



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 CJC's 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 - CJC's. The provisions also enable the constituent principal councils to invite participation by partners from other sectors in the work of CJC's 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 CJC's. 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 CJC's, 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, CJC's 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 CJC's 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 CJC's 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 CJC's.
- 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 CJC's consultation document. The Bill specifies that CJC's will include only the 4 listed functions in the Bill (which are existing statutory or voluntary regional functions). CJC's 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 CJsCs, or expanding the functions they are responsible for, is at the request of local government.
- 5.14 Welsh Ministers can instigate the establishment of CJsCs 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 CJsCs 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 CJsCs 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 CJsCs 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 CJsCs 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

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

OVERVIEW & SCRUTINY COMMITTEE

9th DECEMBER 2020

**ITEM: 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**

Background Papers

Freestanding Report.

2021 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The South East Wales Corporate
Joint Committee Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 5 of the Local Government and Elections (Wales) Act 2021 enables the Welsh Ministers, by regulations to establish Corporate Joint Committees. These regulations establish the South East Wales Corporate Joint Committee, and the following functions will be exercised by this body:

- (1) economic well-being function,
- (2) strategic development planning function, and
- (3) developing transport policies.

There are 5 Parts to these Regulations.

Part 1 establishes the South East Wales Corporate Joint Committee, and its area.

Part 2 introduces Schedule 1 to the Regulations. This Schedule contains the constitutional arrangements for the South East Wales Corporate Joint Committee.

Part 3 sets out the membership of the South East Wales Corporate Joint Committee. In accordance with this Part, the body will comprise 10 council members, a member from the Brecon Beacons National Park Authority, and may include co-opted members with or without voting rights.

Part 4 identifies the functions that will be exercised by the South East Wales Corporate Joint Committee. This Part also introduces Schedule 2 to the Regulations which contains further detail about the function of developing transport policies.

Part 5 identifies how the South East Wales Corporate Joint Committee is to be funded.

W E L S H S T A T U T O R Y
I N S T R U M E N T S

2021 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The South East Wales Corporate
Joint Committee Regulations 2021**

Made ***

Laid before Senedd Cymru ***

Coming into force ***

The Welsh Ministers make these Regulations in exercise of the powers conferred by Part 5 of the Local Government and Elections (Wales) Act 2021.

The requirements of the Local Government and Elections (Wales) Act 2021 (relating to consultation conditions) have been satisfied.

Title and commencement

1. The title of these Regulations is the South East Wales Corporate Joint Committee Regulations 2021, and they come into force on ***.

Interpretation

2. In these Regulations—

“the Brecon Beacons member” (“*aelod Bannau Brycheiniog*”) has the meaning given by regulation 7(1);

“CJC area” (“*ardal CBC*”) has the meaning given by regulation 4;

“constituent council” (“*cyngor cyfansoddiadol*”) means—

- (a) Cardiff county council;
- (b) Monmouthshire county council;
- (c) Blaenau Gwent county borough council;
- (d) Bridgend county borough council;
- (e) Caerphilly county borough council;

- (f) Merthyr Tydfil county borough council;
- (g) Newport county borough council;
- (h) Rhondda, Cynon, Taff county borough council;
- (i) Torfaen county borough council;
- (j) The Vale of Glamorgan county borough council.

“co-opted member” (“*aelod cyfetholedig*”) has the meaning given by regulation 8(2);

“council member” (“*aelod cyngor*”) has the meaning given by regulation 6(2);

“executive officer” (“*swyddog gweithredol*”) has the meaning given by paragraph 5 of Schedule 1;

“member” (“*aelod*”) means—

- (a) a council member;
- (b) the Brecon Beacons member;
- (c) a co-opted member;

“National Park Authority” (“*Awdurdod Parc Cenedlaethol*”) means an authority in Wales established under section 63 of the Environment Act 1995⁽¹⁾;

“senior executive member” (“*prif aelod gweithrediaeth*”) means—

- (a) in the case of a constituent council operating a leader and cabinet executive, the executive leader;
- (b) in the case of a constituent council operating a mayor and cabinet executive, the elected mayor;

“standing orders” (“*rheolau sefydlog*”) means the standing orders made under paragraph 10 of Schedule 1;

“strategic planning functions” (“*swyddogaethau cynllunio strategol*”) means—

- (a) the functions of the South East Wales CJC under Part 6 of the Planning and Compulsory Purchase Act 2004⁽²⁾ (see regulation 11), and
- (b) any functions incidental or conducive to the exercise of those functions;

“voting member” (“*aelod â phleidlais*”), in relation to any question to be decided by the South East Wales CJC, means—

- (a) a council member;
- (b) where the question relates to the exercise of strategic planning functions, the Brecon Beacons member;

(1) 1995 c.25

(2) 2004 c.5

- (c) a co-opted member entitled to vote on the question by virtue of regulation 8(6).

PART 1

Establishment and area

Establishment

3.—(1) There is established a body corporate to be known as the South East Wales Corporate Joint Committee (“the South East Wales CJC”).

(2) The South East Wales CJC has the functions—

- (a) conferred on it by these Regulations, and
- (b) conferred or imposed on it, or delegated to it, by any other enactment (whenever passed or made).

Area

4. The South East Wales CJC area comprises the areas of the constituent councils.

PART 2

Constitution

Constitution

5. Schedule 1 makes provision about the constitution of the South East Wales CJC.

PART 3

Membership

Membership and council members

6.—(1) The members of the South East Wales CJC are—

- (a) the 10 council members,
- (b) the Brecon Beacons member (but see regulation 7), and
- (c) any co-opted members (see regulation 8).

(2) The senior executive member of each constituent council is a council member.

(3) A person ceases to be a council member of the South East Wales CJC if the person ceases to be the senior executive member of a constituent council.

(4) Where there is a vacancy in the office of senior executive member of a constituent council, the

constituent council must appoint a member of the constituent council to act as council member of the South East Wales CJC until such time as the vacancy is filled.

Brecon Beacons member

7.—(1) The Brecon Beacons member must be appointed by the Brecon Beacons National Park Authority (“the Authority”).

(2) The Authority may only appoint as Brecon Beacons member—

- (a) the chairman of the Authority,
- (b) the deputy chairman of the Authority, or
- (c) the chairperson of a committee with responsibility for planning matters as may be established by Authority.

(3) But the Brecon Beacons member is a member of the South East Wales CJC only in relation to the exercise of strategic planning functions.

(4) The Brecon Beacons member ceases to be the Brecon Beacons member if that person ceases to hold an office mentioned paragraph (2).

Co-opted members

8.—(1) The council members may appoint other members to the South East Wales CJC.

(2) In these Regulations, a member appointed under paragraph (1) is referred to as a “co-opted member”.

(3) In any question to be decided by the South East Wales CJC, the number of votes which may be cast by co-opted members may not exceed—

- (a) the number of votes which may be cast by council members, or
- (b) where the question relates to the exercise of strategic planning functions, the number of votes which may be cast by council members and the Brecon Beacons member.

(4) A co-opted member is appointed—

- (a) for a period determined by the council members, or
- (b) if no period is determined, until the appointment is terminated by the council members.

(5) Where a period is determined under paragraph 8(4)(a), the co-opted member’s appointment may nevertheless be terminated by the council members before the end of the period.

(6) The council members, when appointing a co-opted member—

- (a) must determine whether the co-opted member may vote at meetings of the South East Wales CJC, and
- (b) may determine that a co-opted member is permitted to vote only in relation to such matters as the council members may specify.

PART 4

Functions

Economic well-being

9. The economic well-being function is granted to the South East Wales CJC (see Part 5(1) of the Local Government and Elections (Wales) Act 2021).

Transfer etc. of function of developing transport policies

10.—(1) The function of developing policies under section 108(1)(a) and (2A)(a) of Part 2 of the Transport Act 2000(2) (“the 2000 Act”) is, in respect of the area of each constituent council, to be exercised by the South East Wales CJC, and not by the constituent councils.

(2) The 2000 Act applies in relation to the South East Wales CJC and its constituent councils subject to the modifications in Schedule [2].

(3) The Regional Transport Planning (Wales) Order 2014(3) is revoked.

Strategic planning functions

11. The South East Wales CJC has the function of preparing a strategic development plan (and accordingly Part 6 of the Planning and Compulsory Purchase Act 2004 applies to the South East Wales CJC (see in particular sections 60K to 60N of that Act).

Subsidiary powers

12.—(1) The South East Wales CJC may do anything—

- (a) to facilitate, or
- (b) which is incidental or conducive to,

the exercise of its functions.

(2) Things which may be done under paragraph (1) include—

(1) This will be updated to reflect the relevant section.

(2) 2000 c.38.

(3) 2014 No. 2178 (W. 212)

- (a) incurring expenditure;
 - (b) charging fees;
 - (c) acquiring or disposing of property or rights.
- (3) But the South East Wales CJC may not borrow money.

PART 4

Funding

Calculation of budget

13.—(1) In relation to each financial year the South East Wales CJC must calculate the aggregate of—

- (a) the expenditure which the CJC estimates it will incur in respect of the financial year in the exercise of its functions (including expenditure on administration and other overheads);
- (b) the amount which the CJC considers appropriate to raise for contingencies arising in respect of the financial year;
- (c) the amount which the CJC considers appropriate to be held as a reserve to meet expenditure it considers will be incurred in respect of future financial years;
- (d) any amount which the CJC considers is necessary to meet liabilities outstanding in respect of any earlier financial year.

(2) In relation to each financial year, the South East Wales CJC must also calculate the aggregate of amounts it estimates it will receive from sources other than the constituent councils and the Brecon Beacons National Park Authority.

