Best Practice Checklist

Governance and Internal Control of Estate Agencies

地產代理監管局
ESTATE AGENTS AUTHORITY

廉政公署
ICAC
防止貪污處
Corruption Prevention Department

Addendum

Corruption Prevention Services for the Private Sector

Please note that with effect from 10 September 2026, the Corruption Prevention Advisory Service (CPAS) and the Hong Kong Business Ethics Development Centre (HKBEDC) of the Independent Commission Against Corruption (ICAC) have been restructured as the Private Sector Integrity Centre (PSIC).

Accordingly, any references to the CPAS and HKBEDC in this publication are to be read as referring to the PSIC from that date onwards.

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Private Sector Integrity Centre
Independent Commission Against Corruption
10 September 2026

廉政公署 ICAC

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Introduction

In Hong Kong, the service provided by estate agency companies is of great public interest as most property transactions are brought about by the estate agents or salespersons they employ, and these transactions could mean the lifelong savings of some vendors or purchasers. While competition for business may be intense, it is important that all estate agency companies, estate agents and salespersons work in an honest, prudent and caring manner to protect their clients' best interest. The Estate Agents Authority ("the EAA") and the Corruption Prevention Department of the Independent Commission Against Corruption ("ICAC") have therefore jointly compiled this Best Practice Checklist[1] ("BPC") for reference and use by all estate agents, salespersons and estate agencies. The BPC provides a user-friendly directory of the practical measures to help estate agencies foster good governance, remind their staff to adopt proper and ethical practices for handling property transactions, and put in place effective internal control to prevent corruption and other malpractices.

A broad range of issues are covered in this BPC. Chapters 1 and 2 outline the legislation and ethical requirements that a professional estate agency practitioner should comply with. Chapter 3 describes the responsibilities of the estate agency management. Chapter 4 provides practical guidelines for frontline practitioners in carrying out their day-to-day estate agency work. Chapters 5 and 6 address the internal administration of estate agencies.

Purpose and Objective

With the aim of promoting professionalism and quality in estate agency practice, this BPC provides advice and recommendations on the best practices (i.e. procedures meeting a high standard of professional competence and ethical behaviour) for estate agency practitioners' continuous improvement rather than mandatory and binding standards. Hence, it would be desirable for licensees to follow the best practices, and estate agency companies may adopt the procedures and standards of practice set out in the BPC according to their own needs and resources.

Licensees are also reminded that they are obliged at all times to observe and comply with the law and, in particular, the Estate Agents Ordinance and its subsidiary legislation, and the Code of Ethics and practice circulars issued by the EAA.

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[1] *This BPC supersedes the Practice Guide for Hong Kong Estate Agency Practitioners issued by the EAA in March 2010.*

Acknowledgements

For the purpose of compiling this BPC, reference has been made to previous ICAC cases and the EAA's inquiry hearing cases. In addition, some of the guidelines and best practices are based on the information and advice provided in the guidance note on RICS Real Estate Agency and Brokerage Standards[2] ("RICS REABS") issued by the Royal Institution of Chartered Surveyors ("RICS"). Finally, a number of estate agency practitioners, the office bearers of some trade associations in the industry, RICS and Professor Eddie Hui of the Hong Kong Polytechnic University have been consulted. Their input and efforts are gratefully acknowledged.

Disclaimer

This BPC aims to provide general guidance on the operation of estate agencies and does not purport to deal with issues that may arise in any particular situation. Users of this BPC should seek legal or professional advice as and when necessary, especially when the interpretation of legal provisions is concerned. Unless otherwise specified in this BPC, the text is intended to describe the state of law and practice as of December 2011. While we aim to ensure the accuracy of the information provided in this BPC, no statement, representation, warranty or guarantee, expressed or implied, is given by us as to the accuracy, or completeness of such information, or the appropriateness for its use in any particular circumstance. The ICAC and the EAA are not responsible for any loss or damage incurred or suffered in connection with, arising from, or due to a reliance on, any error, omission, statement or misstatement contained in the whole or any part of this BPC.

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

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[2] *Users of this BPC are encouraged to read the original text of the RICS REABS which is available at the E-Services of the EAA website (www.eaa.org.hk).*

The Advisory Services Group of the ICAC's Corruption Prevention Department is available to provide free, confidential and corruption prevention advice to estate agencies, including how to apply the practices recommended in this BPC. For further information please contact the Group at:

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Standard Icons

Reference Guideline – standard code of conduct, procedural guideline or work manual for quick reference

Sample Form – sample forms for adoption where applicable

Legislation – extracts of relevant ordinances

Pointer – cross reference to other sections of the BPC

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CHAPTER 1

LAW AND INDUSTRY GUIDELINES

	Responsible Party	
	Company	*Staff*
1.1 Introduction		
In their operations, estate agency companies (hereafter referred to as "company" or "companies") of any scale are required to comply with the relevant legislation and the requirements promulgated by the Estate Agents Authority ("the EAA"). As commitment to lawful and ethical practices is the key to success in business, all companies should take measures to ensure that their staff, including estate agents and salespersons (hereafter collectively referred to as "agent" or "agents"), are familiar with the legal and trade requirements when serving clients.		
1.2 Legislation		
☐ Require staff, especially holders of a Salesperson's Licence or Estate Agent's Licence (Individual), to be conversant with and abide by the Laws of Hong Kong, including but not limited to the following:	✓	✓
◆ Estate Agents Ordinance (Cap. 511) and its subsidiary legislation *(Appendix 1)*, namely:		
• Estate Agents (Licensing) Regulation (Cap. 511A) ("Licensing Regulation");		
• Estate Agents (Exemption from Licensing) Order (Cap. 511B);		
• Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Cap. 511C) ("Practice Regulation");		
• Estate Agents (Determination of Commission Disputes) Regulation (Cap. 511D); and		
• Estate Agents (Registration of Determination and Appeal) Regulation (Cap. 511E).		

	Company	Staff
◆ Prevention of Bribery Ordinance (Cap. 201) *(⚖ **Appendix 2**)*		
• Section 4(1): Offering of advantages to a public servant (e.g. officers of government departments or other public bodies);		
• Sections 9(1) and (2): Solicitation, acceptance and offering of advantages involving an agent[3];		
• Section 9(3): Use of false or misleading document, receipt or account to deceive one's principal[4];		
◆ Theft Ordinance (Cap. 210) *(⚖ **Appendix 3**)*		
• Section 16A: Fraud;		
• Section 17: Obtaining property by deception;		
◆ Crimes Ordinance (Cap. 200) *(⚖ **Appendix 3**)*		
• Section 161: Access to computer with criminal or dishonest intent;		
◆ Common Law		
• Conspiracy to defraud; and		
◆ Personal Data (Privacy) Ordinance ("PDPO") (Cap. 486) *(⚖ **Appendix 3**)*.		
☐ Provide training to staff to help them understand the relevant legal provisions *(➲ **Chapter 3.10**)*.		✓

*(See ⚖ **Appendix 3** for other related legislation)*

[3] *Under the Prevention of Bribery Ordinance, an "agent" includes any person employed by or acting for his principal.*

[4] *The principals of an agent include his employer (i.e. the company) and clients.*

	Company	Staff
1.3 The EAA Guidelines and Circulars		
☐ Establish a system and procedures to ensure that staff adhere to the guidelines issued by the EAA, including but not limited to the following: ◆ Code of Ethics (➲ ***Chapter 1.4***); ◆ Practice Circulars; ◆ Integrity in Estate Agency Transactions; ◆ Proper Handling of Customers' Personal Data by Estate Agents; and ◆ Information Security and Privacy Protection Policy and Guidelines for Estate Agents.	✓	
☐ Provide training to staff to help them understand the above guidelines and circulars *(➲ **Chapter 3.10**)*.	✓	
☐ Ensure that there is documentary evidence showing that all staff have been given proper instructions and training about complying with relevant laws and other standards as required by the EAA and the company.	✓	
1.4 Code of Ethics		
☐ Require staff to be conversant with and act according to the Code of Ethics promulgated by the EAA, including the following areas: ◆ Abiding by the law; ◆ Possessing the professional knowledge and competence required; ◆ Upholding the ethical and moral standards during practice; ◆ Protecting and promoting the interests of clients; ◆ Exercising due diligence; ◆ Avoiding any conflict of interest situations; and	✓	✓

	Company	Staff
◆ Protecting the professional image of the estate agency trade.		
(See ***Appendix 4*** *for the full text of the Code of Ethics)*		

1.5 RICS Real Estate Agency Code

	Company	Staff
☐ Observe the Real Estate Agency Code promulgated by the Royal Institution of Chartered Surveyors ("RICS"), which contains the following principles:	✓	✓
◆ To conduct business in an honest, fair, transparent and professional manner.		
◆ To carry out work with due skill, care and diligence, and ensure that staff employed have the necessary skills to carry out their tasks.		
◆ To ensure that clients are provided with terms of engagement which are fair and clear, incorporate details of complaints handling procedures and, where existing, an appropriate redress scheme, and meet all other legal requirements and relevant codes of practice.		
◆ To do the utmost to avoid conflicts of interest and, where they do arise, to deal with them openly, fairly and promptly.		
◆ Not to discriminate unfairly in any dealings.		
◆ To ensure that all communications are fair, clear, timely and transparent in all dealings with clients.		
◆ To ensure that all advertising and marketing material is honest, decent and truthful.		
◆ To ensure that any client money is held separately from other monies, and is covered by adequate insurance.		
◆ To have appropriate professional indemnity/errors or omissions insurance, to ensure customers do not suffer loss as a result of any negligent act.		

	Company	*Staff*
◆ To ensure that it is made clear to all parties for whom an agent is acting, the scope of the agent's obligations to each party.		
◆ Where provided as part of the service, to give a realistic assessment of the likely selling, buying or rental price or associated cost of occupancy, to the client based on market evidence and using best professional judgement.		
◆ To ensure that any property viewings are carried out in accordance with the client's wishes, having due regard for the security and personal safety of all parties.		

CHAPTER 2

INTEGRITY MANAGEMENT

	Responsible Party	
	Company	***Staff***
2.1 Introduction		
To sustain business development, a company has to ensure that all staff (including directors) strive for a high standard of professionalism, service quality, as well as probity. This chapter highlights the key elements in fostering a culture of integrity and ethical practices in the operation of a company.		
2.2 Code of Conduct		
☐ Issue a Code of Conduct setting out the ethical standards and behaviour expected of staff in the course of their duties *(See* ***Appendix 5*** *for a sample Code of Conduct).*	✓	
2.3 Ethical Requirements for Estate Agency Practitioners		
2.3.1 Acceptance of Advantage[5]		
☐ Forbid staff to solicit or accept any advantage from any clients, business partners or any person/company having official dealings with the company.	✓	✓
☐ Allow staff to accept (but not solicit) the following advantage offered voluntarily by an offeror, including: ◆ publicity or promotional gifts or souvenirs of token value; or ◆ presents given in traditional festivals or on special occasions, as long as the value does not exceed the limit specified by the company; or ◆ discounts or other special offers from any person or company, on terms and conditions applicable to other customers.	✓	✓ (subject to company's policy)

[5] *Under the Prevention of Bribery Ordinance, "advantage" means any gift, loan, commission, employment, contract, service, etc.*

	Company	Staff
☐ For any gift with a value above the permissible limit, specify the procedures for applying for acceptance, and the delegated authorities for deciding whether it may be accepted by staff and how the gift should be disposed of after acceptance.	✓	✓
☐ Remind staff that free trips or travelling is classified as an advantage but not an "entertainment" under the Prevention of Bribery Ordinance and advise staff not to accept such without the prior approval of his principal (i.e. the company and/or the client he represents).	✓	✓
☐ Inform clients that the company forbids its staff to solicit or accept unauthorized advantage from clients (e.g. commission in addition to that specified in the estate agency agreement), and that such offering may constitute an offence under the Prevention of Bribery Ordinance (such information may be included in advertising leaflets and publicity materials distributed by the company).	✓	✓

2.3.2 Acceptance of Entertainment[6]

☐ Require staff to abstain from soliciting any entertainment from persons with whom they have business dealings.	✓	✓
☐ Require staff to avoid accepting overly lavish or frequent entertainment from persons with whom they have business dealings or from their subordinates to avoid placing themselves in a position of obligation.	✓	✓

2.3.3 Offering of Advantage

☐ Forbid staff to offer any advantage to any person on account of that person's business dealings with the company, as it may constitute an offence under the Prevention of Bribery Ordinance.	✓	✓

[6] *Under the Prevention of Bribery 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 provision.*

	Company	Staff
2.3.4 Conflict of Interest[7]		
☐ Require staff to avoid any actual or perceived conflict of interest situations, declare any such conflict of interest in writing as and when it arises, and regularly remind staff to make such declaration (e.g. every three to six months).	✓	✓
☐ Provide examples of conflict of interest situations relevant to estate agency business, e.g. an agent handling a property transaction which he himself, his nominee, colleague, any substantial shareholder/ partner/director of the estate agency, etc. has a financial or beneficial interest in the property concerned.	✓	
☐ Design a standard form for declaration of conflict of interest for use by staff *(See* ***Annex 3 to Appendix 5*** *for a sample form).*	✓	
☐ Lay down the procedures for handling conflict of interst, including the line of reporting, follow-up actions on the conflict reported, record keeping, etc.	✓	
☐ Require an agent to refrain from handling a property transaction to which he is an interested party (i.e. a vendor, purchaser, landlord or tenant) unless he has fully disclosed all the relevant facts to his client and has obtained the client's informed and written consent to handle such a transaction *(* ***the EAA's Practice Circular no. 08-03 (CR)****).*	✓	✓
☐ If an agent is allowed to handle a transaction when he has a conflict of interest, require the agent to record the details of such a conflict in the estate agency agreement.	✓	✓
☐ In case of dual agency, require agents to:	✓	✓
◆ further disclose to the client the amount or rate of commission to be received by the agent from the other party of the transaction; and		

[7] *A conflict of interest situation arises when the "private interests" of staff compete or conflict with the interests of the company or their official duties. "Private interests" include any financial or other personal interests of the staff, their family members or other relations, personal friends, the clubs and associations to which they belong, any other groups of people with whom they have personal or social ties, or any person to whom they owe a favour or are obligated in any way.*

	Company	Staff
◆ obtain the express written consent from both parties concerned that they are agreeable to dual agency before taking their instructions *(refer to* ***RICS Real Estate Agency and Brokerage Standards ("REABS") Chapter 2****)*.		
☐ If, having disclosed the conflict of interest, the issue of conflict of interest remains unresolved, cease the activities for all clients involved *(refer to* ***RICS REABS Chapter 1****)*.	✓	✓
☐ When acting for a number of prospective purchasers/tenants seeking similar properties, require agents to act in the best interests of each of the clients and that the actions for one client will not prejudice the actions of or outcomes for the other *(refer to* ***RICS REABS Chapter 5****)*.	✓	✓
☐ Maintain a full note of the discussion and instructions from the client in respect of the conflict of interest concerned *(refer to* ***RICS REABS Chapter 1****)*.	✓	✓
☐ Establish an internal monitoring system and conduct periodic random checks to ensure compliance of the requirement concerning conflict of interest.	✓	

2.3.5 Handling of Restricted Information

☐ Keep all restricted information, including staff records, and clients' personal and property information, in a secure manner and restrict access to authorized persons only.	✓	✓
☐ Require staff to maintain confidentiality of matters with which they become acquainted during their work *(refer to* ***RICS REABS Chapter 7****)*.	✓	✓
☐ Require staff to seek prior approval or authorization of the management for disclosing any restricted information (e.g. details of listed properties, personal particulars of propsective purchasers/tenants) to a third party.	✓	✓

	Company	Staff
☐ Forbid staff to take personal advantage of or let any unauthorized party benefit from the information obtained in the course of his duty.	✓	✓
☐ Remind staff that any unauthorized transfer or selling of restricted information of the company (e.g. clients' personal information), or misuse of such information for any personal gain may consitute a criminal offence and a breach of the PDPO (***Appendix 3***).	✓	✓

*(**Chapter 3.7**)*

2.3.6 Outside Work

☐ Require staff to seek prior written approval of a designated authority for taking up employment outside the company, whether it is a regular job or on a consultancy basis.	✓	✓
☐ Require the approving authority to consider whether the outside employment which the staff is seeking approval to undertake would give rise to a conflict with their duties or the interest of the company.	✓	✓

2.3.7 Relationships with Other People or Companies

Gambling

☐ Advise staff not to engage frequently in gambling activities (e.g. mahjong) with clients and persons having business dealings with the company.	✓	✓

Investments

☐ Require staff to declare any investments which may give rise to conflict of interest with their duties (e.g. purchasing a property jointly with a client).	✓	✓

Loans

☐ Advise staff to avoid acting as a guarantor of, making loans to, or borrowing loans from or with the assistance of (except for normal bank loans), any person who has business dealings with the company.	✓	✓

	Company	Staff
2.4 Promulgation of the Code of Conduct		
☐ Issue the Code of Conduct to each staff member upon appointment and periodically remind them to abide by the Code through circulation.	✓	
☐ Organize integrity management workshops for both new and serving staff, with the assistance of ICAC if necessary, to enhance their capacity in complying with all the ethical requirements.	✓	

(➲ Chapter 3.10)

CHAPTER 3

GOOD GOVERNANCE AND INTERNAL CONTROL

	Responsible Party	
	Company	*Staff*

3.1 Introduction

Good governance and effective internal control are of utmost importance to help protect clients' interests, deliver quality service and prevent loopholes which may lead to corruption and malpractice. Good governance and effective internal control are also conducive to fostering clients' confidence and enhancing company competitiveness. This chapter highlights the key elements of a system with good governance and effective internal control.

3.2 Clear Policies and Procedures

☐ Lay down the policies and proper procedures, and establish an effective system for the following: ◆ important business operations; ◆ internal administration (e.g. staff administration) *(➲ **Chapter 6**)*; and ◆ handling of ethical issues (e.g. declaring and managing conflict of interest situations) *(➲ **Chapter 2**)*.	✓	
☐ Lay down guidelines for the procedures concerned to facilitate staff's compliance.	✓	
☐ The important business operations as mentioned above include but are not limited to the following: ◆ managing instructions from clients for the selling, leasing, purchasing or renting of properties *(➲**Chapter 4.2**)*; ◆ maintaining an "Opt-out List" containing the names and telephone numbers of those who have expressly indicated their wish not to receive any direct marketing calls, and setting up a mechanism to ensure that the staff do not make any cold calls to those on the list *(➲ **Chapter 4.3**)*;	✓	

- issuing advertisements or promotional materials, including holding any agent accountable for inaccurate information provided in advertisements or promotional materials, and taking disciplinary action if necessary *(➲ **Chapter 4.6**)*;
- entering into estate agency agreements with clients *(➲**Chapter 4.7**);*
- in case of first-sale of residential properties, offering "incentive schemes" to clients and maintaining close supervision *(➲ **Chapter 4.9**)*;
- ensuring the safety of staff at work, including advising agents to take appropriate measures to ensure the safety of themselves as well as their clients when carrying out property inspections *(➲**Chapter 4.11**)*;
- handling the sale of first-hand residential properties *(➲**Chapter 4.13**)*;
- handling confirmor sales *(➲**Chapter 4.14**)*;
- handling property acquisition in old buildings *(➲**Chapter 4.17**)*;
- entering into a "co-operation agreement" with another company, including obtaining approval from a designated authority for such agreements *(➲**Chapter 4.21**)*;
- handling deposit payments, including (a) money received from or held for clients, (b) money to be released to the vendor/landlord, (c) money to be returned to the purchaser/tenant, and (d) money received on weekends or public holidays (which may not be deposited immediately into a trust account) *(➲**Chapter 4.22**);*

	Company	Staff
◆ handling the commissions payable by clients and, in particular, those in cash, among others, including: • negotiation of commissions with clients (e.g. the standard amount or rate of commission, the reduction or waiver of commission) and designation of the level of authority for approval of such, where applicable; • receipt of commissions from clients (e.g. payment methods, handling of payments received during weekends and public holidays); • commission splitting arrangement between the company and staff to avoid any dispute, including the arrangement for situations where gifts, discounts or incentive are offered to clients *(➲**Chapter 4.9**)*; *(➲**Chapter 4.23**)*		
◆ whether staff are allowed to accept any advantage for referral of business to banks, renovation contractors, etc. *(➲**Chapter 4.25**)*; and		
◆ if agents are allowed to accept an advantage for referral of business to third parties, the procedures for agents to seek permission from both the company and the clients involved for accepting such advantages. If agents are not allowed to accept any advantage for referral of business, reminding them that such an act may breach the Prevention of Bribery Ordinance *(➲**Chapter 4.25**)*.		
☐ Establish proper and effective procedures or systems to ensure that staff or other persons under the control of the company comply with the provisions of the Estate Agents Ordinance, its subsidiary legislation and the guidelines promulgated by the EAA.	✓	

	Company	Staff
☐ To prevent money laundering, establish control procedures on a risk assessment basis for identifying and reporting suspicious money-laundering transactions, and review the procedures on a regular basis *(**Chapter 4.29**)*.	✓	
☐ Ensure that the staff concerned, including new recruits, are aware of and understand the policies and procedures through internal circulars, briefings and training.	✓	
☐ Set up a proper system and devise measures to ensure staff's compliance with the laid down procedures (e.g. conduct random compliance checks on a regular basis).	✓	
☐ Update the policies and procedures from time to time to meet any changes in needs and requirements.	✓	

3.3 Responsibilities of Management

☐ Define clearly the roles and responsibilities of all levels of staff to enhance accountability.	✓	
☐ Specify the delegated authorities for making decisions in special circumstances (e.g. approving the waiver of commission).	✓	
☐ Allow discretion to be exercised only by staff at an appropriate level.	✓	
☐ Take necessary measures to protect staff and clients from avoidable dangers in the workplace *(refer to **RICS REABS Chapter 7**)*.	✓	
☐ Take all necessary precautions to ensure the personal safety of all staff and clients. Require staff to undertake a risk assessment when he is going to work away from the office (e.g. at a different office, visiting properties or undertaking viewings of properties) *(refer to **RICS REABS Chapter 7**)*.	✓	✓

	Company	Staff
3.4 Checks and Balances		
☐ Segregate the duties of staff in important processes as far as practicable (e.g. assign different staff for receiving commission from clients and issuing receipts to them).	✓	
☐ Conduct random checks on the work of staff to ensure compliance with the legal and the EAA's requirements and the recommended practices of this BPC, particularly for those activities performed by a staff member on his own.	✓	✓ (Supervisor)
☐ Carry out internal audits on major activities of the company, if resources permit, including the checking of compliance with the relevant statutory requirements, the administrative requirements laid down by the EAA and the company's policies and procedures.	✓	
3.5 Supervisory Accountability		
☐ Require supervisors to conduct spot checks on the major steps in property transactions (e.g. duly completed provisional sale and purchase agreements) to deter and detect irregularities.	✓	✓ (Supervisor)
☐ Require supervisors to report to senior management the irregularities observed and matters which warrant attention (e.g. arrears of a substantial amount of commission, signs of financial distress or indebtedness etc.) to facilitate monitoring.	✓	✓ (Supervisor)
☐ Require supervisors to regularly submit management information (e.g. statistical analysis reports on commission received from clients) for review by senior management.	✓	✓ (Supervisor)
☐ Remind supervisors to be vigilant about the behaviour of their subordinates, in particular, signs of possible irregularities, and provide the latter with early guidance, advice or warning *(refer to* ***Appendix 6*** *for a list of the signs of possible irregularities).*	✓	✓ (Supervisor)

	Company	Staff

3.6 Licensing Controls

For Companies

- ☐ Ensure that the company has a valid business registration certificate. ✓

- ☐ For a limited company, ensure that *(⚖ **Estate Agents Ordinance, Section 20 & Licensing Regulation, Section 8**)*: ✓
  - at least one of the directors of the company holds an Estate Agent's Licence issued by the EAA. If the only director holding an Estate Agent's Licence is leaving office shortly, appoint another Estate Agent's licence holder to be a director before the departure of the outgoing director; and
  - any director of the company engaged in its business as an estate agent must hold an Estate Agent's Licence.

