

CONSTITUTION COMMITTEE AGENDA



**PLEASE NOTE CHANGE OF DATE AND TIME
10th October, 2005**

at 5:00 p.m.

in Committee Room A

MEMBERS: CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond,

Councillors: Fenwick, Flintoff, Griffin, James, A Marshall, J Marshall, Dr. Morris,
Preece Richardson and Young

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To confirm the minutes in respect of the meeting of the Constitution Committee held on 30th August 2005 (attached)
 - 3.2 To receive the minutes in respect of the meeting of the Constitution Working Group held on 27th September 2005 (to follow)
- 4. ITEMS REQUIRING DECISION**
 - 4.1 Use of Overview and Scrutiny Procedure Rule 18

CONSTITUTION WORKING GROUP

MINUTES AND DECISION RECORD

27th September 2005

Present:

Councillor Carl Richardson (In the Chair).

Councillors: Bob Flintoff, Marjorie James, Ann Marshall, George Morris and Arthur Preece.

Officers: Peter Devlin, Principal Solicitor
Charlotte Burnham, Scrutiny Manager
Joan Wilkins, Principal Democratic Services Officer

17. Apologies for absence

Apologies for absence were submitted on behalf of the Mayor, Stuart Drummond and Councillors Sandra Fenwick, Sheila Griffin, John Marshall and David Young.

18. Declarations of interest by members

None.

19. Minutes of the meeting held on 16th August, 2005.

Confirmed.

20. Final Report – Enquiry into the use of Overview and Scrutiny Rule 18 *(Scrutiny Co-ordinating Committee)*

The Constitution Committee, held on 12 July 2005, referred the reasoning behind the application of the Overview and Scrutiny Procedure Rule 18 in relation to the Corporate to the Scrutiny Co-ordinating Committee for further examination. The Committee's enquiry was now complete and details of its findings were presented as follows by the Scrutiny Manager and Chair of the Scrutiny Co-ordinating Committee.

The Committee conclusions were that.

(a) Based on the evidence received, there was a differences of opinions as to whether the Scrutiny investigation into the Corporate Restructure had concluded;

(b) Given the very sensitive nature of the Corporate Restructure, it was felt unreasonable for the Cabinet to act upon the Scrutiny Co-ordinating Committee's recommendations without sharing the Employer's Organisation Report with Scrutiny;

(c) As a matter of courtesy, the Chair of Scrutiny Co-ordinating Committee should have been informed of the Cabinet's intention and reasons for urgency to invoke Overview and Scrutiny Rule 18 at its meeting on 6 June 2005;

(d) The urgency procedure rule for the Overview and Scrutiny Procedure Rule 18 should be in line with other urgency provisions, as outlined in the Authority's Constitution; and

(e) The current practice of presenting the verbal comments of the Scrutiny Co-ordinating Committee to Cabinet as demonstrated in this particular instance, resulted in misinterpretation of events, therefore all future scrutiny outcomes will be provided in written format, except where the relevant Scrutiny Forum determines otherwise.

The Committee recommended to the Constitution Working Group that:-

Based on the findings of the Scrutiny Co-ordinating Committee's Enquiry into the use of Overview and Scrutiny Procedure Rule 18 on 6 June 2005, the rule be amended to ensure there is a requirement to consult with Non-Executive Members prior to its future application as follows:-

*'18. Call-in and urgency - The call-in procedures set out above shall not apply where the decision being taken by the Cabinet 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 interest. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one and therefore not subject to call-in. The Chair of Scrutiny Co-ordinating Committee (or in his/her absence the Chairman of Council or **in his/her absence the Deputy Chairman of Council**) must agree that the decision is urgent. The decision should be reported to the next ordinary meeting of Council, outlining who took the decision and reasons for the urgency. Other procedures relating to urgent decisions are set out in the Access to Information Procedure Rules.'*

The Working Group supported the proposal put forward by the Scrutiny Co-ordinating Committee, with the amendments shown in bold, and agreed that it be forwarded to the Constitution Committee for appropriate consideration.

