

Draft Regulations laid before Senedd Cymru under section 174 of the Local Government and Elections (Wales) Act 2021, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2021 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The South East Wales Corporate
Joint Committee Regulations 2021**

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 74 of the Local Government and Elections (Wales) Act 2021 (the “2021 Act”) enables the Welsh Ministers, by regulations, to establish bodies corporate known as corporate joint committees. These bodies are established in order to exercise certain functions specified in the regulations which establish them, in relation to an area comprising the areas of the local authorities which comprise the membership of the corporate joint committee (in addition, where a corporate joint committee is given functions in relation to strategic planning, a National Park authority may also have membership of the committee).

These Regulations establish a body corporate to be known as the South East Wales Corporate Joint Committee, and specifies the following functions as being exercisable by this body—

(1) the economic well-being function (see section 76 of the 2021 Act),

(2) developing transport policies and preparing regional transport plans under Part 2 of the Transport Act 2000, and

(3) the preparation of strategic development plans (see Part 6 of the Planning and Compulsory Purchase Act 2004).

There are 5 Parts to these Regulations.

Part 1 establishes the South East Wales Corporate Joint Committee, and its area and defines some key terms.

Part 2 introduces the Schedule to the Regulations. This Schedule contains the constitutional arrangements for the South East Wales Corporate Joint Committee, including arrangements about holding and chairing meetings, voting on decisions, establishing sub-committees and staffing.

Part 3 sets out the membership of the South East Wales Corporate Joint Committee. In accordance with this Part, the body will comprise 10 council members, one for each local authority in the south east of Wales, and a member from the Brecon Beacons National Park Authority who is only permitted to vote on matters relating to the preparation of strategic development plans. The Committee may co-opt other persons to participate in the business of the Committee (known as “co-opted participants”) and may give co-opted participants voting rights.

Part 4 specifies that the 3 functions mentioned above may be exercised by the South East Wales Corporate Joint Committee and that the Committee may do other things to facilitate the exercise of those functions or things which are incidental or conducive to the exercise of those functions.

Part 5 contains provision about how the South East Wales Corporate Joint Committee is to calculate its budget and how it is to be funded.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result a regulatory impact assessment has been prepared. A copy can be obtained from the Local Government Strategic Finance Division, Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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2021 No. (W.)

**LOCAL GOVERNMENT,
WALES**

**The South East Wales Corporate
Joint Committee Regulations 2021**

Made

*Coming into force in accordance with
regulation 1(2) and (3)*

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 74, 83 and 174 of the Local Government and Elections (Wales) Act 2021(1).

The requirements of the Local Government and Elections (Wales) Act 2021 (relating to consultation) have been satisfied.

A draft of this instrument has been laid before and approved by a resolution of Senedd Cymru in accordance with section 174(4) and (5)(i) and (k) of that Act.

Title and commencement

1.—(1) The title of these Regulations is the South East Wales Corporate Joint Committee Regulations 2021.

(2) These Regulations, other than the provisions mentioned in paragraph (3), come into force on 1 April 2021.

(1) 2021 asc 1.

(3) The following provisions of these Regulations come into force on 28 February 2022—

- (a) regulation 11;
- (b) regulation 12;
- (c) regulation 13;
- (d) regulation 15 in so far as it relates to functions conferred on the South East Wales Corporate Joint Committee by regulation 11, 12 or 13.

Interpretation

2. In these Regulations—

“the Brecon Beacons member” (“*aelod Bannau Brycheiniog*”) means the member appointed under regulation 8;

“constituent council” (“*cyngor cyfansoddiadol*”) means—

- (a) Cardiff county council;
- (b) Monmouthshire county council;
- (c) Blaenau Gwent county borough council;
- (d) Bridgend county borough council;
- (e) Caerphilly county borough council;
- (f) Merthyr Tydfil county borough council;
- (g) Newport county borough council;
- (h) Rhondda, Cynon, Taff county borough council;
- (i) Torfaen county borough council;
- (j) The Vale of Glamorgan county borough council;