- ☐ Appoint a holder of Estate Agent's Licence (Individual) as manager for each branch office of the company. Before the said manager ceases employment or is transferred to another branch, appoint another holder of Estate Agent's Licence (Individual) to take up the manager's post *(⚖**Estate Agents Ordinance, Section 38**)*. ✓

- ☐ Obtain a valid Statement of Particulars of Business ("SPOB") for each place of business before carrying out estate agency work, and display the SPOB conspicuously at the place of business *(⚖**Licensing Regulation, Sections 10 & 14**)*. ✓

- ☐ Clearly set out the work that non-licensees (e.g. agent trainees) can and cannot undertake. Only assign licensed agents to perform estate agency work and ensure that all non-licensees (including agent trainees) do not undertake such duties. ✓

	Company	Staff
For Agents		
☐ Oblige agents to apply for an estate agent card of the EAA, carry it when performing estate agency work and, if necessary, show the card to clients.	✓	✓
☐ Require agents to use name cards showing their names and licence number identical to those on their licences, have the name and licence number of the company that employs them printed on the name cards and advise agents to carry a staff card if they have one.	✓	✓

3.7 Safeguarding of Information

☐ Establish an effective filing system to properly maintain and process information and records concerning the staff, clients, properties and transactions.	✓	
☐ Classify different types of information, i.e. restricted and unrestricted information (e.g. classify clients' information as restricted), and announce the policy for protection of restricted information, prohibiting the staff from divulging such information to unauthorized parties.	✓	
☐ Limit access to restricted information to authorized staff only, and require staff to protect restricted information from leakage and tampering (e.g. lock up restricted documents when not in use).	✓	
☐ Install specific safeguards in the computer system for data security *(➲**Chapter 3.8**)*.	✓	
Unlawful Transfer of Clientele (The EAA's Practice Circular nos. 03-10 (CR) & 07-02 (CR))		
☐ Prohibit staff from unauthorized transferring or selling of the information of clients or properties (including listing information) to another person or company by including a relevant provision in the Code of Conduct *(➲**Chapter 2.2**)* and remind them that non-compliance may contravene the following:	✓	✓

	Company	Staff
◆ the Prevention of Bribery Ordinance if the staff obtains an advantage in return for the unauthorized transfer of information; or with intent to deceive his principal, uses any receipt, account or other document which contains any statement which is false, erronous or defective in any material particular *(**Prevention of Bribery Ordinance**)*;	✓	✓
◆ the Theft Ordinance if an agent transfers clients or listings belonging to his employer to another estate agency (whether or not owned by him) without his employer's permission;		
◆ the Crimes Ordinance if an agent obtains access to company computer data with criminal or dishonest intent;		
◆ the principle governing the use of personal data under the PDPO if clients' personal data is transferred without clients' consent; and		
◆ Code of Ethics issued by the EAA *(**Appendix 4**)*.		
☐ Remind staff that they owe a duty of loyalty and fidelity to their employers under the common law. They may be sued for damages by their employers for breach of this duty.	✓	✓

3.8 Security of IT System *(The EAA's Practice Circular no. 09-10 (CR))*

Physical Security

☐ Install the information system in a secured environment to prevent unauthorized access.	✓	

Access Control

☐ Restrict access to the computer database (or certain fields of the database) to different levels of staff on a need basis.	✓	

	Company	Staff
☐ Disable the copying of data from the computer system to any removable storage device (e.g. thumb drive).	✓	
☐ Prohibit agents from having access to information kept in the agency shops of the company in other districts.	✓	
☐ Require every staff member to access the IT system of the company with a unique user identity code and a personal password, and oblige them to change the password at regular intervals (e.g. every three months).	✓	✓
☐ Ensure that the computer system is protected from unauthorized access when the staff are away from their workstation.	✓	✓
System Security		
☐ Set basic requirements for the login password with regard to the minimum password length, combination of characters and password life cycle.	✓	
☐ Remind staff not to leave their workstations unattended after login, share their user accounts or disclose their passwords to others.	✓	✓
☐ Lay down clear instructions forbidding staff to copy restricted information in the office or load them onto personal storage devices without management's approval.	✓	✓
☐ Restrict the printing of client or property information to a limited number of printers placed in strategic locations in the office to facilitate monitoring by the manager.	✓	
☐ Arrange for immediate or prompt suspension of a staff member's user ID if he is removed from his post due to dismissal, resignation or job transfer.	✓	
☐ Install anti-malware/virus software, firewall, etc. in the system to enhance security, and ensure there is regular updating and system back-up.	✓	

	Company	Staff
Monitoring of Usage		
☐ Build in an audit trail function in the IT system and keep logs for all access and activities for review.	✓	
☐ Build in a function for generating exception reports to alert the management to possible malpractice or irregularities (e.g. an agent has retrieved an unreasonably large amount of clients' data within a short period of time).	✓	

3.9 Protection of Data Privacy (*The EAA's Practice Circular no. 11-04 (CR)*)

☐ Collect personal data from clients only for a purpose necessary but not excessive for the performance of estate agency work for the clients.	✓	✓
☐ On or before collecting personal data, e.g. signing of an estate agency agreement, provide to the client a Personal Information Collection Statement ("PICS") stating clearly the purpose of collecting the data, the classes of persons to whom the data may be transferred, and the consequences of failing to provide the data and right of access to the data. When preparing a PICS, refer to the guidelines in the leaflet "Preparing on-line Personal Information Collection Statements and Privacy Policy Statements" ("Leaflet") issued by the Privacy Commissioner for Personal Data ("PCPD"), which may be downloaded from the PCPD website (www.pcpd.org.hk), and seek legal advice, if necessary.	✓	✓
☐ When collecting identity card numbers and copies of identification documents from the vendor pursuant to section 13(3) of the Practice Regulation, observe the guidelines set out in the Code of Practice on Identity Card Number and other Personal Identifiers issued by the PCPD, which may be downloaded from its website. Inform the vendor of the purpose of collection, and take all practicable steps to ensure	✓	✓

	Company	Staff
that the copy of the vendor's identity card or other identification document is kept securely and that it is destroyed after the fulfilment of the purpose (e.g. upon completion of the sale and purchase).		
Use of Personal Data		
☐ Use the personal data collected from a client only for purposes relating to the discharge of estate agency work for that client.	✓	✓
☐ Unless clients expressly and voluntarily consent, no personal data of clients should be disclosed to another estate agency or used for their own private purposes.	✓	✓
☐ No personal data is to be sold or transferred to a third party for monetary or in-kind gain, or otherwise, without the prior written and voluntary consent of the clients and first informing them in writing of the kinds of personal data to be sold or transferred, and to whom their personal data will be sold or transferred.	✓	✓
☐ When introducing other services to clients, e.g. legal or mortgage services, obtain their expressed and voluntary consent before transferring their personal data to the service suppliers, such as legal firms or financial institutions.	✓	✓
☐ Remind staff that when collecting an individual's personal data from a source other than the individual himself, e.g. the personal data of the registered owners of properties obtained through the Land Registry, the source of the information may specify the purpose for which the personal data may be used and the use of personal data beyond the specified purpose may breach the PDPO.	✓	✓
☐ Provide clients with a written privacy policy statement ("PPS") stating the kinds of personal data held, the main purposes of using the personal data, and practices related to the personal data, such as the retention period and security measures in place.	✓	✓

	Company	Staff
☐ When preparing a PPS, refer to the guidelines in the Leaflet and seek legal advice, if necessary. The PPS and privacy practices should generally be made available to clients by, for example, displaying them on the company's website.	✓	✓
☐ Provide training to staff on the company's policies and practices on personal data privacy and protection, and updates of requirements and guidelines issued by the relevant authorities.	✓	
Handling of Personal Data		
☐ Take all practical steps to ensure that documents containing personal data are kept securely to prevent them from being seen or obtained by unrelated parties. Such steps may include restricting access to these documents on a need-to-know basis and putting in place appropriate information technology security measures to safeguard personal data stored in electronic form to avoid the leakage of data *(➲ **Chapter 3.8**)*.	✓	✓
☐ Formulate a policy specifying the period of retention of personal data having regard to statutory requirements and applicable practice circulars issued by the EAA, e.g. keep a record of all listings of residential properties received by the agent and keep a copy of all estate agency agreements entered into in relation to residential properties for not less than three years after the listings are received or the agreements are entered into.	✓	
☐ When it is necessary to take away from the office documents containing personal data, e.g. provisional agreements for sale and purchase, take all practical steps to safeguard the documents from loss or unauthorized access by third parties.	✓	✓
☐ Ensure that the personal data collected are erased after the fulfilment of the performance of the estate agency work for the client concerned. Personal data stored in computers which will not be used anymore should also be thoroughly erased.	✓	✓

	Company	Staff
☐ Do not dispose of documents containing personal data carelessly, by for example, leaving copies of land search records obtained from the Land Registry in public places.	✓	✓
☐ When supplying copies of land searches to clients, remind them to handle the land search copies properly, as they may contain personal data, and to dispose of them properly after use.	✓	✓
Others		
☐ Process a client's requests as soon as possible for accessing to or amending his personal data.	✓	✓
☐ Formulate a company policy according to the particular risks of exposure under the operation environment and resources available, with reference to the minimum requirements as set out in the EAA's "Information Security and Privacy Protection Policy and Guidelines" (available at http://www.eaa.org.hk/ publications/ ispppgea.pdf).	✓	
☐ Ensure providers for IT services observe and comply with the EAA's "Information Security and Privacy Protection Policy and Guidelines" for estate agents and other information security requirements issued by the relevant authorities.	✓	

3.10 Training and Continuing Education (*Chapter 1.2*)

☐ Allocate resources for staff training to enhance their professional knowledge and ethical awareness.	✓	
☐ Require agents to keep themselves up-to-date regarding all issues that impact on their work, including legislation, regulations, policies, real estate market and general economic conditions, property values, interest and lending rates *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Arrange workshops, briefings or meetings for staff to raise their awareness of the ethical requirements and good practices in the conduct of business and in order to share their knowledge and experience.	✓	

	Company	Staff
☐ Encourage agents to attend the training activities under the Continuing Professional Development Scheme of the EAA and other training activities organized by the EAA.	✓	✓

3.11 Complaint and Feedback Channels (*Chapters 4.28 & 6.10*)

☐ Establish an effective and transparent system to handle clients' complaints in a fair and impartial manner and lay down the complaints handling procedures in writing. The procedures should cover, among others, channels for lodging complaints to the company (i.e. to a senior member or designated complaints handling officer of the company) *(refer to* ***RICS REABS Chapter 8****)*.	✓	
☐ Make available a user-friendly channel for both staff and clients to put forward their views to the company's management.	✓	
☐ Handle suggestions and complaints promptly to show management's determination to improve or address the problems revealed.	✓	
☐ Assign independent staff at an appropriate level to investigate complaints or reports on irregularities.	✓	
☐ Conduct exit interviews with departing staff to ascertain if there is any problem (e.g. malpractice in the office) that should be brought to the management's attention.	✓	

3.12 Whistle Blowing Culture

☐ Publish a company statement to encourage staff to report irregularities observed, with a pledge to protecting the identity of whistle blowers.	✓	
☐ Make available a channel for staff to report irregularities and malpractice to a designated senior staff member in a confidential manner.	✓	
☐ Provide for staff's reference examples of the malpractice or misconduct to be reported.	✓	

	Company	Staff
☐ Set out the consequences of false or malicious reporting.	✓	
☐ Establish the reporting channel for allegations against senior staff.	✓	
☐ Lay down the procedures for handling and investigating such reports.	✓	

3.13 Reporting of Suspected Corruption or Crime

☐ Draw up the procedures for prompt reporting of suspected corruption and other crime (e.g. fraud) respectively to the ICAC and the Police.	✓	

3.14 Vulnerable Clients

☐ Lay down appropriate procedures and provide staff with relevant training for handling potential vulnerable clients who are believed to require special treatment as a result of physical, mental, emotional impairment, or for any other reason.	✓	
☐ Require staff not to make assumptions about the degree of knowledge that a client has, and be prepared to set out all the necessary information, explain what will be done and what others (e.g. solicitor, banks) will do *(refer to* ***RICS REABS Chapter 1****)*.	✓	✓
☐ If a client makes a decision that may have legal connotations, remind staff to advise the client to discuss the matter with his legal adviser *(refer to* ***RICS REABS Chapter 1****)*.	✓	✓

3.15 Insurance and Professional Indemnity

☐ Ensure that all the necessary insurances are in place for the business *(refer to* ***RICS REABS Chapter 8****)*.	✓	

	Company	Staff
☐ Ensure that all the professional work of the company and that of the staff is covered by adequate and appropriate professional indemnity insurance. This insurance will protect the company/staff from the liability of paying damages to a third party as a result of any negligent act, error, omission or breach of professional duty, and the clients from suffering financial loss that the company/staff are not able to meet *(refer to* ***RICS REABS Real Estate Agency Code & Chapter 8****)*.	✓	
☐ Ensure clients' money is covered by adequate insurance *(refer to* ***RICS REABS-Real Estate Agency Code – point 8 (page 3)****)*.	✓	✓

3.16 Duty of Care *(refer to RICS REABS Chapter 1)*

☐ Remind staff that their duty of care exists throughout the period of instruction by their clients.	✓	✓

3.17 Internal Audit

☐ Carry out internal audits on the procedures which are related to the core operation of the company and those which are easily manipulated (e.g. receipt of commissions from clients) so as to detect and deter irregularities and ensure compliance with the laid down procedures, and the legal and the EAA's requirements, where appropriate, taking into account the scale of the company and resources permit.	✓	
☐ Deploy independent staff who are not involved in the operations concerned to carry out the internal audit.	✓	
☐ Take necessary follow-up actions on the audit findings and recommendations, and document the actions taken.	✓	
☐ For large estate agencies, establish an Audit Committee to oversee all auditing activities, preferably with some accounting or auditing professionals as members.	✓	

		Responsible Party	
		Company	*Staff*
4.1	**Introduction**		
	Past prosecution and inquiry hearing cases show that there may be corruption or malpractice in the handling of property transactions, such as accepting advantages for showing favour to clients or leaking clients' information, and providing clients with misleading information. This chapter provides a step-by-step guide on the measures to be taken by agents to avert corruption and other malpractice and to enhance their professionalism.		
4.2	**Receiving and Securing Instructions from Clients**		
	taking instructions from clients *(**Chapter 2.3.4**) (refer to **RICS REABS Chapter 2**).*		
☐	Properly record all properties listed for sale or lease in the system (e.g. computer system) of the company.	✓	✓
☐	Enter into an estate agency agreement with the clients for residential properties in Hong Kong; or in case of a non-residential property, complete a "property viewing form" or "listing form" or similar document (hereafter collectively referred to as "estate agency agreement") *(**Chapter 4.7**).*	✓	✓
☐	Do not solicit instructions from a vendor/landlord if the agent is aware that the property is subject to an exclusive agency agreement with another company, unless the vendor/landlord has been advised in writing that he may be liable for payment of additional commission if he enters into a second estate agency agreement concerning the property *(**Practice Regulation, Section 8**).*	✓	✓
☐	Maintain full and detailed records of all the evidence in reaching the opinion of an appropriate price/rent *(refer to **RICS REABS Chapter 3**).*	✓	✓

	Company	Staff
☐ Advise clients in writing of any circumstances where they may be required to pay a fee to both the agent and another agent of another estate agency company *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓
☐ Communicate with clients and discuss their requirements and the reasons for the requirements in reasonable details before confirming the terms of the estate agency agreement, and act within the limit of an agent's experience, knowledge and competence to meet the clients' requirements *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓
☐ Obtain clients' authorization if a sub-agent is to be appointed, and ensure that the sub-agent holds adequate and relevant insurances *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓
☐ Agree with clients on the level of feedback they wish to receive, and whether they would like to receive details of all properties or a shortlist of properties *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓
☐ Consider whether clients wish to view properties with agents or by other means (e.g. videos, photos) *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓
☐ In the case of single agency, transaction fees (e.g. commission) should be agreed to in a way that will provide transparent evidence that the agent will negotiate the best deal for the client *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓
☐ Report to supervisors or the management if they observe that another agent has failed to record a client's instruction for listing the sale or lease of his property *(****Chapter 3.12****)*.		✓

4.3 Direct marketing (*The EAA's Practice Circular no. 11-04 (CR)*)

☐ When using personal data for the purpose of direct marketing, comply with the requirements of the PDPO and, in particular, section 34 of PDPO ***(Chapter 3.9).***	✓	✓

	Company	Staff
☐ When using personal data for direct marketing for the first time, inform the person answering the call (data subject) that he may request that his personal data not be used. If the person answering the call makes such a request, cease to use the data concerned.	✓	✓
☐ Lay down adequate policy and take all practical steps to ensure compliance with the requirements of section 34 of the PDPO and maintain an op-out list of individuals who have chosen not to receive further marketing approaches by the estate agency or any of its staff (opt-out list).	✓	✓
☐ Distribute the opt-out list to all staff who undertake direct marketing activities in the most practical and efficient way, such as by means of a computer network, and the list should be updated as and when an opt-out request is received.	✓	✓
☐ If an individual chooses not to receive further marketing approaches, his personal data should (subject to compliance with the Estate Agents Ordinance and its subsidiary legislation, and the EAA's guidelines on the retention of documents with respect to money laundering and other applicable laws and regulations concerning the retention of such data or the document containing such data) also be erased from the database or other records of the agency so that his personal data will no longer be available for use.	✓	✓
☐ If an estate agency has more than one office, each office should maintain its own opt-out list for all offices.	✓	
☐ Formulate guidelines on the undertaking of direct marketing activities by staff and provide training to staff regarding proper marketing approaches and due observance of section 34 of the PDPO with regard to direct marketing calls.	✓	

	Company	Staff
☐ When making marketing calls, the following must be observed: ◆ Check the opt-out list to ensure that the telephone number is not on the list before making the call; ◆ Inform the person answering the call of the opt-out choice during the call; and ◆ Record the opt-out request of the person answering the call if he or she chooses not to receive further marketing calls and update the opt-out list.	✓	✓
☐ Observe the guidelines and implement measures as stated in the guidance note entitled "Guidance on the Collection and Use of Personal Data in Direct Marketing" ("Guidance Note") issued by PCPD or any other guidance notes as may from time to time be issued by it on the subject. The Guidance Note may also be downloaded from the PCPD website (www.pcpd.org.hk).	✓	✓

4.4 Obtaining Prescribed Property Information (applicable to residential properties only)

☐ Have in possession/control prescribed information in Form 1 or 2 regarding the residential property for sale/rent when acting for a vendor/landlord, and during the full period of so acting, commencing from the date when the relevant estate agency agreement is entered into *(**Estate Agents Ordinance, Section 36**)*.	✓	✓
☐ Complete the Property Information Form (Form 1) for the sale and purchase of a residential property, or the Leasing Information Form (Form 2) for leasing of a residential property, in accordance with the directions and instructions specified in the forms *(**Practice Regulation, Section 3**)*.	✓	✓
☐ When filling out Form 1 or Form 2 *(**Practice Regulation, Section 3** & **the EAA's Practice Circular no. 11-01 (CR)**)* :	✓	✓

	Company	Staff
◆ conduct a land search and a search on the online service of the Rating and Valuation Department or obtain the relevant prescribed information from other prescribed sources on the day the estate agency agreement is entered into; ◆ keep in safe custody a copy of each search record; ◆ attach to Form 1 a copy of the land search for the property; ◆ fill in the information carefully and double-check the information after completing the form; and ◆ clearly explain to the clients the information stated in the forms.		
☐ Urge the vendor to provide information on any structural alterations to the property concerned, as prescribed in Part 2 of Form 1, in order to determine whether the property has any unauthorized building works *(the EAA's Practice Circular no. 11-01 (CR))*.	✓	✓
☐ Provide the vendor (or landlord) with the original or a copy of completed Form 1 (or Form 2), either before entering into a Form 3 (or Form 5) with the vendor (or landlord) or before entering into an agreement for sale and purchase (or a tenancy agreement) for the property at the option of the vendor (or landlord) *(Practice Regulation, Section 3 & the EAA's Practice Circular no. 11-01 (CR))*.	✓	✓
☐ Provide the purchaser (or tenant) with the original or a copy of the completed Form 1 (or Form 2), unless he waives his right to receive it *(Practice Regulation, Section 3 & the EAA's Practice Circular no. 11-01 (CR))*.	✓	✓
Land Search		
☐ Carry out a land search immediately before entering into an agreement for sale and purchase (or a tenancy agreement) of a property, and provide a copy of the land search to the purchaser (or tenant) *(Practice Regulation, Section 13)*.	✓	✓

	Company	Staff
☐ Comply with the following in conducting a land search *(**Practice Regulation, Section 13 & the EAA's Practice Circular no. 11-01 (CR)**)*:	✓	✓
◆ Conduct a land search immediately before the signing of the agreement and not on the following day even if a provisional agreement for sale and purchase ("PASP") (or provisional tenancy agreement) is entered into late at night. Provide the purchaser (or tenant) with a copy of it on the same day and not on the following day;		
◆ When acting for a vendor (or landlord), carry out a land search for all properties concerned, irrespective of whether or not the purhcaser (or tenant) has his own agent acting for him in the transaction. This applies equally to cases where the agent concerned acts only for the vendor (or landlord) and in cases where he acts for both the vendor (or landlord) and purchaser (or tenant); and		
◆ When acting for the landlord, conduct a land search and supply a copy of it to the tenant in leasing a residential property. This applies equally to cases of leasing a room in a residential flat. In the case of leasing a room, the land search should be conducted on the flat in which the room is situated.		
☐ Obtain a written acknowledgement by the client for the receipt of a land search record *(**the EAA's Practice Circular no. 11-01 (CR)**)*.	✓	✓
☐ If the land search reveals that the property concerned is subject to a building order requiring demolition/alteration of unauthorized building works ("UBW"), or where the UBW is made known to the agent even though no order has been registered at the Land Registry *(**the EAA's Practice Circular no. 07-05 (CR) & 10-01 (CR)**)*:	✓	✓
◆ inform the clients (namely owner/landlord, prospective purchaser/tenant) of the existence of the UBW;		

	Company	Staff
◆ alert them to the risks involved (e.g. the Government may exercise its right of re-entry, safety problems in the property and closure of the property);		
◆ remind clients to seek legal advice before proceeding with the property transaction; and		
◆ if the prospective purchaser/tenant decides to proceed with the property transaction despite the existence of UBW and of his being alerted to the UBW, obtain a written acknowledgement from the client stating that he (i) is aware of the UBW and the risks involved; (ii) has been advised by the agent or has sought legal advice; and (iii) decides to proceed with the transaction.		
Existing Encumbrances		
☐ Draw the attention of purchasers to any existing encumbrances and the risks involved, and advise them to seek independent legal advice if necessary to safeguard their interests. The encumbrances include but are not limited to:	✓	✓
◆ court orders;		
◆ building orders, unauthorized building works or alterations;		
◆ slope maintenance orders;		
◆ mortgage;		
◆ writ of summons; and		
◆ legal charge.		

