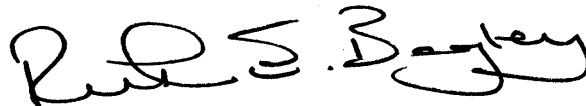


Date of issue: 10<sup>th</sup> July 2013

<b>MEETING</b>	<b>LICENSING COMMITTEE</b> (Councillors Davis (Chair), Aujla, Dhillon, Malik, Mittal, Munawar, Plimmer, Rasib, Shah, Sohal and Wright)
<b>DATE AND TIME:</b>	THURSDAY, 18TH JULY, 2013 AT 6.30 PM
<b>VENUE:</b>	SAPPHIRE SUITE 5, THE CENTRE, FARNHAM ROAD, SLOUGH, SL1 4UT
<b>DEMOCRATIC SERVICES OFFICER: (for all enquiries)</b>	TERESA CLARK 01753 875018

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



**RUTH BAGLEY**  
Chief Executive

AGENDA

PART I

<u>AGENDA</u> <u>ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		
	<b>CONSTITUTIONAL MATTERS</b>		
1.	Declaration of Interest		

**AGENDA**  
**ITEM**

**REPORT TITLE**

**PAGE**

**WARD**

*All Members who believe they have a Disclosable Pecuniary or other Pecuniary or non pecuniary Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 3 paragraphs 3.25 – 3.27 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed, save for exercising any right to speak in accordance with Paragraph 3.28 of the Code.*

*The Chair will ask Members to confirm that they do not have a declarable interest.*

*All Members making a declaration will be required to complete a Declaration of Interests at Meetings form detailing the nature of their interest.*

- |    |   |       |  |
|----|---|-------|--|
| 2. | Guidance on Pre-determination/Predisposition -<br>To Note | 1 - 2 |  |
| 3. | Minutes of the Last Meeting held on 29th May<br>2013      | 3 - 6 |  |

**LICENSING ISSUES**

- |    |   |         |     |
|----|---|---------|-----|
| 4. | New Policy for the Disclosure and Barring Service     | 7 - 34  | All |
| 5. | Implementation of the Scrap Metal Dealers Act<br>2013 | 35 - 68 | All |
| 6. | Date of Next Meeting- 30th September 2013             |         |     |

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda.

## PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

### Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

### Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased”. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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**Licensing Committee – Meeting held on Wednesday, 29th May, 2013.**

**Present:-** Councillors Davis (Chair), Aujla, Dhillon, Malik, Mittal (Vice-Chair), Munawar, Plimmer, Rasib, Shah, Sohal and Wright

**PART I**

**1. Declarations of Interest**

Councillor Aujla declared a personal and prejudicial interest in respect of Agenda item 4, Proposed increase in Hackney Carriage Fares in that her Father was a Hackney Carriage Driver. She left the meeting whilst this item was considered and did not vote on the item.

Councillors Davis and Munawar declared that two weeks earlier they had attended a meeting with the Licensing Manager and Taxi Trade Representatives, with regard to Hackney Carriage tariff fares. Both Members stated that they would have an open mind when considering the agenda item and vote.

**2. Minutes of the Last Meeting held on 1st November 2012**

**Resolved** – That the minutes of the meeting held on 1<sup>st</sup> November 2012 be approved as a correct record.

**3. Appointment of Licensing Sub-Committee and Designated Chairs**

The Committee was reminded that in May 2006 the Licensing Committee established a Licensing Sub-Committee in order to consider and assess matters relating to the Licensing Act 2003, the Gambling Act 2005 and taxi licensing. At that meeting, the Committee had also agreed to the appointment of designated chairs of the Sub-Committee and that these members would chair meetings on a rota basis.

Members were advised that the Sub-Committee would consist of three members to be drawn on a rota basis from members of the Committee on a politically proportionate basis. The Committee was reminded that as the Labour group had an overall majority on the Council, the Sub-Committee would comprise 2 Labour Group Members and 1 Conservative Group Member. It was noted that as Councillor Plimmer was not a member of a Group on the Council, he would not be entitled to a place on the Sub-Committee.

In order to ensure that deadlines were met and to assist in convening meetings of the Sub-Committee, Members were requested to consider whether they wished to adopt the same arrangement as in the previous year whereby the Conservative Group position on the Sub-Committee would rotate between the Conservative and Liberal Democrat Member on the Committee. In the event that neither the Conservative nor Liberal Democrat Member of the Committee was able to serve on a particular meeting of the Sub-

## **Licensing Committee - 29.05.13**

Committee, Members were requested to agree in principle that a Sub-Committee be convened with 3 Labour Members. It was moved and seconded that Councillors Malik, Mittal and Sohal be appointed as Designated Chairs of the Licensing Sub-Committee.

### **Resolved –**

- (a) That a Licensing Sub-Committee be established on a proportional basis (2 Labour, 1 Conservative) with terms of reference as set out the appendix to the report.
- (b) That Councillors Malik, Mittal and Sohal be appointed as designated Chairs of the Licensing Sub-Committee for the 2013/2014 municipal year.
- (c) That the Sub-Committee confirms the membership/convening arrangements for the Sub Committee agreed by the Committee last year, as set out in paragraph 5.5 of the report.

## **4. Proposed increase in Hackney Carriage Fares**

The Licensing Officer outlined a report, in which the Committee was requested to consider a request submitted by Slough Taxi Federation, to increase the approved Hackney Carriage fares. Details of the proposed changes were highlighted and members were reminded that should the fares increase be approved, the Council had a legal obligation to publish details in the local newspaper. The Committee noted that in January 2007, the Licensing Committee had resolved that the costs of advertising the fare charges in a local newspaper were to be met by the Hackney Vehicle Proprietors from the next submission of proposed fare increases. Members were informed that the Slough Taxi Federation had confirmed that the cost of the advertisement for this increase would be divided by the 107 Proprietors and payable at the next renewal of their licence.

In the ensuing discussion, Members questioned whether information relating to fares in neighbouring local authorities was available as a comparative indicator. The Licensing Officer advised that there had been a 76.92% increase to national Hackney Carriage fares over the last 13 years. Slough had an increase of 72.22% over the same period and was 124<sup>th</sup> place in the country.

The Committee debated the reasons why the increase had been requested.

### **Resolved –**

- (a) That the proposed table of fares as set out in Appendix C of the report be approved.

**Licensing Committee - 29.05.13**

- (b) That the change on Rate 1 from 'Daily 6am to 10pm', to 'Daily 5am to 10pm', and Rate 2 from 'Daily Midnight to 6.am', to 'Daily Midnight to 5am' be approved.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 7.00 pm)

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**SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Licensing Committee **DATE:** 18<sup>th</sup> July 2013

**CONTACT OFFICER:** Michael Sims - Licensing Manager  
**(For all Enquiries)** (01753) 477387

Ginny de Haan – Head of Consumer Protection and  
Business Compliance  
(01753 477912)

**WARD(S):** All

**PART I**

**FOR CONSIDERATION, COMMENT AND DECISION**

**NEW POLICY FOR THE DISCLOSURE AND BARRING SERVICE (DBS)**

1. **Purpose of Report**

To update Members on recent national changes for the disclosure of criminal records and the approval of a new Disclosure and Barring Service (DBS) Policy.

2. **Recommendation(s)**

That the Committee;

- (a) Approve the draft policy as a policy document to start with immediate effect, and
- (b) As detailed in the report that delegation is given to all licensing officers to suspend and reinstate a Private Hire or Hackney Carriage Driver licence with immediate effect under the express authorisation of the Licensing Manager. This will ensure that all matters are dealt with in an expedient manner.

3. **Community Strategy Priorities –**

- **Being Safe, Feeling Safe**
- **Prosperity for All**

4. **Other Implications**

(a) **Financial**

There will be financial implications due to additional staffing costs in processing and implementing the new policy requirements. The cost of which is unknown at this time.

The current fee of £55 for the DBS check is not due to change.

If an applicant subscribes to the Update Service the annual fee of £13 will be payable to the DBS by the applicant.

## Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.	The Council is under a duty to ensure that all new applicants and current licence holders of Private Hire and Hackney Carriage Driver licenses are fit and proper persons to hold a licence and that they do not pose a risk to any fare paying passengers or other members of the public.	The approval of this policy will ensure that all relevant checks have been conducted in relation to any criminal conviction or caution.

### (b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

### (c) Equalities Impact Assessment

A national consultation was conducted by the DBS on the proposed changes. A Privacy Impact Assessment was included within the consultation. The full Privacy Impact Assessment can be found at [www.gov.uk](http://www.gov.uk)

## **5. Supporting Information**

- 5.1 The Council, as the Licensing Authority (the 'District Council') under the 1976 Act is responsible for licensing all Hackney Carriage and Private Hire Drivers pursuant to Sections 51, 57 and 59 of the Local Government (Miscellaneous Provisions) Act 1976 operating within its area. In doing so the Council has a legal duty to ensure that all licensed drivers are 'Fit and Proper Persons' to apply for and continue to hold such a licence. This includes the power to refuse to grant a licence and suspend or revoke a licence where a driver is not deemed or no longer deemed to be 'Fit and Proper' where they have been convicted or cautioned for criminal and road traffic offences.
- 5.2 On 4<sup>th</sup> February 2003 the Licensing Committee approved a policy for enhanced Criminal Record Bureau disclosure checks under The Police Act 1997. This is applicable for all new and existing Private Hire and Hackney Carriage Drivers and for the disclosure to be applied for and completed every 3 years. This requirement is pursuant to the 1976 Act.
- 5.3 On 1<sup>st</sup> December 2012 the Criminal Records became the Disclosure and Barring Service (DBS). On 17<sup>th</sup> June 2013 the new disclosure service and requirements

took effect and apply nationally. The changes have been brought about through amendments to the Police Act 1997 by the Protection of Freedoms Act 2012.

5.4 To receive DBS criminal record disclosure certificates, Slough Borough Council is a Registered Body with the DBS. For this to happen the two licensing authorised Countersignatories attended a DBS run Countersignatory training day on 13<sup>th</sup> June 2013. This fully covered the DBS changes and Update Service.

