



# 幼稚園運作防貪指南

CORRUPTION PREVENTION  
TOOLKIT ON

..... **Kindergartens'**  
**Operations**



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## Foreword

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Kindergarten plays a key role in early childhood education and hence the public has a high expectation on both its quality of education and governance. Following the launch of the Kindergarten Education Scheme in the 2017-18 school year, the Government has been providing kindergartens with recurrent financial subsidies to support their daily operations. With the injection of substantial amount of public money, there is an increasing need for teachers and management staff as well as the management and operations of kindergartens to meet public expectation for integrity. Therefore, it is vital for kindergartens to establish a sound integrity management system, adequate operational procedures and effective internal controls to avert abuse and corrupt practices.

This *Corruption Prevention Toolkit on Kindergartens' Operations* ("Toolkit") aims at providing kindergartens with a user-friendly guide, supplemented with scenario analysis and a library of sample documents, to help kindergartens enhance good governance, develop or enhance their integrity management and internal control systems for their key operations including procurement, management of maintenance and improvement works, student admission and staff administration. Kindergartens are advised to adopt and adapt the recommended measures to suit their respective resource capability, organisational structure, and operational needs.

The Corruption Prevention Department of the Independent Commission Against Corruption (ICAC) provides free, confidential and tailor-made advisory service to private organisations (including kindergartens) for enhancing their integrity management and internal control systems. For further information or assistance, you are welcomed to contact the Corruption Prevention Department through the following channels -



**Phone: 2526 6363**



**Fax: 2522 0505**



**Email: [cpas@cpd.icac.org.hk](mailto:cpas@cpd.icac.org.hk)**

This Toolkit serves as a general reference. It does not replace or have precedence over the regulations, rules and guidelines issued by the Education Bureau for which kindergartens should strictly observe. Details of these instructions can be found on the Education Bureau's website at [www.edb.gov.hk](http://www.edb.gov.hk).

December 2020

# How to Use this Toolkit

## Icons

For quick and easy reference of readers, the following icons are used throughout this Toolkit -



**Sample document**



**Cross reference to another section of the Toolkit**

## Reference Websites



*Corruption Prevention Toolkit on Kindergartens' Operations*



Frequently Asked Questions  
*(only available online for reference or download)*



Corruption Prevention Advisory Service

## Copyright

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## Disclaimer

Descriptions and explanations of the legal provisions under the Prevention of Bribery Ordinance and other relevant ordinances/laws in this Toolkit are necessarily general and abbreviated for ease of understanding. Users of this Toolkit are advised to refer to the original text of the relevant ordinances/laws or seek legal advice where necessary. The ICAC will not accept any responsibility for any loss or damage occasioned to any person acting or refraining from action as a result of any materials in this Toolkit.

Scenarios in this Toolkit are used to illustrate the legal requirements and corruption risks, and highlight the lessons learnt. While they may be drawn up based on actual corrupt practices, each of them is hypothetical and does not refer to any particular case or relate to any particular organisation or person. The recommended practices given in the Toolkit are by no means prescriptive or exhaustive, and are not intended to substitute any legal, regulatory or contractual requirements.

Throughout this Toolkit, the male pronoun is used to cover references to both the male and female genders. No gender preference is intended.



# GOVERNANCE FRAMEWORK OF A KINDERGARTEN

- 1.1 Overview
- 1.2 Integrity Management System
- 1.3 Internal Control System
- 1.4 Scenario Analysis





# GOVERNANCE FRAMEWORK OF A KINDERGARTEN

Good governance is pivotal to the effective management of an organisation. From the corruption prevention perspective, sound **integrity management system (IMS)** and **internal control system (ICS)** are the essentials to build up the foundation to good governance. This chapter aims at providing guidance on how to devise an effective IMS and introducing the key components in setting up a sound ICS for various operational processes.

## Overview (1.1)

**Diagram 1** below shows the key components in **IMS** and **ICS**, with elaboration on each key component in Sections 1.2 and 1.3 respectively.



*Diagram 1 - Key Components in IMS and ICS*

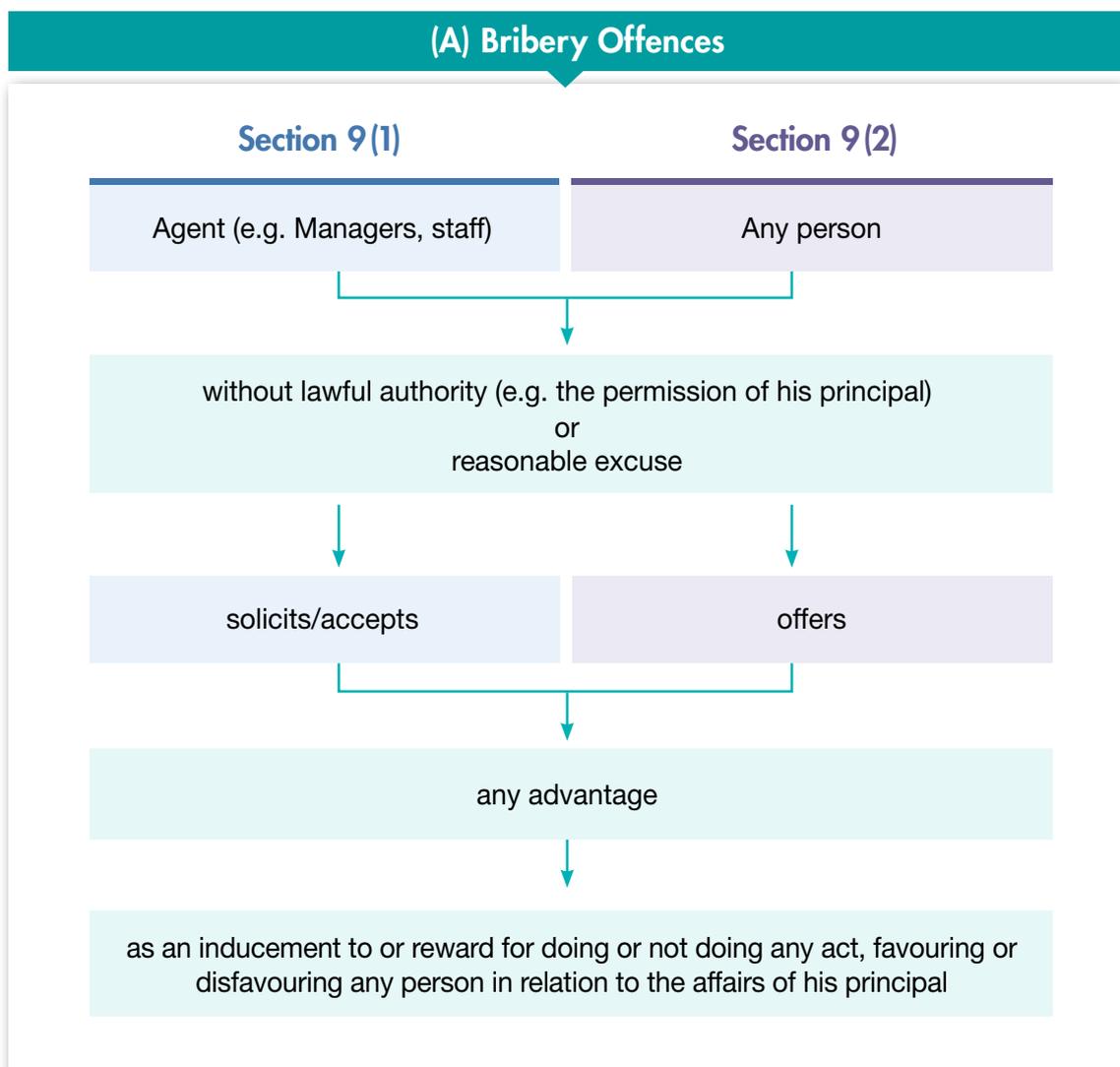


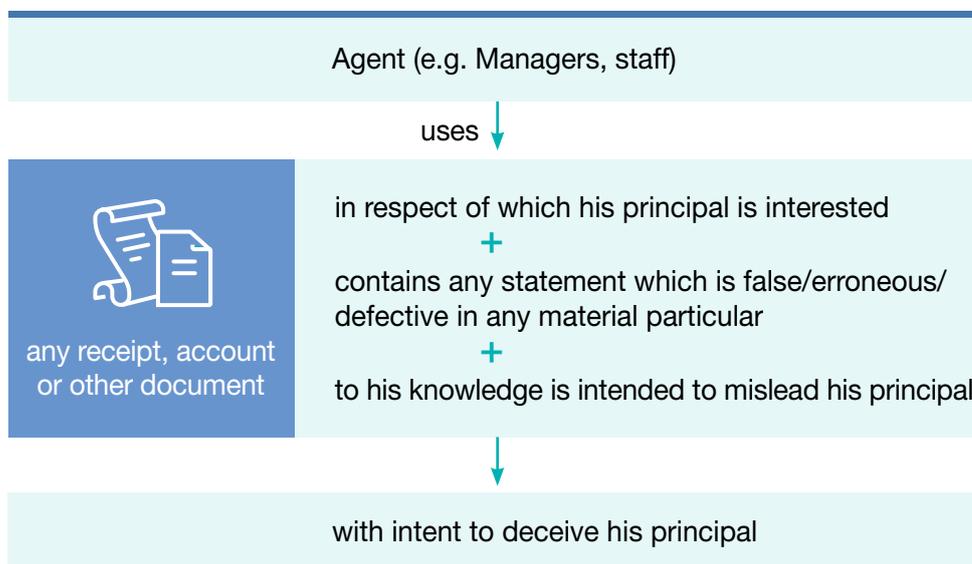
## Integrity Management System (1.2)

It is of paramount importance for Managers and staff of kindergartens to uphold a high standard of integrity in running the kindergartens, and be well prepared at all times to effectively combat and manage integrity challenges, such as offers of gifts by parents, sweetening by suppliers/service providers, and conflict of interest. An effective IMS helps raise the awareness of Managers and staff of kindergartens on the anti-bribery legal requirements they are subject to, and other integrity requirements including managing conflict of interest and protecting confidential information.

### Legal Requirements (1.2.1)

Compliance with the anti-bribery laws is the basic essential in an IMS. Managers and staff of kindergartens should therefore have an adequate understanding of the Prevention of Bribery Ordinance (POBO). Particular attention should be paid to the following provisions of the POBO and common misconceptions.



**(B) Use of False/Erroneous/Defective Document to Deceive Principal****Section 9(3)****(C) Penalty**

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

The full text of the POBO can be accessed through the Department of Justice's Hong Kong e-Legislation website (<https://www.elegislation.gov.hk>).

**Points to Note**

<b>“Principal”</b>	refers to an employer or any person/body authorised by the employer. For a kindergarten, School Management Committee is the principal of the kindergarten's Managers and staff.
<b>“Agent”</b>	refers to a person/body acting for the principal. For a kindergarten, the Manager and staff are the agents of the School Management Committee. An executive committee member of a Parent-Teacher Association (PTA) is also an agent of the PTA.
<b>“Advantage”</b>	refers to anything that is of value, including gift, loan, fee, reward, commission, employment, contract, service and favour, etc, except entertainment.

**“Entertainment”**

refers to the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions (e.g. a show provided at the venue where the food/drink is provided).

**“Principal’s Permission”**

refers to the permission granted by the employer. For a kindergarten, the permission should be granted by the School Management Committee.

**Custom Constitutes No Defence**

It is not a defence that an advantage accepted/offered is customary in any profession, trade, vocation or calling.

## Common Misconceptions

### Acceptance of Advantage at a Value Below \$500

It is a misconception that the POBO allows acceptance of an advantage valued below \$500. In fact, the POBO has not specified any threshold or ceiling of allowable advantages for the purpose of corruption offences. As set out in the POBO, an agent/offeror may commit an offence if he accepts/offers any advantage without lawful authority or any reasonable excuse.

Yet, the POBO allows the principal (e.g. employer) to give permission to his agents (e.g. employees) to accept advantages and it has been quite a common practice for employers to set a limit (often \$500) on the value of advantage employees are permitted to accept under specified circumstances (e.g. during festivals). This is misunderstood by some as being a permission under the law.

### Meaning of “Entertainment”

The term “entertainment” specified in the POBO should not be confused with the dictionary meaning of “entertainment”. For example, tickets to a performance or concert, hotel accommodation and flight tickets are regarded as “advantages” but not “entertainment” under the POBO.

The offer of food (e.g. a box of mooncakes) may not meet the definition of “entertainment” if it is not consumed on the occasion when it is provided, and hence may fall within the scope of “advantage” under the POBO.

## Integrity Requirements (1.2.2)

Compliance with the legal requirements aside, an effective IMS should adequately address integrity issues which may not squarely fall into the existing statutory framework but are considered from a reasonable man's perspective as violating the principle of fairness and thus not acceptable in the society in general. Among various integrity issues, conflict of interest has been increasingly under the spotlight. If improperly managed, it may give rise to criticism of favouritism, abuse of authority or even allegations of corruption. Therefore, apart from laying down guidelines on acceptance of advantage by Managers and staff, proper management of conflict of interest has been a prime concern from the corruption prevention perspective.

### (A) What is Conflict of Interest?

**“A conflict of interest situation arises when the ‘private interests’ of a Manager/staff compete or conflict with the interests of the kindergarten.”**

Duties of the  
Manager/staff?!

Private  
interests?!

**Private interests include financial and other interests of the parties below -**

- the Manager/staff himself
- his family and other relations
- his personal friends
- the clubs and societies to which he belongs
- any person to whom he owes a favour or may be obligated in any way



## (B) Mechanism to Manage Conflict of Interest

To effectively manage any conflict of interest, kindergartens should adopt the following “three-step mechanism” (**Diagram 2**), which is applicable to all major operations, including procurement, student admission, and staff recruitment. The declarations made by the Managers/staff and the corresponding mitigating measures taken should also be properly documented.



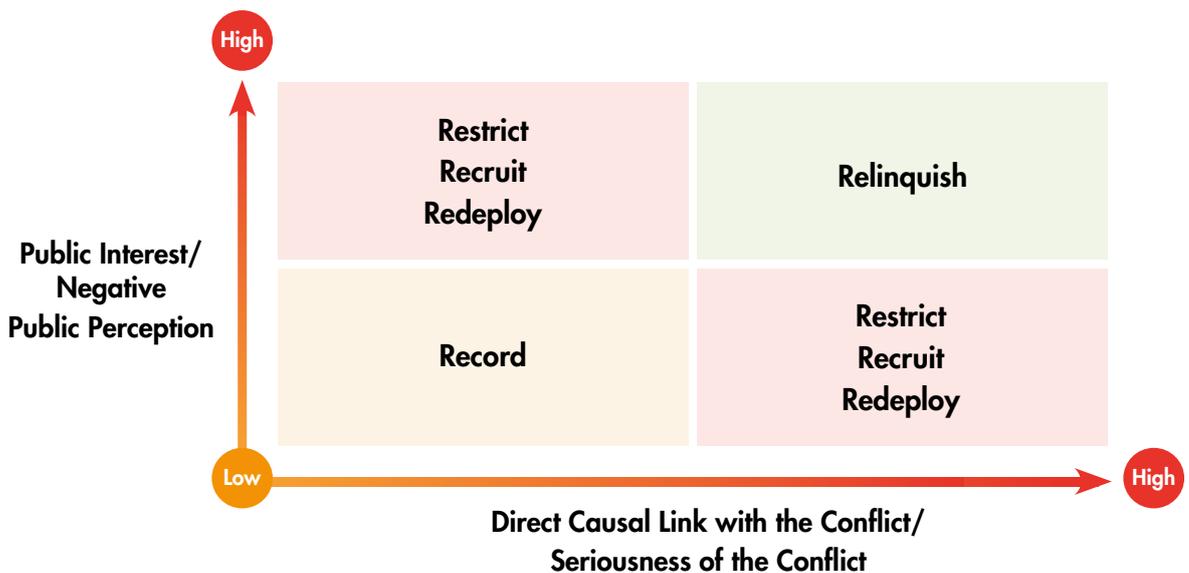
**All Managers/staff** should remain alert to and avoid any actual, potential or perceived conflict of interest situation.

If the conflict is unavoidable, **the Manager/staff** should report it to the designated authority<sup>Note</sup>.

*Note: In general, the Manager or Principal (if delegated by the School Management Committee) is the designated approving authority.*

**The approving authority**, after assessing the impact of the conflict and the risk of impropriety, takes appropriate mitigating actions (**Diagram 3 & Table 1**).

*Diagram 2 - "Three-step Mechanism" for Managing Conflict of Interest*



*Diagram 3 - Decision Matrix on Mitigating Actions*

5Rs <sup>Note</sup>	Actions	Applicable Situations	Examples
<b>Record</b>	<ul style="list-style-type: none"> <li>Put the declaration on record</li> <li>May allow the declaring Manager/ staff to continue with the duty but require him not to discuss with the persons involved in the declared conflict on the matter other than that is within the normal course of discharging the duty</li> </ul>	<ul style="list-style-type: none"> <li>Risk being indirect, remote or insignificant</li> <li>Occurrence of such a situation being infrequent</li> </ul>	<ul style="list-style-type: none"> <li>A clerk responsible for receiving applications in a recruitment exercise for teachers has declared that an applicant is her former classmate with whom she has not been in contact for over 10 years.</li> </ul>
<b>Restrict</b>	<ul style="list-style-type: none"> <li>Restrict the involvement of the declaring Manager/ staff in the task (e.g. withdrawing from discussion on a specific issue) and access to the related information</li> </ul>	<ul style="list-style-type: none"> <li>Restriction being effectively separating the declaring Manager/ staff from the part of the activity or process in which the conflict arises</li> <li>Occurrence of such a situation not likely to be frequent</li> </ul>	<ul style="list-style-type: none"> <li>In a tender exercise for the kindergarten's computer system, a technician has declared that one of the tenderers is his personal friend. The kindergarten allows the technician to evaluate the tender submissions, but without knowing the identities of the tenderers.</li> </ul>
<b>Recruit</b>	<ul style="list-style-type: none"> <li>Recruit an independent person to participate in, oversee, or review part of or the entire decision-making process</li> </ul>	<ul style="list-style-type: none"> <li>Restriction being not practical</li> </ul>	<ul style="list-style-type: none"> <li>In a renovation project of the kindergarten's premises, as the expertise of the declaring staff is highly useful for the project and it is not practical to restrict his involvement, the school sponsoring body appoints a Manager with the required expertise to oversee the project.</li> </ul>

5Rs <sup>Note</sup>	Actions	Applicable Situations	Examples
<b>Redeploy</b>	<ul style="list-style-type: none"> <li>Relieve the declaring Manager/ staff from the duty and task another one to take up</li> </ul>	<ul style="list-style-type: none"> <li>Conflict of interest being serious</li> <li>Inappropriate to allow the declaring Manager/ staff to handle the task/ matter</li> </ul>	<ul style="list-style-type: none"> <li>A staff member responsible for sourcing properties for rental by the kindergarten has declared that he is the landlord of one of the properties. The declaring staff is relieved of his duty which is then taken up by another staff member.</li> </ul>
<b>Relinquish</b>	<ul style="list-style-type: none"> <li>Request the declaring Manager/ staff to relinquish his personal or private interests (e.g. divest his investments)</li> </ul>	<ul style="list-style-type: none"> <li>Official duties of the declaring Manager/ staff outweighing his private interest</li> <li>Other mitigating measures being not appropriate or possible to mitigate the risk</li> </ul>	<ul style="list-style-type: none"> <li>A newly appointed teacher, who has declared that she owns a tutorial centre with many students of the kindergarten attending the classes, may divest her investments in the centre.</li> </ul>

**Table 1 - 5Rs Mitigating Actions and Applicable Situations**

<sup>Note</sup> Reference: Crime and Misconduct Commission, Queensland (renamed as Crime and Corruption Commission, Queensland) and Independent Commission Against Corruption, New South Wales, Australia (2004), *Managing Conflict of Interest in the Public Sector: Toolkit*.

When deciding which mitigating measure is to be adopted, consideration should be given to the perception of the public (e.g. parents) on how far public interest is protected. Where necessary, more stringent measures may be required to address the concern.

## (C) Integrity Guidelines

To demonstrate the management's commitment to ethical practices and assist the Managers/staff to uphold integrity in daily operations, kindergartens should issue to the Managers/staff comprehensive integrity guidelines (e.g. by way of a code of conduct), clearly setting out the standard of behaviour expected of them.

### What are the essential integrity provisions?

- Prohibit Managers and staff from soliciting/accepting any advantage from any persons/companies having official dealings with the kindergartens (e.g. suppliers, service providers, parents) and from their subordinates, except those with the kindergarten's permission (e.g. advertising or promotional gifts or souvenirs of a nominal value; discounts/offers equally applicable to other customers in general).
- Remind Managers and staff to avoid accepting lavish or frequent entertainment from persons with whom they have official dealings.
- Prohibit Managers and staff from offering advantages to any director or staff of any company, for the purpose of influencing such person or company, in the decisions of any dealings with the kindergarten.
- Require Managers and staff to avoid and declare any actual, potential or perceived conflict of interest, and comply with the management's decision on the mitigating measure. ➤ [Section 1.2.2 \(B\)](#)
- Prohibit Managers and staff from disclosing any confidential information of kindergartens (e.g. personal information of students, bid prices in a procurement exercise, personal particulars of parent volunteers) to any person without the permission of the kindergartens.

### To whom the integrity guidelines are applicable?

- Managers (including Supervisor)
- Staff (including Principal, teachers, and non-teaching staff such as janitors)
- Executive committee members of PTA, especially when the executive committee member is entrusted with a duty to act on behalf of the PTA, such as assisting PTA to organise activities (e.g. study tours) for its members and students of the kindergarten.

## In what ways can the integrity guidelines be issued?

- The integrity guidelines can be issued in whatever way kindergartens consider appropriate, such as by way of a code of conduct or inclusion in the staff handbook.



**[Sample Code of Conduct for Managers and Staff of Kindergartens, Sample Code of Conduct for Executive Committee Members of Kindergarten PTA and the Guides on Using these Sample Codes are at Appendices 1 to 4.](#)**

## Self-Assessment Checklist of the Kindergarten's IMS (1.2.3) .....

- Has the kindergarten set out integrity guidelines for its Managers/ staff?
- Do the integrity guidelines cover the following essential provisions -
  - offer, solicitation and acceptance of advantage?
  - acceptance of entertainment?
  - management of conflict of interest?
  - handling of confidential information?
- Are there any forms or other declaration methods with proper coverage of information requirements (e.g. particulars of the advantage concerned, the decision on whether or not to allow the acceptance of advantage and its justification, particulars of the interest declared, rationale for adopting a particular mitigating measure) in respect of -
  - seeking permission on the acceptance of advantage, except those with the kindergarten's permission?
  - declaring conflict of interest and recording the decision on how to manage the declared conflict?
- Have the integrity guidelines been effectively communicated to all Managers and staff?



## Internal Control System (1.3)

Committed to upholding integrity aside, kindergartens should observe the following guiding principles under each of the components in setting out the ICS of various major operations. Details of the internal control measures in each operation will be discussed in the following chapters of this Toolkit.

### Policies and Operational Procedures

- Lay down clear policies and procedures of kindergartens' major operations (e.g. procurement, student admission)
- Ensure that Managers and staff understand the policies and operational procedures of the kindergarten through effective communication (e.g. organising training/briefings, uploading internal circulars to intranet of the kindergarten)
- Regularly review the policies and operational procedures and update them as necessary to suit current operational needs

### Checks and Balances

- Put in place appropriate control measures in operational procedures that are commensurate with the corruption risks involved to mitigate the risks, including -
  - ⊙ **Preventive measures** - for example, segregation of critical duties in a process as far as practicable (such as tasking different staff to select supplier, place order and receive goods); approval of important decisions by persons of appropriate ranks
  - ⊙ **Detective/deterrent measures** - for example, random supervisory checks on important operational procedures (particularly those performed by a single staff member), collection of feedback/complaints, independent audit

### Transparency

- Make transparent key information in relation to operational procedures, e.g. applicants' eligibility requirements, information required and admission criteria in student admission

- Establish effective communication channels to disseminate key information to the stakeholders concerned, e.g. publicising student admission information through the kindergarten's website, making known the anti-bribery policy

### **Information Security**

- Lay down policies and adopt effective administrative/technical measures to control access to and retrieval of confidential information (e.g. signing an undertaking of confidentiality, granting access on a need-to-know basis, laying down an authorisation requirement)

### **Accountability and Management Oversight**

- Require Managers and staff to properly document and keep proper records of key operational procedures, including the decisions and justifications concerned
- Submit management reports (e.g. regular reports and exception reports on procurement and student admission) to the School Management Committee



## Scenario Analysis (1.4)

### Scenario 1 Offer with No Action Taken

Mrs Chin's daughter had been admitted to the afternoon class of Integrity Kindergarten. Mrs Chin requested Miss Fu who was responsible for student admission to secure a place in the full day class for her daughter, with a promise to reward the latter. Miss Fu agreed to the offer for helping Mrs Chin. In the end, Miss Fu did not take any action to help Mrs Chin whose daughter was soon offered an untaken place in the full day class according to the waitlist; and Mrs Chin did not give any reward to Miss Fu.

