

Notice to Complainant

Complaints about property management services

1. As the statutory body established under the Property Management Services Ordinance (Cap. 626) (“PMSO”), the Property Management Services Authority (“PMSA”) is responsible for regulating property management companies (“PMC”) and property management practitioners (“PMP”) providing property management services, as well as promoting the professionalism of the property management industry in Hong Kong.
2. The PMSA handles complaints against licensed PMC or PMP in relation to property management services provided by them.

Making a complaint

3. A complaint may be made in writing by post, email or fax; or in person at the office of the PMSA (preferably by calling the PMSA in advance to arrange for a meeting). The complainant should provide details of the complaint, including the date of the incident, the address of the relevant property, and the identity of the relevant person(s) and PMC. To facilitate the PMSA in handling the complaint more efficiently, the PMSA will invite the complainant to **complete and submit a Complaint Form**. If the complainant does not provide the PMSA with a properly completed Complaint Form, the PMSA may take longer time to follow up on the complaint.
4. Unless the complainant clearly states the request for the PMSA to follow up, the PMSA will record a written complaint that is copied to the PMSA and generally will not take further action.
5. The complainant must provide the PMSA with his/her name, ID card number / passport number, correspondence address and telephone number to facilitate communication. At the initial stage of handling the complaint, the complainant may choose to provide partial information in respect of his/her ID card number (i.e. the letter(s) and first three digits of the ID card number only). However, if the PMSA, at a later stage of handling the complaint, needs to obtain a witness statement from the complainant or issue summons to the complainant for

attending a hearing, the PMSA will require the complainant to provide the full ID card number.

6. The PMSA shall treat all the information received in the course of handling the complaint in strict confidence (irrespective of whether it is provided by the complainant, complainee or relevant parties).
7. The information provided by the complainant will only be used for purposes which are related to handling of the complaint. The relevant personal data may be transferred to parties involved in investigation; persons / organisations contacted for handling the complaint, including the complainee or other relevant persons or organisations; or such persons and organisations authorised to receive such information relating to disciplinary hearing, law enforcement, prosecution, review of decision or for the purposes of carrying out the functions of the PMSA under the PMSO.

Handling of complaints in general

8. Generally, after the PMSA has obtained sufficient information for a complaint case, the case will be handled and completed **within 6 months**. The PMSA will acknowledge receipt of the complaint within **ten calendar days** and thereafter briefly inform the complainant of the progress in writing or by a suitable means **on a monthly basis**. If the nature of the complaint is complex (for example, involving legal provisions, disputes about Deed of Mutual Covenant, tender procedures, judicial or other enforcement processes, disciplinary offences, or disciplinary actions etc.), it may take more than 6 months to process. During this period, if appropriate, more specific stage reply will be made to the complainant. For straightforward complaints, the complainant will be informed of the result as soon as possible.
9. After receiving a complaint, if the complainant adds new complaint items or provides new information, the PMSA will acknowledge receipt of the new complaint items or information and will inform the complainant that the processing may take longer time due to the above circumstances.
10. The PMSA may consider not conducting an investigation if:
 - (a) the complaint is misconceived or lacking in substance (for example, the complaint is based on mere speculation);

- (b) the matter complained of is outside the jurisdiction of the PMSA (for example, the matter complained of is purely a contractual dispute);
- (c) the matter complained of has occurred for more than 12 months, and the complainant fails to give a reasonable explanation for the delay in making the complaint; and
- (d) the matter complained of is also the subject of legal proceedings¹.

If the PMSA decides not to conduct an investigation into the complaint, it will notify the complainant in writing of the decision and the reasons for the decision.

11. Besides, in case of an anonymous complaint, the PMSA may decide whether or not to handle the complaint. In situations where it is not possible to respond to the complainant (or where it is not practicable), the PMSA will not inform the complainant of its decision, investigation progress or result.
12. The PMSA will conduct a preliminary assessment on the information provided by the complainant. If the PMSA, after the preliminary assessment, considers that there is insufficient information to substantiate the allegation made against the complaine, the PMSA will discontinue handling the complaint and notify the complainant in writing of the reasons for the decision. If the complainant is not satisfied with the PMSA's decision, he/she may raise objection in writing and provide further or new information to the PMSA for consideration. The PMSA will handle it in accordance with the procedures set out in paragraphs 8-9 above.
13. For the sake of efficient handling of the complaint and fairness for parties concerned, the PMSA may inform the complaine of the details of the complaint and with the consent of the complainant, appropriately disclose the identity of the complainant to the relevant person(s). In general, the PMSA will set out, in writing, the complaint against the complaine and will request the complaine to respond.

Handling of complaint pertaining to disciplinary matters

14. If the complaint pertains to disciplinary offences committed by a licensed PMC or licensed PMP as described in Section 4 of the PMSO (Note 1) or any specified criteria that they no longer meet for holding a licence (complaint pertaining to disciplinary matters), the PMSA will handle it in accordance with the PMSO, but

¹ If the case has entered into legal proceedings, the PMSA may suspend processing until the relevant legal proceedings are concluded before resuming investigation and/or follow-up.

will not provide legal advice to either party regarding any legal proceedings between the complainant and the licensee. If the complainant refuses to have his/her identity disclosed to the complaine or other relevant parties, the PMSA may decide whether or not to handle the complaint. If the PMSA decides to proceed, it will inform the complainant of the decision, investigation progress and result. If it decides not to proceed, the PMSA will notify the complainant of the decision and the reasons as soon as practicable in writing.

