



# **Scrap Metal Licensing Policy 2020**

## Written January 2020

### Contents

1. Introduction.....	Page 3
2. Who needs a Licence? .....	Page 4
3. Application for a Site Licence.....	Page 5
4. Application for a Collector’s Licence.....	Page 7
5. Application to Vary a Licence.....	Page 9
6. Applicant Suitability.....	Page 10
7. Conditions.....	Page 13
8. Revocation of Licence.....	Page 14
9. Register of Licences.....	Page 15
10. Display of Licence.....	Page 16
11. Verification of Supplier Identity.....	Page 16
12. Payment for Scrap Metal.....	Page 17
13. Record Keeping – Receipt & Disposal.....	Page 17
14. Right of Entry & Inspection.....	Page 19
15. Enforcement Action.....	Page 21
16. Offences & Penalties.....	Page 21
17. Transfer/Amendment of an Existing Licence.....	Page 22
18. Replacement of Existing Licence.....	Page 23
19. Renewal of Licences.....	Page 23
20. Supply of Information to Other Bodies.....	Page 24
21. Notification of Cease of Trading.....	Page 25
22. Retention of Personal Data – Data Protection.....	Page 25

23. Publishing and revising the Scrap Metal Policy.....	Page 26
Appendix I – Definitions.....	Page 27
Appendix II – List of Possible Consultees.....	Page 28
Appendix III – Scrap Metal Dealers Code of Practice.....	Page 29
Appendix IV – Fee Sheet.....	Page 30

## **Related Documents**

The following documents have been consulted when drafting this policy:

Scrap Metal Dealers Act 2013

Part 1 of the Vehicles (Crime) Act 2001

Scrap Metal Dealers Act 1964

Regulators Compliance Code

Rehabilitation of Offenders Act 1974

East Lindsey District Council Enforcement Policy

East Lindsey District Council Enforcement Concordat

Scrap Metal Dealers Act 2013 - Fee Setting Guidance

## **1. Introduction**

### *1.1 The Policy*

Metal theft over recent years has had a significant impact on communities, businesses and Local Authorities. The Scrap Metal Dealers Act 2013 (The Act) was introduced to help prevent some of the previous issues surrounding the sale, collection, storage and disposal of scrap metal.

The purpose of this policy is to provide guidance on the Scrap Metal Dealers Act 2013 and the criteria taken into account by East Lindsey District Council, when

determining whether or not an applicant or an existing Licence holder is suitable to hold a Scrap Metal Dealers Licence.

## *1.2 The Law*

The Scrap Metal Dealers Act 2013 introduced a new definition of a "Scrap Metal Dealer" and the term "scrap metal" was revised to ensure it reflects the 21st Century Scrap Metal industry. It aims to raise trading standards across the industry by requiring more detailed and accurate records of transactions as well as a requirement to verify the identity of those selling metal to them as well as a total prohibition on making cash payments for scrap.

The Act received Royal Assent on 28 February 2013. It repeals the Scrap Metal Dealers Act 1964 (and linked legislation) and Part 1 of Vehicles (Crime) Act 2001 creating a revised regulatory regime for the scrap metal recycling and vehicle dismantling industries.

It grants power to refuse a Licence to "unsuitable" applicants and a power to revoke a Licence if the dealer becomes "unsuitable".

The Act requires any persons to obtain a Licence in order to carry on business as a Scrap Metal Dealer.

## **2. Who needs a Licence?**

### *2.1 Definition of a Scrap Metal Dealer*

A Scrap Metal Dealer is defined under s21(2) of the Act as someone carrying on a business which consists wholly or in part of buying and selling scrap metal, whether or not the metal is sold in the form in which it is bought.

However a manufacturing business that sells scrap metal created only as a by-product of the processes it uses, or because it has a surplus of materials, is not caught by this definition. (s21 (3))

### *2.2 Definition of Scrap Metal*

Scrap metal includes:

- any old, waste or discarded metal or metallic material, and
- 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.

Scrap metal does not include:

- Gold
- Silver
- Any alloy of which 2% or more by weight is attributable to gold or silver

### *2.3 Types of Licence*

Anyone wishing to operate a business as a Scrap Metal Dealer will require a Scrap Metal Licence. There are two types of Licence:

- Site Licence; or
- Collector's Licence

A person or business is unable to hold both Licences, they must either hold a Collector's Licence or a Site Licence. A person may however, hold more than one Licence issued by another Local Authority. For example, an Applicant may apply for Collector's Licences across several neighbouring authorities where they wish to operate.

