Bosworth Borough Council will deliver the requirements of the Scrap Metal Dealers Act 2013 in relation to both applications and compliance, and what it expects of its applicants and licence holders.

Applicants and licence holders will need to follow the principles set out in the document to ensure that they meet the requirements and expectations of the local authority when making applications or ensuring compliance with licenses issued to them.

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Introduction

This document states Hinckley & Bosworth Borough Councils policy in relation to the administration and regulation of scrap metal dealers.

There is no requirement in the legislation for the Council to have a formal licensing policy in place for dealings with applications. As 'best practice' the Council has chosen to adopt a formal policy for this purpose.

In developing its policy the Council will keep the policy under review and will carry out a full formal review and re-publish the licensing policy every three years.

The Council will consult with existing scrap metal dealers/motor salvage operators, Leicestershire Police, British Transport Police, the Environment Agency and the public when formally reviewing its policy.

The main aim of the scrap metal licensing policy is to promote a robust and transparent scrap metal licensing regime.

- Working in partnership with all licensed dealers who buy or sell scrap metal ensuring compliance with the law.
- Ensuring only 'safe and suitable' dealers are licensed with the authority, and
- Putting robust controls in place to deal with rogue traders and by doing aim to reduce the detrimental impact on individuals and communities who fall victim to metal theft.

1 Definition of a Scrap Metal Dealer

- 1.1 For the purpose of the Scrap Metal Dealers Act 2013 a scrap metal dealer is defined under section 21(2) as:

a person carrying 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 is bought, or carries on a business as a motor salvage operator

Any individual or business caught by this definition will need a licence from the Authority. 'Business' has a wide meaning and is not restricted to limited companies only. Each case will be considered on its own merits.

- 1.2 A manufacturing business that sells scrap metal created only as a by-product of the processes it uses (for example metal plate) or because it has a surplus of materials, would not be caught by this definition (s21(3)).
- 1.3 The Local Authority will determine on a case by case basis whether individuals or business meet this definition looking at the actual activity carried out and the purpose of the business.
- 1.4 Firms that hire out skips for collecting waste products, or to tradesmen such as plumbers or builders who sell scrap metal resulting from any work will be considered on an individual basis as to whether a licence is needed. In most cases it is unlikely that a licence will be required.

- 1.5 As a general principle it is accepted by the Local Authority that where the sale of the metal is incidental to the main type of work or business undertaken then a licence will not be needed.
- 1.6 Where though there is a reasonable expectation that the material deposited in the skip will contain significant amounts of scrap metal, such as skips used where there is demolition activity or ones sited at specialist engineering manufacturing establishments and plumbers' yards, then the skip hire company will generally require a scrap metal dealers licence.
- 1.7 In considering whether a scrap metal dealer's licence is needed, the Local Authority will take the following into consideration when making its decision:
- Is the applicant operating as a business?
 - Is the applicant associated with any other business that might buy or sell metal (e.g. subsidiaries, businesses run by the same people, companies within a group etc)?
 - Does the applicant buy scrap metal in any form as part of the business?
 - Is the purchase or sale of scrap metal an integral part of the business?
 - Is the buying or selling of metal advertised by the business, including on the internet?
 - Is advertising of metal sales etc done separately from the main part of the business?
 - Is the metal sold as a by-product from a manufacturing process?
 - What happens to any waste metal that is collected by the business?

Motor Salvage Operator

- 1.8 The definition of a scrap metal dealer also now includes a person or company who carries on a business as a motor salvage operator or vehicle dismantler.
- 1.9 This is defined in the Act as a business that:
- wholly or in part recovers salvageable parts from motor vehicles for reuse or re-sale, and then sells the rest of the vehicle for scrap.
 - wholly or mainly involves buying written-off vehicles and then repairing and selling them on
 - wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and selling them on.
- 1.10 The Local Authority as a general principal will determine on a case by case basis having regard to the individual circumstances of the salvage business carried out to determine if it meets the definition of 'scrap metal dealer'.

