

**WELSH GOVERNMENT CONSULTATIONS ON DRAFT  
REGULATIONS FOR CORPORATE JOINT COMMITTEES AND  
STRATEGIC DEVELOPMENT PLANS**

**LEADER (COUNCILLOR HUW THOMAS)**

**AGENDA ITEM: 3**

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**Reason for this Report**

1. To set out Cardiff Council's response to the Welsh Government's consultations on Regulations to establish:
  - Corporate Joint Committees (CJCs), including one for South East Wales (Cardiff Capital Region); and
  - the procedure for Strategic Development Plans (SDPs) to be prepared by CJCs.

**Background**

2. The Welsh Government is currently consulting on draft Regulations to establish four regional CJCs across Wales, including for South East Wales (also known as the Cardiff Capital Region). The establishment of CJCs is an integral feature of the Local Government and Elections (Wales) Bill, which has completed its passage through the legislative process in the Senedd and is expected to receive Royal Assent in the New Year, with several provisions commencing from 2021-22.
3. The Welsh Government is seeking views on the content of the draft Regulations, including the geographical areas; functions to be exercised; core governance, constitution, finance and funding arrangements, and provisions for staffing and workforce, including the appointment of executive officers. The closing date for submissions in response to the consultation is 4 January 2021.
4. The Welsh Government is also consulting concurrently on the policy intent for Regulations, to be known as The Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021, which would establish the procedure for Strategic Development Plans (SDPs) to be prepared across Wales by the four CJCs, including South East Wales (Cardiff Capital Region). The closing date for submissions in response to the consultation is also on 4 January 2021.

## Issues

### Local Government and Elections (Wales) Bill Part 5: Corporate Joint Committees

5. Part 5 of the Local Government and Elections (Wales) Bill provides for the establishment, through regulations, of CJs by two routes:
  - at the instigation of two or more principal councils, which can request that Welsh Ministers make regulations establishing a CJC for their areas in relation to any of the functions they exercise; or
  - at the instigation of Welsh Ministers, who 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 in the Bill.
6. In accordance with the second route set out above, the Welsh Government is proposing to establish four CJs by April 2021, which will cover the existing regional footprints for City/Growth Deals in South East Wales (Cardiff Capital Region); South West Wales; North Wales and Mid Wales.
7. From a Cardiff perspective, the South East Wales CJC region reflects the existing Cardiff Capital Region (CCR) and includes the 10 principal councils of Blaenau Gwent; Bridgend; Caerphilly; Cardiff; Merthyr Tydfil; Monmouthshire; Newport; RCT; Torfaen and Vale of Glamorgan, as well as the Brecon Beacons National Park Authority in relation to strategic planning matters. The constituent principal councils will also be able to invite participation by partners from other sectors in the work of CJs through a process of co-opted membership. These CJs will exercise functions relating to:
  - Strategic Development Planning;
  - Regional Transport Planning; and
  - A power to do things to promote or improve the economic well-being of their regions.
8. Once established, and where the constituent principal councils wish them to, CJs would be able to exercise other functions in the future. Any future transfer of other functions would be subject to further consultation and any necessary legislation at that time.
9. CJs will also be treated as a 'public body' and will also need to fulfil various statutory duties under existing legislation (e.g. Well-being of Future Generations (Wales) Act 2015; The Equality Act 2010; Welsh Language Standards; The Environment Act 1995; The Environment (Wales) Act 2016 (Section 6) and Children and Families (Wales) Measure 2010. The Minister has previously committed to providing support for local government in establishing CJs (e.g. support in the transition process and assistance with set up costs in the short term). The Welsh Government intends to continue to work with local

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

### Establishment Regulations

10. The Welsh Government is consulting on draft Regulations for the establishment of CJsCs in four areas, referred to the 'Establishment Regulations', which include specific regulations for the Cardiff Capital Region. These provide the core constitutional structure for establishing CJsCs and will be underpinned by further detail in the Regulations of General Application, which will apply generally to all CJsCs, setting out the detail of their governance and administrative arrangements and the legislative framework within which they will operate. The Establishment Regulations cover the following areas, which are summarised below:

### Functions to be exercised by CJsCs

11. The Establishment Regulations set out the following functions which all 4 CJsCs will exercise in the first instance:
  - Preparing, monitoring, reviewing and revising of a Strategic Development Plan (SDP) – CJsCs will be expected to commence delivery of these functions as soon as is reasonably practicable and as soon as the procedural regulations are made. Principal councils will retain their existing function of preparing Local Development Plans (LDPs). The Welsh Government is consulting separately and concurrently on regulations for preparing SDPs.
  - Developing a Regional Transport Plan (RTP) – the functions of developing policies for transport in, to and from the CJC area and developing policies for implementing the Wales Transport Strategy are set out in the Transport Act 2000.
  - Economic well-being function (i.e. the power to do anything which the CJC considers is likely to promote or improve the economic wellbeing of its area) – this will enable principal councils, should they wish, to evolve the current regional approaches to City/Growth Deals into the CJC structures.
12. 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. For example, principal councils are currently responsible for developing Local Transport Plans (LTPs), and the function of preparing a transport plan will be transferred to each of the CJsCs to undertake on a regional basis through the preparation of a RTP.
13. 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.

#### Transfer of Other Functions to CJs

14. While the Bill provides for 'improving education' to be one of the functions that Welsh Ministers can specify that a CJC exercises, this function is not provided for in the Establishment Regulations. The constituent councils of the CJs may apply to Welsh Ministers to have this function (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. As a result, there may be divergence in what each CJC does in the future. Any future proposals to add (including to omit or modify) principal council functions to a CJC would be subject to formal consultation.

#### Exercise of Concurrent Functions

15. 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.
16. Arrangements for managing concurrent functions are not provided for in the 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.

#### Discharge of Functions

17. The Welsh Government wants 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. This could be through sub-committees, officers, other CJs, other principal councils and joint committees; some of which is covered by the Establishment Regulations. However, it is likely that much of the detail will be included in the Regulations of General Application.
18. CJs will be expected to have 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.
19. The Welsh Government considers that there are a small number of decisions which need to be made by the CJC itself. These include, for

example, the 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. CJs will also have the power to do anything to facilitate, or which is incidental or conducive to, the exercise of their functions.

### Governance and constitutional arrangements

20. 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.
21. Membership – CJs 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.).
22. Meetings – the Establishment Regulations require that each CJC must hold its first meeting by the end of September 2021. It will be possible for a CJC to meet as soon as the Establishment Regulations come into force, but CJs 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.
23. Voting arrangements – CJs will be established on a ‘one member one vote’ (OMOV) basis with decisions being taken by simple majority; however, CJs 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.
24. Liability of members – CJs 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.

25. 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.
26. 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.
27. 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.

#### Funding of CJsCs

28. 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.
29. 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 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.

### Finance and budgetary matters

30. CJsCs will be required to keep proper accounting records and to prepare annual accounts in accordance with Welsh Ministers' directions. They will also be subject to the usual checks and balances required of principal councils, 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. CJsCs will also need to set their budget requirements by 14 February annually preceding the relevant financial year in order to align with the budget setting process of principal councils. In practice, the constituent principal councils will require the CJC to provide an indicative or provisional budget requirement to facilitate their own budget preparations.
31. In the first year of operation, CJsCs will not be able to set their budgets in this way and it may also be difficult for a CJC to ascertain what its initial budget may be, as this will depend on its ambition in exercising its functions in its first year. The Establishment Regulations provide a reasonable timescale in which to set the first year's budget requirement (i.e. within two months following the first meeting of the CJC– this would be by the end of November 2021 at the latest).

### Audit arrangements

32. The Regulations of General Application are expected to require that all funding decisions taken by the CJC will be subject to review through annual external audit. This will be in addition to the requirements on performance and governance set out in Part 6, Chapter 1 of the Local Government and Elections (Wales) Bill (e.g. self-assessment), which are also intended to apply to CJsCs.

### Staffing and workforce matters

33. 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.
34. 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.
35. 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.

