

Guildford Borough Council  
Millmead  
Guildford  
GU1 5BB  
(for attention: Stephen Gerrard, Interim Head of Legal Services)

18<sup>th</sup> May 2012

Dear Sirs

### **Applications under the Freedom of Information Act 2000**

On Friday 11<sup>th</sup> May, I became aware of a letter (**'the Letter'**) jointly and severally written by Councillors Rooth, Mansbridge, Goodwin and Gunning (**'the Four Councillors'**) to Mr Martin Giles as editor of the Guildford Dragon (naming me and three others) requiring him to publish it on his web site.

On Tuesday 15<sup>th</sup> May I wrote a response (**'the Response'**) to **the Four Councillors** and copied it to all other Councillors who, by nature of the reference in the letter to it being 'cross-party', and by having signed it as the leaders of the three political parties, became interested parties in that letter.

On Thursday 17<sup>th</sup> May I received a reply from Mr Gerrard, Interim Head of Legal Services stating effectively that **the Letter** still stands and, consequently, the allegations made against me remain in place.

A number of issues were covered in **the response** (not least the formal request to retain all documents relating to the subjects in respect of which I have previously expressed concern and criticism of the Council on the pages of the Surrey Advertiser or in posts on the Guildford Dragon). Each topic is, herein, the subject of separate requests for information as, collectively, they may exceed the cost threshold and as a single enquiry could be rejected, whereas they are in fact distinctly different subjects, and I am prepared to resubmit each of them separately if necessary.

### **Freedom of Information Request 1 ('FoI1') – the Letter and the meetings during which it was drafted, agreed and signed**

I understand that there was a meeting held at the Council offices between David Hill (**'DH'**), Chief Executive; Mr Gerrard, Interim Head of Legal Services; Mr Brake, District Auditor; Councillor Rooth; and Councillor Mansbridge (**'Rooth and Mansbridge'**) during the course of 10<sup>th</sup> May 2012 at which a draft of **the Letter** that in fact was sent to Mr Giles was prepared.

Subsequently, I understand that Councillors Goodwin and Gunning were called into the meeting and, after some discussion, were asked to join in sending **the Letter** to Mr Giles.

I consequently wish to have answers to the following questions:

- Fol1:1. Please confirm exactly when and for how long the meeting took place.
- Fol1:2. Please list all attendees at the meeting for each of the two parts of the meeting
- Fol1:3. What meetings did **DH** and the other officers cancel or postpone in order to meet with **Rooth and Mansbridge**?
- Fol1:4. What meetings did **DH** and the other officers cancel or postpone in order to meet with **the Four Councillors**?
- Fol1:5. Please confirm who wrote the original draft of **the Letter** and was this prepared prior to the meeting?
  - i. If so, please provide a copy of the draft of **the Letter** which was presented to the attendees of the initial part of the meeting.
- Fol1:6. Please provide a copy of the draft of **the Letter** as it was first shown to Councillors Goodwin and Gunning.
- Fol1:7. Please provide a copy of any evidence that was given to or presented at the meeting that gave rise to the decision to issue and to sign **the Letter**.
- Fol1:8. Please provide copies of any notes taken during the meeting and afterwards referring to the nature, tone, content and context of the discussions at the meeting.
- Fol1:9. Please list all those parties to whom **the Letter** was shown or sent both within and outside the Council by any of the attendees at the meeting.
- Fol1:10. Please itemise the number of working hours and any Council meetings cancelled or postponed whilst time was taken by **DH**, Martyn Brake and Stephen Gerrard in:
  - i. Drafting **the Letter**;
  - ii. Discussing **the Response**; and
  - iii. Replying to **the Response**;

The purpose of Fol1 is to understand the course of events that led to **the Four Councillors** becoming co-signatories to the letter which led to **the Response**, following which I received an email from each of Councillors Goodwin and Gunning stating that they had retracted **the Letter** (to the extent they as individuals could retract a jointly-written letter). Councillor Goodwin wrote the following to me in an email, also attaching the undated text of his letter to Martin Giles<sup>1</sup>:

*"I am attaching a copy of the retraction letter – signed by myself (as leader of the Liberal Democrat Group) and Angela Gunning (as leader of the Labour Group) – which has been sent to the Guildford Dragon News. We both felt that we had been misled about the Scrutiny Committee as neither of us were present to witness what happened for ourselves."*

Clearly there were allegations made in **the Letter** which the recipient and those named within it have reacted to in our own respective ways. For my own part, I hope that, by bringing all of the available information out into the open, each party can take its own responsibility for what he, she or they have said, written and done and, where apologies are called for, can duly make them.

The allegations made in **the Letter** were made by four Councillors as individuals and it does not seem appropriate for this to have taken up Council time and resources.

## Freedom of Information Request 2 ('FoI2') Meeting of the Corporate Improvement Scrutiny Committee ('CISC') 26<sup>th</sup> April

A large part of the allegation about me was the contention that I had 'chosen' to misrepresent the conversation I had with **DH**.

In **the Response** I outlined a summary of what I recall of the separate conversations I had with Mr Ron Flux, Senior Administrative Assistant, Legal and Democratic Services, with Councillor Phillips, Chair of the **CISC** ('**the Chair**') and **DH**.

I was not made aware that anyone was listening to the conversations with Mr Flux and **DH** and I bumped into **the Chair** in Old Palace Road, Guildford on my way back from meetings in London. I assume, therefore, that all we respectively have to rely on is the facts surrounding events before, during and after the **CISC** meeting.

- FoI2:1. Please provide a list of all those people either invited to or who submitted valid requests to address the **CISC** meeting in 26<sup>th</sup> April ('**the CISC Meeting**'), whether or not they did eventually address the meeting;
- FoI2:2. Please list the attendees at the pre-meeting ('**the Pre-meeting**') that took place on or about the morning of 24<sup>th</sup> April at which **DH**, Mr Flux and **the Chair** discussed who could/should or could not/should not appear to give evidence at **the CISC Meeting** and to what they should/should not be allowed to refer in their evidence or address;
- FoI2:3. Please provide any minutes or notes taken by all/any of the attendees at **the Pre-meeting**.
- FoI2:4. Please provide a copy of any evidence that was given to or presented at **the Pre-meeting** that gave rise to any recommendation and/or to any instruction to Mr Flux or any other officer of Guildford Borough Council ('**the Council**')
- FoI2:5. Please provide a copy of any instructions to officers including Mr Flux confirming the course of action decided in **the Pre-meeting**.
- FoI2:6. Please confirm whether, as a result of **the Pre-meeting**, **DH's** personal assistant was instructed to contact me with a view to setting up a meeting between me and **DH**, and, if so, what the stated purpose of the meeting was to be; please also state whether anyone else was to be present and whether any third party was also to be contacted in the same way to arrange to meet with **DH**.

## Freedom of Information Request 3 ('FoI3') DH Report to the CISC Meeting

The purpose of FoI3 is to establish what information was available to **the Council** prior to **the CISC Meeting** and which either was or could reasonably be considered to have been known to **DH** in drafting **the Report**, bearing in mind that **the Report** was criticised in the meeting as being inadequate, inaccurate and incomplete.

