

Let's prove our mettle

A toolkit to tackle metal theft



Foreword



Metal theft has now affected nine out of ten councils and continues to be a problem. The impact on our communities is immense. Disruptions to rail services, loss of power to homes, interruptions to

telecommunications, theft of lead from the roofs of churches, the theft of bus shelters, lightning conductors, street signs, gully and manhole covers, and war and grave memorials have serious economic and social implications for communities.

The issue of metal theft continues to be a significant concern for councils and the Local Government Association (LGA) is working hard to support members as they respond to incidents in their communities.

It is not acceptable that, in a time of financial hardship, new community buildings should remain closed because their roofs have been stolen, as sadly happened with the new Lambeth library.

I am therefore pleased to introduce an updated and expanded toolkit to help councils to prevent incidences of metal theft in their areas. It provides a comprehensive introduction to the very welcome Scrap Metal Dealers Act 2013 as well as a suite of practical tools and steps that councils can take in partnership with their local police, scrap metal dealers and other organisations

such as the Environment Agency.

It is possible to tackle, reduce and even prevent metal theft from happening, but it requires a coordinated approach across all partners and with the full involvement of the scrap metal industry.

Initiatives such as Operation Tornado have been successful at reducing offences by over 50 per cent in some areas, and my own council, Kirklees, and the Forest of Dean have had some success with innovative, resource-efficient protocols for use by council and police partnerships.

Our Councillor Handbook has been designed to complement this toolkit and assist councillors to use the full resources at their disposal. I am sure that you will find both of assistance in your work.

A handwritten signature in black ink that reads "Mehboob Khan". The signature is written in a cursive style with a horizontal line underneath the name.

Councillor Mehboob Khan
Chair of LGA Safer and Stronger
Communities Board
Leader, Kirklees Council

Contents

Background	4
Legislation	6
Enforcement	8
Keeping up-to-date	10
Who does what	11
What else can be done	15
Working across the council	16
Alternative materials	18
Disposal processes	19
Appendix A	20
Templates:	23
Codes of Conduct	23
Memorandum of Understanding (ARCH)	27
Partnership Action Card	29
Letters	30
Awareness raising	34
Identification	36

Background

Demand for metals has never been stronger and the metal recycling industry is booming, with a total worth of £5 billion in 2011. This is great news in terms of providing jobs and reducing the UK's environmental footprint, but the poor regulation of the industry and legislation dating back to 1964 means it is ill-suited to cope with the rise in illegal sales.

In 2011, 15,000 tonnes of metal were stolen, of which 7,500 tonnes came from railways, statues and church roofs. The value of the thefts to the railways alone amounted to £13 million¹, with many more millions lost as a result of delays to passengers. Overall, the Association of Chief Police Officers (ACPO) estimates that metal theft costs the UK economy £770 million every year, while others put the cost at £1 billion or higher.

The legislative framework for tackling metal theft was long overdue for reform and two new Acts of Parliament have given local authorities significant new powers to protect their communities and drive up standards within the scrap metal industry.

The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) made a welcome introduction of a new offence of buying scrap metal for cash so that a “scrap metal dealer must not pay for scrap metal except... by a cheque... or... by an electronic transfer of funds”. This forms a crucial part of ensuring the traceability of every transaction, making it much harder for thieves to sell on stolen metal and materials.

The Scrap Metal Dealers Act 2013 replaces both the 1964 Act and Part 1 of Vehicles (Crime) Act 2001 to bring forward a revised regulatory regime for the scrap metal dealing and vehicle dismantling industries. For the first time, local authorities will have the power to refuse to grant a licence or revoke licences if the dealer is considered ‘unsuitable’.

¹ British Transport Police, 2011



“I am delighted that the Scrap Metal Dealers Bill has received Royal Assent. It marks a significant victory for communities throughout the country. For too long they have provided rich feeding grounds for opportunistic thieves who know they can get rid of stolen metals at rogue or negligent scrap yards.

Metal theft is no petty crime. It hits at the heart of our daily lives – grinding trains to a halt, cutting off power supplies to hospitals and other lifelines, stripping roofs off churches and schools at huge public expense.”

Richard Ottaway MP, sponsor of the Scrap Metal Dealers Act 2013

“The Scrap Metal Dealers Act receiving royal assent is a milestone in bringing licensing up to date and in tackling metal theft.

The implementation of the new Act in October will eradicate some of the issues brought about by the introduction of the LASPO Act late last year and will help to close down traders who operate on the wrong side of the law.”

Ian Hetherington, Director General of the British Metals Recycling Association

Legislation

There are three core pieces of legislation that allow councils and other enforcement bodies to take action against illegal activity or unscrupulous dealers, although a number of other pieces of legislation offer some additional cover.

The primary piece of legislation in this area is the new **Scrap Metal Dealers Act 2013**. This Act requires councils to issue licences to scrap metal dealers and maintain a register of persons trading in their area as scrap metal dealers.

The key features of the Act are:

- requiring all individuals and businesses to complete an enhanced application process to obtain a scrap metal dealer licence. Local authorities will have the power to turn down unsuitable applicants
- giving local authorities the power to revoke a licence
- requiring all sellers of metal to provide personal identification at the point of sale, which is then recorded by the scrap metal dealer
- extending the offence of buying metal with cash to itinerant metal collectors
- new powers for the police and local authorities to enter and inspect sites
- creating a central public register, hosted by the Environment Agency in England and Natural Resource Wales in Wales, of all individuals and businesses licensed as scrap metal dealers

- widening the definition of a scrap metal dealer to include motor salvage operators.

More information on the Act and the steps needed for councils to introduce it can be found in our implementation guide 'Get in on the Act'.²

The **Legal Aid, Sentencing and Punishment of Offenders Act 2012**

(LASPO) introduced the following changes to the regulation of scrap metal dealers:

- maximum fines for offences under the 1964 Act originally set at level 1 on the standard scale (£200) were increased to level 3 (£1,000), and those originally set at level 3 were increased to level 5 (£5,000) – a separate measure in this Act removed the upper level of level 5 fines so that they became unlimited from March 2013
- a new offence of buying scrap metal for cash (the “cashless offence”), so that a “scrap metal dealer must not pay for scrap metal except... by a cheque... or... by an electronic transfer of funds”, including amending the record keeping requirements to require scrap metal dealers to retain records of the payment made (eg a copy of the named cheque or receipt in relation to the electronic transfer made)
- new powers for the police (on production of a warrant issued by a justice of the peace) to enter regulated scrap yards where there were reasonable grounds for believing that

² <http://tinyurl.com/smda2013>

scrap metal paid for in cash was being (or had been) received or kept there.

