

## Consultation Response Form

Your name:

Organisation (if applicable):

email / telephone number:

Your address:

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

- (a) The corporate status means that that the holding of assets and employing staff is a consequence and one the main practical advantages of adopting the model. The regulations define their functions but it is agreed that they should have the flexibility of ancillary powers such as, for example Section 111 of the Local Government Act 1972, They should also be subject to the same requirements in relation to the access of the press and public to their meetings.
- (b) The inter-relationship between the CJC's and their constituent authorities remains unclear in the Regulations. In particular, for example we can highlight that CJC's are not included in the bodies which are subject to scrutiny under Part II of the Local Government Act 2000. A body which exercises significant power in relation to policy, strategy and apportionment of finance would be subject to robust overview and scrutiny and audit arrangements independent of the decision takers.
- (c) It is accepted that an element of discretion within governance arrangements allows for flexible and responsive. Nevertheless it is essential that such flexibility is not exercised without consensus amongst elected member in relation to the direction. In addition that it does allow for the weakening or removal key elements of good and strong governance. This method of operation is already fundamental to joint working 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 CJs 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 CJs?**

### **Matter for the Cabinet**

### **Consultation Question Three:**

- a) Do you agree with the approach to the development of the regulations for CJs as outlined in this consultation? Please give your reasons.**
  - 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?**
- (a) The concept of General Regulations for CJs is sensible in order to allow for consistency of the model but also in relation to the incorporation of matter which are general to local government such as scrutiny and codes of conduct
  - (b) The additional matters are touched upon in this response to the consultation but some aspects are linked with other legislation as opposed to the Regulations

### **Consultation Question Four:**

- a) Do you agree with the proposed approach to membership of CJs including co-opting of additional members? Please give your reasons.**
  - b) What are your views on the role proposed for National Park Authorities on CJs, as described above?**
- (a) The consultation document underlines the key role of the Leaders on the CJC and in particular their accountability to the constituent councils for the work of the CJC. They also represent democratic accountability. Therefore the addition of further voting members is a significant step from the perspective of the CJC and constituent councils. It is essential for the credibility of the CJC that this transparent and is supported by the constituent councils on numbers and from which groups.
  - (b) As the Strategic Development Plans is relevant to the National Parks that which is proposed broadly follows. There needs to be cognizance however of the duties on National Park Authorities in relation to National Park purposes under the National Parks and Access to the Countryside Act 1949 to implement the purposes of the designation and how will be reflected in the duties of the CJs

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

(a) We support the concept of one member one vote but as noted above the democratic credibility of the proposed CJC is based on the appointment of elected members. Any arrangements which overarch or erode this principle undermine this key principle. Therefore providing voting rights to co-opted members needs to be administered in an appropriate and careful manner.

(b) It is acknowledged that the quorum is appropriate given the proposed powers. However, and considering the position in North Wales 70% would mean 5/6 members which could mean that because of matter such as declarations of interests or absence there could not be a quorum and this could be due to factors which could continue for a period of time. Provision should be made for substitutes of similar standing.

### **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 is acknowledged that co-option can be a mechanism for increasing specialism and including wider stakeholders. As outlined it is the appropriate balance with democratic accountability which is key.

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

(a) Again it is a matter of ensuring that the principle of democratic accountability is addressed and that the proportion of voting co-opted members cannot overturn a direction wanted by elected members. So for example their inclusion in the quorum needs to be considered.

(b) There are many aspects to such engagement which often stem from requirements which are around specific duties to engage or consult. Appropriate stakeholders is wide concept and needs to include not only specific sectoral representatives but the wider public. For example this can be allied to the concept of Public Participation Strategy in the Act

### **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.**
- b) What are your views on the adoption of a Code of Conduct for co-opted members?**
- c) Should all co-opted members be covered by a code i.e. those with and without voting rights?**

- (a) The Code of Conduct for qualifying local government employees is relevant (with particular exceptions) to the whole of the local government family. No reason can be discerned why CJC staff should be included. Regulations 2001/2280 would need to be amended for their inclusion.
- (b) (c) The Model Code of Conduct for elected members is also relevant to voting co-opted members who sit on constituent council committees. This question highlights a wider issue namely would a CJC come within the ethical framework under the provisions of the Local Government Act 2000. In the absence of a specific code of conduct elected members would be subject to their own Councils Code of Conduct and therefore be subject to the complaints and resolution framework of their authority. It is difficult to see a scenario where there would be an alternative framework for a CJC which would remove them from Part III of the 2000 Act, Adopting a Code of Conduct for Co-Opted members under part III would require a statutory framework for dealing with e.g. dispensations from the Code, investigating and determining complaints etc. as well as the jurisdiction of the Ombudsman.

### **Consultation Question Nine**

- a) What are your views on the proposed approach for determining the budget requirements of a CJC?**
  - b) What are your views on the timescales proposed (including for the first year) for determining budget requirements payable by the constituent principal councils?**
- (a) More attention and clarity and an annual timetable which is early enough to allow partners who are financing to include sums their budgets for the following year e.g. by October before the following financial year.
  - (b) This is wholly impracticable as a process and timetable within local government financing. Welsh Government should consider financing the establishment period.

