

Correspondence between Graham O'Connell (GOC) on behalf of the MFG&D Society and Tim Pashen (TP), Acting Chief Executive, Surrey Heath Borough Council, regarding the Report of the Independent Investigation into the (former) CEO, Karen Whelan. With further comments and observations added (Obs).

Our letter was sent on 22nd April 2020. You can see that in full here: https://mfgdsociety.org.uk/pdf/CEOInvestigation2020_04_22.pdf

Tim Pashen replied on behalf of SHBC on 13th May 2020.

The text below merges item by item the original question and the response received and is then followed by any observations on that response.

GOC, on behalf of MFG&D Society

I write this open letter on behalf of the MYTCHETT, FRIMLEY GREEN & DEEPCUT SOCIETY, the de facto residents association for the three villages. I have also included comments and questions based on my wide experience at senior levels within the Human Resources profession and as a former longstanding Chartered Fellow of the Chartered Institute of Personnel and Development. We as a committee, along with many of our residents, are deeply unhappy with the revelations in the above report, the level of redaction in that report, the many unanswered questions raised by the report and by the actions or inactions by the Council. This letter of COMPLAINT also sets out to seek further information and to request urgent remedial actions.

TP reply, on behalf of SHBC

Thank you for your letter dated 23rd April 2020 to Cllr Alan McClafferty, Leader of the Council and me. I have set out my answers to your questions below.

I would first like to say how much we both regret the circumstances, which resulted in the additional duties allowance to the former Chief Executive, and other matters raised in the Independent Investigation report. The action taken by the Council subsequent to receiving the report, as set out in paragraph 8 below, will prevent such circumstances happening again.

Obs - observations on that reply

We have not had a reply or even an acknowledgement from the Leader of the Council, Alan McClafferty, so we do not know whether the above response reflects his views or not. We do not know whether this has been officially registered as a complaint but it is usual to provide a registered complaint number so probably not.

GOC

1. As the report was published with redactions being justified under the Freedom of Information Act we request a review of those redactions in line with the Act and the FOI Code of Practice. We understand and accept that some elements in such a report should not be disclosed. However, the level and focus of redaction suggests that an over-cautious approach may have been taken. We find it hard to believe that, for example, the entire timeline warrants redaction. We hope that you can help facilitate a satisfactory response as this would be quicker and easier than taking it up with the Information Commissioner under Section 50 of the Act.

TP reply

1. Although you are not the original requestor of the report, we are prepared to carry out a review of the redactions made in line with the Freedom of Information legislation and relevant Code of Practice. We will publish the results of this review in due course. As you can appreciate, resources are limited at the Council, so we are not able to give a definitive timescale however, we shall aim to complete the review within 10 working days from the date of this letter. The Council's Monitoring Officer Gavin Ramtohal will undertake the review and he can be contacted at gavin.ramtohal@surreyheath.gov.uk. In the interim, we have set out below the detailed reasoning behind the redactions, to provide some assurances that the Council has acted appropriately in relation to this report.

The report itself contains significant amounts of personal data. Personal data is information, which can identify a living individual, and information, which "relates to" that individual. The fact that the individuals within the report are acting in a professional capacity does not take the information outside of this definition, and therefore the Council has had to consider carefully the obligations under the General data Protection Regulations (GDPR), as well as our obligations under the Freedom of Information Act (FOIA) and more generally.

Information is exempt from disclosure under FOIA if it is personal data, and it would be a breach of GDPR if it was released to the general public in line with FOIA. In considering whether release would be a breach of GDPR, the Council has had to look at whether release of information would be "fair". If the release is not considered "fair", then release under FOIA will breach the first data protection principle in the GDPR, and is therefore exempt under section 40 of FOIA. The Council considered all items of personal data separately, and the particular circumstances of each item of personal data was considered. This detailed analysis is not appropriate to share publicly (because it would, in itself, reveal the nature of the data which would then be a breach of GDPR), but the general approach taken has been explained in the following paragraphs.