### Analysis

#### Prevention of Bribery Ordinance in Perspective



- ❖ **Recipient** - Miss Fu, being the staff (agent) of the Kindergarten and without the permission of the Kindergarten, agreed to accept an advantage from Mrs Chin for assisting her to secure a place in the full day class for her daughter. She might have contravened Section 9(1) of the POBO as soon as she agreed to the deal.
- ❖ **Offeror** - As soon as Mrs Chin made the request with and offered the reward to the agent of the Kindergarten (i.e. Miss Fu), she might have contravened Section 9(2) of the POBO.
- ❖ **Verbal Offer to Reward / No Action**  
An offence was committed -
  - by Miss Fu once she had agreed to provide assistance to Mrs Chin's daughter in return for Mrs Chin's offer to reward her, irrespective of whether Miss Fu had accepted any advantage from Mrs Chin, and whether Miss Fu had subsequently provided any assistance to Mrs Chin's daughter.
  - by Mrs Chin once she had verbally offered to reward Miss Fu in return for assisting her daughter, irrespective of whether Mrs Chin had subsequently offered any advantage to Miss Fu, and whether Miss Fu had agreed to assist.

## Scenario 2 Customary Gifts – “Lai Sees” and a Box of Chocolates

During Lunar New Year, Mrs Chin gave “lai sees”, each containing a \$100-banknote, to all staff of Integrity Kindergarten at which her son was studying and an extra box of chocolates to her son’s class teacher. Some teachers felt obliged, and thus gave extra performing opportunities to her son at the annual show as a reciprocal. Some parents who did not offer gifts considered that the teachers would favour the students whose parents offered gifts, thus giving rise to mistrust and even allegations.

Accepting lai sees and gifts during Lunar New Year is just a traditional custom. Why not?

1



Oh, she is so generous. Let's work out something for her. Hmm, maybe a solo performance for her son at the annual show?

2



## Analysis

## Corruption Risks



- ❖ **Obligation to return** - ICAC cases have revealed that “lai sees” (i.e. money) and gifts are common advantages while lavish/frequent entertainments are common sweeteners which may make the recipients feel obliged to reciprocate. The recipient’s reciprocation may compromise impartiality/ judgement of the recipient or lead to allegations of such, or bring him/the kindergarten into disrepute.

## Prevention of Bribery Ordinance in Perspective



- ❖ **A Box of Chocolates = Advantage? / Entertainment?**
  - The “lai sees” (i.e. money) offered by Mrs Chin in the above scenario apparently fall under the definition of “advantage” under the POBO.
  - If the box of chocolates is not consumed on the occasion when it is provided (e.g. taken home by the recipient), it may not meet the definition of “entertainment” and hence “advantage” under the POBO.
- ❖ **Recipients** - Teachers (agents) might have contravened Section 9(1) of the POBO for accepting the advantages if they did not have the permission of the Kindergarten’s School Management Committee (principal) for such acceptance and the advantages were accepted as an inducement to or reward for the teachers to show favour to or in any way assist the child concerned in the Kindergarten.
- ❖ **Offeror** - Mrs Chin might have contravened Section 9(2) of the POBO if she offered advantages to induce teachers to show favour to her child.
- ❖ **Customary in profession/trade is not a defence** - While giving out “lai sees” during Lunar New Year is a traditional custom in Hong Kong, it is not a defence for committing any POBO offence.

## What the Kindergarten Should Do



- ✓ **Lay down clear integrity requirements** - Legal implications aside, if the teachers accept advantages offered by the parents, this may invite allegations of impropriety in carrying out their duties, and result in mistrust in the kindergartens and the teachers. Kindergartens should lay down clear integrity requirements and require teachers to decline (and report if appropriate) any offer of advantages as far as possible, having regard to the ethical standards and public perception, etc.
- ✓ **Inform parents of the policy on solicitation/acceptance of advantages** - To help teachers encounter integrity challenges and parents understand the kindergartens' integrity requirements, kindergartens should, at the beginning of the school term and before festive seasons, inform the parents that Managers and staff of kindergartens are not allowed to solicit or accept advantages including customary gifts such as "lai sees", e.g. by issuing a letter/notice to parents, including a provision in the parents' handbook.

### Scenario 3 Solicitation of Advantages for a Third Party (i.e. Organisations other than Employers, e.g. a Charitable Organisation)

Miss Fu of Integrity Kindergarten was responsible for monitoring the performance of the Kindergarten's lunch box contractor. She also served as a volunteer in a charitable organisation which was organising a fund-raising event. During a discussion with the director of the lunch box contractor about its recent deteriorated food quality, Miss Fu hinted that she could give the contractor a chance to improve its performance if the contractor could sponsor the event. The contractor agreed to offer the sponsorship.

#### Analysis

##### Prevention of Bribery Ordinance in Perspective



- ❖ **Recipient** - Under the POBO, an agent is regarded as having solicited/accepted an advantage, regardless of whether the advantage is for himself or other persons. Miss Fu abused her official position to solicit advantages (i.e. sponsorship) from the Kindergarten's contractor. Though the advantage was not solicited for her own personal benefit but for another party (i.e. the charitable organisation), and even for charitable purpose, she might have contravened Section 9(1) of the POBO.
- ❖ **Offeror** - The lunch box contractor might have contravened Section 9(2) of the POBO when he agreed to offer the advantages as requested by Miss Fu for conniving at his underperformance.

##### What the Kindergarten Should Do



- ✓ **Lay down clear integrity requirements** - Legal implications aside, if the teachers accept advantages offered by suppliers/service providers, this may invite allegations of impropriety in carrying out their duties. To uphold the integrity of staff and avoid unnecessary allegations, kindergartens should lay down clear integrity requirements and prohibit their staff from soliciting or accepting advantages from suppliers/service providers.
- ✓ **Inform suppliers/service providers of the policy of solicitation/acceptance of advantages** - Kindergartens should inform their suppliers/service providers of the policy that kindergarten staff are prohibited from soliciting and accepting advantages from any persons or companies having official dealings with the kindergartens.

## Scenario 4 Failure to Declare Conflict of Interest



Miss Yau of Integrity Kindergarten was assigned to conduct a procurement exercise for the production of teaching materials. Her close friend Mr Yin, who was the proprietor of a production house, bid for the contract concerned.

The Kindergarten required all staff involved in procurement exercises to declare if they had any conflict of interest with the bidders. Miss Yau considered such declaration troublesome and unnecessary. Being confident that she could conduct the procurement exercise in a fair manner without any bias, she disregarded the declaration requirement, thus failing to disclose her relationship with Mr Yin to the Kindergarten. Subsequently, the contract was awarded to the production house of Mr Yin. Being aware of the relationship between Miss Yau and Mr Yin, an unsuccessful bidder lodged a complaint to the Kindergarten, alleging that the bidding process was unfair.

## Analysis

## Corruption Risks



- ▲ **Inadequate awareness of conflict of interest** - Miss Yau lacked the awareness in properly managing her conflict of interest and possible consequence resulted from mismanagement, thus failing to disclose the relationship with the bidder (i.e. her friendship with Mr Yin) as required by the Kindergarten. As a result, the Kindergarten could not take appropriate measure to mitigate the risk arising from the conflict and even worse, giving rise to allegation of bias and unfairness, and putting the Kindergarten into disrepute.
- ▲ **Breach of rules** - Although Miss Yau might have diligently conducted the procurement exercise in a fair manner without favouring her friend's company, her failure of declaring the conflict as required might constitute misconduct and cast doubt on her integrity.

## What the Kindergarten Should Do



- ✓ **Raise the staff awareness in declaring conflict of interest**
  - ⊙ **Regular reminders to staff** - To ensure that staff are well aware of the declaration requirement, kindergartens should issue reminders to staff on a regular basis, advising them of the ethical standards required of them, including the declaration of conflict of interest, as well as the consequence of non-compliance (e.g. disciplinary action).
  - ⊙ **Capacity building** - Kindergartens should arrange integrity management training for their staff.

## Scenario 5 Management of Declared Conflict of Interest



In the process of procuring school bags, Miss Fu of Integrity Kindergarten was responsible for evaluating the bids received and submitting a recommended bid for the approval of the Principal, Mrs Lam. As one of the bidders was a relative of Miss Fu, Miss Fu declared the relationship to the Principal in accordance with the Kindergarten's probity requirements. The Principal noted the declaration but took no action to manage the risk, and let Miss Fu continue to handle the procurement. Although the school bags supplied by her relative were the cheapest, they did not meet the tender specifications. Notwithstanding this, Miss Fu still recommended her relative's proposal to the Principal as the lowest conforming bid. Based on Miss Fu's recommendation, the Principal approved to award the contract to her relative's company.

## Analysis

## Corruption Risks



- ▲ The Principal's inaction against Miss Fu's declaration rendered the system to manage staff's conflict of interest ineffective, giving rise to the risk of favouritism and abuse in the process by Miss Fu.

## Prevention of Bribery Ordinance in Perspective



- ❖ In assisting her relative to secure the contract, Miss Fu misrepresented to the Kindergarten that her relative's bid was the lowest conforming bid, and the Principal was misled into approving the contract award. Miss Fu might have contravened Section 9(3) of the POBO.

## What the Kindergarten Should Do



- ✓ **Raise the awareness of supervising staff** - Kindergartens should raise the awareness of supervising staff on proper management of staff's conflict of interest.
- ✓ **Adopt appropriate mitigating measures** - Supervising staff should carefully assess the seriousness of the risk arising from any conflict of interest situations, including other parties' perception, and take appropriate mitigating measures. As in the above scenario, given the obvious conflict of interest and the perception of unfairness from a third party's viewpoint, it is undesirable for Miss Fu to continue to handle the procurement exercise. The Kindergarten should consider other more stringent measures, such as redeploying another staff to take up the task of procuring school bags. If it is necessary for Miss Fu to continue with this duty, the Principal should subject her work to closer monitoring.



# PROCUREMENT PROCEDURES

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- 2.1 Corruption Risks
- 2.2 Key Control Measures for Procurement
- 2.3 Key Control Measures for Receipts of Goods and Contract Administration
- 2.4 Some More Tips
- 2.5 Scenarios Analysis





# PROCUREMENT PROCEDURES

Procurement is one of kindergartens' routine administrative operations and covers a wide variety of goods and services (such as food, groceries, stationeries, system development and maintenance services) with value ranging from a few to over a million dollars. Certain service contracts also require regular administration and monitoring to ensure that the services concerned are properly delivered. As procurement and contract administration are inherently susceptible to malpractice, including corruption, it is important for kindergartens to ensure that adequate corruption prevention safeguards are in place.

The Education Bureau has issued procurement guidelines for which the kindergartens participating in the Kindergarten Education Scheme should observe in their operations. These guidelines also serve as a useful reference for non-participating kindergartens in devising or revising their procurement systems. This chapter introduces the key corruption prevention measures and principles to help kindergartens conduct procurement in an open, fair and competitive manner.



## Corruption Risks (2.1)

Areas of concern and corruption risks in procurement procedures include -

Common Areas of Concern 	Resultant Corruption Risks 	Possible Scenarios 
<ul style="list-style-type: none"> <li>Lack of transparency</li> </ul>	<ul style="list-style-type: none"> <li>Staff having access to privileged information exploiting prospective bidders' ignorance (e.g. lacking knowledge of the requirements for the goods or services) and leaking such information for his own benefit</li> </ul>	<ul style="list-style-type: none"> <li>In a procurement exercise, the evaluation criteria are not included in the tender documents. The teacher in-charge of the procurement exercise approaches a prospective bidder, making an offer to disclose such details in return for monetary reward.</li> </ul>

Common Areas of Concern 	Resultant Corruption Risks 	Possible Scenarios 
<ul style="list-style-type: none"> <li>Inadequacies in managing conflict of interest</li> </ul>	<ul style="list-style-type: none"> <li>Staff abusing his authority to favour a bidder/supplier/service provider with whom he has a relation</li> </ul>	<ul style="list-style-type: none"> <li>The teacher tasked to draw up the specifications for the purchase of library books includes a requirement on the author of the books. It is later found that the teacher's close personal friend is the sole agent of this author's books.</li> <li>The clerk is tasked to monitor the performance of the service provider who is his relative. The clerk always turns a blind eye to the underperformance of the service provider.</li> </ul>
<ul style="list-style-type: none"> <li>Unclear policies and procedures</li> </ul>	<ul style="list-style-type: none"> <li>Staff abusing his authority in the procurement procedures and the monitoring of suppliers/ service providers</li> </ul>	<ul style="list-style-type: none"> <li>The kindergarten allows direct purchase without quotation if the amount is below \$5,000. To circumvent the quotation requirement, the teacher in-charge of procurement exercises splits an order with an estimated cost of \$9,000 into two transactions and makes direct purchases from his relative.</li> <li>The staff in-charge of procurement exercises, knowing that the kindergarten does not keep stores record, often places excessive orders with a colluded supplier, connives at the supplier's partial delivery for each order and obtains commissions in return.</li> </ul>
<ul style="list-style-type: none"> <li>Lack of checks and balances in the decision-making process</li> </ul>		
<ul style="list-style-type: none"> <li>Lack of management oversight</li> </ul>		



## Checklist for Corruption Prevention Measures (2.2)

### Key Control Measures for Procurement

In establishing or revising the procedures for procuring general goods and services, kindergartens are advised to refer to the key control measures set out in the checklist below.

#### 2.2.1 Basic Controls in Procurement

- ✓ Lay down, with the approval of the School Management Committee, the following -
  - procurement methods and approving authorities for different amount of purchases (including the authorities for different key stages in the procurement)
  - procurement procedures for different methods, e.g. petty cash purchase (including reimbursement claim procedures [▶ Section 2.2.2](#) ), procurement by quotation or tendering, including the rank/post of staff tasked for different duties, and standing timeframe for submission of bids
  - approving authority for handling exceptions (e.g. a quotation/tender period shorter than the standing duration, single tendering, the number of invited quotations/tenders below the minimum requirement, petty cash purchases exceeding the threshold, acceptance of late quotations/tenders, awarding contracts not according to the pre-determined basis)
  - mechanism for managing lists of suppliers/service providers for frequently purchased goods/services [▶ Section 2.4 - Some More Tips \(1\)](#)
- ✓ Require key personnel involved in procurement exercises (e.g. personnel responsible for shortlisting suppliers or tender evaluation) to declare whether or not they have any relationship with any bidders or there is any conflict of interest; and if any, to follow the mitigating measures as directed by the approving authorities [▶ Section 2.4 - Some More Tips \(2\)](#)
- ✓ Devise forms for use at different key stages of procurement to facilitate proper documentation of decisions and related justifications (e.g. purchase requisition form, quotation/tender evaluation form)
- ✓ Ensure the management has adequate supervision and oversight over procurement activities, including -
  - require regular compilation of management reports (e.g. single tender, purchases exceeding a specified value, repeated purchases within a specified period of time) for review by a designated authority (such as the kindergarten Supervisor or Principal)

- identify frequently-purchased goods/services for consideration of engaging term suppliers/service providers for such purchases
- conduct supervisory random checks on procurement activities to deter and detect irregularities, including non-compliance with the laid down guidelines, and circumvention of stringent requirements by way of splitting up orders

### 2.2.2 Petty Cash Purchases

- ✓ Lay down the circumstances under which petty cash purchases are applicable (e.g. for urgent minor purchases below a financial threshold)
- ✓ Require the approval of designated authority before the purchase; or else, provide written justifications
- ✓ Require staff to submit original receipt/invoice upon claiming reimbursement, or else specify the reasons on the claim form and seek certification by designated staff
- ✓ Ensure that the reimbursement claim is appropriate (e.g. expenditure being eligible for petty cash purchases), the purchase is necessary and the expenditure is reasonable
- ✓ Require the claimant to acknowledge the receipt of petty cash reimbursement
- ✓ Adopt measures to prevent double claim of petty cash reimbursement (e.g. stamping "Paid" on the receipts/invoices)
- ✓ Designate a staff member as the petty cash holder for maintaining cash at a pre-determined level and handling petty cash reimbursement

### 2.2.3 Preparation Prior to Invitation to Quotation/Tender

- ✓ Ascertain that the purchase is necessary and the quantity is appropriate  
 [ [Sample purchase requisition form is at Appendix 5](#) ]
- ✓ Determine the procurement method based on the estimated total amount of purchases
- ✓ Determine the criteria for evaluating the quotations/tenders and basis of contract award -

Evaluation criteria	Basis of contract award
Price consideration only	Lowest conforming bid
Price and non-price considerations (usually using a marking scheme)	Conforming bid with highest overall score

- ✓ Adopt the following measures in drawing up the specifications -
  - do not merely rely on the information obtained from a single source or copy product/service description provided by any supplier/service provider
  - prepare specifications based on the required functions/service levels/performance standards
  - avoid overly restrictive specifications (e.g. specifying brand name/model), and require justifications in case of exception
  - clearly specify the mandatory requirements and the consequence that non-conformance with such requirements will render the bid disqualified for further processing
  
- ✓ Ensure that the quotation invitation/tender document includes the following -
  - clear and comprehensive specifications
  - basis of contract award and if non-price factors are also evaluated, the evaluation criteria and weightings
  - submission arrangements including the deadline (i.e. date and time), means of submission (e.g. whether electronic transmission is allowed), requirement for submitting price and non-price proposals under separate sealed envelopes
  - anti-bribery clauses to prohibit bidders from offering any advantages to Managers/staff involved in the procurement exercise
    - 📄 [ [Sample probity clauses in quotation invitation/tender document are at Appendix 6](#) ]
  - terms and conditions of the contract (mainly applicable to tender exercises), such as delivery schedule

#### 2.2.4 Sourcing and Invitation of Suppliers/Service Providers

- ✓ For open tendering, openly invite suppliers/service providers to bid such as through kindergartens' website, placing an advertisement on newspapers
  
- ✓ Adopt the following measures for restricted quotation/tender where bidders are invited from a list of approved suppliers/service providers -
  - establish a fair mechanism (e.g. by rotation) for shortlisting approved suppliers/service providers for invitation to bid
  - shortlist the required number of suppliers/service providers from the relevant list according to the pre-determined mechanism

- require written justifications for any exception to the pre-determined shortlisting mechanism, such as out-of-turn invitation (e.g. the skipped supplier not supplying the required types of goods) or frequent invitation of the same few suppliers/service providers (e.g. performance consideration)
- require written justifications for including non-listed supplier/service provider nominated by users or other staff and ensure that all bidders meet the listing criteria [➤ Section 2.4 - Some More Tips \(1\)](#)
- Adopt the following measures for restricted invitation to quotation/tender without an approved supplier/service provider list -
  - pre-determine the shortlisting criteria (e.g. product/service offered, scale and experience of the suppliers/service providers)
  - source suppliers/service providers according to the pre-determined criteria
  - shortlist the required number of suppliers/service providers
  - avoid inviting only the suppliers/service providers nominated by a single person (e.g. service user) to bid, and consider inviting those on the Education Bureau's Supplier List or engaged by other kindergartens with satisfactory performance
- Include the last successful supplier/service provider in the shortlist if its past performance was satisfactory
- Require written justifications if the number of suppliers/service providers invited to bid does not meet the minimum requirement

### 2.2.5 Communications with Bidders

- Ensure that all bidders are provided with identical and sufficient information essential for preparing a complete quotation/tender
- Properly document all communications (e.g. responses to bidders' enquiries) with bidders
- Provide all prospective bidders with supplementary information which has implications on the bid preparation (e.g. responses to bidders' enquiries, corrections to tender document after issue) as soon as practicable

### 2.2.6 Receipt and Opening of Quotations/Tenders

- ✓ Record all verbal quotations in writing to enhance accountability
- ✓ Put in place adequate measures for proper handling and secure storage of quotations/tenders to safeguard the confidentiality (in particular bid prices) before the submission deadline, including -
  - ensure that quotations/tenders are opened only after the submission deadline
  - designate a staff member to securely keep all the quotations/tenders before opening
  - use a designated fax machine kept at a secure place and with access restricted to designated staff to receive quotations by fax
  - use a double-locked tender box for receiving tenders and storing them before opening, and assign two different staff to hold the keys
  - open a designated electronic mailbox to receive quotations/tenders by email and prohibit staff from using their personal email accounts (including official and private) for the purpose; if email accounts are used to receive tenders, designate two staff as password holders each only keeping part of the password
- ✓ Keep proper records of all quotations/tenders received
- ✓ Do not accept quotations/tenders received after the submission deadline

### 2.2.7 Evaluation of Quotations/Tenders

- ✓ Prohibit making changes to the pre-determined evaluation method, including any addition, deletion or amendment of evaluation criteria, and amendment to the weightings and marking scheme
- ✓ Evaluate the quotations/tenders according to pre-determined evaluation method -
  - check compliance of the quotations/tenders with product/service specifications and mandatory requirements
  - if price is the only consideration, recommend the lowest conforming bid to the designated approval authority for contract award
  - if price is not the only consideration, adopt the following measures -

- ⦿ establish an evaluation panel comprising at least two members with the required knowledge and expertise
  - ⦿ require panel members to evaluate the quotations/tenders on their own according to the pre-determined marking scheme/guidelines and properly record the outcomes (i.e. scores against each evaluation criterion)
  - ⦿ open the price offers only after the evaluation of non-price factors to calculate the total scores of the quotations/tenders and recommend the award of contract to the highest-scoring bidder
  - ⦿ in case of any change to the final scores, require the panel members to properly sign off against the change and document the justifications
- ✔ Assess the reasonableness of bidders' price offers; consider the potential risks of accepting a quotation/tender with unrealistically low price offer (e.g. substandard service) and reject the acceptance of the quotation/tender concerned if necessary

### 2.2.8 Issue of Purchase Orders or Award of Contracts

- ✔ Ensure that the purchase order is issued or contract is awarded to the bidder offering the lowest conforming bid or being the highest scorer; and require written justifications for any deviation under exceptional circumstances
- ✔ For service contracts, include the following essential terms and conditions -
  - service levels and performance standards required (e.g. lunch boxes being delivered to the kindergarten within a specified period of time, server capacity and book search response time for the library system)
  - reporting requirements (e.g. incident report regarding short delivery of lunch boxes, monthly report on the hit rate of kindergarten's website)
  - probity requirements for successful bidders and their staff in the execution of the contract, including service providers to prohibit their directors, staff, agents and subcontractors who are involved in the contract from offering, soliciting or accepting any advantage in the execution of the contract

 [ [Sample probity clauses in contract are at Appendix 7](#) ]

- other general contract terms and conditions, such as payment terms, consequences of non-compliance with the contract requirements, and termination clauses



## Checklist for Corruption Prevention Measures (2.3)

### Key Control Measures for Receipts of Goods and Contract Administration

Apart from putting in place adequate control measures on the selection of suitable suppliers/service providers, it is equally important for kindergartens to build in controls to ensure proper receipt of goods and contract administration. In establishing or revising the related procedures, kindergartens are advised to refer to the key control measures set out in the checklist below.

#### 2.3.1 Receipt of Goods

- ✓ Assign staff or user with relevant skills to inspect and test, if appropriate, the goods received against the purchase order (e.g. quantity, description, functions)
- ✓ Require receiving staff to certify acceptance of goods within a specified time limit
- ✓ For high-value purchases and where practicable, assign more than one staff member to receive the goods
- ✓ Follow up with the supplier concerned for any short delivery or defective goods in a timely manner

#### 2.3.2 Contract Administration

- ✓ Assign staff to monitor whether the service standards/deliverables committed in the service contract are met (e.g. punctuality of lunch box delivery, response time to fix the identified bugs of the official website, timely delivery of a computer system for user acceptance test and timely and proper migration of data to the new system)
- ✓ Establish a monitoring mechanism appropriate to the nature of service (e.g. random-check the food quality of lunch boxes, review the regular reports on maintenance services for the information system); and lay down key monitoring requirements, such as inspection frequency and items, and timeframe for following up on irregularities identified in the reports
- ✓ Require receiving staff to certify acceptance of services within a specified time limit
- ✓ Require justifications and approval of the designated authority for contract variation (e.g. change of the committed time for delivering lunch boxes)
- ✓ Follow up with the service provider concerned for substandard services or non-compliance with contract conditions in a timely manner

### 2.3.2 Contract Administration

- ✓ Segregate the duties of verifying payment, certifying invoice and monitoring the supplier/service provider
- ✓ Ensure that the invoice is certified by the user or receiving staff, and endorsed by the approving authority before effecting payment
- ✓ Verify the details of invoice against the supporting records (e.g. purchase order, certified goods delivery note, records of short delivery or defective goods returned, certified records of satisfactory service delivery or completion of milestones)
- ✓ Lay down timeframe for processing payment or adhere to the timeframe as stipulated in the contract
- ✓ Conduct supervisory random checks to ensure that payments made are in order, and make enquiries into delays or other exceptions in making payments

### 2.3.4 Handling of Underperforming Suppliers/Service Providers

- ✓ Lay down procedures for dealing with non-conformance or unsatisfactory performance of suppliers/service providers, including -
  - actions to be taken in accordance with the contract conditions (e.g. verbal warning for a minor breach)
  - criteria, procedures and approving authorities for taking such actions
  - procedures and guidelines for handling disputes (e.g. dispute over whether there is a breach)
- ✓ Keep proper records of follow-up actions taken against suppliers/service providers for use in performance appraisal

### 2.3.5 Conduct of Performance Appraisals

- ✓ Devise a mechanism to assess the performance of suppliers/service providers, including -
  - devise an appraisal form for completion by the staff concerned
    -  [ [Sample supplier/service provider performance evaluation form is at Appendix 8](#) ]
  - conduct periodic appraisals on suppliers/service providers' performance, taking into consideration all performance records in the preceding period
  - where it is not practical or cost effective to adopt the two aforesaid measures, adopt an adverse reporting system to record suppliers/service providers' unsatisfactory performance for future reference
  - maintain a central information system recording the performance information of suppliers/service providers (including any unsatisfactory performance and follow-up actions taken)
- ✓ Hold meetings with the supplier/service provider concerned to discuss problems and review performance as appropriate

### 2.3.6 Control of Kindergartens' Assets

- ✓ Keep records of assets and inventory items (e.g. equipment, furniture, consumables), covering description, quantity, date of purchase, etc, and update the records upon receipt/issue of any stock
- ✓ Keep assets and inventory items under lock before issue to users as far as practicable
- ✓ Designate a staff member who is not responsible for daily inventory control to conduct random physical checks on the assets and inventory items
- ✓ Report any missing items or irregularities (e.g. abnormal consumption patterns of inventory items) to the management for follow-up action
- ✓ Ensure that assets approved for disposal (e.g. obsolete or invalidated) are not abused



## Some More Tips (2.4)

### 1. Management of List of Approved Suppliers/Service Providers

Some school sponsoring bodies or kindergartens may maintain lists of approved suppliers and require their staff to source suppliers/service providers from the lists. To minimise the risk of manipulation and effectively manage the approved suppliers lists, the following control measures should be adopted -

- ⊙ Maintain lists of approved suppliers/service providers for frequently purchased goods or services and categorise the lists by type (e.g. stationeries, books, toys)
- ⊙ Ensure that each list contains an adequate number of suppliers/service providers
- ⊙ Lay down the criteria and procedures (including the approval authority) for including suppliers/service providers on or deleting them from the respective lists
- ⊙ Establish a channel for suppliers/service providers to apply for inclusion on the lists
- ⊙ Ensure that all inclusions and deletions are proper (e.g. conducting random checks by supervising staff)
- ⊙ Collect and properly record the feedback from users about the performance of suppliers/service providers, and take appropriate action in case of unsatisfactory performance (e.g. suspension from invitation to bid or deletion from the list if the supplier/service provider has attracted a specified number of adverse reports)
- ⊙ Regularly review the lists of approved suppliers/service providers with a view to deleting those which are inactive, have gone out of business, or with poor performance

## 2. Involvement of Parent-Teacher Association (PTA)

Some kindergartens may invite their PTAs to participate in the procurement for which parents are expected to pay for the goods (e.g. books) or services (e.g. study tours) and the participation may include -

- ⦿ Nominating suppliers/service providers for invitation to quotation/tender
- ⦿ Evaluating the quotations/tenders
- ⦿ Providing feedback on the performance of suppliers/service providers

PTA members are not staff of kindergartens, and thus need not abide by kindergartens' probity requirements imposed on their staff. Yet, if PTA members are invited to participate in the procurement process to discharge duties entrusted by kindergartens, they will likely be regarded as agents of the kindergartens. Kindergartens should therefore commit the PTA members concerned to adequate probity requirements, including not to solicit or accept any advantage in relation to the procurement exercises (e.g. not solicit or accept any advantage from bidders), not to leak relevant information, and to declare whether or not they have any conflict of interest (e.g. a parent member who sits on the tender evaluation panel is a good friend of a supplier bidding for a contract of the kindergarten).

