

# CARDIFF COUNCIL CYNGOR CAERDYDD

## CABINET MEETING: 21 MARCH 2024

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### CORPORATE JOINT COMMITTEE UPDATE

#### LEADER (COUNCILLOR HUW THOMAS)

#### AGENDA ITEM:

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##### Reason for this Report

1. To update Cabinet on the establishment of Corporate Joint Committees in Wales.
2. To outline the implications of the transition from the Cardiff Capital Region City Deal to the Corporate Joint Committee for Cardiff Council's role as Accountable Body for the City Deal.
3. To note the transfer of Cardiff Council employees to the Corporate Joint Committee.
4. To note the novation of any relevant agreements for the City Deal from the Accountable Body to the new Corporate Joint Committee.

##### Background

5. In 2017 a Joint Working Agreement (JWA) was signed by the ten local authorities of South East Wales that established the governance model for the Cardiff Capital Region City Deal. As part of these arrangements Cardiff Council was appointed as the Accountable Body.
6. The City Deal established a resourced city-region partnership for the Cardiff Capital Region (CCR), based upon the Joint Working Agreement. Building on these arrangements, which were replicated to a greater or lesser degree elsewhere in Wales, Welsh Government has progressed legislation to establish Corporate Joint Committees to further strengthen regional working across Wales. In 2021, the Senedd Cymru passed the following legislation:
  - Local Government and Elections (Wales) Act 2021, Part 5 (Collaborative Working by Principal Councils) of which provides the Welsh Ministers with the ability to establish a Corporate Joint Committee; and
  - The South East Wales Corporate Joint Committee Regulations 2021, Part 1 (Establishment and area) of which establishes a body corporate

to be known as the South East Wales Corporate Joint Committee for the region (“the CJC”).

7. The Local Government and Elections (Wales) Act 2021 provides the legislative basis for these new structures. The establishment of CJs creates in law distinct corporate bodies and legal entities, which can directly employ staff, hold assets and budgets, and be directly responsible for exercising specific functions. This differs from the City Deal arrangements where the Accountable Body is required to hold responsibility on behalf of CCR for directly employing staff and holding assets and budgets. The City Deal is also restricted to activities that fall within the remit of the JWA.
8. Cardiff sits within the South East Wales CJC arrangements, whose boundary is commensurate with the Cardiff Capital Region City Deal and includes its ten constituent local authorities, and the Bannau Brycheiniog National Park Authority for matters relating to strategic planning. The South East Wales Corporate Joint Committee Regulations 2021 (the Establishment Regulations) were approved and published by the Welsh Government on 17 March 2021 and came into force on 1 April 2021.
9. Building on the City Deal arrangements, CJs have the potential to strengthen the regional ability to coordinate and implement strategic responses to key challenges. While the City Deal arrangements served to galvanise collaboration among the ten partner local authorities, the scope of partnership working has necessarily been circumscribed by the content of the JWA and the City Deal agreement. The creation of the new corporate entity, with its own statutory basis, opens up wider possibilities for local government to pursue regional strategies over and above the City Deal.
10. The Accountable Body model has enabled the efficient administration of the Cardiff Capital Region City Deal since its inception, with Cardiff Council successfully discharging the Councils’ obligations acting as the primary interface with the Welsh Government and UK Government and providing the necessary support services to allow delivery of the CCR objectives. This has included Section 151 and Monitoring Officer services, human resources, finance, ICT and legal support as well as the treasury management function, VAT advice and returns, information and governance services and liaison with Audit Wales. In addition, all contract standing orders, financial procedure rules, codes of conduct and policies required to discharge CCR obligations under the JWA have been adopted from the Accountable Body’s prevailing policies and procedures.
11. Conversely, the current Accountable Body model does not allow for the Cardiff Capital Region City Deal (CCRCD) Joint Committee (the Regional Cabinet) to employ staff, maintain its own balance sheet, or borrow money – in contrast to the powers that have been provided to the new CJs, albeit within an affordability context determined, and underwritten, by the constituent local authorities themselves.

