



防貪諮詢服務  
Corruption Prevention  
Advisory Service

A man in a dark suit is shown from the side, pointing his right index finger at a glowing digital interface. The interface features a central hexagon labeled 'PROPERTY MANAGEMENT' surrounded by various icons representing property management tasks: a house, a document with a checkmark, a calculator, a group of people, a handshake, a key, a document with a magnifying glass, a house with a wrench, a document with a dollar sign, and a document with a checkmark. The background is dark with blue and orange geometric shapes.

**PROPERTY  
MANAGEMENT**

# CORRUPTION PREVENTION GUIDE FOR **PROPERTY MANAGEMENT COMPANIES**



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## FOREWORD

The property management profession is developing rapidly with its presence in major types of properties. In recent years, property management is also associated with smart and quality living in view of the increasing variety of services provided. Under the Property Management Services Ordinance (Cap. 626), property management companies (PMCs) providing more than one category of property management services to properties subject to deeds of mutual covenant in Hong Kong, and property management practitioners assuming managerial or supervisory roles, must hold the corresponding licences. As such, there are rising public expectations on the integrity and professionalism of PMCs, including their capabilities to resist corruption. An effective integrity management system could not only help ensure that PMCs and their practitioners abide by laws and regulations, uphold integrity and reputation, and achieve sustainability, but also help assist property owners to protect themselves from falling prey to corruption and abuses in the management and maintenance of their properties.

To assist PMCs in effective corruption prevention and risk management, the **Corruption Prevention Department (CPD)** of the **Independent Commission Against Corruption** has developed this **Corruption Prevention Guide for Property Management Companies (the Guide)** for reference by the directors, senior management and managerial staff of PMCs with a view to –

- (a) ensuring PMCs', their staff's and agents' compliance with the Prevention of Bribery Ordinance (Cap. 201), and entrenching a clean business culture in PMCs and the industry;
- (b) enhancing their awareness and knowledge of corruption risks and practices (with case studies, red flags, etc.) so that they may stay alert and vigilant against the risks; and
- (c) offering them practical guidance on anti-corruption policy, system, management and control measures, so as to establish and strengthen corruption prevention capabilities in the operations of and services provided by PMCs.

Individual PMCs may adapt the measures in the Guide to suit their operational needs while adhering to the principles. Other building management bodies such as owners' organisations and management committees may also, where appropriate, make reference to the Guide to facilitate their cooperation with PMCs. The **Corruption Prevention Advisory Service** of the CPD will provide tailor-made service on request.

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## MESSAGE FROM THE PROPERTY MANAGEMENT SERVICES AUTHORITY

Property management companies (PMCs) and practitioners (PMPs) often have to carry out work for clients involving different matters including collecting management fees, procuring goods and services, making various payments, etc. It is crucial for PMCs and PMPs to maintain good conduct and achieve a high degree of integrity. Not only will this help promote mutual trust amongst owners/tenants and PMCs, but it can also avoid or reduce disputes and complaints, enhance the quality and reputation of property management (PM) services, thereby strengthening the professional standard and status of the PM industry. Indeed, PM services provided professionally with quality and integrity are key to maintaining and enhancing the value of properties.

To strengthen the capabilities and awareness of the PM industry in preventing corruption and to foster a culture of integrity, following the implementation of the PM industry licensing regime, the Property Management Services Authority (PMSA), in addition to regulating the PM services by licensing, has also been working closely with the Independent Commission Against Corruption (ICAC) in formulating anti-corruption codes of conduct and best practice guides for the industry in respect of different areas of PM work. Moreover, the PMSA will also implement the Continuing Professional Development (CPD) Scheme on mandatory basis in stages for the two tiers of licensed PMPs and will jointly organise anti-corruption seminars and activities with the ICAC under the CPD Scheme in order to further promote the industry for fostering a culture of integrity for healthy and sustainable growth into the future.

The PMSA would wish to express heartfelt appreciation to the ICAC for its continuous support to the anti-corruption work for the PM industry, including the issuing of the Corruption Prevention Guide for Property Management Companies which provides relevant anti-corruption guidelines in respect of five main corporate governance aspects, namely General Management Services, Building Maintenance, General Procurement and Staff Administration, Management of Service Contracts and Financial Management, alerting PMCs and PMPs to acts or situations which may contravene the law or moral ethics and assisting the industry to promote corporate social responsibility and good corporate governance thereby elevating the integrity and professional standard of the industry.

Under the PM industry licensing regime, an increasing number of investors and consumers in society are assessing the value of a corporation based on its performance in the three specific areas, namely, promoting environmental protection (E-Environmental), fulfilling social responsibilities (S-Social) and strengthening corporate governance (G-Governance). Enhancing integrity is a key action in achieving ESG. The PMSA looks forward to the current 750-plus licensed PMCs in Hong Kong to actively participate in work that could enhance corporate culture with professionalism and integrity. The PMSA is tasked to regulate and lead the development of the PM industry in Hong Kong towards enhanced quality and professionalism and will continue as it has been to collaborate closely with the ICAC for driving the PM industry to move towards upholding integrity and contributing together towards enhanced integrity and professionalism of PM services.

Dr James Kong-tin WONG, BBS, JP

Chairperson

Property Management Services Authority

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## FROM THE EDITORIAL BOARD

Descriptions and explanation of legal requirements under the Prevention of Bribery Ordinance (Cap. 201) and other relevant ordinances/laws in this publication are necessarily general and abbreviated for ease of understanding. Users of this publication are advised to refer to the original text of the relevant ordinances/laws or seek legal advice on particular issues where necessary. The ICAC will not accept any responsibility, legal or otherwise, for any loss occasioned to any person acting or refraining from action as a result of any material in this publication.

Case scenarios are used in this publication to illustrate the legal requirements and corruption risks. These case scenarios should be taken as hypothetical and not referring to any particular real case or any particular organisation or person. Moreover, the advice and recommendations given in this publication are by no means prescriptive or exhaustive, and are not intended to substitute any legal, regulatory or contractual requirements. Users should refer to the relevant instructions, codes and guidelines issued by the relevant authorities, and adopt the appropriate measures that best suit the operational needs and risk exposure of their organisations. The information contained in this publication is updated as at the last revision date shown.

Throughout this publication, the male pronoun is used to cover references to both the male and female genders. No gender preference is intended.

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December 2023

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## ACKNOWLEDGEMENT

The Corruption Prevention Department has consulted the Property Management Services Authority, the Chartered Institute of Housing Asian Pacific Branch, The Hong Kong Association of Property Management Companies Limited, the Hong Kong Chapter of the International Facility Management Association, The Hong Kong Institute of Facility Management, the Hong Kong Institute of Real Estate Administrators, The Hong Kong Institute of Surveyors and a number of property management companies in the development of the Guide. Their input and efforts are gratefully acknowledged.

**[This Corruption Prevention Guide for Property Management Companies is for reference only.]**

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# ABBREVIATIONS

<b>AI</b>	Artificial Intelligence
<b>BMO</b>	Building Management Ordinance (Cap. 344)
<b>BR</b>	Building Rehabilitation
<b>CC</b>	Competition Commission
<b>CPAS</b>	Corruption Prevention Advisory Service
<b>DMC</b>	Deeds of Mutual Covenant
<b>HAD</b>	Home Affairs Department
<b>IT</b>	Information Technology
<b>MC</b>	Management Committee
<b>ML</b>	Machine Learning
<b>OO</b>	Owners' Organisation
<b>PCPD</b>	Office of the Privacy Commissioner for Personal Data
<b>PDPO</b>	Personal Data (Privacy) Ordinance (Cap. 486)
<b>POBO</b>	Prevention of Bribery Ordinance (Cap. 201)
<b>PMC</b>	Property Management Company
<b>PMSA</b>	Property Management Services Authority
<b>URA</b>	Urban Renewal Authority

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## HOW TO USE THIS GUIDE

For quick and easy reference, users will find the following icons throughout this Guide which lead them to the following information –



### Case Studies

hypothetical case scenarios in perspective



### Corruption Prevention Safeguards

useful tips for corruption prevention



### Corruption Risks

major corruption risks and malpractice



### Frequently Asked Questions

frequently asked questions with corresponding guidance given



### Pointers

cross references to other Chapters/Sections/ Appendices of the Guide



### Red Flags

indicators of areas where management oversight is required to safeguard against possible corruption and fraud

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## ELECTRONIC VERSION OF THE GUIDE

This Guide is available at



[cpas.icac.hk/EN/Info/Lib\\_List?cate\\_id=3&id=2816](https://cpas.icac.hk/EN/Info/Lib_List?cate_id=3&id=2816)



# 1 REGULATORY REQUIREMENTS AND GUIDELINES

- 1.1 ISSUE AT A GLANCE
- 1.2 PREVENTION OF BRIBERY ORDINANCE (CAP. 201)
- 1.3 OTHER MAJOR REGULATORY REQUIREMENTS IN  
PROPERTY MANAGEMENT
- 1.4 REGULATORY AND BEST PRACTICE GUIDELINES RELEVANT TO  
PREVENTION OF CORRUPTION





# 1

# REGULATORY REQUIREMENTS AND GUIDELINES

## 1.1 ISSUE AT A GLANCE

- Effective management of a property begins with a clear understanding of the relevant regulatory requirements. This chapter focuses on the key regulatory requirements and guidelines that property management companies (PMCs), regardless of whether the property managed by them has an owners' organisation (OO)<sup>1</sup>, must comply with to prevent corruption and ensure ethical business practices. It covers the Prevention of Bribery Ordinance (Cap. 201) (POBO) and other key legislations relevant to property management, as well as important guidance issued by government authorities and regulatory bodies.

## 1.2 PREVENTION OF BRIBERY ORDINANCE (CAP. 201)

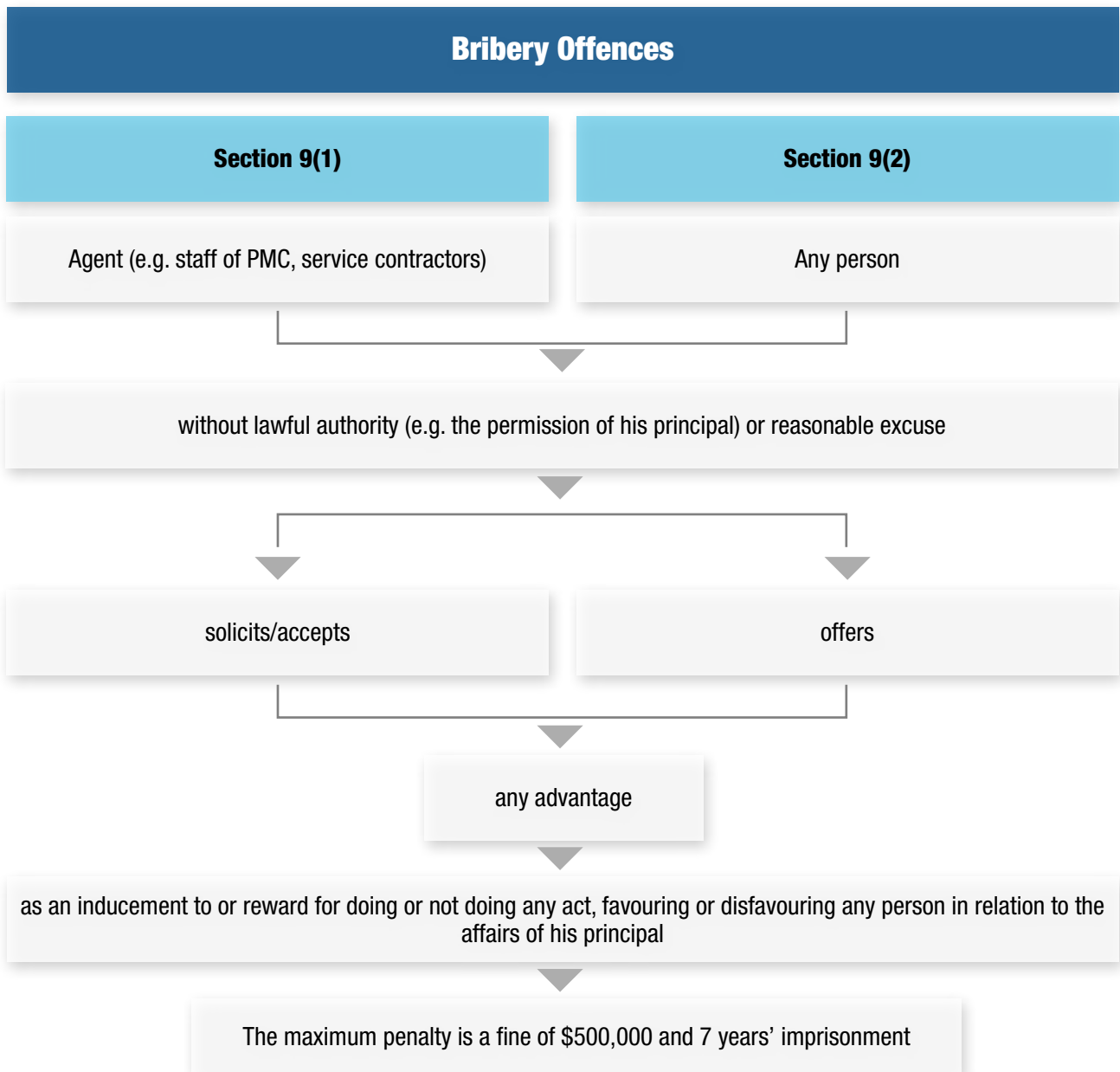
- The POBO aims to combat bribery and corrupt transactions in both the private and public sectors. Staff of PMCs should have an adequate understanding of the POBO. The following is a gist of the relevant sections of the POBO (📄 **Annex 1 of Appendix 1**). Full text of the POBO can be found in the Hong Kong e-Legislation of the Department of Justice: [www.elegislation.gov.hk/hk/cap201](http://www.elegislation.gov.hk/hk/cap201).



### 1.2.1 SECTIONS 9(1) & (2) – BRIBERY OFFENCES

- Section 9(1)** – It is an offence for any agent, without lawful authority or reasonable excuse, to solicit or accept any advantage as an inducement to or reward for his doing or forbearing to do any act in relation to his principal's affairs or business.
- Section 9(2)** – Any person who offers an advantage to an agent under the above circumstances also commits an offence.
- The maximum penalty is a fine of \$500,000 and seven years' imprisonment.

<sup>1</sup> For the sake of this Guide, "OO" generally refers to the entity formed under the Building Management Ordinance (Cap. 344) (i.e. Owners' Corporation) or deeds of mutual covenant (i.e. owners' committee).



## 1.2.2 SECTION 9(3) – USE OF FALSE/ERRONEOUS/DEFECTIVE DOCUMENT TO DECEIVE PRINCIPAL

- a. **Section 9(3)** – It is an offence for any agent to, with an intent to deceive his principal, use any receipt, account or other document which contains any statement which is misleading, false or defective in any material particular in respect of which the principal is interested.
- b. The maximum penalty is a fine of \$500,000 and seven years' imprisonment.

## Use of False/Erroneous/Defective Document to Deceive Principal

### Section 9(3)

Agent (e.g. staff of PMC, service contractors)

Uses

any receipt, account or other document  
+  
in respect of which his principal is interested  
+  
contains any statement which is false/erroneous/defective in any material particular  
+  
to his knowledge is intended to mislead his principal

with intent to deceive his principal

The maximum penalty is a fine of \$500,000 and 7 years' imprisonment

- In the context of property and building management, the “principal”, “agent”, “advantage” and “entertainment” in the POBO refer to –

### **Principal**

- The principal of a company generally refers to the employer. In general, the principal of a staff member of PMC usually refers to the PMC that employs/appoints him. The OO, as the entity representing all owners, is the principal in relation to the management of the common parts of the property (e.g. principal of members of the management committee (MC)<sup>2</sup>).

<sup>2</sup> For the sake of this Guide, “MC” refers to the entity vested with the powers and duties to manage the building under the Building Management Ordinance (Cap. 344) (i.e. MC in buildings with Owners’ Corporation) or deeds of mutual covenant (i.e. owners’ committee in buildings without Owners’ Corporation).

### **Agent**

- An agent is a person acting for, or employed by, the principal. If a company appoints a person to act for it in its business dealings, the person becomes the company's agent irrespective of whether the appointment is full-time or part-time, and whether the agent is paid or unpaid. For example, an employee of a PMC is the agent of the company, while members of the MC, flat owners or any person including volunteers acting on behalf of the OO to carry out its business, are agents of the OO.

### **Advantage**

- Any gift, loan, fee, reward or commission consisting of money or money in kind or of any valuable security or of other property or interest in property of any description;
- Any office, employment or contract;
- Any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- Any other service, or favour (other than entertainment\*), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- The exercise or forbearance from the exercise of any right or any power or duty; and
- Any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of the above mentioned items.

*\* Entertainment means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.*



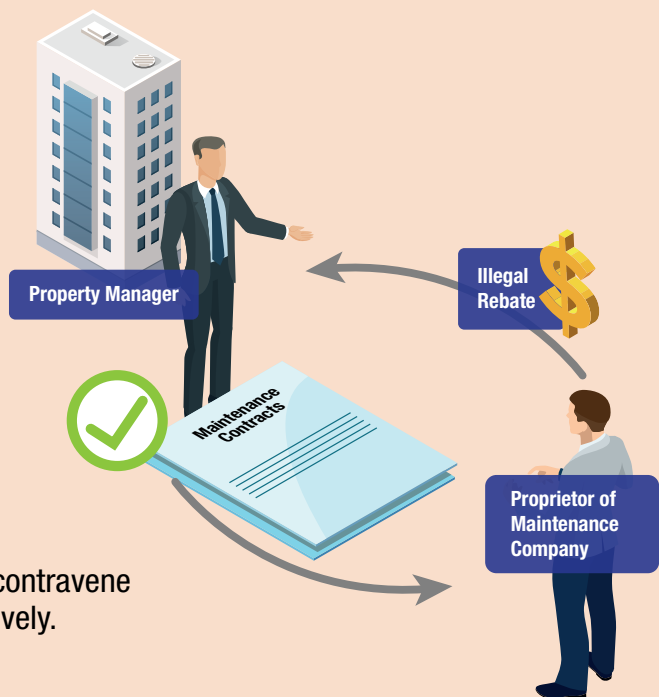
### 1.2.3 CASE STUDY 1 – OFFERING/ACCEPTING ADVANTAGES IN RELATION TO MAINTENANCE CONTRACTS

**1** A property manager of a PMC is responsible for handling maintenance works of a residential building, including the selection of maintenance contractors.

**2** To secure the upcoming maintenance contracts, the proprietor of a maintenance company hands over an envelope with a cheque to the property manager. The proprietor asks for the property manager's favour in awarding several maintenance contracts of the residential building to the maintenance company.

**3** The PMC has issued guidelines on the prohibition of acceptance of any advantage by its staff in performing the property management duties. However, the property manager, while accepting the illegal rebates, makes recommendations in favour of the maintenance company to the PMC resulting in the award of the contracts to the maintenance company.

**4** The property manager and the proprietor contravene Sections 9(1) and 9(2) of the POBO respectively.



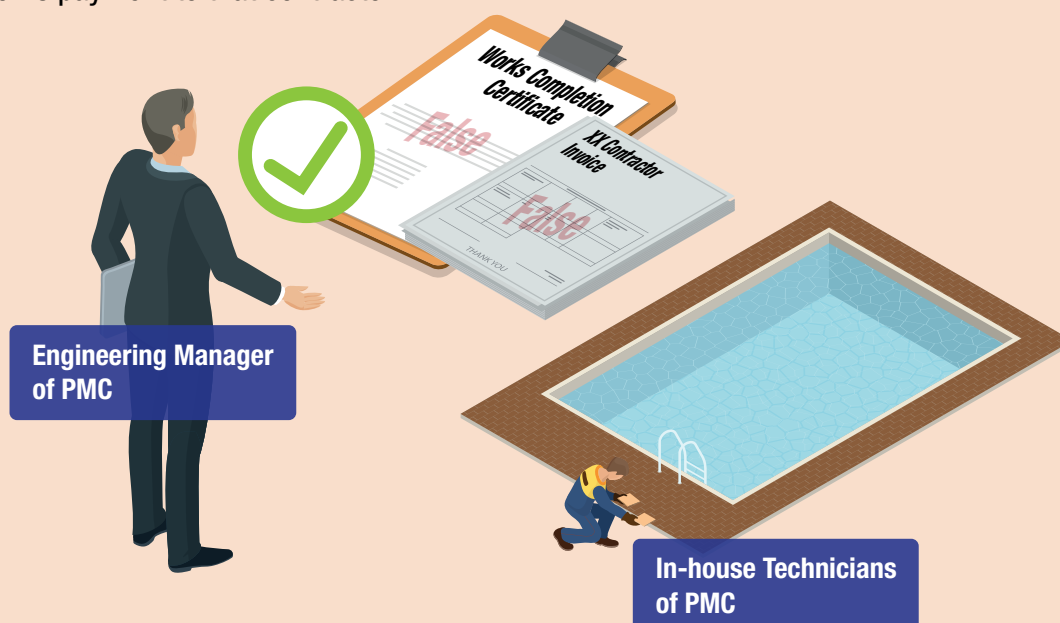
#### ***Analysis and Points to Note –***

- One of the essential concepts in the POBO is the meaning of “principal” and “agent”. Understanding the roles of principal and agent is crucial in preventing corrupt practices and ensuring compliance with the law.
- The principal of a company generally refers to the employer or any person authorised to act on the employer's behalf. An agent is a person acting for, or employed by, the principal, irrespective of whether the appointment is full-time or part-time and whether or not the agent receives a salary or fee. In the scenario, the OO and the MC of the residential building are the principals of the PMC and the property manager (the agents), while the PMC is the principal of the property manager (the agent).



## 1.2.4 CASE STUDY 2 – USING FALSIFIED RECEIPTS TO DECEIVE WORKS PAYMENT

- 1 A private residential estate is managed by a PMC. Headed by an engineering manager, the technical department of the company is responsible for all maintenance and repair matters of the estate.
- 2 The swimming pool of the estate requires resurfacing works. After the in-house technicians of the technical department have completed the resurfacing works, the engineering manager submits an invoice and a works completion certificate falsely stating that the works is carried out by a contractor, with a view to misleading his supervisors to certify works payment to that contractor.



- 3 The engineering manager using falsified documents with intent to deceive his principal contravenes Section 9(3) of the POBO.

### *Analysis and Points to Note –*

- According to Section 9(3) of the POBO, there is no need for the existence of offering or acceptance of an advantage. If an agent, such as a staff member of a PMC, intends to deceive his principal (either the PMC, the MC or the OO) and uses any document, such as an invoice or expense claim form, containing a statement that is false, erroneous or materially defective, an offence is committed under this section.



**Q1. Is there a value threshold (e.g. \$500) for an “advantage” in the POBO?**

**A** No. Some people misunderstand that the POBO sets out a limit on the value of the advantage below which acceptance is statutorily permissible. In fact, the POBO has **not** specified any threshold or ceiling of allowable advantages. The acceptor/offeror may commit an offence if he accepts/offers an advantage of any value without the permission of the acceptor’s principal as set out in the POBO. Yet, a private company may permit its staff to accept advantages from other persons related to the company’s business up to a specified limit and under certain circumstances. This is the company’s internal policy and must not be confused with the provisions of the POBO.

**Q2. A contractor gifted me with a ticket to a concert. Can this be regarded as entertainment under the meaning of the POBO?**

**A** The term “entertainment” specified in the POBO should not be confused with the dictionary meaning of “entertainment”. For example, tickets to a performance or concert, hotel accommodation and flight tickets are regarded as “advantages” but not “entertainment” under the POBO. Likewise, the offer of food (e.g. a box of mooncakes) may not meet the definition of “entertainment” if it is not consumed on the occasion when it is provided, and hence may fall within the scope of “advantage” under the POBO.

**Q3. Can I accept a gift without obtaining principal’s permission if the acceptance of gifts is customary in my industry?**

**A** No. According to Section 19 of the POBO, it is not a defence to claim that an advantage accepted or offered is customary in any profession, trade, vocation or calling. For the full text of Section 19 of the POBO, please refer to the Hong Kong e-Legislation at [www.elegislation.gov.hk/hk/cap201](http://www.elegislation.gov.hk/hk/cap201).



## 1.3 OTHER MAJOR REGULATORY REQUIREMENTS IN PROPERTY MANAGEMENT

■ PMCs should take note of the following ordinances/laws/provisions which aim to govern the integrity and business practices.

- Property Management Services Ordinance (Cap. 626)
- Deeds of mutual covenant (DMC)
- Building Management Ordinance (Cap. 344) (BMO)
- Competition Ordinance (Cap. 619)
- Personal Data (Privacy) Ordinance (Cap. 486) (PDPO)

## 1.4 REGULATORY AND BEST PRACTICE GUIDELINES RELEVANT TO PREVENTION OF CORRUPTION

### 1.4.1 HOME AFFAIRS DEPARTMENT (HAD)

■ The HAD issues various guidelines, such as the “Code of Practice on Procurement of Supplies, Goods and Services” (Code of Practice), the “Code of Practice on Building Management and Safety”, and the “Best Practices on Building Management”, to assist stakeholders concerned including PMCs to effectively discharge building management duties. The requirements and principles set out therein, such as declaration of conflict of interest in procurement exercises and appointment of proxy, should be observed by PMCs in upholding the integrity of building management.

### 1.4.2 PROPERTY MANAGEMENT SERVICES AUTHORITY (PMSA)

■ The PMSA periodically issues codes of conduct and best practice guides to enhance the professionalism and competence of the property management industry and address public concerns. The Code of Conduct and related Best Practice Guide on “Prevention of Corruption” set out the integrity requirement expected of the property management practitioners and provide a framework and guidance to PMCs in implementing an integrity management system within the company.



### 1.4.3 COMPETITION COMMISSION (CC)

- Bid-rigging, facilitated by corrupt assistance, may constitute a bribery offence. Awareness on bid-rigging can assist in reducing the risk of corruption. The CC has published various brochures including “Fighting Bid-rigging”, “Combat Market Sharing” and “Getting the most from your tender” to assist businesses including PMCs in understanding and preventing bid-rigging activities.

### 1.4.4 OFFICE OF THE PRIVACY COMMISSIONER FOR PERSONAL DATA (PCPD)

- PMCs often maintain a large amount of occupants’ personal data (e.g. residents’ personal particulars and their contact numbers) which, if not properly used and protected, may be exposed to the risk of abuse for corrupt purpose. The PCPD issues guidance and recommendations to PMCs on the protection of personal data. Among others, the “Guidance on Property Management Practices” is issued to promote the proper handling of personal data by the property management industry.



# 2 GOVERNANCE FRAMEWORK IN PROPERTY MANAGEMENT COMPANIES

- 2.1 ISSUE AT A GLANCE
- 2.2 CULTIVATING A CULTURE OF INTEGRITY
- 2.3 ESSENTIAL PROBITY REQUIREMENTS IN A CODE OF CONDUCT
- 2.4 INTERNAL CONTROL SYSTEM



# 2 GOVERNANCE FRAMEWORK IN PROPERTY MANAGEMENT COMPANIES

## 2.1 ISSUE AT A GLANCE

- PMCs, regardless of their sizes, require appropriate structures and processes that enable achievement of objectives, accountability to stakeholders, and management of risks, including corruption risks. This chapter highlights the essential elements of a robust governance framework for a PMC. It covers three main areas, including cultivating a culture of integrity, incorporating essential probity requirements in a code of conduct (the Code), and implementing an internal control system.

## 2.2 CULTIVATING A CULTURE OF INTEGRITY

- PMCs and their employees regularly come into contact with clients and other stakeholders such as bidders, suppliers and service contractors. Having a strong ethical culture and integrity among PMCs and their employees not only strengthens the mutual trust between owners/clients and PMCs but also helps avoid or reduce various disputes and complaints, therefore enhancing PMCs' service quality and reputation. To achieve this, PMCs can implement an integrity management governance framework that includes several key elements.

### 2.2.1 ETHICAL LEADERSHIP

- The senior management of PMCs must set the tone for ethical behaviour by promoting a culture of transparency and accountability. Leaders should demonstrate ethical behaviour, hold themselves and others accountable for their actions, and foster an environment that encourages ethical conduct. They should also model the behaviour they expect from their staff and regularly communicate their commitment to ethical conduct to all stakeholders.

## 2.2.2 POLICY ON CORRUPTION PREVENTION (THE POLICY)

- To promote ethical culture, the directors/senior management should provide strategic direction and governance oversight by –
  - Issuing a Policy outlining the company's integrity management policy, the company's probity requirements for its staff, its commitment to conduct business with organisations which have similar requirements for their staff, and a mechanism for prompt reporting of suspected illegal acts to relevant law enforcement agencies.
  - Issuing a Code (📎 [Appendix 1](#)), setting out the integrity standards and requirements for all staff, including the essential probity requirements (📎 [Section 2.3](#)). The Code should be regularly reviewed and brought to the attention of all staff.
- The directors/senior management should make efforts to ensure that all staff have sufficient knowledge and understanding of the Policy and Code, anti-bribery laws, integrity management issues, corruption prevention controls, etc. The Policy and Code will be made available to all stakeholders, including MCs, OOs, flat owners, service contractors, business partners, etc.

## 2.2.3 TRANSPARENT COMMUNICATION

- PMCs should commit to communicating and reinforcing an ethical culture and organisational values. This involves setting the appropriate tone at the top by promoting ethical behaviour and integrity from senior management down to front-line staff. The company should also establish a non-retaliatory environment that encourages employees to raise concerns and report any unethical behaviour or violations of the Policy or Code.

## 2.2.4 INFORMATION TECHNOLOGY (IT) GOVERNANCE

- Given that digitalisation is gaining prevalence among PMCs and is re-shaping many businesses/operations, it is important for the senior management of PMCs to introduce IT governance incorporating the element of integrity management to enhance the corruption prevention capability and set up appropriate governing body (e.g. IT committee) to ensure effective and proper utilisation of the IT systems and adherence to the digitalised procedures (📎 [Section 2.4.11](#)).

## 2.3 ESSENTIAL PROBITY REQUIREMENTS IN A CODE OF CONDUCT

- PMCs should develop their own Code to set out the standards of behaviour expected of their staff. The following are the essential requirements in the Code –

### 2.3.1 PROHIBITION OF BRIBERY

- The Code should clearly prohibit all forms of bribery or corruption and require compliance with the POBO in carrying out business for the PMC or OO. Directors and staff should be prohibited from –
  - soliciting or accepting any advantage from others as a reward for or inducement to doing any act in relation to the PMC's/OO's business;
  - offering any advantage to an agent of another as a reward for or inducement to doing any act in relation to the latter's principal's business; and
  - offering any advantage to any government officer or public servant as a reward for or inducement to performing any act in his official capacity, or while having business dealings with the Government or public body he belongs to.

### 2.3.2 ACCEPTANCE OF ADVANTAGES AND ENTERTAINMENT


- The Code should prohibit directors and staff from soliciting or accepting advantages from persons having business dealings with the company, except accepting certain advantages within specified permissible natures, values and circumstances where no improper influence is involved.
- Where acceptance of gifts/advantages may be allowed, the Code should set out the circumstances/occasions (e.g. during festive seasons) and restrictions for acceptance of advantages (e.g. allowable limit of value of the gift, cash not allowed, acceptance of gifts from suppliers/contractors prohibited), and the channel for seeking special approval in exceptional cases (📄 [Annex 2 of Appendix 1](#)).
- The Code should prohibit supervisors from soliciting advantages from subordinates, and only allow acceptance of advantages from subordinates under specified circumstances (e.g. wedding) or occasions with no improper influence involved.

- Entertainment is an acceptable social activity, but extravagant or frequent entertainment offered to the directors or staff from companies having business dealings may have or be seen to have a sweetening effect which may lead to corrupt behaviour in future. The Code should include guidelines on entertainment, advising them to avoid accepting/ offering entertainment that may be regarded as –
  - **excessive** – taking into account its value, substance, frequency and nature;
  - **inappropriate** – taking into account the relationship between the director/staff and the offeror; or
  - **undesirable** – taking into account the character or reputation of the host or other attendees,
 and may require them to report or seek approval for acceptance of such entertainment.

### 2.3.3 OFFER OF ADVANTAGES

- The Code should prohibit directors and staff from offering advantages to agents of others (e.g. a director or staff member of another company) to improperly influence them in business dealings.
- The Code should remind directors and staff to ascertain that the intended recipient is permitted by his employer/principal to accept the advantage under the relevant circumstances before the advantage is offered.
- The Code should also prohibit directors and staff from offering advantages to flat owners to unduly influence them in matters pertaining to the management of the property.

### 2.3.4 CONFLICT OF INTEREST

- A conflict of interest situation arises when the “private interests” of a director or staff member compete or conflict with the interests of the PMC/MC/OO or the director’s or staff member’s official duties. Private interests include financial and other interests of the director/staff member himself, and those of his connections including family and other relations, personal friends, the clubs and associations to which he belongs, any other groups of people with whom he has personal or social ties, and any person to whom he owes a favour or to whom he may be obligated in any way.
- Sometimes, conflict of interest exists where the interests of PMCs conflict with the interests of MCs/OOs (e.g. the subsidiary company of a PMC has financial interests in a company bidding for a service contract of the property managed by the PMC) ( **Appendix 2**).



## 2.3.5 MECHANISM TO MANAGE CONFLICT OF INTEREST

- PMCs should adopt a “three-step mechanism” in managing conflict of interest –
  - **Avoid** – All directors and staff should remain alert to and avoid any actual, potential or perceived conflict of interest situation;
  - **Declare** – If the conflict is unavoidable, the director or staff member should report it to the designated approving authority once he becomes aware of the conflict; and
  - **Mitigate** – The designated approving authority, after assessing the impact of the conflict and the risk of impropriety, should take appropriate mitigating measure as early as possible.
- The mitigating measure to be taken would depend on the circumstances of individual cases and the level of mitigation should commensurate with the severity of the conflict, the interest involved and others’ perception (📎 **Appendix 3**).
- Proper documentation of the declaration, the rationale for the decisions made and the course of mitigating measure taken should be maintained (📎 **Annex 3 of Appendix 1**). It would be helpful to designate an office/a staff member of appropriate rank to keep the precedent cases in managing declared conflict of interest so as to enhance consistency and facilitate sound decisions in managing declared conflict in future.
- For conflict of interest which could not be avoided and with significant implication to the interest of the PMCs/MCs/OOs (e.g. a senior management staff member of a PMC has a financial interest in the business of a supplier or service contractor bidding for the OO’s contract), PMCs should report the declared conflict of interest to the MCs/OOs for considering an appropriate mitigating measure<sup>3</sup>.
- **Positive Declaration**
  - Depending on the operational needs and circumstances, PMCs may require a staff member who participates in projects involving sensitive issues/information or great public concerns, or in large-scale maintenance projects to declare whether or not they have any conflict of interest (i.e. positive declaration) on the matter in order to protect the public interest and the interest of the PMCs/MCs/OOs.

<sup>3</sup>

*Under the General Code of Conduct issued by the PMSA, a licensee (i.e. holder of a PMC or property management practitioner licence) should avoid conflict of interests with the licensee’s clients. In the event of possible or potential conflict of interests (whether pecuniary or beneficial interest), a licensee must as soon as reasonably practicable disclose to the licensee’s clients in detail such interests.*

## **2.3.6 MISUSE OF OFFICIAL POSITION**

- The Code should prohibit directors and staff from misusing their official position in the company to pursue their own private interests, which include both financial and personal interests and those of their family members, relatives or close personal friends, etc.

## **2.3.7 HANDLING OF RECORDS, ACCOUNTS, AND OTHER RESTRICTED INFORMATION**

- The Code should remind directors and staff to ensure that all records, receipts, accounts, etc. they submit to the company give a true representation of the facts, events or business transactions as shown in the documents.
- The Code should remind directors and staff to safeguard, and not to disclose to others without proper authority, any restricted information (e.g. the clients' data).

## **2.3.8 RELATIONSHIP WITH SUPPLIERS AND CONTRACTORS**

- The Code should remind directors and staff to avoid engaging in frequent gambling activities (e.g. mahjong) with persons having business dealings with the company (e.g. suppliers, service contractors).
- The Code should remind directors and staff to avoid accepting any loan from, or with the assistance of, any person having business dealings with the company.

## **2.3.9 OUTSIDE WORK**

- The Code should lay down clear policy for outside work and remind staff to seek prior written approval of the designated authority if outside work is allowed.
- The Code should remind the approving authority to consider whether the outside work would give rise to a conflict of interest with the staff member's duties in the company or the interest of the company.
- The Code should remind directors and staff to avoid conflict of interest in carrying out approved outside work and update and seek further direction from the approving authority should he encounter actual conflict of interest.

## **2.3.10 REPORTING OF VIOLATIONS, SUSPECTED CORRUPTION AND OTHER CRIMINAL OFFENCES**

- The Code should clearly state the PMC's policy on handling reports of breach of the Code, misconduct and suspected criminal offences including corruption.

- The Code should encourage directors and staff to report instances of crime or suspected crime including corruption discovered in the course of their work to the relevant regulators and/or law enforcement agencies at the first practicable opportunity. In this regard, the PMC may issue a separate whistleblowing policy to give clear guidance on handling of reporting of violations.

### 2.3.11 COMPLIANCE WITH THE CODE OF CONDUCT

- PMCs should remind directors and staff, whether performing their duties in or outside Hong Kong, to comply with the Code. In particular, managers and supervisors should be reminded to ensure that the staff under their supervision understand well and comply with the Code.
- The Code should state the consequence of breaching the Code, which may include disciplinary actions including termination of appointment and that in cases of criminal acts, the PMC will also promptly make a report to the relevant regulators and/or law enforcement agencies.



**Q4. What should PMCs and/or their staff do when being confronted with pressure from an MC member in compromising the laid-down requirements related to property management?**

**A** As a service contractor, PMCs endeavour to provide a quality property management service to flat owners. To this end, PMCs and/or their staff must never violate the law, the company's Code or involve in any other malpractice in order to please the MC members. Such malpractice/breaches will result in the act being brought for investigation by the relevant law enforcement agency in the case of criminal acts, or disciplinary actions including termination of employment by the PMC in the case of breach of other integrity requirements by the staff. If the PMC loses the management contract for not heeding to the MC member's request, it may still have other business opportunities; but if the PMC and/or its staff commit a crime, they may have their licence revoked or reputation tarnished and lose all job/business opportunities in the industry.