RECOMMENDED that Constitution Committee consider the recommendation of the Scrutiny Co-ordinating Committee in relation to the amendment of Rule 18 as detailed above.

21. Ward Surgeries *(Chief Solicitor)*

The Chief Solicitor reported that Members had previously discussed the Council's practice and procedure regarding the arrangement of ward surgeries for members. At the last meeting the Working Group authorised the Chief Solicitor to seek an opinion of Counsel as to issues regarding the classification of expenditure in arranging ward surgeries as an 'election expense'. An opinion had now been received (submitted as an appendix to the report), which came to the following conclusion -

- *It will be seen from the above that I consider that the proposal could, but not inevitably would, lead to a breach of s.75(1) since the costs borne by the Council in relation to arranging and giving public notice of ward surgeries could properly be considered to be an election expense so far as they relate to ward surgeries held within or about the time of an election period. This would arise if the content of the surgery was used by a councillor to promote his/her own candidacy or that of another candidate, or criticise another candidate or the policies to which he/she subscribes.*
- *I do not consider that the fact that ward surgeries would be arranged on an annual basis at the beginning of a municipal year would prevent the costs of administration from being treated as an election expense if the provision is otherwise breached.*
- *I consider that the public notice of ward surgeries in early March would be a relevant cost in relation ward surgeries held in the election period of that year.*
- *While I consider that a challenge may be unlikely it is far from impossible, and this risk is a matter for the Council to consider before making a decision on the current proposal.*

The Principal Solicitor highlighted that whilst, as Counsel comments, the risk of challenge was unlikely, there was an identifiable risk that the actions of an individual councillor could have implications in relation to the election expenses of the councillor as well as the position of the Council. In the opinion (see para 55 of the opinion) Counsel alluded to the amendment of the Code of Conduct to include a specific requirement not to use ward surgeries for election purposes. . However, it could still expose the Council to the risk of challenge in the event that a councillor, either intentionally or inadvertently, at a ward surgery strayed into matters that could be construed as electioneering. In the Principal Solicitor's view, rather than expose the Council to this risk, it would be preferable to continue the current practice of not including, in the arrangements made by the Council, ward surgeries during an election period. This would not, of course, preclude members who wish to hold a surgery during that period from making their own arrangements.

Following consideration of the reports and the views expressed by the Solicitor Members expressed views in relation to:

- The risks to the Council of holding surgeries during the election period and the preference for some Members for continuing current arrangement's.

- The problems caused by elections in thirds, in that whilst only one out of three Members in a ward would be up for election all three were currently restricted for holding surgeries.
- Concern was expressed at the length of time Members were prevented from holding surgeries as a result of current arrangements and the negative perception this created with residents.
- Problems created by current office procedures in that before notice of a surgery can be published all three Members must be known, this further extended that time scales between surgeries before elections and the first surgery after the election. This equated in some circumstances to gaps between surgeries of up to 10 weeks and Members felt that this was unreasonable.
- Possible alternatives to current arrangements:-
 - i) That the candidate up for election did not attend surgeries. In relation to this, whilst it was felt that it would be unlikely attention was drawn to possibility that disparaging comments could be made by the other Members regarding the election. This could leave the authority open to challenge.
 - ii) That surgeries should not be held between the date of the close of nominations and the election rather than as now between the announcement of the election and the election day.

In discussing the issue Members expressed strong views both in support of the existing arrangement and possible alternatives. There was, however, a feeling that a decision should be deferred pending receipt of further information on:

- The practices of other Local Authorities and the Civil Service, in relation to cut off dates for ward surgeries during election periods to allow a comparison to be made.
- Instances where other Local Authorities had been left open to challenge as a result of surgeries being held during an election period.
- The DPP .v. Luft case cited in the Opinion be examined to help ascertain if it was comparable to the situation in Hartlepool.

RECOMMENDED

- i) Consideration of the issue was deferred, with a further report to be presented to the Working Group containing information on:
 - The practices of other Local Authorities and the Civil Service, in relation to cut off dates for ward surgeries during election periods to allow a comparison to be made.
 - Instances where other Local Authorities had been left open to challenge as a result of surgeries being held during an election period.
- ii) That the case authority I of DPP .v. Luft provided in the Opinion be provided separately for the information of Members.

