

Meeting of:	Cabinet
Date of Meeting:	Monday, 20 December 2021
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Draft Response to Welsh Government's Consultation on the Corporate Joint Committees (General) (Wales) Regulations 2022
Purpose of Report:	To seek Cabinet approval for the submission of the Council's response to the above Welsh Government consultation.
Report Owner:	Executive Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Managing Director
Elected Member and Officer Consultation:	Head of Legal and Democratic Services/Monitoring Officer Section 151 Officer Head of Neighbourhood Services & Transport Head of Policy & Business Transformation Operational Manager, Democratic Services
Policy Framework:	This is a matter for Executive decision by Cabinet.
<p>Executive Summary:</p> <ul style="list-style-type: none"> • The Local Government and Elections (Wales) Act 2021 created the framework for a consistent mechanism for regional collaboration between local government, namely Corporate Joint Committees (CJC). The Act provides for the establishment of CJs through Regulations. • Welsh Government has been consulting on the introduction of regulations and guidance to accompany the introduction of CJs over the last year. • This report seeks endorsement from Cabinet of the Council's response (Appendix A) to the latest consultation regarding the Regulations which support the setting up of the four CJs. • A further consultation in the Spring of 2022 will cover any remaining provisions which a CJC might need but which are unlikely to be needed at the point at which they begin to deliver their functions. Further reports to Cabinet will follow in due course. 	

Recommendations

1. That Cabinet considers the contents of the report and the draft response to the consultation and agrees the same for submission to Welsh Government.
2. That the urgency procedure set out in section 14:14 of the Council's Constitution be exercised in respect of Recommendation 1.

Reasons for Recommendations

1. To enable the Council to respond to the Consultation on CJs.
2. To enable the response to be submitted by 22 December 2021.

1. Background

- 1.1 The Local Government and Elections (Wales) Act 2021 (“the LGE Act”) created the framework for a consistent mechanism for regional collaboration between local government, namely Corporate Joint Committees (CJC). The Act provides for the establishment of CJs through Regulations.
- 1.2 Regulations creating four CJs in Wales (“the Establishment Regulations”) were made on 17 March 2021 and the following CJs were established on 1 April 2021:
 - The North Wales Corporate Joint Committee Regulations 2021
 - The Mid Wales Corporate Joint Committee Regulations 2021
 - The South East Wales Corporate Joint Committee Regulations 2021
 - The South West Wales Corporate Joint Committee Regulations 2021
- 1.3 These four CJs will exercise functions relating to strategic development planning and regional transport planning. They will also be able to do things to promote the economic well-being of their areas.
- 1.4 In contrast to other joint committee structures which exist in statute CJs are separate corporate bodies which can employ staff, hold assets and budgets, and undertake specified functions.
- 1.5 One of the key principles which underpins the development of the CJC legislative framework is that CJs are members of the ‘local government family’ and, where appropriate, should largely be subject to the same powers and duties as principal councils. The intent is to avoid as far as possible requiring CJs to do things in a manner unfamiliar to local government, or to create new or unfamiliar procedures, obligations or powers which might increase administrative burdens.
- 1.6 The Council has previously submitted consultation responses in respect of the draft Establishment Regulations and the draft Corporate Joint Committees (General) (No.2) (Wales) regulations.

- 1.7** The subject of this consultation is a continuation of the consultation process of putting in place the legislative framework CJs will operate within. The Regulations require a CJC to adopt a code of conduct for members and extend the powers of the Public Services Ombudsman for Wales (PSOW) and the adjudication panel for Wales to CJs and members of CJs. They also provide for a CJC to trade and undertake commercial activity. They also require the CJC to publish their constitution and a constitution guide, as well as containing a number of minor provisions in relation to finance, legal proceedings, records, documents, staffing and workforce matters and other miscellaneous amendments. The intention is also to include provision for overview and scrutiny in this third set of general regulations, subject to the outcome of this consultation.
- 1.8** The Regulations can be accessed via the [Welsh Government's website](#).

2. Key Issues for Consideration

- 2.1** A staged approach to the introduction of the CJs has been adopted by the Welsh Government. Previous reported consultation responses are referenced in the Background Papers to this report.
- 2.2** As with all stages of the development of CJs, two key principles underpin the development of the guidance for CJs:
- a CJC should be treated as a member of the 'local government family' and, where appropriate, should largely be subject to the same powers and duties as principal councils in the way that it operates
 - the detail on how a CJC operates in practice should be left to the determination of the members of the CJC itself.
- 2.3** Cabinet will note that due to the staged approach to the development of the CJC legislation, in some cases the relevant local government legislation has not yet been applied to CJs. In these instances, the guidance seeks to set out or build on the policy intent, reflecting the underpinning principle of treating the CJC as a member of the 'Local Government family'. As the remainder of the legislation is applied there may be some small changes required to this guidance to ensure the guidance fully reflects the provisions.
- 2.4** This consultation builds on the comprehensive consultation undertaken in October 2020 which considered the general approach to the development of the legislative framework for CJs and the consultation on the draft General No.2 Regulations in July 2021.
- 2.5** This consultation is seeking views on this next stage of the approach to the development of the wider legislative framework and application of specific elements of that framework.

