



Report to Licensing (Regulatory) Committee

Date:	5 th September 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:	<ol style="list-style-type: none">1. To agree the Scrap Metal Licensing Policy following consultation with a proposed implementation date of 1st February 2024.2. To recommend the policy for approval by Key Decision by the Leader of the Council.3. To authorise the Head of Service for Licensing, in consultation with the Cabinet Member for Homelessness & Regulatory Services and Chairman of the Licensing Committee, to amend the implementation date of the Policy if required.
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. Introduction

- 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 Whilst there is no statutory requirement for a policy under the legislation, it is now considered appropriate to produce a single policy for Buckinghamshire Council which sets out a clear and consistent framework for the Council’s approach to scrap metal licensing.
- 1.4 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.
- 1.5 The draft policy provides a brief overview of the relevant legislation, links to Government guidance on the SMDA and information on the application process.
- 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 draft policy provides an opportunity to outline matters which the Council will take into consideration when deciding if someone is suitable to hold a licence.
- 1.7 The draft policy also gives the Council an opportunity to set out how it will implement the Local Government Association’s recommendations for good practice in relation to scrap metal licensing, such as carrying out compliance visits, partnership working with other agencies and intelligence sharing.
- 1.8 On the 14th June 2023 the Licensing Committee approved a new draft Scrap Metal Licensing Policy for public consultation. The report provided to members at this meeting and draft minutes of that meeting can be viewed here: <https://buckinghamshire.moderngov.co.uk/ieListDocuments.aspx?>
- 1.9 The purpose of this report is to provide a summary of the consultation responses, to comment on these, and to identify and recommend any changes to the draft policy in response to the consultation.

2. Content of Report

- 2.1 A six week public consultation on the draft Policy was carried out, primarily by way of a survey published on Your Voice Bucks. The consultation process ran from 03 July 2023 up to and including 13 August 2023.
- 2.2 In total there were only 6 responses during the consultation period. 5 people responded to the survey and an additional 1 response was received by email. The summary of survey responses is attached as Appendix 1. The free text comments provided via the survey are shown in Appendix 2.
- 2.3 An email response was received from Bucks Fire and Rescue Service and is attached as Appendix 3 (see para 2.13). The Environment Agency were also asked to comment on the proposed policy but advised that they did not have sufficient resource to do so.
- 2.4 All those that responded either strongly agreed or agreed with the proposals within the draft policy. All those that responded also strongly agreed or agreed that applicants for a scrap metal dealers site licence provide a site plan and layout with their application.
- 2.5 Each responder strongly agreed with the proposal to introduce identification plates or discs for scrap metal collectors to display on their vehicle.
- 2.6 One responder commented that a vehicle identification plate/ disc should also be provided to site licence holders. Further consideration has been given to this suggestion and clarification sought from an expert on the SMDA working for both the British Transport Police and National Infrastructure Crime Reduction Partnership.
- 2.7 Under the SMDA there is no requirement for a site licence holder to display a licence in their vehicle. Requiring this as part of the policy would go beyond what is required by law and would be problematic. When having scrap metal delivered to their site, a site licence holder might use a wide range of their own vehicles or even a haulage firm (who would not require a licence). As part of this, the licence holder would already be expected to hold documentation such as a waste transfer note or consignment note which would show where the scrap metal had been collected from and where it was going to.
- 2.8 One of the reasons for providing identification plates or discs for collector's vehicles is to assist with identifying legitimate collectors. Providing the same for site licence holders who are not permitted to collect metal in the same manner would make this more difficult and potentially have an impact on how we best target enforcement resources.

- 2.9 For these reasons no change is proposed to the draft policy in response to this comment.
- 2.10 All respondents strongly agreed that records relating to the purchase and sale of scrap metal should be produced in the English language, either on paper or electronically, with 80% also strongly agreeing with the Council's proposed approach to enforcement of the SMDA. This would involve a risk based traffic light system for the frequency of site visits, having assessed how well a scrap metal dealer demonstrates that they are meeting the requirements of their licence. However, one responder commented that they felt all SMDA licence holders should be inspected annually regardless of what level of compliance is demonstrated at the first visit.
- 2.11 This comment has been given further consideration and it is still felt that the approach proposed in the draft policy is in line with the Council's enforcement policy and is considered proportionate, using a risk-based approach to make most efficient use of, and effectively target, officer resources. In line with the Council's enforcement policy, this approach also incentivises compliance amongst licensed operators and supports compliant businesses by reducing unnecessary administrative burden. For this reason there are no proposed changes to draft policy regarding our approach to enforcement.
- 2.12 The response from Buckinghamshire Fire and Rescue Service (shown in Appendix 3) suggests inclusion of a short section relating to the duties and responsibilities of site operators to undertake general fire precautions, including the completion of a suitable and sufficient fire risk assessment under the Fire Safety Order 2005.
- 2.13 Responsibility for enforcing the Fire Safety Order 2005 rest with the Fire and Rescue Service. It is clearly important for licensed operators to understand their responsibilities under this legislation. However, as this does not fall within the remit of the SMDA and cannot be enforced by the Council, it is considered more appropriate to promote awareness by signposting operators to suitable guidance via the licensing webpages on the Council's website. Officers will liaise with the Fire and Rescue Service to provide links to the relevant information sources. For this reason, no changes are proposed to the draft policy in relation to this comment.
- 2.14 In summary, there are no proposed changes to the draft policy following public consultation. The draft policy is attached to this report as Appendix 4.

3. Next steps and review

- 3.1 If recommended for approval by the Committee, the policy will go forward for Key Decision by the Leader of the Council with a proposed implementation date of 1st February 2024 taking into consideration any practicalities such as updating Council webpages, application forms and back – office processes.

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 set out in this report and the report presented to Committee on 14th June 2023. 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 review of scrap metal licence fees will be carried out and any changes proposed brought before the Committee.

6. Corporate implications

- 6.1 **Protecting the vulnerable** – no concerns have been identified
- 6.2 **Property** N/A
- 6.3 **HR** N/A
- 6.4 **Climate change** N/A
- 6.5 **Sustainability** N/A
- 6.6 **Equality** – As part of the consultation process, officers made enquiries with the National Infrastructure Crime Reduction Partnership (NICRP) and have been advised that there is currently no demographic data available on scrap metal dealers. The equality impact screening assessment (EqIA) carried out identified some equality issues relating to barriers which might be encountered by some protected groups in relation to the application process and inspections. These have been mitigated where possible within the policy and are not expected to be major issues.

Appropriate reasonable adjustments can be made to deal with them. In addition, the policy is being introduced to ensure consistent decision making and will be reviewed for its effectiveness both in relation to the statutory requirements and equalities matters. The EqIA assessment will be reviewed in a year's time.

- 6.7 **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
- 6.8 **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](#)