5.5 The summary of the procedure for the Licensing Team to obtain criminal disclosure certificates before 17<sup>th</sup> June 2013 is detailed below:

1. A blank DBS application form is provided for the applicant.
2. The applicant attends a pre-arranged appointment with the Licensing Team at the Licensing Office, Landmark Place.
3. The completed DBS disclosure application form is handed to a member of the Licensing Team with their original supporting identification documents.
4. The Licensing Officer checks the form has been completed correctly, as well as the supporting documents to verify the applicant's identity.
5. Whilst the applicant pays the current relevant fee £55, the Licensing Officer takes scanned copies of all the supporting documents.
6. The supporting documents are returned to the applicant.
7. The Licensing Officer renames and saves the supporting documents to the applicant's file on the Licensing Team computer drive.
8. The information is also manually input into the relevant check section on the applicant file on the bespoke licensing computer system (Lalpac).
9. The officer then completes the Registered Body section of the DBS application form and passes the form to one of the two Licensing Team members who are DBS registered, authorised Countersignatories.
10. The Countersignatory double checks the DBS application form has been:
  - correctly completed.
  - checks the information against the scanned copies of the applicant supporting documents.
  - checks the information input by the Licensing Officer is correct.
11. Once the form has been fully and correctly completed, the Countersignatory signs and dates the relevant declaration to confirm all the above.
12. The DBS application form is then posted to the DBS offices in Liverpool – **Appendix A** is an example completed form.
13. The DBS generate two criminal record disclosure certificates; one is sent to the applicant's address, one is sent to the Countersignatory at the Licensing Office on completion of their checks on the Police National Computer (PNC) and with relevant Police Forces nationally.
14. On receipt of the Registered Body copy, the information disclosed on the certificate is added to the applicants Lalpac file – **Appendix B** is a copy a DBS certificate issued pre-17<sup>th</sup> June 2013.
15. The information disclosed is then used to determine the application and of what further action is required.

5.6 In May 2013, the DBS informed all Registered Bodies and Local Authority's of the impending changes to the disclosure service and that the implementation date would be 17<sup>th</sup> June 2013. Those changes have now taken effect following the start of the amendments through the Protection of Freedoms Act 2012.

5.7 In essence the changes are two-fold:

(1) The introduction of Applicant only certificates.

(2) The introduction of a voluntary Update Service.

In addition the DBS have published two guidance documents:

- DBS Update Service - Employer Guide
- DBS Update Service - Applicant Guide

Both documents can be downloaded from the DBS website: [www.gov.uk/dbs](http://www.gov.uk/dbs)

## **5.8 (1) The introduction of Applicant only certificates.**

5.8.1 Currently, both the applicant and the Countersignatory receive a copy of the disclosure certificate issued by the DBS.

5.8.2 As of 17<sup>th</sup> June 2013 the DBS no longer issues a copy of the applicant's DBS certificate to the Registered Body who countersigned the DBS application form. From that date only the applicant will receive the disclosure certificate and employers/councils will need to ask the applicant for sight of the original DBS certificate.

5.8.3 This important change will impact on how all Councils / Licensing Authorities deal with applications to renew Private Hire and Hackney Carriage Driver licenses. All Slough licensed Private Hire and Hackney Carriage Drivers have been written to and advised of the applicant only certificate issue. A copy of this letter is attached at **Appendix C**.

5.8.4 The current licensing process states when a licensed driver applies to renew their licence they are issued with a one year licence subject to a satisfactory DBS disclosure certificate being applied for and received by the Licensing Team. If, when the disclosure certificate is received new convictions are revealed the Officers will arrange for the application for renewal to be determined and of what further action is required.

5.8.5 From 17<sup>th</sup> June 2013 Officers are now reliant on the applicant to bring their original disclosure certificate to the Licensing Office. Due to this change the Licensing Team internal process for dealing with DBS certificate information has also changed. In addition to the process detailed in 5.4 above, the Countersignatories are now also required to perform a weekly check on the DBS online Application Tracking Service to confirm the date a DBS certificate is issued. To effectively monitor certificate issue by the DBS, it is necessary to:

1. Log all relevant details needed to use the DBS online application tracking service onto a spreadsheet prior to the DBS disclosure application form being sent to the DBS in Liverpool.
2. Individually check each entry on a weekly basis using the DBS online Application Tracking Service.
3. When the Tracking Service shows the certificate has been issued a reminder letter is sent to the applicant advising the Licensing Team need sight of their original DBS certificate.
4. The spreadsheet is updated to show which stage the application has reached and what action has been taken until the DBS certificate is produced to the Licensing Team and the application can be determined – **Appendix D** is a copy of DBS certificate issued after 17<sup>th</sup> June 2013.

5. Update Lalpac once the Licensing Team has seen the certificate.

## **5.9 (2) The introduction of a voluntary Update Service**

- 5.9.1 At the same time as introducing the Applicant only certificate, the DBS have launched an optional/voluntary online service. For an initial, then annual, subscription of £13.00 applicants/drivers can register their DBS certificate with the DBS Update Service within 14 days of its issue. Provided that the annual subscription is maintained their DBS certificate becomes 'portable' and can be taken from role to role within the same workforce where the same type and level of check is required i.e. level = enhanced, workforce = child, role = teacher.
- 5.9.2 As long as an applicant has registered for the Update Service, maintains their subscription and has given written consent, the Registered Body or any other employer can carry out online status checks to obtain updated criminal record information. There will be no need for the applicant to complete a new disclosure application form or to wait for a certificate to be sent to them. This is unless the status check shows the status has changed as new information has come to light. In this instance a new disclosure certificate must be obtained in the usual manner.
- 5.9.3 The DBS are encouraging employers/registered bodies to promote the benefits of the Update Service to applicants but it is an optional / voluntary service.

## **5.10 Policy**

- 5.10.1 Local Authority Licensing Departments, the Institute for Licensing (I. o. L.) and National Association of Licensing and Enforcement Officers (NALEO) have concerns and reservations over the new Update Service and the issuing of applicant only certificates primarily as there is no legal requirement for the Licensing Department to be sent a copy of the DBS disclosure certificate and secondly there is no specific time period for the applicant to submit their copy of the disclosure certificate to the Licensing Team, although all DBS Update Service guidance recommends 28 days.
- 5.10.2 It is therefore essential that Slough Borough Council has a suitable policy in place to ensure that all new applicants and current licence holders of Private Hire and Hackney Carriage Driver licenses are fit and proper persons to hold a licence and that they do not pose a risk to any fare paying passengers or other members of the public.
- 5.10.3 A draft 'Disclosure and Barring Service Policy' had been produced and attached at **Appendix E** and in summary the following will apply:

## **5.11 New applicants**

- 5.11.1 It is proposed that all new applicants who must complete a criminal record check with the DBS as part of their full new application procedure will, from the implementation of the policy, be given 28 days from the date the DBS certificate is issued to produce the original certificate to the Licensing Team at the Licensing Office, Landmark Place.
- 5.11.2 Failure to produce the DBS certificate within the above detailed timescale will result in the applicant being required to complete and pay for a new DBS

certificate. Again, once received by the applicant the original certificate must be produced to the Licensing Team within 28 days.

- 5.11.3 In addition, if all other requirements of the full driver application procedure have not been completed within 4 months of the date of issue of the DBS Certificate, then a new DBS application will have to be submitted.

## **5.12 Currently licensed holders**

- 5.12.1 It is proposed that all current licence holders who are due a criminal record check with the DBS as part of their renewal application process will, from the implementation of the policy, be given 28 days from the date the DBS certificate is issued to produce the original certificate to the Licensing Team. The licence holder will be contacted by telephone and formally advised in writing that this is the case.
- 5.12.2 If the licence holder does not produce the disclosure certificate within this timescale a further 28 days will be allowed. The Licence holder will be advised in writing at this stage that if the disclosure certificate is not produce within this further 28 day period the driver licence will be suspended with immediate effect and until such time as a valid disclosure is produced, upon which the licence will be re-instated.
- 5.12.3 A new certificate will need to be obtained to ensure all information provided is current **especially as the DBS themselves advise that a DBS certificate is only valid for the day it is printed.**

## **5.13 DBS certificate disputes**

- 5.13.1 The exception to the above timescales applies if the applicant has lodged a formal dispute with the DBS regarding the information contained in the DBS certificate. In such cases it will be the applicant / licence holders responsibility to notify the Licensing Team within 28 days of the issue of the DBS certificate, that they have formally lodged a dispute and to produce any supporting documentation from the DBS confirming that a dispute has been lodged.
- 5.13.2 It will also be the responsibility of the applicant / licence holder to inform the Licensing Team of the outcome of the dispute and also to produce any supporting documentation from the DBS that the dispute has been finalised. **The DBS have confirmed they will not inform or provide any information to Licensing Departments regarding any disputes.**
- 5.13.3 The applicant then has 28 days from the date of the dispute resolution to produce the original certificate to the Licensing Team, or 28 days from the issue of their new DBS certificate, dependant on the dispute outcome. There are no extensions allowed on these timescales.

## **5.14 Recommendation of delegated powers**

- 5.14.1 It is recommended that all Licensing Officers have powers delegated to them to enable the suspension and reinstatement of Private Hire and Hackney Carriage Driver licenses under the express authorisation of the Licensing Manager in the circumstances outlined in the policy to ensure that all matters are dealt with in an expedient manner.

**6. Comments of Other Committees**

None

**7. Conclusion**

The Committee is therefore requested to:

- (a) Approve the draft policy as a policy document to commence with immediate effect, and
- (b) As detailed in the report, delegation is given to all licensing officers to suspend and reinstate a Private Hire or Hackney Carriage Driver licence with immediate effect under the express authorisation of the Licensing Manager to ensure that all matters are dealt with in an expedient manner.

