



# Local Government and Elections (Wales) Act 2021

2021 asc 1

## PART 5

### COLLABORATIVE WORKING BY PRINCIPAL COUNCILS

#### CHAPTER 1

##### TERMS USED IN PART

#### 68 Terms used in Part

In this Part—

“corporate joint committee” (“*cyd-bwyllgor corfforedig*”) has the meaning given in section 72(1) and section 74(1) (and means a body corporate established by joint committee regulations for the purpose of exercising, in relation to two or more principal areas, a function specified in the regulations);

“documents” (“*dogfennau*”) includes information recorded in any form;

“economic well-being function” (“*swyddogaeth llesiant economaidd*”) is to be interpreted in accordance with section 76;

“joint committee application” (“*cais cyd-bwyllgor*”) has the meaning given in section 70(1);

“joint committee regulations” (“*rheoliadau cyd-bwyllgor*”) means—

(a) regulations under section 72 (requested joint committee regulations);

(b) regulations under section 74 (joint committee regulations where no request has been made);

“National Park authority” (“*awdurdod Parc Cenedlaethol*”) means a National Park authority for a National Park in Wales;

“principal area” (“*prif ardal*”) means—

(a) a county in Wales;

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- (b) a county borough (in Wales);  
 “strategic development plan” (“*cynllun datblygu strategol*”) has the meaning given in section 60M of the Planning and Compulsory Purchase Act 2004 (c. 5).

## CHAPTER 2

### GUIDANCE ABOUT COLLABORATIVE WORKING

#### 69 Guidance about collaborative working

- (1) A principal council must have regard to any guidance issued by the Welsh Ministers about the exercise of its functions in collaboration with another principal council.
- (2) For the purposes of this section a principal council exercises a function in collaboration with another principal council if—
  - (a) it exercises a function of another principal council under an arrangement made under—
    - (i) section 101(1)(b) of the 1972 Act (discharge of functions by another local authority);
    - (ii) regulations made under section 19(1) of the 2000 Act (discharge of executive functions by another local authority);
    - (iii) regulations made under section 19(2) of the 2000 Act (discharge of non-executive functions by the executive of another local authority);
  - (b) it exercises the function jointly with another principal council under an arrangement made under section 101(5) of the 1972 Act (including by virtue of regulations made under section 20(1) of the 2000 Act (joint exercise of functions));
  - (c) it authorises another principal council to exercise the function under an order made under section 70 of the Deregulation and Contracting Out Act 1994 (c. 70);
  - (d) the function is exercised in relation to its principal area and the principal area of another principal council by a corporate joint committee;
  - (e) it exercises the function in collaboration with another principal council under any other enactment.

## CHAPTER 3

### ESTABLISHING CORPORATE JOINT COMMITTEES WHERE REQUEST HAS BEEN MADE

#### *Applications to establish a corporate joint committee*

#### 70 Application by principal councils to establish a corporate joint committee

- (1) Any two or more principal councils may jointly make an application (a “joint committee application”) to the Welsh Ministers, asking them to consider making regulations under section 72 establishing a corporate joint committee to exercise—
  - (a) a function of those councils;
  - (b) the economic well-being function,

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in relation to the principal areas of those councils.

- (2) If, following receipt of a joint committee application, the Welsh Ministers decide not to make regulations under section 72, they must notify the principal councils that made the application.

## **71 Consultation before making joint committee application**

Before making a joint committee application the principal councils must consult—

- (a) local people in the principal councils' areas,
- (b) each of the councils for communities in the principal councils' areas,
- (c) the National Park authority for a National Park, any part of which is in the area of any of the principal councils,
- (d) the public services board or boards for the principal councils' areas,
- (e) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by one or more of the principal councils, and
- (f) such other persons as the principal councils consider appropriate.