### *2.4 Term of Licence*

Both types of Licence are valid for three years from the date of issue and permit the Licence holder to operate within the boundaries of the issuing Authority.

## **3. Application for a Site Licence**

### *3.1 Site Licence*

The Site Licence is issued by the Local Authority in whose area a scrap metal site is situated and requires all of the sites at which the Licence holder carries on the business as a scrap metal dealer to be identified, as well as a Site Manager to be named for each site. In doing so they are permitted to operate from those sites as a Scrap Metal Dealer, including transporting scrap metal to and from those sites from any Local Authority area. Pre-arranged collections of scrap metal can be made under a Site Licence.

### *3.2 Definition of Site*

A Site is defined in the Act under s22 (9) as “any premises used in the course of carrying on business as a scrap metal dealer (whether or not metal is kept there)”.

### *3.3 Fees*

The fee for a Site Licence is based upon a fixed standard fee of **£1500.00 for a 3 year Licence.**

Part A Fees: £1000.00

Part B Fees: £500.00

**Total Fee: £1500.00**

Part A Fees will be submitted in order to validate an initial Scrap Metal application. Part B Fees will be paid upon notification of intention to approve a Scrap Metal Licence & before any Licence is issued. Any part A Fees are non-refundable.

### *3.4 Application Process for a Site Licence*

A Site Licence application will need to be completed and submitted to the Local Authority in which their site is located, along with the relevant fee.

This application form can be downloaded from the East Lindsey District Council website [www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk) or a hard copy can be sent via post by contacting the Scrap Metal Licensing Team, by email [scrap.metal@e-lindsey.gov.uk](mailto:scrap.metal@e-lindsey.gov.uk) or by post at East Lindsey District Council, Tedder Hall, Manby Park, Louth, Lincolnshire. LN11 8UP.

The Site Licence application form must be completed, detailing the Applicant name and full contact details. We will also require the Applicant’s National Insurance number & address history to ensure that Right to Work in the UK checks are completed.

If there will be a Site Manager, their full details will also be required.

All Applicants must provide proof of a Waste Carrier’s Licence held with the Environment Agency. The Waste Carrier’s Licence must remain valid for the duration of the Scrap Metal Licence. The Waste Carrier’s reference number will need to be supplied on the application form.

Any details of Environmental Permits or Exemptions held by the Applicant with the Environment Agency will need to be supplied in full.

As part of the application process, any criminal convictions must be disclosed to the Local Authority. You will need to provide an original Basic Disclosure certificate (DBS) formally called a CRB check. This DBS must be dated within 1 month of the application being submitted to the Local Authority. Any older DBS documentation will not be accepted. The original document will be returned to the applicant once the application process has been completed. Further information regarding criminal convictions can be found in part 5 of this policy.

Applicants can apply online for a Basic Disclosure certificate at: <https://www.gov.uk/request-copy-criminal-record>. You can also contact the DBS helpline on **03000 200 190** and select option 2 and then option 1.

Two passport photographs will need to be supplied per person named on the application form (i.e. for each Applicant, Site Manager etc.)

Full details of any vehicles you intend to use as part of your business will be required, including registration mark, make, model, colour & insurance documents which permit the transportation of scrap metal.

The Site Licence application fees will be in two parts. The Part A fee will be required on submission of a Scrap Metal application form. The Part B fee will be payable upon the approval of an application to grant a Site Licence.

The Applicant will be notified in writing where an application for a Scrap Metal Licence has been successful and the Part B Fee is due to be paid. The Licence will be issued within 14 days of receipt of full payment of the Part B Fees.

If an application is made and the Authority subsequently refuse to grant a Licence, or the applicant withdraws their application, the Part A fees are non-refundable. Part B fees are refundable where an application is withdrawn or refused.

Any application submitted will be scrutinised in line with this Scrap Metal Policy to ensure that the person making the application is a suitable person to carry on business as a Scrap Metal Dealer.

## **4. Application for a Collector's Licence**

### *4.1 Collector's Licence*

A Collector's Licence authorises the Licence holder to operate in the area of the issuing Local Authority only, permitting them to collect any scrap metal as appropriate. This includes commercial as well as domestic scrap metal.

The Licence does not permit the collector to collect from any other Local Authority area – a separate Licence is required in each Local Authority area that the person wishes to collect. A mobile Collector’s Licence does not authorise the Licence holder to carry on a business at a site within any area. Should a fixed site be used then the person must obtain a Site Licence from the relevant Local Authority.

