



Brighton & Hove

BRIGHTON & HOVE CITY COUNCIL

**REPORT OF THE SCRUTINY REVIEW
ON THE CONSULTATION PROCESS FOR
COMMUNAL BINS**

MEMBERSHIP OF THE SCRUTINY PANEL:

**Councillor Jan Young (Chair)
Councillor Joyce Edmond-Smith
Councillor Dee Simson**

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1. BACKGROUND TO THE SCRUTINY REVIEW

- 1.1 The Overview and Scrutiny Organisation Committee (OSOC) initiated the Communal Bins Scrutiny Review on the 23rd February 2004 following a request for scrutiny submitted by Councillor Dawn Davidson.
- 1.2 The letter requesting scrutiny is included at Appendix 1 to this report. Information in support of the scrutiny request and other background papers to the review are held for reference in Brighton and Hove Town Halls and Kings House, Hove.
- 1.3 OSOC agreed to establish a 3-Member ad hoc Scrutiny Panel with the remit to review the consultation process that was used prior to the introduction of the communal bins trial in three wards of the city. The trial itself was not to be subject to scrutiny.
- 1.4 Councillors nominated to serve on the Scrutiny Panel were Councillors Jan Young (Chair), Joyce Edmond-Smith and Mrs. Dee Simson.
- 1.5 All Brighton and Hove City Councillors whose wards were included in the trial and those residents directly affected by the trial were invited to participate in the scrutiny review.
- 1.6 The Panel held two public meetings on the 22nd March and 30th April 2004. The first meeting received information from ward councillors affected by the trial and the Chair of the Environment Committee. The second public meeting was held to hear the views of the residents affected by the trial. Those who spoke at the two public meetings had an opportunity to review and confirm the notes, which form appendix 3 to this report.

Also forming part of appendix 3 are the statements and affidavits of some witnesses who spoke at the second meeting of the Panel and are referred to in the notes of the meeting. The panel would like to make it clear that they do not approve the tone and substance of some of the statements regarding the conduct and integrity of members and officers. These are the views of the authors and have been included only for the sake of completeness and in line with custom and practice.

- 1.7 A third meeting of the Panel was held on the 26th May and in accordance with the Council's constitution and the protocol relating to the process of giving evidence to a Panel meeting, this meeting was held in private. The Panel heard evidence from the Assistant Director and the Head of Operations at City Clean. The two officers had an opportunity to review and confirm the notes taken at the meeting and in accordance with the Panel's recommendation these have been made public and form part of appendix 3 to this report.

- 1.8 In preparing this report of findings and recommendations, the Scrutiny Panel has taken into account all the views expressed during the review. The Panel's findings are those, and only those, included in the body of the report. Everything else is the view of the persons making the statement and their inclusion does not imply their acceptance as true.
- 1.9 The Panel would like to thank all those who participated in the scrutiny review. Their final report of findings and recommendations will be presented to OSOC on the 13th September for information and then to Environment Committee on 21st October 2004. It will then be reported to full Council together with any response from the Environment Committee.

2. FINDINGS AND RECOMMENDATIONS OF THE SCRUTINY PANEL

2.1 Legal Position

2.1.1 The Panel requested a view on the legal definition of consultation and the implication for the process under consideration be clarified. The courts have given general guidance which sets out three tests:

- (a) Does the consultee have the information required to be able to give comments;
- (b) Is there an opportunity to make representations;
- (c) Have the representations/comments been taken into account.

2.1.2 With regard to the concerns raised by the residents over the legitimacy of the decision, the committee approved the trial scheme and there was an opportunity to comment on that. Aspects of the scheme were changed as a result of feedback and the final decision to go ahead with the scheme was not taken until the 29th January 2004. As such, all relevant information regarding the scheme had been made available at least by the time of the January committee meeting. It was clear from the proceedings of the committee that Members were fully aware of the concerns of residents and some councillors.

2.1.3 With regard to the experimental traffic order, there was no requirement to advertise it first. Once it was approved, people would have up to 6 months to make representations, which could then be taken into account before a final Traffic Order was approved.

2.2 Clarity of Reports and Recommendations

2.2.1 The Panel felt that the report to the July Environment Committee was ambiguous and could have led to Members not necessarily understanding and possibly misleading the general public.

2.3 Duty to Consult

2.3.1 The Panel feels that the problem seemingly arose from the lack of clarity about what was being consulted on. The intention to obtain views on aspects of the scheme prior to its introduction, whilst understandable, had not been made clear and had led to different expectations.

2.3.2 The consultation process should be used to inform people of the intentions of the proposals and provide an opportunity to gather views/feedback as they may differ to what is anticipated. Having received views/feedback there should be a means of showing how this has been taken into account and whether the proposals have been altered as a result.

2.4 Consultation Process with Residents

2.4.1 Before the trial commenced there was an expectation amongst residents that they would be consulted and that they would be able to influence the decision whether or not their streets would be included in the trial and not simply asked to comment on aspects of the actual scheme. The July 2003 report did nothing to redress this expectation.

2.4.2 There was a failure to distribute the leaflets to all residents, informing them of the introduction of the scheme and whilst this was rectified with a further distribution based on a more reliable database, it had added to the uncertainty of how the scheme would operate.

2.4.3 There was a need to review how information to residents was separately identified and not confused with ordinary 'junk mail' and thereby enable recipients to respond accordingly.

The Panel noted that one individual reported a difficulty with the assisted collection service, however a letter to all households provided information on how to access the service and people requesting the service were visited and individual arrangements made. There had been some difficulties in ensuring that residents requiring assisted collection because of disabilities or age are taken into account in so much as assisted collections were delayed and information regarding the level of service to be provided had been insufficient.

RECOMMENDATION 1

To ensure that everyone concerned (Members, officers and members of the public) are fully aware of what action is being proposed and how that action can be influenced i.e. prior to implementation, during and/or after implementation, the definition for consultation as detailed in paragraph 6.1 (above) be used as the basis for all future consultation and that officers adhere to the council policy as detailed on the Wave.

RECOMMENDATION 2

That future leaflets/circulars/letters to residents are clearly marked as being from the Council and that the database for circulation is checked as being the most up-to-date and that compensatory arrangements are in hand to ensure any delivery failure can be rectified quickly.

RECOMMENDATION 3

That any information circulated to residents regarding changes in services provided by the council should clearly state the contact numbers at the council for further information and for those requiring assisted collection.

2.5 Consultation Process with Ward Councillors

- 2.5.1 Whilst action was taken to inform the ward councillors of the proposals regarding the trial, the importance of the e-mails was not clear and meant that some councillors did not respond.
- 2.5.2 The Panel felt that there was a need to bear in mind the limitations of relying on e-mail to inform and contact councillors and that additional methods such as phone-calls and written letters/memos should be used.
- 2.5.3 The Panel also acknowledged that councillors had a duty to respond and to follow-up matters with officers.

RECOMMENDATION 4

That collective briefings are arranged for ward councillors where proposals are being made which affect their wards. Individual meetings should then be held where Members are unable to attend the joint briefing session.

RECOMMENDATION 5

That the Director of Cultural Services be requested to review the e-mail service provided to Members and officers to see whether a differentiation can be made to ensure recipients are clearly aware of the importance of the information being provided e.g. respective coloured icons for ward issues and urgent items requiring a response.

RECOMMENDATION 6

Records of all communication (including responses), to councillors on major ward issues to be kept until the process is complete.

RECOMMENDATION 7

That Ward Members are consulted on the production of any leaflets/questionnaires that are to be sent to residents in their ward and to receive copies prior to their distribution.

2.6 Use of an Experimental Traffic Order

- 2.6.1 There was a clear lack of understanding with regard to the Council's powers to use an experimental Traffic Order (TO). The Panel was of the view that residents had been led to believe that there was a requirement to consult over the intended TO, and had not understood that as it was an experimental traffic order it could apply immediately.
- 2.6.2 The Panel noted that at the end of the 6-month period should the council wish to adopt the TO, it would have to take into account any comments/views that had been received from residents.

RECOMMENDATION 8

That with any future use of Experimental Traffic Orders, it be made clear that the traffic order will apply for a set period and that during that period comments/views can be submitted and will be taken into account prior to the final Traffic Order being adopted.

2.7 Future Consultation

- 2.7.1 The Scrutiny Panel noted that the consultation process within the trial area had begun and expected all residents to be able to have input in to that process and for the results to be publicised. It was felt that prior to any decision to expand the scheme into other areas, a clear process for consultation with residents and ward councillors should be agreed, in order to prevent the misunderstandings that had occurred with the current scheme.

2.7.2 The Panel noted that guidance on consultation had since been drawn up and were of the view that the Research & Consultation Team should be contacted before any consultation was undertaken, in order to provide assistance and views on the process to be used.

RECOMMENDATION 9

That the Research & Consultation Team should be contacted to provide guidance on future consultation exercises and where appropriate asked to undertake the consultation on behalf of any of the Council's directorates.

3. FUTURE ACTION

3.1 In addition to the formal recommendations of the scrutiny review the Panel ask that all future consultation exercises bear in mind that they should:

- (i) Ask not tell;
- (ii) Consult and listen;
- (iii) Say what you mean.

RECOMMENDATION 10

That when changes are being proposed which affect the service provided to people with additional need including disabilities, consultation takes places with those organisations/groups which represent them with a view to them being able to identify specific requirements and to liaise with those directly affected.

LIST OF PARTICIPANTS IN THE SCRUTINY REVIEW

Councillor	Gill	Mitchell	Chair of Environment Committee
Councillor	Dawn	Davidson	Regency Ward
Councillor	Paul	Elgood	Brunswick & Adelaide Ward
Councillor	Roy	Pennington	Regency Ward
Councillor	Simon	Williams	St. Peter's and North Laine Ward
Councillor	Anne	Giebeler	Goldsmid Ward
Mr.	Tony	Davies	Resident
Mr.	Nigel	Furness	Resident
Mr.	Paul	Vitalis	Resident
Mr.	David	Weedall	Resident
Professor	Carol	Dyhouse	Resident
Ms.	Gillian	Marston	Assistant Director Cityclean
Mr.	Tim	Moore	Head of Operations, Cityclean

Cllr. Les Hamilton,
Chair Overview and Scrutiny Organisation Committee,
Kings House,
Hove

30th. January 2004

Dear Les,

Re. Consultation of Trial of Communal Bins

I am writing to request that OSOC undertakes a review of the consultation process that was used prior to the introduction of communal bins in three wards of the City.

It has become increasingly apparent that since the pilot scheme was first announced that residents have been particularly aggrieved by what they perceived was a totally inadequate and flawed consultation process. Leaving aside the resistance to this scheme anyway, the main complaint has been that few residents felt that had been made fully aware of the scheme or involved in any meaningful way in contributing comments that would have assisted Cityclean in the early stages of implementation.

At its meeting on 31.07.03 the Environment Committee approved an experimental traffic order to site communal bins on the highway subject to consultation with residents. Section 4 of the papers 'Consultation' stated 'It is recognised that without the support of the residents the trial will not be successful'.

A further meeting on 12.12.03 agreed that 'areas for these trials will be based on information gathered from residents during the review'.

Only one site was identified for residents to view the bins which meant that a large number of people were unable to see what was being implemented. A leaflet was distributed to all properties but given the nature of houses of multiple occupation, many residents never saw that information leaflet. Only one public meeting was held and that was at the instigation of one political group.

A proper consultation involving all parties would have prevented some of the recent demonstrations such as at the last Council meeting and the Environment Committee. The majority of these residents do not have a problem with the collection of rubbish and this would have become apparent if meaningful consultation had occurred. This would perhaps have influenced the decision regarding which roads should be included in any pilot scheme.

If this pilot proves successful it will be the intention to roll the scheme out across the City. It is important that we ensure that any future consultation is carried out in such a way as to ensure that the views of residents are taken into consideration well in advance of implementation and thus to eliminate the possibility of the many changes and modifications which have become necessary to the current scheme. This will only be achieved if we review carefully the methods used in the run up to this pilot and make the changes which will ensure a smoother implementation of any subsequent schemes.

It is my contention that the consultation with residents as agreed at the meeting on 31.07.03 was not satisfactorily undertaken and that as a result the Council is in breach of its stated consultation process.

