

地產代理須小心處理個人資料

Estate agents must handle personal data with care



地產代理日常工作需處理不少客戶的敏感資訊，包括個人資料、合同細節、以及交易記錄。因此，持牌人必須遵守有關處理個人資料的相關規定，妥善處理相關資訊，這是保持專業的基石，提升行業公信力及專業形象。在今期《專業天地》，我們將提醒持牌人在這方面需要注意的重點。

In the daily work routine estate agents usually handle sensitive information of clients, ranging from personal data, contract details to transaction records. Therefore, it is very important for licensees to adhere to the related requirements when handling such personal data. It is a cornerstone of professionalism, fostering credibility and a professional image of the industry. In this issue of *Horizons*, we are going to remind licensees of the key points to note in this aspect.





處理個人資料常見的違規行為

儘管監管局已於執業通告（編號13-05(CR)）（「執業通告」）訂立清晰指引，但部分地產代理於執業時仍就客戶私隱作出了違規的行為。以下兩個問題尤為普遍：

Common malpractices in handling personal data

Despite clear guidelines mentioned in the EAA's Practice Circular 13-05 (CR) ("Practice Circular"), some estate agents still engage in malpractices involving their clients' privacy. Two prevalent issues stand out in particular:





非應邀促銷來電

監管局收到市民投訴，指收到來自地產代理的非應邀促銷來電。投訴人表示他們從未對物業服務感興趣或從未同意使用其聯絡資料。地產代理可能是透過第三方途徑或公共登記冊獲得電話號碼，但未有核實這些人士是否同意接收此類通訊。根據執業通告，持牌人應注意資料來源有否規定了個人資料使用的目的，甚至可能明確禁止使用相關個人資料於直接營銷活動。持牌人若超出指定目的或違反禁止使用條款使用相關個人資料，有可能違反《個人資料(私隱)條例》。

即使行使拒絕直接促銷請求仍然收到聯絡

另一項常見的違規行為是未能履行客戶的拒絕促銷請求。客戶已明確要求將其從營銷名單中移除，但仍然持續收到地產代理的電話或信息。這種忽視客戶決定的行為通常源於數據管理不善或缺乏內部溝通。根據執業通告，地產代理公司須備存一份所有已表示不希望再收到任何促銷服務的人士的名單(「拒絕服務名單」)，而此拒絕服務名單應以最可行及快捷的方法(例如利用電腦網絡)分派予所有進行直接促銷活動的員工，而拒絕服務名單應在收到資料當事人要求停止使用其個人資料時更新。否則，這除了違反了執業通告的要求，更會觸犯了《個人資料(私隱)條例》。

Unsolicited cold calls

The EAA received complaints from the public about receiving unsolicited cold calls from estate agents. Complainants stated that they have never expressed interest in property services or given consent to the use of their contact details. Estate agents may have obtained phone numbers from third-parties or public directories without verifying whether the individuals have consented to receive such communications. According to the Practice Circular, licensees 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. Licensees using the personal data so obtained beyond the specified purpose or against the specific prohibition may breach the Personal Data (Privacy) Ordinance.

Persistent contact despite opt-out requests

Another malpractice is the failure to honour clients' opt-out requests. Clients explicitly request to be removed from marketing lists but continue to receive calls or messages from estate agents. This ignorance of a client's decision is often driven from poor data management or poor internal communication. According to the Practice Circular, estate agency companies engaged in direct marketing activities should maintain a list of all individuals who have indicated that they do not wish to receive further marketing approaches ("opt-out list") and 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, and the list should be updated as and when an opt-out request is received. Failure to do so might not only violate the Practice Circular but also the Personal Data (Privacy) Ordinance.

使用人工智能處理 個人資料的風險

人工智能的興起為地產代理行業帶來提升工作效率的嶄新機遇，但也帶來處理客戶個人資料的風險。一些地產代理公司可能會使用第三方人工智能平台開拓潛在客戶、整合客戶資訊或自動化市場推廣活動。雖然這些工具可以簡化業務營運，但同時會涉及將客戶資料分享予人工智能服務端，引起對數據安全和合規的關注。

為減低這些風險，地產代理公司須制定清晰的指引，規定那些級別僱員獲准使用、那些裝置獲准許生成、及那些類型的資訊可輸入及禁止輸入人工智能工具。地產代理公司須實施嚴格的數據最小化政策並維持嚴格的安全設定，確保僅處理必要數據，並培訓員工如何識別敏感資訊。

違規的後果

違反《個人資料(私隱)條例》可能會遭受個人資料私隱專員公署的調查，可能導致該署的執法行動，包括罰款，甚至在嚴重情況下可能作出刑事檢控。同時，違規的持牌人及其公司亦可能受到監管局的紀律處分。

The risks of using AI in handling personal data

The rise of artificial intelligence (“AI”) tools in the estate agency industry has introduced new opportunities for efficiency but also generated potential risks in handling clients’ personal data. Some estate agency companies may use third-party AI platforms for tasks such as lead generation, customer profiling, and marketing automation. While these tools can streamline business operations, they involve sharing clients’ data with external AI providers, raising concerns about data security and compliance.

To mitigate these risks, estate agency companies must establish clear guidelines on what level of users are permitted to use, what kinds of working devices are permitted to access, and what types of information can be inputted into AI tools and the types of information that cannot be inputted. Estate agency companies should implement strict data minimisation policies and maintain stringent security settings, ensuring that only necessary data is processed and that employees are trained to recognise what constitutes sensitive information.

Consequence of non-compliance

Non-compliance with the Personal Data (Privacy) Ordinance can result in investigations by the Office of the Privacy Commissioner for Personal Data. It may lead to enforcement measures including monetary penalties or even criminal charges in severe cases. At the same time, the concerned non-compliant licensees and their companies might also face disciplinary actions by the EAA.

