

CYNGOR SIR POWYS COUNTY COUNCIL.

**DEMOCRATIC SERVICES COMMITTEE – 9TH JULY, 2015
COUNTY COUNCIL MEETING - 15TH JULY, 2015**

REPORT BY: Solicitor to the Council

**SUBJECT: Scrutiny Committees – Amendment to Current
Constitution**

REPORT FOR: Decision

1. Introduction.

- 1.1 The Well-Being of Future Generations (Wales) Act 2015 requires that a public services board (PSB) is established for each local authority in Wales. This requirement comes into force on 1st April, 2016. Currently there exists the Local Service Board (LSB) which is a non-statutory organisation. The Council's scrutiny committees through the Joint Chairs and Vice-Chairs Steering Group undertakes a limited scrutiny of the work of the Local Service Board by means of Chairs attending the LSB meetings and an annual consideration of the One Powys Plan.
- 1.2 It is therefore recognised that the development of LSB scrutiny is a requirement which the Council needs to undertake urgently, particularly to allow some experience to be gained by scrutiny Members prior to the PSB coming into being next year. It is the intention that the arrangements for LSB scrutiny should be able to transform seamlessly into the arrangements for PSB scrutiny as from 1st April 2016.

2. LSB Scrutiny Committee.

- 2.1 In order to ensure that all the partner bodies were signed up to the scrutiny of the LSB a joint meeting was held in February, 2015 between the LSB, the Joint Chairs and the Transformation Board. This resulted in the preparation of the document "Arrangements for the Scrutiny of the Local Service Board / Public Service Board in Powys" (copy attached as an Appendix).
- 2.2 This document was considered by the Joint Chairs Steering Group and the LSB at meetings in May and June, 2015.
- 2.3 In preparing the new Council Constitution relating to Scrutiny Committees (Section 7) consideration was given to the need to address how LSB scrutiny would be undertaken. The preferred option is to establish a bespoke LSB Scrutiny Committee with membership being drawn from both the Joint Chairs Steering Group and also the partnership organisations. This provision has been included in this new Section of the Constitution.

2.4 However as the new Constitution will not take effect until 1st September, 2015, and arrangements for LSB scrutiny need to be progressed, the Council is being asked to amend the current Constitution to include the same provisions in Part 4, Section 6 – Scrutiny Procedure Rules.

2.5 The Section to be included is set out below which replicates what is included in the new Constitution.

<p>Local Service Board Scrutiny Committee</p> <ul style="list-style-type: none"> • 4 Elected Members of Powys County Council (the 4 Chairs on the Joint Chairs Steering Group with the 4 Vice-Chairs to be substitute representatives in the absence of a Chair); • 1 non-executive representative of Powys teaching Local Health Board; • 1 non-executive representative from PAVO; • 1 representative of the Police and Crime Commissioner; • 1 non-County Councillor representative from Powys Community Health Council; 	<ul style="list-style-type: none"> • To provide a ‘critical friend’ challenge to the Local Service Board; • To scrutinise, evaluate and actively promote improvement in work carried out in line with Local Service Board priorities and its terms of reference and not that of those individual constituent organisations represented on the Local Service Board; • To develop and deliver a forward work programme which seeks to contribute to the performance management and governance arrangements of the Local Service Board, and its projects; • To commission Research & Evaluation Group investigations into areas identified on its forward work programme. • To submit reports to the Local Service Board (as appropriate) and make recommendations for consideration and adoption; • To ensure through the Joint Chairs and Vice-Chairs Steering Group that there is no duplication of work between the County Council scrutiny committees, the LSB Scrutiny Committee and any other joint scrutiny arrangements with other authorities;
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2.6 The Council is also asked to approve the arrangements for the scrutiny of the LSB / PSB as set out in the appendix to the report.

Recommendation:	Reason for Recommendation:
<p>(i) That the Democratic Services Committee recommends that Full Council approves the establishment of an LSB Scrutiny Committee as set out above and that this provision be included in Part 4, Section 6 of the current Constitution.</p> <p>(ii) That the Democratic Services Committee recommends that Full Council approves the arrangements for the scrutiny of</p>	<p>To amend sections of the current Council.</p>

the LSB / PSB as set out in the appendix to the report.	
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Person(s) To Action Decision:	Solicitor to the Council.		
Date By When Decision To Be Actioned:	16th July, 2015		
Relevant Policy (ies):	Council's Constitution.		
Within Policy:	Y	Within Budget:	Y
Contact Officer Name:	Tel:	Fax:	Email:
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Arrangements for the Scrutiny of the Local Service Board / Public Service Board in Powys.

