

Consultation Response Form

Your name: Adam Hill

Organisation (if applicable): Swansea Council

email / telephone number: 01792 637521

Your address: Civic Centre, Oystermouth Rd, Swansea

Summary of consultation questions

Consultation Question One:

- a) *What are your views on CJsCs being subject to broadly the same powers and duties as principal councils?***

It makes sense to require CJsCs to operate in broadly the same way as principal councils rather than creating differences processes and procedures.

CJC's would need to ensure they have sufficient structures and governance in place as they would be corporate bodies and open to litigation in their own right, so when establishing CJC's this needs to be considered.

- b) *Do you agree that CJsCs should have broadly the same governance and administrative framework as a principal council provided that this is proportionate? Please give your reasons.***

In principle, yes - this would appear to be appropriate provided it is indeed proportionate and does not develop into a separate administrative 'monster' over time. CJsCs will need to be properly resourced and each CJC will need individual Monitoring Officer / S 151 Officer and Admin staff for each CJC., which needs to be recognised and supported financially by Welsh Government.

CJC's will also allow for pooling of resources or sharing of specific skills and expertise and could help address some capacity issues.

- c) *Do you agree that members of CJsCs should have appropriate discretion on the detail of constitutional and operational arrangements? Please give your reasons.***

Yes – discretion would seem to be appropriate and should encourage ownership of the member organisations as well as offering flexibility to meet local needs and factors. Other parts of the new legislation being considered around standard Constitution for all authorities would suggested that there is a need for some sort of format for constitutional arrangements.

Consultation Question Two:

These CJC areas have been agreed by local government Leaders as the most appropriate to reflect the functions being given to CJsCs by these Establishment Regulations. Do you have any comments or observations on these CJC areas in relation to these functions or the future development of CJsCs?

It would make sense for these areas to reflect city deal footprints and the proposed areas would appear appropriate.

Consultation Question Three:

- a) Do you agree with the approach to the development of the regulations for CJsCs as outlined in this consultation? Please give your reasons.**

Broadly yes

- b) We have indicated throughout this document what may be included in the Regulations of General Application, subject to the outcome of this consultation. Whilst the Regulations of General Application are not the subject of this consultation, in order to inform their development we would welcome your views on anything else which should be covered?**

Nothing to add at this stage

Consultation Question Four:

- a) Do you agree with the proposed approach to membership of CJsCs including co-opting of additional members? Please give your reasons.**

Seems reasonable as an approach – whatever co-opted members the clear lead must remain with the principal councils. Consideration needs to be given around whether co-optees have voting rights – see Q5 c)

- b) What are your views on the role proposed for National Park Authorities on CJsCs, as described above?**

It makes sense for them to be represented and able to contribute and influence the regional strategies – but disproportionate influence by NPA should be guarded against.

Consultation Question Five:

- a) What are your views on the proposed approach of ‘one member one vote’ and the flexibility for CJsCs to adopt alternative voting procedures?**

This would seem to be appropriate, i.e. ‘one member, one vote’, co-optees voting on subs.

b) What are your views on the proposed quorum for CJsCs?

It is appropriate to set a fairly high level to ensure widest possible sign up to plans and decisions, bearing in mind that a lack of availability can lead to a lack of decision making and therefore lack of progress.

c) What are your views on the proposed approach to voting rights for co-opted members to a CJC?

Appears reasonable but would need to be balanced in terms of swing of power between committee members and co-optees. There needs to be a limited number of co-optees as a proportion of the total and consideration needs to be given as to whether or not co-optees are included in quorum. There must be representation from each council to be quorate and, most importantly, only those elected should have a vote.

Consultation Question Six:

What are your views on CJsCs being able to co-opt other members and/or appoint people to sit on sub-committees?

It will be necessary to co-opt other members and each CJC should have flexibility in respect of the extent to which this happens. Experienced and subject matter experts would assist the CJC's but there needs to be governance around appointments/removal/conflict etc.

Consultation Question Seven:

a) Do you agree that the approach to co-option of members would enable wider engagement of stakeholders in the work of a CJC?