(3) In relation to a financial year, where the amount calculated under paragraph (1) exceeds the amount calculated under paragraph (2), the amount of excess is the South East Wales CJC's budget requirement for the financial year.

(4) The South East Wales CJC must calculate its budget requirement—

- (a) in relation to its first financial year within two months following the first annual general meeting ;
- (b) in relation to each subsequent financial year, no later than 14 February in the preceding financial year.

(5) The South East Wales CJC may revise its budget requirement.

Funding of budget requirement

14.—(1) The South East Wales CJC must determine the amount of its budget requirement for a financial year attributable to functions other than strategic planning functions (including an appropriate proportion of administration costs and other overheads).

(2) The amount determined under paragraph (1) must be paid to the South East Wales CJC by the constituent councils, and the proportion of that amount payable by each constituent council is to be determined by the unanimous agreement of the council members.

(3) The South East Wales CJC must determine the amount of its budget requirement for a financial year attributable to strategic planning functions (including an appropriate proportion of administration costs and other overheads).

(4) The amount determined under paragraph (2) must be paid to the South East Wales CJC by the constituent councils and the Brecon Beacons National Park Authority, and the proportion of that amount payable by each constituent council and by the Authority is to be determined by the unanimous agreement of the council members and the Brecon Beacons member.

(5) Where agreement cannot be reached as to the proportions payable under paragraphs (2) or (4), the Welsh Ministers may by direction specify the proportion payable by each constituent or each constituent council and the Brecon Beacons National Park Authority, as the case may be.

Accounts

15.—(1) The South East Wales CJC must—

- (a) keep proper accounting records, and
- (b) prepare accounts in respect of each financial year in accordance with directions given by the Welsh Ministers.

(2) The directions which the Welsh Ministers may give include directions as to—

- (a) the information to be contained in the accounts and the manner in which the accounts are to be presented;
- (b) the methods and principles in accordance with which the accounts are to be prepared;
- (c) additional information that is to accompany the accounts.

Name

Title of Minister, one of the Welsh Ministers

Date

SCHEDULE 1 Ref

Constitution

Chairperson

1.—(1) The South East Wales CJC must appoint a chairperson and vice-chairperson from among its council members.

(2) The appointment of a chairperson and vice-chairperson is to be the first business transacted at the first annual general meeting of the South East Wales CJC.

(3) The South East Wales CJC must, at each annual general meeting—

- (a) confirm the continuing appointment of the chairperson and vice-chairperson, or
- (b) appoint a new chairperson, vice-chairperson or both from among its council members.

(4) A person ceases to be chairperson or vice-chairperson if the person ceases to be a council member of the South East Wales CJC.

(5) A person appointed as chairperson or vice-chairperson may at any time resign that office by notice in writing given to the other members.

(6) If a vacancy arises in the office of chairperson or vice chairperson, an appointment to fill the vacancy must be made at the first meeting of the South East Wales CJC held after the vacancy has arisen.

(7) If the office of chairperson is vacant, the vice-chairperson may carry out the functions of chairperson until the vacancy is filled.

No remuneration payable to members

2. No remuneration is to be payable by the South East Wales CJC to its members.

Staff

3.—(1) The South East Wales CJC may make such arrangements for staffing as it considers appropriate (but see paragraphs 4 and 5).

(2) Where the South East Wales CJC appoints staff under sub-paragraph (1), they are to be appointed on terms and conditions (including conditions as to remuneration) substantially similar to the terms and conditions of officers within a constituent council undertaking reasonably comparable responsibilities as the South East Wales CJC may determine.

(3) The South East Wales CJC may enter into an agreement with—

- (a) another corporate joint committee (within the meaning given by the Local Government and Elections (Wales) Act 2021);
- (b) another devolved Welsh authority (within the meaning given by the Government of Wales Act 2006⁽¹⁾),

for the placing of staff of the South East Wales CJC at the disposal of the other committee or the authority for the purposes of that committee or authority's functions, on such terms as may be provided by the agreement.

(4) A devolved Welsh authority (within the meaning given by the Government of Wales Act 2006) may enter into an agreement with the South East Wales CJC for the placing of staff of the authority at the disposal of the South East Wales CJC for the purposes of its functions, on such terms as may be provided by the agreement.

(5) No agreement may be entered into under subparagraph (3) or (4) unless every member of staff to whom it relates has been consulted.

(6) Where a member of staff of the South East Wales CJC is placed at the disposal of another devolved Welsh authority by virtue of an agreement under subparagraph (3)—

- (a) for superannuation purposes, service rendered by the member of staff is service rendered to the South East Wales CJC, and
- (b) for the purposes of any enactment relating to the exercise of the other devolved Welsh authority's functions, the member of staff is to be treated as a member of staff of that authority.

(7) Where a member of staff of a devolved Welsh authority is placed at the disposal of the South East Wales CJC by virtue of an agreement under subparagraph (4), for the purposes of these Regulations and any other enactment relating to the exercise of the South East Wales CJC's functions, the member of staff is to be treated as a member of staff of the South East Wales CJC.

Transfer of staff

4. Where a member of staff appointed by the South East Wales CJC has been transferred to the CJC from a constituent council, the provisions of the Transfer of Undertaking (Protection of Employment) Regulations 2006⁽²⁾ other than regulations 4(6) and 10 apply to the transfer, whether or not it is a relevant transfer for the purposes of those regulations.

(1) 2006 c.32

(2) S.I. 2006/246

Executive officers

5.—(1) The South East Wales CJC must appoint—

- (a) a Chief Executive,
- (b) a Monitoring Officer,
- (c) a Chief Financial Officer,
- (d) a Chief Governance Officer,

(referred to collectively in these Regulations as “executive officers”).

(2) For further provision about the officers mentioned in sub-paragraph (1) see the [Corporate Joint Committees (General Provisions) (Wales) Regulations 2021].

Proceedings and voting

6.—(1) No business is to be transacted at a meeting of the South East Wales CJC unless—

- (a) the chairperson attends the meeting, and
- (b) no fewer than 70% of the voting members attend.

(2) In any question to be decided by the South East Wales CJC, other than a decision as to the proportion payable under regulation 14(2) or (4), each voting member has one vote and the question is to be decided by simple majority.

(3) If a vote is tied the matter is not carried (subject to sub-paragraph (4)).

(4) If a vote is tied on any question relating to the exercise of strategic planning functions the chairperson has the casting vote.

(5) The voting procedure set out in this paragraph may be substituted by an alternative procedure if every voting member agrees.

(6) An agreement to substitute an alternative voting procedure may apply to—

- (a) every vote of the South East Wales CJC, or
- (b) votes on such questions as may be specified in the agreement.

(7) Where an alternative voting procedure is to be agreed in relation to every vote of the South East Wales CJC, the reference in sub-paragraph (5) to “every voting member” includes each co-opted member entitled to vote on any question by virtue of regulation 8(6).

(8) Where an alternative voting procedure is to be agreed in relation to votes on such questions as are specified in the agreement, the reference in sub-paragraph (5) to “every voting member” includes only those co-opted members as are entitled to vote on the specified questions.

(9) Where an alternative voting procedure is to be agreed in relation to—

- (a) every vote of the South East Wales CJC, or
- (b) a vote on a question concerning strategic planning functions,

the reference in sub-paragraph (5) to “every voting member” includes the Brecon Beacons member.

(10) Where an alternative voting procedure is agreed, it must be set out in the standing orders.

Meetings

7.—(1) The South East Wales CJC must hold an annual general meeting in each financial year on a date determined by the CJC.

(2) But the annual general meeting held in the first financial year must be held before the end of September 2021.

(3) The annual general meeting held in the first financial year is to be presided at by the council member for Blaenau Gwent county borough council until the chairperson is appointed (and accordingly the chairperson is to preside at the remainder of the meeting).

(4) The South East Wales CJC may hold other meetings on dates determined by the CJC.

(5) An extraordinary meeting of the South East Wales CJC may be called at any time by a voting member (including any co-opted member entitled to vote on any question by virtue of regulation 8(6)).

(6) The chairperson (or vice-chairperson if the chairperson is not present) must preside at any meeting of the South East Wales CJC.

Financial years

8.—(1) The first financial year of the South East Wales CJC is the period beginning with [date regs come into force] and ending with 31 March 2022.

Sub-committees

9.—(1) The South East Wales CJC may establish sub-committees.

(2) A sub-committee may exercise, on behalf of the South East Wales CJC, only those functions as are determined by the South East Wales CJC (but see paragraphs 12 and 13).

(3) The South East Wales CJC must specify the membership and procedures of any sub-committee.

(4) The South East Wales CJC may appoint persons who are not members of the CJC to a sub-committee

and a sub-committee need not include any members of the CJC (subject to sub-paragraph (5)).

(5) Where a sub-committee exercises strategic planning functions the Brecon Beacons member must be a member of the sub-committee.

(6) The procedures of a sub-committee must be set out in the standing orders.

Standing Orders

10.—(1) The South East Wales CJC must make standing orders for the regulation of its proceedings and business so far as not regulated by these Regulations or any other enactment (whenever passed or made).

(2) The standing orders may be varied or revoked and replaced.

Code of conduct

11. The South East Wales CJC must establish a code of conduct as regards the conduct of its members and its members of staff (including the executive officers), and may vary, revoke or replace such a code.

Overview and Scrutiny Sub-Committee

12.—(1) The South East Wales CJC must establish a sub-committee (known as the overview and scrutiny sub-committee) to—

- (a) review and or scrutinise decisions made, or other action taken, in connection with the discharge of any of the South East Wales CJC's functions;
- (b) make reports or recommendations to the South East Wales CJC or its executive officers with respect to the discharge of any of those functions;
- (c) make reports or recommendations to the South East Wales CJC or its executive officers on matters which affect the corporate joint committee's area or the inhabitants of that area;
- (d) exercise such other functions and the South East Wales CJC may determine.

