



**Melton
Borough
Council**

Executive/Scrutiny Protocol

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Version No:	1.1
Date:	17 December 2020 (Amendments 21 October 2021)

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1. Introduction

Scrutiny is a key element of Cabinet model of decision making. It is imperative therefore that Scrutiny Members, Cabinet Members and Officers understand the function of the Committee and that a collaborative approach is taken to ensure that Scrutiny can fulfil its functions as set out in the constitution in a positive and proactive way.

This protocol has been agreed between Scrutiny and Cabinet members and sets out to establish a joint approach to the function of the Scrutiny Committee in relation to the decision-making structure of the Council.

The protocol applies to all members of the Scrutiny Committee, all members of the Cabinet and to officers who support the Cabinet and Scrutiny function.

2. Executive – Leader and Cabinet

The role of the Cabinet, comprising the Leader and between 2 and 9 Councillors (one of which must be appointed as Deputy Leader) appointed by the Leader is to provide strategic leadership to the Authority and to discharge Cabinet functions.

Cabinet functions are any decisions relating to Council services which have not been reserved to Council or delegated to another Committee. Functions of the Council are contained in Chapter 2 Part 1 of the Constitution.

Cabinet functions include “Local Choice functions”, functions which the Council can choose whether they are carried out by Council or the Cabinet. These are included in the Functions of the Cabinet, in Chapter 2, Part 2 of the Constitution.

3. Scrutiny Committee

Scrutiny Committees are not decision-making bodies, but their influence and challenge are vital to effective decision making. The Scrutiny Committee can scrutinise, and review decisions made, or actions taken in connection with the discharge of any Council functions.

The Scrutiny Committee can only consider matters within the functions shown below.

Functions of the Scrutiny Committee

Chapter 2, Part 10 (Scrutiny Committee Functions and Procedure Rules) of the Council’s Constitution, sets out the relevant functions of the Scrutiny Committee:

- To review and scrutinise decisions made, or other action taken, in connection with the discharge of any function.
- To make reports or recommendations to Council or the Cabinet as appropriate with respect to the discharge of any function’
- To recommend that a decision made but not yet implemented, be reconsidered by the Cabinet through the Call-In Procedure. (See paragraph 7)
- To fulfil all the functions of the Council’s designated Crime and Disorder Committee under the Police and Justice Act 2006.

- To fulfil all the functions conferred on it by virtue of regulations under the National Health Service Act 2006 (local authority scrutiny of health matters).

4. Objectives

The key purpose of the Protocol is to clarify the relationship between the Cabinet and the Scrutiny Committee; to encourage effective communication between the two; and as such to enable and enhance the Scrutiny function in delivering positive outcomes in line with its objectives:

- To enable Scrutiny Members, Officers and Cabinet Members to fully understand their powers, roles and responsibilities in relation to the Scrutiny function, so as to maximise the effectiveness of the Council's decision-making structure.
- To establish a positive framework to enable Scrutiny to be proactive, evidence-based and outcomes focused.
- To promote a culture in which there is mutual respect, trust and courtesy between Scrutiny Members and Cabinet Members. Where Scrutiny and Cabinet can work together, where there is regular dialogue and where each has the opportunity to listen and be listened to.
- To foster a climate of openness where information is provided in a timely and accurate manner to allow Scrutiny to carry out its duties.
- To highlight the importance of engaging with Scrutiny at an early opportunity in the decision-making process.
- To recognise the value of Scrutiny in providing the voice of the community through:
 - the regular review of its performance and customer feedback, including corporate complaints.
 - as consultee; and
 - using its inquisitorial skills to review areas of weakness in service delivery.

5. Holding the Cabinet to Account

One of the underpinning principles of Scrutiny is the ability of non-Cabinet Members to hold the Cabinet to account including:

- The power to review or scrutinise decisions made, or other actions taken, in connection with the discharge of Cabinet or Council functions and report to the appropriate decision-making body with its findings and/or recommendations.
- The power to assist the Council and the Cabinet in the development of the policy framework and budget, subject to the limitations set out in the Budget and Policy Framework Procedure Rules.
- The power to require Members of the Cabinet to attend before it to answer questions.
- The power to request Chief Officers to attend and provide reports to the Committee on items agreed as part of the work programme.
- The power to hold enquiries and investigate the available options for future direction in policy development, matters of public concern and any other issues within their Functions through small scale reviews or in-depth task and finish groups; and
- The power to recommend that a decision made but not yet implemented, be reconsidered by the Cabinet through the Call-in Procedure.

