

Sandwell Metropolitan Borough Council

Scrap Metal Dealers Act 2013

Policy for Determining Suitability of an Applicant for a Scrap Metal Dealers Licence – 2026-29

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SCRAP METAL DEALERS ACT 2013 – POLICY FOR DETERMINING SUITABILITY OF AN APPLICANT FOR A SCRAP METAL DEALERS LICENCE

1 Introduction

- 1.1 Sandwell Metropolitan Borough Council (“The Council”) is the regulatory body for those operating as Scrap Metal Dealers in its Borough under the Scrap Metal Dealers Act 2013 (“The Act”). The Act replaced the previous registration system found under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002 and established a new licensing regime from 2013. Every person that deals in scrap metal must have a licence.
- 1.2 This policy sets out the Council’s approach to discharging its powers and responsibilities under the Act and the policies it shall apply when considering the suitability of applicants to hold licences or to carry out enforcement action. This policy does not override the legal requirements embodied in any primary or secondary legislation either in force at the time of its adoption or as may be enacted in the future.
- 1.3 Where there are any subsequent changes made to the applicable legislation or its interpretation by the Courts, that conflict with this Policy, the conflicting elements of this Policy shall not apply and will be amended at the earliest opportunity. The Council will share information with other agencies in respect of potential illegal activities and undertake joint enforcement operations with other agencies and authorities. Nothing in this policy will prevent an applicant or licence holder from requesting that the Council considers the individual merits of their case and give reasonable consideration to departing from its policy.
- 1.4 When a licence is issued by the council the details are sent to the Environment Agency who will maintain a national register of all licences issued in England. Any licences that are revoked must also be notified to the Environment Agency as with any variations that are granted. The Council may depart from this policy if the individual circumstance of any case warrants it. In such a case, the Council will give full reasons for doing so.
- 1.5 This policy will be reviewed where there are legislative changes, or if not, every 3 years, but will be kept under review irrespective during each 3-year period.

2 Policy Purpose

- 2.1 This policy provides guidance on the criteria considered by the Council when determining whether an applicant or an existing licence holder is suitable to hold a Scrap Metal Dealers licence.
- 2.2 It also gives guidance to consultees and members of the public as to how the Council will administer and enforce the requirements of the Act.

3 What is scrap metal?

3.1 "Scrap metal" includes:-

- a) any old, waste or discarded metal or metallic material; and
- b) any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life.

3.2 The following are not "Scrap metal":-

- a) gold
- b) silver
- c) any alloy of which 2 per cent or more by weight is attributable to gold or silver.

3.3 The definition of "scrap metal" for the purposes of the Act may be amended by an order of the Secretary of State. Any changes made to the Act shall take precedence over any definition in the above paragraph and the above paragraph shall be updated by the Licensing Authority upon notification to the chair of the Licensing Committee.

4 Types of Licence

4.1 A licence must be held to carry on business as a scrap metal dealer. Licences last for 3 years. There are two types of licence:

- a) **Site licence.** A site licence allows for the buying and selling of scrap metal from a fixed location within the boundaries of Sandwell Council. A licence holder cannot regularly engage in collecting waste materials by means of unannounced visits from door to door. It is only acceptable to collect by prior arrangement.
- b) **Collectors licence.** A collector's licence allows a person to travel from house to house within the boundaries of Sandwell Council to collect scrap metal.

4.2 An applicant may only apply for one type of licence in each Council area, but an application for a site licence can include multiple sites if they are within Sandwell Council boundaries. A licence can be issued to an individual, a partnership or a company.

4.3 Section 3 of the Scrap Metal Dealers Act states that a Council must not issue a licence unless it is satisfied that the applicant is a suitable person to carry on a business as a scrap metal dealer.