(2) The standing orders must include provision regulating the manner in which the overview and scrutiny sub-committee exercises its functions.

Governance and Audit Sub-Committee

13.—(1) The South East Wales CJC must establish a sub-committee (known as the governance and audit sub-committee) to—

- (a) review and scrutinise the South East Wales CJC's financial affairs;
- (b) make reports and recommendations in relation to the South East Wales CJC's financial affairs;
- (c) review and assess the risk management, internal control and corporate governance arrangements of the South East Wales CJC;
- (d) make reports and recommendations to the South East Wales CJC or its executive officers on the adequacy and effectiveness of those arrangements;
- (e) oversee the South East Wales CJC's internal and external audit arrangements;
- (f) review any financial statements prepared by the South East Wales CJC;
- (g) exercise such other functions and the South East Wales CJC may specify.

(2) The standing orders must include provision regulating the manner in which the governance and audit sub-committee exercises its functions.

SCHEDULE 2 ^{Ref}

Modification of Transport Act 2000

1. Part 2 of the 2000 Act applies in relation to the South East Wales CJC and its constituent councils with the following modifications.

2. Section 108 (local transport plans) is to be read as if—

- (a) for subsection (1) there were substituted—
 “(1) The South East Wales Corporate Joint Committee (“the South East Wales CJC”) must develop policies, to be implemented under subsection (1A), for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within its area.”;
- (b) after subsection (1) there were inserted—
 “(1A) Each local transport authority in Wales whose area falls within the area of the South East Wales CJC must carry out their functions so as to implement the policies developed under subsection (1).”;
- (c) for subsection (2A) there were substituted—
 “(2A) The South East Wales CJC must also develop policies for the implementation by the local transport authorities in its area of the Wales Transport Strategy.”;
- (d) after subsection (2A) there were inserted—

“(2B) Each local transport authority in Wales whose area falls within the area of the South East Wales CJC must carry out their functions so as to implement the policies developed under subsection (2A).”;

(e) for subsection (3A) there were substituted—

“(3A) The South East Wales CJC must prepare a document to be known as the regional transport plan containing its policies under subsections (1) and (2A).”;

(f) for subsection (5) there were substituted—

“(5) In this Part “regional transport policies”, in relation to the South East Wales CJC, means policies developed under subsection (1).”

(g) after subsection (5) there were inserted—

“(6) In this Part, references to the area of the South East Wales CJC are to be interpreted in accordance with [regulation 4] of the South East Wales Corporate Joint Committee Regulations 2021.”;

(h) the heading of the section were “Local and Regional Transport Plans”.

3. Section 109A is to be read as follows—

“109A Approval of regional plan

(1) The South East Wales CJC must submit its regional transport plan to the Welsh Ministers for their approval.

(2) If the Welsh Ministers refuse to approve the plan—

(a) they must give the South East Wales CJC a statement of their reasons for its refusal, and

(b) the South East Wales CJC must prepare another regional transport plan and submit the plan to the Welsh Ministers for their approval.

(3) If the Welsh Ministers approve a plan under this section, the plan has effect when the approval is given.

(4) The Welsh Ministers may approve a regional transport plan under this section if (but only if) they consider—

(a) that the plan is consistent with the Wales Transport Strategy, and

(b) that the policies contained in the plan are adequate for the implementation in the South East Wales CJC’s area of the Strategy.”

4. Section 109B is to be read as follows—

“109B Further provision about the regional plan

(1) The South East Wales CJC must keep its regional transport plan under review and alter it if it considers it appropriate to do so.

(2) The South East Wales CJC must in particular review the plan as soon as practicable after the publication of the Wales Transport Strategy or any revision of it.

(3) The South East Wales CJC must replace its regional transport plan not later than five years after the date on which the plan was approved under section 109A.

(4) Section 109A applies to a replacement plan as altered as it applies to a plan as originally prepared.

(5) The South East Wales CJC shall be taken to have complied with subsection (3) if (but only if)—

- (a) it submits its replacement plan to the Welsh Ministers for their approval under section 109A before the end of the five year period mentioned in subsection (3), and
- (b) the Welsh Ministers approve the plan under section 109A (whether the approval is given before or after the end of that five year period).

(6) If the South East Wales CJC fails to comply with subsection (3) because it fails to submit its replacement plan to the Welsh Ministers before the end of the five year period mentioned in that subsection, the South East Wales CJC must replace its regional transport plan as soon as practicable after the expiry of the five year period.

(7) If the South East Wales CJC fails to comply with subsection (3) because the Welsh Ministers refuse to approve a plan submitted to them under section 109A, it must replace its regional transport plan as soon as practicable after the refusal.

(8) As soon as practicable after its plan, or its plan as altered, has been approved under section 109A, the South East Wales CJC must—

- (a) publish the plan or the plan as altered in such manner as it thinks fit, and
- (b) send a copy of it to such persons (if any) as may be specified in guidance under section 112(1).

(9) The South East Wales CJC must also—

- (a) ensure that a copy of its regional transport plan is available for

inspection (at all reasonable hours) at such places it thinks fit,

- (b) give notice, by such means as it thinks expedient for bringing it to the attention of the public, as to the places at which a copy of it may be inspected, and
- (c) supply a copy of it (or any part of it) to any person on request, either free of charge or at a charge representing no more than the cost of providing the copy.”

5. Section 109C is to be treated as if it were omitted.

6. Section 112 is to be read as follows—

“112 Regional plan: supplementary

(1) In carrying out its functions under sections 108 to 109B, the South East Wales CJC must have regard to any guidance issued by the Welsh Ministers concerning—

- (a) the content of the regional transport plan,
- (b) the preparation of such plans,
- (c) the alteration and replacement of such plans, and
- (d) the publication and making available of such plans as originally made and as altered or replaced.

(2) Subsection (3) applies in relation to the development of policies under section 108(1) and the implementation under section 108(1A) of those policies.

(3) The South East Wales CJC, or a local transport authority within the area of the CJC (as the case may be), must have regard to the transport needs of disabled persons (within the meaning of the Equality Act 2010) and of persons who are elderly or who have mobility problems.”

7. Section 113A is to be treated as if it were omitted.

8. Section 113B is to be read as follows—

“113B Directions concerning regional plan

(1) The Welsh Ministers may give general or specific directions to the South East Wales CJC as to the manner in which it is to carry out its functions under sections 108 to 109B.

(2) The Welsh Ministers may give general or specific directions to a local transport authority whose area falls within the area of the South

East Wales CJC as to the manner in which they are to carry out their functions under section 108.

(3) Directions given under subsection (1) may include in particular directions as to the timetable in accordance with which the regional transport plan or alterations to the plan must be prepared.

(4) Directions given under subsection (2) may include in particular directions as to—

- (a) the action required to be taken to implement the policies contained in the regional transport plan;
- (b) as to the steps required to be taken to remove the effects of action which is incompatible with those policies.

(5) Directions under this section—

- (a) must be in writing;
- (b) may be varied or revoked by further directions under this section.

(6) The Welsh Ministers must consult—

- (a) in relation to a direction under subsection (1), the South East Wales CJC,
- (b) in relation to a direction under subsection (2), the local transport authority concerned,

before giving, varying or revoking the direction.

(7) The Welsh Ministers may consult any other persons they consider appropriate in relation to giving, varying or revoking a direction under subsection (1) or (2).”

Number: WG41255



Llywodraeth Cymru
Welsh Government

Welsh Government

Consultation Document

Regulations to establish Corporate Joint Committees (CJCs)

Date of issue: 12 October 2020

Action required: Responses by 4 January 2021

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview	Corporate Joint Committees (CJCs) are being proposed to be established by regulation to exercise a number of principal council functions. We would like your views on the detail of the regulations to establish the CJCs.
How to respond	This is a written, electronic consultation. Questions can be found at appropriate points within each section and also at the end of this consultation document. You are welcome to choose how you respond, you can: complete the online form; download the form and complete manually and post to us at the address provided; or send via email.
Further information and related documents	Large print, Braille and alternative language versions of this document are available on request.
Contact details	For further information, please contact: Local Government Transformation & Partnerships Division Local Government Directorate Welsh Government Cathays Park Cardiff CF10 3NQ e-mail: LGPartnerships@gov.wales
Also available in Welsh at:	This consultation document can be accessed from the Welsh Government's website

General Data Protection Regulation (GDPR)

The Welsh Government will be data controller for any personal data you provide as part of your response to the consultation. The Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. The Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by the Welsh Government will be kept for no more than three years.

Your rights

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
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- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection.

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the GDPR, please see contact details below:

Data Protection Officer:
Welsh Government
Cathays Park
CARDIFF
CF10 3NQ
DataProtectionOfficer@gov.wales

The contact details for the Information Commissioner's Office are:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 01625 545 745 or
0303 123 1113
[ICO Website](https://ico.org.uk/)

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Foreword by the Minister for Housing and Local Government

Our world, post Covid-19, will be different. The pandemic has compelled public services and all levels of government in Wales to do things differently. Although the Covid-19 pandemic has been devastating and harmful in so many ways, there has been a tremendous amount of innovation, creativity and flexibility shown by the public sector, including local authorities and volunteers throughout Wales which we would like to build upon.

Collaboration has been a key feature of the Covid-19 response and it will also be key to our recovery.

As part of this approach I wish to bring more coherence to, and strip out some of the complexity of, regional governance arrangements - strengthening local democratic accountability by ensuring that it is local elected members making decisions together about local government services, for the benefit of their citizens and communities.