#### *4.2 Fees*

The fee for a Collector’s Licence is based upon a fixed standard fee of **£540.00 for a 3 year Licence.**

Part A: £360.00

Part B: £180.00

**Total Fee: £540.00**

Part A Fees will be submitted in order to validate an initial Scrap Metal application. Part B Fees will be paid upon notification of intention to approve a Scrap Metal Licence & before any Licence is issued. Any part A Fees are non-refundable.

#### *4.3 Application Process for a Collector’s Licence*

A Collector’s Licence application will need to be completed and submitted to the Local Authority in which their site is located, along with the relevant fee.

This application form can be downloaded from the East Lindsey District Council website [www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk) or a hard copy can be sent via post by contacting the Scrap Metal Licensing Team, by email [scrap.metal@e-lindsey.gov.uk](mailto:scrap.metal@e-lindsey.gov.uk) or by post at East Lindsey District Council, Tedder Hall, Manby Park, Louth, Lincolnshire. LN11 8UP.

The Collector’s Licence application form must be completed, detailing the Applicant name and full contact details. We will also require the Applicant’s National Insurance number & address history to ensure that Right to Work in the UK checks are completed.

All Applicants must provide proof of a Waste Carrier’s Licence held with the Environment Agency. The Waste Carrier’s Licence must remain valid for the duration of the Scrap Metal Licence. The Waste Carrier’s reference number will need to be supplied on the application form.



As part of the application process, any criminal convictions must be disclosed to the Local Authority. You will need to provide an original Basic Disclosure certificate (DBS) formally called a CRB check. This DBS must be dated within 1 month of the application being submitted to the Local Authority. Any older DBS documentation will not be accepted. The original document will be returned to the applicant once the application process has been completed. Further information regarding criminal convictions can be found in part 5 of this policy.

Applicants can apply online for a Basic Disclosure certificate at: <https://www.gov.uk/request-copy-criminal-record>. You can also contact the DBS helpline on **03000 200 190** and select option 2 and then option 1.

Two passport photographs will need to be supplied for the Applicant proposing to become a Collector.

Full details of any vehicles you intend to use as part of your business will be required, including registration mark, make, model, colour & insurance documents which permit the transportation of scrap metal.

The Collector's Licence application fees will be in two parts. The Part A fee will be required on submission of a Scrap Metal application form. The Part B fee will be payable upon the approval of an application to grant a Site Licence.

The Applicant will be notified in writing where an application for a Scrap Metal Licence has been successful and the Part B Fee is due to be paid. The Licence will be issued within 14 days of receipt of full payment of the Part B Fees.

If an application is made and the Authority subsequently refuse to grant a Licence, or the applicant withdraws their application, the Part A fees are non-refundable. Part B fees are refundable where an application is withdrawn or refused.

Any application submitted will be scrutinised in line with this Scrap Metal Policy to ensure that the person making the application is a suitable person to carry on business as a Scrap Metal Dealer.

## **5. Application to Vary a Licence**

### *5.1*

An application to vary a Licence will be required if you wish to upgrade a Collector's Licence to a Site Licence. The application process will be the same as section 3 of this policy.

An updated Basic DBS Check will be required to be submitted which is dated within 1 month of your application.

Any Licence that has been varied will be valid until the expiry date of the original Collector's Licence. Any renewal application would be the standard application process for a Site Licence including the fee.

### *5.2 Fee*

The fee to Vary a Collector's Licence to a Site Licence is based upon a fixed standard fee of **£960.00**.

## **6. Applicant Suitability**

### *6.1*

A Local Authority must determine whether an Applicant is a suitable person to carry on business as a Scrap Metal Dealer and may not issue a Licence unless satisfied that the Applicant is suitable.

### *6.2*

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.

### *6.3 Definitions*

In this section:

- (a) "Site Manager" means an individual proposed to be named in the Licence as a Site Manager
- (b) "relevant offence" means an offence which is prescribed for the purposes of the Act in regulations made by the Secretary of State, and

- (c) "relevant enforcement action" means enforcement action which is so prescribed by regulations.

#### 6.4

In determining whether a company is suitable to carry on business as a Scrap Metal Dealer, a Local Authority is to have regard, in particular, to whether any of the following is a suitable person:

- (a) any director of the company
- (b) any secretary of the company
- (c) any shadow director of the company (that is to say, any person in accordance with those directions or instructions the directors of the company are accustomed to act)

#### 6.5

In determining whether a partnership is suitable to carry on business as a Scrap Metal Dealer, a Local Authority is to have regard, in particular, to whether each of the partners is a suitable person.

