

Meeting of:	Cabinet
Date of Meeting:	Monday, 27 September 2021
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Draft Response to Welsh Government's Consultation on the Corporate Joint Committees: Draft Statutory Guidance
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:	Monitoring Officer / Head of Legal and Democratic Services 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 guidance which supports the setting up of the four CJs. • Consultation on further legislation for the operation of the CJs and its functions is planned for the Autumn of 2021 and 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 4 October 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 functions.
- 1.5 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.
- 1.6 This consultation is seeking views on draft guidance for Corporate Joint Committees under part 5 of the LGE Act. The Guidance 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. The Establishment Regulations were made as part of the first stage of putting in place the legislative framework which CJs will operate within. These were made along with a number of statutory instruments which ensured that from day one the CJs were subject to the duties which you would expect to apply to public bodies in Wales and have the appropriate governance and oversight you would expect from a public body.
- 2.2** The next stage will provide for the regulation of CJC meetings and proceedings and provide for the roles of certain 'executive officers', Chief Executive, Monitoring Officer and Chief Financial Officer, to support the work of the CJC.
- 2.3** A consultation on the draft Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 recently concluded and the Council submitted a response using the Managing Director's Emergency Powers due to the timetable for the consultation and the Council's summer recess period.
- 2.4** The draft guidance for which this report outlines the Council's response has been prepared as part of this staged process. 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.
- 2.5** 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.
- 2.6** The draft guidance does not seek to provide a detailed analysis of / guidance on every aspect of the legislation which applies, or will apply, to CJs. Instead the guidance is intended in the first instance to support the process of establishing CJs, and in particular to consider those areas where the legislation provides flexibilities to CJs.
- 2.7** The draft guidance sets out the core principles and values around how CJs should operate and the issues Members will wish to consider when putting in place the constitutional and operational arrangements.
- 2.8** In a number of places the guidance will act as 'interim' guidance, in advance and in anticipation of the publication of the Democracy Handbook, due early in 2022,

much of which will apply equally to CJs as it will to local authorities. Wherever possible the guidance will reflect the approach to be taken within that handbook or will directly refer to that handbook when published. The intention is to publish the CJC Guidance later this year (2021).

- 2.9** The approach to the development of the CJC model to date has been one of co-development and collaboration with local government. The intention is to continue with this approach as we work with local government to implement CJs in Wales. Elements of the draft guidance within this consultation have been prepared in consultation with local government and through a number of local government professional networks including Lawyers in Local Government, Society of Welsh Treasurers and HR Directors Network.
- 2.10** The Council's draft response can be found in Appendix A to this report. The response is broadly supportive of the Guidance, drawing attention to some aspects relating to the exercise of scrutiny/oversight, some employment considerations (in particular during the establishing phases of CJs) and the importance of public participation in the work of CJs. The opportunity has been taken to make some additional comments relating to the exercise of regional and local transport planning matters (which will be subject to future consultation).
- 2.11** 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 4th October 2021.
- 2.12** It should also be noted that the Cardiff Capital Region Cabinet has also been considering the implications of CJs and how the new approach will potentially impact on governance around the current arrangements relating to the regional Cabinet and the City Deal. To this end, a report was presented to the Regional Cabinet meeting on 20 September 2021 which sets out and seeks the approval of the Regional Cabinet for a preferred governance and delivery option to underpin the evolution of the current City Deal Joint Committee from a contractual structure to a corporate body via a statutory Corporate Joint Committee (CJC) ahead of commencement of functions on 28 February 2022. It is anticipated that this matter will be reported further to Cabinet and Council in the near future.

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 CJs 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** Chapter five provides of the Guidance provides information in relation to funding, finance and budgetary matters including accounting practices and controls, audit, investment practices and borrowing.

Employment

- 4.2** Chapter two of the Guidance provides information on staffing and workforce matters within a CJC including terms and conditions, accountability and pensions.

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 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

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) Bill

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 Response Form

Draft statutory guidance – Corporate Joint Committees (CJCs)

Your name: Debbie Marles
Organisation (if applicable): Vale of Glamorgan Council
E-mail / telephone number: dmarles@valeofglamorgan.gov.uk
Your address: Civic Offices, Holton Road, Barry. CF63 4RU.

Q1: Generally, does the draft guidance provide an appropriate level of support to CJCs to put in place the necessary arrangements for the proper administration and governance of the CJC?

