



RHONDDA CYNON TAF COUNCIL OVERVIEW AND SCRUTINY COMMITTEE

Minutes of the virtual meeting of the Overview and Scrutiny Committee held on Friday, 16 July 2021 at 2.00 pm.

County Borough Councillors - Overview and Scrutiny Committee Members in attendance:-

Councillor M Adams (Chair)

Councillor W Lewis Councillor G Caple
Councillor A Cox Councillor M Griffiths
Councillor G Hughes Councillor P Jarman
Councillor S Rees

Co-Opted Members in attendance:-

Mr J Fish, Voting Elected Parent / Governor Representative

County Borough Councillors in attendance:-

Councillor S Rees-Owen – Chair of Children & Young People Scrutiny Committee

Officers in attendance

Mr C Hanagan, Service Director of Democratic Services & Communication
Mr A Griffiths, Service Director Highways & Transportation
Ms A Richards, Service Director 21st Century Schools & Transformation
Ms N Goodman, Senior 21st Century Schools Officer

17 Apologies

An apology for absence was received by County Borough Councillors J Bonetto, J Brencher, J James, W Jones, D Owen-Jones and E Stephens.

18 Declaration of Interest

In accordance with the Council's Code of Conduct, the following declarations of personal interests were made in respect of Agenda Item 2 - **21ST CENTURY SCHOOLS AND COLLEGES PROGRAMME - MUTUAL INVESTMENT MODEL (MIM)**

County Borough Councillor P Jarman – “I am a member of the Planning & Development Committee, whatever I say today I say with an open mind as I will when the matter comes to the Planning & Development Committee. I will deal with the planning application on the merit of the planning matters of the day, I have not pre-determined the matter”

County Borough Councillor S Rees – “I am the Chair of the Planning &

Development Committee”

County Borough Councillor G Caple - “I am the Vice Chair of the Planning & Development Committee”

County Borough Councillor G Hughes – “I am a member of the Planning & Development Committee”

County Borough Councillor W Lewis – “I am a member of the Planning & Development Committee”

19 Welcome & Introductions

The Chair welcomed Members to the Overview & Scrutiny Committee and introductions were made.

20 21st Century Schools and Colleges Programme - Mutual Investment Model (MIM)

The Overview and Scrutiny Committee received the report of the Director of Education & Inclusion Services in respect of the 21st Century Schools and Colleges Programme – Mutual Investment Model (MIM). A request had previously been made for this matter to be added to the forward work programme of the Overview & Scrutiny Committee and for it to be brought before Committee at the appropriate time.

Members noted that at this stage the report was seeking approval for the submission of an Outline Business Case to Welsh Government for consideration in July / August 2021 and progression to stage two of the of the MIM process with Welsh Government and the private sector partner.

Following an overview of the report a number of Members sought clarification on the difference between the previous PFI initiative which was a fully inclusive services package and included all facilities management services for a 25-year period, for example cleaning; grounds maintenance; furniture; and ICT to name just a few. Whereas with the current MIM only building maintenance is provided for the 25-year period. MIM also has more robust arrangements in place at Welsh Government level, such as a specific Project Director for MIM, a Strategic Partnership Board with representation from all Local Authorities (Andrea Richards and Dave Powell represent RCT), standardised contracts developed by Welsh Government for all Local Authorities and an 81% intervention rate.

Members were keen to identify whether the scheme would proceed if the bid is unsuccessful and asked whether in that case, the local authority has alternative arrangements in place such as a more traditional model of funding.

Members noted that the capital funding for part of the 21st Century Schools and Education Programme, Band B has been committed to the Greater Pontypridd Schools and the whole programme for capital has been allocated. They were advised that MIM, as the only option available to the Local Authority, is advantageous, affordable and enables the local authority and Welsh Government to provide more 21st Century Schools as it is a source of additional funding. Members were advised that RCT is one of two Local Authorities selected by Welsh Government to progress with a MIM Schools Pathfinder

Project. As a Pathfinder Project and a Net Zero Carbon pilot project, Welsh Government are funding 100% of the additional survey costs and the Net Zero Carbon technical work.

Members raised the following queries with regards to the MIM model itself:

- How do the indicative costs compare to other schools that are traditionally financed?
- The transfer of risk to the private sector- if the companies go into liquidation, who picks up the financial costs and how would the contract be maintained?

Members were advised that in the event of the contractors going into liquidation, any additional costs would be picked up by the Special Purpose Vehicle Company (SPV) – the company established to deliver this project with whom the local authority would have a contract. The local authority has no direct contact with the contractors, they are contracted and managed by the SPV who have sole responsibility and contractual obligations with the contractors.

