

Report

Cabinet

Part 1

Date: 14 January 2022

Subject **Implementing the South East Wales Corporate Joint Committee**

Purpose To update Cabinet on progress with the implementation of the South East Wales Corporate Joint Committee Select and to inform Cabinet of the proposed interim governance and delivery model.

Author Chief Executive/Strategic Director/Head of Law & Standards

Ward All

Summary This is a common report which is being presented to all of the constituent local authorities forming the South East Wales Corporate Joint Committee (“CJC”) to provide an update on the implementation process in order to meet the legislative requirements of the Local Government and Elections (Wales) Act 2021.

The common report sets out an interim governance and delivery model sufficient to implement the statutory requirements for establishment of the CJC. This will involve a ‘twin-track’ approach to operating the Cardiff Capital Region (“CCR”) City Deal alongside the initial ‘bare minimum’ phase of CJC mobilisation ahead of the CJC setting its first statutory budget on 31st January 2022.

This common report also sets out the next phases of progress in line with resolving the current barriers to full implementation of an integrated ‘lift and shift’ approach which seeks to eventually, bring together the CCR City Deal and the CJC into one coherent model of regional economic governance.

Proposal **Cabinet is asked to:-**

- (a) Note the interim governance and delivery model for implementation of the SE Wales Corporate Joint Committee and the ‘twin track’ arrangements proposed across operation of CCR City Deal, alongside initial enactment of a ‘bare minimum’ CJC – and until such time the proposed ‘lift and shift’ approach can occur;
- (b) Note the requirement for the CJC to set and approve a budget on or before 31st January 2022 and the steps set out in the report to enable this;
- (c) Note the risks and issues set out in the report which require ongoing monitoring, mitigation and management;
- (d) Note the request made by CCR of Welsh Government to amend the CJC Regulations to change the date on which immediate duties commence under the Regulations from 28th February 2022 to 30th June 2022;

- (e) Note the draft Standing Orders at [Appendix 1](#) which set out the initial requirements and operating model for the CJC as well as initial business for the inaugural meeting on 31st January 2022
- (f) Note the work ongoing by CCR and its constituent Councils to work with Welsh Government, Audit Wales and advisors as appropriate, to help inform resolution of the remaining issues wherever possible;
- (g) Note that the Leader will represent the Council on the SE Wales CJC and they will have a duty to consider and set their first budget at their inaugural meeting on 31st January 2022, in order to ensure that the Council is complying with the legislation as required.

Action by Chief Executive/Leader of the Council

Timetable Immediate

This report was prepared after consultation with:

- Director Cardiff Capital Region City Deal
- Leader of the Council
- Chief Executive
- Strategic Director
- Head of Law & Standards
- Head of Finance

Signed

Background

History of the Cardiff Capital Region City Deal

1. The Welsh Government's SEW Corporate Joint Committee Regulations 2021 establish a Corporate Joint Committee (CJC) for the ten Councils that constitute the Cardiff Capital Region. The legislation came into effect on 1st April 2021 and the first statutory duty of the CJC for SE Wales is to set its budget on or before 31st January 2022. A set of immediate 'commencement duties' requiring the CJC to begin work on preparation of a Strategic Development Plan, a Regional Transport Plan and enactment of economic wellbeing powers were due to be adopted by the SE Wales CJC on 28th February 2022.
2. A significant body of work has been undertaken by CCR and its constituent councils in preparation for enactment of a corporate entity CJC, given this objective has been a matter of long-term collective endeavour. The direction set through successive business plans, has set the course for evolution from a single funding programme – City Deal – to the multiple funding functions and accountabilities of a wider City Region via a CJC. Work to date has scoped the vision, functions and mission to decipher the 'best fit' opportunities; assess the current Joint Cabinet Committee model to appraise benefits, limitations and opportunities; assess options for a new delivery structure via a CJC; and determine optimal processes for implementation.
3. On inception of CCRC in March 2016, the mission was to make CCR more investable, competitive and resilient – promoting inclusive growth and the aim of 'no place gets left behind'. It recognised the 'think local, act regional' mandate and the principle, that through working together everyone achieves more. This is particularly pertinent in the case of market facing functions such as the economy, housing, land-use and transport where markets do not respect administrative boundaries and where supply chains, connectivity, clusters and innovation diffusion 'spill over' and straddle geographies.
4. In this way, the establishment and underpinning ambition of the CCR City Deal has already accomplished shared purpose across all 10 Councils and much of the heavy lifting to translate this into projects and programmes has been done. Trust, strong relationships, and a commitment to place-based priorities has reinforced the profile, partnerships and reputation. The operation of the Investment and Intervention Framework Fund provides an incentive for continued co-operation and collaboration.
5. Following successful passage through Gateway Review #1, Regional Cabinet has scaled up ambitions through a new 5-year strategic business plan and an Investment Prospectus that sets out asks and offers in the order of £4.2BN investment to deliver 33,500 high skill jobs, £3.75BN leverage and £2.5BN GVA. This is significant because in a new world of Levelling-up, Connecting the Union, the UK as a Science Superpower and a new Programme for Welsh Government – investment will be secured competitively. It follows that CCR must be able to compete to win resources; develop new financial flexibilities and develop propositions to work with Welsh and UK Governments to address challenges of Covid, Climate and low growth-productivity.

