

Corporate Joint Committees (CJCs) – Q&A doc to accompany letter to WLGA

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SECTION 1: WHY CREATE A CORPORATE JOINT COMMITTEE?

What are the benefits of a CJC?

Corporate Joint Committees are intended to enable selected functions to be delivered more effectively and strategically at a regional level, making more efficient use of valuable resources.

CJCs will bring more coherence and less complexity in the approach to regional governance arrangements. They will strengthen local democratic accountability and will ensure that local elected members determine decisions about local government services.

CJCs will not be the only vehicle through which local government can collaborate but the intention is to provide local government with a powerful tool which it can use to provide governance to a limited range of regional activities.

CJC's offer a consistent tool to support strategic planning and delivery at a scale where it makes sense to do so. They will help to align the key strategic decisions which underpin the sustainable development and transformation of regions as a whole.

What are the issues that CJCs are trying to address?

The Working Group on Local Government established a shared agenda for reform, designed to ensure the sustainability of local government and local service provision, including the future of regional working arrangements.

A key recommendation from the Group was the need for a mechanism to support regional working and collaboration which could reduce the complexity for authorities involved in delivering different kinds of regional working arrangements.

How would CJC's be different from current collaborative arrangements?

Working regionally and collaboratively is nothing new for local government. There are a wide range of collaborations already underway and many of these will not need CJC arrangements, they will continue as they are.

However, local government leaders have highlighted that there is currently considerable time and effort absorbed in creating and recreating the practical working arrangements for joint working. For example, agreeing which authority will lead on the finance, which will be the employer, and which partners need to be involved. This often requires complex, long and costly legal negotiations.

CJC's also have the added value of being local authority led, with no other partners involved at CJC level, only potentially co-opted at sub committee level.

The CJC proposals will ensure a ready-made structure will be in place in which functions can be vested and which can employ staff and hold budgets. The mechanism will help ensure clarity on respective roles, responsibilities and governance of collaborative approaches.

The introduction of CJC's is part of the Welsh Government's commitment to help simplify arrangements and prevent additional complexity arising from a variety of arrangements for different Welsh Government policy areas.

Ministers are intending to require local authorities to use CJC's for four areas where there are already regional mechanisms in place. These are in relation to Transport, Strategic Planning, Economic Development and Improving Education.

How will CJC's help in improving delivery of specialist services?

Austerity has inevitably had a detrimental impact on public service resources, including the resources of local authorities. CJC's will enable the pooling of scarce capacity, expertise and skills which some authorities have lost and there is competition for within a single coherent structure.

CJC's will be able to employ those people and local authorities will be able to draw upon their skills without the need to create separate corporate governance structures. Establishing a mechanism to pool resources and good practice is one of the driving forces of this approach.

How democratic will decision-making by a CJC really be?

The membership of a CJC will be the leaders of the constituent local authorities. The members of a CJC can decide to co-opt other individuals or organisations onto a sub-committee of the CJC, but the sub-committees will make recommendations to the CJC, with final decisions taken by the main committee, unless it has chosen to devolve decision making to sub committee level.

Is this local authority mergers by a back door?

No. CJs are not being proposed as the default process for collaboration, or local government delivery, but rather the right mechanism for a limited number of things which make sense to do in this way and at this scale.

Welsh Government Ministers will not be able to add any areas to a CJC, except for the four specified on the face of the Bill. Local authorities, however, can use the CJC mechanism for any areas they wish.

Is this just adding another tier?

No. There are already a range of regional collaboration arrangements in place for local government. CJs respond to the local government ask to simplify and reduce the current complexity and range of mechanisms for regional working.

These proposals will not create another elected tier; the democratic accountability will continue to sit with the Leaders of the authorities which make up the CJC. The proposals aim to bring coherence to existing activity or to areas where local government wishes to utilise a CJC.

SECTION 2: WHAT ARE CJs?**What is a Corporate Joint Committee?**

Corporate Joint Committees (CJs) will be ‘bodies corporate’ formed from the membership of principal councils, established in statute, and able to directly employ staff, hold assets and manage funding. They will exercise the functions vested in them. They are therefore a new form of governance body, comprised of the democratic leadership of local authorities in its area, rather than committees in the traditional sense.

