

Obligations of Property Management Companies regarding the Ending of their Appointment

Best Practice Guide

Code No.: G5/2021



PROPERTY MANAGEMENT SERVICES AUTHORITY

Best Practice Guide on Obligations of Property Management Companies regarding the Ending of their Appointment

Guide No.: G5/2021

Effective Date: 7 May 2021

Preamble

For the purpose of enabling licensees¹ to comply more effectively and professionally with the guidelines set out in the code of conduct entitled “Obligations of Property Management Companies regarding the Ending of their Appointment” (Code No.: C5/2021) (“Code”) issued by the Property Management Services Authority (“PMSA”) on 7 May 2021, the PMSA provides relevant guidelines in this best practice guide (“Guide”) pursuant to section 44² 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 will, however, not be regarded as a disciplinary offence referred to in section 4 of the PMSO.

Handover obligations

Code: A(1) A licensed property management company (“licensed PMC”) has to fulfill its handover obligations when its appointment for providing property management services at a property ends.

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a(1) To comply with the requirement set out in paragraph A(1) of the Code, a licensed PMC should adopt appropriate procedures to discharge its handover obligations.

Arrangements before handover

Code: B(1) A licensed PMC has to, before the specified time mentioned in paragraph B(2), hold a meeting with the relevant owners’ organization³ or, with the written consent of the owners’ organization, the succeeding

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 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.*”

³ The term “owners’ organization” has the same meaning as defined by section 2 of the PMSO, i.e. “*in relation to a property, means an organization (whether or not formed under the Building Management Ordinance or a deed of mutual covenant) that is authorized to act on behalf of all the owners of the property.*”

property management company (“successor”) to discuss the handover arrangements. To facilitate discussion and confirmation of the movable properties to be handed over, the licensed PMC has to provide a draft movable property checklist (“checklist”) to the owners’ organization or the successor at least three days⁴ before the meeting.

B(2) “Before the specified time” mentioned in paragraph B(1) of the Code means—

(a) eight weeks before the ending of the appointment of the licensed PMC (if the licensed PMC is a manager⁵); or

(b) two weeks before the ending of the appointment of the licensed PMC (if the licensed PMC is not a manager).

B(3) Having obtained the consent of and subject to arrangement made by the relevant owners’ organization, the successor has to contact the outgoing licensed PMC in order to make appropriate arrangements for the handover of the management work and relevant documents / information.

B(4) If there are any movable properties that are not under the possession of the outgoing licensed PMC, the outgoing licensed PMC has to, to the best of its knowledge, disclose the party which possesses the relevant movable properties for the relevant owners’ organization or the successor to take follow-up actions.

B(5) Within seven days⁴ after the meeting mentioned in paragraph B(1) of the Code, the outgoing licensed PMC has to provide a revised (if any) checklist to the relevant owners’ organization or the successor.

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b(1) To comply with the requirements set out in paragraphs B(1) to B(5) of the Code, a licensed PMC should, as soon as possible, meet with the owners’ organization or the successor (if appropriate) to discuss handover matters (see a sample of the movable property checklist in the **Appendix**). With the consent of the owners’ organization, the successor should ascertain the relevant work to be handed over, in order to minimize the impact of the handover on the provision of property

⁴ A “day” in this Guide means calendar day.

⁵ In this Guide, the term “manager” has the same meaning as that defined by section 34D of the Building Management Ordinance.

management services.

- b(2) If a licensed PMC has lost a movable property, it should inform the owners' organization and discuss the appropriate remedial action to be taken.

Arrangements for delivering movable properties

Code: C(1) Subject to paragraph C(2) of the Code, a licensed PMC has to, as soon as practicable, but not later than 14 days⁴ after the date of ending of its appointment, deliver the movable properties to the relevant owners' organization or the successor.

C(2) If a licensed PMC needs to keep any books, records of account, papers, documents and other records ("relevant documents") required for the preparation of the relevant income and expenditure account and balance sheet, it has to deliver to the relevant owners' organization or the successor —

- (a) within 14 days⁴ after the date of ending of its appointment a copy of the relevant documents; and
- (b) within two months after the date of ending of its appointment the relevant documents.

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- c(1) To comply with the requirements set out in paragraphs C(1) and C(2) of the Code, a licensed PMC should meet with the relevant owners' organization or the successor and deliver the movable properties according to the checklist mentioned in paragraph B(5) of the Code.
- c(2) Apart from delivering the movable properties to the relevant owners' organization or the successor, a licensed PMC should also provide relevant information including the progress of ongoing legal proceedings and the regular inspection of the facilities in the property, etc.
- c(3) Within the three months after the appointment ends, a licensed PMC should, so far as reasonably practicable, provide relevant information upon enquiries made by the relevant owners' organization or the successor.

Arrangements for handover of movable properties in the capacity of a secretary or treasurer of an owners' organization

Code: D(1) If a licensed PMC serves as a secretary or treasurer for an owners' organization during its appointment, it has to, within 14 days⁴ after vacating the post, deliver the movable properties in respect of the performance of its duties to the owners' organization.

