

Policy and Guidelines on Offering and Acceptance of Advantages and Entertainment

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1. Policy statement

1.1 The Hong Kong Breast Cancer Foundation (“HKBCF”) prohibits all forms of bribery and corruption. The HKBCF requires all employees, including full-time, part-time and temporary employees, to comply with the Prevention of Bribery Ordinance (“POBO”) in conducting the business or affairs of the HKBCF. The relevant extracts of the POBO are at Appendix 1.

2. Solicitation and acceptance of advantages

2.1 Under the POBO, it is an offence for an employee to, without his/her employer’s permission, accept an advantage in conducting the business or affairs of his/her employer. An advantage includes gift, loan, commission, payment, favour or offer of employment (Appendix I).

2.2 The HKBCF prohibits all employees from soliciting or accepting any advantage from any persons or companies/organisations having official dealings with HKBCF (e.g. service recipients, suppliers, contractors, professional fundraisers) and from any subordinates, except that an employee may, with the permission of the Chief Executive Officer, accept but not solicit a gift of value not exceeding HK\$500 offered on a voluntary basis.

2.3 The employee concerned must report the gift and apply for permission to accept the gift as soon as practicable using Form HRA24 (at Appendix II). In deciding whether to allow the employee to accept the gift, the Chief Executive Officer will take into consideration the following:

- a) whether acceptance of the gift will influence the employee’s business performance or the outcome of a business transaction;
- b) whether the employee will feel obliged to do something in return for the offeror;
- c) whether the offer is recurring or systematic or excessive in frequency; and/or
- d) whether acceptance of the gift will lead to allegations of impropriety or conflict of interest.

- 2.4 If acceptance of the gift by the employee concerned is not considered appropriate, the Chief Executive Officer may give instruction for the gift:
- a) to be returned to the offeror;
 - b) to be shared among the office, if the gift is food or drink, e.g. a basket of fruits or a box of chocolate;
 - c) to be used as a raffle prize at a staff recreational function (e.g. Christmas party or staff dinner), if the gift is, say, a supermarket cash coupon;
 - d) for display or use in the office, if the gift is, for instance, a stationery or decorative item;
 - e) to be donated to a suitable organisation; or
 - f) to be disposed of in a manner the Chief Executive Officer considers appropriate.
- 2.5 The Human Resources and Administration Department will keep a register of reports of gifts by employees and the manner in which they were disposed of, and submit a report to the Management Committee for information on a half yearly basis.
- 2.6 If it is clear to the employee that the gift offered exceeds HK\$500, the employee should decline politely to accept it on the spot.
- 2.7 All employees should take note that even if a gift may not exceed HK\$500, or the offeror does not have any official dealings with HKBCF, employees should decline an offer of a gift if there is doubt as to the intention of the offeror.
- 2.8 If an employee suspects that there is bribery or corruption, he/she should report the matter to the Department Head concerned or the General Manager or the Chief Executive Officer.

3. Acceptance of entertainment

- 3.1 Employees should not accept lavish, or unreasonably generous or frequent entertainment from any person or companies/organisations having official dealings with the HKBCF. Under POBO, entertainment means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with or provided at the same time as the provision of food or drink (Appendix I).

4. Offering of advantages and entertainment

- 4.1 Under no circumstances may any employee, in conducting the business or affairs of the HKBCF, offer any advantage as an inducement or reward to any employee of a company or organisation.
- 4.2 Where it is necessary to procure a souvenir item as a token of appreciation for an employee of a company or organisation for having attended or assisted in an event or activity of the HKBCF, it should be of nominal value and the approval of the Chief Executive Officer for the procurement is required.

5. Payment for services rendered

- 5.1 There may be the rare occasion that an employee is offered payment for services rendered, for instance, for giving a talk at a conference or seminar where all speakers receive payments. In such cases, the employee concerned should report the matter to the Management Committee through the Chief Executive Officer who shall make a recommendation as to whether permission should be given for the employee to accept the payment or how the payment should be disposed if the acceptance of the payment by the employee concerned is considered not appropriate. Form HRA24 at Appendix II should suitably be adapted for use and the application should be routed through Head of Human Resources and Administration.

6. Review

- 6.1 This Policy and Guidelines is subject to review and revision from time to time by the HKBCF.

7. Enquiries

- 7.1 In case of doubt or for enquiries, employees should consult their supervisor, the respective Department Head or the General Manager or the Chief Executive Officer.

Appendix 1

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

Section 9

- (1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
 - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

- (2) Any person, who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's –
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
 - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

- (3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document –
- (a) in respect of which the principal is interested; and
 - (b) which contains any statement which is false or erroneous or defective in any material particular; and
 - (c) which to his knowledge is intended to mislead the principal,

shall be guilty of an offence.

- (4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).

- (5) For the purposes of subsection (4) permission shall –
- (a) be given before the advantage is offered, solicited or accepted; or
 - (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,
- and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 4

- (1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's-
- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
 - (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
 - (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

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

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

Section 2

“Advantage” means :

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

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

“Entertainment” means :

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

Section 19

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

**Appendix 2
Form HRA24**

Report on gifts or offers received and application for permission to accept

Part A. To be completed by Receiving Staff

To: Chief Executive Officer via Head of HRA
 From: _____ (Name of Receiving Staff)
 _____ (Position title and department)

Description of Offeror and gift/offer received

Name of Offeror _____
 Position title _____
 Company _____
 Relationship with Receiving Staff Business Personal Others _____
 Occasion on which the gift/offer received _____
 Description and value of the gift/offer _____
 Assessed value of the gift/offer _____ *decline to accept if exceeds HK\$500

Suggested method of disposal

Remarks

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. <input type="checkbox"/> To be retained by the Receiving Staff 2. <input type="checkbox"/> To be retained for use/display/as a souvenir in the office 3. <input type="checkbox"/> To be shared among service recipients or the office 4. <input type="checkbox"/> To be reserved as lucky draw prize at staff functions 5. <input type="checkbox"/> To be donated to a charitable organisation 6. <input type="checkbox"/> To be returned to Offeror 7. <input type="checkbox"/> Others (please specify) | _____

_____ |
|---|---|

Signed by Receiving Staff: _____ Reporting date: _____
 Signed by Dept. Head: _____ Signing Date: _____

Part B. To be completed by Approving Authority

The suggested method of disposal is:
 Approved.
 Not approved. The gift/offer concerned should be disposed of by way of:
 • Number ____ of the above "Suggested method of disposal", or
 • _____ (specify if none of the suggested method is appropriate)

Signed by Approving Authority: _____
 Position title: _____
 Date of approval: _____