

Committee: Special Council

Date of Meeting: **17th December, 2020**

Report Subject: **Local Government and Elections (Wales) Bill:**

- **Corporate Joint Committees (CJCs); and**
- **Performance and Governance of Principal Councils**

Portfolio Holder: **Councillor N. Daniels, Leader of the Council/
Executive Member for Corporate Services**

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| Reporting Pathway | | | | | | | | |
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| Directorate Management Team | Corporate Leadership Team | Portfolio Holder / Chair | Audit Committee | Democratic Services Committee | Scrutiny Committee | Executive Committee | Council | Other (please state) |
| | Executive CLT 2/12/20 | | | | | | 17/12/20 | Member Briefing 3/12/20 |

1. Purpose of the Report

1.1 The purpose of the report is to inform Members of the current two consultations being undertaken on the Local Government and Elections (Wales) Bill with regards to:

- Corporate Joint Committees (CJCs); and
- Part 6, Chapter 1 - Performance and Governance of Principal Councils.

1.2 The Local Government and Elections (Wales) Bill provides for the establishment of a new and reformed legislative framework for local government elections, democracy, governance and performance.

2. Scope and Background

2.1 The Local Government and Elections (Wales) Bill [the Bill] was introduced in 2019 and passed by the Senedd on 18th November 2020. It is anticipated the Bill will receive Royal Assent early in 2021.

2.2 The Bill is a substantial piece of legislation covering electoral reform, public participation, governance and performance and regional working.

2.3 The Bill replaces the current improvement duty for principal councils set out in the Local Government (Wales) Measure 2009. The new approach as set out in the Bill is designed to be a more streamlined, flexible, sector-led approach to performance, good governance and improvement. The intention is for councils to be proactive in considering how internal processes and procedures should change to enable more effective planning, delivery and decision-making to drive better outcomes.

2.4 **Timelines**

- Consultation Deadlines:
 - CJsCs – 4th January 2021
 - Performance and Governance – 3rd February 2021
- It is anticipated that the Bill will receive Royal Assent in January 2021
- CJC regulations will be introduced in the Senedd during February-April 2021, for commencement in the summer (and first meeting of CJsCs planned by end of September 2021)
- Remote attendance and related matters will be commenced from April 2021 (when the current emergency coronavirus meeting regulations end)
- Performance and governance arrangements will be commenced from April 2021 (with the final performance report from the 2009 Measure published by 31st October 2021)
- Most of the electoral reforms will be introduced in time for implementation at the 2022 local elections
- The power of general competence, public participation duties, panel performance assessments broadcasting of meetings and new councillor duties will apply from the 2022 local elections
- The first self-assessment reports will be prepared on the financial year 2021-22, and published early in the 2022-23 financial year

2.5 **Corporate Joint Committees (CJsCs)**

CJsCs have been the subject of debate with the Minister during the past 12 months. It is anticipated that CJC regulations will be introduced in the Senedd during February-April 2021, for commencement in the summer (and first meeting of CJsCs planned by end of September 2021).

2.6 **Corporate Joint Committee**

- Although called ‘Committees’, these are corporate bodies, described by the Minister as ‘part of the local government family’
- They are separate legal entities from their ‘constituent’ councils, similar to Combined Authorities or Fire and Rescue Authorities.

2.7 **Membership**

- The membership of CJsCs will be leaders.
- CJsCs can co-opt other members if they choose, either cabinet members or other partners. These could be voting or non-voting members.

2.8 **Voting**

- ‘one member one vote’ basis, however, once established, a CJC could adopt alternative voting procedures should they wish

2.9 **Functions**

- CJsCs will have functions relating to economic well-being, strategic planning (LDPs will remain with LAs) and transport.
- The economic wellbeing power is potentially wide-ranging and significant, but how far it is used will be determined by a CJC.
- The current city and growth deal strategic functions would be transferred to CJsCs.

- The Bill specifies that CJsCs will include only the 4 listed functions in the Bill (which are existing statutory or voluntary regional functions)
- CJsCs can voluntarily make a request to Ministers to add specific functions to a CJC. **A future Welsh Government could however add other functions to a CJC via future legislation**
- The Welsh Government has established regional bodies with statutory functions outside of the CJC framework e.g. Regional Partnership Boards and may establish statutory Regional Transport Authorities or regional Strategic Planning Panels.
- Although the current draft regulations allow a degree of regional flexibility, the Welsh Government could constrain or prescribe CJsCs through funding or policy instruments. They can provide funding in support of a function via CJsCs but specify that the funding must be spent in certain way or in line with WG priorities.

2.10 **Sub-Committees**

- CJsCs can set-up sub-committees to lead on specific functions and could co-opt other members (cabinet members or co-optees).