The Guidance is particularly helpful and thorough in this area without being overly prescriptive, however the early publication of the Democracy Handbook is encouraged to supplement a number of areas covered by Chapter 1.

Q2: Does Chapter 1 provide sufficient/appropriate guidance on the membership and constitution of CJCs?

Chapter 1 is clear in both areas and potentially will inform / shape key aspects of the draft Constitution for the consideration by the CJC. Particular points of note when drafting the Constitution include clarity around concurrence of duties and ensuring an appreciation of the division of roles between CJCs and Constituent Councils (the Guidance in this regard is helpful). It is noted that there are some gaps in the applicability of the Local Government and Elections (Wales) Act 2021 however the “due regard” duty and concept of “Local Government family” will be important to ensure consistency of approach by CJCs and Constituent Councils so that both CJCs’ and Constituent Councils’ functions are relatively in step with each other.

Q3: Does Chapter 2 provide sufficient/appropriate guidance on matters relating to the staffing and workforce of a CJC?

In relation to staffing (and resources generally), taking account of the potential for the concurrency of some functions, the Council would welcome the Guidance’s indication that there may be a mixed pattern of employment (for example, direct and secondments) with some officers supporting the CJC as part of their substantive duties with their constituent council, at least during the implementation phase.

Q4: Does Chapter 3 provide sufficient/appropriate guidance on CJC meeting and proceedings?

The Council welcomes the Guidance clarifying that arrangements should be at least as open and transparent as principal councils.

The development of a Public Participation Strategy for the CJC will be important to provide clarity to the public on the functions to be delivered, and a date for the development and publication of such a Strategy would be welcomed to ensure focus is given to this action. As an important element of this work, the Council is supportive of the proposals to broadcast meetings.

Q5: Does Chapter 4 provide sufficient/appropriate guidance on the governance and scrutiny within, and of, a CJC?

The Council welcomes clarification that the Part 6 (Local Government & Elections Act, Wales) performance arrangements will apply to CJsCs.

The Guidance could be clearer in terms of expectations of both joint scrutiny as well as Constituent Councils' member scrutiny, it being considered that the establishment of joint scrutiny arrangements should be addressed from the outset when governance issues are addressed to avoid potential drift. This would reflect the importance attached to Overview and Scrutiny rather than it appearing as a governance add-on.

Q6: Does Chapter 5 provide sufficient/appropriate guidance on the funding, finance and budgetary matters of a CJC?

Yes

Q7: Does Chapter 6 provide sufficient/appropriate guidance on the other statutory duties listed for CJsCs?

The Guidance includes a useful summary of the statutory duties and the detail covered by this section of the Guidance is welcomed.

Q8: We would like to know your views on the effects that the guidance 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.

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

We have no further comments to make in addition to those provided previously and the Council welcomes confirmation in the regulations that CJsCs will be bound by the same regulations and standards as other public bodies when it comes to the use and promotion of Welsh.

Q9: Please also explain how you believe the guidance 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 ensure there are no adverse effects on opportunities for people to use the Welsh language.

We have no further comments to make in addition to those provided previously and the Council welcomes confirmation in the regulations that CJsCs will be bound by the same regulations and standards as other public bodies when it comes to the use and promotion of Welsh.

Q10: We have asked a number of specific questions on the draft guidance. If you have any related issues which we have not specifically addressed, please enter here.

Whilst acknowledging that the Guidance does not extend to the following areas, these comments are provided to inform any future guidance relating to the exercise of specific areas of activity.

The Regional Transport Authority already works on a regional basis developing regional policies (including a Regional Transport Plan) and has a Joint Committee. As such this has been the operating model for a number of years. It works well in that officers are around the table with technical expertise (this is very important to gain respect regionally) often helping each other to solve problems and develop policies. The RTA decisions then feed into the CCR giving an overview regionally. The RTA has an excellent reputation regionally in transport as well and the Council is keen to ensure this is not diluted.

Concerns remain regarding officers spending significant time at various CJC meetings at the detriment of core public facing services that local authorities deliver. As only Regional Transport planning will be the responsibility of the CJC, there will still be a need for transport professionals in the local authority to deliver local policy making and also to deliver programmes of work and consideration as to the impact on the available skills and workforce will be required regionally and locally.

Clarity would be welcomed at an appropriate point as to the status of Local Transport Plans when seeking funding opportunities and how these will interface with the regional aspect covered by the CJs.