

Meeting: Local Authority Cabinet (or Executive equivalent)

Date: ** December 2021

Title: Establishing the North Wales Region's Corporate Joint Committee (CJC)

Purpose: Further to Welsh Government legislation establishing the North Wales region's CJC, the 6 local authorities must make appropriate arrangements before holding the CJC's first meeting, and agree the CJC's 2022/23 budget by 31 January 2022, before initial CJC functions 'go live' on 30 June 2022.

Cabinet Member: Council Leader

Contact Officers: The Chief Executive and the Monitoring Officer

Decision Sought –

Agree in principle that the functions of the North Wales Economic Ambition Board be transferred by way of a delegation agreement to the North Wales Corporate Joint Committee on condition;

- a) that the statutory framework that the Welsh Government are developing allows for the delegation of the relevant executive functions to a Corporate Joint Committee,
- b) that **the North Wales Corporate Joint Committee agrees to establishment of a Sub-Committee**, with membership to be agreed with the Councils, **to undertake the functions of the Economic Ambition Board.**

This transition is proposed in order to achieve a streamlined governance model, avoiding duplication. A further detailed report on the framework for implementation will be presented to a subsequent meeting of the Cabinet / Executive.

Background

1. Regulations were made by the Welsh Government on 17 March 2021 creating four Corporate Joint Committees in Wales, and the North Wales Corporate Joint Committee (CJC) was established on 1 April 2021.
2. The four CJs will exercise functions relating to strategic development planning and regional transport planning. They will also be able to do things to promote the economic well-being. In contrast to other joint committee arrangements, the CJC is a separate corporate body which can employ staff and hold assets.
3. Our region's the CJC is already in existence as an independent corporate body, and its initial functions will come into force on 30 June 2022 ('go live' date for the North Wales CJC). In the past, reservations were expressed because CJs might lead to "another layer of bureaucracy", but now we have no choice other than to make it work.

4. Further regulations will follow. The Welsh Government are consulting on draft statutory guidance. Pinsent Masons LLP, who are advising several Welsh regions, are liaising with Welsh Government in the development of this detail. This report's focus is on regional implementation and transition - the establishment of the North Wales CJC.
5. Welsh Government grant funding of £250,000 has been approved, to enhance project management capacity and commission professional assistance (including legal advice) to support implementation of, and transition to the region's CJC during 2021/22.
6. Establishing the CJC is a legal requirement, but the timetable remains challenging, including the 'immediate duties' prescribed in the legislation (viz. regional Strategic Development Plan, Regional Transport Plan, and the economic well-being function), the need to balance legacy issues with new statutory requirements, the scheduling of initial meetings, and budget-setting in January 2022.
7. This report is submitted simultaneously to Cabinet (or similar Executive Committee) meetings at the 6 Councils: Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd and Wrexham.