For more information about ethical decision making and other ethical dilemmas at work, please visit the dedicated **Ethical Decision Making** section ([hkbedc.icac.hk/edm/en](http://hkbedc.icac.hk/edm/en)) at the website of the Hong Kong Ethics Development Centre.



## 2.4 INTERNAL CONTROL SYSTEM

- An effective anti-corruption and internal control system provides PMCs with the assurance for the achievement of their objectives and prevention of loss of resources. The following outlines the essential components of a sound internal control system.

### 2.4.1 CLEAR POLICIES, WORK PROCEDURES AND GUIDELINES<sup>4</sup>

- Lay down clear policies, procedures and internal controls in the conduct of various property management functions (e.g. reporting to and communication with flat owners and OOs, procurement and financial management on behalf of OOs, compliance, risk management), and regularly review the policies, procedures and controls, and update them as necessary to suit current operational needs.
- Define clearly the roles and responsibilities of each level of staff or post and the authorities for making decisions in various functions (e.g. setting out an approval matrix for procurement involving goods or services of different values), and set out the circumstance where OOs need to be involved in the decision-making process (e.g. appointment of a manager who assumes a managerial or supervisory role in providing the property management services for the property).

### 2.4.2 CHECKS AND BALANCES

- Put in place appropriate control measures in operational procedures that are commensurate with the corruption risks involved to mitigate the risks, including –
  - segregate and assign critical duties with risks of malpractice to different staff/units (e.g. inviting tenders, evaluating bids, accepting goods/services, certifying payments) as far as practicable;
  - conduct random supervisory checks on important day-to-day operational procedures (particularly those performed by a single staff member); and
  - conduct internal/independent audits on processes that are exposed to risks of corruption or malpractice to deter and detect irregularities.

### 2.4.3 TRANSPARENCY

- Ensure that essential details regarding operational procedures are made clear and accessible to relevant parties. For instance –

<sup>4</sup> Under the General Code of Conduct issued by the PMSA, a PMC licensee must establish proper procedures and systems to manage and supervise the property management services provided by the licensee.

- provide the information on the calculation of management fees (e.g. Manager's remuneration) and regular financial reports to flat owners, detailing income and expenditure items and explaining any discrepancies or significant changes;
- maintain accurate records of all maintenance requests and works performed, and provide regular updates to flat owners on any significant maintenance issues or projects; and
- inform the bidders of the broad criteria for assessment of tenders in a tender exercise for the provision of services to OO or PMC.

#### **2.4.4 RECORD KEEPING AND INFORMATION SECURITY**

- ▣ Require staff to properly document and keep records of key operational procedures (e.g. handling residents'/owners' complaints), in particular decisions for exceptional cases or any deviation from the laid-down procedures.
- ▣ Lay down the policy and rules on classification and handling of information and ensure that restricted, confidential or sensitive information, whether it is kept physically (e.g. visitors' log book) or electronically (e.g. CCTV recordings), is limited to access on a need-to-know basis, and implement security safeguards to protect the information from leakage, tampering or destruction (e.g. audit trail function with generation of management reports for identification of and following up on abnormalities, proper encryption to protect sensitive data/information from unauthorised access).
- ▣ While processing staff's/residents'/owners' data using smart or electronic means (e.g. communicating with staff or residents/owners through communication apps engaging cloud service), evaluate the trustworthiness of the suppliers and their contractors/subcontractors, the quality of their services, the security measures they have in place to avoid unauthorised disclosure or leakage of personal data online.

#### **2.4.5 SUPERVISORY MONITORING AND ACCOUNTABILITY**

- ▣ Require supervisors to remain vigilant at all times to potential risk of corruption or other malpractice faced by themselves and their subordinates.
- ▣ Require supervisors to implement measures to deter and detect malpractices such as conducting spot checks on operations and transactions, and follow up on suspected irregularities.
- ▣ Put in place an information management system which can generate management reports to facilitate monitoring of important operations.

## 2.4.6 INTERNAL COMMUNICATION AND TRAINING

- Ensure that PMC's guidelines including the Code are transparent and well understood by directors and staff at all levels through circulars, briefings or training sessions, issue periodic reminders of the PMC's anti-corruption policy, such as before festivals when business partners and clients may offer gifts.
- Provide training to directors and staff covering anti-bribery laws, key corruption risks and safeguards, and specific guidance on how to deal with potential pitfalls, such as conflict of interest, and conduct regular review to ensure the effectiveness (e.g. use follow-up quizzes to assess the understanding of the participants and their need for further training).

## 2.4.7 EXTERNAL COMMUNICATION

- Make known to flat owners, OO, residents/owners, suppliers and service contractors, and other business partners the PMC's anti-corruption stance and rules (e.g. prohibition of solicitation and acceptance of advantages by PMC staff in relation to the PMC's service provided/business), its commitment to only conduct business with partners who have similar probity requirements for their directors and employees, and warn them against the offering of any advantages to staff of the PMC in the course of providing property management services (📄 [Appendix 4](#)).
- Advise OOs about the appropriate probity guidelines for their members (📄 [Appendix 5](#)).
- Report in writing any conflict of interest that exists between PMCs and MCs/OOs (e.g. the subsidiary company of a PMC has financial interests in a company bidding for a service contract of the property managed by the PMC) for the MCs to consider appropriate mitigating measures.

## 2.4.8 COMPLAINT AND REPORTING CHANNELS

- Collect residents'/owners' feedback on the services provided by staff and encourage residents/owners to reflect their opinions.
- Develop procedures and guidelines for the proper handling of enquiries/complaints/reports. The procedures should include accessibility of confidential information, approving process, record keeping, time frame and monitoring, etc. to ensure that all enquiries/complaints/reports are properly handled with reporting mechanism to appropriate authorities (e.g. senior management staff).

- Establish a whistleblowing policy<sup>5</sup> and system, in particular for reporting of corruption and violations, which covers the following –
  - State the PMC's anti-corruption policy and provide suitable channel(s) for reporting corruption and violation of the policy;
  - Require all personnel of the PMC to report promptly any corruption to the ICAC or through the reporting channels provided as appropriate;
  - Encourage business partners (e.g. suppliers, contractors) to report corruption or corruption attempts by any of the PMC's personnel;
  - Provide assurance of confidentiality, prompt handling by sufficiently senior authority and non-retaliation to the staff/persons who make a report in good faith;
  - Avoid any acts that may jeopardise or affect future investigation by a law enforcement agency;
  - Reiterate the zero-tolerance policy towards any corrupt behaviour detected, which will result in reporting to the relevant law enforcement agency and disciplinary action such as termination of employment (in the case of staff) or termination of contract and exclusion from future bidding (in the case of suppliers/contractors); and
  - Subject the reports received and handled (e.g. number, type, follow-up actions taken) to regular management oversight.

## 2.4.9 CORRUPTION RISK ASSESSMENT AND MANAGEMENT

- Include corruption risks as an integral part of the PMC's risk management system and accord them an equally high priority as other business/operational risks, and establish mechanisms to prevent and control the corruption risks with continuous monitoring/review.
- Recognise the serious damage of corruption to the PMC when devising the risk management policy, and hence adopt the lowest level of acceptance for corruption risks that the PMC is willing and able to take.
- Perform the corruption risk management function by a designated team of suitable staff (which could be within the internal audit function or dedicated anti-corruption unit). The team should have direct reporting line to the senior management to ensure its independent assessment and their role should be distinct from other executive functions to avoid conflict of interest in carrying out the functions.

<sup>5</sup>

*The Corruption Prevention Advisory Service of the Corruption Prevention Department has developed a framework of the core elements/provisions of a corporate whistleblowing policy which aims at helping organisations to enhance their corporate whistleblowing policy and corruption prevention capability. For further information, please contact the Corruption Prevention Advisory Service through the established channels (Section 8.2).*

- Ensure that the risk assessment and management framework is able to help identify business operations, processes and practices that are conducive to corruption or weaknesses that give rise to corruption risks, and put in place anti-corruption measures to prevent and control the risks identified with continuous monitoring/review.

## 2.4.10 AUDIT AND REVIEW

- Set up an internal audit function/unit to independently evaluate the effectiveness of risk management, control and governance processes.
- Ensure that the internal audit function/unit –
  - is independent from operation under audit, comprises sufficient staff with appropriate qualification and training, has unfettered access to all records, assets, personnel and premises, and to obtain such information and explanations as and when considered necessary;
  - develops an audit programme setting out the auditing assignments to be performed and conducts regular review to the programme taking into account the risk of key business processes; and
  - reports directly to the directors/senior management and draws their immediate attention to any significant irregularities detected in the course of audit review.
- Conduct periodic compliance/audit checks to ensure staff's compliance with the established policies and procedures.
- Conduct regular/random independent audits on operations/processes/transactions that are exposed to risks of corruption or malpractice (e.g. based on the audit team's knowledge or past corruption cases) to deter and detect irregularities. Deploy management/exception reports and computer-aided audit tools to facilitate the audit. Regularly monitor and review the risks and controls, and update/improve the controls where necessary.
- Make the parties concerned aware of the random/independent check policy for deterrence purpose.
- Require the senior management to give due consideration to the opinions and findings of both the internal and external auditors, and take timely actions in response to the recommendations/findings, as well as monitoring the progress in redressing any problems/loopholes raised by the auditors.



## 2.4.11 CONTROL THROUGH DIGITALISATION

- Assess areas, duties or tasks which digitalisation could have significant advantage, or such that the corruption risks concerned can be effectively and satisfactorily prevented/reduced compared to the existing conventional controls (e.g. attendance of staff, handling of payments).
- Where a need of digitalisation is identified, identify and build in functionalities or innovation and technological solutions that serve to enhance corruption prevention in the process, for instance –

### ***Data Capture and System Integration***

- Auto-capture the data, steps, and outcome of important operations in the computer system to uphold accountability.
- Integrate correlated computer systems/modules (e.g. finance, human resources, procurement) to ensure seamless data flow and process alignment.

### ***Supervisory Monitoring***

- Build in automatic alerts or red flag functions to facilitate compliance checks and detection of irregularities, and promptly notify supervisors or management of any abnormal patterns or irregularities detected.
- Implement data analytics, visualisation tools or dashboards to facilitate the monitoring of operations (e.g. using data analytics for facilities management, adopting visualisation tools or dashboards to convert complex data sets into easy-to-understand charts, graphs, or other visual formats to enable more informed decision-making).
- Use advanced technologies such as artificial intelligence (AI) to detect fraudulent behaviour in the operations, for instance –
  - Anomaly detection – train a machine learning (ML) model using data/information of respective operations to learn what normal operations looks like (e.g. staff attendance at designated posts), and if a new mode of operation (e.g. staff absence for a significantly long period of time) comes in that significantly deviates from the normal pattern, the ML model can flag it as an abnormal case or a potential fraud requiring attention.
  - Text analysis – AI can be used to analyse the text of documents to detect unusual language or terms that may indicate fraudulent activities (e.g. the same exact amount billed twice in a short period of time).

### **Automation of Workflow**

- Implement an automated workflow to guide staff through the whole processes of individual property management functions to ensure all necessary steps are taken (e.g. each completed action could trigger an automatic notification to the next responsible party in the computer system via email).
- Ensure the automated workflow is consistent with the policies and guidelines of the PMC/OO.

### **Management of Conflict of Interest**

- Require the staff to declare conflict of interest via the computer system.
  - Automate the workflow for forwarding a declared conflict to designated authority to determine appropriate mitigating measures.
  - Use auto-matching or AI to help match or analyse the key personnel and particulars of counterparts having business dealings with the PMC/OO with a view to identifying potential conflict of interest situations and detect irregularities.
- Foster a change in culture for digitalisation through various communications and training, identify and educate staff on the benefits of digital transformation for them and the PMC.



#### **Q5. Would implementing anti-corruption controls in a PMC incur high costs?**

- A** PMCs can implement corruption prevention measures that are appropriate for their specific operational needs, taking into account their size, available resources, and level of risk exposure. Small-scale PMCs may need to adopt a more adaptable approach when establishing their internal control system due to resource constraints, while still adhering to the recommended best practices. The Corruption Prevention Advisory Service (CPAS) of the Corruption Prevention Department (📄 [Section 8.2](#)) will provide free, confidential and tailor-made corruption prevention services on request.



# 3 GENERAL MANAGEMENT SERVICES

- 3.1 ISSUE AT A GLANCE
- 3.2 KEY PROCESSES
- 3.3 CONDUCT OF OWNERS' MEETINGS
- 3.4 MANAGEMENT OF FACILITIES
- 3.5 HANDLING OF COMPLAINTS

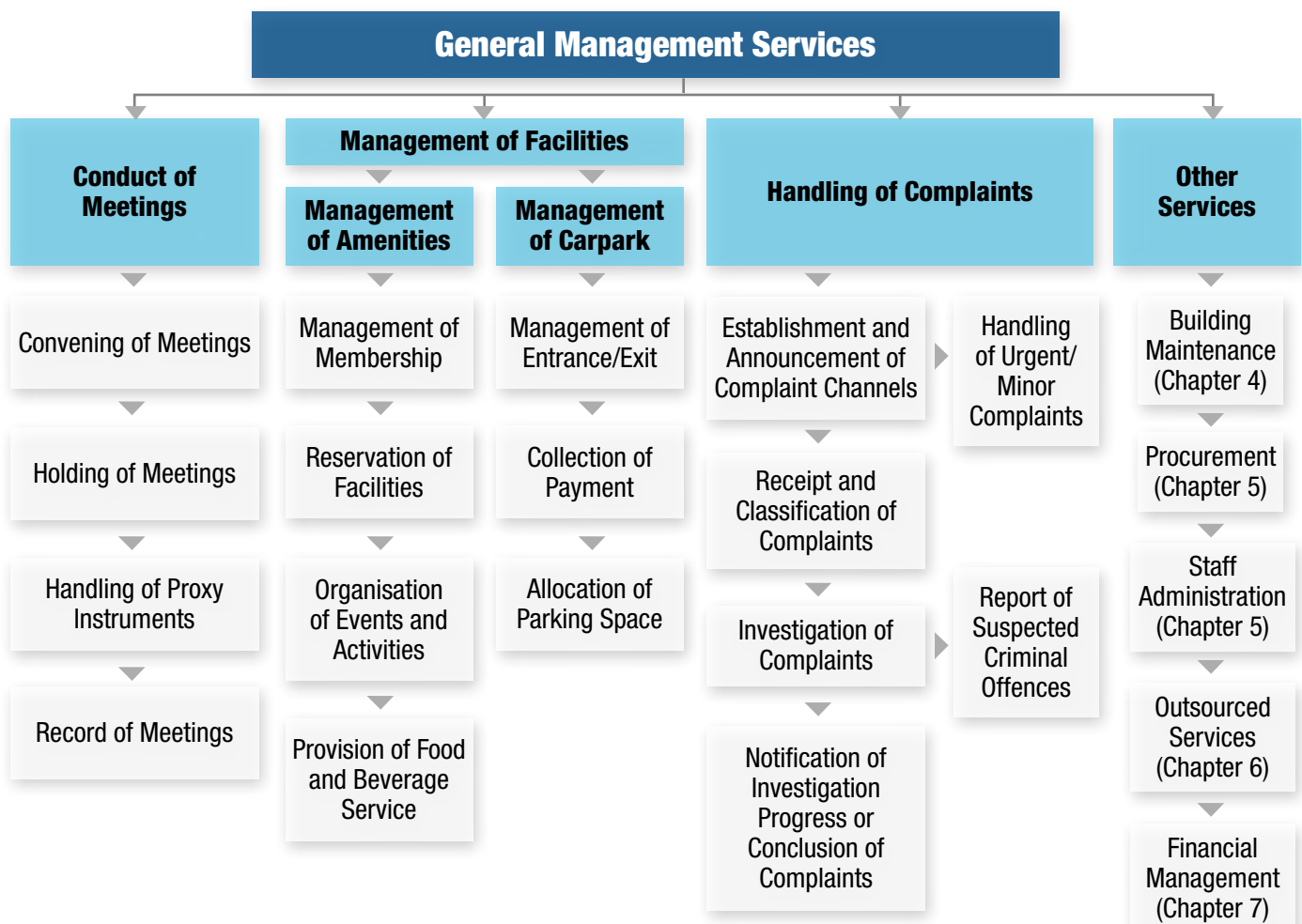


# 3 GENERAL MANAGEMENT SERVICES

## 3.1 ISSUE AT A GLANCE

- PMCs are responsible for the day-to-day management of buildings and play a key role in ensuring the safety of owners, occupants and residents. Corruption risks, such as conflict of interest, unfair treatment, and fraud may exist in various operations like owners' meetings, management of facilities (e.g. amenities such as clubhouse, swimming pool, carpark) and handling of complaints. This chapter discusses the corruption risks and their prevention safeguards relating to the conduct of meetings, management of facilities and handling of complaints.

## 3.2 KEY PROCESSES



## 3.3 CONDUCT OF OWNERS' MEETINGS

- OOs and MCs are required by BMO and DMC to convene meetings to resolve building management issues. To facilitate OOs and MCs in complying with the requirement, PMCs provide support services throughout the process such as preparing and distributing notices of meetings, assisting in holding meetings, collecting proxy instruments and ballot papers for resolutions and elections, facilitating casting of votes by owners and MC members, and preparing and keeping meeting records.

### 3.3.1 RELEVANT LEGISLATIONS AND GUIDELINES

- PMCs should follow the BMO and DMC in the conduct of owners' meetings and advise OOs of such requirements.
- PMCs should also make reference to the guidelines and best practices set out in the Code of Practice and the "Best Practices on Building Management" issued by HAD.
- The "Checklist on Procedural Propriety on Building Management" issued by HAD provides a useful tool to assist PMCs/MCs in complying with the requirements under the BMO, and adoption of the measures in the Code of Practice and best practices in building management.

Website:

[www.buildingmgt.gov.hk/en/Reference\\_Materials/9\\_1\\_1.html](http://www.buildingmgt.gov.hk/en/Reference_Materials/9_1_1.html)



### 3.3.2 MAJOR CORRUPTION RISKS



- 💣 Corrupt PMC staff not disclosing sufficient details (e.g. conflict of interest involving particular tenderers, criteria for assessment of tenders) prior to the passage of a resolution during the OO's meeting in favouring certain stakeholders (e.g. tenderers, contractors).
- 💣 Compromised PMC staff assisting in manipulating the voting process for selection of contractors/election of MC by using false proxy instruments.
- 💣 Colluded PMC staff assisting a candidate to post electioneering materials at more prominent locations or accepting late submission of proxy instruments in favour of certain candidates during the election of MC members.




### 3.3.3 CASE STUDY 1 – ACCEPTANCE OF ADVANTAGE FOR ASSISTANCE IN ELECTION OF MANAGEMENT COMMITTEE

- 1** A property management officer has been working at an industrial building for several years. He is responsible for the day-to-day operations of the building. Gradually, he develops close relationships with some of the flat owners.
- 2** During the upcoming MC election, two flat owners offer him monetary advantages in exchange for assisting them to acquire proxy forms so that they could be appointed as proxies and vote for their preferred candidates. The officer agrees and believes that by helping the flat owners manipulate the proxy forms, he can maintain favourable relationships with the flat owners and thus his employment in the building.
- 3** The officer misappropriates some blank proxy forms and advises other flat owners to appoint the two said owners as proxies. In some cases, the officer even asks other flat owners to sign on blank proxy forms and he completes the forms on behalf of the flat owners afterwards.



- 4** The officer and the two flat owners contravene Sections 9(1) and 9(2) of the POBO respectively.

## Analysis and Points to Note –

- The officer has violated his duty to act in the best interest of the industrial building and its flat owners. By manipulating the proxy forms to favour certain candidates in the MC election in return for benefits of securing future employment, he has compromised the integrity of the election process and the ethical standard expected of a property management officer. It also undermines the trust and confidence of other flat owners on the PMC.
- Moreover, misappropriating blank proxy forms for personal gain shows a lack of accountability and transparency in the control of the proxy instruments, which can lead to further corruption risks in the future.
- In order to deter and detect similar malpractices, PMCs are advised to adopt the recommended practices in  **Section 3.3.6.**



### 3.3.4 CASE STUDY 2 – ACCEPTING BRIBE OVER MANAGEMENT CONTRACT

- 1** An Owners' Corporation of a residential building openly invites tenders for the management contract of the building. The chairman of the MC, who is also the owner of a printing company, invites the property manager of the serving PMC to submit a tender for the management contract. He assists the property manager to prepare the tender.
- 2** The chairman indicates to the property manager that he can influence the Owners' Corporation's decision in awarding the management contract and solicits printing orders from the PMC in return.








**3** The property manager offers the chairman a printing order for “laisee” packets and Chinese New Year posters for his assistance in preparing the tender for the management contract. The chairman accepts the order.

**4** The chairman recommends awarding the management contract to the serving PMC which is accepted by MC.

**5** The chairman and the property manager contravene Sections 9(1) and 9(2) of the POBO respectively.

### ***Analysis and Points to Note –***

- In the given case, the chairman’s position in the MC gives him access to confidential information about the tender, which he can use for his private interest and influence the decision-making process in favour of his own interests. PMC may also be incentivised in obtaining the management contract by offering advantage to the chairman.
- In order to deter and detect similar malpractices, PMCs are advised to adopt the recommended practices in  **Section 3.3.6.**

### 3.3.5 CORRUPTION RED FLAGS



- A large number of proxy instruments appointing the same proxy.
- Voting patterns that are unusual or unexpected, such as a disproportionately high number of votes in favour of a particular candidate or contractor by proxies.
- Insufficient documentation or lack of verification for the proxy instruments.

### 3.3.6 CORRUPTION PREVENTION SAFEGUARDS



#### ■ *Convening and Holding of Meetings*

- Lay down procedures for conducting meetings, including serving and displaying notice, attendance, quorum and voting requirement.
- Establish clear policies and procedures for managing conflict of interest among meeting participants, including members of MC, PMC staff, and other service providers (such as works consultants) in compliance with BMO and Code of Practice.
- Advise the attendees to declare conflict of interest with proper documentation on the declaration made and the mitigating measures taken. For election of MC, candidates should declare in writing whether or not they have any association with other candidates or existing MC members.
- Ensure that proper approval processes for key decisions (e.g. by simple majority) in the meeting are implemented.
- Proactively seek flat owners' feedback on the management of the property and encourage the owners to actively participate in the OO and MC meetings.
- Ensure that the quorum is met before commencing the OOs' meeting. Otherwise, advise the chairman to adjourn the meeting.
- Keep a record of owners coming in or leaving the meeting venue, particularly those holding proxies, to ensure that the quorum is met before putting up a resolution for voting.

- Assist in conducting the meeting in an orderly manner, explain the issues and resolutions to be discussed, remain neutral and give all owners equal time to speak, encourage views expression and avoid confrontation and the use of emotional statements. Consolidate the views expressed by the owners after the discussion.
- Check the identity of the owners present at the meeting and the identity of the proxy matched with the proxy instruments.
- Take meeting minutes of OOs and MCs, display them in a prominent location of the building after the meetings following the requirements of the BMO/Code of Practice such as the duration of the display, and make them available to flat owners on request.

### ■ ***Handling of Proxy Instruments***

- Encourage flat owners to attend OOs' meetings in-person.
- Issue a standard instrument of proxy in the format prescribed in BMO. Where the meeting involves resolution on important matters (e.g. selection of tenderer), provide the form with voting instruction to owners to prevent the proxy from voting against the preference of the flat owners.
- Keep the blank proxy instruments in secure locations.
- Advise owners who cannot attend the meeting to appoint trusted proxies.
- Remind owners to fill in all required information in the instruments when appointing a proxy and personally lodge the duly completed instrument of proxy before the deadline.
- Print/stamp the date of OOs' meeting on the proxy instrument and only accept original proxy instruments.
- Use a double-locked collection box for the deposit and safekeeping of proxy instruments, with keys kept separately by the MC secretary and a third party.
- Inform owners of the place of the collection box and the date/time for opening of the box for witnessing the process.
- Enquire and confirm with the flat owner the proxy instrument to be accepted when more than one instrument representing the same owner have been received.
- Assist the MCs to send an acknowledgement of the proxy instruments as confirmation to the owners who have appointed proxies.
- Display in a prominent place of the building the list of owners who have appointed proxies (where resources permit, the list could be disseminated to owners through electronic means, e.g. via designated mobile app).

- Disclose the number of proxy instruments held by individual proxy.
- Advise OOs to engage an independent party such as a certified public accountant to collect and validate proxy instruments.
- Display the list of proxy instruments which are considered invalid with written justifications in a prominent place of the building, and allow owners to inspect the proxy instruments concerned.
- Remind owners to watch for unauthorised proxies by checking the displayed list of units appointing proxies and the attendance list of the meeting.

#### ▣ ***Voting and Vote Counting***

- Advise OOs to adopt practice of casting of votes by voting forms (📄 **Appendix 6**) or show of hands.
- Incorporate security features on the voting form to prevent bogus votes or other malpractices.
- Invite owners to elect representatives to monitor the voting and vote counting process and record their names.
- Record flat numbers for which votes are issued and remind owners to keep custody of votes before voting.
- Count votes immediately after voting and properly record the voting results (📄 **Appendix 7**).
- Check the number of votes cast with the number of votes issued to ensure the number of votes cast is equal to or less than the number of owners and proxies present at the meeting, and report any irregularities to OOs for instruction and record the actions taken.
- Keep the proxy instruments and votes cast for 12 months.
- Make use of IT for casting and counting of votes, if resources allow and it does not violate any regulatory rules, to reduce the risk of human intervention and shorten the voting time (e.g. vote through apps).

## 3.4 MANAGEMENT OF FACILITIES

- PMCs provide property management service to a wide range of facilities. Among those, service for management of facilities such as carpark and amenities including clubhouses, swimming pools, gyms, restaurants are commonly provided in residential properties. Below list some of the key services in the management of amenities and carpark –

### 3.4.1 KEY STEPS IN MANAGEMENT OF FACILITIES

- Establish a membership system to facilitate members' use/booking of facilities.
- Manage scheduling and reservations of the facilities for the residents.
- Organise clubhouse events and activities (e.g. gymnastic classes).
- Conduct inspections of the amenities and carpark to ensure that they are well-maintained.
- Monitor the entrance and exit of the carpark.
- Allocate parking spaces for new tenants and visitors.
- Enforce parking rules and issue fines or penalties for unauthorised parking or other violations.
- Collect payment of carpark rental fees from tenants and visitors and process fee waiver and discount.

### 3.4.2 MANAGEMENT OF AMENITIES – MAJOR CORRUPTION RISKS

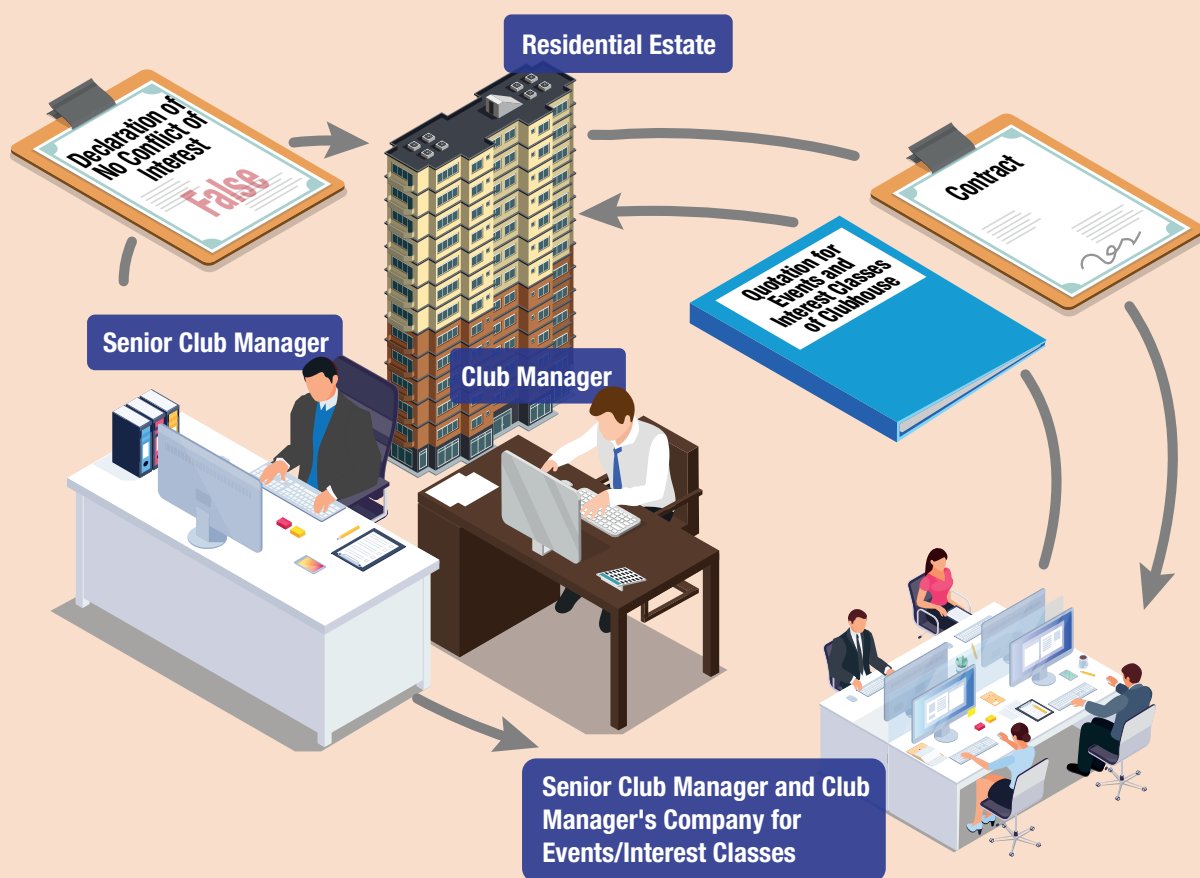


- 💣 Corrupt PMC staff manipulating reservation records of overbooked facilities to favour certain residents, or allowing unauthorised persons (e.g. non-registered visitors) to use the amenities.
- 💣 Colluded PMC staff placing orders to favour particular suppliers without competitive bidding in organising events and activities.
- 💣 Unscrupulous PMC staff using false documents to claim expenses incurred in organising events and activities.




### 3.4.3 CASE STUDY 3 – USING FALSE DECLARATION TO DECEIVE SERVICE CONTRACTS IN CLUBHOUSE OPERATION

- 1 A club manager works under the supervision of the senior club manager of a PMC. They have a duty to make full disclosure of any financial interests which they have in any business or other firms or corporations with which the PMC has business dealings.
- 2 The duo forms a company that provides services similar to those required by the clubhouse of a residential estate managed by the PMC. Despite their interests in the company, the duo does not disclose this information to the PMC or the Owners' Corporation.



- 3 The estate procures services for organising events and interest classes through quotation. In the course of the quotation exercise, the duo declares in writing that they have no conflict of interest with the bidders, notwithstanding that the lowest bid is from their company.
- 4 Through their positions at the clubhouse, the senior club manager and the club manager are able to influence the decision-making process and convince the PMC to engage their company to provide services to the Owners' Corporation. The company is awarded contracts on several occasions for organising events and interest classes for the clubhouse.
- 5 The club manager and the senior club manager contravene Section 9(3) of the POB0 by using documents with false declarations to deceive the PMC.

## Analysis and Points to Note –

- By not disclosing the conflict of interest concerning their financial interest, the club manager and senior manager are able to manipulate the bidding process in their favour.
- The PMC may suffer reputational damage and loss of trust from the owners if it is found that their staff have engaged in corrupt practices.
- In order to deter and detect similar malpractices, PMCs are advised to adopt the recommended practices in  **Section 3.4.5**.

### 3.4.4 MANAGEMENT OF AMENITIES – CORRUPTION RED FLAGS



- Suspicious patterns in the usage of the amenities, such as a high number of reservations for certain residents or non-registered visitors.
- Significantly higher cost for services compared to similar events or venues.
- Lack of proper documentation or records of fees collected or refunds given in the booking/use of facilities, such as missing receipts or invoices.

### 3.4.5 MANAGEMENT OF AMENITIES – CORRUPTION PREVENTION SAFEGUARDS



#### ■ *Management of Membership*

- Maintain a secure system with control access to sensitive data such as residents' profiles, payment information, and other confidential data.
- Maintain up-to-date information of residents who are eligible to use the amenities.

#### ■ *Reservation of Facilities*

- Establish and publicise a clear and fair reservation policy that outlines the procedures and timelines for booking, fee schedules, cancellation and management of waiting list.
- Require disclosure of any potential conflicts of interest by PMC staff who are involved in the reservation of facilities.

- Adopt an electronic booking system which shows the instant reservation status and processing of reservation.
- Conduct regular inspections of the clubhouse facilities to ensure that they are being used appropriately (e.g. all users are authorised).

#### ▣ **Organisation of Events and Activities**

- Devise an events and activities plan for the clubhouse that requires review and approval by authorised personnel.
- Ensure the procurement of goods or services in organising events and activities comply with the procurement policy and procedures (e.g. requiring the procurement staff to positively declare conflict of interest) (📄 **Chapter 5**).
- Conduct regular price comparisons to ensure that prices are competitive and fair, and require justifications for any significant price increases from the estimates.
- Adopt financial controls on collection of revenue (e.g. day-end reconciliation of transactions) (📄 **Chapter 7**).

### **3.4.6 MANAGEMENT OF CARPARK – MAJOR CORRUPTION RISKS**



- 💣 Unscrupulous PMC staff giving priority to relatives or personal friends in the allocation or renting of parking spaces.
- 💣 Corrupt PMC staff accepting advantages for allowing unauthorised vehicles to enter the carpark without proper procedures or authorisation, or providing access cards or permits to unauthorised individuals.
- 💣 Dishonest PMC staff accepting cash payments of parking fees without issuing receipts and misappropriating the fees collected.






### 3.4.7 CASE STUDY 4 – USING FALSE TRANSACTION RECORDS TO EMBEZZLE RENTAL INCOME

- 1** A PMC is responsible for managing a residential estate that includes several parking spaces leased by the Owners' Corporation. The tenants are required to pay monthly rentals for the parking spaces, either in cash or by cheque. An on-site property officer of the PMC is responsible for collecting the rentals and depositing them in the Owners' Corporation's bank account.
- 2** The property officer uses the rentals for his personal investment. After he has redeemed the principal from the investment, he deposits the rentals in the bank account of the Owners' Corporation. To cover up his misdeed, he uses records containing false statements and relevant copies of the bank passbook's extracts to mislead the PMC that the parking rentals are deposited in the bank account of the Owners' Corporation without delay. In fact, he deposits the rentals later than the dates shown on the above documents by up to two to three months.
- 3** The property officer contravenes Section 9(3) of the POBO by using documents with false statements to deceive the PMC.



## Analysis and Points to Note –

- Carpark management usually involves lease management by the PMC. In the scenario described, there is a lack of segregation of duties as the PMC staff member is responsible for both the collection and banking in of parking rentals. This creates opportunities for embezzling the income by using false records and bank passbook extracts.
- In order to deter and detect similar malpractices, PMCs are advised to adopt the recommended practices in  **Section 3.4.10.**

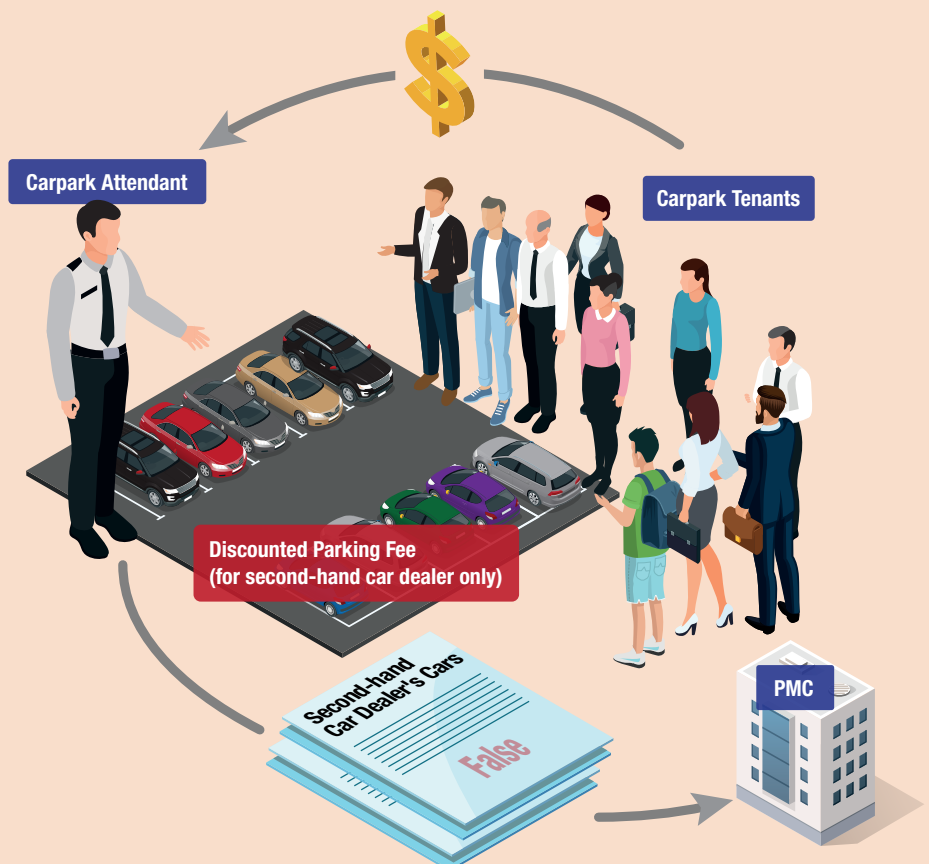


### 3.4.8 CASE STUDY 5 – ACCEPTING ADVANTAGE FOR CONCESSIONARY CARPARK FEES


**1** To rent parking spaces in a multi-storey carpark, a second-hand car dealer can enjoy a discount of the standard parking fee while other tenants have to pay the standard rental.

**2** A carpark attendant is hired by a PMC which provides management service for the carpark. A total of 10 tenants request him to charge them the discounted parking fee and in return offer to share a portion of the fee discounted with him. The carpark attendant agrees. In doing so, he falsely reports in writing to the PMC that the 10 tenants' cars are related to the business of the second-hand car dealer.

