

**Number: WG41255**



Llywodraeth Cymru  
Welsh Government

Welsh Government  
Consultation – summary of response

Regulations to establish Corporate Joint Committees (CJCs)

**February 2021**

Mae'r ddogfen yma hefyd ar gael yn Gymraeg. This document is also available in Welsh.

**OGL** © Crown Copyright Digital ISBN 978-1-80082-834-6

**Overview**

This document provides a summary of the responses to the consultation on the Establishment Regulations for Corporate Joint Committees.

**Action Required**

This document is for information only.

**Further information and related documents**

Large print, Braille and alternative language versions of this document are available on request.

**Contact details**

For further information, please contact:

Local Government Transformation & Partnerships Division  
Local Government Directorate  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ  
e-mail: [LGPartnerships@gov.wales](mailto:LGPartnerships@gov.wales)

**Additional Copies**

This summary of responses and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website.

Contents

SECTION ONE: Introduction ..... 4

    Who responded? ..... 5

    Engagement on the consultation ..... 5

    Next steps ..... 5

    Approach to developing the summary of responses..... 6

SECTION TWO: Approach to developing the Regulations ..... 8

SECTION THREE: Governance and constitutional arrangements for CJs ..... 17

SECTION FOUR: Finance, funding and budgetary matters ..... 25

SECTION FIVE: Staffing and workforce matters for CJs ..... 28

SECTION SIX: The functions to be exercised by the CJs..... 32

SECTION SEVEN: CJs and duties as a Public Body..... 38

SECTION EIGHT: Implementation ..... 39

SECTION NINE: Supporting Documents..... 45

SECTION TEN: Welsh Language..... 47

Annex A: List of respondents..... 52

## **SECTION ONE: Introduction**

### **This consultation**

On 12 October 2020, the Minister for Housing and Local Government (the Minister) launched a consultation on draft Regulations to establish Corporate Joint Committees (CJCs), as provided for in the Local Government and Elections (Wales) Act 2021 (the Act).

This consultation ran for 12 weeks from 12 October 2020 to 4 January 2021 and was published on the Welsh Government website. The link to the consultation document was sent to a wide range of stakeholders, and a number of consultation events were held (as set out in the 'Engagement' section below).

The consultation sought views on the Regulations which will establish a number of CJCs. The consultation document narrative described how the CJC model is designed to bring more coherence to regional governance arrangements, how it can help reduce complexity and duplication of effort, and can focus resources regionally in situations where the planning and delivery of functions at that scale makes sense. This focused application of specialisms and collaborative use of resources is designed to help maximise the outcomes for the people of Wales, with greater alignment of regional decision making around a number of crucial service areas.

The Establishment Regulations will create four regional CJCs across Wales, each of which will exercise functions relating to Strategic Development Planning, Regional Transport Planning, and promoting the Economic Well-being of their areas.

The Establishment Regulations provide for the core aspects of the establishment and operation of the four CJCs, and are intended to be flexible enough to respond to the specific circumstances in each area. It is, therefore, important to recognise that the detail of implementation could differ between CJCs, and this consultation also sought views on that.

Once established, and where the constituent councils wish them to, these CJCs will be able to exercise other functions in the future. It is important therefore that the Establishment Regulations provide the appropriate foundations to support this, if a request is received from the constituent councils. Any future transfer of functions would be subject to further consultation and any necessary legislation at that time.

It is important to note that, for the purposes of this consultation response summary, while there are four separate sets of Establishment Regulations, one for each CJC, the content of each separate set of regulations is substantially the same. Therefore, we have consulted on those regulations as one. Any reference to the Establishment Regulations, unless expressed otherwise, was a reference to all four draft sets of regulations. Similarly the Regulatory Impact Assessment (RIA) and the Integrated Impact Assessment (IIA), both referred to in Section 9 of the consultation document and which accompanied the regulations, were drafted as single documents relating to all four sets of Establishment Regulations.

Alongside the Establishment Regulations for each CJC there will be supplementary regulations that will apply generally to all four CJCs, setting out the detail of their governance and administrative arrangements and the legislative framework within

which they will operate. Such regulations will be necessary to support the implementation of the Establishment Regulations and will form a package of underpinning legislation for the CJs. This consultation paper referred to these as 'Regulations of General Application' and we asked a number of questions about them in order to inform our ongoing work with local government on their content.

## Who responded?

The consultation process resulted in 52 written responses. Respondents are identified as follows:

20 Local Authorities  
4 Government agency / other public sector body  
7 Community and town councils  
1 Commissioner  
1 Regulator  
12 Representative bodies, Professional bodies or Associations  
1 Third Sector  
2 Trade Unions  
2 Members of Public  
2 other

A full list of respondents to the consultation is provided at **Annex A**.

## Engagement on the consultation

In addition to the formal consultation paper, a number of engagement events and technical briefing sessions were held at appropriate points prior to and during the consultation period to provide information to stakeholders and to seek views on the detail of the Regulations to establish the CJs.

The events have included, but not been limited to:

- large-scale online events led by the Minister for Housing and Local Government with local government and wider stakeholder groups
- events focused on constitutional and governance issues
- thematic events focused on each of the three functional areas of Economic Development, Strategic Development Planning and Regional Transport Planning
- events with specific audiences such as trade unions and the third sector.

Officials have also attended a number of meetings where CJs have been an agenda item. These opportunities have been welcomed and have helped align the work on CJs with other significant Welsh Government priorities such as the new regional investment arrangements.

## Next steps

The Minister has expressed her thanks for the constructive engagement which has helped shape both the Local Government and Elections (Wales) Act 2021 and these CJC Establishment Regulations. Local government Leaders, officers, the Welsh

Local Government Association (WLGA) and other key stakeholders have been engaged throughout the development of the CJC proposals and this input has been invaluable in shaping this work.

The consultation responses have highlighted a number of areas where the regulations should be amended as a result, and the Welsh Government is very grateful for those views. These changes will help ensure that CJCs will add real value to the regional landscape in Wales, with regulations and guidance providing the requested combination of clarity and flexibility. The areas where the regulations are being amended are highlighted within the “Welsh Government response” box at the end of each section.

The Minister has confirmed her commitment to continuing to work with the WLGA, the constituent councils and partners following this consultation process to ensure further development work, and implementation of CJCs, meet the needs of local government and stakeholders.

## **Approach to developing the summary of responses**

This document is intended as a summary of the responses received. It does not aim to capture in detail every point raised by respondents. The consultation asked 24 separate questions framed around eight Separate headings:

- Approach to developing regulations
- Governance and constitutional arrangements for CJCs
- Finance, funding and budgetary matters
- Staffing and workforce matters
- The functions to be exercised by the CJCs
- Implementation
- Supporting Documents

The consultation also asked a number of questions in relation to the Welsh language and, at question 24, invited respondents to make any other comments to the consultation. The summary of responses has been set out under the same headings as above. Owing to the complementarity and overlap of some of the questions within each heading the Welsh Government response to the questions is provided at the end of each section.

It should be noted that a small number of respondents took the opportunity in answering some of the questions to note their objections to the concept of CJCs more generally. We have included some of those comments throughout this document, but not in the analysis of every question, as it was important to focus on the responses to the specific questions being consulted upon. Question 24 provided an opportunity for respondents to include any other comment relating to CJCs. Any wider views on the principle of CJCs have been captured there.

We recognise that there remain concerns about the establishment of CJCs but the Welsh Government remains of the view that the CJCs offer a consistent approach to strategic planning and delivery at scale, where it makes sense to do so. A CJC will not be the only vehicle for local government collaboration, but will provide local authorities with a powerful new tool where appropriate. The proposals build on existing successful regional arrangements and Local Authority Leaders will be CJC

members, putting accountability and local leadership at the heart of the decision making process.

The Local Government and Elections (Wales) Act 2021 provides for the establishment of CJsCs. The purpose of this consultation process was to gather views on the detail of CJsCs, how they will be established, and when. A number of aspects of the Establishment Regulations are being amended as a result of responses received, as detailed in the 'Welsh Government response' section at the end of each question below.

## SECTION TWO: Approach to developing the Regulations

### Consultation Question One:

#### **Question 1a asked for views on CJsCs being subject to broadly the same powers and duties as constituent councils.**

There were 43 responses to this question, just under half of which were from local authorities or the WLGA. 33 respondents agreed with, or were broadly supportive of, the approach outlined in the consultation, saying that this would help avoid duplication and ensure that CJsCs would be able to work effectively with the constituent councils. For example, the WLGA noted that *“some commonality, consistency and familiarity will support the transition of functions to CJsCs, and members’ and officers’ engagement and involvement between principal councils and CJsCs”*.

It should be noted that a number of those who agreed with the proposed approach were clear that this didn’t imply that they supported the creation of CJsCs. The remaining respondents either did not agree with the proposal or did not have a direct view.

Of those that agreed, a number of additional points were made:

- Some concerns were raised that structures should not duplicate existing governance and administrative arrangements at local or regional level and that any arrangements should be proportional to the role of the CJC.
- A few respondents took the opportunity to emphasise the need for appropriate scrutiny within any framework proposed and that where possible such scrutiny, including of standards, should seek to utilise local arrangements or work with those within the constituent councils. This was felt as key to help retain democratic accountability.
- A number of respondents were concerned about the additional cost burden a CJC might place on the constituent councils and the National Park Authorities. A number also drew particular attention to the potential additional costs of the mandatory executive officers.
- The importance of having sufficient structure and governance in place from establishment to reflect that CJsCs would be corporate bodies in their own right
- That any model or framework that is applied is proportionate and appropriate for the proposed functions and that CJsCs are not over-regulated and overburdened with significant duties more applicable to larger, much more complex bodies such as constituent councils.
- A number of respondents emphasised the importance of wider partnership working and stakeholder engagement within CJsCs. Some requested further clarity on the role of wider stakeholders on the CJC, referencing the approach within the Well-being of Future Generations (Wales) Act 2015 as a guiding principle to involvement.
- One respondent also noted that due to the possible implications on the shape of the workforce, it is crucial the workforce have appropriate representation and that trade unions are given a status on CJsCs.

Of those that disagreed the majority did so on the basis of disagreeing with CJsCs as a concept, considering them to be duplicatory; adding additional bureaucracy and

another layer of government; or moving decision making away from local communities. A number of additional points were made:

- That as CJC powers only relate to Economic Well-being, Transport and Strategic Planning, they therefore will not, and should not, have the same powers and duties as constituent councils.
- That the regulations were too prescriptive and that the benefit of CJCs could be delivered without creating new bodies with the same powers and duties as constituent councils.
- That a CJC should not be established as another tier of local government, but as a delivery vehicle for the delivery of services on behalf of constituent councils.