5 Applying for a Scrap Metal Licence (and renewals)

5.1 As the Scrap Metal Dealers Act 2013 allows local authorities to prepare their own forms for determining suitability of applicants, only application forms bearing the

Sandwell Council logo will be acceptable. Application forms can be obtained by emailing the Licensing Team at licensing_team@sandwell.gov.uk

- 5.2 All relevant sections of the application form must be completed in full and submitted with the appropriate supporting documentation as detailed in the application form. Failure to complete the application form in full or failure to provide appropriate supporting documentation with the application form will result in the application being returned to the applicant unprocessed.
- 5.3 A Renewal application must be received before the current licence expires.
- 5.4 An application must be made to reflect any changes made to a Collectors or a Site licence. This must be done for:
 - a) Change of site Manager
 - b) Change from Site to a collector
 - c) Variation from a collector to site
 - d) Vary Site licence – Change of licensee name
 - e) Vary Site licence – Change of Site Manager for each site
 - f) Vary Site licence – Change of or add site
 - g) Vary Collectors Licence – Change of Name/address
- 5.5 The relevant sections of the application form must be completed in full and submitted with the appropriate supporting documentation as detailed on the application form.
- 5.6 The application must be accompanied by the relevant fee. The current fees can be found [here](#)
- 5.7 Failure to complete the application form correctly or in full, failure to pay the correct fee or, to submit the required supporting documentation will result in the application being returned unprocessed.

6 Data Protection

- 6.1 The Council may need to share applicant's personal data with internal departments and/or with external organisations for the purposes of assessing whether the applicant is a suitable person or company under the Scrap Metal Dealers Act 2013. The Council will obtain an applicant's explicit consent to share their personal data for this purpose within the application form.
- 6.2 The Council may only share an applicant's personal data in situations where explicit consent is not given or later withdrawn, if it has a duty to disclose such information and such disclosure in accordance with the requirements of the Data Protection Act 2018 or successor legislation from time to time in force.
- 6.3 The Council's Privacy Policy can be found on the website at:-
<https://www.sandwell.gov.uk/privacynotice>

7 Tax Confidentiality

- 7.1 From 4 April 2022, the Finance Act 2021 requires scrap metal dealers and scrap metal collectors to complete a tax check where an individual, company or any type of partnership is:
- renewing a licence
 - applying for the same type of licence previously held, that ceased to be valid less than a year ago
 - applying for the same type of licence already hold with another licensing authority
- 7.2 The Council is obliged to confirm that an applicant has completed a tax check before making its decision on the application. You can complete a tax check by visiting the [Gov.UK](https://www.gov.uk) website.

8 Considerations when determining applications

- 8.1 All applications must meet the requirements of Schedule 1 of the 2013 Act. Section 3 (1) of the 2013 Act states that a local authority such as Sandwell Council must not issue or renew a scrap metal licence unless it is satisfied that the person is a suitable person to carry on a business as a scrap metal dealer.
- 8.2 When assessing an application for suitability for a Site Licence or a Collector's Licence, the Council will consider the suitability of:
- The individual applicant
 - Any site manager(s) where the application is for a site licence
 - Each partner within a partnership
 - Any Director(s), Secretary(s) or Shadow Director(s) of a company
- 8.3 In assessing the suitability of the applicant, the Council will have regard to the following:
- The Scrap Metal Dealers Act 2013
 - Home Office Guidance on determining suitability to hold a scrap metal dealer's licence
 - Home Office Supplementary Guidance
 - LGA Guidance under the Scrap Metal Dealers Act 2013
- 8.4 When establishing the applicant's suitability, the Council will consult with or share application form details with the following organisations/agencies:
- Other Local Authorities
 - The Police
 - The Environment Agency
 - Planning
 - Environmental Health
 - Revenues and Benefits

