



Agenda

Meeting: **LICENSING COMMITTEE**
Date: **MONDAY 2 MARCH 2015**
Time: **10.00AM**
Venue: **COMMITTEE ROOM**
To: **Councillors R Sayner (Chair), K Ellis (Vice Chair), Mrs S Duckett, Mrs P Mackay, Mrs C Mackman, B Marshall, Mrs K McSherry, Mrs S Ryder, R Sweeting and J Thurlow**

1. Apologies for absence

2. Minutes

To confirm as a correct record the minutes of the Licensing Committee held on 6 February 2015 (pages 1 to 2 attached).

3. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

4. Procedure

To outline the procedure to be followed at the meeting (Pages 3 to 4)

5. Chair's Address to the Licensing Committee

6. Scrap Metal Dealers Policy Consultation

To receive the report of the Senior Enforcement Officer L/14/26 (pages 5 to 21 attached).

7. Taxi Licensing Policy

To discuss the recommendations of the Scrutiny Committee which considered the Call In regarding the Taxi Licensing Policy.

Jonathan Lund
Deputy Chief Executive

Dates of next meetings
13 April 2015

Enquiries relating to this agenda, please contact Palbinder Mann on:
Tel: 01757 292207 Email: pmann@selby.gov.uk

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Minutes

Licensing Committee

Venue:	Committee Room
Date:	6 February 2015
Present:	Councillors R Sayner (Chair), Mrs S Duckett, J Deans (for Mrs C Mackman) K Ellis, B Marshall, Mrs K McSherry, Mrs S Ryder, R Sweeting and J Thurlow.
Apologies for Absence:	Mrs P Mackay and Mrs C Mackman.
Officers Present:	Caroline Fleming - Senior Solicitor, Tim Grogan – Senior Enforcement Officer and Palbinder Mann – Democratic Services Officer.

56. MINUTES

The Committee considered the minutes of the Licensing Committee held on 5 January 2015.

It was agreed to make the following amendments:

- Under section 54, it was agreed to amend the first sentence of the first paragraph so that it stated – ‘The Graduate Trainee Policy’.
- It was also agreed to amend the first sentence of the second paragraph so that it stated ‘The Committee was’

RESOLVED:

To APPROVE the minutes of the Licensing Committee meeting held on 5 January 2015 with the above amendments and they be signed by the Chair.

57. DISCLOSURES OF INTEREST

There were no declarations of interest.

58. PROCEDURE

The procedure was noted.

59. CHAIR'S ADDRESS TO THE LICENSING COMMITTEE

There was no address by the Chair.

60. HACKNEY CARRIAGE TARIFFS

The Senior Enforcement Officer presented the Report L/14/25 which sought a decision from the Committee in relation to Hackney Carriage Tariffs.

The Committee were satisfied with the proposals.

RESOLVED:

To agree to keep the tariffs unchanged.

The meeting closed at 10.18am.

LICENSING COMMITTEE

PROCEDURES TO BE FOLLOWED

The Licensing Committee acts in a quasi judicial capacity to give a fair hearing to an applicant where a hearing is required by law or equity. When considering the case the only evidence the Members of the Committee can take into account is evidence previously submitted to form the agenda and any verbal evidence given at the actual meeting by Officers representing the Council and by the applicant or his/her representative, and their witnesses. The following procedures must be followed.

1. Procedures to be followed when submitting an application to the Licensing Committee for consideration;
 - i) The Council's Officers will liaise with the Committee Section to arrange a suitable date for the meeting. The applicant and Members of the Committee will be informed of this date in writing and a copy of the procedure note will be included for the applicant.
 - ii) The applicant and Council's Officers will submit any written evidence to the Committee Section for inclusion in the agenda by a given date. If the evidence is to be verbal, this should be stated.
 - iii) If witnesses are to be called the Committee Section must be notified prior to the hearing.
 - iv) Any application for adjournment because of late submission of papers, will in principle be considered sympathetically by the Committee.
2. The procedure to be followed by the Licensing Committee:
 - i) For each individual case the applicant and any representatives will be shown into the Committee Room at the same time as the appropriate Council's Officers. Witnesses will enter the room at the same time unless there are any objections.
 - ii) The District Solicitor will introduce the applicant, any representatives, witnesses and the Council's Officers to the Members of the Committee.
 - iii) The Chair will introduce Members of the Committee.
 - iv) The Chair will then go through the procedure as follows:

- a) Officers representing the Council will present the case for the Council. They may present such witnesses as they believe are appropriate.
- b) Officers representing the Council, and any witnesses, will then answer questions from the applicant or his/her representative, and from Members of the Committee.
- c) The applicant or his/her representative will then present the applicant's case. They may present such witnesses as they believe are appropriate.
- d) The applicant or his/her representative, and any witnesses, will then answer questions from the Committee and the Council's Officers.
- e) The Council's Officers will then sum up on behalf of the Council.
- f) The applicant or his/her representative will then sum up.
- g) The applicant and his/her representative will then be asked whether they consider they have had a fair hearing and the Committee will take into account any comments, which are then made. The Chair of the Committee will then ask the Council's Officers presenting the case the same question and will again take account of any comments made.
- h) The Council's Officers, the applicant and his/her representative, all witnesses, press and public, will then be asked to withdraw from the meeting whilst the Committee makes their decision on the evidence presented.
- i) The applicant and his/her representative, the Council's Officers, all witnesses, press and public, will be invited back into the meeting to be informed of the Committee's decision.

Following the Committee meeting, the Solicitor will inform the applicant/appellant in writing of the decision of the Licensing Committee.



Report Reference Number: L/14/26

Agenda Item No: 6

To: Licensing Committee
Date: 02 March 2015
Author: Esta Innes
Lead Officer: Michelle Dinsdale

Title: Scrap Metal Dealers Policy Consultation

Summary:

A draft Scrap Metal Dealers Policy had been developed and on February 5 2015 the Executive approved the draft policy for public consultation. The consultation is currently open and will close on Monday 23 March 2015.

Recommendations:

Licensing Committee to note the content of this report and provide any comments on the draft Policy (Appendix A to this report).

1. Introduction and background

The Council has the responsibility, under the Scrap Metal Dealers Act 2013, for the issuing of both scrap metal dealer site licences and scrap metal dealer collector licences.

Council approved a report in September 2013 that gave delegated authority to Access Selby Directors and to the Licensing and Appeals Committee to allow the implementation of the provisions contained within the Scrap Metal Dealer Act 2013. The Council has since been issuing licences in line with the Act however there is currently no comprehensive Policy covering the licensing and all related issues for scrap metal dealers.

Licensing Committee was informed that the policy was being developed at their meeting on the 05 January 2015. The draft policy was taken to Executive on 05 February and was given approval to publish for public consultation.

2. The Report

The Policy has been written in line with the Scrap Metal Dealers Act 2013 and has taken into account the supplementary guidance document provided by the Home Office.

The draft policy is currently subject to a six week public consultation process which will end on the 23 March 2015. The draft policy has been published on the Council website. We have written to all current licence holders to invite feedback and contacted neighbouring licensing authorities for comments.

The timeline for the development of the policy post consultation is set out below.

Date	Milestone
09 February 2015 – 23 March 2015	Six week public consultation period
02 March 2015	Licensing Committee- Report to Licensing Committee containing the draft policy for comment and discussion.
13 April 2015	Licensing Committee – to receive a report informing of the outcome of the consultation exercise
4 June 2015	Executive – to consider the consultation responses and approve the policy (including any amendments where appropriate to reflect consultation responses)

On 5 January 2015 Licensing Committee gave some initial comments and suggested that the Policy should state that any vehicle used for collecting or transporting scrap metal should be a high-sided vehicle.

Legal advised that we could not make this a mandatory requirement for a licence but it has been included in the Licensee code of conduct point 3 of the recommended measures in Appendix C of the draft Policy.

3. Legal/Financial Controls and other Policy matters

3.1 Legal Issues

None at this time.

3.2 Financial Issues

None at this time.

4. Conclusion

A comprehensive draft Scrap Metal Dealers Policy has been developed and is currently subject to a six week public consultation. Comments from Licensing Committee on the draft policy are being sought and after the consultation has closed Licensing Committee will be informed of any changes ahead of the policy going back to Executive for final approval and adoption.

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Scrap Metal Dealers Policy



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1. Introduction

Selby District Council, as a local authority, is responsible for the licensing of scrap metal dealer site licences and scrap metal dealer collectors licences. This policy outlines the requirements of the Scrap Metal Dealers Act 2013 (the Act). It gives guidance to new applicants, existing licence holders and members of the public.

The Act came into effect on 1 October 2013 and repealed the Scrap Metal Dealers Act 1964 and part 1 of the Vehicles (Crime) Act 2001 that deals with motor salvage operations.

The aim of the Act was to regulate the scrap metal trade and reduce the number of metal thefts and the impact this has on society and its infrastructure.

2. Definition of Scrap Metal

Scrap metal 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 definition also includes platinum and other rare metals now being used in catalytic converters in vehicle exhausts.

