

31 JULY 2023

SCRUTINY ARRANGEMENTS

REPORT OF THE INTERIM MONITORING OFFICER

AGENDA ITEM: 4

Reasons for Report

1. The South East Wales Corporate Joint Committee (the CJC) is required to make appropriate scrutiny arrangements. This report sets out the relevant requirements in relation to making such arrangements and seek the authority from the CJC to implement proposals.

Background

2. The Statutory Guidance issued by Welsh Government that accompanies the CJC Regulations states that the CJCs will be subject to the same performance, governance and scrutiny requirements as local authorities. However, it also states that it is expected that these arrangements should be proportionate to the scale of functions the CJC undertakes.
3. The Statutory Guidance further states that *'in considering the most effective and efficient approach to scrutiny, constituent councils and CJCs should give thought to the benefits of a joint overview and scrutiny committee made up of the constituent councils'*.

Issues

4. Regulations 8 – 10 of the Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2022 ("the Regulations") set out the CJC's duties in relation to overview and scrutiny. There is no requirement within the Regulations for the CJC to establish its own overview and scrutiny committee. However, the regulations require the CJC to provide information to, attend meetings of and consider any report or recommendations made by a 'relevant overview and scrutiny committee'. A 'relevant overview and scrutiny committee' is defined in Regulation 8 (7)) as:
 - a. an overview and scrutiny committee appointed by a constituent council under section 21(2) of the Local Government Act 2000;
 - b. a joint overview and scrutiny committee appointed under the Local Authorities (Joint Overview and Scrutiny Committees) (Wales)

Regulations 2013 where the appointing authorities are constituent councils of the corporate joint committee;

- c. a sub-committee of a committee described in paragraph (a) or (b).
5. The Cardiff Capital Region City Deal Joint Overview and Scrutiny Committee (“the JOSCS”) was appointed by the constituent councils of the CCRCD to provide the scrutiny function for the Joint Committee. It meets up to 4 times per year and is administered by Rhondda Cynon Taf County Borough Council (“RCTCBC”).
6. The JOSCS comprises one non-executive member from each constituent council of the CCRCD, which are also the constituent authorities of the CJC.
7. Therefore, relevant scrutiny committees for the purposes of the Regulations, are the individual scrutiny committees of each constituent council of the CJC and if appointed, the JOSCS. It is proposed that having the JOSCS provide the scrutiny arrangements for the CJC would best satisfy Welsh Government’s intention, as set out in the Statutory Guidance, because:
 - (1) the Statutory Guidance provides for consideration to be given to scrutiny being carried out by a joint committee of the constituent authorities;
 - (2) the Statutory Guidance expressly states that scrutiny arrangements should be proportionate to the scale and functions of the CJC; and
 - (3) JOSCS already provides the scrutiny function of the CCRCD.
8. Preliminary discussions have taken place between the Interim Chief Executive and officers at RCTCBC and they have indicated that they would be able to facilitate the proposal. If approved the terms of reference of the JOSCS will need to be amended to make clear the scope of its functions in relation to the CJC.
9. The CJC cannot designate the scrutiny function to the JOSCS itself, instead the Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013 require the constituent Councils to appoint the JOSCS as the Joint Overview and Scrutiny Committee for the CJC, and when doing so, to enter into an agreement setting out the terms of reference, rules and procedures and other ancillary matters as set out in Regulation 4 of those Regulations.
10. Accordingly, if this proposal was approved, the terms of reference of the JOSCS will need to be amended to include the scrutiny function of the CJC, and this, along with the other requirements of Regulation 4, will need to be agreed by all ten constituent authorities.

Reasons for Recommendations

11. To ensure that there is independent scrutiny of the exercise of the CJC’s functions.
12. To obtain relevant authority from members to approach constituent authorities to progress the proposal.

Financial Implications

13. The attached report seeks to request that the scope of the existing JOSOC arrangements be amended to include the requirements of the South East Wales Corporate Joint Committee.
14. The existing JOSOC arrangements are overseen by RCTCBC and the costs are fully met by the Cardiff Capital Regional City Deal's budget. It is not anticipated that the overall cost envelope will change as result of the recommendations set out in this report, but consideration will need to be given to whether an appropriate element of these costs should be recharged to the CJC.
15. In the current financial year (2023/24) the CJC has set aside a budget of £8,000 to meet the costs of its sub-committees, which is deemed to be sufficient at this time. In addition, the CJC has an approved Contingency budget of £30,000 to support the work of the CJC during 2023/24, which involves putting in a place a number of new arrangements to enable the CJC to discharge its duties under the regulations. These sums will be reviewed as part of the CJC's annual budget setting process, as the volume and complexity of the CJC's operations evolve.

