

## Governance Review

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| <b>Report Author:</b>                        | <b>Clive Tobin</b> , Assistant Director for Governance and Democracy (Monitoring Officer)<br>01664 502541<br>ctobin@melton.gov.uk |
| <b>Chief Officer Responsible:</b>            | <b>Clive Tobin</b> , Assistant Director for Governance and Democracy (Monitoring Officer)<br>01664 502541<br>ctobin@melton.gov.uk |
| <b>Lead Member/Relevant Portfolio Holder</b> | <b>Councillor Glancy</b> , Portfolio Holder for Governance, Environment & Regulatory Services                                     |

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| <b>Corporate Priority:</b>                       | Theme 5 – Right conditions to support delivery<br>Theme 6 – Engaging and connected Council |
| <b>Wards Affected:</b>                           | All  |
| <b>Date of consultation with Ward Member(s):</b> | N/A  |
| <b>Exempt Information:</b>                       | N  |

### 1 Summary

- 1.1 A report explaining the outcome of the Governance Review process and recommending amendments to the Constitution to include the Terms of Reference for the bodies concerned.

### 2 Recommendations

**That Council:**

- 2.1 **Notes the content of the report, and**
- 2.2 **Approves amendment of the Constitution to incorporate the outline Terms of Reference for the Portfolio Holder Liaison Groups.**
- 2.3 **Delegate authority to the Monitoring Officer to make the necessary amendments to the Constitution to facilitate establishment of the Groups.**

### **3 Reason for Recommendation**

- 3.1 To provide a structured and streamlined forum in which Cabinet Members may seek the views of the wider Council membership as part of an approach which encourages collaborative working, engagement and effective policy development.
- 3.2 To remove current duplication and uncertainty in Cabinet engagement with non-executive members.
- 3.3 To clarify the distinction between these bodies and the formal decision-making bodies appointed by the Council.

### **4 Background**

- 4.1 Members will be aware that, late in 2023 it was agreed that a review of the Council's Governance Arrangements should be undertaken to clarify the extent to which members can feed into the decision-making process and establish a more collaborative approach. This was driven in part by the number of ad hoc bodies which had formed and the different arrangements for each, which varied in their formality. The review was also driven by Cabinet's intention to facilitate wider member engagement in relation to executive functions. Following the election in 2023 Cabinet had taken initial action to establish informal groups to allow wider member engagement; the review also considered the effectiveness of those arrangements, and the positive lessons learnt from them.
- 4.2 The Council sought the support of the Local Government Association (LGA) who provided some initial advice on this process. In summary, the following steps were undertaken:
  - 4.2.1 an initial scoping exercise was undertaken to identify the issues,
  - 4.2.2 the LGA assisted in facilitating an all member engagement session early in 2024 at which members were invited to express their views on the current process, identify any areas in which they consider the process was deficient and suggest how this process could be developed,
  - 4.2.3 a briefing note was prepared which captured the views expressed during the all-member engagement session and set out the legal parameters which apply to decision-making and informal bodies, which was reviewed by the LGA,
  - 4.2.4 the briefing note was considered by the Portfolio Holder for Governance, Environment & Regulatory Services and it was agreed that the matter would be considered by the Constitution Review Working Group (CRWG),
  - 4.2.5 the snap General Election delayed this process, following which the CRWG's next two meetings had to focus on the Council's Boundary Review due to deadlines set down by the Local Government Boundary Commission for England,
  - 4.2.6 the CRWG was finally able to consider this matter at its meeting in January, refining the proposal at its meetings in February and March,
  - 4.2.7 the outline proposal is now in a form that can be considered by Council.

### **5 Main Considerations**

#### **5.1 The legal position**

- 5.1.1 Members will be aware that the Council currently operates a Leader and Cabinet form of Governance which complies with the Local Government Act 2000 (the 2000 Act). If the Council wished to change to another permitted form of governance, it would have to follow

a process set out in the 2000 Act which may include holding a referendum but also prohibits some changes within a specified period following an earlier change.

- 5.1.2 Rather than consider a change of form of governance, the review focussed on the arrangements which were in place for Cabinet to engage with non-executive members when formulating policy and making decisions on discharge of functions.
- 5.1.3 The 2000 Act states that when a local authority operates a Leader and Cabinet form of governance all that authority's functions are the responsibility of the Cabinet as executive unless that function is:
- a) specified in regulations made under the 2000 Act as being the responsibility of the Council,
  - b) specified in other legislation as being the responsibility of the Council,
  - c) a local choice function specified in regulations in respect of which the Council may choose for either the executive or the Council to discharge it, or
  - d) it is part of the policy framework or budget which must be jointly discharged by the executive and Council.
- 5.1.4 The Council's Constitution reflects these provisions, allocating the local choice functions and setting out the process for budget and policy framework decisions. Parts 1 and 2 of Chapter 2 of the Constitution set out how local choice functions are discharged, and Part 4 of Chapter 3 sets out the process for policy framework and budget decisions.

The 2000 Act also states that executive functions are discharged by the Leader unless they determine that a function should be discharged by an individual Cabinet member or by an officer; the Cabinet Scheme of Delegation contains details of these arrangements. The Act allows the Cabinet to establish a committee consisting only of Cabinet members (Melton does not currently have any such committees) and for executive functions to be discharged by other authorities (this provision has been used for some functions).