It is important to note that there is an anomaly for itinerant traders in operation between the introduction of the LASPO Act and the commencement of the Scrap Metal Dealers Act 2013, which also includes an offence of trading for cash. Itinerant traders are exempt from the LASPO Act's cash offence if they have secured a section 3(1) exemption from the local authority.

Further explanation of s3(1) orders can be found in Appendix A. This exemption will cease with the commencement of the Scrap Metal Dealers Act 2013 and all traders will be barred from making payments in cash.

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/ Natural Resource Wales (NRW) to operate a scrap metal site under the **Environmental Protection Act 1990**. Failure to have the correct permits can lead to a fixed penalty notice or fines of up to £50,000 or 5 years imprisonment.

Those transporting metal to a scrap metal site for profit are required to be registered as a 'waste carrier'. Waste carriers must comply with the waste duty of care. Breach of the duty of care is a criminal offence that can lead to large fines under the Environmental Protection Act 1990.

Specific requirements of the Duty of Care include that waste carriers must:

- ensure the waste goes to a properly licensed or exempt waste site
- complete a waste transfer note (WTN) - this must include a description of the waste and be signed by the carrier and the person that they give/sell the waste to
- keep the WTN for a minimum of two years.

There are also a number of other pieces of legislation that can be used, directly or indirectly, to discourage and tackle metal theft. Not all of them will be the responsibility of the council to enforce, but frontline officers should be aware of them and able to advise traders of their application. They include:

- **Theft Act 1968**; covering offences relating to the handling of stolen goods
- **Environmental Protection Act 1990**; covering the duty of care to maintain a written audit trail of all waste transfers
- **Control of Pollution (Amendment) Act 1989**; requiring all waste carriers, including scrap metal carriers, to register with the Environment Agency/NRW
- **Clean Air Act 1993**; preventing people from burning insulation from cables, often an indicator of an illegal scrap yard
- **Town and Country Planning Act 1990**; requiring all scrap metal yards to have planning permission.

Penalties for breaking these laws include fines up to £20,000 and 14 years imprisonment, so they can act as a very effective deterrent.

* if established after 1 November 1990

Enforcement

Section 16 of the new 2013 Act sets out the powers of enforcement officers – from both the police and the local authority – in respect of licensing scrap metal dealers.

Councils, or the police, may apply to the court for a closure order which will enable either a licensed or an unlicensed dealer to be shut down. Schedule 2 of the Act gives full details on how this power can be invoked.

Both council officers and police may now enter an area, with advance notice if possible, to inspect the operation and records of the dealer. The Act includes a new offence for anyone obstructing officers in their execution of this power, although it should be noted that this new power does not include a right to use reasonable force unless a magistrate's warrant has been acquired.

In particular, officers may inspect any records and either make copies or remove the records as evidence. It is expected that this will be a powerful tool in restricting opportunities to dispose of stolen goods.

Licences may be revoked if any issues are identified, including if the site manager named on the licence is found to not be genuinely overseeing day-to-day operations of the site.

Applications

Scrap metal dealers can apply for two types of licence:

- a site licence, where a yard will receive goods
- a collector's licence, for mobile collectors.

A person may hold more than one licence issued by different local authorities, but may not hold more than one licence issued by any one authority.

A local authority 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. For companies and partnerships, councils must consider whether directors, partners, secretaries or shadow directors are suitable people. Applications must also include a named site manager, who will be responsible for day-to-day operation of the site. This person must also meet the suitability criteria.

When determining the suitability of applicants, councils may consult, and have regard to, any police force, any local authority, the Environment Agency or Natural Resource Wales. Applicants will be requested to submit a Disclosure Scotland basic check which will show if they have any relevant convictions that need to be taken into consideration when granting the licence.

Unusually for a licensing system, councils do not have the power to impose conditions on a licence, unless the operator has a conviction for one of the offences specified in regulations. Where such a conviction exists, the council may impose two defined conditions on the licence.

These conditions are enshrined in legislation and a council may not vary them in any way. The conditions require:

- that the dealer must not receive scrap metal except between 9.00 am and 5.00 pm on any day
- that 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.

The Environment Agency, or Natural Resource Wales for Welsh licences, must be notified of any licences issued or amended and the national register updated as appropriate.

Fees

Councils have full discretion to calculate and set fees based on the cost that is incurred locally through operating and administering the licensing system. The cost of taking enforcement action against licenced premises can be included, but not action against unlicensed premises. That work must be funded out of the council's general enforcement budget.

The usual requirements of the European Union Services Directive apply and councils must ensure that they are transparent about the way in which they have calculated their costs.

The LGA has produced guidance on the setting of fees to help councils comply with these requirements.³

Civil recovery

If a theft has been committed then prosecution through the criminal courts is not the only action a council can take. The civil law allows a business, council, or individual to seek to recover not only the value of the metal which has been stolen, but any other consequential losses.

For metal thefts, this includes the cost of associated repairs, the cost of any down time in the business or service, the cost of diversion of staff's time and all of the administrative costs. The consequential losses can in some instances, far outweigh the value of the metal stolen, and they are not elements which will usually be ordered as compensation in criminal proceedings.

It is not a question of either/or in prosecutions and there can be a criminal action and a civil action. Nor is one dependent upon the other. It is also possible for a council to pass this information on to the victim of the crime, to allow them to take action.

This approach is common practice among retailers seeking redress from shoplifting. It has proven to be particularly effective at deterring repeat offenders as they dislike paying back the cost of what was stolen, but dislike even more paying back the consequential costs as well.

³ <http://www.local.gov.uk/regulatory-services-and-licensing>

Keeping up-to-date

Unfortunately, it is unlikely that even the provisions of the new Acts will completely prevent metal theft. An increasing percentage of metal is shipped abroad in containers, and councils with ports in their areas may wish to work closely with customs and excise to tackle these unorthodox points of exit.

The LGA is at the forefront of discussions on the matter and is representing the concerns of local government to central Whitehall departments. LGA members can contribute to the debate, and influence policy, by visiting the 'Tackling Metal Theft' discussion group on the LGA Knowledge Hub⁴.