**3** The carpark attendant and the 10 tenants contravene Sections 9(1) and 9(2) of the POBO respectively. The carpark attendant also contravenes Section 9(3) of the POBO for using false documents to mislead the PMC.



## ***Analysis and Points to Note –***

- Staff engaging in corrupt practices such as accepting advantage for concessionary carpark monthly rates would not only lead to financial loss of the PMC, but also tarnish its reputation and undermine the trust by the owners. In the scenario described, the non-publicised policy of the PMC regarding the rental of parking spaces and the lack of checks and balances in the granting of concession may have incentivised dishonest staff members to engage in this corrupt activity.
- In order to deter and detect similar malpractices, PMCs are advised to adopt the recommended practices in  **Section 3.4.10.**

### **3.4.9 MANAGEMENT OF CARPARK – CORRUPTION RED FLAGS**



- Signs that monthly carpark spaces are allotted to applicants at a lower priority of the waiting list, or hourly-parked tenants are frequently assigned with spaces at convenient locations (e.g. spaces close to the carpark exit).
- Lack of proper documentation or records on access to the carpark, such as missing access logs.
- Unexplained discounts or refunds given to tenants, or unusual patterns in the collection of parking fees, such as a high number of cash payments not supported by receipts.

### 3.4.10 MANAGEMENT OF CARPARK – CORRUPTION PREVENTION SAFEGUARDS



#### ▣ *Management of Entrance/Exit*

- Record the entry and exit of vehicles and subject the records to random supervisory check against the presence of the vehicles in the carpark.
- Install CCTV to monitor the entrance and exit of the carpark.
- Automate the entrance/exit management process (e.g. adopting automatic vehicle registration plate recognition system) and conduct regular audits of access logs to ensure that they are complete and accurate.
- Supervise the manual control of the entrance and exit gates (e.g. when the automatic vehicle registration plate recognition system malfunctions) to prevent tail-gating of vehicles.
- Maintain updated information about the authorised vehicles and conduct inspection to detect unauthorised vehicles in the carpark.

#### ▣ *Allocation of Parking Space*

- Set out a fair and impartial policy for allocation of parking spaces.
- Require disclosure of any potential conflicts of interest by PMC staff who are involved in the assignment of parking spaces.

#### ▣ *Collection of Payment*

- Record and issue receipts for all cash transactions.
- Collect, at regular intervals, and keep in safe custody the cash in excess of the limit required for the normal operation of the carpark.
- Segregate the duties in different aspects of carpark management, such as fee collection and financial record-keeping.
- Collect payments through electronic means (e.g. credit cards, payment apps) as far as practicable.
- Conduct regular audits of financial records to ensure that all fees collected, discounts and refunds given are properly documented and accounted for.

#### ▣ *Parking Fee Waiver/Discount*

- Publicise the parking fee waiver and discount policy.
- Specify the levels of approving authority for different amounts of parking fee waiver and discount.

- Automate the process for granting fee waiver/discount (e.g. grant the waiver and record its reason using the automatic vehicle registration plate recognition system).
- Conduct inspection to detect unauthorised parking fee waiver and offer of discount.

## 3.5 HANDLING OF COMPLAINTS

- ▣ Staff of PMC have frequent contact with residents or tenants in the course of management of a property. Dissatisfaction or grievance against occupants, PMC or its staff may come from various sources, including residents, owners, tenants, and other stakeholders (e.g. visitors). These complaints can range from noise nuisance caused by neighbours, irregularities in handling of OOs' accounts to conflicts of interest of PMC staff.
- ▣ Effective management of complaints requires prompt attention, clear communication, and a commitment to resolving issues in a timely and satisfactory manner. Below list some of the key services in handling complaints from clients.
- ▣ PMSA has issued the Code of Conduct and related Best Practice Guide on "Complaint Handling Mechanism of Property Management Companies".

### 3.5.1 KEY STEPS IN HANDLING OF COMPLAINTS

- ▣ Establish channels for receiving and recording complaints from residents, owners, tenants, and other stakeholders (e.g. visitors).
- ▣ Acknowledge complaints and provide a timeline for resolution.
- ▣ Investigate and gather relevant information to comprehend the nature of the complaints.
- ▣ Provide regular updates and progress reports to complainants on the status of their complaints.
- ▣ Notify the complainant on the result of the investigation and follow-up action taken.
- ▣ Report the matter to the MC and OO where appropriate.
- ▣ Implement corrective measures (e.g. review of operational procedures), to prevent similar complaints from occurring in the future.
- ▣ Maintain accurate records of all complaints and their resolutions for future reference.

### 3.5.2 MAJOR CORRUPTION RISKS



- Colluded PMC staff turning a blind eye to the complaint against an MC member's irregularities (e.g. storing personal items in common areas of the buildings).
- Corrupt PMC staff ignoring complaints against embezzlement of management fund by the PMC.
- Compromised PMC supervisor taking partial or delayed investigative actions on complaints against a resident who is the supervisor's personal friend.



### 3.5.3 CASE STUDY 6 – ACCEPTING BRIBES FOR NOT TAKING FOLLOW-UP ACTIONS ON COMPLAINTS

**1** A property management officer is employed by a PMC to work in a residential estate. The residents of the estate make numerous complaints to the officer about another resident occupying common areas of the building.


**2** The PMC does not have policies/procedures on handling of complaints, neither does it publicise any other channels for residents to lodge the complaints to the PMC.



**3** Instead of handling the complaint impartially, the officer accepted advantages from the resident in exchange for turning a blind eye to the irregularities.

**4** The property manager and the resident under complaint contravene Sections 9(1) and 9(2) of the POBO respectively.

### ***Analysis and Points to Note –***

- In the given scenario, the staff member has compromised his official duty to handle complaints impartially and in the best interests of the estate's residents by accepting the advantage.
- The PMC does not follow the requirement of the relevant Code of Conduct issued by PMSA<sup>6</sup>. The lack of established policies/procedures on handling of complaints undermines the accountability and increases the risk of undue discretion in handling complaints.
- In order to deter and detect malpractices, PMC is advised to adopt the recommended practices in  **Section 3.5.5**.

## **3.5.4 CORRUPTION RED FLAGS**



- Inconsistent manners in handling complaints, such as dismissing or causing undue delay on some complaints, but taking prompt action on others.
- Lack of documentation or transparency in the management process, such as missing incident reports or logs.

<sup>6</sup> Under PMSA's Code of Conduct on "Complaint Handling Mechanism of Property Management Companies", a licensed PMC has to establish an effective complaint handling mechanism for the property managed by it.

### 3.5.5 CORRUPTION PREVENTION SAFEGUARDS



#### ■ *Establishment and Announcement of Complaint Channels*

- Create accessible complaint channels (e.g. electronic platforms, email accounts, hotlines) and publicise the performance pledge in responding to a complaint prominently.

#### ■ *Receipt and Investigation of Complaints*

- Devise a mechanism for recording all complaints received in a register or computer system and require staff to input essential details including the date and time of the complaint, the complainant's name, subject of complaint, the handling staff, the investigation process and result.
- Devise security measures to restrict the access to the details of the complaints on a need-to-know basis.
- Require handling PMC staff to disclose any conflicts of interest with the complainant.
- Identify the issue and the parties involved in the complaint. Where appropriate, advise the parties in dispute to explore options of settling the issue (e.g. support services on building management provided by HAD, mediation services).
- Inform the MC and refer any suspected criminal cases to the appropriate law enforcement agency for investigation immediately (e.g. corruption complaints to the ICAC or suspected criminal offences to the Police).

#### ■ *Monitoring of Progress*

- Generate automatic system alerts to the staff responsible and supervisors at key checkpoints (e.g. issuance of interim/final replies, reporting of investigation progress, case conclusion) before the due dates for monitoring the follow-up process.
- Keep the MC updated of the progress of investigation. Designate an approving authority to endorse the follow-up action and the conclusion/curtailment of a complaint.



## ■ ***Conclusion of Complaints***

- Inform the parties concerned of the result of complaints and the follow-up actions taken.
- Report the matter in the meeting of the MC and if necessary convene an OO's meeting for a case which has significant impact (e.g. a fraud case leading to financial loss of the OO or a case entailing legal action).
- Take disciplinary actions against the staff if the case involves any non-compliance of the laid-down procedures or negligence of duty.



# 4 BUILDING MAINTENANCE

- 4.1 ISSUE AT A GLANCE
- 4.2 UNVEILING CORRUPTION RISKS
- 4.3 CONFLICT OF INTEREST IN BUILDING MAINTENANCE
- 4.4 MANAGEMENT OF BUILDING MAINTENANCE PROJECTS



# 4 BUILDING MAINTENANCE

## 4.1 ISSUE AT A GLANCE

- Proper maintenance of the buildings provides a safe and comfortable environment for the owners and occupants and extends the service life of the buildings. While owners make contribution to fund the repair and maintenance works, PMCs provide their professional services to owners to ensure that the maintenance works are carried out to the required standards and that the owners' contributions are properly spent on necessary building maintenance works.
- Owing to the huge expenses involved and its technical and complicated nature, building maintenance is an area which renders owners an easy prey for unethical works consultants or contractors, resulting in rip-offs or worse still, substandard works. This chapter focuses on the issues of concern from PMCs' perspective in carrying out building maintenance work.

## 4.2 UNVEILING CORRUPTION RISKS

- Past experience tells that building maintenance is inherently a corruption prone area. Over the years, OOs may have accumulated a huge reserve of building management fund for use for repair and maintenance. Owners, who may not be able to participate throughout the process, may entrust the matter to other stakeholders (e.g. MC members, PMC staff, consultants) to resolve the matter on their behalf. These make OOs attractive targets for corruption and other offences such as fraud or deception.
- The relationships and interactions among various stakeholders involved in building maintenance projects create a complex network. One key relationship is between the OO and MC/PMC. MC members and PMC staff, acting as agents, represent the interests of the OOs as the principal. OO may also be required to engage a consultant (surveyors or architects) as its agent for the project. This intricate web of relationships, sometimes extended to contractors and other middlemen forming high levels of crime syndicates embedding conflict of interests, can unfortunately become a breeding ground for corruption, bid-rigging and fraudulent practices. Given that the relationships

involve delegation of responsibilities/resources, and decision-making authority to these stakeholders, coupling with significant financial stakes, these agents are at a vulnerable position to solicit or be offered advantages (e.g. illegal rebates), collude with the offerors (e.g. contractors) in return for influencing the tendering and selection process, or inflating the maintenance costs. Furthermore, the agents (e.g. PMC staff, MC members) may solicit/accept bribes for acceptance of substandard works. It is essential to raise awareness about the gravity of corruption risks in this area and the detrimental effects it may have on the management of building maintenance projects.

## 4.3 CONFLICT OF INTEREST IN BUILDING MAINTENANCE

- When undertaking building maintenance projects, conflict of interest arises when PMC's (and its staff's) (i.e. the agent) financial or personal interests compete with or is in conflict, whether actual or perceived, with the interest of OO (and PMC) (i.e. the principal), in particular in the process of tendering and supervision of implementation of works. The same applies to other agents (i.e. MC members of MC, consultants and contractors). Corrupt practices aside, agents covering up conflict of interest in the building maintenance projects could amount to illegal acts such fraud and deception (e.g. falsely declaring no conflict of interest to PMC/OO despite his/her existing financial interest in the consultant/contractor company). As such, proper management of conflict of interest can safeguard owners' money contributed and OOs and PMCs should take this as one of their priorities in project management.

### 4.3.1 EXAMPLES OF CONFLICT OF INTEREST IN BUILDING MAINTENANCE

- A staff member of PMC issues works orders to a contractor which is owned by his family member, relative or close personal friend.
- A director of PMC/consultant recommends flat owners to include in tender invitation a contractor which is the PMC's subsidiary company/consultant's associate.
- A staff member of PMC has engaged the works contractor of the building maintenance project under his supervision to renovate his own flat.
- A staff member of PMC connives at the substandard performance of the contractor from which he accepts frequent and lavish entertainment.

## 4.3.2 RELEVANT GUIDELINES

### 4.3.2.1 *Property Management Companies*

- Under the Code of Conduct and the related Guide on “Carrying out Procurement for Clients and Prevention of Bid-rigging” issued by PMSA, when carrying out procurement for clients, a licensed PMC (including its employees) has to, as far as practicable and to the best of its knowledge, declare conflict of interest arising from any financial (including investments) or personal (including family members or relatives) relationship with the bidders. Also, a licensed PMC (including its employees) should take steps to avoid any conflict of interest with any persons who intend to participate in the procurement. During tender assessment, a licensed PMC should remind the relevant assessment panel to declare any relationship with the tenderers, and declare in writing any conflict of interest.

### 4.3.2.2 *Property Management Companies, Consultants and Contractors*

- Under the Code of Practice<sup>7</sup> –
  - PMCs, consultants and contractors (and their employees) are prohibited from soliciting or accepting any advantage arising from the performance of their duties. They should declare in writing any actual or potential conflict of interest arising from the performance of their duties.
  - PMCs, consultants and contractors (and their employees) should declare in writing whether they have any actual, potential or perceived conflict of interest at the start of preparation or deliberation of tender documents or as soon as they become aware of a potential conflict.
  - PMCs, consultants and contractors (and their employees) should take steps to avoid any conflict of interest with any prospective tenderer or tenderer by not putting themselves in a position of obligation, for example, by not accepting any favour, or lavish/excessive entertainment, and not over-socialising with any of them.
  - A PMC and its employees should be required to disclose in writing to MC any personal, business or pecuniary interest that he may have with any MC member, consultants or professional service providers of the Owners' Corporation, or in any of the tenders to be considered by MC or the Owners' Corporation. Any declaration made by PMC, consultants and contractors (and their employees) should be recorded in the minutes of relevant MC meetings or as part of the tender documents and should be kept for at least six years.

<sup>7</sup>

*The requirements mentioned under this section have been suitably adapted for clarity's sake. The original text can be found at [www.buildingmgt.gov.hk/file\\_manager/en/documents/code\\_of\\_practice/221805064\\_HAD%20\(eng\)\(full\).pdf](http://www.buildingmgt.gov.hk/file_manager/en/documents/code_of_practice/221805064_HAD%20(eng)(full).pdf).*

### 4.3.3 MECHANISM FOR MANAGING CONFLICT OF INTEREST

- In the course of providing property management service, the serving PMC should declare to MC/OO any actual or perceived conflict of interest (e.g. the subsidiary company bidding for the maintenance contracts) as and when it arises. Any report of conflict of interest and actions taken (e.g. continue/refrain from participating in the tendering process) should be properly recorded, either in the minutes of meeting or using declaration form (📄 [Annex 3 of Appendix 1](#)).
- In the letting and administration of the consultancy agreement or the works contract of building maintenance project, all key parties (e.g. PMCs, consultants, contractors, members of MC) involved in the building maintenance process should avoid and declare in writing whether or not they have any actual or perceived conflict of interest (i.e. a positive declaration), or any advantage/entertainment that have been received/ is intended to be received from bidders; and undertake to declare so as soon as they become aware of such a conflict (📄 [Annex 3 of Appendix 1](#)). Such declaration requirement for PMC, consultants, contractors (and their employees) is recommended for the following stages of the building maintenance process –

#### ***For Property Management Companies/Management Committee/Consultants***

- Invitation and assessment of quotations/tenders received and recommendation of successful bidder to PMC/MC/OO.
- Approval of progress reports from the consultant/contractor.
- Certification of payments to the consultant/contractor.

#### ***For Consultants/Contractors***

- Issue of certificate of completion for the works contract.
- Submission of the works completion report.

### 4.3.3.1 Commitment to Integrity Standards

#### ***Property Management Company and Staff of Property Management Company***

- See 📄 [Section 2.2.2](#) (Policy on Corruption Prevention) and 📄 [Section 2.3](#) (Code of Conduct for staff of PMC).

#### ***Consultants and Contractors***

- In the appointment of consultants and contractors for the building maintenance projects, PMCs should advise OOs to commit these parties to a high standard of integrity by incorporating probity clauses in the tender documents, and ethical



commitment clauses in consultancy agreements/works contracts, including prohibition of acceptance of advantage, management of conflict of interest and protection of confidential information (📄 **Appendices 8 – 10**).

- The consultant/contractor should be required to undertake in the tender documents/consultancy agreement/works contract to uphold the probity requirements during the tendering exercise and in the course of providing service (📄 **Annexes of Appendices 8 – 10**).
- The consultant and contractor should be required to issue a code of conduct for its staff, incorporating essential probity requirements including prohibition of offering, acceptance and solicitation of advantage, management of conflict of interest and protection of confidential information.



**Q6. In advising OOs to manage a building maintenance project, what assistance is available for them?**

**A** PMCs may make reference to the following assistance and services provided by the Urban Renewal Authority (URA) –

**Building Rehabilitation Platform (BR Platform)**

Website: [www.brplatform.org.hk/en](http://www.brplatform.org.hk/en)

The BR Platform provides an all-in-one platform with information about assistance schemes and technical support in building maintenance with the following features –



- the **Building Rehabilitation Guidebook** with information on preparatory work, appointment of consultants and contractors and monitoring of works;
- **sample documents** produced by professional building and legal consultants for the engagement of works consultants, registered inspectors and works contractors;
- details of various technical and financial assistance schemes available for undertaking building maintenance and repair works;
- reference to the lists of service providers including consultants, contractors, mediators and clerks of works as maintained by various government departments, professional institutions and trade associations;



- the cost reference centre providing the cost range of works items; and
- **Building Rehabilitation Company Registration Scheme**, a database of consultants and contractors who are eligible and interested in providing building rehabilitation works.

**“Smart Tender” Building Rehabilitation Facilitating Services (Smart Tender)**

Website: [brplatform.org.hk/en/subsidy-and-assistance/smart-tender](http://brplatform.org.hk/en/subsidy-and-assistance/smart-tender)

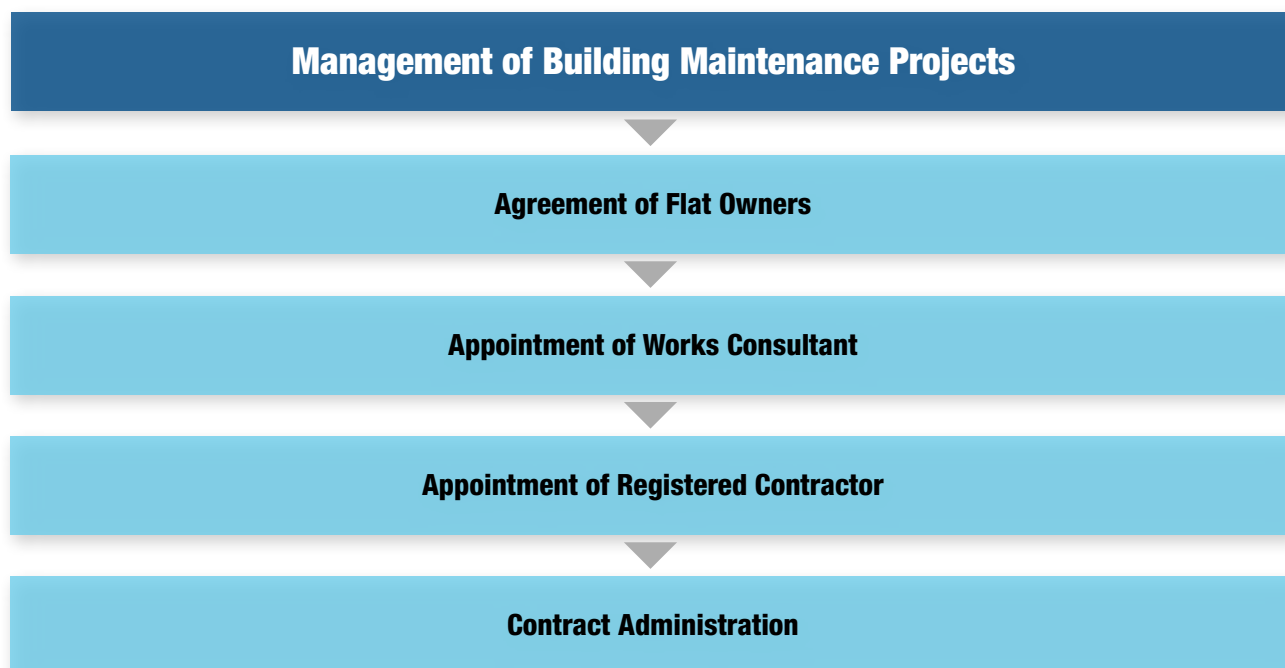


The “Smart Tender” aims to provide technical assistance and professional advice to the eligible OOs in building rehabilitation works. The following services are available –

- **“DIY Tool-kits”** with guidelines in organising building rehabilitation works and requirements of Smart Tender;
- **Independent professionals** to offer advice at different stages of the works, such as advice on inspection reports, tender documents, cost estimates and tender analysis reports prepared by the Authorised Person / Registered Inspector engaged by the owners, and provide cost estimates of relevant work items at tendering stage;
- An **electronic tendering platform** for successful applicants to engage a/an Authorised Person / Registered Inspector and qualified registered contractor; and
- **Tenders Collection Point** to collect the tenders in a centralised manner and engage professional accountants (or independent professional) to administer the tender opening procedures.

## 4.4 MANAGEMENT OF BUILDING MAINTENANCE PROJECTS

### 4.4.1 KEY PROCESSES



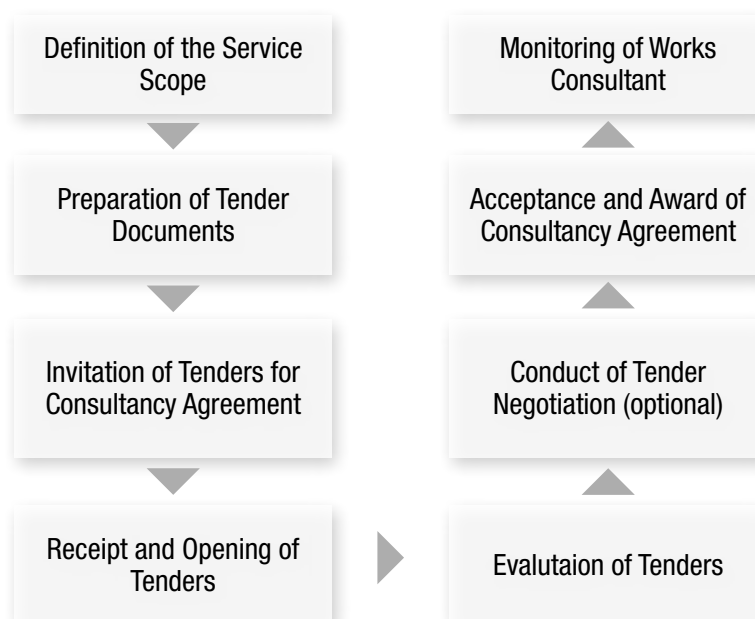
### 4.4.2 KEY STEPS IN AGREEMENT OF FLAT OWNERS

- PMCs should secure the agreement from flat owners at meetings on commencing the building maintenance project on the following –
  - Preliminary observation by PMCs (preferably by the staff with relevant technical background) and MCs/OOs and conduct of questionnaire survey from residents on the building conditions to identify any existing issues or potential problems that may need to be addressed (e.g. ageing of tiles/finishes on external walls, water seepage) and/or the reason for initiating the building maintenance project (e.g. statutory order).
  - Stages and stakeholders of the building maintenance projects involved (e.g. appointment of consultants and contractors), procurement method for consultants (e.g. open/selective tendering) and the schedule of implementation.
- PMCs should give advice to MCs/OOs on the financial implication of the projects to the building management funds, and the availability of resource and assistance (e.g. subsidies schemes from URA or other government departments, service under the Smart Tender, service provided by HAD).

- Discussion and resolution should be made at every key stage of the project in compliance with the BMO, the Code of Practice and the DMC. The major corruption risks and preventive measures on conduct of owners' meetings can be found at [Section 3.3](#).

### 4.4.3 APPOINTMENT OF WORKS CONSULTANT

- PMCs play a crucial role to take the owners on board in appointing the right consultants, who should be not only technically competent but also committed to ethical practices. They should exercise their professional judgement and offer independent advice to OOs concerning the scope of the consultancy services so as to ensure the quality and adequacy of professional input from the consultants for the building maintenance projects, and to avoid unnecessary disputes over the scope of the consultancy services after commencement of the projects.
- The appointment of works consultants comprises the following steps –



#### 4.4.3.1 Key Steps in Appointing Works Consultant

- The Building Rehabilitation Guidebook published by URA provides reference on the preparation work required in appointing works consultants –

Website:

[brplatform.org.hk/en/sample-documents-and-guidebook/building-rehabilitation-guidebook](http://brplatform.org.hk/en/sample-documents-and-guidebook/building-rehabilitation-guidebook)



- The related sample documents (e.g. tender documents, consultancy agreements) published by URA are as follows –

Website:

[brplatform.org.hk/en/sample-documents-and-guidebook/sample-documents](http://brplatform.org.hk/en/sample-documents-and-guidebook/sample-documents)



#### 4.4.3.2 MAJOR CORRUPTION RISKS

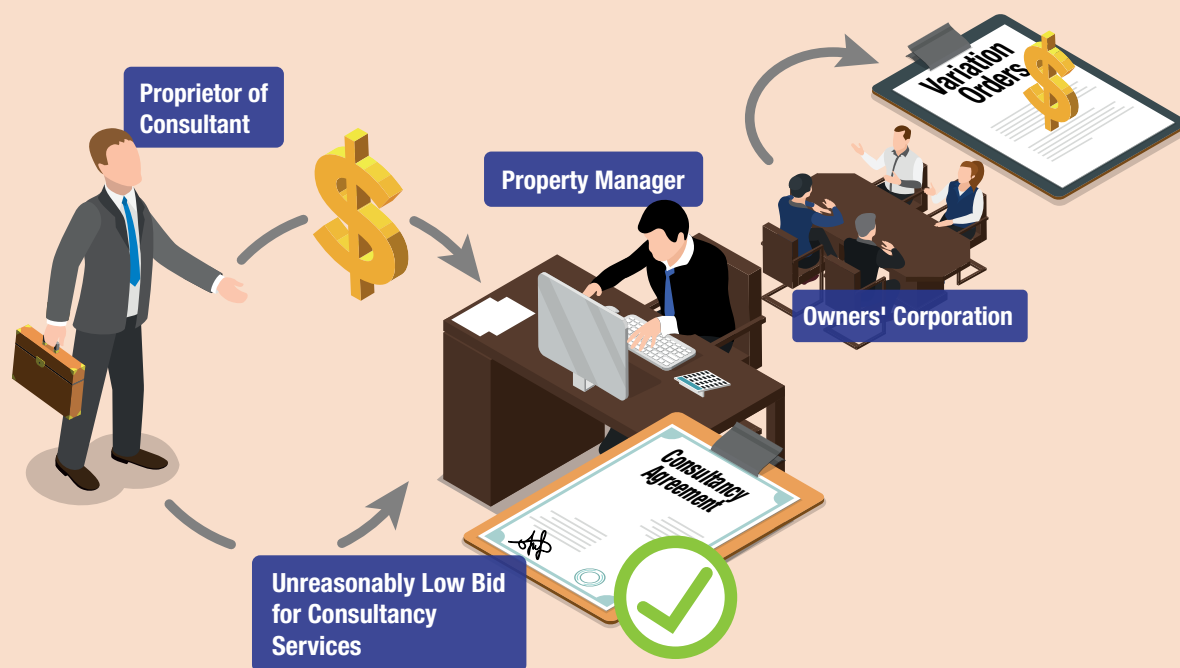


- ⚡ Colluded PMC staff manipulating the scope of works (e.g. inclusion of unnecessary and costly consultancy services or evaluation criteria) in order to favor certain consultants over others.
- ⚡ Compromised PMC staff defining unclear scope of consultancy services, resulting in subsequent dispute, inadequate/poor services, and/or need to acquire “additional” services at higher cost.
- ⚡ Colluded PMC or OO relying on a single person to source the list of potential consultants on his own when conducting selective tendering, or selecting favoured consultants from PMC’s list.
- ⚡ Corrupt PMC staff inviting a consultant recommended/nominated by a contractor who is a potential tenderer for the project.
- ⚡ Compromised PMC staff accepting tenders submitted after the deadline has passed and the tenders received have been opened, exposing the tenders to risk of leakage or tampering.
- ⚡ Corrupt PMC staff favouring a consultant in tender evaluation, such as by making untrue/unfair comments on the performance of other tenderers; changing the evaluation criteria, adding new and irrelevant criteria to screen out the lowest bidder, etc. during evaluation.
- ⚡ Colluded PMC staff recommending OO to accept a tender (for consultants) with an unreasonably low bid without regard to the implication on the quality of service or risk of malpractice.
- ⚡ Compromised PMC staff suggesting to negotiate with a particular tenderer who is not the lowest bidder, giving only this tenderer the chance to revise his bid after tender evaluation, or negotiating with a number of tenderers at the same time, running the risk of unfair disclosure of tender information to a particular tenderer for corrupt purpose.




#### 4.4.3.3 CASE STUDY 1 – ACCEPTANCE OF BRIBES IN ENGAGEMENT OF CONSULTANTS

- 1 A property manager is assisting an Owners' Corporation to engage a works consultant by tender for its building maintenance project. Among the bids received, a consultant submits a bid that is unreasonably low. When queried, the consultant explains that the low price is due to its engagement in a number of similar projects concurrently that the overhead costs can be shared.
- 2 At the same time, the proprietor of the consultant approaches the property manager. He asks for the property manager's favour in recommending his company for acceptance by the MC, and that a sum equivalent to 1% of the contract sum of the building maintenance project will be offered to the property manager if the consultancy agreement is awarded to his company. The property manager agrees to assist the consultant and successfully persuades the MC to award the consultancy agreement to the consultant at a cost of \$600,000 which is less than 20% of the annual expenditure of the Owners' Corporation.



- 3 The works consultant subsequently recommends the Owners' Corporation to engage a colluded work contractor, and afterwards inflates the project costs by advising the Owners' Corporation to issue unnecessary variation orders.
- 4 The property manager and the proprietor of the consultant's company contravene Sections 9(1) and 9(2) of the POBO respectively.

## Analysis and Points to Note –

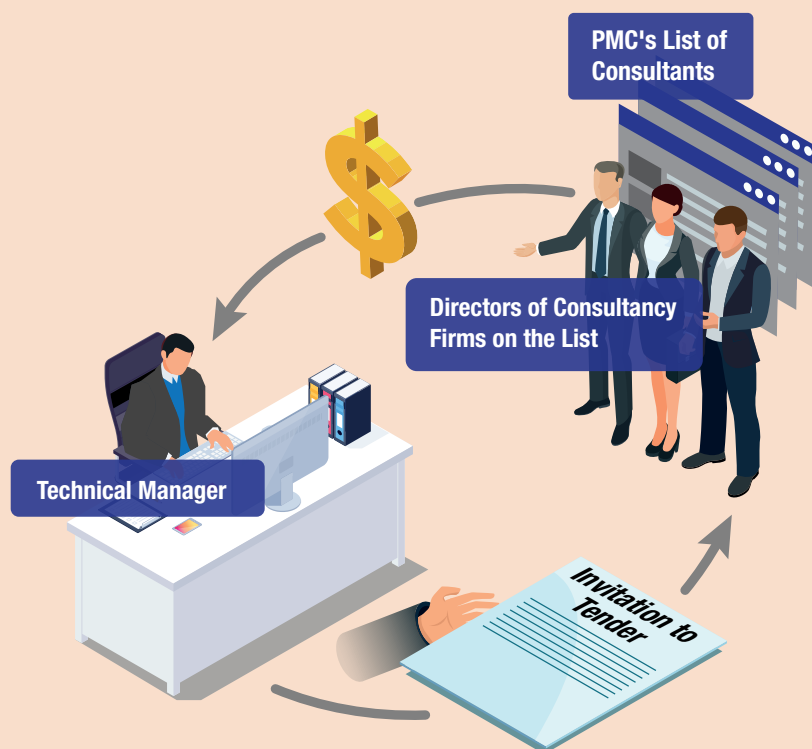
- The property manager fails to act in the best interest of PMC and OO because he has accepted advantages for recommending OO to award the consultancy agreement to the consultant.
- Apart from bribing the property manager for his assistance, the consultant obtains the consultancy agreement by submitting an unreasonably low price. During the implementation of the works contract, it colludes with the contractor to inflate the maintenance costs by issuing unnecessary works orders and shares the profit with the contractor.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in  **Sections 4.4.3.6 and 4.4.4.6.**



### 4.4.3.4 CASE STUDY 2 – SOLICITATION OF ADVANTAGE FOR INVITATION TO TENDER

- 1 A PMC is responsible for managing several commercial/residential buildings. In managing building maintenance projects, the PMC advises and the OO agrees to conduct selective tendering for engagement of consultants. For selecting consultants for invitation to tender, the PMC maintains an in-house list of consultants. However, most of the consultants on the list are recommended by a single staff member, the technical manager, of the PMC.





**2** On every occasion of invitation to tender, the technical manager, without authorisation of the PMC, solicits and accepts advantage from directors of the consultancy firms on the list for being selected for invitation to tender.

**3** The technical manager and the directors of the consultancy firms contravene Sections 9(1) and 9(2) of the POBO respectively.

### ***Analysis and Points to Note –***

- The technical manager abuses his power by soliciting and accepting advantages in the tender invitation process. The use of a single source in selective tendering heightens the risk of favouritism and tender collusion.
- The lack of oversight in the tender invitation process undermines the transparency and creates an opportunity for the technical manager to manipulate the tender invitation process by including only colluded tenderers. Such adversely affects the reputation of the PMC and compromises the interests of OO.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [Section 4.4.3.6](#).

### **4.4.3.5 CORRUPTION RED FLAGS**



- ▣ Selection of consultants for tender invitation on PMC staff's own choice.
- ▣ Unexplained changes and additions to the scope of services, or inclusion of unnecessary or vague evaluation criteria that appear to benefit certain consultants.
- ▣ Supplementary information provided in the tender addenda, which is critical in formulation of bid price, is incorporated in the winning bid only but not others.
- ▣ Unreasonably low consultancy fee proposed in the fee proposal.



#### 4.4.3.6 CORRUPTION PREVENTION SAFEGUARDS



##### ▣ **General**

- Engage the service of Smart Tender<sup>8</sup> and reference with resources provided by URA (e.g. recommended procedures and sample documents).
- Require staff to positively declare conflict of interest and non-acceptance of advantage with the tenderers at key stages of the tendering process and undertake to declare so as soon as staff becomes aware of such a conflict (👉 **Section 4.3.3**), and advise MC members to adopt similar declaration requirements.

##### ▣ **Definition of the Service Scope**

- Identify essential consultancy services required for effective management and implementation of the project, and carefully consider the need for any non-essential or uncommon services and avoid including unnecessary requirements that may reduce competition.
- Segregate the duties of the consultants according to the nature of the consultancy work (e.g. architects/building surveyors for design, quantity surveyors for cost control).

##### ▣ **Preparation of Tender Documents**

- Specify clearly in the invitation documents the scope of consultancy services, the channel and deadline for submission of tenders, and broad tender evaluation criteria.
- Include probity clauses in the tender documents (👉 **Section 4.3.3.1**).
- Ensure all bidders are given the same information which is essential for tender preparation.
- Include in the tender invitation a requirement for the consultants to submit staffing proposals (i.e. responsibilities and degree of involvement of individual key personnel) and breakdown of consultancy fees (i.e. fees for the services at various stages) to facilitate assessment of sufficiency of manpower and reasonableness of consultancy fees.

<sup>8</sup>

*PMCs/OOs, regardless of whether receiving subsidies under the building rehabilitation assistance scheme of URA should consider to join such service in carrying out the building maintenance projects.*

### ■ ***Invitation of Tenders for Consultancy Agreement***

- Advise OOs to form a panel of representatives (comprising PMC staff, MC members, flat owners) to ensure the selection of consultants for invitation is fair and transparent.
- Recommend to OOs a suitable tendering method, such as by open tendering through open/public channels, or selective/restricted tendering by only a list of consultants (e.g. an in-house list of approved consultants).
- Adopt open tendering to enhance competition as far as practicable and avoid charging administrative fees. If selective/restricted tendering is used, PMC staff should observe the minimum number of tenders required by BMO and avoid inviting consultants referred by potential contractors.
- For tendering which selection from the in-house list of approved consultants (if any) is not applicable, consult lists/registers of consultants maintained by government departments and public organisations, as well as other OOs which have completed maintenance projects satisfactorily.
- Ensure that a sufficient number of consultants are included/shortlisted on the invitation list by using a fair shortlisting method (e.g. random selection).
- Assign a separate staff member to verify that those on the invitation list have received the invitation.
- Log all communications with tenderers (e.g. tender addenda, tender queries and response) and subject the communications to supervisory review to detect anomalies.

### ■ ***Receipt and Opening of Tenders***

- Use a double-locked tender box, which should be securely placed in a prominent place of the buildings, for collection of tenders. The two keys of the tender box are to be separately kept by the chairman, secretary or treasurer of MC or PMC supervisory staff.
- Open all tenders immediately after the submission deadline in the presence of at least three members of MC and PMC supervisory staff.
- Sign and date each tender received and keep a record of tenders received.
- Do not accept late tenders.

## ■ ***Evaluation of Tenders***

- Form a tender assessment panel which may comprise representatives from PMC, MC and flat owners to assess the tenders.
- Where tender interview is necessary, convene a meeting beforehand to discuss and define a pre-set list of interview questions. To ensure fair comparison, the interview duration shall not vary. Apart from clarification on the tender contents, the panel should not consider additional information (e.g. preliminary survey reports and related building rehabilitation proposals, unfavourable comments on the other bidders) that affects the evaluation process.
- Tender-related information (e.g. communication with individual consultants, proposals) should be kept strictly confidential and on a need-to-know basis to prevent leakage.
- Determine the evaluation criteria, e.g. any essential/mandatory non-price factors, before tender opening.
- Do not change the evaluation criteria after tender opening.
- Assess the reasonableness of the consultancy fees, based on the consultants' proposed manpower input and the fees breakdown for consultancy services.
- Inform owners about the respective cost to be contributed by the building management fund and the sum to be contributed by individual owners.
- The selection process should be properly documented, and any decisions not to recommend the best offer should be justified and explained to owners in OO's meeting in details.
- Declaration of conflict of interest of MC members/flat owners/staff of PMC involved in the tender assessment (👉 ***Section 4.3.3***).
- Set out the timeframe for providing tender-related documents for inspection by owners.

