

# 取之有道

The Noble Means

保險中介人培訓教材

Training Package for Insurance Intermediaries



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# **"The Noble Means"**

## **Training Package for Insurance Intermediaries**

### **Training Points of the Training Videos**

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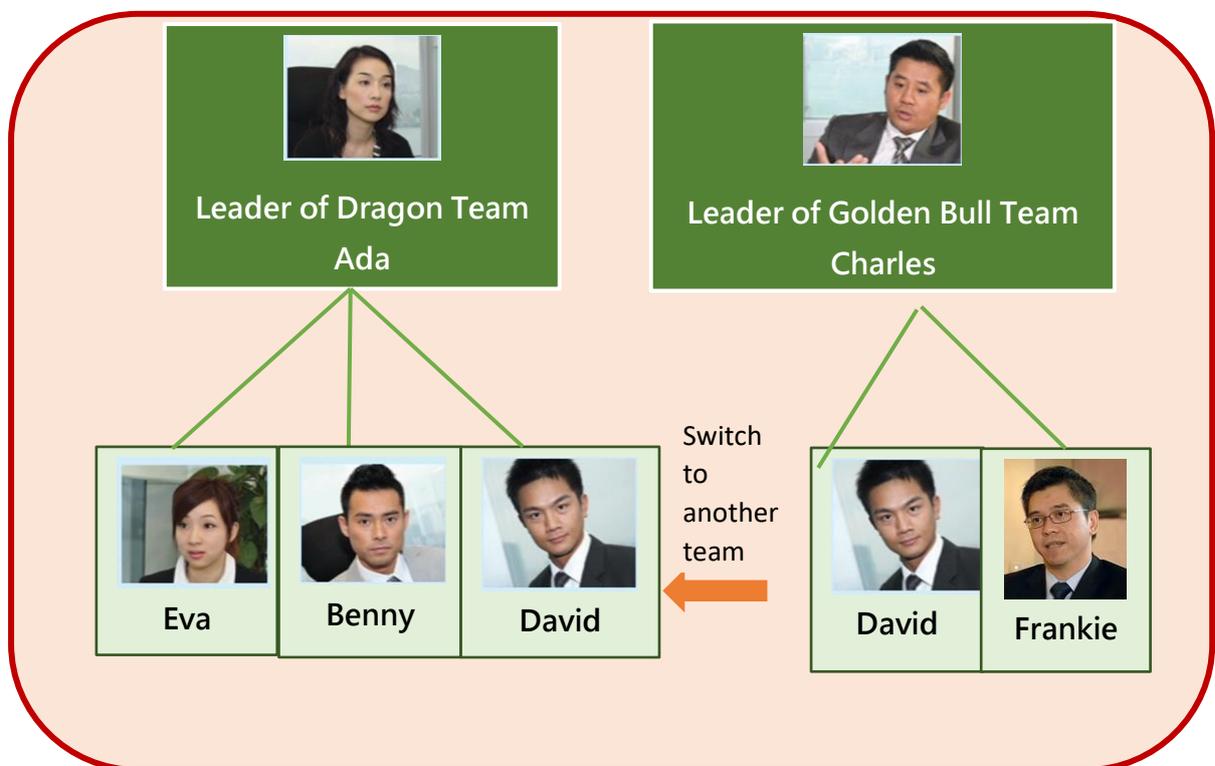
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# The Noble Means

As illustrated by the cases handled by the ICAC which concerned the life insurance industry, the major causes of the industry's corruption problems were "human" factors, with either frontline staff breaching the laws or the management staff's negligence, giving rise to loopholes for illegal practices. The following case illustrates the corruption, malpractice and mismanagement issues which are more commonly found in the life insurance industry.

## Characters:



## Contents of Case Study

### Episode 1 Dragon Team vs Golden Bull Team: each has its own strengths

In the face of fierce competition in the life insurance industry in recent years, practitioners all try their best to achieve good business results by employing a wide variety of means. Ada and Charles are both agency managers of the same life insurance company, leading the Dragon Team and the Golden Bull Team respectively. Both of them are loyal and committed to their jobs. Yet, owing to their different characters, different management styles are adopted.

Ada climbed up the corporate ladder through her own capability and diligence. She is goal-orientated and attaches high importance to business results. She firmly believes that her subordinates, just like her, are capable and self-disciplined. That is why she allows them to give full play to their capability, and keeps intervention to the minimal so long as their business goals are achieved. Under her leadership, Dragon Team becomes the best team in the company with excellent business results. Seemingly, Dragon Team demonstrates better initiative than Golden Bull Team in terms of work attitude, with tallying impressive business results. Recently, Ada is busy working towards the company's Annual Award for the Best Performing Team. She puts constant pressure on her team members, turning a blind eye to inappropriate behaviours for the sake of quick gains. This lays a time bomb to her team.

Charles is an upright and disciplined person, paying close attention to regulations and rules. He adopts the "play safe" strategy for the sake of long term security, and requires his subordinates to handle and follow up the affairs of customers with due care and proper documentation, whether big or small. Under the leadership of Charles, Golden Bull Team's annual results have been among the top three, and his excellent management is often praised by the management. Also, Golden Bull Team receives very few complaints from customers, thanks to the integrity and sincerity demonstrated by team members. Yet, because Charles imposes stringent requirements on his subordinates and is very rigid, his young subordinates often moan about his lengthy advice and reminders, failing to realise his good intentions behind.

### Episode 2 Young and daring: but aiming too high

David, a cousin of Ada and a former member of the Golden Bull Team, is new to the life insurance agency profession. David is a talented insurance practitioner with energy and

commitment, displaying good potentials. But as he is new to the industry and is not conversant with the practices in the industry, he often makes mistakes. Once, David has a Mainland customer who has come to Hong Kong to buy insurance for a very large sum insured. However, as the customer does not hold a Hong Kong identity card and is not willing to provide the data that a customer's needs analysis form and a written declaration respectively require, Charles instructs that the application should not be proceeded with unless the proper procedures are followed to avoid future disputes on claims. As a result, David fails to secure the deal and loses the opportunity to become the "Best Salesman" for the month.

Charles also finds that David is radical and pays little attention to the accuracy and details of documents. Besides, David is too focused on new customers and on selling new policies, hence neglecting old customers on "after sales services". For instance, an old customer wants to apply for an internet account so that he can handle insurance matters online. But due to incorrect information provided by the customer by mistake, the arrangement was not made even after the lapse of several months. David, upon receiving the enquiry from the customer, just asks him to contact the customer services department without following up the case himself. Eventually, the customer makes a complaint to Charles. In another case, a customer submits a critical illness insurance claim due to heart disease. It turns out that this customer has already had heart disease when he was young, but David, when dealing with the customer's insurance application, fails to remind him to declare such information.

