

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2015-2016

**OVERVIEW AND SCRUTINY
COMMITTEE
18TH NOVEMBER, 2015**

**REPORT OF THE DIRECTOR OF LEGAL
AND DEMOCRATIC SERVICES**

Agenda Item No. 3

**WELL-BEING OF FUTURE
GENERATIONS (WALES)
ACT, 2015**

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1. PURPOSE OF THE REPORT

In conjunction with the presentation by the Council's Partnerships Manager providing an overview of the Well-Being of Future Generations (Wales) Act, 2015 ("the Act") to advise the Committee of the Scrutiny aspects surrounding the Act, in relation to the Public Service Boards.

2. RECOMMENDATIONS

It is recommended that Members:-

- 2.1 Consider the Scrutiny aspects surrounding the Well-Being of Future Generations (Wales) Act, 2015 and that the comments of the Committee be reported to Council, if felt appropriate.

3. BACKGROUND

- 3.1 At the meeting of this Committee held on the 23rd September, 2015, Members were advised of the recent Statutory Guidance consultation documents that had been published in respect of the Well-Being of Future Generations (Wales) Act, 2015 ("the Act"), which had been passed earlier this year by the National Assembly for Wales and contains an integrated set of seven Well-Being goals for a prosperous, resilient, healthier, more equal and globally responsible Wales, with cohesive communities and a vibrant culture and thriving Welsh language.

- 3.2 The "Act" is about "sustainable development" which is the process of improving the social, economic, environmental and cultural well-being of Wales and will make the public bodies listed in the "Act" including Local Authorities, Local Health Boards, Natural Resources Wales, National Park Authorities (amongst many) think more about the long-term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach.

- 3.3 As can be seen from the short overview above, “the Act” is ambitious. It requires specified public bodies, no matter what their specific responsibilities, to maximise their contribution to improving the well-being of Wales.

4. SCRUTINY – PUBLIC SERVICE BOARDS

- 4.1 As reported at the Council’s Annual Meeting of the Council on the 20th May, 2015 “the Act” will result in the Local Service Boards (LSBs) becoming statutory bodies and will be known as Public Service Boards (PSBs). The PSBs will be established for each local authority area in Wales and these Boards will contribute to the achievement of the goals, as set out in paragraph 3.1 above.
- 4.2 The four statutory members of each PSB are the Local Authority, the Local Health Board, the Fire and Rescue Authority for an area and National Resources Wales. In addition to these Members, each PSB must also invite specified statutory invitees, as and when felt appropriate to participate in the Board’s activity such as the Chief Constable for a Police area, Probation Services and can also invite other people who carry out public functions.
- 4.3 Each PSB must prepare and publish a Local Well-Being Plan, setting out its objectives and the steps it will take to meet them and will carry out an annual review of their plan showing their progress, and must consult widely during this time.
- 4.4 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 PSB and whilst it would be legitimate for a subject Scrutiny Committee (such as Children and Young People) to scrutinise the PSB’s work in relation to a specific issue, **it is important that one Committee takes an overview of the overall effectiveness of the Board and therefore the statutory guidance makes it clear that one Committee must be designated to undertake this work.**
- 4.5 Chapter 6 of the Guidance refers to local accountability and the role of Overview and Scrutiny functions i.e. having the power to:-
- (a) Review or scrutinise the decisions made or actions taken by the PSB;
 - (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.

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.

- 4.6 However, whilst a local authority would take into consideration the Guidance as set out in Chapter 6 of the document, it has come to light through recent communications with the Welsh Local Government Association that “the Act” does not empower Ministers to issue guidance in respect of scrutiny of PSBs.
- 4.7 At a recent Reference Panel meeting convened by Welsh Government, concerns were raised that given the lack of guidance there would be different levels of expectations and interpretations (between PSB members themselves and also between the PSB and Scrutiny) which could risk the scrutiny of PSBs being contested, particularly if local scrutiny wanted to scrutinise the PSBs partners’ activities as PSB partners could cry foul and say that scrutiny is exceeding their statutory parameters and that scrutiny can only scrutinise the work of the PSB itself.
- 4.8 Unfortunately, the Act seems to curtail Scrutiny Committees’ ‘public service scrutiny’ powers as it only allows scrutiny of the ‘corporate body’ of the PSB (not the individual members). The proposed public service scrutiny powers over ‘designated persons’ under the Local Government (Wales) Measure, 2011 would have been much more open ended. Paragraph 169 of Chapter 6 of the Guidance explicitly 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.**” This appears quite a limited role, as the PSB won’t actually do a huge amount as a corporate body (other than exercising its duties to prepare a wellbeing assessment, publish (and possibly review) a well-being plan (when it *may* also set out wellbeing objectives) and duty to publish annual reports – it’s the constituent bodies’ individual and joint actions and duties under “the Act” which is where all the impact and outcomes will be achieved.
- 4.9 However, there may be scope for Scrutiny Committees to probe individual bodies as scrutiny is allowed to invite individual members to give evidence and, furthermore, could seek to scrutinise how the PSB is exercising its well-being duty as per S36 of the Act – interestingly S36 (2)(c) in defining the PSB’s well-being duty also refers to ‘*the taking of all reasonable steps by members of the board (in exercising their functions) to meet those objectives.*’ Similarly, Scrutiny Committees can scrutinise the wellbeing plan which (according to S39 (2)) ‘...may include objectives - (a) that are also well-being objectives published under Part 2 by a member of the board; (b) that are to be met by the taking of steps - (i) by one or more members of the board, invited participants or other partners acting individually, or (ii) any combination of members, invited participants or other partners acting jointly.’
- 4.10 If all else fails and the designated Scrutiny Committee did want to consider wider issues, it could always seek to exercise the 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.*’