### *Requested joint committee regulations*

## **72 Requested joint committee regulations**

- (1) The Welsh Ministers may by regulations establish a body corporate (to be known as a corporate joint committee) to exercise, in relation to the principal areas of the principal councils that made the joint committee application (“the relevant councils”), a function specified in the regulations.
- (2) But the Welsh Ministers may make regulations under this section only if the conditions set out in section 73 are satisfied.
- (3) Regulations under this section may specify only—
  - (a) a function of the principal councils that made the application;
  - (b) the economic well-being function.
- (4) Regulations under this section which specify a function of a principal council must make provision so that the function is either—
  - (a) exercisable by the corporate joint committee instead of by the relevant councils, or
  - (b) exercisable concurrently by the corporate joint committee and the relevant councils.
- (5) A function of a principal council may be specified in regulations under this section by reference to a particular activity or activities.

## **73 Conditions to be met before making requested joint committee regulations**

- (1) The conditions mentioned in section 72(2) are as follows.
- (2) The first condition is that the Welsh Ministers have received a joint committee application.

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- (3) The second condition is that the Welsh Ministers have consulted the following on a draft of the proposed regulations—
- (a) the principal councils that made the joint committee application,
  - (b) local people in the principal councils' areas,
  - (c) each of the councils for communities in the principal councils' areas,
  - (d) the National Park authority for a National Park, any part of which is in the area of any of the principal councils,
  - (e) the public services board or boards for the principal councils' areas,
  - (f) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by one or more of the principal councils, and
  - (g) such other persons as the Welsh Ministers consider appropriate.
- (4) The third condition is that the principal councils that made the joint committee application have each given consent in writing to the regulations being made.

## CHAPTER 4

### ESTABLISHING CORPORATE JOINT COMMITTEES WHERE NO REQUEST HAS BEEN MADE

#### **74 Joint committee regulations where no request has been made**

- (1) The Welsh Ministers may by regulations establish a body corporate (to be known as a corporate joint committee) to exercise, in relation to the principal areas specified in the regulations (“the relevant areas”), a function specified in the regulations.
- (2) But the Welsh Ministers may make regulations under this section only if the conditions set out in section 75 are satisfied.
- (3) Regulations under this section may specify only—
  - (a) a function of the principal councils for the relevant areas that relates to—
    - (i) improving education;
    - (ii) transport;
  - (b) the function of preparing a strategic development plan (as to which, see subsection (4));
  - (c) the economic well-being function.
- (4) Where the function of preparing a strategic development plan is specified in joint committee regulations, Part 6 of the Planning and Compulsory Purchase Act 2004 (c. 5) applies to the corporate joint committee.
- (5) Regulations under this section which specify a function of a principal council must make provision so that the function is either—
  - (a) exercisable by the corporate joint committee instead of by the principal councils for the relevant areas, or
  - (b) exercisable concurrently by the corporate joint committee and those principal councils.
- (6) A function of a principal council may be specified in regulations under this section by reference to a particular activity or activities.

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## **75 Conditions to be met before making regulations under section 74**

- (1) The conditions mentioned in section 74(2) are as follows.
- (2) The first condition is that the Welsh Ministers have consulted the following on a draft of the regulations—
  - (a) the principal councils for the principal areas to be specified in the regulations,
  - (b) local people in the principal councils' areas,
  - (c) each of the councils for communities in the principal councils' areas,
  - (d) the National Park authority for a National Park, any part of which is in the area of any of the principal councils,
  - (e) the public services board or boards for the principal councils' areas,
  - (f) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by one or more of the principal councils, and
  - (g) such other persons as the Welsh Ministers consider appropriate.
- (3) The second condition is that, if the condition in subsection (2) is satisfied and the Welsh Ministers intend to make regulations under section 74, they have given notice of their intention to—
  - (a) the principal councils for the principal areas to be specified in the regulations, and
  - (b) if the regulations specify the function of preparing a strategic development plan, the National Park authority for a National Park any part of which is in any of the principal areas to be specified in the regulations.
- (4) The first condition may be satisfied by consultation undertaken before the coming into force of this section.

