



**SWALE BOROUGH COUNCIL**  
**SCRAP METAL DEALERS POLICY**  
**2018 -2021**

This Scrap Metal Dealers Policy was prepared taking into account the Scrap Metal Dealers Act 2013

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## SWALE BOROUGH COUNCIL - SCRAP METAL POLICY 2018 - 2021

### 1. Introduction

- 1.1. Metal theft over the last few years has had a significant impact upon our communities, businesses and the local authority. Such thefts have seen communications and the train networks disrupted, as well as significant costs to local authorities in relation to stolen drainage gully covers and stolen road signs.

The Scrap Metal Dealers Act 2013 (The Act) was introduced to address these issues, ensuring that the sale, collection, storage and disposal of scrap metal are carried out lawfully.

- 1.2 The Act identifies the local authority as the principal regulator and gives the Council the authority to regulate these industries by the ability to refuse licences to 'unsuitable' applicants and the power to revoke those licences held by licence holders who become 'unsuitable'.

- 1.3 This policy outlines the requirements of the Scrap Metal Dealers Act 2013. It also provides guidance to new applicants, existing licence holders and members of the public as to how the council will undertake its role in the administration and enforcement of the Act.

This policy is intended to reinforce the aims of the policy and the Regulators Code by promoting effective practice, ensuring proportionate, consistent and targeted regulator activity, whilst developing a transparent and effective dialogue and understanding between regulators and those we regulate.

- 1.4 Nevertheless, Swale Borough Council (the licensing authority) may depart from its own policy if individual circumstances warrant such a deviation.
- 1.5 The Council sees the licensing process as an integral part to its approach to achieving its strategic and corporate objectives which encompasses the visionary goals of:

- A Borough to be proud of
- A Community to be proud of
- A Council to be proud of

- 1.6 The policy will be reviewed every 3 years, and the following will be consulted
- a) Kent Police
  - b) Kent Fire and Rescue
  - c) Kent Trading Standards
  - d) Environment Agency

- d) Swale Borough Council Environmental Services
- e) Any relevant trade associations
- f) Neighbouring local authorities

## 1.7 Equalities

The Council is committed to ensuring that it tackles social inclusion and diversity issues across all its services and as an employer. We recognise that individuals may experience unlawful discrimination as a result of personal characteristics protected in law, and that individuals and communities may also experience discrimination and disadvantage on the basis of wider, social, economic and demographic characteristics. We believe that equality for all is a basic human right and actively oppose all forms of unlawful and unfair discrimination. We recognise and value the diversity of society and are striving to promote and reflect that diversity within this Council

## 2. Background

2.1.1 The Scrap Metal Dealers Act 2013 came into force on 1 December 2013. It repealed previous legislation and created a new regulatory regime for scrap metal recycling and vehicle dismantling.

2.1.2 The Act defines 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 (see 2.4)

2.1.3 The selling of scrap metal as surplus materials or as a by-product of manufacturing articles is not to be regarded as ‘carrying on a business’ as a scrap metal dealer.

2.1.4 Motor salvage operation is defined in the Act 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)

## 2.2 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 holders as having reached the end of its useful life.
- (c) This definition does include platinum and other rare metals now being used in catalytic converters in vehicle exhausts.

## 2.3 Scrap metal does not include

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

## 3. **Types of Licence**

3.1 In order for anyone to carry on a business as a scrap metal dealer, or collector they must have a licence. A licence is valid for three years from the date of issue and permits the holder to operate within the boundaries of Swale Borough. Trading without a licence is a criminal offence.

3.1.2 A person may hold more than one licence issued by different local authorities but may not hold more than one licence issued by any one authority.

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

- (a) a site licence; or
- (b) a collector's licence

A dealer can only hold one type of licence in any one local authority.

### 3.2. Site Licences

A site under the Act is defined as 'any premises used in the course of carrying on a business as a scrap metal dealer, (whether or not metal is kept there). This means a dealer will require a licence for an office, even if they do not operate a metal store or yard from those premises. A site licence allows the holder to transport scrap to and from the site from any local authority area.

3.2.1 The site licence must include:

- (a) the name of the licensee;
- (b) the name of the authority;

- (c) all the sites in the authority's area at which the licensee is authorised to carry on business;
- (d) the name of the site manager of each site:
- (e) the date of expiry (which is 3 years from the date of issue)

A site licence must be displayed at each site identified on the licence, in a prominent place accessible to members of the public.

