

CABINET MEETING: 20 JANUARY 2022

**CITY REGION UPDATE INCLUDING THE SOUTH EAST WALES
CORPORATE JOINT COMMITTEE**

LEADER (COUNCILLOR HUW THOMAS)

AGENDA ITEM: 2

Reason for this Report

1. To provide the Cabinet with an update on city-region developments, including the forthcoming establishment of the South East Wales Corporate Joint Committee (CJC).

Background

2. 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. 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 is establishing Corporate Joint Committees to further strengthen regional working across Wales.
3. The Local Government and Elections (Wales) Act 2021 provides the legislative basis for these new structures. The establishment of CJsCs will create in law distinct corporate bodies and legal entities, which will be able to directly employ staff, hold assets and budgets, and be directly responsible for exercising specific functions. This differs from City Deal arrangements where the Accountable Body is required to hold responsibility 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, effectively meaning it can only deal with matters relating to its Investment Fund.
4. 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. 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. The legislation and

related regulations are binding on the Council. In other words, the Council as a matter of law is a member of the South East Wales CJC.

5. The first statutory duty of the CJC for South East Wales is to set its budget on or before 31 January 2022. This report updates Cabinet on recent developments, which will result in a phased establishment of the CJC, including the incorporation into the model in due course of the current City Deal governance and investment arrangements.

Issues

Delivery of the City Deal

6. Since the signing of the Joint Working Agreement the City Deal structure has established a framework of governance to oversee the implementation of the investment fund. This work has included the establishment of the Regional Cabinet as the decision-making body, as well as the Regional Transport Authority, which advises the Cabinet on transport investments, and a Joint Scrutiny Committee.
7. In addition a number of advisory bodies has also been established, including the Regional Economic Growth Partnership (REGP), a multi-stakeholder group comprised of representatives from various economic sectors and interests, which provides review and challenge to investment fund proposals. An Investment Panel comprising members of the REGP and local authority Chief Executives also reviews any potential funding requests before they are presented to the Regional Cabinet. A CCR Business Council has also been established to provide a voice for businesses in the region to ensure that both the needs of enterprise are considered in decision making.
8. The CCR Skills Partnership has also been established that is responsible for identifying regional priorities for skills. The Partnership brings together a wide range of stakeholders, including businesses; industry bodies; higher and further education institutions; training providers; schools; local authorities and the Welsh Government.
9. 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 £200m 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 £25.44M from the UK Government.

- Direct support for businesses within the key sectors identified above.
10. Cardiff has also received in-principle support of circa £3m as part of the Homes for the Region programme that will unlock the development of homes in the city on brownfield land. In addition, funding has also been secured via the Metro Plus project for the Cardiff East Bus Priority Corridor.
 11. The CCR City Deal was recently the subject of a successful “gateway review”, conducted on behalf of the UK Government, which noted “the strong partnership working that is evident between the ten local authorities and a range of external partners” and “a strong pipeline of projects”. As a result, funding for the next five year period has been unlocked.

Corporate Joint Committees

12. Building on these developments, CJsCs 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 a 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.
13. 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 CJsCs, albeit within an affordability context determined, and underwritten, by the constituent local authorities themselves.
14. 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.
15. 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 10 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.

16. Provision is also made for a member from Brecon Beacons National Park Authority, who will only be permitted to vote on matters relating to the strategic planning function
17. 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. Any assets or liabilities entered into by the CJC are the liabilities of the constituent Councils and will need to be included as part of the budget setting processes of respective local authorities.

Establishing the South East Wales CJC

18. Since the proposed CJC builds on the current City Deal arrangements, the Regional Cabinet has been the focal point of discussions to establish the new arrangements.
19. These have proceeded on the basis that local authorities needed to meet the statutory requirement to establish CJsCs 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.
20. A Regional Cabinet report, of 20th September 2021, subsequently outlined a proposed governance, delivery and transition model for the CJC. This made clear that local authorities would not expect to lose any powers or resources as a result of the establishment of the CJC, and 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 & 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.”*

21. 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.

22. 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.

23. 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 financial status.

24. These outstanding matters are largely fiscal in nature and need the approval of bodies such as HMRC and HM Treasury. They include fundamental financial status concerns including:

- S33 status – VAT
- Corporation Tax
- Wider financial status issues – access to LGPS and borrowing via PWLB

25. Such matters could have significant financial implications for the CJC and its preferred model of governance and delivery; but they remain unresolved in the CJC Regulations published to date. Discussions are

therefore underway with the Welsh Government, HMRC and the UK Government to resolve these issues.

