



SCRUTINY COMMITTEE REPORT

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| Date Written | 29 th May 2018 |
| Service Area | Scrutiny |
| Report Author | Howard Jones |
| Committee Date | 10 th July 2018 |

To: Chair, Ladies and Gentlemen

CARDIFF CAPITAL REGION CITY DEAL JOINT OVERVIEW AND SCRUTINY COMMITTEE - PROPOSAL AND DRAFT TERMS OF REFERENCE

1.0 SUMMARY OF THE REPORT

- 1.1 This is a standard report being presented to each of the ten local authorities for formal approval of a joint overview and scrutiny committee (JOSC). It is intended that by enabling local authorities to establish JOSCs, it will make it easier to scrutinise the delivery of services by providers who cover more than one county, or to examine issues which cut across geographical boundaries.
- 1.2 It is proposed that this paper, along with the draft Terms of Reference be presented to the relevant Overview and Scrutiny Committee for each Local Authority prior to it being submitted to each Council, both for endorsement and for the nomination of a non-executive Member to sit on the CCR City Deal JOSC.
- 1.3 On 15th March 2016 the ten constituent council leaders in South East Wales, the First Minister, the Welsh Government Minister for Finance and Government Business, the Secretary of State for Wales and the Chief Secretary to the Treasury signed the Cardiff Capital Region ('CCR') City Deal Heads of Terms Agreement.
- 1.4 The ten Councils are now working together to create a Joint Scrutiny Committee (JOSC) to provide an independent scrutiny function.

- 1.5 It will be a decision for each of the ten local authorities if they wish to establish the Joint Scrutiny Committee proposed. Statutory guidance has been issued under Section 58 of the Local Government (Wales) Measure 2011. The terms of reference as attached have been prepared taking in to consideration the requirements of the Measure.
- 1.6 In establishing a JOSC, which is additional to a council's existing scrutiny committees, a report setting out its role, responsibilities, terms of reference and intended outcomes to be generated by the joint exercise should be considered by each of the participating authorities' appropriate scrutiny committees before being endorsed by full council. As such this report seeks this Committees approval to set up a JOSC. This report will thereafter be submitted to Full Council for endorsement.

2.0 RECOMMENDATION(S)

- 2.1 The Committee agrees to participation on the Cardiff Capital Region City Deal Joint Overview and Scrutiny Committee which will comprise of elected Members of the ten local authorities involved in the Cardiff Capital Region City Deal.
- 2.2 The Committee agrees the draft terms of reference as set out in Appendix I and gives the Chief Executive, in consultation with the Leader of the Council and the Chair of the Governance, Performance, Business Change and Corporate Services Scrutiny Committee, delegated authority to amend and finalise the terms of reference until such time the JOSC is operational.

3.0 INTRODUCTION AND BACKGROUND

- 3.1 The Cardiff Capital Region (CCR) Joint Working Agreement (JWA) states that "The Councils shall work together to create and agree terms of reference for, to the extent permissible by law, a Joint Audit Committee and a Joint Overview and Scrutiny Committee (JOSC) and how the same will be resourced and funded".
- 3.2 As stated in the report to the CCR Joint Cabinet meeting on 20 November 2017, attached at Appendix I, it was proposed that the Regional Cabinet consider the establishment of, and governance arrangements for, the JOSC for the CCR City Deal.
- 3.3 The purpose of this JOSC is so that Members to be kept up to date with Cardiff Capital Region (CCR) City Deal developments. The Draft Terms of Reference (TOR) (attached to the Joint Cabinet report as Appendix 1) slightly expands upon this stating that one of its main functions would be to perform the Overview and Scrutiny function for CCR City Deal on behalf of the ten local Authorities, whilst not excluding a local authority's right to carry out its own individual Scrutiny of any decision of the Regional Cabinet or City Deal.