1. Background.

- 1.1 Local Service Boards (LSBs) represent a new approach to the delivery of public services. They are a Welsh Assembly Government initiative to encourage public sector partners to work collaboratively.
- 1.2 Each partner organisation of the LSB brings a different contribution and perspective to the table, including their particular form of accountability and unique professional and service expertise. The aim is to create strong synergy by combining these in a public services team model, building on strengths and tackling barriers where they exist.
- 1.3 There are a number of different models of LSB scrutiny across Wales. One scrutiny model recognised by the Welsh Assembly Government as demonstrating best practice in this area is that used by Cardiff City and County Council. This model is led but not controlled by the City Council and includes appropriate representatives from all sectors included within the LSB's portfolio.
- 1.4 Any model of LSB scrutiny needs to ensure that there is no duplication of individual forms of partner accountability. Therefore the role of any group scrutinising the LSB will not be to scrutinise any individual service, but to ensure an effective whole-system response to the needs of citizens. To be clear the scrutiny of an individual person / organisation falls within the remit of the definition of "Designated Persons" under Section 61 of the Local Government (Wales) Measure 2011 which is a different form of scrutiny to that which is to be undertaken for the LSB.

2. National Context

2.1 Beyond Boundaries – Citizen Centred Local Services for Wales

- 2.1.1 Beyond Boundaries was launched on 10th July 2006. The review was commissioned by the Welsh Assembly Government as part of the action plan for implementing its *Making the Connections* strategy for improving public service delivery in Wales.
- 2.1.2 The report sets out that the role of Scrutiny should be "*to provide effective challenge to organisational culture and examine whether public services together are achieving desired outcomes*".
- 2.1.3 The report made a number of recommendations, of particular relevance to LSB scrutiny are:
 - Raising the profile of scrutiny, making it a strong vehicle for service improvement and citizen engagement, by involving a wide range of stakeholders and developing scrutiny skills across sectors;
 - Developing scrutiny mechanisms for jointly organised services.
- 2.1.4 The review drew from the Welsh Assembly's previously advocated citizen model as the driver for public service reform. The citizen model recognises that the public have both rights and responsibilities: rights to receive services but also responsibilities to be concerned about the services available to everyone else.

2.2 Making the Connections - Local Service Boards in Wales: A prospectus for the first phase 2007-2008

2.2.1 In January 2007, the Assembly Government published its consultation paper regarding their vision for LSBs in Wales. In considering arrangements for LSB scrutiny the Assembly stated that LSBs should:

- *Act as a catalyst for the development of a more citizen-focused approach to scrutiny and improvement at local level, as envisaged in Delivering Beyond Boundaries. The aim is to move to a multi-disciplinary scrutiny process which examines the effectiveness of the public service response to citizens, in a fundamental, constructive and improvement-focused way. Local elected members will be at the heart of this process, reflecting their community leadership role, but they will need to involve other stakeholders, depending on the subject for scrutiny – both to ensure sufficiently cross-cutting expertise and to encourage an even-handed and objective approach.*
- *Contribute to policy review and strategy development, and consider real-time and retrospective reporting of performance. The process should involve citizens, service users, advocates and other stakeholders and be tailored to the issue under scrutiny. The governance and accountability arrangements of each of the public service partners must be respected.*

2.3 Local Government Policy Statement – A Shared Responsibility

2.3.1 In March 2007, the Assembly Government published ‘A Shared Responsibility’, the response to the Beecham Review in the area of local government.

2.3.2 Chapter six details commitments to a number of reforms including:

- Local authority scrutiny to cover all public services in an area;
- Introduction of joint scrutiny committees between two or more authorities;
- A power to co-opt non-Councilors as full members;
- Giving scrutiny committees the power to require public service providers to provide information and/or attend;
- Prohibition of whipping;
- Proportionate allocation of committee chairs.

