

Wilson, Colin

Appendix 1

From: Paul Dimoldenberg [pdimoldenberg@quatro-pr.co.uk]
Sent: 28 June 2008 14:51
To: anthony.mayer@london.gov.uk
Cc: len.duvall@london.gov.uk; More, Mike; Wilson, Colin; Mockler, Veronica
Subject: Simon Milton

Mr Mayer

I am still awaiting the information I requested under the Freedom of Information Act and would be grateful if you could let me know when I might expect to receive it.

I would also like to raise with you Mr Milton's status as an 'informal' advisor.

As far as I am aware Mr Milton

- has his own office
- his own PA
- gives instructions to GLA staff
- speaks at events (e.g. London First) on behalf of the Mayor
- gives interviews to the media on the Mayor's planning and housing policies

In other words Mr Milton operates just like a GLA employee despite the fact that he is unpaid. He should therefore be subject to the Widdicombe rules like any other Mayoral adviser or GLA employee.

It is my view that you should re-see Counsel's opinion in respect of the Widdicombe rules on the basis of how Mr Milton actually undertakes his role as an adviser to the Mayor. The notion of Mr Milton being an 'informal' adviser is completely meaningless in definition and a complete fabrication in reality.

I believe that you and your senior staff have a responsibility to end this charade which is bringing the Mayor and the GLA into disrepute.

I look forward to hearing from you.

Councillor Paul Dimoldenberg
Leader of the Labour Group
Westminster City Council

Chief Executive

Anthony Mayer

City Hall
The Queen's Walk
More London
London SE1 2AA
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk

CLr. Paul Dimoldenberg
City of Westminster
Westminster City Hall
64 Victoria Street
London
SW1E 6QP



Dear Councillor Dimoldenberg,

12 June 2008

SIR SIMON MILTON

1. Thank you for your letters of 27 May and 5 June.
2. The Mayor is content for Sir Simon Milton to express views on planning issues in public for as long as they do not impact directly on Westminster specific or related planning issues.
3. I am not clear as to why Sir Simon Milton expressing views on planning issues in public fora should be a Widdicombe issue. Do you have in mind any legislative provisions or legal precedents? The Assembly have invited him to give evidence to its Planning Committee on 15 July.
4. I attach the relevant legal advice dated 19 May 2008. I am aware that Len Duvall remains concerned on this issue and I am clarifying the legal advice further. I shall copy it to you as soon as it is available.
5. In respect of Nick Raynsford's article I remain of the view that the requirements of section 67 of the 1999 Act have been met and that section 69 of the 1999 Act is not a material consideration; Sir Simon Milton is not an employee of the GLA.
6. I am copying this to Len Duvall, Mike More and Colin Wilson.

Yours Sincerely,
Anthony Mayer

ANTHONY MAYER
Chief Executive

LONDON ASSEMBLY LABOUR

Len Duvall AM

City Hall
Queen's Walk
London SE1 2AA
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk

Our ref: Milton 120508-2

Your ref:

Date: 9th June 2008

Boris Johnson
Mayor of London
City Hall
The Queen's Walk
LONDON
SE1 2AA

Dear Boris

Re: Simon Milton

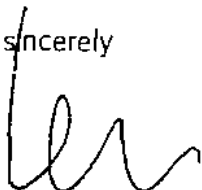
I am surprised at your lack of courtesy in not replying to my letters to you of 12 May and 27 May 2008 concerning Simon Milton's appointment. If this is the standard you are going to apply in responding to Assembly Members I find it shabby in the extreme.

You may be underestimating the seriousness of the concerns that my Group and others share on the way you have gone about this appointment.

I believe I have been generous in giving you time and opportunity to respond to these concerns. You have tried several tactical manoeuvres to get around the regulations. Your lack of response makes me believe that we are no longer dealing with an innocent breach of regulations but a more considered attempt to manipulate standards of governance.

This is not simply a matter for Westminster City Council. Unless, I hear from you in the next couple of days with a convincing response I intend to start the process of formalising my concerns on this matter.

Yours sincerely



LEN DUVALL AM
Leader of the London Assembly Labour Group

Copy: Simon Milton
Leaders of Assembly Groups
Fiona Ledden, Monitoring Officer, GLA
Colin Wilson, Monitoring Officer, Westminster City Council

Direct telephone: 020 7983 4408 **Fax:** 020 7983 5564 **Email:** len.duvall@london.gov.uk

Anthony Mayer
Chief Executive
Greater London Authority
City Hall
The Queen's Walk
More London
SE1 2AA

Your reference:

My reference
Direct Line: 020 7641 2230
Fax No: 020 7641 2967
Email: pdimoldenberg@westminster.gov.uk

Date: 5 June 2008

Dear Mr Mayer

Simon Milton/GLA

I make no apologies for writing to you once again on this matter.

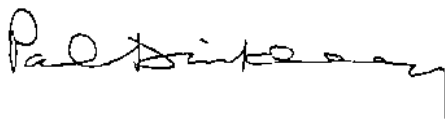
I enclose an article by Nick Raynsford MP from this week's Municipal Journal in which he calls the GLA's refusal to acknowledge that the appointment of Simon Milton to advise the Mayor on planning matters while Milton continues to serve on Westminster City Council, a "mockery of the process" by ignoring both the Widdicombe rules and Section 69 of the GLA Act.

Given Mr Raynsford's intimate knowledge of these matters as the person who steered the Act through Parliament, his views must be taken very seriously indeed.

Despite my repeated requests, you have, so far, not yet provided me with the legal advice from Counsel on these matters, together with the instructions to Counsel, all of which should be open to public scrutiny. When will I receive this information?

I am copying this to Mr Raynsford as he may wish to take matters further himself. I am also copying this to Mike More and Colin Wilson at Westminster City Council who, I feel sure, will not want the Council to be a party to unlawful activity on the part of the GLA.