36. The Council's draft response to the Welsh Government consultation on Regulations to establish CJsCs is attached as **Appendix A** to this report.

### **Strategic Development Plans (SDPs)**

37. Provisions for the introduction of SDPs in Wales have already been established through the Planning (Wales) Act 2015. This also included provisions for the preparation of SDPs to be governed by bodies called Strategic Planning Panels (SPPs); however, the preparation of SDPs was not mandatory and no regions voluntarily commenced the process. The current approach of the Welsh Government, as set out in the Local Government and Elections (Wales) Bill, is to make the preparation of SDPs a requirement which must be delivered by CJsCs, in place of SPPs.
38. It is intended that SDPs will perform a more strategic approach than Local Development Plans (LDPs) by more effectively addressing issues that cross local authority boundaries. SDPs would therefore set out land use policy at a regional level and must conform with the National Development Framework (NDF), which sets planning policy across Wales.
39. Once SDPs are adopted for the 4 CJC regions in Wales, each Local Planning Authority (LPA) would still need to prepare LDPs; however, these would be more focused in nature, dealing with local issues and policies that must be in general conformity with the SDP. In this respect, the Welsh Government refers to these documents as LDP 'Lites' (LDPLs) and further consultation will be undertaken on Regulations for LDPLs ahead of them coming into force by spring/summer 2022.
40. Further guidance has been issued by the Welsh Government on the scope of SDPs as part of the Development Plans Manual (March 2020). It is also proposed that the Welsh Government will consult and engage with CJsCs/LPAs and key stakeholders on guidance relevant to the preparation of an SDP prior to publication. In addition, a revised Development Plan Community Guide setting out the Development Plan hierarchy, preparation process and timings/methods of engagement will be published by the Welsh Government in summer 2021.
41. The scope of the current Welsh Government consultation is therefore limited to seeking feedback on the policy intent of the SDP Regulations. Proposed responses to the specific consultation questions are set out in **Appendix B** to this report.
42. Overall, the Council considers there to be no fundamental issue with the proposals, with the SDP Regulations broadly mirroring the requirements



which apply to LDP preparation. The fact that LPAs are identified as a specific consultation body is also strongly welcomed; however, it is considered that the subsequent SDP guidance needs to ensure how the views of LPAs can contribute effectively to the evolving SDP and help develop consensus given the proposed timeframe of preparation. In this respect, it is considered that there is insufficient time within the proposed process to enable the building of consensus between the 11 Planning Authorities and other partners in a new and complex statutory process. Given the evidenced difficulties and challenges of securing robust Regional Plans elsewhere in the UK (where Regional Plans are not a requirement), this is considered a key matter to ensure the SDP process can be delivered effectively in practice.

43. The Council's proposed response identifies other uncertainties regarding resource implications given that LPAs have a duty to maintain up-to-date LDPs through the Review process. Further clarity is also sought from the Welsh Government regarding the definition of 'strategic' matters to help all stakeholders better understand whether sites/issues most appropriately fall within the remit of the SDP or LDPs/LDPLs.

### **Cardiff Council Position**

44. Cardiff Council has, for many years, advocated the city-region as the most appropriate level for coordinating economic and spatial development activities, including transport and land use planning. Central to this proposition is the recognition of the role of the city as a centre of employment, productivity and agglomeration. Building on the already significant weight of evidence, the recent findings of the OECD report commissioned by Welsh Government in January 2019 reasserts that:

*"...urban areas are "engines of growth" in an economy, notably because the agglomeration economies may boost productivity by generating more innovations. Not only do major urban areas benefit from such development, other areas do as well since innovations eventually spill over, leading to higher productivity growth throughout the country (OECD, 2019). Solving the problems of major urban areas is of vital importance, because the agglomeration economies created by cities can have advantages for the entire country."*

45. Cardiff Council is therefore committed to working towards establishing fair and proportionate regional governance arrangements to deliver an evidence-led policy agenda, which can enhance prosperity for the wider region. The necessity of this approach is again set out in the OECD urban-rural typology report:

*"Wales has two main urban clusters... one in the northeast and one in the southeast, separated by a distance of about 180 km. The urban cluster in the southeast has its centre in Cardiff.... These two urban clusters, which represent less than one-fourth of the Welsh territory, are home to 70% of the Welsh population and produce 75% of Wales' GDP. On the other hand, the rural remote areas of Wales, which account for*

*more than two-thirds of the Welsh territory, host 23% of the population and produce 20% of the GDP.*

46. International evidence also makes clear that those city-regions with a greater level of discretion and freedom from central government control – within a framework of strong, accountable governance – are those that are doing better. Empowering the city-region to succeed will therefore require more than the aggregation of Local Authority powers to a regional level. The new arrangements must be based on a commitment to a new devolution settlement where appropriate powers and funding are devolved down from National Government, as well as up from Local Government. The UK is currently one of, if not the most, centralised developed states in the OECD and Wales has an opportunity to exercise the devolution advantage to support the Cardiff city-region.
47. The establishment of a CJC for the Cardiff Capital Region provides an opportunity to strengthen city-region governance, building on the growing effectiveness and maturity of collaboration between local authorities in the context of the City Deal. This has a number of potential benefits:
  - The strengthening of city-region leadership, addressing the constraints of an existing governance model that is narrowly focused on the City Deal;
  - The formation of a local government-owned development vehicle that could articulate a powerful agenda for city-region collaboration and regeneration, which also channels Welsh and UK Government funding; in particular, the Shared Prosperity Fund;
  - The impetus to develop a coherent city-region brand, identity and inward investment strategy based on the collective and sectoral strengths of a region with almost 50,000 businesses and a population of 1.5 million; and
  - A significant strengthening of mechanisms to coordinate key regional planning frameworks in response the economic interdependency of the component parts of the city-region.

### **Implications for Cardiff**

48. In effect, CJsCs would represent a further step forward in the development of formal city-region arrangements following the establishment of the CCR City Deal Regional Cabinet. However, while the proposed CJC model has the potential to strengthen these arrangements, the regulations do include a number of areas of concern. Whilst it is appropriate for the CJC to occupy the same footprint as the City Deal, it should be noted that the democratic arrangements on which they are based are, in a number of ways, sub-optimal as set out below:

- Proportionality: Whilst provisions within the Bill allow for a change to the voting system, the CJC will be established on the basis of ‘One Authority, One Vote’ approach. The practical consequence of this is that the 367,000 residents of Cardiff would be served by one representative with one vote, whilst the four smallest local authorities – with a collective population of fewer than 320,000 residents – would have four votes. Whilst current arrangements as part of the CCR City Deal are viewed positively and can be characterised as collaborative and evidence-led, there remains a risk that future regional strategy could be determined by a relatively small proportion of the regional population and distort an evidence-led city-region approach.

Under the current City Deal arrangements, Cardiff Council is also contributing to the running costs on a pro-rata basis, equating to almost a quarter of the total costs. The lack of proportionality in the voting arrangements is made all the more stark in the context of Cardiff’s funding contribution. As a consequence, the Council will need to satisfy itself on behalf of the Cardiff electorate that an arrangement, which sees funding allocated on a proportional basis, but not voting rights, is in the interest of the Local Authority.

- Diminished Democratic Accountability: With no power for the electorate to directly elect those represented on the CJC, it must be recognised that elements of the democratic process are being further removed from the electorate, local councillors and the local scrutiny function. Provisions need to be established to ensure that this democratic deficit is bridged.
- Diminished Representation: This principle of proportionate representation is particularly relevant given the unequal distribution of different demographic groups, with urban areas having a predominately younger group with a broader ethnic profile. There is a need to ensure that the interests of different demographic groups are considered in any regional body given the relative democratic deficit they face in a ‘One Authority, One Vote’ approach.

49. Despite the inadequacies of the CJC governance arrangements as currently set out in the Regulations, Cardiff Council remains committed to establishing a regional approach to enhance the success of the city-region. This would be predicated on assurances by the Welsh Government that the evidence base required for setting the policy agenda, prioritising projects and allocating funding is consistent with the approach set out in the OECD report. It also requires an approach that is truly city-regional, recognising the strengths, weakness and opportunities of its constituent parts.

