

APPENDIX A

Welsh Government Consultation on CJC Regulations – Summary of Consultation Questions

Consultation Question	Response / Comments
Section Two – Approach to developing the regulations	
Q1a What are your views on CJCs being subject to broadly the same powers and duties as principal councils?	<p>Cardiff Council is in agreement with this proposal where appropriate; however, there should not be duplication of existing City Deal or principal council arrangements which work satisfactorily. For example:</p> <ul style="list-style-type: none">• each principal council has a Standards Committee, which are governed by detailed regulations regulating the membership which includes a requirement to have a number of independent non-elected members. It is time consuming and quite difficult to recruit sufficient independent members with the required skills and to keep them trained to the requisite level to deal with the infrequent and low level number of complaints which Standards Committees have to deal with (e.g. in Cardiff to date, there have been two complaints requiring a local hearing since the last local elections in 2017). CJCs should have a Code of Conduct and arrangements in place to deal with any complaints; however, each CJC should have the discretion to make their own arrangements for lower level complaints to be dealt with locally, rather than by the Public Services Ombudsman for Wales. Either one of the existing Standards Committees of the principal councils which are members should deal with all complaints in relation to members of the CJC (including any complaints against co-opted members if there are any) and an agreement as to funding should be made with the CJC, or each principal council's committee should deal with complaints made against their own elected members and one of the Standards Committees should be identified to deal with any complaints about co-opted members of the CJC breaching the code with the CJC making the findings available for this.

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		<ul style="list-style-type: none"> there should, of course, be appropriate scrutiny of the CJC as it is very important that democratic accountability is not further diluted (it is already diluted by the fact that, in the proposed Cardiff Capital Region CJC, Cardiff with a population of circa 367,000 has one vote, which will be the same as Merthyr which has a population of circa 60,000), However, the draft regulations propose the CJC setting up a Scrutiny Sub-Committee. A sub-committee would not be acceptable as the CJC should not scrutinise itself. One approach to scrutiny will not necessarily work for all CJCs and so the regulations should require there to be appropriate scrutiny arrangements in place with options set out in guidance. The Cardiff Capital Region City Deal has a Joint Scrutiny Committee of all its principal councils in place currently, and the best initial solution may be for this to continue, with a review at a subsequent date.
Q1b	Do you agree that CJCs should have broadly the same governance and administrative framework as a principal council provided that this is proportionate? Please give your reasons.	See answer provided to Q1a above.
Q1c	Do you agree that members of CJCs should have appropriate discretion on the detail of constitutional and operational arrangements? Please give your reasons.	The constitutional and governance arrangements of the CJCs should be broadly set out in regulations and, where there is discretion on how to set up and exercise these arrangements, the decision should either require the approval of all member councils or should be made by the CJC, subject to a high quorum being required.
Section Two – Approach to determining the area of each CJC		
Q2	These CJC areas have been agreed by local government Leaders as the most appropriate to reflect the functions being given to CJCs by these Establishment Regulations. Do you have any comments or observations on these CJC areas in relation to these functions or the future development of CJCs?	The South East Wales CJC area is consistent with the existing Cardiff Capital Region and any related transition to the new CJC arrangements should ensure that the established Cardiff Capital Region name and branding is retained.

Consultation Question		Response / Comments
Section Two – Regulations of General Application		
Q3a	Do you agree with the approach to the development of the regulations for CJsCs as outlined in this consultation? Please give your reasons.	Yes.
Q3b	We have indicated throughout this document what may be included in the Regulations of General Application, subject to the outcome of this consultation. Whilst the Regulations of General Application are not the subject of this consultation, in order to inform their development we would welcome your views on anything else which should be covered?	No comments.
Section Three – Membership		
Q4a	Do you agree with the proposed approach to membership of CJsCs including co-opting of additional members? Please give your reasons.	The co-option of additional elected members with voting powers may help to address the democratic deficit of 'One Member, One Vote' (OMOV).
Q4b	What are your views on the role proposed for National Park Authorities on CJsCs, as described above?	No comments.
Section Three – Voting Arrangements		
Q5a	What are your views on the proposed approach of 'one member one vote' and the flexibility for CJsCs to adopt alternative voting procedures?	<p><u>Proportionality</u></p> <p>There is very little flexibility within the existing provisions in the Bill for adopting alternative voting arrangements as it requires unanimity in the decision making of CJsCs. In essence, this means that the voting arrangements are determined by the legislation and not by CJsCs. A 'One Authority, One Vote' approach will see significant distortions in the level of representation for the populations of the CJC area, as highlighted above in the response to Q1a. This will mean that the 367,000 residents of Cardiff would be served by one representative with one vote, whilst the four smallest local authorities within the Cardiff Capital Region (CCR) – 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</p>

