

POLICY REVIEW AND PERFORMANCE SCRUTINY COMMITTEE

BRIEFING PAPER: The Role of Local Service Boards and Overview and Scrutiny Committees under the Well-being of Future Generations (Wales) Act 2015

November 2015

1 Purpose of the Paper

To provide Committee Members with an overview the Well-being and Future Generations (Wales) Act 2015 (WFG) with specific focus on the role of the Public Service Boards (PSBs); the requirement for local authorities to designate a local government scrutiny committee to scrutinise the work of the PSB; the Act's provisions regarding the resourcing of the scrutiny of Public Services Boards with reference to available information on the Welsh Government's estimated costings of the scrutiny of PSBs and the limitations thereof.

2. Background and Requirements of the Well-being of Future Generations (Wales) Act 2015

2.1 The purpose of the Well-being of Future Generations Act is to ensure that the governance arrangements in public bodies for improving the well-being of Wales take into account the needs of future generations. The aim is for public bodies to improve the economic, social and environmental well-being of Wales in accordance with the detailed sustainable development principles and well-being goals that are prescribed by the Act. (Section 2, para 4, &5)

2.2 The Act received Royal assent on 29 April 2015. It is anticipated that all public bodies will be subject to the duties under the Well-being of Future Generations (Wales) Act from April 2016.

2.3. Under the new legislation, public bodies have a duty to “pursue a common aim” to improve the economic, social and environmental well-being of Wales. The Act requires public bodies to apply sustainable development principles and take into account:

- the importance of balancing short-term needs with the ability to meet long term needs;
- the benefits of a more integrated approach;
- the importance of involving those with an interest in the objectives;
- seeking views and taking them into account;
- collaborative working to meet objectives, and
- the use of preventative measures to contribute toward meeting objectives. (Section 3 &5)

2.4 The public bodies relevant to the Act are the following:

Welsh Ministers;
Local Authorities;
Local Health Boards;
NHS Trust including Public Health Wales and Velindre Trust;
National Park Authorities (in Wales);
Welsh Fire and Rescue Authorities;
Natural Resources Wales;
Higher Education Funding;
Arts Council of Wales;
Sports Council of Wales;
National Library of Wales;
National Museum of Wales.

2.5 The Act requires “each public body” to publish annual reports of the progress it has made in meeting its well-being objectives”. (Section 13, Annual reports by other public bodies)

3 Future Generations Commissioner

3.1 The Act provides for the appointment of a Future Generations Commissioner for Wales with the duty to “promote the sustainable development principles and act *as a guardian of the ability of future generations to meet their needs*” and “to monitor and assess the extent to which well-being objectives set by public bodies are met”. (Section 17 Future Generations Commissioner for Wales and Section 18 Commissioner’s general duty)

4 Public Services Boards

4.1 The Act recognises that each public body has a role to play in improving well-being and sharing responsibility for contributing to well-being goals in accordance to sustainable development principles. (Section 5 para 26 Explanatory notes). Furthermore, it prescribes for public bodies to take into account collaborative working to assist in the achievement of their well-being objectives (Section 5 paragraph 2d). Adopting a collaborative approach recognises the different roles that each body plays in tackling challenges, preventing conflicting actions and contributing to the achievement of well-being goals. (Section 7.3. Explanatory memorandum, Collaboration paragraph 135-136)

4.2 The Act’s provision for the creation of Public Services Boards and the formulation of local well-being plans are to give maximum effect to collaboration at the local level. (Explanatory Memorandum Section 7.3. Collaboration, paragraph 136 p28)

4.3 The Act prescribes the establishment of a Public Services Board (PSB) for each local authority area in Wales” which has a duty to “*improve the economic, social, environmental and cultural well-being of its area by*

contributing to the achievement of the well-being goals". These boards are statutory and will replace the local partnership boards. (Section 29 Public services boards and Section 36 Well-being duty on public services boards)

4.4 The core members of each Public Services Board (PSB) will include:

(Section 29 Public Service Boards)

- the Local Authority;
- the Local Health Board;
- the Welsh Fire and Rescue Authority; and
- Natural Resources Wales.

