

## **Explanatory Memorandum to the Public Audit (Wales) Act 2004 (Amendment) (Local Government Bodies in Wales) Order 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 Order 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 Public Audit (Wales) Act 2004 (Amendment) (Local Government Bodies in Wales) Order 2021.

**Julie James MS**  
**Minister for Housing and Local Government**

23 February 2021

## **1. Description**

The Public Audit (Wales) Act 2004 (Amendment) (Local Government Bodies in Wales) Order 2021 amend the Public Audit (Wales) Act 2004 to provide that corporate joint committees established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021 are subject to the provisions of the Public Audit (Wales) Act 2004 where relevant.

Those provisions come into force on the 1 April 2021.

## **2. Matters of special interest to the Equality, Local Government and Communities Committee**

No specific matters identified.

## **3. Legislative background**

The powers enabling this Order to be made are contained in section 12(2) of the Public Audit (Wales) Act 2004. Section 12(2) provides the Welsh Ministers with a power to amend the list of local government bodies in Wales in Section 12(1) to which Part 2 of that Act applies.

This Order will be subject to the affirmative resolution procedure in the Senedd by virtue of paragraph 35 of Schedule 11 to the Government of Wales Act 2006.

Subject to approval by the Senedd, the Order will be made by the Minister for Housing and Local Government and come into force on 1 April 2021.

## **4. Purpose and intended effect of the legislation**

The Public Audit (Wales) Act 2004 (Amendment) (Local Government Bodies in Wales) Order 2021 (“amendment Order”) amends the list of local government bodies in Wales in section 12(1) of the Public Audit (Wales) Act 2004.

The Public Audit (Wales) Act 2004 makes provision about the audit of accounts of public bodies in Wales and related matters. Part 2 relates to local government bodies in Wales.

The amendment Order provides that Corporate Joint Committees established under Part 5 of the Local Government and Elections (Wales) Act 2021 are subject to the provisions of part 2 of the Public Audit (Wales) Act 2004. The amendment Order also makes minor and consequential and supplementary provision.

The amendments Order forms 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 Corporate Joint Committees.

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 Corporate Joint Committee 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.

The amendment Order seeks to ensure that there is good and appropriate financial management in place for Corporate Joint Committees and that the Corporate Joint Committees are brought within the remit of the Auditor General for Wales. This includes requiring the Corporate Joint Committees to prepare accounts and require the Auditor General for Wales to audit them.

The amendments within these regulations:

- a. Amends Section 12(1) of the Public Audit (Wales) Act 2004 so as to include Corporate Joint Committees in the list of local government bodies in Wales to which part 2 of that Act applies.
- b. Inserts provision into Section 25 of the Public Audit (Wales) Act 2004 to prevent Corporate Joint Committees from delegating the function of considering a report and recommendations from the Auditor General for Wales within that section to a sub-committee or to another person.
- c. Inserts a definition of Corporate Joint Committee into section 59 of the Public Audit (Wales) Act 2004.

## **5. Consultation**

Whilst no formal consultation has taken place on the Order itself, the application of an appropriate accounting, audit and financial management regime was 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 financial administration and governance legislation and framework as principal councils in Wales.

The Minister for Housing and Local Government also consulted with the Auditor General for Wales on the intention to add Corporate Joint Committees to the list of local government bodies under Section 12 of the Public Audit (Wales) Act 2004 for the purpose of Part 2 of the Public Audit (Wales) Act 2004 and to bring Corporate Joint Committees within the remit of the Auditor General for Wales. In his response the Auditor General agreed with the proposed approach.

## **6. Regulatory Impact Assessment (RIA)**

A separate regulatory impact assessment has not been prepared in respect of this Order. 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 an appropriate accounting, audit and financial management regime and bringing Corporate Joint Committees within the remit of the Auditor General for Wales. The costs associated with the application of the Public Audit (Wales) Act 2004 to Corporate Joint Committees was considered therefore as part of the regulatory impact assessment on the Corporate Joint Committees regulations themselves.

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:

<https://senedd.wales/media/blab2mmp/sub-ld14134-em-e.pdf>.