

ROYAL BOROUGH OF GREENWICH

Written representations to the Secretary of State in response to a Notice given under Section 4A(5) Local Government Act 1986 about a proposed Direction

Background

1 On 25 September 2014, the Secretary of State gave Notice under section 4A Local Government Act 1986 of a proposed direction to require the Council to comply no later than 1 January 2015 with a provision of the Recommended Code of Practice on Local Authority Publicity, namely that local authority publications should not be issued more frequently than quarterly.

2 The Notice superseded a previous Notice of 16 April 2014.

3 These are the Council's representations in response. They should be considered in conjunction with the previous representations made to the superseded notice of 16 April 2014.

Summary

4 The Secretary of State should not make the proposed direction.

5 There is no evidence that publishing Greenwich Time on a weekly basis damages the local media and the Secretary of State has produced no evidence that it does, despite being requested to do so.

6 Producing Greenwich Time on a weekly basis delivers value for money for council taxpayers. It is irrational for the Secretary of State to say there is no connection between the requirement to publish statutory notices in a local newspaper and the frequency of publication of Greenwich Time.

7 Greenwich Time is the only local newspaper which is distributed borough wide, playing a key role in promoting community cohesion, supporting local businesses and helping deliver the government's localism agenda. Restricting its publication to quarterly would have significant implications for the ability of various groups with protected characteristics to access information, including the information that they need to access services effectively.

History

8 Greenwich Time (GT) was first published in 1984 to provide news and information about the Council, and was distributed to all households in Greenwich twice monthly for 10 months of the year, and once in December and August. It is the only local paper which is intended for distribution to all 101,782 households in the Royal Borough of Greenwich and it is also available from 76 pick-up points. Independent back checks are carried out each week to check delivery rates. Between 10 June 2013 and 14 April 2014 a distribution rate of 98.9% was achieved.

9 In 2008, the Council started publishing the paper on a weekly basis having given due consideration to the then Code of Recommended Practice on Local Authority Publicity. When the DCLG introduced a new Code on 31 March 2011, the Council's Cabinet considered a full report on the guidance contained in the Code. As part of that process, it looked at possible alternative arrangements for publishing Greenwich Time content and Council advertising.

10 The rationale for the decision was:

- Minimising the cost for local taxpayers of placing statutory adverts in a weekly newspaper;
- Allowing the Council to inform and consult with local residents through borough wide coverage, which also allowed it to comply with its public sector equality duty towards groups who share protected characteristics; and
- as one of the few authorities which manages its own housing stock, advertising properties under its choice based letting scheme.

Damaging local media

11 The current Code of Practice was amended in 2011. The Communities and Local Government Select Committee found at the time that "there is little hard evidence to support the view of the commercial newspaper industry that council publications are, to any significant extent, competing unfairly with independent newspapers". The Secretary of State was unable to produce any evidence to the Committee and still has not done so despite numerous requests.

12 The Council only started producing a weekly newspaper in 2008 after meetings were held with the publishers of the main newspapers in the borough to request that they increase distribution across the whole borough. Further meetings took place in 2011 with local publishing groups at which they reiterated that they would be unable to deliver either their own papers carrying Council information, or GT, to every home in the borough.

13 There are two well-established local papers currently covering parts of the borough. Each bases its distribution policy on the basis of strictly defined marketing demographics. Neither serves more than around 30% of the borough's households. Even if the Council paid to advertise in both local newspapers, the publications would only be delivered to around 50% of the borough's households given the duplication in the more affluent areas of the borough.

14 Indeed the latest audited circulation figures posted on the Newspaper Society website state that the Lewisham & Greenwich News Shopper Series was delivered to 51,718 households (Jan 2013 – Dec 2013). There are no figures available for each borough, but this equates to an average of 25,859 in each. In comparison, the Council aims to deliver to 101,782 households in the borough. The latest audited figures for the Lewisham Greenwich & Bexley Mercury Series posted on the Newspaper Society website state that it was delivered to 59,752 households (July 2012 - June 2013). Again no figures are available for each borough but this equates to an average of 19,917 copies for each. The Evening Standard, which the DCLG has suggested as an alternative publication for public notices, is available from fewer than ten pick up points in the borough.