These regulations will establish Corporate Joint Committees, as provided for in the Local Government and Elections (Wales) Bill currently before the Senedd.

The model of Corporate Joint Committees builds on the best that has already been achieved in the development of regional arrangements in different parts of Wales. It learns from experience elsewhere in the UK and in the wider world. I am determined to protect and develop the ability of local authorities to engage with local communities and work as locally as possible. We have learned from experience that our ability to act locally is best defended when local action can be complemented by regional action where the nature of the service demands this and where scarce resources need to be shared.

We need to ensure that we have consistent, resilient and accountable regional arrangements for the delivery of strategic land use planning, strategic transport planning and economic development. We were working with our partners in local government to enable this approach before the Covid-19 pandemic struck, but it is now all the more important as we seek ways to help Wales recover.

Collaboration is not new to local government, principal councils have been collaborating effectively in a range of areas for a long time. Several of these collaborations 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.

Establishing Corporate Joint Committees through these regulations will provide more coherence and less complexity in the approach to regional governance arrangements in exercising the three functions proposed. Corporate Joint Committees offer opportunities to streamline existing collaboration arrangements, and provide the clarity and consistency I know principal councils have been seeking. The aim is to reduce complexity and duplication of effort and resource. I hope the establishment of these four Corporate Joint Committees will also provide 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.

Local government Leaders and officers have been engaged throughout the development of the Corporate Joint Committee proposals and these regulations and I have welcomed and valued their input. I would like to take this opportunity to express my thanks for the constructive engagement which has shaped both the Bill and these regulations. I am committed to continuing to work with local government on implementing and further developing CJs and look forward to receiving thoughts and views through this consultation process so we can make sure we get this right.

Julie James MS
Minister for Housing and Local Government

SECTION ONE – Introduction

What are Corporate Joint Committees?

In contrast to other joint committee structures which exist in statute, Corporate Joint Committees (CJCs) will be separate corporate bodies which can employ staff, hold assets and budgets, and undertake functions. A CJC when established will have specific functions vested in them.

CJCs will provide a more consistent approach by local government for strategic regional governance, planning and service delivery; offering a mechanism in which principal councils can work collaboratively and at scale to plan and deliver the key strategic functions that will be needed to respond to and recover from the recent Covid 19 pandemic. CJCs will build on the new behaviours, commitments and collaboration that has occurred during this time helping further develop and lock in the transformation of organisational working. CJCs will help to align the individual front line community based service delivery with the collaborative and strategic actions required at a regional scale to drive recovery, to re-build and to re-invest in modern local economies.

Background

The Minister for Housing and Local Government began discussing the concept of CJCs with local government Leaders through the Working Group on Local Government¹ (the Working Group) in early 2019. This Working Group had been established following the consultation on the Green Paper Strengthening Local Government: Delivering for People² in 2018. The objective of the Working Group was to develop a sustainable future for local government and local services without recourse to the comprehensive mergers of principal councils which had been indicated in the Green Paper and opposed by local government.

As part of this, the Working Group reviewed existing regional working arrangements in local government and the appetite and priorities for increased future collaboration.

In June 2019, the Minister for Housing and Local Government published the recommendations of the Working Group³. The recommendations covered a number of areas including shared services, voluntary mergers, powers and flexibilities, diversity in local government, and the mutual respect agenda.

One of the key recommendations was related to the joint desire to create a consistent mechanism for regional working which would retain local democratic accountability; consistency of delivery; and simplification of collaborative arrangements:

Working Group on Local Government - Recommendation 3: That Welsh Ministers should include provisions within the Local Government and Elections (Wales) Bill for a consistent mechanism for regional working.

¹ The Working Group on Local Government was created to develop a shared agenda for reform to ensure the sustainability of local service provision through appropriate structures and processes within the framework of democratic accountability

² [Consultation Outcome - Strengthening Local Government: Delivering for People](#)

³ [Working Group on Local Government Recommendations](#)

In order to ensure the delivery of this recommendation, a Local Government Sub Group of the Partnership Council for Wales⁴ was established to provide the necessary leadership and oversight for this work.

Local Government and Elections (Wales) Bill

The Local Government and Elections (Wales) Bill (the Bill) introduced into the Senedd in November 2019 included (in Part 5), as a response to the recommendations of the Working Group, provisions to create via regulations a vehicle for consistent regional collaboration between principal councils - CJsCs. The provisions also enable the constituent principal councils to invite participation by partners from other sectors in the work of CJsCs 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 CJsCs. 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.

Part 5 of the Bill provides for the establishment, through regulations, of CJsCs by two routes:

- at the instigation of two or more principal councils. Two or more principal councils can request that the Welsh Ministers make regulations establishing a CJC for their areas in relation to any of the functions they exercise. The Bill sets out how this to be done and any conditions necessary.
- at the instigation of Welsh Ministers. The Welsh Ministers can establish a CJC to exercise functions without a request from principal councils, but only in relation to certain functions or functional areas which are specified on the face of the Bill.

This consultation is in relation to the establishment of CJsCs through the second route, that is, at the instigation of Welsh Ministers, in relation to the functions set out in Section 6. The consultation seeks views on the draft regulations – hereafter referred to as the Establishment Regulations.

The Minister for Housing and Local Government has confirmed her intention to bring forward regulations to establish the first CJsCs – that is one for each of the four regions described in Section Two below – by April 2021. The Bill provides that there must be consultation before Establishment Regulations can be made and that consultation can take place before commencement of the Bill. This formal consultation process therefore is taking place alongside the passage of the Bill through the Senedd and will be subject to that process.

⁴ The Local Government Sub Group of the Partnership Council was created to take forward a programme of work based on recommendations of the Working Group on Local Government and other issues related to local government reform

This consultation

This consultation is seeking your views on the draft Establishment Regulations which will create four regional CJs across Wales to 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.

The aim is to ensure these Establishment Regulations provide for the core aspects of the establishment and operation of the four CJs, and are flexible enough to respond to the specific circumstances in each area. It is, therefore, important to recognise that the detail of implementation could differ between CJs.

Once established, and where the constituent principal councils wish them to, these CJs would be able to exercise other functions in the future. It is important therefore that these Establishment Regulations provide the appropriate foundations to support this. Any future transfer of functions would be subject to further consultation and any necessary legislation at that time.

It is important to note for the purpose of this consultation that while there are four separate sets of Establishment Regulations, one for each CJC, the content of each separate set of regulations are substantially the same and we are therefore consulting on those regulations as one. Any reference to the Establishment Regulations, unless expressed otherwise, is a reference to all four draft sets of regulations. Similarly the Regulatory Impact Assessment (RIA) and the Integrated Impact Assessment (IIA) in Section 9 which accompany the regulations have been drafted as single documents relating to all four sets of Establishment Regulations.

Alongside the Establishment Regulations for each CJC there will be a set of regulations that will apply generally to all the CJs, setting out the detail of their governance and administrative arrangements and the legislative framework within which they will operate. Such regulations will be necessary to support the implementation of the Establishment Regulations. In this consultation paper where necessary these will be referred to as 'Regulations of General Application'. It is our intention to continue to work with local government on the content of the Regulations of General Application.

While these Regulations of General Application are not subject to this consultation, in order to put the Establishment Regulations in context, we have sought to indicate throughout what we think might be provided for within those Regulations of General Application, subject to the outcome of this consultation. This is not however intended to be a definitive or exhaustive description of the Regulations of General Application.

SECTION TWO – Approach to developing the regulations

Principles applied

Two key principles underpin the development of the Establishment Regulations 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 they operate. The intent is to avoid as far as possible making CJs do things in a manner that those in local government would be unfamiliar with or to create new and unfamiliar procedures, obligations, powers etc. which might increase administrative burdens
- The detail on how a CJC operates in practice should be left to the determination of the members of the CJC itself. This flexibility will enable the CJs to differ between geographical areas to meet the different needs and ambitions of their region.

Consultation Question One:

a) What are your views on CJs being subject to broadly the same powers and duties as principal councils?

b) Do you agree that CJs should have broadly the same governance and administrative framework as a principal council provided that this is proportionate? Please give your reasons.

c) Do you agree that members of CJs should have appropriate discretion on the detail of constitutional and operational arrangements? Please give your reasons.

Stakeholder engagement and co-production

The Minister for Housing and Local Government has held extensive discussions on the CJC proposals with local government Leaders, the Welsh Local Government Association (WLGA) and with wider public service stakeholders who will be impacted by the development of CJs. This co-development of the Establishment Regulations, and any accompanying Regulations of General Application, is aimed at ensuring they are fit for purpose and deliver on the intended outcomes of simplification and consistency of governance structures.

The mechanisms used for political engagement have included:

- The Working Group on Local Government
- The Partnership Council for Wales
- Local Government Sub Group of Partnership Council
- WLGA events including WLGA Executive Board, WLGA Council meetings, regular scheduled Ministerial meetings with the WLGA and meetings with a number of the WLGA political group Leaders
- Individual meetings with principal council Leaders
- Principal council Leaders in regional groupings

The Minister and officials have also engaged with Chief Executives via the Society of Local Authority Chief Executives (SOLACE).

In addition to political and Chief Executive engagement, there has also been joint working between officials to co-develop the detail which has informed these regulations. Such engagement has been forthcoming and welcomed by both Welsh Government and local government to ensure that the regulations meet the needs of principal councils, add value and do not unintentionally cut across other arrangements.

The Lawyers in Local Government Group (LLG) has been actively engaged on co-development of regulations relating to governance, audit, standards and scrutiny issues of CJs.

The Society of Welsh Treasurers (SWT) has been equally involved in considering detail of finance and funding regimes for CJs.

