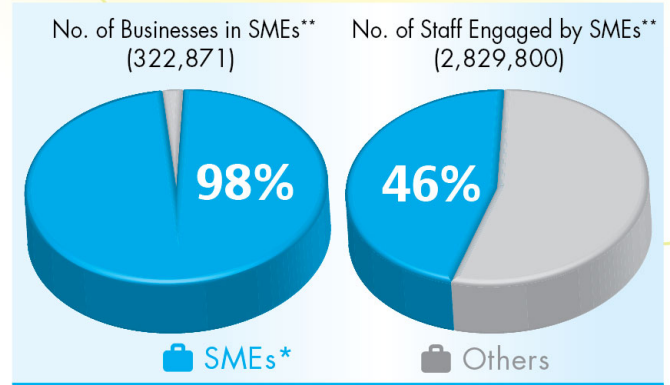


Tips for SMEs – Strengthening controls on Staff Administration



Human resources (HR) are valuable assets of any company regardless of its size. Good practices in staff administration not only help company manage staff effectively and enhance its competitiveness but also prevent abuses and corrupt practices that would undermine its effective operation. As SMEs in Hong Kong employ about 46% of total workforce with high staff mobility, HR managers play a significant role in corruption prevention. Apart from setting a good role model, HR managers are responsible for devising appropriate strategies that serve as the first line of defence against corruption.



SMEs in HK accounted for over 98% of the total business units and provided job opportunities to nearly 1.3 million persons, about 46% of total employment (excluding civil service)**

Common Corruption Loopholes in Staff Administration

Under Section 9(1) of the Prevention of Bribery Ordinance (POBO), an agent (includes employee) who solicits or accepts an advantage in relation to his duties without his principal's (includes employer) permission shall be guilty of the offence. The offeror of the advantage shall also be guilty of committing Section 9(2) of POBO. The maximum penalty is 7 years' imprisonment and a fine of \$500,000. The right-hand column lists out some common corruption prone areas in staff administration.

What is "Advantage"?

According to POBO, "Advantage" includes money, gifts, loans, commissions, offices, contracts, services, favours (except entertainment) and discharge of liability in whole or in part.

"Entertainment" means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment provided at the same time, for example singing and dancing.

Section 9(3) of POBO

Pursuant to Section 9(3) of the POBO, it is an offence for an agent to use any false/ erroneous/ defective receipt/ account/ other document to deceive his principal.

Examples: Falsified/ tampered attendance records, over-time work records, sick leave records, receipts, reimbursement forms, allowance/welfare application forms etc.



Staff Recruitment

Examples: Soliciting /accepting an advantage for hiring of staff, acceptance of late applications, hiring of staff who do not meet the entry requirements, divulgence of interviews/written test questions to job applicants, etc.



Remuneration

Examples: Soliciting/accepting an advantage for adjusting salaries and non-standard payments (e.g. bonuses and sales commissions), approving applications for fringe benefits, etc.



Handling of Confidential/ Sensitive Information

Examples: Soliciting/accepting an advantage for divulging or selling company's /customers' information, unauthorized use of information for personal gain, etc.



Staff Promotion & Deployment

Examples: Soliciting/accepting an advantage for arranging staff promotion, divulging promotion arrangement, providing preferential treatment when approving leaves, assigning duties, etc.



Staff Supervision

Examples: Soliciting/accepting an advantage for turning a blind eye over unsatisfactory work performance/ staff misconduct/ breach of regulations, etc.

*According to the Support and Consultation Centre for Small and Medium Enterprises (SUCCESS), manufacturing enterprises with fewer than 100 employees and non-manufacturing enterprises with fewer than 50 employees are regarded as small and medium enterprises (SMEs) in Hong Kong.

**Data from SUCCESS as at December 2016.

Q: Is there a monetary limit for advantage?

Advantage refers to anything of value, regardless of the monetary amount. An employee will be guilty of an offence if he solicits/accepts advantage of any value without employer's approval when conducting his employer's affairs.



Q: Can employee accept "lai see" offered by clients during Chinese New Year? What if this is a norm in the industry?

"Lai see" is a kind of advantage. Employee should obtain permission from his employer before accepting any advantage relating to his official duties. It shall not be a defence even if any such advantage is customary in any profession, trade, vocation or calling. Employee should refer to his company's code of conduct on acceptance of advantage or consult his company in case of doubt.

Q: Is it against the law if I introduce my relative/friend to apply for a post or to become a supplier of my company ?

It is not against the POBO if no bribery or falsified documents are involved in the above situation. However, you should be aware of the conflict of interest situation (Col) that may arise. Inappropriate handling of Col situation might breach internal regulations or lead to suspected corruption. Employees should avoid Col and declare potential or actual Col situation to company as soon as possible.

Q: What are the report corruption channels? Is full evidence required when lodging a corruption complaint to the ICAC?

Employees should report suspected corruption to their companies or to the ICAC through the following channels:

- Report Hotline: 25 266 366 (24-hour service)
- In person: 24-hour ICAC Report Centre (303 Java Road, North Point) or 7 Regional Offices (Mon-Fri, 9am-7pm, closed on public holidays)
- By mail: The ICAC, G.P.O. Box 1000, Hong Kong

Full evidence is not required when lodging a corruption complaint. Complainants only need to state the known facts of the suspected corruption case. All complaints are kept in strict confidence.



Checklist

SMEs managers can make use of the following checklist to quickly review their staff administration systems and identify corruption loopholes so that appropriate corruption prevention measures can be put in place to safeguard the companies' interests.

Yes/No

Has your company formulated any Staff Administrative Guidelines and make known to all staff the policies/arrangements on recruitment, staff promotion and rotation, staff welfare, job duties, working hours and other job requirements such as duty roster, overtime work, etc. ?

Has your company formulated a code of conduct for staff, giving clear instructions on acceptance of advantage/entertainment and how to handle conflict of interest situations, etc. ?

Has your company kept proper documentation of all personnel records including attendance records, applications for overtime work, acceptance of advantage/entertainment, declarations of conflict of interest, applications for welfare benefits, reimbursement and related receipts and invoices, etc. ?

Has your company conducted regular and random checks on the above mentioned records ?



Any negative answer to the above questions denotes the existence of corruption risks in your staff administration process. You are welcome to contact the Hong Kong Business Ethics Development Centre of the Independent Commission Against Corruption (ICAC) for assistance in reviewing and strengthening internal controls of your company through the channels below:



Hong Kong Business Ethics Development Centre, ICAC
Tel: 2587 9812
Email: hkbedc@crd.icac.org.hk
Website: www.hkbedc.icac.hk