Core Principles of Regional Economic Governance in the CCR

6. Whilst CCRC has achieved much to date, there are also constraints. CCR City Deal is supported by an Accountable Body delivery structure and as effective as this has been, relies upon complex back-to-back arrangements with constituent Councils and does not afford the benefits of being able to act direct; to have its own balance sheet; to acquire and hold assets and importantly, to borrow. CCR has thus outgrown its initial structure and operating model and needs to evolve to properly capitalise on investment and opportunities for the region.
7. Notwithstanding support for evolution, the CCR City Deal Joint Working Agreement (JWA) – its core values, principles and ways of working – must be maintained. Experience shows that regional collaboration works best when Councils retain absolute control over CCR decision-making, and it follows that any future CJC should follow the principles behind the current JWA. Efficiency of structures streamlined governance and having a future-proofed approach which is capable of

providing CCR with optimum flexibility to partake in additional investment programmes beyond the City Deal are therefore key objectives for the CJC. The hard work has already been undertaken since the CJC is not the vision or strategy – it is simply the vehicle or mechanism for optimal delivery of CCR’s vision and strategy. Core principles are thus intended to:

- Retain the principles and ways of working set out in the JWA, emphasising concurrence with local arrangements, building additionality over time and on a case-by-case basis and as required by the CJC
- Establish a strong system of multi-tier governance and distributed leadership, with the CJC setting its own compelling vision and aims and objectives
- Recognise that devolution has many faces and the need to work with both Welsh and UK Governments & ensure CCR has access to all available investments & opportunities
- Reinforce a positive-sum game. The uniqueness of the model of LA democratic legitimacy and localism sits at the heart of CJC which will be controlled and led by LAs.
- Pose no threat to LA services with the assumption that functions, services and resourcing are 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 LAs (such as Regional Bus) - 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.
- 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

Making Progress

8. With the above principles in mind, at its meeting of the 20th September 2021, Regional Cabinet approved a report that established the ‘Lift and Shift’ principle ([Appendix 2](#)). This meant moving across the CCR City Deal Funding Agreement into the CJC, as the preferred model for CCR’s transition to one integrated model of regional public investment. The report further set out a comprehensive Transition Plan to oversee the process of evolution and a critical path for achieving key milestone dates.
9. The report described a number of live risks and issues, relating to a series of unresolved matters concerning the implications of CJC’s financial status for taxation purposes and borrowing and their impacts. It was stated that work would continue to be undertaken with CCR’s advisory team and WG to resolve the issues sufficiently in allowing for Lift and Shift model to be implemented in early 2022. A letter was also provided from the WG Minister for Finance and Local Government to reiterate this intent and the report sought to commit to a ‘no worse off’ principle, on this basis as at the point of transition.
10. In the intervening period, it has become clear that the risks and issues highlighted will not be resolved sufficiently to support ‘lift and shift’ of the CCR City Deal into the CJC – and by the date of CJC budget setting on 31st January 2022. This is mainly because the issues that require resolution, namely s.33 (VAT) status, need the approval of bodies such as HMRC and HM Treasury (HMT) and these clearly sit outside the sphere of direct influence and control of WG. In addition, further issues have arisen in respect of Corporation Tax. This is a complex matter not addressed so far in the Regulations; and could have significant implications to the CCR operating model unless similarly addressed through an application to HMT for relevant dispensations. Work

is underway on addressing this, with CCR supporting WG's business case application to HMRC for the relevant dispensations.

