	<p><b>Licensing Committee</b> <b>20<sup>th</sup> July 2015</b></p>
<p><b>Title</b></p>	<p><b>Scrap Metal Dealers Policy</b></p>
<p><b>Report of</b></p>	<p>Commissioning Director for Environment</p>
<p><b>Wards</b></p>	<p>All</p>
<p><b>Status</b></p>	<p>Public</p>
<p><b>Enclosures</b></p>	<p><b>Appendix 1 – Draft Scrap Metal Dealers Policy</b></p>
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<p><b>Summary</b></p>
<p>This report seeks approval from Members to consult on a draft policy in relation to licences issued under the Scrap Metal Dealers Act 2013.</p>

<p><b>Recommendations</b></p>
<p><b>That the Committee approve the carrying out of a consultation on the Draft Scrap Metal Dealers Policy at Appendix 1.</b></p>

**1. WHY THIS REPORT IS NEEDED**

- 1.1 The Scrap Metal Dealers Act 2013 revised the regulatory regime for the scrap metal recycling and vehicle dismantling industries.
- 1.2 The 2013 Act repeals 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.
- 1.3 The 2013 Act aims to raise the standards across the scrap metal industry and to help achieve this, licensed operators will need to keep detailed records of their transactions; and verify the identity of those selling scrap metals to them.
- 1.4 In addition to replacing the Scrap Metal Dealers Act 1964 and the Vehicle Crime Act 2001, the 2013 Act revises the definition of a 'Scrap Metal Dealer' so as to take into account the modern way in which people collect and deal in scrap metal. The 2013 Act provides for two types of Scrap Metal Dealer licences, a 'Site Licence' and a 'Collector's Licence', both of which last for three years.

#### **1.4.1 Site Licence**

A site licence is applicable where the licence holder has a physical site(s) that they use to carry on their business as a scrap metal dealer. This licence allows the licence holder to accept scrap metal from any of the sites listed on the licence; and to transport scrap metal to and from the sites listed in the licence.

#### **1.4.2 Collector's Licence**

A collector's licence is applicable where the licence holders business consists of collecting scrap metal, for example by going from door to door asking for scrap. This licence allows the licence holder to collect scrap metal from within the boundaries of the local authority issuing the licence. A separate licence is required from each local authority within whose boundary a person wishes to operate

- 1.5 This report recommends the consultation on a draft policy for Scrap Metal Dealers that will ensure best practice in the London Borough of Barnet when dealing with the licensing of scrap metal dealers.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 It is best practice to prepare, consult on and publish a policy which the Council proposes to apply when implementing regulatory regimes. This ensures clarity for traders and other interested parties in the application and enforcement processes.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 The Committee could consider not consulting on the proposed policy; however this would not accord with good governance, giving interested parties an opportunity to consider the proposed policy and make any representations where they consider that changes might be made before adoption.
- 3.2 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. POST DECISION IMPLEMENTATION**

- 4.1 A 12 week consultation will take place in relation to the policy; the results of this will be presented to the Committee at the meeting on 23 November 2015.

#### **5. IMPLICATIONS OF DECISION**

##### **5.1 Corporate Priorities and Performance**

5.1.1 The policy will support objectives contained within the corporate plan. In particular in relation to a “successful London suburb” by ensuring that only legal, well regulated scrap metal dealing takes place within the borough.

##### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 Administration and enforcement of the Scrap Metal Act will be carried out by the Licensing team within Re, together with support from HB Public Law and from Governance Services.

5.2.2 Fees are kept under constant review to ensure that they accurately reflect recovery of costs incurred in administration of the licence process and compliance checks.

##### **5.3 Legal and Constitutional References**

5.3.1 A good policy ensures that fair and equitable decisions are taken by the London Borough of Barnet.

5.3.2 Constitution - Annex A Responsibility for Council Functions- Membership and Terms of Reference of Committees and Partnership Boards”, details the functions of the Licensing Committee .

##### **5.4 Risk Management**

5.4.1 It is important that the London Borough of Barnet adopts a robust and accountable regulatory regime in relation to scrap metal in order to ensure fair trading, prevent crime and to protect consumers.

##### **5.5 Equalities and Diversity**

5.5.1 The Council has a legal obligation under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

5.5.2 When considering scrap metal applications, only issues provided for in the Scrap Metal Act and the authority's statement of principles will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits.

