

COUNCIL

21 SEPTEMBER 2023

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

**SOUTH EAST WALES CORPORATE JOINT COMMITTEE –
STANDARDS AND SCRUTINY ARRANGEMENTS**

Reason for this Report

1. To consider:

- (a) 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; and
- (b) the proposal that the existing Cardiff Capital Region City Deal Joint Overview and Scrutiny Committee (JOSC) be appointed to discharge the authority's scrutiny functions in relation to the SEWCJC.

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 (CCR).
6. At the SEWCJC meeting held on 31st July 2023, the CJC considered its statutory sub-committees (including its Standards Sub-Committee) and also its scrutiny arrangements, and approved the proposals set out in this report.

Issues

Ethical Standards for the SEWCJC

7. 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 ([WG44355 \(gov.wales\)](#)) includes guidance on the application of the Ethical Standards Framework to CJsCs in section 12 of the guidance.
8. 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 approved a Members' Code of Conduct, as part of its first set of standing orders, at its inaugural meeting in January 2022; and an updated Members' Code of Conduct, based on the Model Code of Conduct, was approved at its meeting on 31st July 2023;
- (ii) appoint a Monitoring Officer. The Deputy Monitoring Officer of Cardiff Council has been appointed as the Interim Monitoring Officer for the SEWCJC; and SEWCJC is planning to recruit its own Monitoring Officer in future.
- (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 CJs 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

9. 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.
10. 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.
11. As the Interim Monitoring Officer for the SEWCJC is currently 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.

12. 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.
13. The Standards & Ethics Committee received a report on this matter at its meeting 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.
14. A report to Council on this matter was previously prepared and published for the July 2023 Council meeting, which was unfortunately adjourned due to failure of the hybrid meeting IT system. The previous Council report has been updated to include recent developments and further issues which have arisen since the date of that meeting (and specifically, to address the proposed scrutiny arrangements for the CJC, as set out below).
15. At the SEWCJC meeting on 31st July 2023, the CJC formally approved the delegation of its Standards Committee functions to Cardiff Council on the terms set out in paragraph 13 above and authorised its Interim Chief Executive to conclude a Service Level Agreement with Cardiff Council setting out the agreed terms of the interim arrangements. The acceptance of this delegation on behalf of Cardiff Council requires the approval of full Council.
16. 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.
17. Subject to the approval of Council, 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.'

Scrutiny Arrangements for the SEWCJC

18. The executive arrangements adopted by the Council must include provision for the appointment of one or more overview and scrutiny committees or joint overview and scrutiny committees, with power between them to review, scrutinise and make reports or recommendations in relation to the discharge of any of the authority's executive and or non-executive functions (section 21 of the Local Government Act 2000). This includes a requirement to make arrangements for the scrutiny of functions delegated to the SEWCJC.

19. The Welsh Government's Statutory Guidance on Corporate Joint Committees [WG44355 \(gov.wales\)](#) includes guidance on overview and scrutiny arrangements (within Chapter Four of the Guidance), which confirms that

34.1 .. this will be based around scrutiny by the constituent councils of the CJC and not scrutiny by the CJC of its own work. This will be an important part of the democratic accountability of the CJC. As part of the councils general approach to scrutiny any scrutiny arrangements should be undertaken in line with any published scrutiny guidance and the Democracy Handbook (when published).

34.2 In considering the most effective and efficient approach to scrutiny, constituent councils and CJsCs should give thought to the benefits of a joint overview and scrutiny committee made up of the constituent councils. The clear aim and ambition however must be to create, facilitate and encourage a clear democratic link back to the constituent councils.

20. The Cardiff Capital Region City Deal Joint Overview and Scrutiny Committee (the "JOSC") was appointed by the constituent councils of the Cardiff Capital Region City Deal Joint Committee (the "CCR) to provide scrutiny of the Joint Committee. The JOSC meets up to 4 times per year and is administered by Rhondda Cynon Taf County Borough Council ("RCTCBC"). The JOSC comprises one non-executive member from each constituent council of the CCR, which are also the constituent authorities of the SEWCJC.

21. The SEWCJC considered a report on the arrangements to be made for scrutiny of the CJC at its meeting on 31st July 2023, which proposed appointing the existing JOSC as the overview and scrutiny committee for the CJC, under separate terms of reference, on the basis that this would best satisfy Welsh Government's intention, as set out in the CJC's Statutory Guidance, because:

- (1) the Statutory Guidance provides for consideration to be given to scrutiny being carried out by a joint overview and scrutiny committee made up of the constituent authorities;
- (2) the Statutory Guidance expressly states that scrutiny arrangements should be proportionate to the scale and functions of the CJC; and
- (3) the existing JOSC already provides scrutiny of the CCR, the functions of which will be transferred to the CJC in due course.

