

Colwich Parish Council

Please address all correspondence to:

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Councillors and Officials
Colwich Parish Council

26th July 2024

Dear Colleagues

CONDUCT AND HOSPITALITY

At the beginning of the Full Council meeting held on Thursday 11th July 2024, a member of the public exercised their rights, under Standing Order 1.5 to “*make representations; ask a question of the Council; answer questions from the Council and give evidence in respect of any item of business included in the agenda*” during the Public Participation segment of the meeting.

Two issues, of equal concern, were raised.

Councillors receiving ‘gifts’ and not declaring the receipt of such items.

This is an absolute conflict of the Code of Conduct for Councillors Policy PD013: Section 9 – Gifts and Hospitality:

Paragraph 9:1

“I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage”.

Paragraph 9.4

“In order to protect your position and the reputation of Colwich Parish Council, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult, if it is seen as rudeness, in which case you could accept it but must ensure it is publicly registered.”

We would advise all Councillors to refer to the Policy and be mindful of the content at all times. As discussed during the meeting, low value “gifts or hospitality” accepted on numerous occasions will become a high value “gifts or hospitality”. Moreover, as detailed in

the Code, a single acceptance of a low value gift or hospitality might be seen as influencing a Councillor's decision e.g. to let a contract or to work with a particular company.

Receipts of gifts, hospitality and anti-bribery are also covered for Councillors and Officials in the Council's "Gifts, Hospitality and Antibribery Policy PD016". For avoidance of doubt we detailed some of the salient points below, and would encourage all Councillors and Officials to re-read the policy which was last agreed in December 2023.

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.

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 takes 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.

BRIBERY ACT 2010

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 request, agree to receive, or accept a bribe (Section 2).

6 GIFTS AND HOSPITALITY

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.

6.3 For Councillors, the acceptance of a gift or hospitality with a value greater than £50 [*whether as a one-off gift or cumulatively for an on-going gifts or hospitality*] must be declared on their Declaration of Interest form. Staff must register the acceptance of gifts or hospitality to the Chief Officer and/or Chairman of the Council.

9.3 You must notify the Chief Officer 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 required to secure their business.

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.

The Policy Committee reviews the Gifts, Hospitality and Anti-Bribery record at its April meeting (see 5/24Po).

As discussed, hypothetically, during the meeting:

Scenario 1 - the offer and/or acceptance of hospitality from one of the food stalls during the summer fete or Christmas lights switch-on event, that is given openly to all the stewards working on the day, would be reasonable.

Scenario 2 - the offer or acceptance of hospitality from a food stall outside of the summer fete or Christmas lights switch-on event that is given covertly would be neither reasonable nor acceptable as there is no justification for such an offer/acceptance.

No names or implications were given during the meeting. However, if any Councillor or Official has accepted hospitality under Scenario 2 then we would ask them to desist immediately. Any further confirmed instances under Scenario 2 will automatically be referred to the Monitoring Officer and/or Staffordshire Police.

If you have any query, please discuss your issue with the Chief Officer or the Chairman.

Behaviour of Councillors outside of the formal Council meetings.

The member of the public also asked for the Council's views on Councillors criticising the Council to members of the public.

The behaviour expected of Councillors is found in the Code of Conduct; Standing Orders Section 7; The Good Councillor Guide and on display in the Council Office.

The Council strives to operate within the Ten General Principles Order 2001, which include: Honesty, Integrity & Objectivity – which includes avoiding situations which might call their honesty or integrity into question.

Matters discussed in Council or Committee meetings remain the custody of those present until the minutes have been agreed. Decisions made are arrived at following discussion and a vote. If anyone has an issue with any of the above, please discuss it with the appropriate parties. Whilst Councillors may disagree with a decision of the Council, once this decision has been lawfully made (through a majority of those present and voting) then we would expect all Councillors to work to implement that decision under collective responsibility.

Officials are asked to give their advice to Councillors to assist them in reaching a lawful informed decision. Once a decision has been lawfully made, then we would expect Officials to accept that decision and work to implement it.

Colwich Parish Council strives to present a professional and efficient service at all times and issues around the conduct of its staff or councillors should be of the highest standard. Please be mindful of this if there is a need to discuss Council business with third parties.

If you have any queries, please discuss with the Chief Officer or Chairman. Any discussion will be treated as confidential.

Revd. Mr. Michael Lennon FSLCC
Chief Officer

Cllr Wendy Plant
Chairman