#### 6.6

The Authority must also have regard to any guidance on determining suitability which is issued from time to time by the Secretary of State

#### 6.7 Consultations

The Authority may consult other persons or bodies regarding the suitability of an applicant, including in particular:

- (a) any other Local Authority;
- (b) the Environment Agency;
- (c) an Officer of a Police force;
- (d) any other relevant public body/business/individual

#### 6.8

Having regard to the objectives of the Act the Authority has determined that it will presume that the applicant is unsuitable to be issued with a Licence where an Applicant or any other person required to be named or identified in the Licence has been convicted of any of the following offences **within the period of three years prior to the application:**

- Theft
- Fraud
- Money laundering

- Section 33 Environmental Protection Act 1990 – Fly tipping
- Section 34 Environmental Protection Act 1990 – Duty of Care with regards to Commercial Waste
- Breach of Permitting Regulations
- Control of Pollution Amendment Act 1989
- Assaults/offences against a person

## 6.9

Insofar as any of the offences contained in 6.8 above are not prescribed as “relevant offences” for the purposes of the Act the Authority may nevertheless require further information from the Applicant to assist in determining the suitability of the Applicant. The Authority may not treat any such offence or enforcement action as a “relevant offence” or “relevant enforcement action” for the purposes of the Act but shall nevertheless consider such an offence as a significant offence in relation to the suitability of the Applicant to hold a Licence.

## 6.10

Having regard to the objectives of the Act the Authority has determined that it will presume that the Applicant is unsuitable to be issued with a Licence where an Applicant or any other person required to be named or identified in the application has been the subject of any of the following forms of enforcement action **within the period of three years prior to the application:**

- (a) Scrap Metal Closure Notice pursuant to the Act
- (b) Scrap Metal Closure Order pursuant to the Act
- (c) Action for recovery of possession of out of date or discontinued Scrap Metal Licences

## 6.11

Having regard to the objectives of the Act the Authority has determined that it will consider the following offences or enforcement actions relating to any person relevant to the Licence as being of particular relevance to the suitability of the Licence holder:

- Written warning relating to Scrap Metal Licence compliance
- Waste Regulations 2011 – enforcement, compliance and Stop Notices
- Permitting Regulations Notices
- Planning Breach of Condition / Enforcement Notices
- Issue of Statutory Nuisance Abatement Notice
- Breach of Statutory Nuisance Abatement Notice (ie for noise etc)

## 6.12

In relation to all considerations of possible revocation or variation and all applications for grant or renewal of a Licence the Authority shall consider the

suitability of the Applicant or Licence holder with regard to adherence or otherwise by the Licence holder or any other person identified in the Licence to this policy or the Applicant's willingness to adhere to this policy. Failure to adhere to the requirements set down in this policy shall be considered particularly relevant to the suitability of the Applicant or Licence holder to hold a Licence.

Without prejudice to the above, where an Officer of the Council has reason to believe that a Licence is not being operated in accordance with the policy, but it is in that Officer's opinion reasonable to deal with the cause of complaint by way of a written warning or further written warning then the matter may be dealt with by written warning to the Licence holder.

Where a Licence holder has received a second written warning from an Officer of the Council then the Licence holder shall be asked to meet with the appropriate Officer of the Council to discuss the reasons for the issue of the previous written warnings and the Officer shall warn the Licence holder that the Licence shall be subject to revocation should there be any repetition of the matter of complaint, on the basis that the Licence holder is no longer considered to be suitable to hold a Licence.

Where an officer of the Council has reason to believe that there are grounds for issuing a third written warning then the relevant Licence holder shall be presumed by the Council to be an unsuitable person to hold a Licence, subject to any representation from the Licence holder that there may be exceptional circumstances to justify the circumstances of the failure to remedy the cause of complaint.

## **7. Conditions**

### *7.1 Imposition of Conditions*

Section 3 of the Act allows the Local Authority, when issuing a Licence, to attach conditions if the licence holder or Site Manager has been convicted of a relevant offence, these are set out in Subsection (8) of the Act:-

- that the dealer must not receive scrap metal except between 09.00 and 17.00 on any day; or
- that all scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with time when it is received.

## **8. Revocation of Licence**

### **8.1**

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.

### **8.2**

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.

