



DINAS A SIR CAERDYDD
CITY AND COUNTY OF CARDIFF

COUNCIL SUMMONS

DYDD IAU, 20 GORFFENAF 2023

GWYS Y CYNGOR

THURSDAY, 20 JULY 2023,

PAPURAU ATODOL

Eitem Disgrifiad a Rhif (au) Tudalen

9 **Cyd-bwyllgor Corfforaethol De-ddwyrain Cymru - Is-bwyllgor Safonau**
(Tudalennau 3 - 8)

*Adroddiad y Cyfarwyddwr Llywodraethu a Gwasanaethau Cyfreithiol a'r Swyddog
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Dydd Gwener, 14 Gorffennaf
2023

Mae'r dudalen hon yn wag yn fwriadol

COUNCIL**20 JULY 2023**

REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER

SOUTH EAST WALES CORPORATE JOINT COMMITTEE – STANDARDS SUB-COMMITTEE**Reason for this Report**

1. To consider the request from the South East Wales Corporate Joint Committee (SEWCJC) for Cardiff's Standards and Ethics Committee to be utilised as the Standards Sub-Committee for the SEWCJC on an initial basis, until such time as the SEWCJC is fully operational and ready to establish its own Standards Sub-Committee.

Background

2. Part 5 of the Local Government and Elections (Wales) Act 2021 establishes a new framework to support and encourage greater collaboration between local authorities, which is to be achieved, in the main, by newly established Corporate Joint Committees ('CJCs'). CJCs are regional corporate bodies, with broadly similar powers and duties to local authorities. They also have similar governance and administrative structures, with a level of discretion on constitutional and operational arrangements.
3. In April 2021, the South East Wales Corporate Joint Committee ("SEWCJC") was formally constituted (under Regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021), comprised of the leaders of Cardiff County Council, Monmouthshire County Council, Blaenau Gwent County Borough Council, Bridgend County Borough Council, Caerphilly County Borough Council, Merthyr Tydfil County Borough Council, Newport County Borough Council, Rhondda Cynon Taff County Borough Council, Torfaen County Borough Council, the Vale of Glamorgan County Borough Council, and a representative of the Brecon Beacons National Park Authority.
4. SEWCJC has responsibility for strategic development planning, regional transport planning and promoting the economic well-being of the South East Wales area, specifically:
 - (a) Strategic Development Plans - Welsh planning law establishes a framework for local planning authorities to bring forward Strategic Development Plans (SDPs), the aim being to deal more effectively with regional cross-boundary

issues such as housing and transport, and provide a strategic approach to planning at a greater scale than individual local development plans (LDPs). CJsCs are responsible for preparing the SDPs. Local planning authorities will still prepare LDPs, but these are to be more focused in nature.

(b)Transport functions - CJsCs are also responsible for developing Regional Transport Plans. These plans will replace local transport plans previously prepared by individual authorities.

(c)The economic well-being function - CJsCs have the power to promote and improve the economic well-being of their areas. The power may be exercised for the benefit of the whole or part of the CJsCs area, or all or any persons resident in the area. It is anticipated that City or Regional Growth Deals will be subsumed by CJsCs, although some aspects of this are still to be worked out.

5. Since January 2022 the SEWCJC has operated on what it has referred to as a 'bare minimum' basis. In practice this has meant that the focus has primarily been on achieving legislative compliance, whilst waiting for changes in legislation in relation to VAT status and access to the Local Government Pension Scheme. The SEWCJC is currently in what it refers to as its 'Transition Phase', where it is building upon its established governance structures in preparation to becoming fully active from April 2024, when it also plans to assume the functions of the Cardiff Capital Region City Deal Joint Committee.

Issues

6. The Ethical Framework established under Part III of the Local Government Act 2000 has been extended to apply to CJsCs and their members and co-opted members in the same way as it applies to local authorities. Statutory guidance on Corporate Joint Committees (**Appendix A: [WG44355 \(gov.wales\)](https://www.gov.wales/guidance/wg44355)**) includes guidance on the application of the Ethical Standards Framework to CJsCs in section 12 of the guidance.
7. Under the Ethical Standards Framework, a CJC is required to:
 - (i) adopt its own code of conduct for its members and co-opted members, based on the statutory model Code of Conduct set out in the Local Authorities (Model Code of Conduct) (Wales) Order 2008. The SEWCJC was due to adopt the model Code of Conduct at its meeting on 22nd May 2023.
 - (ii) appoint a Monitoring Officer. The Deputy Monitoring Officer of Cardiff Council has been appointed as the Interim Monitoring Officer for the SEWCJC;
 - (iii) maintain a register of interests, to be established by the Monitoring Officer, for its members and co-opted members. As the SEWCJC covers a different geographical area to its individual constituent councils, it is necessary for a separate register of interests to be maintained to cover the functions and geographic area of the CJC (and in relation to relevant matters outside the areas to which CJsCs may influence and to which members may benefit); and