## ■ ***Conduct of Tender Negotiation***

- Avoid conducting post-tender negotiation unless considered necessary and in the interest of OO.
- Lay down the guidelines for post-tender negotiation, including –
  - The criteria for selecting tenderers for negotiation (e.g. the highest-scorer or the top three highest-scoring bidders).
  - The baseline price and conditions, beyond which the negotiating staff should be required to seek instruction from the management.

- Prohibition on disclosure of the tenderers' bids before, during or after the negotiation.
- Requirement for the bidders to submit the “best and final” offer in writing after negotiation.
- Appoint a negotiation team comprising at least two members from different parties (e.g. PMC staff and MC members) to conduct negotiation.
- Conduct negotiation within the defined parameters and seek instruction from MC as necessary.
- Document the salient points of negotiation and the result.
- Evaluate the “best and final” offers and submit a recommendation in writing to the approving authority.

#### ■ ***Acceptance and Award of Consultancy Agreement***

- Observe the requirements on the acceptance of tender as set out in the BMO.
- Notify all tenderers and flat owners in writing of the tender result.
- Incorporate ethical commitment clauses (📌 ***Section 4.3.3.1***) in the agreement.
- Properly keep all tender documents and agreements for at least six years.
- Make the agreement documents available for inspection by owners.



#### **Q7. Why and how should PMCs maintain lists of consultants?**



To ensure the quality of potential tenderers, PMCs may maintain a list with reasonable number of consultants for common maintenance works approved by the management. To safeguard the integrity of the list, PMCs should lay down the criteria and procedures for inclusion and deletion of consultants on the list, make them known to the consultants intending to join the list and vet all applications for inclusion against the criteria, including those nominated by in-house staff, MCs and flat owners. PMCs should also regularly review the consultants' list, with a view to adding new consultants and removing those with poor performance in order to ensure the quality of the consultants on the list.



**Q8. In assessing the consultant's tender, what are the common non-price factors to consider?**

**A** PMCs may make reference to the following non-price factors in the tender assessment –

**(i) Experience on Building Maintenance Projects**

- The consultant should provide project details and value showing the scale and scope of building maintenance projects which consultancy service was provided.

**(ii) Consultants' Company Background**

- The consultant's company resources and current workload, i.e. the number of full-time/part-time professional and technical staff, and the number and details of ongoing projects. To ensure the independence of the consultant in supervising contractor's work, PMC should ask the consultant to provide the names of the contractors which are associated with the consultant.

**(iii) Staff Proposal**

- Qualification and relevant experience of key personnel (e.g. Authorised Person, project manager, inspector of works).
- Responsibilities and degree of involvement of key personnel (e.g. proposed manhours of individual key personnel).

**(iv) Consultant's Past Performance**

- Letters of recommendations from previous employers/OOs.

**Q9. If the contract value of consultancy service does not exceed 20% of annual expenditure of OO, can PMC advise MC of deciding the selection of the consultants at the MC meeting only?**

**A** The requirements on procurement method and the authority for decision on acceptance of tenders under BMO are summarised as follows –

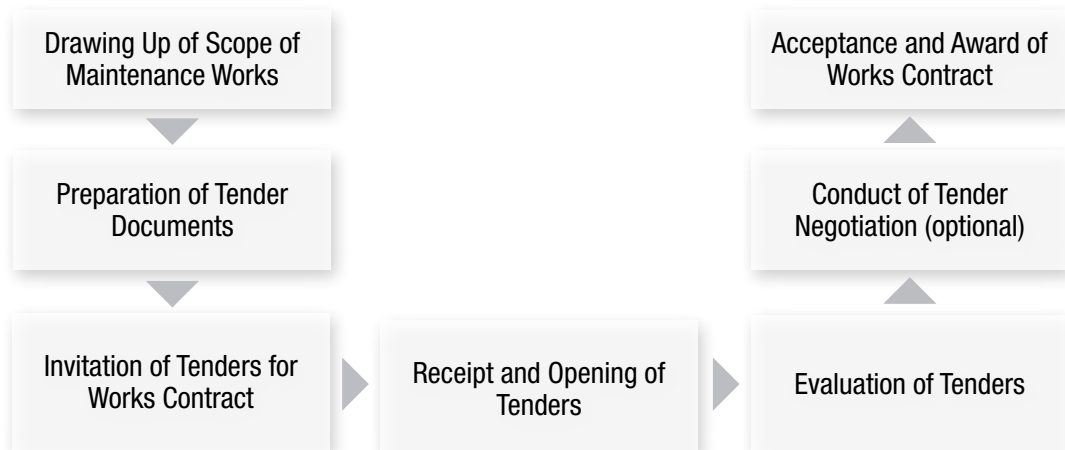
Value of Contract	Procurement Method	Consideration and Decision on Acceptance of Tenders
>\$200,000 and ≤ 20% of the annual expenditure of OOs	Tender	Meeting of MC
>20% of the annual expenditure of OOs	Tender	At OO's meeting



According to the above, for tenders of works consultants whose value does not exceed 20% of the annual expenditure, the tenders could be submitted for acceptance by MC. However, given that the consultant will be responsible for supervision of the works contracts which usually entails a much higher costs, PMCs are recommended to advise MC to convene the meeting of OOs in deciding the acceptance of consultants' tender whenever possible.

#### 4.4.4 APPOINTMENT OF REGISTERED CONTRACTOR

- PMCs should have a good knowledge on the building's condition and requirements to ensure that the repair works items proposed by the consultants, in particular those that are expensive, are genuinely needed. With the guidance of a works consultant, selecting a qualified works contractor with integrity and relevant experience is conducive to the smooth execution and completion of the project, and reducing the risk of claims, disputes or even legal proceedings.
- The appointment of a works contractor comprises the following steps –



#### 4.4.4.1 Key Steps in Appointing Works Contractor

- The Building Rehabilitation Guidebook published by URA provides reference on the preparation work required in appointing works contractor –

Website:

[brplatform.org.hk/en/sample-documents-and-guidebook/building-rehabilitation-guidebook](http://brplatform.org.hk/en/sample-documents-and-guidebook/building-rehabilitation-guidebook)



- The related sample documents (e.g. tender documents and contracts) published by URA are as follows –

Website:

[brplatform.org.hk/en/sample-documents-and-guidebook/sample-documents](http://brplatform.org.hk/en/sample-documents-and-guidebook/sample-documents)



#### 4.4.4.2 MAJOR CORRUPTION RISKS



- Compromised PMC staff colluding with the consultant in –
  - Drawing up unclear specifications of maintenance works and materials/incorporating unnecessary and costly maintenance works, resulting in manipulation in the selection process and subsequent variations at higher costs.
  - Using brand name/restrictive specifications for repair materials to favour the material supplier.
  - Not requiring the consultant to declare conflict of interest, resulting in the invitation of tenders only from contractors within their syndicates, and deterring other potential contractors to tender.
  - Charging high “administrative fee” for submitting tender to deter interested contractors outside the syndicates to tender.
- Colluded PMC staff relying on the consultant to source the list of potential contractors when conducting selective tendering.
- Unscrupulous consultant accepting advantages from a particular contractor in return for favouring the latter in the tender exercise.
- Corruption risks relating to receipt and opening of tenders, evaluation and negotiation of tenders are similar to the engagement of works consultants at ➡ **Section 4.4.3.2.**



#### 4.4.4.3 CASE STUDY 3 – LEAKAGE OF TENDER INFORMATION

- 1 A residential estate is managed by a PMC, whose property officer, supervised by a property manager, is responsible for overseeing the estate's maintenance works project.
- 2 The Owners' Corporation engages a works consultant. The PMC then arranges a tendering exercise for selecting a contractor for the project. A total of 15 contractors submit tenders.
- 3 The operator of one of the contractors approaches the property officer and asks for the list of tender prices submitted by other contractors. He offers the property officer 0.1% of the contract sum of the project as rewards if his company is successful in the bid. The property officer agrees to help him and sends him the price list. Acting on the information, the contractor concerned outperforms other bidders in the tender interview by revising to the lowest tender price which is accepted by the Owners' Corporation.
- 4 The Owners' Corporation decides by majority of flat owners to award the contract of the renovation project to the contractor.
- 5 The property officer and the operator contravene Sections 9(1) and 9(2) of the POBO respectively.





## Analysis and Points to Note –

- By accepting advantages and leaking the tender information to the colluded contractor, the property officer pursues his personal interest at the expense of the owners of the residential estate.
- The property officer's leakage of tender price allows the colluded contractor to gain an unfair edge over the other bidders. The Owners' Corporation's acceptance on the change of tender price after the tender submission may create an opportunity for unscrupulous stakeholders (e.g. PMC staff, consultant) to manipulate the bidding process and heighten the risk of collusion.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [Section 4.4.3.6](#).

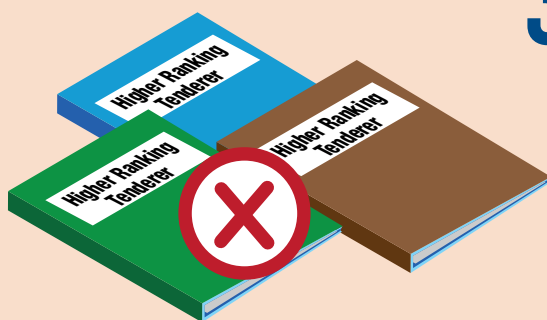
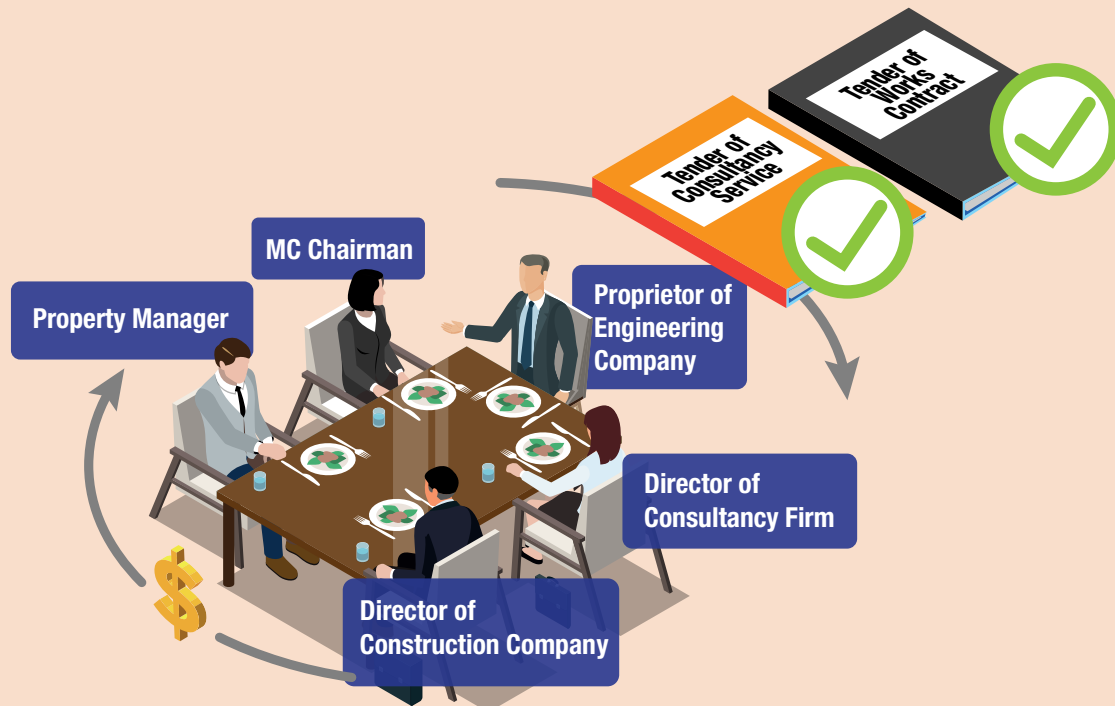


### 4.4.4.4 CASE STUDY 4 – ACCEPTING BRIBES FOR ASSISTANCE IN CONSULTANT AND CONTRACTOR'S BID FOR RENOVATION PROJECT



- 1 The Owners' Corporation of a residential estate resolves to implement a building renovation project with the assistance of the PMC. A property manager of the company asks a proprietor of an engineering company, with whom he has business dealings, to look for consultants and contractors. The Owners' Corporation does not apply for any subsidy from the Government or other public organisations.


**2** The proprietor arranges a dinner with a director of a consultancy firm, a director of a construction company, the property manager and the Chairman of the MC. In the dinner, the directors of the consultancy firm and the construction company offer the property manager and the Chairman respectively 5% and 10% of the project sum as rewards for assisting the consultancy firm and the construction company to secure the contracts in the renovation project by exercising their influence in the Owners' Corporation.



**3** In the tender evaluation for consultancy agreement and works contract, the colluded property manager and MC Chairman advise the Owners' Corporation to reject the higher ranking tenderers, claiming that one of them has poor performance track records without providing any objective evidence or reference information, and that the other has not submitted the company's financial information for assessment of its financial situation, notwithstanding that these are not requirements in the tender invitation nor evaluation criteria. Eventually, the Owner' Corporation awards the contracts to the consultancy firm and the construction company at costs of \$800,000 and \$260 million respectively. The bribes are paid into the bank accounts of the property manager and the MC Chairman respectively.

**4** The property manager and the MC Chairman contravene Sections 9(1) of the POBO, while the directors of the consultancy firm and the construction company contravene 9(2) of the POBO.

## Analysis and Points to Note –

- Past experience tells that unscrupulous syndicates may bribe stakeholders in power of control at the expense of the interest of other flat owners, especially for large scale maintenance project involving huge amount of project costs.
- Changing the tender evaluation criteria after opening of tenders or conducting a procurement exercise without predetermining the evaluation criteria could lead to risks of manipulation in the tender evaluation process. Compromised staff may exploit the loopholes to favour a particular tenderer (in this case the consultant and the contractor), resulting in substantially inflated maintenance cost.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in  **Sections 4.4.3.6 and 4.4.4.6.**

### 4.4.4.5 CORRUPTION RED FLAGS



- Tender prices are much higher than market price, and there are indications that the tenderers have communicated with each other.
- Assessment criteria or scoring systems are subjective or biased that appear to favour certain contractors.
- A PMC staff/consultant arbitrarily proposes to conduct negotiation with the tenderer submitting the second lowest bid only, but not the lowest conforming bid.
- Best tenderer is disqualified or not recommended for contract award by the consultant for reasons beyond the tender assessment criteria after assessment process.
- Acceptance of advantage, lavish or extravagant entertainment from the contractors, or indication of offer of rebate provided by the contractor.

#### 4.4.4.6 CORRUPTION PREVENTION SAFEGUARDS



##### ▣ *General*

- Engage Smart Tender and reference with resource provided by URA (e.g. recommended procedures and sample documents).
- Engage an independent consultant for third party advice on the estimated cost and tender prices.
- Positively declare conflict of interest and non-acceptance of advantage with the tenderers (📄 **Section 4.3.3**) at key stages of the tendering process and undertake to declare so as soon as PMC staff becomes aware of such a conflict, and advise MC members/consultants to adopt similar declaration requirements.

##### ▣ *Drawing Up of Scope of Maintenance Works*

- Require the consultant to clearly distinguish, in the maintenance proposal, the essential/mandatory works items (e.g. works items required under the statutory notices/orders) from the non-essential works items (e.g. improvement works).
- Require the consultant to provide estimated quantities and costs for individual works items to facilitate determination of the scope of maintenance works to be carried out, budgeting and tender comparison.
- Avoid using brand name or restrictive specifications for repair materials unless justified.
- Specify the finalised scope of maintenance works in detail in the tender document and works contract.

##### ▣ *Preparation of Tender Documents*

- See 📄 **Section 4.4.3.6** and the following measures –
  - Refrain from indicating the name of the consultant in tender invitation documents.
  - Ensure the requirement on contractors to submit estimated quantities and a breakdown of tender prices for individual major works items are included in the tender invitation for assessing the reasonableness of price.

## ■ ***Invitation of Tenders for Works Contract***

- See 🏠 ***Section 4.4.3.6*** and the following measures –
  - Inform owners about the mandatory maintenance works specified in the statutory notices (if any) before invitation to tender.
  - Invite tenders/expressions of interest from contractors through various means, such as putting advertisement on newspapers and displaying a copy of the tender invitation in a prominent place in the building.
  - Do not solely rely on the consultant to recommend the invitation list.
  - Refrain from indicating the name of the consultant in the advertisement and tender box.

## ■ ***Receipt and Opening of Tenders***

- See 🏠 ***Section 4.4.3.6***

## ■ ***Evaluation of Tenders***

- See 🏠 ***Section 4.4.3.6*** and the following measures –
  - The tender assessment panel should comprise representatives from PMC, MC, the consultant and the representatives of flat owners.
  - Declaration of conflict of interest of MC members/owners/staff of PMC and consultant involved in the tender assessment (🏠 ***Section 4.3.3***).
  - Reference to URA's cost reference on major maintenance work items.  
  
Website:  
  
[www.brplatform.org.hk/en/cost-reference-centre](http://www.brplatform.org.hk/en/cost-reference-centre)
  - Report the evaluation results of all tenderers at owners' meeting.



## ■ ***Conduct of Tender Negotiation***

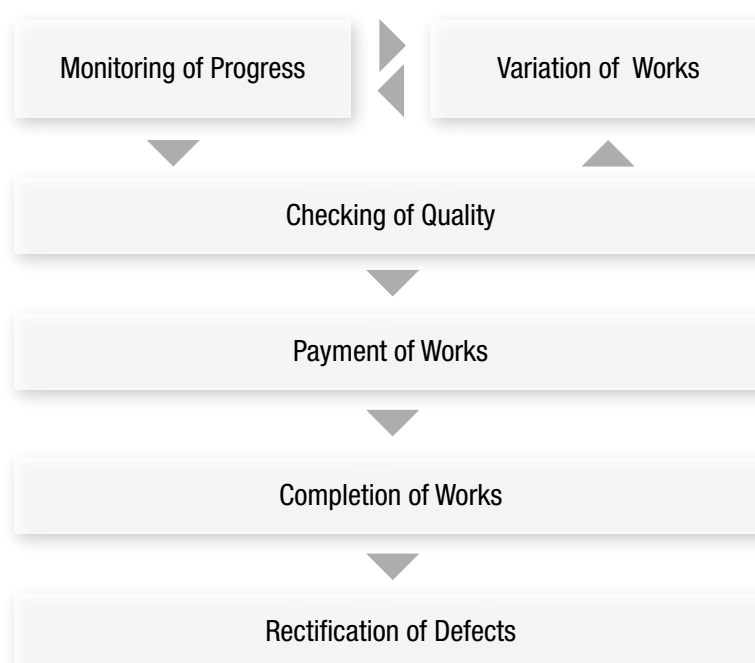
- See 🏠 ***Section 4.4.3.6***

## ■ ***Acceptance and Award of Works Contract***

- See 🏠 ***Section 4.4.3.6*** and the following measures –
  - Incorporate ethical commitment clauses (🏠 ***Section 4.3.3.1***) in the contract.
  - Require the works contractor to issue a Code of Conduct for its staff.

## 4.4.5 SUPERVISION OF MAINTENANCE WORKS AND MANAGEMENT OF CONTRACTS

- After the appointment of the contractor, PMCs, in particular on-site staff, should work closely with the consultant in updating flat owners the project status and advise OOs of the contractor's performance. The role in supervising the maintenance projects should not be replaced by and solely relied on the works consultant.
- The supervision of maintenance works and management of contracts comprises the following steps –



### 4.4.5.1 *Key Steps in Supervision of Maintenance Works and Management of Contracts*

- The Building Rehabilitation Guidebook published by URA provides reference on supervision of maintenance works and management of contracts –

Website:

[brplatform.org.hk/en/sample-documents-and-guidebook/building-rehabilitation-guidebook](http://brplatform.org.hk/en/sample-documents-and-guidebook/building-rehabilitation-guidebook)



#### 4.4.5.2 MAJOR CORRUPTION RISKS



- Compromised PMC staff conducting lax supervision of the work progress, and conniving at the contractor's work delays, substandard/incomplete works, poor workmanship and/or substandard materials.
- Colluded PMC staff intentionally omitting essential repair works from the tender invitation and subsequently causing variation orders to be issued for such works to the contractor at inflated prices after the award of contract.
- Corrupt PMC staff assisting in the issue of orders for unnecessary works during project implementation, or unnecessary switching to more expensive or inferior materials during project implementation to increase the contractor's profit.
- Colluded PMC staff turning a blind eye to substandard/incomplete works, or conducting lax supervision on defects rectification.
- Corrupt PMC staff assisting in the release of final payment or retention money, before completion of all works or defects rectification.

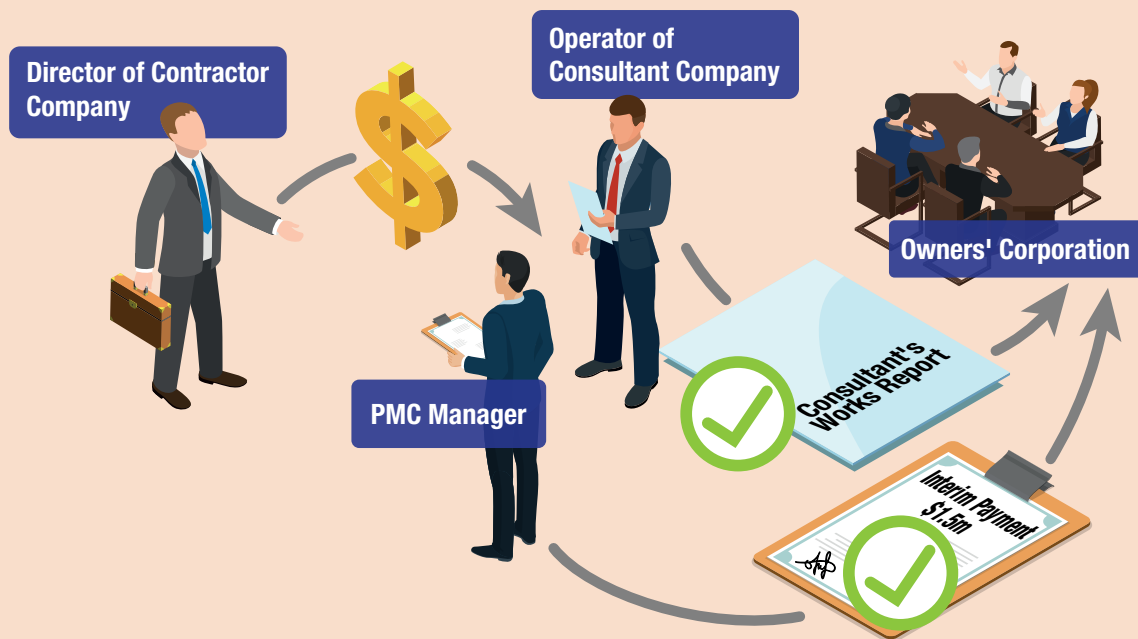


#### 4.4.5.3 CASE STUDY 5 – ACCEPTING BRIBES FOR EXPEDITING PAYMENTS OF WORKS AND LAX SUPERVISION



- 1 A PMC is responsible for overseeing a water pipes' replacement project for a residential building at a cost of \$20 million. A building consultant company is appointed by the Owners' Corporation of the residential building to monitor the project conducted by the contractor, an engineering company.

**2** The director of the engineering company offers to the operator of the consultant company and the on-site manager of the PMC a sum of \$500,000 as rewards for expediting the interim payment for the project by accepting non-completed works. In accepting the offer, the consultant provides flimsy reports without details or proof/assurance of works done to the Owners' Corporation while the on-site manager recommends the Owners' Corporation to release the interim payments of a sum of \$1.5 million to the contractor. After the payment, the contractor company cannot be contacted and fails to follow up the outstanding works of the project.



**3** The operator of the consultant company and the on-site manager of the PMC contravene Section 9(1) of the POBO, while the director of the engineering company contravenes Section 9(2) of the POBO.

### ***Analysis and Points to Note –***

- The premature release of payment may lead to contractor's shirking of responsibility in completing the outstanding works, causing financial loss of the Owners' Corporation and in serious case, the lax supervision may jeopardise the safety of the owners/occupants.
- The Owners' Corporation's lack of involvement in the monitoring of progress of project also creates opportunities for agents (i.e. PMC staff and consultant) to abuse their powers.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [Section 4.4.5.5](#).



#### 4.4.5.4 CORRUPTION RED FLAGS



- ▣ Defective works are detected soon after works completion.
- ▣ Significant quantity or value of additional works are ordered shortly after contract award.
- ▣ The date of payment release is earlier than the date when works are certified completed.

#### 4.4.5.5 CORRUPTION PREVENTION SAFEGUARDS



##### ▣ *General*

- Require consultants and PMC staff who are involved in the maintenance projects to positively declare conflict of interest with and non-acceptance of advantage from the contractors at the key stages and undertake to declare so as soon as they become aware of such a conflict, and advise MC members involved to adopt similar declaration requirement (📄 [Section 4.3.3](#)).

##### ▣ *Monitoring of Progress*

- Post the master work programme/weekly or biweekly rolling programmes in a prominent place of the building for information and monitoring by flat owners/occupants.
- Require the consultant to closely monitor the progress of work against the work programme, and report any deviations and follow-up actions taken/to be taken.

##### ▣ *Checking of Quality*

- Conduct, or involve owners/OOs to participate in, random inspection on the work consultant's site supervision to see if it complies with the approved site supervision plan, and promptly instruct the works consultant for rectification for any discrepancies.
- Require the works consultant and the contractor to submit works reports on a regular basis (say bi-weekly). A works report should cover the progress of the works, defects and their rectification plans, summaries of modifications, contract sums, safety incidents, etc.

- Require the contractor to provide samples of construction/repair materials approved by the consultant for reference, and display the samples at an appropriate location in the building for the information of and reference by owners to enhance transparency.
- Where practicable and under safe conditions, conduct joint inspections or site observations on the works, materials and work progress with the consultant.
- Inform the consultant of any irregularities observed on the work of the contractor (e.g. the materials used are different from those approved) for follow-up action, and request the consultant to report back on the corrective actions taken.

#### ▣ ***Variation of Works***

- Require the consultant to assess the need of and advise on all necessary maintenance works, and include, as far as practicable, all necessary works items in the tender specification and the works contract to minimise the need for variation orders after commencement of the contract.
- Require the consultant to justify the needs and seek approval of MC/OO before ordering/endorsing any work variations (except emergency works, for which covering approval should be sought as soon as possible).
- Lay down clear financial limits on the maximum amount of variations that MC is authorised to approve, above which approval from OO should be sought.
- Require the consultant to provide cost estimate for any variations requested.
- Assess the reasonableness of the costs of the work variations required, making reference to the tender prices of similar works items in the contract, if available.
- For major/costly work variations, where practicable, consider engaging an independent consultant (e.g. a quantity surveyor) to provide independent cost advice.
- Automate the workflow on issuing contract variations with proper controls built in (e.g. require provision of justifications with supporting documents where necessary in the computer system for initiating contract variation).
- Properly document any work variations and the costs involved, and disclose them to all flat owners/occupants through notices posted in a prominent place of the buildings.

#### ▣ ***Payment of Works***

- Require the contractor to submit invoices with details on the actual quantities of work done, against the estimated quantities and prices for individual major works items in tender submission/contract, with reasons for significant variations, and evidence such as photos where applicable, in its payment claims.

- Require the consultant to assess the cost of the works completed, excluding those that are defective, when certifying contractors' payment claims.
- Where practicable and under safe conditions, conduct joint inspections with the consultant to check the works claimed to have been completed before making payment.
- Require the consultant to submit reports on work progress and financial statements of the project account to MCs/OOs regularly for monitoring.
- Display the reports on work progress and financial statements in a prominent place of the buildings for flat owners'/occupants' monitoring and information.
- Arrange payment to the contractor in accordance with the contract terms, including the time limit for processing and effecting payments.
- Where practicable, cheques for payments on building maintenance works should be signed by two authorised persons (e.g. MC treasurer and other MC member).
- Require the contractor to provide certificates, test reports and any other relevant documents before releasing the final payment.
- For a high value, complicated project, consider engaging an independent consultant, e.g. a quantity surveyor, to provide independent<sup>9</sup> assessment of contract payment claims and assist the OO in cost control.
- Digitalise the workflow for processing payments, covering receipt of supporting documents, and authorisation of payments.

#### ■ ***Completion of Works and Rectification of Defects***

- Require the consultant to prepare and submit a defects list for agreement by MC/OO before certifying practical completion of the works.
- Invite all flat owners/occupants to report on any defects or outstanding works to MC/OO, consultant and/or contractor for follow-up actions during defects liability period.
- Where practicable and under safe conditions, conduct joint inspections with the consultant to check the satisfactory completion of the defect rectification works before expiry of the defects liability period and issue of final certificate of completion to the contractor.

<sup>9</sup>

*An independent quantity surveyor who is not responsible for issuing works orders to and monitoring the contractor's works provides strong independence in assessing payment claims and exercising cost control. This provides an extra safeguard for OO from possible exploitation and cost inflation, and the project cost savings that could be achieved could well exceed the independent surveyor's professional fee.*



# **5 GENERAL PROCUREMENT AND STAFF ADMINISTRATION**

- 5.1 ISSUE AT A GLANCE**
- 5.2 UNVEILING CORRUPTION RISKS**
- 5.3 RELEVANT GUIDELINES**
- 5.4 INTEGRITY MANAGEMENT IN PROCUREMENT AND STAFF ADMINISTRATION**
- 5.5 PROCUREMENT OF GOODS/SERVICES**
- 5.6 STAFF ADMINISTRATION**



# 5 GENERAL PROCUREMENT AND STAFF ADMINISTRATION

## 5.1 ISSUE AT A GLANCE

- General procurement and staff administration are at the core of the day-to-day management of a property. The goods and services commonly procured/outsourced for the management of a property include equipment, goods and supplies (e.g. computer equipment, furniture, and office supplies), and services such as cleaning and security services, building maintenance services (🔗 [Chapter 4](#)) and other professional services (e.g. accounting and legal services). PMCs should implement internal controls in the procurement procedures to ensure that the procurement is conducted in a fair and transparent manner and value-for-money. A sound staff administration system for activities ranging from staff recruitment to staff supervision helps set a strong foundation in planting the probity culture and attracting and retaining talents. This chapter highlights the relevant safeguards against corruption and malpractice in these areas.

## 5.2 UNVEILING CORRUPTION RISKS

- PMC/PMC staff, as the agents, are entrusted with the duties to conduct procurement on behalf of their principal (i.e. OO/PMC). OOs also rely on the expertise of PMC to oversee the procurement process such as sourcing of bidders and setting out of eligibility/assessment criteria of the supplier/service contractor. Depending on the value of the procurement, the sufficiency of internal controls and the level of involvement of the PMC staff in the procurement process, PMC/PMC staff may be incentivised to solicit or accept advantage (e.g. valuable gift during festive seasons) from bidders, suppliers or service contractors (i.e. offerors) in exchange for influencing the tendering process, inflating the tender price or conniving at the substandard goods received/services provided, without the permission of the OOs. For instance, a PMC staff member may collude with a bidder to manipulate quotation/tender assessment procedures and selection results regardless of the bidder's eligibility or other factors (e.g. competitive pricing) by giving biased comments to certain bidders to OOs in the selection process. The risk of corruption is heightened when there is conflict of interest between the agent and offeror/bidder (e.g. the offeror is a personal friend of the acceptor, the agent possesses pecuniary interest in the bidder's company).

- In staff administration, the staff responsible for staff administration process act as the agent of the PMC/OO (i.e. the principal) in carrying out tasks such as recruitment, promotions, performance evaluations, disciplinary actions, and other matters related to the management of staff. They are expected to uphold the PMC's policies and act in the best interest of OO. For processes which involve keen competition (e.g. recruitment of managerial/supervisory staff) or allocation of resource (e.g. deployment of post, allowance and promotion opportunities), the agent is facing the risk of corruption, fraud or deception if the system is not safeguarded against corruption loopholes or the potential conflict of interest is not properly managed. For instance, an agent may be tempted to accept advantage from job applicants seeking special treatment, or favour the job applicants with conflict of interest (e.g. personal friend) in the recruitment process (e.g. bypassing the laid-down recruitment stages), or that an agent holding supervisory post may be offered advantage from a subordinate to be arranged with duties attracting more allowance or promotion opportunities.
- In addition to implementing safeguards to strengthen the system controls, PMC should be alerted of the heightened corruption risks on these areas and implement integrity management measures (🔗 [Section 5.4](#)).

## 5.3 RELEVANT GUIDELINES

- PMCs should comply with the Code of Practice. In addition, PMSA has issued the Code of Conduct and related Best Practice Guide on “Carrying out Procurement for Clients and Prevention of Bid-rigging”, setting out the requirements on probity, formulation of procurement mechanism and procedures, and provision of training to staff when carrying out procurement for PMCs' clients. PMSA has also issued the Code of Conduct and related Best Practice Guide on “Handling Outsourced Property Management Services”, which states that a licensed PMC has to formulate a mechanism for selection of service contractors (if there is no OO); or agree with OO (if any) on such mechanism as guidelines for outsourcing property management services. Also, a licensed PMC should prepare clear tender documents for the partially or wholly outsourced property management services; and when making contracts with the concerned service contractors, stipulate clearly the contract requirements.
- In the Code of Conduct and related Best Practice Guide on “Prevention of Corruption - Staff Recruitment and Management”, a licensed PMC has to set out human resources management mechanism on staff employment and management matters (e.g. staff attendance and supervision, disbursement of wages, staff appraisal, disciplinary action).



## 5.4 INTEGRITY MANAGEMENT IN PROCUREMENT AND STAFF ADMINISTRATION

- In addition to the integrity requirement for all PMC staff (📖 [Chapter 2](#)), PMC staff involved in the procurement exercises and staff administration should not accept advantage or entertainment which will impair their impartiality by the bidders, suppliers, service contractors and subordinates.
- PMC staff involved in key processes of procurement and staff administration should declare in writing whether or not they have any actual or perceived conflict of interest (e.g. investment in the business of a supplier who is bidding for the supply of goods to OO/PMC, relationship with the job candidate) (📖 [Annex 3 of Appendix 1](#)) to PMC and where necessary, to MC/OO for determining the appropriate follow-up action (e.g. refraining from participating in the recruitment process).

## 5.5 PROCUREMENT OF GOODS/SERVICES

### 5.5.1 KEY PROCESSES



## **5.5.2 KEY STEPS IN PROCUREMENT OF GOODS/SERVICES**

### **5.5.2.1 *Making of Petty Cash Purchase***

- ▣ Agree with OO on the limit of petty cash to be kept for minor expenses, the time limit for reimbursement, and the authorities for approving the purchase and reimbursement (i.e. the designated authorities).
- ▣ Review the purchase request by the purchasing staff detailing the required goods, purpose, and estimated amount.
- ▣ Remind the purchasing staff to obtain the receipts or invoices where available.
- ▣ Reimburse the expenditure with petty cash.
- ▣ Replenish the petty cash fund from the relevant office (e.g. finance office).

### **5.5.2.2 *Purchase by Quotation/Tender***

- ▣ Agree with OO on the authorities for approving purchases of different values by quotations/tenders (i.e. the designated authorities).
- ▣ Identify the procurement need and raise a purchase requisition with designated authority of PMC/OO.
- ▣ Draw up the specifications of goods/services, including quantity, quality, and any specific features required (e.g. security requirement for IT system).
- ▣ Source potential suppliers or service contractors based on the types of goods/services required from various sources (e.g. approved suppliers/service contractors' lists (approved lists), recommendations from MC/OO).
- ▣ Prepare quotation invitation/tender documents, including details such as the specifications, the assessment criteria and the deadline for submission of quotation/tender.
- ▣ Receive and open the quotations or tenders submitted by the suppliers/service contractors.
- ▣ Check if the bids/tenders received meet the mandatory requirement (e.g. specifications) specified in the quotation invitation/tender documents (i.e. conforming bids/tenders).
- ▣ Evaluate the conforming bids/tenders received based on the assessment criteria.
- ▣ Recommend the successful bidders/tenderers to the designated authority (e.g. MC/OO) for approval.

- Notify the suppliers/service contractors for acceptance of offer/award of contract.
- Issue purchase order to/prepare service contract for the successful bidders/tenderers for supply of goods or provision of services.
- Receive, check the goods, or monitor the services according to the purchase order or service contract.

### 5.5.3 MAJOR CORRUPTION RISKS



- 💣 Colluded PMC staff unfairly influencing the procurement process by soliciting/accepting advantages from suppliers/service contractors in order to inappropriately include them (who may be unqualified) in the invitation to bid, divulge to them sensitive information (e.g. other bidders' quotations) or inside information (e.g. specific requirements/expectations not disclosed to other bidders), or favour them in quotation/tender evaluation.
- 💣 Dishonest PMC/PMC staff concealing conflict of interest with the suppliers/service contractors (e.g. PMC's subsidiary/affiliate, PMC staff's personal or pecuniary interest in the company) with a view to favouring them in the procurement process.
- 💣 Dishonest PMC staff soliciting/accepting advantages from suppliers/service contractors for placing excessive orders with them, inflating quantity provided or price, circumventing normal purchase procedures or approving authorities through splitting of orders, or colluding with them to purchase items for personal use.
- 💣 Unscrupulous PMC staff colluding with suppliers/service contractors to fabricate competitive quotations purported to be submitted by other bidders, or discard other bidders' quotations.
- 💣 Compromised PMC staff soliciting/accepting advantages from suppliers/service contractors for turning a blind eye to their poor performance or renewing the contract repeatedly without going through any competitive process.



## 5.5.4 CASE STUDY 1 – USING FALSE QUOTATIONS TO DECEIVE OWNERS' ORGANISATION

**1** A PMC provides property management service for a residential estate. According to company's policy, staff of PMC are required to source three quotations from its approved contractors before conducting any procurement worth between \$10,000 and \$200,000.

**2** The PMC conducts a quotation exercise for the residential estate to select a contractor for the purchase and installation of a security system. The director of a security company approaches the property officer of the PMC and offers her advantage of \$10,000 in return for assisting the director to secure the project. The property officer agrees. The director provides the property officer with two quotations from two other security companies with higher bidding prices than his company's offer. In fact, the two security companies concerned are not approved contractors of the PMC and never submit the two quotations. In accepting the property officer's recommendation, the OO eventually awards the project to the director's security company which offers the lowest bid of \$70,000.