### **8.3**

The Authority may revoke a Licence if it is no longer satisfied that the Licensee is a suitable person to carry on business as a Scrap Metal Dealer and the Authority shall have particular regard to any "relevant offences" and "relevant enforcement action" and to those matters contained in paragraphs 6.9, 6.10, 6.11 and 6.12 of this policy.

### **8.4**

If the Licensee or any Site Manager named in a Licence is convicted of a relevant offence, the Authority may vary the Licence by adding one or both of the conditions set out in paragraph 7.1 of this policy.

### **8.5**

A revocation or variation comes into effect when no appeal under paragraph 15 of this policy is possible in relation to the revocation or variation, or when any such appeal is finally determined or withdrawn.

### **8.6**

If the Authority considers that the Licence should not continue in force without conditions, it may by notice provide:

- (a) that, until a revocation comes into effect, the Licence is subject to one or both of the conditions set out in paragraph 7.1, or
- (b) that a variation under this paragraph comes into effect immediately.

### **8.7**

All Licences issued by the Council pursuant to the Act remain the physical property of the Council and must be returned to the Council as required on expiry or revocation of the relevant Licence or copy Licence. Action may be taken for the recovery of any Licence not returned as required by the Council

and any such action may be taken into account in relation to any future application for a Licence.

## 8.8

All reference in this policy to copy Licences shall be construed as original copies officially endorsed and issued by the Council as the Licensing Authority.

## 8.9

where an Officer of the Council has reason to believe that a Licence is not being operated in accordance with the policy, but it is in that Officer's opinion reasonable to deal with the cause of complaint by way of a written warning or further written warning then the matter may be dealt with by written warning to the Licence holder.

Where a Licence holder has received a second written warning from an Officer of the Council then the Licence holder shall be asked to meet with the appropriate Officer of the Council to discuss the reasons for the issue of the previous written warnings and the Officer shall warn the Licence holder that the Licence shall be subject to revocation should there be any repetition of the matter of complaint, on the basis that the Licence holder is no longer considered to be suitable to hold a Licence.

Where an officer of the Council has reason to believe that there are grounds for issuing a third written warning then the relevant Licence holder shall be presumed by the Council to be an unsuitable person to hold a Licence, subject to any representation from the Licence holder that there may be exceptional circumstances to justify the circumstances of the failure to remedy the cause of complaint.

If it is the Council's decision to revoke a Licence, an Intention of Revocation Notice will be issued, followed by a full Revocation Notice. This Notice can be appealed in the Magistrates Court.

## **9. Register of Licences**

### *9.1 National Register*

The Environment Agency maintains a register of scrap metal licences issued by authorities in England and each entry must record:

- the name of the Authority which issued the Licence
- the name of the Licensee
- any trading name of the Licensee
- the address of the site identified in the Licence
- the type of Licence, and
- the date on which the Licence is due to expire

## *9.2 Information Sharing*

As the Local Authority we will provide the appropriate information to the Environment Agency on all Licences issued in our area.

## *9.3 Publishing Website Link*

East Lindsey District Council will provide a link on their website to the Environment Agency's national database. The registers are open for inspection by the public.

# **10. Display of Licences**

## *10.1 Site Licence*

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. Smaller versions of the Site Licence must also be displayed in any van used in connection with the Licence.

## *10.2 Collector's Licence*

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. A Collector's Licence will have the Applicant's photograph on it.

## *10.3 Failure to display Licence*

A criminal offence is committed by any Scrap Metal Dealer who fails to display a valid Licence. This offence is punishable on summary conviction with a fine not exceeding level 3 on the standard scale.

# **11. Verification of Supplier Details**

## *11.1*

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.

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 sub-paragraph (a) or (b), has responsibility for verifying the name/address

## **12. Payment for Scrap Metal**

### *12.1*

Scrap Metal Dealers **must not accept cash** for any items.

A Scrap Metal Dealer must only pay for scrap metal by either:

- a cheque (which is not transferrable under Section 81A Bills of Exchange Act 1882); or
- electronic transfer of funds (authorised by a credit, debit card or otherwise)

Payment includes paying in kind – with goods or services.

## **13. Record Keeping – Receipt & Disposal**

All Scrap Metal Dealers must maintain accurate records for any metals received and disposed of in the course of their business.

### *13.1 Receipt of Metal*

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

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

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

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.

### *13.2 Disposal of Metal*

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

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 if 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

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

### *13.3 Record Keeping Supplementary*

The information in paragraphs 13.1 and 13.2 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.

