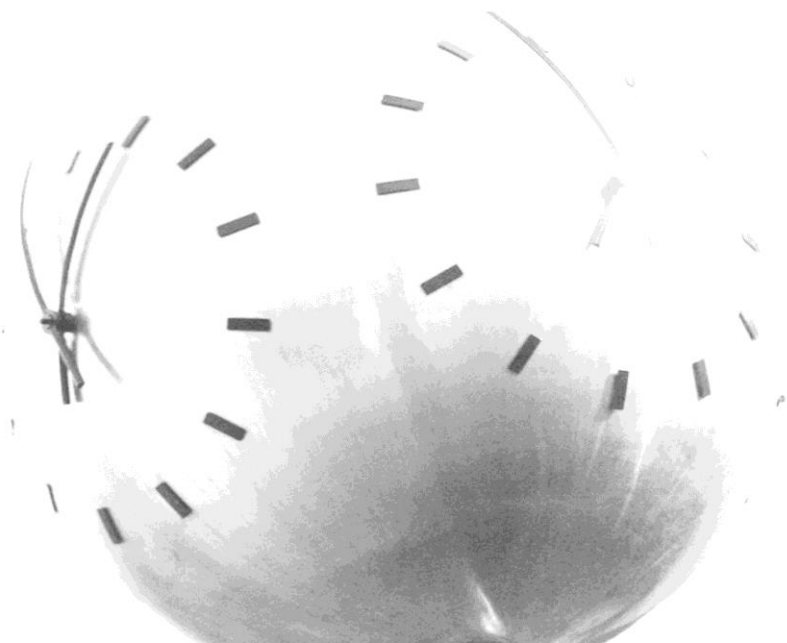


SCRAP METAL DEALERS LICENSING POLICY 2019 - 2024 Basildon Borough Council



Key Information

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1. Introduction

- 1.1 This policy sets out the guiding principles the Council will generally apply when making decisions on applications. It also sets out information about the application process, what is expected of applicants and how people can make objections about applications. It also sets out the types of controls that are available to the Council when decisions are made about licence applications and explains what action can be taken if complaints are received.
- 1.2 The policy document is intended as a guide to applicants, licence holders, people who want to object to applications and members of the Licensing Committee who are responsible for determining contested applications. It also aims to guide and reassure the public and other public authorities, ensuring transparency and consistency in decision making."

2. Executive Summary

2.1 The Scrap Metal Dealers Act 2013 came into force on 1 October 2013.

2.2 The Scrap Metal Dealers Act 2013, hereinafter named 'the Act' repeals the Scrap Metal Dealers Act 1964 and Part 1 of the Vehicle (Crime) Act 2001, Paragraph 1 of schedule 3 of the Vehicle Excise and Registration Act 1994, Paragraph 168 of schedule 17 to the Communications Act 2003 and section 145 to 147 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. The Act brought forward a new regime for scrap metal dealing and vehicle dismantling industries.

The following regulations have also been made:

- 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

The 1982 Act and 2009 Act can be viewed at www.opsi.gov.uk

2.3 Prior to adopting this revised policy, a public consultation was conducted between 26 July 2019 and 27 October 2019.

2.4 In developing this policy, we had regard to the legal requirements of the 2013 Act and our duties under:-

- a) section 17 of the Crime and Disorder Act 1998, to take all reasonable steps to reduce crime and disorder within the Borough;
- b) the Regulators' Code (set out under the Legislative and Regulatory Reform Act 2006) obligations not to impede economic progress through regulation and to particularly consider the impact of regulation on small businesses; and
- c) the Provision of Services Regulations 2009 to ensure requirements are:
 - i) non-discriminatory
 - ii) justified by an overriding reason relating to the public interest
 - iii) proportionate to that public interest objective
 - iv) clear and unambiguous

- v) objective
- vi) made public in advance, and
- vii) transparent and accessible.

2.5 This policy which took effect on [Enter Date ??] will be subject to review every five years. Interim reviews may be undertaken e.g. following interpretation of legislation arising from relevant case law.

3. Policy Statement

3.1 There is no requirement, in the Act, for a Council to have in place a formal policy for dealing with applications made under the Scrap Metal Dealers Act 2013. As a process of 'Best Practice' Basildon Council has chosen to adopt a formal policy for this purpose.

3.2 A local authority must determine whether the applicant is a suitable person to carry on a business as a scrap metal dealer and may not issue a licence unless satisfied that the applicant is suitable. In making that decision, Basildon Council will have regard to the matters set out within the policy, and particularly those points raised at 3.3.