4.5 Statement Concerning Properties

☐ Check and verify any restrictions on the use of a property (e.g. for domestic, commercial or industrial purpose) as stated in the Occupation Permit. Such restrictions should be clearly stated in Forms 1 and 2.	✓	✓

	Company	Staff
☐ If the land search of a property shows the registration of a death certificate, make enquiries with the vendor/landlord and the building management company to ensure that all the information to be provided to clients is accurate, and maintain a proper record of the enquiries.	✓	✓

4.6 Advertisements and Promotional Materials

☐ Agree with vendors/landlords on an appropriate strategy to market their properties, explain to them the reasons for the recommended strategy and regularly review it with the clients *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ Ensure that the content of the advertisements and promotional materials regarding properties (e.g. property price, rent and terms, emigrating vendor, exclusive agency, mortgagee sale, etc.) *(****Practice Regulation, Section 9 & the EAA Practice Circular nos. 02-05 (CR) & 03-05 (CR)*** *)*: ◆ is accurate and not false/misleading (e.g. an agent should not on his own set a "may try" price and use it for promotional purposes); ◆ is based on facts; and ◆ is not different from that instructed by the clients.	✓	✓
☐ Arrange management personnel to verify the accuracy of the content and related information (e.g. the description and photos of a property) before issuing the press release, advertisements or other promotional materials.	✓	✓
☐ Before marketing a property, send the draft particulars of advertisements and promotional materials to the client concerned for approval and verification of accuracy *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓

	Company	Staff
☐ Regularly update the information in advertisements and promotional materials, and ensure that any previously interested party and any potential purchaser/tenant inspecting or making an offer for the property after the date of the change, is given corrected and up-to-date marketing particulars and information *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ If a property is for subletting, indicate this clearly in the advertisements and promotional materials *(****Practice Regulation, Section 9****) (****Chapter 4.12****)*.	✓	✓
☐ When advising on the price (or rent) for marketing purpose, advise the vendor (or landlord) that it is an estimate of the anticipated price (or rent) and not a valuation, and only provide advice on an appropriate price (or rent) if one has thorough knowledge of the market *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ Ensure that any documentation that should be available when marketing a property has been obtained prior to marketing (e.g. energy performance) *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ Obtain the written consent of the vendor or landlord (by entering into an estate agency agreement with him) before publishing any advertisement (including online advertising) or promotional material of a property *(****Practice Regulation, Section 9****)*.	✓	✓
☐ Clearly designate the staff and define the authority to release information to the media to avoid any confusion.	✓	✓
☐ Ensure that the company's business name (as stated in the relevant SPOB), and its licence number or SPOB number are stated clearly in all advertisements. Show the place of business of the company in advertisements which are in the form of pamphlets or brochures *(****Licensing Regulation, Section 14****)*.	✓	✓

	Company	Staff
☐ Do not affix an advertising bill or poster on a private property (e.g. shop front) or on any Government land unless written permission has been obtained from the owner/occupier or the Government department(s) concerned (*the EAA's Practice Circular no. 09-04 (CR)*).	✓	✓
☐ Before erecting a sign/board, advise the vendor/landlord of the size and design, and agree with him on the location of the sign/board *(refer to RICS REABS Chapter 3)*.	✓	✓
☐ Do not place promotional materials (e.g. posters, leaflets, publicity boards, etc.) on the pavement, railings, bus stops, lamp posts or any other place outside the shop area.	✓	✓
☐ Remove all advertisements (including advertisements on the Internet and shop window) and cease the dissemination of photographs or information of the property as soon as practicable if a property is no longer available for sale or for lease, or the relevant estate agency agreement is terminated, whichever is earlier *(Practice Regulation, Section 9)*.	✓	✓
☐ When external service providers for marketing are engaged, set out the way in which payments are to be made to them *(refer to RICS REABS Chapter 2)*.	✓	✓

4.7 Estate Agency Agreement

for selling, purchasing, leasing or renting a property on their behalf *(refer to RICS REABS Chapter 2)*, and comply with the following:

- Enter into the prescribed estate agency agreement within the prescribed time frame[8] stipulated in the Practice Regulation for residential properties in Hong Kong, *(Practice Regulation, Section 6)*.

[8] *An estate agency agreement must be signed with a vendor/owner (a) within seven working days after accepting an instruction to sell/lease the property; (b) prior to advertising the property; or (c) prior to signing an agreement for sale and purchase or a tenancy agreement, whichever is earlier. An estate agency agreement must also be signed with a prospective purchaser/tenant before (a) arranging a property inspection; or (b) signing an agreement for sale and purchase or a tenancy agreement, whichever is earlier.*

Company ***Staff***

- Refrain from printing any additional terms on the agreement to avoid having clients mistakenly think that the additional terms are part of the prescribed agreement *(**the EAA's Practice Circular no. 00-04 (CR)**)*.

- Clearly state in the terms of agreement the scope of business that will be carried out *(refer to **RICS REABS Chapter 2**)*.

- Do not add any supplementary term, tick any option box or amend any of the terms of an estate agency agreement without the consent of clients. Ensure that any amendment, deletion or addition must be signed by the clients to signify their acceptance.

- Clearly set out the commencement and expiry dates of the estate agency agreement as the validity period is an important provision in the agreement *(**the EAA's Practice Circular no. 01-07 (CR)**)*.

- State in the estate agency agreement that a copy of the company's complaints handling procedures is available upon request *(refer to **RICS REABS Chapter 2**)*.

- Explain to clients the content and terms of the estate agency agreement, and advise them to seek legal advice if they do not understand any provision to ensure that they are aware of their rights and obligations *(**Practice Regulation, Section 6**)*. The items to be explained to clients include but are not limited to:

  - the different types of agency appointment (e.g. exclusive agency);

  - the validity period of an estate agency agreement;

  - the commission payable to the company, and the time of payment;

Company ***Staff***

- for exclusive agency, the client's liability to pay additional commission if he enters into another estate agency agreement in respect of the same property; and
- any conflict of interest involved *(**Chapter 2.3.4**)*.

- Subject to the Practice Regulation, provide clients with the opportunity to negotiate individual terms if the standard terms of agreement are used *(refer to **RICS REABS Chapter 2**)*.

- Verify the identity of clients before signing the estate agency agreement, such as by requesting a client to produce his identity card *(**the EAA's Practice Circular no. 09-08 (CR)**) (**Chapter 4.20**)*.

- Provide the client with a copy of the signed estate agency agreement and the documents referred to in the agreement *(**Estate Agents Ordinance, Section 48**)*.

- Do not request the client to sign any blank or backdated estate agency agreement, or one with essential items (e.g. validity period) left blank.

- Disclose in detail in an estate agency agreement if (a) the agent acts as dual agency in a transaction; or (b) there is any pecuniary or beneficial interest of the following parties in the property *(**Practice Regulation, Section 3 & the EAA's Practice Circular no. 08-03 (CR)**)*:
  - the agent or his nominee;
  - the agent's relatives (i.e. spouse, parents, children, brothers or sisters) or nominee of such relatives; and
  - the company which employs the agent, or any employee/major shareholder (meaning those persons entitled to

	Company	Staff
exercise, or control the exercise of 10% or more of the voting rights at any general meeting of the company)/partner/director of that company.		
☐ Investigate cases where agents are suspected to have breached the requirement of signing an estate agency agreement (e.g. agents intentionally fail to enter into an estate agency agreement with clients after property inspections and the inspections are known to the company), and report cases of repeated non-compliance to the EAA.	✓	
☐ Keep all signed estate agency agreements for at least three years from the date the listings were received or the estate agency agreements entered into. For completed transactions, keep all estate agency agreements for at least five years from the date of signing of the PASP *(* ***Practice Regulation, Section 8*** *&* ***the EAA's Practice Circular no. 08-05 (CR)****)*.	✓	✓

4.8 Provision of Information and Advice to Clients

☐ Any statements provided to clients concerning a property, including the following, must be accurate and based on facts:	✓	✓
◆ recent transactions of similar or comparable properties;		
◆ environment of the property, future developments in its vicinity, and land use (e.g. developments to be constructed, size and height of the developments, and estimated completion dates);		
◆ transport facilities (e.g. frequency, routes and fares of estate shuttle buses);		
◆ the number of listings and their prices;		
◆ property valuation;		

	Company	Staff
◆ any tragic events that have occurred in the property or its vicinity which agents are aware of, e.g. stigmatized units. An agent should also make enquiry into the matter when being asked by a client and report the result to the client for consideration, etc.;		
◆ whether the property involves negative equity; and		
◆ types of mortgage and instalment payment plans.		
☐ Before providing advice on the likely selling price/rent:	✓	✓
◆ inspect the whole property inside and out *(refer to* ***RICS REABS Chapter 3****)*;		
◆ the sales or leasing details should indicate the method of measurement used (e.g. saleable area) *(refer to* ***RICS REABS Chapter 3****)*;		
◆ review the general condition of the property *(refer to* ***RICS REABS Chapter 3****)*;		
◆ take into account the current market conditions, comparable data, details of sales or lettings of other similar properties in the area and whether prices/rents have been falling or rising, and ensure that the comparable transactions were not influenced by any special factors (e.g. a special purchaser with a special need to purchase that particular property and a vendor with a special need to sell the property very quickly) *(refer to* ***RICS REABS Chapter 3****)*; and		
◆ maintain a full record of the inspection of the property and the measurements taken (if any) *(refer to* ***RICS REABS Chapter*** *3)*.		
☐ Confirm the recommended price/rent, the terms and estimated period to complete the sale/lease in writing even if this has been discussed verbally *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓

	Company	Staff
☐ Subject to the Estate Agents Ordinance, inform clients of any potential physical problems with a property without undue delay *(refer to* ***RICS REABS Chapter 5****)*.	✓	✓
☐ Do not assure a purchaser of the amount of mortgage loan he may obtain, the terms of such plans, or make any projection or assumption regarding the potential for an increase in property value in the future.	✓	✓
☐ Do not release unconfirmed property transaction data. The source of all transaction data used should be quoted and made known to the client.	✓	✓
☐ When responding to questions from clients, advise them of all relevant issues and do not make any material omissions from the information provided *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ Ensure that only staff with personal knowledge of the property will provide information beyond that stated on the written particulars *(refer to* ***RICS REABS Chapter 3****)*.	✓	
☐ When there is insufficient information in hand in response to a request made by a client, make all attempts to obtain the information before replying to the clients. If unable to provide the relevant information, be frank in informing the client.	✓	✓
☐ Keep clients informed of any changes whilst a property is on the market, and promptly disclose to them any significant information that may reasonably affect their instructions *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ When acting for purchasers/tenants, provide them with regular updates of the progress in finding a property for them, including reports in reasonable detail delivered with reasonable frequency *(refer to* ***RICS REABS Chapter 5****)*.	✓	✓

	Company	Staff
Village Houses		
☐ Exercise due care and take reasonable steps for uncompleted village house transactions (e.g. explain to purchasers the complexity and risks involved, advise them to seek legal advice if necessary), especially in the following circumstances: ◆ a Certificate of Compliance / letter of no objection to occupy / letter to tolerate minor breaches / Certificate of Exemption has not been issued; ◆ premium for the property has not yet been paid; or ◆ there is violation of land lease.	✓	✓
Deed of Gift		
☐ Alert purchasers if a ***property*** involves a Deed of Gift. Advise them of the risks involved and the implications of purchasing such a property and to seek legal advice if necessary.	✓	✓
Restriction in Land Use		
☐ Check and advise purchasers or tenants of any restriction imposed on the property or land use (e.g. the user set out in the occupation permit).	✓	✓
Negative Equity Properties (The EAA's Practice Circular nos. 99-01 (CR) & 01-10 (CR))		
☐ Handle with extreme care properties that may become negative equity or where the vendor's ability to discharge the mortgage is in doubt.	✓	✓
☐ Adopt the following procedures in handling negative equity properties: ◆ If a land search reveals that the last transaction price of a property is higher than the asking price of the existing owner and the property is mortgaged, advise the prospective purchaser that the property may be negative equity;	✓	✓

	Company	*Staff*
◆ Suggest to prospective purchasers that they should negotiate with the vendor for the stakeholding of deposits at a firm of solicitors;		
◆ Explain to the prospective purchaser the risks of not stakeholding in the event of the vendor being unable to complete the transaction;		
◆ Keep a written record of having suggested the said stakeholding and explain the risks to the prospective purchaser;		
◆ If the prospective purchaser chooses not to stakehold the deposits, agents should obtain a written acknowledgement that such suggestion and explanation have been provided;		
◆ Advise the prospective purchaser to include a provision in the PASP that the agreement is subject to the vendor discharging all mortgages/charges over the property on or before completion, and request the solicitors to take appropriate steps to protect the purchaser's interest when preparing the formal agreement for sale and purchase; and		
◆ Advise the vendor to provide relevant bank repayments statements to facilitate the transaction, if acting for the vendor in the transaction.		
Provision of Other Services		
☐ Provide clients (e.g. vendor) with the written particulars of the services the agent or any person connected with the agent/company which may intend to offer to the other party (e.g. purchaser or tenant) of a transaction *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓
☐ Obtain a written agreement from clients if the agent or any connected person would like to offer services to the other party of a transaction at any stage *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓

	Company	Staff
4.9 Incentive Schemes		
☐ Explain clearly to purchasers the details of any incentive schemes (e.g. rebates, discounts, gifts, etc.) available to them, including whether the incentives are offered by the developer or the company of the estate agent for first-hand properties *(The EAA's Practice Circular no. 11-02 (CR))*.	✓	✓
☐ Set out in writing the offer of incentives to clients, stipulate clearly including the terms and form of the offer so as to enhance transparency and avoid unnecessary disputes. The offer may be set out as an extra term in the estate agency agreement or as a separate agreement *(The EAA's Practice Circular no. 11-02 (CR))*.	✓	✓
☐ If clients' staff or agents are to accept the incentive, ensure that prior approval from their principal has been obtained, or else it may contravene the Prevention of Bribery Ordinance *(Prevention of Bribery Ordinance)*.	✓	✓
☐ Note that offering of an advantage to a public servant, whether in Hong Kong or elsewhere, in order to influence his conduct of business in relation to the government department or public body he works for may contravene the Prevention of Bribery Ordinance *(Prevention of Bribery Ordinance)*.	✓	✓
☐ Note the company's procedures concerned if any gifts, discounts or incentives being offered to clients will affect the commission splitting arrangement between the company and the staff involved to avoid any dispute *(Chapter 5.4)*.	✓	✓
4.10 Keys to Properties		
☐ Issue a receipt to the client if he provides the keys for the purpose of arranging for prospective purchasers or tenants to inspect the property.	✓	✓
☐ Put in place a suitable system to keep the keys to properties safely.	✓	✓

	Company	Staff
☐ Ensure that all the keys provided by clients are coded and kept secure *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ Without the client's consent, refrain from: ◆ duplicating the keys; ◆ using the property in any way that is inconsistent with the terms of the agency appointment; or ◆ passing the keys to another company.	✓	✓
☐ Maintain a written record when the keys are required to be passed to another person (e.g. a colleague) and ensure such records are properly kept.	✓	✓
☐ Do not use the keys for purposes other than arranging property inspection by prospective purchasers or tenants. Do not replace any locks at the property or install additional locks without authorization.	✓	✓
☐ Return the keys to the client as soon as possible after the sale or lease of the property or upon the expiration of the appointment period.	✓	✓
☐ Verify the client's identity before returning the keys to the client.	✓	✓

4.11 Inspection and Viewing of Properties

☐ Arrange prospective purchasers and tenants to inspect or view properties (including car parking spaces and common areas) and accompany them in such inspection or viewing unless instructed otherwise by the purchasers or tenants *(* ***Practice Regulation, Section 10****)*.	✓	✓
☐ Obtain the consent of the vendor or landlord before arranging for an inspection or viewing of a property by a prospective purchaser or tenant *(* ***Practice Regulation, Section 10****)*.	✓	✓

	Company	Staff
☐ If the property is occupied by someone other than the client, agree on the arrangements with the occupier beforehand, whenever possible *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ Comply with the rules laid down by the property's management office regarding entry to the housing estate/building by non-residents (e.g. registration with the caretaker). Co-operate if a caretaker/security guard requests to see the agent's estate agent card or staff card.	✓	✓
☐ Clearly introduce the facilities, charges for using the facilities and surrounding environment of the property to the prospective purchaser or tenant. If the agent does not have such information, he should inform his client.	✓	✓
☐ Make enquiries with the vendor/landlord and suggest the vendor/landlord disclose in detail and draw the attention of prospective purchasers or tenants to matters of concern during the inspection or viewing of a property, including but not limited to: ◆ any damage, leakage or unauthorized building works present, and the parties responsible for rectifying the irregularities and paying such costs; and ◆ whether the property/building is located near a slope or on a private road, the maintenance costs required in the future and the maintenance responsibility, if any.	✓	✓
☐ Pay attention to notices posted in the lobby of the building to see whether any notice has been issued regarding the maintenance of any public area of the building, slope maintenance orders, etc. If there is any such notice, disclose the matters in detail to the prospective purchaser/tenant.	✓	✓
☐ Arrange for the purchasers or tenants to inspect the furniture and electrical appliances in the property if they are sold or leased with the property, and provide the purchasers or tenants with a detailed list of such furniture/electrical appliances.	✓	✓

	Company	Staff
☐ Unless the property is sold with a tenancy, encourage the clients and make all attempts to arrange for the client an inspection of the property at different times (during day time and at night) in order that the client may have a clear view of the property and its vicinity.	✓	✓
☐ Arrange for the prospective purchaser/tenant to inspect the property once more if feasible before he enters into a sale and purchase or tenancy agreement and immediately before completion of the transaction.	✓	✓
☐ Ensure that after any visit is made, the property is left secure or at least as secure as it was prior to the visit *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ Keep records of all viewings of a property *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ When representing the vendor/landlord, advise him of the following: ◆ details of viewings and feedback received within a reasonable time (generally within 3 working days of the viewing) *(refer to* ***RICS REABS Chapter 3****)*; and ◆ the reasons why potential purchasers/tenants do not make offers after following up on all property viewings *(refer to* ***RICS REABS Chapter 3****)*.	✓	✓
☐ Follow the procedures or system of the company to ensure safety at work, and take appropriate measures to ensure personal safety as well as the safety of the clients when bringing them to inspect a property.		✓

4.12 Subletting of Properties

☐ Obtain and check the existing tenancy agreement between the principal landlord and the principal tenant of the property to confirm if there is any restriction on subletting, and whether consent for subletting has to be obtained from the principal landlord *(****The EAA's Practice Circular no. 01-09 (CR)****)*.	✓	✓

	Company	Staff
☐ In case consent from the principal landlord is required and if no such consent has been obtained, advise the client of the risks involved and to seek legal advice if necessary.	✓	✓
☐ Note that the terms of the sub-tenancy agreement between the principal tenant and the sub-tenant should be subject to the terms of the tenancy agreement between the principal landlord and the prinipcal tenant *(The EAA's Practice Circular no. 01-09 (CR))*.	✓	✓
☐ Ensure that the period of sub-tenancy does not exceed the period of the principal tenancy *(The EAA's Practice Circular no. 01-09 (CR))*.	✓	✓
☐ Enter the details of the principal tenancy agreement (e.g. parties, tenancy period, area to be sublet, etc.) in the prescribed Leasing Information Form (Part C of Form 2) *(The EAA's Practice Circular no. 01-09 (CR))*.	✓	✓
☐ Clearly state in advertisements for the subletting that the property is to be sublet *(Practice Regulation, Section 9)*.	✓	✓

4.13 First-hand Residential Properties

Appointment by Developers

☐ Enter into a written agreement with the developer to sell the units of a property development and clearly spell out the rights and obligations of both parties.	✓	
☐ Clearly explain to prospective purchasers whether the company acts only for the developer, only for the purchaser, or for both the developer and the purchaser, and whether the company may act for both the purchaser and the developer subsequently. Such explanation must be made in writing and a copy of the same must be supplied to the prospective purchaser *(The EAA's Practice Circular no. 11-02 (CR))*.	✓	✓

