

Integrity Notes to District Council Members



The function of District Councils (DCs) has important bearings on the interests of the public. Therefore, DCs are designated in the [Prevention of Bribery Ordinance](#) (Cap. 201) (POBO) as public bodies, whereas DC members are regarded as public servants who are governed by Section 4 of the POBO. Moreover, the common law offence of Misconduct in Public Office prohibits public servants from engaging in malpractices such as abuse of authority or misconduct. This Integrity Notes aims at providing relevant information and points-to-note for DC members.



Section 4 of the Prevention of Bribery Ordinance

Key elements :

- Any public servant
- In Hong Kong or elsewhere
- Without lawful authority or reasonable excuse
- Solicits or accepts an advantage in relation to his official capacity
- Both the offeror and the recipient shall be guilty

Maximum penalty : A fine of \$500,000 and 7 years' imprisonment

Advantage : Includes gift, loan, fee, reward, commission, office, employment, contract, payment of loan, discharge of liability, service, favour, etc., but does not include entertainment. **Entertainment** means the provision of food or drink for consumption on the occasion when it is provided, and any other entertainment connected with, or provided at the same time as, such provisions.



Misconduct in Public Office

Misconduct in Public Office (MIPO) is a common law offence. The Court of Final Appeal has in previous court cases spelt out the key elements of the offence. It was held that the offence would be committed where:

- A public official;
- in the course of or in relation to his public office;
- wilfully misconducts himself; by act or omission (for example, by wilfully neglecting or failing to perform his duty);
- without reasonable excuse or justification; and
- where such misconduct is serious, not trivial, having regard to the responsibilities of the office and the officeholder, the importance of the public objects which they serve and the nature and extent of the departure from those responsibilities.

As such, a public servant will commit MIPO if he wilfully misconducts himself and such misconduct is serious, by abusing the powers, discretions or duties exercisable by virtue of his official position conferred on him for the public benefit.



Other Points-to-Note

- A DC member should comply with the requirements on acceptance of advantages, declaration of interests, handling of confidential information and other matters laid down in the [Performance Monitoring Guidelines for Members of the District Councils](#) issued by the Secretary for Home and Youth Affairs as well as those set out in the [District Council Standing Orders](#).
- For details, please visit the Home Affairs Department's webpage - [DC Members' Reference Corner](#) or approach the relevant DC Secretariat.
- As public money is involved, it is important for DC members and their assistants to ensure that reimbursements are claimed in an accountable manner according to the ["Guidelines on the Remuneration Package for Members of the District Councils of the HKSAR"](#). All information submitted must be true and accurate. Making false claims is a criminal offence.
- Assistants of DC members are regarded as agents who are governed by Section 9 of the [POBO](#). It stipulates that any agent (e.g. a District Councillor Assistant), without the permission of his principal (e.g. the DC member who employs the assistant), solicits or accepts any advantage to affect his doing or forbearing to do any act in relation to his principal's affairs shall commit an offence.



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For enquiries on anti-corruption laws or integrity promotion activities in the districts, DC members are welcome to contact ICAC Regional Offices. Together we uphold a clean community.



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