

SCRAP METAL DEALERS UPDATE

Committee	Licensing Committee
Officer Contact	Stephanie Waterford, Residents Services
Papers with report	Appendix 1 – Scrap Metal Dealers Act Guidance Appendix 2 – Scrap Metal Hearing Protocol
Ward(s) affected	All

SUMMARY

To update the Committee on the implementation of the Scrap Metal Dealers Act 2013.

RECOMMENDATION

That the committee note the information and agree and adopt the hearing protocol.

INFORMATION

Supporting Information

Background

The Scrap Metal Dealers Act 2013 received Royal Assent on 28 February 2013 and its measures came into effect fully on 01 December 2013.

The Act was introduced in response to the growth in metal theft offences, driven by increased commodity costs, which in addition to the direct impact on the victims of theft have also had a damaging and disruptive effect on the country's infrastructure. Within Hillingdon, entire churches and public amenities have been stripped of metal (especially lead), leading to calls for greater regulation/protection of metal.

Under the new legislation, Local Authorities remain the principal regulators but a new licensing regime provides stronger regulation, including the power to refuse to grant licences to unsuitable applicants and a power to revoke licenses if the dealer becomes unsuitable. The cashless trading measures brought into force via the Legal Aid, Sentencing & Punishment of Offenders Act 2012 are incorporated into the new Act, which also closes off loopholes in the earlier legislation by drawing vehicle dismantlers and former itinerant collectors into the cashless trading regime. Other changes include a national register and a requirement for scrap metal dealers to verify the full names and addresses of sellers.

Applications, Fees & Licences

When determining licence applications, the suitability of the applicant will be assessed. They will be required to complete an application form and also provide details of any Criminal History.

Every scrap metal dealer will be required to have a licence under the new Act, and operating without one will be a criminal offence. These licences will last for three years.

Licensing Committee – 14 January 2014

Part 1 – Members, Public & Press

There are two different types of licences:

- a. A Site licence and
- b. A Collector's licence

To date, the Licensing Service has processed and granted 36 applications for Scrap Metal Dealers Collectors Licences and 13 applications for Scrap Metal Site Licences.

Where applicants are deemed to have queries as to their suitability, their case will be referred to a Licensing Sub-Committee for determination. The application has the right to address the Committee and make representations as to why he should be granted a licence by the Authority. The protocol for Scrap Metal Application Hearings is attached as Appendix 2.

BACKGROUND PAPERS

The Scrap Metal Dealers Act 2013

Local Government Association – Get in on the Act – Scrap Metal Dealers Act 2013

Local Government Association – Metal Theft Toolkit

Home Office Guidance on licence fee charges – Scrap Metal Dealers Act 2013

GUIDANCE DOCUMENT /SCRAP METAL DEALERS ACT 2013

1. Background

- 1.1 This document sets out the London Borough of Hillingdon's guidance for discharging its powers and responsibilities as required by the Scrap Metal Dealers Act 2013, including the issue, review and enforcement of scrap metal site and collector's licenses. It also sets out the arrangements that the Council intends to put in place for ensuring compliance with the legislative requirements.
- 1.2 The power to issue, review and enforce the licenses issues under the Scrap Metal Dealers Act 2013 ("the Act") are vested in the Licensing Committee and duly Authorised Officers from the Regulatory Unit under the Schedule of Delegated Powers described Section 14 of this Guidance.
- 1.3 The power to set, review and amend licence fees under the Act rests in the Cabinet of the London Borough of Hillingdon.

2 Promotion of Equality

- 2.1 The Council as the Licensing Authority seeks the elimination of all forms of discrimination in respect of sex, religion, race, disability and sexual orientation in accordance with its established equal opportunities policy (as amended from time to time).
- 2.2 This Guidance has been subject to an Equalities Impact Assessment.

3. Legislation

3.1 The legislation that applies to scrap metal dealers should be read in conjunction with this Guidance. The relevant legislation upon which this Guidance is based is:

- Scrap Metal Dealers Act 2013;

- Scrap Metal Dealers Act 2013 (Commencement and Transitional Provisions) Order 2013;
- The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013.

Additional guidance on the application of the Act (and its secondary legislation, as noted above) can be found in the following documents:

- Scrap metal Dealers Act 2013 Supplementary Guidance;
- Local Government Association 'Get in on the Act' Scrap Metal Dealers Act 2013;
- Local Government Association Enforcement Guide ;
- Local Government Association Fees Guide ;
- Local Government Association Councillor Handbook;
- Local Government Association Tackling Metal Theft Toolkit.