11. In other words, there remain a number of substantially unresolved matters, that unless addressed and resolved prior to full 'lift and shift' implementation and are understood and mitigated against ahead of 'bare minimum' implementation – could have a significant impact. On the latter point, even basic activities under a 'bare minimum' CJC may still incur a level of irrecoverable VAT and as such an initial scaled back approach which reduces such a potential risk is proposed.
12. The impacts of all these issues are not standalone and consideration will need to be given to the matter of seeking UKG support regarding the timing and transfer of the existing CCRC Funding Agreement to the CJC. In addition, it must be understood that these are complex and inter-connected issues and there are no 100% guarantees of success. Wider financial status issues are bound up within making the case for s33 status and in essence, the need to demonstrate the intent and effect of the CJC legislation, which is for them to be 'creatures of LAs' and 'part of the LG family'.
13. CCR has made representations to WG on these issues, including seeking a re-setting of the statutory budget timeframe. WG has advised that this is not possible due to timescales and the need to carry out statutory consultation on any proposed changes. However, the issues raised are recognised and understood and implementation on the basis of a pragmatic and proportionate provisional approach is supported. Additionally, legal advice has been taken on the risks and challenges posed to CCR of 'doing nothing' and it is clear that CCR's constituent Councils must be minimally compliant at this stage.
14. The 'bare bones' implementation of the CJC legislation will therefore need to be 'twin-tracked' with continuation of the current Joint Committee/Accountable Body-led model for delivering the CCR City Deal for the time being. This dual approach is unavoidable and will provide business continuity for City Deal delivery.
15. WG has also set out that the date of commencement of immediate duties around preparation of the Regional Transport Plan, Strategic Development Plan and economic wellbeing powers, can be changed from the original date set for SE Wales of 28th February 2022 to 30th June 2022 – thus, falling in line with other CJC regions. This report recommends that this later date is accepted in order to better align with the proposed bare minimum approach.
16. Further background information pertinent to this is set out in the Report to Regional Cabinet of 13th December 2021 ([Appendix 3](#)).

Next stages

17. Whilst the above issues are complex and require the re-doubling of efforts across WG with support from CCR and its technical and legal advisory team and its constituent LAs, it is recognised that where progress can be made, then it should be made.
18. The 'bare minimum' model proposed in this report, thus offers a pragmatic way of enabling the ten member Councils of CCR, to begin implementing the CJC requirements and adopting statutory duties – whilst at the same time – supporting WG to progress the resolution of issues, which are preventing a transition to Lift and Shift at this time.
19. This means putting in place a series of steps that will define the critical path between now and 31st January 2022 (the date by which the CJC must approve its budget), in order to ensure compliance with the legislation, but in ways which protects CCR's ten constituent Councils' short and long-term position and wherever possible, safeguards against any detriment.
20. On the basis of external advice and technical support, the proposed 'bare minimum' model will enable CCR to demonstrate it has commenced transition, ensuring compliance with the legislation and regulations. It is essentially creating the outline of the CJC as an absolute statutory minimum and as an interim holding position only. It will include:

- Setting minimal nominal budgets and the amounts payable by each constituent local authority for the operation of the CJC no later than 31st January 2022;
 - Agreeing with the Auditor General for Wales the CJC audit scope and fee, which is proportionate and reflects the CJC's bare minimum operations;
 - Adopting model Standing Orders and any basic supplements – i.e. scheme of delegations (draft attached at [Appendix 1](#));
 - Arrangements to place any staff at disposal of CJC – again this will be on the basis of proportionality;
 - Establish statutory sub-committees e.g. Audit and Governance Committee etc.;
 - Appoint Chair/ Vice Chair/s – which can mirror existing CCR arrangements; and,
 - Establish practical arrangements in respect of the CJC's basic infrastructure as a separate legal entity – accounting & reporting requirements, bank account, VAT registration, minimum insurances, proportionate records scheme etc.
21. The bare minimum model will operate on the expectation that the absolute minimal operational activity required will be undertaken. Therefore, any extraneous activity such as production of a business plan; meetings of the CJC beyond initial budget setting/ 'establishment'; meetings of the Audit and Governance Committee; and staffing arrangements beyond those linked to the above – is unlikely to take place.
 22. In order to provide a level of certainty to all CJC stakeholders and constituent councils, the bare minimum model, will be predicated on being in place until the 31st March 2023. However, should the issues be resolved sooner, there is provision for the budget requirement to be re-visited in-year and as 'lift and shift' becomes do-able and is supported through the relevant financial status issues being resolved. This means that for the initial operating period a nominal budget is set with the clear expectation of minimal expenditure against it. This is an important principle. If even low-level expenditure can be justified, the advice is there is a strong case to avoid incurring such expenditure if it can be demonstrated that it would "prejudice the CJC's position or suffer any detriment".
 23. Therefore, whilst a provisional budget can be set, and actions taken to set-up and 'ready' the CJC – it does not follow that enactment beyond this is necessary – at least until such time the CJC is ready to be operable and lift and shift can occur. The timeframe outlined above will be kept under constant review throughout the year as the outstanding matters are progressed and future reports will be brought back to Cabinet/ Council as required.
 24. The CJC will be required to comply with all necessary regulations and legal requirements. The principle of 'proportionality' will be adopted in assessing bare minimum compliance, along with the requirement to minimise any adverse budgetary impacts. It should be noted that the two duties to begin preparation of both a Regional Transport Plan and Strategic Development Plan will commence in 2022/23. As per paragraph 17 above, it is now proposed this date is re-set as 30th June 2022 and this has been communicated with Welsh Government. Whilst there are no immediate actions required in relation to the commencement duties, some progress will need to be demonstrated from July 2022 and plans for such will be presented to the CJC during the year.
 25. This pragmatic, proportionate and reasonable approach will require key stakeholders to adopt a shared endeavour approach. As a result, consultation and engagement is ongoing with Audit Wales and Welsh Government.
 26. It is envisaged that once a timescale is known to enable to re-commencement of 'lift and shift' – the original Transition Plan and arrangement set out in the report of 20th September 2021, can be re-activated.

27. It should also be noted that in setting this process in plan, the clear milestone to work towards is budget setting for the CJC on or before 31st January 2022. Approval of the budget requires unanimous support of CJC constituent councils. Brecon Beacons National Park Authority will feature as part of this in relation to the estimated budget for preparing an SDP and as such, ongoing communication and engagement is taking place.
28. Whilst work led by WG on behalf of all regions/ constituent CJs in Wales, is underway with HMRC and HM Treasury on the outstanding issues named in this report, there are further updates to note. The SE Wales CJC is not a 'levying body' with an expectation that 'Connected Body' status can be secured to enable access to the LG Pension Scheme. In relation to access to Public Works Loan Board borrowing, at the relevant future point, WG has had initial positive discussions with HMT that suggest borrowing capability through this medium, can be considered and potentially, developed.
29. Work continues to be put in place regarding arrangements for interim accounting systems, processes and relevant systems infrastructure for the CJC. This is being carried out in partnership with RCT Council, which will be providing basic 'transactional services' for the initial period of 'bare minimum' CJC operation. CCR City Deal will continue to be supported by the 'Lead Council/ Accountable Body' mechanism. This reflects the arrangements underpinning the twin-tracking approach which will be needed, at least initially and until the remaining issues are resolved.

Risks and Issues

30. There are several risks related to the proposed approach. However, if the bare minimum model principles set out above are adopted and risks continually mitigated against by the detailed technical work that is ongoing and continued liaison WG and Audit Wales, it is suggested that these can be kept in check, monitored and managed. This means that Value for Money issues can be responded to in as much, that the CJC keeps expenditure to the bare minimum during this interim period and on the basis of no significant detriment to its short or long-term operating model.
31. Other risks concern the resources now needed to implement 'bare minimum' with the aim being to meet these nominal costs from existing resources, albeit there will be some effect given efforts that will need to now be fully channelled to getting work done in an ever-decreasing timeframe. Timeframes present a further risk in that at this time, there is no clear point at which lift and shift occurring can be accurately estimated – however, this could be clarified via WG shortly. Arguably, the bigger issue is guaranteeing successful outcomes – although it is anticipated a strong case will be made to both HMRC and HMT and it remains the strong intent, and wider effect, of the WG legislation for CJs to be part of the LG landscape and treated as if a Local Authority.
32. It should also be noted that the identification of risks to date, has arisen through work 'on the job'. Further risks that only become apparent through the process of application and implementation cannot be ruled out.
33. Potential risks around potential for double taxation at the point of lift and shift are unpreventable, with work needed ongoing to develop the conversations, flexibilities where they exist and pragmatism to deal with such eventualities. The possibility of fragmented legacy accounts also requires analysis and conclusions to be presented at the relevant time.