Exemption to scrap metal dealer definition

- 1.11 The Council confirms that exemptions from needing a licence will include household waste collections by the Council or their contractors that pick up metal items thrown out by households and which are to be recycled, along with municipal waste/civic amenity sites ('council tips') It is recognised in the statutory guidance that Councils have a statutory obligation to collect household waste and any resulting sales of scrap metal are incidental to this objective.

2 Licence Type

2.1 There are two types of scrap metal dealers defined under section 2 of the Act.

- dealers operating from fixed sites (scrap yards); and
- dealers who are mobile collectors.

Each licence is valid for a period of three years and allows the holder to operate within the boundaries of the issuing authority.

Mobile Collectors

2.2 A mobile collector is defined as:

‘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’

The key to this activity and whether a licence is required is around a person who regularly visits, going from door to door, street by street or visiting local properties, farms, villages and towns seeking out metal for sale or collection as part of their business. This will include in many cases, the traditional rag and bone dealer. Pre arranged one off collections will not need a licence for example ringing to arrange the collection from a domestic home of a broken washing machine.

A mobile collector’s licence authorises the licence holder to operate in the area of the issuing local authority only, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal. The licence does not permit the collector to collect from any other local authority area – a separate licence is required in each local authority area that the person wishes to collect. A mobile collector’s licence does not authorise the licence holder to carry on a business at a site within any area. Should a fixed site be used then the person must obtain a site licence from the relevant local authority.

There is no restriction regarding the location to where the collector can transport and sell scrap metal.

Scrap Metal Dealer - Site

2.3 A site is defined under s 22(9) of the Act as:

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

2.4 This means that someone who trades in scrap metal and is defined as a dealer will need a site licence for their office even if they do not operate a scrap metal store or yard there. If any form of trading takes place, a licence will be required.

3. Scrap Metal and Second Hand Goods

3.1 Scrap metal itself 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.

3.2 The Local Authority believes this definition does not include second hand goods which are covered by separate legislation, unless the goods are made from or contain metal that is broken down or worn out. Discussion will initially take place with the Leicestershire Trading Standards team on the main business purpose of any second hand dealers where there appears to be an overlap in terms of licensing/registration requirements.

3.3 The scrap metal definition does include platinum and a range of other rare metals now being used in catalytic converters although it is confirmed that gold or silver or gold/silver alloys are not included in the definition of scrap metal.

3.4 Jewellers or businesses trading in second hand gold and silver jewellery or products are not caught by this scrap metal definition.

Second Hand Goods

3.5 The authority will determine this matter on a case by case basis, according to the individual circumstances and after consultation with Leicestershire Police, Leicestershire Trading Standards and the Environment Agency to determine what the main purpose of the business is.

3.6 The authority considers that the issuing of a certificate of destruction is sufficient to indicate that a vehicle is scrap and as such the trader involved would need a scrap metal dealers licence and should not in those circumstances pay cash for the vehicle.

3.7 Where a certificate is not issued the Local Authority will take into consideration factors such as :

- whether the car has a valid MOT and is driveable without repair,
- whether the dealer has facilities for repairing vehicles, and
- a history of selling vehicles.

To determine whether a business needs a scrap metal dealers licence.

This list is not exhaustive and other relevant factors may be considered.

4. Licence Applications

4.1 As a general principle the local authority will only seek information, as part of its application criteria, which is relevant to include on the licence, if it is granted or to assist the authority in the assessment of an applicant's suitability to hold a licence.