3.2 The Scrap Metal Dealers Act 2013 replaces the previous registration system under the Scrap Metal Dealers Act 1964 and the Motor Salvage Operators Regulations 2002 and establishes a new licensing regime. Every scrap metal dealer is required to have a licence and operating without one is a criminal offence from 1 December 2013. The definition of scrap metal dealers now also incorporates motor salvage operators.

3.3 A scrap metal dealer is defined under the Act as “someone whose business consists wholly or partly in buying or selling scrap metal, whether or not the metal is sold in the form in which it was bought; or carries on a business as a motor salvage operator”.

3.4 Whether a person or business is a scrap metal dealer varies according to individual circumstances, but generally, where the sale of scrap metal is incidental to the main type of work or business undertaken then no licence will be required.

3.5 In order for anyone to carry on business as a scrap metal dealer they have to have a licence. The London Borough of Hillingdon issues licenses that are valid for a period of three years.

3.6 There are two types of licenses:

- Site Licence – all sites where a licensee carries on a business as a scrap metal dealer have to be identified, and a site manager has to be named for each site. The licence allows the licensee to transport scrap metal to and from the sites from any Local Authority area;
- Collector's Licence – this allows the licensee to operate as a collector in the area of the issuing licensing authority only. It does not allow the collector to operate in any other Local Authority. A separate licence must be obtained from each Local Authority area the collector wishes to operate in. The licence does not authorise the licensee to operate a site, which will require a site licence from the relevant Local Authority.

3.7 A dealer can only hold one type of licence in any one Local Authority area. They cannot hold both a site and collector's licence from the same Local Authority.

3.8 The new licensing regime commenced on 1 October 2013.

3.9 A collector is defined in the Act as “a person who carries on a business as a scrap metal dealer otherwise than at a site, and regularly engages in the course of that business in collecting waste metal including old, broken, worn out or defaced articles by means of door to door visits”.

3.10 A 'site' is defined in the Act as “any premises used in the course of carrying on a business as a scrap metal dealer (whether or not metal is kept there)”.

3.11 A dealer also includes someone carrying on a business as in motor salvage operator, which is defined as a business that:

- Wholly or partly recovers salvageable parts from motor vehicles for reuse or resale, and then sells the rest of the vehicle for scrap;
- Wholly or mainly involves buying written off vehicles and then repairing and selling them off;
- Wholly or mainly buys or sells motor vehicles for the purpose of salvaging parts from them or repairing them and selling them off.

3.12 Scrap metal includes any old waste or discarded metal or metallic material, and any product, article or assembly which is made from or contains metal and is broken, worn out or regarded by its last holder as having reached the end of its useful life. This does not include second hand goods unless they are made from or contain metal that is broken or worn out. The definition does include platinum and a range of rare metals that are now being used in catalytic convertors. The following are not considered to be as scrap metal:

- a. gold;
- b. silver;
- c. any alloy of which two percent or more by weight is attributable to gold or silver.

3.13 Scrap metal dealers are also required to have planning permission to operate a site and are required to have permits or exemptions from the Environment Agency to operate a scrap metal business under the Environmental Protection Act 1990. Those transporting metal to a scrap metal site for profit are required to be registered as a waste carrier. Waste carriers must ensure that the waste goes to a properly licensed or exempt site, they must complete a Waste Transfer Note which must include a description of the waste and be signed by the carrier and the person to whom the waste is given or sold. These regimes are related but separate to the Scrap Metal dealers Act 2013, and outside the scope of this guidance.

4. **Licence Applications**

4.1 The Licensing Service is responsible for the administration of applications.

4.2 Any application must be in the standard form (available via the Council's Website or on request from the Licensing Service) and include the necessary information. Any application that does not contain the necessary information and the correct fee will not be regarded as properly submitted until such time as all documents and information required are provided by the applicant.

- 4.3 A Basic Disclosure for each applicant (including Site Managers, Directors, Company Secretaries, Shadow directors, all Partners in the case of Partnership etc) from Disclosure Scotland will be required alongside the application form and other relevant documentation that is to be submitted.
- 4.4 In the case of applications received after 1 December 2013 the disclosure must not be more than 3 months old at the time the application is accepted by the Licensing Team.
- 4.5 The Basic Disclosure Certificate can be applied for online or by completing a form, and paying a fee to Disclosure Scotland. Disclosure Scotland will usually be able to provide a certificate with the results of the disclosure application within 14 days.
- 4.6 Detailed information is required to accompany the application including details of bank accounts that are used. Photographic evidence of the applicant's identity will also be required in the form of a passport or driving licence.
- 4.7 On receipt of an application the Council must determine whether the applicant is a suitable person to carry on a business as a scrap metal dealer. In assessing the suitability of the applicant the Council will take into account all information it considers to be relevant, including the following:
- Whether the applicant or site manager has been convicted of a relevant offence, or subject to any relevant enforcement action;
 - Whether the applicant has previously been refused a scrap metal dealers licence or an application to renew a licence has been refused (and reasons for refusal);
 - Whether the applicant has previously been refused a relevant environmental permit or registration;
 - Whether a previously held scrap metal dealer's licence has been revoked.
 - Any failure to register with the Information Commissioners Office for data protection purposes.
- 4.8 The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013 at Appendix 1 provides a list of the

relevant offences and relevant enforcement action that the Council may have regard to in determining the suitability of an applicant.