**8. Appendices Attached**

‘A’ - Example of a completed DBS application form

‘B’ - Copy of a DBS Certificate issued pre - 17<sup>th</sup> June 2013

‘C’ - Copy of letter sent to all licensed Hackney Carriage and Private Hire Drivers

‘D’ - Copy of a DBS Certificate issued post - 17<sup>th</sup> June 2013

‘E’ - Draft ‘ Disclosure and barring service Policy.

**9. Background Papers**

The Police Act 1997

The Protection of Freedoms Act 2012

The Disclosure and Barring Service Privacy Impact Assessment

DBS Update Service - Employer Guide

DBS Update Service - Applicant Guide

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**W evidence of identity**

58 name of evidence checker N I C O L A K E L G A N

59 have you established the true identity of the applicant, by examining a range of documents as set out in DBS guidance, and verified the information provided by the applicant in sections a and b, by completing the verification check boxes? no  yes

**X apply for a DBS check**

60 not used D O N O T U S E

61 position applied for O T H E R W O R K F O R C E

62 organisation name T A X I D R I V E R

63 level of DBS check B E S T C A B S

Please cross one box only standard  enhanced  If crossed go to x67

64 are you entitled to know whether the applicant is barred from working with children? no  yes

65 are you entitled to know whether the applicant is barred from working with adults? no  yes

66 does this position involve working with children or adults at the applicant's home address? no  yes

67 application type application is for a new post holder   
 application is for an existing post holder   
 application is for an existing post holder who is being re-checked

By placing a cross in the yes box, you confirm that the post meets the DBS definition of a free of charge volunteer application. Please note that DBS may recover the application fee if this box is marked in error and that this could result in the cancellation of your DBS registration.

**Y statement by registered person**

69 registered body number 2 0 0 3 8 6 0 0 0 4

70 countersignatory number 7 0

71 do you have payment on account? no  yes  Please enclose payment if required

72 declaration by registered person

I confirm that the requisite documentation and information has been supplied and checked in accordance with DBS guidance. I declare that the information I have provided in support of the application is complete and true and understand that knowingly to make a false statement for this purpose may be a criminal offence. I certify that, where requested, an application for a DBS check is required for the purpose of asking an exempted question under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975; or for a prescribed purpose as defined in the Police Act 1997 (Criminal Records) Regulations 2002.

Signature of registered person (please sign within the box provided)

73 date of countersignature 2 6 0 6 2 0 1 3

74 payment type received cheque  postal order  multipayment  voucher

75 examined by

**Application form**

**EXAMPLE - INFORMATION PURPOSES ONLY**

406

801021

SLOUGH BOROUGH COUNCIL  
 HUMAN RESOURCES  
 51 ST MARTINS PLACE BATH ROAD  
 SLOUGH  
 BERKSHIRE  
 SL1 3JF

This form can be used to apply for a Disclosure and Barring Service (DBS) check. APPLICANTS MUST COMPLETE SECTIONS a, b, c AND e ONLY. DO NOT COMPLETE SECTIONS d, w, x, y OR z. If you require help in completing the form, you can call the DBS on 0870 90 90 811, visit our website on [www.homeoffice.gov.uk/dbs](http://www.homeoffice.gov.uk/dbs) or talk to the person who provided you with this form. Failure to complete this form correctly will delay your application.

Applicants need not enter names relating to their previous gender, but must contact the Sensitive Team on [Sensitive@db.s.gsi.gov.uk](mailto:Sensitive@db.s.gsi.gov.uk) if this option is to be exercised.

- YOU MUST**
- Use **BLACK INK** throughout.
  - Use **CAPITAL LETTERS** when completing the form.
  - Complete all sections marked in **YELLOW** - if you do not, your form will be returned unprocessed and this will delay your application.
  - Write clearly and insert only one character in each box.
  - Put a line through a mistake, and correct it to the right.
  - Mark choices in the box with a cross (X).
  - Keep your signature(s) within the box provided.
  - Provide all addresses where you have lived in the last 5 years. If you have lived overseas within this period please include these addresses.
- YOU MUST NOT**
- Write over the edges of each box.
  - Use stamps or stickers on the form.
  - Staple anything to the form.
  - Use correction fluid.
  - Strike out a section that is not applicable. Please leave it blank.

**proving your identity**

After you have completed sections a, b, c and e please return the form to the person who provided you with the form. They will then ask you to provide a range of documents to confirm your identity. Please refer to the ID checking guidelines which can be found at [www.homeoffice.gov.uk/dbs](http://www.homeoffice.gov.uk/dbs)

**identity documents**

- You must provide **original documentation only**; photocopies will not be accepted.
- At least one document must confirm your **current name**, as recorded in section a.
- At least one document must confirm your **date of birth**, as recorded in section a.
- At least one document must confirm your **current address**, as recorded in section b and should be issued within a certain period, see ID checking guidelines.
- Wherever possible, where you hold a document containing a photograph from the approved identity document list, this should be submitted.

**fair processing notice**

The Disclosure and Barring Service will refer the details provided on this application form to government and law enforcement bodies in accordance with any relevant legislation. The details provided to these bodies will be used for identifying possible matches to records held by them. Where such a match is established, data may be released to the DBS for inclusion on any certificate issued. The details provided on this form may be used to update the records held by the bodies specified above. The details provided on this application form may be used to verify your identity for authentication purposes.

**Disclosure & Barring Service**

Form Ref  
 F0075746293

PO Box 110  
 Liverpool L69 3EF

a applicant's details

1 title  mr  miss  ms  other

2 surname O T H E R

3 forename(s) A N D R E W N I G E L

4 have you ever been known by any other names?  no  yes

5 surname

6 forename(s)

7 dates from and to

8 surname

9 forename(s)

10 dates from and to

11 surname

12 forename(s)

13 dates from and to

14 date of birth

15 gender  male  female

16 place of birth (town)

17 place of birth (country)

18 e-mail address

registered body use only

a1-a3 verified

a14 verified

a21 verified

a23 verified

a25 verified

19 contact telephone number

20 do you have a national insurance number?  no  yes

21 national insurance number

22 do you hold a valid UK driving licence?  no  yes

23 driving licence number

24 do you hold a valid passport?  no  yes

25 passport number

26 nationality

27 country of issue

28 not used

29 not used

30 do you have a Scottish vetting & barring number?  no  yes

31 Scottish vetting & barring number

Please give details of your current address. This is the address to which all correspondence will be sent.

b current address

32 address

33 town/city

34 county

35 UK postcode

37 at address since

36 country

registered body use only

current address verified?

You must provide all other addresses where you have lived in the last 5 years. There must be no gaps in dates, however, overlapping dates are acceptable. Use a continuation sheet if necessary, available from [www.homeoffice.gov.uk/dbs](http://www.homeoffice.gov.uk/dbs) if not applicable, go to section e.

c other addresses

38 address

39 town/city

40 county

41 UK postcode

43 dates from and to

44 address

45 town/city

46 county

47 UK postcode

49 dates from and to

48 country

d do not complete

50 not used

51 not used

52 not used

53 not used

54 not used

DO NOT USE

DO NOT USE

DO NOT USE

DO NOT USE

DO NOT USE

e declaration by the applicant

55 have you ever been convicted of a criminal offence received a caution, reprimand or warning?  no  yes

56 declaration by the applicant

Applicant declaration (please sign within the box provided)

By signing the applicant declaration box I confirm that the information that I have provided in support of this application is complete and true and understand that knowingly to make a false statement for this purpose may be a criminal offence.

57 date of signature

26062013

STRICTLY PRIVATE AND CONFIDENTIAL

MELANIE SAGAR  
ASSISTANT LICENSING OFFICER  
SLOUGH BOROUGH COUNCIL  
TOWN HALL  
BATH ROAD  
SLOUGH  
BERKSHIRE  
SL1 3UQ

A copy of this Certificate has been sent to



Registered Body copy

Enhanced Certificate

Page 1 of 2



Certificate Number 0014076 [REDACTED]

Date of Issue: 12 JUNE 2013

**Applicant Personal Details**

Surname: [REDACTED]  
Forename(s): [REDACTED]  
Other Names: NONE DECLARED  
Date of Birth: [REDACTED]  
Place of Birth: [REDACTED]  
Gender: [REDACTED]

**Employment Details**

Position applied for:  
PRIVATE HIRE DRIVER  
Name of Employer:  
[REDACTED]

**Countersignatory Details**

Registered Person/Body:  
SLOUGH BOROUGH COUNCIL  
Countersignatory:  
MELANIE SAGAR

**Police Records of Convictions, Cautions, Reprimands and Warnings**

NONE RECORDED

**Information from the list held under Section 142 of the Education Act 2002**

NONE RECORDED

**DBS Children's Barred List information**

NONE RECORDED

**DBS Adults' Barred List information**

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11<sup>th</sup> June 2013

**Department:** Consumer Protection and Business Compliance  
**Contact Name:** M Sagar  
**Contact No:** 01753 875664  
**Email:** licensing@slough.gov.uk  
  
**Our Ref:** NEW APPLICANT  
**Your Ref:**

Dear

I am writing to make you aware that there are important changes to the Disclosure and Barring Service (DBS), previously CRB, coming into effect 17<sup>th</sup> June 2013.

From 17<sup>th</sup> June 2013 the DBS will only send disclosure certificates to applicants.

You must bring your DBS certificate to the Licensing Office within 28 days of the date the certificate was issued. ***It is important to remember that it is NOW YOUR responsibility to make sure you produce your certificate on time.*** The Licensing Team have no legal obligation to remind you to produce your certificate.

Failing to produce your certificate within this time will result in you being referred to the Licensing Sub-Committee with a recommendation that your badge is suspended until you produce the certificate.

Further changes to the DBS checking service will be communicated to you at a later date.