Charles concludes that David needs to brush himself up further. He expresses that David should handle matters more carefully and patiently, because these are what insurance intermediaries are basically required to do and are basic selling techniques for broadening customer bases – satisfied customers will introduce new customers.

Yet David is upset with the advice of Charles time and again albeit the good intentions. He considers that Charles does things in an old-fashioned and inflexible manner, which will be an obstacle to his business ambitions. After thinking through he finally decides to quit the company in search of other opportunities. Half a year later, David re-enters the life insurance profession and joins the Dragon Team after Ada's (his cousin) strong persuasion.

### **Episode 3 Worries behind the glamorous surface**

After joining the Dragon Team, David is appreciative of Ada's decisive and straightforward management style as a superior. He is glad that she is totally different from Charles and is confident of achieving his great business ambitions under Ada's guidance. However, in a chat with Eva, a colleague of his, he hears her dissatisfaction with Ada for the first time.

Eva has been in the profession for around a year. Owing to her inexperience and narrow customer base, she has trouble meeting monthly sales targets. She is not happy that Ada reproaches her frequently and unreasonably for her failure in achieving sales targets, and gives her too little guidance. Even when Eva is praised by customers for handling their policies attentively and taking good care of every detail, Ada is not impressed and this upsets Eva.

Anxious to meet her sales target, Eva meets a close friend, Joe, and proposes an insurance plan to him at a 30% discount. Although Eva knows well that giving a discount is against the relevant code of practice, she cannot help but do this in order to keep her job and to please her superior, thinking that this will cost nothing to the company anyway. On hearing her story, Benny, her colleague thinks that Eva is too silly to pay premiums out of her own pocket to the company. Benny encourages Eva to stop paying further premiums shortly after the policy commences, so as to enable her to earn commissions and avoid a long term loss of income. Although Eva considers this to be a good method, she is not sure whether it is the right thing to do...

### **Episode 4 Dark side of the Dragon Star**

Benny is the most competent subordinate in Ada's eyes. He has achieved record high business volumes a number of times, and is the "Star of Dragon" for three consecutive years for best business performance. He is slick and handles affairs smoothly, knowing well that Ada's trust and appreciation can be earned by producing good business results. Yet, keeping Ada in the dark, he employs a wide variety of methods in contravention of the relevant laws and rules to achieve good business results with a view to personal gains.

Benny has frequent social gatherings with his customers, and is used to selling insurance at mahjong tables. When applying for insurance, his customer, Mr Lee, discloses that he is a smoker. In spite of this, Benny, in order to please Mr Lee with lower premiums, suggests him to declare himself as a "non-smoker". He also promises to help Mr Lee from within in case an insurance claim is to be filed to ensure that he will get paid without difficulty.

Another customer, Mr Lai, who has bought life insurance through Benny just a year ago, is persuaded by Benny to replace this insurance with a new unit-linked life insurance policy. Benny advises Mr Lai to cancel the old policy so as to reduce his financial burden. In order to sell new policies for the sake of better business results and more commission income, Benny avoids mentioning about the losses Mr Lai will likely suffer from as a result of policy replacements.

Benny's imprudent selling techniques have led to complaints from some customers. A Mr Hung gets a sprain when skiing in Japan a month ago and is admitted to hospital for treatment. Fortunately, the injury is not too serious and he is released from the hospital on the same day. Thinking that he can claim insurance payments for the medical costs when returning to Hong Kong, Mr Hung is surprised when Benny told him that according to the insurance clauses, he must have been hospitalised before getting paid. Mr Hung points out that Benny has never explained the contents of the policy and its claims provisions clearly to him, thus making him believe that treatment at hospital is all that is required for medical insurance payments. Benny even asks Mr Hung to call the Customer Services Department to pursue his claim if he is not satisfied. Mr Hung was furious and said he would complain to Benny's superior about this. Benny's unbridled attitude can be explained by his being spoiled by Ada, who pays little attention to customers that buy insurance with small sums insured and who treats their complaints coldly.

### **Episode 5 Being in dilemma**

Adding together his observations, David starts to realise that the Dragon Team in fact has many problems which Ada has not dealt with squarely. David has tried to go to Ada for guidance when facing difficulties at work, only to find no response from her. For instance, he once attempts to seek Ada's opinion on a group medical insurance plan for employees with a Mr Tong of the New Generation Group. Yet Ada is occupied with her own business and merely instructs David to ensure that the deal can be closed at all costs, provided that no illegal practices are employed. She also urges David to follow the example of Benny by dressing up when seeing customers to build a professional image because people generally judge others initially by their outlook.

David accepts Ada's advice. On the way to shopping for new clothes, he meets Frankie, his former colleague at Golden Bull Team, and they decide to get together for a drink. David says to Frankie that he misses Charles's attentive guidance, and starts to realise the reasons behind of his acts. In fact, the Golden Bull Team has been among the best

performing teams in the company. Charles often warns his team members against improper ways to achieve business results. He assesses his team members' performance not merely by their individual business results, but also by their professional conduct. In a nutshell, Charles requires his team members to acquire success through "the noble means". Frankie tells David that Dragon Team's Benny often employs unscrupulous means to achieve his goals. For instance, he succeeded in becoming "Star of Dragon" last year by conspiring with a colleague to "borrow policies" in order to achieve better business results and higher commissions. On hearing these, David begins to feel worried about the future of Dragon Team and cast doubts on Ada's leadership. He gradually realises that he might have blamed Charles wrongly.

David meets Mr Tong, Personnel Manager of a big customer, the New Generation Group, to discuss the group medical insurance plan for employees. Mr Tong is satisfied with David's proposal, and says that he will recommend his company to buy this insurance plan. While David secretly applauds his success in making a deal, Mr Tong says unexpectedly that the Group is about to hold a staff function and he is having difficulties in identifying prizes for the lucky draw. He then asks David to sponsor prizes. While David is hesitating, Mr Tong changes his tone immediately and says he needs to consider further before deciding on the insurance plan.

