



#### TO COUNCILLOR:

E R Barr  
G A Boulter  
Mrs L M Broadley (Chair)  
Mrs K M Chalk

Miss M V Chamberlain (Vice-Chair)  
M H Charlesworth  
R F Eaton  
J Kaufman

Mrs H E Loydall  
R H Thakor

Dear Sir or Madam

I hereby **SUMMON** you to attend a meeting of the **LICENSING AND REGULATORY COMMITTEE** to be held at the **COUNCIL OFFICES, STATION ROAD, WIGSTON** on **THURSDAY, 5 APRIL 2018** at **6.30 PM** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices  
Wigston  
**26 March 2018**

**Mrs Anne E Court**  
Chief Executive (Interim)

<u>ITEM NO.</u>	<u>AGENDA</u>	<u>PAGE NO'S</u>
<b>1.</b>	<b>Apologies for Absence</b>	
<b>2.</b>	<b>Declarations of Interest</b>	
	Members are reminded that any declaration of interest should be made having regard to the Members' Code of Conduct. In particular, Members must make clear the nature of the interest and whether it is 'pecuniary' or 'non-pecuniary'.	
<b>3.</b>	<b>Minutes of the Previous Meeting held on 25 January 2018</b>	<b>1 - 4</b>
	To read, confirm and sign the minutes of the previous meeting in accordance with Rule 17 of Part 4 of the Constitution.	
<b>4.</b>	<b>Action List Arising from the Meeting held on 25 January 2018</b>	<b>5 - 6</b>
	To read, confirm and note the Action List arising from the previous meeting.	
<b>5.</b>	<b>Petitions and Deputations</b>	
	To receive any Petitions and, or, Deputations in accordance with Rule 24 of Part 4 of the Constitution.	
<b>6.</b>	<b>Corporate Enforcement Update</b>	<b>7 - 14</b>
	Report of the Environmental Health & Licensing Team Leader	



**7. Licensing of Scrap Metal Dealers and Collectors**

**15 - 26**

Report of the Licensing Officer

**8. Exclusion of Press and Public**

The press and public are likely to be excluded from the remainder of the meeting in accordance with Section 100(A)(4) of the Local Government Act 1972 (Exempt Information) during consideration of the item(s) below on the grounds that it involves the likely disclosure of exempt information, as defined in the respective paragraph(s) 1, 2 and 7 of Part 1 of Schedule 12A of the Act and, in all the circumstances, the public interest in maintaining the exempt item(s) outweighs the public interest in disclosing the information.

**9. Asbestos Contamination at Marstown Avenue, South Wigston (Verbal Update)**

**27**

Verbal Update of the Head of Law & Governance / Monitoring Officer

**For more information, please contact:**

**Licensing, Environmental Health or Building Control**

Oadby and Wigston Borough Council  
Council Offices  
Station Road, Wigston  
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LE18 2DR

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**MINUTES OF THE MEETING OF THE LICENSING AND REGULATORY COMMITTEE HELD  
AT THE COUNCIL OFFICES, STATION ROAD, WIGSTON ON THURSDAY, 25 JANUARY  
2018 COMMENCING AT 6.30 PM**

**PRESENT**

Councillor Mrs L M Broadley (Chair)

**COUNCILLORS**

G A Boulter  
M H Charlesworth  
R F Eaton  
Mrs H E Loydall

**OFFICERS IN ATTENDANCE**

D M Gill	(Head of Law & Governance / Monitoring Officer)
Ms S Lane	(Democratic Services Officer / Compliance Officer)
Ms P J Samuels	(Licensing & Environmental Health Team Leader)

**17. APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillors Miss A R Bond, Mrs K M Chalk, Miss M V Chamberlain and J Kaufman.

**18. DECLARATIONS OF INTEREST**

None.

**19. MINUTES OF THE PREVIOUS MEETING HELD ON 12 OCTOBER 2017**

By affirmation of the meeting, it was

**UNANIMOUSLY RESOLVED THAT:**

**The minutes of the previous meeting of the Committee held on 12 October 2017 be taken as read, confirmed and signed.**

**20. ACTION LIST ARISING FROM THE MEETING HELD ON 12 OCTOBER 2017**

With reference to the action point marked 'Corporate Enforcement Update' (min. ref. 15) in respect of the Pest Control Services. Members were informed that at the meeting of the Service Delivery Committee held on 23 January, it was reported that currently the service was projected to lose £20k by the end of the financial year and that it had been agreed at that meeting that an up-to-date financial appraisal in respect of service was to be brought back to that Committee after six-months so that a view could then be taken as to its continued commercial viability.

By affirmation of the meeting, it was

**UNANIMOUSLY RESOLVED THAT:**

**The Action List be noted by Members.**

**21. PETITIONS AND DEPUTATIONS**

None.

**22. CORPORATE ENFORCEMENT REPORT**

The Committee gave consideration to the report (at pages 6 - 10) as delivered and summarised by the Licensing & Environmental Health Team Leader which should be read together with these minutes as a composite document.

**Asbestos Case - Marstown Avenue (Update)**

Members stated that they were advised during the meeting of the Service Delivery Committee held on 23 January that the results for the laboratory analysis were due on 24 January. They requested that the results be chased as the report was still outstanding.

Members were advised that a prosecution file was in preparation, however, there was no time constraint on starting the legal action. It was said that a full report would help to ensure a successful prosecution. The Council would apply for full costs and, as part of the land is owned by the perpetrator, a land charge could be imposed.

**Dog Fouling**

Members stated that they were happy with the progress made so far and that stencilling and signage had made some difference but there were still areas of the Borough littered with dog faeces. Although bins had now been provided in the areas requested, some dog owners, who had bagged up the offending mess, were reported not to be using the bins and discarding, for example, in front gardens. The majority of Members agreed that a stern approach was the only way forward.

Members were advised that the current dog warden contract was up for renewal in April 2018 and that the Council was currently looking at various options. This was said to possibly involve contracting a company who could provide enforcement and issue Fixed Penalty Notices on the Council's behalf. If this was the way forward, the Council could then undertake a media campaign in order for the public to report offences and worst offending areas could be targeted. For successful prosecutions, the Council would require a statement and preferably good photographic evidence.

**Enforcement of Litter, Fly-Tipping and Accumulations**

Members requested that, as all local Councils were now part of the Leicestershire Forum, some pressure be exerted onto Leicestershire County Council to consider stop charging for disposal at household waste sites as this could be partly to blame for incidents of fly-tipping.

Members suggested that an article could go into Letterbox advising residents to check that if they employ a firm to dispose of their waste that they hold the relevant permit, as if the rubbish is fly-tipped the resident would still be liable. Members stated that Leicester City Council offer three large collections in any one year, free of charge, and suggested that was something that the Council should look into providing.

Officers clarified that the time period for the statistics in the report were from 1 September to 31 December 2017. The figures compiled for the report were taken from the Council's complaints database and therefore it was raw data. The figures recently presented to the

Service Delivery Committee on 23 January were taken from the national database and represented an exact number.

