

Explanatory Memorandum to the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) 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 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 Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022.

Rebecca Evans MS

Minister for Finance and Local Government

15 July 2022

1. Description

The Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) (Amendment) Regulations 2022 (“the 2022 Regulations”) add Corporate Joint Committees (“CJCs”) established under Part 5 of the Local Government and Elections (Wales) Act 2021 to the definition of “relevant authority” in the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 (“the 2001 Regulations”).

Those provisions come 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 these Regulations form part of a package of instruments which underpin the establishment of CJCs and which seek to ensure 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 section 73(1), (2)(b), (2)(d) and (2)(e), and section 105(2)(a), (2)(b) and (3) of the Local Government Act 2000 (“LGA 2000”).

Section 73(1) of the LGA 2000 permits the Welsh Ministers to make regulations which set out how monitoring officers of relevant authorities have to deal with matters referred to them by the Public Services Ombudsman for Wales. That power was exercised to make the 2001 Regulations and is therefore relied on, in conjunction with section 105(3) of the LGA 2000, to make amendments to those Regulations. More detail is given in section 73(2)(b), (2)(d) and (2)(e) of the LGA 2000 about the types of provision which can be made under section 73(1) of the LGA 2000; the amendments that the 2022 Regulations make are related to those details. Section 105(2)(a) allows any regulations made under the LGA 2000 to contain incidental, or supplemental provision if the Welsh Ministers consider it necessary or expedient. Section 105(2)(b) permits the Welsh Ministers to make different provision for different descriptions of authority.

The relevant functions of the National Assembly for Wales, in the LGA 2000, now vest in the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

These Regulations will be subject to the negative procedure in the Senedd by virtue of section 105(5) of the LGA 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 members of a CJC; where this is the case this is also set out in the relevant CJC establishment regulations.

The 2022 Regulations add CJs established under Part 5 of the Local Government and Elections (Wales) Act 2021 to the definition of “relevant authority” in the 2001 Regulations. This ensures that the 2001 Regulations apply to CJs when relevant matters are referred to their monitoring officers by the Public Services Ombudsman for Wales.

The amendments also require information, and copies of reports and recommendations, to be provided to the constituent council or National Park authority of which a CJC member or co-opted member under investigation is also a member or co-opted member.

The 2022 Regulations are part of 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 CJC will be treated as part of the ‘local government family’ and will be largely subject to the same or similar powers and duties as local authorities in the way that they operate and are governed.

5. Consultation

The overall approach to the development of the legislative framework which underpins CJs and the duties which should apply 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.

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 the specific orders and regulations which would subsequently have to be amended. All respondents to that consultation agreed to the approach outlined.

For the application of the code of conduct to be effective, the 2001 Regulations also need to be applied to CJs.

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 CJs through regulations. In assessing the potential costs and benefits the RIA considered the overarching policy intent that Corporate Joint Committees should be treated as part of the ‘local government family’. The costs

associated with the application of the 2001 Regulations to CJs was considered therefore as part of the regulatory impact assessment on the establishment 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.