CJs would not be the default model for all collaborative local services; joint arrangements would be proportionate to the scale or complexity of the services or functions being jointly delivered.

The model is designed to offer maximum flexibility, with detail being developed through regulations co-produced with local government.

Why has the name changed from Statutory Joint Committees (SJs) to Corporate Joint Committees (CJs)?

For legal reasons it has been necessary to change the name of the proposed collaboration vehicles from Statutory Joint Committees (SJs) to Corporate Joint Committees (CJs). Those responsible for drafting the legislation argued that all Joint Committees provided for in legislation are ‘statutory’. Defining these particular joint committees as ‘corporate’ joint committees reflects the fact they will be legal entities in their own right and will be able to employ staff, hold their own budget and hold land.

SECTION 3. HOW WILL CJC_s BE CREATED?

What are the routes into a CJC?

There are two routes into the creation of a CJC:

- Instigated by the local authorities – authorities can create CJCs in any area they wish. CJCs will provide local authorities with a ready-made structure for them to utilise. Welsh Ministers will work with authorities to develop and put in place the necessary regulations.
- Instigated by Welsh Ministers – Welsh Ministers can only create CJCs for a limited number of areas which will be set out in the legislation.

What are the four areas that Welsh Government will be able to instigate the creation of CJC_s?

The four areas where Welsh Ministers will be able to create a CJC to undertake functions are areas currently covered by statutory or voluntary arrangements, so either already existing in statute or with regional mechanisms already in place. These are Transport, Strategic Planning, Economic Development and Improving Education.

Legislative frameworks are currently in place for regional working in relation to **Transport** (Joint Transport Authorities can be established under the Transport (Wales) Act 2006) and **Strategic Planning** (Strategic Planning Panels under the Planning and Compulsory Purchase Act 2004 as amended by the Planning (Wales) Act 2015).). The approach to the use of CJCs in these two areas will be one of reflecting (and replacing) existing provision in order to provide the simplification and coherence that local government is seeking.

Voluntary arrangements are currently in place for Economic Development and Improving Education. The approach to the use of CJCs in these two areas would be to evolve current approaches to a CJC over time. The ambition would be to support the simplification of existing regional approaches without having a detrimental impact on existing arrangements or momentum.

The intention is to simplify existing arrangements and to prevent any additional complexity if there were to be a variation of arrangements for different Welsh Government policy areas.

There is significant joint work to do to confirm the scope of the particular functions to be included in each of these areas. There will be agreement to a core set of functions to be included, but CJCs will have flexibility over additional functions to be delegated to meet the needs of their own area.

These are functions it makes sense to deliver on a regional basis, for example planning how land and other resources are used according to what is needed where, and designing transport systems around where people live, learn and work rather

than according to administrative boundaries. It also makes sense to share scarce expertise to improve educational outcomes.

There has been significant consultation, particularly in relation to transport proposals and the Planning Act, so this is not about doing anything new, it is about simplifying existing or planned arrangements.

What if local authorities have alternative/better arrangements to the CJC?

It is not intended or expected that CJsCs will be the default arrangement; it is for local government to decide what functions THEY want to deliver via a CJC, apart from the four matters specified in the Bill. The hope is that local government will see the value in adding functions (where appropriate).

Will existing collaborations need to be dismantled?

Where there are existing regional arrangements for functions delegated to a CJC it is expected that those arrangements would be adapted to the governance of a CJC. For instance where there is a strategic planning panel under the Planning (Wales) Act 2015 then that panel could be reconstituted as a sub committee of the CJC. When the function of school improvement is transferred to a CJC it is expected that the existing governance arrangement of a Consortia would become a sub-committee and the consortia staff would be transferred.

Is there a defined footprint for CJsCs?

The Bill will allow for flexibility and the Minister for Housing and Local Government has requested that local government come forward as soon as possible with proposals for which authorities wish to work with which others, and on which service areas.

How will CJsCs be created?

The Local Government and Elections (Wales) Bill will provide the power to create a Corporate Joint Committee via regulations. The regulations will be the mechanism for establishing each CJC and detailing its functions, how it will operate and other details. These may differ between CJsCs.