13. Honorary Alderman and Freeman – Process for Elections *(Chief Solicitor)*

At their last meeting, Members requested a detailed draft process for the appointment/election of honorary Freeman and Aldermen. A copy of the proposed amended procedure, which sought to incorporate features which members felt should be included such as greater involvement of the community, particularly in the nomination process, was appended to the report.

In considering the proposed procedure issues were discussed regarding:

- The prestige of the title of Freeman and the need to ensure that it was not devalued by increasing the frequency of awards. Concern was expressed that proposals for adverts in every issue of Hartbeat seeking nominations for election as freeman were too frequent.
- The suspension of the title of Alderman should an ex-Councillor be re-elected until such a time as the individual ceases again to be an elected Member.
- The suggestion that the title of Alderman should also be made available to none Councillors and that there should be minimum length of service for required.
- The need for amendments to certain sections of the proposed procedure to read as follows: (amendments in bold)

- i) Section 1.1.1, relating to nominees for election as an honorary freeman, to read

“Nominees for election as an honorary freeman should

- (a) have been born in the Borough, **or**
- (b) reside or have resided in the Borough, **or**
- (c) have or have had strong established links to the Borough, **or**
- (d) in some manner have brought distinction upon the borough.”

- ii) Section 1.1.5, relating to publicity, to read

“Invitation to submit nominations for election as freeman of the borough shall appear in **two editions of Hartbeat prior to the closing date for nominations**, and shall be posted on the Council's website www.hartlepool.gov.uk “

- iii) Section 2.1, relating to the consideration of nominations, to read

“Nominations for election as honorary freeman and honorary alderman considered by the proper officer to comply with the requirements of para 1 (but for this purpose disregarding para 1.1.1) shall be referred to the next meeting of the Civic Honours Committee. The Committee will consider each nomination (including it's compliance with para 1.1.1) and may resolve to recommend the nomination to the Council. The membership of the **Committee will be:**

- **The Leaders/Co-ordinator of the three main Groups (Labour, Liberal Democrat and Administrative Groups) or their subs,**
- **An independent Member (The Mayor or his/her substitute),**
- **One Resident Representative. and**
- **One representative from the Community Empowerment Network, “**

Taking on board all of the issues raised and the suggested amendments to the proposed procedure it was felt that it would be beneficial to seek the views of each of the political groups. In view of this it was suggested that further consideration of this item should be deferred to the next meeting of the working group at which time the views of the groups could be taken into consideration as part of the Working Groups recommendations.

RECOMMENDED that consideration of this issue be deferred to allow the views of each of the political groups to be sought on the proposed procedure and reported back to the next meeting of the Working Group.

C RICHARDSON

CHAIR

CONSTITUTION COMMITTEE

MINUTES AND DECISION RECORD

30TH August 2005

Present:

Councillor Marjorie James (In the Chair)

Councillors Bob Flintoff, Sheila Griffin, Ann Marshall and Arthur Preece.

Officers: Tony Brown, Chief Solicitor
Joan Wilkins, Principal Democratic Services Officer

11. Apologies for Absence

Apologies for absence were submitted on behalf of The Mayor, Stuart Drummond, Councillors John Marshall, George Morris, Carl Richardson and David Young.

12. Declarations of interest by members

None.

13. Confirmation of the minutes of the meeting of the Constitution Committee held on 12th July 2005

Confirmed.

14. Minutes of the meeting of the Constitution Working Group held on 16th August 2005

Received.

15. Issues Arising From Previous Minutes

None.

16. Motions on Notice – Council Procedure Rules *(Chief Solicitor)*

The Chief Solicitor sought consideration of a proposed change to Council Procedure rule 12.1 'Motions on Notice – Notice' to extend the period prior to a Council meeting that a Motion on Notice must be submitted to the Chief Executive.