Generally speaking, when deciding whether something is "fair" under the first data protection principle, the Council has to take into account what would be the reasonable expectations of the individual in respect of the information.

Would the individual expect this information to be made public, and if they would not, is this a reasonable expectation when viewed objectively?

The Council took into account factors such as:

- The seniority of the individuals involved - where an individual is more senior in a public body, they are more likely to make decisions that affect policy and strategy, and it is in the public interest to understand how those decisions are made. There is therefore a reasonable expectation on the part of more senior members of staff that more information about them will be made public, than if, the member of staff is more junior.
- The nature of the information - whether it is about an individual's professional life or personal life. Information about professional life is more likely to be fair to release than if the information relates to an individual's private life.
- The effect of disclosure on the individual themselves, and the particular circumstances that the individual is in at the time of publication.
- The public interest of the information itself. This is important, because whilst there is a genuine public interest in understanding how the Council spends its funds, and how it responds to allegations of impropriety, there is a difference between information that is genuinely in the public interest to release, and information, which is of interest to the public. The Council has considered carefully which elements of the report are genuinely in the public interest, and taken the view that the threshold for withholding this information is much higher than where the information is merely "of interest" to the public. In cases where information is in the public interest, the presumption is in favour of release, and this was considered by the Council to mean that release would likely be fair, absent any compelling arguments to the contrary.

You have raised the fact that the entire chronology of events has been removed. As you will appreciate, the report was not produced with FOIA in mind, and the chronology is more than just a report of the factual steps that occurred leading up to the events investigated. The redacted section contains a great deal of personal data, including individuals' opinions and understanding of events. When the Council removed the personal data that would breach GDPR if released, the information that remained was such that it made no sense in abstract, and so the Council removed the entire section for clarity.

Obs

The internal review unsurprisingly made no changes to the redactions. We have now appealed to the Information Commissioner and are hopeful that the Council will be ordered to remove some of the redactions but this could take several months.

GOC

2. The report details a number of unlawful decisions. Can you please let us know the number and nature of disciplinary actions taken as a consequence.

We do not expect you to reveal names or other personal details, simply to demonstrate that actions have been taken proportionate to the wrong-doing. The report is dated 22 November 2019 so there has been plenty of opportunity to take these actions prior to the resignation of the CEO and before we have all become embroiled in the Covid-19 crisis.

TP reply

2. The Council is not able to release any information relating to the taking or not taking of disciplinary action. Given the information that is already in the public domain, it would be possible to identify the individuals involved through a process of elimination, and the Council is of the view that such information would breach the individual's rights under GDPR if released.

Obs

This vaguely implies some action has been taken against an individual otherwise there would be no risk of their name being revealed. However, it would be possible to simply state that 1 person has been disciplined, or whatever the number is, without revealing any identity details. If the council were to announce that no individuals have been disciplined that would be an embarrassment so it is plausible that this is being withheld under the false pretext of GDPR. The council can easily settle this by giving the number of people disciplined. This is not unreasonable and we believe the public should be told. The nature of any discipline eg a warning letter would not in any way reveal an identity or breach GDPR. Councillors should do more to address the inappropriate withholding of information by officials.

GOC

3. The report sets out payments that were made unlawfully, including as pay or allowances, expenses and benefits. It is standard practice where there have been incorrect payments or overpayments, whether made innocently or otherwise, for an employer to seek to recover those amounts, usually by agreement or on termination of employment. Can you let us know what efforts were made to recover these sums and how much has been recovered. If there were no efforts made, or those efforts were inadequate, what action will you be taking, including disciplinary action against those who failed to take action, or those who may have blocked such action?

TP reply

3. Notwithstanding the fact that the investigation found that the payment of the Additional Duties Allowance was unlawful, the payments could have been made lawfully had the Council followed the correct process for doing so. Further, the Council's Chief Executive had a contractual right to receive the payments and as such, it would have been inappropriate to seek recovery of the monies paid.