5.5.3 An initial equalities impact assessment has been completed and there is no identified impact on any of the groups with protected characteristics. Therefore a full impact assessment is not required.

## **5.6 Consultation and Engagement**

5.6.1 The consultation document will be sent to the Police, Environment Agency, councillors and scrap metal businesses known to be operating in London Borough of Barnet. The consultation will also be placed on the Council's consultation portal on the Barnet online website.

5.6.2 If approved by the Committee, the policy will be submitted for consultation with all relevant stakeholders for a period of 12 weeks. All replies will be taken into account and the policy revised as necessary and if appropriate to do so. The final policy will be submitted to the Licensing Committee for approval at its meeting in November 2015. The Committee will then be asked to recommend that the policy be adopted at the next meeting of the full Council.

## **6. BACKGROUND PAPERS**

None

# DRAFT SCRAP METAL POLICY

July 2015

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## **1. INTRODUCTION**

- 1.1 This document sets out the London Borough of Barnet Council's Policy on the regulation of Scrap Metal Dealers.
- 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, hereinafter named 'the Act' repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicle (Crime) Act 2001, Paragraph 1 of schedule 3 of the Vehicle Excise and Registration Act 1994, Paragraph 168 of schedule 17 to the Communications Act 2003 and section 145 to 147 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Act brings forward a new regulatory framework for scrap metal dealing and vehicle dismantling industries. The following regulations have also been made:
  - The Scrap Metal Dealers Act 2013 (Prescribed Documents and Information for Verification of name and Address) Regulations 2013
  - The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013
- 1.4 The Act gives local authorities better 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 The London Borough of Barnet hereinafter 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 London Borough of Barnet 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 incorporates the separate regulatory scheme for motor salvage operators under the Vehicle (Crime) Act 2001 into this new regime. This is to replace the current overlapping regimes for vehicle salvage and scrap metal industries with a single regulatory scheme.

### **1.8 Definition of a Scrap Metal Dealer**

- 1.8.1 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 in) or;



b) they carry on business as a motor salvage operator (see 1.10).

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

1.8.3 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).

1.8.4 Scrap metal includes:

a) any old, waste or discarded metal or metallic material, and

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

1.8.5 Scrap Metal does not include:

a) Gold;

b) Silver; or

c) 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. Despite this the London Borough of Barnet has chosen to adopt a formal policy so that 'Best Practice' can be assured to the trade and local residents.

2.2 In developing this policy statement, the Council consulted with existing scrap metal dealers/motor salvage operators, the Metropolitan Police, Environment Agency and Industry Associations.

## **3 TYPES OF LICENCES**

- 3.1 Anyone wishing to operate a business dealing in scrap metal will require a site licence or a collector's licence.
- 3.2 A licence is valid for three years and permits the holder of the licence to operate within the boundaries of the issuing authority. The types of licence are as follows:
- Site Licence – A licence will be issued by the Council in whose area a scrap metal site is situated. A site licence will require each 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 type of licence will permit the holder to operate from those sites and will allow the transporting of scrap metal to and from those sites to any other licensed site within any local authority area.
  - Collector's Licence – A collector's licence authorises a licence holder to operate as a 'mobile collector' in the area of the issuing local authority. This licence will permit them to collect any scrap metal as defined within the legislation, 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 individual local authority that the collector's are collecting scrap metal from. A collector's licence issued by this authority does not permit the licensee to carry on a business as a site within this local authority. 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.
- 3.3 A person may hold more than one licence issued by different authorities, but might **NOT** hold more than one licence issued by the same local authority.

#### **4 APPLICATION PROCESS**

- 4.1 When the Council considers an application, it will have regard to:
- The Scrap Metal Dealers Act 2013;
  - Guidance issued by the Home Office, including the Scrap Metal Dealers Act supplementary guidance and determining suitability to hold a scrap metal dealer's licence (Oct 2013);
  - Any supporting regulations
  - This statement of scrap metal licensing policy.
- 4.2 This does not undermine the rights of any person to apply for a licence under the 2013 Act and have their 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, as set out in **Appendix 1**.
- 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. The additional information that may be required is set out in **Appendix 2**.
- 4.5 The application must be accompanied by the appropriate fee. The fees are set out in **Appendix 3**
- 4.6 If the applicant fails to complete the application form correctly, does not provide one or more piece of the mandatory supporting information/documents or one or more piece of the additional information/documents that have been requested by the local authority, the Council may deem the application invalid and return all documents to the applicant.

