

# CABINET

**Report of:** Interim Chief Executive

**Date:** 17 May 2021

**Cabinet Portfolio:** Leader

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## **SOUTH WEST WALES CORPORATE JOINT COMMITTEE**

### **Purpose**

To provide an overview to Members on the requirement to establish Corporate Joint Committees (“CJCs”) and to seek delegated authority for officers to enter into discussions with the authorities referenced in this report to develop suitable proposals for the CJC arrangements in South West Wales. This is the first of a series of reports that members will need to consider.

### **Background and Context**

Part 5 of the Local Government and Elections (Wales) Act 2021 (“the Act”) provides for the establishment, through regulations, of CJCs. This can be achieved by two routes: at the instigation of two or more principal councils; and at the instigation of Welsh Ministers, but only in relation to certain functions or functional areas which are specified on the face of the Act.

The Welsh Government believes that CJCs have a role to play in bringing coherence to regional governance – strengthening local democracy and accountability by integrating decision making, with the goal to build wherever possible on existing regional arrangements. The wider purpose is to share resources and ensure all local priorities and requirements can be complemented by regional action, ensuring a sense of consistency, harmony and resilience permeates regional public investment, planning and accountability.

Establishment Regulations have now been approved by the Senedd to establish four CJCs in Wales

- The Mid Wales CJC Regulations 2021
- The North Wales CJC Regulations 2021
- The South East Wales CJC Regulations 2021
- The South West Wales CJC Regulations 2021 (“the Establishment Regulations”)

The Welsh Local Government Association political group leaders wrote to the Minister in March 2020 to set out the local government view that the footprint for

CJCs should be based on the existing city and growth deals geography. Accordingly, Pembrokeshire County Council will be included in the South West Wales CJC, also comprising:

- The City and County of Swansea
- Carmarthenshire County Council
- Neath Port Talbot County Borough
- Brecon Beacons National Park
- Pembrokeshire National Park

Governance will be a key element of CJCs and a number of factors must be considered by CJCs.

- **Composition** – each CJC will be comprised of a number of principal councils that, when combined, will form the area of the CJC. The CJC will be run by a committee of its members and it will be the CJC which will be responsible for delivering the functions exercised by it and taking the necessary decisions required to deliver those functions. A CJC will be accountable to its constituent principal councils and CJC members will report back to their principal councils and respond to questions and scrutiny. However, the CJC will have powers delegated to it and will make timely decisions without the need for ratification by its constituent principal councils.
- **Membership** – CJCs will comprise of the Leaders (senior executive members) of the constituent councils. The Leaders will decide whether additional representatives from the constituent councils or other organisations will be invited to be members of the CJC. The CJC will be able to co-opt such members (co-opted participants) to the CJC and determine/agree the terms of membership of any co-opted member (e.g. voting rights, role, funding contribution etc.).
- **Meetings** – the Establishment Regulations require that each CJC must hold its first meeting by Spring 2022. It will be possible for a CJC to meet as soon as the Establishment Regulations come into force, but CJCs are not expected to be fully operational on day one as they need to take various decisions (e.g. election of chair & deputy chair; appointment of statutory officers) and implement governance & administrative arrangements. The frequency of meetings will be for each CJC to determine.
- **Voting arrangements** – CJCs will be established on a ‘one member one vote’ (OMOV) basis with decisions being taken by simple majority; however, CJCs will have the ability to adopt alternative voting procedures should they wish to do so. If a vote is tied, the matter is not carried and the chairperson will only have the casting vote in decisions relating to the exercise of strategic planning functions. The Establishment Regulations provide a limit on the number of co-opted members with votes, but only in

so far as that the number of votes which may be cast by co-opted members may not exceed the number of votes cast by council members (plus National Park Authority members on strategic planning matters). They also provide for a quorum of no fewer than 70% of the voting members.

- Liability of members – CJsCs will be corporate bodies in their own right and the members will be taking decisions on functions which are theirs and theirs alone. As a result, in the event of any claim or legal action, it would be inappropriate for liability to be allocated or apportioned to each constituent council. CJsCs should therefore be required to indemnify their members for the decisions they take. The CJC should hold the liability, rather than individual members, employees or others discharging functions on their behalf.
- Sub committees – CJsCs will be able to establish sub committees if they wish to do so and decide who sits on them. These could consist of members of the constituent principal councils other than those members on the CJC itself (e.g. relevant Cabinet Members). Other partner organisations may also be invited/co-opted to be sub-committee co-opted participants should a CJC wish to do so.
- Scrutiny – each CJC will be required to put in place appropriate scrutiny arrangements (at the discretion of the CJC) and have an Audit and Governance Committee. Scrutiny committees are expected to not include a member of the CJC (or one of its sub-committees) and could include members (including non-executive members) of the constituent principal councils, whilst also taking account of political balance in the constituent principal councils.
- Standing Orders and Code of Conduct – all CJsCs will be required to make standing orders for the regulation of their proceedings and business. They will also be required to adopt a Code of Conduct for its members and staff, and will fall within the future scope of the Public Service Ombudsman for Wales.

