

SUBJECT:	CORPORATE JOINT COMMITTEE CONSULTATION
MEETING:	County Council
DATE:	3rd December 2020
DIVISION/WARDS AFFECTED:	ALL

1. PURPOSE:

To seek approval of a response to be submitted on behalf of Council to the Welsh Government Corporate Joint Committee Regulations consultation.

2. RECOMMENDATIONS:

- 2.1 That the draft response to the consultation on Corporate Joint Committees contained at appendix 1 be submitted on behalf of Council.

3. KEY ISSUES:

- 3.1 The concept of Corporate Joint Committees was introduced within the Local Government and Elections (Wales) Bill. These will be new corporate bodies, which will be a vehicle for regional collaboration and which can employ staff, hold assets and budgets and undertake functions. Discussions on the concept began in 2019, however there has been only limited engagement on the matter throughout 2020 as local government has been occupied with the response to the Coronavirus pandemic.
- 3.2 The specific functions of a CJC and how it will be governed are set out in Corporate Joint Committee Regulations which are currently being consulted on by Welsh Government with a closing date of 4th January. The full consultation document can be found via a link in the background papers section of this report.
- 3.3 The Minister intends to bring forward the final regulations by April 2021. This includes draft regulations for each of four proposed CJs: North Wales; Mid Wales; South East Wales and South West Wales. The South East Wales Committee covers the same footprint as the Cardiff Capital Region. It is expected that the Cardiff Capital Region Cabinet and staffing structure will transform into the South East Wales CJC.
- 3.4 The regulations propose that the new CJC will exercise the following functions:
- Preparing, monitoring, reviewing and revising of a Strategic Development Plan;
 - Developing a Regional Transport Plan;

- The economic well-being function encompassing the current regional approaches to the City and Growth deals into the CJC structures.

Education was initially considered as a function for inclusion within this CJC but is not within the regulations establishing the committees. Authorities may choose to use Corporate Joint Committees as a vehicle for future collaborations, these would not need to be on the same footprint as the South East Wales CJC.

3.5 Two key principles underpin the development of the Regulations:

- CJCs should be treated as a member of the local government family and subject to the same powers and duties as principal councils;
- How they operate in practice should be left to the members of the CJC itself to determine which should enable the CJCs to differ between geographical areas to meet the needs and ambitions of region.

3.6 The draft regulations provide that CJCs:

- will be made up of leaders, though they could co-opt other members;
- will be established on a 'one member one vote' basis, however, once established, a CJC could adopt alternative voting procedures;
- will have powers delegated to it and will make timely decisions without the need for ratification by its constituent principal councils;
- will be accountable to its constituent principal councils and members will report back to those principal councils and must respond to questions and scrutiny;
- can set-up sub-committees to lead on specific functions and can agree other members such as cabinet members or co-optees;
- must 'appoint' a Chief Executive, Chief Finance Officer, Monitoring Officer and Chief Governance Officer. However these could be provided by a constituent authority, or via secondment;
- must set up an overview and scrutiny committee;
- are likely to be bound by legislation such as the Equality Act, Welsh Language and Well-being of Future Generations Act.

3.7 It will be for each CJC to decide if it wishes to have sub-committees, and who sits on them. A CJC could choose to have sub-committees for each of its main functions and that these subcommittees might engage broadly and involve a range of relevant stakeholders. For example sub-committees could be introduced for planning and regional transport. It will be possible for CJCs' sub-committees to consist of members of the constituent local authorities other than those members on the CJC itself – for example a relevant member or portfolio holder.

3.8 The CJC is expected to play a major role in ensuring the region is able to access and make effective use of successor EU funds, known as the Shared Prosperity Fund. It will do this within the context of the Regional Investment Wales Framework created by Welsh Government to invest replacement funding from the UK Government.

3.9 This issue was considered at a meeting of the Public Services Select Committee, to which all members were invited, and the resulting debate used to shape the response which is attached as appendix 1. There were a number of concerns about the proposals. These included:

- The imposition of CJs by Welsh Ministers rather than these being a vehicle for councils to deploy where locally elected councillors assess they will add the greatest value;
- Concerns about scrutiny and accountability, with the CJC able to establish its own arrangements and the concentration of power in a single individual from each organisation;
- The cost of the CJC, with these bodies being able to set their own budgets which then have to be met by local authorities.

3.10 There have been some concerns within the local government family that opportunities to engage with, and shape these proposals have been overshadowed by the Coronavirus pandemic. In some areas the concept of CJs would be welcomed as an additional and optional collaborative model for authorities to choose where they themselves deem them appropriate. However, the WLGA Council has expressed concern over the principle of mandating the committees which it has argued, undermines local democracy. The WLGA has nonetheless signalled a commitment to continue to engage in shaping the proposals.