Legal Implications

16. The legal implications are set out in the body of the report.

Well-being of Future Generations (Wales) Act 2015

17. In developing these proposals and in considering its endorsement regard should be had, amongst other matters, to the Well-being of Future Generations (Wales) Act 2015. The Well-being of Future Generations (Wales) Act 2015 ('the Act') is about improving the social, economic, environmental and cultural well-being of Wales. The Act places a 'well-being duty' on public bodies aimed at achieving 7 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. In discharging their respective duties under the Act, each public body listed in the Act (which includes the Councils comprising the CJC) must set and publish wellbeing objectives. These objectives will show how each public body will work to achieve the vision for Wales set out in the national wellbeing goals. When exercising its functions, the CJC should consider how the proposed decision will contribute towards meeting the wellbeing objectives set by each Council and in so doing achieve the national wellbeing goals. The wellbeing duty also requires the Councils to act in accordance with a 'sustainable development principle'. This principle requires the Councils 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.
18. Put simply, this means that CJC must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, they must:
 - look to the long term;

- focus on prevention by understanding the root causes of problems;
- deliver an integrated approach to achieving the 7 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.

19. The CJC must be satisfied that the proposed decision accords with the principles above. To assist the CJC to consider the duties under the Act in respect of the decision sought, an assessment has been undertaken, which is attached at Appendix 1.

Equality Act 2010

20. In considering this matter, regard should be had, amongst other matters, to the Councils' duties under the Equality Act 2010. Pursuant to these legal duties the CJC 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. 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 belief.

RECOMMENDATIONS

21. It is recommended that the CJC, subject to the agreement of the constituent authorities of the CJC:
- (1) endorses the proposal that the JOSOC should be appointed as the Joint Overview and Scrutiny Committee of the CJC;
 - (2) authorises the Interim Monitoring Officer to approach relevant officers at RCT CBC to formally request that the JOSOC be appointed as the Joint Overview and Scrutiny Committee of the CJC;
 - (3) authorises the Interim Monitoring Officer to make arrangements with the constituent authorities as are necessary to progress the proposal.

James Williams
Interim Monitoring Officer
South East Wales Corporate Joint Committee
31 July 2023

Appendices

Appendix 1 Well-being of Future Generations Assessment

Future Generations Assessment Evaluation

(includes Equalities and Sustainability Impact Assessments)






Name of the Officer completing the evaluation: Mary Cormack, Locum Governance Solicitor E-mail: mary.cormack@cardiff.gov.uk	Please give a brief description of the aims of the proposal: To make appropriate scrutiny arrangements for the CJC
Proposal: Scrutiny Arrangements	Date Future Generations Evaluation form completed: 31 July 2023

1. Does your proposal deliver any of the well-being goals below? Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
A prosperous Wales Efficient use of resources, skilled, educated people, generates wealth, provides jobs	The report proposes that the CJC appoint the already established Cardiff Capital Region City Deal Joint Overview and Scrutiny Committee. This is considered to be the most effective and efficient approach to scrutiny. As the CJC will have responsibility for economic wellbeing in the region, a CJC that is set up and governed appropriately will be in the best position to deliver upon this wellbeing goal.	n/a
A resilient Wales Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)	A CJC, with robust scrutiny arrangements will add value in this space by being more resilient.	n/a

Well Being Goal	Does the proposal contribute to this goal? Describe the positive and negative impacts.	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<p>A healthier Wales People's physical and mental wellbeing is maximized and health impacts are understood</p>	<p>The report sets out how the CJC will ensure that there is independent scrutiny of the exercise of the CJC's functions.</p> <p>This will have neither a positive or a negative impact on this goal.</p>	n/a
<p>A Wales of cohesive communities Communities are attractive, viable, safe and well connected</p>	<p>The report sets out how the CJC will ensure that there is independent scrutiny of the exercise of the CJC's functions.</p> <p>This will have neither a positive or a negative impact on this goal.</p>	n/a
<p>A globally responsible Wales Taking account of impact on global well-being when considering local social, economic and environmental wellbeing</p>	<p>The report sets out how the CJC will ensure that there is independent scrutiny of the exercise of the CJC's functions.</p> <p>This will have neither a positive or a negative impact on this goal.</p>	n/a
<p>A Wales of vibrant culture and thriving Welsh language Culture, heritage and Welsh language are promoted and protected. People are encouraged to do sport, art and recreation</p>	<p>The report sets out how the CJC will ensure that there is independent scrutiny of the exercise of the CJC's functions.</p> <p>This will have neither a positive or a negative impact on this goal.</p>	n/a
<p>A more equal Wales People can fulfil their potential no matter what their background or circumstances</p>	<p>The report sets out how the CJC will ensure that there is independent scrutiny of the exercise of the CJC's functions.</p> <p>This will have neither a positive or a negative impact on this goal.</p>	n/a

