
CHESHIRE EAST COUNCIL

Governance Review Joint Member Working Group

Date of Meeting: 20th April 2012
Report of: Borough Solicitor
Subject/Title: Governance Arrangements – Initial Options Appraisal

1.0 Report Summary

- 1.1 To consider a number of initial options for possible governance structures.

2.0 Recommendations

- 2.1 That the Working Group note the report and indicate a preferred option for further detailed development and a report to a future meeting.

3.0 Reasons for Recommendations

To enable the Working Group to consider how the Council might review its Governance structures in the light of the Localism Act and the experience of other Local Authorities.

4.0 Wards Affected

- 4.1 All wards will be indirectly affected by any changes to the Council's governance arrangements

5.0 Financial Implications

- 5.1 There are no direct financial implications arising from this report. The potential financial implications of any changes to the Council's governance arrangements will be quantified in future reports.

6.0 Legal Implications

- 6.1 Under the Localism Act 2011 Councils are permitted to introduce alternative forms of governance from those prescribed in the Local Government Act 2000.

7.0 Risk Management

- 7.1 No issues have been identified arising from the matters covered in this report.

8.0 Background

- 8.1 At the last meeting of the Working Group Members requested that officers draft a number of initial options for possible alternative Governance Structures for further consideration. The broad parameters included:

- the retention of a Leader and Cabinet of up to nine portfolios
- two Overview and Scrutiny Committees (one specifically dealing with Health and Well Being)
- the development of a number of Policy Groups (either Advisory or Decision-making)
- Regulatory Committees not to be part of the initial review

- 8.2 Based on these broad parameters, three initial options have been developed. It is recognised that the options are at a very preliminary stage. However, the intention is to stimulate debate to enable members to discuss the different approaches with a view to enabling officers to develop a more detailed structure designed around the specific requirements of members of Cheshire East Council.

- 8.3 The schedule attached at Appendix 1 sets out the three Options A - C, together with an indicative structure chart which can be compared to the Council's current Governance Structure. A brief overview of each option is set out below:

8.3.1 Option A (Advisory Policy Groups aligned to Overview and Scrutiny)

- Leader and Cabinet
- Corporate / Health and Wellbeing Overview and Scrutiny Committees
- Five Cross Party Service Review Panels undertaking policy review and development with a direct relationship to the Corporate Overview and Scrutiny Committee
- Corporate Overview and Scrutiny will undertake the statutory functions of an Overview and Scrutiny Committee, including call in
- Chairman and Vice Chairman of the SRP to sit on Corporate Overview and Scrutiny Committee
- Individual Work Programmes of the SRP to be approved by Corporate Overview and Scrutiny Committee
- Portfolio holders are not members of SRPs but will liaise and co operate fully

- SRP's will advise on significant service delivery issues and have access to financial and performance information
- SRP's will not be a formal decision making body and so will meet in private but may meet in public if they choose to do so
- SRP's will make recommendations to Corporate Overview and Scrutiny Committee

8.3.2 Option B (Advisory Policy Groups aligned to Cabinet)

- Leader and Cabinet
- Corporate / Health and Wellbeing Overview and Scrutiny Committees
- Five Cross Party Advisory Groups undertaking policy review and development with a direct relationship to the Cabinet
- Corporate Overview and Scrutiny will undertake the statutory functions of an Overview and Scrutiny Committee, including call in
- Advisory Groups will advise on significant service delivery issues and have access to financial and performance information
- Advisory Groups will not be formal decision making bodies and so will meet in private but may meet in public if they choose to do so
- Recommendations will be made directly to the Cabinet / Portfolio holders
- Cabinet Support Members will be members of the Advisory Groups

8.3.3 Option C (Decision-making Policy Groups aligned to Cabinet)

- Leader and Cabinet
- Corporate / Health and Wellbeing Overview and Scrutiny Committees
- Corporate Overview and Scrutiny will undertake the statutory functions of an Overview and Scrutiny Committee, including call in
- Five Cross Party Advisory / Policy Groups undertaking policy review and development with a direct relationship to the Cabinet
- Advisory / Policy Groups to have delegated decision making powers in addition to policy development e.g. approval of fees and charges / withdrawal or significant modification of public services/ approval of bids for grant funding / award of high value contracts / delivery of specific capital projects
- Advisory / Policy Groups will be formal decision making bodies and so will meet in public
- Advisory / Policy Groups will advise on significant service delivery issues and have access to financial and performance information
- Recommendations will be made directly to the Cabinet / Portfolio holders

8.4 Role of Overview and Scrutiny

There are a number of statutory requirements which all Councils must adopt and ensure are carried out under the Overview and Scrutiny function. Appendix 2 sets out the position for clarity and members information.