- 3.4 Subsequent to this meeting it was agreed by the CCR Joint Cabinet that Bridgend County Borough Council would host the JOSC and will provide *“such dedicated support and advisers, within a pre-determined sum to be funded out of the annual budget of the Regional Cabinet.”*
- 3.5 As per the Joint Cabinet report, the 2017/18 Joint Cabinet Budget contains a contingency budget in the sum of £69,500, an element of which has been set aside to meet the cost developing the JOSC arrangements. Based on initial estimation's provided for the first year, it was agreed that an amount of £25,000 would be allocated to the host authority (Bridgend CBC) to carry out the Joint Scrutiny role. From 2018/19 the budget headings will be realigned to separately identify the pre-determined sum from the remaining contingency budget. It is essential that the JOSC uses the first year to develop a detailed and informed Forward Work Programme (FWP) which will not only focus their work but also assist greatly in determining the workload and needs for the future including the number of meetings and future budget required.

4.0 FIRST YEAR OF THE JOSC

- 4.1 During the first year of the JOSC there will be a need for Members and Scrutiny Officers to attend training and briefing sessions prior to them undertaking scrutiny role. This will help ensure that all Members have the same knowledge base and understanding, however it may mean that there is a limited amount of scrutiny work undertaken in the first year.
- 4.2 It is then proposed that 2 meetings be held within the first year, firstly so that the JOSC can amend and finalise the TOR and officially adopt and take ownership of them. This final version of the TOR may then have to go back to each LA for formal approval but should not necessarily delay the work of the JOSC. Initial discussions will also be held at the first meeting regarding the FWP, but it would be a second meeting, following training etc that the Members would develop in detail their FWP and future focus.
- 4.3 As well as monitoring the City Deal Business Plan and/or Programme Plan, the Draft TOR also enable any member of the JOSC to refer to the committee any matter which is relevant to its functions provided it is not a local crime and disorder matter as defined in section 19 of the Police and Justice Act 2006, and subject to a number of conditions and provisos. Therefore, as stated above, it will be the FWP development determined by the JOSC Members that will indicate the needs and growth of the Committee.
- 4.4 It is hoped that the second meeting will also allow for the JOSC to begin undertaking annual monitoring of the City Deal Business Plan and/or Programme Plan.
- 4.5 In all instances, the JOSC has the power to make any reports and recommendations to the Regional Cabinet and/or to any of the Appointing Authorities and to any of their executives in respect of any function that has been delegated to the Regional Cabinet pursuant to the Joint Working Agreement.

5.0 ESTABLISHING A JOINT OVERVIEW AND SCRUTINY COMMITTEE

- 5.1 It is a decision for each authority if it wishes to establish a JOSC for the CCR City Deal. Statutory guidance issued under Section 58 of the 2011 Measure states at paragraph 3.1 "that in establishing a JOSC which is additional to a Council's existing scrutiny committee(s) a report setting out its role, responsibilities, terms of reference and intended outcomes to be generated by the joint exercise should be considered by each of the participating authorities' appropriate scrutiny committees (or sub-committees) before being endorsed by full Council".
- 5.2 It also states in the TOR that the membership of the JOSC shall consist of one non-executive Member from each Appointing Authority. Whilst the draft TOR states that the length of appointment is a matter for each Appointing Authority it is proposed that consideration be given to the membership (as far as possible) being for the length of term the nominated Councillor is in office. This will help ensure continuity and with possibly only 2-4 meetings per year, consistency of knowledge is important.
- 5.3 It is also proposed that in deliberations over nominations to sit on the JOSC, consideration is given to potential skill sets of Members including any prior knowledge and experience of joint working or professional knowledge that relates to the City Deal itself which could potentially be of great value and assistance to the JOSC.
- 5.4 In 2013, in a supplementary report of the Independent Remuneration Panel for Wales in accordance with section 147 of the Local Government Measure (Wales) 2011 relating to the matter of remuneration for Joint Overview and Scrutiny Committees, it was determined that 'the remuneration of chairs of JOSCs (or a sub-committee of JOSCs) is not prescribed and is a matter for the constituent councils to decide whether such a post will be paid. However, if a senior salary is paid, it must be at the level set out in section 4 of the IRP report.' Each Council will therefore need to decide on whether they would agree to pay the salary required under this legislation should their nominated Member be put forward as Chair of the JOSC.