### **Abandoned Vehicles**

Officers confirmed to Members that if a member of the public reported an abandoned vehicle, that they would be contacted with an outcome as long as contact details were provided at the time of reporting the incident.

### **Food Hygiene**

Members requested a list of all establishments giving them a risk rating of low, medium and high and the date they were due for next re-inspection to be brought to the next meeting.

Officers confirmed that there were currently 48 food hygiene inspections outstanding. It was said that it was a service that the Council had to provide with no funding contributions. At present re-inspections were currently provided for free, which could be charged, but few establishments would request them. It was stated that establishments which gain a low risk (score of 5) should be celebrated and publicised.

### **Licensing**

Members stated that they had witnessed private hire vehicles parking in the taxi ranks and other parking spaces on Leicester Road, Wigston (i.e. outside the Co-operative funeral building) therefore requesting that a Licensing Officer attend scene.

A Member raised concern at overhearing a conversation between a taxi driver and a Licensing Officer whereby the driver was struggling to understand the conversation. Members noted the Joint Police Enforcement Operation report did not indicate how many vehicles were stop checked.

Members were advised that there had been no known cases in the Borough involving overcharging disabled passengers or the refusal to carry an assistance dog, but if there were, the Council would take appropriate action and report back to Members.

It was stated that the Council could look into new taxi drivers undertaking an English speaking test, that standards were increasing and the Council wish this to continue. Officers advised Members that eight vehicles were stop checked on the first night of the enforcement operation but did not have the figures to hand for night two.

The Chair requested that she be informed of any future joint enforcement operations to allow any newly-appointed Members of the Committee to attend and observe. It was also requested that drivers be reminded of the law and policy and I for accepting assistance dogs and not charging an increased fare for disabled passengers, following the recent news reports in the local and national media.

Members requested that for all future meetings, reports be more detailed, more explanatory and timeframes be clearly stated.

The Committee further requested that a report be brought back to the next meeting providing details as to how to apply for a scrap metal licence, how many licences have been issued in the Borough and any display requirements.

## **Licensed Premises**

Members asked that, when a licence was issued, could the licensee be advised to join 'Pubwatch' to which Officers advised that the Council advise but not compel.

By affirmation of the meeting, it was

### **UNANIMOUSLY RESOLVED THAT:**

**The contents of the report be noted by Members.**

## **23. PROPOSED PUBLIC SPACE PROTECTION ORDER (REGULATION OF DOGS)**

The Committee gave consideration to the report and appendices (at pages 11 – 39) as delivered and summarised by the Head of Law & Governance / Monitoring Officer which should be read together with these minutes as a composite document.

It was moved by the Chair, seconded by Councillor G A Boulter and

### **UNANIMOUSLY RESOLVED THAT:**

- (i) The contents of the report be noted by Members; and**
- (ii) The revised Public Space Protection Order (Regulation of Dogs in the Borough of Oadby and Wigston) be recommend to Full Council for enactment.**

**THE MEETING CLOSED AT 7.49 PM**



**Chair**

**Thursday, 05 April 2018**

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LICENSING AND REGULATORY COMMITTEE

**ACTION LIST**

Arising from the Meeting held on Thursday, 25 January 2018

Min. Ref.	Item of Business	*Details of Action <i>Action Due Date</i>	Responsible Officer(s)' Initials	Status / Update
16.	<b>Licensing Team: Capacity and Other Issues</b>	A joint report regarding the types and colours of Hackney Carriage vehicles be brought to the next meeting of the Committee.  <i>Due by Apr-18</i>	<b>PS JM</b>	Verbal Update
22.	<b>Corporate Enforcement Report</b>	The laboratory analysis and report in respect of the asbestos contamination case at Marstown Avenue, Wigston be chased.  <i>Due by Feb-18</i>	<b>PS TC</b>	Verbal Update - Exempt Item (Agenda Item 9)
22.	<b>Corporate Enforcement Report</b>	The Leicestershire Forum exert pressure on Leicestershire County Council to consider stopping charging for disposal at household waste sites so to reduce incidents of fly-tipping.  <i>Due by Ongoing</i>	<b>PS TC</b>	Verbal Update
22.	<b>Corporate Enforcement Report</b>	An article be published in Letterbox advising residents to check if employed waste disposal firms hold the relevant permits.  <i>Due by May-18</i>	<b>PS JH</b>	Verbal Update
22.	<b>Corporate Enforcement Report</b>	The possibility of providing three, free bulk collections in any one year be investigated further so to reduce incidents of fly-tipping.  <i>Due by Apr-18</i>	<b>MH BK</b>	Verbal Update
22.	<b>Corporate Enforcement Report</b>	A list of all establishments giving a risk rating of low, medium or high and date of next inspection for food hygiene be brought to the next meeting.  <i>Due by Apr-18</i>	<b>PS TC</b>	Report Update (Agenda Item 6)
22.	<b>Corporate Enforcement</b>	That reports of private hire vehicles parking in the taxi ranks	<b>PS TA</b>	Verbal Update

	<b>Report</b>	and other parking spaces on Leicester Road, Wigston be investigated by Officers.  <i><b>Due by Feb-18</b></i>		
<b>22.</b>	<b>Corporate Enforcement Report</b>	Taxi drivers be reminded of the law and policy for accepting assistance dogs and not charging an increased fare for disabled passengers.  <i><b>Due by Feb-18</b></i>	<b>PS TC</b>	Verbal Update
<b>22.</b>	<b>Corporate Enforcement Report</b>	A report be brought back to the next meeting providing details as to how to apply for a scrap metal licence, how many licences have been issued in the Borough and any display requirements.  <i><b>Due by Feb-18</b></i>	<b>PS JM</b>	Report Update (Agenda Item 7)

\* | All actions listed are those which are informally raised by Members during the course of debate upon a given item of business which do not form part of - but may be additional, incidental or ancillary to - any motion(s) carried. These actions are for the attention of the responsible Officer(s).



<b>Licensing and Regulatory Committee</b>	<b>Thursday, 05 April 2018</b>	<b>Matter for Information</b>
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**Title:** **Corporate Enforcement Report**

**Author(s):** **Paulette Samuels (Environmental Health  
& Licensing Team Leader)**

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## **1. Introduction**

- 1.1. There are a broad range of environmental and licensing standards and legislation enforced by the Environmental Health and Licensing Teams either independently or interdependently with other service-areas of the Council.
- 1.2. This report seeks to inform the Committee of the responsibilities and the enforcement outcomes achieved in the last quartile of 2017/18, bringing this financial year to its conclusion, and providing an introduction to plans for the ensuing municipal year.

## **2. Recommendation(s)**

Members are asked to note the contents of the report.

## **3. Information**

### **3.1. Dog Fouling**

Within the period January 2018 to March 2018, the ongoing focus of pro-active enforcement activity has been the provision of advice, stencilling and placing additional signage where necessary across the Borough.

