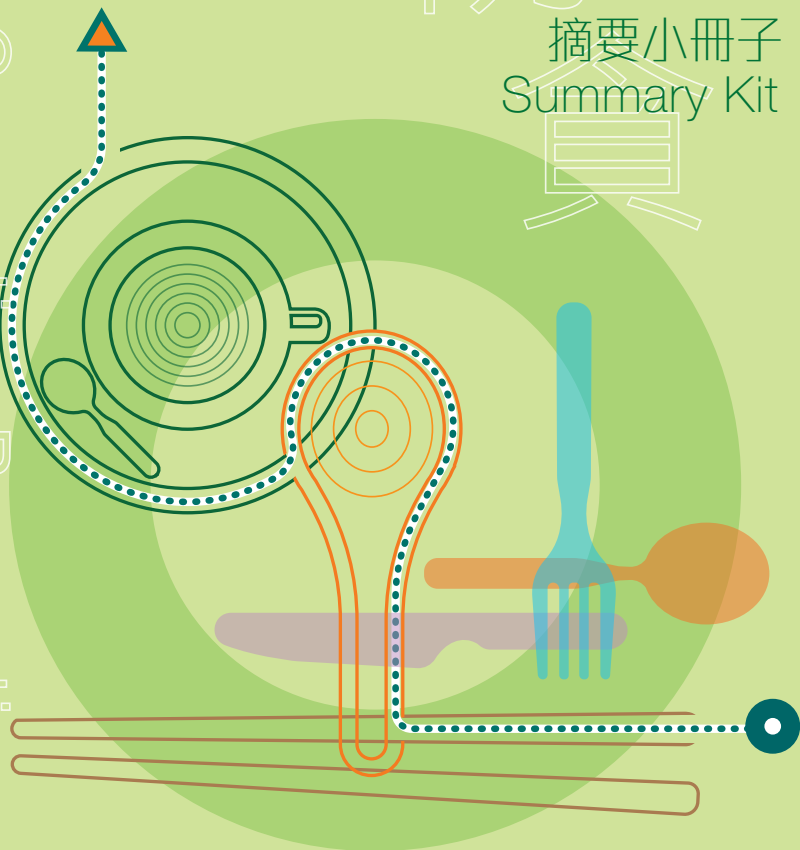


餐飲業防貪實務指南

Corruption Prevention Toolkit for Catering Industry

摘要小冊子
Summary Kit

Corruption Prevention



目的

廉政公署（廉署）與餐飲業界聯合編製了**餐飲業防貪實務指南（指南）**，以協助餐飲業經營者、其職員和供應商避免墮入餐飲業界的貪污陷阱。

本**摘要小冊子**是指南的精簡版，目的為提供有關主要法例和誠信規定的指引，以及在日常營運方面的防貪建議。

《防止賄賂條例》（第 201 章）摘要

代理人的貪污交易

- **第 9(1) 條** — 任何代理人（例如僱員）未經其主事人（例如僱主）許可而索取或接受任何利益，作為任何與其主事人的事務或業務有關的作為的誘因或報酬，即屬犯罪。
- **第 9(2) 條** — 任何人在上述情況下向代理人提供利益，亦屬犯罪。

- 1** 一間食肆的兩名廚師負責訂購食材。該食肆為一名海鮮供應商的主要客戶，供應商提供回佣予該兩名廚師。

- 2** 該兩名廚師在沒有公司同意的情況下，接受該海鮮供應商提供的回佣，作為向其訂購食材的報酬。

- 3** 該兩名廚師被裁定接受利益罪名成立，違反《防止賄賂條例》第 9(1)條；而海鮮供應商則被裁定向代理人提供利益罪名成立，違反《防止賄賂條例》第9(2)條。



利益

任何有價值的物品，例如金錢、饋贈、折扣、佣金、貸款、受僱工作、服務或優待（款待除外）。

款待

供應在當場享用的食物或飲品及與此項供應有關或同時提供的其他款待（例如魔術表演）。

使用誤導／虛假／欠妥的文件欺騙主事人

- **第9(3)條** — 任何代理人意圖欺騙其主事人而使用在要項上載有誤導、虛假或欠妥的陳述的任何收據、帳目或其他文件，而有關收據、帳目或文件對其主事人有利害關係，即屬犯罪。

