

SUBJECT:	Governance Arrangements for the Public Service Board Select Committee
MEETING:	Public Service Board Select Committee
DATE:	28th June 2016
DIVISIONS/WARDS AFFECTED:	All

1 PURPOSE

- 1.1 To discuss and agree the governance arrangements for Monmouthshire's Public Service Board (PSB) Select Committee, including the drafting of appropriate terms of reference.

2 RECOMMENDATIONS

- 2.1 That the PSB Select Committee agrees the approach outlined in this report in establishing:
- fit for purpose working arrangements and clear terms of reference in order for the Select Committee to perform its role effectively;
 - a clear governance structure to ensure the Select Committee embeds the principles of openness, transparency and accountability in its work.

3 KEY ISSUES

- 3.1 The Future Generations Act 2015 requires public bodies to improve social, economic, environmental and cultural wellbeing in their area through statutory a Public Service Board (PSB). Local government has been afforded the responsibility to scrutinise the PSB and to ensure the principles of the act are applied to policy and decision-making in Monmouthshire.
- 3.2 The background paper attached to this report provides a more detailed explanation of the requirements of the act in relation to scrutiny of the PSB and the wider scrutiny responsibilities. That report sought the agreement of the council on 21st January 2016 to establish a bespoke scrutiny arrangement to scrutinise the activities of the PSB. It proposed that the existing four scrutiny committees play a key role in ensuring that future generations are considered through their scrutiny of policy and decision-making. The report's recommendations were accepted and the council has established a PSB Select Committee to scrutinise the activities of the PSB.
- 3.3 The Public Service Board Select Committee will hold its first meeting on 28th June 2016 at which they will need to discuss and agree an effective working approach. This report provides a framework for the future working arrangements and general conduct of the PSB Select Committee in line with the proposals agreed by full council.

Membership of the PSB Select Committee

- 3.4 The Public Service Board Select Committee shall comprise 9 non-executive Members. The four Select Committee Chairs shall be standing Members of the new committee with the remaining elected membership selected to ensure political balance. Political groups should nominate members on the basis of their skills and their commitment to the role. Members could consider multi-sector contribution via co-option of non-elected members to ensure the committee has the necessary expertise to ensure the spirit of the Act is genuinely implemented.

Chairing of the of the PSB Select Committee

- 3.5 The four Select Chairs will rotate the chairing at each PSB Select Committee meeting to provide strategic leadership (it is anticipated the Select Committee will meet four to five times a year). The rotation of the chairing will negate the need for an additional Special Responsibility Allowance.

Rules of Procedure

- 3.6 Members and the public must have regard for the Chair who will have the authority to determine on any rules of procedure during meetings of the PSB Select Committee.

Referrals to other Select Committees

- 3.7 The PSB Select Committee will operate as a stand-alone scrutiny committee, however, the standing membership of the four Select Committee Chairs seeks to ensure a close alignment to the existing Select Committees. The PSB Select Committee may request another Select Committee to undertake detailed work on a relevant issue and it will be a matter for that Select Committee to decide whether to accept the referral from the PSB Select Committee.

Quorum

- 3.8 A quorum of one third of the PSB Select Committee's membership will be required to enable a meeting to proceed.

Setting the Agenda

- 3.9 Individual agenda items, other than standing items, are to be determined in the first instance by the work programme that is agreed by the PSB Select Committee. The decision to consider additional items or defer planned items will be a matter for the discretion of the Select Committee Chairs in consultation with the Scrutiny Manager.

Work Programme

- 3.10 The PSB Select Committee work programme will be reported to each Select Committee meeting to enable the Committee to review its content and include new items and to define the arrangements required for the next meeting. The updated work programme will be presented by the Select Committee Chairs to meetings of the council's Co-ordinating Board for the purpose of ensuring a clarity of topics being scrutinised and to avoid potential duplication in efforts.

The PSB Select Committee work programme will be made publicly available on the council's scrutiny webpage www.monmouthshire.gov.uk/scrutiny .