2.11 **Accountability**

- CJsCs will be accountable to their 'constituent' councils via their leaders
- Statutory decision-making powers over the specified functions will be vested in the CJsCs and therefore the leaders who make up the CJC
- Should one (or more) leader not support of a particular regional proposal, but was out-voted, the leader would be bound by collective responsibility and the regional proposals would be delivered for his/her authority area without his/her support and possibly without the support of the authority. He/she or the authority could not withdraw from the arrangements in such circumstances, as is the case currently.
- The regulations state that CJsCs must set up an overview and scrutiny committee. Scrutiny will be essential to ensure accountability back to authorities and wider councillors. Individual council scrutiny committees would be able to seek to scrutinise regional bodies as they do now.

2.12 **Performance and Governance of Principal Councils**

The performance and governance provisions in the Bill are framed within the wider sustainable development duties of the Well-being of Future Generations (Wales) Act 2015, which sets out a legally binding common purpose for the public bodies subject to that Act to improve the social, economic, environmental and cultural well-being of Wales. It sets out seven well-being goals which these public bodies must work towards collectively and five ways of working to guide how public bodies should deliver

The draft guidance specifically addresses the following duties to be placed on principal councils:

2.13 **Duty to keep performance under review**

The Bill requires a council to keep under review the extent to which it is fulfilling the 'performance requirements':

- exercising its functions effectively;
- using its resources economically, efficiently and effectively; and
- has effective governance in place for securing the above.

2.14 **Duty to consult on performance**

A council must consult a range of people at least once in each financial year about the extent to which the council is meeting the performance requirements. The statutory consultees are:

- local people;
- other persons carrying on a business in the council's area;
- the staff of the council; and
- every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 92)) by the council.

2.15 **Duty to report on performance**

A council must produce a self-assessment report in respect of each financial year. The report must set out its conclusions on the extent to which it met the performance requirements during that year, and any actions it intends to take, or has already taken, to increase the extent to which it is meeting the performance requirements.

2.16 **Duty to arrange a panel assessment of performance**

A council must arrange for a panel to undertake an assessment, at least once during the period between two consecutive ordinary elections of councillors to the council, of the extent to which the council is meeting its performance requirements.

2.17 **Duty to respond to a panel performance assessment report**

A council must prepare a response to each panel performance assessment report, setting out the extent to which it accepts the conclusions in the report, the extent to which it intends to follow any recommendation in the report, and any actions the council intends to take to increase the extent to which it is meeting the performance requirements.

2.18 **Other Provisions**

There are other provisions within Part 6 of the Bill such as powers for the Auditor General for Wales to carry out special inspections of a council; powers for the Welsh Ministers to provide support and assistance to a council with a view to improving its performance; and powers for the Welsh Ministers to intervene in a council which is not, or may not be, meeting the performance requirements.

2.19 There is also a Socio-economic Duty, which will come into force on 31 March 2021. This duty will require principal councils, when taking strategic decisions such as 'deciding priorities and setting objectives', to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage - driving better outcomes on people's lives and experiences through better decision making and further contributing towards our shared goal of becoming "a more equal Wales".

3. **Options for Recommendation**

To include Recommendation(s) / Endorsement by other groups, e.g. CMT/Committees/Other groups)

3.1 **Option 1**

CJCs

The CJC Regulations have gone out to public consultation with a closing date of 4th January 2021. Following the all Member briefing session and discussions ongoing within the Region, the Council is currently collating consultation responses from Blaenau Gwent.

Performance and Governance

Members provide comment to the Head of Governance and Partnerships and the Council will continue to work with the professional networks and WLGA and, based on these two approaches, construct a response for the February deadline.

Approve the approach as set out above for both the CJC and Performance and Governance Consultations.

3.2 **Option 2**

Suggest amendment to the proposals outlined above for the consultation responses.

4. **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

4.1 The Bill is framed within the requirements of the Well-being of Future Generations (Wales) Act including the wider sustainable development duties and the seven well-being goals which public bodies must work towards collectively and five ways of working to guide how public bodies should deliver.

5. **Implications Against Each Option**

Impact on Budget (short and long term impact)

5.1.1 **Corporate Joint Committees (CJCs)**

- The Welsh Government has committed to providing support and funding for some aspects of the Bill's implementation, including recently announced £500,000 to support digital democracy and potential set-up costs to support Corporate Joint Committees.
- The Minister has also agreed to provide improvement support to authorities through the WLGA, for example in supporting new councillor duties, public participation duties, statutory self assessments and panel assessments.
- CJCs must set a budget each financial year to include the amounts required to exercise its functions, reserves and liabilities.

- The draft regulations provide outline arrangements and timescales for the determination of budgets. The proposed deadlines in the draft regulations will require further exploration to ensure that they align with council budget setting processes and timescales.
- The draft regulations state the CJC members (leaders) must unanimously agree a budget and that ‘constituent’ councils must pay a proportionate amount. If there is a disagreement on the proportionality of funding, Ministers have powers of direction.

5.1.2 **Performance and Governance of Principal Councils**

There is a cost to a Local Authority for holding statutory peer assessments. The council is responsible for identifying panel assessors, commissioning the panel to undertake the assessment, and meeting any associated costs. At this time the actual costs are unknown.