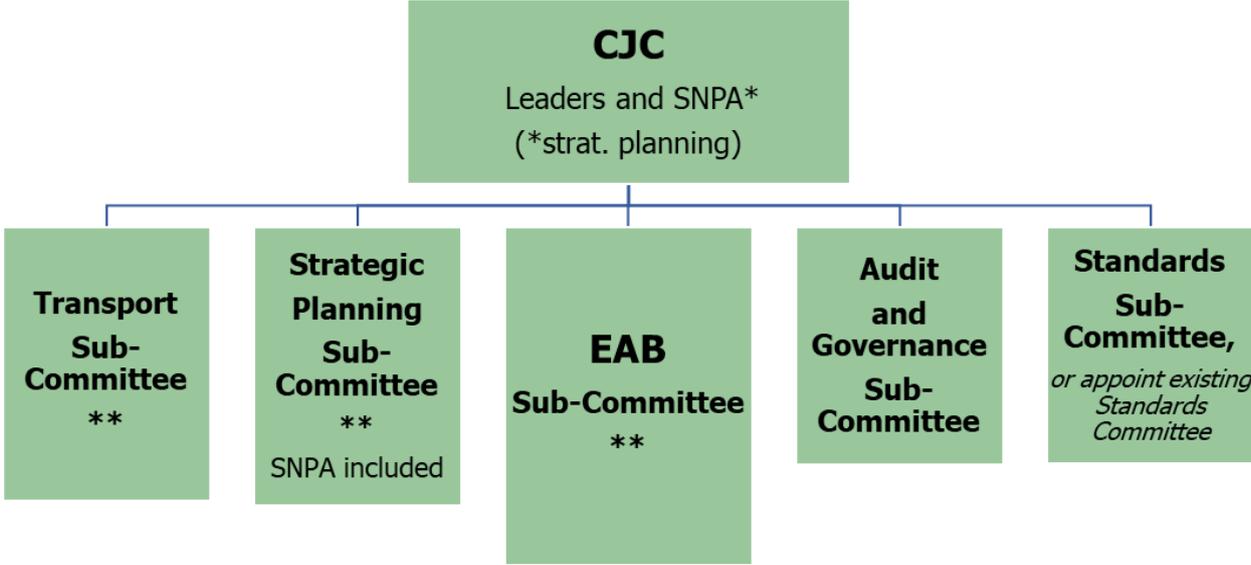
Principles

8. There is a consensus that the CJC should continue in the direction established by the North Wales Economic Ambition Board (EAB), albeit possibly better supported in due course by the structures, powers and levers provided by the CJC legislation. Further, the 6 Council Leaders and Chief Executives are agreed that our CJC should be 'built' on the following aims and principles:
 - i. Clarity / simplicity
 - ii. Avoiding new bureaucracy and excessive cost
 - iii. Adding value to, not disrupting, existing regional governance
 - iv. Major Growth Deal decisions being protected by the 'reserved matters' rule
 - v. Subsidiarity (individual LAs make decisions on issues that affect them)
 - vi. Allowing new powers and opportunities to be devolved to the region
 - vii. Being 'future proof'
9. Faced with the challenging timescale, there is cross-border agreement that we should initially aim to establish a streamlined governance model, avoiding duplication while having due regard to subsidiarity. The first priority is to move the EAB to an empowered sub-committee of the CJC, noting that our local authority Leaders will be in control of this corporate body. Given approval to establish this governance model, we would ensure that we keep our options open with a high degree of flexibility to subsequently consider transition details (e.g. staff issues) on a 'case by case' basis.

Structure for the EAB in the CJC

10. Pinsent Masons have considered operational structures available to the EAB going forward, in light of the establishment of the CJC, Welsh Government policy direction and the regionally agreed principles noted under paragraph 5 above.

- 11. Doing nothing, or 'co-existence' is insufficient, contrary to Welsh Government policy, and doesn't address how the Economic Ambition Board's functions are to be discharged by the CJC.
- 12. At first glance, a partial transfer to a 'hybrid' model retaining a host authority as accountable body, co-existing with the CJC, may appear to be attractive in terms of avoiding change from the current Economic Ambition Board model (despite the benefits of a CJC). However, this would require convoluted back-to-back agreements in respect of transactions entered into by project sponsors on behalf of the EAB. It lacks clarity, and provides no real advantage. Further, our region would still require a functioning CJC to undertake the Transport and Planning roles, which are vested directly in the CJC.
- 13. The most efficient and viable operational structure, which satisfies the requirement to transition to a CJC, is to transfer the Economic Ambition Board functions to an empowered sub-committee of the CJC. Consequently, transferring the functions to a sub-committee will retain core elements of the EAB, but provide a more robust and efficient delivery model directly via the CJC corporate vehicle. Crucially, the framework should allow a sub-committee governance model agreed with the CJC to confirm / continue the role of the Councils and Partners in relation to the "Reserved Matters".
- 14. Pinsent Masons have advised officers in detail on the advantages and some key issues, before we concluded that the transferring the EAB functions to a sub-committee provides the optimal structure for the CJC. As a separate corporate body, the CJC may naturally evolve over time and deliver wider initiatives, while building upon recent years of regional public investment under the EAB and continuing the trajectory established by Growth Deal.
- 15. The proposed CJC committee structure is shown in the following chart, including establishment of a subsidiary EAB delivery vehicle (sub-committee). This limits the extent of change and satisfies the 'immediate duties' in a consensual way –



** Delegation to statutory sub-committees, which are also subject to the transparency requirements which apply to executive function bodies.