## **CHAPTER 5**

### **FURTHER PROVISION RELATING TO CORPORATE JOINT COMMITTEES AND JOINT COMMITTEE REGULATIONS**

#### *Promotion and improvement of economic well-being*

## **76 Economic well-being function**

- (1) A corporate joint committee which has been granted the economic well-being function may do anything which it considers is likely to promote or improve the economic well-being of its area.
- (2) The economic well-being function may be exercised in relation to or for the benefit of—
  - (a) the whole or any part of the corporate joint committee's area;
  - (b) all or any persons resident or present in its area.
- (3) The economic well-being function includes power to do anything in relation to, or for the benefit of, any person or area situated outside the corporate joint committee's area, including areas outside Wales, if the corporate joint committee considers that it is likely to promote or improve the economic well-being of its area.

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- (4) Subsections (1) to (3) are subject to any prohibition, restriction or other limitation on the exercise of the economic well-being function as may be provided for in joint committee regulations or regulations under section 83.

*Provision in joint committee regulations*

**77 Provision that may or must be included in joint committee regulations**

- (1) Joint committee regulations must provide that the senior executive members of the principal councils for the principal areas in the area of the corporate joint committee are members of the committee.
- (2) Where the function of preparing a strategic development plan is specified in joint committee regulations and any part of a National Park is in the area of the corporate joint committee, the regulations must make provision about the membership of the committee by the National Park authority for that National Park.
- (3) Joint committee regulations may, in particular, make provision about—
- (a) subject to subsections (1) and (2), the composition of a corporate joint committee (including about the co-opting of members to the committee or any sub-committee);
  - (b) the name of a corporate joint committee;
  - (c) the establishment of sub-committees of a corporate joint committee;
  - (d) the proceedings of a corporate joint committee and of any sub-committee (including provision about voting rights);
  - (e) powers of a corporate joint committee to arrange for the exercise of its functions by another person;
  - (f) powers of a corporate joint committee to exercise, on behalf of any person, any functions of that person;
  - (g) powers of a corporate joint committee to exercise its functions, other than functions under Part 6 of the Planning and Compulsory Purchase Act 2004 (c. 5), jointly, or otherwise in collaboration, with another person;
  - (h) powers of a corporate joint committee to provide staff, goods, services or accommodation to any person;
  - (i) remuneration, allowances, expenses, pensions or compensation for loss of office for members of a corporate joint committee or of any sub-committee;
  - (j) the funding of a corporate joint committee;
  - (k) the finances of a corporate joint committee, including provision about—
    - (i) the borrowing or lending of money by a corporate joint committee;
    - (ii) the giving or receipt by a corporate joint committee of financial assistance;
    - (iii) the charging of fees by a corporate joint committee;
  - (l) powers of a corporate joint committee to do for a commercial purpose anything it may do in the exercise of its functions;
  - (m) the performance of a corporate joint committee (including making a committee subject to scrutiny by another person);
  - (n) the acquisition, appropriation or disposal of property (real or personal) or rights by a corporate joint committee (including provision for the acquisition of land compulsorily);

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- (o) the commencement of or participation in legal proceedings by a corporate joint committee (including participation in a public inquiry);
  - (p) powers of the Welsh Ministers to give directions to—
    - (i) a corporate joint committee;
    - (ii) a principal council for a principal area in the area of a corporate joint committee;
    - (iii) if the joint committee regulations specify the function of preparing a strategic development plan, the National Park authority for a National Park any part of which is in the area of a corporate joint committee, and about the enforcement of such directions;
  - (q) a corporate joint committee's power to do things which are to facilitate, or are conducive or incidental to, the exercise of its functions.
- (4) For the purposes of subsection (1), “senior executive member” means—
- (a) in the case of a principal council operating a leader and cabinet executive, the executive leader;
  - (b) in the case of a principal council operating a mayor and cabinet executive, the elected mayor.