This has been the thematic approach over the last year with some impact particularly in response to problem areas and complaints presented by members of the public.

Regular monitoring visits continue in the parks and open spaces across the Borough. In the 3 months being reported upon, 48 monitoring visits have been undertaken evenly across the Borough's parks and open spaces and are seemingly acting as an ongoing and effective deterrent.

The Stray Dog service is currently under review and market research is underway to commence a tender process to secure this service over the next 3 years.

### **3.2. Public Space Protection Orders (PSPO's)**

The PSPO document for the Regulation of Dogs has now been signed and sealed following approval by Members at the meeting of the Full Council on 22 February.

The final stages of its implementation require the removal of old signage, the erection of new signs in all the parks and open spaces across the Borough and publicisation of the PSPO. This is actively underway and should be completed in the next quarter.

The date of the PSPO's enactment is to be confirmed.

### 3.3. Pest Control

44 initial requests regarding pests in domestic settings were received in the last quarter and the breakdown is shown in the table below:

<b>Pest Type</b>	<b>Numbers</b>
Rats	30
Mice	7
Cockroaches	0
Squirrels	2
Fleas/bedbugs	3
Wasps	2
Bees	0
<b>Total</b>	<b>44</b>

Total for 2017/18:

<b>Pest Type</b>	<b>Numbers</b>
Rats	95
Mice	28
Cockroaches	0
Squirrels	13
Fleas/bedbugs	17
Wasps	85
Bees	3
<b>Total</b>	<b>241</b>

## Commercialization of Pest Control Service

### 1. Marketing Strategy

Officers are engaged with the Communications Officer to design and deliver a promotional campaign concentrating on promoting the Pest Control Service for Oadby and Wigston residents and in particular, commercial outlets. This may extend into neighbouring authorities but is still in negotiations. Media will include Letterbox and the Councils website as a minimum.

### 2. Income Generation

To date one commercial contract at a nursery has been signed up out of 5 genuine inquiries. This will be used to help promote the service and attract other similar businesses who are reviewing their pest control provision.

### 3. Future Projections and Resourcing

Whilst income from Severn Trent for Sewer Baiting serves only as a contribution, it helps to defray some of the costs. However, the feasibility of delivering the same

in a neighbouring Borough is being considered for the latter quarters of the new financial year 2018/19 particularly if supplemented with agreement to deliver Pest Control services as well.

#### 4. Financial Performance of the Pest Control Service 2017/18 - Income

**Figure 1: Wasps**

<b>Months</b>	<b>2017/18</b>	<b>2016/17</b>
April	0	63
May	(460)	(325)
June	(250)	(167)
July	(660)	(971)
August	(1,489)	(2,278)
September	(886)	(3,305)
October	(530)	(1,145)
November	(287)	(535)
December	0	(50)
January	(55)	(50)
February	0	(100)
March	0	0
<b>TOTALS</b>	<b>(4,616)</b>	<b>(8,863)</b>

**Figure 2: Rodents**

<b>Months</b>	<b>2017/18</b>	<b>2016/17</b>
April	(600)	(377)
May	(300)	(383)
June	(600)	(604)
July	(975)	(778)
August	(655)	(1,858)
September	(673)	(550)
October	(1,420)	(692)
November	(950)	(725)
December	(780)	(675)
January	(565)	(850)
February	0	(1,270)
March	0	(1,050)
<b>TOTALS</b>	<b>(7,518)</b>	<b>(9,812)</b>

**Figure 3: Other Pests – Mainly Sewer Baiting (Severn Trent)**

<b>Months</b>	<b>2017/18</b>	<b>2016/17</b>
April	(80)	0
May	(92)	0
June	0	0
July	0	0
August	0	0
September	0	0
October	(2,880)	0
November	(2,400)	(92)
December	0	0
January	0	0
February	0	0
March	0	(2,800)
<b>TOTALS</b>	<b>(5,452)</b>	<b>(2,892)</b>

### 3.5. **Enforcement of Litter, Fly-Tipping and Accumulations**

Environmental Health received 5 reports of fly-tipping and 9 reports of accumulations during the last quarter which were investigated and progressed within the stipulated response times. In addition to this, the Borough is regularly monitored for any nuisances in line with the requirements of the Environmental Protection Act.

Total for 2017/18 (to 20/03/18)

<b>Reported Issues</b>	<b>Numbers</b>
Fly tipping	54
Accumulations	28
<b>Total</b>	<b>82</b>

Environmental Health attended the last meeting hosted by the Leicestershire District Partnership Environmental Enforcement Forum to devise a campaign across Leicestershire to target fly-tipping on Thursday 22 March 2018.

The current position is that the advertising strategy designed to launch the campaign has been produced centrally by the lead of the Forum (Barbara Whitcombe). It includes posters, radio presentations on Capital FM over 4 days from early May, streams via Spotify and Geezer, short videos which LAs can place on their own websites, and adverts across the county on Devereux sites, press releases and over 500 buses with posters and/or external 'branding' on routes which traverse our Borough.

A detailed enforcement strategy is also being finalised amongst the County Local Authorities to ensure consistency and maximise effectiveness.

In each Saturday in May, there will be specific promotions held in Leicester Town Centre and we are considering how we can support and promote the messages across the Borough.

### 3.6. **Abandoned Vehicles**

There have been 16 reports received of abandoned vehicles in the last two months, all of which were investigated and progressed, where necessary.

The total for 2017/18 was 70 reports.

### 3.7. **Food**

The Council has a duty to undertake inspections of Food Hygiene premises. During the inspection and under guidance from the Food Standards Agency the premises are rated accordingly. The Food Hygiene Ratings can be viewed at <http://ratings.food.gov.uk/>

Breakdown of scores (up to 20 March 2018)

<b>Score</b>	<b>No. of Food premises</b>
0	1
1	3
2	4
3	26
4	40
5	244
<b>Total</b>	<b>318</b>

"Broadly compliant" premises account for 95% of our Food Premises and represents those which score 3 or more on the Food Hygiene Rating Scheme, i.e. 310 premises.

Those 8 businesses scoring 0 to 2 inclusive are:

<b>Score</b>	<b>Name of Food premises</b>
0 (1)	Satya Restaurant, The Parade, Oadby
1 (3)	Andy Fry Pan, Queen Road, Wigston Praha, Canal Street, South Wigston Spar, Bull Head Street, Wigston
2 (4)	Best Kebab House, Leicester Road Jay D's, St Thomas Road, South Wigston Lauder School, New Street, Oadby Swat Lands, London Road, Oadby

As previously reported, the additional resources brought in for the last quarter have had a very positive impact and brought us back on target for the end of the municipal year.

Food Hygiene inspections by month January to March 2018:

January	34
February	26

March	20 (to 20/3/18)
<b>Total</b>	<b>80</b>

These 80 inspections in the last quarter to date account for 58% of the total number of inspections over the year.

18 new food businesses have been registered from 1 April 2017.

5 requests have been received from businesses for a revisit under the Food Hygiene Rating System.

