

Scrap Metal Dealers and Collectors Policy 2022-2025



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1.0 POLICY STATEMENT

- 1.1 This document sets out Milton Keynes City Council's (the Council) approach to discharging its powers and responsibilities as required by the Scrap Metal Dealers Act 2013. Including the issue, review and enforcement of scrap metal site and collector's licences. It also sets out the arrangements that the Council has put in place for ensuring compliance with the legislative requirements. This includes the issue, review, revocation and enforcement of scrap metal site and collectors' licences together with the arrangements that the Council has put in place to ensure compliance with legislative requirements.
- 1.2 The power of issue, review, revocation and enforcement of the Scrap Metal Act 2013 lies with the Executive of the Council duly delegated to officers and committee as detailed under the Schedule of Delegations (**Annex 1**) provided in this document.
- 1.3 This Policy does not override the legal requirements embodied in any primary or secondary legislation in force at the time of adoption or as may be enacted after the adoption of this policy. 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.
- 1.4 The Council will share information with other agencies in respect of potential illegal activities and enter into joint enforcement operations with other agencies and authorities.
- 1.5 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. Such request may either be in writing to or made orally before the Regulatory Committee or a Regulatory Sub-Committee, or officers of the Council as deemed appropriate in the circumstances of the case.

2.0 LEGISLATION

- 2.1 The legislation that applies to scrap metal dealers should be read in conjunction with this policy. The relevant legislation is as follows:
 - Scrap Metal Dealers Act 2013 and its subordinate Regulations.
 - Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013.

- 2.2 The Scrap Metal Dealers Act 2013 (the Act) replaced the previous registration system under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002 and established a new licensing regime from 2013. Every scrap metal dealer is required to have a licence and operating without one is a criminal offence. The definition of scrap metal dealers incorporates motor salvage operators. A scrap metal dealer is defined under the Act as someone whose business consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought.
- 2.3 In order for anyone to carry on business as a scrap metal dealer they must have a licence. Licences last for three years. There are two types of licence:
- **Site licence** - all sites where a licensee carries on business as a scrap metal dealer must be identified, and a site manager must be named for each site. The licence allows the licensee to transport scrap metal to and from those sites from any local authority area by arrangement. The licensee may not regularly conduct door to door collections.
 - **Collectors' licence** - this allows the licensee to operate as a collector in the area of the issuing licensing authority only. It does not allow the collector to operate in any other local authority, so a separate licence must be obtained from each Council area the collector wishes to operate in. The licence does not authorise the licensee to operate a site; to do so they will need a site licence from the relevant local authority.
- 2.5 A dealer can only hold one type of licence in any one local authority area. They cannot hold both a site and mobile collectors' licence from the same local authority.
- 2.6 A collector is defined in the Act as a person who carries on a business as a scrap metal dealer otherwise than at a site, and regularly engages in the course of that business in collecting waste metal including old, broken, worn out or defaced articles by means of door-to-door visits. Scavenging for metal can be classed as making door to door visits.
- 2.7 In the course of a collection, it is common practice for collectors to wait for their vehicle to be at capacity before unloading it at a Scrap Metal Dealer's Site. This Council does not consider the storage of scrap metal on the collector's vehicle to render the premises it is stored at as a site, providing the vehicle is not unloaded.
- 2.8 A site is defined in the Act as any premises used in the course of carrying on a business as a scrap metal dealer (whether or not metal is kept there). This includes motor salvage operations which themselves undertake the following:

- a) part of whole recovery of salvageable parts for re sale, and or for sale as vehicle for scrap.
 - b) wholly or mainly buying written off vehicles and then repairing and selling them; and
 - c) wholly or mainly buying or selling motor vehicles for the purpose of salvaging parts from them or repairing them and selling them.
- 2.9 It is important to note that any person, agent, broker or trader that buys or sells metal on paper / online without operating a physical scrap metal site is carrying on business as a scrap metal dealer and will require a licence. This person would need a site licence in line with the requirements of the Act.
- 2.10 Scrap metal also 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. This does not include second hand goods unless they are made from or contain metal that is broken or worn out. The definition does include platinum and a range of other rare metals that are now being used in catalytic convertors. The following is not considered to be 'scrap metal': Gold; silver or any alloy of which 2% or more by weight is attributable to gold or silver. Scrap Metal Dealers are also required to have planning permission to operate from a site and are required to have permits or exemptions from the Environment Agency to operate a scrap metal site under the Environmental Protection Act. Those transporting metal to a scrap metal site for profit are required to be registered as a 'waste carrier'. Waste carriers must ensure that the waste goes to a properly licensed or exempt site; they must complete a waste transfer note which must include a description of the waste and be signed by the carrier and the person to whom the waste is given or sold.

3.0 LICENCE APPLICATIONS (INCLUDING RENEWALS)

- 3.1 Any application must be in the prescribed form, include the necessary information and be accompanied by the correct fee. Failure to submit a complete application may mean it will be rejected.
- 3.2 The Act and its Regulations detail information to accompany an application including details of bank accounts that are used. Applicants including directors, shadow directors and company secretaries need to provide a basic criminal record no more than three months old to assist in assessing their suitability. Photographic evidence of the applicant's identity in line with the legislation will also be required and a passport style photograph must also be

provided. The Council may also require other information in addition where it is considered relevant. This will include a declaration of any convictions not showing on their criminal record check (e.g., those obtained whilst outside the UK) as well as any pending matters of investigation. The Council will recognise the Disclosure Barring Service (DBS) update service as a means of demonstrating a disclosure remains up to date providing the certificate is still classed as current. In appropriate cases a site plan and layout of sufficient detail will also be required as part of an application.

- 3.3 All applicants, directors and site managers must prove their right to work at the point of application. This may be by providing original documents in line with the requirements of the legislation. The Council will recognise the Government Right to Work Share Code service as a means of proving right to work providing it is still classed as current, and a right to work check using Digital Identity Document Validation Technology (IDVT) from a Home Office certified Identity Documents Service Provider.
- 3.4 Consultation on applications and licence holders will be undertaken with Thames Valley Police, the British Transport Police, the Environment Agency, Trading Standards, and any other internal or external partners or persons as the Council considers relevant.
- 3.5 A basic criminal record check (DBS) that shows convictions (spent or otherwise) will form part of the assessment of whether an applicant is a suitable person to hold a licence. The Council recognises 'relevant offences' specified under the Act but will consider other offences beyond these as part of its suitability assessment of an application if they are considered apposite to the role.
- 3.6 Absence of the correct planning use / permission would be considered a relevant factor but would not on its own make the applicant an unsuitable person / body.
- 3.7 Factors when considering the applicants suitability can include but are not restricted to:
 - The applicant or site manager has been convicted of a relevant offence, or subject to any relevant enforcement action.
 - The applicant has previously been refused a scrap metal dealer's licence, or an application to renew a licence has been refused.
 - The applicant has previously been refused a relevant environmental permit or registration.
 - They had previously held a scrap metal dealer's licence that has been revoked.
 - The Council must determine whether an applicant is a suitable person

to carry on a business as a scrap metal dealer. In assessing the suitability of the applicant, the Council will consider all relevant information. This will include legislation, guidance and this policy document. Previous compliance history failure to disclose or provide relevant information; an inability to understand legal obligations; an inability to keep records in a legible format and an applicant's overall behaviour may also be considered relevant. Where an applicant fails to provide relevant information, the Council may decline to proceed with an application.

- The Council may request any other information that it deems necessary and reasonable to request.