## **Episode 6 ICAC comes to action**

After leaving the New Generation Group, David realises that the situation is far from good. He hurries back to the company to discuss with Ada what to do next. Back to the company, he at once sees Benny and Ada on the way out, individually accompanied by ICAC investigators. In a state of shock, he learns from Eva that Benny conspires with a customer to fabricate a traffic accident on the Mainland and to bribe the relevant officers to make up a traffic accident and a medical report, with a view to deceiving the company of insurance money, hence being arrested by the ICAC. Ada, being Benny's superior, is suspected of shielding her subordinate for illegal acts and has to assist in the ICAC investigation too. Eva says that fortunately she did not meet Benny's request to "lend him policies" last year to enable him to fabricate business results; otherwise, she will have been arrested as well.

Still shocked by what has happened, David is worried on one hand that Ada (his cousin) might be implicated in the criminal act, yet is relieved on the other hand that he has not acted recklessly and took the wrong road. Right then, he recalls the advices of Charles...

## Case Analyses

The case will be analysed from two perspectives, one on the anti-corruption laws and the other on staff management, to help insurance intermediaries understand the causes of the problems shown in the above case and the solutions. Through the characters in the story, Part I mainly analyses the risks of corruption, explains the importance of the Prevention of Bribery Ordinance and of the relevant professional integrity, stresses the serious consequences of corruption and arouses anti-corruption awareness, with a view to reminding frontline practitioners of their obligation to comply with the laws and the regulations and not to be involved with corruption. Part II discusses the problems commonly met in staff management, with focus on management staff's responsibility, attitude and skills in managing staff integrity.

### Part I: Legal requirements and professional codes of conduct

- ✧ The frontline insurance intermediaries in the story have different business ambitions and different expectations from their work. Some act unwittingly in violation of the relevant legislation and professional code of conduct owing to inexperience and incompetence. Some act unscrupulously against the laws in pursuit of personal gains. The problems encountered by these characters serve as useful references and warning signs for insurance practitioners to avoid repeating their mistakes.
- ✧ Violation of the Prevention of Bribery Ordinance is subject to a maximum penalty of seven years of imprisonment and a fine of half a million dollars. Besides, the court can order for confiscation of any proceeds of bribery, and may prohibit the convict from working in the same profession for up to seven years. Serious cases of professional misconduct will lead to disciplinary actions by the Insurance Authority, including reprimand, ordering financial penalty, revoke or suspension of licence.
- ✧ The situations of David, Eva, Benny and Frankie and their conduct will be analysed below. Measures for preventing corruption and for improvements will also be recommended.

## David

A young man with good initiative and drive, but does not have a solid foundation and is too anxious to perform well. He joins the Golden Bull Team first, and then switches to the Dragon Team. With experiences in working under different teams, he realises that he should not be radical or reckless when conducting business, and that success only comes when one observes professional principles.

Plot	Legal requirements	Professional codes of conduct	Measures for preventing corruption and for improvements
<p>When discussing with Mr Tong, Personnel Manager of the New Generation Group about a proposed group medical insurance plan for employees, Mr Tong asks David to contribute prizes for the lucky draw at a staff function in the name of himself or of his company.</p>	<p>✧ If Mr Tong, being an agent (employee) of the New Generation Group, abuses his authority to solicit contribution of prizes (which constitutes an advantage), without his principal's (employer) approval, as reward for facilitating his company to buy the Insurance plan, he shall be guilty of soliciting bribes under Section 9 of the Prevention of Bribery Ordinance. David, if he agrees to provide such an advantage, shall be guilty of offering bribes.</p>	<p>✧ Acts of insurance intermediaries offering bribes to help acquire business are breaches of the laws and of the professional codes of conduct. If convicted, they cannot fulfil the requirement of "fit and proper" criteria. The consequences of professional misconduct are serious -- the Insurance Authority might take disciplinary actions against insurance intermediaries who are in breach of the regulations.</p>	<p>✧ To ensure that Mr Tong is not intending to solicit bribes, David can tactfully ask Mr Tong to state his request in the name of the company in writing, and that the New Generation Group will acknowledge receipt of the prizes in written form. If Mr Tong insists to ask for prizes but refuses to make proper written record, then any act of providing prizes as requested will very likely be regarded as an act of offering bribes.</p> <p>✧ If David is certain that Mr Tong has a corrupt intention, he should report to his superior immediately, and consider reporting to the ICAC as well so as to bring the corrupt damaging fair competition to justice. He may also report to the senior management of New Generation, so that they can take preventive measures in eradicating corruption from happening in the organisation.</p> <p>✧ When discussing insurance business, insurance intermediaries should exercise due care when handling issues</p>

Plot	Legal requirements	Professional codes of conduct	Measures for preventing corruption and for improvements
			<p>relating to offers of gifts to customers' agents (e.g. the staff of the personnel department of a corporate customer). To avoid committing the offence of bribery, they should make sure that employees receiving gifts have already obtained approval from their employers. They can also deliver the gifts through the employer to the employees, so that the recipients can obtain proper approval from their employer beforehand to avoid breaching the law.</p>
<p>David asks his superior to handle the insurance application of a customer from the Mainland who does not hold a Hong Kong identity card and will not supply details required by a customers' needs analysis form and a written declaration.</p>		<ul style="list-style-type: none"> <li>✧ Insurance application forms usually require customers to disclose all "material facts" that would influence insurers' decisions on whether they will provide the cover being requested. Besides, the relevant forms and documents contain a declaration as to the consequences of a failure to disclose material facts, which declaration must be signed by the applicants.</li> <li>✧ The above practices serve as a reminder of the mutual obligations of insurance applicants and insurers to disclose material facts truly and correctly, thus helping to prevent litigations and claims</li> </ul>	<ul style="list-style-type: none"> <li>✧ Insurance intermediaries should comply with the relevant provisions and requirements so as to safeguard the interests of the company and its customers.</li> </ul>

Plot	Legal requirements	Professional codes of conduct	Measures for preventing corruption and for improvements
		disputes brought about by non-disclosure.	
An old customer wants to apply for an internet account for handling insurance matters, but the request is not accomplished due to incorrect data provided inadvertently. In response to the customer's enquiry, David just asks him to contact the Customer Services Department without following up the case personally.		<ul style="list-style-type: none"> <li>✧ Insurers are obliged to set out service standards and to supervise their staff to ensure that such standards are being complied with.</li> <li>✧ Insurance intermediaries should handle customers' enquiries speedily, politely and accurately</li> </ul>	<ul style="list-style-type: none"> <li>✧ Insurance intermediaries should fulfil the company's service commitments, act professionally and handle customers' enquiries carefully to avoid complaints.</li> <li>✧ Provide quality "after sales services", which will help win customers' trust, enhance competitiveness and attract reliable customers.</li> </ul>
A customer submits a critical illness insurance claim for heart disease. It turns out that he has got heart disease when he was young, but David, who is aware of such history, forgets to remind him to disclose this on the insurance application.		<ul style="list-style-type: none"> <li>✧ The consequences of professional misconduct are serious -- the Insurance Authority might take disciplinary actions against insurance intermediaries who are in breach of the regulations.</li> </ul>	<ul style="list-style-type: none"> <li>✧ Insurers should take responsibility for wrongdoings of their employees / agents during the periods of employment. Insurance intermediaries should be careful when handling customers' applications for insurance; otherwise, their companies might incur losses and the customers might find themselves without the cover needed.</li> </ul>

