

Mae'r ymateb yma hefyd ar gael yn Gymraeg.  
This response is also available in Welsh.



**Response by the Public Services Ombudsman for Wales  
to the Corporate Joint Committee (General) (Wales) Regulations 2022**

I am pleased to have the opportunity to respond to the Welsh Government's consultation on the Corporate Joint Committee (General) (Wales) Regulations 2022.

**Our role**

As Public Services Ombudsman for Wales (PSOW), I investigate complaints made by members of the public who believe they have suffered hardship or injustice through maladministration or service failure on the part of a body in my jurisdiction, which essentially includes all organisations that deliver public services devolved to Wales. These include:

- local government (both county and community councils)
- the National Health Service (including GPs and dentists)
- registered social landlords (housing associations)
- the Welsh Government, together with its sponsored bodies.

I can consider complaints about privately arranged or funded social care and palliative care services and, in certain specific circumstances, aspects of privately funded healthcare.

I also investigate complaints that elected members of local authorities have breached their Codes of Conduct, which set out the recognised principles of behaviour that members should follow in public life.

The 'own initiative' powers I have been granted under the Public Services Ombudsman (Wales) Act 2019 (PSOW Act 2019) allow me to investigate where evidence suggests there may be systemic failings, even if service users themselves are not raising complaints. The Act also establishes the Complaints Standards Authority (CSA) to drive improvement in public services by supporting effective complaint handling through model procedures, training and collecting and publishing complaints data.

## **General Comments**

I welcome many of the amendments to existing legislation set out in the Corporate Joint Committee (General) (Wales) Regulations 2022 (the 2022 Regulations). The proposed changes to the Local Government Act 2000 (LGA 2000) mitigate our previous concerns about co-opted members, as their role is clearly defined in section 49 subsection 7 of the LGA 2000 and ensures that they are treated in the same way as democratically elected members from constituent councils and National Park Authorities.

I do have some concerns however regarding the proposed amendments to section 51 of the LGA 2000. Applying the duty to adopt a code of conduct for corporate joint committees (CJCs) in line with local authority bodies is welcome. However, I am concerned about the disapplication of subsection 6 parts (a) and (b) of section 51 for CJCs, and the proposal of a new subsection that requires CJCs to only publish their codes electronically.

These clauses will discriminate against those who do not have access to, or the skills to use digital technology, in particular those who face socio-economic deprivation and the elderly. To avoid such discrimination, the 2022 Regulations could include a clause that requires CJC codes of conduct be made available at constituent councils' buildings for members of the public. It would be helpful to understand why Welsh Government believe that CJCs should not be subject to the same clause to publish a notice about new or revised codes of conduct in a newspaper as well.

I also welcome the proposed S52ZA amendment to the LGA 2000, confirming that codes of conduct will apply to both members and co-opted members. On reflection I believe removing the requirement for members to agree in writing to observe the relevant code of conduct is a positive move.

The proposed extension of the protection to CJC members afforded by section 39 of the Local Government (Miscellaneous Provisions) Act 1976 is appropriate. I have assumed the amendments will extend to co-opted members as well, as the consultation does not state specifically and would appreciate confirmation that this is the case.

These changes proposed in section 3 of the 2022 Regulations to sections 71, 72, 78 and 79 of the LGA 2000 requiring the Ombudsman to send reports regarding allegations of breaches of codes of conduct to the relevant constituent council or NPA's monitoring officer, as well as the CJC monitoring officer, seem reasonable and brings CJCs in line with expectations on members and monitoring officers from Welsh local authorities.

However, it is not clear in the Regulations where a CJC member is under investigation for alleged breach of a constituent council's code of conduct, if the relevant CJC monitoring officer should also be similarly notified.

The amendments to the Establishment Regulations for each CJC regarding the suspension of members seem appropriate and proportionate. However, neither the

amendments made by the 2022 Regulations, nor the draft CJC, specify how quickly the appointment of temporary members should take, or what happens in terms of decision making whilst positions on the Committee remain unfilled. It may be useful to include provision in the Guidance so that the continuity of service that the CJC provides is not compromised unduly as a result of vacancies on the CJC or their sub-committees.

Potentially there are some benefits on providing CJsCs the power to establish joint standards committees allowing flexibility, consistency and sharing of resources. However, there are also some potential issues that also need to be considered, such as CJC members opinions of members external to their constituency areas having responsibility for considering allegations and investigation reports.

More information will need to be made available before we could offer a considered view on whether CJsCs should be given the power to establish a joint standards committee. In principle the proposal should be given further consideration, with a further consultation with stakeholders about various options.

### **Regulatory Impact Assessment (RIA)**

Having relied again on the RIA of the Establishment Regulations, Welsh Government have again failed to assess the financial implications for my office of having additional bodies in our jurisdiction. We have raised repeatedly our concerns in previous consultation responses on the [Establishment Regulations](#) and the [Corporate Joint Committees \(General\) \(No.2\) \(Wales\) Regulations 2021](#), and with Welsh Government officials. Last year my office saw a 47% rise in Code of Conduct complaints, including complaints involving leaders and cabinet members and an increase in those referred to the Adjudication Panel for Wales. In this current year we are experiencing a 28% increase of complaints on 2020/21. We forecast a further 10% increase in caseload in 2022/23, without taking into account the introduction of CJsCs into our jurisdiction.

The costs associated with the complaints we can expect about CJsCs and their members can be significant, so it is disappointing that Welsh Government have retained this position, especially in light of the increase in caseload we are experiencing. I must firmly reiterate my previous requests that the financial implications of having additional bodies in our jurisdiction are considered urgently in advance of the third tranche of CJC regulations coming into force in the Spring 2022.

### **Closing remarks**

I trust that you will find my comments useful. Should you wish to discuss any of my points further, please do not hesitate to contact Ania Rolewska, my Head of Policy ([Ania.Rolewska@ombudsman.wales](mailto:Ania.Rolewska@ombudsman.wales)).



**Nick Bennett**

**Public Services Ombudsman for Wales**

**December 2021**

---