

Scrap Metal Dealers Act 2013

Statement of Licensing Policy 2022

Southend-on-Sea City Council



Scrap Metal - Version Control

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1. Introduction

1.1 This document states Southend on Sea City Council's Policy on the regulation of Scrap Metal Dealers.

The Law

1.2 The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and came into force on 1 October 2013.

1.3 The Scrap Metal Dealers Act 2013 (the Act) introduced a new definition of a "Scrap Metal Dealer" and the term "scrap metal" was revised to reflect the 21st Century Scrap Metal industry. It aims to raise standards across the industry by requiring more detailed and accurate records of transactions as well as a requirement to verify the identity of those selling metal to them as well as a total prohibition on making cash payments for scrap.

1.4 The Act maintains local authorities as the principal regulator. It also gives them powers to regulate these industries by allowing them to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.

1.5 Southend on Sea City Council here in after called 'the Council' is the Licensing Authority under the Scrap Metal Dealers Act 2013 and is responsible for granting site licence and collector's licences in the Borough of Southend on Sea in respect of businesses that deal in scrap metal and vehicle dismantling.

1.6 When assessing applications, the Council must be satisfied that the applicant is a 'suitable' person to hold a licence. Unsuitability will be based on a number of factors including any relevant criminal convictions.

1.7 The Scrap Metal Dealers Act 2013 makes it a requirement for a scrap metal dealer to have a licence in order to carry on in business as a dealer. It is an offence to carry on a business without first obtaining a licence. The Act incorporated the separate regulatory schemes for motor salvage operators under the Vehicle (Crime) Act 2001 and replaced the overlapping regimes for vehicle salvage and scrap metal industries with a single regulatory scheme.

Definition of a Scrap Metal Dealer

1.8 A person carries on business as a scrap metal dealer if:

- they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought in) or;
- they carry on business as a motor salvage operator (see 1.10).

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

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

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

- buying written-off vehicles, repairing and reselling them;
- buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b);
- wholly or mainly in activities falling within paragraphs (b) and (c).

1.11 Scrap metal includes:

- any old, waste or discarded metal or metallic material, and
- any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

1.12 Scrap Metal does not include:

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

2. Consultation

2.1 There is no requirement, in the Act, for a Council to have in place a formal policy for dealing with applications made under the Scrap Metal Dealers Act 2013. As a process of 'Best Practice' Southend on Sea City Council has chosen to adopt a formal policy for this purpose.

2.2 In developing and reviewing this policy statement, the Council consulted with existing licence holders, Essex Police, British Transport Police, Environment Agency and Industry Associations.

3. Types of Licences

3.1 Anyone wishing to operate a business will require a site licence or a collector's licence. The licence is valid for three years and permits the holder to operate within the boundaries of the issuing authority. These are:

- **Site Licence** – A licence will be issued by the Council in whose area a scrap metal site is situated. A site licence will require all of the sites at which the licensee carries on the business as a scrap metal dealer, within the local authority area, to be identified and a site manager to be named for each site. This will permit them to operate from those sites including transporting scrap metal to and from those sites from any local authority area.
- **Collectors Licence** – authorises a licence holder to operate as a 'mobile collector' in the area of the issuing local authority area. This permits them to collect any scrap metal as appropriate, including commercial and domestic scrap metal. It does not permit the collector to collect from any other local authority area; separate licences should be obtained from each local authority. Also, the licence does not permit a licensee to carry on a business at a site within any area. If a collector wishes to use a fixed site, they will need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their material.

3.2 A person may hold more than one licence issued by different authorities, but may NOT hold more than one licence issued by any one local authority.

4. Application Process

4.1 When the Council is considering an application, it will have regard to:

- The Scrap Metal Dealers Act 2013;
- Guidance issued by the Secretary of State;
- Any supporting regulations
- This statement of licensing policy.

4.2 This does not undermine the rights of any person to apply under the Act for a licence and have the application considered on its individual merits.

4.3 A person carrying on, or proposing to carry on, a business as a scrap metal dealer may apply to the Council to be licensed. The application must be in writing and contain the appropriate mandatory particulars.

4.4 A local authority may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant

4.5 The application must be accompanied by the appropriate fee.

4.6 If the applicant fails to provide the information requested, including the additional supporting documentation, the Council may decline to accept the application as a valid application.

