

Handling Payment for or Arranging Payment to be Made by Clients

Best Practice Guide

Code No.: G9/2022



PROPERTY MANAGEMENT SERVICES AUTHORITY

Best Practice Guide on Handling Payment for or Arranging Payment to be Made by Clients

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Effective Date: 21 January 2022

Preamble

For the purpose of enabling licensees¹ to comply more effectively and professionally with the guidelines set out in the code of conduct² entitled “Handling Payment for or Arranging Payment to be Made by Clients” (Code No.: C9/2022) (“Code”) issued by the Property Management Services Authority (“PMSA”) on 21 January 2022, 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.

When providing property management services (“PMSs”), a licensed PMC may from time to time settle payment relating to PMSs for its clients⁴ of the concerned property i.e. make payment to settle those relating to PMSs out of the deposit of the trust account or the client account opened and maintained for the concerned property. Besides, a licensed PMC may also from time to time arrange for its clients of the concerned property to settle payment relating to PMSs i.e. after the licensed PMC has provided to its clients the relevant information for the payment, its clients settle the payment concerned directly out of the deposit of their own bank account. This Guide aims to enable licensed PMCs to comply more effectively and professionally with the guideline 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 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”.

Establish proper mechanism for handling payment for clients or arranging payment to be made by clients

Code: A(1) A licensed PMC has to establish a proper mechanism for the property for which PMSs are provided by it to handle payment for its clients or arrange payment to be made by its clients (if applicable). The mechanism shall include the following elements:

- Settle payment timely;
- Verify information and documents relating to payment;
- Open bank account;
- Set authorization for payment;
- Keep cheque book and related items properly;
- Confirm receipt of payment;
- Keep record; and
- Check record.

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a(1) A licensed PMC should update the elements of the mechanism regularly and explain them to its staff members to facilitate them to carry out the concerned duties.

Settle payment timely

Code: B(1) A licensed PMC should settle payment or arrange for its clients to settle payment timely in accordance with the terms of contract or agreement for the supply of services or goods.

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b(1) If a licensed PMC finds that there is an unreasonable long-term delay in payment (e.g. payment to the concerned supplier is not settled within a reasonable time or only partially settled though the licensed PMC or its clients have approved the payment), the licensed PMC should make enquiry immediately with the concerned party (e.g. owners' organization⁵ or supplier) and report to its clients by appropriate means (e.g. notifying the concerned owners' organization or considering displaying a notice in a prominent place in the property concerned).

⁵ 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 (Cap. 344) or a deed of mutual covenant) that is authorized to act on behalf of all the owners of the property".

Verify information and documents relating to payment

Code: C(1) A licensed PMC has to verify the purpose of the concerned payment, details of the payee and amount when it settles the payment or arranges for its clients to settle the payment, and to record properly.

C(2) If a payment is made by cheque, the licensed PMC has to ensure that all the information including the name of payee (e.g. the name of the concerned supplier), the amount (written in words and in number) and the date, etc. are correctly filled in the cheque before it signs or arranges for its clients to sign the cheque.

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- c(1) To comply with the guideline set out in paragraph C(1) of the Code, a licensed PMC should, for each payment which needs to be made, prepare a serially-numbered payment voucher to record the accounting entries⁶ and attach a copy of the concerned purchase requisition⁷ and signed invoice, etc. as supporting documents.
- c(2) A licensed PMC should, as far as practicable, arrange for more than one staff member to verify the concerned information and record properly.
- c(3) If a payment is made by cheque, a licensed PMC should cross a concerned cheque for payment and mark it with “Account Payee Only”. If an issued cheque is missing, it should contact the concerned bank and stop payment for the missing cheque immediately.
- c(4) A licensed PMC should issue cheques in sequence for the payment mentioned in paragraph C(1) of the Code, and stamp “void” on spoiled/voided cheques and retain them for audit purposes.

⁶ “Accounting entry” means a detailed entry record of each expenditure.

⁷ “Purchase requisition” means the financial document that needs to be prepared for procurement of concerned goods/service. For details, please refer to concerned sample in Annex 14 of “Building Financial Management Toolkit” developed by the Independent Commission Against Corruption together with the Home Affairs Department, the Hong Kong Housing Society, the Hong Kong Institute of Certified Public Accountants and the Hong Kong Association of Property Management Companies (https://bm.icac.hk/bm_wcms/UserFiles/File/tc/CMS/education_publicity/bfm_kit_1901.pdf).

Open bank account

Code: D(1) Except where a licensed PMC is the manager⁸ of the concerned property⁹, the licensed PMC has to enter into an agreement with its clients for opening and maintaining an independent bank account¹⁰ (“designated account”) to handle payment relating to PMSs for its clients.

D(2) If a licensed PMC opens a bank account according to paragraph D(1) of the Code, the account has to be designated as a trust account or client account of the property concerned.

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d(1) The designated account should only be used for the deposit or withdrawal of money relating to the management of the property concerned.

Set authorization for payment

Code: E(1) A licensed PMC has to set or set according to the agreement with its clients (if any) the authorization for settling payment out of the designated account (if the designated account is opened and maintained by the licensed PMC). The password for operating the designated account must be kept strictly confidential and may only be provided to authorized person(s)¹¹.

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e(1) A licenced PMC should avoid settling payment by cash and, as far as practicable, settle the payment by cheque, electronic means or transfer.

⁸ In this Guide, the term “manager” has the same meaning as that defined by section 34D of the Building Management Ordinance (“BMO”).

