*This policy template and its contents are for general information only. It is not, and is not intended to, constitute legal advice, and should not be relied on as such. The purpose of this template is to assist non-government organizations (NGOs) design and implement their own operational procedures regarding dealings with government bodies, including regulatory inquiries and investigations. NGOs should tailor this template protocol to their own operations and management structure.*

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**[Name of NGO]
PROTOCOL ON DEALING WITH GOVERNMENT BODIES**

**The health, safety and security of our staff members are of first priority. Therefore, this protocol should not override your judgment of how best to act to protect your own health, safety and security. While this protocol sets out [the NGO’s] expectations in ordinary circumstances, no staff members should risk their [immediate] health, safety and security in order to strictly and literally comply with this protocol. Similarly, in making any decisions, the Designated Officers (as defined below) should exercise judgment in balancing the rights and interests of [the NGO] on the one hand and the personal risks and safety of staff members and themselves on the other.**

**Further, [the NGO] takes its obligation to comply with laws and regulations seriously. Nothing in this protocol is intended to, nor should it be interpreted to, obstruct lawful government action.**

1. **Dealing with government / regulatory authorities in Hong Kong**
	1. **Responsibility**

The following persons (“**Designated Officers**”) will be primarily responsible to deal with any government or regulatory authorities in Hong Kong, and they should ensure that they are generally available for staff to contact in the event of any government/ regulatory inquiries or emergency.

| Name[[1]](#footnote-0) | Position | Contact number | Alternative contact number |
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The Designated Officers will also ensure that the [senior management] is kept informed of such dealings. The [senior management] will also escalate any matters to the [board of directors] if necessary.

* 1. **Official correspondence from authorities**

Any staff receiving official correspondence or written communications of other forms from any government authority or regulatory bodies addressed to [the NGO] must direct such communications to the Designated Officers for their handling.

* 1. **Contacts via telephone or social media**

Any staff member answering the telephone on behalf of [the NGO] or dealing with inquiries via social media must ascertain, as far as practicable, the identity of the person making the inquiry.

If:

1. the person making the inquiry is from a government body or regulatory authority, or
2. regardless of the identity of the person making the inquiry, the subject of inquiry relates to any inquiry or investigation from a government body or regulatory authority,

then the staff member must direct such communications to the Designated Officers, and must not provide any information or respond to the inquiry without the prior approval of Designated Officers.

If the staff member is unable to direct the person to either Designated Officers immediately, the staff should obtain the contact information of the person making the inquiry, and notify the person that [the NGO] will respond in due course.

* 1. **In-person visits**

*Note that if a police officer states that he has reason to believe that a person to be arrested has entered into or is on the premises of [the NGO], staff members are required under law to allow the police officer to enter the premises to search for the person to be arrested,[[2]](#footnote-1) though staff members should only do so after checking the warrant card of the police officer(s). If any person is arrested on the premises of [the NGO], refer to the Emergency Response Protocol and act accordingly. For all other in-person visits, the following procedures should be adopted.*

If any person claiming to be from a government authority or regulatory body (an “**authorized officer**”) attends [the NGO]’s office, subject to any exceptions stated in section [x] below, any staff who becomes aware of this should:

1. immediately inform the Designated Officers;
2. immediately invite the authorized officer(s) to a room away from the normal traffic in the office to limit the risk of disturbing [the NGO]’s normal operations;
3. ask for business cards and/or proof of identity from the authorized officer(s) (for example, in the case of police officers, ask for the police officer’s warrant card[[3]](#footnote-2));
4. ask for a copy of the search warrant and/or any other written authority, if the authorized officer(s) claim to rely on one; if the authorized officer(s) refuse to provide a copy, ask to inspect the search warrant and/or written authority and ask for time to make a copy or transcribe word for word its contents;

**[IMPORTANT:** Apart from police officers seeking to make an arrest based on a reasonable belief (as described at the beginning of this section), under most other circumstances the police or any other authorized officers may only demand to enter and/or to search private premises based on some written authority.]

1. refrain from responding to any inquiries, or providing or allowing access to any information to the authorized officer without prior approval from the Designated Officers; and
2. ensure that at least one staff member accompanies the authorized officer at all times, while waiting for the Designated Officers to give instructions.