12. The initial functions of the South East Wales CJC, as prescribed by the Establishment Regulations, relate to preparation of a Regional Transport Plan, a Strategic Development Plan and the exercise of economic wellbeing powers. In the case of the Regional Transport Plan and Strategic Development Plan, these represent statutory duties of the South East Wales CJC. In the case of the economic wellbeing powers, the CJC has the ability to undertake activities that promote and support economic development within the region.
13. The Establishment Regulations contain key provisions in respect of the South East Wales CJC, including its membership and how it makes decisions. Under the Regulations, the CJC's membership comprises councillors, one for each constituent council which constitute the existing City Deal arrangements. The Regulations also provide that the CJC member from each constituent Council shall be the Leader – reflecting the composition of the City Deal Regional Cabinet.
14. Provision is also made for a member from Bannau Brycheiniog National Park Authority, who will only be permitted to vote on matters relating to the strategic planning function.
15. While the CJC will be a decision-making body in its own right, its budget must be agreed on a unanimous basis by constituent Councils of the CJC, with Welsh Government determining contributions in any scenario where a budget cannot be agreed (as set out in the regulations).

#### **'Lift and Shift'**

16. Since the CJC builds on the current City Deal arrangements, the CCR Regional Cabinet has been the focal point of discussions to establish the new arrangements.
17. These have proceeded on the basis that local authorities needed to meet the statutory requirement to establish CJCs while also ensuring that the new governance arrangements resulted in a model that was complementary to, rather than in competition with, concurrent local government arrangements. It was also agreed that the proposed CJC should seek to secure the devolution of resources from Welsh Government to support regional working.
18. A CCR Regional Cabinet report, of 20th September 2021, subsequently outlined a proposed governance, delivery and transition model for the CJC. This made clear that the ability of councils to determine their own policy and to deliver functions would remain. In particular the report agreed the following principles:
  - “A positive-sum game. The uniqueness of the model of LA democratic legitimacy and localism sits at the heart of the CJC which will be owned, controlled and led by LAs. The CJC & LAs are one and the same – with CJC being developed for, with and by LAs.

- “There is no threat to LA services with the assumption that functions, services and resourcing are being pulled from the centre not local authorities. No local power, functions, services or resources will be lost or displaced – unless a case is made and supported by all LAs - and LAs will also deal directly with UK Government and Welsh Government and continue to deliver large-scale projects including those of regional, national and international significance and supported by both governments. This will emphasise absolute concurrence and compatibility with local arrangements.
  - “CCR CJC is capable of adopting Welsh Government’s policy position and ambitions for a system of regional economic governance – and is equally able to respond in the face of the growing presence of UK Government in Wales. CCR is able to act as a neutral space in the middle, working positively with both bodies to ensure the region is positioned optimally to see challenges and opportunities through the prism of ‘place’ and adopt a sense of enlightened self-interest. With regional investment and ‘localism’ central to developing policy, CCR must deliver for the region, Wales & UK.”
19. The September report considered a number of governance and delivery model options that would bring together, or at least align, the City Deal and the South East Wales CJC. In sum:
- Do nothing – this would not meet the requirements of the legislation and would therefore be unlawful.
  - Like for like - the CJC acts as the decision maker (in place of the Regional Cabinet) and the Accountable Body continues to act as the conduit for project delivery.
  - Lift and Shift – The CJC acts as the decision maker (in place of the Regional Cabinet) and acts as the conduit for project delivery (in place of the Accountable Body).
  - Holding Company - This would see the CJC act as the decision maker and hold-co/strategic anchor of wholly owned subsidiaries.
20. The Regional Cabinet agreed to pursue the option of ‘lift and shift.’ In effect, this would see the transition of the City Deal operational and delivery arrangements into the South East Wales CJC, creating a single corporate body and an integrated model of regional public investment.
21. On this basis, the Regional Cabinet agreed to establish a Transition Plan and Transition Board to oversee the change, based on a critical path for achieving key milestone dates in accordance with the legislation. However, several live “risks and issues” were also noted. In particular, these related to a series of unresolved matters concerning the CJC’s tax status that has since been resolved via secondary legislation.
22. The first statutory duty of the CJC for South East Wales was to set a budget on or before 31 January 2022. Subsequently a report was considered by the South East Wales Corporate Joint Committee on 31<sup>st</sup> January 2022 that considered an annual business plan for 2022/23 and the CJC’s General Budget for the financial years 2021/22 and 2022/23.