- 4.11 Furthermore, Chapter 7 of the Guidance refers to Merging and Collaboration, whereby “the Act” provides for two or more PSBs to be able to merge and to collaborate if it would assist them in contributing to the achievement of the well-being goals. However, Boards may merge only if (a) the same Local Health Board is a member of each Board seeking or being directed to merge, and (b) no other Local Health Board is a member of any of those Boards. At the last meeting of this Committee on the 21st October, 2015, I advised Members of the event that was taking place on the 23rd October, 2015, which was attended by appropriate Officers of this Authority and a question was raised by the Head of Democratic Services in relation to Chapter 7 as should Welsh Ministers direct that two or more PSBs be merged; and two or more PSBs to collaborate, how would this impact on the scrutiny arrangements as there was no reference to scrutiny in such circumstances. The response to the question posed – “this had not been considered but that it would be looked into.” Again, the Local Government (Wales) Measure, 2011 in respect of Joint Scrutiny Arrangements seem to have been disregarded.

Link to Statutory Guidance:

<http://gov.wales/docs/desh/consultation/150907-spsf-3.0-collective-role-public-services-boards-en.pdf>

5. COMMUNITY AND TOWN COUNCILS

- 5.1 There is specific statutory guidance under Section 40(7) of the Act in respect of the duties in relation to well-being plans for Community and Town Councils.
- 5.2 The Act places a duty on certain Community and Town Councils to take all reasonable steps towards meeting the local objectives in the local well-being plan that has effect in its areas. A Community and Town Council is subject to that duty only if its gross income or expenditure was at least £200,000 for each of the three financial years preceding the year in which the local well-being plan is published.
- 5.3 If a Community or Town council is subject to the duty, it must publish a report annually detailing its progress in meeting the objectives contained in the local well-being plan.
- 5.4 Community or Town Councils which do not meet the criteria but still wish to contribute towards meeting the local objectives contained in the local well-being plan and so that do not meet the criteria can contribute towards meeting the local objectives if they so wish.
- 5.5 Community and Town Councils which are subject to the duty will need to liaise closely with the PSB for their area and other Community and Town Councils are encouraged to engage on a voluntary basis.

6. **GENERAL COMMENTS**

6.1 In these austere times where all local authorities are obliged to make savings in all Service areas, it is interesting to point out that paragraph 38 of Chapter 1 of the Guidance states – *“the Local Authority must make administrative support available to the PSBs. The Welsh Ministers consider administrative support would include ensuring the PSB is established and meets regularly; preparing the agenda and commissioning papers for meetings; inviting participant and managing attendance; work on the annual report and preparation of evidence for scrutiny.”* Further, paragraph 39 states that it is for each Board to determine how it will resource the functions it has to undertake and that this is the responsibility of all the members equally. It still begs the question that the local authority is providing the administrative support to the Board and also scrutinising its work – a twin hatted approach?

6.2 The requirements of the Act are to be implemented in April, 2016.

6.3 ***Members views are sought:***

1. Whether to comment/recommend to Council:

- (a) that the Designated Committee be the Overview and Scrutiny Committee;
- (b) raise concerns regarding the resource implications.
- (c) That the Council put on record its concerns that the Act and Guidance does not have regard to the Local Government (Wales) Measure, 2011 in respect of Scrutiny of Designated Persons and Joint Scrutiny
- (d) There is no clarity in the Guidance on how Community and Town Councils will be held accountable for actions, or whether they can also hold PSBs to account and how do they feed into the PSBs objectives (and vice versa)

There is no reference in the Guidance regarding training to support members of the PSB or members of the "Designated" Scrutiny Committee

