

SAMPLE CODE OF CONDUCT
FOR STAFF OF
NON-GOVERNMENTAL ORGANISATIONS
IN SOCIAL WELFARE SECTOR

Corruption Prevention Department
Independent Commission Against Corruption
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Acknowledgement and Disclaimer

For the purpose of updating this Sample Code of Conduct, the Corruption Prevention Department has consulted the Social Welfare Department, the Hong Kong Council of Social Service and a number of non-governmental organisations (NGOs) and industry practitioners. Their input and efforts are gratefully acknowledged.

While this Sample Code of Conduct is developed for NGOs in the social welfare sector, receiving government subventions and those need to be accountable to their sponsoring bodies / the public for the sponsorship / donations, NGOs in other sectors are also recommended to refer to this Sample Code when developing their Code of Conduct for Staff.

Ethical Commitment

1. *[Name of Organisation]* (hereafter referred to as the Organisation) regards honesty, integrity and fair play as our core values that must be upheld by all staff¹ of the Organisation at all times. This Code sets out the basic standard of conduct expected of all staff, including the Organisation's policy on acceptance of advantage and handling of conflict of interest when dealing with the Organisation's business.

[The Organisation may wish to include other core values relevant to its duties and business.]

Prevention of Bribery

2. The Organisation prohibits all forms of bribery and corruption. All staff are prohibited from soliciting, accepting or offering any bribe in conducting the Organisation's business or affairs. In conducting all business or affairs of the Organisation, they must comply with the Prevention of Bribery Ordinance (Cap. 201) (POBO)² of Hong Kong.

*[The relevant sections of the POBO are detailed at **Appendix 1.**]*

Solicitation and Acceptance of Advantages³

3. *[Name of Organisation]* prohibits staff from soliciting or accepting any advantage from any persons or companies having official dealings with the Organisation (e.g. service recipients, suppliers, contractors, professional fund-raisers), and from any subordinates*, except that they may accept, but not solicit, the following advantages when offered on a voluntary basis –
 - (a) advertising or promotional gifts or souvenirs of a nominal value;
 - (b) discount or other special offers given by any person or company to them as customers, on terms and conditions equally applicable to other customers in general; or
 - (c) gifts given by donors to a staff member in his private capacity⁴.

¹ "Staff" includes full-time, part-time and temporary staff.

² Full text of the POBO is available at <https://www.elegislation.gov.hk/hk/cap201>.

³ "Advantage" means almost anything which is of value, except entertainment (see footnote 7), including any gift (both of money and in kind), loan, fee, reward, commission, office, employment, contract, service and favour, etc.

⁴ If an Organisation considers there is incentive for a donor to offer advantage to a staff member in return for benefits (e.g. assisting the donor to become a Board member), it should exclude (c) from the blanket permission covered above. The Organisation should then follow the procedures described in paragraph 4 in processing the application for acceptance of advantage.

[Acceptance of gifts by staff from subordinates could invite allegations of impropriety, hence it should be discouraged. However, if an Organisation wishes to give permission⁵ for staff to accept such an advantage, it should impose restriction as below –*

(d) gifts given by subordinates to their supervisors on festive or special occasions, subject to a maximum limit of \$ _____ in value⁶ .]

4. Gifts or souvenirs described in paragraph 3(a) that are presented to staff by virtue of their official positions or in official functions are deemed as offers to the Organisation. The staff member concerned should report the acceptance to the Organisation and seek direction as to how to handle the gifts or souvenirs from [*the approving authority*]. If a staff member wishes to accept from any persons or companies having official dealings with the Organisation, or from any subordinates any other advantages not listed in paragraph 3, he should seek the permission from [*the approving authority*]. Form A (Sample at **Appendix 2**) could be used to record and seek approval of the advantages received by staff. In case of doubt, staff should refer the matter to [*insert an appropriate unit / officer*] for advice and instruction.
5. Even if the offeror does not have any official dealings with the Organisation, a staff member should decline an offer of an advantage if the acceptance could affect his objectivity in conducting the Organisation's business, induce him to act against the Organisation's interest or place him under an improper obligation, or where he believes the offeror has such an intention, or lead to the perception or allegation of impropriety or conflict of interest. Staff should ensure that the solicitation or acceptance of any advantages can stand up to public scrutiny and will not bring the Organisation into disrepute.

