

Special Constitution Committee

Agenda

Date: Friday, 11th May, 2012
Time: 9.30 am
Venue: West Committee Room - Municipal Buildings, Earle Street, Crewe, CW1 2BJ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

4. **Minutes of Previous meeting** (Pages 1 - 8)

To approve the minutes of the meeting held on 22nd March 2012.

Contact: Paul Mountford, Democratic Services Officer
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5. **Delegated Powers Relating to Development Management** (Pages 9 - 12)

To consider an addition to the functions of the Strategic Planning Board to enable the Board to consider applications for Certificates of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961.

6. **Community Governance Reviews** (Pages 13 - 28)

To consider the recommendations of the Community Governance Review Sub-Committee in relation to the Crewe and Macclesfield Community Governance Reviews.

The minutes of the Sub-Committee's meeting of 27th April 2012 are attached together with a report on the Crewe Community Governance Review which was considered at that meeting.

7. **Proposed Council Governance Arrangements** (Pages 29 - 62)

To consider proposed changes to the Council's governance arrangements.

THERE ARE NO PART 2 ITEMS

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Constitution Committee**
held on Thursday, 22nd March, 2012 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor A Martin (Chairman)
Councillor D Marren (Vice-Chairman)

Councillors G Baxendale, R Cartlidge, P Groves, S Jones, W Livesley,
A Moran, B Murphy, G Wait, D Newton, A Thwaite, D Topping and P Whiteley

Officers

Caroline Elwood, Borough Solicitor
Brian Reed, Democratic and Registration Services Manager
Paul Jones, Democratic Services Team Manager
Paul Mountford, Democratic Services Officer
Rose Hignett, Senior Electoral Services Officer

51 DECLARATIONS OF INTEREST

There were no declarations of interest.

52 PUBLIC SPEAKING TIME/OPEN SESSION

There were no public questions.

53 MINUTES OF PREVIOUS MEETING**RESOLVED**

That the minutes of the meeting held on 26th January 2012 be approved as a correct record.

54 CREWE COMMUNITY GOVERNANCE REVIEW

The Committee considered the recommendations of the Community Governance Review Sub-Committee following the outcome of the Stage 1 consultation with a view to advising Council on the formulation of its draft recommendation.

The Committee had before it the papers considered by the Sub-Committee at its meeting on 13th March 2012. These comprised:

- a briefing paper based on the statutory guidance issued by the Department for Communities and Local Government which set out the process to be followed in conducting the Community Governance

Review and the matters to be taken into consideration by the Council in formulating a draft recommendation;

- the outcome of the ballot of local electors held in February; and
- other representations received from the public and stakeholders during the first round of consultation.

The initial phase of consultation had included written representations received in response to public notices, specific invitations, a website tool and information leaflets. Two public meetings had been held in September to give members of the public the opportunity to learn more about the review and to express their views in a public forum. Further opportunities had subsequently been provided to provide information at various community events during November and December 2011. The Council's website had also been used as a source of information and as a tool for people to use to record their views. Finally, a voting paper had been sent to electors in Crewe to be returned by 29th February.

The ballot of local electors had taken place throughout the month of February 2012 and the result showed 10,810 electors in favour of a single town council for Crewe and 1,390 against. The vote represented a 32% turnout and the Sub-Committee was satisfied that this was sufficient to represent the views of the electors of Crewe. Other public and stakeholder responses made during the Stage 1 consultation also showed a clear preference for a single town council.

The Sub-Committee had also considered the electoral and warding arrangements for the parish council, including the numbers and disposition of wards, number of parish councillors, date of elections and transitional arrangements, details of which were set out in the minutes of the Sub-Committee's meeting.

The Sub-Committee had recommended as follows:

"That the Constitution Committee be advised that pursuant to Section 87 of the Local Government and Public Involvement in Health Act 2007; and having regard to the provisions of the Department for Communities and Local Government and Electoral Commission Guidance, issued in April 2008, for the conduct of Community Governance Reviews:

1. Having taken into account
 - a. the results of the consultation with the electors of the unparished area of Crewe which shows that a majority of those who returned their ballot papers were in favour of a new parish council for their area;
 - b. the results of the consultation exercise with stakeholders and the representations from other interested persons;

- c. the outcomes of the public meetings held in Crewe and subsequent publicity and consultation arrangements; and
- d. the information on existing community governance arrangements in the area concerned and the alternative forms of community governance which might have been appropriate for the area in question;

2. Council be advised

- a. that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a parish council for the unparished area of Crewe and that parish council be advised to consider its designation as a Town Council;
- b. that the parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards except that the unparished part of Leighton (Polling District 3FJ5) be incorporated into the St Barnabas parish ward, and that each ward should have the same number of parish councillors as Borough Councillors as follows:

St Barnabas (inc part of Leighton)	1
Crewe Central	1
Crewe North	1
Crewe South	2
Crewe East	3
Crewe West	2
TOTAL	10

- c. that the first year of elections to the new parish council should be 2015;
- d. that in the intervening period, as soon as the community review governance process allows, a temporary parish council be appointed by the Borough Council, to comprise the members of the Crewe Local Service Delivery Committee; and
- e. that these proposals form the basis of a second stage of public consultations and that the Boundary Commission be informed of these proposals.”

In noting the advice of the Sub-Committee, the Committee considered a number of issues:

- 1. whether the electors of the unparished part of Leighton should be asked if they wished to be included in the proposed parish of Crewe or in the existing parish of Leighton;

2. whether the proposed number of 10 parish councillors for Crewe was sufficient for a town of that size, given that a number of smaller towns in Cheshire East, such as Nantwich, Congleton, Alsager and Wilmslow, had a larger number of town councillors; and
3. whether it was appropriate to delay parish elections until 2015 and to appoint a temporary parish council when elections could be held in May 2013.

RESOLVED

That pursuant to Section 87 of the Local Government and Public Involvement in Health Act 2007; and having regard to the provisions of the Department for Communities and Local Government and Electoral Commission Guidance, issued in April 2008, for the conduct of Community Governance Reviews:

1. the Committee having taken into account
 - a. the results of the consultation with the electors of the unparished area of Crewe which shows that a majority of those who returned their ballot papers were in favour of a new parish council for their area;
 - b. the results of the consultation exercise with stakeholders and the representations from other interested persons;
 - c. the outcomes of the public meetings held in Crewe and subsequent publicity and consultation arrangements;
 - d. the information on existing community governance arrangements in the area concerned and the alternative forms of community governance which might have been appropriate for the area in question; and
 - e. the advice of the Community Governance Review Sub-Committee;
2. Council be advised
 - a. that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a parish council for the unparished area of Crewe and that parish council be advised to consider its designation as a Town Council;
 - b. that the parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards except that, subject to recommendation c. below, the unparished part of Leighton (Polling District 3FJ5) be

incorporated into the St Barnabas parish ward, and that each ward should have the number of parish councillors as follows:

St Barnabas	2
Crewe Central	2
Crewe North	2
Crewe South	3
Crewe East	4
Crewe West	3
TOTAL	16

- c. that the electors of the unparished part of the Borough ward of Leighton should be asked whether they would prefer to be included within the proposed parish of Crewe or within the existing parish of Leighton;
- d. that elections to the Crewe parish council should be held as soon as is practicably possible, thereafter to be synchronised with the ordinary date of parish council elections; and
- e. that these proposals form the basis of a second stage of public consultation and that the Boundary Commission be informed of the proposals.

55 OUTSIDE ORGANISATIONS SUB-COMMITTEE - REVISED TERMS OF REFERENCE

At its meeting on 24th June 2010 the Constitution Committee had reconstituted the then Outside Organisations Task Group as a Standing Sub-Committee of the Constitution Committee.

The Sub-Committee had now reviewed its terms of reference in relation to the procedure for considering new appointments and the criteria to be used when making appointments to outside organisations. The following revised terms of reference were recommended to the Constitution Committee for approval:

“REVISED TERMS OF REFERENCE

The Sub-Committee will comprise six Members on the basis previously agreed (3 Conservative; 1 Labour; 1 Independent: 1 Liberal Democrat).

