

# WARWICK DISTRICT COUNCIL

## REPORT

**Report of an investigation**  
**pursuant to arrangements made under section 28(6) of the Localism Act 2011**  
**by Peter Oliver (Senior Solicitor, Warwickshire County Council)**  
**appointed by the Monitoring Officer of Warwick District Council**  
**into allegations concerning Councillor Mrs Linda Bromley,**  
**a member of Warwick District Council.**

Date: 29 August 2013

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## 1. Executive Summary

- 1.1 The complainant, Chris Elliott, alleges that Councillor Mrs Bromley failed to adhere to various provisions of the Code of Conduct, firstly by various actions she took in approaching a representative of a contractor carrying out CCTV and lighting works for the Council in St Nicholas Park, Warwick, and secondly by failing to acknowledge receipt and understanding of the new Code of Conduct. I was appointed by Andrew Jones, the Monitoring Officer of Warwick District Council to investigate these complaints.
- 1.2 I interviewed the complainant, Ian Coker, Graham Leach and Councillor Mrs Bromley. I have also seen and considered various other papers relevant to the complaint, particularly a contemporaneous email from the contractor's representative, Chris Neville
- 1.3 I find that Councillor Mrs Bromley failed to adhere to the following requirements of the Code of Conduct:
  - 1.3.1 that by approaching a Council contractor in the circumstances set out, she was failing to work constructively with council staff;
  - 1.3.2 that by approaching a representative of the contractor, giving information to him and seeking to pressurise him into having a meeting with her, she was failing to comply with the provisions of the Council's Member / Officer protocol;
  - 1.3.3 that by seeking information from a representative of a contractor rather than from the relevant council officer, she was failing to value and respect Council staff and to engage with them in an appropriate manner which underpins the mutual respect between them;
  - 1.3.4 that by the manner in which she dealt with the contractor's representative, she failed to treat him with respect;
  - 1.3.5 that by failing to respond to various emails and letters from Mr Leach, she was failing to work constructively with council staff;

1.3.6 that by failing to respond to the letter sent by Mr Leach on behalf of the Standards Committee, she failed to value and respect her colleagues.

## **2. Councillor Mrs Bromley's official details**

2.1 Councillor Mrs Bromley was elected to Warwick District Council on 22<sup>nd</sup> July 2010, and was re-elected in May 2011, as a member for Warwick South ward. During that time she has been a member of various committees, and she is also a member of the Warwick Community Forum.

2.2 Councillor Mrs Bromley signed the Declaration of Acceptance of Office following her election and her re-election in 2011. She originally signed an Undertaking to observe the Code of Conduct for Members of WDC, but has not signed an acknowledgement that she had received and understood the new code of Conduct for WDC following its adoption at the end of June 2012.

2.3 Councillor Mrs Bromley has told me that she had training on the old (pre July 2012) Code of Conduct (although she cannot remember when this was), and that she was familiar with it as she previously worked for a solicitor who investigated code of conduct complaints. She was not present when the Monitoring Officer of WDC led a training session for members on the new Code in June 2012.

## **3. The relevant legislation**

3.1 Section 27 (2) of the Localism Act 2011 requires an authority to adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. Section 28 of the Act sets out the principles with which a code must comply, and requires that it must contain provisions dealing with pecuniary and other interests. Warwick District Council adopted a Code of Conduct ("the Code of Conduct") which complied with those principles and requirements on 27<sup>th</sup> June 2012, to have effect from 1<sup>st</sup> July 2012.

