

CYNGOR SIR POWYS COUNTY COUNCIL.

**Powys Public Service Board
6th July 2023**

**REPORT AUTHOR: County Councillor James Gibson-Watt
Leader and Cabinet Member for an Open and
Transparent Powys**

REPORT TITLE: Powys PSB Scrutiny Committee

REPORT FOR: Decision / Discussion / Information

1. Purpose

- 1.1 The report sets out the legislative background to the establishment of the Powys PSB Scrutiny Committee which came into being in 2018, how the membership was originally determined and why this was amended in 2023.

2. Legislative Background

- 2.1 PSBs in Wales were established as a consequence of the Well-being of Future Generations (Wales) Act 2015. The Statutory Guidance in relation to Public Service Boards (Shared Purpose: Shared Future – SPSF3) is limited in its commentary regarding the requirements for scrutiny. The main provisions are set out in Chapter 6 – Local Accountability as set out below:

“Chapter 6 - Local accountability

173. Local integrated planning will only be effective if statutory members of the public services board take joint-responsibility themselves for securing improvement, with local democratic processes providing appropriate challenge and support. For this reason, the Act gives the Welsh Ministers relatively few powers and relies predominantly on the role of local government scrutiny to secure continuous improvement.
174. 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.
175. 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.

The functions of the Scrutiny Committee are as follows:

- 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.

178. The designated committee will be provided with evidence in the form of the draft assessment of local well-being and, the draft local well-being plan (both of which they will be formally consulted on) and copies of the final versions of both. It will also be provided with annual reports.
179. In addition, the committee will be able to draw on the published advice provided to the public services board by the Future Generations Commissioner for Wales.
180. The committee can require any statutory member of the board to give evidence, but only in respect of the exercise of joint functions conferred on them as a statutory member of the board under this Act. This includes any person that has accepted an invitation to participate in the activity of the board.
181. The committee must send a copy of any report or recommendation it makes to the Welsh Ministers, the Commissioner and the Auditor General for Wales.
182. The public services board must send copies of its published assessments of local well-being, local well-being plans (including when it is revised) and each of its annual reports to the Welsh Ministers, Future Generations Commissioner for Wales and Auditor General for Wales in addition to the designated local authority scrutiny committee.

3. The Powys PSB Scrutiny Committee.

3.1 The Powys PSB Scrutiny Committee came into existence in 2018. When the Terms of reference for the PSB Scrutiny Committee were being prepared the Scrutiny Manager drew upon knowledge of how one other authority in Wales (Cardiff Council) had established its PSB Scrutiny Committee which was a committee which included representatives from each of the partner agencies (not drawn from the executives but from those exercising a scrutiny function). It was therefore suggested that the Committee should be composed as follows:

- 2 Elected Members of Powys County Council;
- 2 independent Members of, of Powys Teaching Local Health Board;

- 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.
- 1 non-executive representative from PAVO and is not a representative on the LSB;
- 1 representative of the Police and Crime Commissioner / Dyfed Powys Police;
- 1 non-County Councillor representative from Wales Community Rehabilitation Company;
- 1 non Powys County Council Member of the Brecon Beacons National Park Authority.

Substitutes: Nominated substitutes will be allowed for the representatives listed above provided that the substitutes are not involved in and have not attended meetings of the PSB.

3.2 From the outset, Natural Resources Wales indicated that they wished to act as observers only as they did not have the resource to commit to all the PSB Scrutiny Committees in Wales. In addition, the Police and Crime Commissioner / Dyfed Powys Police and the Wales Community Rehabilitation Company were not forthcoming with any representatives despite repeated requests.

