

2017-18

Annual Report 年報



**Ethics in
Personal Data Ecosystems**
個人資料生態系統中的倫理和道德

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PRIVACY COMMISSIONER'S MESSAGE

私隱專員的話



黃繼兒
香港個人資料私隱專員
Stephen Kai-yi WONG
Privacy Commissioner for Personal Data,
Hong Kong

「數據倫理和道德價值一般集中於公平、尊重及互惠。實際上是涉及真正的選擇、有意義的同意、沒有偏見或歧視，以及個人與機構之間的公平交易。」

"Data ethical values typically centre at fairness, respect and mutual benefits. In practical terms, they involve genuine choices, meaningful consent, no bias or discrimination and fair exchange between individuals and organisations."



這是我擔任香港個人資料私隱專員以來的第三份年報。2017-18 年度同樣是多姿多采、成果豐碩的一年。

數碼變革、資料生態系統演化的挑戰

自 2015 年上任以來，我見證了數碼變革及資料生態系統的蛻變過程，資料是透過一系列的基礎設施、分析工具及應用程式而收集和分析。儘管可以從中獲得真知灼見，但資料生態系統確實以我們難以想像的速度深深地影響著我們的日常生活。我們的「數碼身份」不斷變化。通訊及科技不斷創新，大數據、物聯網、雲計算、數據分析、機械人技術、機器學習、人工智能等重塑了人類及其生活，由休閒到學習、由無現金購物到開放銀行、由直銷電話到程式化廣告、由徵求同意到不知情的行為追蹤或個人資料彙編、由數據探勘到數據管治、由個人評核檔案到公共設施和醫療、由網絡安全到資料共享。透過服務及程式窺探人們的通訊，例如強迫人們接納被監視才可以讀取網上內容，這種情況將會受到 2019 年生效的歐盟電子私隱條例規管，該條例旨在確保讀取網上資訊不用依賴入侵式監視措施。資訊及通訊科技不斷發展，總會帶來私隱顧慮。

正如其他法域區一樣，香港法律第 486 章《個人資料（私隱）條例》（《私隱條例》）亦大致根據 1980 年經濟合作與發展組織的私隱保障及個人資料跨境流通指引及 1995 年歐盟的資料保障指令而制定，當中列明公署的權力與責任。這是以原則為本、科技中立的條例，好處之一是顧及私隱上複雜細微的性質，在千變萬化的資訊及通訊科技發展和社會規範中，容許某程度的彈性，讓私隱在不同情況下獲得保障。但看來有些新興科技超越了限制，對這些基礎原則帶來挑戰。

國家及區域層面的海外規管機構為應對這些挑戰，已修改其法例及規管架構，明顯的例子是 2018 年 5 月 25 日生效的歐盟《通用數據保障條例》。這些資料保障機關很多已有權在行政上施加民事罰款，但香港是沒有這項法定權力的。《通用數據保障條例》是關於人類的尊嚴及消費者的信任，消費者應可控制其個人資料，而企業則可在公平的環境

This is my third annual report as Hong Kong's Privacy Commissioner for Personal Data. The year under review (2017-18) was another eventful and fruitful year.

DIGITAL REVOLUTION AND DATA ECOSYSTEMS EVOLUTION CHALLENGES

Since I took office in 2015, I have witnessed parts of metamorphosis of the digital revolution and the evolution of data ecosystems, whereby data is captured and analysed through a collection of infrastructure, analytics and applications. Whilst useful insights are produced, data ecosystems do have a significant impact on our daily lives at a speed that we could not have dreamt of. Our “digital-self” is increasingly changing what it means to human beings. The continuing innovations in communication and technology in areas like big data, internet of things, cloud computing, data analytics, robotics, machine learning and artificial intelligence have helped re-shape human beings and the world they live in, from leisure to learning, from cashless shopping to open banking, from direct marketing calls to programmatic advertising, from invited consent to uninformed behavioural tracking or profiling, from data mining to data governance, from personal appraisal files to public utilities and care, and from cybersecurity to sharing of data. Snooping on people's communications through services and apps, such as forcing people to accept being monitored in exchange for accessing content online, will be addressed by the forthcoming EU ePrivacy regulation scheduled to come into effect in 2019, with a view to ensuring that access to information on the internet does not depend on invasive surveillance practices. Emerging ICT developments invariably bring with them privacy considerations.

Like other jurisdictions having their regulation generally based on the 1980 OECD Guidelines on the protection of Privacy and Transborder Flows of Personal Data and the 1995 EU Data Protection Directive, the Personal Data (Privacy) Ordinance (the Ordinance) (Cap 486, Laws of Hong Kong), in which our powers and responsibilities are set out, is principle-based and technology-neutral. One of the benefits of having a principle-based and technology-neutral legislation is that it recognises the complex and nuanced nature of privacy, and allows a degree of flexibility in how privacy can be protected in varying contexts, alongside evolving ICT developments and social norms. Seemingly some of the emerging technologies are stretching their limits and are posing challenges to these underlying principles upon which the legislation is based.

Overseas regulatory authorities, national and regional, have responded to these challenges by reforming or revising their regulation and regulatory frameworks, notably the EU's General Data Protection Regulation coming into force on 25 May 2018. It should be noted that many of these data protection authorities have already had the power to, *inter alia*, impose civil monetary penalties administratively, a statutory power which we in Hong Kong do not have. The GDPR is about the dignity of human beings and the trust

營運。最重要是，《通用數據保障條例》引入了問責原則，這標誌著資料保障文化的轉變。

價值、文化、法律、倫理和道德

除了執法保障個人資料私隱權利外，有人提出思考在數碼年代保障私隱和資料所必備的價值，包括尊嚴、在數據驅動生活中的尊重，或稱為數據倫理和道德。2017年9月在香港舉行的「第39屆國際資料保障及私隱專員會議」，以「連繫西方與東方保障、尊重資料私隱」為主題，期間討論了這些價值及相關的私隱文化。

私隱權在香港屬於基本人權，並受到1991年《香港人權法案條例》（第383章）及中國香港特別行政區的《基本法》所保護。這項權利被視為享受其他權利的先決條件及其他權利的基礎，包括言論自由。這些權利有時無可避免地互相矛盾。規管者有責任作出適當的平衡。

去年在香港就東、西方私隱文化進行的討論和分享顯示，有些法域區基於傳統觀念、政治及社會發展，其傳統文化並沒有私隱這個概念。但在經濟改革後，人們的意識和期望逐漸提高，個人資料私隱保障亦愈益受到重視。不過，在某些法域區，私隱保障仍然是公民權利重於個人的基本人權。

雖然問責性開始佔一席位，但遵從資料私隱法律仍然是各持份者，包括公營機構及政府目前的主流態度。

倫理和道德是共同的社會價值。在充滿變化的時期，數據倫理和道德是培育個人資料保障的基石。歐盟已開展「倫理和道德倡議」，作為開始重點。例如，他們支持「需要有道德地設計人工智能」這個理念。

數據倫理和道德價值一般集中於公平、尊重及互惠。實際上是涉及真正的選擇、有意義的同意、沒有偏見或歧視，以及個人與機構之間的公平交易。

of the consumers, who should have the control over their personal data while businesses benefit from a level playing field. Most importantly, the GDPR introduces the principle of accountability, signifying a gear shift in the culture of data protection.

VALUES, CULTURES, LAW AND ETHICS

Enforcement of the law to protect personal data privacy rights aside, calls have been made to reflect on our values in the digital era that underpin privacy and data protection, including dignity, respect in data driven life, otherwise known as data ethics. At the “39th International Conference of Data Protection and Privacy Commissioners” held in Hong Kong in September 2017, with the theme of “Connecting West with East in Protecting and Respecting Data Privacy”, some of these values and the associated privacy cultures were canvassed.

Privacy right is a fundamental human right in Hong Kong, protected also under the 1991 Hong Kong Bill of Rights Ordinance, Cap 383; and the Basic Law of the Hong Kong Special Administrative Region of the PRC. It is accepted as a pre-condition for enjoyment of, and the basis for many other different rights, including the freedom of expression. Inevitably, there are instances where these rights may conflict with one another. Regulators are duty bound to strike the proper balance.

The sharing and discussions in Hong Kong last year about privacy cultures of the West and East revealed that in some jurisdictions the concept of privacy virtually had not existed in their traditional culture, owing to their conventional philosophy, political and social development. But the demand for personal data privacy protection was picking up its momentum after going through economic reforms whereby awareness and expectation of their people gradually gathered force. Yet the notion of privacy protection was still more a civil right than a fundamental human right of an individual in certain jurisdictions.

Compliance with data privacy laws is currently the mainstream attitude among our stakeholders, public organisations and the government included, the resonance of accountability starting to tune up though.

Ethics are shared societal values. Data ethics are the bedrock for nurturing and flourishing personal data protection in times of change. The EU has rolled out the “Ethics Initiative” as a key starting point. It supports, for example, the idea that artificial intelligence needs to be ethically designed.

Data ethical values typically centre at fairness, respect and mutual benefits. In practical terms, they involve genuine choices, meaningful consent, no bias or discrimination and fair exchange between individuals and organisations.



信任、參與和尊重

我們認為規管者應培養真正尊重個人資料的文化，確保資料保障實際有效及具持續性。正是這個原因，我們在 2017-18 年度把工作重點放於數據倫理和道德這個議題上。我們委託顧問進行研究，識別「道德的」或「公平的」資料處理的意思、道德的資料管理標準，及鼓勵企業秉持數據倫理和道德、建立信任及為所有持份者帶來附加價值的因素。該研究亦希望為機構開發具道德的資料影響評估框架，把數據倫理和道德付諸實行。

在管理個人資料方面，我們要求持份者在展開重大的項目前進行「私隱影響評估」。我們鼓勵他們實施「貫徹私隱的設計」，由始至終把個人資料保障徹底融入每個營運程序。總的來說，我們鼓勵持份者在所有程序中依從「私隱管理系統」。公署已為此刊發專題資料單張及為中小企開設熱線。

採用這些系統和程序，可以帶來透明度和問責性，可以減少對消費者帶來的驚訝，從而建立及維持信任。換句話說，信任帶來參與，繼而培養尊重。尊重建基於倫理和道德，而倫理和道德推動信任。

資料外洩事故與網絡安全

去年，我們透過循規審查及／或調查處理了 116 宗資料外洩事故通報（按年增加 30%）。在香港，資料外洩事故通報並非強制性，完全屬於自願性質。關於多間旅行社遭網絡攻擊，資料遭黑客盜取，我們迅速地輔導他們採取即時補救行動，以遏止對消費者可能造成的損失；並採取措施重建消費者的信心及減少消費者變節。這一直是我們處理資料外洩事故通報的標準初步行動。

過往，網絡罪犯以不同方式作出破壞，例如病毒攻擊及網站篡改，通常只為了個人的滿足。現時，他們利用勒索軟件以獲取金錢利益，攻擊資料庫以取得資料作出售用途。其他網絡攻擊亦以商業電郵詐騙的形式出現。儘管我們不是網絡規管者，但我們會與其他持份者合作，致力應對資料保安的問題，尤其關注是否已採取法律規定的所有合理的步驟。就此，我們特別要感謝不同商會、貿易協會、傳媒、警方、金融管理局、政府資訊科技總監及生產力促進局的專業意見和協作。由於網絡攻擊無分國界，資料可儲存於不同法域區的多個伺服器中，循規審查及調

TRUST, PARTICIPATION AND RESPECT

We believe that regulators should cultivate a culture of genuine respect for personal data to ensure its protection is realistically effective and sustainable. It is precisely against this background that throughout 2017-18, we placed significant emphasis on the issue of data ethics. We commissioned a consultancy project aiming to identify the meaning of “ethical” or “fair” data processing, standard for ethical data stewardship and motivators for businesses to embrace data ethics, establish trust and generate added values for all stakeholders. It also aimed to develop an ethical data impact assessment framework for organisations to put data ethics into practice.

In managing personal data, we ask stakeholders to conduct “privacy impact assessment” in major assignments they take on. We encourage them to implement “privacy by design” such that personal data protection is weaved into business processes from cradle to grave. All in all, an end-to-end “Privacy Management Programme” is what we encourage all to follow. A specific information leaflet and hotline for the SMEs were also put in place.

With these programmes and processes, transparency and accountability would be in action. Surprises to consumers would be minimised. Trust, the very social fabrics for a functioning society, would also be built and sustained through this virtuous cycle. In perhaps simpler terms, trust draws participation, which in turn breeds respect. Respect is built on ethics and ethics drive trust.

DATA BREACHES AND CYBERSECURITY

Last year, we attended to 116 data breach notifications (a 30% increase year-on-year) by way of compliance checks or/and investigations. It should be noted that data breach notifications in Hong Kong are not mandatory but entirely voluntary. As in the case of travel agents having been cyber-attacked and data hacked, we spared no time in engaging them to take immediate remedial actions to contain the possible damage to customers and steps to re-establish their consumers’ confidence and reduce customers’ defection. This has been our standard initial response to data breach notifications.

In the past, cybercriminals operated by all forms of vandalism, such as virus attack and webpage defacement, often for personal gratification only. Nowadays, ransoms are employed for financial gain; databases are attacked for sale of data obtained. Other cyberattacks also take the form of a business email compromise. Whilst we are not a cyber regulator, partnership and concerted efforts with other stakeholders in the ecosystems to address the issues of data security vulnerabilities are warranted, especially whether all reasonable steps have been taken as required by the law. For this, we would like to thank, in particular, various chambers of commerce, trade associations, the media, Police Force, Hong Kong Monetary Authority, Office of Government Chief Information Officer and Productivity Council for their helpful expert advice and

查亦需要香港以外的規管者協助。我們亦衷心感謝其他法域區（包括澳洲、加拿大、以色列、澳門、荷蘭、新西蘭、菲律賓、新加坡、英國及美國）同業的鼎力支持和協助。

推廣及教育

我們繼續致力於推廣及教育的工作，這是我們的主要職責之一。標準或度身訂造的講座、研討會、會議及培訓課程的舉辦次數較以往為多。這些講座通常是因應特定行業、主題及年齡而舉辦的。預計在公署的會議室擴充後，受眾人數會大幅提升。

我們於 2017 年 7 月首次出版中文書《注意！這是我的個人資料私隱》，以淺白的表達形式，闡述保障資料原則的基本概念，讓普羅大眾容易理解。

歐盟是香港第二大的貿易夥伴，而《通用數據保障條例》下的域外應用則規定只要香港企業涉及收集和處理處於歐盟國家的人士（不只是歐盟公民）的個人資料，便須遵從《通用數據保障條例》的規定。在《通用數據保障條例》於 2018 年 5 月 25 日生效前兩個月，我們已刊發資訊冊子，深獲好評。

對外聯繫

我們除了繼續與世界各地的私隱同業加強跨境聯繫及互通性之外，亦與內地的相關機構和學者建立工作關係，尤其是在「一帶一路」和「大灣區」的項目上推動香港作為國家的數據樞紐及有關網上數據糾紛的調解中心。

鼓勵和參與

我們的主要法定責任仍然是透過審查和調查公正地執行資料保障法律（不論是在接獲投訴後或主動進行）。我們在這方面不遺餘力。不過，我們的目標並非要提高檢控數字。我們是要在有人違反保障資料原則但不涉及刑事罪行時，處理投訴及不滿的根源、透過調停或調解解決糾紛、在適當時候採取有關各方均滿意的補救行動。為了對投訴人公平，

collaboration. As cyberattacks are borderless and data can be stored in multiple servers in different jurisdictions, compliance checks and investigations also call for the assistance of regulators outside Hong Kong. We also record our appreciation and gratitude for the most helpful support and succour tendered by our counterparts in other jurisdictions, including those in Australia, Canada, Israel, Macau, the Netherlands, New Zealand, the Philippines, Singapore, UK and USA.

PROMOTION AND EDUCATION

We continued to make relentless efforts on the promotion and education front, they being our other principal responsibilities. Record number of standard or customised lectures, talks, seminars, symposiums and training courses were organised and delivered. These lectures and talks were often industry-specific, topic-specific and age-specific. It is expected that the number of audience will markedly increase as the capacity of our in-house lecture room is due to be doubled.

The publication of our book ever published in Chinese language in July 2017 entitled “*Watch Out! This is my personal data privacy*” (a translation) was another case in point. It sought to explain the basics of personal data privacy principles in a manner that men and women walking in the streets of Mong Kok would be able to understand.

As the EU is Hong Kong’s second largest trading partner, the new GDPR’s extra-territorial effect suggests that as long as Hong Kong enterprises collect and process personal data of any individuals, not just EU citizens, who are located in an EU country, they should be prepared to comply with the requirements. Two months before the GDPR came into force on 25 May 2018, we had published an information booklet, which was well received.

EXTERNAL CONNECTIONS

Whilst we continued to strengthen our cross-border ties and interoperability with privacy landscape architects and designers around the world, we made cross-boundary inroads and established work relationship with the relevant authorities and academia in the mainland of China, particularly in advocating the attributes of Hong Kong as the data hub and online data-related disputes resolution centre within the country for the “Belt and Road” and “Greater Bay Area” initiatives.