⁴ <http://tinyurl.com/lfhfety>

Who does what?

Police: Responsible for investigating thefts; identifying stolen material.

The police, coordinated by **British Transport Police**, have launched a number of initiatives to tackle the issue, working with local councils to crack down on illegal handling of metal. Many forces now have their own packages of advice which they are happy to share with councils and residents and there are usually dedicated enforcement officers who will be working closely with council enforcement teams. More information on some of the innovative work that the police are leading can be found at: www.btp.police.uk/about_us/latest_news/operation_tornado.aspx

In Scotland, the Scottish Commercial Crime group has taken the lead and has produced some good films to highlight the real impact it has on individuals. You can view these films at: www.metaltheftscotland.org.uk

“Metal thieves are causing significant disruption to our transport, communication and power infrastructures, affecting daily life in our communities and we will not tolerate it.”

Jim Campbell, Assistant Chief Constable, Northumbria Police⁵

Councils: Responsible for maintaining the register of dealers in their locality under the 1964 Act and for licensing dealers under the 2013 Act when it comes into force; ensuring dealers comply with their responsibilities under the Act; providing leadership in tackling the issue; reviewing dealer records of dealings; ensuring compliance with the new cashless trading provisions.

Your **neighbouring authorities** will almost certainly be experiencing similar problems and, with rogue dealers and thieves operating across council borders, you will want to build on your existing links to tackle this issue. Many councils have come up with innovative ways of improving their enforcement protocols and some are shared later in this toolkit.

Environment Agency: Responsible for issuing environmental permits and monitoring sites for pollution; will maintain the national register of scrap metal licences, alongside Natural Resource Wales.

The Environment Agency and Natural Resources Wales are the principal enforcement agencies and are responsible for permitting sites, ensuring environmental compliance, registering waste carriers, monitoring international waste shipments, and tackling illegal sites. All of this is clearly complementary but distinct from council and police licensing and enforcement work.

5 <http://www.bbc.co.uk/news/uk-england-16609169>

It is quite possible for a site to have a scrap metal dealers licence without the necessary environmental permits and vice versa. Close working links with the Agency/NRW are therefore vital and should be incorporated into any inspection plans. Councils can get in touch directly with the Agency/NRW through dedicated email addresses. English authorities can contact the Environment Agency through national.intelligence@environment-agency.gov.uk, and Welsh authorities can contact NRW through NRWIntel@wales.gsi.gov.uk.

“Waste crime puts people and the environment at risk and undercuts legitimate businesses who take their environmental responsibilities seriously...Metal theft continues to be a major problem so we welcome the wider range of convictions that [are] available to us when deciding whether to issue or remove environmental permits.”

Paul Leinster, Chief Executive, Environment Agency⁶

British Metal Recycling Association (BMRA): Supporting members to improve their trading standards; representing the industry at a national level.

The British Metal Recycling Association works with operators from across the metal recycling sector to represent their views and work to raise trading standards across the industry so that they don't inadvertently handle stolen material. All members also sign

up to a code of practice, produced jointly with the Association of Chief Police Officers, to reduce metal-related crime. The code, along with further details of how the industry is tackling metal-theft, can be found at: www.recyclemetals.org

Dealers: Responsible for complying with all relevant legislation; notifying authorities of their operation; keeping adequate records to fulfil the Act; voluntarily participating in local or national codes of conduct.

Utility and infrastructure companies: Responsible for maintaining the integrity of transport, telecommunications and power networks and taking all proportionate measures to secure their property from theft.

“The cost to the railways alone reaches around £19 million a year to replace lost cable and to compensate passenger and freight operators for the delays caused, while the wider impact on lost business and productivity accounts for another £19 million.

But cable theft is not a victimless crime that is all about money. Delayed customers are people with lives to lead – jobs to get to, family to see and hospital appointments to make. The cable thieves are disrupting people's lives, as well as undermining the efforts of rail staff to run a punctual railway.”

Chris Gibb, Chief Operating Officer, Virgin Trains

⁶ <http://www.defra.gov.uk/news/2012/02/08/dodgy-scrap-merchants/>

BT has established a team to work directly with scrap metal dealers and is happy to either carry out joint-information work with councils or to share information about which dealers have been visited. This will allow councils to build up a risk register of places that they should concentrate on, enabling the most to be made of the limited resources councils have. Many councils will already have established contacts with BT.

The **Energy Networks Association** has been undertaking work to examine more effective prevention techniques. They are very keen to build links with local government as the frontline enforcers, and are willing to share ideas and help enforcement officers to identify metal that has come from illegal sources. More information and advice can be found at www.energynetworks.org

English Heritage: Leads on the National Heritage Protection Plan (NHPP) and provides prevention tools and assessment statements to assist with prosecutions.

The **Alliance to Reduce Crime against Heritage (ARCH)** is a nationwide network of agencies that include English Heritage, the police and the Crown Prosecution Service who have all pledged their commitment to tackling crimes against historic buildings and structures.

English Heritage has also produced a guide to the range of interventions available to those agencies responsible for the enforcement of heritage crime.

It looks in general terms at the possible interventions from prosecution through to the many types of alternative disposal options, both formal and voluntary, including consideration of the restorative justice process.⁷

Research and production companies: Responsible for developing and testing new materials and ways of preventing theft, from watermarks to composites.

The **Institute of Materials, Minerals and Mining** is exploring new ways in which to introduce disruption to the crime supply chain. This includes looking at chemical markers, tracking devices, alternative materials and unique marking methods. Their website, www.materialsktn.net contains all the latest information on preventative research.



⁷ <http://www.english-heritage.org.uk/professional/advice/advice-by-topic/heritage-crime/>

Special interest groups: Can vary from housing associations, to churches to charities.

One such example is 'Hands Off Our Church Roofs!'

“Churches across the country are being blighted by the theft of lead and copper from their roofs. For criminals keen to cash in on the high price of scrap metals, places of worship often make an obvious target. It’s a rapidly growing problem that’s causing untold distress to our parish communities and it’s reaching epidemic proportions – 2011 was the worst year on record for the number of metal theft claims from churches.

In fact, over the past four years, metal theft claims from churches we insure have now exceeded £25 million, with over 9,000 claims.

