

TOWARDS ONE COUNCIL

JOINT OVERVIEW AND SCRUTINY TRANSITION BOARD 19 DECEMBER 2008

DEVELOPING ARRANGEMENTS FOR OVERVIEW AND SCRUTINY FOR THE NEW WILTSHIRE COUNCIL – PROPOSED STRUCTURE

Report by Paul Kelly, Scrutiny Manager WCC

Style and Approach

1. The original legislation in 2000 and subsequent guidance was intended to show a clear distinction between the executive and non-executive arms of local authorities. It was necessary to demonstrate clear transparency between those taking decisions and those holding them to account. As far as Overview and Scrutiny (OS) is concerned, the litmus test should be that someone could walk in off the street to a scrutiny meeting and have some idea about who was being scrutinised, the witnesses providing evidence, who was doing the scrutinising and who was advising. This is achieved quite often in very simple ways such as venue, room layout, structure to the meeting, respect for the role of chairman and questioning and listening skills being demonstrated by the members
2. The obvious example of best practice is the parliamentary select committee approach but may also include public enquiry type hearings which most people will have seen in operation in some form or other if only through the media. The experiences in the five councils demonstrate varying levels of success as far as this is concerned. The County Council's Management Committee adopts this approach as far as possible and it has been applied to the operation of the JOSTB when the venue permits.
3. The creation of a new council provides the ideal opportunity to further develop this approach and the proposed structure at Appendix A to this report uses the term "select committee" for the main overview and scrutiny committees. It is not simply about a name or what is in the terms of reference but how they operate in practice, and this will be the subject of induction and training for both members and officers early in the life of the new council.
4. The lower levels within the decision-making structure such as task groups and rapid scrutiny exercises are less formal with greater ability to apply a system designed to achieve the most effective outcome to the single topic under review. These have very much a "roundtable" look and feel although some of the above principles should still apply.
5. It has been proven over time that good OS is not just about meetings. It's more about embracing a mindset linked to the importance and value of holding decision-makers to public account for their actions. It involves being alert to

issues as they arise, doing personal research, discussing with scrutiny support officers and fellow members and knowing when, where and at what level to have issues addressed. OS operates alongside other mechanisms and should not be used to duplicate work more appropriately dealt with elsewhere.

6. The proposals are very much based on a review of the current arrangements across the five councils, although recognising the position of KDC as a 4th option authority with a committee system. Drawing on the experience gained since the introduction of executive decision-making, using this knowledge about what works well including the recent transition activities, discussions with the OS redesign team and the officer network supporting JOSTB, and advice of the Consultant have all been applied to arrive at a proposed decision-making structure for consultation. This should be very much viewed as a “day one” proposal subject to the views of the new council. An early opportunity to review will also be available to the new council if necessary.

Resources

7. Another factor which has to be taken into account is the resources available to support the function. A staffing structure for democratic services which contains the scrutiny team is attached at Appendix B. It is anticipated that this should be sufficient to deliver the proposed structure including the development of enhanced OS, but will be subject to review as part of the transformation of services driven by the wishes of members. Although this is a reduction in resources as a whole against the combined position of the five councils for OS (which was expected as part of the efficiencies of moving to one council), the new team will no longer have to provide the committee administration element of the job at main committee level as was the case in some of the previous five councils.
8. The matter of members support in the new council has been the subject of a recent rapid scrutiny exercise. It was recognised that with the size of the new council, OS was likely to be an area which comes under demand from the new members as in most cases it will be their main opportunity to influence the Executive. During the exercise therefore the level of resources has been questioned.
9. It is difficult to benchmark like for like against other authorities but research suggests that for the size of the new authority (98 elected members) and proposed decision-making structure it is about right. Obviously should members demand a more comprehensive spread of activity then this may stretch the team beyond the immediate resources it has. It is also expected that there will be flexibility within the new Democratic Services as a whole.

Rationale for Proposed Structure

OS Management and Resources Select Committee

10. Most councils now recognise the value of having a management or co-ordinating body. This becomes increasingly important the larger the council is due to the volume and complexity of the services delivered/enabled. As well as managing, reviewing and developing the OS function in the new council, it

will also undertake the scrutiny of realising the benefits expected from the new structures and systems associated with being a large unitary authority. This will include lean system thinking and shared services. It will be the body which holds the Executive to account at the highest level but also for establishing a constructive working relationship so that OS makes an effective contribution to the overall goals of the new council, and hence the well-being of the citizens of Wiltshire. It is hoped that the Cabinet of the new council will see the benefit of encouraging more pre-decision scrutiny and policy development. OS will be the natural home for the vast majority of the newly elected members and therefore it will have a responsibility to encourage ownership, direction and engagement in the various activities.

