

## **Explanatory Memorandum to the Conduct of Members (Principles) (Wales) (Amendment) Order 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 subordinate legislation 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 Conduct of Members (Principles) (Wales) (Amendment) Order 2022.

**Rebecca Evans MS**  
**Minister for Finance and Local Government**  
15 July 2022

## **1. Description**

The Conduct of Members (Principles) (Wales) (Amendment) Order 2022 amends article 2 of the Conduct of Members (Principles) (Wales) Order 2001 (“the Order”) to add corporate joint committees established under Part 5 of the Local Government and Elections (Wales) Act 2021 to the list of relevant authorities, making the principles in the Schedule to the Order applicable to members of corporate joint committees “CJCs”).

This Order comes into force on the 5 August 2022.

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

The Legislation, Justice and Constitution Committee will wish to note that this Order forms part of a package of instruments which underpin the establishment of CJCs and which seek to ensure that CJCs are subject to the same administrative and governance requirements as local government.

## **3. Legislative background**

The powers enabling this Order to be made are contained in section 49(2) and 105(2)(a) of the Local Government Act 2000.

Section 49(2) allows Welsh Ministers to, by order, specify the principles which are to govern the conduct of members and co-opted members of relevant authorities. Section 105(2)(a) provides that any order made under this Act may contain such incidental, consequential, transitional or supplemental provision or savings as the Secretary of State considers necessary or expedient.

The powers conferred by the Local Government Act 2000 on the National Assembly for Wales were transferred to the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

This Order will be subject to the negative procedure in the Senedd by virtue of Section 105(5) of the Local Government Act 2000.

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

CJCs 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 is also set out in the relevant CJC establishment regulations.

The Corporate Joint Committees (General) (Wales) Regulations 2022 provide, among other things, for the application of a code of conduct to members of a CJC through the application of Part 3 of the Local Government Act 2000 (“the LGA 2000”). The Model Code of Conduct governs the conduct of the members of relevant authorities in Wales.

Amendments to a number of regulations / orders will be made via the powers available in the LGA 2000 in order for the code of conduct to fully apply to CJs.

The Conduct of Members (Principles) (Wales) (Amendment) Order 2022 (“amendment Order”) amends article 2 of the Conduct of Members (Principles) (Wales) Order 2001 (“the Order”). The amendment Order adds CJs to the list of relevant authorities, making the principles in the Schedule to the Order applicable to members of CJs. The Schedule to the Order sets out the principles which govern the conduct of the members of relevant authorities in Wales.

The amendment Order forms a package of amendments to legislation that will underpin all CJs and put in place the necessary legislative framework for the effective administration and governance of CJs. The overall intent is that a CJ will be treated as 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.

## **5. Consultation**

Section 49(5) of the Local Government Act 2000 provides that the Welsh Ministers must, before making regulations, consult such representatives of relevant authorities as it considers appropriate; the Auditor General for Wales; and the Public Services Ombudsman for Wales.

The overall approach to the development of the legislative framework which underpins Corporate Joint Committees 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.

The consultation on the Corporate Joint Committee (General) (Wales) Regulations 2022 between 10 November 2021 and 22 December 2021 asked respondents if they agreed with the intended approach to give full effect to the application of the Code of Conduct to CJs and made clear that the 2001 Order would need to be amended to cover CJs. All respondents to that question agreed to the approach outlined. The Auditor General for Wales, and the Public Service Ombudsman for Wales were specifically consulted as part of this consultation.

The consultation documents and a summary of the responses are available at:

<https://gov.wales/corporate-joint-committee-general-wales-regulations-2022>

## **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 CJsCs through regulations. In assessing the potential costs and benefits the RIA considers the overarching policy intent that CJsCs should be treated as part of the 'local government family' including wider public sector duties such as those in the Conduct of Members (Principles) (Wales) Order 2001. The costs associated with the application of the Conduct of Members (Principles) (Wales) Order 2001 to CJsCs was considered therefore as part of the regulatory impact assessment on the CJsCs 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.