	Company	Staff
Appointment by Purchasers		
☐ In representing a purchaser, enter into an agreement with him to spell out the rights and obligations of both parties.	✓	✓
Staff Deployment at the Sales Sites (The EAA's Practice Circular no. 10-02 (CR))		
☐ Deploy only staff who hold an estate agent's or salesperson's licence at the first-sale site to carry out estate agency work.	✓	
☐ Assign a staff member who is the holder of an Estate Agent's Licence (Individual) as the controller to oversee all the staff deployed to the first sale site and all matters relating to the conduct in promotional activities concerned; and provide the name and licence number of the controller to the EAA as soon as possible after the controller has been assigned.	✓	
☐ Compile and provide the EAA with a list of all staff to be deployed to the first-sale sites at least one day before the launch of the first sale. The list must contain (a) the full name and licence number/staff number of the staff, (b) the name of the branch office of the staff, (c) the supervisor(s) of the staff, (d) the location to which the staff is to be deployed (e.g. the sales office or the site of the development) and (e) the duration of the deployment.	✓	
☐ Maintain and provide the EAA with a daily register of all staff who report for duty at the first-sales sites. The register must contain the five items required of the staff list mentioned above.	✓	
☐ Ensure that the number of staff deployed to the first-sale sites does not exceed the number specified by the developer.	✓	
☐ Act professionally and avoid any practice which may bring discredit and/or disrepute to the estate agency trade.	✓	✓
☐ Handle complaints promptly and co-operate with the EAA staff in maintaining order at the first-sale sites.	✓	✓

	Company	Staff
Requirement of Staff at the Sales Site (The EAA's Practice Circular no. 10-02 (CR))		
☐ Co-operate with and follow the guidelines of the developer, all lawful and reasonable instructions of the developer's staff for maintaining order at the first sales site.	✓	✓
☐ Require all staff on site to wear an estate agent card and/or staff card.	✓	✓
☐ Co-operate with the EAA officers, follow all their reasonable instructions and produce estate agent card/staff card for inspection upon request.	✓	✓
Pre-sale Briefings (The EAA's Practice Circular no. 11-02 (CR))		
☐ Provide pre-sale briefing to staff who will be involved in promotional activities for the sale of units in the development prior to their conducting any promotional activities.	✓	
☐ Ensure that the pre-sale briefing includes information about the development and the EAA's Practice Circulars regarding conduct and order in promotional activities on the first sale of residential properties.	✓	
☐ Ensure that any staff engaged in promotional activities attend the pre-sale briefing, keep proper records of the pre-sale briefing (e.g. attendance records) of the staff concerned and supply the records to the EAA upon request.	✓	✓
Quality Control (The EAA's Practice Circular no. 11-02 (CR))		
☐ Ensure that staff involved in the promotional activities follow the guidelines given in the pre-sale briefing and act according to the law and the EAA's guidelines.	✓	✓

	Company	Staff
Promotional Materials (The EAA's Practice Circular no. 11-02 (CR))		
☐ Issue advertisements or any other form of promotional materials only after obtaining the developer's written consent and after verifying with the developer the accuracy of the information to be released. In addition, for properties under the Lands Department's Consent Scheme ("Consent Scheme"), unless permission to commence promotional activities for the sale of units in a development has been given by the Lands Department, and any such promotional publicity or advertisement specifies that the consent to sell has not yet been obtained, and all conditions pertaining to such permission have been fully complied with, no publicizing or advertising of such units available for sale shall be launched prior to the Lands Department's issue of consent to sell.	✓	✓
☐ Verify the accuracy of information contained in promotional materials such as advertisement, poster, bill, brochure or pamphlet and obtain the developer's written endorsement of the accuracy of the particulars (e.g. internal layout and efficiency rate of the properties). Promotional materials must clearly state the name of the district where the development is located and the address of the development as may be supplied by the developer.	✓	✓
☐ Do not misrepresent the surroundings of the development in the promotional materials (e.g. using artists' impression and drawing green pastures around the development when there are in fact buildings and structures in the nearby area, omitting certain nearby buildings or facilities, or substantially lowering the height of nearby buildings).	✓	✓

	Company	Staff
Sales Brochures and Price Lists (The EAA's Practice Circular no. 11-02 (CR))		
☐ For developments not subject to the Consent Scheme, advise the developer in writing to provide a sales brochure with such information as required by the Legal and Advisory and Conveyancing Office ("LACO") for the Consent Scheme from time to time and advise the developer to follow the LACO's requirements relating to the issuance of promotional materials if the same are to be issued by the developer.	✓	
☐ Provide prospective purchaser with the same sales brochures, price list and list of units obtained from the developer without any charge, restriction or conditions. Do not prepare another price list showing prices other than those decided by the developer.	✓	✓
☐ Advise prospective purchasers to collect the sales brochures and price lists made available by the developer at the sales office or website(s), if they themselves have not already provided the same to the prospective purchasers.	✓	✓
☐ Advise prospective purchasers to study the information in the sales brochures and price lists before they make any purchase decision. For properties under the Consent Scheme, advise prospective purchasers that the sales brochure contains all information required under the Consent Scheme and that any other promotional materials do not form part of the sales brochure.	✓	✓
☐ Provide prospective purchasers with information concerning the area of the property and the price per square foot or metre of the "Saleable Area" as contained in the price list(s) supplied by the developer.	✓	✓
☐ Use the sales brochures and price lists compiled by the developer in their promotional activities and refrain from reproducing such materials so as to minimize possible mistakes.	✓	✓

	Company	Staff
Information to Purchasers		
☐ Relay to prospective purchasers accurate information about the development (e.g. location plan, floor plan, fittings and finishes, anticipated completion date, management, and details of the amenities/facilities, environment, future development in the vicinity, and/or terms of sale) *(**The EAA's Practice Circular no. 11-02 (CR)**)*.	✓	✓
☐ Ensure that the information about the development provided to the prospective purchasers is made only on the basis of the information contained in the sales brochure and documents provided by the developer, and take all reasonable steps and exercise due diligence to verify the information *(**The EAA's Practice Circular no. 11-02 (CR)**)*.	✓	✓
☐ Draw the attention of prospective purchasers/flat viewers to the actual dimensions of the units as stated in the sales brochure and remind them not to rely on their perception about the size of the units gathered from the show flats *(**The EAA's Practice Circular no. 11-02 (CR)**)*.	✓	✓
☐ Make an effort to obtain the information from the developer in the case where the purchaser requests information that is not available, or advise them to enquire with the developer directly.	✓	✓
☐ Disclose to the purchaser the commission or advantage received from the developer if the company represents both the developer and the purchaser or else they may commit an offence under Section 9(1) of the Prevention of Bribery Ordinance *(**Prevention of Bribery Ordinance**)*.	✓	✓
☐ Ensure that information provided to prospective purchasers concerning payment methods or mortgage plans is accurate and take all reasonable steps and exercise due diligence to verify such information.	✓	✓

	Company	Staff
☐ When providing information on prices per square foot, remind the prospective purchaser to note how saleable area and gross floor areas of the units are calculated. Provide the prospective purchasers with the price per square foot or metre or unit rate of the "Saleable Area" as contained in the price lists supplied by the developer *(**The EAA's Practice Circular no. 10-04 (CR)**)*. If the prospective purchaser has any questions, advise him to consult a surveyor or lawyer, and/or to enquire with the developer.	✓	✓
Deposits		
☐ Refrain from soliciting or accepting any money (whether described as a deposit or not) from a prospective purchaser without the developer's authorization *(**The EAA's Practice Circular no. 11-02 (CR)**)*.	✓	✓
☐ Accept or collect deposit, reservation fee, or any other consideration from purchasers only after obtaining the developer's authorization and the Lands Department has given the developer Consent to Sell *(**The EAA's Practice Circular no. 11-02 (CR)**)*.	✓	✓
☐ In the case of sales under the Lands Department's Consent Scheme, and the company having been authorized by a developer to receive a deposit, ensure that the amount received is the same as the provisional deposit payable to the developer as referred to in the Government's consent letter regarding the development concerned *(**The EAA's Practice Circular no. 11-02 (CR)**)*.	✓	✓

	Company	Staff
☐ Advise clients to make deposit payment to the firm of solicitors responsible for stakeholding purchasers' money for the development, if possible.	✓	✓
☐ Obtain purchasers'/flat viewers' written approval before using their credit cards to settle deposit payments (*The EAA's Practice Circular no. 11-02 (CR)*).	✓	✓
Identification Documents and/or Credit Cards of Prospective Purchasers (The EAA's Practice Circular no. 11-02 (CR))		
☐ Do not ask a prospective purchaser/flat viewer to provide his identification documents such as identity card, passport and/or credit card whether for the purpose of arranging the viewing of properties, the payment of moneys in relation to the purchase of properties or for any other purposes, unless specifically required by the developer.	✓	✓
☐ When requesting a prospective purchaser/flat viewer to provide his identification document and/or credit card at the request of the developer, state clearly in writing the purpose for which the identification document/credit card will be used, and that it is the developer's requirement.	✓	✓
☐ Obtain the permission of the prospective purchaser/flat viewer before keeping his identification document for verification of identity when preparing the provisional agreement for sale and purchase.	✓	✓
☐ Obtain the written approval of the prospective purchaser/flat viewer before any arrangement is made to use the credit card for the payment of deposits or any other moneys.	✓	✓
☐ Promptly return the identification document and/or credit card to the prospective purchaser/flat viewer when such documents are no longer required for the stated purposes for obtaining the same in the first place, or after the purposes have been fulfilled.	✓	✓

	Company	Staff
☐ Promptly return the identification document and/or credit card to the prospective purchaser/flat viewer upon demand, irrespective of whether such documents are still required for the stated purposes for obtaining the same in the first place.	✓	✓
☐ Remind staff that it is an offence under Sections 7A(1A) and 7A(2) of the Registration of Persons Ordinance for any person, without lawful authority or reasonable excuse, to have in his custody or possession the identity card of another person.	✓	✓
Loans (The EAA's Practice Circular no. 11-02 (CR))		
☐ Do not offer loans or propose to offer loans to a prospective purchaser/flat viewer, even under the following circumstances: ◆ the prospective purchaser/flat viewer has insufficient money for deposit payment on the spot; ◆ in order to persuade the prospective purchaser/flat viewer to sign a PASP or for any other purpose; or ◆ the prospective purchaser/flat viewer requests the agent to offer him a loan.	✓	✓
Mortgage Plans and Financing Schemes (The EAA's Practice Circular no. 11-02 (CR))		
☐ Note that agents are not required to explain information about mortgage plans and financing schemes to prospective purchasers as it is usually made available at sales office. If agents initiate an explanation of such plans and schemes, the explanation must be based solely on the information provided by the banks, finance companies or the developer concerned.	✓	✓

	Company	Staff
☐ Do not make any statement to assure a prospective purchaser that he will successfully obtain a mortgage loan(s) to finance his purchase of the property and/or the terms of the mortgage loan(s). Advise the prospective purchaser to make enquiries directly with the banks, finance companies or the developer concerned.	✓	✓
Publication of Sales Information (The EAA's Practice Circular no. 11-02 (CR))		
☐ Do not publicize or release information on sales figures or sales performance, unless expressly authorized by the developer and having taken all reasonable steps to verify the accuracy of the information.	✓	✓
☐ When publicizing or releasing information on sales figures or sales performance, specify the time frame of the information and provide the latest information as far as possible.	✓	✓
☐ When informing prospective purchasers that units on a certain floor or in a certain block or of a certain size of a development are all sold out, clarify with the prospective purchasers whether all the units on that floor or in that block or of that size are sold out, or whether only the units allotted to their respective companies are sold out.	✓	✓
Uncompleted Properties (The EAA's Practice Circular no. 10-04 (CR))		
☐ Regarding the sale of uncompleted properties which are subject to the Consent Scheme, note that:	✓	✓
◆ "Saleable Area" means the floor area of a unit enclosed by walls (inclusive of the floor area of any balconies, utility platforms and verandahs, but exclusive of "Other Areas" (namely cockloft, bay window, car-parking space, yard, terrace, garden, flat roof, roof and air-conditioning plant room);		

	Company	*Staff*
◆ price lists issued by developers include the price per square foot or square metre calculated from both the saleable area and the gross floor area of the units;		
◆ prospective purchasers be provided with the price list and the list of units obtained from the developer, or prospective purchasers be reminded to obtain the same at the developer's sales office before entering into any agreement for sale and purchase (which includes Memorandum, Provisional Agreement, Offer to Sell, etc.); and		
◆ advertising a price which has not been instructed by the developer will contravene Section 9(3) of the Practice Regulation.		
☐ Note that all information required under the Consent Scheme, the respective pre-sale consent letter and guidelines of Real Estate Developers Association of Hong Kong (as appropriate) should be included in one booklet entitled "Sales Brochure". The sales brochure must not include any promotional materials, including artist impression or pictures/ graphics.	✓	✓
☐ The company has to take all reasonable steps (e.g. conduct briefings) to ensure staff are familiar with the information contained in the sales brochure issued by developers.	✓	✓
☐ Advise prospective purchasers to refer the price lists, sales brochures, draft deed of mutual covenant and Government lease with regard to the development before entering into any agreement for sale and purchase.	✓	✓
Behaviour of Staff (The EAA's Practice Circular no. 10-02 (CR))		
☐ Maintain order when conducting sales activities at the first-sale site, including but not limited to the following:	✓	✓

	Company	Staff
◆ Do not solicit business, intercept passengers or distribute leaflets at Mass Transit Railway Stations (including station exits and ticket barrier areas), or inside/at the entrances of shopping malls and housing estates unless permission from the management office of the shopping mall/housing estate have been obtained;		
◆ Do not obstruct/disturb other persons (e.g. stand on the carriage way), be over-aggressive (e.g. persistent solicitation despite indication by passers-by that they are not interested in making any purchase), or act in a manner which may distract drivers (e.g. strike/intercept vehicles) heading for/passing by the first-sales sites; and		
◆ Ensure that the display of publicity materials does not obstruct traffic or pose a safety hazard. Do not place folding tables, chairs, sun shades, etc. on pavements, pedestrian-only streets and other public places.		
☐ Act professionally and do not exhibit a poor attitude towards a passer-by who refuses to give the agent business.	✓	✓
☐ Do not quarrel or fight with other agents or passers-by.	✓	✓
Others		
☐ If any incentive schemes are offered to purchasers, comply with the guidelines as referred to in ***Chapter 4.9***.	✓	✓
☐ Comply with the relevant law, rules and regulations, such as the Road Traffic Ordinance, Mass Transit Railway By-laws and Mass Transit Railway (North-West Railway) By-laws, when conducting sales activities in the vicinity of a sales site (***The EAA's Practice Circular no. 10-02 (CR)***).	✓	✓

		Company	Staff
4.14	**Confirmor Sales[9] (*The EAA's Practice Circular no. 01-08 (CR)*)**		
☐	Advise a confirmor on the following: ◆ Examining his agreement for sale and purchase with the head vendor to see if there is any restriction on sub-sale; and ◆ Being prepared to complete the sale and purchase in accordance with the agreement signed with the head vendor in case the sub-purchaser is unable to complete the sub-purchase, or else the confirmor will breach his agreement with the head vendor.	✓	✓
☐	Remind sub-purchasers of the risks involved in confirmor sales, including but not limited to the following: ◆ The transaction may be delayed or even fall through if the confirmor is unable to complete the purchase. The sub-purchaser may have to take legal action to recover the deposits and claim damages against the confirmor. ◆ The sub-purchaser may request the confirmor to execute an irrevocable power of attorney in favour of the sub-purchaser so that if the confirmor is unable to complete the purchase himself, the sub-purchaser may still complete the transaction as the attorney of the confirmor. The sub-purchaser should seek legal advice in this regard. ◆ Inspection of the property is usually not available before entering into a sub-sale agreement, and the sub-purchaser may have to bear such risks. The agent however should try to arrange for an inspection before completion. ◆ The sub-sale agreement is normally subject to the terms of the principal agreement for sale and purchase (e.g. acceptance of structural alterations (if any) in the principal agreement).	✓	✓

[9] *Also known as "sub-sale"; it occurs when a purchaser who has entered into a Sale and Purchase Agreement with a property owner, sub-sells the property to another purchaser (the sub-purchaser) before completion of the assignment. The first purchaser is referred to as the "confirmor".*

		Company	*Staff*
☐	Note whether the balance of the purchase price payable by the sub-purchaser is sufficient to cover the balance of the purchase price payable by the confirmor to the head vendor under the principal agreement.	✓	✓
☐	Provide a confirmor with sufficient time to settle payment if he is required to pay the balance of the purchase price payable by the sub-purchaser to the head vendor, and advise the confirmor that the completion time for sub-sale agreement should precede that of the principal agreement for sale and purchase.	✓	✓
☐	Carry out a land search of the property before arranging for the confirmor and the sub-purchaser to enter into a subsale agreement to ensure that the confirmor has the right to sub-sell the property and check the terms of the agreement (including any restriction on sub-sale).	✓	✓
☐	Provide for the sub-purchaser's reference a copy of the principal agreement between the principal vendor and the confirmor before a sub-sale agreement is signed.	✓	✓
☐	Disclose to all parties any commission receivable by the company if an agent acts for both the principal vendor and the confirmor, and also for both the confirmor and the sub-purchaser, including disclosure to the head vendor any commission receivable from the confirmor and the sub-purchaser.	✓	✓
☐	Note that if an agent himself or a related person fraudulently participates in a confirmor sale, he may have committed the offence of fraud under the Theft Ordinance or other offences, in addition to putting himself in a serious conflict of interest situation.	✓	✓

		Company	Staff
4.15	**Sale and Purchase of Property by Way of Transfer of Shares (*The EAA's Practice Circular no. 05-08 (CR)*)**		
☐	Do not arrange any property transaction which involves a transfer of shares without having obtained legal advice.	✓	✓
☐	Note that an agreement for the sale and purchase of shares is a complicated legal document and purchasers may unwittingly take over the debts and liabilities of a limited company that are associated with a transfer of the shares and business undertaking of that limited company, and may subsequently lead to complications in the financing of the purchase.	✓	✓
4.16	**Takeover of Business and Related Tenancy (*The EAA's Practice Circular no. 05-02(CR)*)**		
☐	Note that any takeover of a business and the tenancy of the business premises is potentially complicated, and comprehensive legal documentation is usually required to give adequate protection to the interests of the parties concerned. A standard tenancy agreement form normally will not suffice.	✓	✓
☐	If a client indicates his intention to effect a takeover of a business and the tenancy of the business premises, advise the client to seek legal advice before proceeding with the takeover arrangement as the work may fall outside the normal scope of work of an agent (except for the signing of a new tenancy).	✓	✓
4.17	**Property Acquisition in Old Buildings for Re-development (*The EAA's Practice Circular no. 10-05(CR)*)**		
☐	Make it clear to the vendor if the agent is acting for him, the purchaser, or both of them as soon as practicable.	✓	✓
☐	If the flat concerned is a residential flat, enter into an Estate Agency Agreement with the clients.	✓	✓

	Company	*Staff*
☐ Disclose any potential or actual conflict of interest to the vendors, including but not limited to the following: ◆ The purchaser is: • the agent himself, his nominee, irrespective of whether the purchase is made on his own account or on behalf of a principal; • the company the agent works for, irrespective of whether the purchase is made on the company's own account or on behalf of a principal; or • a company in which the agent/his nominee (or the company for which the agent works, or the directors or shareholders of that company) has a beneficial interest. ◆ Any monetary or other beneficial interest that may be accrued to the agent (or the company or the shareholders / directors of the company for whom the agent works) from any sub-sale of the property.	✓	✓
☐ Ensure that any information provided to vendors is accurate and up-to-date, such as: ◆ the price of other units in the building; ◆ the position of other vendors regarding the acquisition; ◆ the progress of negotiation with other vendors about their acquisition; ◆ the percentage of ownership in the building which has been acquired by the purchaser; ◆ Government's public works projects or other developments in the vicinity which may affect the building, etc.	✓	✓

	Company	Staff
☐ Comply with the following when conducting negotiation: ◆ Do not exercise any undue influence, use any improper tactics (e.g. pestering the vendor with persistent telephone calls at unreasonable hours), or cause any harassment or annoyance to any vendor (e.g. persistent solicitation even though the vendor has no interest in selling his property). ◆ If the vendor is an elderly person, advise him verbally and in writing that he should be accompanied by a family member or a close relative during the negotiation process. Do not start any negotiation with an elderly vendor unless he has expressly stated that it is not necessary for a family member or close relative to be present during the negotiation.	✓	✓
☐ Explain clearly to the vendor all the proposed terms and conditions for the sale and purchase of his flat.	✓	✓
☐ Refrain from arranging for any vendor to give an agent or a prospective purchaser the power of attorney to deal with the sale of his property. Advise the vendor to seek legal advice if he intends to appoint another person to handle the sale of his property.	✓	✓
☐ Prior to the signing of the PASP or any other relevant document, clearly explain all the terms to the vendors and advise them to seek legal advice if necessary.	✓	✓
☐ Ensure that all the necessary information has been entered accurately in the PASP, including details of the property, the parties to the agreement, the price, the terms of acquisition, the purchaser's signature, transaction date etc. with no entries left blank.	✓	✓
☐ Do not leave a PASP or any other agreement signed by the vendor undated. Ensure that the date stated on the agreement and any other documents must be the date on which it was signed by the vendor.	✓	✓

	Company	Staff
☐ Ensure that the purchase price is the true consideration, with no inflation of the amount of other payments (e.g. removal allowance) to reduce the true consideration.	✓	✓
☐ Provide the vendors with a copy of the signed PASP and other relevant documents as soon as practicable after signing.	✓	✓
☐ Obtain written consent from the vendors and other owners of the building before putting up any banner or promotional material on the building.	✓	✓
☐ If persons other than the staff of the company are engaged in the acquisition activities, ensure that they are licensees and have entered into written engagement agreements with the company for conducting the acquisition activities.	✓	✓
☐ Include the following terms in the said engagement agreement entered with other non-staff members for engaging in the acquisition activities: ◆ comply with all the legal and ethical requirements in the same manner as the company staff are required to; ◆ do not make false or misleading representations to the vendor; ◆ comply with the provisions as mentioned in this section; ◆ do not sub-contract the acquistion activities to other persons; and ◆ deploy only licensees who are the staff of the company to conduct the acquisition activities.	✓	✓
☐ Closely monitor the conduct of all persons engaged to undertake the acquisition activities to ensure that the provisions in this section have been complied with, and be held responsible for any misconduct of the engaged persons in conducting the acquisition activities.	✓	✓