3.3 In determining this, the authority may have regard to any information which it considers to be relevant, in particular:

- (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 this Act are complied with.

3.2 In reviewing this policy statement, the Council will be consulting with existing scrap metal dealers/motor salvage operators, Essex Police, British Transport Police, Environment Agency and Industry Associations.

4. Context

Definition of a Scrap Metal Dealer

4.1 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 4.3).

4.2 A person selling scrap metal as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer.

4.3 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).

4.4 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.

4.5 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.

4.6 **Types of Licences**

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 issuing authority. These are:

- **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 local authority area, to be identified and a site manager to be named for each site. This will permit them to operate from those sites including transporting scrap metal to and from those sites from any local authority area. A scrap metal dealer who has a company that operates a site in Scotland will not require a scrap metal dealer's site licence. However, if that dealer travels to England or Wales to trade they will need to follow the requirements within the Act; that is: they will not be able to buy scrap metal for cash, will be required to verify the name and address of the supplier before receiving scrap metal and will need to keep records of the metal received.
- **Collectors Licence** – authorises a licence holder to operate as a 'mobile collector' in the area of the issuing local authority area. 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 be obtained from each local authority. Also, the licence does not permit a licensee to carry on a business at a site within any 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. A mobile collector who resides in Scotland but collects scrap metal in England and Wales will need to hold a licence for every local council area in England and Wales where they collect scrap metal. The mobile collector will be

subject to the licensing requirements and will need to comply with all the requirements in the Act.

Application Process

- 4.7 When the Council is considering an application, it will have regard to:
- The Scrap Metal Dealers Act 2013;
 - Guidance issued by the Home Office, including the Scrap Metal Dealers Act supplementary guidance and determining suitability to hold a scrap metal dealer's licence (Oct 2013);
 - Any supporting regulations
 - This statement of licensing policy.
- 4.8 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.
- 4.9 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 Appendix 1.
- 4.10 A local authority may request that an applicant provide such other information, as it considers relevant, for the purpose of considering the suitability of an applicant. The additional information that is required is set out in Appendix 1.
- 4.11 The application must be accompanied by the appropriate fee.
- 4.12 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.
- 4.13 The Council would normally expect that the applications for licences for permanent commercial premises should be from businesses with appropriate planning consent for the property concerned.
- 4.14 A licence will remain in force for three years, unless previously cancelled or revoked.

Fees

- 4.15 The application process involves paying a non-returnable application fee followed upon grant of the licence of an additional licence maintenance fee which must be paid before the licence becomes valid.
- 4.16 Fees are reviewed annually against any rise in Council costs of administering the licensing regime.
- 4.17 The fees set are deemed reasonable to cover the costs of administration, (including the review of this policy) enforcement against licensed operators, inspections and any hearings.
- 4.18 The current schedule of fees is available on the Basildon Council website at www.basildon.gov.uk.

Determining applications

Suitability of Applicants

- 4.19 A local authority must determine whether the applicant is a suitable person to carry on a business as a Scrap Metal Dealer.
- 4.20 In determining this, the Council may have regard to 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. A list of relevant offences is set out in Appendix 5.

Each application will be dealt with on its own merit and regard will be given to any intelligence provided by the police or other agencies in relation to suitability of an applicant(s).

- 4.21 The Council must also have regard to any guidance on determining suitability which is issued by the Home Office.
- 4.22 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; and
An officer of a police force.

- 4.23 Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence.
- 4.24 Where there are relevant convictions for either the applicant or site manager, the Council may 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; 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.

- 4.25 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.

Right to Make Representations

- 4.26 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:

make representations about the proposal; or
inform the authority that the applicant/licensee wishes to do so.

- 4.27 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. Should this period expire the applicant/licensee has not made representations, or informed the authority of their wish to do so the authority may refuse the application, or revoke or vary the licence.
- 4.28 If, within the 14 day period the applicant/licensee informs the authority that they wish to make a representation, the Council will allow a further period of 14 days for the applicant/licensee to make representations. The Council may refuse the application or revoke or vary the licence if they fail to make representations within this period.
- 4.29 If the applicant/licensee notifies the authority that they wish to make oral representations, the authority must give them the opportunity of appearing before, and being heard by, a person appointed by the authority.
- 4.30 The Council may revoke a scrap metal dealer's licence in certain circumstances. Please refer to Section 4.76.

Notice of Decisions

- 4.31 If the application is refused, or the licence is revoked or varied, the Council will give a notice to the applicant/licensee setting out the decision and the reasons for it. The notice will state that the applicant/licensee may appeal against the decision within 21 days from date of notice of decision is given. (Please see Appendix 6 for appeal process).