- 3.8 A scrap metal dealer who holds a site licence must display a copy at each site identified on the licence, a dealer who holds a collector's licence must display a copy of the licence on any vehicle that is being used in the course of the dealer's business so it can be easily read by a person outside the vehicle.
- 3.9 The Council policy is that an expired licence cannot be renewed. Licence holders wishing to renew permission therefore need to submit completed applications before expiry of any existing licence if they wish to continue to operate in the meantime.
- 3.10 If an application to renew a licence is received before the licence concerned expires then the licence continues in effect until the decision process (including any appeal) is concluded.
- 3.11 Applicants will be expected to attend an interview so that their identification can be verified and that their understanding of their responsibilities is assessed, and any suitability issues examined. The Council may also undertake site visits as part of its application consideration including where multiple site licences are sought.

4.0 FEES

- 4.1 Fees for applications are set by the Council and are available on request. If an application is refused the Council has the discretion to give a refund of any costs not incurred and an applicant should contact the Council in such cases.
- 4.2 The fees set are annually reviewed and deemed reasonable to cover the costs of administration, enforcement against licensed operators, inspections, and any hearings.

5.0 REPRESENTATIONS AGAINST REFUSAL / REVOCATION / IMPOSED VARIATION

- 5.1 Where it is proposed to refuse / revoke or impose a variation on a licence / application, written notification will be provided detailing the reasons concerned. The notification will give the applicant/licensee up to 14 days from the date a notification is sent to state they wish to make representations against the proposed decision. If the recipient does not respond within the 14 days or confirms they do not wish to make representations, then the Council will deem it appropriate to proceed with its proposed course of action.
- 5.2 If, however, representations are to be made then a further period of 14 days (commencing after the expiry of the first 14) will be allowed for these to be submitted. If the applicant / licence holder wishes to make oral representations as part of this, the Council will give the opportunity for these to be heard as part of the decision-making process. Any decision to revoke or refuse or impose a variation will include details of any right of appeal.

6.0 HEARINGS

- 6.1 A hearing may be held to determine any application which is contested or where there are questions as to the suitability of the applicant but a referral to Sub-Committee is unlikely to be made where a respondent has not made representations to a notice served under section 5 above. Where a licence holder has confirmed he wishes to make oral representations against a proposed decision under section 5, the matter will be referred to a Sub-Committee.
- 6.2 If the Sub-Committee refuses the application the applicant will be given a notice of decision which includes information on the grounds for the decision. The notice will include information about the appeal process.
- 6.3 Appeals against a decision to refuse or impose conditions on an application can be made to the magistrates' court. The applicant 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.

7.0 LICENCE CONDITIONS

7.1 The ability to impose conditions on a licence is limited. Conditions can only be imposed where the applicant or any site manager has been convicted of a relevant offence or where the Council is revoking a licence and a condition can be imposed until the revocation comes into effect. One or both of the following conditions can be imposed:

- The dealer can receive scrap metal only between 09:00 and 17:00.
- Any scrap metal received has to be kept in the form the dealer received it for a set period of time, which cannot be more than 72 hours.

8.0 VARYING THE LICENCE

8.1 Dealers can apply to vary a licence from a site licence to a collector's licence or vice versa and have to apply to vary the licence where there are any changes in certain details including change of the name of the licensee, any change in the sites and any change in the details of the site managers. Relevant costs will apply.

8.2 Licence holders can apply to vary a licence from a site licence to a collector's licence or vice versa and can apply to vary a licence as detailed in the legislation. A variation cannot be used to transfer the licence from one person to another.

9.0 NATIONAL REGISTER

9.1 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.

9.2 Similarly, any licences that are revoked or have expired must also be notified to the Environment Agency as with any variations that are granted.