Acceptance of Sponsorship

6. Sponsorship (which may comprise passage, accommodation, or other fees) is a form of advantage. Staff may be offered sponsorship in their official capacity by persons or other organisations for official purposes such as attending local / overseas conferences, conventions and product trial activities. Such sponsorship should be regarded as sponsorship offered to the Organisation and referred to the Organisation for consideration of acceptance, based on operational need, and assignment of the Board member/staff to attend the sponsored activity, based on suitability. The general criteria for considering whether or not to accept the sponsorship offer are suggested at **Appendix 3**.

⁵ *Special permission is recommended from a control perspective as the Organisation can consider the circumstances in each case before its decision to grant the permission.*

⁶ *The Organisation should consider setting different amounts allowed for festive and special occasions but they should be minimal as such they might not be perceived as influencing the recipient's impartiality, taking into consideration the recipient's income and public perception.*

7. Staff may be offered sponsorship due to his personal expertise or professional membership. Though not representing the Organisation, care should be taken when such a sponsored visit is offered by a party having business dealings with the Organisation and the staff's duty is directly related to, or could potentially or seen to be influenced by, the content or result of the visit. In accepting such sponsorship, staff should ensure that their conduct and activities would not bring them or the Organisation into disrepute or lead to any actual or perceived conflict of interest.

Offer of Advantages

8. Staff are prohibited from offering advantages to any director, staff member or agent of another company or organisation, for the purpose of influencing such person in any dealing, or any public official, whether directly or indirectly through a third party, when conducting the Organisation's business.
9. Staff should as far as possible refrain from bestowing gifts / souvenirs to others during the conduct of official activities. Where it is necessary or unavoidable due to operational, protocol or other reasons, the gifts / souvenirs to be bestowed should not be lavish or extravagant, and be kept to a minimum in quantity and the exchange of gifts / souvenirs should be made from organisation to organisation.

Acceptance of Entertainment

10. Staff should not accept lavish, or unreasonably generous or frequent entertainment⁷ from any person having official dealings with the Organisation. When offered entertainment, staff should consider whether the entertainment offered could be regarded as –
 - excessive – taking into account its value, substance, frequency and nature;
 - inappropriate – taking into account the relationship between the staff and the offeror (e.g. the offeror is bidding for the Organisation's contract); or
 - undesirable – taking into account the character or reputation of the host or known attendees.

[The Organisation may insert additional guidelines on acceptance of entertainment and / or the reporting requirements.]

Managing Conflict of Interest

11. A conflict of interest situation arises when the "private interests" of a staff member compete or conflict with the interests of the Organisation or the official duties of the staff. Private interests include financial and other interests of the staff himself, and

⁷ As defined in section 2 of the POBO, "entertainment" means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with or provided at the same time as the provision of food or drink.

those of his connections including family and other relations, personal friends, the clubs and societies to which he belongs, any other groups of people with whom he has personal or social ties, and any person to whom he owes a favour or to whom he may be obligated in any way. Some common examples of conflict of interest are provided at *Appendix 4*.

Avoidance and Declaration of Conflict of Interest

12. A fundamental integrity requirement is that all staff should avoid situations which may compromise (or be seen to compromise) their personal judgement or integrity at work or lead to conflict of interest. A staff member's duty to avoid or declare a conflict of interest goes beyond the disclosure of interests that are definable in pecuniary terms.
13. When a situation involving a conflict of interest cannot be avoided, staff should as soon as possible make full disclosure of all relevant interests which conflict, may conflict or may be seen to conflict with their official duties. Any declarations made and the related decisions should be recorded using a declaration form (sample at *Appendix 5*). If staff have doubts concerning the handling of conflict of interest situation, they should immediately consult their supervisors / approving authority.