Food Hygiene Inspections 2017/18:

April	5
May	0
June	8
July	20
August	17
September	3
October	18
November	2
December	3
January	34
February	26
March	20 (data captured on the 20/3/18)
<b>Total</b>	<b>136</b>

### 3.8. **Service Requests**

Service requests are issues received from residents and businesses within the Borough in relation to Environmental, Housing and Commercial matters. The department has received over 500 requests for service during the last financial year from 1 April 2017 to 23 March 2018.

### 3.9. **Infectious Diseases**

The Department undertakes investigations of infectious diseases in conjunction with Public Health England and in line with our Infectious Disease Standard Operating Procedures, to offer relevant advice on hand washing, exclusion or screening of infected individuals. 4 new cases of infectious diseases were investigated between 1 December and 20 March 2018.

### 3.10. **Departmental Update**

In addition to the Food Safety internal audit, a similar exercise has been undertaken in the Licensing service area, however, this has not been progressed by the Auditors in the last quarter.

Matters arising in the Food Audit have been addressed and implemented and are awaiting sign off from the internal auditors.

Food Sampling Campaigns are a non-statutory function which we engage in periodically and help provide a national 'picture' of compliance or non-compliance so Officers can focus enforcement and/or advice accordingly. We are presently supporting the Leicestershire Food Group and the FSA in sampling Ready to Eat (RTE) food products such as sandwiches etc. To date the results have all been good.

### **New Legislation/Policy**

- a.** Imminent changes to the definition of HMO's (Houses in Multiple Occupation) and the simultaneous widening of the definition of a HMO to include 2 storey premises. The impact may be the need for additional resources to assess the rise in the number of HMO's in the Borough and the resources required to ascertain this base line.
- b.** The Memorandum of Understanding (MOU) between the Leicestershire Fire & Rescue Service (LFRS) and the Leicestershire Councils, including Leicester Council, to ensure a consistent approach to how rented properties are approached to manage the fire safety measures. Particular focus has been on the approach to occupied residential units above food businesses that have their staircase opening into the food preparation area and hence their protected means of escape seriously compromised.
- c.** The proposed changes to Lot 20 electric heaters (originating in energy efficiency).
- d.** The introduction of Energy Performance Certificate (EPC) requirements in rented premises where no premises less than category D can be rented without the allowed exemptions, under the Minimum Energy Efficiency Standards Regulations 2018 (MEES). There is also funding available in some scenarios.

#### **3.11. Licensing**

In addition to the updates provided against the Action List, the Licensing Officers will provide a verbal update.

#### **3.12. Licensed Premises**

##### **Pubwatch/Ask Angela Campaign**

There has been no support for the Pubwatch initiative shown by the licensees in the Borough, however, they are all being advised of the 'Ask Angela' campaign that is being promoted across Leicester, aimed at protecting those who need to find a safe place, if the situation/company they are in start to make them feel uneasy and vulnerable.

##### **Background Documents:**

None.

**E-mail:** paulette.samuels@oadby-wigston.gov.uk

**Tel:** (0116) 257 2692

<b>Implications</b>   Corporate Enforcement Report	
<b>Finance</b>	The implications are as set out in the report.
<b>Chris Raymakers</b> (Head of Finance, Revenues & Benefits)	
<b>Legal</b>	The report is satisfactory.
<b>Dave Gill</b> (Head of Law & Governance / Monitoring Officer)	
<b>Corporate Risk(s) (CR)</b>	<input checked="" type="checkbox"/> <b>Regulatory Governance (CR6)</b> Ensuring the Council has a coherent and transparent Enforcement Policy across the Borough and across all tenures.  <input checked="" type="checkbox"/> <b>Other Corporate Risk(s)</b> Failure to implement the Policy will leave the Council in a position of being unable to defend actions taken by Enforcement Officers in pursuance of their required duties.
<b>Paulette Samuels</b> (Environmental Health & Licensing Team Leader)	
<b>Corporate Priorities (CP)</b>	<input checked="" type="checkbox"/> <b>An Inclusive and Engaged Borough (CP1)</b> The entire Borough will be covered by an all encompassing enforcement policy.  <input checked="" type="checkbox"/> <b>Effective Service Provision (CP2)</b> Provides direction and focus for enforcement decisions.
<b>Paulette Samuels</b> (Environmental Health & Licensing Team Leader)	
<b>Vision &amp; Values (V)</b>	<input checked="" type="checkbox"/> <b>Accountability (V1)</b> Policy makes all Enforcement Officers responsible for a course of action.  <input checked="" type="checkbox"/> <b>Respect (V2)</b> All persons that will meet enforcement and Licensing Officers will be provided with a respectful and transparent approach to dealing with the issues at hand.  <input checked="" type="checkbox"/> <b>Teamwork (V3)</b> Cross department methodology building teamwork within the departments.
<b>Paulette Samuels</b> (Environmental Health & Licensing Team Leader)	
<b>Equalities &amp; Equality Assessment(s) (EA)</b>	There are no significant equalities implications.
<b>Paulette Samuels</b> (Environmental Health & Licensing Team Leader)	<input checked="" type="checkbox"/> <b>Not Applicable (EA)</b>



<b>Licensing and Regulatory Committee</b>	<b>Thursday, 05 April 2018</b>	<b>Matter for Information and Decision</b>
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**Title:** **Licensing of Scrap Metal Dealers and Collectors**

**Author(s):** **James Mortell (Licensing Officer)**

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## **1. Introduction**

- 1.1. This is an information report in response to Members' request at the Licensing and Regulatory Committee ("the Committee") meeting held on 25 January to outline the procedure for, and relating to a, Scrap Metal Dealers and Collectors Licences.
- 1.2. Members requested information relating to:
  - a. The application process;
  - b. How many licences have been issued by the Council; and
  - c. The display requirements for a licence issued.
- 1.3. Full and further information can be found in the Licensing of Scrap Metal Dealers Policy (2014-2019) adopted by the Committee on 9 July 2014 at the Appendix.

## **2. Recommendation(s)**

That Members note the contents of the report.

## **3. Information**

### **3.1. The Application Process**

The applicant will need to complete an application form which is available on the Council's website, the Customer Service Centre on Bell Street, Wigston or from the gov.uk website.

A fee needs to be paid (currently £330.00).

The applicant will also require a basic Disclosure and Barring Service (DBS) check.

In assessing an applicant's suitability to hold a licence, the Council is permitted under Section 3(7) of the Scrap Metal Dealers Act 2013 to consult any other person, and in particular the following:

- a. Any other local authority;
- b. The Environment Agency;
- c. The National resources body for Wales; and
- d. Any Officer of a Police Force.

The Council will also consult the appropriate registers held by The Environment Agency (EA) in relation to all applications.

An applicant's suitability is determined in accordance with the adopted Policy.