## **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 is set out in **Appendix 4**.
- 5.3 Each application will be dealt with on its own merit and regard will be given to any information provided by the police or other agencies that are contacted by the local authority in relation to suitability of an applicant(s).
- 5.4 The Council must also have regard to any guidance issued by the Home Office in relation to determining an applicant's suitability.
- 5.5 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 Where there are relevant convictions for either the applicant or site manager, 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 the Council must consider refusing the application. In the case of an existing licence holder should the Council believe that a licence holder is no longer considered 'suitable' to continue to hold a licence the Council must consider revocation.

### **Right to Make Representations**

- 6.4 If the Council proposes to refuse a new/vary application or to revoke or vary a licence a notice must be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for doing it. The notice must also state that within the period specified on the notice that the applicant/licensee can either:
- a) make representations about the proposal; or
  - b) 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 the Council that they do not wish to make representations. Should this period expire 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 14 day period the applicant/licensee informs the authority that they wish to make a representation, the Council will allow a further period of 14 days for the applicant/licensee to make such representations. The Council may refuse the application or revoke or vary the licence if they fail to make representations within this 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. This will be heard by the licensing sub-committee.
- 6.8 The Council may revoke a scrap metal dealer's licence in certain circumstances. Please refer to Section 8.

### **Notice of Decisions**

- 6.9 If the application is refused, or the licence is revoked or varied, the Council will give a notice to the applicant/licensee setting out the decision and the reasons for it.
- 6.10 The notice will state that the applicant/licensee may appeal against the decision within 21 days from date of notice of decision is given. (Please see **Appendix 5** for appeal process).

## **7 VARIATION OF LICENCE**

- 7.1 An applicant can, on application, apply to the Council to vary a licence 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 AND IMPOSING CONDITIONS**

- 8.1 The Licensing Authority may revoke a scrap metal licence if is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified within the licence.
- 8.2 The Licensing Authority may revoke a licence if it is satisfied that a site manager named on the licence does not act as the site manager at any of the sites identified in the licence.
- 8.3 The Licensing 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 If the licensee or any site manager named in a licence is convicted of a relevant offence (as shown in **Appendix 4**) the authority may vary the licence by adding one or both of the following conditions:
- That the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day

- That all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72hours, beginning with the time when it was received.

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

- a) 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 of this policy; or
- b) that a variation under this section comes into effect immediately.

## **9 REGISTER OF LICENCES**

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

9.2 Each entry will 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;
- e) the type of licence; and
- f) the date on which the licence is due to expire.

9.3 The registers will to be open for inspection to the public a [www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

## **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 no longer 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 will notify the Environment Agency, of –
- a) any notification given to the authority under section 11.2 or 11.3;
  - b) any variation made by the authority under section 8 (variation of type of licence or matters set out in licence); and
  - c) any revocation of the authority of a licence.
- 10.5 Notification under subsection 11.4 must be given within 28 days of the notification, variation or revocation in question.
- 10.6 Where the authority notifies the Environment Agency they will amend the register under section 10 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 site licence holder may wish to carry a copy of the relevant site licence in their vehicle so they are not mistaken for an unlicensed mobile collector. However, there is no legal requirement to do this.
- 11.3 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 A Scrap Metal Dealer must not receive scrap metal from a person without verifying the person's full name and address.
- 12.2 Verification must be by reference to documents, data or other information obtained from a reliable and independent source. (Please refer to Appendix 2 which sets out the documents required for verification.)
- 12.3 A Scrap Metal Dealer must keep a copy of any document to verify the name and address of the supplier. A Scrap Metal Dealer can verify the name and address of repeat suppliers by referring to a copy of the document(s) retained in their records which were used to verify the name and address before the first transaction.