Managing Declared Conflict of Interest

14. Upon receipt of a report on conflict of interest situation, the supervisors should, as soon as practical, decide on the appropriate course of action to be taken such as to relieve the staff member of his involvement in the task, ask the staff member to divest himself of certain investment, etc., and give clear direction / instruction to the staff concerned. The declaration and the management decision / action should be properly recorded. The supervisors should ensure the staff's compliance with the instruction so as to effectively remove / mitigate the conflict of interest.
15. In deciding on the course of action to be taken or making a recommendation to their senior officers, the supervisors should take into account the seriousness of the conflict and public perception. Mitigating measures which the supervisors can consider adopting are at *Appendix 6*.

Misuse of Official Position

16. Persons occupying offices of NGOs which receive subventions from the Government / other sponsoring organisations or public donations for the provision of services in the community are placed in a position of trust. Our society expects persons in such a position to exercise the powers and discretions with integrity and fidelity, and in an incorrupt manner to serve the interest of the Organisation, and should not subordinate the interest of the Organisation to private interests.
17. Staff should act impartially and should not use their official position for personal gains

nor accord preferential treatment to organisations or persons with whom they have connections. They should not use or permit the use of their official position or title or an authority associated with their office in a manner that is intended to coerce or induce another person to provide any benefit to himself or his relations, friends or associates. Nor should they use their official position or title in a manner that could reasonably be construed to imply that the Organisation sanctions or endorses their personal activities or those of another.

Confidentiality of Information

18. Staff should not disclose any classified or proprietary information of the Organisation without authorisation or misuse any Organisation's information (e.g. for personal gain or the benefit of others). Special care should be taken when handling any personal data of the Board members, staff, volunteers and service recipients to ensure compliance with the Personal Data (Privacy) Ordinance (Cap. 486) and the Organisation's data privacy policy.
19. Staff should continue to observe their duty of confidentiality after they have left the Organisation. They should not use, or take advantage of any classified or proprietary information obtained in the course of their official duties.

Records, Accounts and Other Documents

20. Staff should ensure, to the best of their knowledge, that any record, receipt, account or other documents they submit to the Organisation, gives a true representation of the events or transactions reported in the documents. Intentional use of documents containing false information to deceive or mislead the Organisation, regardless of whether the staff may obtain any gain or advantage, may constitute a criminal offence.

Reporting Suspected Irregularities and Criminal Offences

21. A staff member should report, either directly or through [*insert an appropriate unit / officer in the Organisation*] as appropriate, instances of crime or suspected crime discovered in the course of his work to the appropriate authority or law enforcement agency at the first practicable opportunity. A staff member should avoid making any enquires or taking any action that may hinder or frustrate subsequent investigation by the law enforcement authority concerned. All staff members who receive or have knowledge of such reports should treat the reports in the strictest confidence.

Compliance

22. Any staff member in breach of the Code will be subject to disciplinary action, including termination of appointment. In case of suspected corruption or other criminal offences, a report will be made to the appropriate law enforcement agencies.

Enquiry

23. Any enquiries, comments or suggestions in relation to this Code may be referred to *[insert an appropriate unit/officer in the Organisation]*.

Extracts of the Prevention of Bribery Ordinance (Cap. 201)

Section 9

- (1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
 - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,
- shall be guilty of an offence.
- (2) Any person, who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's –
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
 - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,
- shall be guilty of an offence.
- (3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document –
- (a) in respect of which the principal is interested; and
 - (b) which contains any statement which is false or erroneous or defective in any material particular; and
 - (c) which to his knowledge is intended to mislead the principal,
- shall be guilty of an offence.
- (4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).

- (5) For the purposes of subsection (4) permission shall –

- (a) be given before the advantage is offered, solicited or accepted; or
- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 4

- (1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's-
- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
 - (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
 - (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,
- shall be guilty of an offence.
- (3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.

Extracts of the Prevention of Bribery Ordinance (Cap. 201)

Section 2

“Advantage” means :

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e),

but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), particulars of which are included in an election return in accordance with that Ordinance.