**Question 1b asked for views on CJCs having broadly the same governance and administrative framework as a constituent council, provided that this is proportionate.** There were 39 responses to this question, just under half of which were from local authorities or the WLGA. 29 respondents agreed with, or were broadly supportive of, CJCs having the same, but proportionate, governance and administrative framework as constituent councils. Some respondents noted that CJC's must be seen as a part of the local authority family, rather than as a separate entity, and that this would assist members and officers who have to work across both bodies.

As with question 1a above, a number of those who agreed with the proposed approach were clear that this did not imply that they supported the creation of CJCs.

Of those that agreed with the proposed approach, some respondents had similar concerns as for 1a in terms of potential duplication, cost etc. A number of additional points were also made:

- The importance of ensuring that the administration of CJCs was properly set-up and resourced. However, a number also noted that this should not be an additional burden on constituent councils, either financially or on the existing staff or senior officers (Chief Executives, Monitoring officers etc.).
- The importance that administrative arrangements are robust and transparent with clear democratic accountability to the constituent councils through, for example, effective scrutiny.
- The potential for some existing arrangements to cover both the CJC and constituent councils, for example standards committees and constituent councils' codes of conduct
- A number of respondents emphasised the need for proportionality with one suggesting that further guidance would be helpful to understand how the issue of proportionality could be effectively addressed.
- A number of respondents questioned whether the Public Services Ombudsman Wales' ethical standards regime would apply to CJCs.

As with 1a, of those that disagreed with the proposal, the majority did so on the basis of disagreeing with CJCs as a concept, considering them to be duplicatory, adding additional bureaucracy and another layer of government, or moving decision making away from local communities. A number of additional points were made:

- That CJsCs should only have the administrative and governance framework necessary to exercise functions and that a model constitution may be helpful in this case.
- That it would not be possible to make such arrangements proportionate to the functions of the CJC or to avoid duplicating local arrangements (for example, scrutiny)
- That Welsh Government should consider making Welsh the administrative language of CJsCs.
- Further clarity was needed on the relationship between CJsCs and constituent councils particularly in regards to scrutiny. Gwynedd County Council noted that *“A body exercising significant policy and strategy powers and allocating funding should be subject to overview and scrutiny and rigorous and independent decision-making arrangements”*.

**Question 1c asked if consultees agreed that members of CJsCs should have appropriate discretion on the detail of constitutional and operational arrangements.** There were 36 responses to this question, 20 of which were from constituent councils or the WLGA. Not all respondents provided a response to the question itself but, where they did, 27 broadly agreed with the principle of local discretion and flexibility in the detail of the constitutional and operational arrangements of the CJC.

Of those that agreed, the following points were made:

- Discretion needed to be framed within a clear and consistent framework and highlighted the importance of clarity on where local discretion was possible. Some felt the draft regulations provided an appropriate high-level framework, which could be further developed in statutory guidance to enable regional adoption of constitutional and operational arrangements as required and as approved by the CJsCs and constituent councils concerned. It is also worth noting however that some felt the regulations were already overly prescriptive.
- That local flexibility would enable CJsCs to build on the good practice that already exists in the regions and allow scope for the transition or transfer of existing regional constitutional and governance arrangements (such as those underpinning the current City and Growth Deals) into the proposed CJsCs.
- For CJsCs to be successful they needed to be shaped and driven forward by local government through its Elected Members.
- That flexibility would enable other bodies to be appropriately involved in the decision making and scrutiny of CJsCs. This would ensure appropriate accountability and oversight from the beginning.
- If the CJsCs are to have appropriate discretion on the detail of the constitutional and operational arrangements there must be a right of complaint for citizens with the appropriate interventions where necessary.
- There needed to be recognition that it will be challenging for CJsCs to establish the necessary arrangements particularly given the current Covid 19 crisis.

As with 1a and 1b above, of those that disagreed with the proposal for appropriate discretion on the detail of constitutional and operational arrangements, the majority did so on the basis of disagreeing with CJsCs as a concept. A few additional comments were included:

- That CJsCs should be consistent throughout Wales within the parameters of the regulations and the Local Government and Elections (Wales) Act 2021.
- That any discretion of CJsCs should be directed by the constituent councils only and not the CJC itself.
- That in the absence of draft Regulations of General Application, it was hard to say whether an appropriate level of discretion is being provided. This would cover for example the composition of scrutiny committees and effective scrutiny and Codes of Conduct.

## Consultation Question Two

### **Question 2 sought views on the areas to be covered by each CJC, as agreed by local government Leaders.**

There were 40 responses to this question. The majority of respondents agreed that the CJC areas put forward by local government Leaders were the most appropriate to reflect the functions being given to CJsCs. A number commented that the functions identified were the most appropriate to deliver within the regions, believing that there would be clear and unequivocal benefits of operating at scale providing these can retain clear alignment with local democratic accountability.

However, concerns were raised in relation to the CJC areas not matching the education improvement, Health and Social Care and National Park Authority footprints. It was also noted that the impact on the Welsh language needed to be considered.

The key points raised were:

- A number of respondents welcomed the alignment of the CJC areas with the current City and Growth Deal footprints. One respondent commented, "*This is the case for south east wales where there has already been debate and discussion on strategic planning and progress made in the transport arena*". However others thought applying the footprint to education improvement could be an issue in the South East where different arrangements currently operate.
- Some respondents highlighted the fact that the Brecon Beacons National Park will be included in three CJC areas. There were concerns that this could bring challenges of capacity for the Brecon Beacons National Park Authority. And could also result in potential difficulties when seeking to reflect three separate Strategic Development Plans in the Authority's own Local Development Plan.
- A few respondents highlighted a need for robust mechanisms to deal with cross-border issues with other CJsCs, and in particular with England.
- Some respondents expressed concerns about a lack of connectivity to local areas and that "consideration should be given to allowing CJsCs to develop in small geographical areas where needs are identified and different to other geographical areas". One respondent noted that they felt that the South Wales areas covered too many authorities and could therefore lead to 'red tape' issues. It was suggested also that Cardiff and Newport should form two areas.

- It was noted that more clarity on the relationship of CJsCs with NHS organisations would be welcome. One respondent posed the following questions “*Will CJsCs feature in the future Health and Social Care regional requirements as per the Social Services and Wellbeing Act? Could a CJC be created to undertake these functions or might they be covered by the CJsCs as currently proposed?*”
- The main objections to the proposed plans were in relation to Welsh language. A few respondents were of the view that that the position of the Welsh language would be weakened. One respondent felt that the CJC proposals were inappropriate and emphasised geographical stereotypes and the ‘North/South divide’. They also raised concerns about the divisions between the South East and South West CJsCs having a detrimental effect on the Welsh language and Welsh speaking communities if the internal language used by CJsCs were English.’
- The way the Regulations are framed will need to balance future flexibility whilst safeguarding democratic control.
- The proposals for areas will result in a considerable variation on population size but all CJsCs will have the same core organisational requirements, powers and duties.

### Consultation Question Three:

**Question 3 asked about the approach to developing the regulations for CJsCs. In particular the consultation sought views on the approach to the development of the Establishment Regulations and Regulations of General Application.** A number of respondents to both parts of question 3 noted that the Regulations of General Application were not currently available and felt that as such it was difficult to provide a balanced and informed view of the overall approach. Many welcomed engagement on, and sight of these, as soon as possible, particularly given the timescale for the establishment of CJsCs. In addition some felt it was important that this engagement included with other bodies who may need to advise CJsCs.

**Question 3a asked whether consultees agreed with the approach to the development of the regulations for CJsCs as outlined in this consultation.** There were 36 responses to this question, with 20 from local government respondents.

Of those who expressed a clear opinion, 15 agreed, or agreed in principle, with the approach and 6 disagreed. A number didn’t respond to the question but took the opportunity to object to the principle of CJsCs more generally.

Of those that agreed, a number of additional points were made:

- That regulations need to be clear and concise where possible.
- Some welcomed the level of consultation to date on the CJC proposals, although it should be noted that some thought there had not been enough. Many welcomed the opportunity to engage further on the development of the regulations.
- One response emphasised the need for trade union involvement in decisions around provisions for staffing and workforce and the importance of employees

receiving the same benefits and protections as those within constituent councils.

- That the timescale for the establishment of CJsCs was unrealistic, particularly given the impact of Covid-19.
- Agreement that the Establishment Regulations will need to set out the specific provisions relating to the governance, funding, staffing and functions of each CJC. However, there will need to be a general legislative framework within which each of the CJsCs will be required to operate, and these common requirements should, more appropriately, be set out in separate Regulations of General Application.
- Separating the approach between the two sets of regulations, whilst pragmatic, has made the overall context of CJsCs less clear. It was felt that detailed planning work might be difficult in the absence of the Regulations of General Application and a solution may be to move the first meeting date to allow for more time.

Of those that disagreed with the approach, the following comments were made:

- That the model and approach offered too much scope for CJsCs to take functions from the constituent councils as elected bodies.
- In the absence of draft Regulations of General Application to accompany the consultation document some were not able to say if the approach to developing the regulations was robust. In particular reference was made to the need for clarity on the approach to scrutiny, audit and accountability, and to democratic accountability.
- That the Establishment Regulations needed to define more clearly what the governance arrangements should be.

A number of additional general points were made in response to question 3a:

- As above, a number noted the timing challenge in view of the forthcoming Senedd elections and also the budgetary and operational challenges constituent councils are facing in responding to the Coronavirus Pandemic.
- Some respondents recognised the requirement for CJsCs to put scrutiny arrangements in place, but felt that the precise nature of these arrangements should be at the discretion of the CJsCs themselves. Some felt that the Regulations of General Application should however ensure any scrutiny committee does not include a member of the CJC, is politically balanced, and has access to appropriate independent advice.

**Question 3b asked consultees to provide any views they may have on the Regulations of General Application which might support their development.** It is important to note that the consultation was primarily focused on the CJC Establishment Regulations and that further engagement will be required on the Regulations of General Application.

A small number of respondents felt that the Regulations of General Application should have been supplied as part of the consultation and would welcome a timescale for the production of these regulations.

In total there were 33 responses to this question. The following key points were made (note we have not included responses that duplicate views provided in 3a, so these responses should be read together):

- That continued engagement is necessary to understand the content of the Regulations of General Application and the detail within those in terms of, for example, budgets, sub-committees, audit, statutory reporting requirements, scrutiny, code of conduct, engagement and involvement of communities and Town and Community Councils, and member training and development.
- Future engagement should include the potential for regional variance in the CJsCs and the additional powers and functions which could be included.
- When acting in a strategic planning capacity within National Parks that CJsCs must be subject to the same National Park purposes as National Park Authorities themselves. Where acting in other capacities, the Environment Act (1995) s 62 (2) duty should apply to Corporate Joint Committees.
- That there needed to be some clarity on how disputes would be resolved, both within the CJC and between the CJC and the constituent councils.
- A number of respondents felt that either the Establishment Regulations or the Regulations of General Application needed to provide for substitute members in the event of sickness or absence to ensure the CJC was able to continue its work.
- On the prohibition of a member of CJC staff being a member of a CJC, one of its constituent councils or a member of the National Park Authority, one respondent felt that there was a case for examining whether this should be extended to include organisations that may be co-opted, especially if they have voting rights.
- A number of respondents raised the issue of the wider public body duties, such as those under the Welsh Language Standards, the Well-being of Future Generations (Wales) Act 2015 and the Equality Act 2010.
- One respondent felt that specific provision should be included for health organisations to be involved in, or consulted, on decisions of a CJC where such decisions could have a direct or indirect impact on health or access to health services.
- One respondent also felt it may be useful for the Regulations of General Application to include provisions that enable and encourage the sharing of information and practices between the CJsCs.

