

PROPERTY MANAGEMENT SERVICES AUTHORITY

Code of Conduct

Handling Outsourced Property Management Services

Code No. : C15/2023

Effective Date : 28 April 2023

Preamble

The following code of conduct (“Code”) is issued by the Property Management Services Authority (PMSA) pursuant to section 5 of the Property Management Services Ordinance (Cap. 626) (“PMSO”) and contains practical guidance for the purposes of section 4 of the PMSO (disciplinary offences). Although a licensee¹ does not incur a legal liability only because the licensee has contravened a provision of the Code, the Code is admissible in evidence in disciplinary hearings, and proof that a licensee contravened or did not contravene the relevant provision of the Code may be relied on as tending to establish or negate a matter that is in issue in the hearings.

Background

2. When providing property management services (“PMSs”) to properties, a licensed property management company (“PMC”) may outsource any or all of its PMSs to other subcontractors or service providers (hereinafter collectively referred to as “service contractors”). A licensed PMC and its service contractors work as key partners. To ensure effective provision of PMSs, they should maintain a good working relationship. The PMSA has thus formulated the Code to provide practical guidance to licensed PMCs on outsourcing PMSs.

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.

Code

Selection of service contractors

Code: A(1) A licensed PMC has to, for the property in respect of which PMSs are provided by it, formulate a mechanism for selection of service contractors (if there is no owners' organisation²); or agree with the owners' organisation (if any) on such mechanism³ as guidelines for outsourcing PMSs.

Preparing tender documents and making contract with service contractors

Code: B(1) If there is no owners' organisation, the licensed PMC has to, for the property in respect of which PMSs are provided by it, prepare by itself clear tender documents for the partially or wholly outsourced PMSs; and when making contracts with the concerned service contractors, stipulate clearly the contract requirements.

Code: B(2) If there is an owners' organisation, the licensed PMC has to remind the owners' organisation the relevant requirements of the Code (whether the concerned contract with the service contractor is made and signed by the owners' organisation or the licensed PMC).

Monitoring service contractors

Code: C(1) A licensed PMC has to, for the property in respect of which PMSs are provided by it, when outsourcing any or all of such PMSs to service contractors, monitor the services provided by such service contractors.

Code: C(2) If the PMSs in paragraph C(1) of the Code are outsourced by the owners' organisation, the licensed PMC has to remind the owners' organisation about the requirement of the Code.

² The term "owners' organisation" has the same meaning as defined by section 2 of the PMSO i.e. "in relation to a property, means an organisation (whether or not formed under the Building Management Ordinance (Cap. 344) (BMO) or a deed of mutual covenant) that is authorised to act on behalf of all the owners of the property".

³ The mechanism should not affect the work of a licensed PMC as the manager to carry out its duties pursuant to the BMO or the deed of mutual covenant of the respective property. The term "manager" has the same meaning as that defined by section 34D of the BMO.

Appropriate follow-up work

Code: D(1) A licensed PMC has to take appropriate action against service contractors which have breached the contract terms.

Code: D(2) If a licensed PMC has to terminate prematurely the contract entered into with the service contractor, the matter has to be dealt with in accordance with the relevant contract terms.

Code: D(3) If the service contract is entered into by the owners' organisation, the licensed PMC has to remind the owners' organisation about the requirement set out in paragraphs D(1) and D(2) of the Code.

Maintaining good working relationship with service contractors

Code: E(1) A licensed PMC has to maintain close communication and good working relationship with the service contractors, and ensure the service contractors provide the service required to clients through effective contract management and monitoring.

Code: E(2) If the service contract is entered into by the owners' organisation, the licensed PMC has to remind the owners' organisation about the requirement set out in paragraph E(1) of the Code.

Handling payments to service contractors

Code: F(1) A licensed PMC has to settle payment with the service contractors for the service provided in accordance with the contract terms.

Code: F(2) If the service contract is entered into by the owners' organisation, the licensed PMC has to remind the owners' organisation about the requirement set out in paragraph F(1) of the Code.

Keeping record

Code: G(1) A licensed PMC has to keep all contracts entered into with service contractors as well as the relevant documents for not less than six years⁴.

Code: G(2) If the service contract is entered into by the owners' organisation, the licensed PMC has to remind the owners' organisation the requirement set out in paragraph G(1) of the Code.

- End -

If there is any inconsistency between the Chinese version and the English version of this Code, the Chinese version shall prevail.

⁴ This guideline is made with reference to Section 20A(4) of the BMO.