Invitations to the PSB Select Committee

- 3.11 The PSB Select Committee shall review and scrutinise the performance of the PSB and in doing so, shall invite members of the PSB, officers and Cabinet Members to its meetings when appropriate. The PSB Select Committee may request invitees to give account for their activities and their performance on matters within the Select Committee's remit, particularly relating to:
- Any particular decision
 - The performance of partners in delivering shared objectives
- 3.12 When the Select Committee wishes to invite members of the PSB, officers, Cabinet Members or another individual to a meeting, it will:
- Offer a minimum notice of 6 weeks' notice;
 - Clearly outline the reason and the likely areas for questioning;
 - Identify whether any paperwork is to be produced.
- 3.13 Where individuals are required to attend before the Select Committee, the Chair shall ensure that they are treated with courtesy and respect. Following the meeting, attendees will be provided with feedback and clarification as to whether further information is required as part of the Scrutiny process.

PSB Select Committee Meeting Procedure

- 3.14 Robust Scrutiny depends on effective questioning which relies on effective preparation. The meetings of Select Committees will operate as follows:
- Main agenda items will be identified at the previous meeting in line with the agreed work programme. At this point potential witnesses and broad themes should be considered.
 - Prior to the meeting all Select Committee Members should be engaged in raising and discussing possible questions by email. The Select Committee Chair will facilitate this process.
 - A pre-meeting for all Select Committee Members will be held for 30 minutes immediately before each Select Committee meeting. The purpose is to ensure that members are fully prepared for the Select Committee meeting and that the questioning strategy is clear.
 - During the meeting, the Select Committee Chair will be responsible for ensuring that questioning is effective and that the Select Committee achieves its objective.
 - Those invited to attend for a particular agenda item shall not be expected to remain at the meeting.
 - At the close of the meeting, witnesses will be asked to leave to enable Select Committee Members to discuss their conclusions any recommendations arising from the meeting. These conclusions and recommendations will be reported to the PSB and relevant Cabinet Member(s) in the form of a Chairs' Letter. This part of the meeting should review the effectiveness of the meeting and identify ways that future meetings could be improved.

Call in Arrangements

- 3.15 In the event of a “Calling-in” of a decision, in line with the ‘Call-in Mechanism’ outlined in the Constitution, the PSB Select Committee is required to meet within 15 working days of the publication of the decision. The Committee would endeavour to offer advance notice to invitees required to attend.

Evidence Gathering

- 3.16 The Select Committee is entitled to gather evidence in connection with any review or inquiry it undertakes as part of their agreed work plan. The Select Committee shall adopt methods of gathering evidence to inform their deliberations. These include, but are not limited to, task and finish groups, holding enquiries, undertaking site visits, conducting public surveys, holding public meetings, commissioning research, hearing from witnesses and appointing advisors and assessors. The knowledge of councillors is also a valuable source of evidence and should be considered as part of each inquiry.

Responding to Scrutiny’s Recommendations

- 3.17 The Select Committee will agree outcomes of its meetings and detail the conclusions and any recommendations arising from a Select Committee meeting. The Select Committee may recommend amendments to a strategy or policy at their meeting which will be formally minuted. The Chair will formally make recommendations via a Chairs Letter to the PSB and relevant Cabinet Member(s) in person after the meeting has closed and will report these to the Commissioner following each meeting. Where recommendations have been made to the PSB and/or the Cabinet Member, a written response would be expected within one month, indicating whether the recommendation is to be accepted and what action (if any) will be taken in response.

Accountability Framework

- 3.18 There are parameters for the PSB Select Committee defined within the Future Generations Act, as follows:
- The act allows for scrutiny of the PSB as a ‘corporate body’, not the individual partners comprising the PSB. Paragraph 169 of the Future Generations guidance states that; ***“The committee can require any member of the board to give evidence, but only in respect of the exercise of joint functions conferred on them as a member of the board under this Act.”*** The PSB Select Committee will therefore scrutinise the work of the PSB and not the individual activities of PSB partners.
 - Whilst the joint actions of the PSB will demonstrate the impact and outcomes achieved, the PSB Select Committees may choose to probe individual partners as to how they intend to exercise their well-being duty in line with the PSB’s wellbeing plan. Section 36 (1) (c) of the Act (in defining the PSB’s well-being duty) refers to; ***“The taking of all reasonable steps by members of the board (in exercising their functions) to meet those objectives.”***

