

SCRAP METAL DEALERS ACT 2013

STATEMENT OF LICENSING POLICY



Author and service: David Lloyd Roberts, Policy and Performance

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Cyngor Sir CEREDIGION County Council

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| 1. Introduction | |
| 1.1 | This Policy which was approved at a meeting of Ceredigion County Council's Cabinet on 8 TH May 2018 outlines the requirements of the Scrap Metal Dealers Act 2013 (the Act). It gives guidance to new applicants, existing licence holders and members of the public as to how the Council will administer and enforce the requirements of the Act. |
| 1.2 | Though the Act does not stipulate that the Council is required to publish a policy, it felt that it was good practice to do so. The Policy will be reviewed as and when necessary. Ceredigion County Council (the licensing authority) may depart from its own policy if individual circumstances of any case warrant such a deviation. In such cases the Council will give full reasons for doing so. |
| 1.3 | Metal theft over recent years has had significant impact on communities, businesses and local authorities alike. Such thefts have seen communications and train networks disrupted, buildings, churches and historic monuments vandalised alongside drainage gully covers, road signage and house hold items being stolen. The Scrap Metal Act 2013 has been created to help prevent some of the previous issues surrounding the sale, collection, storage and disposal of scrap metal. |
| The Law | |
| 1.4 | The Scrap Metal Dealers Act 2013 ("the Act") received Royal Assent on 28 February 2013. The Act repealed the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001 and created a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries. |
| 1.5 | The Act maintains local authorities as the principal regulator, but replaces the old registration system with a full licensing regime. It grants power to refuse a licence to "unsuitable" applicants and a power to revoke licences if the dealer becomes "unsuitable". |
| 1.6 | The Act requires a scrap metal dealer to obtain a licence in order to carry on business as a scrap metal dealer. |
| Definition of a Scrap Metal Dealer | |
| 1.7 | A person carries on business as a scrap metal dealer if: <ul style="list-style-type: none"> a) they wholly or partly buy or sell scrap metal (whether or not sold in the form it was bought in) |

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| | <p>or;</p> <p>b) they carry on business as a motor salvage operator (see 1.9).</p> |
| 1.8 | A person selling scrap metal as surplus materials or as a by-product of manufacturing articles is NOT regarded as a scrap metal dealer. |
| 1.9 | <p>Motor salvage operation is defined in the Act as a business that consists wholly or mainly of:</p> <p>a) recovering salvageable parts from motor vehicles for re-use or sale and selling the remainder of the vehicle for scrap;</p> <p>b) buying written-off vehicles, repairing and reselling them;</p> <p>c) buying or selling motor vehicles which are to be the subject of any of the activities mentioned in (a) or (b);</p> <p>d) wholly or mainly in activities falling within paragraphs (b) and (c).</p> |
| 1.10 | <p>Scrap metal includes:</p> <p>a) any old, waste or discarded metal or metallic material, and</p> <p>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.</p> |
| 1.11 | <p>Scrap Metal does not include:</p> <p>a) Gold;</p> <p>b) Silver; or</p> <p>c) Any alloy of which 2% or more by weight is attributable to gold or silver.</p> |
| 2. Consultation | |
| 2.1 | 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' the Council has chosen to adopt a formal policy for this purpose. |
| 2.2 | In developing this policy statement, the Council will consult with existing scrap metal dealers/motor salvage operators, Heddlu Dyfed-Powys Police, British Transport Police, National Resources Wales and industry associations. |

3. Types of Licences

3.1 Anyone wishing to operate a business will require either a site licence or a collector's licence. A person may hold more than one licence issued by different local authorities, but may not hold more than one licence issued by any one Authority. The licence is valid for three years and permits the holder to operate within the boundaries of the issuing authority.

Site Licence

3.2 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. Prior to granting a site licence, checks will be made with the local Planning Authority to ensure that the correct planning consent has been granted.

Collectors Licence

3.1 A Collectors Licence authorises a licence holder to operate as a 'mobile collector' in the area of the issuing local authority area.

