Good Governance and Internal Control in Public Organizations
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### Essential Elements of a Sound Internal Control System

- **Clear Organizations Policies**
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- **Clear Roles and Responsibilities**
- **Segregating of Duties and Functions**
- **Management of Conflict of Interest**
- **Protection of Sensitive and Confidential Information**
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### APPENDIX 1 – SAMPLE CODE OF CONDUCT FOR MEMBERS OF PUBLIC COUNCILS

### APPENDIX 2 – SAMPLE CODE OF CONDUCT FOR EMPLOYEES OF PUBLIC BODIES
Public organizations wholly or substantially funded by the Government are given a high degree of autonomy to provide public service under their charter. Playing an important role in the community and facing rising public expectation of good governance in their operations, it is imperative for the management of public organizations to adopt measures that could help enhance good governance and foster public confidence.

This checklist on good governance and internal control aims at providing a user-friendly guide to help public organizations set up a sound governance structure and adopt effective control measures in their operations. The Corruption Prevention Department of the Independent Commission Against Corruption (ICAC) has reviewed the governance structures and internal control systems of a number of public organizations for the purpose of drawing up a model of good governance and a checklist of the things-to-do in areas of internal control which are considered corruption prone. Public organizations are expected to adapt the recommended model and measures to suit their operations.

The Corruption Prevention Department of ICAC provides free, confidential and tailor-made advice to both public and private organizations to help them implement corruption prevention measures. For further information, please contact the Corruption Prevention Department by telephone at 2826 3198, by fax at 2521 8479, or by email at cpd@icac.org.hk.
Function of the Governing Board

- Specify the terms of reference of the governing board, including accountability to the Government and the public for the proper running of the organization.

Roles and Responsibilities

- Define clearly the respective roles and responsibilities of the board chairman, members, and the executive director (ED) or chief executive officer (CEO).
- Segregate the roles of the chairman and the ED or CEO which should be performed by different persons.

Code of Conduct

- Prepare a code of conduct for compliance by board members (a sample is at Appendix 1), setting out the ethical requirements, such as:
  - to act honestly, in good faith and in the best interest of the organization;
  - to exercise power for a proper cause;
  - to avoid and declare conflict of interest (see Part IV for procedures);
  - to protect the confidentiality of privileged information obtained in the course of official duty;
  - not to accept advantages in their official capacity;
  - not to bestow gifts/souvenirs to others during the conduct of official activities;
  - not to accept lavish, or unreasonably generous or frequent entertainment when performing the duty of the organization;
  - not to misconduct themselves in relation to their official duties; and
  - not to take up post-service employment in any organizations should conflict of interest arise.
Members’ Handbook

- Compile a handbook for issue to all newly appointed board members, including the following information and the code of conduct (Part IV):
  - the relevant legislations;
  - power and duties of board members; and
  - board and committee procedures.

Capacity Building for Board Members

- Arrange briefings for newly appointed board members on their duties and ethical requirements.
- Organize ethical capacity building sessions for both new and existing members, with the assistance of ICAC.

Functional Committees

- Establish committees (both standing and ad hoc committees), such as committees on audit, finance, remuneration, etc., to handle specific matters.
- Lay down the terms of reference.
- Specify the membership.
- Lay down the requirement for reporting back to the governing board.

Audit Committee

- Establish an audit committee to assist the board to monitor the effectiveness of internal control.
- Task the audit committee to oversee any internal or external auditing activities and the findings with a view to making recommendations for improvement to the board.
- Appoint only non-executive board members to the audit committee, and a member (other than the chairman) of the governing board to be the committee chairman, to ensure its independence.
- Appoint to the audit committee at least one board member who has relevant financial knowledge or professional qualification and other expertise as required.
Remuneration Committee

- Establish a remuneration committee or a mechanism for consideration of the remuneration policy and the levels of remuneration for senior executives.

- Appoint to the remuneration committee only non-executive board members to avoid conflict of interest.

- Require the committee, or through the mechanism, to review the remuneration packages of senior executives and staff with reference to performance in meeting the organization’s objectives.

- Make recommendation to the board on the remuneration packages for senior executives and pay scales for staff.

Reporting Requirements

- Make the ED or CEO accountable to the board for the proper management of the public organization by clearly laying down his or her responsibilities.

- Require the ED or CEO to submit business plans, budgets, and work targets at the beginning of the year and to report on deliverables periodically.

- Require reporting by regular and ad hoc committees as appropriate.


**Board Meetings**

- Lay down the quorum for meetings.
- Establish rules governing meeting frequency, attendance requirements, and voting exercises, etc.
- Set the board meeting schedules in advance to ensure members’ availability.
- Resolve matters by circulation of documents only in case of emergency.
- Provide sufficient advance notice (e.g. 30 days) to remind board members of the date of meeting.

**Agenda and Board Papers**

- Draw up an agenda for meeting with the agreement of the chairman.
- Dispatch the agenda and related papers for discussion to board members in advance of the meeting (e.g. 7 days).

**Minutes of Meetings**

- Prepare minutes of meetings promptly after each meeting.
- Record accurately the board’s decisions, including members’ views and any dissenting comments.
- Circulate the draft minutes to board members for comment and require the minutes be endorsed by the board and signed by the chairman.
- Ensure the finalized minutes of meetings are accessible by board members.

**Access to Information**

- Establish rules for access to information of the organization by board members and designate a senior executive to whom members could approach for information.
- Require the executive to respond promptly to any queries and requests for information raised by board members.
- Establish a system for board members to obtain independent professional advice in relation to matters of the organization with the approval of the board.
Delegation of Authority

☐ Set out in writing the authorities of the board delegated to individual committees and the senior executives, and the limits of their power.

☐ Review the effectiveness of delegation arrangements periodically.
**Commitment to Good Governance**

- Make a statement in the Code of Conduct that the organization is committed to good governance and ethical practices.

**Code of Conduct**

- Issue separate codes of conduct for compliance by board members and staff.
- Include in the code:
  - the policies and procedures governing acceptance of advantages and entertainment, and the relevant provisions under the Prevention of Bribery Ordinance.
  - guidelines on declaration and handling of conflict of interest situations.
  - explanation and examples of misconduct in public office.
  - the requirements governing the post-service employment or activities.
  - the importance of supervisory accountability.
  - rules on the use and protection of proprietary information.
  - procedures for applying for permission to take up outside employment and part-time job (for employees only).

*(Sample Codes of Conduct for Members of Public Councils and for Employees of Public Bodies are at Appendices 1 and 2.)*

**Acceptance of Advantages and Entertainment**

- Ensure that the board members and staff are aware of the provisions and sanctions under the Prevention of Bribery Ordinance.
- Remind the board members and staff to decline accepting advantages offered/presented to them by virtue of their official position as far as practicable.
- Remind board members and staff to avoid accepting unduly lavish, unreasonably generous or frequent entertainment from persons with whom they have official contacts or which is likely to give rise to any potential or real conflict of interest.
**Offering of Advantages**
- Remind board members and staff to refrain from bestowing gifts/ souvenirs to others during the conduct of official activities as far as possible.

**Conflict of Interest**
- Stipulate the requirements for board members and staff to avoid and declare any conflict of interest, and provide them with examples of conflict of interest situations.
- Establish a system to record and manage the declared conflicts (e.g. a written record of the declared conflict and the action taken to mitigate the conflict by the board or senior management).

**Declaration of Interest for Board and Committee Members**
- Require members to declare actual or perceived conflict of interest as it arises.
- Require members to disclose their pecuniary interests upon appointment and annually thereafter. Such disclosures should be recorded and made available for public inspection on request.

*(The sample guidelines on Declaration of Interests by Members of Public Councils, Boards and Committees are at Annexes 3(a) and 3(b) of Appendix 1).*

**Misuse of Official Position**
- Prohibit and remind board members and staff not to use their official positions to benefit themselves or their relations, friends or associates.

**Misconduct in Public Office**
- Remind board members and staff that misconducting themselves in relation to their official duties may commit the common law offence of misconduct in public office.
- Provide board members and staff with the elements of the offence and examples of the past conviction cases.
Handling of Confidential Information

☐ Set out the policy for classification of information and make it known to all board members and staff.

☐ Prohibit board members and staff from disclosing any classified information without authorization.

☐ Remind board members and staff that they should not take advantage of or let any person or other organization benefit from, the confidential or privileged information obtained in the course of their official duties.

☐ Establish a system for restricting access to classified information (e.g. the restricted levels and recording of recipients of confidential documents).

☐ Set security standards to ensure data integrity is adequately protected in the computer and in physical office environment.

☐ Require board members and staff to continue to observe their duty of confidentiality after they have left the organization.

Outside Employment

☐ Require the outside work undertaken by employees to be subject to approval to ensure that it would not give rise to actual or perceived conflict of interest.

☐ Make known the rules governing outside employment to all staff.

☐ Review any approved cases on an annual basis.

Post-Service Employment/Activities

☐ Require board members and senior staff not to take up employment or provide service in any organizations which might constitute conflict of interest with their former service in the organization.