11. Inevitably there will be an early reliance on what has worked well in the past and that experience suggests that a number of standing task groups should be established from day one, as well as having an eye on enhanced scrutiny for the future. These are described below.

Budget and Performance Task Group

12. Each of the five councils had previously recognised in their OS arrangements the value of having a non-executive body dedicated to monitoring expenditure. The County Council also includes scrutiny of the budget content – both the process of devising the spending proposals and providing a specific opportunity between meetings of the Cabinet and full Council in February each year via a special joint meeting to review the Leader's motion prior to adoption. It is therefore no surprise that a similar arrangement exists in the proposed arrangements for the new council.
13. Again most of the councils recognised the value of monitoring performance against national and local targets, and service standards. It is felt that these two areas combine well together, particularly in allowing members to better manage risk which will be high-profile in the early days of the new council.

LAA/Partnerships Development Task Group

14. As described earlier, the 2007 LGPIH Act (guidance awaited) requires lead LAA councils to put in place a system of scrutiny to hold its main partners to public account for the delivery of the relevant objectives and targets agreed with Government. The new Wiltshire Family of Partnerships also provides for scrutiny of the Accountable Bodies Forum (see Appendix C).
15. It has been difficult to develop and test these requirements out whilst scrutiny of the transition to One Council has been the main focus of recent work. As with much of the work in moving to one council, getting to day one has featured more critically than transforming services. Development has also been hampered through the lack of formal guidance by Government – this is now promised by April 2009. With this in mind, the structure proposes a task group of members to further investigate and gather a clearer understanding of the requirements. In consultation with partners the task group would be well placed to subsequently make recommendations about the implementation of effective arrangements to scrutinise the LAA and those responsible for its delivery.

Supporting Local Challenge Development Task Group

16. Local challenge is an activity to be undertaken by area boards in the new council. Work has been done with the project team for area boards to understand the relationship between local challenge by area boards and formal OS. An outline description was written for the area boards draft handbook and is attached at Appendix D for ease of reference. This also covers a process intended to provide for “councillor call for action” and “local petitions” – other requirements of the 2007 Act. The Area Boards Task Group established under the joint transitional OS arrangements has touched on these matters but not in any real detail.
17. Again due to transitional scrutiny and the lack of Government guidance this has not been fully developed and it would not have been appropriate to have made firm commitments in advance of the new council. The new structure proposes another member task group to work on the development and implementation of the new requirements and to more fully define the operational interface between area boards and formal OS.

Health and Social Care Select Committee

18. The current WCC Health Scrutiny has been around since 2003 following the introduction of the statutory power enabling local government to hold the NHS locally to account for the deliver of health services. As members will be aware it has been heavily involved in the reforming of health services to a model of enhanced primary care and more specialist centres. This has led to increased integration with social care services delivered by the County Council.
19. Previously social care was scrutinised through the WCC Management Committee and via its task groups. The new council provides the ideal opportunity for scrutiny to recognise the way in which an increasing amount of service will be delivered through joint commissioning by the two agencies. It therefore seems appropriate, particularly from the perspective of the public who will only see a single point of delivery, to bring this together under one committee. It is also intended to use this opportunity to give a higher-profile to scrutiny of public health issues.
20. Local health service issues are likely to form part of the agenda for the new area boards. This is a more appropriate arena for such matters but work is being done to establish clarity between this and the statutory engagement of the NHS at the main committee.

Children’s Services Select Committee

21. It is intended that little will change here from the current WCC committee apart from taking the opportunity to move towards a more “select committee” style of scrutiny and greater use of task groups and rapid scrutiny exercises. Provision for co-opted voting member representatives from the church and parent governors will need to remain, although an opportunity arises to review the co-option of the current non-voting members if necessary.

Environment Select Committee

22. This is a new OS committee as far as WCC is concerned but would be familiar to many of the districts. Currently WCC highway, transportation and waste disposal matters are scrutinised by the Management Committee. The new council has directorates for transport, environment and leisure and for economic development, planning and housing. Particularly in the latter directorate, much is of a regulatory nature and therefore not subject to scrutiny. However this still leaves a number of very prominent frontline services such as waste collection, leisure and housing. By combining the current WCC activities and those from the districts mentioned above under a single main scrutiny select committee would make sense. It is recognised that these areas are likely to generate significant non-executive member interest especially in the early days of transformation and therefore could a single committee cope. The smart application of long and short term task groups and rapid scrutiny exercises should ease the burden and make for effective scrutiny.

