



Report to Licensing (Regulatory) Committee

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| Date: | 14 th June 2023 |
| Title: | Buckinghamshire Council draft Scrap Metal Licensing Policy |
| Cabinet Member(s): | Cllr Mark Winn, Cabinet Member for Homelessness & Regulatory Services |
| Contact officer: | Catriona Crelling, Senior Licensing Officer |
| Ward(s) affected: | none specific |
| Recommendations: | That the draft Scrap Metal Licensing Policy set out at Appendix 1 is, subject to any recommended amendments, approved for consultation with relevant stakeholders. |
| Reason for decision: | The adoption of a policy supports the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation. |

1. Background

- 1.1 In accordance with the Scrap Metal Dealers Act 2013 ("SMDA"), Buckinghamshire Council, in its role as Licensing Authority, is responsible for licensing scrap metal dealers as defined within the Act.
- 1.2 Determination of applications and fee setting in relation to scrap metal licences is an Executive function of the Council, with the power to grant licences and take enforcement under the SMDA delegated to officers as detailed under the Council's Scheme of Delegations.
- 1.3 There is currently no scrap metal licensing policy covering the Buckinghamshire Council area. Whilst there is no statutory requirement for a policy under the legislation, it is considered appropriate to produce a single policy which sets out a clear and consistent framework for the Council's approach to scrap metal licensing.

The adoption of a policy supports the Council's commitment to transparency, fairness and openness when determining applications and ensuring compliance with the relevant legislation.

- 1.4 In November 2022, the Local Government Association published a briefing document setting out recommendations for good practice for councils in relation to scrap metal licensing. This includes carrying out compliance visits, partnership working with other agencies and intelligence sharing. The draft policy gives the Council an opportunity to set out how it will incorporate these recommendations into day to day working practices.
- 1.5 The draft Scrap Metal Licensing Policy ("the Policy") also provides guidance on the application processes, a brief overview of relevant legislation and links to Government guidance on the SMDA.
- 1.6 The SMDA makes it clear that the Council must not issue or renew a licence unless they are satisfied that an applicant is a suitable person to carry on a business as a scrap metal dealer. The Policy provides an opportunity to outline matters which the Council will take into consideration when deciding if someone is suitable to hold a licence.

2. Main content of report

- 2.1 The Licensing Authority is required to consider and determine applications for licenses relating to scrap metal in line with the relevant legislation:
 - The Scrap Metal Dealers Act 2013
 - The Scrap Metal Dealers Act 2013 (Prescribed Documents and Information for Verification of Name and Address) Regulations 2013
 - The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

This legislation and its associated regulations repealed the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of the Vehicles (Crime) Act 2001 relating to Motor Salvage operators. The SMDA created a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries which it was hoped would better reflect the modern scrap metal industry.

- 2.2 Prior to the formation of Buckinghamshire Council in April 2020, scrap metal licensing was dealt with differently in each legacy district council area, using different application forms, processes and fee levels. Since becoming a unitary authority, fee levels have been harmonised and the licensing team have been working to consolidate records and develop working practices that are consistent

across the new Council area. This has included finding new ways to work collaboratively with other departments such as planning, and with partners, such as Thames Valley Police, Buckinghamshire Fire and Rescue Service and the Environment Agency, in order to carry out more effective compliance checks and intelligence gathering.

- 2.3 The SMDA sets out that all scrap metal dealers must obtain a licence from the local authority in order to carry on their business. It is an offence to carry on a business as a scrap metal dealer without first obtaining the appropriate licence. The offence is punishable on summary conviction with an unlimited fine.
- 2.4 A scrap metal dealer is defined in the Act as someone carrying on a business which consists wholly or in part of buying and selling scrap metal, whether or not the metal is sold in the form in which it was bought. However, a manufacturing business that sells scrap metal created only as a by-product of the processes it uses, or because it has a surplus of materials, is not caught by this definition.
- 2.5 Under the Act, scrap metal is defined as:
- Any old, waste, or discarded metal or metallic material, and
 - any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life
- 2.6 Gold, silver, and any alloy of which 2% or more by weight is attributable to gold or silver is not considered to be 'scrap metal'. However, the definition does include platinum and a range of other rare metals that are now used in catalytic converters.
- 2.7 The definition of scrap metal focuses on the condition of the metal rather than the purpose of the sale. For example, a broken or damaged catalytic converter, that is unlikely to work without repair, is likely to meet the definition of scrap metal. Similarly, metal stolen from historic sites is likely to be presented for sale in a damaged state and therefore fall under the definition.
- 2.8 Provisions within the SMDA allow the Secretary of State by order to amend the definition of 'scrap metal'.
- 2.9 There are two types of scrap metal licence as described in the legislation and guidance. These are a site licence and a mobile collector's licence. Both licence types last for a period of three years.
- 2.10 The Council currently licences 15 scrap metal dealers, broken down into 8 site licences and 7 mobile collector licences.
- 2.11 A dealer can only hold one type of licence in any one council authority area. They cannot hold both a site and mobile collectors' licence with Buckinghamshire Council.