The Bill will set out what the regulations will provide for in sufficient detail to enable the regulations to establish the CJC's effectively.

The Bill will not detail the specific functions of a CJC, its membership or how it will be governed. This will be done via the regulations themselves.

How will local government be involved in the development of regulations?

The regulations to create CJsCs will be co-produced with local government and WLGA. This co-production will be essential to ensure the regulations are fit for purpose and will deliver the intended requirements: simplification and consistency of governance structures.

The Local Government Sub Group of Partnership Council for Wales will continue to have oversight throughout, thus providing joint Ministerial and local government ownership of the process.

The supporting officers' Task and Finish Groups will work on the detail to co-create the regulations. These will call upon officers/officials from both local government and Welsh Government. Some of these officer groups will involve corporate specialisms requiring for example financial and legal experts, whilst others will be subject specific, so will include those with specialisms in areas such as transport or planning.

It is important to note that this work has fed in to the shape of the Bill for introduction, and there will be the opportunity to further discuss and refine the approach through amendments at Stage 2 of the Bill process.

How will the CJC proposals be scrutinised?

The Local Government and Elections (Wales) Bill in its entirety will be scrutinised and the CJC proposals scrutinised as part of that.

There are three committees which will scrutinise the Bill and therefore the CJC proposals:

- Equalities, Local Government and Communities Committee
- Constitutional and Legislative Affairs Committee
- Finance Committee

The WLGA is likely to be called to Committee to give evidence in December 2019 and March 2020.

There will also be consultation on each set of regulations as they are developed and these will be subject to affirmative resolutions, meaning they require the approval of the Assembly before coming into force.

Where local government request a CJC be created, or for functions to be delivered via a CJC, they will be required to consult locally before making such a request and will be subject to their own local scrutiny arrangements.

There is also a requirement for consultation before any regulations are made.

What will regulations include?

The regulations will provide detailed definitions of the delegated matters within the four functions specified in the Bill. .

It will be important that what a CJC is responsible for and what a local authority is responsible for are clarified. Some functions will be fully transferred; others will be legally 'concurrent' functions but the activities should only be done in one place. It is proposed that an annual delegation of functions process be introduced to ensure clarity over responsibilities.

Regulations will include the specific functions to be exercised/additional functions to be exercised and the power to do things to facilitate the exercise of those functions.

The following provides a list of considerations when establishing a CJC, although this is not a definitive list and it will be for the task and finish groups to consider what else may need to be added:

- *Constitutional arrangements*
 - The name
 - Confirmation of the composition of the CJC as the leaders of the constituent local authorities – each with a single vote
 - Composition and membership of sub-committees – options include the ability to co-opt members on sub committees
 - Member remuneration
 - Voting rights on sub committees– including providing for co-opted members to have voting rights
 - Governance arrangements
 - Establishment of sub-committees – details could be prescribed in regulations or left to local discretion through the constitution
 - Proceedings of the CJC and any sub-committees and the levels of direction or discretion for the constituent authorities in determining these
 - Conduct of members
 - Exercise of functions by staff
 - Scrutiny of the CJC and its functions – options include joint scrutiny or by each constituent LA; will also need to consider if the CJC is subject to any inspection regime (depending on functions exercised)
 - Reserved matters e.g. to provide for what an CJC won't do.
 - Exit / dissolution arrangements
 - Dispute resolution
- *Financial arrangements*
 - Finances of a body
 - Borrowing / lending / other financial powers
 - Accounts and audit requirements
- *Operational arrangements*
 - Performance
 - Governance – consideration needed on designated officer requirements and the handling of liabilities
 - Staff or staffing matters – options include whether exclusively employed by CJC or jointly with home LA's.
 - Acquisition, appropriation and disposal of property
 - Records management
 - Public access to meetings, documents and information

How will CJsCs be funded? Will CJsCs add to the costs?

There are a number of options for funding CJsCs, and the decision on which option will be debated through the existing Partnership Council routes of Finance Sub Group (FSG) and Distribution Sub Group (DSG).

Options include, but are not limited to:

- funding to be provided through the settlement route, with a formula-based process to confirm how much is to be spent on the regional arrangements.
- a direct funding mechanism.