Obs

This is plainly wrong. The Additional Duties Allowance (ADA) could not be made lawful; that is a simple matter of fact made clear in the report. It cannot be, and has not been, retrospectively approved or made lawful. The report confirms that the only way the CEO could have lawfully received additional pay would have been a pay rise, subject to a full pay and grading review, which did not happen, and approved by full council, which also did not happen. An improbable, hypothetical possibility of a 'correct process' which did not happen is not sufficient grounds to say the council was contractually obliged to keep paying Ms Whelan this unlawful additional payment from November 2019, when the report was published, until she resigned. Put simply, a contract cannot require an employer to continue to pay a payment that the employee is not entitled to, is unlawful and was contrived to get around established policy and the correct approval process. To be generous, it is possible that the council have misinterpreted or misapplied any legal advice they may have had on this matter. As to the overpaid expenses there can be no contractual requirement to make such a payment and the law allows for the recovery of such payments. As a former senior HR professional I can prove these points with reference to legislation; the council meanwhile have declined to provide any evidence or cite any relevant legislation. Councillors hold officers to account on this issue.

GOC

4. The authors of the report are of the view that it is not necessary to refer this matter to the Police. This was simply a recommendation and the Council presumably discussed and considered this option. We are of the view that the very council that behaved unlawfully should not decide upon its own fate. The management team and Councillors - albeit with some different individuals involved - should not vote on their own innocence. We therefore formally request that this matter is immediately put to the proper authority, the Police, for them to determine what charges if any should be made. The Crown Prosecution will then decide whether and whom to prosecute. The Council should not be seen to be judge and jury in its own case or in relation to individuals with whom they have worked so closely.

TP reply

4. The Council, having considered the contents of the report, accepted the recommendation of an independent body that the threshold for reporting was not met, and do not intend to revisit this.

Obs

It is a valid view that the council is entitled to hold. However, we think residents would feel more confident if the police were asked for their opinion. On criminal matters the police are the best authority, not the council and not a civil investigator who did not conduct a criminal investigation only a civil one. A blunt refusal to revisit this suggests a deafness to public opinion and their

valid concerns about what might constitute corruption, fraud by abuse of position, malpractice, misconduct in public office and breach of fiduciary duty (none of which were even mentioned as possibilities in the redacted report). Councillors can, and should, revisit this.

GOC

5. The report shows that the CEO received expenses and benefits over and above the rates agreed with HMRC. These sums should be taxable. Have you sent a copy of the report (unredacted) to HMRC? If not, we formally request you do so without delay.

TP reply

5. The Council's records show that HMRC were informed about Ms Whelan's lease car and class 1A national insurance were paid. P11D's issued reflected this. In terms of the Council's actions, the Council is guided by the recommendations in the report.

Obs

The expenses received by Ms Whelan were staggeringly high, some 10 times the approved rate. The reply does not address the question of expenses and limits itself to the undervalued BMW car she purchased (at about one ninth of its true value). I think we can assume that the council have not informed the HMRC that Ms Whelan was paid expenses above the HMRC approved rates nor made an appropriate PAYE Settlement Agreement. This is poor management with no apology or remedial action promised. Councillors should make sure this is corrected.

GOC

6. The value of the car purchased by Ms Whelan is highlighted as significantly different to the amount she paid for it. How has this been addressed?

TP reply

6. Refer back to answer to 3.

Obs

In other words nothing has been done. It once again implies that Ms Whelan somehow had a contractual right to receive this benefit in kind, yet without any evidence or reasoned justification it remains unclear why Ms Whelan has been treated differently to all other employees and contrary to best practice. It is difficult to reconcile the facts as set out in the report with the complete lack of appetite to seek any recovery of public funds. To add insult to injury, Ms Whelan ordered extras to her BMW car when it was first procured by the council. Council policy says that she should have paid for these but she did

not. The ratepayer picked up the bill. It is not clear whether this sum is included in the £56,583 she got away with without repaying.

GOC

7. There is little reference in the report to the Council's Anti-Fraud and Corruption Strategy nor the National Code of Local Government Conduct. This may, of course, be in a redacted section. Can you please confirm how the Anti-Fraud and Corruption Strategy was applied, or not, in this case.