- (iv) appoint a standards sub-committee (as a CJC is a committee, this is referred to as a standards sub-committee), with the statutory functions set out in section 54 of the Local Government Act 2000 in relation to the promotion and maintenance of high standards of conduct within the CJC and providing advice and training in relation to the CJC's code of conduct.

Standards Sub-Committee for the SEWCJC

8. The statutory guidance indicates that the way in which the requirement to appoint a standards sub-committee is satisfied is for the CJC to determine, and that the options in this regard include:
 - (i) utilising an existing standards committee of one of its constituent councils;
 - (ii) establishing its own standards sub-committee, populated in line with the principles set out in the Standards Committee (Wales) Regulations 2001 but by members of the standards committees of the constituent councils; or
 - (iii) establishing a standards sub-committee in line with the Standards Committee (Wales) Regulations 2001.
9. The SEWCJC has indicated that it does not wish to establish its own separate standards sub-committee at this early stage in its development and it is therefore looking to utilise an existing standards committee of one of its constituent authorities.
10. As the Monitoring Officer for the SEWCJC is Cardiff Council's Deputy Monitoring Officer, the SEWCJC has asked whether Cardiff's Standards and Ethics Committee would be willing to take on the role of standards sub-committee for the SEWCJC.
11. The political group leaders were informally consulted about the request from the SEWCJC and indicated that they have no objection to Cardiff's Standards and Ethics Committee acting as the Standards Sub-Committee for the SEWCJC on an interim basis, provided that there is no cost to Cardiff Council and the arrangement is reviewed after 12 months.
12. The Standards & Ethics Committee received a report on this matter at its last meeting, held on 9th May 2023, and confirmed its agreement, in principle, subject to approval by full Council and a Service Level Agreement being concluded between Cardiff Council and the SEWCJC to provide that any additional costs and liabilities incurred are to be paid for by the SEWCJC and to include provision for review after 12 months and termination of the arrangements.
13. The SEWCJC is due to formally approve the delegation of its Standards Committee functions to Cardiff Council at its next meeting scheduled for 31st July 2023, subject to acceptance by Cardiff Council, and is keen for the arrangements to be concluded without delay.
14. If agreed, Cardiff's Standards and Ethics Committee would take on responsibility for the standards functions of the SEWCJC and its members, only in so far as they relate to the SEWCJC. However, where a matter relates

to a member's conduct in general, and not specifically to SEWCJC activities, then the Standards Committee of that member's own council would be responsible.

15. Subject to approval of the arrangements, the terms of reference of Cardiff's Standards and Ethics Committee would be amended to incorporate the statutory functions in relation to the SEWCJC (pursuant to sections 54 and 56B of the Local Government Act 2000), by inserting an additional paragraph as follows:

'(l) In relation to the South East Wales Corporate Joint Committee ('the SEWCJC'), to:

- (i) Promote and maintain high standards of conduct by its members and co-opted members;
- (ii) Assist its members and co-opted members to observe the SEWCJC's code of conduct;
- (iii) Advise the SEWCJC on the adoption and revision of a code of conduct;
- (iv) Monitor the operation of the SEWCJC's code of conduct;
- (v) Advise, train or arrange to train its members and co-opted members on matters relating to the SEWCJC's code of conduct; and
- (vi) Make an annual report to the SEWCJC describing how its functions have been discharged during the financial year.'

