

HUMAN RESOURCES POLICIES AND PROCEDURES/GENERAL

Acceptance of Advantages

The University is included into the Schedule to the **Prevention of Bribery Ordinance** (Cap. 201, hereafter referred to as PBO) as a "public body". All staff members of the University, whether temporary or permanent, are therefore "public servants" under this Ordinance. As a public servant, any staff member must be wary of any "advantage" which is offered to him/her and which could in any way be connected with the performance of his/her duties as a University staff. It is the University's policy to prohibit its staff to solicit or accept any advantages from any persons having official dealings with the University (e.g. publishers, suppliers, contractors etc.), except in the circumstances and of the nature described in paragraphs 6 and 7 below and with written approval as stipulated in paragraph 8. Otherwise, any acceptance of advantage may be an offence under the PBO in accordance with its Sections 4(2).

2. Under section 4(2) of the PBO, a **criminal offence** is committed by "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/her:

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his/her 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/herself or by any other public servant in his/her 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 public body."

3. For the purpose of PBO, the term "advantage" is defined, in its Section 2(1), as including:

- (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 of disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d), and (e).

4. In accordance with Section 2(2) of the PBO,
- (a) a person solicits an advantage if he/she, or any other person acting on his/her behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself/herself or for any other persons; and
 - (b) a person accepts an advantage if he/she, or any other person acting on his/her behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself/herself or for any other person.

5. There are, however, two sub-sections to Section 4 of the PBO viz. sub-sections 4(3) and 4(4) in accordance with which a public body may, if it deems fit to do so, grant permission to its staff to accept certain designated types of advantages in certain circumstances. These sub-sections 4(3) and 4(4) read as follows:

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

4(4) For the purposes of sub-section (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 of acceptance,

and for such permission to be effective for the purposes of sub-section (3), the public body shall before giving such permission, having regard to the circumstances in which it is sought.”

6. Under the provision of sub-sections 4(3) and 4(4) of the PBO, the Council of the University has decided, having had regard to the nature of work in the University, to grant to all University staff lawful prior general permission to accept the advantages as defined below where such an advantage may be capable of being construed to be "a reward for or otherwise on account of performing or having performed any act in his/her capacity as a staff member of the University". Staff should decline the gifts if the acceptance of which could affect their objectivity in conducting the University's business, or induce them to act against the interest of the University, or lead to complaints of bias or impropriety.

- (a) gifts (including honorarium) presented to the staff member in his/her official capacity, such as in connection with a ceremonial occasion or a seminar which he/she attended on invitation, provided that the value of the gift does not exceed HK\$1,000 on any single occasion;
- (b) copies of textbook and other publications, promotional items of stationery, instruments of laboratory equipment for publicity purposes only, provided that the value of such items does not exceed HK\$1,000 on any single occasion;
- (c) discounts on the purchase of books and/or stationery given by a bookstore or a similar firm by virtue of the staff member being an employee of the University, provided that the discount does not exceed 30% on any single occasion;

- (d) gifts (including a gift of money) from staff colleagues or students in the University on the occasion of retirement or resignation, provided that the total aggregate value of such gifts does not exceed HK\$2,000 for any one staff member on any one occasion, and provided that the subscription towards the cost of the gift is entirely voluntary and that in the case of a gift from staff colleagues, individual subscription does not exceed 1% of the donor's monthly salary;
- (e) gifts in form of food (such as food hampers) which should be shared among and consumed (as much as possible) by staff members in the units; and
- (f) reward for any outside practice which follows the regulations governing such practices stipulated in the Terms/Conditions of Service for Staff, and which has been approved by the University.

7. A staff member does not require the approval of the Council to accept an advantage, such as a birthday or wedding gift, which is not given as reward for or otherwise on account of performing or having performed any act in his/her capacity as a staff member employed by the University.

8. If a staff member wishes to accept either an advantage belonging to one of the categories listed in paragraph 6(a) to (d) above but outside the limit(s) stipulated therein, or any advantage other than those in paragraph 6(a) to (f) above, and which may be capable of being construed as a reward for or otherwise on account of performing or having performed any act in his/her capacity as a staff member of the University, the staff member must, before or as soon as is reasonably possible after the acceptance, seek the written special permission from the following approving authority:

Applicant	Authority for giving “written special permission”
(a) All staff members [except (b) and (c) below]	Vice-President (Administration) and Secretary
(b) Vice-Presidents	President and Vice-Chancellor
(c) President and Vice-Chancellor	Council Chairman

The Council Chairman, President and Vice-Chancellor or the Vice-President (Administration) and Secretary may, subject to the endorsement from the Provost / Vice-Presidents in accordance to the reporting relationship:

- (a) permit the staff member to accept the advantage either unconditionally or subject to such conditions as specified; or
- (b) require the staff member to return the advantage to the donor; or
- (c) require the advantage to be disposed of in such other manner as the President and Vice-Chancellor / Vice-President (Administration) and Secretary may direct, such as requiring the advantage to be handed over to a charitable organization approved by the Council Chairman / President and Vice-Chancellor / Vice-President (Administration) and Secretary, turning over books or equipment items to the library or teaching departments of the University respectively, or turning over the gift for display to the University community at appropriate venues on campus.