	Company	Staff
☐ File a report to the police if any engaged persons are suspected to have used illegal means in the acquisition activities.	✓	✓
☐ Note that if agents assist, encourage or procure any person to commit a crimianl offence in the course of the acquisition activities, they may be criminally liable for the same offence.	✓	✓

4.18 Handling of Offers and Negotiation of Terms of Sale and Leasing

☐ Convey all clients' offers (including those offers that are lower than the bottom price specified by the vendor/landlord, or higher than the ceiling price specified by the prospective purchaser/tenant) to the other party of a prospective property transaction (or the agent of the other party) as soon as practicable (***Practice Regulation, Section 11***) unless a PASP or tenancy agreement has already been signed for the property.	✓	✓
☐ Confirm the offers conveyed to clients in writing *(refer to* ***RICS REABS Chapter 4****)*.	✓	✓
☐ Confirm in writing any offer / further offer made by the purchaser to the vendor and include in the offer evidence that the agent is acting for the client and send a copy of the confirmation of the offer to the client *(refer to* ***RICS REABS Chapter 5****)*.	✓	✓
☐ Relay all offers to the client truthfully and in accordance with the order of receipt of the offers (***Practice Regulation, Section 11***).	✓	✓
☐ Provide clients with sufficient details so as to allow them to make a fully informed judgement of all offers received and each offer's respective strengths and weaknesses, bearing in mind the circumstances of the vendor/landlord when providing the information *(refer to* ***RICS REABS Chapter 4****)*.	✓	✓

	Company	Staff
☐ Provide clients with accurate information, including property prices and rentals, for reference or comparison without any misrepresentation. Under no circumstances should an agent tell his client that there is an offer when in fact there is none *(**Practice Regulation, Section 11**)*.	✓	✓
☐ Maintain written records of all verbal and written offers of a property (include the date and time of the offers) as soon as practicable to avoid dispute or confusion *(**Practice Regulation, Section 11**)*.	✓	✓
☐ After notifying the vendor/landlord of the offer provided by a prospective purchaser/tenant, confirm with the purchaser/tenant in writing about the notification, the amount of the offer and the conditions attached *(refer to **RICS REABS Chapter 4**)*.	✓	✓
☐ Keep seller/landlord informed of the negotiation process and continuously seek their instructions *(refer to **RICS REABS Chapter 4**)*.	✓	✓
☐ Once an offer has been accepted by a vendor/landlord, request the vendor/landlord to confirm this in writing and send a copy of the confirmation of the offer to the purchaser/tenant *(refer to **RICS REABS Chapter 5**)*.	✓	✓
☐ Obtain the client's consent before releasing any information regarding their personal or financial circumstances to the other party of a transaction *(refer to **RICS REABS Chapter 5**)*.	✓	✓
☐ Do not exercise any undue influence or coercion on clients for the purpose of inducing them to enter into an agreement for selling or purchasing, or leasing or renting a property *(**Practice Regulation, Section 11**)*.	✓	✓

	Company	Staff
☐ Make a promise (e.g. helping a purchaser or tenant open a new account for the supply of water, electricity or gas) or offer an incentive (e.g. cash rebate) to clients only when it can be fulfilled and the agent has the capacity and capability to do so. Once a promise or incentive has been made, it must be fulfilled. Record all such offers in writing and provide them to the client to enhance his confidence.	✓	✓
☐ When the vendor/landlord accepts an offer and any related conditions, record the details accurately and inform the purchaser/tenant. This must be confirmed in writing to both parties *(refer to* ***RICS REABS Chapter 4****)*.	✓	✓
☐ Maintain regular contact with clients throughout the negotiation process and regularly report the progress to the other party *(refer to* ***RICS REABS Chapter 4****)*.	✓	✓
☐ If the purchaser/tenant applies for any additional services from the agent before completion of the transaction, promptly provide the vendor/landlord with an accurate written list of services applied for *(refer to* ***RICS REABS Chapter 4****)*.	✓	✓
☐ Note that the solicitation or acceptance of any advantage in addition to those stated in the Estate Agency Agreement (including tea money) from clients for assisting them in negotiation (e.g. persuading a purchaser to raise his purchase price) without the prior consent of the parties concerned may constitute an offence under the Prevention of Bribery Ordinance *(* ***Prevention of Bribery Ordinance****)*.	✓	✓

4.19 Provisional Agreement for Sale and Purchase ("PASP") or Tenancy Agreement

☐ As PASP are legally binding documents, exercise due care, follow clients' instructions when drafting the agreements and repeatedly check the accuracy to avoid filling in wrong information. Seek legal advice in case of doubt.	✓	✓

	Company	Staff
☐ Adopt the following measures immediately before the signing of a PASP: ◆ Conduct a land search to obtain up-to-date information of the property and not to rely on any land search obtained earlier *(**Practice Regulation, Section 13**)*; ◆ Clearly explain to the purchaser or tenant the information found in the land search (e.g. owner's particulars and encumbrances, etc.); and ◆ Provide the purchaser or tenant with a copy of the land search *(**Practice Regulation, Section 13**)*, request him to acknowledge receipt and keep proper custody of the receipt.	✓	✓
☐ Explain to clients each clause of the PASP or tenancy agreement, bring to their attention the meaning of the essential terms and provisions, and recommend that they seek legal advice if they do not understand any part of the agreement *(**Practice Regulation, Section 13**)*.	✓	✓
☐ Ensure that any amendment to the PASP or tenancy agreement must be agreed to and fully understood by both parties of the transaction, and countersigned by them in the agreement. The implications of the amendments should also be explained to both parties.	✓	✓
☐ Ensure that the property address stated in the agreement tallies with that obtained from the land search *(**The EAA's Practice Circular no. 03-02(CR)**)*.	✓	✓
☐ Clearly indicate the items in the PASP or tenancy agreement (with photographs of the items, as necessary), with the party responsible for the maintenance costs specified (if any) and countersigned by both parties, when the following item(s) is/are sold or leased together with the property: ◆ garden; ◆ car parking space;	✓	✓

	Company	Staff
◆ rooftop area;		
◆ furniture; or		
◆ electrical appliances.		
☐ Do not arrange for clients to enter into a PASP or tenancy agreement which is blank, undated or backdated, or with essential items (e.g. price, deposit, commission, completion date, etc.) left blank, or when the terms of a transaction have not been agreed to by the two parties *(**The EAA's Practice Circular no. 03-02(CR)**)*.	✓	✓
☐ Ensure that all the information given in the PASP or tenancy agreement must be true and accurate. It may be a criminal offence for any person to intentionally provide any untrue or inaccurate information.	✓	✓
☐ If the residential property concerned is subject to payment of the Special Stamp Duty ("SSD"), advise the clients (vendor and purchaser who are jointly and severally liable for payment of SSD) to agree on which party should pay the SSD and specify in the PASP their agreement.	✓	✓
☐ If it is agreed that the SSD (or any part thereof, as the case may be) should be paid by the vendor, further advise their clients to specify the necessary arrangements in the PASP (such as having the purchaser's solicitor withhold part of the purchase price for payment of the SSD). Invite their clients to seek legal advice, if necessary, before proceeding with the execution of the PASP *(**The EAA's Practice Circular no.11-03(CR)**)*.	✓	✓
☐ If the property concerned is held by two or more vendors, ensure that all of them have signed the PASP or tenancy agreement. If one of the vendors is unable to sign the agreement, ensure that he arranges for a Power of Attorney to authorize another person to do it for him *(**The EAA's Practice Circular no. 01-12(CR)**)*.	✓	✓

	Company	Staff
☐ For property transactions involving an elderly purchaser who intends to apply for a mortgage loan for the property, advise him of the difficulty he may face in obtaining a bank loan before he enters into a PASP *(**The EAA's Practice Circular no. 03-02(CR)**)*.	✓	✓
☐ For the leasing of a mortgaged property, take the following measures before arranging the parties concerned to enter into a tenancy agreement *(**The EAA's Practice Circular nos. 01-09 & 03-06(CR)**)*: ◆ Confirm that a written consent has been obtained from the mortgagee (e.g. bank) for leasing the property and explain to the tenant the risks of entering into a tenancy without such a consent; ◆ Encourage the parties to exchange information for mutual trust to facilitate the transaction (e.g. the vendor's mortgage repayment records and the tenant's proof of occupation and income); and ◆ Advise the tenant of the risks involved in case the vendor fails to provide information on the mortgage.	✓	✓
☐ Do not conduct any promotional or marketing activity for a property after a sale and purchase agreement or tenancy agreement (whether provisional or formal) for the property has been signed *(**Practice Regulation, Section 13**)*.	✓	✓
☐ After the signing of the PASP or tenancy agreement of a property, do not relay to the property's vendor/landlord any further offers unless so requested by the vendor/landlord *(**Practice Regulation, Section 13**)*.	✓	✓
☐ When arranging property clearance with the vendor/landlord, pay attention to relevant environmental requirements (e.g. disposal of waste) *(refer to **RICS REABS Chapter 3**)*.	✓	✓

	Company	Staff
Alienation Restrictions[10] ***(The EAA's Practice Circular nos. 01-01(CR), 07-04(CR) & 08-08(CR))***		
☐ Note that certain properties are subject to alienation restrictions, whereby the vendor/landlord is not at liberty to alienate or lease his property. The sale and purchase or lease transactions of such properties may involve special procedures and/or forms.	✓	✓
☐ Exercise due care for properties subject to alienation restrictions and take proper action to protect the interest of clients (e.g. confirm whether a land premium has been paid) before any agreement is reached.	✓	✓
☐ Refrain from aiding or abetting a vendor/landlord in selling/letting a property in circumstances which may infringe the law. Keep abreast of the latest arrangements and requirements, and seek legal advice in case of doubt.	✓	✓
Existing Encumbrances		
☐ Draw clients' attention to the existing encumbrances of a property and advise them to seek legal advice before entering into a PASP.	✓	✓
☐ If a purchaser or tenant decides to proceed with the purchase or renting despite the existing encumbrances, obtain his written acknowledgement that he is aware of all the existing encumbrances and has been advised to seek legal advice but has decided to proceed with the transaction.	✓	✓
☐ Record in the PASP the existing encumbrances (e.g. court orders, building orders), and, subject to client's instruction, include in the agreement provisions on whose liability to discharge the existing encumbrances.	✓	✓

[10] *These restrictions may apply to flats purchased under the various subsidy schemes of the Hong Kong Housing Authority and Hong Kong Housing Society (e.g. Home Ownership Scheme, Private Sector Participation Scheme, Sandwich Class Housing Scheme, Flat-for-Sale Scheme, Tenant Purchase Scheme, etc.), the small houses of indigenous villagers in the New Territories, flats of the Co-operative Building Societies of government employees.*

	Company	Staff
4.20 Identity of Clients		
☐ Verify the identity of clients (e.g. obtain the identity card if the vendor is an individual, check carefully the name of the vendor on the identity card or identification document against the name of the owner as recorded in the land search) before arranging for the signing of any document concerning the property (e.g. a PASP or tenancy agreement) and properly keep such information (***Practice Regulation, Section 13***).	✓	✓
☐ When acting for the purchaser and the identity of the vendor cannot be verified, advise the purchaser to arrange for the stakeholding of the deposit by a firm of solicitors, and also advise the purchaser of the risks involved and of the need to engage the service of a lawyer before proceeding with the transaction (***The EAA's Practice Circular no. 09-08(CR)***).	✓	✓
☐ If agents have reason to suspect that the vendor is a fraudster, cease to act for the parties and report the case to the Police (***The EAA's Practice Circular no. 09-08(CR)***).	✓	✓
Legal Capacity of a Client		
☐ Check to confirm that the signatory for any document for a property transaction is at least 18 years of age (otherwise, the document or agreement signed may be invalid) (***The EAA's Practice Circular no. 03-02(CR)***).	✓	✓
☐ Ensure that the signatory is the vendor of a property for sale, or that the signatory has been properly authorized to sign on behalf of the vendor in a transaction.	✓	✓
☐ If someone is signing on behalf of a client, request the representative to produce a duly executed power of attorney.	✓	✓

	Company	Staff
Limited Company (The EAA's Practice Circular no. 09-06(CR))		
When a party of a property transaction is a limited company, adopt the following measures:		
☐ Request the signatory to produce the certificate of incorporation, business registration certificate and authorization documents of the limited company.	✓	✓
☐ Verify the signatory's capacity by conducting a company search or obtaining authorization documentation (e.g. board resolution).	✓	✓
☐ Verify the signatory's identity and show his name legibly below his signature.	✓	✓
☐ Ensure that a chop of the company is stamped on the document signed, or the words "For and on behalf of xxx Limited" are written against the signature.	✓	✓
☐ Advise clients to make payments to the company directly by cheque or cashier order in favour of the company and not to the signatory personally.	✓	✓
☐ Explain to clients the risks involved if the signatory cannot provide satisfactory proof of authorization and is not a director of the company, and advise them to pay the deposit to a firm of solicitors for stakeholding and seek legal advice if necessary.	✓	✓
☐ Obtain from clients a written acknowledgement of receiving and understanding the above advice to avoid future disputes.	✓	✓

4.21 Co-operation Agreement

☐ Be careful about appointing any sub-agent or co-agent on a commission to the extent that is possible when multiple listing systems are used and/or the cooperation of other agents is invited on a commission sharing arrangement *(refer to* ***RICS REABS Chapter 1****)*.	✓	✓
☐ Obtain prior approval from a designated staff member for entering into a co-operation agreement with another company.	✓	✓

	Company	Staff
☐ Pre-approve the companies (usually estate agencies) with which the estate agency may enter into a co-operation agreement without seeking approval on a case by case basis. If other companies refer clients to the estate agency, approval from a designated authority for the co-operation is required.	✓	
☐ Note that it is a criminal offence to fraudulently claim that a client is referred by another agency/company so as to mislead the estate agency to enter into a co-operation agreement with the other agency/company and share with it the commission received from the client.	✓	✓

4.22 Deposits for Property Transactions

☐ Do not suggest or request a prospective purchaser/tenant to pay any deposit or "earnest money" before reaching an agreement with the vendor/landlord.	✓	✓
☐ Require clients to pay deposits by cheque as far as possible and avoid accepting payment by cash.	✓	✓
☐ If deposit payments are received and held for clients, put the money into a trust account at an authorized institution and issue a receipt to the clients.	✓	✓
☐ When the company has set up a trust account at an authorized institution, adopt the following measures (⚖ ***Practice Regulation, Section 12***):	✓	✓
◆ If deposit payments are received and held for clients, put the money into the trust account within a specified time frame to minimize risks of embezzlement.		
◆ Before releasing deposit money to a vendor/landlord, ensure that the identity of the vendor/landlord is the same as the owner of the property. If they are different, ensure that the vendor/landlord is authorized to sell or lease the property.		
◆ If a property transaction is called off, return any deposit held by the company to the client as soon as practicable.		

	Company	Staff
☐ Issue receipts to clients for deposit payments in the following manner: ◆ Issue the receipts immediately *(* ***Practice Regulation, Section 12****)*; ◆ Use serially numbered receipts; ◆ Assign separate staff to receive deposit payments and issue receipts to clients; ◆ Transfer deposits from the trust account to vendors or landlords only when the purchasers or tenants concerned instruct so *(* ***Practice Regulation, Section 12****)*; and ◆ Conduct random checks on the receipts issued (especially for void receipts) to detect irregularities.	✓	✓
☐ For a sale and purchase transaction involving a property subject to an undischarged mortgage: ◆ Before signing a PASP *(* ***The EAA's Practice Circular no. 05-07(CR)****)*: • explain to the purchaser client the meaning of any deposit stakeholding provision pre-printed on the agreement, the implications and risks of deleting the said provision (including the risks of paying deposits directly to the vendor); • advise the purchaser client to have the deposits (both the initial and further deposits) stakeheld by a firm of solicitors; • explain to both the vendor and purchaser the implications of the stakeholding arrangement and the conditions for the release of the deposits by the stakeholder; and ◆ If there is no stakeholding of deposits in the transaction, obtain a written acknowledgement from both parties that they have been advised of the deposit stakeholding arrangements and the risks of not including such stakeholding arrangements in the PASP.	✓	✓

	Company	Staff
☐ Do not use clients' money for payment of the company's expenses or other purposes. Do not deduct or withhold part or all of the clients' money to offset any commission (*The EAA's Practice Circular no. 02-10(CR)*).	✓	✓
☐ Do not advance money to a client to assist him in paying a deposit to the vendor or landlord to avoid disputes.	✓	✓

(*Chapter 5.3*)

4.23 Commission from Clients

☐ Comply with the company's procedures for handling commission payable by clients, including the negotiation of commission with clients and receipt of commission from clients.		✓
☐ When accepting a client's appointment, enter into an estate agency agreement with him and clearly explain to him that there is no statutory stipulation on the amount or rate of the commission payable, and the circumstances under which the commission is payable.	✓	✓
☐ Discuss with the client the amount or rate of commission payable and the payment time. Clearly record them in estate agency agreements and the PASP/tenancy agreements.	✓	✓
☐ If acting as a dual agent in a property transaction, disclose to both parties the amount or rate of commission charged, and obtain the approval of the company and a written consent from both parties to the transaction if there is any subsequent change.	✓	✓
☐ Do not ask clients to make any commission payment in advance.	✓	✓
☐ Encourage clients to pay the commission by crossed cheques made payable to the company as far as possible, and advise them of this arrangement when or before the PASP is signed.	✓	✓

	Company	Staff
☐ Refrain from requesting clients to pay commission partially or entirely by cash, or to the agents personally, or other estate agencies/ other companies in which the agents have a beneficial or pecuniary interest.	✓	✓
☐ When acting as the sub-listing agent of property transactions, do not ask for any commission from clients of the principal agents (***Practice Regulation, Section 14***).	✓	✓
☐ Deposit the commission received from clients into a designated account of the company at an authorized institution.	✓	✓
☐ Issue receipts to clients for commission payments in the following manner: ◆ issue receipts to clients immediately (***Practice Regulation, Section 14***); ◆ use serially numbered receipts; ◆ assign separate staff to receive commission payments and to issue receipts to clients; ◆ prohibit staff from issuing receipts not showing the correct amount of payment received; and ◆ conduct random checks on the receipts issued (especially the voided receipts) to detect irregularities.	✓	✓
☐ Refrain from soliciting or suggesting additional commission payments or other advantages (e.g. tea money, laisee, gift, etc.) other than the amount of commission stated in the estate agency agreements or the provisional sale and purchase or tenancy agreements.	✓	✓
☐ If additional commission or any other advantage other than that specified in the agreement is offered by clients, report the case to designated supervisory staff according to the laid-down policy and procedures. If acting as a dual agent in a property transaction, obtain the prior consent of all parties to the transaction before accepting any additional advantage; otherwise one may be guilty of an offence under the Prevention of Bribery Ordinance (***Prevention of Bribery Ordinance***).	✓	✓

	Company	Staff
☐ Prescribe the procedures for handling arrears in commission (e.g. assign staff who are not responsible for receiving commission to trace outstanding payments) and taking follow-up actions with the clients concerned.	✓	

(Chapter 5.3)

4.24 Recovery of Outstanding Debts (*The EAA's Practice Circular no. 08-04(CR)*)

☐ If a client fails to make payment to the company within the time period specified in the terms of engagement and/or on the invoice, adopt the following measures: ◆ Remind the client in writing that the debt is outstanding and give him a further reasonable period for payment. If any interest is to be charged, state this in the letter *(refer to* ***RICS REABS Chapter 8****)*. ◆ If the client still does not make payment upon the issuing of the above letter, follow up with a telephone call to make sure that the client has received the invoice and to agree when this will be paid *(refer to* ***RICS REABS Chapter 8****)*. ◆ If the client still does not make payment, consider taking legal advice or alternatively, consider negotiation, mediation, conciliation and arbitration *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Maintain contact with the client no matter which method is used to recover outstanding debt and try to negotiate a payment plan if it is noted that the client is undergoing financial difficulties *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Seek advice from legal advisers before taking any legal action *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Do not use unlawful means to recover debt from clients.	✓	✓

	Company	Staff
☐ Before engaging a debt-collection company to recover overdue payment from clients, issue a final written demand to the clients stipulating a deadline for payment warning them that a debt-collection company will be engaged if no payment is received by the deadline.	✓	✓
☐ In appointing a debt-collection company, enter into a written agreement with it and specify the requirements on its conduct in debt collection, including the prohibition against any verbal or physical intimidation or force against any person, harassment to the debtor or his family member (including humiliating him publicly) or seizure or damaging the debtor's property.	✓	
☐ Monitor the conduct of the debt-collection company in its performance of the agreement and act promptly on receipt of complaints against it.	✓	

4.25 Referral of Business

☐ Comply with the company's policy as to whether staff are allowed to accept any advantage for referral of business to banks, renovation contractors, etc.		✓
☐ If agents are allowed to accept an advantage for referral of business to third parties, seek permission from both the company and the clients involved for accepting such advantages. If agents are not allowed to accept an advantage for referral of business to third parties, note that any acceptance of unauthorized advantages for referral of business to service providers is a breach of the Prevention of Bribery Ordinance (⚖ ***Prevention of Bribery Ordinance***).		✓
☐ If the company accepts advantage from third parties for referring business to them, obtain the approval of clients before such acceptance.	✓	✓
☐ Inform the service providers of the company's policy in writing whether it forbids staff to accept advantages on account of their referral of business.	✓	✓

	Company	Staff
☐ Obtain clients' explicit and voluntary consent before releasing their personal information to any service provider.	✓	✓
☐ When conducting after-sale contacts with clients (➲ ***Chapter 4.26***), enquire if they have procured any services from service providers introduced by the agents to check if there is any irregularity.	✓	✓
☐ Collect and record clients' feedback, if any, on the performance of the service providers introduced to them and, in particular, any adverse comments, for future reference in the selection of service providers for recommendation to clients.	✓	

4.26 After-Sales Contacts with Clients

☐ If resources permit, contact some clients of completed property transactions by telephone to obtain their feedback on the services provided by agents and confirm the details of the transactions (e.g. the amount of commission paid, the identity of the handling agent, etc.) to detect and deter any malpractice of the agents.	✓	✓
☐ Adopt the following measures in conducting the telephone contacts to ensure effectiveness: ◆ Assign independent staff who are not directly involved in the transactions to contact the client to enhance impartiality; ◆ Allow the independent staff to report any irregularity found directly to the management; ◆ Prepare standard questions focusing on items which are more vulnerable to manipulation (e.g. amount of commission paid by clients), and properly document clients' replies; ◆ Select transactions randomly for the contacts based on risk assessment, e.g. transactions with waiver of commission may be more vulnerable to manipulation; and ◆ Ensure that the contacts cover all agents as far as possible, especially for the new recruits.	✓	✓

