

Explanatory Memorandum to the Welsh Language Standards (No.1) Regulations 2015 (Amendment) 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 Welsh Language Standards (No.1) Regulations 2015 (Amendment) Regulations 2021.

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

1. Description

The Welsh Language Standards (No.1) Regulations 2015 (Amendment) Regulations 2021 amend the Welsh Language Standards (No.1) Regulations 2015 to bring Corporate Joint Committees established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021 within the scope of those specified standards and enable the Welsh Language Commissioner (“the Commissioner”) to make a compliance notice in respect of Corporate Joint Committees.

Those provisions come into force on the 3 December 2021.

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

No specific matters identified.

3. Legislative background

The powers enabling these Regulations amending the Welsh Standards (No.1) Regulations 2015 to be made are contained in sections 26, 27, 39 and 150(2) of the Welsh Language (Wales) Measure 2011 (“the Measure”).

Section 26 of the Measure provides Welsh Ministers with the powers to make regulations specifying the standards in relation to the Welsh language, including service delivery standards, policy making standards, operational standards, promotional standards and record keeping standards.

Section 27 of the Measure provides powers for the specification of standards in relation to the keeping of records on complaints concerning the Welsh language.

Section 39 of the Measure provides that standards specified by the Welsh Minister under Section 26 of the Measure may be specifically applicable to certain persons if the Welsh Ministers authorise the commissioner to give that person a compliance notice to comply with the standard.

Section 150 of the Measure requires that regulations made under section 26 of the Measure will be subject to the affirmative resolution procedure in the Senedd.

The Welsh Language Standards (No. 1) Regulations 2015 (“the No.1 Regulations”) specified standards in relation to the conduct of the Welsh Ministers, county council and county borough councils and National Park authorities. The No.1 Regulations also authorise (subject to certain exceptions) the Welsh Language Commissioner to give a compliance notice, in relation to standards specified by the No.1 Regulations, to those bodies.

Subject to approval by the Senedd, the Regulations will be made by the Minister for Finance and Local Government and come into force on 3 December 2021.

4. Purpose and intended effect of the legislation

The Welsh Language Standards (No.1) Regulations 2015 (Amendment) Regulations 2021 (“the Amendment Regulations”) amend the Welsh Language Standards (No.1) Regulations 2015 (“the No.1 Regulations”).

The Amendments Regulations form a package of amendments to legislation that will underpin all Corporate Joint Committees and put in place the necessary legislative framework for effective administration and governance of a Corporate Joint Committee.

Corporate Joint Committees 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 Corporate Joint Committee, where this is the case this will also be set out in the relevant establishment regulations.

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.

Section 25 of the Welsh Language (Wales) Measure 2011 (“the Measure”) requires a person to comply with a standard of conduct in relation to the Welsh Language which is specified by the Welsh Ministers if, in addition to other conditions being met, the person is liable to be required to comply with Welsh Language standards and the standard is potentially applicable to the person.

Section 26 of the Measure enables the Welsh Ministers to specify standards by regulations, and section 39 enables them to provide that a standard is specifically applicable to a person by authorising the Welsh Language Commissioner (“the Commissioner”) to give a notice to that person requiring compliance with the standard (a “compliance notice”). The No.1 Regulations specified the standards in relation to a number of public bodies and enabled the Commissioner to make a compliance notice in respect of those bodies.

The Corporate Joint Committees (Amendment of Schedule 6 to the Welsh Language (Wales) Measure 2011) Regulations 2021 amended Schedule 6 of the Welsh Language (Wales) Measure 2011 to add Corporate Joint Committees to those bodies that are potentially required to comply with a standard of conduct in relation to the Welsh Language.

The Amendment Regulations bring Corporate Joint Committees established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021 within the scope of the standards specified by the No.1 Regulations and enable the Commissioner to make a compliance notice in respect of that body.

The effect of this is that Corporate Joint Committees will be bodies which are liable to comply with the No.1 Regulations, and that the specified service delivery standards, policy making standards, operational standards, promotion standards and record keeping standards are potentially applicable to them.

The amendments within these regulations:

- a. Inserts Corporate Joint Committees into regulation 1(4) of the Welsh Language Standards (No.1) Regulations 2015 under the definition of “*body*.”
- b. Inserts the definition of a “Corporate Joint Committee” into the interpretation provision in regulation 1(4) of the Welsh Language Standards (No.1) Regulations 2015.
- c. Inserts Corporate Joint Committees into regulation 3(1) of the Welsh Language Standards (No.1) Regulations 2015.

5. Consultation

The Minister for Housing and Local Government consulted with the Welsh Language Commissioner on the intention to include Corporate Joint Committees in the Welsh Language (Wales) Measure 2011. The application of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards was also considered as part of the consultation on the draft Corporate Joint Committee Establishment Regulations which ran from 12 October 2020 to 4 Jan 2021. In line with the approach to treating Corporate Joint Committees as part of the ‘local government family’ respondents agreed that Corporate Joint Committees should be subject to the same standards and obligations in terms of the Welsh language as local authorities are currently.

In addition the application of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards to Corporate Joint Committees was debated on a number of occasions during the passage of the Local Government and Elections (Wales) Act 2021 in the Senedd. The Minister for Housing and Local Government committed to ensuring that Corporate Joint Committees were included in the Welsh Language (Wales) Measure 2011 and captured by the Welsh Language Standards at establishment or as soon as possible thereafter.

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 the application of wider public body duties such as those in the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards (No.1) Regulations 2015 (Amendment) Regulations 2021.

It was assumed for the purpose of the RIA that exercising such duties will be something which was undertaken by the corporate body function of a Corporate Joint Committees and the costs for exercising the public body duties within these Regulations are included in the range of costs provided for the overall corporate body function in the RIA.

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.