⁹ It is stated in the deed of mutual covenant that the manager has to open and maintain one or more than one bank accounts for the management of the relevant property (see section 34E of and paragraphs 3(1) and (1A) of Schedule 7 to the BMO). Besides, generally owners’ organization may not be formed initially in a newly built property, and the manager has to open and operate a bank account for the management of the concerned property. Therefore, the Code does not require a licensed PMC, being a manager, to enter into an agreement with its client for the purpose of opening and maintaining a designated account.

¹⁰ Bank account means an account opened in a bank as defined by section 2 of the Banking Ordinance (Cap. 155).

¹¹ An authorized person means the person designated by the licensed PMC or appointed after consultation with the client (as the case may be).

- e(2) In respect of settling payment by cheque, a licensed PMC should arrange for the signing of the cheque by at least two authorized persons, and, for withdrawal of different amounts of money from the designated account (if the designated account is opened and maintained by the licensed PMC), arrange for the signing of the cheque by appropriate authorized persons. If there is a change of the authorized person(s), the licensed PMC should notify the relevant bank immediately, revoke and rearrange the authorization.
- e(3) A licensed PMC should change the password for operating the designated account regularly (e.g. every 6 months) and timely (e.g. the person who possesses or knows the password of the designated account resigns) in order to minimize the risk of misappropriation of money due to leakage of the password.

Keep cheque books and related items properly

Code: F(1) A licensed PMC has to properly keep the cheque books, passbooks and items such as the stamp, etc. which may be used for withdrawing money from the designated account (if the designated account is opened and maintained by the licensed PMC).

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- f(1) A licensed PMC should arrange the cheque books, passbooks and stamp which may be used for withdrawing money from the designated account (if the designated account is opened and maintained by the licensed PMC) to be kept by authorized person(s) or in a locked device, and the key for the device may only be kept by authorized person(s).

Confirm receipt of payment

Code: G(1) A licensed PMC has to, as far as practicable and after settling or arranging for its client to settle payment, obtain receipt from the payee, and establish measures (e.g. by way of random check) to confirm with the payee receipt of payment and record properly.

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- g(1) A licensed PMC should, as far as practicable and depending on the actual situation, arrange for appropriate staff member(s) to confirm with the concerned payee by appropriate means and at appropriate time the receipt of the concerned payment, and record properly.

Keep record

Code: H(1) A licensed PMC has to keep record and documents in relation to payment (e.g. copy of signed cheque (if applicable), stub of cheque (if applicable), withdrawal slip, receipt of payment and statement of the designated account) for not less than six years from the date of issuance of the concerned documents.

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h(1) A licensed PMC should, as far as practicable, keep the concerned record and documents in a locked device and the key for opening the device should be kept by authorized person(s) only.

Check record

Code: I(1) A licensed PMC has to regularly check the concerned account and record against the statement of the designated account (if the designated account is opened and maintained by the licensed PMC). Immediate follow-up actions have to be taken if there is any discrepancy (e.g. the amount stated in the voucher is different from that in the record of the cheque payment).

- I(2) If the scope of work agreed by a licensed PMC and an owners' organization includes preparing an income and expenditure account and balance sheet, the licensed PMC has to—
- (a) within one month after each consecutive period of three months, or such shorter period as the licensed PMC may select, prepare a summary of income and expenditure and a balance sheet of the property concerned in respect of that period and display a copy of the summary and balance sheet in a prominent place in the property concerned for at least seven consecutive days¹²; and

¹² In respect of the concerned guideline, reference has been made to the relevant requirement in paragraph 2(2) of Schedule 7 to the BMO.

(b) within two months after the end of each financial year, prepare an income and expenditure account and balance sheet of the property concerned for that year and display a copy of the income and expenditure account and balance sheet in a prominent place in the property concerned for at least seven consecutive days. If an owners' organization by a resolution of the owners decides to audit the income and expenditure account and balance sheet by a specified accountant or other independent auditor in that resolution, the licensed PMC has to arrange for such an audit to be carried out by that accountant or other independent auditor without delay¹³.

I(3) In case a licensed PMC arranges for an accountant or an auditor to audit the concerned account, it must not interfere with the audit work carried out by the accountant or auditor or be involved in the independent enquiry between the accountant or auditor and the concerned bank (e.g. not to receive, request to receive or keep the response made by the concerned bank in the "bank confirmation"¹⁴ in respect of enquiries raised by the concerned accountant or auditor).

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i(1) A licensed PMC should:

- (a) as far as practicable, arrange for appropriate staff member(s) to check the concerned information and record thoroughly every month and record properly;
- (b) upon the consent of the concerned owners' organization to pay the relevant bank charges, obtain every six months proof of balance of the designated account from the bank (if the designated account is opened and maintained by the licensed PMC) for verification purpose;
- (c) if an error is found, rectify it as soon as reasonably practicable;
- (d) upon the written request made by the owners' organization, timely provide to it information and concerned record for inspection; and

¹³ In respect of the concerned guideline, reference has been made to the relevant requirement in paragraphs 2(3) and 2(6) of Schedule 7 to the BMO.

¹⁴ "Bank confirmation" is issued to the bank by an accountant or auditor in the name of the client during the audit process to verify the correctness and completeness of the information of cash balance and liabilities of the client's account.

- (e) if any irregularity is found, timely report to the relevant law enforcement agency, and according to the situation of each case but without violating the law, notify the owners' organization as soon as practicable.
- i(2) When a licensed PMC arranges for an accountant or auditor to audit the account of the concerned property for the financial year, it should, among others, request the accountant or auditor to verify the opening balance, closing balance, record of income and expenditure in respect of the concerned period of the designated account (if the designated account is opened and maintained by the licensed PMC) and whether there are any outstanding payment.


— 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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Related Code of Conduct

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