“co-opted participant” (“*cyfranogwr cyfetholedig*”) has the meaning given by regulation 9(3);

“council member” (“*aelod cyngor*”) means a person referred to in regulation 7(1) or a person appointed under regulation 7(3);

“enactment” (“*deddfiad*”) means an enactment whenever enacted or made;

“financial year” means—

- (a) the period of 12 months ending with 31 March 2022 (referred to in these Regulations as “the first financial year”);
- (b) subsequently, a period of 12 months ending with 31 March;

“National Park Authority” (“*Awdurdod Parc Cenedlaethol*”) means an authority in Wales established under section 63 of the Environment Act 1995(1);

(1) 1995 c.25.

“standing orders” (*“rheolau sefydlog”*) means the standing orders made under paragraph 8 of the Schedule;

“strategic planning functions” (*“swyddogaethau cynllunio strategol”*) means—

- (a) the functions of the South East Wales Corporate Joint Committee under Part 6 of the Planning and Compulsory Purchase Act 2004⁽¹⁾ (see regulation 13), and
- (b) any functions incidental or conducive to the exercise of those functions.

PART 1

Establishment and area

Establishment

3.—(1) There is established a body corporate to be known as the South East Wales Corporate Joint Committee (“the South East Wales CJC”).

(2) The South East Wales CJC has the functions—

- (a) conferred on it by these Regulations, and
- (b) conferred or imposed on it, or delegated to it, by any other enactment.

(3) Functions conferred on the South East Wales CJC by these Regulations are exercisable in relation to its area.

Area

4. The South East Wales CJC’s area comprises the areas of the constituent councils.

PART 2

Constitution

Constitution

5. The Schedule makes provision about the constitution of the South East Wales CJC.

(1) 2004 c.5. Part 6 has been amended by Schedule 9 to the Local Government and Elections (Wales) Act 2021 (asc 1).

PART 3

Membership

Membership

6.—(1) The members of the South East Wales CJC are—

- (a) the 10 council members, and
- (b) the Brecon Beacons member.

(2) The members are entitled to vote in relation to any matter to be decided by the South East Wales CJC.

(3) But paragraph (2) applies to the Brecon Beacons member only to the extent that the matter to be decided is about strategic planning functions.

(4) References in these Regulations, and in any other enactment, to a member of the South East Wales CJC (however expressed) include the Brecon Beacons member to the extent described in paragraph (3), unless—

- (a) express provision is made to the contrary, or
- (b) the context requires otherwise.

Council members

7.—(1) In the case of each constituent council—

- (a) the executive leader, where the constituent council operates a leader and cabinet executive;
- (b) the elected mayor, where the constituent council operates a mayor and cabinet executive,

is the council member of the South East Wales CJC.

(2) Where a council member is, for any period, unable to discharge their functions, the constituent council of which they are a member must appoint another member of its executive to discharge those functions on behalf of the council member for that period.

(3) Where a constituent council has a vacancy in an office referred to in paragraph (1), the constituent council must appoint another member of its executive as the council member of the South East Wales CJC until such time as the vacancy is filled.

Brecon Beacons member

8.—(1) The Brecon Beacons National Park Authority (“the Authority”) must appoint an office-holder mentioned in paragraph (2) as a member of the South East Wales CJC (“the Brecon Beacons member”).

(2) The office-holders who are eligible to be the Brecon Beacons member are—

- (a) the chairman of the Authority,
- (b) the deputy chairman of the Authority, or
- (c) the chairperson of a committee with responsibility for planning matters as may be established by the Authority.

(3) Where the Brecon Beacons member is, for any period, unable to discharge their functions, the Authority must appoint one of the other office-holders mentioned in paragraph (2) to discharge those functions on behalf of the Brecon Beacons member for that period.

Co-opted participants

9.—(1) The members of the South East Wales CJC may co-opt such persons as they think appropriate—

- (a) as members of a sub-committee of the South East Wales CJC;
- (b) to participate in other activities of the South East Wales CJC.

(2) Where a person is co-opted under paragraph (1), the members must give a written notice of the co-option to the person.