➤ [Section 1.2.2](#)





## Scenario Analysis (2.5)

### Scenario 1 The Need to Subject Service Providers to Probity Clauses

1  
Hmm, our staff code only disallows us to disclose parents' information; but the contractor also has access to such information. Seems not too right!



3  
Hi, Chan Siu Ming's parent? I'm Mr Chan of XX Tuition Centre. Wanna introduce to you our most popular package, primary school interview class.



An IT firm was engaged by Integrity Kindergarten to develop and manage its website (including its parents' web accounts) for parents to gain access to kindergarten's information/messages (e.g. homework, exercises, notices, students' photos). The agreement however did not subject the IT firm to any probity requirements, and the IT firm did not impose any such requirements on its directors/staff. A staff member of the IT firm accepted "tea money" from the proprietor of a private tuition centre for disclosing the parents' contact information to the latter for marketing purposes.

## Analysis

## Corruption Risks



- ▲ **Exposure to bribes** - Similar to the staff of kindergartens, staff of service providers who provide services to/on behalf of the kindergartens are subject to risk of exposure to bribes similar to kindergartens' staff.

## Prevention of Bribery Ordinance in Perspective



- ❖ In the above scenario, the staff of the IT firm (agent), without the approval of the IT firm (principal), accepted advantages (i.e. tea money) from the proprietor of a tuition centre for disclosing confidential information of the Kindergarten to the latter. The staff of IT firm and the proprietor of the tuition centre might have contravened Sections 9(1) and 9(2) of the POBO respectively. The above scenario reflects that it is not adequate for a kindergarten to only subject its staff to probity requirements; any malpractice or corrupt behaviour of the staff of a service provider could bring harm to the kindergarten and its stakeholders.

## What the Kindergarten Should Do



- ✓ **Adequate Probity Requirements** - The service provider, who acts on behalf of the kindergarten in the execution of the contract, should be committed to ethical practices. To protect the interests of the kindergarten and its stakeholders, the kindergarten should subject the service provider and its staff to adequate probity requirements in the execution of the contract.

## Scenario 2 Drawing up of Specifications



Integrity Kindergarten planned to replace its broken toys with new ones; and Miss Yau was tasked to conduct the procurement exercise. There was an internal policy that the toys should meet certain safety standards; but the requirement was omitted from the specifications in the quotation invitation document. A total of five quotations were received. Based on the internal requirement concerned, Miss Yau disqualified the lowest and the second lowest quotations during the evaluation. The contract was subsequently awarded to the third lowest bidder.

## Analysis

## Corruption Risks



- ▲ **Unclear or inadequate specifications** - Unclear or inadequate specifications open up opportunities for compromised staff to unduly exercise discretion to favour particular supplier/ service provider. In the above scenario, Miss Yau omitted the mandatory safety standard requirement from the specifications. Due to the lack of such information, the bidders of the lowest and second lowest bids offered toys which, despite less expensive, fell short of the safety requirement. As a result, they were disqualified. This gave rise to unfairness in the procurement process.

## What the Kindergarten Should Do



- ✓ **Clear and comprehensive specifications** - The kindergarten should ensure that all mandatory requirements are clearly specified in the quotation invitation/tender document.
- ✓ **Conduct of re-quotation/re-tendering** - If the omitted requirement in the quotation invitation/tender document is mandatory, the kindergarten should consider revising the specifications and inviting bidders to re-submit offers to ensure a level playing field.

## Scenario 3 Splitting of Order to Circumvent More Stringent Procurement Rules



The Senior Teacher of Integrity Kindergarten, Miss Kum, was solely responsible for the procurement of the teaching kits for STEM (i.e. Science, Technology, Engineering and Mathematics) curriculum, including inviting potential suppliers to submit quotations/tenders, receiving and evaluating the quotations/tenders, and approving the award of contracts (for procurement conducted by way of quotation). She only needed to seek the School Management Committee's approval if the procurement was conducted by way of tendering. To circumvent the tendering process, Miss Kum split the purchase into four orders, the value of each being below the threshold requiring tendering procedures. As a result, bidders were only required to submit quotations instead of tenders and only the approval of Miss Kum would suffice.

Miss Kum's husband, the proprietor of a company selling teaching kits for STEM curriculum, was one of the bidders in the procurement. But Miss Kum declared in writing that she had no conflict of interest with the bidders and finally she awarded the contracts to her husband's company.

## Analysis

## Corruption Risks



- ▲ **Split order** - A common malpractice in procurement is splitting a higher-value purchase into a number of orders at lower value (split orders) so as to circumvent more stringent procedures and higher approval requirement for the purchase.
- ▲ **Absence of segregation of duties** - Over reliance on a single staff member without segregation of important duties in a procurement exercise undermines checks and balances, thus rendering any irregularity or abuse go undetected.

## Prevention of Bribery Ordinance in Perspective



- ❖ Miss Kum made a false declaration to the Kindergarten that she had no conflict of interest with the bidders and approved the award of contract to her husband's company. As the declaration contained false information and Miss Kum intended to mislead and deceive the Kindergarten (principal), she might have contravened Section 9(3) of the POBO.

## What the Kindergarten Should Do



- ✓ **Segregation of duties** - There should be adequate segregation of duties in the procurement process. Key steps such as sourcing of suppliers/service providers, invitation to quotation/tender, evaluation of quotations/tenders, and acceptance of goods/services should be carried out by different staff, as far as practicable.
- ✓ **Job rotation** - Some kindergartens assign different staff to be responsible for procuring different items (e.g. stationeries, medicine). If circumstances permit, the kindergarten should consider reshuffling the duties among staff from time to time.
- ✓ **Avoiding split order** -
  - ⊙ clearly stipulate that splitting up a purchase for the purpose of circumventing laid down procedures is strictly prohibited
  - ⊙ determine the procurement method (e.g. quotation, tender) based on the total estimated sum of the procurement item
  - ⊙ review the reports on purchases and timely follow up any sign of split order.

## Scenario 4 Lax Control on Direct Purchase



Auntie Silver, the janitor of the Integrity Kindergarten, had been responsible for the direct purchase of fresh food from the wet market for many years. Over the years, she colluded with a fish stall to inflate the prices written on the invoices for reimbursement and pocketed the differences. Given that the amount involved in each purchase was small and the Kindergarten trusted Auntie Silver, there was no checking or monitoring on the expenses/supporting documents submitted by Auntie Silver.

## Analysis

## Corruption Risks



- ▲ **Risk of inflated price/acceptance of substandard goods** - As most direct purchases involve small amounts, most organisations only subject such purchases to minimal monitoring. Therefore, any abuse and malpractice in the process (such as inflated price/acceptance of substandard goods with or without collusion with the suppliers) may not be detected, thus attracting allegations of lax monitoring or connivance at the staff's malpractice.

## Prevention of Bribery Ordinance in Perspective



- ❖ Auntie Silver (agent) submitted to the Kindergarten (principal) the invoices which contained false information with intent to deceive/mislead the Kindergarten. She might have contravened Section 9(3) of the POBO.

## What the Kindergarten Should Do



- ✓ **Review of expenses** - Supervising staff should conduct periodic review on the expenses incurred to detect possible anomalies.
- ✓ **Job rotation** - Where feasible, kindergartens should task different staff to conduct direct purchases on a rotation basis and compare the expenses claimed by them.
- ✓ **Surprise inspections** - Supervising staff should conduct surprise checks (e.g. verify with suppliers on the details of the procurement, check the actual quantity received against that as marked in the invoice) on direct purchases made to deter and detect malpractice.

## Scenario 5 Placing of Unnecessary Orders and Inflating of Price



Miss Fu, teacher of Integrity Kindergarten, was solely responsible for purchasing stationery for the Kindergarten, including issue of orders, acceptance of goods, and arrangement of payment. Miss Fu was heavily indebted. A stationery supplier approached Miss Fu, offering a rebate of 30% to Miss Fu for placing orders with the former. Miss Fu then placed unnecessary orders with the stationery supplier, who inflated the price of the stationery by 10% and delivered only half of the ordered stationery to the Kindergarten. Miss Fu accepted the goods herself, certified the invoices and delivery notes to falsely claim that all the ordered stationery were received, and arranged payment to the supplier. The supplier then offered the rebates to Miss Fu as agreed. As the Kindergarten did not require any staff to conduct stock-taking or keep records of the inventory items, no one was aware of the malpractice.

## Analysis

## Corruption Risks



- ▲ **Absence of segregation of duties** - Over reliance on a single staff member in performing all the key steps in procurement and lack of checks and balances open up opportunities for the staff to collude with the suppliers/service providers and render malpractices (e.g. placing unnecessary orders, conniving at short delivery and making payment for non-delivered goods) going undetected.
- ▲ **Lack of inventory control** - The absence of requirement for physical checks or record-keeping of the inventory items may open up room for manipulation by the staff concerned.
- ▲ **Indebtedness of staff** - ICAC cases revealed that staff with serious financial difficulties are more vulnerable to corruption. When staff are in need of money, they may be easily compromised and more willing to risk abuse of their power, corrupt activities or other malpractices.

## Prevention of Bribery Ordinance in Perspective



- ❖ In the above scenario, Miss Fu (agent), without the permission of the Kindergarten (principal), accepted advantages (i.e. rebates) from the stationery supplier as a reward for placing orders with the latter. She might have contravened Section 9(1) of the POBO while the stationery supplier might have contravened Section 9(2) of the POBO.
- ❖ Moreover, Miss Fu (agent) signed and submitted invoices and delivery notes containing fraudulent information with an intent to deceive the Kindergarten. She might have contravened Section 9(3) of the POBO.

### What the Kindergarten Should Do



- ✓ **Segregation of duties** - Kindergartens should ensure that there is adequate segregation of duties in the key processes in procurement. Key steps such as placing orders, certifying and accepting goods as well as making payments should be carried out by different staff, as far as practicable.
- ✓ **Inventory control** - Kindergartens should lay down the requirements and procedures in managing their inventory items. For instance, kindergartens should require staff to keep records of the inventory items and designate a staff member who is not responsible for daily inventory control to conduct random check on the inventory against the records to deter and detect possible irregularities.
- ✓ **Alert to staff's behaviour** - Supervising staff should be alert to the behaviour of staff, in particular for any signs of indebtedness (e.g. debtors calling at kindergarten to collect debts, repeated borrowings from different colleagues). In case any staff are in serious financial difficulties, the supervising staff should provide early guidance, advice or warning as appropriate.

## Scenario 6 Use of Personal Credit Card for Procurement

Integrity Kindergarten needed to buy a new refrigerator. The clerk, Wing, knew that the selected supplier offered a special discount of 5% if the purchase was settled by a credit card issued by a particular bank. Wing was the holder of the credit card concerned, which gave cash rebates on all transactions. The Kindergarten had not laid down any guidelines on the use of credit cards in procurement. To help the kindergarten save money, Wing made the purchase by using his personal credit card and kept the cash rebates.

### Analysis

#### Corruption Risks



- ▲ **Absence of guidelines** - In the absence of guidelines, staff may exercise discretion to choose the means of payment for kindergarten's procurement, including one generating personal benefits. This may attract allegations of the staff abusing of power for personal gains.

#### What the Kindergarten Should Do



- ✓ **Clear guidelines** - Kindergartens should lay down policy, clearly specifying the means of payment for Kindergartens' procurement. Where it is considered operationally necessary to allow staff to use their own credit cards to make payment for procurement, the kindergarten should lay down -
  - ⊙ the circumstances under which staff's personal credit cards can be used (e.g. where credit card payment can help reduce the kindergarten's spending)
  - ⊙ the disposal methods and procedures for handling the benefits (e.g. cash rebates) that the staff might earn through the use of his own personal credit card (e.g. not using such benefits other than for kindergarten's interest, using the bonus points earned to redeem a coupon for use by the kindergarten).



# MANAGEMENT OF MAINTENANCE AND IMPROVEMENT WORKS

- 3.1 Corruption Risks
- 3.2 Key Control Measures for Appointment of Works Consultants
- 3.3 Key Control Measures for Appointment of Works Contractors
- 3.4 Key Control Measures for Monitoring of Works Projects
- 3.5 Contact Information of Relevant Government Departments and Professional Bodies
- 3.6 Scenario Analysis





# MANAGEMENT OF MAINTENANCE AND IMPROVEMENT WORKS

From time to time, kindergartens appoint contractors to carry out maintenance and improvement works on their premises (e.g. repainting the premises, repairs and maintenance of water pipes, erection of partition walls). Works consultants may also be appointed to provide professional services in the works projects that are relatively complicated in nature. As these works-related services often involve technical expertise and substantial sums of money, both the appointment of works consultant/contractor and contract administration processes are inherently prone to manipulation and corruption. Vulnerable areas include favouritism in the selection of works consultants or contractors, connivance at works contractors' substandard works, issue of unnecessary works variation orders, and expedited or delayed payment.

Appointment of works consultants/contractors is by nature procurement of service which entails substantial contract administration work. Therefore, the key processes and control measures in procurement and contract administration as described in Chapter 2 are generally applicable in the selection and monitoring of works consultants/contractors. This chapter specifically introduces control measures against risks of malpractices and corruption unique to works-related contracts let by way of quotation or tendering.



## Corruption Risks (3.1)

Areas of concern and corruption risks in the procedures for the management of maintenance and improvement works include -

Common Areas of Concern	Resultant Corruption Risks	Possible Scenarios
<ul style="list-style-type: none"> <li>Inadequacies in managing conflict of interest</li> </ul>	<ul style="list-style-type: none"> <li>Staff abusing his authority to favour a works consultant/contractor with whom he has a relation</li> </ul>	<ul style="list-style-type: none"> <li>The works contractor is the relative of the kindergarten's accounting clerk. The clerk not only fails to disclose the relationship to the kindergarten, but also abuses his authority to make full payment to the contractor despite unsatisfactory completion of the refurbishment works.</li> </ul>

Common Areas of Concern 	Resultant Corruption Risks 	Possible Scenarios 
	<ul style="list-style-type: none"> <li>Inadequate impartiality in discharging the duties</li> </ul>	<ul style="list-style-type: none"> <li>The works consultant lets the drainage replacement works contract to its subsidiary on behalf of the kindergarten, without disclosing the relationship to the kindergarten. It subsequently approves a lot of unnecessary works variations, resulting in doubled project cost.</li> </ul>
<ul style="list-style-type: none"> <li>Lack of checks and balances</li> </ul>	<ul style="list-style-type: none"> <li>Staff abusing his office in the selection and monitoring of contractors/consultants</li> </ul>	<ul style="list-style-type: none"> <li>The technician takes charge of the entire air-conditioning system replacement works project on his own, from appointing works contractor to effecting contract payment. He directly appoints a contractor without obtaining any quotation, allows the contractor to use materials non-compliant with the specifications, certifies the works of substandard quality and pays the contractor.</li> </ul>
<ul style="list-style-type: none"> <li>Lack of management oversight</li> </ul>		



## Checklist for Corruption Prevention Measures (3.2)

### Key Control Measures for Appointment of Works Consultants

Given the complexity involved and technical expertise required (e.g. replacement of a drainage system), and in some cases the need to meet statutory requirements (e.g. erection of partition walls, installation of a fire fighting system), it may be necessary for kindergartens to appoint works consultants to assist in handling the works concerned. The checklist below sets out the key control measures specifically applicable to the appointment of works consultants.

#### 3.2.1 Assessment of the Need for Works Consultancy Services

- ✓ Ascertain if the works project is subject to the statutory requirement for the appointment of a registered building professional<sup>1</sup>
- ✓ Assess the need for the works consultancy services having regard to operational considerations, including -
  - the complexity of the works (e.g. merely repainting the premises versus demolishing and re-designing the toilets including replacement of the drainage system)
  - technical expertise involved in the works project (e.g. alteration of structural walls)
  - the availability of competent Managers/staff to administer the works
- ✓ Submit the recommendation for appointing works consultant, together with justification, to the designated authority for approval

#### 3.2.2 Preparation of Quotation Invitation/Tender Document

- ✓ Determine the mandatory services<sup>2</sup> required from the works consultant for ensuring effective management and implementation of the project concerned

<sup>1</sup> Some works projects require the appointment of registered works related professionals (e.g. Authorized Persons, Registered Structural Engineers) under the law, e.g. structural alteration plans to be submitted by Authorized Persons.

<sup>2</sup> A works consultant plays an important role in implementing a works project, including identification of works required, works design, selection of works contractors, supervision of works quality of the works contractor and contract administration (e.g. certifying payments to works contractors).

- ✓ Clearly specify the following clauses in the quotation invitation/tender document for works consultancy services contract -
  - scope of works consultancy services required
  - requirement for the submission of staffing proposal and pricing schedule (a breakdown of consultancy fees)
  - pre-determined evaluation criteria [▶ Section 3.2.4](#)
  - general terms and conditions of consultancy agreement, including payment arrangement, insurance, termination of services
  
- ✓ Consider the need to include a clause to debar the works consultant from assisting or partnering with works contractors to bid for works contracts related to the consultancy agreement, and to require the works consultant declare any interest in contractors under its supervision

### 3.2.3 Sourcing and Invitation of Works Consultants

- ✓ Adopt open tendering as far as practicable; if other tendering method is adopted, pay special attention to the following -
  - avoid inviting consultants referred or employed by a works contractor who may bid for the works contract
  - do not rely on a single person to source and shortlist the works consultants
  - source for works consultants from various channels, e.g. lists maintained by related Government departments [▶ Section 3.5.1](#), professional bodies [▶ Section 3.5.2](#), school sponsoring bodies, or other kindergartens

 [\[ Sample form for invitation of fee proposals for consultancy agreement is at Appendix 9 \]](#)

### 3.2.4 Evaluation of Quotations/Tenders

Non-price factors (e.g. experience) are always taken into account in the evaluation of quotations/tenders for works consultancy agreements with a view to ensuring competency and adequacy of the professional input from the consultants. Kindergartens should adopt the following measures -

- ✓ Ensure that the evaluation criteria include all critical factors -
  - relevant experience in overseeing similar projects

- company resources and current workload (e.g. number of full time professional and technical staff, number and details of on-going projects)
- staffing proposal for the project concerned, including the qualifications, relevant experience, responsibilities and degree of involvement of key personnel (e.g. committed man-hours by individual key personnel)
- past performance (e.g. letter of recommendations in relation to previous projects)
- Assess the reasonableness of the proposed consultancy fees, based on the works consultant's proposed manpower input and the fees breakdown for works consultancy services at various stages<sup>3</sup> or making reference to the fee scale published by the professional bodies [▶ Section 3.5.2](#) or the fees paid by other kindergartens on similar projects



[\[ Sample quotation/tender evaluation form for consultancy service is at Appendix 10\]](#)

### 3.2.5 Award of Works Consultancy Agreement

- Ensure that the works consultancy agreement has included the following essential terms and conditions -
  - probity clauses
    -  [\[ Sample ethical commitment clauses in consultancy agreement are at Appendix 11\]](#)
  - scope of consultancy services
  - payment arrangements
  - payment arrangements for additional services
- Make reference to the sample agreements/contracts published by the professional bodies [▶ Section 3.5.2](#)



<sup>3</sup> To assess the reasonableness of the consultancy fees, kindergartens may divide the consultancy fees by the proposed manpower input to work out the average salary of the staff, and compare such with the market rate.



## Checklist for Corruption Prevention Measures (3.3)

### Key Control Measures for Appointment of Works Contractors

The technicality and complexity vary in different maintenance and improvement works. While kindergartens may appoint works consultants to manage complicated works projects, they may still need to administer relatively simple works (e.g. repainting the premises, furniture installation) on their own. Therefore, they are advised to refer to the following key control measures for appointing works contractors.

Where works consultants are appointed, they are generally responsible for carrying out the majority of tasks required for appointing contractors. For these consultant-managed projects, kindergartens are advised to possess in-house knowledge of common maintenance and improvement works, and participate in the critical decision-making process (e.g. drawing up scope of works, sourcing contractors, laying down evaluation criteria) to safeguard their interests.

#### 3.3.1 Drawing up the Scope of Maintenance Works

- ✓ Ascertain the works items required
- ✓ Clearly distinguish the essential/mandatory works items from non-essential ones
- ✓ For consultant-managed projects, require the works consultant to provide estimated quantities and costs for individual works items in the scope of works project

#### 3.3.2 Preparation of Quotation Invitation/Tender Document

- ✓ Clearly specify the following items in the quotation invitation/tender document for the works contract -
  - scope of works and detailed specifications for each works item
  - pre-determined evaluation criteria
  - pricing and time schedules for works items
  - terms and conditions of the works contracts, including -
    - ⊙ defects liability period<sup>4</sup>
    - ⊙ extension of time<sup>5</sup>
    - ⊙ insurance
    - ⊙ liquidated damages<sup>6</sup>
    - ⊙ payment arrangements
    - ⊙ retention money<sup>7</sup>
    - ⊙ termination clause, etc.

<sup>4</sup> After works completion, there should be a “defects liability period” during which the works contractor has the responsibility to make good any defects in or arising from its work (such as plaster cracking, doors and windows not functioning properly).

<sup>5</sup> An extension of time may be granted to the works contractor if failure to complete the works by the agreed date is caused by factors outside the works contractor’s control.

<sup>6</sup> Liquidated damages are compensations to be paid to the kindergarten by the works contractor as specified in works contract for the delay caused by the works contractor.

<sup>7</sup> Retention money refers to the amount of money, which normally ranges from 5% to 10% of the contract sum, held by the kindergarten as a safeguard against defects which may subsequently develop and which the works contractor may fail to rectify.

### 3.3.3 Sourcing and Invitation of Works Contractors

- ✓ Adopt open tendering as far as practicable; if other tendering method is adopted, pay special attention to the following -
  - source for works contractors from various channels, e.g. lists maintained by related Government departments [▶ Section 3.5.1](#) , professional bodies [▶ Section 3.5.2](#) , school sponsoring bodies, or other kindergartens
  - for consultant-managed works projects -
    - ⊙ do not solely rely on the consultant to source and invite works contractors
    - ⊙ add other contractors from other sources to the invitation list
    - ⊙ avoid disclosing the consultant's name in any invitation documents (e.g. advertisement for open tendering, tender document)



[ [Sample letter for invitation to quotation/tender for works contract is at Appendix 12](#) ]

### 3.3.4 Evaluation of Quotations/Tenders

- ✓ Assess the reasonableness of the quotations/tender prices, based on the estimated quantities and prices for individual major works items or making reference to the scale of fees published by the professional bodies [▶ Section 3.5.2](#) or the fees paid by other kindergartens on similar works



[ [Sample quotation/tender evaluation form for works contract is at Appendix 13](#) ]

### 3.3.5 Award of Works Contract

- ✓ Ensure that the works contract has included the following essential terms and conditions -
  - probity clauses
    -  [ [Sample ethical commitment clauses in works contract are at Appendix 14](#) ]
  - scope of works and specifications
  - pricing schedule for works items
  - payment arrangements
- ✓ Make reference to the sample works contract published by the professional bodies [▶ Section 3.5.2](#)



## Checklist for Corruption Prevention Measures (3.4)

### Key Control Measures for Monitoring of Works Projects

Any delay or variation in the works projects may not only incur additional costs, but also impede the kindergartens' operations. For example, drainage replacement works of the students' toilet cannot be completed on schedule, resulting in noisy and unpleasant environment during the class time. Therefore, it is necessary for kindergartens to closely monitor the works progress or in case of consultant-managed works projects, ensure close monitoring by the consultant. Kindergartens are thus advised to refer to the key control measures set out below for monitoring of works.

