

SCRAP METAL DEALERS ACT 2013 – PRINCIPLES OF AN ENFORCEMENT REGIME

Introduction

The purpose of this policy is to lay down the principles that will be followed in exercising enforcement functions and deciding enforcement action in pursuance of the Scrap Metal Dealers Act 2013. The Scrap Metal Dealers Act 2013 does not require the Council to agree an enforcement policy, however this policy has been adopted to formalise the Council's approach to enforcement under the Act.

Review of this Policy

The application of this policy will be kept under regular review. The policy may also be reviewed in response to:

- Changes in Government, LGA or other authoritative guidance;
- National court rulings;
- Any challenges made concerning the content or direction of the policy;
- The practical operation of the policy.

Shared Enforcement Responsibilities

The responsibility for enforcement action under the Scrap Metal Dealers Act 2013 is shared between the Council and the Police.

This policy sets out an approach to enforcement that includes the contribution of the Police and the Council. The Council will take enforcement action itself if appropriate but if the Police is better able to enforce the Council may leave the responsible authority to take the action so that it can independently conduct any review of the licence arising out of the problem.

Approach to Enforcement

The purpose of enforcement is to ensure legal compliance and this policy seeks to provide joined up, local, evidence led enforcement in dealing with unscrupulous scrap metal dealers while providing a lighter touch in respect of low risk dealers that are legally compliant. Compliance will be sought by one or a combination of methods set out below.

Level 1

Advice and guidance – Provide information and the opportunity for discussion to help resolve potential problems.

Level 2

Informal warnings – Oral or written warnings where formal action is not appropriate. This may be followed by a site visit to ensure steps are taken to rectify the problem.

Level 3

Formal enforcement – use of formal cautions, licence reviews and prosecution.

The following will be considered when deciding the most appropriate course of action and the timescale for that action:

- The seriousness and prevalence of the offence;
- The past history of the offender or offences at the premises;
- The cooperativeness and willingness of the offender to rectify the offence;
- The consequence of non compliance;
- The likely effectiveness of the various enforcement options;
- The impact of the enforcement choice in encouraging others to comply with the law.

Enforcement action can include the following to achieve compliance:-

Action	Response Level
• Verbal advice - which may be documented	Level 1
• Written advice	Level 1
• Verbal warning - which will be documented	Level 2
• Written warning	Level 2
• Statutory Notice	Level 3
• Formal Caution	Level 3
• Conditional Cautions under the Criminal Justice Act 2003	Level 3
• Prosecution	Level 3

Targeting of enforcement

Enforcement will be targeted to ensure resources are used where persons, premises or businesses give the most cause for concern and pose the highest risk. All licensed scrap metal dealers will be given literature or guidance to help ensure compliance with the Scrap Metal Dealers Act 2013.

Action by the Council

All complaints or relevant comments made to the Council regarding the operation of scrap metal dealers in whatever form (writing, telephone, fax, e-mail, etc.) will be documented. Enforcement action will then be pursued if considered required.

If action is needed to be taken in response to any report this will be pursued in accordance with this service enforcement policy.

Prosecutions

The Council will use its discretion in whether to initiate a prosecution and will generally only bring proceedings when it is considered to be in the public interest. Any decision to prosecute will be taken in accordance with the scheme of delegation in the Council's constitution by the Head of Support Services in consultation with the Chairman of the Planning and Regulatory Committee on the advice of the Head of Legal Services, taking into account evidence of a realistic prospect of conviction and the account of any defence that may be available. In certain circumstances, prosecution without prior warning and recourse to alternative enforcement options may take place. The decision to prosecute will always take into account the criteria laid down in the Code for Crown Prosecutors.

Review

Any enforcement action will be kept under review to ensure that if new circumstances become known to the Council the type and level of enforcement can be changed to ensure that it remains appropriate.

Complaints and Comments about the Service

If anyone wishes to complain or comment about enforcement action they may do so initially by contacting the Head of Support Services on 01992 785534 or by e-mail to licensing@broxbourne.gov.uk or by writing to:

Licensing, Borough of Broxbourne, Borough Offices, Churchgate, Cheshunt, Herts, EN8 9XQ. If the problem remains unresolved the person will be informed of the Council's complaints procedure.