The Sub-Committee, which will meet on an *ad hoc* basis, will be responsible for the following:

- (a) Managing its own programme of work;
- (b) Making recommendations, as and when appropriate to the Constitution Committee;

- (c) Overseeing all appointments to Category 2 outside organisations, addressing any issues emerging in respect of those appointments;
- (d) Reviewing representation to inform the appointments process for the next round of appointments [which take effect from the new Council in 2015];
- (e) Considering new requests for representation, and assessing the appropriateness of including those organisations onto the schedule of approved organisations;
- (f) Subject to the outcome of (e) above, make recommendations to the Cabinet in respect of any outside organisation deemed to be a Category 1; and make recommendations to the Constitution Committee in respect of Category 2 organisations;
- (g) Reviewing, as and when appropriate, the Legal Guidance for Members Appointed to Outside Organisations;
- (h) Conduct comprehensive reviews of representation, as and when appropriate, to establish the appropriateness of representation;
- (i) Make recommendations to the Senior Member Development Officer in respect of training for Members representing the Council on outside organisations.”

RESOLVED

That the revised terms of reference for the Outside Organisations Sub-Committee be approved and the Borough Solicitor be asked to exercise her delegated powers to make any consequential amendments to the Constitution.

56 PETITIONS - THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION ACT 2000, THE LOCAL AUTHORITIES (PETITIONS) (ENGLAND) ORDER 2010 AND THE LOCALISM ACT 2011

Section 46 of Chapter 10 of the Localism Act 2011 repealed the provisions governing how local authorities received and dealt with petitions and e petitions. In the light of these changes the Committee was asked to review the Council’s scheme for dealing with petitions.

The Council’s Petitions Scheme provided that if a petitioner so requested, an overview and scrutiny committee could review the steps taken or action proposed to be taken by the Council in respect of “ordinary petitions”.

The majority of petitions were ‘ordinary petitions’ and usually had a low number of signatures, generally fewer than 1,000. These were dealt with

by Portfolio Holders and Heads of Service, and Local Ward Members were notified of progress.

The Council would normally attempt to resolve the petitioners' request direct, through the relevant Portfolio Holder or Officer taking appropriate action. Where this was done, the Petitions Officer would ask the petition organiser whether he or she considered that the matter was resolved. In this regard the Council's Petition Scheme had operated successfully.

However there was no evidence to suggest that "Petitions for Debate" and "Petitions to hold an Officer to Account" made a significant difference to the way in which the Council dealt with Petitions and therefore it was proposed that these aspects of the Scheme should be abandoned and replaced with an alternative provision.

It was further proposed that if a petition had in excess of 3,000 signatories, and a petitioner so requested, an overview and scrutiny committee could debate the matter before it was referred to the appropriate decision-maker for determination.

Finally, it was proposed suggested that the right of a petitioner to request an overview and scrutiny committee to review the steps taken or action proposed to be taken by the Council should also be removed.

A revised Petitions Scheme was attached as an Appendix to the report.

RESOLVED

That the views of the Corporate Management Team and the Cabinet be sought on the proposed amendments to the Council's petitions scheme and the matter be considered further in due course.

57 REVIEW OF THE CONSTITUTION

The Committee considered a report on the deferred items in its programme for reviewing the Council's Constitution.

At its meeting held on 17th November 2011, the Committee had appointed a Constitution Task Group to consider and make recommendations on detailed changes to the Constitution. At the same time it had resolved that with the exception of the Finance Procedure Rules, the remaining review of the Constitution should be suspended until the Corporate Scrutiny Committee had concluded its review of the Council's governance arrangements.

Council had since appointed a Joint Member Working Group to review the Council's governance arrangements and that Group's work was well underway. In the meantime, it was now necessary to consider amendments to the Council's Budget and Policy Framework. It was also considered opportune to begin a review of the size and layout of the

Constitution as a whole with a view to producing a more coherent and user-friendly document.

RESOLVED

That the Constitution Task Group be asked to consider proposed amendments to the Budget and Policy Framework and changes to the size and layout of the Constitution.

The meeting commenced at 2.00 pm and concluded at 4.00 pm

Councillor A Martin (Chairman)

CHESHIRE EAST COUNCIL

Special Constitution Committee

Date of Meeting: 11th May 2012
Report of: Borough Solicitor
Subject/Title: Delegated Powers Relating to Development Management

1.0 Report Summary

- 1.1 The report provides the background to the existing delegations relating to the Development Management Service to the Strategic Planning Board, and sets out the additional delegation now recommended.

2.0 Recommendations

- 2.1 That Council be recommended to approve that the function of dealing with applications for Certificates of Appropriate Alternative Development under Section 17 of the Land Compensation Act 1961 be added to the functions delegated to the Strategic Planning Board, and the Board's terms of reference within the Constitution be amended accordingly.

3.0 Reasons for Recommendations

- 3.1 The Strategic Planning Board is the most appropriate decision making body of the Council to deal with these applications but currently the determination of this type of application is not contained within the delegations to SPB so it would rest with full Council, which is inappropriate.

4.0 Wards Affected

- 4.1 All

5.0 Local Ward Members

- 5.1 All

6.0 Policy Implications (including Carbon reduction and Health)

- 6.1 None

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 None

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 The Land Compensation Act 1961 provides that certain assumptions as to what planning permission might be granted are to be taken into account in determining market value. Section 17 of the Act provides a mechanism for indicating the kind of development, if any, for which planning permission could be assumed in relation to a piece of land. The permissions indicated in a positive certificate of alternative appropriate development are those with which the owner might reasonably have been expected to sell his land if it were not for the compulsory purchase.
- 8.2 The Local Planning Authority is required to consider any application received and respond in the form of a certificate as required by the Land compensation Act 1961.

9.0 Risk Management

- 9.1 No risks would appear to arise from the proposals contained within the report.

10.0 Background and Options

- 10.1 The Land Compensation Act 1961 provides that compensation for the compulsory purchase of land is valued on a market value basis. This is usually assessed in terms of existing planning permissions for the land, but where there are none section 17 of the Land Compensation Act 1961 provides a mechanism for the types of development that would have been acceptable to the Local Planning Authority to be identified in a formal way.
- 10.2 The Local Planning Authority is required to respond to an application for a certificate of appropriate alternative development by setting out what planning permission would have been granted if the land had not been compulsorily acquired.
- 10.3 This application is a different process to the normal method of applying for planning permission set out in the Town and Country Planning Act 1990 (as amended), as it requires the Local Planning Authority to assess the land the subject of the application and determine what, if any, planning permission it would be prepared to grant for the land. This is in contrast to the usual application procedure whereby an applicant will consider the land, the policies that would apply to it, and then formulate a proposal for development to submit to the Local Planning Authority for it to consider and then either approve or refuse. The process in s17 of the Land Compensation Act 1961 puts the onus on the Local Planning Authority to consider all types of development that would be acceptable, accord with relevant planning policy and to identify if there would be any conditions that would have been attached to that permission.
- 10.4 Currently the Terms of Reference of the Strategic Planning Board are set out in the Constitution and cover a variety of town and country planning and development control functions, but do not include reference to the

determination of applications made under section 17 of the Land Compensation Act 1961. However, the Strategic Planning Board is the most appropriate decision maker within the Council structure to deal with this particular function. The Constitution Committee is therefore invited to recommend to Council that the Constitution be amended to allow the Strategic Planning Board to determine applications under section 17 of the Land Compensation Act 1961.

Access to Information

There are no background papers relating to this report.

The report writer is:

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the
Community Governance Review Sub-Committee
held on Friday, 27th April, 2012 at East Committee Room - Municipal
Buildings, Earle Street, Crewe, CW1 2BJ

PRESENT

Councillor D Marren (Chairman)
Councillor P Groves (Vice-Chairman)

Councillors G Baxendale, R Cartlidge, B Murphy and P Whiteley

In attendance

Councillors D Flude, M Grant, S Hogben, D Neilson and D Newton

Officers

Caroline Elwood, Borough Solicitor
Brian Reed, Democratic and Registration Services Manager
Mike Flynn, Community Governance Adviser
Paul Mountford, Democratic Services Officer
Rose Hignett, Senior Electoral Services Officer
James Morley, Scrutiny Officer
Jamie Oliver, Communications Officer

39 DECLARATIONS OF INTEREST

There were no declarations of interest.

40 PUBLIC SPEAKING TIME/OPEN SESSION

Alderman Peter Kent sought assurances that there would be democratic elections to a Crewe town council. He also drew attention to the electoral inequalities which would be created with a 16 member council based on existing Borough Council ward boundaries and suggested that a 20 member council would avoid such an outcome. Finally, he made reference to some other Cheshire East town and parish councils which had larger councils whilst having smaller electorates. He urged the Sub-Committee to reconsider the number of parish councillors proposed for Crewe.

41 MINUTES OF PREVIOUS MEETING**RESOLVED**

That the minutes of the meeting held on 13th March 2012 be approved as a correct record.