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	<p>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.</p> <p>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.</p> <p><u>Diminished Democratic Accountability</u></p> <p>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.</p> <p><u>Diminished Representation</u></p> <p>If OMOV is used, there will need to be mechanisms in place to ensure that issues of equality and fairness are considered. For example, with the Cardiff Capital Region's BAME population mostly resident in the cities of the region, it is imperative that their voice is not lost. 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.</p>

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Q5b	What are your views on the proposed quorum for CJsCs?	The proposed high quorum of 70% of voting members is supported.
Q5c	What are your views on the proposed approach to voting rights for co-opted members to a CJC?	Cardiff Council is already concerned at the dilution of democratic accountability caused by the OMOV proposal. It recognises that co-opted members may provide valuable input to democratic decision making, but does not believe that non-elected co-opted members should have a vote as it would further dilute democratic accountability.
Section Three – Sub committees		
Q6	What are your views on CJsCs being able to co-opt other members and/or appoint people to sit on sub-committees?	See answer provided to Q5c above.
Section Three – Wider Involvement of Partners/Stakeholders		
Q7a	Do you agree that the approach to co-option of members would enable wider engagement of stakeholders in the work of a CJC?	Engagement with stakeholders can take place through consultation and does not necessarily require the co-option of non-elected members.
Q7b	What might be needed to support CJC members in the involvement and engagement of appropriate stakeholders in their work?	Guidance on effective consultation with all stakeholders and population groups (including those with protected characteristics under the Equality Act) and options for effective scrutiny.
Section Three – Code of Conduct		
Q8a	Do you agree that members and staff of a CJC should be subject to a Code of Conduct and that the code should be similar to that of Principal Councils? Please give your reasons.	Yes, it is important that high standards of public life are seen to be adhered to.
Q8b	What are your views on the adoption of a Code of Conduct for co-opted members?	It is important that there is consistency and that co-opted members are bound by the same rules as elected members.

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Q8c	Should all co-opted members be covered by a code i.e. those with and without voting rights?	Yes, consistency and high standards of behaviour in public life are an essential part of good governance. Not having voting rights does not mean that you should not be required to treat others with respect or to declare any conflicts of interest.
Section Four – Finance, funding and budgetary matters		
Q9a	What are your views on the proposed approach for determining the budget requirements of a CJC?	It is essential that the CJC budget requires the approval of individual member councils who should retain control of their own budgets and any decision on the financial contribution to be made to the CJC.
Q9b	What are your views on the timescales proposed (including for the first year) for determining budget requirements payable by the constituent principal councils?	The proposed timescales are achievable, but only if these are phased appropriately.
Q10a	Do you agree that CJsCs should be subject to the same requirements as principal councils in terms of accounting practices? Please give your reasons.	Yes.
Q10b	Do you agree that the detail of how a CJC is to manage its accounting practices should be included in the Regulations of General Application? If not what more would be needed in the Establishment Regulations?	Yes.
Section Five – Staffing and workforce matters for CJsCs		
Q11	What are your views on the proposed approach to staffing and workforce matters?	The proposed approach is supported.
Q12	What are your views in relation to CJsCs being required to have or have access to statutory “executive officers”?	A CJC should be required to have a Chief Executive, Chief Finance Officer and Monitoring Officer. It should have discretion as to whether to employ its own officers to fill these posts or to have an agreement with member councils to fulfil the roles. Cardiff Council would query the need for a separate post of Chief Governance Officer, as the duties of the role are not clear from the regulations.