- FoI3:1. Please provide a copy of all raw data, reports, emails, etc., from the former Strategic Director, Jim Miles (**'the ex-Director'**), Philharmonic staff (**'the GPO Officers'**) and any other party which were used to inform the report (**'the Report'**) presented by **DH** to **the CISC Meeting**. *(NB: of particular interest is the extent to which information provided was either contradicted or rejected in the preparation of **the Report** and was, therefore, unavailable to inform the discussion of Councillors at **the CISC Meeting**).*
- FoI3:2. Please provide copies of all emails sent by and to any member of the Executive Committee (**'the Executive'**) to and from **the ex-Director** and/or to **DH** between 1<sup>st</sup> May 2011 and the date of this request – including correspondence cc'd or bcc'd to them – respectively, referring to any of the following:
- i. The proposed or potential closure of the Philharmonic office (**'the GPO Office'**);
  - ii. **The Report**.
  - iii. The commissioning, execution, delivery, reviews or recommendations arising from the report by David Clarke Associates (**'DCA'** and **'the DCA Report'**); *(NB: this should include the terms of reference and appointment of **DCA** and any supporting or other information that was provided at the time or subsequently that may have influenced or otherwise affected the format and recommendations in **the DCA Report**);*
  - iv. The budget allocations for the Philharmonic (**'GPhil'**) and **the GPO Office** in the financial periods 2011/2012 and 2012/2013 – for the avoidance of doubt, this should include detailed line items for all categories including any allocated central costs;
  - v. The financial performance of **GPhil** and **the GPO Office** for each of those periods against the detailed budget line items – including, for the avoidance of doubt, any correspondence or notes of telephone calls whereby any variance was approved by **DH**, **the ex-Director** or any member of **the Executive**;;
  - vi. The future provision of funding for **GPhil** and **the GPO Office**;
  - vii. The setting aside of four concerts at G-Live during the 2012/2013 season for the purposes of staging concerts by **GPhil**;
  - viii. The meeting (**'the Secret Meeting'**) held in **the ex-Director's** office on the evening of 30<sup>th</sup> January 2012 between:
    1. A member of **the Executive**;
    2. **The ex-Director**;
    3. **The GPO Officers**;
    4. The Chairman of the South East Music Trust (**'the SEMT'**); and
    5. Me
  - ix. Any output resulting from **the Secret Meeting**;
  - x. Any other engagement between **the Council** and **the SEMT** other than through the Manager of **GPhil**, Ms Nicola Gould;

- whose contract of employment, I understand, requires her to provide the secretariat for **the SEMT**;
- xi. The proposed discussion of **GPhil** and **the GPO Office** at **the CISC Meeting**;
  - xii. The decision and implementation of the application for registration of the trademark "**Guildford Philharmonic**";
- FoI3:3. Please provide copies of all emails sent by and to any member of **the Executive**, **the ex-Director** and/or **DH** to and from any of **the GPO Officers** respectively between 1<sup>st</sup> May 2011 and the date of this request – including correspondence cc'd or bcc'd to them – respectively, referring to any of the following:
- i. The proposed or potential closure of the Philharmonic office (**'the GPO Office'**);
  - ii. **The Report**.
  - iii. The commissioning, execution, delivery, reviews or recommendations arising from the report by David Clarke Associates (**'DCA'** and **'the DCA Report'**); (*NB: this should include the terms of reference and appointment of **DCA** and any supporting or other information that was provided at the time or subsequently that may have influenced or otherwise affected the format and recommendations in **the DCA Report***);
  - iv. The budget allocations for the Philharmonic (**'GPhil'**) and **the GPO Office** in the financial periods 2011/2012 and 2012/2013 – for the avoidance of doubt, this should include detailed line items for all categories including any allocated central costs;
  - v. The financial performance of **GPhil** and **the GPO Office** for each of those periods against the detailed budget line items – including, for the avoidance of doubt, any correspondence or notes of telephone calls whereby any variance was approved by **DH**, **the ex-Director** or any member of **the Executive**;;
  - vi. The future provision of funding for **GPhil** and **the GPO Office**;
  - vii. Any arrangements to be made (or to be withheld) for the 2012/2013 season of concerts;
  - viii. The setting aside of four concerts at G-Live during the 2012/2013 for the purposes of staging concerts by **GPhil**;
  - ix. The meeting (**'the Secret Meeting'**) held in **the ex-Director's** office on the evening of 30<sup>th</sup> January 2012 between:
    1. A member of **the Executive**;
    2. **The ex-Director**;
    3. **The GPO Officers**;
    4. The Chairman of the South East Music Trust (**'the SEMT'**); and
    5. Me
  - x. Any output resulting from **the Secret Meeting**;
  - xi. The proposed discussion of **GPhil** and **the GPO Office** at **the CISC Meeting**;