42 CREWE COMMUNITY GOVERNANCE REVIEW - PREPARATION FOR STAGE 2 CONSULTATION

Council at its meeting on 19th April 2012 had deferred consideration of the recommendations of the Constitution Committee on the draft recommendation for the Crewe Community Governance Review in order that advice received from Counsel on some aspects of the Review could be taken into consideration. The matter would be considered at the next Council meeting following further consideration by the Community Governance Sub-Committee and the Constitution Committee in light of the advice received from Counsel.

In very brief summary, the Constitution Committee had recommended to Council that:

- a Crewe Parish Council should be created;
- there should be 16 members representing 6 wards mirroring the Borough Wards;
- the electors from the unparished part of Leighton Borough Ward should be asked whether they would prefer to be included in the proposed parish of Crewe or the existing parish of Leighton; and
- elections should take place as soon as practicably possible.

Following the meeting of the Constitution Committee, the Borough Solicitor had been asked to take Counsel's advice on key elements of the proposals, in particular:

- on the extent to which a temporary parish council could be appointed in the period before parish elections, the powers of such a body and the period of time within which such a body could operate; and
- whether elections to the parish council could be held at the same time as the Police and Crime Commissioner elections in November 2012.

A number of issues arose from Counsel's advice, and further advice was sought to clarify these. A summary of Counsel's advice was circulated at the Sub-Committee's meeting. Very briefly, this included the following points:

1. Any reorganisation order should take effect on 1st April in any year, including 1st April 2013. The Order should ideally be made by 15th October 2012 but no later than 39 days before the election.
2. The Parish Council itself would not come into being until elections following the taking effect of the Order.
3. There was no such legal entity as a "temporary parish council".

4. There was no power to set up a transitional body for a long period of time, exercising significant powers and taking decisions which would bind the new parish council. A transitional body should be set up for a short period of time. Such a body should have limited powers. It could issue a precept and be able to receive assets but should avoid making decisions concerning the budget or those assets which would bind the parish council. It should take administrative decisions which would pave the way for the new parish council but should not be involved in service delivery.
5. Combining parish council elections with Police and Crime Commissioner elections would seem to be administratively complex.

The Sub-Committee gave further consideration to the recommendations of the Constitution Committee in light of the advice received. It was noted that in addition to the administrative complexity of holding parish council elections at the same time as the Police Commissioner elections, the fact that the reorganisation order could not come into effect until 1st April 2013 meant that elections to a Crewe parish council could not be held alongside the Police Commissioner elections.

The Sub-Committee considered two optional indicative timetables for the remainder of the Crewe Community Governance Review. The favoured option, option (b), took the final decision to Council on 11th October 2012 with a view to the order coming into effect on 1st April 2013 and elections being held in May 2013.

The Sub-Committee also considered the arrangements for the Stage 2 consultation process as set out in the report. It was agreed that the consultation with electors of the unparished part of Leighton should take the form of a formal ballot.

Members also noted the need to consider options for a budget and precept for the first year of the new council, and to consider what transitional arrangements should be put in place.

RESOLVED

That

- (1) having considered the matter further in light of the advice received from Counsel, the Sub-Committee supports the recommendations made by the Constitution Committee to Council on 19th April 2012, namely:
 - a. that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a parish council for the unparished area of Crewe and that parish council be advised to consider its designation as a Town Council;

- b. that the parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards except that, subject to recommendation c. below, the unparished part of Leighton (Polling District 1FJ4) be incorporated into the St Barnabas parish ward, and that each ward should have the number of parish councillors as follows:

St Barnabas	2
Crewe Central	2
Crewe North	2
Crewe South	3
Crewe East	4
Crewe West	3
TOTAL	16

- c. that the electors of the unparished part of the Borough ward of Leighton should be asked whether they would prefer to be included within the proposed parish of Crewe or within the existing parish of Leighton;
- d. that elections to the Crewe parish council should be held as soon as is practicably possible, and should thereafter be synchronised with the ordinary date of parish council elections; and
- e. that these proposals form the basis of a second stage of public consultation and that the Boundary Commission be informed of the proposals;
- (2) the proposed arrangements for the Stage 2 consultation process as set out in the report be approved;
- (3) the proposed consultation with the electors for the unparished part of Leighton be conducted by means of a formal ballot;
- (4) the indicative timetable option (b) for the latter stages of the Review as circulated at the meeting be approved and the project plan be amended accordingly;
- (5) the Director of Finance and Business Services be asked to consider arrangements for a budget and precept for the proposed parish council for consideration by the Constitution Committee; and
- (6) the Constitution Committee be asked to consider appropriate transitional arrangements for the period leading up to parish elections.

43 **MACCLESFIELD COMMUNITY GOVERNANCE REVIEW**

The Sub-Committee considered a briefing paper outlining the process to be followed in conducting the Macclesfield Community Governance

Review. The Constitution Committee had ordered the Review in response to representations by the Macclesfield Civic Society in May 2011.

The process proposed, and matters to be taken into consideration by the Review, were broadly the same as for Crewe.

The Sub-Committee had noted previously that as the community governance review moved around the Borough it would need to review its membership so that Members with appropriate knowledge and experience could participate. Any review of the Sub-Committee's membership would need to balance the need for local knowledge with the experience already gained by existing Members and the continuity this provided. It was also acknowledged that there were alternative approaches to involving local members in the Review process.

Since the report had been circulated it had been necessary to reconsider the timetable for the Review and a number of optional indicative timetables were circulated at the meeting. It was agreed that option (a) for the Stage 1 process, which included public meetings, should be adopted for now and that the options for Stage 2 could be considered as the Review progressed. In approving option (a), Members noted a potential issue with the timing of any ballot which would occur around the time of the Police Commissioner elections; this would be considered further in due course.

The Officers had prepared a draft list of consultees and stakeholders for the Macclesfield Review which had been circulated with the report. Local Members had been asked to suggest any additions to the list and the names of a number of additional organisations had been submitted by Councillors L Brown and D Neilson. The list would be updated accordingly and any additional suggestions received from local Members would be added.

Reference had been made at the previous meeting to a potential mechanism under the Localism Act 2011 which would allow the introduction of a form of community governance known as a 'community trust'. This had not been included in the list of governance options in the report but was the subject of ongoing investigation by Officers. It was anticipated that further information would be available at the next meeting.

The Officers circulated maps showing the boundary of the unparished area of Macclesfield, the constituent and adjoining Borough wards, and adjoining parishes. It was noted that part of the Macclesfield South Borough Ward was already parished and included in Gawsworth Parish. This part of the Borough Ward would therefore not be included in the Community Governance Review.

RESOLVED

That

- (1) the report be noted and the proposed arrangements for conducting the Macclesfield Community Governance Review, including the matters to be taken into account in conducting the Review, the alternative forms of local governance identified and the proposed consultation arrangements be approved;
- (2) the indicative timetable option (a) for Stage 1 of the Review be approved and the project plan be amended accordingly; options for Stage 2 be considered further in due course;
- (3) the list of consultees and stakeholders appended to the report be approved, subject to the inclusion of the additional organisations submitted by local Members, and any further submissions received, and the list form the basis of the initial consultation on the Review;
- (4) the leaflets and other publicity and consultation materials used for the Crewe Community Governance Review be adapted for use in the Macclesfield Review and public meetings be arranged at suitable venues in Macclesfield;
- (5) the Officers report to the next meeting on any provisions within the Localism Act relating to community trusts; and
- (6) the Constitution Committee be asked to review the membership of the Community Governance Review Sub-Committee.

44 DATE OF NEXT MEETING

The date and time of the next meeting to be agreed by the Chairman following consultation with Members.

The meeting commenced at 2.00 pm and concluded at 3.35 pm

Councillor D Marren (Chairman)

CHESHIRE EAST COUNCIL

Community Governance Review Sub-Committee

Date of Meeting:	27 th April 2012
Report of:	Borough Solicitor
Subject/Title:	Crewe Community Governance Review – Preparation for Stage 2 Consultation

1. Report Summary

- 1.1 This paper deals with the next stage of the Crewe Community Governance Review, namely the arrangements for the Stage 2 consultation. Council at its meeting on 19th April 2012 will consider the recommendations of the Constitution Committee on the Draft Recommendation on the review and Council's decision will be reported at the meeting.

2. Recommendation

- 2.1 That the Sub-Committee consider the arrangements for the Stage 2 consultation in the light of the decision of Council on the Draft Recommendation.

