

# PROPERTY MANAGEMENT SERVICES AUTHORITY

## Best Practice Guide on Effective Control over Property Management Business by Property Management Companies

**Guide No.:** G3/2021

**Effective Date:** 8 January 2021

### Preamble

For the purpose of enabling licensees<sup>1</sup> to comply more effectively and professionally with the guidelines set out in the code of conduct entitled “Effective Control over Property Management Business by Property Management Companies” (Code No.: C3/2021) (“Code”) issued by the Property Management Services Authority (“PMSA”) on 8 January 2021, the PMSA provides further guidelines in this best practice guide (“Guide”) pursuant to section 44<sup>2</sup> of the Property Management Services Ordinance (“PMSO”). While licensees are encouraged to use their best endeavours to follow the Guide, failure to comply with the Guide would, however, not be regarded as a disciplinary offence under section 4 of the PMSO.

### Establishing mechanism for effective control over business

**Code:** A(1) A licensed property management company (“licensed PMC”) has to establish an effective control mechanism (“mechanism”) for its business to provide property management services (“PMSs”). The mechanism shall include the following elements:

- Establishing management team structure;
- Setting out work guidelines;
- Providing sufficient manpower;
- Providing sufficient resources;
- Providing appropriate training;
- Effective monitoring;
- Regular assessment;
- Taking appropriate follow-up actions;
- Keeping records; and
- Supervising sub-contractors.

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<sup>1</sup> 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.

<sup>2</sup> 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.*”

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- a(1) A licensed PMC has to establish an effective control mechanism for its business to provide PMSs in accordance with paragraph A(1) of the Code. The mechanism shall include all the elements set out in the Code.

### **Establishing management team structure**

**Code:** B(1) A licensed PMC has to, with respect to each property for which PMSs are provided by it, establish a management team structure and prepare a management team operational chart to enable its employees to know the structure of the management team in order to facilitate carrying out duties and reporting work development.

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- b(1) A licensed PMC should provide and explain the management team operational chart to its employees in order to facilitate carrying out duties and reporting work development.

### **Setting out work guidelines**

**Code:** C(1) A licensed PMC has to set out proper work procedures and clear guidelines for its employees to follow in the provision of PMSs. A licensed PMC has to review and/or update the relevant work procedures and guidelines regularly to ensure that they comply with operational requirements.

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- c(1) Regarding the setting out of proper work procedures and clear guidelines, a licensed PMC should :
- (a) draw up work manual to set out the work procedures and guidelines clearly for employees to follow in the provision of PMSs;
  - (b) specify clearly the job specification for individual employees providing PMSs so that they know their duties; and

- (c) include specific examples<sup>3</sup> in the guidelines to inform employees of and to avoid conduct which may possibly involve offer or acceptance of bribes.

### **Providing sufficient manpower**

**Code:** D(1) A licensed PMC has to enter into an agreement with its client<sup>4</sup> with respect to the provision of PMSs and has to arrange sufficient manpower to provide PMSs according to the agreement.

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- d(1) While a licensed PMC has to provide sufficient manpower for the provision of PMSs in accordance with paragraph D(1) of the Code, it should, according to the actual situation of the property concerned (such as in an emergency situation), also deploy appropriate employees (such as those specifically charged with handling emergencies) to provide PMSs.
- d(2) If an employee is absent from work or has resigned but a replacement is not yet available, a licensed PMC should rearrange manpower and duties properly (for example recruiting temporary or part-time employees) to minimize the impact on the provision of PMSs.
- d(3) A licensed PMC has to meet the minimum manning ratios specified by the PMSA. Where practicable, the actual staffing level should be higher than the level based on the manning ratio specified by the PMSA so that the licensed PMC may still meet the ratio notwithstanding staff turnover.

### **Providing sufficient resources**

**Code:** E(1) A licensed PMC has to provide necessary and suitable material and equipment to its employees so as to enable them to provide PMSs effectively under safe working conditions.

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<sup>3</sup> Examples: asking a person not to report disciplinary offences by offering pecuniary or beneficial interest to that person, or accepting pecuniary or beneficial interest for awarding a service contract to the person.

<sup>4</sup> The term “client” has the same meaning as defined in section 16 of the PMSO, i.e. “*in relation to a property for which a licensed PMC provides property management services, means— (a) the owners’ organization of the property; and (b) the owners of the property who pay or are liable to pay the management expenses in respect of the services*”. According to such definition, a tenant is not a client.

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- e(1) When employees perform cleaning or disinfection duties or work at heights, the licensed PMC should refer to guidelines issued by the Labour Department and/or the Occupational Safety and Health Council and comply with the relevant statutory requirements to provide sufficient protective equipment such as gloves, masks, goggles, suitable working platforms, safety helmets, safety harness, etc. to its employees to enable them to work effectively under safe working conditions.