9. The staff members may, having complied with paragraph 8, retain the advantage received subject to and until a decision has been notified to him/her. The decision of the Council Chairman, President and Vice-Chancellor or the Vice-President (Administration) and Secretary under paragraph 8 must be conveyed in writing to the staff member as soon as practicable after the application for permission has been received.

10. **Entertainment** is not regarded as an advantage as defined in Section 2 of the PBO. However, staff members are reminded not to accept any entertainment which is likely, for example by reason of its excessively lavish or unreasonably frequent nature, to lead to embarrassment in the discharge of their functions. Acceptance of such entertainment may be construed as serious act of misconduct which may render the staff member liable to disciplinary action already stipulated in the Terms of Service for staff. Entertainment in this context means "the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment normally connected with such provision."

11. Staff members are also warned that if they were to solicit or accept any advantage with a corrupt motive (including those advantages listed in paragraph 6 above), they may be guilty of offences against other sections of the Prevention of Bribery Ordinance. Whenever in doubt, staff members are advised to consult that Ordinance, a copy of which may be found in the University Library.

Human Resources Office

January 2021

(Approved by Council in December 1984. Revised 6/94, 3/97, 9/02, 12/12, 1/21)

人力資源政策及程序 / 一般指引

接受利益

根據防止賄賂條例 (第 201 章)，大學屬於「公共機構」，而大學所有僱員均為「公職人員」，故此，大學僱員必須小心處理所有由他人提供的「利益」，避免對其在執行職務方面有所影響。大學禁止僱員向任何與大學有關的人士/機構 (如出版商、供應商或承建商等) 索取或接受任何利益。除了以下第 6 段和第 7 段所述情況，及如第 8 段所述取得批准外，大學僱員如接受利益，均算犯了防止賄賂條例第 4(2) 條所訂的罪行。

2. 防止賄賂條例第 4(2) 條訂明，「任何公職人員 (不論在香港或其他地方) 無合法權限或合理辯解，索取或接受任何利益，作為他作出以下行為的誘因或報酬，或由於他作出以下行為而索取或接受利益，即屬犯罪：

- (a) 作出或不作出，或曾經作出或不作出任何憑其公職人員身分而作的行為；
- (b) 加速、拖延、妨礙或阻止，或曾經加速、拖延、妨礙或阻止由該人員作出或由其他公職人員作出任何憑該人員或該其他人員的公職人員身分而作的作為；或
- (c) 協助、優待、妨礙或拖延，或曾經協助、優待、妨礙或拖延任何人與公共機構間往來事務的辦理。」

3. 根據防止賄賂條例，「利益」一詞在第 2(1) 條解釋為：

- (a) 任何饋贈、貸款、費用、報酬或佣金，其形式為金錢、任何有價證券或任何種類或其他財產或財產權益；
- (b) 任何職位、受僱工作或合約；
- (c) 將任何貸款、義務或其他法律責任全部或部分予以支付、免卻、解除或了結；
- (d) 任何其他服務或優待 (款待除外)，包括維護使免受已招致或料將招致的懲罰或資格喪失，或維護使免遭採取紀律、民事或刑事上的行動或程序，不論該行動或程序是否已經提出；
- (e) 行使或不行使任何權利、權力或職責；及
- (f) 有條件或無條件提供、承諾給予或答應給予以上 (a)、(b)、(c)、(d) 及 (e) 段所指的任何利益。

4. 根據防止賄賂條例中第 2(2) 條訂明，

- (a) 任何人，不論由其本人或由他人代其為自己或為他人直接或間接需索、招引、問取或表示願意收取任何利益，即屬索取利益；及
- (b) 任何人，不論由其本人或由他人代其為自己或為他人直接或間接拿取、收取或獲得任何利益，或同意拿取、收取或獲得任何利益，即屬接受利益。