The Cabinet will be required to consider any recommendations or views expressed by the Scrutiny Committee and to take such action it sees fit. Where any decision taken by the Cabinet is not in accordance with comments provided by the Committee, the relevant Cabinet Member should be prepared to provide an explanation of the reasons for that decision to the Scrutiny Committee.

6. Portfolio Holder – Annual Presentation

Chapter 2, Part 10 of the Constitution includes:

“Portfolio Holders shall attend Scrutiny Committee on an annual basis to report on their portfolio's budget and performance.”

At the date identified in the Scrutiny Work Programme the Portfolio Holder will make an annual presentation to Scrutiny Committee. Prior to that meeting the Scrutiny Chairman will identify general themes (in consultation with the Committee) in relation to budget and performance for the relevant Portfolio areas of responsibility. The general themes will be provided to the Portfolio Holder in advance of the scheduled meeting to allow a report to be provided and dispatched with the agenda. The Portfolio Holder shall present the report at the meeting (accompanied by a visual presentation if required).

Scrutiny members may submit questions (through the Chair) to the Portfolio Holder in advance of the meeting to receive answers to their questions at the meeting, answers to be in writing if requested. The questions must be relevant and appropriate and should be in relation to the general themes within the Portfolio Holder report where possible. Questions and answers will be published with the minutes of the meeting.

The PH presentation should take no longer than 15 minutes* and will be followed by Scrutiny Committee questions and comments.

*Not applicable for special meetings in relation to the Budget/Crime and Disorder etc.

7. Call-In of Cabinet Decisions

Call-in is the exercise of the Scrutiny Committee's statutory power in section 21(3) of the Local Government Act 2000, to review a Cabinet decision that has been made but not yet implemented.

The procedures for Call-in of decisions are contained in Chapter 3, Part 2 of the Constitution and include the following provisions:

- Once made, Cabinet decisions must be published by the Democratic Services Team within two working days of the meeting. Three clear working days are given before the decision can be implemented, in which time the Call-in must be made.
- The call-in request must be on a completed call-in request form and include the names and signatures of six members excluding Cabinet Members, the decision-making principles it is believed have been breached and also the reasons for this.

The Scrutiny Committee cannot overturn the decision that has been called in. It may either concur with the decision (in which case it will take immediate effect) or refer it

back to the decision-maker for further consideration, including any recommendations from Scrutiny Members.

It remains the aim of the Council that call-ins should only be used as a last resort for resolution, and that other less-confrontational means should always be pursued prior to this option.

8. Access to Information and Information Sharing

In addition to the individual rights of Members, Scrutiny Members have rights to see documents relating to any business that has been transacted at a public or private meeting of the Cabinet or its Committees, and any decision taken by an individual Member of the Cabinet or by an Officer in accordance with Executive arrangements. Requests for such documents should come through the Scrutiny Chairman.

It is expected that when the Scrutiny Committee makes a formal request for information through the Scrutiny Chairman, it be delivered in a timely manner within seven working days of the request (where possible) to the Scrutiny Officer or Democratic Services, to be shared with the Committee or wider Members.

When requesting information Scrutiny members should make clear whether they are seeking information related to a Scrutiny Work Programme item or if they are acting as a member, who happens to be part of the Committee, and is seeking information unrelated to any Work Programme matter.

9. Scrutiny Work Programme

In determining items to be included in the work programme Scrutiny Members will have due regard to the criteria set out in the Scrutiny Procedure Rules in Chapter 2, Part 10 of the Constitution

The Annual Work Programme shall consist of:

- Matters which inform the development of the Council's Budget and Policy Framework.
- Matters which inform the development of the Council's approach to matters not forming part of the Council's Budget and Policy Framework.
- Holding enquiries and investigating the available options for future direction in policy development, matters of public concern and any other issues within their Functions.
In addition to Council Services, these topics may also include any relevant item which affects the Borough of Melton or its residents
- Call-in of Key Decisions
- Requests by a member of the Scrutiny Committee
- Requests from the Council
- If it considers it appropriate, requests from the Cabinet including those related to an item in the Forward Plan:

- In this case Chief Officer will provide either the draft policy or a discussion paper setting out the details of the matter under consideration, the key issues identified, any constraints, timescale for decision, intended impact and a summary of progress to date. The draft policy/discussion paper will then be considered by the Scrutiny Committee and any comments/feedback will be clearly set out in the final report to Cabinet, including detail on how these have been addressed.
- Where an item of business, which would have a significant impact on budgetary considerations, legal implications, or provision of services, cannot be brought to Scrutiny before it is due to be considered by Cabinet due to time constraints, Scrutiny Committee may still review the Cabinet report and comment/feedback may be passed through the Scrutiny Chairman to the Leader. The Leader will acknowledge these comments and address them in the Cabinet debate on that item.