3.2 A mobile collector is a person who a) carries on business as a scrap metal dealer otherwise than at a site, and b) regularly engages, in the course of that business, in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door. 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.

3.3 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.

3.4 A person may hold more than one licence issued by different authorities, but may **NOT** hold more than one licence issued by any one local authority.

| 4. Application Process | |
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| 4.1 | When the Council is considering an application, it will have regard to: <ul style="list-style-type: none"> • The Scrap Metal Dealers Act 2013; • Any supporting regulations • Guidance issued by the Secretary of State |
| 4.2 | 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. |
| 4.3 | 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 Appendix 1. |
| 4.4 | 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. |
| 4.4 | The application must be accompanied by the fee set by the Council, under guidance from the Secretary of State. |
| 4.5 | If the applicant fails to provide the information requested, including the additional supporting documentation, the Council may refuse the application as a valid application. |
| 5. Suitability of Applicants | |
| 5.1 | A local authority must determine whether the applicant is a suitable person to carry on a business as a Scrap Metal Dealer. |
| 5.2 | 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 2. |
| 5.3 | The Council must also have regard to any guidance on determining |

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| | suitability which is issued by the Secretary of State. |
| 5.4 | <p>The Council may consult with other agencies regarding the suitability of an applicant, including:</p> <ul style="list-style-type: none"> • Any other local authority; • The Environment Agency; • The Natural Resources Body for Wales; • An officer of a police force; • Local Authority Environmental Health and • Trading Standards |
| 6. Determination of Application/Issue of Licence | |
| 6.1 | Where the Council is satisfied that an applicant is a 'suitable person' to hold a Scrap Metal Dealers Licence, it must issue a licence. |
| 6.2 | <p>In reaching its decision the Council will have regard to:</p> <ul style="list-style-type: none"> • Whether the applicant or any site manager has been convicted of any unspent relevant offence; • Whether the applicant or any site manager has been the subject of any relevant enforcement action; • Any previous refusal to issue or renew a scrap metal licence; • Any previous refusal for an environment permit or registration; • Any previous revocation of a scrap metal licence; and • Whether the applicant has demonstrated that there will be adequate procedures to comply with the Act. |
| 6.3 | In exceptional circumstances the Authority may consider convictions for non-relevant offences. Each application will be taken on its own merit and appropriate weight to the information provided will be given. |
| 6.4 | All of the above will apply to any director, any secretary of a company or any shadow director of the company if the applicant is not an individual. |
| 6.5 | <p>If an applicant or any site manager has been convicted of a relevant offence, the Council may include in the licence one or both of the following conditions:</p> <ul style="list-style-type: none"> • To limit the dealer to receiving any metal within the hours of 9:00 am to 5:00 pm; <p>and</p> <ul style="list-style-type: none"> • 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. |

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| 6.6 | 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 Oral Representations (Appeal against the initial decision to refuse or revoke a licence) | |
| 6.7 | If the Council proposes to refuse the grant of 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: <ul style="list-style-type: none"> a) make representations about the proposal; or b) inform the authority that the applicant/licensee wishes to do so. |
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| 6.8 | 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 and the applicant/licensee has not made representations, or informed the Authority of their wish to do so the Authority may refuse the granting of a licence or revoke or vary an existing licence. |
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| 6.9 | If, within the period specified, the applicant/licensee informs the Authority that they wish to make representations, the Authority must allow a reasonable period to make such representations. The local authority may refuse the application or revoke or vary the licence if the applicant fails to make representations within that period. |
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| 6.10 | 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. In this instance, this will be the Cabinet Member for Lifestyle Services in conjunction with the Corporate Lead Officer – Policy and Performance. |
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| 6.11 | It will be common practice for those agencies that have made representations regarding the application to also be in attendance at the hearing and will be able to present their case before the Cabinet Member for Lifestyle Services in conjunction with the Corporate Lead Officer – Policy and Performance who will make a decision regarding the representation. |
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| 7. Notice of Decisions | |
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| 7.1 | 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. |
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| 8. Variation of Licence | |
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| 8.1 | 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: <ul style="list-style-type: none"> • 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. |
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| 8.2 | Application is to be made to the issuing authority and contain particulars of the changes to be made to the licence. |
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| 9. Revocation of Licence | |
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| 9.1 | The Authority may revoke a scrap metal licence if 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. |
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| 9.2 | The Authority may revoke a licence if 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. |
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| 9.3 | The authority may revoke a licence if it is no longer satisfied that the licensee is a suitable person to carry on a business as a scrap metal dealer. |
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| 9.4 | A revocation or variation under this section comes into effect when no appeal under Section 16.9 is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn. |
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| 9.5 | If the Authority considers that the licence should not continue in force without conditions, it may by notice provide: |