## **Government response to views expressed in relation to Section Two: 'Approach to developing the Regulations'.**

The consultation responses have confirmed support for CJsCs being subject to broadly the same powers and duties as constituent councils; to have broadly the same (proportionate) governance and administrative framework; and to have appropriate discretion on the detail of constitutional and operational arrangements. We have taken on board these comments and will proceed on this basis.

A number of respondents stressed the need for proportionality in the governance and administrative framework and the need to utilise and not duplicate the existing arrangements within local government. The Establishment Regulations will continue therefore to provide the local flexibility and discretion called for, wherever possible, to enable CJsCs to determine the necessary proportionality. We have also heard from a number of respondents how important it is that CJsCs are able to work across boundaries and borders, to work with other CJsCs, and with other constituent councils or partners. We agree with the importance of this and will ensure the regulations provide for this flexibility.

The consultation responses have confirmed support for these CJsCs to be structured on the geographical basis proposed by local government Leaders – North Wales, Mid Wales, South West Wales and South East Wales. The Establishment Regulations will therefore be prepared on this basis. There were some concerns raised about the involvement of some National Park Authorities in more than one CJC; however there was also an acceptance that this would need to be the case for National Parks to maintain their current Local Planning Authority status in the Strategic Planning process.

Some respondents sought assurance on the wider use of the CJC model for example in Health and Social care. As is stated in the introduction to this section CJsCs offer a consistent approach to strategic planning and delivery at scale, where it makes sense to do so. A CJC will not be the only vehicle for local government collaboration, but will provide local authorities with a powerful new tool where appropriate. The CJsCs established as part of the Establishment Regulations will focus on the three strategic areas of Regional Transport Planning, Strategic Development Planning and Economic Well-being. Any additional functions will have to be subject to consultation.

The responses to the consultation generally agreed with the approach to the development of the regulations establishing CJsCs, and we will proceed on the basis of the Establishment Regulations setting out core provisions relating to the governance, funding, staffing and functions of each CJC, with supplementary regulations putting in place the general legislative framework these CJsCs will operate in. We intend to continue to work closely with local government on the detail of this legislative framework over the coming months.

Many of the points raised under these questions relate to specific issues which are explored under later questions – such as membership, scrutiny and accountability, and the duties a CJC should be subject to as a public body. Respondents also provided views on the effects that establishment of CJsCs would have on the Welsh language. These are addressed later in the summary of response.

More generally in this section, and in other sections, the respondents raised concerns over the pace of implementation of the CJsCs, in particular given the current Covid 19 crisis. This was coupled with a general request for early sight of the wider package of regulations which will underpin CJsCs. The Welsh Government recognise the challenging timescale and the additional challenge of responding to the Covid 19 pandemic. It is proposed, therefore, to review the requirement within the regulations for the first meeting, with a view to extending this as late as possible. Any extension will be subject to the limitations of the budget setting process for the 2022/23 financial year. In addition, it is intended to extend the commencement of the strategic functions until 2022. This will in effect delay the commencement of the delivery functions of the CJC and extend the time available for setting up and operationalising or implementing the CJsCs.

## **SECTION THREE: Governance and constitutional arrangements for CJsCs**

### **Consultation Question Four:**

**Question 4a asked whether respondents agreed with the proposed approach to membership of the CJsCs, including the co-opting of additional members.**

There were 39 responses to this question, with 24 broadly or fully supportive, 10 opposing the proposals and 5 responses providing comments on practical aspects of this proposal. The majority of responses were in favour of this proposal.

The main comments relating to this question were:

- How co-opted members might be drawn upon and whether there should be some expectation of consistency of membership across CJsCs. There were multiple requests for clear guidance and, in some cases, further regulations in relation to co-option.
- Some concerns over the role and voting rights of co-opted members as opposed to elected members of CJsCs.
- A small number were concerned about the power being invested in the Leader or one political party and the impact on democratic accountability.
- There were some requests for deputising arrangements to be allowed for CJC members.
- Community and Town Councils generally felt that they should be represented on the CJsCs.
- One respondent stated that the process for removing a co-optee needs to be made clearer.

More broadly, there were comments raised around securing diversity in the CJsCs, with one respondent suggesting that they should be equality-proofed. There was a suggestion that the full list of members – including co-opted members – should be published to ensure transparency.

**Question 4b asked for specific views on the role proposed for National Park Authorities (NPAs) on CJsCs.**

There were 30 responses to this question, with 23 expressing support, 4 disagreeing and 3 providing comments without expressing a view. The majority of responses were in favour of the proposal.

The main comments from responses were:

- Concern over the impact on the Brecon Beacons National Park, which would cover 3 of the proposed CJC areas. Some felt that this should, therefore, be excluded.
- One respondent was concerned that this approach could effectively give a constituent council an extra vote, where they are a large part of an NPA and debating large scale developments under the Strategic Development Plan (SDP).
- Some of those who expressed support noted that they felt that NPA membership should be constrained to matters of the SDP only. However, one

response noted that they could add value to items of broader economic well-being.

- Those against were either against the premise of CJs or felt that NPAs should not have voting rights.

### **Consultation Question Five:**

#### **Question 5a asked for views on the proposed approach of ‘one member one vote’ and the flexibility for CJs to adopt alternative voting procedures.**

There were 34 responses to this question. 24 responses agreed or broadly agreed with the proposals, seven were opposed and four provided comment only. The majority of responses supported the proposal.

The main comments relating to this question were:

- The success of the Cardiff Capital Region City Deal arrangements, which operates on a one member one vote policy.
- It was strongly suggested that flexibility should be built into the procedures to introduce alternatives should the CJC membership deem appropriate.
- It was acknowledged that one member one vote will be simpler for South West Wales and its four members compared with the situation for larger CJs.
- Several responses stated that voting procedures should be standardised. However, around the same number noted that CJC members should have a say on the voting mechanism.
- A concern was expressed around co-opted member votes outnumbering that of elected officials

#### **Question 5b asked whether respondents supported the proposal for quorum of CJs.**

There were 29 responses. 26 agreed, 2 disagreed and 1 response provided a comment without expressing a view. There was a clear majority in favour of this proposal.

2 responses drew attention to the need for deputising arrangements, particularly where the membership of the CJC was very small. In that instance, even a single absence would lead to a meeting not being quorate.

#### **Question 5c asked for views on the proposed approach to voting rights for co-opted members to a CJC.**

There were 31 responses. 14 responses expressed support, 12 did not support the proposal and there were 5 comments which did not express a clear view. A slight majority expressed support for this proposal.

The main comments were:

- More than one-third of respondents felt this should be a matter for the individual CJC.
- Concerns around the voting rights of co-opted members and whether this should be limited. There was concern that co-opted members’ vote might outnumber than of elected members.

- One response felt that the quorum should be based on constituent council members only.
- The importance of appropriate overview and scrutiny arrangements should be paramount, ensuring local accountability and good governance is maintained.

### Consultation Question Six:

#### **Question 6 asked whether CJsCs should be able to co-opt other members and/or appoint people to sit on sub-committees.**

There were 38 responses to this question. 27 broadly supported the proposal, 3 were against and 8 offered comments.

The main comments received were:

- Whilst there was general support for the principle of additional members for the insight they can offer, there were concerns around the voting rights of co-opted members.
- Around five responses commented that co-opted members should have no voting rights. Other responses wanted to secure that elected officials would be in the majority on sub-committees
- There were some concerns that this could be misused by some Leaders to appoint co-opted members to secure votes.

### Consultation Question Seven:

#### **Question 7a sought views on whether respondents agreed that the approach to co-option of members would enable wider engagement of stakeholders in the work of a CJC?**

There were 35 responses to Question 7a. All constituent council respondents were in favour of the involvement of a wide range of stakeholders in the work of the CJsCs. All but one felt that stakeholders with the necessary expertise and experience should be involved in advising and assisting in the work of the CJsCs; the one which expressed an alternative view felt this involvement could be achieved through proactive consultation.

However, the majority of constituent council respondents also raised concerns that if wider stakeholders were to be formally co-opted on to the CJsCs, this would have significant implications in terms of accountability and governance. There was a strong local government view that only those people who had been democratically elected should be official members of CJsCs with voting rights. Therefore, the majority believed that partners and stakeholders should be engaged and involved in the development of policies, strategies and the decisions of CJsCs without being officially co-opted as members. Or, if external stakeholders were co-opted, then voting rights for co-opted members should be limited to those who can be classed as a member of the local government family.

A number of constituent councils also cited examples of where the involvement of their wider stakeholders was welcomed and encouraged in their work and where this could apply to CJsCs. This included the current use of advisory boards and project

teams at both constituent council and regional levels. The Cardiff Capital Region City Deal was highlighted as having a range of advisory boards and sub-committees, with members drawn from all sectors, providing advice and making recommendations to the regional Cabinet. Similarly for the Business Delivery Board, which advises the North Wales Economic Ambition Board. There was a suggestion that stakeholders and partners could take part in scrutiny sessions and in task and finish groups, providing evidence and expert advice.

The view from other stakeholders was mixed in terms of the capacity in which stakeholders would be involved in CJsCs. The majority of stakeholder respondents welcomed the ability for partner organisations to be co-opted to be sub-committee members, or to be involved in an advisory capacity.

Stakeholder organisations generally supported the flexibility to allow CJsCs to co-opt wider members as appropriate under local discretion, but whilst the details of what that would look like could be determined locally, there was one view expressed that the principle of involvement should be set out in the guidance.

Another suggestion was that specific training should be provided for co-opted members and potential stakeholders so they could understand the legal framework within which local government and CJsCs operate, thereby understanding the extent of their own involvement.

Caution was raised by one member of the public to ensure the appropriateness of any co-opted stakeholders to mitigate against any conflict of interest.

Ultimately, the majority of respondents felt that in line with the draft regulations the issue of co-opting of members should be a matter for CJsCs to determine, with two seeking Welsh Government guidance.

### **Question 7b sought views on what might be needed to support CJC members in the involvement and engagement of appropriate stakeholders in their work.**

There were 33 responses to Question 7b.