4. WELLBEING OF FUTURE GENERATIONS IMPLICATIONS (INCORPORATING EQUALITIES, SUSTAINABILITY, SAFEGUARDING AND CORPORATE PARENTING)

A full evaluation has not been carried out at this stage. The committee's attention is drawn to the integrated impact assessment produced by Welsh Government which is available at <https://gov.wales/sites/default/files/consultations/2020-10/integrated-impact-assessment.pdf>

5. OPTIONS APPRAISAL

At this point no specific options have been put forward for consideration. The only choice being whether or not to submit a whole council response to the consultation.

6. EVALUATION CRITERIA

CJs will operate as part of the performance and governance regime in the Local Government and Elections (Wales) Bill. The Strategic Development Plan and transport functions will also have separate performance measures and monitoring requirements either within the establishing regulations or within / part of the relevant legislation being transferred.

7. REASONS:

To ensure that the views of elected members in Monmouthshire are able to shape the development of the Corporate Joint Committee Regulations.

8. RESOURCE IMPLICATIONS:

Further work will be required to fully understand the resourcing of Corporate Joint Committees. This will include the production of a regulatory impact assessment by Welsh Government. Since the South East Wales CJC will occupy the City Region footprint many of the structures are already in place. If implemented effectively CJsCs should be able to pull capacity from within Welsh Government rather than absorbing capacity from local government.

9. CONSULTEES:

Public Services Select Committee.

Scrutiny of the consultation by the committee has resulted in the production of the draft response included as appendix 1.

10. BACKGROUND PAPERS:

Welsh Government Consultation Document: Consultation on Regulations to Establish CJsCs - <https://gov.wales/sites/default/files/consultations/2020-10/consultation.pdf>

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Draft Consultation Response

We have chosen not to respond to all of your specific questions and have determined the areas of the consultation that we believe require our input and referenced the appropriate section of the where relevant.

We recognise that certain functions can be delivered more effectively at scale. This council has committed to regional working over many years and has seen real benefit from collaborating where it makes sense to do so. We are after all, already operating in this way through City and Growth Deals. Our members have indicated via previous consultations on local government reform that the decision to set up vehicles for collaboration should be a matter for local democratic discretion rather than in accordance with a pre-determined model and this remains our view. This council is opposed to CJs being imposed by Welsh Government as this disenfranchises local elected members.

Members of this council have also raised concerns about concentration of power in a small number of individuals with insufficient checks and balances. We recognise that the regulations covering scrutiny have yet to be written. It will be vital for effective scrutiny arrangements to be put in place to ensure democratic accountability and ensure public trust in these new corporate bodies, which will have responsibility for major areas of public policy and delivery.

We do however recognise that, given the stage we are at, these are an inevitability and the comments that follow are made on the basis of ensuring that the arrangements are as effective as possible while seeking to preserve democratic oversight and legitimacy.

Powers and Duties

Consultation Question One:

a) What are your views on CJs being subject to broadly the same powers and duties as principal councils? b) Do you agree that CJs should have broadly the same governance and administrative framework as a principal council provided that this is proportionate? Please give your reasons. c) Do you agree that members of CJs should have appropriate discretion on the detail of constitutional and operational arrangements? Please give your reasons.

We agree that CJs should be subject to the same powers and duties and local authorities. However, we have some concerns about the costs of duplicating governance and administrative frameworks, for example the requirement for a CJC to have its own Monitoring Officer and Chief Governance Officer.

We agree that the CJC should have discretion on the on-going detail of constitutional and operational arrangements following their creation; however, oversight from principal councils

should occur at the inception of the new bodies to ensure that the governance arrangements afford sufficient oversight to locally elected councillors.

Functions

Consultation Question Two: These CJC areas have been agreed by local government Leaders as the most appropriate to reflect the functions being given to CJsCs by these Establishment Regulations. Do you have any comments or observations on these CJC areas in relation to these functions or the future development of CJsCs?

It is recognised that, if the concept for CJsCs is accepted, then these functions are the most appropriate ones to sit at a regional level since there are clear and unequivocal benefits of operating at scale providing these can retain clear alignment with local democratic accountability.

Consultation Question Three: a) Do you agree with the approach to the development of the regulations for CJsCs as outlined in this consultation? Please give your reasons. b) We have indicated throughout this document what may be included in the Regulations of General Application, subject to the outcome of this consultation. Whilst the Regulations of General Application are not the subject of this consultation, in order to inform their development we would welcome your views on anything else which should be covered?

It is recognised that the Establishment Regulations require CJsCs to put in place appropriate scrutiny arrangements but the precise nature of these will be at the discretion of the CJC itself. It will be important for the Regulations of General Application, to be drafted at a future date, should include provision so that any scrutiny committee does not include a member of the CJC, is politically balanced and has access to appropriate independent advice to be able to scrutinise the new body.