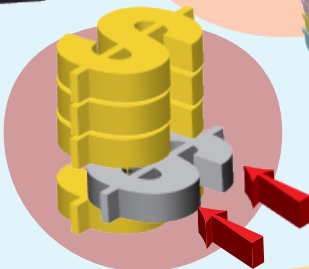
- 1** 一名餐飲集團的採購員負責採購廚房用具，包括發出購貨訂單及處理供應商的發票。



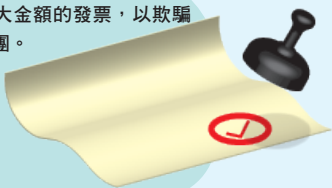
- 2** 該採購員的配偶擁有一間供應廚房用具的貿易公司，並向該餐飲集團提交報價單。



- 3** 為協助其配偶的公司取得合約，該採購員偽造多份標價較高的報價單。



- 4** 該採購員亦利用其配偶的公司發出誇大金額的發票，以欺騙餐飲集團。



- 5** 該採購員被裁定使用虛假文件欺騙其主事人罪名成立，違反《防止賄賂條例》第9(3)條。

第9(3)條



誠信管理與內部監控制度

誠信要求的要點

接受利益和款待	✓ 嚴禁董事和職員索取或接受與公司有業務往來人士提供的利益和過分的款待，除非所接受利益的性質、價值上限和情況均符合公司訂明的規定，以及不會產生任何不當影響
提供利益	✓ 嚴禁董事和職員向其他人的代理人提供利益，意圖不當地影響他們在業務過程中作出的決定
利益衝突	✓ 提醒董事和職員避免任何利益衝突的情況；如利益衝突情況無法避免，須作出申報和管理
處理記錄／帳目和其他限閱資料	✓ 要求董事和職員須確保提交的所有記錄、收據和帳目等文件均真實地呈述事實，並採取適當措施保護所有限閱／敏感資料
與供應商、承辦商和顧客的關係	✓ 提醒董事和職員避免跟與公司有業務往來的人士進行頻密的賭博活動或接受他們提供的任何貸款

內部監控的要素

- 制訂**清晰的政策、工作程序和指引**
- 透過分工和監督審查，確保**監察與制衡**
- 備存**妥善記錄**和保護限閱／敏感資料
- 提供職員**培訓**和建立與顧客、業務夥伴及職員的**溝通途徑**
- 進行**定期檢討及審計**

營運方面的主要貪污風險與防貪措施

一般採購

貪污 / 舞弊行為	主要防貪措施
物色和揀選供應商時作出偏袒	✓ 明確界定加入供應商名單或從名單除名的準則，並知會供應商 ✓ 採納公平預選機制以邀請認可供應商 / 服務承辦商報價 / 投標 ✓ 在邀請報價 / 投標前釐訂評審報價單 / 標書的準則
洩露報價單 / 標書資料	✓ 採取措施以防止洩露報價單 / 標書資料，或篡改已遞交的報價單 / 標書
包庇來貨不足或其他不達標的表現	✓ 由監督人員隨機抽查已認收物品 / 服務，以確保有關物品 / 服務符合要求 ✓ 制定程序處理不達標 / 來貨不足的情況，並建立制度評核供應商表現

食品採購

貪污 / 舞弊行為	主要防貪措施
物色和挑選供應商時過分依賴廚房職員	✓ 加入管理層及 / 或採購職員共同參與物色和評核食材供應商 ✓ 連鎖食肆應盡量由中央統籌採購食材 / 食品的工作
不清晰的食材 / 食品要求 and 規格	✓ 盡可能由專責小組負責就每項菜式訂明要求 ✓ 若使用由只有少數供應商所能提供的特別食材，須提交理據予較高審批權限的人員批核

食品採購（續）

貪污 / 舞弊行為	主要防貪措施
與供應商合謀抬高物品價錢	✓ 建立食材 / 食品規格和標準成本（參考價格）的記錄 ✓ 定期檢討和比較價格，以確保所選供應商 / 攤檔的報價合理
採購和消耗食品的監察不足	✓ 監察食材 / 食品的購貨量與消耗量是否相符 ✓ 定期分析食材的成本、銷售量和食肆收入，以確保互有合理關連及查察是否有異常情況

