

Distribution and Display of Promotional Material

Best Practice Guide

Code No.: G17/2023



PROPERTY MANAGEMENT SERVICES AUTHORITY

Best Practice Guide on Distribution and Display of Promotional Material

Guide No.: G17/2023

Effective Date: 28 July 2023

Preamble

For the purpose of enabling licensees¹ to comply more effectively and professionally with the guidelines set out in the Code of Conduct² entitled “Distribution and Display of Promotional Material” (Code No.: C17/2023) (Code) issued by the Property Management Services Authority (PMSA) on 28 July 2023, the PMSA provides relevant guidelines in this Best Practice Guide (Guide) pursuant to section 44³ of the Property Management Services Ordinance (Cap. 626) (PMSO). While licensees are encouraged to use their best endeavours to follow the Guide, failure to comply with the Guide will, however, not be regarded as a disciplinary offence referred to in section 4 of the PMSO.

A licensed property management company (Licensed PMC) may, in respect of property for which property management services (PMSs) are provided by it, from time to time handle request from owners, other persons, corporate bodies or organisations to distribute / display promotional material in the property. The PMSA has formulated the Code to provide practical guidance to licensed PMCs on handling distribution or display of promotional material⁴, and this Guide aims to enable licensees to comply more effectively and professionally with the guidelines set out in the Code.

¹ The term “licensee” means the holder of the following licence: a PMC licence; a PMP (Tier 1) licence; a PMP (Tier 2) licence; a provisional PMP (Tier 1) licence; or a provisional PMP (Tier 2) licence.

² With regard to the Code of Conduct containing practical guidance issued by the PMSA under section 5 of the PMSO for the purpose of section 4 of the PMSO (disciplinary offences), although a licensee does not incur a legal liability only because the licensee has contravened a provision of the Code of Conduct, the Code of Conduct is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code of Conduct may be relied on as tending to establish or negate a matter that is in issue in the hearings.

³ Section 44 of the PMSO provides: “The Authority may do anything it considers appropriate for it to do for, or in relation to, the performance of its functions”.

⁴ For the avoidance of doubt, “promotional material” in this Guide includes every form of promotion such as printed and/or electronic version of publications, leaflets, posters, bills, notices, words, exhibits, messages, pictures, videos, recordings, etc.

Establishing a mechanism for handling distribution / display of promotional material

Code: A(1) A licensed PMC has to, for the property in respect of which PMSs are provided by it, establish a proper mechanism to handle distribution / display of promotional material. The mechanism shall include the following elements:

- formulation of procedures and guidelines;
- handling of applications for distribution / display of promotional material;
- execution of distribution / display of promotional material;
- removal of promotional material / restricting unauthorised distribution / display of promotional material; and
- record keeping.

A(2) When a licensed PMC formulates and implements the procedures and guidelines regarding distribution / display of promotional material, it has to pay attention to relevant regulations as stipulated in the laws of the Hong Kong Special Administrative Region, including “the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region” (hereinafter called “HKSAR National Security Law”) and other applicable laws. If a licensed PMC has reasons to believe that the content of the promotional material may contravene “the HKSAR National Security Law”⁵ or other applicable laws which may lead to / constitute an offence of endangering national security or harmful to national security, it shall reject the concerned application (of such distribution / display) and remove the concerned promotional material immediately (if being displayed), and as far as reasonably practicable cease distribution and notify relevant enforcement agencies and record the matter.

⁵ For details of the “HKSAR National Security Law”, please visit <https://www.gld.gov.hk/egazette/pdf/20202444e/cs220202444136.pdf>

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- a(1) A licensed PMC has to, for the property in respect of which PMSs are provided by it, establish in accordance with paragraphs A(1) and A(2) of the Code a proper mechanism to handle distribution / display of promotional material. The mechanism shall include the elements set out in the Code and other appropriate elements as may be required having regard to actual circumstances, and shall be updated timely.

