
**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL
SERVICES AND MONITORING OFFICER**

**SCRUTINY COMMITTEES SIZE AND MEMBERSHIP OF TASK
AND FINISH GROUPS**

Reason for this Report

1. To allow Members to consider recommended changes to the Constitution in relation to:
 - a) The size of Scrutiny Committees; and
 - b) Membership of Scrutiny Task and Finish Groups.

Background

2. Following a Review of Scrutiny in Cardiff carried out in 2016, in March 2017 the Constitution Committee considered and recommended various changes to the scrutiny structure, based on reducing the number of scrutiny committees from five to four. However, at the Annual Council meeting in May 2017, the Council resolved to retain the existing five committee scrutiny structure with its existing terms of reference for the municipal year 2017-18. The Council also agreed that each Scrutiny Committee should comprise of nine Elected Members; and that all non-Executive Elected Members should be encouraged to participate in Scrutiny (as Committee Members and / or as Members of Task and Finish groups), subject to the maximum number of Members on a Task and Finish group being nine. The Scrutiny Committees were established accordingly and Member nominations were invited from party groups, in accordance with the rules on political proportionality, and approved by Council.

Issues

Size of Scrutiny Committees

3. The Constitution provides that 'The Council will have the five Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Scrutiny Committees will have a membership determined by the Council' (Rule 1 of the Scrutiny Procedure Rules). The size of Scrutiny Committees is not specified in the Constitution.

4. As noted in paragraph 2 above, Annual Council in May 2017 agreed there should be five Scrutiny Committees with nine Elected Members each (and four Co-Opted Members on the Children and Young People Scrutiny Committee). However, there are currently vacancies on three out of the five Scrutiny Committees (1 vacancy on each of Community and Adult Services, Economy and Culture and Policy Review and Performance). The vacancies have been discussed at meetings with Party Group Whips and the Scrutiny Chairs Liaison Group meetings, but relevant Party Groups have been unable to put forward sufficient nominations. Seats have been offered to other Party Groups and the Independent Member, but the vacancies remain unfilled to date.
5. Members may wish to note that the matter of vacancies on Scrutiny Committees was raised in the Wales Audit Office Corporate Assessment Follow on Report (issued in February 2016). In response, the Council in July 2016 resolved that the size of Scrutiny Committees be reduced for the remainder of that municipal year from nine to eight Members, pending the outcome of the general review of scrutiny arrangements.
6. In view of the fact that the Council has been unable to fill all current Scrutiny Committee seats, it was suggested at the last meeting of Party Group Whips that the Constitution Committee should be asked to consider reducing the size of the Scrutiny Committees for the next municipal year (2018/19) by reducing the number of Elected Members to either seven or eight Members on each Committee. For the avoidance of any doubt, this report proposes changing the number of Elected Members only, but no changes in respect of provision for Co-Opted Members of the Children and Young People Scrutiny Committee (set out in Rule 3 of the Scrutiny Procedure Rules).
7. The Scrutiny Chairs have been informed of the proposal to reduce the size of Scrutiny Committees and invited to give their views. Feedback received is as follows:
 - *'Is it normally the ruling group which is unable to fill places? If so they could opt to populate the committees with fewer members. Scrutiny does not vote on issues normally. Why should other parties reduce numbers when able to fill places? Participation in scrutiny for opposition members is often the only way they can make a real contribution outside Council speeches.'*
 - *'I understand all the vacancies are with the Labour Group and personally I think discussions should be had with their whip to stress the importance of scrutiny and see if some of their Members can be encouraged to put themselves forward. If that fails, I would reluctantly support reducing the size of the Committees to 8 Members.'*

Any other feedback received from Scrutiny Chairs will be reported at the Committee meeting.

8. The Committee may wish to note that if the size of Scrutiny Committees is reduced to either seven or eight Elected Members, the proportional allocation of seats amongst the Party Groups (calculated in accordance with the rules on political proportionality set by sections 15 to 17 of the Local Government and Housing Act 1989 and regulations made thereunder), would be as shown in Table 1 below:

Table 1 – Allocation of Scrutiny Committee seats

	Total Number of Members	Labour	Conservatives	Lib Dem	Plaid
Chairs of Committees	5	3	1	1	-
Current position: NINE Elected Members on each Scrutiny Committee (x5)	45 Scrutiny seats in total	25 in total 5 seats per committee	13 in total 2 or 3 seats per committee	7 in total 1 or 2 seats per committee	<i>[1 seat allocated but declined]</i>
EIGHT Elected Members on each Scrutiny Committee (x5)	40 Scrutiny seats in total	22 in total 4 or 5 seats per committee	11 in total 2 or 3 seats per committee	6 in total 1 or 2 seats per committee	1 total
SEVEN Elected Members on each Scrutiny Committee (x5)	35 Scrutiny seats in total	20 in total 4 seats per committee	9 in total 1 or 2 seats per committee	5 in total 1 seat on each committee	1 total

9. In the interests of clarity and transparency, it is recommended that the agreed size of the Scrutiny Committees should be set out in the Constitution by amending Rule 1 of the Scrutiny Procedure Rules as shown in **Appendix A** to this report.

10. Members are also invited to consider amending the quorum rules if the size of the Scrutiny Committees is to be reduced. The current quorum requirement (set out in Rule 5 of the Scrutiny Procedure Rules) is one quarter of the number of Committee members (which is rounded up to the nearest whole number if necessary). This means that 3 Members are currently required for a Scrutiny Committee (of 9 Members) to be quorate. If the size of the Scrutiny Committees is reduced to 7 or 8 Members, then the current quorum rule would allow 2 Members to constitute a quorum. It is recommended that the quorum rule should be amended to require a minimum of 3 Members. This recommended amendment is included in the marked up version of the Rules attached as **Appendix A**.