Yours sincerely,

Melanie Sagar  
Licensing Officer  
Consumer Protection and Business Compliance


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STRICTLY PRIVATE AND CONFIDENTIAL



### Enhanced Certificate






Page 1 of 2

 Disclosure & Barring Service


Certificate Number 0014082 

Date of Issue: 17 JUNE 2013

#### Applicant Personal Details

Surname:   
Forename(s):   
Other Names: NONE DECLARED  
Date of Birth:   
Place of Birth:   
Gender: 

#### Employment Details

Position applied for:  
ADULT AND CHILD WORKFORCE PRIVATE HIRE DRIVER  
Name of Employer:  


#### Countersignatory Details

Registered Person/Body:  
SLOUGH BOROUGH COUNCIL  
Countersignatory:  
MELANIE SAGAR

#### Police Records of Convictions, Cautions, Reprimands and Warnings

NONE RECORDED

#### Information from the list held under Section 142 of the Education Act 2002

NONE RECORDED

#### DBS Children's Barred List information

NONE RECORDED

#### DBS Adults' Barred List information

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## APPENDIX E

### Disclosure and Barring Service Policy.

#### Background

On 4<sup>th</sup> February 2003 the Licensing Committee approved a policy for the implementation of enhanced Criminal Record Bureau (CRB) Disclosure checks for all new and existing Hackney Carriage and Private Hire drivers and for the disclosure certificate to be applied for every three years. This requirement is pursuant to Section 51 (Hackney Carriage Drivers) and Section 59 (Private Hire Drivers) of the Local Government (Miscellaneous Provisions) Act 1976 (LGMP Act 1976).

The procedure for applying for a CRB/DBS disclosure until 17<sup>th</sup> June entailed the applicant completing the application form and producing relevant documents to confirm identification, this form being checked the Licensing Officer and then checked and signed by a 'Countersignatory', the form then being sent to the DBS and once the necessary checks have been completed, a copy of the Disclosure Certificate would be sent to both the applicant and the Licensing Team.

In December 2012 the Criminal Record Bureau became the Disclosure and Barring Service (DBS) and on 17<sup>th</sup> June 2013 the new disclosure service and requirements took effect and apply nationally. These changes have been brought about through amendments to the Police Act 1997 by the Protection of Freedoms Act 2012.

A summary of the changes are contained in **Annex A**.

#### Purpose.

The Council, as the Licensing Authority (the 'District Council') under the 1976 Act is responsible for licensing all Hackney Carriage and Private Hire Drivers pursuant to the above legislation operating within its area. In doing so the Council has a legal duty to ensure that all licensed drivers are 'Fit and Proper Persons' to apply for and continue to hold such a licence. This includes the power to refuse to grant a licence, suspend or revoke a licence where a driver is not deemed or no longer deemed to be 'Fit and Proper' where they have been convicted or cautioned for criminal and road traffic offences.

The purpose of this policy is to set out the new formal procedures for the Licensing Authority to operate the new Disclosure and Barring Service processes in relation to:

- a) Application procedures for new applicants for Hackney Carriage and Private Hire Driver licenses.

- b) Application procedures for current Hackney Carriage and Private Hire Driver license.
- c) Disclosure and Barring Update Service
- d) DBS Certificates and Disputes

## 1. Guidance

### a) New Applicants

The following procedure will apply to all new applicants for a Hackney Carriage or Private Hire Driver licence.

1. A DBS application form must be completed in full and signed by applicant.
2. At the time of the production of the DBS application form to the Licensing Office the applicant must produce relevant approved forms of identification as detailed in the 'GOV.UK' Disclosure and Barring Service (DBS) check' document. See Annex B.
3. If the applicants' identity cannot be verified through possession and or production of the relevant forms of identity documents required the application will not be accepted.
4. If the application form and documents are in order, then the Licensing Officer will check the DBS application form and the produced relevant forms of identification fully. If everything is in order the application form will then be checked by a 'Countersignatory' who will then sign the application form and send it to the Disclosure and Barring Service in Liverpool.
5. The Licensing Office will carry out a weekly check through the 'DBS On-Line Tracking Service' to establish if the DBS certificate has been issued to the applicant.
6. Once the issue of the DBS Certificate to the applicant has been confirmed, the Licensing Office will contact the applicant by telephone and advise them formally in writing that the original DBS Certificate must be produced in person to the Licensing Office within the DBS recommended 28 days of the date of issue. (Copies of any form of the Certificate will not be accepted)
7. Failure by applicant to produce the original certificate within the recommended 28 day period will result in the applicant making a new DBS application.
8. If all other requirements of the full driver application procedure have not been completed within 4 months of the date of issue of the DBS Certificate, then a new DBS application will have to be submitted.

Note: On all occasions the applicant will be advised and encourage to subscribe to the DBS Update service.

### b) Current Licence Holders

1. All current licence holders of Hackney Carriage and Private Hire Drivers Licenses must complete the DBS application form and

- procedure when next due i.e. at the approved 3 year period requirement.
2. When the renewal letter is sent out to the licence holder advising that a DBS check is also required, the licence holder will be provided with details of the voluntary DBS Update Service. A copy of the DBS Update Service - Introduction. See C) below.
  3. At the time of the production of the DBS application form to the Licensing Office the licence holder must produce relevant approved forms of identification as detailed in the 'GOV.UK' Disclosure and Barring Service (DBS) check' document. See Annex B.
  4. If the application form and documents are in order, then the Licensing Officer will check the DBS application form and the produced relevant forms of identification fully. If everything is in order the application form will be then checked by a 'Countersignatory' who will then sign the application form and send it to the Disclosure and Barring Service in Liverpool.
  5. The Licensing Office will carry out a weekly check through the 'DBS On-Line Tracking Service' to establish if the DBS certificate has been issued to the applicant.
  6. Once the issue of the DBS Certificate to the Licence holder has been confirmed, the Licensing Office will contact the licence holder by telephone and advise them formally in writing that the original DBS Certificate must be produced in person to the Licensing Office within the DBS recommended 28 days of the date of issue. (Copies of any form of the Certificate will not be accepted)
  7. If the original DBS Certificate is not produced as required in person within 28 days the licence holder will be **advised** formally in writing, that the Certificate **MUST** be produced within a further 28 days and that if the Certificate is still not produced within that period the Hackney Carriage or Private Hire Driver Licence will be suspended with immediate effect and until such time as the Certificate is produced.
  8. The driver licence (Badge) must be returned to the Licensing Office within 7 days of the written notification.
  9. Once the original DBS Certificate has been produced the drivers licence will be immediately re-instated and the licence holder notified by telephone and in writing that this is the case, and the licence (Badge) will be returned.

Note: The Licensing Committee has delegated powers to all Licence Officers to suspend or re-instated a drivers licence under the express authorisation of the Licensing Manager.

### **c) Disclosure and Barring Update Service**

1. All new applicants for and current licence holders of Hackney Carriage and Private Hire Driver licenses can subscribe to the voluntary DBS Update Service at a cost to the DBS of £13.00p. See the DBS Update Service - Introduction at Annex C.
2. If subscribed and the subscription remains up to date the licence holder will not be required to complete another DBS application form unless the status changes.
3. If the applicant has subscribed with the 'Update Service', their subscription is up to date and written authorisation to do so has been

given, the Licensing Authority can access the On-line Update Service to carry out a 'Status Check'. This can be done at any time.

4. If the subscription lapses, the next time a DBS check is required, i.e. every 3 years, a new DBS application must be completed and the full procedure followed as detailed in **b)** above.

#### **d) DBS Certificate and Disputes**

This Registered Body / Licensing Team will work in accordance with the Guidance issued by the DBS regarding entitlement for a copy of the DBS Certificate and any subsequent disputes as detailed below.

1. The DBS will no longer automatically issue a copy of the applicant's DBS Certificate to the Registered Body who countersigned the DBS application form. Employers will need to ask the applicant for sight of their original DBS Certificate.
2. Registered Bodies will be entitled to ask the DBS for a copy of the applicant's DBS Certificate if all of the following conditions apply:
  - The individual is subscribed to the Update Service; and
  - The employer has carried out a Status Check which revealed a change to the DBS Certificate; and as a result
  - The individual has applied for a new DBS check as the result of a change to an existing DBS Certificate; and
  - The DBS issued the new DBS Certificate to the applicant more than 28 days ago; and
  - The applicant has not shown the employer their new DBS Certificate.
3. If the individual has disputed the new DBS Certificate the DBS will not consider issuing a copy to the Registered Body until 28 days after the dispute is resolved.
4. If the individual has disputed the new DBS Certificate the DBS will not consider issuing a copy to the Registered Body until 28 days after the dispute is resolved.
5. If the individual has disputed the new DBS Certificate, and the dispute is 'not upheld', the Registered Body must wait until 28 days after the dispute resolution date before requesting a reprint. This is to give the applicant time to show the DBS Certificate to the Registered Body /employer.
6. As the DBS will not inform the Registered Body of a dispute made by the applicant, it will be responsibility of the applicant / licence holder to notify the Licensing Team of any dispute within 28 days of the issue of the Certificate and to produce any supporting documentation from DBS confirming that a dispute has been lodged.
7. It will also be the responsibility of the applicant / licence holder to inform the Licensing Team of the outcome of the dispute and also to produce any supporting documentation from the DBS that the dispute has been finalised.
8. The applicant then has 28 days from the date of the dispute resolution to produce the original certificate to the Licensing Team, or 28 days from the issue of their new DBS certificate, dependant on the dispute outcome.

## **2. Disclosure and Barring Retention Policy - Handling of DBS Certificate Information**

*(Secure storage, handling, use, retention and disposal of Disclosure and Barring Service (DBS) certificates and certificate information)*

It is a requirement of the Disclosure and Barring Service Code of Practice that all registered bodies must have a written policy on the correct handling and safekeeping of DBS certificate information. It also obliges Registered Bodies to ensure that a body or individual, on whose behalf they are countersigning applications, has a written policy. Therefore a new **Retention Policy** has been produced in accordance with the DBS Code of Practice, which is contained at **Annex D**.

