



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

OVERVIEW & SCRUTINY COMMITTEE

9TH DECEMBER 2020

WELSH GOVERNMENT CONSULTATION: DRAFT REGULATIONS TO ESTABLISH CORPORATE JOINT COMMITTEES

JOINT REPORT OF THE CHIEF EXECUTIVE, DIRECTOR OF LEGAL SERVICES AND SERVICE DIRECTOR - DEMOCRATIC SERVICES AND COMMUNICATIONS

1. PURPOSE OF THE REPORT

1.1 The purpose of the report is to

- (i) Update Members on the introduction of Corporate Joint Committees (CJCs) as provided for in the Local Government and Elections (Wales) Bill which is currently awaiting Royal Assent (anticipated to be granted in early 2021);
- (ii) to consider draft regulations which would be made under that legislation in respect of the establishment and operation of CJCs; and
- (iii) seek Members feedback on the consultation initiated by Welsh Government in respect of those draft regulations.

2. RECOMMENDATIONS

It is recommended that Members:

- 2.1 Consider and provide their feedback on the [Welsh Government \(WG\) Consultation document](#), attached at Appendix 2 to the report, which relates to draft regulations that would establish the South East Wales CJC and then exercise the following functions across the region; (1) economic well-being, (2) strategic development planning, and (3) developing transport policies; and
- 2.2 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.

3. REASONS FOR RECOMMENDATIONS

- 3.1 The formation of CJC's as provided for in the Local Government and Elections (Wales) Bill will alter the landscape and governance of how certain functions are undertaken by the constituent councils making up the CJC across the South East Wales Region. WG hope they act as the catalyst to the development and implementation of collaborative arrangements across local government, where regional planning and delivery makes sense, using them as a means of maximising outcomes for the people of Wales by maintaining local democratic accountability, reducing complexity and making the best use of resources
- 3.2 WG have published [draft regulations](#) which would establish the South East Wales CJC and set out how the CJC would operate. They have initiated a consultation on those regulations which ends on 4th January 2021.
- 3.3 WG have said they welcome input to ensure the regulations are shaped by local authorities to ensure they reflect local/regional requirements. Members therefore have the opportunity, through the consultation, to provide any feedback they have in relation to the draft regulations and CJCs more generally.

4. BACKGROUND

- 4.1 The Local Government and Elections (Wales) Bill introduced into the Senedd in November 2019 included (in Part 5) provisions to create via regulations a vehicle for consistent regional collaboration between principal councils - CJCs. The provisions also enable the constituent principal councils to invite participation by partners from other sectors in the work of CJCs through a process of co-opted membership. The constitutional and governance arrangements as well as the functions of the CJC will be set out in the regulations establishing them. The Bill sets out what the regulations will provide for to enable the effective establishment of CJCs. However, the Bill does not detail the specific functions of a CJC or how it will be governed. This is all done via the regulations.
- 4.2 Welsh Government (WG) maintain that the model of CJCs, outlined later in the report, builds on the best that has already been achieved in the development of regional arrangements in different parts of Wales.
- 4.3 WG's aim is to ensure there are consistent, resilient and accountable regional arrangements for the delivery of three important functions (i) strategic land use planning (ii) strategic transport planning and (iii) economic development. This approach is seen as all the more important given the COVID 19 pandemic as ways are found to help Wales recover.
- 4.4 Importantly WG recognise that collaboration is not new to local government, principal councils have been collaborating effectively in a range of areas for a long time. None more so than this Council of course, with Rhondda Cynon Taf playing a significant role in established

collaborations across the Cwm Taf Morgannwg footprint and wider South Wales region. Several of these collaborations, they say will be easily accommodated by the Corporate Joint Committees. Others require a less consistent approach across Wales and will continue to use existing governance arrangements.

- 4.5 WG believe that by establishing CJC's through regulations it will provide more coherence and less complexity in the approach to regional governance arrangements in exercising the three functions proposed. Their aim is to reduce complexity and duplication of effort and resource. WG hope they act as the catalyst to the development and implementation of collaborative arrangements across local government, where regional planning and delivery makes sense, using them as a means of maximising outcomes for the people of Wales by maintaining local democratic accountability, reducing complexity and making the best use of resources.