23. The report noted that “The costs of the Transition Plan will be met from the Cardiff Capital Region City Deal revenue budget. However, future CJC budget reports will need to consider the evolution and associated costs of the CJC moving from the proposed Bare Minimum approach to a fully integrated Lift & Shift model, along with increasing requirements of the CJC.”
24. The report also noted that financial contributions towards the running of the ‘Bare Minimum’ approach would be taken from the CCR General Reserve. This approach was replicated for the 2023/24 and 2024/25 budget as outlined in the 30<sup>th</sup> January 2023 and 29<sup>th</sup> January 2024 South East Wales Corporate Joint Committee reports.

### **Implications of Regional Arrangements for Cardiff**

25. The City Deal has already made some significant investments since its inception. This includes:
  - Approved projects to the value of c.£420M, a proportion of which will generate recycled funds for future investment.
  - High impact funds established, including the £50m Strategic Premises Fund and the £50m Innovation Investment Capital.
  - Equity investment in major evergreen schemes – CCR Energy Ltd (former Aberthaw Power Station), CS Foundry Ltd and other businesses in South East Wales.
  - £160m Investment Zone awarded to South East Wales to spur indigenous business growth and inward investment.
  - CCR also re-defining the role of the public sector as a driver of innovation through Challenge Fund and InFuse programmes.
  - Outcomes to date for the region are 3,474 jobs and c£300m+ in additional leveraged funds.
26. CCR, alongside Cardiff University, Cardiff Metropolitan and USW, has been at the vanguard of innovation-led growth and cluster development. This includes becoming the only UK Region with two UKRI Strength in Places Fund awards – CSConnected & Media Cymru - and establishing the Cyber Innovation Hub.
27. The economic focus of the City Deal also fits with Cardiff’s economic ambitions, notably the focus on sectors such as the creative industries, cyber, fin-tech, renewable energy and advanced manufacturing. To that end, a number of key investments aligning with these sectors and the city’s economic strategy has already taken place, including:
  - Metro Central: £40m has been allocated to invest in Cardiff Central to modernise the station as part of a wider investment supported by both the Welsh Government and UK Government.
  - Media.Cymru: £3m contribution towards a £50m project to establish the CCR as a global hub for media innovation and production, as part of the UK Research and Innovation’s (UKRI’s) Strength in Places programme.

- CSC Foundry: A £38m investment that has established a new compound semi-conductor foundry as part of an agreement with the Cardiff company IQE. Strength in Places funding has also been secured to support the wider advanced semiconductor cluster, including £25m from the UK Government.
  - Direct support for businesses within the key sectors identified above, including equity investments in Cardiff businesses such as Human Data Sciences, Amplyfi and Jellagen.
  - Direct support for Fintech Wales, a Cardiff based organisation that supports a key sector for the city.
28. Cardiff has also benefitted from accessing the range of infrastructure funds operated by the Cardiff Capital Region City Deal. This includes:
- Metro Plus & Electric Vehicle Points
  - Housing Viability Gap Fund
  - Strategic Premises Fund
29. All of these schemes have directly invested in Cardiff. The Cardiff East Bus Priority project has been part funded by Metro Plus. The scheme started on site in 2021 with the Metro Plus programme funded element commenced in late Nov 2021. The scheme saw the introduction of a series of sustainable and active travel packages that will enable improved bus connections, improved active travel infrastructure and pedestrian safety improvements.
30. The Housing Viability Gap Fund is a targeted housing programme aimed at bringing forward residential sites which have stalled due to a financial viability gap and there are no other means available to unlock these sites. The fund has twelve schemes in contract and is expected to deliver 2,800 new homes across the region's ten local authority areas.
31. Cardiff has benefited from funding allocated to two projects, Waungron Road, Fairwater and the Gasworks on Ferry Road. Collectively over £3.5m has been allocated to these projects, with the £3m allocated to the Gasworks project fully drawn down.
32. Via the Strategic Premises Fund a £12m loan has been agreed to finance the acquisition and future development of studio space for Great Point in Cardiff, envisaged to become one of Europe's leading centres for film and TV production.
33. The investment will see further upgrading to the studio to create a self-sustaining, world-class studio facility that will not only support increased production demand but also support growth in the wider supply chain and a collaborative training facility will help build the supply of local skill and talent.
34. The Cyber Cluster investment also links directly with the city's economic agenda. The project is a co-investment alongside Welsh Government in Cyber Innovation Hub (CIH), a £20m Cardiff-based initiative focused on new venture creation, innovation, and skills development. It provides fully