3.2 The Code of Conduct contains the following provisions which are relevant to these complaints:

### ***Part A – General Obligations***

*As a member or co-opted member of Warwick District Council, I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.*

*I recognise that this Code of Conduct will apply at all times when I am acting as a member of Warwick District Council and I recognise that failure to adhere to this Code could result in the issuing of sanctions against me.*

*In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority:*

**SELFLESSNESS:** *Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.*

**INTEGRITY:** *Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.*

**OBJECTIVITY:** *In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.*

**ACCOUNTABILITY:** *Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.*

**OPENNESS:** *Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.*

**HONESTY:** *Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.*

**LEADERSHIP:** *Holders of public office should promote and support these principles by leadership and example.*

*As a Member of Warwick District Council, my conduct will in particular address the principles of the Code of Conduct by:*

- .....
- *Listening to and respecting the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective, making decisions on merit and providing reasons for the decisions taken.*

- .....
- *Never disclosing information given to me in confidence by anyone, or information acquired by me which I believe, or ought reasonably to believe, is of a confidential nature, except where:*
    - (1) *I have the consent of the person authorised to give it*
    - (2) *I am required by law to do so; and*

- (3) *The disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or*
- (4) *The disclosure is*
  - (a) *Reasonable and in the public interest; and*
  - (b) *Made in good faith and in compliance with the reasonable requirements of the authority*

- *Behaving in accordance with all my legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures, including those on the use of the Council's resources (which shall never be for political purposes)*

- *Valuing and respecting my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.*

- *Always treating people with respect, including the organisations and public I engage with and those I work alongside, both officers and fellow Members.*

.....

- *Never intimidating or attempting to intimidate, or bully any person*

.....

- *Recognising that by failing to adhere to the Code, I could bring my office or Council into disrepute*

3.3 The Council has also adopted a Member / Officer Protocol and the Code of Conduct requires members to behave in accordance with the requirements of such protocol. For the purposes of these complaints, the relevant provisions of the protocol are:

3.4 *Confidential information should not be disclosed to any third party unless:*

*\* the Member is legally compelled to do so, for example there is a legal duty to make disclosure in the public interest*

*\* the disclosure is at the request, or with the consent, of the party that provided the information.*

3.5 *Members who believe that the disclosure of confidential information is necessary for the effective performance of their duties as Members should seek advice from the Chief Executive or the Monitoring Officer. Improper disclosure of confidential information can put the Council at legal and financial risk.*

4.4 *In addition Members and Officers must understand there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of Officers to manage the implementation of policy, in agreement with Members.*

4.5 *Officers serve the Council through its committees and other Council bodies. They work to the instructions of their Head of Service or the Chief Executive - not individual Members of the Council, whatever office the Member might hold.*

#### **4. The complaints.**

- 4.1 By email dated 7<sup>th</sup> December 2012, Chris Elliott, the Chief Executive of Warwick DC, made formal complaint to the Monitoring Officer about the conduct of Councillor Mrs Bromley. It refers to "her disregard to the agreed officer/member protocol in a specific case concerning a contractor and the allocation of funds to that contractor; and to her refusal to sign the new agreed member/officer protocol".
- 4.2 There are therefore two distinct complaints. The first refers to Councillor Mrs Bromley's actions in approaching a contractor engaged by the Council to carry out work to install CCTV and lighting in St Nicholas Park, Warwick. The allegation is that Councillor Mrs Bromley contacted the contractor to seek information about the performance of the CCTV cameras, put pressure on a representative of the contractor to meet with her, asked him to provide information to a third party, and gave confidential information regarding Council budget availability for similar works to the contractor.
- 4.3 The second complaint is that despite repeated requests, Councillor Mrs Bromley failed to acknowledge to the Deputy Monitoring Officer that she had received a copy of, and understood, the new Code of Conduct which had been adopted by the Council with effect from 1<sup>st</sup> July 2012.
- 4.4 On 24<sup>th</sup> January 2013, I was appointed by the Monitoring Officer, Andrew Jones, to investigate these complaints.
- 4.5 Although the complaints refer to breaches of the Member / Officer Protocol, my instructions from the Monitoring officer refer to them as alleged breaches of the Code of Conduct (which in turn requires that members comply with requirements of adopted protocols), and I have investigated them as such.

