

CELTIC FREEPORT PUBLIC FUNDS COMMITTEE

26th September 2024

Report of the Monitoring Officer for Neath Port Talbot Council – Mr Craig Griffiths

Matter for Information

Terms of Reference for Celtic Freeport Joint Committee

Purpose of the Report

To provide members of the Celtic Freeport Joint Committee an overview of its terms of reference.

Executive Summary

A key principle of the Freeport programme is that decisions will be made via a process and structure that preserves both the public-private 'dual key' approach, ensuring democratic accountability for the expenditure of public funds.

Investments will be identified via (a) an external call for proposals and (b) the generation by the local authorities and the Celtic Freeport Company of their own proposals. The purpose of (b) is to ensure that consideration is given to schemes that:

- enable the achievement of fair and equitable balance in the investment profile,
- could contribute to the Freeport's objectives but have not necessarily been identified by external parties, and/or
- are designed to address funding gaps or 'gear-in' opportunities for further funding from other sources such as, but not limited to, Government grant programmes.

The promoters of potential schemes which are deemed eligible will be asked to develop a short-form business case which will include all the information needed to enable evaluation. Amongst the information required from project promoters, they will be required to demonstrate:

- any potential impact on people of protected characteristics, and if there are any, the associated mitigations,
- consistency with the requirements of the Well-being of Future Generations Act,
- the expected impact on carbon emissions and the contribution to the Freeport's objectives for supporting the transition to Net Zero, and
- how project promoters will comply with Fair Work practices.

Celtic Freeport Company will then make recommendations to a Joint Committee established by this Council and Pembrokeshire County Council.

The role of the Joint Committee will be to ensure proper democratic accountability for the allocation of public funds, including ensuring compliance with Subsidy Control regulations and value for money. The Joint Committee will be able to either approve or reject proposals from the Celtic Freeport Company, but not amend them. Funds will only be released if authorised by the Joint Committee. The Joint Committee will therefore provide the decision-making process for determining the schemes that the capacity funding, retained non domestic rates, seed capital funding and any additional funds made available to the Celtic Freeport should be reinvested into.

Background

To enable the discharge of this role of the Accountable Body, it was proposed that Neath Port Talbot Council and Pembrokeshire County Council establish a Joint Committee to oversee the investment of public funding and to ensure the proper democratic allocation of public funding.

The role of the Joint Committee will be to ensure proper democratic accountability for the allocation of public funds, including ensuring compliance with Subsidy Control regulations and value for money. The Joint Committee is proposed to be able to either approve or reject proposals from the Board, but not amend them. Funds will only be released if authorised by the Joint Committee. The Joint Committee will therefore provide the decision-making process for determining the schemes that the retained business rates should be reinvested into.

A copy of the agreement establishing the Joint Committee is attached at Appendix 1.

The Joint Committee shall have the following functions:

- (a) considering and reviewing project business cases seeking financial support from public funding as recommended to the Joint Committee by the Celtic Freeport Board;
- (b) approving project business cases eligible to receive funding from public funding. The Joint Committee has absolute discretion on whether to approve or reject any project business cases recommended by the Celtic Freeport Board for financial support from public funding;
- (c) reviewing and approving any business plan which includes a profiled statement of spending covering grants awarded to the accountable body from public funding;
- (d) receiving reports from the Celtic Freeport Board relating to project proposals which have not been approved by the Celtic Freeport Board and providing comments and raising questions to the Celtic Freeport Board on such rejected proposals;

- (e) financial management of public funding;
- (f) monitoring the financial impact on public funding and reporting on this to the Councils;
- (g) reviewing, consulting on, approving and monitoring the implementation of the investment policy;
- (h) agreeing the annual costs budget;
- (i) agreeing the terms and conditions of project funding;
- (j) reviewing and consulting on NDR relief policies and any other relevant policies that each Council may be required to develop and adopt in respect of Public Funding; and
- (k) consideration of the Governing Body's budget and forward financial plan in connection with the use of Retained NDR allocation to support the Governing Body's operating costs. Any request for Retained NDR allocation to support such costs cannot be unreasonably withheld or delayed by the Public Funds Committee.

Of the key functions will be to approve the Investment Policy for the Celtic Freeport. The purpose of this policy is to provide a detailed strategy for the use of any retained non-domestic rates revenue, including:

- the criteria projects must meet to be eligible for funding and how these uphold the requirements of legislation, policy and guidance and align with the objectives of any revenue from retained non-domestic rates;
- workstreams and wherever possible, specific projects that will be funded and how these meet the requirements and align with the objectives of any revenue from retained non-domestic rates;
- the overall expected value of retained non-domestic rates profiled over time and an indicative allocation between workstreams and where possible, specific projects.
- any planned borrowing against future income from retained non-domestic rates. This should make clear why borrowing is needed, when it will occur, who will borrow and from whom, and should include a more detailed articulation of how borrowing will take place
- how decisions regarding the use of retained non-domestic rates will be taken and the process for prioritising and selecting projects for funding. This must demonstrate that these arrangements will best equip the Celtic Freeport to realise its objectives.
- where ownership of the policy on the use of retained non-domestic rates within the Celtic Freeport lies and including how and when it will be reviewed and evaluated. This should make clear how the Celtic Freeport governing body will ensure delivery of the policy.
- alongside the rates retention forecasts there should also be a clear 5-year forecast for the estimated cost of non domestic rate relief, factoring in all

planned developments that will be eligible for the relief. This relief forecast should align with the rates retention assessment.