- funded places for an MSc in Cyber Security and Technology developed by Cardiff University in partnership with PwC. In addition, via the Cardiff Commitment Programme, the Cyber Innovation Hub is delivering cyber security training to teachers.
35. Cardiff also benefits from a range of skills programmes delivered by the City Deal, including the Venture Graduate Recruitment Programme, Shared Apprenticeships and Skills Academies.
  36. In addition, the city also benefits from the SPF-led regional programmes being delivered by the CCR. These include:
    - Digital Skills Programme
    - Net Zero & Advanced Manufacturing Skills Programme
    - Academic-Industry Partnerships
    - Business Growth Programme
  37. There are also a range of issues where regional working will support the development of Cardiff's economy. The benefits of city-region working are generally accepted from an economic development perspective, enabling consideration of issues on the level of the functioning economic area. There are also areas where the scale of regional working offers economies of scale.
  38. Notwithstanding this, Cardiff Council's Cabinet did outline concerns in its report of 17th December 2020, which outlined its response to the Welsh Government consultation on the draft regulations for Corporate Joint Committees. As part of the response, it was noted that the current regulations diluted the voice of Cardiff residents as a result of a 'One Authority, One Vote' approach. This means that 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.
  39. 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.
  40. The principle of not having proportionate representation is also particularly relevant given the unequal distribution of different demographic groups, with urban areas having a predominately younger group with a broader ethnic profile. This in practice means that the representation of different demographic and ethnic groups is diluted by the CJC arrangements.
  41. The report also noted that, as there is no power for the electorate to directly elect those represented on the CJC, elements of the democratic process are being further removed from the electorate, local councillors and the local scrutiny function.

## **Transition Plan**

42. In implementing the Transition Plan for the City Deal to be taken into the governance arrangements of the CJC, on 4 December 2023 Regional Cabinet made the following key decisions:
- Consent to novate (transfer) the Cardiff Capital Region City Deal Funding Agreement and all other incoming funding agreements held by Cardiff Council as Accountable Body on behalf of CCR to the CJC;
  - Consent to transfer the portfolio of projects funded by CCR, together with any ancillary agreements, from Cardiff Council as Accountable Body on behalf of CCR to the CJC;
  - Provide a direction to Cardiff Council acting in its capacity as Accountable Body for CCR to take all necessary actions to implement the transfers referred to at paragraphs (1) and (2) [in the aforementioned report]; and
  - Agree to transfer responsibility for decision making and implementation of the Cardiff Capital Region City Deal to the CJC (including that Council Contributions be made to the CJC), subject to novation of the City Deal Funding Agreement and approval by the CJC of additional standing orders incorporating the key terms of the JWA between the 10 Constituent Councils.
43. Also on 4 December 2023, Regional Cabinet considered the proposed governance structure of the CJC, which includes the following sub-committees and advisory boards:
- Appointments Committee
  - Governance and Audit
  - Investment Board
  - Joint Overview and Scrutiny
  - Regional Growth Board
  - Regional Transport Committee
  - Shareholders Committee
  - Standards Committee
  - Strategic Development
44. In essence this provided the formal approval for the 'Lift and Shift' proposal outlined in the transition plan. In parallel, to support the transition Cardiff Council considered a report on 21<sup>st</sup> September 2023 that approved the CJC's request for:
- Cardiff's Standards and Ethics Committee to be utilised as the Standards Sub-Committee for the CJC on an initial basis (via a Service Level Agreement); and
  - The existing CCRCJ Joint Overview and Scrutiny Committee hosted by Rhondda Cynon Taf County Borough Council to be appointed to discharge the scrutiny functions in relation to the CJC.
45. The CJC will establish the remaining committees and boards, and nominations for appointments to outside bodies will be sought in the usual way at Annual Council in May 2024. The CJC's Draft Constitution is also

due to be considered by CCRCD's Joint Overview and Scrutiny Committee on 7 March 2024, prior to consideration by the CJC at its meeting on 18 March 2024.

## **The Future CJC**

46. The future working of the CJC can be broadly split into three areas, the economic wellbeing powers, the Regional Transport Plan, and the Strategic Development Plan.