Referring to the indicative costs, the capital costs for the local authority (based on current estimated figures) is £21.9m. The amount payable by the local authority subject to indexation over the 25 years, based on current cost estimates provided is approximately £11.4 million for 3 brand new, fully maintained (building maintenance) schools for 25 years. This compares favourably with a capital model where each school could cost approximately £8million to £10million (depending on the size of the school). The 81% intervention rate represents a huge advantage for the local authority and is helping deliver more schools.

Committee was advised that as part of the contract there is an 'independent tester' role, a joint appointment between the company and the local authority who will ensure the appropriate checks are undertaken throughout the construction and handover period. There are also mechanical and technical management checks and processes in place. The Council's Corporate Estates Department has been involved with the process and will continue to be involved in the process, with the local authority having the ability to undertake regular inspections of the works.

A query was raised regarding the financial implications, that funding is subject to '*approval by Cabinet and by the Welsh Government following the submission of the relevant Business Cases and the receipt of finalised detailed costs*' and the possibility that Welsh Government may not approve the business case.

Committee was advised that the local authority must submit business cases to Welsh Government for review and approval following the Treasury's five case business model process – this is a detailed and robust process and the financial implications and the payment schedule will be presented to Cabinet for approval once final project costs become available

A statement was made in respect of the Equality Impact Assessment within the section 'What evidence has been used to support this view?' It was suggested that the responses did not represent solid and tangible evidence in the form of data or reference to studies to support the assertions made.

With regards to the Welsh Language Impact Assessments attached to the report

at Appendix 2, where it states that *‘The aim has been to embed positive habits and attitudes towards the Welsh language through purposeful planning within schools and to promote the informal use of the Welsh language amongst learners inside and outside school’* a query was raised as to the extent to which the proposal brings the local authority closer to delivering the targets outlined in the Welsh in Education Strategic Plan (WESP) which support the aim of Welsh Government’s Cymraeg 2050.

Committee noted that the Council is building capacity as part of the 21st Century Schools Programme in YG Rhydywaun and YGG Aberdar and where there is a recognised need for Welsh Medium Education. Schools encourage the use of the Welsh Language across the curriculum which is steeped in the Welsh language and through play and break times and is promoting Welsh medium education and additional opportunities to learn Welsh and/or develop skills and learning through the medium of Welsh. The message that schools are community schools and will be fully integrated and can be used to promote the Welsh Language was enforced. The Council’s draft WESP provides details for the next 10 years of the Council’s commitment to improve the use of the Welsh language in all schools and provide opportunities for learners to use Welsh in different contexts in all schools (Outcome 5).

In conclusion, it was confirmed that at the end of the 25-year term, there will be a thorough handback procedure overseen by an independent surveyor (and involving the Council’s technical experts within Corporate Estates) who will undertake a detailed assessment of the buildings to identify any issues and address any project costs / rectification works required as part of the contractual agreement prior to the building being handed back to the local authority.

RESOLVED to:

1. Acknowledge the information in the report of the Director of Education & Inclusion Services, its appendices and the information provided during the meeting;
2. Request that the comments of the Overview & Scrutiny Committee are circulated for Cabinet’s consideration in advance of it’s meeting on the 20th July 2021;
3. Identify that there will be a further report coming forward for consideration by the Cabinet at a future date, detailing the financial implications and the payment schedules of the MIM.

21 Consultation Responses - New coal tip safety regime in Wales

The Service Director Democratic Services & Communications presented his report which provided the opportunity for members of the Overview & Scrutiny Committee to formally consider and adopt its response to the Law Commission’s consultation on Regulating Coal Tip Safety in Wales, following discussions with representatives from the Law Commission of England and Wales at its meeting on the 5th July 2021.

Members were advised that any further comments in respect of the consultation

would be added to the attached consultation responses and submitted before the closing date of the 10th September 2021.

Members considered that although the majority of the draft responses captured their comments and feedback, they wished for the following points to be included before final submission to the Law Commission's consultation:

- Is it Welsh Government's intention to repeal the Mines and Quarries (Tips) Act 1969 or remain as England/Wales Legislation amid fears that the two will conflict at some point in the future;
- Consultation question 31 - Generally, Members felt that legislative provision should be made in these instances that specialist, qualified staff and a panel of engineers should be responsible and take action in these circumstances. Members also commented that the proper authority should be making the decisions, taking action (quickly where necessary) and responding to coal tip emergencies;
- Consultation question 32 – Members again sought advice whether Welsh Government will repeal Regulation 40 of the Environmental Permitting Regulations (England and Wales) 2016 in favour of an All-Wales alternative;
- Consultation question 34 -Members hoped that the Ecologists would continue to acknowledge that many coal tips are now developing into unique ecological habitats in their own right;
- Consultation question 13 – Members sought clarification on this response as they felt that Tip Register information should be available to members of the public but were mindful that certain information contained within the tip register should not be accessible to the public, such as personal information, calculations and costings. With regard to tip inspection reports the Committee suggested that these could be released if there is a standard uniform approach and classification to the tip reports and they are undertaken by experienced, competent engineers. However, the Service Director Highways and Transportation recognised there may be further clarification to be sought from the Council's Legal Services in advance of a response being provided and advised that he would confirm this following the meeting.
- Members discussed the serious legacies that remain with mining industries and acknowledged the uncertainties relating to the heritage infrastructure.

