

**Report to:** Democratic Services Committee

**Date of Meeting:** 23 March 2018

**Lead Officer:** Steve Price (Democratic Services Manager & Head of Democratic Services)

**Report Author:** Rhian Evans (Scrutiny Co-ordinator)

**Title:** Future Scrutiny of the Public Services Board

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**1. What is the report about?**

The statutory requirements relating to local authority scrutiny of the Public Services Board (PSB) and potential future scrutiny arrangements for the Joint Conwy and Denbighshire PSB.

**2. What is the reason for making this report?**

To facilitate a discussion on potential effective, sustainable future scrutiny arrangements for the PSB whilst ensuring compliance with statutory requirements.

**3. What are the Recommendations?**

That the Democratic Services Committee:

3.1 discusses potential future scrutiny arrangements; and

3.2 provides observations on its preferred scrutiny arrangements option for the PSB.

**4. Report details**

Background

4.1 Section 35 of the Well-being of Future Generations (Wales) Act 2015 requires that a local government scrutiny committee is designated to scrutinise the work of the Public Services Board for that area. The intention is to place responsibility for challenge and accountability locally rather than on Welsh ministers.

4.2 The Act says that:

*Each Local Authority must ensure its overview and scrutiny committee has the power to:*

*a) Review or scrutinise the decisions made or actions taken by the public services board;*

*b) Review or scrutinise the board's governance arrangements;*

*c) Make reports or recommendations to the board regarding its functions or governance arrangements;*

- d) Consider matters relating to the board as the Welsh Ministers may refer to it and report to the Welsh Ministers accordingly; and
- e) Carry out other functions in relation to the board that are imposed on it by the Act.

4.3 Specifically, scrutiny is expected to:

- Formally receive the Wellbeing Assessment and Wellbeing Plan from the Public Services Board
- Act as a statutory consultee for the Wellbeing Assessment and Wellbeing Plan
- Review the Wellbeing Plan if directed to by the Welsh Minister (who has the power of referral but not approval)

4.4 In early 2016 the Welsh Government (WG) published guidance on the Well-being of Future Generations (Wales) Act 2015, the Act that established PSBs. In terms of the scrutiny arrangements for the PSBs the guidance states:

*“In order to assure democratic accountability there is a requirement for a designated local government scrutiny committee of the relevant local authority to scrutinise the work of the public services board. **It will be for each local authority to determine its own scrutiny arrangements for the public services board of which it is a member.** For example, existing legislative powers can be used to put in place joint arrangements, such as ‘co-opting’ persons who are not members of the authority to sit on the committee, and where appropriate to appoint joint committees across more than one local authority area.*

*While it will continue to be entirely legitimate for a subject scrutiny committee (such as a children and young people’s scrutiny committee) to scrutinise the public services board’s work in relation to a specific issue, it is important that one committee takes an overview of the overall effectiveness of the board. This is the reason one committee must be designated to undertake this work.”<sup>1</sup>*

#### Present arrangements

4.5 In accordance with legislation both Conwy and Denbighshire authorities have selected a scrutiny committee as their PSB scrutiny committee. During the term of the previous councils both counties had designated their Partnerships Scrutiny Committees as their PSB scrutiny committee.

4.6 Whilst Partnerships Scrutiny Committee remains Denbighshire’s designated committee for scrutiny of the PSB, Conwy County Borough Council following a review of its scrutiny committees has disbanded its Partnerships Overview and Scrutiny Committee and consequently designated its new Finance and Resources Overview and Scrutiny Committee as its committee for scrutinising the work of the PSB.

4.7 Under its previous arrangements for PSB scrutiny Conwy had co-opted representatives from PSB partner organisations to serve on its Partnerships Overview and Scrutiny Committee when the Committee was examining the work of the PSB. Denbighshire decided against co-opting PSB partner organisation

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<sup>1</sup> <http://gov.wales/docs/desh/publications/160225-spsf-3-collective-role-en.pdf> Shared Purpose: Shared Future Statutory guidance on the Well-being of Future Generations (Wales) Act 2015, SPSF3: Collective role (public services boards) Welsh Government, 2016

representatives on to its committee when discussing PSB matters. Conwy's new Finance and Resources Overview and Scrutiny Committee has not to date co-opted PSB partner representatives on to the committee for this purpose.

