



**County Council  
Tuesday, 13 July 2021**

**ADDITIONAL PAPERS  
REVIEW OF SCRUTINY ARRANGEMENTS**

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**Division(s): N/A**

**COUNCIL – 13 JULY 2021**

## **REVIEW OF SCRUTINY ARRANGEMENTS**

Report by Director of Law & Governance

### **RECOMMENDATION**

**Council is RECOMMENDED to:**

- (a) approve the draft terms of reference (at Annex 1) and the allocated subject areas (at Annex 2) for three new overview and scrutiny committees, namely:
  - (i) Place**
  - (ii) People**
  - (iii) Performance and Corporate Services****
- (b) agree that these committees be appointed to replace the current overview and scrutiny committees (Education and Performance), effective from September 2021;**
- (c) make appointments to the three committees based on political proportionality as set out in paragraph 9 and at Annex 3 (to follow);**
- (d) request the Director of Law & Governance and Monitoring Officer to amend the Constitution to reflect these changes;**
- (e) authorise the Director of Law & Governance and Monitoring Officer to determine and confirm the dates of meeting for the three committees for the remainder of the 2021/22 Council Year.**

### **Executive Summary**

1. At the Annual Meeting, Council re-appointed the Education and Performance Overview and Scrutiny Committees that had existed under the previous administration. This enabled the work of these committees to continue pending a review of scrutiny arrangements.
2. It is now proposed that these committees be replaced with a broader set of overview and scrutiny committees. This is to enable a greater range and depth of scrutiny activity inclusive of a wider range of members of the Council.
3. Annex 1 provides common terms of reference, to give clarity to the scope and purpose of scrutiny within the Council. Annex 2 provides an overview of the service areas these committees would scrutinise.
4. If the proposal to appoint the committees on these terms is approved, Council is invited to appoint members to the committees under the political proportionality rules set out at paragraph 9 and in the separate annex (Annex 3).

### **Three new overview and scrutiny committees**

5. It is proposed that three new overview and scrutiny committees would replace the two existing council scrutiny committees. This affords greater opportunity to review services on a thematic basis with regards to cross-cutting but defined areas of *Place, People* and *Performance and Corporate Services*. Increasing the scrutiny arrangements by one committee will not incur significant cost and will enable a wider range and depth of scrutiny activity than is possible at present. It is timely to do this, to maximise the involvement of newly elected members.
6. Annex 1 provides a common set of terms of reference which would form a revision to Part 6.2 of the Constitution; that is, the Council's Overview and Scrutiny Procedure Rules. Annex 2 complements this by setting out the proposed service-area responsibilities of the proposed committees under a revised Article 7 of the Constitution.
7. The new overview and scrutiny arrangements would also contain three new elements:
  - i. A membership of 9 elected members per committee
  - ii. Call-in of executive (key) decisions would no longer fall only to one committee (the Performance Overview and Scrutiny Committee) but to each committee having regard to its own terms of reference and service scope
  - iii. Chairs of these committees would be expected to come from the Council's Opposition Group (the Conservative-Independent Alliance Group). NB At present this is only true for the Performance Overview and Scrutiny Committee.
8. It is not suggested that any changes be made to the existing arrangements for the two joint scrutiny committees; that is, the Joint Health Overview and Scrutiny Committee and the Horton Health Overview and Scrutiny Committee.

### **Dates and Development**

9. The Director of Law and Governance and Monitoring Officer will finalise, in consultation with Political Group Leaders, the most appropriate dates of meeting for the committees for the remainder of the administrative year.
10. The Council is also taking the timely opportunity, with the Centre for Governance and Scrutiny, to provide support to scrutiny committees for the development of the overview and scrutiny function including enhancing scrutiny skills, so that committees can maximise their effectiveness.

### **Appointments to the Committees**

11. If the scrutiny committees are established, Council is invited to make appointments to them on the basis of the political proportionality rules. Given a membership of nine elected members, this means that the appointments to be

nominated by the Council’s political groups, in proportion to their number of seats on the Council, equate to:

Overview and Scrutiny Committee	Liberal Democrat/Green Alliance Group	Conservative-Independent Alliance Group	Labour and Co-operative Party Group	Unallocated
People	3	3	2	1
Place	3	3	2	1
Performance	3	3	2	1

- The requirement to apply political proportionality to these committees does not trigger a requirement to review the balance of the whole membership at this time under the relevant Regulations.

### **Legal and Financial Implications**

- Council can appoint, or rescind the appointment of, committees, including scrutiny committees. It is not considered that the addition of one additional scrutiny committee would add any significant extra cost to the council.

