

**Code of Conduct and Best Practice Guide on “Obligation of Property Management Companies regarding the Ending of their Appointment”**  
**FAQs**

These FAQs are for general reference only, and the answers / solutions suggested in the FAQs are not exhaustive and do not constitute legal or professional advice. In considering whether a licensee has committed a disciplinary offence, the PMSA will determine each case on its own facts. Legal or professional advice should be sought as and when necessary on the interpretation of the relevant legal provisions and in respect of any individual case. The PMSA will not accept any liability or responsibility whatsoever for any loss or damage caused to any person howsoever arising from any use, misuse of, or reliance on the contents of these FAQs.

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 “owners’ organization” mean in the Code of Conduct (Code No. C5/2021) (“Code”) and the Best Practice Guide (Code No. G5/2021) (“Guide”)?

Answer: The term “owners’ organization” has the same meaning as that 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”*. Under this definition, a corporation formed under the Building Management Ordinance or an owners committee formed under a deed of mutual covenant is an owner’s organization.

5. What should a licensed PMC do if an owners’ organization terminates the appointment of the licensed PMC by giving payment in lieu of notice rendering the licensed PMC not able to hold a meeting with the owners’ organization or the successor before the specified time for the purpose of discussing the handover arrangements in accordance with the guideline set out in paragraph B(1) of the Code?

Answer: If there are specific circumstances which make the licensed PMC not able to hold a meeting with the owners’ organization or the successor before the specified time for the purpose of discussing the handover arrangements, then the guideline set out in paragraph B(1) of the Code shall not apply. However, the licensed PMC is encouraged to meet with the owners’ organization or the successor for discussing the handover arrangements as far and soon as possible.

6. What should a licensed PMC do if the licensed PMC after discussing with the owners’ organization or the successor has failed to reach a consensus for movable properties to be handed over?

Answer: A licensed PMC has to deliver the movable properties not in dispute to the owners’ organization or the successor in accordance with the Code. For the movable properties that are in dispute, a licensed PMC should discuss with the owners’ organization or the successor, or consider taking legal actions to resolve the problem. For the avoidance of occurrence of related disputes, the licensed PMC should after taking over the management of the related property, record all the movable properties that have been

handed over clearly, and such record should be confirmed with the owners' organization. The licensed PMC should update the relevant record regularly and submit it to the owners' organization for confirmation.

7. Does a licensed PMC need to arrange its staff members to hand over the movable properties to the owners' organization or the successor in person?

Answer: The Guide advises that a licensed PMC should meet with the relevant owners' organization or the successor to hand over the movable properties.

8. If the property management services provided by a licensed PMC do not include management of financial matters, such as preparation of income and expenditure account and balance sheet, does the licensed PMC, after its appointment ends, still need to prepare the account and balance sheet, and arrange them for audit in accordance with paragraphs E(1) and E(2) of the Code?

Answer: 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.

9. Under what circumstance is a licensed PMC not required to arrange for the income and expenditure account and balance sheet to be audited by an accountant or by some other independent auditor specified by the relevant owners' organization in accordance with paragraph E(1)(b) of the Code?

Answer: 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.

10. What should a licensed PMC do if the movable properties handed over to owners' organization or successor contain personal data?

Answer: If the relevant movable properties (e.g. complaint records or incident reports) contain personal data, the licensed PMC has to handle them in accordance with the Personal Data (Privacy) Ordinance.