- Border Agency/Immigration

- 8.5 The Licensing Team will take into account any comments made by the above organisations when determining the applicant's suitability to hold a licence. The Licensing Team will also consider any previous refusals of scrap metal licence applications, or registrations or permits issued by the Environment Agency and the reasons for that refusal.
- 8.6 In addition to this, applicants are required to state on the application form whether they or any persons involved in the business have any relevant convictions and to provide a basic disclosure and barring certificate/criminal record check which must have been issued/dated within 3 months of the application being submitted.
- 8.7 If applying as a partnership, each partner will be required to supply a basic disclosure and barring certificate/criminal record check. If applying as a company, a disclosure and barring certificate/criminal records check will be required for each director of the company, including any shadow director and any company secretary.
- 8.8 If applying for a site licence, a disclosure and barring certificate/criminal records check must be supplied for each site manager named in the application.
- 8.9 Any person listed on an application form can apply for a Basic Disclosure Certificate online from the Disclosure and Barring Service (DBS) via the following website: <https://www.gov.uk/request-copy-criminal-record>
- 8.10 In determining suitability, the Licensing Team will consider whether the applicant, site manager or any person associated with the application/business who has been convicted of a relevant offence or has been the subject of any enforcement actions. Relevant offences are those specified in the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013. A copy of the offences is attached as Annex A.
- 8.11 The Licensing Authority will also consider convictions which are unspent and which would bring into question the applicant's suitability to hold a Scrap metal dealer's licence. This may include convictions relating to dishonesty, violence or offences of a sexual nature or any information that gives cause for concern. The Licensing Authority will also consider any pending investigations or outstanding matters of concern.
- 8.12 A copy of each application will be sent to West Midlands Police for their comments. In determining suitability to hold a licence, the Council will specifically have regard to:-
- a) Whether the applicant or any site manager has been convicted of any relevant offence and where there are relevant offences, the Council may consult the applicant's local police force for further details
 - b) Whether the applicant or any site manager has been the subject of any enforcement action
 - c) Any previous refusal of an application for the issue or renewal of a scrap metal licence and the reasons for 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 the Act are complied with
- g) In the case of site licences, whether there is a satisfactory planning permission in place for sites established after 1st November 1990.

- 8.13 The Act also allows the Council to request an applicant to provide such further information as the Council considers relevant for the purpose of considering the application. Requests for further information will be determined on a case by case basis but could include:
- Documentary proof that the applicant has the right to live and work in the country
 - Photographic proof of identity
 - Evidence that that the applicant has a valid driving licence and appropriate vehicle insurance
 - Details of all vehicles to be used, together with updates as and when they are replaced
- 8.14 If an applicant fails to provide information as requested, the Council may decline to proceed with the application.
- 8.15 A relevant conviction may not automatically result in the Council refusing to grant a licence, however where an applicant discloses an “unspent” conviction for a “relevant offence” under the Scrap Metal Dealers Act 2013, that applicant will be determined at a Hearing.
- 8.16 In the case of “unspent” convictions for offences that are not defined as “relevant”, the Council will consider when the offence was committed, the nature of the offence(s) or any enforcement action, the frequency of the offence, the gravity of the offence along with any other relevant information.
- 8.17 In line with guidance issued by the Home Office, “spent” convictions will not normally be considered when deciding on suitability. Only if it is satisfied that justice cannot be done except by admitting or requiring evidence relating to a person’s spent convictions will the Council consider a spent conviction. In doing so, regard will be given to the age, circumstances, relevance and seriousness of the conviction(s) concerned.
- 8.18 It is an offence for any person knowingly or recklessly to make a false declaration or to omit any material, particularly in giving information required by the application for a licence under Schedule 1, Paragraph 5 of the Scrap Metal Dealers Act 2013. Where an applicant has made a false statement or a false declaration on their application for the grant, renewal or variation of a licence, the Council will normally propose to refuse the application.
- 8.19 The “spent periods” under the Rehabilitation of Offenders Act 1974 (as amended) are set out in Annex B.

9 Requirement to display licence

- 9.1 Once a licence is granted a copy of the licence must be displayed at each site identified on that licence. It must be displayed in a prominent place accessible to members of the public.
- 9.2 A copy of a collector's licence must be displayed on any vehicle that is being used for the purposes of collecting scrap metal. It must be displayed in a prominent position within the vehicle where it can be easily read from outside the vehicle.