Decision-Making

16. Pinsent Masons advise that decision-making, after transferring functions under the CJC, could operate to a large degree how decision-making currently occurs within the Economic Ambition Board, with local authorities retaining overall control over Growth Deal decision-making through robust delegation or novation arrangements. This will require amending legislation to allow for executive or Cabinet functions to be delegated to the CJC, as they are currently delegated to the EAB. It is understood from Pinsent Masons, further to their discussions with the Welsh Government, that this will be addressed in the forthcoming set of regulations.
17. The scheme of delegation from the local authorities to the CJC will clarify which matters remain decisions that are reserved for the local authorities as is currently set out in 'GA2'.
18. Snowdonia National Park Authority is an additional voting member of the CJC, but only on matters relating to the strategic planning function and its budget.
19. The 'Advisors' (college principals) are not original CJC members, but can be co-opted to the subcommittee and may be given voting rights if CJC so determines (and, if so, the current EAB model would continue).

Merits of transferring the Economic Ambition Board functions into the CJC forming a single corporate entity

20. Having considered the approach to and implications of transferring the north Wales region's EAB and current Growth Deal arrangements (and where applicable, Growth Vision delivery) into the CJC, legal advice received from Pinsent Masons shows that simplicity and avoiding bureaucracy (two key principles identified under paragraph 5 above) may be achieved by fully utilising the potential of the CJC via direct contractual arrangements.
21. This view is strongly supported by the Cardiff Capital Region's experience, analysis and decision to 'lift and shift' their city deal (growth deal) operations to their CJC, forming a single corporate entity. Cardiff's 'go live' date for commencement of functions is 28 February 2022, four months before our CJC's 'go live' date, allowing us to be informed by precedents there.
22. Transferring the Economic Ambition Board functions to a single corporate entity will mean not using a host authority as the accountable body. However, individual local authorities could continue to provide officers and support services to the CJC / EAB by agreement, or individual local authorities could agree to 'lead' on one of the specific 'immediate duties'. Also, individual partners could continue to lead on individual projects, of course.
23. The north Wales region's CJC must appoint statutory officers, i.e. a Chief Executive, a Monitoring Officer, and a Chief Finance Officer (CJCs have the same financial reporting and disclosure requirements as local authorities). However, the CJC could choose either to employ these directly, or enter into arrangements with constituent authorities for their officers to be placed at the disposal of the CJC.

24. Staff directly employed by the CJC may be minimised. Before the 30 June 2022 'go live' date, we will need to carefully consider transfer of Economic Ambition Board staff to be employed by the CJC, rather than the host authority. At the outset, any other employment shift could be limited by use of service level agreements with local authorities for services, or secondment of staff from local authorities. Subsequently, the CJC may make 'delivery' decisions with each individual function.

Added value for the EAB within the CJC as a single corporate entity

25. Using a host authority as the accountable body has been successful in establishing the EAB. However, continuing with this contractual agency / services agreement approach ("co-existing" with the CJC henceforth) would eventually mean both the EAB and the host authority being mired in "back to back agreements" which will be required on individual projects.
26. Over circa 6 years, this has put increasing strain on Cardiff Council as the accountable body for their region's city deal. As we have grant funding to support such transition now, Gwynedd and north Wales should take cognizance of our opportunity to take the benefit of Cardiff's experiences now, in order to avoid the time and cost of changing later. We have a timely opportunity now to learn from the Capital Region's experience. Many more loan and contract agreements would need to be novated or retained by the accountable body (depending on the nature and complexity of the individual projects) if north Wales switched our EAB model to a corporate entity further on down the road.