15 There is no evidence that GT has had any impact on local papers, and its advertising policy has been designed specifically to prevent this. Only last year Tindle Newspapers launched the Greenwich Town Mercury <http://www.newspapersoc.org.uk/04/jul/13/paid-for-weekly-newspaper-launched-in-greenwich>

16 GT does not target advertising from car dealers and estate agents, nor does it accept advertising from escort services, massage parlours and sex chat lines. Whilst GT has been produced for 30 years, this has not prevented a strong local newspaper market, with two new start-ups - SE9 and Greenwich Visitor - and existing community papers such as the Guide, Meridian and Westcombe News. These show that there is a strong local newspaper sector– though unlike GT none of them cover more than a small geographic area of the borough.

17 Commercial newspapers in Greenwich are part of regional or sub regional publishing groups and tend to draw their advertising from a much wider geographical area. The News Shopper is part of the Gannett Group which owns around 90 daily newspapers, 1,000 weekly newspapers and 23 TV stations in six countries. The Mercury is part of the Tindle Group which produces a large number of weekly newspapers across England and Wales. During the week beginning 7 April 2014, 97% of GT's advertising space was booked by Greenwich businesses, compared to around 12% for the Mercury and 21% for the News Shopper

18 There is no evidence, and therefore no rational basis upon which the Secretary of State could conclude, that the weekly publication of GT is having an adverse impact on the local media.

Value for money

19 The Council's Cabinet considered in 2011 that issuing GT weekly to publish statutory and other notices was overwhelmingly more cost effective than using the local press to do so. It considered at length the provisions of paragraph 28 of the Code, but concluded that this paragraph was outweighed by the principles in the Code of cost effectiveness, and by equality and diversity considerations. Accordingly it decided there was a compelling case that Greenwich Time should continue to be published weekly.

20 The net cost of producing the paper has fallen over the last ten years as the paper has been published more frequently, which in turn has allowed more advertising income to be accrued:

Year	Editions	Advertising Income	Net cost (per copy)
2004/5	20	£39,988.31	£468,802.95 (22.3p)
2007/8	20	£200,824.39	£257,408.77 (12.3p)
2008/9	46	£498,188.24	£243,537.50 (5.0p)

2013/14	50	£700,323.58	£92,883.48 (1.8p)
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21 The Council has entered into innovative inter-authority agreements to secure print and distribution services, in line with the Government's National Procurement Strategy for Local Government, which has contributed to this reduction in costs.

22 Whilst this has driven down costs for local taxpayers it has also resulted in Trinity Mirror, one of the largest publishers of free local newspapers, securing an annual print contract worth around £250,000 from the Royal Borough of Greenwich.

23 Any move by the DCLG to prevent the Council from publishing a weekly newspaper would negate the need for this contract and would, in itself, financially penalise a publisher of local newspapers – the exact opposite of what the Government claims it is seeking to achieve.

24 It would have cost the Council an additional £2.0m in advertising costs during 2013/14, based upon rates advertised by both papers during the last financial year (see table below).

2013/14	News				
	GT	Mercury (M)	Shopper (S)	M+S	Extra Cost
Public Notices	£165,879.5 5	£196,106.40	£356,404.71	£552,511.11	£386,631.56
Run of Page	£263,458.6 7	£1,066,464.0 0	£313,794.34	£1,380,258.3 4	£1,116,799.6 7
Recruitment	£43,184.48	£108,019.80	£441,039.44	£549,059.24	£505,874.76
Totals £	£472,522.7 0	£1,370,590.2 0	£1,111,238.4 8	£2,481,828.6 8	£2,009,305.9 8

25 Any move to make the Council advertise in external publications would therefore have a negative impact upon the Council's finances at a time when it is being expected to find further budget savings. During an average week in 2013/14, the Council placed 1.2 pages of statutory adverts, 0.7 pages of job adverts and 6.5 pages of run of page adverts - including at least 4 pages promoting our Choice Based Lettings housing properties each week.