- Furthermore, Select Committees can exercise their existing power under S21 (2) (e) of the Local Government Act 2000 to; ***“Make reports or recommendations to the authority or the executive on matters which affect the authority’s area or the inhabitants of that area.”***

Declarations of Interest

- 3.19 Members of the PSB Select Committee must declare any interest during meetings of the Select Committee (and withdraw from the meeting if necessary) in accordance with the council’s Code of Conduct.

Confidentiality of Information

- 3.20 In accordance with the council’s Code of Conduct, members of the Select Committee must not disclose any information considered ‘exempt’ in accordance with Section 100A (4) of the Local Government Act 1972.

Accessibility of the PSB Select Committee

- 3.21 All meetings of the PSB Select Committee will be held in the public domain and will be live streamed across the internet unless the information is considered ‘exempt information’ in line with the requirements of the Local Government Act 1972. The minutes and agendas of meetings shall be publicly available on the council’s website unless the information is deemed ‘exempt’ (as above). Any member of the public may address the Select Committee under the Public Open Forum for a maximum duration of 15 minutes.

Functions to be exercised by the PSB Select Committee

- 3.22 The PSB Select Committee shall be responsible for exercising the following functions:
- 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.

- 3.23 The PSB Select Committee is requested to discuss appropriate terms of reference for adoption at its next meeting. The full responsibilities for local government scrutiny are outlined in Appendix A of the background report tabled to council on 21st January 2016. The PSB Select Committee will need to consider these responsibilities in order to agree an appropriate terms of reference for the Select Committee.

4. REASONS

- 4.1 The new responsibilities for local government to scrutinise the PSB requires the council to ensure its scrutiny arrangements are fit for purpose and can deliver the responsibilities effectively. Significant thought has been given to

developing a 'Monmouthshire Approach' to scrutiny of the PSB to provide democratic accountability and to ensure that statutory partners, invitees, and others can add value to scrutiny of the PSB. The allocation of the new responsibilities to a bespoke committee should enable the PSB Select Committee to play a distinct and strategic role in scrutiny of the PSB.

5. RESOURCE IMPLICATIONS

- 5.1 There are no direct implications arising from the report, providing the four Select Chairs rotate the chairing of any new Committee (negating the need for a further Special Responsibility Allowance. There is likely to be indirect implications on staff resources and these will need to be managed as appropriate.

6. SAFEGUARDING, SUSTAINABLE DEVELOPMENT AND EQUALITY IMPLICATIONS

- 6.1 There are no direct implications arising from the report.

7. CONSULTEES

Head of Legal Services
Dr Alan Netherwood, Netherwood Sustainable Futures

8. BACKGROUND PAPERS

Report to Council on 21st January 2016.

9. AUTHOR

Hazel Ilett
Scrutiny Manager

10. CONTACT DETAILS:

Tel: 01633 644233
E-mail: Hazeilett@monmouthshire.gov.uk

SUBJECT:	Future Generations Act: Scrutiny Arrangements
MEETING:	Council
DATE:	21st January 2016
DIVISIONS/WARDS AFFECTED:	All

1. PURPOSE

- 1.2 To advise Members of the requirements of the Future Generations Act in relation to Local Authority scrutiny and to guide Members on the establishment of fit for purpose scrutiny arrangements for Monmouthshire.

2. RECOMMENDATIONS

- (i) That the Council notes the new responsibility for Select Committees to ensure the principles of the Act are applied to policy and decision-making in Monmouthshire.
- (ii) That the Council agrees to the proposal recommended in this report to establish a bespoke scrutiny arrangement to scrutinise the Public Service Board (PSB) in line with the Acts' requirement.