	Company	Staff
4.27 Ending an Instruction		
☐ If a client terminates his instruction or if an agent decides to cease acting for the client, confirm with the client in writing that the agent is no longer acting for him, the actual date of termination and details of any outstanding fees or charges *(refer to* ***RICS REABS Chapter 6****)*.	✓	✓
☐ Prepare an invoice clearly setting out all outstanding money/cost owing to the company (including itemizing the fee owing and any expenses) and send it to the client within a reasonable time after ending an instruction *(refer to* ***RICS REABS Chapter 6****)*.	✓	✓
4.28 Handling of Clients' Complaints		
☐ Handle clients' complaint in an impartial manner and in accordance with the laid-down procedures of the company *(****Chapter 3.11****).*	✓	✓
☐ Make it clear to clients that the company has laid-down complaints handling procedures whenever issuing the terms of engagement (*refer to* ***RICS REABS Chapter 8***).	✓	✓
☐ State in the estate agency agreement that a copy of the company's complaints handling procedures is available on request *(refer to* ***RICS REABS Chapter 2****)*.	✓	✓
☐ Make available and publicize channels for clients to lodge complaints, including the complaint hotline of the EAA.	✓	
☐ Assure complainants that all the information received will be handled in strict confidence.	✓	✓
☐ Adopt a positive attitude towards the complaints received (e.g. improvement in image and service quality, etc.)	✓	✓

	Company	Staff
☐ Require formal complaints to be made in writing (by email, letter or fax), and acknowledge the receipt of any complaint in a timely manner (generally within three working days) *(refer to* ***RICS REABS Chapter 8****)*, record it and take follow-up action as soon as practicable.	✓	✓
☐ Record all complaints whether they are made verbally or in writing *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Try to resolve any complaint internally through the published complaints handling procedures *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Maintain proper records of the investigation of complaints.	✓	✓
☐ Seek the approval of a designated authority for any actions to be taken before the completion of the case.	✓	✓
☐ Inform the complainant of the outcome of investigation and the actions taken in writing within 15 working days *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ If the complainant remains dissatisfied with the outcome of investigation, explain to him how he can pursue the complaint within the company *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Ensure that a staff member not involved in the transaction or ideally a designated complaint handling officer deals with the complaint *(refer to* ***RICS REABS Chapter 8****)*.	✓	
☐ Following further investigation, send a formal written statement expressing the final view and including any offer made to the complainant. The statement must also include how the complainant can take the complaint to the redress scheme of the company and any deadline for doing so *(refer to* ***RICS REABS Chapter 8****)*.	✓	

		Company	Staff
4.29	**Prevention of Money Laundering (*The EAA's Practice Circular no. 08-05(CR)*)**		
☐	Comply with the company's procedures on a risk assessment basis for identifying and reporting suspicious money-laundering transactions (*Chapter 3.2*).		✓
☐	Consider appointing a compliance officer responsible for receiving reports on suspicious transactions from staff and taking appropriate actions after reporting the suspicious transactions to the relevant law enforcement authorities.	✓	
☐	Keep proper records of all cases concerning suspicious transactions.	✓	✓
☐	Provide training to staff on identifying, reporting and handling suspicious money-laundering transactions, and encourage staff to participate in such training.	✓	
	Clients Identification		
☐	Examine the executed estate agency agreement before the preparation of a PASP for signing by a client (including an individual or a company client) to ensure that the following information has been properly recorded: ◆ the name of the client (for individual client) or the names of the company and its signatory (for company client); ◆ the type and number of the identity or travel document (e.g. Hong Kong identity card, passport, two-way permit for Mainland residents) of the client/signatory; ◆ the address of the property concerned; and state on the estate agency agreement: ◆ the price; and ◆ the date of signing the PASP.	✓	✓

	Company	Staff
Retention of Documents		
☐ Retain estate agency agreements for at least five years from the date of signing the PASPs and provide them to the relevant authorities when so required.	✓	✓
☐ Report to the Joint Financial Intelligence Unit jointly run by the Hong Kong Police Force and the Customs and Excise Department for any property which is suspected to directly or indirectly represent proceeds of crime. A person commits an offence if he deals with any property, knowing or having reasonable grounds to believe that the property represents the proceeds of a crime.	✓	✓

4.30 Equal Opportunities

☐ Refrain from committing any discriminatory act or conduct in ways that may prejudice an individual's right to accommodation and remind the clients (e.g. a vendor) to avoid conduct which may involve discrimination.	✓	✓

4.31 Fair Competition

☐ In adhering to the principle of fair competition, do not offer or promise to offer any commission or other advantage not specified in the agreement for the purpose of bringing about a transaction, or else an offence under the Prevention of Bribery Ordinance may be committed *(⚖ **Prevention of Bribery Ordinance**)*.	✓	✓

CHAPTER 5

ACCOUNTING CONTROLS

	Responsible Party	
	Company	*Staff*

5.1 Introduction

Accounting controls are important for the operations of any organization in preventing errors, malpractice and financial loss. In estate agencies, financial transactions occur frequently with regard to the receipt of deposits and commission paid by clients, the sharing of commission with agents, the claim by staff for reimbursement of expenses, the payment for various goods and services received, etc. The control measures highlighted in this chapter should be adopted by estate agencies to take forward an effective accounting control system.

5.2 General Controls

	Company	Staff
☐ Maintain complete and systematic accounting records showing all the transactions of the company, its assets and liabilities, etc. All transaction records and books must be accurate and maintained in accordance with the relevant laws.	✓	✓
☐ Lay down in operational guidelines the procedures for the handling of money (e.g. reimbursement of expenses to staff, clients' payment) and, in particular, those in cash, for strict compliance by staff.	✓	
☐ Specify the level of staff and their responsibilities for approving transactions which involve the receipt or payment of money (e.g. reducing the commission charged on a property transaction).	✓	
☐ Appoint independent staff, where resources permit, to conduct random checks to ensure compliance with the required procedures.	✓	
☐ Assign different staff members to take up different duties involving monetary transactions as far as practicable. Segregate the duties of receiving payments from clients (e.g. commissions), issuing receipts to clients, checking bank statements for reconciliation and bookkeeping as far as practicable.	✓	

	Company	Staff
☐ Remind staff that it is an offence under Section 9(3) of the Prevention of Bribery Ordinance for any agent (e.g. staff), with intent to deceive his principal (i.e. the estate agency or the client he represents), to use any receipt, account or other document which contains any statement which is false or erroneous or defective in any material particular with intent to mislead the principal *(⚖ **Prevention of Bribery Ordinance**)*. The management of the company should ensure that there is a proper system to prevent such incidents.	✓	✓

5.3 Handling of Clients' Money

☐ Keep proper accounts for handling the money received from or held for clients *(⚖ **Practice Regulation, Section 12**)* and lay down the procedures concerned for staff's compliance.	✓	✓
☐ After receiving money from a client, retain a copy of receipt issued to the client for review or audit (for not less than three years) *(⚖ **Practice Regulation, Section 12**)*.	✓	✓
☐ Deposit all money received from or for a client into a trust account maintained at an authorized institution within a specified time frame to minimize risks of embezzlement.	✓	✓
☐ After the deposit of clients' money into a trust account, retain a copy of the deposit slip (for not less than three years after the deposit was made) *(⚖**Practice Regulation, Section 12**)*.	✓	✓
☐ Ensure that any deduction from clients' money should be made only with the written permission from the client *(refer to ✚ **RICS REABS Chapter 8**)*.	✓	✓
☐ Withdraw money from a trust account only for making payment to a client or in accordance with the client's instruction, and by a cheque or by electronic transfer *(⚖**Estate Agents Ordinance, Section 43 & Practice Regulation, Section 12**)*.	✓	✓

	Company	Staff
☐ Direct deduction of fees from a client's account or from sale proceeds by a lawyer must not be done without prior authority of the client.	✓	✓
☐ Advise clients in writing that the company/agent will not be liable to repay lost money through bank failure *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Bank charges should not be debited from a client's account but from the company's office account *(refer to* ***RICS REABS Chapter 8****)*.	✓	✓
☐ Ensure that the identity of the vendor and the owner is the same before releasing any deposit money for the sale and purchase / lease of a property. If the identity of the vendor and the owner is different, ensure that the vendor is authorized to sell the property *(****Practice Regulation, Section 12****)*.	✓	✓

*(****Chapters 4.22 & 4.23****)*

5.4 Sharing of Commissions with Staff

☐ Lay down guidelines and make known to all staff the policies and procedures for sharing commissions with staff, including the eligibility criteria, the method of calculation (e.g. commission rates, "jumping bar" system) and time of payment, etc.	✓	
☐ Require the staff involved in estate agency work to accurately and clearly record the property transactions handled by them.	✓	✓
☐ Specify the eligibility criteria and circumstances under which a staff member is entitled to receive commission for a property transaction.	✓	
☐ Specify the person responsible for calculating the commission payable to staff.	✓	

	Company	Staff
☐ If staff are required to submit claims for commission earned, devise a standard form for their use, and include in the form (a) a clause declaring that the information they provide is true and accurate, (b) a declaration that they have not accepted any unauthorized commission or advantage from their clients or any other person, and (c) a warning against the criminal offence of making false claims or providing false information.	✓	
☐ Require a supervisor to check and certify that to the best of his knowledge, the commission claimed by his subordinates are for the transactions they handled and the amount claimed is accurate.	✓	✓ (supervisor)
☐ Assign independent staff to conduct surprise random checks to detect and deter any malpractice.	✓	

5.5 Reimbursement of Expenses

☐ Establish a system for reimbursement of the expenses incurred by staff in performing their official duties to ensure such expenses are justified and reasonable.	✓	
☐ Lay down the procedures for reimbursement of expenses, including: ◆ the eligibility criteria; ◆ the supporting documents required; ◆ the limit of expenses that may be incurred and claimed for reimbursement by each staff member; and ◆ the approving authority for different financial limits of the reimbursed expenses.	✓	
☐ Devise a standard form for staff to claim reimbursement of expenses.	✓	
☐ Include in the reimbursement claim form the claimants' declaration that the information they provide therein is true and accurate, and a warning against the criminal offence of making a false declaration.	✓	

	Company	Staff
☐ Segregate the duties of approving and releasing payments to staff as far as practicable.	✓	
☐ Require independent staff or supervisors to conduct surprise random checks to ensure compliance with the stipulated procedures.	✓	

5.6 Payment Procedures

☐ Set different authorization levels for approving payments or signing cheques of different financial limits.	✓	
☐ Stipulate the payment methods for different amounts of payment (e.g. by cheque or electronic transfer).	✓	
☐ Specify the documents required to support requests for payment (e.g. invoices).	✓	
☐ Put in place a mechanism to detect and deter undue delay in payment or double payments.	✓	
☐ Control cheque payments by requiring:	✓	
◆ all cheques to be crossed;		
◆ the signatories to verify cheques against the supporting documents before signing;		
◆ the signatories not to sign blank cheques; and		
◆ the cheques be issued in the order of their serial number, and all void cheques to be duly marked and retained for supervisory checks.		
☐ Ensure that all payments to be made:	✓	
◆ are supported by relevant documents (e.g. receipt);		
◆ contain certification by the responsible officers on the authenticity and accuracy of the payment requested; and		
◆ are checked by supervisors or an independent staff to confirm propriety.		

	Company	Staff
☐ Establish a petty cash imprest system for the reimbursement of small amount of expenses, with the following control measures: ◆ designate a staff member as the petty cash holder and set a cash holding limit (e.g. $5,000); ◆ release petty cash only upon receiving a written request (e.g. a petty cash voucher) with an invoice or a receipt duly certified by the designated authority; ◆ stamp "PAID" on the original supporting documents or form to prevent double payment; and ◆ require the claimants to acknowledge receipt of payments by signature.	✓	
☐ Issue an instruction to staff warning them against the provision of false or inaccurate information on any document supporting payment requests.	✓	
☐ Ensure physical security and computer security in connection with the payment process (e.g. securely keep blank cheque books and official chops, restrict users' access to the computer accounting or payment system, etc.).	✓	
☐ Maintain payment records and supporting documents in an orderly manner to facilitate supervisory checks and audits.	✓	
☐ Where resources permit, appoint the staff not involved in the payment process to review periodically accounting records with a view to detecting and deterring unauthorized payments, irregular expenditures, etc.	✓	

5.7 External Audits

☐ Depending on the scale of the company, appoint a professional accountant approved by senior management to conduct annual financial audit for the company.	✓	

CHAPTER 6

STAFF ADMINISTRATION

	Responsible Party	
	Company	*Staff*

6.1 Introduction

Human resources ("HR") are valuable assets of a company. HR management, including staff appointment, promotion, performance monitoring, etc., is important to ensure that all staff employed are well qualified, suitably deployed, and meet the standards of performance and conduct required. This chapter recommends the good practices for a fair, transparent and accountable staff administration system.

A Best Practice Checklist on Staff Administration is available for reference at the ICAC website www.icac.org.hk.

6.2 Policies and Guidelines

☐ Lay down guidelines and make known to all staff the policies and regulations for staff administration (e.g. salary and benefits, conduct and discipline, etc.).	✓	
☐ Set out the duties, core competency and other performance indicators for different ranks and posts of staff.	✓	
☐ Include in employment contracts a standard clause requiring staff to comply with the company's Code of Conduct (*Chapter 2.2*), and issue to each staff member a copy of the Code upon appointment.	✓	
☐ Establish a system to maintain up-to-date records of all staff (including copies of their licences and declaration of conflict of interest), and restrict access to authorized persons only.	✓	
☐ Lay down clear guidelines to ensure that there is no discrimination against any job applicant regarding sex, race, marital status, pregnancy, disability or family status.	✓	

		Company	Staff
6.3	**Staff Recruitment**		
☐	Lay down the policies and procedures for recruiting staff.	✓	
☐	Ensure that all staff recruitments and dismissals are processed by the HR department or designated staff of an appropriate senior level.	✓	
☐	Require the staff handling staff recruitments to declare conflict of interest (e.g. the personal relationship with a candidate) and draw up the follow-up action on such declarations received (e.g. abstaining from the selection process).	✓	
☐	Lay down the minimum entry requirements of each post and seek approval from the management as necessary.	✓	
☐	Conduct open recruitment exercises as far as practicable.	✓	
☐	Assign staff (preferably not those involved in the recruitment process if resources permit) to vet all applications against entry requirements.	✓	
☐	Retain all screened-out applications for review or audit.	✓	
☐	Pre-determine the selection criteria to ensure fairness and prevent allegations of favouring any particular candidate.	✓	
☐	In addition to qualities of professional qualifications, knowledge and skills, incorporate other qualities such as loyalty and honesty into the required core competencies of staff of all ranks and use them as the criteria for recruitment. Inform applicants of the relevant requirements.	✓	
☐	Depending on the scale of a company, appoint a recruitment panel (comprising the senior staff concerned and staff of HR department) to conduct selection interviews and recommend candidates for appointment.	✓	

	Company	Staff
☐ Where candidates are referred by serving staff, prohibit the latter from accepting any advantage from the candidates and require them to declare their relationships with the candidates at the outset.	✓	
☐ Document the assessment of each candidate, preferably using a standard form *(refer to* ***Appendix 7*** *for a sample form for a recruitment assessment interview).*	✓	
☐ For recruitment of agents, ensure that candidates hold a valid salesperson's or estate agent's licence and request them to produce the original licences issued by the EAA for verification. In case of doubt, check the Register of Licensees at the EAA office or the "Licence List" at the EAA's website (www.eaa.org.hk/search).	✓	
☐ Check that the licence of candidates has not been revoked or suspended by the EAA, and the licence conditions imposed (if any) are not in conflict with their duties before offering appointment.	✓	
☐ Ascertain from the person to be appointed whether he has been disciplined by the EAA.	✓	
☐ Do not appoint agents who have not renewed their licences to perform estate agency work *(****Estate Agents Ordinance, Section 39****).*	✓	
☐ Notify the EAA in writing within 31 days regarding the appointment or termination of appointment of a salesperson, a branch manager or director, or when an agent holding an estate agent's licence becomes or ceases to be a member of a partnership *(****Estate Agents Ordinance, Section 40****).*	✓	

6.4 Remuneration and Staff Benefits

☐ Lay down the remuneration and fringe benefits for all ranks of staff and seek endorsement from senior management.	✓	
☐ Seek approval from senior management for any offer which deviates from the standard remuneration package.	✓	

	Company	Staff
☐ Specify the criteria and formula for calculating salary adjustments and non-standard payments (e.g. commission).	✓	
☐ Inform staff of any other benefits available (e.g. training subsidies), the eligibility criteria and application procedures.	✓	
☐ Require any adjustment of salaries, non-standard payments and benefits to be approved by senior management.	✓	
☐ Adopt a fair mechanism (e.g. one based on years of service, sales turnover, etc.) to determine staff's benefit entitlement if necessary.	✓	

6.5 General Control and Staff Supervision

☐ Maintain proper records of the staff of each branch office, including copies of their licences, and update the records from time to time.	✓	
☐ Establish a system to ensure that agents renew their licences one to three months before the expiry date. Remind them of the offence of unlicensed practice and require them to produce the renewed licences for verification.	✓	✓
☐ Prohibit any agent who fails to renew his licence in time from undertaking estate agency work until he has obtained a valid licence.	✓	✓
☐ Require agents to inform the company as soon as practicable of any investigation, including the progress and results, by any law enforcement agencies or the EAA.	✓	✓
☐ Require agents to inform the company of the details of any disciplinary sanctions imposed by the EAA as soon as possible. The estate agency should investigate the matter and take measures to prevent the agent from breaching the rule or regulation again.	✓	✓
☐ Prohibit an agent whose licence has been suspended or revoked from doing any estate agency work during the suspension period or from the effective date of the revocation.	✓	✓

	Company	Staff
☐ Advise an agent who is fined by the EAA to pay the fine in time.	✓	✓
☐ Adopt measures to ensure compliance with the conditions attached to the agents' licences by the EAA , including the following: ◆ Advise an agent to acquire the specified continuing professional development scheme points within the specified period. ◆ If the condition prohibits an agent from being the manager of an office, terminate his managerial duties immediately. ◆ If the condition prohibits an agent from handling clients' money, assign other agents to handle clients' money on his behalf.	✓	✓
☐ Ascertain if any disciplinary sanctions or licence conditions have been imposed on agents by referring to the Government Gazette, and checking the Licence List and the website of the EAA. If this is found to be the case, take appropriate follow-up action.	✓	

6.6 Monitoring of Staff Attendance

☐ Put in place a system for recording staff attendance (e.g. attendance register, clocking machine, electronic access control system, etc.).	✓	
☐ Remind staff not to sign in/out for their colleagues as this is tantamount to falsifying records.	✓	✓
☐ Where an attendance register is used, ◆ require supervisors to draw a line beneath the last sign-in entry after the commencement of working hours to prevent false recording of reporting time; and ◆ keep the attendance register in a secured place to prevent unauthorized amendments.	✓	✓ (Supervisor)
☐ Require supervisors to conduct surprise/random checks on staff attendance regularly.	✓	✓ (Supervisor)

	Company	Staff
☐ Produce exception reports on irregularities (e.g. absence from duty) for management's information and follow-up action.	✓	
☐ Retain attendance records for a reasonable period to facilitate auditing if necessary.	✓	

6.7 Performance Appraisal

☐ Lay down and inform all staff of the core competencies and performance standards required of each rank or post of staff.	✓	
☐ Depending on the scale of a company, devise for each rank or post a standard appraisal form covering the core competencies to be assessed *(refer to* ***Appendix 8*** *for a sample performance appraisal form).*	✓	
☐ Require appraisal reports to be completed by the immediate supervisor and counter-signed by a more senior staff member or the district manager/regional manager/department head (if applicable).	✓	
☐ Allow staff to read the appraisal on their performance and seek interviews by more senior staff if they deem it necessary.	✓	
☐ Establish a channel for handling staff's requests for review of their performance appraisal.	✓	

6.8 Staff Promotion

☐ Lay down and inform all staff of the eligibility criteria for promotion.	✓	
☐ Depending on the scale of a company, appoint a promotion panel to assess the eligible candidates for promotion.	✓	
☐ Assess all eligible candidates based on pre-determined criteria, with reference to their appraisal reports for a specified period of time.	✓	
☐ Document the assessments or deliberations of the promotion panel.	✓	

	Company	Staff
☐ Provide a channel for unsuccessful candidates to seek review of the panel's decision.	✓	

6.9 Disciplinary Action

☐ Lay down and inform all staff of the misconduct warranting disciplinary actions.	✓	
☐ Establish procedures for deciding to take disciplinary actions, which should involve both senior staff of the branch and the HR department.	✓	
☐ Maintain proper records of disciplinary actions taken.	✓	
☐ Make available a channel for aggrieved staff to seek review of the decision to take disciplinary action against them or the severity of the disciplinary action.	✓	

6.10 Handling of Staff Complaints

☐ Establish a fair, transparent and effective system to handle staff complaints.	✓	
☐ Publicize the channels and adopt user-friendly procedures for staff to lodge complaints.	✓	
☐ Reassure the complainants that all information given will be handled in strict confidence.	✓	
☐ Record and follow up on all complaints as soon as practicable.	✓	
☐ Assign staff of an appropriate rank and not the subject of the complaint to investigate complaints.	✓	
☐ Maintain proper records of the investigation of each complaint.	✓	
☐ Seek the approval of a designated authority for any action to be taken before the completion of the handling of a complaint case.	✓	
☐ Inform the complainant of the outcome after investigation.	✓	

1. Licence

1.1 Unlicensed estate agency work

1.1.1	Any person or company engaged in estate agency work or operating an estate agency business must hold a valid licence granted by the Estate Agents Authority ("the EAA"); otherwise, the person or company may commit an offence.	Section 15; section 16; section 55(1)(a) and (b) of the Estate Agents Ordinance ("the Ordinance")
1.1.2	A licensee should note that he may commit an offence if he continues to be engaged in estate agency work or operate an estate agency business after the expiration of his licence.	