10.0 ENFORCEMENT AND COMPLIANCE

- 10.1 All enforcement action will be consistent with the Council's Enforcement Policy and the Regulators Code which aims to ensure a risk based targeted and transparent approach to enforcement. The Scrap Metal Dealer's Act and its subordinate regulations and supporting guidance outline the offences and requirements.
- 10.2 The following principles will be applied:
- Proportionate in applying the law and ensuring compliance.
 - Consistency of approach.
 - Targeted enforcement action.
 - Transparent about how the local authority operates and what those regulated may expect.
 - Accountable for the local authority's actions.
- 10.3 A dealer must not receive scrap metal from a person without verifying the persons full name and address by using an acceptable form of identification.
- 10.4 A dealer must not pay for scrap metal except by a non-transferable cheque, or electronic transfer this includes paying in kind with goods or services.
- 10.5 Motor salvage operators may only purchase vehicles with cash when the vehicle either: has a valid MOT and is drivable or when it has the genuine potential for repair and no certificate of destruction has been issued. This potential should be demonstratable at court if required. A flowchart to assist in this decision making can be seen in **Annex 2**.
- 10.6 The following information must be recorded if any scrap metal is received. Records should be retained for a three-year period:
- The description of the metal, including its type (or types if mixed), form, condition, weight and any marks identifying previous owners or other distinguishing features.
 - The date and time of its receipt.
 - If the metal is delivered in or on a vehicle, the registration mark.
 - If the metal is received from a person, the full name and address of that person.
 - If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.
- 10.7 The legislation does not define the way the records should be kept. Hard written copies or electronic copies will be acceptable. If the dealer received the metal from a person, the dealer must keep a copy of any document which

the dealer uses to verify the name and address of that person. If paid by cheque the dealer must keep a copy of the cheque, if paid by electronic transfer the dealer must keep the receipt identifying the transfer if available. These recording requirements remain the same for motor salvage operators when receiving end of life vehicles.

10.8 If the dealer disposes of any metal, the dealer must record the following information:

- the description of the metal, including its type (or types if mixed), form and weight.
- the date and time of its disposal.
- if the disposal is to another person, the full name and address of that person.
- if the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received.
- In addition to these requirements, motor salvage operators are expected to list the parts of the vehicle that have been removed for re-use or re-sale. Any ancillary parts that do not constitute scrap metal should be listed, but there is no requirement for these to be broken down into specifics.

Where the disposal is in the course of business under a collector's licence the dealer must record the following information:

- the date and time of the disposal; and
- if the disposal is to another person, the full name and address of that person.

10.9 All records should be made available for inspection by an authorised officer at any reasonable time.

10.10 A closure notice can be issued if the Council or the Police are satisfied that the premises are being used by a scrap metal dealer in the course of their business and that the premises are not licensed for such a purpose.

10.11 A closure notice, if issued, will state the reasons for the opinion and also that the Police or Council may apply to the Magistrates Court for a Closure Order. If the premises continue to be used as part of the business or there is reasonable likelihood that it will be so used in the future after the service of a Closure Notice the Magistrates Court can make a Closure Order requiring the premises to be closed immediately and remain closed or for the use of the premises to be discontinued immediately.