### 3.2.3 Collectors licences

The Act defines a 'collector' as a person who –

- (a) carries on business as a scrap metal dealer otherwise than at a site;
- (b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door

This licence does not permit the holder to operate a scrap metal site, nor does it allow collection from outside the area of the issuing licensing authority. If a person collects scrap from numerous local authority areas, a collector's licence will be required from each authority he/she collects scrap within.

### 3.2.4 A collector's licence must include:

- (a) the name of the licensee;
- (b) the name of the authority;
- (c) the date of expiry (which is 3 years from the date of issue)

## 4. Applicant Suitability

4.1 The Council must determine if an applicant is a suitable person to carry on a business as a scrap metal dealer. 'Applicant' includes sole traders, partners of a partnership and directors, secretary and shadow directors of a company.

4.1.2 In determining a person's suitability the Council will have regard to:-

- (a) Statutory Guidance;
- (b) Its Policy

4.1.3 Notwithstanding the existence of this policy, the Council, when determining a person's suitability for the purposes of the Act, will treat each case on its own individual merits.

4.1.4 In determining suitability the Council will require the applicant to produce a Disclosure and Barring Services records check. Where the applicant has previously lived outside the United Kingdom the Council will not consider the grant of a licence until a relevant check has been completed with the relevant

country or countries and details of such check submitted to the Council. A Certificate of Good Conduct will need to be submitted in such cases.

4.1.5 As well as its policy and statutory guidance, the Council, when determining a person's suitability, may have regard to any other information it considers relevant, in particular, but not limited to:

- (a) whether the applicant or site manager has been convicted of any relevant offence;
- (b) whether the applicant or site manager has been the subject of any relevant enforcement action;
- (c) any previous refusal of an application for the issue or renewal of a scrap metal licence (and the reasons for the refusal);
- (d) any previous refusal of an application for a relevant environmental permit or registration (and the reasons for the refusal)
- (e) any previous revocation of a scrap metal licence (and the reasons for the revocation);
- (f) whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of the Act are complied with;
- (g) any relevant offences or relevant enforcement action listed under the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 as shown as Appendix A to this policy.

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

4.1.6 When establishing the applicant's suitability, the Council may consult other persons regarding the suitability of an applicant, including, but not limited to:

- (a) any other local authority
- (b) the Environment Agency or any successor organisation
- (c) an officer of a police force
- (d) HM Revenues and Customs
- (e) Kent Trading Standards
- (f) Planning department of Swale Borough Council
- (g) Environmental Response team of Swale Borough Council

- 4.1.7 While the Act states that the Council must have regard to the relevant offences laid out in Appendix A of this policy, the Council is not limited to taking into account only those offences. As such the Council may consider other offences that, in the Council's opinion, may be relevant in determining an applicant's suitability.
- 4.1.8 Having regard to the objectives of the Act, the Council has determined it will consider the following offences, or enforcement actions relating to any person relevant to the licence, as being of particular relevance to the suitability of the licence holder:
- (a) written warning relating to scrap metal compliance;
  - (b) Waste regulations 2011 – enforcement, compliance and stop notices;
  - (c) Permitting regulations notices;
  - (d) Planning Breach of Condition/Enforcement notices;
  - (e) statutory nuisance abatement notice;
  - (f) breach of statutory nuisance abatement notice
- 4.1.9 Having regard to the objectives of the Act the Council has determined there will be a presumption to refuse an application where the applicant or any other person required to be named or identified in the application has been convicted of any of the relevant offences laid down in the Act or has been the subject of any of the following forms of enforcement action within the period of three years prior to the application:
- (a) closure notice pursuant to the Act;
  - (b) closure order pursuant to the Act;
  - (c) action for recovery of possession of out of date or discontinued licences
- 4.1.10 The authority is aware of its duty not to fetter its discretion and, notwithstanding the matters that the Council may take into account when determining a person's suitability, each case shall be treated on its own individual merits.

## **5. Application Procedure**

- 5.1 An application form, available from the Licensing Department must be completed and submitted together with the correct fee and a current Basic Disclosure and Barring Service Criminal Convictions check (DBS). The DBS must be less than 3 months old from the date of issue. Information on convictions held by those having lived outside the United Kingdom will also be required.