*Amendment and revocation of joint committee regulations*

**78 Application by principal councils to amend or revoke joint committee regulations**

- (1) The principal councils for the principal areas in a corporate joint committee's area may jointly make an application to the Welsh Ministers, asking them to consider making regulations under section 80 to amend or revoke the joint committee regulations which established the corporate joint committee.
- (2) But an application under this section may not ask the Welsh Ministers to consider—
  - (a) amending joint committee regulations to specify a function unless it is—
    - (i) a function of the councils making the application;
    - (ii) the economic well-being function;
  - (b) amending regulations made under section 74 (joint committee regulations where no request has been made) so as to—
    - (i) omit or modify a function which relates to improving education or transport;
    - (ii) omit the function of preparing a strategic development plan;
    - (iii) omit the economic well-being function or impose, modify or omit a prohibition, restriction or other limitation on the exercise of that function;
  - (c) revoking regulations made under section 74.
- (3) An application under this section asking the Welsh Ministers to consider amending joint committee regulations so as to specify a principal area (so that the corporate joint committee will exercise a function in relation to that area) may not be made unless the principal council for that area is one of the applicants.

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## **79 Further provision in relation to applications**

- (1) Before making an application under section 78 the principal councils must consult such persons as they consider appropriate.
- (2) If, following the receipt of an application under section 78, the Welsh Ministers decide not to make regulations under section 80, the Welsh Ministers must notify the principal councils that made the application.

## **80 Amendment and revocation of joint committee regulations**

- (1) The Welsh Ministers may by regulations amend or revoke joint committee regulations.
- (2) But the Welsh Ministers may make regulations under subsection (1) only if—
  - (a) in the case of regulations that amend regulations made under section 72 (requested joint committee regulations), the conditions set out in section 81 are satisfied;
  - (b) in the case of regulations that amend regulations made under section 74 so as to specify, modify or omit a function, other than so as to—
    - (i) specify, modify or omit a function which relates to improving education or transport;
    - (ii) specify or omit the function of preparing a strategic development plan;
    - (iii) specify or omit the economic well-being function,
 the conditions set out in section 81 are satisfied;
  - (c) in any other case (including the case of regulations that amend regulations under section 74 to impose, modify or omit a prohibition, restriction or other limitation on the exercise of the economic well-being function), the conditions set out in section 82 are satisfied.
- (3) Regulations under subsection (1) may not amend joint committee regulations so as to specify a function unless it is—
  - (a) a function of the principal councils in the corporate joint committee's area;
  - (b) the economic well-being function;
  - (c) in the case of regulations that amend regulations made under section 74, the function of preparing a strategic development plan.
- (4) Regulations under subsection (1) which amend joint committee regulations so as to specify a function of a principal council must make provision so that the function is either—
  - (a) exercisable by the corporate joint committee instead of by the principal councils in the corporate joint committee's area, or
  - (b) exercisable concurrently by the corporate joint committee and those principal councils.
- (5) Regulations under subsection (1) may amend joint committee regulations so as to specify a function of a principal council by reference to a particular activity or activities.
- (6) Regulations under subsection (1) which—
  - (a) amend joint committee regulations so as to omit a function specified in those joint committee regulations, or



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- (b) revoke joint committee regulations (so as to abolish the corporate joint committee established by those regulations),
- may provide that a function which will cease to be exercisable by the corporate joint committee, other than the economic well-being function or the function of preparing a strategic development plan, is to be exercisable by another person.
- (7) The Welsh Ministers may by regulations revoke regulations made under this section.

**81 Conditions to be met before amending joint committee regulations: application required from principal councils**

- (1) The conditions mentioned in section 80(2)(a) and (b) are as follows.
- (2) The first condition is that the Welsh Ministers have received an application under section 78 to amend the joint committee regulations.
- (3) The second condition is that the Welsh Ministers have consulted such persons as they consider appropriate on a draft of the regulations.
- (4) The third condition is that the principal councils which made the application have each given consent in writing to the regulations being made.
- (5) The fourth condition is that, if the conditions in subsections (2) to (4) are satisfied and the Welsh Ministers intend to make the regulations, they have given notice of their intention to the corporate joint committee.