The following key points were made:

- The need for clearer direction in the regulations on co-option.
- Stronger guidance on the participation of (and consultation with) all stakeholders and population groups (including those with protected characteristics under the Equality Act) and options for effective scrutiny. Some felt that there should be clearer linkages to the public participation strategy in the Local Government and Elections (Wales) Act 2021.
- The ability to benchmark against exemplar authorities that have already successfully undertaken this approach to involvement and engagement, training and clear expectations.
- Member development: guidance on clarity on involvement of stakeholders and engagement with CJsCs. Although some noted that elected members will already be familiar with the ways of working under the Well-being of Future Generations (Wales) Act 2015, particularly in relation to collaboration, involvement and taking an integrated approach.
- Need to ensure appropriate induction and training of CJC members. This will be particularly important for Strategic Development Plans.

- Welsh Government funding of set up costs for CJsCs.
- Involving partners at an early stage, not seeing that involvement merely as an ‘add on’ or optional activity. Respondents also felt that Stakeholder engagement strategies would be useful with access by the CJC to Engagement Teams and associated resources from the constituent councils or co-opted members.
- One local authority believed the regulations should consider allowances for co-opted members
- Opportunities for stakeholders to respond to consultations and submit comments to CJsCs should be well publicised. It would also seem appropriate to require CJsCs to have websites to publish their reports and consultations electronically and to give notice of public meetings.

The Welsh Language Commissioner stressed the importance of ensuring the engagement of local and national bodies working to promote the Welsh language, including consideration of the effects of policy decisions on the Welsh language.

The Auditor General commented that the Audit Wales ‘*Effectiveness of Local Planning Authorities in Wales*’ report identified issues with stakeholder engagement and it recommended that local planning authorities improve transparency and accountability by holding planning meetings at appropriate times, rotating meetings to take place in areas which are subject to proposed development, webcasting meetings and providing opportunities for stakeholders to address committee meetings. Whilst the comments were directed at local planning authorities, Audit Wales considers that similar approaches may be helpful for CJsCs.

### Consultation Question Eight:

**Question 8a asked whether members and staff of a CJC should be subject to a Code of Conduct, and if so whether it should be similar to that of constituent councils.**

There were 35 responses to question 8a, 33 of which were in favour of members and staff of CJsCs being subject to a Code of Conduct and that the code should be similar to that of constituent councils

The key points raised were:

- It is essential for public services to be democratically accountable to the public.
- To ensure transparency in participation and accountability it is appropriate that a code of conduct is adhered to. Members are already subject to a broadly consistent model code which has been adopted by each constituent council in Wales and which underpins City and Regional consortia arrangements. A Member/officer protocol should also be considered.
- Concerns raised about having dual codes leading to confusion if one is changed.

**Question 8b sought views on the adoption of a Code of Conduct for co-opted members.**

There were 35 responses to this question, 33 of which were in favour of adoption of a Code of Conduct for co-opted members.

The key points raised were:

- Co-opted members should be subject to the same Code of Conduct and ethical framework as elected members, and same as the constituent councils.
- The approach needed *“to be consistent with the high levels of standards expected in a local government setting.”*

**Question 8c sought views on whether all co-opted members, with or without voting rights, should be subject to the same Code of Conduct.**

There were 33 responses to this question, with 30 responses being in favour of all co-opted members being covered by the Code.

The key points raised were:

- Several responses identified that co-opted members without voting rights should also be subject to the Code of Conduct as they may influence the decisions of members with voting rights through their participation in committee discussions.
- However, one respondent stated that co-opted members with no voting rights are not exercising any democratic decision making power and therefore should not be subject to the general standards of behaviour set out in the members' Code of Conduct.

### **Government response to views expressed in relation to Section Three: 'Governance and constitutional arrangements for CJsCs'.**

The responses to the consultation expressed high levels of support for the proposed approach to membership of CJsCs, including in relation to the role of the National Park Authorities and the Strategic Development Plan. No changes are proposed as a result. Following a number of responses however, the Establishment Regulations will be amended to provide for substitutes / alternates to attend in the place of the leaders in the event of absence. Local authorities in particular considered that the regulations should specifically allow for substitute members to enable the work of the CJC to proceed in the event of absence.

In terms of co-option, the Establishment regulations are clear that it is the constituent councils who will determine who they co-opt, and on what basis. Voting rights of co-opted members, will be at the discretion of the CJC, taking into account that the number of votes of co-opted members must not exceed those of constituent council members. This is a position endorsed by respondents particularly to retain democratic accountability. The majority of respondents expressed commitment to engage with, and involve, other partners and stakeholders in the work of the CJsCs. The Establishment Regulations will therefore provide for the co-option of other people as proposed.

The consultation responses expressed high levels of support for the proposed approach of 'one member one vote' and the local flexibility for CJsCs to adopt alternative voting procedures. Out of the 34 responses to this question, 24 responses agreed or broadly agreed with the proposals, seven were opposed and four provided comment only. The Welsh Government is conscious of the strength of feeling that this issue attracts and will ensure that the regulations provide sufficient flexibility for CJsCs to be responsible for agreeing their own arrangements on this issue.

Statutory guidance (issued under part 5 of the Act) will provide further advice for CJsCs on consideration of wider involvement of partners in their work, including on cross border issues. The intention, as outlined in section seven of the consultation paper, is for the requirements of the Well-being of Future Generations (Wales) Act 2015 to apply to CJsCs as they do to its constituent councils and so the ways of working around collaboration, involvement and taking an integrated approach will be particularly important to consider. The Local Government and Elections Act 2021 requires constituent councils to prepare a publication strategy; this duty will equally apply to CJsCs.

Consultation responses were almost unanimously in favour of members and staff of CJsCs being subject to a Code of Conduct and that the code should be similar to that of constituent councils. This is in line with the draft regulations. The intention is that members of a CJsCs will, through the general regulations, be brought within the ethical framework as set out in the Local Government Act 2000. In addition, in the absence of, or until a CJC adopts its own code of conduct, the members of a CJC will be subject to the Model Code of Conduct as set out in the Local Authorities (Model Code of Conduct) (Wales) Order 2008.

Whilst it was not unanimous a number of responses felt that co-opted members (with or without voting rights) should also be subject to the same code as CJC

members. It is intended that in applying the ethical framework to the CJC members this will also be applied to co-opted members.

## SECTION FOUR: Finance, funding and budgetary matters

### Consultation Question Nine

**Question 9a asked for views about the proposed approach to determining the budget requirement of a CJC. Question 9b sought views on the proposed timescales for setting the budget requirements payable by constituent councils, including the provisions proposed for the first year.**

There were 35 overall responses to Question 9 although a few respondents chose not to respond to part b of the question.

The majority of responses to **question 9a** suggested a lack of understanding of the proposed arrangements for funding CJsCs and included requests for clarity on funding arrangements. The focus of responses was more around concerns for how costs would be met, rather than how budget requirements would be determined.

Several respondents took the opportunity to question whether this was the best use of available resources and suggested the 'extra layer' will reduce constituent councils' flexibility to deliver services and restrict potential for budgetary savings.

The key points were:

- A number of constituent council responses stated concerns that CJsCs have the ability to set their budgets without the need for endorsement or to be ratified by the constituent councils.
- Several respondents conveyed concerns about how constituent councils are expected to fund the CJC from existing resources.
- Some responses suggested that costs in the first year should be covered by specific grant funding and one suggested any ongoing financial impact should be reflected in future Local Authority Funding Settlements.
- The National Park Authorities' response expressed specific concerns that the CJC is able to set its own budget and set contributions from NPAs without the involvement of the NPA in any related decisions.
- The WLGA response suggested mandating the CJC to consult with constituent councils about the budget requirement and seek the views of constituent councils' S151 Officers.
- The Auditor General suggested there will be an increase in audit costs if, as suggested in the consultation document, there is an intention to extend the audit beyond consideration of whether a lawful budget has been set.
- Only one response opposed the power for Welsh Ministers to direct the amount payable in the absence of an agreement.

The key points made in response to **question 9b** were:

- The importance of early engagement with the constituent councils on budget setting.
- Just over half of respondents suggested the timescale for setting a budget requirement by 14 February was challenging or difficult. Many respondents suggested 31 January would provide better alignment with existing local authority timescales.

- In regards to the first year, the majority of respondents suggested that the timescale of setting a budget requirement within 2 months of the first meeting was unrealistic, problematic or challenging.
- Several authorities suggested that it would be unreasonable to accommodate requests for funding from the CJC part-way through the financial year.
- Several respondents, including the WLGA, suggested that Welsh Government funds the first year to simplify the process and remove any budgetary uncertainty at a time of significant pressure.

## Consultation Question Ten

**Question 10 asked specifically if respondents agreed that CJCs should be subject to the same requirements as constituent councils in terms of accounting practices and the detail of how a CJC manages its accounting practices should be included in the Regulations of General Application.**

There were 36 overall responses, all of which agreed and fully supported the proposals.

- In supporting the requirement, one respondent highlighted however the additional costs involved in maintaining accounting records, preparing/auditing accounts for the CJCs whilst the costs of preparing constituent council accounts won't reduce.
- The point was also made that it was important that CJCs should be required to meet the same accounting practices as constituent councils for public confidence and transparency in relation to services that will only be delivered by the CJC. This is also important for functions that it delivers concurrently with constituent councils.
- It was agreed that the detail would be more appropriate to be included in the Regulations of General Application.

## **Government response to views expressed in relation to Section Four: 'Finance, funding and budgetary matters'.**

During the wider engagement on budgetary matters, feedback suggested that it would be beneficial to the constituent council budget setting process if the budget setting date for the CJC (drafted as 14 February) was brought forward, a view echoed by some of the respondents to the consultation. It was felt that this would provide more time for the constituent councils to take account of the CJC budget in their own budget setting processes. It is proposed therefore to amend the Establishment Regulations so that the date the CJC budget requirement has to be set by provides better alignment with existing local authority timescales and ensures that constituent councils have sufficient to time to consider the CJC budget as part of the process of finalising their own.

It is recognised that the requirements for budget setting provides for the budget for the 2022/23 financial period, and each subsequent financial period. This will ensure that the CJC has the budget it requires to deliver its public facing functions, when commenced (discussed elsewhere in this document).

While it might be possible for the constituent councils to agree the necessary budgets for the implementation of CJCs in the 2021/22 financial period it is recognised that this may be difficult given that budgets for this year would already have been agreed. As indicated in the consultation paper, the Minister for Housing and Local Government has committed to support local government in establishing these CJCs, including supporting CJCs with set up costs in 2021/22. We will continue to work with constituent councils to explore how we might support CJCs in this implementation period.

The consultation responses unanimously agreed that CJCs should be subject to the same requirements as constituent councils in terms of accounting practices.