**ANITA BRADLEY**

Director of Law & Governance

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July 2021

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## Annex 1 - Terms of Reference

### Overview and Scrutiny Committees – Procedure Rules

These Procedure Rules apply to each of the Council's own Overview and Scrutiny Committees:

- Place
- People
- Performance and Corporate Services

The remit of each committee is set out in Article 7.

#### (1) Procedure Rules

Except where set out below the convening and conduct of meetings will be in accordance with the Council Procedure Rules approved by the Council.

#### (2) Membership of Scrutiny Committees

The Council's Overview and Scrutiny Committees will have a membership of 9 County Councillors. All councillors except members of the Cabinet may be members of a Scrutiny Committee. However, no member may be involved in scrutinising a decision in which s/he has been directly involved.

#### (3) Co-opted Members

The Council may appoint co-opted members to serve on a Scrutiny Committee.

The **People Overview and Scrutiny Committee** responsible for scrutinising education functions will include in its membership certain voting representatives who will only be entitled to vote on matters relating specifically to education, as outlined in Article 7 of the Constitution.

#### (4) The Work of the Committees

Within their specific terms (in Article 7), each scrutiny committee may:

- (i) establish their own working groups in order to explore issues further;
- (ii) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (iii) consider any matter affecting the area or its inhabitants;

- (iv) make reports and/or recommendations to the Council and/or the Cabinet in connection with the discharge of any functions;
- (v) conduct, as appropriate, any research, community or other consultation in the analysis of policy issues and possible options;
- (vi) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (vii) question members of the Cabinet, ordinary committees and officers about their views on issues and proposals affecting Oxfordshire or about their decisions;
- (viii) report annually to full Council on their work and make recommendations for future work programmes as appropriate.

## **(5) Review Panels**

Scrutiny Committees may appoint such Review Panels as they may determine to undertake specified reviews. Appointments to such Review Panels will be made by the relevant scrutiny committee, ensuring political balance as far as possible. Such panels will exist for a fixed period, on the expiry of which they shall cease to exist.

## **(6) Work Programme**

The Scrutiny Committees will be responsible for setting their own work programme and in doing so they will take into account the views of the co-opted members.

## **(7) Co-ordination of Scrutiny Committees**

Where matters fall within the remit of more than one Scrutiny Committee or Review Panel the Chairs of the relevant Scrutiny Committees shall determine which of them will assume responsibility for any particular issue

Where there is doubt about which is the relevant Scrutiny Committee to receive requests from the Cabinet and/or the Council for reports, the Chairs of the Scrutiny Committees shall allocate such requests to one or more of the Scrutiny Committees.

## **(8) Meetings of the Scrutiny Committees**

- (a) Each Scrutiny Committee will meet four times a year. In addition, other meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the Chair of the Committee following consultation with the Deputy Chair, by any 5 members of the committee or by the Proper Officer if s/he considers it necessary or appropriate.



- (a) The **Place Overview and Scrutiny** Committee shall meet at least once in every twelve month period as the 'Crime and Disorder Committee' to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions<sup>1</sup>.

## **(9) Chairs and Deputy Chairs**

The positions of Chair and Deputy Chairs of the Scrutiny Committees will be drawn from among the councillor members sitting on the respective committees. A Committee will normally appoint to these positions on an annual basis. The Chair will be from the Opposition Group. Scrutiny Review Panels will appoint one of their members as Chair for the life of the Panel.

## **(10) Quorum**

The quorum for a Scrutiny Committee will be one quarter of the whole number of voting members, of whom a majority are members of the Council). During any meeting, if the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

## **(11) Agenda Items**

- (a) Any member of a Scrutiny Committee shall be entitled to give notice to the Proper Officer that s/he wishes an item relevant to the functions of the Committee to be included on the agenda for that Committee.
- (b) Any member of the Council shall be entitled to give notice, under the Procedure for a Councillor Call for Action set out in Annex 1 to the Protocol on Members' Rights and Responsibilities, to the Proper Officer that s/he wishes an item concerning her/his Electoral Division and which is relevant to the functions of the Committee to be included on the agenda for that Committee. If the Proper Officer receives the request at least 15 working days before a scheduled meeting of that Committee s/he will include it on the agenda for that meeting; otherwise it will be placed on the agenda for the following meeting of that Committee. The member shall have a right to speak at the meeting during consideration of that item.
- (c) The leader of any political group on the Council may request the Chair and Deputy Chair of a Scrutiny Committee to include an item relevant to the functions of the Committee on the agenda of that Committee. If the Chair and Deputy Chair so agree, they shall request the proper officer to include such item on the agenda of that Committee.

