

6th ICAC Symposium
Enhancing Corporate Governance in the Public and Private Sectors

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Good morning, Ladies and Gentlemen. I would like to share with you the HK experience in corruption prevention in the past few decades, our current challenges and our way forward in enhancing corporate governance in the public and private sectors.

Back in 60s, corruption in Hong Kong was so rampant that it was a culture and part of our daily life. The whole public sector was lack of proper governance and people did suffer.

In view of the outcry, the Government in February 1974 set up the Independent Commission Against Corruption, ICAC, which is an independent agency directly responsible to the then Governor, now our Chief Executive. In the fight against corruption, we adopt a three-pronged approach, i.e. operation, education and prevention. The work is being carried out by three separate departments within the ICAC, i.e. the Operations Department responsible for investigation, the Community Relations Department responsible for enlisting public support through education and publicity, and Corruption Prevention Department (CPD) the function of which would be elaborated further in the following slides.

The work of the ICAC comes under the scrutiny of independent committees comprising responsible citizens drawn from different sectors of the community appointed by the Chief Executive. Amongst them is the Corruption Prevention Advisory Committee which oversees the work of CPD.

The power of CPD stems from Section 12 of the ICAC Ordinance enacted in 1974. It empowers CPD to look into the systems, procedures adopted by various government departments and public bodies, i.e. the public sector. CPD make recommendations to them with a view to plug corruption loopholes. They are bounded to accept and implement the recommendations, otherwise, the case will be escalate up to the Chief Executive level. For the private sector, say a private firm, CPD can only provide its services upon request.

In early 70s, the corruption complaints mainly focused in the public sector which remained some 87% for the first few years. Public sector was therefore our work

focus then.

By the 90s, the total number of corruption complaints has dropped by one-quarter, particularly worth noting is public sector's remarkable decrease by almost 70%, which proved the ICAC's focused efforts to fight against corruption has been a tremendous success.

You may be interested to know what we have done to achieve this. We take a partnership approach. While we study the procedures and systems of the government departments and make our recommendations to eliminate corruption opportunities, we let the management take the ownership for the changes and assist them in fostering ethical culture within the departments.

Our partners include, of course, the general public as the support from which is crucial. The others are the government contractors for construction works, government suppliers for goods and services and the government departments, public bodies/regulatory bodies. Here, I would like to stress the point that both "offer" and "acceptance" of a bribe are criminal offences under the Prevention of Bribery Ordinance in Hong Kong.

For each government department, we set up a corruption prevention group with the top management for the purpose of identifying areas for studies and map out with them the corruption prevention strategies as well as the work plan each year. It is also through this channel that we advise them the latest position of the corruption complaints concerning the department, i.e. nature and number of complaints, received by ICAC.

Based on the work plan and the areas identified, CPD conducts detail studies and makes recommendations. For implementations of the improvement measures, CPD assists the management to explain the corruption risk to the frontline staff as well as the line management in order to ensure a smooth launching of the changes. So far CPD has completed over 3,600 studies and over 94% of the recommendations are accepted and implemented.

Other than the studies which are topical, we also promote ethical culture within the organization through talks and integrity training to staff. We advocate zero tolerance and request all staff to report any suspect corruption cases to ICAC immediately.

We further enhance the partnership with government departments by developing in 2006 the Ethical Leadership Programme where each department has to assign a senior directorate officer to take charge of an integrity management plan implemented in the

department. The plan will be reviewed jointly with us each year.

The past 40 years' work of the ICAC has achieved overall success in stamping down corruption, particularly in public sector. In recent years, there has been rising public expectation of a clean government and public sector, and public officials are increasingly being called to account for their decisions and actions. Our first challenge is to continue to uphold a culture of clean governance in the public sector. At the same time, number of corruption complaints in the private sector has gone up to two-third of the total, hence warranting more of our attention. Our second challenge is how we re-deploy our resources to combat the private sector corruption. We will share with you how we tackle these two challenges.

Our targets are to promote good governance in the Government, public bodies, as well as organizations like the NGOs receiving substantial government funds.

On system and process side, we aim to remove red tapes, simplify the work procedures, and ensure corruption resistant systems and procedures are in place in the public administration.

We help these organizations plug corruption loopholes and put in place internal controls by developing Best Practice Manuals for their adoption. We will elaborate on the Best Practice Manuals after we talk about our work in the private sector.

We advocate clean governance by making the public administration transparent, promoting supervisory accountability and addressing the issue of conflict of interest. We help them to put in place these essential elements of good governance through samples code of conduct which sets the benchmark or standards of behavior expected of members and employees of public organizations by the general public.

To sustain our efforts in upholding high standard of integrity and probity, we launch a multi-year programme in promoting a culture of clean governance in the public sector and those receiving substantial government subventions.

In 2013, we joined hands with the Civil Service Bureau to update the Sample Guide on Conduct and Discipline for Government Bureaux and Departments to ensure that they are in line with the public expectation for the high standard of integrity in the civil service. Following launching of the Sample Guide we offer to provide Bureau/government departments with tailor-made services to review their codes of conduct using the Sample Guide as a benchmark. We also provide them education to sustain their alertness against any corruption risks.