5.2. The application form must detail the following:

- (a) full name of the 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 it is proposed to carry on business as a scrap metal dealer;
- (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 12 of the Act;
- (j) details of any relevant conviction or enforcement action taken against the applicant;

5.2.2 For a site licence, the applicant must also provide:

- (a) the address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought);
- (b) the 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) the information required under paragraph 12.2.(g) (h) (j) that relate to any individual being proposed as a site manager;

5.2.3 Please note that a collectors licence issued by Swale Borough Council allows a business or individual to operate within the Swale Borough area only, therefore individuals applying for a collectors licence and wishing to collect scrap metal across borough boundaries will be required to obtain a collectors licence from every local authority where they wish to collect and sell.

## 6. **Supply of Information**

- 6.1 The Council has a duty to pass on information in relation to an application for, or relating to a scrap metal licence when requested by:
- (a) any other local authority;
  - (b) The Environment Agency;
  - (c) An officer of a police force;

This does not limit any other power the Council may have to supply that information.

## **7 Register of licences**

- 7.1 The Environment Agency maintains a register of scrap metal licences issued by authorities in England and 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

The register is open for inspection by members of the public

- 7.1.2 The register will be up-dated by the Council after an application (new, renewal, variation, revocation etc) has been processed.

## **8. Notification of Requirements**

- 8.1 An applicant for a scrap metal licence, or for the renewal, or for a variation to a licence, must notify the Council of any changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.
- 8.1.2 A licensee who ceases in carrying on business as a scrap metal dealer must notify the Council within 28 days from the date they are no longer a scrap metal dealer.
- 8.1.3 If a licence is issued to a business under a trading name the licensee must notify the Council of any change to that name within 28 days of that change occurring.

## **9. Verification of Suppliers Identity**

- 9.1 A scrap metal dealer must verify the name and address of any person they receive scrap metal from.

- 9.1.2 When verifying the person's name and address, the scrap metal dealer must do so by way of documents, data or other information obtained from a reliable and independent source.
- 9.1.3 In the course 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 are old, broken, worn out or defaced articles have been left on the roadside.
- 9.1.4 However, a 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.
- 9.1.5 If suitable verification is not obtained the scrap metal dealer, or site manager, or person who has been delegated responsibility shall be guilty of an offence.

## **10 Payment for Scrap Metal**

10.1 Cash cannot be used by any scrap metal collector. It is an offence to buy scrap metal for cash under Section 12 of the Act and there are no exemptions.

10.1.2 Payment must only be made by either:

- (a) a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or
- (b) electronic transfer of funds (authorised by a credit, debit card or otherwise)

This will mean that the payment will be linked to a readily identifiable account for both the payee and the payer. Payment includes paying in kind with goods and services.

## **11. Records**

11.1 The scrap metal dealer must keep three types of records:

- (a) Receipt of metal
- (b) Disposal of metal
- (c) Supplementary

11.2 Receipt of metal

If metal is received in the course of the dealer's business, the following must be recorded:

- (a) Description of the metal, including its type (or, 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 it was delivered by;
- (d) Full name and address of the person delivering it, and
- (e) Full name of the person making payment on behalf of the dealer

11.2.1 The dealer must keep a copy of the documents used to verify the delivery person's name and address

11.2.2 If payment is by cheque a copy of the cheque must be retained.

11.2.3 If payment is by electronic transfer a receipt identifying the transfer must be retained, or the details of the transfer.

### 11.3 Disposal of Metal

Disposal under the Act covers metal:

- (a) Whether or not it is in the same form when it was purchased
- (b) Whether or not it is to another person; or
- (c) Whether or not it is despatched from a site

11.3.1 Disposal records must be recorded, including:

- (a) description of the metal, including its type (types if mixed), form, 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 (sale or exchange) the price
- (e) other consideration received

11.3.2 If disposal is in the course of business conducted under a collector's licence, the dealer must record:

- (a) date and time of disposal
- (b) if to another person, their name and address

### 11.4 Supplementary

11.4.1 The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easily identified.

- 11.4.2 The records of receipt must be marked so as to easily identify the metal to which they relate.
- 11.4.3 Records must be kept for a period of three years beginning on the day of receipt, or disposal
- 11.4.4 If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records, shall be guilty of an offence
- 11.4.5 A dealer or site manager may have a defence if they can prove arrangements had been made to ensure the requirement to keep records was fulfilled, or that they took all reasonable steps to ensure those arrangements were complied with.