Variation of Licence

- 4.32 An applicant can, on application, apply to the Council to vary a licence 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.

- 4.33 Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence.

Licence operation

Notification Requirements

- 4.34 An applicant for a scrap metal licence, or for the renewal or variation of a licence, must notify the authority to which the application was made of any changes which materially affect the accuracy of the information which the applicant has provided in connection with the application.

- 4.35 A licensee who is not carrying on business as a scrap metal dealer in the area of the authority which issued the licence must notify the authority within 28 days.
- 4.36 If a licence is issued to a business under a trading name the licensee must notify the authority which issued the licence of any change to that name within 28 days.
- 4.37 An authority will notify the Environment Agency, of –
- a) any notification given to the authority regarding ceasing trading or change of company details
 - b) any variation made by the authority (variation of type of licence or matters set out in licence); and
 - c) any revocation of the authority of a licence.
- 4.38 Notification under subsection 4.37 must be given within 28 days of the notification, variation or revocation question.
- 4.39 Where the authority notifies the Environment Agency they will amend the register under section 10 accordingly.

Display of Licence

- 4.40 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.
- 4.41 A site licence holder may wish to carry a copy of the relevant site licence in their vehicle so they are not mistaken for an unlicensed mobile collector. However, there is no legal requirement to do this.
- 4.42 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.

Verification of Supplier's Identity

- 4.43 A Scrap Metal Dealer must not receive scrap metal from a person without verifying the person's full name and address.
- 4.44 Verification must be by reference to documents, data or other information obtained from a reliable and independent source. (Please refer to Appendix 2 which sets out the documents required for verification.)
- 4.45 A Scrap Metal Dealer must keep a copy of any document to verify the name and address of the supplier. A Scrap Metal Dealer can verify the name and address of repeat suppliers by referring to a copy of the document(s) retained in their records which were used to verify the name and address before the first transaction.
- 4.46 In the case 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 and old, broken, worn out or defaced articles have been left on the roadside. Therefore, the 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.

4.47 If a mobile collector collects scrap from a person, they will need to verify the name and address of that person. It will be sufficient to record these details in the collector's record book.

4.48 Should verification not be 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.

Payment for Scrap Metal

4.49 Cash cannot be used by any scrap metal dealer to buy scrap metal. It is an offence to buy scrap metal for cash and there are no exemptions.

4.50 A scrap metal dealer must only pay for scrap metal by either:

- a) A non-transferable cheque; or
- b) electronic transfer of funds.

This will mean that the payment will be linked to a readily identifiable account, for both the payee and the payer

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

Buying vehicles for cash

4.52 There may be circumstances where vehicles can be bought for cash, this being where a vehicle is bought with the intention to repair and resell. If a Certificate of Destruction is issued, the vehicle is considered to be scrap and the buyer must not pay cash for it. Please see Appendix 4 which should assist in deciding whether it may be permissible to pay cash.

Records: Receipt of Metal

4.53 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.

4.54 The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal.

4.56 If payment is made via cheque, the dealer must retain a copy of the cheque.

4.57 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.

Records: Disposal of Metal

4.58 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.

4.59 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.

4.60 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.

Records: Supplementary

4.61 The information in sections 4.59 and 4.60 must be recorded in a manner which allows the information and the scrap metal to which it relates to be readily identified by reference to each other.

4.62 The records mentioned in section 4.59 must be marked so as to identify the scrap metal to which they relate.

4.63 Records must be kept for a period of 3 years beginning with the day on which the metal is received or (as may be the case) disposed of.

4.64 If a scrap metal dealer fails to fulfil a requirement under section 4.59 and 4.60 or this section each of the following is guilty of an offence:

- a) the scrap metal dealer;
- b) if the metal is received at or (as the case may be) despatched from a site, the site manager;
- c) any person who, under arrangements made by a person within paragraph (a) or (b) has responsibility for fulfilling the requirement.

4.65 It is a defence for a person within subsection 4.64 (a) or (b) who is charged with an offence under this section to prove that the person

- a) made arrangements to ensure that the requirement was fulfilled, and
- b) took all reasonable steps to ensure that those arrangements were complied with.

Fees

4.66 The power to set fees has been passed to individual authorities so that any fees levied in each local area is set by reference to the actual costs to each authority. The fee charged cannot exceed the costs of providing the service.