## **5. The evidence gathered.**

- 5.1 In relation to the first complaint, I interviewed and took statements from the complainant, Chris Elliott; and from the Council's Head of Neighbourhood Services, Ian Coker. The signed statements from these two people are in Appendix A to this report, and the evidence is not repeated here.
- 5.2 I also sought to take a statement from Chris Neville, a Senior Technical consultant with ADT Fire and Security plc, the company engaged by WDC to install the CCTV and lighting in St Nicholas Park. Mr Neville is the representative of that company to whom Councillor Mrs Bromley spoke and with whom she tried to arrange a meeting. However, after saying that he would take advice from his Human Resources Department on my request, he has failed to respond to me further. I have therefore relied on the contents of an email he sent to Ian Coker on 2<sup>nd</sup> August 2012. I accord this email less weight than a signed statement following an interview, but also bear in mind that it is a contemporaneous account of events, whereas statements are necessarily that person's memory of events at a remove of some months.
- 5.3 In relation to the second complaint, I again interviewed the complainant, Chris Elliott and also the Deputy Monitoring Officer, Graham Leach. Again, their signed statements are in Appendix A and are not repeated here.
- 5.4 I also interviewed Councillor Mrs Bromley (who was accompanied by her solicitor Mr Hathaway) in relation to both complaints. Following that interview, I prepared a draft statement from what she had said to me which I sent (at her request to Mr Hathaway) for her approval and signature. For reasons of which I am not aware, no amendments or signed statement have been returned to me. This report is therefore based on the draft statement which I prepared, and as an unsigned statement it carries less weight than those which have been signed.
- 5.5 A draft of this report was also sent to the complainant and to Councillor Mrs Bromley (again thorough her solicitor) to enable them to comment on it before the report was finalised. I received a comment from the complainant as a result of which I have made a minor amendment to the conclusion.



5.6 I have not received any acknowledgement of the draft report, nor any comments thereon, from, or on behalf of, Councillor Mrs Bromley. I do not know the reason for this, but coupled with her failure to amend or sign the draft statement it appears to show a lack of respect for my role in investigating this matter.

## **6 Summary of the material facts**

### **(a) The complaint relating to the works in St Nicholas Park**

- 6.1 In 2011 and 2012, WDC embarked on a series of improvements to St Nicholas Park in Warwick. The total budget provided for these works was £210,000. The work was split into three phases, and by late 2011, the first two phases had been completed and £98,000 of the budget provision remained. The third phase was to comprise the installation of two CCTV cameras and lighting at an estimated cost of about £55,000. This work had been designed and agreed upon following advice from the Police.
- 6.2 Councillor Mrs Bromley was a member of the Friends of St Nicholas Park. This voluntary group, which had been consulted by WDC about the overall improvement works to the park, were concerned that the proposed CCTV works would not cover all the areas of the park where there had been problems with vandalism and rowdy groups of youths. Of particular concern was an area round Pickard Street where there are some elderly persons' bungalows.
- 6.3 In June 2012, Ian Coker had invited Councillor Mrs Bromley and the other ward councillors to a meeting to set out the proposals for the CCTV works. Councillor Mrs Bromley had not been able to attend as she was on holiday, so Ian Coker had sent her a plan showing the proposals. She had replied by email on 2<sup>nd</sup> July setting out her concerns that the proposals did not cover the whole of the park, and that not all the available £98,000 was being utilised.
- 6.4 ADT were contracted to carry out the CCTV works. On 27<sup>th</sup> July, Councillor Mrs Bromley rang the ADT switchboard wanting to speak to a technical person about the works. She told me that she made the call on behalf of the Friends to obtain information for an article which was to appear the following

week in the local newspaper. She particularly wanted to know whether the images produced by the cameras were of sufficient quality to be used in prosecutions.