## **12. Right of entry and inspection**

- 12.1 A police officer or an authorised officer of the Council may enter and inspect a licensed site at any reasonable time, with notice to the site manager.
- 12.2 Entry and inspection without notice may occur, if:
- (a) reasonable attempts to give notice had been given and had 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.
- 12.3 Sections 11.1 and 11.2 do not apply to residential premises.
- 12.4 An authorised officer of the Council is not entitled to use force to enter a premises, but may ask a justice of the peace to issue a warrant authorising entry, if they are satisfied there are reasonable grounds for entry to the premises and is reasonably required for the purposes of:
- (a) securing compliance with the provisions of the Act, or
  - (b) ascertaining whether those provisions are being complied with.
- 12.5 'Premises' under this section include:
- (a) licensed site, or
  - (b) premises that are not licensed, but there are reasonable grounds for believing the premises are being used as a scrap metal dealing business.
- 12.6 An authorised officer of the Council may use reasonable force in the exercise of the powers under a warrant obtained under section 11.4.

- 12.7 An authorised officer of the Council may require:
- (a) production of, and inspect, any scrap metal kept at any licensed premises, and
  - (b) require production of, and inspect, any records kept in respect of receipt and disposal of metal, and
  - (c) to take copies of or extracts from any such record
- 12.8 An authorised officer of the Council must produce evidence of their identity and evidence of their authority to exercise these powers, if requested by the owner, occupier, or other person in charge of the premises.

### **13. Display of a Licence**

- 13.1 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.
- 13.2 A copy of the site licence will be available in every vehicle that collects metal in connection with a site licence.
- 13.3 A copy of the 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.

### **14. Variation of a Licence**

- 14.1 A variation application can be made to vary the type i.e. a site licence to collector's licence or vice versa, content, details, site manager etc. on a licence.
- 14.1.2 A variation application can only be accepted in respect of an existing licence issued by Swale Borough Council.
- 14.1.3 A variation application cannot be used to transfer a licence from one person/partnership/company: this would require a new application for a site or collector's licence.
- 14.1.4 Any change of trading name must be notified to the Council within 28 days of the change

### **15. Renewal of a Licence**

- 15.1 A renewal application must be received before the expiry of the current licence. A renewal application may be commenced three months before the expiration of a current licence and no later than two weeks before the licence expires.

**16. Further information**

- 16.1 The Council may request (at the time of application or later) any additional information it considers relevant for the purpose of considering an application.
- 16.2 Failure to provide such information may result in an application being declined.

**17. Fee**

- 17.1 An application must be accompanied by the fee, set by the Council.
- 17.1.2 Any fee set will take into account guidance from the Secretary of State.

**18. Refusals and right to make representations**

- 18.1 If the Council proposes to refuse an application or to revoke, or to vary a licence by imposing conditions, a notice must be issued to the licence holder setting out the Council's proposals and the reasons for their decision. The notice shall also state that, within the period specified, the applicant or licensee can either:
- (a) make representations about the proposal; or
  - (b) inform the authority that the applicant or licensee wishes to do so.
- 18.1.2 The period specified in the notice will not be less than 14 days beginning with the date on which the notice is given to the applicant or licensee.
- 18.1.3. Within the period specified in the notice the applicant or licensee must notify the Council whether the applicant or licensee wishes to make representations.
- 18.1.4 Should this period expire and the applicant or licensee has not made representations, or informed the Council of their wish to do so, the Council may refuse the application, vary the licence or revoke the licence.
- 18.1.5 If, within the period specified in the notice, the applicant or licensee informs the Council that they wish to make representations, the Council will allow a reasonable period to make representations and may refuse the application, vary the licence or revoke the licence if they fail to make representations within that period.
- 18.1.6 Where there is a representation a hearing will be arranged, and the case will be presented to a Licensing Sub-Committee. The applicant or licensee will be invited to attend. The Council will give at least 10 working days' notice of the date and time of the hearing to the applicant or licensee. The notice will include the appeal procedure.