Common Activities under the Main Committees

23. A number of these exist and are intended to provide the tools to allow scrutiny (and policy development) to be undertaken at the most efficient level. Although each of the committees will no doubt develop some unique approaches, it is expected that commonality will in some areas be beneficial. These are described below and should allow members to move seamlessly between the activities under each of the committees when required.

Major Contracts Review Task Groups

24. It is vitally important that contractors are held to account for the delivery of public services beyond the working relationship with the client department and responsible Cabinet member. This will be even more relevant for the new council with its wide-range of services, especially if transformation increases the number outsourced.
25. The annual review of major contracts is not best done at the level of a main committee. This is how it currently works in the County Council but it is recognised by leading members and the contractors themselves that much more could be achieved by way of partnership working if the performance information in the annual report and comments from client departments could be reviewed in a smaller dedicated setting. This would potentially allow for the opportunity to follow-up queries and receive feedback on mid-year innovation/activity where appropriate. The Executive member would be invited to engage in the scrutiny process prior to formally signing-off the outcome of the annual review in accordance with the Corporate Procurement Strategy. The task groups (and/or individual member appointed – see paragraph 31) would also be expected to be involved in the build-up to contract renewal.
26. These task groups would be established by each main OS select committee as major contracts exist in each of the services eg. facilities management,

waste disposal, waste collection, highways consultancy and works, residential care, leisure centres, ICT support and various PFIs.

Time-Limited Task Groups

27. This is a familiar approach used by many councils up and down the country. They are established by the relevant parent select committee with a clearly defined scope to review a single issue in a fixed time by a small number of members. They do not have the formality of a committee and therefore can feel a less intimidating arena in which to interview witnesses and engage with stakeholders. Often a more open and honest discussion ensues where the facts of the matter are identified early and attention focused on improvements. When done well these are extremely effective with recommendations more often than not accepted and implemented by the Executive, and consequently rewarding for those members involved.
28. They have been extensively used by JOSTB during the transition including some in a policy development role at the request of the Implementation Executive.

Rapid Scrutiny Exercises

29. As the term implies these are again an ad hoc arrangement designed to respond quickly to a particular need. They usually involve only 2, 3 or 4 members and start with the premise of needing just one meeting. It can be due to the lower profile nature of the topic where the main committee or a task group would be an over kill and not an efficient use of the resources available. However it can also be for the purposes of giving a "once-over" to an issue prior to an Executive decision including delegated cabinet member decisions. This can sometimes pre-empt the potential for call-in on contentious or sensitive matters. The ability this affords for OS to respond quickly to a pressurised Executive timetable is seen as something positive. The experience for both sides is generally therefore a much more constructive one.
30. This is not something particularly recognised by all the five councils but has been increasingly applied by JOSTB. The members who have experienced these exercises have been supportive of their value and keen to see it feature in the new arrangements.

Single-Member Interest

31. This is the lowest level of authorised engagement for members. The best examples are being appointed to procurement project boards for major contracts and being able to pursue the detailed implementation of scrutiny recommendations with senior officers. Reporting back by individual members is by exception and therefore is helpful in avoiding adding unnecessary items at main committee agendas.