The Joint Committee shall comprise six members in total, three from each Council (and including each Council's Leader).

Each Council may appoint a deputy for their members on the Joint Committee who may attend meetings as substitutes for the Council's appointed members. No allowances shall be paid for attendance at these meetings.

Each member of the Joint Committee shall have one vote. Decisions of the Joint Committee shall be made by simple majority of those representing a quorum who are present and entitled to vote at the relevant meeting. In the event that votes on any matter being considered by the Joint Committee are tied (**Deadlock**), the relevant matter giving rise to the Deadlock shall be rescheduled as an item agenda to be reconsidered by the Joint Committee at the next available meeting. Prior to such meeting, and where relevant, the Joint shall liaise with the the Celtic Freeport Board to acquire such further information relating to the matter giving rise to the Deadlock as may be reasonably required to try and resolve the Deadlock. If at two successive meetings of the Joint Committee the Public Funds Committee is unable to reach a decision to resolve any Deadlock, the matter shall be resolved in accordance with dispute resolutions clauses included in the Joint Committee Agreement.

The Chief Executive Officer, Monitoring Officer and Section 151 officer of each of the Councils shall be entitled to attend meetings of the Joint Committee as advisers and shall not have a vote.

It has been identified that the Joint Committee be serviced by Neath Port Talbot Council as Accountable Body for the Celtic Freeport.

Scrutiny

A joint overview and scrutiny committee is also to be established to scrutinise the work of the Joint Committee.

The purpose of the Joint Scrutiny Committee shall be to perform the overview and scrutiny function for Celtic Freeport Public Funds Joint Committee. For the avoidance of doubt scrutiny of individual Council projects shall be a matter for the relevant Councils Scrutiny Committee. It will comprise 4 representatives (appointed by way of political balance) from each of the two Councils. The quorum for meetings of the Joint Scrutiny Committee shall be no less than 4 members, which must include at least 2 members from each Council

Financial Implications

It shall be the role of the Joint Committee to agree the annual costs budget for the administration and work of the Joint Committee and this work is presently ongoing. The

purpose will be to cover the costs incurred by officers in resourcing the Joint Committee in the manner stipulated in the agreement.

All Costs incurred by the Councils in the administration of the Joint Committee shall be funded through retained nondomestic rates which shall be paid by each Council in accordance with the Investment Policy.

It is acknowledged however that during the establishment phase of the Celtic Freeport, both Councils along with the other founding partners have funded all necessary activities for the creation of the Celtic Freeport and that such costs will be reimbursed to the from the first year of the retained nondomestic rates during the first year when the non-domestic rate relief receipts exceed £1,000,000.

During the period where this two Councils are not realising sufficient retained nondomestic rate receipts; or where any reimbursement results in insufficient retained nondomestic rates, both Councils shall fund the Joint Committee costs in such proportions as the Councils may agree from time to time. The Councils' costs in funding the Annual Costs Budget during such period shall be reimbursed to each Council following the realisation of sufficient retained nondomestic rate receipts to cover such costs.

Integrated Impact Assessment

As this report is for information there is no requirement for an integrated impact assessment.

Workforce Impacts

There will also be a time commitment for senior officers required to participate in the governance structures. Ongoing consideration of addressing capacity to fulfil these requirements is an ongoing and will be subject to future reports if necessary.

Legal Powers

There are a number of legal powers available to local authorities to facilitate the proposed collaboration and creation of a Joint Committee. These include Sections 101 and 102 of the Local Government Act 1972, the Local Government and Election (Wales) Act 2021, sections 19 and 20 of the Local Government Act 2000, section 9 of the Local Government Wales Measure 2009 and Local Authorities (Goods and Services) Act 1970. 12.

These powers include the ability to delegate functions, the ability for two or more authorities to discharge any of their functions jointly, and where this occurs, to do so via a Joint Committee and the ability to supply administrative professional and technical services jointly.

Recommendation

It is recommended that members of the Joint Committee note the terms and reference of the Celtic Freeport Joint Committee annexed at Appendix 1

Appendices

Appendix 1 –Joint Committee Agreement

List of Background Papers

None

Officer Contact

Mr Craig Griffiths

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