5. 然而，根據防止賄賂條例中第 4(3) 及 4(4) 條訂明，個別公共機構如認為可行的話，可批准僱員在某些情況下接受某類型的利益。該條例內容如下：

「第4(3)條：非訂明人員的公職人員如有所屬公共機構的許可而索取或接受任何利益，且該項許可符合第(4)款的規定，則該公職人員及提供利益的人均不算犯本條所訂罪行(即防止賄賂條例第4條)。

第4(4)條：就第(3)款而言，許可須為書面形式，並且：

- (a) 須在提供、索取或接受利益之前給予；或
- (b) 在利益未經事先許可而已提供或接受的情況下，須於該利益提供或接受之後在合理可能範圍內盡早申請及給予，

同時，公共機構在給予該許可之前須顧及申請的有關情況，該許可方具有第(3)款所訂效力。」

6. 大學校董會根據防止賄賂條例的 4(3) 及 4(4) 條，在考慮過大學的工作性質後，通過准許僱員在以下所訂明的原則下可接受利益，而該利益也可以解釋為「酬謝他/她作出或曾作出憑其大學僱員身份而作的行為」。然而，僱員應拒絕接受任何利益，如這等利益將會影響其執行大學職務時的公正，或會引致其作出損害大學利益的行為，或會招致他人投訴大學不公平或辦事不當。

- (a) 以大學僱員的身份，應邀出席某些儀式或研討會而獲贈禮物(包括酬金)每次獲贈禮物的價值不超過港幣 1,000 元；
- (b) 獲贈教科書或其他書籍、優惠的文具或實驗室儀器，而每次獲贈禮物的價值不超過港幣 1,000 元；
- (c) 因大學僱員的身份而獲得書局或其他類似的機構贈予購書及/或文具的折扣優惠，而每次的折扣優惠不多於七折；
- (d) 於退休或離職時，獲大學的同事或學生送贈禮物(包括金錢)，獲贈禮物的價值合計不超過港幣 2,000 元，贈送禮物須屬自願性質，而每位同事需付款項以不超過其入息的百分之一為上限；
- (e) 饋贈如屬食物類(例如食物籃/節日禮盒)，必須盡量與部門員工分享；及
- (f) 根據服務條件及大學其他有關校外工作的條例，僱員在大學批准的情況下，在校外工作所得的酬勞。

7. 僱員若接受如生日禮物或結婚禮物等利益，若不是別人酬謝他/她作出或曾作出憑其大學僱員的身份而作的行為，可豁免向校董會申請批准。

8. 僱員如欲接受的利益超越以上第 6(a) 至 (d) 段所述價值的上限，或有意接受不屬於以上 6(a) 至 (f) 段所述的利益，而這利益亦可解釋為別人酬謝他 / 她作出或曾作出憑其大學僱員身份而作的行為的話，該僱員必須在接受前，或接受後立即向以下人士申請書面批准。

申請人	可發出「特別書面批准」的人士
(a) 所有同事 (除以下 (b)及(c) 以外)	行政副校長暨秘書長
(b) 副校長	校長
(c) 校長	校董會主席

於獲得常務副校長 / 直屬副校長 認可後，校董會主席、校長或行政副校長暨秘書長將可：

- (a) 無條件或根據特訂的條件批准僱員接受利益；或
- (b) 要求僱員將利益歸還贈送一方；或
- (c) 要求僱員將所接受的利益轉移到其他的用途，例如送到慈善機構，或將一些書本或儀器送到圖書館或大學的教學部門，或將禮物擺設在校園內適當的地方。

9. 如同事已根據第 8 段所述，申請接受利益，在未接到校董會主席 / 校長/行政副校長暨秘書長的書面通知前，可以暫時保留該利益。校董會主席 / 校長 / 行政副校長暨秘書長在收到此等申請後，在合理可能的情況下，會盡快以書面回覆該名同事。

10. 按防止賄賂條例第 2 條，接受款待不屬於利益。但是，僱員必須避免接受任何有可能會妨礙其執行個人職務的款待，例如過份奢華及頻密的款待。僱員若接受此等款待，會視為嚴重的行為不當，並可能會受到服務條件內所載的紀律處分。款待在這裏的意思是指「供應食物或飲品，以便在供應時享用，及任何其他附帶或同時供應之款待。」

11. 若僱員意圖貪污，索取或接受利益（包括在第 5 段所列的利益），他們會有可能違反了防止賄賂條例的其他部份。僱員如有疑問，可查閱防止賄賂條例，有關的條例可於大學圖書館查閱，或瀏覽廉政公署的網頁 (<http://www.icac.org.hk>)。

12. 此為英文版本的譯本，如中、英文兩個版本有任何不相符之處，應以英文版本為準。

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2021 年 1 月

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