Yes – it should enable wider engagement of stakeholders. Considerations should also be given to wider engagement and not rely on simply appointing co-optees.

b) What might be needed to support CJC members in the involvement and engagement of appropriate stakeholders in their work?

It is likely that similar support would be required as is currently made available to members in the principal councils but the support surely needs to be met from the resources and capacity already available across the councils. It simply cannot become an additional tier of bureaucracy with increasing resources to support governance and process whilst front line provision for the public across Council's continues to be cut !

This is equally the case for the areas of scrutiny and performance review which, whilst important, should not become an industry in themselves.

Consultation Question Eight:

- a) Do you agree that members and staff of a CJC should be subject to a Code of Conduct and that the code should be similar to that of Principal Councils? Please give your reasons.**

Yes – it makes sense to have consistency of expectations. It is essential that both members and officers understand their roles and responsibilities to ensure good decision making and avoid conflicts of interests. Bringing the CJC's within the ethical framework for local government would make sense. The body will also need to be accountable to the public and transparent in terms of operation e.g. Finance.

- b) What are your views on the adoption of a Code of Conduct for co-opted members?**

This would be appropriate and necessary.

- c) Should all co-opted members be covered by a code i.e. those with and without voting rights?**

Yes – this would again be appropriate. It is a privilege for someone to be able to be involved and with this privilege comes responsibility and an expectation that they will act appropriately at all times and declare any personal interest or conflict in the decision making process.

Consultation Question Nine

- a) What are your views on the proposed approach for determining the budget requirements of a CJC?**

Correct approach for CJC to determine its own budget requirement and determine how funded by partners longer term. The proposed approach seems to pretty much set up the CJC's as further precepting authorities, although the involvement of each principal council leader should ensure that the power is subject to sufficient challenge. CJC's are intended to provide more coherence and less complexity and so reduce duplication of effort and resources and streamline existing collaborative arrangements. Where is the funding going to come from? External funding to that existing funding given to Councils should be identified and they must not become simply another call on scarce Council funding, effectively top-slicing the already constrained overall resources to support front line local government services. Welsh Government should give funding to support and deliver the functions.

- b) What are your views on the timescales proposed (including for the first year) for determining budget requirements payable by the constituent principal councils?**

Somewhat challenging to say the least in the very short term as the budgets for 2021-22 will have already been set by councils by 11 March 2021 with no scale or context as to what the CJC is likely to set as a budget in its first year. Our operating premise is that the first year budget will be light touch, part year and thus small in scale, and grow in future years as functions transfer and the CJC “grows”.

Longer term the preferred option is a budget requirement notified no later than 31 January each year to enable participant Councils to take budgets to their own Cabinet and Council in February ideally, rather than otherwise forcing them to have to effectively be in March right up against the statutory deadline.

Consultation Question Ten

- a) Do you agree that CJsCs should be subject to the same requirements as principal councils in terms of accounting practices? Please give your reasons.**

Yes as we anticipate the CJsCs growing in scale to be fairly substantial entities over time. In that case proportionate requirements to maintain transparency, scrutiny and democracy is key. Lesser accounting requirements could only be acceptable if scale was expected to remain relatively small resulting in otherwise disproportionate burden to a smaller body.

- b) Do you agree that the detail of how a CJC is to manage its accounting practices should be included in the Regulations of General Application? If not what more would be needed in the Establishment Regulations?**

Yes. Sufficient staffing has to be made available; there is likely to be significant governance/admin work to undertake.

Consultation Question Eleven:

What are your views on the proposed approach to staffing and workforce matters?

This appears to be appropriate and consistency with existing principal councils is important.

Consultation Question Twelve:

What are your views in relation to CJsCs being required to have or have access to statutory “executive officers”?

It is clearly important that CJsCs have access to the advice of key statutory officers but the risk must be avoided of establishing a further and overly-bureaucratic additional tier of organisation and significant additional costs. Statutory executive officers will already be playing a significant role within their individual authority and it is questioned as to whether these officers could provide the specific function.