☐ Require senior staff not to take up any employment or provide service to any organizations which may cause negative public perception embarrassing the organization or give rise to reasonable apprehension of deferred benefit.
Sponsorship Offered to Members/Staff in Their Official Capacity

☐ Regard sponsorship offered to board members or staff in their official capacity as sponsorship offered to the organization, and refer the sponsorship to the organization for consideration of acceptance according to laid-down criteria.

Supervisory Accountability

☐ Remind staff who have a responsibility to supervise and direct staff to embrace a two-fold responsibility, namely the satisfactory discharge of his own duties and his duties as a supervisor.

Reporting Suspected Criminal Offences and Irregularities

☐ Remind board members and staff to report all instances of crime or alleged crime discovered in the course of his official duty to the appropriate law enforcement authority at the first practicable opportunity.

Training

☐ Provide capacity building training for both new and serving board members and staff, with the assistance of ICAC.

☐ Include in the training programmes the related legislation (e.g. the Prevention of Bribery Ordinance), common law offence and specific topics (e.g. conflict of interest).
Transparency and Accountability

- Make transparent the organization’s operations and performance pledges, through disclosures on the website, in annual reports, and through pamphlets or press briefings.

- Publicize the following information:
  - organization governance, objectives, and performance pledges;
  - roles and responsibilities of the board and committees;
  - profiles of the board members and key executives;
  - number of board meetings held during the year and, on request, members’ attendance rate;
  - code of conduct for board members and employees;
  - remuneration of senior executives;
  - procurement and recruitment policies;
  - audited financial statements; and
  - achievements against set targets.

Board Performance

- Require the board to regularly evaluate its own performance.

Disclosures

- Establish effective communication channels through which the members of the public could obtain information on the organization¹.

¹ The communication channels include the organization’s website, annual reports, regular press releases and briefings on major events; and a mechanism for receiving and handling public suggestions, complaints and enquiries to ensure they are dealt with promptly.
Introduction

Ensure that there is in place a sound system of internal control and that the parties involved understand their respective responsibilities:

- The board level - the board provides guidance and oversight on the organization's operations. It should set policies on internal control and satisfy itself that the control systems are effective by requiring the ED or CEO to report any irregularities in the organization's operations.

- The management level - the ED or CEO and senior management are duty bound to implement the policies on internal control passed down by the board and adopt risk mitigating measures as necessary.

- The employees level - all employees should exercise due diligence in implementing internal control measures and be held accountable for any non-compliance.

Essential Elements of a Sound Internal Control System

Put in place a sound internal control system comprising the following key elements which generally apply to all activities within the organization.

**Clear Organizations Policies**

Devise and publicize to all policies in respect of internal control matters.

**Clear Work Procedures**

Lay down the procedures for the essential operations (e.g. procurement procedures) for staff compliance.

**Clear Roles and Responsibilities**

Clearly define responsibilities of staff at all levels, including their role, duty, power, and chain of command.

**Segregation of Duties and Functions**

Assign major duties and functions which are susceptible to abuse or corruption to different staff members to enhance checks and balances.
**Management of Conflict of Interest**

- Require all conflict of interest to be duly declared, recorded, and managed.

**Protection of Sensitive and Confidential Information**

- Safeguard sensitive or confidential information, in hard and soft copies and restrict access to authorized persons only.

**Supervisory Checks**

- Require supervisors to conduct routine and surprise checks to ensure compliance with all laid down rules and procedures.
- Record and report any irregularities found to the senior management for disciplinary action.

**Documentation**

- Properly document all activities (e.g. recruitment and promotion exercise, acceptance of donations), and record justifications for any deviations from the guidelines to ensure accountability and provide an audit trail.

**Channels for Complaints**

- Establish and publicize the channels for complaints by staff, customers and service providers.
- Require designated staff to handle complaints promptly and report them to the management for action.
- Inform the board of complaints that are serious and may affect the organization's operation or reputation.

**Protection to Whistle-Blowers**

- Lay down a whistle-blowing mechanism to encourage and enable reporting of irregularities.
- Include a statement pledging protection to the whistle-blower's identity.
- Publicize the reporting channels.
- Establish investigation procedures.
- Report criminal offences to the relevant law enforcement agencies.
**Risk Management**

- Establish a risk management framework to identify risk areas, devise preventive measures and have in place an audit function to check compliance.

**Audit**

- Appoint an independent auditor or an internal audit team to audit the activities of the organization, including checking compliance with all statutory and regulatory requirements and standards, and the organization’s policies and procedures.

**Internal Audit Team**

- Ensure that the team functions independently.

- Provide the team with direct access to the audit committee or the board regarding:
  - endorsement on the audit programme and the scope of audit;
  - reporting of audit findings; and
  - appointment and dismissal of members of the audit team.

**External Auditor**

- Require the appointment and removal of the external auditor be approved by the board on the recommendation of the audit committee.

- Allow the external auditor to communicate freely with the internal audit team and the audit committee.

- Report to the board the management’s responses to the audit findings.

- Ensure that the external auditor does not have any conflict of interest in relation to the organization’s business or arising from its relationship with any board members or executives.
Basic Requirements

☐ Issue procurement guidelines to the staff concerned which should:

  • include a policy statement that all procurement should be conducted in an open, fair, and competitive manner with good value for money.

  • specify the procurement methods (e.g. open tenders, quotations, petty cash purchases), the approving authorities and the procedures for purchases of different values.

  • designate an authority for approving exemptions to the procurement guidelines.

☐ Segregate the procurement duties, such as sourcing of suppliers/contractors, evaluation of bids, approval of purchases, receipt of goods, and certification of payments as far as possible.

☐ Build in the process effective supervisory checks to ensure the laid down procedures are followed and the procurement decisions are made properly.

☐ Maintain proper documentation of the procurement process, including decisions and justifications.

☐ Produce information reports on trends of procurement and any irregularities (e.g. split orders or over budget purchases) for the senior management’s review.

List of Suppliers/Contractors

☐ Compile a list of suppliers/contractors for frequently required goods or services, categorized by the types of goods or services they provide.

☐ Lay down the listing criteria (e.g. the company size, years of experience, specialization, etc.) and subject the list to approval by a panel or designated senior staff; and require suppliers nominated by users to the same listing process.

☐ Ensure the listed suppliers/contractors are given a fair chance to bid (e.g. invitation to bid by rotation) and select sufficient numbers from the list in addition to any nominations from users.
Establish a performance management system, taking into account users’ feedback and take disciplinary action in case of poor performance (e.g. suspension from invitation to bid).

Review and update the approved list regularly (e.g. annually) with a view to removing any inactive suppliers/contractors or those with persistent adverse performance records.

**Making Purchase Requests**

- Require the procurement staff or users to detail in the purchase requisition form specifications and quantities of the goods or services required, the date of delivery, the performance standards as appropriate (e.g. cleaning schedules in a cleaning contract), the name of the requesting person and the approving authority.

- Ensure that the specifications are not overly restrictive to favour any particular supplier or contractor.

- Require the procurement staff to record the justification for deviations from laid down guidelines (e.g. purchase from a sole supplier) and seek approval from the appropriate authority.

**Procurement Methods**

- Lay down the procurement methods to be used for different purchases of value or nature:
  - Invitation to Tender – for high-value purchases or where quality or technical aspects are important considerations, either by open or restricted tendering;
  - Invitation for Quotations – for medium-value purchases where price is the only consideration with the minimum number of quotations specified; and
  - Direct or ‘Petty Cash’ Purchases – for low-value purchases not exceeding a pre-set limit.
**Tender Procedures - Tender Invitation**

- Source suppliers or service providers following the steps mentioned in the listing system mentioned above.

- Set out clearly in the tender invitation:
  - a detailed description of the performance requirements or service standards;
  - the criteria for tender selection, the weightings of “price offer” as compared to “performance/service proposal”, and the marking scheme, if applicable;
  - the contract terms and conditions;
  - the deadline for submission of tender proposals; and
  - the submission method (e.g. tender proposals to be submitted in duplicate with the price and service proposals in separately sealed envelopes).

- Consider giving a briefing to all potential bidders shortly after the tender invitation.

- Take measures to ensure the security of the tender proposals received.

- Assign a tender opening team (comprising at least two persons) to open the proposals immediately after the submission deadline.

- Designate a senior staff member not involved in the evaluation to keep the duplicate copies of the proposals.

- Accept late submissions after the closing time only if justified (e.g. insufficient tenders) and with the approval of a designated authority (e.g. the tender board).

**Tender Procedures - Tender Evaluation**

- Pre-determine the criteria and their relative weightings (using a marking scheme if appropriate) for evaluation of tender proposals.

- Appoint an assessment panel (comprising staff from the user department, the procurement department and specialist/technical department as appropriate) to evaluate the proposals.

- Require the panel members to record their assessment or marking independently on a standard evaluation form for each proposal before calculating the total score.

- Give bidders an equal chance to make a presentation, if required, before the panel.
Select the tender with the highest score and seek approval from the designated authority.