## ANNEX A

- 1) A new DBS Update Service - Applicant Guide
- 2) A new DBS Update Service - Employer Guide
- 3) Changes to completion of the application form
- 4) The introduction of 'Applicant Only Certificates' and that the Licensing Authority will no longer be provided with a copy of the DBS Certificate
- 5) The Licensing Authority will now have to ask for sight of the 'original' certificate with 28 days of the date of issue (subject to exemption)
- 6) The **original certificate** must be seen and checked by the Licensing Authority for:
  - a) Confirmation of the applicants name and address to ensure that they are still current
  - b) The correct Certificate Number (for performing the on-line tracking service checks)
  - c) The 'Relevant Workforce'. For licensed drivers this is categorised as 'Other Workforce'
  - d) The 'Occupation'. For licensed drivers this will be 'Taxi Driver' for both Hackney Carriage and Private Hire drivers as defined as a Regulated Activity
  - e) The correct level of check which must be an 'Enhanced with Adult and Child Barred List Check' in accordance with the Police Act 1997 (Criminal Records) Regulations and as amended by The Protection of Freedoms Act 2012
  - f) The portability of the DBS Certificate. Portability only applies where the applicant has registered with the 'on-line service' and registration is still current
  - g) The introduction of a voluntary 'Update service' for the applicants at an annual cost of £13
  - h) If the applicant has registered with the 'Update Service', their subscription is up to date and written authorisation to do so has been given, the Licensing Authority can access the On-line Update Service to carry out a 'Status Check'. This can be done at any time. (See page 8 of 'The Employers Guide')
  - i) If the on-line registration lapses or is cancelled a new DBS application will have to be completed every three years.
  - j) There is now a specific exemption under the amendments for 'Taxi Drivers' which legally entitles Licensing Authorities to know if the driver is listed on either the 'Child' or 'Adult' Barring Lists.

Note: In relation to (c) and (d) above these categories are both defined under the legislation as detailed in (e) above.

## **ANNEX B**

### **Disclosure and Barring Service (DBS) checks (previously CRB checks)**

#### **Documents the applicant must provide**

The person going through a DBS check - 'the applicant' - must give their employer original documents proving their identity. The documents needed depend on the route the application takes. The applicant must try to provide documents from route 1 first.

#### **Route 1**

The applicant must be able to show:

- 1 document from Table 1, below
- 2 other documents from either Table 1 or Table 2a or 2b, below

One of the documents must show the applicant's current address.

#### **Route 2**

If the applicant doesn't have any of the documents in Table 1, then they must be able to show:

- 1 document from Table 2a
- 2 other documents from either Table 2a or 2b

One of the documents must show the applicant's current address. The organisation conducting their ID check must then also use an appropriate external ID validation service to check the application.

#### **Route 3**

Route 3 can only be used if it hasn't been possible to process the application through Routes 1 or 2.

For Route 3, the applicant must be able to show:

- a birth certificate issued after the time of birth (UK and Channel Islands)
- 1 document from Table 2a
- 3 further documents from Table 2a or 2b

One of the documents must show the applicant's current address. If the applicant can't provide these documents they may need to be fingerprinted.

**Table 1: Primary identity documents**

<b>Document</b>	<b>Notes</b>
Passport	Any current and valid passport
Biometric residence permit	UK
Current driving licence – photo card with counterpart	UK/Isle of Man/Channel Islands (full or provisional)
Birth certificate - issued at time of birth	UK and Channel Islands – including those issued by UK authorities overseas, eg Embassies, High Commissions and HM Forces

**Table 2a: Trusted government documents**

<b>Document</b>	<b>Notes</b>
Current driving licence – old-style paper version	UK
Current photo driving licence	Non-UK licences must be valid for up to 12 months from the date the applicant entered the UK
Birth certificate – issued after time of birth	UK and Channel Islands
Marriage/civil partnership certificate	UK and Channel Islands
Adoption certificate	UK and Channel Islands
HM Forces ID card	UK
Firearms licence	UK and Channel Islands

**Table 2b: Financial and social history documents**

<b>Document</b>	<b>Notes</b>	<b>Issue date and validity</b>
Mortgage statement	UK or EEA	Issued in last 12 months
Bank or building society statement	UK and Channel Islands or EEA	Issued in last 3 months
Bank or building society account opening confirmation letter	UK	Must still be valid
Credit card statement	UK or EEA	Issued in last 3 months
Financial statement, eg pension or endowment	UK	Issued in last 12 months
P45 or P60 statement	UK and Channel Islands	Issued in last 12 months
Council Tax statement	UK and Channel Islands	Issued in last 12 months
Work permit or visa	UK	Valid up to expiry date
Letter of sponsorship from future employment provider	Non-UK or non-EEA only - valid only for applicants residing outside of the UK at time of application	Must still be valid



<b>Document</b>	<b>Notes</b>	<b>Issue date and validity</b>
Utility bill	UK – not mobile telephone bill	Issued in last 3 months
Benefit statement, eg Child Benefit, Pension	UK	Issued in last 3 months
Central or local government, government agency, or local council document giving entitlement, eg from the Department for Work and Pensions, the Employment Service, HMRC	UK and Channel Islands	Issued in last 3 months
EU National ID card	-	Must still be valid
Cards carrying the PASS accreditation logo	UK and Channel Islands	Must still be valid
Letter from Head Teacher or College Principal	UK - for 16 to 19 year olds in full time education - only used in exceptional circumstances if other documents cannot be provided	Must still be valid

## ANNEX C

### DBS UPDATE SERVICE - INTRODUCTION

From 17 June 2013, you can subscribe to the new Update Service when you next apply for a DBS check, and you may never need to apply for another one again.

#### What is the DBS Update Service?

For a small annual subscription of just £13 (free for volunteers) you can have your DBS Certificate kept up-to-date and take it with you from role to role, within the same workforce, where the same type and level of check is required.

By subscribing to the new service you could save yourself a lot of time and money depending upon how many DBS checks you have needed in the past.

#### How do you access the Update Service?

From 17 June 2013 you will be able to join the Update Service online at [www.gov.uk/dbs-update-service](http://www.gov.uk/dbs-update-service).

Subscribing online is quick and simple. Just enter your application form or DBS Certificate number, name, date of birth and address and pay the subscription fee securely from your account. When your subscription is confirmed you then start to see the benefits of this new service.

#### Benefits to you

- Saves you time and money.
- One DBS Certificate is all you may ever need.
- Take your DBS Certificate from role to role within the same workforce.
- You are in control of your DBS Certificate.
- Get ahead of the rest and apply for jobs DBS pre-checked.

#### Benefits to your employer

- Instant online checks of DBS Certificates.
- No more DBS application forms to fill in.
- You may never need to apply for another DBS check for an employee again.
- Less bureaucracy.
- Saves you time and money.
- Enhances your safeguarding processes and may help to reduce your risks.
- Easy to incorporate into your existing suitability decision-making processes.

#### What else you need to know

To coincide with the launch of the Update Service the DBS will no longer automatically issue a copy of your DBS Certificate to the Registered Body who countersign your DBS application form. Employers will need to ask you for sight of your DBS Certificate. This is to give you greater control over your information.

#### Further information

You can also find further information at [www.gov.uk/dbs](http://www.gov.uk/dbs)

## **ANNEX D**

### **Handling of DBS certificate information**

#### **Secure storage, handling, use, retention and disposal of Disclosure and Barring Service (DBS) certificates and certificate information**

It is a requirement of the Disclosure and Barring Service code of practice that all registered bodies must have a written policy on the correct handling and safekeeping of DBS certificate information. It also obliges registered bodies to ensure that a body or individual, on whose behalf they are countersigning applications, has a written policy.

### **Licensing Service Policy Statement**

#### **General principles**

As an organisation using the Disclosure and Barring Service (DBS) checking service to help assess the suitability of applicants for positions of trust, Slough Borough Council complies fully with the Code of Practice regarding the correct handling, use, storage, retention and disposal of certificates and certificate information. It also complies fully with its obligations under the Data Protection Act 1998 and other relevant legislation pertaining to the safe handling, use, storage, retention and disposal of certificate information and has a written policy on these matters, which is available to those who wish to see it on request.

#### **Storage and access**

Certificate information should be kept securely, in lockable, non-portable, storage containers with access strictly controlled and limited to those who are entitled to see it as part of their duties.

#### **Handling**

In accordance with section 124 of the Police Act 1997, certificate information is only passed to those who are authorised to receive it in the course of their duties. We maintain a record of all those to whom certificates or certificate information has been revealed and it is a criminal offence to pass this information to anyone who is not entitled to receive it.

#### **Usage**

Certificate information is only for the specific purpose for which it was requested and for which the applicant's full consent has been given.

#### **Retention**

Once an application requiring a DBS Certificate has been determined, we do not keep certificate information for any longer than is necessary. This is generally for a period of up to six months, to allow for the consideration and resolution of any disputes or complaints. If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer than six months, we will consult the DBS about this and will give full consideration to the Data Protection and

Human Rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

## **Disposal**

Once the retention period has elapsed, we will ensure that any DBS certificate information is immediately destroyed by secure means, i.e. by shredding, pulping or burning. While awaiting destruction, certificate information will not be kept in any insecure receptacle (e.g. waste bin or confidential waste sack). We will not keep any photocopy or other image of the certificate or any copy or representation of the contents of a certificate. However, notwithstanding the above, we may keep a record of the date of issue of a certificate, the name of the subject, the type of certificate requested, the position for which the certificate was requested, the unique reference number of the certificates and the details of the decision taken.

**SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Licensing Committee **DATE:** 18<sup>th</sup> July 2013

**CONTACT OFFICER:** Michael Sims - Licensing Manager  
**(For all Enquiries)** (01753) 477387

Ginny de Haan – Head of Consumer Protection and  
Business Compliance  
(01753 477912)

**WARD(S):** All

**PART I**

**FOR INFORMATION**

**IMPLEMENTATION OF THE SCRAP METAL DEALERS ACT 2013**

1. **Purpose of Report**

To inform the Committee of impending changes to the regulatory regime for Scrap Metal to be implemented through the provisions of the Scarp Metal Dealers Act 2013 and the increased duties and powers which this gives the Council.