Sub-committees for Strategic Planning and Strategic Transport

27. There is clear consensus (from recent discussions between the 6 Council Leaders and Chief Executives) that we need a governance structure with sub-committees for Strategic Planning and Strategic Transport, both being sub-committees of the CJC alongside, and not underneath, the EAB as a sub-committee in its own right.
28. These sub-committees could be inclusive of relevant cabinet members from the constituent authorities, alongside their leaders on the CJC. The CJC could appoint other members with voting rights from partner organisations, as required. This delegated governance model could enable us to have a lighter CJC meeting agenda, with sub-committees doing the heavy lifting. There are certain matters which cannot be delegated by the CJC in this context, particularly around governance structure, budget decisions, and certain key decisions in relation to the adoption of the statutory plans.
29. It has been suggested that there should be 'host authority' for strategic planning and a 'host authority' for strategic transport. There could be seconding-in of some existing capacity to do the strategic work on the 'immediate duties' which must be delivered for the CJC. While individual local authorities could be prepared to lead on planning or transport functions, they would not be an 'accountable body' as Gwynedd are for the EAB. The CJC, as a corporate entity, would make agreements with third parties as required. However, in principle, it may be practical for individual authorities to lead and deliver the planning and transport functions, with the CJC funding these authorities' increased capacity / regional responsibility.

Transition from Growth Deal Arrangements

30. Several regulatory issues remain to be resolved with regards transition from current arrangements to the CJC – some of these need to be addressed through expected CJC regulations, etc. Clarification required includes possible novation of the Growth Deal funding agreement to the CJC (alternatively, subject to legislative changes to reflect Welsh Government’s direction of travel, local authorities could delegate or novate to the CJC). Clarification is also required regarding the scope of the CJC’s ability to borrow, invest and act commercially, tax and VAT status. The Welsh Government have stated that their policy intention is that CJCs should be subject to the same powers and duties as principal LAs in the way that they operate (including essentially the ability to borrow and reclaim VAT like unitary local authorities). Solutions to some issues are still a ‘work in progress’.
31. Legal advice is being received from Pinsent Masons on the approach to and implications of transferring the north Wales region’s EAB and current Growth Deal arrangements into the CJC. Initial legal advice and the challenging timescales means that the Welsh Government’s aim to transfer these arrangements into the CJC is more challenging and complex than anticipated. We will also need to consider the governance of our region’s CJC and potential sub-committees, which will require specialist input from the local authorities’ lawyers.
32. The Welsh Government’s stated policy direction is that the CJC should be afforded the requisite powers to be able to deliver the Growth Deal for the local authorities. Accordingly, following review of the current legislation and discussion with the Welsh Government, Pinsent Masons’ specialist lawyers conclude that there is not intended to be a material disparity in the manner in which the NWEAB currently operates and how the CJC could operate in respect of the Growth Deal / Growth Vision. It is anticipated that complexities regarding delegation to the CJC may be solved by further Regulations, allowing us to tailor operations to reflect the needs of the region, in line with the Economic Ambition Board and ‘GA2’.

Governance and Finance

33. Transition of the Economic Ambition Board (with no material change to how it currently operates) to the CJC would require a formal decision by each of the local authorities, and in practice the consent of the other partners to GA2. The Welsh Government’s Corporate Joint Committees General Regulations have not yet addressed the issue of the role of scrutiny committees. The current scrutiny arrangements for the Economic Ambition Board are within the statutory framework for scrutinising executive decision making. GA2 includes a protocol for managing the relationship. Thus far, there is no statutory arrangement for scrutiny of the Corporate Joint Committees. However, the draft statutory guidance on CJCs emphasises the role of local authorities’ overview and scrutiny arrangements, as part of the governance and democratic accountability framework which needs to be established. There are further regulations to follow and we will need to develop a scrutiny framework and understand the basis for the arrangements.

34. In respect of the 'initial functions' (see below), the CJC will need to agree the budget and allocate contributions across the local authorities. Each local authority's representative on the CJC will be mindful of the guiding principles under the NWEAB's GA2 but, as the budget setting relates to the 'initial functions', the budget contributions will be determined and levied by the CJC itself.
35. There will be significant ongoing resource requirements on local authorities' capacity in administering and delivering CJC functions. These administrative burdens and professional resource requirements for the establishment of and servicing of the CJC are yet to be fully identified.
36. As part of the scheme of delegation to the CJC, the local authorities will be passporting the Growth Deal funding, which will be allocated and invested in strict accordance with the terms of the 'Outline Business Plan' (which was adopted when 'GA2' was signed). Any change impacting on the financial position of a local authority may be reserved for the local authorities to determine (rather than the CJC), thus ensuring this aspect operates as per the EAB.
37. Some additional statutory obligations are broadly in keeping with how the EAB functions, including:
 - the CJC to prepare a 12-month business plan setting out activities to be undertaken and the CJC's budget requirements;
 - the CJC to agree the CJC's budget requirements for its first financial year at a meeting of the CJC by 31 January 2022, and how this will be met (levied);
 - the CJC to appoint the chairperson and vice-chairperson at its first meeting; and
 - the CJC to establish a Governance and Audit Sub-Committee.

