



Walsall Area Partnerships

REPORT TITLE	SCRAP METAL DEALERS ACT 2013
PURPOSE OF THE BRIEFING	To update the Area Panel on the Scrap Metal Dealers Act 2013
REPORT OF	Steve Knapper, Principal Licensing Officer, WMBC Presented by Michael Greenfield - Area Manager- North Walsall
DATE OF BRIEFING	27th January 2015
VENUE OF BRIEFING	Beechdale Lifelong Learning Centre Stephenson Square Stephenson Avenue Beechdale WS2 7DY

It was widely considered that regulatory reform of the scrap metal sector was needed. Initial legislative steps to prohibit cash payments for scrap metal, amend police powers of entry into unregistered scrap metal sites and increase the existing financial penalties for offences in the Scrap Metal Dealers Act 1964 were contained in the Legal Aid, Sentencing and Punishment of Offenders Act 2012 which amended the Scrap Metal Dealers Act 1964. These were brought into force in December 2012.

The national growth of metal theft offences, driven by increased commodity costs highlighted the ineffectiveness of the existing registration scheme in the Scrap Metal Dealers Act 1964 which had not prevented the scrap metal industry being the central market for stolen metal.

Problems also associated with scrap metal operations included:

- The 'sorting' of scrap metal takes place on Sundays, normally late afternoon / evening. Collectors do this outside their home address / on the pavement & road, depositing waste oil, chemicals and other debris on the highway. There is also an issue of storing scrap metal / materials in front & rear gardens or burning noxious materials that they don't want, for example, plastic casing that houses copper wire.
- Any materials that are 'sorted' that do not have an exchange value are frequently fly tipped.
- Scrap Collectors are often complained about by people who are disturbed by the loudspeaker that they use to attract attention whilst on their rounds.



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- One of the more common scrap vehicle 'nuisances' is parking on grass verges or causing an obstruction.
- A large proportion of people who operate as scrap collectors, live in Local Housing Association properties and as such may be in breach of their tenancy agreements by operating a business from home.

As a consequence of all of the above, The Scrap Metal Dealers Act 2013 came into effect on the 1 October 2013.

A person carries on business as a scrap metal dealer if a person "carries on a business which consists wholly or partly in buying **or** selling scrap metal.

The Act maintains local authorities as the principal regulator but gives them the power to better regulate these industries by allowing them to refuse to grant a licence to 'unsuitable' applicants and a power to revoke licences if the dealer becomes 'unsuitable'.

The Act regulates sites where a scrap metal dealer carries on business as well as mobile collectors of scrap. In the case of a mobile collector, it is every person who acts as a collector who must have a licence from every local authority in whose area they wish to operate.

The legislation does not allow for someone to hold both a collectors and a site licence in the same authority area. It must be one or the other. This will obviously be dependant on the actual nature of the scrap metal business itself.

A site licence

A site licence authorises the licence holder to carry on business at any site in the council's area which is identified (named) in the licence. A site licence holder can transport scrap metal from third party businesses by arrangement from any other local council area providing it is in the course of the business from that site. A site licence holder cannot regularly engage in collecting waste materials and old, broken, worn out or defaced articles by means of visits from door to door in the area they are licensed or elsewhere, as this would constitute carrying on a business as a mobile collector. It would be acceptable to collect by arrangement, for instance where a motor salvage operator is asked to transport a damaged vehicle from an address to their site.

If a site licence holder uses self-employed mobile collectors to collect scrap metal which will be processed by the site, each collector would need a mobile collector's licence.

It should be noted that local authority powers only relate to commercial sites and not residential addresses. If such business is being conducted from a residential address, planning/environmental/pollution control intervention maybe required to address the issue.



Collector's licence

A collector's licence authorises the licensee to carry on business as a mobile collector in the licensing council's area only. 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.

A mobile collector's licence will cover any employees working for that business. If they are not employed directly by that mobile collector's business and are self-employed, they will need their own collector's licence even if they are collecting metal from the same van as a person who has a mobile collector's licence. The licence is issued to the person rather than the vehicle(s) and as a consequence of this, the local authority cannot legally request vehicle details such as registration numbers etc to be provided as part of the application process to do so would be ultra vires.

The local authority also has no powers to stop any such vehicles; this can only be done when the police are in attendance.

Although the Council will use the provisions of the Scrap Metal Dealers Act 2013 to maximum effect, the problems previously outlined, may still require other legislative action to be taken to minimise the impact on residents and business. The council will work together with its partners to deal with these problems in the most effective way that it can.

On 27 August 2013 Community Services and Environment Scrutiny and Performance Panel received a report outlining the Implementation Plan for the Scrap Metal Dealers Act 2013. The report contained an outline as to how the authority in part intended to implement the provisions of the legislation including initial licensing and enforcement:

To date (9 January 2015) the authority has received, refused and heard appeals against the following numbers of applications:

Scrap Metal Applications	Site	Collector
Licences issued	39	69
Appeals heard by Executive Director - granted	0	1
Appeals heard by Executive Director - refused	0	5
Appeals to Magistrates Court	0	0



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Since the inception of the Act in 2013, the licensing enforcement team have received 18 complaints from residents/businesses. These have all related to alleged unlicensed mobile collectors or sites. All addresses have been visited and the appropriate advice has been given if required.

In terms of pre planned site inspections with West Midlands Police, these have been undertaken in light of West Midlands Police own 'traffic light' risk analysis.

All premises that were deemed red or amber have been inspected to ensure compliance. The majority of 'green' premises have also now been inspected.

In addition to the above, there has also been a number of 'scrap metal enforcement days' which have been carried out again with West Midlands Police. These will continue.

To date no licences have been revoked by the authority.

Legal

The 'suitability' requirement for a person to be issued with a licence under the Scrap Metal Dealers Act 2013 is new. This allows the authority to refuse to licence someone who in its opinion, may not operate in a legitimate way.

Appeals against a decision by the council to refuse an application, to impose a condition on the licence or to revoke or vary the licence are to the magistrates' court.

The dealer has 21 days from the day on which they were given notice of the decision in which to appeal. The magistrates' court then has the power to confirm, vary or reverse the council's decision and issue any directions it considers appropriate having regard to the Act.

As indicated above regarding the grounds for refusing or revoking a dealer's licence the authority may have regard to whether the person has been convicted of a relevant offence or subject to any relevant enforcement activity.

Relevant offences contain many that relate to pollution, environmental or waste infringements and therefore a dealer needs to be minded that contraventions that have an environmental impact could cause any licence held to be revoked.

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