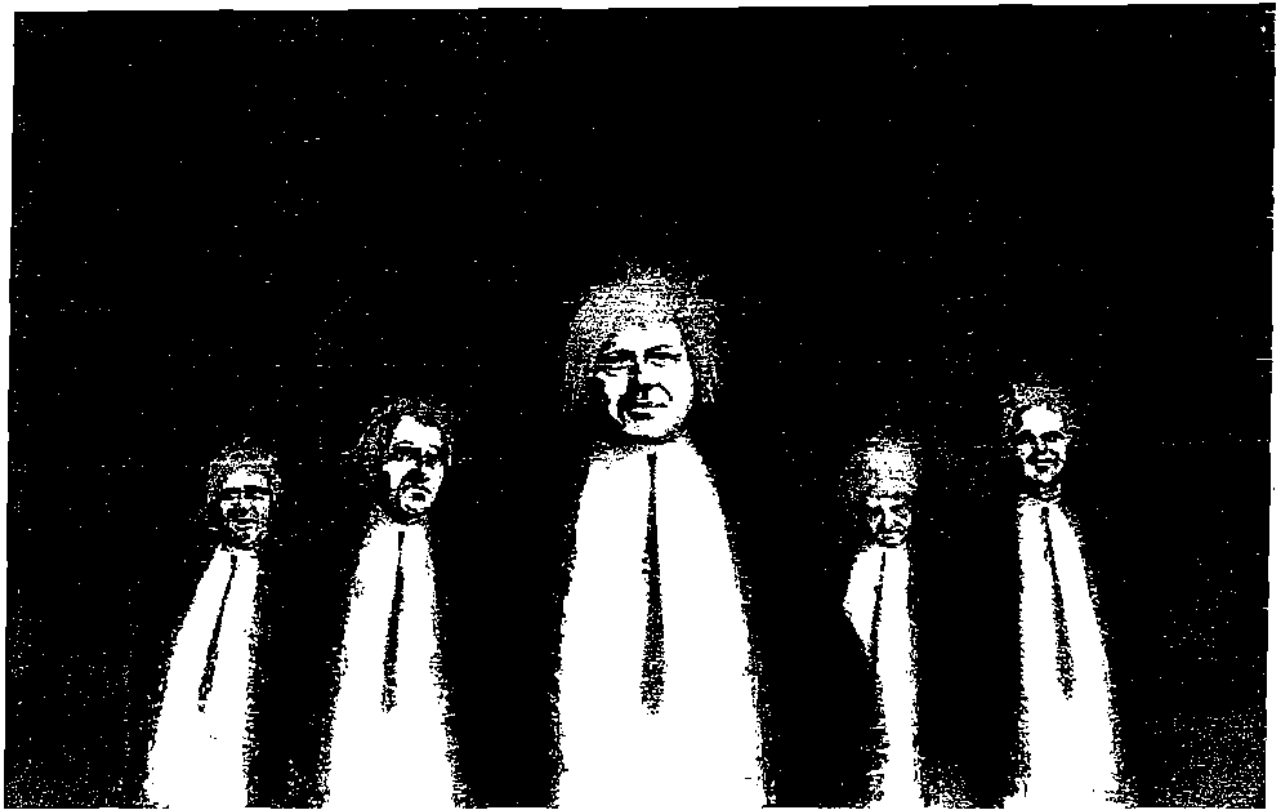
Yours sincerely



Councillor Paul Dimoldenberg
Leader of the Opposition

.../...

cc Nick Raynsford MP
Len Duvall OBE AM
Clive Bush & D'Ortiz – Standards Committee, WCC
Mike More – Chief Executive, WCC
Colin Wilson – Director of Legal & Administrative Services, WCC



Boris must check the law

Term limits for councillors are clearly not going to go away as a subject of debate.

After the controversial recommendation from the Councillors' Commission, prompted by a desire to 'open up' councils to a younger and more diverse group of elected representatives, we now have Boris Johnson calling for a two-term limit on the length of time the mayor of London can serve.

Mr Johnson bases his case on grounds that prolonged periods of rule by a single mayor create a risk of cronyism.

On the surface, it sounds a plausible case, but it does not survive detailed scrutiny. If the argument applies to mayors, then it can equally be applied to council leaders and cabinet members.

And, of course, there is no logic in imposing term limits on local government if they do not apply also to central government.

When we were creating the Greater London Authority a decade ago, we debated the merits of a time limit on the office of mayor, but concluded it would be incongruous to apply such a limit uniquely to the London mayoralty.

If term limits were introduced, this would have to be part of a wider reform applying to all tiers of government. Equally, it doesn't take much to conclude that cronyism is not something only likely to arise after two terms of government. The risk is there from the outset.

We, therefore, imposed clear rules link-

ing the mayor's power to appoint individuals to his private office. We recognised the case for having some specialist advisers appointed by and answerable to the mayor, rather than the assembly. Otherwise, the mayor would be wholly dependent for expert advice on people appointed by and answering to his scrutineers.

But, as Clause 67 of the Greater London Authority Act makes clear, their number is strictly prescribed. So, too, is the basis of their appointment. Only two 'political' appointees are permitted – the equivalent of special advisers in a minister's office, or political advisers in local government.

Additionally, the mayor is allowed to appoint up to 10 others, but their appointment has to be on merit.

This distinction between the two political and up to 10 'specialist' advisers was to some extent blurred during Ken Livingstone's mayoralty, and he himself paid a heavy price for the criticism to which he was subjected on this score.

It is, therefore, astonishing to see Mr Johnson failing to follow the requirements of Section 67 of the GLA Act.

A large number of mayoral appointments have been reported in the press, including several people with strong personal or political ties to the mayor. Some would appear to be explicitly precluded from employment by the Widdicombe rules and Section 69 of the GLA Act, which bans individuals from serving as

councillors at the same time as being employed as GLA senior officers.

The suggestion which has been made at City Hall that these rules need not apply if the individuals are designated 'consultants', rather than employees, makes a mockery of the process.

Furthermore, the ambiguity which has characterised the basis on which many of the mayor's appointments have been made, and the lack of open competition, calls into question the degree to which the principle of appointment or merit has been respected.

Simply writing a job description for the post and having an independent person present at the appointment interview looks suspiciously like a fig leaf implying adherence to the letter of the law, when its spirit has been so obviously breached.

In making these comments, I do not impugn the character of any of the individuals whose appointments have been announced to date. Many have enjoyed distinguished careers in the political and governmental field.

But the way their services appear to have been secured by the mayor leaves them dangerously exposed to the very charge of cronyism which Mr Johnson levelled against his predecessor.

This cannot be in the best interests of London Government. ■

Nick Raynsford is former local government minister

The Leader of the Opposition: Councillor Paul Dimoldenberg

Your reference:

Anthony Mayer
Chief Executive
Greater London Authority
City Hall
The Queen's Walk
More London
SE1 2AA

My reference
Direct Line: 020 7641 2230
Fax No: 020 7641 2967
Email: pdimoldenberg@westminster.gov.uk

Date: 27 May 2008

Dear Mr Mayer

Councillor Simon Milton

Having just read an extensive interview given to 'Property Week' by Councillor Simon Milton in his role as "informal advisor to the Mayor on planning matters", I have to ask if Councillor Milton was speaking as the Mayor's spokesman on these matters and with his full authority?

