



Circular

Circular No. 18-03 (CR)

Guidelines on maintaining good order at first-sale sites:

- **Appoint a Commander-in-Chief to monitor and oversee the order and conduct of all staff deployed to first-sale sites.**
- **A Commander-in-Chief must be:**
 - (a) **a holder of an estate agent's licence (individual) ;**
 - (b) **(i) a holder of an estate agent's licence (individual) for a period of at least 10 years and has been working in a managerial role for at least five years; OR (ii) a sole-proprietor/partner/director of the estate agency company; and**
 - (c) **not a person having been subject to any disciplinary action within the last three years prior to his appointment as Commander-in-Chief.**
- **Compile and provide the EAA with the following documents at least one day before the launch of the sale for each development; and where the development is to be sold in phases, before the launch of each phase of the development for sale:**
 - (a) **a list of all staff to be deployed;**
 - (b) **a chain of command chart; and**
 - (c) **an internal policy on staff deployment and how to manage staff's conduct for maintaining good order at the first sale sites through the Commander-in-Chief.**
- **Keep a daily register of all staff who had reported for duty at the first-sale sites and provide the EAA with a copy forthwith upon request.**
- **Do not deploy non-licensed staff to the first-sale sites for any form of promotional activities.**
- **Wear Estate Agent card and/or staff card.**
- **Do not solicit business at railway stations.**
- **Do not solicit business at shopping malls, housing estates, carparks or other venues/places without the requisite permission.**
- **Do not intercept vehicles or distract drivers.**



- Do not obstruct public places with advertising hoardings, banners, etc.
- Do not be over-aggressive: e.g. stalking or persistent solicitation.
- Do not quarrel or fight with others.

Order at First-sale Sites of Residential Properties

The order and conduct of estate agents at first-sale sites have aroused considerable public concern consistently. It is of paramount importance that good order is maintained in the conduct of promotional activities in relation to the sale of first-hand units in a residential development. This Circular sets out the guidelines of the Estate Agents Authority (“EAA”) on the subject, and shall take effect on 1 December 2018. Circular No. 16-02 (CR) and paragraphs (2) and (3) of Circular No. 13-04 (CR) will be superseded on the same date; and the term “controller” or “controllers”, wherever appearing in other paragraphs of Circular No. 13-04 (CR) will then be deemed deleted therefrom and replaced by the term “Commander-in-Chief”.

General

(2) It is the responsibility of the management of estate agency companies¹ to establish proper procedures and systems to ensure that they maintain effective control of their staff deployed to locations relating to the sale of first-hand units in a residential development, including the sales site of the development, and the sales office and its vicinity (hereinafter collectively referred to as “**first-sale sites**”).

(3) Estate agency companies must ensure that only staff who are holders of estate agent’s or salesperson’s licence may carry out estate agency work or be engaged in any promotional activities in respect of the sale of first-hand residential properties.

(4) Licensees must act professionally and avoid any practice which may bring discredit and/or disrepute to the estate agency trade.

(5) No licensees other than those of the estate agency companies who are set out in the price list as estate agents or sub-agents of the vendor in the

¹ The term “estate agency company” or “estate agency companies” refers to those firms or companies which are licensed estate agents under the Estate Agents Ordinance.

sale of first-hand residential properties in a development may solicit business in connection with the development at the first-sale sites; and licensees of these estate agency companies who are not named by the estate agency companies concerned to be deployed to the first-sale sites must not engage themselves and estate agency companies must not allow such licensees to be deployed or engaged in any promotional activities for the development concerned.

Appointment of a Commander-in-Chief

(6) Each estate agency company must, for each development, and where the development is to be sold in phases, for each phase of the development, appoint a Commander-in-Chief (“CIC”) (who must satisfy the criteria set out in paragraph (7) below) to monitor and oversee the overall order and conduct of all staff deployed to the first-sale sites.

(7) The CIC mentioned in paragraph (6) above must fulfil the following criteria throughout the period of his appointment as the CIC of a development:

- (a) he holds an estate agent’s licence (individual);
- (b) (i) he has been a holder of an estate agent’s licence (individual) for a period of at least 10 years and has been in a managerial role for at least five years immediately prior to his appointment as the CIC for the development; **OR** (ii) he is a sole-proprietor/partner/director² of the estate agency company concerned; and
- (c) he has not been subject to any disciplinary action by the EAA within the last three years prior to his appointment as CIC.