**82 Conditions to be met before amending or revoking joint committee regulations: no application required from principal councils**

- (1) The conditions mentioned in section 80(2)(c) are as follows.
- (2) The first condition is that the Welsh Ministers have consulted such persons as they consider appropriate on a draft of the regulations.
- (3) The second condition is that, if the condition in subsection (2) is satisfied and the Welsh Ministers intend to make the regulations, they have given notice of their intention to—
- (a) the principal councils in the corporate joint committee's area,
  - (b) if the regulations will amend joint committee regulations to specify a principal area—
    - (i) the principal council for that area, and
    - (ii) if the corporate joint committee has, or under the regulations will have, the function of preparing a strategic development plan, the National Park authority for a National Park any part of which is in that area,
  - (c) if the regulations will amend regulations made under section 74 to specify or omit the function of preparing a strategic development plan, the National Park authority for a National Park any part of which is in the corporate joint committee's area, and
  - (d) the corporate joint committee.

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*Supplementary etc. provision in and in relation to joint committee regulations*

### **83 Supplementary etc. provision in certain regulations under this Part**

- (1) Joint committee regulations and regulations under section 80 may include supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) The Welsh Ministers may by regulations 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.
- (3) Regulations under subsection (2) may also make provision imposing a prohibition, restriction or other limitation on the exercise of the economic well-being function by a corporate joint committee granted that function.
- (4) Regulations under subsection (2) have effect subject to any provision included in joint committee regulations.
- (5) In this section references to supplementary, incidental, consequential, transitional, transitory or saving provision include provision—
  - (a) for the transfer of property (real or personal), rights or liabilities (including criminal liabilities, and rights and liabilities in relation to a contract of employment)—
    - (i) from a principal council to a corporate joint committee;
    - (ii) from a National Park authority to a corporate joint committee;
    - (iii) from a corporate joint committee to one or more other corporate joint committees;
    - (iv) from a corporate joint committee to one or more principal councils, persons by whom a function is exercisable by virtue of section 80(6) or National Park authorities;
    - (v) from a person by whom a function is exercisable by virtue of section 80(6) to one or more principal councils or corporate joint committees;
  - (b) for the management or custody of property transferred to or otherwise acquired by a corporate joint committee;
  - (c) for civil or criminal proceedings—
    - (i) commenced by or against a principal council to be continued by or against a corporate joint committee;
    - (ii) commenced by or against a corporate joint committee to be continued by or against one or more other corporate joint committees;
    - (iii) commenced by or against a corporate joint committee to be continued by or against one or more principal councils, persons by whom a function is exercisable by virtue of section 80(6) or National Park authorities;
    - (iv) commenced by or against a person by whom a function is exercisable by virtue of section 80(6) to be continued by or against one or more principal councils or corporate joint committees;
  - (d) subject to subsection (6), for the transfer of staff—
    - (i) from a principal council to a corporate joint committee;