A number of Statutory Instruments have also been laid alongside the Establishment Regulations to ensure that, from the point they are established, CJsCs:

- are subject to appropriate standards of conduct and come under the remit of the Public Services Ombudsman for Wales
- are subject to appropriate accounting and financial management duties and come within the remit of the Auditor General for Wales
- are subject to the Public Services Equality Duty
- will be able to be subject to Welsh Language Standards

Whilst the Act provides for improving education to be one of the functions that Welsh Ministers can specify a CJC on, this function is not provided for in the Establishment Regulations. Welsh Ministers have been clear that consideration of the role of CJsCs in the area of improving education is something that would evolve over time and further discussion is required with principal councils about the desired approach.

Three specific areas however are now expected to be incorporated into CJs:

- strategic development planning;
- regional transport planning; and
- the power to do things to promote or improve the economic well-being of the areas covered by the principal councils within the region.

### Strategic Development Planning

The intention of the Welsh Ministers is to create a hierarchy of Development Plans in Wales with the National Development Framework at the highest level, and with Strategic Development Plans sitting between that and the Local Development Plan and with the requirement that all are in general conformity with each other.

The requirement to prepare Strategic Development Plans is already contained in the Planning (Wales) Act 2015, allowing the option to produce Strategic Development Plans either on a voluntary basis (by two or more Local Planning Authorities (LPAs) or by Ministerial Direction.

The policy intent in respect of Strategic Development Plans is to introduce a more strategic approach to plan making at a scale greater than individual Local Development Plans. There is an identified need to improve how the planning system addresses issues that cross local authority boundaries, to reflect how people live their lives today and in the future. Strategic Development Plans aim to provide a more consistent, cost effective and efficient approach to plan making, with key decisions taken once at the strategic level. This will allow larger than local issues such as housing numbers, strategic housing allocations, strategic employment sites, strategic green infrastructure routes, supporting transport infrastructure which cuts across a number of Local Planning Authority areas to be considered and planned for in an integrated and comprehensive way. The aim being a more efficient and effective planning outcomes for communities.

### Regional Transport Planning

Section 108 of the Transport Act 2000 Act requires a local authority to develop a local transport plan which promotes safe, integrated, efficient and economic transport within the authority's area.

The particular function to create this regional transport plan will now vest in the CJC. The aim of the CJC will help to reflect the overarching Welsh Government Transport Strategy which is also being reviewed and is currently at the consultation stage. Llwybr Newydd – the Wales Transport Strategy sets out the long term vision for transport in Wales.

### Economic Well-Being

The Economic Wellbeing function is the power to do anything which the CJC considers is likely to promote or improve the economic wellbeing of its area. This will

enable the principal councils, should they wish, to evolve the current regional approaches to the City and Growth deals into the CJC structures.

It may be necessary for a CJC and its constituent councils to operate the powers concurrently. The CJC will need to agree a process with its constituent principal councils for agreeing how this might operate in practice including but not limited to the specific activities within the scope of the agreement, how agreement will be achieved, reviewed and how disputes may be resolved. This is a matter for each CJC in response to local and regional needs and is in line with the approach to enable flexibility and local determination where possible. The Welsh Government intends to provide guidance to CJCs and its constituent principal councils on this matter.

## **Next Steps**

The Leaders of all four principal councils within the South West region are agreed that work should now commence to establish appropriate governance arrangements for the CJC. Welsh Government are making funding available, on a competitive basis, to create capacity to do this work. A prospectus was issued by Welsh Government on 24<sup>th</sup> March 2021 (Appendix 1) and an expression of interest has been submitted by the four Leaders in respect of this funding opportunity. The prospectus aims to set out the scope of the financial support available to support regional transitional planning arrangements and enable preparatory work to begin. It outlines a range of core areas associated with establishing and implementing CJCs which the Welsh Government could provide financial support towards, and includes, for example:

- Programme resource to take the lead in each region to plan and oversee the transition from existing arrangements to CJCs
- Dedicated resource / additional expertise to coordinate and /or develop appropriate constitutional and governance arrangements for the CJC;
- Support for any meetings which may take place during the implementation / regional transitional planning phase
- Expertise to develop approaches (potentially 'once for Wales' common approaches) to aspects such as scrutiny arrangements / standards / approaches to terms and conditions for staff
- Other activity associated with setting up / establishing a CJC.