- 2.6** In Chapter one comments are sought on the draft Corporate Joint Committees (General) (Wales) Regulations 2022. These instruments provide for
- conduct of members of a CJC
 - arrangements in the event that a member of the Mid Wales, North Wales, South East or South West Wales is suspended
 - the power to trade and undertake commercial activity
 - further financial matters in relation to CJs
 - legal proceedings
 - matters relating to records, documents and notices
 - further provision on staffing and workforce
 - a small number of miscellaneous provisions including a duty to prepare a constitution and provision in relation to handling of information and land held by a CJC.
- 2.7** Chapter two seeks views on issues in relation to the qualification and disqualification of members and officer of CJs.
- 2.8** Chapter three seeks views on the intended approach to overview and scrutiny of CJs, for inclusion in the Corporate Joint Committees (General) (Wales) Regulations 2022.
- 2.9** Chapter four seeks views on proposed amendments to a number of regulations or orders linked to the application of the code of conduct through the draft Corporate Joint Committees (General) (Wales) Regulations 2022 and in relation to amendments made to the Local Government and Housing Act 1989 by the General No.2 Regulations.
- 2.10** Further detail can be found on the [Welsh Government's website](#).
- 2.11** The Council's draft response can be found in Appendix A to this report. The response is broadly supportive of the Regulations, drawing attention to some considerations relating to the exercise of scrutiny/oversight.
- 2.12** Cabinet is recommended to consider and endorse the draft response and approve the use of the urgency procedure as set out in section 14:14 of the Council's Constitution in order to submit the response by the Welsh Government deadline of 22nd December 2021.
- 2.13** A further consultation in the Spring of 2022 will cover any remaining provisions required by a CJC which Welsh Government consider are unlikely to be needed at the point at which they begin to deliver their functions. Further reports to Cabinet will follow in due course.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1** There are clear synergies between this consultation and many of the Five ways of Working, with particular relevance to collaboration. Local Authorities have well established collaboration arrangements across various footprints and functions. Up until now, this Council has very much focussed its approach around collaborating where it makes sense to do so and where it adds value. This consultation and a move to CJs brings with it another dimension in that CJs are mandated. Although there are effective arrangements in place within current City Deal arrangements, the move towards CJs will undoubtedly bring with it new challenges alongside opportunities.
- 3.2** In relation to CJC's one challenge will be to build resilience and capacity in the CJC to make a difference across those relevant functions in the medium and long term. If CJs are to be valuable and allow meaningful impact at a regional level, particularly in the case of transport and economic well-being, then there needs to be sufficient investment in building capacity and resilience to get 'things done' in the long term.
- 3.3** It is also clear from the consultation that there will be significant governance and accountability issues in setting up CJs which will result in engagement and involvement at a regional as well as local level.

4. Resources and Legal Considerations

Financial

- 4.1** The consultation and Council's response considers financial matters relevant to CJs specifically in relation to commercial/trading activity.

Employment

- 4.2** This set of Regulations have limited employment considerations.

Legal (Including Equalities)

- 4.3** The Local Government and Elections (Wales) Act 2021 ("the LGE Act") created the framework for a consistent mechanism for regional collaboration between local government, namely Corporate Joint Committees (CJC). The Act provides for the establishment of CJs through Regulations.
- 4.4** Regulations creating four CJs in Wales ("the Establishment Regulations") were made on 17 March 2021 and the following CJs were established on 1 April 2021:
- The North Wales Corporate Joint Committee Regulations 2021
 - The Mid Wales Corporate Joint Committee Regulations 2021
 - The South East Wales Corporate Joint Committee Regulations 2021

- The South West Wales Corporate Joint Committee Regulations 2021
- 4.5** These four CJs will exercise functions relating to strategic development planning and regional transport planning. They will also be able to do things to promote the economic well-being of their areas.
- 4.6** In contrast to other joint committee structures which exist in statute, CJs are separate corporate bodies which can employ staff, hold assets and budgets, and undertake specified functions.
- 4.7** Section 86 of the LGE Act provides that principal councils and CJs must have regard to any guidance issued by Welsh Ministers relating to Part 5 Chapters 3, 4 and 5 of that Act and in respect of National Park authorities, relating to Part 5 Chapters 4 and 5.