26 Publishing a weekly newspaper enabled the Council to make substantial savings in terms of producing stand-alone leaflets, as Council departments place adverts in GT instead ensuring that their service information was delivered direct to local households rather than running duplicate printing operations. The savings the Council has made have been passed back to local taxpayers in the form of five consecutive council tax freezes since GT was produced on a weekly basis.

27 By providing near universal coverage of households in the borough, GT reduces and, in places, eliminates the need for other publicity, such as leaflets and flyers about services and events.

28 The proposed direction takes no account of the financial impact on the Council of prohibiting the current frequency of publication of GT. Publishing GT on a weekly basis allows the Council to include statutory planning, highways and licensing notices, many of which require weekly publication. In addition, the Council has utilised Greenwich Time to advertise choice based lettings for Council housing, employment opportunities with the Council and to provide notices of meetings, each of which it has sought to promote on a weekly basis. Additional services and opportunities are advertised for issues such as Foster Carers, Adoptions, community consultation etc.

29 As a contingency measure, the Council is in the process of advertising a contract for publishing statutory notices, choice based lettings, employment opportunities and other services. The tender prices will establish whether advertising in external publications would continue to have the negative impact on the Council's finances as previously demonstrated.

Statutory notices

30 Even if the Council placed just its statutory notices in the two other weekly newspapers, there would have been an additional cost of £386,631 in advertising costs during 2013/14, based upon rates advertised by both local papers.

31 The Council notes that, under the Anti-social Behaviour, Crime and Policing Act 2014, a local authority may make a public spaces protection order, and must publish it in accordance with regulations made by the Secretary of State. The Anti-social behaviour, Crime and Policing act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 say the order must be published on the authority's website, as well as on the public place to which the order relates. The explanatory note to the Regulations says that this method of publication is so that members of the public are aware of an order that is in place and where it applies.

32 If the requirement to publish statutory notices in printed newspapers was removed to allow them to be published on the Council's website, as with public spaces protection orders, the Council would make considerable savings for its taxpayers.

Equality and diversity

33 The Equality Act 2010 requires the Council to have due regard to the need to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This includes having due regard to the need to encourage persons who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low, and to tackle prejudice and promote understanding.

34 Paragraphs 31 and 32 of the Code allows the Council to use publicity to influence "in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues."

35 GT is a useful way for the Council to comply with its public sector equality duty in carrying out its functions under section 142 Local Government Act 1972 of providing information concerning local services and to meet these provisions of the Code. Publishing GT weekly helps to ensure that hard to reach groups receive information about Council, public sector and voluntary sector activities, and to tackle prejudice and promote understanding.

36 Examples of the ways in which GT seeks to influence positively the attitudes of local people in accordance with paragraphs 31 and 32 of the Code include the following stories, many of which were not covered by other local newspapers

Health

- When the local NHS Healthcare Trust went into administration, the Council ran a piece to reassure residents over local health services and included a quote from the then Secretary of State, Andrew Lansley MP, and set out the course of action the Government intended to take (17 July 2012) including the appointment of a Special Administrator.
- GT then gave extensive coverage of the Special Administrator's proposals for the local NHS Trust and encouraged local people to attend consultation meetings over the issue (6 November 2012, 20 November 2012, 11 December 2012 and 15 January 2013).
- When there were concerns about the implications of closing Lewisham Accident and Emergency Department upon local health provision in the Royal Borough of Greenwich, GT ran a quote from the Department of Health setting out its position (5 February 2013).