- 12.4 In the case of collecting door to door, it may not be possible for a mobile collector to verify the name and address of the supplier if the waste materials and old, broken, worn out or defaced articles have been left on the roadside. Therefore, the mobile collector must record the description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features and the date and time of its receipt.
- 12.5 If a mobile collector collects scrap from a person, they will need to verify the name and address of that person. It will be sufficient to record these details in the collector's record book.
- 12.6 Should verification not be gained then each of the following are guilty of an offence:
- a) the scrap metal dealer;
  - b) if metal is received at the site, the site manager; c) 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 From 1 October 2013, cash cannot be used by any scrap metal dealer to buy scrap metal. It is an offence to buy scrap metal for cash and there are no exemptions.
- 13.2 A scrap metal dealer must only pay for scrap metal by either:
- a) A non-transferable cheque; or
  - b) An electronic transfer of funds.

This will mean that the payment will be linked to a readily identifiable account, for both the payee and the payer

- 13.3 Payment includes payment in kind – with goods or services.

#### **Buying vehicles for cash**

- 13.4 There may be circumstances where vehicles can be bought for cash, this being where a vehicle is bought with the intention to repair and resell. If a Certificate of Destruction is issued, the vehicle is considered to be scrap and the buyer must not pay cash for it. Please see **Appendix 6** which should assist in deciding whether it may be permissible to pay cash.

### **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:
- a) description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features;
  - b) date and time of receipt;
  - c) the registration mark of the vehicle delivered by;
  - d) full name and address of person delivering it;
  - e) 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 The act regards the metal to be disposed of:
- a) whether or not in the same form it was purchased;
  - b) whether or not the disposal is to another person;
  - c) whether or not the metal is despatched from a site.
- 15.2 Where the disposal is in the course of business under a site licence, the following must be recorded:
- a) description of the metal, including its type (or types is mixed), form and weight;
  - b) date and time of disposal;
  - c) if to another person, their full name and address;
  - d) 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:
- a) the date and time of the disposal;
  - b) 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:
- a) the scrap metal dealer;
  - b) if the metal is received at or (as the case may be) despatched from a site, the site manager;
  - c) 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 a) made arrangements to ensure that the requirement was fulfilled, and b) took all reasonable steps to ensure that those arrangements were complied with.

## 17. FEES

- 17.1 The power to set fees has been passed to individual authorities so that any fees levied in each local area is set by reference to the actual costs to each authority. The fee charged cannot exceed the costs of providing the service.
- 17.2 London Borough of Barnet has set its fees and these are set out in **Appendix 3**.

## 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. The full provisions of the powers are set out in **Appendix 7**.
- 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.

## **19. DELEGATED AUTHORITY**

20.1 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.

The Scrap Metal Dealers Act 2013 and relevant Guidance issued by the Home Office can be found at [www.gov.uk](http://www.gov.uk).

If you wish to discuss the application process with an officer of the Licensing Authority, please contact:

The Licensing Team  
Building 4 North London Business Park  
Oakleigh Road South  
London  
N11 1NP  
Tel: 020 8359 7443 or Email: [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk)

## APPENDIX 1 – APPLICATION PROCESS

An application for a licence should be made to the following address:

The Licensing Authority  
London Borough of Barnet  
Building 4 North London Business Park  
Oakleigh Road South  
London  
N11 1NP

Or any other address that the Council shall otherwise notify.

To apply for a Scrap Metal Dealers Licence, applicants must be over 18 years of age and will need to complete an application form and send it to the Council together with:-

- a) Full name of applicant (if an individual), date of birth and usual place of residence;
- b) Name and registered number of the applicant (if a company) and registered office;
- c) If a partnership – full name of each partner, date of birth and usual place of residence;
- d) Proposed trading name;
- e) Telephone number and email address (if any) of applicant;
- f) Address of any site within any other local authority at which carry on business as a scrap metal dealer or propose to do so;
- g) Any relevant environmental permit or registration in relation to the applicant;
- h) Details of any other scrap metal licence issued to the applicant within a period of 3 years ending with the date of the application;
- i) Details of the bank account which is proposed to be used in order to comply with section 15;
- j) Details of any relevant conviction or enforcement action taken against the applicant.

For site licence, must also provide:

- a) Address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought);

- b) Full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant);
- c) Site manager details to be included for g), h) and j) above. Please note the collector's licence allows a business or individual to operate within that authority's area, therefore individuals wishing to collect across the boundary of the local authority will be required to obtain a collector's licence from the relevant local authority where they wish to collect and sell.