In case the staff member is unable to contact both Designated Officers, the staff member should try to contact [a member of the senior management and/or an executive director of the NGO].[[4]](#footnote-3)

A Designated Officer, upon being notified of such visits, should:

1. take the above actions, if the Designated Officer is present when authorized officer(s) visit the premises, or remind the staff on-site of this protocol and the above guidelines, if the Designated Officer is not present at the premises;
2. review the copy of the search warrant and/or written authority obtained pursuant to step [‎4] above;
3. as soon as practicable, inform (i) [the senior management] and (ii) [at least one executive director];[[5]](#footnote-4)
4. if the authorized officer(s) requests for immediate inspection and/or access to information or documents:
	1. seek immediate legal advice by contacting the legal representatives listed out in Annexure 1 below;
	2. notify the authorized officer(s) that legal advice is being sought and request for a reasonable amount of time (such as 30 minutes) to consider the requests;
	3. after legal advice is sought, formulate next steps based on such legal advice and [with the approval from senior management and/or the board of directors];[[6]](#footnote-5)
	4. if the authorized officer does not allow additional time for legal advice and/or approval to be sought, then allow the inspection and/or access to information or documents but ensure that the inspection and/or access are restricted within the scope as stated on the search warrant and/or other written authority relied on by the authorized officer.
5. if the authorized officer does not request for immediate inspection and/or access to information or documents, seek legal advice as soon as possible to formulate next steps.

*Exceptions*

*[\*Note: It may be necessary to include exceptions, such as routine inspections that are expected in the ordinary course of business that are applicable to the NGO. We have set out below one example, but this section should be reviewed and tailored to suit the needs of the particular NGO.]*

[[For NGOs that operate food & beverage businesses:] In case of a regular inspection from the Food and Environmental Hygiene Department, any staff handling the inspection should:

1. allow the inspection to take place, without having to seek prior approval from one of the Designated Officers;
2. immediately inform one of the Designated Officers;
3. accompany the inspector at all times during the inspection and ensure that the inspector is given no access to any documents and information except as to:

*[list out items that inspectors are authorized to inspect, e.g.:*

* 1. *the business certificate of the NGO;*
	2. *the [xx] license of the NGO; and*
	3. *the inspection of general hygiene situation.]*
1. if the inspector seeks to access further information, then the protocol set out above applies and no information should be provided without the prior approval from the Designated Officers.]
	1. **Investigations**

If any staff member becomes aware that [the NGO] is subject to any investigation by any government or regulatory authorities, they must immediately inform Designated Officers.

* 1. **Document retention notice**

In case of a litigation or investigation threatened or commenced against [the NGO], the Designated Officers will consider issuing a document retention notice to staff members. This is a notice to everyone in [the NGO] that physical and electronic documents of a specified category must be retained until the litigation or investigation is completed, such that [the NGO] will not be accused of destroying evidence. If a document retention notice is received, staff members must ensure that they do not destroy any documents (electronic or otherwise) as described in the notice.

* 1. **Escalation to senior management and legal representation**

In any of the above circumstances, if the communication has substantial impact on [the NGO] as a whole, the Designated Officers will immediately escalate the situation to [more senior management roles at the NGO / the Board of Directors for the NGO, if applicable/practicable – ***the NGO can decide if either or both are appropriate***].

[More senior management roles at the NGO / the Board of Directors – ***the NGO can determine which is more appropriate***] may convene a meeting to determine the strategy for handling the situation.

The [Designated Officers / senior management / others] (or their authorized delegate) will also instruct external lawyers and seek legal advice if appropriate, and especially if the communication is not expected in the ordinary course of business or operation of [the NGO].

**Annexure – List of Legal Representatives in the Event of Government or Regulatory Investigations**

| **Name** | **Law firm** | **Emergency contact number** | **Email** |
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1. Appoint at least two senior managers from your organizations to be responsible, in case one of them is not available. [↑](#footnote-ref-0)
2. “If any police officer has reason to believe that any person to be arrested has entered into or is in any place the person residing in or in charge of such place shall on demand of that police officer allow him free ingress thereto and afford all reasonable facilities for search therein.” – section 50(3), Police Force Ordinance. [↑](#footnote-ref-1)
3. A warrant card is issued to every police officer as evidence of his appointment under the Police Force Ordinance (see section 18, Police Force Ordinance). [↑](#footnote-ref-2)
4. The NGO can decide what would be appropriate. [↑](#footnote-ref-3)
5. The NGO can decide what would be appropriate. [↑](#footnote-ref-4)
6. The NGO can decide whether such approval is needed and, if so, what approval would be appropriate. [↑](#footnote-ref-5)