3. The Review Process

- 3.1 To remind the Sub-Committee, the key stages of the community governance review process are set out below:
- (1) Determine viable options for community governance in the area under review.
 - (2) Draw up a Consultation Plan focused on consulting on those viable options.
 - (3) Stage 1 Consultation on the options.
 - (4) Evaluation and analysis of responses.
 - (5) Draft recommendation for the Constitution Committee to consider for recommendation to Council.
 - (6) Draft Proposal advertised
 - (7) Stage 2 Consultation on the Draft Proposal
 - (8) Council decides Outcome of the review.
- 3.2 The review has now reached stages (6) and (7) in which the Draft Recommendation approved by Council will be advertised and a second round of consultation will be undertaken.

- 3.3 The timetable for the review process is set out in the project plan attached at **Appendix 1**. The project plan timetable has been updated since the previous meeting, and Members are asked to note and endorse the revised timetable.

3 Outcome of the Stage 1 Consultation

- 3.1 The Sub-Committee considered the outcome of the Stage 1 consultation at its last meeting.
- 3.2 The initial phase of consultation had included written representations received in response to public notices, specific invitations, a website tool and information leaflets. Two public meetings had been held in September to give members of the public the opportunity to learn more about the review and to express their views in a public forum. Further opportunities had subsequently been provided to provide information at various community events during November and December 2011. The Council's website had also been used as a source of information and as a tool for people to use to record their views. Finally, a voting paper had been sent to electors in Crewe to be returned by 29th February.
- 3.3 The ballot of local electors had taken place throughout the month of February 2012 and the result showed 10,810 electors in favour of a single town council for Crewe and 1,390 against. The vote represented a 32% turnout and the Sub-Committee had been satisfied that this was sufficient to represent the views of the electors of Crewe. Other public and stakeholder responses made during the Stage 1 consultation had also showed a clear preference for a single town council.
- 3.4 The Sub-Committee had also considered the electoral and warding arrangements for the parish council, including the numbers and disposition of wards, number of parish councillors, date of elections and transitional arrangements, details of which were set out in the minutes of the Sub-Committee's meeting.
- 3.5 Having considered the outcome of the Stage 1 consultation, including the Ballot result, and having considered alternative forms of community governance arrangements, the Sub-Committee had recommended the Constitution Committee to advise Council that
- a. that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a parish council for the unparished area of Crewe and that parish council be advised to consider its designation as a Town Council;
 - b. that the parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards except that the unparished part of Leighton (Polling District 3FJ5) be incorporated into the St

Barnabas parish ward, and that each ward should have the same number of parish councillors as Borough Councillors as follows:

St Barnabas (inc part of Leighton)	1
Crewe Central	1
Crewe North	1
Crewe South	2
Crewe East	3
Crewe West	2
TOTAL	10

- c. that the first year of elections to the new parish council should be 2015;
- d. that in the intervening period, as soon as the community review governance process allows, a temporary parish council be appointed by the Borough Council, to comprise the members of the Crewe Local Service Delivery Committee; and
- e. that these proposals form the basis of a second stage of public consultations and that the Boundary Commission be informed of these proposals.”

3.6 In noting the advice of the Sub-Committee, the Constitution Committee had considered a number of issues:

- 1. whether the electors of the unparished part of Leighton should be asked if they wished to be included in the proposed parish of Crewe or in the existing parish of Leighton;
- 2. whether the proposed number of 10 parish councillors for Crewe was sufficient for a town of that size, given that a number of smaller towns in Cheshire East, such as Nantwich, Congleton, Alsager and Wilmslow, had a larger number of town councillors; and
- 3. whether it was appropriate to delay parish elections until 2015 and to appoint a temporary parish council when elections could be held in May 2013.

3.7 Having considered these issues and the advice of the Sub-Committee, the Committee recommended to Council

- a. that the interests of effective and convenient local government and community identities in the area would be served by the creation of a new parish with a parish council for the unparished area of Crewe and that parish council be advised to consider its designation as a Town Council;

- b. that the parish should be divided into 6 wards for the purposes of election to the Parish Council, such wards to be coterminous with the existing Borough wards except that, subject to recommendation c. below, the unparished part of Leighton (Polling District 3FJ5) be incorporated into the St Barnabas parish ward, and that each ward should have the number of parish councillors as follows:

St Barnabas	2
Crewe Central	2
Crewe North	2
Crewe South	3
Crewe East	4
Crewe West	3
TOTAL	16

- c. that the electors of the unparished part of the Borough ward of Leighton should be asked whether they would prefer to be included within the proposed parish of Crewe or within the existing parish of Leighton;
- d. that elections to the Crewe parish council should be held as soon as is practicably possible, and should thereafter be synchronised with the ordinary date of parish council elections; and
- e. that these proposals form the basis of a second stage of public consultation and that the Boundary Commission be informed of the proposals.

3.8 The decision of Council will be reported at the meeting.

4 Stage 2 Consultation

- 4.1 The Sub-Committee now needs to consider the arrangements for the Stage 2 consultation in the light of Council's decision on the draft recommendation.
- 4.2 The first step will be the publication of a Notice on 30th April 2012. The Notice will set out the Council's draft recommendation and invite comments which may be submitted in writing to the Registration Service and Business Manager, by email or through the Council's website. The Notice will be published in a prominent local newspaper and on the Council's website, and copies will be displayed in appropriate public buildings in the Crewe area and at Westfields. Copies will also be sent to the consultees and stakeholders consulted during the Stage 1 consultation. Electors and stakeholders will then have a three week period, commencing 11th May 2012, in which to submit comments on the draft recommendation. A draft Notice will be prepared for consideration at the Sub-Committee's meeting.

- 4.3 A further meeting of the Sub-Committee will be convened to consider the outcome of the Stage 2 consultation and to make a final recommendation to the Constitution Committee.

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CREWE COMMUNITY GOVERNANCE REVIEW - PROJECT PLAN

Task/activity		Decision-making process	Date
Officer Project Team	Officer Responsible	Community Governance Review Sub Committee meetings	26/7/2011 19/8/2011
Guidance summary Project Plan Map of Review Area Electorate figures Options appraisal (As per last Crewe CGR) Prepare consultation leaflet Electoral arrangements - initial views size/warding Consultation – Full list of consultees and contact details 2 x Public notices prepared for public meetings and for commencement of the Review Arrange public meetings Arrange printing for postal ballot	LP/ NB	Consider summary of CGR guidance Approve terms of reference Approve Review Process / project plan Agree consultation methods Agree list of consultees Identify and evaluate options for the review Formulate Leaflet to consultees and electors Agree arrangements for public meetings	
Publish Public Notice giving details of public meetings	LP/NB		24/8/2011 <i>(Two weeks before public meetings held)</i>
Public Meetings	BR/ LP/ NB	2 meetings in Crewe	15/9/2011 – evening 16/9/2011 - afternoon
		Community Governance Review Sub Committee meeting	23/9/2011

CREWE COMMUNITY GOVERNANCE REVIEW - PROJECT PLAN

Task/activity		Decision-making process	Date
Further public engagement / publicity arranged			October 2011
Publicity for 1 st stage consultation with stakeholders	LP/NB		12/10/2011 <i>(Two weeks before consultation starts)</i>
Sign off of information leaflet		Community Governance Review Sub Committee	21/10/2011
Comments / submissions invited from interested parties on Options (4 week consultation period)		Consultation Period (stage 1)	14/11/2011 – 16/12/2011
All submissions / comments considered and evaluated.	LP		19 December 2011
Collate representations and devise ballot paper to electors		Community Governance Review Sub Committee	20 December 2011- plus further meeting if required in January 2012
Publish Public Notices for consultation with electors			Mid-January 2012 <i>(Two weeks before consultation starts)</i>

CREWE COMMUNITY GOVERNANCE REVIEW - PROJECT PLAN

Task/activity		Decision-making process	Date
Ballot Papers issued to electors			February 2012
Collate representations and prepare committee report	LP	Community Governance Review Sub Committee	End February 2012
		Constitution Committee	22/3/2012 (or special meeting if required)
Preparation of report to Council on draft final recommendation (including any warding arrangements)	LP/ BR	Formulate draft final recommendation to Council Agree public notice for stage 2 consultation	
		Council Approval of final draft recommendation for consultation	19/4/2012
Approval of arrangements for Stage 2 consultation		Community Governance Review Sub-Committee	27/4/2012
Publish Stage 2 Notice	LP		30/4/2012
Implement Consultation (3 weeks)	LP	Consultation Period (stage 2)	11/5/2012 – 1/6/2012
		Community Governance Review Sub-Committee	W/C 18/6/2012