INCENTIVISING AND ENGAGING

It remains our primary statutory duty to fairly enforce the data protection law, through checks and investigations, whether upon receipt of complaints or self-initiated where appropriate. We spare no sticks in this respect. We do not, however, aim to soar up prosecution figures. We do seek to address the root of the complaints and grievances, resolve the disputes by way of conciliation or mediation, and come up with remedial actions agreeable to parties concerned in good time in cases where



如我們決定不進行調查，我們會在可行的情況下盡快向他們解釋原因。自 2016 年初，這些個案中，我們全部皆於接獲投訴後 45 日內把決定通知投訴人，完全符合法定要求。總的來說，我們在六個月內完成處理逾九成的投訴個案。

阻嚇性的懲罰，不論多重，似乎對防止日後的違法行為成效不彰；如懲罰的阻嚇性不足，情況會更糟。資源緊絀是各地規管者所面對的共同限制。規管者應訂立策略性的緩急次序，並以結果為本的取向有效地履行其法定職責。儘管他們有懲處權力，但亦應就循規和良好的行事方式提供指引、實際協助（包括資料審計過程）及支援。正面方法亦包括具建設性的參與。

透過鼓勵性的諮詢、參與、坦誠交流及監管彈性，讓持份者參與，尤其是私營機構，讓它們「做得正確」是我們去年的首要工作。我很高興告訴大家，反應和回應都令人鼓舞。

個人資料生態系統的倫理和道德

個人資料（私隱）諮詢委員會及科技發展常務委員會的成員在過去一年對我們的工作作出了寶貴貢獻，我希望藉此機會向他們致以衷心的謝意。當然，我亦要感謝公署一群精明機敏、鞠躬盡瘁的同事一直以來的支持，縱使不時遇上重重考驗，仍然努力不懈、盡心盡力地將日益複雜和繁重的工作做好。

隨著環球的私隱法律框架及形勢的轉變，以及公眾對個人資料的收集、使用、保安及查閱的意識有所提高，現時是推動資料保障及尊重資料的重要時刻。公私營機構作為資料使用者、控制者或處理者，在思想及行動上均需要超越純粹循規。問責性已成為資料管治的規範，而一套全新的相關道德及管理標準正在籌劃中。我期望繼續與所有持份者、委員會成員及同事並肩迎接未來的挑戰和機遇。

黃繼兒

香港個人資料私隱專員

data protection principles are breached, which are not in and of themselves criminal offences. In case we decide not to carry out investigation, for fairness to the complainants, we endeavour to explain as soon as practicable to them the reasons for our decision. Since early 2016, in 100% of such cases, we have managed to inform the complainants of such decisions within 45 days after receiving their complaints, having fully met the statutory requirement. Overall, we concluded over 90% of complaint cases within 6 months.

Deterrent sanctions, however heavy, do not appear to have pronounced effect on future behaviour violating the law; worse still where the sanctions are not deterrent enough. The common constraint around the world is that regulators have meagre resources. Regulators should set strategic priorities and adopt result-based approaches to discharge their statutory duties effectively. Whilst carrying a big stick, they should also provide guidelines, practical assistance (including data audit processes) and support for compliance and good practices. The carrots should also take the form of constructive engagement.

Engaging the stakeholders, private organisations in particular, to “get it right” topped our priorities last year, through incentivising consultation, participation, frank exchange and providing support for regulatory sandboxes. I am happy to report that the response and feedback were most encouraging.

ETHICS IN PERSONAL DATA ECOSYSTEMS

I would like to take this opportunity to register my sincere thanks to members of the Personal Data (Privacy) Advisory Committee and the Standing Committee on Technological Developments for their most invaluable contribution to our work in the past year. Credits must also go to the astute colleagues in my office for their unfailing support, exemplary efforts and commendable commitment, without which the increasingly complex and heavy work load on their plates, sometimes under trying circumstances, could not have been dealt with.

This is a significant time for data protection and respect for data in the wake of the global changes in the privacy legal frameworks and landscape, as well as increased awareness and public interest in the collection, use, security and access to personal data. Being data users, controllers or processors, public and private organisations need to think and act out of the box of compliance *simpliciter*. Accountability has become the norm for data governance; and a novel set of related ethical standards and stewardship is on the drawing board. I look forward to continuing to work with all stakeholders, committee members and colleagues in embracing further challenges, and opportunities.

Stephen Kai-yi WONG

Privacy Commissioner for Personal Data,
Hong Kong



DATA ETHICS

數據道德

數據經濟下數據道德的範式轉變

數據經濟的雙面刃

數據是新興數據經濟的貨幣和石油—透過使用社交媒體、搜索引擎及物聯網設備等並與之互動，數據高速、大規模地產生及被收集。數據經演算法進行處理及分析後可識別出行為模式、提供洞悉及預測，從而創造價值。數據的價值不斷提升，其使用並不局限於個人概況彙編或發送個人化廣告，亦可被用於改進決策、促進資源有效分配或創建新業務等。隨著大數據分析、人工智能和機器學習的發展，各種新型服務如雨後春筍般湧現，例如自然語言處理、翻譯、圖像識別和虛擬助理。

毫無疑問，大數據分析、人工智能和機器學習漸被機構應用於各個業務層面以提升運作效益。這些現代化數據驅動的科技徹底改變了我們收集、處理和使用數據的方式。與此同時，個人資料的保障屢受不同衝擊，例如不知情的同意、數據被秘密地收集、超乎預期的數據使用、敏感的個人資料被揭露，以及在未經授權下從匿名的資料重新識別個人身份等。部分數據的使用甚至可能引起道德問題，例如演算法的偏見、歧視，以及個人的弱點被利用。

A PARADIGM SHIFT TO DATA ETHICS IN THE DATA ECONOMY

The double-edged data economy

Data is the currency and oil of the new data economy - it is generated and collected on a massive scale and at high speed by our use of and interaction with social media, search engines, connected devices, etc. Data is processed and analysed by algorithms to formulate patterns, predictions and insights to create value. The value of data is increasing, with its use no longer restricted to profiling individuals and serving personalised advertisements but also for improving decision making, facilitating resource allocation, creating new businesses, and many more. With the advancement of big data analytics, artificial intelligence and machine learning (BDAIML), a wide range of new services such as natural language processing, translation, image recognition and virtual assistants have been created.

Undoubtedly, BDAIML are becoming increasingly powerful within organisations to improve different facets of their businesses. These modern data driven technologies revolutionise the way we collect, process and use data. At the same time, they also bring challenges to data protection, such as uninformed consent, covert collection of data, unexpected use of data, exposure of sensitive personal data and unauthorised re-identification, etc. Some usage of the data may even give rise to moral issues such as algorithmic bias, discrimination, and exploitation of personal weaknesses.



數據道德與處理資料的正統性研究計劃

道德可被視為群體的文化規範、共同價值或指導信念。現時對「數據道德」並未有廣泛認同的定義，數據道德的價值或指導原則亦未有廣泛共識。

一般而言，「數據道德」一詞泛指有道德地處理數據，即在數據處理過程中對相關持分者的自由、權利和利益等作出全面的考慮。

資料保障與技術創新似乎存在衝突。在此背景下，數據道德可望成為於兩者間取得平衡的解決方案。公眾要求確立數據道德的呼聲越來越高—企業和監管機構對此方面的指導原則和標準的渴求越趨殷切。

在此背景下，個人資料私隱專員公署（公署）在2017年就數據道德展開研究。2018年2月，公署委託美國一家顧問機構，開展有關數據道德的「處理資料的正統性研究計劃」。該計劃的目標是確定數據道德的核心價值，並開發一項工具—即數據道德影響評估框架—以協助香港各界實踐數據道德。超過20間來自各行業（例如銀行、保險、電訊、醫療保健服務和交通運輸）的機構應邀參與該研究計劃，就數據道德的核心價值及評估框架的草案向顧問機構提供意見，務求確保研究計劃的成果能切實可行，並適用於香港。

Data ethics and the legitimacy of data processing project

Ethics may refer to cultural norms, communal values and/or guiding beliefs of a community. There is no universal definition of “data ethics”, or the value(s) or guiding principle(s) of data ethics.

Generally speaking, the term “data ethics” is used when people refer to “ethical” data processing where the full range of freedoms, rights and interests of all stakeholders are taken into account.

Against the background of seemingly conflicting interests of data protection and technological innovation, data ethics emerge as a solution for striking a balance between the two. There are growing public expectations for data ethics - businesses and regulators are increasingly asking for guiding principles and standards in this regard.

With this in mind, the office of the Privacy Commissioner for Personal Data Hong Kong (the PCPD) started researching into the topic of data ethics in 2017. In February 2018, the PCPD commissioned a US consulting firm to conduct a data ethics project known as the “Legitimacy of Data Processing Project”. The objectives of the project are to identify the core values of data ethics and develop a tool - an ethical data impact assessment framework - to assist organisations in Hong Kong to put data ethics into practice. More than 20 organisations from various sectors (e.g. banking, insurance, telecommunications, healthcare services, transportation) were invited to participate in the project by providing comments and feedback to the consultancy on the draft ethical values and assessment framework, so as to ensure that the recommendations and deliverables of the project are practicable and relevant in the context of Hong Kong.



該研究計劃於2018年4月正式展開，探討的主要問題有：

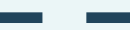
- 什麼是「有道德」或「公平」的數據處理？
- 數據道德影響評估應包含甚麼元素，以及數據道德管理的標準是甚麼？
- 數據道德或公平的資料處理與相關法律要求之間的直接或間接聯繫是甚麼？數據道德管理的哪些方面超越了法律要求？
- 如何推動企業採用數據道德管理和數據道德影響評估？

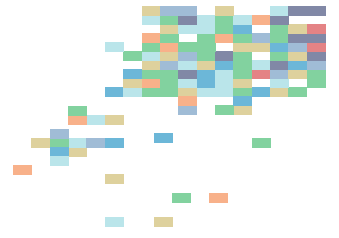
研究計劃的報告（包括道德價值和數據道德影響評估框架）預計將於2018年第四季度發表。公署希望透過該計劃推動香港各界接受數據道德作為機構管治的一部份，推行數據道德的範式轉變，特別是在使用大數據分析、人工智能和機器學習處理個人資料時，秉持數據道德價值，及採用數據道德影響評估框架進行風險評估。

The project commenced in April 2018. Key questions to be answered by the project include:

- What does it mean by “ethical” or “fair” processing of data?
- What would an ethical data impact assessment consist of and what are the standards for ethical data stewardship?
- What is the direct or indirect linkage between ethical or fair processing of data and the relevant legal requirements? What aspects of ethical data stewardship go beyond the law?
- What are the motivators for businesses to adopt ethical data stewardship and utilise ethical data impact assessments?

A report which, among other things, consists of a set of ethical values and an ethical data impact assessment framework is expected to be published in the fourth quarter of 2018. The PCPD hopes that the project deliverables will help organisations in Hong Kong to embrace data ethics as part of corporate governance - making a paradigm shift to data ethics, and adopting the ethical values and ethical data impact assessment framework in relation to personal data processing, particularly when BDAIML are used for processing personal data.





私隱管理系統與數據道德

私隱管理系統的精神是將個人資料保障視為企業管治責任，並在機構內貫徹地執行，而數據道德則更進一步，在 21 世紀的數據經濟中更具道德及公平地使用個人資料。

因此，公署著重透過私隱管理系統在企業間推廣問責性，並教育公眾關注私隱。公署認為相對於施加懲罰，推廣及教育會帶來更好的果效。

在報告年度，公署曾

- 舉辦私隱管理系統專業研習班；
- 協助選定的政府部門/ 決策局建立其私隱管理系統；及
- 參照私隱管理系統框架，視察及評估機構處理個人資料的程序。

PRIVACY MANAGEMENT PROGRAMME (PMP) AND DATA ETHICS

While the spirit of PMP is to embrace personal data protection as part of corporate governance responsibility and apply it throughout the organisation, Data Ethics is one step further for more ethical and fair use of personal data in the data economy of the 21st century.

In this connection, the PCPD focused on promoting accountability through PMP among businesses and educating the public to raise their privacy awareness. The PCPD believes that promotion and education efforts would be more effective than sanctions in protection of personal data.

During the reporting year, PCPD

- conducted PMP professional workshops;
- assisted selected government bureau/departments in developing their PMP manuals; and
- conducted inspection by using PMP framework to assess personal data handling process of organisations.



ONE YEAR AT-A-GLANCE

全年活動一覽

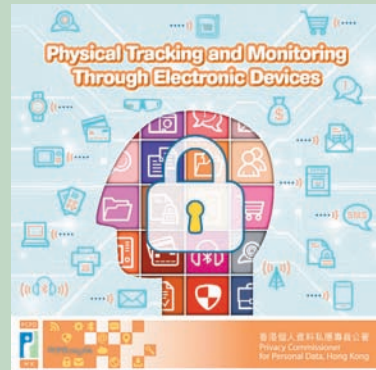
2017

- 出席於美國紐約市舉行的聯合國全球脈動計劃專家會議
Attended the United Nations Global Pulse Expert Meeting in New York City, United States



- 出版《通過電子裝置進行實體追蹤及監察》資料單張

Published an information leaflet titled "Physical Tracking and Monitoring Through Electronic Devices"



5 月 MAY

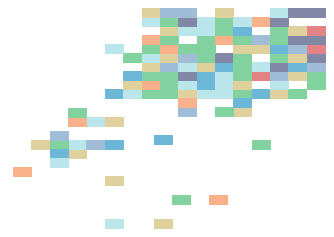
- 舉辦「關注私隱運動」，主題是「分享資料前請三思」

Spearheaded the annual Privacy Awareness Week with the theme "Share Personal Data with Care"



- 參與全球抽查行動 探討消費者對「顧客獎賞計劃」所收集其個人資料的可控程度

Participated in the Global Sweep Exercise to examine consumers' control over their personal data collected by customer loyalty and reward programmes



- 發表選舉事務處載有選委、選民個人資料的手提電腦遺失事件調查報告

Published an investigation report on the loss of the Registration and Electoral Office's notebook computers containing personal data of Election Committee members and electors

6 月 JUN

- 一名公司董事未有遵從私隱專員的合法要求而被定罪，成為《私隱條例》實施以來首宗因此而被定罪的個案

A company director became the first offender convicted for the offence of failing to comply with a lawful requirement of the Privacy Commissioner since the Ordinance came into effect

- 出版新書《注意！這是我的個人資料私隱》- 齊來做個真正私隱「話事人」！

Published a book titled "Watch out! This is my personal data privacy" - Have a Say on Your Own Privacy!



7 月 JUL

- 出席在澳洲悉尼舉行的第四十七屆「亞太區私隱機構論壇」

Attended the 47th APPA Forum in Sydney, Australia



2017

- 在香港舉辦第 39 屆「國際資料保障及私隱專員研討會」

Hosted the 39th International Conference of Data Protection and Privacy Commissioners in Hong Kong

- 一間健身公司沒有依從一名資料當事人的拒收直銷訊息要求，而繼續使用其個人資料作直接促銷，而被判罰款七千元

A fitness company was fined \$7,000 for failing to comply with the requirement from a data subject to cease to use his personal data in direct marketing

9 月 SEP

11 月 NOV

12 月 DEC

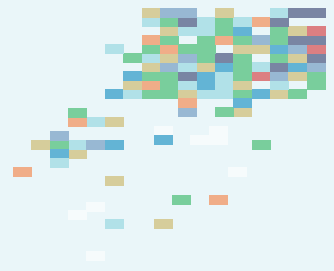
- 出席在加拿大溫哥華舉行的第四十八屆「亞太區私隱機構論壇」

Attended the 48th APPA Forum in Vancouver, Canada



- 發表《2017 年抽查報告：用戶在顧客獎賞計劃中對個人資料的掌控程度》及《視察報告：香港某地產代理公司的個人資料系統》

Published "2017 Study Report on User Control over Personal Data in Customer Loyalty and Reward Programmes" and "Inspection Report: Personal Data System of An Estate Agency in Hong Kong"



2018

- 一間超級市場被控在沒有當事人同意下，使用其個人資料作直接促銷而被判罰款三千元
A supermarket was fined \$3,000 for using the personal data of a data subject in direct marketing without obtaining the data subject's consent

- 修訂《選舉活動指引》，提醒候選人、政府部門及民意調查組織須遵從《私隱條例》規定
Issued the revised Guidance on Election Activities to remind candidates, government departments and public opinion research organisations to comply with the requirements of the Ordinance

1 月 JAN

- 出版《資料保障·利便營商－給中小企的綱領提示》指引資料
Published "Data Protection & Business Facilitation - Guiding Principles for Small and Medium Enterprises" Guidance Note



2 月 FEB

- 向立法會政制事務委員會匯報公署過去一年的工作
Delivered a Report on the work of PCPD in 2017 at a meeting of Legislative Council Panel on Constitutional Affairs

APRIL 2017 - MARCH 2018 : A YEAR IN NUMBERS

2017年4月 - 2018年3月：數字回顧

26,987 人次

參加公署的講座、研習班及工作坊，了解《私隱條例》的要求，比去年增長 8.5%

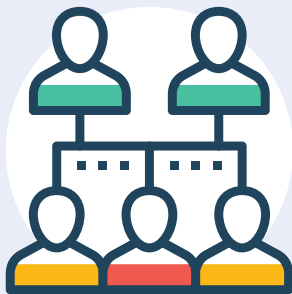
26,987 people attended our talks, seminars and workshops to learn about the requirements under the Ordinance, being 8.5% year-on-year increase