“Entertainment” means :

The provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

Section 8

- (1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence.
- (2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

Section 19

In any proceedings for an offence under this Ordinance, it shall not be a defence to show that any such advantage as is mentioned in this Ordinance is customary in any profession, trade, vocation or calling.

(Name of the Organisation)

Report on Gifts / Advantages Received

Part A – To be completed by Receiving Staff

To : (Approving Authority)

Description of Offeror :

Name & Title : _____

Company : _____

Relationship (Business / Personal) : _____

Occasion on which the Gift / Advantage was / is to be received : _____

Description & (assessed) value of the Gift / Advantage : _____

Suggested Method of Disposal :

Remarks

Retain by the Receiving Staff

Retain for Display / as a Souvenir in the Office

Share among service recipients or the Office

Reserve as Lucky Draw Prize at Staff Functions

Donate to a Charitable Organisation

Return to Offeror

Others (please specify) : _____

Guidelines on disposal method –

- If the gift / souvenir is of perishable nature (e.g. food, drink), it may be shared among service recipients, donated to a charitable organisation or, when this is not practical, shared among staff of the Organisation on a suitable occasion.
- If the gift / souvenir is a useful item, it may be kept for use by the Organisation or donated to another charitable organisation.
- If the gift / souvenir is suitable for display (e.g. a painting, vase), it may be displayed at appropriate locations of the Organisation premises.
- If the gift / souvenir is of low value, it may be donated as a prize in functions organised by the Organisation.
- If the gift / souvenir is a personal item of low value, such as a plaque or pen inscribed with the name of the recipient, it may be retained by the recipient.
- If the gift / souvenir is distributed to all participants in public activities, such as a ball pen, file folder or key clasp, etc, it may be retained by the recipient.
- Any gift / souvenir of high value should be returned to the offeror as far as possible.

(Date)

(Name of Receiving Staff)
(Title / Department)

Part B – To be completed by Approving Authority

To : (Name of Receiving Staff)

The recommended method of disposal is **approved / not approved*. *The gift / advantage concerned should be disposed of by way of : _____

(Date)

(Name of Approving Authority)
(Title / Department)

* *Delete as appropriate*

Considering Factors for Acceptance of Sponsorship

In considering whether or not to accept the sponsorship offer, the following general criteria are relevant –

- acceptance of the sponsorship will benefit the Organisation as a whole;
- acceptance of the sponsorship will not bring the Organisation into any disrepute;
- the sponsorship is not excessive in value or frequency;
- acceptance of the sponsorship will not give rise to any express or implied obligation towards the offeror;
- acceptance of the sponsorship will not give rise to any actual or perceived conflict of interest (e.g. the offeror is a supplier / contractor bidding for the Organisation's contracts); and
- the sponsor will not be given or be perceived to derive an unfair advantage over other persons or organisations.

Examples of Conflict of Interest for Staff

Some common examples of conflict of interest are provided below but they are by no means exhaustive –

Procurement of Products or Services

- A staff member involved in a procurement process has an interest in or is closely associated with a company which provides the Organisation with paid services (e.g. training, consultancy, legal, accounting), or bids for supply of goods or services to the Organisation.
- A staff member leases or sells his property to the Organisation.

Contract Administration

- A staff member undertakes part-time work with a contractor whom he is responsible for monitoring.
- A staff member responsible for contract administration solicits quotations from or employs contractors of the Organisation for renovating his home.

Staff Administration

- One of the candidates under consideration in a recruitment or promotion exercise is a family member, a relative or a close personal friend of the staff member responsible for the exercise.
- A staff member solicits assistance from his subordinate in dealing with his own personal matters.

Others

- A staff member responsible for assessing eligibility of applications for services provided by the Organisation is considering an application from his personal friend or relative.