CREWE COMMUNITY GOVERNANCE REVIEW - PROJECT PLAN

Task/activity		Decision-making process	Date
Preparation of analysis/evaluation of consultation outcome Develop final recommendations – to include Implementation Plan, interim arrangements and election arrangements	LP	Analysis of consultation outcome Formulation of final recommendation and Implementation Plan for consideration by Constitution Committee	
Preparation of report to Constitution Committee detailing final recommendation for approval by Council	LP/BR	Approval of final recommendation and Implementation Plan for consideration by Council	
		Constitution Committee	5/7/2012
Preparation of final recommendation and report to Council Implementation arrangements Draft Order and associated documents including maps Implementation Plan including interim arrangements	LP/BR		
		Final Decision by COUNCIL MEETING Including Approval of reorganisation order and Implementation Plan	19/7/2012
Council Publishes Reorganisation Order			August 2012
Implementation of any changes in electoral arrangements			Thereafter

Key to Officers:-

- LP - Lindsey Parton, Registration Service and Business Manager, Legal & Democratic Services
 NB - Natalie Bown, Policy Officer, Performance and Partnerships
 BR - Brian Reed, Democratic and Registration Services Manager

CHESHIRE EAST COUNCIL

Special Constitution Committee

Date of Meeting: 11th May 2012
Report of: Borough Solicitor
Title: Proposed Council Governance Arrangements

1.0 Purpose of Report

- 1.1 This report details the work undertaken so far by the Working Group appointed by Council to investigate the options available for new governance arrangements.
- 1.2 Proposals are put forward for changes to the Council's governance arrangements; these together with a phased implementation following "shadow" arrangements from May 2012, with their formal introduction by the end of the 2012 calendar year.

2.0 Recommendations

- 2.1 Council be recommended to agree that
- (1) with effect from the end of a shadow period of operation, which shall end no earlier than October 2012, the existing Overview and Scrutiny Committees will be dissolved and be replaced with two Overview and Scrutiny Committees with the names and provisional terms of reference set out in Appendix 1 of this report;
 - (2) with immediate effect Council establishes, initially in shadow form, up to nine Policy Groups, aligned with the Cabinet, with the provisional terms of reference set out in Appendix 2;
 - (3) Council agrees that the Leader will determine the size and cross party composition of the Policy Groups and invite the Political Groups to notify the Borough Solicitor of their nominations;
 - (4) the consideration of the terms of reference of the two new Overview and Scrutiny Committees be referred to the Overview and Scrutiny Chairmen in the June/July cycle of meetings and the terms of reference thereafter be finalised by Council, following consideration by the Constitution Committee;
 - (5) the consideration of the terms of reference of the new Policy Groups be referred to the shadow Policy Groups in the June/July cycle of meetings and thereafter be finalised by Council, following consideration by the Constitution Committee; and

(6) the Borough Solicitor submit a further report to Council which will enable Council to formalise all remaining arrangements following the shadow period.

3.0 Legal Implications

3.1 Under the Localism Act 2011 Councils will be permitted to introduce alternative forms of governance from those prescribed in the Local Government Act 2000. In some instances the Secretary of State's consent would also be required. The recommendations in this report, however, are made in accordance with the Local Government Act 2000 and can be introduced as soon as the Council wishes.

4.0 Risk Assessment

4.1 Failure to comply with legislation when appointing its committee memberships would leave the Council open to legal challenge.

4.2 The recommendations of this report propose shadow arrangements which would be reviewed and, if necessary, amended according to the needs of the Council before they become formally established. As a consequence, there would appear to be few risks associated with the report's recommendations.

5.0 Background Information

5.1 Council appointed a Joint Member Working Group consisting of 10 Members, on a cross party basis, with a view to investigating in detail all available options to review governance arrangements under the Localism Act 2011.

5.2 The Group has met on a number of occasions to review the options available to the Council.

5.3 Under the Local Government Act 2000 the Council operates a Leader and Cabinet style of governance.

5.4 The Localism Act 2011 would permit, in addition to the existing arrangements:

- a return to the pre-2000 legislation committee system;
- the introduction of a "hybrid" system whereby Cabinet arrangements could be combined, to some degree, with the old committee system; and
- a directly-elected Mayor.

5.5 The Joint Member Working Group has given thought to the options available and has concluded that neither a directly-elected Mayor nor a committee system would meet the needs of the Council. Views have

been expressed that the Council's governance arrangements should provide for the inclusion of non-executive members in policy initiation and development; also that the existing scrutiny arrangements have not been successful in achieving this objective.

- 5.6 Appendix 4 to this report contains the Borough Solicitor's report to the Member Working Group, together with the minutes of the meeting which the Committee is asked to consider.
- 5.7 The Committee is asked to recommend to Council that it change its governance arrangements to those illustrated in Appendix 3 as follows:
 - 5.7.1 Initially, the Council's existing Overview and Scrutiny Committees would all be reappointed by Annual Council. At the same time, Policy Groups would be appointed to operate in shadow form for a maximum period extending up to the end of the 2012 calendar year. These would have the functions set out in paragraph 5.7.3 and Appendix 2. It is anticipated, however, that the review would be finalised by the October 2012 meeting of Council.
 - 5.7.2 After the shadow period, the existing Overview and Scrutiny Committees would cease to operate and would be replaced with two Overview and Scrutiny Committees. The Policy Groups would continue their work on a formal but non-decision-making basis in the first instance.
 - 5.7.3 The Policy Groups would undertake the function of policy initiation, development and review, and would report to Cabinet. The Groups would be cross-party and would enable non-executive members to work more closely with Portfolio Holders. They would have access to financial and performance information. These arrangements would be made under the Local Government Act 2000.
 - 5.7.4 In the fullness of time, opportunity would exist for Council to examine the possibility of giving the Policy Groups decision-making powers. However, these arrangements would only be possible under the emerging Localism Act 2011 provisions.
- 5.8 Appendix 1 contains the proposed provisional draft terms of reference and operating arrangements of the two Overview and Scrutiny Committees which would be appointed by Council later in the year, at the end of the shadow period. Each Committee would have 12 members and would be supported by Democratic Services. As formal bodies they would be subject to the political proportionality, and Access to Information rules. They would meet in public.
- 5.9 Appendix 2 contains the proposed provisional terms of reference of the Policy Groups. Each Group would be supported by Democratic Services. As informal bodies they would not be subject to political proportionality rules, nor to the Access to Information rules. They would be able to meet in private but may choose to meet occasionally in public. Members of

overview and scrutiny committees may sit on the Policy Groups but should not take a seat on a Group that might lead to a conflict of interest.

- 5.10 It is recommended that a member serve on no more than one Policy Advisory Group. The relevant Portfolio Holder(s) would be able to attend the relevant Group.
- 5.11 A copy of the revised decision making structure that would be introduced after the shadow period, but no earlier than October 2012, is appended at Appendix 3 which shows the alignment of the Policy Groups with Cabinet. The titles of the Policy Groups are listed in Appendix 2 and the remit of each Group is currently being developed by the officers. The titles of the Groups, and the number of Groups will be revised once the Leader of the Council has been appointed and Portfolio Holders and their remits have been announced.
- 5.12 The Committee is asked to recommend that Council agree the provisional terms of reference of the new Policy Groups and extend an invitation to each Group to meet in shadow form to consider their terms of reference and operating arrangements. The Committee is also requested to ask the Borough Solicitor to submit a further report with recommendations to the Committee and Council later in the year. This shadow period will provide an ideal opportunity for the Groups to consider their working arrangements and to make recommendations as to whether these need to change.
- 5.13 At the end of the shadow period, and subject to the agreement of Council, the six existing Overview and Scrutiny Committees would cease to operate and their statutory functions would transfer to the two new Overview and Scrutiny Committees that would be established under the revised arrangements.
- 5.14 The Joint Member Working Group has informally consulted the Overview and Scrutiny Chairmen in arriving at its recommendations. The views of the Scrutiny Chairmen are appended to this report.
- 5.15 It should be noted that the creation of a new structure of this size may bring with it the need for additional servicing and research by officers and the resource implications of this will need further consideration. There will also be a need for the Independent Remuneration Panel to consider the implications of any new structure in terms of Member allowances.