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| | <p>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 3.8;</p> <p>or</p> <p>b) that a variation under this section comes into effect immediately.</p> |
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| 10. Appeals | |
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| 10.1 | 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 3.8 or the revocation or variation of a licence under section 4 of the Scrap Metal Dealers Act 2013. |
| | |
| 10.2 | 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. |
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| 10.3 | The procedure on an appeal under this paragraph is to be by way of complaint for an Order 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 day on which the appeal is lodged. |
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| 10.4 | On appeal, the Magistrates' Court may confirm, vary or reverse the Council's decision, and give such directions as it considers appropriate having regard to the provisions of the Act. |
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| 11. Register of Licences | |
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| 11.1 | National Resources Wales must maintain a register of scrap metal licences issued by local authorities in Wales. |
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| 11.2 | <p>Each entry must record:</p> <p>a) the name of the authority which issued the licence;</p> <p>b) the name of the licensee;</p> <p>c) any trading name of the licensee;</p> <p>d) the address of the site identified in the licence;</p> <p>e) the type of licence; and</p> <p>f) the date on which the licence is due to expire.</p> |
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| 11.3 | The registers are to be open for inspection to the public. |
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| 12. Notification Requirements | |
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| 12.1 | 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. |
| | |
| 12.2 | 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. |
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| 12.3 | 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. |
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| 12.4 | An Authority must notify National Resources Wales, of : a) any notification given to the authority under section 11.2 or 11.3; b) any variation made by the authority under section 8 (variation of type of licence or matters set out in licence); and c) any revocation of the authority of a licence. |
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| 12.5 | Notification under Section 8 must be given within 28 days of the notification, variation or revocation in question. |
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| 13. Display of Licence | |
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| 13.1 | 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. |
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| 13.2 | 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. |
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| 14. Verification of Supplier's Identity | |
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| 14.1 | 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. |

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| 14.2 | Should verification not be determined, 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 d) the person who has responsibility on behalf of the scrap metal dealer for verifying the name and address. |
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| 15. Payment for Scrap Metal | |
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| 15.1 | 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). |
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| 15.2 | Payment includes payment in kind – with goods or services. |
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| 16. Records: Receipt of Metal | |
| 16.1 | 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) e) full name of the person making payment on behalf of the dealer. |
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| 16.2 | The dealer must keep a copy of any documents used to verify the name and address of the person delivering the metal. |
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| 16.3 | If payment is made via cheque, the dealer must retain a copy of the cheque. |
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| 16.4 | 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. |
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| 17. Records: Disposal of Metal | |
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| 17.1 | The Act regards the metal to be disposed of: <ul style="list-style-type: none"> 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. |
| 17.2 | Where the disposal is in the course of business under a site licence, the following must be recorded: <ul style="list-style-type: none"> 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. |
| 17.3 | If disposal is in the course of business under a collector's licence, the dealer must record the following information: <ul style="list-style-type: none"> a) the date and time of the disposal; b) if to another person, their full name and address. |
| 18. Records: Supplementary | |
| 18.1 | The information in sections 15 and 16 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. |
| 18.2 | The records mentioned in section 15 must be marked so as to identify the scrap metal to which they relate. |
| 18.3 | 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 |
| 18.4 | If a scrap metal dealer fails to fulfil a requirement under section 15 and 16 or this section each of the following is guilty of an offence: <ul style="list-style-type: none"> 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 d) has responsibility for fulfilling the requirement. |