At the present time the Constitution requires that Notices of Motion be delivered to the Chief Executive during normal office hours at least 5 clear working days before the date of the meeting. Motions for which due notice is given are listed on the agenda, however, the requirement for not less than 5 clear days notice meant that a notice of motion received as late as permitted can be received too late for inclusion on the agenda.

This issue was considered by the Constitution Working Group, at its meeting on the 16th August, and support expressed for the extension of the period of notice to 7 clear working days. This change would allow for Motions on Notice to be included on the Council agenda as required by the Council Procedure Rules and legislation. Those Members of the Constitution Committee present supported the views expressed at the Constitution Working group and agreed that the extension of the period of notice, as outlined above, should be recommended to Council.

Decision

That Council Procedure Rule 12.1 be amended as follows:-

12.1 Notice

Except for motions which can be moved without notice under Rule 13, written notice of every motion, signed by at least 5 Members, must be delivered to the Chief Executive during normal office hours at least 7 clear working days before the date of the meeting. These will be entered in a book open to public inspection.

CARL RICHARDSON

CHAIRMAN

CONSTITUTION COMMITTEE

10th October 2005



Report of: Chief Solicitor

Subject: USE OF OVERVIEW AND SCRUTINY PROCEDURE
RULE 18

1. PURPOSE OF REPORT

- 1.1 At its meeting on 27th September the Constitution Working Group considered the Final Report of the Scrutiny Co-ordinating Committee (copy attached as Appendix 1) following that Committee's enquiry into the authority's application of the Overview and Scrutiny Procedure Rule 18, in relation to the Corporate Restructure Report agreed by Cabinet on 6th June, 2005. Following their consideration of the key recommendations of the Scrutiny Co-ordinating Committee, the commentary of the Constitutional Working Group, relating to the proposed amendment to this particular article of the Council's Constitution, is detailed within this report.

2. BACKGROUND AND INFORMATION

- 2.1 The underlying purpose of Rule 18 is to enable a decision taken by the Executive to be implemented without delay which could arise from a decision being called in. Rule 18 therefore has application to a decision which needs to be taken without delay, to do otherwise "would seriously prejudice the Council's or the public's interest". Accordingly, Rule 18 has application in the most exceptional circumstances, but has never nevertheless been applied by local authorities, from information obtained from neighbouring local authorities, which was drawn to the attention of the Scrutiny Co-ordinating Committee during the course of their enquiries.
- 2.2 The Chief Solicitor in his commentary to the Scrutiny Forum on 2nd September, 2005, indicated that the issue relevant to the application of Rule 18 was whether the decision was urgent – in the sense that a delay to the extent involved in a call-in of the decision would 'seriously prejudice the Council's interests'. As a matter of interpretation, this is a different concept from an emergency; the Council's interests could be seriously prejudiced by a much less grave or imperative circumstance than an "emergency" situation. It implies a significant - but not necessarily critical - detrimental impact on the discharge of the Council's functions. A judgement whether the

Council's interests would be seriously prejudiced thus calls for consideration of the impact of a delay of any one or more of a variety of features, including, by way of example:

- financial
- service efficiency
- reputation,
- discharge of statutory duties
- relations with staff.

3. CONSIDERATION BY CONSTITUTION WORKING GROUP

- 3.1 At its meeting on 27th September, 2005 the Constitution Working Group endorsed the recommendations made to it from the Scrutiny Co-ordinating Committee namely; that Rule 18 be amended to ensure there is a requirement to consult through a non-Executive member prior to its future application. Accordingly, current reference to the 'Chief Executive (or in his/her absence the Monitoring Officer) must agree that the decision is urgent', be deleted and replaced by reference to the 'Chair of the Scrutiny Co-ordinating Committee (or in his/her absence the Chairman of the Council or in his/her absence the Deputy Chairman) must agree that the decision is urgent.'

4. RECOMMENDATIONS

- 4.1 That the Constitution Committee give consideration to:
- (i) Having regard to the findings of the Scrutiny Co-ordinating Committee's enquiry into the use of Overview Scrutiny Procedure Rule 18 that the said rule be amended by way of deletion of the reference to the 'Council's Chief Executive Officer (or in his/her absence the Monitoring Officer)' through the inclusion of reference to the 'Chair of the Scrutiny Co-ordinating Committee (or in his/her absence the Chairman of the Council or in his/her absence the Deputy Chairman of the Council).'