TP reply

7. Reference to the Council's Anti - Fraud and corruption strategy was a matter for the independent investigator to consider. This was very much in accordance with the need to maintain the independence of the investigation. The report was thorough and extensive and took account of the Council's relevant policies on this matter.

Obs

So it looks like the Anti-Fraud and Corruption Strategy was not applied by the council even though it states: "It is the responsibility of Members and employees to be diligent in the fight against fraud and corruption..employees are important elements in the fight against fraud and corruption and are expected to maintain the highest possible standards of conduct in public life". It clearly failed in this instance to establish or prevent unlawful, and potentially fraudulent, actions over a long period of time. It is not clear why it failed but ultimately it must be for the council itself to ensure it works and is applied rigorously. Protection against fraud, corruption and malpractice is a continuous process. It not something that can be done retrospectively by an external investigator. Councillors will know whether the redacted sections of the report make adequate reference to this strategy and the day-to-day policing of it. They must act as our eyes and ears in this matter and reassure the public that failings have been identified and corrected.

GOC

8. There are a number of Committees, such as the Executive, the Employment Committee and the Audit & Standards Committee, that presumably have an interest in this case, especially in ensuring that proper actions have been or will be taken. What actions have they asked you or other officers to undertake, and what other actions, if any, have you taken and will be reporting back to them?

TP reply

8. The actions taken by the Council were set out in the statement accompanying the release of the redacted report as follows:

- a. 151.1 - The establishment of an Employment Committee at the meeting of Full Council on 18 December 2019. This committee together with various sub-committees put in place provide a clear decision making process for the pay and performance of the Chief Executive together with disciplinary and grievance matters relating to senior officers. Constitutional changes including mandatory training for Members dealing with HR matters and an update to the Officer Employment Rules are in place.
- b. 151.2 - The Pay Policy statement has been updated and was recommended for adoption to Full Council by the Employment Committee in February 2020.
- c. 151.3 - The establishment of an Employment Committee at the meeting of Full Council on 18 December 2019. This committee provides a clear decision maker for the pay and performance of Chief Officers.
- d. 151.4 & 151.5 - The Chief Executive's job description is currently being reviewed and any subsequent amendments to the Leaders functions will follow
- e. 151.6 - A review of financial regulations relating to matters identified in this report has been added to the Governance Working Group's work programme
- f. 152 - A review of the Executive procedure rules has been added to the Governance Working Group's work programme
- g. 153 - A review of The Speak Up policy (formerly known as the Whistleblowing Policy) has been undertaken and was adopted by the Employment Committee on 30 January 2020. This now includes provision for the Chairman/Vice Chairman of the Employment Committee as a reporting option. Additionally a review of the Officer Code of Conduct and the Member and Officer protocol is underway. Once completed they will be considered for approval by the Full Council.
- h. In addition to the specific recommendations contained within the report a review of expenses and the process for claiming expenses will be undertaken and considered by the Employment Committee. Furthermore, all staff will be given training on the processes in place to record gifts and hospitality to ensure compliance.

Obs

These all relate to recommendation 2 in the report. Recommendation 1 was redacted so we don't know what it says but from this reply it seems it was not implemented. It is worth noting that the only actions are to adjust some policies and practices. The previous policies and practices were, according to the report, subverted as numerous individuals sought to find ways around them. There is nothing here to indicate how these revised versions will be immune from subversion in the same way. They are necessary but minor improvements but without greater vigilance, more transparency and a change in culture, it is just as likely that future unlawful decisions will go unspotted and unpunished. Things like training all staff on how to record gifts will not stop a CEO who knows the rules from breaking them. This reply does not inspire confidence. Councillors and the committees should be more robust in

challenging the implementation of changes and should seek evidence of what impact they are having. That challenge should be healthy and constructive but there must be true accountability. Implementing the recommendations in the report should be the minimum that gets done, not the maximum.