6.0 PROPOSAL

- 6.1 It is therefore proposed that this paper, along with the draft Terms of Reference be presented to the relevant Overview and Scrutiny Committee for each Local Authority prior to it being submitted to each Council, both for endorsement and for the nomination of a non-executive Member to sit on the CCR City Deal JOSC.

7.0 FINANCIAL IMPLICATION(S)

7.1 There are no additional financial implications associated with this report. Bridgend County Borough Council will be administering the JOSC for which that Authority will be funded by the CCR Joint Cabinet.

8.0 EQUALITY IMPACT ASSESSMENT

8.1 An Equality Impact Assessment (EqIA) form has been prepared for the purpose of this report. It has been found that a full assessment is not required at this time.

ANDREW MOGFORD
BUSINESS CHANGE MANAGER

COUNCILLOR ANDREW BARRY
CABINET MEMBER FOR GOVERNANCE
AND CORPORATE SERVICES

| BACKGROUND PAPERS | | |
|--|-------------------------|---|
| Title of Document(s) | Document(s) Date | Document Location |
| <u>Local Government (Wales) Measure 2011</u> | 2011 | Legislation. Gov.uk website |
| <u>Joint Working Agreement (JWA)</u> | n/a | Document Library Chief Executive's Office |
| <u>Statutory Guidance from the Local Government Measure 2011</u> | June 2012 | http://gov.wales/docs/dsjlg/publications/localgov/120625/statguideen.pdf |
| Does the report contain any issue that may impact the Council's Constitution? | | Yes |

CARDIFF CAPITAL REGION JOINT CABINET

JOINT CABINET MEETING 20 NOVEMBER 2017

GOVERNANCE ARRANGEMENTS FOR CARDIFF CAPITAL REGION JOINT SCRUTINY COMMITTEE

REPORT OF CARDIFF CAPITAL REGION PROGRAMME DIRECTOR

AGENDA ITEM: 8

1. PURPOSE OF REPORT

- 1.1 To make recommendations to Regional Cabinet to consider the establishment of, and governance arrangements for, the Joint Scrutiny Committee which, if acceptable, be referred to each of the ten Councils for formal approval.

2. SUMMARY

- 2.1 The Joint Working Agreement (JWA) in paragraph 10.19.2 states that “The Councils shall work together to create and agree terms of reference for, to the extent permissible by law, a Joint Audit Committee and a Joint Scrutiny Committee and how the same will be resourced and funded”.

3. ROLE & PURPOSE

- 3.1 In accordance with the terms agreed in the JWA (as above), Regional Cabinet recognise and value the need for a Joint Scrutiny Committee being established with clear terms of reference which will assist in defining its role and limitations. Draft Terms of Reference have been developed by Officers for Members’ consideration and this is attached at Appendix 1.
- 3.2 It is important that Members of the Joint Scrutiny Committee are kept up to date with Cardiff Capital Region (CCR) City Deal developments. The key discussions and decisions are recorded in the minutes of the Joint Cabinet which are publically available and could be offered for inclusion on the Joint Scrutiny Committee agenda for information.
- 3.3 Whilst the minutes of the Regional Cabinet will be helpful in ensuring the Scrutiny Committee are informed, it is suggested that the Chair of the Regional Cabinet, or another representative, offer to attend meetings of the Scrutiny Committee to give a verbal update on the current position of the City Deal and a view forward to some of the issues anticipated in the coming months ahead.

3.4 The Governance Lead Officer for CCR City Deal (Gareth Chapman, Chief Executive Merthyr Tydfil County Borough Council) has advised that dedicated support and advisers to the Joint Scrutiny Committee would be beneficial. This involvement would enable Members to have continuity of advice during meetings and ensure that Scrutiny Officers have a single point of contact to seek advice when preparing reports. It is proposed that one of the ten authorities hosts the CCRCD Joint Scrutiny Committee and provide such dedicated support and advisers, within a pre-determined sum to be funded out of the annual budget of the Regional Cabinet. Regional Cabinet are invited to consider and recommend to the Councils for approval which authority should act as the host for the CCRCD Joint Scrutiny Committee. Whilst one Authority may act as host authority to support the CCRCD Joint Scrutiny Committee, the venue for the scrutiny committee meetings could rotate amongst the ten authorities.

