



Circular

Circular No. 10-02 (CR)

Guidelines on maintaining good order at first sale sites:

- **Appoint a controller to oversee staff deployed to first sale sites.**
- **Compile a list of the staff deployed and keep a daily register.**
- **Wear Estate Agent card and staff card.**
- **Do not solicit business at railway stations.**
- **Do not solicit business at shopping malls or housing estates 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.**

First Sale of Residential Properties (1)

Order at first sale sites

It is of paramount importance that good order is maintained in the conduct of promotional activities in relation to the first sale of residential properties. This Circular sets out the guidelines of the Estate Agents Authority (EAA) on the subject.

General

- (1) It is the responsibility of the management of estate agency companies to establish proper procedures and systems in order to maintain effective control of their staff deployed to locations for the promotion of the first sale of units in a residential development, including the site of the development, and the sales office and its vicinity (hereinafter collectively referred to as “the first-sale sites”).

- (2) Estate agency companies must ensure that, of the staff deployed to the first-sale sites, only those who are holders of estate agent's or salesperson's licence will carry out estate agency work.
- (3) Estate agency companies must handle complaints promptly and co-operate with the staff of the EAA in the maintenance of order at the first-sale sites.
- (4) Practitioners must act professionally and avoid any practice which may bring discredit and/or disrepute to the estate agency trade.
- (5) No estate agents or salespersons other than those of the estate agency companies who are appointed by the developer should solicit business in connection with the development at the first-sale sites.
- (6) Each estate agency company must assign an employee who is the holder of an estate agent's licence ("the controller") to oversee all the staff deployed to the first-sale sites. The estate agency company must provide the name and licence number of the controller to the EAA as soon as possible after the controller has been so assigned.

Record of staff deployment

- (7) Estate agency companies and/or the controller must compile a list of all staff to be deployed to the first-sale sites. The list must contain (i) the full name of the staff member, (ii) the licence number/staff number of the staff member, (iii) the name of the branch office the staff member is assigned to, (iv) the supervisor(s) of the staff member, (v) the location to which the staff member is to be deployed (e.g. the sales office or the site of the development), and (vi) the duration of the deployment.
- (8) Estate agency companies or the controller must provide the EAA with a copy of the staff list at least one day before the launch of the first-sale.
- (9) Estate agency companies and the controller must keep a daily register of all staff who report for duty at the first-sales sites. The register must contain (i) the full name of the staff member, (ii) the licence number/staff number of the staff member, (iii) the name of the branch office the staff member is assigned to, (iv) the supervisor(s) of the staff

member, (v) the location of the staff member deployed (e.g. the sales office or the site of the development), and (vi) the duration of the deployment.

- (10) Estate agency companies or the controller must forthwith provide the EAA with a copy of the daily register on request.

Relationship with developer

- (11) Practitioners must co-operate with and observe the guidelines issued by the developer for the maintenance of order at the first-sale sites.
- (12) Practitioners must co-operate with and follow all lawful and reasonable instructions of the staff of the developer for the maintenance of order at the first-sale sites.
- (13) The number of staff deployed to the first-sale sites must not exceed the number as may be specified by the developer.

Estate Agent cards/staff cards

- (14) All staff of estate agency companies who are deployed to the first-sale sites must wear an Estate Agent card and/or staff card.
- (15) All staff of estate agency companies who are 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. [N.B. Practitioners must note that under the Estate Agents Ordinance (Cap.511), 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 offence.]

Soliciting business at railway stations

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



- (17) Practitioners must note that any person who contravenes the following provision(s) of the Mass Transit Railway (MTR) By-laws, or Mass Transit Railway (North-west Railway) (NWR) By-law 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, unless authorised in writing by the MTR Corporation Limited, shall 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 Corporation Limited, distribute any book, leaflet or other printed matter; or solicit custom.	\$5,000 fine
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 and housing estates

- (18) Practitioners must not conduct business-soliciting activities or distribute leaflets inside or at the entrances of shopping malls or housing estates, unless they have obtained the requisite permission from the management office of the shopping mall or housing estate.
- (19) Practitioners 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

- (20) Practitioners must not stand on the carriageway or intercept vehicles, as this may endanger their own safety and the safety of drivers and other road users.
- (21) Practitioners 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.
- (22) Practitioners 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 of the vehicles.
- (23) Practitioners 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

- (24) Practitioners 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.

- (25) Practitioners 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.
- (26) Practitioners 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

- (27) Practitioners 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.
- (28) Practitioners must act professionally and must not exhibit a poor attitude towards a passer-by who refuses to give them business.

Behaviour towards other estate agents, salespersons and other persons

- (29) Practitioners must not quarrel or fight with other estate agents, salespersons or passers-by.
- (30) Practitioners 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.
- (31) Practitioners 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.

Practitioners who fail to comply with the above guidelines may be subject to disciplinary action by the EAA. Practitioners 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.

Furthermore, under Section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Practice Regulation), the employer and management of an estate agency must establish proper procedures or systems to supervise and manage estate agency work. If a frontline practitioner commits a breach of conduct in respect of the matters abovementioned, the employer and estate agency management, and indeed the controller, may be seen as not having established a proper system to manage their business. They would therefore be in breach of Section 15 of the Practice Regulation.

This Circular supercedes Circular No. 05-03 (CR) and Circular No. 07-06 (CR).

May 2010

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