The following are not considered to be scrap metal:

- Gold;
- Silver; and
- Any alloy of which 2% or more by weight is attributable to gold or silver.

3. Definition of a Scrap Metal Dealer

The definition of a scrap metal dealer can vary and each business will be considered on its own merits according to their circumstances. However, the Act defines a scrap metal dealer as a person who carries out any businesses which consists wholly or in part of the buying and selling of scrap metal, whether or not the metal is sold in the form it was bought. This can therefore include the following businesses and trades:

- Skip hire firms, when the skip contains significant amounts of scrap metal e.g when used for demolition activity or sites at engineering, manufacturing establishments or plumbers yards; and

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- Motor salvage operators.

A person will be considered to carry on a business as a motor salvage operator if they do one or more of the following:

- Recover salvageable parts from motor vehicles for re-use or re-sale and sell the remainder of the vehicle for scrap;
- Buy written off vehicles then repair or re-sell them;
- Mainly buy or sell motor vehicles for the purpose of salvaging parts from them or repairing them and re-selling them.

If the sale of scrap metal is incidental to the main type of work or business undertaken then a licence will not be needed, for example tradesmen such as plumbers and electricians.

The definition does not include second hand goods, i.e. jewellers or businesses trading in second hand gold and silver jewellery/products and they are not required to have a licence.

4. Types of Licences

There are two types of licences for the dealing of scrap metal that Selby District Council has the authority to issue. All licences are issued for a period of 3 years, and renewal applications must be received before the expiry of the existing licence. It is not possible for any person or business to hold both a site licence and a mobile collector's licence from Selby District Council, however, they could hold a licence with another local authority. An applicant will be unable to trade until a licence has been issued.

Site Licences:

A site licence authorises the licence holder to carry on a business at any site in the Selby District as identified in the licence.

A site licence holder can transport metal from third party businesses by arrangement from any other local authority 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.

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

A site is defined in the Act as any premises used in the course of carrying on a business as a scrap metal dealer.

Collectors' Licences:

A collector's licence authorises the licensee to carry on businesses as a mobile collector in the Selby District area only. A separate collector's licence is needed for each local authority area that a mobile collector collects scrap metal. A mobile collector can dispose or sell scrap metal in any local authority area regardless of whether a collector's licence is held for that area.

A mobile collector will need a licence to buy or sell any scrap metal collected. Even if the material is provided free of charge, a licence is required in order to sell it on.

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.

Mobile collectors and site licence holders need to ensure they comply with relevant environmental legislation and regulation when carrying out their business.

5. Determination of applications and the issuing of licences

Applications for a Scrap Metal Dealers Licence or the renewal of a current licence will be available on the Selby District Council website. For guidance on completing applications please see Appendix C of this policy.

When an application is received Selby District Council will determine whether the applicant is suitable for the licence. To determine this Selby District Council will check for the following:

- Whether the applicant or site manager has been convicted of any relevant offence. (Please see Appendix A for a list of relevant offences)
- Whether the applicant or any site manager has been the subject of any relevant enforcement action.
- Any previous refusal of an application for the issue or renewal of a scrap metal dealer licence and the reason for refusal.

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- Any refusal of an application for a relevant environmental permit or registration and the reasons for refusal.
- Any previous revocation of a scrap metal licence and the reason for revocation.
- Whether the applicant has demonstrated that there will be in place adequate procedures to ensure that the provisions of this Act are complied with.

Selby District Council may also consult the following bodies regarding the suitability of an applicant:

- North Yorkshire Police
- The Environment Agency
- Neighbouring Local Authorities
- The Council's Environmental Health department

The Environment Agency maintains a register for public inspection of scrap metal licences issued by all local authorities in England. The register includes the following information:

- Name of the authority which issues the licence.
- Name of the licensee.
- Any trading name of the licensee.
- Address of the site identified on the licence.
- Type of licence.
- Date of expiry on the licence.

Selby District Council will update this register once a successful application has been processed.

6. Complying with the law

The Act sets out standards for which holders of a scrap metal dealer licence must meet. It outlines strict ways in which the licence holder must conduct their business. Failure to meet these standards will result in Selby District Council as a regulatory authority taking enforcement action against the licence holder as outlined in section 7 of this policy. Details of the standards required and necessary conduct of business can be found in appendix C of this policy.

7. Inspection and Enforcement

A police officer or an authorised officer of the Council may enter and inspect a licensed site at any reasonable time, with notice to the site manager.

Entry and inspection without notice would only occur in the following circumstances:

- Reasonable attempts to give notice had been given and had failed
- Entry to the site is reasonably required for the purpose of ascertaining whether the provisions of the Act are being complied with.
- To investigate offences under the Act.