In drawing up proposals to Chief Executives of the four principal authorities will now establish the workstreams needed to progress the development of the South West Wales CJC. The relevant officers will work with their counterparts to develop suitable proposals. The associated documentation and strategies and reports will be brought back to members in due course for approval to proceed.

In drawing up proposals to establish the South West Wales CJC chief executives will, inter alia, consider extant regional groups and activities to ensure the resultant proposal for the CJC is coherent with wider arrangements. It should be noted that

the legislation sets out specific functions to be vested in the CJC vest other functions into the arrangement, by agreement.

### **Financial Impacts:**

The Establishment Regulations do not prescribe any formula basis for funding of CJsCs. It will be for each CJC to decide how the budget requirement will be met by the constituent principal councils (and the National Park Authority in the case of the strategic planning functions). In the absence of unanimous agreement on the amount payable, the regulations provide for the amounts payable by the constituent councils and National Park member(s) to be directed by Welsh Ministers.

CJsCs will be the accountable body for the funding provided by constituent councils and/or directly received from any other funding streams. CJsCs will also be able to pay towards expenditure incurred or to be incurred in relation to carrying out its functions as it may determine, and to charge fees relating their specified functions. The Establish Regulations also enable CJsCs to provide assistance by way of grant or contributions to support functions exercisable by them. The funding from constituent principal councils will be held and managed by CJsCs and it is expected that they will be required to manage the funds under the same financial management arrangements as local government bodies in Wales.

CJsCs are new legal structures which include the ability to directly hold assets and budgets, employ staff, enact legal structures and undertake any other delivery and strategic functions vested in them. Any review will need to consider the impact on financial provisions, this includes understanding the costs and funding sources of any new frameworks required in order to meet and deliver agreed objectives. Welsh Ministers have made grant funding available to participant authorities to assist in the set-up of CJsCs and an application will be made by the South West Wales group for such funding to assist in the scoping and governance work necessary to create this new body. It should be noted at this stage CJsCs are unable to borrow to create a body corporate to achieve their aims.

### **Comments by Director of Resources**

The financial issues are outlined in the body of the report and the Appendix.

### **Comments by Head of Legal and Democratic Services**

The legal issues are set out in the body of this report. Extensive legal resource will be required to support the development of governance arrangements for the creation and operation of the South West Wales CJC.

### **Comments by Chief Human Resources Officer**

The South West Wales CJC will have ability to employ its own staff, TUPE staff in or offer the opportunity to second staff in from LA s; this would therefore have the

potential for quite complex staffing arrangements, so early discussions on preferred staffing structure would be advisable and HR resource required.

We'd also have concerns on the potential strain this could impose on both councillors and officers especially for the statutory posts such as Head of Paid Service, Monitoring Officer and S.151 Officer.

There is also the task of defining clear role and responsibilities in job design as there is the potential for overlay of functions at LA level.

### **Impact Assessment**

The Corporate Joint Committee report has been considered against the five ways of working (long term, prevention, integration, collaboration, involvement) in the Well-being of Future Generations sustainable development principle.

The establishment of a regional CJC is a long term legislative requirement designed to improve regional working by integrating existing regional partnerships, developing a more collaborative approach across the four local authorities and two National park areas, and involving wider stakeholders through the option to appoint co-optees. The CJC will help support improved coordination in line with a range of national well-being goals such as prosperity, resilience, healthier, more equal and cohesive.

The CJC report is unlikely to impact negatively on any of the protected characteristics groups as defined within the Equality Act 2010 and the use of economic well-being powers should contribute to the Council's wider socio-economic duty.

Finally, the CJC report is unlikely to impact on the Council's obligations under the Welsh Language Standard Regulations 2015.

### **RECOMMENDATION:**

That:

- i Cabinet notes the work being undertaken and next steps needed in relation to the governance arrangements for the South West Wales CJC
- ii delegated authority be granted to the Interim Chief Executive (in consultation with the Leader) to agree an application for grant funding to be made to Welsh Government for funding to establish the South West Wales CJC; and to accept any grant offer that may be made by Welsh Government (whether made to this Council or to a participating Council in the Swansea West Wales CJC)

- iii delegated authority be granted to the Interim Executive (in consultation with the Leader) to enter into dialogue with authorities who will comprise the South West Wales CJC to develop proposals for establishing the South West Wales CJC; and
- iv a report be brought back to members for approval, once dialogue has been completed for members to approve the arrangements for the South West Wales CJC so far as they relate to Pembrokeshire County Council.

*REASON FOR RECOMMENDATION:*

*To ensure compliance with the requirements of the Local Government and Elections (Wales) Act 2021 and ensure the needs of Pembrokeshire County Council are reflected in the development of these CJs.*

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**Background Documents:**                      **Local Government and Elections Act 2021**  
**Council report 19 December 2019**