The records mentioned in paragraph 13.1 and 13.2 must be marked so as to identify the scrap metal to which they relate.

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.

If a scrap metal dealer fails to fulfil a requirement under paragraph 13.1 or 13.2 each of the following is guilty of an offence by way of section 15 of the Act:

- (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.

It is a defence for a person within who is charged with an offence under section 15 of the Act 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

## **14. Right of Entry & Inspection**

### *14.1*

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.

### *14.2*

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

- reasonable attempts to give notice have been made and failed, or
- 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.

### *14.3*

Paragraph 14.2 does not apply to residential premises.

### *14.4*

A Constable or an Officer of the Council is not entitled to use force to enter premises in the exercise of the powers identified in paragraphs 14.1 and 14.2.

### *14.5*

A Justice of the Peace may issue a warrant authorising entry in accordance with section 16 of the Act to any premises within paragraph 14.6 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

#### 14.6

Premises are within this paragraph if

- the premises are a licensed Site, or
- 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.

#### 14.7

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 16 of the Act.

#### 14.8

A Constable or an Officer of the Council may:

- require production of, and inspect, any scrap metal kept at any premises mentioned in paragraphs 14.1 or 14.2 or in a warrant under section 16
- require production of, and inspect, any records kept in accordance with section 13 or 14 of the Act and any other records relating to payment for scrap metal
- take copies of or extracts from any such records.

#### 14.9

Officers of the Council will undertake where reasonable and practicable to give a notice of their powers and your rights on entry to any Site licensed pursuant to the Act and the Licence holder, Site Managers and other operatives should note that officers may use recording to assist them in their duties whilst on site.

#### 14.10

East Lindsey District Council will inspect Sites annually, with additional compliance visits where necessary. The Council will use additional powers to ensure full compliance with the Act.

## **15. Enforcement Action**

### *15.1 Unlicensed Sites*

Section 9 of the Act deals with the closure of unlicensed Sites. It gives a Police Officer or Local Authority power to issue a Closure Notice on a non-residential premises being used as an unlicensed Scrap Metal Dealer's site. Once issued it allows the Police or Local Authority (unless cancelled) to apply to a Magistrates Court for a Closure Order who are able to make the Order where it is satisfied that the premises continues to be used as a Dealer's Site or there is a reasonable likelihood it will in the future. The Order can require a Site to close immediately or for a sum to be retained by the Court until the requirements of the Court are met.

An appeal can be made to the Crown Court against the making of a Closure Order and a Discharge Order as well as decisions not to grant a Closure or Discharge Order.

Failure to comply with a Closure Order is an offence, and a Police Officer or Authorised Person can (using force if necessary) enter premises and do anything reasonably necessary to ensure compliance with the Closure Order. It is an offence to obstruct a Police Officer or Authorised Person in exercising their powers which is punishable, along with failure to comply with a Closure Order, of a fine not exceeding level 5 (unlimited fine).

The Authority will fully investigate any alleged breaches or offences relating to the Scrap Metal Dealers Act 2013.

## **16. Offences & Penalties**

The following are prescribed by the Act as criminal offences:

Section 1	Carrying on business as a scrap metal dealer without licence (level 5 – unlimited fine)
Section 8	Failure to notify authority of any changes to details given with application (level 3 – up to £1000 fine)
Section 10	Failure to display site licence or collectors licence (level 3 - up to £1000 fine)
Section 11(6)	Receiving scrap metal without verifying persons full name and address (level 3 - up to £1000 fine)

Section 11(7)	Delivering scrap metal to dealer and giving false details (level 3 - up to £1000 fine)
Section 12(6)	Buying scrap metal for cash (level 5 – unlimited fine)
Section 13	Failure to keep records regarding receipt of metal (level 5 – unlimited fine)
Section 14	Failure to keep records regarding disposal of metal (level 5 – unlimited fine)
Section 15(1)	Failure to keep records which allow the information and the scrap metal to be identified by reference to one another (level 5 – unlimited fine)
Section 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 – unlimited fine)
Section 15(3)	Failure to keep information and records for three years (level 5 – unlimited fine)
Section 16	Obstruction to right of entry and failure to produce records (level 3 - up to £1000 fine)
Section 17	<p>Where an offence under this Act is committed by a body corporate and it is proved—</p> <p>(a) to have been committed with the consent or connivance of a director, manager, secretary or other similar officer, or</p> <p>(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.</p> <p>(2)Where the affairs of a body corporate are managed by its members, subsection (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.</p>

## **17. Amendments to a Licence**

Where a Licence holder wishes to amend their Licence an application must be made to the Council, for which a fee is payable. The fee must accompany the application to amend the Licence. The power to amend the name of the Licensee does not include the power to transfer the Licence from one person to another.