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Q13	Do you have any other views on provision for staffing or workforce matters within the establishment regulations?	No comments.
Section Six – The functions to be exercised by the CJs		
Q14a	Is it clear what functions the CJs will exercise as a result of these establishment regulations? If not, why?	No, the scope of the Strategic Development Plan (SDP) and Regional Transport Plan (RTP) are still to be determined.
Q14b	Do the establishment regulations need to say more on concurrence, if so what else is needed, or should that be left to local determination?	<p>It is important that powers such as economic well-being are concurrent to enable each member council to continue to exercise these powers concurrently with the CJC and, if they wish, without the approval of the CJC. As a corporate elected body with democratic accountability and the capital city of Wales, Cardiff must be able to utilise economic well-being powers to deliver on its commitments to its residents and businesses separately from the CJC.</p> <p>Cardiff Council requests confirmation from the Welsh Government that the CJC will in no way fetter the ability of Local Government to use its powers relating to economic well-being.</p>
Q14c	In your view are there any functions which might be appropriate to add to these CJs in the future? If yes, what?	No, there will be a need to a review/evaluate the operation of CJs once established.
Q15	Do you think the regulations should provide for anything to be a decision reserved to the CJC rather than delegated to a sub-committee? If so what?	<p>Decisions on budgets should be made by the CJC and there should also be unanimous agreement among member councils. Similarly, decisions on the adoption or approval of plans or strategies (including the SDP and RTP) and consideration of any reports required by statute should also be matters for the CJC. The regulations should ensure that these decisions cannot be delegated to sub-committees.</p> <p>Any proposals for CJs to take on additional functions should require unanimous agreement among CJC member councils in decision making and the agreement of principal councils.</p>

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		In addition, the CJC should also be responsible for decisions on the appointment of senior executive officers, including the Chief Executive, Chief Finance Officer and Monitoring Officer.
Q16	What are your views on the approach to transfer of the exercise of functions to these CJsCs?	It is unclear what the transfer would currently constitute.
Section Seven – CJsCs and duties as a Public Body		
Q17	What are your views on CJsCs being subject to wider public body duties as described above?	This proposal is supported.
Section Eight – Implementation		
Q18a	The Welsh Government is keen to continue working closely with local government and others on the establishment and implementation of CJsCs. Do you have any views on how best we can achieve this?	There is a need for continued consultation with principal councils, the WLGA and groups representing professional officers such as SOLACE, CIPFA and LLG, as well as the provision of funding for start-up costs.
Q18b	In your view, what core requirements / components need to be in place to ensure a CJC is operational, and exercising its functions effectively?	<p>Democratic accountability – need for a link back to principal councils for democratic accountability.</p> <p>Budget – sufficient resources and staff to deliver what is expected.</p> <p>Governance – need for a Constitution with clear terms of reference, roles and responsibilities, decision making processes and governance arrangements, including appropriate scrutiny and accountability. In addition, Codes of Conduct for members and staff will also be required.</p> <p>Where existing City/Growth Deal arrangements will become CJsCs, then a transition period and transition plan will be required – e.g. current scrutiny arrangements and statutory officer arrangements could continue with a planned and timetabled review.</p>

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Q18c	In particular, what do you think needs to be in place prior to a CJC meeting for the first time, on the day of its first meeting and thereafter?	Funding and staffing arrangements, constitution, governance and communications. Put simply, this would mean things like the public facing website for meetings.
Q19a	Do you think it would be helpful for the Welsh Government to provide guidance on the establishment and operation of CJsCs?	Yes.
Q19b	Are there any particular areas which should be covered by the guidance?	Options for arrangements to cover appropriate scrutiny arrangements and arrangements for dealing with complaints against members, and clarity around the ability of principal councils to carry out economic well-being powers concurrently with the CJC.
Q20a	How can the Welsh Government best support principal councils to establish CJsCs?	Provision of funding for CJC start-up costs. Clarity of purpose and processes – what is mandatory and what is discretionary, and guidance on discretionary issues setting out possible options.
Q20b	Are there areas the Welsh Government should prioritise for support?	Provision of funding for CJC start-up costs.
Q20c	Is there anything that CJsCs should/should not be doing that these Establishment Regulations do not currently provide for?	No comments.
Impact Assessment		
Q21a	Do you agree with our approach to, and assessment of, the likely impacts of the regulations? Please explain your response.	No comments.
Q21b	Do you have any additional/alternative data to help inform the final assessment of costs and benefits contained within the Regulatory Impact Assessment? If yes, please provide details.	No comments.

Consultation Question		Response / Comments
Welsh Language		
Q22a	We would like to know your views on the effects that establishment of CJsCs would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.	No comments.
Q22b	What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?	No comments.
Q23	Please also explain how you believe the proposed policy for the establishment of CJsCs could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.	No comments.
Q24	We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:	No comments.