## **Providing appropriate training**

**Code:** F(1) A licensed PMC has to provide appropriate training to its employees in the provision of PMSs in order to enable them to perform their duties in compliance with the relevant work procedures and guidelines. A licensed PMC has to strengthen training for employees who fail to perform their duties according to the relevant work procedures and guidelines.

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- f(1) A licensed PMC should provide training to its employees on integrity. It should also arrange regular briefings to explain the latest regulations or guidelines to the relevant employees. Where practicable, before work commencement every day, the licensed PMC should brief relevant employees and cite specific examples to explain the latest regulations or guidelines.
- f(2) A licensed PMC should as much as possible arrange and encourage relevant employees to pursue further studies to enhance their knowledge on PMSs.

## **Effective monitoring**

**Code:** G(1) A licensed PMC has to continuously and effectively monitor the work and conduct of its employees who provide PMSs and has to conduct regular review to ensure that its employees follow the relevant work procedures and guidelines.

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- g(1) To continuously and effectively monitor employees, a licensed PMC should carry out surprise spot check from time to time and, where practicable, conduct audit by way of “mystery customers”. If impropriety is found, a licensed PMC should

take appropriate follow-up actions such as revising the work procedures and guidelines and strengthening training for the relevant employees.

### **Regular assessment**

**Code:** H(1) A licensed PMC has to periodically evaluate the work performance of its employees who provide PMSs in order to determine whether its employees have followed the relevant work procedures and guidelines and consider whether it is necessary to strengthen training or provide further guidance.

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h(1) To assess staff performance, a licensed PMC may refer to the opinion of the owners' organisation (if any) and make a written assessment of the relevant employee's work performance at least once a year.

### **Taking appropriate follow-up actions**

**Code:** I(1) A licensed PMC has to take appropriate follow-up actions in respect of employees who fail to follow the relevant work procedures and guidelines.

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i(1) For employees who fail to follow work procedures and guidelines, a licensed PMC should take appropriate follow-up actions including providing and strengthening training, providing regular reminder, advice, verbal / written warning, demotion and dismissal, etc. in order to prevent the occurrence of similar incidents.

### **Keeping records**

**Code:** J(1) A licensed PMC has to keep the relevant information and documents in relation to the implementation of the Code for not less than 3 years.

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j(1) The relevant information and documents kept by a licensed PMC should include the relevant work manual, records of training, assessment and sanctions, etc.

## **Supervising sub-contractors**

**Code:** K(1) If a licensed PMC sub-contracts all or part of its PMSs to a sub-contractor or a service provider, the licensed PMC has to supervise the sub-contractor or service provider suitably, no matter whether the sub-contractor or service provider is a licensee or not.

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- k(1) A licensed PMC should, where practicable, include all or part of the relevant guidelines of the Code and probity clauses (see **Appendix**) in the agreement entered into with a sub-contractor or service provider.
- k(2) To effectively manage sub-contractors or service providers, a licensed PMC should handle its relationship with its sub-contractors or service providers in a reasonable manner.

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## Sample Probity Clauses

### Information not to be Divulged

- (1) The sub-contractor shall not use or divulge, except for the purpose of the Contract, any information provided by *[Name of the Company]* (hereafter referred to as the Employer) in the Contract or in any subsequent correspondence or documentation. Any disclosure to any person or agent for the purpose of the Contract shall be in strict confidence and shall be on a “need to know” basis and extend only so far as may be necessary for the purpose of this Contract. The sub-contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that information is not divulged for purposes other than that of this Contract by such person or agent. The sub-contractor shall indemnify and keep indemnified the employer against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Employer may suffer, sustain or incur, whether direct or consequential, arising out of or in connection with any breach of the aforesaid non-disclosure provision by the sub-contractor or its employees or agents.

### Prevention of Bribery

- (2) The sub-contractor shall prohibit its employees and agents who are involved in this Contract from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance (Cap 201) when conducting business in connection with this Contract.

### Declaration of Conflict of Interest

- (3) The sub-contractor shall require its employees and agents who are involved in the Contract to declare in writing to the sub-contractor any conflict or potential conflict between their personal/financial interests and their duties in connection with this Contract. In the event that such conflict or potential conflict is disclosed in a declaration, the sub-contractor shall forthwith take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict or potential conflict so disclosed.
- (4) The sub-contractor shall prohibit its employees who are involved in this Contract from engaging in any work or employment other than in the performance of this Contract, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Contract. The sub-contractor shall also require their agents to impose similar restriction on their employees by way of a contractual provision.
- (5) The sub-contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that its employees and agents are aware of the prohibitions in this clause.