- xii. The decision and implementation of the application for registration of the trademark "**Guildford Philharmonic**";
- Fol3:4. Details of any cost items on the budget and actual accounts which are payable between **the GPO Office** budget and any other cost or revenue centre of **the Council** – *for example, ticket commissions payable to the Tourist Information Centre*;
- Fol3:5. Please confirm whether the personnel department has held discussions or consultations with **the GPO Officers** in respect of redundancy or the future of their positions; *(NB: I accept that this is likely to fall under Section 40(7) of the Freedom of Information Act 2000 ('the FOIA') under the definition set out in Section 1(1) of the Data Protection Act 1998 ('the DPA'), but I understand that, should the consent of the GPO Officers respectively be obtained, a non-financial, non-disciplinary request for a simple yes or no answer such as this can be processed in accordance with Section 1(6) of the DPA)*;
- Fol3:6. Please provide copies of any offers made by, or notes of meetings or discussions with or between **the Executive** or any of its members, **DH**, or **the ex-Director** to or with any employees, officers or shareholders of HQ Theatres or any member of its group of companies ('**HQT**') in respect of staging concerts under the name of "Guildford Philharmonic" or any similarly recognisable sobriquet;
- Fol3:7. Please also provide copies of any correspondence, or notes of meetings or discussions with or between **the Executive** or any of its members, **DH**, or **the ex-Director** to or with **HQT** in respect of staging concerts with the London Symphony Orchestra (LSO) or any other orchestra apart from **GPhil**;
- Fol3:8. Please provide a copy of any responses from **HQT** in respect of Fol3:6 and Fol3:7 above;
- Fol3:9. Please provide a copy of any notes made by **DH** or any other officers of **the Council** following or during conversations with Worthing Borough Council ('**WBC**') with regard to **WBC's** funding of Worthing Symphony Orchestra, Worthing Theatres, Worthing Philharmonic Orchestra or Worthing Symphony Society, and any correspondence with **WBC** in respect of the same;
- Fol3:10. Please provide a copy of the formal letter or contract of appointment (including any terms of reference, indicative outcomes, etc) of **DCA** in respect of **the DCA Report** and any minutes of meetings, notes or communications to, with and from **DCA** during, and leading to, the preparation of **the DCA Report**;
- Fol3:11. A copy of all correspondence minutes of meetings, notes or communications to, with and from **DCA** following preparation of the first draft of **the DCA Report** (including but not limited to all draft versions of **the DCA Report**);
- Fol3:12. A copy of the Final version of **the DCA Report** that was to have been annexed to the Agenda of **the CISC Meeting**;
- Fol3:13. A copy of all communications (correspondence, calls, emails, etc.,) from **DH** or any other officer of **the Council** to **DCA** in the month

leading up to **the CISC Meeting** in **DH's** efforts to secure a copy of the Final version of **the DCA Report** for distribution at or prior to **the CISC Meeting**;

- Fol3:14. Please provide a list of all correspondence, calls and meetings arranged (stating whether they took place, were cancelled or postponed or have been scheduled for a future date) both internally (especially with Councillor Powell) and externally with potential operators and/or partners for **GPhil** subsequent to **the CISC Meeting** by any officer, by **DH** or by Councillor Powell; (*Note: the direction of **the CISC Meeting** three weeks ago was for **DH** and Councillor Powell to urgently meet with potential partners and to report back to the next meeting of the **CISC**;*)

## Freedom of Information Request 4 ('FoI4') DH Attendance at the Council

**The Letter** referred to my "bizarre" campaign against **DH's** residence in South Oxfordshire.

In **the Response** I explained why I felt it was important to refer to this and to remind local voters and their Councillors of the need to separate functional management from policy decision, whereby policies should be determined absolutely and democratically by the Councillors, whilst **DH** as Head of Paid Services at **the Council** should stick to functional direction.

In **the Letter** reference was made to the previous Chief Executives for the past 25 years having lived outside the Borough.