BACKGROUND PAPERS

The following background papers were consulted or referred to in the preparation of this report:-

- (i) Final Report - Enquiry into the use of Overview and Scrutiny Procedure Rule 18 presented to the Constitution Working Group on 27th September, 2005

CONSTITUTION WORKING GROUP

27th September 2005

**Report of:** Scrutiny Co-ordinating Committee**Subject:** FINAL REPORT - ENQUIRY INTO THE
'USE OF OVERVIEW AND SCRUTINY PROCEDURE
RULE 18'**1. PURPOSE OF REPORT**

- 1.1 To present the findings of the Scrutiny Co-ordinating Committee following its enquiry into the Authority's application of the Overview and Scrutiny Procedure Rule 18 in relation to the Corporate Restructure Report agreed by Cabinet on 6 June 2005.

2. BACKGROUND INFORMATION

- 2.1 At a meeting of the Constitution Committee held on 12 July 2005, it was resolved that the reasoning behind the application of the Overview and Scrutiny Procedure Rule 18 in relation to the Corporate Restructure report considered by Cabinet at its meeting on 6 June 2005, be referred to the Scrutiny Co-ordinating Committee for further examination (with no prescribed timescale).
- 2.2 In addition to this resolution, it should be noted that the Constitutional Working Group are to utilise the Final Report of Scrutiny Co-ordinating Committee to assist them in reviewing the current wording in relation to the use of the Overview and Scrutiny Procedure Rule 18 as currently outlined within the Authority's Constitution.
- 2.3 Subsequently, at the last meeting of the Scrutiny Co-ordinating Committee held on 5 August 2005, it was agreed that an enquiry be undertaken by the Scrutiny Co-ordinating Committee with regard to the Authority's use of the Overview and Scrutiny Procedure Rule 18 in the instance referred to in paragraph 2.1 above on 2 September 2005.

3. SETTING THE SCENE

- 3.1 During the last Municipal Year (2004-05) Members of the Scrutiny Co-ordinating Committee have considered extensively the Corporate Restructure. The process was instigated in October 2004 when Council referred the matter to Scrutiny and investigations were conducted over a period of approximately nine months.
- 3.2 Over this period, a number of meetings were scheduled to resolve the significant concerns that Members had with the proposals. Evidence was received from a number of Chief Officers and from Veredus, specialist recruitment consultants. Early in the process there was a recognition that the model presented for the restructure was not the key issue. The forums concerns related to the financial element of the Corporate Restructure (remuneration packages for the four Corporate Directors).
- 3.3 The Scrutiny Co-ordinating Committee recognised the need to move forward with the restructure in order to respond to changes in legislation, staffing issues, and organisational demands and therefore requested that the Employers Organisation be contacted to evaluate the four corporate director posts that were causing the most concern.
- 3.4 Members of Scrutiny Co-ordinating Committee welcomed the decision of Cabinet to accept this recommendation and expressed their willingness to accept the subsequent recommendations of the Employer's Organisation into the salary levels of the Corporate Directors.
- 3.5 The report from the Employer's Organisation was received by the Authority, but was not provided to Scrutiny Co-ordinating Committee, instead it was provided directly to the Cabinet. This decision resulted in the Scrutiny Co-ordinating Committee being prevented from concluding their enquiry.
- 3.6 Subsequently, Cabinet, at its meeting on 6 June 2005 invoked Overview and Scrutiny Procedure Rule 18 during consideration of the Employer's Organisation report.

4. OVERALL AIM OF THE SCRUTINY ENQUIRY

- 4.1 The overall aim of the scrutiny enquiry was to investigate the application of the Overview and Scrutiny Procedure Rule 18 in relation to the Corporate Restructure Report agreed by Cabinet on 6 June 2005.

5. TERMS OF REFERENCE FOR THE SCRUTINY ENQUIRY

- 5.1 The Terms of Reference for the Scrutiny enquiry were as outlined below:-
- (a) To determine who took the decision and why?