2.4 Police and Justice Act 2006

2.4.1 From 1 October 2009, legislation requires Local Authorities to have an Overview & Scrutiny Committee with power to:

- *Review or scrutinise decisions made or action taken by the Responsible Authorities in connection with the discharge of crime and disorder functions;*
- *Make reports or recommendations to Council or Cabinet, as determined by responsibility for function, in connection with the discharge of those functions.*

2.4.2 The legislation also requires the Local Authority to:

- *Enable any Member of the Authority to raise a local crime and disorder matter and have the matter included as an agenda item and discussed at the meeting of the Scrutiny Committee exercising the Crime and Disorder Scrutiny functions, to facilitate the “Councillor Call for Action”.*

2.4.3 Draft Guidance defines a crime and disorder matter as including anti-social behaviour, behaviour adversely affecting the local environment, or the misuse of drugs, alcohol or other substances. To qualify as a local matter, the issue must affect either all or part of the electoral area for which that particular Member is elected, or it must affect a person who lives or work in that area.

2.5 The Well-Being of Future Generations (Wales) Act 2015.

2.5.1 The Act requires the establishment of a public services board (PSB) for each local authority area in Wales. These boards are also a statutory body whereas the LSB is not a statutory body. The membership of the public service board will also differ from that of the current LSB as set out below.

2.5.2 LSB and PSB Structures.

LSB	PSB
<u>Board:</u> PCC PtLHB PAVO Police Police and Crime Commissioner Welsh Government Representative.	<u>Board:</u> PCC PtLHB Fire and Rescue Natural Resources Wales
	<u>Invitees:</u> Chief Constable Police and Crime Commissioner Probation County Voluntary Council

2.5.3 PSBs will need to be established by 1st April, 2016.

3. The LSB / PSB Scrutiny Committee in Powys.

3.1 In establishing a committee to scrutinise the LSB, those arrangements must take account of the need to move to the scrutiny of the PSB as from 1st April, 2016. Therefore the membership of that committee must be transferrable and flexible to account for both requirements.

3.2 It also makes practical sense that any committee established should include representatives from each of the partner agencies, whilst recognising that those representatives could not be drawn from the “executives” of any of the organisations to ensure the split of responsibilities between those who are the “executive” of the organisation and those who undertake a “scrutiny” function.

Having representation from the organisations who form the LSB / PSB should also provide “buy-in” to the scrutiny process.

3.3 Format of the Committee.

3.3.1 It is suggested that the Committee be composed as follows:

Local Service Board Scrutiny Committee (from July 2015 to April 2016)	Public Service Board Scrutiny Committee (from 1st April, 2016)
<ul style="list-style-type: none"> • 4 Elected Members of Powys County Council as follows: <ul style="list-style-type: none"> • Chair of the People Scrutiny Committee; • Chair of the Place Scrutiny Committee; • Chair of the Audit Committee; • Chair of the Democratic Services Committee. • 1 non-executive, non-Councillor representative of Powys teaching Local Health Board; • 1 non-executive representative from PAVO and is not a representative on the LSB; • 1 representative of the Police and Crime Commissioner; • 1 non-County Councillor representative from Powys Community Health Council; <p><u>Substitutes:</u> Nominated substitutes will be allowed for the representatives listed above.</p>	<ul style="list-style-type: none"> • 4 Elected Members of Powys County Council as follows: <ul style="list-style-type: none"> • Chair of the People Scrutiny Committee; • Chair of the Place Scrutiny Committee; • Chair of the Audit Committee; • Chair of the Democratic Services Committee. • 1 non-executive, non-Councillor representative of Powys teaching Local Health Board; • 1 non-executive representative from PAVO and is not a representative on the LSB; • 1 representative of the Police and Crime Commissioner; • 1 non-County Councillor representative from Powys Community Health Council; • 1 non executive and non-County Councillor representative from the Mid and West Wales Fire and Rescue Authority; • 1 non-executive representative from the Natural Resources Wales Board.

3.3.2 The Committee will be supported by the Powys County Council Scrutiny Services.

3.3.3 The Committee can invite any other persons with a particular interest / expertise to support the Committee work on an ad-hoc basis.

3.3.4 The Committee should develop a forward work programme for a 12 month basis.

3.4 Terms of Reference of the Committee.

3.4.1 The Terms of Reference describe the purpose and structure of the Committee. The Terms of Reference should assist in developing a common understanding of the scope among stakeholders.