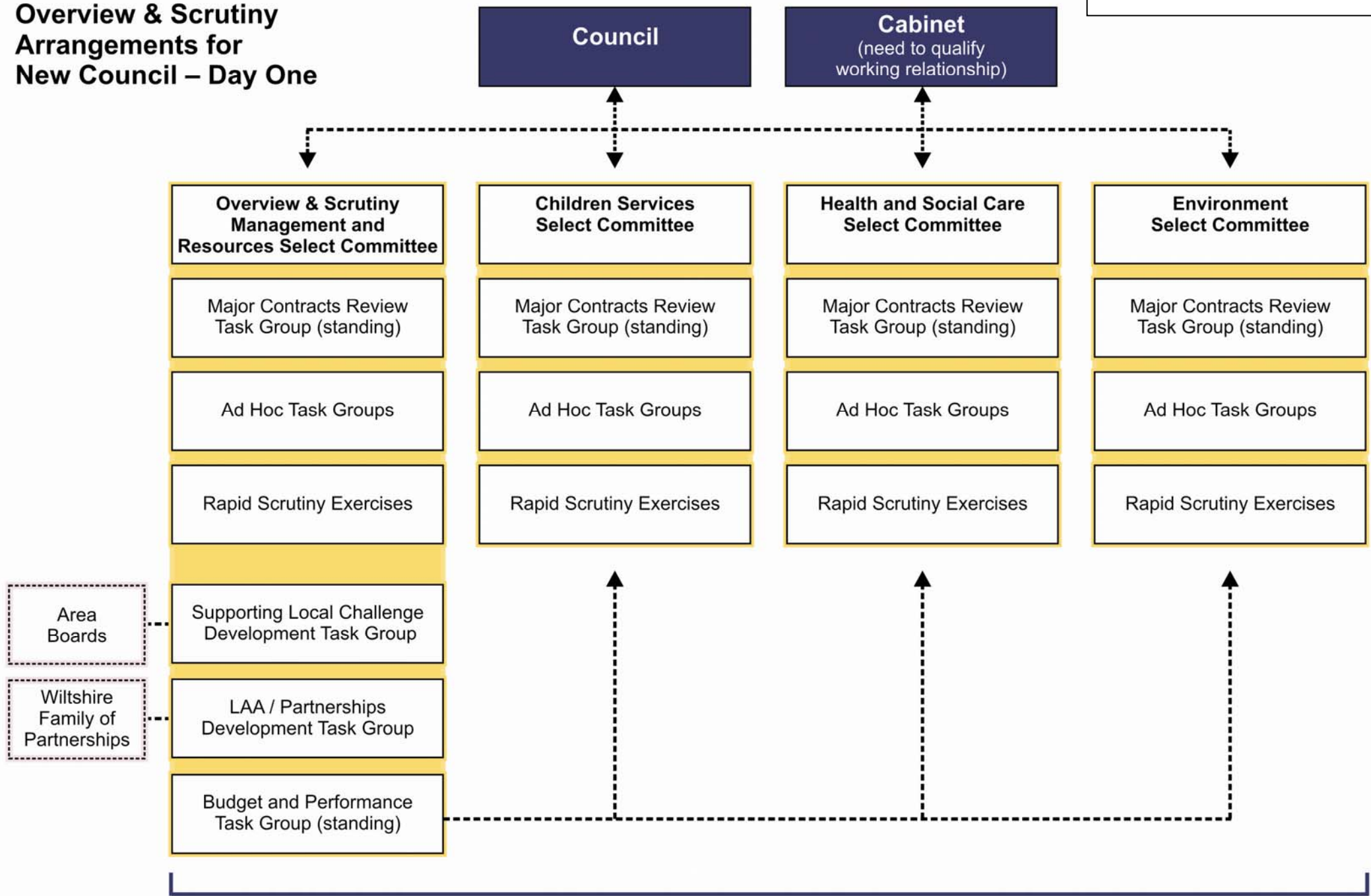
Conclusion

32. This commentary is very much based on a practical approach for day one which can be confidently recommended to the new council. It is based on what works well elsewhere including a review of the current arrangements of the

five existing councils in Wiltshire. It has been shared with the Chairman and Vice-Chairman of JOSTB prior to publication and has their support. Most of the proposals will look and feel familiar to members and senior officers, particularly those that have been involved in the joint transitional OS arrangements. It is matched against the resources available but needs to recognise the significant increase in elected members in the new authority and the demands this is likely to place on the team.