**3** The property officer and the director of the security company contravene Sections 9(1) and 9(2) of the POBO respectively.



### Analysis and Points to Note –

- In addition to the integrity issue of the property officer, the case reveals deficiency of the OO and PMC in carrying out procurement. When evaluating the quotations, the OO and PMC do not verify if the quotations are submitted by approved contractors. Also, the absence of counter-checking with the bidding contractors leaves room for the property officer to favour colluded contractor through the use of bogus quotations.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [Section 5.5.7](#).



## 5.5.5 CASE STUDY 2 – ACCEPTING ADVANTAGES FOR PLACING EXCESSIVE PURCHASE ORDERS

- 1 A property officer is responsible for conducting minor and low value purchases for a residential estate. No approval is required for placing such purchase orders.



- 2 When procuring cleaning materials, the property officer approaches the proprietor of a supplier and solicits rebates for sourcing cleaning materials from him, to which the proprietor agrees. As the rebate is calculated pro rata to the value of the purchase orders, the property officer places excessive orders of cleaning materials to maximise the rebates to be received and pockets some of the cleaning materials for his personal use.
- 3 The property officer and the proprietor of the cleaning materials supplier contravene Sections 9(1) and 9(2) of the POBO respectively.

### ***Analysis and Points to Note –***

- The property officer exploits his authority in conducting minor and low value purchases for personal gain. With inadequate management oversight such as reviewing the purchase orders, generating management reports and stocktaking, the PMC fails to detect the suspicious purchase pattern and exceptionally high consumption rate which are signs of corruption and malpractice.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [Section 5.5.7](#).

## 5.5.6 CORRUPTION RED FLAGS



- ▣ Unusually high number of petty cash transactions and frequent petty cash replenishment.
- ▣ Use of a particular brand/supplier without objective justifications.
- ▣ Frequent use of exceptions or urgent purchases to bypass stipulated procedures and controls (e.g. frequent use of single quotation/direct purchase method).
- ▣ Suspicious signs (e.g. supplier's name very similar to another more well-known one, supplier's contact information matches that of a staff member, no information of the supplier except for a mobile phone number, common mistakes/typos on quotations from two or more suppliers) are noted on quotations or quotation invitation list.

## 5.5.7 CORRUPTION PREVENTION SAFEGUARDS



### ▣ *Management of Conflict of Interest*

- Require staff involved in the key procurement process (e.g. invitation or evaluation of quotations/tenders) to positively declare conflict of interest with the bidders (📄 [Section 5.4](#)).

### ▣ *Policies and Procedures*

- Agree with OO on the procurement policy (e.g. procurement methods for purchases of different values, delegated procurement authorities) and seek OO's comment on the procurement procedures, in line with the BMO, Code of Practice, Code of Conduct and related Best Practice Guide (📄 [Section 5.3](#)).

### ▣ *PMC Bidding for Service Contracts*

- When bidding for service contracts (e.g. cleaning, security service), whether in capacity of PMC, its affiliates or subsidiaries, declare conflict of interest to MC/OO<sup>10</sup> and take mitigating measures that MC/OO deems appropriate.

### ▣ *Petty Cash Purchase*

- Designate a staff member as the Petty Cash Holder to keep an account holding cash of a specified amount, and lay down the procedure and authority for replenishment of the account.

<sup>10</sup> Under PMSA's Code of Conduct of "Carrying Out Procurement for Clients and Prevention of Bid-rigging", a licensed PMC (including its employee) has to, as far as practicable and to the best of its knowledge, declare conflict of interest arising from any financial (including investments) or personal (including family members or relatives) relationship with the suppliers or service providers bidding for contracts.

- Require the production of invoices and receipts for claims of payment.
- Utilise data analytics (e.g. by comparing with historical rates of similar purchases) to assess whether the rates in petty cash purchases are reasonable.
- Vet the claim forms before making payment or reimbursement.
- Sign the vouchers and stamp “Paid” on the invoices and receipts to prevent their re-use for claims.
- Analyse petty cash purchases to detect split orders, as well as identify frequently required items and arrange term contracts for such provision.

#### ▣ ***Sourcing of Suppliers/Service Contractors***

- Maintain an approved list, preferably in a computer system, for frequently purchased goods or services, categorised by the types of products they provide, and approved by the management.
- Ensure that there is a reasonable number of suppliers/contractors on the approved list to enhance competitiveness.
- Lay down the criteria and procedures for inclusion and deletion of suppliers/contractors on the list, and make them known to all suppliers/contractors (e.g. on the company website).
- Vet all applications for inclusion against the criteria, including those nominated by staff, MC members or flat owners.
- Regularly review the approved list, with a view to removing suppliers/contractors with poor performance or those who are inactive.
- Automate the workflow for receipt, vetting and approval of inclusion of new suppliers to, or suspension/deletion of existing suppliers from, the suppliers list, or any alteration of information of registered suppliers.



#### ▣ ***Raising of Purchase Requisition***

- Use a sequentially-numbered form for initiating a procurement request.
- State the quantity and description of the goods required on the form for approval by the approving authority.
- Automate the workflow on vetting and approving process on purchase requisitions and quotation/tender documents.

#### ▣ ***Invitation of Quotations/Tenders***

- Draw up clear specifications of goods/services based on OO’s requirements.
- Determine the criteria for evaluating the quotations/tenders and basis of contract award –

<b>Evaluation criteria</b>	<b>Basis of contract award</b>
Price consideration only	Lowest conforming bid
Price and non-price considerations (usually using a marking scheme)	Conforming bid with highest overall score

- Invite the required number of suppliers/contractors on the approved list to submit quotations or compile a shortlist based on pre-determined criteria endorsed by the approving authority if necessary.
- For open tendering, openly invite all relevant suppliers/contractors to tender through company website or newspaper advertisements.
- For restrictive tendering, invite suppliers/contractors on the approved list to tender, or compile a shortlist based on pre-determined criteria endorsed by the approving authority.
- Ensure the listed suppliers/contractors are invited to bid on a fair share basis (e.g. by rotation) and justify any out of turn invitation or frequent invitation of the same few suppliers/contractors to bid.
- Automate the compilation of the invitation list and require justifications for alternation to the system-generated invitation list.
- Include additional suppliers/contractors nominated by MC members/owners or other staff only if they meet the listing criteria and they should not replace those selected from the approved list.
- Include an anti-bribery message in the request for quotation form ( [Appendix 11](#)) or tender documents ( [Appendix 8](#)).

#### ■ ***Receipt and Opening of Quotations/Tenders***

- Consider using a two-envelope approach if price is not the only consideration, i.e. require the service and price proposals to be submitted in separately sealed envelopes to ensure the service proposals could be assessed separately and objectively before opening the price offers.
- Assign a team comprising PMC staff and member(s) of MC to –
  - Open the quotations/tenders shortly after the closing time if a two-envelope approach is not adopted.
  - Open the service proposals shortly after closing time and keep the price proposals unopened in a secured place if a two-envelope approach is adopted.
- Sign each and keep records of quotations/tenders received.
- Do not accept late quotations/tenders.



## ■ ***Evaluation of Quotations/Tenders and Recommendation of Successful Bidder/Tenderer***

- For quotations, select a compliant bid with the best price offer, or evaluate the quotations based on the assessment criteria if price is not the only consideration.
- For tenders –
  - Set up an evaluation panel comprising at least two members from PMC and MC.
  - Open the price offers only after the non-price proposals have been assessed, if a two-envelope approach is adopted.
  - Design a tender evaluation form for use and require panel members to make assessment on their own before any discussion or calculation of the total marks for each tender (📄 ***Annex of Appendix 12***).
  - Submit a tender evaluation report (📄 ***Appendix 12***), recommending the best offer, or the conduct of negotiation with the tenderer/tenderers submitting the best offer/offers, for endorsement by the approving authority (e.g. MC).

## ■ ***Post-Tender Negotiation***

- See 📄 ***Section 4.4.3.6***

## ■ ***Issue of Purchase Order and Receipt of Goods***

- Assign to each purchase order a unique number in sequential order for identification and tracking.
- Include in the purchase order ethical commitment clauses (📄 ***Appendix 10***) prohibiting the supplier and its staff from offering, solicitation or acceptance of advantages.
- Assign a staff member, preferably one not participating in selecting the supplier (if resources allow), to inspect the goods delivered against the purchase order to ensure that there is no short delivery or substandard goods.
- For high-value purchases, assign a supervisor to monitor and counter-sign the receipt of goods.
- Arrange testing of the goods delivered by competent staff (e.g. computers by IT staff) before acceptance.
- Require the staff to certify acceptance of goods within a specified time limit upon delivery and ensure the supplier makes good any shortfall without delay.
- Design a performance evaluation checklist (📄 ***Appendix 13***) or establish a system to record the contractor's adverse performance.

## ▣ ***Award of Service Contract***

- Include in the contract/agreement the following terms and conditions and seek legal advice as necessary –
  - Service requirements and standards of service.
  - The contract period (i.e. dates of contract commencement and expiry).
  - Requirements for the contractors to submit daily returns on the workers' attendance (for the calculation of payment if the number of workers is pledged as a contract deliverable) and keep work records for checking.
  - Sanctions against substandard performance (e.g. provisions for deduction of payment in case of any short delivery of the service pledged).
  - Payment terms, including the schedule of rates (e.g. monthly, daily and hourly) and any special rates for urgent or additional services.
  - Documents required for claims of payment (e.g. attendance records and invoices).
  - Provisions for contract variations (e.g. urgent or additional services).
  - Insurance policies.
- Include in the contract conditions ethical commitment clauses (📄 ***Appendix 10***) prohibiting the contractor/sub-contractor and its staff from offering, solicitation or acceptance of advantages when performing duties under the contract.

## ▣ ***Making of Payments and Monitoring of Performance***

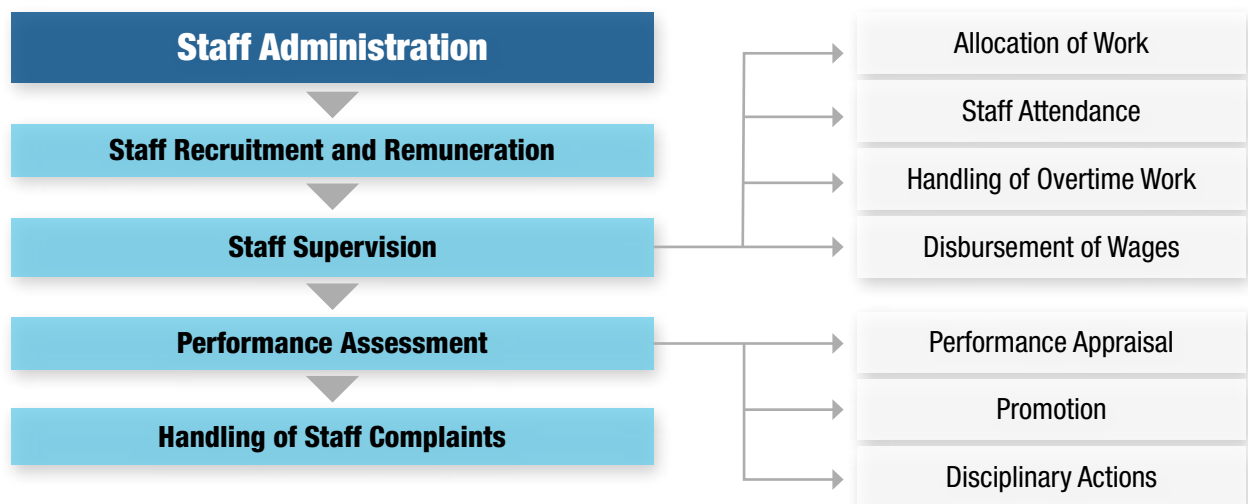
- See 📄 ***Section 6.7.8***

## ▣ ***Management Oversight***

- Review the procurement policies and guidelines periodically, taking into account the operational needs and changing business environment.
- Assign supervisors to conduct spot checks on the procurement activities to ensure compliance with the laid-down policies and procedures and to detect malpractice, such as bogus quotations, through spot checks with the bidding suppliers.
- Produce management or exception reports to facilitate review by the management (e.g. repeated orders of the same goods over a short period, indicating possibility of split orders or purchases not following the laid-down assessment criteria).

## 5.6 STAFF ADMINISTRATION

### 5.6.1 KEY PROCESSES



### 5.6.2 KEY STEPS IN STAFF ADMINISTRATION

#### 5.6.2.1 *Staff Recruitment and Remuneration*

- ▣ Define the entry requirements of the posts (e.g. skills, experience, and competencies) having regard to the licensing requirements, the requirement of OO, the property's operational needs and the requirement of the property management service contract.
- ▣ If the staff expenses are paid by OO, ensure that the remuneration package for the post is within OO's budgets or the requirement of the property management service contract.
- ▣ Advertise the job vacancies including the job titles, responsibilities, qualifications, and any other relevant details via various job portals, company websites, and other recruitment channels.
- ▣ Screen the applications to shortlist candidates who meet the basic requirements of the position.
- ▣ Invite shortlisted candidates for interviews with a view to assessing the candidates' skills, knowledge, and suitability for the position.
- ▣ Based on the interview performance, reference checks, and background checks, evaluate the candidates and make a final decision.

- Make a job offer to the selected candidate, including details such as salary, benefits, start date, and any other relevant terms and conditions of employment. If necessary, conduct negotiations with the candidate to finalise the employment package.
- Sign an employment contract with the candidate with terms and conditions complying with legal requirements (e.g. Employment Ordinance (Cap. 57)). For staff recruited for performing on-site duty, inform MC of the latest staff arrangement.

### **5.6.2.2 Staff Supervision**

#### ***Allocation of Work***

- Prepare a duty roster/schedule that outlines the work shifts and assignments, with regard to factors such as workload, staff availability, skills, and any special requirements (e.g. statutory requirement for deployment of staff for security work) of the property.
- Communicate the duty roster/schedule to the employees to ensure they are aware of their assigned tasks and working hours.

#### ***Staff Attendance***

- Require the staff to display their names on name badges and wear uniform while on duty in the property managed by PMC.
- Require staff to record their attendance personally and keep the record for checking.

#### ***Handling of Overtime Work***

- Handle requests for overtime work/allocate overtime work having regard to workload and staff availability.
- Maintain record of overtime work including the date, time and number of hours worked.

#### ***Disbursement of Wages***

- Disburse wages, including basic salaries, overtime pay and any other applicable allowances or deduction, to employees according to the agreed pay period.

### **5.6.2.3 Performance Assessment**

#### ***Performance Appraisal***

- Devise a performance cycle with a view to assessing the staff's performance on an on-going basis. At the beginning of a performance cycle, set specific and measurable goals for each employee, aligning with PMC's objectives and providing a basis for evaluating performance.

- Provide regular feedback to appraisees regarding their performance throughout the performance cycle.
- Conduct a formal performance review, document and rate the appraisees' performance at the end of the performance cycle, with a comprehensive assessment of the appraisees' performance against the established goals and performance standards. Discuss with the appraisees on their achievements, areas for improvement, and development opportunities.
- Make reference to the appraisal record in considering appraisees' promotion, salary adjustment or other career development opportunities.

### ***Promotion***

- When a promotion opportunity arises, post the job internally for information to all staff. Where appropriate, invite employees to submit applications for the promotion.
- Shortlist, screen, evaluate and select the candidate similar to the procedures of staff recruitment.

### ***Disciplinary Actions***

- Conduct a thorough investigation on staff's misconduct/breach of regulations to gather relevant information and evidence.
- Where necessary, conduct a formal interview with the staff, discussing the concerns or allegations and giving an opportunity to the staff to respond.
- Depending on the seriousness of the misconduct/breach, administer proportionate disciplinary measures (e.g. verbal/written warnings, reduction of wages, demotion, or termination of employment in extreme cases) based on PMC's policies and the facts of individual cases.
- Follow up on the staff's performance and compliance with the required improvements or corrective measures.

#### **5.6.2.4 *Handling of Staff Complaints***

- Document the details, including the complainant's name, date, and the nature of the complaint, and preliminarily review the complaint by a designated individual or team.
- Assure complainants that they will not face any retaliation for filing a complaint and that their concerns will be addressed appropriately.

- Conduct an investigation (e.g. interviewing relevant parties, collecting evidence, and reviewing any supporting documentation) with a view to gathering facts and determining the validity of the complaint.
- After investigation, inform the complainants of the outcome of the investigation.

### 5.6.3 MAJOR CORRUPTION RISKS



- 💣 Colluded PMC staff leaking confidential information on the recruitment (e.g. interview questions) to a job candidate.
- 💣 Dishonest PMC supervisors conniving at subordinates' misconduct (e.g. unpunctuality and unauthorised absence from work) or favouring them in allocating duty (e.g. posts stationing indoor or attracting more compensated overtime opportunity).
- 💣 Compromised PMC staff using falsified attendance records (e.g. clocking time cards for colleagues) to deceive PMC or OO.
- 💣 Colluded PMC supervisory staff offering promotion opportunity to favour subordinates without referring to the performance appraisal or justifying the work performance.



**Q10. I am a human resources manager of a PMC. The PMC encourages its staff to refer suitable friends/relatives/ex-colleagues to apply for the job openings with cash incentives through an employee referral programme. What are the safeguards to ensure its proper implementation?**

**A** To ensure the integrity of recruitment by the referral of existing staff, PMCs should set out the following –

- Eligibility of the staff to make referral (e.g. human resources staff, who may possess privileged information from organising the recruitment exercise, members of the assessment panel, who are to interview and select the candidates, and senior management, who may unintentionally influence the selection due to his seniority, are not suitable as being the referrers);
- The method to make a referral (e.g. filling a form, stating the personal particulars of the referrer, the job position applied for by the candidate and the relationship with the referrer in the application);

- Whether the referrers must personally know the candidates. PMCs should consider the risk of staff referring unacquainted persons for corrupt motives;
- The handling methods if the same candidate is referred by two or more referrers for a position and the candidate is subsequently hired by PMCs; and
- The principle that no preferential treatment will be given to the referred candidates (which should be publicised to PMC staff and the potential candidates so as to enhance transparency).

In addition, to properly manage the conflict of interest arising from the employee referral programme, referrers should be restricted from involving in any matters of the recruitment exercise, including but not limited to the setting of terms of employment, eligibility requirements and screening criteria, and conduct of recruitment interviews.



#### 5.6.4 CASE STUDY 3 – OFFERING ADVANTAGES FOR TAKING NO ACTION AGAINST SUBSTANDARD PERFORMANCE


- 1 A commercial building engages a PMC for security service. A property manager is deployed to the site to supervise the security guards. While the PMC has not established a regular performance appraisal system, the property manager is required to report to the headquarters any substandard performance of the security guards (e.g. absence from duty without justification), which may lead to disciplinary actions including termination of employment.



- 2 A security guard performs unsatisfactorily at work. To keep his job, he offers to pay bribes to the property manager for not dismissing him, to which the property manager agrees. The security guard thus continuously offers part of his wages to the property manager. In return, the property manager does not inform the headquarters about the security guard's substandard performance.

- 3 The property manager and the security guard contravene Sections 9(1) and 9(2) of the POBO respectively.

## ***Analysis and Points to Note –***

- The property manager has the supervisory accountability to monitor the performance of the subordinates and take actions against their poor performance. He should also lead by example to maintain a high standard of integrity. Contrarily, he abuses his authority and the loophole of a loose performance appraisal mechanism to accept advantages from his subordinate for not taking appropriate actions (e.g. reporting to headquarters, taking disciplinary actions). The reputation of the PMC is thus at stake because of not only its staff's substandard performance, but also the corrupt conduct that may prevail in the company.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in  **Section 5.6.6.**

### **5.6.5 CORRUPTION RED FLAGS**




- A PMC staff member hires a candidate without going through the established procedures and without justifications.
- Several PMC staff are often found to be not in their duty posts although they have clocked in.
- The actual number of workers deployed on site are often less than those shown on the attendance records, or signs of alteration of attendance records are detected without valid reasons, such as changing clock-in/out times.




## 5.6.6 CORRUPTION PREVENTION SAFEGUARDS


### ▣ *Management of Conflict of Interest*

- Require staff involved in the key staff administration process (e.g. shortlisting of candidates, conducting of recruitment/promotion interview) to positively declare conflict of interest with the candidates (e.g. a candidate is a relative or personal friend) ( [Section 5.4](#)).


### ▣ *Policies and Procedures*

- Set out the policies and procedures on staff recruitment and other staff administration matters (e.g. staff promotion and remuneration, duty allocation, performance appraisal) in line with the Code of Conduct and related Best Practice Guide ( [Section 5.3](#)).

### ▣ *Code*

- Lay down the ethical standards and behaviour expected of the staff in the discharge of duties in the Code ( [Section 2.3](#)).

### ▣ *Staff Recruitment and Remuneration*

- Clearly define the minimum entry requirements of the post (e.g. academic and professional qualifications, relevant experience, aptitude and skills), and seek approval from the designated authority.
- Arrange job advertisements in the newspapers and/or PMC's website, or through other job recruiting platforms, stating clearly the job requirements.
- Shortlist candidates for interview based on pre-approved criteria, such as years of relevant experience, levels of education attained, results of the written test, etc. if the number of eligible candidates meeting the entry requirements is sizable.
- Appoint a selection panel comprising two or more members (e.g. supervisor(s), staff from Personnel or Human Resources Section and an independent staff member from another section) to interview the shortlisted candidates.
- Require the panel members to record their assessment (including both positive and negative comments) on an interview form and recommend the most suitable applicant for appointment ( [Appendix 14](#)).
- Record the combined scores of each candidate after the interview and the comments of the panel members on the form. Prioritise the candidates according to their scores (if the first candidate does not accept the offer, the offer should go to the next on the priority list and so on to ensure fairness).

- If selection is based on other non-scoring criteria, set out the circumstance where such selection is adopted and the factors for consideration.
- Designate the authority to approve the panel's recommendation and document the decision properly, in particular the reason if the panel's recommendation is not accepted.
- Make use of IT to enhance the integrity of the recruitment process (e.g. conduct preliminary screening through a computer system, interview the candidates with the use of AI).
- Attach to the appointment letter the terms of employment, including the remuneration package. Require the Personnel Section to seek approval from the senior management for any offer which deviates from the remuneration package.
- Include explicit contractual obligations and penalties (e.g. termination of employment) in relation to corruption and misconduct in the employment contract.
- Record all refusals of offer and ensure subsequent offers are made to candidates according to their priority.

## ■ ***Staff Supervision***

### ***Allocation of Work***

- Ensure a fair allocation of shift duties (e.g. by rotation) and jobs.
- Require the staff concerned to seek the supervisor's approval for swapping of shifts or duties.

### ***Staff Attendance***

- Use an electronic attendance recording system (e.g. smart card access, biometric clocking) as far as practicable.
- Install CCTV to monitor the attendance-taking process (e.g. near the clocking machine) as far as practicable.
- Check the staff attendance in the course of staff's duty to detect and deter those leaving halfway through work.
- Explicitly prohibit staff from reporting attendance for others.
- Conduct surprise checks on attendance and performance of staff and follow up on irregularities detected (e.g. regular late attendance or absence without reasonable cause).
- Assign different staff to keep attendance records and process payment for staff to enhance checks and balances, if resources permit.

### ***Handling of Overtime Work***

- Require the designated supervisor to approve overtime work applications with reasons to be recorded on file.
- Require the staff to obtain prior approval before starting to work overtime.
- Ensure a fair share of the overtime work among staff.
- For staff undertaking overtime work, complete an overtime payment claim form showing the details of the overtime work done.
- Conduct surprise site visits to check if the overtime work has actually been carried out, and report any irregularities to the management.
- Verify the claim forms with related documents (e.g. attendance records) when processing payment for overtime work or allowance.
- Compile a monthly summary report on overtime work for the management to check compliance with the overtime policy.

### ***Disbursement of Wages***

- Prepare the monthly payrolls for staff and payroll reports for MC's information.
- Check the payroll statements against the attendance and overtime records.
- Use bank transfer or issue cheques marked payable to the payees only for effecting payment and avoid cash payment.
- Set a time limit for processing of salary payment to staff.
- Keep all payment records for audit.

## **■ *Performance Assessment***

### ***Performance Appraisal***

- Appraise the performance of staff regularly against pre-determined benchmarks.
- Properly record any commendations of or complaints against the staff.
- Set up proper channels to handle appeals made by staff in respect of the appraisals.
- Protect the confidentiality of all personal data and performance appraisal reports by keeping them in a secure place (e.g. a locked cabinet with restricted access) or using electronic means (e.g. encryption with password).

- Take into account the performance appraisals and other records (e.g. commendations, complaints, disciplinary actions taken) of the staff during consideration of promotion, salary adjustment and bonus payments.


### ***Promotion***

- Assess all eligible candidates based on pre-determined and objective criteria for promotion.
- Prepare a report on the candidates recommended for promotion, in order of priority, for approval by the approving authority.

### ***Disciplinary Actions***

- Take commensurable disciplinary actions (e.g. verbal or written warning, termination of employment), with the approval of appropriate level of authority, against the staff for any substandard performance or misconduct revealed from appraisals or complaints.
- Report to the appropriate authority (e.g. PMSA, law enforcement agencies) when the misconduct involves suspected disciplinary or criminal offences.

### ***Handling of Staff Complaints***

- Establish proper channels to handle complaints made by staff ( **Section 2.4.8**).
- Assign independent staff of appropriate level of authority to conduct fair and comprehensive investigations against the complaints in a strictly confidential manner.
- Lay down the timeframe for handling the complaints and make it known to the complainants and accused staff.
- Take appropriate follow-up actions on the complaints, including disciplinary actions against the misconducted staff and staff who knowingly lodges false accusations.
- Document the complaint handling procedures and the follow-up actions taken.

### ***Management Oversight***

- Appoint suitable persons to supervise or handle recruitment and other staff administration matters for staff of various ranks.
- Produce exception reports on irregularities, such as late attendance or absence from duty, for management information and follow-up actions.
- Conduct random supervisory check on the disciplinary and complaint cases to ensure compliance with policies and procedures.

- Report serious or recurring misconducts to the management for review of the internal policies and procedures to prevent reoccurrence of similar incidents.
- Establish and regularly review policies and procedures for staff administration and human resources strategies with reference to the latest trends, requirements, knowledge and skills in the property management industry.



# 6 MANAGEMENT OF SERVICE CONTRACTS

- 6.1 ISSUE AT A GLANCE
- 6.2 UNVEILING CORRUPTION RISKS
- 6.3 PROBITY REQUIREMENT FOR SERVICE CONTRACTORS
- 6.4 SERVICE CONTRACTS
- 6.5 KEY PROCESSES
- 6.6 SELECTION OF SERVICE CONTRACTORS
- 6.7 MONITORING OF SERVICE CONTRACTORS





# 6 MANAGEMENT OF SERVICE CONTRACTS

## 6.1 ISSUE AT A GLANCE

- PMCs may directly engage or assist OOs in selecting service contractors for property management services (e.g. security, cleaning, landscaping). Under either approach, PMCs manage the service contracts to ensure that the services are up to the required standards and will not be compromised by corruption or malpractices. This chapter discusses the corruption risks and preventive measures on management of service contracts.

## 6.2 UNVEILING CORRUPTION RISKS

- When management of service contracts is concerned, PMC/PMC staff are the agents of the OO/PMC (i.e. the principal). The agents are responsible for overseeing and ensuring the proper execution of contracts, as being delegated by the MC/OO. For service contracts that demand a high degree of labour work (e.g. security, cleaning), the high workers' mobility in the industry renders the contractors difficult to maintain the manpower necessary to meet the contractual requirement. Coupling with the desire to receive contract payments and secure renewal of service contracts, these contractors may be motivated to offer advantage to PMC staff, putting the latter at a vulnerable position of corrupt practices or other fraudulent acts. For instance, PMC staff may connive at manpower shortage by contractors (e.g. ghost workers) by accepting an advantage (e.g. share of profits from workers' salary) without the permission of the PMC. They may also collude with contractors to inflate invoices (e.g. overstating additional works performed), approve fraudulent claims (e.g. claims of service payment with false attendance records), or manipulate the performance evaluation processes upon consideration of contract renewal. These potential risks heighten the importance of integrity management for PMC staff and the service contractors.

## 6.3 PROBITY REQUIREMENT FOR SERVICE CONTRACTORS

- PMCs should ensure service contractors and their staff commit to high probity standards. The contract terms should include the following probity requirements<sup>11</sup> (📎 [Appendix 10](#)) –
  - Prohibition of offering of advantages to PMC and its staff/MC members when conducting business under the contract.
  - Prohibition of solicitation or acceptance of advantages by the staff of the service contractor or its sub-contractors when conducting business under the contract.
  - Declaration of conflict of interest by the staff of the contractor to their supervisors or employers when conducting business under the contract and the same requirement be cascaded down to the sub-contractors if applicable.
- PMCs should require contractors to take all necessary measures (including by way of a Code for contractors' staff or contractual provisions) to ensure that their directors, employees, agents and sub-contractors who are involved in the contracts are aware of the above probity requirements.

## 6.4 SERVICE CONTRACTS

- In addition to the above probity requirements, PMCs should, in agreement with OOs, set out the terms and conditions of the service contracts clearly. The contracts should be made available for inspection by flat owners. The essential terms and conditions include –
  - **The Contract**
    - Specify the period for the contract. An “open-ended” contract is not conducive to ensuring the contractor’s adherence to quality standards and hence not recommended.
    - Lay down terms for early termination of appointment (e.g. criteria and notice period).
    - Prohibit the assignment of the contract, or subletting of any services under the contract without the permission of MC and PMC for contracts awarded by OO and PMC respectively.

<sup>11</sup> Under PMSA's Code of Conduct and related Best Practice Guide on “Handling Outsourced Property Management Services”, the contract of service contractors should as far as practicable include and stipulate clearly the requirement that the service contractors shall in accordance with the licensed PMC's request make a declaration of probity (including prohibition of offering, solicitation or acceptance of any advantages, declaration of any conflict of interest (actual or potential)).

- **Remuneration and Charges**

- Set out the remuneration and related arrangements, including –
  - Basic remuneration (e.g. a fixed monthly fee).
  - Items/services covered by the basic remuneration.
  - Rates of charge for additional duties/jobs (if any).
  - Provision for annual review (if applicable).
  - Conditions for, and computation of, deduction of payment for shortfalls (e.g. absence of staff, unqualified guards).
- Requirement to show the calculation/breakdown of the monthly charges, certify service delivery, report any shortfalls and make the necessary deductions, in the monthly invoice.

- **Service Requirements**

- Specify the scope of services covered (e.g. cleaning, carpark management).
- Specify the agreed service level/quality (e.g. number of guards, manning hours, types and frequency of cleaning jobs, response time to incidents, standard of cleanliness).
- Specify the materials and equipment (e.g. uniforms, cleaning materials, communication equipment) provided by PMC at no additional cost.
- Specify the requirement for disclosure of services provided by PMC's related companies/organisations or by its staff.

- **Supervision and Monitoring**

- Set out the supervision and monitoring system on service delivery and performance (e.g. attendance checking/recording system, supervisory checks by PMC).

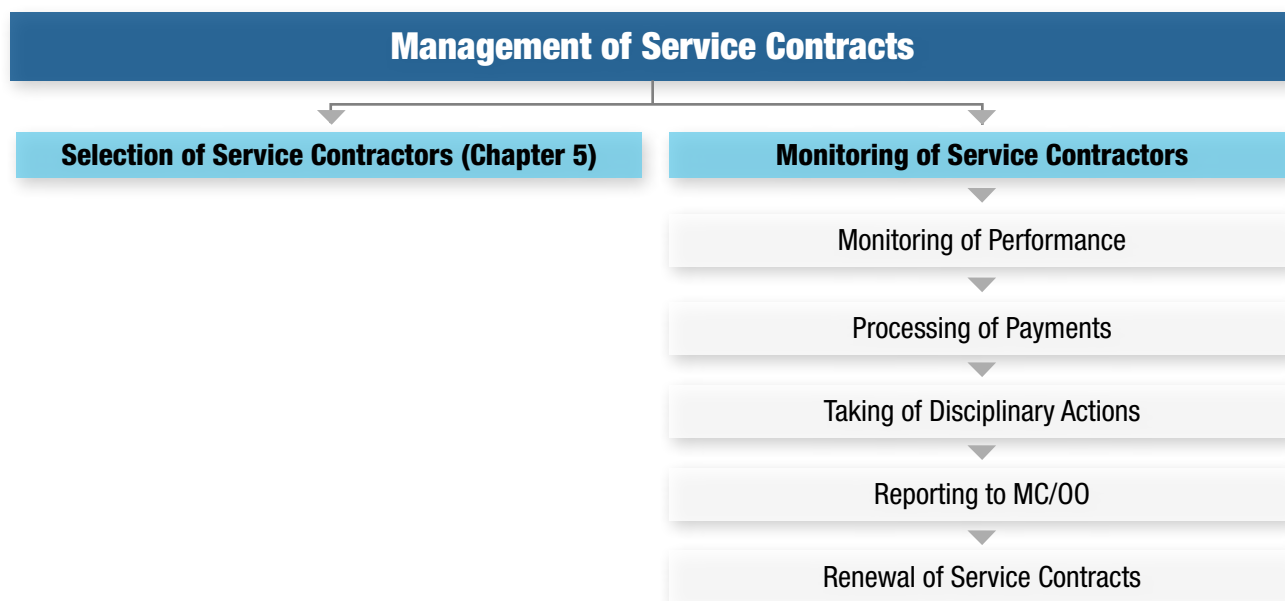
- **Compliance with Laws**

- Comply with the statutory and regulatory requirements in performing its duties, including Employment Ordinance (Cap. 57), Employees' Compensation Ordinance (Cap. 282), etc. and the DMC.

- **Communication**

- Specify the information to be reported to MC and the reporting mechanism (such as presentation of monthly financial statements and management information reports in the monthly meetings of MC).
- Attend regular MC meetings.
- Set out the types of matters and transactions that require approval by and consultation with MC.

## 6.5 KEY PROCESSES



## 6.6 SELECTION OF SERVICE CONTRACTORS

■ See  *Sections 5.5.2 – 5.5.7.*

## 6.7 MONITORING OF SERVICE CONTRACTORS

- Regardless of whether the service contractors are engaged by PMCs or directly by OOs, PMCs should monitor the performance of the service contractors to ensure that the contractors meet the service deliverables and standards specified in the contracts.

### 6.7.1 RELEVANT GUIDELINES

- Under the Code of Conduct and related Best Practice Guide on “Handling Outsourced Property Management Services”, when outsourcing the property management services provided by it, a licensed PMC has to monitor the services of the outsourced contractors and take appropriate action against contractors which have breached the contract terms. Other requirements include maintaining close communication with the contractors, settling payment with the contractors in accordance with contract terms, and keeping the contract records for not less than six years.

## 6.7.2 KEY STEPS IN MONITORING OF SERVICE CONTRACTORS

### 6.7.2.1 *Monitoring of Performance*

- ▣ Establish a system to monitor the performance of the contractor (e.g. deployment of manpower resources, patrol frequencies).
- ▣ Maintain records of incidents, complaints, and feedback related to the services provided by the service contractor.
- ▣ Maintain communication with the contractor to allay concerns in a timely manner.

### 6.7.2.2 *Processing of Payments*

- ▣ Process claims for payment according to the contract schedule.
- ▣ Verify payment claims against supporting documents.

### 6.7.2.3 *Reporting to Management Committee/Owners' Organisation*

- ▣ Report to MC/OO the performance of the contractor and follow-up actions taken on the contractor's underperformance or breach of contract terms.
- ▣ Collect owners' opinions on contractor's service quality and take them into consideration in performance evaluation and contract renewal.

### 6.7.2.4 *Renewal of Service Contracts*

- ▣ Review the need for the service and the scope of the service required.
- ▣ Identify other competitive alternatives in the market.
- ▣ Seek endorsement from MC/OO for renewal of contracts as appropriate.

## 6.7.3 MAJOR CORRUPTION RISKS



- 💣 Compromised PMC staff conniving at manpower shortage of the contractor or the contractor's use of "ghost workers".
- 💣 Dishonest PMC staff condoning the substandard services of a contractor which is the PMC's subsidiary company.
- 💣 Corrupt PMC staff not releasing payment in accordance with the schedule stipulated in the contract (e.g. premature release or undue delay in releasing payment).
- 💣 Colluded PMC staff favouring the serving service contractor by concealing the adverse performance when considering contract renewal.



## 6.7.4 CASE STUDY 1 – OFFERING/ACCEPTING ADVANTAGES FOR LAX SUPERVISION OF SERVICE CONTRACT

- 1 The Owners' Corporation of a residential building engages a contractor to provide cleaning service. A property officer of a PMC is responsible for supervising the cleaning contractor.
- 2 Since the commencement of the contract, the proprietor of the contractor has been paying "protection money" to the property officer upon the latter's solicitation. The property officer turns a blind eye to the underperformance of the contractor. When the proprietor ceases to pay the "protection money", the property officer becomes pickier about the performance of the contractor.
- 3 The property officer and the proprietor contravene Sections 9(1) and 9(2) of the POBO respectively.