The 'Initial Functions'

38. There are three initial functions prescribed to be discharged by the CJC, two are which are not currently carried out by the NWEAB:
 - preparing, monitoring, reviewing and revising of a Strategic Development Plan;
 - developing a Regional Transport Plan – policies for transport; and
 - economic well-being function – anything likely to promote economic wellbeing.
39. Planning policy managers in north Wales have looked at delivery options and cost implications for producing the north Wales region's Strategic Development Plan (SDP) (in addition to Local Development Plans).
40. Transport professionals are currently considering how a compliant and suitably robust Regional Transport Plan (RTP) could be developed.

41. Both the Councils and the CJC have concurrent powers in relation to promoting economic wellbeing - this one of the powers, amongst many, that the parties currently rely upon to deliver the Growth Deal. In due course additionality in the co delivery of this function may be considered based on the currently envisaged Growth Vision role of the Economic Ambition Board.
42. The regionally agreed principles noted under paragraph 5 above are consistent with a shared view that the proposals here are made on a 'no threat' basis to the local authorities. Thus, the CJC will set the direction and priorities, and is likely to need some concurrent functions, while its SDP and RTP will set a policy framework which the local authorities must have regard to. However, the individual local authorities will remain best placed to undertake local activity around economic development, planning, transport and other functions, with the CJC empowering and supporting local, regional and national delivery.

Recommendation

43. The Cabinet / Executive are asked, subject to the Welsh Government putting the appropriate statutory framework in place, to adopt a streamlined governance model, avoiding duplication, by approving in principle the transition of the North Wales Economic Ambition Board to be established as a sub-committee of the north Wales region's Corporate Joint Committee (CJC).

Next Steps

44. The following key tasks (this is not an exhaustive list) will require attention during late 2021, or during first quarter of 2022:
 - i. Regarding CJC membership, Snowdonia National Park Authority to nominate their representative.
 - ii. Set the date of the first CJC meeting.
 - iii. Agree the CJC's budget requirements for its first financial year at a meeting of the CJC by 31 January 2022
 - iv. Agree how the CJC's budget requirements will be met, i.e. authorities' contributions to be levied.
 - v. The CJC to adopt a sub-committee structure, and form a view on co-option, who, where, scope of participation, and whether voting or non-voting.
 - vi. Establish meeting governance and support arrangements for the CJC.
 - vii. Develop and establish a Scrutiny framework, when the Welsh Government's regulations on CJs provides the relevant basis for the arrangements.
 - viii. Establish the Governance and Audit Committee and Standards Committee, and appoint members.

- ix. Formal decision by the local authorities, together with the consent of the other partners in GA2, to transition the NWEAB to the CJC.
- x. Establish the Governance Agreement with the CJC in relation to the Economic Ambition Board functions, and any other "host authority" agreements, with the CJC required to implement the proposed arrangement.
- xi. Appoint statutory officers.
- xii. Prepare a 12-month business plan.
- xiii. Agree how the CJC's business transactions are established / hosted.
- xiv. Prepare and adopt CJC Standing Orders and basic governance documentation.

Financial Implications

45. Approving the decision sought here regarding the governance model would not add any financial implication for the Council. However, there will be an unavoidable ongoing cost (administrative burdens servicing the CJC and professional resource requirements) for local authorities to be able to administer and deliver the CJC's statutory functions. These costs are yet to be fully identified, but the direction set by this report is to make the CJC work effectively while minimising the financial burden on the Council.

Wider Duties

46. In developing the proposals regard should be had, amongst other matters, to:
 - the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards,
 - Public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics.
 - The Well-Being of Future Generations (Wales) Act 2015 ('the Act') is about improving the social, economic, environmental and cultural well-being of Wales. The Act places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language and is globally responsible.
47. Under the Welsh Government's Regulations, the CJC is subject to the Equalities Act, Future Generations Act, and other legislation, in the same way as local authorities.