22. The SEWCJC endorsed the proposal and authorised the CJC's Interim Monitoring Officer to seek the agreement of the JOSC and each of the SEWCJC constituent authorities.
23. The JOSC, at its meeting on 27th July 2023, considered the proposal for the JOSC to be appointed as the joint overview and scrutiny committee for the SEWCJC and confirmed its agreement in principle. The Chair of the JOSC wrote a letter to the CJC's Interim Monitoring Officer after the JOSC meeting to confirm that:

‘Members were supportive of the proposed arrangements for the Joint Overview and Scrutiny Committee to be appointed as the Joint Overview and Scrutiny Committee for the CJC and highlighted the importance of ensuring that an effective model of governance and scrutiny arrangements for the CJC are put in place. This included ensuring that the arrangement is adequately resourced to include funding for Members to receive sufficient training and support to take forward future Scrutiny for the CJC. In doing this, Members welcomed the opportunity to shape and revise their Terms of Reference to ensure they are fit for purpose and provide a clear and defined purpose on the Committee's future objectives and responsibilities.’
24. It is proposed that the additional costs of providing the scrutiny function will be met by the CJC under existing budgets.
25. All ten of the SEWCJC's constituent councils are being asked to agree to appoint the existing JOSC for the Cardiff Capital Region City Deal as the scrutiny committee for the CJC, and to agree the separate terms of reference set out at **Appendix A** in respect of the JOSC's scrutiny of the CJC.
26. The Economy and Culture Scrutiny Committee is due to consider a report on this matter at its meeting on 19th September. The proposals are also being considered by the Environmental Scrutiny Committee and other Scrutiny Committee Chairs are also being informally consulted. Any recommendations or observations which may be put forward will be reported to Council in an Amendment Sheet.
27. The Heads of Democratic Services for the each of the SEWCJC partner authorities are due to meet to discuss the proposed scrutiny arrangements in more detail. In due course, it is anticipated that the JOSC will receive further information about the work of the SEWCJC, which will allow the JOSC to review its terms of reference to ensure they are fit for purpose. Any proposed changes to the JOSC's terms of reference will be reported to the relevant Council scrutiny committees prior to seeking approval from full Council (as well as each of the other SEWCJC partner authorities).

Legal Implications

Standards Sub-Committee

28. 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 17 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.
29. 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.
30. In addition to the statutory functions of a standards committee conferred under section 54 of the LGA 2000 (set out in paragraph 17 above), a local authority may arrange for its standards committee to exercise such other functions as it considers appropriate.
31. 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', which was made at the SEWCJC meeting held on 31st July 2023; and
 - (ii) Cardiff Council to resolve 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 32 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 17 of the report).
32. Members will 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.

Scrutiny arrangements

33. The Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013 ('the 2013 Regulations', made under section 58 of the Local Government (Wales) Measure 2011) allow two or more local authorities ('the Appointing Authorities') to appoint a joint overview and scrutiny committee to make reports or recommendations to any of the Appointing Authorities and to any of their executives, about any matter which affects the whole or part of the area of each of the Appointing Authorities (except crime and disorder matters, which are covered by separate legislation and guidance under sections 19 and 20 of the Police and Justice Act 2006).
34. Under Regulation 4 of the 2013 Regulations, the Appointing Authorities for a joint overview and scrutiny committee must enter into an agreement which:
 - (a) identifies the matters about which reports and recommendations may be made by the joint overview and scrutiny committee;
 - (b) specifies the number of members who may be appointed to the joint overview and scrutiny committee, and make provision for the term of office of those members;
 - (c) includes provision about quorum of meetings of the joint overview and scrutiny committee and of any sub-committee which the committee appoints;
 - (d) makes provision about the duration of the joint overview and scrutiny committee;
 - (e) makes provision for the procedure for an appointing authority to withdraw from the joint overview and scrutiny committee; and
 - (f) makes provision for the administrative arrangements of the joint overview and scrutiny committee, which must include provision by the appointing authorities' Heads of Democratic Services (or one of them) of an appropriate level of officer support and other resources to the joint overview and scrutiny committee.
35. The draft terms of reference at **Appendix A** are intended to address the requirements of Regulation 4 (set out in the paragraph above) and in approving the draft terms of reference, the Council is entering into an agreement with each of the other SEWCJC constituent authorities, as required under Regulation 4.
36. In relation to provision for withdrawal from the JOSJC (referenced under paragraph 34(e) above), whilst this is not explicitly set out in the draft terms of reference (**Appendix A**), it should be noted that a partner authority could terminate its member's nomination (under the terms of reference, point 4) and make arrangements for its own scrutiny committee/s to scrutinise the work of the CJC.
37. In appointing a joint overview and scrutiny committee, the Council must have regard to the statutory guidance issued by the Welsh Government within Part 4 of the Democracy Handbook: [Statutory and non-statutory guidance on democracy within principal councils: governance and scrutiny \[HTML\] | GOV.WALES](#) Under the heading 'Appointing a Joint Committee', the statutory guidance says: 'In establishing a JOSJC which is additional to a council's existing scrutiny committee(s), a report setting out its role, responsibilities, terms of

