

# COLWICH PARISH COUNCIL



## PD108 GIFTS, HOSPITALITY AND ANTI-BRIBERY

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# Gifts, Hospitality and Anti-Bribery – PD108

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**This document was originally written by:**

<b>Name</b>	<b>Position</b>	<b>Date</b>
Michael Lennon	Clerk	January 2017

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## Revision History

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1	January 2017	PD108-01	Initial Issue	NA
2	September 2018	PD108-02	New Councillors	Signatory list
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# GIFTS, HOSPITALITY AND ANTI-BRIBERY

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## **GIFTS, HOSPITALITY AND ANTI-BRIBERY**

### **1 POLICY STATEMENT**

- 1.1** Colwich Parish Council is committed to conducting business in accordance with the highest ethical and legal standards. The integrity of our Members, staff, and those with whom we do business, is critical to our success. Our parishioners have every right to expect that professional, competent and trustworthy people are working in the best interests of the Council. The Council observes high standards of openness and transparency and exercises rigorous stewardship of public money.

### **2 EXPECTATIONS**

- 2.1** The Council requires that all Members and employees, including permanent, temporary and agency staff as well as contractors:
- Act honestly and with integrity at all times and to safeguard the Council's resources for which they are responsible.
  - Comply with the spirit, as well as the letter of the laws and regulations, in respect of the lawful and responsible conduct of activities.
- 2.2** The Council takes a zero-tolerance approach to bribery and corruption and is committed to acting professionally, fairly and with integrity in all its business dealings and relationships wherever it operates. The Council is committed to implementing and enforcing effective systems to counter bribery.
- 2.3** The Council's Anti-Bribery Procedure reflects its commitment to uphold all laws relevant to countering bribery and corruption. In particular, we are committed to compliance with the Bribery Act 2010, which applies to individuals and all organisations carrying on a business in the UK, including the public sector.

### **3 SCOPE**

- 3.1** The purpose of this Policy is to:
- Set out our responsibilities, and of those working for us, in observing and upholding our position on bribery and corruption; and
  - Provide information and guidance to those working for us on how to recognise and deal with bribery and corruption issues.
- 3.2** Bribery and corruption are punishable for individuals by up to ten years imprisonment. If the Council is found to have failed to prevent bribery in relation to its business it could face unlimited fines and extensive reputational damage. The Council therefore take its legal responsibilities very seriously.
- 3.3** In this Policy, third party means any individual or organisation you come into contact with during the course of your work for the Council, and includes actual and potential clients, customers, suppliers, distributors, business contacts, agents, advisers, and government and other public bodies, including their advisors, representatives and officials, politicians and political parties.

### **4 WHAT IS BRIBERY?**

- 4.1** A bribe is an inducement or reward offered, promised or provided in order to gain any commercial, contractual, regulatory or personal advantage.

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### **5 WHO IS COVERED BY THE POLICY?**

- 5.1** Under Section 7 of the Bribery Act the Council may be liable to be prosecuted for an offence if a person associated with it bribes another person, intending to obtain or retain business or a business advantage for the organisation. It is a defence for the organisation to show that it has in place "adequate procedures" designed to prevent bribery by its "associated persons". A person is associated with an organisation if it performs services for or on behalf of that person, e.g. as employee, subsidiary, agent or subcontractor.
- 5.2** There are four key offences under the Act:
- Bribery of another person (section 1) –described as active bribery.
  - Accepting a bribe (section 2) – described as passive bribery
  - Bribing a foreign official (section 6)
  - Failure by a commercial organisation to prevent persons associated with it from bribing another person on its behalf (section 7)
- 5.3** The Bribery Act 2010 makes it an offence to offer, promise or give a bribe (Section 1). It also makes it an offence to request, agree to receive, or accept a bribe (Section 2).
- 5.4** The guidance that accompanies the Bribery Act 2010 states that a “commercial organisation” is any-body formed in the United Kingdom and “...it does not matter if it pursues primarily charitable or educational aims or purely public functions. It will be caught if it engages in commercial activities, irrespective of the purpose for which profits are made.” There are circumstances in which the Council will be a commercial organisation for the purposes of section 7. This policy is intended to ensure that the Council has in place the necessary procedures to act as a defence to a section 7 offence.
- 5.5** This Policy applies to all Councillors of Colwich Parish Council and all employees.

