



Personal
Managers'
Association

PMA CODE OF CONDUCT (for all PMA Members)

INTRODUCTION

This is the core PMA Code of Conduct applicable for all PMA members and represents the agreed standards that constitute good agent practice. Membership of the PMA is conditional on adhering to these standards.

Artists' Agents if you are looking for advice regarding clients moving from one agency to another please refer to the ADDITIONAL NOTES FOR ARTISTS' AGENTS (see page 3).

CODE OF CONDUCT

1. Membership of the Personal Managers' Association ('the PMA') shall be conditional upon the Member accepting this Code of Conduct.
2. Members may not claim to have authority to offer the services of or in any other way represent a client except with the specific consent of that client.
3. Members shall not undertake representation of a person who has previously been represented without making every reasonable endeavour to satisfy themselves that the said person has previously in writing terminated the earlier representation. He or she shall use their best endeavours to conclude a mutually satisfactory arrangement over commission that may continue to be payable to the previous agent.
4. Member's terms of business including current commission rate shall be clearly stated in writing and agreed at the commencement of representation ('the Agency Agreement'). Any variation in commission rate thereafter must be agreed with the client in writing.
5. Members in advising or negotiating on behalf of a client will be governed by no consideration other than a conscientious regard for the professional welfare of the client.
6. Members having any interest in any enterprise shall not negotiate for the services of or the property of a client for such enterprise without first disclosing the member's interest to that client.
7. Members shall operate a separate Clients' Account and, unless otherwise mutually agreed with clients, shall account for and remit all monies they receive on behalf of their clients within seven days of bank clearance.

8. Members shall allow their clients at all reasonable times the right to verify and authenticate any statement of their account and shall promptly and regularly provide their clients with full details of any transaction handled by them on their behalf.
9. Members shall use their best endeavours to provide their clients with information that the clients may reasonably request relating to their contracts negotiated by the Member.
10. Members shall comply with applicable data protection laws in respect of their clients' personal data and put in place reasonable technical and organisational measures to protect their clients' personal data and confidential information and which take into account the level of security appropriate to the risk.
11. Members shall not seek to enforce any time restriction in relation to a client's notice of termination of representation.
12. In the event of termination of the Agency Agreement and provided the member (or its heirs assigns or other successor in title) is able and willing to continue representation - that is, to fulfil monitoring, accounting, remitting and related services - the member is entitled to collect all monies and to take continuing commission in respect of and in accordance with contracts previously concluded with and on behalf of the client and appropriate commission in respect of contracts already initiated.
13. A member who believes another member is in breach of this Code may complain to the Council of the PMA ('the Council'). Such complaint shall be in writing to the Coordinator of the PMA and shall include full details of the alleged breach supported by documentary evidence wherever possible. The Council may reject a complaint (including on the grounds that insufficient details has been given) or refuse to mediate due to extenuating circumstances. If the Council in its absolute discretion is satisfied that the claim being made, if established, would constitute a breach, it will submit a full copy of the complaint to the member complained of, whose response or counter-claim shall be sent by the Council to the original complainant. The latter will then have twenty-one days in which to make any further representation in writing to the Council, which shall be copied to the member complained of, with a request for a further response.
14. In the event Council arbitrates a dispute between members and one or both parties refuse to abide by Council's decision then such member(s) should expect their membership will be revoked.
15. Should Council receive a complaint from a third party the provisions of clause 13 shall apply.
16. Members shall treat the affairs and conduct of the Personal Managers' Association as being private and confidential.

ADDITIONAL NOTES FOR ARTISTS' AGENTS

(for the Artists' Sector only, they are not intended for use by the D&D Sector)

Best Practice Guidelines for Commission split between Former and Current Agents

These notes are additional to the core PMA Code of Conduct, which all member agencies accept as a condition of membership. The notes lay out our recommendations regarding a client moving from one agent to another, including the protected projects letter and any commission splits. They are intended to cover the key issues that arise and propose best practice guidelines. They are not intended to cover the detail of all unique situations that might arise and must be viewed in tandem with the core PMA Code of Conduct and the agreement signed by the client with their former agent.