3.3 The Terms of Reference stated that as a minimum the Committee's work programme should include:

- To scrutinise the evidence base that underpins the Well-being assessment for Powys;
- To scrutinise the arrangements for the preparation of the Powys Well-being Plan;
- To pre-scrutinise the draft Powys Well-being Plan;
- To pre-scrutinise the Annual Report of the PSB;
- To scrutinise the arrangements for the review and amendment of the Powys Well-being Plan

The work of the Scrutiny Committee should be:

- To provide a 'critical friend' challenge to the Public Service Board;
- To scrutinise, evaluate and actively promote improvement in work carried out in line with Public Service Board priorities and its terms of reference and not that of those individual constituent organisations represented on the Public Service Board;
- To develop and deliver a forward work programme which seeks to contribute to the performance management and governance arrangements of the 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 Public Service Board (as appropriate) and make recommendations for consideration and adoption;

The quorum of the Committee was set as follows:

- 1 representative from Powys County Council;
- 1 representative from Powys Teaching Health Board;
- 2 representatives from any of the following organisations:
 - Natural Resources Wales
 - Mid and West Wales Fire and Rescue Service
 - Powys Association of Voluntary Organisations;
 - Dyfed Powys Police / Dyfed Powys Police and Crime Commissioner;
 - Wales Community Rehabilitation Company;
 - Brecon Beacons National Park Authority;
 is present at a meeting.

3.4 The attendance of the varying membership of the Committee at 9 meetings between 2018 to 2021 is set out in the attached spreadsheet. This also shows the numbers of meetings cancelled over the period.

3.5 Over the period 2018 to 2021 the PSB Scrutiny Committee issued the following reports:

- 5 x Recommendations / Observations reports to the PSB (2018(1) / 2019(1) / 2020 (1)/ 2021(2)
- 2 x Observations reports to Step Leads (Steps 6 and 10) (2019)
- 1 x comment on the PSB Annual Report (2019)

3.6 No meetings of the PSB Scrutiny Committee were held during 2022 leading up to and following the election of Councillors in May 2022 as very soon after the Council set its budget in 2022 the pre-election period commenced. Following the election there was an extensive period of training new Councillors and with a new administration there was a period of time required for the formulation of new corporate objectives following the compilation of a new Well-Being Assessment which would also impact on the Powys Well-Being Plan (Towards 2040).

4. Council Decision – March 2023.

4.1 The Council was asked to review its Scrutiny Committee structure in March 2023 which included a review of the PSB Scrutiny Committee. There were a number of reasons why it was considered that a review of this committee was required, including:

- Inconsistent / variable attendance at meetings;
- Turnover of Member representation;

- Lack of any tangible outcomes from the meetings resulting in few recommendations to the PSB over the 4 year period (see paragraph 3.5 above);
- 4.2 In addition, prior to the report being prepared a review of PSB Scrutiny Committees in all other Councils in Wales was undertaken. This showed that in all other cases (including Cardiff Council) other than Powys scrutiny was undertaken by Councillors only. The only slightly similar structure to Powys was Bridgend who had a panel which reported to the PSB Scrutiny Committee comprising of Councillors.
- 4.3 The Council emailed all remaining representatives on the PSB Scrutiny Committee in early 2023 advising of the proposed changes and asking for comments. None were received.
- 4.4 Following consideration by the Democratic Services Committee in February 2023, the recommendation to the Council on 2nd March, 2023 was therefore to reconstitute the PSB Scrutiny Committee to comprise:
- 9 Members in total including:
- Vice-Chairs of the 2 Scrutiny Committees, plus
 - 2 additional representatives from each of the scrutiny committees (on a politically balanced basis based on a committee of 6)
- 4.5 The Council approved this change on 2nd March, 2023.

5. Advice

- 5.1 From the experience of operating the multi-representational Powys PSB Scrutiny Committee, it was clear that this body was not operating effectively and that changes were necessary. As the revised committee has not yet commenced its work, it should be given the opportunity to settle into its role following which a further review can be undertaken.
- 5.2 Should the PSB wish to recommend to Council that the previous decision be amended to include other representatives onto the committee, the following needs to be taken into account:
- In order for the decision of Council to be re-considered for amendment or to be rescinded within 6 months of the decision will require a notice of motion to Council signed by at least 10 Members (Rule 4.60.1 of the Constitution). If the proposed amendment is considered following the 6 month period the need for a motion signed by 10 members is removed.
 - Welsh Government Statutory Guidance arising from the Local Government Measure 2011 (issued June 2012) states:

“8.19 In recognition of the democratic mandate of elected councillors it is recommended that the number of co-opted members on a scrutiny

committee should not exceed a third of the total membership of the committee”