9.0 Constitutional Considerations

The three options are at the initial concept stage and there are a number of issues which need further consideration including the following broad areas:

- Review of any Special Responsibility Allowances by the Independent Review Panel
- Review of current Executive and Overview and Scrutiny Procedure Rules
- Protocols and Conventions to clarify the role of Portfolio holders in championing the work of the Advisory Groups
- Review of the criteria and reasons for call in
- An assessment of the resources required to support the new structures

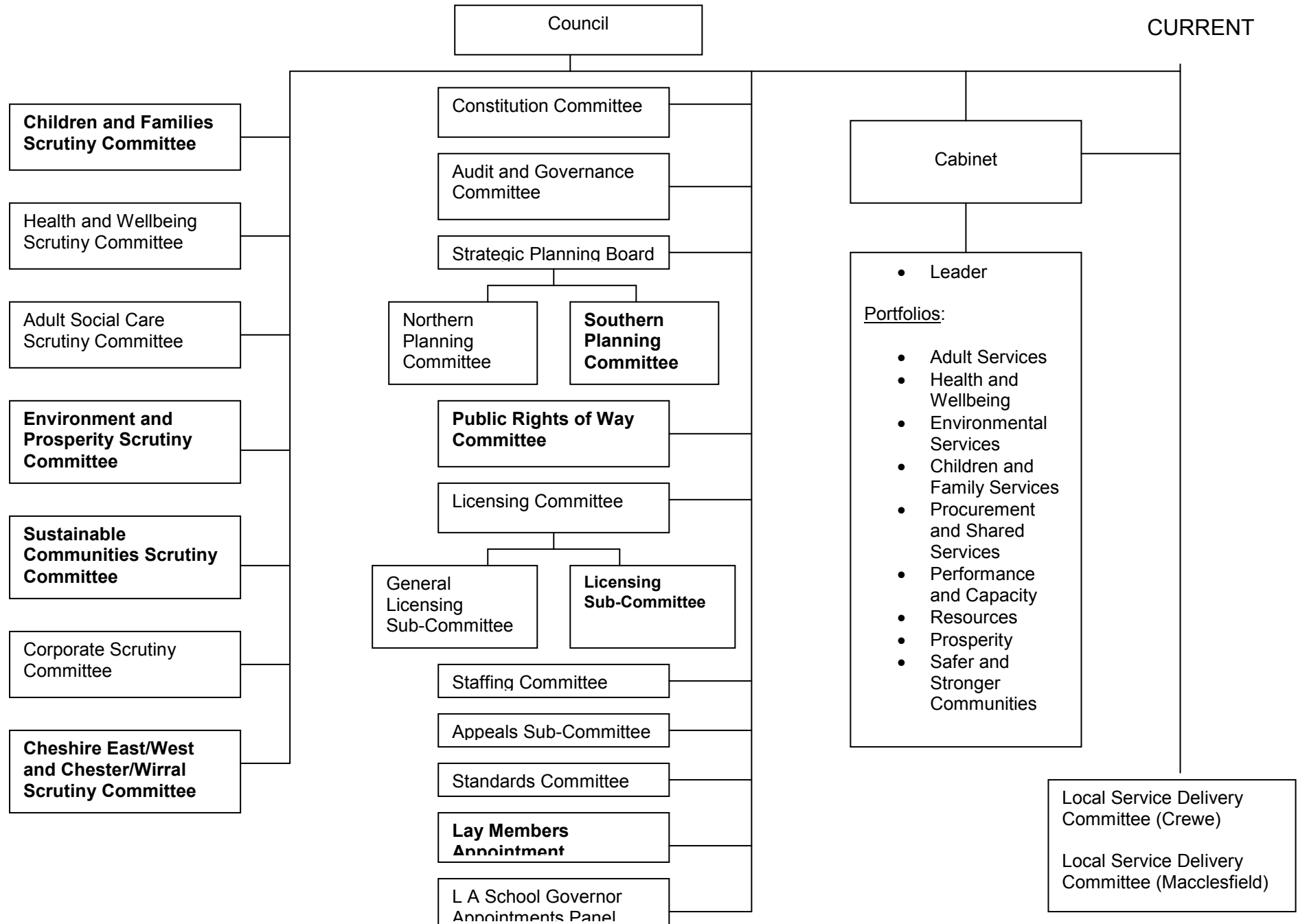
10. Summary

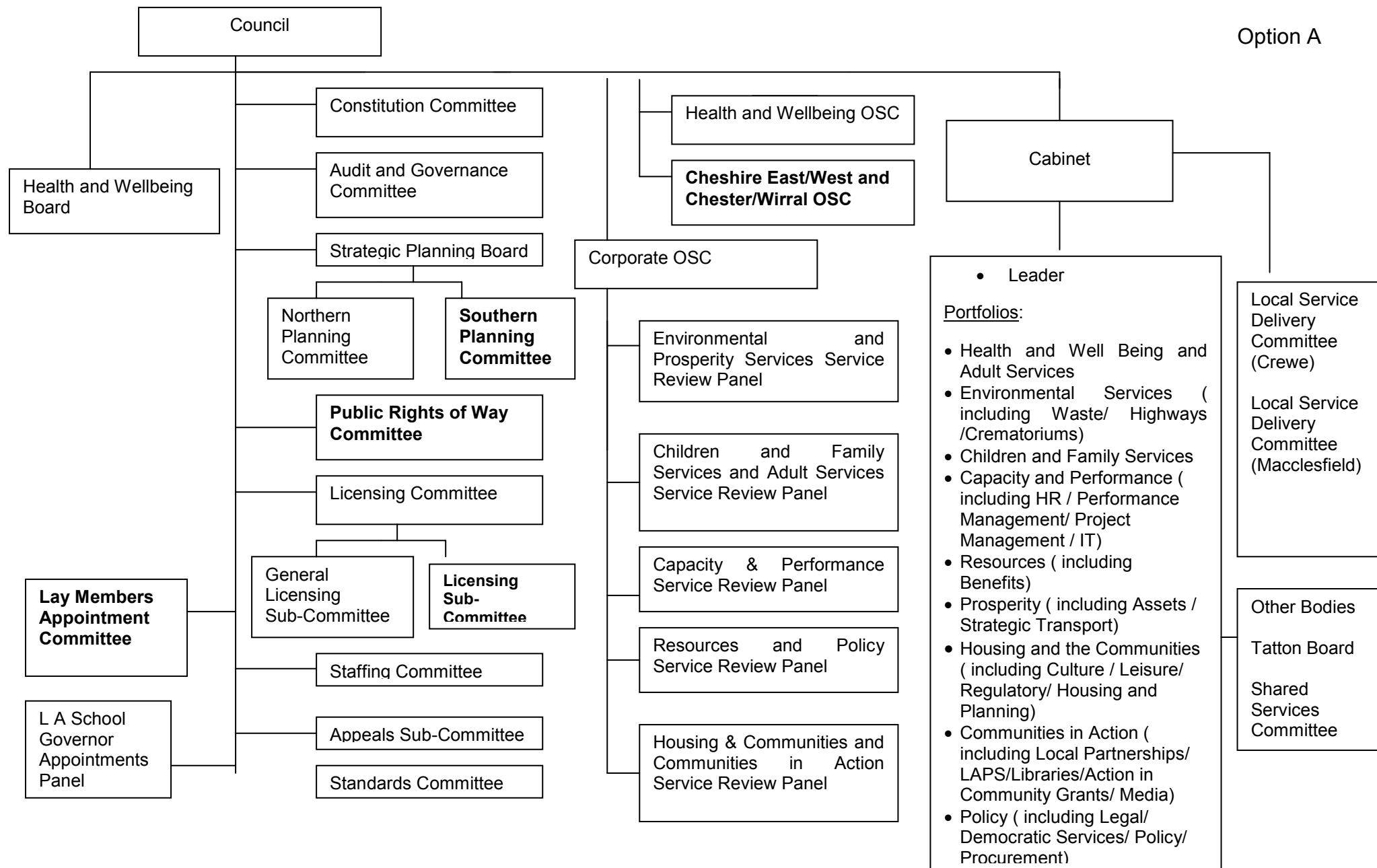
Members have the opportunity under the Localism Act to fundamentally review the current Governance arrangements. The initial three options are designed to encourage debate and start to tease out what any new structure might look like. Officers recognise that the three options are at the concept stage and need far more detailed development but before this is undertaken Members' views are sought.

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Option A – Advisory Policy Groups aligned to Overview & Scrutiny (Based on Local Government Act 2000)

The Council elects the Leader of the Council who may then appoint up to nine other members of the Cabinet and determine their responsibilities or portfolios. Council Committees are also retained.