銷售及前線運作

貪污 / 舞弊行為	主要防貪措施
侵吞現金收入	✓ 使用銷售點系統，記錄顧客落單、自動傳送點菜資料到廚房及印製顧客帳單 ✓ 只容許收銀員操作收銀機；而且收銀機須放在當眼位置，並有閉路電視監察 ✓ 須經查核及批准才可取消任何落單
減收親友款項或豁免收費	✓ 訂明向顧客提供推廣優惠 / 折扣的條件 ✓ 規定提供特別折扣須由較高審批權限的人員批核
盜取給予顧客的折扣或贈品（例如禮券）	✓ 提高所有推廣優惠及折扣等的透明度，讓顧客知悉有關優惠

存貨管理

貪污 / 舞弊行為	主要防貪措施
盜竊存貨	✓ 擬備貨品總存貨記錄；並將貴重存貨及食品存放在安全及限制進出的地方 ✓ 訂明棄置存貨的政策和程序 ✓ 進行定期及突擊盤點，並將盤點結果與存貨記錄互相核對

人事管理

貪污 / 舞弊行為	主要防貪措施
招聘和晉升員工時作出偏袒	✓ 盡量採用公開招聘方式；並清楚訂明職位的職責、最低要求，以及甄選準則 ✓ 通知職員任何晉升機會及可獲考慮晉升的準則，並任命晉升委員會評核合適的晉升人選
不公平的分工和虛假值勤	✓ 公開工作更表，並進行抽查 ✓ 規定逾時工作須經管理人員預先核准，並提供理據 ✓ 使用放在當眼位置或有閉路電視監察的電子值勤記錄系統 ✓ 要求管理人員突擊檢查員工值勤情況
“影子員工”	✓ 在散工報到時登記其身分證明文件 ✓ 委派指定職員於散工工作期間即場突擊點算人數 ✓ 用銀行自動轉帳方式支付薪金

防貪諮詢服務

廉署防止貪污處轄下的防貪諮詢服務會應私營機構及人士的要求，提供**免費、保密和度身訂造**的防貪建議。

如需上述服務，或在落實餐飲業防貪指南所建議的防貪措施時需要協助，請透過下列途徑聯絡防貪諮詢服務。

 電話：2526 6363

 傳真：2522 0505

 電郵：cpas@cpd.icac.org.hk

 網站：<http://cpas.icac.hk>

我們會於兩個工作天內回應查詢。

舉報貪污

 電話舉報：2526 6366

 投函舉報：香港郵政總局郵箱 1000 號

 親身舉報：廉署舉報中心 / 廉署分區辦事處*
香港北角
渣華道 303 號
地下

*如欲查詢廉署各分區辦事處的聯絡資料，請登入以下網站：<http://www.icac.org.hk/tc/crd/struct/ro/index.html>

Purpose

In collaboration with the catering industry, the ICAC has produced a **Corruption Prevention Toolkit for Catering Industry (the Toolkit)** to assist catering operators, their staff and suppliers to prevent corruption in the catering industry.

This **Summary Kit** is a concise version of the Toolkit to provide users a quick grasp of the key legal and probity requirements and the corruption prevention tips in their daily operations.

Gist of the Prevention of Bribery Ordinance (POBO) (Cap. 201)

Corrupt Transaction with Agents

- **Section 9(1)** – An agent (e.g. an employee), without the permission of his principal (e.g. the employer), solicits or accepts any advantage from any person as a reward or inducement for any act in relation to the principal's business, commits an offence.
- **Section 9(2)** – Any person who offers an advantage to an agent under the above circumstances also commits an offence.

1 Two chefs of a restaurant were responsible for placing food orders for the restaurant. The restaurant was an important customer to a seafood supplier's business and the seafood supplier offered rebates to the two chefs.



2 Without the company's consent, the two chefs accepted rebates from the seafood supplier as rewards for placing food orders with him.



3 The two chefs were convicted of accepting advantages, contrary to Section 9(1) of the POBO while the seafood supplier was convicted of offering advantages to agent, contrary to Section 9(2) of the POBO.