Compliance & Enforcement

- 4.67 The Act provides a Police Constable and an Officer from the Council with a right to enter and inspect the premises of licensed and unlicensed scrap metal dealers. The full provisions of the powers are set out in Appendix 5.
- 4.68 The Act does not provide an Officer of the Council with the power to inspect premises of licensed and unlicensed scrap metal dealers outside the area of the authority.
- 4.69 The Council delivers a wide range of compliance services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade.
- 4.70 The administration and compliance of the licensing regime is one of these services.
- 4.71 Compliance will be based on the principles that businesses should:
- Receive clear explanations from regulators of what they need to do and by when;
 - Have an opportunity to resolve differences before compliance action is taken, unless immediate action is needed;
 - Receive an explanation of their right of appeal.
- 4.72 The council recognises the interest of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law. The council has set clear standards of service and performance that the public and businesses can expect.
- 4.73 In particular, a compliance policy has been created that explains how the council will undertake its role as the Licensing Authority and how the principles of effective compliance will be achieved.
- 4.74 The council has also established a compliance protocol with Essex Police and British Transport Police on compliance issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

Revocation of Licence

Basildon Council may revoke a licence if:

- 4.75 It is satisfied that the licensee does not carry on the business of scrap metal dealing at any of the sites identified in the licence.
- 4.76 It is satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence.
- 4.77 It is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer.
- 4.78 A revocation or variation under this section comes into effect when no appeal is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.
- 4.79 If the authority considers that the licence should not continue in force without conditions, it may by notice provide:
- a) that, until a revocation under this section comes into effect, the licence is subject to one or both of the conditions set out in section 4.24 of this policy;
 - or
 - b) that a variation under this section comes into effect immediately.
- 4.80 The Council is responsible for the administration and enforcement of the licensing regime and will have regard to the Government's Regulators' Code and the Council's own enforcement policies. The Council will carry out its regulatory functions in a fair, open and consistent manner.
- 4.81 This policy is freely available from the licensing section, as are details of the Council's corporate complaints procedures, both of which can be viewed on the Council's website: www.basildon.gov.uk.

Register of Licences

- 4.82 The Environment Agency will maintain a register of scrap metal licences issued by authorities in England.
- 4.83 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.
- 4.84 The registers will to be open for inspection to the public at www.environment-agency.gov.uk

Right of Appeal

- 4.85 Details of the Appeals applicable to this legislation can be found in Appendix 8

5. Council Promises

The table below provides a visual display of how this Policy will impact on the delivery of the corporate promises.

Corporate Promises	Levels of Impact			
	High	Medium	Low	None
1.A place where people are happy, healthy and active			<u>X</u>	
2.An attractive and welcoming place that people are proud to call home		X		
3.A place that encourages businesses to grow and residents to succeed		X		

6. Outcomes and Priorities

This policy seeks to achieve the following Outcome and Priorities:

Outcome – a balanced and transparent approach to the licensing of Scrap metal dealers which is understood by all relevant stakeholders.

Priorities

Ensuring that stakeholders have a clear understanding of how to make an application and how licensing decisions are taken by Basildon Council.

7. Links to other Corporate Policies or Partner documents

Economic Development Policy and Strategy
 Basildon Borough Council Corporate Plan
 Equality and Diversity Policy
 Basildon 2031 – The Local Plan
 Regulatory Services Enforcement Policy

8. Appendices

The advice and guidance contained in the appendices attached to this policy is intended only to assist readers in understanding the policy and should not be interpreted as legal advice or as constituent of Basildon Council’s statement of licensing policy.

APPLICATION PROCESS

An application for a licence should be made to the following address:

The Licensing Authority
Basildon Borough Council
The Basildon Centre
St. Martins Square
Basildon
Essex
SS14 1DL

To apply for a Scrap Metal Dealers Licence, applicants must be over 18 years of age and will need to complete an application form and send it to the Council together with:-

- a. Full name of 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 carry on business as a scrap metal dealer or propose to do so;
- 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 15 of the Scrap Metal Dealers Act 2015;
- j. Details of any relevant conviction or enforcement action taken against the applicant.

For site licence, must also provide:

- Address of each site proposed to be identified in the licence (or if renewal, each site identified for which renewal is sought);
- 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);
- Site manager details to be included for g), h) and j) above.

Please note the collectors licence allows a business or individual to operate within that authority's area, therefore individuals wishing to collect across the boundary of the local authority will be required to obtain a collectors licence from the relevant local authority where they wish to collect and sell.

You are required to provide a basic disclosure of criminal convictions with your application. A basic criminal record check is available in England & Wales from the DBS disclosure service contact details as follows;

DBS customer services
PO Box 3961
Royal Wootton Bassett
SN4 4HF

Emailcustomerservices@dbs.gsi.gov.uk
DBS helpline 03000 200 190
Minicom 03000 200 192
Welsh 03000 200 191
International +44151 676 9390

<https://www.gov.uk/request-copy-criminal-record>

Please note that the disclosure is valid for one month from the date it was issued.

