

Professional Integrity and Corruption Prevention in Testing & Certification

Hong Kong Business Ethics Development Centre, ICAC

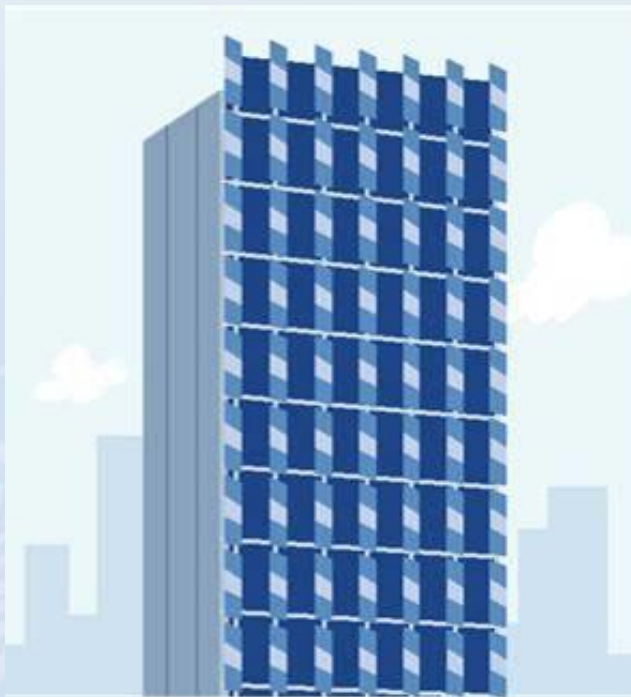
30 Jul 2020



Outline

- Importance of Professional Integrity
- Legal Requirements & Administrative Controls
- Corruption Prone Areas in the T&C Industry
- Key to Integrity Management
- Services Provided by HKBEDC

Professional Integrity



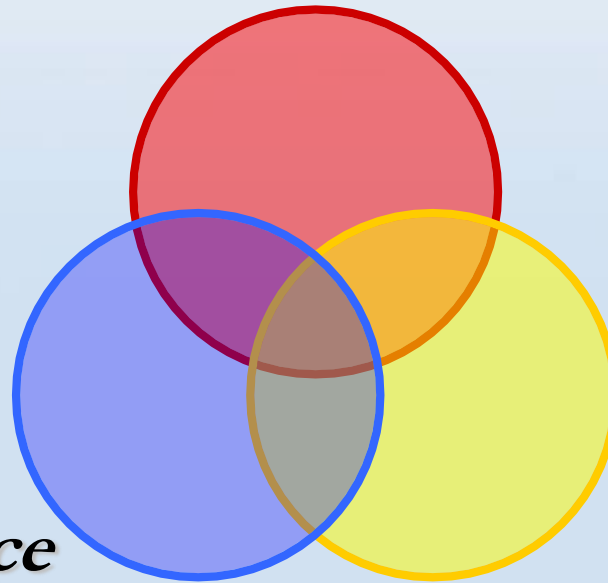
Professional Integrity
(Higher requirement)



Law
(Minimum requirement)

Hong Kong Brand

Professional Integrity



Quality Assurance

High Efficiency

Importance of Professional Integrity



Tested in Hong Kong
Certified in Hong Kong

3 Tests of Professional Integrity



Legal Test



Compliance Test



Sunshine Test



Legal Test



Prevention of Bribery Ordinance (POBO)

Cover both public servants and
private sector employees

Protect the interests of
different stakeholders

Prevent abuse of trust between
Agent and **Principal**

Ensure fair play

POBO Section 9 – Corrupt Transactions with Agents

Agent (Employee)