Notice Period

Clause 11 of the PMA Code of Conduct states: **Members shall not seek to enforce any time restriction in relation to a client's notice of termination of representation.**

We recommend you consider the distinction between the right to represent; and the right to commission. A notice period in your contract may entitle you to charge commission on an ex-client's earnings for a set period of time. However we take the position that once a client no longer wishes to be represented by you, you no longer have the right to represent that client. A notice period could therefore leave a client in a period of limbo, or in a position of paying double commission. It is the PMA's belief that this could represent a restriction of trade and is unreasonably punitive.

The spirit of our "no notice period" stance encapsulates an agent's duty of care and respect for talent. Note Clause 5 of the PMA Code of Conduct: **Members in advising or negotiating on behalf of a client will be governed by no consideration other than a conscientious regard for the professional welfare of the client.**

Mediation by PMA Council

In the event that agreement cannot be reached the PMA Council may be asked to advise or mediate (see Clauses 13 and 14 in the core code above) and will do so with full consideration for the PMA Code of Conduct and these notes.

In the first instance you are welcome to ask a PMA Council member for informal advice. The next step is Council mediation, where both sides of the dispute will be formally considered by the PMA Council. Both parties must be willing to abide by the Council's advice. If agreement can't be reached with PMA help, we advise you seek legal counsel.

Please consider PMA intervention only as a last resort, where reasonable agreement between former and current agent cannot be reached. We believe that agreement reached between the former and the current agents, which has the artists' interest at heart will almost always be the best resolution.

Finally remember that any conflict over a client's terms of business with their previous agent is a legal matter between the artist and their previous agent.

Best Practice Guidelines for Commission split between Former and Current Agents

When a client informs his or her agent (the former agent) of their wish to terminate their representation by that agent, it is the former agent's responsibility to put in writing to the new agent (wherever possible within 5 working days and, in any event, within a maximum of two weeks) the following information:

- the detail of all current/ongoing client contracts (which shall include option, extension and/or renewal provisions); and
- a list of all submissions (including availability checks) made on behalf of the client up to the date of termination, specifically the role(s) the client has been submitted for, and to whom, and whether a meeting has been arranged, or has occurred. Where the submission/availability check cannot be substantiated with documentary or other supporting evidence the former agent must accept that any claim to commission may be unsustainable; and
- and the new agent shall acknowledge receipt of the above and make known any queries within two weeks.

Original copies of contracts held by the former agent are the property of the client and should be released in accordance with the client's reasonable written instructions.

In negotiations undertaken by the new agent in relation to a project where commission is due to the former agent all details must be divulged in writing if requested.

TELEVISION and FILM

1. The former agent is entitled to all commission due on contracts concluded by them including Options. (Option: a legally binding agreement whereby a company may exercise a right to engage a client on pre-negotiated terms.) This applies where the original deal constitutes 1 original series and up to 2 options. For deals with more than 2 optional additional series, please see Sunset provisions 6.1 (i) (ii) and (iii) below.
2. The former agent is also entitled in perpetuity to commission due on all repeats, residuals, overseas sales and any other income directly derived from any contract concluded before termination at the level of fees negotiated by the former agent (including where relevant as increased by Equity on their members' behalf).
3. In the event such fees are re-negotiated by the new agent then the new agent will be entitled to 100% of all commission on the balance between the original and the newly re-negotiated fee.
4. In the event that an offer has been made, but no terms have been negotiated or the client moves mid negotiation then the former agent shall be entitled to all commission due on the engagement even though the terms of the relevant contract may be wholly negotiated by the new agent and the sunset provisions in note 6 below shall apply thereafter.
5. The former agent's commission rate shall apply (plus VAT as appropriate) wherever monies are due to the former agent under these notes.

6. SUNSET PROVISIONS *

That is, where a client continues in role beyond the former agent's contracted entitlement:

6.1 (i): Where the former agent has negotiated Option(s) for a Series they would get 100% of the commission on the fees they negotiated for optioned series up to 2 additional series over and above the original series; the new agent would get commission on any uplift they manage to negotiate.