Consultation Question Thirteen:

Do you have any other views on provision for staffing or workforce matters within the establishment regulations?

Not at this stage – although this is most important as if not thought through will result in understaffed and overworked officers giving rise to legal challenge.

Consultation Question Fourteen:

a) Is it clear what functions the CJsCs will exercise as a result of these establishment regulations? If not, why?

It seems clear with regard to the three functions / areas to be initially exercised by the CJsCs, specifically strategic land use planning, strategic transport planning and promoting economic wellbeing. Any subsequent extension into other areas must be supported by the principal councils and not simply imposed by WG through regulations.

There needs to be decision which services are best done nationally, regionally, and locally, and clarify these from the start. This should be discussed by all parties and set out from the start and agreement reached.

On the face of it the functions will be to prepare appropriate strategic plans which, however valuable, must beg the question as to what the CJC will actually deliver, if anything? What will the bureaucratic structure of the CJsCs deliver that adds value to what could be achieved simply through enhanced collaboration between the relevant organisations? Indeed, it could be argued that the greatest benefits would be realised by further encouraging a facilitating the development of existing regional / collaborative arrangements without the necessity for establishing CJsCs in their own right. This might be seen as allowing a focus on deliverables and outcomes rather than structural matters.

There needs to be assurance that the functions are not duplicated and that it is more efficient and effective in how it is delivered and that there is one delivery mechanism rather than multiple authorities / bodies doing different things. It needs to be demonstrated for it to work that it is a more efficient way of doing things than being delivered by the local authorities.

b) Do the establishment regulations need to say more on concurrence, if so what else is needed, or should that be left to local determination?

The arrangements should work most effectively where they can reflect local circumstances and needs and as such details should be left to local determination as far as possible. However, clear guidance from WG is required and must be timely – indeed it is surely required prior to any final

arrangements being agreed and implemented. The timescale for providing such guidance must be set out clearly and adhered to by WG.

It needs to be clear regarding the implications of the CJsCs and any resulting wider strategic plans on existing local strategic plans. The risk must be avoided of the determination of broader strategic plans by the CJsCs effectively becoming a 'brake' to progress in delivering existing approved local strategic plans (such as Local Development Plans).

There is also a risk of further raising expectations and aspirations through any broader regional strategic plans with little or no ability or indeed responsibility to actually deliver on it. Where does the responsibility lie for delivery ?

c) *In your view are there any functions which might be appropriate to add to these CJsCs in the future? If yes, what?*

The potential areas for further transfer of functions to CJsCs must surely be clearer from the outset and these will potentially influence the resources required to establish the CJsCs from the outset.

Improving education appears to be implied or indeed expected as a further function to be transferred to due course. If this is the case it must beg the question as to why we are currently working towards a new model for regional improvement and a new footprint to replace ERW from April 2021. To subsequently transfer or incorporate this into the new CJC surely risks duplicating the effort involved in setting up these arrangements, not to mention the potential less than efficient use of the limited resources available.

Consultation Question Fifteen:

Do you think the regulations should provide for anything to be a decision reserved to the CJC rather than delegated to a sub-committee? If so what?

It would be appropriate for the Establishment Regulations to prevent the delegation of such matters as those referred to in the consultation document, specifically the agreement of budgets; the adoption or approval of plans or strategies (including the Regional Transport Plan and Strategic Development Plan); and consideration of any reports required by statute.

Consultation Question Sixteen:

What are your views on the approach to transfer of the exercise of functions to these CJsCs?

On the face of it the local transport planning responsibility would transfer at some point to a regional transport plan through the CJC (but with a period of transition inevitably). The wider strategic planning function of the CJC would be developed as an overarching plan whilst retaining local development plans (would local development plans be expected to change to reflect the regional plan or the regional plan expected to be consistent with existing approved local development plans?). It

is unclear how the economic wellbeing function would be developed and take on board / reflect existing City Deals and this surely needs to be clarified from the outset.

Consultation Question Seventeen:

What are your views on CJsCs being subject to wider public body duties as described above?