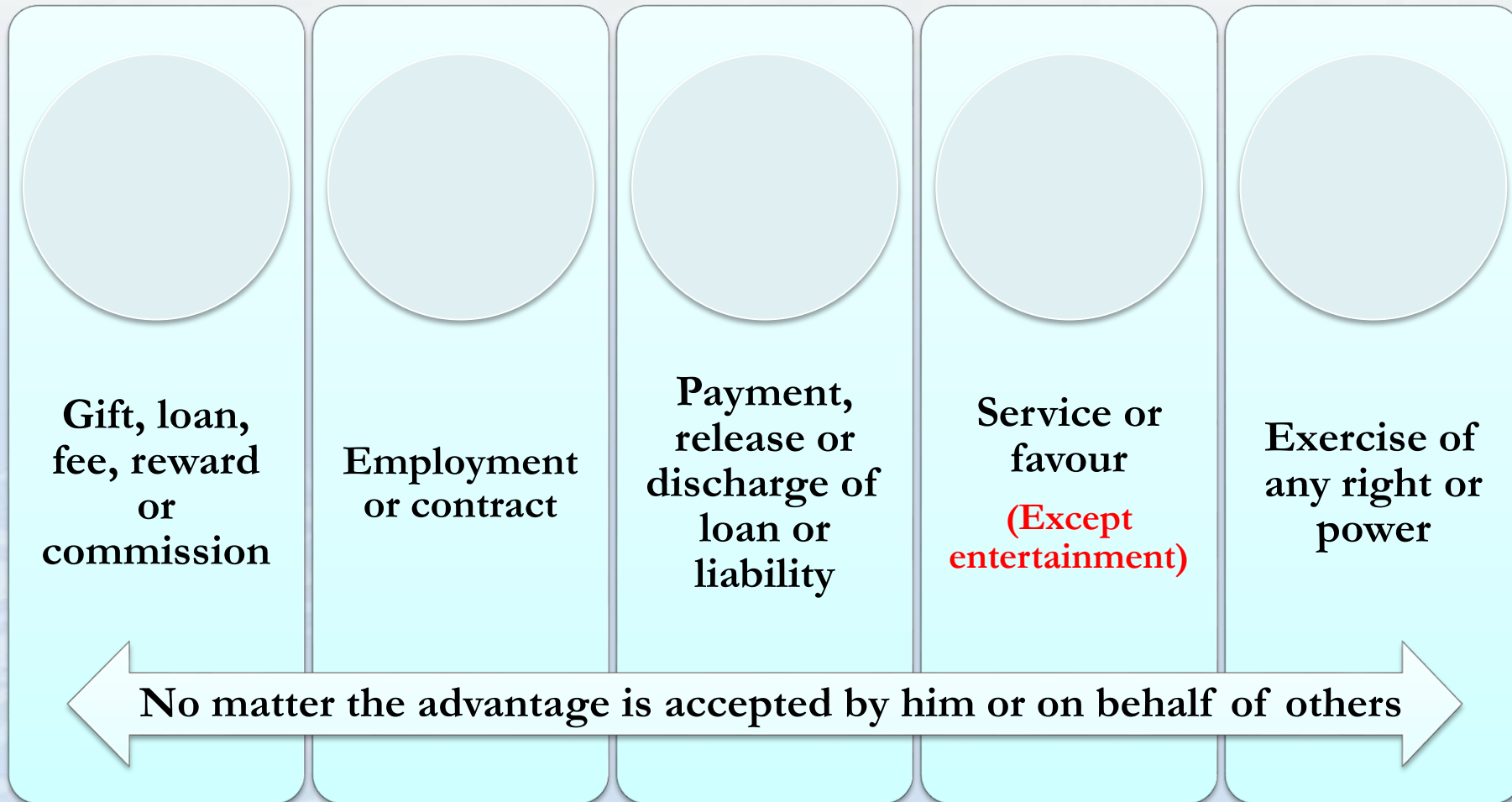
Without **A**pproval from principal (Employer)

Solicits / accepts **A**dvantages

An **A**ct in relation to principal's (employer's) business

Maximum penalty:
7 years' imprisonment and HK\$500,000 fine

Advantage



Entertainment

- The provision of food or drink for consumption on the occasion
- Any other entertainment provided at the same time

Frequent / lavish entertainment

May result in :

- * Conflict of interest
- * Obligatory position
- * Sweetening trap

Principal's Approval

- Be given by the **recipient's** principal before the advantage is accepted
(e.g. employer, board of directors, **but not the direct supervisor**)
- If the advantage is accepted without prior approval, the recipient should make application **as soon as reasonably possible**
- Employees' **Code of Conduct** – Stipulate the policies on, among other things, acceptance of advantages by employees

POBO Section 19

No defence even if:

**The advantage is customary in any
profession / trade / vocation / calling**



POBO Section 11

No defence even if:

The recipient:

- * did not actually have such power/right/opportunity to do so;
- * had no intention to do so; or
- * did not in fact do so

POPO Section 9(3) – Using False Information to Deceive Principals

Any agent (employee)

Use false / erroneous / defective receipt,
account or other document

With an intent to deceive his principal (employer)

Maximum penalty:
7 years' imprisonment and HK\$500,000 fine

POBO Section 8 – Bribery of Public Servants by Persons Having Dealings with Public Bodies

Any person

Without lawful authority / reasonable excuse

While having dealings with any
government department or public body

Offers an **advantage** to any **public servant** employed
by that department / public body

Maximum penalty:
7 years' imprisonment and HK\$500,000 fine



Compliance Test



Administrative Controls over Malpractices

HKAS Regulations and
Supplementary Criteria

International Standards

e.g. ISO 17025/ 17020/
17021/ 37001

Professional Code of Ethics

e.g. HKTIC, HKICA, HKIE

Company's Code of Conduct

Essential Elements of a Code of Conduct

- Acceptance of Advantage
- Offer of Advantage
- Entertainment
- Records, Accounts and Other Documents
- Outside Employment
- Conflict of Interest
- ...

Ethical Commitment

- Core values – honesty, integrity and fair play must be upheld by **all directors and staff** at all times
- Set out the basic standard of conduct expected of all directors and staff, and the Company's policy on acceptance of advantage (**principal's approval**) and handling of conflict of interest when dealing with the Company's business

Acceptance of Advantage



- All directors and staff should not solicit or accept any advantage for themselves or others from those having business dealings with the Company and subordinates, except when offered on a voluntary basis under certain circumstances.
- Gifts or souvenirs presented to directors and staff in official functions are deemed as offers to the Company
- Decline the offer under certain circumstances
- Any additional restrictions set by the client

Offer of Advantage

- Prohibit offering advantages for the purpose of influencing any person in any dealing, or any public official, when conducting the company's business



Entertainment

- Avoid accepting lavish or frequent entertainments from persons with whom the company has business dealing (e.g. suppliers, contractors) or from his subordinates
- To maintain impartiality, staff members, especially those carrying out inspection duties, should not accept free meals / entertainment from the organizations being assessed unless under very exceptional circumstances

Conflict of Interest



When *private interests* compete or conflict with interests of
organization or official duties

Conflict of Interest

What are Private Interest?

- Financial and other interest of
 - The staff member himself
 - Family or relations
 - Personal friends
 - Organisation / association with personal or social ties
 - Any person to whom the staff member owed favour or obligated

Conflict of Interest

- **Avoid** any conflict of interest situation or the perception of such conflicts (e.g. misuse their position to pursue their own private interests)
- When actual or potential conflict of interest arises, **declare** to the approving authority through the reporting channel using a standard form
- Examples of conflict of interest for reference



Other topics ...

- Records, Accounts and Other Documents
- Use of Company Assets and Confidentiality of Information
- Outside Employment
- Relationship with Suppliers, Contractors and Customers

Corruption Prevention Guide for Testing & Certification Industry

APPENDIX 1

SAMPLE CODE OF CONDUCT

Introduction

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

Prevention of Bribery

Prevention of Bribery Ordinance

2. Under the Prevention of Bribery Ordinance (the Ordinance), any director or staff member who, without the permission of his employer or principal (i.e. the Company), 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.

(The relevant provisions of Section 9 of the Ordinance and the definition of "advantage" are detailed at Annex 1.)

Acceptance of Advantage

3. It is the Company's policy that directors and staff should not solicit or accept any advantage for themselves or others, from any person, company or organization having business dealings with the Company, 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; or
- (b) gifts given on festive or special occasions, subject to a maximum limit of \$_____ in value; or
- (c) discounts or other special offers given by any person or company to them as customers, on terms and conditions equally applicable to other customers in general; or
- (d) gifts or souvenirs of nominal value presented to them in official functions.

No director or staff member should accept any advantage from a subordinate, except those mentioned in paragraphs (a) and (b) above.

¹ Staff cover full-time, part-time and temporary staff, except where specified.



Sunshine Test



Sunshine Test

- Perception of others
 - Can I disclose to, or openly discuss the situation with others (e.g. supervisor, colleagues)?
 - Would others doubt my integrity or accuse me of abuse or impropriety?