5. KEY FEATURES OF A CJC

- 5.1 In contrast to other joint committee structures, CJCs will be separate corporate bodies and legal entities to their constituent councils which will be able to directly employ staff, hold assets and budgets, and be directly responsible for exercising functions.
- 5.2 A CJC will not be the only vehicle through which local government can collaborate but the intention is to provide local government with a powerful new tool where appropriate.
- 5.3 CJCs aim to offer a consistent approach to strategic planning and delivery at a scale where it makes sense to do so. WG believe they will help to align the key strategic decisions which underpin the sustainable development and transformation of regions as a whole.

Functions

- 5.4 CJCs will have functions that cover economic well-being, strategic planning (LDPs will remain with LAs) and transport.
- 5.5 The economic wellbeing power is potentially wide-ranging and significant, but how far it is used will be determined by a CJC. The suggestion is that the current city and growth deal strategic functions would be transferred to CJCs.
- 5.6 Concurrency of functions has been a concern to some LA's, as they want to ensure a local economic development function as well as a regional one. The draft regulations make clear that this is a 'matter for each CJC in response to local and regional needs'.
- 5.7 School improvement' (although in the Bill) does not feature as an early priority for inclusion in the CJCs consultation document. The Bill specifies that CJCs will include only the 4 listed functions in the Bill (which are existing statutory or voluntary regional functions). CJCs can voluntarily make a request to Ministers to add specific functions to a CJC. A future Welsh Government could however add other functions to a CJC via future

legislation which would amend Section 74 of the Bill (the section specifying the 4 CJC functions).

Membership

- 5.8 The membership of a CJC will be the Leaders of the constituent local authorities ensuring Leaders are at the centre of the decision making process.
- 5.9 Leaders, following advice/recommendations from any relevant subcommittees, will be responsible for making final decisions relating to the functions exercised by a CJC.
- 5.10 The CJC, via the Leaders, will be able to co-opt additional members (either cabinet members or other partners) to it or any of its sub committees (if it has chosen to establish any) as it sees fit and should it wish to do so. Such membership can be co-opted with or without voting rights and voting rights can be ascribed to all of the functions of a CJC or to specific functions only.
- 5.11 The expectation would be that the CJC would use the flexibility to co-opt members to ensure appropriate stakeholder engagement relevant to the functions which they are exercising.
- 5.12 National park members (Brecon Beacons NPA in relation to this authority) must also be a member when dealing with SDP functions

Establishing Corporate Joint Committees

- 5.13 The primary route for establishing CJCs, or expanding the functions they are responsible for, is at the request of local government.
- 5.14 Welsh Ministers can instigate the establishment of CJCs in relation to a limited number of specified functions only. These functions are in relation to Strategic Development Planning and Regional Transport Planning; plus the CJCs will be given a power to do things to promote the economic well-being of their areas. There is already consensus that working at this scale makes sense in terms of these functions - aligning economic development, transport and land use planning approaches to develop successful regional economies and encourage local growth. It is intended that CJCs will enable the consolidation of existing regional arrangements. It also enables the rationalisation of regional working approaches in legislation for planning and transport.

How a Corporate Joint Committee will operate

- 5.15 The detail on how a CJC operates in practice will be determined by the members of the CJC itself.
- 5.16 This flexibility will enable the CJCs to differ between geographical areas to meet the different needs and ambitions of their region.
- 5.17 A CJC will be a member of the 'local government family' and, where appropriate, will largely be subject to the same powers and duties as principal councils in the way that they operate. The intent is to avoid as far as possible making CJCs do things in a manner that local government

would be unfamiliar with or to create new and unfamiliar procedures, obligations, powers etc. which might increase administrative burdens.

Sub committees

- 5.18 A CJC will be able to establish sub committees to support it to exercise its functions should it wish to do so.
- 5.19 It will be for each CJC to decide if it wishes to have sub-committees, and who sits on them. However it might be reasonable to expect (although it is not required) for a CJC to have sub-committees for each of its main functions and that these sub-committees might engage broadly and involve a range of relevant stakeholders.

