

Explanatory Memorandum to the Corporate Joint Committees (General) (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) (Wales) Regulations 2022.

Rebecca Evans MS
Minister for Finance and Local Government
1 March 2022

1. Description

The Corporate Joint Committees (General) (Wales) Regulations 2022 (“the General Regulations”) 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.

These Regulations largely come into force on the 25 March 2022. Regulation 3(8) comes into force on 6 May 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 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(2), 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(2) provides the Welsh Ministers with a power to make regulations containing supplementary, incidental, consequential, transitional, transitory or saving provisions.

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 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 largely come into force on 25 March 2022. Regulation 3(8) on annual reports by standards committees comes into force on 6 May 2022. This is to mirror the date on which the duty commences for individual local authorities.

4. Purpose and intended effect of the legislation

The Corporate Joint Committees (General) (Wales) Regulations 2022 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. Each Corporate Joint Committee consist of member from those principal councils in Wales which are specified in the regulations establishing the Corporate Joint Committee. In some circumstances a Corporate Joint Committee 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, 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 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 third set of Corporate Joint Committee General Regulations. Together these regulations form a package of standalone provision and amendments to legislation that underpins all Corporate Joint Committees and establishes the legislative framework necessary for the effective administration and governance of a Corporate Joint Committee.

The provisions within this set of General Regulations:

- apply Part 3 of the Local Government Act 2000 to Corporate Joint Committees. Under this Part (and further regulations made under it) any member of a Corporate Joint Committee and any person appointed to a sub-committee of the Corporate Joint Committee and entitled to vote on matters to be decided by that sub-committee will be required to comply with the code of conduct adopted by the Corporate Joint Committee. The amendments also provide that allegations of non-compliance with the code of conduct are investigated by the Public Service Ombudsman for Wales and decided by the Adjudication Panel for Wales.
- apply sections 92 (payments in cases of maladministration etc.) and 101 (indemnification of members and officers) of the Local Government Act 2000 to Corporate Joint Committees.
- amend each set of regulations establishing the four existing Corporate Joint Committees so as to make provision about the appointment of substitute members in the event that a council or National Park authority member is unable to act as a member for any reason (including suspension under the Local Government Act 2000).
- make provision about the commercial activities of a Corporate Joint Committee.
- make provision about other financial matters including a requirement for the four existing Corporate Joint Committees to maintain a general fund, functions in respect of specific types of contract, and insurance conferred on Corporate Joint Committees generally.
- make provision about the rights of a Corporate Joint Committee to bring and defend legal proceedings

- make provision applying protections from personal liability to members and members of staff and conferring powers on a Corporate Joint Committee to indemnify staff.
- make provision about keeping of records by a Corporate Joint Committee and service of notices and documents to and by a Corporate Joint Committee.
- make general provision about staffing such as rights of staff to certain leave and allowances.
- make a number of miscellaneous and consequential provisions which largely extends existing provision in respect of local authorities to Corporate Joint Committees: in particular, provision disqualifying holders of certain paid positions for being appointed as members of Corporate Joint Committees and also provision applying Part 2 of the Local Government (Wales) Measure 2011 (rights to family absence) to members of Corporate Joint Committees..

5. Consultation

Section 82 of the Local Government and Elections (Wales) Act 2021 requires that the Welsh Government consult on any proposal to amend or revoke joint committee regulations. The Corporate Joint Committees (General) (Wales) Regulations 2022 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 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. 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, for the principle that Corporate Joint Committees should be subject to existing local government legislative and governance regimes. Respondents felt that Corporate Joint Committees 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 on the draft Corporate Joint Committees (General) (Wales) Regulations 2022 in November 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. Respondents also agreed generally with those areas which were proposed in the consultation for inclusion in the regulations, but not included in the draft regulations for consultation themselves.

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. Whilst the RIA was undertaken a year ago the financial calculations and assumptions within the evaluation are considered to remain a fair reflection of the costs and benefits of Corporate Joint Committees.

It should be noted that in his response to the consultation on the Corporate Joint Committees (General) (Wales) Regulations 2022 the Public Services Ombudsman for Wales (PSOW) sought to ensure that the potential financial implications of having Corporate Joint Committees and their members come within his jurisdiction be considered as part of the Regulatory Impact Assessment to accompany these Amendment Regulations. In his response to the consultation the PSOW estimates an increase in his caseload across all public bodies within his jurisdiction of 10% for 2022/23 without taking into account the introduction of Corporate Joint Committees into his jurisdiction.

The PSOW is defined as a 'relevant person' for the purposes of section 124 of the Government of Wales Act and as such receives his funding from the Welsh Consolidated Fund (WCF). The PSOW produces an Estimate of expenditure for each financial year in accordance with the Public Services Ombudsman (Wales) Act 2019. The Estimate must set out the resources required for the PSOW to carry out his statutory functions, with the exception of the PSOW's own salary (and associated costs) which are directly charged to the WCF.

The Senedd Finance Committee is responsible for considering the PSOW's Estimate. The Standing Orders of the Senedd at 20.23 and 20.24 state that the PSOW must submit his Estimate by 1 November each financial year, with the Finance Committee laying it before the Senedd, along with any modifications considered appropriate, by 22 November.

In the 'Delivering Justice, Public Services Ombudsman for Wales Annual Report and Accounts 2020/21' the PSOW includes a unit cost for his casework at £674 for 2020/21 based on 6,183 contacts with his office. The casework would include complaints about local authorities, community and town councils, the National Health Service (including GPs and dentists), registered social landlords and the Welsh Government and its sponsored bodies, all of whom are public bodies which come under the remit of the PSOW.

It is not known at this stage what volume of complaints, if any, will be made about the four Corporate Joint Committees, or their members. It is likely in the first instance that this will be extremely low. Also any additional potential caseload, when compared to the overall caseload of the PSOW for all the bodies which come within his jurisdiction, is likely to be minimal or not significant.

For the purpose of this draft RIA therefore we have assumed that any additional caseload in relation to complaints against Corporate Joint Committees or their members would be undertaken within the current funding arrangements for the PSOW. This is in line with the approach adopted for the Future Generations Commissioner and the Welsh Language Commissioner in the Regulatory Impact Assessment which accompanied the Corporate Joint Committee Establishment Regulations.

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.