- 4.9 In addition to the information contained on the Basic Disclosure document, consultation will be undertaken with the Environment Agency and possibly other local authorities or the police to check for relevant offences not shown on the disclosure.
- 4.10 Consultation may also be undertaken with the Police, the Council's Regulatory Unit (Anti-Social Behaviour Team) and the Council's Planning Department to help ascertain whether the applicant is considered a suitable person.
- 4.11 On application the applicants will attend an application interview to submit the paperwork so that the applicant's identification can be verified.
- 4.12 Additionally, for site licences a site visit will also be conducted. It is anticipated that following grant of a licence, annual inspections will be undertaken by Officers.
- 4.13 For mobile collectors, it is anticipated the applicant will be given the opportunity to attend the Council for a meeting to assess the application and the applicant's proposed method of record keeping. A licence to be issued that is capable of being displayed on the vehicle for a period of three years. It is therefore not feasible to issue a licence on a piece of paper and a more robust form of licence will be issued. It is anticipated that mobile collector's records will be inspected twice a year.
- 4.14 Lack of planning permission or registration with the Information Commissioner's Office under the Data Protection Act would both be considered relevant factors in relation to the suitability of an applicant.
- 4.15 A scrap metal dealer who holds a site licence must display a copy at each site identified on the licence, a dealer who holds a collector's licence must display a copy of the licence on any vehicle that is being used in the course of the dealer's business so it can be easily read by a person outside the vehicle.

5. **Fees**

- 5.1 Fees for applications are set by the Council's Cabinet. A detailed breakdown of the current fees by application type is detailed in Annex 2. A schedule of the current fees is available on the Council's website or on request from the Licensing Service.
- 5.2 For all types of licences – if a licence is not granted, the Delegated Officer has the discretion to give a refund of any costs not incurred. For example, inspection or issue of licence.

6. **Representations**

- 6.1 Where the Council proposes to refuse an application, renewal, or to revoke or vary or condition a licence, the applicant will be notified and the reasons for the decision must be included in the notification.
- 6.2 The notification from the Council must also give the applicant or licensee the opportunity to make representations or let the Council know they wish to make representations in respect of the decision to refuse (or revoke, vary or impose conditions). The applicant or licensee will be given 14 days to do this.
- 6.3 If the applicant chooses not to make any representations, or fails to indicate their intentions to the Council within the 14 days, the Council can refuse the application or renewal or revoke, or impose a condition, or vary the licence.
- 6.4 If the applicant informs the Council that they wish to make representations a further 14 days will be allowed from the date of the applicant's notification in which to make representations.
- 6.5 If the applicant makes representations either within the initial 14 days' notice period or within the further 14 days, the Council will consider the representations at a hearing of the Licensing Sub-Committee.

- 6.6 Representations may be made in writing by the applicant or alternatively the applicant may wish to make representations orally. If the applicant wishes to make oral representations they should notify the Council of this intention within the 14 day period.
- 6.7 If representations are not made to the Council within the extended 14 day notice period, the Council may refuse an application or renewal, or revoke or vary or impose conditions to the licence.
- 6.8 If the Council refuses an application (or revokes a licence) where no representation have been made by an applicant, the applicant will be given a Notice of Decision, which includes information on the reasons for that decision. The Notice will include information about the appeal process.

7. **Hearings**

- 7.1 Where an application is proposed to be refused (or revoked or made subject to conditions) and representations are received (in accordance with section 6 of this Guidance), the applicant/licensee will be invited to attend a meeting with a Licensing Sub-Committee when opportunity will be given to put forward their representations for due consideration.
- 7.2 If the Sub-Committee refuses the application the applicant will be given a Notice of Decision, which includes information on the reasons for that decision. The Notice will include information about the appeal process. This notice will be sent to the applicant by Licensing Services within five working days of the Sub-Committee hearing.
- 7.3 The Licensing Committee is responsible for the setting of protocols related to the manner in which a Licensing Sub Committee Hearing is conducted.