(Name of the Organisation)

Declaration of Conflict of Interest

Part A – Declaration (To be completed by Declaring Officer)

To : (Approving Authority)

Via: ()@

I would like to report the following actual / potential* conflict of interest situation arising during the discharge of my official duties:

Person(s) / organisation(s) with whom/which I have official dealings and/or private interest
My relationship with the person(s) / organisation(s) (e.g. relative)
My contact with the person(s) / organisation(s) (Please state the frequency of contact and the usual occasions of contact, etc.)
Relationship of the person(s) / organisation(s) with [the Organisation] (e.g. supplier)
Brief description of my duties which involved the person(s) / organisation(s) (e.g. handling of tender exercise)
File reference, if any, of the mentioned duties

(Name of Declaring Officer)
(Title / Department)

(Date)

Part B – Approval *(To be completed by Approving Authority)*

To : (Declaring Officer)

Via: ()@

Part B(i) – In respect of the declaration in Part A of this form, it has been decided that:

The declaration as described in Part A is noted. You are allowed to continue handling the work as described in Part A, provided that there is no change in the information declared above.

You are restricted in the work as described in Part A (e.g. prohibit from handling the specific part/duty that you have conflict, withdraw from discussion on a specific issue / case).

Details : _____

You may continue to handle the work as described in Part A, but an independent officer would be recruited to participate in, oversee or review part or all of the decision-making process (e.g. task another officer with the required expertise to provide objective assessment on the matter).

Details : _____

You are relieved of your duty as described in Part A, which will be taken up by another officer through redeployment.

Details : _____

You should relinquish the personal/private interest (e.g. cease to be a member of a club / association, divest the investments until the conflict situation described in Part A no longer exists).

Details : _____

Others (please specify) (e.g. you should not contact the person(s) / organisation(s) concerned until the conflict situation described in Part A no longer exists):

Details : _____

*Part B(ii) – The justification(s) for the measure(s) as described in Part B(i) above is/are:
(Factors of consideration including the materiality of the conflict, link between the conflict and the matter in question, and any possible negative public perception over the conflict / incident.)*

In all cases, please be reminded that you should not disclose any privileged / internal information of the subject matter to the person(s) / organisation(s) concerned and should further report if there are changes in circumstances necessitating reporting.

(Name of Approving Authority)
(Title / Department)

(Date)

Part C – Keeping of Records *(To be completed by the Declaring Officer)*

To : (Designated Office / Staff Member for Keeping the Completed Declaration Form)
Via: (Approving Authority)

I noted the decision in Part B. The completed form is for your retention please.

(Name of Declaring Officer)
(Title / Department)

(Date)

@ Subject to the guidelines of the Organisation, a conflict of interest declaration / decision may be made via the declaring officer's immediate supervisor / supervisors to / from the approving officer. Otherwise, delete the line.

* Potential conflict of interest refers to situation that may be developed into an actual conflict in the future.

Mitigating Measures for Managing Declared Conflict of Interest

- Record – Where the risk in a conflict of interest situation is indirect, remote or insignificant, and the occurrence of such a situation is infrequent, it may be sufficient to take note of the conflict only.
- Restrict – Where a conflict is not likely to arise frequently and the staff can be effectively separated from the part of activity or process in which the conflict arises, it may be suitable to restrict the staff's involvement in the task in which he has a conflict (e.g. withdrawing from discussion on a specific issue, abstaining from voting on the decisions) and access to the related information.
- Recruit – Where it is impractical to restrict a staff member's involvement, an independent staff member / expert may be recruited to participate in, oversee, or review part or all of the decision-making process if appropriate (e.g. engaging expert in the selection of highly specialised items).
- Redeploy – Where it is inappropriate to allow the staff who has declared a conflict of interest to handle a specific matter, it may be suitable to relieve of the staff's duty which may then be taken up by another staff through redeployment. For serious conflict of interest cases with a high likelihood of relapse, it may be suitable to post out the staff to avoid negative public perception.
- Relinquish – Where a staff member's commitment to the official duty outweighs his attachment to his private interest, and adopting other mitigating measures are not appropriate or possible, he may be asked to relinquish his personal or private interests (e.g. divesting the investments, ceasing to be a member of a club / association).