Selby District Council is committed to effective enforcement activity to ensure that the use of scrap metal dealer licences is not abused and that the trade of scrap metal in the district is lawful and appropriate. We take a 'firm but fair' approach and will take any enforcement action necessary in line with our Corporate Enforcement Policy which can be found on the Council's website.

7.1 Considerations

When we decide on enforcement action, the following will be taken into account to determine whether a licence should be revoked because the person is no longer fit and proper to remain a licensed trader.

- Witness statements (where appropriate, e.g. when a complaint is received)
- Interview with the licence holder
- Previous history of the licence holder

Any decision to prosecute a licence holder for any of the offenses created by the Act will be taken having regard to the Code for Crown Prosecutors.

7.2 Levels of Enforcement Action

In the event of minor transgressions, particularly if the licence holder has no history of transgressions and the Council believe that the transgression was unintentional, a written warning is likely to be issued.

In more serious cases of transgression, or where we find evidence of malpractice or non-compliance with this policy among licence holders we can revoke licences in line with the Act.

We reserve the right to revoke licences immediately in line with prescribed circumstances as detailed in the Act.

Licences which are revoked must be immediately returned to the Council.

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Selby District Council also has the authority to issue a closure notice to any premises that we believe are dealing in scrap metal in the course of their business without a licence. A copy of the notice must be given to the person who appears to be the site manager and any person who appears to be a director, manager or other officer of the business.

The closure order and any relating conditions would be subject to a decision by the Court.

7.3 Appeals

If we refuse to grant or renew a licence, or we impose conditions upon a licence of any type, the applicant has a right of appeal. Licensees may also appeal against suspension or revocation of a licence. Any appeal must be lodged within twenty-one days of the decision. Any enforcement action that we take will also give notice of a right of appeal, if one exists.

All appeals will be heard by Selby District Councils' Licencing and Appeals Committee in accordance with our constitution, unless it is an appeal regarding a closure or discharge order which would be heard by the Crown Court.

8 Policy review

As a regulatory body, we are always monitoring changes to legislation. When changes take place, we will review the policy and update it as necessary. We will also regularly carry out a review to monitor its effectiveness and keep it in line with best practice.

Appendix A- Relevant offences

The following are a list of prescribed relevant offences under the Scrap Metal Dealers Act 2013:

- An offence under section 1, 5 or 7 of the Control of Pollution (Amendment) Act 1989
 - An offence under section 170 or 170B of the Customs and Excise Management Act 1979(d), where the specific offence concerned relates to scrap metal
 - An offence under section 110 of the Environment Act 1995
 - An offence under sections 33, 34 or 24B of the Environmental Protection Act 1990
 - An offence under section 9 of the Food and Environment Protection Act 1985
 - An offence under section 1 of the Fraud Act 2006(h) where the specific offence concerned relates to scrap metal, or is an environment related offence
 - An offence under section 146 of the Legal Aid, Sentencing and Punishment to Offenders Act 2012
 - An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002
 - Any offence under the Scrap Metal Dealers Act 1964
 - Any offence under the Scrap Metal Dealers Act 2013
 - An offence under sections 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968(a), where the specific offence concerned relates to scrap metal, or is an environment-related offence
 - Any offence under Part 1 of the Vehicles (Crime) Act 2001
 - An offence under sections 85, 202, or 206 of the Water Resources Act 1991
 - An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007
 - An offender under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010
 - Any offence under the Hazardous Waste (England and Wales) Regulations 2005
 - Any offence under the Hazardous Waste (Wales) Regulations 2005(g)
 - An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002
 - Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000
 - Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007
 - Any offence under the Transfrontier Shipment of Waste Regulations 1994
 - Any offence under the Transfrontier Shipment of Waste Regulations 2007
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- Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006
- An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

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Appendix B- Guidance for applicants

Am I eligible?

Scrap metal dealer licences, both site and collector's, can be applied for by an individual, partnership or company.

In order to carry on your business you may need to hold other environmental permits or licences that we should know about. For instance, if you carry waste as part of your business it is a legal requirement to register as a waste carrier. This includes transporting waste while travelling from job to job, to a storage place for disposal later, or to a waste disposal company or waste site. For more information on this, or to register call: 03708 506506 or visit: www.environment-agency.gov.uk/wastecarriers

Requirements prior to applying

In order to apply for a scrap metal dealers licence from Selby District Council you must provide a Disclosure and Barring Service (DBS) basic disclosure certificate. This must have been granted within the last **3 months** to be valid for you application for a scrap metal dealers site or collectors licence. We will accept copies if they have been verified by our customer contact centre.