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<sup>1</sup> Regulation 4 of the Crime and Disorder (Overview and Scrutiny) Regulations 2009

- (d) Any 10 members of the Council who are not members of the Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of the relevant Scrutiny Committee.
- (e) The Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Cabinet and/or the Council to review particular areas of Council activity. Where they do so, the Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Cabinet and/or the Council shall consider the report of the Scrutiny Committee within two months of receiving it.
- (f) In relation to (a), (c) and (d) above the Proper Officer shall include an item on an agenda for a Scrutiny Committee provided that:
  - (i) notice of the request is received by the Proper Officer by 2.00 p.m. on the tenth working day before the meeting of a committee;
  - (ii) the subject matter of any such notified item is relevant to the powers/functions of the committee; and
  - (iii) the item will normally be for oral report unless 20 working days' prior notice is given to enable a report to be prepared.

The individual member(s) shall be invited to attend and speak at the meeting during consideration by the committee or sub-committee of that item.

## **(12) Policy Review and Development**

- (a) The role of the Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its budget and policy framework, the Scrutiny Committees may make proposals to the Cabinet for developments insofar as they relate to matters within their terms of reference.
- (c) Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

### **(13) Reports from Scrutiny Committees**

- (a) Once a Scrutiny Committee has completed its deliberations on any matter a formal report may be prepared on behalf of the Committee and when agreed by them the Proper Officer will normally refer it to the Cabinet for consideration. Where the report concerns functions which are the responsibility of the Council or where the recommendations of the report have significant implications for the Council's budget and policy framework, the report will be referred to the Council. Where any report of a Scrutiny Committee relates to a Councillor Call for Action a copy of the report will also be provided to the relevant member.
- (b) Where the Proper Officer refers the Scrutiny Committee's report to the Cabinet, it will be included on the agenda of the Cabinet as soon as practicable and normally within a period of 6 weeks from the date the report was adopted by the Scrutiny Committee. If for any reason the Cabinet does not consider the Scrutiny Committee's report within 12 weeks then the matter will be referred to Council for review.
- (c) Where in (a) above, the Proper Officer refers a Scrutiny Committee's report to the Council, s/he will also give a copy to the Leader of the Council with notice that the matter is to be referred to Council. The Cabinet will have 6 weeks in which to respond to a Scrutiny Committee's report, and the Council shall not consider it within that period.
- (d) When the Council considers any referral from a Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall at the same time also consider the response of the Cabinet to the Scrutiny Committee's proposals.
- (e) If a Scrutiny Committee cannot agree on one single final report to the Cabinet or the Council as appropriate, then one minority report may be prepared and submitted for consideration by the Cabinet or the Council with the majority report.
- (f) Where Cabinet considers a report of a Scrutiny Committee the Proper Officer will include Cabinet's response on an appropriate agenda of the Scrutiny Committee.

### **(14) Rights of Scrutiny Committee Members to Information**

Nothing in any specific rights of members of Scrutiny Committees to documents or to notices of meetings, whether set out in the Access to Information Procedure Rules of the Constitution or otherwise, shall prevent more detailed information being sought by a Scrutiny Committee and provided by the Cabinet as appropriate depending on the particular matter under consideration.

## **(15) Provision of information by relevant partner authorities**

A relevant partner authority<sup>2</sup> shall provide to the relevant Scrutiny Committee such information as that committee may reasonably require in order to discharge its functions, being information which:

- (a) has been requested in writing, and
- (b) relates to a local improvement target which:
  - (i) relates to the relevant partner authority, and
  - (ii) is specified in the local area agreement for Oxfordshire.

## **(16) Members and Officers Giving Account**

- (a) Any Scrutiny Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council or executive functions. As well as reviewing documentation in fulfilling the scrutiny role, it may require the Leader of the Council or any other Cabinet Member, the Chief Executive and/or any senior officer to attend before it to explain in relation to matters within its remit:
  - (i) any particular decision or series of decisions;
  - (ii) the extent to which the actions taken implement Council policy; and/or
  - (iii) their performance;

and it is the duty of those persons to attend if so required.

- (b) Where any member or officer is required to attend a Scrutiny Committee under this provision, the Chair of that Committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 10 working days' notice of the meeting at which s/he is required to attend. The notice will state the nature of the item on which s/he is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Proper Officer shall in consultation with the member or officer arrange an alternative date for attendance.