5.2 ***Risk including Mitigating Actions***

5.2.1 The Council will have a statutory responsibility to implement the relevant elements of the Act and will put the reputation of the Council at risk should these elements not be put in place.

5.3 ***Legal***

5.3.1 Once approved for Royal Assent the Bill will become an Act and will have statutory powers which will be enacted by the Local Authority.

5.4 ***Human Resources***

5.4.1 **Corporate Joint Committees (CJCs)**

- CJCs must ‘appoint’ a Chief Executive, Chief Finance Officer, Monitoring Officer and Chief Governance Officer (however, these could be provided by a constituent authority, or seconded etc).
- During early discussions amongst officers, there have been differing views whether a CJC should appoint its own statutory officers (which may be comparatively limited roles given the scale of budgets and functions) or be provided by ‘constituent authorities’ given potential risks of conflict of interest, responsibility and workload.
- The RIA estimates a range between 1 day per week to 5 days per week for senior staff undertaking CJC duties.

5.4.2 **Performance and Governance of Principal Councils**

It is anticipated that a peer assessment will require significant officer resource in order to facilitate the process.

6. ***Supporting Evidence Performance Information and Data***

6.1.1 **Corporate Joint Committees (CJCs)**

- Draft Regulations were published on Monday 12th October and have been issued for consultation (closing date of 4th January)

- There are 44 questions in the consultation (appendix 1), the Welsh Government has outlined that these are draft and would welcome input to ensure that regulations are shaped by local authorities to ensure that they reflect local/regional requirements.
- The consultation includes an overarching consultation document and draft regulations for each of proposed CJsCs for North Wales, Mid Wales, South East Wales and South West Wales.
- An additional set of 'Regulations of General Application' will be issued for consultation in the New Year. It is envisaged these will cover what existing legislation and wider statutory duties might apply to CJsCs, such as the sustainable development duty and Welsh Language Standards. Statutory guidance will also be produced

6.1.2 **Performance and Governance of Principal Councils**

- There are 8 questions in the consultation (appendix 2).
- The responses received will determine how principal councils should exercise their performance and governance functions under the new regime.

6.2 ***Expected outcome for the public***

6.2.1 The Bill is a substantial piece of legislation covering electoral reform, public participation, governance and performance and regional working.

6.2.2 The new approach as set out in the Bill is designed to be a more streamlined, flexible, sector-led approach to performance, good governance and improvement. The intention is for councils to be proactive in considering how internal processes and procedures should change to enable more effective planning, delivery and decision-making to drive better outcomes.

6.3 ***Involvement (consultation, engagement, participation)***

6.3.1 **Reforming public participation in local government**

- Duty to encourage local people to participate in local government (and to produce a strategy to that effect)
- Duty to make petition scheme (and repeal of community polls);
- Duty to broadcast certain meetings
- Greater flexibility around remote attendance of members

6.3.2 **Duty to consult on performance**

- A council must consult a range of people at least once in each financial year about the extent to which the council is meeting the performance requirements. The statutory consultees are:
 - local people;
 - other persons carrying on a business in the council's area;
 - the staff of the council; and
 - every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 92)) by the council.

6.4 ***Thinking for the Long term (forward planning)***

6.4.1 The Bill is a substantial piece of legislation which looks to be implemented to support long term thinking and planning.

6.5 ***Preventative focus***

6.5.1 The Bill looks for Council's to improve their performance and planning to support a preventative focus moving forward.

6.5.2 There is also a Socio-economic Duty, which will come into force on 31 March 2021. This duty will require principal councils, when taking strategic decisions such as 'deciding priorities and setting objectives', to consider how their decisions might help to reduce the inequalities associated with socio-economic disadvantage - driving better outcomes on people's lives and experiences though better decision making and further contributing towards our shared goal of becoming "a more equal Wales".

6.6 ***Collaboration / partnership working***

6.6.1 ***Collaborative Working***

- Powers for councils to initiate the establishment of Corporate Joint Committees (CJCs) covering any functions
- Powers for Ministers to establish CJCs covering the four functions of economic wellbeing, transport, strategic planning and school improvement

6.7 ***Integration (across service areas)***

6.7.1 Service areas will work together to implement the requirements of the Bill.

6.8 ***EqIA(screening and identifying if full impact assessment is needed)***

6.8.1 There should be no adverse impact to implementing the Act. The Council will work to ensure all persons are treated equally.

7. ***Monitoring Arrangements***

State how the work will be monitored e.g. through scrutiny or directorate performance management arrangements

7.1 The Consultation responses will be shared with Members before being submitted.

7.2 Implementation of the requirements will be in line with the deadlines as specified in the Bill information.

7.3 Aspects of the requirements will be reported through the democratic processes accordingly.

Background Documents /Electronic Links

1. *Appendix 1 – CJC Consultation Questions*
2. *Appendix 2 – Performance and Governance Consultation Questions*