In case negotiation is intended, determine the number of shortlisted bidders for negotiation (e.g. the highest three) before tender assessment, determine the baseline for negotiation, and assign staff of the appropriate level to conduct the negotiation, and prohibit any changes to the mandatory requirements in the negotiation process.

**Quotation Procedures**

- Invite the required number of suitable suppliers or service providers on the approved list to bid following the recommended practice mentioned in the listing system mentioned above and keep a record of those invited to bid.

- Provide the bidders with a detailed description of the goods or services required.

- Advise the bidders of the deadline for submission of quotations.

- Keep a record of the date, the name of the bidder, the offered price, and the name of the responsible staff, if verbal quotations are accepted.

- Use a designated fax machine kept in a secure place or an email account with password control for receiving quotations to prevent tampering with the quotations received.

- Obtain approval from a designated authority with justification if the lowest offer is not selected.

- Devise a mechanism to deter and detect bogus quotations (e.g. random checks with the invited bidders).

- Establish a system to detect and deter split orders (e.g. supervisory checks on the pattern of purchases).

**Petty Cash Purchase**

- Require the procurement staff to acknowledge receipt of the petty cash for the purchase and to return any unspent sum together with the invoices or receipts to the finance section.

- Arrange payment or reimbursement to the procurement staff only upon submission of an invoice or receipt, or a claim form signed by the procurement staff and certified by his/her supervisor if no receipt is produced.
Receipt of Goods and Services

☐ Assign a staff member, preferably not the one placing the purchase order, to receive and inspect the goods delivered.

☐ Arrange testing of the goods (e.g. Specialist equipment) by competent staff before acceptance.

☐ Make available to the users the service requirements or standards and ask them to check the deliverables pledged.

☐ Require the users to certify acceptance of goods or services within a specified time limit upon receipt of the goods or delivery of a service.

☐ Handle defective goods or short delivery in accordance with established procedures (e.g. asking the supplier/service provider to make good the shortfall immediately).

Payment Procedures

☐ Establish authorization levels for approving payments and signing cheques.

☐ Allow payment only on confirmation of deliverables by users.

☐ Specify different payment methods, based on the amount of transactions.

☐ Specify the documents required to support a payment claim.

☐ Provide for non-routine payments such as advance payments and the conditions attached.

☐ Devise a mechanism to deter and detect undue delay in payment or double payments.
Introduction

☐ Establish an equitable and transparent staff administration system, and lay down guidelines to ensure consistency in practices and to prevent allegation of favouritism or manipulation.

Staff Recruitment

☐ Lay down the policy for filling vacancies (e.g. open recruitment, internal promotion, or head hunting) and subject the choice to the approval of the board (for senior posts) or the senior management (for other posts).

☐ Publicize open recruitment exercises through advertisement and the website.

☐ Set out the minimum requirements on qualifications and experience and pre-determine the selection criteria.

☐ Appoint a selection panel comprising both managerial staff from the user department and human resources department to conduct vetting and selection of candidates.

☐ Set out the level of authority for approving the assessment criteria and the appointment.

☐ Notify the candidates of the result as soon as possible.

Determination of Remuneration

☐ Establish a salary scale and the associated fringe benefits for each rank of staff.

☐ Lay down the criteria and approval authority for determining the remuneration package of an appointee (e.g. the board for senior executives), taking into account his/her qualification, work experience, and expertise as well as the market rate.

☐ Specify the formula and criteria for calculating pay adjustment and performance bonus, if applicable.

☐ Pre-determine the criteria and approval authority for salary point advancement.
 Require any deviations from the remuneration policy or special remuneration packages to be approved by the board or the senior management as appropriate.

 Prohibit board members or senior executives from participating in the process of discussion or decision making for their own remuneration packages.

**Performance Appraisal**

 Pre-determine and make known to all staff the core competences and performance standards of each rank or post.

 Use a standard form for performance appraisals.

 Require that appraisal reports be made by the immediate supervisor and counter-signed by a more senior staff member or the unit head.

 Establish a system for the appraisees to read and acknowledge the appraisal reports and a channel for requests for review.

**Staff Promotion**

 Lay down and make known to the staff the eligibility criteria for promotion.

 If a written test is required, make known to the staff the syllabus, and establish procedures with adequate safeguards against abuse in question setting, test invigilation and question marking.

 Appoint a promotion panel to assess eligible candidates for promotion, based on the pre-determined criteria.

 If an interview with the candidates is required, establish the interview procedures and design an assessment form for use by the panel members.

 Specify the level of authority for approving the promotion.

 Ensure promotion results are announced as soon as possible to avoid speculation.
Introduction

- Given the potential for abuse and undue claims, handle with extra care claims by board members and staff for reimbursement of allowances or expenses arising from overseas duty visits, official entertainment functions, and other miscellaneous activities.

Overseas Duty Visits Allowances

- Ensure all overseas duty visits are approved on the basis that they are in the interest of the organization and for a cause related to its operations.
- Establish the level of authority for approving duty visits.
- Specify the types of allowances or expenses that are payable upon claims for reimbursement.
- Specify the entitlement for classes of transport (e.g. first/business/economy class), rates of hotel accommodation, rates of subsistence allowance, etc., by staff of different grades.
- Lay down the organization’s policy for variation of duty passages (e.g. stop over or detour for personal reasons), the authority for approval of such variations, and the conditions for approval.
- Lay down the procedures for applying for cash advances, if necessary, and the approving authority.
- Lay down the reimbursement procedures and the supporting documents required for submission of claims.
- Design a claim form for use by the staff concerned.
- Specify the conditions under which the spouse of an officer may be allowed to join him/her on the duty visit.
Entertainment Expenses

- Approve entertainment expenses only for an official purpose and be mindful of public perception of extravagance.
- Specify the circumstances under which reimbursable entertainment expenses could be incurred (e.g. at least half of the participants must be guests who have official dealings with the organization).
- Set out the types of allowable expenses.
- Specify the respective ceiling claims (e.g. per guest, per month or per year).
- Establish the approving authorities and their financial limits.
- Prohibit board members or senior executives of the organization from approving their own entertainment expenses.
- Require claimants to seek prior approval before the entertainment expenses are incurred.
- Specify the exceptional circumstances for granting retrospective approval for such expenses.
- Lay down the reimbursement procedures and the types of supporting documents required.
- Generate periodical management information reports showing the entertainment expenses claimed by board members and staff, and any exceptionally high or frequent spending patterns for monitoring by the board or relevant committee.
Foreword

[The Council¹ may include a short message from the Chairman to emphasise the importance of public sector integrity and remind members to closely observe.]

Mission
1. [Name of Council]’s (hereafter referred to as the Council) roles in serving the community are expressed in our Mission Statement as follows:

[The mission of the Council]

2. All Members² should be committed to the mission which clearly sets out the Council’s aims and the objectives in our particular areas of work.

Core Values
3. The Council is fully committed to the following principles in the delivery of services to the public.
   - honesty and integrity;
   - objectivity and impartiality;
   - accountability for decisions and actions; and
   - dedication, professionalism and diligence.
   - [the Council may insert other suitable values]

4. A Member should uphold the above core values. He³ should always act in the best interest of the Council, place public interest above private interest and ensure that his conduct would not bring the Council into disrepute.

[The Council should also ensure that Members of the committees, sub-committees and panels set up under the governing body of the Council, etc. are covered by this code of conduct or a separate code tailor-made for them.]

¹ Council includes any Boards and Committee, statutory or advisory, set up by the Government to perform public duties.
² Members in general refer to the members of the governing body of a public council.
³ A reference to the masculine gender in this code covers both the feminine and masculine gender.
Prevention of Bribery Ordinance

5. [Name of Council] is a public body under the Prevention of Bribery Ordinance (Cap. 201) ("POBO"). All Members of the Council are “public servants” for the purpose of the Ordinance.

6. The POBO seeks, among other things, to enforce against any abuse of entrusted power or official position by public servants through the solicitation or acceptance of a bribe or an advantage. Members should thoroughly understand the legal requirements and the importance of compliance.

7. **Section 4** of the POBO makes it an offence for a public servant to solicit or accept, without lawful authority or reasonable excuse, any advantage in Hong Kong or elsewhere as an inducement to or reward for or otherwise on account of his performing or abstaining from performing any act in his capacity as a public servant.

[For public councils which are not public bodies under the Prevention of Bribery Ordinance, the above paragraph should be recast as:

8. Members of [name of Council] are agents of the Council governed by Section 9 of the Prevention of Bribery Ordinance (Cap. 201). Under the Ordinance, any Council Member who, without the permission of his principal (i.e. the Council), solicits or accepts an advantage as a reward or inducement for doing any act or showing favour in relation to the latter’s business, commits an offence. The person offering the advantage also commits an offence.

9. It is also an offence under the Ordinance for any Council Member to use any document containing false information with the intent to deceive the Council.]

10. “Advantage” is defined in **section 2(1)** of the POBO to mean almost anything which is of value, except entertainment which will be covered under a separate heading below. Common examples of advantages include any gift (both of money and in kind), loan, fee, reward, commission, office, employment, contract, service and favour, etc.