Policing

- The London riots in August 2011 had a significant impact on the borough. The weekly publication of Greenwich Time proved extremely valuable to the Metropolitan Police as the paper was able to publish the CCTV images of suspects. It also played a vital role in promoting community cohesion. No other publisher or method could prove as effective a mechanism for getting these images into every household in the borough and helping to catch and convict the perpetrators. No other local publication gave as extensive coverage to the community's reaction to the events in Woolwich town centre which helped to restore a sense of calm and to demonstrate community leadership. The Leader of the Council used GT to highlight the visit of Minister Bob Neill to Woolwich in order to announce details of the Government's assistance scheme (23 August 2011). Further reference was made to the Government's scheme on numerous occasions over the following months.
- A photo story featured and quoted the Mayor of London following a visit to Woolwich after the riots (30 August 2011).
- When the Council promoted the Mayor of London's proposals to review policing arrangements in London, GT carried a quote from Deputy Mayor, Stephen Greenhalgh, calling for people to have their say (26 Feb 2013).

Schools

- A campaign to encourage more entitled families to apply for free school meals - and the Government's intention to widen the scheme to all under 7s - was featured in GT (17 December 2013).

37 GT reaches a more representative section of the borough than the local press and is particularly effective at reaching residents from BME backgrounds in comparison to the two local commercial newspapers. Their distribution areas rarely include wards in the borough which are among the most deprived in the country including Woolwich Dockyard (SE18), Abbey Wood (SE2) and Thamesmead Moorings (SE28). This is particularly important when it comes to advertising properties under the Council's choice based lettings scheme on a weekly basis, and is significant for the Council as one of the few authorities which manages its own housing.

38 The proposed direction would have a significant adverse effect on the Council's ability to communicate with persons who share a relevant protected characteristic and to tackle prejudice and promote understanding. It would thus make it harder for the Council to comply with its public sector equality duty.

Readership

39 Many local residents and businesses enjoy reading GT and find it an informative publication. We attached to our previous response a number of letters from residents and businesses that are concerned by the possibility of the DCLG directing the Council to cease publication of GT.

Residents

40 For example Judy Smith MBE, who was recognised in 2009 for 30 years services in the voluntary sector. In her letter she states "Greenwich Time has served the residents of Greenwich for as long as I can remember and has played an absolutely essential role in getting community information out to people, in the sort of detail that is needed to ensure it really is understood... I am absolutely certain that no other local newspaper would run the kind of fact-based community editorial that Greenwich Time does. As I talk with local people, I find many, many more supporting Greenwich Time than wishing it stopped... Without Greenwich Time, I really do have serious fears about how local residents would hear about the services and projects available to them".

41 Steve Nelson, Government Relations Director, South East London Chamber of Commerce said, "The South East London Chamber of Commerce was founded in Woolwich in 1889 and enjoys an excellent and mutually supportive partnership with the Royal Borough of Greenwich...Part of that partnership has been having access to the pages of Greenwich Time. The free paper has helped raise the profile of the Chamber throughout the Borough, enabling us to reach more companies and assist them in making their businesses more successful...Both the Chamber and I would be very sorry to see Greenwich Time forced to cease publication as it informs the community, including our members, and is a very cost effective way for local businesses to advertise".

42 Mike Leader, Ecumenical Borough Dean in the Royal Borough of Greenwich said, "I was very concerned to hear of the criticism of 'Greenwich Time' and of the possibility that it might have to cease publication or be severely curtailed... No other free paper reaches every household... Many of the poorest members of the community do not have easy access to the internet and 'Greenwich Time' provides an easy way for them to access housing services".