3. KEY ISSUES

- 3.1 The Wellbeing of Future Generations Act achieved Royal Assent in April 2015 and the legislation comes into force in April 2016. The Act requires public bodies to improve social, economic, environmental and cultural wellbeing, by taking action in accordance with the sustainable development principle, aimed at achieving the 'Wellbeing Goals'.
- 3.2 The guidance (extract attached as Appendix A) advises that public bodies need to embed the Act within their existing corporate processes if they are to effectively carry out sustainable development. This requires the Council to integrate the thinking behind the Act into policy and decision making at every level and the Council's Select Committees to ensure that this occurs. Councils will be subject to review by the Future Generations Commissioner for Wales and for examination by the Auditor General for Wales in terms of their implementation of the Act.
- 3.3 The Act places a collective well-being duty on Public Service Boards, requiring each Public Service Board (PSB) to improve the economic, social, environmental and cultural well-being of its area by contributing to the achievement of the well-being goals through preparing a wellbeing assessment and publishing a well-being plan in addition to producing annual reports. PSB's must also act in accordance with the sustainable development principle and the responsibility to ensure PSB's are challenged appropriately and supported to deliver these objectives has been given to local government scrutiny functions.

3.4 The Future Generations Act guidance states that;

“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” (paragraph 163).

The Future Generations Act states that;

“where a local authority has more than one overview and scrutiny committee, the references in this part to its overview and scrutiny committee are to the committee that the local authority designates for the purposes of this section” (Section 35).

3.5 Whilst the guidance is something the Council only needs to ‘have regard to’, the Act is definitive and under Section 21 of the Local Government Act 2000, the Council must ensure a scrutiny Committee (new or existing) adopts the remit.

3.6 The full responsibilities for local government scrutiny functions are outlined in Appendix A, however, there are two distinct roles for Local government scrutiny:

- The scrutiny that would take place within the existing Select Committees to ensure the Council applies the principles of the Act to its own decisions and policy – this will require Members to ask different questions to ensure the Council is implementing the act across all that it delivers.
- Purposeful scrutiny of the PSB – this should be strategic and focussed on the work of the Public Service Board as a whole.

3.7 Monmouthshire County Council has volunteered to be part of the Welsh Local Government Association’s “early adopter” scheme, which offers support to help local authorities take steps in 2015/16 to prepare for the Act. Ensuring a ‘fit for purpose’ scrutiny arrangement is in place in readiness for the Act with Members who have been trained in this important role is a key priority.

3.8 Significant thought has been given to what would work best in Monmouthshire to provide both democratic accountability and multi-sector input into scrutinising the work of the PSB, ensuring statutory partners, invitees, and others could contribute and add value to scrutiny of the PSB. These issues are still to be determined, however, what is clear is that in order to avoid a scrutiny ‘bolt-on’ arrangement and to ensure that scrutiny can assist in shaping the evolving PSB, it is advisable to establish scrutiny arrangements at an early stage.

3.9 There are two options for scrutiny of the PSB that the Council could consider in line with the requirements of the Act:

3.10 Option 1: To allocate the new responsibilities to an existing Select Committee:

- Members have reflected that the current Select Committees are operating at full capacity ~ the concern would be that an existing committee may be overloaded and that there would be insufficient capacity to conduct the

scrutiny effectively, the additional burden also conflicting with other scrutiny priorities.

- Members have advised that they do not consider this responsibility should sit within one Committee's remit, rather that it should be overarching of the 4 existing Select Committees.
- If an existing Select Committee were designated as a parent Select Committee with a Sub-Committee of that Select Committee established, in line with the constitution, Members would need to be drawn from the parent Select Committee with the following implications:
 - They Sub-Committee may not necessarily comprise of the appropriate Members – for example, the four Select Chairs would not be able to sit on the Sub-Committee and thus to oversee the work of the PSB and feed into their Select Committees as appropriate.
 - Some Members who may wish to sit on the Sub-Committee that would oversee the work of the PSB would be unable to do so because they are not Members of the parent committee.