When a Licence is issued there will be a period of up to seven days where any corrections will be made to the Licence free of charge.

If the Council themselves deem it necessary to alter conditions there will be no fee payable.

#### *17.1*

### **Amendment for Change of Name or Address**

The fee for this service is based upon a fixed standard fee of **£25.00**.

#### *17.2*

### **Amendment for Change of Site Manager**

The fee for this service is based upon a fixed standard fee of **£75.00**.

#### *17.3*

### **Amendment for Change of Trading Name**

The Licensee must notify the Authority that issued the Licence of any amendment to their trading name within 28 days of the change. An application to update the name must be made to the Local Authority.

The fee for this service is based upon a fixed standard fee of **£50.00**.

## **18. Replacement of Existing Licence**

If a Licence is damaged, lost or a replacement is required. There will be a fee for this service. This is a standard fee for both Site and Collector's Licences. Applicants will also need to provide an up-to-date passport photograph for the replacement Licence.

The fee for this service is based upon a fixed standard fee of **£25.00**.

## **19. Renewal of licence**

### *19.1 Fees*

The standard fees stated above in part 3 of this policy Application for a Site Licence or part 4 of this policy Application for a Collector's Licence; will be the charges for renewal of the Licence.

### 19.2

A renewal application must be received before the expiration date of the Licence.

### 19.3

If renewed, the Licence expires at the end of the three year period from the date of the renewal.

## **20. Supply of Information to Other Bodies**

### 20.1

This section applies to information which has been supplied to a Local Authority under this Act and relates to a Scrap Metal Licence or to an application for, or relating to a licence. It also relates to suspected persons who may be operating without a Licence.

### 20.2

The Local Authority must supply any such information to any of the following persons who request it for purposes relating to this Act:

- (a) any other Local Authority;
- (b) the Environment Agency;
- (c) an Officer of a Police force.

### 20.3

The Local Authority must notify the Environment Agency, of –

- (a) any notification given to the Authority under paragraph 7 of this policy
- (b) any variation made by the Authority under paragraph 6, 14 or 16 of this policy (variation of type of Licence or matters set out in Licence), and
- (c) any revocation by the Authority of a Licence Notification under paragraph 7 of this policy, must be given within 28 days of the notification, variation or revocation in question.

### 20.4

This section does not limit any other power the Authority has to supply that information.



## **21. Notification of Cease of Trading**

A Licensee who is no longer carrying on business as a Scrap Metal Dealer in the area of the Authority that issued the Licence must notify the Authority that they have ceased trading within 28 days. Their Licence must be returned to the Local Authority.

## **22. Retention of Personal Data – Data Protection**

Any personal or sensitive information held by the Authority as part of a Scrap Metal Licence Application or Investigation will be held for 7 years. After 7 years the information will be destroyed in line with the Council's retention policies.

### *22.1 Data Protection Notice*

East Lindsey District Council is a Data Controller and can be contacted at: Tedder Hall, Manby Park, Louth, Lincolnshire, LN11 8UP. Telephone 01507 601111. The Data Protection Officer can be contacted at the same address/phone number.

We are collecting your personal data in order to process your application for a Scrap Metal Site or Collectors Licence as part of our Public Task under the Scrap Metal Dealers Act 2013, as we are the Licensing Authority. We will process any Special Category Data – that concerns your health or criminal convictions by consent which you have given on the application form.

Your data will be shared with the Police and the Environment Agency because there is a legal duty on the Council to consult these third parties, in order to process the application and make a decision on whether the Licence should be issued. Your data may also be used for Council purposes, in order to prevent or detect crime, or to protect public funds or where we are required or permitted to share data under other legislation.

Your data will be kept for as long as you have a licence and then for a further 6 years in line with our retention policy.

You have the right to access your data and to rectify mistakes, erase, restrict, object or move your data in certain circumstances. Please contact the Data Protection Officer for further information or go to our website where your rights are explained in more detail. If you would like to receive an explanation of your rights in paper format please contact the Data Protection Officer.

Any complaints regarding your data should be addressed to the Data Protection Officer in the first instance. If the matter is not resolved you can contact the Information Commissioner's Office at Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF (Tel: 0303 123 1113)

If you do not provide the information required on the form then we will not be able to process your application for a Licence.