* The person offering the advantage may also commit an offence.*
11. Members should note that one may commit an offence under the POBO irrespective of whether he, or any other person acting on his behalf, directly or indirectly solicits or accepts any advantage, and whether for himself or for any other person.

[The relevant sections of the POBO pertaining to public bodies are detailed at Annex 1.]

Solicitation and Acceptance of Advantages

12. [Name of Council] prohibits Members from soliciting or accepting any advantage from any persons or companies having official dealings with the Council (e.g. service recipients, suppliers, contractors).

13. Even if the offeror does not have any official dealings with the Council, a Member should decline an offer of an advantage if the acceptance could affect his objectivity in conducting the Council’s business, induce him to act against the Council’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.

14. A Member should always consider the public perception when accepting an offer of an advantage and ensure that the solicitation or acceptance of any advantages can stand up to public scrutiny and will not bring the Council into disrepute.

15. When a Member is in doubt, he should consult [the Chairman, the Secretary or a designated staff of the Council.]

Advantages Offered to Members in Their Official Capacity

16. An advantage (e.g. gift, souvenir) presented to a Member by virtue of his official position or on an occasion attended in the Member’s official capacity is regarded as an advantage to the Council (e.g. a souvenir presented by the organiser of a ceremonial occasion to a Member representing the Council to officiate at the ceremony).
17. Members should as far as possible decline to accept advantages offered/presented to them by virtue of their official position. Where this cannot be done (e.g. owing to protocol reasons or the need to avoid causing offence or embarrassment, such as where a gift is offered/presented to a Member when attending a ceremonial occasion in his official capacity), he should take it back to the Council and follow the guidelines set out at Annex 2 for the disposal of gifts/souvenirs received.

Sponsorship Offered to Members in Their Official Capacity

18. Members may be offered sponsorship in their official capacity by persons/organizations other than the Council itself for official purposes such as attending local/overseas conferences, conventions and product trial activities. Such sponsorship should be regarded as sponsorship offered to the Council and referred to the Council for consideration of acceptance.

19. The Council will consider whether it is appropriate to accept the offer and if the Council decides to accept the sponsorship, it will select a suitable Member/staff to attend the sponsored activity on its behalf. In considering whether or not to accept the sponsorship offer, the following general criteria are relevant:

- acceptance of the sponsorship will benefit the Council as a whole;
- acceptance of the sponsorship will not bring the Council into any disrepute;
- the sponsorship is not excessive in value or frequency;
- acceptance of the sponsorship will not give rise to any expressed 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 Council’s contracts); and
- the sponsor will not be given or be perceived to derive an unfair advantage over other persons or organizations.
Acceptance of Entertainment

20. As defined in section 2 of the POBO (Annex 1), “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.

21. Although entertainment when offered by way of a favour is not an advantage per se and its acceptance is generally not subject to the POBO, a free entertainment may, in certain circumstances, amount to “a discharge of an obligation to pay” which is an advantage under section 2 of the POBO. For example, where a public servant visits a restaurant with which he has official dealings and at the end of the meal the restaurant owner waives the bill, this may amount to an acceptance of an advantage.

22. Members should not accept lavish, or unreasonably generous or frequent entertainment, or indeed any entertainment which is likely to give rise to any potential or real conflict of interest, put the Members in an obligatory position in the discharge of their duties, compromise their impartiality or judgement, or bring them or the Council into disrepute bearing in mind public perception. When offered entertainment, a Member 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 Member and the offeror (e.g. whether they have any direct official dealings); or
- undesirable – taking into account the character or reputation of the host or known attendees.

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

23. Members are prohibited from offering advantages to any director, or staff of any organization, for the purpose of influencing such person or organization in any dealings, or any public official, whether directly or indirectly through a third party, when conducting the business of the Council. It is also an offence under the POBO for any person while having dealings with a public body to offer an advantage to the public body’s members and employees.

24. Members 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 number of gifts/souvenirs to be bestowed should be kept to a minimum and the exchange of gifts/souvenirs should be made from council to organization. Gift/souvenir items should not be lavish or extravagant and standard souvenirs inscribed with the Council’s logo are preferred.

Managing Conflict of Interest

25. Managing conflict of interest is important to good governance and maintaining trust in public bodies. Conflict of interest if improperly managed, give rise to criticism of favouritism, abuse of authority or even allegation of corruption and undermine the integrity of Members, their decisions and eventually the Council.

Conflict of Interest

26. A conflict of interest situation arises when the “private interests” of a Member compete or conflict with the interests of the Council or the Member’s official duties. Private interests include financial and other interests of the Member himself, and those of his connections including family and other relations, personal friends, the clubs and societies to which he belongs, and any person to whom he owes a favour or to whom he may be obligated in any way. Use of official position, use of official information, private investment and outside employment are some common areas in which a conflict of interest may arise between a Member’s official duties and private interests.
Avoidance and Declaration of Conflict of Interest

27. A fundamental integrity requirement is that all Members should avoid situations which may compromise (or be seen to compromise) their personal judgement or integrity at work or lead to conflict of interest.

28. When a situation involving a conflict of interest cannot be avoided, Members 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. The basic principle to be observed is that Members’ advice should be disinterested and impartial and it is the responsibility of each Member to judge and decide if the situation warrants a declaration, and to seek a ruling from the Chairman or the Secretary in case of doubt.

29. There are circumstances in which a tie of kinship or friendship, or some other association or loyalty which does not give rise to a financial interest, can influence the judgement of a Member in discharging his official duties, or may reasonably be perceived as having such an influence. As such, a Member’s duty to avoid or declare a conflict of interest goes beyond the disclosure of interests that are definable in pecuniary terms.

[Public bodies may make reference to the declaration guidelines issued by the Home Affairs Bureau at Annex 3(a) and Annex 3(b). The guidelines provide two declaration systems, namely the one-tier reporting system and the two-tier reporting system. Both systems include the procedures for declaration of interests at meetings. In addition, the two-tier reporting system incorporates the requirement for registering Members’ interests. Under the two-tier reporting system, Members are required to register in writing their interests as specified by the council when they first join the council and annually thereafter. Public bodies are advised to consult the Government Bureaux concerned as to whether they should adopt the one-tier or two-tier reporting system in accordance with the Home Affairs Bureau’s guidelines.]

5 Drawn up by the Home Affairs Bureau, the guidelines advise that public bodies which have one or more of the following functions or characteristics should adopt the two-tier reporting system (Annex 3(b)):
   (1) having a high degree of management and financial autonomy;
   (2) having extensive executive powers in matters of public interest;
   (3) being instrumental in shaping major government policies;
   (4) having the power to award major government contracts;
   (5) having access to sensitive information;
   (6) being responsible for the control and disbursement of substantial public funds.
Examples of Conflict of Interest

30. Some common examples of conflict of interest are described below but they are by no means exhaustive:

- Pecuniary interests in a matter under consideration by the Council, held either by the Member or his close relative.

- A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organization which is connected with, or the subject of, a matter under consideration by the Council.

- Some friendships which might be so close as to warrant declaration in order to avoid the situations where an objective observer may believe that a Member’s advice has been influenced by the closeness of the association.

- A Member who, as a barrister, solicitor, accountant or other professional adviser, has personally or as a member of a company, advises or represents or has frequent dealings with any person or body connected with a matter under consideration by the Council.

Members Bidding for the Council’s Contracts

31. As a matter of principle, Members should avoid entering into any business contract (e.g. for the supply of goods or services) with the Council in their personal capacity to prevent the public perception of Members using their capacity to obtain financial gains from the Council. Where this is unavoidable, Members shall adhere to the guidelines on managing possible conflict of interest in bidding for the Council’s business contracts as set out at Annex 4.

Misuse of Official Position

32. Persons occupying public offices are placed in a position of trust and entrusted with certain powers by the public. Our society expects public officials in such a position to exercise the powers and discretions with integrity and fidelity, and in an incorrupt manner to serve the public interest, and should not subordinate the public interest to private interests.

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6 The guidelines were issued by the Home Affairs Bureau to all Government Bureaux/Departments on 17 August 2005.
33. Members should act impartially and should not use their official position for personal gains nor accord preferential treatment to organizations 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 public 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 Council sanctions or endorses their personal activities or those of another.

**Misconduct in Public Office**

34. A Member who misconducts himself in relation to his official duties may commit the common law offence of MIPO. The common law offence of “misconduct in public office” (“MIPO”) extends the reach of criminal law beyond bribery into various types of misconduct of public officers when discharging their official duties. The elements constituting the offence of MIPO are as follows:

(a) a public official;

(b) in the course of or in relation to his public office;

(c) wilfully misconducts himself by act or omission (for example, by wilfully neglecting or failing to perform his duty);

(d) without reasonable excuse or justification; and

(e) such misconduct is serious, not trivial, having regard to the responsibilities of the office and the office-holder, the importance of the public objects which they serve and the nature and extent of the departure from those responsibilities.

