

# Appendix 4b

## Licensing Policy

## Scrap Metal Dealers Act 2013

Blackpool Council



# Scrap Metal Dealers Act 2013

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## 1 Introduction

1.1 This document states the Council's policy on the regulation of scrap metal dealers under the Scrap Metal Dealers Act 2013

1.2 The Scrap Metal Dealers Act 2013 ("the Act") replaces the Scrap Metal Dealers Act 1964 and Part 1 of Vehicles (Crime) Act 2001 and creates a new regulatory regime for the scrap metal recycling and vehicle dismantling industries.

Every scrap metal dealer is required to have a licence. It is a criminal offence to act as a scrap metal dealer without a licence. Motor salvage operators also require a licence under the Act.

Councils may now only grant licences to applicants who are deemed suitable to be scrap metal dealers. This ability to regulate who is and who is not a scrap metal dealer is designed to improve operating standards and ensure only reputable dealers are licensed.

1.3. 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.

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

Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:

(a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap

(b) Buying written-off vehicles, repairing and reselling them

(c) Buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b)

(d) Wholly or mainly in activities falling within paragraphs (b) and (c)

Scrap metal includes:

(a) Any old, waste or discarded metal or metallic material, and

(b) Any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life

Scrap metal does not include:

(a) Gold

(b) Silver

(c) Any alloy of which 2% or more by weight is attributable to gold or silver

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## 2 Types of Licence

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

- 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.

### 2.1 Site Licence

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

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

### 2.2 Collector's Licence

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

If a collector wishes to operate in more than one local authority area, a separate licence will be required from each local authority.

### 2.3 Variation of licence

A licence may be varied from one type of licence to another. A variation cannot be used to transfer the licence to another person

## 3 Code of Practice

Blackpool Council has created a code of practice which can be found at Appendix A. The Code of Practice details the standards to which it expects that a responsible scrap metal dealer would operate to.

When considering applications for grant of a licence, the authority will take into account the applicant's willingness to act in accordance with the Code. When considering renewal, variation, or revocation of a licence, the authority will take into consideration the operator's adherence or otherwise to the code. Failure to adhere to the Code of Practice shall be considered particularly relevant to the suitability of the applicant or licence holder to hold a licence.

Without prejudice to the above, where an officer of the Council has reason to believe that a licence is not being operated in accordance with the Code of Practice but it is in that officer's opinion reasonable to deal with the cause of complaint by way of a written warning or further written warning then the matter may be dealt with by written warning to the licence holder.

Where a licence holder has received a second written warning from an officer of the Council then the licence holder shall be asked to meet with the appropriate officer of the Council to discuss the reasons for the issue of the previous written warnings and the officer shall warn the licence holder that the licence shall be subject to revocation should there be any repetition of the matter of complaint, on the basis

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that the licence holder is no longer considered to be suitable to hold a licence.

Where an officer of the Council has reason to believe that there are grounds for issuing a third written warning then the relevant licence holder shall be presumed by the Council to be an unsuitable person to hold a licence, subject to any representation from the licence holder that there may be exceptional circumstances to justify the circumstances of the failure to remedy the cause of complaint.

## 4 Conditions

If the applicant or any site manager has been convicted of a relevant offence, the authority 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.

## 5 Revocation of licence/Imposition of conditions

The authority may revoke a scrap metal licence if it is satisfied that the licence holder does not carry on the business of scrap metal dealing at any of the sites identified in the licence.

The authority 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.

The authority may revoke a licence if it is no longer satisfied that the licence holder is a suitable person to carry on business as a scrap metal dealer and the authority shall have particular regard to any “relevant offences” and “relevant enforcement action” and to those matters contained in paragraphs 6.3 of this policy.

If the licence holder 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 in paragraph 4.

A revocation or variation comes into effect when no appeal is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.

If the authority considers that the licence should not continue in force without conditions, it may by notice provide:

- (a) That, until a revocation comes into effect, the licence is subject to one or both of the conditions set out in paragraph 4 or
- (b) That a variation under this paragraph comes into effect immediately.

All licences issued by the Council pursuant to the Act remain the physical property of

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the Council and must be returned to the Council as required on expiry or revocation of the relevant licence or copy 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.

All reference in this policy to copy licences shall be construed as original copies officially endorsed and issued by the Council as the licensing authority.

## 6 The Application Process

The following documents must be submitted for new applications:

- Application form
- Basic Disclosure Certificate from Disclosure Scotland – a certificate is required for each person named on the application form
- The appropriate fee.