Yours sincerely,

Dawn Davidson

1 SUMMARY OF EVIDENCE: WARD COUNCILLORS

- 1.1 During the scrutiny review the Panel received written and oral information from the ward councillors.
- 1.2 Consultation with Ward Councillors
- 1.2.1 A number of meetings had been arranged during the summer of 2003 and some ward councillors had been able to attend meetings with officers in June and July. However, there appeared to be some confusion over whether all ward councillors were invited to further meetings in August, October and November and that this raised a question over the use of e-mail as a communications tool between officers and councillors.
- 1.2.2 Some ward councillors had not been aware of the intention to distribute leaflets to residents informing them about the trial and its commencement date.
- 1.2.3 The distribution of the additional leaflets between the 19th and 26th January had also not been brought to the attention of all ward councillors.
- 1.2.4 It was said that there was a general lack of information to ward councillors about the visit by officers to Edinburgh to look at a similar communal bins scheme and how this had influenced the nature of the trial for Brighton & Hove.
- 1.2.5 It was suggested that a similar process to that undertaken for the introduction of parking schemes of collaborative working between officers and councillors should have been adopted for the communal bins scheme.
- 1.2.6 Concern was expressed over how decisions were taken to either retain or drop various streets from the proposed scheme and how these were reported to committee and ward councillors as well as residents themselves.
- 1.2.7 It was felt that the process for the implementation of the Experimental Traffic Order (ETO) should have been clearer in the report to the Environment Committee. The process of consultation on the ETO should have been detailed and whether or not those streets affected had to be named. There was also a strong view that a report about the actual scheme should have come to committee rather than being mentioned in the report on the ETO.
- 1.2.8 Although two exhibitions were held, it was unclear whether these had been arranged following the opposition to the scheme or as a planned process for obtaining views on how the scheme would operate in those streets that had been identified. It appeared that some changes were made to the scheme as a result of the feedback from the exhibitions, but it was unclear as to how the changes had been agreed.

2. SUMMARY OF EVIDENCE: CHAIR OF ENVIRONMENT COMMITTEE

- 2.1 As Chair of the Environment Committee, Councillor Gill Mitchell provided information to the Scrutiny Panel at the public meeting.
- 2.2 Meetings with ward councillors had been arranged and notification sent out, with seven out of ten Members responding to the invitation to the meeting on the 22nd October. Councillor Mitchell had been aware of Councillor Davidson's concerns over the scheme. As Councillor Davidson had not responded to the invitation, Councillor Mitchell had tried to contact her to ensure she was aware of the meeting that had been arranged for ward councillors.
- 2.3 Councillor Mitchell confirmed that the Environment Committee at its meeting on The 29th January 2004 approved the final list of streets to be included in the scheme.
- 2.4 The full consultation process had been seen as taking place once the trial had begun and would involve all residents in various ways, however there was a need to inform residents of the proposed scheme and to seek their views on how the scheme would operate. An initial leaflet drop had been found to be problematic and an additional leaflet distribution was undertaken. Two exhibitions were held to inform residents and to obtain feedback, which was incorporated into how the scheme would operate e.g. the location of the bins was altered.
- 2.5 Officers held a number of meetings with residents and their views taken on board wherever possible after the exhibitions.

3. SUMMARY OF EVIDENCE: RESIDENTS

- 3.1 Written evidence was submitted to the Panel on the 22nd March and the 30th April and five local residents provided oral information to the Scrutiny Panel at its meeting on the 30th April 2004.
- 3.2 Written Evidence
 - 3.2.1 Whilst leaflets were distributed to residents in November, they were not delivered to every household and some areas were missed out completely. This meant that a number of people were unaware of the two exhibitions that had been arranged.
 - 3.2.2 The circulation of the leaflets was regarded as providing information about the scheme and was not considered to be meaningful consultation. It appeared that residents were being told a scheme would be implemented and not being asked as to whether or not they wished to participate in such a scheme.

- 3.2.3 A number of residents only became aware of the scheme when the street markings were painted towards the end of January in advance of the bins being sited.
- 3.2.4 The report to the July 2003 Environment Committee referred to consultation with residents and this was interpreted by residents as being a process which would occur before the introduction of a scheme in any given area.
- 3.2.5 It appeared that the scheme had to go ahead in order to enable certain targets to be met and this was the reason why no genuine consultation had taken place prior to its implementation.
- 3.2.6 The two exhibitions that were held in November were poorly attended and subsequent meetings with residents from individual streets were not effective and led to some streets being taken out of the scheme.
- 3.2.7 Norfolk Road residents on the Brighton side of the road had yet to be consulted or informed as to when or if the scheme would be extended to their houses. However, the trial in respect of the multi-occupancy dwellings across on the Hove side of the road was welcomed.
- 3.3 Evidence at the Panel meeting on the 30th April
- 3.3.1 The expectation of a meaningful consultation process was a primary concern, with the view that the report to the Environment Committee in July 2003 gave the impression that residents would have the opportunity to determine whether or not the trial should take place in their streets.
- 3.3.2 It was argued that the impression of an intention to consult had been given and, had consultation taken place an effective trial area could have been identified rather than creating a high degree of opposition and ill-feeling amongst residents
- 3.3.3 The process of informing residents about the scheme was inadequate, with leaflets being distributed in November 2003 without any indication as to their importance or content, which led to a number of people not being aware of the proposals. It also led to a second set of leaflets being distributed to residents in January 2004, just prior to the actual implementation of the scheme and therefore little time in which to respond.
- 3.3.4 Whilst opposition to the scheme was evident, there appeared to be a lack of appreciation of the level of opposition by councillors, a number of petitions had been signed and delivered to the council without being taken in to account.
- 3.3.5 The needs of those residents with disabilities had not been taken into account with regard to the change to communal bins. It was only after a number of letters and phone-calls that Cityclean made arrangements to collect refuse from certain households.

4. SUMMARY OF EVIDENCE: OFFICERS

4.1 During the scrutiny review the Panel received written information from the Assistant Director of Cityclean. Both the Assistant Director and the Head of Operations for Cityclean also provided oral information to the Panel in closed session at its meeting on the 26th May. The notes of the meeting have been approved for public release and form part of Appendix 3 to this report.

4.2 Written Evidence

4.2.1 Approval for an Experimental Traffic Order was sought although it was not required for the siting of the bins, but to allow for the issue of fixed penalty notices against cars parked in an area marked out for a container.

4.2.2 A number of meetings with individual ward councillors were arranged during June and July 2003 and further meetings were held in October 2003.

4.2.3 Information outlining the reasons for the trial and how it would operate including the process of consultation throughout the trial period was circulated to all councillors in December 2003.

4.2.4 Separate meetings were held with representatives from Powis Villas, Clifton Road, Montpelier Crescent and Victoria Road.

4.3 Assistant Director

4.3.1 The Waste Survey of 2002 highlighted the increased level of dissatisfaction with street cleanliness and was used to inform the Best Value Review (BVR), for Waste Strategy in December 2002. The BVR recommendations led to the proposed communal bins trial and the findings of the Waste Survey were used to identify the area for the trial, i.e. those streets with the highest level of dissatisfaction.

4.3.2 She accepted that greater clarity could have been given with regard to the process of consultation and the intention to seek views on aspects of the scheme prior to its implementation. It was intended that residents' views should be sought initially to help to alleviate concerns and to then have a full consultation process involving all residents once the trial had been in operation.

4.3.3 The distribution of the leaflets in November had been problematic because of the data used for addresses and this was rectified by the hand delivery of further leaflets and in January when an alternative data source was used for the issue of letters to all households

4.3.4 There had been no changes to the service provided to those people with disabilities and that the service was advertised and each person visited to clarify their needs.

4.4 Head of Operations

- 4.4.1 The trial area had been identified based on operational requirements and with regard to the outcome of the Best Value Review, which had shown those areas where street cleanliness was a main concern.
- 4.4.2 Having identified the streets to be included he had arranged meetings with ward councillors and residents and sought to ensure they were informed of the proposals. He acknowledged that a number of streets were suspended from the trial following concerns raised or because of operational difficulties.
- 4.4.3 He accepted that the report to the Environment Committee in July 2003 could have been clearer in terms of the process of consultation. A longer lead-in period may have helped to ensure residents were aware of the scheme and the need for full consultation once it had been in operation for a period of time.
- 4.4.4 Although there had been opposition to the scheme, some streets had since found that the service was beneficial and were happy with the service provided.

BRIGHTON & HOVE CITY COUNCIL

SCRUTINY PANEL ON COMMUNAL BINS CONSULTATION

**Report of the meeting held on
Monday 22 March 2004**

**5.00pm
Ante Room, Brighton Town Hall**

Present: Councillors Young (Chair), Edmond-Smith and Simson

Also present: Councillors Davidson, Elgood, Mitchell, Giebeler, Pennington and Williams.

Gillian Marston, Assistant Director City Clean
Tim Moore, Head of Operations City Clean
Mary van Beinum, Committee Administrator

1. PROCEDURAL BUSINESS

1.1 A, B, C - None.

1.2 The Chair Councillor Jan Young welcomed everyone to the meeting and emphasised the scope of the scrutiny panel as set out by the parent Committee, the Overview and Scrutiny Organisation Committee (OSOC). The scrutiny review would consider the consultation process used prior to the introduction of the trial bins; the trial itself was not subject to scrutiny. (For copy see minute book)

1.3 The scrutiny panel had no decision-making powers: the scrutiny report of findings and recommendations, when agreed, would be considered by OSOC for approval and forwarded to the Environment Committee for a reply. The two reports would then be presented together to full Council.

1.4 As the press notice for the meeting had appeared late, the Panel intended to arrange a further meeting with more notice.

2. INFORMATION FROM REGENCY WARD COUNCILLOR, COUNCILLOR DAWN DAVIDSON

- 2.1 At the invitation of the Chair, Councillor Dawn Davidson (Cllr DD) told the meeting why she had requested a scrutiny review of the process for consultation prior to the trial of communal bins in parts of the City. The request formed Appendix 1 to the report to OSOC on 23rd February, where the scrutiny review had been agreed. (For copy see minute book).
- 2.2 Cllr DD said the road traffic order had been agreed at Environment Committee. But the trial itself was a substantial change, so, she asked, why had it not been a formal Committee agenda item.
- 2.3 The main questions fell into two parts; firstly communications between officers and councillors and secondly communications between the council and residents.
- 2.4 When leaflets were first distributed, concerned residents contacted councillors but they had limited ability to respond as they had not seen the leaflet themselves and had no advance information. Cllr DD said her leaflet arrived after the residents received theirs.
- 2.5 Leaflets did not reach every home affected and as they resembled junk mail, many residents may have thrown them away. Cllr DD said the leaflets were not viewed as part of a consultation but an announcement. There seemed to be no consultation on special services needed by the elderly and disabled nor on the roads to be included in the trial until after the trial had started. There was no consultation on how the scheme would be implemented and managed, nor with conservation societies and historical groups.
- 2.6 In Cllr DD's view the exhibition was 'too little, too late' with insufficient opportunities for affected residents to visit. Many residents felt that litter was not a problem in their streets and that the trial should be in areas where there were problems with foxes and seagulls damaging black rubbish bags.
- 2.7 Some resistance to the trial could have been expected, as waste management was known to be an issue of wide concern. The trial was known to need to support and to have the co-operation of the public. A longer period of consultation would have eased the minds of concerned groups.
- 2.8 Summarising, Cllr DD said leaflets should have been dropped to all homes and should have included an invitation to public meetings for wider discussion. Officers needed to liaise more widely with Councillors and for openness and transparency she suggested controversial items should normally be included on Committee agendas.
- 2.9 Asked about the timing of events Cllr DD said that she had attended two meetings with officers in summer 2003. In June/July it was known the pilot could raise concerns but there was no further information. She had not been told by e-mail that leaflets would be going out in October and had not been reminded about a meeting to discuss leaflets. Cllr DD had only heard of

progress via Councillor Elgood who told her of the approval of the road traffic order at Environment Committee. Cllr DD said she would check her e-mails.

- 2.10 The Panel said they needed to investigate further how the councillors were contacted and more details of the sending and receiving of communications about the trial between the officers and Ward Councillors.
- 2.11 Answering a question Cllr DD said, had she not heard from Councillor Elgood, she would not have known that the trial was starting. Cllr DD had no recollection of invitations to meetings in August.
- 2.12 The Panel said they would check who had attended the meetings with officers.
- 2.13 Asked whether she had been proactive in trying to get information, and what Cllr DD felt her own role in consultation with residents to be, Cllr DD said she had met officers twice and asked for more details of the Edinburgh scheme. She had heard no more for around six months and had no recollection of an invitation in August.
- 2.14 The Panel Chair said she understood that in June/July 2003 10 ward councillors were invited to a meeting called by Cityclean, of which 7 responded and 9 attended. Cllr DD said she would check why she was not there.
- 2.15 Councillor Elgood said the one missing ward councillor, then Deputy Mayor Councillor Watkins, had been unavailable that day.
- 2.16 The Panel said they understood that all ward councillors had been contacted in October and invited to another meeting in November and that Cllr DD had not responded. Cllr DD said she would check.