8. **Licence Conditions**

- 8.1 The ability to impose conditions is limited by the Act. Conditions can only be imposed when issuing a licence, where the applicant or any site manager has

been convicted of a relevant offence or where the Council is revoking a licence, until the revocation comes into effect. One or both of the following conditions may be imposed:

- The dealer can receive scrap metal only between 0900 and 1700 hours;
- Any scrap metal received has to be kept in the form the dealer received it for a set period of time which cannot be more than 72 hours;

9. **Varying the Licence**

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

9.2 Variation cannot be used to transfer the licence from one person to another, anyone wanting to hold a licence to be a scrap metal dealer has to apply for their own licence and cannot take over an existing licence, including where a business has been taken over.

10 **Revocations**

10.1 The Council may revoke a scrap metal licence if:

- a) it is satisfied that the licensee does not carry on business at any of the sites identified in the licence; or
- b) it is satisfied that a site manager named in the licence does not act as a site manager at any of the sites identified in the licence; or
- c) it is no longer satisfied that the licensee is a suitable person to carry on business as a scrap metal dealer.

10.2 A revocation comes into effect when no appeal (See section 11 of this Guidance on Appeals) is possible in relation to the revocation, or when any such appeal is finally determined or withdrawn.

10.3 Where the decision is to revoke a licence, the licensee will be notified. The written decision notice will give reasons for the decision and provide information on appeal and when the revocation is to take effect. Section 6 of this Guidance on representations applies to revocations.

11. **Appeals**

11.1 Appeals against the decision of the Council to refusal, revoke, vary or condition a licence can be made on application to the Magistrates Court. They must be made within 21 days of the applicant being given Notice of the Decision.

12. **National Register**

12.1 Information that has been supplied to the Council under the Scrap Metal Dealers Act 2013 and relates to a scrap metal licence or to an application for a licence, can be supplied by the Council to any of the following persons who request it for the purposes relating to the Scrap Metal Dealers Act 2013

- a) any other local authority;
- b) the Environment Agency;
- c) an officer of a police force.

12.2 The Environment Agency must maintain a register of scrap metal licences issued by authorities in England. The registers are available for inspection by the public.

13. **Enforcement**

13.1 All enforcement action will be consistent with the Residents Services enforcement policy. The aim of enforcement is to ensure a risk based targeted and transparent approach to enforcement.

13.2 The following principles will be applied:

- Proportionate in applying the law and ensuring compliance;
- A second consistency of approach;
- Targeted enforcement action;

- Transparent about how the Local Authority operates and what those regulated may expect;
- Accountable for the local authority's actions.

13.3 A dealer must not receive scrap metal from a person without verifying the person's full name and address and by using an acceptable form of identification.

13.4 A dealer must not pay for scrap metal except by a non-transferable cheque or electronic transfer. This includes paying in kind with goods or services.

13.5 The following information must be recorded by any dealer if any scrap metal is received and records should be retained for a 3 year period:

- The description of the metal including its type (or types if mixed), weight and any marks identifying previous owners or other distinguishing features;
- The date and time of its receipt;
- If the metal is received in or on a vehicle , the registration mark;
- If the metal is received from a person, the full name and address of that person;
- If the dealer pays for the metal, the full name of the person who makes the payment acting for the dealer;
- If the dealer received the metal from a person the dealer must keep a copy; of any document which the dealer uses to verify the name and address of that person. If paid by cheque the dealer must keep a copy of the cheque, if paid by electronic transfer the dealer must keep the receipt identifying the transfer if available.

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

- The description of the metal including its type (or types if mixed), form and weight;
- The date and time of its disposal;
- If the disposal is to another person, the full name and address of that person;
- If the dealer receives payment for the metal (whether by way of sale or exchange), the price or other consideration received.

- 13.7 Where the disposal is in the course of a business under a collector's licence the dealer must record the following information:
- The date and time of the disposal;
 - If the disposal is to another person, the full name and address of that person.
- 13.8 All records should be made available for inspection by an authorised officer at any reasonable time.
- 13.9 A Closure Notice can be issued under the Act if the Council is satisfied that the premises are being used by the scrap metal dealer in the course of their business and that the premises are not licensed for such a purpose.
- 13.10 The premises continue to be used as part of the business or there is reasonable evidence that it will be used in the future after the service of a Closure Notice, the Magistrates Court can make a Closure Order requiring the premises to be closed immediately and remained closed or for the use of the premises to be discontinued immediately.
- 13.11 Under the Act council officers have the right to enter and inspect a licensed site (which includes an unlicensed site for which there are reasonable grounds for believing that the premises is being used by a scrap metal dealer in the course of business), but this right does not extend to residential premises.
- 13.12 In accordance with Council policy a visit by Enforcement Officers will often be conducted by two officers and any visits undertaken will be subject to a prior risk assessment.