- (b) To determine the reasons for the urgency?
- (c) To consider the Monitoring Officer's interpretation of Rule 18 and the appropriate of its use in this instance.
- (d) To consider the Chief Executive's interpretation and rationale behind the use of Rule 18?
- (e) To formulate a response to the Constitution Committee based on the evidence received.

6. MEMBERSHIP OF THE SCRUTINY CO-ORDINATING COMMITTEE

6.1 The membership of the Committee were as detailed below:-

Councillors Cambridge, Clouth, Cook, Cranney, Flintoff, Hall, Hargreaves, James, Kaiser, Leonard, Lilley, A Marshall, J Marshall, Preece, Richardson, Shaw and Wright.

Resident Representative: Evelyn Leck.

7. METHODS OF INVESTIGATION

7.1 Members of the Committee met formally on 2 September 2005 to discuss and receive evidence relating to this enquiry and a detailed record of the issues raised during this meeting are available from the Council's Democratic Services.

7.2 A brief summary of the methods of investigation are outlined below:-

- (a) Verbal evidence from the Authority's Elected Mayor, individual Cabinet Members, Chief Executive and Monitoring Officer via a Question and Answer Session (supplemented by written statements where appropriate); and
- (b) A briefing report of the Scrutiny Manager, which provided the relevant background information and key documentation.

8. FINDINGS

8.1 Who took the decision and why? – Based on the evidence presented to the Scrutiny Co-ordinating Committee, Members established that the Mayor instigated the use of, and subsequently invoked Rule 18 at the Cabinet meeting held on 6 June 2005. The reasons as to why the decision was taken are referred to in paragraph 8.2 below.

- 8.2 **The reasons for the urgency?** – The Committee was informed that the reasons for the urgency, in relation to the use of Rule 18 were based on the delay in restructuring the organisation and the continuing loss of key service personnel. It was considered that the restructure process could no longer be delayed any further, in the interest of the organisation, in order to protect vulnerable groups and the people of Hartlepool.
- 8.3 **Chief Executive's interpretation of Rule 18 and rationale behind the use of Rule 18** - The Chief Executive interpreted Rule 18 of the Constitution as being a form of protection for the Authority. The rule existed nationally and was part of the national model for Constitutions developed by the former Department for Transport, Local Government and the Regions (DTLR), currently known as Office of Deputy Prime Minister (ODPM) and to his knowledge local variations in the text of Rule 18 existed.
- 8.4 The Chief Executive informed the Scrutiny Co-ordinating Committee that he supported the Cabinet's use of Rule 18, given the urgent need to respond to changes in legislation, address staffing issues and meet organisational demands (also highlighted by the Audit Commission).
- 8.5 With reference to the new political management arrangements introduced by the Local Government Act 2000, the Chief Executive explained that the issue of Staff Grading was an Executive decision. The Cabinet were of the understanding that the scrutiny process had concluded, having received the Scrutiny Co-ordinating Committee's recommendation to engage the Employers Organisation, the Cabinet then acted appropriately, and in agreement with the Scrutiny Co-ordinating Committee when actioning its findings.
- 8.6 Subsequently, in order to promote transparency the Employer's Organisation report was then sent out to all Members of the Council.
- 8.7 **Monitoring Officer's interpretation of Rule 18 and the appropriateness of its use in this instance** – The Authority's Monitoring Officer informed the Scrutiny Co-ordinating Committee that the purpose of Rule 18 was to enable an urgent decision to be implemented without the delay which could arise from the decision being 'called in.'
- 8.8 In any such case, the issue under consideration would be to determine whether the decision is urgent, in the sense that a delay to the extent involved in call-in of the decision would 'seriously prejudice the Council's interests'.
- 8.9 As a matter of interpretation, the Monitoring Officer explained that this was a different concept from an emergency in that the Council's interest could be seriously prejudiced by a much less grave or imperative circumstance than an emergency situation (but not necessarily critical) which would result in an impact on the discharge of the Council functions.