I ask because it does seem to be a strange state of affairs when an 'informal advisor' with no official employment status whatsoever at the GLA should be allowed to speak on the Mayor's behalf on a fundamental aspect of the Mayor's responsibilities. It seems to me that Councillor Milton must be speaking with the full authority on these matters otherwise magazines such as 'Property Week' would not be interested in what he has to say. Indeed, Councillor Milton cannot do his job unless he is speaking with the full authority of the Mayor on these matters.

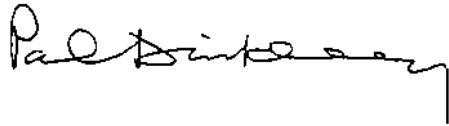
With this in mind, please can you tell me if, when you consulted Counsel on the obvious Widdicombe issues arising from Councillor Milton's continuing membership of Westminster City Council, Counsel was told that Councillor Milton's informal advisory role would involve speaking publicly on behalf of the Mayor on planning policy matters and if Counsel was asked to advise on this point? It does seem to me that Councillor Milton is acting exactly as an employee of the GLA would act in his position. In this respect, the fact that he receives no payment is immaterial to the obvious twin-tracking that the Widdicombe rules were brought in to outlaw.

Please can I see all the instructions to Counsel on these matters, together with the advice provided to you on this matter.

I have asked for all these matters to be considered by Westminster's Standards Committee as I believe that a flouting of the Widdicombe rules by the GLA in concert with the City Council, by whatever sleight of hand, will do huge damage to the City Council's reputation.

.../...

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Dimoldenberg', written in a cursive style.

Councillor Paul Dimoldenberg
Leader of the Opposition

Cc Len Duvall OBE AM – Leader of the London Assembly Labour Group
Mike More – Chief Executive, WCC
Colin Wilson – Director of Legal & Administrative Services, WCC



City of Westminster

Director of Legal and Administrative Services
C T Wilson, LLB., CMA

Please contact: Colin Wilson
Telephone direct on: (020) 7641 2710
Fax No: (020) 7641 3325
Minicom: (020) 7641 5912

London Dx 2310 Victoria

Email: cwilson@westminster.gov.uk

Date: 23rd May 2008

Our Ref: LAS.CTW.sm

Your Ref:

Len Duvall OBE AM
Leader of the London Assembly Labour Group
City Hall
Queen's Walk
London SE1 2AA

Dear Mr Duvall

RE: SIMON MILTON

Thank you for your letter of 21st May.

The Chief Executive of the GLA has now confirmed that Councillor Sir Simon Milton will discharge his role on an informal, unpaid basis, and not as an employee. On this basis, I am satisfied that Section 1 of the Local Government and Housing Act 1989 does not apply, and there is no reason why Councillor Milton cannot continue as a Councillor with Westminster City Council. The Monitoring Officer at the GLA, Fiona Ledden, has obtained an opinion from Leading Counsel which confirms this.

Yours sincerely

Director of Legal and Administrative Services



Lexcel



NYSSTOR IN PEOPLE

Westminster City Hall, 64 Victoria Street, London SW1E 6QP
Main Switchboard (020) 7641 6000 www.westminster.gov.uk

BJF 27.5.08
Val
PL let me see
done

Pallett, Valerie

From: Wilson, Colin
Sent: 21 May 2008 10:59
To: Pallett, Valerie
Subject: FW: Milton/GLA
Attachments: Letter to Len Duvall.pdf

Val

PI file with other papers, and bf next week for further letter to Len Duvall - thanks.

Colin

From: Green, Janice
Sent: 20 May 2008 12:43
To: pdimoldenberg@quatro-pr.co.uk
Cc: Wilson, Colin; Large, Peter; Mockler, Veronica
Subject: Milton/GLA

27/5

Paul

Many thanks.

As discussed on Friday, the Director of Legal and Administrative Services is in the process of drafting guidance and protocol designed to avoid conflicts of interest between the advisory capacity by Sir Simon Milton to the Mayor and Sir Simon's position as a city councillor. In doing so, again as discussed, the Director is talking to the GLA officers so as to ensure the protocol reflects the nature of Sir Simon's role within the GLA.

Beyond discussion with the Director of Legal and Administrative Services I have not taken separate legal advice in my role as Chief Executive of WCC and the City Council has not sought advice from/instructed Counsel.

I will, of course, send you both the protocol and the underpinning legal views which support it when finalised.

On the Widdecombe issue, you are aware of the questions regarding the possibility of combining an employment role on behalf of the Mayor and a continuing role as a city councillor. I believe it is clear that Councillor Milton cannot be appointed, as an employee, to a senior adviser role to the Mayor and remain a councillor with Westminster. However, as I understand it, the details of the appointment have not yet been finalised and it is not intended that Councillor Milton would be appointed as an employee. This is an issue that GLA lawyers are alive to and they are leading on this matter including, I believe, obtaining advice from Counsel. I have not seen such advice at this stage.

I am copying a letter which Mr Wilson has sent in response to a letter to him from Len Duvall.

Pending the outcome of ongoing discussions, I am not sure there is anything at this stage to refer to the Standards Committee.

Regards

Mike



Letter to Len Duvall.pdf (42 K...

From: Paul Dimoldenberg [mailto:pdimoldenberg@quatro-pr.co.uk]
Sent: 18 May 2008 11:34
To: More, Mike
Cc: Wilson, Colin; Mockler, Veronica; D'Cruz, Rupert; Bush, Ruth (Cllr); len.duvall@london.gov.uk; b-taylor@btconnect.com
Subject: Milton/GLA

Mike

Further to our discussion on Friday regarding the protocols being drafted by the Council and GLA regarding Simon Milton's appointment as the Mayor's Senior Planning Adviser and his involvement in strategic and individual planning matters affecting Westminster, I am keen to see all the legal advice that you have received on this matter, including any instructions to and advice received from Counsel. I presume that this will be supplied to me on a non-confidential basis.

I am also concerned about Councillor Milton's situation regarding Widdecombe, particularly as there is talk of him doing the Mayor's planning job for 'no payment' as a potential way of 'getting round' the Widdecombe rules. Again, can I have copies of all the legal advice you have had on this, including instructions to Counsel, please.