### Explanation of Major Points

- David is a young and promising insurance agent and wishes to become an outstanding, professional practitioner. Unsatisfied with the stringent requirements of Charles (his superior) and his insistence on playing by the rule without exception, he quits his job. Persuaded by Ada, a cousin of his, David later joins Ada's team. Switching from the conservative, steady Golden Bull Team to the highly-motivated Dragon Team, he thought he can show the world his capability and potential at work. But then, he gradually realizes the importance of guidance provided by a superior to an inexperienced insurance intermediary.

- Thanks to Frankie (an old team mate) straightening him out, David gradually realizes that a superior's guidance and supervision are essential to helping him understand the importance of professional integrity and ethics. Although following the company's rules and procedures takes time, this will ensure that insurance practitioners, in handling customers' policies, do not make mistakes that will affect both personal and corporate interests, and that neither the company nor the customers suffer unnecessary loss. Effective supervision can help prevent breaches of the laws and requirements, and safeguard insurance practitioners by alerting them to the risks and temptations they might face at work so that they are able to get round them.

## Eva

Eva is diligent, kindhearted and capable of distinguishing between right and wrong. Because of her inexperience, she often loses her bearings when under pressure at work.

Plot	Legal requirement	Professional Codes of Conduct	Measures for preventing corruption and for improvements
For better business results, Eva has her friend, Joe, pay the company full premiums and then gives him a 30% rebate out of her own pocket.	<ul style="list-style-type: none"> <li>◇ Offering discounts to individual customers will not constitute a corruption offence, but if Joe is representing a corporate customer, e.g. a staff member of its employee benefits department, accepting premium rebate in secret in return for making his company buy insurance from Eva would constitute an offence of taking bribes, with Eva being guilty of offering bribes.</li> </ul>	<ul style="list-style-type: none"> <li>◇ Offering rebate in soliciting business is a breach of the guideline issued by the Insurance Authority. Financing the rebate with one's own income is inadvisable because the loss will outweigh the gain. Such a practice will also lead to vicious competition, because when customers become accustomed to competition on price they might find themselves incapable of selecting a right insurance policy for themselves seriously, with bad consequences for themselves and for insurance companies.</li> </ul>	<ul style="list-style-type: none"> <li>◇ Insurance intermediaries should work hard to solicit business for the companies, without employing means which are against the relevant laws and regulations.</li> <li>◇ "Business results dominance" will easily steer the staff towards taking risks when under pressure at work, and even taking short cuts and going astray. Companies should work out effective marketing strategies and investment products, and set reasonable sales targets.</li> </ul>
Benny instigates Eva to stop paying further premiums upon issuance of the policy, in order to reduce her loss caused by paying	<ul style="list-style-type: none"> <li>◇ If Eva, with intent to defraud her company of commissions, conspires with a customer to stop</li> </ul>	<ul style="list-style-type: none"> <li>◇ Insurance intermediaries have to refrain from defrauding insurance companies of commissions, or they</li> </ul>	<ul style="list-style-type: none"> <li>◇ Insurance companies should reinforce their internal monitoring systems, and examine and verify cases of premium cessation, with</li> </ul>

Plot	Legal requirement	Professional Codes of Conduct	Measures for preventing corruption and for improvements
for the premium shortfall.	paying further premiums upon issuance of the policy, she shall be guilty of fraud.	will be in breach of their fiduciary duties with resultant damage to the interests of the companies	a view to avoiding fraudulent or corrupt practices.

### Explanation of Major Points

- Eva has a serious work attitude, is straightforward and attentive to customers. She works her procedures and record systems orderly in accordance with the requirements when handling policies and is appreciated by her customers. Yet owing to her inexperience and in face of a superior who requires subordinates to be independent and competent, also attaching utmost importance to business results, she feels helpless and immense stress. In pursuing good business results with utmost effort, Eva even offers rebate to her friend for buying insurance from her. She does it not out of bad intentions – she thinks that this will not cause any loss to the company on the one hand and will help her friend buy “good value” insurance on the other hand. Although she knows that this is against the professional code of practice, she does not realise that this will lead to vicious competition in the industry.
- Although what Eva does has not caused the company any loss, this will result in a reduction of her income in the long run, making it likely that she will take risks and go astray when under financial pressure. If she accepts Benny’s instigation and reduces her loss by stopping further premiums, both her company and her customers will suffer serious losses.
- Eva’s case illustrates the importance of professional integrity to insurance intermediaries. If an insurance intermediary, when under work pressure or in difficulties, lowers or even disregards his professional integrity, he will ultimately do something in grave breach of the laws or the regulations and end up in the net of justice. Therefore personal ethics is the first line of defence against corruption and other malpractices, and professional integrity and companies’ guidelines on conduct are the beacon lights.

### Benny

Benny is experienced, and good at pleasing superiors. On the surface, he handles his businesses smoothly and competently. In reality, he is eager for quick success and instant benefits, and deliberately plans to achieve personal gains through practices which violate the laws and discipline, without regard to the interest of the company and customers and the reputation of the insurance industry.