Further information, in addition to that required above:

Basildon Council may request (at the time of the application or later) an applicant to supply such further information as is considered relevant for the purpose of considering the application.

Basildon Council requires the following additional evidence:

- Photographic evidence (Current valid Passport, driving licence photo ID and counterpart);
- Birth Certificate;
- Utility bill or other recent document which confirms the address of the applicant (must be less than 3 months old);
- Certificate of good conduct for applicants that have been out of the country for long periods, from the age of 10 years;
- Document showing a right to work (Residents Permit) where applicable;
- National Insurance Number.

The council may have regard to the following information, when considering the suitability of an applicant:

Whether the applicant or any site manager has been convicted of any relevant offence;
Whether the applicant or any site manager has been 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 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);
and

Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

All of the above will apply to any director or any secretary of a company if the applicant is not an individual.

3. Fee

The application must be accompanied by the fee set by Basildon Council, under guidance from the Secretary of State with the approval of the Treasury.

4. Renewal

When a licence is renewed the three year validity period commences on the day of receipt. Should a renewal application be withdrawn, the licence expires at the end of the day on which the application is withdrawn.

Refusal of application – licence expires when no appeal under Section 9 is possible in relation to the refusal or any such appeal is finally determined or withdrawn.

Making a false statement

An applicant who, in an application or in response to a request, makes a statement knowing it to be false in a material particular or recklessly makes a false statement is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PRESCRIBED DOCUMENTS AND INFORMATION FOR VERIFICATION OF NAME AND ADDRESS

In order to verify a person's name and address, it will be sufficient for the scrap metal dealer to refer to a document listed below which bears the person's full name, photograph and residential address, as follows:-

- A valid United Kingdom passport; or
- A valid European passport; or
- A valid UK or Northern Ireland photo-card driving licence; or
- A valid UK biometric immigration document, issued in accordance with regulations made under section 5 of the UK Borders Act 2007(3).

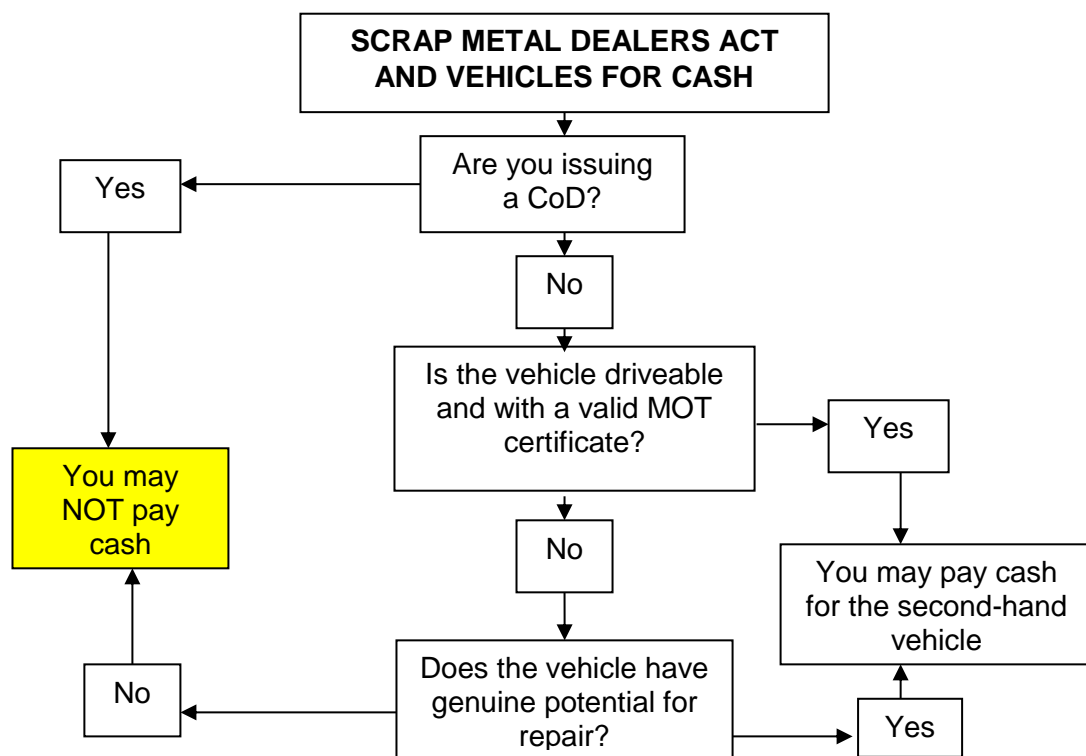
Or a document which bears the person's full name, photograph and date of birth and a supporting document which bears the person's full name and residential address as follows, provided the date on which the document in question was issued is not more than 3 months before the date when the scrap metal is received by the scrap metal dealer:-