GOC

9. The Report was presented in November 2019 after some delay. What was the cause of that delay and how has that been resolved? There was also a considerable delay (almost 5 months) in publishing the report. What was the cause of that delay and what happened during that intervening period?

TP reply

9. There are a number of factors which lead to the delay in the receipt of the report and its publication. Furthermore, there have been wider issues around the seeking of legal advice, internal processes and availability of individuals. The Council have had some significant decisions to make regarding the findings of the report, the consideration of the balance between what should be released, and what needs to be redacted. Since March, the Council has also allocated significant resources to manage the impact of Covid 19.

Obs

A very vague reply. What did happen during the intervening period, which Mr Pashen has omitted, is a secret deal with Ms Whelan was signed in return for her resignation (we only know this because it came up in an Audit committee meeting). We don't know the details but clearly Ms Whelan has been allowed to keep the £56k she received unlawfully. We suspect that a further unlawful decision has been made to allow this to happen but the council seem strangely reluctant to account for their actions. Councillors should ask for independent scrutiny of all these matters.

GOC

10. Under 'The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015' a new process was introduced for disciplinary action against statutory officers. This is reflected in the 'Terms and Conditions of Service Handbook for Chief Executives and Chief Officers'. According to 'Local Government Lawyer' the investigation report should be considered by an independent panel and they should compile a report of their own. Both reports along with recommendations from the Employment Committee should go to full council for a final decision. Can you please confirm that this process was followed and provide us with a copy of the independent panel's report (with a minimum number of redacts please).

TP reply

10. We note reference to the Regulations, in the circumstances, the Council's former Chief Executive resigned and as such, the requirement to consider any

further action was not engaged. The regulations you refer to establish a process for the dismissal of a Chief Executive.

Obs

Actually the service handbook covers much more than dismissal, so it looks like Mr Pashen has not bothered to even read it properly. Ms Whelan resigned as part of a deal and the service handbook covers how to approach all the options. During the period before her resignation, as mentioned above, the council must have had 'difficult decisions to make' as mentioned above but they must have decided not to go down the disciplinary or dismissal route but to choose what is called a Severance Agreement or Compromise Agreement. This choice, and the route to it, almost certainly didn't comply with government guidance otherwise Mr Pashen would have said so.

GOC

11. Investigations such as this one often uncover other factors. The type of leadership revealed in the report is sometimes also associated with other undesirable behaviours such as autocratic decision making, a culture of non-disclosure, fear of whistle-blowing, bullying and discrimination. What data or other evidence do you have on these matters (eg number of cases of bullying recorded)?

TP reply

11. We have three recorded grievance complaints where bullying and harassment were cited. One was upheld.

Obs

Interestingly there was no whistle-blowing. We suspect - and I must stress we have no evidence to support this so it is speculation - that the former CEO, Ms Whelan, was a bully. Her manner and management style would certainly suggest that is a possibility. It would also go some way to explaining why so many staff were in fear of exposing her wrong-doing. On this matter the council is right to respect confidentiality - it is an internal HR matter. Though if Ms Whelan was in anyway involved in bullying or harassment then it would be just another example of her failing in her fiduciary duty. We may never know. But Councillors will know and they will also know which fellow Councillor(s), if any, were complicit in failing to report this behaviour.

GOC

12. Karen Whelan is the sole Director of SHBC Camberley Ltd which is one of two unit holders in Main Square Camberley Unit Trust, a Jersey Property Unity Trust. Has Ms Whelan been replaced as Director? If not, when will this be done? Has this caused or might it cause any difficulties? Has Ms Whelan

received, or might she receive, any personal financial benefit in this role or on her departure?

TP reply

12. The Council is in the process of appointing a new director to SHBC Camberley Ltd

Obs

She has now been replaced. On 26th May 2020 Ms Whelan was removed as director and was replaced by Mr Tim Pashen. We cannot comment on the wisdom of having a council CEO as director of a limited company intertwined with a Jersey based property trust. We just hope that the Audit Committee are satisfied that the proper checks and balances are in place and that other directors yet to be appointed have some substantive commercial and retail experience.