- 6.5 Chris Neville rang her back later that day. He explained that he was the project manager for the scheme. During the course of the conversation, Councillor Mrs Bromley told him that she was a councillor. She says that this was only after Mr Neville said that he had a meeting arranged with Graham Collis (the Council's CCTV Manager), although Mr Neville's email puts it earlier in the conversation. I find it unnecessary to determine precisely when Councillor Mrs Bromley's role as a councillor became known to Mr Neville, but I am satisfied that it was at some point during that conversation on 27<sup>th</sup> July. From that point on, I find that Mr Neville was aware that he was dealing with a councillor, and treated her as such.
- 6.6 During the course of the conversation, Councillor Mrs Bromley referred to the fact that £98,000 was available for spending on the park and that she and the Friends wanted to see it all spent on CCTV. I accept that this figure, although not known to Mr Neville, was in the public domain, and he could have found it if he had done the necessary research.
- 6.7 Mr Neville explained that he had a meeting with Graham Collis on 31<sup>st</sup> July and invited Councillor Mrs Bromley to attend. She declined, but they arranged to meet after Mr Neville's meeting with Graham Collis had finished. Although there seems to be some confusion on the point, it is probable that Mr Neville agreed to ring Councillor Mrs Bromley when he was free.
- 6.8 Ian Coker became aware of Councillor Mrs Bromley's involvement following a conversation with Graham Collis, and asked Chris Neville to provide him with written details.
- 6.9 Graham Collis and Chris Neville met in the late morning on 31<sup>st</sup> July. When that meeting concluded, Mr Neville did not ring Councillor Mrs Bromley. Councillor Mrs Bromley tried to ring him about 12.15 p.m., but Mr Neville did not answer his phone. He says that he recognised the call as a Leamington number and did not want to speak to Councillor Mrs Bromley because he was

now aware of the political situation. Councillor Mrs Bromley regarded his failure to answer as discourteous. She finally managed to speak to him the following day through the ADT switchboard.

- 6.10 The second conversation is detailed by Mr Neville in his email to Ian Coker. Councillor Mrs Bromley disputes some of the points and those are set out in her draft statement. The matters which are disputed are not material for this investigation. Although Councillor Mrs Bromley apologises for making Mr Neville feel "about 2" tall", and gives an explanation for it (that she had been waiting in all afternoon for him to call) she does not dispute that her behaviour and / or attitude towards him could have had this effect.

**(b) The complaint relating to the acknowledgement of the Code of Conduct**

- 6.11 At a meeting on 27<sup>th</sup> June 2012, WDC adopted a new Code of Conduct, to take effect from 1<sup>st</sup> July 2012. This was necessary, as legislative changes meant that the previous Code would cease to have effect on 1<sup>st</sup> July.
- 6.12 On 27<sup>th</sup> July, Graham Leach, the Democratic Services Manager and Deputy Monitoring Officer, sent an email to all councillors attaching a copy of the newly adopted Code and asking each councillor to acknowledge that they had received and understood it.
- 6.13 By the beginning of October, he had not received the requested acknowledgement from about half the Councillors, including Councillor Mrs Bromley. He therefore sent a letter on 2<sup>nd</sup> October to those councillors asking for the acknowledgement as a matter of urgency.
- 6.14 At a meeting of the Standards Committee on 30<sup>th</sup> October, the Chairman of that committee asked Mr Leach to inform the Committee of those councillors who had not acknowledged receipt and understanding of the code. By that time there were only four councillors in that position, including Councillor Mrs Bromley. The Committee asked Mr Leach to write to those members "expressing the dissatisfaction of the Committee and encouraging them all to respond immediately".

6.15 The letter requested by the committee was sent by Mr Leach on 9<sup>th</sup> November. Three of the four outstanding acknowledgements were received by Mr Leach in the following weeks. No acknowledgement has been received from Councillor Mrs Bromley. She accepts that she has received the various emails and letters, and has not responded to them. She says this is because she has issues (relating to natural justice and knowledge of the complaint) for dealing with breaches of the Code.