## **(17) Attendance By Others**

- (a) The **Place Overview and Scrutiny Committee** (acting as the 'Crime and Disorder Committee') may require the attendance before it of an officer or employee of a responsible authority or of a co-operating person

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<sup>2</sup> See Annex 1 to Council Procedure Rules at Part 3.1 for full list.

or body in order to answer questions, but only if reasonable notice of the intended date of attendance has been given to that person.<sup>3</sup>

- (b) In addition to the powers set out in (a) above, a Scrutiny Committee may invite people other than those people referred to above to address it, discuss issues of local concern and/or answer questions. The Chair of the Committee shall decide the appropriate form of participation as relevant to the issues under consideration and the individual circumstances prevailing.

## **(18) Public Access to Meetings of Scrutiny Committees**

Apart from the attendance rights on the part of members of the public under the Council's Access to Information Rules, the provisions of the Council Procedure Rules enabling members of the public to present petitions at meetings and to request the opportunity to address meetings on items on the agenda shall apply to meetings of the Scrutiny Committees.

## **(19) Call In**

- (a) When a decision is made by the Cabinet or by an individual member or by a committee of the Cabinet, or a key decision is made by an officer acting under delegated authority, the decision shall be published by the Proper Officer in the form of a decisions list by the end of the next working day and circulated to all Councillors, and in the case of education functions to the co-opted members on the People Overview and Scrutiny Committee.
- (b) That list will bear the date on which it is published and will specify that the decision will come into force, and take effect at 5pm on the fifth working day (4pm on the fifth working day if that day is a Friday) following such publication of the decision.
- (c) During that period, the Proper Officer shall call in a decision for scrutiny by the appropriate Scrutiny Committee:-
  - (i) if s/he receives a joint request from the Chair and Deputy Chair of the relevant Scrutiny Committee; or
  - (ii) if requested to do so by 5 members of a Scrutiny Committee (whether members of the Council or co-opted non-councillor education voting members of the People Overview and Scrutiny Committee); or
  - (iii) if requested to do so by any 10 members of the Council, whether or not they are members of the relevant Scrutiny Committee.

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<sup>3</sup> [The Crime and Disorder \(Overview and Scrutiny\) Regulations 2009](#)

In all cases, when a request for a call in of a decision is made, this must be accompanied by reasons for the request.

When the Proper Officer receives a request in accordance with (c) above, s/he shall then notify the decision maker of the call in. S/he shall then call a meeting of the appropriate Scrutiny Committee on such date as he/she may determine, where possible after consultation with the Chair and Deputy Chair of that Committee. Subject to the statutory requirements for the calling of meetings, the Scrutiny Committee should normally meet within 15 working days of the request being received by the Proper Officer to consider the issue.

- (d) If, having considered the decision, the Scrutiny Committee has material concerns about it, then the Scrutiny Committee may refer it back to the decision making body or officer for reconsideration, setting out in writing the nature of its concerns, or refer the matter to full Council. The views of the Scrutiny Committee will be considered by the decision maker (in the case of recommendations from scrutiny committees following call-in of a decision made by an individual member of the Cabinet these recommendations shall be considered by the Cabinet) or the Council as appropriate within a further 15 working days, and the decision will then be amended or otherwise and take immediate effect. If following a request for a call in made under Rule (17)(c) the Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making body or officer, the decision shall take effect on the date of the Scrutiny Committee meeting, or the expiry of the 30 working day period commencing with the date on which the request was received by the Proper Officer, whichever is the earlier.
- (e) If the matter was referred to the Council and the Council does not object to a decision which has been made, then no further action will be taken and the decision will be effective in accordance with the provision in (h) below. However, if the Council does object then, unless that decision is contrary to the budget and policy framework, the Council will refer that decision together with its views on it back to the decision maker. The Council's views on the decision will be considered by the decision maker within a further 15 working days, and the decision will then be amended or otherwise and take immediate effect.
- (f) If the Council does not meet, or if it does but does not refer the decision back to the decision maker, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- (g) The Cabinet Member(s) with responsibility for the subject matter of a request for a call in and the Chair and Deputy Chair of the relevant scrutiny committee may together agree variations of any or all the time limits in Rule (17)(d), (e), (f) and (g), to allow consideration of the call-in at the next ordinary meeting of the committee if they are satisfied that

the matter is not so urgent as to require compliance with those time limits.