- 2.12 As required by the SMDA, a public register of licensed scrap metal dealers is maintained by the Environment Agency and the Council is required to provide the appropriate information on all scrap metal licences issued in our area to the Environment Agency for this purpose.
- 2.13 The draft policy outlines the requirements for displaying licences, both at sites and for mobile collectors. As part of the draft policy, in relation to collector licences, the Council proposes to provide visible identification such as a plate or disc for the vehicle being used by the dealer in order to assist in identifying that they are a licensed scrap metal dealer. This will provide reassurance to customers and an easy way for police to identify legitimate traders, as opposed to unlicensed ones.
- 2.14 The application process is set out in the draft policy, with applicants encouraged to make contact with the licensing team in advance of making an application in order to seek advice and clarification on any areas they are unsure about.
- 2.15 As part of the application, applicants (including directors, shadow directors and company secretaries and any person listed on the application form including site manager(s)) will be required to provide a basic criminal disclosure certificate no more than 1 month old at the time of application to assist in assessing their suitability.
- 2.16 The Council will require applicants to provide proof of identity documents. The Council may also require additional information such as a declaration of any convictions not showing on their criminal record check (e.g. those obtained whilst outside the UK), any pending matters of investigation, or where appropriate, a detailed site plan.
- 2.17 Under the Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information) Regulations 2022, from 4 April 2022 there has been a requirement for applicants to either confirm their tax responsibilities or complete a tax check, depending on whether they are a new applicant or applying to renew their licence. The draft policy includes links to assist scrap metal dealers in this process.
- 2.18 Regulations issued under the SMDA set out a list of relevant offences in relation to scrap metal dealers. The draft policy provides a link to these and also sets out what other factors will be taken into consideration when determining an application.
- 2.19 A risk-based approach to compliance checks and enforcement is set out in the draft policy. This will include partnership working with other agencies where possible and the sharing of intelligence relating to offences under the SMDA and unlicensed dealers.

3. Next steps and review

- 3.1 If approved by Committee, and subject to any suggested amendments, the draft Policy will undergo a six-week public consultation with all relevant stakeholders notified, including affected licence holders, Ward, Town and Parish Councillors, Community Boards, Thames Valley Police, Fire and Rescue Service and Environment Agency.
- 3.2 Following the consultation process, a further report will be presented to this Committee providing full details of any comments received and amendments to the draft policy proposed as a result.

4. Other options considered

- 4.1 The Council could choose not to have a scrap metal licensing policy as there is no statutory requirement to have one.
- 4.2 However, a policy provides an opportunity for the Council to set out its approach, providing clarity for applicants, licence holders and other affected parties.

5. Legal and financial implications

- 5.1 The legal implications are as set out in the report. The Policy ensures consistency of approach, and it is considered that the Council would be far less likely to be open to legal challenge where a policy is adopted which clearly sets out how applications will be considered, reasons for refusal and our approach to enforcement.
- 5.2 The Council has made reference to the document "[Open for business: Local Government Association \(LGA\) guidance on locally set licence fees](#)". The LGA guidance acknowledges that Councils are free to design their licensing service in a manner that best serves the needs of their community and recover the costs accordingly. The Council has also referred to the Home Office guidance "**Scrap Metal Dealers Act 2013: guidance on licence fee charges**". These outline which activities can be funded by the licence fee.
- 5.3 Fees are set on a cost recovery basis. Once this policy has been adopted a full review of scrap metal licence fees will be carried out.

6. Corporate implications

Protecting the vulnerable – No concerns identified.

Property – N/A

HR – N/A

Climate change – N/A

Sustainability – N/A

Equality – An equality impact screening assessment has been carried out which does not indicate any adverse or disproportionate effects on those with protected characteristics however the assessment will be kept under review to ensure appropriate information in this regard is available as and when required.

Data – dealing with any application for a licence will require the collection and processing of personal data. Such processing is justified by the public interest in appropriate licensing of scrap metal dealers. The Council's current licensing procedures ensure relevant personal data (including criminal conviction data) is processed in accordance with the Data Protection Act and UK GDPR requirements and this will apply to any further detailed personal data (if any) processed as a result of the proposed Policy being adopted.

Value for money – policy will be reviewed as legislative changes occur and updated accordingly, ensuring that it is fit for purpose. A formal review will be carried out at least every 5 years. All of this work will be performed by officers in-house.

7. Key documents

Scrap Metal Dealers Act 2013 (SMDA)

<https://www.legislation.gov.uk/ukpga/2013/10/enacted>

The Scrap Metal Dealers Act 2013 (Prescribed Documents and Information for Verification of Name and Address) Regulations 2013

<https://www.legislation.gov.uk/uksi/2013/2276/contents/made>

The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

<https://www.legislation.gov.uk/uksi/2013/2258/made>

The Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013

<https://www.legislation.gov.uk/uksi/2013/1966/contents/made>

The Scrap Metal Dealers Act 2013: Determining suitability to hold a scrap metal dealer's licence

[statutory guidance for local authorities in England and Wales.](#)

Scrap Metal Dealer Act 2013: licence fee charges

<https://www.gov.uk/government/publications/scrap-metal-dealer-act-2013-licence-fee-charges>

Local Government Association Guidance

<https://www.local.gov.uk/publications/get-act-scrap-metal-dealers-act-2013-explained>

Government Supplementary Guidance

<https://www.gov.uk/government/publications/scrap-metal-dealers-act-2013-supplementary-guidance>

The Finance Act 2021, Schedule 33 (Licensing Authorities: Tax Information)
Regulations 2022

<https://www.legislation.gov.uk/uksi/2022/224/contents/made>