It’s not just the cost of replacing the materials that is the problem, it’s also the resultant damage - thieves have torn holes in roofs causing leaks and ripped stonework away from pinnacles and towers.

More than seven churches a day are falling victim to the attacks and, unless we take action now, the wave of metal theft raids can only be set to intensify throughout 2012. It is costing our communities dearly and it simply can’t go on.

This is why we’ve launched the ‘Hands Off Our Church Roofs’ anti-metal theft campaign to deter criminals and protect places of worship from this crime.”⁸

⁸ <http://www.ecclesiastical.com/ChurchMatters/churchguidance/churchsecurity/roof-alarms/index.aspx>



What else can be done?

Councils are increasingly looking to build relationships with businesses in their area that go beyond the basic interactions between regulator and regulated. A good working relationship can provide valuable intelligence to target limited resources, as well as allowing local initiatives and activity that will provide even greater protection to the public than that afforded by the national legislation. In the long-term, the council will save both time and money from investing in these relationships.

A local code of conduct is a popular way of tackling issues. As with any voluntary agreement, it is only effective for as long as it is seen as having teeth. In other words, there must be consequences for members failing to comply with the agreement, and it is worth considering a 'stick' as well as the 'carrot' collaborative approach. The Forest of Dean's partnership approach is an excellent example of this. The approach is detailed in the Partnership Action Card in the Templates section below.

Three examples of codes of conduct are included in the Templates section below. The new Act builds on them to a large extent, but it is worth noting that all three agree on further principles such as the retention of CCTV footage, the provision of photo ID before payment, and formal commitment to comply with the Scrap Metal Dealers Act 2013.

Inspections can be tightened up to ensure that dealers are correctly recording the details required by the Act. A simple example is by ensuring that the descriptions of items received are meaningful and enable the item to be identified with reasonable confidence – see the Forest of Dean's example in the Templates section.

It is reasonable to require dealers to ask for photo-identification before metal is accepted and payment issued, to ensure that the name recorded on the books is a true identity. Gwent Police have identified that provision of suitable photo-ID can be problematic for mobile collectors and they have put in place a process with their local councils that seeks to address this issue. An outline of the approach and the business case for doing so are outlined in the Templates section.

There is also benefit to be obtained from councils working in collaboration with local, regional and national partners to share intelligence and information, as well as using all the powers available to each of the organisations to tackle metal theft related activity. Organisations who could particularly contribute include: the British Transport Police; local police forces; the Environment Agency/NRW; HM Revenue and Customs; the Vehicle and Operator Services Agency and UK Border Force if appropriate.

Working across the council

In practice, a number of departments within the council will be able to directly or indirectly contribute to tackling metal theft. Councils are responsible for licensing scrap metal dealers and, along with the police and Environment Agency/NRW, ensuring that they meet the requirements for trading.

Councils are also commissioners of all street furniture, as well as maintenance of the public realm, although actual responsibilities vary between districts, unitaries and counties.

Any work to tackle metal theft will need to engage and make use of the expertise in all parts of the council. In addition to environmental health teams, licensing, asset management, planning, trading standards and highways officers will all have vital roles to play in preventing metal theft, as well as catching those criminals who attempt it.

Engaging your councillors will be essential if you are to tackle metal theft effectively. As well as raising residents' awareness of the problem, councillors can act as your eyes and ears on the ground, alerting you to suspicious activity.

They will also be instrumental in establishing strategic links with partners, including persuading them to commit time and resources to support your efforts.

The scrutiny role of councillors is also not to be underestimated and a scrutiny panel on metal theft is an excellent way of establishing a new programme of prevention.

The scrutiny panel convened by Lambeth Council explored questions that were crucial to effectively targeting resources and maximising the impact of their work to tackle metal theft. The role of the panel was to:

- investigate the current scale of metal theft in Lambeth and the existing response to the issue across the relevant agencies
- identify the impact of metal theft on the borough's residents, community groups, council and businesses
- feed into, influence the development of, and support the development of Lambeth's response to Richard Ottaway MP's Private Members Bill
- identify national and international best practice in relation to the reduction of metal-theft
- make evidence-based recommendations to the relevant decision-makers that will result in reductions in metal theft and other improvement to this policy area.

“What was quite clear to the commission was that any steps we take are unlikely to have a significant impact unless they are replicated by our neighbours. Our most important recommendation therefore is that the council work with our partners and neighbours to develop and enforce a voluntary code of conduct for the scrap metal trade with a view to this being adopted pan-London once its sub-regional success can be demonstrated.”⁹

Lambeth Scrutiny Panel, 2013

Birmingham City Council has been a victim of a number of high profile thefts, losing assets worth hundreds of thousands of pounds a year.

In addition to its role as a proxy victim for businesses and residents in the area, the council recognises that it has the ability, through partnership working connections and through its primary role in the enforcement and regulation of matters relating to waste, to support activities that will assist the police in tackling metal crime more effectively.

The Council has developed a number of working strands, which exemplify the cross-cutting nature of solutions to metal theft:

- a planning/regulation avoidance initiative is being progressed with Birmingham City Council Planning in relation to the proliferation of illegal ‘home scrap yards’
- a ‘prevent’ strategy aimed at supporting communities to protect themselves from metal theft is currently being developed that will, for example, involve property/asset marking and awareness raising
- City Council asset marking is taking place in key theft areas, including within temporarily unoccupied/void/clearance housing stock and for manhole covers in roads
- exploring how greater emphasis, and potentially requirements, could be built into Birmingham City Council development policy; for example to require developers to consider alternatives to high value metal coverings to new buildings at the planning/design stage, or to require them to plan for the consequences of the use of such materials, such as through designing-in anti-theft elements to new buildings. This should directly support joint working between the council and police crime prevention officers
- Birmingham Fire Reduction Partnership has funded the Building Watch project, which involves officers using statutory powers to secure void commercial and residential premises, a key tool in reducing the risks to buildings from metal theft. West Midlands Police is using the Building Watch referral scheme as a primary route to securing void buildings.

⁹ The full scrutiny report can be found at: <http://tinyurl.com/lhzenxj>

Alternative materials

A number of replacement materials have been developed that are actually more durable than regular metals. Some composite manhole covers come with a 15 year guarantee, provide better grip for cars and motorcycles, and cannot be melted down and reused.