#### 3.4.1 Monitoring of Works Progress and Quality

- ✓ Appoint a staff member with technical or professional knowledge to monitor works project and regularly report to the management, or enlist the assistance of a Manager with such knowledge for the purpose
- ✓ For self-managed works projects -
  - require the works contractor to submit a works programme at the commencement of the works, showing the stages and deliverables required
  - conduct site inspections and record the outcome for timely reporting to the management
  - timely follow up with the contractor on any rectification works required
  - require the contractor to submit photos of the works showing the progress and hidden works (before and after work completion) as evidence of compliance with the quality requirements and works progress
  - require the contractor to explain any delay and propose remedial measures
- ✓ For consultant-managed works projects -
  - require the works consultant to submit a site supervision plan, providing detailed site inspection arrangements, including particulars of inspection staff, frequency of site inspection, inspection records (such as certified site photos, material test certificate), for approval of kindergarten
  - require the works consultant to regularly report on the works contractor's progress and the quality of works carried out
  - check whether the works consultant has conducted its supervision based on the approved site supervision plan and require immediate rectification in case of deviation

- avoid relying entirely on the works consultant in monitoring the works progress, and appropriately take part in the process (e.g. joint site inspections with the works consultant, regular meeting with the works consultant and works contractor to review work progress and any rectification work as required)

### 3.4.2 Work Variations

- Minimise the need for work variations which often entail negotiation with the works contractor on the special rates
- Where practicable, consider inviting new quotations/tenders for work variations if the scope or cost is substantial
- Put in place the following safeguards -
  - require the staff responsible or the works consultant to assess the need for and the scope of the proposed work variations
  - require the works contractor to estimate the rates for proposed work variations based on the contract rates as far as possible
  - specify the approving authorities for work variations of different amounts
  - submit regular reports on work variations to the management for monitoring

### 3.4.3 Payments

- Require the provision of billing details in the invoices, including -
  - for works contractors: actual works done, prices for individual works items in the contracts, proof of works done (such as site photos)
  - for works consultants: supporting documents for completion of required services
- Conduct inspections to check and certify completed works claimed by the contractor
- Make payments to the works consultant/contractor according to the contract terms

- ✓ For final payment claim, ascertain that the contractor has completed the following items before releasing retention money according to the contract terms -
  - provide all certificates, test reports and any other relevant documents
  - make good all the defects identified within the defect liability period
- ✓ For consultant-managed projects, in addition to the measures described above, require the works consultant to -
  - certify the cost of the works completed
  - regularly submit reports on work progress and financial statement of the works project accounts

#### 3.4.4 Certification of Works Completion

- ✓ Conduct inspections, jointly with the works consultant if appointed, on the completed works
- ✓ Require the works contractor (or the consultant) to compile and submit a list of defects for approval by the kindergarten and to follow up the rectification of defects
- ✓ Certify (or require the consultant to certify) the completion of the works as specified in the works contract
- ✓ Conduct inspection, jointly with the consultant if appointed, to check the completion of the defect rectification works before the expiry of defects liability period and before final certification of works completion





## Contact Information of Relevant Government Departments and Professional Bodies (3.5)

For more reference information in relation to the management of works contracts (e.g. lists of Authorized Persons and works contractors; statutory requirements), kindergartens may make enquiries with the Government departments and professional bodies below.

### 3.5.1 Government Departments

#### Buildings Department

##### Enquires about

- Repair orders and other statutory orders
- Unauthorized building works and dangerous private buildings
- Building Safety
- Register of Authorized Persons, Registered Structural Engineers, Registered Geotechnical Engineers, Registered Inspectors, Registered General Building Contractors, Registered Minor Works Contractors and other Registered Specialist Contractors

**G/F, Buildings Department Headquarters,  
North Tower, West Kowloon Government  
Offices, 11 Hoi Ting Road,  
Yau Ma Tei, Kowloon**

Website: [www.bd.gov.hk](http://www.bd.gov.hk)

E-mail Address: [enquiry@bd.gov.hk](mailto:enquiry@bd.gov.hk)

Enquiry, Report and Complaint Hotline: 2626 1616 - Handled by "1823"

Facsimile: 2537 4992

#### Civil Engineering and Development Department

##### Enquires about

- Slope safety and maintenance

**Civil Engineering and Development  
Building, 101 Princess Margaret Road,  
Homantin, Kowloon**

**Community Advisory Unit**

Website: [www.cedd.gov.hk](http://www.cedd.gov.hk)

Hong Kong Slope Safety Website: [hkss.cedd.gov.hk](http://hkss.cedd.gov.hk)

E-mail Address: [cau@cedd.gov.hk](mailto:cau@cedd.gov.hk)

Telephone: 2760 5800

Facsimile: 2762 2389

## Drainage Services Department

### Enquires about

- Connection of private drains to the public drainage system

**43/F, Revenue Tower, 5 Gloucester Road, Wanchai, Hong Kong**

Website: [www.dsd.gov.hk](http://www.dsd.gov.hk)  
E-mail Address: [enquiry@dsd.gov.hk](mailto:enquiry@dsd.gov.hk)  
Drainage Hotline (24 Hours): 2300 1110  
General Enquiries: 2877 0660  
Customer Services Enquiries (Sewage Services Charges): 2834 9432  
Facsimile: 3103 0013

## Electrical and Mechanical Services Department

### Enquires about

- Electrical installation notices
- Gas installation notices
- Lift and escalators installations notices
- Registered Electrical Contractors
- Registered Gas Installers, Registered Gas Contractors and Competent Persons
- Registered Lift and Escalators Contractors, Engineers and Workers

**3 Kai Shing Street, Kowloon, Hong Kong**

Website: [www.emsd.gov.hk](http://www.emsd.gov.hk)  
E-mail Address: [info@emsd.gov.hk](mailto:info@emsd.gov.hk)  
Hotline: 1823  
Facsimile: 2895 4929

### Environmental Protection Department

#### Enquires about

- Statutory notices served by the Environmental Protection Department
- Registered Asbestos Contractors and Registered Asbestos Consultants
- Practices in green property management

**15/F & 16/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong**

Website: [www.epd.gov.hk](http://www.epd.gov.hk)

E-mail Address: [enquiry@epd.gov.hk](mailto:enquiry@epd.gov.hk)

Hotline: 2838 3111

Facsimile: 2838 3111

### Fire Services Department

#### Enquires about

- Fire safety requirements
- Fire protection matters

Website: [www.hkfsd.gov.hk](http://www.hkfsd.gov.hk)

#### Hong Kong Regional Office

Address: M/F, Sheung Wan Fire Station,  
2 Western Fire Services Street,  
Sheung Wan, Hong Kong

E-mail Address: [Ichfpro2@hkfsd.gov.hk](mailto:Ichfpro2@hkfsd.gov.hk)

Telephone: 2549 8104

Facsimile: 2559 3461

#### Kowloon West Sub-regional Office

Address: 6/F, Tsim Sha Tsui Fire Station  
Complex, 333 Canton Road, Tsim  
Sha Tsui, Kowloon

E-mail Address: [Ickfpro@hkfsd.gov.hk](mailto:Ickfpro@hkfsd.gov.hk)

Telephone: 2302 5339

Facsimile: 2302 5314

## Fire Services Department *(continued)*

### Enquires about

- Fire safety requirements
- Fire protection matters

### Kowloon East Sub-regional Office

Address: Unit 1809-1810, 18/F, Skyline Tower, 39 Wang Kwong Road, Kowloon Bay

E-mail Address: [lckfpro2@hkfsd.gov.hk](mailto:lckfpro2@hkfsd.gov.hk)

Telephone: 3423 9332

Facsimile: 2722 5256

### New Territories Regional Office

Address: Unit 1809-1810, 18/F, Skyline Tower, 39 Wang Kwong Road, Kowloon Bay

E-mail Address: [lcstfpro@hkfsd.gov.hk](mailto:lcstfpro@hkfsd.gov.hk)

Telephone : 3423 9328

Facsimile: 2443 1411

## Water Supplies Department

### Enquires about

- Notices about unauthorised alteration of water works
- Application for water supply
- Take-up and give-up of water accounts
- Billing information
- Licensed Plumbers

### 48/F Immigration Tower, 7 Gloucester Road, Wan Chai, Hong Kong

Website: [www.wsd.gov.hk](http://www.wsd.gov.hk)

E-mail Address: [wsdinfo@wsd.gov.hk](mailto:wsdinfo@wsd.gov.hk)

Customer Service Hotline: 2824 5000

Facsimile: 2824 0578

### 3.5.2 Professional Bodies

#### The Hong Kong Institute of Architects

**19/F One Hysan Avenue, Causeway Bay, Hong Kong**

Website: [www.hkia.net](http://www.hkia.net)  
E-mail Address: [hkiasec@hkia.org.hk](mailto:hkiasec@hkia.org.hk)  
Telephone: 2511 6323  
Facsimile: 2519 6011

#### The Hong Kong Institution of Engineers

**9/F Island Beverley, 1 Great George Street, Causeway Bay, Hong Kong**

Website: [www.hkie.org.hk](http://www.hkie.org.hk)  
E-mail Address: [hkie-sec@hkie.org.hk](mailto:hkie-sec@hkie.org.hk)  
Telephone: 2895 4446  
Facsimile: 2577 7791

#### The Hong Kong Institute of Surveyors

**Room 1205, 12/F, Wing On Centre, 111 Connaught Road Central, Sheung Wan, Hong Kong**

Website: [www.hkis.org.hk](http://www.hkis.org.hk)  
E-mail Address: [info@hkis.org.hk](mailto:info@hkis.org.hk)  
Telephone: 2526 3679  
Facsimile: 2868 4612



## Scenario Analysis (3.6)

### Scenario 1 Adoption of a Tenderer's Proposed Works Items as the Specifications



Integrity Kindergarten planned to convert its store room into a toilet, involving complicated works expertise; but no Manager or staff had the related professional knowledge. Miss Yau, tasked to manage the works, hence invited Contractor A to conduct a site visit for advice. Contractor A proposed a list of works items required together with the estimated cost breakdown. Miss Yau merely deleted the cost information and used Contractor A's proposal as the works specifications (including the requirement for using proprietary material for which Contractor A was the sole agent) in its tender document to invite tenders from contractors, including Contractor A. Contractor A was finally awarded the contract as his bid was the only conforming tender. Unsuccessful bidders complained about the fairness of the procurement exercise and even alleged that Miss Yau had accepted bribes from Contractor A for showing favour to the latter.

## Analysis

## Corruption Risks



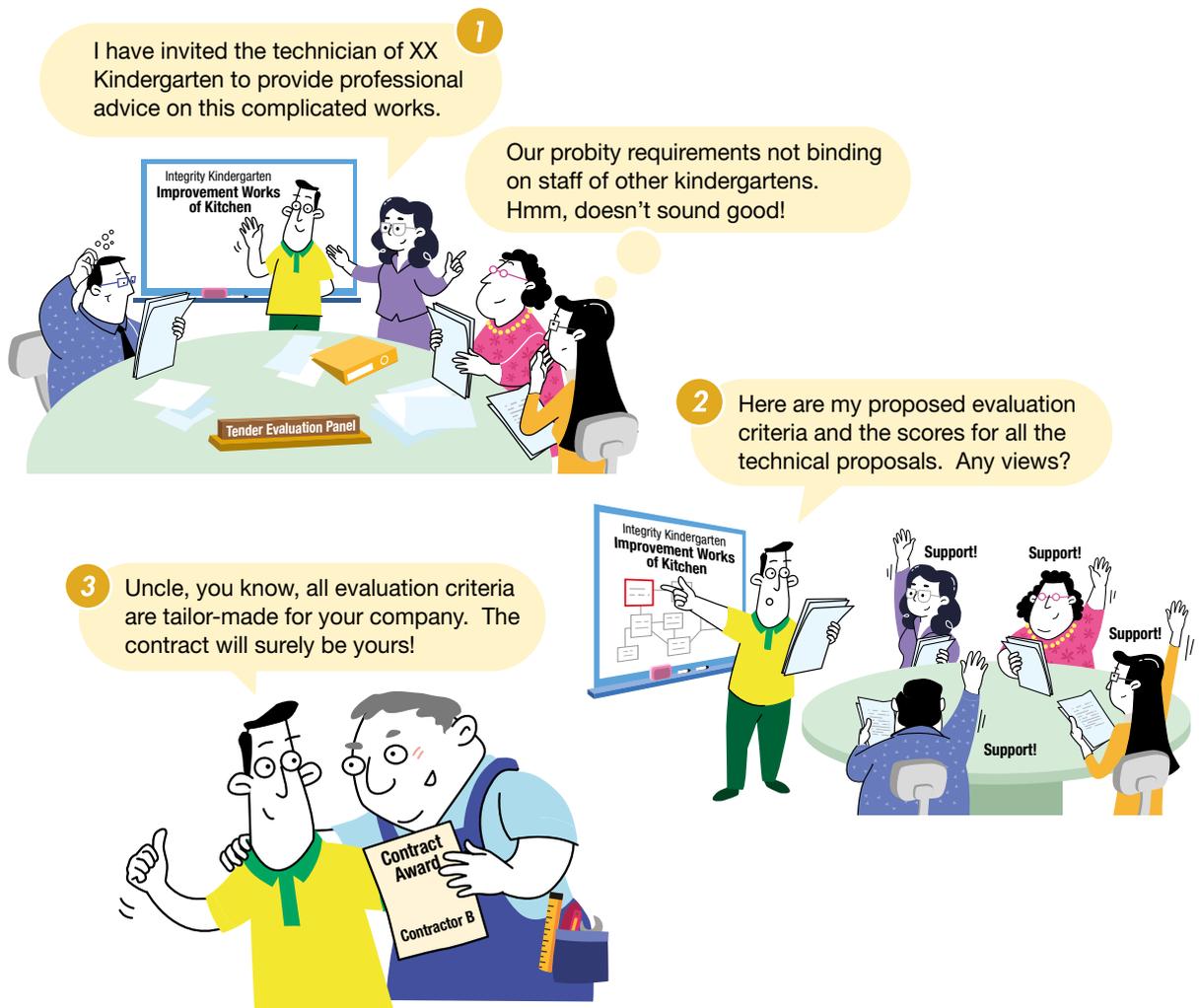
- ▲ **Favouritism to a particular tenderer** - Using the list of works items proposed by a single tenderer as tender specifications may give the tenderer an edge over the others (e.g. using proprietary materials for which the tenderer is the sole agent), resulting in unfair competition and inviting allegations of favouritism and corruption.

## What the Kindergarten Should Do



- ✓ **Large-scale works project and works project involving professional skills** - Kindergarten should first appoint personnel with professional expertise (e.g. Managers with professional qualifications, works technical staff of school sponsoring bodies) or appoint works consultants to conduct site inspection to assist in mapping out comprehensive scope of works and specifications that suit its actual needs (e.g. areas and details requiring refurbishment or maintenance).
- ✓ **Relatively simple works project** - If kindergartens cannot map out the scope of works and specifications on their own, they should invite more than one works contractor to conduct site inspection for more comprehensive advice. Kindergartens then make reference to the advice obtained to draw up the scope of works and specifications that suit its actual needs (e.g. size of the wall to be painted, technical requirement for waterproofing layer).

## Scenario 2 Seeking of Assistance from a Third Party



Integrity Kindergarten conducted a tender exercise to appoint a works contractor for carrying out improvement works for its kitchen, including re-designing the drainage ducts. As the estimated tender sum was over \$200,000, the Kindergarten followed the guidelines of the Education Bureau to set up a tender evaluation panel to assess the tenders. As all Managers and staff did not possess any works-related knowledge, the Kindergarten sought assistance from another kindergarten to engage the latter's technician in the process. Yet, the technician was not subject to the Kindergarten's probity requirements, including declaration of conflict of interest. The technician was tasked to propose evaluation criteria and to score the technical aspects of all tenders. The tender evaluation panel eventually accepted the technician's proposed evaluation criteria and scores, and finally awarded the contract to Contractor B who was the highest scorer and later known to be owned by a close relative of the technician.

## Analysis

## Corruption Risks



- ▲ **Failure to manage conflict of interest** - The technician had an obvious conflict of interest, i.e. one of the tenderers being owned by his close relative but he proposed the evaluation criteria and scores of tenders to the Kindergarten. As he was not the staff of Integrity Kindergarten, he was not governed by the Integrity Kindergarten's declaration of conflict of interest requirement and did not proactively make such a declaration to the Kindergarten. The Kindergarten thus failed to take timely measures to plug the loopholes.

## What the Kindergarten Should Do



- ✓ **Subject all related personnel involved to probity requirements** - The Kindergarten should subject all personnel involved in the tender invitation and evaluation (including any person who acts on its behalf) to adequate and detailed probity requirements, including -
  - ⊙ declare whether or not they have any actual, potential or perceived conflict of interest in the tender exercise
  - ⊙ manage declared conflict of interest
  - ⊙ not to disclose any information related to the tender documents and tender evaluation to unauthorised persons.

### Scenario 3 Release of Final Payment Instalment before Works Completion

1 I am the in-charge. Just come to me if there is any issue.



2 I've got a bit cash flow problem. Okay to early-release the final payment? I have connection in a multinational company. No problem to get a job for your son.



3



Integrity Kindergarten appointed Contractor C to renovate the Kindergarten. Miss Fu was solely responsible for administering the whole project, including monitoring the works, certifying the completion of works claimed, and making payments. Contractor C, requested Miss Fu to early-release the final payment instalment to help solve his company's cash flow problem. In return, he promised to secure a job offer at his wife's multinational company for Miss Fu's son. Miss Fu subsequently acceded to the request of Contractor C. After receiving the final payment, Contractor C failed to finish the final renovation works.

## Analysis

## Corruption Risks



- ▲ **Lack of segregation of duties** - Over-reliance on a single staff member to monitor all the works may expose the kindergarten to risks of abuse and malpractice, e.g. connivance at substandard works, making of an advanced payment before completion of all the works items.

## Prevention of Bribery Ordinance in Perspective



- ❖ Miss Fu (agent) agreed to accept an advantage (i.e. a job offer) from Contractor C for early-releasing the final payment instalment to the latter. She and Contractor C might have contravened Sections 9(1) and 9(2) of the POBO respectively.

## What the Kindergarten Should Do



- ✓ Require the works contractor to provide documents in support of the payment request, e.g. certification records of works done for individual works items in contract.
- ✓ Ensure reasonably adequate segregation of key duties, e.g. different persons for certifying the contractor's payment claim and releasing money to the contractor.

## Scenario 4

## Tenders with Substantially Below-market Price and Approval of Variation Orders

- 1 Miss Yau, the washroom renovation is on your hands. Do remember to renovate toilet cubicles. For other items, give some thoughts on your own.



- 2 This bid is the cheapest. This is it.



- 3 Hey, the drainage pipes torn out already. May risk bursting and water leakage. Well, though not in the contract, I can help out to replace them all. But, extra charges huh.

Ok, I know nothing about works. Do as what you said then!



Integrity Kindergarten conducted a tender exercise for the renovation of its washroom. In preparing tender documents, Miss Yau only included the renovation of toilet cubicles in the scope of works. Contractor D offered a substantially below-market price in its tender submission and was awarded the contract. After the commencement of the contract, Contractor D told Miss Yau that the drainage pipes of the washroom were torn out and needed replacement; or else, there were risks of seepage soon. He suggested carrying out the replacement in one go with renovation during the works period. Contractor D asked for additional fees which amounted to 50% of the original contract sum for the replacement works. Without assessing the need for the additional works and the reasonableness of the price quoted by Contractor D, Miss Yau approved to issue the variation order.

## Analysis

## Corruption Risks



- ▲ **Incomplete scope of works and specifications** - Miss Yau did not have related professional knowledge and did not seek professional advice, hence failing to identify and cover all essential items in the tender document and leading to the subsequent issue of a variation order which was vulnerable to abuse and malpractices (e.g. unreasonable high rates in the works items).
- ▲ **Absence of price comparison with market price** - Miss Yau failed to clarify with the Contractor D on the substantially low bidding price and to ascertain if the works variation was necessary and the contractor's asking price reasonable. The bidding price of the project was substantially below-market price, which might affect the quality of the project, or cause the contractor to cut corners to make up for the price difference, or propose unnecessary work variations, etc. Approving the works variation without due consideration might lead to unnecessary extra costs to be incurred by the Kindergarten and attract allegations of favouritism to Contractor D.

## What the Kindergarten Should Do



- ✓ **Beware of substantially below-market price in quotation/tender submission** -
  - ⊙ If the lowest bid is substantially lower than the other bids, the kindergarten should ascertain if the bidder concerned clearly understands the works requirements and is capable to discharge its duties under the contract (e.g. whether the costs of certain essential items have been missed out). If it is established that the bidder might incur a substantial loss, the kindergarten should assess the possible risk of unsatisfactory delivery of works or substandard works before deciding to award the

contract to the contractor. If the contract is eventually awarded to the contractor concerned, the kindergarten should put in place adequate monitoring measures to ensure that the works is completed on schedule and in accordance with the technical requirements.

- ⊙ The kindergarten should subject the decision to accept works contract at substantially below-market price to the approval of a senior staff and properly document the justification and approval.
  - ⊙ For large scale/high-value projects, the kindergarten may consider appointing independent professionals, e.g. quantity surveyors, for advice on cost estimation and control.
- ✓ **Include all foreseeable works items** - The kindergarten should include all foreseeable works items in the works specifications of the quotation invitation/tender document as far as possible to avoid the need for issuing variation orders. Kindergartens of which the Managers/staff do not possess related professional knowledge may, depending on the complexity of the works involved and the technical/professional knowledge required, consider appointing works consultant to assist in the drawing up of the works specifications. If it is not practicable to appoint works consultant, kindergartens may invite more than one works contractor to conduct site inspection and give advice on the required works items and specifications.
- ✓ **Put in place safeguards for issuing variation orders** - Kindergartens should lay down guidelines on handling variation orders.

### Scenario 5 Exaggeration of the Works Items Requirements

Integrity Kindergarten was about to expand the school campus. As the required works involved professional skills and numerous statutory requirements and procedures (e.g. the requirement of fire escapes, submission of plans), the Kindergarten decided to appoint a works consultant to administer the works project and the works consultant charged 5% of the total cost of the works project as consultant fee. As the consultancy fee was directly linked to the cost of the works project, the works consultant exaggerated the statutory requirements and specified expensive materials of particular brands that were not necessary for use in the works in order to increase the consultancy fee. As Integrity Kindergarten did not require the works consultant to evaluate the necessity of each works item and to provide the breakdown of the estimated quantity and cost of individual works items, the Kindergarten failed to assess the scope of works suggested by the works consultant and thus carried out a lot of works that were not essential and paid very high consultancy fee.

#### Analysis

#### Corruption Risks



- ▲ **Absence of assessment for works items** - Integrity Kindergarten did not require the works consultant to assess the necessity, quantity and cost of works items, and approved to carry out many unnecessary works. Not only would this increase the expenditure, but also give rise to allegations of favouritism toward the works consultant or contractor.
- ▲ **Selection of materials of a particular brand** - Integrity Kindergarten eventually selected materials of a particular brand. Increasing the project cost aside, this would impede competition and give rise to allegations of favouritism toward the agent of the brand concerned.

## What the Kindergarten Should Do



- ✓ **Distinguish essential works items** - Kindergartens should require works consultants to clearly distinguish works items that are essential (e.g. statutory requirements) and non-essential (e.g. embellishment works).
- ✓ **Estimate quantity and cost of works items** - Kindergartens should require works consultants to provide estimated quantities and costs for individual works items to facilitate determination of the scope of works to be carried out, budgeting and tender comparison.
- ✓ **Avoid using brand names** - Kindergartens should require works consultants to avoid using brand names for material specifications or specifications that only a single brand of material can meet, unless there are justifiable grounds.
- ✓ **Specify the finalised scope of works in detail** - Kindergartens should require works consultants to specify the finalised scope of works in the quotation invitation/ tender document and also works contract in detail to avoid disputes in the future.

# ADMISSION OF STUDENTS

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- 4.1 Corruption Risks
- 4.2 Key Control Measures for Admission of Students
- 4.3 Scenario Analysis





# ADMISSION OF STUDENTS

Subject to the Government's education policies and related requirements, kindergartens may draw up their own procedures and criteria for the admission of students. With keen competition for places in the preferred kindergartens, the mechanism for student admission is of prime concern and is easily subject to allegations of conflict of interest, abuse of powers, favouritism to applicants, etc. It is therefore of paramount importance to ensure that the student admission process is open, fair and transparent.

This chapter introduces the key control measures to help kindergartens conduct student admission in an open, fair and transparent manner.