In 2014, we extended our work to public bodies. We issued the revised Sample Codes of Conduct respectively for the staff and members of public bodies, and provided tailor-made advice to review the codes of individual public bodies as required. For meeting the public expectation, the Sample Codes provide, among others, guidance on raising awareness of conflict of interest, supervisory accountability, misconduct in public office, post-service employment and acceptance of advantages.

In 2015 we move onto the NGOs with a view to enhancing their corporate governance and internal controls. We visit different NGOs to study their operations and compile a set of pragmatic codes of conduct for them. We will organize thematic seminars and workshops to raise their awareness of good internal governance.

Now we move on to the second challenge, the corruption issues in private sector. We are re-deploying our resources to address the issue.

Within CPD, we have a dedicated group called Advisory Services Group formed 30 years ago providing services and support to the private sector.

ASG's services to a private firm means a hotline service providing prompt, free and tailor-made advice. The ICAC will keep all information obtained in strict confidence.

Our very effective service is the seminars organised for specific trades and industries. CPD will consolidate court cases, identify high corruption risk areas in a particular trade, work out practical solutions and advise the private companies in that trade on corruption prevention measures. The advice given at the seminars may also be consolidated into Best Practice Manuals as a guide book, for easy reference.

We are conscious of the fact that private sector often has to deal with public officials. Therefore, in tandem with the clean governance culture we are promoting in the public sector, we will develop a guide book to provide guidance on the probity requirements and corruption prevention safeguards for use by the private sector in dealing with public officials.

These materials are provided free of charge on request. Interested parties can also download the Best Practice Manuals from the ICAC Website.

Here we go back to the Best Practice Manuals which provide comprehensive control measures for various corruption prone operations of different organizations. They are not only developed for the private sector but also public sector, as mentioned earlier, including public organizations and NGOs.

We have developed Best Practice Manuals and training packages on various topics like corporate governance, internal control, administration of government funds, food assistance service operations, and training package on corruption prevention in procurement, legal & ethical requirements.

To ensure the Best Practice Manuals meet the needs of specific types of organizations and get their buy-in/implementation of the governance and control measures recommended therein, we enlist stakeholders' support by engaging them in the compilation and launch of the Best Practice Manuals.

Challenges Ahead

To ensure we can meet the rising public expectation, we adopt a more proactive approach in particular areas to plug corruption loopholes.

We would take part at the early stage in major projects where substantial public funds are involved and where there is great public interest or public concern. For example, we adopted this approach during the construction of the Cruise Terminal. We are going to take similar approach for the coming major construction work at our International Airport.

What actually happens is we participate at the early stage and take part also in major milestones of the project. Taking a project on construction work as an example, we provide our advice as early as the planning stage, assist in drawing up the tender specifications, serve as observer for tender assessment, give advice on contract administration and deliver integrity talks to site staff as necessary.

We would provide corruption prevention advice in areas of great public concerns. For example, we visit NGOs which give out food assistance to those in need to ensure that corruption prevention safeguards are in place in their systems and procedures. Another example is that we examine the car testing procedures which if corrupted would put public safety at risk.

We also build up our knowledge through the experience gained from the Operations Department. Over 90 percent of the corruption complaints may not end up in court because of the high standard required for a criminal conviction. Corrupt practices are secret deals and involved satisfied customers. Hence it is not easy to have sufficient evidence for prosecution. However, there are indications from the complaints the existence of corruption loopholes and corruption risks. We would try to contact "the victim of the complaints", provide them with our advice and help prevent recurrence.

Based on our experience, we consider that in order to enhance corporate governance in public and private sector for corruption prevention, we need an independent and a powerful legal framework; we must get the support from our partners especially the public; be proactive, and adopt a system approach. This system approach encompasses all the underlying principles in drawing up our sample codes of conduct and best practices.

Here, I would like to introduce the system adopted by CPD – what we call the “FAST model”, i.e. to ensure the systems and procedures are fair, accountable, simple and transparent.

For achieving fairness, we consider these five elements are relevant. Of course, there are many others which are applicable in different scenarios. Ensure equal opportunity is given to all players, require to make declaration of conflict of interest for a level playing field, avoid moving the goal-posts, give honest individual views and make sure complaints/appeals can be heard and handled properly.

For accountability, we stress the need to make sure that each and every officer knows exactly his/her duties and responsibilities through clearly laid down guidelines, rules and regulations. They should know the DOs and DON'Ts and the power vested with them.

The more complicated the system, the higher the corruption risk. We therefore would like to simplify the procedure in order to reduce the risk. The five points listed here will give you some ideas on how to make the system simple.

Given the ever increasing of public expectation and public perception, the operations of the government have to be more and more transparent. Besides, as corruption is a secret deal, the increase in transparency help reduce the corruption opportunities. The five points shown on the screen are ways to enhance the transparency.

To summarize and recap, our way forward for corruption prevention in Hong Kong is “be fast”.

Here ends my presentation. Thank you.