

6. OTHER RELEVANT INFORMATION

INSPECTION OF PROPERTY AGENCIES

- 6.1. CEA conducts both scheduled and ad-hoc inspections on property agencies to ensure compliance with the EAA and its subsidiary legislation. In particular, through these inspections, CEA ensures that the property agencies fully comply with the Code of Practice for Estate Agents (COPEA), which covers the management and supervision of their property agents, the estate agent card, claims and complaints, as well as their retention of documents and records; and the Estate Agents (Prevention of Money Laundering and Financing of Terrorism) Regulations 2021, which prescribes measures to prevent money laundering and counter the financing of terrorism.
- 6.2. CEA also conducts inspections in response to public feedback of concerns that may potentially breach the EAA or its subsidiary legislation. During the inspections, CEA will conduct interviews with the Key Executive Officer and representatives from the property agency's management or support staff. The property agency may be asked to furnish relevant documents for inspection such as its standard operating procedures, forms, agreements, transactions or other records.
- 6.3. If CEA detects non-compliances during the inspection, or if CEA has reasonable grounds to suspect that an offence or disciplinary breach has been committed, CEA will take enforcement actions against the property agent or agency, depending on the facts and circumstances of the case.

SENTENCING APPROACH

- 6.4. When recommending the sentencing for offences and disciplinary breaches, CEA will assess the seriousness of the offence or breach based on relevant factors that affect the degree of harm and culpability involved. The assessment of harm includes the type and severity of the impact or consequences caused by the misconduct to any party, which may take various forms and include financial and non-financial consequences and the potential harm that could have resulted. The assessment of culpability involves the offender's degree of blameworthiness and depends on the circumstances of the case and how the misconduct occurred.

Factors to determine the seriousness of the offence or breach

Some examples of factors that CEA may consider (but are not limited to) include:

- The actual or potential impact caused, including the damage caused to public confidence in the real estate agency industry.
- The number of parties involved.
- Whether the offence or breach took place over a period of time.
- Whether the offence or breach was committed negligently or intentionally.
- Whether there was any intent to obtain a wrongful gain from the misconduct, or whether the offence or breach involved any other schemes of fraud, deception or unauthorised behaviour.
- Whether there were attempts by the property agent or agency to cover-up the offence or breach.

- 6.5. The proposed sentence will factor any amount of wrongful gain obtained by the property agent or agency through the misconduct.
- 6.6. CEA will also consider any aggravating or mitigating factors based on circumstances that involve the property agent or agency. These include personal circumstances that may potentially increase or reduce the proposed sentence.

Potential aggravating factors that may increase the proposed sentence

- The total number of charges brought against the property agent or agency.
- Lack of remorse by the property agent or agency.
- Past antecedents (e.g. disciplinary records or convictions).

Potential mitigating factors that may reduce the proposed sentence

- Actions taken by the property agent or agency to remedy the misconduct or situation, particularly if done on a voluntary basis.
- Actions taken by the property agent or agency since the offence or breach to prevent a similar occurrence of the misconduct in future.
- A timely plea of guilt taken by the property agent or agency, and/or any cooperation with CEA's investigation.

FIT AND PROPER CRITERION TO PERFORM ESTATE AGENCY WORK

- 6.7. Enforcement actions taken against property agents and agencies may impact their registration or licence with CEA. The key criterion for holding a property agent registration or property agency licence is the requirement that the property agent or agency has to be assessed to be a “fit and proper person”. To protect property consumers’ interests and uphold professional standards, CEA has a duty to ensure that only “fit and proper” persons are allowed to perform estate agency work.

Fit and proper criterion

Under Section 3(2) of the EAA, a person is not a “fit and proper person” if CEA is of the view that he is not such a person after considering any relevant facts or matters.

For example, a person shall not be a “fit and proper person” if, amongst others:

- he has been convicted of an offence involving dishonesty or fraud;
- he has had a judgement entered against him in civil proceedings involving a finding of fraud, dishonesty or breach of fiduciary duties on his part;
- he has been convicted of any offence under the EAA; or
- he is an undischarged bankrupt, in liquidation, or has made a composition or arrangement with his creditors.

- 6.8. The “fit and proper” criterion is not restricted to the four aspects listed above. CEA is entitled to consider all other relevant facts or circumstances that may impact a person’s fitness and propriety to hold a property agent registration or property agency licence, which include criminal convictions (under the EAA or other laws); civil judgements, or any other enforcement or regulatory action taken by CEA or other regulatory or enforcement bodies, such as the Housing and Development Board, the Urban Redevelopment Authority or the Inland Revenue Authority of Singapore. CEA will also consider convictions involving offences committed outside of estate agency work, as these may also impact a property agent’s or agency’s suitability to perform estate agency work.
- 6.9. If CEA determines that the property agent or agency is not “fit and proper”, CEA may take the appropriate regulatory action to revoke the registration or licence of the property agent or agency under Sections 54 and 55 of the EAA, or to reject their renewal for the next registration or licence period.
- 6.10. The revocation (or non-renewal) of a registration or licence is not intended to serve as a double punishment over and above any enforcement actions or sanctions for which the property agent or agency was found to be not “fit and proper”. As the industry regulator, it is CEA’s responsibility to protect consumers’ interests and ensure

sufficient rehabilitation of the errant property agent or agency before they are allowed to resume estate agency work. Such revocation (or non-renewal) is therefore a necessary regulatory measure.

- 6.11. Depending on the specific facts and circumstances of each case, the property agent or agency may require a period of rehabilitation for them to reflect, change and improve, so that they will not re-offend and pose any risk to consumers in the performance of estate agency work. CEA will evaluate and approve any applications to return to the industry upon sufficient rehabilitation, subject to the prevailing eligibility criteria for registration or licence.