Local government and WLGA officers have also worked alongside Welsh Government officials in the functions to be transferred to a CJC. The opportunities and implications of the CJC model have been discussed in detail in order to help co-develop the Establishment Regulations and any Regulations of General Application.

From March 2020 the Covid-19 pandemic slowed this engagement because of more urgent priorities to support local government in its planning and delivery of essential services, especially for the most vulnerable in society.

Engagement with local government on CJs was resumed in July with Leaders, with the Society of Local Authority Chief Executives (SOLACE), the WLGA and local government officers, including LLG and SWT leads and also function-specific experts in areas such as transport and planning.

The Local Government Sub Group of the Partnership Council for Wales has provided oversight throughout the process, providing joint Ministerial and local government ownership.

Approach to determining the area of each CJC

The Bill allows for flexibility in relation to the area a CJC covers, and the Minister for Housing and Local Government has worked with local government Leaders to understand their desired footprint for the regional CJs being put in place under these first four sets of Establishment Regulations. It is important that this footprint was agreed with local government in order to provide an agreed baseline position for regional working that we can collectively build on for the future.

The WLGA political group Leaders wrote to the Minister in March 2020 to set out the local government view that the footprint for the CJs within these Establishment Regulations should be based on the existing city and growth deals geography.

Therefore, in line with the local government expressed preference, the Establishment Regulations have been prepared to reflect this request as follows:

CJC Area	Constituent Principal Councils	National Park Authorities*
Mid Wales	Ceredigion County Council Powys County Council	Brecon Beacons
South West Wales	Carmarthenshire County Council Neath Port Talbot County Borough Council Pembrokeshire County Council Swansea County Council	Brecon Beacons and Pembrokeshire Coast
North Wales	Conwy County Borough Council Denbighshire County Council Flintshire County Council Gwynedd Council Isle of Anglesey County Council Wrexham County Borough Council	Snowdonia
South East Wales	Blaenau Gwent County Borough Council Bridgend County Borough Council Caerphilly County Borough Council Cardiff Council Merthyr Tydfil County Borough Council Monmouthshire County Council Newport County Borough Council (more commonly known as Newport City Council) Rhondda, Cynon, Taff County Borough Council Torfaen County Borough Council The Vale of Glamorgan County Borough Council	Brecon Beacons

* As the Establishment Regulations include functions relating to strategic planning the regulations make provision about the membership of the committee by the National Park authority for that National Park. The National Parks have been included here to illustrate this membership.

Consultation Question Two:

These CJC areas have been agreed by local government Leaders as the most appropriate to reflect the functions being given to CJC's by these Establishment Regulations. Do you have any comments or observations on these CJC areas in relation to these functions or the future development of CJC's?

The content of the Establishment Regulations

The Establishment Regulations cover:

- The main governance and constitutional arrangements
- Finance, funding and budgetary matters
- Provisions for staffing and workforce
- The functions which will be exercised by the CJs

It is noted however that as these areas might overlap to a certain degree the regulations will not directly reflect these headings. However for the purpose of the consultation on the Establishment Regulations, the consultation has been set out against these four broad headings.

Regulations of General Application

As was indicated in the introduction, it is proposed that there will be Regulations of General Application to accompany and support the Establishment Regulations. The content of those regulations remains subject to the outcome of this consultation and ongoing discussions with local government. The Regulations of General Application, as with the Establishment Regulations, will be underpinned by the key principles in Section two, particularly the ambition for CJs to be treated as part of the 'local government family'.

The Establishment Regulations set out what each CJC can do and some of the key aspects of their governance, finance and staffing. The Regulations of General Application will deal with the detail of how they will work, and where and how existing local government legislation will apply to them.

Consultation Question Three:

- a) Do you agree with the approach to the development of the regulations for CJs as outlined in this consultation? Please give your reasons.**
- b) We have indicated throughout this document what may be included in the Regulations of General Application, subject to the outcome of this consultation. Whilst the Regulations of General Application are not the subject of this consultation, in order to inform their development we would welcome your views on anything else which should be covered?**

SECTION THREE – Governance and constitutional arrangements for CJs

The Establishment Regulations provide the core constitutional structure to enable the CJC to establish itself. This structure will need to be underpinned by further detail in the Regulations of General Application, for example in any proposed application (with or without modification) of relevant local government legislation.

Composition

The Establishment Regulations set out that each CJC will be comprised of a number of principal councils and the principal council areas combined will form the area of the CJC (the CJC areas set out in Section Two). The Establishment Regulations provide that a 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. Its members will report back to those principal councils and will 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

In line with the requirements of Part 5 of the Bill, and previous discussions and consultation with local government, the Establishment Regulations provide that the CJs will comprise of the Leaders (defined in the regulations as the senior executive member) of the constituent councils. Each member will be a member of the CJC until they cease to be the Leader of the constituent council.

The Leaders will decide whether additional representatives from within its constituent councils or other organisations will be invited to be members of the CJC. The Establishment Regulations therefore provide the CJC with the flexibility to co-opt such members to the CJC as it may determine necessary and appropriate to exercise its functions effectively. A CJC will be able to determine / agree the terms of membership of any co-opted member – e.g. voting rights, role, contribution towards funding etc.

Where the function of preparing a Strategic Development Plan is to be a function of a CJC, and any part of a National Park is in the area of the CJC, the regulations must make provision about the membership of the committee by the National Park authority for that National Park. The Establishment Regulations include providing the CJs being established with the Strategic Development Plan functions. The Establishment Regulations therefore provide for membership of the relevant National Park authority on each of the four CJs.

It will be for the relevant National Park authority (or authorities in the case of the South West Wales CJC) to nominate the appropriate representative from either the Chair, Vice Chair of the National Park authority or Chair of the National Park authority Planning Committee. The membership of the National Park authority, as specified in the Establishment Regulations, is prescribed (and therefore limited) to the exercise of the Strategic Development Plan functions of the CJC only. However a CJC may decide to co-opt the National Park authority, under such terms as they see appropriate, to support the delivery of other functions should they wish.

Consultation Question Four:

- a) Do you agree with the proposed approach to membership of CJs including co-opting of additional members? Please give your reasons.**
- b) What are your views on the role proposed for National Park Authorities on CJs, as described above?**

It is proposed that the Regulations of General Application will expressly prohibit staff of a CJC being members of a CJC, one of its constituent principal councils or a member of the National Park Authority. This approach to disqualification is consistent with those relating to the disqualification of principal council staff in relation to the membership of principal councils.

Voting arrangements

A CJC will be established on a 'one member one vote' basis. However, the Establishment Regulations also provide for a CJC once established to be able to adopt alternative voting procedures should they wish to do so.

In developing the Establishment Regulations it was considered whether there should be a minimum or maximum number of members (including co-opted members) of a CJC. In order to maintain the maximum flexibility for CJs it was not considered that this would be appropriate. However the Establishment Regulations do provide that a CJC is limited in 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, or in relation to strategic planning functions, council members and the National Park member(s).

The Establishment Regulations also provide for a quorum of no fewer than 70% of the voting members. The quorum for principal councils is currently 25%. However in considering the issue of quorum for a CJC it was felt that it should be set at sufficiently high a level to balance the need for the CJC to be able to exercise its functions effectively and the need to ensure that decisions of the CJC are representative of the majority of the voting members. This ensures the democratic accountability of all voting members.

Consultation Question Five:

- a) What are your views on the proposed approach of 'one member one vote' and the flexibility for CJs to adopt alternative voting procedures?**
- b) What are your views on the proposed quorum for CJs?**
- c) What are your views on the proposed approach to voting rights for co-opted members to a CJC?**

Sub committees

The Establishment Regulations provide that a CJC will be able to establish sub committees to support it to exercise its functions should it wish to do so.

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.

With this in mind it will be possible for CJC's sub-committees to consist of members of the constituent principal councils other than those members on the CJC itself - for example a relevant member or relevant portfolio holder of the principal council's executive – though it should be possible for this to be the case, particularly for example where the Leader is also the relevant member.

Other partner organisations may also be invited/co-opted to be sub-committee members should a CJC wish to do so. Again the terms of such membership will be for the CJC to decide and agree with the partners being co-opted.

Consultation Question Six:

- a) What are your views on CJC's being able to co-opt other members and/or appoint people to sit on sub-committees?**

Statutory guidance (issued under part 5 of the Bill) will provide further advice for CJC's on consideration of wider involvement of partners in their work. The intention, as outlined in section seven, is for the requirements of the Well-being of Future Generations (Wales) Act 2015 to apply to CJC's as they do to its constituent councils and so the ways of working around collaboration, involvement and taking an integrated approach will be particularly important to consider.

Consultation Question Seven:

- a) Do you agree that the approach to co-option of members would enable wider engagement of stakeholders in the work of a CJC?**
- b) What might be needed to support CJC members in the involvement and engagement of appropriate stakeholders in their work?**

Standing orders

It is proposed that the Establishment Regulations require that a CJC must make standing orders for the regulation of its proceedings and business. The Establishment Regulations include some core requirements for standing orders, for example regulation of the CJC's procedures. Subject to the outcome of this consultation we would expect any further detail on what the standing orders must provide for could be set out in the Regulations of General Application, for example approaches to appointing staff or dealing with issues of misconduct.

Code of conduct

The Establishment Regulations require all CJC's to adopt a code of conduct for its members and staff. Subject to the outcome of this consultation the detail of the content of such a code may be provided for in the Regulations of General Application. For example this might include ensuring CJC's are relevant authorities for the purposes of Part 3 of the Local Government Act 2000, which will bring them within the ethical framework for local government which that Act establishes. This would also bring them into the scope of the Public Service Ombudsman for Wales.