577 人

成為保障資料主任聯會會員，比去年減少 3.5%

577 members joined the Data Protection Officers' Club, being 3.5% year-on-year decrease



132 間中學

成為學校夥伴，比去年增加 5.6%

132 secondary schools became our school partners, being 5.6% year-on-year increase



接獲

1,619 宗

投訴個案，比去年減少 7%

1,619 complaints were received, being 7% year-on-year decrease



處理

15,737 宗

查詢個案，比去年減少 1.9%

15,737 enquiries were handled, being 1.9% year-on-year decrease





展開

273 個

循規審查及調查行動，比去年增加 6.6%

273 compliance checks and investigation were carried out, being 6.6 % year-on-year increase

回應

209 宗

傳媒查詢，比去年增加 16.8%

Responded to 209 media enquiries, being 16.8 % year-on-year increase

接受

68 次

傳媒訪問，比去年增加 23.6%

Gave 68 media interviews, being 23.6% increase from last year

2,284 則

與公署相關的新聞於不同的傳媒平台報道，比去年增加 11.4%

2,284 PCPD-related news stories were published on various media platforms, being 11.4% increase from last year

每月平均有

88,802 人次

瀏覽公署主網站，比去年增加 43%

An average of 88,802 visits to our main website per month, being 43 % year-on-year increase

使命 MISSION STATEMENT

致力推廣、監察及監管，促使各界人士遵從《個人資料（私隱）條例》，確保市民的個人資料私隱得到保障

To secure the protection of privacy of individuals with respect to personal data through promotion, monitoring and supervision of compliance with the Personal Data (Privacy) Ordinance

策略與主要目標 STRATEGIES AND KEY GOALS

	策略 Strategies	主要目標 Key Goals
<p>執法 Enforcement</p>	<ul style="list-style-type: none"> • 確保公正、公平和具效率的運作 • 獨立、不偏不倚、無畏無懼地行事 • 夥拍其他規管者，憑藉他們的法定權力、制度和執法權力，履行公署的責任 • 與海外的保障資料機構合作處理跨境的私隱問題與投訴 • To ensure equity, fairness and operational efficiency • To act independently, impartially and without fear or favour • To partner with other regulators, leveraging their legislative mandates, institutional tools and enforcement powers • To partner with overseas data protection authorities for handling cross-border privacy issues and complaints 	<ul style="list-style-type: none"> • 調查及具效率與持平地解決投訴個案 • 專業而有效率地回應查詢 • 接納符合審批條件的法律協助申請，讓個人資料私隱受侵犯的申索人士獲得補償 • Complaints are investigated and resolved efficiently in a manner that is fair to all parties concerned • Enquiries are responded to professionally and efficiently • Meritorious applications for legal assistance are entertained and aggrieved individuals compensated
<p>監察及監管符規 Monitoring and Supervising Compliance</p>	<ul style="list-style-type: none"> • 主動及公正調查私隱風險顯著的範疇 • 夥拍其他規管者，憑藉他們的法定權力、制度和執法權力，履行公署的責任 • 與海外的保障資料機構合作處理跨境的私隱問題與投訴 • To investigate proactively and fairly into areas where the privacy risks are significant • To partner with other regulators, leveraging their legislative mandates, institutional tools and enforcement powers • To partner with overseas data protection authorities for handling cross-border privacy issues and complaints 	<ul style="list-style-type: none"> • 促使機構履行保障個人資料的責任和採納良好的保障私隱行事方式 • Organisational data users are facilitated to meet their data protection obligations and adopt good privacy practices
<p>推廣 Promotion</p>	<ul style="list-style-type: none"> • 促進社會各界全面參與保障私隱 • 倡導機構不應止於法例最低要求，實踐最佳行事方式，提升水平 • 利用網站、出版和傳媒，發揮廣泛的宣傳和教育效用 • To seek proactively the holistic engagement of stakeholders • To promote best practices among organisational data users on top of meeting minimum legal requirements • To maximise publicity and education impact through websites, publications and media exposure 	<ul style="list-style-type: none"> • 社會更清楚理解法律與原則，不但認識個人資料保障方面的權利和責任，而且對保障有適當期望和了解限制 • 公、私營機構皆認識作為資料使用者在法例下的責任，並付諸實行 • A better understanding of the laws and principles in the community is articulated, recognising not only the rights and obligations but also expectations and limitations in personal data protection • Organisations in public and private sectors understand their obligations as data users under the Ordinance and the ways to meet them



	策略 Strategies	主要目標 Key Goals
推廣 Promotion	<ul style="list-style-type: none"> 走進社區，特別多接觸年青人 藉調查個案所得的啟示，教育資料使用者和資料當事人 To engage the community, in particular, young people To use lessons learnt from investigations as a means of educating data users and data subjects 	<ul style="list-style-type: none"> 讓個人和機構的資料使用者都認識公署的角色及可提供的支援 Individual and organisational data users understand the role of the PCPD and the assistance the PCPD may provide
機構管治 Corporate Governance	<ul style="list-style-type: none"> 奉行具透明度和問責性的原則 善用資源以達致經濟效益、效率及效用 持續精簡工作程序 在訂立工作的優先次序方面，採取「選擇性而具成效」的方針，優先處理影響最廣泛的工作 建立及維持忠心和專業的團隊 To adhere to the principles of transparency and accountability To maximise utilisation of resources to achieve economy, efficiency and effectiveness To make continuous effort to streamline work procedures To apply a “selective in order to be effective” approach in prioritising work, with an emphasis on assignments that will have the greatest impact To build and maintain a loyal and professional team 	<ul style="list-style-type: none"> 達致高水平的管治 High standard of corporate governance is achieved
迎合需求轉變 Meeting Changing Needs	<ul style="list-style-type: none"> 緊貼科技發展 監察國際發展及趨勢 留意本地不斷轉化的私隱期望 To keep abreast of technological development To monitor international development and trend To keep track of evolving local privacy expectation 	<ul style="list-style-type: none"> 現行及建議的法律和規管機制切合需要及有效 Existing and proposed laws and regulatory systems are relevant and effective



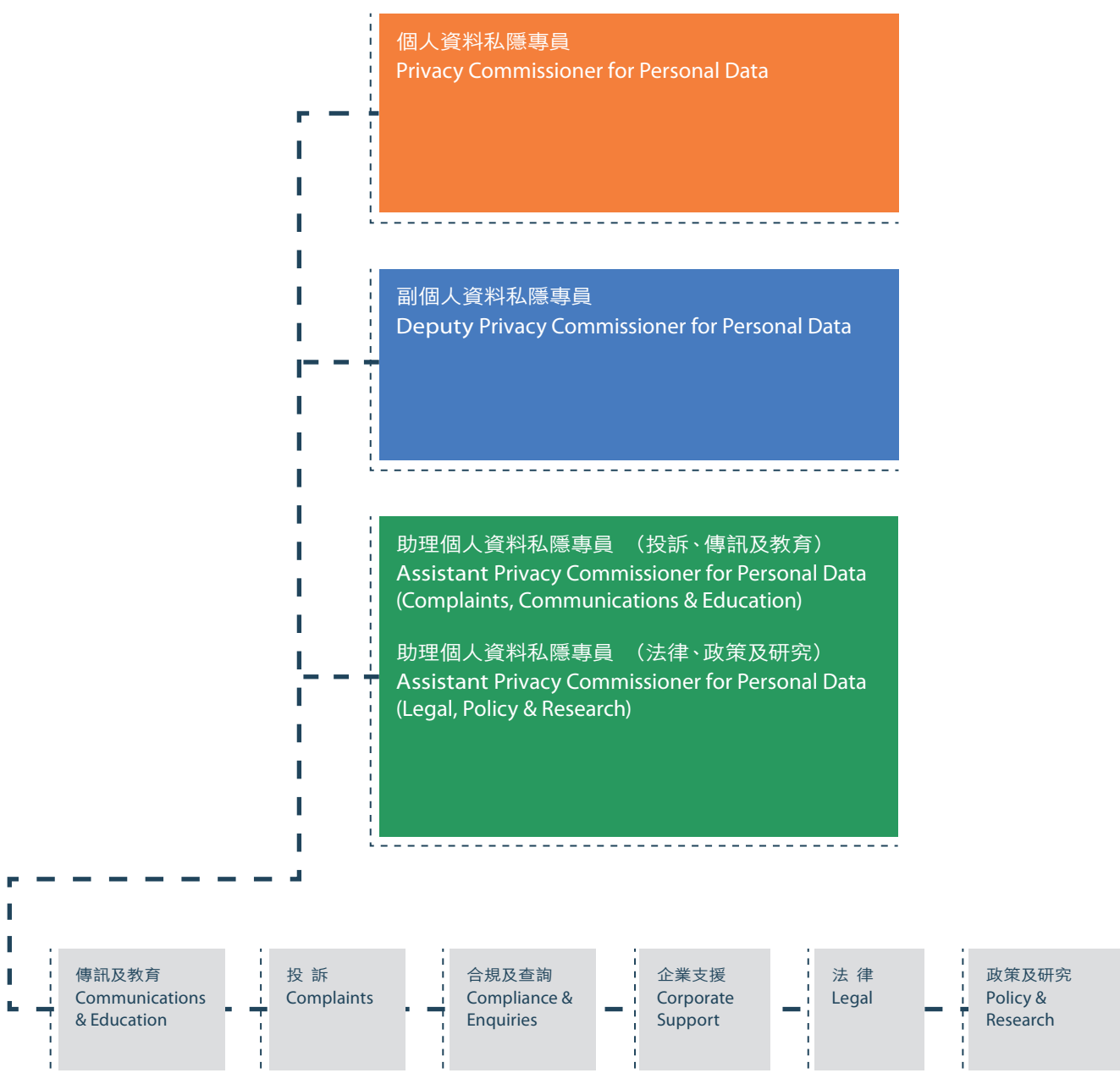
公署架構 OUR ORGANISATION

公署由個人資料私隱專員（私隱專員）領導。私隱專員負責全面推廣、監察和監管《私隱條例》的施行，促使各界遵從《私隱條例》的規定。（詳見附錄一）

The PCPD is headed by the Privacy Commissioner for Personal Data (Privacy Commissioner), who has overall responsibilities for promoting, monitoring and supervising compliance with the Ordinance. (see Appendix 1 for details)

在報告年度完結時，公署的職員數目為 75 人。

The PCPD had a total of 75 staff members at the end of the reporting year.





首長級人員

DIRECTORATE



1 **黃繼兒先生**
個人資料私隱專員

2 **林植廷先生***
副個人資料私隱專員

3 **謝敏傑先生**
助理個人資料私隱專員
(投訴、傳訊及教育)

4 **楊秀玲女士***
助理個人資料私隱專員
(法律、政策及研究)

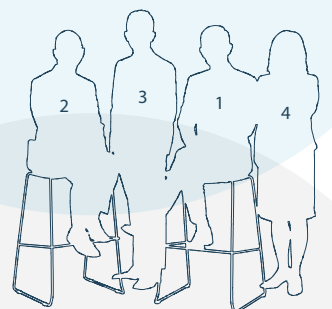
1 **Mr Stephen Kai-yi WONG**
Privacy Commissioner for Personal Data

2 **Mr Tony Chik-ting LAM***
Deputy Privacy Commissioner for Personal Data

3 **Mr Eric Mun-kit TSE**
Assistant Privacy Commissioner for Personal Data
(Complaints, Communications & Education)

4 **Ms Raina Sau-ling YEUNG***
Assistant Privacy Commissioner for Personal Data
(Legal, Policy & Research)

* 2018年5月到任
Joined PCPD in May 2018



個人資料(私隱)諮詢委員會

諮詢委員會成員由政制及內地事務局局長委任，旨在就個人資料私隱保障和《私隱條例》施行的相關事宜向私隱專員提供意見。

PERSONAL DATA (PRIVACY) ADVISORY COMMITTEE

The Advisory Committee members appointed by the Secretary for Constitutional and Mainland Affairs advise the Privacy Commissioner on matters relevant to the privacy of individuals in relation to personal data and the implementation of the Ordinance.

主席 CHAIRMAN



黃繼兒先生
個人資料私隱專員

Mr Stephen Kai-yi WONG
Privacy Commissioner for Personal Data

成員 MEMBERS



郭振華先生, SBS, BBS, MH, JP
永保化工(香港)有限公司董事總經理

Mr Jimmy Chun-wah KWOK,
SBS, BBS, MH, JP
Managing Director,
Rambo Chemical (Hong Kong) Limited



溫卓勳先生
渣打銀行(香港)有限公司大中華及
北亞洲地區合規部主管

Mr David Chuck-fan WAN
Regional Head, Compliance,
Greater China & North Asia,
Standard Chartered Bank (Hong Kong) Limited



楊長華女士
微軟香港有限公司法務及公司事務部總監

Ms Winnie Cheung-wah YEUNG
Director, Legal & Corporate Affairs,
Microsoft Hong Kong Limited



鍾郝儀女士
麗住株式會社企業策略(亞洲)董事總經理

Ms Cordelia CHUNG
Managing Director, Corporate Strategy,
Asia, LIXIL Corporation



羅燦先生
路訊通傳媒集團有限公司董事總經理

Mr Stephen Chan LOH
Managing Director,
RoadShow Media Group Limited



林翠華女士
中華電力有限公司人力資源總監
Ms Connie Tsui-wa LAM
Human Resources Director,
The CLP Power Hong Kong Limited



黃偉雄先生, MH
中原地產代理有限公司亞太區總裁
Mr Addy Wai-hung WONG, MH
Chief Executive Officer (Asia Pacific),
The Centaline Property Agency Limited



孔慶全先生
紹邦企業有限公司董事
(任期至 2017 年 9 月 30 日)
Mr Billy Hing-chuen HUNG
Director, Shiu Pong Enterprises Limited
(Appointment up to 30 September 2017)



孫淑貞女士
香港中華煤氣有限公司資訊科技總監
(任期至 2017 年 9 月 30 日)
Ms Susanna Shuk-ching SHEN
Head, Information Technology,
The Hong Kong and China Gas Co Limited
(Appointment up to 30 September 2017)

政制及內地事務局副秘書長
Deputy Secretary for Constitutional and
Mainland Affairs

政制及內地事務局首席助理秘書長
Principal Assistant Secretary for Constitutional and
Mainland Affairs

科技發展常務委員會

公署設立科技發展常務委員會，旨在就資料處理及電腦科技的發展情況對個人資料私隱的影響，向私隱專員提供意見。

STANDING COMMITTEE ON TECHNOLOGICAL DEVELOPMENTS

The Standing Committee was established to advise the Privacy Commissioner on the impact of the developments in the processing of data and computer technology on the privacy of individuals in relation to personal data.

聯合主席 CO-CHAIRPERSONS



黃繼兒先生
個人資料私隱專員

Mr Stephen Kai-yi WONG
Privacy Commissioner for Personal Data



林植廷先生*
副個人資料私隱專員

Mr Tony Chik-ting LAM *
Deputy Privacy Commissioner for Personal Data

成員 MEMBERS



白景崇教授
香港大學社會科學研究中心總監

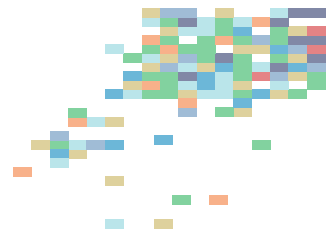
Professor John BACON-SHONE
Director, Social Sciences Research Centre,
University of Hong Kong



鄒錦沛博士
香港大學計算機科學系副教授

Dr K P CHOW
Associate Professor,
Department of Computer Science,
University of Hong Kong

* 2018年5月到任
Joined PCPD in May 2018



譚偉豪博士, JP
權智有限公司主席
Dr Samson Wai-ho TAM, JP
Chairman, Group Sense Ltd.



楊月波教授
香港浸會大學計算機科學系特邀教授
Professor YB YEUNG
Adjunct Professor,
Department of Computer Science,
Hong Kong Baptist University



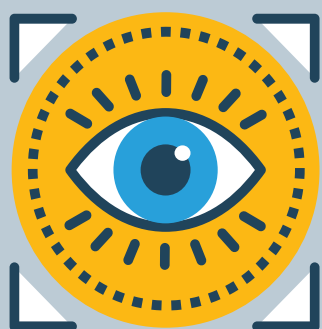
栢雅盛先生
霍金路律師行合夥人
Mr Mark PARSONS
Partner, Hogan Lovells



方保僑先生
香港資訊科技商會榮譽會長
Mr Francis Po-kiu FONG
Honorary President, Hong Kong Information
Technology Federation

MONITORING COMPLIANCE EMBRACING CHALLENGES

監督符規 擁抱挑戰





公署監察和推動資料使用者要循規以符合《私隱條例》的規定。隨著資訊科技急速發展而衍生的私隱風險，公署鼓勵和支援機構採取措施保障個人資料，並尊重消費者的個人資料私隱。

The PCPD monitors and promotes compliance with the provisions of the Ordinance. In view of the privacy risks brought about by the rapid advancement in information and communication technology, we encourage and facilitate organisations to adopt measures to ensure personal data protection and respect consumers' personal data privacy.