Plot	Legal requirement	Professional Codes of Conduct	Measures for preventing corruption and for improvements
<p>Benny borrows policies from a colleague to falsify business results and defraud the company of commissions.</p>	<p>✧ An agent (employee) who, with intent to deceive his principal (employer), uses a bogus, erroneous document, shall be guilty under Section 9 (3) of the Prevention of Bribery Ordinance.</p>	<p>✧ The dishonest conduct of Benny not only amounts to losses to the company, it also constitutes fraud and serious breach of the basic requirements of the professional codes of conduct.</p>	<p>✧ Where any of the staff has acted dishonestly at the expense of the company, they should be brought to justice by reporting to the relevant law enforcement bodies, using this as a warning to others.</p> <p>✧ Companies should reinforce their internal monitoring systems. When devising reward systems, they should especially guard against abuses by the staff.</p> <p>✧ Superiors should inspect the business reports submitted by their staff, spot check receipts, and examine and verify documents. They should also actively get in touch with the customers of suspicious staff for clarifications of the suspicions with a view to preventing fraud.</p>
<p>Benny conspires with a customer to fabricate a traffic accident on the Mainland, with intent to defraud the company of insurance money.</p>	<p>✧ It is an offence of fraud under the Theft Ordinance. If Benny's conspiracy is related to bribery, he shall also be guilty under the Prevention of Bribery Ordinance.</p>	<p>✧ To intentionally gain insurance money by fraudulently fabricating an accident amounts to serious dereliction of duty, and this dishonest conduct will lead to great loss to the company.</p>	<p>✧ Although the Mainland and Hong Kong have different legal systems and cultures, insurance intermediaries have to observe the legal requirements in both places. According to Section 9 of the Prevention of Bribery Ordinance, even if only part of the bribery act (such as soliciting, offering or accepting an advantage) is conducted in Hong Kong, the ICAC is statutorily empowered to make investigations.</p> <p>✧ Companies should have in place procedures for</p>

Plot	Legal requirement	Professional Codes of Conduct	Measures for preventing corruption and for improvements
			<p>examination and approval in relation to insurance claims involving accidents happening outside Hong Kong, so as to reduce the number of sham insurance claims.</p>
<p>In a bid to please a customer Mr Lee, Benny actively suggests him, who is a smoker, to claim himself as non-smoker on an insurance application in order to reduce his premium outlays. Benny also promises to help him seek insurance payments should a need arises in the future.</p>	<ul style="list-style-type: none"> <li>✧ Although this is not an offence under the Prevention of Bribery Ordinance, offering false information in order to defraud insurance companies of insurance money is an offence under the Theft Ordinance.</li> <li>✧ Mr Lee, by providing false information, hinders himself from getting insurance payments – eating his own bitter fruit.</li> </ul>	<ul style="list-style-type: none"> <li>✧ Insurance intermediaries’ acts of instigating customers to provide false information or to make misleading declarations, or of pleasing customers by unethical means, are breaches of professional conduct.</li> <li>✧ Benny’s associations with his customers are too close, and this lets his personal considerations interfere with his business, and lets personal relationships affect justice and objectivity at work.</li> </ul>	<ul style="list-style-type: none"> <li>✧ Staff members who act dishonestly without regard for the companies’ interests should be severely punished, because to tolerate evil is to abet it; “good” staff members might also follow their bad example.</li> <li>✧ Reinforce the publicity to staff on their obligation to report breaches of the laws or discipline, so as to stop those who breach the law from damaging the interests of the companies and colleagues.</li> <li>✧ Ask the staff to declare interests, and make frequent examinations and verifications.</li> </ul>
<p>Benny tries to persuade his customer, Mr Lai, to replace his policy soon after it is issued, with a view to boosting his own business results and commission income, without regard for Mr Lee’s interest.</p>	<ul style="list-style-type: none"> <li>✧ Although such an act is not against any Ordinance, an insurance intermediary who misleads customers with a view to acquiring business for himself, resulting in a loss to the customers, will be punished; the insurance company would have to compensate for the loss.</li> </ul>	<ul style="list-style-type: none"> <li>✧ Insurance intermediaries are prohibited from urging customers, whether directly or indirectly, to replace policies casually, especially policies that are long term in nature.</li> <li>✧ When selling life insurance policies, insurance intermediaries have to complete “Customer Protection</li> </ul>	<ul style="list-style-type: none"> <li>✧ Insurance intermediaries should follow objective, established procedures, and provide independent and unbiased advice to customers, with an ethical and objective attitude.</li> <li>✧ Supervisors should keep an eye on customers who often replace policies, and make enquiries with the intermediaries concerned, asking them to account for the replacements with</li> </ul>

Plot	Legal requirement	Professional Codes of Conduct	Measures for preventing corruption and for improvements
		<p>Declaration Forms” and remind the customers of the contents of the Forms. If the customers intend to stop paying premiums under the original policies, the insurance intermediaries in order to avoid damage to the customers’ interests, have to remind them of the estimated resultant loss.</p>	<p>reasonable explanation</p> <ul style="list-style-type: none"> <li>✧ Reinforce the publicity given to the public to the risks of replacing policies, and of the importance of observing the relevant legal provisions.</li> </ul>
<p>When selling insurance, Benny explains the cover ambiguously, misleading customers into believing that getting sick outside Hong Kong is an insured event.</p>		<ul style="list-style-type: none"> <li>✧ Insurance intermediaries have to clearly and accurately explain the contents of proposed insurance plans to customers, so that their customers fully understand the important insurance clauses, or they will be in breach of the professional conduct.</li> <li>✧ Those insurance intermediaries who treat customers dishonestly, whether intentionally or otherwise, will lose their trust, eating their own bitter fruit in the end in that “good” customers will leave them and those who buy from them are all “bad” ones with “improper motives”. Ethics is undoubtedly an attribute that every insurance intermediary must possess.</li> </ul>	<ul style="list-style-type: none"> <li>✧ Insurance companies should remind their staff to attach importance to “after sales services”, especially when customers are encountering problems and should not ask them to contact the Customer Services Department for help lightly.</li> <li>✧ Management staff should guide those staff members who are often being complained, identify the problems, and do surprise checks or examinations of documents frequently.</li> <li>✧ Sales supervisors should reinforce their communications with the Customer Services Department, so that their subordinates’ inadequacy and malpractices can be identified.</li> </ul>

## Explanation of Major Points

- Benny harbours evil intentions. By being outwardly diligent, competent, independent and professional, he earns trust from his superior. In fact, he makes dirty deals with criminals in secret, and makes insurance claims on the basis of fabricated traffic accidents. The reason why he disregards the laws and discipline, and the interests of his company and others, is that he allows himself to be totally driven by his desire for gain and resorts to every conceivable means in acquiring insurance business. His severe lack of integrity and supervision pushes him further along a path of illegal conduct. People like him, who are eager for quick success and instant benefit, and who intentionally takes short cuts to earning quick money without regard to the interests of his company and colleagues, should be severely punished, so as to serve justice and as a warning to others.

## Frankie

Frankie is mature and steady. He is familiar with the risks and temptations that exist in the industry and deeply understands the importance of observing the laws and regulations. Yet he is afraid of getting into trouble, and chokes with silent fury in the face of unethical colleagues.