### **Consultation Question Ten**

- a) **Do you agree that CJs should be subject to the same requirements as principal councils in terms of accounting practices? Please give your reasons.**
- 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?**
  - (a) The CJC should comply with the same requirements as other Joint Committees giving due attention to the materiality threshold in order to provide consistency and reasonableness e.g. between a large CJC and smaller CJC.
  - (b) Agreed

### **Consultation Question Eleven:**

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

*It's sensible that the terms and conditions of the CJC staff should accord with those found in the region. Attention will need to be given to equal pay and comparators in designing the arrangements.*

As it can be anticipated that posts will transfer to the CJC it is appropriate that "TUIPE" principles are relevant as well as the Welsh Authorities Staff Transfer Direction (Pensions) 2012. As a result consideration need to be given to pension arrangements and how a CJC will join the Local Government Pension Scheme and which pension fund will be relevant.

### **Consultation Question Twelve:**

**What are your views in relation to CJs being required to have or have access to statutory "executive officers"?**

It is agreed that the JC will need to appoint a Chief Officer as well a Monitoring Officer and Section 151 Officer. However the precise nature of the appointment should be a matter for the CJC to determine be that appointment, secondment or other appropriate arrangement. This would allow the arrangements to reflect the requirements and resources of the CJC at the time.

### **Consultation Question Thirteen:**

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

See response to question eleven

#### **Consultation Question Fourteen:**

- a) ***Is it clear what functions the CJsCs will exercise as a result of these establishment regulations? If not, why?***
- 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?***
- c) ***In your view are there any functions which might be appropriate to add to these CJsCs in the future? If yes, what?***
- (a) The functions which are being mandated are based on quite specific statutory provisions.
- (b) The General Regulations should not seek to legislate in relation to current arrangements this should be left to local determination. Otherwise it could lead to a destabilising and unintended undermining of arrangements which would negatively impact on their ability to achieve and create risks.
- (c) At this juncture it is considered reasonable to see how effective the model is and how it works before suggesting an expansion to its remit. There are provisions within the Act for Councils to agree on proposals in relation to other functions which can be put forward.

#### **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?***

Decisions on main strategic and policy matter as well as the budget and constitutional and standing orders matter should be retained to the CJC.

#### **Consultation Question Sixteen:**

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

CJC's are established by Welsh Government and agreed arrangements need to be put in place in order to implement transfers within the establishment period.

Specific reference is made to the economic wellbeing power where the CJC will inevitably have to work with the constituent councils. Agreement will need to be reached as to how this role will be undertaken. It does not appear that The Local Government Acts 1972 and 2000 list CJC's as being bodies a Council can delegate to. The proposition in the consultation document that careful work and consideration is needed in relation to how this function will sit with local arrangements already in place. It also needs to be recognised that the

transfer of a matter such as Growth Deal which is partnership between a range of bodies with complex output and financing requirements would require significant work to ensure that this is achieved appropriately and smoothly within existing contractual arrangements.

### **Consultation Question Seventeen:**

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

It is agreed that they should be subject to the general statutory requirements which are relevant to a Welsh ( local government ) public body

### **Consultation Question Eighteen:**

- a) The Welsh Government is keen to continue working closely with local government and others on the establishment and implementation of CJsCs. Do you have any views on how best we can achieve this?**
- b) In your view, what core requirements / components need to be in place to ensure a CJC is operational, and exercising its functions effectively?**
- 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?**

(a)(b)(c) As noted above regional arrangements are needed to address this work as well as sufficient resource by way of staff and expertise. It expected that Welsh Government will have a central role in this work. It cannot be taken for granted that there is capacity in relation numbers or expertise to undertake this work without recruitment.

With respect to the transfer timing it needs to be acknowledged that joint working of any significance is usually established on a shadow basis in order to provide time to plan and set up arrangements allowing them to go live at a particular date. It can be anticipated that there will be a period of establishing staff and resources following from the first meeting of the CJC (which is challenging) . It would not be realistic for the CJC to be doing much above establishing work during the first financial year.

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

(a) Yes, there are number of matter which require explanation and guidance in relation to the implementation of the proposed Regulations

- (b) Matters such as the relationship with the constituent councils and the National Park Authority, implementation of the arrangements, powers in relation to governance and finance and staffing.

**Consultation Question Twenty:**

- a) **How can the Welsh Government best support principal councils to establish CJs?**
- b) **Are there areas the Welsh Government should prioritise for support?**
- c) **Is there anything that CJs should/should not be doing that these Establishment Regulations do not currently provide for?**

Welsh Government has a central role in establishing the CJC's and it should be supporting its establishment by providing the resource to achieve this. It is highlighted again that it does not follow that local authorities have the capacity either in staff or available expertise to provide the staff and expertise resource which the CJC would need in the establishment period. This challenge cannot be ignored.

**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.**
- 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.**

**To be completed.**

**Welsh Language Questions**

**Consultation Question Twenty Two:**

- a) **We would like to know your views on the effects that establishment of CJs 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.**
- b) **What effects do you think there would be? How positive effects could be increased, or negative effects be mitigated?**

They should be subject to the requirements of the Language Act and in particular Language Standards from the outset as this would be fundamental for staff recruitment, governance and communications arrangements.



**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.***

They should be subject to the requirements of the Language Act and in particular Language Standards from the outset as this would be fundamental for staff recruitment, governance and communications arrangements.

**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:***

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**Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:**