15. The provisions concerning disciplinary matters in the PMSO came into operation on 1 August 2020 without retrospective effect. Therefore, the PMSA has no jurisdiction under the PMSO to investigate into complaints whereby the matters under complaint took place before that date. In addition, the PMSA may only handle a complaint where the person in question was and acted as, at the time when the suspected non-compliance occurred, a licensee. In other words, for a case occurring on or after that date, if the person complained of was not a licensee at the material time, the PMSA has no jurisdiction under the PMSO to investigate into the matter.
16. If at the material time, the concerned PMC or PMP is not licensee or the matter complained of occurred before 1 August 2020, while the PMSA would not be able to carry out investigation or take disciplinary action under the PMSO, however, the PMSA will, depending on the situation, strive to provide assistance to the complainant, including making enquiries with the respective PMC or PMP, relaying the complainant's concerns to them, and encouraging them to follow up on the relevant issues and enhance communication with the relevant parties.
17. If the PMSA decides not to conduct investigation into a complaint pertaining to disciplinary matters or decides to terminate the investigation, it will, within ten calendar days of making the decision, notify the complainant in writing of the decision and reasons. If the PMSA decides to conduct an investigation into the matter under complaint, the case will be investigated by an investigator appointed by the PMSA. Having considered the circumstances of the complaint, the PMSA may, if necessary, contact the complainant for obtaining further information.
18. In respect of a complaint pertaining to disciplinary matters, if the complainant is not willing to testify in the disciplinary hearing in relation to the complaint and/or refuses to complete the Complaint Form and/or refuses to attend a meeting with the PMSA to give a detailed statement, the PMSA may consider not to conduct investigation into the complaint. If the PMSA decides not to conduct investigation,

it will notify the complainant in writing of the decision and reasons within ten calendar days of making the decision.

19. In respect of a complaint pertaining to disciplinary matters, if the investigation so warrants and for fairness sake, the PMSA may inform the complainee and the witnesses, if any, of the details of the complaint and with the consent of the complainant, appropriately disclose the identity of the complainant to the relevant person(s). In general, the investigator will set out, in writing, the complaint against the complainee and will request the complainee to respond.
20. In respect of a complaint pertaining to disciplinary matters, a person may commit an offence if he/she, pursuant to the investigator's enquiry in accordance with the PMSO, provides any information or document or gives any response that is false or misleading in a material particular. On conviction, the maximum penalty is a fine of \$200,000 and imprisonment for 1 year.
21. In respect of a complaint pertaining to disciplinary matters, if, after the investigation, there is *prima facie* evidence to support the complainant's allegations against the complainee, the PMSA may consider conducting a hearing on the disciplinary matters. If the evidence obtained from the investigation is insufficient to support the complainant's allegation made against the complainee, the PMSA will, without disclosing details of the investigation, notify the complainant and complainee in writing of the decision. If the complainant is not satisfied with the decision of the PMSA, he/she may raise objection in writing and provide the PMSA with further and/or new information for consideration. The PMSA will handle it in accordance with the procedures set out in paragraphs 8-9 above.

Disciplinary hearing

22. In respect of a complaint pertaining to disciplinary matters, if the PMSA decides to conduct a hearing, a summons may be issued to any person for attending the hearing as a witness, giving evidence, and providing any information or documents under the possession or control of the said person. A person may commit an offence if he/she, without reasonable excuse, fails to comply with the summons. On conviction, the maximum penalty is a fine of \$200,000 and imprisonment for 1 year. If the complainant is unable or refuses to attend the hearing, the PMSA may not have sufficient evidence to continue to deal with the case concerned.

23. A person may commit an offence if he/ she, at a hearing, gives any evidence, or provides any information or document, that is false or misleading in a material particular; and knows that, or is reckless as to whether, the evidence, information or document is false or misleading in a material particular. On conviction, the maximum penalty is a fine of \$200,000 and imprisonment for 1 year.
24. At the conclusion of the hearing, the PMSA will notify the complainant and complaineé of the result in writing. Any person aggrieved by the disciplinary order made by the PMSA in relation to the disciplinary hearing may lodge an appeal to the Secretary for Home and Youth Affairs (the Secretary) against the order. The appeal will be heard by an appeal tribunal composed of members of the Appeal Panel which is appointed by the Secretary. An appeal tribunal may confirm, vary or reverse any decision, finding or order to which the appeal relates. For details, please refer to the following link:

(https://www.had.gov.hk/en/public_services/property_management/appeal_panel.htm)

Note 1: Section 4 of the Property Management Services Ordinance (Cap. 626):

4. Disciplinary offences

For the purposes of this Ordinance, a licensee commits a disciplinary offence if –

- (a) the licensee commits misconduct or neglect in a professional respect;
- (b) the licensee contravenes a condition imposed on the licensee's licence;
- (c) the licensee contravenes a requirement in this Ordinance that is applicable to the licensee;
- (d) the licensee, without reasonable excuse, fails to –
 - (i) comply with a requirement of a notice under section 21(2); or
 - (ii) comply with a summons under section 25(1)(b) or 37(1)(b);
- (e) the court determines that the licensee has contravened a requirement in the Building Management Ordinance (Cap. 344) or a deed of mutual covenant that is applicable to the licensee; or
- (f) the licensee is convicted in Hong Kong or elsewhere of a criminal offence that –
 - (i) may bring the profession of property management services into disrepute; and
 - (ii) is punishable with imprisonment (whether or not the licensee was sentenced to imprisonment).