For further information on our Data Protection Policies please go to our website.

### **23. Publishing and Revising the Scrap Metal Policy**

This Scrap Metal Policy will be published on the East Lindsey District Council website at [www.e-lindsey.gov.uk](http://www.e-lindsey.gov.uk). The fees detailed in this policy have been determined in line with relevant legislation guidance.

This Policy will be revised no later than January 2023.

## Appendix I

### DEFINITIONS:

“Licensed Site” means a Site identified in a Scrap Metal Licence.

“Mobile Collector” means 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.

“Police Officer” includes a Constable of the British Transport Police Force.

“Premises” includes any land or other place (whether enclosed or not).

“Relevant environmental permit or registration” means—

- a) any environmental permit under regulation 13 of the Environmental (Permitting) Regulations 2010 authorising any operation by the Applicant in the Local Authority's area;
- b) any registration of the applicant under Schedule 2 to those Regulations in relation to an exempt waste operation (within the meaning of regulation 5 of those Regulations) carried on in that area;
- c) any registration of the applicant under Part 8 of the Waste (England and Wales) Regulations 2011 (carriers, brokers and dealers of controlled waste).

“Relevant offence” and “relevant enforcement action” have the meaning given by section 3(3) of the Scrap Metal Dealers Act 2013.

“Site” means any premises used in the course of carrying on business as a Scrap Metal Dealer (whether or not metal is kept there).

“Site Manager”, in relation to a Site at which a Scrap Metal Dealer carries on business, means the individual who exercises day-to-day control and management of activities at the Site. (An individual may be named in a Licence as Site Manager at more than one Site; but no Site may have more than one Site Manager named in relation to it).

“Trading name” means a name, other than that stated in the Licence under which a Licensee carries on business as a Scrap Metal Dealer.

## **Appendix II**

LIST OF CONSULTEES:  
(This list is not exhaustive)

Lincolnshire Police

British Transport Police

Any other Police Force

Lincolnshire Fire & Rescue

Environment Agency

Trading Standards

Environmental Health Team

Health & Safety Team

Development Control - Planning

Environmental Crime Team

Individuals & companies currently registered as Scrap Metal Dealers

Individuals & companies currently registered as Motor Salvage Operators

### **Appendix III - Scrap Metal Dealers Code of Practice**

All Scrap Metal Dealers with a Scrap Metal Licence sign up to this Code to agree to try their best to abide by the following requirements which will also be specified in the Licence:

- All reasonable steps will be taken to ensure stolen metals are not bought.
- Metals will only be accepted from those whose ID has been/can be verified as required by the Scrap Metal Dealers Act 2013
- No payment shall be made to any person other than the person as identified on the Scrap Metal Collector's Licence displayed on the vehicle where metals are produced by a licensed Scrap Metal Collector.
- Staff must be trained in administrative processes and all paperwork should be relevant and kept up-to-date.
- Dealers will co-operate with Police and Local Authorities by allowing access and inspection when requested.
- No blackened copper wire that has obviously had its insulation removed should be bought.
- Metals will not be accepted from customers on foot.
- Metal will not be accepted from customers arriving in taxis or private hire vehicles.
- Dealers will display prominent signage at their premises stating that "We report suspected metal thieves to the Police".
- In order to comply with the Act's requirements concerning record keeping and identification no metals shall be received without at a minimum taking and retaining a digital photograph(s) of the scrap metal load as presented, cross-referenced with the appropriate waste transfer note.
- Dealers shall have available and actively use UV torches for detecting forensically marked metals.
- Suspicious persons or suspicious transactions will be reported to the local Police force for the area concerned.
- Dealers will work towards adopting into an electronic 'alert' notification scheme for early notification of stolen metals.
- All Scrap Metal Dealers agree to work towards installing Automatic Number Plate Recognition (ANPR) cameras or police approved CCTV systems at site entrances and/or weighbridges. (Where such systems have been installed posters advertising the fact will clearly be displayed on the premises).

## Appendix IV – Fees

East Lindsey District Council Scrap Metal Licensing Fees:

Type	Fee		
Site Licence	Part A: £1000.00	Part B: £500.00	Total: £1500.00
Collector's Licence	Part A: £360.00	Part B: £180.00	Total: £540.00
Replacement of Existing Licence	£25.00		
Change of Trading Name	£50.00		
Change of Site Manager	£75.00		
Change of Name/Address	£25.00		
Vary Collector's Licence to Site Licence	£960.00		