

Draft: Block Management Sector Code, 1st edition
Response from Propertymark
September 2021

Background

1. Propertymark is the leading professional body for estate and letting agents, commercial agents, inventory providers, auctioneers and valuers, comprising nearly 18,000 members across the UK. We are member-led, with a Board which is made up of practising agents and we work closely with our members to set professional standards through regulation, accredited and recognised qualifications, an industry-leading training programme and mandatory Continuing Professional Development.

Questions

Is the Block Management Sector Code clear and easy to understand?

2. Propertymark considers the language and terminology used in the Block Management Sector Code (the Code) to be clear and easy to understand. The addition of key definitions and a glossary is beneficial, though whether there is need for elaboration on what constitutes a ‘complaint’ is questionable. There are, however, areas in which the legibility and coherence between the Code and the Overarching Code of Practice for Residential Property Agents (the Overarching Code) could be improved.
3. Consideration should be given as to whether Section 1 of the Code would more helpfully be titled ‘Overarching Standards’ as opposed to ‘Introduction’. Given that the clauses outlined in Section 1a of the Code largely summarise the standards outlined in the Overarching Code, Propertymark suggests that they should be listed in the same order for consistency and to avoid confusion. It should be made clear that clause x forms part of Section 2 (Managing Business and Staff) of the Overarching Code, rather than Section 1 as is inferred in the Code. It is unclear why clause xi has been included as a distinct clause when it forms part of clause vi (or 6g in the Overarching Code). Similarly, clause xii does not constitute a separate clause in the Overarching Code but is included in clause ii (5c in the Overarching Code). Additionally, the wording of clause xii should be rephrased and aligned with that used in the Overarching Code to avoid an inadvertent breach of the Code in the event that a client’s instructions are at odds with overarching legislation or regulations.
4. Consideration should be given as to whether inclusion of the full, unedited principles outlined in the Overarching Code as an annex to the Code would further aid understanding. The recently updated Code of Conduct for Property Factors, which applies to all registered property factors in Scotland, includes the overarching standards of practice and the resultant document provides a coherent and comprehensive set of principles for the industry. However, if the Code and Overarching Code remain distinct documents, inclusion of hyperlinks to the Overarching Code, where referenced in the Code, would strengthen the link between the two and go some way to ensuring awareness of the overall framework amongst users.

Do you find the structure of the Block Management Sector Code easy to follow?

5. Propertymark considers the Code's structure to be logical. However, the title of Section 2 (Sector Code for Managing Agents) is somewhat misleading and could result in users failing to recognise the importance of Section 1. Consideration should be given as to whether Section 2's title should be altered to 'Managing Businesses and Staff' to align with the Overarching Code. This would facilitate the understanding that the principles set out in both Sections must be adhered to in order to comply with the Code.

Do you think there is any content missing from the Block Management Sector Code?

6. Propertymark considers that the Code could be extended to clarify standards in three areas: firstly, the regulations regarding provision of information on insurance; secondly, requirements for Client Money Protection (CMP); and thirdly, to provide guidance on dealing with assignments and alterations. Given the provisions of the Landlord and Tenant Act 1985 (as amended) regarding any request made by a Recognised Residents' Association (RRA) for a written summary or inspection of an insurance policy, Propertymark feels that clause v under Section 11g does not adequately convey these obligations and refers only to supplying information "without delay". Neither is the legislation referred to in Section 6 regarding liaising with residents. Propertymark suggests that the requirements of the Landlord and Tenant Act 1985 and the associated time constraint should be outlined in Section 11g clause v and referred to in Section 6.
7. Section 11 of the Code makes reference to dealings with client money, and a definition of CMP is included in the Overarching Code's glossary, but there is no indication of the requirement for agencies undertaking property management work in England to belong to a Government-approved CMP scheme if they hold or handle client money. The Client Money Protection Schemes for Property Agents (Requirement to Belong to a Scheme etc.) Regulations 2019 outline the definition of a property agent as set out in the Housing and Planning Act 2016; since this is not cited in the Overarching Code, Propertymark suggests that it should be included in Section 11 of the Code so that users understand the requirements and their implications for consumer protection.
8. Propertymark suggests that the Code might be extended to include principles relating to dealing with matters such as assignments and alterations. As a minimum, managing agents should have appropriate processes in place to ensure that terms of any Lease are upheld and that approvals are granted for permissible requests from consumers in relation to assignments, alterations or other activities identified as requiring permission under a Lease. Additionally, the Code could also include standards on dealing with any breach of covenant or non-compliance with the Lease, enfranchisement and Lease variation. These matters might be best outlined under Section 6, in relation to liaising with residents.

Are there any points in the Block Management Sector Code that need further clarity or that should be expanded on?

9. Propertymark considers that the points covered by the Code are adequately explained.

Does the Block Management Sector Code adequately cover freeholders?

10. Yes, Propertymark considers that freeholders are appropriately referenced within the Code.

Is it clear what you should expect when dealing with a residential managing agent?

11. N/A

Is it clear how you should be treated when dealing with a residential managing agent?

12. N/A

Would you have more confidence in using a residential managing agent if you knew they had to abide by the code?

13. N/A

Have you experienced issues with banking arrangements, and should this be reflected in the Code?

14. N/A

If the obligation to follow the code was imposed by a future regulator on all managing agents, do you think that this would benefit your business?

15. N/A