Stoke-on-Trent Council has begun replacing all manhole covers with rubber ones, following the theft of 500 metal covers worth £73,000 over the past two years alone. There is a higher initial cost for the materials but installation costs are the same as for traditional covers, and the longer life span and savings from frequent replacements can make this financially attractive for many councils.

Wandsworth Council's cemeteries team have ordered replacement plaques in a material called 'Traffolyte' – a non-metallic material suitable for engraving. This is again a high quality product that has little resale value and can therefore be used with confidence.

Difficulties exist for buildings with heritage status, where the types of materials that can be used may be more limited, but a number of watermarking materials, anti-climb paint and judicious position of CCTV cameras can all make a significant difference.

The police have an established initiative to support the principles of 'designing out crime'. 'Secured by design' contains extensive information on how to mark assets

to assist identification and recovery after theft. The principles behind the scheme have been proven to achieve a reduction of crime risk by up to 75 per cent and provide practical support for heritage buildings and other situations where alternative materials may not be suitable.¹⁰

The Institute of Materials, Minerals and Mining, referred to in the previous section, is always exploring new types of materials and looking for partners to help test out practical applications. Their work can offer your council the chance to be at the cutting edge of materials technology.

In addition to alternative materials, work is also underway by both the Home Office and private industry to develop other design solutions to tackle metal theft including creating more effective ways to mark metals so that they can be traced back to their owner/location.

Councils and police partners may also wish to speak to potential targets for metal theft, possibly through their community safety partnership, about some of the preventative techniques that can be used. Examples include UV paints that allow the item to be identified using an ultraviolet lamp. Branded products are widely available and offer a range of options for councils and organisations wishing to protect their property.

¹⁰ <http://www.securedbydesign.com/index.aspx>

Disposal processes

Councils are collectively the third largest provider of scrap metal. BT, the largest provider of scrap metal, experienced a significant reduction in metal theft when it decided to make clear that it disposed of its scrap metal only through a restricted list of scrap metal dealers. Once this was published, the responsible scrap metal dealers not on the list were fully aware that any BT branded material they handled was stolen.

The Environment Agency has been working with partners to encourage business models that allow for the safe and secure transfer of waste. A recent example is the South East Waste Exchange¹¹ which allows councils and businesses to trade waste through a secure online platform.



11 www.wpesoutheast.co.uk/

Appendix A

Section 3(1) orders will become obsolete on the commencement of the Scrap Metal Dealers Act 2013, when all dealers will be treated in the same way.

METAL THEFT – LOCAL AUTHORITY USE OF SECTION 3(1) SCRAP METAL DEALERS ACT 1964 ORDERS

1. Section 146 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 inserted Section 3A into the Scrap Metal Dealers Act 1964, the offence of buying scrap metal for cash. This offence formally commenced on 3 December 2012 whereby scrap metal dealers can only pay for scrap metal by cheque or electronic transfer.
2. In order to ensure there is sufficient evidence to prosecute the offence, the existing record keeping provisions under section 2 of the Scrap Metal Dealers Act 1964, breach of which is a criminal offence, have also been amended to reflect this new offence. These amendments include a requirement for the dealer to keep a copy of any cheque or any receipt identifying the transfer; the name and address of any person who makes the payment acting for the dealer and the person to whom the payment is made, and particulars identifying an electronic transfer if there is no receipt.
3. The offence applies to all payments for scrap metal by scrap metal dealers, regardless of whether they are registered with their local authority under section 1 of the Scrap Metal Dealers Act 1964. However, there is an exception to this. Section 3A (6) of the Scrap Metal Dealers Act 1964, inserted by the LASPO Act 2012, exempts itinerant collectors who are the subject of a section 3 (1) order at the time of payment from the new offence of buying scrap metal for cash.
4. A section 3 (1) order can be made by a local authority, after consultation with the chief officer of police for the police area, where a person is registered as a scrap metal dealer and satisfies the local authority that they are an 'itinerant collector'. If an itinerant collector collects scrap metal in more than one local authority they must be registered with each authority under section 1 of the Scrap Metal Dealers Act 1964 and be the subject of a section 3 (1) order from each of those authorities if the exemption is to apply.
5. Section 3 (1) orders reduce the record keeping requirement on itinerant collectors recognising the mobile nature of their trade. In the absence of these records, it would be impossible to enforce the new criminal offence against these collectors which is why they are exempt.

Who is an itinerant collector?

6. Itinerant collectors are defined in Section 9 of the Scrap Metal Dealers Act 1964 as “a person regularly engaged in collecting waste materials, and old, broken, worn out or defaced articles, by means of visits from house to house”. The definition does not refer to processing metals, therefore processing does not form part of the regular business of an itinerant collector as defined in the Act.
 7. Any scrap metal dealer whose business activities go beyond that of an itinerant collector (ie whose regular business activities go beyond merely the collection of scrap metal via house to house visits) should not be the subject of a section 3(1) order. Therefore, they would not be exempt from the offence of buying scrap metal for cash.
- purchased at such sites, only stored);
 - Reference/issue numbers relating to the environmental permits held by the individual (an itinerant collector should hold a Waste Transfer Notice as issued by the Environment Agency);
 - Confirmation that they are registered with the local authority as a scrap metal dealer under section 1 of the Scrap Metal Dealers Act 1964 (section 3 (1) orders should not be issued unless the itinerant collector has a section 1 registration).
9. Under section 3 (2) of the Scrap Metal Dealers Act 1964, a local authority shall not make an order except after consultation with the chief officer of police for the police area (or, if more than one, for every police area) in which the area of the local authority, or any part of their area, is comprised. During such consultation, local authorities may wish to review:

Guidance for issuing section 3(1) orders

8. The Scrap Metal Dealers Act 1964 does not provide any criteria for when local authorities should make section 3 (1) orders. However, to try and ensure the integrity of these orders remain local authorities may wish to consider obtaining the following information:
 - The full name of the applicant via photographic identification;
 - The full address of the applicant via a utility bill;
 - Their trading/business name (if applicable);
 - The address of any place they use to store scrap metal (metal cannot be
- the itinerant collector’s past convictions (if applicable) to see if they have any relevant unspent convictions that should be considered (such convictions should include any offence under the Scrap Metal Dealers Act 1964, theft and handling offences under the Theft Act 1968 and any known past breaches of Environmental regulations).
10. It should be noted that local authorities have experienced an increase in applications for Section 3 (1) orders as a result of the new criminal offence of buying scrap metal for cash. The Home Office has also been made aware that some orders have been made to scrap metal dealers who operate “yards” who

claim to be itinerant collectors. Local authorities are urged to only issue section 3 (1) orders if they are certain that the applicant is a genuine collector.