## SECTION FIVE: Staffing and workforce matters for CJs

### Consultation Question Eleven:

**Question 11 sought views the proposed approach to staffing and workforce matters.** There were 35 responses to this question.

The vast majority of respondents were in favour of the proposed approach to staffing and workforce matters. There was general agreement that CJs needed to be adequately budgeted for and resourced, and that consistency with constituent councils is important, although a number of obstacles to this were highlighted (see below).

A number of respondents agreed that the CJC should be able to have flexibility to recruit, loan or second staff as is outlined in the consultation.

Other key points included:

- That discretion and flexibility was thought to be essential for CJs to optimise staffing capacity and capability requirements so that the rights skills and experiences would be in place when needed by CJs.
- That service level agreements or similar arrangements are likely to feature as one of the methods used to provide some elements of staffing and capacity to the CJs. However whatever the employment model, it was agreed essential to ensure that statutory requirements are fulfilled including TUPE.
- The varied terms and conditions across the constituent councils was raised as, whilst broadly similar, they do differ, including in relation to job evaluation and pay structures. Therefore, equal pay considerations should be taken into account and considered at the outset.
- However, some respondents thought that some flexibility may be needed with regards to remuneration if these bodies are to be able to attract the necessary calibre of staff to operate within a UK and global marketplace. Some suggested that the CJC should adopt the most favourable terms and conditions of its constituent councils aligning with Welsh Government's fair work agenda and minimise the risk of equal pay implications.
- Pension provision also needs to be considered (although some felt that if CJs were part of local government family staff were likely to retain existing pension).
- Some Members raised concerns about job security and were keen for the CJC workforce to be protected in the same manner as those employed by constituent councils.
- A number of authorities raised concerns about staff within constituent councils taking on additional CJC duties and the burden this might place on authorities. There was a view raised that expecting existing senior officers to pick up the executive officer roles in CJs is unrealistic. In this case, it was felt necessary for CJs to be able to employ and recruit staff in their own right.
- Concerns were raised about the cost of additional officers for CJs and also the potential drain on the capacity of local authorities. There was also a view that overall staffing levels should not be increased. Two respondents also made the point that they agreed with the proposals on staffing only on the basis that the associated costs do not increase above those stated in the Resource Impact Assessment (RIA).

- Language skills are to be considered where CJsCs are working alongside authorities that work mainly through the medium of Welsh, and those further developing their Welsh speaking provision.
- There were two trade union responses received, both broadly supportive of the sentiments outlined in the consultation, although emphasising the need for stronger guiding principles that would better guard against the risk of a two-tier workforce and ensure that all workers would be treated fairly and equitably, with no individual suffering detriment as a result of the establishment of the CJsCs. The trade unions also called for unions to have a mechanism to formally engage in CJsCs.

### Consultation Question Twelve:

**Question 12 sought views on the proposals for CJsCs to be required to have, or have access to, statutory “executive officers”.** There were 36 responses to this question.

In summary, there was overall agreement that a CJC should be required to have, or have access to, a Chief Executive, Chief Finance Officer and Monitoring Officer. However, there was disagreement in terms of how these should be filled, as outlined below. A few authorities queried the need for a separate post of Chief Governance Officer as they felt the duties of the role were not clear from the regulations and there may be duplication with the Monitoring Officer role.

The disagreements around how the executive officer roles should be filled centred around two main areas:

- Some respondents felt that direct recruitment by the CJC into these posts would cause unnecessary cost, duplication and an additional tier of bureaucracy, so the expertise should be provided by the constituent councils.
- Conversely, however, other respondents felt that CJsCs should make separate appointments into these posts as existing executive officers from constituent councils would not have capacity to take on the additional roles and were concerned about officers having ‘two-statutory hats’.

There was also a view that existing city and growth deal arrangements and staffing structures might accommodate these key positions without the need for additional appointments.

The WLGA response included the following observation: *“The creation of new corporate bodies will mean new complex relationships for leaders and any professional officers employed by or appointed to CJsCs, managing their ‘dual’ roles between their CJC and their own local authority. The deployment or employment of staff with similar statutory roles or specific professional responsibilities (in economic wellbeing, planning and transport) in CJsCs, particularly where relevant statutory duties or concurrent functions remain within local authorities, will need to be carefully managed to ensure constructive relations and clarity of respective remits and roles”.*

There were some suggestions that sufficient resources should be made available to constituent councils to ensure that funding and/or resources are provided to backfill on work commitments.

### **Consultation Question Thirteen:**

**Question 13 asked respondents whether they had any other views on the provision for staffing or workforce matters within the establishment regulations.**

There were 18 responses received to question 13. Most of the views expressed in relation to question 13 had already been expressed under question 11 or 12, so have not been repeated here. The points made here are in addition to those expressed earlier.

It was highlighted that the CJC may be an attractive employment option for capable and experienced staff, but also that salaries should not be inflated above those of similar posts in constituent councils that is at a broadly similar grade for similar posts.

Remote working for CJC workforce should be considered to aid flexibility, be more environmentally responsible, and enable greater diversity and equality of opportunity through potentially attracting a wider field of applicants.

Trade union comments included that CJsCs present an opportunity to better establish the principles outlined in the Ethical Procurement code of practice and they should be directed to fully participate in social partnership arrangements. Trade unions wish to have formal representation on all CJsCs, on a non-voting basis, and to be co-opted onto relevant sub committees.

The Social Partnership approach described between the CJC and recognised Trade Unions was welcomed, with a view this would be best achieved through guidance.

## **Government response to views expressed in relation to Section Five: 'Staffing and workforce matters for CJs'.**

The draft Establishment Regulations provided for local discretion for each CJC to make its own arrangements to have, or have access to, the statutory executive officer functions as appropriate. The regulations also provided local discretion on the manner in which staff were to be engaged, including through loans, secondments, direct employment or other arrangements as deemed appropriate by the CJC. It is anticipated that such arrangements might evolve over time as the CJC develops and begins to deliver its key strategic functions. Respondents largely agreed and welcomed this flexibility although there was some concern where this might involve sharing of resources and the availability of spare capacity in local government. As a result of the feedback, it is therefore not intended to change the general approach to staffing of CJs in the Establishment Regulations; however, the Welsh Government will continue to work with constituent councils and CJs to monitor the issue on overall sector capacity.

Also, as a result of the views expressed during this consultation, we will be removing the proposal for a separate Chief Governance Officer as advice from constituent councils and the WLGA was that these duties would be better absorbed into the role of the Monitoring Officer. In addition, Welsh Government is giving consideration to how the Executive Officer roles are provided for, and their functions expressed, whether through the Establishment Regulations or the package of general regulations which will underpin the CJs.

Social Partnership is a key element of how public service organisations work in Wales and the Welsh Government is committed to the principles of Social Partnership. The principles of social partnership will equally apply to the work of the CJs. These principles are a key element of how public service organisations work in Wales, and will be equally applied to the work of the CJs. Officials will work with Trade Unions on the development of relevant elements of the statutory guidance for CJs, which will include guidance on Trade Union involvement and the principles of social partnership.

Respondents felt that it was important that the CJC workforce had the same protections as currently afforded to those within constituent councils. We agree with this and these issues will be addressed within the general regulations which will accompany the CJC regulations. Officials will continue to work with the WLGA, Human Resources leads from constituent authorities and the Trade Unions to ensure staff are protected throughout this process. Trade Unions will continue to undertake their role in staff negotiations and staff representation.

The regulations will provide that the provisions in law relating to staffing which apply to constituent councils will also apply to CJs.

## SECTION SIX: The functions to be exercised by the CJsCs

### Consultation Question Fourteen:

**Question 14a asked whether it was clear in the consultation document and Establishment Regulations what functions the CJsCs will exercise as a result of these regulations.** Where this was not clear, the consultation asked for views on why this might be the case.

There were 40 responses to the question although a small number did not reply directly to the question but took the opportunity to include related views. A small number again objected to the general principle of CJsCs.

Of those that responded, 24 believed that the Establishment Regulations were clear or generally provided clarity on the functions to be exercised by CJsCs. Of those that thought the regulations provided clarity, the following key points were also made:

- Further clarity is needed on some key areas:
  - Details around expected delivery of the functions and associated timelines.
  - The relationship between the functions and national plans such as the Wales Transport Strategy.
  - The Economic Wellbeing function and how this would work, both in terms of concurrence with the constituent councils and also evolving existing City and Growth Deals into CJC arrangements.
  - Where decision making will lie for each of the functions, whether with CJsCs and/or constituent councils.
  - Some felt the functions may need further clarification over time and as the CJsCs are established.
  
- The importance of further consultation if any additional functions were to be added to a CJC, including the Improving Education function
- That any expansion of CJC functions should reflect effective evaluation and scrutiny of the initial functional responsibilities.
- The importance of capacity in the system for the CJC to be able to make a difference and deliver its functions.
- Some respondents felt that additional consideration was needed by the Welsh Government on the impact that CJsCs will have on other Welsh Government bodies, for instance, Transport for Wales. Also that further clarity was needed on the relationship with other bodies such as Regional Partnership Boards and Public Service Boards.

Of those that felt that there was insufficient clarity or who did not comment directly on the issue of clarity the following key points were made:

- Clarity was needed on what, if any, other / future functions a CJC might be responsible for.
- Concern that transition of functions to a CJC would erode local democracy and place additional cost burdens on constituent councils.

- That the timescale for the delivery of functions was challenging and consideration should be given to delaying the date upon which they will discharge their functions until May 2022.
- Some felt the scope of the functions was yet to be determined and required significant additional clarity although it should be noted that there was no clear view on exactly what is needed to provide this clarity.

**Question 14 b asked if the establishment regulations needed to say more on concurrence, and if so what, or if this should be left to local determination.**

30 responses were received to this question, with some agreeing that concurrence and clarity on this were important. Of those who responded directly to the question, 16 believed that the Establishment Regulations did not need to say more on concurrence. The majority of these thought that such matters were best left to local discretion and determination by the constituent councils and/or the CJC. However, the following key points were also made as part of these responses.

- The link between the Strategic Development Plans and the Local Development Plans needed to be clearer with clarity on where the responsibility of delivery of the plans actually rests.
- Any further clarity could be provided in the Regulations of General Application or in guidance and that both should be developed in co-operation with constituent councils.
- Local determination would ensure maximum flexibility to adapt to local needs or to respond to changes which might arise from local government elections.
- Whilst concurrence should be left for local determination, a process around how agreement might be sought and on dispute resolution may be useful.

It is worth noting that 6 respondents believed that further clarity was required within the Establishment Regulations and/or any statutory guidance, including through the provision of a model scheme of delegation. These respondents felt it was unclear also on how the CJC would interact with constituent councils more generally. One respondent sought assurance that the CJC would not fetter or diminish the powers of constituent councils where there was concurrence. Some felt that greater clarity was needed on the functions before concurrence could be considered. In particular a small number felt further clarity was needed on the concurrent operation of the Economic Wellbeing function and the relationship with the City and Growth Deals.

