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## NOTE OF ADVICE TO KINGSTON DEFEND COUNCIL HOUSING

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1. I have been asked to advise Kingston Defend Council Housing (“KDCH”) in relation to the proposed distribution of a poster for display by residents of Cambridge Road Estate and their supporters in opposition to the local authority’s plans to demolish that estate so that properties for private sale may be built in its place by a private contractor (Countryside Properties). There is concern that the local authority, which is the landlord of Cambridge Road Estate residents, may take exception to the display of the posters and may threaten residents with sanctions if they don’t take down the posters.
2. On the poster is written, “Bollocks to Bulldozers” in large letters with a picture of a bulldozer in a no entry sign, and the further text: “Regeneration: it’s not a done deal” and the contact details for KDCH. The concern above is engendered by the use of the word, “bollocks” on the posters, and that word’s potential capacity to cause offence.
3. I note that the word “bollocks” is the subject of the following description by Ofcom: “Medium language, potentially unacceptable pre-watershed. Not generally offensive but somewhat vulgar when used to refer to testicles. Less problematic when used to mean “nonsense””. (Ofcom’s *Attitudes to potentially offensive language and gestures on TV and radio*, September 2016) The latter sense applies in this case, placing the word at the less serious end of Ofcom’s medium bracket, meaning it could in certain contexts be acceptably used on television at any time of day. It is not in this sense in any way sexual, nor is it discriminatory.
4. Whilst the poster is therefore potentially mildly offensive, it is on the other hand an expression of political speech on a matter of very significant local public interest.

5. The local authority is subject to the jurisdiction of the Human Rights Act 1998 and must not act incompatibly with the European Convention on Human Rights. Article 10 of the Convention protects the right to freedom of expression, but it is a qualified right which may in certain very restricted circumstances be interfered with. Any interference would have to be lawful, necessary and proportionate.
6. The European Court of Human Rights has repeatedly emphasised that freedom of expression as protected by Article 10, “is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no “democratic society”.” (*Handyside v UK*, App no. 5493/72, 7 December 1976)
7. In my view were the local authority to react to any of its residents displaying the posters by sanctioning or threatening to sanction them, it would be acting incompatibly with Article 10 of the European Convention on Human Rights, primarily because, even if a relevant provision could be identified in any tenancy agreement giving rise to a right to impose any sanction on this ground, reliance on such a provision in this case would be disproportionate, particularly having regard to the important political nature of the speech and the fact that it is only mildly offensive, if at all.

**Jonathan Price**

*Doughty Street Chambers*

17 January 2020