

Code of Conduct and Best Practice Guide on “Effective Control over Property Management Business by Property Management Companies”

FAQs

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1. What is a code of conduct?

Answer: A code of conduct contains practical guidance for the purposes of section 4 of the Property Management Services Ordinance (“PMSO”) (disciplinary offences) and is issued by the PMSA under section 5 of the PMSO.

2. What is a best practice guide?

Answer: A best practice guide is issued by the PMSA under section 44 of the PMSO for the purpose of enabling licensees to comply more effectively and professionally with the guidelines set out in the code of conduct.

3. What are the consequences of failing to comply with the code of conduct or the best practice guide?

Answer: Under section 5 of the PMSO, a licensee does not incur a legal liability only because the licensee has contravened a provision of the code of conduct. However, 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. Failure to comply with the best practice guide will not be regarded as a

disciplinary offence referred to in section 4 of the PMSO, however, licensees are encouraged to use their best endeavours to follow the best practice guide.

4. What does “client” mean in the Code of Conduct (Code No. C3/2021) (“Code”) and the Best Practice Guide (Guide No. G3/2021) (“Guide”)?

Answer: 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”*.

5. Paragraph B(1) of the Code requires a licensed PMC, with respect to each property for which property management services (“PMSs”) are provided by it, to establish a management team structure and prepare a management team operational chart. Is it correct that only staff members working in the relevant property have to be shown in the structure and the chart?

Answer: The purpose of having a management team operational chart is to enable the licensed PMC’s employees to know the staff members who are responsible for managing the relevant property so as to facilitate carrying out duties and reporting work development. Therefore, a licensed PMC should include all staff members who provide PMSs to the relevant property in the relevant structure and chart (no matter whether the relevant staff members work at the back office or deployed to work at the property).

6. Should the management team operational chart mentioned in question 5 above also include the management operational chart of a sub-contractor?

Answer: Yes.

7. If a licensed PMC has established a control mechanism (“mechanism”) for its business of providing PMSs, can the mechanism be applied to every property managed by the licensed PMC?

Answer: If the mechanism is applicable to any property managed by a licensed PMC, then it can be applied to each and every one the property. Otherwise,

the licensed PMC should establish an effective control mechanism for the particular property concerned in order to provide PMSs as appropriate.

8. If a licensed PMC has set out proper work procedures and clear guidelines for its employees to follow in the provision of PMSs, can the procedures and guidelines be applied to every property managed by the licensed PMC?

Answer: If the procedures and guidelines are applicable to any property managed by the licensed PMC, then they can be applied to each and every one of the property. Otherwise, the licensed PMC should set out proper work procedures and clear guidelines for the particular property concerned for its employees to follow in the provision of PMSs.

9. If a management agreement is entered into between an owner's organization and a service provider, does a licensed PMC still need to supervise the service provider suitably in accordance with the Code and Guide?

Answer: If a licensed PMC sub-contracts its PMSs to another service provider, the Code requires the licensed PMC to supervise the service provider suitably. If the relevant management agreement is not entered into between the licensed PMC and a service provider, then there is no need for the licensed PMC to supervise the service provider. However, if the agreement entered into between the licensed PMC and its client provides that the licensed PMC is required to supervise other service providers, then the licensed PMC should act in accordance with the agreement and should supervise the service providers concerned.

10. Is a supplier of materials a sub-contractor or service provider mentioned in the Code?

Answer: No. A licensed PMC is only required to supervise a sub-contractor or service provider if it sub-contracts all or any part of its PMSs to the sub-contractor or service provider. The supply of materials itself does not constitute a PMS.