### 3.2. **How Many Licences Have Been Issued by the Council**

There are currently issued:

2 x Scrap Metal Dealer - Site Licences  
Neil Tribe (Home address withheld)  
Nigel Gordon Roe (Home address withheld)

1 x Scrap Metal Dealer - Mobile Collector  
Neil Tribe (Home address withheld)

### 3.3. **Display Requirements**

A copy of a site licence must be displayed in a prominent place, accessible to and viewable by members of the public, at each of the sites identified in the licence.

A copy of a collector's licence must be displayed on any vehicle used in the course of the dealer's business and be displayed in a manner which enables the licence to be easily read by a person from outside of the vehicle.

The Council's recommendation is that all licences are copied, with the original being kept in a safe place and the copy being displayed as appropriate.

#### **Background Documents:**

Licensing of Scrap Metal Dealers Policy (2014-2019)  
Scrap Metal Dealers Act 2013 (accessible at  
<http://www.legislation.gov.uk/ukpga/2013/10/enacted>)

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<b>Implications</b>   Licensing of Scrap Metal Dealers and Collectors	
<b>Finance</b>	There are no financial implications arising from this report.
<b>Chris Raymakers</b> (Head of Finance, Revenues and Benefits)	
<b>Legal</b>	The legal implications are as set out in the report. The report is satisfactory.
<b>David Gill</b> (Head of Law & Governance / Monitoring Officer)	
<b>Corporate Risk(s) (CR)</b>	<input checked="" type="checkbox"/> <b>Not Applicable</b>
<b>James Mortell</b> (Licensing Officer)	This is a report for information only.
<b>Corporate Priorities (CP)</b>	<input checked="" type="checkbox"/> <b>Not Applicable</b>
<b>James Mortell</b> (Licensing Officer)	This is a report for information only.
<b>Vision &amp; Values (V)</b>	<input checked="" type="checkbox"/> <b>Not Applicable</b>
<b>James Mortell</b> (Licensing Officer)	This is a report for information only.
<b>Equalities &amp; Equality Assessment(s) (EA)</b>	There are no equalities implications arising from this report.
<b>James Mortell</b> (Licensing Officer)	<input checked="" type="checkbox"/> <b>Not Applicable (EA)</b>

# Oadby & Wigston Borough Council

## Licensing of Scrap Metal Dealers 2014 - 2019

Committee approval	Licensing and Regulatory Committee 9 July 2014
Author	Adam Ward; Legal Officer
EIA	23 June 2014
Renewal	July 2019
Final Version	



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This Policy will be kept under review by the Corporate Resources (Licensing Team). Minor amendments to the Policy may be made by the Corporate Resources (Licensing Team) from time to time where those changes are simply for purposes of the readability of the document.

Substantive alterations arising out of changes in legislation or the interpretation of that legislation by the Courts, or for the purposes of amplifying or updating an intent already expressed in this Policy may be made by the Licensing and Regulatory Committee.

Any other Policy changes will be made by the Licensing and Regulatory Committee following appropriate consultation.

## PART 1: Introduction

The Scrap Metal Dealers Act 2013 ("the Act") came into effect on 1 October 2013 replacing the system of registration under the Scrap Metal Dealers Act 1964 with a full licensing regime.

The Act requires Oadby and Wigston Borough Council ("the Council") to only licence those who it considers suitable to carry out the business of a scrap metal dealer.

The ability to regulate the suitability of scrap metal dealers is designed to improve operating standards across England and Wales, reduce the levels of crime associated with metal theft and to encourage those dealers who do not operate to the high standards of the majority of reputable dealers to take the appropriate steps to do so or risk being unlicensed and unable to operate legally.

## PART 2: Definition of a scrap metal dealer

The Act states that a person is classed as carrying on the business of 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.

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.

But does not include:

- (a) gold
- (b) silver
- (c) any alloy of which 2% or more by weight is attributable to gold or silver.

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

- (a) wholly or partly in recovering salvageable parts from motor vehicles for re-use or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap
- (b) wholly or mainly buying written-off vehicles and subsequently repairing and reselling them
- (c) wholly or mainly in buying or selling motor vehicles which are to be the subject of (whether immediately or on a subsequent re-sale) of any of the activities mentioned in (a) or (b), or
- (d) wholly or mainly in activities falling within paragraphs (b) and (c).

## PART 3: Definition of carrying on the business of a Scrap Metal Dealer

The definition of "carrying on the business" of a scrap metal dealer, stated in Part 2 of this Policy, is not further defined by the Act and ultimately would be a question for the Courts.

Whether someone is carrying on a business of a scrap metal dealer is a question that will in the first instance be determined by the Council based upon the facts and merits of the individual circumstances having regard to the Act and any Government guidance.

The Act exempts the selling of scrap metal where it is an "ancillary sale". An ancillary sale is the sale of any metal produced as a by-product of manufacturing articles or a surplus of materials not required for manufacturing articles.

The Act does not however create an exemption for "ancillary purchases" of scrap metal.

## PART 4: Licences granted by the Council

There are two types of licence specified in the Act that may be applied for and subsequently granted by the Council. A scrap metal dealer can only hold one of the two types of licence. In most instances the type of licence needed will be obvious to the applicant but applicants are advised to take their own legal advice should they be unsure of which type they need.

The two types of licence available are:

### 1. Site licence

This licence will be required for any premises from which a person carries on the business of a scrap metal dealer.

A site licence permits the person carrying on the business at that site to transport scrap metal to and from that site, even if the starting or ending destination is outside of the local authority area in which that site is licensed.

A site licence is required to have an individual named on that licence as a site manager.

### 2. Collector's licence

This licence is required for any person that carries on the business of a scrap metal dealer other than from a site and regularly engages, in the course of a business, in collecting waste materials, old, broken, worn out or defaced articles by means of visits from door to door.

A collector's licence only authorises the collector to collect in the local authority area in which their licence is granted. A separate licence must be obtained from each relevant council for the areas the collector wishes to collect in.

A person may hold more than one collector's licence issued by different local authorities, but may not hold more than one licence issued by any one authority.

## PART 5: Applying for a Licence

The relevant application form is available from the Council Offices or can be downloaded from the Council website. A fee, published each year in the Councils scale of charges, will be required to be paid at the time of application. The application form requires the following information:

- a) if the applicant is an individual, the full name, date of birth and usual place of residence of the applicant
- b) if the applicant is a company, the name and registered number of the applicant and the address of the applicant's registered office
- c) if the applicant is a partnership, the full name, date of birth and usual place of residence of each partner
- d) any proposed trading name
- e) the telephone number and e-mail address (if any) of the applicant
- f) the address of any site in the area of any other local authority at which the applicant carries on business as a scrap metal dealer or proposes to do so
- g) details of any relevant environmental permit or registration in relation to the applicant or site manager
- h) details of any other scrap metal licence issued (whether or not by the local authority) to the applicant within the period of 3 years ending with the date of the application or site manager
- i) details of the bank account which is proposed to be used in order to comply with section 12 of the Act (scrap metal not to be bought for cash etc), and
- j) details of any conviction of the applicant for a relevant offence, or any relevant enforcement action taken against the applicant or site manager.