GOC

13. What payments were made to the CEO to help facilitate her resignation? What other arrangements or deals were done? We understand that there are often non-disclosure clauses in Settlement Agreements but in the broadcast Audit Committee meeting on 20 April 2020 a so-called 'Compromise Agreement' was raised by the Auditor and discussed (perhaps inadvertently revealing more than should have been revealed). The fact is that this is now in the public domain and we as residents and ratepayers demand an explanation - you will know the mantra 'this is our money' and it is true. We do not want secret deals covering up, possibly even rewarding wrong-doing. This would be to simply compound earlier failings and bring the current council, members and officials, into even greater disrepute.

TP reply

13. We can confirm that Ms Whelan resigned and received only her contractual entitlements.

Obs

It sounds like she did not get paid a lump sum to leave. But if the deal was that she gets to keep the money she was unlawfully paid *as if* it were a parting lump sum then she could get a massive tax rebate. It would be useful to know what councillors were told about this but the confidentiality agreement prevents that. If, however, the decision allowing her to keep the money was under the pretext of 'contractual entitlement', and was itself an unlawful decision, as seems likely, then the confidentiality clause cannot be used to conceal this fact. The trouble is that if the council won't reveal anything how will we ever know whether it was lawfully decided or not. Again councillors need to take this up on behalf of residents.

GOC

14. Was the pay rise or allowance retrospectively approved in secret by the full Council (or others)? If this was done (eg as part of a deal), were the Councillors fully briefed on the implications for the former CEOs pension? The tax implications (eg regarding her expenses)? How inexpensive it would be to pursue overpayment of expenses through a breach of contract claim in the Small Claims Court? Or was their decision made in ignorance of these and other important facts because officials had not properly briefed them? Most crucially, if this was awarded as an Allowance does it not still breach the Council Policy? If it was awarded as a backdated pay rise, was the proper benchmarking procedure followed along with a structural review of pay bands? Any pay rise without following the proper review procedures, even if approved by full council, would remain unlawful and should be subject to a second investigation.

TP reply

14. The Additional Duties Allowance was not approved retrospectively. Ms Whelan has now resigned and it is not necessary to now do so in the circumstances.

Obs

There are some extraordinary anomalies in the council's actions and explanations. If the allowance has not been approved (and it could never be lawfully approved) then it remains unlawful. If it is unlawful then the council should not have signed a deal allowing Ms Whelan to keep it. Deals with departing CEOs are tricky beasts, and sometimes unpleasant compromises are necessary to expedite a departure. Often pragmatism wins out over ideals; as seems to be the case here. It looks like the negotiator was told to do any deal to get rid of her quickly (and that may ultimately be the cheapest option and a sensible choice in difficult circumstances). But in this case it seems the council, and the ratepayer, got the raw end of the financial deal. Our complaint however, is regarding the legality of that decision. It is a legitimate concern and as the public cannot be told about it there is a crucial imperative that Councillors seek further independent advice.

GOC

15. The Localism Act 2011 requires councils to produce and publish a pay policy statement. According to the Act and statutory guidance published in 2012 and 2013, the statement should include the local authority's policy on specific aspects of chief officers' remuneration. Again, if any decision was made to retrospectively approve the pay rise given to Ms Whelan would you please provide details to demonstrate that it was fully in line with the published policy. Please note that the 'Joint Negotiating Committee for Chief Executives National Salary Framework & Handbook' states: "...it is essential

for good governance that local authorities can demonstrate that decisions on pay and reward packages for chief executives have been made in an open and accountable way”.

TP reply

15. The Council publishes an annual Pay Policy Statement. Nothing in relation to an additional duties allowance for the former Chief Executive were mentioned in the Pay Policy Statements for the last two financial years.

Obs

In other words there was an error but no apology or offer to correct it.