Plot	Legal requirement	Professional Codes of Conduct	Measures for preventing corruption and for improvements
Frankie knows well that Benny often achieves his goals by means which are against the laws and regulations. Although he determinedly refuses cooperation with Benny on his malpractices, he does not report his illegal acts.	<ul style="list-style-type: none"> <li>✧ Frankie should report to the senior management or the relevant law enforcement bodies of Benny's acts immediately. Concealing illegal conducts that he knows might be perceived mistakenly by others as conspiracy.</li> </ul>		<ul style="list-style-type: none"> <li>✧ Reporting crimes is a civic duty. If an insurance intermediary discovers acts of violating the laws or regulations within his organisation but cannot take appropriate remedial measures, he should report them to the relevant law enforcement and regulatory bodies at appropriate circumstances.</li> <li>✧ To tolerate acts of violating the laws or regulations will only encourage lawless people to intensify their acts, which will cause damage to one's own company and to other practitioners in the industry. Once a bad trend is formed, the colleagues who originally abide by the laws and regulations will be</li> </ul>

Plot	Legal requirement	Professional Codes of Conduct	Measures for preventing corruption and for improvements
			<p>indirectly encouraged to follow the bad example of such malpractices.</p> <p>✧ Companies should put in place internal mechanisms to reinforce their communications with their staff and to help them overcome difficulties. They should also encourage their staff to report incidents of violations of the laws or regulations, be fair in meting out rewards and punishments, and build up a corporate culture of ethics and law-abiding in collaboration with their staff.</p>

**Explanation of Major Points**

- Frankie is familiar with the various malpractices that happen in the industry. He is well on guard against them and distances himself from the temptations. He truly is an ethical, professional insurance intermediary.
  
- He fulfils his duties diligently and respects those who guides and teaches him on one hand, and assists younger practitioners like David on the other hand by offering them guidance. He is a role model in the industry. It is a fly in the ointment that he fails to report Benny’s malpractices immediately – if he had, the situation would not have been so. In fact, corruption and other malpractices can be prevented – if every practitioner has the courage to reveal malpractices, cherishing the hard earned reputation of the industry, then the evil trend and the rotten apples will be completely eliminated.

## Part II: Supervisory Accountability

The supervisors in the case, Ada and Charles, are both loyal, diligent, and have a zest for their profession. They manage their team members in different styles, displaying their own strengths and weaknesses as well. Their comparisons are listed below.

**Ada** is capable, experienced and independent. She got promoted to the management level on the basis of her strength and determination to face challenges. But she is not competent at staff management. She erroneously thinks that her subordinates are as disciplined as she is so that she needs not worry about them. This explains why she overlooks the importance of supervision and her failure in detecting early on their evil intentions to acquire business by means which are against the laws and the regulations.

### **Overconfident, overlooks monitoring**

- Being someone who has had the experience, Ada thinks that her subordinates should be given a free hand to do their jobs and to develop independent problem solving skills. However, such a management style will inevitably put new entrants to the industry in a difficult situation and deprive them of guidance. As people don't think alike, basic staff management should never be neglected.
- Ada's eagerness for results has brought unnecessary pressure on her subordinates. She also fails to adhere importance to sharing her experience with her subordinates and to giving them clear guidance, resulting in their helplessness. For instance, Ada makes David responsible for proposing a group medical insurance plan for employees to a big customer, the New Generation Group, asking that he must strike a deal. In fact, David wants to consult Ada, but she is too busy doing her own work and offers no help to David except the instruction that he must make a deal at all costs provided no illegal acts are done.

### **Business results is what matters; yet no guidance given**

- Ada only has one thing in her mind, which is to make her team become the best in the company. She is diligent, highly motivated and equipped with the unswerving determination that a successful insurance professional should possess. It is a pity that she concentrates too much on quietly immersing herself in hard work, failing to strike a balance between management and business results. In addition, she fails to take into consideration the respective experience, capability and character of her subordinates in assigning jobs to them, and even makes the mistake of trusting Benny, who thinks in one way but behaves in another. Ada trusts her subordinates too much without putting in place suitable safeguards. She thinks any subordinate who works strenuously and who is able to achieve sales targets is a good subordinate. She does

not want to know what means her subordinates employ to acquire business so long as they are not illegal. She attaches importance neither to procedures for handling documents nor to their accuracy, making it possible for people who are bent into cheating to take advantage of the weak points.

### **Responsibility for mismanagement must not be shed**

- Ada neglects to take responsibility as supervisor for staff administration, fails to attach importance to supervising and examining documents, and is not competent at managing the conduct of her staff. These will undoubtedly encourage staff with evil intentions to employ unscrupulous means to achieve personal gain, and colleagues who toe the line to follow their bad example, resulting in an evil trend in the team.
- If a supervisor turns a blind eye to and shows tolerance to frequent, severe, widespread misconduct, they should be held “accountable” for mismanagement.
- Not only should Ada assist the ICAC with its investigations, she should also account to the company for what has happened. Even if she manages to regain the company’s trust in her and makes it believe that she is not a party to cheating the company, it is inevitable that the company will doubt her management capability, which will affect her career prospect.

**Charles** is practical and realistic, and attaches importance to the company’s rules and procedures. He has stringent requirements for his subordinates, making those subordinates who are radical feel that he is too conservative and garrulous.

But some experienced subordinates appreciate Charles’s management style. Under his leadership, Golden Bull Team succeeds in establishing a wide network of clientele. Its customers praise it highly and often introduce new customers to it proactively; which not only gives the team members job satisfaction, but also help broaden its customer base, enabling it to achieve good business results time and again.

### **Guide with skill and patience; follow the prescribed order**

- Charles often instructs his subordinates with good intentions, asking them emphatically to do their work following proper procedures and to submit documents to the company in an orderly fashion. It is unfortunate that the stern manner he employs when communicating with his subordinates has conveyed to his young subordinates that he is a long-winded and unmotivated leader.
- Charles requires his subordinates to take good care of their customers’ old as well as new policies, and to earn their trust by quality services, hoping that these will

encourage them to introduce new customers. Unfortunately, owing to lack of communication skills, his good intentions are taken by his subordinates as censure.

- Charles strictly examines the new applications that his subordinates acquire and makes sure that the information required is complete before giving his endorsement. This will avoid mistakes and future claim disputes, which will tarnish the company's reputation and damage the interests of customers. This shows that Charles is being responsible.