When applying for either a collector's or a site licence you are required to provide a basic disclosure of criminal convictions with your application. This can be obtained direct from [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk) or by telephoning the Disclosure Scotland Helpline on 0870 609 6006. Please note that the disclosure is valid for one month from the date it was issued.

### **Fee**

The application must be accompanied by the fee set by London Borough of Barnet, under guidance from the Secretary of State with the approval of the Treasury.

### **Renewal**

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn. Refusal of application – licence expires when no appeal under 9 is possible in relation to the refusal or any such appeal is finally determined or withdrawn.

### **Making a false statement**

An applicant who, in an application or in response to a request, makes a statement knowing it to be false in a material particular or recklessly makes a false statement is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

## **APPENDIX 2 - FURTHER INFORMATION THAT MAY BE REQUESTED OF APPLICANTS**

London Borough of Barnet may request (at the time of the application or later) an applicant to supply such further information as is considered relevant for the purpose of considering the application.

London Borough of Barnet may require the following additional evidence:

- Photographic evidence (Current valid Passport, driving licence photo ID and counterpart);
- Birth Certificate;
- Utility bill or other recent document which confirms the address of the applicant (must be less than 3 months old);
- Certificate of good conduct for applicants that have been out of the country for long periods, from the age of 10 years;
- Document showing a right to work (Residents Permit) where applicable;
- National Insurance Number.

The council may have regard to the following information, when considering the suitability of an applicant:

- Whether the applicant or any site manager has been convicted of any relevant offence;
- Whether the applicant or any site manager has been subject of any relevant enforcement action;
- Any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for refusal);
- Any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal);
- Any previous revocation of a scrap metal licence (and the reasons for the revocation); and
- Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

All of the above will apply to any director or any secretary of a company if the applicant is not an individual.

### APPENDIX 3 - FEES

	<b>Site Licence</b>	<b>Collector's Licence</b>
<b>New Application</b>	<b>£570</b>	<b>£265</b>
<b>Variation Application</b>	<b>£230</b>	<b>£130</b>
<b>Minor Change of Details</b>	<b>£30</b>	<b>n/a</b>
<b>Renewal Application</b>	<b>£450</b>	<b>£200</b>
<b>Duplicate of licence</b>	<b>£20</b>	<b>£20</b>

Each licence lasts for three years, so the renewal will be subject to further review by the time the first licence renewal is required.

Levels of fees are annually reviewed.

## APPENDIX 4 – RELEVANT OFFENCES AND PENALTIES

When considering the suitability of an applicant, London Borough of Barnet will take into consideration relevant offences, these include:

- Environmental Offences
- Customs and Excise Management Act 1979 (section 170)
- Fraud Act 2006 (section 1)
- Proceeds of Crime Act 2002 (sections 329, 330, 331 and 332)
- Theft Act 1968 (sections 1,8,9,10,11,17,18,22 & 25)
- Scrap Metal Dealers Act 1964
- Scrap Metal Dealers Act 2013
- Legal Aid, Sentencing and Punishment of Offenders Act 2012 (section 146)
- Vehicle (Crime) Act 2001 (as motor salvage operators)

This document should not be relied upon as an accurate statement of the law, only indicative of the general offences and penalties. You should seek independent legal advice if you are unsure of any information in this document.

Offences relating to scrap metal dealing and motor salvage are described below under the relevant statute.

In relation to the maximum penalties specified, the levels of fine are currently as follows (Information correct at the time of writing this Policy and are subject to change):-

- Level 1 - £200
- Level 2 - £500
- Level 3 - £1,000
- Level 4 - £2,500
- Level 5 - £5,000

### Scrap Metal Dealers Act 2013

Section	Offence	Max Penalty
1	Carry on business as a scrap metal dealer without a licence	Level 5
8	Failure to notify authority of any changes to details given within application	Level 3
10	Failure to display site licence or collector's licence	Level 3
11 (6)	Receiving scrap metal without verifying the persons full name and address	Level 3
11 (7)	Delivering scrap metal to dealer and giving false details	Level 3



12 (6)	Buying scrap metal for cash	Level 5
13	Failure to keep records regarding receipt of metal	Level 5
14	Failure to keep records regarding disposal of metal	Level 5
15 (1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	Level 5
15 (2)	Failure to keep copy of document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued	Level 5
15 (3)	Failure to keep information and record for three years	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

### 3.1 OFFENCES BY BODIES CORPORATE

1. Where an offence under the Act is committed by a body corporate and is proved:

- a) to have been committed with the consent of connivance of a director, manager, secretary or other similar officer; or
- b) to be attributable to any neglect on the part of any such individual.

The individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

2. Where the affairs of a body corporate are managed by its members, section 1 applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.

## **APPENDIX 5 - APPEALS**

An applicant may appeal to the 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 7.2 or the revocation or variation of a licence under section 9.

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 7 was given.

The procedure on an appeal under this paragraph is to be by way of complaint for an order and in accordance with the Magistrates' Court Act 1980.

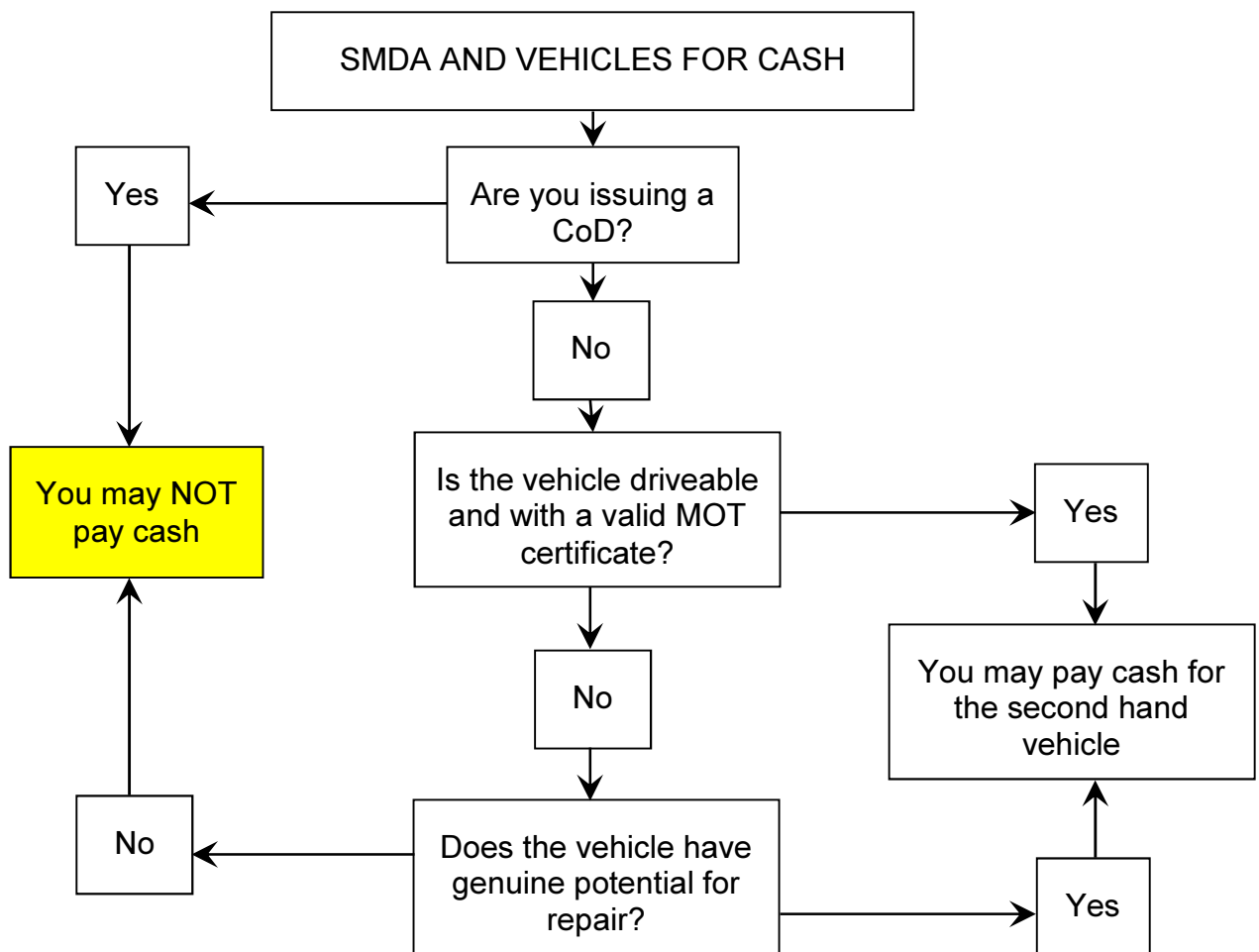
For the purposes of the time limit for making an appeal, the making of the complaint is to be treated as the making of the appeal.

