



FULL COUNCIL REPORT

Date Written	16 th September 2016
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Service Area	Legal and Governance Services
Exempt/Non Exempt	Non-Exempt
Committee Date	5 th October 2016

To: Mayor, Ladies and Gentlemen

Well-Being of Future Generations (Wales) Act 2015 – Scrutiny of the Cwm Taf Public Services Board

1.0 SUMMARY OF THE REPORT

- 1.1 The purpose of this report is to seek the Council's approval for the establishment of a Joint Overview and Scrutiny Committee (JOSC) to scrutinise the Cwm Taf Public Services Board.
- 1.2 There is a requirement as set out in the Well-being of Future Generations (Wales) Act 2015 and associated statutory guidance for a designated local government Scrutiny Committee to scrutinise the work of the PSB.
- 1.3 Merthyr Tydfil County Borough Council and Rhondda Cynon Taf County Borough Council have agreed to set up a joint Public Services Board – “The Cwm Taf Public Services Board” and rather than having two separate scrutiny committees scrutinising the work of the Board, a joint overview and scrutiny committee has been proposed.
- 1.4 Draft Terms of Reference have been drawn up (Appendix I); however these will need further consideration and discussion before being finalised.
- 1.5 Guidance¹ states that in establishing a Joint Overview and Scrutiny Committee which is additional to a council's existing scrutiny committee(s), a report setting out its role, responsibilities, terms of reference and intended outcomes to be generated by the joint exercise should be considered by each of the participating authorities' appropriate scrutiny committees (or subcommittees) before being endorsed by full council. This report was considered by the Governance, Performance, Business

¹ Statutory Guidance from the Local Government (Wales) Measure 2011 - Section 58 Joint Overview and Scrutiny Committees – “Appointing a Joint Committee”. Para 3.1 <http://gov.wales/docs/dsjlg/publications/localgov/130516statutguidejoscen.pdf>

Change and Corporate Services Scrutiny Committee at its meeting on 4th October 2016.

2.0 RECOMMENDATIONS that

- 2.1 Council agrees and endorses the recommendations set out in 2.2 to 2.5 as commended by the Governance, Performance, Business Change and Corporate Services Scrutiny Committee.
- 2.2 Council agrees to the setting up of a Joint Overview and Scrutiny Committee (JOSC) comprising elected Members of both Rhondda Cynon Taf and Merthyr Tydfil County Borough Councils to scrutinise the Cwm Taf Public Services Board.
- 2.3 In the absence of any statutory guidance for the joint scrutiny of Public Service Boards, the establishment of the Joint Scrutiny Committee be in accordance with the requirements of Section 58 of the Local Government (Wales) Measure, 2011, regulations and statutory guidance.
- 2.4 Council agrees the draft terms of reference as set out in Appendix I and gives the Chief Executive, in consultation with the Leader of the Council and the Chair of the Governance, Performance, Business Change and Corporate Services Scrutiny Committee, delegated authority to amend and finalise the terms of reference in accordance with the parameters set out herein.
- 2.5 When this Authority is to be nominated to the position of Chair of the Joint Scrutiny Committee, Council agrees whether the post is to be remunerated in accordance with the Independent Remuneration Panel for Wales's determinations (see 5.4).

3.0 INTRODUCTION AND BACKGROUND

Scrutiny of Public Service Boards (PSB)

- 3.1 In order to ensure democratic accountability of the PSB, there is a requirement set out in the Well-being of Future Generations (Wales) Act, 2015 together with associated statutory guidance, for a designated Local Government Scrutiny Committee of the relevant authority to scrutinise the work of the PSB
- 3.2 In respect of the designated Local Government Scrutiny Committee, Council² has previously agreed that:-
 - The Governance, Performance, Business Change and Corporate Services Scrutiny Committee is designated as this Authority's scrutiny committee for the Cwm Taf Public Service Board, until such time a joint scrutiny committee (MTCBC and RCTCBC) is agreed and established.
 - The Chair and Vice Chair of the Governance, Performance, Business Change and Corporate Services Scrutiny Committee together with Officers further discuss joint scrutiny arrangements for the Cwm Taf Public Services Board with

² Council report 7th September 2016 - "Annual Scrutiny Report - 2015 / 2016"
<http://democracy.merthyr.gov.uk/documents/s33710/Committee%20Report.pdf>

colleagues at Rhondda Cynon Taf CBC and report to Council with proposals in due course.

- 3.3 The Future Generations (Wales) Act does not provide for joint scrutiny of PSB's and currently there is no statutory guidance that relates specifically to joint overview and scrutiny arrangements of PSB's.