Applications submitted without the required documents and fee will be returned.

The Council may request additional information before the application is processed. Failure to produce the information may result in the application being declined

### 6.1 Assessing the suitability of applicants

The Council “must not issue a licence unless it is satisfied that the applicant is a

suitable person to carry on a business as a scrap metal dealer”. In the case of a partnership this means assessing the suitability of each of the partners, while in the case of a company it means assessing the suitability of each director, company secretary or shadow director.

In assessing an applicant’s suitability we will consider any information we consider to be relevant in a particular case. Factors that will be considered include:

- (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);

A list of relevant offences and enforcement actions can be found at Appendix B

### 6.2 Basic Disclosure Certificates

As part of the application process, applicants must provide a basic disclosure certificate with the application form which

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must be less than three months old on the date it is received by us.

The basic disclosure certificate contains details of any unspent convictions recorded against you on the date the certificate is issued. It can be applied for online or by completing a form and paying a fee of £25.00. You can apply online at [www.disclosurescotland.com](http://www.disclosurescotland.com).

## 6.3 Relevance of Convictions and enforcement action

Having regard to the objectives of the Act Blackpool Council has determined that it will presume that the applicant is unsuitable to be issued with a licence where an applicant or any other person required to be named or identified in the application has been convicted of any of the following offences within the period of 3 years prior to the application:

- Theft
- Any offence relating to controlled drugs
- Fraud
- Money laundering
- Section 33 EPA (Fly tipping)
- Section 34 EPA (Duty of care)
- Breach of permitting regulations
- Control of Pollution Amendment Act 1989 (Waste Carriers)
- Violent Offences/Assaults / offences against the person

It is however open to the applicant to make representations that they should be given a licence despite the existence of such convictions

Insofar as any of the offences contained above are not prescribed as “relevant offences” for the purposes of the Act the authority may nevertheless require further information from the applicant to assist in determining the suitability of the applicant. Whilst the offences listed above may not be treated as a “relevant offence” for the purposes of the Act they shall be considered as a significant offence in relation to the suitability of the applicant to hold a licence.

Having regard to the objectives of the Act the authority has determined that it will presume that the applicant is unsuitable to be issued with a licence where an applicant or any other person required to be named or identified in the application has been the subject of any of the following forms of enforcement action within the period of five years prior to the application:

- Closure notice pursuant to the Act
- Closure order pursuant to the Act
- Action for recovery of possession of out of date or discontinued licences

It is however open to the applicant to make representations that they should be given a licence despite the existence of such enforcement action. The authority may not treat any such enforcement action as a “relevant enforcement action” for the purposes of the Act but shall nevertheless consider such an action as a significant issue in relation to the suitability of the applicant to hold a licence.

Having regard to the objectives of the Act the authority has determined that it will

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consider the following offences or enforcement actions relating to any person relevant to the licence as being of particular relevance to the suitability of the licence holder:

- Written warning relating to scrap metal licence compliance
- Waste regulations 2011 – enforcement, compliance and stop notices
- Permitting regulations notices
- Planning Breach of Condition / Enforcement Notices
- Statutory nuisance abatement notice
- Relevant intelligence from the authority and statutory partners
- Breach of statutory nuisance abatement notice

## 6.4 Guidance

The authority must also have regard to any guidance on determining suitability which is issued from time to time by the Secretary of State

## 6.5 Consultation

Before considering an application, the authority will consult with:

- (a) Lancashire Police;
- (b) The Environment Agency;
- (c) Blackpool Council Licensing Enforcement;
- (d) Blackpool Council Neighbourhoods team

## 6.6 Decision and Representations

If the Council proposes to refuse an application or to revoke/vary a licence a notice will be issued to the applicant/licence holder setting out what the authority proposes to do and the reasons for this. The notice shall also state that within the period specified (not less than 14 days) the applicant/licensee can either:

a) Make representations about the proposal, or

b) Inform the authority that the applicant/licence holder wishes to make representations.

Should this period expire and the applicant/licence holder has not made representations or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.

If, within the period specified, the applicant/licence holder informs the authority that they wish to make representations, the authority shall allow a reasonable period to make representations and may refuse the application or revoke or vary the licence if they fail to make representations within that period.

If the applicant/licence holder notifies the authority that they wish to make oral



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representations, the authority shall give them the opportunity of appearing before, and being heard by a person appointed by the authority.