## 5.2 **Limitations**

- 5.2.1 Due to the matters set out at paragraphs 5.1.1 to 5.1.4 above, the proposed governance changes will not alter which body or individual discharges a function. The proposals would change how Cabinet members engage with other members when deciding how they exercise the functions which have been delegated to them. Cabinet members will not be obliged to use this process to engage on all matters but can choose to do so where they consider that it would be useful to seek the views of other members before discharging a function. The Groups established by the process will not therefore have any decision-making powers and Cabinet of individual Cabinet members with delegated powers will retain the legal power to make decisions.
- 5.2.2 It should also be noted that the proposals are not a replacement for a part of the formal scrutiny process which must as a matter of law be discharged by a formally appointed Scrutiny Committee.
- 5.2.3 The bodies which are proposed are not formal committees and therefore the Access to Information Rules will not apply and are not open to the public.

## 5.3 **Approach to process**

- 5.3.1 As briefly mentioned above, there are currently a number of bodies which meet on an ad hoc basis to cover a range of areas, some of which are referred to in the Constitution but some of which are not. Additionally, the original purpose for which some of these bodies

were established has been achieved and the body has continued to meet to consider related issues but without any clear mandate.

5.3.2 The current bodies are not centrally supported by Democratic Services meaning that there is no uniform process which is followed in relation to:

- a) adding items to the agendas,
- b) dispatching the agenda and reports to members,
- c) officer support at the meeting,
- d) recording of matters discussed at the meeting.

These inconsistencies can diminish the effectiveness of those bodies meaning that members may not be adequately prepared for these meetings and that their views may not be clearly captured.

### **Suggested changes to procedure rules**

5.3.3 It is proposed that the following steps should be taken to replace the current working groups and streamline and strengthen the process for engagement:

- a) Retain the following working groups, ensuring the terms of reference, political balance, and reporting arrangements are reflected within the Constitution.
  - (i) Constitutional Review Working Group,
  - (ii) Joint Staff Working Group,
  - (iii) Local Plan Working Group (until conclusion of the current Local Plan Review at which point the group would be disbanded).
- b) Amend the Constitution to reflect these Working Groups.
- c) Replace the other existing informal policy development working groups with the following:
  - i) Portfolio Holders' Liaison Group – Housing and Communities,
  - ii) Portfolio Holders' Liaison Group – Place and Prosperity.
- d) The new Liaison Groups to have their terms of reference enshrined in the Constitution, be politically balanced and appointed to at the Annual Meeting.

5.3.4 It is deliberately intended that these Groups remain flexible and are not overburdened with unnecessary procedural rules that could impact on their effectiveness, meaning a light touch approach can be taken when incorporating them in to the Constitution.

## **6 Options Considered**

6.1 The Council could leave the current arrangements in place however, this will not resolve the issues set out above and could impact upon the effective use of members' time.

## **7 Consultation**

7.1 Several members have raised concerns about the effectiveness of current arrangements for wider engagement in relation to executive functions. The all member briefing with the LGA drew out view of members and the proposed changes were also considered by the Constitution Review Working Group who support the recommended approach.

## **8 Next Steps – Implementation and Communication**

- 8.1 If Council approves the recommendations the Constitution will be updated prior to the Annual Meeting in May.
- 8.2 At the Annual Meeting the Council will formally establish the Groups and decide who determine their membership.

## **9 Financial Implications**

- 9.1 There are no financial implications arising from directly from this report. The costs of servicing the Groups will be met from existing budgets.

**Financial Implications reviewed by: Assistant Director for Resources – Deputy 151**

## **10 Legal and Governance Implications**

- 10.1 At present the Council’s Constitution only refers to some of the informal bodies which have been set up to allow wider member engagement. Even though informal in nature and not subject to legal requirements relating to composition or access to meetings and they have no decision-making powers, it would be beneficial for these bodies to be clearly identified in the Constitution.
- 10.2 Whilst not legally obliged to, the Council may decide that the membership of these bodies should reflect the political balance of the Council. Doing so will ensure that all political groups have an opportunity to participate.

**Legal Implications reviewed by: Monitoring Officer.**

## **11 Equality and Safeguarding Implications**

- 11.1 An Equality Impact Assessment (EqIA) has not been completed because there are no service, policy or organisational changes being proposed.

## **12 Data Protection Implications (Mandatory)**

- 12.1 A Data Protection Impact Assessments (DPIA) has not been completed because there are no risks to the rights and freedoms of natural persons.

## **13 Community Safety Implications**

- 13.1 There are no community implications arising from this report.

## **14 Environmental and Climate Change Implications**

- 14.1 There are no environmental or climate change implications arising from this report.
- 14.2 Other Implications (where significant)
- 14.3 There are no other implications arising from this report.

## **15 Risk & Mitigation**

| <b>Risk No</b> | <b>Risk Description</b>                                   | <b>Likelihood</b> | <b>Impact</b> | <b>Risk</b> |
|----------------|---|-------------------|---------------|-------------|
| 1              | Failure to meet statutory and constitutional obligations. | Low               | Negligible    | 3           |

|                   |                     | Impact / Consequences |          |          |              |
|-------------------|---------------------|-----------------------|----------|----------|--------------|
|                   |                     | Negligible            | Marginal | Critical | Catastrophic |
| <b>Likelihood</b> | Score/ definition   | 1                     | 2        | 3        | 4            |
|                   | 6 Very High         |                       |          |          |              |
|                   | 5 High              |                       |          |          |              |
|                   | 4 Significant       |                       |          |          |              |
|                   | 3 Low               | 1                     |          |          |              |
|                   | 2 Very Low          |                       |          |          |              |
|                   | 1 Almost impossible |                       |          |          |              |

| Risk No | Mitigation  |
|---------|---|
| 1       | To consider and adopt the proposal presented in this report which will. |

## 16 Background Papers

16.1 Reports to Constitution Review Working Group.

## 17 Appendices

17.1 Appendix A – Draft Terms of Reference for Portfolio Holder Liaison Groups.