However the statutory guidance³ for the Well-Being of Future Generations Act does state that *"...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"*.

- 3.4 In developing scrutiny arrangements, meetings have been held with colleagues in Rhondda Cynon Taf County Borough Council to investigate the possibility of creating a joint overview and scrutiny committee (JOSC) to scrutinise the Cwm Taf Public Services Board.
- 3.5 This joint approach will avoid duplication of time and resources of the individual authorities' designated Scrutiny Committees.
- 3.6 It was agreed that reports will be presented to each authority's respective Full Council meetings and Scrutiny Committee meetings in September / October to progress and establish these joint scrutiny arrangements.

4.0 STATUTORY PROVISIONS RELATING TO SCRUTINY

- 4.1 The statutory authority for proceeding with the arrangements for joint scrutiny is from Chapter 6 of the Statutory Guidance⁴ issued under Section 51(1)⁵ of the Well-being Future Generations Act, 2015 (see paragraph 3.3).
- 4.2 However there is no specific reference to the mechanisms by which scrutiny can operate the statutory basis for joint arrangements in the Well-being of Future Generations Act 2015 or the statutory guidance. Therefore the mechanisms for joint scrutiny have come from Section 58 of the Local Government (Wales) Measure 2011⁶ ("the Measure") and the Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013 (No.1050 (W.112))⁷.

³ SPSF 3 – Shared Purpose: Shared Future – Statutory Guidance on the Well-being of Future Generations (Wales) Act 2015. Chapter 6 Local Accountability para 174. <http://gov.wales/docs/desh/publications/160225-spsf-3-collective-role-en.pdf>

⁴ SPSF 3 – Shared Purpose: Shared Future – Statutory Guidance on the Well-being of Future Generations (Wales) Act 2015. Chapter 6 Local Accountability para 174 <http://gov.wales/docs/desh/publications/160225-spsf-3-collective-role-en.pdf>

⁵ Guidance (1) The Welsh Ministers must issue guidance to public services boards about the exercise of functions under this Part. (2) In exercising a function under this Part, a public services board must take such guidance into account.

⁶ Local Government (Wales) Measure 2011 http://www.legislation.gov.uk/mwa/2011/4/pdfs/mwa_20110004_en.pdf

⁷ The Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013 http://www.legislation.gov.uk/wsi/2013/1050/pdfs/wsi_20131050_mi.pdf

- 4.3 In accordance with Measure Guidance⁸ i.e. “*In establishing a JOSC which is additional to a Council’s existing scrutiny committee(s) a report setting out its role, responsibilities, terms of reference and intended outcomes to be generated by the joint exercise should be considered by each of the participating authorities’ appropriate scrutiny committees (or sub-committees) before **being endorsed by full Council**”:-*

5.0 PROPOSED TERMS OF REFERENCE OF THE JOINT SCRUTINY COMMITTEE

- 5.1 In accordance with the provisions as set out in paragraph 4 above, the following paragraphs provide the legislative basis for the role and responsibilities and terms of reference for the JOSC.

Draft Terms of Reference (see Appendix I) are based on the requirements of the Future Generations Act, the Local Government (Wales) Measure, the Joint Overview and Scrutiny Committee regulations and subsequent Joint Overview and Scrutiny statutory guidance.

5.2 The Well-being of Future Generations (Wales) Act 2015

Paragraph 35 of the Act states that in respect of an overview and scrutiny committee of local authority, executive arrangements must ensure that its overview and scrutiny committee has a number of powers. These powers are:-

- To review or scrutinise the decisions made or actions taken by the Board;
- To review or scrutinise the Board’s governance arrangements;
- To make reports or recommendations to the Board regarding its functions or governance arrangements;
- To consider matters relating to the Board as the Welsh Ministers may refer to it and report to the Welsh Ministers accordingly; and
- To carry out other functions in relation to the Board that are imposed on it by the Well-Being of Future Generations (Wales) Act 2015.

The Well-Being of Future Generations Act allows for scrutiny of the Board as a ‘corporate body’, not the individual partners comprising the PSB. Paragraph 169 of the Future Generations guidance states that: “*The Scrutiny 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 JOSC will therefore scrutinise the work of the PSB and not the individual activities of PSB partners.

5.3 The Local Government (Wales) Measure 2011; and The Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013.

Section 58 of the Measure “Joint Overview and Scrutiny Committees” states that Welsh Ministers may by regulations make provision under which any two or more local authorities may appoint a joint overview and scrutiny committee. Subsequently

⁸ Statutory Guidance from the Local Government (Wales) Measure 2011 - Section 58 Joint Overview and Scrutiny Committees – “Appointing a Joint Committee”. Para 3.1 <http://gov.wales/docs/dsjlg/publications/localgov/130516statutguidejoscen.pdf>

the Local Authorities (Joint Overview and Scrutiny Committees) (Wales) Regulations 2013 came into force on 24th May 2013.