## Corruption Risks (4.1)

Areas of concern and corruption risks in the student admission procedures include -

Common Areas of Concern 	Resultant Corruption Risks 	Possible Scenarios 
<ul style="list-style-type: none"> <li>Lack of transparency</li> </ul>	<ul style="list-style-type: none"> <li>Staff having access to privileged information abusing such information to favour certain applicants or leaking such information for his own benefit</li> </ul>	<ul style="list-style-type: none"> <li>A teacher having access to the student admission assessment criteria, which are not publicised, leaks such information to his good friend to assist the latter's son to better prepare for the kindergarten's admission interview.</li> </ul>
<ul style="list-style-type: none"> <li>Inadequacies in managing conflict of interest</li> </ul>	<ul style="list-style-type: none"> <li>Staff abusing his authority to favour an applicant with whom he has a relation</li> </ul>	<ul style="list-style-type: none"> <li>A teacher tasked to be one of the assessors arranges the assessment of his nephew, who has applied for admission to his kindergarten, to be conducted by himself and improperly accords high priority to his nephew in drawing up the priority list of successful applicants.</li> </ul>

Common Areas of Concern 	Resultant Corruption Risks 	Possible Scenarios 
<ul style="list-style-type: none"> <li>• Unclear policies and procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Staff abusing his office in the student admission process</li> </ul>	<ul style="list-style-type: none"> <li>• A teacher responsible for shortlisting applicants screens in an ineligible applicant to attend the admission assessment.</li> <li>• The kindergarten's clerk offers an untaken place to a waitlisted applicant out of turn.</li> </ul>
<ul style="list-style-type: none"> <li>• Lack of checks and balances in the decision-making process</li> </ul>		
<ul style="list-style-type: none"> <li>• Lack of management oversight</li> </ul>		



## Checklist for Corruption Prevention Measures (4.2)

### Key Control Measures for Admission of Students

In establishing or revising the student admission procedures, kindergartens are advised to refer to the key control measures set out in the checklist below.

#### 4.2.1 Preparation for Student Admission

- ✓ Lay down, with the approval of the School Management Committee, the following in detail -
  - application procedures (e.g. means of receiving applications, documents required, deadline)
  - assessment mechanism, including the mode of assessment (e.g. group play, panel interview with the parent(s) and the applicant), fair and objective criteria for assessment of applicants (e.g. potty-trained, ability to follow instructions)
  - basis for according admission priority to applicants, including the circumstances under which admission priority is accorded
  
- ✓ Remind all personnel involved in student admission of the requirement to declare whether or not they have any relation with any applicant, which would constitute, or be perceived as constituting, conflict of interest; and if any, to follow the mitigating measures as directed by the approving authority [➤ Section 1.2.2](#)

#### 4.2.2 Invitation of Applications

- ✓ Publicise critical application information, such as application procedures, assessment criteria, basis for according admission priority, and date of releasing admission results (e.g. through the kindergarten's website)
  
- ✓ Inform parents of the kindergarten's policy on prohibiting its Managers/staff from soliciting and accepting advantages and remind them that they should not offer any advantages to the Managers/staff of the kindergarten in connection with their applications (e.g. including a remark on the application form)

### 4.2.3 Shortlisting and Assessment of Applicants

- ✓ Ensure that the applicants are shortlisted and assessed in accordance with laid down procedures and criteria
- ✓ Task more than one assessor as far as practicable to assess each applicant
- ✓ Ensure that all assessors clearly understand how to score an applicant's performance/behaviour under each criterion, e.g. by way of scoring guidelines, for consistent assessment among assessors
- ✓ Require assessors to record and sign against their assessment and the admission results in a standard assessment form; and if there is any revision, sign against it for confirmation

 [ [Sample assessment form for admission of students is at Appendix 15](#) ]

### 4.2.4 Review and Release of Admission Results

- ✓ Conduct supervisory review on the admission results to ascertain that the places are offered in compliance with the laid down requirements, e.g. only those applicants having passed the assessment are considered for admission, suitable applicants are admitted according to the approved priority list
- ✓ Subject exceptional cases (e.g. admit students on compassionate grounds) to approval by an appropriate authority, with proper justifications and documentation; and if the approving authority is at a rank below the Principal, report such cases to the Principal or the School Management Committee for monitoring purpose
- ✓ Notify applicants' parent(s) of the admission results as soon as possible
- ✓ Re-allocate the untaken places to waitlisted applicants according to the priority order



## Scenario Analysis (4.3)

### Scenario 1 Assessment Guidelines and Proper Documentation



During a student admission exercise, Integrity Kindergarten provided a set of broad assessment criteria (e.g. ability to follow instructions, ability to communicate) for use by its teachers tasked to assess the applicants, without further guidelines on how to assess the applicants' performance/behaviour under each criterion and how to rank the applicants. Moreover, teachers were only asked to record whether or not to admit the applicants on the corresponding application form; no other assessment record was required.

In the absence of guidelines, the teachers assessed the performance of applicants based on their own understanding and even preferences, and did not record their assessment on the applicants. After the student admission results had been released, some parents discussed the admission results on an online forum. Parents of some unsuccessful applicants suspected that the assessing teachers had favoured certain applicants who apparently performed less well than the others, and thus complained to Integrity Kindergarten. As no record on the assessment had been kept, the Kindergarten could not ascertain why some applicants were ranked higher than the others and the teachers also could not recall how the applicants concerned had performed. The Kindergarten hence could not satisfactorily address and respond to the parents' concerns.

### Corruption Risks



- ▲ **Lack of guidelines** - In the absence of clear assessment guidelines, teachers apply their own interpretations or even preferences to decide how to assess and rank an applicant's performance, and eventually whether an applicant may be recommended for admission and offered a place. Compromised teachers may exploit such discretion to favour certain applicants such as applying a lower passing standard, attaching a higher weighting to the assessment criterion under which the applicant concerned performs best.
- ▲ **Lack of documentation** - Improper documentation, such as lacking assessment records and justifications for prioritising applicants, undermines the accountability of teachers involved in the assessment process. This also does not facilitate counter-checks and review on the assessment results by the School Management Committee or its delegated authority, thus undermining effective monitoring.

### What the Kindergarten Should Do



- ✓ **Laying down guidelines** - Setting assessment criteria aside, kindergartens should provide teachers with guidelines on how to assess the performance of applicants against each criterion (e.g. under what circumstances an applicant is considered having passed the assessment or may get the highest score), and ensure that they understand how to apply the guidelines.
- ✓ **Maintaining proper documentation of the assessment results** - To enhance accountability and provide justifications for the decisions where necessary, kindergartens should require the assessing teachers to maintain proper documentation of the assessments (e.g. scores accorded to the applicants under each criterion). The use of a standard template which sets out all the criteria for assessment also helps teachers properly record their assessment results.

## Scenario 2 Transparency of Admission Criteria

Mr Lee submitted an application for admission of his son Shun-shun to Integrity Kindergarten which was just five-minute walk from his home. As both Mr and Mrs Lee needed to work, they hoped that Shun-shun could be admitted to the most popular full-day class of the Kindergarten. However, Shun-shun did not perform particularly well during the assessment. The Kindergarten, making reference to the guidelines issued by the Education Bureau, considered a number of criteria in drawing up the admission list for its half-day and full-day classes. Based on the overall assessment, Shun-shun was admitted to the full-day class. As the Kindergarten did not publicise the considerations taken in its admission decisions, some parents of unsuccessful applicants complained about the fairness of the admission procedures and even alleged that Mr Lee might have offered advantages to the Kindergarten staff for assisting Shun-shun in securing a place in the Kindergarten.

### Analysis

#### Corruption Risks



- ▲ **Inadequate transparency** - Integrity Kindergarten in the above scenario did not publicise the key information on how to decide whether or not to admit an applicant and the considerations taken into account in allocating its places. Unscrupulous staff might be able to exploit such privileged information and the eagerness of some parents for a place for a corrupt purpose. For instance, the staff may solicit advantages from parents in return for disclosing the admission assessment details. Even if there may not be any corruption or malpractice as in the above scenario, unsuccessful parents may suspect the existence of such because they do not know how the admission decisions, for which they feel disappointed, are made.

#### What the Kindergarten Should Do



- ✓ **Publicising all key information** - Apart from pre-determining the assessment criteria and the mechanism for prioritising applicants for admission (including circumstances under which priority is accorded), kindergartens should publicise such key information to all prospective applicants to enhance transparency.



# STAFF ADMINISTRATION

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- 5.1 Corruption Risks
- 5.2 Key Control Measures for Recruitment
- 5.3 Key Control Measures for Routine Staff Management
- 5.4 Key Control Measures for Staff Promotion
- 5.5 Some More Tips
- 5.6 Scenario Analysis





# STAFF ADMINISTRATION

Proper staff management (including recruitment, supervision, performance appraisal and promotion) not only helps ensure that all staff meet the qualifications and performance requirements, but also reduces the risks of abuse and corrupt practices. This chapter introduces the key control measures to help kindergartens build an open, fair and transparent staff administration system.



## Corruption Risks (5.1)

Areas of concern and corruption risks in staff administration include -

Common Areas of Concern	Resultant Corruption Risks	Possible Scenarios
<ul style="list-style-type: none"> <li>Lack of transparency</li> </ul>	<ul style="list-style-type: none"> <li>Staff having access to privileged information exploiting individuals' ignorance (e.g. applicants/ staff not aware of the staff administration policy/arrangement) to deviate from the policy/ arrangement to favour particular individuals, and leaking such information for his own benefit</li> </ul>	<ul style="list-style-type: none"> <li>A kindergarten does not include all the recruitment criteria in its advertisement for teachers. The senior staff responsible for the recruitment exercise solicits advantages from an applicant in return for an interview opportunity.</li> </ul>
<ul style="list-style-type: none"> <li>Inadequacies in managing conflict of interest</li> </ul>	<ul style="list-style-type: none"> <li>Staff abusing his authority to favour particular individuals (e.g. applicants, staff) with whom he has a relation</li> <li>Staff abusing his office in discharging the staff administration duties</li> </ul>	<ul style="list-style-type: none"> <li>The teacher responsible for assessing applicants in a recruitment exercise fails to disclose that he is a close personal friend of an applicant and shows favour to his friend during the process.</li> <li>The clerk is the niece of the Deputy Principal who connives at her repeated unpunctuality and unauthorised absence from work.</li> </ul>

Common Areas of Concern 	Resultant Corruption Risks 	Possible Scenarios 
<ul style="list-style-type: none"> <li>• Unclear policies and procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Risk of abuse of authority of the staff involved in the process of staff administration</li> </ul>	<ul style="list-style-type: none"> <li>• In the absence of laid down mechanism, the senior staff solely responsible for arranging substitute teachers appoints his close personal friend as a substitute teacher on many occasions.</li> <li>• The clerk responsible for preparing janitors' duty roster allocates more favourable duty roster and simple tasks to a janitor who has offered him small gifts.</li> </ul>
<ul style="list-style-type: none"> <li>• Lack of checks and balances in the decision-making process</li> </ul>		
<ul style="list-style-type: none"> <li>• Lack of management oversight</li> </ul>		



## Checklist for Corruption Prevention Measures (5.2)

### Key Control Measures for Recruitment

In establishing or revising the recruitment procedures, kindergartens are advised to refer to the key control measures set out in the checklist below.

#### 5.2.1 Preparation for Recruitment

- ✓ Lay down, with the approval of the School Management Committee, the following in detail -
  - the minimum entry requirements of the post (e.g. academic and professional qualifications, years of relevant experience)
  - recruitment procedures, including ways to publicise the recruitment exercise, documents required, deadline
  - assessment mechanism, including the mode of assessment (e.g. interview format, whether class demonstration is required), fair and objective shortlisting and assessment criteria
  - remuneration policy, including the criteria (e.g. qualifications, work experience, market rate) and method for determining pay offers and adjustments, and the approving authority
- ✓ Remind all personnel involved in the recruitment to declare whether or not they have any relation with any applicant, which would constitute, or be perceived as constituting, conflict of interest; and if any, to follow the mitigating measure(s) as directed by the approving authority [➤ Section 1.2.2](#)

#### 5.2.2 Publicising Job Vacancies

- ✓ Conduct open recruitment exercises as far as practicable (e.g. through advertisements in newspapers or the kindergarten's website)
- ✓ State clearly in the advertisement the job description, entry requirements, recruitment criteria and other essential information (e.g. application deadline, any requirement for written test/class demonstration)

### 5.2.3 Shortlisting of Candidates

- ✓ Shortlist candidates for interview based on the approved criteria (e.g. years of relevant experience, education level)
- ✓ If resources permit, assign a staff member not involved in the recruitment exercise to review shortlisting results to ensure compliance with the laid down criteria. If there is any operational restriction, conduct random check and extend the sample size if anomalies are identified

### 5.2.4 Assessment of Candidates

- ✓ Form a recruitment panel comprising at least two members (including the Managers or Principal as appropriate) to interview and assess the candidates
- ✓ Prepare an assessment form providing the attributes for assessment based on the laid down assessment criteria
  -  [ [Sample interview assessment form for recruitment of staff is at Appendix 16](#) ]
- ✓ Prohibit any change to entry requirements and laid down assessment criteria during the selection process
- ✓ Require panel members to conduct assessment on their own
- ✓ After the interview, calculate and review the total score of each candidate for compiling a list of candidates passing the assessment
- ✓ Require panel members to initial against any subsequent amendments to the scores given
- ✓ Prioritise the candidates recommended for offering appointment according to their total scores
- ✓ Properly document the assessment results (including the scores and comments on each candidate given by the panel members, the priority of the candidates recommended for offering appointment)
- ✓ If non-scoring assessment method(s) is adopted due to exceptional consideration, properly document the assessment process, including factors for consideration, individual assessor's comments, the basis for making the appointment decision

### 5.2.5 Approval and Offer of Appointment

- ✓ Submit the priority list of candidates recommended by the recruitment panel to the designated authority for approval, and properly document the decision; require justifications in case the panel recommendation is not accepted
- ✓ Before offering an appointment -
  - verify the qualifications and work experience of successful candidates
  - clearly prescribe in the employment contract that staff are required to abide by the kindergarten's integrity requirements
  - determine the remuneration package of individual appointees according to the approved remuneration policy and calculation mechanism
- ✓ Record any non-acceptance of offer and offer the appointment to the recommended candidate according to the approved priority
- ✓ Seek approval from senior management or the designated authority, with justifications, for any exceptions (e.g. appointment not offered according to the approved priority list of recommended candidates)



## Checklist for Corruption Prevention Measures (5.3)

### Key Control Measures for Routine Staff Management

In establishing or revising the procedures for routine staff management, kindergartens are advised to refer to the key control measures set out in the checklist below.

#### 5.3.1 Monitoring of Staff Attendance

- ✓ Put in place a system for recording staff attendance (e.g. attendance register, electronic access control system) having regard to the operational needs
- ✓ Prohibit staff from signing on/off in the attendance register for their colleagues as this is tantamount to falsification of records
- ✓ Adopt measures to deter and detect unauthorised amendments/improper recording for ensuring the authenticity of staff attendance records (e.g. keep the attendance register in a place under the monitoring of supervising staff; if a closed-circuit television system is available, ensure the coverage of the area where the staff sign the attendance records)
- ✓ Require supervising staff to periodically check the staff attendance records against physical presence of the staff
- ✓ Require supervising staff to timely follow up on anomalies (e.g. repeated unpunctuality or unauthorised absence from work) and properly document the actions taken

#### 5.3.2 Performance Appraisal

- ✓ Pre-determine and make known to all staff the core duties, competencies and performance standards of each rank or post
- ✓ Define clearly the duties of the appraising staff and countersigning staff (e.g. countersigning staff to moderate the overall appraisal results of the appraisees under his oversight)
- ✓ Record performance assessment in a standard appraisal form which should cover all core duties and competencies to be assessed

 [ [Sample staff performance appraisal form is at Appendix 17](#) ]

- ✓ Allow appraisees to read and respond to the content of their appraisal reports and require them to acknowledge by signing the reports
- ✓ Establish a channel for handling appraisees' requests for review of the performance appraisal results

### 5.3.3 Management of Feedback on Staff

- ✓ Establish channels and adopt user-friendly procedures to collect feedback on staff (e.g. complaints)
- ✓ Maintain proper records of the feedback received and take prompt and appropriate follow-up actions
- ✓ If a complaint against a staff member is received -
  - reassure complainants that all information provided will be handled in strict confidence
  - assign a staff member who is not the subject of the complaint and at the appropriate rank to investigate the complaint
  - maintain proper records of the investigation and the results
  - appoint a designated authority (e.g. Principal) for the approval of any action to be taken and before the close of a complaint case
  - inform the complainant of the outcome after investigation

### 5.3.4 Disciplinary Mechanism

- ✓ Lay down and make known to all staff the procedures and criteria for taking different actions having regard to the nature and severity of the misconduct or breaches of regulations
- ✓ Appoint a panel or designated staff to review the misconduct and recommend disciplinary actions for approval by a designated authority
- ✓ Maintain proper records of the disciplinary actions taken and the justifications, and notify the School Management Committee as necessary



## Checklist for Corruption Prevention Measures (5.4)

### Key Control Measures for Staff Promotion

In establishing or revising the procedures for staff promotion, kindergartens are advised to refer to the key control measures set out in the checklist below.

- ✓ Lay down and make known to all staff concerned the eligibility requirements, assessment criteria and mode of assessment (e.g. reviewing the performance appraisal reports for a specified period of time, conducting promotion interviews) for promotion to different ranks or posts
- ✓ Announce the conduct of a promotion exercise to the staff concerned
- ✓ Appoint a promotion board to assess all eligible candidates for promotion based on the established mechanism and pre-determined criteria
- ✓ Require all members of the promotion board to declare any conflict of interest which should be properly recorded; if a conflict is declared, take appropriate measures (e.g. assigning another staff to take over the task) to mitigate the risk
- ✓ If a promotion interview will be conducted, establish the interview procedures and design an assessment form for use by the promotion board members  
 [ [Sample interview assessment form for promotion of teachers is at Appendix 18](#) ]
- ✓ Document the assessments and deliberations of the promotion board, including the candidates recommended for promotion, the order of priority, and seek approval from a designated authority on the promotion results
- ✓ Announce the promotion results as soon as possible





## Some More Tips (5.5)

### Recruitment of Substitute Teachers

Kindergartens may need to recruit substitute teachers (monthly-paid temporary teachers or daily-rated supply teachers) to meet operational needs (e.g. absence of teacher due to sickness). The corruption prevention measures in recruiting temporary teachers largely follow those covered in Section 5.2. As for the recruitment of supply teachers, if the measures in Section 5.2 may not be fully adopted due to operational restrictions, kindergartens should adopt the following basic control measures -

- ⊙ Appoint eligible candidates as supply teachers in a fair and open manner, e.g. compiling a list of eligible candidates selected through simple interviews or assessment, offering appointments to listed teachers in a fair manner when a need arises
- ⊙ Conduct a simple performance appraisal for supply teachers, or report and record any adverse or substandard performance.





## Scenario Analysis (5.6)

### Scenario 1 Impartiality and Fairness of the Interview Process



Integrity Kindergarten advertised its teacher recruitment exercise, stating the qualifications and experience requirements for the post. Upon receipt of the applications, the Principal, i.e. Mrs Lam, screened out those not meeting the entry requirements and then handpicked a few candidates for interviews entirely based on her preference. Moreover, the Principal, being the only assessor in the interview, did not record her assessment outcome at all; but recommended to the School Management Committee to approve the appointment of one candidate who, merely based on her memory of the interviewees' performance, performed the best. A few months later, an unsuccessful candidate alleged that the Principal had accepted bribe from and favoured the successful candidate. The case was not substantiated as the Principal did not accept any bribe; however, she could not provide solid justifications to the School Management Committee on how she came up with the recommendation.

## Analysis

## Corruption Risks



- ▲ **Inadequate checks and balances** - The recruitment process, solely conducted by the Principal, lacked checks and balances and was prone to abuse and corrupt malpractices.
- ▲ **Absence of shortlisting/assessment criteria or guidelines** - In the absence of shortlisting/assessment criteria or guidelines, the Principal had full discretion in shortlisting and recommending candidates, opening up opportunity for her to select candidates on her own preference.
- ▲ **Inadequate documentation** - The lack of proper interview records undermined the accountability in the interview process.

## What the Kindergarten Should Do



- ✓ **Sufficient checks and balances** - Kindergartens should put in place sufficient checks and balances in the recruitment process (e.g. task different staff members in shortlisting and interviewing candidates, and at least two staff members to conduct the interview).
- ✓ **Pre-determined shortlisting/assessment criteria** - To prevent staff from unduly exercising discretion in shortlisting/assessing candidates, kindergartens should pre-determine the shortlisting/assessment criteria which should be approved by the designated authority.
- ✓ **Proper documentation** - To enhance accountability and facilitate future audits or checks, kindergartens should properly document the interview assessments.

## Scenario 2 Connivance at Subordinates' Substandard Performance

1 Mistakes again? I have guided you for several times!



2 Arr, annual appraisal coming up. Thanks for your kind reminders during the year.



3 Arr, pay increase! How come? He always makes mistakes. Hmm, someone may have accepted advantages?



4 Oh, not applicable to non-teaching staff!



Auntie Silver, the senior janitor of Integrity Kindergarten, was responsible for monitoring the work of junior janitors. Auntie Silver noted that Uncle Choi, a junior janitor, had not performed satisfactorily during the year despite her repeated reminders to make improvements. Shortly before completion of the annual performance appraisal, Uncle Choi gave Auntie Silver a box of dried abalones, in the hope of receiving a favourable performance appraisal report from Auntie Silver. Auntie Silver agreed and later dishonestly gave Uncle Choi a favourable appraisal report. As a result, Uncle Choi's salary was increased. Although the Kindergarten had set out probity guidelines, prohibiting teachers from accepting advantages from subordinates, such guidelines did not cover non-teaching staff.

## Analysis

## Corruption Risks



- ▲ **Obligatory to return** - Acceptance of advantages like gifts from subordinates may put the supervising staff in an obligatory position to reciprocate in discharging the supervisory duties. This may also compromise his impartiality or judgement, or give rise to allegations of such, bringing him or even the kindergarten into disrepute.

## Prevention of Bribery Ordinance in Perspective



- ❖ After receiving the advantage (i.e. a box of dried abalones) from Uncle Choi, Auntie Silver in return wrote a good appraisal report for Uncle Choi, despite his unsatisfactory performance during the year. Without the permission of the Kindergarten (i.e. the principal) to accept the advantage in relation to the discharge of her official duties, Auntie Silver might have contravened Section 9(1) of the POBO.
- ❖ Uncle Choi might have contravened Section 9(2) of the POBO as he offered advantages to Auntie Silver as an inducement for her to write a favourable appraisal report for him.

## What the Kindergarten Should Do

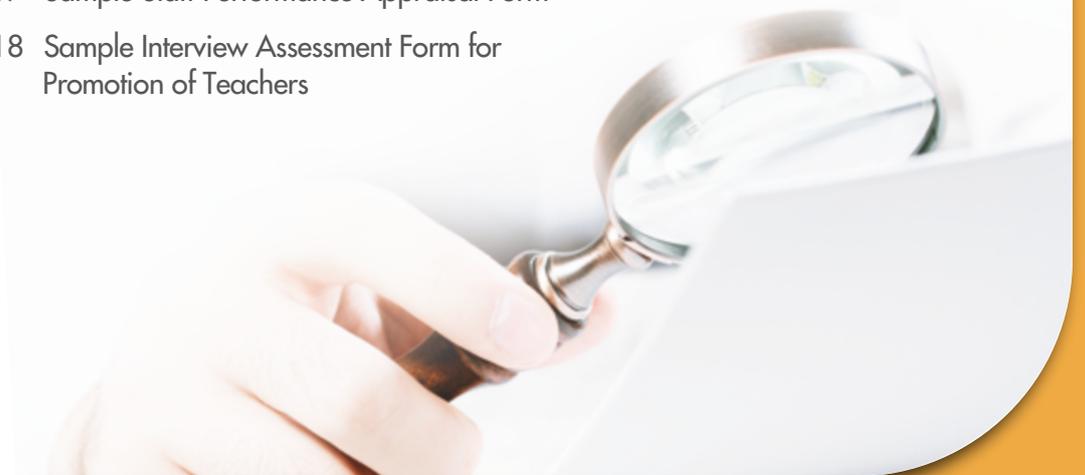


- ✓ **Laying down the probity requirements** - Kindergartens should lay down the probity requirements for all staff, including non-teaching staff.
- ✓ **Enhancing staff's awareness in corruption prevention** - Kindergartens should enhance staff's awareness in corruption prevention by organising capacity building training and circulating the probity guidelines to all staff on a regular basis.



# APPENDICES

- Appendix 1 Sample Code of Conduct for Managers and Staff for Kindergartens
- Appendix 2 Guide on Using the Sample Code of Conduct for Managers and Staff of Kindergartens
- Appendix 3 Kindergarten Parent-Teacher Association Sample Code of Conduct for Executive Committee Members
- Appendix 4 Guide on Using the Sample Code of Conduct for Executive Committee Members of Parent-Teacher Association of Kindergartens
- Appendix 5 Sample Purchase Requisition Form
- Appendix 6 Sample Probity Clauses in Quotation Invitation/Tender Document
- Appendix 7 Sample Ethical Commitment Clauses in Contract
- Appendix 8 Sample Supplier/Service Provider Performance Evaluation Form
- Appendix 9 Sample Form for Invitation of Fee Proposals for Consultancy Agreement
- Appendix 10 Sample Quotation/Tender Evaluation Form for Consultancy Service
- Appendix 11 Sample Ethical Commitment Clauses in Consultancy Agreement
- Appendix 12 Sample Letter for Invitation to Quotation/Tender for Works Contract
- Appendix 13 Sample Quotation/Tender Evaluation Form for Works Contract
- Appendix 14 Sample Ethical Commitment Clauses in Works Contract
- Appendix 15 Sample Assessment Form for Admission of Students
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- Appendix 17 Sample Staff Performance Appraisal Form
- Appendix 18 Sample Interview Assessment Form for Promotion of Teachers





## Sample Code of Conduct for Managers and Staff for Kindergartens

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### Foreword

1. This Code is applicable to all Managers<sup>1</sup> (including Supervisor) and staff (including Principal, full-time, part-time and temporary staff) of *[Name of Kindergarten]* (hereafter referred to as “the Kindergarten”).