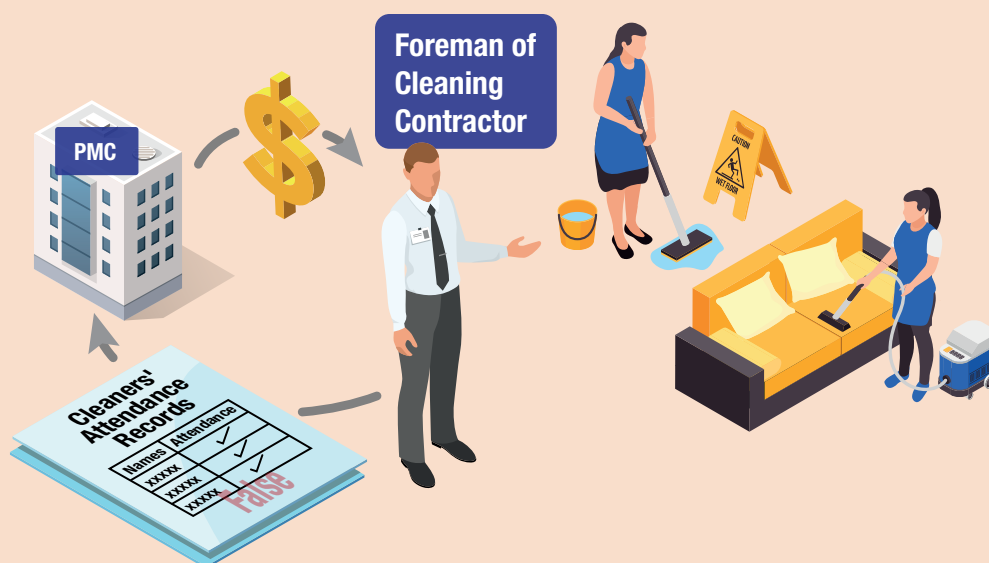
### Analysis and Points to Note –

- Being engaged by the Owners' Corporation to supervise the contractor, the property officer has a duty to act in the best interest of the Owners' Corporation. His acceptance of advantages and lax supervision of the contractor, however, has breached the trust of the owners who would suffer from the poor service.
- The weaknesses in oversight and accountability of the monitoring process provide corruption opportunity for the property officer to solicit advantage.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [Section 6.7.8](#).



## 6.7.5 CASE STUDY 2 – USING FALSE ATTENDANCE RECORD TO DECEIVE WORK PAYMENT

- 1 A PMC engages a contractor to provide cleaning service for a commercial building under its charge. The contractor is required to provide a specified number of cleaners for each shift. The contract specifies that repeated failure to provide the specified number of cleaners will lead to deduction of service fees. Notwithstanding there is a surprise check mechanism on the attendance of the cleaners by PMC, it is conducted only once a year.



- 2 The cleaners sign on an attendance record at their rest room when they report on and off duty. On several occasions, there are insufficient head counts working for the shift. The foreman of the contractor, who is responsible for supervising the cleaners, submits attendance records to PMC, which falsely represent that some absent cleaners have reported duty to meet the manpower requirement. PMC accepts the attendance records as the supporting documents for processing payment.
- 3 The foreman using attendance records with intent to deceive PMC contravenes Section 9(3) of the POBO.

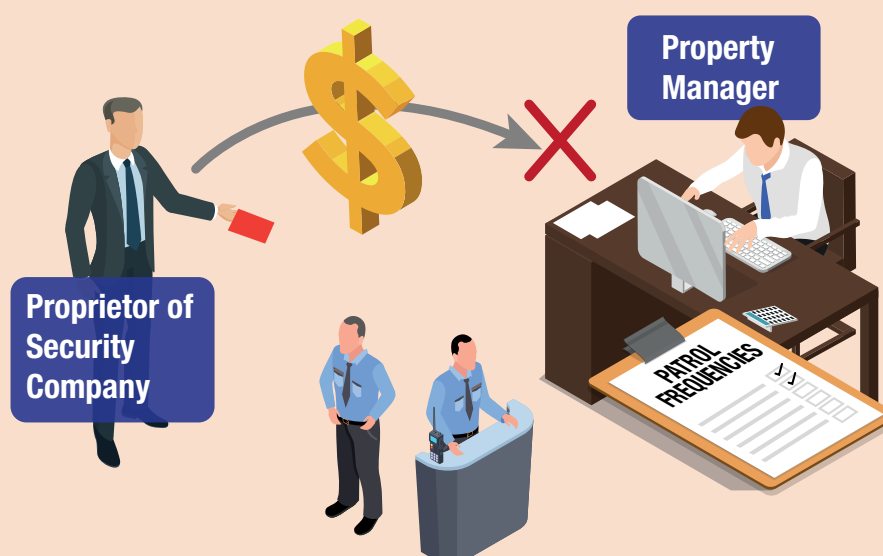
### Analysis and Points to Note –

- The inadequate checking of the number of contractor's staff on duty undermines the effectiveness to deter and detect irregularities of contractor and opens a loophole for the contractor to use the false attendance records to deceive PMC. The process of signing on and off duty without any monitoring (e.g. CCTV, oversight by other staff) is also exposed to risk of falsification of attendance records.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [Section 6.7.8](#).



### 6.7.6 CASE STUDY 3 – OFFERING ADVANTAGES FOR CONNIVANCE AT BREACHES

- 1 The security service of a residential estate is outsourced to a security company. A property manager of the PMC of the residential estate is responsible for monitoring the security company's compliance with the security contract.



- 2 The security company has breached the contractual requirement by not fulfilling the patrol frequencies. However, there are no clear guidelines on the level of sanction against such non-compliance. The proprietor of the security company offers a “laisee” to the property manager for not taking any sanction. The property manager refuses and reports the incident to the management.

- 3 The proprietor contravenes Section 9(2) of the POBO.

#### ***Analysis and Points to Note –***

- The proprietor's corrupt act tarnishes the security company's reputation. The lack of clear guidelines on the sanction against substandard performance opens loopholes for undue discretion and corrupt practices by unscrupulous staff.
- The property manager's refusal to accept the “laisee” reflects that PMC has fostered an integrity culture among frontline staff that helps raise their anti-corruption awareness.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [🔗 Section 6.7.8](#).



### 6.7.7 CORRUPTION RED FLAGS



- The actual number of contractor's staff deployed on site is less than that shown on the corresponding attendance records.
- No action is taken against the substandard performance of the service contractor despite repeated complaints, especially by PMC staff with conflict of interest with the service contractor.
- Evaluation records on the performance of the contractor are not taken into consideration during renewal of contract.

### 6.7.8 CORRUPTION PREVENTION SAFEGUARDS



#### ■ *For All Stages*

- Appoint staff members of appropriate rank to monitor the contractor's service quality and compliance with the contractual requirements.
- Establish a mechanism to collect and record user feedback on the services provided by the contractor.
- Lay down the policies and procedures for regulatory action against breaches of contract conditions (e.g. deducting payment or terminating the contract) or unsatisfactory performance (e.g. issuing reminder, giving advice, verbal/written warning (📎 [Appendix 15](#))).
- Pre-determine the approving authority for ordering additional jobs to the contractor.

#### ■ *Monitoring of Performance*

- Design a performance evaluation checklist (📎 [Appendix 13](#)) or establish a system to record the contractor's adverse performance. Require the contractor to certify, keep and submit work records (e.g. daily return of attendance records).
- Display the workers' duty roster at a conspicuous place of the property for owners' information and provide an electronic platform or hotline for receiving user feedback or complaints.

- Carry out documentary inspections and physical checks on routine and ad hoc basis, covering areas such as –
  - the satisfactory completion of the tasks (e.g. immediately after the scheduled completion time).
  - the locations where the contractor staff work (e.g. guard posts) and witness their carrying out of duties.
  - head counts on duty (if the strength is pledged in the contract).
  - workers' compliance with the requirements in respect of their conduct (e.g. wear uniform with company logo).
  - records (e.g. attendance sheets, log books, occurrence books, CCTV records).
- Record findings of the inspections (e.g. using prescribed inspection forms, taking photographs) and require the contractor to acknowledge the records as necessary (e.g. when adverse performance or non-compliance is observed).
- Increase the frequency of spot checks and head counts if there are signs of irregularities (e.g. increasing complaints from owners).
- Seek approval with justifications from the approving authority before ordering additional jobs to the contractor. If actual situation precludes prior approval, covering approval should be sought as soon as possible. Keep a log book recording all additional job orders issued to the contractor.
- Check and certify completion of special and additional job orders within a specified time limit (e.g. immediately after receipt of report of completion of a cleaning job by the contractor) for verification of payment claims.

## ■ ***Processing of Payments***

- Require the contractor to submit an invoice, together with the supporting documents (e.g. workers' attendance, work record, payroll record) for claims of payment.
- Check claims of payment against supporting documents (e.g. attendance and work records, log book, record of additional job orders) to confirm whether the jobs have been completed satisfactorily.
- Check if any notice of deduction of payment due to underperformance has been issued to the contractor and ensure such deductions are reflected in the payment and explain to the contractor in writing the reasons for deducting payment and method of calculation.

- Make a pledge or set an internal time limit for the certification of payment claims to avert allegations of deliberate holding up of payment to the contractor.
- Ensure the payment claims are processed and completed in accordance with the contract terms.

#### ■ **Reporting to MC/OO**

- Report to MC the performance of the contractor (e.g. PMC's inspection records) regularly.
- Inform MC in a timely manner when adverse performance of the contractor is recorded.
- Report any regulatory action taken against the contractor (with justifications) for minor irregularity (e.g. substandard hygiene with immediate rectification). For significant adverse performance or breach of contract terms, consult MC/OO on the follow-up action.
- In case of substandard performance or breach of contract terms under a high value service contract, set up a panel (e.g. comprising MC members and PMC staff) to recommend the actions to be taken.

#### ■ **Renewal of Service Contracts**

- Avoid terms enabling automatic renewal upon the expiry of the contract.
- Take into account the performance of the contractor by –
  - Obtaining owners' feedback on the contractor's performance (📄 **Appendix 16**).
  - Considering any adverse performance records (e.g. warnings) or complaints against the contractor from the owners.
- Compare the market price and terms and conditions with that offered by the incumbent contractor.
- Convene an OO meeting to pass a resolution to approve the renewal of the contract if the contract sum exceeds 20% of the OO's annual expenditure.
- Notify owners of the details of renewed contract with the contractor (e.g. contract sum, revised scope of service).
- If the contract is not renewed, arrange for selection of another contractor by quotation/tender (📄 **Chapter 5**).



# 7 FINANCIAL MANAGEMENT

- 7.1 ISSUE AT A GLANCE
- 7.2 UNVEILING CORRUPTION RISKS
- 7.3 RELEVANT GUIDELINES
- 7.4 REQUIREMENT OF PROPERTY MANAGEMENT COMPANIES IN FINANCIAL  
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- 7.5 KEY PROCESSES
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- 7.7 FINANCIAL REPORTING



# 7

## FINANCIAL MANAGEMENT

### 7.1 ISSUE AT A GLANCE

- As part of the property management services, PMCs collect management fees and other revenues, handle payment for expenses and maintain the funds, accounts and fixed assets (e.g. vehicles or fire services system) for OOs. Proper financial management is crucial to avoid the allegation of corruption and abuse against the PMCs and OOs. This chapter discusses the corruption risks and prevention safeguards relating to the financial management by PMCs for OOs.

### 7.2 UNVEILING CORRUPTION RISKS

- Most flat owners entrust their MCs and PMCs to oversee the financial management duties, making MCs/PMCs the agents of the OOs. Different degree of autonomy may be exercised by PMCs across different properties. In some cases, PMCs are delegated with the authority to independently manage fund required to meet the operational expense of the property (e.g. monthly utility, staff expense). For others, MCs take full charge of the building management fund with all expenses requiring their authorisation while PMCs handles support duties such as financial reporting. Corruption opportunities exist in either way by agents' acceptance of advantage to manipulate processes such as preparing financial reports and handling payment, or by way of agents' collusion with other parties (e.g. MC members) in weakening the PMC's independence in ensuring the proper use of the overall building management fund and conniving at MC's malpractices (e.g. concealing unclear/missing transaction records, embezzlement of funds). PMCs should regularly raise the awareness of their staff of the corruption concern in their properties and implement integrity management and financial controls in the system.

## 7.3 RELEVANT GUIDELINES

- PMSA has issued Codes of Conduct and related Best Practice Guides on “Handling Moneys Received on behalf of Clients by Property Management Companies” and “Handling Payment for or Arranging Payment to be Made by Clients”.

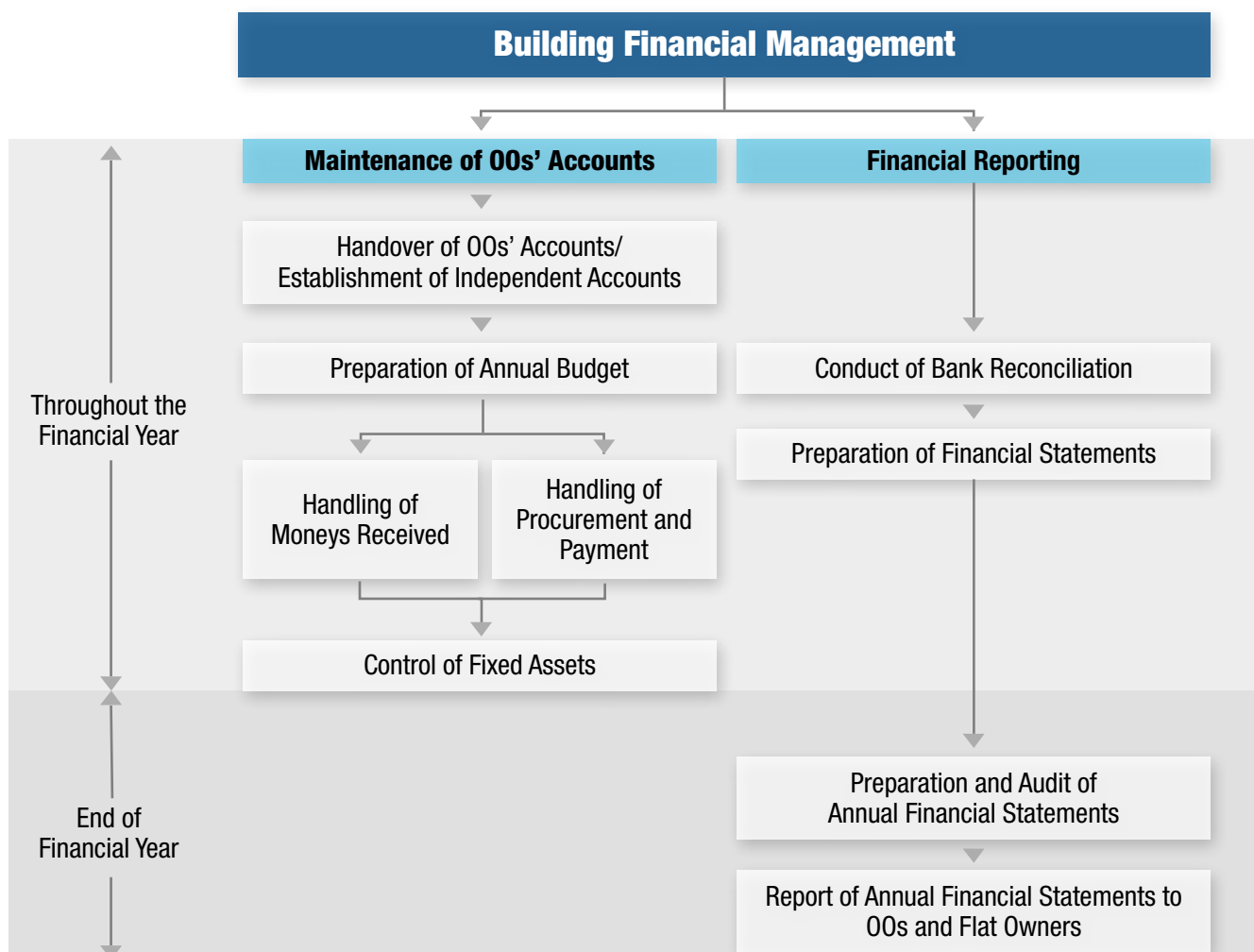
## 7.4 REQUIREMENT OF PROPERTY MANAGEMENT COMPANIES IN FINANCIAL MANAGEMENT

- PMCs should discuss and agree with OOs the detailed service requirements on the following –
  - The financial management procedures and key controls, including –
    - Opening and operation of bank accounts exclusively for the OOs;
    - Consultation and approval of the annual budget;
    - Procurement approving authorities and procedures;
    - Controls in handling incomes and payments;
    - Management and control of fixed assets;
    - Maintenance of accounting records;
    - Displaying and auditing of the financial statements;
    - Arrangements for the flat owners to access the financial records and statements; and
    - Matters requiring approval by or consultation with the MC.
- PMCs should set out the integrity requirements for their staff (📖 [Chapter 2](#)). In performing key financial management duties (e.g. high-value procurement), PMCs should require their staff to declare whether or not they have any conflict of interest, including any potential related party transactions (e.g. procuring services from a subsidiary, associated company or parent company), and seek the designated authority (e.g. senior management of PMCs/MCs)’s approval before undertaking transactions that may give rise to conflict of interest (📖 [Section 2.3.5](#)).
- PMCs should charge Manager’s remuneration and other service expenses in accordance with the management agreement.



- In the event of change of PMC (e.g. upon expiry of current service contract or termination of appointment), the incoming and outgoing PMCs should map out and execute a handover plan to ensure a smooth transition (e.g. preparation of statement of balance and audited accounts as at the last day of the contract, settling of outstanding payments by the outgoing PMC, verification of the financial records by the incoming PMC).

## 7.5 KEY PROCESSES



## 7.6 MAINTENANCE OF OWNERS' ORGANISATIONS' ACCOUNTS

- Upon their appointment, PMCs should obtain, either from the OOs or the outgoing PMCs, a copy of the management agreement, DMC, financial statements, audit reports and the agreed budget to familiarise themselves with the financial situation of the OOs (e.g. types of accounts maintained, outstanding debts and loans). In addition to on-site staff, PMCs should supervise the work of accounting staff to ensure timely updating of financial records.

## 7.6.1 KEY STEPS IN MAINTENANCE OF ACCOUNTS

### 7.6.1.1 *Handover of Owners' Organisations' Accounts/Establishment of Independent Accounts*

- Assist OOs to establish or maintain accounts for building management fund, comprising general fund and special fund, and optionally the contingency fund. The general fund supports major building management expenses (e.g. cleaning, security, insurance, repair and maintenance, staff costs) while the special fund is set up for meeting unexpected or urgent expenditure, or replacement of major equipment. For building which has set out a maintenance plan, the monthly contribution from flat owners to meet the estimated expenditure can be made to the contingency fund.
- Agree with OOs on the use of accounts. If an independent bank account is opened for OOs, the account should be designated as trust/client account<sup>12</sup>.

### 7.6.1.2 *Preparation of Annual Budget*

- Prepare the budget of the building management fund for the forthcoming year by –

General Fund	Contingency Fund
<ul style="list-style-type: none"><li>• Taking into account the budget of the previous year and actual incomes and expenditures.</li><li>• Covering all recurring annual expenditures (e.g. Manager's remuneration, salary and other fringe benefits of the on-site management and maintenance staff, utility fees (e.g. water and electricity), rates and rents, service fees (e.g. cleaning, security, landscaping and gardening), repair and maintenance and minor equipment costs).</li></ul>	<ul style="list-style-type: none"><li>• Drawing up a maintenance replacement plan for the building's major equipment (e.g. ventilation system, fire services systems, lifts, etc.) and allocating the costs pro-rata over the useful life of the equipment.</li><li>• Making provision for the estimated cost of maintenance work to be carried out in the forthcoming year.</li></ul>

<sup>12</sup> Under PMSA's Codes of Conduct on "Handling Moneys Received on behalf of Clients by Property Management Companies" and "Handling Payment for or Arranging Payment to be Made by Clients", if a bank account/bank accounts are opened to handle moneys received on behalf of clients or handle payment relating to property management services, the accounts have to be designated as a trust account or client account in respect of the property.


General Fund	Contingency Fund
<ul style="list-style-type: none"> <li>• Making provisions on payment for orders received from the Government/ public bodies in relation to the common parts of the building.</li> <li>• Taking into consideration any expiration of service contracts, cost adjustments due to market cost and anticipated inflation, etc.</li> <li>• Taking into consideration the balance of fund brought forward from the previous year (e.g. to reduce contribution if a large amount of surplus has been accumulated).</li> <li>• Stating any assumptions made.</li> <li>• Explaining any significant difference from the actual income and expenditure of the previous year.</li> </ul>	<ul style="list-style-type: none"> <li>• Taking into consideration the balance of fund brought forward from the previous year (e.g. to reduce contribution if a large amount of surplus has been accumulated).</li> <li>• Stating any assumptions made.</li> <li>• Explaining any significant difference from the actual income and expenditure of the previous year.</li> </ul>

- For non-recurrent or large-scale maintenance works, prepare a special budget for the special fund setting out the estimated cost and the special contribution by the flat owners.
- Consult flat owners and seek approval for the annual budget by –
  - Allowing at least 14 days for flat owners to give feedback.
  - Presenting the feedback received and the recommendation on whether to revise the budget to the MC for consideration and approval<sup>13</sup>.
  - Determining the amount to be contributed by individual flat owners (either in accordance with the DMC provision, or the flat owners' respective shares if there is no DMC provision), and providing the information on the calculation of management fees to flat owners.
- Display the approved budget for at least seven days before effecting the new management fee.

<sup>13</sup> If the management fee is increased by over 50% as compared with last year, call an owners' meeting to consider and approve the budget.

- ▣ Throughout the year, if the actual income and expenditure are expected to significantly deviate from the budget (e.g. due to an unforeseen project), revise the budget, display it and seek approval by following similar consultation and approval procedures described above.

### 7.6.1.3 *Handling of Moneys Received*

- ▣ Adopt an accounting system on handling of moneys received in accordance with OOs' actual circumstance.
  - PMCs may make reference to  **Chapter 3** of Financial Management Toolkit published by ICAC for the suggested procedures -

Website:

[cpas.icac.hk/UploadImages/InfoFile/cate\\_43/2019/0810f91d-7e91-4e6c-b867-849c49f7e979.pdf](https://cpas.icac.hk/UploadImages/InfoFile/cate_43/2019/0810f91d-7e91-4e6c-b867-849c49f7e979.pdf)



- ▣ Near the end of each month, issue monthly demand notes for management fee/rental for the following month to individual flat owners, specifying the due date.
- ▣ Collect and bank in the collected moneys.
- ▣ Publicise the addresses of flat owners with overdue management fees to encourage prompt payment.
- ▣ Take recovering actions for overdue payment of management fees (e.g. issue a reminder by double registered mail to the flat owner, enter with the Land Registry a record of default payment against the property concerned) in a timely manner.
- ▣ If the flat owner sells the flat before registration of default payment and the OOs cannot recover the debt, advise the MC to approve offsetting part of the debt against the flat's management deposit and write off the remaining balance as bad debt.
- ▣ Review the receipt summary and the actions taken to recover the overdue incomes.
- ▣ File a "Notification of Letting of Properties" to the Inland Revenue Department when a property in the common area is leased out for the first time.
- ▣ Keep documents relating to receipt of income (e.g. management fees and rentals) for a minimum period of six years.

### 7.6.1.4 *Handling of Procurement and Payment*

- ▣ Set out the delegated approving authorities for purchases of various values ( **Chapter 5**).

- ▣ Adopt procedures for procurement by inviting quotations/tenders, and a petty cash system for day-to-day small-value purchase (📄 **Chapter 5**).
- ▣ Adopt an accounting system on handling of payment in accordance with OO's circumstance.
  - PMCs may make reference to 📄 **Chapter 3** of Financial Management Toolkit published by ICAC for the suggested procedures -

Website:

[cpas.icac.hk/UploadImages/InfoFile/cate\\_43/2019/0810f91d-7e91-4e6c-b867-849c49f7e979.pdf](https://cpas.icac.hk/UploadImages/InfoFile/cate_43/2019/0810f91d-7e91-4e6c-b867-849c49f7e979.pdf)



- ▣ Process payment for the procurement.
- ▣ Keep documents relating to procurement and payment for a minimum of six years.

#### **7.6.1.5 Control of Fixed Assets**

- ▣ Maintain a fixed assets register to keep track of each fixed asset (including assets leased but not owned by OOs).
- ▣ Calculate the depreciation of each fixed asset in the annual financial statements using the method approved by MC.
- ▣ Record the depreciation as an expenditure in the income and expenditure account.
- ▣ Recommend disposal (including write-off) of fixed assets and the disposal method.
- ▣ For an asset with a resale value, seek offers from more than one prospective buyers (preferably nominated by different MC/staff members).
- ▣ Submit proposal for disposal of fixed assets together with computation of gain/loss on disposal to the approving authority (e.g. the Chairman or other designated MC member).
- ▣ Inspect the asset, supporting documents and the profit/loss on disposal before approval.
- ▣ Issue receipt to the purchaser for the sales proceeds.
- ▣ Record the disposal in the accounting records and update the fixed assets register.
- ▣ Review the gain/loss on disposal of fixed assets in the periodic financial statements.

## 7.6.2 MAJOR CORRUPTION RISKS



- Compromised PMC staff conniving at the flat owners' non-payment of management fees.
- Colluded PMC staff submitting false invoice for claiming reimbursement.
- Compromised PMC staff allowing the misuse of OO's fixed assets by other parties (e.g. flat owners for their personal use).



### 7.6.3 CASE STUDY 1 – MISAPPROPRIATION OF MAINTENANCE WORKS PAYMENT

**1** A PMC has been appointed to provide property management service for a residential estate and maintains an independent bank account for settling maintenance works and recurring expenses for the estate. Two authorised signatories of PMC staff, including a property manager, are required for withdrawal of funds from the bank account. The property manager is also responsible for preparing the cheques for the payment of maintenance works carried out by a contractor at the estate.



**2** The property manager is running into financial debts. He prepares a number of cheques each amounting to \$50,000, together with the payment approval forms which misrepresent that the cheques are for settling the payment for maintenance works. As PMC does not require the submission of supporting documents when making payments, the property manager puts down the name of his own company as the payees of the cheques. Without checking the names of the payees, a senior property manager, who is one of the authorised signatories, signs the cheques involving sums totalling \$500,000. After depositing the money into his bank account, the property manager resigns from the PMC.

**3** The property manager contravenes Section 9(3) of the POBO.

## Analysis and Points to Note –

- The property manager misappropriates the building management fund by requesting the senior property manager to sign a number of cheques each with a value within their financial approval authority. Exploiting the loophole that no supporting documents are required for the payment of works, he falsely represents to the senior property manager that the cheques prepared by him are payable to the maintenance contractor.
- The senior property manager fails to ensure that the cheques are made to the correct payees.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in [Section 7.6.6](#).



### 7.6.4 CASE STUDY 2 – COLLUSION IN FALSIFYING RECEIPT FOR REIMBURSEMENT OF EXPENSE


- 1 A PMC is responsible for handling procurement and payment of expenditures for OO of a residential estate. The OO resolves to purchase lighting products for the estate but does not specify the quantity required. A property assistant is responsible for purchasing the products and is entitled to claim for reimbursement with the support of payment receipts.
- 2 The property assistant approaches a lighting product company whose proprietor is his personal friend, and offers to procure the products from the company in return for inflating the quantity and unit price of the lighting products in the purchase receipt. The proprietor agrees and provides a receipt with inflated quantity and unit price to the property assistant. The property assistant then uses the receipt to claim for payment of the lighting products with approval of the senior property officer, who has not checked the actual quantity purchased.



- 3 The property assistant and the proprietor of the lighting products company conspire to use the false receipt with intent to deceive OO, contravening Sections 9(3) of the POBO and 159A of the Crimes Ordinance (Cap. 200)<sup>14</sup>.

<sup>14</sup> Section 159A of the Crimes Ordinance (Cap. 200) provides for the offence of conspiracy.

## Analysis and Points to Note –

- The OO has not specified the quantity required for the lighting products. The property assistant exploits the loophole to buy an excessive number of lighting products from the company. Worse still, as the senior property officer does not discharge his duty satisfactorily to check the actual quantity of products purchased against the quantity shown on the receipt, it creates an opportunity for the property assistant to inflate the quantity on the purchase receipt.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in  **Section 7.6.6.**

### 7.6.5 CORRUPTION RED FLAGS



- No proper documentation is provided to support claims for payment (e.g. wages to casual workers, expenditure incurred by PMC staff).
- Ambiguous transactions (e.g. “other expenses” and “miscellaneous items”) are frequently found in the accounting records.
- Insufficient documentation to support the disposal of fixed assets, or the sale of fixed assets made at price significantly below their market value.

### 7.6.6 CORRUPTION PREVENTION SAFEGUARDS



#### ■ ***Establishment of Independent Accounts***

- For bank accounts opened by PMC on behalf of OO –
  - Limit the bank balance to an amount sufficient for the daily operation of the PMC and transfer any excess fund to the bank accounts operated by the OO.
  - Provide monthly bank statements and bank reconciliations to the Treasurer and Chairman of OO for checking.
  - Set the limit for withdrawal or payment from the bank accounts, above which approval from a higher authority is required.



- Ensure the bank accounts are for the exclusive use of the building.
- Regularly review the building's financial position, bank statements and accounting records (e.g. check the cheque register against the supporting documents to identify doubtful payment).

#### ▣ ***Preparation of Annual Budget***

- Submit for MC/OO's approval the amount of contribution from flat owners based on the budget for the building.
- Seek the approval of the annual budget of a new financial year from MC who will serve over the budgeted period.
- Send the draft budget to all flat owners or display it in a prominent location of the building.
- Submit to MC for approving all fees and rentals by making reference to the market rates/pre-determined rates.
- Advise MC of expenditure breakdown for key budget items (e.g. Manager's remuneration) to facilitate its checking on the reasonableness of the budget.
- Ensure purchases made and expenses incurred are confined to the budget provisions and seek approval from MC, on justifiable grounds, for any significant unbudgeted purchases or expenditures (e.g. exceeding a certain amount).
- Submit monthly/quarterly reports to MC comparing actual incomes and expenditures against the budget, and explain any significant deviations.

#### ▣ ***Handling of Moneys Received***

- Segregate the following key duties to be handled by different staff members –
  - Collection and banking of incomes, recording of official incomes, preparation of ageing analysis of debts and taking of recovery action.
- Ensure and require payment to be made by cheques, autopay or other electronic means as far as possible.
- Remind flat owners, by notice and on the payment demand note, to –
  - Cross and mark their cheques payable to PMC/OO and write down their addresses on the back of the cheques.
  - Collect an official receipt for every payment made.
- Ascertain the particulars of the payers and the purposes of the moneys received on each occasion and make proper records.

- Deposit moneys received into the OO's or the independent trust account as soon as reasonably practicable. Keep the moneys in a designated and locked device before the moneys can be deposited into the bank account, and make proper records.
- Conduct site audit checks on the utilisation of the income-generating facilities or its resources (including parking spaces) against income records to ensure they tally.
- Review management reports on monthly income, refunds and debts.
- Conduct or arrange internal audit checks on accounting records, receipt vouchers, bank records and overdue receipts.

### ■ ***Handling of Procurement and Payment***

- In key stages such as selecting suppliers or approving payment, positively declare conflict of interest (📖 ***Section 7.4***).
- Segregate key duties on procurement (📖 ***Chapter 5***) and payment process such as preparing and recording cheques for payment, signing cheques/bank withdrawal forms, holding the petty cash fund, replenishing the petty cash fund, and recording payment.
- Check accuracy of invoice and certification by users for acceptance of goods/services.
- Arrange for signing of cheques by at least two authorised persons, and for withdrawal of different amount of money, arrange for the signing of the withdrawal slips by appropriate authorised persons. Where possible, adopt electronic authentication means (e.g. online banking with authentication by tokens) to effect the payment/withdrawal.
- For autopay transactions –
  - Inspect monthly the bank statements against the invoices of autopay transactions (e.g. utility bills).
  - Regularly review the autopay transactions in the cheque register (e.g. payee, goods/services supplied, financial limit and frequency of payment) to detect any irregularities in payment.
- Keep all the cheque books, bank books, official chop, electronic authentication keys (e.g. tokens) in a secure place.
- Keep the password for operating the bank account strictly confidential and change the password regularly (e.g. every six months) and when necessary (e.g. the person who possesses or knows the password resigns).
- Promptly notify OO and the bank of cessation of any person as an authorised signatory (e.g. resignation of PMC staff).

- Use cross cheques and mark them as “Account Payee Only”.
- Issue cheques in sequence and stamp “void” on spoiled/voided cheques and retain them for audit.
- Ensure invoices or receipts are stamped “paid” to avoid double payment.
- Before signing cheques or withdrawal slips, ascertain the use of the money and ensure that the payment is supported by documentary proof (e.g. invoices, MC’s approval if required). No blank cheques or withdrawal slips should be signed in advance.
- Arrange an independent staff member not involved in processing of payment to review the documents such as cheque register, autopay register and bank statements for payment made.

#### ▣ ***Control of Fixed Assets***

- Segregate key duties on safekeeping of assets, maintenance of fixed assets register, on-site inspection of assets, and approval of disposal of assets as far as possible.
- Seek MC’s approval on the policy and procedures for the management of fixed assets, including criteria for recording certain types of assets as fixed assets (e.g. based on type, useful life and value), depreciation policy/method for different classes of fixed assets, periodic inspection of fixed assets, and authority, procedures and methods for disposal (including writing-off) of fixed assets.
- Ensure the assets are labelled for identification purpose.
- Inspect the fixed assets with reference to the register at least annually and update the register of any changes noted (e.g. location); and report the inspection result to MC including any irregularities.
- Ensure the annual depreciation on fixed assets is charged where appropriate.
- Properly control the disposal of fixed assets, with justifications and supporting documents where appropriate (e.g. inspection report of the maintenance contractor or photos of the asset).

## 7.7 FINANCIAL REPORTING

- Accurate and timely financial reporting is essential to keep flat owners informed of the financial situation of OOs. It provides transparency and accountability, enabling OOs and PMCs to make informed decisions and PMCs to maintain the trust of their clients.

### 7.7.1 KEY STEPS IN FINANCIAL REPORTING

#### 7.7.1.1 *Conduct of Bank Reconciliation*

- Identify and Investigate Reconciling Items
  - Compare transactions in the bank statement against the accounting records (e.g. general ledger/cash book) to identify any discrepancies between the reconciling items (i.e. entries made in the accounting records but not found in the bank statement and vice versa).
  - Investigate the causes of discrepancies (e.g. unpresented cheques, bank direct debit items, bank charges and interest).
- Review of Bank Transactions
  - Check computation of the bank balances in the cash book.
  - Review whether cheques have been issued in numerical sequence and unused/voided cheques are accounted for.
  - For any missing cheques that cannot be accounted for, instruct the bank to stop payment, or investigate those presented for payment.

#### 7.7.1.2 *Preparation of Financial Statements*

- Assign persons responsible for preparing financial statements with suitable training. Where necessary, PMCs should seek other professional advice in preparing financial statements.
- Prepare monthly accounts to facilitate monitoring and review by MC.
- Prepare an income and expenditure account for different funds of the building (e.g. General Fund and Contingency Fund), signed by the Chairman and the Secretary/Treasurer of OOs, showing –
  - The total amount of each type of income and expenditure over the month, quarter or financial year just ended.
  - The total income, expenditure and surplus/deficit for the period.

- Comparison of actual income/expenditure against the budget in the monthly/quarterly income and expenditure accounts, with explanation of significant deviations.
  - Comparison with the previous financial year's income and expenditure in the annual account, with explanation of significant changes.
- ▣ Prepare a balance sheet showing –
    - The total value of non-current and current assets and liabilities as at the ending date of the quarter/financial year.
    - The net value of current assets/liabilities on that date.
    - The position as at the ending date of the previous period for comparison, with explanation of any significant changes.
    - The amount of reserves under the fund(s).
  - ▣ Facilitate the preparation and auditing of the annual financial statements by an auditor appointed by OOs.
  - ▣ Assist MC to provide access to any documents, books and records of OOs to the auditor.
  - ▣ Display the annual financial statements and the auditor's report and table them at the annual general meeting of OOs.

## 7.7.2 MAJOR CORRUPTION RISKS

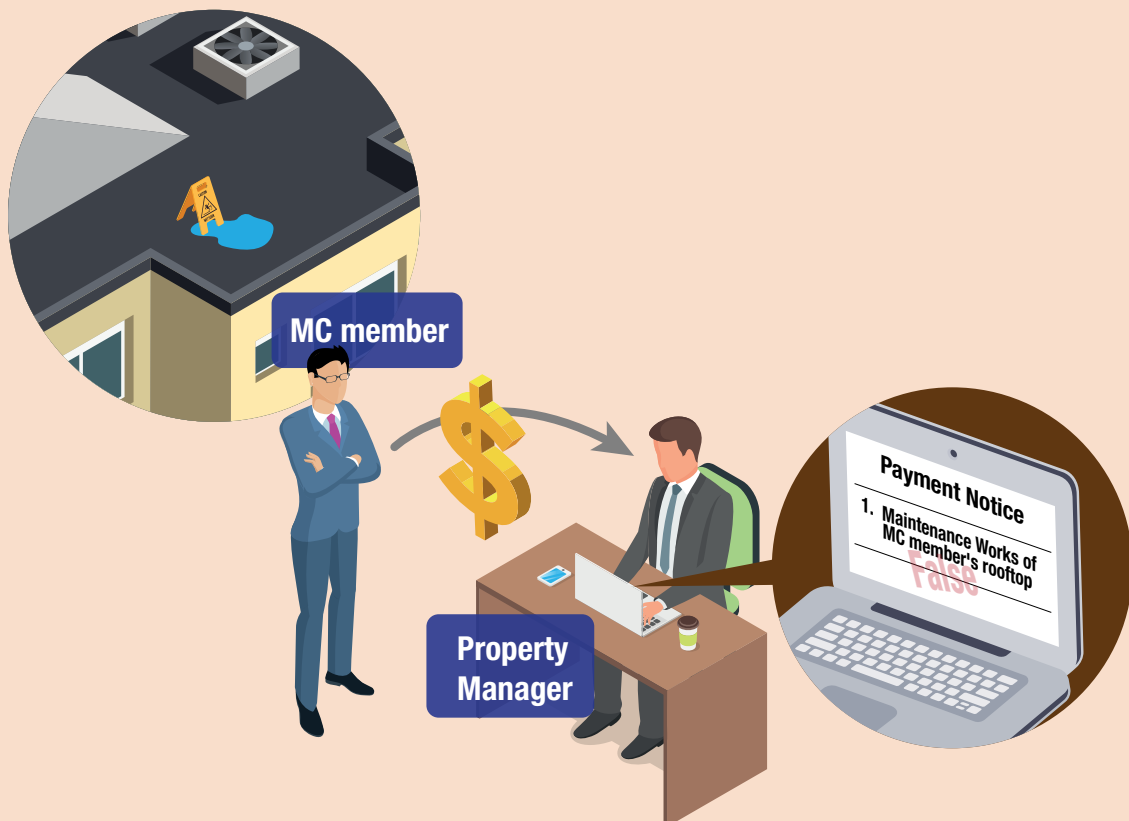


- 💣 Corrupt PMC staff falsifying financial statements to assist a flat owner in settling his share of the maintenance cost of the building.
- 💣 Corrupt PMC staff embezzling the building management fund and falsifying the transaction records or financial statements to cover up the malpractices.
- 💣 Colluded PMC staff taking side with corrupt OOs in exercising loose oversight on the preparation and approval of the financial statements.