- 4.2 When the Council is considering an application it will have regard to the Scrap Metal Dealers Act 2013, Home Office Guidance, regulations and this licensing policy.
- 4.3 Other information requested by the local authority is necessary in order to provide it to the Environment Agency for inclusion on the National Register.
- 4.4 The application form sets out what specific information must accompany an application for a scrap metal dealer's licence. This includes:
- the full name, date of birth and place of residence of an individual applicant (including mobile collectors), anyone proposed as a site manager for a site, and every partner where a partnership is applying for a licence.
 - the company name, registered number and registered office address where it is the applicant
 - the proposed trading name for the business.
 - telephone number and email address of the applicant.
 - where it is a site licence, the address of each proposed site to be included on the licence.
 - the address of any site in another council area where the applicant already carries on business or proposes to do so.
 - details of any relevant environmental permit or registration held by the applicant.
 - details of any other scrap metal licences issued to the applicant within the three years before making this application.
 - bank account details to be used for cashless transactions (where a licensee operates multiple sites different bank accounts may be used)
 - details of any relevant conviction or enforcement action that relates to the applicant.
- 4.5 We also require the following information to consider an application:

Site licences

- the security arrangements that have been put in place to prevent the unlawful purchase, sale or theft of scrap metal.
- details of the arrangements to be used to record sales, storage and purchase of scrap metal.
- the registration details of any vehicles to be used for collections .

Mobile collectors

- registration details of all of the vehicles to be used for the collections.
- where the vehicles are stored when not being used by the collector.

- 4.6 In the event that an applicant does not supply the information requested within seven days then the Local Authority will refuse to proceed with the application and the application will be returned to the applicant and the fee refunded.
- 4.7 All applications must be accompanied by the fee determined by the Local Authority. The fee is set having had regard to guidance issued by the Home Office ensuring cost recovery of the service.

5. Renewal of Licence

- 5.1 Site and Collector's licences are granted for a period of three years and must be renewed prior to the expiry of the three year period. Dealers requiring renewal of the licence should request renewal not less than 21 days before expiry of the licence.

6. Change of Circumstances

- 6.1 If there are any changes in the dealer's circumstances, the dealer must notify the Council, within 28 days of the change, and the Council will alter the licence. If the dealer ceases to carry on a business as a scrap metal dealer in this area he must notify the Council, within 28 days of the cessation, so that the registered details can be cancelled.

7. Suitability of Applicants

- 7.1 Section 3 of the Act requires that the licensing authority has to be satisfied that an applicant is a suitable person to carry on business as a scrap metal dealer. In considering suitability, the local authority may have regards to any relevant information, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. The authority must also have regard to the guidance issued by the Secretary of State and may consult with other organisations to assist in determining suitability.
- 7.2 Section 3 allows the local authority, when issuing a licence, to include conditions on it if the licence holder or site manager has been convicted of a relevant offence; these are set out in Subsection (8) of the Act.
- 7.3 In the case of a partnership this will mean assessing the suitability of each of the partners in the partnership, which in the case of a company will mean assessing the suitability of any directors, company secretaries or shadow directors.
- 7.4 The Authority may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant.
- 7.5 The Local Authority has determined that the criteria for the 'suitability test' will include checking whether:
- the applicant or site manager has been convicted of a relevant offence, or subject to any relevant enforcement action. This will be obtained through a basic disclosure certificate from the disclosure and barring service (DBS) no older than one month at the time of application.
 - the applicant or site manager has been convicted of an offence which is relevant to whether they are suitable to hold a licence with the Authority. This will include any relevant convictions or cautions for theft, violence, firearms and burglary. This list is not exhaustive and other convictions may be considered a relevant factor to determine suitability on a case by case basis.

- 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 had previously held a scrap metal dealers licence that has been revoked.
- 7.6 The Basic Disclosure certificate must be applied for prior to making an application and then once received, submitted with the application form to avoid delays with processing. The Basic Disclosure certificate will remain the property of the applicant and will be returned to the applicant once a licence has been granted or refused. A Basic Disclosure can be applied for online from the DBS: <https://www.gov.uk/request-copy-criminal-record> or by calling 03000 200 190.
- 7.7 An unspent caution or conviction for offences involving violence, drugs or dishonesty which are less than three years old from the date of application will be included in the consideration of whether the applicant is a suitable person to hold a scrap metal dealers licence to protect public safety. In some cases depending on the offence/conviction a longer period of time to be conviction free is required.
- 7.8 Applicants living overseas (such as directors of multinational companies based abroad) must also apply under the Basic Disclosure process to determine whether they have any unspent convictions for relevant offences in this country.