4. FINANCIAL IMPLICATIONS

4.1 The attached report sets out proposals in respect of arrangements for a Joint Scrutiny Committee. It is proposed that one of the ten City Deal partnering authorities undertake the role of 'host authority', and in doing so, provide the Joint Scrutiny Committee with dedicated support and continuity of advice.

4.2 It is understood that a pre-determined sum will be agreed, which will form the basis of the budget from which the host authority will deliver this service in full, including all associated and ancillary costs. Depending on the timescales for implementing these arrangements, it is envisaged that a part-year sum may be required in 2017/18.

4.3 The PMO element of the 2017/18 Joint Cabinet Budget contains a contingency budget in the sum of £69,500, an element of which has been set aside to meet the cost developing the Joint Scrutiny Committee arrangements. The pre-determined sum will need to be met from within this budget allocation in 2017/18. From 2018/19 the budget headings will be re-aligned to separately identify the pre-determined sum from the remaining contingency budget to provide transparency and to assist with budget accountability.

5. LEGAL IMPLICATIONS (INCLUDING EQUALITY IMPACT ASSESSMENT WHERE APPROPRIATE)

5.1 The statutory power to establish a joint overview and scrutiny committee is set out in Section 58 of the Local Government (Wales) Measure 2011("the Measure") and Regulations made thereunder.

5.2 Section 58 of the Measure providing that Welsh Ministers may by regulations make provision under which any two or more local authorities may appoint a Joint Overview and Scrutiny Committee ('JOSC'). Regulations have been

made, namely the Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013 ('2013 Regulations').

- 5.3 It will be a decision for each authority if it wishes to establish the Joint Scrutiny Committee proposed. Statutory guidance has been issued under Section 58 of the 2011 Measure, to which regard must be had. Paragraph 3.1 of the guidance providing *“that in establishing a JOSOC which is additional to a Council’s existing scrutiny committee(s) a report setting out its role, responsibilities, terms of reference and intended outcomes to be generated by the joint exercise should be considered by each of the participating authorities’ appropriate scrutiny committees (or sub-committees) before being endorsed by full Council”*.
- 5.4 Where two or more authorities appoint a JOSOC the 2013 Regulations prescribe that they must enter into an agreement, which addresses a number of prescribed matters. The draft terms of reference, set out in Appendix 1 to the report, have been prepared having regard to these requirements and more generally the provisions of the 2013 Regulations and Statutory Guidance issued. The terms of reference are important because a JOSOC is only able to exercise functions in relation to matters which are identified by the appointing authorities. It is therefore important that the local authorities participating in the joint scrutiny committee (referred to as the appointing authorities) are clear from the outset about the role, responsibilities and terms of reference of the joint scrutiny committee.
- 5.5 The proposed membership of the Joint scrutiny committee is set out in the attached terms of reference and the proposal (1 non executive member each authority) reflects the following paragraph of the Statutory Guidance of the Measure:-
- 3.5 In order to ensure JOSOCs represent fairly the interests of each appointing local authority, it is recommended that an equal number of Committee seats be allocated to each of the participating Councils. Although that would mean larger authorities agreeing to have the same membership as smaller ones, this would appear to be in the best interests of effective partnership.*
- 3.6 The 2013 Regulations provide that a JOSOC is not to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.
- 3.7 The terms of reference, at paragraph 15, set out the provisions as regards referring matters to the JOSOC. The JOSOC may make a report or recommendation in relation to any matter referred to it, to any of the appointing authorities, their executives or the Regional Cabinet.

3.8 The joint scrutiny committee will require appropriate resource and the body of the report sets out the proposals in this regard, including the financial implications.

General advice

In considering this matter regard should be had, amongst other matters, to:

(i) The Councils' duties under the Well-being of Future Generations (Wales) Act 2015 and;

(ii) 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. Protected characteristics are: a. Age; b. Gender reassignment; c. Sex; d. Race – including ethnic or national origin, colour or nationality; e. Disability; f. Pregnancy and maternity; g. Marriage and civil partnership; h. Sexual orientation; i. Religion or belief – including lack of belief

6. RECOMMENDATIONS

6.1 That the Joint Committee (Regional Cabinet) consider the draft Terms of Reference attached at Appendix 1 and if content, submit to each constituent Council for approval.