Corruption Prone Areas in the T&C Industry



Corruption Prone Areas in the Testing and Certification Industry

- **Acceptance of advantage**
 - Fabricate test results / forge test reports
 - Meddle with samples
 - Expedite testing and certification process
 - Guarantee a passing accreditation / certification result
 - Subcontract testing and certification, and related services
 - Procurement
- **Offer of advantage**
 - Obtain business

Corruption Prone Areas in the Testing and Certification Industry

- Other areas of concern:
 - Entertainment
 - Confidentiality
 - Conflict of interest
 - False claim of reimbursement



Your Roles in Corruption Prevention

- Abide by the laws, professional standards and company's code of conduct
- Should not accept entertainment from organisations under assessment
- Avoid and declare conflict of interest
- Stay vigilant against malpractices and corruption
- Report suspected corruption or other crimes (e.g. deception and money laundering) without hesitation



Key to Integrity Management



Dual Roles of T&C Professionals

ROLE 1

ROLE 2



Key to Integrity Management

- Set a **role model** for staff members
- Understand the **corruption risks** faced by staff members
- Implement **integrity management**



Role Model

- Strictly abide by the law, rules and regulations
- Assist in implementing and enhancing system control in the company
- Prudent handling of conflict of interest
- Always consider the interests of the company and customers first

Understand the Corruption Risks

- Management Factors
- Staff Factors



Risk Analysis – Management Factors

Internal Control and Organisational Culture

- Lack of system control
- Lack of supervision and monitoring
- Lack of communication



Risk Analysis – Staff Factors

Staff's Behaviour and Mindset

- Lack of legal knowledge
- Lack of integrity
- Lack of proper judgement



Implement Integrity Management

(1) Strengthening System Control

- Formulate code of conduct
- Set up clear operational procedures and conduct periodic reviews
- Put in place checks and balances (e.g. handling conflict of interest)



Implement Integrity Management

(2) Managing Staff Integrity

- Act as a role model of high professionalism
- Appoint the right people
- Play the guardian role
- Arrange integrity trainings for staff
- Adopt a **zero tolerance** stance against corruption and malpractice

 **Report Corruption**

Report Corruption



In-person

Report Centre or 7 Regional Offices



24-hour Hotline

25 266 366



Mail

GPO Box 1000, HK

Hong Kong Business Ethics Development Centre (HKBEDC)



Service Hotline:
2826 3288



Email:
hkbedc@crd.icac.org.hk

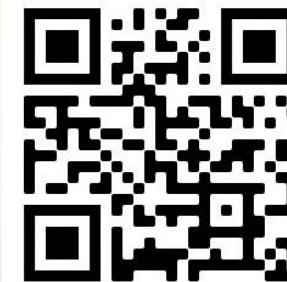


Services Provided by Hong Kong Business Ethics Development Centre

- Arranging training on business/professional ethics and corruption prevention
- Formulating/ reviewing codes of conduct
- Offering advice on system control
- Producing practical guides



Business Ethics Resources – HKBEDC Website



<https://hkbedc.icac.hk>



- Common integrity issues of concern
- Ethical risks for specific sector/industry



Disclaimer

- This Powepoint material aims at providing guidance on the common corruption risks and preventive measures in the private sector and does not purport to deal with corruption issues that may arise in any given situations. Description and explanations of the legal requirements under the relevant Ordinances and the recommended practices are necessarily general and abbreviated to make this Powerpoint material easy to understand from the layman's angle. Users of this Powerpoint material should refer to the original legislations or seek ICAC's advice as and when necessary. While we endeavor to ensure the accuracy of the information in this Powerpoint, no statement, representation, warranty or guarantee, expressed or implied, is given by us as to the accuracy, completeness or appropriateness of such information for use in any particular circumstances. The ICAC is not responsible for any loss or damage whatsoever arising out of the use of this Powerpoint material or in connection with any information contained in this Powerpoint material. The copyright of this Powerpoint material is owned by the ICAC. The Powerpoint material may be reproduced for non-commercial use provided that the source of the material is identified and the copyright status acknowledged. For any enquiries, please contact Hong Kong Business Ethics Development Centre (www.hkbedc.icac.hk)