

Smart Tips for SMEs (2)



Due to their small sizes and limited resources, SMEs have to operate in a fast, straight-forward and highly efficient manner. They rely on the flexibility of their employees to handle daily work or deal with sudden challenges swiftly. As such, staff integrity is paramount for SMEs to sustain their business. SME operators must enhance their staff's awareness to the importance of ethical conduct and provide clear guidelines to mitigate risks at workplace.



Trivial routines not important?

Company daily operations involve the handling of a lot of documents and information. While some tasks may seem to be mundane or trivial, employees may easily fall into corruption traps if they handle them carelessly.

Q1

During the course of business, companies often collect and store a large amount of information, including personal data of employees, clients and business partners, and also confidential information within the company. If an unscrupulous person offers advantages to a staff for disclosing the company's confidential information, is this corruption?

Q2

Procurement is also an important aspect of the company's operations in purchasing goods and services such as stationery, electronic equipment, maintenance and cleaning services for the company. If an employee deliberately conceals his/her personal relationship with the supplier during the procurement process, or even awards the contract to the supplier who offers illegal rebates to him/her, is this corruption?



The above situations, if not handled properly, will bring serious harm to one's career and the company's reputation. The following explains the relevant laws and provides practical tips to help companies stay safe from corruption risks.

CONFIDENTIAL INFORMATION

According to Section 9 of the Prevention of Bribery Ordinance (POBO), it is a corruption offence if any agent (i.e. an employee), without the approval of his/her principal (i.e. the employer), solicits or accepts any advantages (including money) as inducement or reward for doing or forbearing to do anything in relation to his/her principal's affairs (such as the disclosure of company's internal information). The offeror will also be guilty of offering bribes.

The maximum penalty is a fine of HK \$ 500,000 and an imprisonment for 7 years. The offender may also violate the Personal Data (Privacy) Ordinance.

Therefore, employees must strictly abide by the company's requirements regarding the use of confidential information and refuse improper solicitation of such information. Employers also need to take corresponding anti-corruption measures to keep such information in secure custody and protect the company from losses.



PROCUREMENT CONTRACT

Similarly, in accordance with Section 9 of the POBO, it is a corruption offence if any agent (i.e. an employee), without the approval of his/her principal (i.e. the employer), solicits or accepts any advantages (including illegal rebates) as inducement or reward for doing or forbearing to do anything in relation to his/her principal's affairs (such as awarding a procurement contract). The offeror will also be guilty of offering bribes.

Even if the employee concerned does not receive any advantages, he/she will breach Section 9 (3) of the POBO for forging and using false quotations to assist a supplier in obtaining a procurement contract.



Under Section 9 (3) of the POBO, it is an offence for

- » any agent (i.e. employee);
- » with an intent to deceive his principal (i.e. employer);
- » uses any false, erroneous or defective receipt, account or other document.

The maximum penalty is a fine of HK \$ 500,000 and an imprisonment for 7 years.

To access full version of the Prevention of Bribery Ordinance, please visit Hong Kong e-Legislation website at <https://www.elegislation.gov.hk/hk/cap201>

Smart Tips – Guard Against Ethical Risks

Business operators must formulate a comprehensive company code of conduct and implement effective controls in their daily operations to safeguard the interests of the company.

The company should **formulate a clear policy on acceptance or offering of advantages** for all staff to follow

Staff at all levels should **declare and report conflict of interest or potential conflict of interest** to the company immediately



The company should adopt a **zero tolerance** attitude towards corruption and **establish an integrity culture** in the company

Managers should **implement integrity management and take appropriate measures to reduce the risks of corruption** if early warning signs of staff's misbehaviour such as financial difficulties, excessive gambling, close contacts with suppliers / clients are detected

Hong Kong Business Ethics Development Centre (HKBEDC), under Community Relations Department of the ICAC, offers free ethics training and consultancy services for business organisations. You are welcome to contact us for more information.

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