

**BMRA response to Redditch Borough Council draft “Statement of Licensing Policy and Guidelines for Scrap Metal”**

The British Metals Recycling Association (BMRA) is the trade association for ferrous and non-ferrous recycling companies throughout the UK and represents some 340 businesses which between them handle over 95% of the metal recycled in the UK. This £5.6 billion industry processes over 15 million tonnes of metal annually into secondary raw material, which is vital for metals manufacturing.

We welcome the Council’s decision to set out a clear statement of policy to guide its officers, and the opportunity to comment on the draft policy document. In our comments set out below; references to “the Act” relate to the Scrap Metal Dealers’ Act 2013.

Paragraph in draft	Comment
1.1	<p>The final sentence presents a somewhat restricted assessment of the reason for creation of the Scrap Metal Dealers’ Act 2013. We suggest it would be hard to improve on the words of Richard Ottaway MP, sponsor of the legislation, who is reported in the “LGA Guide to the Scrap Metal Dealers’ Act 2013” to have said that it would:</p> <p style="text-align: center;"><i>“provide the strong legislative framework ... needed to empower our local councils and police forces in their fight against offenders who wilfully plunder this country of metal, whilst also strengthening and supporting legitimate scrap metal dealers”.</i></p>
2.1	<p>Suggest adding after “industries”:</p> <p style="text-align: center;"><i>“across England and Wales”</i></p>
2.8	<p>Perhaps insert “scrap metal” ahead of “dealer”.</p>
2.9	<p>Note that jewellers buying or selling scrap metals other than gold or silver do constitute scrap metal dealers, albeit that there is the possibility of some exemption from licencing under S21(c) of the Act for certain sales (but not for purchases). A court may consider the practice of buying or selling metallic articles at scrap value to indicate that the material fits the definition of scrap metal (see S21(6) of the Act). We suggest adding after “in this legislation.”:</p> <p style="text-align: center;"><i>“However, if they buy or sell any other metals at scrap value they may fall within the definition of a scrap metal dealer”.</i></p>
2.9	<p>Second paragraph under 2.9 relating to vehicles.</p> <p>Whilst we have no argument about the reference to “re-usable and tested parts” not falling within the definition of scrap, we are less sanguine about vehicles. The statement “<i>will not be considered as scrap</i>” in the second line of paragraph 2.9 is unduly conclusive and may be incorrect. S21(6)(b) of the Act says that scrap metal includes “<i>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</i>”. As such a vehicle, with or without a certificate of destruction, may constitute scrap. Disposal by sale to a vehicle dismantler would seem to indicate that to be the case.</p>

Paragraph in draft	Comment
4.3	<p>The consultation options available to a licensing authority under S3(7) and 4(3) of the Act in assessing suitability are broader than indicated. Unless the Council intends to limit its licensing officers' activities we suggest replacing "<i>may consult with the following agencies</i>" with:</p> <p style="text-align: center;"><i>"may consult other persons , including in particular"</i></p> <p>Alternatively you could set a more complex policy restricting consultation outside the specified agencies to cases where objections have been raised or where an officer has particular concerns about an application.</p>
6.2	<p>Experience of continuing problems with accuracy of information hosted on the Environment Agency public registers suggests it would be useful as a matter of policy for the Council also to check the accuracy of information on the register relating to licences it has issued on a regular basis. At present we understand that amendments provided by councils in the first half of one week should be incorporated into the register (currently at <a href="http://epr.environment-agency.gov.uk/ePRInternet/SearchRegisters.aspx">http://epr.environment-agency.gov.uk/ePRInternet/SearchRegisters.aspx</a>) by the beginning of the following week.</p>
8	<p>S11(2) of the Act and Statutory Instrument 2276 of 2013 refer. We suggest adding a further sub-paragraph along the lines of:</p> <p style="text-align: center;"><i>"8.3 It should be noted that whilst Statutory Instrument 2276 of 2013 sets out documents that are sufficient to verify the identity of a person from whom scrap metal is received, the list is not exclusive and a court may consider other documents to be satisfactory"</i>.</p> <p>We understand that, in the absence of case law, the Council may be reluctant to specify any such other documents. However, for information, one example we have come across that has been tacitly accepted by some police forces is a shotgun or firearms certificate.</p>
11.8	<p>You may wish to consider specifying the type of evidence of identity and authority your officers should have available if challenged.</p>
14.4	<p>You may wish to consider adding a reference to the authority identifying relevant offences, currently Statutory Instrument 2258 of 2013.</p>
15.2	<p>Perhaps surprisingly, the legislation relating to closure orders at Section 2, paragraph 5.3, is more flexible than your policy statement indicates. Where your policy document states that a closure order "<i>will close the premises immediately</i>", and that the operator "<i>will also be required to pay a sum into court</i>", Schedule 2, paragraph 5(3) of the Act uses the word "<i>may</i>".</p>

If you wish to discuss any aspect of this response, please contact Ken Mackenzie on 01480 455249, email [ken@recyclemetals.org](mailto:ken@recyclemetals.org), or write to us at:

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