2017 年抽查報告：顧客獎賞計劃

公署連續第五年參與全球私隱執法機關網絡 (Global Privacy Enforcement Network) 的抽查行動。本年抽查行動的主題是「用戶對其個人資料的掌控程度」。包括公署在內共 24 個來自世界各地的私隱執法機關參與了抽查行動，透過檢視個人資料收集表格、私隱政策及收集個人資料聲明等，評估不同行業在私隱方面的實務措施。

公署的抽查行動在 2017 年 5 月 22 日至 26 日期間進行，檢視了六個不同行業 (即零售、酒店、餐飲、航空、戲院及汽油) 的 30 個顧客獎賞計劃。

全球方面，各私隱執法機關檢視了不同行業共 455 個資料使用者的私隱政策及實務措施，包括零售、金融及銀行、旅遊、社交媒體、遊戲／博彩、教育及健康護理。

主要觀察所得

公署的抽查結果大致與全球抽查結果一致。公署在抽查行動的主要觀察所得包括：

1. **普遍備有私隱政策**：大部分顧客獎賞計劃均備有私隱政策供顧客參閱。
2. **欠缺透明度**：大多數政策均使用空泛及含糊的字眼，欠缺透明度。
3. **沒有具意義的同意**：大部分計劃在登記時向顧客取得「綑綁式同意」，以便將他們的資料用於多項用途。顧客通常沒有真正的選擇。
4. **欠缺對個人資料的控制**：這些獎賞計劃沒有向顧客提供適當的途徑以提出要求刪除其個人資料、反對分享其個人資料，以及反對利用其個人資料進行個人概況彙編等，顧客因而不能對其個人資料作有效的控制。數據中介行業的興起令人更難掌握資料最終會落在何人手中。

PRIVACY SWEEP 2017 - CUSTOMER LOYALTY AND REWARD PROGRAMMES

The PCPD participated in the Privacy Sweep of the Global Privacy Enforcement Network (GPEN) for the fifth consecutive year. The theme of the global Privacy Sweep 2017 was "User Control over Personal Information". 24 privacy enforcement authorities from around the world, including the PCPD, participated in the Privacy Sweep to evaluate the privacy practices of various sectors by conducting desktop review of the personal information collection forms, privacy policies and personal information collection statements of the industry players, etc.

During the Sweep period between 22 and 26 May 2017, the PCPD examined 30 customer loyalty and reward programmes selected from six sectors, namely retail, hotel, catering, airlines, cinema and gasoline.

Globally, the privacy practices of 455 data users in various sectors (including retail, finance and banking, travel, social media, gaming/gambling, education and health) were examined by the privacy enforcement authorities.

Key observations

The PCPD's observations were largely in line with the global ones. The key observations of the PCPD included:

1. **Privacy policies were generally available.** The majority of the customer loyalty and reward programmes provided privacy policies to customers.
2. **Lack of transparency.** The privacy policies generally lacked transparency because the terms used were too broad and vague.
3. **No meaningful consent.** The majority of the programmes obtained "bundled consent" from customers during registration to use their data for multiple purposes. The customers usually did not have genuine choice.
4. **Lack of control over personal data.** Customers could not exercise effective control over their personal data because they were usually not provided with the means to request data deletion and to object to data sharing and profiling. The rise of the data broker industry cast further doubt about where the data would end up.



5. **涉及大數據分析及個人概況彙編的私隱風險**：很多計劃在其私隱政策中表明有意使用個人資料作大數據分析、個人概況彙編及／或自動化決策，這些做法會增加私隱風險，例如：
- 過度收集個人資料；
 - 從匿名資料中重新識別個人的身份；及
 - 揭露個人私密生活的詳情。

建議

公署建議顧客獎賞計劃的營運商從多方面改善其私隱實務措施：

1. **透明度**：提供精確易明的私隱政策；避免使用含糊語言及法律措辭。
2. **避免令顧客感到驚訝**：坦誠及清楚地向顧客解釋收集的資料種類；表明收集的目的；清楚指明個人資料會與何人分享。
3. **尊重**：向顧客提供有關收集及使用其個人資料的分項選擇（即非網綁式同意）。如可能，容許顧客拒絕其個人資料被用於某些用途（包括個人概況彙編）或分享。
4. **問責及道德**：在決定使用（包括披露）顧客的個人資料時，考慮顧客的合理期望、私隱風險及對顧客造成的潛在傷害（包括身體、財務及心理上的傷害）。

公署亦提醒消費者，在參加顧客獎賞計劃前，應小心閱讀私隱政策，了解其資料可能被使用及分享的情況，以及評估相關的私隱風險。

5. **Privacy risks relating to big data analytics and profiling.** Many programmes indicated in their privacy policies the intention to use personal data for big data analytics, profiling and/or automated decision making, which would amplify the privacy risks, such as:
- excessive collection of personal data;
 - re-identification of individuals from anonymous data; and
 - revelation of details about an individual's intimate life.

Recommendations

The PCPD recommended operators of customer loyalty and reward programmes to improve their privacy practices in the following ways:

1. **Transparency.** Provide a privacy policy which is precise, concise and easy to understand; avoid using obscure and legalese language.
2. **Avoidance of surprises.** Explain to the customers frankly and clearly the types of data to be collected; specify the purposes of collection; clearly identify the parties with whom the personal data may be shared.
3. **Respect.** Provide customers with granular options (as opposed to bundled consent) regarding the collection and use of their personal data. If possible, allow customers to opt out of certain use (including profiling) or sharing of their personal data.
4. **Accountability and ethics.** When deciding on the use (including disclosure) of customers' personal data, take into account the reasonable expectations of the customers, as well as the privacy risks and potential physical, financial and psychological harm.

The PCPD also reminded customers of loyalty and reward programmes to read the privacy policy carefully to understand the possible use and sharing of their data, and assess the related privacy risks before joining such programmes.



循規行動

當有足夠理由相信有機構的行事方式與《私隱條例》規定不相符時，私隱專員會展開循規審查或調查。在完成循規審查或調查後，私隱專員會書面告知有關機構，指出與《私隱條例》規定不符或不足之處，並促請有關機構採取適當的補救措施，糾正可能違規的情況和採取預防措施。

在報告年度內，私隱專員共進行了 273 次循規審查及調查行動。80% 的循規審查對象為私營機構，其餘 20% 則為政府部門或公營機構（包括法定機構、非政府機構及政府資助教育機構）。

下文重點介紹在年內進行的部分循規審查行動。

(i) Facebook 披露用戶個人資料予第三方應用程式開發商及「劍橋分析」

2018 年 3 月，Facebook 帳戶個人資料疑被濫用一事被傳媒廣泛報道。事件涉及劍橋大學教授 Dr. Aleksandr Kogan 及 Global Science Research 於 2013 年透過一個性格測驗的應用程式「thisisyourdigitallife」（該應用程式）收集得的 Facebook 帳戶的個人資料。根據有關報道，約有 270,000 用戶透過 Facebook 安裝該應用程式，並容許該應用程式取得他們的個人資料，包括：建立個人檔案的所在城市，讚好的內容及他們朋友的資料等。多達 8,700 萬名 Facebook 帳戶的個人資料其後被轉移至一間名為「劍橋分析」的英國數據處理及分析公司，藉以影響 2016 年美國總統大選中選民的投票意向。

2018 年 3 月 28 日，公署基於以下原因對 Facebook Hong Kong Limited (Facebook HK) 展開了循規審查：

- (i) 香港有超過 500 萬名活躍 Facebook 帳戶；
- (ii) 立法會議員莫乃光先生對事件提出關注；及
- (iii) 事件引起本地傳媒的關注。

COMPLIANCE ACTIONS

The Privacy Commissioner conducts compliance checks or investigations of practices that he has sufficient grounds to take the view that they may be inconsistent with the requirements under the Ordinance. Upon completion of a compliance check or investigation, the Privacy Commissioner alerts an organisation in writing, pointing out the apparent inconsistency or deficiency, and advising the organisation, if necessary, to take remedial actions to correct any breaches and prevent further breaches.

During the reporting year, the Privacy Commissioner carried out 273 compliance checks and investigation. Of these, 80% were conducted on private sector organisation, while the remaining 20% were on government departments or public organisations (i.e. statutory bodies, non-government organisations and government-funded educational institutions).

Below are the highlights of some of the compliance actions conducted during the year.

(i) Disclosure of Facebook users' personal data to third-party app developer and Cambridge Analytica

In March 2018, media widely reported an incident of suspected unauthorised use of the data of Facebook users relating to Cambridge University Professor Aleksandr Kogan and Global Science Research, collecting Facebook users' data, through a personality test application called "thisisyourdigitallife" in 2013. Reportedly, around 270,000 people installed the aforementioned application through Facebook and allowed it to access their information, including the city they set on their profile, content they liked, and information of their friends. As a result, data of up to 87 million Facebook users collected had been passed to Cambridge Analytica, a data processing and analytics company in UK, to manipulate voters' behavior in President Trump's 2016 election campaign.

On 28 March 2018, PCPD initiated a compliance check against Facebook Hong Kong Limited (Facebook HK) for the reasons that:-

- (i) there are over 5 million Facebook Hong Kong users;
- (ii) Legislative Councilor Hon Charles MOK raised his concern on this incident; and
- (iii) the incident attracted local media's concern.



根據公署在循規審查所取得的資料：

- (1) Facebook 在香港設立的辦事處（即 Facebook HK）並不控制香港帳戶資料的收集、持有、處理或使用；所有 Facebook 的香港帳戶的資料是由 Facebook Ireland Limited（Facebook Ireland）所控制。而 Facebook Ireland 聲稱，有關的第三方應用程式開發商未曾將 Facebook 的香港帳戶的個人資料披露予「劍橋分析」及其母公司。
- (2) 現階段沒有資料顯示 Facebook 的香港帳戶牽涉於事件當中。

任何社交媒體或社交網絡服務營運商作為「資料使用者」（即控制者），在香港控制有關個人資料的收集、持有、處理或使用（包括披露和轉移），或能夠從香港行使該項控制，必須遵從《私隱條例》的規定及相關的保障資料原則。Facebook HK 並不控制香港帳戶資料的收集、持有、處理或使用，所以不能被視為《私隱條例》下的「資料使用者」；雖然 Facebook Ireland 是香港帳戶的「資料使用者」，但沒有香港帳戶向公署表示受影響，故《私隱條例》相關規管條文未能適用於是次事件。

儘管如此，Facebook 已因應是次事件採取一系列補救行動，包括限制第三方應用程式存取用戶的資料，向帳戶提供更方便的私隱設定，以及符合歐盟《通用數據保障條例》規定的一些措施。

公署其後發新聞稿公布完成循規審查。私隱專員表示，贏取客戶信任是社交媒體營運商最重要的一環。不當處理或未有妥善保障帳戶的資料不單構成客戶變節，亦會失去商譽及公眾信任。私隱專員亦建議社交媒體的營運商應採取措施建構一個保障及尊重個人資料私隱的文化：

According to the information obtained in the compliance check:

- (1) the office of Facebook in Hong Kong (Facebook HK) did not control the collection, holding, processing or use of all the data of Facebook's Hong Kong account holders, which was controlled by Facebook Ireland Limited (Facebook Ireland). Facebook Ireland also claimed that its third party application (app) developer had not disclosed the personal data of Facebook's Hong Kong account holders to Cambridge Analytica and its parent company.
- (2) there is no evidence showing that Facebook's account holders in Hong Kong were involved in the incident.

As data users, social media or social network service operators must comply with the relevant requirements and Data Protection Principles of the Ordinance if they control the collection, holding, processing or use (including disclosure and transfer) of personal data in Hong Kong or exercise such control from Hong Kong. Facebook HK did not control the collection, holding, processing or use of data of its Hong Kong account holders, so Facebook HK could not be regarded as "data user" under the Ordinance. Although Facebook Ireland was the "data user" of Facebook's Hong Kong account holders, no account holders in Hong Kong complained to the PCPD that they had been affected. The relevant regulatory provisions in the Ordinance are therefore not applicable in this incident.

Nevertheless, in response to the scandal, Facebook has taken a series of remedial actions, including restriction on data to be accessed by third party app, providing more convenient controls on privacy settings to users, as well as measures to comply with GDPR.

The PCPD later issued a media statement announcing the completion of the compliance check case. In the media statement, the Privacy Commissioner commented that building trust with account holders is vital to social media operators. Improper processing or inadequate protection of data causes not only deflection of customers, but also the damage of goodwill and public confidence. The Privacy Commissioner also recommended that social media operators should adopt the following measures to nurture the culture of "protect and respect personal data privacy":



- 將資料保障提升為機構的管治責任；
- 以淺白易明的形式向帳戶解釋該社交媒體平台收集個人資料的目的、其私隱政策，以及條款及細則，並考慮以概要形式輔以圖像解釋；
- 這類政策的通知必須放置於網頁或應用程式當眼的位置；
- 向帳戶提供實質的選擇，並向其獲取明確的同意。不應與接受私隱政策網綁；及
- 以合約或其他明確形式規範合作的第三方可存取及使用帳戶資料的情況，並必須從帳戶獲取授權。

(ii) 旅行社的客戶數據庫遭黑客入侵

在年內發生的數家旅行社的數據庫遭黑客入侵的個案當中，其中一間旅行社的客戶數據庫遭黑客加密，被勒索贖金以換取解密鑰匙。該客戶數據庫涉及約20萬名自2014年3月起的客戶的個人資料，包括姓名、身份證號碼、護照號碼、電話、電郵地址、信用卡資料、郵寄地址及／或購買紀錄。該旅行社拒絕交付贖金並報警。公署從傳媒得悉事件後主動展開循規審查。

事發後，該旅行社聘請了兩間網絡保安公司分別調查黑客入侵系統的方法和提供加強網絡安全的建議。為減低受到網絡攻擊的風險，該旅行社提升其整體的網絡保安，包括加設網絡應用防火牆、於遙距存取採用雙重認證、為客戶數據庫進行加密和離線備份、定期進行滲透測試和漏洞掃描等。

該旅行社亦檢視了其資料收集和保留的做法，停止收集信用卡保安碼和身份證號碼，及將信用卡號碼的保留期限由一年縮短至半年，以減低外洩敏感個人資料的風險。

(ii) Travel agencies' customer databases being hacked

Several travel agents were cyber-attacked and got their databases hacked during the year. In one of the cases, a travel agency's customer database was encrypted by a hacker who demanded a ransom in exchange for decryption key. The database contained personal data of about 200,000 customers who had made purchases with the travel agency since March 2014. Personal data involved included customers' names, Hong Kong Identity Card numbers, passport numbers, phone numbers, email addresses, credit card information, mailing addresses and/or purchase histories. The travel agency refused to pay the ransom and reported the incident to the Police. The PCPD initiated a compliance check after noting the incident from the media.

After the incident, the travel agency engaged two cybersecurity companies to investigate how the systems had been compromised and to advise how to strengthen its cybersecurity respectively. To reduce the risk of cyberattack, the travel agency enhanced its overall cybersecurity by enabling Web Application Firewall, adopting two-factor authentication for remote access, encrypting the customer database and creating an offline backup, conducting penetration testing and vulnerability scanning regularly, etc.

The travel agency also reviewed its data collection and retention practices. It ceased collecting credit cards' CVV numbers and Hong Kong Identity Card numbers, and shortened the retention period of credit card numbers from one year to six months to reduce the risk of leakage of sensitive personal data.



(iii) 沒有安全傳輸個人資料的網站

公署抽查了不同行業涉及收集個人資料的大約660個本地網站，以評估有關的資料使用者在透過互聯網傳輸個人資料的過程中是否採取足夠保障措施。根據抽查結果，公署對68個未有使用安全通訊端層(SSL)或其他科技以加密所需要傳送資料的資料使用者展開循規審查。

循規行動顯示大部分有問題的資料使用者不是沒有意識到需要保障在互聯網上傳輸的個人資料，便是擁有很少甚或根本沒有資訊科技方面的知識以確保他們的網站安全。

因應公署的建議，上述68間公司已在其網站實施SSL加密技術，以保障個人資料不受未獲准許的截取或查閱。基於是次循規行動的正面成效，公署將繼續相關行動。

視察行動

視察原因

近年香港的物業市場交投持續活躍，而地產代理需要處理的個人資料數量龐大，種類繁多，私隱專員遂根據《私隱條例》第36條對一間在市場具領導地位的地產代理公司(「該公司」)的個人資料系統進行視察，就業界處理個人資料方面作出建議，藉以加強他們依從《私隱條例》規定的認知。

視察結果及建議

視察結果顯示，該公司已採取合理措施致力確保顧客的個人資料得到妥善管理，未有發現有嚴重缺失。私隱專員滿意該公司最高管理層支持個人資料私隱保障的承諾，委任高級行政人員以監察其個人資料系統符合《私隱條例》的規定，並將個人資料私隱保障納入其企業管治之中。在技術層面方面，私隱專員欣賞該公司審慎地分割及監控其資料庫系統的權限，並按「有需要知道」的原則設置使用權限，以減少未獲授權查閱或洩露顧客個人資料的風險。

(iii) Websites without secure transmission of personal data

The PCPD examined around 660 local websites from various sectors which involved the collection of personal data, to evaluate whether the data users concerned provided sufficient security measures for personal data transmitted through their websites. Subsequently, the PCPD initiated compliance checks against 68 of those data users who did not enable Secure Sockets Layer (SSL) or other technical means on their websites to encrypt the data transmitted.