How to apply

Application forms can be found on the Selby District Council website www.selby.gov.uk You will be required to submit the following:

- A completed application form;
- The relevant application fee; and
- An in date DBS basic disclosure certificate or certified copy.

Renewals

Renewal application forms can also be found on the Selby District Council website www.selby.gov.uk. A renewal application must be received before the expiry of the current licence therefore we recommend applicants start the renewal process three months before the expiration of a current licence.

What happens next?

Once all necessary checks have been carried out the council will determine your application and inform you of their decision. We aim to deal with all applications as quickly as possible,

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normally within six weeks of receiving an application. However, this is subject to timely responses from external agencies we require information and checks from.

If you are successful

Your licence will be issued and will be valid for three years. Once you have your licence you must ensure you adhere to the licensee code of conduct (Appendix C of this policy).

If you are unsuccessful

Should you be unsuccessful, the reason for your refusal will be confirmed in writing. You have the right to lodge an appeal within 21 days of receipt of your refusal. All appeals will be heard by the Council's Licensing and Appeals Committee.

What if my circumstances change?

It is very important that the council knows of changes to circumstances which affect the licence. We have put together this list of things we need to be told about.

Every licensee must let the council know if they:

- move house, or change primary address details;
- move business premises;
- change contact details (including phone number and email address); or
- receive a police warning or caution, or are fined or arrested

This document should be used as a guidance tool. Only the courts can give an authoritative opinion on statute law.

Every effort has been made to ensure this document is both comprehensive and accurate but in an attempt to simplify the law omissions have been made. Please refer to the Scrap Metal Dealers Act 2013 and associated regulations for full details of the law.

You should seek your own legal advice on the matters raised in this guidance note.

Appendix C- Licensee code of conduct

Scrap metal dealers receiving a site or collectors licence must abide by the following requirements set out in the Act:

1. A scrap metal dealer who holds a site licence must display a copy of the licence at each site identified in the licence.
2. The copy must be displayed in a prominent place in an area accessible to the public.
3. A scrap metal 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 and the copy must be displayed in a manner which enables it to be easily read by a person outside the vehicle.
4. A scrap metal dealer who fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
5. A scrap metal dealer must not receive scrap metal from a person without verifying the person's full name and address.
6. That verification must be by reference to documents, data or other information obtained from a reliable and independent source.
7. All reasonable steps will be taken to ensure stolen metals are not bought.
8. The dealer must record the following information about all scrap metal purchased—
 - (a) 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;
 - (b) the date and time of its receipt;
 - (c) if the metal is delivered in or on a vehicle, the registration mark (within the meaning of section 23 of the Vehicle Excise and Registration Act 1994) of the vehicle;
 - (d) if the metal is received from a person, the full name and address of that person;
 - (e) if the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer.
9. Where the disposal is in the course of business under a site licence, the dealer must record the following information—
 - (a) the description of the metal, including its type (or types if mixed), form and weight;
 - (b) the date and time of its disposal;
 - (c) if the disposal is to another person, the full name and address of that person;
 - (d) if the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received.
10. Where the disposal is in the course of business under a collector's licence, the dealer must record the following information—
 - (a) the date and time of the disposal;

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- (b) if the disposal is to another person, the full name and address of that person.
11. Dealers must only accept payment for scrap metal via cheque or electronic transfer and must keep a copy of the cheque or receipt of the transfer.
 12. All licences shall be returned immediately to the licensing authority on expiry or other reasonable demand.

Selby District Council would also recommend that licence holders consider the following measures. There are no legal requirements to take the following steps, however it is strongly recommended as good practice.

1. A site licence holder may wish to carry a copy of the relevant site licence in their vehicle so they are not mistaken for an unlicensed mobile collector.
2. Blackened copper wire that has obviously had its insulation removed should not be bought other than where the supplier can provide a satisfactory explanation for the fire damage. In such cases, the cable shall be identified as burnt in the record of the material received, including the reason for the fire damage. A photograph shall be taken and kept with the said record.
3. Any vehicle used for the collection and transportation of scrap metal should ensure the load is safe and secure for example by using a caged vehicle.
4. Staff should be trained in administrative processes and all paperwork should be relevant and kept up-to-date.
5. Dealers should have available and actively use UV torches for detecting forensically marked metals.
6. Suspicious persons should be reported to the local police force for the area concerned.
7. Suspicious transactions should be reported to the local police force for the area concerned.
8. Dealers should display prominent signage at their premises stating that "We report suspected metal thieves to the Police".