Scrap Metal Dealers Act 2013

11. Parliament has recently passed the Scrap Metal Dealers Act 2013. The Act will repeal the Scrap Metal Dealers Act 1964 and re-regulate the scrap metal sector. The Act will require any person who wishes to operate as a scrap metal dealer to obtain either a site or collector's licence from their local authority.
12. The Act removes the power for local authorities to make section 3 (1) orders and will require all scrap metal dealers to keep full records of their dealings. It is an offence for any scrap metal dealer, including collectors, to buy scrap metal for cash. The Home Office is responsible for the Act's commencement which is currently planned for 1 October 2013 and guidance in relation to this new Act will be circulated prior to this date.



Templates

Codes of Conduct:

Forest of Dean Council

Licensed Scrap Yard – Local Code of Practice

As a Scrap Metal Dealer registered with XXXXXXXXX Council, we are committed to working in partnership with XXXXXX Council and XXXXXXXX Constabulary to reduce metal theft, and therefore commit to providing the following;

- We will fully adhere to the Scrap Metal Dealers Act 2013.
- We will require photo ID to be produced by customers trading in scrap metal. We will record their full name, address, vehicle registration, and will keep a copy of any documentation used to verify their name and address.
- We will keep a detailed description of the scrap metal and only make payments by cheque or electronic transfer.
- We will not accept scrap from customers arriving on foot.
- We will retain CCTV footage for a period of 14 days.
- We will hand out leaflets (prepared by the Council and Police) to customers that explains their legal obligations when carrying scrap metal.
- We will display a 'Licensed Scrap Yard' partnership sign and accompanying notices.
- We will notify the local police of any attempts to sell us goods that are, in our view, of doubtful or illegal origin.

DATE

XXXXXXXXXXXX

Registered Scrap Yard

XXXXXX Council Area

XXXXXXXXXXXXXXXX

XXXXXXX Constabulary

XXXXXXX Council

Kirklees

All scrap metal dealers and merchants signing up to this Code agree to abide by the following:

- All reasonable steps will be taken to ensure stolen metals are not bought.
- Metals will only be accepted from those whose ID has been/can be verified on production of photo ID and recent utility bill or similar with the sellers address.
- Staff to be trained in administrative processes and all paperwork should be relevant and kept up-to-date.
- Suspicious customers and goods should be reported to the police.
- Dealers will co-operate with police and local authorities by allowing access and inspection when requested.
- No blackened copper wire that has obviously had its insulation removed should be bought.
- Metals will not be accepted from customers on foot.
- Metal will not be accepted from customers arriving in taxis.
- Dealers will display prominent signage at their premises stating that “We report suspected metal thieves to West Yorkshire Police”.
- All scrap metal dealers agree to work towards installing CCTV camera systems to West Yorkshire Police standards.



Birmingham

Legitimate traders are likely to want to protect themselves from the prosecution risk and adverse publicity associated with offenders. Best practice initiatives that we would wish to see you implement, and that we want to work collaboratively with the trade on, are listed below. This effectively forms a voluntary code of practice:

- Requiring the provision of photo identification before accepting metal unless the waste carrier is personally known to the business. ('Personally known' means that you have previously satisfied yourself through photo ID or other business records as to who they are. A record of the method of identification produced should be recorded including unique identifying reference number where applicable i.e. driver number in the case of driving licence or customer number if utility bill or similar document produced).
- Should photo ID not be available, you may offer to purchase the scrap but only release the payment on receipt of photo ID (at a later time).
- Work towards installation/installation of CCTV (to police-approved specifications) at site entrances and/or weighbridges. (Where such systems have been installed posters advertising the fact will clearly be displayed on the premises).
- Retention of CCTV recordings for a minimum of 14 days.
- Taking and retaining a digital photograph(s) of scrap metal load where feasible.
- Having available and actively using UV torches for detecting forensically marked metals.
- Suspicious persons will be reported to the local police force for the area concerned.
- Suspicious transactions will be reported to the local police force for the area concerned.
- Work towards adopting into an electronic 'alert' notification scheme for early notification of stolen metals.
- Staff to be trained in administrative processes and all paperwork should be relevant and kept up-to-date.
- Metal not to be accepted from customers arriving on foot or by taxi.
- No blackened copper wire that has obviously had its insulation removed should be accepted.

British Metals Recycling Association

Code of Practice for England and Wales

Introduction

The British Metal Recycling Association (BMRA) and its members recognise the serious impact that metal theft can have on industry and local communities. The BMRA is committed to working with the police service and other agencies to reduce the harm caused.

The BMRA and the ACPO Metal Theft Working Group endorse and support the following crime reduction measures:

- The introduction of digital recorded CCTV systems at the entrances and/or weighbridges of recycling centres that is retained for 28 days. Where such systems have been installed posters advertising the fact will clearly be displayed on the premises.
- Requesting identification from persons disposing of metals who are not already known to the recycling centre. The identification requested to include name, address and post code. A record of the method of identification produced will be recorded including unique identifying reference number where applicable i.e. driver number in the case of driving licence or customer number if utility bill or similar document produced. Cash should not be paid to persons unknown to the recycling centre or where identification cannot be produced.
- The maintenance of accurate records required by the Scrap Metal Dealers Act 1964. This will include ensuring that names, addresses and vehicle registration number are complete and accurate.
- Suspicious persons will be reported to the local police force for the area concerned.
- Suspicious transactions will be reported to the local police force for the area concerned.

25 October 2010 (This code will be updated in late 2013 to reflect the new Act.)

Memorandum of Understanding (ARCH):

The Heritage Crime Programme is being spearheaded by English Heritage, the police (through the Association of Chief Police Officers (ACPO)) and the Crown Prosecution Service (CPS).

A growing number of local authorities have also joined this coordinated effort and signed the MoU, including:

- Canterbury City Council
- Cheshire West and Chester Council
- Dover District Council
- Hertfordshire County Council
- Ipswich Borough Council
- London Borough of Lambeth
- Norfolk County Council
- Northamptonshire County Council
- Suffolk County Council.