(3) In these Regulations, a person co-opted under paragraph (1) is referred to as a “co-opted participant”.

(4) A co-opted participant is entitled to vote in relation only to such matters as the members may specify in the notice given under paragraph (2).

(5) A co-opted participant is co-opted—

- (a) for a period specified by the members in the notice given under paragraph (2),
- (b) until the co-option is terminated by the members by giving written notice to the co-opted participant, or
- (c) until the co-opted participant resigns by giving written notice to the South East Wales CJC.

(6) Where a period is specified under paragraph (5)(a), the co-opted participant’s co-option may nevertheless be terminated by the members before the end of the period by giving written notice to the co-opted participant.

(7) The members of the South East Wales CJC may revise a co-option under paragraph (1) by giving a further written notice to the co-opted participant.

(8) A further notice may include revisions to—

- (a) any entitlement to vote specified under paragraph (4);
- (b) any period specified under paragraph (5)(a).

Job sharing

10. Where an office referred to in—

- (a) regulation 7(1), or
- (b) regulation 8(2),

is shared by 2 or more persons, those persons are to be treated as if they were 1 person for the purposes of these Regulations.

PART 4

Functions

Economic well-being

11. The economic well-being function is granted to the South East Wales CJC (see section 76 of the Local Government and Elections (Wales) Act 2021).

Transfer etc. of function of developing transport policies

12.—(1) The function of developing policies under section 108(1)(a) and (2A)(a) of Part 2 of the Transport Act 2000⁽¹⁾ is, in respect of the area of each constituent council, to be exercised by the South East Wales CJC, and not by the constituent council.

(2) Part 2 of the Transport Act 2000 applies in relation to the South East Wales CJC and its constituent councils subject to the modifications in the Schedule to the Corporate Joint Committees (Transport Functions) (Wales) Regulations 2021⁽²⁾.

Strategic planning functions

13. The South East Wales CJC has the function of preparing a strategic development plan (and accordingly Part 6 of the Planning and Compulsory Purchase Act 2004 applies to the South East Wales CJC (see in particular sections 60K to 60N of that Act)).

Subsidiary powers

14.—(1) The South East Wales CJC may do anything—

- (a) to facilitate, or
- (b) which is incidental or conducive to,

the exercise of its functions under these Regulations or any other enactment.

(1) 2000 c.38.

(2) S.I. 2021/0000 (W. 000).

(2) Things which may be done under paragraph (1) include—

- (a) incurring expenditure;
- (b) charging fees;
- (c) acquiring or disposing of property or rights.

Delegation of functions

15.—(1) The South East Wales CJC may delegate functions to a sub-committee subject to—

- (a) paragraph (2);
- (b) any other enactment which has the effect of prohibiting or limiting such delegation.

(2) The South East Wales CJC may not delegate the functions contained in the following provisions—

- (a) regulation 9 (co-opted participants);
- (b) regulation 12(1) (developing policies under section 108(1)(a) and (2A)(a) of Part 2 of the Transport Act 2000);
- (c) regulation 13 (preparing a strategic development plan);
- (d) regulation 16 (calculation of budget);
- (e) regulation 17 (funding of budget requirement);
- (f) paragraph 2 of the Schedule (appointment and confirmation of chairperson and vice-chairperson);
- (g) paragraph 7 of the Schedule (alternative voting procedure);
- (h) paragraph 8 of the Schedule (making, varying and revoking standing orders);
- (i) paragraph 15 of the Schedule (establishing sub-committees);
- (j) paragraph 16 of the Schedule (establishing a governance and audit sub-committee).

PART 5

Funding

Calculation of budget requirements

16.—(1) For each financial year the South East Wales CJC must calculate the amounts described in paragraph (2) attributable to—

- (a) its strategic planning functions (including an appropriate proportion of administration costs and other overheads), and
- (b) its other functions.

