

Explanatory Memorandum to the Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021

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 Regulations 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 Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021.

Rebecca Evans MS
Minister for Finance and Local Government
09 November 2021

1. Description

The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 introduce a number of provisions in relation to the general administration and governance of Corporate Joint Committees established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021. These Regulations are made as part of a suite of regulations connected with the establishment of Corporate Joint Committees in Wales.

Those provisions come into force on the 3 December 2021, with a few exceptions which come into force on 6 May 2022.

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

The Committee will wish to note that these regulations form part of a package of instruments which underpin the establishment of Corporate Joint Committees and which seek to ensure that Corporate Joint Committees are subject to the same administrative and governance requirements as local government.

3. Legislative background

The powers enabling these Regulations to be made are contained in sections 80(1), 83, 84(2) and 174 of the Local Government and Elections (Wales) Act 2021.

Section 80(1) provides the Welsh Ministers with a power to amend or revoke joint committee regulations.

Section 83 provides the Welsh Ministers with a power to make regulations containing supplementary, incidental, consequential, transitional, transitory or saving provisions.

Section 84(2) provides the Welsh Ministers with a power to make provisions in connection with Part 5 of the Local Government and Elections (Wales) Act 2021 which amend, modify, apply (with or without modifications) or disapply any enactment.

Section 174 requires that these Regulations will be subject to the affirmative resolution procedure in the Senedd.

Subject to approval by the Senedd, the Regulations will be made by the Minister for Housing and Local Government and will mainly come into force on 3 December 2021, with some provisions coming into force on 6 May 2022.

4. Purpose and intended effect of the legislation

The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 ("General No.2 Regulations") make a number of provisions in relation to Corporate Joint Committees established under Part 5 of the Local Government and Elections (Wales) Act 2021.

Corporate Joint Committees are corporate bodies, established via regulations, and consist of those principal councils in Wales which are specified in the regulations establishing each Corporate Joint Committee. In some circumstances National Park authorities in Wales are also included in a Corporate Joint Committee; where this is the case this will also be set out in the relevant establishment regulations. In addition, Corporate Joint Committees will be able to co-opt individuals to be members of the Corporate Joint Committee. There are currently four Corporate Joint Committees established in Wales: the Mid Wales Corporate Joint Committee, the North Wales Corporate Joint Committee, the South West Wales Corporate Joint Committee and the South East Wales Corporate Joint Committee.

The overall intent in establishing Corporate Joint Committees is that a Corporate Joint Committee will be treated as part of or a member 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. The General No.2 Regulations form a package of standalone provision and amendments to legislation that will underpin all Corporate Joint Committees and put in place the necessary legislative framework for the effective administration and governance of a Corporate Joint Committee.

The provisions within these General No.2 Regulations:

- a. provide for the commencement of the various provisions within the Regulations. Most of the provisions will come into force on 3 December 2021. However, the commencement of certain provisions is delayed until 6 May 2022 as they amend provisions which will be amended on 5 May 2022 by the Local Government and Elections (Wales) Act 2021
- b. provide that Corporate Joint Committees in Wales must appoint certain executive officers, namely a Chief Executive Officer, a Chief Finance Officer and a Monitoring Officer. They also make provision about certain functions to be exercised by each office holder within the Corporate Joint Committee and extend the remit of the Independent Remuneration Panel of Wales to CJsCs and their members
- c. make provision in relation to staff. For example, they extend the definition of a 'proper officer' in the Local Government Act 1972 to include Corporate Joint Committees and also apply provisions in Part 1 of the Local Government and Housing Act 1989 to Corporate Joint Committees, providing that certain posts in Corporate Joint Committees are politically restricted. Holders of such posts may not be members of a Corporate Joint Committee, a county or county borough council in Wales or a fire and rescue authority in Wales
- d. make provision permitting Corporate Joint Committees to make arrangements for their functions to be discharged by sub-committees, staff or in conjunction with other Corporate Joint Committees or with county and county borough councils in Wales
- e. make detailed provision about meetings and proceedings of Corporate Joint Committees, for example about the means by which meetings may take place, public access to meetings, publication of papers and access to related documentation
- f. make a number of miscellaneous and consequential amendments to both primary and secondary legislation (including the regulations establishing the Mid Wales, North Wales, South West Wales and South East Wales Corporate

Joint Committees) as a result of the establishment of Corporate Joint Committees and the other provisions in these Regulations.

5. Consultation

The Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 forms part of a package of Regulations / Orders which underpin Corporate Joint Committees in Wales. The overall approach to the development of the legislative framework which underpins Corporate Joint Committees and the duties which should apply has 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. A comprehensive consultation was undertaken in 2020 on the draft Corporate Joint Committee Establishment Regulations and the wider regulatory regime which was intended to apply to Corporate Joint Committees.

In response to the consultation there was overwhelming support, in particular from local authorities, that CJsCs should be subject to existing legislative and governance regimes and that CJsCs should be subject to many of the same powers and duties as principal councils and similar governance and administrative framework as principal councils.

A further consultation was undertaken on the draft Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021. Respondents generally felt that the Regulations were clear and reflected the underlying principle that CJsCs should be treated as a member of the local government family and that the Regulations contained the provisions thought necessary to extend the relevant aspects of local government legislation to CJsCs.

6. Regulatory Impact Assessment (RIA)

A separate regulatory impact assessment has not been prepared in respect of these Regulations. 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 Corporate Joint Committees through Regulations. In assessing the potential costs and benefits the RIA considers the overarching policy intent that Corporate Joint Committees should be treated as part of the 'local government family' including consideration of applying the same / similar administrative and governance functions which apply to local authorities.

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.