

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

CABINET

12th May 2021

Report of the Chief Executive – Mrs Karen Jones

Matter for Decision

Wards Affected:

All wards

South West Wales Corporate Joint Committee

Purpose of the Report:

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

Background:

2. Part 5 of the Local Government and Elections (Wales) Act 2021 (“the Act”) provides for the establishment, through regulations, of CJCs. This can be achieved by two routes: at the instigation of two or more principal councils; and at the instigation of Welsh Ministers, but only in relation to certain functions or functional areas which are specified on the face of the Act.
3. The Welsh Government believes that CJCs have a role to play in bringing coherence to regional governance – strengthening local democracy and accountability by integrating decision making, with the goal to build wherever possible on existing regional

arrangements. The wider purpose is to share resources and ensure all local priorities and requirements can be complemented by regional action, ensuring a sense of consistency, harmony and resilience permeates regional public investment, planning and accountability.

4. Establishment Regulations have now been approved by the Senedd to establish four CJsCs in Wales
 - The Mid Wales CJC Regulations 2021
 - The North Wales CJC Regulations 2021
 - The South East Wales CJC Regulations 2021
 - The South West Wales CJC Regulations 2021 (“the Establishment Regulations”)
5. The Welsh Local Government Association political group leaders wrote to the Minister in March 2020 to set out the local government view that the footprint for CJsCs should be based on the existing city and growth deals geography. Accordingly, Neath Port Talbot County Borough Council will be included in the South West Wales CJC, also comprising:
 - The City and County of Swansea
 - Carmarthenshire County Council
 - Pembrokeshire County Council
 - Brecon Beacons National Park
 - Pembrokeshire National Park
6. Governance will be a key element of CJsCs and a number of factors must be considered by CJsCs.
 - Composition – each CJC will be comprised of a number of principal councils that, when combined, will form the area of the CJC. The CJC will be run by a committee of its members and it will be the CJC which will be responsible for delivering the functions exercised by it and taking the necessary decisions required to deliver those functions. A CJC will be accountable to its constituent principal councils and CJC members will report back to their principal councils and respond to questions and scrutiny. However, the CJC will have powers delegated to it and will make timely

decisions without the need for ratification by its constituent principal councils.

- Membership – CJsCs will comprise of the Leaders (senior executive members) of the constituent councils. The Leaders will decide whether additional representatives from the constituent councils or other organisations will be invited to be members of the CJC. The CJC will be able to co-opt such members to the CJC and determine/agree the terms of membership of any co-opted member (e.g. voting rights, role, funding contribution etc.).
- Meetings – the Establishment Regulations require that each CJC must hold its first meeting by Spring 2022. It will be possible for a CJC to meet as soon as the Establishment Regulations come into force, but CJsCs are not expected to be fully operational on day one as they need to take various decisions (e.g. election of chair & deputy chair; appointment of statutory officers) and implement governance & administrative arrangements. The frequency of meetings will be for each CJC to determine.
- Voting arrangements – CJsCs will be established on a ‘one member one vote’ (OMOV) basis with decisions being taken by simple majority; however, CJsCs will have the ability to adopt alternative voting procedures should they wish to do so. If a vote is tied, the matter is not carried and the chairperson will only have the casting vote in decisions relating to the exercise of strategic planning functions. The Establishment Regulations provide a limit on the number of co-opted members with votes, but only in so far as that the number of votes which may be cast by co-opted members may not exceed the number of votes cast by council members (plus National Park Authority members on strategic planning matters). They also provide for a quorum of no fewer than 70% of the voting members.
- Liability of members – CJsCs will be corporate bodies in their own right and the members will be taking decisions on functions which are theirs and theirs alone. As a result, in the event of any claim or legal action, it would be inappropriate for liability to be allocated or apportioned to each constituent council. CJsCs should therefore be required to indemnify their members for the decisions they take. The CJC should hold the liability, rather than individual members, employees or others discharging functions on their behalf.