5.4 Independent Remuneration Panel for Wales

For 2016-17 the Independent Remuneration Panel for Wales⁹ determined the following:-

- (i) The Chair of the JOSCS is eligible for a salary equivalent to that part of a Band 3 Level 2 salary that remunerates a Committee Chair of a principal authority (£6,700) per annum.
- (ii) In cases where the Chair is already in receipt of a Senior Salary for a Band 3, 4 or 5 role the payment will be £3,350 per annum.
- (iii) The Chair of a Sub-Committee of a JOSCS is eligible for a salary set at £1,675 per annum.
- (iv) In cases where the Chair of the Sub-Committee is already in receipt of a Senior Salary for a Band 3, 4 or 5 role the payment will be £837 per annum.
- (v) Payments to a Chair of a task and finish Sub-Committee are to be pro-rated to the duration of the task.
- (vi) A deputy chair of a JOSCS or Sub-Committee is not eligible for payment.
- (vii) Co-optees of a JOSCS or to a Sub-Committee are not eligible for a Co-optee member fee unless they are appointed by an authority under s144(5) of the Measure.

Note: The remuneration of Chairs of JOSCS's (or a Sub-Committee of JOSCSs) is not prescribed and is a matter for the constituent Councils to decide whether such a post will be paid.

6.0 CONCLUSION

- 6.1 This is a new joint scrutiny approach for a PSB and will need time to embed, however effective joint scrutiny can measure maturity of partnership arrangements more generally and speed up integrated working across the region. This function of democratic scrutiny will achieve shared responsibility for improved outcomes across partner organisations and avoid duplication of time and resources of the individual authorities Scrutiny Committees. Ultimately, it is envisaged that it will achieve better outcomes for the people of the local authority areas.
- 6.2 A report will also be presented to Members of Rhondda Cynon Taf County Borough Council's respective Scrutiny Committee and Full Council in September to establish these joint arrangements. In this respect a report went to this Authority's Governance, Performance, Business Change and Corporate Services Scrutiny Committee on 4th October 2016.
- 6.3 Both participating Councils will engage in two way communication with a view to further developing the joint scrutiny arrangements.

⁹ Independent Remuneration Panel for Wales Annual Report Feb 2016 – Para 4 and para 4.2
<http://gov.wales/docs/dsijg/publications/160217-irp-annual-report-16-17-en.pdf>

7.0 FINANCIAL IMPLICATION(S)

- 7.1 There will be financial implications in setting up and running a JOSC. Statutory guidance¹⁰ suggests that where a JOSC is established participating authorities should share the costs associated with the undertaking of joint scrutiny exercises. This should cover arrangements for officer support and research, as well as administrative support and provision of meeting venues. As per the Terms of reference, it is suggested that whichever Authority Chairs the JOSC, that Authority will provide the administrative support for the JOSC for the duration that Chair is in position. It is likely to alternate annually between the Authorities.
- 7.2 The position of Chair of a JOSC attracts remuneration as per the Independent Remuneration for Wales's regulations. It will be for Council to decide if an allowance is paid and this will be subject of a report to Council when the situation arises.

8.0 SINGLE INTEGRATED PLAN AND SUSTAINABILITY IMPACT SUMMARY

- 8.1 The Single Integrated Plan and Sustainability Impact Assessment has been completed and the proposals positively impact on the Financial Sustainability of Public Services.

9.0 EQUALITY IMPACT ASSESSMENT

- 9.1 An Equality Impact Assessment (EqIA) form has been prepared for the purpose of this report. It has been found that a full assessment is not required at this time. The form can be accessed on the Council's website/intranet via the 'Equality Impact Assessment' link.

GARETH CHAPMAN
CHIEF EXECUTIVE

COUNCILLOR PHIL WILLIAMS
CABINET MEMBER FOR GOVERNANCE
AND CORPORATE SERVICES

BACKGROUND PAPERS		
Title of Document(s)	Document(s) Date	Document Location
As per page references		
Does the report contain any issue that may impact the Council's Constitution?		Yes

Consultation has been undertaken with the Corporate Management Team in respect of each proposal(s) and recommendation(s) set out in this report.

¹⁰ Statutory Guidance from the Local Government Measure 2011 – Officer Support for JOSC's para 3.15
<http://gov.wales/docs/dsjlg/publications/localgov/130516statutguidejoscen.pdf>