



Practice Circular on First Sale of Residential Properties Order at First-sale Sites

Questions and Answers (Q&As)

Notes:

1. All references to:
 - a. “EAA” shall mean the Estate Agents Authority.
 - b. “EAO” shall mean the Estate Agents Ordinance.
 - c. “Practice Circular” shall mean Circular No. 16-02 (CR) issued by the EAA on First Sale of Residential Properties - Order at First-sale Sites.

The words and expressions used in these Q&As shall have, unless the context otherwise requires, the same meaning as those words and expressions have in the Practice Circular.

2. These Q&As are for general reference only. The answers/solutions suggested in the Q&As are not exhaustive and they do not constitute legal or professional advice. In considering whether a licensee has breached the Practice Circular, the EAA will consider each case on its own merits. You should seek legal or professional advice as and when necessary, especially on the interpretation of relevant legal provisions and specific advice on any individual case. The EAA makes no warranty as to the completeness of the information set out in these Q&As, or the appropriateness for its use in any particular circumstances. The EAA will not accept any liability or responsibility whatsoever for any loss or damage caused to any person howsoever arising from any use, misuse of, or reliance on the contents of these Q&As.



Q&As

Q1. Will an estate agency company or its management (e.g. directors or partners) be liable under the EAO if its non-licensed staff are engaged in unlicensed estate agency work at the first-sale sites?

Answer: Yes.

Under section 39 of the EAO, a licensed estate agent who employs or continues to employ as a salesperson, any person who for the time being is not the holder of an estate agent's or salesperson's licence, may commit an offence. The maximum penalty is a fine of \$500,000 and two years' imprisonment.

Moreover, under section 42, the director or other officer concerned in the management of the licensed estate agent may also be guilty of the same offence if it is proved that the offence was committed with the consent or connivance of such director or officer. The maximum penalty is a fine at level 6 (i.e. \$100,000) and six months' imprisonment.

Please refer to paragraph 8 of the Practice Circular.

Q2. Referring to paragraph 6 of the Practice Circular, may the estate agency company employer/controller appoint other supervisory officers to share the different responsibilities of the controller at the first-sale site?

Answer: Yes.

Estate agency company must assign a controller whose duty is to oversee all staff deployed to the first-sale site and their conduct in promotional activities. In this regard, estate



agency company and/or controllers must also ensure that the number of staff deployed to the sale site is commensurate with their ability to effectively manage the staff so deployed.

In the scenario mentioned in the question, the estate agency company concerned should have a policy in place on staff deployment to handle the situation. For example, if the controller has been assigned with other responsibilities apart from overseeing staff deployed to the first-sale site and their conduct in promotional activities, the estate agency company should, where necessary, appoint “functional supervisors” to help out with the other responsibilities of the controller, such that each functional supervisor would be assigned with specific duties (such that one will be responsible for arranging cashier orders for prospective purchasers, and another for sales arrangement with the developer etc.) so that the controller would be able to effectively perform his duty to oversee all staff deployed to the first-sale site and their conduct in promotional activities.

Q3. Paragraph 9(c) of the Practice Circular requires non-licensed staff members of an estate agency company to wear name tags at the first-sale sites. Can an estate agency company use other means to differentiate between its non-licensed staff and their licensed staff at the first-sale sites?

Answer: The estate agency company may use other means to differentiate their non-licensed staff and their licensed staff, such as neck straps of same background colour but with different patterns, but in any case, non-licensed staff must still wear a name tag (in compliance with the requirements set out in paragraph 9(c)(i) to (iv) of the Practice Circular)



prepared by their estate agency company employer at the first-sale sites.

Q4. Paragraph 9(d) of the Practice Circular mentioned a mentor arrangement for all non-licensed staff at the first-sale sites. Who can be that mentor in the arrangement and what are his responsibilities? Can you give an example?

Answer: The mentor must either be a holder of (a) an estate agent's licence (individual); or (b) a salesperson's licence with at least two years' estate agency experience, and he is required to supervise and monitor the conduct and performance of the non-licensed staff assigned to him by his estate agency company employer when the latter carry out activities at the first-sale sites. For example, he should ensure that the non-licensed staff under his supervision do not carry out unlicensed estate agency work or engage in conduct or activities which may contravene the law or the guidelines set out in the Practice Circular.

Q5. Regarding the mentor arrangement, can the estate agency company assign one mentor to supervise and monitor the conduct and performance of more than one non-licensed staff member at a time?

Answer: There is no requirement that one mentor can only supervise and monitor the conduct and performance of one non-licensed staff member at the first-sale site although such an arrangement would be desirable. Nevertheless, the estate agency company employer must ensure that the number of mentors so assigned is commensurate with their ability to effectively supervise and monitor the conduct and performance of non-licensed staff at the first-sale sites.



Q6. Regarding the record of staff deployment required to be submitted to the EAA at least one day before the launch of the first-sale as mentioned in paragraph 11 of the Practice Circular, should the estate agency company prepare one list containing the required information of all the staff to be deployed to the first-sale sites or separate lists (i.e. one for licensed staff members and the other for non-licensed staff members)?

Answer: There is no strict requirement on the number of lists to be submitted to the EAA. However, for clarity sake, separate lists, one for licensed staff members and the other for non-licensed staff members, should be submitted. Such lists must contain all the required information as set out in paragraph 11 of the Practice Circular.

In this regard, the EAA has prepared samples of “Record of Pre-sale Briefing for First Sale of Residential Properties”, “Staff Attendance Record of Pre-sale Briefing for First Sale of Residential Properties and List of Licensed Staff to be Deployed”, “List of Non-licensed Staff to be Deployed to First Sale Site”, and a sample name tag for non-licensed staff for the trade’s reference.

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