6.2 That it be suggested to the Joint Scrutiny Committee that the Regional Cabinet minutes are included on the future Joint Scrutiny Committee agendas for information.

6.3 That the Chair of the Regional Cabinet, or another Member representative, offers to attend future meetings of Joint Scrutiny to give a verbal update on the progress of the CCR City Deal.

6.4 That Regional Cabinet:

(i) considers and recommends to the Councils for approval, which constituent Council should host the Joint Scrutiny Committee and provide the requisite support services and advice (subject also to that Council's formal agreement) and

(ii) subject to each of the ten Councils determining to establish the Joint Scrutiny Committee proposed and agreeing which Council shall host the Joint Scrutiny Committee, delegate authority to the Regional Programme Director to agree with the Host Council the level of funding required in 2017/18 to fund such Joint Scrutiny Committee hosting arrangements

(provided such level of funding is within Regional Cabinet's 2017/18 approved budget), with future funding arrangements being considered as part of Regional Cabinet's annual budget setting process.

Sheila Davies
Cardiff Capital Region City Deal Programme Director
14th November 2017

The following Appendix is attached:

Appendix 1 – Draft Terms of Reference

TERMS OF REFERENCE: CARDIFF CAPITAL REGION CITY DEAL JOINT SCRUTINY COMMITTEE

Introduction

1. Cardiff Capital Region (CCR) City Deal is a Joint Committee of all ten local Authorities of South East Wales. Paragraph 10.1 of the Joint Working Agreement states that 'The Councils shall form the joint committee ("Joint Committee") for the purpose of overseeing and co-ordinating the discharge of the Councils' obligations in relation to the City Deal and to carry out the functions set out in Schedule 2 (Joint Committee Terms of Reference) and the Joint Committee shall be known as the "Cardiff Capital Region Joint Cabinet", "Joint Cabinet" or "Regional Cabinet" (as the context requires)'.

For the purposes of these terms of reference;

The Joint Working Agreement means the agreement (as may be amended from time to time) concluded on 1.3.17 between; Blaenau Gwent CBC, Bridgend CBC, Cardiff Council, Caerphilly CBC, Merthyr Tydfil CBC, Monmouthshire CC, Newport CC, Rhondda Cynon Taff CBC, Torfaen CBC and the Vale of Glamorgan Council.

The 'Appointing Authorities' are the parties to the Joint Working Agreement

the 'Host Authority' means *** or such other authority as the Appointing Authorities may agree from time to time.

2. CCR City Deal is resourced by the ten Appointing Authorities and is supported by a Programme Management Office (PMO), full time officers, a Programme Board made up of senior Officers representing each of the partner Councils and a Joint Cabinet of the Leader (or Deputy) from each Authority. In addition. Legal, technical and financial external advisers have been appointed to provide expert technical advice.
3. Each Council agreed to work together to create a Joint Scrutiny Committee as stated in Paragraph 10.19.2 of the Joint Working Agreement; 'The Councils shall work together to create and agree terms of reference for, to the extent permissible by law, a Joint Audit Committee and a Joint Scrutiny Committee and how the same will be resourced and funded'.

Membership of the Joint Scrutiny Committee

4. The Joint Scrutiny Committee shall consist of one non-executive Member from each Appointing Authority.

5. It is a matter for each Appointing Authority, from time to time, to nominate, or terminate the appointment of its nominated Member serving on the Joint Scrutiny Committee. Each Appointing Authority shall be entitled, from time to time, to appoint a deputy for its Member representative to the Joint Scrutiny Committee but such deputy shall only be entitled to speak and vote at meetings of the Joint Scrutiny Committee in the absence of his or her corresponding principal
6. The length of appointment is a matter for each Appointing Authority.

Quorum

7. The quorum necessary for a meeting of the joint scrutiny committee is at least 7 out of the 10 Joint Scrutiny Committee Members, present at the relevant time.