4.5 The Act also states that the local authority must make administrative support available to the Public Services Board. (Part 5 Public Services Boards schedule 3 paragraphs 5.)

4.6 The Local Authority represented in this Board will also be responsible for convening the Public Services Board and facilitating its work by undertaking secretariat, publishing plans and reports on their website etc. (Explanatory Memorandum Para 191, p38)

4.7 Apart from the core membership of the board, the Act also sets out who must be invited as participants and partners and who the Board can seek advice from or involve as appropriate. (Section 30 Invitations to participate).

4.8 The PSB "*must invite the following to participate in the activity of the board*": Welsh Ministers; the Chief Constable of the Police Force; the Police and Crime Commissioner; and at least one body representing relevant voluntary organisations.

4.9 The PSB may also invite any other person who exercises functions of a public nature to participate in the activity of the Board. (Section 30 Invitations to participate & Section 32 Other partners). Other partners who the PSB must "*seek advice from*" or "*involve as considered appropriate*" would include: a Community Council; Public Health Wales NHS trust; Community Health

Council; National Park Authority; Higher Education Funding Council for Wales; Arts Council of Wales; the Sports Council for Wales; the National Library of Wales; the National Museum of Wales. (Section 32 Other partners)

4.10 The Act also allows for two or more public services boards to merge if they consider it would assist them in contributing to the achievement of the well-being goals. (Section 47 para 1)

4.11 Furthermore, two or more public services boards may collaborate if they consider it would assist them in contributing to the achievement of the well-being goals. (Section 48 para 1). The Act provides for the conditions and purposes on when PSB can merge or work collaboratively. (Section 47 & 48)

5 Assessment of Local Well-being

5.1 The Public Services Board is required to “prepare and publish an assessment of the state of economic, social, environmental and cultural well-being in its area”. (Section 37 Assessment of local well-being)

5.2 The PSB is also required to consult on the assessment with a range of bodies including : the Commissioner; the Board’s invited participants; its other partners; the local authority’s overview and scrutiny committee; relevant voluntary organisations; resident representatives; business representatives; trade unions representatives; any other persons who, in the opinion of the board, are interested in the improvement of the area’s economic, social, environmental and cultural well-being (Section 38 Preparations of Assessments) and must be published no later than one year before the PSB well-being plan is published.

5.3 The above provision prescribes that the designated Local Authority Overview and Scrutiny Committee is a statutory consultee of the draft assessment of well-being. (para 398, p90 Explanatory memorandum)

5.4 A copy of the assessment will need to be sent to: the Welsh Ministers; Future Generations Commissioner; the Auditor General for Wales and the local authority's overview and scrutiny committee. (Section 37 Assessments of local well-being)

6 Local Well-being Plans

6.1 The PSB is required to prepare and publish a "local well-being plan" which sets out the local well-being objectives and the steps it proposes to take to meet them. The publication of the local well-being plan must tie in with the local government election cycle, no later than one year after the date of the next ordinary election. (Section 39 Local well-being plans)

6.2 Prior to the publication of the local well-being plan, the PSB must provide a draft copy for consultation to the Commissioner; its invited participants and its other partners; the local authority's overview and scrutiny committee; relevant voluntary organisations, resident and business representatives; trade unions representatives etc. as identified in the Act for a period of no less than **12 weeks** (Section 39 Local well-being plans).

6.3 It is required that the PSB must send a copy of its plan to the Welsh Ministers; the Commissioner; the Auditor General for Wales; the local authority's overview and scrutiny committee send a copy of its approved local well-being plan. (Section 39 Local well-being plans)

7 Review of Local Well-being Plan

7.1 The Act provides that the PSB may review and revise its local objectives and review and amend its local well-being plan. However, if directed by Ministers, the PSB would be required to review its objectives and local well-

being plan and may amend its plan in consequence of such a review. (Section 44 Review of local well-being plans)

7.2 The PSB is required to send a copy of the amended plan to: the Welsh Ministers; the Commissioner; the Auditor General for Wales; the local authority's overview and scrutiny committee. (Section 44 Review of local well-being plans)

8 Annual Progress Report

8.1 The PSB is required to prepare and publish an annual progress report that must be sent to the Welsh Ministers; the Commissioner; the Auditor General for Wales; and the local authority's overview and scrutiny committee. (Section 45 Annual progress reports)