1. Purpose

This Memorandum of Understanding (MoU) is intended to serve as a general guide to fostering cooperation between the respective parties and to allow the necessary flexibility in activities that are undertaken between them in relation to heritage crime. It defines the roles and responsibilities of the parties in the prevention, investigation, enforcement and prosecution of heritage crime, in keeping with their respective aims. There will be an annual strategic assessment for heritage crime which will inform an action plan for the parties to this MoU to follow.

It should be used as a basis for high level strategic engagement and regional protocols between English Heritage, participating local authorities, police forces and the Crown Prosecution Service.

Such protocols will form the basis of working arrangements with those involved at regional and force level.

Heritage crime is defined for the purposes of this MoU as ‘any offence which harms the value of England’s heritage assets and their settings to this and future generations’.

England's heritage assets include:

- Listed buildings
- Conservation areas
- Scheduled monuments
- Protected marine wreck sites
- World Heritage Sites
- Registered parks and gardens
- Battlefields
- Protected military remains of aircraft and vessels of historic interest
- Undesignated but acknowledged heritage buildings and sites

2. Parties to the agreement

English Heritage (EH)

Association of Chief Police Officers of England Wales and Northern Ireland (ACPO)

Crown Prosecution Service (CPS); and

Participating local authorities (LAs)

For the full Memorandum, please visit

<http://www.english-heritage.org.uk/content/imported-docs/k-o/memo-understanding.pdf>

Partnership Action Card:

Forest of Dean Council

Action Card

This guidance outlines an approach for Council and Police partnerships wishing to tackle metal theft by using the scrap metal dealers as the critical control point.

1. Identify all scrap metal dealers within the partnership area.
2. Write to all scrap metal dealers using the 'initial letter' template.
3. Visit the scrap metal dealers and assess compliance with the Scrap Metal Dealers Act 2013 'the Act'.
4. Write to the scrap yards using the 'follow up letter' template.
5. Invite the scrap metal dealers to attend a joint meeting to discuss and agree upon a local code of practice. A copy of a 'sample agreement' is included. As part of the agreement operators may agree to hand out literature to customers informing them of their responsibilities under the Scrap Metal Dealers Act and respective waste 'duty of care' legislation. A sample leaflet template can be obtained from matthew.kirby@fdean.gov.uk
6. Carry out further checks on the scrap metal dealers to ensure compliance with the Act, this may include test purchases to ensure operators are implementing the actions agreed within any local code of practice.

Initial letter:

Forest of Dean Council

Dear [XXXXX],

Metal theft in [XXXXXX]

Metal theft is a big problem in [XXXXXXXX]. It's a problem that's affecting us at the heart of our communities and you have a role to play to help us stop it.

The theft of metals from business and community-based buildings has led to significant site and structural damage, loss of reputation, corporate downtime and health and safety implications.

What we're doing about it

Both the Police and the Council are tackling the problem:

- The Police investigate theft crimes and put the criminals in front of the courts
- The Council licences scrap metal dealers. Action can be taken to enforce the record keeping requirements and licensed conditions, as well as waste carrier licenses and fly-tipping crime.

The thefts are such a big problem that now the Police and Council have launched an operation to work with you to tackle the problem. As well as catching the metal thieves, we need to make sure that all metal dealers in [XXXXXX area] are licensed and keeping proper records. Your records are crucial to help us catch the thieves.

The part you play – your responsibilities

To tackle the problem we must enforce the record keeping rules strictly. We have enclosed a copy of the requirements of the Scrap Metal Dealers Act 2013. If you are not already familiar with them, please study them carefully and make sure your staff understand them.

You must fully comply with the conditions by law. We will be making unannounced visits to check that you're keeping full and proper records, and to carry out spot checks of vehicles using your site.

Detecting stolen metal

Please be aware that people are now protecting metal such as roof lead and copper with combinations of forensic marking products such as Smartwater, SelectaMark and Redweb.

Police officers are now able to detect any stolen metal marked with these products using special UV lamps at any stage between the point of theft and processing.

Police officers may well visit you to examine scrap stocks using these lamps, using the powers given to them by the Scrap Metal Dealers Act 2013.

BMRA Code of Practice

The British Metals Recycling Association and its members recognise the serious impact that metal theft can have on industry and local communities. Along with the Association of Chief Police Officers, they have produced a Code of Practice for metal dealers. Please find a copy enclosed with this letter.

The Council and Police encourage and expect you to support the crime reduction measures in the Code of Practice.

We ask you to tell us if you know of any unregistered scrap metal dealers (yards or itinerants), or of any suspicious activity by phoning CrimeStoppers on 0800 555 111. Your call can be anonymous.

We will soon visit your site in person to discuss the above, and to answer any questions you may have.

Yours sincerely,

Enclosed:

- Copy of Scrap Metal Dealers Act 2013 conditions
- BMRA Code of Practice

Follow up letter:

Forest of Dean Council

Dear [XXXXX],

Scrap Metals Dealers Act 2013 Keeping full and accurate records

We visited your yard recently to tell you about how we're tackling metal theft and waste crime.

An important part of this is to make sure that you are keeping accurate records under the requirements of the Scrap Metal Dealers Act 2013. You should already have a copy of the requirements, but I've enclosed an extra copy for you.

When we visited you it was good to see that you were keeping records. However, we did find that some of your records were not accurate enough.

Remember, the law says that you must keep full, and accurate records.

The following are matters that break the Scrap Metal Dealers law mentioned above. If they are not solved then it is likely that legal action will be taken against you.

1. You did not record the full address for some of your customers in your records. You must record the full name and address and keep a copy of the documents used to verify these details.
2. You did not record accurate vehicle registration numbers. You and/or your operatives must check the registration plates yourselves rather than relying on customers to give them to you and you **MUST** record them correctly.
3. You did not record a clear description of the scrap metal in your records for many of your customers. You must do this, and include any obvious identifying marks:
 - ✓ A clear description = Brass pump with 'Anchor Ltd' stamp, and approx 10m blue copper cable.
 - X A poor description = Heavy brass and cable.
4. You made at least one payment in cash. The law only allows for payments by cheque or electronic transfer and cash should not be paid under any circumstances.