### **6 GIFTS AND HOSPITALITY**

- 6.1** This policy does not prohibit normal and appropriate hospitality (given and received) to or from third parties.
- 6.2** The giving or receipt of gifts is not prohibited, if
- It is not made with the intention of influencing a third party to obtain or retain business or a business advantage, or to reward the provision or retention of business or a business advantage, or in explicit or implicit exchange for favours or benefits.
  - It complies with the law;
  - It is given in the Council’s name, not in your name;
  - It does not include cash or a cash equivalent (such as gift certificates or vouchers);
  - It is appropriate in the circumstances e.g. in the UK it is customary for small gifts to be given at Christmas time;
  - Taking into account the reason for the gift, it is of an appropriate type and value and given at an appropriate time; and
  - It is given openly, not secretly.

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- 6.3** The Council appreciates that the practice of giving business gifts varies, the test to be applied is whether in all the circumstances the gift or hospitality is reasonable and justifiable. The intention behind the gift should always be considered.
- 6.4** For Councillors, the acceptance of a gift or hospitality with a value greater than £50 must be declared on their Declaration of Interest form. Staff must register the acceptance of gifts or hospitality to the Clerk and/or Chairman of the Council.

## **7 WHAT IS NOT ACCEPTABLE?**

- 7.1** It is not acceptable for you (or someone on your behalf) to:
- Give, promise to give, or offer, a payment, gift or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
  - Give, promise to give, or offer, a payment, gift or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
  - Accept payment from a third party that you know or suspect is offered with the expectation that it will obtain a business advantage for them;
  - Accept a gift or hospitality from a third party if you know or suspect that it is offered or provided with an expectation that a business advantage will be provided by the Council in return.
  - Threaten or retaliate against another worker who has refused to commit a bribery offence or who has raised concerns under this policy; or
  - Engage in any activity that might lead to a breach of this policy.

## **8 ANTI-BRIBERY PROCEDURES**

- 8.1** Whether an organisation's procedures are adequate will ultimately be a matter for the courts to decide on a case-by-case basis. As required by the Bribery Act 2010, adequate procedures need to be applied proportionately, based on the level of risk of bribery in the organisation.
- 8.2** The nature and extent of the Council's exposure to potential external and internal risks of bribery on its behalf by persons associated with it is periodically assessed. This includes financial risks but also other risks such as reputational damage.
- 8.3** The Council takes a proportionate and risk based approach, in respect of persons who perform or will perform services for or on behalf of the organisation, in order to mitigate identified bribery risks.
- 8.4** Procedures designed to prevent bribery are monitored and reviewed and improvements are made where necessary.

## **9 YOUR RESPONSIBILITIES**

- 9.1** You must ensure that you read, understand and comply with this Policy.
- 9.2** The prevention, detection and reporting of bribery and other forms of corruption are the responsibility of all those working for the Council or under its control. All staff are required to avoid any activity that might lead to, or suggest, a breach of this Policy.
- 9.3** You must notify the Clerk or Chairman of the Council as soon as possible if you believe or suspect that a conflict with this Policy has occurred, or may occur in the future. For example, if a supplier or potential supplier offers you something to gain a business advantage with the Council, or indicates to you that a gift or payment is

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required to secure their business. Further "red flags" that may indicate bribery or corruption are set out at the end of this Policy.

- 9.4** Any employee who breaches this Policy may face disciplinary action, which could result in dismissal for gross misconduct.

### **10 RECORD-KEEPING**

- 10.1** Financial records must be kept and appropriate internal controls must be put in place which will evidence the business reason for making payments to third parties.
- 10.2** Written records of all hospitality or gifts accepted or offered must be declared and kept, which will be subject to Full Council review through the Policy Committee.
- 10.3** All expenses claims relating to hospitality, gifts or expenses incurred to third parties must be submitted in accordance with our expenses policy and specifically record the reason for the expenditure.
- 10.4** All accounts, invoices, memoranda and other documents and records relating to dealings with third parties, such as clients, suppliers and business contacts, should be prepared and maintained with strict accuracy and completeness. No accounts must be kept "off-book" to facilitate or conceal improper payments.