If the application relates to a site licence, it must also be accompanied by:

- a) the address of each site proposed to be identified in the licence (or, in the case of an application to renew, of each site identified in the licence whose renewal is sought), and
- b) the full name, date of birth and usual place of residence of each individual proposed to be named on the licence as a site manager (other than the applicant).

These requirements may be amended by the relevant Secretary of State from time to time and where such amendments are made by regulation those amendments shall take precedence over this policy.

Applicants should note that it is an offence under paragraph 5 of Schedule 1 of the Act to give false information to the Council in relation to an application.

The above is required to be given as it either relates to information that the Act requires to be included on any licence granted, the details are required by the Act to be provided to the Environment Agency for inclusion on the national register of scrap metal dealers or it assists the Council in its assessment of an applicant's suitability to hold a licence.

## PART 6: Further information required and criminal record checks

Schedule 1, paragraph 4(1) of the Act entitles the Council to request any further information that it regards as relevant to considering an application. The Council will therefore require applicants to provide evidence of their criminal record upon application.

An agreement has been reached between the Home Office and Disclosure Scotland allowing applicants for a scrap metal dealers licence to apply for a basic disclosure to Disclosure Scotland as part of the application process.

The basic disclosure certificate should be provided to the Council with the application and be no more than three calendar months old on the date the application is made.

If the applicant is a company, the Council will require the name, address and a basic disclosure certificate for each director and company secretary and for each shadow director and company secretary.

The Council may, at its discretion, permit an applicant to make an application without the basic disclosure certificate where satisfied that exceptional circumstances justify the departure from this policy. However no determination will be made of any application until a basic disclosure certificate has been provided. The decision to exempt an applicant from this requirement will be made by the Head of Corporate Resources.

The Council will also require each application to include a written statement as to the security arrangements that exist or will exist to prevent the unlawful purchase, sale or theft of scrap metal and the details of the arrangements to be used to record sales, storage and the purchase of scrap metal.

Mobile collectors will additionally be required to provide the details of the vehicles to be used and where those vehicles and any metal collected will be stored. Applicants for site licences will be required to supply a scale plan of the site they wish to be licensed.

## PART 7: Assessing the suitability of an applicant

Section 3 of the Act prevents the Council from granting a licence unless it is satisfied that the applicant is a suitable person to carry on the business of a scrap metal dealer. This is known in this policy as the 'suitability test'.

In the case of a partnership this means assessing the suitability of each of the partners in the partnership and in the case of a company it means assessing the suitability of the directors, company secretary and any shadow directors and shadow company secretaries.

All references to "applicant" in this part should be read as referring either to an individual applicant, a partner of a partnership, a director or secretary of a company or a shadow director or shadow secretary of a company.

In assessing the suitability of an applicant the Council may have regard to any information it considers relevant. However, in assessing suitability the Act requires the Council to have particular regard as to whether:

- a) the applicant or site manager has been convicted of a relevant offence
- b) the applicant or site manager has been subject to any relevant enforcement action
- c) the applicant has previously been refused a scrap metal dealers licence or the renewal of such a licence and the reasons for such a refusal
- d) the applicant has previously been refused a relevant environmental permit or registration and the reasons for such a refusal
- e) the applicant has previously held a scrap metal dealers licence that has been revoked and the reasons for that revocation.
- f) the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

By receiving a basic disclosure the Council will be able to assess in the most efficient way whether the applicant has been convicted of any of the prescribed relevant offences.

The list of relevant offences are set out in regulations which may be amended from time to time by the relevant Secretary of State,

The basic disclosure certificate will only reveal unspent convictions on the Police National Computer database and not necessarily details of convictions for relevant offences secured by, or relevant enforcement action carried out by, the Environment Agency/Natural Resources Wales or other local authorities.

As such, the Council is permitted under Section 3(7) of the Act to consult any other person regarding the suitability of an applicant and in particular the following:

- a) any other local authority
- b) the environment agency
- c) the natural resources body for Wales
- d) any officer of a police force.

Where a basic disclosure certificate reveals an unspent relevant conviction the Council may seek additional information from the police to enable them to better assess the applicant's suitability. If no unspent convictions are revealed on the basic disclosure the Council will not necessarily need to consult the police unless it is aware of other information which suggests such consultation is necessary.

Where an application for a licence has been made by the applicant to another local authority under the Act and it has been refused or where a licence held by the applicant under the Act has been revoked by another local authority the Council will consult that authority. If there is no information disclosed by the applicant relating to any other application or licence held the Council may choose not to consult any other local authority.

The Council will consult the appropriate registers held by the Environment Agency (EA) in relation to all applications. Where the applicant has an application for a permit refused by the EA, had a permit revoked by the EA or been subject to enforcement action by the EA the Council will consult with that agency for further details.

Where there is no evidence of a refusal, revocation or enforcement action taken by the EA in respect of the applicant the Council may decide not to consult any further with the EA.

The Council may choose to consult with any other person it deems necessary to enable it to assess the suitability of an applicant. Other persons consulted will be based on the relevant merits of each application.

## PART 8: The Suitability Test

The suitability test is a continuing one and applies to applicants for licences and to those granted a licence under the Act by the Council. In this part, references to the "applicant" should be read as referring to individual applicants, a partner of a partnership, a director or secretary of a company or a shadow director or shadow secretary of a company. References to a licence holder should be read as referring to individual licence holders, a partner of a partnership who holds a licence, a director or secretary of a company who holds a licence or a shadow director or shadow secretary of a company who hold a licence.

The determination of whether an applicant or licence holder is or is not suitable to hold a licence will be made considering the relevant facts and individual merits of each case.

The basic disclosure and consultation with the bodies named in the preceding part of this policy will, in most instances, reveal if a conviction has been received by, or relevant enforcement action has been taken against, the applicant or licence holder.

The Council will also take into consideration any other action that may have been taken against the applicant or a licence holder under any other legislation enforced by the Council or a regulatory regime enforced by a national or local body. This includes, but is not limited to licensing, planning, building control, environmental legislation and the Information Commissioners Office. The Council will also consider the applicant or licence holders level of compliance with such regulatory regimes.

Where an applicant or licence holder has been convicted of a relevant offence, subject to relevant enforcement action or had a licence under the Act refused or revoked the Council will consider that the applicant or licence holder is not suitable to hold a licence.

The applicant or licence holder will remain unsuitable in the eyes of the Council until a period of at least 5 years has elapsed since that relevant conviction, relevant enforcement action, revocation or refusal with no further transgressions of a similar nature.

Where a conviction has been received by the applicant or a licence holder that is not a relevant offence but calls into question the suitability of the applicant or licence holder the Council will again consider that the applicant or licence holder is unsuitable to hold a licence until 5 years has elapsed without any further transgressions of a similar nature.

Convictions that would call into question the suitability of an applicant or licence holder include those that involve an element of dishonesty, fraud, violence or sexual offence.