The compliance actions revealed that most of the problematic data users involved were either not aware of the need of security during personal data transmission through Internet or they did not have sufficient knowledge of information technology to make their websites secure.

With the PCPD's advice, the 68 data users had implemented SSL encryption on their websites in order to protect the transmitted personal data against unauthorised interception or access. In view of the positive outcome, the PCPD will continue to carry out similar exercises.

INSPECTION

Reasons for Inspection

Given the continuous boom of the property market in Hong Kong and the vast volume and broad range of personal data handled by estate agents, the Privacy Commissioner conducted an inspection of the personal data system of a leading estate agency (the Agency) pursuant to section 36 of the Ordinance. Through the inspection exercise, we made recommendations to this class of data users in relation to the handling of personal data so as to promote compliance with the provisions of the Ordinance.

Findings and Recommendations

The inspection showed that the Agency did make reasonably good efforts to ensure proper management of customers' data. No material deficiencies were found on the part of the Agency in privacy protection matters. The Privacy Commissioner was satisfied that the Agency had top management commitment to data privacy protection by designating a senior management officer to oversee and monitor the compliance of the personal data system and integrating the idea of data privacy protection into the organisation's governance. On the technical side, the Privacy Commissioner appreciated that the Agency prudently segmented the authorities and controlled the access rights of its database systems on a need-to-know basis, which would minimise the risk of unauthorised access to or leakage of customers' data.



私隱專員參照一個全面的私隱管理系統的要求，在報告內提出多項建議及良好行事方式供業界作參考，包括制定全面的私隱政策、合規審核機制、資料外洩事故通報機制及指引、資訊科技保安政策，規範個別地產代理收集及處理買賣雙方顧客的個人資料的方式，以及積極提供培訓及教育予員工等，以協助地產代理業界遵從《私隱條例》的規定。

私隱專員於報告內亦指出，機構若要有效管理及執行個人資料保障的政策，則不可只視有關政策為法律循規的事宜，而是應由董事會做起，將個人資料保障視為其企業管治責任、建立自己的私隱管理系統，並將之納入處理業務中不可或缺的一環。

資料外洩通報

資料外洩事故一般是指資料使用者懷疑其持有的個人資料保安不足，以致洩露資料，令資料可能被人未經授權或意外地查閱、處理、刪除、喪失或使用。資料外洩事故可能構成違反保障資料第4原則。雖然《私隱條例》並未有規定資料使用者就資料外洩事故作出通報，但為符合數據道德標準，公署一直鼓勵資料使用者一旦發生資料外洩事故，須通知受影響的資料當事人、私隱專員和其他相關人士。

公署在接獲資料外洩事故通報（可用公署的指定表格或其他方式呈報）後，會評估有關資料，以考慮是否有需要對有關機構展開循規審查。私隱專員對相關資料使用者進行循規審查後，會書面指出明顯的不足之處，並建議他們採取補救措施，防止同類事故重演。

在報告年度內，公署接獲 116 宗資料外洩事故通報（37 宗來自公營機構；79 宗來自私營機構），牽涉 765,834 名人士的個人資料。公署對所有肇事機構均展開循規審查行動。

Based on the elements of a comprehensive privacy management programme, the Privacy Commissioner made a number of recommendations and provided examples of the best practices in the report, including the formulation of comprehensive privacy policies, compliance audit system, data breach reporting mechanism and guidelines, IT security policies, controls on the handling of vendors' and purchasers' personal data by estate agents and the provision of training and education to staff members in a proactive approach etc., to assist the industry in ensuring compliance with the requirements under the Ordinance.

The Privacy Commissioner also stated in the report that personal data protection could not be managed effectively if an organisation treats it merely as a legal compliance issue. Instead, organisations should embrace personal data protection as part of their corporate governance responsibilities, formulate a comprehensive privacy management programme and apply them as a business imperative, starting from the boardroom.

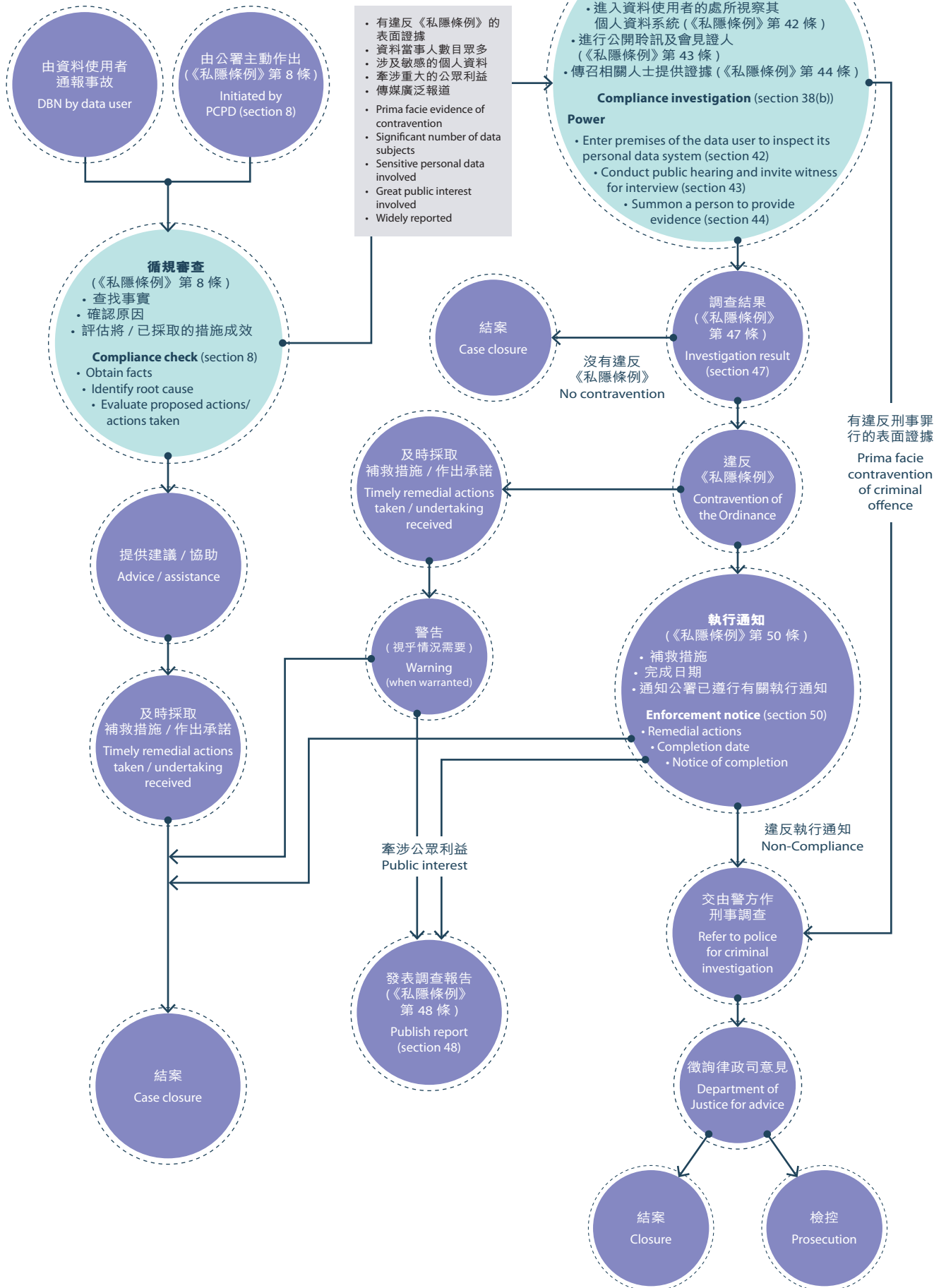
DATA BREACH NOTIFICATIONS

A data breach is a breach of security of personal data held by a data user, which results in exposing the data to the risk of unauthorised or accidental access, processing, erasure, loss or use. The breach may amount to a contravention of Data Protection Principle 4. Although the Ordinance does not require data users to give data breach notification (DBN), the PCPD has always encouraged data users to give such notification to the affected data subjects, the Privacy Commissioner, and other relevant parties when a data breach has occurred.

Upon receipt of a DBN from a data user (which could be submitted through the PCPD-designed DBN form or other means of communication), the PCPD would assess the information provided in the DBN and decide whether a compliance check is warranted. On completion of a compliance check, the Privacy Commissioner would point out the apparent deficiency and suggest the data user, where appropriate, to take remedial actions to prevent recurrence of the incident.

During the reporting year, the PCPD received 116 DBNs (37 from the public sector and 79 from the private sector), involving personal data of 765,834 individuals. The PCPD conducted a compliance check in each of these 116 incidents.

如何處理資料外洩事故 HANDLING A DATA BREACH





個人資料的核對程序

核對程序是指以電子方法比較因不同目的而收集的個人資料，從中得出的結果可用作對有關資料當事人採取不利行動的程序。資料使用者如無資料當事人的訂明同意或私隱專員的同意，不得進行核對程序。

在報告年度內，私隱專員共收到 20 宗個人資料核對程序申請，全部來自政府部門或公營機構。

經審閱後，私隱專員在有條件的情況下批准了 18 宗申請，餘下兩宗申請則不屬《私隱條例》釋義所指的核對程序。以下是私隱專員批准進行個人資料核對程序的部分個案：

DATA MATCHING PROCEDURE

A data matching procedure is a process by which personal data collected for one purpose is compared electronically with personal data collected for other purposes with an aim of taking adverse action against the data subjects concerned. A data user shall not carry out a matching procedure unless it has obtained the data subjects' prescribed consent or the Privacy Commissioner's consent.

During the reporting year, the Privacy Commissioner received a total of 20 applications for carrying out matching procedures. All of these applications came from government departments or public-sector organisations.

Upon examination, 18 applications were approved, subject to conditions imposed by the Privacy Commissioner; and the remaining two applications were found not to be matching procedures as defined under the Ordinance. The following are some of the matching procedures approved by the Privacy Commissioner:

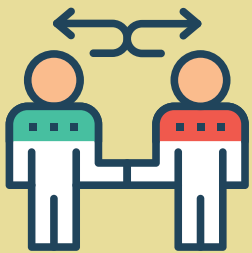
提出要求者 Requesting Parties	核准的資料核對程序詳情 Details of the Approved Data Matching Procedures
政府資訊科技總監辦公室 Office of the Government Chief Information Officer	<p>把政府資訊科技總監辦公室從「上網學習支援計劃」申請人及其配偶和子女收集的個人資料，與社會福利署從「綜合社會保障援助計劃」下與就學有關的選定項目定額津貼受助人收集的個人資料互相比較，以核實申請人的資格。</p> <p>Comparing the personal data collected by the Office of the Government Chief Information Officer from the applicants of the Internet Learning Support Programme and their spouses and children with the personal data collected by the Social Welfare Department from the beneficiaries of the flat-rate grant for selected items of school-related expenses under the Comprehensive Social Security Assistance Scheme, so as to assess the eligibility of the applicants.</p>
在職家庭及學生資助事務處 Working Family and Student Financial Assistance Agency	<p>把在職家庭及學生資助事務處從「低收入在職家庭津貼計劃」（2018年4月1日易名為「在職家庭津貼計劃」）受助人收集的個人資料，與社會福利署從「綜合社會保障援助計劃」受助人收集的個人資料互相比較，以辨識符合領取《2017-18年度財政預算案》中提及的一次性額外款項的受助人。</p> <p>Comparing the personal data collected by the Working Family and Student Financial Assistance Agency from the beneficiaries of the Low-income Working Family Allowance Scheme (renamed as Working Family Allowance Scheme from 1 April 2018) with the personal data collected by the Social Welfare Department from the beneficiaries of the Comprehensive Social Security Assistance Scheme, in order to identify beneficiaries eligible for the one-off extra payment introduced in the 2017-18 Budget.</p>



<p>香港房屋協會 Hong Kong Housing Society</p>	<p>把香港房屋協會從「資助出售房屋項目 2017」申請人及其家庭成員收集的個人資料，與香港房屋委員會從資助房屋業戶、租戶及申請人收集的個人資料互相比較，以避免公共房屋資源遭到濫用。</p> <p>Comparing the personal data collected by the Hong Kong Housing Society from the applicants of the Subsidised Sale Flats Projects 2017 and their family members with the personal data collected by the Hong Kong Housing Authority from the owners, tenants and applicants of subsidised housing, so as to prevent abuse of public housing resources.</p>
<p>選舉事務處 Registration and Electoral Office</p>	<p>把選舉事務處從申請更新住址資料的登記選民收集的個人資料，與房屋署從公共房屋業戶、租戶及認可成員收集的個人資料互相比較，以核實選民的住址資料。</p> <p>Comparing the personal data collected by the Registration and Electoral Office from electors applying for change of registered addresses with the personal data collected by the Housing Department from the owners, tenants and authorised members of public housing, in order to verify the addresses of electors.</p>

ENFORCING DATA PROTECTION

執法保障資料





調查不偏不倚

對於市民的投訴及查詢，公署具效率、公平公正地調查及排解。若發現有重大私隱風險的情況存在，我們主動作出調查。

THOROUGH AND IMPARTIAL INVESTIGATIONS

The PCPD investigates and resolves complaints and enquiries effectively in a manner that is fair to all parties concerned, and proactively investigates areas where privacy risks are significant.



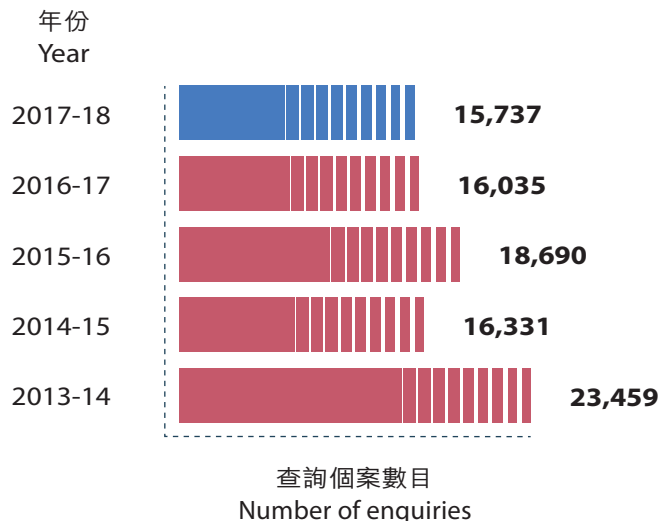
處理查詢

公署在報告年度共接獲 15,737 宗*查詢個案，較 2016/17 年度的 16,035 宗下跌 1.9%，平均每個工作天處理 64 宗查詢。大部分查詢 (82.7%) 經由公署的查詢熱線 (2827 2827) 及本年度起設立的中小型企業的專屬諮詢熱線 (2110 1155) 提出。

主要的查詢性質方面，30.5% 是關於收集 / 使用個人資料 (例如香港身份證號碼及副本)、10.6% 是與僱傭事宜相關；7% 是關於直接促銷活動。與使用互聯網有關的查詢由 2016/17 年度的 1,016 宗上升 4.9% 至 1,066 宗，主要涉及網絡起底、流動應用程式及網絡欺凌。

查詢數字減少的原因之一，相信和公署不斷透過推廣和教育工作，加強大眾對個人資料私隱保障的意識有關。公署出版各類指引，適時發出新聞稿及傳媒回應，又持續更新和優化其網站，令公眾能夠及早了解及掌握有關議題和知識。

圖 5.1 — 查詢個案數目



* 同一宗查詢可能涉及多項性質。
An enquiry may cut across different categories.

HANDLING ENQUIRIES

During the reporting year, the PCPD received a total of 15,737 enquiries*, 1.9% less than the 16,035 enquiries received in 2016/17. On average, 64 enquiries were handled per working day. The majority of the enquiries (82.7%) were made through the PCPD hotline (2827 2827) and the newly-launched dedicated hotline for SME (2110 1155).

The enquiries were mainly related to the collection and use of personal data (e.g. Hong Kong Identity Card numbers or copies) (30.5%), employment (10.6%), and use of personal data in direct marketing (7%). There was an increase of 4.9% in Internet-related enquiries, from 1,016 cases in 2016/17 to 1,066 cases in the reporting year. They mainly concerned cyber-profiling, mobile apps and cyber-bullying.

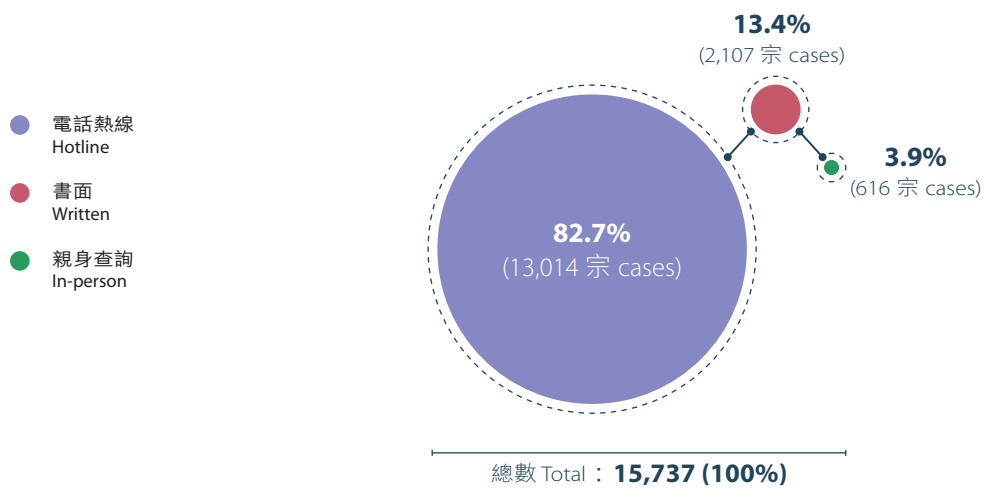
The drop in the number of enquiries received could be attributed to the heightened public awareness of personal data protection resulting from the PCPD's promotion and education. Those efforts included publishing various guidelines and releasing media statements and responses to timely address public concerns, as well as updating and revamping our website to make personal data privacy knowledge more readily accessible.