### **11 WHAT TO DO IF YOU HAVE A SPECIFIC CONCERN ABOUT BRIBERY OR CORRUPTION**

- 11.1** All staff are encouraged to raise concerns about any issue or suspicion of malpractice at the earliest possible stage. If you are unsure whether a particular act constitutes bribery or corruption, or if you have any other queries, these should be raised with the Clerk or Chairman of the Council as appropriate.
- 11.2** It is important that you tell the Clerk or chairman of the Council, as appropriate, as soon as possible if you are offered a bribe by a third party, are asked to make one, suspect that this may happen in the future, or believe that you are affected by any another form of unlawful activity.

### **12 PROTECTION**

- 12.1** Staff who refuse to accept or offer a bribe, or those who raise concerns or report another's wrongdoing, are sometimes worried about possible repercussions. The Council aims to encourage openness and will support anyone who raises genuine concerns in good faith under this policy, even if they turn out to be mistaken.
- 12.2** The Council is committed to ensuring no one suffers any detrimental treatment as a result of refusing to take part in bribery or corruption, or because of reporting in good faith their suspicion that an actual or potential bribery or other corruption offence has taken place, or may take place in the future. Detrimental treatment includes dismissal, disciplinary action, threats or other unfavourable treatment connected with raising a concern. If you believe that you have suffered any such treatment, you should inform the Clerk or Chairman of the Council immediately. If the matter is not remedied, and you are an employee, you should raise it formally through the Council's Grievance Procedure.

## GIFTS, HOSPITALITY AND ANTI-BRIBERY

### **13 WHO IS RESPONSIBLE FOR THE ANTI-BRIBERY POLICY?**

- 13.1** The Parish Council has overall responsibility for ensuring this policy complies with the Council's legal and ethical obligations, and that all those under its control comply with it. The Council hereby delegates the day-to-day responsibility for this policy to the Clerk.
- 13.2** All Councillors and staff are responsible for the success of this policy and should ensure they use it to disclose any suspected danger or wrongdoing.

### **14 POTENTIAL RISK SCENARIOS: "RED FLAGS"**

**14.1** The following is a list of possible red flags that may arise during the course of your work and which may raise concerns under various anti-bribery and anti-corruption laws. The list is not intended to be exhaustive and is for illustrative purposes only. If you encounter any of these red flags while working for the Council, you must report them promptly to The Clerk or Chairman of the Council:

- You become aware that a third party engages in, or has been accused of engaging in, improper business practices;
- You learn that a third party has a reputation for paying bribes, or requiring that bribes are paid to them,
- A third party insists on receiving a commission or fee payment before committing to sign up to a contract with us, or carrying out a government function or process for us;
- A third-party requests payment in cash and/or refuses to sign a formal commission or fee agreement, or to provide an invoice or receipt for a payment made;
- A third party requests an unexpected additional fee or commission to "facilitate" a service;
- A third party demands lavish entertainment or gifts before commencing or continuing contractual negotiations or provision of services;
- A third-party request that a payment is made to "overlook" potential legal violations;
- A third-party request that you provide employment or some other advantage to a friend or relative;
- You receive an invoice from a third party that appears to be non-standard or customised;
- A third party insists on the use of side letters or refuses to put terms agreed in writing;
- you notice that the Council has been invoiced for a commission or fee payment that appears large given the service stated to have been provided;
- A third party requests or requires the use of an agent, intermediary, consultant, distributor or supplier that is not typically used by or known to the Council;
- You are offered an unusually generous gift or offered lavish hospitality by a third party



**GIFTS, HOSPITALITY AND ANTI-BRIBERY**

<b>SIGNED</b>	
COUNCILLOR WENDY PLANT PARISH COUNCIL CHAIRMAN	

## GIFTS, HOSPITALITY AND ANTI-BRIBERY

*I CONFIRM THAT I HAVE RECEIVED AND READ A COPY OF THE COUNCIL'S GIFTS, HOSPITALITY AND ANTI-BRIBERY POLICY AND BY SIGNING THIS FORM ACCEPT THE TERMS THEREIN.*

<b>COUNCILLORS:</b>	
Cllr Birt	
Cllr Bloor	
Cllr Colwill	
Cllr Dunn	
Cllr B Forster	
Cllr M Forster	
Cllr Hall	
Cllr Hardwick	
Cllr Hill	
Cllr Martin	
Cllr Mosley	
Cllr Plant	
Cllr Upton-Loach	
Cllr Walters	
<b>EMPLOYEES:</b>	
Revd Mr Michael Lennon (Clerk)	
Mr Anthony Egan (Deputy Clerk)	
Mr Philip Russell	
Mr Ian Deans	