Voting

- 5.20 Voting will operate on a 'one member one vote' basis, however, once established, a CJC could adopt alternative voting procedures should they wish
- 5.21 Some member authorities remain concerned that OMOV is not equitable or fair given the different sizes of authorities which would undermine accountability.
- 5.22 The model of a CJC and its subcommittees offers a fusion between the need to involve partners and the need to ensure decisions are coherent across functions and maintain democratic legitimacy. As stated above, it is the CJC, consisting of all Leaders from all constituent authorities (plus co-opted members if Leaders choose) that would make final decisions with a view to ensuring coherence across the functions. Statutory decision-making powers over the specified functions will be vested in the CJC and therefore the leaders who make up the CJC (and possibly any other members who may be co-opted). In reality, however, to ensure accountability and political support, leaders will inevitably need to ensure their councils have considered and endorsed proposed regional plans prior to agreeing them at a CJC, as is the case currently with growth and city deals. The regulations and CJC constitutions will need to consider dispute resolution arrangements and should plan to respond to a 'worst case scenario' where there is disagreement or disengagement from one or more constituent leaders/councils.

Staffing / Resources

- 5.23 CJC's will have the flexibility to agree the staffing and resourcing required and to determine the approach it takes to such matters.
- 5.24 For example a CJC will be able to employ and recruit staff in its own right; make agreements to have staff placed at the CJC's disposal; and undertake secondments (in and out) to enable CJC's to discharge their functions.
- 5.25 CJC's must 'appoint' a Chief Executive, Chief Finance Officer, Monitoring Officer and Chief Governance Officer (however, these could be provided by a constituent authority, or seconded etc).

Funding

- 5.26 CJs will be funded by their constituent councils, in proportions that they will be able to determine.
- 5.27 A CJC will be required to calculate its budget requirement, set out how that requirement is to be met and keep proper accounts. In calculating its budget requirements a CJC will be able to take into account any other funding streams it might receive. The draft regulations state the CJC members (leaders) must unanimously agree a budget and that 'constituent' councils must pay a proportionate amount. If there is a disagreement on the proportionality of funding, Ministers have powers of direction.
- 5.28 As with local authorities CJs will be required to keep proper accounting records and to prepare annual accounts in accordance with existing local government legislation.
- 5.29 The draft regulations provide outline arrangements and timescales for the determination of budgets. The proposed deadlines in the draft regulations will require further exploration to ensure that they align with council budget setting processes and timescales.

Scrutiny

- 5.30 The regulations state that CJs must set up an overview and scrutiny committee.
- 5.31 Scrutiny will be essential to ensure accountability back to authorities and wider councillors.
- 5.32 There has been some discussion amongst officials as to whether a 'sub-committee' of the CJC is an appropriate scrutiny vehicle, or whether authorities should set up a Joint Overview and Scrutiny Committee or individual councils should scrutinise their leader and the CJC directly.
- 5.33 Irrespective of any joint scrutiny arrangement, individual council scrutiny committees would be able to seek to scrutinise regional bodies as they do now. A balance will need to be struck however in managing multiple scrutiny demands on senior CJC staff and members across several constituent authorities' scrutiny arrangements. Concern has been expressed by the WLGA and Officer, on the lack of clarity at this stage, around this important element of the democratic process.

Timing

- 5.34 CJs must meet for the first time by the end of September 2021. Although this would likely be an initial meeting and some bedding in of arrangements will be required.

Costs

- 5.35 The consultation document notes that the Minister would be prepared to provide set-up costs to support CJs. The accompanying Regulatory Impact Assessment (RIA) outlines the financial implications of 'Doing Nothing' and 'Establishing CJs'. The RIA notes that it is difficult to

accurately estimate, as it depends on how ambitious CJC's may wish to be and whether they would have limited core staff/overheads, perhaps provided by an authority, or recruit their own senior staff. The RIA uses a range of sources to estimate costs, including previous RIAs for strategic planning panels, the existing programme office costs for current city and growth deals and benchmarks for senior staff.