**Question 14c asked whether respondents thought there were any functions which might be appropriate to add to the proposed CJsCs in the future.**

There were 32 responses to this question. 24 respondents were clear that no further functions should be added or that they could not suggest any at this stage (this includes those who object to the principle of CJsCs). Some felt that this was a matter for the constituent councils to consider. These respondents also felt that any additional functions should not be considered until an evaluation of the current proposals had taken place and should be the subject of consultation with CJsCs, constituent councils and stakeholders. They also felt that this should be a matter for local discretion. A number sought further clarity on the Improving Education function and how this might work if transferred to a CJC, with the existing consortia and education arrangements pre and post 16.

A number of respondents suggested possible additional functions, including:

- The apportionment of mineral extraction and the responsibility for the revision of the Regional Technical Statements.
- Flood defences, sustainable energy, food systems and decarbonisation.
- Addressing the skills agenda in terms of skills shortages and employability.
- One respondent felt that consideration should be given as to whether bodies such as Natural Resources Wales, Business Wales and Public Health Wales, and the functions they exercise, could be brought under the remit of a CJC vehicle.

However, even where additional functions were suggested the need to evaluate the current proposed functions before further functions are transferred to a CJC was also emphasised.

### 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?**

**Question 15** explored further the nature of the functions of CJCs, including those relating to its governance. The question sought views on whether the regulations should provide for anything to be a decision reserved to the CJC rather than being delegated to a sub-committee. The consultation suggested that such a prohibition on delegation might include 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.

31 responses were received to this question, 20 of which agreed with the proposal in the consultation document that delegation should be restricted for the above areas.

In addition, these respondents stated that:

- The approval of accounts for audit should be reserved to the CJC.
- CJCs should make schemes of delegation which should comply with Section 101 of the Local Government Act 1972. To maintain integrity, the making of such schemes should not be delegated.
- Final ratification of plans should be undertaken by the constituent councils.
- Further guidance would be helpful to understand the scope, remit and governance of sub-committees.
- Regulations should provide as much flexibility as possible for local determination of delegations.
- Where other general local government legislation is applicable to CJCs, it would be sensible that matters which are reserved to constituent councils should also be reserved to CJCs.
- Decisions on the appointment of senior executive officers, including the Chief Executive, Chief Finance Officer and Monitoring Officer, should be reserved to the CJC.

A number of respondents felt that all decisions should rest with a CJC or that the Establishment Regulations should leave all such matters to the CJC to consider and not prohibit delegation in any way. Some felt that decisions on matters such as the

budget should be based on a unanimous decision by the constituent council members.

A small number of respondents felt that decisions in relation to governance, structure, budgetary matters and strategic plans should be left to the constituent councils. One respondent felt that schemes of delegation should be in place from the start to determine which decisions are able to be made by sub-committees.

### **Consultation Question Sixteen:**

#### **Question 16 sought views on the approach to transfer of the exercise of functions to CJsCs.**

33 responses were received for this question, 19 of which were from constituent councils or the WLGA.

The majority of responses related to the need for a sufficient development and transfer period, with a realistic timetable, in order to enable the effective and smooth transfer of the exercise of functions to CJsCs.

A numbers of respondents also felt that the transfer of the exercise of functions to CJsCs should be considered and progressed on a regional and/or local basis. Some also felt it was important to avoid duplication of functions, stressing the importance of adequate resourcing locally and regionally, whilst being mindful of demands on capacity (especially during the Covid-19 pandemic). Some constituent councils raised caution that the establishment of, and transition to, CJsCs could affect and undermine the progress of recently agreed Growth Deals which have taken several years to develop.

One respondent felt that moving from the current structures to CJsCs will require active and strong leadership, and that such change should be appropriately managed by leaders equipped with the skills to do this as smoothly as possible. They also suggested that the workforce will need clarity and reassurance on what the change to CJsCs will mean for them.

The National Park Authorities also requested further clarity in order to understand staffing and resource implications. Similarly, Natural Resources Wales also stated that having additional information on their future role and commitments would be important.

The WLGA noted that CJsCs are likely to be in existence for a period of time as a 'committee' in order to agree governance and financial arrangements ahead of them having the organisational capacity into which functions can be transferred or introduced.

A number of responses also suggested that Regional Transport Plans would need a period of transition from the current Local Transport Plan approach. There is also a need to understand whether Local Development Plans would need to change to reflect Strategic Development Plans. One response noted that the Strategic Development Planning function is not currently discharged by constituent councils as it does not currently exist.

The West Wales Regional Transport Group felt that the smooth transfer of functions to the CJC will be critical to its success and this is one of the most important questions in the consultation. They stated their confidence that all constituent councils will work constructively together to make this transition as smooth as possible and that this will be achieved through dialogue and effective project management. They also agreed that it may be practical to transfer some functions after the CJC has been set up. However, key legislative functions of the constituent councils should remain with participating councils but with an obligation for matters to be considered and discharged by CJsCs.

There was also a request for further clarification regarding Education Improvement.

## **Government response to views expressed in relation to Section Six: 'The functions to be exercised by the CJs'**

One of the main concerns expressed within and across the consultation was the issue of the challenging timeline for the implementation of CJs and commencing the delivery of the functions. As a result of this, we are intending to delay the commencement of the functions of CJs until 2022. This will give considerably more time for CJs to consider transition arrangements and to put relevant governance arrangements in place before being required to deliver their functions.

As a result of consultation responses and further discussions with stakeholders, consideration is being given to transitional arrangements for the functions, particularly in relation to Regional Transport Planning. The delay of the commencement of the functions will allow for a longer transition period and more detailed discussions, including at a regional level, to take place. It is intended that further guidance will be provided on the exercise of the Strategic Development Planning and Regional Transport Planning functions and the respective national frameworks.

Some respondents also raised the issue of concurrence that is how the CJC duties will work with or alongside the duties which remain with the principal councils. Most agreed that this was an issue which should be determined locally although some thought more guidance was needed. We will continue to work with local government to explore how best to support these discussions. At this stage no changes are proposed for the Establishment Regulations to address the issue of concurrence.

The consultation also asked if some decisions, such as those adopting or agreeing strategic plans should be decisions which are reserved for the CJs. Respondents generally agreed that the agreement of budgets and accounts; adoption or approval of plans or strategies (including the Regional Transport Plan and Strategic Development Plan); consideration of any reports required by statute; matters relating to the Constitution and co-opted members; appointment of Executive officers; and scrutiny arrangements should all be reserved. As a result of this feedback, regulations will provide for such decisions to be reserved matters and must be made by the CJC alone and cannot be delegated to a sub-committee.

Finally some respondents asked questions on if further functions were to be added and how, including any proposals for Improving Education. The Act provides two routes for functions to be added to CJs, at the request of principal councils or at the instigation of Welsh Ministers. Both routes require regulations to be made and any regulations must be consulted on. There are currently no immediate proposals by local government or Welsh Government to add additional functions. Many respondents felt it appropriate to implement the current proposed CJs before considering adding further functions.

## SECTION SEVEN: CJCs and duties as a Public Body

### Consultation Question Seventeen:

**Question 17 sought views on CJCs being subject to wider public body duties as described above.**

There were 36 responses to this question, with 29 in support, 3 against and 4 providing comments only. There was a clear majority in favour of this proposal.

Additional comments includes:

- Suggestions of duties that CJCs should be subject to, and documents which they should have regard to. Example duties include:
  - The Well-being of Future Generations (Wales) Act 2015
  - Planning (Wales) Act 2015
  - The Equality Act 2010
  - The Welsh Language Standards
  - The Welsh Language Measure 2011
  - The Environment Act 1995
  - The Environment (Wales) Act 2016 (Section 6)
  - The Children and Families (Wales) Measure 2010
- Examples of other documents include the *State of Natural Resources* Report and Natural Resources Wales' Area Statements.
- It was suggested that CJCs should be included as a "listed authority" in the PSOW Act 2019 to enable uniformity of approach with constituent councils in Wales.

### **Government response to views expressed in relation to Section Seven: 'CJCs and duties as a Public Body'.**

The responses have confirmed that, CJCs should be subject to the wider public body duties set out in the consultation paper, some also suggested that these public bodies should apply from the outset wherever possible. We are currently exploring making the necessary changes where relevant / possible alongside the establishment regulations. For some of the duties it may be more appropriate to make the necessary changes as part of a package of regulations alongside the establishment regulations, others will be applied at a later stage as appropriate or after CJCS are established. A few respondents suggested additional duties and consideration will be given as to these additional duties as the development of the CJCs continues.

## SECTION EIGHT: Implementation

### Consultation Question Eighteen:

**Question 18 asked three questions in order to seek views on the effective establishment and implementation of CJsCs.**

**Question 18a sought views on how the Welsh Government could best continue working closely with local government and others on the establishment and implementation of CJsCs.**

38 responses were received for this question. A number of constituent councils and the WLGA welcomed the engagement and dialogue they had received to date from Welsh Ministers and the Welsh Government in relation to CJsCs. They felt it was vitally important for the engagement to continue in order to establish and implement CJsCs effectively. It is understood that some constituent councils would welcome engagement on a regional level in order to reflect local context and the scale and maturity of existing regional relationships.

There was also a call for ensuring that the ongoing engagement with relevant stakeholders continues both before and after commencement of the regulations so as to ensure any ‘teething’ troubles are addressed early on in the implementation process.

While the importance of continued dialogue with constituent councils was recognised by many, some respondents felt it was equally important to also continue the engagement with all relevant stakeholders and partners.

5 responses specifically acknowledged the Welsh Government’s commitment to financially supporting constituent councils with their costs associated with setting up CJsCs. The need for Welsh Government to support on-going costs was also raised.

A small number of responses raised concerns about the timetable for implementation and delivery and felt that further thought should be given to this.

**Question 18b sought views on what core requirements / components need to be in place to ensure a CJC is operational, and exercising its functions effectively.**

31 responses were received to this question. Some of the core requirements / components suggested by respondents were as follows:

- Significant preparatory work will be required in advance of the expected first meeting of the CJsCs by September 2021, and there will need to be prior engagement, coordination and planning between Members and officers of the constituent councils, as well as designated staff to provide initial governance support.
- There should be a transition period and flexibility over the date of the first meeting.
- It will be important to have the final set of Establishment Regulations and Regulations of General Application in place as soon as possible.

- It will also be important to have a shared understanding and agreement between constituent councils within each of the regions.
- Further clarity is needed regarding roles and functions.
- Governance arrangements will need to be in place at the earliest opportunity (political agreement would be necessary).
- There will need to be a constitution in place from the outset and also the need to develop standing orders, subcommittees, scheme of delegation, code of conduct and budget.
- There will be a need for guidance from the Welsh Government.
- There will also be a need for additional funding from the Welsh Government to support additional capacity and resource requirements.