Consultation Question Eight:

- a) Do you agree that members and staff of a CJC should be subject to a Code of Conduct and that the code should be similar to that of Principal Councils? Please give your reasons.**
- b) What are your views on the adoption of a Code of Conduct for co-opted members?**
- c) Should all co-opted members be covered by a code i.e. those with and without voting rights?**

Liability of members

A CJC is a corporate body in its own right and the members will be taking decisions on functions which are theirs and theirs alone. In light of this, in the event of a claim or legal action we believe it would be inappropriate for liability to be allocated / apportioned to each constituent council. A CJC should therefore be required to indemnify its members (have its own indemnity) for the decisions they take. The CJC should hold the liability, rather than individual members, employees or others discharging functions on their behalf. Subject to the outcome of this consultation, such matters are likely to be included in the Regulations of General Application.

Scrutiny and governance

In presenting the proposals for CJC's it is considered important that the structure and approach to a CJC seeks to maintain and support the democratic accountability of local government.

The Establishment Regulations provide that each CJC is required to put in place appropriate scrutiny arrangements. Such arrangements should be at the discretion of the CJC. The Establishment Regulations also require that a CJC has an Audit and Governance Committee. Through the Regulations of General Application, and subject to the outcome of this consultation, it will be necessary to ensure that any scrutiny committee has the appropriate powers and safeguards, for example as is provided for in section 21 of the Local Government Act 2000; and also the relevant requirements to take in to account the views of the public and a duty on the CJC to respond, for example section 21B of the Local Government Act 2000 and section 62 of the Local Government (Wales) Measure 2011. We also believe that the Regulations of General Application should include provision so that any scrutiny committee does not include a member of the CJC (or one of its sub-committees), that it could include members (including non-executive members) of the constituent principal councils, that scrutiny committees will be able to source independent advice from experts and that membership should seek to take account of political balance in the constituent principal councils.

As well as having scrutiny arrangements we consider it appropriate that a CJC should be subject to more general oversight of their work. Section Four below for example includes matters relating to CJC's and the Auditor General.

In addition it might be considered appropriate for CJC to be subject to the same performance and governance regime as principal councils, as is included in Part 6 of

the Local Government and Elections (Wales) Bill, for example to undertake annual self-assessments on their performance and to seek external views through a panel of peers on their performance. This would be addressed in the Regulations of General Application.

Ancillary Powers

To complement the specific functions transferred to the CJC the Establishment Regulations, also provide the CJC with the power to do anything to facilitate or which is incidental or conducive to the exercise of its functions.

SECTION FOUR – Finance, funding and budgetary matters

The approach to finance, funding and budgetary matters in the regulations has been developed to reflect discussions with the Partnership Council Finance Sub Group (FSG) and Distribution Sub Group (DSG), with the Society of Welsh Treasurers and representatives of the Chartered Institute for Public Finance and Accounting (CIPFA).

The development of these regulations has been undertaken in line with the Good Practice Guide on Hypothecated Funding for Local Government and the guidance in the Legislation Handbook on assessing (and making provision for) the financial implications of primary legislation.

The Establishment Regulations make provisions relating to the funding of a corporate joint committee. Broadly speaking the Establishment Regulations make provision requiring a CJC to calculate its budget requirement, sets out how that requirement is to be met and requiring the CJC to keep proper accounts.

The Establishment Regulations require that a CJC calculates its budget requirements for each financial year to include the amounts required to exercise its functions; as well as for contingencies, for reserves, and outstanding liabilities. The intention is that a CJC must be sufficiently funded to deliver its specified functions/activities, including expenditure associated with administrative costs and overheads.

In calculating its budget requirements the Establishment Regulations require a CJC to take into account any amounts it estimates it will receive from sources other than its constituent councils and National Park members. Where the estimated expenditure for each annual year exceeds the funding received from other sources this will form the budget requirement of the CJC.

The Establishment Regulations require the CJC to calculate its budget requirement annually by 14 February preceding the relevant financial period. This is to align with the principal council budget setting process.

In practice the constituent principal councils will require the CJC to provide an indicative or provisional budget requirement to facilitate their own budget preparations. Although not provided for in regulations, the constituent principal councils may request this by 30 November preceding the relevant financial period (in line with current practices) and a CJC should be prepared for this.

In terms of the first year of operation however it will not be possible for a CJC to set its budget in this way. It may also be difficult for a CJC to ascertain what its initial budget may be as it will depend on its ambition in exercising its functions in its first year. It is proposed therefore for the Establishment Regulations to provide a reasonable timescale to set the first year's budget requirement, that is, within two months following the first meeting.

The Establishment Regulations do not prescribe any formula basis for funding of a CJC. The Establishment Regulations provide that the CJC will decide how the budget requirement will be met by the constituent principal councils (or in the case of the strategic planning functions by the National Park authority and the constituent principal councils.)

In the absence of unanimous agreement by the constituent councils and National Park member(s) on the amount payable), the establishment regulations provide for the amounts payable by the constituent principal councils (and National Park authority) to be directed by Welsh Ministers.

Consultation Question Nine

- a) What are your views on the proposed approach for determining the budget requirements of a CJC?**
- b) What are your views on the timescales proposed (including for the first year) for determining budget requirements payable by the constituent principal councils?**

The CJC will be the accountable body for the funding provided from constituent principal councils and or directly received from any other funding streams

The Establishment Regulations enable CJCs to pay towards expenditure incurred or to be incurred in relation to carrying out its functions as it may determine. A CJC is also enabled to charge fees relating its specified functions. The regulations also enable CJCs to provide assistance by way of grant or contributions, to include repayable assistance, to support functions exercisable by them.

The Establishment Regulations require CJCs to keep proper accounting records and to prepare annual accounts in accordance with Welsh Ministers directions. It is proposed that these directions and the Regulations of General Application will ensure that CJCs are subject to the usual principal council checks and balances – including the financial duties and rules which require councils to act prudently in spending, which are overseen and checked by a Responsible Chief Finance Officer, and to ensure transparency, that annual accounts are published. For example the Regulations of General Application might require a CJC to follow proper (accounting) practices such as those specified by the Chartered Institute for Public Finance and Accountancy (CIPFA) Code of Practice on Local Authority Accounting in the United Kingdom, as amended or reissued from time to time.

The funding from constituent principal councils will be held and managed by the CJC. It is proposed that the Regulations of General Application will require the CJC to manage the funds under the same financial management arrangements as local government bodies in Wales. This might include for example, being subject to appropriate accounting and audit arrangements, as set out in the Accounts and Audit (Wales) Regulations 2014, and in compliance with the mandatory Public Sector Internal Audit Standards. Such an approach will provide independent and objective assurance regarding the effectiveness of the CJC's risk management, control and governance processes.

The intention is that through the Regulations of General Application all funding decisions taken by the CJC will be subject to review through annual external audit, which will undertake cost benefit analysis and assess the extent to which resources have been used economically, efficiently and effectively in delivering its services and activities. This will be in addition to the requirements on performance and governance set out in part 6 of the Local Government and Elections (Wales) Bill which are also intended to apply.

Consultation Question Ten

- a) Do you agree that CJs should be subject to the same requirements as principal councils in terms of accounting practices? Please give your reasons.**
- b) Do you agree that the detail of how a CJC is to manage its accounting practices should be included in the Regulations of General Application? If not what more would be needed in the Establishment Regulations?**

SECTION FIVE – Staffing and workforce matters for CJs

The approach to staffing and workforce matters has been developed to reflect the discussions at Partnership Council's Local Government Sub-Group and with principal council HR Directors and reflects the key principles set out in Section Two.

The Establishment Regulations provide for CJs to be able to employ and recruit staff in their own right; make agreements to place staff at the disposal of other devolved Welsh Authorities and have staff placed at the CJC's disposal; and undertake secondments (in and out) to enable CJs to discharge their functions. The intention is that there is flexibility for each CJC to determine the approach it takes to staffing, and for that approach to evolve over time as CJs potentially take on further operational as well as strategic functions.

As part of the approach to treating CJs as part of the 'local government family' the Regulations of General Application will seek to ensure that the provisions in law relating to staffing which apply to principal councils will also apply to CJs. It is important in this regard that any legislation which is applied to CJs provides any necessary rights for, and obligations on, the individual (or does not impose lesser rights or obligations) how-so-ever employed by the CJC (direct employment, secondment, loan, contract etc.).

It is intended that the detail which underpins the employment or loan of staff will sit within the Regulations of General Application with a view to ensuring that as publicly employed individuals officers of a CJC are:

- subject to the same / similar requirements of transparency / accountability etc. as employees of principal councils or any other public appointments.
- afforded similar or the same benefits as officers of principal councils
- subject to the same / similar restrictions on political activities (CJC will be required to have a code of conduct for employees).
- indemnified in the discharge of their duties on behalf of the CJC.

Terms and conditions

It is not intended that the terms and conditions for staff employed by the CJC be left entirely to the discretion of the CJC as they are to a principal council. The Establishment Regulations therefore provide that staff employed by the CJC are to be appointed on the same or similar terms and condition (including conditions as to remuneration) as officers appointed to one of the constituent councils undertaking substantially similar or the same responsibilities. Such matters will be determined by the CJC.

The aim is to ensure that CJs do not adopt significantly different arrangements to the majority of their constituent principal councils, supporting the interchange of staff and collaborative working where possible. This approach will also ensure that a CJC is not used as a vehicle to erode (or indeed inflate) pay structures through the transfer of staff / functions to a CJC and where there is deviation / difference such deviation / difference is clear and transparent.

Where not otherwise provided for within the adopted terms and conditions it is the policy intent that the Regulations of General Application will require a CJC to prepare, annually, a statement setting out the authority's policies on the remuneration of its chief officers, the remuneration of its lowest paid employees and the relationship between the remuneration of its chief officers and the remuneration of its employees who are not chief officers.