10 Revocation and imposing conditions

- 10.1 The Council may revoke a scrap metal licence if it is satisfied that:
- The licence holder does not carry on a scrap metal business at any of the sites named on the licence
 - The site manager named on the licence does not act as the site manager at any of the sites named on the licence
 - The licence holder is no longer a suitable person to carry on the business.
- 10.2 Before a licence is revoked, a Notice will be given to the holder of the licence. The licence holder will be able to make written representations, and these will be taken into account in the decision-making process.
- 10.3 Any decision to revoke will be heard by the relevant Cabinet Member and the licence holder will have the opportunity to be heard before a decision is made.
- 10.4 If the licence holder, or site manager named on the licence is convicted of a relevant offence, the authority may impose one or both of the following conditions:
- a) The dealer must not receive scrap metal except between 9 am and 5 pm on any day
 - b) All scrap metal received must be kept in the form in which it was received for a specified period, not exceeding 72 hours, beginning with the time when it was received.

11 Decisions

- 11.1 Where the Council proposes to refuse an application, revoke an existing licence or vary an existing licence by imposing one or both above conditions, a notice will be issued to the applicant or the licence holder, setting out the Council's proposals and the reasons for their decision.
- 11.2 The applicant or licence holder will have 14 days from the date of the notice to either make a representation or to inform the Council that they wish to make a representation. If representations are made, they will be considered. An applicant or a licence holder may make either oral or written representations. In either case, the Council will arrange a hearing with the relevant Cabinet Member to be heard. The applicant will be invited to attend this hearing or instead can submit written

representations for consideration by the Cabinet Member should they not wish to attend the hearing in person.

- 11.3 Where an application is refused, revoked or varied, the Council will issue a decision notice setting out the Council's reasons for the decision.

12 Appeals

- 12.1 Where the Council has refused an application, revoked or varied the licence by imposing conditions, the applicant has a right to appeal to the Magistrates' Court within 21 days of receipt of the written decision notice.

13 Delegation of functions and compliance

- 13.1 Where there are uncontested applications, or where there are no questions/concerns about the suitability of the applicant, determination of an application will be made under delegated authority by officers who hold the post of Licensing Officer or above.
- 13.2 Contested applications will be determined by the relevant Cabinet Member.

14 Register of licences

- 14.1 The Council supplies a list of all licences issued under the Scrap Metal Dealers Act 2013 to the Environment Agency. The Environment Agency in turn maintains a register of licences issued by all Local Authorities in England. The register is open for inspection by members of the public via the Environment Agency website. The register includes the following information:
- a) Name of authority issuing the licence;
 - b) Name of licence holder;
 - c) Any trading name/s of the licence holder;
 - d) Address of the site detailed on the licence;
 - e) Licence type;
 - f) Date of expiry of the licence.

15 Payments for scrap metal

- 15.1 From 1 October 2013, cash cannot be used by any scrap metal dealer to buy scrap metal. It is an offence to buy scrap metal for cash under s.12 of the Scrap Metal Dealers Act 2013 and there are no exemptions.
- 15.2 Only payment by a non-transferable cheque or an electronic transfer of funds will be acceptable.

16 Requirement on dealer to maintain records

16.1 The Scrap Metal Dealer must keep three types of records:

- a) **Receipt of Metal** – If a metal is received in the course of the dealers business the dealer must record the following information:
- Description of the metal, including its type (types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features
 - Date and time of receipt
 - The registration mark of the vehicle it was delivered by
 - Full name and address of the person delivering it
 - Full name of the person making payment on behalf of the dealer

The dealer must keep a copy of the documents used to verify the delivery person's name and address.

If payment is made by cheque a copy of the cheque must be kept

If payment is by electronic transfer a receipt identifying the transfer must be retained, or the details of the transfer.

- b) **Disposal of Metal** – The Act regards the metal to be disposed of
- Whether or not it is in the same form when it was purchased
 - Whether or not it is to another person
 - Whether or not it is despatched from a site

16.2 Disposal records must be recorded, including:

- Description of the metal, including its type (types if mixed), form, weight
- Date and time of disposal
- If to another person, their full name and address
- If payment is received for the metal (sale or exchange) the price or other consideration received.