14. **Schedule of Delegations**

Matter to be dealt with	Full Council	Cabinet	Licensing Committee	Licensing Sub Committee	Delegated Officer
Change to Scheme of Delegations for Scrap Metal Dealers Act 2013	<input checked="" type="checkbox"/>				
Changes to Scrap metal Dealers Act Guidance or Fees		<input checked="" type="checkbox"/>			
Adoption of or changes to Sub-committee Hearing Protocol			<input checked="" type="checkbox"/>		
Issuing or varying Licences (where no objections or representations are received)					<input checked="" type="checkbox"/>
Revocation of a licence (where this is uncontested)					<input checked="" type="checkbox"/>
Issuing or revoking licences subject to conditions (where this is uncontested)					<input checked="" type="checkbox"/>
Issuing or varying Licences, where is it proposed that the application will be refused and this is contested by the applicant				<input checked="" type="checkbox"/>	
Revocation of a licence where this is contested by the applicant				<input checked="" type="checkbox"/>	

Annex 1 - The Scrap Metal Dealers Act 2013 (Prescribed Relevant Offences and Relevant Enforcement Action) Regulations 2013

Primary Legislation

An offence under section 1, 5, or 7 of the Control of Pollution (Amendment) Act 1989

An offence under section 170 or 170B of the Customs and Excise Management Act 1979, where the specific offence concerned relates to scrap metal

An offence under section 110 of the Environment Act 1995

An offence under sections 33, 34 or 34B of the Environmental Protection Act 1990

An offence under section 9 of the Food and Environment Protection Act 1985

An offence under section 1 of the Fraud Act 2006, where the specific offence concerned relates to scrap metal, or is an environment-related offence

An offence under section 146 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012

An offence under sections 327, 328 or 330 to 332 of the Proceeds of Crime Act 2002

Any offence under the Scrap Metal Dealers Act 1996

Any offence under the Scrap Metal Dealers Act 2013

An offence under sections 1, 8, 9, 10, 11, 17, 18, 22 or 25 of the Theft Act 1968, where the specific offence concerned relates to scrap metal, or is an environment-related offence

Any offence under Part 1 of the Vehicles (Crime) Act 2001

An offence under sections 85, 202, or 206 of the Water Resources Act 1991

Secondary Legislation

An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2007

An offence under regulation 38 of the Environmental Permitting (England and Wales) Regulations 2010

Any offence under the Hazardous Waste (England and Wales) Regulations 2005

Any offence under the Hazardous Waste (Wales) Regulations 2005

An offence under regulation 17(1) of the Landfill (England and Wales) Regulations 2002

Any offence under the Pollution Prevention and Control (England and Wales) Regulations 2000

Any offence under the Producer Responsibility (Packaging Waste) Regulations 2007

Any offence under the Transfrontier Shipment of Waste Regulations 1994

Any offence under the Transfrontier Shipment of Waste Regulations 2007

Any offence under the Waste (Electrical and Electronic Equipment) Regulations 2006

An offence under regulation 42 of the Waste (England and Wales) Regulations 2011

Annex 2 – Scrap Metal Dealers Act 2013: Schedule of Application Fees

Site Fees:

New	£550.00
Renewal	£400.00
Variation to change to collector licence	£150.00
Variation to change minor details	£50.00

Collector Fees:

New	£250.00
Renewal	£225.00
Variation to change to site licence	£300.00
Variation to change minor details	£50.00

Duplicate Licence £25.00



Scrap Metal Dealers Act 2013

Licensing Sub-Committee Hearing Protocol for determining new (& renewal) & variation Scrap Metal Dealer Licences

This protocol outlines the procedures that will apply:

Full details of the regulations surrounding sub-committee hearings are available for download on the gov.co.uk website by [clicking here](#).

It is important that you carefully read these procedures before you attend and speak at a Licensing sub-committee hearing

1. On receiving the Notice of Hearing

What is the Notice of Hearing?

The Hillingdon Licensing Service will give appropriate notice of the hearing, which depends upon the type of application to be considered.

A Notice of the Hearing will be sent to all parties accompanied by:

- Date, time and location of the actual hearing and a procedural briefing to be held beforehand;
- This procedure note, the report from the Council's Licensing Officer with relevant representations attached;
- Confirmation that a party may be assisted / represented by a person who does not have to be legally qualified;
- Confirmation that a party to the hearing may address the authority, give further information on a point on which the authority requires clarification and, if considered by the authority to be required, question another party to the hearing;
- The consequences of not attending or being represented at a hearing (which normally will be that the hearing will proceed in the party's absence); and
- A note of any particular points on which the Hillingdon Licensing Service wants clarification.

