

HUMAN RESOURCES POLICIES AND PROCEDURES/GENERAL

Acceptance of Advantages [Abridged Version]

The University is included into the Schedule to the **Prevention of Bribery Ordinance** (Cap. 201, hereafter referred to as PBO) as a "public body". All staff members of the University, whether temporary or permanent, are therefore "public servants" under this Ordinance. As a public servant, any staff member must be wary of any "advantage" which is offered to him/her and which could in any way be connected with the performance of his/her duties as a University staff. It is the University's policy to prohibit its staff to solicit or accept any advantages from any persons having official dealings with the University (e.g. publishers, suppliers, contractors etc.), unless permission has been given. Acceptance of advantage, except in the circumstances and of the nature described in **paragraphs 6 and 7** below, is an offence under the PBO in accordance with its Sections 4(2).

2. Under section 4(2) of the PBO, a **criminal offence** is committed by "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/her:

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his/her 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/herself or by any other public servant in his/her 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 public body."

3. For the purpose of PBO, the term "advantage" is defined, in its Section 2(1), as including:

- (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 of 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).

4. In accordance with Section 2(2) of the PBO,
- (a) a person solicits an advantage if he/she, or any other person acting on his/her behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself/herself or for any other persons; and
 - (b) a person accepts an advantage if he/she, or any other person acting on his/her behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself/herself or for any other person.

5. There are, however, two sub-sections to Section 4 of the PBO viz. sub-sections 4(3) and 4(4) in accordance with which a public body may, if it deems fit to do so, grant permission to its staff to accept certain designated types of advantages in certain circumstances. These sub-sections 4(3) and 4(4) read as follows:

“4(3) If a public servant other than a prescribed officer or accepts an advantage with the permission of the public body of which he/she is an employee, being permission which complies with sub-section (4), neither he/she nor the person who offered the advantage shall be guilty of an offence under this Section (i.e. Section 4 of PBO).

4(4) For the purposes of sub-section (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 of acceptance,

and for such permission to be effective for the purposes of sub-section (3), the public body shall before giving such permission, having regard to the circumstances in which it is sought.”

6. Under the provision of sub-sections 4(3) and 4(4) of the PBO, the Council of the University has decided, having had regard to the nature of work in the University, to grant to all University staff lawful prior general permission to accept the advantages where such an advantage may be capable of being construed to be "a reward for or otherwise on account of performing or having performed any act in his/her capacity as a staff member of the University". Staff should decline the gifts if the acceptance of which could affect their objectivity in conducting the University's business, or induce them to act against the interest of the University, or lead to complaints of bias or impropriety. Any exception should follow the established procedures to seek for special approval.

7. **Entertainment** is not regarded as an advantage as defined in Section 2 of the PBO. However, staff members are reminded not to accept any entertainment which is likely, for example by reason of its excessively lavish or unreasonably frequent nature, to lead to embarrassment in the discharge of their functions. Acceptance of such entertainment may be construed as serious act of misconduct which may render the staff member liable to disciplinary action already stipulated in the Terms of Service for staff. Entertainment in this context means "the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment normally connected with such provision."

8. Staff members are also warned that if they were to solicit or accept any advantage with a corrupt motive, they may be guilty of offences against other sections of the Prevention of Bribery Ordinance. Whenever in doubt, staff members are advised to consult that Ordinance, a copy of which may be found in the University Library.

9. To reiterate the importance of the strict compliance of this policy, all full-time staff members are required to fulfil the compliance training of PBO on a regular basis.

10. Staff members are reminded to note that this document is only an abridged version. To avoid confusion and ensure the full compliance with the policy, staff members should read the full version for more details at Human Resources Office Homepage (Human Resources Office Homepage > For Staff Only > Policies & Procedures > General Guidelines and Regulations > **Acceptance of Advantages**).

Human Resources Office

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