Finally, I would like to confirm that I would like all these matters to be considered by the Council's Standards Committee as soon as possible, given the importance of these matters to the Council, the GLA and the Mayor.

Many thanks

Councillor Paul Dimoldenberg

More, Mike

From: Paul Dimoldenberg [pdimoldenberg@quatro-pr.co.uk]
Sent: 21 May 2008 14:36
To: More, Mike
Cc: Wilson, Colin; Mockler, Veronica; D'Cruz, Rupert; Ruth Bush; len.duvall@london.gov.uk; anthony.mayer@london.gov.uk; Barrie Taylor
Subject: Milton/GLA/Westminster

Mike

Having seen the terse response from the GLA I confirm that I would like a full report on the Milton/GLA/Westminster situation on the agenda for the Standards Committee at the earliest possible opportunity, together with all the various background papers (including the legal advice sought by the GLA).

So far, this whole episode has reflected very badly on the GLA, Westminster and Councillor Milton. The driving force behind this ever-changing farce has been Councillor Milton's desire to retain his Westminster Council membership in order to continue as LGA Chair, at the same time as advising the Mayor on planning matters.

I have still to receive any protocols from either the City Council or the GLA and, as far, as I can see, unless I and others continue to make a fuss Councillor Milton's role as an 'informal adviser' will be shrouded in secrecy and devoid of any scrutiny. This cannot be good for the City Council, the Mayor, the GLA or planning in London.

Please can you confirm that a full report will be prepared; the date of the Standards Committee; that everything in the report will be open to the public and that I will be able to address the Committee.

Thanks

Regards

Councillor Paul Dimoldenberg

14/7

LONDON ASSEMBLY LABOUR

Len Duvall AM

Colin Wilson
Monitoring Officer
City of Westminster
City hall
64 Victoria Street
LONDON
SW1E 6QP



City Hall
Queen's Walk
London SE1 2AA
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk

Our ref: Milton 210508-1
Your ref:
Date: 21st May 2008

Dear Mr Wilson

RE: SIMON MILTON

Thank you for your letter of 20th May confirming your understanding of the impact of the political restriction clauses in the Local Government Act 1989.

As you indicate, the terms and conditions of Councillor Milton's appointment are highly obscure. As you can see from the attached he has been appointed to a role which is described as a "special appointment". The description of the role as "Adviser to the Mayor on planning, housing and sustainable development" certainly suggests that he falls within the terms of the Act and he is "twin tracking".

I will continue to press for clarification so you can be in a better position to consider this case.

Yours sincerely

A handwritten signature in black ink, appearing to read "Len Duvall". The signature is fluid and cursive.

LEN DUVALL OBE AM
Leader of the London Assembly Labour Group

LONDON

Search

Search Mayor of London

عربي

[Home](#) | [About](#) | [City Hall](#) | [Contact](#) | [FAQ](#) | [Help](#) | [Jobs](#) | [Site map](#)
[London Life](#)
[Mayor of London](#) | [London Assembly](#) | [Media Centre](#)
[Mayor of London](#) > [Mayoral team](#) > [Special appointments](#)
[Biography](#)

Special appointments

[Priorities](#)
[Related links](#)
[> Mayoral team](#)
[Contact the Mayoral team](#)
[Value for money](#)
[Register of Interests](#)
[Gifts and hospitality register](#)
[Stay in touch](#)

Kate Hoey MP



Commissioner for Sport

Kate was Parliamentary Under-Secretary of State at the Home Office from 1998 to 1999, and Minister for Sport in the Department of Culture, Media and Sport from 1999 to 2001. She is an honorary Vice President of Surrey County Cricket Club and the Honorary President of British Wheelchair basketball.

Appointed: 6 May 2008

Status: Consultant

Summary of role: Adviser to the Mayor on Sport

Salary: Unpaid

Email: mayor@london.gov.uk

Telephone: 020 7983 4000

Sir Simon Milton



Senior Adviser, Planning

Simon became Leader of Westminster City Council in May 2000. He has been a City Councillor since 1988. His period of office has included the construction of the Golden Jubilee Bridges, the introduction of four City Academy schools and delivery of the Paddington Basin and Westbourne Green regeneration project.

Appointed: 6 May 2008

Status: Consultant

Summary of role: Adviser to the Mayor on planning, housing and sustainable development

Salary: Unpaid

Email: mayor@london.gov.uk

Telephone: 020 7983 4000

The Leader of the Opposition: Councillor Paul Dimoldenberg

Your reference:

My reference

Direct Line: 020 7641 2230

Fax No: 020 7641 2967

Email: pdimoldenberg@westminster.gov.uk

Date: 21 May 2008

Anthony Mayer
Chief Executive
Greater London Authority
City Hall
The Queen's Walk
More London
SE1 2AA

Dear Mr Mayer

Thank you for your letter of 19th May (attached.)

So, Councillor Milton is to be an "informal Advisor to the Mayor on planning issues". What on earth does this mean? What access does this give him to planning documents, planning applications and confidential information? What role does he have in relation to the GLA's Planning Officers?

Is he able to speak to the media, at conferences and at meetings on behalf of the Mayor?

If he is not being paid by the GLA for his services, is he being paid by a third party such as the Conservative Party or a private donor?

I am concerned that Councillor Milton's status as an "informal advisor" is simply a device to get around the law when the reality of the situation is that he will be acting as if he is an employee of the GLA. If this is the case then I suggest this is a gross abuse and not worthy of the GLA and the Mayor who has made great play of his regard for the highest standards of probity at City Hall.

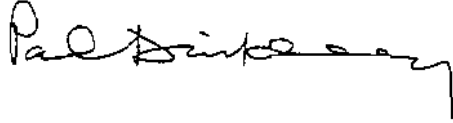
Will Councillor Milton be "informally advising" the Mayor on Westminster and Westminster related planning matters? If not, who will be on an informal or formal basis?

I understand that you were drafting a protocol to govern Councillor Milton's role. Why has this not been included with your letter?

Please can you get back to me on these matters urgently.

.../...

Yours sincerely



Councillor Paul Dimoldenberg
Leader of the Opposition
Queens Park Ward

Cc Len Duvall OBE AM – Leader of the London Assembly Labour Group
Mike More – Chief Executive, WCC
Colin Wilson - Director of Legal & Administrative Services, WCC

From: Green, Janice
Sent: 20 May 2008 12:47
To: pdimoldenberg@quatro-pr.co.uk
Cc: Wilson, Colin; Large, Peter; Mockler, Veronica
Subject: Councillor Milton/The Mayor

Paul,

Thank you for your e mail.