- 4.8 Denbighshire's Partnerships Scrutiny Committee in January 2016 discussed potential scrutiny arrangements for the new PSB following its establishment. At that time it decided to continue with "the existing *scrutiny arrangements for the LSB/PSB... subject to a decision on local government reorganisation*".
- 4.9 At its meeting in September 2016 the PSB was advised that the WG had commissioned Public Governance Wales to undertake a research project and develop a guidance on the scrutiny of PSBs. That Guidance was published in August 2017 and is attached at Annex A for information. The Guidance details the strategic function and purpose of PSB scrutiny. It also outlines different approaches adopted across Wales for the scrutiny of PSBs.

#### Looking forward

- 4.10 The existing scrutiny of PSB arrangements were confirmed at a time when local authority mergers seemed certain to happen. Whilst local government reorganisation may well be resurrected, no firm proposals or proposed timescales have yet been announced.
- 4.11 Since last year's local government elections the PSB has reviewed its arrangements for access to its documents and meetings. The majority of its reports etc. are now public documents and its meetings are open to the public, unless it is discussing confidential information (Part II information). As the PSB is a cross-county strategic Board it is of the view that for scrutiny to operate effectively it would benefit from the establishment of a joint formal scrutiny committee to ensure compliance with statutory duties.
- 4.12 With a view to ensuring that the statutory duties relating to the publication of the PSB's Well-being Plan are met both local authorities' designated scrutiny committees have already considered and commented on the draft Well-being Plan. In doing so it has enabled both councils to have sufficient time to consider options for the future scrutiny of the PSB and make suitable provisions to properly establish their preferred arrangements.
- 4.13 Scrutiny Chairs Vice-Chairs Group (SCVCG) members at their meeting on 12 October 2017 considered how best to progress with scrutinising the PSB in future. At the conclusion of their discussion officers were asked to "research and draw up potential options for progressing Public Services Board scrutiny in future", including joint arrangements.
- 4.14 Members of the Council's Democratic Services Committee considered a similar report on future scrutiny arrangements for the PSB at its meeting on 20 October 2017. That Committee resolved to "endorse the undertaking of further exploratory work on establishing a joint scrutiny committee" for the purpose of scrutinising the PSB.

- 4.15 Having undertaken the above work three options have been drawn-up as potential models for scrutinising the PSB in future. They are:
- Continue with the current arrangements (Option 1);
  - Establish joint formal arrangements with Conwy County Borough Council (Option 2); or
  - Establish joint informal arrangements with Conwy County Borough Council (Option 3)

The benefits, disadvantages and resource implications of all three options are illustrated in the table which can be seen in Annex B

- 4.16 Dependent upon each authority's preferred model for future scrutiny of the PSB further work will be required with respect of informing scrutiny members and PSB members of Scrutiny's roles and powers in relation to scrutinising the PSB.
- 4.17 In addition if a 'joint scrutiny' approach is deemed preferable a Joint Scrutiny Committee will need to be established. Such a Committee will require a defined terms of reference. As part of the above exploratory work a draft terms of reference for any potential joint scrutiny committee between Conwy and Denbighshire is in the process of being drawn up. This terms of reference is based on those of an already established Joint Overview and Scrutiny Committee for the Cwm Tâf PSB –a formal joint scrutiny committee comprising of representatives of both Merthyr Tydfil County Borough Council and Rhondda Cynon Tâf Council. This draft terms of reference, which will include detailed information on the JOSOC and its rules of procedure, can be shared with members in the near future if they so wish.
- 4.18 The Scrutiny Chairs and Vice-Chairs Group will discuss the potential options put forward for scrutinising the PSB in future, with a view to ensuring that Scrutiny meets the legislative duties placed on it under the Well-being of Future Generations (Wales) Act 2015, at its meeting on the 15 March 2018. Its views will be reported verbally to the Committee at the meeting on 23 March 2018.
- 4.19 Democratic Services Committee is therefore asked to provide its observations on a preferred model for future scrutiny of the PSB going forward.

## **5. Power to make the Decision**

Section 35 of the Well-being of Future Generations (Wales) Act 2015

Section 58 of the Local Government (Wales) Measure 2011

Regulation 3 of the Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013

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