9 Ministerial Powers

9.1 The Act requires that Welsh Ministers must establish a set of "*national indicators*" and "*milestones*" which will be used for measuring progress towards the achievement of the well-being goals, and "*specify the periods of time to which the measurement of each indicator relates*". (Section 10, National indicators and annual well-being report)

9.2 It is also prescribed that Welsh Ministers "*must publish a report (an "annual well-being report") on the progress made towards the achievement of the well-being goals by reference to the national indicators and milestones*". (Section 10, National indicators and annual well-being report)

9.3 It is expected that PSBs will generally establish their own performance management system. Where a PSB's progress in establishing their own performance management systems is deemed poor or inconsistent, Welsh

Ministers have the power to set performance measures (indicators and standards) so that the local authority overview and scrutiny committee can function more effectively as an improvement mechanism. (Explanatory Memorandum para 223 p.43)

9.4 The Welsh Ministers will not approve well-being plans. Well-being plans of the Public Services Board are locally owned and subject to local scrutiny. Welsh Ministers, however, will have a power to refer a plan to the relevant local government scrutiny committee if it is not considered sufficient; for example, due to an adverse report by the Future Generations Commissioner. (Explanatory Memorandum para 226 p.44)

9.5 The Welsh Ministers may direct two or more public services boards to merge if the Welsh Ministers consider it would assist the Boards in contributing to the achievement of the well-being goals. (Merging of Public Services Boards section 47 paragraph 2)

9.6. The Welsh Ministers may also direct two or more public services boards to collaborate in whatever way the Welsh Ministers consider would assist the boards in contributing to the achievement of the well-being goals. (Collaboration between public services boards Section 48)

10 Role of Overview and Scrutiny Committee

10.1 A designated overview and scrutiny committee of a local authority will have a key role in assuring democratic accountability of the Public Services Board via its prescribed role as outlined in the Act.

10.2 The Act prescribes that a local authority must designate an overview and scrutiny committee who will have the powers to: (Section 35 para 1-4)

- review or scrutinise decisions made, or other action taken, by the PSB including the draft well-being plan and annual report;

- review or scrutinise the PSB's governance arrangements;
- make reports or recommendations to the PSB with respect to the board's functions or governance arrangements;
- consider such matters relating to the board as referred by Welsh Ministers and report to the Welsh Ministers accordingly;
- carry out such other functions in relation to the board as are imposed on it by the Act; and
- require the PSB or its individual members to attend a meeting of the committee and provide it with explanations of such matters as it may specify.

10.3 The Act also requires that the overview and scrutiny committee must send a copy of any report or recommendations to: the Welsh Ministers; the Commissioner; and the Auditor General for Wales. (Section 35 Overview and scrutiny committee of local authority)

10.4 Where a local authority has more than one overview and scrutiny committee, the local authority must designate a committee for the purposes outlined above. It is recognised that it is legitimate for another scrutiny committee to scrutinise the work of PSBs on subjects that are relevant to its specific terms of reference. It is important, however, that a designated scrutiny committee takes an overview of the overall effectiveness of the Public Services Board. (Explanatory memorandum Section 9.5. Accountability para 22, p44.)

11 Basic assumptions made in costing scrutiny of partnership arrangements

11.1 The Explanatory Memorandum for the Well Being and Future Generations (Wales) Bill published in July 2014 provides an estimate of the annual cost per local authority or area in relation to the scrutiny of the Public Services Board. The assumptions that were used in deriving these values as

well as the key elements that have been included in the costing are presented below.

11.2 The values presented were based on a number of assumptions that are outlined in this document. The elements that were considered in arriving at the estimated values were mainly based on data and figures from the previous experiences in Wales of scrutinising the Local Service Boards (LSB). (Explanatory Memorandum Policy Intention 4, paragraph 485-487 p. 115).

11.3 The costings recognised that various formats or arrangements had been adopted by local authorities in Wales for scrutinising the LSB (for instance by a single existing overview scrutiny committee, by different overview and scrutiny committees within an authority, or via a specific LSB Scrutiny Committee). This informed the assumptions made on the frequency and number of hours that were involved in the scrutiny process.