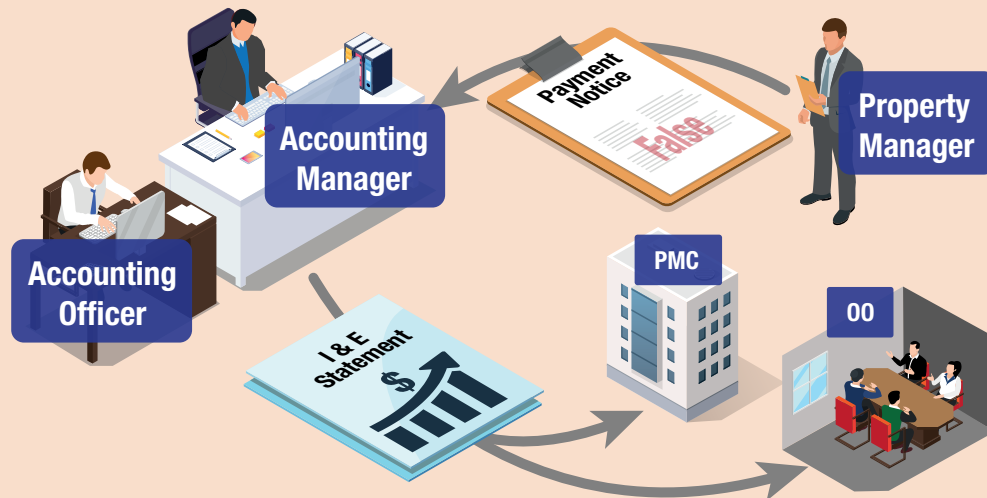


### 7.7.3 CASE STUDY 3 – ACCEPTANCE OF BRIBES FOR FALSIFYING FINANCIAL STATEMENTS

- 1** The rooftop of a residential building is privately owned by an MC member. The rooftop has water seepage problem and requires maintenance works involving expenditure of over \$500,000. At the same time, OO of the building resolves to carry out waterproofing works on the common areas of the building with an estimated cost of around \$2,000,000.
- 2** The MC member approaches the property manager of PMC responsible for overseeing the building maintenance works and offers an advantage of around \$50,000 for settling the expenses of the rooftop maintenance works by the building management fund. The property manager agrees and, by producing false payment notice, misleads the accounting officer of PMC to effect payment of the rooftop maintenance works' expense. Based on the record of the accounting officer, the accounting manager prepares and confirms the income and expenditure account. In the statement, the rooftop maintenance works is reported as an expenditure item relating to the waterproofing works.



**3** Neither PMC nor OO have reviewed the income and expenditure account on the actual expenditure relating to the building maintenance works which significantly exceeds the estimated cost. The MC resolves not to conduct audit on the annual financial statement.



**4** The property manager and the MC member contravene Sections 9(1) and 9(2) of the POBO respectively. The property manager also contravenes Section 9(3) of the POBO for using the false payment notice to mislead the PMC regarding the nature of the expenditure.

### ***Analysis and Points to Note –***

- The case reveals a lack of oversight from PMC in confirming that the payment is related to the waterproofing maintenance works on the common areas of the building before the effecting of payment. In addition, the PMC fails to bring to OO's attention on the significant overspending in relation to the waterproofing maintenance works.
- The lack of independent audit on the financial account of OO also heightens the risk of collusion between MC member and PMC staff in manipulating the financial statements so as to abuse the building management fund.
- In order to deter/detect the related malpractices, PMCs are advised to adopt the recommended practices as provided in 📄 **Sections 7.6.6** and **7.7.5**.

## **7.7.4 CORRUPTION RED FLAGS**



- ▣ Unnecessary or excessive expenses that are not justified by the needs of the building.
- ▣ Unresponsive or evasive attitude of staff when asked to provide financial documents for inspection, or provision of incomplete financial documents that hinder supervisors/flat owners from fully understanding the financial situation of OOs.
- ▣ Non-display or improper display of financial statements (e.g. print with small text size) in prominent place of the building.

## 7.7.5 CORRUPTION PREVENTION SAFEGUARDS



### ■ *Conduct of Bank Reconciliation*

- Segregate key duties of preparing bank reconciliations and checking and approving bank reconciliations.
- Prepare bank reconciliations on a periodic basis (at least monthly) to detect any discrepancies between bank statements and accounting records.
- Investigate delays in the presentation of cheques and deposit of incomes to the bank, check unused/voided cheques, and stop payment of missing cheques.
- Randomly select a few payment transactions of a material amount for checking of the supporting documents and payment approval.
- Seek the approval of the bank reconciliation statement by Chairman of OO and submit it to MC for information.

### ■ *Preparation of Financial Statements*

- Segregate key duties of preparation and approval of financial statements.
- Prepare quarterly/monthly the income and expenditure account and explain to MC/ flat owners on the following –
  - Any item that significantly deviate from the approved budget.
  - Breakdown on Manager's remuneration package, MC members' allowances, but without disclosing the personal data of the staff members.
  - Any significant changes in the balance sheet items in comparison with the previous year and the reasons.
  - The gain or loss upon the disposal of the fixed assets and the method of disposal (e.g. whether the disposed assets have been opened up for purchase by the residents).
  - Whether goods purchased by PMC on behalf of OO have been recorded as fixed assets according to PMC's accounting policies, and conduct random inspections on the fixed assets.
  - Information on the cash flow forecast in case the current assets are insufficient to meet the current liabilities.



- Provide flat owners the accounting books and records and other related documents (e.g. original bank statements, invoices, receipts and vouchers) for examination at reasonable time as necessary.
- Arrange an audit of the financial statements in compliance with BMO (e.g. the annual income and expenditure exceeds certain amount). Review the auditor's report and management letter.
- Invite the auditor to attend annual general meetings of OO to present and answer questions about his audit report and other audit findings.
- Encourage flat owners to attend the annual general meeting for discussion of the financial statements and auditor's report.
- Take appropriate action on any special opinions and management weaknesses expressed by the auditor (e.g. hiring a professional accountant to conduct a thorough review, reporting of suspected frauds/corruption to the law enforcement agency concerned).



# 8 ICAC SERVICE AND ASSISTANCE

- 8.1 ISSUE AT A GLANCE
- 8.2 CORRUPTION PREVENTION ADVISORY SERVICE
- 8.3 EDUCATION SERVICES
- 8.4 OTHER PUBLICATIONS
- 8.5 REPORTING CORRUPTION



# 8

## ICAC SERVICE AND ASSISTANCE

### 8.1 ISSUE AT A GLANCE

- The ICAC stands ready to help PMCs, OOs and their business partners (e.g. suppliers, service contractors, works consultants, contractors) establish, strengthen and continually improve their corruption prevention controls/programmes that cater for their operational needs. Moreover, it is important that PMCs knock on the right door for assistance and advice which can better defend themselves against corrupt practices and exploitation in day-to-day operations and project management. Below is a quick guide on the ICAC's service and assistance available to PMCs and OOs.

### 8.2 CORRUPTION PREVENTION ADVISORY SERVICE

- The CPAS is a specialised unit that focuses on providing the following free, tailor-made professional corruption prevention advice and services to private organisations and business companies –
  - providing confidential and tailor-made advice on anti-corruption management systems including the adoption of the recommended measures in the Guide; and corruption prevention measures for specific operations on request;
  - offering assistance in drawing up a Code and other probity guidelines (e.g. the Policy) (📄 **Section 2.3**) that will help PMCs comply with the licensing requirements as well as raise the companies' integrity standard;
  - organising corruption prevention training for PMCs, OOs and their business partners to raise their awareness of corruption risks and corruption prevention measures specific to their business operations; and
  - answering any enquiries about the Guide.
- For further information, please contact the CPAS through the following channels –

Phone: 2526 6363  
Fax: 2522 0505  
Email: [cpas@cpd.icac.org.hk](mailto:cpas@cpd.icac.org.hk)  
Website: [cpas.icac.hk](http://cpas.icac.hk)





**Q11. In what areas can the CPAS render advice for a/an PMC, OO and their business partners?**

**A** The service will cover the entire integrity management system of the PMC, including its Policy, ethical standard and guidance for all personnel (e.g. through a Code for staff of PMC and OO), identification and assessment of corruption risks, corruption prevention controls, training and communication; and specific systems and procedures such as facilities management, building maintenance and other operational areas (e.g. procurement, staff administration). Other related parties such as MCs and their service contractors are also welcome to subscribe to the service.

**Q12. Will the CPAS disclose our service request and other information (e.g. our policies, procedures, risks, concerns, incidents) to others/ the public?**

**A** No. Our services are provided in strict confidence to protect clients' information unless individual clients are willing to share their experience of using the services of the CPAS so as to assist in promoting the services. Your company has full discretion to decide on the information to be given to us.

## 8.3 EDUCATION SERVICES

- The Community Relations Department of the ICAC offers full range of education services to the property management sector free of charge –
  - offering anti-corruption and professional ethics training to individual PMCs and building management bodies, including OOs, to promote integrity culture;
  - organising seminars, workshops and Continuing Professional Development courses with various professional bodies and trade associations to enhance professional ethics of practitioners;
  - producing an array of educational and publicity materials to promote clean property and building management messages;
  - operating an enquiry hotline for handling property and building management-related enquiries; and
  - maintaining a thematic website on ***Integrity and Quality Building Management*** (see details below) to provide repository and handy education resources and training materials for practitioners and stakeholders.

- For further details, please contact us –

Enquiry hotline: 2929 4555

E-mail: [icacbm@icac.org.hk](mailto:icacbm@icac.org.hk)

Website: [bm.icac.hk/en/home/introduction.aspx](http://bm.icac.hk/en/home/introduction.aspx)



## 8.4 OTHER PUBLICATIONS

- In addition to the Guide, the ICAC has also compiled other publications which provide PMCs, OOs and other building management bodies with practical and user-friendly guide on property management, e.g. –

- Building Management Toolkit
- Building Maintenance Toolkit
- Building Financial Management Toolkit
- Building Maintenance Corruption Prevention Red Flags
- Property Management Corruption Prevention Red Flags

- The above publications are available at –

Website: [bm.icac.hk/en/education\\_and\\_publicity\\_materials/education\\_and\\_publicity\\_materials.aspx](http://bm.icac.hk/en/education_and_publicity_materials/education_and_publicity_materials.aspx)



## 8.5 REPORTING CORRUPTION

- Reporting corruption in person is more direct and allows the ICAC to get more details of the corruption complaint. Complainants' identity and content of complaints are handled in strict confidence.
- Full evidence is not required when lodging a complaint. One may report if he has reasonable doubt. Complainants only need to state the known facts of the suspected case and the ICAC will follow up according to the information provided.
- Any person encountering corruption should make a report to the ICAC through any of the following channels –

Phone: 25 266 366 (24-hour service)

Mail: G.P.O. Box 1000, Hong Kong

In person: ICAC Report Centre (24-hour service)  
G/F, 303 Java Road, North Point, Hong Kong  
ICAC Regional Offices<sup>15</sup>

(opening hours: 9:00 a.m. - 7:00 p.m. Monday to Friday;  
closed on Saturdays, Sundays and public holidays)

<sup>15</sup> Contact information of the ICAC Regional Offices is available at [www.icac.org.hk/en/crd/struct/ro/index.html](http://www.icac.org.hk/en/crd/struct/ro/index.html).

# APPENDICES




# Sample Code of Conduct<sup>1</sup>

## Ethical Commitment

1. The [name of property management company] (hereafter referred to as the Company) regards honesty, integrity and fair play as our core values that must be upheld by all directors and staff of the Company at all times. This Code sets out the basic standard of conduct expected of all directors and staff, and the Company's policy on acceptance of advantage and handling of conflict of interest when dealing with the Company's business.



## Prevention of Bribery

2. The Company prohibits all forms of bribery and corruption. All directors and staff are prohibited from soliciting, accepting or offering any bribe in conducting the Company's business or affairs, whether in Hong Kong or elsewhere. In conducting all business or affairs of the Company, they must comply with the Prevention of Bribery Ordinance (Cap. 201) (POBO) of Hong Kong and must not –
  - (a) Solicit or accept any advantage from others as a reward for or inducement to doing any act or showing favour in relation to the Company's business or affairs, or offer any advantage to an agent of another as a reward for or inducement to doing any act or showing favour in relation to his principal's business or affairs;
  - (b) Offer any advantage to any public servant (including government/public body's employee) as a reward for or inducement to his performing any act in his official capacity or his showing any favour or providing any assistance in business dealing with the government department/public body; or
  - (c) Offer any advantage to any staff of a government department or public body while they are having business dealing with the latter.

(The relevant provisions of the POBO are at  **Annex 1**.)

<sup>1</sup> The Sample Code of Conduct is for reference only. In devising its code of conduct, the Company may wish to make adaptations of this Code to suit its core values and operational needs while adopting the principles of the recommended guidelines.

### Acceptance of Advantages

3. It is the Company's policy that directors and staff should not solicit or accept any advantage for themselves or others, from any person, company or organisation having business dealings with the Company or any subordinate, except that they may accept (but not solicit) the following when offered on a voluntary basis –
  - (a) Advertising or promotional gifts or souvenirs of a nominal value;
  - (b) Gifts given on festive or special occasions, subject to a maximum limit of \$\_\_\_\_\_ <sup>2</sup> in value; and/or
  - (c) Discounts or other special offers given by any person or company to them as customers, on terms and conditions equally applicable to other customers in general.
4. Gifts or souvenirs described in paragraph 3(a) that are presented to directors and staff in official functions are deemed as offers to the Company. The directors and staff concerned should report the acceptance to the Company and seek direction as to how to handle the gifts or souvenirs from [the approving authority]<sup>3</sup> using  **Annex 2**. If a director or staff member wishes to accept any advantage not covered in paragraph 3, he should also seek permission from [the approving authority] using  **Annex 2**.
5. However, a director or staff member should decline an offer of advantage if the acceptance could affect his objectivity in conducting the Company's business or induce him to act against the interest of the Company, or the acceptance will likely lead to perception or allegation of impropriety.
6. If a director or staff member has to act on behalf of a client (e.g. owners' organisation) in the course of carrying out the Company's business, he should also comply with any additional restrictions on acceptance of advantage that may be set by the client.

### Offering of Advantages

7. Directors and staff are prohibited from offering advantages to any director, staff member or agent of another property management company or organisation, for the purpose of influencing such person in any dealing, or any public official, whether directly or indirectly through a third party, when conducting the Company's business. Even when an offer of advantage carries no intention of improper influence, it should be ascertained that the intended recipient is permitted by his employer/principal to accept it under the relevant circumstance before the advantage is offered.

<sup>2</sup> The Company can set the appropriate maximum limit of the value of the gifts allowable to be accepted after taking into account its operational needs. Yet, a modest amount should be set as the maximum limit to prevent directors and staff from falling prey to corruption.

<sup>3</sup> Please specify the post of the approving authority in the Code and Annex 2. The Company can designate the appropriate approving authority after taking into account its operational needs and organisation structure.


## Entertainment

8. As defined in Section 2 of the POBO, “entertainment” refers to food or drink provided for immediate consumption on the occasion, and any other entertainment provided at the same time. Although entertainment is an acceptable form of business and social activity, a director or staff member should avoid accepting lavish or frequent entertainment from persons with whom the Company has business dealings (e.g. suppliers, service contractors) or from his subordinates to avoid placing himself in a position of obligation.

## Records, Accounts and Other Documents

9. Directors and staff should ensure that all records, receipts, accounts or other documents they submit to the Company or owners’ organisation give a true representation of the facts, events or business transactions as shown in the documents. Intentional use of documents containing false information to deceive or mislead the Company or owners’ organisation, regardless of whether there is any gain or advantage involved, may constitute an offence under the POBO.

## Conflict of Interest<sup>4</sup>

10. Directors and staff should avoid any conflict of interest situation (i.e. situation where their private interest conflicts with the interest of the Company or owners’ organisation) or the perception of such conflict. When an actual or a potential conflict of interest arises, the director or staff member should make a declaration to [*the approving authority*] through the reporting channel using  **Annex 3**.

## Misuse of Official Position

11. Directors and staff must not misuse their official position in the Company to pursue their private interests, which include both financial and personal interests and those of their family members, relatives or close personal friends.

## Safeguard of Company Assets/Information and Client Funds

12. Directors and staff in charge of or having access to any assets of the Company or owners’ organisation, including funds, property, information, personal data and intellectual property, should use them solely for the purpose of conducting the Company’s business or owners’ organisation’s affairs. Unauthorised use, such as misuse for personal interest, is strictly prohibited. Directors and staff having access to client funds must also make sure they handle such in a trustworthy and honest manner.

<sup>4</sup> The Company may wish to include some common examples of conflict of interest as appropriate (Appendix 2).

13. Directors and staff should not disclose any classified information of the Company (e.g. information about the clients) without authorisation or misuse any company information. In particular, unauthorised sale of information or disclosure of information that might be of use to other persons or companies in competition with the Company's business is strictly prohibited. Those who have access to or are in control of such information, including information in the Company's computer system, should protect the information from unauthorised disclosure or misuse. Special care should also be taken in the use of any personal data, including directors', staff's and clients' personal data, to ensure compliance with the Personal Data (Privacy) Ordinance (Cap. 486).

### Outside Employment/Work

14. If a director or staff member wishes to take up employment/work outside the Company, he must seek the prior written approval of *[the approving authority]*. *[The approving authority]* should consider whether the outside employment/work would give rise to a conflict of interest with the staff member's duties in the Company or the interest of the Company.

### Relationship with Suppliers, Contractors and Other Business Partners<sup>5</sup>

#### Gambling

15. Directors and staff are advised not to engage in gambling activities (e.g. mahjong) with persons having business dealings with the Company.

#### Loans

16. Directors and staff should not accept any loan from, or through the assistance of, any individual or organisation having business dealings or seeking business opportunities with the Company. There is however no restriction on borrowing from licensed banks or financial institutions.

### Policy on Reporting of Suspected Corruption and other Criminal Offences<sup>6</sup>

17. The Company maintains a policy to handle reports of misconduct and suspected criminal offences including corruption. A director or staff member should himself or through the Company *[the appropriate channels including the names of the handling officer(s) and office(s)]* report

<sup>5</sup> The Company may wish to include other guidelines on the conduct required of directors and staff in their dealings with suppliers, contractors and other business partners as appropriate.

<sup>6</sup> The Corruption Prevention Department of the ICAC can offer assistance in compiling a corporate policy on reporting of corruption upon request.

instances of crime or suspected crime discovered in the course of his work, including any attempt to bribe him, to *[the appropriate authority]* of the Company or law enforcement agencies/industry regulators at the first practicable opportunity. Upon making or receipt of such reports, the reporting and handling staff as appropriate should avoid making any enquiries or taking any action that may hinder or jeopardise subsequent investigation by the law enforcement authority concerned. All directors and staff members who make, receive or have knowledge of such reports should treat the reports in the strictest confidence.

## Compliance with Laws of Hong Kong and in Other Jurisdictions

18. Directors or staff must comply with all local laws and regulations when conducting the Company's business, and also those in other jurisdictions when conducting business there or where applicable.

## Compliance with the Code

19. It is the responsibility of every director and staff member of the Company to understand and comply with this Code, whether performing his duties of the Company in or outside Hong Kong. Managers and supervisors should also ensure that the staff under their supervision understand well and comply with this Code.
20. Any director or staff member in breach of this Code will be subject to disciplinary action, including termination of appointment. Any enquiries about this Code or reports of possible breaches of this Code should be made to *[post of a designated senior staff member]*.

---

*[Name of property management company]*

Date:

## **Extracts of the Prevention of Bribery Ordinance (Cap. 201)**

### **Section 9 – Corrupt transactions with agents**

(1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his –

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's –

- (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
- (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,

shall be guilty of an offence.

(3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document –

- (a) in respect of which the principal is interested; and
- (b) which contains any statement which is false or erroneous or defective in any material particular; and
- (c) which to his knowledge is intended to mislead the principal,

shall be guilty of an offence.

(4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).

(5) For the purposes of subsection (4) permission shall –

- (a) be given before the advantage is offered, solicited or accepted; or
- (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

### **Section 4 – Bribery**

(1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's –

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or

## Extracts of the Prevention of Bribery Ordinance (Cap. 201)

- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

- (3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section.

### Section 8 – Bribery of public servants by persons having dealings with public bodies

- (1) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with the Government through any department, office or establishment of the Government, offers any advantage to any prescribed officer employed in that department, office or establishment of the Government, shall be guilty of an offence.
- (2) Any person who, without lawful authority or reasonable excuse, while having dealings of any kind with any other public body, offers any advantage to any public servant employed by that public body, shall be guilty of an offence.

### Section 2 – Interpretation

“**Advantage**” means –

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;

- (b) any office, employment or contract;

- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;

- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;

- (e) the exercise or forbearance from the exercise of any right or any power or duty; and

- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e),

but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), particulars of which are included in an election return in accordance with that Ordinance.

“**Entertainment**” means the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

### Section 19 – Custom not to be a defence

In any proceedings for an offence under this Ordinance, it shall not be a defence to show that any such advantage as is mentioned in this Ordinance is customary in any profession, trade, vocation or calling.

**REPORT ON \*GIFTS/ADVANTAGES RECEIVED****Part A** *(To be completed by Receiving Director/Staff)*To: *[Approving authority]*

Description of Offeror :

Name &amp; Title : \_\_\_\_\_

Company : \_\_\_\_\_

Relationship (Business/Personal) : \_\_\_\_\_

Occasion on which the \*Gift/Advantage  
was/is to be received : \_\_\_\_\_Description & (assessed) value of the  
\*Gift/Advantage: \_\_\_\_\_**Suggested Method of Disposal :****Remarks**☐ Retain by the Receiving Director/Staff☐ Retain for Display/as a Souvenir in the Office☐ Share among the Office☐ Reserve as Lucky Draw Prize at Staff Functions☐ Donate to a Charitable Organisation☐ Return to Offeror☐ Others (please specify) : \_\_\_\_\_

Signature of Receiving Director/Staff: \_\_\_\_\_

Name of Receiving Director/Staff: \_\_\_\_\_

Title/Department: \_\_\_\_\_

Date: \_\_\_\_\_

**Part B** *(To be completed by Approving Authority)*To: *[Name of receiving director/staff]*The recommended method of disposal is **\*approved/not approved**. The gift/advantage concerned  
should be disposed of by way of – \_\_\_\_\_

Signature of Approving Authority: \_\_\_\_\_

Name of Approving Authority: \_\_\_\_\_

Title/Department: \_\_\_\_\_

Date: \_\_\_\_\_

*(\*Delete as appropriate)*



## DECLARATION OF CONFLICT OF INTEREST<sup>1</sup>

### Part A – Declaration *(To be completed by the Declarer)*

To: *[Approving authority]*

I/we, *[name of the person/organisation making the declaration]* –

- ☐ <sup>#</sup>Confirm that I/we have no conflict of interest<sup>2</sup>, whether actual or potential<sup>3</sup>, in discharging official duties; and undertake to declare so as soon as I/we become aware of such a conflict.
- ☐ <sup>#</sup>Confirm that I/we have not accepted advantage/rebate from business partners (e.g. service contractors, consultants, contractors) in discharging official duties, and undertake to refuse to accept such advantage/rebate at all times.

*(<sup>#</sup> For use when there is a requirement for positive declaration)*

- ☐ Would like to declare the following actual/potential\* conflict of interest situation –

Person(s)/Organisation(s) with whom/which I/we have official dealings and/or private interests
My/Our relationship with the person(s)/organisation(s) (e.g. relative)
My/Our contact with the person(s)/organisation(s) (Please state the frequency of contact and the usual occasions of contact, etc.)
Relationship of the person(s)/organisation(s) with the Owners' Organisation/Management Committee/Property Management Company* (e.g. supplier)
Brief description of my/our duties which involved the person(s)/organisation(s) (e.g. handling of tender exercise, supervision of works contractor)
File reference, if any, of the mentioned duties

Signature of Declarer: \_\_\_\_\_

Name of Declarer: \_\_\_\_\_

Title/Organisation\*: \_\_\_\_\_

Date: \_\_\_\_\_

*(\*Delete as appropriate)*

<sup>1</sup> This Sample Form is applicable for declaration (i) within the organisation (e.g. from staff of property management companies (PMCs) to PMC, from staff/members of management committee (MC) to MC); and (ii) from service contractors to principals (e.g. from PMC to MC, from consultants and contractors to PMC). Property management personnel may designate, or advise MC to designate, approving authority in the sample form as appropriate, e.g. for declaration made by PMC staff, the approving authority may be the management of PMC; for declaration made by MC members, the approving authority may be the Chairman/Secretary of MC.

<sup>2</sup> Examples of conflict of interest situation could be found in Appendix 2.

<sup>3</sup> Potential conflict of interest refers to situation that may be developed into an actual conflict in the future.

### Part B – Approval *(To be completed by Approving Authority)*

To: [Declarer]

*Part B(i) – In respect of the declaration in Part A of this form, it has been decided that –*

- ☐ The declaration as described in Part A is noted. You are allowed to continue handling the work as described in Part A, provided that there is no change in the information declared above.
- ☐ You are restricted in the work as described in Part A (e.g. prohibit from handling the specific part/duty that you have conflict, withdraw from discussion on a specific issue/case).

Details : \_\_\_\_\_

\_\_\_\_\_

- ☐ You may continue to handle the work as described in Part A, but an independent person would be recruited to participate in, oversee or review part or all of the decision-making process (e.g. task another staff with the required expertise to provide objective assessment on the matter).

Details : \_\_\_\_\_

\_\_\_\_\_

- ☐ You are relieved of your duty as described in Part A, which will be taken up by another person (e.g. staff, expert) through redeployment.

Details : \_\_\_\_\_

\_\_\_\_\_

- ☐ You should relinquish the personal/private interest (e.g. cease to be a member of a club/association, divest the investments until the conflict situation described in Part A no longer exists).

Details : \_\_\_\_\_

\_\_\_\_\_

- ☐ Others (please specify) (e.g. you should not contact the person(s)/organisation(s) concerned until the conflict situation described in Part A no longer exists) –

Details : \_\_\_\_\_

\_\_\_\_\_

*Part B(ii) – The justification(s) for the measure(s) as described in Part B(i) above is/are (factors of consideration including the materiality of the conflict, link between the conflict and the matter in question, and any possible negative public perception over the conflict/incident) –*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

In all cases, please be reminded that you should not disclose any privileged/internal information of the subject matter to the person(s)/organisation(s) concerned and should further report if there are changes in circumstances necessitating reporting.

Signature of the Approving Authority: \_\_\_\_\_  
 Name of the Approving Authority: \_\_\_\_\_  
 Title/Organisation\*: \_\_\_\_\_  
 Date: \_\_\_\_\_

(\*Delete as appropriate)

### Part C – Keeping of Records *(To be completed by the Declarer)*

To: *[Designated office/staff for keeping the completed declaration form]*

Via: *[Approving authority (if applicable)]*

I noted the decision in Part B. The completed form is for your retention please.

Signature of Declarer: \_\_\_\_\_  
 Name of the Declarer: \_\_\_\_\_  
 Title/Organisation\*: \_\_\_\_\_  
 Date: \_\_\_\_\_

(\*Delete as appropriate)

# Examples of Conflict of Interest

Some common examples of conflict of interest are described below but they are by no means exhaustive –

### Procurement

- A procurement staff member is closely related to or has beneficial interest in a supplier being considered by the property management company (PMC).
- A management committee (MC) member takes part in the selection of a supplier and one of the bidders is his family member, relative or close personal friend.
- A PMC has a financial interest in the business of a supplier or service contractor who is tendering for the owners' organisation's (OO) contracts.
- A PMC is providing advisory services to one of the suppliers or service contractors who is tendering for the OO's contracts.
- A PMC's subsidiary company is bidding for the service contracts of the property managed by the PMC while the PMC is handling the tendering on OO's behalf.

### Staff Recruitment

- One of the candidates under consideration in a recruitment or promotion exercise is a family member, a relative or a close personal friend of the director involved in the exercise.

### Confidentiality of Information

- A staff member leaks privileged information relating to the PMC's operations to favour his friends or relatives who have official dealings with the PMC.

### Others

- A staff member of the PMC is a committee member of a professional association in his private capacity. He seeks sponsorship from a PMC's contractor whom he is responsible for monitoring, for organising an educational event of the professional association.
- An MC Chairman leases a storeroom owned by the OO to a company in which himself, his family member, relative or close personal friend is holding shares.

## Mitigating Measures for Managing Declared Conflict of Interest

- (A) **Record** – Where the risk in a conflict of interest situation is indirect, remote or insignificant, and the occurrence of such a situation is infrequent, it may be sufficient to take note of the conflict only.
- (B) **Restrict** – Where a conflict is not likely to arise frequently and the staff member can be effectively separated from the part of activity or process in which the conflict arises, it may be suitable to restrict the staff member's involvement in the task in which he has a conflict (e.g. withdrawing from discussion on a specific issue, abstaining from voting on the decisions) and access to the related information.
- (C) **Recruit** – Where it is impractical to restrict a staff member's involvement, an independent staff member/expert may be recruited to participate in, oversee, or review part or all of the decision-making process if appropriate (e.g. engaging an expert in the selection of highly specialised items).
- (D) **Redeploy** – Where it is inappropriate to allow the staff member who has declared a conflict of interest to handle a specific matter, it may be suitable to relieve of the staff member's duty which may then be taken up by another staff member through redeployment. For serious conflict of interest cases with a high likelihood of relapse, it may be suitable to post out the staff member to avoid negative public perception.
- (E) **Relinquish** – Where a staff member's commitment to the public duty outweighs his attachment to his private interests, and adopting other mitigating measures are not appropriate or possible, he may be asked to relinquish his personal or private interests (e.g. divesting the investments, ceasing to be a member of a club/association).

## Sample Letter to Suppliers/Service Contractors regarding Anti-corruption Policy of the Property Management Company

[Date]

Dear Sir/Madam,

### **Anti-Corruption Policy for Staff and Business Partners**

I am pleased to inform you that our company has a clear policy on the solicitation and acceptance of advantages (including gifts, souvenirs, “lai sees”) by staff in their official dealings.

We are fully committed to maintaining a team of clean and honest staff at all times. Therefore, it is our policy that no staff should solicit or accept gifts, money or any other form of advantages in their course of duty; otherwise he may risk contravening the Prevention of Bribery Ordinance (Cap. 201); the offeror may also risk the same.

All our staff must observe this policy and are fully aware that any breach of the policy will result in disciplinary action. Where the situation warrants, the case will even be reported to the Independent Commission Against Corruption for further action. Should any member of our staff approach you for an advantage, please let me know immediately.

To sustain a clean environment for doing business, we are also committed to engaging business partners which have similar anti-corruption commitment. We prohibit bribery of any form by our business partner in relation to the contract/partnership with us. We also request our business partner to make the anti corruption requirements known to its personnel and agents engaged for the contract/partnership and take proper action (such as reporting any corruption/fraud detected to the law enforcement agency) where necessary. Should our business partner or its staff member breach the anti-corruption requirements, we reserve the right to terminate the contract/partnership and debar the business partner from future cooperation.

We earnestly appeal for your support to our commitment of managing our company in a fair and just way.

Thank you for your cooperation.

Yours sincerely,

---

[Director of property management company]

# Sample Code of Conduct for Members of Management Committee<sup>1</sup>

## Introduction

1. The Management Committee, is committed to managing the property with integrity, honesty and fairness. The Owners' Organisation<sup>2</sup> has thus passed a resolution that all its agents including members of the Management Committee and the sub-committees and employees should observe this Code when conducting business for the Owners' Organisation.

## Prevention of Bribery

2. Any agent of the Owners' Organisation soliciting or accepting an advantage in connection with his work for the Owners' Organisation without the permission of the Owners' Organisation will commit an offence under Section 9(1) and the offeror of the advantage will commit an offence under Section 9(2) of the Prevention of Bribery Ordinance (Cap. 201) (POBO). The term "advantage", as defined in the Ordinance includes money, gift, loan, fee, reward, employment, contract, service and favour but does not include entertainment which is the provision of food or drink for consumption on the occasion.

## Acceptance of Advantages

3. The Owners' Organisation has passed a resolution that agents of the Owners' Organisation are not allowed to solicit or accept any advantage in relation to the business of the Owners' Organisation, unless with the prior permission of the Owners' Organisation in writing<sup>3</sup>. Examples include members of the Management Committee not to accept gifts from contractors, and caretakers not to solicit tips from owners and tenants.

## Offering of Advantages

4. Agents of the Owners Organisation are prohibited from offering advantages, whether directly or indirectly through a third party, to any person or organisation, for the purpose of influencing such person or organisation (e.g. the serving property management company) in any dealings.

<sup>1</sup> A management committee refers to the management committee in properties with Owners' Corporation and the owners' committee in properties without Owners' Corporation.

<sup>2</sup> An owners' organisation includes the Owners' Corporation and owners' committee.

<sup>3</sup> The property management company may advise the management committee to seek the permission by a form, referencing with Annex 2 of Appendix 1.

### Entertainment

5. Although entertainment is not an advantage and is an acceptable form of social and business activity, agents of the Owners' Organisation should avoid accepting lavish or frequent entertainment from business associates of the Owners' Organisation (e.g. contractors or sub-contractors) so as not to put themselves in a position of obligation or affect their judgement. Excessive gambling and loans should also be avoided.

### Conflict of Interest

6. A conflict of interest arises when the private interest of an agent of the Owners' Organisation competes or conflicts with the interest of the Owners' Organisation. Private interests include both the financial and personal interest of the agent and those of his connections. Connections include his family members, relatives and close personal friends.
7. Agents of the Owners' Organisation should avoid any situation which may lead to an actual or perceived conflict of interest and make a declaration<sup>4</sup> to the Management Committee or the Owners' Organisation when such a situation arises. Examples include a member of the Management Committee holding the shares of a contractor bidding for the Owners' Organisation's contract, and a caretaker being a relative of his supervisor. Failing to avoid or declare conflict of interest may give rise to criticism of favouritism, abuse of authority or even allegation of corruption.
8. Upon receipt of a report on conflict of interest situation, the Owners' Organisation should, as soon as practicable, decide on the appropriate course of action to be taken such as to relieve the agent of his involvement in the task, ask the agent to divest himself of certain investment, etc., and give clear direction/instruction to the agent concerned. The declaration and the management decision/action should be properly recorded. The Owners' Organisation should ensure the staff's compliance with the instruction so as to effectively remove/mitigate the conflict of interest.

### Misuse of Official Position

9. Agents of the Owners' Organisation should carry out their duties fairly, faithfully and impartially, and not misuse or permit others to misuse their official position for their personal cause, interest or gain, or to favour, benefit or disfavour others.

<sup>4</sup> The property management company may advise the management committee to declare conflict of interest by a form, referencing with Annex 3 of Appendix 1.



## Use of Owners' Organisation's Assets and Resources

10. Agents of Owners' Organisation in charge of or having access to any assets of the Owners' Organisation, including funds, property, information, and intellectual property, should use them solely for the purpose of conducting the Owners' Organisation's business or authorised purposes. Any misappropriation or unauthorised use of the Owners' Organisation's properties for personal use or personal gain is strictly prohibited.

## Handling Confidential Information and Accounts

11. Agents of the Owners' Organisation should not disclose any confidential information (e.g. tender price, personal data) of the Owners' Organisation without authorisation and should take necessary measures to protect such information from being abused or misused.
12. Agents should ensure the documents, accounts and receipts submitted to the Owners' Organisation are true and accurate.

## Reporting Suspected Irregularities and Criminal Offences

13. An agent of the Owners' Organisation should report breaches of this Code, illegal activities or other misconduct by other members/staff of the Management Committee/Owners' Organisation that has come to his knowledge.
14. An agent of the Owners' Organisation should report instances of crime or suspected crime discovered in the course of his official duties, including attempt to bribe him, to the appropriate authority (e.g. Chairman of the Management Committee) or law enforcement agency at the first practicable opportunity. The authority concerned should avoid making any enquires or taking any action that may hinder or frustrate subsequent investigation by the law enforcement agency concerned. All agents of the Owners' Organisation or authority concerned who make, receive or have knowledge of such reports should treat the reports in the strictest confidence.

## Compliance with Code of Conduct

15. It is the responsibility of the agents of the Owners' Organisation to understand and comply with this Code. The Owners' Organisation will ensure agents fully understand and observe the requirements and standards laid down in the Code.
16. Agents of the Owners' Organisation who is in breach of the Code may be dismissed or removed from office by resolution of the Owners' Organisation. In case of suspected corruption or other criminal offences, a report will be made to the Independent Commission Against Corruption or the appropriate authorities.
17. Any enquiries or complaints on possible breaches of this Code should be directed to the Chairman or the Management Committee of the Owners' Organisation.

# Sample Voting Forms

## (A) Sample Voting Form for the Election of Management Committee Members

Voting Share under the Deed of Mutual Covenant (DMC) (if any): \_\_\_\_\_<sup>1</sup>

Undivided Share: \_\_\_\_\_<sup>1</sup>

\_\_\_\_\_  
**[Name of owners' organisation]**

**Owners' Organisation (OO) Meeting on \_\_\_\_\_ [date]**

**Election of Members of the Management Committee (MC) for \_\_\_\_\_ [year]**

Please insert a ✓ inside the ☐ to indicate your choice.

Candidate <sup>2</sup>	Vote	Candidate <sup>2</sup>	Vote
	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>

Number of MC members to be elected<sup>3</sup>: \_\_\_\_\_

Name of owner: \_\_\_\_\_

Signature of owner: \_\_\_\_\_

Unit of building: \_\_\_\_\_

Note:

A voting form will be treated as invalid if no choice or the number of choices is more than the number of MC members to be elected.

\_\_\_\_\_  
**Notes on using the Sample Voting Form for the Election of MC Members**

1. The property management company (PMC) should use different colour voting forms for different types of units and fill in the number of voting shares under the DMC (if any) or undivided shares of each type of units.
2. PMC should fill in the name of the candidate, if known.
3. PMC should fill in the number of MC members to be elected.
4. The voting form should incorporate security features such as stamping with the OO's chop, bar coding, etc.