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
Failure to establish CJC and set budget by 31 st January 2022 would breach the	H	L	The proposed implementation process will ensure that the CJC is established and that it will set its budget at its inaugural meeting	Director Cardiff Capital Region City Deal

legislative requirements			prior to 31 st January 2022, to meet the requirements of the legislation	
Failure to secure satisfactory financial resolution to the pensions, VAT, borrowing and tax issues	M	L	Negotiations with the relevant Government agencies should enable the CJC to be put on the same financial footing as the local authorities, given that the CJS is to be treated as a “member of the local authority family”. In the event of the City deal funding not being transferrable to the CJC then it may be necessary for the twin-tracking arrangements to continue	Director Cardiff Capital Region City Deal
The local authorities are challenged over the legal basis for the twin-tracking arrangements and any delayed transfer of functions to the CJC after June 2022.	L	L	Leading counsel’s advice has been obtained about the basis for the concurrent exercise of functions by the CCR and the CJC. This approach has also been agreed with Welsh Government and Audit Wales.	Director Cardiff Capital Region City Deal Monitoring Officers
The twin-tracking arrangements and the delayed transfer of functions to the CJC could result in increased financial contributions from the local authorities	M	L	The proposal is to set a nominal budget for the CJC while it remains “dormant” and this should be covered by the existing financial contributions already committed to the CCR budget. If the financial issues are not resolved by July 2022, then the CJC will need to commence work on the regional transport and strategic development plans, and some additional budget may need to be identified at that time. In future years, when the CJC takes over the functions of the CCR, a mechanism will need to be agreed to deal with budget allocation from constituent councils to enable the CJC to set its own budget under the Regulations as it does not have any levying powers.	Director Cardiff Capital Region City Deal Heads of Finance

* Taking account of proposed mitigation measures

Financial Summary (Capital and Revenue)

As the report states, a ‘bare minimum’ budget will need to be set by 31st January and this could be subject to change in-year once clarification on outstanding financial issues is received and the original ‘lift & shift’ model can be implemented.

There has been no indication of what the bare minimum budget will look like or an indication as to what a ‘normal’ operating model cost would be. Therefore, at this point, NCC own contribution to the core costs of the CJC (incorporating the CCR) cannot be estimated.

The Council has already prudently set aside a small budget of £xxk to support the core costs of the CJC and this will now need to be reviewed and an assessment made on a ‘reasonable budget provision’ AS

THE Cabinet considers its 2022/23 budget. It will need to be adjusted as needed as and when details become clearer.

The core operating costs of the existing CCR is already budgeted for as is its capital funding requirements which NCC contributes towards. These, in themselves should not impact significantly but there is clearly an impact on core costs as the CJC and CCR organisations effectively 'merge'. This can only be known when the CJC moves into its more permanent operating model in the future

Links to Council Policies and Priorities

The Cardiff Capital Region City Deal and the transfer of strategic regeneration, economic development and transport functions to the CJC is intended to deliver improved social and economic outcomes at a regional level, which is entirely consistent with the Council's corporate plan and well-being objectives.

Options Available and considered

The report is intended to provide an update and information on the implementation of the CJC and the proposed interim delivery and governance model. The establishment of, and transfer of functions to, the CJC is a statutory requirement and the Council has already committed to the proposed interim funding and governance arrangements under the CCR City Deal Joint Working Agreement. Therefore, no decision is required and there are no alternative options that require consideration.