(8) Estate agency companies must provide the name, licence number, contact details of the CIC and a letter issued by the estate agency company confirming the matters set out paragraph (7) above in respect of the CIC appointed by it to the EAA at least one day before the launch of the sale for each development, and where the development is to be sold in phases, before the launch of each phase of the development for sale. Any change to

² For the purpose of this Circular, “director” means a person named as a director of the estate agency company in the relevant documents filed at the Companies Registry.

the estate agency company's CICs (appointment or termination) must be notified to the EAA in writing as soon as practicable.

(9) Estate agency companies and the CIC must ensure that the number of staff deployed to the first-sale sites is commensurate with their ability to effectively manage the staff so deployed.

(10) The CIC shall be responsible for maintaining overall good order at the first-sale sites, and ensuring that all staff so deployed to the first-sale sites comply with the law and the EAA guidelines set out in this Circular and do not engage in any misconduct, particularly violent behavior which may bring discredit and/or disrepute to the estate agency trade; and he shall consider whether he has sufficient manpower to effectively manage the staff so deployed. In this regard, the CIC, acting on behalf of himself and his estate agency company, shall further be responsible to ensure that there are sufficient supervising staff, who must be licensees, at the first-sale sites (“**Supervisor(s)**”) working under him to help monitor and control the order and conduct of their staff so deployed to these sites.

(11) Estate agency companies, the CIC and Supervisor(s) must promptly handle all complaints and enquiries from the EAA and co-operate with the officers of the EAA in the maintenance of order at the first-sale sites.

Duties of Estate Agency Company, CIC and Supervisors in Ensuring Effective Control

(12) Under Section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (“**Practice Regulation**”), the owner and management of an estate agency company must establish proper procedures or systems to supervise and manage their business of doing estate agency work³.

(13) Estate agency companies are reminded that it is **not acceptable** to appoint a CIC in name only, where the CIC does not in reality participate in the monitoring and supervision of the activities of the staff deployed to the first-sale sites.

(14) The management of the estate agency company must have established proper procedures or systems to supervise and manage his

³ For detailed guidelines, please refer to Circular No. 15-01 (CR).

business of doing estate agency work. If any staff member engages in any misconduct (e.g. engaging in violence, intercepting vehicles or distracting drivers, obstructing public places with advertising hoardings or banners etc.) at the first-sale sites or fails to comply with the guidelines set out in this Circular, that might be an indication that the estate agency company, the CIC, Supervisor(s) of the non-compliant staff member, and/or person(s) having a supervisory role (e.g. superior(s) of the CIC) in the chain of command chart mentioned in paragraph 18(b) below had failed to establish or maintain proper procedures or systems, or adequate supervision or control of his staff to prevent or detect the misconduct or non-compliance; and they may be in breach of section 15 of the Practice Regulation. In such cases, the estate agency company, the CIC, Supervisor(s) and person(s) having a supervisory role in the said chain of command chart could be subject to disciplinary action, including suspension or revocation of licence.

No Deployment of Non-Licensed Staff to First-sale Sites

(15) Estate agency companies and/or the CIC should be aware that the presence of a large crowd of frontline licensees and non-licensed staff at first-sale sites has often caused disorder and disturbance to consumers. In many cases, the work and/or conduct of these non-licensed staff (e.g. distributing name cards, leaflets and/or providing property information to prospective purchasers and/or accompanying them to inspect show flats with a view to soliciting business) could amount to unlicensed estate agency work, which is **strictly prohibited** under the Estate Agents Ordinance (“EAO”).

(16) Under sections 15 and 16 of the EAO, a person shall not engage in estate agency work without holding a valid licence granted by the EAA, otherwise he may commit an offence⁴. Moreover, under section 39, 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 also commit an offence⁵, and 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.

⁴ The maximum penalty is a fine of \$500,000 and two years’ imprisonment (section 55(3)(a) and (b) of the EAO).

⁵ The maximum penalty is a fine at level 6 (i.e. \$100,000) and six months’ imprisonment (section 55(4)(b) of the EAO).