## **19. Revocation and Imposing Conditions**

- 19.1 The Council may revoke a scrap metal licence if it is satisfied the licence holder does not carry on a scrap metal business at any of the sites named on the licence.
- 19.2 The Council may revoke a scrap metal licence if it is satisfied the site manager named on the licence does not act as a site manager at any of the named sites on the licence.
- 19.3 The Council may revoke a scrap metal licence if it is no longer satisfied the licence holder is a suitable person to carry on the business.
- 19.4 If the applicant or any site manager has been convicted of a relevant offence, the Council may include in the licence one or both of the following conditions:
- (a) that the dealer must not receive scrap metal except between 09:00 and 17:00 on any day;
  - (b) that all scrap metal 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.
- 19.5 A proposed revocation or a variation of a licence will be presented to a Licensing Sub-Committee. The applicant or licensee will be invited to attend. The Council will give at least 10 working days' notice of the date and time of the hearing to the applicant or licensee. The notice will include the appeal procedure.
- 19.6 A revocation or variation only comes into effect when no appeal under the Act is possible, or when such appeal has been determined or withdrawn.

## **20. Appeals**

- 20.1 An applicant may appeal to magistrates' court against a refusal of an application or variation.
- 20.1.2 The licensee may appeal to the magistrates' court against the inclusion on the licence of a condition under Section 3(8) of the Act, or a revocation or variation of a licence under Section 4 of the Act.
- 20.1.3 The appeal procedure will be in accordance with current magistrates' court procedures and must be lodged within 21 days of receipt of the decision notice.
- 20.1.4 On appeal the magistrates' court may confirm, vary or reverse the Council's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.



## 21. Closure of Unlicensed Sites

- 21.1. If an authorised officer of the Council is satisfied premises are being used by a scrap metal dealer in the course of their business and the premises are unlicensed, they may issue a closure notice.

A copy of the notice must be given to:

- (a) a person who appears to be the site manager, and
- (b) any person who appears to be a director, manager, or other officer of the business.

A copy may also be given to any person who has an interest in the business, a person who occupies part of the premises, or where the close may impede a person's access to that other part of the premises.

- 21.2 After a period of 7 days, the authorised officer may apply to a magistrate's court for a closure order.

The court must be satisfied the premises will continue to be used by a scrap metal dealer, or there is a reasonable likelihood that the premises will be.

A closure order will close the premises immediately, and the premises will remain closed to the public until the Council makes a termination of closure order by certificate. The scrap metal dealer must cease his business immediately. It will require the defendant to pay a sum in the court, which not released until the person has complied with the requirements of the order.

Such an order may have a condition relating to the admission of people into the premises, or may include a provision the court considers appropriate.

A copy of the order must be placed on the premises in a prominent position by the Council.

- 21.3 Once the requirements of the order have been complied with and the Council is satisfied the need for the order has ceased, a certificate maybe made. This ceases the order and the sum of paid into the court is released.

A copy of the certificate must be given to any person the closure order was made against, give a copy to the court and place a copy on the premises.

A copy must be given to anyone who requests one.

- 21.4 Anyone issued with a closure order may complain to a magistrate. The court may discharge the order, it is is satisfied there is no longer a need for a closure order.

The licensing authority may be required by the court to attend and answer the complaint made.

Notice of the hearing must be given to all people issued with the closure order,

21.5. An appeal may be made to Crown Court against:

- (a) a closure order;
- (b) a decision not to make a closure order;
- (c) a discharge order; or
- (d) a decision not to make a discharge order

Any appeal must be lodged within 21 days beginning on the day on which the order or decision was made.

Appeal (a) and (b) may be made by any person who was issued with an order. Appeal (c) and (d) may be made by the Licensing Authority.

21.6. A person is guilty of an offence, if they allow the premises to be open in contravention of a closure order, without reasonable excuse, or fails to comply with, or contravenes a closure order.

21.7 An authorised officer of the Authority may enter the premises at any reasonable time to ensure compliance with the order. They may use reasonable force if necessary.

21.8 An authorised officer must produce evidence of their identity or evidence of their authority to exercise the powers under the Act, if requested to do so.

## **22. Delegation of Functions**

22.1 Where there are uncontested applications, or where there are no questions about the suitability of the applicant the determination will be dealt with by the Council Licensing Team.

22.2. Contested applications where there is relevant information from any of the consultees, or queries regarding an applicant's suitability, revocation of a licence or the imposition of conditions will be presented to the Licensing Sub-Committee.