Preferred Option and Why

Cabinet is asked to:-

- (a) Note the interim governance and delivery model for implementation of the SE Wales Corporate Joint Committee and the 'twin track' arrangements proposed across operation of CCR City Deal, alongside initial enactment of a 'bare minimum' CJC – and until such time the proposed 'lift and shift' approach can occur;
- (b) Note the requirement for the CJC to set and approve a budget on or before 31st January 2022 and the steps set out in the report to enable this;
- (c) Note the risks and issues set out in the report which require ongoing monitoring, mitigation and management;
- (d) Note the request made by CCR of Welsh Government to amend the CJC Regulations to change the date on which immediate duties commence under the Regulations from 28th February 2022 to 30th June 2022;
- (e) Note the draft Standing Orders at [Appendix 1](#) which set out the initial requirements and operating model for the CJC as well as initial business for the inaugural meeting on 31st January 2022
- (f) Note the work ongoing by CCR and its constituent Councils to work with Welsh Government, Audit Wales and advisors as appropriate, to help inform resolution of the remaining issues wherever possible;
- (g) Note that the Leader will represent the Council on the SE Wales CJC and they will have a duty to consider and set their first budget at their inaugural meeting on 31st January 2022, in order to ensure that the Council is complying with the legislation as required.

Comments of Chief Financial Officer

There are a small number, but significant amount of outstanding financial issues outstanding as the report highlights. The decision to defer the proposed merger of the CJC / CCR functions and organisations is therefore prudent and justified.

The Council's 2022/23 provisional grant settlement from the WG indicated that it should cover any CJC contributions to their 'core operating costs'. The report spells out the challenges in determining what provision is needed but that is unavoidable at this point and a 'reasonable and prudent' budget provision will be needed and will inevitably be subject to refinement and change.

The report sets out the fact that the CJC is not a levying body and it is no tax raising powers. In that context, the ambition to be able to borrow does introduce some challenges / anomalies as the funding of any borrowing they may undertake will be from the constituent Councils. The constituent Councils are legally required themselves to have regard to the CIPFA Prudential Scheme in exercising borrowing powers, linked to their independence of decision making in this regard and impact on their finances as tax raising organisations. Therefore, it is recommended that this issue is explored more fully and clarity sought on how this aspect of 'prudent borrowing' is going to be managed and the applicability of the above 'prudential scheme' in applying to them.

Comments of Monitoring Officer

The Local Government & Elections (Wales) Act 2021 established Corporate Joint Committees ("CJC") to discharge certain regeneration, economic development and transport functions at a regional level. The CJC is different to previous joint Committees, as it is constituted as a separate legal entity, as distinct from the individual local authority members, with powers to set its own budget, employ staff and hold property and other assets. The SEW Corporate Joint Committee Regulations 2021 established a CJC for South East Wales comprising the ten councils that constitute the Cardiff Capital Region ("CCR") City Deal. The legislation places a statutory duty on the local authorities to establish the CJC and for the CJC to hold an inaugural meeting to set its first budget on or before 31st January 2022. The Regulations originally provided for the CJC to commence the discharge of certain regeneration, economic development and transport functions as from 28th February. However, Welsh Government are now proposing to delay the commencement of those duties until 30th June 2022.

The original transition arrangements agreed by the CCR Regional Cabinet were based on a "lift and shift" model, which would have entailed the CJC operating on the same basis as the current City Deal arrangements under the Joint Working agreement between the participating local authorities, but without the need for any Lead Authority, given its legal status to enter into contracts on its own behalf.. However, a number of technical financial issues have arisen regarding the pension and VAT status of the CJC, the tax requirements of any subsidiary delivery companies, the transfer of Treasury City Deal funding and its capital borrowing capabilities. These issues are currently being discussed with the relevant Government agencies but, until they have been resolved, then the CCR Regional Cabinet has now agreed to a "twin-track" approach. This will involve the establishment of the CJC and the setting of an initial budget by 31st January 2022, in order to comply with the legislation and the Regulations but it will then effectively remain dormant and the CCR City Deal arrangements will continue in the meantime.

The proposed amendments to the Regulations will mean that the CJC will not commence the exercise of any legal functions until after 30th June 2022. However, it will still need to be formally established and it will need to hold an inaugural meeting to set its initial budget before 31st January. As a bare minimum, to meet the requirements of the legislation and the Regulations, the CJC will need to adopt standing orders (Appendix 1) and establish the basic governance framework set out in paragraph 20 of this report. For the most part the Standing orders are prescribed by the General Establishment Regulations, with each of the 10 authorities being represented by their Leaders and each member having one vote. Budget decisions have to be unanimous and other decisions require a special majority of 70%. The Brecon Beacons National Park Authority is also required to be a statutory member of the CJC but only in relation to the development of the Strategic Development Plan, given their planning powers. There is also power for the CJC to co-opt other members.