3.11 Option 2: To allocate the new responsibilities to a bespoke PSB Select Committee:

- The new Select Committee would play a distinct and strategic role in scrutinising the work of the PSB, the establishment of a designated Select Committee offering it a sense of status and legitimacy.
- This would ensure clarity in terms of role - avoid the confusion of 'scrutiny of the PSB' with 'scrutiny of the Council's application of the Act to policy and decision-making'.
- A stand-alone Select Committee comprising the 4 Select Committee Chairs would provide genuine integration, providing direct links to the other Select Committees. The Select Chairs could refer detailed work to their Select Committees ~ the Members of that Select Committee would decide whether to accept the referral. Given that the legislation is overarching and will impact on all facets of the Council's work, this approach would bridge the knowledge across the Select Committees.
- Other Members could be appointed to ensure political balance, political groups nominating Members on the basis of 'their offer' and commitment to the role. Representatives from outside the Council could be co-opted as appropriate, embracing the spirit of the act.
- If the Select Committee Chairs agreed to rotate the Chairmanship of the Committee, there would be no additional SRA required (cost-neutral).

3.12 The recommendation based upon the above factors is for:

- A stand-alone PSB Select Committee to be established as soon as possible after a Council decision has been reached.

- The Select Committee to comprise 9 Members (in line with the other Select Committees), with the ability to co-opt non-voting Members as it sees fit.
- The four Select Committee Chairs to be standing Members of the new Committee with the remaining elected Membership politically balanced.
- The four Select Chairs to rotate the chairing at each meeting to provide strategic leadership (it is anticipated the Committee would meet four to five times a year). The rotated chairing would also negate the need to budget for another Special Responsibility Allowance.

3.13 If the Council agrees this option, an expert in Future Generations has agreed to work with Monmouthshire Members to design a 'Monmouthshire approach' to scrutiny of the PSB. This would provide an excellent opportunity for Members to proactively design an effective scrutiny arrangement based on the five sustainable development principles (involvement, collaboration, prevention, integration, long term). Members could consider multi-sector contribution via co-option of non-elected Members to ensure the Committee has the necessary expertise to ensure the spirit of the Act is genuinely implemented.

3.14 The success in delivering effective scrutiny of the PSB will hinge upon ensuring clarity of the terms of reference of the PSB Select Committee, ensuring the recruitment of suitable individuals to perform the role, establishing an arrangement that is overarching and adopting an integrated approach suitable for Monmouthshire.

4. REASONS

4.1 Scrutiny is a statutory function and performs a fundamental role in the Council's decision-making process. The new responsibilities for local government scrutiny functions arising from the Act requires the Council to ensure its' scrutiny arrangements are fit for purpose and can deliver these responsibilities effectively.

5. RESOURCE IMPLICATIONS

5.1 There are no direct implications arising from the report, providing the four Select Chairs rotate the chairing of any new Committee (negating the need for a further Special Responsibility Allowance. There is likely to be indirect implications on staff resources and these will need to be managed as appropriate.

6. SAFEGUARDING, SUSTAINABLE DEVELOPMENT AND EQUALITY IMPLICATIONS

6.1 There are no direct implications arising from the report.

7. CONSULTEES

Scrutiny Chairs Liaison Group
 Head of Legal Services
 Political Leadership Group

8. BACKGROUND PAPERS

None.

9. AUTHOR

Hazel Ilett
Scrutiny Manager

10. CONTACT DETAILS:

Tel: 01633 644233

E-mail: Hazeilett@monmouthshire.gov.uk

Chapter 6 - Local accountability

161. Local integrated planning will only be effective if the 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.

162. The Welsh Ministers will not approve local well-being plans. Local well-being plans are the plans of the public services board members, locally owned and subject to local scrutiny. The Welsh Ministers instead have a power to direct a board to review its local well-being plan; or 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 for Wales or a concern statutory duties are not being met.

163. 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.

164. 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.

165. Overview and scrutiny functions: 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.

166. The Local Authority will do the above through the 'executive arrangements' it is required to make under Part 2 of the Local Government Act 2000. Executive arrangements are arrangements for the setting up and operation by a Local Authority of an executive, which has responsibility for certain functions of the authority.

167. 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.

168. 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.

169. The committee can require any member of the board to give evidence, but only in respect of the exercise of joint functions conferred on them as a member of the board under this Act. This includes any person that has accepted an invitation to participate in the activity of the board.

170. 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.