(17) To ensure that non-licensed staff would not fall into the trap of carrying out unlicensed estate agency work, estate agency companies **must not deploy non-licensed staff** to first-sale sites for conducting any form of promotional activities, regardless of whether such arrangement is allowed by the vendors of the development or not.

Record of Staff Deployment

(18) Estate agency companies and/or the CIC must, for each development, compile and provide the EAA with the following at least one day before the launch of the sale for each development, and where the development is to be sold in phases, the launch of each phase of the development for sale:

- (a) a list of all staff to be deployed to the first-sale sites (which must contain the information set out in paragraph (19) below) (“**deployment list**”);
- (b) a **chain of command chart** showing the reporting lines from the senior management of the estate agency company down to the CIC and ultimately to the frontline staff deployed to the first-sale sites, including all person(s) having a supervisory role in the said chain of command chart such as superior(s) of the CIC (with brief roles of each position mentioned in the chart and the full name and licence number of those responsible officers in the chain clearly set out); and
- (c) an **internal policy** on staff deployment and how they would manage their staff’s conduct for maintaining good order at the first-sale sites through the CIC.

(19) The deployment list referred to in paragraph (18) above must contain:

- (a) the full name and licence number of the CIC and the full name and licence number of his superior(s) mentioned in the chain of command chart;
- (b) the full names and licence numbers of the staff members;
- (c) the name of the branch office the staff member belongs to;

- (d) the full name and licence number of the Supervisor(s) of the staff member at the first-sale sites;
 - (e) the location to which the staff member is to be deployed (e.g. the sales office or the site of the development); and
 - (f) the duration of the deployment.
- (20) Estate agency companies and the CIC must also keep a daily register of all staff (containing such information as required under paragraph (19) above for that day) who had reported for duty at the first-sale sites and must forthwith provide the EAA with a copy of the daily register upon request.

Relationship with Vendor

- (21) All staff of estate agency companies deployed to the first-sale sites must co-operate with and observe the guidelines issued by the vendor of the development for the maintenance of order at the first-sale sites.
- (22) All staff of estate agency companies deployed to the first-sale sites must co-operate with and follow all lawful and reasonable instructions of the staff of the vendor for the maintenance of order at the first-sale sites.
- (23) The number of staff deployed to the first-sale sites must not exceed the number as may be specified by the vendor.

Estate Agent Cards/Staff Cards

- (24) All staff of estate agency companies deployed to the first-sale sites must wear an Estate Agent card and/or staff card.
- (25) All staff of estate agency companies deployed to the first-sale sites must co-operate with the officers of the EAA. They must follow all reasonable instructions of the EAA officers and must produce their Estate Agent card/staff card for inspection upon request.
- (26) Under the EAO, any person who without reasonable excuse, obstructs the EAA or any person in the exercise or performance of any of its or his functions, commits an offence⁶.

⁶ The maximum penalty is a fine at level 6 (i.e. \$100,000) and six months' imprisonment (section 55(3)(b) of the EAO).



Soliciting Business at Railway Stations

(27) Licensees must not conduct any business soliciting activities, intercept passengers or distribute leaflets at Mass Transit Railway stations, including station exits and ticket barrier areas.

(28) Licensees must note that any person who contravenes the following provision(s) of the Mass Transit Railway (“MTR”) By-laws (Cap. 556B), or Mass Transit Railway (North-west Railway) (“NWR”) Bylaw (Cap. 556H) commits an offence and is liable to the following penalties:

Section	By-law	Brief description of the relevant provision(s)	Penalty
25	MTR	No person shall conduct himself in any part of railway premises (except NWR premises) so as to cause a nuisance or annoyance to other passengers.	\$5,000 fine
30	MTR	No person, unless authorised in writing by the MTR Corporation Limited, shall offer for sale any services in or upon any railway premises (except NWR premises).	\$5,000 fine and six months imprisonment
32	MTR	No person shall, unless authorised in writing by the MTR Corporation Limited, distribute any book, leaflet or other printed matter on any part of railway premises (except NWR premises).	\$5,000 fine and three months imprisonment
22(1)(d)	NWR	No person shall at any time while upon NWR premises molest or wilfully interfere with the comfort or convenience of any person.	\$5,000 fine
26	NWR	No person on any part of NWR premises shall, except with the written authority of the MTR	\$5,000 fine



