

Explanatory Memorandum to the Standards Committees (Wales) (Amendment) Regulations 2023

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 Standards Committees (Wales) (Amendment) Regulations 2023

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Minister for Finance and Local Government
13 September 2023

1. Description

The Standards Committees (Wales) (Amendment) Regulations 2023 (“the 2023 Regulations”) add Corporate Joint Committees (“CJCs”) established by regulations made under Part 5 of the Local Government and Elections (Wales) Act 2021 (“the 2021 Act”) to the definition of “relevant authority” in the Standards Committees (Wales) Regulations 2001 (“the 2001 Regulations”). They also amend the 2001 Regulations to provide for the size, composition and proceedings of standards committees of CJCs. They correct two small errors in the Welsh language text of the 2001. The first error is at regulation 7(1) of the 2001 Regulations and is corrected by a substitution of the word “officer” for the incorrect word “member” as set out in regulation 6 (a) of the 2023 Regulations. The second error is of an identical nature and is in 7(2) of the 2001 Regulations and has been corrected by translation of the amendment at regulation 6(c) of the 2023 Regulations which, whilst not a direct translation of the English version, has the same legal effect in both languages.

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

The Legislation, Justice and Constitution Committee may wish to note that this Statutory Instrument forms 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 county and county borough councils. It forms part of a group of Regulations and Orders which apply Part 3 of the Local Government Act (“2000 Act”) to CJCs.

3. Legislative background

The 2021 Act provides for a framework for regional collaboration between county and county borough councils. Individual sets of Establishment Regulations made under Part 5 of the 2021 Act were approved by the Senedd to create four CJCs from 1 April 2021 which are coterminous with Wales’ city and growth deal areas.

Section 53(11) of the 2000 Act permits the Welsh Ministers to make regulations which provide for the size, composition and procedures of a standards committee for a relevant authority. A CJC is a relevant authority for the purposes of Part 3 to the 2000 Act (sections 49(6) and 83). The power in section 53(11) was exercised to make the 2001 Regulations and is therefore relied upon, in conjunction with section 105 (2)(a) and (b) and (3) to make the amendments to those Regulations.

Section 105(2)(a) allows any regulations made under the 2000 Act 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. Section 105(3) sets out that provision made under subsection (2) includes provision to modify any enactment (whether passed or made).

The relevant functions of the National Assembly for Wales, in the 2000 Act, 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 are subject to the negative procedure by virtue of section 105(5) of the 2000 Act.

4. Purpose and intended effect of the legislation

CJCs are corporate bodies, established via regulation, and consist of those county and county borough councils which are specified in the establishment regulations. In some circumstances National Park authorities are also members of a CJC; where this is the case this is also set out in the relevant CJC establishment regulations.

The 2023 Regulations add CJCs established under Part 5 of the 2021 Act to the definition of “relevant authority” in the 2001 Regulations. This ensures that unless otherwise specified, the 2001 Regulations apply to CJCs in relation to standards committees set up by those CJCs as it would to other relevant authorities. Some specific provision has been made in respect of CJCs where the 2001 Regulations as drafted do not fit the membership structure of CJCs. The 2023 Regulations provide for the size, composition and proceedings of standards committees set up by CJCs. They also deal with two small errors of language which appear in regulation 7(1) and (2) of the 2001 Regulations.

The 2023 Regulations are part of a package of amendments to legislation that underpin all CJCs and put in place the necessary legislative framework for the effective administration and governance of CJCs.

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 county and county borough councils in the way they operate and are governed.

5. Consultation

The overall approach to the development of the legislative framework which underpins CJCs and the duties which should apply has been co-developed with Local Government, the Welsh Local Government Association, 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 Part 3 of the 2000 Act to CJCs 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.

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 CJsCs 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 CJsCs 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.