Contact Information:

To give notice or any queries relating to the hearing please contact:

Clerk to the Committee

Tel: 01895 277655

Email: democratic@hillingdon.gov.uk

Write to: Clerk to the Committee, Democratic Services, 3E/05, Civic Centre, Uxbridge, UB8 1UW

What do I do when I receive the Notice of Hearing?

On receipt of the Notice of Hearing, all parties must inform the Clerk to the Committee – **normally no later than 2 working days before the hearing*** – whether they:

- Intend to attend or to be represented at the hearing;
- Consider a hearing to be unnecessary; and
- Wish to request that another person appear at the hearing (other than their representative) as a witness. If such a request is made, it should be accompanied by details of the name of that person and a full description of the points about which that person may be able to assist the hearing.

All parties to the hearing are also reminded of their right to have a legal representative at the hearing.

If a party does not notify the above to the Clerk to the Committee before the relevant deadline they may not be entitled to speaking rights at the hearing.

IT IS IMPORTANT THAT YOU REPLY TO THE NOTICE

If I want to withdraw my application - how do I do this?

The applicant may withdraw their application by contacting the Licensing Service by phone, letter or email, providing they give notice no later than 24 hours before the hearing. If, during

hearing, any party wishes to withdraw their representations they may do so orally by informing the Chairman.

What happens if I cannot attend the sub-committee hearing?

If you have made an application and are unable to attend the sub-committee hearing, the sub-committee will only hear and consider any evidence and arguments put forward by or on behalf of the applicant and other parties present.

Can you accommodate any special needs I may have?

Yes, if any person, who intends to be present at the hearing, has any special needs, (for example in connection with access, hearing, language or vision) this should be brought to the attention of the Clerk to the Committee prior to the hearing in order that appropriate provision may be made.

Can the date of the hearing be changed?

Unfortunately, the Hillingdon Licensing Service cannot usually be flexible in the dates for hearings. Each request for a change of date will be considered on its own merits.

2. Before the Hearing

You will have been notified of the date and time of the Licensing Sub-committee hearing. The hearings will normally take place at the Civic Centre, High Street, Uxbridge in one of the Committee Rooms.

How do I get to the Civic Centre?

Parking may be available via the entrance to the Civic Centre in the High Street by contacting the Clerk to the Committee in advance. Parking is also available in the nearby Chimes Shopping Centre Car Park. Bus routes 207, U1, U3, U4 and U7 all stop at the Civic Centre. Uxbridge underground station, with the Piccadilly and Metropolitan lines, is a short walk away.

Please enter from the main reception where you will be directed to the relevant Committee Room. Please switch off your mobile phone when entering the room and note that Hillingdon Council operates a no-smoking policy in its offices.

Will the hearing be in public?

For Scrap Metal Dealers, all hearings will be held in private.

Will other parties or objectors be present?

In exceptional circumstances, representatives of other consulted bodies such as the police or the Environment Agency may attend the hearing.

I have some new evidence - may I present it?

The sub-committee **will not** normally allow the production of new written evidence not previously submitted by any party. In the case where the sub-committee does allow new evidence, they must give their consent before it is heard.

If new material is permitted, the hearing may need to be adjourned to allow time to consider it and for parties to respond to it. Accordingly, any application to have new material considered should demonstrate exceptional reasons for its admission. It is, therefore important for applicants to ensure that all evidence is submitted in writing as soon as possible and in accordance with the relevant timescales.

Will I be briefed on procedure before the hearing?

Yes, in the notice of hearing, you will have been asked to attend a procedural briefing before the hearing starts. All parties will be asked to attend this briefing so that the Council's Licensing Officer or Legal Advisor can outline the procedures to be followed at the hearing.

Who are the people on the Licensing sub-committee?

Five elected councillors of the London Borough of Hillingdon sit on a Licensing sub-committee and it is only they who can determine the application. Its minimum membership is two. Councillors who sit on the sub-committees have been trained in the new Scrap Metal Dealers Act and regulations and have experience of determining applications of various kinds.

One of the Councillors will be the Chairman of the hearing and it will be he/she who will call parties to speak and ensure time limits are adhered to as set out in the procedures.