Section	By-law	Brief description of the relevant provision(s)	Penalty
		Corporation Limited, distribute any book, leaflet or other printed matter; or solicit custom.	
27	NWR	No person, unless authorised in writing by the MTR Corporation Limited, shall offer for sale any services in or upon any NWR premises.	\$5,000 fine and six months imprisonment

Soliciting Business at Shopping Malls, Housing Estates, Carparks or Other Venues/Places

(29) Licensees must not conduct business soliciting activities or distribute leaflets at shopping malls, housing estates, carparks or other venues/places, unless they have obtained the requisite permission from the owner and/or management office of the shopping mall, housing estate, carpark, or venue/place; and they must obey the instructions of the owner and/or staff of the management office of the shopping mall, housing estate, carpark, or venue/place when conducting any business soliciting activities there.

(30) Licensees must note that according to Section 6A of the Summary Offences Ordinance, any person who in a public place, to the annoyance of any other person, importunes such person to give his custom to any business, shall be guilty of an offence and shall be liable to a maximum fine of \$2,000 and to imprisonment for six months.

Intercepting Vehicles and Distracting Drivers

(31) Licensees must not in the course of soliciting business or conducting promotional activities stand on the carriageway or intercept/chasing vehicles, as this may endanger their own safety and the safety of drivers and other road users.

(32) Licensees must not place or stick any promotional leaflets or materials on any vehicles, whether such vehicles are on the road, inside a carpark or at any other places.

(33) Licensees must note that according to Section 48 of the Road Traffic Ordinance, a pedestrian who in using any road negligently endangers his own safety or that of any other person commits an offence and is liable to a fine of \$500.

(34) Licensees must not strike or impede vehicles or conduct themselves in a manner which may distract drivers heading for or passing by the first-sale sites: for example, waving promotional leaflets to beckon the drivers or passengers of the vehicles.

(35) Licensees must note that according to Section 60 of the 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 would be damaged, shall be guilty of an offence and liable on conviction upon indictment to imprisonment for ten years.

Obstruction of Public Places

(36) Licensees must not place folding tables, chairs, sun shades, banners or advertising hoardings on pavements, pedestrian-only streets and other public places, as such items may obstruct, inconvenience, cause annoyance to or endanger pedestrians and other road users.

(37) Licensees must note that according to Section 4A of the Summary Offences Ordinance, 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 shall be liable to a fine of \$5,000 or to imprisonment for three months.

(38) Licensees must also note that according to Section 4(5) of the Summary Offences Ordinance, 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 shall be liable to a fine of \$500 or to imprisonment for three months.

Behaviour towards Passers-by/Prospective Purchasers

(39) Licensees must not be over-aggressive when conducting promotional activities: for example, standing in the way of passers-by, stalking and persistent solicitation despite indication by the passers-by that

they are not interested in making any purchase, swarming prospective purchasers with licensees' business cards.

(40) Licensees must act professionally and must not exhibit a poor attitude or use abusive language towards other licensees; or a passer-by or prospective purchaser who refuses to give them business.

Behaviour towards Other Estate Agents, Salespersons and Other Persons

(41) Licensees must not quarrel, fight with or assault other estate agents, salespersons, passers-by or prospective purchasers.

(42) Licensees must note that according to Section 39 of the Offences Against the Person Ordinance, any person who is convicted of an assault occasioning actual bodily harm shall be guilty of an offence triable upon indictment and shall be liable to imprisonment for three years.

(43) Licensees must also note that under Section 40 of the same ordinance, any person who is convicted of a common assault shall be guilty of an offence triable either summarily or upon indictment and shall be liable to imprisonment for one year.

Offences / Disciplinary Action

Licensees who fail to comply with the above guidelines may be subject to disciplinary action by the EAA. Licensees should note that in cases where the conduct also constitutes a criminal offence, the offender may also be subject to disciplinary action by the EAA notwithstanding his criminal conviction.

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Holders of Statements of Particulars of Business
 must bring this Circular to the attention of all staff
 engaged in estate agency work