- 8.10 A judgement whether the Council's interests would be seriously prejudiced called for consideration of the impact of a delay on any one or more of a variety of features e.g. Financial, service delivery, reputation, discharge of statutory duty, and relations with staff. To substantiate this assertion the Monitoring Officer furnished the Committee with examples of the use of Rule 18 in other Authorities who had invoked Rule 18.
- 8.11 The Monitoring Officer further informed the Scrutiny Co-ordinating Committee that he was satisfied that the concerns expressed by Cabinet were real, substantial and relevant to any decision to invoke Rule 18. On that basis the Monitoring Officer was satisfied that it was open to Cabinet to exclude Call-In.

9. CONCLUSIONS

9.1 The Scrutiny Co-ordinating Committee concluded:-

- (a) That based on the evidence received, there was a differences of opinions as to whether the Scrutiny investigation into the Corporate Restructure had concluded;
- (b) That given the very sensitive nature of the Corporate Restructure, it was felt unreasonable for the Cabinet to act upon the Scrutiny Co-ordinating Committee's recommendations without sharing the Employer's Organisation Report with Scrutiny;
- (c) That as a matter of courtesy, the Chair of Scrutiny Co-ordinating Committee should have been informed of the Cabinet's intention and reasons for urgency to invoke Overview and Scrutiny Rule 18 at its meeting on 6 June 2005;
- (d) That the urgency procedure rule for the Overview and Scrutiny Procedure Rule 18 should be in line with other urgency provisions, as outlined in the Authority's Constitution; and
- (e) That the current practice of presenting the verbal comments of the Scrutiny Co-ordinating Committee to Cabinet as demonstrated in this particular instance, resulted in misinterpretation of events, therefore all future scrutiny outcomes will be provided in written format, except where the relevant Scrutiny Forum determines otherwise.

10. RECOMMENDATION

- 10.1 That the Scrutiny Co-ordinating Committee's key recommendation to the Constitution Working Group is as outlined below:-
- (a) That based on the findings of the Scrutiny Co-ordinating Committee's Enquiry into the use of Overview and Scrutiny Procedure Rule 18 on

6 June 2005, the rule be amended to ensure there is a requirement to consult with Non-Executive Members prior to its future application as follows:-

‘18. Call-in and urgency - The call-in procedures set out above shall not apply where the decision being taken by the Cabinet 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 interest. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one and therefore not subject to call-in. The Chair of Scrutiny Co-ordinating Committee (or in his/her absence the Chairman of Council or his/her Deputy Chair) must agree that the decision is urgent. The decision should be reported to the next ordinary meeting of Council, outlining who took the decision and reasons for the urgency. Other procedures relating to urgent decisions are set out in the Access to Information Procedure Rules.’

11. ACKNOWLEDGEMENTS

- 11.1 The Committee is grateful to all those who have presented evidence during the course of our enquiry. We would like to place on record our appreciation, in particular of the willingness and co-operation we have received from the below named:-

Elected Mayor;

Members of the Authority’s Cabinet;

Chief Executive; and

Monitoring Officer.

**COUNCILLOR MARJORIE JAMES
CHAIR OF SCRUTINY CO-ORDINATING COMMITTEE**

September 2005

Contact:- Charlotte Burnham – Scrutiny Manager
Chief Executive’s Department - Corporate Strategy
Hartlepool Borough Council
Tel: 01429 523 087
Email: charlotte.burnham@hartlepool.gov.uk

BACKGROUND PAPERS

The following background papers were consulted or referred to in the preparation of this report:-

- (i) Report of the Chief Personnel Services Officer entitled 'Corporate Director's Salaries' presented to Cabinet held on 6 June 2005.
- (ii) Report of the Scrutiny Manager entitled 'Scrutiny Topic Referral from the Constitution Committee – 'Use of Overview and Scrutiny Procedure Rule 18' presented to the Scrutiny Co-ordinating Committee held on 5 August 2005.
- (iii) Report of the Scrutiny Manager entitled 'Enquiry into the 'Use of Overview and Scrutiny Procedure Rule 18' presented to the Scrutiny Co-ordinating Committee held on 2 September 2005.