

## AFFADAVIT - PROFESSOR DYHOUSE

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

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On 28th April 2004

Before me, *J McWilliams*  
*Solicitor*