2. **Recommendation(s)**

That the Committee are asked to note the contents of the report and to receive a further update once the associated regulations have been published and the commencement order is known.

3. **Community Strategy Priorities –**

- **Being Safe, Feeling Safe**
- **A Cleaner, Greener place to Live, Work and Play**
- **Prosperity for All**

4. **Other Implications**

(a) **Financial**

There will be financial implications as there will be additional resources required to implement and run the licensing regime.

There will be provision for the Council to set and charge a fee and in doing so the Council must have regard to any guidance and regulations issued by the Secretary of State.

## Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
As detailed in Point 2.		

### (b) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Parts I & II of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to the peaceful enjoyment of his or her possessions including the possession of licence and shall not be deprived of the possession except in the public interest

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.

### (c) Equalities Impact Assessment

An Equalities Impact Assessment has not be conducted as this is primary legislation and applies nationally.

## **5. Supporting Information**

- 5.1 The Council currently regulates Scrap Metal Dealers within its area under the provisions of the Scrap Metal Dealers Act 1964, the Vehicle (Crime) Act 2001 and the Motor Salvage Operators Regulations 2002. Under this regime Scrap Metal Dealers must register with the Council.
- 5.2 The increase in metal theft offences in recent years has highlighted the ineffectiveness of the currently regulatory regime, and the Government felt that reform was necessary.
- 5.3 From 3 December 2012 the Government introduced some changes to this regime through sections 145-147 of the Legal Aid Sentencing and Punishment of Offenders Act 2012. In particular, it increased the penalties for the existing offences contained in the 1964 Act and introduced a new offence of buying scrap metal for cash.
- 5.4 In addition during the course 2012 the Scrap Metal Dealers Act 2013 was introduced as a private members bill. It received Royal Assent on 28 February 2013 and will come into force by means of a commencement order, which is anticipated to be on 1st October 2013.
- 5.5 A detailed explanation of the provisions of the '2013 Act' is contained in the note at **Appendix 1** and also in the document entitled "*The Legislative Response to Metal Theft*" issued by the Home Office March 2013 enclosed as **Appendix 2**.
- 5.6 The main aim of the 2013 Act is to raise standards within the Scrap Metal industry, by replacing the overlapping regimes for vehicle salvage and scrap metal with one regulatory regime, and by giving Councils the responsibility for the licensing and enforcement of the Act in conjunction with the police. The 2013 Act will repeal the 1964 Act, Sections 145-147 of Legal Aid Sentencing and

Punishment of Offenders Act 2012 and Part 1, section 35 and paragraphs 1 & 2 of the Schedule of the Vehicles (crime) Act 2001.

## **6. The main provisions of the 2013 Act.**

- 6.1 An extended regime to include a wide range of businesses (*see paragraphs 1 & 2 of Appendix 1*).
- 6.2 Amended definition of scrap metal (*see paragraph 3 of Appendix 1*).
- 6.3 The introduction of a national register of licenses to be held by the Environment Agency. Each Council previously held a register individually.
- 6.4 The introduction of two different types of licences, Site and Collector (*see paragraphs 4-9 of Appendix 1*).
- 6.5 The introduction of a suitability test for applications and licensees (*see paragraphs 17-19 of Appendix 1*).
- 6.6 The introduction of a licence fee to be determined by the Council (*see paragraph 15 of Appendix 1*).
- 6.7 The introduction of the power to revoke a licence (*see paragraphs 23 to 31 of Appendix*).
- 6.8 The introduction of entry and inspection powers (*see paragraphs 59 to 61 of Appendix 1*).
- 6.9 The power to obtain closure notices for unlicensed sites (*see paragraphs 62 to 67 of Appendix 1*).
- 6.10 The introduction of increased record keeping requirements (*see paragraphs 50 to 58 of Appendix 1*).
- 6.11 The introduction of a requirement to display licenses (*see paragraphs 38 to 40 of Appendix 1*).
- 6.12 The continuation of the offence of buying scrap metal for cash and additional offences relating each of the powers and duties contained in the 2013 Act.
- 6.13 Page 40 of Appendix 2 contains a useful diagram of how the licensing model is intended to work.

## **7. Issues**

- 7.1 In preparation for the implementation of these new powers and duties the Council will need to make arrangements for dealing with applications, setting a fee (with regard to any statutory guidance issued by the Secretary of State) and providing the resources to deal with enforcement.
- 7.2 It is proposed therefore that a further report will be submitted to Committee once the commencement date has been confirmed and the Secretary of State has issued and Guidance and Regulations.

**6. Comments of Other Committees**

None.

**7. Conclusion**

The Committee are requested to note the contents of the report and that a further update will be provided once the associated regulations have been published and the commencement order is known.

**8. Appendices Attached**

'1' - Main provisions - Scrap metal Dealers Act 2013

'2' - Home Office - The Legislative Response to metal Theft

**9. Background Papers**

The Scrap Metal Dealers Act 1964

Legal Aid Sentencing and Punishment of Offenders Act 2012



## THE SCRAP METAL DEALERS ACT 2013 (“Act”)

### Definition of Scrap Metal Dealer

1. A person carries on business as a scrap metal dealer (“**SMD**”) for the purposes of this Act if the person:
  - a. Carries on business which 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, or
  - b. Carries on business as a motor salvage operator (so far as that does not fall within paragraph (a)).

This will not include persons who manufacture articles if the selling of scrap metal is only a by-product of that or are surplus materials not needed in the manufacturing.

2. A person carries on business as a motor salvage operator if the person carries on business which consists:
  - a. Wholly or partly in recovering salvageable parts from motor vehicles for reuse or sale and subsequently selling or otherwise disposing of the rest of the vehicle for scrap,
  - b. Wholly or mainly in buying written off vehicles and subsequently repairing and reselling them,
  - c. Wholly or mainly in buying or selling motor vehicles which are to be the subject (whether immediately or on a subsequent re-sale) of any of the activities mentioned in paragraphs (a) and (b), nor
  - d. Wholly or mainly in activities falling within paragraph (b) and (c).
3. 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.

This does not however include gold, silver or any alloy, which contains 2% or more (by weight) of gold or silver. There is also provision for the Secretary of State to amend the definition of scrap metal.

### Requirement for Licence

4. The Act repeals the previous regulatory regime contained in the Scrap Metal Dealers Act 1964, and introduces a licensing regime under which:
  - a. No person may carry on business as a scrap metal dealer unless authorised by a licence under the Act (“**Scrap Metal Licence**”).
  - b. Introduces an offence for failure to comply with 1(a) above, which is punishable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).
5. The Licence will be issued by the Local Authority and must be one of the following types:
  - a. A site licence; or

- b. A collector's licence.

### **Site Licence**

6. This will authorise the licensee to carry on business at any site in the authority's area, which is identified in the licence.
7. It must include:
  - a. Name of licensee;
  - b. Name of authority;
  - c. Identify all sites in the authority's area at which the licensee is authorised to carry on business;
  - d. Name the site manager of each site, and
  - e. State the date on which the licence is due to expire.

### **Collector's licence**

8. This authorises the licensee to carry on business as a mobile collector in the authority's area.
9. It must:
  - a. Name the licensee;
  - b. Name the authority; and
  - c. State the date on which the licence is due to expire.

### **Term of the Licence**

10. A licence expires at the end of the period of **3 years** beginning with the day on which it is issued.
11. But if an application to renew a licence is received before the licence expires, the licence continues in effect and –
  - a. If the application is withdrawn, the licence expires at the end of the day on which the application is withdrawn;
  - b. If the application is refused, the licence expires when no appeal is either possible or is finally determined or withdrawn;
  - c. If the licence is renewed, it expires at the end of the period of 3 years beginning with the day on which it is renewed or (if renewed more than once) the day on which it is last renewed.

### **Applications**

12. A licence is to be issued or renewed on an application, which must be accompanied by-
  - a. If the applicant is an individual, the full name, date of birth and usual place of residence of the applicant,
  - b. If the applicant is a company, the name and registered number of the applicant and the address of the applicant's registered office,
  - c. If the applicant is a partnership the full name, date of birth, and usual place of residence of each partner,
  - d. Any proposed trading name,
  - e. The telephone number and email address (if any) of the applicant,
  - f. The address of any site in the area of any other local authority at which the applicant carries on business as a scrap metal dealer or proposes to

- do so,
- g. Details of any relevant environmental permit or registration in relation to the applicant,
  - h. Details of any other scrap metal licence issued (whether or not by the local authority) to the applicant within the period of 3 years ending with the date of the application,
  - i. Details of the bank account, which is proposed to be used in order to comply with section 12 (scrap metal not be bought for cash etc).

If the application relates to a site licence, it must also be accompanied by

- j. The address of each site proposed to be identified in the licence (or, in the case of an application to renew, of each site identified in the licence whose renewal is sought), and
  - k. The full name, date of birth and usual place of residence of each individual proposed to be named in the licence as a site manager (other than the applicant).
13. The Local authority may request (either when the application is made or later) that the applicant provide such further information as the authority considers relevant for the purpose of considering the application.
14. An applicant who in response made to a request under 10 above:
- a. Makes a statement knowing it to be false in a material particular, or
  - b. Recklessly makes a statement which is false in a material particular,

Is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

### **Fee**

15. The Local Authority must set the fee to accompany the application and in doing so must have regard to the guidance issued from time to time by the Secretary of State.

### **Issue of Licence**

16. The Council must not issue or renew a Scrap Metal Licence unless it is satisfied that the applicant is a suitable person to carry on business as a scrap metal dealer.

### **Suitable person**

17. In determining whether an applicant is a suitable person the Council may have regard to any information which it considers relevant including:
- a. Whether the applicant or site manager has been convicted of any relevant offence (as defined by regulations to follow);
  - b. Whether the applicant or site manager has been the subject of any relevant enforcement action (as defined by regulations to follow);
  - c. Any previous refusal of any 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 this Act are complied with.
  - g. Any guidance issued by the Secretary of State on determining suitability.
18. When considering applications from companies or partnerships the Council shall apply the criteria set out in 8 to any director, secretary, shadow director (i.e. any person in accordance with whose directions or instructions the directors of the company are accustomed to act) of the company and each partner within a partnership.
19. The Council may also consult the following on the suitability of an applicant:
- a. Any other local authority;
  - b. The environment agency;
  - c. The Natural Resources Body for Wales;
  - d. An officer of a police force.