Minor issues of non-compliance with regulatory regimes or convictions for non relevant offences where a custodial sentence has not been received may be exempt from the

Council's requirement that 5 years must have elapsed where the Head of Corporate Resources is of the opinion that the issue of non-compliance or the offence does not significantly call into question the applicants suitability.

The Council will also consider the cumulative effect of any relevant offence, relevant enforcement action, issues of non-compliance with other regulatory regimes or convictions for non-relevant offences when assessing the suitability of an applicant or licence holder.

The consideration of the cumulative effect will be based upon the number of offences, the nature of the offences and the frequency of offences.

Nothing in this part of the policy will however prevent the Council from considering an application on its merits and an applicant will be afforded the opportunity to make representation to satisfy the Council of their suitability before any final determination of a refusal or revocation is made.

## PART 9: Determining Applications

The Head of Corporate Resources will determine all applications under the Scrap Metal Dealers Act 2013 in the first instance. The Head of Corporate Resources will make this decision upon the report of the member of Corporate Resources (Licensing Team) dealing with the application.

The Head of Corporate Resources will determine applications to grant or renew or vary a scrap metal dealers licence where satisfied that the applicant is suitable to hold a licence.

Where a report is given to the Head of Corporate Resources that indicates that the applicant is not suitable to hold a licence or that an existing licence holder is not suitable to hold a licence the procedure identified in Part 10 of this policy will apply.

## PART 10: Refusals and revocations

The Head of Corporate Resources will, in the first instance, make a determination as to whether the applicant or licence holder is suitable. Where the Head of Corporate Resources considers the applicant or licence holder not to be suitable the applicant or licence holder will be given a written notice informing them that their application is to be refused or their licence revoked and the reason(s) for that decision.

In addition to revoking a licence where the Head of Corporate Resources is satisfied that the licence holder is unsuitable the Head of Corporate Resources may also revoke a licence where satisfied that the licensee does not carry on the business of a scrap metal dealer at any of the sites identified in the licence or that a site manager named on the licence does not act as a site manager at any of the sites identified in the licence.

Before refusing an application or revoking a licence the Head of Corporate Resources will notify in writing the applicant or licence holder and allow them 14 days from the date of that notice to notify the Head of Corporate Resources as to whether they wish to make representations to the Council against its decision to refuse or revoke.

If the applicant or licence holder wishes to make representations they must inform the Head of Corporate Resources as to whether or not they wish to make written representations or oral representations. Upon the receipt of their request to make written representations they will be given 20 working days to do so.

Where an applicant or licence holder requests to make oral representation in response to a notice of refusal or revocation a hearing will be held before a sub-committee formed of 3 members of the Licensing and Regulatory Committee. The sub-committee will determine whether the applicant or licence holder is suitable to hold a licence.

Any hearing held will, as far as permissible, be in accordance with the Oadby and Wigston Borough Councils Code of Practice for Hearings under the Licensing Act 2003. The date of the hearing will be arranged as close to the day after the 20<sup>th</sup> working day following the date upon which the applicant or licence holder confirmed that they wished to make oral representations.

Where an applicant wishes to make written representations these will be considered by the Head of Corporate Resources.

Where an applicant or licence holder does not notify the Head of Corporate Resources that they wish to make representations the Council's decision to refuse or revoke will take effect at the end of the 14 days initially given in the Head of Corporate Resources' notice of refusal.

## PART 11: Imposition of Conditions

Where an applicant, licence holder or any site manager has been convicted of a relevant offence the Council may still grant a licence or vary a licence by adding one or both of the following conditions:

1. that the dealer must not receive scrap metal except between 9 a.m. and 5 p.m. on any day
2. 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.

The imposition of such conditions may be as an alternative to a refusal or revocation but the Council are not obliged to consider the imposition of the above conditions and may choose not to do so where satisfied that the applicant or licence holder is not suitable to hold a licence.

A revocation or variation comes into effect when no appeal under the Act is possible in relation to the revocation or variation (i.e. when the time allotted by the Act for an appeal to be made has expired) or when any appeal made is determined or withdrawn.

However, if the Council considers that the licence should not continue in force without the above 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 above or

- b) that a variation under this paragraph comes into effect immediately.

## PART 12: Variation of Licences

The Act provides for a licence to be varied in a limited number of circumstances.

A licence may be varied from one type of licence to the other as often as a licence holder wishes, subject to the suitability test. A licence holder is also required to vary their licence if any of the following occur;

- a) the name of the licensee changes
- b) a site (or sites) identified in the licence change, whether or not this is a decrease or increase in the number of sites licensed by the licence or substitution of one site named in the licence for one that is not.
- c) site manager changes

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

## PART 13: Notices of Decision and Appeals

### Notice of Decision

If an application is refused, or a licence is revoked or varied, a notice shall be given to the applicant or licence holder setting out the decision and the reasons for it and the date on which that decision takes effect. The notice shall also state that an appeal against the decision may be made by the applicant or licence holder within 21 days beginning with the day on which notice of the decision was given.

### Appeals

An applicant may appeal to a magistrates court against the refusal of an application or a variation of a licence and a licence holder may appeal to a magistrates court against the revocation or variation of a licence or the inclusion in a licence of a condition specified in part 11 of this policy.

Any applicant or licence holder wishing to appeal against a decision of the Council should take their own legal advice or contact the magistrates court. The Council is unable to assist applicants in making an appeal against its decision.

## PART 14: Renewals

A licence will last for a period of three years and will need to be renewed in good time for that licence to continue. The Council are not obliged to remind licence holders of the date their licence expires or of the need for it to be renewed. The expiry date will be clearly displayed on the licence which the licence holder is required to display. Application forms will be available from the Council Offices and/or its website.

Should a renewal application not be made a licence will expire on its expiry date. If a renewal application is made but later withdrawn the licence expires at the end of the day on which the application is withdrawn.

If a renewal application is refused the licence will expire either at the end of the time period permitted under the Act for appealing the Council's decision or where the decision is appealed when the result of that appeal is confirmation of refusal.

## PART 15: Grant of a Licence

Once granted a licence will last for a duration of three years beginning on the day in which it is granted.

A site licence will;

- a) name the licensee
- b) name the Oadby and Wigston Borough Council as the issuing authority
- c) identify all the sites within the Borough at which the licensee is authorised to carry on business
- d) name the site manager of each site, and
- e) state the date on which the licence is due to expire.

A collector's licence will;

- a) name the licensee
- b) name the authority, and
- c) state the date on which the licence is due to expire.

The licence holder is responsible for ensuring that the licence is displayed in the manner required by the Act.

A copy of a site licence must be displayed in a prominent place, accessible to and viewable by, members of the public, at each of the sites identified in the licence.

A copy of a collector's licence must be displayed on any vehicle used in the course of the dealer's business and be displayed in a manner which enables the licence to be easily read by a person from outside the vehicle.

Failure to display a copy of a licence correctly is an offence punishable on summary conviction to a fine not exceeding level 3 on the standard scale. It is however permitted for a licence holder to display a copy of their licence rather than the original.