26. The practical effect is that the CCR's preferred option cannot be fully implemented in early 2022. However, as a matter of law, the budget for the CJC has to be set by 31 January.
27. In response, the Regional Cabinet, on 13 December, agreed to adopt a scaled back 'bare minimum' approach to the initial establishment of the CJC on the basis of a nominal budget that does not require any contribution from local authorities, ensuring that the CJC is not unduly exposed to any financial risks arising from unresolved fiscal issues.
28. This approach provides a pragmatic means of meeting the CJC's statutory duties, while allowing further time to enable matters to be concluded via the more expansive lift and shift arrangements noted previously.
29. The initial meeting of the CJC will *inter alia*:
 - set a nominal budget;
 - adopt model Standing Orders;
 - establish statutory sub-committees such as the Governance and Audit Sub-Committee;
 - appoint Chair/Vice Chair(s) – which can mirror existing CCRCD arrangements; and
 - establish practical arrangements in respect of the CJC's basic infrastructure as a separate legal entity such as accounting and reporting requirements, bank account, VAT registration, insurance, and a proportionate records scheme etc.
30. The part year 2021/22 and full year 2022/23 CJC revenue budgets will be drawn from the funding envelope local authorities have already established for operating costs of the City Deal. As it is expected that such costs will be minimal there will be no material impact on the overall resources available to the City Deal. A nil capital budget would also be proposed.
31. In effect, a legal shell will be created through which minimal substantive business will be transacted. In the meantime, the City Deal arrangements will continue to function, on the current basis, with support being provided by the Council as the Accountable Body.
32. The bare minimum phase of the CJC model could last continue until 31 March 2023. However, should the issues outlined above be resolved within the financial year a more substantive budget for the lift and shift model may then be established that would require a further in year budget decision.
33. The Council will also seek further clarification on the means by which future budgets will be determined and approved by constituent Councils. This will include establishing a process by which Cardiff Council reports

and approves any contribution, with subsequent inclusion in the Council's Medium Term Financial Plan.

34. A letter from the Scrutiny Committee Chairs of Cardiff Council was sent on 11 January 2022 to the Director of the Cardiff Capital Region City Deal relating to the need for ensure robust scrutiny arrangements are in place for the Corporate Joint Committee. The letter proposes a regional South East Wales Scrutiny Workshop to take place following the Local Government Elections in 2022.
35. The letter suggests that the workshop involves a range of Scrutiny Members and Chairs from the constituent authorities including those who are likely to be appointed to the CJC Scrutiny Committee. The workshop would contribute to the development of effective Scrutiny arrangements for the CJC at regional and local levels. The proposal will be considered shortly by the CCR.
36. A further report on the next phase of implementation of the CJC will be brought to Cabinet in due course.

Future Regional Working

37. Welsh Government has confirmed that the date of commencement of immediate duties around preparation of the Regional Transport Plan, the Strategic Development Plan and economic wellbeing powers can be changed from the original date set for South East Wales of 28 February 2022 to 30 June 2022, consistent with other CJC regions.
38. Council officials are also in dialogue with Welsh Government to understand the scope of the Regional Transport Plan, which for the first time will have a statutory basis. Consequently, it creates an opportunity to significantly enhance the development and delivery of regional transport infrastructure, particularly the Metro, where investment outside of the local authority area has a considerable impact on travel patterns within the local authority. The Council has made it clear that any Regional Transport Plan would need to complement local transport plans while supporting the aspirations established in our Transport White Paper.
39. Similarly, discussions are continuing with colleagues within Welsh Government and the region to determine the initial scope of the Strategic Development Plan. The Local Development Plan currently in preparation will lock-in the Council's strategic planning aspirations to 2036. However, development of strategic planning at a regional level will be a key issue for the Council in coming years – creating in the long-term an important strategic framework at a regional level that will help to define the context in which Cardiff grows as a city.
40. As with the Regional Transport Plan, local capacity and capability in the area of strategic planning will need to be maintained with the new arrangements building on the local planning framework. It should be noted that key planning functions, such as Development Control and the role of the Local Planning Authority will remain unchanged.

41. Regional Cabinet have also signalled a wish to discuss with Welsh Government the potential for other functions to be transferred into the CJC over time. These include city-region tourism and place branding, inward investment, future iterations of the Valleys Taskforce and Regional Park, and aspects of business support and engagement.
42. Recognising the benefits of regional working in this respect, the Council will also explore with regional partners any potential operating models in the areas of economic development that could provide for greater economies of scale. This could include, for example, place promotion activities where a larger pooled budget, with a potential contribution from Welsh Government, could help to amplify the promotion of the city and the city-region for both investors and visitors.
43. Such models are already operating informally. One example is the Cardiff Capital Region approach to promoting the region at MIPIM, which is managed and delivered by Cardiff Council. This approach has enabled a larger presence at the event to the benefit of both the region and the city Council.
44. In addition, whilst there is little detail on future operating models of the proposed Shared Prosperity Fund, there remains the potential that some programmes may be delivered through regional vehicles. In this circumstance, it will be essential that strong and robust governance arrangements are established in advance.
45. The development of Regional Economic Frameworks by the Welsh Government also outlines their commitment for further regional working. The strategic documents are intended to ensure that all public and private sectors are aligned to a shared vision and common objectives. The Regional Economic Framework for the Cardiff Capital Region outlines the key challenges and opportunities for the region as connectivity, competitiveness and resilience.