3. INFORMATION FROM THE CHAIR OF THE ENVIRONMENT COMMITTEE, COUNCILLOR GILL MITCHELL

- 3.1 At the invitation of the Chair Councillor Mitchell (Cllr GM) said on October 22nd all ward councillors affected by the changes were invited to a meeting with officers. This was a very important meeting to discuss the draft leaflet. Seven ward councillors responded but three including Cllr DD had given no response. Cllr GM telephoned Cllr DD, as she had felt uneasy about the fact that Cllr DD had asked about the Edinburgh trial and had not replied to the invitation to the meeting. Cllr GM had left a message on Cllr DD's answerphone to contact Cityclean
- 3.2 Prior to this said Cllr GM, on 18th August there had been an invitation to Cllr DD to discuss the detailed planning stage including further information about the proposals, the planned leaflets and possible siting of communal bins in the trial. Cllr GM handed a copy of the e-mail to the Panel Chair.

- 3.3 Cllr DD clarified that she had not felt information had been purposely withheld from her and said she had been unavailable for part of August.
- 3.4 The scrutiny panel asked about Cllr DD's methods of contacting and consulting residents and heard that the communal bins featured as part of a regular local newsletter. A leaflet specific to the bins trial was distributed after the trial was implemented, when a survey was undertaken and the feedback was 'enormous,' she said.
- 3.5 Cllr DD said that, had she had more information she would have done more intensive campaigning before the trial was implemented.
- 3.6 Cllr GM said e-mail was sent to Cllr DD inviting her to a meeting to discuss details of the consultation and no response was received.

4. INFORMATION FROM GOLDSMID WARD COUNCILLOR, COUNCILLOR ANNE GIEBELER

- 4.1 Councillor Anne Giebeler (Cllr AG) told the meeting that hers was a different situation. As a Councillor for Goldsmid ward, which had only a very small area within the trial, she had received an e-mail from Cityclean asking if she would like to discuss the trial on 9th July. As a result, Cllr AG met an officer that day and heard for the first time about the trial; where it would be, the number of parking spaces affected and the fact that this was only the beginning stages of a scheme which was intended to be rolled out more widely.
- 4.2 The next time Cllr AG heard about the scheme was in November. Cllr AG said the three Goldsmid councillors felt like 'poor relations' and had not been included on any e-mails. In November residents, especially those in bed-sit accommodation began contacting Cllr AG. At that stage Cllr AG knew nothing about the leaflets, she said.
- 4.3 It was only following the second delivery of leaflets between 19th January and 26th January that some Goldsmid residents became aware of the trial, being advised that 'a communal bin will be located close to where you live on 2nd February.'
- 4.4 Cllr AG said she felt there had not been a consultation on the trial or if there had, she was unaware of it. It was important for residents to know what was being proposed and that the location of the bins was satisfactory. Whilst there had been publicity in the Argus, the Leader and City News and flyers put up in the areas to be included in the Trial when it was happening, it would have been more logical to have done so before, so that public meetings could have taken place to discuss the issue. There needed to be full consultation for all councillors and residents in future, she said.

5. INFORMATION FROM BRUNSWICK AND ADELAIDE WARD COUNCILLOR, COUNCILLOR PAUL ELGOOD

- 5.1 At the invitation of the Chair, Councillor Paul Elgood (Cllr PE) said his recollection of dates was not sharp. But he felt there had no been proper consultation and he could not do his job as he had no information. No-one wanted to waste money. Everyone wanted an effective scheme. Cllr PE ran his own survey and found most residents in favour by a narrow majority. Residents in Norfolk Road particularly made objections and Cllr PE had ideas of areas that he felt should be removed from the trial. However he said there was a reluctance to deal with small details that concerned individual residents; this was not a criticism of the officers, he said.
- 5.2 Cllr PE felt that the case for communal bins had not been properly set out or explained. There was an over-reliance on e-mails within the council and when flooded with incoming mail it was difficult for councillors to respond. There was a question of how to deal with lobbying campaigns with no resources to reply adequately. He said as a Group leader he sometimes felt hounded by the volume of issues needing replies.
- 5.3 Cllr PE said the reason for being invited to view a scheme in Edinburgh was unclear and there should have further information on this. At the time Cllr PE did not know why Edinburgh was important.
- 5.4 Cllr PE was asked why he did not raise the matter with the Chair of the Environment Committee at the stage of the approval of the road traffic orders and said he had spoken with the Director, Environment.
- 5.5 The first he knew of the leaflets was from a phone call by a concerned resident and he was only then sent a few leaflets. It was still unclear as to which roads would be included and other aspects of the trial were vague, he said.
- 5.6 Cllr PE said there should have been more clarification of the proposals at the stage of approval of the road traffic orders. It was important for the residents to know where the trial bins were to be placed. There needed to be close working between officers and councillors and councillors and the committees to help in the council's community leadership role of keeping residents informed and updated. Officers worked closely with ward councillors on parking matters, for example, and Cllr PE said the same process should be in place for other issues, which closely affected residents.
- 5.7 Cllr PE had done what he could once he was alerted to residents concerns about the communal bins trial, but he would have preferred more information sooner and for the trial to have been brought to Committee.
- 5.8 The Panel asked if it would have been preferable to arrange just one meeting with all ward councillors, rather than individual meetings as and when they could be fixed. Panel Members said they felt e-mails could get lost and a formal meeting between officers and all affected ward councillors arranged well in advance may be a possible improvement in the future.

5.9 The Panel considered how different councillors may prefer to be contacted by different means and the difficulties of prioritising their paper and electronic post when a large amount of information was being handled, particularly around sensitive issues.

6. INFORMATION FROM ST PETER'S AND NORTH LAINE WARD COUNCILLOR, COUNCILLOR SIMON WILLIAMS

6.1 At the invitation of the Chair Councillor Simon Williams (Cllr SW) spoke to the Panel. He said it was unfortunate that the Panel meeting had been arranged when he as a ward councillor was involved in another meeting elsewhere. Cllr SW read a statement to the meeting (for copy see minute book

6.2 The panel asked what should be the proper process for ward councillors to contribute to the planned trial. Some ward councillors had gone to the Committee Chair, others to officers and other preferred to use the Committee route.

6.3 Asked why he had not approached the Committee Chair, Cllr SW said this was a matter of timing. Had the high levels of concern been apparent sooner in the process he would have spoken to the officers. Cllr SW said the Administration, the officers and Cityclean were well aware of concerns in the West Hill area and said he was surprised the Conservative group did not support the amendment put forward by Councillor Georgia Wrighton to suspend the scheme in two streets there.

6.4 Asked if he had considered holding a public meeting, Cllr SW said some direct dialogue with residents could have been helpful. However he had taken advice from officers that this may be counter-productive.

7. INFORMATION FROM REGENCY WARD COUNCILLOR, COUNCILLOR ROY PENNINGTON

7.1 At the invitation of the Chair Councillor Pennington (Cllr RP) told the scrutiny panel he had first heard about the trial in June 2003 via e-mail from Cityclean officers. This gave a list of streets to be included and Cllr RP had driven around the affected area with a Cityclean officer pointing out where bins may be well-placed and where they may cause concern. He was sent a photo of the type of bin to be used on July 4th.

7.2 Environment Committee on 31st July set out an updated list of streets and Cllr RP spoke about this to the Committee Chair and some residents, most of whom did not like the proposals, he said. Some streets were deleted and other added though he did not know how the change had been arrived at.

7.3 Cllr RP had asked at the Environment Committee meeting when the road traffic orders were agreed, whether some streets could be changed at that

stage and had been reassured that the trial would be reviewed after one year.

- 7.4 The Environment Committee resolution was subject to consultation and so Cllr RP arranged his own public meeting. The Conservation Areas Advisory group on 12th August was briefed on the trial. Members were told planning permission was unnecessary because of the benignness of the proposals though Cllr RP was aware that the Edinburgh scheme had required planning permission.
- 7.5 Cllr RP told the meeting CAAG had felt that it was inappropriate to use communal bins in a conservation area.
- 7.6 On 2nd September a second list of roads appeared, some had been added and some taken away.
- 7.7 On 21st October the venue for the exhibition was confirmed to Cllr RP and on 22nd October he wrote to the chair of the Committee saying he was very concerned about the trial as in his view some streets were inappropriate to be included in the trial. He was told that information would be collated after the exhibition by the Old Market Arts Centre and there would be a full meeting in January.
- 7.8 Meanwhile Cllr RP was receiving more e-mails from residents and from officers and was given a draft leaflet via his letterbox. The leaflet gave an opportunity for feedback.
- 7.9 On November 19th the leaflet was distributed together with a letter and all the replies were passed to the officers.
- 7.10 Cllr RP said residents arranged a public meeting for 21st December in St Michael's Place to discuss the trial bin scheme. Whether or not the trial was a good idea, he said he recognised that some residents had concerns. He said he was not expecting the public meeting to be a 'slanging match' however he was asked to leave the meeting under protest. Cllr RP did not know what was said at the meeting after he left.
- 7.11 On 27th November at full council there was a petition and deputation relating to only one street and by this time there was a lot of information in the public domain about the trial.
- 7.12 Cllr RP said he did not know why there had not been a decision taken at the Environment Committee on December 9th. He felt a resolution to 'note' the report was inadequate and as no decision had been taken it could not be subject to the call-in process.
- 7.13 Cllr RP was awaiting a decision on a further report was needed following consultation at the January Environment Committee that would be subject to call-in.

- 7.14 In future he said, the consultation period should be specified, as happens with road traffic orders.
- 7.15 The process should be – consultation – decision – possible call-in – then implementation and this may need to be clarified further in the council's constitution, he said.
- 7.16 Cllr RP said he met Cllr DD in December, having received an e-mail stating there would be a meeting, not with all ward councillors but with Cllr PE and Cllr DD. Cllr RP said he tried to make sure that all e-mails he received were forwarded to Cllr DD and he had e-mailed her to say he was going to a meeting with officers in November. Cllr DD had said she had a prior engagement in London, he told the Panel.
- 7.17 Cllr RP said it would perhaps be easiest in future to book a venue and arrange a single meeting with all affected ward councillors.
- 7.18 In January Cllr RP wrote to the Environment Committee with his concerns and asked for certain streets to be removed from the trial. He sent a press release to alert all residents.
- 7.19 Cllr RP went on the visit to Edinburgh to view the bins; he took photographs.
- 7.20 He said at the Environment Committee on January 29th he was unclear as to which roads were to be included and which not, and how this was being decided. He was pleased that concerns raised by some residents had resulted in some streets being removed from the trial
- 7.21 Cllr RP asked if there was a means of circulating information about the proposed trial for example in the 'Brunswick Voice.' Cllr PE said he had written an item which was published in January.
- 7.22 The meeting considered whether there were necessary funds available to conduct a consultation on the trial.
- 7.23 The Panel noted the different experiences reported by councillors representing the same ward.
- 7.24 Cllr RP clarified that he was present at the CAAG meeting as the vice-Chair of the Planning Applications Sub-Committee and that other ward members would not have been invited to CAAG. Cllr RP had replied to all the e-mails from Cityclean officers. It seemed he said there was no specific strategy for contacting councillors about the proposed trials and that communications with individual councillors were dealt with separately, he said.
- 7.25 He had arranged a public meeting of residents and ensured that Cityclean officers would be there.

- 7.26 The Panel were aware that the Environment Committee on 29th January 2004 recorded the consultation process that had taken place.
- 7.27 Cllr RP reminded the meeting that Councillor Dawn Davidson had moved an amendment, which was accepted by the Committee, which resulted in some streets being removed from the scheme. He said he had intended to call in the decision after the meeting; however there was some confusion as to whether a decision had been taken that could indeed be called in. The bins were shortly to be delivered so Cllr RP did not request a call-in..
- 7.28 It may have been possible to call in parts of the decision but the constitution was 'woolly' on this in his view.

