

PROPERTY MANAGEMENT SERVICES AUTHORITY

Code of Conduct

Prevention of Corruption – Staff Recruitment and Management

Code No. : C16/2023

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. In order to carry out its regular management duties, a licensed property management company (“licensed PMC”) will arrange its employees or directly engage service contractors (e.g. cleansing or security services) to provide property management services (“PMSs”); or on behalf of the owners’ organisation² (if any) engage service contractors (e.g. cleansing or security services) and be responsible for monitoring their performance. A licensed PMC should refer to the relevant legislation (e.g. the Employment Ordinance (Cap. 57), the Immigration Ordinance (Cap. 115)) when employing staff to carry out the above duties in order to prevent corruption (see the main regulations in paragraphs 2.1 – 2.2).

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 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”.

2.1 Employment Ordinance

- Wages shall be paid by the employer as soon as is practicable but in any case not later than 7 days after the expiry of the last day of the wage period³.
- Every employee who has been in employment under a continuous contract for not less than 12 months shall be entitled to paid annual leave⁴.
- Employees have a right to be granted not less than 1 rest day in every period of 7 days⁵.

2.2 Immigration Ordinance

- Any person who is the employer of an employee who is not lawfully employable commits an offence⁶.
- Any person who is the holder of an identity card, passport or any document of proof of identity recognised by the Immigration Department without any condition of stay restricting or prohibiting him/her from taking employment is considered a lawfully employable person⁷.

Code

Establishing a mechanism for handling staff employment and management

Code: A(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, establish a proper human resources management mechanism to handle staff⁸ employment and management matters. The mechanism has to comply with the relevant and main staff employment regulations (see paragraphs 2.1 – 2.2) and include the following

³ According to section 23 of the Employment Ordinance (Cap. 57), “Wages shall become due on the expiry of the last day of the wage period and shall be paid as soon as is practicable but in any case not later than 7 days thereafter.”

⁴ In accordance with section 41AA of the Employment Ordinance (Cap. 57).

⁵ In accordance with section 17(1) of the Employment Ordinance (Cap. 57), “Subject to the provisions of this Part, every employee who has been employed by the same employer under a continuous contract shall be granted not less than 1 rest day in every period of 7 days.”

⁶ In accordance with section 17I of the Immigration Ordinance (Cap. 115).

⁷ In accordance with section 17G(2) of the Immigration Ordinance (Cap. 115).

⁸ The term “staff” refers to workers employed by a PMC or directly employed by the owners’ organisation, or

elements:

- designating person(s) responsible for supervising or handling staff recruitment matters;
- formulating the basic entry requirements for staff of various ranks;
- recruitment procedures and assessment framework;
- staff attendance and supervision;
- disbursement of wages;
- staff appraisal; and
- disciplinary action / termination of staff employment.

Code: A(2) Regarding the human resources management matters described in paragraph A(1) of the Code, if the concerned staff are employed directly by the owners' organisation (if any) of the property, a licensed PMC has to notify the owners' organisation about the legal requirement in paragraphs 2.1 – 2.2 above and remind it to abide by such regulations.

Supervising or handling staff recruitment matters

Code: B(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, appoint suitable person(s) responsible for supervising or handling recruitment and appraisal matters for staff of various ranks.

Code: B(2) If the concerned staff are employed directly by the owners' organisation (if any) of the property, the licensed PMC has to remind the owners' organisation that it has to appoint suitable person(s) responsible for supervising or handling recruitment and appraisal matters for staff of various ranks.

those provided by service contractors (e.g. cleansing or security services) engaged by a PMC/appointed by the owners' organisation.

Formulating the basic entry requirements for staff of various ranks

Code: C(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, draw up the application requirement (e.g. academic qualifications, professional qualifications, skills and work experience, etc.) and the terms on remuneration and benefits, etc. before conducting staff recruitment.

Code: C(2) If the concerned staff are employed directly by the owners' organisation (if any) of the property, the licensed PMC has to remind the owners' organisation to comply with the requirement set out in paragraph C(1) of the Code.

Recruitment procedures and assessment framework

Code: D(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, draw up the procedures for staff recruitment.

Code: D(2) If the concerned staff are employed directly by the owners' organisation (if any) of the property, the licensed PMC has to remind the owners' organisation to comply with paragraph D(1) of the Code.

Staff attendance and supervision

Code: E(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, establish a system based on actual needs to record staff attendance (e.g. use of log book, card/electronic access control system, etc.).

Code: E(2) A licensed PMC has to adopt appropriate measures to monitor and prevent unauthorised amendment of or false staff attendance record (e.g. storing the log book in places monitored by supervisors; the CCTV system (if installed) should cover the area where staff are required to

sign for their attendance) to ensure accuracy of the staff attendance record.

Code: E(3) A licensed PMC has to assign work fairly according to the relevant contract terms⁹ and work out the criteria and scenario for staff working overtime, especially for security work which must comply with the Security and Guarding Services Ordinance (Cap. 460).

Code: E(4) If the concerned staff are employed directly by the owners' organisation (if any) of the property, the licensed PMC has to remind the owners' organisation to comply with paragraphs E(1) – E(3) of the Code.

Disbursement of wages

Code: F(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, disburse wages timely in accordance with the employment contract of the employee(s) concerned and the attendance record, and make appropriate record.

Code: F(2) If the concerned staff are employed directly by the owners' organisation (if any) of the property, the licensed PMC has to remind the owners' organisation to comply with paragraph F(1) of the Code.

Staff appraisal

Code: G(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, draw up in advance the scope and criteria for appraisal on various ranks of staff and notify the staff of such criteria.

Code: G(2) A licensed PMC has to keep the personal data and appraisal report of the staff properly in order to protect personal data.

⁹ Please refer to the relevant paragraphs in Section 8.3 "Recruitment of Staff" of the Building Management Toolkit (https://cpas.icac.hk/UploadImages/InfoFile/cate_43/2019/280eaeaa-d72a-4b9c-be2f-37fb305c86ec.pdf).

Code: G(3) If the concerned staff are employed directly by the owners' organisation (if any) of the property, the licensed PMC has to remind the owners' organisation to comply with paragraphs G(1) – G(2) of the Code and assist the owners' organisation in drawing up the scope and criteria for appraisal.

Disciplinary action / termination of staff employment

Code: H(1) A licensed PMC has to, in respect of the property for which PMSs are provided by it, draw up the disciplinary action to be taken (including termination of employment) and the relevant procedures concerning staff misconduct or breaches, and notify the staff where appropriate and reasonable.

Code: H(2) A licensed PMC has to keep properly record of disciplinary action taken / termination of employment.

Code: H(3) If the concerned staff are employed directly by the owners' organisation (if any) of the property, the licensed PMC has to remind the owners' organisation to abide by paragraphs H(1) – H(2) of the Code.

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<p>If there is any inconsistency between the Chinese version and the English version of the Code, the Chinese version shall prevail.</p>
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