11.4 The estimated costing assumed that a total of eight hours in a year was spent scrutinising the LSB by a scrutiny committee comprising of eight elected Members, one of whom is a scrutiny committee chair. It is also assumed that one day of preparation is required for each hour of scrutiny.

11.5 The estimates provided a cost for the role of a scrutiny officer, assisted by an analyst, to support the scrutiny of the LSB. These costs are separate from the costings of supporting the LSB via dedicated LSB Support Officer. (para 487 and Table 33 Estimated costs of LSB per annum p115-116)

11.6 With the introduction of Well-being and Future Generations legislation, it is also assumed that the resources that were previously available for the LSB will continue to be available to Public Service Boards. It is, however, recognised that additional costs will be incurred with the creation of Public Service Boards as there is a specification for scrutiny to be undertaken by a designated local authority scrutiny committee.

11.7 The Act also prescribes for greater role for scrutiny in holding the PSB to account as outlined above. This specifically relates to the following roles of scrutiny:

- as a statutory consultee on the draft assessment of the well-being plan;
- the requirement to consider the draft well-being plan and reviews of the plan;
- to receive copies of the PSB annual report and to respond to referrals made by the Welsh Minister;
- and in producing its report and recommendations to Welsh Minister and to Wales Audit Office.

11.8 The Explanatory Memorandum document proposes that estimated costs for the scrutiny of the PSB will be double that previously invested in the scrutiny of the LSB, due to the anticipated increased responsibility and scope of the PSB scrutiny.

12 Estimated annual cost of scrutiny of the PSB

12.1 The table below summarises the estimated annual cost of PSB Scrutiny, reflecting values that are double the figures of the estimated cost of scrutiny of the LSB.

Table 1: Estimated annual costs of PSB scrutiny

| Organisation | Official | Commitment | Annual Salary | Total Cost (£) |
|-----------------|--------------------------|------------|---------------|----------------|
| Local authority | Scrutiny Officer | 16 days | 51,900 | 3,800 |
| Local authority | Analyst | 16 days | 51,900 | 3,800 |
| Local authority | Scrutiny Committee Chair | 2 days | 22,000 | 200 |

| | | | | |
|-----------------|-------------------|---------|--------|-------|
| Local authority | 7 Elected Members | 14 days | 13,300 | 1,200 |
| Total | | | | 9,000 |

(Source: Explanatory Memorandum, Estimated Cost of Scrutiny Table 41, p122)

12.2 The above figures assume that a total of 16 hours Committee time will be invested annually in scrutinising the work of the PSBs and also assumes that the scrutiny officer and the analyst will both spend one day preparing for each hour of scrutiny.

13 WFG Act: Existing provisions for resourcing scrutiny

13.1 The Act prescribes in Section 35 para 1 that the executive arrangements of a local authority must ensure that there is a designated overview and scrutiny committee who will have the powers to scrutinise the work of the PSB. However there is no other provision within the Act that specifies how resources should be allocated to support the scrutiny of the PSB. The information that is provided above was taken from Chapter 7 (the assumptions that were made on cost and benefits of the policy option section of the Explanatory Memorandum released in 2014).

13.2 The Act also does not refer to how the scrutiny function will be resourced given the additional scope of its work and responsibilities. The Explanatory Memorandum, however, makes the assumption that each local authority already has existing arrangements for the Scrutiny of the LSB and these resources can be harnessed to support the scrutiny of the PSB.

13.3 Cardiff Council was identified as unique in previously having a dedicated multi-agency LSB Scrutiny Panel, which is no longer resourced. The overview role for scrutinising the PSB has been designated to this Committee in addition to its existing work load and terms of reference. The Council will need

to further consider these responsibilities in the context of the shrinking resources available to support scrutiny to enable it to effectively deliver its roles as prescribed by the Act.

13.4 The Act does not prescribe the format and membership of the scrutiny committee who will be designated to scrutinise the PSB. The previous LSB scrutiny arrangements in Cardiff Council wherein a specific LSB Scrutiny Panel was created comprising elected Members and co-opted members was cited by the document as unique. The costing for this type of arrangement to scrutinise the PSB has not been considered or estimated.

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