3.4.2 The Terms of Reference for the Scrutiny Committee are:

- To provide a 'critical friend' challenge to the Local Service Board / Public Service Board;
- To scrutinise, evaluate and actively promote improvement in work carried out in line with Local Service Board / Public Service Board priorities and its terms of reference and not that of those individual constituent organisations represented on the Local Service Board / Public Service Board;
- To develop and deliver a forward work programme which seeks to contribute to the performance management and governance arrangements of the Local Service Board / Public Service Board, and its projects;
- To commission Research & Evaluation Group investigations into areas identified on its forward work programme.
- To submit reports to the Local Service Board / Public Service Board (as appropriate) and make recommendations for consideration and adoption;
- To ensure through the Joint Chairs and Vice-Chairs Steering Group that there is no duplication of work between the County Council scrutiny committees, the LSB / PSB Scrutiny Committee and any other joint scrutiny arrangements with other authorities;

3.5 Meetings of the Committee.

3.5.1 Election of Chair – The Committee will elect a Chair from the membership of the Committee. Substitute Members will not be eligible for election as the Chair. The Chair will be appointed for a 12 month period. The appointment of Chair will rotate between the membership of the Committee.

3.5.2 It is suggested that meetings of the Committee will be held on a quarterly cycle to mirror the cycle of the LSB / PSB. However a degree of flexibility should be incorporated in line with the wishes of the Committee e.g. members may wish to consider issues on an ad-hoc basis.

3.5.3 The nature of Scrutiny work is such that ad-hoc meetings are also held to consider issues as and when appropriate. For example, the investigative work of the Committee may require the holding of interview sessions, site visits or seminars to discuss individual issues.

3.5.4 Notes of meetings will usually be brief, containing a summary of discussions and action points arising from them.

3.5.5 Where invitees are invited to address the Committee, draft notes will be sent to invitees to ensure accuracy prior to the notes being finalised and circulated.

3.5.6 A representative of Scrutiny Services will always be present at meetings to support the Chair and members of the Committee with advice and guidance.

3.5.7 The Committee may request any member of the LSB / PSB to attend a Committee meeting to assist with issues under consideration.

- 3.5.8 Initially meetings of the Committee will not be held in public but this will be kept under review as the work of the Committee develops. If meetings are held in public in future there may be occasions when the nature of the matters being discussed mean that the Committee will need to move into a private session at which point the press and the public will be excluded from the meeting.
- 3.5.9 The quorum of the Committee will be when at least 2 County Councillors and at least 2 representatives of other organisations are present at a meeting.

3.6 Work Programme.

- 3.6.1 The Committee will establish a rolling forward work programme and Committee members will be asked to identify issues for consideration during the year.
- 3.6.2 The Committee may also receive requests for items to be included on the work programme from the LSB / PSB, individual organisations who sit on the LSB / PSB or from the County Council's scrutiny committees. Any such requests should include sufficient information for the Committee to understand the issues underlying the request, what outcome is being sought so that the Committee can assess the suitability of that item being included on the work programme. A representative of the body / organisation making the request may be invited by the Chair of the Committee to address the Committee to outline the request and respond to questions.
- 3.6.3 Items for inclusion on the work programme will be assessed using the criteria used by the Powys County Council scrutiny committees to determine whether an item should be included on the work programme.
- 3.6.4 If a request for an item to be included on the work programme is considered in line with paragraph 3.6.2 above, the requestor will be advised in writing of the Committee's determination as to whether the item is to be included on the work programme or not.

3.7 Reports by the Committee.

- 3.7.1 The Committee itself will prepare reports based on work undertaken by the Committee as a whole, or by Research and Evaluation Groups who will submit their finalised reports to the full Committee for consideration.
- 3.7.2 Reports once approved by the Committee will be submitted to the LSB / PSB for consideration.
- 3.7.3 Draft reports will be circulated to relevant individuals / groups to ensure accuracy before being finalised.
- 3.7.4 The LSB / PSB will be required to consider the report of the Committee and to determine:
- (a) to accept the report and / or the recommendations contained within it; or
 - (b) to not accept the report and / or the recommendations contained within it; and
 - (c) to advise Scrutiny Services of the outcome of the deliberations of the Board, who will make that determination known to members of the Scrutiny Committee.
- 3.7.5 The LSB / PSB will be required to:

- (a) Where the Board accepts the recommendations of the Scrutiny Committee, to provide the Scrutiny Committee with an action plan to address the recommendations made; or
- (b) Where the Board does not accept the recommendations to advise the Scrutiny Committee as to the reasons why the recommendations are not accepted.