### **Conditions on Licence**

20. If the applicant or any site manager has been convicted of a relevant offence, the authority may include in the licence one or both of the following conditions:
- a. That the dealer must not receive scrap metal except during the hours 9am to 5pm;
  - b. All scrap metal received must be kept in the form in which it is received for a specified period, not exceeding 72 hours, beginning with the time when it is received.

### **Variation of licence**

21. A local authority may, on application vary a licence by changing it from one type of licence to the other, but the licence cannot be transferred from one person to another.
22. If any of the details of the licence or its sites changes the Licensee must apply for a variation. A Licensee who fails to do so is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000). It is a defence to this offence that the person took all reasonable steps to avoid committing the offence.

### **Revocation of Licence**

23. The Council may revoke a Scrap Metal Licence if it is:
- a. satisfied that the Licensee does not carry on business at any of the sites identified in the licence;
  - b. satisfied that a site manager named in the licence does not act as site manager at any of the sites identified in the licence;
  - c. no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer.
24. If the licensee or any site manager is convicted of a relevant offence the Council can vary the licence to add the conditions at 11(a-b) above.
25. The revocation comes into effect when either an appeal is not made within the allotted time or when the appeal is finally determined or withdrawn.

26. If during the appeal period the Council considers that the licence should not continue in force without conditions it may by notice provide:
  - a. That until revocation comes into effect the Scrap Metal Licence is subject to the conditions set out at 11(a-b) above.
  - b. That a variation as in 13 above comes into effect immediately.

### **Right to make representations**

27. If a Local Authority proposes to:
  - a. Refuse an application;
  - b. Revoke a licence;

It must give the applicant or licensee a notice that sets out what the authority proposes to do and the reasons for it.

28. The applicant or Licensee will have not less than 14 days to either make a representation or inform the Council that it wishes to do so. If the applicant or licensee informs the Council that it wishes to make representation then it must be allowed a further reasonable period in which to do so.
29. The Council must consider the representations made and if the applicant or licensee wishes to make oral representations the Council must allow them to do so by giving them the opportunity of appearing before and being heard by a person appointed by the Council.

### **Notice of Decision**

30. If the Authority refuses an application or revokes or varies the licence it must give a notice setting out the decision and the reasons for it.
31. The notice must state:
  - a. That they may appeal against the decision;
  - b. The time within which they may appeal;
  - c. In the case of a revocation or variation when that will take effect.

### **Appeals**

32. An applicant/licensee may appeal to the Magistrates court against:
  - a. The refusal of an application;
  - b. The inclusion of a condition on a licensee;
  - c. The revocation/variation of a licensee.
33. The appeal must be made within 21 days beginning with the day on which the notice referred to above was given.
34. On appeal the Magistrates Court may:
  - a. Confirm, vary or reverse the authority's decision, and
  - b. Give such directions as it considers appropriate having regard to the provisions of this Act.

### **Supply of information by authority**

35. The Council must supply any information (which has been supplied to it under this

Act and which relates to a Scrap Metal Licence or to an application for or relating to a licence) to:

- a. Any other local authority;
- b. The Environment Agency;
- c. The Natural Resources Body for Wales; or
- d. An officer of a police

Who requests it for purposes relating to the Act.

36. This does not limit any other power the Council has to supply such information.

### **Register of Licences**

37. The **Environment Agency** must maintain a register of Scrap Metal Licences issued by authorities in England. This was previously the responsibility of the Council.

### **Display of Licence**

#### **Site Licence**

38. The licence holder must display a copy of the licence (in a prominent place in an area accessible to the public) at each site identified in the licence.

#### **Collector's Licence**

39. The licence holder must display a copy of the licence (in a manner which enables it easily to be read by a person outside the vehicle) on any vehicle that is being used in the course of the dealer's business.

#### **Penalty**

40. A licence holder who fails to comply with the above is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

#### **Verification of supplier's identity**

41. A SMD must not receive scrap metal from a person without verifying the person's full name and address.
42. Verification must be made by reference to documents, data or other information obtained from a reliable and independent source. Regulations may be made to specify what these will be.
43. Breach of the above is an offence for which the following are liable:
- a. The SMD;
  - b. If the metal is received at site the site manager;
  - c. Any person who, under arrangements made by a person within (a –b) above who has responsibility for verifying the name and address.
44. It is a defence to this offence to show that the person made arrangements to ensure that the metal was not received in breach of the Act and took all reasonable steps to ensure that those arrangements were complied with.

45. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

### **Offence of buying scrap metal for cash**

46. A SMD must not pay (including paying in kind for goods or services) for scrap metal except by cheque or by electronic transfer. This may be amended by the Secretary of State to include other methods of payment.

47. If a SMD breaches this section the following persons are guilty of an offence:

- a. The SMD;
- b. If payment is made at a site, the site manager;
- c. Any person who makes the payment acting for the dealer.

48. It is an defence if the person made arrangements to ensure that the payment was not made in breach and took all reasonable steps to ensure that the payment was not made in breach.

49 A person guilty of an offence under this section is liable to a fine not exceeding level 5 on the standard scale (currently £5,000).

### **Records: receipt of metal (Section 13)**

50. If the SMD receives any scrap metal in the course of their business they must record the following information:

- a. The description of the metal, including the type, 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 of the vehicle;
- d. If the metal is delivered from a person, the full name and address of that person;
- e. If the SMD pays for the metal the name of the person who makes the payment acting for the dealer.

51. The SMD must keep copies of any documents it uses to verify the name and address of that person.

52. If the SMD pays for the metal by cheque they must keep a copy of the cheque, or if they pay by electronic transfer a copy of the receipt identifying the transfer or the particulars identifying the transfer.

### **Records: disposal of metal**

53. If a SMD disposes of any scrap metal in the course of business (which applies whether or not it is in the same form in which it was received, it is disposed of to another person or it is despatched from site) it must record the information set out below:

#### Site licence

- 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.

### Collector's Licence

- a. The date and time of disposal;
- b. If the disposal is to another person, the full name and address of that person.

### Supplementary

54. The information must be recorded in a manner, which allows the information and the scrap metal to be readily identified by reference to each other.
55. The information must be kept for 3 years from when the metal was either received or disposed of.
56. If there is a breach of any of the requirements relating to record keeping the following persons will be guilty of an offence:
  - a. The SMD;
  - b. If metal is received at or (as the case may be) despatched from a site, the site manager;
  - c. Any person who, under arrangements made by a person within (a) or (b) has responsibility for fulfilling the requirement.
57. It is a defence to prove that the person:
  - a. Made arrangements to ensure that the requirement was fulfilled, and
  - b. Took all reasonable steps to ensure that those arrangements were complied with.
58. A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

### **Right to enter and inspect**

59. A constable or an officer of the local authority may enter and inspect a licensed site at any reasonable time on notice to the site manager, or without notice to the site manager if:
  - a. Reasonable attempts to give such notice have been made and have 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 notice would defeat the purpose.

This does not however apply to residential premises, nor is the constable or officer allowed to use force to enter the premises this can only be done in exercise of a warrant (which can be obtained under the act).

60. A constable or officer may require production of and inspect any scrap metal kept at any premises or mentioned in any warrant obtained under the Act.
61. A person who:
  - a. Obstructs the exercise of a right of entry or inspection under this section,or



- b. Fails to produce a record required to be produced under this section is guilty of an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

### **Closure of Unlicensed Sites**

- 62. Where a constable or the local authority is satisfied that premises are being used by a SMD in the course of business and that it is not a licensed site they may issue a closure notice.
- 63. When the notice has been given the constable or LA may make a complaint to a justice of the peace for a closure order. This must be made not less than 7 days after or more than 6 months after the date on which the closure notice was given.
- 64. The justice may then issue a summons to answer the complaint.
- 65. A closure order may require:
  - a. That the premises be closed immediately to the public and remain closed until a constable or LA make a certificate to terminate the order;
  - b. That the use of the premises by a SMD in the course of business be terminated immediately;
  - c. That any defendant pays into court such sum as the court determines and that the sum will not be released by the court to that person until the other requirements of the order are met.
- 66. It may also make such conditions as the court considers appropriate to the admission of persons to the premises and the access by persons to another part of any building or other structure of which the premises form part.
- 67. The police and LA also have powers to enforce a closure order and any person who intentionally obstructs them in exercising those powers is liable on summary conviction to a fine not exceeding level 5 on the standard scale (currently £5,000).