I have just responded to your earlier e mail of Sunday and in that copied you the response to Len Duvall from Colin Wilson.

I note the views that you make; as you will see from my earlier e mail, GLA lawyers are leading on the Widdecombe question and seeking counsel's view, as it is primarily the appointment by the Mayor which raises the question. Again, I note the reference to Standards Committee but as before think it would be better advised if we await clarification from the GLA.

Regards

Mike

From: Paul Dimoldenberg [<mailto:pdimoldenberg@quatro-pr.co.uk>]
Sent: 19 May 2008 17:53
To: More, Mike
Cc: Mockler, Veronica; Wilson, Colin; len.duvall@london.gov.uk; D'Cruz, Rupert; Bush, Ruth (Cllr)
Subject: Councillor Milton/The Mayor

Mike

The later editions of the Standard on Friday carried the story that Councillor Milton would not be paid for his work as an adviser to The Mayor as a way of 'getting round' the Widdecombe rules (see below). But is this possible? Surely, the intention of the Widdecombe rules was to stop 'twin tracking' – councillors being elected for one authority and giving policy advice to/having close contact with Councillors in another authority. Councillor Milton's situation does not change, despite him taking no payment for the job as he is still giving high-level policy advice to the Mayor and will be in close contact with him.

The Widdecombe rules do enable low graded staff to work for one Council while serving on another as a Councillor because low graded staff have no contact with Councillors and do not give them policy advice, so I would argue that the issue of salary does not come into it as far as Councillor Milton is concerned. The key issue is surely not what Councillor Milton is paid or whether he is paid, but the extent/nature of his advice to the Mayor and his contact with him. I would be interested to see your legal advice. I am arguing that Councillor Milton could work for the GLA/Mayoral as an unpaid volunteer if he was in low graded job (e.g. in the post room or as an administrative assistant), but not as the Mayor's Senior Planning Adviser.

Also, I do question the ethics of the situation when devices are being sought to 'get round' legislation by this latest ruse. Surely, it is up to Westminster and the GLA to

give a strong ethical lead on these matters, rather than these blatant attempts by the so-called 'best council in the country' to get round the letter and spirit of the law which we are seeing over Councillor Milton's appointment. Indeed, I am fascinated to know what the following quote from the Mayor's press officer means – "However, with some of the appointments, such as the senior planning adviser, the law essentially doesn't capture some of those roles," (my underlining)

The story changes from day to day so I would be interested to know what you think of all this!

This has reinforced my concern that all this should be considered by the Council's Standards Committee at the earliest opportunity.

Regards

Councillor Paul Dimoldenberg

Mayor's adviser will work for free after legal row over appointment

Paul Waugh, Deputy Political Editor

16.05.08

The Mayor's new planning adviser will not be paid a salary following a row over the legality of his appointment, it emerged today.

Sir Simon Milton, who is leader of Westminster City Council, came under fire from Labour after the Standard revealed today that there was a legal "grey area" surrounding his status.

Within hours of our story, City Hall announced that he would not receive a penny from the taxpayer because he was also a sitting councillor.

The law forbids serving councillors from being employed in senior posts in local government, including the Mayor's 12 personal staff.

Sir Simon faced criticism because it appeared that he would be hired as a consultant to get around the law.

It is understood that lawyers in City Hall were scrambling to draft a contract for him that would not be open to judicial review.

A spokesman for the Greater London Authority said: "Sir Simon Milton's role is that of an unpaid adviser to the Mayor. He will provide informed advice on planning as and when required to enable the Mayor to immediately get on with the job of leading London."

Sir Simon is due to step aside as Westminster leader next month, but wants to remain as a councillor and keep his post as chairman of the Local Government Association.

New Deputy Mayor for government relations, Ian Clement, decided to step down immediately as a councillor in Bexley before taking up his new post.

Labour group leader Len Duvall wrote this week to GLA chief executive Anthony Mayer to clarify the legality of all the Mayor's recent appointments.

He said: "They have been caught out and I'm glad that common sense has prevailed. The taxpayer of London has just been saved possibly more than £100,000 in consultancy fees that could have gone to Sir Simon."

There are still question-marks surrounding the status of Kit Malthouse, the new Deputy Mayor for policing. He is an Assembly member and a member of the Mayor's executive team, an unprecedented situation at City Hall.

Local government expert Tony Travers, director of the London Group at the London School of Economics, said there was little clarity over some of the appointments. He said: "The fact is that the law as it stands does not cover the current situation, where the Mayor wants to hire a councillor as a consultant and appoint as an executive a member of the Assembly."

The Greater London Authority Act 1999, which was amended last year, only allows the Mayor to directly appoint 12 people to his staff.

All of these are politically restricted posts and therefore cannot be taken up by sitting councillors. Section 67 of the Act states he can hire two political advisers. A further 10 staff can be hired but they have to be on merit and an independent person sits in on their interview.

The act makes clear that any other staff would have to be hired by the chief executive of the GLA, not the Mayor. The law is vague and City Hall lawyers will need to tread carefully in ensuring by what authority each appointment is made.

A spokesman for Boris Johnson dismissed any suggestion that the Mayor had broken his manifesto pledge on transparency.

"All legal requirements have been followed with our appointments. However, with some of the appointments, such as the senior planning adviser, the law essentially doesn't capture some of those roles," he said.

"This is a grey area and we are trying to come up with new protocols."

He added that the salaries and details of terms and conditions will be made available to the London Assembly "in the near future", probably early next week.



City of Westminster

Director of Legal and
Administrative Services
C T Wilson, LLB., CMA

Please contact: Colin Wilson
Telephone direct on: (020) 7641 2710
Fax No: (020) 7641 3325
Minicom:(020) 7641 5912
London Dx 2310 Victoria
Email: cwilson@westminster.gov.uk
Date: 20 May 2008

Our Ref: LS/CTW/VMP
Your Ref:

Len Duvall OBE AM
Leader of the London Assembly Labour Group
City Hall
Queen's Walk
LONDON SE1 2AA

Dear Mr Duvall

Re: Simon Milton

Thank you for your letter of 16th May. This letter is intended to be a response to that letter and also your letter to the Chief Executive of 12th May (Mike More has succeeded the former Chief Executive, Peter Rogers).