- Sub committees – CJsCs will be able to establish sub committees if they wish to do so and decide who sits on them. These could consist of members of the constituent principal councils other than those members on the CJC itself (e.g. relevant Cabinet Members). Other partner organisations may also be invited/co-opted to be sub-committee members should a CJC wish to do so.
 - Scrutiny – each CJC will be required to put in place appropriate scrutiny arrangements (at the discretion of the CJC) and have an Audit and Governance Committee. Scrutiny committees are expected to not include a member of the CJC (or one of its sub-committees) and could include members (including non-executive members) of the constituent principal councils, whilst also taking account of political balance in the constituent principal councils.
 - Standing Orders and Code of Conduct – all CJsCs will be required to make standing orders for the regulation of their proceedings and business. They will also be required to adopt a Code of Conduct for its members and staff, and will fall within the future scope of the Public Service Ombudsman for Wales.
7. A number of Statutory Instruments have also been laid alongside the Establishment Regulations to ensure that, from the point they are established, CJsCs:
- are subject to appropriate standards of conduct and come under the remit of the Public Services Ombudsman for Wales
 - are subject to appropriate accounting and financial management duties and come within the remit of the Auditor General for Wales
 - are subject to the Public Services Equality Duty
 - will be able to be subject to Welsh Language Standards
8. Whilst the Act provides for improving education to be one of the functions that Welsh Ministers can specify a CJC on, this function is not provided for in the Establishment Regulations. Welsh Ministers have been clear that consideration of the role of CJsCs in the area of improving education is something that would evolve over time and further discussion is required with principal councils about the desired approach.
9. Three specific areas however are now expected to be incorporated into CJsCs:

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

Strategic Development Planning

10. The intention of the Welsh Ministers is to create a hierarchy of Development Plans in Wales with the National Development Framework at the highest level, and with Strategic Development Plans sitting between that and the Local Development Plan and with the requirement that all are in general conformity with each other.
11. The requirement to prepare Strategic Development Plans is already contained in the Planning (Wales) Act 2015, allowing the option to produce Strategic Development Plans either on a voluntary basis (by two or more Local Planning Authorities (LPAs) or by Ministerial Direction.
12. The policy intent in respect of Strategic Development Plans is to introduce a more strategic approach to plan making at a scale greater than individual Local Development Plans. There is an identified need to improve how the planning system addresses issues that cross local authority boundaries, to reflect how people live their lives today and in the future. Strategic Development Plans aim to provide a more consistent, cost effective and efficient approach to plan making, with key decisions taken once at the strategic level. This will allow larger than local issues such as housing numbers, strategic housing allocations, strategic employment sites, strategic green infrastructure routes, supporting transport infrastructure which cuts across a number of Local Planning Authority areas to be considered and planned for in an integrated and comprehensive way. The aim being a more efficient and effective planning outcomes for communities

Regional Transport Planning

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

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

Economic Well-Being

16. The Economic Wellbeing function is the power to do anything which the CJC considers is likely to promote or improve the economic wellbeing of its area. This will enable the principal councils, should they wish, to evolve the current regional approaches to the City and Growth deals into the CJC structures.
17. It may be necessary for a CJC and its constituent councils to operate the powers concurrently. The CJC will need to agree a process with its constituent principal councils for agreeing how this might operate in practice including but not limited to the specific activities within the scope of the agreement, how agreement will be achieved, reviewed and how disputes may be resolved. This is a matter for each CJC in response to local and regional needs and is in line with the approach to enable flexibility and local determination where possible. The Welsh Government intends to provide guidance to CJCs and its constituent principal councils on this matter.

Next Steps

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

establishing and implementing CJsCs which the Welsh Government could provide financial support towards, and includes, for example:

- Programme resource to take the lead in each region to plan and oversee the transition from existing arrangements to CJsCs
 - Dedicated resource / additional expertise to coordinate and /or develop appropriate constitutional and governance arrangements for the CJC;
 - Support for any meetings which may take place during the implementation / regional transitional planning phase
 - Expertise to develop approaches (potentially 'once for Wales' common approaches) to aspects such as scrutiny arrangements / standards / approaches to terms and conditions for staff
 - Other activity associated with setting up / establishing a CJC
19. Chief Executives of the four principal authorities will now establish the workstreams needed to progress the development of the South West Wales CJC. The relevant officers will work with their counterparts to develop suitable proposals. The associated documentation and strategies and reports will be brought back to members in due course for approval to proceed.
20. In drawing up proposals to establish the South West Wales CJC chief executives will, inter alia, consider extant regional groups and activities to ensure the resultant proposal for the CJC is coherent with wider arrangements. It should be noted that the legislation sets out specific functions to be vested in the CJC vest other functions into the arrangement, by agreement.