GOC

16. The report states that only limited information was provided about gifts Ms Whelan received (Para148). Can you please provide us with details of all gifts valued over £50 since 2017. Can you also confirm that investigations were made into the potential non-registration of gifts. For example, on 24th May 2017 Ms Whelan claimed three taxi fares but no subsistence. Did she declare the cost of the meal she received?

TP reply

16. Information relating to gifts over £50 provided to Ms Whelan and declared to the Council are attached.

Obs

What was provided was a secret list kept by Ms Whelan as she made no entries whatsoever in the official register. There is no response to the critical question about undeclared gifts. Either Mr Pashen doesn't know or doesn't care about undeclared gifts. The police would investigate this in a criminal investigation but the civil investigation, with limited terms of reference, did not explore this at all. The Council Executive should vote to ask the police to investigate.

GOC

17. The report itemises a number of unlawful payments but does not show an overall total (unless again this is in the redacted section). What was the total amount paid unlawfully or inappropriately to the CEO?

TP reply

17. The total paid was £56,583.

Obs

The total recovered by SHBC is zero.

GOC

18. What has been the total cost of the investigation including the fees paid to Browne Jacobson and any other associated costs related to the investigation?

TP reply

18. The total cost was £89,587.75.

GOC

19. We believe that the Council should report back to residents on this whole debacle as openly and constructively as possible. We would welcome plans to provide further communications and engagement with residents (though we appreciate the limitations during the current lockdown). At the moment many residents are furious not just about past failings but how things are now being handled. We would welcome an end to secrecy, lack of accountability, the repeated lost opportunities to recover moneys and to punish wrong-doers. We would like to see the specific lessons learnt, the meaningful actions taken and your plans on how to communicate this to local people.

TP reply

19. We note your comments and the Council's actions will be guided by the recommendations in the independent report. Transparency and publication of further information will be considered on an issue by issue basis balancing public interest and legal constraints.

Obs

So no commitment to report back to residents. No proactive or voluntary communications. Councillors need to challenge the continuing lack of transparency, openness and accountability.

GOC

20. Are there any matters related to the above that the public should know about? Now is your opportunity to provide a full and open declaration. If there are any areas where you are legally restricted in what you can disclose please provide an outline description of that area and the legal reasons why you cannot disclose further details. Please be as forthright as possible. You may prefer to liaise and provide a joint response if you wish. We look forward to an early reply. If, in the light of current circumstances, there is likely to be any delay, please do give us an interim response and details of when we might expect a fuller reply. As this is an open letter we will make your responses available to our members, other local residents and the wider community.

TP reply

20. We recognise the strong public reactions to the circumstances, which resulted in the payment of the additional duties allowance to the former Chief Executive. The Council have been as open as they can within the constraints of the law and to the best of its knowledge. The investigation itself was independent and when additional matters were identified these were published in the final report. The redactions in the report were carried out following external independent legal advice. At your request, we will carry out a further review of the redactions and will publish the results of this review in due course.

Obs

We accept that the council sometimes has a difficult balancing act to play. However, we do not accept that the council has been as forthcoming as it might have been. These are serious matters and the public deserve to have sufficient evidence to confirm that the council has acted properly. We have contacted the council leader, Alan McClafferty, and the leader of the opposition, Sashi Mylvaganam, asking them to press officials further. In particular, as there are legitimate questions about whether the council has acted lawfully and within the constitution, these need to be investigated not simply batted away. We have asked for an independent person to assess this rather than have officials police themselves. We would recommend that advice is sought from the Chartered Institute of Personnel and Development who are the relevant professional body and the definitive experts in this field. It should not be left to officers to put forward carefully selected facts that will only support a defensive position. The full facts must emerge, in confidence, and Councillors must report back at least the basic outcomes, especially which decisions were lawful or not. We have also contacted the chairs for various committees including the Employment Committee and the Performance and Financial Scrutiny Committee.

We await replies.

Note: You can see a copy of the redacted report here: <https://www.surreyheath.gov.uk/sites/default/files/documents/council/REPORT%20OF%20THE%20INDEPENDENT%20INVESTIGATION%20with%20redactions.pdf>