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| 18.5 | It is a defence for a person within subsection 17.4 (a) or (b) who is charged with an offence under this section to prove that the person <ul style="list-style-type: none"> a) made arrangements to ensure that the requirement was fulfilled, and b) took all reasonable steps to ensure that those arrangements were complied with. |
| 19. Compliance | |
| 19.1 | The Act provides a Police Constable and a duly Authorised 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 3. |
| 19.2 | 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. |
| 19.3 | 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. The administration and compliance of the licensing regime is one of these services. |
| 19.4 | Compliance will be based on the principles that businesses should: <ul style="list-style-type: none"> • 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. |
| 19.5 | The Authority 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. |
| 20. Closure of Unlicensed Sites | |
| Interpretation | |
| 20.1 | 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 | |
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| 20.2 | The serving of a Closure Notice is 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. |
| 20.3 | 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. |
| 20.4 | 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. |
| 20.5 | 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 | |
| 20.6 | A 'cancellation notice' issued by a constable or a 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 | |
| 20.7 | When a closure notice has been given, a constable or the local authority may make a complaint to the Magistrates Court 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. |
| 20.8 | 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. A magistrate 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. |

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| Closure Order | |
| 20.9 | 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 is discontinued immediately and that any defendant pays 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. |
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| 20.10 | 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. |
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| 20.11 | 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. |
| Termination of Closure Order by Certificate | |
| 20.13 | 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. |
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| 20.14 | 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. |
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| 20.15 | A copy of the certificate must be given to any person who requests one. |
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| Discharge of Closure Order by Court | |
| 20.16 | A closure order may be discharged by complaint to the Magistrates Court. 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. |
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| 20.17 | The court will make a discharge order if it is satisfied that there is no longer |

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| | 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. |
| 20.18 | 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). |
| Appeal | |
| 20.19 | Appeal may be made to the Crown Court against: <ul style="list-style-type: none"> 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. |
| 20.20 | 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. |
| 20.21 | 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. |
| 20.22 | An appeal under b) and c) may be made by a constable or the local authority. |
| Enforcement of Closure Order | |
| 20.23 | A person is guilty of an offence, without reasonable excuse, if they permit a 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. |
| 20.24 | 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. |
| 20.25 | 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. |

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| 21. Delegation of Authority | |
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| 21.1 | Decisions on licensing matters will be taken in accordance with the approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision making. |
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| 21.2 | This scheme will be subject to amendment from time to time as shown in the Council's Constitution. |
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APPENDIX 1 APPLICATION PROCESS

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

The Licensing Team
Policy and Performance
Care, Protection and Lifestyle
Ceredigion County Council
Penmorfa
Aberaeron
SA46 0PA

Full details regarding the making of an application can be received by contacting the Licensing Team on 01545 570881

The following procedure must be read in conjunction with the Act, any regulations made under the Act and guidance issued by the Home Office

1. Any person wishing to apply for a site or collectors licence for scrap metal must complete the prescribed application form and submit it to the licensing team along with the advertised fee and a basic DBS certificate for each person named on the application, the certificate will only be accepted if it was issued within the previous 3 months. Applicants will have to prove their identity with photographic ID, e.g. passport or photo card driving licence and a utility bill.
2. Only applications that are completed correctly will be accepted, the basic level disclosure DBS certificate and identity documents will be copied and the originals returned to the applicant.
3. A copy of the application will be forwarded to Ceredigion County Council's Environmental Control Team.
4. An enquiry will be made on the Environment Agency Website, see separate guidance from NRW/EA.
5. The consultees will have 14 days to make a representation objecting to the grant of the licence if they consider any of the named persons in the application not suitable to be granted a licence.
6. The application will then be assessed by a licensing officer to determine if they have any evidence to suggest that the applicant or any of the named persons on the application are not a suitable person. The matters specified in section 3 of the Act, the offences specified in regulations and guidance issued by the Home Office must be considered. It is essential that information about

any relevant offence revealed is obtained from the police before any decision on grant is made. This may be a separate enquiry if there is no police objection to the application.