Formulation of procedures and guidelines

Code: B(1) A licensed PMC, for the property in respect of which PMSs are provided by it, has to:

- (a) formulate procedures and guidelines by itself (if there is no owners' organisation⁶) on the handling of distribution / display of promotional material;
- (b) agree on procedures and guidelines⁷ on the handling of distribution / display of promotional material with the owners' organisation (if any);
- (c) if the owners' organisation (if any) formulates procedures and guidelines on the handling of distribution / display of promotional material by itself, the licensed PMC has to remind the owners' organisation to abide by the guidelines of the Code in handling the matter; and
- (d) the procedures and guidelines have to include the distribution / display of promotional material relating to election (including whether the distribution / display of promotional material relating to election⁸ is allowed).

⁶ The term "owners' organisation" has the same meaning as defined by section 2 of the PMSO i.e. "in relation to a property, means an organisation (whether or not formed under the Building Management Ordinance (Cap. 344) (BMO) or a deed of mutual covenant) that is authorised to act on behalf of all the owners of the property".

⁷ The agreement or guidelines should not affect the work of a licensed PMC as the manager to carry out its duties pursuant to the BMO or the deed of mutual covenant of the respective property. The term "manager" has the same meaning as that defined by section 34D of the BMO.

⁸ For the avoidance of doubt, in respect of Code B(1), election refers to the election of the Chief Executive, Election Committee Subsector, Legislative Council, District Council; an election as defined from time to time

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- b(1) A licensed PMC should, in respect of distribution / display of promotional material (including those related to election, if applicable), formulate procedures and guidelines covering the following:
- (i) distribution / display of promotional material shall comply with relevant laws and requirements of the deed of mutual covenant (DMC) of the property;
 - (ii) persons distributing / displaying promotional material (including the owners / corporate bodies of the concerned property and other persons not of the concerned property);
 - (iii) distribution / display of promotional material using hard or electronic copy or through mobile app;
 - (iv) application has to be made prior to distribution / display of promotional material (sample at **Annex 1**);
 - (v) working out reasonable fees for distribution / display of promotional material (if applicable);
 - (vi) time / timeframe for distribution / display of promotional material;
 - (vii) specifying designated places / locations for the distribution / display of promotional material;
 - (viii) specifying specified format for distribution / display of promotional material (e.g. delivery to owners' mailboxes by management office of the property, designation of places for distribution, or specification of media for transmission, etc.);
 - (ix) setting out the tools / equipment that may be used to aid distribution / display of promotional material; as well as the place / location and time / timeframe permitted for the use of such tools / equipment, or such tools / equipment which are not permitted to be used;
 - (x) prescribing other conditions when approving application for distribution / display of promotional material; and
 - (xi) promotional material should not be distributed to those owners who have expressly refused to receive the material.

- b(2) The procedures and guidelines regarding distribution / display of election-related promotional material (if applicable) should, as a matter of key principle, offer fair promotional opportunity to all candidates of the respective constituencies / sectors.
- b(3) When handling application for distribution / display of promotional material, a licensed PMC should, as far as reasonably practicable:
- (i) assign designated person to be responsible to deal with the application for distribution / display of promotional material (including appointing a licensed PMP (licensed PMP (Tier 1) or licensed PMP (Tier 2)) and a member of the owners' organisation (if applicable) to deal with such application);
 - (ii) deal with application for distribution / display of promotional material in accordance with established procedures and the principle of fairness, justice and compliance with the law and requirements of the DMC of the property; and
 - (iii) reject application for distribution / display of promotional material containing illegal or suspected illegal content.
- b(4) When a licensed PMC receives application for distribution / display of promotional material whereby the basic application requirements have been met and fees have been paid (if applicable), it should deal with the application fairly, justly and reasonably (e.g. deal with the application on a first-come-first-served basis or by ballot).
- b(5) Promotional material should not contain content or language which are in contravention or suspected to have contravened the law (including the HKSAR National Security Law), indecent, bad or blasphemous content or language, messages defaming / denouncing others, etc. Application for distribution / display of such promotional material should be rejected. If in doubt, relevant authorities should be consulted.
- b(6) A licensed PMC should, as far as reasonably practicable, notify the applicant in

writing if the application for distribution / display of promotional material is rejected.