8. DISCUSSION

- 8.1 Cllr DD said she felt that the approval of the road traffic orders at the July 2003 meeting of the Environment Committee should have specified the streets to be included in the trial. The meeting discussed the removal of certain streets from the trial.
- 8.2 Cllr E said the meetings with officers had been constructive and a Cityclean representative had visited his surgery.
- 8.3 Cllr AG said the leaflets were mistaken for junk-mail. Homes in multiple occupation received envelopes addressed only to the 'owner/occupier.' The Council Tax database should have been used.
- 8.4 The meeting heard that the trial had been publicised in the City News and on the Council's website.
- 8.5 Cllr PE referred to an information overload, especially regarding volumes of e-mails. He had been notified of the list of roads by e-mail on 4th June.
- 8.6 The Panel said any councillor could arrange a public meeting and invite anyone to speak at it.
- 8.7 Cllr GM said meetings had been held regarding the trial in a number of streets, in which officers and residents had face to face discussions. Asked a question as to whether funds from the decriminalisation of parking enforcement could be used for this type of consultation, Cllr GM said the DPE receipts were ring-fenced.
- 8.8 Clarifying the streets to be included in the trial, Cllr GM confirmed that this was not finalised until the report and amendments to the recommendations were agreed at the Environment Committee on 29th January.
- 8.9 Asked about the extra leaflets that were put through letterboxes Cllr GM said more than 400 extras were delivered, in areas where feedback showed leaflets had not been received in the original mailout.

- 8.10 Replying to a question as to why public meetings had been discouraged, Cllr GM said a large meeting on an difficult issue was not necessarily the best way to give information on how residents' own streets and houses would be individually affected. It was not easy to engage in real dialogue when large public meetings can sometimes be dominated by different issues important to different people and individuals cannot get the information relating directly to themselves, that they want.
- 8.11 In reply to the question – was the consultation too expensive to be done thoroughly? - Cllr GM said the consultation was outlined at Environment Committee on 29th January. Leaflets went out weeks earlier and the exhibition also gave detailed information. In the consultation about the trial there was a limit to what information could be provided when there was nothing physically in place to consider. So the information was theoretical in that sense. It was only after the trial had started that residents' genuine experiences can be assessed after using the actual bins.
- 8.12 There was adequate funding to monitor the trial including potential risks such as fly-tipping but the main funds were needed to go into the trial itself. Cllr GM said she believed that the consultation was adequate, though bearing in mind the issue of the database used for the initial distribution of the leaflets.
- 8.13 Cllr AG asked about the timeframe and whether there had been any reason to hurry the consultation on the trial.
- 8.14 Cllr GM said there was no hurry. The suitability of roads for inclusion in the trial had been assessed, the siting of bins considered and the number of parking spaces lost. Officers had gone back and re-assessed the roads to be included after particular concerns were raised.
- 8.15 Cllr RP said he felt the status of the map showing which streets were to be included should have been clearer and there should be a clear process for agreeing which roads to include on the trial.
- 8.16 Replying, Cllr GM said the process for developing the trial had been clear; to contact residents with the plan for implementing the trial, to consult with affected residents and then to produce an amended plan.
- 8.17 The Panel discussed the contents of the leaflet, whether it should have asked for views, whether it gave adequate information about the likely location of the bins.
- 8.18 Cllr GM summarised by emphasising that this was a trial. If no decisions were made to undertake the trial, then nothing would change. The council had tried to hear views but they were theoretical views at this stage. It was continuing a dialogue to hear of residents' actual experiences.

- 8.19 The Panel said they needed to find out about plans for the on-going consultation – for example what criteria were to be used in the eventual decision-making process as to whether the bins trial should be developed further in these areas or elsewhere across the City.
- 8.20 The Panel asked how the further consultation with residents with specific concerns was done – how were the residents identified and were they visited?
- 8.21 Cllr GM said some of the residents with special issues were already known within the existing conventional waste collection service.
- 8.22 The Panel asked for a copy of the leaflet and of the officer briefing that was provided to councillors including to CAAG and any other information by e-mail or otherwise that was provided to help ward councillors deal with residents' queries. Members also asked when the trial started.
- 8.23 The Panel asked for full information about which ward councillors were consulted and when and how. Members asked for example:
- how many streets and residents were affected by the trial
 - whether notes of councillor or residents meetings were taken and if so if these can be made available to the Panel
 - if councillors were informed about the exhibition and other meetings and which councillors attended these
- 8.24 Areas for possible further consideration included;
- Use of the correct and updated mailing list
 - Which homes did not receive the leaflet in the initial distribution
 - Whether the leaflet was recognised by residents as an important communication
 - Whether different presentation of the leaflet such as a council logo on the envelope would increase residents' interest in the leaflet

9. FUTURE WORK ARRANGEMENTS

- 9.1 The Panel agreed to hold a further meeting with more notice and members of the public were asked to leave contact details or contact the committee administrator if they wished to be notified of the arrangements when they were finalised.

The public meeting ended at 7.30pm and the Panel then discussed their suggested key areas of questioning until 7.45pm

BRIGHTON & HOVE CITY COUNCIL
SCRUTINY PANEL ON COMMUNAL BINS CONSULTATION

Report of the meeting held on
Friday 30 April 2004

10.00am
Banqueting Room, Hove Town Hall

Present: Councillors Young (Chair), Edmond-Smith and Simson

Abraham Ghebre-Ghiorghis, Head of Law, Mark Wall, Head of Democratic Services, Mary van Beinum, Committee Administrator

Also present: Professor Dyhouse, Mr. Nigel Furness, Mr. Paul Vitalis, Mr. David Weedall and Mr. Tony Davies.

1. PROCEDURAL BUSINESS

1.1 A, B, C - None.

1.2 The Chair Councillor Jan Young welcomed everyone to the meeting and emphasised the scope of the scrutiny panel as set out by the parent Committee, the Overview and Scrutiny Organisation Committee (OSOC). The scrutiny review would consider the consultation process used prior to the introduction of the trial bins; the trial itself was not subject to scrutiny. (For copy see minute book).

2. NOTES OF THE LAST MEETING HELD ON THE 22ND MARCH 2004.

2.1 The notes of the last meeting were agreed.

3. INFORMATION FROM MEMBERS OF THE PUBLIC WHO HAD REQUESTED TO ADDRESS THE PANEL

3.1 Professor Dyhouse

Professor Dyhouse read out a prepared statement to the Panel (For copy see minute book). Having read out her statement, Professor Dyhouse stated that she felt there had been no consultation with regard to the proposed communal bins scheme, but rather that residents had been told what was going to happen. The whole point of consultation was to ascertain the views of people and to reach a common understanding of how things would be done in the future. It appeared that the council and Cityclean had already decided on the introduction of the bins and were not prepared to consider the views of residents. She believed that, although residents in some streets

might welcome the communal bins scheme, there were many where residents were overwhelmingly opposed. She knew this to be the case in Powis Villas, Victoria Road, Norfolk Road, Montpelier Crescent and Clifton Road, but was aware that opposition was also strong elsewhere.

Panel Members questioned Professor Dyhouse with regard to the process of consultation and it was noted that two public exhibitions had been arranged following the reaction from residents. However these were not well attended and gave the impression that officers did not want to discuss the scheme other than to consider the location of the bins.

Professor Dyhouse pointed out that a number of petitions had been handed into the Council and should have been considered by the Environment Committee. These clearly showed the feeling of opposition towards the introduction of the bins and Professor Dyhouse asked that the Panel look at this as part of their review.

Panel Members asked about the process of letters from Cityclean informing residents of the scheme for communal bins and their understanding that it was intended to consult them on the trial after it had run its course.

Professor Dyhouse stated that letters had been sent to residents informing them of the scheme, although not all areas received them. She also noted that having raised objections to the scheme, she had received a letter from Gillian Marston saying how she would be happy to have a bin outside her home. She did not feel that this was an appropriate response to the matter. Professor Dyhouse also argued that when the Environment Committee considered the report in July 03, it implied that there would be a period of consultation prior to the scheme being implemented.

3.2 Nigel Furness

Mr. Furness pointed out that no leaflets/letters had been received in the Brunswick area and he had only become aware that the trial was to take place when notices were put up on New Year's Day and cars were removed to accommodate the bins, even though the cars had residents' permits. The only leaflet he was aware of, was one which was sent to a non-existent address, (this was given to the Panel). He did contact Cityclean to find out whether any leaflets had been issued and was told they had been sent to all addresses. He had to point out that no such leaflets had been received, but was told that the records showed they had been issued.

3.3 Mr. Paul Vitalis

Mr. Vitalis handed in copies of an affidavit (For copy see minute book), and proceeded to read it to the Panel. He noted that neither representatives from Cityclean or Gill Mitchell had chosen to attend the meeting and stated that this was disappointing. He believed that there had been an obligation to consult with residents and that this had been ignored. He also questioned

whether Members of the Environment Committee had understood what they had been asked to consider and what they subsequently approved. He also accepted that for some areas communal bins would be the appropriate way of dealing with the collection of household waste. However, these would have become apparent from a consultation process and not from trying to implement a scheme in a number of chosen areas. He was still waiting for letters to Gill Mitchell and the Chief Executive to be answered and felt that there was a deliberate attempt to ignore the points he had raised. He had only become aware of the proposal for the bins because he opened the leaflet inadvertently rather than simply throwing it away as he did with most plain brown envelopes he received and appeared to be junk mail.

Panel Members queried whether the leaflet explained how long the trial would last and what the process would be following its conclusion.

Mr. Vitalis stated that the leaflet did indicate that the bins would be in place for a 12-month period and that there would be a consultation after 6 months. However, he also believed that the report to committee in July implied that there would be a consultation period prior to the implementation of the scheme. He also noted that Clifton Road had been taken out of the current trial following representations and since then there had been no consultation.

3.4 Mr. David Weedall

Mr. Weedall handed in copies of a sworn affidavit (For copy see minute book), and proceeded to read it to the Panel. He stated that no leaflets had been received in his area and that it was only as a result of him seeing a "Say No to Bins" poster in another street and actually asking the resident what it referred to, that he became aware of the proposed trial. This led him to actively leafleting his own area to find out whether anyone was aware of the scheme and a petition being presented to committee in January by the local Green Councillor. He finally received a letter notifying him of the scheme four days before it was due to commence. He did not accept that there had been any consultation and questioned whether Cityclean had made any provision for households with disabled residents. It had taken a number of letters to Cityclean to get agreement to collect black bags from his home due to the fact that both he and his wife had a disability and to date this service had not worked properly. He currently had two weeks worth of rubbish outside his home.

Panel Members noted that it appeared to be the case that whilst some areas had received leaflets, others had not and queried whether residents had been aware of the public meetings/exhibitions that had subsequently been arranged.

Mr. Furness stated that notice of the meetings had been placed in the Argus on the day of the first meeting. Mr. Vitalis pointed out that the timing of the meetings had not been appropriate for a number of people i.e. Wednesday between 6.00 & 8.00pm and Thursday between 11.00am and 1.00pm. This had

led to only 51 questionnaires being completed and yet thousands of people were due to be affected by the trial. He did not accept that this was consultation.

Panel Members suggested that some action had been taken as a result of the meetings e.g. the colour of the bins had changed.

Professor Dyhouse stated that the initial idea had been to have the bins in the Cityclean livery but it had been accepted that black was a more appropriate colour. She also pointed out that had there been a period of consultation, then the bins could have been located in those areas where they were suited/wanted.

3.5 Mr. Tony Davies

Mr. Davies stated that he had a written submission, which had intended to read to the Panel, and handed copies to the Panel (For copy see minute book). However, as a number of the points had already been raised, he would only read out a few points. He believed that Cityclean had not met the requirements of the Disability Discrimination Act (DDA), and that his concerns had yet to be answered by the legal department. He also stated that he believed Gillian Marston, other officers and Members had joined the 'Brighton Beautiful' website under false names in an attempt to show support for the scheme from residents and to influence those residents who were opposed to the scheme.

Panel Members stated that they had not visited the website. They also asked whether those residents who had given evidence and those who were in attendance were present as individuals or as representatives of the various areas included in the scheme.

Each of the witnesses and other residents present confirmed that they were representing the majority of residents from their areas.

3.6 Questions in Open Session

Mr. Weedall queried whether the Panel would be looking at the issue as to whether proper consultation had taken place prior to the introduction of the scheme or whether it was for consultation to take place after the scheme had been in operation, as indicated in the leaflets distributed by Cityclean.

Councillor Edmond Smith stated that the Panel had been set up to review the process of consultation in relation to the scheme and as such needed to consider what action had been taken prior to the start of the scheme. There was therefore a need to raise this with the officers involved and to take into account the points raised by the witness at the present meeting.