### Economic Wellbeing Powers

47. The Economic Wellbeing Power will provide a wider ability for the CJC to undertake economic development activity. Generally, the City Deal has been restricted to activity associated with managing its investment fund. The economic wellbeing powers will allow it to work outside of these restrictions and co-ordinate regional economic development activity. It is very much intended that this power will work alongside local authorities, as well as Welsh Government and UK Government. A CJC will have the ability to borrow for any purpose relevant to its functions or for the purposes of the prudent management of its financial affairs.
48. The CCR is working with local authorities to better understand the challenges and opportunities the economic wellbeing powers will bring as part of an economic review. In doing so, the CCR intends to explore how it can support, collaborate and add value to local authority activity. This would build on extensive ongoing work between the CCR and Cardiff Council economic development teams across a range of projects and initiatives.
49. Via its work with the City Deal, the CCR has shown its ability to support Cardiff Council's economic agenda. The intention of the use of the economic wellbeing powers will build on this and work alongside local authority partners to supplement their economic ambitions.

### Regional Transport Plan

50. A duty established in the Corporate Joint Committee legislation requires the production of Regional Transport Plans for the four parts of Wales which they cover. The planning process for the plans will bring together local authorities, Transport for Wales, and other key partners in the development and delivery of transport services for the region. Regional Transport Plans aim to support local partners to work at a strategic level and ensure that transport planning is co-ordinated at the level at which people use transport on a day-to-day basis.
51. The duty lies with CJCs to develop the RTP itself, and with Local Authorities (LAs) to deliver the RTPs, with this being set out in a strategic level delivery plan contained within the RTP. The RTPs must include Regional Transport Delivery Plans (RTDPs) setting out how local authorities in Wales will deliver the policies set out in the RTPs.

52. RTPs must be approved by the Welsh Ministers. This approval will form part of the assessment process for local authorities to access Welsh Government grant funding for both local and regional transport schemes.
53. Within the Guidance, Welsh Government has identified six key milestones that they consider are required to produce the RTP by end June 2025. The first milestone was the submission of an Implementation Plan by 31 October 2023, which triggered the release of funding from Welsh Government to support development. CCR has negotiated movement on some of the other interim milestones with Welsh Government. TfW resources and data will be made available to CJs to support in the delivery of the RTP. The CCR Infrastructure team will be charged with delivery of the RTP, working closely with the RTA and local authority officers.

### Strategic Development Plan

54. A further statutory duty for the CJC is the production of a strategic development plan (SDP), which must set out an overall vision and strategy, and identify a clear settlement hierarchy and strategic locations/places for future growth and change. A key purpose for SDPs is to plan across local authority boundaries, reflecting how people live and work.
55. As a long-term plan (with a minimum range of 25 years), it is intended that the SDP will, ultimately, enable a more consistent, efficient approach to land-use planning. The SDP will offer the opportunity to better plan and deliver regionally important, strategic growth in a coordinated, cross-border manner, aligned with the Regional Transport Plan.
56. The governance arrangements of the Strategic Development Sub-Committee are still to be determined, with a number of options that could be considered.
57. It is not anticipated that the SDP will be adopted until 2029 earliest, and Local Development Plans (LDPs) must be kept up to date. Alongside this, Cardiff Council will have an extant LDP in place until 2036. To that end the CCR are working with local authorities to understand how the SDP can be delivered in alignment with LDPs and support local authorities.
58. The first milestone is the submission of a Delivery Agreement (DA), and that the CJC demonstrate the commencement of technical work on plan preparation. This is likely to be supported by the secondment of an officer to lead CCR's work in this area through to the first milestone.

### **Transition Implications for Cardiff**

59. As part of the transition process, novation agreements are being drafted to effectively transfer all rights and obligations in the original agreements from Cardiff Council (as Accountable Body) to the CJC. The legal novation agreements will also release Cardiff Council from its obligations and liabilities under the various funding agreements on the basis that the CJC

assumes those obligations and liabilities. In addition, they also include provisions regarding the process for transferring funding from Cardiff to the CJC, as well as an indemnity from the CJC in relation to the particular agreement.