### **Review of the Act**

- 68. Before the end of 5 years beginning with the day on which section 1 of the act comes into force the Secretary of State must carry out and publish the conclusion of its review of the Act.
- 69. The report must in particular:
  - a. Set out the objectives intended to be achieved by this Act,
  - b. Assess the extent to which those objectives have been achieved, and
  - c. Assess whether it is appropriate to retain or repeal the Act or any of its provisions in order to achieve those objectives

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Home Office

APPENDIX 2

# The Legislative Response to Metal Theft

Richard Pugh – Crime Directorate, Home Office  
22 March 2013

# The Problem – the theft of metal



# Why the interest in scrap metal dealers?

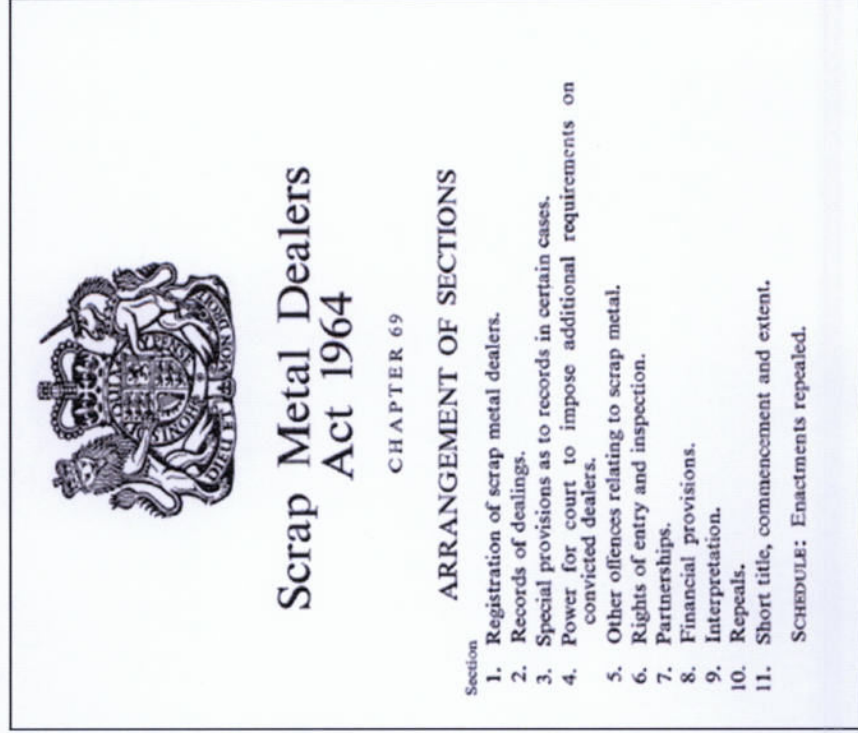
- The scrap metal industry offers the principal outlet for stolen metal in the UK (ACPO).



# Existing regulation of the scrap metal sector – the Scrap Metal Dealers Act 1964

- Parliament regulated (for the first time nationally) scrap metal dealers.

This Act is still in place today!



# The Scrap Metal Dealers Act 1964

- Local authority administered regime
- Has three requirements:
  1. Section 1 – that scrap metal dealers must register with their local authority every 3 years
  2. Section 2 – every scrap metal dealer must keep a book recording all metal received, processed and despatched
  3. Section 5 – no scrap metal dealer can acquire any scrap metal from a person “apparently” under the age of 16

# The prohibition of cash

- A fourth requirement was added to the 1964 Act by the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- From 3 December 2012 a scrap metal dealer must not pay for scrap metal except by:
  - (i) non-transferable cheque, or
  - (ii) by an electronic transfer of funds (authorised by credit or debit card).



## Who does this offence apply to?

- Businesses who purchase scrap metal including:
  - Any business that principally operates as a scrap metal dealer (whether or not they are registered under the SMDA 1964)
  - Metal “itinerant” collectors – (collectors who hold an Order under s3(1) of the SMDA 1964 are exempted)
  - Motor salvage operators - unless they are purchasing non-vehicle scrap metal, in which case they should be considered a scrap metal dealer

# Acceptable payment methods - cheques

## 1) Crossed-cheques

- Must be to a verified named person
- A copy of the cheque must be recorded
- No time limits when cheques can be cashed
- Can be cashed by any third party – including by scrap metal dealers acting as an agent.
  - but any business wishing to cash cheques must be registered with HMRC as a “Money Service Business” and comply with the Money Laundering Regulations 2007

## Acceptable payment methods – electronic transfer

### 2) Electronic transfer

- Must be via a method that is transparent and traceable
- The transfer must be to a named account
- A receipt must be produced and kept
- Some re-loadable cards are acceptable, providing they are issued and linked to a named person.

# Legal Aid, Sentencing and Punishment of Offenders Act 2012

- In addition to creating the new cash criminal offence, we were also able through the LASPO Act 2012 to:
  1. Increase the financial penalties by two levels for each of the offences in the SMDA 1964
  2. Revise police powers of entry into unregistered scrap metal sites
- The scope of the Bill did not allow us to do anymore.

# The time for regulatory change



## Scrap Metal Dealers Act 2013

CHAPTER 9

Explanatory Notes have been produced to assist in the understanding of this Act and are available separately

# The Scrap Metal Dealers Act 2013

- Home Office handout bill
- Adopted by Richard Ottaway MP
- Received Royal Assent on 28 February having passed both the Commons and the Lords
- The Home Office will lead on commencing the Act
- Anticipated commencement on 1 October 2013
- Will cover England and Wales only.
- Will be statutorily reviewed within 5 years

## The Scrap Metal Dealers Act 2013 – licences created

- The Act creates two different licences:
  - (1) SITE** - in the local authority area in which the site(s) is located  
*(a licence can cover multiple sites if operated by the same company)*
  - (2) COLLECTOR** - in the local authority area in which the collector wishes to collect from  
*(note - collectors will need a separate licence from each local authority in whose area they collect in)*



# The Scrap Metal Dealers Act 2013 – Key Features

- Will create a local authority administered, robust licensing regime for the scrap metal sector
- Suitability test
- Revocation of licence
- Closure powers for unlicensed sites
- Licence fee – determined by each LA locally
- Entry and inspection powers
- Greater record keeping requirements
- Site and vehicle badging
- National register of licensed dealers



# The new regime

- The following will be included – extended scope from the 1964 Act:
  - scrap metal dealers;
  - mobile collectors (who do not have a site);
  - motor salvage operators; and
  - all other businesses who buy or sell scrap metal “in the course of their business” - this does not include businesses who buy or sell scrap as the occasional result of their primary business (e.g. pawnbrokers)

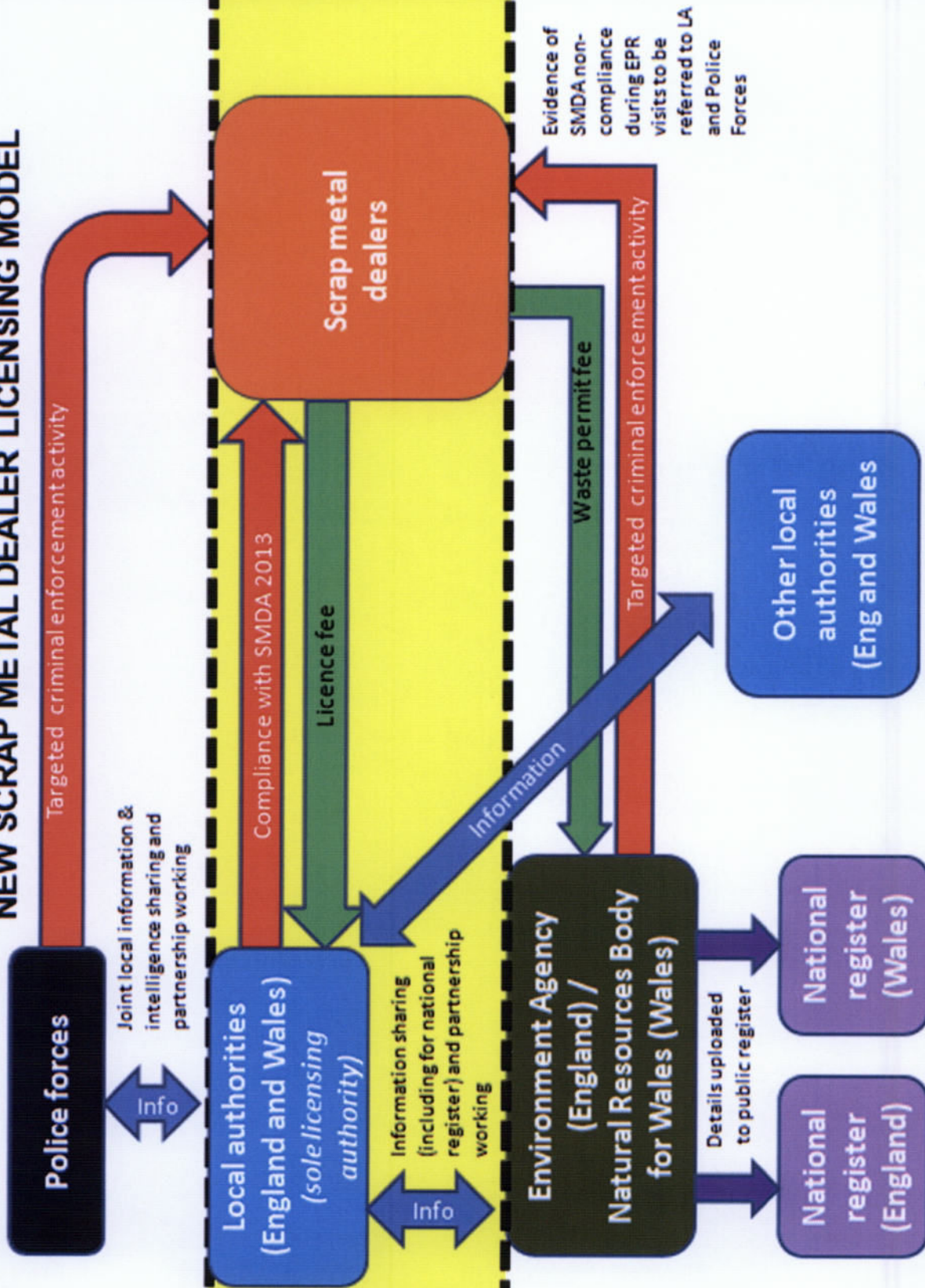
# What is scrap metal?

- The definition of scrap metal has been amended by the Act.
- “Un-worked” metal: “old, waste or discarded”
- “Worked” metal: “broken, worn out or regarded by its last holder as having reached the end of its useful life” .
- Includes all metals with the exception of gold and silver
- BUT – “scrap” does not mean “second hand”

## Licence conditions for scrap metal dealers

- Scrap metal dealers must:
  - obtain a licence (either a site or a collector's licence) to operate as a scrap metal dealer
  - prominently display their licence in a publically accessible place;
  - verify and record the identification of the person selling the metal;
  - not purchase metal for cash; and
  - keep records of all metals received and disposed of.

# NEW SCRAP METAL DEALER LICENSING MODEL



- For more information –

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