Figure 5.1 — Number of enquiries received

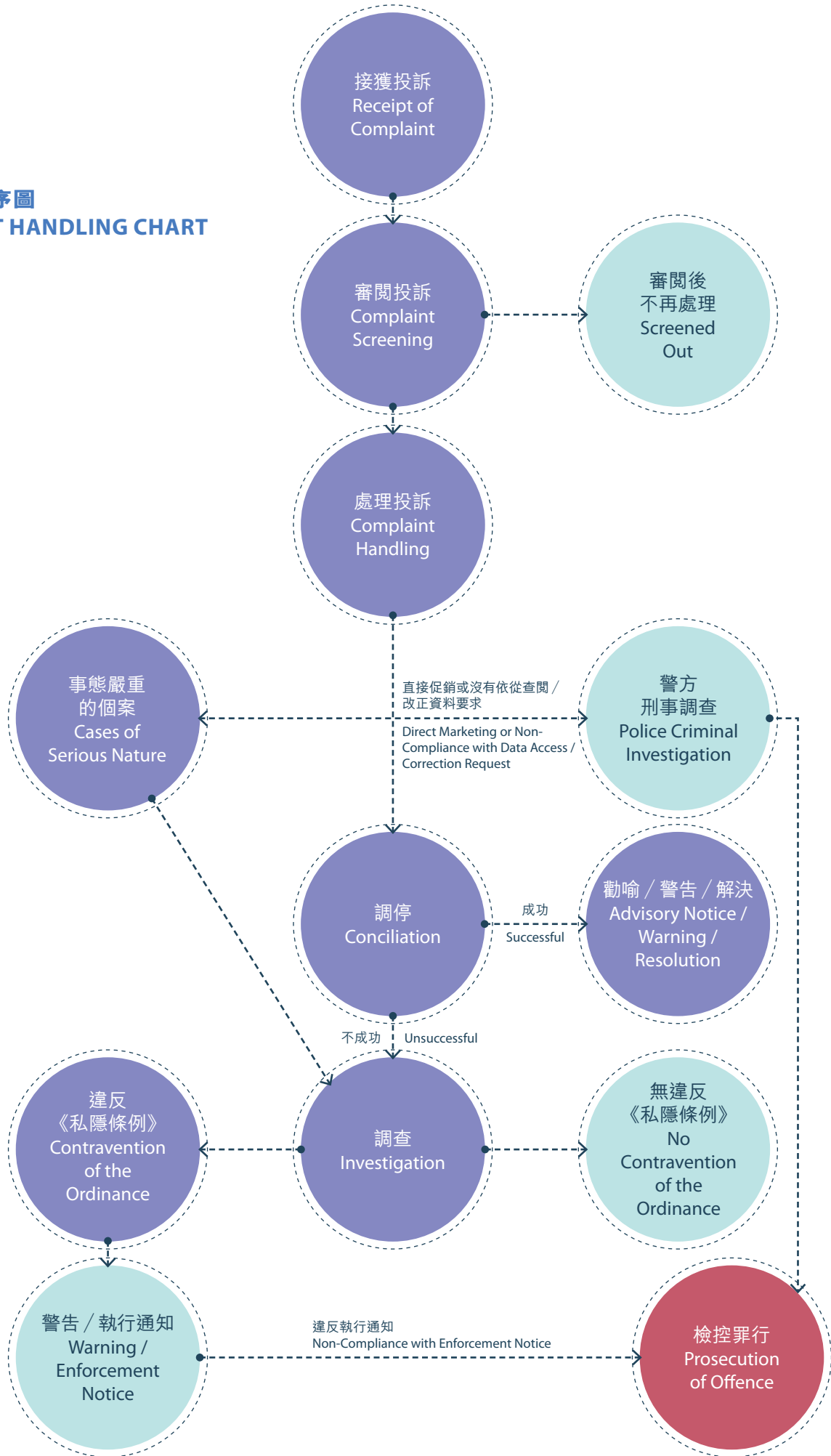


圖 5.2 — 提出查詢的途徑

Figure 5.2 — Means by which enquiries were made



處理投訴程序圖
COMPLAINT HANDLING CHART





調查投訴

COMPLAINTS INVESTIGATION

接獲的投訴個案

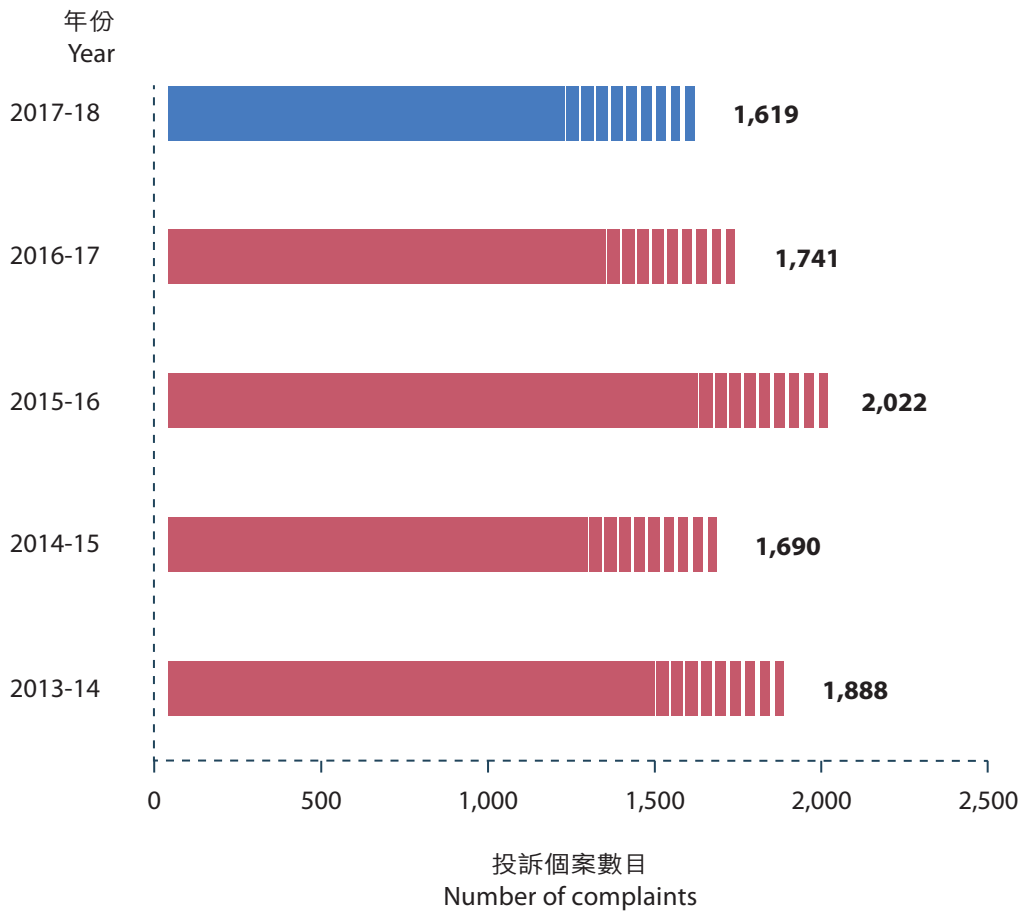
Data privacy complaints received

公署在本報告年度共接獲 1,619 宗*有關個人資料私隱的投訴，比上年度減少了 7%。(圖 5.3)

1,619 complaints* were received in 2017-18, being a 7% decrease from last year. (Figure 5.3)

圖 5.3 — 投訴個案數目

Figure 5.3 — Number of complaints received



* 為統計目的，公署在本報告年度收到有關選舉事務處遺失載有選民個人資料的手提電腦的 1,944 宗同類投訴，只作 1 宗投訴計算。

For statistical purpose, the 1,944 complaints received in relation to the suspected theft of computers of the Registration and Electoral Office that contained personal data of registered electors were counted as 1 complaint.

被投訴者類別

在接獲的 1,619 宗投訴個案中，被投訴者可分為以下類別：

- 私營機構 (1,022 宗)，主要涉及：銀行及財務公司、物業管理公司及業主立案法團，以及電訊公司；
- 個人 (280 宗)；及
- 政府部門及公共機構 (317 宗)，主要涉及：醫院或醫療機構、警務處，以及房屋管理機構。(圖 5.4)

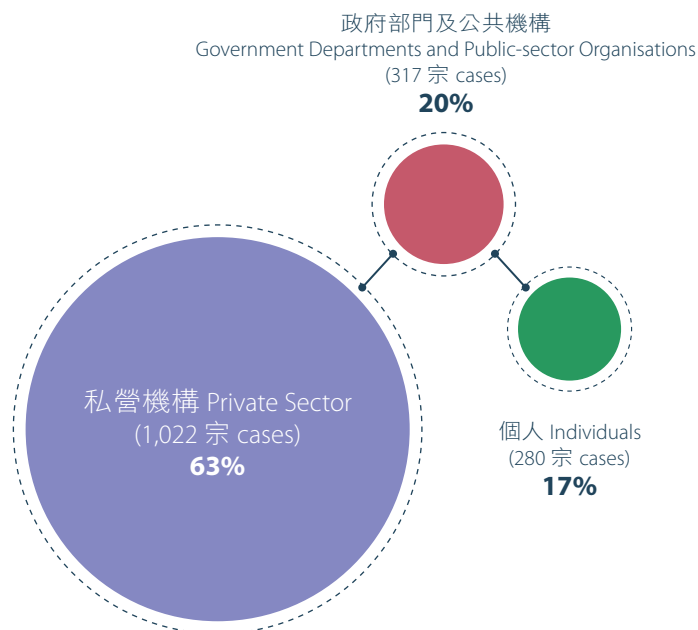
圖 5.4 — 被投訴者類別

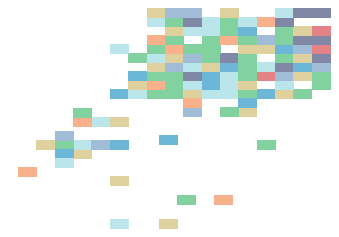
Types of parties being complained against

Among the 1,619 complaints received, the types of parties being complained against are as follows:

- private-sector organisations (1,022 cases), with the majority including banking and finance institutions, property management companies and owners' corporations, and telecommunications companies;
- individuals (280 cases); and
- government departments and public-sector organisations (317 cases), with the majority including healthcare services institutions, the Hong Kong Police Force and housing organisations. (Figure 5.4)

Figure 5.4 — Types of parties being complained against





就違反《私隱條例》的投訴指稱

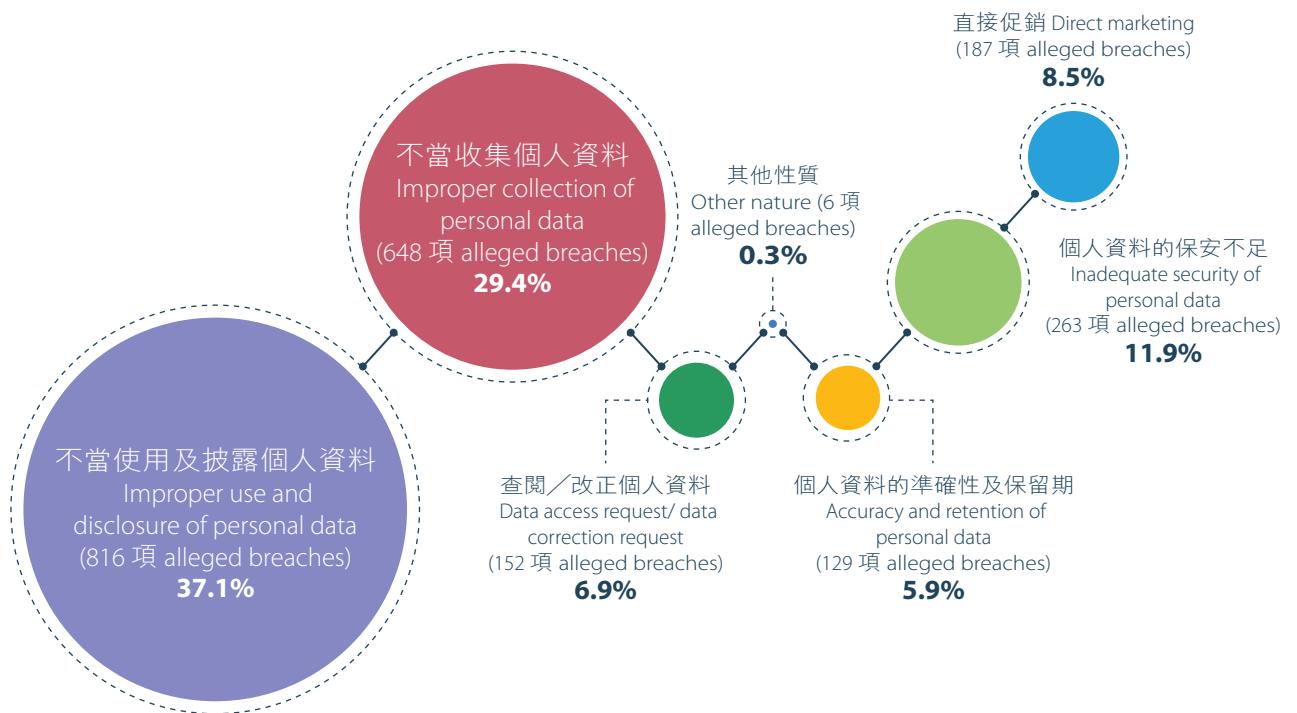
在本報告年度內接獲的 1,619 宗投訴中，共涉及 2,201 項違反《私隱條例》規定的指稱（同一宗投訴個案可涉及多於一項指稱），該些投訴指稱見圖 5.5。

圖 5.5 — 就違反《私隱條例》的投訴指稱

Nature of alleged breaches under the Ordinance

The 1,619 complaints involved a total of 2,201 alleged breaches under the Ordinance (one complaint case may include more than one allegation). The nature of the alleged breaches is shown in Figure 5.5.

Figure 5.5 — Nature of alleged breaches

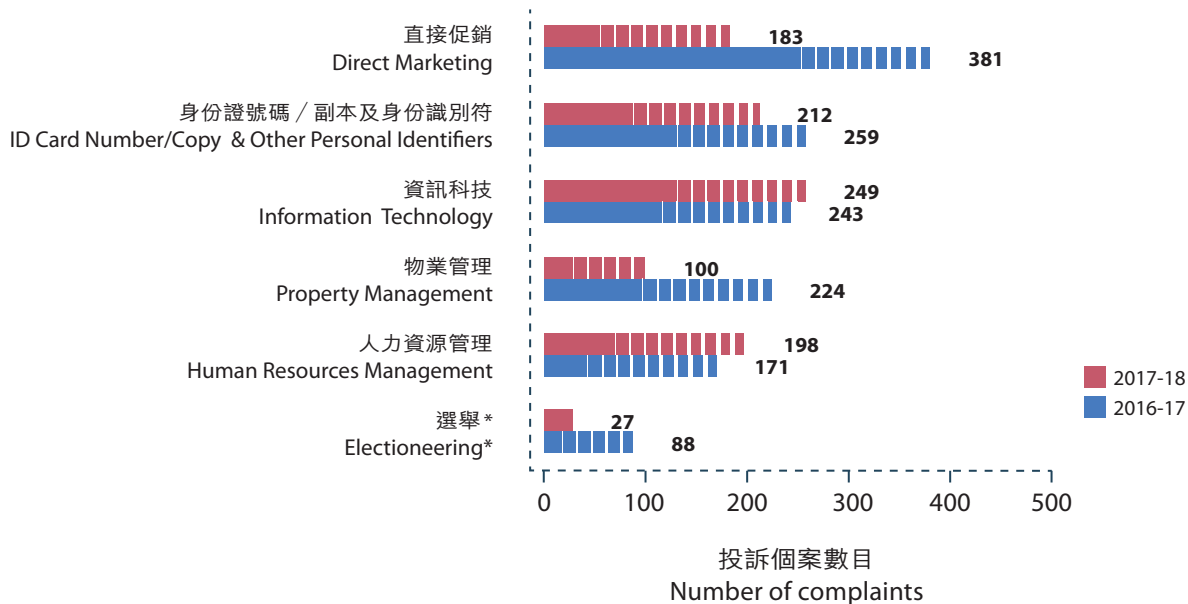


投訴所涉的主要範疇

跟上一個報告年度比較，公署於本報告年度收到的投訴中，與直接促銷及物業管理有關的有明顯下跌的趨勢，分別有52%及55%的跌幅。與資訊科技及人力資源管理有關的投訴，則分別有3%及16%的升幅。（圖5.6）

有關資訊科技的投訴中，涉及社交網絡和智能手機應用程式的投訴佔大多數，其餘的投訴涉及在互聯網上披露或洩漏個人資料、網絡欺凌等。至於有關人力資源管理的投訴中，主要涉及僱主安裝閉路電視監察員工、收集超乎適度的個人資料、向第三者披露員工的個人資料，以及沒有依從查閱資料要求。

圖 5.6 — 投訴所涉的主要範疇



* 為統計目的，公署在本報告年度收到有關選舉事務處遺失載有選民個人資料的手提電腦的1,944宗同類投訴，只作1宗投訴計算。

For statistical purpose, the 1,944 complaints received in relation to the suspected theft of computers of the Registration and Electoral Office that contained personal data of registered electors were counted as 1 complaint.