Portfolio Holders shall attend Scrutiny Committee on an annual basis to report on their portfolio's budget and performance. (See Paragraph 6 above)

The New Annual Work Programme

At the first meeting of the Municipal Year, following discussion by members and consultation with Cabinet and the Senior Leadership Team, members will agree the Annual Work programme for the rest of the year.

Whilst the agreement of a Scrutiny Work Programme will provide certainty for both members and officers as well as providing a benchmark against which Scrutiny can measure itself, it is accepted that the work programme is a living document. The work programme, therefore, will be subject to some degree of flexibility to allow for the inclusion of additional one-off items and changes to scheduled dates because of changing priorities during the year. The Annual Work programme will therefore be reviewed at each meeting of the Scrutiny Committee.

Committee meetings will provide the opportunity for members to propose topics for inclusion in the Annual Work Programme.

In adding items for review to the Annual Work Programme, the Chair of the Scrutiny Committee shall consider:

- Which Corporate Priority the item links to.
- If the item is of significant community concern.
- If the issue is significant to Partners and/or Stakeholders.
- What the added value is of doing the work.
- What evidence there is to support the work.
- If the work can be completed within a time proportionate to the task identified.
- If the work is being done somewhere else.

10. Scrutiny Committee Agendas

The Agenda of each Scrutiny Committee meeting will include the following items:

- An item on the Cabinet Forward Plan
Please refer to the Scrutiny Work Programme (see Paragraph 9)
- The Committee's Work Programme to enable the Committee's priorities for scrutiny for the remainder of the Municipal Year to be reviewed.

Please refer to the Scrutiny Work Programme (see Paragraph 9)

- Performance Management Information including Corporate Complaints
- Portfolio Holder Annual Presentations - Update

11. Attendance by Cabinet Members at Scrutiny Committees

Cabinet Members will normally be expected to attend meetings of the Scrutiny Committee.

- for the purposes of being held to account in relation to decisions taken.
- to provide information in the form of a report or presentation on topics included in the Scrutiny Work Programme; or
- to answer questions in relation to proposed decisions that have been included within the Cabinet Forward Plan.

All Cabinet members will receive an invite for Scrutiny Committee meetings but need only attend those meetings where items that fall within the remit of their portfolio are being considered, to provide a Portfolio Holder update, or at the request of the Scrutiny Chairman.

The relevant Portfolio Holder and Chief Officer will normally be expected to attend any meeting of the Scrutiny Committee convened to consider a request to Call-in a decision in accordance with the Call-in Procedure Rules (See Paragraph 7) and Chapter 3 Part 2 of the Constitution

12. Conduct of the Scrutiny Meeting

Scrutiny Committee Members should be prepared to ask searching questions of Cabinet Members, who in turn should be willing to respond to any question put. Scrutiny Committee Members should know Cabinet Members may not always be in a position to answer every question immediately or in detail. Where this is the case, further information can be provided to Scrutiny Members outside of the meeting.

Where possible Scrutiny Members will provide questions of fact to Cabinet Members in advance of the meeting. This will facilitate the provision of more detailed responses.

Cabinet Members should, in so far as possible, anticipate and be prepared to answer questions on decisions taken, or proposed to be taken, which fall within their remit. Cabinet Members should also value the contribution of Scrutiny Committee Members who raise questions under these headings.

Cabinet Members should normally be authorised by the Committee to speak upon any item on the agenda in relation to their Portfolio and may offer to assist the Scrutiny Committee by the provision of factual information or advice in relation to the matters under discussion, through permission of the Chairman.

The Chairman, supported by the Scrutiny Officer, should provide leadership and guidance to the Committee on all scrutiny matters and should promote the Committee's role to improve services and monitor the effectiveness of Council policies.

13. Conduct of the Cabinet Meeting

It is important that there is mutual respect between Cabinet and Scrutiny.

When a Scrutiny member (usually Chair/Vice-Chair) presents a Review Report (or similar) to Cabinet, with the agreement of the Leader/Deputy Leader, the member can provide factual information or advice in relation to the Scrutiny item which is under discussion.

14. Supporting Scrutiny Reviews

Scrutiny will conduct reviews through Task and Finish Groups, Working Groups, or Inquiry Sessions. These reviews will be agreed as part of the Scrutiny work programme following discussion with the Senior Leadership Team and Portfolio Holder to agree scope and consider resource requirements, capacity, and timing.

The terms of reference for any review will be agreed by the Scrutiny Committee before the review commences.

Scrutiny Committee members will have spent a considerable amount of time considering background information, witness evidence and performance information to formulate a final report and recommendations.