For further information:

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Background Documents: None

Appendix 1

PROPOSED OVERVIEW AND SCRUTINY COMMITTEE DRAFT TERMS OF REFERENCE WHICH WOULD APPLY TO THE NEW OVERVIEW AND SCRUTINY COMMITTEES FOLLOWING THE SHADOW PERIOD

- 1 to discharge the Council's functions under Section 21 of the Local Government Act 2000 (Scrutiny Committees);
- 2 to oversee the Council's overall scrutiny function including the preparation, implementation, monitoring and review of an annual work programme for scrutiny and arrangements for the scrutiny of other public bodies particularly where required to do so by law
- 3 to establish such task and finish groups, appointing the Chairman with such membership as it sees fit, to undertake scrutiny on a task and finish basis;
- 4 to ensure that officers discharge their responsibilities effectively and efficiently in relation to the scrutiny function;
- 5 In performing its role, the Committee may consult and involve the local community and other local public, private and voluntary bodies or organisations;
- 6 scrutinise decisions after implementation to examine their effect and outcomes;
- 7 ensure in conjunction with the Standards and Constitution Committees that the Council has in place appropriate mechanisms to protect organisational Integrity including the development of appropriate policies and guidance;
- 8 deal with any overview and scrutiny matter which is the subject of a call-in, a Councillor Call for Action or a Local Petition (a Councillor Call for Action Protocol is included in Part 5 of this Constitution);
- 9 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,
- 10 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,
- 11 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,
- 12 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,
- 13 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,
14. to undertake the statutory responsibility to scrutinise flood risk management
15. to undertake the statutory responsibility to examine the work of Community Safety Partnerships

16 to undertake the statutory responsibility to examine the work of relevant partners

Notes:-

The Overview and Scrutiny Committee will continue to have power to require officers and Cabinet Members to appear before it.

Provision has to be made for Church and Parent Governors in respect of education matters.

The Council must ensure must ensure that the overview and scrutiny committee has power to require Partner organisations to provide information to it.

The Overview and Scrutiny Committee may give a relevant partner organisation notice in writing requiring them to have regard to a report or recommendations in exercising its functions

HEALTH AND WELLBEING OVERVIEW AND SCRUTINY COMMITTEE TERMS OF REFERENCE WHICH WOULD APPLY TO THE NEW OVERVIEW AND SCRUTINY COMMITTEES FOLLOWING THE SHADOW PERIOD

The Health and Wellbeing Scrutiny Committee will fulfil the functions of an Overview and Scrutiny Committee as they relate to performance management, Corporate Resources and Strategy and in particular (but not restricted to):

1. Fulfil the Health Scrutiny duties falling on the Authority by virtue of the relevant Health acts and subsequent relevant legislation and Government Guidance;
2. liaison with NHS Trusts and Clinical Commissioning Groups(CCG's) on any matter relating to the planning, provision and operation of Health services in Cheshire East, including commenting on any performance or quality documents.
3. responding to any formal consultations undertaken by relevant NHS Trusts and CCG's or relevant health providers or commissioners on any substantial development or variation in service;
4. participation with other relevant local authorities in joint scrutiny arrangements of NHS Trusts providing cross-border services to Cheshire East residents, in particular the Cheshire and Wirral Partnership, NHS Foundation Trust;
5. liaison with the Local Involvement Network (LINK)/Healthwatch for Cheshire East, commissioning work and receiving reports and recommendations as appropriate;
6. deal with any matter referred by the Department of Health, the Local Involvement Network/Healthwatch or by the Council;
7. scrutinise, the effective integration of the NHS and the work of the Council and its partners in delivering improved public health and public health protection
8. analyse and comment on the progress towards achieving the outcomes relevant to health and wellbeing whether specified locally, regionally or nationally
9. deal with any Health or Adult Social Care matter which is the subject of a Call-In, a Councillor Call for Action or Local Petition;
- 10 provide a regular programme of training and development for all Members and Co-opted Members involved in the work of the Committee.

Note: The provisional terms of reference will need to be reviewed to ensure that there is a clear focus on Health and Wellbeing and the thrust of legislative changes arising from the Health and Social Care Act 2012 together with clarity around the establishment of the Health and Wellbeing Board and the future working arrangements between the board and scrutiny.

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POLICY GROUPS TERMS OF REFERENCE

There will be seven Policy Groups as follows:-:

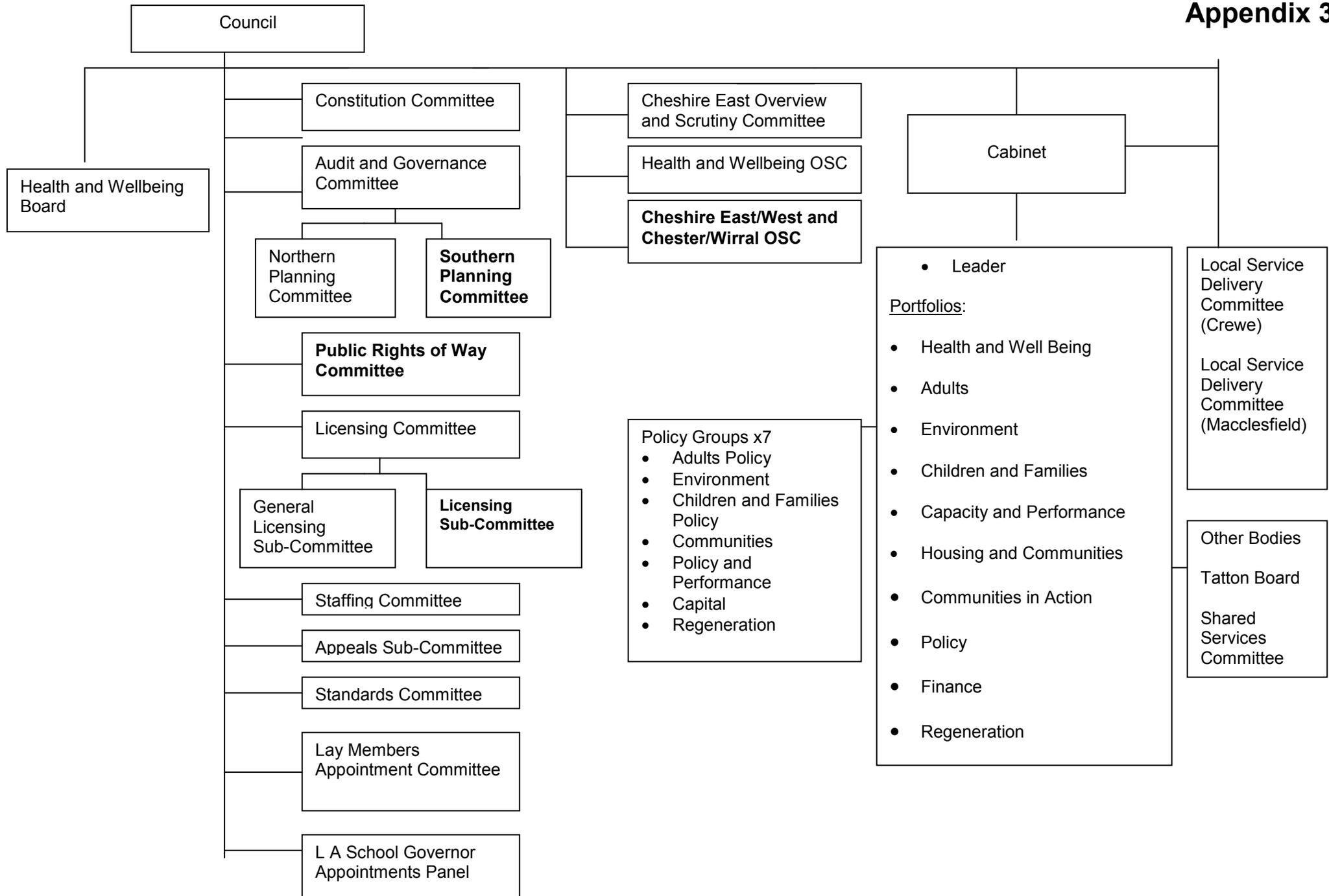
- *Capital*
- *Communities*
- *Children & Families*
- *Adults*
- *Environment*
- *Policy and Performance*
- *Regeneration*

The Policy Group will:

1. *Develop and review policy*
2. *Advise upon significant service delivery issues*
3. *Consider financial and performance information*
4. *provide advice on business within the appropriate Portfolio and, on occasion, to other Portfolios*
5. *be the main vehicle to enable all members to participate in policy development*
6. *have oversight of service developments and significant service delivery issues*
7. *contribute to policy development across the full range of Portfolio issues, and support the Portfolio in Cabinet matters*
8. *from time to time lead policy projects specially commissioned by the Portfolio Holder to progress issues of significance*
9. *facilitate cross-directorate linkages amongst services working on related issues and seek to ensure that officers take account of Council priorities*
10. *take a medium to long term view to ensure policy coherence*
11. *provide the Portfolio Holder with up-to-date information on emerging service issues*
12. *promote a collective approach to lifting performance of the Council and build leadership that enables the Council to carry out its duties to best effect*
13. *Be able to call before it senior officers of the Council and Cabinet members in order to assist it in its work.*

Note: the Policy Groups will be reviewed once the Leader of the Council has been appointed and Portfolio Holders and their remits have been announced.