Terms of Reference and Role and Function of Service Review Panels and their relationship with Cabinet

Terms of Reference and Role and Function of the Service Review Panels

- There will be five Service Review Panels this being the number that can be supported within existing resources. They will each consist of seven members and be Cross Party based on the proportionality of the Council. A member will only serve on one Review Panel. The Chairman will be drawn from the ruling Group. Appointments should be made by Full Council.
- Service Review Panels are the main vehicles to enable all members to undertake future policy development and have oversight of service developments. Service Review Panels will advise on significant service delivery issues such as fees and charges. This will be the equivalent of the Overview element of the Overview and Scrutiny function.
- Service Review Panels will have access to performance and financial information
- Service Review Panels will be the forum for non executive members to promote policy
- Service Review Panels will meet to fit the processes of Cabinet
- Each Service Review Panel will devise a Work Programme

Operation of the Service Review Panels

- The Service Review Panels will be supported by Democratic Services and the relevant Heads of Service
- Chairman of the relevant Service Review Panels will determine the Agenda for each meeting
- The Service Review Panels are not a formal decision making body so will normally meet in private. They may meet in public as and when required or appropriate to do so
- They may set up sub groups

Relationship of the Service Review Panels to Cabinet

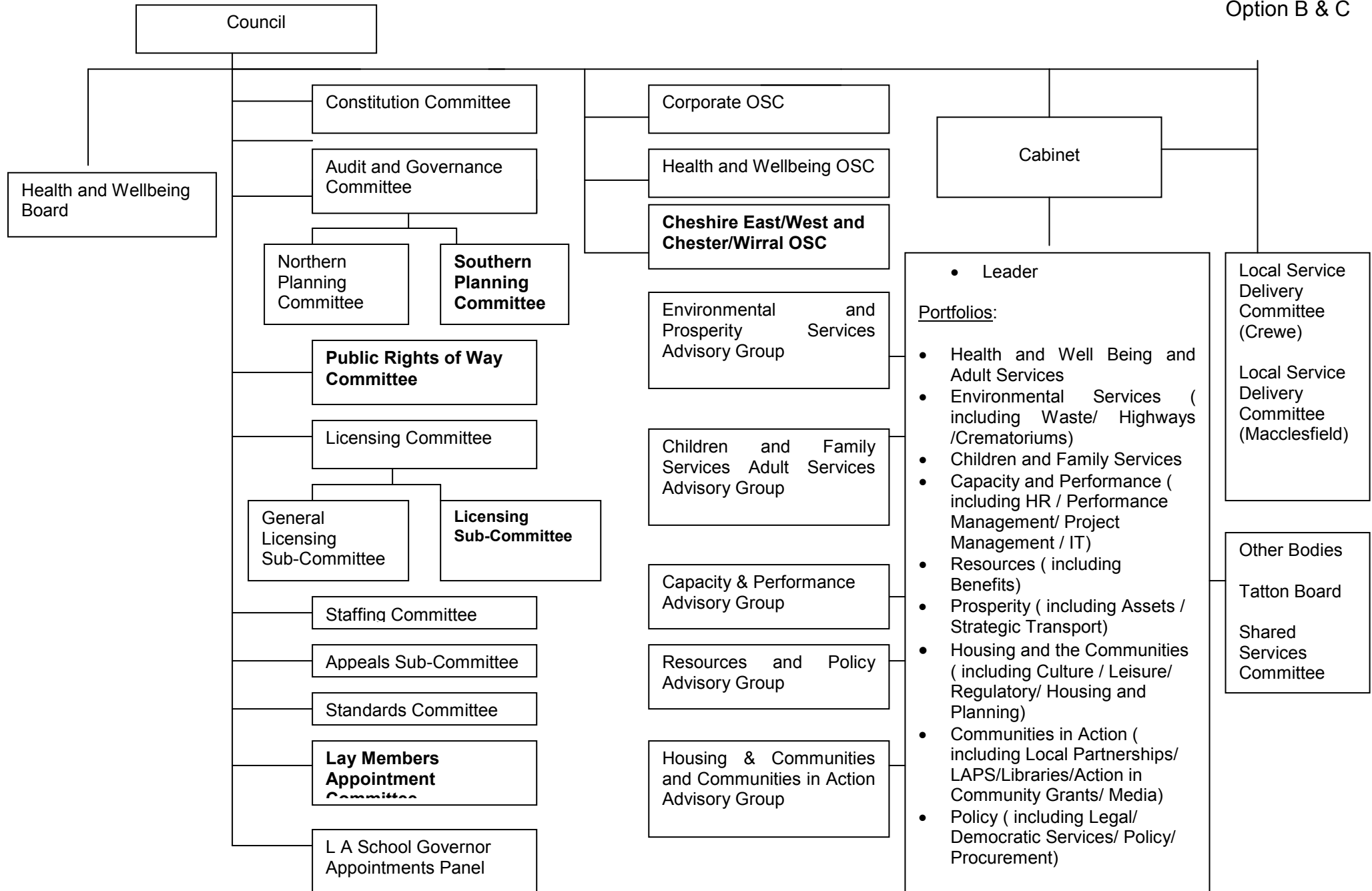
- Whilst not Members of the Service Review Panels Portfolio holders are expected to liaise and co-operate with Service Review Panels.
- Service Review Panels will make recommendations to Corporate Overview and Scrutiny Committee
- In the event that the Cabinet makes a decision contrary to the recommendations of policy recommended by Corporate Overview and Scrutiny Committee members may use the Call In procedures.