Transfer of Undertakings Protection of Employment (TUPE) and Staff transfers

The draft Establishment Regulations provide that where a member of staff appointed by a CJC has been transferred to a CJC from a constituent council, TUPE principles will apply.

This is not intended to predetermine if a CJC should directly employ the staff required to undertake a function – the nature of the staffing (employed, loaned or contracted) should remain a matter for the CJC to decide.

This approach is in line with The Code of Practice on Workforce Matters⁵ (also known as the 'two tier code'). It is intended that the two tier code will be applied to a CJC itself, via the Regulations of General Application, and to any relationship between a principal council and a CJC in the delivery of its functions (save where otherwise covered by regulations).

Consultation Question Eleven:

What are your views on the proposed approach to staffing and workforce matters?

Executive Officers

The Establishment Regulations require a CJC to appoint a number of statutory "executive officers" namely a Chief Executive, Chief Finance Officer, Monitoring Officer and Chief Governance Officer. The intention in this case is for a CJC to be able to directly employ, commission services or have relevant staff loaned from a constituent council to fulfil these roles as the CJC may determine.

The detail around the roles and responsibilities of these Executive Officers would be similar to the roles within principal councils, and subject to the outcome of this consultation the detail would be contained within the Regulations of General Application. For example:

- **Chief Executive** – The Regulations of General Application are likely to provide that the Chief Executive of a CJC will be subject to the same rules, procedures and proceedings as a Chief Executive of a principal council. The Remuneration of a Chief Executive of a CJC will be subject to the same arrangements as for a Chief Executive of a principal council i.e. be subject to the Independent Remuneration Panel for Wales.

⁵ <https://gov.wales/sites/default/files/publications/2019-02/circular-code-of-practice-on-workforce-matters.pdf>

- **Monitoring Officer** - The Regulations of General Application are likely to provide that the Monitoring Officer of a CJC operate in the same or similar way to that outlined for 'relevant authorities' in s5 of the Local Government and Housing Act 1989. Depending on the arrangements for the ethical framework relating to members of the CJC who are members of principal councils or national park authorities and co-opted members this officer may also play an equivalent role to that set out in Part 3 of the Local Government Act 2000.
- **Chief Financial Officer** - The Regulations of General Application are likely to require a CJC to ensure the effective use of public money and have responsibility for the proper administration of its financial affairs. The Responsible Chief Finance Officer will be responsible for reporting on the financial management and assurance of the CJC.
- **Chief Governance Officer** (interim title) - The Regulations of General Application are likely to provide for the role of the Chief Governance Officer - a role equivalent to a Head of Democratic Services for principal councils. It is not intended however for a CJC to be required to have a Democratic Services Committee, and therefore the regulations will not apply / extend any of the related functions / roles within the Local Government Measure 2011 to the Chief Governance Officer of a CJC.

It is intended that all executive roles within a CJC will be afforded the same statutory protection and indemnity as principal council statutory officers.

Consultation Question Twelve:

What are your views in relation to CJsCs being required to have or have access to statutory “executive officers”?

Standing Orders

The Establishment Regulations require CJsCs to adopt standing orders to govern its proceedings and business (so far as not regulated by the Establishment Regulations). Such standing orders might include the procedures for the appointment and dismissal of, and taking disciplinary action against, a member of staff of the CJC (how-so-ever appointed). The detail of what is required within the standing orders however, subject to the outcome of this consultation, will be included in the Regulations of General Application.

Trade Unions

Trade Union recognition by public bodies in Wales is a Ministerial priority. We would therefore expect that CJsCs would work under the same Social Partnership approach that exists between Trade Unions and principal councils. We would welcome views on how this might be achieved, for example through guidance or the adoption of a constituent councils Terms and Conditions.

Consultation Question Thirteen:

Do you have any other views on provision for staffing or workforce matters within the establishment regulations?

SECTION SIX – The functions to be exercised by the CJs

The Establishment Regulations set out which functions the CJs being established will exercise.

In the first instance all four of the CJs established in these regulations will be exercising the following functions:

- The function of preparing, monitoring, reviewing and revising of a Strategic Development Plan (SDP). These functions are set out in Part 6 of the Planning and Compulsory Purchase Act 2004 (as amended by the Bill).
- The function of developing a Regional Transport Plan – that is the functions of developing policies for transport in, to and from the CJC area and developing policies for implementing the Wales Transport Strategy. These functions are set out in the Transport Act 2000.
- The economic well-being function as provided for in Part 5 the Local Government and Elections (Wales) Bill. That 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.

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

However, as previously stated, the constituent councils of these CJs may apply to Welsh Ministers to have the function of improving education (or any of their other functions) conferred on their CJC once the relevant provisions in the Bill enabling an application by principal councils to be made have commenced. In future, therefore, there may be divergence in what each of these CJC does. Any future proposals to add (including to omit or modify) principal council functions to a CJC would be subject to formal consultation as set out in the Bill.

In the case of the economic well-being power, and in relation to future functions that a CJC may exercise, 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.

Arrangements for managing concurrent functions are not provided for in regulations. 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 CJs and its constituent principal councils on this matter.

In relation to the strategic planning function, the details of the procedures for making and revising strategic development plans will be set out in the Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021, a consultation on which is being undertaken in parallel with this consultation. Should you wish to make any representations about those procedures, please do so via that consultation.

Consultation Question Fourteen:

- a) Is it clear what functions the CJC's will exercise as a result of these establishment regulations? If not, why?**
- b) Do the establishment regulations need to say more on concurrence, if so what else is needed, or should that be left to local determination?**
- c) In your view are there any functions which might be appropriate to add to these CJC's in the future? If yes, what?**

Discharge of functions

We intend to ensure that a CJC can arrange for the discharge of its functions as it sees fit except where decisions cannot be delegated from a CJC (see below). This could be through sub-committees, officers, other CJC's, other principal councils and joint committees.

The Establishment Regulations explicitly address some of this, for example providing for the establishment of sub committees and enabling delegation of functions to them. However it is likely that much of the detail will be included in the Regulations of General Application. We would want to ensure a CJC has a scheme of delegation similar to that required of principal councils under section 101 of the Local Government Act 1972. The content of the scheme of delegation will be for the CJC to determine and it might include delegation to sub-committees, CJC members and / or staff appointed to deliver the functions of a CJC (howsoever appointed).

We have already discussed that the Establishment Regulations enable CJC's to adopt a sub-committee model should it wish to do so including to delegate some of its functions. It would be for the CJC to determine the arrangements, including membership and voting rights, of its sub-committees as it sees fit.

While there is broad discretion on what a CJC can chose to delegate to a sub-committee we believe there are a small number of decisions which need to be made by the CJC itself. For example: agreement of budgets; the adoption or approval of plans or strategies (including the Regional Transport Plan and Strategic Development Plan); and consideration of any reports required by statute. It might be appropriate for the Establishment Regulations therefore to prevent the delegation of such matters and we would welcome your view on this as part of this consultation.

Consultation Question Fifteen:

Do you think the regulations should provide for anything to be a decision reserved to the CJC rather than delegated to a sub-committee? If so what?

Approach to transfer of the exercise of these functions

The Establishment Regulations provide that a number of functions currently being exercised by individual principal councils will now be exercised by these CJs.

It will be important to understand the implications of the transfer of the exercise of these functions in terms of staff and resources and to consider how the transfer of the functions can proceed in an efficient and effective way. In line with the co-development approach which we have adopted to date, the Welsh Government will wish to work with principal councils, and the CJs once established, to support this transition process.

As an example, principal councils are currently responsible for developing local transport plans, and the function of preparing a transport plan will be transferred to each of the CJs to undertake on a regional basis – a Regional Transport Plan. Arrangements will need to be put in place to ensure an effective transition from local to regional arrangements.

It may be that in certain circumstances the transfer of the exercise of a function, and therefore the point at which the CJC is required to undertake that function, may be later than the point at which the CJs are established. This would also allow for a period of implementation and for the CJC to establish itself, as discussed later in this document.

For strategic planning there are no existing arrangements in place at a regional level so they do not give rise to the same need for transition arrangements. A CJC will be expected to commence delivery of these functions as soon as is reasonably practicable and as soon as the procedural regulations are made. It is important to note that principal councils will retain their existing function of preparing local development plans.

CJs will also have the economic well-being function from the point at which they are established. It is recognised that there are existing structures and arrangements at a regional level which promote and encourage economic well-being and it will be for the CJC and its constituent councils to consider the transition of existing regional arrangements such as the City / growth deals should they chose to bring these activities within the remit of their CJC. However, we would be interested to consider how the Welsh Government might be able to facilitate or support any transfer in this regard. We would welcome views as part of this consultation, particularly what issues might require resolving in moving from the current Joint Committee approach to a CJC

Consultation Question Sixteen:

What are your views on the approach to transfer of the exercise of functions to these CJs?

SECTION SEVEN – CJs and duties as a Public Body

As has been discussed previously one of the underlying principles in the development of the regulations establishing CJs is that CJs should be treated as part of the ‘local government family’ in determining how they should operate.

The intention is that CJs should also be treated more generally as a ‘public body’ and would therefore be captured by, or required to meet duties under, a number of existing pieces of legislation.

