



**The EAA to issue a practice circular
on protection of clients' personal data**

(20 September 2011) The issue of protecting personal data has aroused much public concern in recent years. In order to remind estate agents of the points to note on protection of clients' personal data when carrying out estate agency work, the Estate Agents Authority (EAA) will issue a practice circular on the subject to provide practical detailed guidelines for the trade to follow.

The practice circular covers the principles relating to the protection of personal data under the Personal Data (Privacy) Ordinance. It also provides detailed practical guidelines for the trade to follow when they collect and handle their clients' personal data in the course of their business.

Mr William Leung Wing-cheung, Chairman of the Practice and Examination Committee of the EAA, said, "estate agents have to collect and handle personal data of their clients in the course of carrying out estate agency work. For the purpose of protecting clients' personal data, it is of utmost importance that estate agents understand the Personal Data (Privacy) Ordinance and the importance of protecting personal data."

Mr Leung expected that the detailed practical guidelines in the circular would help estate agents better understand how to protect their clients' personal data in the course of business.

EAA Director of Regulatory Affairs & General Counsel Ms Eva Lau pointed out that the EAA has issued several practice circulars in relation to protection of personal data and guidelines on data security in the past. In order to facilitate practitioners to grasp the relevant guidelines and knowledge, the EAA consolidates and updates those practice circulars and guidelines, and issues the new one.

The EAA will meet the representatives of major estate agency companies and trade associations in the next two days, with a view to enhancing the trade's understanding of the practice circular and reminding



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the management of estate agencies to adopt appropriate measures to ensure their frontline staff comply with the guidelines. The EAA will also hold a seminar on 10 October, in which representatives from the Office of the Privacy Commissioner for Personal Data and the EAA will explain the content of the circular in detail to participating practitioners.

If a practitioner is found to have breached the guidelines stipulated in the practice circular when collecting, using and handling personal data, he may be subject to the disciplinary actions by the EAA. The management of related estate agency may also be held accountable for failing to properly supervise their staff.

The circular will take effect on 1 October 2011 and be available at the EAA website that day. Gist of the circular is in Annex.



Chairman of the Practice & Examination Committee of the EAA Mr William Leung and Director of Regulatory Affairs & General Counsel Ms Eva Lau brief the press on the new practice circular on protection of clients' personal data by estate agents.



Key points of the practice circular

A. Collection of Personal Data

- ÿ Practitioners should collect personal data from their clients only for a purpose necessary for the performance of estate agency work.
- ÿ On or before collecting personal data, practitioners should provide to their clients a Personal Information Collection Statement.
- ÿ The Statement should state clearly the purpose of data collection, 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.
- ÿ In the course of carrying out estate agency work, practitioners may need to collect identity card numbers and copies of identification documents from their clients. They should observe the guidelines issued by the Privacy Commissioner for Personal Data (PCPD).

B. Use of Personal Data

- ÿ Unless their clients voluntarily consent, estate agents should not disclose their personal data to another estate agency or use such data for their own private purposes.
- ÿ Practitioners should not sell or transfer personal data to a third party for monetary or in-kind gain, or otherwise, without the prior written consent of their clients.
- ÿ Practitioners introducing other services, such as legal or mortgage services, to clients should obtain their



expressed consent before transferring their personal data to the service suppliers.

- ÿ Practitioners may collect 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). They should note that the source of the information may specify the purpose for which the personal data may be used, and the source may even contain a specific prohibition against the use of the personal data for direct marketing activities.
- ÿ Practitioners should provide their clients with a written privacy policy statement stating the kinds of personal data held, the main purposes of using the personal data and the relevant policies.

C. Handling of Personal Data

- ÿ The management of estate agency companies should formulate a policy in which it will specify the period of retention of personal data.
- ÿ Practitioners should ensure that personal data collected should be erased and will not be used anymore after the fulfillment of the performance of the estate agency work for that client.
- ÿ Practitioners should take all practicable steps to keep documents securely and safeguard the documents from loss or unauthorized access by third parties.

D. Direct marketing

- ÿ Estate agents who use personal data for direct marketing



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for the first time should inform their clients that he may request the data user not to use his personal data.

- Y Estate agents should maintain an opt-out list of individuals who have chosen not to receive further marketing approaches.
- Y The opt-out list should be distributed to all staff who undertake direct marketing activities in the most practical and efficient way, such as by means of a computer network.
- Y Each office of an estate agency should maintain its own opt-out list and the head office should prepare a consolidated opt-out list for all offices.
- Y Estate agencies should also formulate guidelines on the undertaking of direct marketing activities by their staff and provide training to staff regarding proper marketing approaches.