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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:

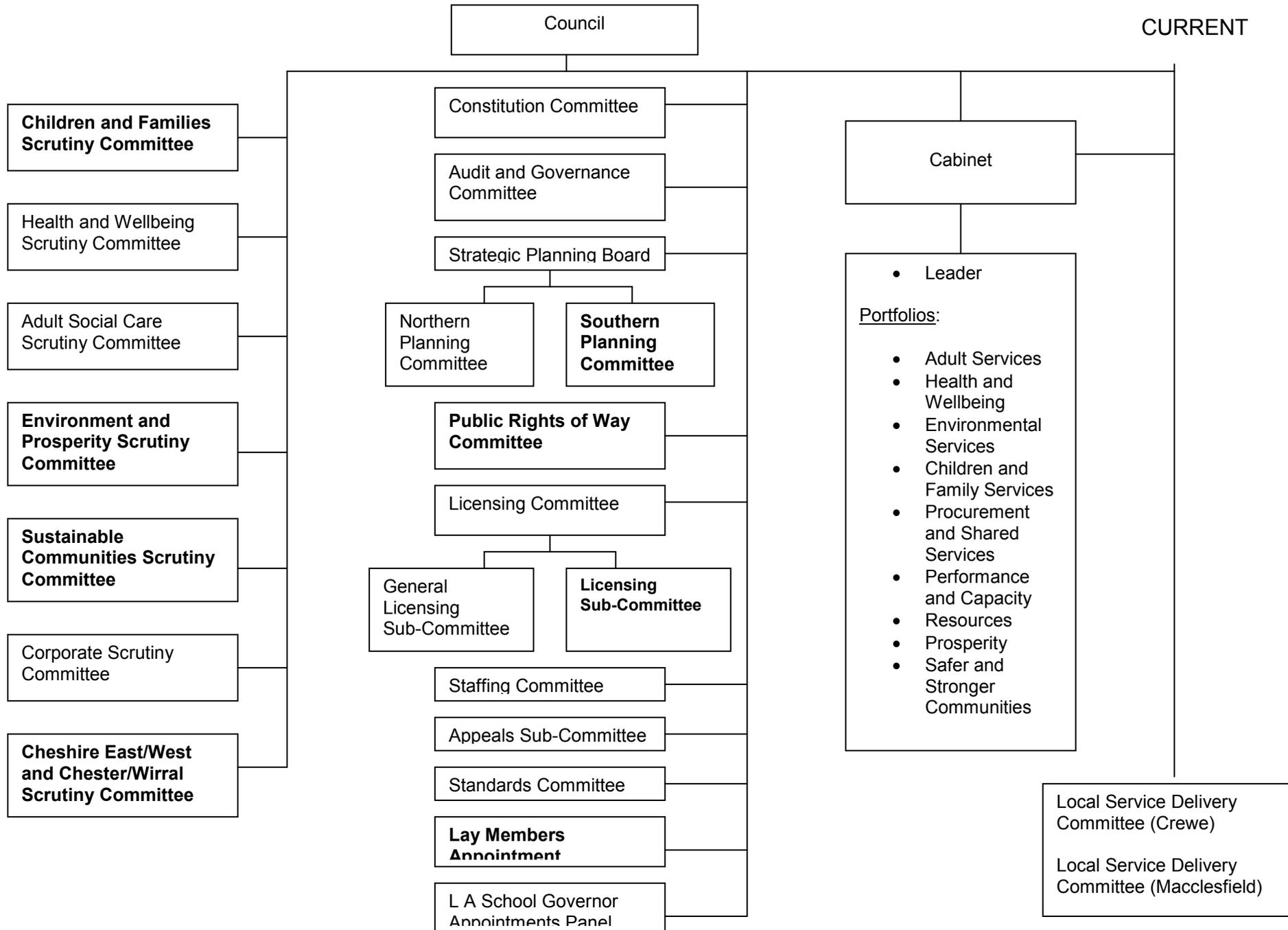
- Review of any Special Responsibility Allowances by the Independent Review Panel
- Review of current Executive and Overview and Scrutiny Procedure Rules
- Protocols and Conventions to clarify the role of Portfolio holders in championing the work of the Advisory Groups
- Review of the criteria and reasons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