60. The novation of the above agreements has been approved by Regional Cabinet, and agreed by Welsh Government, and do not require a separate decision of Cardiff Council. Certain operational contracts, for example the engagement of Fund Managers and advisors, will also be assigned. Again, this will be approved by CCR under delegated powers and do not require a separate decision of Cardiff Council.
61. The effective date for that transfer is 00.01 hours on 1 April 2024 (subject to completion of the above agreements) from which point Cardiff Council will in effect cease to act as the Accountable Body for CCRCD and the CJC will assume that responsibility.
62. Regional Council has also agreed that the portfolio of projects onwardly funded by Cardiff Council on behalf of CCR will also be transferred to the CJC on 1 April 2024. Cardiff Council, in its capacity as Accountable Body for CCR, funds projects in a variety of ways. These include traditional grant agreements, commercial loan agreements and equity investments - meaning that Cardiff Council holds shares in private limited companies it has invested in on behalf of CCR. In each case, the CJC will assume CCR's rights and liabilities in those investments and any shares or securities currently held by Cardiff Council on behalf of CCR will be transferred to the CJC.
63. In addition to the third-party investments Cardiff Council has made on behalf of CCR, Cardiff Council currently is the sole shareholder of the special purpose vehicle company, CCR Energy Ltd, which in turn owns Aberthaw Power Station. As part of the transition, it is intended that CJC will become the sole shareholder of CCR Energy Ltd in place of Cardiff Council.
64. Each of the ten constituent councils, including Cardiff Council, also hold equal shares in CCR's other wholly owned company, CSC Foundry Ltd, and Cardiff Council (in common with the other nine councils) will be asked in due course to transfer those shares to the CJC.
65. The new constitution of the CJC will be considered at its meeting of 18<sup>th</sup> March 2024. This will include procedures for nominations for the sub-committees of the CJC. Depending on the sub committee arrangements, Cardiff Council may need to agree its nominations for the sub-committees at its Annual Council.

### **Practical Considerations**

66. As part of that transfer of responsibility, it will be necessary for Cardiff Council to make arrangements in respect of the following:

#### **Finance and Commercial Services**

67. Cardiff Council will need to transfer the cash balance of approximately £40m it currently holds on behalf of CCR to the CJC.
68. Cardiff Council will cease providing CCR's treasury management, accountancy, transactional and other financial services, and responsibility for these will pass to the CJC (some of which will be discharged by Rhondda Cynon Taf County Borough Council via service level agreements with the CJC). As will related services including internal audit, risk management and insurance.
69. It will be necessary for Cardiff Council to agree transitional arrangements with the CJC during which it continues to maintain access to the Council's financial system (SAP) – anticipated until 1 April 2025 - for the purposes of CCR's statutory accounts and audit arrangements, and to provide some limited services related to debtors and creditors, accounting for VAT and final banking reconciliations.
70. Cardiff Council will also need to continue to hold CCR's accounting books and records in respect of transactions since its creation to 31 March 2024, and provide information related to these, as and when required by HMRC.

#### S151 Officer

71. Cardiff Council's Director of Resources currently fulfils the statutory s.151 Officer function for CCR. This responsibility will transfer to the CJC's new s.151 Officer as of 1 April 2024, save that Cardiff's Director of Resources will finalise CCR's 2022/23 audited accounts and associated papers.

#### People

72. Staff currently employed by Cardiff Council and undertaking CCR work for either all or a significant amount of their time will transfer to the CJC under the provisions of the Transfer of Undertaking (Protection of Employment) Regulations 2006. This will also necessitate the transfer of the relevant HR information, including payroll records, and pension funds. HR Services currently undertaken by Cardiff Council will transfer to the CJC, some of which will be discharged by Rhondda Cynon Taf County Borough Council via service level agreements with the CJC.

#### Legal Services and Monitoring Officer

73. Cardiff Council will cease to provide Legal Services and to discharge the statutory Monitoring Officer function on behalf of CCR as of 1 April 2024, and this responsibility will transfer to the CJC. Arrangements will need to be made for the transfer and/or retention of legal files held by Cardiff Council on behalf CCR.

#### ICT

74. Cardiff Council currently provides information and communications technology services to CCR, which it will cease to provide following the

transition, and arrangements for data migration and equipment are in the process of being agreed.

### Procurement

75. Cardiff Council will also cease to provide CCR's procurement services on 1 April 2024, and arrangements are being made to transfer this function to Rhondda Cynon Taf CBC.