### **Abide by the principles, the laws and the regulations**

- Although Charles is old-fashioned and inflexible, he is experienced and understands that he should never lower his standard of professional conduct or go along with the black sheep in acquiring business despite the importance of business results.
- Charles believes that by being honest, reliable, professional and competent, he can earn appreciation from "good customers". On the contrary, ill-gotten wealth and results obtained by improper means are unsustainable. It is better to work diligently and honestly, which will lead to both good results and job satisfaction.
- In managing the business, Charles appreciates the need for flexibility and for reasonable targets for his subordinates, who might resort to improper means when under too much pressure.

### **Set an example; observe people closely**

- To set an example for his subordinates, Charles attaches importance to personal integrity, and endeavours to provide the best services to customers, which will help obtain trust from them and establish long term mutual trust.
- Not only does Charles attach importance to his team members' business results, he also cares about their work attitude and behaviour. He guides them in accordance with their aptitude, and helps both the company and his colleagues grow continuously.

## Prevention of Bribery Ordinance (Cap. 201)

### Spirit of the Prevention of Bribery Ordinance

In Hong Kong, Section 9 of the Prevention of Bribery Ordinance is the major piece of legislation that is used to combat crimes of corruption in the commercial and industrial sectors. The spirit of the legislation seeks to ensure that all businesses in Hong Kong can compete in a fair and orderly environment and to protect the interests of business organisations or principals from being jeopardised by employees or agents who abuse their power for personal gain.

### Section 9 Subsections (1) and (2) of the Prevention of Bribery Ordinance

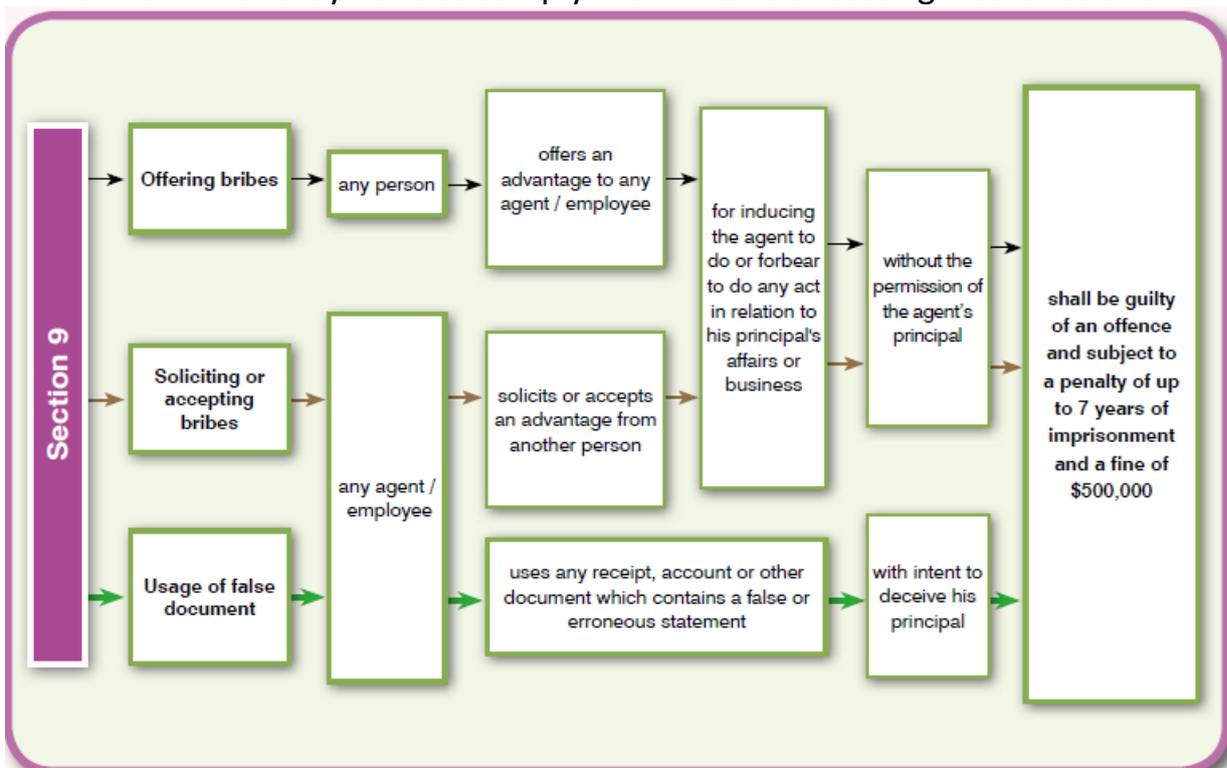
Any agent, who solicits or accepts an advantage in relation to the affairs or business of his principal without obtaining his principal's authorisation or permission, is guilty of an offence. The person offering an advantage to the agent also commits a crime. According to the law, offering and accepting an advantage both constitute an offence.

### Section 9 Subsection (3) of the Prevention of Bribery Ordinance

Any agent, who uses any forged or false receipt, account or other document with intent to deceive his principal, commits an offence.

### How is Section 9 of the Prevention of Bribery Ordinance Relevant to Insurance Practitioners?

Insurance practitioners are subject to the Prevention of Bribery Ordinance. The table below explains briefly the main features of the application of the Ordinance to the insurance industry, enabling insurance practitioners to understand those statutory provisions with which they have to comply with when transacting insurance business.



