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Scarborough Borough Council's Scrap Metal Licensing Principles and Guidance

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1. Introduction

- 1.1 This document states Scarborough Borough Council's Principles and guidance on the regulation of Scrap Metal Dealers.

2. The Law

- 2.1 The Scrap Metal Dealers Act 2013 came into force on 1 December 2013, introducing a new licensing regime for scrap metal dealing and vehicle dismantling industries. The Act makes it a requirement for a scrap metal dealer to have a licence in order to carry on in business as a dealer. It is an offence to carry on a business without first obtaining a licence.
- 2.2 Local Authorities remain as the principal regulator under the new Act, which provides for better regulation and powers to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the holder becomes 'unsuitable'.
- 2.3 Scarborough Borough Council hereinafter referred to as 'the Council' is the Licensing Authority under the 2013 Act and is responsible for granting site licences and collector's licences in the Borough of Scarborough in respect of businesses that deal in scrap metal and vehicle dismantling.
- 2.4 When assessing applications, the Council must be satisfied that the applicant is a 'suitable' person to hold a licence. Unsuitability will be based on a number of factors including any relevant criminal convictions.

3. Definition of a Scrap Metal Dealer

- 3.1 A person carries on business as 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 in) or;
 - b) they carry on business as a motor salvage operator (see 1.10).
- 3.2 A person selling scrap metal as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.
- 3.3 Motor salvage operation 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).

3.4 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.

3.5 Scrap Metal does not include:-

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

4. Types of Licences

4.1 Anyone wishing to operate a business will require a Site Licence or a Collector's Licence. The licence is valid for three years and permits the holder to operate within the boundaries of the Council. These are:-

- o **Site Licence** – A licence will be issued by the Council in whose area a scrap metal site is situated. A site licence will require all of the sites at which the licensee carries on the business as a scrap metal dealer, within the Council area, to be identified and a site manager to be named for each site. This will permit the licensee to operate from those sites including transporting scrap metal to and from those sites from any local authority area.
- o **Collector's Licence** – A licence will be issued by the Council in whose area a licence holder wishes to operate as a 'mobile collector.' This permits them to collect any scrap metal as appropriate, including commercial and domestic scrap metal. It does not permit the collector to collect from any other local authority area. Separate licences should therefore be obtained from each local authority. Also, the licence does not permit a licensee to carry on a business at a site within any other area. If a collector wishes to use a fixed site, they will need to obtain a site licence from the relevant local authority. There is no restriction as to the location where the collector can transport and sell their material.

4.2 A person may hold more than one licence issued by different Councils but cannot hold more than one licence issued by any one Council.

5. Application Process

5.1 When the Council is considering an application, it will have regard to:-

- o The Act;
- o Guidance issued by the Local Government Association;
- o Any Guidance issued by the Secretary of State;
- o Home Office Guidance on Fees
- o Any supporting regulations;

- These procedures
- 5.2 This does not undermine the rights of any person to apply under the 2013 Act for a licence and have the application considered on its individual merits.
- 5.3 A person carrying on, or proposing to carry on, a business as a scrap metal dealer may apply to the Council to be licensed. The application must be in writing and contain the appropriate mandatory particulars, as set out in the application form.
- 5.4 The Council may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant.
- 5.5 The application must be accompanied by the appropriate fee.
- 5.6 If the applicant fails to provide the information requested, including the additional supporting documentation, the Council may decline to accept the application as a valid application.

6. Suitability of Applicants

- 6.1 The Council must determine whether the applicant is a suitable person to carry on a business as a Scrap Metal Dealer.
- 6.2 In determining this, the Council must have regard to guidance and any information it considers to be relevant, including whether any relevant enforcement action has been taken against the applicant or whether the applicant has been convicted of a relevant offence. In particular the Council may consider:
- Whether an applicant, partner, director or any site manager has been convicted of any relevant offence.
 - Where there are relevant offences, the Council may consult the local police force for further details.
 - Whether the applicant, partner, director 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.
 - Whether the applicant has obtained the relevant authorisation such as a waste carriers licence.
 - 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.

- Any relevant reports from partner agencies.
 - The applicant's behaviour in the operation of their business.
- 6.3 The Council requires that a Basic Disclosure certificate must be supplied at the time of application in respect of every individual applicant, partner or director of a limited company applicant and site manager named in an application. Certificates must have been obtained from Disclosure Scotland in the relevant individual's name and issued within the last 3 months prior to the date the application is made.
- 6.4 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.
- 6.5 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.
- 6.6 The Council may consult other agencies regarding the suitability of an applicant, including:
- Any other local authority;
 - The Environment Agency;
 - The Natural Resources Body for Wales;
 - British Transport Police; and/or
 - North Yorkshire Police

7. Determination of Application/Issue of Licence

- 7.1 Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence.
- 7.2 The Council may however determine to include, in the licence, one or both of the following conditions:-
- To limit the dealer to receiving any metal within the hours of 9.00am to 5.00pm on any day; and
 - That any scrap metal must be kept in the form in which it is received for a specified period of time, not exceeding 72 hours.
- 7.3 The above conditions can only be imposed on a site licence where the applicant or site manager has been convicted of a relevant offence or where the Council seeks to revoke a licence where conditions can be imposed until the revocation comes into effect. There is no equivalent set of conditions for collectors.