Consultation

- 7.9 Where any relevant convictions under the Act or other convictions are disclosed Leicestershire Police will be consulted on the application made and may object to the application if they believe the individual is not a suitable person to hold a licence.
- 7.10 Consideration will be given to any objection received from Leicestershire Police, however the local authority will determine the matter using their own judgement and discretion using the suitability test and ensuring the applicant has the right to make representation.
- 7.11 The local authority will also check the public registers held by the Environment Agency to see if any relevant enforcement action has been taken against the applicant.
- 7.12 The licence holder MUST notify the local authority of any convictions for relevant offences to the local authority.

8. Payment for Scrap Metal / Record Keeping

8.1 Scrap Metal Dealers must not pay cash for scrap metal as it is illegal.

Acceptable methods of payment are:-

- a cheque which is not transferable- crossed cheques only payable to a named individual/company and not made out to cash.
- an electronic transfer of funds authorised by credit or debit card or otherwise (BACS, standing orders, credit transfers, on line, phone and mobile banking. The list is not exhaustible as the electronic payments market is rapidly evolving all the time with new products.

Paying includes paying in kind by goods or services. Postal orders foreign currency, electronic vouchers, pre paid debit cards, gift cards and vouchers are not acceptable- this list is not exhaustible.

8.2 Every scrap metal dealer must keep, at each place occupied by him details of all scrap metal received at that place and all scrap metal either processed at or despatched from that place.

8.3 Details of each transaction must be recorded as part of each record. Either

- a copy of a named cheque or
- print out receipt of the electronic payment made.

8.4 Two records may be kept where the scrap metal was processed and or despatched from a location that has not been received at the same location.

8.5 **A record of all scrap metal received, detailing:-**

- The description and weight of the scrap metal.
- The date and time of the receipt of the scrap metal.
- If the scrap metal is received from some other person, the full name and address of the person- details of ID checked and recorded.
- The price or estimated value.
- The registration number and make of any vehicle used to deliver the scrap metal.
- How payment was made – copy receipt kept.
- The licence number if the scrap metal is delivered by a licensed dealer

8.6 **A record of all scrap metal processed or despatched, detailing:-**

- The description and weight of the scrap metal.
- The date of processing or despatch and the process applied if any.
- If despatched on sale or exchange, the full name and address of the person to whom the scrap is sold, or with whom it is exchanged, and the consideration for which it is sold or exchanged.

8.7 It is an offence to obtain scrap metal from a person under the age of 16 years.

8.8 Valid Forms of ID for Suppliers

The following are acceptable forms of ID for Dealers to verify the full identity of a seller/supplier supplying metal to them:

- a valid UK passport
- a valid passport issued by the EEA state
- a valid Great Britain or Northern Ireland photo-card
- a valid UK biometric immigration document

To verify a person's full name and residential address:

- a bank or building society statement
- a credit or debit card statement
- a council tax demand letter or statement or
- a utility bill, but not a mobile telephone bill

9. Compliance and Powers of Entry & Inspection

9.1 The Local Authority can determine who should be licensed and who is not suitable and have the power to:

- refuse an application.
- revoke a licence at any time if we are not satisfied that a dealer is a suitable person to carry on a business as a scrap metal dealer.

9.2 Authorised officers have power of entry to licensed sites by giving notice to the site manager and also by not giving notice to the site manager where reasonable attempts have failed and are able to investigate whether the premises is being used as a scrap metal site and must be allowed to enter and inspect the premises and records at all reasonable times.

9.3 Authorised officers have powers to close an unlicensed site trading without a licence using a closure notice.

9.4 The Local Authority will implement a 'stepped approach' to compliance, inspections and enforcement in relation to scrap metal dealers seeking compliance in the first instance for low level offences or breaches in line with the licensing compliance and enforcement policy.