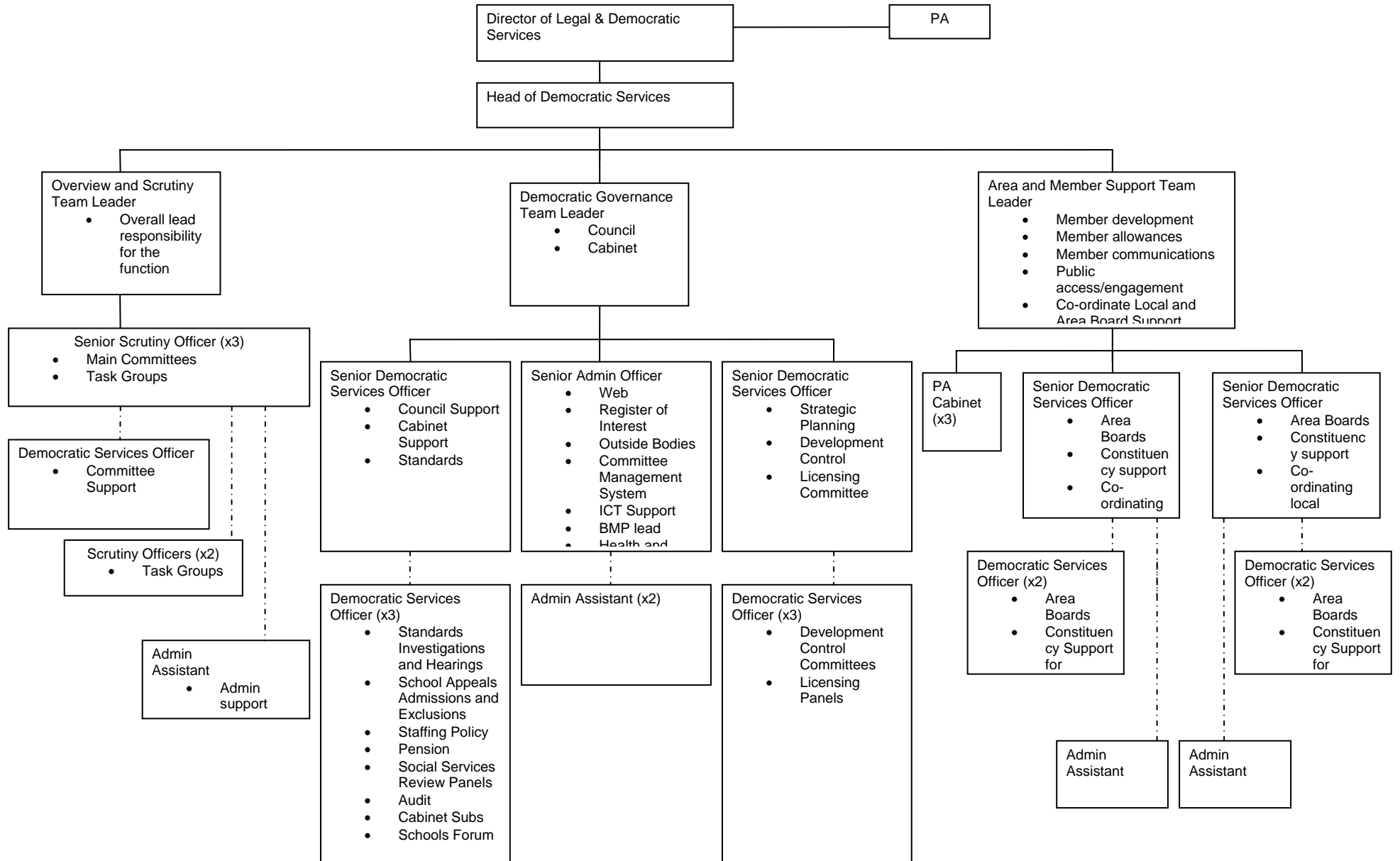
33. The Consultants report and proposed arrangements will be the subject of initial discussion at the JOSTB on 19 December and, subject to approval/revision will then be issued for consultation to all members of the five councils, IE, new corporate leadership team, scrutiny officer redesign team, and stakeholders for comment during January. The outcome of the consultation will be reported to the JOSTB at its meeting on 27 February 2009. A final report will then be produced for endorsement by the new council in June.
34. As we move towards April further work will be done to draw up terms of reference for the main committees and operational protocols. Links from OS have been made with preparing a new Wiltshire Constitution and the induction programme for new members after June.