*[Kindergarten is recommended to include the “tone at the top”, e.g. the management’s commitment to being honest and ethical, in its Code of Conduct and relevant documents, e.g. Staff Handbook.]*

### Core Values

2. The Kindergarten is fully committed to the following principles -

- ⊙ integrity and honesty;
- ⊙ fairness and impartiality.

*[Kindergarten may wish to include other core values relevant to its duties and business.]*

3. A Manager or staff member should act in the best interest of the Kindergarten, place the Kindergarten’s interest above private interest when carrying out his<sup>2</sup> official duties and ensure that his conduct would not bring the Kindergarten into disrepute.

### Prevention of Bribery

4. Managers and staff are agents of the Kindergarten and governed by section 9 of the Prevention of Bribery Ordinance (POBO). Under the POBO, any Manager or staff who, without the permission of the School Management Committee of the Kindergarten, solicits or accepts an advantage as a reward for or inducement to doing any act or showing favour in relation to the Kindergarten’s business, commits an offence. The person offering the advantage also commits an offence.
5. “Advantage” means almost anything which is of value, except entertainment (see paragraph 11 below), including any gift (both in money and in kind), loan, fee, reward, commission, office, employment, contract, service and favour.

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<sup>1</sup> “Managers” (校董) are persons who are registered as Managers of the kindergarten under the Education Ordinance. Members of the School Management Committee of the Kindergarten are Managers.

<sup>2</sup> A reference to the masculine gender in this Code covers both the feminine and masculine gender.

## Solicitation and Acceptance of Advantages

6. The Kindergarten prohibits Managers and staff from soliciting or accepting any advantage from any persons or companies having official dealings with the Kindergarten (e.g. parents, suppliers, service providers), and (for Managers) from staff to whom the School Management Committee may have an influence, and (for staff) from any subordinates. However, Managers and staff may accept, but not solicit, the following advantages when offered on a voluntary basis -

- (a) advertising or promotional gifts or souvenirs of a nominal value;
- (b) discount or other special offers given by any person or company to them as customers, on terms and conditions equally applicable to other customers in general.

Managers and staff are permitted to solicit or accept from a relation (e.g. spouse, parent, child) any advantage. This, however, does not relieve the Managers and staff from observing the POBO (see paragraph 4 above) and the requirements on avoidance and declaration of conflict of interest (see paragraphs 14 – 18 below).

7. If a Manager or staff member wishes to accept from the above persons/parties any other advantages not listed in paragraph 6, he should seek permission from the approving authority using **Form A (Annex 1)**. In case of doubt, the Manager or staff should refer the matter to the School Management Committee, the Supervisor or the Principal for advice and instruction.

*[Kindergarten may wish to issue a notice/letter to inform parents, suppliers or service providers of its policy on acceptance of advantages imposed on the Managers/staff. Sample notice and sample letter are at **Annexes 2 and 3** respectively.]*

8. Even if the offeror does not have any official dealings with the Kindergarten, a Manager or staff member should decline an offer of an advantage if the acceptance could affect his objectivity in conducting the Kindergarten's business, induce him to act against the Kindergarten's interest or place him under an improper obligation, or where he believes the offeror has such an intention, or lead to the perception or allegation of impropriety or conflict of interest.

## Advantages Offered to Managers and Staff in Their Official Capacity

9. An advantage presented to a Manager or staff member by virtue of his official position or on an occasion attended in the official capacity of the Manager or staff (e.g. a souvenir presented by the organiser of a ceremonial occasion to a staff member representing the Kindergarten to officiate at the ceremony) is regarded as an advantage to the Kindergarten.
10. Managers or staff should as far as possible decline such gifts. Where this cannot be done (e.g. owing to protocol reasons or the need to avoid causing offence or embarrassment), he should report the receipt of the gift or souvenir and seek direction on its disposal from the approving authority using **Form A (Annex 1)**.

## Acceptance of Entertainment

11. Managers and staff should not accept lavish, or unreasonably generous or frequent entertainment (“entertainment” means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with or provided at the same time as the provision of food or drink), or indeed any entertainment which is likely to give rise to any actual or perceived conflict of interest, put the Managers or staff in an obligatory position in the discharge of their duties, compromise their impartiality or judgement, or bring them or the Kindergarten into disrepute bearing in mind public perception. When offered entertainment, a Manager or staff member should consider whether the entertainment offered could be regarded as -
- ⊙ excessive - taking into account its value, substance, frequency and nature;
  - ⊙ inappropriate - taking into account the relationship between the Manager/staff member and the offeror (e.g. whether they have any direct official dealings); or
  - ⊙ undesirable - taking into account the character or reputation of the host or known attendees.

*[The Kindergarten may insert additional guidelines/requirements on acceptance of entertainment such as requirements to seek permission for or record any acceptance of entertainment from persons having official dealing with the Kindergarten.]*

## Offering of Advantages

12. Managers and staff are prohibited from offering advantages to any person or any organisation, for the purpose of influencing such person or organisation in any dealings, or any public official<sup>3</sup> while having business dealing with his employing organisation, whether directly or indirectly through a third party, when conducting the business of the Kindergarten.
13. Managers and staff should as far as possible refrain from bestowing gifts/souvenirs to others during the conduct of official activities. Where it is necessary or unavoidable due to operational, protocol or other reasons, the gifts/souvenirs to be bestowed should not be lavish or extravagant, and be kept to a minimum in quantity and the exchange of gifts/souvenirs should be made from organisation to organisation.

## Managing Conflict of Interest

14. A conflict of interest situation arises when the “private interests” of a Manager or staff member compete or conflict with the interests of the Kindergarten or the official duties of the Manager or staff member. Private interests include financial and other interests of the Manager or staff member himself, and those of his connections including family and other relations, personal friends, the clubs and societies to which he belongs, and any person to whom he owes a favour or to whom he may be obligated in any way. Some common examples of conflict of interest are described at **Annex 4**.

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<sup>3</sup> Examples of public officials include officers of the Education Bureau, Social Welfare Department and Equal Opportunities Commission.

### ***Avoidance and Declaration of Conflict of Interest***

15. A fundamental rule is that all Managers and staff should, as far as possible, avoid any actual and perceived conflict of interest from arising in the first place. When a situation of conflict of interest cannot be avoided, Managers and staff should as soon as possible declare all relevant interests which conflict, may conflict or be seen to conflict with their official duties by using **Form B (Annex 5)** and **Form C (Annex 6)** respectively. In case of doubt, they should consult the School Management Committee, the Supervisor or the Principal, as appropriate.
16. All Managers and staff should be vigilant and make their best effort at all times to avoid or declare, as appropriate, any conflict that may arise or has arisen. Failure to take the necessary steps to avoid or declare a conflict of interest situation may constitute misconduct.

### ***Managing Declared Conflict of Interest***

17. Upon receipt of a report on conflict of interest situation, the approving authority should, as soon as practicable, decide on the appropriate course of action to be taken such as to relieve the Manager or staff member of his involvement in the task, and give clear direction/instruction to the Manager or staff concerned. The declaration and the management decision/action should be properly recorded. The School Management Committee, Supervisor or Principal should ensure the compliance by the Manager or staff concerned with the instruction so as to effectively remove/mitigate the conflict of interest.
18. In deciding the course of action to be taken, the approving authority should take into account the seriousness of the conflict, the public interest involved and public perception, etc. Mitigating measures for consideration are at **Annex 7**.

### **Misuse of Official Position**

19. Managers and staff should carry out their duties fairly, faithfully and impartially, and not misuse or permit others to misuse their official position for their personal cause, interest or gain, or to favour, benefit or disfavour others.

### **Confidentiality of Information**

20. Managers and staff should not disclose any classified or proprietary information of the Kindergarten without authorisation or misuse any the Kindergarten's information (e.g. using the information for personal gain or the benefit of others). Managers and staff who have access to or in control of such information should ensure its security and prevent any abuse, unauthorised disclosure or misuse of the information. Managers and staff should continue to observe their duty of confidentiality after they have left the Kindergarten.

### **Use of the Kindergarten's Assets and Resources**

21. Managers and staff in charge of or having access to any assets of the Kindergarten, including funds, property, information, and intellectual property, should use them solely for the purpose of conducting the Kindergarten's business or authorised purposes. Any misappropriation or unauthorised use of the Kindergarten's properties for personal use or personal gain is strictly prohibited.

### **Managing Relationship with Parents**

22. Managers and staff should foster and maintain a courteous, collaborative and arms-length working relationship with parents to further the education, care and development of students.

### **Management of Voluntary Services by Parents**

23. The Kindergarten encourages parents to provide voluntary services to help organise and assist in kindergarten activities for the benefit of students. While appreciating parents' enthusiasm in their care for students, staff should impress on parents that their voluntary services are enlisted out of their free will and passion for serving the students and should in no way be perceived or taken that the Kindergarten would reciprocate with preferential treatment to their children or it would constitute an edge for their children over other students in any aspects. There should not be pressure created for parents to feel obligated to provide voluntary service to the Kindergarten.

### **Compliance**

24. It is the responsibility of every Manager and staff member of the Kindergarten to understand and comply with this Code, whether performing duties of the Kindergarten in or outside Hong Kong. Managers and supervisors should also ensure that the staff members under their supervision understand well and comply with this Code.
25. Any Manager or staff member in breach of this Code will be subject to disciplinary action, including termination of appointment. In case of suspected corruption or other criminal offences, a report will be made to the appropriate law enforcement agencies.

### **Enquiry**

26. Any enquiries, comments or suggestions in relation to this Code may be referred to the School Management Committee, Supervisor or Principal.

## Sample Report On Gifts Received In Official Capacity

*[The Kindergarten may consider specifying the timeframe for reporting acceptance of gifts (e.g. within [please specify an appropriate duration according to actual situation] working days after such acceptance).]*

### Part A - To be completed by recipient

To: (School Management Committee (generally applicable to Managers/Supervisor/Principal) or Supervisor/Principal (generally applicable to staff)\*)

Description of Offeror

Name & Title :

\_\_\_\_\_

Company :

\_\_\_\_\_

Relationship (Business/Personal) :

\_\_\_\_\_

Occasion on which the Gift was/is to be Received :

\_\_\_\_\_

Description & (Assessed) Value of the Gift :

\_\_\_\_\_

#### Suggested Method of Disposal :

#### Remark

( ) To be Retained by the Recipient

\_\_\_\_\_

( ) To be Retained for Use/Display in the Kindergarten

\_\_\_\_\_

( ) To be Shared among Staff and Students

\_\_\_\_\_

( ) To be Reserved as Lucky Draw Prize at Kindergarten/Staff Functions

\_\_\_\_\_

( ) To be Donated to a Charitable Organisation

\_\_\_\_\_

( ) To be Returned to Offeror

\_\_\_\_\_

( ) Others (please specify) :

\_\_\_\_\_

\_\_\_\_\_

Name of Recipient :

Date :

### Part B – To be completed by School Management Committee/Supervisor/Principal\*

To : (Name of Recipient)

The recommended method of disposal is **approved / not approved\***.

The gift concerned should be disposed of by way of :

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(Name)

(Chairperson (or the Manager authorised by the School Management Committee)/Supervisor/Principal\*)

Date :

## **Guidelines for Handling Gifts/Souvenirs Given to Managers and Staff in their Official Capacity**

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All gifts/souvenirs received by Managers (including Supervisor) and staff (including Principal) in their official capacity should be forwarded to the School Management Committee (for Managers/Supervisor/Principal) or Supervisor/Principal (for staff) for disposal in the following manner -

- (a) If the gift/souvenir is of perishable nature (e.g. food, drink), it may be shared among staff.
- (b) If the gift/souvenir is a useful item (e.g. stationery, office items), it may be retained for use by the Kindergarten.
- (c) If the gift/souvenir is suitable for display (e.g. a painting, vase, trophy), it may be displayed at appropriate locations of the Kindergarten.
- (d) If the gift/souvenir is of low value, it may be donated as a prize in functions organised by the Kindergarten.
- (e) If the gift/souvenir is a personal item of low value, such as a plaque or pen inscribed with the name of the recipient presented on special occasions (e.g. staff retirement, graduation), it may be retained by the recipient.
- (f) Any gift/souvenir of high value should be returned to the offeror.

## Sample Notice to Parents regarding Policy on Acceptance of Advantages by Kindergarten Managers/Staff

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(Date)

Dear Parents,

### **Policy on Acceptance of Advantages by Kindergarten Managers/Staff**

I am pleased to inform you that our Kindergarten has a policy on the solicitation and acceptance of advantages (including gifts, souvenirs, “lai sees”) by Managers/staff in their official dealings.

To uphold the integrity of our Managers/staff and to set a good example to our students, it is our policy that no Managers/staff in our Kindergarten should solicit or accept gifts, money or any other form of advantages in the course of their duties; otherwise he may risk contravening the Prevention of Bribery Ordinance; the offeror may also risk the same.

Although we understand that parents’ offers are usually a gesture of goodwill and customs, the acceptance of which, however, may turn it into a common practice among parents who feel obligated to do so. This may in turn cause speculations by outsiders, and bring disrepute or embarrassment to the Kindergarten, our Managers/staff as well as the parents. To avoid unnecessary allegations or disrepute to the Kindergarten, may I therefore appeal to your support for our commitment to managing our Kindergarten in a fair and just manner by not offering any advantage to our Managers/staff. Should any member of our Managers/staff approach you for an advantage, please let me know immediately.

Thank you for your cooperation.

Yours sincerely,

School Management Committee/Principal

## Sample Letter to Suppliers/Service Providers regarding Policy on Acceptance of Advantages by Kindergarten Managers/Staff

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(Date)

Dear Sir/Madam,

### **Policy on Acceptance of Advantages by Kindergarten Managers/Staff**

I am pleased to inform you that our Kindergarten has a clear policy on the solicitation and acceptance of advantages (including gifts, souvenirs, “lai sees”) by Managers/staff in their official dealings.

We are fully committed to maintain a team of clean and honest Kindergarten Managers/staff at all times. Therefore, it is our policy that no Managers/staff should solicit or accept gifts, money or any other form of advantages in their course of duty; otherwise he may risk contravening the Prevention of Bribery Ordinance; the offeror may also risk the same.

All our Managers/staff must observe this policy and are fully aware that any breach of the policy will result in disciplinary action. Where the situation warrants, the case will even be reported to the Independent Commission Against Corruption for further action.

We earnestly appeal for your support to our commitment of managing our Kindergarten in a fair and just way by not offering any advantage to our Managers/staff. Should any member of our Managers/staff approach you for an advantage, please let me know immediately.

Thank you for your cooperation.

Yours sincerely,

School Management Committee/Principal

## Examples of Conflict of Interest

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Some common examples of conflict of interest are described below but they are by no means exhaustive -

### Procurement

- (a) A Manager/staff member, or his spouse, relative or personal friend has financial interest in a company which is a bidder in a quotation/tender exercise under consideration by the Kindergarten.
- (b) A staff member accepts frequent or lavish entertainment from the Kindergarten's suppliers or service providers.
- (c) A staff member undertakes part-time work with a service provider whom he is responsible for monitoring.

### Staff Recruitment

- (d) A Manager appoints his relative or friend to take up a post in the Kindergarten without following the established recruitment procedures.
- (e) A Manager/staff member interviews and recruits his relative or friend applying for a job in the Kindergarten.

### Student Admission/Assessment

- (f) A Manager requests the Principal to directly admit his niece as a student without following the established admission procedures.
- (g) A staff member interviews and recommends admission of a student who is his child or the child of his close personal friend/relative.
- (h) A Manager/staff member intends to influence the performance assessment of an applicant who is his child or the child of his close personal friend/relative.

### Confidentiality of Information

- (i) A staff member leaks privileged information relating to the Kindergarten's operations (e.g. questions set for admission assessment, bidding price of a works contract) to favour his friends or relatives.

### Others

- (j) A Manager/staff member enters into business relationship with students' parents.
- (k) A Manager/staff member leases or sells his property to the Kindergarten.

*[The Kindergarten may include other conflict of interest examples.]*

## Sample Form for Declaration of Conflict of Interest by Managers

### Part A - Declaration (To be completed by Declaring Manager)

To : School Management Committee

I would like to report the following existing/potential\* conflict of interest situation in relation to the discussion item -

(i) Matter to be discussed by the School Management Committee
(ii) Brief description of my connection with the matter in (i) above (e.g. directorship in a company which is connected with the matter)

\_\_\_\_\_  
Name of Declaring Manager :

\_\_\_\_\_  
Date :

### Part B - Approval (To be completed by School Management Committee)

To : (Declaring Manager)

(a) The information contained in your declaration of \_\_\_\_ (Date) \_\_\_\_ is noted. It has been decided that -

- You may continue to speak and vote on the matter as described in Part A, provided that there is no change in the information declared above.
- You may continue to speak but should not vote on the matter as described in Part A, provided that there is no change in the information declared above.
- You may remain in the meeting as an observer (but not to speak or vote) on the matter as described in Part A, provided that there is no change in the information declared above.
- You should withdraw from the meeting when the matter is being discussed and immediately return any documents regarding the matter sent to you earlier.
- Others (please specify): \_\_\_\_\_

(b) The justification(s) for the measure(s) as described in Part B(a) above is/are:

\_\_\_\_\_

\_\_\_\_\_  
(Name)

(Chairperson (or the Manager authorised by the  
School Management Committee\*))

\_\_\_\_\_  
Date :

\* Please delete as appropriate

## Sample Form for Declaration of Conflict of Interest by Staff

### Part A - Declaration (To be completed by Declaring Principal/Staff Member\*)

To : (School Management Committee/Supervisor/Principal\*)

I would like to report the following existing/potential\* conflict of interest situation arising during the discharge of my official duties:

Person(s)/organisation(s) with whom/which I have official dealings
My relationship with the person(s)/organisation(s) (e.g. relative)
Relationship of the person(s)/organisation(s) with our Kindergarten (e.g. supplier)
Brief description of my duties which involved the person(s)/organisation(s) (e.g. handling of bid/tender price or quotation/tender exercise, processing applications of student admission)

\_\_\_\_\_  
Name of Declaring  
Principal/Staff Member\* :  
Date :

### Part B - Approval (To be completed by School Management Committee/ Supervisor/Principal\*)

To : (Declaring Principal/Staff Member\*)

(a) The information contained in your declaration of \_\_\_\_ (Date) \_\_\_\_ is noted. It has been decided that:

- You may continue to handle the work as described in Part A, provided that there is no change in the information declared above, and you must uphold the Kindergarten's interest without being influenced by your private interest.
- You should refrain from performing or getting involved in performing the work as described in Part A which may give rise to a conflict (e.g. prohibiting from handling the specific duty that you have conflict, withdrawing from discussion on a specific issue/case).
- You may continue to handle the work as described in Part A, but an independent staff member would be recruited to participate in, oversee or review part or all of the decision-making process (e.g. another staff member with the required expertise is tasked to provide objective assessment on the matter).
- You are relieved of your duty as described in Part A, which will be taken up by another staff member through redeployment.
- Others (please specify): \_\_\_\_\_

(b) The justification(s) for the measure(s) as described in Part B(a) above is/are:

\_\_\_\_\_

\_\_\_\_\_  
(Name)  
(Chairperson (or the Manager authorised by the School  
Management Committee)/Supervisor/Principal\*)

Date :

## Mitigating Measures for Managing Declared Conflict of Interest

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- (a) **Record** - Where the risk in a conflict of interest situation is indirect, remote or insignificant, and the occurrence of such a situation is infrequent, it may be sufficient to take note of the conflict only.
  
- (b) **Restrict** - Where a conflict is not likely to arise frequently and the Manager/staff member can be effectively separated from the part of activity or process in which the conflict arises, it may be suitable to restrict the Manager/staff member's involvement in the task in which he has a conflict (e.g. withdrawing from discussion on a specific issue, abstaining from voting on the decisions) and access to the related information.
  
- (c) **Recruit** - Where it is impractical to restrict a Manager/staff member's involvement, an independent Manager/staff member/expert may be recruited to participate in, oversee, or review part or all of the decision-making process if appropriate (e.g. engaging expert in the selection of highly specialised items).
  
- (d) **Redeploy** - Where it is inappropriate to allow the Manager/staff member who has declared a conflict of interest to handle a specific matter, it may be suitable to relieve of the Manager/staff member's duty which may then be taken up by another Manager/staff member through redeployment. For serious conflict of interest cases with a high likelihood of relapse, it may be suitable to post out the Manager/staff member to avoid negative public perception.
  
- (e) **Relinquish** - Where a Manager/staff member's commitment to the public duty outweighs his attachment to his private interest, and adoption of other mitigating measures is not appropriate or possible, he may be asked to relinquish his personal or private interests (e.g. divesting the investments, ceasing to be a member of a club/association).

## Guide on Using the Sample Code of Conduct for Managers and Staff of Kindergartens

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### Purpose

1. The Sample Code of Conduct for Managers and Staff of Kindergartens (the Sample Code) aims to assist kindergartens in setting forth the expected standard of probity and conduct of Managers and staff that is necessary to maintain a clean and corruption-free operating environment, ensuring fairness and integrity in all their processes, and ensuring compliance with the Prevention of Bribery Ordinance by all the parties involved in the kindergartens' affairs.

### Scope and Use

2. The Sample Code focuses on the key anti-corruption and related conduct provisions that kindergartens should require their Managers and staff to observe for the purposes stated above. Kindergartens are encouraged to issue a code of conduct for Managers and staff with reference to the Sample Code, and include in it other conduct provisions based on their values and operational needs as appropriate, or incorporate the recommended provisions in the Sample Code into their relevant instructions/guidelines/handbook for Managers and staff.
3. In devising the guidelines, kindergartens should cover all the probity/conduct areas and related important provisions in the Sample Code. Kindergartens can adapt the provisions/wordings, make detailed policies, etc. to best suit their operating environment and needs, but are strongly recommended to adopt the probity standards and principles in the Sample Code.

### Supplementary Information

4. Supplementary information, examples, and other guidelines which kindergartens may wish to provide in their codes or other supplementary guidelines, or find useful as reference in formulating their guidelines or policies, or include in integrity training, are provided at **Annexes** of this Guide.
5. The Annexes are as follows -
  - ⊙ Annex 1 - Extracts from the Prevention of Bribery Ordinance;
  - ⊙ Annex 2 - Other Sample Guidelines for Incorporating in the Code of Conduct.

### Communication

6. Kindergartens should promulgate their codes of conduct (or probity instructions/guidelines) to all their Managers and staff, and communicate with them effectively, through channels like training, to ensure their understanding of the provisions of the codes, as well as the legal requirements of the Prevention of Bribery Ordinance.

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## **Advisory and Training Services by ICAC**

7. The ICAC provides kindergartens with the following services -
- ⊙ advice on formulation of the kindergartens' code of conduct and related integrity management system (e.g. procedures for managing conflict of interest);
  - ⊙ advice on adoption/application of probity requirements in specific processes/ functions (such as procurement) of kindergartens; and
  - ⊙ training for staff to enhance their integrity awareness and knowledge of the Prevention of Bribery Ordinance; and training on integrity management for Managers.

## Extracts from the Prevention of Bribery Ordinance

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### Section 9 - Corrupt transactions with agents

- (1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his -
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
  - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,
- shall be guilty of an offence.
- (2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's -
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
  - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,
- shall be guilty of an offence.
- (3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document -
- (a) in respect of which the principal is interested; and
  - (b) which contains any statement which is false or erroneous or defective in any material particular; and
  - (c) which to his knowledge is intended to mislead the principal,
- shall be guilty of an offence.
- (4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).
- (5) For the purposes of subsection (4) permission shall -
- (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 or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

## **Section 8 - Bribery of public servants by persons having dealings with public bodies**

- (1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence.
- (2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

## **Section 2 - Definition**

### ***Definition of an Advantage***

“Advantage” means -

- (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 or 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),

but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), particulars of which are included in an election return in accordance with that Ordinance.

### ***Definition of Entertainment***

The provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

## Other Sample Guidelines for Incorporating in the Code of Conduct

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### Records, Accounts and Other Documents

Managers and staff should ensure, to the best of their knowledge, that any record, receipt, account or other documents they submit to the Kindergarten, gives a true representation of the events or transactions reported in the documents. Intentional use of documents containing false information to deceive or mislead the Kindergarten, regardless of whether the Manager or staff may obtain any gain or advantage, may constitute a criminal offence.

### Outside Work of Staff

A staff member should avoid any outside activity which may impair the performance of his duties, distract his attention from them or give rise to a conflict of interest. If a full-time staff member wishes to take up concurrent employment/service, either on a regular, part-time or ad hoc basis, he should obtain the prior written approval of the Principal of the Kindergarten. Part-time staff member should register his other employment/service with the Kindergarten. The Principal will consider whether the employment/service would pose a conflict of interest with the staff member's duties in the Kindergarten.

### Gambling

Managers and staff should not engage in frequent or excessive gambling of any kind, or any games of chance involving high stakes. Managers and staff should not gamble with persons having official dealings with the Kindergarten. Gambling in the Kindergarten's premises is strictly forbidden.

### Loans

Managers and staff should not accept a loan from or through the assistance of any person or organisation having official dealings with the Kindergarten. There is, however, no restriction on borrowing from a licensed bank or financial institution.