7. A duly authorised local authority officer will inspect the premises if a site or if the applicant is a collector, to assess the suitability of the applicant/premises. This will include inspecting any premises, vehicle, and records already kept. He/she will report to the Licensing Officer of any inadequacies that would prevent a licence from being issued.
8. The licensing officer may interview any person named in the application if it is considered necessary. The licensing officer should also give advice and guidance on the legislation and what it requires of licence holders and named persons on the application.
9. A duly authorised officer may make representations objecting to the grant of a licence if he/she have evidence that any named person is not suitable to be granted a licence.
10. If a representation is made by a licensing officer or a consultee, the licensing manager will assess the representations and determine if the licence should be granted.
11. If there are no representations or the grounds for the representation are satisfied by other information, the licence will be granted.
12. If a licence is not granted the applicant will be given notice of the refusal to grant with grounds for the refusal and notice that they have 14 days to notify the Authority that they wish to make oral representations to support their application.
13. If notice is given that the applicant wishes to make an oral representation, a meeting with the Cabinet Member for Lifestyle Services in conjunction with the Corporate Lead Officer – Policy and Performance will be arranged as soon as practicable.
14. A report will be written by officers and sent to the applicant and the Cabinet Member for Lifestyle Services in conjunction with the Head of Legal Services at least 14 days prior to the meeting.
15. At the meeting, the Cabinet Member for Lifestyle Services and the Corporate Lead Officer – Policy and Performance will hear from any officer or consultee who has made a representation and the applicant to determine if they may be granted a licence with or without conditions specified in the Act.

16. If the decision is to grant the licence the licence will be issued. If the decision is to refuse to grant the licence the Authority's solicitor will send a Notice to the applicant setting out the grounds for the refusal and their right to appeal to the magistrate's court within 21 days of the notice.

PROCEDURE FOR ORAL REPRESENTATIONS (HEARINGS)

Introduction

- Applicants are given the right to give oral representations to a nominated person if officers refuse to grant an application.
- The Cabinet Member for Lifestyle Services and the Corporate Lead Officer – Policy and Performance have been designated as the nominated person and the Cabinet Member will chair the meeting and can ask questions of any person.
- A solicitor will be present to advise the nominated persons and will advise him/her on necessary legal considerations..
- The procedure must be explained at the beginning of the meeting by the nominate person.
- The hearing “shall take the form of a discussion led by the Authority and cross examination may be permitted if the Authority considers that cross examination is required to consider the representations, application or notices as the case may require”.
- Each party will be given adequate time to make their points, representations, etc.
- The Chair will determine the application based on the information provided at the meeting following the provisions set out in relevant legislation and guidance in force at the time.

Procedure

1. At the commencement of every hearing, the solicitor will explain the procedure to be followed at the hearing and the Chair will ensure that every party present or their representative understands the procedure that will be followed.
2. The meeting will usually take place in private as it is likely to be discussing private information.

