

**Policy for Determining the Suitability of an Applicant
for a Scrap Metal Dealers Licence
under the Scrap Metal Dealers Act 2013**

The purpose of this policy is to provide guidance on the criteria taken into account by the Council when determining whether or not an applicant or an existing licence holder is suitable to hold a Scrap Metal Dealers Licence.

This policy provides guidance to any person with an interest in the business of Scrap Metal Dealers and Motor Salvage Operators, in particular, but not exclusively:

- Applicants for Scrap Metal Dealers Licences
- Existing licensed Scrap Metal Dealers/Motor Salvage Operators
- Licensing Officers
- Members of the Licensing Committee/ Cabinet (or other relevant decision making body)
- Magistrates hearing appeals against local authority decisions

Where licensing officers have delegated powers they will utilise these guidelines when making a decision to grant, refuse, revoke or vary a licence. Whilst officers and the Council's Licensing Committee/Cabinet Members will have regard to the guidelines contained in the policy, **each case will be considered on its individual merits and, where the circumstances demand, the committee/officer may depart from the guidelines.**

Types of Licences

There are two types of licences issued under the Scrap Metal Dealers Act 2013, a Site Licence and a Collector's Licence. An applicant may only apply for one type of licence in each council area, but an applicant can apply to run multiple sites.

A **site licence** allows the buying and selling of sell scrap metal from a fixed location within the council area.

A **collector's licence** allows a person to travel within the council area to collect scrap metal. A collector may not take this metal back to a site that the collector runs within the council area in order to sell it.

Powers

Section 3 of the Scrap Metal Dealers Act 2013 states that a council must not issue a licence unless it is satisfied that the applicant is a suitable person to carry on a business as a scrap metal dealer.

When assessing an application for a Site Licence or for a Collector's Licence the Council will consider the suitability of :

- the individual applicant
- each partner within a partnership
- any director(s), secretary(s) or shadow director(s) of a company.

In assessing the suitability of the applicant, the Council will have regard to the following documents :

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

The Scrap Metal Dealers Act 2013 Supplementary Guidance – Home Office

LGA Guide to the Scrap Metal Dealers Act 2013: Applications – Local Government Association

The Council may consult with other agencies including other councils, the Environment Agency and/or Natural Resources Wales and the police.

This Council will have regard to :

- whether the applicant or any site manager has been convicted of any relevant offence and where there are relevant offences, the Council may consult the local police force for further details.
- Whether the applicant or any site manager has been the subject of any relevant enforcement action
- Any previous refusal of an application for the issue or renewal of a scrap metal licence and the reasons for the refusal
- Any previous refusal of an application for a relevant environmental permit or registration and the reasons for the refusal
- Any previous revocation of a scrap metal licence (and the reasons for the revocation)
- Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of the Act are complied with
- In the case of site licences whether there is satisfactory planning permission in place for sites established after 1 November 1990
- The applicant's behaviour in the operation of their business
- Whether the applicant is registered with the Information Commissioner's Office (ICO) under the Data Protection Act 1998

The Council requires every person listed on an application form to submit a Basic Disclosure Certificate from Disclosure Scotland. A certificate can be applied for at <http://www.disclosurescotland.co.uk/apply/individuals/>

This Council considers a Basic Disclosure Certificate to be only valid for three months prior to the date the application is made.

A relevant conviction may not automatically result in the Council refusing to grant a licence. The Council will take into account when the offence was committed, the nature of the offence or enforcement action, the gravity of the offence or enforcement action, along with any other relevant information.

It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material particular in giving information required by the application for a licence (Scrap Metal Dealers Act 2013 Schedule 1 paragraph 5). Where an applicant has made a false statement or a false declaration on their application for the grant or renewal of a licence, the Council will normally propose to refuse the application.

Decision

Where the Council proposes to refuse an application (revoke it or vary it) the Principal Licensing Officer will give notice in writing to the applicant with the reasons for doing so. The applicant will have 14 days from the date of the notice to make representations or to inform the Council that they wish to make representations.

Where the applicant wishes to make oral representation, the Council will arrange a hearing for the application to be heard by the Council's Licensing Committee/Cabinet Members.

Where an application is refused (revoked or varied) the Council will issue a decision notice setting out the Council's reasons for the decision.

Appeals

Where the Council has refused an application, imposed a condition on the licence, revoked or varied the licence, the applicant has a right to appeal to the Magistrates' Court within 21 days of the decision notice.