- In addition, Rules 7.12.4 and 7.12.5 of the Council's constitution states:

“7.12.4 In addition to co-optees appointed under rules 7.12.1.1 to 7.12.1.3 above, Scrutiny Committees may recommend to Full Council the co-option of other persons as voting or non-voting representatives. In exercising or deciding whether to exercise a co-option, the Authority must, under section 76 of The Measure, have regard to guidance given by the Welsh Ministers and comply with directions given by them

7.12.5 The total number of co-optees on each Scrutiny Committee may not exceed more than one third the membership of the committee” (Paragraph 8.19 Statutory Guidance from the Local Government Measure 2011 (issued by Welsh Government June 2012)

- In accordance with the Terms of Reference for the PSB Scrutiny Committee, any co-opted Members:
 - cannot be drawn from the “executives” of any of the organisations to ensure that there is a split of responsibilities between those who are the “executive” of the organisation and those who undertake a “scrutiny” function.
 - should not include officers from those organisations.
 - should not be a Powys County Council representative on those organisations.

6. Recommendation

6.1 That the report be noted and if the Public Service Board wishes to make a recommendation to the Council at its meeting in October 2023 (following the end of the 6 month period from the original decision being taken) to amend the membership of the Public Service Board Scrutiny Committee to accommodate co-opted Members from other organisations the request will need to comply with the provisions set out in paragraph 5.2 above which are:

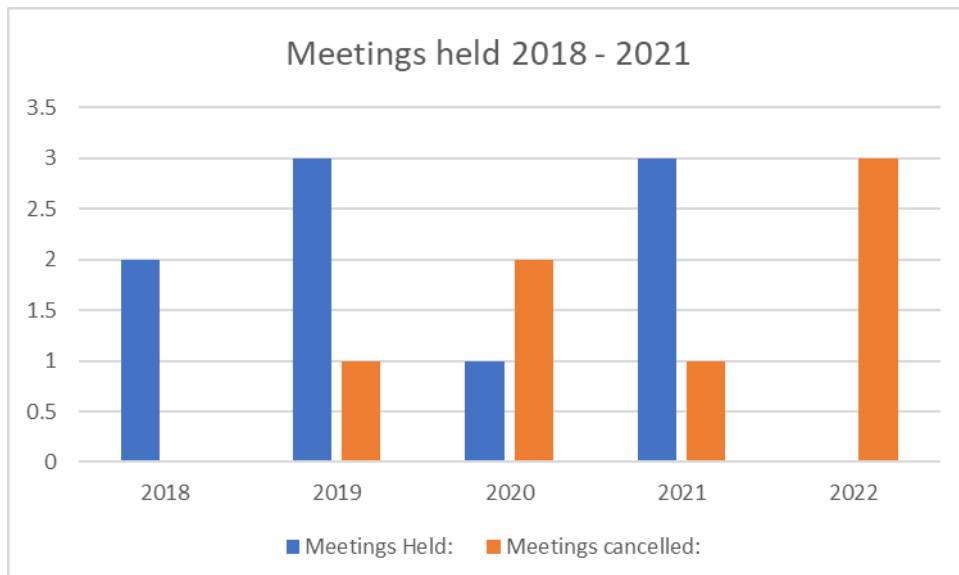
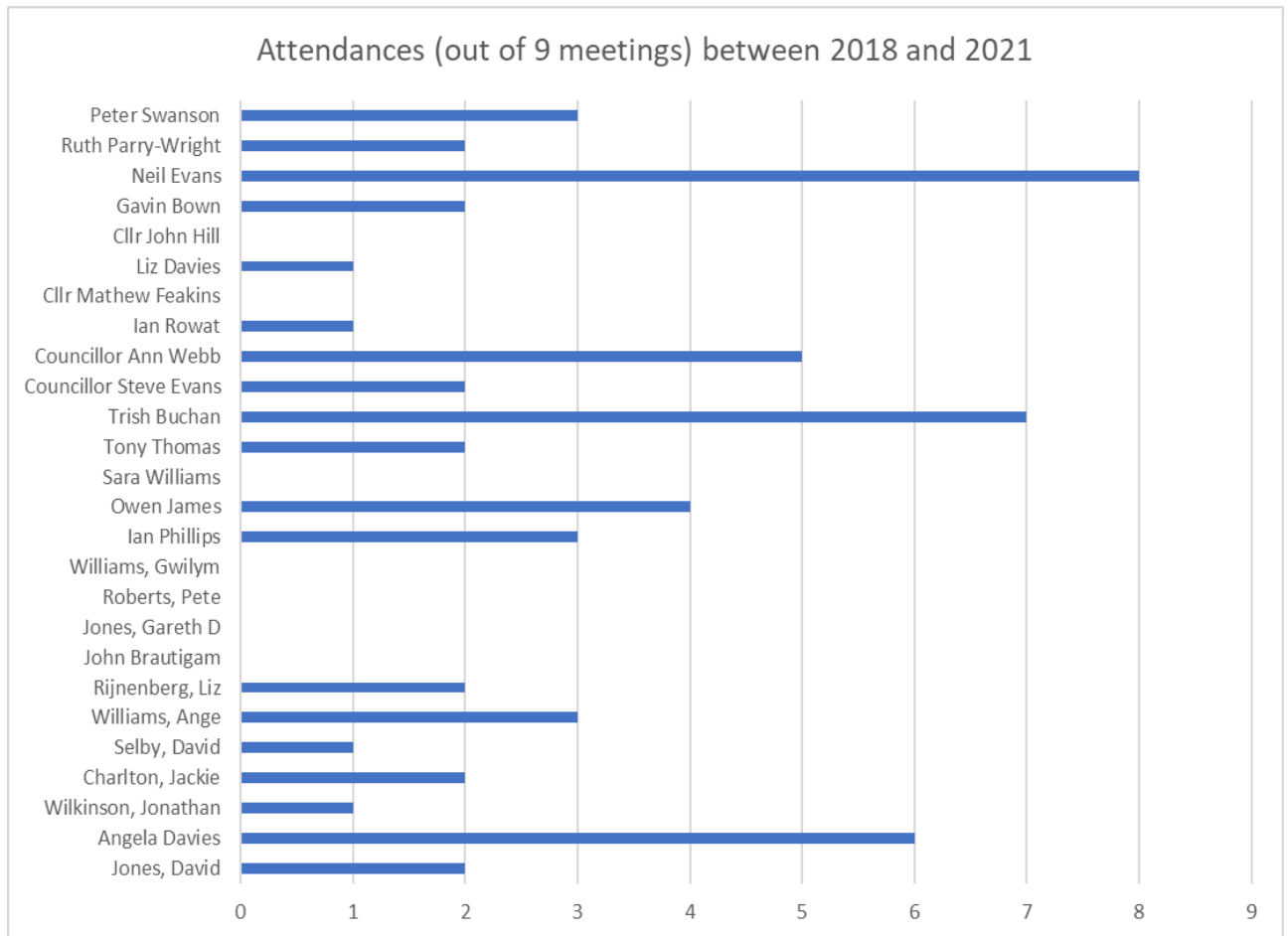
- A maximum of three co-opted Members;
- That those co-opted members can not:
 - be drawn from the executive of the organisation.
 - be officers from the organisation.
 - be Powys County Council representatives on those organisations