3. Each party will be given sufficient time to make any representations and present any information or evidence they wish to provide to the Chair.
4. The normal order of business will be as set out below but the Chair may vary this order depending on the specific issues that arise in the case and whether or not the applicant or other parties are legally represented.
5. The procedure will normally be as follows:-
 - (1) The Chair will ask each person who is present to identify themselves and explain their interest in the matter.
 - (2) The Licensing Officer will provide the meeting with background information relating to the application and the issues before the Chair where this is necessary and explain the reasons for any notice given to a party seeking clarification of any particular points at the hearings. He or she will advise the Chair on any aspect of the legislation, guidance and policy relevant to the application.
 - (3) Any objectors or relevant authorities that have made objections or relevant representations will be invited to present their case in turn referring the Chair to any relevant documents and calling any evidence.
 - (4) The applicant will present his or her case and refer the Chair to any relevant documents and call any evidence.
 - (5) At the conclusion of the representations of each party, the Chair or the solicitor on behalf of the Chair will raise any questions requiring clarification.
8. When all the parties have presented their cases, the solicitor will advise the Chair on the issues to be determined in the light of the evidence and representations and the options available.
9. The Chair will in turn invite the following to suggest any further questions that need to be answered by any other party or witness and the Chair will put such questions if he or she sees fit:
 - The Licensing Officer
 - Interested parties and relevant authorities
 - The applicant

Such questions will be allowed at the Chair's discretion.

- 10 When these questions have been concluded, the Chair and the solicitor on behalf of the Chair shall ask any further questions they consider appropriate.
- 11 Each party shall be invited to make any final comments or representations in the same order as in (9) above.
- 12 The solicitor shall advise the Chair on any law that is relevant to their consideration of the matter.
- 13 The Chair will move into confidential session to consider his/her decision.
- 14 If there are any new points of law on which advice is sought by the Chair, the decision makers shall reconvene for this advice to be given by the Legal Representative.
- 15 If the Chair requires any clarification of any issue raised during the hearing they shall reconvene to raise such issues. All of the parties listed in 8 above shall be entitled to be present.
- 16 The Chair's decision will be announced to the parties at the conclusion of their deliberations. Written reasons will be provided to the applicant within 14 days.

APPENDIX 2 RELEVANT OFFENCES

The Secretary of State, in exercise of the powers conferred by sections 3(3)(b) and (c) and 20(4) of the Scrap Metal Dealers Act 2013(1) makes the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 and came into force on 1st October 2013.

In these Regulations—

“environment-related offence” means an offence which relates to the transportation, shipment or transfer of waste, or to the prevention, minimisation or control of pollution of the air, water or land which may give rise to any harm; “harm” means:

- i. harm to the health of human beings or other living organisms;
- ii. harm to the quality of the environment;
- iii. offence to the senses of human beings;
- iv. damage to property; or
- v. impairment of, or interference with, amenities or other legitimate uses of the environment.

Relevant offences

For the purposes of section 3(3)(b) of the Scrap Metal Dealers Act 2013, “relevant offence” means any offence specified in the Schedule to these Regulations, and includes an offence of—

- a) attempting or conspiring to commit any offence falling within the Schedule;
- b) inciting or aiding, abetting, counselling or procuring the commission of any offence falling within the Schedule, and
- c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) committed in relation to any offence falling within the Schedule.

Relevant enforcement action

For the purposes of section 3(3)(c) of the Scrap Metal Dealers Act 2013, a person is the subject of “relevant enforcement action” if—

- a) the person has been charged with an offence specified in the Schedule to these Regulations, and criminal proceedings in respect of that offence have not yet concluded; or
- b) an environmental permit granted in respect of the person under the Environmental Permitting (England and Wales) Regulations 2010 has been revoked in whole, or partially revoked, to the extent that the permit no longer authorises the recovery of metal.

SCHEDULE

PART 1 Primary Legislation

- a) An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989
- b) An offence under section 170 or 170B of the Customs and Excise Management Act 1979, where the specific offence concerned relates to scrap metal
- c) An offence under section 110 of the Environment Act 1995
- d) An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990
- e) An offence under section 9 of the Food and Environment Protection Act 1985
- f) An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- g) An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012
- h) An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
- i) Any offence under the Scrap Metal Dealers Act 2013
- j) An offence under sections 1, 8,9,10, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the specific offence concerned relates to scrap metal, or is an environment-related offence
- k) Any offence under Part 1 of the Vehicles (Crime) Act 2001
- l) An offence under sections 85, 202, or 206 of the Water Resources Act 1991

PART 2 Secondary Legislation

- a) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
- b) An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
- c) Any offence under the Hazardous Waste (England and Wales) Regulations 2005(
- d) Any offence under the Hazardous Waste (Wales) Regulations 2005
- e) An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
- f) Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- g) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- h) Any offence under the Transfrontier Shipment of Waste Regulations 1994
- i) Any offence under the Transfrontier Shipment of Waste Regulations 2007.