### **Joint Working Agreement (JWA)**

76. The intention is that, following the transfer to the new public body, the joint working agreement between the ten councils will cease to be necessary, save for provisions relating to Council Contributions and the overall Affordability Envelope. This will first require discussions at senior management level (Finance, HR, Legal etc) to ensure that the operational transfer requirements have been met - including the TUPE of staff, data migration etc – and provision made for any necessary legacy arrangements.
77. Any future decision to terminate the JWA will be brought to back to Cabinet and then full Council. This is expected to be brought later in 2024.

### **Council Contributions**

78. To date, and as noted above, financial contributions towards the running of the 'Bare Minimum' approach would be taken from the CCR General Reserve. This approach was replicated for the 2023/24 and 2024/25 budget as outlined in the 30th January 2023 and 29th January 2024 South East Wales Corporate Joint Committee reports. Following the termination of the JWA, the constituent councils will continue to contribute to the cost of delivering City Deal as previously agreed, with these contributions now being made to the CJC.
79. The CJC must agree its budget requirement and the amounts payable by each constituent local authority at a meeting before 31 January immediately preceding the beginning of a funding period. Any additional future contributions to the CJC budget will need to be agreed unanimously by all ten Council representatives on the Joint Committee.
80. The legislation outlines that the CJC is required to calculate its budget requirements for each financial year to include the amounts required to exercise its functions, and expenditure associated with administrative costs and overheads, as well as an amount for contingencies, a reserve, and an amount to cover any outstanding liabilities.
81. In calculating its budget, the CJC must also include any estimated funding it anticipates receiving from other funding sources including Welsh Government, UK Government, private sector bodies, third sector and voluntary bodies.

82. Whilst the funding of the budgetary requirement must be agreed by unanimous decision, if an agreement is not reached the amounts payable by the constituent councils will be directed by Welsh Ministers.

### **Reason for Recommendations**

83. To update Cabinet on the establishment of Corporate Joint Committees in Wales.
84. To outline the implications of the transition from the Cardiff Capital Region City Deal to the Corporate Joint Committee on Cardiff Council's role as Accountable Body for the City Deal.
85. To note the transfer of Cardiff Council employees to the Corporate Joint Committee.
86. To note the novation of any relevant agreements for the City Deal from the Accountable Body to the new Corporate Joint Committee.

### **Financial Implications**

87. This report sets out the approach and actions to be taken in order to facilitate the planned transition of the Cardiff Capital Region City Deal (CCRCD) to the South East Wales Corporate Joint Committee (CJC).
88. Cardiff Council, as one of the ten local authorities of South East Wales, signed up to a Joint Working Agreement (JWA) in 2017 which established governance arrangements for the CCRCD and which also appointed Cardiff as the Accountable Body.
89. This meant that since this date, Cardiff Council has acted as the legal entity responsible for discharging the obligations of the ten Councils and providing the necessary support to allow delivery of CCRCD objectives.
90. In line with the new legislation passed by the Senedd in 2021, the CJC has been established as a distinct corporate and legal body which can employ staff, hold assets and have direct responsibility for exercising the specific functions previously carried out by the Accountable Body.
91. The report to Regional Cabinet in September 2021 also approved the option to 'lift and shift' the CCRCD into the CJC which would result in all operational and delivery arrangements of the CCRCD transitioning to the CJC along with the TUPE of staff where appropriate.
92. For Cardiff Council, as Accountable Body, this will require making the necessary arrangements to implement the transfers/novation to the CJC of the CCRCD HMT Funding Agreement, all other funding agreements and the portfolio of projects funded by and held on behalf of CCRCD. This will also mean that any shares currently held in private limited companies invested in on behalf of CCRCD will also transfer to the CJC.

