



香港麻醉科醫學院
THE HONG KONG COLLEGE OF ANAESTHESIOLOGISTS
(Incorporated as a Charitable Organisation with Limited Liability in Hong Kong since 1989)



Code of Conduct

for Members of Council, Boards and Committees



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Foreword

The **Hong Kong College of Anaesthesiologists** (hereafter referred to as the HKCA) is fully committed to the principle of honesty, integrity and fair play in the delivery of services to the public. This Code sets out the basic standard of conduct expected of all Members of Council and its Boards, Committees and Sub-committees; and the HKCA's policy on acceptance of advantage and conflict of interest in connection with one's official duties.

Objects of HKCA

1. The objects of the HKCA shall be -
 - (a) to provide training and certification of the following specialists in Hong Kong :-
 - (i) anaesthesiology;
 - (ii) intensive care; and
 - (iii) pain medicine;
 - (b) to arrange professional examinations, including :-
 - (i) Intermediate Examination;
 - (ii) Final Fellowship Examination in Anaesthesiology;
 - (iii) Final Fellowship Examination in Intensive Care; and
 - (iv) Final Fellowship Examination in Pain Medicine;
 - (c) to conduct inspection and maintain accreditation of the training units for anaesthesiology, intensive care medicine and pain medicine in Hong Kong;
 - (d) to maintain the standard of specialist anaesthesiologists in Hong Kong by organising Continuing Medication Education (CME) and Continuing Professional Development (CPD) programme, including Annual Scientific Meeting; and
 - (e) to provide simulation-based course for development of postgraduate medical education.
 - (f) to promote for public welfare the public education, professionalism and ethical conduct related to anaesthesiology.

Core Values

2. The HKCA is fully committed to the following principles in the delivery of services to Trainees, Fellows and the public:
 - honesty and integrity;
 - fairness, objectivity and impartiality;
 - accountability for decisions and actions; and
 - dedication, professionalism and diligence.
3. A Member¹ should uphold the above core values. He² should always act in the best interest of the public and HKCA, place public interest above private interest when carrying out duties in relation to his public office and ensure that his conduct would not bring the HKCA into disrepute.

Prevention of Bribery

4. The Hong Kong College of Anaesthesiologists is a public body under the Prevention of Bribery Ordinance (Cap. 201) ("POBO"). All Members of the HKCA are "public servants" for the purpose of the Ordinance.

¹ Members in general refer to the members of the HKCA Council, Boards, committees and subcommittees

² A reference to the masculine gender in this code covers both the feminine and masculine gender.



5. 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.
6. **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 servant³.
7. “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.
8. 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 [Appendix 1](#).]

Solicitation and Acceptance of Advantages

9. The HKCA prohibits Members from soliciting or accepting any advantage from any persons or companies having official dealings with the HKCA (e.g. service recipients, regulatees, suppliers, contractors).
10. Members are permitted to solicit or accept from a relation (e.g. spouse, parent, child) any advantage. This, however, does not relieve a Member from observing the POBO (see paragraph 6 above) and the requirements on avoidance and declaration of conflict of interest (see paragraphs 26-29 below).
11. Even if the offeror does not have any official dealings with the HKCA, a Member should decline an offer of an advantage if the acceptance could affect his objectivity in conducting the HKCA’s business, induce him to act against the HKCA’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.
12. 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 HKCA into disrepute.
13. When a Member is in doubt, he should consult the Chief Executive Officer of the HKCA.

Advantages Offered to Members in Their Official Capacity

14. 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 HKCA (e.g. a souvenir presented by the organiser of a ceremonial occasion to a Member representing the HKCA to officiate at the ceremony).

³ The person offering the advantage may also commit an offence.



15. 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 HKCA and follow the guidelines set out at [Appendix 2](#) for the disposal of gifts/souvenirs received.

Acceptance of Sponsorship Offered to Members

16. Sponsorship (which may comprise passage, accommodation, or other fees) is a form of advantage. Members may be offered sponsorship in their official capacity by persons/ organisations other than the HKCA 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 HKCA and referred to the HKCA for consideration of acceptance, based on operational need, and assignment of the Member to attend the sponsored activity, based on suitability. The general criteria for considering whether or not to accept the sponsorship offer are suggested at [Appendix 3](#).

17. The HKCA will consider whether it is appropriate to accept the offer and if the HKCA 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 HKCA as a whole;
- acceptance of the sponsorship will not bring the HKCA 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 HKCA's contracts); and
- the sponsor will not be given or be perceived to derive an unfair advantage over other persons or organisations.

