

Explanatory Memorandum to the Corporate Joint Committees (General) (Wales) Regulations 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 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 2021.

Julie James MS
Minister for Housing and Local Government

23 February 2021

1. Description

Corporate Joint Committees (General) (Wales) Regulations 2021 introduces 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.

Those provisions come into force on the 1 April 2021.

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

The Equality, Local Government and Communities Committee will wish to note that these regulations amend section 59 of the Equality Act 2010 so that the requirements in section 58 of that Act not to discriminate against a member of the Corporate Joint Committee in relation to the member's carrying out of official business applies to a Corporate Joint Committee. The regulations form part of a package of instruments which underpin the establishment of Corporate Joint Committees. It is intended that additional regulations will be made as part of the wider package of instruments to ensure that Corporate Joint Committees are also subject to the Public Sector Equality Duty and the Socio Economic Duty within the act. This approach is in line with the phased approach taken to the development of the Corporate Joint Committee regulations. The Public Sector Equality Duty will be applied to Corporate Joint Committees from establishment by the Equality Act 2010 (Public Authorities subject to the Public Sector Equality Duty) (Wales) Order 2021 – subject to a resolution of the Senedd. The Socio Economic duty will be applied separately to Corporate Joint Committees in advance of the commencement of their substantive duties in relation to Strategic Development Planning, Transport Planning and the Economic Wellbeing function (due to commence in February 2022).

3. Legislative background

The powers enabling these Regulations to be made are contained in sections 83(2), 84 and 174 of the Local Government and Elections (Wales) Act 2021.

Section 83(2) provides the Welsh Ministers with a power to make supplementary, incidental, consequential, transitional, transitory or saving provision applying in relation to—

- (a) all corporate joint committees;
- (b) a particular corporate joint committee;
- (c) a particular description of corporate joint committee.

Section 84 provides the Welsh Ministers with a power to make provision 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 Housing and Local Government and come into force on 1 April 2021.

4. Purpose and intended effect of the legislation

Corporate Joint Committees (General) (Wales) Regulations 2021 (“general regulations”) introduce a number of general provision 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 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 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 general regulations form 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 a Corporate Joint Committee.

The general regulations seek to ensure that, as part of the wider application of the local government ethical framework that members, co-opted participants and employees of Corporate Joint Committees are subject to appropriate standards of conduct. The general regulations also seek to ensure that Corporate Joint Committees are subject to an appropriate accounting, audit and financial management regime. The general regulations also make a small number of minor amendments to; support the necessary arrangements for the provision of services between Corporate Joint Committees and local authorities; to ensure equality of treatment of members of a Corporate Joint Committee by the Corporate Joint Committee; and, provide for the Corporate Joint Committee to hold and dispose of assets.

The provisions within these general regulations:

- a. Ensure the application of relevant authority’s code of conduct to members and co-opted participants of a Corporate Joint Committee. That is that the code of conduct of the relevant authority from which the member or co-opted participant is from will apply. This includes to require them to register any personal interests they have in the business of the Corporate Joint Committee in their relevant authority’s register of interest.
- b. Ensure, through the application of the Code of Conduct (Qualifying Local Government) (Wales) Order 2001, that employees of a Corporate Joint Committee are subject to a code of conduct.
- c. Amend Part 1 of the Local Government Act 2003 so that Corporate Joint Committees are included as a “Local Authority” for the purpose of Part 1 of that Act.

- d. Amend the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 so that Corporate Joint Committees are included as a “Local Authority” for the purpose of those Regulations
- e. Amend the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities) so that Corporate Joint Committees are included as a “Local Authority” for the purpose of that Act.
- f. Amend section 59 of the Equality Act 2010 so that Corporate Joint Committees are included as a “local authority” for the purpose of section 58 of that Act (Official business of members).
- g. Amend the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 so that Corporate Joint Committees are included as a “public body” for the purposes of paragraph 1 of Schedule 20 (Relief for acquisitions by public bodies and Health bodies) of that Act.

5. Consultation

The Corporate Joint Committees (General) (Wales) Regulations 2021 forms part of a package of general 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 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. A comprehensive consultation was also undertaken 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, that CJC's should be subject to existing legislative and governance regimes and that CJC's should be subject to the same powers and duties as principal councils and the same governance and administrative framework as principal councils.

There was also overwhelming support in the consultation that Members and Staff of a Corporate Joint Committee should be subject to the same ethical framework and code of conduct as those for principal councils and that Corporate Joint Committees should be subject to same accounting, audit and financial management regime as principal councils in Wales.

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 the application of the local government ethical framework and Codes of Conduct and an appropriate accounting, audit and financial regime.

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>.