1.2 Mode of operation

1.2.1 Sole proprietorship

1.2.1.1	The sole proprietor of an estate agency business must be a licensed estate agent himself. According to the licensing requirements, the sole proprietor of the estate agency must also be a "fit and proper" person to hold a licence.	Section 15(1) and section 19(1) of the Ordinance

1.2.2 Partnership

1.2.2.1	Each partner who is engaged in estate agency work must be a licensed estate agent.	Section 15(1) of the Ordinance
1.2.2.2	At least one partner is a licensed estate agent.	Section 3(1)(c) of the Estate Agents (Exemption from Licensing) Order ("the Exemption Order")

1.2.2.3	Each partner must fulfil the relevant "fit and proper" requirement, regardless of whether or not he is engaged in the partnership as an estate agent.	Section 19(1) of the Ordinance; section 3(1)(b) of the Exemption Order

1.2.3 Company

1.2.3.1	A limited company carrying on estate agency business must hold an Estate Agent's Licence (Company).	Section 15(2) of the Ordinance
1.2.3.2	At least one director of the company must be a licensed estate agent.	Section 20(1)(a) of the Ordinance; section 8 of the Estate Agents (Licensing) Regulation ("the Licensing Regulation")
1.2.3.3	Each director who is engaged in a company's business as an estate agent must be a licensed estate agent.	Section 20(1)(a) of the Ordinance
1.2.3.4	The company must have a licensed estate agent who is in effective control of the company's business as an estate agent.	Section 20(1)(b) of the Ordinance
1.2.3.5	Each director of the company must fulfil the "fit and proper" requirement, whether as an individual or as a company and whether or not that director is engaged in estate agency work and holds an estate agent's licence.	Section 20(1)(c) of the Ordinance
1.2.3.6	The company itself must also fulfil the "fit and proper" requirement.	Section 20(1)(e) of the Ordinance

1.2.4 Employed salesperson

1.2.4.1	Any person employed by an estate agency as a salesperson must ascertain that his employer is a licensed estate agent; otherwise, he may commit an offence.	Section 16(1)(b) and section 55(1)(b) of the Ordinance

1.3 Renewal of licence

1.3.1 Term

1.3.1.1	A licensee should apply for the renewal of his licence one to three months prior to the expiration of the licence.	Section 23 of the Ordinance; section 13 of the Licensing Regulation

1.3.2 False declaration

1.3.2.1	A licence applicant must not make any statement or furnish any information which is false or misleading in a material particular in connection with any application for the renewal of his estate agent's or salesperson's licence; otherwise, he may commit an offence.	Section 55(1)(c) and (d) of the Ordinance

1.4 Other licence issues

1.4.1	A licensee must comply with all conditions attached to his licence.	Section 27(2)(f) of the Ordinance
1.4.2	A licensee must not use any name other than the one specified in his licence for or in connection with an estate agency business; otherwise, he may commit an offence.	Section 55(2)(a) of the Ordinance
1.4.3	A licensee must notify the EAA within 14 days if there is any change to his registered address.	Section 14(3)(a) of the Ordinance
1.4.4	If a licence has been lost, stolen, damaged or destroyed, a licensee should apply to the EAA for a replacement as soon as possible.	Section 11 of the Licensing Regulation

2. Carrying on estate agency business and engaging in estate agency work

2.1 Application for a "statement of particulars of business"

2.1.1	Before carrying on estate agency business, a licensed estate agent must apply for a "statement of particulars of business" for each place of business under a particular business name.	Section 10(1) of the Licensing Regulation

2.2 Informing the EAA of personnel changes

2.2.1	A licensee must notify the EAA by filling in the prescribed form within 31 days after he ceases to be engaged in estate agency work.	Section 40(1) of the Ordinance; Form 8 of the Schedule to the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation) ("the Practice Regulation")
2.2.2	A licensed estate agent must notify the EAA by filling in the prescribed form within 31 days after the employment or cessation of employment of a person as a salesperson.	Section 40(2) of the Ordinance; Form 9 of the Schedule to the Practice Regulation
2.2.3	A licensed estate agent must notify the EAA by filling in the prescribed form within 31 days after the appointment or termination of the appointment of a manager.	Section 40(3) of the Ordinance; Form 10 of the Schedule to the Practice Regulation
2.2.4	A company which holds an estate agent's licence must notify the EAA by filling in the prescribed form within 31 days after the appointment or termination of the appointment of a person as a director.	Section 40(4) of the Ordinance; Form 11 of the Schedule to the Practice Regulation
2.2.5	A licensed estate agent must notify the EAA by filling in the prescribed form within 31 days after he becomes or ceases to be a member of a partnership.	Section 40(5) of the Ordinance; Form 12 of the Schedule to the Practice Regulation

2.3 Identification

2.3.1	A licensed estate agent must state clearly and conspicuously in any letter, account, receipt, brochure, pamphlet, or other document and all advertisements issued by him or on his behalf the following: 2.3.1.1 the number of his licence or statement of particulars of business; 2.3.1.2 the business name as stated in the relevant statement of particulars of business; and 2.3.1.3 the place of business as stated in the relevant statement of particulars of business (advertisements other than brochures and pamphlets excepted).	Section 14(1)(b) and (c) of the Licensing Regulation
2.3.2	A licensee who uses any name other than the name specified in his licence when carrying out estate agency work may commit an offence.	Section 55(2)(a) of the Ordinance
2.3.3	A licensee must inform his clients that he is licensed and provide the number of his licence.	Section 5 of the Practice Regulation

2.4 <u>Retention of listings and offer records</u>

2.4.1	A licensed estate agent must keep a record of all listings of residential properties received and keep a copy of all estate agency agreements entered into in relation to residential properties for not less than three years after the listings were received or the agreements entered into.	Section 8(2)(a) of the Practice Regulation

2.4.2	Any authorized officer of the EAA has the right to inspect the record of listings of residential properties and copies of estate agency agreements entered into in relation to residential properties. A licensee must supply any information requested and answer any questions asked by an EAA officer in relation to such an inspection.	Section 8(2)(b) and (c) of the Practice Regulation
2.4.3	A licensee must keep a written record of all offers in respect of a residential property.	Section 11(d) of the Practice Regulation

2.5 <u>Handling clients' moneys</u>

2.5.1	A licensed estate agent must repay to a client all moneys, or any part thereof, received on account of that client or make payments in accordance with the client's written instructions; otherwise, he may commit an offence.	Section 43(1) and (3), and section 55(2)(c) of the Ordinance
2.5.2	When receiving moneys on account of a client, any person employed by a licensed estate agent as a salesperson must forthwith pay such moneys either to the licensed estate agent employing him or to a trust account maintained by that licensed estate agent; otherwise, he may commit an offence.	Section 43(2) and section 55(2)(d) of the Ordinance
2.5.3	A licensed estate agent must keep proper accounts as to all moneys received or held, or paid by him, for or on account of clients in relation to residential properties.	Section 12(1) of the Practice Regulation
2.5.4	A licensed estate agent must furnish to the EAA, if so required by the EAA, a certificate issued by a certified public accountant (practising) confirming whether or not he has kept proper accounts of moneys received or held or paid by him for, or on account of, clients in relation to residential properties.	Section 12(8) of the Practice Regulation

2.5.5	A licensed estate agent must issue a written receipt to a client immediately for any moneys or commission received in relation to a residential property, and must retain a copy of the receipt for no less than three years after it is issued.	Section 12(2) and section 14(3) of the Practice Regulation

2.6 Trust account

2.6.1	A licensed estate agent must deposit all moneys received or held for, or on account of, a client in relation to a residential property in a trust account maintained at an authorized institution. "Authorized institution" refers to banks, restricted licence banks or deposit-taking companies as described under the Banking Ordinance (Cap.155).	Section 12(3) and (4) of the Practice Regulation
2.6.2	A licensed estate agent shall not withdraw money from the trust account concerned, except: 2.6.2.1 in accordance with his client's instructions; and 2.6.2.2 by cheque or electronic funds transfer.	Section 12(5) of the Practice Regulation
2.6.3	A licensed estate agent who has neither received nor held money for, or on account of, a client during any financial year must send to the EAA a statutory declaration to that effect if required to do so and within such period as is specified by the EAA.	Section 12(6) of the Practice Regulation
2.6.4	A salesperson who in the course of work receives any moneys on account of a client must forthwith pay such moneys either to his employer or to a trust account maintained for such purpose; otherwise, he may commit an offence.	Section 43(2) and section 55(2)(d) of the Ordinance

2.7 Management and effective control

2.7.1	A licensed estate agent who carries on estate agency business must ensure that all individuals employed by him to carry out estate agency work hold a valid Estate Agent's Licence (Individual) or Salesperson's Licence.	Section 39(1) of the Ordinance
2.7.2	A licensed estate agent who carries on estate agency business must ensure that every one of his offices (whether principal office, only office, branch office, sub-office or otherwise) is under the effective and separate control and management of a manager appointed by him, and must ensure that the manager holds an Estate Agent's Licence (Individual). A person must not accept an appointment as a manager unless he is a licensed estate agent; otherwise, he may commit an offence.	Section 38(1) and section 55(1)(g) of the Ordinance
2.7.3	A licensed estate agent must establish proper procedures or systems to monitor and manage his business of doing estate agency work to ensure that his employees and other persons under his control comply with the Ordinance.	Section 15 of the Practice Regulation
2.7.4	When a company has committed an offence under the Ordinance and it is proved that the offence was committed with the consent or connivance of a director or other officer concerned in the management of the company, the director or officer will be guilty of the like offence.	Section 42 of the Ordinance
2.7.5	Where a manager has been appointed in accordance with section 38 of the Ordinance and acts in relation to a particular residential property, the provisions of section 36(1)(a)(i) to (vii) of the Ordinance (for details, please refer to paragraph 2.10.6) applicable to a licensed estate agent will also apply to him.	Section 38(3) of the Ordinance

2.8 Advertising

2.8.1	Under the Ordinance, "advertisement" includes every form of advertisement, whether to the public or not.	Section 2 of the Ordinance
2.8.2	A licensed estate agent issuing an advertisement must comply with the relevant requirements in the Licensing Regulation and Practice Regulation:	
2.8.2.1	He must state clearly in all advertisements, the number of his licence or the relevant statement of particulars of business and the business name as stated in the statement of particulars of business. If the advertisements are in the form of pamphlets or brochures, the place of business as stated in the statement of particulars of business should also be stated therein.	Section 14(1)(c) of the Licensing Regulation
2.8.2.2	In relation to advertisements for a residential property, he must not issue any advertisement relating to his estate agency business which includes any statement that is false or misleading in a material particular.	Section 9(1) of the Practice Regulation
2.8.2.3	In relation to the advertisements for a residential property, he must obtain the vendor's / landlord's written consent prior to the issue of an advertisement in respect of his residential property.	Section 9(2) of the Practice Regulation
2.8.2.4	In relation to advertisements for a residential property, he must not advertise a price / rental different from that instructed by his client.	Section 9(3) of the Practice Regulation

2.8.2.5	In relation to advertisements for a residential property which is to be sublet, he must expressly state that the property is to be sublet.	Section 9(4) of the Practice Regulation
2.8.2.6	In relation to advertisements for a residential property, he must remove all advertisements in relation to that residential property as soon as is practicable when the property is no longer available for sale or lease; or after the termination of the estate agency agreement concerned, whichever is the earlier.	Section 9(5) of the Practice Regulation
2.8.2.7	In relation to advertisements for a residential property, the above subparagraphs 2.8.2.4, 2.8.2.5 and 2.8.2.6 also apply to sub-listing agents.	Section 9(6) of the Practice Regulation

2.9 <u>Property information</u>

2.9.1 A licensed estate agent must, as regards a residential property for which he has entered into an estate agency agreement, ensure the following:

2.9.1.1	If he acts for the vendor, he must have in his possession information prescribed in Form 1 under the Practice Regulation (in the case of sale and purchase), or if he acts for the landlord, have in his possession information prescribed in Form 2 under the Practice Regulation (in the case of leasing).	Section 36(1)(a)(i) of the Ordinance
2.9.1.2	He must be reasonably satisfied as regards the accuracy of the prescribed property information.	Section 36(1)(a)(ii) of the Ordinance; section 3(3)(b) of the Practice Regulation

2.9.1.3	He must supply to the client the information required in the prescribed form.	Section 36(1)(a)(iii) of the Ordinance; section 3(2) of the Practice Regulation

2.10 <u>Estate agency agreements for residential properties</u>

2.10.1	Prescribed estate agency agreement forms:	Section 3(1) of the Practice Regulation
2.10.1.1	The agent and the vendor (Form 3 of the Schedule to the Practice Regulation)	
2.10.1.2	The agent and the purchaser (Form 4 of the Schedule to the Practice Regulation)	
2.10.1.3	The agent and the landlord (Form 5 of the Schedule to the Practice Regulation)	
2.10.1.4	The agent and the tenant (Form 6 of the Schedule to the Practice Regulation)	
2.10.2	Prescribed forms for the provision of residential property information and leasing information:	Section 3(1) of the Practice Regulation
2.10.2.1	Property Information Form for use in the sale and purchase of residential properties (Form 1 of the Schedule to the Practice Regulation)	
2.10.2.2	Leasing Information Form for use in the lease of residential properties (Form 2 of the Schedule to the Practice Regulation)	
2.10.3	Signing of estate agency agreements and explanation of provisions:	Section 6 of the Practice Regulation

2.10.3.1	A licensed estate agent who represents a vendor / landlord must enter into an estate agency agreement with the vendor / landlord (a) within 7 working days of accepting an instruction to sell or lease the residential property concerned; (b) prior to advertising the property for sale or lease; or (c) prior to signing an agreement for sale and purchase or a lease of the property, whichever is the earlier.	Section 6(1) of the Practice Regulation; Form 3 of the Schedule to the Practice Regulation; Form 5 of the Schedule to the Practice Regulation
2.10.3.2	A licensed estate agent who represents a purchaser / tenant must enter into an estate agency agreement with the purchaser / tenant prior to (a) arranging an inspection of the residential property concerned by the purchaser / tenant; or (b) signing an agreement for sale and purchase or a lease of the property, whichever is the earlier.	Section 6(2) of the Practice Regulation; Form 4 of the Schedule to the Practice Regulation; Form 6 of the Schedule to the Practice Regulation
2.10.4	A form must be completed in accordance with such directions and instructions in the form and accompanied by such documents as are specified in the form; and if the completed form is required to be provided to a specified person, so provided in the manner (if any), specified in the form.	Section 3(2) of the Practice Regulation
2.10.5	When supplying a form, a licensee must obtain the information required to be included in the form as soon as is practicable; and ensure the accuracy of such information and of any other information included in the form.	Section 3(3) of the Practice Regulation
2.10.6	A licensed estate agent must, as regards a residential property for which he has entered into an estate agency agreement ensure the following:-	Section 36(1)(a)(i) to (vii) of the Ordinance

2.10.6.1 If he represents the vendor / landlord, he must possess and fill in the property information prescribed in Form 1 (in the case of sale and purchase) or Form 2 (in the case of a lease).

2.10.6.2 He must be reasonably satisfied as regards the accuracy of the property information mentioned in subparagraph 2.10.6.1.

2.10.6.3 He must supply to prescribed persons the completed Form 1 (in the case of sale and purchase) or Form 2 (in the case of a lease) in accordance with the requirements for the said forms.

2.10.6.4 He must inform the vendor / landlord client of each offer received by him, except if the client has expressly instructed that he need not be informed of such offers, or the relevant provisions of the estate agency agreement are no longer applicable to him.

2.10.6.5 He must disclose to the client all pecuniary or other beneficial interest which the agent has in the property concerned, together with particulars of any benefit (including commission or any interest of any kind) in such property, which will accrue to the agent should the property be sold / leased.

2.10.6.6 If the agent concurrently acts for both the purchaser and the vendor or the landlord and the tenant, he must inform both clients that he is so acting, and provide to either client, at the request of that client, any information provided by the other client as regards the property concerned, unless the other client has expressly instructed him not to provide such information.

2.10.7	A licensee must, before a person who is not legally represented enters into an estate agency agreement in relation to a residential property, explain to the person the different types of agency appointment in the agreement and their respective implications and their effect on the person, and every term and condition set out in the agreement to ensure that the person is made aware of his rights and obligations. If the person does not understand his explanation, the licensee must recommend that the person seek legal advice.	Section 6(3) of the Practice Regulation
2.10.8	When presenting personally an unexecuted estate agency agreement in relation to a residential property for signature by a client, even if the document does not become an executed agreement after it is signed by the client, a licensed estate agent must nevertheless give the client there and then a copy of the unexecuted agreement and of any other document referred to in it.	Section 47(1) of the Ordinance
2.10.9	When sending an unexecuted estate agency agreement in relation to a residential property for signature by a client, a licensed estate agent must send a copy of the unexecuted agreement and of any other document referred to in it at the same time to the client whose signature is sought.	Section 47(2) of the Ordinance

2.10.10	When presenting personally an unexecuted estate agency agreement in relation to a residential property for signature by a client, if the document becomes an executed agreement after being signed by the client, a licensed estate agent must deliver there and then to the client a copy of the executed agreement and of any other document referred to in it.	Section 48(1) of the Ordinance
2.10.11	A licensed estate agent must give a client a copy of the executed estate agency agreement and of any other document referred to in it within 7 days following the execution of the estate agency agreement in relation to a residential property, unless subsection 48(1) of the Ordinance applies, or an unexecuted estate agency agreement was sent for signature by a client and, on the occasion when it was so signed, the document became an executed estate agency agreement.	Section 48(2) of the Ordinance

2.11 <u>Seeking instructions from clients</u>

2.11.1	When seeking instructions from a client, a licensee must not supply any information to the client which is false or misleading in a material particular in relation to a residential property.	Section 8(1) of the Practice Regulation
2.11.2	A licensee must not pass to a sub-listing agent any information about a vendor / landlord or his residential property supplied by the vendor / landlord without the prior written consent of the vendor / landlord.	Section 8(3) of the Practice Regulation

2.11.3	A licensee must not solicit instructions from a vendor / landlord if he knows, or ought reasonably to know, that the residential property concerned is subject to exclusive agency under an executed estate agency agreement, unless the licensee has drawn to the attention of the vendor / landlord that the vendor / landlord may be liable for an additional commission if he signs another estate agency agreement in respect of the property.	Section 8(4) of the Practice Regulation
2.11.4	A licensed estate agent must keep a record of all listings of residential properties received and a copy of all estate agency agreements entered into in relation to residential properties, for not less than 3 years after the listings were received or the agreements entered into, as the case may be. Any officer of the EAA, authorized in writing by the EAA, has the right to inspect such records. A licensee must answer any questions and supply any information requested by any officer of the EAA in relation to such an inspection.	Section 8(2)(a), (b) and (c) of the Practice Regulation

2.12 <u>Property inspection and viewing</u>

2.12.1	A licensee must assist in making arrangements for and accompany a purchaser / tenant for the inspection and viewing of a residential property (including a car parking space and common areas if applicable), unless otherwise instructed by the purchaser / tenant.	Section 10(a) of the Practice Regulation
2.12.2	A licensee must not arrange an inspection and viewing by any person of a residential property without the prior consent of the vendor / landlord of the property.	Section 10(b) of the Practice Regulation

2.12.3	Before the signing of an agreement for sale and purchase or a lease, a licensee must establish what is to be included in the sale or lease of the residential property concerned and prepare a written inventory thereof.	Section 10(c) of the Practice Regulation

2.13 <u>Conduct of negotiation</u>

2.13.1	A licensee must not claim that a purchaser / tenant has made an offer unless the offer exists.	Section 11(a) of the Practice Regulation
2.13.2	A licensee must ensure that the information and comparables on residential property prices and rentals supplied to a client do not misrepresent the value of the residential property concerned.	Section 11(b) of the Practice Regulation
2.13.3	A licensee must not exercise any undue influence on a vendor / landlord or a purchaser / tenant for the purpose of inducing him to enter into an agreement for sale and purchase or a lease.	Section 11(c) of the Practice Regulation
2.13.4	A licensee must keep a written record of all offers in respect of a residential property.	Section 11(d) of the Practice Regulation
2.13.5	A licensee must present an offer in respect of a residential property to a client for acceptance as soon as is practicable after receiving it.	Section 11(e) of the Practice Regulation
2.13.6	A licensee must inform a client of all offers received in the order he received them and present them in an objective and unbiased manner. A licensee is not obligated to disclose any further offers after the signing of an agreement for sale and purchase or a lease to the vendor / landlord in respect of a residential property.	Section 11(f) of the Practice Regulation; section 13(2)(b) of the Practice Regulation

2.14 Agreements for sale and purchase or leases

2.14.1	A licensee must, before a client who is not legally represented enters into an agreement for sale and purchase or a lease of a residential property, explain to the client the meaning of each clause therein and draw to his attention the meaning of any essential terms and provisions thereof. A licensee must recommend that the client seek legal advice if the client does not understand any part of his explanation	Section 13(1) of the Practice Regulation
2.14.2	A licensee must not continue to market a residential property after the signing of an agreement for sale and purchase or a lease in respect of the property, and is not obligated to disclose any further offers to the vendor / landlord concerning the property.	Section 13(2) of the Practice Regulation
2.14.3	A licensee must take practicable steps to ensure that the name of the vendor / landlord is correct for the purpose of avoiding any intentional impersonation of the owner when an agreement for sale and purchase or a lease of a residential property is entered into. If the vendor / landlord is an individual, the licensee should take a copy of the vendor / landlord's Hong Kong identity card or other identification document.	Section 13(3) of the Practice Regulation
2.14.4	A licensee representing the vendor / landlord of a residential property must, immediately before an agreement for sale and purchase or a lease of the property is entered into, cause to be carried out a land search in the Land Registry in respect of the property and provide a copy of the land search to the purchaser / tenant of the property.	Section 13(4) of the Practice Regulation

2.15 Commission

2.15.1	A licensee who acts as a sub-listing agent for a residential property must not demand payment of any commission from the client concerned of the principal agent.	Section 14(1) of the Practice Regulation
2.15.2	A licensee must not recommend to a client the use of services of any other person where a pecuniary or other beneficial interest may accrue to the licensee in consequence of the recommendation, or the use of the services by the client, without first disclosing that interest to the client at the time of the recommendation.	Section 14(2) of the Practice Regulation
2.15.3	A licensed estate agent must issue a written receipt to a client immediately for any commission paid by the client, and retain a copy of the receipt for not less than three years after it is issued. This regulation also applies to an invoice issued for any commission payable by a client.	Section 14(3) and (4) of the Practice Regulation

2.16 Assisting in an investigation by the EAA

2.16.1	Pursuant to section 28 of the Ordinance, the EAA may appoint an officer to investigate instances of non-compliance. When an investigation is being conducted, a licensee has the following duties:	Section 28 of the Ordinance
2.16.1.1	If required by the investigator, he must produce any record or document which is in his possession or under his control.	
2.16.1.2	He must give to the investigator an explanation or further particulars in respect of such record or document.	
2.16.1.3	He must give the investigator all assistance which he is reasonably able to provide.	