Major Provisions of the Ordinance	Application of Section 9 Subsections (1), (2) and (3) of the Prevention of Bribery Ordinance to the Insurance Industry
<b>Agent / employee</b>	<p><b>Insurance agent / employee</b></p> <ul style="list-style-type: none"> <li>✧ An agent who has been appointed by an insurance company and granted a licence by the Insurance Authority as a licensed individual insurance agent or a licensed technical representative (agent) to act as agents of the authorized insurers or the licensed insurance agencies which appoint them, to promote, advise on and arrange insurance policies offered by their appointing insurers or agencies.</li> <li>✧ An employee of an insurance company.</li> </ul> <p><b>Insurance broker</b></p> <ul style="list-style-type: none"> <li>✧ Under Section 2 of the <a href="#">Insurance Ordinance</a> (Cap. 41, Laws of Hong Kong), licensed insurance broker means a licensed insurance broker company or a licensed technical representative (broker).</li> <li>✧ An insurance broker company, which has been granted a licence by the Insurance Authority, gives advice on insurance policies to clients and acts as an agent of clients; whereas a licensed technical representative (broker) acts as a representative of the licensed broker company which appoints him and gives advice on insurance policies to clients and deal with matters relating to insurance policies on behalf of clients.</li> </ul>
<b>Principal / employer</b>	<p><b>Insurance company</b></p> <ul style="list-style-type: none"> <li>✧ The principal of an insurance agent or staff member usually refers to their insurance company.</li> </ul> <p><b>Proposer or policyholder and licensed insurance broker company</b></p> <ul style="list-style-type: none"> <li>✧ A proposer, policy holder or a potential policy holder, is the principal of an insurance broker. Besides, a licensed insurance broker company is the principal of its appointed licensed technical representative (broker) who represents the company to deal with matters relating to insurance policies on behalf of the clients.</li> </ul>
<b>Principal's permission / approval</b>	<ul style="list-style-type: none"> <li>✧ An insurance agent can accept an advantage with his principal's permission or approval, in the course of carrying out his duties without breaching the Ordinance. That said, he has to obtain approval from his principal before being given, soliciting or accepting the advantage. Where an advantage was given or accepted without his principal's prior approval, the insurance agent has to seek retrospective permission from his principal as soon as reasonably possible.</li> <li>✧ Likewise, an insurance broker who, without approval from a proposer or policyholder, solicits or accepts an advantage from an insurance company in return for facilitating the proposer to buy insurance from that company, shall be guilty of an offence. As for a licensed technical representative (broker), approval from his/her respective licensed insurance broker company is required.</li> </ul>
<b>Advantage</b>	<ul style="list-style-type: none"> <li>✧ The term "advantage" is broadly defined to include: money, gift, loan, reward, commission, office, employment, contract, service, favour, the exercise of a duty, and forbearance from the exercise of a duty.</li> <li>✧ Even tips, "red packet money" and "tea money" are included irrespective of amounts; but entertainment (i.e. food and drink consumed on the spot) is excluded.</li> <li>✧ An agent who accepts an advantage in relation to his duties without his</li> </ul>

Major Provisions of the Ordinance	Application of Section 9 Subsections (1), (2) and (3) of the Prevention of Bribery Ordinance to the Insurance Industry
	principal's permission – even though through a third party – is still guilty of an offence.
<p><b>Accepting or soliciting bribes</b></p> <p>Soliciting or accepting an advantage as an inducement to or reward for an agent's doing or forbearing to do an act in relation to his principal's affairs or business</p>	<p>Examples:</p> <p><b>Insurance agent</b></p> <ul style="list-style-type: none"> <li>✧ When handling an insurance claim for a customer, solicits or accepts money in return for assisting him to deceive the company with fraudulent acts and withholding the truth from the insurance company.</li> <li>✧ Accepts an advantage in return for diverting business to another insurance agent or insurance company, damaging the interests of the company.</li> <li>✧ When arranging a physical examination, consultation or medical services for a proposer or policyholder, solicits or accepts an "introduction fee" from a medical institution in secret.</li> </ul> <p><b>Insurance broker</b></p> <ul style="list-style-type: none"> <li>✧ When selecting insurance products for a proposer, an insurance broker solicits or accepts an advantage from the insurance company in secret for making a deal.</li> </ul>
<p><b>Offering bribes</b></p> <p>Offering an advantage as an inducement to or reward for an agent's doing or forbearing to do an act in relation to his principal's affairs or business</p>	<p>Examples:</p> <p><b>Policyholder</b></p> <ul style="list-style-type: none"> <li>✧ Offers an advantage to an insurance agent or to a staff member of an insurance company, in return for showing favour to his insurance claim.</li> </ul> <p><b>Insurance agent / insurance broker</b></p> <ul style="list-style-type: none"> <li>✧ Offers an advantage to the manager of the personnel department of a corporate customer in secret, in return for making a group insurance contract for that company's staff.</li> </ul> <p><b>Any person</b></p> <ul style="list-style-type: none"> <li>✧ Offers an advantage to an insurance agent or to a staff member of an insurance company, in return for revealing a policyholder's personal data or commercial information of his employer.</li> </ul>
<p><b>Any agent uses a receipt, account or other document which is false, with intent to deceive his principal</b></p>	<p>Examples:</p> <p><b>Insurance agent or staff member of insurance company</b></p> <ul style="list-style-type: none"> <li>✧ Assists a proposer with a medical insurance claim with the use of a bogus or inflated receipt of medical expenses.</li> <li>✧ Supplies information (such as a proposer's physical examination report or income proof) that is bogus, with a view to making an insurance company accept an insurance application.</li> <li>✧ With the aim of fraudulently gaining commission or other types of rewards, fabricates customers' data or falsifies documents so as to mislead a principal into believing that the insurance agent has made an insurance deal.</li> </ul> <p><b>Insurance broker</b></p> <ul style="list-style-type: none"> <li>✧ Supplies a proposer with bogus or incomplete quote or information intentionally, with a view to making the proposer select the insurance company or insurance plan that the insurance broker prefers.</li> </ul>
<p><b>Commits a crime of corruption</b></p>	<ul style="list-style-type: none"> <li>✧ Offering, soliciting or accepting a bribe, and usage of a bogus document by an agent with intent to deceive his principal, are all crimes of corruption, and are subject to a penalty of up to 7 years of imprisonment and a fine of</li> </ul>

Major Provisions of the Ordinance	Application of Section 9 Subsections (1), (2) and (3) of the Prevention of Bribery Ordinance to the Insurance Industry
	\$500,000. In addition, the court may order the convicted to pay to such person or organisation as it directs the whole or part of the amount or value of the advantage received by him through illegal means.

The above are just illustrating the major provisions of the Prevention of Bribery Ordinance for reference. The original text can be found at the Hong Kong e-Legislation website (<https://www.elegislation.gov.hk/>) °

### Points to Note

- Customs in any profession, trade, vocation or calling do not constitute a defence for bribery (Section 19 of the Prevention of Bribery Ordinance).
- The offeror and the recipient of a bribe will be guilty irrespective of whether or not the act of bribery has actually been carried out. It is not a defence for the recipient to claim that “the act requested to be done was not actually carried out” (Section 11 of the Prevention of Bribery Ordinance).
- If any part of the act of bribery can be proved to have taken place in Hong Kong, both the offeror and recipient may be pursued under the Prevention of Bribery Ordinance.
- Both the offeror and recipient of a bribe commit an offence if verbal agreement on corruption is reached.

### Investigation of Offences Other Than Corruption

If other related offences, such as “obtaining pecuniary advantage by deception” or “false accounting” under the Theft Ordinance or “forgery” under the Crimes Ordinance, are discovered during the course of an ICAC investigation into an alleged offence under the Prevention of Bribery Ordinance, the ICAC has the power to conduct investigations and make arrests in pursuance of these offences.