This might include for example:

- **The Well-being of Future Generations (Wales) Act 2015** – which provides for a single principle (‘the sustainable development principle’) to guide the exercise of functions of specified public bodies to consider how they are meeting the needs of current generations without compromising future generations, to better address long term challenges such as inequalities of outcome.
- **The Equality Act 2010** - which makes it unlawful to discriminate against those persons with a protected characteristic under the 2010 Act. The Act places a ‘due regard’ duty (Public Sector Equality Duty) on public bodies to ensure that advancement of equality of opportunity is a key consideration when carrying out their functions. The Act also provides for a Socio-Economic Duty (proposed for commencement in Wales in 2021) which requires specified public bodies, to consider how their decisions might help reduce the inequalities associated with socio-economic disadvantage.
- **The Welsh Language Standards** – which gives Welsh-speakers improved, enforceable rights in relation to the Welsh language. They do this by imposing standards on organisations in relation to service provision, policy making, operations, promotion and record keeping.
- **The Environment Act 1995** - which places a duty on certain public bodies to have regard to the purposes for which National Parks were designated.
- **The Environment (Wales) Act 2016 (Section 6)** – which requires a public authority to seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems,
- **Children and Families (Wales) Measure 2010** – which makes provision about contributing to the eradication of child poverty, and about arrangements for the participation of children in decisions that might affect them.

Where possible, and subject to the requirements of the relevant legislation, the application of relevant legislation in this case will be done through the Regulations of General Application rather than the Establishment Regulations. However we would welcome your views on the intended approach.

Consultation Question Seventeen:

What are your views on CJs being subject to wider public body duties as described above?

SECTION EIGHT – Implementation

The Establishment Regulations require that each of the CJs established must hold its first meeting by the end of September 2021.

Although it will be possible for a CJC to meet as soon as these Establishment Regulations come into force, it is accepted that a CJC will not be fully operational on day one and that it will take a short period of time for a CJC to take the necessary decisions, to make the necessary arrangements, and to develop its capacity to be able to exercise its functions effectively.

For example it is likely that the early meetings will focus on matters such as the election of the chair and deputy chair, appointing statutory officers, adopting codes of conduct and standing orders, agreeing wider membership and any committee structures and putting in place appropriate financial systems.

The frequency of meetings will be left to each CJC to consider as is appropriate to their own requirements and it may be that the frequency of meetings change as the CJC evolves and becomes more established.

The Minister for Housing and Local Government has previously committed in discussion with the Partnership Council, Local Government sub group to support local government in establishing these CJs. Subject to agreement this might include supporting CJs in meeting their set up costs in the short term as was recommended in independent research commissioned to support the development of the RIA which accompanies this consultation⁶. It might also be appropriate to provide some support in advance of any CJC being established to support the transition process.

Consultation Question Eighteen:

- a) The Welsh Government is keen to continue working closely with local government and others on the establishment and implementation of CJs. Do you have any views on how best we can achieve this?**
- b) In your view, what core requirements / components need to be in place to ensure a CJC is operational, and exercising its functions effectively?**
- c) In particular, what do you think needs to be in place prior to a CJC meeting for the first time, on the day of its first meeting and thereafter?**

Guidance

It is recognised that whilst regional working is not new for local government the CJC model is. It may be helpful therefore to provide guidance to support the establishment of CJs. Initially the intention would be to focus on guidance around the constitutional, governance, finance and staffing arrangements with function specific guidance provided at a later date as and when required.

⁶ [Collaboration between local authorities in Wales Report](#)

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 in the implementation of the Establishment regulations and in the development of any guidance to CJsCs.

Consultation Question Nineteen:

- a) Do you think it would be helpful for the Welsh Government to provide guidance on the establishment and operation of CJsCs?**
- b) Are there any particular areas which should be covered by the guidance?**

General

Consultation Question Twenty:

- a) How can the Welsh Government best support principal councils to establish CJsCs?**
- b) Are there areas the Welsh Government should prioritise for support?**
- c) Is there anything that CJsCs should/should not be doing that these Establishment Regulations do not currently provide for?**

SECTION NINE – Supporting Documents

To help assess the potential impact of establishing the CJs outlined above we have published the following draft documents in support of the regulations:

- A Regulatory Impact Assessment (RIA)
- An Integrated Impact Assessment (IIA)

Regulatory Impact Assessment

The Regulatory Impact Assessment assesses the potential costs and savings, and the benefits and dis-benefits associated with establishing, through regulations, these CJs.

The options that have been considered in preparing the RIA are:

- Option 1 – Do nothing. That is that the policy is not implemented, regulations are not made and CJs are not established.
- Option 2 – Implement the policy and establish CJs by regulations.

The RIA focusses on the core administrative costs of establishing and operating a CJC and the delivery of the functions specified in the regulations. The RIA has been presented to reflect the scope for local discretion that the regulations provide. Much of the costs within the RIA will depend on the decisions made by each CJC in the way that it operates and governs itself within the flexibilities the regulations allow.

The RIA therefore presents a range of estimated costs set around a possible minimum and maximum which seek to reflect the flexibilities and that give a sense of the potential costs associated with the range of administrative arrangements which CJs could put in place. It has not been possible to assess definitively all potential costs, particularly on all stakeholders, but we would expect CJs to consider the costs and benefits and impacts on different stakeholders prior to taking action.

A breakdown of the assumptions which underpin the RIA can be found in paragraphs 12-32 of the RIA, and a breakdown of the costs and benefits can be found in paragraph 43-145 of the RIA.

Integrated Impact Assessment

An Integrated Impact Assessment Summary has been undertaken to assess the most significant impacts, positive and negative of establishing these CJs via regulations. A summary of the conclusions of this assessment has been published as part of this consultation along with details on the monitoring and evaluation of the proposal.

We would welcome your views on the context of these document, especially the Regulatory Impact Assessment as to determine if the costs and benefits provided are fair and reasonable.

Consultation Question Twenty One:

- a) Do you agree with our approach to, and assessment of, the likely impacts of the regulations? Please explain your response.**
- b) Do you have any additional/alternative data to help inform the final assessment of costs and benefits contained within the Regulatory Impact Assessment? If yes, please provide details.**

**Consultation
Response Form**

Your name:

Organisation (if applicable):

Email / telephone number:

Your address:

Summary of consultation questions

Consultation Question One:

- a) What are your views on CJsCs being subject to broadly the same powers and duties as principal councils?
- b) Do you agree that CJsCs should have broadly the same governance and administrative framework as a principal council provided that this is proportionate? Please give your reasons.
- c) Do you agree that members of CJsCs should have appropriate discretion on the detail of constitutional and operational arrangements? Please give your reasons.

Consultation Question Two:

These CJC areas have been agreed by local government Leaders as the most appropriate to reflect the functions being given to CJsCs by these Establishment Regulations. Do you have any comments or observations on these CJC areas in relation to these functions or the future development of CJsCs?

Consultation Question Three:

- a) Do you agree with the approach to the development of the regulations for CJsCs as outlined in this consultation? Please give your reasons.
- b) We have indicated throughout this document what may be included in the Regulations of General Application, subject to the outcome of this consultation. Whilst the Regulations of General Application are not the subject of this consultation, in order to inform their development we would welcome your views on anything else which should be covered?

Consultation Question Four:

- a) Do you agree with the proposed approach to membership of CJsCs including co-opting of additional members? Please give your reasons.
- b) What are your views on the role proposed for National Park Authorities on CJsCs, as described above?

Consultation Question Five:

- a) What are your views on the proposed approach of ‘one member one vote’ and the flexibility for CJC’s to adopt alternative voting procedures?**
- b) What are your views on the proposed quorum for CJC’s?**
- c) What are your views on the proposed approach to voting rights for co-opted members to a CJC?**

Consultation Question Six:

What are your views on CJC’s being able to co-opt other members and/or appoint people to sit on sub-committees?

Consultation Question Seven:

- a) Do you agree that the approach to co-option of members would enable wider engagement of stakeholders in the work of a CJC?**
- b) What might be needed to support CJC members in the involvement and engagement of appropriate stakeholders in their work?**

Consultation Question Eight:

- a) Do you agree that members and staff of a CJC should be subject to a Code of Conduct and that the code should be similar to that of Principal Councils? Please give your reasons.**
- b) What are your views on the adoption of a Code of Conduct for co-opted members?**
- c) Should all co-opted members be covered by a code i.e. those with and without voting rights?**

Consultation Question Nine

- a) What are your views on the proposed approach for determining the budget requirements of a CJC?**
- b) What are your views on the timescales proposed (including for the first year) for determining budget requirements payable by the constituent principal councils?**

Consultation Question Ten

- a) Do you agree that CJC’s should be subject to the same requirements as principal councils in terms of accounting practices? Please give your reasons.**
- b) Do you agree that the detail of how a CJC is to manage its accounting practices should be included in the Regulations of General Application? If not what more would be needed in the Establishment Regulations?**

Consultation Question Eleven:

What are your views on the proposed approach to staffing and workforce matters?

Consultation Question Twelve:

What are your views in relation to CJsCs being required to have or have access to statutory “executive officers”?

Consultation Question Thirteen:

Do you have any other views on provision for staffing or workforce matters within the establishment regulations?

Consultation Question Fourteen:

- a) Is it clear what functions the CJsCs will exercise as a result of these establishment regulations? If not, why?**
- b) Do the establishment regulations need to say more on concurrence, if so what else is needed, or should that be left to local determination?**
- c) In your view are there any functions which might be appropriate to add to these CJsCs in the future? If yes, what?**

Consultation Question Fifteen:

Do you think the regulations should provide for anything to be a decision reserved to the CJC rather than delegated to a sub-committee? If so what?

Consultation Question Sixteen:

What are your views on the approach to transfer of the exercise of functions to these CJsCs?

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Welsh Language Questions

Consultation Question Twenty Two:

- a) We would like to know your views on the effects that establishment of CJsCs 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.
- b) What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

Consultation Question Twenty Three:

Please also explain how you believe the proposed policy for the establishment of CJsCs 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 no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

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