The report shall be considered by the Cabinet or Council at its next ordinary meeting following submission of the report to the Chief Executive and approval of the report by the Scrutiny Committee. The final report will be presented by the Chairman/Vice Chairman of the Scrutiny Committee.

The Cabinet can expect that the report will adhere to the following format:

- Analysis of evidence against proposals for improvement.
- Clear, concise, evidence-based recommendations which have been subject to feasibility considerations.
- Identification of areas for improvement and methods for measuring the impact of improvements.
- Identification of realistic timeframes for implementation and specify periodic dates for updates to be reported to the Committee.
- Highlight implications in relation to financial, legal, equality and diversity, policy, and solutions to overcome identified issues.

The relevant Portfolio Holder and Chief Officers may be asked to aid the review in the following ways:

- To inform the scope and methodology of the review.
- To give evidence.
- To provide feedback on the first draft of the final report.

The Chairman of the Task and Finish Group is recommended to meet with the Portfolio Holder and Officers:

- To discuss the proposed scope, methodology and sources of evidence for the review and to consider feedback and suggestions provided.
- To highlight areas of potential conflict in respect of the findings of the review and to facilitate dialogue to enable resolution before the final report is presented where possible.

This meeting will afford the opportunity for the rationale behind the recommendations to be discussed in more detail and for any issues or concerns to be clarified and explained with a view to agreement being reached wherever possible. It is, however, accepted that the independence of the Scrutiny Committee function must be preserved and therefore agreement may not be possible in relation to all the findings and recommendations in the final report of the Task and Finish Group.

Chief Officers will have a key role to play and should provide the following support to any review:

- Allocate a lead officer to support the review with technical information and evidence.
- Assist with the scoping of the review providing advice on the purpose, remit and outcomes.
- Assist with providing information in relation to relevant witnesses from within their service areas, or from external organisations.
- Review and feedback on the draft report. Factual errors will be considered, but incorporation of additional amendments will remain with the task and finish group.

The Scrutiny Officer will work with the Chairman to coordinate the review and secretariat support will be provided by the Democratic Services Team.

Cabinet will consider the final report and decide whether to approve or refuse the recommendations. They may decide to approve the recommendations subject to amendment. Reasons for refusal and/or amendment of the recommendations should be provided by Cabinet.

If the content of a report, including any recommendations, is likely to impact on any external organisation, the Cabinet will have the opportunity to pass comment, including whether it endorses the recommendations, before the report is passed to the external body.

Chief Officers will be responsible for implementing any recommendations which are approved by Cabinet and for providing updates as requested by the Scrutiny Committee and information in relation to the implementation.

Scrutiny Committee will monitor the implementation and impact of recommendations and include relevant information on the outcomes of the review in their annual report.

15. Attendance by Officers at Scrutiny Committee Meetings

Officers in attendance at Scrutiny Committee meetings should be prepared to assist the Cabinet Member in the provision of information to the Committee in response to any question raised.

16. Matters referred from Scrutiny Committee in accordance with Scrutiny Procedure Rules

There will be an item on each Cabinet agenda to consider matters referred from the Scrutiny Committee.

Matters referred will be included in a summary document provided by the Chairman of Scrutiny Committee to the Leader and Chief Executive five working days before the publication of the Cabinet agenda.

The document will include the following information:

- Topic/Report considered by Scrutiny Committee
- Summary of the discussion at the Scrutiny Committee
- Recommendations/feedback from the Scrutiny Committee

Where there are no recommendations, Cabinet should note the report and may still comment on the feedback provided by Scrutiny Committee.

17. Monitoring and Review

The Council's Monitoring Officer and Scrutiny Officer will monitor compliance with the protocol and liaise with Cabinet, Scrutiny Members, and the Senior Leadership Team. Any matters arising will be reported to Council through the Scrutiny Annual Report.

18. Scrutiny Committee Annual Report

The Scrutiny Committee will produce an annual report for Council which will include the following information:

- Evidence on delivery of the work programme
- Details of Scrutiny Reviews
- Details on recommendations to Cabinet, outcomes, and implementation
- Evaluation of the impact of Scrutiny and lessons learnt

This report will evidence the effectiveness of the Scrutiny Function but may also be used to facilitate discussion between Scrutiny and Cabinet on their working relationship and ways in which they can continue to work together to assist both, to fulfil their functions and achieve positive outcomes for the Borough.

Approved by:

Councillor Pat Cumbers – Scrutiny Chairman
17 December 2020 (Amendments 21 October 2021)

Councillor Joe Orson – Leader of the Council
17 December 2020 (Amendments 21 October 2021)