5. Suitability of Applicants

5.1 A local authority must determine whether the applicant is a suitable person to carry on a business as a Scrap Metal Dealer.

5.2 In determining this, the Council may have regard to any information it considers to be relevant, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. A list of relevant offences are set out in the guidance to the application form.

5.3 The Council must also have regard to any guidance on determining suitability which is issued by the Secretary of State.

5.4 The Council may consult other agencies regarding the suitability of an applicant, including:

- Any other local authority;
- The Environment Agency;
- The Natural Resources Body for Wales; and
- An officer of a police force.

6. Determination of Application/Issue of Licence

6.1 Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence.

6.2 The Council may include, in the licence, one or both of the following conditions:.

- To limit the dealer to receiving any metal within the hours of 9.00am to

5.00pm; and

- That any scrap metal must be kept in the form in which it is received for a specified period of time, not exceeding 72 hours.

6.3 Where the Council is not satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, or a licence holder is no longer considered 'suitable' to continue to hold a licence, the Council must consider refusing the application or revoking the licence where a licence has been issued. The matter will be referred to the Licensing Sub-Committee for determination.

Right to Make Representations

6.4 If Southend on Sea City Council proposes to refuse an application or to revoke/vary a licence a notice must be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for this. The notice must also state that within the period specified the applicant/licensee can either:

- make representations about the proposal; or
- inform the authority that the applicant/licensee wishes to do so.

6.5 The period specified in the notice must 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 Southend on Sea City Council that they do not wish to make representations. Should this period expire and the applicant/licensee 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.

6.6 If, within the period specified, the applicant/licensee informs the authority that they wish to make representations, the authority must 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.

6.7 If the applicant/licensee notifies the authority that they wish to make oral representations, the authority must give them the opportunity of appearing before, and being heard by, a person appointed by the authority. In this instance, this will be before the Licensing Sub-Committee.

6.8 The Council may revoke a scrap metal dealer's licence in certain circumstances. Please refer to Section 8 for circumstance of revocation.

Notice of Decisions

6.9 If the application is refused, or the licence is revoked or varied, Southend on Sea City Council must give a notice to the applicant/licensee setting out the decision and the reasons for it. The notice must also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought and, if revoked or varied, the date on which the revocation or variation is to take effect.

7. Variation of Licence

7.1 An applicant can, on application, apply to the Council to vary a licence by changing it from one type to another. The variation application must be made to reflect changes to:

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

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

7.2 Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

8. Revocation of Licence by the Licensing Sub-Committee

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

8.2 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.

8.3 The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer.

8.4 A revocation or variation under this section comes into effect when no appeal under paragraph 9 of Schedule 1 of the Act is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.

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

- that, until a revocation under this section comes into effect, the licence is subject to one or both of the conditions set out in section 6.2; or
- that a variation under this section comes into effect immediately.

9. Register of Licences

9.1 The Environment Agency must maintain a register of scrap metal licences issued by authorities in England.

9.2 Each entry must record:

- the name of the authority which issued the licence;
- the name of the licensee;
- any trading name of the licensee;
- the address of the site identified in the licence;
- the type of licence; and
- the date on which the licence is due to expire.

9.3 The registers are to be open for inspection to the public.

10. Notification Requirements

10.1 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.

- 10.2 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.
- 10.3 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.
- 10.4 An authority must notify the Environment Agency, of –
- any notification given to the authority under section 10.2 or 10.3;
 - any variation made by the authority under section 8 (variation of type of licence or matters set out in licence); and
 - any revocation of the authority of a licence.
- 10.5 Notification under subsection 10.4 must be given within 28 days of the notification, variation or revocation in question.
- 10.6 Where the authority notifies the Environment Agency under subsection 11.4, the body must amend the register under section 9 accordingly.

11. Display of Licence

- 11.1 A copy of a site licence must be displayed at each site identified in the licence. The copy must be displayed in a prominent place in an area accessible to the public.
- 11.2 A copy of a collector's licence must be displayed on any vehicle that is being used in the course of the dealer's business. This must be displayed in a manner which enables it easily to be read by a person outside the vehicle.