18. A Member may be offered sponsorship, for example, sponsored visit offered by a professional body, industrial/supplier organization or supplier, due to his personal expertise or professional membership, to attend an overseas conference. Though not representing the HKCA, care should be taken when such a sponsored visit is offered by a party having business dealings with the HKCA and the Member's duty is directly related to, or could potentially or seen to be influenced by, the content or result of the visit (e.g. the Member is involved in or can influence the purchasing decision of the HKCA, while the sponsor is a potential supplier). In accepting such sponsorship, Members should ensure that their conduct and activities would not bring them or the HKCA into disrepute or lead to any actual or perceived conflict of interest. In particular, they should ensure that their private sponsored visits are separate from their official position and duties and avoid putting themselves in an obligatory position through acceptance of advantages or hospitality normally applicable to official purposes.

Acceptance of Entertainment

19. As defined in **section 2** of the POBO ([Appendix 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 (e.g. attendance at a cinema, theatre or other entertainment right before or after a meal).



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. 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 HKCA 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.

Offering of Advantages

22. Members are prohibited from offering advantages to any person or organization, for the purpose of influencing such person or organisation in any dealings, or any public official, whether directly or indirectly through a third party, when conducting the business of the HKCA. 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.

23. 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 organisation to organisation. Gift/souvenir items should not be lavish or extravagant and standard souvenirs inscribed with the HKCA’s logo are preferred.

Managing Conflict of Interest

24. 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 HKCA.

Conflict of Interest

25. A conflict of interest situation arises when the “private interests” of a Member compete or conflict with the interests of the HKCA 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

26. A fundamental rule is that all Members (including the Chairman) should, as far as possible, avoid any actual and perceived conflict of interest from arising in the first place, and 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, Members (including the Chairman) 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 to the Chairman or the Council. A declaration form (with a sample at [Appendix 4](#)) should be used where practicable. 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 Council in case of doubt.

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 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.

29. The HKCA has been adopting the two-tier reporting system for declaration of conflict of interest ([Appendix 5](#)). Under the two-tier reporting system, apart from following the procedures for declaration of interests at meetings, Members are required to register in writing their interests as specified by the public body upon appointment and annually thereafter.

Examples of Conflict of Interest

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

- A Member involved in a procurement process is closely related to or has beneficial interest in a supplier being considered by the HKCA.
- 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 Member involved in the exercise.
- A Member has financial interest in a company which is a bidder in a tender exercise under consideration by the HKCA.
- A Member accepts frequent or lavish entertainment from the HKCA's customers, suppliers and contractors.
- A Member soliciting assistance from the HKCA's staff in dealing with his own personal matters.
- Pecuniary interests in a matter under consideration by the HKCA, 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 organisation which is connected with, or the subject of, a matter under consideration by the HKCA.
- 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 HKCA.

Managing Declared Conflict of Interest

31. Upon receipt of a report on conflict of interest situation, the Council / Board / Committee Chairman should, as soon as practical, decide on the appropriate course of action to be taken such as to relieve the Member of his involvement in the task, and give clear direction/instruction to the Member concerned. The declaration and the decision/action should be properly recorded. The Council / Board / Committee Chairman should ensure the Members' compliance with the instruction so as to effectively remove/mitigate the conflict of interest.

32. In deciding on the course of action to be taken, the Council / Board / Committee Chairman should take into account the seriousness of the conflict, the public interest involved and public perception. Mitigating measures which can be considered for adoption are at [Appendix 6](#).

Members Bidding for the HKCA's Contracts

33. As a matter of principle, Members should avoid entering into any business contract (e.g. for the supply of goods or services) with the HKCA in their personal capacity to prevent the public perception of Members using their capacity to obtain financial gains from the HKCA. Where this is unavoidable, Members shall adhere to the guidelines on managing possible conflict of interest in bidding for the HKCA's business contracts as set out at [Appendix 7](#)⁴.

Misuse of Official Position

34. 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.

35. Members should act impartially and should not use their official position for personal gains nor accord preferential treatment to organisations 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 HKCA sanctions or endorses their personal activities or those of another.

Misconduct in Public Office

36. 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

⁴ The guidelines were issued by the Home Affairs Bureau to all Government Bureaux/Departments on 17 August 2005.



- 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.

37. 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.

38. 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.

39. 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.

40. In sum, a public official who wilfully and seriously misconducts himself in relation to his public office (e.g. misuse of official position, covering up conflict of interest) may commit the common law offence of "misconduct in public office". Hence, Members should take note that breaches of probity requirements in this Code which involve serious misconduct, even if not involving bribery or other financial crime, might amount to "misconduct in public office".



Use of HKCA's Assets and Resources

41. Members in charge of or having access to any assets of the HKCA, including funds, property, information, and intellectual property should use them solely for the purpose of conducting the HKCA's business. They should make the best use of the HKCA's assets and resources in terms of money, property, goods or services economically and effectively. Any appropriation of the HKCA'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

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

43. 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.