Advantage

Anything that is of value such as money, gift, discount, commission, loan, employment, service or favour (except entertainment)

Entertainment

Food or drink provided for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time (e.g. magic performance)

Use of Misleading / False / Defective Document to Deceive Principal

- **Section 9(3)** – Any agent with an intent to deceive his principal, use any receipt, account or other document which contains any statement which is misleading, false or defective in any material particular in respect of which the principal is interested, commits an offence

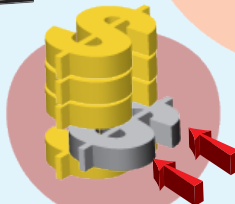
- 1 A purchasing officer of a catering group was responsible for the procurement of kitchen utensils, including placing purchase orders and processing invoices issued by the suppliers.



- 2 The spouse of the purchasing officer owned a trading company which supplied kitchen utensils and submitted a quotation to the catering group.



- 3 In order to help his spouse's company secure the contract, the purchasing officer made up bogus quotations with higher bidding prices.



- 4 The purchasing officer also used inflated invoices of his spouse's company to deceive the catering group's payment.



- 5 The purchasing officer was convicted of using false documents to deceive his principal, contrary to Section 9(3) of the POBO.

Section 9(3)



Integrity Management and Internal Control System

Key Integrity Requirements

Acceptance of Advantages and Entertainment	✓ Prohibit directors and staff from soliciting or accepting advantages and excessive entertainment from persons having business dealings with the company, except accepting certain advantages within specified permissible natures, values and circumstances where no improper influence is involved.
Offer of Advantages	✓ Prohibit directors and staff from offering advantages to agents of others to improperly influence them in business dealings.
Conflict of Interest	✓ Remind directors and staff to avoid any conflict of interest, and declare and manage the conflict if it is unavoidable.
Handling of Records/ Accounts and Restricted Information	✓ Require directors and staff to ensure that all submitted records, receipts, accounts, etc. give a true representation of the facts, and take proper measures to safeguard all restricted/sensitive information.
Relationship with Suppliers, Contractors and Customers	✓ Remind directors and staff to avoid engaging in frequent gambling activities with persons having business dealings with the company, or accepting any loan from them.

Key Elements of Internal Control

- Lay down **clear policies, work procedures and guidelines**
- Ensure **checks and balances** by segregation of duties and supervisory checks
- Keep **proper records** and safeguard restricted/sensitive information
- Provide staff **trainings** and establish **communication channels** with customers, business partners and staff
- Conduct **regular reviews and audits**

Major Corruption Risks and Safeguards in Operational Areas

General Procurement

Corruption Loopholes / Malpractice	Key Preventive Measures
Favouritism in sourcing and selection of suppliers	✓ Clearly define the criteria for inclusion or deletion of suppliers in or from the suppliers lists, and make known to them. ✓ Establish a fair mechanism for shortlisting the approved suppliers/service providers for invitation to bid. ✓ Pre-determine the quotation/tender evaluation criteria before invitation of bids.
Leakage of quotation/tender information	✓ Put in place safeguards to prevent leakage of quotation/tender information or tampering with the quotations/tenders received.
Connivance at short delivery or other sub-standard performance	✓ Conduct random supervisory checks on goods/services received to ensure compliance with requirements. ✓ Establish procedures to handle sub-standard/short delivery and develop a system to evaluate the suppliers' performance.

Food Purchase

Corruption Loopholes / Malpractice	Key Preventive Measures
Over-reliance on kitchen staff in sourcing and evaluation of potential suppliers	✓ Involve management and/or procurement staff in the sourcing and evaluation of food suppliers. ✓ For chained restaurants, centralise the food purchasing function as far as practicable.
Unclear specifications of food materials/items required	✓ Draw up the specifications for each menu item, as far as practicable, by a panel. ✓ Provide justifications for the use of special food materials with very limited suppliers for approval of a higher authority.

Food Purchase (Cont'd)

Corruption Loopholes / Malpractice	Key Preventive Measures
Collusion with suppliers to inflate prices of goods	✓ Maintain record of specifications and standard costs (reference prices) of food materials/items. ✓ Regularly review and compare prices to ensure the prices quoted by the selected suppliers/stalls are reasonable.
Inadequate monitoring of food purchases and consumption	✓ Monitor if the quantities of food materials/items purchased tally with the consumption. ✓ Conduct periodic analysis of food material costs, sales volume and revenue to ensure a reasonable correlation and to detect anomalies, if any.