Consultation Question Fourteen: a) Is it clear what functions the CJsCs will exercise as a result of these establishment regulations? If not, why? b) Do the establishment regulations need to say more on concurrence, if so what else is needed, or should that be left to local determination? c) In your view are there any functions which might be appropriate to add to these CJsCs in the future? If yes, what?

We agree that the establishment regulations give sufficient clarity on the functions that will sit within a CJC. We are satisfied that any issues concerning the concurrent discharge of functions can be determined by the CJC itself with principal council as and when matters arise.

We feel it is appropriate to establish and evaluate the effectiveness of the CJC before taking a view on any additional functions that could come within its remit. It is possible that CJsCs could be established on different footprints in future if local authorities decide these to be the most appropriate vehicle. It should be remembered that this CJC has a defined remit and would not be expected beyond that unless this were deemed necessary by the constituent councils.

Consultation Question Sixteen: What are your views on the approach to transfer of the exercise of functions to these CJsCs?

It is correct that CJsCs will hold the economic well-being function from the point at which they are established, however there may be some specific teams or activities sitting with the local authority that cannot transfer immediately and where concurrent operations may be preferable. This should be a matter for local resolution between the principal council's and CJC.

There may be a case for further powers to be transferred to the CJC from other tiers of government, for example the CCR City deal does not have oversight of the South Wales metro project, this is something that could come within the remit of the new CJC.

Membership and Voting

Consultation Question Four: a) Do you agree with the proposed approach to membership of CJsCs including co-opting of additional members? Please give your reasons. b) What are your views on the role proposed for National Park Authorities on CJsCs, as described above?

We agree that the CJC should be comprised of representatives of the constituent councils. This has proved an effective structure to govern the Cardiff Capital Region City Deal enabling decision making at the necessary pace. However there are concerns that the nature of any vehicle which vests power in a single representative from each authority will lessen democratic accountability.

It is right that the regulations make provision for the national park authorities to become members of the CJC providing this is limited to, and does not go beyond, the exercise of the Strategic Development Plan functions of the CJC.

Consultation Question Five: a) What are your views on the proposed approach of 'one member one vote' and the flexibility for CJsCs to adopt alternative voting procedures? b) What are your views on the proposed quorum for CJsCs? c) What are your views on the proposed approach to voting rights for co-opted members to a CJC?

We agree with the position of 'one member one vote', any decision to move away from this in future should require an explicit decision from each of the constituent councils rather than being left to the CJC itself, or require a unanimous rather than majority vote. We agreed that quorum for the CJC should be higher than the 25% that applies in principal councils and that a level of 70% is appropriate providing that members may nominate a substitute who may attend and vote in their absence.

It is appropriate that the CJC regulations should be limited in the number of co-opted members with votes to prevent this exceeding the number of council members to preserve the democratic

accountability and legitimacy of the committee. The CJC will be able to deploy sub-committees and advisory boards to broaden its expertise and it is not necessary for the vote to be extended to the point where un-elected co-optees would be able to out-vote councillors.

Consultation Question Six: a) What are your views on CJsCs being able to co-opt other members and/or appoint people to sit on sub-committees?

Elected members have a broad range of expertise, as do many other stakeholders and we feel it is appropriate that CJsCs are able to co-opt people to sit on select committees to provide a diversity of views and increase scope for experts in different fields to become involved in shaping delivery.

Consultation Question Seven: a) Do you agree that the approach to co-option of members would enable wider engagement of stakeholders in the work of a CJC? b) What might be needed to support CJC members in the involvement and engagement of appropriate stakeholders in their work?

Involvement can be broadened in many ways. People do not always need to be co-opted to make a valid contribution, for example the use of advisory boards and project teams.

The Cardiff Capital Region currently has a range of advisory boards and sub-committees with membership drawn from all sectors who advise and make recommendations to the regional Cabinet and it would be expected that the same could apply to the CJC.

Consultation Question Eight: a) Do you agree that members and staff of a CJC should be subject to a Code of Conduct and that the code should be similar to that of Principal Councils? Please give your reasons. b) What are your views on the adoption of a Code of Conduct for co-opted members? c) Should all co-opted members be covered by a code i.e. those with and without voting rights?

We believe that members of the CJC, whether elected or co-opted, should be subject to a code of conduct enshrined in the Nolan Principles since this codifies that values and behaviours expected of those who are leading the CJC and gives assurances to the public about the standards that can be expected. This is particularly important for the CJC as it will be seen as one-step removed from the governance and decision-making arrangements of local authorities.

One option would be for members of the CJC to abide by the code of conduct within their own organisation. However as the CJC is a corporate body in its own right, the code should reflect its values and the particular circumstances of its operations.