For the purposes of setting the first CJC budget and the bare minimum model, the CJC will utilise the existing agreed CCR budget and there will be no requirement for an additional budget allocation from the constituent councils. As this is within the existing CCR budget and within their delegation under the existing Joint Working Agreement, then there is no requirement for any seek further decision or delegation from the Council at this time. For future budgets, a mechanism will need to be agreed to deal with budget allocation from constituent councils to enable the CJC to set its own budget under the Regulations, as it has no direct levying powers.

Subject to resolution of the outstanding financial issues, then the intention will be to transfer the functions of the CCR to the CJC in accordance with the original “lift and shift” transitional plan. However, if these issues are not resolved before the statutory commencement of the CJC functions after the end of June 2022, then the “twin-track” arrangements may need to continue. The councils may then need to make budget provision for the CJC to commence work on the strategic development plan and regional transport plan, as that work cannot be undertaken by the CCR. However, Leading Counsel has advised that there is no legal prohibition within the legislation that would prevent the councils continuing to exercise all the other statutory regeneration, economic and transport functions concurrently with the CJC and, therefore, the CCR joint working arrangements could continue to operate.

There are no further decisions for Cabinet or Council to take at the present time. The establishment, constitution and governance arrangements for the CJC are all prescribed by the legislation and the Regulations. The interim delivery and governance arrangements are in accordance with the CCR Joint Working Agreement previously agreed by Council and no further delegation of power or budget provision is required at the present time. Therefore, Cabinet are asked to note the arrangements for the establishment of the CJC and the proposed interim governance arrangements.

Comments of Head of People and Business Change

The Cardiff Capital Region City Deal and the transfer of strategic regeneration, economic development and transport functions to the CJC is intended to deliver improved social and economic outcomes at a regional level, which is consistent with the Council’s corporate plan and well-being objectives. The report also sets out how the proposal meets the sustainable development principle.

The risks and issues set out in the report will require ongoing monitoring, mitigation and management, and as CJC proposals progress there will be a requirement to consider HR implications for the Council.

Scrutiny Committees

N/A

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

(a) 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 CCR and the CCJ) must set and published 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 agreeing the implementation process for the CJC and the proposed interim governance and

delivery model, the CCR Regional Cabinet has considered this 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. The CCR Regional Cabinet has taken account of the impact of their decisions on people living their lives in Wales in the future. In agreeing the proposed CJC arrangements, the CCR Regional Cabinet has taken account of the 5 ways of working and has:

- looked to the long term - the CJC is a long-term collaborative arrangement which provide a long-term platform for regional public investment.
- focused on prevention by understanding the root causes of problems.
- delivered an integrated approach to achieving the 7 national well-being goals -
- worked in collaboration with others to find shared sustainable solutions – the CJC and CCR models are based on principles of collaboration and finding sustainable solutions at a regional level.
- involved people from all sections of the community

(b) Equality Act 2010 and social-economic duty

The proposed collaborative arrangements for the discharge of regional regeneration, economic development and transport functions are consistent with equalities and socio-economic duties. The CJC will be subject to the same statutory responsibilities as local authorities in relation to discharging the public sector equalities and socio-economic duties.

(c) Welsh Language (Wales) Measure 2011 and Welsh Language Standards;

Both the CCR Regional Cabinet and the CJC are subject to the same duties under the Welsh Language (Wales) Measure 2011 and Welsh Language Standards.

A full Well-Being of Future Generations Impact Assessment is attached to the report to the CCR Regional Cabinet on 20th September 2021 ([Appendix 2](#)).

Background Papers

Appendix 1	Draft CJC Standing Orders
Appendix 2	Report to Regional Cabinet – Establishment of CJC Preferred Governance and Delivery Option & Transition Model – 20 th September 2021
Appendix 3	Report to Regional Cabinet – Reframing Approach to SE Wales CJC – 13 th December 2021

Dated: 10 January 2022