reference and intended outcomes to be generated by the joint exercise should be considered by each of the participating authorities appropriate scrutiny committees (or sub-committees) before being endorsed by full council.’ Council will note the arrangements made in this regard, as set out in paragraph 26 of the report, and should take account of any recommendations or observations made by the relevant Scrutiny Committees and their Chairs.

38. The statutory guidance on Joint Overview and Scrutiny Committees (under the heading ‘Powers of Joint Overview and Scrutiny Committees’) also states that: ‘Councils should make efforts to co-ordinate their forward work programmes to avoid duplication and help ensure scrutiny activities are complementary where appropriate. JOSCs could operate in an environment where there is scrutiny of particular issues or organisations at both a joint regional level and at a local level. Clarity of roles will be important to avoid duplication.’ In this regard, Members should note that the Council’s Scrutiny Procedure Rules, Rule 15, ‘Matters within the remit of more than one Scrutiny Committee’ provides that: ‘Where a Scrutiny Committee proposes to conduct a review, or scrutinise a matter, which also falls (whether in whole or in part) within the remit of another Scrutiny Committee, then the arrangements for the future scrutiny of this matter will be agreed by the relevant Scrutiny Chairpersons. This agreement will be reported to the next meeting of the appropriate Scrutiny Committees.’
39. For the SEWCJC, Regulations 8 – 10 of the Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2022 (“the CJC 2022 No. 2 Regulations”) set out the CJC’s duties in relation to overview and scrutiny. The CJC 2022 No. 2 Regulations require the CJC to provide information to, attend meetings of, and consider any report or recommendations made by, a ‘relevant overview and scrutiny committee’, which is defined to include a joint overview and scrutiny committee appointed under the Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013, where the appointing authorities are constituent councils of the CJC. This means that the SEWCJC would be required to provide information to, attend meetings of, and consider any report or recommendations made by, the JOSJC appointed for the CJC.
40. Other relevant legal provisions are set out in the body of the report.

Financial Implications

41. In relation to the Standards Sub-Committee proposal, 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.
42. The proposal for CJC scrutiny arrangements, subject to agreement by each of the other SEWCJC constituent authorities, sets out that additional costs of providing the scrutiny function would be met by the CJC under existing budgets.

RECOMMENDATIONS

1. Subject to 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 17 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.
3. To appoint the existing Cardiff Capital Region City Deal Joint Overview and Scrutiny Committee (JOSC) as the authority's scrutiny committee in relation to all functions of the SEWCJC, and agree its initial terms of reference as set out at **Appendix A**, subject to agreement by each of the other SEWCJC constituent authorities.

Davina Fiore

Director of Governance and Legal Services and Monitoring Officer

15 September 2023

Appendices

Appendix A Draft Terms of Reference of the Joint Overview and Scrutiny Committee of the SEWCJC

Background Papers

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

South East Wales Corporate Joint Committee report, 'Statutory Sub-Committees Update', 31 July 2023: [item-5-statutory-subcommittees.pdf \(cardiffcapitalregion.wales\)](#)

South East Wales Corporate Joint Committee report, 'Scrutiny Arrangements', 31 July 2023: [item-4-scrutiny.pdf \(cardiffcapitalregion.wales\)](#)

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

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)

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

Welsh Government's Democracy Handbook: [Statutory and non-statutory guidance on democracy within principal councils: governance and scrutiny \[HTML\] | GOV.WALES](#)

Letter from the Chair of the JOSOC to the Interim Monitoring Officer of the CJC, dated 27th July 2023 regarding proposal for scrutiny arrangements for the CJC

Economy and Culture Scrutiny Committee report, 'Cardiff Capital Region City Deal Joint Overview and Scrutiny Committee: Update; and Proposals in Relation to Scrutiny of the South East Wales Corporate Joint Committee', 19th September 2023: [Item 7 Cover Report.pdf \(moderngov.co.uk\)](#)