

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CONSTITUTION COMMITTEE**

DATE: **WEDNESDAY, 16 OCTOBER 2013**

REPORT BY: **MEMBER ENGAGEMENT MANAGER**

SUBJECT: **LOCAL GOVERNMENT (WALES) MEASURE 2011
CONSULTATION DOCUMENT 'DESIGNATED
PERSONS ORDER' (NUMBER 1).**

1.00 PURPOSE OF REPORT

To enable the committee to consider the draft response to the Welsh Government Consultation Document number WG17306, Designated Persons Order (Number 1) which has been made to provide specific external scrutiny powers under section 59 of the Local Government (Wales) Measure 2011.

2.00 BACKGROUND

- 2.01** Members will be aware that the Local Government (Wales) Measure has introduced a number of changes within local authority democratic services functions. One of the most eagerly anticipated changes is the specific legal power to scrutinise 'designated persons' – public service providers who are outside the authority.
- 2.02** Flintshire has always been keen to exercise external scrutiny, and over the last 13 years has achieved a number of 'scrutiny firsts'. These include being the first to invite ELWa (the former education and Learning Wales) to attend a meeting, extensive health service scrutiny (including a productive meeting with the then chief executive of the Countess of Chester NHS trust) and, most recently, the newly elected police & crime commissioner for North Wales. These activities have been carried out using the broad powers available to us utilising section 21 (2) (e) of the Local Government Act 2000.
- 2.03** In 2002, it was widely thought that health service scrutiny would become a specific area for local authority scrutiny: whilst this was so in England, it did not become so in Wales. On a number of occasions subsequently, Members in committee have resolved that representations be made to the Welsh Ministers for health scrutiny powers, but to no avail.
- 2.04** During discussions between the Welsh Government and Welsh local authorities prior to the consultation on what became the Local Government (Wales) Measure 2011; it became apparent that more focussed external scrutiny was to become a requirement for local

authorities. When we last reviewed the Overview & Scrutiny committee structure in 2010, we acknowledged this by creating the 'Community Profile & Partnerships Overview & Scrutiny Committee', the terms of reference of which concentrate predominantly on external scrutiny. Members of that committee have often expressed frustration at the lack of progress with statutory guidance as to which public service organisations will become 'designated persons' under section 59 of the Measure.

3.00 CONSIDERATIONS

3.01 The consultation which has been published refers to the expectation that all local authorities and their partners will have a Single Integrated Plan, as set out in *Shared Purpose Shared Delivery* which was published last December. As part of placing integrated planning on a statutory basis 'organisations need to ensure that strong accountability is in place, including arrangements for collective scrutiny'.

3.02 The statutory basis for designated persons means that they

- Provide the public (or a section of the public) with services, goods or facilities of any description (whether on payment or not);
- Provide those services, goods or facilities in the exercise of functions of a public nature;
- (are) wholly or partly funded by public money;
- (are) not a local authority (meaning a county or county borough council).

3.03 The bodies being considered for the first designation phase are:

- Local Health boards
- NHS Trusts
- Fire & Rescue Authorities
- National Park Authorities
- Registered social landlords
- Third sector organisations delivering services to the public

The majority of those being designated had been anticipated but the designation of the health bodies is a welcome departure from the previous Welsh Government stance. The committee may find the inclusion on the list of all of the above acceptable.

3.04 Paragraph 5.2 of the Consultation document states that the 'Welsh Government's policy is for public services, in the future, to be subject to effective scrutiny'

However, further and higher education providers have not been included on the draft list for the first Designated Persons Order. This is surprising: paragraph 5.2 of the Consultation Document observes that:

The first Designation Order under the 2011 Measure is likely to have the practical effect of placing a major focus of local authority scrutiny of 'designated persons' on the contribution their Local Service Board (LSB) partners make to the delivery of shared outcomes in SIP.

3.05 Flintshire Overview & scrutiny committees have engaged with both Glyndwr University and Deeside College (now a part of Coleg Cambria) in the past and will certainly continue so to do. It is suggested that education providers otherwise meet the criteria (as referred to in paragraph 3.02, above) and should be included. The omission is because the Welsh Government had only identified those bodies which were listed in section 38 of the Local Government (Wales) Measure 2009 to be included for the draft first designation order.

3.06 The consultation document also goes on:

Town and community councils are also named community planning partners. Given their existing democratic mandate, we are seeking views on whether and how they could contribute to local collaborative scrutiny and if it is necessary to designate them in the this first phase.

3.07 The obvious difference between the other proposed designated persons and town and community councils is that of direct, democratic election. Members may feel that it would be inappropriate to bring a community council before a scrutiny committee for that very reason, especially as many of the town and community council also have sitting or former county councillors amongst their membership which could make Members of the committee feel very uncomfortable. A more effective role for town and community councillors within the scrutiny process would be as co-optees or contributors on local issues where their knowledge of local demography and geography may be invaluable.

3.08 In terms of which other organisations should be designated, referring to the order as 'Number 1' presupposes that other orders will follow, incorporating other public service bodies. The omission of further and higher education institutions is obvious, and should be suggested for inclusion now. For the future, it could be reasonable to include public service broadcasters, such as the BBC and S4C as they appear to meet the criteria and exert huge influence over public opinion within Wales. Transport providers who receive public subsidies could also be considered.

3.09 The consultation paper also touches on 'What is good scrutiny?' and 'How can good scrutiny be ensured?' These rehearse approaches which are in accord with how we have always operated Overview & Scrutiny in Flintshire and therefore support.

3.10 This report was considered by the Community Profile & Partnerships Overview & Scrutiny Committee at its meeting on 3rd October. This is on the basis that the committee has taken a great deal of interest in the issue and has made representations on the topic to the Minister. At that meeting, reference was made to the Chief Executive's suggestion that all statutory public bodies, whether devolved or not should become 'designated persons'. The Community Profile & Partnerships Overview & Scrutiny Committee supported that suggestion and thus the recommendation from that committee to this is that all statutory public bodies be included within 'Designated Persons Order Number' 1 apart from town and community councils.

4.00 RECOMMENDATIONS

- (1) That the committee considers and comments on the proposals for Designated Persons order (Number 1);
- (2) That all statutory public bodies (apart from town and community councils) become 'designated persons' for the purpose of section 59 of Local Government (Wales) measure 2011.

5.00 FINANCIAL IMPLICATIONS

None directly from this report.

6.00 ANTI POVERTY IMPACT

None directly from this report.

7.00 ENVIRONMENTAL IMPACT

None directly from this report.

8.00 EQUALITIES IMPACT

None directly from this report.

9.00 PERSONNEL IMPLICATIONS

None directly from this report.

10.00 CONSULTATION REQUIRED

Publication of this report constitutes consultation.

11.00 CONSULTATION UNDERTAKEN

Publication of this report constitutes consultation

12.00 APPENDICES

Consultation Response Form.

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

None, other than published material.

Contact Officer: Robert Robins
Telephone: (01352) 702320
Email: robert.robins@flintshire.gov.uk