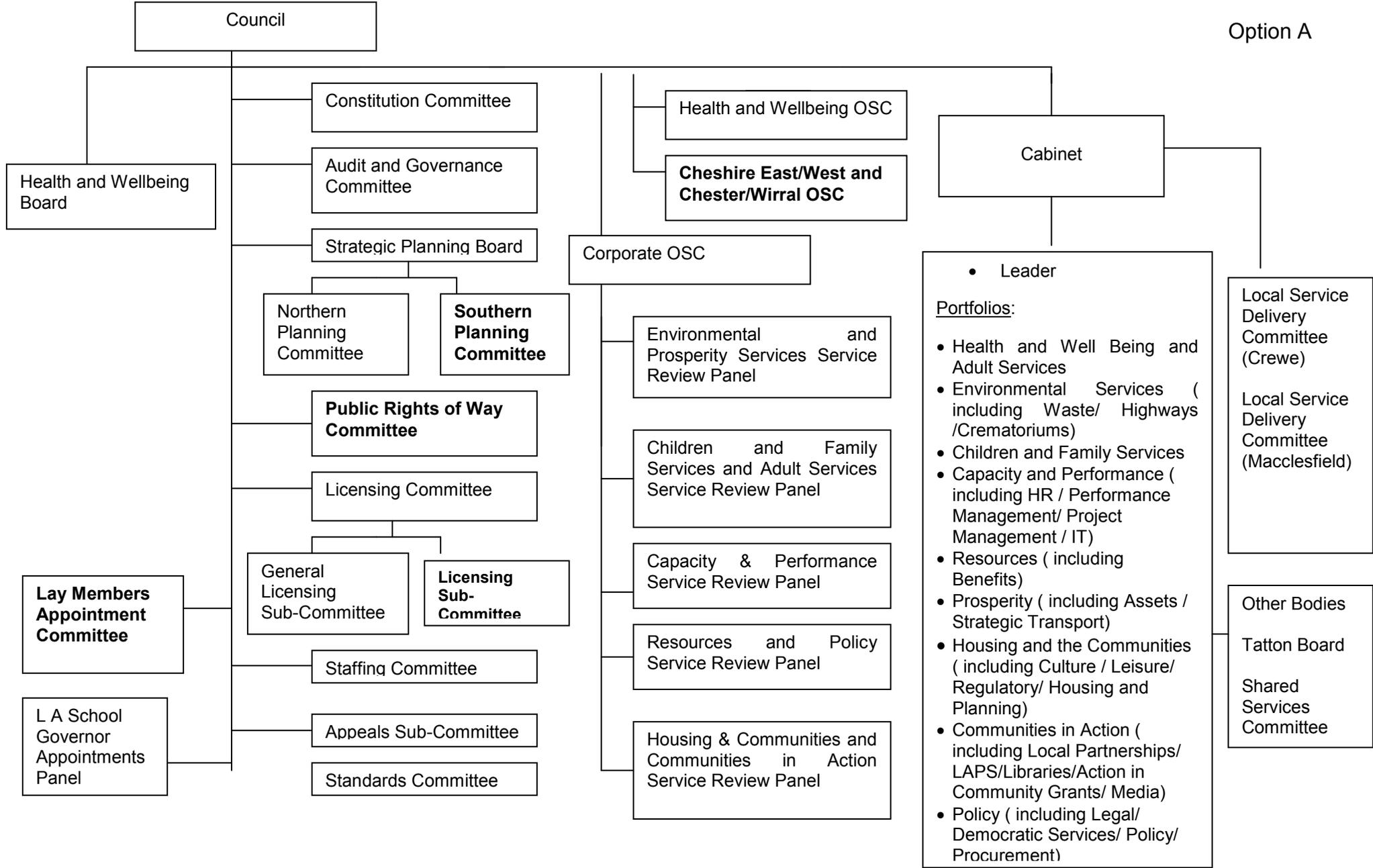
10. Summary

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

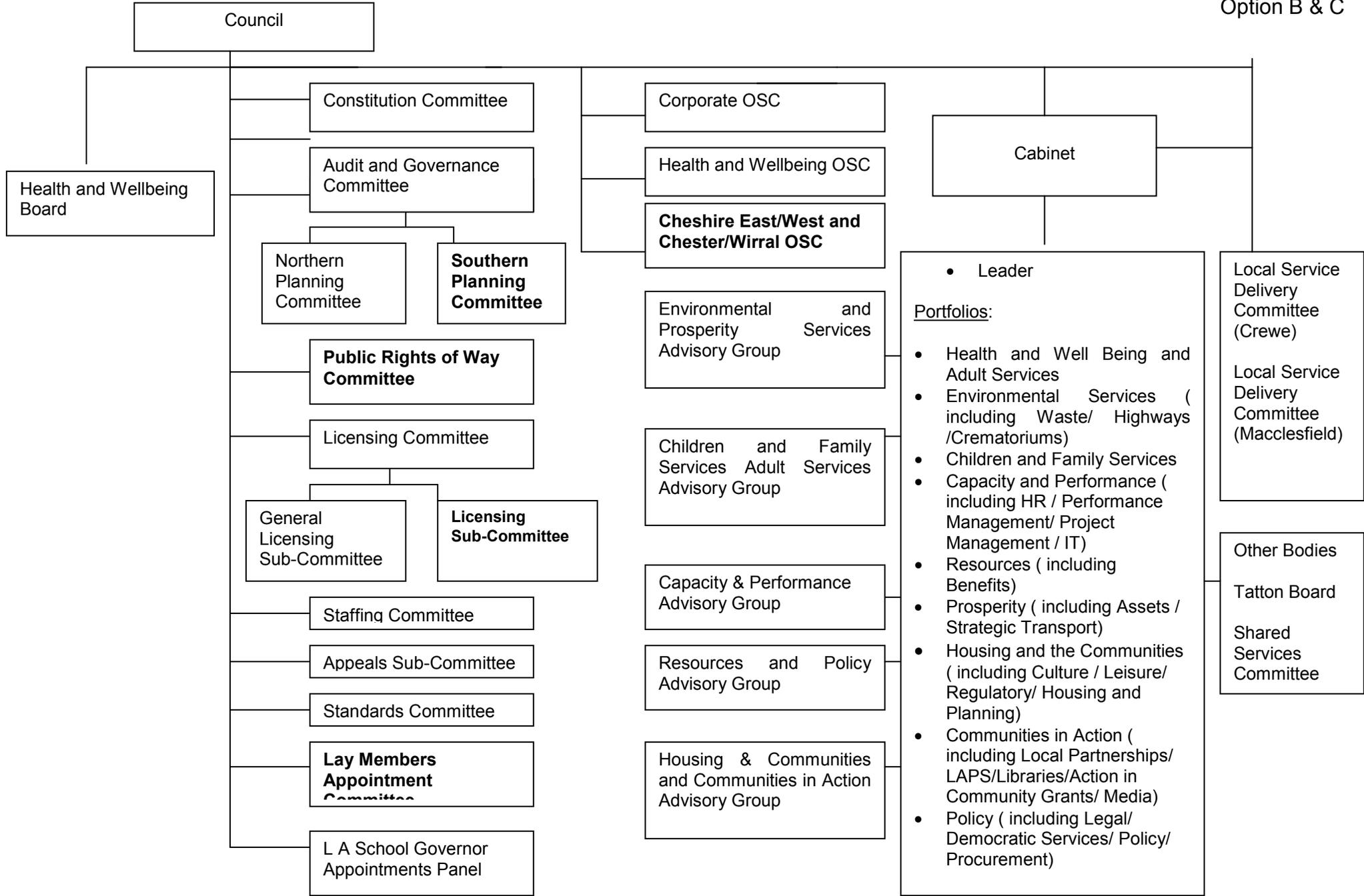
- Whilst not Members of the Service Review Panels Portfolio holders are expected to liaise and co-operate with Service Review Panels.
- Service Review Panels will make recommendations to Corporate Overview and Scrutiny Committee
- In the event that the Cabinet makes a decision contrary to the recommendations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

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the
Governance Review Joint Member Working Group
held on Friday, 20th April, 2012 in the Fred Flint Room, Westfields, Middlewich
Road, Sandbach CW11 1HZ

PRESENT

Councillor A Martin (Chairman)
Councillor G Baxendale (Vice-Chairman)

Councillors J P Findlow, L Gilbert, J Jackson, M Jones, S Jones, D Newton
and P Whiteley.

Officers

Brian Reed – Democratic and Registration Services Manager
Paul Jones – Democratic Services Team Manager
Cherry Foreman – Democratic Services Officer
Mark Nedderman – Scrutiny Team Manager
Jane Strange – Policy and Research Manager

16 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor B Murphy.

17 DECLARATIONS OF INTEREST

There were no declarations of interest.

18 MINUTES OF PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 22 March 2012 be approved as a correct record.

19 GOVERNANCE ARRANGEMENTS - INITIAL OPTIONS APPRAISAL

The Working Group considered a report of the Borough Solicitor setting out initial options for a revised governance structure; it was asked to indicate its preferred option for detailed development. In addition the Democratic and Registration Services Manager gave a presentation on the key components of each option, highlighting the salient differences.

Based on the broad parameters established by the Group at its last meeting three initial options had been developed to a preliminary stage. Consideration

of the options at this early stage was intended to stimulate debate and to further refine the preferences of the Group; a more detailed structure would then be developed around the specific requirements arising from the discussion.

The three options set out in the report were: -

- Option A – Advisory Policy Groups aligned to Overview and Scrutiny
- Option B – Advisory Policy Groups aligned to Cabinet
- Option C – Decision making Policy Groups aligned to Cabinet

Information on each included broad terms of reference, the relationship with overview and scrutiny, specific constitutional considerations and an indicative structure chart for comparison with the current governance structure.

In considering the advantages and disadvantages of each option particular account was taken of the overview and scrutiny functions to be maintained by the Council. The relationship between advisory panels (titles/terminology to be agreed), the opportunity for the call-in of decisions, and the need to gain the approval of the Secretary of State for any sort of hybrid structure were also considered. With regard to this last point it was anticipated that it could take a considerable time for approval to be given bearing in mind that Government guidance was still awaited. The resource implications of the differing options were also considered.

During a wide ranging discussion the main points arising included: -

- The need to ensure that cost implications to the Council of any governance changes were cost neutral.
- New arrangements must result in the greater involvement of Councillors in policy development at an early stage.
- No Councillor should sit on more than one advisory group in order to use and develop their areas of personal expertise.
- The additional time it would take to gain approval for more radical governance arrangements should not result in such options being dismissed at an early stage in favour of those that could be introduced more quickly and easily.
- The Terms of Reference for any scheme needed to be carefully formulated in order to ensure Members were awarded as much influence as possible in both the policy development and decision making processes.
- The position regarding the attendance of substitutes at meetings needed to be further discussed.

Whilst some Members favoured Option C as a long term goal, for the increased involvement it would give to a wider cohort of members, it was appreciated that the introduction of such a governance scheme would be considerably delayed whilst consent was sought. It was considered that the most expedient way forward was to opt for a scheme based on that set out in Option B; this had the advantage that it could be introduced at an early date

but that it could be developed and adapted in the light of experience, and also of emerging approvals by the Secretary of State.

RESOLVED

That

- (1) option A of the report be dismissed as it would not provide the range and extent of revised governance arrangements being sought by Members;
- (2) option B of the report be developed for further consideration, to include the appointment of members to Shadow Groups/Panels at an early stage;
- (3) an announcement of the draft proposals be made at the forthcoming Annual Council meeting, with a projected implementation date being the end of the calendar year; and
- (4) the Governance Review Joint Member Group continue to meet throughout the development of the revised governance arrangements, and also following implementation, in order to monitor effectiveness and guide future developments.

20 NEXT MEETING

Thursday 10 May 2012 at 9.30 am in the Fred Flint Room, Westfields.

The meeting commenced at 2.00 pm and concluded at 3.15 pm

Councillor A Martin (Chairman)

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Views of the Scrutiny Chairmen in respect of options considered by the Working Group

AGREED –That the interim proposals outlined to the group to introduce option B in 2012/13 be supported, with a view to further work being undertaken in relation to the possible introduction of scheme C at a future date, which would be the Group's favoured option.

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