Sales and Frontline Operations

Corruption Loopholes / Malpractice	Key Preventive Measures
Embezzlement of sales proceeds	✓ Use a Point-of-Sale system to capture customers' food orders, automatically inform the kitchen of the dishes to be prepared, and generate customers' bills. ✓ Limit access to the cash registers (which should be placed in an open area with CCTV monitoring) to the cashiers. ✓ Subject cancellation of orders to checking and endorsement.
Under-billing or waiving charges for friends or relatives	✓ Lay down the conditions on the offer of promotional offers/discounts to customers. ✓ Require the giving of special discounts to be endorsed by higher authority.
Pilferage of discount or gifts (e.g. coupons) intended for customers	✓ Enhance transparency of all promotional offers, discounts, etc. for customers' information.

Inventory Management

Corruption Loopholes / Malpractice	Key Preventive Measures
Pilferage of stock items	✓ Compile a master inventory record and keep valuable stock items in a secure place with restricted access. ✓ Lay down policy and procedures for disposal. ✓ Conduct regular and surprise stock checks against inventory records.

Staff Administration

Corruption Loopholes / Malpractice	Key Preventive Measures
Favouritism in staff recruitment and promotion	✓ Adopt open recruitment as far as practicable and state clearly the job description, minimum requirements and selection criteria. ✓ Make known to staff the promotion opportunities and criteria for consideration, and appoint a promotion panel to assess the eligible candidates.
Unfair allocation of duties and falsified attendance	✓ Publicise duty roster and subject it to random checks. ✓ Require overtime work to be pre-approved by managerial staff with justifications. ✓ Use an electronic attendance recording system which should be placed in an open area or with CCTV monitoring. ✓ Require managerial staff to conduct surprise checks on staff attendance.
“Ghost workers”	✓ Register the identities of casual labour upon their report of duty. ✓ Assign designated staff to conduct random counts on the number of casual labour on the spot. ✓ Arrange payments by autopay.

Corruption Prevention Advisory Service

The Corruption Prevention Advisory Service (CPAS) of the Corruption Prevention Department of the ICAC provides **free, confidential and tailor-made** corruption prevention advice to private organisations and individuals on request.

Please contact CPAS through the following channels if you need the above service or assistance in implementing the safeguards or best practices recommended in the Corruption Prevention Toolkit for Catering Industry.

-  Phone : 2526 6363
-  Fax : 2522 0505
-  E-mail : cpas@cpd.icac.org.hk
-  Website : <http://cpas.icac.hk>

We will respond to enquiries within 2 working days.

Reporting Corruption

-  Phone : 2526 6366
-  Mail : G.P.O. Box 1000, Hong Kong
-  In person : ICAC Report Centre / ICAC Regional Offices *
G/F, 303 Java Road
North Point, HK

*Contact information of the ICAC Regional Offices are available at <http://www.icac.org.hk/en/crd/struct/ro/index.html>

免責聲明

本指南中有關《防止賄賂條例》和其他相關法例／法律條文的陳述和解釋，只屬一般和概括性質，以便讀者容易理解。使用本指南的人士如有需要，應就個別情況參考法例原文或徵詢法律意見。任何人如因本指南的內容作出或放棄作出任何行動而招致損失，廉署概不負責，包括法律或其他責任。

本指南的個案分析部分旨在闡明法例規定和貪污風險，以及凸顯其中的要點。雖然每宗個案均根據真實的貪污犯案手法編撰而成，但內容純屬虛構，絕無影射任何個別個案、公司或人士的意思。本指南提供的意見和建議並非詳盡無遺，亦不可取代任何法律、監管或合約規定。

Disclaimer

Descriptions and explanation of legal requirements under the POBO and other relevant ordinances/laws in the Toolkit are necessarily general and abbreviated for ease of understanding. Users of the Toolkit are advised to refer to the original text of the relevant ordinances/laws or seek legal advice on particular issues where necessary. The ICAC will not accept any responsibility, legal or otherwise, for any loss occasioned to any person acting or refraining from action as a result of any material in the Toolkit.

Case scenarios are used in the Toolkit to illustrate the legal requirements and corruption risks and to highlight the lessons learnt. While they are drawn up based on actual corrupt practices, each case scenario is hypothetical and does not mean to refer to any particular case or relate to any particular company or person. The advice and tips given in the Toolkit are by no means prescriptive or exhaustive, and are not intended to substitute any legal, regulatory or contractual requirements.