Professor Dyhouse pointed out that whilst the trial was now in operation, there was a need to bear in mind that the intention had been to have one or two

collections per week, whereas these were currently taking place 6 days a week. She felt that should there be a consultation period after 6 months of operation, the results were likely to be skewed, as they would be based on a service that was unlikely to be maintained.

A question was raised as to whether the process for complying with the required Traffic Order (TO) had been followed, as it was believed that a period of consultation should take place having given notice of the proposed TO. Residents were not aware of any such consultation being held.

The question was noted and the Panel agreed to check on the process for the TO.

The Chair thanked everyone for attending and closed the meeting at 12.05pm.

Brighton & Hove City Council
SCRUTINY PANEL ON COMMUNAL BINS CONSULTATION

Notes of the meeting held on
Wednesday 26th May 2004

10.00am
Room 126, Kings House

Present: Councillors Young (Chair), Edmond-Smith and Simson

Abraham Ghebre-Ghiorghis - Head of Law, Mark Wall - Head of Democratic Services.

Also present: Gillian Marston, Assistant Director Cityclean
Tim Moore, Head of Operations Cityclean.

1. PROCEDURAL BUSINESS

1.1 A, B, C – None

1.2 The Chair Councillor Jan Young noted that the officers had requested to give evidence in private and therefore suggested that it would be appropriate for them to be seen individually.

2. NOTES OF THE LAST MEETING HELD ON THE 30th APRIL 2004.

2.1 The notes of the last meeting were agreed.

3. INFORMATION FROM THE ASSISTANT DIRECTOR OF CITY CLEAN AND THE HEAD OF OPERATIONS OF CITY CLEAN

3.1 Gillian Marston, Assistant Director (AD)

The Chair asked the Assistant Director to outline her role within the organisation and how it was that she had become involved in the communal bins scheme.

Gillian Marston explained that as the Assistant Director of Cityclean her role was to oversee the whole service and to look to improve the service delivery to the residents of the city. The need to improve the cleanliness of the city and to keep rubbish off the streets had been identified as a main priority for the Council, following the Best Value Review of Waste. In order to achieve this, the communal bins scheme was put forward as an option and the trial agreed by the Environment Committee in July 2003.

Panel Members questioned the Assistant Director (AD), about the events that led up to the introduction of the scheme.

The AD stated that the outcome of the Best Value Review was reported in January 2003 and the recommendations for a communal bin and wheelie bin trial were taken on board. A report was taken to the Environment Committee in July 2003 and an application made for an experimental Traffic Order (TO). During this time ward councillors were contacted and offered briefings. During the middle of November leaflets were sent out to all residents within the proposed trial area, and a further 400 letters were sent out on the 24th November to residents who had not received the leaflets. Two exhibitions were also held on the 26th and 27th November at the Old Market Centre to explain how the trial would operate. Details of the scheme were put on the council's website at the beginning of December and feedback requested. At this point in time it became clear that 4 streets were opposed to the trial and meetings were held with residents. On the 20th January a letter was posted directly to all residents in the trial detailing the comments that had been received and changes that had been made as a result of these e.g. the colour of the bins and road markings. On the 29th January 2004 the final report was taken to the Environment Committee and a number of streets were suspended from the scheme as a result of the opposition and the scheme was set to commence with effect from 2nd February.

Panel Members queried how the leaflets were delivered and what was the view with regard to the process for the trial i.e. were residents being informed with a view to being consulted at a later date or were they being consulted before the trial began. They also noted that there was a Public Consultation Strategy, which had been drawn up by the Research & Consultation Team and queried whether they had been contacted.

The AD stated that the leaflets were delivered by direct mail using the addresses taken from the Royal Mail's list. However, it became clear that the address list was out of date hence the additional letter to 400 residents. In terms of consultation, the intention had been to run the trial, but for the full consultation on how it was working to take place after the first six months. However, it was felt that it would be beneficial to have some input into the scheme beforehand, hence the exhibitions and requests for feedback. The feedback had resulted in four streets being suspended from initial trial. With regard to the Consultation strategy this had been agreed after the process for the bins trial had planned and the leaflets distributed.

Panel Members referred to the July Environment report and suggested that it had given the wrong impression with regard to the consultation process, as it stated that consultation would take place before the scheme was implemented.

The AD stated that the intention had been to have a full consultation process once the scheme had been operating, but it was felt that residents should have

the opportunity to comment on the proposals, in order to help with its implementation. She accepted that the intention to consult fully after the first 6 months of the scheme could have been expressed better and that people were being asked to give a view on how it was going to operate rather than whether or not the whole scheme should take place at all. However, had things been made clearer, she was not sure that it would have resulted in a different outcome.

Panel Members suggested that there had been a problem with regard to how the consultation process was perceived by the public. There were a number of references in various papers with regard to the need for consultation and yet no clarity about the process. They also queried the position with regard to the Traffic Order and the need for consultation.

Panel Members asked about how it was that certain streets were suspended from the scheme and how it was that the leaflets detailing the scheme had not been received.

The AD stated that as an experimental traffic order had been applied for there was no need for a consultation period prior to it being implemented. The process was for it to be in place and for comments to be received on how it was working. She acknowledged that there had been difficulties with regard to the distribution of the leaflets and letters. However, action had been taken to try to resolve these problems. In terms of those streets that were suspended, she accepted that there had been an inconsistent approach and that in reality those that had expressed the greatest amount of opposition had been taken out of the trial. However, there was also a need to ensure that there were enough streets to make the trial viable and which could accommodate the bins and vehicles etc. She also pointed out that, once the trial had been publicised people claimed they were happy with the service they received, this went against the results of the survey for the BVR which had shown street cleanliness was a concern.

Panel Members asked the AD to outline what could have been done differently had she been aware of how things had gone.

The AD stated that the distribution of the leaflets would have been managed better to ensure people were aware of the proposals and she felt that communications with ward councillors could be improved. She also felt that better clarity could have been given with regard to how the consultation process was expected to work and why and what residents were being asked for views on prior to the implementation of the trial.

Panel Members queried whether any provision had been made for people with disabilities and how this was conveyed to residents.

The AD stated that there had been no changes to the support given to people with disabilities and that the service was advertised and each person visited to

clarify their needs. In terms of feedback received it appeared that this service was working well.

Panel Members suggested that it would have helped to have looked at the various streets to be included in the trial and to take account of their particular environment, as it may have resulted in some not being included because of their situation e.g. Powis Villas which comprised of 15 houses in a conservation area.

The AD suggested that the Head of Operations could provide a better explanation as to how the streets were identified. However, she noted that as part of the consultation exercise that was taking place, a questionnaire had been given to all the residents and focus groups were being held to provide feedback on how the trial was working.

Panel Members stated that it had been suggested extra resources had been put into the trial, which would not continue once it, became a permanent scheme.

The AD stated that in actual resource terms, less resources were required to operate the scheme and a commitment had been given to ensure the streets were kept clear of rubbish and therefore the bins were emptied as required. It also meant that resources had been redirected into the recycling service and therefore enabled it to be more effective.

Panel Members noted that there was a specific website opposed to the bins and queried whether officers had joined this to promote the benefits of the scheme. They also queried how the scheme would be extended across the city should it prove to be successful.

The AD stated that she had visited the website to ascertain what the views were regarding the scheme and had found various comments about herself and other officers which were defamatory. She had not used it to promote the scheme and noted that as part of the consultation process, the Research & Consultation Team were using a qualitative data to formulate their findings. With regard to extending the scheme, she felt that the current trial had to be completed before any consideration could be given to extending the scheme. The difference would be that people would have experienced it, whereas as yet no one had really seen how it could benefit the city and its residents.

Panel Members queried whether if the black bag collections were completed on time there would not be a need for communal bins and therefore there was a need to ensure the service worked efficiently.

The AD pointed out that whilst there were difficulties with collections, the black bags would always be subject to damage from birds etc. and were unsightly when left on the streets. The communal bins enabled the rubbish to be taken off the streets and gave residents somewhere to deposit their rubbish. The refuse collection rounds were operating on the right days and yet there were

still problems with rubbish appearing on the streets and this had been identified back in January 2003, it was not a new problem. She also noted that the Audit Commission had commented on the situation and recommended that a containerised service such as that provided in Edinburgh should be introduced.

Panel Members thanked the AD for her attendance.

3.2 Tim Moore, Head of Operations (HoOp)

The Chair asked the Head of Operations to outline his role within the organisation and how it was that he had become involved in the communal bins scheme.

The HoOp stated that he was responsible for the day-to-day management of the service and the implementation of the communal bins and other new schemes to improve the service.

Panel Members asked the HoOp to outline how the area for the trial had been chosen.

The HoOp explained that he had previously been the Waste Manager and had undertaken a Waste Survey, which had fed into the Best Value Review. The survey had been city-wide and had shown which areas had highlighted the street cleanliness as a main concern. Having identified these areas and taking into account the recommendations of the Best Value Review, it was felt that a communal bins trial would be a useful exercise. He therefore looked at the areas where street cleanliness had been a main concern and taking into account operational requirements for the trial chose the area.

Panel Members queried whether once the area had been identified a review of the actual streets was undertaken to determine their suitability e.g. Powis Villas. They also queried how he was involved in the promotion of the trial.

The HoOp stated that he visited each site to ensure that they could be serviced and what difficulties might exist. With regard to Powis Villas, there were a number of multiple-occupancy dwellings, which could be accommodated, and he did seek to discuss matters with the residents. He also visited Edinburgh to see how the scheme worked there and was involved in meetings with residents and at the two exhibitions. He did e-mail ward councillors to inform them of the proposed scheme and invited them to attend briefings.

Panel Members queried whether the residents had misunderstood the process of consultation and whether certain streets had been suspended as a result of those that had opposed the trial the most.

The HoOp stated that he had made it clear at the two exhibitions that there would be a full consultation exercise once the trial had been in operation and that prior to that residents views were being sought on aspects of how the trial would work. In terms of the streets that were suspended, he accepted that some were as a result of pressure from residents and others because of operational difficulties.

Panel Members referred to the report to the Environment Committee in July 2003 and queried whether he had written it and what his understanding was of the reference to consultation.

The HoOp stated that he had written the report and that it attempted to explain that there would be a consultation process after the trial had been in operation for 6 months. This would enable residents to put forward their views on how the scheme was working and for those to be taken on board. He did speak to a number of Members to explain this process and did accompany Councillor Pennington around the area.

Panel Members noted that elements of the scheme were altered and asked for clarification as to why this occurred. They also asked why he thought people had been so opposed to the scheme i.e. was it because they had expected to be consulted before its introduction or simply because they opposed communal bins.

The HoOp stated that changes were made to the colour and location of the bins following comments received from residents and some streets were suspended from the trial. He also noted that some people had welcomed the trial and felt that the introduction of the bins would be beneficial. In fact there had been requests from streets outside of the trial to have the bins. With regard to the consultation exercise, he felt that some people may have misunderstood and thought that they were to be consulted on whether or not the trial would take place. However, the need for a trial had been identified and it needed to be undertaken before it could be evaluated and people give their views on how it well it works.

Panel Members asked whether consideration had been given to informing the ward councillors about the intended scheme and what action was taken to ensure they were aware of its implementation date.

The HoOp stated that he had e-mailed the ward councillors and sought to meet with them to discuss the trial and get their views on how their constituents would react. Whilst some councillors did respond others did not and he did attempt to contact them with follow-up e-mails and telephone messages. He did send copies of the leaflet to the councillors which was due to be sent to residents and did maintain a record of those who had responded.

Panel Members referred to the two exhibitions that were held and queried

whether the HoOp felt these were sufficient to inform people of how the trial would work.

The HoOp stated that the exhibitions were planned and held in the day and evening so as to enable as many people to attend as possible. He believed that they had been well attended and the comments received were taken on board.

Panel Members noted that the consultation process had begun and asked whether any of the residents opposed to the trial were involved in the focus groups and whether those residents who had attended the last Panel meeting had been informed of the process.

The HoOp stated that he was not involved in the focus groups so could not answer the question. However, he acknowledged that it would have been helpful to ensure that the residents who had attended the last Panel meeting were aware of the process. The Head of Law asked that the HoOp to comment on what aspects of the process he would change with the benefit of hindsight and how were the needs of people with disabilities accounted for.