- A bank or building society statement; or
- A credit or debit card statement; or
- A council tax demand letter or statement; or
- A utility bill, but not a mobile telephone bill

BUYING VEHICLES FOR CASH

Whether a vehicle will be considered to be scrap (and may not therefore be bought with cash) depends on all the circumstances of the case, and may not always be clear-cut. If a certificate of destruction (CoD) is issued, the car is considered to be scrap and a buyer must not pay cash for it. If a certificate of destruction is not issued, then it will depend on a number of other factors. For example, it may be argued that a car with a valid MOT certificate and that is drivable without repair is not scrap (therefore, a buyer may pay cash for it) regardless of the way in which the vehicle is subsequently handled by the buyer.

It is not possible to set out a precise checklist that can in every case guarantee to predict the decision a court may make where illegal payment of cash for scrap is alleged. However, the flowchart below should assist in deciding whether it may be permissible to pay cash. Potential buyers should note that, if they elect to pay cash for an un-driveable vehicle that has no valid MOT certificate, they may have to justify their assessment of reparability in court. There needs to be a genuine potential for repair and re-sale in order for cash to be used. Cash cannot simply be paid for everything on the basis the buyer might repair and resell it if they have no facilities for repairing vehicles and no history of selling vehicles. Similar issues may arise for the purchase of other items and appliances.



RELEVANT OFFENCES & PENALTIES

When considering the suitability of an applicant, Basildon Council will take into consideration relevant offences, these include:

- Environmental Offences
- Customs and Excise Management Act 1979 (section 170)
- Fraud Act 2006 (section 1)
- Proceeds of Crime Act 2002 (sections 329, 330, 331 and 332)
- Theft Act 1968 (sections 1,8,9,10,11,17,18,22 & 25)
- Scrap Metal Dealers Act 1964
- Scrap Metal Dealers Act 2013
- Legal Aid, Sentencing and Punishment of Offenders Act 2012 (section 146)
- Vehicle (Crime) Act 2001 (as motor salvage operators)

This document should not be relied upon as an accurate statement of the law, only indicative of the general offences and penalties. You should seek independent legal advice if you are unsure of any information in this document.

Offences relating to scrap metal dealing and motor salvage are described below under the relevant statute.

In relation to the maximum penalties specified, the levels of fine are currently as follows (Information correct at the time of writing this Policy and are subject to change):-

- Level 1 - £200
- Level 2 - £500
- Level 3 - £1,000
- Level 4 - £2,500
- Level 5 - £5,000

Scrap Metal Dealers Act 2013

Section	Offence	Maximum Penalty
1	Carry on business as a scrap metal dealer without a licence	Level 5
8	Failure to notify authority of any changes to details given within application	Level 3
10	Failure to display site licence or collectors licence	Level 3
11(6)	Receiving scrap metal without verifying the persons full name and address	
11(7)	Delivering scrap metal to dealer and giving false details	Level 3
12(6)	Buying scrap metal for cash	Level 5
15(1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another	Level 5

15(2)	Failure to keep copy of document used to verify name and address of person bringing metal, or failure to keep a copy of a cheque issued	Level 5
15(3)	Failure to keep information and record for three years	Level 5
16	Obstruction to right of entry and failure to produce records	Level 3

OFFENCES BY BODIES CORPORATE

1. Where an offence under the Act is committed by a body corporate and is proved:

- a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer; or
- b) to be attributable to any neglect on the part of any such individual.

The individual as well as the body corporate is guilty of the offence and is liable to be proceeded against and punished accordingly.

2. Where the affairs of a body corporate are managed by its members, section 1 applies in relation to the acts and omissions of a member in connection with that management as if the member were a director of the body corporate.