Major subjects of complaints

Compared with last reporting year, the numbers of complaints received during the reporting year by the PCPD about direct marketing and property management-related issues have decreased significantly by 52% and 55% respectively. On the other hand, the numbers of complaints concerning information technology and human resources management have increased by 3% and 16% respectively. (Figure 5.6)

As for the complaints relating to information technology, the majority of them were about social networks and smartphone applications, and the remaining complaints were mostly about the disclosure or leakage of personal data on the Internet and cyberbullying. Most of the complaints relating to human resources management were about monitoring employees through CCTV cameras, excessive collection of personal data, disclosure of employees' personal data to third parties, and failure to comply with data access requests.

Figure 5.6 — Major subjects of complaints



年度投訴摘要

在本報告年度，公署處理了193宗承接上一個報告年度的投訴，加上新接獲的1,619宗投訴，年內共須處理1,812宗投訴。在這些個案中，1,621宗(89%)在本報告年度內經已完結，而餘下的191宗(11%)，截至2018年3月31日仍在處理中。(圖5.7)

圖 5.7 — 過去五個年度投訴摘要

	2017-18	2016-17	2015-16	2014-15	2013-14
承接上年度的投訴 Complaints carried forward	193	262	253	329	393
接獲的投訴 Complaints received	1,619	1,741	2,022	1,690	1,888
共須處理的投訴 Total complaints processed	1,812	2,003	2,275	2,019	2,281
已完結的投訴 Complaints completed	1,621	1,810	2,013	1,766	1,952
未完結的投訴 Complaints under processing	191	193	262	253	329

Summary of complaints handled during the reporting year

During the reporting year, the PCPD handled 1,619 new complaints, in addition to 193 complaints carried forward from last reporting year, bringing the total number of complaints handled during the reporting year to 1,812. Of these, 1,621 (89%) were completed during the reporting year, and 191 (11%) were still in progress as at 31 March 2018. (Figure 5.7)

Figure 5.7 — Summary of complaints handled in the past five years

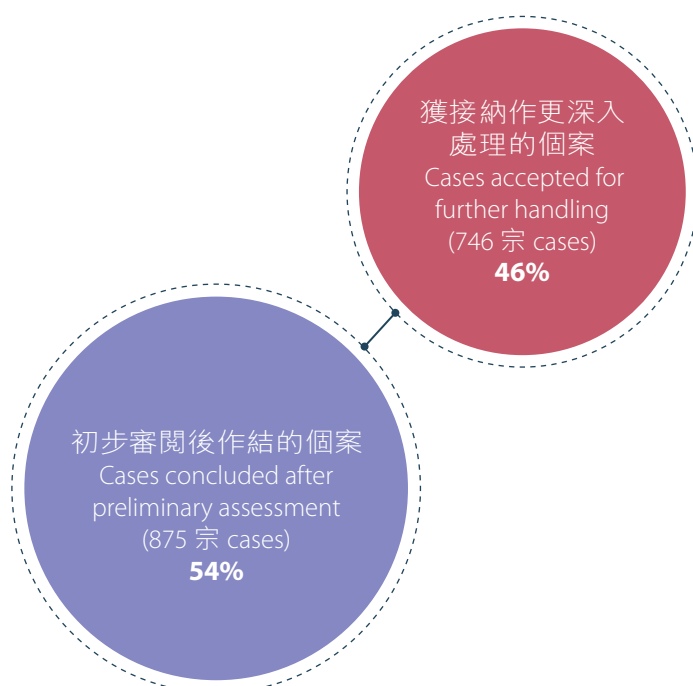
本年度已完結的投訴個案分類

在本報告年度內已經完結的1,621宗投訴，當中875宗經公署初步審閱後，基於以下原因結案：

- (i) 個案不符合《私隱條例》第37條定義的「投訴」，例如不涉及「個人資料」。部分個案則未能指明被投訴者的身份或匿名投訴等；
- (ii) 投訴人撤回投訴；
- (iii) 公署要求投訴人加以述明其指稱或提供補充資料後，投訴人未有作出回應；
- (iv) 投訴內容不在《私隱條例》的管轄範圍；或
- (v) 沒有違反《私隱條例》的表面證據。

其餘746宗個案獲公署接納作更深入處理。(圖5.8)

圖 5.8 — 本年度已完結的投訴個案分類



Categorisation of completed complaints

Of the 1,621 complaints completed during the reporting year, 875 were concluded after our preliminary assessment, on the grounds set out below:

- (i) the matters complained of fell outside the definition of “complaint” under section 37 of the Ordinance. For instance, the matters complained of did not involve “personal data” of the data subjects. In some cases, the complainants failed to specify the identities of the parties being complained against or the complaints were anonymous etc.;
- (ii) the complaints were withdrawn by the complainants;
- (iii) the complainants did not respond to the PCPD’s requests to provide evidence in support their allegations;
- (iv) the matters complained of were outside the jurisdiction of the Ordinance; or
- (v) no prima facie evidence of contravention.

The remaining 746 complaints were accepted for further handling. (Figure 5.8)

Figure 5.8 — Categorisation of completed complaints



公署處理投訴的方式

就該 746 宗獲公署接納作更深入處理的投訴，公署先以調停這種較便捷的解決爭議方式，嘗試解決資料當事人與被投訴者之間的糾紛。當中 635 宗經公署介入後得到解決（圖 5.9），並基於以下原因結案：

- (i) 被投訴者就投訴事項採取相應的糾正措施；
- (ii) 公署向投訴人分析所有在案資料後，投訴人不再追究；或
- (iii) 公署應投訴人要求向被投訴者表達關注，以讓被投訴者作出跟進。

此外，公署在調停期間，發現 16 宗投訴涉及刑事成份（例如有關直接促銷的條文），在公署確立表面證據成立後，投訴人同意轉介個案予警方進一步處理。

圖 5.9 — 調停、轉介警方與展開調查的投訴個案

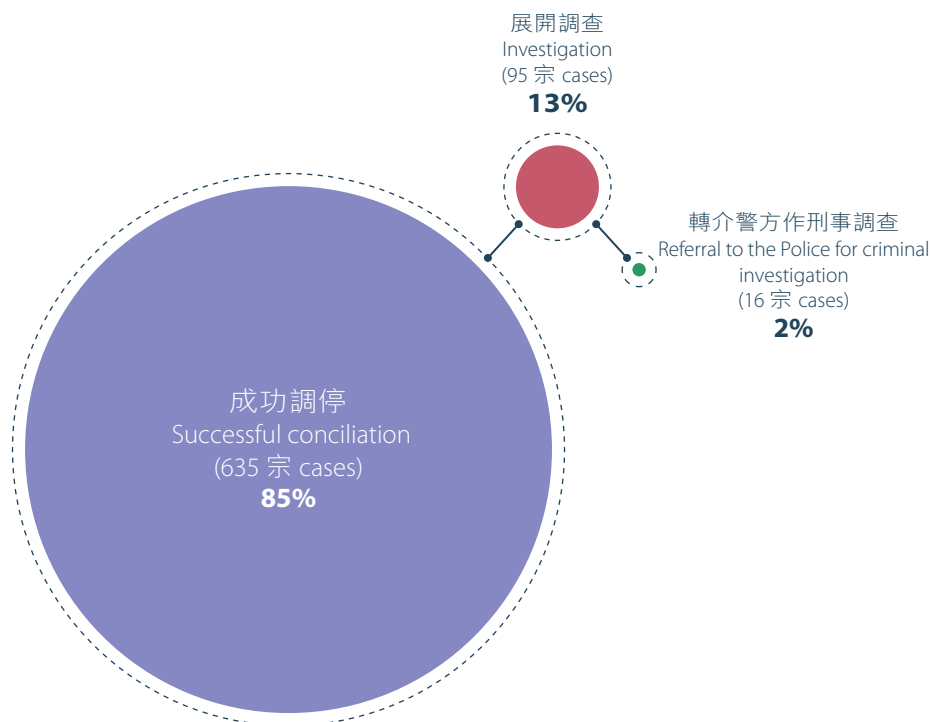
Modes of complaints handling

For those 746 complaints accepted for further handling, the PCPD attempted to resolve disputes between the data subjects and the parties being complained against by conciliation as a speedy and convenient dispute resolution alternative. 635 complaints were successfully resolved (Figure 5.9) on the following grounds:

- (i) remedial actions have been taken by the parties being complained against to resolve the problems raised by the complainants;
- (ii) the complainants withdrew their complaints after the PCPD had explained information in hand to them; or
- (iii) the PCPD had conveyed the complainants' concerns to the parties being complained against for their follow-up actions.

In the course of conciliation, 16 complaints were found involving criminal elements (e.g. direct marketing-related cases). Those complaints were referred to the Police when prima facie evidence of contravention was established and the complainant's consent for referral was received.

Figure 5.9 — Complaints resolved by conciliation, referral to the Police and investigation



餘下 95 宗的投訴因不適合或不能成功調停，而須展開調查，當中：

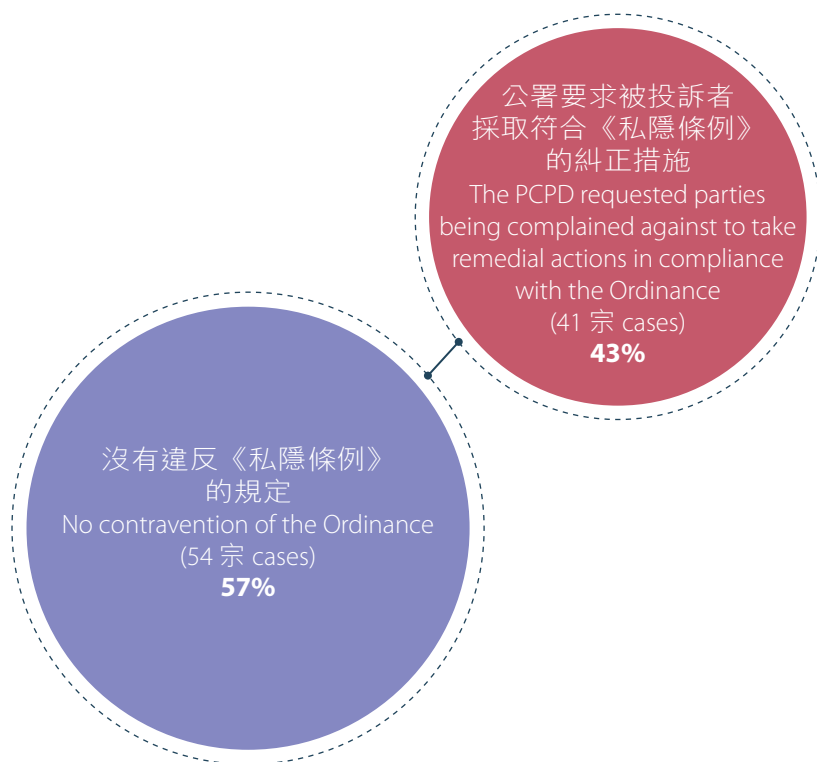
- 公署要求 41 宗的被投訴者採取符合《私隱條例》規定的相應糾正措施，公署並向部份被投訴者發出警告或執行通知。
- 餘下的 54 宗的被投訴者沒有違反《私隱條例》的規定，公署給予部分被投訴者建議，鼓勵他們建立保障個人資料的良好行事方式。(圖 5.10)

Investigations were carried out for the remaining 95 complaints, which were unsuitable for conciliation or not conciliated:

- in 41 complaints, the PCPD had requested the parties being complained against to take remedial actions in order to comply with the requirements of the Ordinance. Some of them were issued with warnings and enforcement notice by the PCPD.
- no contravention of the Ordinance was found in the remaining 54 complaints. Recommendations were given to some of the parties being complained against to encourage them to establish good practice in data protection. (Figure 5.10)

圖 5.10 — 展開調查的個案結果分類

Figure 5.10 — Categorisation of investigation cases





公署給予被投訴者的建議

公署除了向涉及違反《私隱條例》的被投訴者發出警告或執行通知外，在調停或調查的過程中亦會視乎情況提示或建議被投訴者採取糾正措施，以免重蹈覆轍，或鼓勵他們建立保障個人資料的良好行事方式。在本報告年度中，公署曾向被投訴者發出超過850項建議，要求他們：

- 遵從《私隱條例》的相關規定；
- 修訂與個人資料有關的政策和行事程序，以免再發生同類違規事件；
- 向職員發出指引，要求他們遵從有關的政策和行事程序；
- 依從投訴人的查閱／改正資料要求提供／改正個人資料，或減低依從查閱資料要求的費用；
- 刪除不必要地收集或向第三者披露的個人資料；
- 承諾停止被投訴的不當行為；
- 依從投訴人的拒絕接收直銷訊息要求；及
- 跟進公署轉達投訴人對其私隱的關注。

Recommendations given to the parties being complained against

Apart from issuing Enforcement Notices and warnings, the PCPD also, in some cases, advises parties being complained against to carry out remedial actions in the course of conciliation or investigation, with a view to preventing the recurrence of similar irregularities in future, and/or encourage them to establish good practice in personal data protection. During the reporting year, more than 850 recommendations were made to the parties being complained against to advise them to take the following actions:

- observe relevant requirements under the Ordinance;
- revise personal data-related policies and practices to prevent similar breach in future;
- provide proper guidance to staff to require compliance with relevant policies and practices;
- supply/correct the personal data to comply with the complainants' data access/correction requests, or reduce the fee for complying with the data access requests;
- delete personal data that was collected or disclosed to third parties unnecessarily;
- undertake to cease the malpractices leading to the complaints;
- comply with opt-out requests for not receiving direct marketing messages; and
- follow up on the privacy-related concern of the complainants.

個案選錄

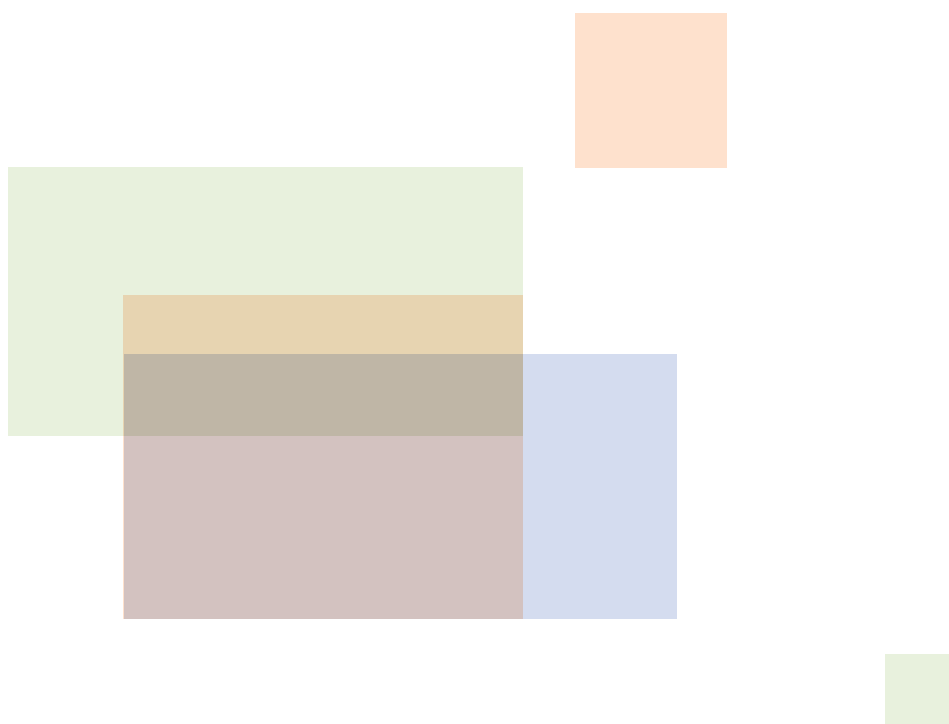
公司或機構在運用個人資料為業務或服務增值之餘，亦須有道德地顧及其作為對資料當事人所帶來的影響。以下選錄中的一些個案，說明個人資料私隱一旦被侵犯，對當事人的尊嚴、權利或利益可造成損害。

公署如認為投訴有理據，會建議涉事公司或機構作出糾正或補救。由資料當事人提出的投訴，可以令不當的處理個人資料方式得以修正，繼而惠及他人。公署希望個案選錄可供資料使用者作為借鑑，而一般市民可了解其個人資料私隱應獲得的保障。

SUMMARIES OF SELECTED CASES

Companies or organisations, when making use of personal data in enhancing business operations or services, are under ethical obligation to carefully consider the possible impact on the data subjects. The following selected cases illustrate how intrusion of personal data privacy may infringe the data subjects' dignity, rights and interests.