5. Background Papers

Draft Response to Welsh Government Consultation on CJC Guidance, Cabinet, 27 September 2021

https://www.valeofglamorgan.gov.uk/Documents/_Committee%20Reports/Cabinet/2021/21-09-27/Draft-Response-to-WG-Consultation-re-CJCs.pdf

Corporate Joint Committees, Cabinet, 21 December 2020

https://www.valeofglamorgan.gov.uk/Documents/_Committee%20Reports/Cabinet/2020/20-12-21/Corporate-Joint-Committees.pdf

Local Government and Elections (Wales) Act

WG Consultation Document and associated papers - Regulations to establish Corporate Joint Committees (October 2020)

Welsh Government consultation - Reforming Local Government: Resilient and Renewed White Paper - January 2017

Welsh Government Consultation on Powers and Flexibilities – January 2018

Strengthening Local Government: Delivering for People - Welsh Government Green Paper - June 2018

Consultation on the Corporate Joint Committee (General) (Wales) Regulations 2022

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- Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

Questions

As already discussed this consultation builds on the comprehensive consultation previously undertaken on the general approach to the development of the legislative framework for CJsCs and on the consultation on the draft Corporate Joint Committee (General) (No.2) (Wales) Regulations 2021. This consultation is seeking your views on the next stage of the approach to the development of the wider legislative framework and application of specific elements of that framework. In particular we are seeking views on the draft **Corporate Joint Committees (General) (No.3) (Wales) Regulations 2022**.

Chapter 1

1. Are the draft regulations in Chapter 1 clear

Yes

2. Does Part 2 of the draft regulations clearly provide for a code of conduct for members

Yes

3. Do you believe that the regulations should provide for the establishment of joint standards committees

Yes

This will enable the expertise of an established Standards Committee with appointed Independent Members and a Community Council Member to be utilised.

4. Does Part 3 of the draft regulations clearly provide for arrangements in the event of suspension of a member of a CJC

Yes

5. Should the draft regulations also provide for all substitute or temporary council / NPA members to be treated the same as the council member whose functions they have been appointed to exercise

Yes

6. Does Part 4 of the draft regulations clearly provide for commercial activities and controlled entities

Yes

7. Do you agree that in order to give full effect to the power to trade provisions in Part 4 CJs should be included in the proposed trading order to be made under section 95 of the Local Government Act 2003

Yes

8. Do you think the following should apply to CJs alongside providing the power to trade:

- a. The Local Government (Contracts) Act 1997
- b. Part 2 of the Deregulation and Contracting Out Act 1994.

Yes

9. Is there any other legislation which local authorities rely on when operating commercially which isn't currently provided for in regulations?

The Council notes the consideration currently being given around liability or otherwise for VAT or Company Taxation as CJs currently do not have the exemptions that principal Councils do in relation to VAT. However, the Council notes that as far as this consultation is concerned, these are specifically excluded as they are a matter for WG to resolve.

10. Does Part 5 of the draft regulations clearly provide for those further miscellaneous financial matters noted in relation to CJs

Yes

11. Does Part 6 of the draft regulations clearly provide for legal proceedings in relation to CJs

Yes

12. Does Part 7 of the draft regulations clearly provide for the handling of records, documents and notices etc

Yes

13. Does Part 8 of the draft regulations clearly provide for the further matters relating to staffing and workforce

Yes

14. Does Part 9 of the draft regulations clearly provide for the small number of miscellaneous and consequential amendments identified

Yes

Chapter 2

15. Should the draft regulations clearly provide for the qualification and disqualification of members and staff of a CJC for office

Yes, it being noted that Members are not directly elected to CJCs.

Chapter 3

16. Do you agree with the proposed approach to providing for overview and scrutiny of CJCs as part of the Corporate Joint Committees (General) (No.3) (Wales) Regulations 2022

The Council notes that there are currently broadly two different approaches in place for scrutiny of regional activity. The Education Consortia reports separately to each local authority scrutiny committee. Cardiff Capital Regional (CCR) City Deal, established a joint overview and scrutiny arrangements (with the Chairs of the relevant local authority scrutiny committees attending these meetings)

The Council considers either approach could be supported. The resourcing implications are less problematic if the CJC reported separately to each Council. They would submit their reports dovetailing into each authority's scrutiny meeting schedule and attend meetings to answer questions. The joint overview and scrutiny approach requires consideration of the resourcing of the arrangements and this has been the experience with City Deal arrangements in practice.

Should a joint overview and scrutiny model be the preferred option by WG, the capacity concerns should be addressed and the Council would recommend that funding should be provided by the CJC to provide the scrutiny support for the CJC.

Guidance on working practices relating to overview and scrutiny would be advisable.

Chapter 4

17. Do you agree with the intended approach to give full effect to the application of the code of conduct to CJCs through the application of the following Regulations / Orders to CJCs –

Yes

- Conduct of Members (Principles)(Wales) Order 2001

- Local Authorities (Model code of Conduct)(Wales) Order 2008
- Standards Committees (Wales) Regulations 2001
- Local Government Investigation (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001
- Standards Committees (Grant of Dispensations) (Wales) Regulations 2001
- Code of Conduct (Qualifying local government employees) (Wales) Order 2001

18. Do you have any views on the application of the Local Government Officers (Political Restrictions) Regulations 1990 to CJsCs?

The Council considers it appropriate to apply the same to CJsCs in their operation as for principal authorities.

Welsh Language

19. Do you have any views on the specific effects the draft **Corporate Joint Committees (General) (No.3) (Wales) Regulations 2022** might have on the Welsh Language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English, we would welcome your views.

The Council has no views on the specific effects in relation to these Regulations.

20. If you have any related issues which we have not specifically addressed, please feel free to provide those also.

The Council has no other related issues to provide.