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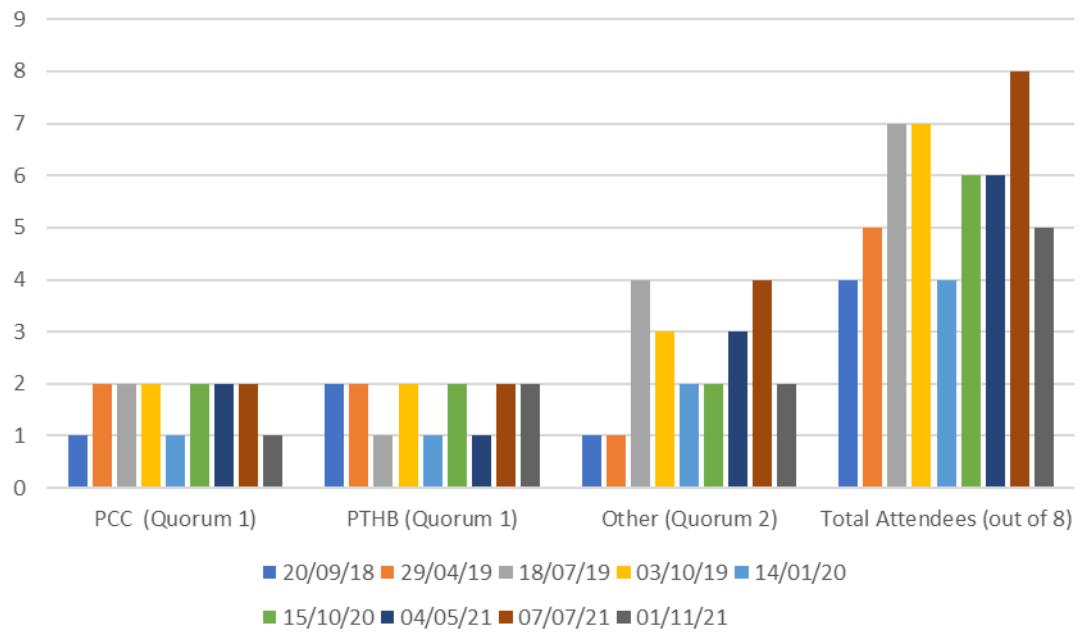
Corporate Director: Emma Palmer, Director of Corporate Services.

CABINET REPORT NEW TEMPLATE VERSION 3

Appendix 1



Representational Attendance 2018 - 2021



PSB Scrutiny Committee 20-09-2018 to 01-11-2021				
Individual Attendances				
Public Service Board Scrutiny Committee, 9 meetings				
Member	Attendances	Representing	From	To
Jones, David	2	PCC	2021	2022
Angela Davies	6	PCC	2019	2021
Wilkinson, Jonathan	1	PCC - Reserve	2021	C
Charlton, Jackie	2	PCC	2018	2019
Selby, David	1	PCC - Reserve	2021	2021
Williams, Ange	3	PCC	2019	2020
Rijnenberg, Liz	2	PCC	2021	C
John Brautigam	0	PCC - Reserve	2019	C
Jones, Gareth D	0	PCC	2019	2020
Roberts, Pete	0	PCC - Reserve	2018	2019
Williams, Gwilym	0	PCC - Reserve	2018	2019
Ian Phillips	3	PTHB - Reserve	2020	C
Owen James	4	PTHB	2018	2020
Sara Williams	0	PTHB	2018	2018
Tony Thomas	2	PTHB	2018	2020
Trish Buchan	7	PTHB	2018	2022
Councillor Steve Evans	2	BBNPA - Reserve	2020	C
Councillor Ann Webb	5	BBNPA	2018	2021
Ian Rowat	1	BBNPA	2018	2020
CLlr Mathew Feakins	0	BBNPA	2018	2020
Liz Davies	1	BBNPA	2021	C
CLlr John Hill	0	BBNPA - Reserve	2020	C
Gavin Bown	2	NRW	2021	C
Neil Evans	8	MAWWFRA	2018	C
Ruth Parry-Wright	2	PAVO	2018	2020
Peter Swanson	3	PAVO	2019	C
Year:	Meetings Held:	Meetings cancelled:		
2018	2	0		
2019	3	1		
2020	1	2		
2021	3	1		
2022	0	3		
Representational Attendance:				
Quorum for Meetings:				
1 x PCC Representative				
1 x PTHB Representative				
2 x Other Body Representatives				
Meetings:	PCC (Quorum 1)	PTHB (Quorum 1)	Other (Quorum 2)	Total Attendees (out of 8)
20/09/18	1	2	1	4
29/04/19	2	2	1	5
18/07/19	2	1	4	7
03/10/19	2	2	3	7
14/01/20	1	1	2	4
15/10/20	2	2	2	6
04/05/21	2	1	3	6
07/07/21	2	2	4	8
01/11/21	1	2	2	5