Membership of Task and Finish Groups

11. The Council has previously agreed that all non-Executive Elected Members should be encouraged to participate in Scrutiny (as Committee members and / or as members of Task and Finish groups), subject to the maximum number of Members on a Task and Finish group being nine (as noted in paragraph 2 above.)
12. Scrutiny Officers have confirmed that non-Executive Elected Members (who are not Scrutiny Committee members) have participated in a number of recent Task and Finish Group inquiries, such as the Joint Children and Young People and Community and Adult Services Task and Finish Inquiry on Drugs; and the Children and Young People Task and Finish Inquiry on Out of County Placements.
13. Scrutiny Officers have also confirmed that, where appropriate, non-Councillors have been invited to participate in certain Task and Finish inquiries on account of their particular expertise. For example, a representative of the Welsh Local Government Association participated in the Policy Review and Performance Task and Finish Inquiry on Sickness Absence; and the Environment Scrutiny Committee Restore our Rivers Task and Finish Inquiry included representatives from the Cardiff Rivers Group; Dŵr Cymru / Welsh Water; Glamorgan Anglers; Keep Wales Tidy; Natural Resources Wales; and the South East Wales Rivers Trust.
14. The Constitution, Scrutiny Procedure Rules currently provide that:
‘Scrutiny Committees may appoint “Task and Finish” Sub Committees to be established for a fixed period, on the expiry of which they shall cease to exist. These will not exercise the formal powers associated with scrutiny (which are the preserve of the Committees), but can contribute to, or inform, the scrutiny process.’ (Rule 1). There is no provision regarding the size or membership of Task and Finish groups.
15. In the interests of clarity and transparency it is recommended that the agreed arrangements for membership of Task and Finish groups should be set out in the Constitution by amending Rules 1 and 2 of the Scrutiny Procedure Rules as shown in **Appendix A** to this report.

Legal Implications

16. The Local Government Act 2000 requires authorities to set up overview and scrutiny committees. The legislative provisions for overview and scrutiny committees for Wales have been amended and supplemented by the Local Government (Wales) Measure 2011 and Regulations made thereunder. In addition, other legislation imposes requirements regarding scrutiny of particular issues, for example, crime and disorder matters (the Police and Justice Act 2006); and Public Services Board functions (the

Wellbeing of Future Generations (Wales) Act 2015). Subject to compliance with the relevant statutory provisions, the size of its scrutiny committees is a matter for each Council to determine.

17. Scrutiny Committees are subject to the political balance rules set by sections 15 to 17 of the Local Government and Housing Act 1989 (“the 1989 Act”) and the Local Government (Committees and Political Groups) Regulations 1990 (“the 1990 Regulations”), designed to ensure that there is political balance on Committees. The potential effect of the proposed change in size of the Scrutiny Committees on the proportional allocation of Scrutiny Committee seats to each of the political groups represented on the Council is illustrated in Table 1 in the report.

18. Members will note that the proposed changes to the size of the scrutiny committees require the approval of full Council. If the Constitution Committee agrees the proposed changes, the Committee’s recommendations will be submitted to full Council in March 2018, so that any approved changes can take effect for the 2018/19 municipal year starting at Annual Council in May 2018.

19. Task and Finish groups may be set up by a Scrutiny Committee to carry out a detailed examination of particular topics and report back to the Committee. They are not authorised to exercise any formal scrutiny powers, which remain the responsibility of the Committee. There are no specific legal constraints on the size or membership of Task and Finish groups. However, a workable limit on the number of members and setting out the agreed membership arrangements in the Constitution (Scrutiny Procedure Rules) supports good governance.

20. The Constitution Committee is authorised to review the Constitution and recommend any changes to full Council for approval. The recommended changes to the Scrutiny Procedure Rules will require the approval of full Council.

Financial Implications

21. There are no financial implications arising from the report

RECOMMENDATIONS

The Committee is recommended to:

1. Consider recommending to full Council a reduction in the size of each of the Council’s 5 Scrutiny Committees for the 2018/19 municipal year by

reducing the number of elected Members to either 7 or 8, as the Committee considers appropriate; and

2. Recommend to Council that Rules 1 and 2 of the Scrutiny Procedure Rules be amended, with effect from Annual Council in May 2018, as shown in **Appendix A** to:
 - a) Set out the agreed size of each of the 5 Scrutiny Committees, as agreed under recommendation 1;
 - b) Amend the quorum rules, if the size of Scrutiny Committees is recommended to be reduced under recommendation 1, to require a minimum of 3 Members for a Scrutiny Committee meeting to be quorate;
 - c) Confirm that the membership of Task and Finish groups may include any non-Executive Elected Members, subject to a maximum of nine Members on each Task and Finish group; and
 - d) Confirm that non-Councillors may be invited to participate in Task and Finish inquiries as expert advisors to a Task and Finish group.

DAVINA FIORE
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20th February 2018

APPENDICES

Appendix A Scrutiny Procedure Rules – draft showing proposed amendments

Background papers

Council report 'The Establishment of Scrutiny Committees for 2017/18' May 2017

Constitution Committee report 'Review of Scrutiny Committee Structure', March 2017

Council report 'Variation to the Size of, and Allocation of Seats on, Scrutiny Committees', July 2016