Financial Impacts:

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

22. CJsCs will be the accountable body for the funding provided by constituent councils and/or directly received from any other funding streams. CJsCs will also be able to pay towards expenditure incurred or to be incurred in relation to carrying out its functions as it may determine, and to charge fees relating their specified functions. The Establish Regulations also enable CJsCs to provide assistance by way of grant or contributions to support functions exercisable by them. The funding from constituent principal councils will be held and managed by CJsCs and it is expected that they will be required to manage the funds under the same financial management arrangements as local government bodies in Wales.
23. CJsCs are new legal structures which include the ability to directly hold assets and budgets, employ staff, enact legal structures and undertake any other delivery and strategic functions vested in them. Any review will need to consider the impact on financial provisions, this includes understanding the costs and funding sources of any new frameworks required in order to meet and deliver agreed objectives. Welsh Ministers have made grant funding available to participant authorities to assist in the set-up of CJsCs and an application will be made by the South West Wales group for such funding to assist in the scoping and governance work necessary to create this new body. At this stage it is unknown whether the grant will be paid to one participating authority or whether it will be paid to individual authorities and authority would be sought to accept this grant.

Integrated Impact Assessment:

24. There is no requirement for an Integrated Impact Assessment for this report as this relates to governance arrangements. This will be kept under review with any future reports considering whether impacts require consideration.

Valleys Communities Impacts:

25. There are no valley community impacts with this report but the impact on valley communities will be considered as part of any proposals for the development of CJsCs

Workforce Impacts:

26. The Establishment Regulations provide flexibility for each CJC to determine the approach it takes to staffing, including the ability to employ and recruit staff; 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 CJsCs to discharge their functions.
27. CJsCs will also be required to appoint a number of statutory "executive officers" similar to the roles within principal councils (e.g. Chief Executive, Chief Finance Officer, Monitoring Officer and Chief Governance Officer/Head of Democratic Services). The intention is for CJsCs 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. It is also intended that all executive roles within a CJC will be afforded the same statutory protection and indemnity as statutory officers within principal councils.
28. The provisions in law relating to staffing which apply to principal councils will also apply to CJsCs. These include TUPE and staff transfers; Trade Union relations and standing orders relating to employment (e.g. procedures relating to the appointment/dismissal of officers and disciplinary action). Staff employed by the CJC are to be appointed on the same or similar terms and conditions (including remuneration) as officers appointed to one of the constituent councils undertaking substantially similar or the same responsibilities.
29. The impact on the workforce and staffing of CJsCs will be considered as part of any programmes of work dealing with their establishment.

Legal Impacts:

30. Part 5 of the Local Government and Elections (Wales) Act 2021 provides for the establishment, through regulations, of CJsCs and compliance will be had with this and the Establishment Regulations in the establishment of CJsCs.

Risk Management Impacts:

31. There are no risk management issues associated with this report.

Consultation:

32. There will be no requirement for any consultation.

Recommendations:

33. It is recommended (noting there is no Integrated Impact Screening Assessment) that:

- (a) delegated authority be granted to the Chief Executive (in consultation with the Leader) to agree an application for grant funding to be made to Welsh Government for funding to establish the South West Wales CJC and to accept any grant offer that maybe made by Welsh Government (whether made to this Council or to a participating authority in the Swansea Wales CJC);
- (b) delegated authority be granted to the Chief Executive to enter into dialogue with authorities who will comprise the South West Wales CJC to develop proposals for establishing the South West Wales CJC; and
- (c) a report be brought back to members for approval, once dialogue has been completed for members to approve the arrangements for the South West Wales CJC so far as they relate to Neath Port Talbot County Borough Council

Reasons for Proposed Decision:

34. To ensure compliance with the requirements of the Local Government and Elections (Wales) Act 2021 and ensure the needs of Neath Port Talbot County Borough Council are reflected in the development of these CJs.

Implementation of Decision:

35. The decision is proposed for implementation after the expiry of the three day call in period.

Appendices:

36. Appendix 1 – Welsh Government Prospectus

List of Background Papers:

37. None

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