Relationship with Overview and Scrutiny Committees

- The Chairman and Vice Chairman of the Service Review Panels will be members of the Corporate Overview and Scrutiny Committee
- Overview and Scrutiny Committees will undertake the Statutory Overview and Scrutiny function in accordance with the relevant legislation. (See separate paper). This will include being consulted on Budget and Policy Framework issues. Matters such as Flood Risk Management or Health will be carried out by the relevant Overview and Scrutiny Committee
- Overview and Scrutiny Committees will review the Forward Plan
- Corporate Overview and Scrutiny Committee will approve the Work Programme of Service Review Panels

Constitutional Considerations

- The appointment of the Performance Review Panels and their Chairman and Vice Chairman will be undertaken by full Council
- The Independent Remuneration Panel will need to consider what if any SRA might be payable in respect of Chairmen and Vice Chairmen of Performance Review Panels
- Executive, Council and Overview and Scrutiny Procedure rules will need to be reviewed.
- Council will need to approve conventions that will provide the framework in which Portfolio Holders will work with Performance Review Panels
- Church and Parent Governor Representatives will need to have a place on either the relevant Service Review Panel or attend the relevant Overview and Scrutiny Committee?
- The Call In Procedures need to be strengthened to include clear criteria for the reasons for the Call In



Option B – Advisory Policy Groups aligned to Cabinet (Based on Local Government Act 2000)

The Council elects the Leader of the Council who may then appoint up to nine other members of the Cabinet and determine their responsibilities or portfolios. Council Committees are also retained.

Terms of Reference and Role and Function of the Advisory Groups and their relationship with Overview and Scrutiny Committees

Terms of Reference and Role and Function of the Advisory Groups

- There will be five Advisory Groups this being the number that can be supported within existing resources. They will each consist of seven members and be Cross Party based on the proportionality of the Council. A member will only serve on one Advisory Group. The Chairman will be drawn from the ruling Group.
- Advisory Groups will be the main vehicles to enable all members to undertake future policy development and have oversight of service developments. Advisory Groups will advise on significant service delivery issues such as fees and charges. This will be the equivalent of the Overview element of the Overview and Scrutiny function.
- Advisory Groups will have access to performance and financial information
- Advisory Groups will be the forum for non executive members to promote policy
- Advisory Groups will meet to fit the processes of Cabinet
- Advisory Groups will not perform statutory functions of Overview and Scrutiny.

Operation of the Advisory Groups

- The Advisory Groups will be supported by Democratic Services and the relevant Heads of Service
- Chairman of the relevant Advisory Group will determine the Agenda for each meeting
- Cabinet Support Members will sit on the Advisory Group in a non -voting capacity
- Portfolio holders can be requested to attend as appropriate
- The Advisory Groups are not a formal decision making body so will normally meet in private. They may meet in public as and when required or appropriate to do so
- They may set up task and finish groups

- In the event that Cabinet indicates that it does not support the recommendations of an Advisory Group it may refer the issue back to the Advisory Group for further consideration.
- In the event that the Cabinet makes a decision contrary to the recommendations of an Advisory Group Corporate Overview and Scrutiny Committee may Call In the decision.