Budget and Workforce

Consultation Question Nine a) What are your views on the proposed approach for determining the budget requirements of a CJC? b) What are your views on the timescales proposed (including for the first year) for determining budget requirements payable by the constituent principal councils?

This council is already making a significant financial contribution to the Cardiff Capital Region and that the CCR will transition into the CJC for south east Wales. However there are some concerns that the CJC is able to set its own budget without the need for this to be ratified by the constituent councils.

Consultation Question Ten a) Do you agree that CJCs should be subject to the same requirements as principal councils in terms of accounting practices? Please give your reasons. b) Do you agree that the detail of how a CJC is to manage its accounting practices should be included in the Regulations of General Application? If not what more would be needed in the Establishment Regulations?

It is accepted that the CJC should be subject to the same accounting practices as constituent council's. More broadly, there are some concerns that as current accounting practices discount the value of future benefits and costs, they are not necessarily conducive to incentivising the long-term thinking required which we would expect for a body which is tasked with delivering sustainable long term growth for the region and which is a duty under the Well-being of Future Generations Act.

Consultation Question Eleven: What are your views on the proposed approach to staffing and workforce matters?

We think it is necessary for CJCs to be able to employ and recruit staff in their own right to be able to undertake secondments to discharge duties. We agree that it is correct that CJCs do not adopt significantly different staffing arrangements in terms of conditions of service, political restrictions, accountability etc. than principal councils. However, some flexibility may be needed with regards to remuneration if these bodies are to be able to attract the necessary calibre of staff to operate within a UK and global marketplace.

While the principal that CJCs should not be a vehicle to erode or inflate salary levels it needs to be recognised that the reference point for a CJC when recruiting may not be a local authority in Wales but a city in Europe or North America.

Consultation Question Twelve: What are your views in relation to CJs being required to have or have access to statutory “executive officers”?

We have concerns about the financial costs of requiring CJs to have these four executive officers. The dedicated post of chief executive is clearly necessary. The roles of Chief Financial Officer and Monitoring Officer must be undertaken but we remain to be convinced that these need to be dedicated full-time posts within the CJC since those roles traditionally cover the whole remit of a local authority which is more complex and carries significantly larger budgets. We do not believe that a dedicated Chief Governance Officer is necessary. It is the belief of this authority that CCR currently has a staffing structure in place that could accommodate these key positions without the need for additional appointees.

Consultation Question Thirteen: Do you have any other views on provision for staffing or workforce matters within the establishment regulations?

No Further comments are made in relation to staffing / workforce matters

Governance

Consultation Question Fifteen: Do you think the regulations should provide for anything to be a decision reserved to the CJC rather than delegated to a sub-committee? If so what?

We agreed that certain decisions should be reserved to the CJC itself. These should cover any reports required by statute and the approval of the annual budget.

Consultation Question Seventeen: What are your views on CJs being subject to wider public body duties as described above?

We believe it is appropriate for CJs to be subject to duties that are placed on other public bodies

Consultation Question Eighteen: a) The Welsh Government is keen to continue working closely with local government and others on the establishment and implementation of CJs. Do you have any views on how best we can achieve this? b) In your view, what core requirements / components need to be in place to ensure a CJC is operational, and exercising its functions effectively? c) In particular, what do you think needs to be in place prior to a CJC meeting for the first time, on the day of its first meeting and thereafter?

We welcome ongoing dialogue and collaboration between Welsh Ministers and local government. These should take place at a regional level to reflect local context and the scale and maturity of existing regional relationships. It will be necessary to have a constitution in place from the outset along terms of reference for any sub-committees that will operate under delegated powers.

Consultation Question Nineteen: a) Do you think it would be helpful for the Welsh Government to provide guidance on the establishment and operation of CJs? b) Are there any particular areas which should be covered by the guidance?

We welcome additional guidance providing this is co-produced with the local government family and subject to agreement with the WLGA Council.

Consultation Question Twenty: a) How can the Welsh Government best support principal councils to establish CJs? b) Are there areas the Welsh Government should prioritise for support? c) Is there anything that CJs should/should not be doing that these Establishment Regulations do not currently provide for?

No specific response is being made to this question.

Consultation Question Twenty One: a) Do you agree with our approach to, and assessment of, the likely impacts of the regulations? Please explain your response. b) Do you have any additional/alternative data to help inform the final assessment of costs and benefits contained within the Regulatory Impact Assessment? If yes, please provide details.

We do not have any additional data which would enhance the Regulatory Impact Assessment.

Consultation Question Twenty Two:

a) We would like to know your views on the effects that establishment of CJs would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

b) What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Consultation Question Twenty Three:

Please also explain how you believe the proposed policy for the establishment of CJs could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

We do not believe that the establishment of CJsCs will have either a positive, or negative, impact on the language providing they remain bound by the Welsh Language Standards that would apply to principal councils in their region.