Since I circulated **the Response** I have become aware of an unattributed letter criticising **DH's** management of **the Council** and, whilst I would not wish to consider the allegations are true or other than mischievous, I do believe that the reference to periods of absence is worthy of note.

- FoI4:1. Please provide the postal codes (or at least the first three or four digits) for each of the previous Chief Executives of **the Council** over the past 25 years ('**the CEs**');
- FoI4:2. Please confirm whether any of **the CEs** had a house or apartment or other accommodation in Guildford Borough or neighbouring boroughs during their tenure as Chief Executive;
- FoI4:3. Please provide a copy of **the Council's** policy and any written protocols in respect of home working or remote working;
- FoI4:4. Please provide a copy of any agreement between **the Executive** or any of its members and **DH** to allow, encourage or preclude him from working from home;
- FoI4:5. Please provide summarised data from **the Council's** computerised access control system to show the number of days for each week in the past twelve months that **DH** has used his cotag (or whatever proximity read card or personal access device is used at **the Council**)

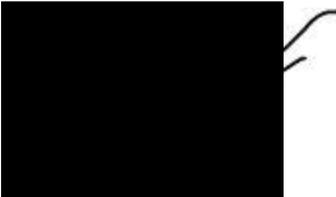
to access **the Council** office; (*note: I do not require detail such as the number of hours each time at this stage*);

- FoI4:6. Please confirm whether there is extra cost to **the Council** for the mileage (whether for fuel paid for directly or reimbursed by **the Council** or in respect of the cost of fleet rental of a company car) resulting from **DH's** choice to remain living in South Oxfordshire as against a Chief Executive on the same package were he or she living in Guildford or a neighbouring borough;

These requests deal with the matters immediately referred to in and related to the allegations made in **the Letter** and I would be grateful, especially with the allegations remaining current on the part of **Rooth and Mansbridge** at least (and, on a legal technicality, probably also on the part of Councillors Goodwin and Gunning), to receive your response within 20 days as provided for in **the FOIA**.

I fully expect to issue further requests under the **FOIA** in respect of the other matters of interest to me in due course, but in the meantime, I look forward to your response and your confirmation that no documents have been destroyed as requested in **the Response**.

Yours faithfully

A black rectangular redaction box covers the signature area. To the right of the box, there are two thin, curved lines that appear to be the end of a signature or a scribble.

Julian D S Lyon MBA (dist.) FRICS

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<sup>i</sup> Re: Letter to Martin Giles concerning GDW

We feel that we were pressed to put our names to it. The letter was tabled without notice, and discussed by those present for about 30-40 minutes<sup>1</sup>. Who had seen it prior to the meeting we don't know.

In our opinion, there was inadequate time to either read and thoroughly understand it, or to consult the political groups. Or review evidence.

Four issues were addressed

- Inaccuracy
- Responses to Guildford Vision
- Correspondence with J Lyon concerning a scrutiny cttee meeting at which the future of the orchestra was discussed
- Criticism of the Ch Exec

We think that inaccuracies in the Press should be dealt with in the usual way: a request for a retraction plus a correction. Journalists seeking confirmation from GBC on stories can only write 'no comment' when none is forthcoming.

The 'email-trail' referred to concerning a letter from Guildford Vision and subsequent 'Open Letter' from John Rigg was not tabled at the meeting, and we have not seen it.

WE were not present at the scrutiny meeting [of April 26<sup>th</sup>] where the orchestra was discussed, although we have heard many accounts from those who were there. There are conflicting accounts about what happened in the days before the meeting. An impartial investigation would clear the air.

Matters of a confidential nature can always be discussed by clearing the room of the press and public, under Section 100A(4), Local Gov't Act 1972 part1, schedule12A.

The GDW has been a welcome initiative, bringing news from Council Meetings with an immediacy not available to the weekly Surrey Advertiser.

With these reservations in mind, we withdraw our names from the letter sent to Martin Giles on 10<sup>th</sup> May 2012.

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