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- (ii) from a National Park authority to a corporate joint committee;
  - (iii) from a corporate joint committee to one or more other corporate joint committees;
  - (iv) from a corporate joint committee to one or more principal councils, persons by whom a function is exercisable by virtue of section 80(6) or National Park authorities;
  - (v) from a person by whom a function is exercisable by virtue of section 80(6) to one or more principal councils or corporate joint committees;
  - (e) about other staffing matters (including remuneration, allowances, expenses, pensions or compensation for loss of office);
  - (f) for treating for some or all purposes—
    - (i) a corporate joint committee as the same person in law as a principal council;
    - (ii) a corporate joint committee as the same person in law as a National Park authority;
    - (iii) a corporate joint committee as the same person in law as another corporate joint committee;
    - (iv) a corporate joint committee as the same person in law as a person by whom a function is exercisable by virtue of section 80(6);
    - (v) a principal council, a person by whom a function is exercisable by virtue of section 80(6) or a National Park authority as the same person in law as a corporate joint committee;
    - (vi) a principal council as the same person in law as a person by whom a function is exercisable by virtue of section 80(6);
  - (g) about things which a corporate joint committee may or must do that are supplementary or incidental to the functions of the committee specified in joint committee regulations by virtue of section 72(1), 74(1) or 80(1);
  - (h) about the provision of information or documents by a principal council, a National Park authority or a corporate joint committee to a person specified in the regulations;
  - (i) about co-operation by a principal council, a National Park authority or a corporate joint committee with a person specified in the regulations;
  - (j) for the payment of compensation in respect of loss suffered by any person in consequence of a function becoming, or ceasing to be, exercisable by a corporate joint committee.
- (6) Joint committee regulations, regulations under section 80 or regulations under this section containing provision for the transfer of staff must apply the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246), apart from regulations 4(6) and 10, to those transfers (whether or not the transfer is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006).
- (7) The Welsh Ministers may by regulations amend or revoke regulations made under subsection (2) or regulations made under this subsection; and regulations under this subsection may make supplementary, incidental, consequential, transitional, transitory or saving provision.

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#### **84 Power of the Welsh Ministers to amend, repeal etc. enactments**

- (1) Joint committee regulations and regulations under section 80 or 83 may—
  - (a) amend, modify, apply (with or without modifications) or disapply any enactment;
  - (b) repeal or revoke any enactment.
- (2) The Welsh Ministers may, for the purposes of or otherwise in connection with this Part, by regulations—
  - (a) amend, modify, apply (with or without modifications) or disapply any enactment;
  - (b) repeal or revoke any enactment.

*Functions of and relating to corporate joint committees and principal councils*

#### **85 Requirement to provide information etc.**

The Welsh Ministers may direct a principal council, a National Park authority or a corporate joint committee to provide the Welsh Ministers with any information or documents the Welsh Ministers consider appropriate—

- (a) for the purposes of considering whether to make regulations under this Part;
- (b) for the purposes of giving effect to such regulations;
- (c) otherwise in connection with such regulations.

#### **86 Guidance**

- (1) Principal councils and corporate joint committees must have regard to any guidance issued by the Welsh Ministers for the purposes of Chapters 3 and 4 and this Chapter.
- (2) A National Park authority must have regard to any guidance issued by the Welsh Ministers for the purposes of Chapter 4 and this Chapter.

#### **87 Exercise by principal councils of functions under this Part**

- (1) Section 101 of the 1972 Act (arrangements for discharge of functions by local authorities) does not apply to the functions set out in subsection (4).
- (2) The functions set out in subsection (4) are not to be the responsibility of an executive of a principal council under executive arrangements.
- (3) An elected mayor is to be treated as a councillor of a principal council for the purposes of the functions set out in subsection (4).
- (4) The functions are—
  - (a) making a joint committee application;
  - (b) giving consent under section 73(4) to joint committee regulations being made;
  - (c) making an application under section 78 to amend or revoke joint committee regulations;
  - (d) giving consent under section 81(4) to joint committee regulations being amended.

*Changes to legislation:* There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, PART 5. (See end of Document for details)

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*Amendments of other enactments*

**88 Amendments relating to strategic planning and joint transport authorities**

- (1) Part 1 of Schedule 9 makes provision amending the Planning and Compulsory Purchase Act 2004 (c. 5) and other enactments to—
  - (a) repeal the powers of the Welsh Ministers to establish strategic planning panels and strategic planning areas, and
  - (b) provide for the grant of functions relating to the preparation of strategic development plans to certain corporate joint committees.
- (2) Part 2 of Schedule 9 makes provision amending other enactments to repeal the power of the Welsh Ministers to establish joint transport authorities.

**Changes to legislation:**

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