(2) The amounts that the CJC must calculate are—

- (a) the amount which the CJC estimates it will spend in respect of the financial year in the exercise of its functions (including spending on administration and other overheads);
- (b) the amount which the CJC considers appropriate to raise for contingencies arising in respect of the financial year;
- (c) the amount which the CJC considers appropriate to be held as a reserve to meet expenditure it considers will be incurred in respect of future financial years;
- (d) any amount which the CJC considers is necessary to meet liabilities outstanding in respect of any earlier financial year.

(3) For each financial year, the South East Wales CJC must also calculate the aggregate of any amounts it estimates it will receive from sources other than the constituent councils and the Brecon Beacons National Park Authority attributable to—

- (a) its strategic planning functions, and
- (b) its other functions.

(4) Where the sum of the amounts calculated for a financial year under paragraph (1)(a) exceeds the amount calculated for that year under paragraph (3)(a), the amount of excess is the South East Wales CJC's strategic planning budget requirement for the financial year.

(5) Where the sum of the amounts calculated for a financial year under paragraph (1)(b) exceeds the amount calculated for that year under paragraph (3)(b), the amount of excess is the South East Wales CJC's general budget requirement for the financial year.

(6) The South East Wales CJC must—

- (a) carry out the calculations under paragraphs (1) and (3), and
- (b) agree those calculations at a meeting,

no later than 31 January in each preceding financial year.

(7) In relation to the first financial year, paragraph (6) applies as if, for "31 January in each preceding financial year" there were substituted "31 January 2022".

(8) The South East Wales CJC may revise the calculations carried out under paragraphs (1) and (3) at any time before the end of the financial year to which they relate and the South East Wales CJC's general budget requirement, or strategic planning budget requirement, may consequently be revised.

(9) Any revised calculations must be agreed at a meeting of the South East Wales CJC.

Funding of budget requirement

17.—(1) The South East Wales CJC's general budget requirement must be paid to the South East Wales CJC by the constituent councils, and the proportion of that amount payable by each constituent council is to be determined by the unanimous agreement of the council members.

(2) The South East Wales CJs strategic planning budget requirement must be paid to the South East Wales CJC by the constituent councils and the Brecon Beacons National Park Authority, and the proportion of that amount payable by each constituent council and by the Authority is to be determined by the unanimous agreement of the members.

(3) Where agreement cannot be reached as to the proportions payable under paragraph (1) or (2), the Welsh Ministers may by direction specify the proportion payable by each constituent council or each constituent council and the Brecon Beacons National Park Authority.

(4) This regulation applies to a general budget requirement, or strategic planning budget requirement, revised under paragraph (8) of regulation 16 as it applies to a budget requirement initially determined under that regulation.

Name

Minister for Housing and Local Government, one of the Welsh Ministers

Date

SCHEDULE Regulation 5

Constitution

PART 1

Procedure, meetings and voting

Chairing meetings

1. Meetings of the South East Wales CJC must be chaired by—

- (a) the chairperson appointed under paragraph 2, or
- (b) if the chairperson is absent, the vice-chairperson appointed under that paragraph.

Appointment of chairperson and vice-chairperson

2.—(1) At the first meeting of the South East Wales CJC—

- (a) the appointment of a chairperson and vice-chairperson is to be the first business transacted, and
- (b) the council member for Blaenau Gwent county borough council must chair the meeting until the chairperson is appointed (and the chairperson is to chair the remainder of the meeting).

(2) At each annual general meeting of the South East Wales CJC—

- (a) the continuing appointment of the chairperson and vice-chairperson must be confirmed, or
- (b) a new chairperson, vice-chairperson or both must be appointed.

(3) The chairperson and vice-chairperson must be appointed from among the council members.

(4) The chairperson and vice-chairperson must be appointed, or confirmed by—

- (a) the council members, and
- (b) any co-opted participants entitled to vote on the matter.

(5) A person appointed as chairperson or vice-chairperson may at any time resign that office by notice in writing given to the other members.

(6) If a vacancy arises in the office of chairperson or vice chairperson, an appointment to fill the vacancy must be made at the first meeting of the South East Wales CJC held after the vacancy has arisen.

(7) If the office of chairperson is vacant, the vice-chairperson may carry out the functions of chairperson until the vacancy is filled.