3.7.6 The Scrutiny Committee (or a Research and Evaluation Group as appropriate) will / may:

- (a) Where an action plan has been prepared, monitor progress in implementation of the action plan and request periodic updates from the LSB / PSB, until such time as the action plan has been completed;
- (b) Where recommendations have not been accepted, call representatives of the LSB / PSB to discuss the reasons why the recommendations were not accepted with the Scrutiny Committee or a Research and Evaluation Group.

4. Research and Evaluation Groups.

4.1 The Scrutiny Committee can undertake a review itself of any matters within its remit.

4.2 The Scrutiny Committee can establish Research and Evaluation Groups to undertake a review of any matters within the remit of the Scrutiny Committee.

4.3 The Research and Evaluation Group will establish and agree terms of reference for any reviews it undertakes as well as identifying the intended outcomes of the review.

4.4 Reviews.

4.4.1 A Scrutiny investigation will be a detailed study of a subject, involving the gathering of evidence from a variety of sources. This will usually include an analysis of relevant documentation, interview sessions with invitees, consultation with relevant stakeholders and consideration of best practice. An investigation may take place over a period of a few months or even longer.

4.4.2 Arising from an investigation, the Group will produce a report that will be presented to the Scrutiny Committee for approval.

4.4.3 Once approved by the Scrutiny Committee, the Group's report will be submitted to the LSB / PSB. The relevant Board will then provide a formal response to the Committee's report outlining what recommendations have been approved or rejected with accompanying explanation.

4.5 The Research and Evaluation Group will usually consist of between 3 and 5 members of the Committee with the membership being determined by the Committee. The Lead Member of the Group will be determined when the Group is established by the Committee.

4.6 Research and Evaluation Groups can invite other persons with the relevant knowledge / expertise either as a co-opted member of the Group for the duration of the investigation or on an ad-hoc basis. Otherwise such persons can be invited to give evidence to the Group. If the Group decides to co-opt additional members for an investigation, the numbers of those co-opted should not exceed one third of the

- membership of the Group established by the Scrutiny Committee (e.g. one third of 3 or 5 members)
- 4.6 Research and Evaluation Group meetings are confidential to allow for flexibility, openness and transparency.
 - 4.7 The Chair of the Committee will always be able to attend meetings of a Group, even if he / she is not a member of that Group.
 - 4.8 A Research and Evaluation Group should where possible be comprised of representatives from individual organisations rather than multiple representatives from a single organisation.
 - 4.9 Procedures.
 - 4.9.1 The Scrutiny Committee should not have more than 1 Research and Evaluation Group in operation at the same time to ensure sufficient resources are available to undertake the review both in terms of membership and also in terms of scrutiny officer support.
 - 4.9.2 Whilst the Scrutiny Committee will determine the broad area that a Research and Evaluation Group will investigate, the Group will determine the detailed terms of reference and expected outcomes for the investigation. The project plan and the approach to be adopted will include details of the evidence to be gathered, including invitees to be interviewed, documents to be considered, any consultation that will be undertaken and any other information that will be examined as part of the process, such as benchmarking information, consideration of best practice etc.
 - 4.9.3 Once the terms of reference and project plan have been agreed by the Research and Evaluation Group, the work can commence.
 - 4.10 Reports.
 - 4.10.1 The Research and Evaluation Group will prepare a report of its findings as a result of its investigation to include recommendations to address the issues highlighted.
 - 4.10.2 The draft report will be circulated to those consulted at part of the review to ensure accuracy.
 - 4.10.3 The final report will be presented by the Group to the Scrutiny Committee for approval and onward transmission to the LSB / PSB for consideration.
 - 4.11 The Research and Evaluation Group may have a role in monitoring any action plans from the LSB / PSB resulting from a review report prepared by that Group.
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The Use of Invitees in the Scrutiny Process

Examples of Invitees

1. Relevant Chief/Executive Officers

2. Relevant Cabinet Member(s)
3. Chairs of other internal bodies, such as quasi-judicial bodies
4. Members and Officers from other local authorities
5. Senior representatives from external local public agencies e.g. Directors of health trusts, Chairs of NHS bodies etc.
6. Senior Officers from external regional public agencies e.g. WAG Officers, Environmental Health Agency Wales, National Public Health Service etc.
7. Representatives from local voluntary sector organisations, regional organisations and national organisations
8. Representatives from professional associations
9. Representatives from trade unions
10. Representatives from the private sector (Chamber of Commerce, Business in Focus)
11. Representatives of user groups (local, regional, national)
12. Community representatives
13. Recognised experts in the subject area (academics, public or private sector managers)