Following further consideration of the issues and responses, Committee **RESOLVED:**

- To include the above-mentioned additions to the consultation responses in advance of submission; and
- That a letter to the appropriate Ministers is sent on behalf of the Overview & Scrutiny Committee seeking clear and unequivocal clarification as to whether Welsh Government will repeal the Mines

and Quarries (Tips) Act 1969 or whether it will remain as two separate Legislations and whether the Regulation 40 of the Environmental Permitting Regulations (England and Wales) 2016 be repealed for an all-Wales alternative.

22 Corporate Joint Committees - Consultation on draft general regulations

The Service Director Democratic Services & Communications presented his report which sought Members' feedback on the consultation initiated by Welsh Government on the next set of general regulations – the Corporate Joint Committee (General) (No.2) (Wales) Regulations 2021.

The Service Director advised that despite the late notification of the consultation this would be an opportunity for Committee to respond to the next set of general regulations concerning the roles of certain 'executive officers' to support the work of the CJC, some general provisions in relation to the staff of a CJC and discharge of functions of a CJC by other persons (sub-committees, staff etc). The Service Director highlighted one significant change relating to the removal of the Chief Governance Officer so that the 'small number of functions identified could be undertaken by the CJC Monitoring Officer'.

In conclusion, the Service Director reported that the next stages will involve a further consultation on the draft statutory guidance for the Establishment of CJCs, which will run for 12 weeks and close on the Monday 4 October 2021. He proposed that the Overview & Scrutiny Committee consider this consultation at its meeting on the 21st September 2021.

Members noted the significant change as outlined by the Service Director and raised a query with regards to the appointment of the Chief Monitoring Officer and Chief Executive and whether they would have dual mandates and also serve the respective local authorities, essentially wearing 'two-statutory hats' within these roles. Concern was raised as to the employment of staff to service the CJC with no local knowledge of the geographical area in question.

Members commented that the CJC would be a powerful organisation to which certain statutory services will transfer with the local authority Leaders at the centre of the decision-making process.

The Chair raised concern with the proposal to remove the Chief Governance Officer, with the scant information available and with the lack of scrutiny and accountability associated with the proposals. He welcomed further information regarding the scrutiny arrangements in due course.

Another Member shared his misgivings with the model particularly with regards to the access to information whereby members of the Principal Authorities will have access to documents excluding those containing exempt information. The Member suggested that the exempt reports contain the more important information and decision-making processes. Concern was also raised with regards to the budget setting which the CJC will be able to do before any agreement by the Principal Authority. It was noted that this would impede the scrutiny of both the finances and access to information.

The Service Director acknowledged the need for confidentiality in certain cases such as with the Cardiff Capital Region (CCR) City Deal around issues relating to commercially sensitive information and suggested this may be a drafting error.

The Committee further discussed the CJC budget setting and concerns that the proposals may have a detrimental impact on the local authority budget and whether there may be cuts as a consequence.

In conclusion one Member pointed out, that as stated in the accompanying regulations, the CJC is defined as a Local Authority.

Committee **RESOLVED:**

- To acknowledge the information regarding the next set of general regulations- the Corporate Joint Committee (General) (No.2)(Wales) Regulations 2021.
- To authorise the Service Director Democratic Services & Communications, in consultation with the Chair of the Overview & Scrutiny Committee, to convey the comments and responses of committee members to the WG prior to the consultation closing.

23 Chair's Review and Close

The Chair of the Overview & Scrutiny Committee took the opportunity to summarise the key points from the meeting which had undertaken pre scrutiny of the Mutual Investment Model (with comments to be presented to the Cabinet on the 24th July), provided a formal response to the Welsh Government consultation regarding the Corporate Joint Committee (General) (No.2)(Wales) Regulations 2021 and formalised its responses for the Law Commission's consultation on the Regulation of coal tip safety in Wales.

In conclusion, the Chair thanked Officers and Members for their attendance and contributions.

This meeting closed at 3.35 pm

**CLLR M. ADAMS
CHAIR.**