

**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2013-2014**

**COUNCIL**

**30 OCTOBER 2013**

**REPORT OF THE DIRECTOR OF  
LEGAL AND DEMOCRATIC SERVICES**

**Agenda Item No. 10**

**LOCAL AUTHORITIES (EXECUTIVE  
ARRANGEMENTS)(FUNCTIONS &  
RESPONSIBILITIES)(WALES)  
REGULATIONS 2007 –  
SCRAP METAL DEALERS ACT 2013  
RECOMMENDATIONS OF THE  
CORPORATE GOVERNANCE AND  
CONSTITUTION COMMITTEE**

**Author: Ms. Karyl May, Democratic Services Manager  
Tel.No.01443-424045**

**1. PURPOSE OF THE REPORT**

To seek Council's approval of the Recommendations of the Corporate Governance and Constitutional Committee that representation be made to the Welsh Government with regard to amendments of the Functions regulations as detailed in this report.

**2. RECOMMENDATION**

It is recommended that Members:

- 2.1 Note the work being undertaken by Members of the Corporate Governance and Constitution Committee in respect of the All Wales Modular Constitution.
- 2.2 Endorse the comments of the Corporate Governance and Constitution Committee at its meeting held on the 10<sup>th</sup> October, 2013 that this Council.
  - 2.2(a) Request the Welsh Government to amend the Functions Regulations as soon as possible to specify the Scrap Metal Dealers Act 2013 as a Council function.
  - 2.2(b) Request the Welsh Government to amend the Functions Regulations to include a regulation that if legislation is re-enacted responsibility for exercise of the functions under the new Act will be the same as the legislation it replaces.

### **3. BACKGROUND**

- 3.1 Members will recall that reports were presented both to Cabinet and Council on the 23<sup>rd</sup> September and 25<sup>th</sup> September, 2013 respectively, informing Members of forthcoming changes relating to the regulation of Scrap Metal Dealers and implementation of the provisions of the Scrap Metal Dealers Act 2013 within the Council.
- 3.2 At both meetings, Members were advised that as the Act is silent as to who should exercise the functions under the Act then by default, under Section 13 of the Local Government Act 2000, it will be an Executive function. However, application of the previous legislation – Scrap Metal Dealers Act 1964 was a Council function.
- 3.3 The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 list the functions of particular legislation that should be:
- The responsibility of Council only
  - May be the responsibility of the Executive; and legislation
  - Not to be the sole responsibility of the Executive
- 3.4 Unfortunately, Regulations have not been kept up-to-date causing issues when legislation is re-enacted such as the case with the Scrap Metal Dealers Act, 2013.
- 3.5 At its meeting held on the 25<sup>th</sup> September, Council
- noted the coming into force of the Scrap Metal Dealers Act 2013;
  - Delegated the function of conducting and determining applications hearings for licences under the 2013 Act to the Licensing Committee;
  - Noted that all other functions to be exercised under the 2013 Act are Executive functions.

### **Corporate Governance & Constitution Committee**

- 3.6 At its Inaugural meeting held on the 10<sup>th</sup> October, 2013, Members of the Corporate Governance and Constitution Committee received a presentation on the All Wales Modular Constitution, which was reported upon at the Annual Meeting of the Council on the 22<sup>nd</sup> May, 2013. The Committee were informed that this new model presents Welsh Councils with an opportunity to improve on the `Articles` format of the 2001 Wales Constitution adopted by this Council and moves towards a more user-friendly and simplified version using `Exari` software.

- 3.7 Members of this newly established Committee were informed that “not one size fits all” and that each section of the new version would need to be looked at and adapted to suit this Council’s needs. It was therefore agreed that at its next meeting to be held on the 14<sup>th</sup> November, 2013, Members would determine its Work Programme for 2013/14 in order that the new Modular Constitution for this Council can be reported to the Annual Meeting in May, 2014.
- 3.8 Lawyers in Local Government (LLG) formerly ACSeS (Association of Council Secretary and Solicitors) have made representations to the Welsh Government that the Functions Regulations be amended to specify the 2013 Act as a Council function. The Corporate Governance and Constitution Committee recommended that full Council make similar representations.
- 3.9 The Committee also recommended that the WG amend the Functions Regulations to include a regulation that if legislation is re-enacted responsibility for exercise of the functions under the new Act will be the same as the legislation it replaces.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

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**REPORT OF THE DIRECTOR, LEGAL & DEMOCRATIC SERVICES**

<p><b>LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS)(FUNCTIONS &amp; RESPONSIBILITIES)(WALES) REGULATIONS 2007 – SCRAP METAL DEALERS ACT 2013 RECOMMENDATIONS OF THE CORPORATE GOVERNANCE AND CONSTITUTION COMMITTEE</b></p>	<p><b>Officer to Contact:</b></p> <p>Ms. Karyl May – Democratic Services Manager</p> <p>Tel.No.01443-424045</p>
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**Background Papers**

**Local Authorities (Executive Arrangements) (Functions & Responsibilities) (Wales) Regulations 2007 – Scrap Metal Dealers Act 2013**

Freestanding Matter