Election of a Chair

8. The Joint Scrutiny Committee shall elect a Chair and Vice Chair, which appointments will rotate annually between the Appointing Authorities, in alphabetical order

Rules of Procedure

9. The procedure rules will be those of the Host Authority for its Scrutiny Committees,

Members' Conduct

10. Members of the Joint Scrutiny Committee will be bound by their Council's Code of Conduct.

Declarations of Interest

11. Members of the Joint Scrutiny Committee must declare any interest either before or during the meetings of the Joint Scrutiny Committee (and withdraw from that meeting if necessary) in accordance with their Council's Code of Conduct or as required by law.

Confidential and Exempt Information / Access to Information

12. The Host Authority's Access to Information Procedure rules shall apply subject to the provisions of the Local Government Act 1972 :

Openness and Transparency

13. All meetings of the Joint Scrutiny Committee will be open to the public unless it is necessary to exclude the public in accordance with Section 100A (4) of the Local Government Act 1972.

14. All agendas, reports and minutes of the Joint Scrutiny Committee will be made publically available, unless deemed exempt or confidential in accordance with the above Act.

Functions to be exercised by the Joint Scrutiny Committee

15. The Joint Scrutiny Committee shall be responsible for exercising the following functions:
 - a. To perform the Overview and Scrutiny function for CCR City Deal (which City Deal is more particularly specified in the Joint Working Agreement) on behalf of the ten local Authorities.
 - b. To develop a forward work programme reflecting its functions under paragraph (a) above.
 - c. To seek reassurance and consider if the CCR City Deal is operating in accordance with the Joint Working Agreement, its Annual Business Plan, timetable and / or is being managed effectively.
 - d. To monitor any CCRC project's progress against its Programme plan.
 - e. To make any reports and recommendations to the Regional Cabinet and or to any of the Appointing Authorities and to any of their executives in respect of any function that has been delegated to the Regional Cabinet pursuant to the Joint Working Agreement.

Any member of a Joint Overview and Scrutiny Committee may refer to the committee any matter which is relevant to its functions provided it is not a local crime and disorder matter as defined in section 19 of the Police and Justice Act 2006

Any member of any of the Appointing Authorities may refer to the Joint Overview and Scrutiny Committee any local Government matter which is relevant to the functions of the Joint Scrutiny Committee, subject to the following conditions and provisos.

The conditions for a reference by a member of an Appointing Authority to the Joint Scrutiny Committee are that:

- (i) The matter relates to one of the functions of the authority and is relevant to the functions of the Joint scrutiny committee,
- (ii) It effects the electoral area of the member or it effects any person who lives or works there; and
- (iii) It is not a local crime and disorder matter as defined in section 19 of the Police and Justice Act 2006.

Provisos

When considering whether to refer a matter to the Joint Scrutiny Committee a member should first consider if it falls within the remit of a single overview and scrutiny committee within the member's local authority, and if that is the case the member should raise the matter there. Members should only refer a matter to a Joint scrutiny committee if it falls clearly within the responsibilities and terms of reference of the Joint Scrutiny Committee and if there is no scrutiny of the issue in the local authority to which the member belongs.

It is acknowledged that the establishment of the CCRCDC Joint Scrutiny Committee shall not serve to exclude a local authority's right to carry out its own individual Scrutiny of any decision of the Regional Cabinet or City Deal matter

Duration of Joint Scrutiny

16. To be co-terminus with the duration of Joint Cabinet or if earlier the decision of the ten authorities to end the Joint Scrutiny arrangements.

Withdrawal

17. Any of the ten local Authorities may withdraw from participating in the Joint Scrutiny arrangements upon three months' notice to each of the other Authorities.
18. The Joint Scrutiny Committee in carrying out its functions must have regard to guidance relating to section 62 of the Measure, which places a requirement on local authorities to engage with the public

Foot notes

1. No provision has been made for sub committees given the scrutiny committee comprises only 10 members and that Regulations (SI 2013/1051) require a Sub- Committee to comprise an equal number of members of the Appointing Authorities.