The HoOp stated that he felt it would have been better to start the process earlier and to be able to demonstrate that comments were being taken on board. However, he did believe that the element of vociferous opposition to the trial would still have resulted. It may have helped to be clearer about the process for consultation but having experienced the service people had been complimentary and had realised the benefits that it provided. With regard to those people with disabilities, when the letter was sent out about the start of the trial, people were given the opportunity to discuss their needs. The assisted collection service had not been altered and currently 20 such collections were provided.

The Panel thanked the HoOp for his attendance.

4. To Agree Future Work Arrangements.

4.1 The Head of Law referred to the Panel's remit and stated that the legal definition of consultation applied three tests:

- (a) Does the consultee have the information required to be able to give comments;
- (b) Is there an opportunity to make representations;
- (c) Have the representations/comments been taken into account.

The report to the July Environment Committee was not as clear as it could have been and having looked at the information contained in the paper, Members may not necessarily have understood the exact process.

With regard to the concerns raised by the residents over the legitimacy of the decision, the committee approved the trial scheme and there was an opportunity to comment on that. Aspects of the scheme were changed as a result of feedback and the final decision to go ahead with the scheme was taken until the 29th January 2004. As such, all relevant information regarding the scheme had been made available by the time of the committee meeting.

With regard to the experimental traffic order, there was no requirement to advertise it first. Once it was approved, people would have up to 6 months to make representations, which could then be taken into account before a final Traffic Order was approved.

4.2 The Panel agreed to meet again on the 23rd June at 5.00pm and to formalise its report.

5. **Exempt Items**

5.1 The Panel agreed that subject to the agreement of the officers concerned the notes of the meeting would be made available to the public.

The meeting concluded at 12.40am

SIMON WILLIAMS' SUBMISSION

COMMUNAL BIN CONSULTATION SCRUTINY PANEL - 22 MARCH 2004

Thank you, Chair

I am one of three Green Party councillors for St Peters and North Laine Ward and take a lead on constituent concerns in the West Hill area where seven streets are included in the communal bin trial.

My first point is that I think the introduction of a major project like communal bins was always going to be difficult and that includes the consultation. Everyone involved – the Administration, officers, CityClean and ward councillors have had to undergo a steep learning curve. I supported the setting up of a scrutiny review because I think there are some very important lessons to be learnt in a positive way by the Council in how it consults on major projects. I should also say that I make my points as a supporter of the concept of communal bins in selected streets - not as an uncompromising opponent of the wider scheme.

Looking back, it is my belief that the consultation process was flawed in its structure, right from the beginning. Although last summer when, after recently being elected in May I first engaged in this issue as a ward councillor it did not seem the case.

It is now quite clear to me that the main components of the Council's methods were insufficient to constitute meaningful consultation. I believe these were a survey in 2002 on refuse services, feedback from a leaflet delivered in November last year and a public exhibition. In my view, these were insufficient for such a major project even *if the leaflet reached those whom it was intended to reach*. I use italics, here, because in fact I know that many residents in the seven streets in West Hill, most of whom are in houses in multiple occupation, did not receive a directly addressed letter informing them about the trial.

I know this from constituent feedback and also because I live in a street affected by the trial, where most people live in flats sharing a common letter box. We received a single letter in a brown envelope marked "to the occupier". This is completely inadequate in a building where people naturally only read their own post. I immediately alerted CityClean to the problem – with particular reference to the streets in West Hill where constituents claimed not to have received any notice at all. To CityClean's credit, they promptly arranged for additional leaflets to be delivered to my street. However I noted with concern the reference in the recent report from the Director of Environment to the Overview Scrutiny Organisation Committee that only 400 extra leaflets were actually delivered. That being the case, I would suggest that the West Hill area did not receive anywhere near the number of leaflets that would be needed to remedy the 'brown envelope' problems.

My main point is that even if the leaflet had been delivered properly, in hindsight I do not believe it constitutes sufficient consultation. People lead busy lives – especially

residents in West Hill – who, living close to the railway station, many of whom commute long distances. Council leaflets are not the highest priority ‘read’ in the post bag and the timing of the exhibitions did not consider London ‘9-5’ commuters who, even if the trains do run on time, are not able to be back in Brighton before about 7.30pm. Returning myself from a day in the office in London, I made the exhibition at the Old Market with barely 25 minutes to spare before it closed.

There is much made in the Director’s report of how CityClean acted on the back of the feedback from the leaflet and the exhibitions. Apparently 175 households made representations out of a total of 5,276. This is important because according to the report, five specific streets were found to have had significant levels of concern and were granted a further round of consultation.

None of these streets were in the area I represent, in West Hill. I immediately raised this with CityClean, suggesting that there was a possibility that there was high concern in West Hill, too, but that it had not been picked up because of the poorly delivered leaflets and poorly timed exhibitions. I suggested that it was not that West Hill residents were less concerned, but they just didn’t know about it.

I also asked whether ward councillors should hold a public meeting along the lines of the ones in Regency. We were advised that this would not be a constructive way to engage on these issues with residents. We accepted that advice.

In my view, Chair, the second stage of consultation was flawed in practice because it assumed that the low response in West Hill was because people had fewer concerns – in fact we now know that some of the highest levels of concern to the scheme were in at least two streets in West Hill.

My final point is on the political process behind the consultation. I specifically refer to the review at the Environment Committee on 29th January. I am afraid that I can only describe it as totally arrogant behaviour by the Administration in aligning political groups to defeat a reasonable amendment put forward by my colleague Cllr Georgia Wrighton. She proposed an amendment to suspend the scheme in two streets in West Hill - Compton Avenue and Alexandra Villas – where, like the other suspended streets, there were also high levels of opposition to the scheme. But this was defeated in a shadowy deal behind closed doors.

As a ward councillor I cannot let that go without criticism. If the administration is serious about consultation then it should listen to reasonable arguments of local ward councillors, especially when so few councillors in wards affected by the scheme are from the Administration party. The fact that I, as a ward councillor, had to proactively ask for the success criteria for the review of the scheme is a sign that the Administration is not listening as hard as it should do to ward councillors on these issues.

I hope these observations are helpful and they are intended as constructive criticism to enable consultation to be better handled should the containerisation scheme be rolled out across the city.

Councillor Simon Williams (Green)
St Peters & North Laine Ward

STATEMENT - PROFESSOR DYHOUSE

Consultation over the communal bins trial scheme.

We understand consultation to mean a free and open exchange of views, with unprejudiced outcomes, aiming at reaching a better set of decisions. Consultation in this sense has never taken place over the communal bins trial. Cityclean officials have clearly been determined to force this scheme upon residents. Moreover, the branding of the widespread opposition as a tiny minority has further eroded any real process of consultation.

- 1) From the beginning there was no consultation with residents in the areas covered by the trial: the scheme was simply announced to us as in place, pre-emptively, in leaflets posted somewhat randomly in the autumn of 2003 to buildings located in the area. The leaflets were enclosed in plain brown envelopes that many confused with junk mail. Some streets, and many households, received no information at all until it was far too late.
- 2) Little thought appeared to have been given to the area that the trial was going to cover. While this raised wider concerns, it was also relevant to the 'consultation' process. There was no consultation whatever over the selection of streets, and the criteria for selection appeared to be arbitrary and certainly contestable.
- 3) Residents in the area were horrified by the leaflets. The upshot was a meeting for residents of just one of the four affected wards (Regency Ward) in St Michael's Church Hall, hastily arranged on 21 November 2003, quite independently of Cityclean. A large number came along despite the lack of notice, and almost all were entirely averse to the scheme. The meeting was also attended by Cllr Gill Mitchell, who, when asked whether the scheme would be reconsidered in the light of the vehement opposition, stated that "the trial would go ahead", regardless of public feeling. Residents were exasperated.
- 4) There were two public 'exhibitions' of the bins in the Old Market Arts Centre on 26/27 November 2003. The many residents (certainly hundreds) who had not received Cityclean leaflets simply had no idea that these exhibitions were taking place. Many others found them inconveniently timed. Those who did attend again tried to communicate their horror and display at the whole idea. Again, however, we were left with the impression that we had no choice in the matter (except perhaps over the colour of the bins) - certainly not in the question of whether we wanted them or not. We were repeatedly told that there was a rubbish problem in our particular streets, even though we knew very well that this was not the case in many of the streets.
- 5) Petitions signed by over 95% of residents/respondents in certain streets were sent to Council officials and others (from Powis Villas, Victoria Road, Montpelier Crescent, Clifton Road, Compton Avenue, Powis Road and Alexandra Villas),

and there was massive voiced opposition from residents in Norfolk Road and Western Street. These are just the streets we know about, but we are aware that there was also strong opposition elsewhere.

- 6) There appeared to be no consultation with groups representing the elderly or those with disabilities, who were likely to be adversely affected by the large bins. Subsequent concessions did little to reassure us that the community was being adequately considered.
- 7) In January 2004, Cityclean arranged a few ad hoc meetings with residents of a handful of streets (we believe four of them - other streets were not invited), in view of the public hostility in those streets. Arrangements seem to have been totally haphazard: for instance, in Norfolk Road only two residents (nos 20 and 45) were invited to meet Cityclean. The 'consultations' here seemed like belated sops to public concern rather than the kinds of structured investigation that the Council had originally envisaged. The requirements of the original project for consultation have in fact never been fulfilled. These 'consultations' came across as efforts to justify high-handed behaviour on the part of the officials concerned.
- 8) These meetings saw the deeply held beliefs of residents about conservation swept aside. The Cityclean officials appeared to believe that aesthetics are the concern of only an insignificant minority. The notion of maintaining a very attractive townscape or preserving architectural features and lines seems to mean little to them.
- 9) With the Environment Committee decision to implement the trial scheme as planned in late January 2004, suspensions of various kinds were granted to some of the streets in the original scheme. In the case of those streets given temporary relief (for six months), the residents received rather aggressive letters stating that the communal bins were still the only option for such streets, and that the Cityclean officials would be contacting residents soon for discussion that would be limited to where the bins would ultimately go. This form of 'consultation' would be of no benefit. The question is rather one of whether or not the scheme is necessary at all in streets that do not have a rubbish problem, and only proper consultation could begin to establish this.

Many of those opposing the implementation of the scheme to date would not necessarily oppose new solutions to serious problems in specific areas. The view is that the communal bins are, however, quite inappropriate in conservation areas, especially in those streets that are populated mainly by single owner-occupiers or where there is already adequate storage for rubbish. The original Council decisions, and the subsequent Cityclean leaflets, explained that the scheme could work only with the co-operation of residents. Co-operation of this kind was undermined from the outset by the inadequacy of consultation and the coercive attitudes of the Cityclean officials.

We view this situation with dismay and regret. Rubbish collection services had shown significant improvement over the last couple of years, but the bungling of this bin trial has produced a crisis of public confidence in Cityclean.

AFFADAVIT – PAUL VITALIS

I, PAUL VITALIS of 23 Clifton Road, Brighton BN1 3HN HEREBY MAKE OATH and say as follows:-

1. Having attended the previous meeting of the Scrutiny Panel (The Consultation Process on Communal Bins Scheme) on 22 March 2004, and having heard the evidence presented by Councillor Mitchell, I present the following sworn statement as evidence that consultation with residents, as demanded by the Report to the Environment Committee of 31 July 2003 regarding the implementation of a Communal Refuse Container Trial, did **not** take place.
2. In her speech at the previous meeting of this Scrutiny Panel, Gill Mitchell clearly revealed that she has no idea of what **consultation** means. According to the Concise Oxford Dictionary, to consult is "to take counsel, ... to seek information or advice". Mitchell takes the absurd view that **proclamation**, i.e. telling people what she will impose, is consultation. From November on, this has been her approach, and it has been adopted by the Cityclean officials who were charged with the task of carrying out this "consultation". Even if all the households in the "trial area" had received and opened the plain brown envelope, they would have only been **informed** of the scheme. They would not in any sense have been **consulted**. There is a huge difference between these two concepts, and it is alarming to discover that someone in Councillor Mitchell's position fails to grasp this distinction. In the event, Mitchell and Cityclean failed even to **inform** a large number of their victims.
3. When I first became aware of the communal bins scheme in late November, through opening the plain brown envelope (and I stress that there was absolutely nothing on the envelope except the words "To the Occupier" - no stamp or marking of any kind), I was stunned. Out of the blue this obnoxious scheme was to be imposed on us within weeks as a *fait accompli*. Cityclean, for whatever reasons, had decided to inflict this scheme on us, and that was that.
4. I attended the meeting called by Roy Pennington on 21 November 2003, at which Gill Mitchell contemptuously informed us that this scheme was to go ahead, no matter what the residents thought about it. Her performance at this public meeting can only be described as disgraceful; at one point, she even stated that she was not going to answer any more questions. She was unable to provide a number of basic details of the scheme, even though such information was contained in the July 2003 report, adopted by the Environment Committee under her chairmanship. She claimed that various community and conservation groups had been consulted, but she could not name a single one. Consultation with residents, she claimed, would have been too expensive, and opposition to the scheme by residents would now be futile. At the end of this meeting one resident asked whether Mitchell would now consider, in view of the massive opposition expressed, a revision and/or postponement of the scheme. Her dictatorial response was that the scheme would go ahead as announced. Consultation was, for her, out of the question.