I agree that if Councillor Milton was appointed to a politically restricted post with the GLA then, on the face of it, Section 1 of the Local Government Act 1989 would apply to disqualify Councillor Milton from becoming or remaining a Member of a local authority. Furthermore, Section 67 of the Greater London Authority Act 1999 contains provisions regarding the appointment by the Mayor of up to two political advisers and ten other staff, and Sub Section (3) thereof confirms that any appointment under these provisions is an appointment as an employee of the GLA. Section 68 confirms that Section 1 of the 1989 Act applies as if the GLA were a local authority.

However, notwithstanding the various press reports, as I understand it, the details of Councillor Milton's appointment have not yet been finalised, but it is not proposed that he should be appointed as an employee under Section 67 of the 1999 Act. Until the basis of Councillor Milton's proposed appointment has been clarified, I am not yet in a position to confirm one way or the other whether Section 1 of the 1989 Act applies.



UNIVERSITY OF WESTMINSTER

Lexcel

As soon as the position has been clarified I will write to you again.

Yours sincerely

D. Gray

D Director of Legal and Administrative Services

GREATER LONDON AUTHORITY

Chief Executive

Anthony Mayer

City Hall
The Queen's Walk
More London
London SE1 2AA
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk

Paul Dimoldenberg
City of Westminster
Westminster City Hall
64 Victoria Street
London
SW1E 6QP

19 May 2008

Dear Mr Dimoldenberg,

Thank you for your email of 11 May and your letter of 12 May 2008.

On your Freedom of Information request, I can confirm we are dealing with this within the statutory timescale of 20 working days from the date of your request.

On Sir Simon Milton's appointment I confirm:

- It will be unpaid;
- It will be as an informal Advisor to the Mayor on planning issues;
- There is no employment relationship between Sir Simon Milton and the Greater London Authority. There is therefore no breach of the Widdicombe Rules.

Yours Sincerely
Anthony Mayer

ANTHONY MAYER
Chief Executive

LONDON ASSEMBLY LABOUR

Len Duvall AM

Colin Wilson ---
Monitoring Officer
City of Westminster
City hall
64 Victoria Street
LONDON
SW1E 6QP

City Hall
Queen's Walk
London SE1 2AA
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk

Our ref: Milton 120508-1

Your ref:

Date: 16th May 2008

Dear Mr Rogers

RE: SIMON MILTON

I am writing to you in your capacity as Westminster City Monitoring Officer.

As you may know I wrote to your Chief Executive on 12th May 2008 concerning the position of Simon Milton who is twin-tracking as a member in Westminster and acting as an adviser to the Mayor of London.

Given the serious nature of my enquiry I am surprised that I have not received a response yet. I am therefore asking you, in your capacity as monitoring officer, to advise on Simon Milton's appointment at the GLA.

My understanding of the Local Government and Housing Act 1989 is that posts are politically restricted if they involve:

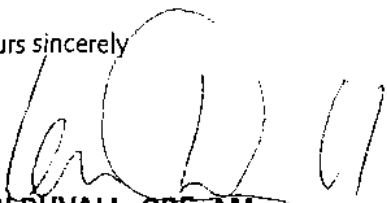
- a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented;
- b) speaking on behalf of the authority on a regular basis to journalists or broadcasters

I believe the clauses on political restriction apply to the GLA.

It has proven very difficult to get information on the terms and conditions on which Simon Milton has been appointed and the details of the role he is filling, but it would seem that he will be performing duties along these lines. I would be grateful to have your view as Monitoring Officer on these developments in relation to his membership of Westminster City Council.

Out of courtesy I am copying this letter to Simon Milton, Boris Johnson, Mayor of London, the Chief Executive of the GLA and the Fiona Ledden, the GLA's Monitoring Officer and your Chief Executive

Yours sincerely



LEN DUVALL OBE AM
Leader of the London Assembly Labour Group

Role of Councillor Sir Simon Milton as Special Adviser (Planning) to the London Mayor

Protocol or Guidelines to avoid potential conflicts of interest

1. Introduction

- 1.1 Councillor Sir Simon Milton will perform the role of Special Adviser to the Mayor on an informal unpaid basis and not as an employee. In those circumstances Section 1 of the Local Government Act 1989 does not apply and there is nothing to prevent Councillor Milton from remaining a Councillor of Westminster City Council, notwithstanding this role.
- 1.2 Councillor Milton has already signalled his intent to stand down as Leader of the City Council; not to undertake any planning role at the Council; and the GLA have advised that he will not be asked to advise on any planning application required to be considered by the Mayor either within the City Council's boundaries or where the application is within an adjoining London Borough's boundary but which would have a significant impact within Westminster.
- 1.3 Nevertheless, it is acknowledged that potential exists for conflicts of interest and/or misunderstandings to arise, particularly bearing in mind the fact that Councillor Robert Davis is Councillor Milton's civil partner, and Councillor Davis is Cabinet Member for Planning and a Chairman of one of the Planning Application Sub Committees at Westminster.
- 1.4 These guidelines have, therefore, been drawn up in consultation with the GLA and Councillors Milton and Davis to ensure that such conflicts and/or misunderstandings are avoided; that openness and transparency is promoted; and the risk of any breaches of the Members' Code of Conduct is minimised. In addition to being made available to Councillors Milton and Davis, these guidelines will be made available to the GLA, other interested Members of the Council, and Members of staff who are likely to need to be made aware of them.
- 1.5 The guidelines address the position from both Councillors' perspectives separately:

2 The Guidelines

2.1 Councillor Milton

Notwithstanding the informal nature of this role, Councillor Milton will register the role in the City Council's Register of Members' interests. In addition the following guidelines should be followed:

- a) Councillor Milton should avoid any planning, transport or highway roles on the City Council , or any other roles which might conflict with his role as Special Adviser (Planning) to the Mayor of London;
- b) He should avoid lobbying or making representations to the Council on behalf of the Mayor on any personal matter (this is an essential rather than merely a matter of good practice);
- c) If required to make representations to WCC on behalf of the Mayor, to do so on appropriate non Council notepaper, or openly at official meetings as far as practicable; and at all times to take particular care not to give the impression that he is seeking to use his position as a Councillor and/or former Leader of the Council to exert undue or improper influence on Officers or others. (Note: This should not be taken to suggest that , for example, it would in any way be improper for Councillors Milton and Davis to discuss planning matters etc privately, or that Councillor Milton should not have, say, telephone conversations with Directors or other senior members of staff about matters arising from his role).
- d) He should ensure that any confidential information obtained by him as a Councillor is not disclosed to the Mayor/GLA (or anyone else) unless, say, appropriate consent has been obtained; and he should not seek such information for himself for purposes other than his role as a Councillor. (Note: Officers also need to be careful in the distribution of confidential information to avoid causing embarrassment by supplying Councillor Milton with such information where a conflict of interest may arise – and (a) above should assist in this respect).
- e) He should ensure that any confidential information obtained by him as an informal adviser to the GLA which may be subject to a confidentiality agreement is not disclosed to WCC, unless appropriate consent has been obtained (note Officers at GLA need to be mindful as above)
- f) He will not provide informal planning advice on any application within WCC boundaries, or within any adjoining London Borough's boundaries if the application would have a significant impact in Westminster.