(8) Despite paragraph 1, where the offices of both chairperson and vice-chairperson are simultaneously vacant, the meeting referred to in sub-paragraph (6) must be chaired, until one of the vacancies is filled, by the council member for Blaenau Gwent county borough council.

Annual general meetings

3. The South East Wales CJC must hold an annual general meeting in each financial year on a date determined by the CJC.

Other meetings

4.—(1) The South East Wales CJC may hold other meetings on dates specified in the standing orders.

(2) An extraordinary meeting of the South East Wales CJC may be called at any time by any person entitled to vote on a matter to be decided at that meeting.

Quorum

5. No business is to be transacted in relation to a matter to be decided at a meeting of the South East Wales CJC unless—

- (a) in the case of a matter to be decided under—
 - (i) regulation 17, or
 - (ii) paragraph 7 of this Schedule,all of the persons entitled to vote on the decision are present, and
- (b) in any other case, no fewer than 70% of the persons entitled to vote are present.

Voting procedure

6.—(1) Subject to sub-paragraphs (2) and (3) of this paragraph and paragraph 7 of this Schedule, in relation to any matter to be decided at a meeting of the South East Wales CJC—

- (a) the number of co-opted participants entitled to vote may not exceed the number of members entitled to vote,
 - (b) each person entitled to vote has one vote,
 - (c) the matter, is to be decided by simple majority, and
 - (d) if a vote is tied the matter is not carried.
- (2) In the case of a matter to be decided under—
- (a) regulation 17, or

(b) paragraph 7 of this Schedule,
sub-paragraph (1)(c) and (d) does not apply.

(3) Where the matter to be decided relates to strategic planning functions, sub-paragraph (1)(d) does not apply and the chairperson (or if presiding, the vice-chairperson) has the casting vote.

Adoption of alternative voting procedure

7.—(1) Subject to the requirements of this paragraph, the South East Wales CJC may adopt an alternative voting procedure in relation to any matter to be decided by it.

(2) But the South East Wales CJC may not adopt an alternative procedure in relation to any matter to be decided under—

- (a) regulation 17, or
- (b) this paragraph.

(3) A procedure adopted under this paragraph—

- (a) must specify which of the matters to be decided by the South East Wales CJC it applies to;
- (b) may not modify the effect of paragraph 6(3).

(4) A procedure adopted under this paragraph must be adopted by the unanimous agreement of—

- (a) the members of the South East Wales CJC, and
- (b) any co-opted participant entitled to vote on adopting the procedure.

(5) Any alternative voting procedure adopted under this paragraph must be set out in the standing orders.

Standing Orders

8.—(1) The South East Wales CJC must make standing orders for the regulation of its proceedings and business so far as not regulated by these Regulations or any other enactment.

(2) The standing orders may be varied or may be revoked and replaced.

PART 2

Staff

General

9. The South East Wales CJC may make such arrangements for staffing as it considers appropriate subject to—

- (a) the provisions of this Part of this Schedule, and

- (b) paragraph 2 of Schedule 1 to the Corporate Joint Committees (General) (Wales) Regulations 2021⁽¹⁾.

Terms and conditions

10.—(1) Where the South East Wales CJC appoints staff under paragraph 9, they are to be appointed on terms and conditions (including terms and conditions as to remuneration) substantially similar to those of officers within a constituent council undertaking responsibilities which the South East Wales CJC considers to be reasonably comparable.

(2) But sub-paragraph (1) does not prevent the South East Wales CJC from modifying such terms and conditions if required by virtue of any enactment or other rule of law.

Staff from other authorities

11.—(1) A devolved Welsh authority (within the meaning given by the Government of Wales Act 2006⁽²⁾) may enter into an agreement with the South East Wales CJC for the placing of staff of the authority at the disposal of the South East Wales CJC for the purposes of exercising its functions, on such terms as may be provided by the agreement.