- (h) The foregoing provisions of this Rule shall not apply to any decision of the Cabinet where either:
  - (i) the Scrutiny Committee has already made observations to the Cabinet on the basis of substantially the same report and/or other information or advice as that on which the Cabinet's decision is based and the Cabinet has had regard to those observations in taking the decision; or
  - (ii) the decision is taken by the Cabinet after taking account of any recommendations or other comments by the Scrutiny Committee following a call in of a decision taken previously by the Cabinet.

## **(20) Call In and Urgency**

- (a) The call in procedure set out above shall not apply where the decision being taken by the Cabinet, Officer or other decision maker is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision maker, the decision is an urgent one, and therefore not subject to call in. The Chair of the Council must agree that in all the circumstances the decision should be treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's agreement shall be required. In the absence of both, the Proper Officer's agreement shall be required. Decisions taken as a matter of urgency must be reported to the next meeting of the Council, together with the reasons for urgency.
- (b) The requirement contained in the foregoing provision of this Rule to obtain the agreement of the Chair, Vice-Chair or Proper Officer shall not apply to any decision on the letting of a contract arising from termination of an existing contract if the time available is such that allowing for call-in would result in service discontinuity, provided that all members of the relevant Scrutiny Committee have been informed of the circumstances of the decision to be made and have had an opportunity to make representations to the decision maker about it.
- (c) The operation of the provisions relating to call in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

## **(21) The Party Whip**

To enable the Scrutiny Committees to hold decision makers to account effectively, the party whip shall not be applied to the business of the committees.

## **(22) Procedure at Scrutiny Committee Meetings**

- (a) Scrutiny Committees shall consider the following business:
  - (i) election of a person to preside if the Chair and Deputy Chair are not present;
  - (ii) approval of the minutes of the last meeting and receipt for information of any matters arising therefrom;
  - (iii) apologies for absence and temporary appointments;
  - (iv) declarations of interest;
  - (v) consideration of any matter referred to the Committee by way of a call in of a decision;
  - (vi) consideration of any Councillor Call for Action;
  - (vii) responses of the Cabinet to reports of the Scrutiny Committee; and
  - (viii) the business otherwise set out on the agenda for the meeting.
  
- (b) Where a Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at committee meetings which are to be conducted in accordance with the following principles:
  - (i) that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - (ii) that those assisting the committee by giving evidence be treated with respect and courtesy; and
  - (iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
  
- (c) Following any investigation or review, the relevant Scrutiny Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public. Where any investigation or review is conducted by a Review Panel, that Panel will refer its findings to the relevant Scrutiny Committee who shall consider those and if they consider it appropriate prepare a report for submission to the Cabinet and/or Council as appropriate and shall make the report and findings public.



## Annex 2

# Scrutiny Committees

### 1. Appointment of Scrutiny Committees

The Council will appoint three scrutiny committees as set out below. The three scrutiny committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules at Part 6.2 of the Constitution.

The Council's Scrutiny Committees will each meet 4 times a year. The Chair of the meetings will be chosen from the Opposition Group.

### 2. The Scrutiny Committees

Committee	Scope
Place	Climate change, transport, highways, planning and place-based services. Including the delivery of regulatory services, fire and rescue, community safety and community services such as libraries. NB This Committee will act as the Council's 'Crime and Disorder Committee'.
People	All services and preventative activities/initiatives relating to children, young people, education, families and older people. Enables the council to scrutinise its statutory functions relation to children, adult social care and safeguarding. Includes public health matters where they are not covered by the Joint Health Overview and Scrutiny Committee. This committee will also consider matters relating to care leavers and the transition between children's and adult services.
Performance and Corporate Services	All corporate services and budget scrutiny, including customer services, property, assets, procurement, finance, corporate policy matters such as consultation and public engagement; takes a lead role in scrutiny of the budget and corporate plan.

### 3. People Overview and Scrutiny Committee – co-opted members

- (a) In addition to councillors, the People Overview and Scrutiny Committee shall include in its membership the following voting representatives:
- (i) one Church of England representative appointed by the Oxford Diocesan Board of Education;
  - (ii) one Roman Catholic representative appointed jointly by the Archbishop of Birmingham and the Bishop of Portsmouth to represent the Roman Catholic Church;

- (iii) two persons who shall be parent governors of maintained schools elected in accordance with a procedure approved by the Council.
- (b) These co-opted members are only able to exercise their vote when the Scrutiny Committee is dealing with education functions which are the responsibility of the Council or the Cabinet. When the Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak. Co-opted members shall be able to exercise their vote on questions relating to the work programme including how such work is to be conducted.