44. 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 HKCA's data privacy policy.

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

Outside Work

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

Post-Service Employment/Activities

47. Members should avoid taking up employment or providing service in any organisations which might constitute conflict of interest with their former service in the HKCA.

Records, Accounts and Other Documents

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

49. Intentional use of documents containing false information to deceive or mislead the HKCA, regardless of whether the Members may obtain any gain or advantage, may constitute an offence under the POBO ([Appendix 1](#)).

Gambling

50. 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 HKCA or over whom they have enforcement responsibilities.



Loans

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

Indebtedness

52. 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 HKCA into disrepute.

53. Members are required to notify the Chairman or the Chief Executive Officer if proceedings are taken against them with a view to bankruptcy. Members who become insolvent or bankrupt⁵, even though no proceedings have been taken against them yet, should also report their case to the HKCA.

Use of Public Funds

54. 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.

55. 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 HKCA.

Reporting Suspected Criminal Offences and Irregularities

56. A Member should report, either directly or through the Chief Executive Officer as appropriate, all instances of crime or alleged crime discovered in the course of his official duty, including attempt to bribe a public servant, 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. All Members who receive or have knowledge of such reports should treat the reports in the strictest confidence.

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 Member should also report other irregularities observed in the course of their official duty to the Chief Executive Officer. All such reports should be treated in the strictest confidence.

Compliance

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

60. Members should comply with all local laws and regulations when conducting the HKCA's business, and also those in other jurisdictions, when conducting business there.

⁵ 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 HKCA.



61. 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

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

Enquiry

63. Any enquiries, comments or suggestions in relation to this Code may be referred to the Chief Executive Officer.



Appendix 1

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 I,

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.



Appendix 2

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 HKCA 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 organisation or, when this is not practical, shared among staff of the HKCA on a suitable occasion.
- (b) If the gift/souvenir is a useful item, it may be donated to a charitable organisation.
- (c) If the gift/souvenir is suitable for display (e.g. a painting, vase), it may be displayed at appropriate locations of the HKCA premises.
- (d) If the gift/souvenir is of low value, it may be donated as a prize in functions organised by the HKCA.
- (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.



Appendix 3

Considering Factors for Acceptance of Sponsorship

In considering whether or not to accept the sponsorship offer, the following general criteria are relevant :

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



Appendix 4

Declaration of Conflict of Interest

Part A – Declaration *(To be completed by Declaring Member)*

To : Chief Executive Officer

I would like to report the following actual / potential* conflict of interest situation arising during the discharge of my official duties :

| |
|---|
| Person(s)/organisation(s) with whom/which I have official dealings and/or private interest |
| |
| My relationship with the person(s)/organisation(s) (e.g. relatives) |
| |
| My contact with the person(s)/organisation(s) (Please state the frequency of contact and the usual occasions of contact, etc.) |
| |
| Relationship of the person(s)/organisation(s) with the HKCA (e.g. Supplier) |
| |
| Brief description of my duties which involved the person(s)/organisation(s) (e.g. handling of tender exercise) |
| |
| File reference, if any, of the mentioned duties |
| |

Signature : _____

Name : _____

Date : _____



Appendix 5

Declaration of Interests by Members of Public Sector Advisory and Statutory Bodies^{Note 1} 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 at the [Annex](#).
- (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
 - (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.

(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.



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- (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.

^{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.



Annex

**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 identified and specified by the HKCA, if any)

Signed :

Date :



Appendix 6

Mitigating Measures for Managing Declared Conflict of Interest

- (a) Record – Where the risk in a conflict of interest situation is indirect, remote or insignificant, and the occurrence of such a situation is infrequent, it may be sufficient to take note of the conflict only.
- (b) Restrict – Where a conflict is not likely to arise frequently and the Member can be effectively separated from the part of activity or process in which the conflict arises, it may be suitable to restrict the Member’s involvement in the task in which he has a conflict (e.g. withdrawing from discussion on a specific issue, abstaining from voting on the decisions) and access to the related information.
- (c) Recruit – Where it is impractical to restrict a Member’s involvement, an independent Member / expert may be recruited to participate in, oversee, or review part or all of the decision-making process if appropriate (e.g. engaging expert in the selection of highly specialized items).
- (d) Redeploy – Where it is inappropriate to allow the Member who has declared a conflict of interest to handle a specific matter, it may be suitable to relieve of the Member’s duty which may then be taken up by another Member through redeployment (e.g. redeploy the Member to serve another sub-committee).



Appendix 7

Measures to Manage Possible Conflict of Interest Arising from Members Bidding for Contracts of Advisory and Statutory Bodies (ASBs)^{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.

^{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.