Whilst it makes sense that CJsCs should be subject to the same duties as principal councils this itself raises once again the need for clear and consistent guidance and approaches to embed these principles. From the experience to date of principal councils we would specifically raise the following points as examples:

1. The contradictory nature of a number of the ways of working and national well-being goals which in practice can **allow an individual or an organisation to ‘cherry pick’ one in isolation** and challenge the actions or a proposal from the Council even though the action would be supportive of the goals as a whole and on balance. **It should be made clear that any proposal should be judged on the basis of the goals as a whole on balance and there should be no implied expectation that every goal can be positively addressed in each case.**
2. The Wellbeing of Future Generations, like other legislation, has been used as **a tool to slow or halt progress an projects, for a reason entirely disconnected with the purpose of the legislation**, which can be very expensive to the public purse. So, the Act can and has been used simply to provide a further obstacle to the delivery of a proposal which would have clear benefits for the community as a whole but happens to be opposed by a small number of determined individuals or groups. **Can simple measures be put in place to try and mitigate the risks around this?** The nature of many changes in education are inherently long term and whilst they are consistent with the 5 ways of working in this long term goal any change will inevitably create short term impacts which are likely to be opposed. To follow the Act requires the courage to look to the long term and not just short term expediency.
3. The need for **clearer guidance on how Councils and CJsCs should be demonstrating that their actions are consistent with the Act.** We have had totally contrasting advice to date ranging from ‘keep it as simply as possible as the more detail is provided the more the actions can be challenged and unpicked and gaps identified’, to ‘each goal and way of working needs to be demonstrated in detail with full notes and minutes and timelines to evidence that the Council has acted within the Act’. Consequently, Councils have very different approaches to this. It doesn’t help that the Welsh Government throw the term around in other legislative documents as a bland statement. For example in the School Organisation Code we “must make reference to the WFGA...” yet there is nothing more on any particular areas we need to cover in our consultation documents – are we expected to cover it all, and if we do is this meant to be a matrix or an overarching statement?
4. **There needs to be acceptance that the Act is most effectively acted upon by a Council when the 5 ways of working and goals are embedded within the day to day working of officers** rather than being considered as a ‘stand-alone’

'task' to be undertaken in isolation. However, this itself presents difficulties in demonstrating adherence to the Act in terms of responding to specific challenges through evidencing of specific actions etc. The nature of our Band B programme and school reorganisation proposals and the five case business model requires long term planning and prevention etc. but this is because it is the appropriate way to deliver education locally not simply because it adheres to the WCFG Act. So, perhaps it is **about managing expectations**, we can't do it all, although we can do our best to work towards all of the goals and some we will achieve better than others.

5. **There needs to be far more realism and joined up thinking across WG departments and national policy** – the Act itself contradicts other requirements from the WG so there is a need for clear direction on what we must be doing. For example, currently we have a national direction to reduce the number of surplus places across our schools but also an expectation that we will keep small rural schools open; we have a drive towards active travel initiatives and encouraging pupils to walk to school and to reduce costs of home to school transport but then we have national announcements that further raise parental expectations as to what they can expect re transport support and when a walking route might be considered 'safe', when Councils seek to invest in more 'available' walking routes.

6. It should be recognised that the act in itself has created a lot more work for already stretched officers (such as consultation processes) which has created delays and also has a cost implication – for example NPT's judicial review. The risk is that it will create similar challenges for CJs if lessons are not learned and WG action taken.

In summary **there should be an over-arching national tool available that covers WFGA, Equalities, Welsh Language Standard and others - so that we can have consistency**. As mentioned already, 22 different interpretations by each Council lead to doing things 22 different ways.

Consultation Question Eighteen:

a) The Welsh Government is keen to continue working closely with local government and others on the establishment and implementation of CJs. Do you have any views on how best we can achieve this?

Mutual Respect and Transparency is essential as a foundation. Realistic expectations are also important as to what can be delivered and how soon.

b) In your view, what core requirements / components need to be in place to ensure a CJC is operational, and exercising its functions effectively?