6. REGULATIONS TO ESTABLISH CJCS AND CONSULTATION

- 6.1 During the past 18 months WG have been engaging on plans for CJC's with various stakeholders, such as the WLGA Partnership Council and Executive Board, Lawyers in Local Government, the Society of Welsh Treasurers, the WLGA LA Economic Development & Regeneration Officers Network, HR Directors and the Wales Growth/City Deal regions.
- 6.2 The Draft Regulations, as described above, were published on Monday 12th October. These have been issued for consultation (with a closing date of 4th January). A copy of the draft regulations (applicable to the South East Wales region) are appended at Appendix 1 to the report.
- 6.3 WG have said they welcome input to ensure the regulations are shaped by local authorities to ensure they reflect local/regional requirements. The WG consultation document relating to the regulations is appended at Appendix 2 to the report. Appendix 3 contains the specific questions WG are seeking feedback on through the consultation.
- 6.4 An additional set of 'Regulations of General Application will be issued for consultation in the New Year. It is envisaged these will cover what existing legislation and wider statutory duties might apply to CJC's, such as the sustainable development duty and Welsh Language Standards. Statutory guidance will also be produced.
- 6.5 Members therefore have the opportunity, through the consultation, to provide any feedback they have in relation to the draft regulations and CJC's more generally.
- 6.6 Members are asked to note that the Cabinet will also considered the WG consultation and draft regulations at its meeting on 17th December 2020. This report proposes a separate response to the consultation and recommends delegating authority to the Chief Executive and Leader to respond to the Council on behalf of the Cabinet.

7. EQUALITY AND DIVERSITY IMPLICATIONS

- 7.1 There are no equality or diversity implications aligned directly to this report. WG have however published an Integrated Impact Assessment in respect of the draft regulations which can be accessed [here](#). It is planned that CJC's would be subject to the Equality Act 2010 and Welsh Language Standards.

8. FINANCIAL IMPLICATIONS

- 8.1 There are no financial implications aligned specifically to this report however the planned introduction of CJs will and the level of detail available in respect of these is set out in the accompanying [Regulatory Impact Assessment](#) to the regulations (referenced in para 5.35 above).

9. LEGAL IMPLICATIONS & LEGISLATION CONSIDERED

- 9.1 The relevant legislation linked to the introduction of CJs and how they would operate is set out in the body of the report.

10. LINKS TO THE COUNCILS CORPORATE PLAN / OTHER CORPORATE PRIORITIES

- 10.1 WG say in developing the CJC mechanism for local government regional collaboration there is a particular emphasis on applying the sustainable development principle. In particular, building resilience for the long-term and ensuring the proposals are grounded in collaboration and integration of objectives with local government. The proposals for regionalisation of some local authority functions reflect the ways of working as they are intended to enable local authorities to plan for the longer term and require collaboration and joint working between local authorities. The proposals also support further integration of services and pooling of often limited resources and expertise, providing a greater level of capacity and capability overall and providing space for strategic thinking and planning that has been largely squeezed out in individual local authorities.
- 10.2 In addition to ensuring the sustainable development principle and five ways of working underpin its approach and they have also considered how a regional approach can maximise our contribution to the well-being goals. In doing so they say CJs put in place a new framework to enable local government to make their contribution to the goals more effectively. This means the direct contribution of CJs to achieving the goals is limited, but the indirect contribution will be much more significant.

11. CONCLUSION

- 11.1 CJs will have functions that cover economic well-being, strategic planning (LDPs will remain with LAs) and transport. WG hope they act as the catalyst to the development and implementation of collaborative arrangements across local government,
- 11.2 WG have published draft regulations which would establish the South East Wales CJC and set out how the CJC would operate. They have initiated a consultation on those regulations which ends on 4th January 2021.
- 11.3 WG have said they welcome input to ensure the regulations are shaped by local authorities to ensure they reflect local/regional requirements.

Members therefore have the opportunity, through the consultation, to provide any feedback they have in relation to the draft regulations and CJs more generally.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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SERVICES AND SERVICE DIRECTOR - DEMOCRATIC SERVICES AND
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Background Papers

Freestanding Report.