35. The misconduct must be deliberate rather than accidental in the sense that the official either knows that his conduct is unlawful or wilfully disregards the risk that his conduct is unlawful. Wilful misconduct without reasonable excuse or justification is culpable.
36. The essential feature of the offence is an abuse by the public official of the powers, discretions or duties exercisable by virtue of his official position conferred on him for the public benefit. A public officer may commit MIPO even if his misconduct does not involve any bribery or he does not have any pecuniary gains as a result.

37. Some examples of the past conviction cases are described below:

- A department head of a university misused university funds to hire a domestic helper cum driver and covered up a subordinate's embezzlement.

- A faculty dean of a university failed to declare a conflict of interest arising from his capacity as the dean and as the sole proprietor of a company. He had procured or caused donations totaling HK$3.8 million that were intended for the university to be paid to his private company.

- A chairman of a public body responsible for considering licence applications improperly discussed with the applicants and their agents before convening board meetings and provided classified documents relating the licence applications to a personal friend working for the applicants. He also failed to declare the conflict of interest in respect of his relationship with the licence applicants and their agents when considering their applications.

- A deputy head of a public body dishonestly claimed the cost of return airfares for attending meetings and overseas subsistence allowances to which he was not entitled.

- A doctor in a public hospital had sent out letters advertising the fact that he was leaving to commence private practice. Those letters contained some confidential personal particulars of patients, including those with whom he had not dealt with personally but simply patients under the management of his team.

- A civil servant responsible for the award of service contracts had misused his office by exerting improper influence over the award of contracts to a company which was not qualified for tendering for the contracts and in which his relatives had a financial interest.
A civil servant responsible for conducting a registration examination assisted a friend in obtaining the registration dishonestly, and provided the latter with classified information relating to the examination.

[Examples, if any, relating to the Council’s work should be inserted.]

Use of Council’s Assets and Resources

38. Members in charge of or having access to any assets of the Council, including funds, property, information, and intellectual property should use them solely for the purpose of conducting the Council’s business. They should make the best use of the Council’s assets and resources in terms of money, property, goods or services economically and effectively. Any appropriation of the Council’s properties for personal use or personal gain is strictly prohibited and may amount to an offence under the Theft Ordinance (Cap. 210).

Confidentiality of Information

39. Members should not disclose any classified or proprietary information of the Council without authorisation or misuse any Council’s information (e.g. using the information for personal gain or the benefit of others).

40. Members who have access to or in control of such information should at all times ensure its security and prevent any abuse, unauthorised disclosure or misuse of the information.

41. Special care should be taken when handling any personal data of both the Members and service recipients to ensure compliance with the Personal Data (Privacy) Ordinance (Cap. 486) and the Council’s data privacy policy.

42. Members should continue to observe their duty of confidentiality after they have left the Council. They should not use, or take advantage of any classified or proprietary information obtained in the course of their official duties.
Outside Work

43. A Member who intends to accept a position with any organization that could lead to a conflict of interest or situation prejudicial to the Council’s interests, should discuss the implications of accepting such a position with the chairman of the Council. He should consider resigning from the Council if the conflict or the perception of such cannot be avoided.

Post-Service Employment/Activities

44. Members should avoid taking up employment or providing service in any organizations which might constitute conflict of interest with their former service in the Council.

[The Council should formulate a policy governing the post-service activities of Members, taking into account their right to pursue employment after ceasing the Council’s service.]

Records, Accounts and Other Documents

45. Members should ensure, to the best of their knowledge, that any record, receipt, account or other documents they submit to the Council, gives a true representation of the events or transactions reported in the documents.

46. Intentional use of documents containing false information to deceive or mislead the Council, regardless of whether the Members may obtain any gain or advantage, may constitute an offence under the POBO (Annex 1).

Gambling

47. Members should not engage in frequent or excessive gambling of any kind, or any games of chance involving high stakes. Members should not gamble with persons having official dealings with the Council or over whom they have enforcement responsibilities.
Loans

48. Members should not accept a loan from or through the assistance of, any person or organization having official dealings with the Council. There is, however, no restriction on borrowing from a licensed bank or financial institution.

Indebtedness

49. Members should avoid allowing themselves to get into a position where any debts they may have become unmanageable and other financial embarrassment which may bring the Council into disrepute.

50. Members are required to notify the Chairman or [insert an appropriate officer in the secretariat] if proceedings are taken against them with a view to bankruptcy. Members who become insolvent or bankrupt, even though no proceedings have been taken against them yet, should also report their case to the Council.

Use of Public Funds

51. Members shall ensure that all public funds are used in a prudent and responsible manner to safeguard public interest. They should only approve funds for any project/activity/expenditure item which falls within the ambit of the funds and can achieve the purpose of the funds.

52. Members shall particularly ensure that an open, fair and competitive mechanism is adopted for the procurement of goods/services and recruitment of staff for the Council.

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7 Individual voluntary arrangement (IVA) is an alternative to bankruptcy under the Bankruptcy Ordinance. A staff member taking up an IVA is regarded as insolvent and should report the case to the Council.
Reporting Suspected Criminal Offences and Irregularities

53. A Member should report, either directly or through [insert an appropriate officer in the secretariat] as appropriate, all instances of crime or alleged crime discovered in the course of his official duty to the appropriate law enforcement authority at the first practicable opportunity. He has no discretion in deciding which cases of crime or alleged crime to report. He should avoid making any enquires or taking any action that may hinder or frustrate subsequent investigation by the law enforcement authority concerned.

54. Attempting to bribe a public servant is a criminal offence under the POBO. Such attempts should be reported promptly to the ICAC. All such reports should be treated in the strictest confidence.

55. A Member should also report other irregularities observed in the course of their official duty to [the Chairman, the Secretary or a designated staff of the Council.] All such reports should be treated in the strictest confidence.

Compliance

56. Members should understand and comply with this Code when performing duties of the Council. They should adhere to the spirit and the letter of any rules or orders made for the Council’s practices and procedures or for Members’ behaviour in relation to the business of the Council.

57. Members should comply with all local laws and regulations when conducting the Council’s business, and also those in other jurisdictions, when conducting business there.

58. Any 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 ICAC or the appropriate law enforcement agencies.
Review

59. This Code is subject to review and revision from time to time by the Council.

Enquiry

60. Any enquiries, comments or suggestions in relation to this Code may be referred to [a designated staff of the Council].
Extracts from the Prevention of Bribery Ordinance (Cap. 201)

Section 4 - Bribery

(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.

(2) Any public servant who, whether in Hong Kong or elsewhere, 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) 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 himself 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.
(2A) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to the Chief Executive as an inducement to or reward for or otherwise on account of the Chief Executive's -

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his 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.

(2B) If the Chief Executive, whether in Hong Kong or elsewhere, 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) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his 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,

he 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.
(4) For the purposes of subsection (3) permission shall be in writing and -

(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 (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 8 - Bribery of public servants by persons having dealings with public bodies

(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 9 - Corrupt transaction with agents

(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 2 - Definition

Definition of an Advantage

“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.

**Definition of Entertainment**

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.
Guidelines for Handling Gifts/Souvenirs
Given to Members in their Official Capacity

All gifts/souvenirs received by Members in their official capacity should be forwarded to the Secretary of the Council for disposal in the following manner:

(a) If the gift/souvenir is of perishable nature (e.g. food, drink), it may be donated to a charitable organization or, when this is not practical, shared among staff of the Council on a suitable occasion.

(b) If the gift/souvenir is a useful item, it may be donated to a charitable organization.

(c) If the gift/souvenir is suitable for display (e.g. a painting, vase), it may be displayed at appropriate locations of the Council premises.

(d) If the gift/souvenir is of low value, it may be donated as a prize in functions organised by the Council.

(e) 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.

(f) 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.

(g) Any gift/souvenir of high value should be returned to the offeror.
Declaration of Interests by
Members of Public Sector Advisory and Statutory Bodies

Guidelines for a One-tier Reporting System

General Principles

When a member (including the chairman) of a public council, board or committee has a potential conflict of interest in a matter placed before the committee, he should make full disclosure of his interest. The basic principle to be observed is that members’ advice should be disinterested and impartial and it is the responsibility of each member to judge and decide if the situation warrants a declaration, and to seek a ruling from the chairman in case of doubt.

It is impossible to define or describe all the situations that would call for such a declaration, because each individual case differs, and because of the difficulty of catering for unusual and unforeseen circumstances. On the other hand, it is not intended that a member should make a declaration of interest simply because the committee is considering a matter in which he has knowledge or experience.

Potential Conflict of Interest Situations

The following are potential conflict of interest situations:

1. Pecuniary interests in a matter under consideration by the committee, held either by the member or by any close relative of his. Members are themselves the best judge of who, in the particular circumstances, is a “close relative”.

2. A directorship, partnership, advisory or client relationship, employment or other significant connection with a company, firm, club, association, union or other organization which is connected with, or the subject of, a matter under consideration by the committee.