(ii) where negotiated Options number more than 2 then the sliding scale below (6.2) applies ie: for 3rd optioned season/outing – 75% to former agent; for 4th optioned – 50%; for 5th optioned -25% and for 6th option and any further life of the series 10% in perpetuity, with any negotiated uplift over and above the original deal going to the new agent.

(iii) The key to getting this right is to note when in the process the client leaves the agent (whether voluntarily or otherwise); this structure would kick from point of departure.

- if a client leaves during series 1, the former agent would get 100% of the commission on the fees they negotiated for series 1 and optioned series 2 and 3. The sliding scale (6.2 below) applies from Series 4 etc.
- if a client leaves during series 2, the former agent would get 100% of the commission on the fees they negotiated for series 2 and optioned series 3 and 4. The sliding scale (6.2 below) applies from Series 5 etc
- If a client move agents between seasons the following shall apply:
 - a) If the client moves before the pick-up notice has been confirmed, the former agent shall receive 100% commission on the next 2 seasons before the sliding scale kicks in
 - b) If the client moves after the pick-up notice has been confirmed, the former agent shall receive 100% commission on the next 3 seasons before the sliding scale kicks in

6.2 For the first role reprisal / series / continuation of franchise ('outing') post options, the former agent shall be entitled to 75% for the first outing, 50% for the next, 25% for the next, and 10% thereafter in perpetuity.

6.3 Where no options had been negotiated the former agent shall be entitled to 75% commission for the first outing negotiated by the new agent, 50% for the next, 25% for the next, and 10% thereafter in perpetuity.

6.4 Where the former agent submitted the client for a role but no meeting has been achieved, the former agent shall receive 100% commission for the first outing/season, but no commission thereafter.

6.5 Commissions due to the former agent on repeat fees, overseas sales and other residuals in connection with the Series shall remain payable to the former agent pro-rata in perpetuity.

6.6 Long running series: If a client returns to a role within 2 years of having left a long running series (having changed agents in the interim) the sunset provisions shall apply upon returning. Thereafter, the former agent shall receive 10% of their original commission in perpetuity.

6.7 Where the former agent has negotiated Option(s) for a Series they would get 100% of the commission on the fees they negotiated for optioned series; the new agent would get commission on any uplift they manage to negotiate. This applies up to three series after departure from the former agent after which the slide outlined above applies.

*The sunset provisions were originally agreed based on UK three-series deals. SVOD has created longer deals, but the core principals of these provisions still stand.

THEATRE

1. The former agent shall be entitled to all commissions due on existing theatre contracts for the run of the production and on any contract for the same production if an extension or transfer occurs within twelve months of the end of the original term agreed by the former agent.
2. If a client returns to a production in the same role after twelve months, the former agent shall receive 10% of their original commission for this production and in perpetuity
3. Where the former agent submitted the client for a role and arranged a meeting or where the role was offered without a meeting 100% commission is due to the former agent for the length of the original contract and any extensions/reprisal under 7 shall apply.
4. Where the former agent submitted the client for a role but no meeting was arranged the former agent is due 100% for the length of the initial contract only.

TV (or CINEMA) COMMERCIALS

1. The former agent shall be entitled to all commissions due on any commercial arising from his or her duly notified submission together with commission due on any income directly derived, from overseas sales, cinema and stills usage. If fees for such additional usage are negotiated by the new agent, then the former agent shall still be entitled to 100% of the commission due from such negotiations.
2. The 'life' of a TV commercial is usually limited by contract. If the advertiser wishes to renew the contract and the client wishes the new agent to re-negotiate the contract, then the new agent shall be entitled to commission only on the balance between the original fee and the re-negotiated fee together with commission pro-rata due on any income directly derived therefrom.
3. In the case of a campaign of commercials, the former agent will continue to receive their commission in perpetuity save for the new agent will receive commission on any uplift they negotiate.

PMA Code and Additional Notes for Artists' Agents, timeline of amendments

- *Agreed April 1992*
- *Updated and ratified by PMA Council December 2013*
- *Introductions agreed by Council Committee, February 2019*
- *Updated and ratified by PMA Council, July 2020 (Sunset Provisions/SVOD)*