12. Verification of Supplier's Identity

- 12.1 Prior to receiving scrap metal the scrap metal dealer must verify the person's full name and address by reference to documents, data or other information obtained from a reliable and independent source.
- 12.2 Should verification not be gained then each of the following are guilty of an offence:
- the scrap metal dealer;
 - if metal is received at the site, the site manager;
 - any person who, under arrangements made by a person within paragraph (a) or (b), has responsibility for verifying the name and address.

13. Payment for Scrap Metal

- 13.1 A scrap metal dealer must only pay for scrap metal by either:
- a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or
 - electronic transfer of funds (authorised by a credit, debit card or otherwise).
- 13.2 Payment includes payment in kind – with goods or services.

14. Records: Receipt of Metal

- 14.1 If any metal is received in the course of the dealer's business the dealer must record the following information:
- description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features;
 - date and time of receipt;
 - the registration mark of the vehicle delivered by;
 - full name and address of person delivering it;
 - full name of the person making payment on behalf of the dealer.
- 14.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.
- 14.3 If payment is made via cheque, the dealer must retain a copy of the cheque.
- 14.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

15. Records: Disposal of Metal

- 15.1 For these purposes metal is disposed of:
- whether or not in the same form it was received;
 - whether or not the disposal is to another person;
 - whether or not the metal is dispatched from a site.
- 15.2 Where the disposal is in the course of business under a site licence, the following must be recorded:
- description of the metal, including its type (or types is mixed), form and weight;
 - date and time of disposal;
 - if to another person, their full name and address;
 - if payment is received for the metal (by sale or exchange) the price or other consideration received.
- 15.3 If disposal is in the course of business under a collector's licence, the dealer must record the following information:
- the date and time of the disposal;
 - if to another person, their full name and address.

16. Records: Supplementary

- 16.1 The information in sections 15 and 16 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.

- 16.2 The records mentioned in section 15 must be marked so as to identify the scrap metal to which they relate.
- 16.3 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of.
- 16.4 If a scrap metal dealer fails to fulfil a requirement under section 15 and 16 or this section each of the following is guilty of an offence:
- the scrap metal dealer;
 - if the metal is received at or (as the case may be) dispatched from a site, the site manager;
 - any person who, under arrangements made by a person within paragraph (a) or (b) has responsibility for fulfilling the requirement.
- 16.5 It is a defence for a person within subsection 17.4 (a) or (b) who is charged with an offence under this section to prove that the person
- made arrangements to ensure that the requirement was fulfilled, and
 - took all reasonable steps to ensure that those arrangements were complied with.

17. Fees

- 17.1 The Council makes a charge for a licence on a cost recovery basis Fees are outlined in a separate document

18. Compliance

- 18.1 The Act provides a Police Constable and an Officer from the Council with a right to enter and inspect the premises of licensed and unlicensed scrap metal dealers.
- 18.2 The Act does not provide an Officer of the Council with the power to inspect premises of licensed and unlicensed scrap metal dealers outside the area of the authority.
- 18.3 The Council delivers a wide range of compliance services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade.
- 18.4 The administration and compliance of the licensing regime is one of these services.
- 18.5 Compliance will be based on the principles that businesses should:
- Receive clear explanations from regulators of what they need to do and by when;
 - Have an opportunity to resolve differences before compliance action is taken, unless immediate action is needed;
 - Receive an explanation of their right of appeal.
- 18.6 The Council recognises the interest of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law. However, proportionate but firm action will be taken against those who commit serious

offences or consistently break the law. The council has set clear standards of service and performance that the public and businesses can expect.

- 18.7 In particular, a compliance policy has been created that explains how the council will undertake its role as Licensing Authority and how the principles of effective compliance will be achieved
- 18.8 The council has also established a compliance protocol with Essex Police and British Transport Police on compliance issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

19. Closure of Unlicensed Sites

19.1 Interpretation

- 19.1.1 A person with an interest in a premises is the owner, leaseholder or occupier of the premises.
- 19.1.2 Local authority powers are exercisable only in relation to premises in the authority's area.