## **7 Reasoning as to whether there have been failures to comply with the Code of Conduct**

### **(a) The complaint relating to the works in St Nicholas Park**

7.1 The first question I have to consider is whether Councillor Mrs Bromley was subject to the Code of Conduct at the time she spoke to Mr Neville in late July and early August 2012. The Code applies at all times when “[she is] acting as a member of Warwick District Council”. I accept that when she first phoned ADT, Councillor Mrs Bromley was doing so on behalf of the Friends of St Nicholas Park, and not as a councillor. However, I am of the opinion that from the time when she told Mr Neville that she was a councillor, she was acting as a councillor (and it is clear to me that Mr Neville assumed she was acting as such) and therefore became subject to the Code.

7.2 The question which then falls to be considered is whether Councillor Mrs Bromley failed to adhere to any of the provisions of the Code. The provisions of the code to which my letter of appointment refers are the first paragraph of the General Obligations which states:

*As a member or co-opted member of Warwick District Council, I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all*

and the following principles of the Code of Conduct which a member's conduct is particularly required to address:

*Listening to and respecting the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective, making decisions on merit and providing reasons for the decisions taken.*

*Behaving in accordance with all my legal obligations, alongside any requirements contained within this Council's policies, protocols and procedures, including those on the use of the Council's resources (which shall never be for political purposes)*

*Valuing and respecting my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.*

*Always treating people with respect, including the organisations and public I engage with and those I work alongside, both officers and fellow Members.*

I will consider each of these in turn.

7.3 I consider that, for the purpose of this investigation the relevant part of the first general obligation is the requirement to "work constructively with our staff and partner organisations". It is the duty of council officers to implement council decisions. The scheme for the installation of CCTV and lighting in St Nicholas Park had been approved and was being implemented by officers. I consider that by her actions in approaching a council contractor and making him aware of her wish for additional cameras and additional spend on the scheme, Councillor Mrs Bromley was seeking to undermine or change the implementation of a council scheme and was therefore failing to work constructively with council staff. I note that Councillor Mrs Bromley had previously been advised that it was improper for her to approach and seek to give instructions to Council contractors, and that any query or concern should be addressed to the responsible officer<sup>1</sup>. I therefore find that Councillor Mrs Bromley failed to adhere to the requirement for her to work constructively with Council staff.

7.4 In my opinion, the first of the four principles ("*Listening to and respecting the interests of all parties.....*") is primarily concerned with formal decision making by councillors. The circumstances of this complaint did not relate to any formal decision making by Councillor Mrs Bromley, and therefore I find that Councillor Mrs Bromley did not fail to comply with this provision of the Code.

7.5 The second of the four principles essentially requires members to comply with the requirements of the Council's policies, protocols and procedures. The

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<sup>1</sup> See paragraph 2 of the statement of Ian Coker

complaint is that Councillor Mrs Bromley failed to comply with provisions of the Council's Member / Officer Protocol. However, neither the complaint nor the instructions I received to carry out the investigation refer to specific provisions of the Protocol. Having considered the protocol in detail, I am of the opinion that the only provisions which could be directly relevant are paragraphs 3.4 and 4.4. These state:

*"3.4 Confidential information should not be disclosed to any third party unless:*

- \* the Member is legally compelled to do so, for example there is a legal duty to make disclosure in the public interest*
- \* the disclosure is at the request, or with the consent, of the party that provided the information"*

*"4.4 In addition Members and officers must understand that there is a clear and acceptable division of responsibilities regarding policy and implementation. It is the duty of Officers to manage the implementation of policy, in agreement with Members"*

7.6 Having found (paragraph 6.6 above) that the information relating to the budget provision was publicly available (although not known to Mr Neville), paragraph 3.4 of the Protocol cannot have been breached as the information was not confidential. However, I am of the opinion that by her actions in approaching Mr Neville, giving the information regarding the budget to him and seeking to pressurise him to have a meeting with her, she was attempting to subvert the implementation of a Council policy with which she did not agree. To that extent she failed to comply with the Member / Officer Protocol and was therefore failing to adhere to the provision of the Code which requires compliance with the Protocol.