2. How has your proposal embedded and prioritized the sustainable governance principles in its development?

Sustainable Development Principle	Does your proposal demonstrate you have met this principle? If yes, describe how. If not explain why.	Are there any additional actions to be taken to mitigate any negative impacts or better contribute to positive impacts?
 <p>Balancing short term need with long term and planning for the future</p> <p>Long Term</p>	<p>The CJC is a long-term construct and requires thinking ahead, however in the short-term a 'bare minimum' model is being put in place.</p> <p>The appointment of the Joint Overview and Scrutiny Committee shows that the CJC is developing its capacity and capability for the long term</p>	<p>Not at this time but may change over the longer term.</p>
 <p>Working together with other partners to deliver objectives</p> <p>Collaboration</p>	<p>The principles of the governance structure, its partnership approach and the building of new institutional capacity are all at the heart of the CJC.</p> <p>These are the principles under which the proposal has been put forward.</p>	<p>Not at this time but may change over the longer term.</p>
 <p>Involving those with an interest and seeking their views</p> <p>Involvement</p>	<p>The approach here will be backed by a wider corporate plan which will be consulted upon during its development</p>	<p>The production and consultation on the wider corporate plan will be an important step in the CJC's development and a robust consultation approach will be important in getting a wider view of how well it is managing that development.</p>
 <p>Putting resources into preventing problems occurring or getting worse</p> <p>Prevention</p>	<p>The appointment of the Joint Overview and Scrutiny Committee will ensure that there is independent scrutiny of the CJC.</p>	<p>The Joint Overview and Scrutiny Committee will scrutinise the way in which the CJC exercises its functions which will support this objective even further.</p>
 <p>Considering impact on all wellbeing goals together and on other bodies</p> <p>Integration</p>	<p>The proposal will help the CJC be a robust, well governed regional organisation and support the delivering of the Regional Economic and Industrial Plan and with that the CJC's wellbeing objectives.</p>	<p>Continuing to develop the partnership approach taken to date will be critical to closer align wellbeing objectives across the region to the wellbeing goals.</p>

3. Are your proposals going to affect any people or groups of people with protected characteristics? Please explain the impact, the evidence you have used and any action you are taking below.

Protected Characteristics	Describe any positive impacts your proposal has on the protected characteristic	Describe any negative impacts your proposal has on the protected characteristic	What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?
Age	Not relevant in this context since the principles, approach and ways of working apply to all prospective interests and stakeholders	As projects and programmes develop under the CJC, each will be subject to comprehensive assessments against the plans and procedures put in place to protect certain characteristics.	<p>A full ESG agenda and diversity and inclusion reviews into partnerships and groups will help ensure this agenda is embedding in ways of working and the culture that is created.</p> <p>A full training and development programme will also be devised in order to embed and 'bring to life' such considerations – not just as part of project assessments, but in seeking to address such concerns and issues as part and parcel of project business cases that are developed.</p>
Disability	As above	As above	As above.
Gender reassignment	As above	As above	As above.
Marriage or civil partnership	As above	As above	As above.
Pregnancy or maternity	As above	As above	As above.
Race	As above	As above	As above.
Religion or Belief	As above	As above	As above.
Sex	As above	As above	As above.
Sexual Orientation	As above	As above	As above.
Welsh Language	As above	As above	As above.

4. Safeguarding & Corporate Parenting. Are your proposals going to affect either of these responsibilities?

	Describe any positive impacts your proposal has on safeguarding and corporate parenting	Describe any negative impacts your proposal has on safeguarding and corporate parenting	What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?
Safeguarding	n/a		
Corporate Parenting	n/a		

5. What evidence and data has informed the development of your proposal?

As above.

6. SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?

The proposal in general should have a positive impact. Setting the CJC up for success and robust governance should bring long term regional benefits, more partnership working and clearer, joined up priorities on transport, land use planning and economic wellbeing. Although these elements are not directly delivered by this proposal, having sound structures and governance will support them

7. MONITORING: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.

The impacts of this proposal will be evaluated on:	This will be revisited in approximately 8 months' time as part of the Transition Plan and will be reviewed at that point.
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