Staff shall be liable to disciplinary action if they use a subordinate or a junior officer as a guarantor for a loan or a hire purchase agreement. They shall also be so liable if they act as a guarantor for his supervisor or an officer at a rank senior than his. Similarly, Managers should not use a staff member as a guarantor for a loan or hire purchase agreement, nor should a staff member act as a guarantor for a Manager.

### Indebtedness

Managers and staff should avoid allowing themselves to get into a position where any debts they may have become unmanageable and other financial embarrassment which may bring the Kindergarten into disrepute.

Managers are required to notify the School Management Committee and staff to the Principal of the Kindergarten if proceedings are taken against them with a view to bankruptcy. Staff who become insolvent or bankrupt<sup>1</sup>, even though no proceedings have been taken against them yet, should also report their case to the Kindergarten. Managers and staff having financial problems which they may not be able to manage should approach the School Management Committee, the Supervisor, or the Principal of the Kindergarten for advice and assistance.

### **Supervisory Accountability**

All staff who have a responsibility to supervise and direct subordinates should embrace a two-fold responsibility, namely -

- ⊙ the satisfactory discharge of his own duties; and
- ⊙ his duties as a supervising staff member (e.g. Principal, senior teachers).

A supervisor will be asked to account for wrongdoings or omissions by his subordinates, if these wrongdoings or omissions are serious, repeated or widespread that by reasonable diligence the supervisor should have known of them had he exercised the level of leadership, management and supervision required of his position.

As a supervisor, a staff member should -

- ⊙ provide adequate guidance, advice, counselling and training for staff;
- ⊙ monitor the conduct and performance of staff to ensure that they meet the standards required;
- ⊙ be alert to signs of malpractice in the workplace (e.g. unauthorised absence from work); and
- ⊙ take prompt and decisive action to handle misconduct and poor performance.

<sup>1</sup> Individual voluntary arrangement (IVA) is an alternative to bankruptcy under the Bankruptcy Ordinance. A staff member taking up an IVA is regarded as insolvent and should report the case to the Kindergarten.

## Kindergarten Parent-Teacher Association Sample Code of Conduct for Executive Committee Members

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### Foreword

1. This Code is applicable to all executive committee members (Members) of the Parent-Teacher Association (hereafter referred to as “the PTA”) of *[Name of the Kindergarten]*.

*[The PTA is recommended to include the “tone at the top”, e.g. the Members’ commitment to being honest and ethical, in its Code of Conduct and relevant documents, e.g. Handbook for Members.]*

### Prevention of Bribery

2. Members are agents of the PTA and governed by section 9 of the Prevention of Bribery Ordinance (“POBO”). Under the POBO, any Member who, without the permission of the PTA of the Kindergarten, solicits or accepts an advantage as a reward for or inducement to doing any act or showing favour in relation to the PTA’s business, commits an offence. The person offering the advantage also commits an offence.
3. “Advantage” means almost anything which is of value, except entertainment (see paragraph 9 below), including any gift (both in money and in kind), loan, fee, reward, commission, office, employment, contract, service and favour.

### Solicitation and Acceptance of Advantages

4. The PTA prohibits Members from soliciting or accepting any advantage from any persons or companies having official dealings with the PTA (e.g. suppliers, service providers), except that they may accept, but not solicit, the following advantages when offered on a voluntary basis -
  - (a) advertising or promotional gifts or souvenirs of a nominal value;
  - (b) discount or other special offers given by any person or company to them as customers, on terms and conditions equally applicable to other customers in general.
5. If a Member wishes to accept from the above persons/parties any other advantages not listed in paragraph 4, he<sup>1</sup> should seek permission from the PTA using **Form A (Annex 1)**. In case of doubt, the Member should refer the matter to the PTA for advice and instruction.
6. Even if the offeror does not have any official dealings with the PTA, a Member should decline an offer of an advantage if the acceptance could affect his objectivity in conducting the PTA’s business, induce him to act against the PTA’s interest or place him under an improper obligation, or where he believes the offeror has such an intention, or lead to the perception or allegation of impropriety or conflict of interest.

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<sup>1</sup> A reference to the masculine gender in this Code covers both the feminine and masculine gender.

### ***Advantages Offered to the Members in their Official Capacity***

7. An advantage presented to a Member by virtue of his official position or on an occasion attended in the official capacity of the Member (e.g. a souvenir presented by the organiser of a ceremonial occasion to a Member representing the PTA to officiate at the ceremony) is regarded as an advantage to the PTA.
8. Members should as far as possible decline such gifts. Where this cannot be done (e.g. owing to protocol reasons or the need to avoid causing offence or embarrassment), he should report the receipt of the gift or souvenir and seek direction on its disposal from the PTA using **Form A (Annex 1)**.

### **Acceptance of Entertainment**

9. Members should not accept lavish, or unreasonably generous or frequent entertainment (“entertainment” means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with or provided at the same time as the provision of food or drink), or indeed any entertainment which is likely to give rise to any actual or perceived conflict of interest, put the Members in an obligatory position in the discharge of their duties, compromise their impartiality or judgement, or bring them or the PTA into disrepute bearing in mind public perception. When offered entertainment, a Member should consider whether the entertainment offered could be regarded as -
  - ⊙ excessive - taking into account its value, substance, frequency and nature;
  - ⊙ inappropriate - taking into account the relationship between the Member and the offeror (e.g. whether they have any direct official dealings); or
  - ⊙ undesirable - taking into account the character or reputation of the host or known attendees.

*[The PTA may insert additional guidelines/requirements on acceptance of entertainment such as requirements to seek permission for or record any acceptance of entertainment from persons having official dealing with the PTA.]*

### **Offering of Advantages**

10. Members are prohibited from offering advantages to any person or any organisation, for the purpose of influencing such person or organisation in any dealings, or any public official<sup>2</sup> while having business dealing with his employing organisation, whether directly or indirectly through a third party, when conducting the business of the PTA.

<sup>2</sup> Examples of public officials include officers of the Education Bureau, Social Welfare Department and Equal Opportunities Commission.

11. Members should as far as possible refrain from bestowing gifts/souvenirs to others during the conduct of official activities. Where it is necessary or unavoidable due to operational, protocol or other reasons, the gifts/souvenirs to be bestowed should not be lavish or extravagant, and be kept to a minimum in quantity and the exchange of gifts/souvenirs should be made from organisation to organisation.

### **Managing Conflict of Interest**

12. A conflict of interest situation arises when the “private interests” of a Member compete or conflict with the interests of the PTA or the official duties of the Member. Private interests include financial and other interests of the Member himself, and those of his connections including family and other relations, personal friends, the clubs and societies to which he belongs, and any person to whom he owes a favour or to whom he may be obligated in any way. Some common examples of conflict of interest are described at **Annex 2**.

### **Avoidance and Declaration of Conflict of Interest**

13. A fundamental rule is that all Members should, as far as possible, avoid any actual and perceived conflict of interest from arising in the first place. When a situation of conflict of interest cannot be avoided, Members should as soon as possible declare all relevant interests which conflict, may conflict or be seen to conflict with their official duties by using **Form B (Annex 3)**. In case of doubt, they should consult the PTA.
14. All Members should be vigilant and make their best effort at all times to avoid or declare, as appropriate, any conflict that may arise or has arisen. Failure to take the necessary steps to avoid or declare a conflict of interest situation may constitute misconduct.

### **Managing Declared Conflict of Interest**

15. Upon receipt of a report on conflict of interest situation, the PTA should, as soon as practical, decide on the appropriate course of action to be taken such as to relieve the Member of his involvement in the task, and give clear direction/instruction to the Member concerned. The declaration and the management decision/action should be properly recorded. The PTA should ensure the Members’ compliance with the instruction so as to effectively remove/mitigate the conflict of interest.
16. In deciding the course of action to be taken, the PTA should take into account the seriousness of the conflict, the public interest involved and public perception, etc. Mitigating measures for consideration are at **Annex 4**.

### **Misuse of Official Position**

17. Members should carry out their duties fairly, faithfully and impartially, and not misuse or permit others to misuse their official position for their personal cause, interest or gain, or to favour, benefit or disfavour others.

### **Confidentiality of Information**

18. Members should not disclose any classified or proprietary information of the PTA without authorisation or misuse any PTA's information (e.g. using the information for personal gain or the benefit of others). Members who have access to or in control of such information should ensure its security and prevent any abuse, unauthorised disclosure or misuse of the information. Members should continue to observe their duty of confidentiality after they have left the PTA.

### **Use of the PTA's Assets and Resources**

19. Members in charge of or having access to any assets of the PTA, including funds, property, information, and intellectual property, should use them solely for the purpose of conducting the PTA's business or authorised purposes. Any misappropriation or unauthorised use of the PTA's properties for personal use or personal gain is strictly prohibited.

### **Compliance**

20. It is the responsibility of every Member of the PTA to understand and comply with this Code, whether performing duties of the PTA in or outside Hong Kong.
21. Any Members in breach of this Code will be subject to disciplinary action, including termination of appointment. In case of suspected corruption or other criminal offences, a report will be made to the appropriate law enforcement agencies.

### **Enquiry**

22. Any enquiries, comments or suggestions in relation to this Code may be referred to the PTA.

## Sample Report on Gifts Received in Official Capacity

[The Parent-Teacher Association may consider specifying the timeframe for reporting acceptance of gifts (e.g. within [please specify an appropriate duration according to actual situation] working days after such acceptance).]

### Part A - To be completed by recipient

To: Parent-Teacher Association (PTA)

Description of Offeror

Name & Title :

\_\_\_\_\_

Company :

\_\_\_\_\_

Relationship (Business/Personal) :

\_\_\_\_\_

Occasion on which the Gift was/is to be Received :

\_\_\_\_\_

Description & (Assessed) Value of the Gift :

\_\_\_\_\_

#### Suggested Method of Disposal :

#### Remark

( ) To be Retained by the Recipient

\_\_\_\_\_

( ) To be Retained for Use/Display in the Kindergarten

\_\_\_\_\_

( ) To be Shared among Executive Committee Members and Members

\_\_\_\_\_

( ) To be Reserved as Lucky Draw Prize at PTA/ Kindergarten Functions

\_\_\_\_\_

( ) To be Donated to a Charitable Organisation

\_\_\_\_\_

( ) To be Returned to Offeror

\_\_\_\_\_

( ) Others (please specify) :

\_\_\_\_\_

\_\_\_\_\_  
Name of Recipient :

Date :

### Part B - To be completed by Parent-Teacher Association

To : (Name of Recipient)

The recommended method of disposal is **approved / not approved\***.

The gift concerned should be disposed of by way of : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
(Name)

(Chairperson (or the Executive Committee Member authorised by the Parent-Teacher Association\*))

Date :

## **Guidelines for Handling Gifts/Souvenirs Given to Executive Committee Members in their Official Capacity**

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All gifts/souvenirs received by Executive Committee Members in their official capacity should be forwarded to the Parent-Teacher Association (PTA) for disposal in the following manner -

- (a) If the gift/souvenir is of perishable nature (e.g. food, drink), it may be shared among Executive Committee Members/Members.
- (b) If the gift/souvenir is a useful item (e.g. stationery, office items), it may be retained for use by the PTA or the Kindergarten.
- (c) If the gift/souvenir is suitable for display (e.g. a painting, vase, trophy), it may be displayed at appropriate locations of the Kindergarten.
- (d) If the gift/souvenir is of low value, it may be donated as a prize in functions organised by the PTA or the Kindergarten.
- (e) If the gift/souvenir is a personal item of low value, such as a plaque or pen inscribed with the name of the recipient presented on special occasions (e.g. retirement of an Executive Committee Member, graduation), it may be retained by the recipient.
- (f) Any gift/souvenir of high value should be returned to the offeror.

## Examples of Conflict of Interest

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Some common examples of conflict of interest are described below but they are by no means exhaustive -

### **Procurement**

- (a) A Member, or his spouse, relative or personal friend has financial interest in a company which is a bidder in a quotation/tender exercise under consideration by the Parent-Teacher Association (PTA).
- (b) A Member accepts frequent or lavish entertainment from the PTA's suppliers or service providers.
- (c) A Member undertakes part-time work with a service provider whom he is responsible for monitoring.

### **Confidentiality of Information**

- (d) A Member leaks privileged information relating to the PTA's operations (e.g. system enhancement plans) to favour his friends or relatives.

### **Others**

- (e) A Member leases his property to the PTA for the conduct of a function.

*[The PTA may include more conflict of interest examples.]*

## Sample Form for Declaration of Conflict of Interest by Executive Committee Members

### Part A - Declaration (To be completed by Declaring Executive Committee Member)

To : Parent-Teacher Association (PTA)

I would like to report the following existing/potential\* conflict of interest situation arising during the discharge of my official duties -

Person(s)/organisation(s) with whom/which I have official dealings
My relationship with the person(s)/organisation(s) (e.g. relative)
Relationship of the person(s)/organisation(s) with our Kindergarten (e.g. supplier)
Brief description of my duties which involved the person(s)/organisation(s) (e.g. handling of quotation/tender exercise, processing applications of student admission)

\_\_\_\_\_  
Name of Declaring  
Executive Committee Member :  
Date :

### Part B - Approval (To be completed by PTA)

To : (Declaring Executive Committee Member)

(a) The information contained in your declaration of \_\_\_\_ (Date) \_\_\_\_ is noted. It has been decided that -

- You may continue to handle the work as described in Part A, provided that there is no change in the information declared above, and you must uphold the PTA's interest without being influenced by your private interest.
- You should refrain from performing or getting involved in performing the work as described in Part A which may give rise to a conflict (e.g. prohibiting from handling the specific duty that you have conflict, withdrawing from discussion on a specific issue/case).
- You may continue to handle the work as described in Part A, but an independent Executive Committee Member would be recruited to participate in, oversee or review part or all of the decision-making process (e.g. another Executive Committee Member with the required expertise is tasked to provide objective assessment on the matter).
- You are relieved of your duty as described in Part A, which will be taken up by another Executive Committee Member through redeployment.
- Others (please specify): \_\_\_\_\_

(b) The justification(s) for the measure(s) as described in Part B(a) above is/are:

\_\_\_\_\_

\_\_\_\_\_  
(Name)  
(Chairperson (or the Executive Committee  
Member authorised by the PTA\*))

Date :

\* Please delete as appropriate

## Mitigating Measures for Managing Declared Conflict of Interest

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- (a) **Record** - Where the risk in a conflict of interest situation is indirect, remote or insignificant, and the occurrence of such a situation is infrequent, it may be sufficient to take note of the conflict only.
  
- (b) **Restrict** - Where a conflict is not likely to arise frequently and the Member can be effectively separated from the part of activity or process in which the conflict arises, it may be suitable to restrict the Member's involvement in the task in which he has a conflict (e.g. withdrawing from discussion on a specific issue, abstaining from voting on the decisions) and access to the related information.
  
- (c) **Recruit** - Where it is impractical to restrict a Member's involvement, an independent Member may be recruited to participate in, oversee, or review part or all of the decision-making process if appropriate (e.g. engaging expert in the selection of highly specialised items).
  
- (d) **Redeploy** - Where it is inappropriate to allow the Member who has declared a conflict of interest to handle a specific matter, it may be suitable to relieve of the Member's duty which may then be taken up by another Member through redeployment. For serious conflict of interest cases with a high likelihood of relapse, it may be suitable to post out the Member to avoid negative public perception.
  
- (e) **Relinquish** - Where a Member's commitment to the PTA duty outweighs his attachment to his private interest, and adoption of other mitigating measures is not appropriate or possible, he may be asked to relinquish his personal or private interests (e.g. divesting the investments, ceasing to be a member of a club/association).

## Guide on Using the Sample Code of Conduct for Executive Committee Members of Parent-Teacher Association of Kindergartens

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### Purpose

1. The Sample Code of Conduct for Executive Committee Members of Parent-Teacher Association (PTA) of Kindergartens (the Sample Code) aims to assist PTAs in setting forth the expected standard of probity and conduct of their executive committee members (Members) that is necessary to maintain a clean and corruption-free operating environment, ensuring fairness and integrity in all their processes, and ensuring compliance with the Prevention of Bribery Ordinance by all the parties involved in the PTAs' business affairs.

### Scope and Use

2. The Sample Code focuses on the key anti-corruption and related conduct provisions that PTAs should require their Members to observe for the purposes stated above. PTAs are encouraged to issue a code of conduct for Members with reference to the Sample Code, and include in it other conduct provisions based on their values and operational needs as appropriate, or incorporate the recommended provisions in the Sample Code into their relevant instructions/guidelines/handbook.
3. In devising the guidelines, PTAs should cover all the probity/conduct areas and related important provisions in the Sample Code. PTAs can adapt the provisions/wordings, make detailed policies, etc. to best suit their operating environment and needs, but are strongly recommended to adopt the probity standards and principles in the Sample Code.

### Supplementary Information

4. Supplementary information, examples, and other guidelines which PTAs may wish to provide in their codes or other supplementary guidelines, or find useful as reference in formulating their guidelines or policies, or include in integrity training, are provided at **Annexes** of this Guide.
5. The Annexes are as follows -
  - ⊙ Annex 1 - Extracts from the Prevention of Bribery Ordinance;
  - ⊙ Annex 2 - Other Sample Guidelines for Incorporating in the Code of Conduct.

### Communication

6. PTAs should promulgate their codes of conduct (or probity instructions/guidelines) to all their Members, and communicate with them effectively, through channels like training, to ensure their understanding of the provisions of the codes, as well as the legal requirements of the Prevention of Bribery Ordinance.

## **Advisory and Training Services by ICAC**

7. The ICAC provides PTAs with the following services -
- ⊙ advice on formulation of the PTAs' code of conduct and related integrity management system (e.g. procedures for managing conflict of interest);
  - ⊙ advice on adoption/application of probity requirements in specific processes/functions (such as procurement) of PTAs ; and
  - ⊙ training for Members to enhance their integrity awareness and knowledge of the Prevention of Bribery Ordinance.

## Extracts from the Prevention of Bribery Ordinance

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### Section 9 - Corrupt transactions with agents

- (1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his -
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
  - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,
- shall be guilty of an offence.
- (2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's -
- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
  - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,
- shall be guilty of an offence.
- (3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document -
- (a) in respect of which the principal is interested; and
  - (b) which contains any statement which is false or erroneous or defective in any material particular; and
  - (c) which to his knowledge is intended to mislead the principal,
- shall be guilty of an offence.
- (4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).
- (5) For the purposes of subsection (4) permission shall -
- (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 or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

## **Section 8 - Bribery of public servants by persons having dealings with public bodies**

- (1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence.
- (2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

## **Section 2 - Definition**

### ***Definition of an Advantage***

“Advantage” means -

- (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 or 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),

but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), particulars of which are included in an election return in accordance with that Ordinance.

### ***Definition of Entertainment***

The provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

## Other Sample Guidelines for Incorporating in the Code of Conduct

---

### **Records, Accounts and Other Documents**

Members should ensure, to the best of their knowledge, that any record, receipt, account or other documents they submit to the PTA, gives a true representation of the events or transactions reported in the documents. Intentional use of documents containing false information to deceive or mislead the PTA, regardless of whether the Member may obtain any gain or advantage, may constitute a criminal offence.

### **Loans**

Members should not accept a loan from or through the assistance of any person or organisation having official dealings with the PTA. There is, however, no restriction on borrowing from a licensed bank or financial institution.

## Sample Purchase Requisition Form

Purchase Requisition No.: \_\_\_\_\_

Requesting Staff: \_\_\_\_\_

Date: \_\_\_\_\_

Procurement Method<sup>Note</sup>:

- Cash Purchase   
  Quotation   
  Tender

Item No.	Quantity	Description/Specification	Justification(s) for the Purchase	Estimated Price
<b>TOTAL:</b>				

Requested by: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_



Approved/Not approved *(please delete as appropriate)*

Reason(s) if not approved : \_\_\_\_\_

Approving Officer<sup>Note</sup> : \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<sup>Note</sup> The procurement method and the approving authority are determined by the aggregate value of goods/services to be procured.

## Sample Probity Clauses in Quotation Invitation/Tender Document

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### Offering, Solicitation or Acceptance of Advantages

- (1) The bidder/tenderer shall not, and shall procure that his employees, agents and sub-contractors shall not, offer, solicit or accept any advantage as defined in the Prevention of Bribery Ordinance in connection with the quotation/tendering and execution of this contract.
  
- (2) Failure to comply with the aforesaid clause (1) by the bidder/tenderer or his employees, agents or sub-contractors shall, without affecting the bidder/tenderer's liability for such failure and act, result in his quotation/tender being invalidated.

Note: The above clauses are for reference only. Kindergartens should consult their own legal advisor in drawing up quotation invitation/tender document.

## Sample Ethical Commitment Clauses in Contract

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### **Ethical Commitment Clauses**

#### ***Confidentiality***

- (A) The Contractor shall not use or divulge, except for the purpose of the Contract, any information provided by *[Name of the Kindergarten]* in the Contract or in any subsequent correspondence or documentation. Any disclosure to any person, agent or sub-contractor for the purpose of the Contract shall be in strict confidence and shall be on a "need to know" basis and extend only so far as may be necessary for the purpose of this Contract. The Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions) to ensure that information is not divulged for purposes other than that of this Contract by such person, agent or sub-contractor. The Contractor shall indemnify and keep indemnified the Kindergarten against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Kindergarten may incur, whether direct or consequential, arising out of or in connection with any breach of the aforesaid non-disclosure provision by the Contractor or his directors, employees, agents or sub-contractors.

#### ***Prevention of Bribery***

- (B) The Contractor shall prohibit his directors, employees, agents, and sub-contractors who are involved in this Contract from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance when conducting business in connection with this Contract.

#### ***Declaration of Conflict of Interest***

- (C) The Contractor shall require his directors, employees, agents and sub-contractors who are involved in this Contract to declare in writing to the Contractor any conflict or potential conflict between their personal/financial interests and their duties in connection with this Contract. In the event that such conflict or potential conflict is disclosed in a declaration, the Contractor shall forthwith take such reasonable measures as are necessary to, as far as possible, mitigate or remove the conflict or potential conflict so disclosed.
- (D) The Contractor shall prohibit his directors and employees who are involved in this Contract from engaging in any work or employment other than in the performance of this Contract, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Contract. The Contractor shall also require their subcontractors and agents to impose similar restriction on their directors and employees by way of a code of conduct or contractual provision.

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- (E) The Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions) to ensure that his directors, employees, agents and sub-contractors who are involved in this Contract are aware of the requirements under the aforesaid sub-clauses (C) and (D).

Note: The above clauses are for reference only. Kindergartens should consult their own legal advisor in drawing up their contracts.

## Sample Supplier/Service Provider Performance Evaluation Form

Name of Supplier/Service Provider : \_\_\_\_\_

Goods/Services Provided : \_\_\_\_\_

Date of Purchase/Contract Period : \_\_\_\_\_

Purchase Amount/Contract Sum : \_\_\_\_\_

<b>Performance Evaluation</b> <i>(The items listed below are examples for reference only.)</i>		
<b>Rating</b>		<b>Remarks</b>
0 - Very Poor 1 - Poor 2 - Moderate 3 - Good 4 - Excellent		<i>(Including major defects (if applicable))</i>
1. Quality of Goods/Services		
2. Delivery and timeliness		
3. Responsiveness to service requests		
4. Others (Please specify)		
<b>Overall</b>		

<b>Recommendation</b>
<p><input type="checkbox"/> Continue to invite for quotation/tender in the future</p> <p><input type="checkbox"/> Need to provide advice for improvement (please provide information on areas for improvement)</p> <p><input type="checkbox"/> Issue a warning letter (please provide reasons and supporting document(s)/evidence)</p> <p><input type="checkbox"/> Not recommended for future appointment (please provide reasons and supporting document(s)/evidence)</p>

**Prepared by**

Signature : \_\_\_\_\_

Name : \_\_\_\_\_

Position : \_\_\_\_\_

Date : \_\_\_\_\_

**Approved by**

Signature : \_\_\_\_\_

Name : \_\_\_\_\_

Position : \_\_\_\_\_

Date : \_\_\_\_\_

## Sample Form for Invitation of Fee Proposals for Consultancy Agreement

---

By Fax & By Post (Fax no.): \_\_\_\_\_

*[Name and Address of Project Consultant]*

*[Date]*

Our ref.:

Dear Mr/Ms \_\_\_\_\_,

### Invitation of Fee Proposal for Consultancy Agreement for Maintenance and Improvement Works at *[Name and Address of Kindergarten]*

We invite you to submit a fee proposal for the provision of consultancy service in relation to the maintenance and improvement works at the subject premises.

#### 1. Maintenance and Improvement Works Required

*[A general description of the maintenance and improvement works required, and any orders or advisory letters issued by the Government.]*

#### 2. Scope of Services

The scope of services covered by the fee proposal shall include the following -

##### Stage I - Preliminary Proposal and Cost Estimate

- 1.1 Assist the Kindergarten to develop the design brief.
- 1.2 Conduct condition survey to assess and identify the defects of the premises.<sup>#</sup>
- 1.3 Submit preliminary maintenance and improvement works proposal with sketches and programme, etc.
- 1.4 Discuss the preliminary design proposal with the Kindergarten.
- 1.5 Submit a preliminary design and cost estimate for the Kindergarten's consideration.
- 1.6 Provide the Kindergarten with the recommendations and professional advice on the maintenance and improvement works options, materials options, equipment/ installation options, etc.
- 1.7 Study all relevant orders/advisory letters issued by the Government and incorporate the required works and cost into the design proposal and cost estimate.<sup>#</sup>
- 1.8 Liaise with the Government departments in connection with the maintenance and improvement works.<sup>#</sup>

<sup>#</sup> Please delete as appropriate

## **Stage II - Preparation of Detailed Design, Cost Estimate and Tendering Arrangement**

- 2.1 Review and study relevant drawings and regulations.
- 2.2 Prepare a detailed design (including repair details, layout plans, colour schemes, elevations, material samples) for the Kindergarten's consideration.
- 2.3 Prepare a master work programme for the Kindergarten's consideration.
- 2.4 Prepare a works' budget estimate for the Kindergarten's consideration.
- 2.5 Prepare tender documents, including the schedule of works, form of tender, tender drawings, specifications and particulars for tender for the Kindergarten's consideration.
- 2.6 Arrange tender documents, receive tenders, conduct tender evaluation, and make a recommendation on contract award for the Kindergarten's consideration.
- 2.7 Liaise with the successful tenderer on behalf of the Kindergarten.