- j) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- k) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011.

**Summary of Rehabilitation Periods Applicable to Certain Sentences
(Section 139 of The Legal Aid, Sentencing and Punishment of Offenders Act 2012)**

| <i>Sentence</i> | <i>End of rehabilitation period for adult offenders</i> | <i>End of rehabilitation period for offenders under 18 at date of conviction</i> |
|--|---|--|
| A custodial sentence of more than 30 months and up to, or consisting of, 48 months | The end of the period of 7 years beginning with the day on which the sentence (including any licence period) is completed | The end of the period of 42 months beginning with the day on which the sentence (including any licence period) is completed |
| A custodial sentence of more than 6 months and up to, or consisting of, 30 months | The end of the period of 48 months beginning with the day on which the sentence (including any licence period) is completed | The end of the period of 24 months beginning with the day on which the sentence (including any licence period) is completed |
| A custodial sentence of 6 months or less | The end of the period of 24 months beginning with the day on which the sentence (including any licence period) is completed | The end of the period of 18 months beginning with the day on which the sentence (including any licence period) is completed |
| Removal from Her Majesty's service | The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed | The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed |
| A sentence of service detention | The end of the period of 12 months beginning with the day on which the sentence is completed | The end of the period of 6 months beginning with the day on which the sentence is completed |
| A fine | The end of the period of 12 months beginning with the date of the conviction in respect of which the sentence is imposed | The end of the period of 6 months beginning with the date of the conviction in respect of which the sentence is imposed |
| A compensation order | The date on which the payment is made in full | The date on which the payment is made in full |
| A community or youth rehabilitation order | The end of the period of 12 months beginning with the day provided for by or under the order as the last day on which the order is to have effect | The end of the period of 6 months beginning with the day provided for by or under the order as the last day on which the order is to have effect |
| A relevant order | The day provided for by or under the order as the last day on which the order is to have effect | The day provided for by or under the order as the last day on which the order is to have effect |

APPENDIX 3 COMPLIANCE - RIGHT OF ENTRY

1. A constable or an officer of the Council may enter and inspect a licensed site at any reasonable time on notice to the site manager.
2. A constable or an officer of the 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. A constable or an officer of the Council is not entitled to use force to enter a premises in the exercise of the powers under sections (1) and (2) above.
5. A Magistrate may issue a warrant authorising entry to any premises within section 6 below if the Magistrate 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. A constable or an officer of the Council may, if necessary, use reasonable force in the exercise of the powers under a warrant under section 5.
9. A constable or an officer of the 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. Section 11 below applies if a constable or an officer of the Council who seeks to exercise powers under this section in relation to any premises.

11. 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.

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

APPENDIX 4 DELEGATION OF POWERS

| Matter to be dealt with | Cabinet | Corporate Lead Officer – Policy and Performance | Officer | Cabinet Member for Lifestyle Services |
|--|---------|---|-------------------------------------|---------------------------------------|
| Approval of policy | Yes | X | X | X |
| Determination of Fees | Yes | X | X | X |
| Application for Site licence or Collectors licence | X | If an oral representation requested | Yes | If an oral representation requested |
| Application to vary Site licence | X | If an oral representation requested | Yes | If an oral representation requested |
| Application to revoke site licence or collectors licence | X | If an oral representation requested | Yes | If an oral representation requested |
| The inclusion of conditions on a licence | X | If an oral representation requested | yes | If an oral representation requested |
| Issue of a Closure Notice | X | X | Yes | X |
| Cancellation of a Closure Notice | X | X | Yes | X |
| Application for a Magistrates Closure Order | X | X | In conjunction with Legal Services. | X |