Clarity regarding role / functions and guidance available from WG from outset.

c) In particular, what do you think needs to be in place prior to a CJC meeting for the first time, on the day of its first meeting and thereafter?

There needs to be WG support for set up costs that are bound to be incurred at the outset before an appropriate on-going budget can be developed and approved by principal councils.

Consultation Question Nineteen:

- a) Do you think it would be helpful for the Welsh Government to provide guidance on the establishment and operation of CJsCs?**

Yes this would be helpful and particularly on the areas referenced in the consultation document

- b) Are there any particular areas which should be covered by the guidance?**

WG guidance needs to be pro-active and not simply respond to issues as they are identified and clarification sought.

Particularly important areas would include the purpose of CJsCs and clear success measures by which they can be evaluated. If we are not all clear from the outset regarding the robust business case supporting the implementation of CJsCs and the benefits and deliverables anticipated then it will not be possible to adequately evaluate the extent to which these benefits have been realised. Authorities are routinely expected to identify and quantify benefits and demonstrate how these will be realised, and indeed that they have been realised, as part of robust business cases and the implementation of CJsCs should be no different.

Governance matters must be covered.

Consultation Question Twenty:

- a) How can the Welsh Government best support principal councils to establish CJsCs?**

Ensuring clarity of purpose and adequate resourcing of CJsCs and indeed local government as a whole in future local government funding settlements. The financial / cost implications of national policy must be fully reflected in national settlements and unrealistic assumptions regarding 'cost neutrality' avoided. Any additional resourcing required to establish CJsCs will inevitably take resources from areas of front line provision for the public including statutory and regulatory areas.

- b) Are there areas the Welsh Government should prioritise for support?**

The absolute key priority has to be the adequacy of core Council funding to deliver the vital existing statutory and regulatory functions as well as additional areas of responsibility and requirements such as CJsCs.

- c) Is there anything that CJsCs should/should not be doing that these Establishment Regulations do not currently provide for?**

They should not raise unrealistic expectations which are unlikely to be deliverability within the financial constraints facing the public sector as a whole and local government in particular.

Consultation Question Twenty One:

- a) ***Do you agree with our approach to, and assessment of, the likely impacts of the regulations? Please explain your response.***

The Regulatory Impact Assessment is unconvincing and might be perceived as simply delivering a pre-determined conclusion and inevitable outcome of a pre-directed 'brief' for the task.

- b) ***Do you have any additional/alternative data to help inform the final assessment of costs and benefits contained within the Regulatory Impact Assessment? If yes, please provide details.***

This is clearly a complex matter to evaluate in a robust manner but the conclusion that the establishment of CJsCs with statutory executive officers and other staffing appointments and overheads associated with Audit, performance review, scrutiny functions etc. is expected to result in a financial saving would appear to lack credibility.

Welsh Language Questions

Consultation Question Twenty Two:

- a) **We would like to know your views on the effects that establishment of CJsCs would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.**

This is very difficult to assess – on the face of it the effects should be broadly neutral with the existing legislative requirements and expectations already in place and to be consistently applied in the operations of CJsCs.

- b) **What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?**

As per response to Q22a, above.

Consultation Question Twenty Three:

Please also explain how you believe the proposed policy for the establishment of CJsCs could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Clear WG guidance and an over-arching national tool needs to be available that covers WFGA, Equalities, Welsh Language Standard and others - so that we can have consistency, as explained in detail in response to Question 17 above.

Consultation Question Twenty Four:

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Broad observations:

- CJs could be a mechanism to support regional working and collaboration which could reduce the complexity for authorities involved in delivering different kinds of regional working arrangements.
 - Could free up Local Authority resources to focus on critical service areas not forming part of the CJC, which might have previously suffered from not being high enough on the political agenda.
 - Austerity has had a detrimental impact on public service resources, including the resources of local authorities. CJs 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.
 - Consideration should be given to having a dedicated scrutiny officer for each Committee funded by and with staff paid for by Welsh Government. All elected members should have access regardless of whether or not they are part of the executive of any of the council/national parks or other bodies who might be added at any time.
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