Legal Implications

16. A CJC must establish a standards committee or a joint standards committee (under section 53 of the Local Government Act 2000, 'the LGA 2000'), with the statutory functions conferred under section 54 of the LGA 2000 (set out in paragraph 15 above). A CJC must establish its first standards sub-committee within 90 days from the day on which Regulations under section 53(11) which apply to CJsCs come into force. However, no regulations applying to CJsCs have yet been issued under section 53(11), which means the duty to establish a standards committee is in effect, but there is no statutory deadline as yet.
17. A CJC may arrange for the discharge of any of its functions by any county council in Wales (amongst other options); and a county council which is authorised to discharge functions under Regulation 13 may arrange for those functions to be discharged by a committee of that council (amongst other options), pursuant to the Corporate Joint Committees (General) (No.2) (Wales) Regulations, Regulation 13.
18. In addition to the statutory functions of a standards committee conferred under section 54 of the LGA 2000 (set out in paragraph 15 above), a local authority may arrange for its standards committee to exercise such other functions as it considers appropriate.
19. In order for Cardiff Council's Standards and Ethics Committee to undertake the role of Standards Sub-Committee for the SEWCJC, the following decisions are required:

- (i) the SEWCJC to delegate the establishment of its standards sub-committee (pursuant to section 53(1) of the Local Government Act 2000), to Cardiff Council, subject to agreement by Cardiff Council, with agreed terms to be set out in a Service Level Agreement – ‘the SEWCJC Decision’; and
 - (ii) Cardiff Council to resolve, subject to the SEWCJC Decision (referred to in point (i) above), to accept the delegation of functions from the SEWCJC upon the agreed terms to be set out in a Service Level Agreement (please see paragraph 21 below); to delegate those functions to its Standards and Ethics Committee; and to amend the Standards and Ethics Committee’s terms of reference to cover the statutory functions of the Standards Sub-Committee in relation to the SEWCJC and its members (as set out in paragraph 15 of the report).
20. As noted in the body of the report, the SEWCJC Decision (referred to in paragraph 19(i) above), is to be made at the next SEWCJC meeting which is to be held on 31st July 2023.
21. Members will also note that the proposed Service Level Agreement between SEWCJC and Cardiff Council is to provide that any additional costs and liabilities incurred by Cardiff Council in undertaking the role of Standards Sub-Committee for the SEWCJC are to be paid for by the SEWCJC; and also include provision for review after 12 months and termination of the arrangements.

Financial Implications

31. The report recommends that the proposal, if agreed, should be subject to a Service Level Agreement, making clear that any additional costs or liabilities incurred by Cardiff Council are to be covered by the SEWCJC and including provision for review and termination of the arrangements.

RECOMMENDATION

1. Subject to the SEWCJC’s Decision (referenced in paragraph 19(i) of the report) and the conclusion of a Service Level Agreement in accordance with recommendation 2 below, to agree to the request from the SEWCJC to utilise Cardiff’s Standards & Ethics Committee to discharge the statutory functions of the Standards Sub-Committee of the SEWCJC, and to this end, to:
 - (i) Accept the delegation from the SEWCJC of functions under section 53(1) of the Local Government Act 2000;
 - (ii) Delegate responsibility for the statutory functions of the standards sub-committee of the SEWCJC to the Standards and Ethics Committee; and
 - (iii) Amend the terms of reference of the Standards and Ethics Committee as shown in paragraph 15 of the report.
2. Subject to approval of recommendation 1, to authorise the Director of Governance and Legal Services, in consultation with the Leader, to conclude a Service Level Agreement between Cardiff Council and SEWCJC on

suitable terms, including specifically, to provide that any additional costs and liabilities incurred by Cardiff Council under this arrangement are to be paid for by the SEWCJC and with provision for review after 12 months and termination of the arrangements.

Davina Fiore
Director of Governance and Legal Services and Monitoring Officer
13 July 2023

Appendices

Background Papers

Standards and Ethics Committee report, 'South East Wales Corporate Joint Committee, Standards Sub-Committee', 9th May 2023 [CITY AND COUNTY OF CARDIFF \(moderngov.co.uk\)](https://www.moderngov.co.uk/city-and-county-of-cardiff)

South East Wales Corporate Joint Committee report, 'Transition Plan – South East Wales CJC Statutory Sub-Committees', 27th March 2023: [item-4-sub-committees.pdf \(cardiffcapitalregion.wales\)](https://www.cardiffcapitalregion.wales/item-4-sub-committees.pdf)

Email correspondence with Political Group Leaders regarding 'Request for Cardiff Standards Committee to act as the Standards Committee for the CJC', February 2023

Welsh Government's Statutory Guidance on Corporate Joint Committees: WG44355 (gov.wales)