5. This was also the message of Tim Moore and Gillian Marston at the poorly-timed and therefore poorly attended "exhibitions" on 26 and 27 November, in reality just another opportunity for them to announce the *fait accompli*. Incidentally, the results of the pitifully few questionnaires (48 or 51, depending on the source) filled in at these two events have never been made public. We all know why. They expressed overwhelming opposition.
6. It was only when I searched out the report to the Environment Committee Meeting of 31 July 2003 that I realized how far this dictatorial and heavy-handed attempt to impose the scheme differed from the stated plan. Indeed, I even have doubts about the adoption of this report by the Committee itself. One of the committee members, Cllr Ted Kemble, when questioned in mid-January 2004, seemed unaware of this report and said he was trying to obtain a copy of it. Were he and the committee members **aware** of what they were approving on 31 July 2003? In any case, Mitchell seems to have done as little as possible to publicize this report or the scheme which would seriously affect thousands of residents. Only the most committed observers of the Council website would discover the oblique reference to an "Experimental Traffic Order for Communal Refuse Container Trial". Furthermore, at the height of summer such a discovery was even less likely.
7. Between July and November 2003 the numerous references to consultation with residents in the report had simply been ignored by Marston and Moore, with the apparent approval of Mitchell, probably because they were aware, as stated in the report, that one possible risk to the scheme was "overwhelming objection to the bins by residents during the consultation stage". This was in fact confirmed to me by Moore on 5 January when I and several other residents of Clifton Road met with him and Marston at Hollingbury. He stated that they consciously took the decision to avoid consultation because they knew what the reaction by residents would be.
8. In the case of Clifton Road, a further fact emerged from the July report. Our road had not even been included in the original scheme, for very good reasons. We fit none of the stated criteria. Most residents are owner-occupiers, half of them in single-family houses, and we have **never** had a problem of rubbish left on the pavement, even on collection days. Therefore, in addition to expressing my objections to the scheme in general, I sought an explanation as to why suddenly Clifton Road had been included. Furthermore, I consulted with my neighbours by means of a Petition against the scheme in our road, which well over 90% signed immediately. *(And there is now produced and shown to me marked "PV1" a copy of the Petition. There is also produced and shown to me marked "PV2" a bundle of e-mail correspondence to which I need to refer.)*
9. In addition to forwarding a copy of the petition, I wrote to Mitchell (see *attached letter in Exhibit "PV2" dated 17 December 2003 and numbered "4"*), who had incidentally ignored my earlier letter to her, denying she had received it (see *letter dated 5 December 2003 and numbered "3"*). This time her answer (see *attached letter dated 18 December 2003 and numbered "5"*) is vague, meaningless, and does not even address the questions I raise. I resubmitted my letter to her (on 11 January 2004), as well as sending a copy to David Panter

(see attached letter dated 11 January 2004 and numbered "6"), suggesting that Cityclean might be of some use in answering my questions. I am still waiting for a reply.

10. Our road was one of only four from which representatives met Marston and Moore, as mentioned above. This was a dispiriting occasion (5 January 2004) where we were simply told repeatedly that the scheme would go ahead in our road as planned. We were even told by Moore that they were not obliged to meet with us, as though they were doing us a favour. He clearly did not regard these meetings as an essential part of any "consultation process". These two council officers also refused to answer my specific questions regarding Clifton Road and denied that they had any control over which streets were included in the scheme (they claimed this was the prerogative of **councillors**). Yet the following week when they met with residents of Powis Villas **Marston and Moore** claimed to have the final say, which is true. Why did they earlier deny this?
11. At this meeting of Powis Villas residents, which I also attended, Moore further admitted that the original selection of streets had been "made on paper", i.e. without even examining or visiting the streets. In addition to the four streets from whom certain residents met with Marston and Moore, a number of others expressed an equivalent amount of opposition, but they did not even have this unproductive opportunity to meet with these officers. This is because many of their residents did not even know of the scheme until later in January.
12. At the meeting with Marston and Moore on 5 January 2004, they pointedly refused to answer my questions as to why our street had ever been included. In any case, as my neighbour (Tony Cook) pointed out to them as we left the meeting, this was **not** consultation, since they had already made their decisions, which had not altered since November. This completely contradicts Mitchell's claim that the scheme was "stopped in its tracks in December, and that Council Officers were ordered to re-examine the streets proposed". Nothing of the sort took place, and when we met with Marston and Moore in Early January, they insisted that the trial would go ahead in the streets listed on the November announcement as planned. In fact, no street has since been categorically removed from the scheme, but merely suspended or postponed. This apparently includes our street, which, as I have said, was not originally even included.
13. At every stage, this scheme has been characterized by an unwillingness on the part of the Council to engage in discussion with those whose lives would be radically affected by it. Mitchell's ludicrous response has always been to claim that residents requested communal bins, but she has produced absolutely no evidence to support this. Cityclean officers promised to produce a ward-by-ward breakdown of a 2002 report, allegedly revealing widespread dissatisfaction with the conventional refuse collections in, for example, Regency Ward. Despite repeated requests, they have so far failed to do so, with feeble excuses for their failure on each occasion. Their reluctance to produce this report, which no one has seen, casts doubt on its every existence.

14. It may well be that parts of Brighton and Hove would welcome a communal bins scheme. When I met with Moore and Marston, I pointed this out vigorously, claiming that if they had consulted properly they could have identified such areas. Instead, they have persisted in imposing the scheme where it is largely unsuitable and unwanted, thereby sacrificing their own credibility as well as the opportunity to enter into real and productive consultation with residents to solve whatever rubbish problems actually exist in Brighton and Hove.
15. Mitchell, Marston and Moore clearly have no experience or grasp of the concept of consultation, and therefore should never have been entrusted with such responsibilities and powers. They have utterly failed to carry out the consultation requirements of the July 2003 report, and have alienated a huge number of residents. At no point has actual consultation taken place, and on that basis the scheme should never have been implemented in its present form. Additionally, their deceptive, incompetent and insensitive conduct in this matter has created an atmosphere of hostility and mistrust towards the Council, who will find it extremely difficult to re-establish a consensus with the community.

SWORN by PAUL VITALIS at

David Buck & Co
Solicitors
41 Dyke Road, Brighton
East Sussex, BN1 3JA

On 28th April 2004

Before me, *J McWilliams*
Solicitor

AFFADAVIT – TONY DAVIES

I, TONY DAVIES of Vernon Terrace, Brighton, HEREBY MAKE OATH and say as follows:-

1. I first received information about this trial on 17th November 2003. Only one letter was put through the door of my building (in which there are 4 flats), and it was addressed to "The Occupier", with only the building number and no mention of the individual flats. There were no council, or any other markings on this envelope. Initially, I thought it to be junk mail, but eventually decided to open it. Inside was a leaflet from CityClean explaining that this trial would be starting in January. There was no mention in this correspondence of a chance for consultation, only the opportunity to find out more about it at two exhibitions. I sorted the mail for the building that morning so I was sure there was only one delivered, but to be certain I consulted my other neighbours in the building who confirmed they knew nothing about it. I started to talk with other residents in the area and discovered them to be in the same situation. Most did not know about it, but the few who did had only received one letter in their buildings of multiple occupancy.
2. A day later I received a flyer through the door inviting residents to a public meeting at St. Michael's Church Hall on 21st November 2003. This meeting was organised by Regency Ward Councillor Roy Pennington. Understandably, as this was arranged by a ward councillor, only people within Regency Ward were made aware of the meeting. Whilst this was most welcome, again, there was only one per building, so a great many people would not have known about this meeting. Also at this time I was posting leaflets alerting people to the trial that was planned to commence, and also making them aware of this meeting. Sadly lack of resources meant this only went to the immediate streets to me in Vernon Terrace.
3. The meeting of 21st November 2003 was attended by Councillor Pennington, who chaired the meeting, Tim Moore, Head of Operations for CityClean, and Councillor Gill Mitchell, Chair of the Environment Committee. It was clear public feeling had been misjudged; the church warden was informed they would only need a couple of tables and a few chairs. In fact over 100 residents attended. Amongst many of the issues raised was the one of parking; Councillor Mitchell asserted that she did not know how many spaces would be lost, yet another resident announced that she had full operational knowledge, and he himself had seen a document signed by herself stating 133 parking spaces would be lost. The figure later turned out to be exactly 133. Councillor Mitchell was then heard by several residents seated to the front of the room to say to Councillor Pennington, "I can't be bothered to answer these questions". One resident also asked Councillor Mitchell towards the end of the meeting whether in light of this opposition, they would reconsider. Councillor Mitchell told her they would not, and the trial would go ahead as planned. CityClean would later cite this meeting as public consultation, even though only residents of Regency Ward, one of the four wards involved in the trial, were invited, and

residents' views were ignored. Tim Moore informed residents that "photographic evidence" would be made available to them at the exhibitions. This is where we also heard for the first time about the "Best Value Review of Waste Management Residents Survey 2002". This, it was claimed, was a document formed from residential consultation, and in which people stated that they wanted communal bins, and were dissatisfied with the current service being provided.

4. The two short exhibitions which took place were poorly attended, due to the lack of notification of the residents, the small window of opportunity (only two hours each), and the inconvenience of the times chosen. This is reflected in the low number of people who completed the questionnaire forms. Despite nearly everyone who attended filling out a form, the final total of submitted forms was 48. The results of these questionnaires were, according to Gillian Marston, going to be made available to the public. They never have been, despite requests from residents. The exhibitions also saw the grand unveiling of the photographic evidence, which consisted of one picture of a pavement with a black sack on it, on a completely unidentifiable road, which could have been located anywhere in the country.
5. Following these meetings a website was launched <http://www.brightonbeautiful.com> by residents to provide a forum for peoples' views, which were, as they saw it, being ignored by the management of CityClean, and Council members such as Councillor Mitchell.
6. I obtained a copy of the "Best Value Review of Waste Management Residents Survey 2002". In complete variance with Tim Moore's statements on 21st November 2003, it showed 70% of people were either "satisfied" or "very satisfied" with the waste service. Furthermore, it informed us that 85% of people have somewhere to store their household rubbish prior to collection. As one of the primary reasons for its introduction was that people did not have storage for refuse, it seemed unlikely that the chosen area for the communal container trial had targeted with pinpoint accuracy the 15% without storage. Naturally it had not. As Tim Moore would later admit at the Powis Villas meeting, the streets were decided on paper, with no other reference except the number of residencies. In fact it seems the 27% of people who said that they wanted communal bins was not only based on 27% of the 15% without storage, but also the least popular of the only 3 options given to people (the most popular being Council provided tough black sacks at 77.6%).
7. CityClean managers were forced into meetings with a small handful of streets. I attended 3 of them (although not at the invitation of CityClean); Clifton Road, Victoria Road, and Powis Villas. To my knowledge there were also meetings with Powis Road and Montpelier Crescent. Within these meetings, certainly in the Clifton Road and Victoria Road ones, there was no consultation. As soon as we arrived everyone was issued with a map of their street, and were then told that they would have one less container, and they would be painted black. This was not consultation: it was merely stating, once again, what had been decided, and what would be happening. When residents protested, CityClean managers seemed completely uninterested, so

much so that Gillian Marston started 'doodling' on a writing pad, and then was unable to answer specific points that had just been raised, primarily, it seemed, because she had not been listening.