Note 1: The guidelines were issued by the Home Affairs Bureau on vide its memo HAB CR 7/15/379 dated 17 August 2005 to all Government Bureaux/Departments.
(3) Some friendships which might be so close as to warrant declaration in order to avoid situations where an objective observer might believe a member's advice to have been influenced by the closeness of the association.

(4) A member who, as a barrister, solicitor, accountant or other professional adviser, has personally or as a member of a company, advised or represented or had frequent dealings with any person or body connected with a matter under consideration by the committee.

(5) Any interest likely to lead an objective observer to believe that the member's advice might have been motivated by personal interest rather than a duty to give impartial advice.

**Declaration of Interests at Meetings**

The following are guidelines governing declaration of interests at meetings:

(1) If a member (including the chairman) has any direct personal or pecuniary interest in any matter under consideration by the committee, he must, as soon as practicable after he has become aware of it, disclose to the chairman (or the committee) prior to the discussion of the item.

(2) The chairman (or committee) shall decide whether the member disclosing an interest may speak or vote on the matter, may remain in the meeting as an observer, or should withdraw from the meeting.

(3) If the chairman declares an interest in a matter under consideration, the chairmanship may be temporarily taken over by a vice-chairman.

(4) When a known direct pecuniary interest exists, the secretary may withhold circulation of relevant papers to the member concerned. Where a member is in receipt of a paper for discussion which he knows presents a direct conflict of interest, he should immediately inform the secretary and return the paper.

(5) All cases of declaration of interests shall be recorded in the minutes of the meeting.
Declaration of Interests by
Members of Public Sector Advisory and Statutory Bodies
Guidelines for a Two-tier Reporting System

General Principles
Some public councils, boards and committees are autonomous and have extensive powers over policy and financial matters. To maintain public confidence in the integrity of members (including the chairman), as well as in the impartiality of their advice tendered to the committee, it is important that all members of such committees should disclose their general pecuniary interests on appointment to the committee, in addition to the report of conflicts of interests as and when they arise. To achieve greater transparency, such declarations should be made available for public inspection. By adopting this two-tier reporting system, members of these committees can be protected from criticism or embarrassment arising from the existence of any undeclared general financial interest which may have potential conflict with the work of the committee. The two-tier reporting system consists of the following:

(A) Register of Members’ Interests

(1) The chairman and members shall register in writing their personal interests, direct or indirect, pecuniary or otherwise, when they first join the committee, and annually thereafter, to the secretary of the committee. The registration shall be made on a standard form, a sample is attached.

(2) The types of interests required for registration shall include:

(i) proprietorships, partnerships or directorships of companies;

(ii) remunerated employments, offices, trades, professions or vocations; and

Note 1 The guidelines were issued by the Home Affairs Bureau vide its memo HAB CR 7/15/379 dated 17 August 2005 to all Government Bureaux/Departments.
(iii) shareholdings in a publicly listed or private company (e.g. 1% or more of the company’s issued share capital); and/or

(iv) other declarable interests, taking into consideration the nature of work of individual committees.

(3) A register of members’ interests shall be kept by the secretary which should be made available for inspection on request by any member of the public.

(B) Declaration of Interests at Meetings

The following are guidelines governing declaration of interests at meetings:

(1) If a member (including the chairman) has any direct personal or pecuniary interest in any matter under consideration by the committee, he must, as soon as practicable after he has become aware of it, disclose to the chairman (or the committee) prior to the discussion of the item.

(2) The chairman (or committee) shall decide whether a member disclosing an interest may speak or vote on the matter, may remain in the meeting as an observer, or should withdraw from the meeting.

(3) If the chairman declares an interest in a matter under consideration, the chairmanship may be temporarily taken over by a vice-chairman.

(4) When a known direct pecuniary interest exists, the secretary may withhold circulation of relevant papers to the member concerned. Where a member is in receipt of a paper for discussion which he knows presents a direct conflict of interest, he should immediately inform the secretary and return the paper.

(5) All cases of declaration of interests shall be recorded in the minutes of the meeting.
Criteria for Adopting the Two-tier Reporting System

Public sector advisory and statutory bodies which have the following functions and characteristics should adopt the two-tier reporting system:

1. high degree of management and financial autonomy;
2. extensive executive powers in matters of public interest;
3. instrumental in shaping major government policies;
4. award of major government contracts;
5. access to market sensitive information (e.g. land development fees, charges and other forms of revenue, and licensing procedures);
6. control and disbursement of substantial public funds.
SAMPLE

Register of Interests

(Name ______________________________) requests that the interests listed below should be included in the Register of Members’ Interests.

A. Proprietorships, partnerships or directorships of companies, public or private

B. Remunerated employments, offices, trades, professions or vocations

C. Shareholdings in companies, public or private (1% or more of the company’s issued share capital)

D. Other declarable interests (To be specified by the Council taking into account the Council’s nature of business)

Signed : ___________________________

Date : ___________________________

Note: The information provided in this form may be disclosed to the public in connection with your appointment as a Member/the Chairman of [name of Council].
Measures to Manage Possible Conflict of Interest Arising from Members Bidding for Contracts of Advisory and Statutory Bodies (ASBs)\textsuperscript{Note 1}

(1) When the need for a contract is discussed, ASB members should be asked at the outset to declare whether they or any company associated with them are interested in bidding for the contract.

(2) ASB members who have declared an interest to bid should not take part or be present at any subsequent discussions or meetings concerning the proposed contract, and should be prohibited from access to any information in relation to the contract (other than in the capacity of a bidder).

(3) ASB members who have not declared an interest to bid (and the companies concerned) should not be allowed to bid subsequently.

(4) When a member (or a company associated with him) has expressed an interest to bid, the advisory or statutory board should ascertain whether any information relating to the contract has already come to the possession of the ASB member in the course of his duties as a member. If so, such information should be made available to other bidders as well to ensure a level playing field.

(5) If a member of an advisory or statutory body (or a company associated with him) has put in a bid, care should be taken to ensure that he subsequently has no access to the submitted tender documents which may contain commercially sensitive information.

(6) Bidder identity should be anonymised before the evaluation of bids if a member of the advisory or statutory body (or a company associated with him) is one of the bidders.

(7) If a member of an advisory or statutory body (or a company associated with him) is successful in bidding for the contract, he should withdraw from all discussions relating to the contract, except when attending in the capacity of a supplier or a service-provider.

\textsuperscript{Note 1} The guidelines were issued by the Home Affairs Bureau vide its memo HAB CR 7/15/379 dated 17 August 2005 to all Government Bureaux/Departments.
Foreword
[The Public Body may include a short message to emphasize the importance of public sector integrity and remind staff to closely observe.]

Mission
1. [Name of the Public Body]'s (hereafter referred to as the Organization) roles in serving the community are expressed in our Mission Statement as follows:

   [the mission of the Organization]

2. All staff should be committed to the mission which clearly sets out the Organization's aims and the objectives in our particular areas of work.

Core Values
3. The Organization is fully committed to the following principles in the delivery of services to the public:
   - honesty and integrity;
   - objectivity and impartiality;
   - accountability for decisions and actions; and
   - dedication, professionalism and diligence.
   - [The Organization may insert other suitable values.]

4. A staff member should uphold the above core values. He should always act in the best interest of the Organization, place public interest above private interest and ensure that his conduct would not bring the Organization into disrepute.

5. This Code is applicable to all staff, including full-time, part-time and temporary staff.

1 A reference to the masculine gender in this code covers both the feminine and masculine gender.
**Prevention of Bribery Ordinance**

6. [Name of the Public Body] is a public body under the Prevention of Bribery Ordinance (Cap. 201) (“POBO”). All staff are “public servants” for the purpose of the Ordinance.

7. The POBO seeks, among other things, to enforce against any abuse of entrusted power or official position by public servants through the solicitation or acceptance of a bribe or an advantage. Staff should thoroughly understand the legal requirements and the importance of compliance.

8. **Section 4** of the POBO makes it an offence for a public servant to solicit or accept, without lawful authority or reasonable excuse, any advantage *in Hong Kong or elsewhere* as an inducement to or reward for or otherwise on account of his performing or abstaining from performing any act in his capacity as a public servant.

9. “Advantage” is defined in **section 2(1)** of the POBO to mean almost anything which is of value, except entertainment which will be covered under a separate heading below. Common examples of advantages include any gift (both of money and in kind), loan, fee, reward, commission, office, employment, contract, service and favour, etc.

10. Staff should note that one may commit an offence under the POBO irrespective of whether he, or any other person acting on his behalf, directly or indirectly solicits or accepts any advantage, and whether for himself or for any other person.

[The relevant sections of the POBO pertaining to public bodies are detailed at Annex 1.]

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7 The person offering the advantage may also commit an offence.
Solicitation and Acceptance of Advantages

11. [Name of the Public Body] prohibits staff from soliciting or accepting any advantage from subordinates and any persons or companies having official dealings with the Organization (e.g. service recipients, suppliers, contractors), 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.

12. If a staff member wishes to accept from any subordinates, persons or companies having official dealings with the Organization any other advantages not listed in paragraph 11, he should seek the permission from the [approving authority] using Form A (Sample at Annex 2). In case of doubt, the staff should refer the matter to [insert an appropriate unit/officer] for advice and instruction.