Other people who will be present along with the Councillors include:

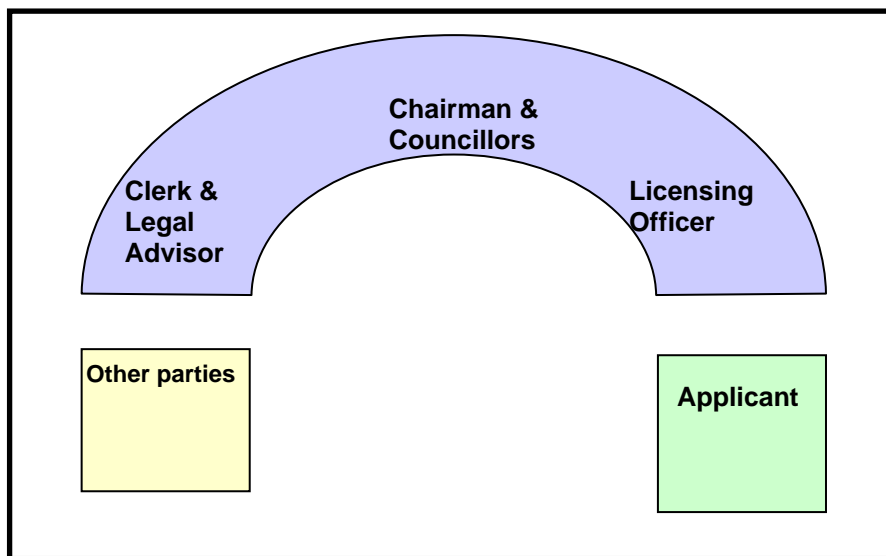
- The **Council's Licensing Officer** who will introduce the Officer report and outline his/her role.
- A **Legal Adviser** whose role is to assist the Committee with legal advice and to ensure that a fair and balanced hearing takes place.
- A **Clerk to the Committee** whose role is to summarise and record decisions on individual cases and to provide help and assistance to members of the public attending such meetings.

3. During the Hearing

The procedure at the sub-committee hearing will, in general, be based on those used in a court of law. Although the strict rules of evidence will not apply, they will be observed to a great extent, because this is the best way of hearing the evidence from all parties. The hearing will take the form of a discussion led by the sub-committee councillors. The sub-committee will seek clarification on the issues from the parties as it considers appropriate.

Where shall I sit at the hearing?

Once you have attended the procedural briefing, you will be directed into the relevant Committee Room. The set up of the room for those involved will generally be as shown below:



In general, how will the hearing be conducted?

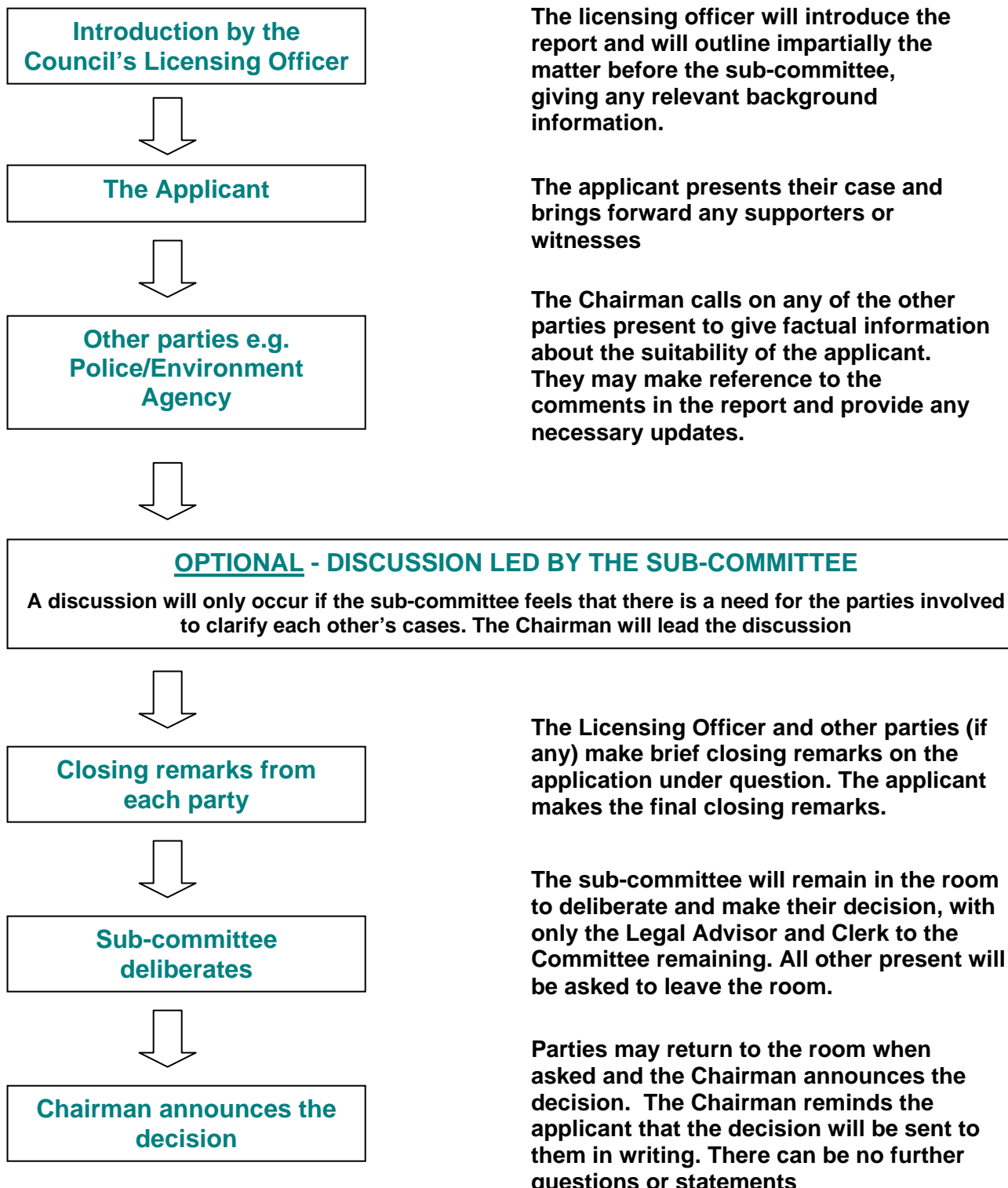
The procedure to be followed at the hearing will normally be as shown in the flow chart below, although all procedural matters will be subject to the discretion of the Chairman. All persons present will be requested to identify themselves and to give the reason for their presence. The sub-committee may consider any request from a party for another person to appear at the hearing as their representative.