8. The Clifton Road meeting heard Tim Moore admit that there had been no consultation with residents, as CityClean managers knew that residents would react badly to the idea. In fact overwhelming public opposition has been listed as a project risk from day one, and this can be seen, for example, in the Experimental Traffic Order for Communal Refuse Container Trial Report of 31st July 2003 to the Environment Committee. Tim Moore also informed the attendant residents what they "did not have to" meet with us, once again going against the concept of consultation. Also at this meeting I laid out the problems with basing this scheme on the Best Value Survey, which was a city-wide survey, and thus even if finding that people wanted the bins citywide (which they did not), this could not be used as the consultation for just our area. Tim Moore then asserted that it was in fact based on a Regency ward version of the Best Value Review, which he stated he would provide.
9. At the meeting of Powis Villas residents he and Gillian Marston failed to produce this report which they claimed they would bring with them. They said they would mail me a hard copy if I gave them my address. I said it could perfectly well be emailed, which they agreed with. In the days after the meeting they then asked me for my address again via email, and I reminded them that they had agreed to send it via email. To date, I have never received any such document, which can only lead one to the conclusion that it never existed, and they were rather more interested in obtaining my address.
10. Gillian Marston joined my forum on the website, but did not really volunteer any information or perform any consultation. We were just told about more things that were going to be done, including the possibility of communal paper recycling bins put in the streets – again with no consultation. When asked 'difficult' questions involving finances etc. she would disappear for a while or just avoid the question. She still visits, but never answers any questions, or makes her presence known to other users.
11. Shortly after this, and when it became clear that public mood was not in favour of this idea, particularly highlighted on the website, council officers started joining my website under pseudonyms such as "Raimunda" of Brunswick Place, pretending to be residents in favour, and also launching attacks upon the residents who disagreed with the bin scheme. These postings to the forum were made during council working hours.
12. Consultation was meant to have taken place with disability groups to ensure Council compliance with the Disability Discrimination Act 1995, and in fact one resident was so concerned he arranged a meeting with Gillian Marston on 20th January 2004. She claimed to have discussed it with a representative of the Council's legal department, but she was unable to present any documentary evidence to prove that this was indeed the case. Further to this a complaint was made to the Disability Rights Commission, but was not upheld, as Gillian Marston refuted the allegations, but again did not provide

any documentary evidence that they had in fact acted to the contrary of the allegations made. In fact subsequent to this correspondence, CityClean's previous stance that a manager would meet with a person who felt they could not use the bins, and then make a decision, altered dramatically: they now send a manager to the person's house who feels they cannot use the bins, and ask them where they want to put their rubbish to be collected, with no further questions asked. This is a clear indication that the consultation with disability groups, and proper analysis of the Council's legal requirements had not taken place prior to the intervention of this resident.

13. At the meeting of the Environment Committee of 29th January 2004 Councillor Gill Mitchell further tried to limit public involvement by ordering the chairs for the public be removed from the main Council chamber at Hove Town Hall. Residents were forced into a side room, which had no audio link. It was not until they complained that the audio link was activated, and even then, not for some time, meaning that some of the meeting had been missed. Furthermore the audio link was of an unacceptable standard.
14. I wrote an article around this time for the West Hill Community Newsletter, The Whistler. Within the text I described Gillian Marston and Tim Moore "inept" on the basis of their poor handling of the situations, and "aesthetically-challenged" on the basis they had no interest in conservation areas or historical buildings whatsoever.
15. Around this time members of the Montpelier and Clifton Hill Association were invited to CityClean for a meeting. It should be noted that MCHA is a conservation association. As they arrived their car was stopped and they were asked if Tony Davies was with them. They said I was not, and the security guards informed the occupants of the car that they had been given special instructions that I was not allowed anywhere on the premises, even though a member of the MCHA, and also bearing in mind that no 'guest list' had been made up of those attending. Within the meeting itself Gillian Marston and Tim Moore thought that members had requested the meeting, and did not remember that they had invited them. Once that was sorted out, the pair announced that they had no intention of talking about "aesthetics", which proves somewhat difficult when one is dealing with a conservation association. Essentially, they thought that MCHA was a residents' association. This proved a waste of time for all concerned.
16. I received a letter from Abraham Ghebre-Ghiorghis, Head of Law at the Council, with reference to my Whistler article and the website, who told me I should remove all offending material from my website (not that he informed me of even one example of such), and then threatened me in writing with "legal and/or other action". I have shown it to several persons in the profession of the law, and they are, without exception, amazed a solicitor should write such a thing – especially when they are a public servant. It seemed the Council were more interested in silencing free speech than pursuing any form of actionable complaint.

17. Further attempts to stop public consultation and crush the 'rebellion' were made by Councillor Mitchell when she made every attempt to 'minimise' the damage. She and CityClean officers made claims, which she used in Argus newspaper interviews and also via the Council's website that the majority of people were happy and it was a small "vociferous minority" who were against. She completely disregarded the hundreds who had signed petitions. The 175 households against is based solely on complaints to CityClean – not taking into account letters to MPs and other parties. Gillian Marston also told a resident who attended the Powis Road meeting, that I myself was not present at, that they only counted one complaint per building.
18. It is clear that public consultation, whilst paid lip service within the Council chambers, was not executed according to those wishes by CityClean. In fact it was being deliberately ignored and disregarded, as Tim Moore himself admitted. Even meetings with the few streets were not consultation: they were merely told what was going to happen. This whole trial was mismanaged from day one. It is a clear example to the Council how not to proceed with projects in the future.

SWORN by Tony Davies at

David Buck & Co
Solicitors
41 Dyke Road, Brighton
East Sussex, BN1 3JA

On 25th August 2004

Before me, *J McWilliams*
Solicitor

AFFADAVIT - DAVID JOHN WEEDALL

Statement to the Scrutiny Committee on Consultation on the Communal Bin Scheme by David Weedall

1. I, DAVID JOHN WEEDALL OF 12 ALEXANDRA VILLAS, BRIGHTON, EAST SUSSEX DO HEREBY MAKE OATH AND SWEAR AS FOLLOWS:- That I have lived with my wife, and family in Alexandra Villas for the past eighteen and a half years and during this time have maintained an interest for the environment of the area; the buildings being of Grade 2 listed status and the entire area being of architectural significance. On occasions, I have been actively involved with issues affecting the local community. As a seemingly diminishing breed of Brightonians still living in the area, I have witnessed many and various changes to these towns over the years, some for the better, and some for the worse.
2. One change for the worse which springs to mind immediately is the ill fated Bin Trial of some three years ago in Albert Road, which for twelve months became what can only be best described as an extension of the Municipal Refuse Tip, for certain people across Brighton & Hove, who would regularly visit the bins with their unwanted items. Our property, is some twenty metres from that site which meant looking out on piles of refuse, old beds, fridges, freezers, chest freezers and broken hi fi systems, to name but a few.
3. It is little wonder to me then, that last Saturday night 24th April, a fridge freezer appeared by the side of the new communal bin, located in exactly the same area as the original trial bins, and remained there to the following Monday morning. Then on this Wednesday 28th an old mattress and two wooden pallets appeared. The pattern of fly tipping continues.
4. It was with some bewilderment that in November of last year, as I walked around the Powis / Montpelier area of the neighbourhood, I noticed a great number of "Say No to New Bins" flyers in the windows of many of the properties. At first I thought little of these notices, but within a couple of weeks, curiosity got the better of me, so I plucked up courage and knocked on one of the doors of a property displaying such a poster.
5. I was politely informed by the inhabitant, whom I did not know, that a Communal Bin Trial was to take place in the area, and that despite the fact that many of the residents objected to it, the Council were not really taking notice of such objections. Within a couple of days of speaking to this resident, I noticed a small article in the Leader listing roads that were to be involved in this 'trial'.
6. Alexandra Villas and Albert Road were among those listed. Having made contact with the No to New Bins Campaign, I soon discovered that there was no one belonging to this campaign in the area in which I live; that being the North Laines/ St Peters Ward. Later, upon checking the windows of this area, not a single "Say No to New Bins" poster was being displayed. This lead me to the conclusion that either everyone in this area was aware of the trial and fully

supportive of it, or like ourselves had remained completely oblivious to its impending implementation.

7. In early January my wife and I decided that, at our expense, we would leaflet the relevant area ourselves with information of the proposed trial on one side of the flyer and "Say No to New Bins" on the other. It was amazing to see that within just a few days of our leafleting the area, posters suddenly appeared in many windows of residents who also wished to express opposition to the scheme. Opposition because so many of us had lived for years in this area with perfectly adequate refuse storage facilities in our garden areas and thus, had never had the need to put bin liners out on the pavements to await collection. Communal Bins were seeking to solve a problem that clearly did not exist.
8. By this time, it was apparent that some streets in the Powis and Montpelier areas had gained exemptions from the trial due to meetings between Cityclean and the residents. It appeared to us that we were too late to undertake any canvassing activity in our area; having been very late in our appreciation of what was occurring. But then we had a change of mind and decided to canvass two streets with a petition on whether or not they approved of the scheme.
9. To our astonishment, of all the properties canvassed, not one single person had any recollection of ever receiving a consultation leaflet from either Cityclean or the Council, and that our own leaflet we had previously distributed, was the first method by which people had been made aware. I can categorically state that no such leaflet was ever delivered to our property, as I am personally scrupulous in the attention I give to any incoming communications. To this day, like thousands of other residents in the trial area, I have never had sight of the consultation leaflet.
10. The question therefore begs as to what proof can be provided that the consultation leaflets published by the Council/Cityclean were ever delivered in roads within the North Laines, St Peters Ward area? This is a question, I believe, that must be answered.
11. My information leads me to the conclusion, that these leaflets were not posted through doors as claimed. For if they had been, surely even by the very laws of probability, some people we canvassed would have been aware of the leaflets.
12. To add further salt to the wound, Brighton & Hove City Council Environmental Committee chose to ignore the petition that we raised in Alexandra Villas, when the Green Party raised a proposed amendment to remove our road from the trial on 29th January 2004. The petition had 67 names on it, representing 95% of households in the road. Where, I must ask, was the spirit of consultation there?
13. Finally I must conclude, that but for the efforts of my wife, myself and two other neighbours, the only awareness of this trial before the communal bins were put into place would have been the addressed letter we all received from the Council, informing us of the trial, just four days before its implementation. It is

therefore my contention that no effective consultation ever took place within the North Laines / St Peters Ward and that the methods used to introduce this trial were both shady and insincere, to say the very least.]

14. So, Madam Chairman, I conclude my evidence unashamedly with this "sound bite" of a statement "Consultation on the Bin Trial? What Consultation?"

SWORN by DAVID JOHN WEEDALL at
David Buck & Co
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41 Dyke Road, Brighton
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On 28th April 2004

Before me, *J McWilliams*
Solicitor

APPENDIX 5

	Recommendation	Accepted (Yes/No) If No - why not? If Yes - when will it be actioned?	Target date for progress report to Members
1.	To ensure that everyone concerned (Members, officers and members of the public) are fully aware of what action is being proposed and how that action can be influenced i.e. prior to implementation, during and/or after implementation, the definition for consultation as detailed in paragraph 2.1 (above) be used as the basis for all future consultation and that officers adhere to the council policy as detailed on the Wave.		
2.	That future leaflets/circulars/letters to residents are clearly marked as being from the Council and that the database for circulation is checked as being the most up-to-date and that compensatory arrangements are in hand to ensure any delivery failure can be rectified quickly.		
3.	That any information circulated to residents regarding changes in services provided by the council should clearly state the contact numbers at the council for further information and for those requiring assisted collection.		
4.	That collective briefings are arranged for ward councillors where proposals are being made which affect their wards. Individual meetings should then be held where Members are unable to attend the joint briefing session.		

Recommendation	Accepted (Yes/No) if No - why not? if Yes - when will it be actioned?	Target date for progress report to Members
<p>5. That the Director of Cultural Services be requested to review the e-mail service provided to Members and officers to see whether a differentiation can be made to ensure recipients are clearly aware of the importance of the information being provided e.g. respective coloured icons for ward issues and urgent items requiring a response.</p>		
<p>6. Records of all communication (including responses), to councillors on major ward issues to be kept until the process is complete.</p>		
<p>7. That Ward Members are consulted on the production of any leaflets/questionnaires that are to be sent to residents in their ward and to receive copies prior to their distribution.</p>		
<p>8. That with any future use of Experimental Traffic Orders, it be made clear that the traffic order will apply for a set period and that during that period comments/views can be submitted and will be taken into account prior to the final Traffic Order being adopted.</p>		
<p>9. That the Research & Consultation Team should be contacted to provide guidance on future consultation exercises and where appropriate asked to undertake the consultation on behalf of any of the Council's directorates.</p>		

Recommendation	Accepted (Yes/No) if No - why not? if Yes - when will it be actioned?	Target date for progress report to Members
<p>10. That when changes are being proposed which affect the service provided to people with additional need including disabilities, consultation takes places with those organisations/groups which represent them with a view to them being able to identify specific requirements and to liaise with those directly affected.</p>		