13. Even if the offeror does not have any official dealings with the Organization, a staff member should decline an offer of an advantage if the acceptance could affect his objectivity in conducting the Organization’s business, induce him to act against the Organization’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.

14. Staff should always consider the public perception when accepting an offer of an advantage and ensure that the solicitation or acceptance of any advantages can stand up to public scrutiny and will not bring the Organization into disrepute.

Advantages Offered to Staff in Their Official Capacity

15. An advantage (e.g. gift, souvenir) presented to a staff member by virtue of his official position or on an occasion attended in the staff member’s official capacity is regarded as an advantage to the Organization (e.g. a souvenir presented by the organiser of a ceremonial occasion to a staff member representing the Organization to officiate at the ceremony).
16. Staff should as far as possible decline to accept gifts offered/presented to them by virtue of their official position. Where this cannot be done (e.g. owing to protocol reasons or the need to avoid causing offence or embarrassment, such as where a gift is offered/presented to a staff member when attending a social/ceremonial occasion in his official capacity), he should take it back to the Organization, report the receipt of the gift or souvenir and seek direction on its disposal using Form A (sample at Annex 2).

**Sponsorship Offered to Staff in Their Official Capacity**

17. Staff may be offered sponsorship in their official capacity by persons/organizations other than the Organization itself for official purposes such as attending local/overseas conferences, conventions and product trial activities. Such sponsorship should be regarded as sponsorship offered to the Organization and referred to the Organization for consideration of acceptance.

18. The Organization will consider whether it is appropriate to accept the offer and if the Organization decides to accept the sponsorship, it will select a suitable Member/staff to attend the sponsored activity on its behalf. In considering whether or not to accept the sponsorship offer, the following general criteria are relevant:

- acceptance of the sponsorship will benefit the Organization as a whole;
- acceptance of the sponsorship will not bring the Organization 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 Organization's contracts); and
- the sponsor will not be given or be perceived to derive an unfair advantage over other persons or organizations.
Acceptance of Entertainment

19. As defined in section 2 of the POBO (Annex 1), “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.

20. Although entertainment when offered by way of a favour is not an advantage per se and its acceptance is generally not subject to the POBO, a free entertainment may, in certain circumstances, amount to “a discharge of an obligation to pay” which is an advantage under section 2 of the POBO. For example, where a public servant visits a restaurant with which he has official dealings and at the end of the meal the restaurant owner waives the bill, this may amount to an acceptance of an advantage.

21. Staff should not accept lavish, or unreasonably generous or frequent entertainment, or indeed any entertainment which is likely to give rise to any potential or real conflict of interest, put the staff in an obligatory position in the discharge of their duties, compromise their impartiality or judgement, or bring them or the Organization into disrepute bearing in mind public perception. When offered entertainment, a 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 member and the offeror (e.g. whether they have any direct official dealings); or
- undesirable – taking into account the character or reputation of the host or known attendees.

[The Organization may insert additional guidelines on acceptance of entertainment and/or the reporting requirements.]
**Offering of Advantages**

22. Staff are prohibited from offering advantages to any director or staff of any organization, for the purpose of influencing such person or organization in any dealings, or any public official, whether directly or indirectly through a third party, when conducting the business of the Organization. It is an offence under the POBO for any person while having dealings with a public body to offer an advantage to the public body’s members and employees.

23. 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 number of gifts/souvenirs to be bestowed should be kept to a minimum and the exchange of gifts/souvenirs should be made from organization to organization. Gift/souvenir items should not be lavish or extravagant and standard souvenirs inscribed with the Organization’s logo are preferred.

**Managing Conflict of Interest**

24. Managing conflict of interest is important to good governance and maintaining trust in organizations. Conflict of interest if improperly managed, can give rise to criticism of favouritism, abuse of authority or even allegation of corruption and undermine the integrity of staff, their decisions and eventually the Organization.

**Conflict of Interest**

25. A conflict of interest situation arises when the “private interests” of a staff member compete or conflict with the interests of the Organization or the staff’s official duties. Private interests include financial and other interests of the staff himself, and those of his connections including family and other relations, personal friends, the clubs and societies to which he belongs, and any person to whom he owes a favour or to whom he may be obligated in any way. Use of official position, use of official information, private investment and outside employment are some common areas in which a conflict of interest may arise between a staff member’s official duties and private interests.
Avoidance and Declaration of Conflict of Interest

26. 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.

27. When a situation involving a conflict of interest cannot be avoided, staff should as soon as possible declare all relevant interests which conflict, may conflict or may be seen to conflict with their official duties through the reporting channel to the management using Form B (sample at Annex 3). In case of doubt, they should consult their supervisors or a designated staff of the Organization.

28. There are circumstances in which a tie of kinship or friendship, or some other association or loyalty which does not give rise to a financial interest, can influence the judgement of a staff in discharging his official duties, or may reasonably be perceived as having such an influence. As such, 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.

29. Having made a declaration, staff members should in general refrain from taking part in the matters in question unless authorized by their supervisors. The supervisors will then decide on the appropriate course of action to be taken such as to relieve the staff member of his involvement in the task which may give rise to conflict of interest, ask the staff member to divest himself of certain investment, etc. If staff members have doubts concerning the handling of conflict of interest situation, they should consult their supervisors immediately.

Examples of Conflict of Interest

30. Some common examples of conflict of interest are described below but they are by no means exhaustive:

- A staff member involved in a procurement process is closely related to or has beneficial interest in a supplier being considered by the Organization.
- 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 of the Organization has financial interest in a company
which is a bidder in a tender exercise under consideration by the Organization.

- A staff member accepts frequent or lavish entertainment from the Organization's customers, suppliers or contractors.

- A staff member responsible for processing applications for services provided by the Organization is considering an application from his family member, relative or personal friend.

- A staff member undertaking part-time work with a contractor whom he is responsible for monitoring.

**Misuse of Official Position**

31. Persons occupying public offices are placed in a position of trust and entrusted with certain powers by the public. Our society expects public officials in such a position to exercise the powers and discretions with integrity and fidelity, and in an incorrupt manner to serve the public interest, and should not subordinate the public interest to private interests.

32. Staff should act impartially and should not use their official position for personal gains nor accord preferential treatment to organizations 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 public office in a manner that is intended to coerce or induce another person, including a subordinate, 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 Organization sanctions or endorses their personal activities or those of another.

**Misconduct in Public Office**

33. The common law offence of “misconduct in public office” (“MIPO”) extends the reach of criminal law beyond bribery into various types of misconduct of public officers when discharging their official duties. A staff member who misconducts himself in relation to his official duties may commit the common law offence of MIPO. The elements constituting the offence of MIPO are as follows:

(a) a public official;
(b) in the course of or in relation to his public office;

(c) wilfully misconducts himself by act or omission (for example, by wilfully neglecting or failing to perform his duty);

(d) without reasonable excuse or justification; and

(e) such misconduct is serious, not trivial, having regard to the responsibilities of the office and the office-holder, the importance of the public objects which they serve and the nature and extent of the departure from those responsibilities.

34. The misconduct must be deliberate rather than accidental in the sense that the official either knows that his conduct is unlawful or wilfully disregards the risk that his conduct is unlawful. Wilful misconduct without reasonable excuse or justification is culpable.

35. The essential feature of the offence is an abuse by the public official of the powers, discretions or duties exercisable by virtue of his official position conferred on him for the public benefit. A public officer may commit MIPO even if his misconduct does not involve any bribery or he does not have any pecuniary gains as a result.

36. Some examples of the past conviction cases are described below:

- A department head of a university misused university funds to hire a domestic helper cum driver and covered up a subordinate's embezzlement.

- A faculty dean of a university failed to declare a conflict of interest arising from his capacity as the dean and as the sole proprietor of a company. He had procured or caused donations totaling HK$3.8 million that were intended for the university to be paid to his private company.

- A chairman of a public body responsible for considering licence applications improperly discussed with the applicants and their agents before convening board meetings and provided classified documents relating the licence applications to a personal friend working for the applicants. He also failed to declare the conflict of interest in respect of his relationship with the liquor licence applicants and their agents when considering their applications.
• A deputy head of a public body dishonestly claimed the cost of return airfares for attending meetings and overseas subsistence allowances to which he was not entitled.

• A doctor in a public hospital had sent out letters advertising the fact that he was leaving to commence private practice. Those letters contained some confidential personal particulars of patients, including those with whom he had not dealt with personally but simply patients under the management of his team.

• A civil servant responsible for the award of service contracts had misused his office by exerting improper influence over the award of contracts to a company which was not qualified for tendering for the contracts and in which his relatives had a financial interest.

• A civil servant responsible for conducting a registration examination assisted a friend in obtaining the registration dishonestly, and provided the latter with classified information relating to the examination.

• [Examples, if any, relating to the Organization's work should be inserted.]