If the application is refused, or the licence is revoked or varied, a notice will be given to the applicant/licence holder setting out the decision and the reasons for it.

## 6.7 Appeals

An applicant may appeal to a magistrates' court against the refusal of an application or a variation. The licensee may appeal to a magistrates' court against the inclusion in a licence of a condition under Section 3(8) of the Act or the revocation or variation of a licence.

An appeal must be made within 21 days beginning on the day the notice to refuse the application, to include the condition or to revoke or vary the licence under section 4 was given.

On appeal, the magistrates' court may confirm, vary or reverse the authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

The authority must comply with any directions given by the magistrates' court. Although the authority need not comply with such directions until the time for making an application under section 111 of

the Magistrates' Courts Act 1980 has passed or if such an application is made, until the application is finally determined or withdrawn.

## 7 Supply of Information by Authority

This section applies to information which has been supplied to a local authority under this Act and relates to a scrap metal licence or to an application for or relating to a licence.

The local authority 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.

This section does not limit any other power the authority has to supply that information.

## 8. Register of Licences

The Environment Agency maintains a register of scrap metal licences issued by authorities in England and each entry 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 the site identified in the licence

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- (e) The type of licence, and
- (f) The date on which the licence is due to expire

The registers are to open for inspection to the public

## 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 within 28 days.

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

The authority must notify the Environment Agency, of –

- (a) Any notification given to the authority by the licence holder
- (b) Any variation of a licence
- (c) Any revocation by the authority of a licence

Any notification must be given within 28 days of the notification, variation or revocation in question.

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## Appendix A – Code of Practice

All scrap metal dealers and merchants signing up to this Code agree to abide by the following requirements:

- All reasonable steps will be taken to ensure stolen metals are not bought.
- No metals shall be stored or processed in a street or other public place.
- Metals will only be accepted from those whose ID has been/can be verified as required by the Scrap Metal Dealers Act 2013
- No payment shall be made to any person other than the person as identified on the scrap metal dealer's licence displayed on the vehicle where metals are produced by a licensed scrap metal collector.
- Staff must be trained in administrative processes and all paperwork should be relevant and kept up-to-date.
- Dealers will co-operate with police and local authorities by allowing access and inspection when requested.
- No blackened copper wire that has obviously had its insulation removed should be bought.
- Metals will not be traded on behalf of a 3<sup>rd</sup> party
- Metals will not be accepted from customers on foot or on bicycle.
- Metal will not be accepted from customers arriving in taxis or private hire vehicles.
- Dealers will display prominent signage at their premises stating that "We report suspected metal thieves to the Police".
- In order to comply with the Act's requirements concerning record keeping and identification no metals shall be received without at a minimum taking and retaining a digital photograph(s) of the scrap metal load as presented, cross-referenced with the appropriate waste transfer note.
- Dealers shall have available and actively use UV torches for detecting forensically marked metals.
- Suspicious persons will be reported to the local police force for the area concerned.
- Suspicious transactions will be reported to the local police force for the area concerned.
- Dealers will work towards adopting into an electronic 'alert' notification scheme for early notification of stolen metals.
- All scrap metal dealers agree to work towards installing automatic number plate recognition cameras or police approved CCTV systems at site entrances and/or weighbridges. (Where such systems have been installed posters advertising the fact will clearly be displayed on the premises).
- Dealers should not enter a gated alley without permission from the local authority or residents affected by the gating order.

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- Dealers must retain copies of their waste transfer notes as part of their Duty of care for three years.
- All licences shall be returned immediately to the licensing authority on expiry or other reasonable demand.

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## Appendix B – Relevant Offences

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 specify the following as relevant offences/enforcement action.

- An offence under section 1,5 or 7 of the Control of Pollution (Amendments) Act 1980
- An offence under section 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 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 Environmental Protection Act 1985
- An offence under section 1 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 330-332 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

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- Any offence under the Hazardous Waste (Wales) Regulations 2005
- An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- Any offence under the Transfrontier Shipment of Waste Regulations 1994
- Any offence under the Transfrontier Shipment of Waste Regulations 2007
- Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

In addition a relevant offence includes an offence of:

- Attempting or conspiring to commit any offence listed above
- Inciting or aiding, abetting, counselling or procuring the commission of any offence listed above, and
- An offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) committed in relation to any offence listed above.

### Relevant enforcement action

A person is the subject of relevant enforcement action if:

- The person has been charged with an offence specified above and criminal proceedings have not yet concluded; or
- 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.