N.B. (1) Provisions relating to a property in the Practice Regulation are applicable to residential properties only.

(2) To obtain a better understanding of the provisions of the relevant legislation, agents should read the full text of the Ordinance, the Practice Regulation and the Licensing Regulation which shall prevail over this Best Practice Checklist. The relevant terms used in this Appendix I, such as “estate agency work”, “estate agency agreement”, “licensed estate agent”, “estate agent”, “salesperson”, “licensee”, etc., have the same meaning as those in the Ordinance, the Practice Regulation and the Licensing Regulation.

EXTRACTS OF THE PREVENTION OF BRIBERY ORDINANCE, CHAPTER 201

Section 9 – Corrupt transactions with agents

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.

(1) 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.

(2) 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 purpose 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 purpose 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

(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.

Section 2

"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 (Chapter 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.

RELATED LEGISLATION

	Relevant Provisions of the Legislation
Theft Ordinance	
• Any person who, by any deceit and with intent to defraud, induces another person to commit an act which results either in benefit to any person other than the second-mentioned person; or in prejudice to any person other than the first-mentioned person, commits the offence of fraud.	Section 16A(1), Chapter 210
Crimes Ordinance	
• Any person who without lawful excuse damages property belonging to another, intending to damage any such property or being reckless as to whether any such property will be damaged, commits an offence.	Section 60, Chapter 200
• Agents must avoid physical confrontation with other agents or passers-by or damaging property belonging to another while soliciting customers.	
• Any person who obtains access to a computer (a) with intent to commit an offence; (b) with a dishonest intent to deceive; (c) with a view to dishonest gain for himself or another; or (d) with a dishonest intent to cause loss to another, commits an offence.	Section 161, Chapter 200
Personal Data (Privacy) Ordinance	
• The personal data collected from a client by a licensee must be for the purpose of providing estate agency services, and must be collected by means which are lawful and fair, and may only be transferred to designated persons related to the purpose of collection for their use. He must obtain the prescribed consent of the client before using the client's personal data for any other purpose or before disclosing such information to a third party.	Data Protection Principles, Schedule 1, Chapter 486

- A data user who uses the personal data of a client for direct marketing purposes must ensure the following:
  - The first time he so uses the data, he must inform the data subject that the data subject is entitled to request him to cease using the data.
  - If the data subject so requests, he must cease using the data.

Section 34, Chapter 486

- In any direct marketing activity, the data user should provide the data subject concerned with the opportunity to "choose not to accept", i.e., the opportunity to choose not to receive communications from the data user. For instance, if the direct marketing is carried out through a mailing, the data subject should be provided with the opportunity to "choose not to accept", and a return address to state his choice. If the data subject decides to "choose not to accept", the data user must cease the use of the relevant data.

Housing Ordinance

- An agent must not aid or abet others to violate Section 27A of the Housing Ordinance. By virtue of sections 17B and 27A of the Housing Ordinance, if the alienation restrictions of the flats under the Home Ownership Scheme, the Private Sector Participation Scheme, the Tenants Purchase Scheme of the Hong Kong Housing Authority have not been removed, any agreement or other instrument purporting to sell or otherwise alienate the flat is void, unless the relevant sale and purchase agreement includes the special condition prescribed in the Schedule of the Ordinance (i.e., providing that the premium as assessed by the Director of Housing is to be paid to the Hong Kong Housing Authority prior to the assignment of the unit and within 28 days of the date of the agreement or within such period as may be otherwise stipulated by the Director), and any person entering into such an agreement or other instrument is guilty of an offence. The agent who aids or abets the commission of the offence may also be guilty of the same offence.

Schedule, Section 27A, Chapter 283

Organized and Serious Crimes Ordinance and Drug Trafficking (Recovery of Proceeds) Ordinance

• Every person has a duty to disclose to the Police and Customs any property that they suspect directly or indirectly represents the proceeds of a crime.	Section 25A, Chapter 455; section 25A, Chapter 405

Sex Discrimination Ordinance, Disability Discrimination Ordinance, Family Status Discrimination Ordinance and Race Discrimination Ordinance

• A person discriminates against another individual if he, on the ground of the other's sex, marital status, pregnancy, disability, care-giving responsibilities or race, treats the other less favourably than he treats or would treat any other person. He may contravene the law.	Sections 5 and 6, Chapter 480; section 6(a), Chapter 487; section 5, Chapter 527; section 4 Chapter 602
• In handling property transactions, agents should avoid committing any discriminatory act or conducting themselves in ways that prejudice any individual's right to accommodation.	

Public Health and Municipal Services Ordinance and Fixed Penalty (Public Cleanliness Offences) Ordinance

• Any person who posts bills and posters on Government land without the permission of the Secretary for Food and Health commits an offence. Similarly, any person who posts bills and posters on private property without the owner's or occupier's written consent commits an offence.	Section 104A, Chapter 132; Schedule 1, Chapter 570

Registration of Persons Ordinance

• Any person who, without lawful authority or reasonable excuse, has in his custody or possession another person's identity card commits an offence.	Section 7A (1A) and section 7A(2), Chapter 177
• Agents must not keep their clients' identity cards unless they have been given the authority to do so by these	

clients. Agents must, therefore, obtain their purchaser clients' authority before keeping their identity cards for verification of identity in preparing provisional agreements for sale and purchase between the developer and the purchaser.

Road Traffic Ordinance

• A pedestrian who in using any road negligently endangers his own safety or that of any other person commits an offence.	Section 48, Chapter 374
• Agents must avoid intercepting passers-by or vehicles on roads and creating a danger or nuisance on the road and to road-users.	

Offences Against the Person Ordinance

• Agents must avoid physical confrontation or fighting with other agents when promoting sales.	Section 39 and section 40, Chapter 212
• Any person who assaults another occasioning actual bodily harm is guilty of an offence.	

Mass Transit Railway By-laws, Mass Transit Railway (North-West Railway) Bylaw

• Any person who causes a nuisance to passengers on the railway premises, or sells any services, distributes any leaflet or solicits custom without authorization in writing from MTR Corporation Limited commits an offence.	Bylaw 25, bylaw 30 and bylaw 32, Chapter 556B; section 22(1)(d), section 26 and section 27, Chapter 556H

Summary Offences Ordinance

• Any person who in a public place, to the annoyance of any other person, importunes the person to give his custom to any business, commits an offence.	Section 6A, section 4A and section 4(5), Chapter 228
• Any person who without lawful authority or excuse sets out or leaves any thing which may obstruct, inconvenience or endanger any person or vehicle in a	

public place, commits an offence.

- Any person who without lawful authority or excuse causes any annoyance or obstruction in any public place by exposing any thing for sale in any street, commits an offence.

- Agents should avoid causing annoyance to passers-by by intercepting passers-by to solicit business, or obstructing passers-by by placing any advertising object in their way.

The above contains, among others, summaries of some key points of the related legislation. For a better understanding of the provisions, agents are advised to read the full text of the related legislation. The full text shall prevail over this Best Practice Checklist.

CODE OF ETHICS

Preamble

1. The following is the Code of Ethics promulgated by the Estate Agents Authority ("the EAA") for the purpose of providing guidance and directions in the conduct of estate agency work. It is the same version as the one issued on 1 January 2002.

2. Failure by licensees to observe and comply with the Code of Ethics may render them not being fit and proper persons under the Estate Agents Ordinance ("EAO") to hold licences which in turn may affect their eligibility to be granted or to hold or continue to hold their licences. Disciplinary action may be taken against them.

Code of Ethics

3.1 Compliance with the Law

3.1.1 Estate agents and salespersons shall refrain from activities during their practice which may infringe the law.

3.2 Good Understanding of Related Legislation and Requirements

3.2.1 Estate agents and salespersons should be fully conversant with the EAO, its subsidiary legislation, this Code of Ethics, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice.

3.2.2 Estate agents and salespersons should keep themselves informed of any laws, government regulations, essential facts and developments in the real estate market in order to be in a position to advise their clients in a responsible manner. They should strive to provide services and opinions based on knowledge, training, qualifications and experience in the real estate business.

3.3 Professional Knowledge and Competence Required

3.3.1 Estate agents and salespersons shall, in the course of business, provide services to clients with honesty, fidelity and integrity. They should protect their clients against fraud, misrepresentation or any unethical practices in connection with real estate transactions.

3.4 Ethical and Moral Standard During Practice and Responsibilities

3.4.1 Estate agents and salespersons, in engaging and accepting an appointment as an agent, should protect and promote the interests of their clients, carry out the instructions of their clients in accordance with the estate agency agreement and act in an impartial and just manner to all parties involved in the transaction.

3.5 Exercising Due Diligence

3.5.1 Estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence.

3.6 Minimizing Any Conflict of Interest Situations

3.6.1 Estate agents and salespersons should avoid accepting an appointment involving a property in which they have a beneficial interest.

3.6.2 Estate agents and salespersons shall, in the event of possible or potential conflict of interest (such as representing both the vendor and the purchaser), disclose to their clients that they are so acting. Any pecuniary or other beneficial interests in relation to the property shall be disclosed fully to all parties concerned.

3.7 Relationship Between Agents and Ethical Standards to be Observed in Conducting the Estate Agency Business

3.7.1 Estate agents and salespersons shall not seek unfair advantage over, nor injure directly or indirectly the reputation of, nor publicly disparage the business practice of other agencies.

3.7.2 Estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade.

3.7.3 Estate agents and salespersons should adhere to the principles of fair competition and refrain from restrictive business practices.

SAMPLE CODE OF CONDUCT

Introduction

1. *(The name of estate agency)* (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[11] of the Company at all times. This Code sets out the basic standard of conduct expected of all directors (if applicable) 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

Prevention of Bribery Ordinance

2. Under the Prevention of Bribery Ordinance (the Ordinance), any director or staff member who, without the permission of his employer or principal (i.e. the Company and client), solicits or accepts an advantage as a reward or inducement for doing any act or showing favour in relation to the latter's business, commits an offence. The person offering the advantage also commits an offence.

(The relevant provisions of Section 9 of the Ordinance and the definition of "advantage" are detailed at ***Annex 1***.)

Acceptance of Advantage

3. It is the Company's policy that directors and staff, in their private capacity, should not solicit or accept an advantage from any person, company or organization having business dealings with the Company, except that they may accept (but not solicit) the following advantages when offered on a voluntary basis:

(a) advertising or promotional gifts or souvenirs of a nominal value; or

(b) gifts given on festive or special occasions, subject to a maximum limit of $_____ in value; 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; or

(d) gifts or souvenirs of nominal value presented to them in official functions.

No director or staff member should, in his/her private capacity, accept any advantage from a subordinate, except those mentioned in paragraphs (a) and (b) above.

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[11] *"Staff" cover full-time, part-time and temporary staff, except where specified.*

4. Gifts or souvenirs described in paragraph 3(d) above are deemed as offers to the Company. The directors and staff members concerned should report the acceptance to the Company and seek direction as to how to handle the gifts or souvenirs from *the approving authority*[12] using Form A (***Annex 2***). If a director or staff member wishes to accept any advantage not covered in paragraph 3, he/she should also seek permission from *the approving authority* using Form A.

5. However, a director or staff member should decline an offer of advantage if acceptance could affect his/her objectivity in conducting the Company's business or induce him/her to act against the interest of the Company, or 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 in the course of carrying out the Company's business, he/she should also comply with any additional restrictions on acceptance of advantage that may be set by the client.

Offer of Advantage

7. Directors and staff are prohibited from offering advantages to any director or staff of another company or organization, for the purpose of influencing such person or company in any dealings, or any public official, whether directly or indirectly through a third party, when conducting the Company's business.

Entertainment

8. As defined in Section 2 of the Ordinance, "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 behaviour, a director or staff member should avoid accepting overly lavish or frequent entertainment from persons with whom the Company has business dealings (e.g. suppliers or contractors) or from his/her subordinates to avoid placing himself/herself 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, give a true representation of the events or business transactions as shown in the documents. Intentional use of documents containing false information to deceive or mislead the Company, regardless of whether there is any gain or advantage involved, may constitute an offence under the Ordinance.

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[12] *Specify the post of the approving authority in the Code and the Form.*

Compliance with Laws of Hong Kong and in Other Jurisdictions

10. 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.

Conflict of Interest

11. 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 the perception of such conflicts. They should not misuse their position or authority in the Company to pursue their own private interests which include both financial or personal interests and those of their family members, relatives or close personal friends. When actual or potential conflict of interest arises, the director or staff member should make a declaration to the management through the reporting channel using Form B (***Annex 3***).

12. Some common examples of conflict of interest are described below but they are by no means exhaustive:

(a) An estate agent handles a property transaction in which he, his relative or his friend has a pecuniary or beneficial interest in the property.

(b) A staff member involved in a procurement exercise is closely related to or has financial interest in the business of a supplier who is being considered for selection by the Company.

(c) 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 staff member involved in the process.

Use of Company Assets

13. Directors and staff in charge of or having access to any Company assets, including funds, property, information, and intellectual property, should use them solely for the purpose of conducting the Company's business. Unauthorized use, such as misuse for personal gain, is strictly prohibited.

Confidentiality of Information

14. Directors and staff should not disclose any classified information of the Company without authorization or misuse any Company information (e.g. unauthorized sale of the information). Those who have access to or are in control of

such information, including information in the Company's computer system, should at all times protect the information from unauthorized disclosure or misuse. Special care should also be taken in the use of any personal data, including directors', staff's and customers' personal data, to ensure compliance with the Personal Data (Privacy) Ordinance.

Outside Employment

15. Any full time staff who wish to take up employment outside the Company, must seek the prior written approval of *the approving authority*, (post of designated senior staff). The approving authority should consider whether the outside employment would give rise to a conflict of interest with the staff's duties or the interest of the Company.

Relationship with Suppliers, Contractors and Customers

Gambling

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

Loans

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

[*The Company may wish to include other guidelines on the conduct required of directors and staff in their dealings with suppliers, contractors, customers, and other business partners as appropriate to specific trades.*]

Compliance with the Code

18. It is the responsibility of every director and staff member of the Company to understand and comply with this Code, whether performing his company duties in or outside Hong Kong. Managers and supervisors should also ensure that the staff under their supervision understand well and comply with this Code.

19. Any director or staff member in breach of this Code will be subject to disciplinary action, including termination of appointment. In cases of suspected corruption, a report will be made to the ICAC, and of other criminal offences, to the appropriate authority.

20. Any enquiries about this Code or reports of possible breaches of this Code should be made to (post of designated senior staff).

_____

(*Name of Company*)

Date :

Extracts of the Prevention of Bribery Ordinance

Section 9

(3) 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 –

(c) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or

(d) 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.

(4) 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 –

(c) 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.

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

(d) in respect of which the principal is interested; and

(e) which contains any statement which is false or erroneous or defective in any material particular; and

(f) which to his knowledge is intended to mislead the principal,

shall be guilty of an offence.

(6) 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).

(7) For the purpose of subsection (4) permission shall –

(c) be given before the advantage is offered, solicited or accepted; or

(d) 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 purpose of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 2

"Advantage" means :

(g) 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;

(h) any office, employment or contract;

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

(j) 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;

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

(l) 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

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.

Annex 2
Form A

(Company Name)
REPORT ON GIFTS RECEIVED

Part A – To be completed by Receiving Staff

To : (Approving Authority)

Description of Offeror :
Name & Title of Offeror : _____
Company : _____
Relationship (Business / Personal) : _____

Occasion on which the Gift
was / is to be received : _____

Description & (assessed) value of the Gift : _____

Suggested Method of Disposal :	***Remark***
( ) Retain by the Receiving Staff	_____
( ) Retain for Display / as a Souvenir in the Office	_____
( ) Share among the Office	_____
( ) Reserve as Lucky Draw Prize at Staff Function	_____
( ) Donate to a Charitable Organization	_____
( ) Return to Offeror	_____
( ) Others (please specify) : _____	

_____
(Name of Receiving Staff)
(Date) (Title)

Part B – To be completed by Approving Authority

To : (Name of Receiving Staff)

The recommended method of disposal is ***approved / not approved***. *The gift(s) concerned should be disposed of by way of : _____

_____
(Name of Approving Authority)
(Date) (Title)

** Delete as appropriate.*

Annex 3

Form B

(Company Name)
Declaration of Conflict of Interest

Part A – Declaration *(To be completed by Declaring Staff)*

To : (Approving Authority) via (supervisor of the Declaring Staff)

I would like to report the following actual/potential* conflict of interest situation arising during the discharge of my official duties:-

Persons/companies with whom/which I have official dealings
My relationship with the persons/companies (e.g. relative)
Relationship of the persons/companies with our Company (e.g. supplier)
Brief description of my duties which involved the persons/companies (e.g. handling of tender exercise)

_____
(Name of Declaring Staff)
(Date) (Title / Department)

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

To : (Declaring Staff) via (supervisor of the Declaring Staff)

Acknowledgement of Declaration

The information contained in your declaration form of _____(Date)_____ is noted. It has been decided that:-

- ❑ You should refrain from performing or getting involved in performing the work, as described in Part A, which may give rise to a conflict.
- ❑ You may continue to handle the work as described in Part A, provided that there is no change in the information declared above, and you must uphold the Company's interest without being influenced by your private interest.
- ❑ Others (please specify) : _____

_____
(Name of Approving Authority)
(Date) (Title / Department)

* *Delete as appropriate.*

SIGNS OF POSSIBLE IRREGULARITIES CONCERNING STAFF

Estate agencies should raise staff awareness of the potential risk of corruption and malpractice and provide them with guidance on the identification of the risk indicators. The following are some signs of possible irregularities or conditions of staff which may warrant the attention of the management.

Work Practices and Situations

- Insisting on performing a number of important tasks voluntarily, resulting in a lack of segregation of duties and the staff maintaining tight control over a process.
- Resisting to their work being reviewed by an independent party.
- Failing to maintain proper records or take actions as required (e.g. disclose conflict of interest situations to clients).
- Habitually deviating from the laid-down procedures, or a supervisor frequently exercising discretion to override controls with various excuses.
- Habitually providing excuses for their under-performance, frequent reduction in commission payable by their clients, or frequent revoking of transactions.
- Significant increase of complaints about the services provided by an estate agent, or notable decrease in his service quality.

Staff Personal Behaviour

- Having an extravagant lifestyle not commensurate with their income.
- Sudden changing of lifestyle or spending habit, e.g. new luxury car, new expensive accessories (e.g. watch), etc.
- Maintaining close relationship with clients or business partners, e.g. frequently take private pleasure trips with the staff of a client company.
- Accepting frequent or lavish entertainment from persons with official dealings, e.g. meals, visits to night clubs, karaokes, massage parlours, etc.
- Easily irritated, overly reactive or defensive to simple enquiry about work or conduct.
- Signs of depression, constant state of stress, pressure or tenseness.
- Signs of financial distress or indebtedness, e.g. calls or fax messages from a debt-collection agency or frequent borrowing from colleagues.

SAMPLE INTERVIEW ASSESSMENT FORM FOR APPOINTMENT OF STAFF

[Name of Estate Agency]

Name of candidate : _____

Date and time of interview: _____

Aspect and weighting of assessment[13]	**Score**
1. Work knowledge (30%)	
2. Relevant working experience (20%)	
3. Communication skills (30%)	
4. Supervisory ability and other job requirements, if applicable (20%)	
Total score (100%):	

Additional Remarks:

Recommendation:

☐ Suitable for appointment

☐ Not suitable for appointment

_____

(Signatures & Names of Assessment Panel Members)

[13] *The assessment aspects and weightings listed in the table are for illustration purposes only. The interview panel should draw up the assessment aspects and weightings, based on the nature and requirement (e.g. accounting qualification for accounting clerk) of the vacancies, before conducting the interviews.*

SAMPLE STAFF PERFORMANCE APPRAISAL FORM

[Name of Estate Agency]

Part 1 Personal Particulars

Name of Appraisee	
Staff Number (if any)	
Post	
Section	
Date of Employment	/ / (dd/mm/yyyy)
Period under Review	From / / To / / (dd/mm/yyyy)

Part 2 Record of Assessment/Review

	Appraisee	Supervisor
Name		
Signature		
Post		
Date (dd/mm/yyyy)		

Part 3 Performance Assessment[14]

	Rating (✓) (refer to guidelines on page 3)				
Attendance	5( )	4( )	3( )	2( )	1( )
Job knowledge and skills	5( )	4( )	3( )	2( )	1( )
Quality of work	5( )	4( )	3( )	2( )	1( )
Initiative and motivation	5( )	4( )	3( )	2( )	1( )
Team work	5( )	4( )	3( )	2( )	1( )
General conduct	5( )	4( )	3( )	2( )	1( )
Discipline	5( )	4( )	3( )	2( )	1( )

Overall Performance Rating

Substantially exceeds job requirements	**Exceeds job requirements**	**Meets job requirements**	**Partially meets job requirements**	**Does not meet most job requirements**
5( )	4( )	3( )	2( )	1( )

Special task taken up or commendation obtained by the appraisee during the appraisal period (to be filled by the Supervisor)

_____

_____

_____

Overall comments on performance (to be filled by the Supervisor)

_____

_____

_____

[14] *The assessment aspects listed in the table are for illustration purposes only. The Organisation should draw up the assessment aspects, based on the nature and requirement of the post, before conducting the performance appraisal.*

Assessment Areas	Rating Guidelines
1. Attendance	5 = No late for work or absence record, willing to take urgent duty at short notice 4 = No late for work or absence record 3 = Less than 3 times of late for work or absence record 2 = 3 times of late for work or absence record 1 = More than 3 times of late for work or absence record
2. Job knowledge and skills	5 = Substantially exceeds job requirements 4 = Exceeds job requirements 3 = Meets job requirements 2 = Partially meets job requirements 1 = Does not meet most job requirements
3. Quality of work	
4. Initiative and motivation	
5. Team work	
6. General conduct	
7. Discipline	5 = No disciplinary record, always follow supervisor's and working instructions 4 = No disciplinary record 3 = Less than 3 times of disciplinary record 2 = 3 times of disciplinary record 1 = More than 3 times of disciplinary record

ESTATE AGENTS AUTHORITY
48/F, Hopewell Centre, 183 Queen's Road East, Wanchai, Hong Kong

廉政公署 ICAC
Corruption Prevention Department
Independent Commission Against Corruption
303 Java Road, North Point, Hong Kong

J4946/12 E