- b(7) When carrying out the distribution / display of promotional material, a licensed PMC should arrange for the distribution / display of permitted promotional material in accordance with established procedures and guidelines, and as far as reasonably practicable, require persons distributing / displaying promotional material to:
- (i) distribute / display the material at designated places / locations or transmit the material through specified media; and
 - (ii) only use tools / equipment which are permitted to aid distribution / display of promotional material (if applicable) and only use such tools / equipment to aid distribution / display of promotional material at designated places / locations and time / timeframe.
- b(8) If any person distributes without prior approval promotional material which is illegal or suspected to be illegal, a licensed PMC should, as far as reasonably practicable, immediately stop the person concerned to carry on such activity, record the matter and refer it to relevant enforcement agencies for follow-up.
- b(9) A licensed PMC should:
- (i) upon expiration of the specified time / timeframe for the display remove the concerned promotional material;
 - (ii) as far as reasonably practicable, properly take follow-up action in respect of unauthorised display of promotional material, including those displayed / distributed outside the designated places / locations / media (if applicable) (e.g. remove the promotional material immediately); and
 - (iii) in case any person displays promotional material which is illegal or suspected to be illegal, as far as reasonably practicable, remove the promotional material immediately, record the matter and refer it to relevant enforcement agencies for follow-up (e.g. demand the person concerned to leave the property immediately or give verbal or written warning to such person (if applicable)).

- b(10) A licensed PMC should record each application for distribution / display of promotional material and keep the relevant record, documents and information properly for at least one year.

— END —

If there is any inconsistency between the Chinese version and the English version of this Guide, the Chinese version shall prevail.

**(Name of Property) Application Form for Distribution / Display of
Promotional Material**

I/My company/organisation/corporate body hereby apply for distribution / display of promotional material at (name of property). Details are as below:

I. Applicant details

Name: _____ Business registration no. (if applicable): _____

Name of responsible person: _____ Contact telephone no.: _____

Email & correspondence address: _____

II. Details on promotional material to be distributed / displayed

Mode of publicity: Distribution / Display

Date / timeframe of distribution / display: _____ Size of leaflet (if applicable): _____

Content of promotional material: _____ Page number of each set of promotional material: _____
(leaflet sample must be attached for approval)

III. Applicant understands and shall abide by the following terms

1. Fees for distribution / display of promotional material (if applicable) ...
2. Size of promotional material must not exceed ...
3. Applicant shall within () business days before distribution / display of promotional material fill in the application form, and attach the promotional material sample together with the fee (if applicable) (cash or cheque) required for submission to (address) ...
4. Promotional material must not contain content or language which are in contravention or suspected to have contravened the law, indecent, bad or blasphemous content or language, messages defaming / denouncing others, etc.
5. Promotional material may only be distributed / displayed in the approved manner.
6. The management office will assist in delivering the promotional material to owners' mailboxes on the approved date of distribution (if applicable).
7. The applicant must attach a sample of the promotional material when submitting application for distribution / display of promotional material, and shall only distribute / display approved promotional material. Distribution / display of unauthorised promotional material / leaflet is strictly forbidden within the areas of the property.
8. The applicant is responsible for the content of the promotional material. If the content contravenes the law, the applicant has to bear the corresponding legal responsibility.

Signature & chop (if applicable) of the applicant: _____

Date of application: _____

For management office use:

☐ Approved

☐ Rejected (Reason: _____) (if applicable)

Name & signature of responsible

Date of approval:

person: _____

☐ Cash

☐ Cheque

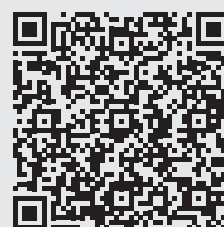
Cheque No.: _____

Paid amount: _____

Receipt No.: _____

Name & signature of responsible person:

Date of approval:



Related Code of Conduct

Property Management Services Authority

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