COMPLIANCE

RIGHT OF ENTRY

1. An officer of the Police or an officer of Basildon Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.
2. An officer of the Police or an officer of Basildon Council may enter and inspect a licensed site at any reasonable time, otherwise than on notice to the site manager, if
 - a) reasonable attempts to give notice have been made and failed, or
 - b) entry to the site is reasonably required for the purpose of ascertaining whether the provisions of this Act are being complied with or investigating offences under it and (in either case) the giving of the notice would defeat that purpose.
3. (1) and (2) above do not apply to residential premises.
4. An officer of the Police or an officer of Basildon Council is not entitled to use force to enter premises in the exercise of the powers under sections (1) and (2) above.
5. A justice of the peace may issue a warrant authorising entry (in accordance with section 7 below) to any premises within section 6 below if the justice is satisfied by information on oath that there are reasonable grounds for believing that entry to the premises is reasonably required for the purpose of:
 - a) securing compliance with the provisions of the Act, or
 - b) ascertaining whether those provisions are being complied with.
6. Premises are within this section if:
 - a) the premises are a licensed site, or
 - b) the premises are not a licensed site but there are reasonable grounds for believing that the premises are being used by a scrap metal dealer in the course of business
7. The warrant is a warrant signed by the justice which:
 - a) specifies the premises concerned, and
 - b) authorises a constable or an officer of a local authority to enter and inspect the premises at any time within one month from the date of the warrant.
8. An officer of the Police or an officer of Basildon Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.
- 9 An officer of the Police or an officer of Basildon Council may:
 - a) require production of, and inspect, any scrap metal kept at any premises mentioned in section 1 or 2 or in a warrant under section 5;
 - b) require production of, and inspect, any records kept in accordance with section 15 or 16 and any other records relating to payment for scrap metal;

c) take copies of or extracts from any such records.

10. If the owner, occupier or other person in charge of the premises requires the officer to produce

a) evidence of the officer's identity, or

b) evidence of the officer's authority to exercise those powers

the officer must produce that evidence.

11. In the case of an officer of Basildon Council, the powers under this section are exercisable only in relation to premises in the area of the authority.

Closure of Unlicensed Sites

A person with an interest in a premise is the owner, leaseholder or occupier of the premises.

Local authority powers are exercisable only in relation to premises in the authority's area.

Closure Notice

Not applicable if the premises are residential premises.

A constable or the local authority must be satisfied that the premises are being used by a scrap metal dealer in the course of business and that the premises are not a licensed site.

A 'closure notice' may be issued by a constable or local authority which states they are satisfied of the above, the reasons for that, that the constable or local authority may apply to the court for a closure order and specifies the steps which may be taken to ensure that the alleged use of the premises ceases.

The notice must be given to the person who appears to be the site manager of the premises and any person who appears to be a director, manager or other officer of the business in question. The notice may also be given to any person who has an interest in the premises.

The notice must be given to a person who occupies another part of any building or structure of which the premises form part and the constable or local authority believes at the time of giving the notice, that the person's access to that other part would be impeded if a closure order were made in respect of the premises.

Cancellation of Closure Notice

A 'cancellation notice' issued by a constable or local authority may cancel a closure notice. This takes effect when it is given to any one of the persons to whom the closure notice was given. This must also be given to any other person to whom the closure notice was given.

Application for Closure Order

When a closure notice has been given, a constable or the local authority may make a complaint to the justices of the peace for a closure order. This may not be made less than 7 days after the date on which the closure notice was given or more than 6 months after that date.

A complaint under this paragraph may not be made if the constable or authority is satisfied that the premises are not (or are no longer) being used by a scrap metal dealer in the course of business and there is no reasonable likelihood that the premises will be so used in the future.

The justice may issue a summons to answer to the complaint. This must be directed to anyone whom the closure notice was given and must include the date, time and place at which the complaint will be heard.

Closure Order

A closure order requires that a premises be closed immediately to the public and remain closed until a constable or the local authority makes a termination of closure order by certificate. The use of the premises by a scrap metal dealer in the course of business be discontinued immediately and that any defendant pay into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.

The closure order may include a condition relating to the admission of persons into the premises, the access by persons to another part of any building or other structure of which the premises form part.

A closure order may include such provision as the court considers appropriate for dealing with the consequences if the order should cease to have effect.

As soon as practicable after the closure order is made, the complainant must fix a copy of it in a conspicuous position on the premises in respect of which it was made.

A sum ordered to be paid into court under a closure order is to be paid to the designated officer for the court.

Termination of Closure Order by Certificate

Once a closure order has been made and a constable or local authority is satisfied that the need for the order has ceased a certificate may be made. This ceases the closure order and any sum paid into a court is to be released by the court to the defendant.

As soon as is practicable after making a certificate, a constable or local authority must give a copy to any person against whom the closure order was made, give a copy to the designated officer for the court which made the order and fix a copy of it in a conspicuous position on the premises in respect of which the order was made.

A copy of the certificate must be given to any person who requests one.

Discharge of Closure Order by Court

A closure order may be discharged by complaint to a justice of the peace. This can be done by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was given.

The court will make a discharge order if it is satisfied that there is no longer a need for the closure order. The justice may issue a summons directed to a constable as the justice considers appropriate or the local authority, requiring that person appear before the magistrates' court to answer to the complaint.

If a summons is issued, notice of the date, time and place at which the complaint will be heard must be given to all persons to whom the closure notice was given (other than the complainant).

APPEALS

An applicant may appeal to the Magistrates' Court against the refusal of an application or a variation. The licensee may appeal to a Magistrates' Court against the inclusion in a licence of a condition under section 4.24 or the revocation or variation of a licence under section 4.31.

An appeal must be made within 21 days beginning on the day the notice to refuse the application, to include the condition or to revoke or vary the licence under section 7 (Schedule 1) of the Scrap Metal Dealers Act 2013 was given.

The procedure on an appeal under this paragraph is to be by way of complaint for an order and in accordance with the Magistrates' Court Act 1980.

For the purposes of the time limit for making an appeal, the making of the complaint is to be treated as the making of the appeal.

On appeal, the Magistrates' Court may confirm, vary or reverse the authority's decision, and give such directions as it considers appropriate having regard to the provisions of the Act.

The authority must comply with any directions given by the Magistrates' Court. Although the authority need not comply with such directions until the time for making an application under section 111 of the Magistrates' Courts Act 1980 has passed or if such an application is made, until the application is finally determined or withdrawn.

Appeal must be made to the Crown Court against:

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

The appeal must be made before the end of 21 days beginning with the day on which the order or decision in question was made.

An appeal under a) or b) may be made by any person to whom the relevant closure notice was given or any person who has an interest in the premises but to whom the closure notice was not given.

An appeal under b) and c) may be made by a constable or the local authority.

Enforcement of Closure Order

A person is guilty of an offence, without reasonable excuse, if they permit premises to be open in contravention of a closure order, or fails to comply with, or does an act in contravention of a closure order.

If the closure order has been made, a constable or a person authorised by the local authority may (if necessary using reasonable force) enter the premises at any reasonable

time, and having entered the premises, do anything reasonably necessary for the purpose of securing compliance with the order.

If the owner, occupier or other person in charge of the premises requires the officer to produce evidence of identity or evidence of authority to exercise powers, the officer must produce that evidence.

DELEGATION OF POWERS

Function	Legislation	Delegated to	Limitations
Power to grant site licences and collectors licences, or vary a licence from one type to another, as appropriate subject to the imposition of conditions, where the applicant is determined under Council policy and the provisions of the Act to be a suitable person for Licensing	Scrap Metal Dealers Act 2013, s3, s8 & Sch 1	Assistant Director Public Spaces Environmental Health Services Manager Environmental Health Team Managers	Contested applications where the officer does not consider the person to be suitable and the person wishes to make written or oral representations against the intention to refuse their application, to be referred to Miscellaneous Licensing Sub-Committee who will consider the representations and either take no action, allowing the officer's intended decision to progress, or determine that the application be granted.
Power to revoke a scrap metal licence to vary a licence to add conditions	Scrap Metal Dealers Act 2013, s4 & Sch 1	Assistant Director Public Spaces Environmental Health Services Manager Environmental Health Team Managers	Where the officer believes that there are grounds for a licence to be revoked or varied to add conditions, and the licence holder wishes to make written or oral representations against the action, the matter shall be referred to the Miscellaneous Licensing Sub-Committee who will consider the representations and either take no action, allowing the officers' intended decision to progress, or determine that the licence shall continue without revocation or variation.
Power to supply information on behalf of the local authority, where required by the Act	Scrap Metal Dealers Act 2013, s6	Assistant Director Public Spaces	

Function	Legislation	Delegated to	Limitations
		Environmental Health Services Manager Environmental Health Team Managers	
Power to appoint officers of the local authority to confirm upon them rights to request information; to enter and inspect premises, materials and records and take copies; to enforce notices and orders; and to apply for a warrant to authorise entry for the purposes of the Act	Scrap Metal Dealers Act 2013, s16, Sch 1 & Sch 2	Assistant Director Public Spaces Environmental Health Services Manager Environmental Health Team Managers	
Power to issue and cancel a Closure Notice and to apply for and terminate a Closure Order	Scrap Metal Dealers Act 2013, Sch 2	Assistant Director Public Spaces Environmental Health Services Manager Environmental Health Team Managers	
Power to institute proceedings on behalf of the Council for offences committed under the Act	Scrap Metal Dealers Act 2013	Assistant Director Public Spaces Environmental Health Services Manager	

Decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision

**Monday to Friday
10am to 5pm**



Basildon Council
BASILDON • BILLERICAY • WICKFORD

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