The following are matters that DO NOT break the law but you are advised to deal with in general accordance with the British Metals Recycling Association Code of Practice (copy enclosed).

We encourage you to install a digital recorded CCTV system at the entrance and/or weighbridge of your site if you don't already have it, and retain footage for at least 28 days. If you install CCTV, put up clearly displayed posters on your site advertising the fact.

Please report any suspicious people or transactions, or anything that you suspect may have been stolen to the Police. Your call can be anonymous.

Police and Council officers will revisit your premises shortly to check that you are keeping full and accurate records.

Yours sincerely,

Enclosed:

- Copy of Scrap Metal Dealers Act 2013 conditions
- BMRA Code of Practice

Awareness raising:

CHURCHALERT¹²
HELPING YOU SAFEGUARD YOUR CHURCH FROM METAL THEFT

HOME

PREVENTION

IN THE EVENT OF THEFT

RESOURCES FOR YOUR CHURCH

LINK TO USEFUL SUPPLIERS

MORE ABOUT CONGREGATIONAL

CRIMESTOPPERS
0800 555 111
Working in partnership with the police

Congregational
Protecting the things you value since 1891

YOUR CHURCH IS A TARGET FOR THIEVES
Use your mouse to move the target around the picture and discover how metal thieves could be targeting your church

¹² <http://www.churchalert.co.uk/home.html>

The greatest train robbery yet.

Over the past three years cable theft cost the taxpayer more than £43 million, and the problem is growing. But it also costs passengers thousands of hours of their time through signal failure caused by stolen and damaged cables. We're working with British Transport Police and train operators to stop cable thieves stealing even more of your time and money.



*Report cable theft by calling
British Transport Police on
0800 40 50 40*

Helping Britain run better



Identification:

Gwent and North Wales police identified that mobile traders, those registered as itinerant traders under the old Act, were experiencing difficulties in providing appropriate identification. This was particularly acute when they were stopped in the course of their collections. As a result, the police have worked with their councils to implement a process whereby the councils provide photo ID's to itinerant collectors and record keeping books.

The ID's are more practical than asking itinerants to supply passports or driving licenses, coupled with recent utility bills when selling metal to yards. The record books are tailored for itinerants and are similar to books that yards keep. Otherwise itinerants tended to keep no records or partial ones which did not comply with full requirements.

The cost of issuing photo ID's and record books is low. Some local authorities charge itinerants for the books to cover costs, and will continue to be able to do so under the locally-set fees system, and the legitimate itinerants are happy to have the books to fill in. Caerphilly Council pioneered the scheme of 'NO ID NO CASH' in 2011 when they calculated that they were losing £129,000 a year to metal theft. The low costs associated with issuing ID were therefore easily justified. As a result of the scheme, the authority achieved a 65 per cent reduction in metal thefts.



4 Credits

This letter was sent to all registered itinerant dealers in the area:

Dear Sir

Re: Scrap Metal Dealers Act 1964

You are registered with the Council as an Itinerant Collector of scrap metal under the above Act. The purpose of this letter is to confirm and clarify your obligations under the legislation. This advice is provided to you for guidance, the full text of the Act is available at: <http://www.legislation.gov.uk/ukpga/1964/69/contents>

Under the Act you are required to keep a book and enter into it the following information in relation to any scrap metal received by you:

- (a) the description and weight of the scrap metal;
- (b) the date and time of the receipt of the scrap metal;
- (c) if the scrap metal is received from another person, the full name and address of that person;
- (d) the price, if any, payable in respect of the receipt of the scrap metal
- (e) if no payment was made, the value of the scrap metal at the time as estimated by you;
- (f) in the case of scrap metal delivered to you by a vehicle, the registration mark borne by the vehicle.

You are also required to enter into a book the following information in relation to scrap metal sold, exchanged or otherwise disposed of by you:

- (a) the description and weight of the scrap metal;
- (b) the date of sale, exchange, or disposal of the scrap metal;
- (c) the full name and address of the person to whom the scrap metal is sold or with whom it is exchanged, and the consideration for which it is sold or exchanged;
- (d) in the case of scrap metal disposed of otherwise than on sale or exchange, the value of the scrap metal immediately before its disposal as estimated by you.

The above information shall be recorded and retained in a book exclusively for this purpose for a period of 2 years beginning with the day on which the last entry was made in the book.

The Council is working with the Police in relation to thefts of metal. This includes information sharing and stopping and checking vehicles carrying metals. Any scrap metal dealers or itinerant collectors not registered with this Council or not keeping records in accordance with the Act commit an offence and may be liable to prosecution.

Registration with the Council lasts for a period of three years from the day the entry is made in the register. Your registration with us will be cancelled at the end of this three-year period unless you apply to renew the registration before the end of the period. As carriers of controlled waste itinerant metal collectors are also required to be registered as a waste carrier with the Environment Agency.

Scrap metal dealers are being encouraged to only accept metal from individuals carrying appropriate photographic identification. Photo Identification cards have, therefore, been prepared by the Council for itinerant collectors. If you wish to obtain a Photo ID card, you will be required to attend these offices in person and produce two identical recent passport style photographs of yourself, together with two of the following forms of identification:

- A current driving licence
- A valid passport
- Birth certificate
- A recent utility bill *
- Bank or building society statement *
- Payslip *
- Mortgage statement *
- Store card statement *
- Benefit statement * e.g. child allowance, pension
- Council tax statement **
- Insurance certificate. **

* No more than 6 months old indicating your current home address

** Issued within past 12 months

Photo ID cards will be provided free of charge initially, but there will be a charge should a replacement card be required in the future.

For your convenience, staff will be available on Monday, 22nd August between 9.00 am and 12.30 p.m., Tuesday, 23rd between 1.00pm and 4.00 pm and Wednesday, 24th between 9.00 am and 4.00 pm and I would be grateful if you could contact the Licensing Section on 01495 235039 to make an appointment. If, however, you are unable to attend on any of these days, you will need to contact me to arrange an alternative date.

Yours faithfully

Assistant Licensing Officer





Local Government Association

Local Government House
Smith Square
London SW1P 3HZ

Telephone 020 7664 3000

Fax 020 7664 3030

Email info@local.gov.uk

www.local.gov.uk

© Local Government Association, July 2013

For a copy in Braille, larger print or audio,
please contact us on 020 7664 3000.
We consider requests on an individual basis.