2.2 Councillor Davis

- (a) Councillor Davis should regard him self as having a prejudicial interest (and therefore not participate) in any planning applications where the Mayor or the GLA have made the application or made representations/directions. (Note: Officers should therefore avoid including any such applications on the agenda for the Sub Committee Chaired by Councillor Davis).
- (b) He should declare a personal interest in policy or other executive matters dealt with by him as Cabinet Member for Planning where the Mayor/GLA, or Councillor Milton as Special Adviser, have an involvement. He should also consider whether such interest is prejudicial (and if so not participate in the decision) although in most

circumstances such an interest will not be prejudicial under the terms of the Members' Code of Conduct.

- (c) He should take care not to disclose confidential information obtained by him in his role as a Councillor, to Councillor Milton, where a conflict of interest exists or may arise given Councillor Milton's role as Special Adviser to the Mayor.

- 3 These guidelines will be kept under review.

Appendix 3

From: Wilson, Colin
Sent: 22 May 2008 17:45
To: Dimoldenberg, Paul (Cllr)
Cc: More, Mike; Fiona Ledden
Subject: FW: Councillor Sir Simon Milton

<<Draft Protocol (5).doc>>

Further to my email of 9th May and your subsequent correspondence with Mike More, I now attach a copy of the "protocol", or guidelines designed to avoid conflicts of interest arising under the Council's Members' Code of Conduct. This has been drawn up in consultation with the GLA's Monitoring Officer, Fiona Ledden.

The guidelines are based on the following reasoning:

It is a matter for the Mayor of London to determine how advisers discharge their functions when acting in that capacity.

However, the issue of potential conflicts of interest and other propriety issues so far as Members of the City Council are concerned (generally, but not always, when acting in that capacity - see below) is of course governed by the City Council's Members' Code of Conduct. Several provisions of the Code are at least potentially relevant and need to be considered separately from the perspectives of both Councillor Sir Simon Milton and Councillor Robert Davis:

Councillor Milton:

1) Although the role of Special Adviser is on an informal and unpaid basis, and not as an employee, it would nevertheless be sensible for it to be registered in the City Council's Register of Members' Interests;

2) Most of the Code's provisions will not apply to Councillor Milton's activities as a Mayoral Adviser, because the scope of the Code is generally limited to whenever the Member conducts WCC's business (including the business of the office to which he is elected or appointed) or he acts, claims to act, or gives the impression he is acting as a representative of WCC. Subject to certain exceptions (see 3 below) the Code does not apply in relation to conduct other than where it is in an official WCC capacity (para 2 of the Code).

3) There are three types of conduct which are covered by the code, even where the conduct does not arise where the Member is acting in an official capacity but, in those circumstances, only where that conduct constitutes a criminal offence for which the Member has been convicted (para 2(3)). These exceptions are: intimidation of witnesses, complainants, or others who may be involved in an investigation into an allegation of breach of the Members' Code of Conduct (para 3(2)(c)); bringing the Member's office or authority into disrepute (para 5); and where the Member uses or attempts to use his position as a Member to improperly confer or secure for himself or any other person an advantage or disadvantage (para 6).

4) The last of the above exceptions is perhaps the provision which might be thought to be the most potentially relevant. Given Councillor Milton's access, as a Member of

WCC, to information, documents, other Members and Senior Officers, circumstances could arise where it is alleged that he has used his position as a Member and former Leader of WCC to improperly confer an advantage on the Mayor (e.g. to access confidential information - see further below - or perhaps persuade the City Council to approve an application or proposal put forward by or on behalf of the Mayor). However, it must be emphasised that there would only be a breach if the conduct in question was "improper" and, if the conduct did not arise whilst acting in an official WCC capacity, constituted a criminal offence for which he had been convicted. Conduct which would clearly be "improper" would be behind the scenes lobbying to secure some personal advantage for the Mayor, or to obtain approval to, say, a planning application put forward by the Mayor. It should be borne in mind though that the Code does not prevent a Member making representations, even in support of his own planning application, so long as he does so openly as a private citizen and does not seek to use his office as a Councillor to secure some advantage that he would not otherwise be able to secure. Good practice advice in such circumstances is to make the representations in writing, on private notepaper, making it clear that they are made in a private capacity and that the member is not seeking to use his position as such to obtain an advantage.

In my view, therefore, it would be going too far to say that Councillor Milton should not discuss planning matters with WCC members or Officers. Indeed, it might be said that to adopt such a position would be rather absurd, and potentially contrary to the public interest and the interests of WCC and the Mayor.

However, to be safe, and to reduce the risk of allegations of impropriety (even if those allegations may prove unfounded, or relate to conduct which falls short of an actual breach of the Code) it would be good practice for Councillor Milton to:

A) avoid planning or highways roles on the City Council or other roles which might conflict with his role as Adviser to the Mayor (this will also assist with the issue of confidentiality discussed below);

B) avoid lobbying or making representations to WCC on behalf of the Mayor in respect of any personal matter (this is an essential, rather than merely a matter of good practice);

C) if required to make representations to WCC on behalf of the Mayor in respect of a planning or similar application or proposal, to do so in writing on appropriate non WCC notepaper, or openly at official meetings, as far as practicable, and at all times to take particular care not to give the impression that he is seeking to use his position as a Councillor and former Leader to exert undue or improper influence on Officers or others (having said that, I think it would be absurd to say that, for example, Councillor Milton and Davies should not discuss planning matters affecting WCC privately, or that Councillor Milton should not have a telephone discussion with the Director of Planning about such a matter. There would be nothing, in my view, that would be intrinsically improper in that. For there to be impropriety there would have to be some improper dimension to such conversations, such as bullying of an Officer or the pursuit of some ulterior or improper motive.