43 Dr Tariq Abbasi MBE, Director, Greenwich Islamic Centre said, "It saddens me to learn that the Secretary of State Rt. Hon. Eric Pickles has ordered the Borough to cease the publication of Greenwich Time. Greenwich Time is the only local paper which is received by all households including our large Muslim Community, young and old, and it provides us very useful source of information for all residents on council services as well as other community activities. Greenwich Times played an important role in bringing news to the residents of Borough during Olympic Games and made it very exciting. (The) Fact that Greenwich Times is produced weekly has been particularly important during the times of potential community tension when the paper has been used to provide statements from all community and faith communities which has helped to reassure residents and build harmony between the different parts of community. I have been pleased to be part of that on behalf of the Muslim community in the Borough".

44 Arthritis Care, who have advertised their workshops in GT said, "In the past we have had problems with creating awareness of our workshops via the papers especially to the people within the Borough of Greenwich but ever since we started using the Greenwich Time there's been an impressive turn around...99.5% of our participants on Greenwich workshop saw our advert in the Greenwich Time".

Businesses

45 Greenwich Time is regarded as a vital marketing tool for many small local companies who depend on it to reach and expand their customer base.

46 Star Day Nursery has also advertised in GT for some months. They said, "The outcome of adverts has been fantastic...the price for adverts is good and the coverage is excellent".

47 Total Wellness Centre said, "I was very concerned to hear about the government plans to shut down the local council newspapers like Greenwich Time...Greenwich Time is a fantastic platform for everyday people to find out about local initiatives, people and businesses behind them and about everything going on in the community".

48 Kumon Woolwich Study Centre said, "This method of advertising has worked for our business and we're sure many others too...Overall, GT newspaper benefits communities, business and residents. It will be unfortunate to see its closure as it provides Value for Money".

49 The Guru Sales said, "We gained an excellent response from our advertising within the paper and our launch was a great success due to the coverage we received".

50 Toulouse Plant Hire Limited said, "We have advertised in the Greenwich Time for many years and I would just like to say what a good service Toulouse Plant Hire Limited has received. It would be a great loss if this service is no longer available to us".

51 BBVS said, “I have to say that I was extremely surprised and disappointed to hear that there is a possibility of Greenwich Time being closed. Can this really be on the agenda! We have always considered (it), especially with regard to our client London City Airport, an irreplaceable way of communicating a detailed message to the Greenwich community”.

Conclusions

52 The Council fully supports an independent local press and believes it is essential for local democracy that journalists scrutinise the workings of councils and help hold elected representatives to account.

53 However, the numbers of free weekly local and regional titles and newspaper circulations have been in decline for some time as more and more people source their news from the internet and via social media. This is not the fault of council publications.

54 The local newspaper industry is largely owned by national or international newspaper groups and this often means that ‘local’ reporters are often based outside of the local area they report on. More often than not, local newspapers rarely send reporters to council meetings – thus negating their role of holding local councils to account.

55 We therefore believe it is legitimate for councils to communicate directly with residents about decisions and services –local newspaper groups do not have the same obligation to do so.

56 The Council accepts that it publishes GT more frequently than the Code recommends but believes this departure from the guidance is for good reasons. The Council considers that the weekly publication of GT:

- plays a key role in promoting community cohesion in our borough over recent years – providing reassurance to our local community after extremely disturbing local events (See Appendix 7 – hard copy only included in previous submission)
- is invaluable in relaying information about large events in London, as shown during the London 2012 Games and around the London Marathon - playing a valuable role in minimising disruption and ensuring local residents and visitors to the borough had a largely positive impression of the events
- helps to support newspaper groups – Trinity Mirror, one of the UK’s largest publishers of local newspapers, secured an annual print contract worth around £250,000 which is under threat if the Council is directed to cease publication of GT
- helps to support local businesses
- helps to deliver the government’s localism agenda - promoting community services and activities and signposting residents to local services
- helps to reduce the number void properties in the borough by publishing Choice Based Lettings on a weekly basis to every household in the borough
- helped achieved the highest number of households signing up to the Big London Energy Switch of any London Borough, and customer feedback told us the majority of respondents signed up to our scheme after reading about it in GT

- allows our residents the best possible access to information about local health services and local activities in the most cost effective manner to improve the health, well-being and lives of the people of the borough
- has delivered savings of around £1.5m per annum since the paper was produced on a weekly basis, which has been returned to local taxpayers in the form of consecutive council tax freezes.
- ensures communication with otherwise hard to reach groups, helping to deliver the Council's public sector equality duty.