16.3 If disposal is in the course of business conducted under a **collector's licence**, the dealer must record:

- Date and time of disposal
- If to another person, their full name and address

Supplementary

16.4 The information collected during receipt and disposal must be recorded in such a manner that allows the information and the metal to which it relates to be easily identified.

16.5 Records must be kept for a period of 3 years beginning on the day of receipt, or disposal.

- 16.6 If suitable records for the receipt or disposal of scrap metal are not kept then the scrap metal dealer, or site manager, or person who has been delegated responsibility by the dealer or site manager for keeping records, shall be guilty of an offence.

17 Enforcement

- 17.1 The responsibility for enforcement action under the Scrap Metal Dealers Act 2013 is shared between the Council and the Police. To ensure compliance with the legislation and any licence conditions imposed, premises will be inspected. Appropriate enforcement action will be taken in accordance with the legislation and any guidance issued under that legislation.
- 17.2 As the Act focuses on activities on scrap metal sites, licensed or unlicensed, we are limited to checking that licences are correctly displayed in the vehicles of mobile collectors.
- 17.3 A police officer has more scope to stop, search and inspect vehicles of mobile collectors, not only under the Scrap Metal Dealers Act 2013, but also under wider considerations such as whether the vehicle is roadworthy, possession of vehicle insurance and current road tax.

18 Right of entry and inspection

- 18.1 The Scrap Metal Dealers Act 2013 makes the powers of entry that previously existed clearer. A police officer or an authorised officer of Sandwell Metropolitan Borough Council may now inspect all types of sites: licensed and unlicensed.
- 18.2 A police officer or an authorised officer of Sandwell Metropolitan Borough Council may enter and inspect a licensed site (unless the premise is a residential property) at any reasonable time on notice to the site manager.
- 18.3 A police officer or an authorised officer of Sandwell Metropolitan Borough Council may enter and inspect a licensed site (unless the premise is a residential property) 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.
- 18.4 A police officer or an authorised officer of Sandwell Council is not entitled to use force to enter a premises in the exercise of the above powers.
- 18.5 A Justice of the Peace (“Justice”) may issue a warrant authorising entry to any premises 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.

- 18.6 And that the premises are:
- a) a licensed site, or
 - b) 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 a business.
- 18.7 The warrant is a warrant signed by the Justice which:
- a) specifies the premises concerned, and
 - b) authorises a police officer 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.
- 18.8 A police officer or an authorised officer of Sandwell Metropolitan Borough Council may, if necessary, use reasonable force to enter and inspect premises, in the exercise of the powers under a warrant issued by the Justice.
- 18.9 A police officer or an authorised officer of Sandwell Metropolitan Borough Council may:
- a) require production of, and inspect, any scrap metal kept at any premises in a warrant
 - b) require production of, and inspect, any records kept in accordance with this policy and any other records relating to payment for scrap metal
 - c) take copies of or extracts from any such records.

Annex A - Relevant offences specified in the Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

The schedule of offences is:

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 1964
- j) Any offence under the Scrap Metal Dealers Act 2013
- k) 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
- l) Any offence under Part 1 of the Vehicles (Crime) Act 2001
- m) 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) 2002
- g) Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
- h) Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
- i) Any offence under the Transfrontier Shipment of Waste Regulations 1994
- j) Any offence under the Transfrontier Shipment of Waste Regulations 2007
- k) Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- l) An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

Annex B - Rehabilitation of Offenders Act 1974 (as amended) “Spent” periods

Sentence/disposal	Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).	Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).
Custodial sentence* of under 1 year	12 months	6 months
Custodial sentence of between 1 year and 4 years	4 years	2 years
Custodial sentence of more than 4 years**	7 years	3.5 years

**Excluding serious violent, sexual, or terrorist offences

Sentence/disposal	Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).	Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).
Community order / Youth Rehabilitation Order	Period of the order	Period of the order
Fine	1 year	6 months
Conditional discharge	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months or when the caution ceases to have effect if earlier
Simple caution and youth caution	Spent immediately	Spent immediately
Compensation order	On the discharge of the order (i.e., when it is paid in full)	On the discharge of the order (i.e., when it is paid in full)