5) Subject to certain limited exceptions, a Member must not disclose confidential information acquired by him in his capacity as a Councillor (para 4). Obviously, Councillor Milton will need to be careful that confidential information (such as legal advice) obtained by him as a Councillor is not disclosed to the Mayor (or anyone else) unless, say, appropriate consent has been obtained. Similarly he should not seek such information for himself for purposes other than his role as a Councillor,

such as for the purposes of his role as an Adviser to the Mayor. Officers also need to be careful in the distribution of confidential material to avoid causing embarrassment by supplying Councillor Milton with confidential material where a conflict of interest may arise. Following the good practice suggestion at 4(A) above will reduce the potential for problems in this respect.

Councillor Davis:

1) As Cabinet Member for Planning and a Member/Chairman of a Planning Applications Sub Committee, the position of Councillor Davis when dealing with an application from the Mayor, or where representations are made by the Mayor (or, conceivably, by Councillor Milton as Adviser) needs to be considered, as does the situation where matters of policy are being dealt with in which the Mayor has an interest.

2) Dealing with applications first, if representations are made by Councillor Milton directly, Councillor Davis would clearly have an interest to declare if the matter was before him. In such circumstances, it is likely to be argued that a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice his judgment of the public interest, and that therefore the interest is prejudicial (para 10). Councillor Davis would be well advised, therefore, not to participate in the determination of any such applications (in the same way as he could not participate if the application was made by Councillor Milton). If representations, or applications, are made by or on behalf of the Mayor, but not by Councillor Milton, Councillor Davis would still be wise to declare an interest because Councillor Milton has a personal interest in matters affecting "any person or body who employs or has appointed" him (para 8(1)(a)(iv)) and it may be argued that the decision will affect the "well being or financial position" of Councillor Milton (as Adviser to the Mayor) to a greater extent than the majority of Council taxpayers etc in the Ward affected by the decision (para 8(1)(b)). Whether the interest would be prejudicial in such circumstances is perhaps debateable. Would a Member of the public with knowledge of the relevant facts reasonably regard the interest as so significant that it is likely to prejudice Councillor Davis' judgement of the public interest, merely because Councillor Milton advises the Mayor on planning matters? Arguably not in general, but probably yes if, say, Councillor Milton had played a major role in relation to the application and his reputation with the Mayor or generally could be affected by the outcome.

In my view, therefore, Councillor Davis would be wise to regard himself as having a prejudicial interest in any application made by or on behalf of the Mayor/GLA, or where representations have been made by or on behalf of the Mayor/GLA.

3) In my view the position is not so difficult so far as policy matters are concerned. Again it would be absurd in my view to suggest that Councillor Davis could not discuss planning matters with Councillor Milton (but see best practice recommendations A) to C) above in relation to Councillor Milton). However, Councillor Davis would be well advised to declare a personal interest when policy matters are before him which in the Mayor has an interest, or in which Councillor Milton has been involved, but the interest will not generally be prejudicial, because para 10(2) of the new Code states that a Member does not have a prejudicial interest in any business of the authority where that interest -

"A) does not affect your financial position or the financial position of a person or body described in paragraph 8" (which would include Councillor Milton or the Mayor as his appointor); and

"B) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person described in paragraph 8"

4) Councillor Davis will also need to take care not to disclose confidential information to Councillor Milton where a conflict of interest may exist or arise.

This reasoning does not cover the issue around the "Widdecombe" rules, which the GLA's lawyers have been leading on. However, it is now clear that Councillor Milton will perform his role on an informal, unpaid basis, and not as an employee, and in those circumstances Section 1 of the Local Government and Housing Act 1989 does not apply. The GLA have obtained Counsel's opinion which confirms this.

Colin Wilson

Westminster City Council switchboard: +44 20 7641 6000
www.westminster.gov.uk

This E-Mail may contain information which is privileged, confidential and protected from disclosure.

If you are not the intended recipient of this E-mail or any part of it, please telephone Westminster City Council immediately on receipt.

You should not disclose the contents to any other person or take copies.

POLITICALLY RESTRICTED POST
GLA USE OF CONSULTANTS

OPINION

1. I am asked to advise the GLA in relation to the proposed appointment by the Mayor of Sir Simon Milton to provide Planning advice for the GLA.

2. Sir Simon Milton was Leader of Westminster City Council and also Leader of the LGA. I understand that he is no longer Leader of Westminster City Council but remains a Councillor.

3. Sir Simon is not to be appointed as one of the "10 plus 2" appointees under Section 67(1) of the Greater London Authority Act 1999 ("the 1999 Act"). The proposal is that he be appointed as a Consultant to the GLA to provide strategic planning advice to the Mayor's office.

4. I advised on this matter on the telephone on 16 May 2008 and I now confirm in writing the advice then given.

5. Section 69 of the 1999 Act states as follows:

"In Section 80 of the Local Government Act 1972 (disqualification for election and holding office as member of a local authority) after sub-section (2) there shall be inserted -

"(2AA) A paid member of staff of the Greater London Authority who is employed under the direction of a joint committee of the membership of which includes -

(a) one or more persons appointed on the nomination of the Authority acting by the Mayor, and

(b) one or more members of one or more London Borough Councils appointed to the committee on the nomination of those Councils,

shall be disqualified from being elected or being a member of any of those London Borough Councils".

6. I am instructed that consideration was given to entering into arrangements with Sir Simon on the basis of a contract for services for a period of 6 months pursuant to which he would have received approximately £25,000, being two-fifths of the salary of the 10 members of staff appointed under Section 67(1)(b) of the 1999 Act. In my view if Sir Simon had been engaged on this basis there would be a serious risk that although described as a "Consultant" he would in fact be an employee of the GLA whose appointment was caught by Section 69 of the 1999 Act.

7. Another option that was considered was for there to be no contractual relations between Sir Simon and the GLA but for him to offer informal advice and not to receive payment for it. In my view Section 69 would not apply in these circumstances. He would not be "a paid member of staff of the Greater London Authority" and he would not be "employed" under the direction of a joint committee whose membership included those referred to in Section 69(2AA).

8. In my view if Sir Simon is to offer informal advice on the basis of the option referred to in paragraph 7 above, it would be sensible for a protocol to be drawn up which records the relationship in those terms and sets out guidelines for his dealings within the GLA and the need for complete confidentiality in their relations.

MICHAEL SUPPERSTONE Q.C.

11, King's Bench Walk,
Temple,
London EC4Y 7EQ.

19th May 2008