**(B) Sample Voting Form for the Election of Office Bearers of Management Committee**Voting Share under the Deed of Mutual Covenant (DMC) (if any): \_\_\_\_\_<sup>1</sup>Undivided Share: \_\_\_\_\_<sup>1</sup>\_\_\_\_\_  
**[Name of owners' organisation]****Owners' Organisation (OO) Meeting on \_\_\_\_\_ [date]****Election of Chairman/Vice-Chairman/Secretary/Treasurer<sup>2</sup> of  
the Management Committee (MC) for \_\_\_\_\_ [year]**Please insert a ✓ inside the ☐ to indicate your choice.

Candidate <sup>3</sup>	Vote	Candidate <sup>3</sup>	Vote
	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>

Name of owner: \_\_\_\_\_

Signature of owner: \_\_\_\_\_

Unit of building: \_\_\_\_\_

**Note:**

A voting form will be treated as invalid if no choice or more than one choice is selected.

**Notes on using the Sample Voting Form for the Election of Office Bearers of MC**

1. The property management company (PMC) should use different colour voting forms for different types of units and fill in the number of voting shares under the DMC (if any) or undivided shares of each type of units.
2. Delete as appropriate – one voting form is used for each election of the Chairman, the Vice-Chairman, the Secretary and the Treasurer.
3. PMC should fill in the name of the candidate, if known.
4. The voting form should incorporate security features such as stamping with the OO's chop, bar coding, etc.

### (C) Sample Voting Form for Selection of Contractor

Voting Share under the Deed of Mutual Covenant (DMC) (if any): \_\_\_\_\_ <sup>1</sup>

Undivided Share: \_\_\_\_\_ <sup>1</sup>

\_\_\_\_\_  
[Name of owners' organisation]

Owners' Organisation (OO) Meeting on \_\_\_\_\_ [date]

Selection of Contractor for the Provision of  
\_\_\_\_\_ [type of goods/services]

Please insert a ✓ inside the ☐ to indicate your choice.

No.	Tenderer <sup>2</sup>	
1		<input type="checkbox"/>
2		<input type="checkbox"/>
3		<input type="checkbox"/>

Name of owner: \_\_\_\_\_

Signature of owner: \_\_\_\_\_

Unit of building: \_\_\_\_\_

#### Note:

A voting form will be treated as invalid if no choice or more than one choice is selected.

#### Notes on using the Sample Voting Form for Selection of Contractor

1. The property management company (PMC) should use different colour voting forms for different types of units and fill in the number of voting shares under the DMC (if any) or undivided shares of each type of units.
2. PMC should fill in the name of the tenderer.
3. The voting form should incorporate security features such as stamping with the OO's chop, bar coding, etc.

**(D) Sample Voting Form for Individual Agenda Item**Voting Share under the Deed of Mutual Covenant (DMC) (if any): \_\_\_\_\_<sup>1</sup>Undivided Share: \_\_\_\_\_<sup>1</sup>\_\_\_\_\_  
**[Name of owners' organisation]****Owners' Organisation (OO) Meeting on \_\_\_\_\_ [date]****Voting Form**Agenda Item \_\_\_\_\_ - \_\_\_\_\_  
*[Description of Motion]*Please insert a ✓ inside the ☐ to indicate your choice.

Choice	
For the motion	<input type="checkbox"/>
Against the motion	<input type="checkbox"/>

Name of owner: \_\_\_\_\_

Signature of owner: \_\_\_\_\_

Unit of building: \_\_\_\_\_

**Note:**

A voting form will be treated as invalid if no choice or more than one choice is selected.

**Notes on using the Sample Voting Form for Individual Agenda Item**

1. The property management company should use different colour voting forms for different types of units and fill in the number of voting shares under the DMC (if any) or undivided shares of each type of units.
2. The voting form should incorporate security features such as stamping with the OO's chop, bar coding, etc.

# Sample Vote Counting Record

## (A) Sample Vote Counting Record for the Election of Chairman/Vice-Chairman/Secretary/Treasurer of the Management Committee

\_\_\_\_\_  
[Name of owners' organisation]

Owners' Organisation Meeting on \_\_\_\_\_ [date]

Election of Chairman/Vice-Chairman/Secretary/Treasurer\* of the  
Management Committee for \_\_\_\_\_ [year]

### Vote Counting Record

Candidates	Votes obtained (i.e. number of voting shares)
	.....(A)
	.....(B)
	.....(C)
	.....(D)
	.....(E)
Total: (A)+(B)+(C)+(D)+(E)	.....(F)

Types of units of the building	I	II	III	IV	V	VI	
Number of voting shares allocated to each type of units..... (a)							Total
Number of voting forms issued ..... (b)							
Number of voting shares carried by voting forms issued ..... (c) = (a) x (b)							1
Number of valid voting forms received ..... (d)							
Number of voting shares carried by the valid voting forms received ..... (e) = (a) x (d)							2
Number of invalid voting forms received							

Note:

1. The total number of voting shares obtained by all candidates (F) has been checked and found to be not exceeding the total number of voting shares carried by the voting forms issued (c).
2. The total number of voting shares obtained by all candidates (F) has been checked and found to be matching the total number of voting shares carried by valid voting forms received (e).
3. The number of voting shares shall be in the manner provided in the Deed of Mutual Covenant, and if there is no such provision, the number of undivided shares.

The above records and checks are certified as true and correct by –

\_\_\_\_\_

( )

Chairman/Convener

Date: \_\_\_\_\_

\_\_\_\_\_

( )

Witness

Date: \_\_\_\_\_

\_\_\_\_\_

( )

Witness

Date: \_\_\_\_\_

(\* Delete as appropriate. Use a separate form for the election of Chairman, Vice-Chairman, Secretary or Treasurer.)

**(B) Sample Vote Counting Record for the Election of Management Committee Members**

\_\_\_\_\_  
**[Name of owners' organisation]**

**Owners' Organisation Meeting on \_\_\_\_\_ [date]**

**Election of Members of the Management Committee  
for \_\_\_\_\_ [year]**

**Vote Counting Record**

Candidates	Votes obtained (i.e. number of voting shares)	Candidates	Votes obtained (i.e. number of voting shares)
	.....(A)		.....(K)
	.....(B)		.....(L)
	.....(C)		.....(M)
	.....(D)		.....(N)
	.....(E)		.....(O)
	.....(F)		.....(P)
	.....(G)		.....(Q)
	.....(H)		.....(R)
	.....(I)		.....(S)
	.....(J)		.....(T)

Total voting shares obtained by all candidates [Total of (A) to (T)]: ..... (U)

Types of units of the building	I	II	III	IV	V	VI	
Number of voting shares allocated to each type of units							Total
..... (a)							
Number of voting forms issued ..... (b)							
Number of voting shares carried by voting forms issued							.... (d)
..... (c) = (a) x (b)							

Number of members to be elected: .....(e)

Maximum voting shares carried by voting forms issued [(f) = (d) x (e)]: \_\_\_\_\_ 1

Number of valid voting forms received: \_\_\_\_\_

Number of invalid voting forms received: \_\_\_\_\_

**Note:**

1. The total number of voting shares obtained by all candidates (U) has been checked and found to be not exceeding the maximum voting shares carried by the voting forms issued (f).
2. The number of voting shares shall be in the manner provided in the Deed of Mutual Covenant, and if there is no such provision, the number of undivided shares.

The above records and checks are certified as true and correct by –

\_\_\_\_\_  
 ( )  
 Chairman/Convener

\_\_\_\_\_  
 ( )  
 Witness

\_\_\_\_\_  
 ( )  
 Witness

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

### (C) Sample Vote Counting Record for the Selection of Contractor

[Name of owners' organisation]

Owners' Organisation Meeting on \_\_\_\_\_ [date]

Selection of Contractor for the Provision of  
\_\_\_\_\_ [type of goods/services]

#### Vote Counting Record

Tenderers	Votes obtained (i.e. number of voting shares)
	.....(A)
	.....(B)
	.....(C)
Total: (A)+(B)+(C)	....(D)

Types of units of the building	I	II	III	IV	V	VI	
Number of voting shares allocated to each type of units..... (a)							Total
Number of voting forms issued ..... (b)							
Number of voting shares carried by voting forms issued ..... (c) = (a) x (b)							1
Number of valid voting forms received ..... (d)							
Number of voting shares carried by the valid voting forms received ..... (e) = (a) x (d)							2
Number of invalid voting forms received							

Note:

1. The total number of voting shares obtained by all tenderers (D) has been checked and found to be not exceeding the total number of voting shares carried by the voting forms issued (c).
2. The total number of voting shares obtained by all tenderers (D) has been checked and found to be matching the total number of voting shares carried by valid voting forms received (e).
3. The number of voting shares shall be in the manner provided in the Deed of Mutual Covenant, and if there is no such provision, the number of undivided shares.

The above records and checks are certified as true and correct by –

\_\_\_\_\_

( )  
Chairman/Convener

Date: \_\_\_\_\_

\_\_\_\_\_

( )  
Witness

Date: \_\_\_\_\_

\_\_\_\_\_

( )  
Witness

Date: \_\_\_\_\_



**(D) Sample Vote Counting Record for Individual Agenda Item**

\_\_\_\_\_  
**[Name of owners' organisation]**

**Owners' Organisation Meeting on \_\_\_\_\_ [date]**

**Agenda Item \_\_\_\_\_ - \_\_\_\_\_ [motion]**

**Vote Counting Record**

_____ [motion]	Votes obtained (i.e. number of voting shares)
For the motion	.....(A)
Against the motion	.....(B)
Total [(C) = (A) +(B)]	....(C)

Types of units of the building	I	II	III	IV	V	VI	
Number of voting shares allocated to each type of units ..... (a)							Total
Number of voting forms issued ..... (b)							
Number of voting shares carried by voting forms issued ..... (c) = (a) x (b)							1
Number of valid voting forms received ..... (d)							
Number of voting shares carried by the valid voting forms received ..... (e) = (a) x (d)							2
Number of invalid voting forms received							

**Note:**

1. The total number of voting shares (C) has been checked and found to be not exceeding the total number of voting shares carried by the voting forms issued (c).
2. The total number of voting shares (C) has been checked and found to be matching the total number of voting shares carried by valid voting forms received (e).
3. The number of voting shares shall be in the manner provided in the Deed of Mutual Covenant, and if there is no such provision, the number of undivided shares.

The above records and checks are certified as true and correct by –

\_\_\_\_\_  
 ( )  
 Chairman/Convener

\_\_\_\_\_  
 ( )  
 Witness

\_\_\_\_\_  
 ( )  
 Witness

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_


# Sample Probity Clauses in Tender Documents

*[For the clauses below, the principal should be the owners' organisation or the property management company. Property management personnel may revise the principal in the clauses as appropriate.]*

### Offering, Solicitation or Acceptance of Advantages

- (A) The tenderer shall not, and shall procure that his directors, employees, agents and sub-consultants/sub-contractors shall not, offer, solicit or accept an advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) in connection with the tendering and execution of this [*Consultancy Agreement/Contract*]<sup>1</sup>.
- (B) Failure to so procure or any act of offering, soliciting or accepting advantage referred to in sub-clause (A) above committed by the tenderer or by a director, employee, agent or sub-consultant/sub-contractor of the tenderer shall, without affecting the tenderer's liability for such failure and act, result in his tender being invalidated.

### Anti-collusion<sup>2</sup>

- (A) (i) Subject to sub-clause (B) of this Clause, the tenderer shall not communicate to any person other than the [*name of the owners' organisation/property management company*]<sup>1</sup> (hereafter referred to as the Principal) the amount of the tender price or any part thereof until the tenderer is notified by the Principal of the outcome of the tender exercise.
- (ii) Further to paragraph (i) of this sub-clause, the tenderer shall not fix the amount of the tender price or any part thereof by arrangement with any other person, make any arrangement with any person about whether or not he or that other person will or will not submit a tender or otherwise collude with any person in any manner whatsoever in the tendering process.
- (iii) Any breach of or non-compliance with this sub-clause by the tenderer shall, without affecting the tenderer's liability for such breach or non compliance, invalidate his tender.
- (B) Sub-clause (A)(i) of this Clause shall have no application to the tenderer's communications in strict confidence with –
  - (i) His own insurers or brokers to obtain an insurance quotation for computation of tender price;
  - (ii) His [*sub-consultants/consultants or sub-contractors*]<sup>1</sup> to solicit their assistance in preparation of tender submission; and
  - (iii) His bankers in relation to financial resources for the [*Consultancy Agreement/Contract*]<sup>1</sup>.
- (C) The tenderer shall submit with his tender a duly signed and witnessed letter in the enclosed form ( **Annex**). The signatory to the letter shall be a person authorised to sign the [*Consultancy Agreement/Contract*]<sup>1</sup> on the tenderer's behalf.
- (D) The tenderer shall indemnify and keep indemnified the Principal against all losses, damages, costs or expenses arising out of or in relation to any breach of or non-compliance with sub-clause (A) of this Clause by the tenderer, including but not limited to additional costs due to price escalation, costs and expenses of re-tendering and other costs incurred.

<sup>1</sup> Delete as appropriate.

<sup>2</sup> The clauses are for reference only. Property management companies may refer to the "Model Non-Collusion Clauses and Non-Collusive Tendering Certificate" from the Competition Commission.

## Confirmation Letter

To: [Name of the owners' organisation/property management company]<sup>1</sup>

Dear Sir/Madam,

### Confirmation Letter for [Consultancy Agreement/Contract]<sup>1</sup> No. [ ]

I/We, ([name of the tenderer] of [address of the tenderer])<sup>2</sup> refer to my/our tender for the above [Consultancy Agreement/Contract]<sup>1</sup>.

I/We confirm that, before I/we sign this letter, I/we have read and fully understand this letter and the probity clauses.

I/We, represent and warrant that in relation to the tender for the above [Consultancy Agreement/Contract]<sup>1</sup>

- (A) I/We have not, and our directors, employees, agents and sub-consultants/sub-contractors have not, offered, solicited or accepted an advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) in connection with the tendering and execution of this [Consultancy Agreement/Contract]<sup>1</sup>. I/We understand that failure of the above may result in the tender being invalidated.
- (B) I/We, other than the Excepted Communications referred to in the last paragraph of this letter, have not communicated and will not communicate to any person other than the Principal the amount of the tender price or any part thereof until I/we have been notified by the Principal of the outcome of the tender exercise.
- (C) I/We have not fixed and will not fix the amount of the tender price or any part thereof by arrangement with any person.
- (D) I/We have not made and will not make any arrangement with any person as to whether I/we or that other person will or will not submit a tender.
- (E) I/We have not otherwise colluded and will not otherwise collude with any person in any manner whatsoever in the tendering process.

<sup>1</sup> Delete as appropriate.

<sup>2</sup> Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, this part in square brackets should be expanded to include the respective names and addresses of such persons or as the case may be companies.

I/We shall indemnify and keep indemnified the Principal against all losses, damages, costs or expenses arising out of or in relation to any breach of any of the representations and/or warranties above, including but not limited to damages for delay, costs and expenses of re-tendering and other costs incurred.

In this letter, the expression “Excepted Communications” means my/our communications in strict confidence with –

- (a) My/Our own insurers or brokers to obtain an insurance quotation for computation of tender price;
- (b) My/Our *[sub-consultants/consultants or sub-contractors]*<sup>1</sup> to solicit their assistance in preparation of tender submission; and
- (c) My/Our bankers in relation to financial resources for the *[Consultancy Agreement/Contract]*<sup>1</sup>.

Signed for and on behalf of *[name of the tenderer]*  
by *[name and position of the signatory]*<sup>3</sup> :

---

Name of Witness:

---

Signature of Witness:

---

Occupation:

---

Date:

---

<sup>3</sup> Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, all such persons or as the case may be companies must sign. The signatory for each of such persons or companies shall be a person authorised to sign the Consultancy Agreement/Contract on behalf of that person or as the case may be company.

## Sample Ethical Commitment Clauses in Consultancy Agreement

*[For the clauses below, the principal should be the owners' organisation or the property management company. Property management personnel may revise the principal in the clauses as appropriate.]*

### Prevention of Bribery

- (A) The Consultant shall prohibit their directors, employees, agents and sub-consultants who are involved in this Agreement from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201). The Consultant shall also caution their directors, employees, agents and sub-consultants against soliciting or accepting any hospitality, entertainment or inducements which would impair their impartiality in relation to the Agreement. The Consultant shall take all necessary measures (including by way of a code of conduct, internal guidelines or contractual provisions where appropriate) to ensure that their directors, employees, agents and sub-consultants are aware of the aforesaid prohibition and will not solicit or accept any advantages or hospitality which would impair their impartiality, etc. when conducting business in connection with this Agreement.

### Management of Conflict of Interest

- (B) The Consultant shall avoid any actual and perceived conflict of interest in connection with the execution of the Agreement. The Consultant shall declare in writing<sup>1</sup>, at the commencement of the Agreement and as and when the *[name of the owners' organisation/property management company]* (hereafter referred to as the Principal) sees appropriate<sup>2</sup>, whether or not he has any actual or potential conflict of interest, or any advantage/entertainment that has been received/ is intended to be received from the parties in connection with the execution of the Agreement; and undertake to declare so as soon as he becomes aware of such a conflict. The Consultant shall also require their directors, employees, agents and sub-consultants who are involved in this Agreement to comply with similar requirement. In the event that such conflict is disclosed in a declaration, the Consultant shall forthwith take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict so disclosed.
- (C) The Consultant shall prohibit their directors and employees who are involved in this Agreement from engaging in any work or employment other than in the performance of this Agreement, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Agreement. The Consultant shall require their agents and sub-consultants to impose similar restriction on their employees by way of a contractual provision.
- (D) The Consultant shall take all necessary measures (including by way of a code of conduct, internal

<sup>1</sup> Consultants may declare conflict of interest by a form, referencing with Annex 3 of Appendix 1.


<sup>2</sup> The Principal may require the Consultant to make the declaration at key stages of the building maintenance process (e.g. analysis of tenders received and recommendation to PMC/MC, approval of progress reports, certification of payments, issue of certificate of completion for the works contracts, submission of the works completion report).

guidelines or contractual provisions where appropriate) to ensure that their directors, employees, agents and sub-consultants who are involved in this Agreement are aware of the provisions under the aforesaid sub-clauses (B) and (C).

### **Confidentiality**

- (E) Except as are necessary for the performance of the Agreement, the Consultant shall not (except with the prior written consent or as instructed by the Principal) disclose the terms and conditions of this Agreement or any report, document, specification, drawing, plan, software, data or other particulars furnished by or on behalf of the Principal in connection therewith, or any such or similar information generated or produced by the Consultant pursuant to this Agreement, to any person other than a person employed or engaged by the Consultant in carrying out this Agreement, an agent of the Consultant, any approved sub-consultant or the Consultant's accountants, insurers and legal advisers.
- (F) Any disclosure to any person, agent, sub-consultant, accountant, insurer, legal adviser permitted under sub-clause (E) of this clause shall be in strict confidence and shall be on a "need to know" basis and extend only so far as may be necessary for the purposes of this Agreement.
- (G) The Consultant shall take all necessary measures (including by way of a code of conduct, internal guidelines or contractual provisions where appropriate) to ensure that their directors, employees, agents, sub-consultants, accountants, insurers and legal advisers as mentioned in sub-clause (E) are aware of and shall comply with the confidentiality and non-disclosure provisions contained in this Agreement. If required by the Principal, the Consultant undertakes to procure for and on behalf of the Principal a confidentiality agreement in a form to be prescribed by the Principal from any director, employee, agent, sub-consultant, accountant, insurer and legal adviser to whom any confidential information is to be disclosed.
- (H) The Consultant shall not without the prior written consent of the Principal publish, either alone or in conjunction with any other person, in any newspaper, magazine, periodical or through any electronic medium, any article, photograph or illustration relating to this Agreement.
- (I) The Consultant shall indemnify and keep indemnified the Principal against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Principal may suffer, sustain or incur, whether direct or consequential arising out of or in connection with any breach by the Consultant or their directors, employees, agents, sub-consultants, accountants, insurers or legal advisers of this clause.
- (J) The provision of this clause shall survive the termination of this Agreement (however occasioned) and shall continue in full force and effect notwithstanding such termination.

### **Declaration of Ethical Commitment**

- (K) The Consultant shall submit a signed declaration in a form ( **Annex**) prescribed or approved by the Principal to confirm compliance with the provisions in aforesaid sub-clauses on prevention of bribery, management of conflict of interest and confidentiality. To demonstrate compliance with the aforesaid sub-clauses on prevention of bribery, management of conflict of interest and confidentiality, the consultant and their sub-consultants employed for the performance of duties under this Agreement are required to deposit with the Principal a code of conduct issued to their staff.
- (L) If the Consultant fails to submit the declarations as required, the Principal shall be entitled to withhold payment until such declaration is submitted and the Consultant shall not be entitled to interest in that period.

## Declaration Form

To: [Name of the owners' organisation/Name of property management company]

**Agreement Title:** \_\_\_\_\_

In accordance with the Ethical Commitment Clauses in the Consultancy Agreement –

1. We confirm that we have complied with the following provisions and have ensured that our directors, employees, agents and sub-consultants are aware of the following provisions –
  - (a) Prohibiting our directors, employees, agents and sub-consultants who are involved in this Agreement from offering, soliciting or accepting any advantage as defined in Section 2 of the Prevention of Bribery Ordinance (Cap. 201) when conducting business in connection with this Agreement;
  - (b) Requiring our directors, employees, agents and sub-consultants who are involved in this Agreement to declare in writing (📄 **Annex 3 of Appendix 1**) to us any actual or potential conflict between their personal/financial interests and their duties in connection with this Agreement. In the event that a conflict of interest is disclosed, we will take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict so disclosed;
  - (c) Prohibiting our directors and employees who are involved in this Agreement from engaging in any work or employment other than in the performance of this Agreement, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Agreement and requiring our sub-consultants to do the same; and
  - (d) Taking all measures as are necessary to protect any confidential/privileged information or data entrusted to us by or on behalf of the Principal from being divulged to a third party other than those allowed in this Agreement.
2. We further confirm that we have ensured that our accountants, insurers and legal advisers are aware of the provisions requiring us to take all measures as are necessary to protect any confidential/privileged information or data entrusted to us by or on behalf of the Principal from being divulged to a third party other than those allowed in this Agreement.

Signature: \_\_\_\_\_

Name of the Consultant: \_\_\_\_\_

Name of the Signatory: \_\_\_\_\_

Position of the Signatory: \_\_\_\_\_

Date: \_\_\_\_\_



## Sample Ethical Commitment Clauses in Contracts

*[For the clauses below, the principal should be the owners' organisation or the property management company. Property management personnel may revise the principal in the clauses as appropriate.]*

### Prevention of Bribery

- (A) The Contractor shall not, and shall procure that his directors, employees, agents and sub-contractors who are involved in this Contract shall not, except with permission of *[name of the owners' organisation/property management company]* (hereafter referred to as the Principal), solicit or accept any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) in relation to the business of the Principal. The Contractor, his directors, employees, agents and sub-contractors are prohibited from offering advantages, whether directly or indirectly through a third party, to any person or organisation, for the purpose of influencing such person or organisation in relation to the business of the Principal. The Contractor shall also caution his directors, employees, agents and sub-contractors against soliciting or accepting any excessive hospitality, entertainment or inducements which would impair their impartiality in relation to the business of the Principal. The Contractor shall take all necessary measures (including by way of a code of conduct, internal guidelines or contractual provisions where appropriate) to ensure that his directors, employees, agents and sub-contractors are aware of the aforesaid prohibition and will not solicit or accept any advantage, hospitality which would impair their impartiality, etc. in relation to the business of the Principal.
- (B) The Contractor shall not, and shall procure that his directors, employees, agents and sub-contractors who are involved in this Contract shall not, solicit or accept extra charges for additional goods/services in connection with this Contract required by individual owners (e.g. in the case of cleaning contractors, providing additional cleaning work; in the case of security contractors, escorting people to inspect flats for letting; and in the case of works contractors, conducting maintenance works for individual flats<sup>1</sup>), unless with the prior approval of the Principal.
- (C) The Contractor shall not, and shall procure that his directors, employees, agents and sub-contractors who are involved in this Contract shall not, offer any advantage to any member or any of his family members or relatives of the Principal or staff in relation to the business of the Principal.

### Management of Conflict of Interest

- (D) The Contractor shall avoid any actual and perceived conflict of interest in connection with the execution of the Contract. When a situation of conflict of interest cannot be avoided, the Contractor shall declare to the Principal in writing<sup>2</sup> and require his directors, employees, agents and sub-contractors who are involved in this Contract to declare in writing to the Contractor any actual or potential conflict between their personal/financial interests and their duties in

<sup>1</sup> *Property management companies may revise the examples to suit the nature of the contracts.*

<sup>2</sup> *Contractors may declare conflict of interest by a form, referencing with Annex 3 of Appendix 1.*


connection with this Contract. In the event that such conflict is disclosed in a declaration, the Contractor shall forthwith take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict so disclosed. The Contractor shall require his agents and sub-contractors to impose similar restriction on their directors and employees by way of a contractual provision.

- (E) The Contractor shall prohibit his directors and employees who are involved in this Contract from engaging in any work or employment other than in the performance of this Contract, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Contract. The Contractor shall require his agents and sub-contractors to impose similar restriction on their directors and employees by way of a contractual provision.
- (F) The Contractor shall take all necessary measures (including by way of a code of conduct, internal guidelines or contractual provisions where appropriate) to ensure that his directors, employees, agents and sub-contractors who are involved in this Contract are aware of the prohibitions in this clause.

### Confidentiality

- (G) The Contractor shall not use or divulge, except for the purpose of this Contract, any information provided by the Principal in the Contract or in any subsequent correspondence or documentation, or any information (e.g. owners' and residents' data) obtained when conducting business under this Contract. Disclosure to any person or agent or sub-contractor for the purpose of the Contract shall be in strict confidence and shall be on a "need to know" basis and extend only so far as may be necessary for the purpose of this Contract. The Contractor shall take all necessary measures (including by way of a code of conduct, internal guidelines or contractual provisions where appropriate) to ensure that information is not divulged for purposes other than that of this Contract by such person, agent or sub-contractor. The Contractor shall indemnify and keep indemnified the Principal against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Principal may suffer, sustain or incur, whether direct or consequential, arising out of or in connection with any breach of the aforesaid non-disclosure provision by the Contractor or his directors, employees, agents or sub-contractors.

### Declaration of Ethical Commitment

- (H) The Contractor shall submit a signed declaration in a form ( **Annex**) prescribed or approved by the Principal to confirm compliance with the provisions on ethical commitment as stated in the aforesaid sub-clauses on prevention of bribery, management of conflict of interest and confidentiality. If the Contractor fails to submit the declaration as required, the Principal shall be entitled to withhold payment until such declaration is submitted and the Contractor shall not be entitled to interest in that period. To demonstrate compliance with the aforesaid sub-clauses on prevention of bribery, management of conflict of interest and confidentiality, the Contractor and the sub-contractors employed for the performance of duties under this Contract are required to deposit with the Principal a copy of the code of conduct issued to their staff.


## Declaration Form

To: *[Name of the owners' organisation/Name of property management company]*

**Contract No.:** \_\_\_\_\_

**Title:** \_\_\_\_\_

In accordance with the Ethical Commitment Clauses in the Contract –

1. We confirm that we have complied with the following provisions and have ensured that our directors, employees, agents and sub-contractors are aware of the following provisions –
  - (a) Prohibiting our directors, employees, agents and sub-contractors who are involved in this Contract from soliciting or accepting any advantage as defined in Section 2 of the Prevention of Bribery Ordinance (Cap. 201) in relation to the business of the Principal except with the permission of the Principal;
  - (b) Prohibiting our directors, employees, agents and sub-contractors who are involved in this Contract from offering advantages, whether directly or indirectly through a third party, to any person or organisation, for the purpose of influencing such person or organisation in relation to the business of the Principal;
  - (c) Requiring our directors, employees, agents and sub-contractors who are involved in this Contract to declare in writing ( **Annex 3 of Appendix 1**) to us any actual or potential conflict between their personal/financial interests and their duties in connection with this Contract, and in the event that a conflict of interest is disclosed, we will take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict so disclosed;
  - (d) Prohibiting our directors and employees who are involved in this Contract from engaging in any work or employment (other than in the performance of this Contract), with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Contract and requiring our agents and sub-contractors to do the same; and
  - (e) Taking all measures as are necessary to protect any confidential/privileged information or data entrusted to us by or on behalf of the Principal from being divulged to a third party other than those allowed in this Contract.

Signature: \_\_\_\_\_

Name of the Contractor: \_\_\_\_\_

Name of the Signatory: \_\_\_\_\_

Position of the Signatory: \_\_\_\_\_

Date: \_\_\_\_\_

# Sample Probity Clauses in Quotation Invitation

### **Offering, Solicitation or Acceptance of Advantages**

- (A) The bidder shall not, and shall procure that his directors, employees, agents and sub-contractors shall not, offer, solicit or accept any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) in connection with the quotation and execution of this contract.
- (B) Failure to comply with the aforesaid clause by the bidder or his directors, employees, agents or sub-contractors shall, without affecting the bidder's liability for such failure and act, result in his quotation being invalidated.

# Sample Tender Evaluation Report

**Provision of** \_\_\_\_\_ **[type of goods/services]**

## Brief Description of Contract:

(Give a brief description of the goods/services required)

## Details of Invitation

Tender invitation method: \*Open tender/Selective tender. Invitations issued to \_\_\_\_\_  
\*suppliers/service contractors.

Tender invitation date: \_\_\_\_\_

Tender closing date: \_\_\_\_\_

Tender validity period: \_\_\_\_\_ days from \_\_\_\_\_

## Tenders Received

Number of tenders received: \_\_\_\_\_

## Details of Tenders Received

Tenderers	Tendered Sums (lowest first)

## \*Name of Non-returning Tenderers

Tenderers	Reasons, if known

### Compliance with Tender Specifications

Tenderers (in order of tendered sum)	Compliance with tender specifications	Details of any non-compliance
	*Yes/No	
	*Yes/No	
	*Yes/No	
	*Yes/No	
	*Yes/No	
	*Yes/No	
	*Yes/No	

For tenders with non-price considerations adopting a marking scheme, evaluation of individual evaluation panel members is at [Annex](#). (Attach the tender evaluation forms duly completed by each evaluation panel member to this report.)

### \*Performance Records of Lowest Three Tenderers

	Name of Tenderers		
	[Tenderer A]	[Tenderer B]	[Tenderer C]
	Lowest Bid/ Highest Score	2 <sup>nd</sup> Lowest Bid/ 2 <sup>nd</sup> Highest Score	3 <sup>rd</sup> Lowest Bid/ 3 <sup>rd</sup> Highest Score
(a) Previous dealings with the *Owners' Organisation/Property Management Company	*Yes/No	*Yes/No	*Yes/No
* (b) Previous Performance	*Satisfactory/ Unsatisfactory, details: _____ _____	*Satisfactory/ Unsatisfactory, details: _____ _____	*Satisfactory/ Unsatisfactory, details: _____ _____
* (c) Recommendations of Evaluation Panel	*Suitable/Not suitable for contract award	*Suitable/Not suitable for contract award	*Suitable/Not suitable for contract award

### Recommendations

\* The lowest tender/The tender with the highest score/The \_\_\_\_\_ lowest/highest scoring tender submitted by \_\_\_\_\_ [tenderer name] is recommended for contract award.  
Reasons:

---



---

(Mandatory if the lowest tender/the tender with the highest score is not recommended)

\* To negotiate with the tenderer submitting the lowest conforming tender/tender with the highest overall scores for a better price with a view for tender award. Other items to be negotiated –

---

\* Other recommendations and reasons:

---

### Conflict of Interest

This is to confirm that persons involved in preparing the tender documents and assessing tenders have declared conflict of interest before recommendation. The tender specifications and assessment results will be reviewed by the \*Management Committee/[*staff of appropriate rank of the property management company*] to detect any favouritism to particular tenderers if any other conflicts are declared.

☐ No conflict is declared.

☐ The conflict(s) declared is/are as follows:

---

\*The following actions have been taken to manage the conflicts declared –

☐ Required the persons \_\_\_\_\_[*name*] who have made a declaration to abstain from the procurement process.

☐ Other actions taken: \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Post of Evaluation  
Panel Members: \_\_\_\_\_

Date: \_\_\_\_\_

(\*Delete as appropriate)

# Sample Tender Evaluation Form

(by individual tender evaluation panel member)

**Provision of** \_\_\_\_\_ **[type of goods/services]**

**Tender Opening Date:** \_\_\_\_\_

**Tender Evaluation Date:** \_\_\_\_\_

## Product Details/Brief Description of Contract –

(Give a brief description of the goods/services required)

	Supplier/ Contractor's Name	Price Quoted (Marks: %)	Product Quality (Marks: %)	Delivery (Marks: %)	Track Record/ Experiences (Marks: %)	Total Marks (100%) <sup>1</sup>
1						
2						
3 <sup>2</sup>						

☐ I confirm that I have no conflict of interest, whether actual or potential, in evaluating the tenders, and undertake to declare so as soon as I become aware of such conflict.

☐ I would like to declare the following actual/potential conflict of interest:

---



---

Signature: \_\_\_\_\_

Name and Post of Evaluation Panel Member: \_\_\_\_\_

Date: \_\_\_\_\_

<sup>1</sup> The Evaluation Panel may consider other evaluation criteria as it deems appropriate.

<sup>2</sup> Number depending on number of tender assessed.



## Sample Performance Evaluation Checklist

Name of Supplier/Service Contractor: \_\_\_\_\_

Goods/Services Provided: \_\_\_\_\_

Date of Purchase/Contract Period: \_\_\_\_\_

Purchase Amount/Contract Sum: \_\_\_\_\_

Performance Evaluation (The items listed below are examples for reference only.)		
Rating 0 – Very Poor 1 – Poor 2 – Moderate 3 – Good 4 – Excellent		Remarks (including major defects (if applicable))
1. Quality of Goods/Services		
2. Delivery and Timeliness		
3. Responsiveness to Service Requests		
4. Others (Please specify)		
Overall		

Recommendation
<input type="checkbox"/> Continue to invite for quotation/tender in the future  <input type="checkbox"/> Need to provide advice for improvement (please provide information on areas for improvement)  <input type="checkbox"/> Issue a warning letter (please provide reasons and supporting document(s)/evidence)  <input type="checkbox"/> Not recommended for future

Prepared by

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_

Approved by

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Date: \_\_\_\_\_

## Sample Interview Assessment Form for Appointment of Staff

Name of candidate: \_\_\_\_\_

Date and time of interview: \_\_\_\_\_

Assessment Aspects <i>(The aspects listed below are examples for reference only.)</i>	Scores
1.Common Sense ( %)	
2.Interpersonal Skills ( %)	
3.Communication Skills ( %)	
4.Motivation ( %)	
5.Self-confidence ( %)	
6.Supervisory Ability ( %)	
7.Work Knowledge ( %)	
8.Special Skills ( %)	
9.Integrity ( %)	
10.Language Proficiency ( %)	
<b>Total score (100%)</b>	

**Remarks:**

**Recommendation:** ☐ Suitable for appointment ☐ Not suitable for appointment

**Declaration of Conflict of Interest**

I hereby declare that I –

☐ have (please provide details as follows)

☐ do not have

conflict of interest, whether actual or potential, arising from the discharge of my duty as an assessor of this applicant.

Details of the conflict of interest –

\_\_\_\_\_

Chairperson of Assessment Panel

Name:

Date:

I hereby declare that I –

☐ have (please provide details as follows)

☐ do not have

conflict of interest, whether actual or potential, arising from the discharge of my duty as an assessor of this applicant.

Details of the conflict of interest –

\_\_\_\_\_

Member of Assessment Panel

Name:

Date:

## Sample Warning Letter to Service Contractors

[Date]

Manager

[Name of the service contractor]

[Address]

Dear Sir/Madam,

**[Description of the service contract] for [Name of the property]**

We have identified non-conformance and/or unsatisfactory performance of your company in the following aspects –

1. [State the particulars of the non-conformance/unsatisfactory performance]

2.

3.

The non-performance/unsatisfactory performance is a breach of [Clause Number] of the contract and the schedule (i.e. [Annex number] of the contract) which provides that [relevant part of the Clause].

Your company is required to rectify all the items stated above within \_\_\_\_\_ working days (i.e. by \_\_\_\_\_) and take all such necessary actions and steps to maintain the standard of service required under the contract terms and conditions. In the event that no satisfactory remedial action has been taken by the said date, we will invoke actions against your company in accordance with [Clause Number] of the contract. In the meantime, our rights are reserved.

---

[Post]

[Name of property management company]

## Sample Survey Form on Service Contractors' Performance

Please complete and return the questionnaire on or before \_\_\_\_\_ by placing it in the collection box at the management office.

	5: Very Satisfactory, 1: Very Unsatisfactory					N/A
Please "✓" the appropriate boxes <input type="checkbox"/>	5	4	3	2	1	
<b>A. Overall Satisfaction</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Are you satisfied with _____ as your _____ (nature of the service) company?						
<b>B. Degree of Satisfaction in the Following Areas<sup>1</sup></b>						
<b>1. Staff</b>						
(a) Efficiency	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Work Attitude	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Professional Knowledge	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Complaint Handling	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Appearance and Courtesy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>2. Security Services</b>						
(a) Attendance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Appearance and Courtesy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Responsibility	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) Alertness and Adaptability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Communication with Owners/Residents	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>3. Cleaning Services</b>						
(a) Corridor, Staircase and Passageway	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Lift Lobby and Lift	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Refuse Collection	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>4. Repair &amp; Maintenance</b>						
(a) Lift	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(b) Water Supply System	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(c) Public Lighting System	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(d) CCTV/Security System	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(e) Other Facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>5. Display of Notice/Circular</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>6. Health and Safety Environment in Public Areas</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>7. Environmental Support/Promotion</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>8. 24-hour Service Hotline Service</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>C. Other Comments or Suggestions</b>						

Name: \_\_\_\_\_ Contact Telephone: \_\_\_\_\_

Building: \_\_\_\_\_ Unit: \_\_\_\_\_

<sup>1</sup> Property management companies may include or exclude items on the sample survey form in accordance with the services provided by individual service contractors.