## Planning

50. The concept of a SDP is welcomed and expected to improve the co-ordination of major strategic developments across the city-region. It is also assumed that the determination of planning applications will also remain within the control of local government.
51. Whilst there is a clear role for the SDP, the LDP, Local Planning Authority/Committee and local development control remain crucial components of the approach to effective land use planning. The democratic accountability and professional rigour associated with the development of the LDP will ensure a fully informed SDP, alignment between local and regional planning and the involvement of local councillors.
52. It should be noted that the original proposals for a SPP included provisions for differences in population amongst constituent authorities, and such an approach would remain the preferred option for Cardiff. Even if 'One Authority, One Vote' is accepted as the basis of CJC decision making, as is currently proposed, Cardiff Council will argue that population-weighted voting should underpin consideration of the SDP.
53. This reflects a need to recognise that strategic planning decisions, which will have uneven impacts across the region, are taken in a manner that properly represents local communities. The risk with a 'One Authority, One Vote' approach is that, based on current population spread, it is plausible that decisions will require the approval of voting members that represent just 20% of the region's population. Whilst the region has worked on a largely consensual basis to date, it should not be assumed that this will always be the case. There is also a clear need to ensure that the SDP governance arrangements recognise the needs of under-represented groups and communities.
54. This is a position that has previously been considered by the region, given the importance of democratic representation in such matters. To that end, the CCR responded to the Planning (Wales) Act 2015 by developing proposals for a SDP that were presented to the CCR City Deal Regional Cabinet on 10 June 2019.<sup>1</sup> These proposals included arrangements for voting that reflected differences in population across the city-region, with Cardiff allocated 5 voting members from a total of 23 voting panel members. The table below outlines the proposals included within the report:

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<sup>1</sup> <https://www.cardiffcapitalregion.wales/wp-content/uploads/2019/06/ccr-regional-cabinet-10-06-19-item-9-strategic-development-plan.pdf>

## **Proposals** for a Strategic Development Plan (SDP) for the Cardiff Capital Region

<b>Local Authority</b>	<b>No. of Voting Members</b>
Blaenau Gwent	1
Bridgend	2
Caerphilly	3
Cardiff	5
Merthyr Tydfil	1
Monmouthshire	3
Newport	2
Rhondda Cynon Taf	3
Torfaen	1
Vale of Glamorgan	2
Total voting panel members	23
Nominated non-voting panel members	1/3 of the Panel

55. The report was drafted with the aim of gathering endorsement from all ten constituent authorities within the CCR. Subsequently, the majority of local authorities supported the approach, with all local authorities who took the report to their respective decision making bodies resolving to support the proposals. Events have since been superseded by the Welsh Government proposals for CJsCs.

### Transport

56. A Regional Transport Plan (RTP) is welcomed, and necessary, given Cardiff's role as the regional employment centre and the significant volume of commuter traffic to and from Cardiff.
57. Both the Council's Transport White Paper and the Metro proposals set out a transformative package of projects that will make a decisive contribution to tackling the Climate Emergency, addressing inequality and promoting inclusive economic growth across the region. More fundamentally, a bold and fully joined up approach to transport within the city-region will signal a decisive move away from the incrementalism that has characterised the development of mass public transport infrastructure in the region for many years and which is utterly inadequate if the Cardiff Capital Region is to address the Climate Emergency, increase productivity and connect communities with opportunity.
58. Cardiff is fully committed to working with the region to pursue an evidence-led approach to project identification, prioritisation and delivery that supports intra-regional transport movements. It is important, however, given the scale of Cardiff's economy and population, and the high volume of transport movements within the city, that the Capital City of Wales retains the ability to develop its own Local Transport Plan that is recognised as a key enabler of wider success. This needs to include Cardiff retaining control of some major transport projects within the city and the ability to maintain a strategic partnership with the Welsh Government. Equally, it is essential that Cardiff maintains its ability to

manage the local transport network, including the determination of local bus routes, moving traffic offences and Civil Parking Enforcement. The Council should also retain control over its highways and transport assets.