57 In deciding to continue to publish GT on a weekly basis, the Council has balanced these factors against the impact of reducing publication to 4 times per year. The evidence is that this would not deliver value for money because it would increase unit costs, require the Council to publish the same service information by other means than a universal newspaper at increased cost and require the Council to publish statutory notices in publications that only reach a part of its population and who are unrepresentative of the local population.

The lawfulness of a direction

58 If the Secretary of State rejects the Council's representations and makes the proposed Direction, the Council believes that any such direction would be unlawful for the following reasons.

Procedural unfairness

59 The Secretary of State has sought representations from the Council on whether to make a direction. To enable the Council to effectively respond, the Secretary of State is required to provide the factual basis that has led him to consider making a direction and the evidence that may be said to support it – namely damage to independent newspapers and the local media in particular. The Secretary of State has failed to provide the necessary information and/or evidence. In particular, neither the proposed direction nor the correspondence from DCLG detail in any useful way the basis for the proposed direction. The Council will if necessary contend that the Notice is defective and void on these grounds, and the approach taken is certainly procedurally unfair. If there is really nothing more to the Secretary of State's thinking than has already been disclosed, then any decision taken on this basis would certainly be irrational and flawed by a failure to acquaint himself properly with the facts.

Irrationality

60 Any direction would, in light of the representations set out above be irrational. In particular:

- (a) such a direction would require the Council to spend more money on publicity than it currently does on GT. Given that one of the stated concerns of the Secretary of State is waste of taxpayers' money, a decision to issue a direction which would have the consequence of wasting taxpayer's money would be irrational, and would amount to illegitimate state aid to the undertakings concerned;

(b) there is no credible evidence to support the concern that the publication of GT damages independent newspapers and the local media in particular. Issuing a direction for the purpose of protecting such newspapers would be irrational;

(c) requiring the Council to publish GT no more than quarterly would breach the Secretary of State's duties under s149 Equality Act 2010, and would be contrary to s3 Local Government Act 1999.

61 The Secretary of State's approach does not represent a legitimate approach to the exercise of discretion in the light of the structure of the statutory provisions of the Local Government Act 1986 and the purposes for which the Code was introduced.

Public sector equality duty

62 Restricting the Council to quarterly publication of GT will have very significant implications for the ability of various groups who share protected characteristics (including, but not limited to, race, religion, disability and sex) within the borough to access information, including the information that they need to access services effectively. Further, as detailed above, restricting the Council to quarterly publication of GT will also damage its ability to assist persons in those groups to participate in public life or in any other activity in which participation by such persons is disproportionately low, and to tackle prejudice and promote understanding. There is little evidence that the Secretary of State has had due regard to this issue prior to deciding to issue a proposed direction.

63 It appears that the Secretary of State has not assessed the impact on members of groups who share protected characteristics who would otherwise have obtained information through GT and would be less able to do so as a result of the proposed direction. In such circumstances, any direction will be unlawful.

Bias

64 The Council has already commented in its letter of 29 April 2014 on the Government's press release of 17 April, which said:

It is scandalous that bloggers have been handcuffed from tweeting from Council meetings, while propaganda on the rates drives the free press out of business. Only Putin would be proud of a record like that.

65 The Council believes that the lack of even handedness and objectivity shown by the Secretary of State in making this and other statements means that he is disqualified from deciding whether to issue a direction on the grounds of actual and/or apparent bias.

66 For the reasons set out above, the Secretary of State should not give the proposed direction, and it would not be lawful for him to do so. If he does give a direction, he should give reasons for rejecting the points made in these representations.

9th October 2014