10. Offences

There are a number of offences relating to scrap metal dealers these include:

- Failing to licence a scrap metal business or to notify alteration to an existing business.
- Failing to notify the Local Authority that a business has ceased to trade.
- Failing to keep the prescribed records.
- Acquiring scrap metal from a person under the age of 16 years.
- Obstructing the entry of an Authorised Officer.
- Making cash payments.

10.1 Any conviction for these offences will be considered by the local authority when determining the suitability test to be licensed.

11. Delegation and Hearings

11.1 The Council's scheme of delegation below sets out the decision making powers for the licensing of scrap metal dealers to ensure efficient and effective decisions.

Matter to be dealt with	Full Council	Licensing & Regulatory Committee	Sub-Committee	Officers
Determination of fees	X	√	X	X
Application for Site licence or Collectors licence	X	X	If a relevant representation is made	If no relevant representation is made
Application to vary site licence	X	X	If a relevant representation is made	If no relevant representation is made
Application to revoke site licence or collectors licence	X	√	All cases	In conjunction with the Committee Chairman if the matter is urgent
The inclusion of conditions on a licence	X	X	X	√
Issue of a Closure Notice	X	X	X	√
Cancellation of a Closure Notice	X	X	X	√
Application for a Magistrates Closure Order	X	X	X	In conjunction with legal services

11.2 Where an application has been rejected or revoked or varied the applicant will be notified in writing as to what the local authority proposes to do and the reasons for it. If having conducted an initial assessment of an applicant's suitability the application is refused the Licensing Officer will write to the applicant to inform them.

- 11.3 A Notice of refusal/revocation/variation will be sent from the Local authority to the applicant or licensee and an opportunity will be given for the applicant or licensee to make representations within 14 days from the date on which the Notice is given.
- 11.4 If a representation is not received or the applicant does not wish to in that time period, then the Local authority will refuse the application or revoke or vary the licence.
- 11.5 Where the applicant confirms that they wish to make representations the Local authority will give them a further period of 7 days in which to do so, and only if they fail to do so will the Authority refuse the application or revoke or vary the licence.
- 11.6 Where the applicant makes representations the local authority has to consider them within 7 days and if the applicant states they want to make oral representations the Local authority will provide them with the opportunity to do so by means of a Licensing Panel.

Notices of decisions

- 11.7 Where the Local authority has refused an application, revoked a licence or varied a licence it will give the applicant or licensee a Notice of that decision, which also sets out the full reasons for the decision made.
- 11.8 The Notice will also inform the applicant or licensee of their right to appeal the decision; within 21 days of the date of the decision. Where a licence has been revoked or varied, the date under which that comes into effect will be confirmed on the Notice.

Appeals

- 11.9 Appeals against any decision made by the Local Authority to refuse an application, to impose a condition on the licence or to revoke or vary the licence must be made to the local Magistrates' Court within 21 days from the day on which they were given Notice of the Decision in which to appeal to the Magistrates Courts.
- 11.10 The Magistrates' Court has the power to confirm, vary or reverse the Council's decision and issue any directions it considers appropriate having regard to the Act.

Including conditions in the licence

- 11.11 Conditions will only be imposed on a licence where either
- the applicant or any site manager has been convicted of a relevant offence, or,
 - where the Local authority is revoking a licence when a condition can be imposed, until the revocation comes into effect.

11.12 In considering whether to issue a licence where the applicant or a site manager has a relevant conviction, the local authority will do so, on the basis that one or both of the conditions is imposed on the licence as follows:

- the dealer can only receive scrap metal between 9.00am and 5.00pm on any day, and/or
- any scrap metal received has to be kept in the form the dealer received it for a set period of time, which cannot be more than 72 hours.

12. Variation of Licence

12.1 Applications can be made to vary a licence from a site licence to a collector's licence and also to vary the licence where there are any changes in certain details stipulated by the Act.