(2) Where a member of staff of a devolved Welsh authority is placed at the disposal of the South East Wales CJC by virtue of an agreement under sub-paragraph (1), the member of staff is to be treated as a member of staff of the South East Wales CJC for the purposes of—

- (a) these Regulations;
- (b) paragraph 2 of Schedule 1 to the Corporate Joint Committees (General) (Wales) Regulations 2021;
- (c) any other enactment relating to the administration of the South East Wales CJC or the exercise of its functions.

Placing staff at the disposal of other authorities

12.—(1) The South East Wales CJC may enter into an agreement with—

- (a) another corporate joint committee (within the meaning given by Part 5 of the Local Government and Elections (Wales) Act 2021);
- (b) another devolved Welsh authority (within the meaning given by the Government of Wales Act 2006),

⁽¹⁾ S.I. 2021/000 (W. 00).

⁽²⁾ 2006 c. 32. See section 157A and Schedule 9A as inserted by the Wales Act 2017 (c. 4) section 4 and Schedule 3.

for the placing of staff of the South East Wales CJC at the disposal of the other committee or the authority for the purposes of that committee or authority's functions, on such terms as may be provided by the agreement.

(2) Where a member of staff of the South East Wales CJC is placed at the disposal of another body by virtue of an agreement under sub-paragraph (1)—

- (a) for superannuation purposes, service rendered by the member of staff is service rendered to the South East Wales CJC, and
- (b) for the purposes of any enactment relating to the administration of the other devolved Welsh authority or the exercise of its functions, the member of staff is to be treated as a member of staff of that authority.

Consultation with staff about agreements under paragraph 11 or 12

13. No agreement may be entered into under paragraph 11(1) or 12(1) unless every member of staff to whom it relates has been consulted.

Transfer of staff

14. Where a member of staff appointed by the South East Wales CJC has been transferred to the CJC from a constituent council, the provisions of the Transfer of Undertaking (Protection of Employment) Regulations 2006⁽¹⁾ other than regulations 4(6) and 10 apply to the transfer, whether or not it is a relevant transfer for the purposes of those regulations.

PART 3

Sub-committees

Sub-committees

15.—(1) The South East Wales CJC may—

- (a) establish sub-committees;
- (b) appoint as members of a sub-committee—
 - (i) members of the South East Wales CJC;
 - (ii) co-opted participants (see regulation 9).

(2) A sub-committee may exercise only those functions as are delegated to it by the South East Wales CJC (but see regulation 15 and paragraph 16).

(1) S.I. 2006/246.

(3) The procedures of a sub-committee, including where appropriate any voting procedures, must be set out in the standing orders.

Governance and Audit Sub-Committee

16.—(1) The South East Wales CJC must establish a sub-committee (known as the governance and audit sub-committee) to—

- (a) review and scrutinise the South East Wales CJC's financial affairs;
- (b) make reports and recommendations in relation to the South East Wales CJC's financial affairs;
- (c) review and assess the risk management, internal control and corporate governance arrangements of the South East Wales CJC;
- (d) make reports and recommendations to the South East Wales CJC on the adequacy and effectiveness of those arrangements;
- (e) oversee the South East Wales CJC's internal and external audit arrangements;
- (f) review any financial statements prepared by the South East Wales CJC;
- (g) exercise such other functions as the South East Wales CJC may specify.

(2) When appointing members of the governance and audit sub-committee, the South East Wales CJC must ensure that—

- (a) at least one member of the sub-committee is a person who is not a member of a county council, or county borough council, in Wales,
- (b) at least two-thirds of the membership is constituted by members of the constituent councils (but not members of the constituent councils' executives), and
- (c) none of the members of the sub-committee are—
 - (i) council members,
 - (ii) co-opted participants, or
 - (iii) members of the constituent councils' executives.

(3) In sub-paragraph (2), “co-opted participant” means a person co-opted—

- (a) as a member of a sub-committee other than the governance and audit sub-committee, or
- (b) to participate in activities of the South East Wales CJC other than the activities of the governance and audit sub-committee.

(4) The governance and audit sub-committee may not exercise its functions if the membership of the sub-

committee contravenes the requirements of subparagraph (2).

(5) The standing orders must include provision regulating the manner in which the governance and audit sub-committee exercises its functions.