Relationship with Overview and Scrutiny Committees

- Overview and Scrutiny Committees will undertake the Statutory Overview and Scrutiny in accordance with the relevant legislation. (See separate paper). This will include being consulted on Budget and Policy Framework issues. Matters such as Flood Risk Management or Health will be carried out by the relevant Overview and Scrutiny Committee
- Overview and Scrutiny Committees will review the Forward Plan and continue to exercise Call In.
- Overview and Scrutiny Committees may set up task and finish groups/sub groups to undertake specific work

Constitutional Considerations

- The Independent Remuneration Panel will need to consider what if any SRA might be payable in respect of Chairmen and Vice Chairmen of Advisory Groups
- Executive, Council and Overview and Scrutiny Procedure rules will need to be reviewed.
- How will the requirement to meet Church and Parent Governor Representation provisions be met? Will they have a place on the relevant Advisory Group or attend the relevant Overview and Scrutiny Committee?
- Currently neither Cabinet Members nor Cabinet Support Members may sit on an Overview and Scrutiny Committee. How does the new structure affect this? Will any Member serving on an Advisory Group be excluded from sitting on an Overview and Scrutiny Committee?

Option C Based on Localism Act 2011

Under Option B the Advisory Groups make recommendations directly to Portfolio holders and Cabinet and they are very much aligned to working directly with the Executive.

Under the Localism Act there is the opportunity to expand the role and function of Advisory Groups set out in Option B **to include** delegated decision making powers. This is a significant departure from the current arrangements under the Local Government Act 2000 that only permit Officers and Cabinet Members and Full Cabinet to make decisions on executive matters.

Under this option decision making transfers to a wider cohort of members and would therefore require consent to be sought under the provisions of the Localism Act 2011 and any Regulations that will apply.

Examples of the types of decisions that might be delegated include:-

- to approve Service Plans.
- to award high value contracts
- to approve fees and charges
- to take decisions to withdraw public services;
- to take decisions to significantly modify public services
- provide formal responses to any Government White Paper or Green Paper or other consultation
- to deal with certain statutory processes e.g car parking
- to approve service standards e.g number of days to deal with certain issues
- to deal the delivery of certain capital projects
- to approve holiday closing of all sites and services controlled by the Council.
- the approval of bids for grant funding

Constitutional Considerations

- The Independent Remuneration Panel will need to consider what if any SRA might be payable in respect of Chairmen and Vice Chairmen of Advisory Groups
- Executive, Council and Overview and Scrutiny Procedure rules will need to be reviewed.
- How will the requirement to meet Church and Parent Governor Representation provisions be met? Will they have a place on the relevant Advisory Group or attend the relevant Overview and Scrutiny Committee?
- Currently neither Cabinet Members nor Cabinet Support Members may sit on an Overview and Scrutiny Committee. How does the new structure affect this? Will any Member serving on an Advisory Group be excluded from sitting on an Overview and Scrutiny Committee? This would be highly likely in this option.
- The Advisory Groups would on occasion be formal decision making bodies so would meet in public as and when required or appropriate to do so

Overview and Scrutiny – New Arrangements under the Localism Act 2011

1. The Localism Act 2011 requires local authorities, which are operating executive arrangements, to set up at least one overview and scrutiny committee. Overview and Scrutiny committees must have power to make reports and recommendations to the Cabinet, (Health and Wellbeing Board) and the Authority on any aspect of the Council's business and in respect of matters which affect the authority's area or its inhabitants (including partner organisations).

Specifically, Local Authorities must ensure that overview and scrutiny committee(s) has power, and any joint overview and scrutiny committees, have power between them)—

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
- (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
- (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
- (e) 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,
- (f) in the case of the overview and scrutiny committee, or committees, of an authority to which section 244 of the National Health Service Act 2006 applies(in Cheshire East this does apply)—
- (i) to review and scrutinise, in accordance with regulations under that section, matters relating to the health service (within the meaning given by that Act as extended by that section) in the authority's area,
and
- (ii) to make reports and recommendations on such matters in accordance with the regulations.

2. Partner organisations are required to provide O&S with information
3. Overview and Scrutiny Committees may give a relevant partner organisation notice in writing requiring them to have regard to a report or recommendations in exercising their functions (this does not apply to health service bodies);
4. Overview and Scrutiny Committees will continue to have power to require officers and Cabinet Members to appear before it;
5. Provision has to be made for Church and Parent Governors in respect of education matters;
6. There is a statutory responsibility to scrutinise flood risk management, and risk management authorities are placed under a duty to comply with a request made by an Overview and Scrutiny Committee in relation to its flood risk management functions;
7. Existing arrangements regarding powers to examine the work of Community Safety Partnerships remain and this position is not expected to change substantially when Police and Crime Commissioners are elected;
8. Must have a statutory Scrutiny Officer.