It is important to note that cross-examination will not normally be permitted. Evidence, discussion and address must be relevant to the issue of suitability of an applicant. Repetition should also be avoided. The sub-committee will seek to prevent irrelevant and repetitive matters.

If, during its deliberations, the sub-committee considers that it is necessary for any person present at the hearing to provide further information or clarification on a particular point the hearing may be reconvened to deal with that issue. The sub-committee can also ask for procedural, technical or legal matter to be clarified by officers present at any time during the proceedings.

What is the order of proceedings?

The Chairman of the sub-committee will open the hearing by introducing the Councillors explaining the purpose of the proceedings and the general procedure. The Chairman will then check that there are no additions or alterations to the list of those appearing at the hearing, which will have been prepared in advance by the Clerk to the Committee and will then outline the procedure that will be followed for the remainder of the hearing. The procedure is as follows:



Can a Councillor sit on a sub-committee if the application is for a site licence in their ward in their ward?

Councillors who sit on a sub-committee are advised to take steps to minimise their involvement in any application prior to its consideration by the sub-committee so that decisions are seen to be reached at the hearing impartially and with an open mind. Councillors should not appear to be acting both as an advocate on behalf of their residents and as an adjudicator on an application.

If a Councillor on the sub-committee has already taken a view on an application in advance of the hearing, they should not be present for the hearing of the application and should leave the meeting room for that item. They should also not visit any premises under consideration prior to the hearing. In any cases of doubt, the Councillor should not sit on the sub-committee for a particular application. In this instance, a substitute Councillor may need to be found from the main Licensing committee of the Council or the hearing may continue as long as two of the five Councillors are still present.

The agenda papers will show which ward each Councillor sits for and the reports from the Council's Licensing Officer will detail which ward the application is in.

What power does the Chairman have to control the meeting?

The Chairman may require any person attending the hearing who is behaving in a disruptive manner to leave the hearing and may refuse to permit that person to return or may permit the person to return only on such conditions as he or she may specify.

How will the sub-committee make its final decision?

Once the sub-committee has heard from officers and the parties to the hearing and has had answers to its questions, the sub-committee will usually withdraw to make its decision on the application. The sub-committee must disregard any information given or evidence produced by a party or witness, which is not relevant to the application or to the suitability of the applicant.

Members of the sub-committee have a duty to behave impartially, not to predetermine the issue and not to discuss matters with press or residents. In making its decision the sub-committee must state why refusal or attachment of conditions is necessary taking into account the evidence presented during the hearing.

4. After the Hearing

When will we get formal notice of the decision?

The Chairman will normally announce the Sub-committee's decision in public at the end of the hearing and the reasons for the sub-committee's decision. This decision will then be communicated in writing to the parties as soon as possible after the hearing.

The Council's Legal Advisor will send applicants a decision letter shortly after the meeting outlining the decision and any conditions that are attached to the application. In addition, a letter will be sent to all those who made relevant written representations in connection with the application. This will confirm the decision made; any conditions attached to an approval or the reasons for refusal. Details of the respective appeal rights will also be sent with this notice.

The minutes of the meeting will be made available on the Council's website at:

www.hillingdon.gov.uk

Can we appeal against the decision?

Following the decision, the applicant in respect of a particular application can appeal to the Magistrates Court within 21 days of receiving written notice of the decision.