## **Stage III - Contract Administration, Site Supervision and Works Management**

- 3.1 Prepare contract documents.
- 3.2 Submit site supervision plan.
- 3.3 Conduct site inspections to monitor the progress and quality of works based on the site supervision plan submitted.
- 3.4. Liaise with the representative of the Kindergarten for arrangement of site works.
- 3.5. Provide advice to the Kindergarten on variation works where necessary.
- 3.6. Provide advice on payments to contractor(s).
- 3.7. Control works project cost.
- 3.8. Issue Certificate of Practical Completion of the work.
- 3.9. Monitor the contractor(s) on defects rectification.
- 3.10. Conduct final inspection upon expiry of Defects Liability Period and prepare Final Accounts.
- 3.11. Handle works or contractual disputes.
- 3.12. Liaise with Government departments on completion of works required by statutory orders/advisory letters, including preparation and submission of report/certificate of work completion.<sup>#</sup>

<sup>#</sup> Please delete as appropriate

### 3. Professional Fee

Separate fee should be quoted for each stage of works as follows -

Stage I - Preliminary Design

Stage II - Detailed Design & Tendering

Stage III - Contract Administration & Works Management

*[The consultant(s) should be required to submit staffing proposals and breakdown of consultancy fees at individual key stages, as shown below, to facilitate assessment of sufficiency of manpower and reasonableness of consultancy fees.]*

	Estimated Time for Each Stage (Month/Day)	Allocation of Working Hours (Total Estimated Working Hours of Each Stage)			Consultancy Service Fee (HK\$)
		Authorized Person (No.: __)	Project Manager (No.: __)	Project Assistant (No.: __)	
Preliminary Inspection and Planning Stage (including condition survey, development of design brief, cost estimate, and liaison with Government departments)					
Preparation of Tender Document (Including compilation of all tender documents, design drawings, advice on tendering procedures and the related arrangement)					
Tendering Stage (Including tender evaluation and compilation of report)					
Pre-works Commencement Stage (Including compilation of contract, review on and approval for pre-works commencement documents)					

Works Commencement Stage (Including project monitoring and all contract administration works)					
Works Completion and Maintenance Stage (Including works completion inspection, works monitoring and follow-up during maintenance period)					
<b>Total Duration</b>		<b>Total Consultancy Service Fee (HK\$)</b>			

Remark - The above-mentioned work includes attendance at the School Management Committee meeting(s) to report and discuss issues related to the maintenance and improvement works.

#### 4. Right of the Kindergarten

The Kindergarten has the liberty to engage partial services for any one of the above stages upon completion of each stage.

#### 5. Validity of the Proposal

The tender shall remain valid and open for a period of *[please insert the appropriate number of days based on actual situation]* days from the tender closing date.

#### 6. Termination of Services

The consultancy service may be terminated by either party upon a *[please insert the appropriate number of days based on actual situation]*-day prior written notice to the last known address of the other party. The consultant shall be remunerated for all services rendered up to the date of termination of the appointment, in so far as the services have been certified completion by the Kindergarten and not already been covered by payments on account made to the consultant.

#### 7. Probity Clauses

*[Please refer to **Appendix 6** for Sample Probity Clauses in Quotation Invitation/Tender Document]*

#### 8. Insurance

The consultant shall, on written request by the Kindergarten, produce evidence by way of certificate of insurance, receipt of premium or otherwise as appropriate that the professional indemnity and public liability insurance have been effected and remain in effect.

## 9. Submission of Proposal

Please submit your fee proposal together with your job references in a sealed envelope marked conspicuously "Confidential - Tender Document: Fee Proposal for Maintenance and Improvement Works at *[Name of Kindergarten]*" to *[Address for Return of Tender]* on or before *[Date and Time for Return of Tender]*. Late submission will not be considered.

Should you require a site visit, please contact     *[Name]*     at *[Telephone Number]* .  
For any enquiries, please contact     *[Name]*     .

Yours sincerely,

---

For and on behalf of *[Name of the Kindergarten]*

## Sample Quotation/Tender Evaluation Form for Consultancy Service

<b>Essential Requirements</b> <i>(The items listed below are examples for reference only. Please include the essential requirements as specified in quotation invitation/tender document.)</i>		<b>Lowest bid</b>	<b>2<sup>nd</sup> lowest bid</b>	<b>3<sup>rd</sup> lowest bid</b>
Name of Consultant:				
(1)	Limited company	Yes / No	Yes / No	Yes / No
(2)	No. of staff with professional qualification			
(3)	Experience as a consultant for maintenance and improvement works projects in the past <i>[please insert an appropriate number of years]</i> years	No. of projects		
(4)	Quality assurance certification (e.g. ISO 9001)			
(5)	Proof of professional indemnity insurance			
(6)	Registered with the Buildings Department as an Authorized Person/ Registered Structural Engineer/ Registered Geotechnical Engineer (supporting documents provided)	Yes / No	Yes / No	Yes / No
(7)	Quotation/Tender price for -			
	(a) Phase 1	\$	\$	\$
	(b) Phase 2	\$	\$	\$
	(c) Phase 3	\$	\$	\$
	(d) Quotation/Tender Sum	\$	\$	\$
(8)	Validity period of quotation/tender (upon closing date for submission of quotation/tender)	_____ months	_____ months	_____ months
(9)	Scope of services as specified in the quotation/tender documents is covered	Yes / No	Yes / No	Yes / No
(10)	Others			

*Note: Where there is any missing information or ambiguities related to the factual information of the quotation/tender (e.g. clerical errors), but does not affect compliance with the essential requirements of the quotation/tender, request for submission/clarification of the information concerned can be made. Such submission/clarification must not change the quotation/tender in substance or give any advantage or perceived advantage to the bidder.*

Date			
Signature			
Name of Assessor			

## Sample Ethical Commitment Clauses in Consultancy Agreement

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### **Ethical Commitment Clauses**

#### ***Confidentiality***

- (A) Except as necessary for the performance of the Services and with the prior written consent or as instructed by the Kindergarten, the Consultant shall not disclose the terms and conditions of this Agreement or any report, document, specification, drawing, plan, software, data or other particulars furnished by or on behalf of the Kindergarten in connection therewith, or any such or similar information generated or produced by the Consultants pursuant to this Agreement, to any person other than a person employed or engaged by the Consultants in carrying out this Assignment, an agent of the Consultants, any approved sub-consultant or the Consultant's accountants, insurers and legal advisers.
- (B) Any disclosure to the persons permitted under sub-clause (A) of this clause shall be in strict confidence and shall be on a "need to know" basis and extend only so far as may be necessary for the purposes of this Agreement.
- (C) The Consultant shall take all necessary measures (including by way of a code of conduct or contractual provisions) to ensure that the persons permitted under sub-clause (A) are aware of and shall comply with the confidentiality and non-disclosure provisions contained in this Agreement. If required by the Kindergarten, the Consultant undertakes to procure for and on behalf of the Kindergarten a confidentiality agreement in a form to be prescribed by the Kindergarten from the persons permitted under sub-clause (A) to whom any confidential information is to be disclosed.
- (D) The Consultant shall not without the prior written consent of the Kindergarten publish, either alone or in conjunction with any other person, in any newspaper, magazine, periodical or through any electronic medium, any article, photograph or illustration relating to this Agreement.
- (E) The Consultant shall indemnify and keep indemnified the Kindergarten against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Kindergarten may suffer, sustain or incur, whether direct or consequential arising out of or in connection with any breach by the Consultant or their directors, employees, agents, sub-consultants, accountants, insurers or legal advisers of this clause.
- (F) The provision of this clause shall survive the termination of this Agreement (however occasioned) and shall continue in full force and effect notwithstanding such termination.

#### ***Prevention of Bribery***

- (G) The Consultant shall prohibit his directors, employees, agents and sub-consultants who are involved in this Agreement from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance. The Consultant shall also caution their directors, employees, agents and sub-consultants against offering, soliciting or accepting any hospitality, entertainment or inducements which would impair their impartiality in

relation to the Agreement. The Consultant shall take all necessary measures (including by way of a code of conduct or contractual provisions) to ensure that their directors, employees, agents and sub-consultants are aware of the aforesaid prohibition and will not offer, solicit or accept any advantages or hospitality, etc. when conducting business in connection with this Agreement.

### ***Declaration of Conflict of Interest***

- (H) The Consultant shall require his directors, employees, agents and sub-consultants who are involved in this Agreement to declare in writing to the Consultant any conflict or potential conflict between their personal/financial interests and their duties in connection with this Agreement. In the event that such conflict or potential conflict is disclosed in a declaration, the Consultant shall forthwith take such reasonable measures as are necessary to, as far as possible, mitigate or remove the conflict or potential conflict so disclosed.
- (I) The Consultant shall prohibit his directors and employees who are involved in this Agreement from engaging in any work or employment (with or without remuneration), other than in the performance of this Agreement, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Agreement. The Consultant shall also require their agents and sub-consultants to impose similar restriction on their directors and employees by way of a code of conduct or contractual provision.
- (J) The Consultant shall take all necessary measures (including by way of contractual provisions) to ensure that his directors, employees, agents and sub-consultants who are involved in this Agreement are aware of the requirements under the aforesaid sub-clauses (H) and (I).

### ***Declaration of Ethical Commitment***

- (K) The Consultant shall submit a signed declaration in a form (see **Annex**) prescribed or approved by the Kindergarten to confirm compliance with the provisions on confidentiality, prevention of bribery and declaration of interest as stated in the aforesaid sub-clauses (A) to (J). If the Consultant fails to submit the declaration as required, the Kindergarten shall be entitled to withhold payment until such declaration is submitted and the Consultant shall not be entitled to interest during the period. To demonstrate compliance with the aforesaid sub-clauses (A) to (J) on confidentiality, prevention of bribery and declaration of interest, the Consultant and their sub-consultants employed for the performance of duties under this Agreement are required to deposit with the Kindergarten a code of conduct issued to their staff.

<p>Note: The above clauses are for reference only. Kindergartens should consult their own legal advisor in drawing up the consultancy agreement.</p>
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## Sample Consultant's Declaration on Compliance with the Ethical Commitment Requirements

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To: *[Name of Kindergarten]*

### Consultant's Declaration on Compliance with the Ethical Commitment Requirements

Agreement No.: \_\_\_\_\_

Agreement Title: \_\_\_\_\_

In accordance with the Ethical Commitment Clauses of the Consultancy Agreement -

- (1) We confirm that we have complied with the following provisions and have ensured that our directors, employees, agents and sub-consultants are aware of the following provisions -
  - (a) Prohibiting our directors, employees, agents and sub-consultants who are involved in this Agreement from offering, soliciting or accepting any advantage as defined in section 2 of the Prevention of Bribery Ordinance when conducting business in connection with this Agreement.
  - (b) Requiring our directors, employees, agents and sub-consultants who are involved in this Agreement to declare in writing to us any conflict or potential conflict between their personal/financial interests and their duties in connection with this Agreement. In the event that a conflict or potential conflict is disclosed, we will take such reasonable measures as are necessary to, as far as possible, mitigate or remove the conflict or potential conflict so disclosed.
  - (c) Prohibiting our directors and employees who are involved in this Agreement from engaging in any work or employment (with or without remuneration), other than in the performance of this Agreement, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Agreement and requiring our sub-consultants to do the same.
  - (d) Taking all measures as necessary to protect any confidential information or data entrusted to us by or on behalf of the Kindergarten from being divulged to a third party other than those allowed in this Agreement.
- (2) We further confirm that we have ensured that our accountants, insurers and legal advisers are aware of the provisions requiring us taking all measures as necessary to protect any confidential information or data entrusted to us by or on behalf of the Kindergarten from being divulged to a third party other than those allowed in this Agreement.

Name of the Consultant : \_\_\_\_\_

Name of the Signatory : \_\_\_\_\_

Position of the Signatory : \_\_\_\_\_

Date : \_\_\_\_\_

## Sample Letter for Invitation to Quotation/Tender for Works Contract

---

[Date]

[Contractor's name and address]

### **Invitation to Quotation/Tender\* - Maintenance and Improvement Works**

You are invited to submit a quotation/tender\* for the maintenance and improvement works for our premises at [Name and Address of Kindergarten]. The details of the works requirements are as shown in the attached quotation invitation/tender\* documents.

If your company is interested in undertaking the above maintenance and improvement works, please submit the quotation by fax/email to [Fax Number/Email Address] (for quotation)/ the tender in a sealed envelope to the tender box at [Address] (for tender)\* on or before [Time and Date]. Late submission will not be accepted.

Your quotation/tender\* should also include a photocopy of your company's code of conduct, Business Registration Certificate, certificate(s) of *[please state the required qualification, such as Registered General Building Contractor/Registered Fire Service Installation Contractor/Licensed Plumber\*]*. The details (including position and contact details of referees) of similar projects undertaken should also be submitted.

[Name of Kindergarten]

# Please delete as appropriate

## Sample Quotation/Tender Evaluation Form for Works Contract

<b>Essential Requirements</b> <i>(The items listed below are examples for reference only. Please include the essential requirements as specified in the quotation invitation/tender document.)</i>		<b>Lowest bid</b>	<b>2<sup>nd</sup> lowest bid</b>	<b>3<sup>rd</sup> lowest bid</b>
Name of Contractor:				
(1)	Limited company	Yes / No	Yes / No	Yes / No
(2)	Curriculum vitae of key staff including site agent and Board of Directors			
(3)	No. of staff with professional qualification			
(4)	No. of safety officer			
(5)	Organisation chart of contractor's site staff			
(6)	Experience in maintenance and improvement works projects in the past <i>[please insert an appropriate number of years]</i> years -	No. of projects		
	- completed projects			
	- on-going projects			
(7)	With licensed plumber	Yes / No	Yes / No	Yes / No
(8)	With registered electrical contractor licence	Yes / No	Yes / No	Yes / No
(9)	With registered fire service installation contractor (Classes I & II)	Yes / No	Yes / No	Yes / No
(10)	Business Registration Certificate			
(11)	Relevant Government registration (including registered minor works contractor)			
(12)	Quotation/tender sum	\$	\$	\$
(13)	Validity period of quotation/tender (upon closing date for submission of quotation/tender)	___ months	___ months	___ months
(14)	Scope of services as specified in quotation invitation/tender document is covered	Yes / No	Yes / No	Yes / No
(15)	Others			

*Note: Where there is any missing information or ambiguities related to the factual information of the quotation/tender (e.g. clerical errors), but does not affect compliance with the essential requirements of the quotation/tender, request for submission/clarification of the information concerned can be made. Such submission/clarification must not change the quotation/tender in substance or give any advantage or perceived advantage to the bidder.*

Date			
Signature			
Name of Assessor			

## Sample Ethical Commitment Clauses in Works Contract

---

### **Ethical Commitment Clauses**

#### ***Confidentiality***

- (A) The Contractor shall not use or divulge, except for the purpose of the Contract, any information provided by *[Name of the Kindergarten]* in the Contract or in any subsequent correspondence or documentation. Any disclosure to any person, agent or sub-contractor for the purpose of the Contract shall be in strict confidence and shall be on a "need to know" basis and extend only so far as may be necessary for the purpose of this Contract. The Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions) to ensure that information is not divulged for purposes other than that of this Contract by such person, agent or sub-contractor. The Contractor shall indemnify and keep indemnified the Kindergarten against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Kindergarten may incur, whether direct or consequential, arising out of or in connection with any breach of the aforesaid non-disclosure provision by the Contractor or his directors, employees, agents or sub-contractors.

#### ***Prevention of Bribery***

- (B) The Contractor shall prohibit his directors, employees, agents, and sub-contractors who are involved in this Contract from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance when conducting business in connection with this Contract.

#### ***Declaration of Conflict of Interest***

- (C) The Contractor shall require his directors, employees, agents and sub-contractors who are involved in this Contract to declare in writing to the Contractor any conflict or potential conflict between their personal/financial interests and their duties in connection with this Contract. In the event that such conflict or potential conflict is disclosed in a declaration, the Contractor shall forthwith take such reasonable measures as are necessary to, as far as possible, mitigate or remove the conflict or potential conflict so disclosed.
- (D) The Contractor shall prohibit his directors and employees who are involved in this Contract from engaging in any work or employment (with or without remuneration), other than in the performance of this Contract, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Contract. The Contractor shall also require their sub-contractors and agents to impose similar restriction on their directors and employees by way of a code of conduct or contractual provisions.

- (E) The Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions) to ensure that his directors, employees, agents and sub-contractors who are involved in this Contract are aware of the requirements in the aforesaid sub-clauses (C) and (D).

### ***Declaration of Ethical Commitment***

- (F) The Contractor shall also submit a signed declaration in a form (see **Annex**) prescribed or approved by the Kindergarten to confirm compliance with the provisions on confidentiality, prevention of bribery, and declaration of conflict of interest as stated in the aforesaid sub-clauses (A) to (E). If the Contractor fails to submit the declaration as required, the Kindergarten shall be entitled to withhold payment until such declaration is submitted and the Contractor shall not be entitled to interest during the period. To demonstrate compliance with the aforesaid sub-clauses (A) to (E) on confidentiality, prevention of bribery, and declaration of conflict of interest, the Contractor and their sub-contractors employed for the performance of duties under this Contract are required to deposit with the Kindergarten a code of conduct issued to their staff.

Note: The above clauses are for reference only. Kindergartens should consult their own legal advisor in drawing up contract documents.

## Sample Contractor's Declaration on Compliance with the Ethical Commitment Requirements

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To: *[Name of Kindergarten]*

### Contractor's Declaration on Compliance with the Ethical Commitment Requirements

Contract No.: \_\_\_\_\_

Contract Title: \_\_\_\_\_

In accordance with the Ethical Commitment Clauses of the Contract, we confirm that we have complied with the following provisions and have ensured that our directors, employees, sub-contractors and agents are aware of the following provisions -

- (a) Prohibiting our directors, employees, agents and sub-contractors who are involved in this Contract from offering, soliciting or accepting any advantage as defined in section 2 of the Prevention of Bribery Ordinance when conducting business in connection with this Contract.
  
- (b) Requiring our directors, employees, agents and sub-contractors who are involved in this Contract to declare in writing to us any conflict or potential conflict between their personal/ financial interests and their duties in connection with this Contract. In the event that a conflict or potential conflict is disclosed, we will take such reasonable measures as are necessary to, as far as possible, mitigate or remove the conflict or potential conflict so disclosed.
  
- (c) Prohibiting our directors and employees who are involved in this Contract from engaging in any work or employment (with or without remuneration), other than in the performance of this Contract, which could create or potentially give rise to a conflict between their personal/ financial interests and their duties in connection with this Contract and requiring our sub-contractors to do the same.
  
- (d) Taking all measures as necessary to protect any confidential information or data entrusted to us by or on behalf of the Kindergarten from being divulged to a third party other than those allowed in this Contract.

Name of the Contractor : \_\_\_\_\_

Name of the Signatory : \_\_\_\_\_

Position of the Signatory : \_\_\_\_\_

Date : \_\_\_\_\_

## Sample Assessment Form for Admission of Students

Name of applicant: \_\_\_\_\_ Date and time of assessment: \_\_\_\_\_

<b>Assessment Aspects</b> <i>(The aspects listed below are examples for reference only.)</i>	<b>Scores</b>
1. Linguistic competence ( __ %)	
2. Taking instructions ( __ %)	
3. Muscle coordination ( __ %)	
4. Eye contact ( __ %)	
<b>Total score (100%)</b>	

**Remarks:**

**Recommendation:**    Suitable for admission    Not suitable for admission

### Declaration of Conflict of Interest

I hereby declare that I -

have *(please provide details as follows)*

do not have

conflict of interest, whether actual, potential or perceived, arising from the discharge of my duty as an assessor of this applicant.

Details of the conflict of interest -

\_\_\_\_\_

\_\_\_\_\_

Chairperson of Assessment Panel

Name:

Date:

I hereby declare that I -

have *(please provide details as follows)*

do not have

conflict of interest, whether actual, potential or perceived, arising from the discharge of my duty as an assessor of this applicant.

Details of the conflict of interest -

\_\_\_\_\_

\_\_\_\_\_

Member of Assessment Panel

Name:

Date:

## Sample Interview Assessment Form for Recruitment of Staff

Name of candidate: \_\_\_\_\_ Date and time of interview: \_\_\_\_\_

<b>Assessment Aspects</b> <i>(The aspects listed below are examples for reference only.)</i>	<b>Scores</b>
1. Common sense ( %)	
2. Interpersonal skills ( %)	
3. Communication skills ( %)	
4. Motivation ( %)	
5. Self-confidence ( %)	
6. Supervisory ability ( %)	
7. Work knowledge ( %)	
8. Special skills ( %)	
9. Integrity ( %)	
10. Language proficiency ( %)	
<b>Total score (100%)</b>	

**Remarks:**

**Recommendation:**    Suitable for appointment    Not suitable for appointment

### Declaration of Conflict of Interest

I hereby declare that I -

have *(please provide details as follows)*

do not have

conflict of interest, whether actual, potential or perceived, arising from the discharge of my duty as an assessor of this applicant.

Details of the conflict of interest -

\_\_\_\_\_

\_\_\_\_\_

Chairperson of Assessment Panel

Name:

Date:

I hereby declare that I -

have *(please provide details as follows)*

do not have

conflict of interest, whether actual, potential or perceived, arising from the discharge of my duty as an assessor of this applicant.

Details of the conflict of interest -

\_\_\_\_\_

\_\_\_\_\_

Member of Assessment Panel

Name:

Date:

## Sample Staff Performance Appraisal Form

### Part 1 Personal Particulars

Name of Appraisee	
Staff Number (if any)	
Post	
Date of Appointment	/ / (Date/Month/Year)
Appraisal Period	From / / To / / (Date/Month/Year)

### Part 2 Performance Assessment

Assessment Aspects <i>(The aspects below are examples for reference only.)</i>	Rating				
Attendance	5 ( )	4 ( )	3 ( )	2 ( )	1 ( )
Work knowledge and skills	5 ( )	4 ( )	3 ( )	2 ( )	1 ( )
Quality of work	5 ( )	4 ( )	3 ( )	2 ( )	1 ( )
Initiative and motivation	5 ( )	4 ( )	3 ( )	2 ( )	1 ( )
Team work	5 ( )	4 ( )	3 ( )	2 ( )	1 ( )
General conduct	5 ( )	4 ( )	3 ( )	2 ( )	1 ( )
Discipline	5 ( )	4 ( )	3 ( )	2 ( )	1 ( )

### Part 3 Overall Performance Rating

Far exceeds job requirements	Exceeds job requirements	Meets job requirements	Partially meets job requirements	Does not meet most job requirements
5 ( )	4 ( )	3 ( )	2 ( )	1 ( )

Please indicate whether the appraisee has taken up any special task or obtained any award/commendation (to be completed by the appraising officer)

Overall comments on performance (to be completed by the appraising officer and/or counter-signing officer)

**Part 4 Record of Assessment/Review**

	Appraisee	Appraising Officer	Appraising Officer's Supervisor (Counter-signing Officer)
Name			
Signature			
Post			
Date			

**Assessment Guidelines (for reference only)**

Assessment Areas	Rating
1. Attendance	<p>5 = No record of lateness or absence from work, willing to accept ad hoc duties</p> <p>4 = No record of lateness or absence from work</p> <p>3 = Less than __ times of lateness or absence of work</p> <p>2 = __ times of lateness or absence from work</p> <p>1 = More than __ times of lateness or absence from work</p>
2. Work knowledge and skills	<p>5 = Far exceeds job requirements</p> <p>4 = Exceeds job requirements</p> <p>3 = Meets job requirements</p> <p>2 = Partially meets job requirements</p> <p>1 = Does not meet most job requirements</p>
3. Quality of work	
4. Initiative and motivation	
5. Team work	
6. General conduct	
7. Discipline	<p>5 = No disciplinary record</p> <p>4 = Less than __ disciplinary records</p> <p>3 = __ to __ disciplinary records</p> <p>2 = __ to __ disciplinary records</p> <p>1 = More than __ disciplinary records</p>

## Sample Interview Assessment Form for Promotion of Teachers

Name of teacher: \_\_\_\_\_ Date and time of interview: \_\_\_\_\_

<b>Assessment Aspects</b> <i>(The aspects listed below are examples for reference only.)</i>	<b>Scores</b>
1. Professional ability in assuming management role ( %)	
2. Enthusiasm in promoting new initiatives ( %)	
3. Work knowledge ( %)	
4. Supervisory skills and leadership qualities ( %)	
5. Readiness to accept responsibility ( %)	
6. Ability to organise ( %)	
7. Commitment to students ( %)	
8. Communication skills ( %)	
9. Relationship with colleagues ( %)	
10. Integrity ( %)	
<b>Total score (100%)</b>	

**Remarks:**

**Recommendation:**    Suitable for promotion    Not suitable for promotion

**Assessment Panel:**

**Assessment Panel:**

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Member

Name:

Name:

Date:

Date:



