

Prevention of Bribery

Prevention of Bribery Ordinance

1. Under the Prevention of Bribery Ordinance (Cap. 201), any agent who, without the permission of his principal (i.e. the Association), solicits or accepts an advantage as a reward or inducement for doing any act or showing favor in relation to the latter's business, commits an offence. The person offering the advantage also commits an offence.
2. It is also an offence under the Ordinance for any agent to use any document containing false information with the intent to deceive his principal.

[Section 9 of the Ordinance and the definition of “advantage” are detailed at **Appendix 1.**]

Acceptance of Advantage

3. It is our policy that registered coaches should not solicit or accept any advantage from any persons or companies having business dealings with the Association (e.g. athletes, parents, or suppliers). They may consider accepting, but not soliciting, the following advantages when offered on a voluntary basis : -

- (a) advertising or promotional gifts or souvenirs of a nominal value;
- (b) gifts given on festive or special occasions subject to a maximum limit of **\$500** in value; or
- (c) discounts or other special offers from any person or company, on terms and conditions applicable to other customers;
- (d) gifts or souvenirs presented to the coach acting on behalf of the Association in official functions.

4. A registered coach should decline an offer of advantage if the acceptance could affect his/her objectivity in conducting the Association's business or induce him/her to act against its interest, or where he/she believes the offeror has such an intention, or acceptance will likely lead to perception or allegation of impropriety.

Offer of Advantage

5. Registered coaches are prohibited from offering advantages to any staff member of any company or Organisation, for the purpose of influencing such person or company in any dealings, or any public official, Board Members or staff of the Association, whether directly or indirectly through a third party, when conducting the business of the Association.

Entertainment

6. As defined in Section 2 of the Prevention of Bribery Ordinance, “entertainment” refers to food or drink provided for immediate consumption on the occasion, and any other entertainment provided at the same time. Although entertainment is an acceptable form of business and social behavior, a

registered coach should avoid accepting lavish or frequent entertainment from persons with whom the Association has business dealings (e.g. athletes, parents, suppliers or contractors) to avoid placing themselves in a position of obligation to the offeror.

Conflict of Interest

7. Registered coaches should avoid any conflict of interest situation (i.e. situation where their private interest conflicts with the interest of the Association) or the perception of such conflicts. They should not misuse their position or authority in the Association to pursue their own private interests. Private interest includes both financial and personal interests of the registered coach and those of his/her connections including family and other relations, personal friends, the clubs and societies to which he/she belongs, and any person to whom he/she owes a favor or obligated in any way. When actual or potential conflict of interest arises, the coach should make a declaration to the Board in writing (**A sample at Appendix 2**). Failure to do so may give rise to criticism of favoritism, abuse of authority or even allegation of corruption.

Confidentiality of Information

8. Registered coaches should not disclose any classified information of the Association without authorization or misuse any such information. Those who have access to or in control of such information should at all times ensure its security and prevent any abuse, unauthorized disclosure or misuse of the information. Special care should be taken when handling any personal data to ensure compliance with the Personal Data (Privacy) Ordinance (Cap. 486) and the Association's data privacy policy.

Use of Association Assets

9. Registered coaches in charge of or having access to any assets of the Association, including funds, property, information, and intellectual property should use them solely for the purpose of conducting the Association's business. Unauthorized use to make personal gain is strictly prohibited.

Records, Accounts and Other Documents

10. Registered coaches should ensure, to the best of their knowledge, that any record, receipt, account or other document they submit to the Association gives a true representation of the events or transactions reported in the document. Intentional use of documents containing false information to deceive or mislead the Association may constitute an offence under the Prevention of Bribery Ordinance.

Compliance with Local Laws in Other Jurisdictions

11. Registered coaches must comply with all local laws and regulations when conducting the Association's business, and also those in other jurisdictions, when conducting business there.

Appendix 1**Extracts of the Prevention of Bribery Ordinance
(Cap. 201, Laws of Hong Kong)****Section 9 - Corrupt transaction 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, favor or disfavor 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, favor or disfavor 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 :

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- (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.

Definition of an Advantage (Section 2)

“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 favor (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 (Section 2)

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.

Section 19 – Custom not to be a defense

In any proceedings for an offence under the Ordinance, it shall not be a defense to show that any such advantage as is mentioned in the Ordinance is customary in any profession, trade, vocation or calling.

Appendix 2

The Baseball Association of Hong Kong, China
Declaration of Conflict of Interest by Registered Coaches

Part A – Declaration *(To be completed by Declaring Staff)*

To : Approving Authority

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

Persons/companies with whom/which I have official dealings
My relationship with the persons/companies (e.g. relative)
Relationship of the persons/companies with the Association (e.g. supplier)
Brief description of my duties which involved the persons/companies (e.g. handling of athlete selection exercise)

Date: _____

(Name of Declaring Coach)**Part B – Acknowledgement** *(To be completed by the Approving Authority)*

To : (Declaring Coach) _____

Acknowledgement of Declaration

The information contained in your declaration form of _____ (Date) is noted. It has been decided that : -

- ☐ You should refrain from performing or getting involved in performing the work, as described in Part A, which may give rise to a conflict.
- ☐ You may continue to handle the work as described in Part A, provided that there is no change in the information declared above.
- ☐ Others (please specify) : _____
- _____

Date: _____

(Name of Approving Authority)
(Title / Department)