59. This will ensure that the local authority retains the ability to deal directly with UK and Welsh Government and Transport for Wales, or partnerships such as the Western Gateway, in dealing with investment issues in its area as appropriate. This includes working directly on issues identified within the Transport White Paper, such as specific Metro schemes within Cardiff.
60. The same issues relating to planning also relate to transport in terms of proportionality. In the case of Cardiff, this is especially important due to the amount of transport activity in the city that is sourced from the wider region.

### Economic Development

61. In terms of economic development, there is little detail included in the draft regulations other than the ability of the CJC to exercise economic well-being powers. This will allow for City Deal arrangements to be rolled over into the new CJC, which would provide a sensible approach to building on the existing arrangements that are already in place. To that end, the CCR City Deal Office is preparing a response to how it would propose to transition its arrangements into a new structure as part of the new CJC arrangements. To all intents and purposes, the new structure would reflect the current arrangements, albeit with a more formalised 'body corporate' and, potentially, the removal of the need for Cardiff Council to act as the Accountable Body.
62. The new structure would build on the arrangements of the CCR City Deal, and the assumption would be that it would provide a vehicle for stronger regional strategy, underpinned by statutory functions around strategic planning and regional transport planning. In addition, the expectation is that it would become a body that would receive funding from other government sources.
63. The CCR itself has responded to the Welsh Government consultation on the CJC Regulations by stating that: *"The CCR Cabinet is an existing and experienced Joint Cabinet Committee – and this is the fundamental starting point for a strategy that is more than a consultation response. In terms of first principles, the approach is to set out a compelling vision for the future and a focus on building effective regional institutional capacity. This starts with a sequenced Roadmap for the next 3 years and is based on the assumption that WG will play its part by enacting OECD recommendations that will give life to regional public investment and the principle of concurrence with existing local arrangements."*
64. The overall principles of this approach are sound, though there is a clear need to ensure that Cardiff Council's ability to exercise its economic well-being powers remain unfettered. It is also essential that Cardiff retains all its key capital assets relating to economic development, as well as the

ability to manage and deliver projects locally, and maintain an account management approach to dealing with businesses. There is also a need to ensure that Cardiff retains a local event and place promotion capability, whilst recognising and increasing role in collaborating on a regional basis for reasons of both efficiency and efficacy.

65. In summary, it is essential that Cardiff Council's ability to exercise its powers of economic well-being remain undiminished and enhanced regional arrangements should serve to complement, rather than compete with, the Council in this area.
66. The issues of proportionality also remain valid for economic development. Regional working should seek to treat each individual and business equally and, to that end, the removal of EU Structural Funds boundaries should also remove the previous inability of residents and business in Cardiff, often in some of Wales' most deprived areas, to access the same levels of financial support as is available elsewhere in Wales.

#### Revenue Raising and Finance

67. Cardiff would be supportive of regional revenue raising initiatives, such as Tax Increment Financing, precepts, levies or other business rate retention schemes to support capital investment in agreed projects. However, the Council could not support the transfer any of its own income or revenue generating capability.
68. The lack of borrowing powers for CJsCs could be seen as restricting their ability to deliver capital projects and, to that end, consideration should be given as to how principal councils may work in practice with CJsCs to deliver major projects. This may include, for example, carrying on with the current City/Growth Deal arrangements in parallel with the establishment of CJsCs.
69. The role of the Accountable Body that has been undertaken by local authorities as part of existing City/Growth Deal arrangements will also undoubtedly change, with statutory finance roles sitting directly with the new CJsCs. This will impact on Cardiff Council's relationship with the CCR City Deal for whom it acts currently as the Accountable Body.

#### Devolution, not Centralisation

70. The risk is that CJsCs will do little more than tidy up current City/Growth Deal arrangements in Wales, whilst creating additional costs for local authorities who are expected to contribute towards the overall running costs. This is of particular concern given that austerity has already led to a significant reduction in economic development, planning and transport resources for all local authorities. It is important therefore to ensure that there is suitable devolution of appropriate Welsh Government functions and resources to the proposed CJsCs. This is also important in helping to reduce duplication of activity and ensuring that there is one primary strategy for the region that is led by the CJC.

71. CJs will also need to operate with autonomy in building relationships with other partners, including the UK Government and the private sector. This will demonstrate real devolution in practice and serve to establish a more coherent regional approach.

### **Reason for Recommendations**

72. To enable the Council to submit responses to the two Welsh Government consultations by 4 January 2021.

### **Financial Implications**

73. There are no direct financial implications arising from this consultation response. However, the consultation does set out financial matters to be considered prior to implementation and these are set out in the body of the report. The proposed implementation date during 2021/22 also indicated that these matters need to be considered as part of the Council's budget setting process for 2021/22.

### **Legal Implications**

74. The legal implications are set out in the body of the report.
75. The Planning (Wales) Act 2015 amends Part 6 of the Planning and Compulsory Purchase Act 2004 (PCPA) and sets out the process for the purpose of introducing SDPs. The SDP Regulations will make procedural provisions which supplement Part 6 of the PCPA.
76. The Local Government and Elections (Wales) Bill confers a power on the Welsh Ministers to establish CJs via regulations. The Establishment Regulations will provide for the core aspects of the establishment and operation of the CJs.
77. The remaining legal implications are:
- (a) Equality Act 2010  
The decision about these recommendations has to be made in the context of the Council's public sector equality duties. The Council also has to satisfy its public sector duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties, Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of belief.



(b) The Well-Being of Future Generations (Wales) Act 2015

The Act places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales – a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible. In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan.

When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives. The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:

- Look to the long term
- Focus on prevention by understanding the root causes of problems
- Deliver an integrated approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

The Council must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <https://gov.wales/well-being-future-generations-wales-act-2015-guidance>

(c) Welsh Language (Wales) Measure 2011

The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language.

## **HR Implications**

78. There are no HR implications directly applicable to this report. However, there are potentially significant HR implications depending on the workforce routes taken by the CJC. If secondments from the principal councils is the primary methodology of staffing the CJsCs, as has been done through the City Deal, then many HR implications can be mitigated. If, however, staffing is undertaken through direct recruitment, then this

could cause inequities amongst staff as all councils have their own pay and grading structures and terms and conditions of employment. Although TUPE transfers will apply, these will be on current terms and conditions that could result in multiple employees working side-by-side on very different terms and conditions. All these issues will need to be worked through as part of any implementation process.

### **Property Implications**

79. There are no property implications arising directly from this report.

### **RECOMMENDATIONS**

Cabinet is recommended to:

1. Note the Welsh Government consultation documents on Regulations to establish Corporate Joint Committees (CJCs) and to establish the procedure for Strategic Development Plans (SDPs) to be prepared Wales by CJCs;
2. Approve the draft responses to the two Welsh Government consultations, which are attached as Appendices A and B to this report; and
3. Delegate authority to the Chief Executive, in consultation with the Leader of the Council, Cabinet Member for Investment & Development and Cabinet Member for Strategic Planning & Transport, to make any further amendments as necessary to the Council's draft responses to the consultations prior to submission in advance of the closing date of 4 January 2021.

<b>SENIOR RESPONSIBLE OFFICER</b>	<b>Paul Orders</b> <b>Chief Executive</b>
	11 December 2020

*The following appendices are attached:*

Appendix A: Cardiff Council Response to the Welsh Government Consultation on Regulations to establish Corporate Joint Committees

Appendix B: Cardiff Council Response to the Welsh Government Consultation on The Town and Country Planning (Strategic Development Plan) (Wales) Regulations 2021

*The following background papers have been taken into account:*

- [Regulations to establish Corporate Joint Committees – Welsh Government Consultation Document](#)

- [South East Wales Corporate Joint Committee Regulations 2021](#)
- [The Town and Country Planning \(Strategic Development Plan\) \(Wales\) Regulations 2021 – Welsh Government Consultation Document](#)
- Local Government Reform White Paper Consultation (2017)
- Power to Local People White Paper Consultation (2015)
- Reforming Local Government White Paper Consultation (2014)