The Council recommends that licence holders keep their original licence in a safe place and ensure that copies of it are displayed at all sites or on all vehicles used in reliance of that licence.

## PART 16: Record keeping

The Act imposes strict requirements on licence holders which are outlined below. The responsibility for complying with the terms of the Act falls upon the licence holder and they should refer to the Act itself or seek their own legal advice about these matters.

### Verification of supplier's identity

Scrap metal dealers must not receive scrap metal from any person before they have verified the full name and address of that person by reference to documents, data or other information obtained from a reliable and independent source.

The Council advise that this should be limited to passports, driving licences or other similar official documents which display a photograph of that person and an address.

If the full name and address are not verified the scrap metal dealer, the site manager (if receipt was at a site) and any person who, under arrangements made by the scrap metal dealer or site manager was responsible for verifying the full name and address are guilty of an offence.

### Payment for scrap metal

A scrap metal dealer must only pay for scrap metal by either a cheque (which is not transferable under Section 81A Bills of Exchange Act 1882) or the electronic transfer of funds (authorised by a credit, debit card or otherwise).

Purchases of scrap metal by cash or any other payment ( which includes paying in kind – with goods or services) is a criminal offence.

### Recording the receipt of scrap metal

Scrap metal dealers must record all metal received in the course of the dealers business by recording, as a minimum, the following;

- (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 the scrap metal was delivered by
- (d) the full name and address of the person delivering it
- (e) the full name of the person making payment on behalf of the dealer

The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal. If payment is made by cheque the dealer must retain a copy of that cheque.

If payment is made by electronic transfer, the dealer must keep a receipt identifying the transfer, or (if there is no receipt identifying the transfer) record the particulars identifying the transfer.

### Recording the disposal of scrap metal

Scrap metal dealers must also record the disposal of any scrap metal that is disposed of in the course of a business.

The Act regards 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.

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 if 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.

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

### Supplementary records

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. The information should be recorded in a manner which allows the scrap metal to which it relates, when received and when disposed of, to be readily identified by reference to each other.

If a scrap metal dealer fails to fulfil its requirements to keep accurate and correct records the scrap metal dealer, the site manager (if the records relate to a site) and any person who, under arrangements made by the scrap metal dealer or site manager was to keep and make the records are guilty of an offence under section 15 of the Act.

## PART 17: Notifications

An applicant for a scrap metal licence, or the renewal or variation of one, must notify the Council of any changes which materially affect the accuracy of the information the applicant provided in connection with their application.

A licence holder who ceases to carry on the business of a scrap metal dealer within the Borough must notify the Council within 28 days.

A licence holder must also notify the Council if there is any change to their business or trading name within 28 days of such a change occurring.

The applicant commits a criminal offence under the Act if he does not notify the Council upon any of the above occurrences and the failure to do so may also call into question the suitability of the licence holder.

Where an applicant has notified the Council that they are not carrying on the business of a scrap metal dealer or that they have changed their business or trading name the Council will notify the EA within 28 days.

The Council is also required to notify the EA of any licence granted, any variation granted or of any revocation of a licence within 28 days of such decision being made.

## PART 18: Enforcement

Enforcement and prosecutions carried out by the Council in relation to scrap metal dealers will be done in accordance with the Act, this policy and any other policy that the Council may adopt governing enforcement and prosecutions carried out corporately by the Council.

An Officer of the Council may enter and inspect a licensed site at any reasonable time upon notice to the site manager or at anytime without 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 the Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.

Whilst inspecting a licensed site a Council Officer may;

- (a) require the production of, and inspect, any scrap metal kept at the premises
- (b) require production of, and inspect, any records kept in accordance with the Act
- (c) require production of any other records relating to payment for scrap metal
- (d) take copies of or extracts from any such records.

An Officer of the Council is not permitted to use force to enter premises but where entry is unable to be achieved an Officer may apply to the Magistrates Court for a warrant authorising entry. Reasonable force may be used in the exercise of powers under a warrant issued under the Act.

The powers detailed above may also be exercised by a police constable.

## PART 19: Closure notices and closure orders

### Closure Notice

Where an Officer of the Council is satisfied that premises are being used by a scrap metal dealer in the course of business and those premises are not a licensed site a closure notice may be given.

A closure notice will be given to the person who appears to be the site manager of the premises used for the illegal activity 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 such as the owner, leaseholder or occupier of the premises or to any person who occupies another part of the building or structure, of which the premises forms part of, whose access to that part would be impeded if a closure order was made.

The closure notice will state that the Council is satisfied that the premises are being used by a scrap metal dealer in the course of a business without a licence, that the Council may apply to the magistrates court for a closure order unless the use of the premises ceases and the steps which may be taken to ensure that the alleged use of the premises ceases.

### Cancellation of Closure Notice

The Council may cancel a closure notice by giving a "cancellation notice" to all the persons to whom a copy of the closure notice was given. The notice will however take effect once given to one of those persons.

### Application for Closure Order

Following the giving of a closure notice the Council will make an application to the magistrates court for a closure order to be granted. An application will be made between 7 days and 6 months from the date the closure notice was given.

These timescales offer the opportunity for any person to whom the closure notice was given to cease committing the illegal activity, work with the Council to take appropriate steps to prevent the illegal activity occurring or inform the Council that the illegal activity is not being committed.

If the Council is satisfied 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 the application for a closure order will not be made or if it has been made it may be withdrawn.

If granted by the magistrates court a closure order requires the premises to be closed to the public and the use of the premises by the scrap metal dealer in the course of business must be discontinued immediately. Any defendant to the application must pay into court such sum as the court determines and that the sum will not be released by the court to that person until any other requirements of the order are met.

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 and any other provision the court considers appropriate for dealing with the consequences if the order ceases to have effect.

### Termination of Closure Order by Certificate

Once the Council is satisfied that the need for the order has ceased a certificate may be issued to cease the effect of the order and any sum paid into a court is to be released back to the defendant.

As soon as practicable after making a certificate the Council will give a copy to any person to whom the closure order was made, give a copy to 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.

#### **Discharge of Closure Order by Court**

A closure order may be discharged by the magistrates court upon the application of any person to whom the closure notice was given or any person who has an interest in the premises, such as the owner, leaseholder or occupier of the premises or to any person who occupies another part of the building or structure, of which the premises forms part of, whose access to that part would be impeded if a closure order was made, but to whom the closure notice was not given.

The court will discharge the order if satisfied that there is no longer a need for the closure order.

#### **Appeal in relation to Closure Orders**

An appeal may be made to the Crown Court in respect of any decision made by the magistrates court to grant, not to grant, discharge or not to discharge a closure order within 21 days of the Magistrates Court decision.

#### **Enforcement of Closure Order**

Once a closure order has been made an Officer of the Council may enter the premises specified in the order at any reasonable time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order. Reasonable force may be used to enter the premises.

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

By virtue of paragraph(s) 1, 2, 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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