19.2 Closure Notice

- 19.2.1 Not applicable if the premises are residential premises.
- 19.2.2 A constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.
- 19.2.3 A 'closure notice' may be issued by a constable or local authority which states they are satisfied of the above, the reasons for that, that the constable or local authority may apply to the court for a closure order and specifies the steps which may be taken to ensure that the alleged use of the premises ceases.
- 19.2.4 The notice must be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.
- 19.2.5 The notice must be given to a person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

19.3 Cancellation of Closure Notice

- 19.3.1 A 'cancellation notice' issued by a constable or local authority may cancel a closure notice. This takes effect when it is given to any one of the persons to whom the closure notice was given. This must also be given to any other person to whom the closure notice was given.

19.4 Application for Closure Order

- 19.4.1 When a closure notice has been given, a constable or the local authority may make a complaint to the justices of the peace for a closure order. This may not be

made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

19.4.2 A complaint under this paragraph may not be made if the constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable likelihood that the premises will be so used in the future.

19.4.3 The justice may issue a summons to answer to the complaint. This must be directed to anyone whom the closure notice was given and must include the date, time and place at which the complaint will be heard.

19.5 Closure Order

19.5.1 A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate. The use of the premises by a scrap metal dealer in the course of business be discontinued immediately and 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.

19.5.2 The closure order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of which the premises form part.

19.5.3 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.

19.5.4 As soon as practicable after the 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.

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

19.6 Termination of Closure Order by Certificate

19.6.1 Once a closure order has been made and a constable or local authority officer is satisfied that the need for the order has ceased a certificate may be made. This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

19.6.2 As soon as is practicable after making a certificate, a constable or local authority must give a copy to any person against whom the closure order was made, give a copy to the designated officer for the court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

19.6.3 A copy of the certificate must be given to any person who requests one.

19.7 Discharge of Closure Order by Court

19.7.1 A closure order may be discharged by complaint to a justice of the peace. This can be done by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was given.

19.7.2 The court will make a discharge order if it is satisfied that there is no longer a need for the closure order. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person appear before the magistrates' court to answer to the complaint.

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

19.8 Appeal

19.8.1 Appeal may be made to the Crown Court against:

- a closure order;
- a decision not to make a closure order;
- a discharge order;
- a decision not to make a discharge order.

19.8.2 The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made.

19.8.3 An appeal under a) or b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

19.8.4 An appeal under b) and c) may be made by a constable or the local authority.

19.9 Enforcement of Closure Order

19.9.1 A person is guilty of an offence, without reasonable excuse, if they permit a premises to be open in contravention of a closure order, or fails to comply with, or does an act in contravention of a closure order.

19.9.2 If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

19.9.3 If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

20. Compliance and Enforcement

20.1 In exercising its functions with regard to the inspection of sites and collectors and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice.

20.2 This requires that actions should be

- Proportionate - Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable - The Authority must be able to justify decisions and be subject to public scrutiny.

- Consistent - Rules and standards must be joined up and implemented fairly.
- Transparent - Enforcement should be open and regulations kept simple and user friendly.
- Targeted - Enforcement should be focused on the problems and minimise side effects.

20.3 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme. All enforcement action is taken having regard to the Environment & Regulatory Enforcement policy.

20.4 The main enforcement and compliance role of the Licensing Authority in terms of the Act, is to ensure compliance with the Licence and other permissions which it authorises.

20.5 The Licensing Authority will keep itself informed of developments as regard to the Department for Business, Energy & Industrial Strategy in its consideration of the regulatory functions of Local Authorities, and will have regard to best practice.

20.6 Where appropriate, complaints will be investigated in accordance with the stepped approach outlined in the Regulatory Services Enforcement Policy. A copy of this document is available on the Council website. In the first instance we encourage complaints to be raised directly with the licensee.

21. Delegated Authority

21.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision making.

22. Links to 2050

22.1 There are strong links between the Council's 2050 vision and this Licensing Policy. Several outcomes can be positively influenced by good licensing controls and a well run licensed sector. The Licensing Authority hope that applicants will engage with the 2050 vision in their applications.

22.2 Examples include:-

Safe & Well:

- residents feel safe and secure in their homes, neighbourhoods and across the city
- we protect and improve the quality of life for everyone in our community, including the vulnerable

Opportunity and Prosperity:

- As part of our economic recovery, Southend businesses feel supported to respond to economic shocks and can thrive and grow, creating enough job roles to match the needs of the population and safeguarding fulfilling

careers

Future Ways of Working:

- recover from the pandemic and to embrace new approaches and opportunities for collaboration with our partners
- sustain and increase the pace of change