**Question 18c sought views on what needs to be in place prior to a CJC meeting for the first time, on the day of its first meeting and thereafter.**

There were 26 responses received for this question. Many respondents recognised the need to have the following measures in place prior to a CJC meeting for the first time, on the day of its first meeting and thereafter:

- A shared commitment from all involved in CJCs.
- Political agreement on governance (voting procedures, frequency of meetings, scrutiny arrangements, agreement on a range of required CJC policies – e.g. equalities; HR; procurement).
- A need to include preparatory work within constituent councils to ensure wider decision-making arrangements relating to functions of the CJC are aligned, so Cabinets and councils are appropriately engaged in the work of the CJCs.
- A transitional period to set and agree standing orders, governance arrangements and structures.
- Appointment of appropriate staff (whether directly appointed or seconded) to provide professional, legal, HR and financial/audit advice.
- Confirmation of financial support from Welsh Government and also budgets.
- A support mechanism, legal and administrative, in order that meetings and duties can function seamlessly.
- A constitution for CJCs.
- The Regulations for General Application and guidance.
- Clear understanding of the CJC's duties with respect to Well-being of Future Generations and other duties, including those under the Environment Act.

**Consultation Question Nineteen:**

**Question 19 sought respondents' views in relation guidance on the establishment and operation of CJCs.**

There were 34 overall responses to Question 19, although some respondents chose not to respond to both sections of the question. It should also be noted that views on guidance were expressed more generally throughout the responses provided to the broader consultation questions and these are also captured in the key points below.

**Question 19a asked respondents to consider whether guidance was needed in relation to the establishment and operation of CJsCs.**

There were varying views from respondents on whether Welsh Government should provide guidance on the establishment and operation of CJsCs. Some respondents felt that guidance was not required, however, the majority of respondents would welcome some level of additional guidance. This was felt necessary to more clearly define the scope of a CJC to enable structures for constitutional and operational arrangements to be put in place.

The key points were:

- The importance of co-developing guidance with local government, WLGA and others within a defined and agreed timeframe.
- Guidance should not be prescriptive but should allow CJsCs flexibility within broad parameters to apply discretion to allow for local variations.
- Guidance could be usefully supported by a dedicated Welsh Government contact and further developed and/or discussed through the planned ongoing engagement.

**Question 19b sought specific views on any areas that would be particularly useful to include in such guidance.**

There were a number of specific areas where respondents felt additional guidance might be helpful in relation to constitution, governance, finance and staffing matters.

The key points raised were:

- Some respondents felt that guidance could provide additional clarity on the role and responsibilities of a CJC and the interrelationship with constituent councils and other national, regional and local bodies. This would help ensure that those involved in CJsCs, constituent councils, National Park Authorities, stakeholders and members of the public understand the purpose of CJsCs.
- Guidance should ensure CJsCs are aware of their responsibilities and the importance of working in partnership and collaboration to develop shared objectives across a range of national, regional and local priorities.
- That appropriate and proportionate governance and scrutiny arrangements are required, setting out broad parameters within which CJsCs have flexibility, subject to appropriate safeguards, concerning oversight, accountability and transparency.
- Decision making and any delegation matters should be covered in guidance, including sub-committees, membership and voting rights.
- The need for appropriate accounting and audit arrangements to be put in place for CJsCs.
- Staffing and workforce issues in relation to recruitment options, terms and conditions of employment, political restrictions and accountability should be covered.
- Guidance could provide a framework and expectations for the first year of operation (including the first meeting).
- A number of respondents felt that matters relevant to Welsh language should be supported through guidance, including enabling and protecting practices of constituent councils working with CJsCs; how duties of councils to promote

Welsh language will be considered in operation of CJs; and ensuring staff are able to work through medium of Welsh;

- Guidance could usefully provide clarity around the ability of CJs to carry out economic well-being powers concurrently with the constituent council.
- CJs' responsibilities in relation to compliance with other statutory duties e.g. Well-being of Future Generations Act, data protection, freedom of information etc should be highlighted.
- A number of respondents also felt that CJs would benefit from having case studies and template documents available for them, for example model constitutions, codes of conduct, standing orders, schemes of delegation and staffing. It was felt that this would both support establishment and bring some consistency to the approach across the CJs.

In addition, one respondent made the point that what the guidance covers would depend on what was in the Regulations of General Application.

### Consultation Question Twenty:

**Question 20 asked more general questions about the how the Welsh Government should support the establishment of CJs and for any specific priority areas for that support. The question also sought general views on anything that a CJC should or should not be doing that the CJC Establishment Regulations did not currently provide for.**

There were 32 overall responses to Question 20, although some respondents chose not to respond to all three parts of the question. A small number of respondents emphasised the need to take appropriate time to implement the model to get it right.

In terms of **Questions 20a and 20b** the key points were:

- The importance of ensuring that adequate funding is available, particularly in the first year, to support the establishment of CJs. Some respondents also felt that the Welsh Government should commit to ongoing funding of CJs more generally to ensure that the CJs did not place an additional burden on the constituent councils. A few respondents took the opportunity to make a case for additional funding for constituent councils more generally. A number welcomed the Minister for Housing and Local Government's commitment to support the set-up costs of CJs.
- The important role of the proposed Regulations of General Application and any guidance in supporting the establishment of CJs, in understanding the relationship of the CJC functions with those of the constituent councils and in supporting the local discretion and flexibilities that exist in the CJC model. Many respondents welcomed the opportunity to continue to co-develop these with Welsh Government but emphasised the need to focus on developing and consulting on these documents as soon as possible.
- The importance of continued dialogue at both political and operational levels to support the establishment of CJs was highlighted by a number of respondents.
- To ensure that there is sufficient clarity of purpose for the CJC. A number of respondents felt that it was important that CJs, constituent councils, National Park Authorities, stakeholders and members of the public understand what

CJCs are, what they will do, how they will be held accountable and their general relationship with the constituent councils.

- A number of respondents believed that additional resource and capacity would be necessary, for example change management expertise, support networks, direct advice and support from Welsh Government (if requested). Those respondents felt however that any support should be provided in the context of, and respecting, local democratic accountability.
- A number of respondents also felt that CJCs would benefit from having template documents available to them, for example model constitutions, codes of conduct and standard workforce contracts. It was felt that this would both support establishment and bring some consistency on the approach across the CJCs.
- A few respondents requested support on matters relevant to Welsh language for example the internal administration of CJCs in Welsh, ensuring staff are able to work through medium of Welsh, and enabling and protecting practices of constituent councils when working with CJCs.

Funding, resources, communications, guidance and more general support were identified as priority areas to support the establishment of CJCs.

In terms of **question 20c**, of the 23 who responded to the question, 8 felt that there was nothing they wished to add that the Establishment Regulations did not provide for. Of those who expressed a specific view to the question the key points were:

- That CJC's should not be undertaking any functions which are currently reserved to constituent councils to ensure democratic accountability is not reduced and there is no duplication of functions.
- The need for effective scrutiny arrangements to be put in place to ensure democratic accountability and the importance of incorporating scrutiny, particularly to ensure local democratic accountability and connectivity back to members in constituent councils.
- A number of respondents felt that CJCs should be given time to become established before considering any additional functions or duties and that over time additional areas of relevance to the CJCs would naturally emerge. Respondents agreed therefore that the Establishment Regulations need to have some flexibility for other functions to be included at a later date.

## **Government response to views expressed in relation to Section Eight: 'Implementation'.**

The consultation has highlighted the challenging timescale for the implementation of CJsCs. We have already discussed how we may respond to this by reviewing the requirement of the first meeting date and delaying the commencement of the key strategic functions to be exercised by the CJC until 2022. It is important to note that the first meeting is part of the process of establishing the CJC, rather than the point by which everything has to be in place. The aim would be for CJsCs to be fully operational by the time that functions were commenced in 2022. This would extend the period for CJsCs to be implemented and allow a full year for CJsCs to consider transition arrangements and to put relevant constitutional and governance arrangements in place. This will be subject to further discussions with local government Leaders.

It is proposed to produce guidance to support the establishment and implementation of CJsCs. The guidance supporting the establishment of CJsCs will be co-produced with principal councils, the WLGA and other key partners – taking on board the points outlined in the summary of responses. The guidance will also be subject to formal consultation later this year. It is likely that the guidance will evolve over time as the CJsCs evolve and as the overall package of regulations underpinning the CJsCs are developed.

The Minister for Housing and Local Government is committed to working closely with the WLGA and principal councils to support the establishment of CJsCs including potentially funding the set-up costs. The Minister and officials will also continue to work closely with the WLGA, principal councils and partners on the priority areas identified by respondents throughout this consultation.

## SECTION NINE: Supporting Documents

### Consultation Question Twenty One:

**Question 21a asked specifically whether the respondents agreed with the Welsh Government approach to, and assessment of, the likely impacts of the regulations (as expressed through the Regulatory Impact Assessment (RIA) and the Integrated Impact Assessment (IIA))**

There were 27 responses to question 21a. There was a split on whether respondents agreed with the approach and assessment the Welsh Government had undertaken on the likely impacts of the regulations, with the majority disagreeing (11 agreed and 16 disagreed).

**Question 21b requested any additional or alternative data to help better inform the final assessment in the RIA.**

There were 21 responses to question 21b, but with the exception of one respondent, no additional or alternative data to help inform the final assessment within question 21b has been submitted.

Many respondents have noted that they felt there was insufficient time to be able to provide alternative evidence. Where they disagreed with the approach, a few respondents also took the opportunity to reiterate their objections to the CJC approach.

Both the Public Services Ombudsman Wales and Natural Resource Wales invited further discussions with Welsh Government regarding costs within the RIA, in particular in relation to the costs to others.

Of those that provided additional comments, the key points raised were:

- Majority of respondents have acknowledged that establishing CJsCs will have wide variations in costs depending on local discretion.
- Many respondents who did not agree with Question 21a did not agree that establishing CJsCs would result in a cost saving compared to the status quo. A number noted that the assumption that the costs of Regional Transport Planning and Strategic Development Planning will be, or are already being, incurred does not reflect the true status quo position as these are not necessarily in place.
- A number of respondents believed that additional funding for constituent councils would be necessary in the first instance to fulfil the duties of CJsCs. This was seen as important to ensure that constituent councils are not negatively impacted financially or in terms of staffing resource by the establishment of CJsCs.
- The Auditor General noted some variance in the approach to addressing the impact or assumptions in relation to Covid-19 which should be addressed.

In addition to the key points, Cymdeithas Yr Iaith drew attention to the absence of a published Welsh language impact assessment. The Integrated Impact Assessment notes that a Welsh Language Assessment has been undertaken and concluded that it is not expected that establishing CJsCs will have a negative impact on the use of the Welsh Language or on Welsh Language communities.