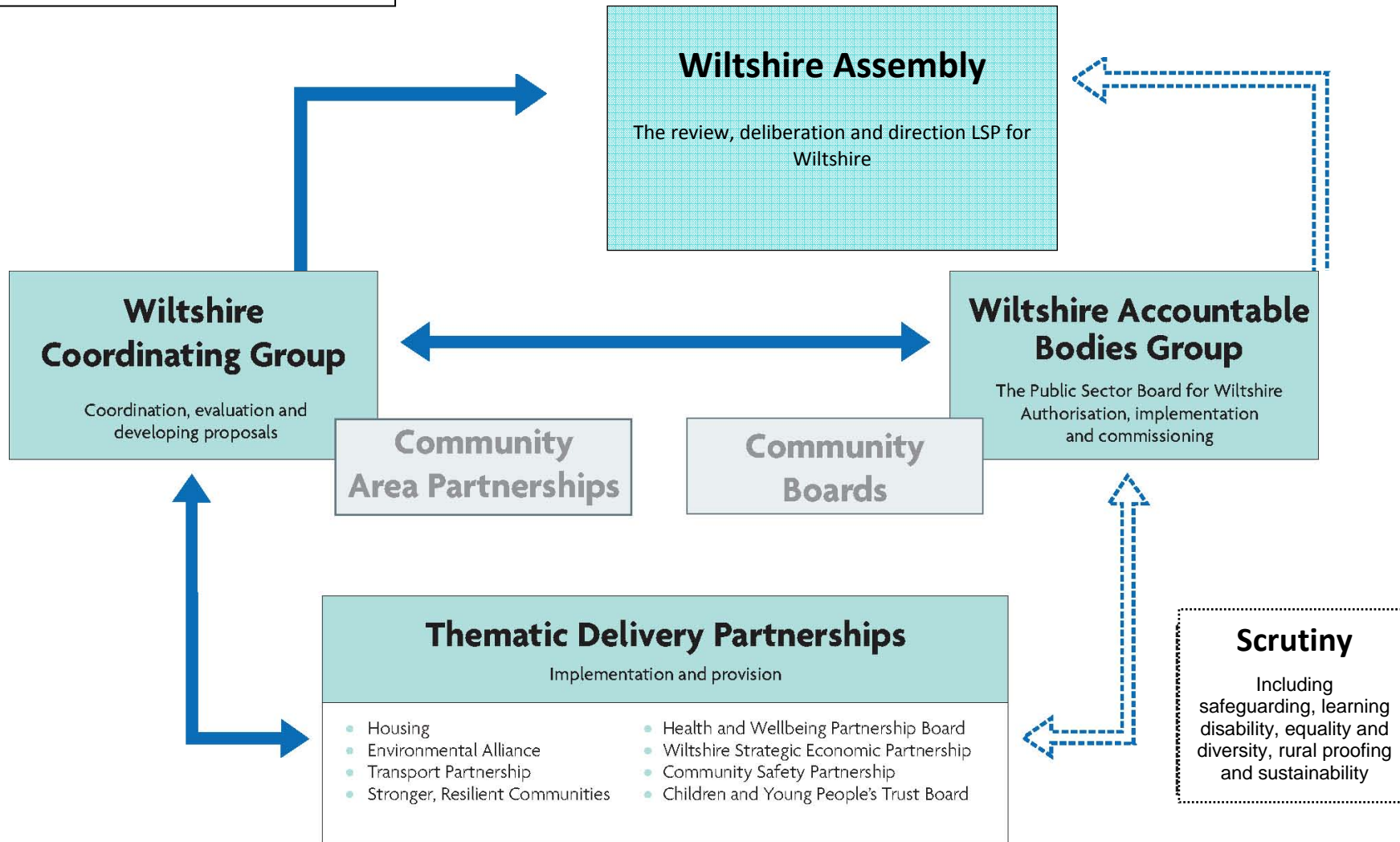
Overview & Scrutiny Arrangements for New Council – Day One



To include policy development / consultation – pre-Executive decision

WILTSHIRE COUNCIL – DEMOCRATIC & MEMBER SERVICES STRUCTURE





APPENDIX D

Role of Area Boards in providing Local Challenge, and their Relationship with the Overview and Scrutiny function of the Council.

A significant role for the Area Boards is to exercise local challenge of services delivered by the council, its partners and other agencies.

It does so by inviting the appropriate representatives to make submissions and be questioned at meetings of the Board with a view to achieving awareness, influence and improvements in services.

It will report its findings and recommendations to the appropriate body which, in the case of the Council, will be the relevant Executive Cabinet Member and Service Director. A formal response will be given to the Area Board within (28 days?) for further consideration.

If the Board remain dissatisfied then a referral to the relevant Overview and Scrutiny Committee of the Council is possible, setting out the action taken to date and the reasons, with evidence, for the decision to refer. It will be for the relevant Overview and Scrutiny Committee to decide what action, if any, to take and to report back as appropriate to the Area Board. The fact that an Area Board simply does not agree with the decision/response of a Cabinet Member and/or Service Director will not be acceptable grounds for referral.

Should the issue under Local Challenge be cross-cutting or have implications for the budget or policy framework of the Council, or contractual / agreement implications for the partner or agency then the matter can be referred early with the available evidence, to the relevant Overview and Scrutiny Committee to undertake a review. Again, it will be for the Committee to determine how to respond to the request and the level of action it intends to take.

Within the remit of Local Challenge will be the formal process of local petitions and calls for action by local councillors. These will, in the first instance, be received by the Area Board and a view taken which will accompany the petition or call for action during its formal consideration by the Council, and Overview and Scrutiny in the case of calls for action. The process for handling these formal mechanisms is set out in the constitution.