

Explanatory Memorandum to the Public Services Ombudsman (Wales) Act 2019 (Amendment of Schedule 3) 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 Public Services Ombudsman (Wales) Act 2019 (Amendment of Schedule 3) Regulations 2021.

Julie James MS
Minister for Housing and Local Government

23 February 2021

1. Description

Public Services Ombudsman (Wales) Act 2019 (Amendment of Schedule 3) Regulations 2021 amend the Public Services Ombudsman (Wales) Act 2019 so as 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 Services Ombudsman (Wales) Act 2019 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 these Regulations to be made are contained in section 31(2) of the Public Services Ombudsman (Wales) Act 2019. Section 31(2) provides the Welsh Ministers with a power to add to, to omit or to change the description of those lists of persons in Schedule 3 of that Act. Schedule 3 of that Act provide a list of authorities to which the Act applies.

These Regulations will be subject to the affirmative resolution procedure in the Senedd by virtue of section 31(5) of the Public Services Ombudsman (Wales) Act 2019.

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

The Regulations (“amendment regulations”) amend Schedule 3 of the Public Services Ombudsman (Wales) Act 2019. The amendment regulations provide that Corporate Joint Committees established under Part 5 of the Local Government and Elections (Wales) Act 2021 are subject to the provisions of the Public Services Ombudsman (Wales) Act 2019 where relevant.

Public Services Ombudsman (Wales) Act 2019 makes provision with regards to the office of the Ombudsman including the remit, roles and responsibilities of the Ombudsman. Schedule 3 of that Act provides a list of those persons or bodies that come within the remit of the Ombudsman.

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 amendments 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 amendment regulations seek to ensure that, as part of the wider application of the local government ethical framework and Codes of Conduct to Corporate Joint Committees, that Corporate Joint Committees come within the remit of the Public Services Ombudsman. This will enable the Ombudsman to look into any complaints made about Corporate Joint Committees. It will also enable the Ombudsman to investigate any complaints made against the members of the Corporate Joint Committee in relation to breaches of their Code of Conduct.

The amendments within these regulations:

- a. Amend schedule 3 of the Public Services Ombudsman (Wales) Act 2019 so as to include Corporate Joint Committees in that Schedule as a Local Government body which comes under the remit of the Ombudsman

5. Consultation

Section 31(4) of the Public Services Ombudsman (Wales) Act 2019 provides that the Welsh Ministers must before making regulations using the power in section 31(2) of that Act, consult the Public Services Ombudsman for Wales and any other person they think appropriate.

The Welsh Ministers have consulted the Public Services Ombudsman for Wales. The Public Services Ombudsman for Wales agreed that it would be appropriate for Corporate Joint Committees to come within his remit.

In addition, the application of the local government ethical framework to Corporate Joint Committees and the requirement for Corporate Joint Committees to have a Code of Conduct, and so bring them within the remit of the Public Services Ombudsman Wales was considered as part of the consultation on the draft Corporate Joint Committee Establishment Regulations which ran from 12 October 2020 to 4 January 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 ethical framework 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. The costs associated with bringing Corporate Joint Committees within the ethical framework and the Public Services Ombudsman (Wales) Act 2019 to Corporate Joint Committees were considered therefore as part of the regulatory impact assessment on the Corporate Joint Committee 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>.