93. Cardiff Council is currently liaising with CCRCO to put in place appropriate arrangements to facilitate this novation, including cash and banking arrangements and finalisation of statutory accounting and audit processes. As part of this process, Regional Cabinet will agree to transfer responsibility for decision making and implementation of the CCRCO to the CJC, subject to approval by the CJC of additional standing orders incorporating the key terms of the JWA between the ten Councils.
94. Cardiff Council as Accountable Body will cease to provide all transactional and other support services to the CJC, including accountancy and treasury management and other financial services, with some responsibilities planned to be discharged by Rhondda Cynon Taff County Borough Council via new service level agreements with the CJC.
95. Subject to all legal processes being completed, the effective date for the planned novation of all funding agreements and projects is the 1st April 2024. It should be noted that Cardiff Council is also in the process of concluding discussions with HMRC in order to confirm that there are no tax implications for the authority as a result of the proposed novation to the CJC of all rights, liabilities and obligations in the relevant agreements for all investments, projects and funding agreements.
96. Cardiff Council's Director of Resources has previously fulfilled the statutory S151 Officer function for CCRCO and this function effectively ceases on the establishment of the CJC. The CJC also approved the appointment of an interim S151 Officer at its meeting of 29th January 2024 whilst the permanent recruitment is underway.
97. Following the establishment of the CJC and conclusion of all novation processes, the ten Councils will continue to form the constituent Councils of the CJC with responsibility for agreeing a budget and making agreed contributions to that budget in line with the existing pro rata basis of the agreement.
98. To date, running costs of the CJC have been agreed to be met from earmarked reserves set aside for this purpose. Post 2024/25, prior to each financial year and before 31<sup>st</sup> January, the CJC will be required to agree its budget requirement. Any additional amounts payable by each constituent Council of the CJC will need to be agreed unanimously by all ten Council representatives on the Joint Committee and as part of the overall budget setting processes for each Council. If an agreement is not reached, the amounts payable by the constituent councils will be directed by Welsh Ministers.

**Legal Implications (including Equality Impact Assessment where appropriate)**

99. The report sets out the various processes that are proposed to be undertaken in relation to the transition to the CJC. The key implications are as follows:

100. As set out in the report, it is intended that there will be various novation agreements to transfer rights and obligations from Cardiff Council (as Accountable Body) to the CJC. Legal Services has had sight of the draft template agreement in relation to incoming funding agreements. The key provisions are as follows:
- Cardiff Council will novate all rights and obligations in the relevant agreement to CJC;
  - CJC and remaining parties will be bound by the terms of the original agreement;
  - Cardiff Council and remaining party will release each other from obligations to the other upon novation. Cardiff Council should be satisfied that there are no outstanding issues with regards the obligations;
  - Cardiff Council to undertake that it has made or will make all the necessary arrangements to transfer the funding etc;
  - (subject to certain conditions) CJC will indemnify Cardiff Council from claims, losses etc in relation to the agreement novated. It should be noted that this indemnity will cover the relevant novated agreement and general indemnities from the various Councils in relation to CCR will be caught by the JWA.
101. Further legal advice should be sought as and when required in relation to next steps.
102. In relation to the future report terminating the current JWA and implementation a new one, further legal advice should be sought and any legal implications will be set out in that report.

#### Equality Duty

103. In considering this matter, the Council must have regard to its public sector equality duties under the Equality Act 2010 (including specific Welsh public sector duties). This means the Council must give 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 religion or belief.

#### **Well Being of Future Generations (Wales) Act 2015**

104. The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving seven 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.
105. 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 2023-26. 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.

106. 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 seven 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
107. The decision maker 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: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

#### General

108. The decision maker should be satisfied that the decision is in accordance within the financial and budgetary policy and represents value for money for the council.
109. The decision maker should also have regard to, when making its decision, to the Council's wider obligations under the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards.

#### **HR Implications**

110. The HR implications are set out in the body of the report and involve the transfer of employees to the CJC. The trade unions and affected employees have been consulted on this transfer. The Council will carry out its legal responsibilities under the TUPE Regulations.

#### **RECOMMENDATIONS**

Cabinet is recommended to:

- a) Note the update on the Corporate Joint Committee as outlined in this report.

- b) Delegate authority to the Chief Executive in consultation with the Section 151 Officer and Monitoring Officer to address any residual financial and legal issues respectively (including concluding any arrangements), arising as part of the transition (as necessary) and authorise legal services to execute all necessary documents associated with the novation and transition to the Corporate Joint Committee.
- c) Note the novation of the relevant agreements for the City Deal from the Accountable Body to the new Corporate Joint Committee.
- d) Note that Cardiff Council will cease to be the accountable body from 1st April 2024.
- e) Note a future report will be brought to Cabinet and full Council regarding termination of the JWA and implementation of any new arrangements.

<b>Chief Executive</b>	<b>Paul Orders</b>
	8 <sup>th</sup> March 2024

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