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.

## APPENDIX 6 – BUYING VEHICLES FOR CASH

Whether a vehicle will be considered to be scrap (and may not therefore be bought with cash) depends on all the circumstances of the case, and may not always be clear-cut. If a certificate of destruction (CoD) is issued, the car is considered to be scrap and a buyer must not pay cash for it. If a certificate of destruction is not issued, then it will depend on a number of other factors. For example, it may be argued that a car with a valid MOT certificate and that is drivable without repair is not scrap (therefore, a buyer may pay cash for it) regardless of the way in which the vehicle is subsequently handled by the buyer.

It is not possible to set out a precise checklist that can in every case guarantee to predict the decision a court may make where illegal payment of cash for scrap is alleged. However, the flowchart below should assist in deciding whether it may be permissible to pay cash. Potential buyers should note that, if they elect to pay cash for an un-driveable vehicle that has no valid MOT certificate, they may have to justify their assessment of reparability in court. There needs to be a genuine potential for repair and re-sale in order for cash to be used. Cash cannot simply be paid for everything on the basis the buyer might repair and resell it if they have no facilities for repairing vehicles and no history of selling vehicles. Similar issues may arise for the purchase of other items and appliances.



## **APPENDIX 7 – COMPLIANCE**

### **RIGHT OF ENTRY**

1. An officer of the Police or an officer of London Borough of Barnet may enter and inspect a licensed site at any reasonable time on notice to the site manager.
2. An officer of the Police or an officer of London Borough of Barnet may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
  - a) reasonable attempts to give notice have been made and failed,
  - or
  - b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.
3. (1) and (2) above do not apply to residential premises.
4. An officer of the Police or an officer of London Borough of Barnet is not entitled to use force to enter premises in the exercise of the powers under sections (1) and (2) above.
5. A justice of the peace may issue a warrant authorising entry (in accordance with section 7 below) to any premises within section 6 below if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:
  - a) securing compliance with the provisions of the Act, or
  - b) ascertaining whether those provisions are being complied with.
6. Premises are within this section if:
  - a) the premises are a licensed site, or
  - b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business
7. The warrant is a warrant signed by the justice which:
  - a) specifies the premises concerned, and
  - b) authorises a constable or an officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.
8. An officer of the Police or an officer of London Borough of Barnet may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.
9. An officer of the Police or an officer of London Borough of Barnet may:
  - a) require production of, and inspect, any scrap metal kept at any premises mentioned in section 1 or 2 or in a warrant under section 5;

b) require production of, and inspect, any records kept in accordance with section 15 or 16 and any other records relating to payment for scrap metal;

c) take copies of or extracts from any such records.

10. Section 14 below applies if an officer of the Police or an officer of London Borough of Barnet seeks to exercise powers under this section in relation to any premises.

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

a) evidence of the officer's identity, or

b) evidence of the officer's authority to exercise those powers the officer must produce that evidence.

12. In the case of an officer of London Borough of Barnet, the powers under this section are exercisable only in relation to premises in the area of the authority.

## **APPENDIX 8 – DELEGATION OF POWERS**

The Council's Constitution can be found at [www.barnet.gov.uk](http://www.barnet.gov.uk). Part 3 covers Responsibility for Functions. The determination of applications under the Scrap Metal Dealers Act 2013 for a scrap metal dealer's licence or collector's licence is delegated to the Commissioning Director for Place Shaping and Futures who may delegate this authority to other officers in writing.

The Licensing sub-committee is the 'appointed person', authorised to consider any representations, and hear any oral representations, that an applicant/licensee wishes to make where they have been notified that officers propose to refuse their application for a site licence or collector's licence, revoke their existing licence or vary their existing licence to add conditions.

Should the licensing sub-committee not agree with officers' intended action, having considered the representations of the applicant/ licensee, they are authorised to determine that the application for a licence be granted or that the existing licence shall continue without revocation or variation.