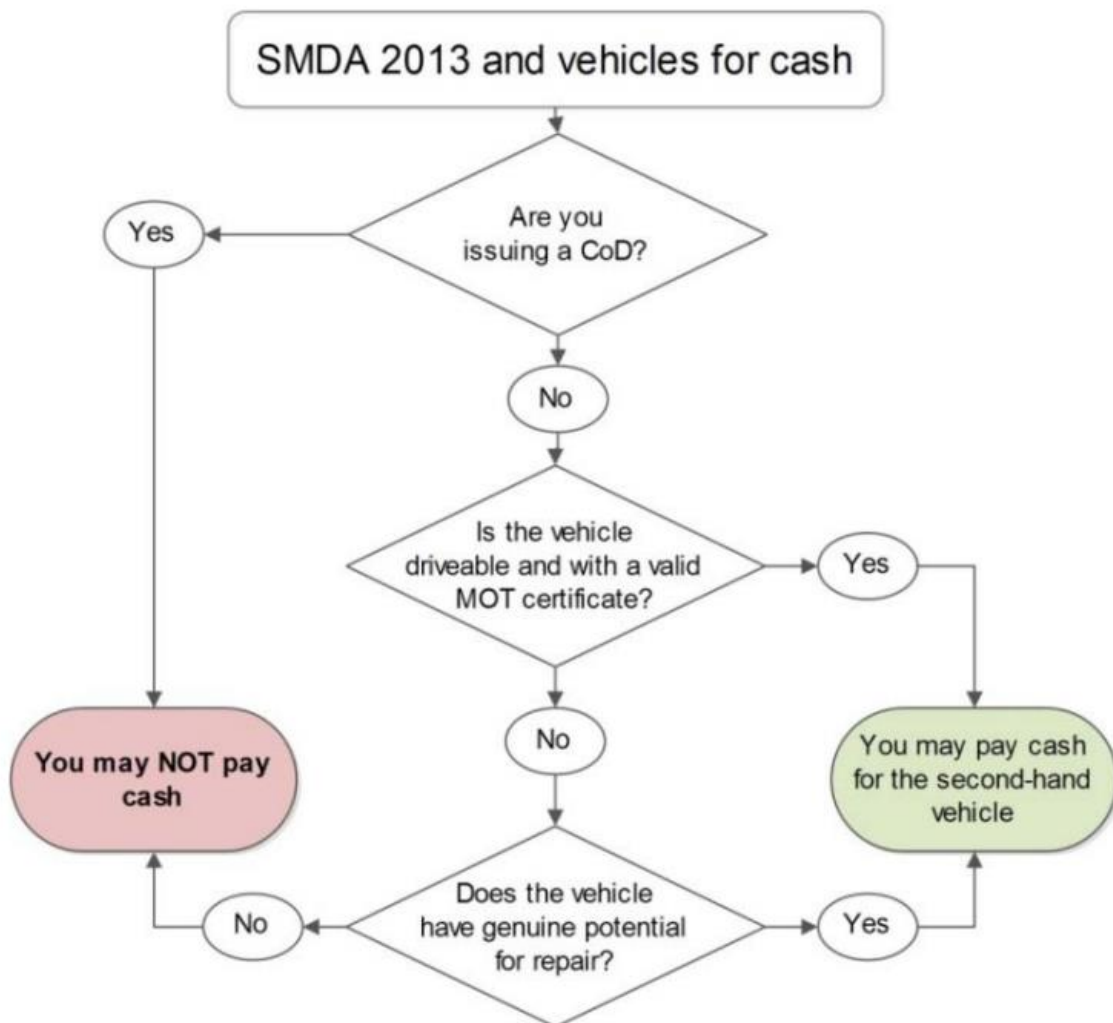
10.12 A Closure Notice may be cancelled by a Cancellation Notice which takes effect when given to any person who is in receipt of a Closure Notice.

- 10.13 Visits by enforcement officers will often be conducted by two officers and as per Council policy any visits undertaken will be risk assessed prior to the visit.
- 10.14 The Council will aim to undertake annual inspections of all licensed sites and may also undertake any additional inspections at any time it deems appropriate. This may be following complaints or due to intelligence received.
- 10.15 The Council expects records to be kept in English.
- 10.16 The Council expects licensed collectors to notify the Council of any change of vehicle(s).

ANNEX 1 - SCHEDULE OF DELEGATIONS

Matters to be Dealt With	Executive	Officer	Regulatory Committee / Sub-Committee
Policy Approval	X		
Fee Setting	X		
Processing Applications and supply of information to external agencies		X	
Entry, Inspection and Enforcement including closure notices		X	
Determination of application where no relevant offences or representations		X	
Determination to 'not proceed' with an application where relevant information not provided		X	
Determination of application with relevant offences or representations received		All cases unless referred	If referred by Officer
Refusal of Licence		All cases unless referred	If referred by Officer
Imposition of conditions		All cases unless referred	If referred by Officer
Revocation of Licence		All cases unless referred	If referred by Officer

ANNEX 2 - FLOWCHART FOR PURCHASING VEHICLES IN CASH



Licensing

licensing@milton-keynes.gov.uk

01908 25 2800

[Licensing | Milton Keynes City Council \(milton-keynes.gov.uk\)](#)

Milton Keynes City Council | Civic, 1 Saxon Gate East | Milton
Keynes | MK9 3EJ