**Use of Organization’s Assets and Resources**

37. Staff in charge of or having access to any assets of the Organization, including funds, property, information, and intellectual property should use them solely for the purpose of conducting the Organization's business. They should make the best use of the Organization’s assets and resources in terms of money, property, goods or services economically and effectively. Any appropriation of the Organization’s properties for personal use or personal gain is strictly prohibited and may amount to an offence under the Theft Ordinance (Cap. 210).

**Confidentiality of Information**

38. Staff should not disclose any classified or proprietary information of the Organization without authorisation or misuse any Organization’s information (e.g. using the information for personal gain or the benefit of others).
39. Staff who have access to or in control of such information should at all times ensure its security and prevent any abuse, unauthorised disclosure or misuse of the information.

40. Special care should be taken when handling any personal data of both the employees and customers to ensure compliance with the Personal Data (Privacy) Ordinance (Cap. 486) and the Organization’s data privacy policy.

41. Staff should continue to observe their duty of confidentiality after they have left the Organization. They should not use, or take advantage of any classified or proprietary information obtained in the course of their official duties.

**Outside Work**

42. A staff member should avoid any outside activity which may impair the performance of his duties, distract his attention from them or give rise to a conflict of interest. If a full-time staff member wishes to take up concurrent employment/service, either on a regular or ad hoc basis, he should obtain the prior written approval of [insert an appropriate unit/officer in the Organization]. The approving authority will take into consideration whether the employment/service would pose a conflict of interest with the staff’s duties in the Organization.

**Post-Service Employment/Activities**

43. Senior staff who have left the Organization should not take up any employment or provide service to any organizations which may:

- constitute real or potential conflict of interest with their former duties in the Organization;
- cause negative public perception embarrassing the Organization and undermining the image of the Organization; or
- give rise to reasonable apprehension of deferred reward or benefit.
44. Senior staff should observe the Organization’s rules governing the acceptance of employment after ceasing the Organization’s service.

[The Organization should formulate a policy governing the post-service activities of the senior staff, taking into account their right to pursue employment after ceasing the Organization's service.]

**Records, Accounts and Other Documents**

45. Staff should ensure, to the best of their knowledge, that any record, receipt, account or other documents they submit to the Organization, gives a true representation of the events or transactions reported in the documents.

46. Intentional use of documents containing false information to deceive or mislead the Organization, regardless of whether the staff member may obtain any gain or advantage, may constitute an offence under the POBO (*Annex 1*).

**Gambling**

47. Staff should not engage in frequent or excessive gambling of any kind, or any games of chance involving high stakes. Staff should not gamble with persons having official dealings with the Organization or over whom they have enforcement responsibilities. Gambling in the Organization’s premises is strictly forbidden.

**Loans**

48. Staff should not accept a loan from or through the assistance of, any person or organization having official dealings with the Organization. There is, however, no restriction on borrowing from a licensed bank or financial institution.

49. Staff shall be liable to disciplinary action if he uses a subordinate or a junior officer of the same grade or working in the same department as a guarantor for a loan or a hire purchase agreement. He shall also be so liable if he acts as a guarantor for a superior or senior officer of the same grade or working in the same department.
**Indebtedness**

50. Staff should avoid allowing themselves to get into a position where any debts they may have become unmanageable and other financial embarrassment which may bring the Organization into disrepute.

51. Staff are required to notify [insert an appropriate unit/officer in the Organization] if proceedings are taken against them with a view to bankruptcy. Staff who become insolvent or bankrupt, even though no proceedings have been taken against them yet, should also report their case to the Organization. Staff having financial problems which they may not be able to manage should approach [insert an appropriate unit/officer in the Organization] for advice and assistance.

52. Where serious pecuniary embarrassment results in impairment of a staff’s work performance, the staff member may be subject to administrative action.

**Supervisory Accountability**

53. All staff who have a responsibility to supervise and direct staff should embrace a two-fold responsibility, namely:

   - the satisfactory discharge of his own duties; and
   - his duties as a supervisor.

54. A supervisor will be asked to account for acts or omissions by his subordinates, if these acts are serious, repeated or widespread that by reasonable diligence the supervisor should have known of them had he exercised the level of leadership, management and supervision required of his position.

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*Individual voluntary arrangement (IVA) is an alternative to bankruptcy under the Bankruptcy Ordinance. A staff member taking up an IVA is regarded as insolvent and should report the case to the Organization.*
55. As a supervisor, a staff member should:

- provide adequate guidance, advice, counselling and training for staff;
- monitor the conduct and performance of staff to ensure that they meet the standards required;
- be alert to signs of malpractice in the workplace (e.g. unauthorised absence from work); and
- take prompt and decisive action to handle misconduct and poor performance.

**Reporting Suspected Irregularities and Criminal Offences**

56. A staff member should report, either directly or through [insert an appropriate unit/officer in the Organization] as appropriate, all instances of crime or alleged crime discovered in the course of his work to the appropriate law enforcement authority at the first practicable opportunity. He has no discretion in deciding which cases of crime or alleged crime to report. He should avoid making any enquiries or taking any action that may hinder or frustrate subsequent investigation by the law enforcement authority concerned.

57. Attempting to bribe a public servant is a criminal offence under the POBO. Such attempts should be reported promptly to the ICAC. All such reports should be treated in the strictest confidence.

58. A staff member should also report other irregularities observed during his work to his supervisor or [insert an appropriate unit/officer in the Organization] as appropriate. All such reports should be treated in the strictest confidence.

**Compliance with the Code**

59. It is the responsibility of every staff member of the Organization to understand and comply with this Code, whether performing duties of the Organization in or outside Hong Kong. Managers and supervisors should also ensure that the staff members under their supervision understand well and comply with this Code.
60. Staff should comply with all local laws and regulations when conducting the Organization’s business, and also those in other jurisdictions, when conducting business there.

61. 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 ICAC or the appropriate law enforcement agencies.

**Review**

62. This Code is subject to review and revision from time to time by the Organization.

**Enquiry**

63. Any enquiries, comments or suggestions in relation to this Code may be referred to [insert an appropriate unit/officer in the Organization].
Extracts from the Prevention of Bribery Ordinance  
(Cap. 201)

Section 4 – Bribery

(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.

(2) Any public servant who, whether in Hong Kong or elsewhere, 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) 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 himself 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.
(2A) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to the Chief Executive as an inducement to or reward for or otherwise on account of the Chief Executive’s -

(a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his 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.

(2B) If the Chief Executive, whether in Hong Kong or elsewhere, 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) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;

(b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his 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,

he 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.

(4) For the purposes of subsection (3) permission shall be in writing and –

(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 (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 8 – Bribery of public servants by persons having dealings with public bodies

(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 9 - Corrupt transaction with agents

(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 2 – Definition

Definition of an Advantage

“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.

Definition of Entertainment

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.
(Name of the Organization)

REPORT ON GIFTS RECEIVED

Part A – To be completed by Receiving Staff
To: (Approving Authority)

Description of Offeror:

Name & Title of Offeror: ________________________________

Company: ___________________________________________

Relationship: _________________________________________

Occasion on which the Gift was/is to be Received: ____________________________

Description & (Assessed) Value of the Gift: ________________________________

Suggested Method of Disposal: Remark

( ) Retain by the Receiving Staff

( ) Retain for Display/as a Souvenir in the Office

( ) Share among the Office

( ) Reserve as Lucky Draw Prize at Staff Function

( ) Donate to a Charitable Organization

( ) Return to Offeror

( ) Others (please specify): ________________________________

_________________________________________________________

(Name of Receiving Staff) ________________________________

(Date) ____________________________ (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(s) concerned should be disposed of by way of: __________________________

________________________________________________________

(Name of Approving Authority) ________________________________

(Date) ____________________________ (Title/Department)

* Please delete as appropriate
(Name of the Organization)

Declaration of Conflict of Interest

Part A – Declaration  *(To be completed by Declaring Staff)*
To:  *(Approving Authority)*
I would like to report the following existing/potential* conflict of interest situation arising during the discharge of my official duties:

<table>
<thead>
<tr>
<th>Persons/companies with whom/which I have official dealings</th>
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<tbody>
<tr>
<td></td>
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</table>

<table>
<thead>
<tr>
<th>My relationship with the persons/companies (e.g. relative)</th>
</tr>
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<tbody>
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<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Relationship of the persons/companies with our Organization (e.g. supplier)</th>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Brief description of my duties which involved the persons/companies (e.g. handling of tender exercise)</th>
</tr>
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</tbody>
</table>

______________________  _______________________
(Name of Declaring Staff)  (Title / Department)

(Date)

Part B – Acknowledgement  *(To be completed by Approving Authority)*
To:  *(Declaring Staff)*

**Acknowledgement of Declaration**

The information contained in your declaration form of *(Date)* is noted. It has been decided that:

- You should refrain from performing or getting involved in performing the work, as described in Part A, which may give rise to a conflict.

- You may continue to handle the work as described in Part A, provided that there is no change in the information declared above.

- Others (please specify):


______________________  _______________________
(Name of Approving Authority)  (Title / Department)

(Date)

* Please delete as appropriate