12.2 Applications are made to the local authority that issued the licence and has to set out the details of how the licence needs to be amended by the local authority.

12.3 A variation in a site licence has to be applied for where there are:

- any changes relating to the name of the licensee on the licence;
- any change in the sites from which the licensee is authorised to carry on business; and
- any change in the details of a site manager.

12.4 In the case of a collector's licence a variation has to be applied for where there is a change in the details relating to the name of the licensee only.

13. Transfer of Licence

13.1 Anyone wanting to hold a licence to be a scrap metal dealer has to apply for their own licence, they cannot take over an existing licence, there is no transfer facility. This includes the situation where one business buys another business.

Failure on the part of the licensee to apply for a variation is an offence punishable by a fine not exceeding level 3 (£1,000) on the standard scale.

14. Granted Licences

14.1 The licence **MUST** be prominently displayed at the site and inside the collector's vehicle or externally where it can be easily read.

14.2 In the case of a site licence, the actual licence issued will state on it the

- name of the licensee;
- the name of the Council;
- A list the sites in our authorities area where the licensee is allowed to conduct business;
- the name of the site manager and the date the licence will expire.

- 14.3 With a mobile collector's licence, the actual licence will state
- the name of the licensee;
 - the name of the authority that issued it and
 - the date on which it is due to expire;
 - the vehicles used to transport the goods.
- 14.4 In the case of a mobile collector the dealer must display a copy of the licence in their vehicle in such a way that it can be read by a person outside of the vehicle.
- 14.5 A Hinckley & Bosworth Borough Council collectors licence and vehicle plate will be issued the plate MUST be either displayed in the cab or attached externally on the vehicle at all times, to easily identify mobile collectors as they travel from street to street to collect scrap metal.

15. The National Register

- 15.1 The Environment Agency maintains a National Register of scrap metal licences issued in England. .
- 15.2 The register can be accessed through the Environment Agency website and shows the type of licence, and may also show the postcode for mobile collector's licences.
- 15.3 Home addresses of mobile collectors will help licensing authorities and the police identify mobile collectors.
- 15.4 The Local authority notifies the Environment Agency of any revocations of licences or changes/variations in the licence, this includes:
- changing the type of licence from one form to the other
 - changes in the name of the licensee(s)
 - a change in sites from which the licensee can carry on business
 - a change in the name of the site manager(s)
 - whether the business has stopped trading in that local authority area as a scrap metal dealer
 - any changes in the trading name.

16 Fees

- 16.1 In setting its licence fees to fully recover the cost of administering and ensuring compliance with the licensing regime, the local authority has had regard to the Local Government Association Guidance issued by the Home Office.
- 16.2 The fee includes the cost of assessing and administering an application, consultation on the suitability test, licensing hearings and compliance with licensing conditions.
- 16.3 The fee does not include the cost of the licensing service for enforcing against unlicensed traders including issuing closure notices or prosecution of unlicensed traders which will be met initially by local authority core funds. Then sought from the offender through the Courts where legal action taken.

- 16.4 The costs of Appeals against decisions are also not funded through licensing fees, although this will be reviewed in the future following experience of administering the regime and consideration of the number of Appeals held.
- 16.5 The fees set reflect the additional work required in processing and assessing Site licences which require a site visit before granting the licence.
- 16.5 The fee for applications and changes to a licence are determined by the Council, are reviewed and determined each year.
- 16.6 Applications will normally be granted within 21 days of receipt of a fully completed application.
- 16.7 Site licences and collector's licences are granted for a period of 3 years.
- 16.8 Renewal applications should be made 14 days before the expiry of the existing licence.

17. Tacit Approval

- 17.1 Tacit approval does not apply to this licensing regime as it is in the public interest that the authority must process your application before it can be granted.
- 17.2 If your application has not been determined within 30 days please contact Licensing at esadmin@hinckley-bosworth.gov.uk who will respond to your communication within 10 working days.

Appendix A

Relevant offences

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

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