Reasons for Recommendations

46. To note the decisions of the CCCRD Regional Cabinet on 20 September and 13 December 2021, and the proposed approach to establishing the South East Wales CJC, including the requirement to set and approve a budget on or before 31 January 2022 in accordance with the South East Wales CJC Regulations.

Financial Implications

47. The report provides an update on the CCRCRD approach to the transition to a new Corporate Joint Committee (CJC) entity for the South East Wales Region.
48. Enabling legislation is in place which has created the new CJC with its associated powers and functions continuing to be the subject of detailed regulations determined by Welsh Government to support the operationalising of the entity.

49. The report sets out the proposed implementation of a 'bare minimum' interim solution, until a lift and shift of existing CCRCD activities can take place and following resolution of the issues identified in this report. Movement to a bare minimum will require the establishment of practical arrangements in respect of the CJC basic infrastructure as a separate legal entity – accounting & reporting requirements, bank account, VAT registration, minimum insurances, etc. It will also include appointment of key officers such as the Responsible Finance Officer. Corporate Joint Committees have the same financial reporting and disclosure requirements as existing local authorities, including compliance with relevant accounting codes of practice. A bare minimum approach to the CJC will need to consider and work with partners such as Welsh Government and Audit Wales at an early stage to determine approach to compliance in a proportionate way.
50. It should be noted that the regulations require the CJC to determine a capital and revenue budget by 31 January 2022 which will need to be supported and approved by the constituent councils.. It is proposed that any initial budget set for 2021/22 (part year) and 2022/23 will be on a bare minimum basis and will be a minimal nominal budget to protect against any detriment to the short- and long-term operating model.
51. This should be considered for revenue costs as well as the approach in respect to the servicing costs of any liabilities undertaken for capital expenditure and the operating costs of any financial or physical assets. This will also need to be considered as part of the annual budget setting process for the Corporate Joint Committee for inclusion in respective Local Authority budgets.
52. This report will also need to include the basis on which any budget requirement, not funded by external grant or similar, is to be met by CJC constituent Councils and the Brecon Beacons National Park Authority where relevant.
53. It should be noted that in accordance with the regulations establishing CJsCs, the 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. Any assets or liabilities entered into by the CJC are the liabilities of the constituent Councils and will need to be included as part of the budget setting processes of respective local authorities.
54. The current Joint Working Arrangement and the principles of the financial model in respect to delivery of CCRCD activities set out Local Authority Contributions towards the Wider Investment Fund. The establishment of the bare minimum CJC does not change the quantum of the already agreed financial obligations of each authority in respect to the Wider Investment Fund.
55. The CCRCD will continue to be supported by Cardiff Council as the Lead Council/Accountable Body until the issues relating to full implementation

of the CJC can be resolved. Further progress will be set out in future reports.

Legal Implications

56. The legislative background to the CJC is set out within the body of this report.
57. Members will note that the CJC will initially be funded by the existing agreed CCR budget for 2021-2022. The CCR may use this budget for the proposed purpose pursuant to the scheme of delegations as set out within the Joint Working Agreement.
58. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.
59. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. As such a decision to implement the proposal has to be made in the context of the Council's equality act public sector duties.

HR Implications

60. There are no HR implications for this report.

Property Implications

61. There are no property implications for this report.

RECOMMENDATIONS

Cabinet is recommended to:

1. Note the decision of the Cardiff Capital Region City Deal Regional Cabinet on 20 September 2021, which proposed to transfer its existing functions to the South East Wales CJC as part of a preferred 'lift and shift' model.
2. Note the decision of the Cardiff Capital Region City Deal Regional Cabinet on 13 December 2021, which confirmed the implementation of an interim 'bare minimum' governance and delivery model, which will be 'twin-tracked' alongside the operation of Cardiff Capital Region City Deal, until such time as the agreed 'lift and shift' model can be implemented.

3. Note the requirement for the South East Wales CJC, which includes the Leader of the Council as Cardiff Council's representative, to set and approve a 2021/22 (part year) and 2022/23 budget on or before 31 January 2022 in accordance with the South East Wales CJC Regulations.
4. Authorise officers to bring a further report to Cabinet outlining the process for establishing the 'Lift and Shift' model proposed within this report, as well as any further detail on the operation of the CJC and its impact on the Council.

SENIOR RESPONSIBLE OFFICER	PAUL ORDERS Chief Executive
	14 January 2022

The following background papers have been taken into account:

[Cardiff Capital Region City Deal Regional Cabinet, 13 December 2021: Reframing the Approach to Developing the South East Wales Corporate Joint Committee](#)

[Cardiff Capital Region City Deal Regional Cabinet, 20 September 2021: Establishment of Corporate Joint Committee – Preferred Governance & Delivery Option & Transition Model](#)

[The South East Wales Corporate Joint Committee Regulations 2021](#)