7.7 The third principle requires Members to value and respect colleagues (i.e. fellow members) and staff (i.e. officers) and to engage with them in an appropriate manner which underpins mutual respect between them. By approaching a representative (Mr Neville) of a contractor, Councillor Mrs Bromley was, in my opinion, seeking to by-pass relevant Council Officers (in particular Mr Coker) and was therefore failing to either value or respect them or the work they were trying to do to secure the improvements to St Nicholas Park. Furthermore, she was avoiding engaging with them by looking

elsewhere for information which they would readily have been able to provide. She was therefore in breach of this principle of the Code.

7.8 The fourth principle requires Members to treat people with respect. Although Mr Neville is not the complainant, I take the complaint with regard to this principle to relate to Councillor Mrs Bromley's dealings with him. The way in which she dealt with him left him feeling (in his words) 'about 2" tall'. Councillor Mrs Bromley apologises for this but does not deny that her conduct towards him was responsible for this. She considered that his failure to telephone her was discourteous, but does not seem to have considered how he would view her behaviour and attitude to him. I find that she failed to treat Mr Neville with respect and was therefore in breach of this provision of the Code.

**(b) The complaint relating to the acknowledgement of the Code of Conduct**

7.9 Again, I have first to consider whether Councillor Mrs Bromley was subject to the Code when dealing (or failing to deal) with this matter. The letters and emails which Mr Leach sent to her (and others) were sent to her in her capacity as a Councillor and related to Council business. I find that she was acting as a Councillor in considering them and deciding not to respond to them. She was therefore subject to the code at the relevant times.

7.10 Councillor Mrs Bromley does not deny that she failed to respond to any of the communications from Mr Leach requesting her to acknowledge receipt and understanding of a copy of the new Code of Conduct. She says that it is not necessary for councillors to sign the new Code or to give written confirmation of it. She says that she felt that she was being hassled by officers and questions why councillors have to take instructions from officers.

7.11 I have no hesitation in finding that her failure to respond to any of the three emails and letters sent by Mr Leach, Councillor Mrs Bromley was failing to "work constructively with [Council] staff". Further, given that the last of Mr Leach's communications came as a result of a request from the Standards Committee, I consider that Councillor Mrs Bromley's failure to respond to that

letter was a discourtesy to the chairman and members of that committee and amounted to a failure to comply with the Code's requirement for "valuing and respecting my colleagues and staff and engaging with them in an appropriate manner that underpins the mutual respect between us".

## **8 Findings**

- 8.1 I find that Councillor Mrs Bromley failed to adhere to the following provisions of WDC's Code of Conduct in the circumstances set out:
- 8.1.1 that by approaching a Council contractor in the circumstances set out in paragraph 7.3, she was failing to work constructively with council staff;
  - 8.1.2 by approaching Mr Neville, giving information to him and seeking to pressurise him into having a meeting with her, all in the circumstances set out in paragraph 7.6, she was failing to comply with the provisions of the Council's Member / Officer protocol;
  - 8.1.3 that by seeking information from a representative of a contractor rather than from the relevant council officer, in the circumstances set out in paragraph 7.7, she was failing to value and respect Council staff and to engage with them in an appropriate manner which underpins the mutual respect between them;
  - 8.1.4 that by the manner in which she dealt with Mr Neville, in the circumstances set out in paragraph 7.8, she failed to treat him with respect;
  - 8.1.5 that by failing to respond to various emails and letters from Mr Leach, in the circumstances set out in paragraph 7.11, she was failing to work constructively with council staff;
  - 8.1.6 that by failing to respond to the letter sent by Mr Leach on behalf of the Standards Committee (see paragraph 7.11), she failed to value and respect her colleagues.
- 8.2 There are other matters set out in the report which I find do not amount to a failure to adhere to the provisions of the Code.



## **9 Conclusions**

- 9.1 Although I have found six instances of Councillor Mrs Bromley's failure to adhere to the Code of Conduct, it is fair to point out that these essentially relate to two sets of facts, each of which can be analysed to find a number of breaches of the Code. That is something which those who have to consider and act on this report should be aware of.

Peter J R Oliver  
Senior Solicitor  
Warwickshire County Council

29 August 2013