

Explanatory Memorandum to the Corporate Joint Committees (General) (No.2) (Wales) Regulations 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 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 2022.

Rebecca Evans MS
Minister for Finance and Local Government
21 June 2022

1. Description

The Corporate Joint Committees (General) (No.2) (Wales) Regulations 2022 introduce a number of provisions in relation to the general administration and governance of Corporate Joint Committees (CJCs) 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 CJCs in Wales.

Those provisions come into force on the 15 July 2022.

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

The Legislation, Justice and Constitution Committee will wish to note that these Regulations form part of the fourth phase of a package of instruments which underpin the establishment of CJCs and which seek to ensure they 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 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 powers to make regulations containing supplementary, incidental, consequential, transitional, transitory or saving provisions, including within joint committee regulations and regulations amending joint committee regulations. Section 84 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 draft affirmative resolution procedure in the Senedd.

Subject to approval by the Senedd, the Regulations will be made by the Minister for Finance and Local Government and will come into force on 15 July 2022.

4. Purpose and intended effect of the legislation

The Corporate Joint Committees (General) (No.2) (Wales) Regulations 2022 provide for a number of provisions in relation to CJCs established under Part 5 of the Local Government and Elections (Wales) Act 2021.

CJCs are corporate bodies, established via regulations. Each CJC consists of member from those principal councils in Wales which are specified in the regulations establishing the CJC. In some circumstances a CJC may also include a member of a National Park authorities in Wales. Where this is the case this will also be set out in the relevant establishment regulations. In addition, CJCs are able to co-opt individuals to be members. There are currently four CJCs 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 is that a CJC will 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.

This is the fourth set of Corporate Joint Committee General Regulations. Together these form part of a package of standalone provisions and amendments to legislation that underpins all CJCs and establishes the legislative framework necessary for their effective administration and governance.

There are five parts to the Corporate Joint Committees (General) (No.2) (Wales) Regulations 2022.

Part 1: Introduction

Part 1 provides for the title and the coming into force of the Regulations on 15 July 2022. Part 1 also provides for the interpretation of the Regulations.

Part 2: Performance and information related to performance

Part 2 of the Regulations amends the Public Audit (Wales) Act 2004 so the Auditor General for Wales will be able to direct corporate joint committees to publish information relating to their performance.

Part 2 also provides for the application of the local government performance and governance regime under Chapter 1 of Part 6 of the Local Government and Elections (Wales) Act 2021, with modifications which make that Chapter fit with the circumstances of CJCs.

Each CJC in Wales must keep under review the extent to which it is meeting the 'performance requirements', that is the extent to which:

- it is exercising its functions effectively;
- it is using its resources economically, efficiently and effectively;
- its governance is effective for securing the above.

The mechanism for a CJC to keep its performance under review is self-assessment, with a duty to publish a report setting out the conclusions of the self-assessment once in respect of every financial year.

Self-assessment will be complemented by a panel performance assessment at least once in each local authority electoral cycle, providing an opportunity to seek external insights (other than from auditors, regulators or inspectors) on how the CJC is meeting the performance requirements. This requirement will apply for the first time in the next local government electoral cycle (2027-2032)

Part 3: Overview and scrutiny

Part 3 of these Regulations require a CJC to co-operate with, and provide assistance to, an overview and scrutiny committee of a constituent council (or a joint scrutiny committee of two or more constituent councils) which is making a report or recommendations in relation to the exercise by the CJC of one of its functions. These provisions also impose a duty on a CJC to have due regard to any such reports or recommendations which are published by an overview and scrutiny committee of a constituent council and also to publish a statement setting out any steps it intends to take in light of the report or recommendation in exercising its functions.

The Regulations provide CJCs with a defined duty to assist and cooperate with the scrutiny undertaken by their constituent councils and also to consider and engage with any published reports or recommendations published as a result.

Part 3 also makes a provision about the governance and administration of CJC governance and audit sub-committees. This includes requirements in relation to the appointment of a chairperson and deputy, proceedings and voting procedure of the sub-committee and the frequency of its meetings.

Part 4: Standing orders

Part 4 of the Regulations amends section 20 of the Local Government and Housing Act 1989 so that regulations may be made under that section that apply to CJCs. Section 20 confers a power on the Welsh Ministers to require relevant authorities (including principal councils) to adopt procedural standing orders set out in regulations. Part 4 amends section 20

Part 4 also requires CJCs to adopt standing orders with respect to the making of contracts by, or on behalf of, a CJC.

Part 5: Miscellaneous and consequential amendments

Part 5 makes amendments to the Establishment Regulations for each of the four CJCs, including in relation to the governance and audit sub-committee. These ensure that the governance and audit sub-committee of a CJC has the same responsibility for complaints and performance management as a governance and audit committee of a local authority.

Part 5 also includes miscellaneous and consequential amendments to the Local Government Act 2003, the Public Audit (Wales) Act 2004, the Well-being of Future Generations (Wales) Act 2015, and the Local Government and Elections (Wales) Act 2021.

5. Consultation

Section 82 of the Local Government and Elections (Wales) Act 2021 requires the Welsh Government to consult on any proposal to amend or revoke joint committee regulations. The Corporate Joint Committees (General) (No.2) (Wales) Regulations 2022 forms part of a package of Regulations / Orders which underpin CJCs in

Wales. The overall approach to the development of CJsCs' legislative framework 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 CJsCs.

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

A further consultation was undertaken specifically on the draft Corporate Joint Committees (General) (No.2) (Wales) Regulations 2022 from 28 March 2022 to 23 May 2022. Respondents generally felt that the Regulations were clear and agreed with the provisions contained in the final Regulations.

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 CJsCs through Regulations. In assessing the potential costs and benefits, the RIA considered the overarching policy intent that CJsCs 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.