## **Government response to views expressed in relation to Section Nine: ‘Supporting Documents’.**

With the exception of one respondent, no additional or alternative data to help inform the final Regulatory Impact Assessment (RIA) has been suggested or submitted. A number made the point, as is made in the RIA that the actual costs will largely depend on the decisions made by each CJC. Some also noted the voluntary arrangements that were detailed under option 1 of the RIA believing that these costs would only occur if the constituent councils chose to enter into such arrangements. The RIA will be updated to reinforce this local discretion and its impact on the range of costs provided.

The Welsh Government will continue to work with constituent councils and stakeholder organisations to ensure the impact of CJs is captured and considered in future plans. Some respondents asked if a copy of the Welsh Language impact assessment could be provided. A copy of the Welsh Language Impact Assessment will be published on the Welsh Government consultation page.

## SECTION TEN: Welsh Language

### Consultation Question Twenty Two:

**Question 22a sought 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.**

**Question 22b asked what effects respondents thought there would be on the Welsh language, and specifically how respondents felt positive effects could be increased, or negative effects be mitigated?**

There were 29 responses to Question 22a and 20 responses to Question 22b.

In terms of **questions 22a and 22b combined**, the key points were:

- The majority of respondents believed that CJsCs should be subject to the Welsh Language Standards and agreed that embedding the standards in this way would have a positive effect on the Welsh language.
- That the Welsh language must not be treated differently or less favourably.
- 3 respondents raised the issue of costs to adhere to the standards and felt that funding should also be provided to enable this.
- 5 respondents raised concerns that the effects of establishing CJsCs on the Welsh Language would be negative. It seems that the main concern was in regards to boundaries and how a CJC might erode the current Welsh language practices in the constituent councils. To protect against this, one respondent's view was that a CJC should always adhere to that constituent council currently with the "best practice".
- One respondent felt that an impact assessment should be constantly reviewed and updated to ensure any emerging negative impacts are adequately mitigated against during planning and operationalising of a CJC.

### Consultation Question Twenty Three:

**Question 23 asked respondents to explain how they believed 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.**

There were 28 responses to question 23, a number repeated or drew attention to their responses in question 22 and these have not been repeated here. The additional key points were:

- The Welsh Government should provide clear guidance to help CJsCs adhere to the Welsh Language Standards. Respondents felt a definitive set of rules and processes would provide clarification on what actions CJsCs must undertake.

- Concern was raised to the differing degrees of Welsh Language Standards each constituent council currently comply with and how that might impact on a CJC that covers a number of councils.
- CJCs should be subject to the Welsh Language Standards from the outset.

In response to both questions, two respondents took the opportunity to reiterate their objections to the CJC approach, for example Cymdeithas Yr Iaith believe the negative effects of this proposal cannot be mitigated and therefore feel the best mitigation would be to withdraw the CJC proposals.

### **Government response to views expressed in relation to Section Ten: 'Welsh Language'.**

The CJCs will be subject to the Welsh Language Standards in the same way as the constituent principal councils and other public service organisations. Before a body can be subject to the Standards it must be listed in the Welsh Language Measure 2011 ("the Measure"). Schedule 6 of the Measure lists bodies and categories of bodies that are subject to have to comply with the standards. We are currently exploring how this is to be undertaken.

Once a body is added to Schedule 6 of the Measure it allows the Welsh Ministers to make regulations under the Measure stating which standards may apply to them, those Regulations then authorise the Welsh Language Commissioner to issue a compliance notice to bodies. The compliance notice sets out the duties a specific body must comply with.

The Welsh Government is committed to ensuring through all its policies that the Welsh language is not treated differently or less favourably than the English language. A number of respondents raised concern that the CJCs may dilute the current use of Welsh in the constituent councils or in the council's engagement with the CJCs.

The Welsh Government will ensure that statutory guidance for CJCs supports them in their compliance with the Welsh Language Standards applicable to all public service organisations. It should be noted that how a CJC delivers its services including its Welsh language provision and its language of administration is something that is to be determined locally by the CJC.

## SECTION ELEVEN: Final thoughts

### 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:**

Question 24 provided an opportunity for respondents to raise any related issues which were not specifically addressed by other questions.

There were 17 responses to this question (including 2 from covering letters) which covered a range of issues that respondents were keen to raise or reiterate their position on.

The key points raised were:

- An outline of the potential benefits of having a CJC (including reducing complexity; and pooling of scarce capacity, expertise and skills)
- Importance of scrutiny and governance arrangements “to ensure democratic accountability and ensure public trust in the new corporate bodies”. Emphasis on the need for detail of these arrangements to be locally determined. In particular that scrutiny and audit and governance committees should not be described as ‘sub- committees’
- The balance of power within CJsCs, with concern that decisions may be imposed and consequently the best interests of its communities may not be served. The importance of sufficient checks and balances inherent in the arrangements to avoid this was noted.
- Concern about ‘mandation’ of the establishment of these CJsCs, with a view their establishment should be left to local government.
- That CJsCs are not necessary - they are duplicatory; add additional bureaucracy and another layer of government; and move decision making away from local communities.
- Interest in the Regulations of General Application and when and how those will be engaged on “*It is crucial that... additional points are developed in discussion with local government*”.
- Views on the extent to which CJsCs should be able to borrow money.
- Importance of providing for a situation where a CJC is dissolved – “*implications of dissolution should be considered at this stage*”.
- The importance of CJsCs adding value.
- Desire for a multi-year funding settlement for local government to facilitate longer term planning by the CJC, and more generally the view that CJsCs should be funded “*not at the expense of already cash strapped local authorities*”.
- Reiterating views on executive officers – including that a separate chief governance officer isn’t necessary.
- Noting that there will remain a necessity for local service provision in areas such as regeneration and active travel.
- Lack of clarity on the relationship between CJsCs and existing partnership bodies.
- Concern about the impact on the Welsh Language.

- Importance of wider involvement of partners in the work of the CJC “*strategic planning for transformational systems change to meet the needs of the climate and environment emergencies (both impacting society and economies), requires social and economic system change and this requires the public sector family in Wales and others to be part of this.*”
- CJsCs and constituent councils must be given time to get this right, especially in the context of Covid 19.
- Concern that the reference in the consultation document to ‘cost benefit analysis and assessments of the extent to which resources have been used economically, efficiently and effectively’ implied a wider role for external audit than is currently the case for local government audits.

## **Government response to views expressed in relation to Section Eleven: 'Final thoughts'.**

A number of the points raised in this section have already been addressed under the questions and sections relating to these topics (for example the approach to executive officers, staffing and governance arrangements).

It is worth noting that many of the issues raised under the above question, and throughout this consultation, will be for the CJC to consider as part of the local discretion and determination called for and provided for in the Establishment Regulations. This would include staffing arrangements, accountability to their home authorities, and co-opted membership and engagement with wider stakeholders.

As we stated in the introduction to this section we recognise that there remain concerns about the establishment of CJsCs. The Welsh Government remains of the view that the CJsCs offer a consistent approach to strategic planning and delivery at scale, where it makes sense to do so. The proposals build on existing successful regional arrangements and Local Authority Leaders will be CJC members, putting accountability and local leadership at the heart of the decision making process.

We recognise the points raised here (and elsewhere) on the challenging timeline for implementing CJsCs, particularly given the pressures on the principal councils on responding to the Covid 19 pandemic. We are proposing in this response to take a number of actions which will provide more time for the CJsCs to establish themselves and put in place the necessary governance and administrative arrangements to effectively Implement CJsCs in their regions. This includes reviewing when a CJC must have its first meeting and also delaying the commencement of the key strategic functions until 2022.

Finally a number of respondents noted here, and throughout the document, the importance of scrutiny arrangements to ensure democratic accountability and ensure public trust in the new corporate bodies. Many felt that scrutiny provided the vital link back to the constituent councils and the members of those councils. Many also emphasised the importance that such scrutiny should be owner locally and co-developed with the constituent councils.

In response it is proposed to remove the requirement for CJsCs to establish an overview and scrutiny sub-committee from the Establishment Regulations and instead that CJC regulations would seek to ensure that a CJC, working with its constituent councils, put appropriate scrutiny in place. This could be through existing principal council scrutiny committees or more preferably by a joint scrutiny committee. In line with respondents views this local determination would allow CJsCs and principal councils to determine for themselves what is appropriate and what suits their needs in terms of being held accountable by their councils.

We are currently exploring how this can be achieved as part of the overall package of regulations which underpin CJsCs.

## **Annex A: List of respondents**

### **Local Authorities**

Blaenau Gwent County Borough  
Caerphilly County Borough Council  
Cardiff City Council  
Carmarthenshire County Council  
Conwy County Borough Council  
Cyngor Sir Ceredigion County Council  
Denbighshire County Council  
Flintshire County Council  
Gwynedd Council  
Isle of Anglesey County Council  
Merthyr Tydfil County Borough Council  
Monmouthshire County Council  
Neath Port Talbot County Borough Council  
Newport City Council  
Pembrokeshire County Council  
Rhondda Cynon Taf County Borough Council  
Swansea City and County Council  
Torfaen County Borough Council (and Chair of the Cardiff Capital Region Joint Committee)  
Vale of Glamorgan Council  
Wrexham County Borough Council

### **Government agency / other public sector body**

National Park Authorities.  
Brecon Beacons, Pembrokeshire Coast and Snowdonia National Park Authorities  
(joint submission)  
Natural Resources Wales  
Public Services Ombudsman  
South Wales Fire and Rescue Service

### **Community and Town Councils**

Cwmbran Community Council/Cyngor Cymuned Cwmbrân  
Llandrinio & Arddleen Community Council  
Mold Town Council  
Penyffordd Community Council.  
St Dogmaels Community Council  
St Fagans Community Council.  
Newtown and Llanllwchaiarn Town Council

### **Commissioner**

Welsh Language Commissioner

### **Regulator**

Auditor General

## **Representative bodies, Professional bodies or Associations**

Welsh Local Government Association  
Betsi Cadwaladr University Health Board  
Ceredigion Welsh Language Society  
ColegauCymru  
Cymdeithas yr Iaith (Rhanbarth Caerfyrddin/Penfro)  
Lawyers in Local Government (Wales Branch).  
Members of the Anglesey Unllais Committee representing the Vale of Llanfairpwll  
Council (Welsh)  
Mentor Mon  
North and Mid Wales Association of Local Councils.  
SOLACE Wales  
Royal Town Planning Institute  
Regional Transport Directors Group

### **Third Sector**

Wales Council for Voluntary Action

### **Trade Union**

UNISON Wales  
University and College Union

### **Members of Public**

Two Submissions

### **Other**

The North West Cardiff Group  
Rhondda Cynon Taf Council's Overview & Scrutiny Committee