The collaborative arrangements between London authorities are funded by precept but this is not believed to be an appropriate choice for Wales.

Following the discussions at FSG and DSG the funding detail will be developed with WLGA and local authorities through the process of developing regulations.

The development of these regulations will be in line with the Good Practice Guide on Hypothecated Funding for Local Government and the guidance in the Legislation Handbook on assessing (and making provision for) the financial implications of primary legislation.

Welsh Government is not asking local government to deliver anything new through CJsCs, but to deliver things differently. This process will not attract additional funding, except potentially towards initial set-up costs.

What other assets might be held by CJsCs?

In addition to employing staff and holding a budget, the CJsCs could also hold other assets. Land, as an example, could be transferred to the CJsCs and the committee would be able to decide how to use that land, or other assets, including whether to 'pool' them.

The Minister for Housing and Public Services expects CJsCs to be a vehicle to pool public land and make use of it for public purposes. eg. for the CJC to be able to develop a site for social housing or other public purpose.

Will a CJC need new offices / facilities?

No, a CJC will use existing offices and facilities of the constituent authorities.

SECTION 4: When will CJsCs be created?

What are the timescales for the Local Government and Elections (Wales) Bill and the creation of regulations for CJsCs?

The Local Government and Elections (Wales) Bill will provide for the establishment of CJsCs – setting out the process by which they will be established, and how they can be changed once they are established.

The Bill is scheduled to be introduced in autumn 2019 and Royal Assent is expected approximately 12 months later. Assuming that provisions are commenced as soon as possible following Royal Assent, it is anticipated that CJsCs could be established from the start of the financial year on 1 April 2021.

The detail of which local authorities will be part of a CJC; what functions the CJC will be responsible for; and how the CJC will operate will be determined as part of the

regulations establishing the body. These regulations will be co-produced with local government through the Local Government Sub Group of Partnership Council and Task & Finish groups.

To speed up the secondary legislative process by which CJsCs would be introduced, regulations can be developed and drafted alongside the passage of the Bill, to be ready for introduction when the CJC provisions in the Act are commenced.

The Minister for Housing and Local Government is committed to continuing discussing and refining regulations beyond the introduction of the Bill through ongoing partnership working with local government.

SECTION 5: Performance and Governance

The new performance and governance regime within the Local Government and Elections (Wales) Bill puts in place a new framework designed to support strong, sustainable local government. Together with a sector-led approach to improvement support, the provisions aim to support a culture where councils actively embrace challenge, are inquisitive, innovative, and ambitious in driving better service delivery.

Under the new regime, principle councils will be required to review their performance through annual self-assessments. This will be supported by panel performance assessments, held at least once every electoral cycle. It is envisaged that CJsCs once created will also be subject to the same requirements. This sector-led approach re-enforces the local government owned approach to the use of CJsCs.

There may be a potential role for the CJsCs to be able to support, where appropriate, a local authority that may be experiencing performance issues in a particular service area. This might include taking on that function for that authority. There may also be a role for principal councils and or a CJC, where there are more widespread service performance issues, to consider if collaboration through a CJC would improve the overall service delivery on a regional basis.'

SECTION 6: Implementation,

What are the costs of setting up a CJC?

It would not be appropriate or possible to pre-determine the nature or footprint of the bodies as the regulations will be co-produced with local government. Therefore it cannot currently be anticipated which or how many authorities will be joining each CJC; which functions will be in scope; whether each CJC will choose to employ only those with the scarce skills in the functional area or any core staff, and many more areas where the decisions will be made by the authorities involved.

Therefore, the regulations creating the CJC will confirm the scale and scope of each CJC. It is at this point that the costs will be able to be accurately assessed and as

such all regulations creating a CJC will be accompanied by a Regulatory Impact Assessment.

Will the Welsh Government help with the cost of setting up the CJsCs?

The Minister for Housing and Local Government has confirmed to the Sub Group of Partnership Council for Wales that she will be happy to consider assistance from Welsh Government to the start up costs of CJsCs.

In relation to the longer term, CJsCs are not about doing anything new, they are about doing things differently. This means that CJsCs should provide a mechanism that makes more efficient use of existing resources, rather than increasing costs.