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d(1) To comply with the requirements set out in paragraph D(1) of the Code, a licensed PMC serving as a secretary or treasurer for an owners' organization during its appointment should prepare a checklist (see a sample in the **Appendix**) for the relevant movable properties as soon as reasonably practicable and meet with the representative of the owners' organization to facilitate the checking and handover of the relevant movable properties between the two parties.

Preparing income and expenditure account, balance sheet and arranging for audit

Code: E(1) Unless otherwise agreed⁶ with the relevant owners' organization or subject to paragraph E(2) of the Code, a licensed PMC has to, within two months after the date of the ending of its appointment —

- (a) prepare an income and expenditure account and a balance sheet; and
- (b) arrange for the account and balance sheet to be audited by an accountant or by some other independent auditor specified by the relevant owners' organization⁷.

E(2) In respect of paragraph E(1)(b), if the relevant owners' organization has not specified an accountant or some other independent auditor before the ending of the appointment of the licensed PMC, the licensed PMC has to arrange for the account and balance sheet to be audited by an accountant or some other independent auditor specified by the licensed PMC.

⁶ If the scope of work agreed by the licensed PMC and the owners' organization does not include the preparation of income and expenditure account and balance sheet, paragraphs E(1) and E(2) of the Code shall not apply.

⁷ If the owner's organization decides not to audit the account and balance sheet (e.g. the property contains not more than 50 units as referred to in section 27(1A) of the Building Management Ordinance), paragraph E(1)(b) of the Code shall not apply.

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- e(1) To comply with the requirements set out in paragraphs E(1)(b) or E(2) of the Code, if the relevant accountant or the auditor makes relevant enquiries, the licensed PMC should as much as possible provide the relevant information and documents in order to assist in the completion of the relevant audit.

— END —

<p>If there is any inconsistency between the Chinese version and the English version of this Guide, the Chinese version shall prevail.</p>
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Movable Property Checklist

Name of the property: _____ Date: _____

	Item	No.	Remarks ¹	Need to handover (✓/✗)
I	Legal documents and service contracts			
1	Deed of Mutual Covenant and its Chinese translation	1	Original, page 3 damaged	✓
2	English and Chinese versions of schedule 7 and schedule 8 of the Building Management Ordinance			
3	Plans showing common areas			
4	Land lease	1	Copy	✗
5	Current service contracts (e.g. management contracts, security, cleaning, repair and maintenance, etc.)			
6	List of contractors			
7	Licence and permit			
8	Equipment warranty certificates of the building			
9	Information on insurance (including insurance policy, claims history and cases in progress, etc.)			
10	Order or notice issued by Government departments			
11	Legal proceedings documents and summons information			
12	Services or project contracts in the course of a tender			
13	Copy of certificate of registration of corporation and members' information			
II	Financial documents			
1	Balance sheet			
2	Audit report			
3	Records of deposits (including management fees deposits, decoration deposits and deposits of common water meters and electricity meters)			

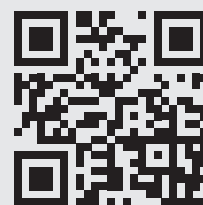
¹ The status of relevant movable property should be stated.

	Item	No.	Remarks ¹	Need to handover (✓/✗)
4	Recent financial documents (e.g. income and expenditure statements, monthly bank statements, etc.)	2	Copy	✗
5	Records of management fees and sinking fund for repair for each flat, including list of monthly management fees of flats and carpark space, payment records of each flat			
6	Separate management budget and accounts for each part of a composite development			
III	Project documents			
1	Building plans and plans of facilities of the building			
2	Certificates and records of inspection on building facilities (e.g. certificate of annual fire safety inspection, certificate of annual lift inspection, WRII electricity test certificate, etc.)			
3	Report and records of repair and maintenance	1		✓
4	Maintenance manual for works and installations			
5	Slope maintenance manual			
IV	Others			
1	Inventory and property checklist			
2	Records of water and electricity expenditures			
3	Owners' information (list of owners' contacts and correspondence addresses, etc.) ²			
4	All daily operation records			
5	Meeting minutes (meetings of corporation, AGM, EGM, etc.)			
6	Records of complaints by owners ²			
7	Computer			
8	Telephone	4	One of them is out of order	✓
9	Register of keys			
10	House rules			
11	Renovation rules			

² If the relevant information or records contain personal data, the licensed PMC has to handle it in accordance with the Personal Data (Privacy) Ordinance.

	Item	No.	Remarks ¹	Need to handover (✓/✗)
12	Copy of incident report records for the past two years ²			

Name of outgoing PMC:	_____	Name of owners' organization or succeeding PMC:	_____
Licence No.:	_____	Licence No.:	_____
Stamp and signature:	_____	Stamp and signature:	_____
Name and title of the representative:	_____	Name and title of the representative:	_____
Date:	_____	Date:	_____



Related Code of Conduct

Property Management Services Authority

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