

Explanatory Memorandum to the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2022

This Explanatory Memorandum has been prepared by the Local Government Department of the Welsh Government and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2022

Rebecca Evans MS

Minister for Finance and Local Government

15 July 2022

1. Description

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2022 amends Part 1 of the Model Code of Conduct as set out in the Schedule to the Local Authorities (Model Code of Conduct) (Wales) Order 2008 to add Corporate Joint Committees (“CJCs”) established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021 to the list of relevant authorities.

This Order comes into force on the 5 August 2022.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The Legislation, Justice and Constitution Committee will wish to note that this Order forms part of a package of instruments which underpin the establishment of CJCs and which seek to ensure that CJCs are subject to the same administrative and governance requirements as local government.

3. Legislative background

The powers enabling this Order to be made are contained sections 50(2), 50(3) and 105(2)(a) of the Local Government Act 2000.

Section 50(2) allows Welsh Ministers to, by order, issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities. Section 50(3) allows Welsh Ministers the power to revise any such model code which has been issued under Section 50(2). Section 105(2)(a) provides that any order made under this Act may contain such incidental, consequential, transitional or supplemental provision or savings as the Secretary of State considers necessary or expedient.

The powers conferred by the Local Government Act 2000 on the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

This Order will be subject to the negative procedure in the Senedd by virtue of Section 105(5) of the Local Government Act 2000.

4. Purpose and intended effect of the legislation

CJCs are corporate bodies, established via regulation, and consist of those principal councils in Wales which are specified in the establishment regulations. In some circumstances National Park authorities in Wales are also included in a CJC, where this is the case, this is set out in the relevant CJC establishment regulations.

The Corporate Joint Committees (General) (Wales) Regulations 2022 provide, among other things, for the application of a code of conduct to members of a CJC through the application of Part 3 of the Local Government Act 2000 (“the LGA 2000”). The Model Code of Conduct governs the conduct of the members of relevant authorities in Wales.

Amendments to a number of regulations / orders will be made via the powers available in the LGA 2000 in order for the code of conduct to fully apply to CJs.

The Local Authorities (Model Code of Conduct) (Wales) (Amendment) Order 2022 (“amendment Order”) amends Part 1 of the Model Code of Conduct as set out in the Schedule to the Local Authorities (Model Code of Conduct) (Wales) Order 2008 (“the Order”). The amendment Order adds CJs to the list of relevant authorities. The effect of the amendment would be to make the mandatory Model Code of Conduct applicable to members of CJs.

The amendment Order forms a package of amendments to legislation that will underpin all CJs and put in place the necessary legislative framework for the effective administration and governance of CJs

The overall intent is that a CJ will be treated as part of the ‘local government family’ and largely subject to the same or similar powers and duties as local authorities in the way that they operate and are governed.

5. Consultation

Section 49(5) of the Local Government Act 2000 provides that the Welsh Ministers must, before making regulations, consult such representatives of relevant authorities as it considers appropriate; the Auditor General for Wales; and the Public Services Ombudsman for Wales.

The overall approach to the development of the legislative framework which underpins CJs and the duties which should apply have been co-developed with Local Government, the WLGA and a number of professional networks, including for example Lawyers in Local Government and the Society of Welsh Treasurers.

The consultation on the Corporate Joint Committee (General) (Wales) Regulations 2022 between 10 November 2021 and 22 December 2021 asked respondents if they agreed with the intended approach to give full effect to the application of the Code of Conduct to CJs and made clear that the 2008 Order would need to be amended to cover CJs. All respondents to that question agreed to the approach outlined. The Auditor General for Wales, and the Public Service Ombudsman for Wales were specifically consulted as part of this consultation.

The consultation documents and a summary of the responses are available at:

<https://gov.wales/corporate-joint-committee-general-wales-regulations-2022>

6. Regulatory Impact Assessment (RIA)

A separate regulatory impact assessment has not been prepared in respect of this Order. However, the regulatory impact assessment to accompany the Mid Wales Corporate Joint Committee Regulations 2021, the North Wales Corporate Joint Committee Regulations 2021, the South East Wales Corporate Joint Committee

Regulations 2021 and the South West Wales Corporate Joint Committee Regulations 2021 assessed the potential costs and benefits associated with establishing the CJsCs through regulations. In assessing the potential costs and benefits the RIA considers the overarching policy intent that CJsCs should be treated as part of the 'local government family' including wider public sector duties such as those in the Local Authorities (Model Code of Conduct) (Wales) Order 2008. The costs associated with the application of the Local Authorities (Model Code of Conduct) (Wales) Order 2008 to CJsCs was considered therefore as part of the regulatory impact assessment on the CJsCs regulations themselves.

A copy of the [RIA](#) to accompany the Mid Wales Corporate Joint Committee Regulations 2021, the North Wales Corporate Joint Committee Regulations 2021, the South East Wales Corporate Joint Committee Regulations 2021 and the South West Wales Corporate Joint Committee Regulations 2021 is available as part of the relevant documentation to accompany those Regulations.