7.4 In considering whether to issue a licence where the applicant or site manager has a relevant conviction, the Council may do so on the basis that a condition is imposed on that licence.

7.5 Where the Council is not satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, or a licence holder is no longer considered 'suitable' to continue to hold a licence, the Council must consider refusing the application or revoking the licence, where a licence has been issued.

8. Right to make representations

8.1 If the Council proposes to refuse an application or to revoke/vary a licence, a notice must be issued to the applicant/licensee setting out what the authority proposes to do and the reasons for this. The notice must also state that within the period specified the applicant/licensee can either:-

- a) make representations about the proposal; or
- b) inform the Council that the applicant/licensee wishes to do so.

8.2 The period specified in the notice must be not less than 14 days beginning with the date on which the notice is given to the applicant/licensee. Within this time the applicant/licensee must notify the Council that they do not wish to make representations. If this period expires and the applicant/licensee has not made representations, or informed the Council of their wish to do so, the Council may refuse the application or revoke or vary the licence.

8.3 If, within the period specified, the applicant/licensee informs the Council that they wish to make representations, the Council must allow a reasonable period of time to make representations and may refuse the application or revoke or vary the licence if they fail to make representations within that period.

8.4 If the applicant/licensee notifies the Council that they wish to make oral representations, the Council must give them the opportunity of appearing before, and being heard by, a panel of three officers.

8.5 The Council may revoke a scrap metal dealer's licence in certain circumstances.

9. Notice of Decisions

9.1 If the application is refused, or the licence is revoked or varied, the Council must give a notice to the applicant/licensee setting out the decision and the reasons for it. The notice must also state that the applicant/licensee may appeal against the decision, the time within which the appeal may be brought and, if revoked or varied, the date on which the revocation or variation is to take effect.

10. Variation of Licence

10.1 An applicant can, on application, apply to the Council to vary a licence by changing it from one type to another. The variation application must be made to reflect changes to:-

- Site licence – name of licensee, the sites, site manager
- Collector's licence – name of licensee

The variation can amend the name of the licensee but not transfer the licence to another person.

10.2 Application is to be made to the Council and contain particulars of the changes to be made to the licence.

11. Display of Licence

11.1 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.

11.2 A copy of a 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.

12. Verification of supplier's identity

12.1 Prior to receiving scrap metal, the scrap metal dealer must verify the person's full name and address by reference to documents, data or other information obtained from a reliable and independent source.

12.2 If verification is not gained then each of the following are guilty of an offence:-

- a) the scrap metal dealer;
- b) if metal is received at the site, the site manager;
- c) any person who, under arrangements made by a person within paragraph (a) or (b), has responsibility for verifying the name and address.

13. Payment for scrap metal

13.1 A scrap metal dealer must only pay for scrap metal 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).

13.2 Payment includes payment in kind – with goods or services.

14. Records: Receipt of metal

- 14.1 If any metal is received in the course of the dealer's business the dealer must record the following information:-
- 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 delivered by;
 - d) full name and address of person delivering it;
 - e) full name of the person making payment on behalf of the dealer.
- 15.2 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.
- 15.3 If payment is made via cheque, the dealer must retain a copy of the cheque.
- 15.4 If payment is made via electronic transfer, the dealer must keep a receipt identifying the transfer, or (if no receipt identifying the transfer) record particulars identifying the transfer.

15. Records: Disposal of metal

- 15.1 The Act regards the 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.
- 15.2 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 is 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.
- 15.3 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.

16. Principles to determine whether or not a scrap metal dealer's licence is required

16.1 When considering whether a scrap metal dealer's licence is required the Council will take into account the following:

- Is the applicant a business?
- Is the applicant associated with any other business that might buy or sell metal (e.g. subsidiaries, businesses run by the same people, companies within a group, etc.)?
- Do they buy scrap metal in any form as part of the business?
- Is the purchase or sale of scrap metal an integral part of the business?
- Is the buying or selling of metal advertised by the business, including on the internet?
- Is any advertising of metal sales, etc. done separately from the main part of the business?
- Is the metal sold as a by-product from a manufacturing process?
- What happens to any waste metal that is collected by the business?