If complaints are found to be substantiated, the PCPD would recommend the companies or organisations involved to take corrective or remedial actions. Complaints made by data subjects can bring about the correction of malpractices of personal data handling, and subsequently benefit the community at large. By publishing these case summaries, we wish to provide data users with good lessons to be learnt, and to enhance data subjects' understanding of their privacy rights.





個案一：學校在沒有通知家長的情況下，向網絡程式供應商提供學生的個人資料，替學生開設服務帳戶 — 保障資料第3原則

投訴內容

投訴人女兒就讀的小學沒有事先通知家長，便向學校使用的網絡程式供應商提供學生的英文姓名、班別和學號，以便替學生設立服務(包括電郵、雲端硬碟、學習工具等)帳戶。學校並設定以學生的學生編號和出生日期為登入名稱和密碼。投訴人憂慮學校會監察學生使用該帳戶的情況，並擔心小學生不理解登入帳戶時須同意的服務條款，遂代表其女兒向公署作出投訴。

結果

學校表示他們雖然擁有學生帳戶的管理權，並可按教學需要設定學生可使用的服務，但沒法查閱學生的帳戶活動紀錄。學校解釋以學生姓名、班別及入學編號設定為帳戶姓名，目的是方便教師識辨學生的身份；而將密碼設定為學生的出生日期，此舉是方便學生記憶。學校強調有要求學生在首次登入後更改密碼。

公署認為家長當初提供學生的個人資料予學校時，並未獲告知有關資料會被轉移至網絡程式供應商，家長擔憂其子女的個人資料或被濫用是可以理解的。

Case 1: A school provided students' personal data to an online tool services provider for creating service accounts for students without notifying the parents — DPP3

The Complaint

The complainant's daughter was a primary school student. Without notifying the parents, the school provided its students' names, classes and class numbers to the contractor of its online tool for creating user accounts, which were used by students for logging into services provided by the tool such as email, cloud disk and learning applications. Student number and date of birth were used as default log-in name and password respectively. The complainant was worried that the school might keep track of students' account usage, and that the terms of conditions to be accepted upon logging in might be incomprehensible to primary students. The complainant therefore complained to the PCPD on behalf of her daughter.

Outcome

The school stated that although it had control over students' accounts and might decide on the services used by students according to teaching needs, it was unable to review students' account activities. Besides, the school explained that naming service accounts by student name, class and student number could facilitate identification of users by teachers. The setting of date of birth as default password was also done on purpose for easy recall by students. The school stressed that it had required the students to change their account password upon the first log-in.

When parents provided their children's personal data to the school, they were not informed that the data would be transferred to the contractor of its online tool. In the circumstances, parents' concern about possible misuse of their children's personal data was understandable.

經公署解釋《私隱條例》的相關規定後，學校表示會以其他字元組合為學生建立帳戶，及讓家長選擇是否保留學校已為學生建立的帳戶。此外，學校並制訂學生使用服務的政策，清楚訂明開立帳戶的目的及用途，並發放如何安全使用帳戶及學校的管理權等資訊，以釋除家長的憂慮。

借鑑

學校在本案中的行為出於善意，亦符合現今利用科技促進教育的大趨勢。然而，在本案發生前，學校未有周詳地考慮家長及學生在個人資料私隱方面的期望，亦未能及早告知家長及學生有關安排，家長在得悉子女的個人資料被如此使用難免感到驚訝，因而產生了憂慮。公署欣悉學校迅速作出的上述改善措施，令家長對學校重拾信任。

After the PCPD explained the relevant requirements under the Ordinance to the school, the school undertook that it would use other combinations of characters to create user account for students. For the existing accounts, parents might choose whether they would keep using them or not. Besides, the school would develop a policy on usage of the online tool, define the purposes of account creation, and publicise account safety and the school's right to manage the accounts, to alleviate parents' concern.

Lesson Learnt

The school's practice in question was well-intended, and was in line with the latest trend of facilitating learning with technology. However, the school had not thoroughly considered the personal data privacy expectation of parents and students, nor informed them of the relevant arrangements in advance. Parents would inevitably be surprised and worried when they learnt of such use of students' personal data. We are glad that the school responded timely with the above improvement initiatives to regain the parents' trust.





個案二：律師事務所將投訴人的私人信件發送至她辦公室的共用電郵信箱，以致信件遭第三者查閱 — 保障資料第4原則

投訴內容

代表投訴人丈夫的律師事務所將一封內容與投訴人正辦理離婚有關的私人信件，發送至投訴人辦公室公用的電郵地址。

該事務所向公署表示，他們曾將信件發送至投訴人的私人電郵地址，但不獲投訴人回應，該事務所遂將信件發去投訴人辦事處的電郵地址，並在電郵標題註明為私人密件。該事務所表示，他們是從網上搜尋到投訴人辦事處的電郵地址，加上他們當時未能從投訴人丈夫提供的資料確定投訴人的其他聯絡方法，故他們在發出電郵前未有先聯絡投訴人核實該電郵信箱是否由她本人開啟。此外，該事務所表示他們之所以發送該信件至投訴人辦事處的電郵地址，是希望盡快收到她的回應。

結果

公署認為，該事務所如有必要將信件發送至投訴人辦公室的電郵地址，他們應先將信件加密或先與投訴人核實該電郵信箱是否由她本人開啟，才將信件發出。公署認為，該事務所並無採取所有切實可行的步驟以保障投訴人的個人資料，違反保障資料第4原則。

經公署介入後，該事務所承諾會預先將郵件加密或與收件人溝通，才會以電郵方式發送載有個人資料及敏感資料的文件。

Case 2: A law firm sent a private letter to a general email address of the data subject's workplace, resulting in disclosing the letter to a third party — DPP4

The Complaint

A law firm, acting on behalf of the complainant's husband, sent a letter regarding the complainant's divorce, which was underway, to a general email address of her workplace.

According to the law firm, it initially sent the letter to the complainant's personal email address but received no response. It subsequently sent the letter to the general email address of the complainant's office, which had been obtained from the Internet. It clearly marked "Private and Confidential" in the subject heading of the email. Being unable to confirm other means of contact of the complainant from the information provided by her husband, the law firm had not contacted the complainant to ascertain whether she would personally check the emails received through the general email address of her office, before sending the email to her. The law firm explained that it sent the letter to the complainant through the general email address of her office in the hope of getting her prompt response.

Outcome

If the law firm needed to send the letter to the general email address of the complainant's office, it should ascertain in advance if the complainant personally checked the emails received via that office email address, or send the letter encrypted. We considered that the law firm had failed to take all practicable steps to ensure that the complainant's personal data was protected against unauthorised or accidental access, hence in breach of DPP4.

After the PCPD's intervention, the law firm undertook that when they had to deliver documents containing personal data or sensitive information to others under similar circumstances in future, they would communicate with the recipient in advance or encrypt the message.

借鑑

婚姻訴訟屬婚姻雙方之間的私人事務，一般人理應不希望無關人士知悉。本案的律師事務所的行為明顯未有周詳考慮投訴人的私隱期望，以致其婚姻訴訟被一眾同事得悉，是不專業且不負責任的行為。

律師事務所每天處理大量個人資料，可以此案為鑑，重新審視發送文件的流程，以確保個人資料私隱能得到保障。

Lesson Learnt

No one would welcome the details of his/her divorce proceedings, which are strictly private, be made known to unrelated parties. The law firm in this case had obviously failed to give due consideration to the privacy expectation of the complainant. Her divorce proceedings were hence made known to her colleagues. Such act of the law firm was unprofessional and irresponsible.

Law firms handle a large volume of personal data every day. They can take reference from this case as an example to review the current procedures in delivery of documents to ensure protection of personal data.





個案三：查閱資料要求的權利只限於取得指明的個人資料的複本，而不是指明的文件的副本 — 保障資料第 6 原則

投訴內容

一位即將退休的大學講師向校方申請延長聘用，校方審理後拒絕了其申請。講師其後向大學遞交一份查閱資料要求表格，以查閱審理其申請有關的文件，校方應講師的要求提供了有關資料。

講師收悉文件後，發現當中的一份綜合報告提及校方曾就處理其申請召開的會議。雖然該報告中已包括該會議的內容概要，但投訴人認為校方應獨立向他提供該會議紀錄的副本，他遂向公署投訴校方。

結果

《私隱條例》第 18(1)(b) 條規定，任何個人有權要求資料使用者提供其個人資料的複本。在司法覆核個案胡潔冰訴行政上訴委員會（法院案件編號 HCAL 60/2007）中，法庭裁定根據第 18(1)(b) 條，資料當事人只是有權取得其個人資料的複本，而非每份文件的副本。

公署認為，校方向講師提供的報告內已包含該會議紀錄中涉及投訴人的資料，即已向投訴人提供在該會議紀錄中他的個人資料的複本，因此校方不會因為沒有向投訴人提供該會議紀錄的副本而違反《私隱條例》的規定。

Case 3: The right of data access request is restricted to obtaining a copy of the specified personal data, not a copy of the document containing the personal data — DPP6

The Complaint

The complainant was a member of the teaching staff of a university. He applied for re-appointment beyond retirement age. However, his application was declined by the university. He later submitted a data access request to the university for a copy of the documents in relation to the assessment of his application. The university complied with the request by providing him with a copy of the personal data concerned.

The complainant noted from an integrated report (the Report) among the documents provided by the university that a meeting in relation to his application was held by the university. Despite that the Report already contained a summary of the meeting, the complainant considered that the university should have provided him with a copy of the minutes of the meeting (the Minutes). He therefore complained to the PCPD against the university.

Outcome

Under section 18(1)(b) of the Ordinance, an individual may make a request for access to his personal data held by a data user. In judicial review *Wu Kit Ping v. Administrative Appeals Board HCAL 60/2007*, the Judge ruled that the right of a data subject under section 18(1)(b) of the Ordinance was accessing a copy of his personal data, not a copy of the document containing his personal data.

The PCPD considered that the Report provided by the university to the complainant had already included the personal data of the complainant contained in the Minutes. Given that the university had already provided the complainant with his personal data contained in the Minutes, the university would not contravene the requirement of the Ordinance for not having provided him with a copy of the Minutes.

借鑑

《私隱條例》賦予市民查閱資料的權利，然而市民經常誤會可引用此權利以查閱任何載有他的個人資料的文件，或向機構取得文件複本。法例的原意是提供渠道以供資料當事人查閱資料使用者持有他的個人資料，以及在發現不準確時要求更正。查閱資料要求並不是文件透露程序，市民不應期待可以透過查閱資料要求取得任何指定文件的完整或局部副本。

Lesson Learnt

The Ordinance provides right of members of the public to access their personal data. However, it is a common misunderstanding that this right can be used to access any documents containing an individual's personal data, or for obtaining a copy of such documents. The legislative intent of data access request is to provide a channel to a data subject to access his or her personal data held by a data user, and to request correction when an inaccuracy is noted. Data access request is not a document discovery process. The public should not expect to obtain a full or partial copy of specific documents by making a data access request.





個案四：機構使用閉路電視搜證時仍須按法例確保所涉個人資料的保安 — 保障資料第4原則

投訴內容

一所大學校園的民主牆上出現了一些冒犯性的字句。事件引起公眾關注及傳媒廣泛報導，當中一份報章更公開了兩名男子涉嫌張貼有關字句的閉路電視片段截圖。

有市民懷疑是大學主動向報章披露這些閉路電視片段截圖，涉嫌侵犯截圖中人士的私隱，遂向公署作出投訴。公署隨即就該閉路電視片段截圖外洩事件對大學展開循規審查。

結果

審查資料顯示，大學關注假如是該大學的學生張貼有關字句，那些學生必蒙受巨大壓力而不知怎樣自處，因此校方認為有必要盡快確定涉案人士的身份，以便對有關學生進行輔導。另一方面，事件已影響學校聲譽，違反學生行為守則，大學因而須識辨涉案人士的身份，繼而作出調查及考慮採取紀律處分。

基於上述理由，大學保安中心在事件發生後翻查校園的閉路電視片段，並用手提電話拍攝相關的兩張截圖，然後傳送到大學管理層人員組成的即時通訊社交媒體群組中，希望能盡快識辨涉案人士。群組內的部分成員更將該兩張截圖轉發至十多名教職員及一名學生，要求他們協助識辨該兩人。

Case 4: An organisation is required by the law to ensure personal data security even when using CCTV for collection of evidence — DPP4

The Complaint

A banner with offensive message was posted on the “Democracy Wall” of a university. The accident aroused widespread public concern and media coverage. One of the local newspapers published two screenshots captured from the campus CCTV footage showing two men posting the banner.

Some members of the public suspected that the university had provided the screenshots to the media, intruding on the privacy of those two men. They complained to the PCPD against the university. The PCPD therefore initiated a compliance check against the university.

Outcome

As revealed in the compliance check, the university noted that if the banner was posted by its students, those students might experience great pressure and might not know how to deal with the situation. It was therefore necessary for the university to ascertain the identity of the persons involved to provide them with counselling. On the other hand, as the act of posting such a banner appeared to have violated the General Code of Student Conduct, and it damaged the university’s reputation, the university needed to identify the persons involved in order to conduct further investigation, and to consider disciplinary action.

Accordingly, the security centre of the university ascertained from campus CCTV footage that the banner had been posted by two men. Two screenshots were made and sent to the university’s senior management via an instant messaging social network group for the purpose of timely identification of the persons involved. For the same purpose, some members of the social network group forwarded the two screenshots to more than 10 other staff members and one student.

公署留意到大學以即時通訊社交媒體傳閱兩張截圖的目的是進行紀律調查，與其原先為保安理由而安裝閉路電視監察系統的目的並不相同，表面上或不符保障資料第3原則的規定。不過，如果是為調查及懲處嚴重不當行為（並不限於罪案）的目的而使用的個人資料，則受《私隱條例》第58條所豁免，以致有關資料不受保障資料第3原則所管限。

在考慮到事件影響大學校譽及有關行為涉及違反學生行為守則（如字句是學生張貼），公署認為《私隱條例》第58條的豁免適用，即大學以即時通訊社交媒體傳閱兩張截圖的做法不涉及違反保障資料第3原則的規定。

不過，公署認為即使該大學有必要第一時間將兩張截圖於該群組內傳閱，大學亦務必要提醒群組的成員該兩張截圖屬機密資料，不可隨意轉發，以及在完成使用截圖後，須立即將截圖刪除等。

由於該大學沒有採取所有合理地切實可行的保安措施去保障該兩名人士的個人資料，公署認為該大學違反了保障資料第4原則的規定。該大學接納公署的意見，並採取以下措施加強保障校園閉路電視片段：

- (i) 在該群組訂明各人均須遵守保密原則；
- (ii) 制定閉路電視監察政策及程序，包括清楚列明持有個人資料的種類、收集資料的主要使用目的及保留政策等事宜；及
- (iii) 為負責有關閉路電視系統的日常運作的職員制定詳細的工作指引，當中包括翻查及截取閉路電視片段的程序及保安措施。

The PCPD noted that there might be a prima facie contravention of DPP3 of the Ordinance by the university, given that the purpose of circulating the two screenshots through the instant messaging application for disciplinary investigation was different from the original purpose of installing the CCTV, which was for security. However, if the personal data was used for investigation and punishment of seriously improper conduct (not limited to crimes), such data was exempt from the provisions of DPP3 by virtue of section 58 of the Ordinance.

Given that the incident might damage the university's reputation and the act of posting such a banner appeared to have violated the General Code of Student Conduct (if it was done by the university students), the PCPD took the view that section 58 of the Ordinance would apply such that the circulation of the two screenshots by the university through the instant messaging application did not contravene DPP3.

However, the PCPD considered that even though the university needed to circulate the two screenshots within the social network group in a timely manner, it should have reminded the members of the group that the screenshots were confidential information not to be shared with others and they had to be deleted immediately after use.

All in all, the university failed to take all reasonably practicable steps to safeguard the two persons' personal data, thereby contravening DPP4 of the Ordinance. The university took the PCPD's advice and has taken the following actions to enhance the protection of the CCTV images:

- (i) stating in the social network group that members were required to maintain confidentiality;
- (ii) devising CCTV monitoring policies and procedures to ensure that matters relating to the types of personal data held and the main purposes for which the data collected was to be used, as well as the retention policies were clearly set out; and
- (iii) devising detailed operational guidelines for the CCTV operating staff, including procedures on retrieval and capturing of CCTV footage and security measures.



借鑑

法律保障所有人的個人資料私隱為基本人權，但這不是絕對的權利。《私隱條例》對不同人士的個人資料的保障並非在所有情況下均為相同。例如當有罪案、嚴重不當、不誠實或舞弊的行為發生時，為了可即時及有效地去偵測這些行為，涉案者的個人資料私隱並不會凌駕於社會的整體利益之上。正因如此，《私隱條例》第8部訂下了多項豁免的情況，使在防止及偵測這些行為時而使用的個人資料，不受《私隱條例》所管限，以避免犯罪者及干犯嚴重不當、不誠實或舞弊行為的人士以《私隱條例》作其「擋箭牌」，逃避調查及應有的懲處。

另一方面，大學作為資料使用者亦有責任保障個人資料，即使是為識辨涉事者的目的，亦必須顧及有關人士的合理期望。在本案中，大學輕視了網絡世界的無遠弗屆，對以即時通訊社交媒體傳送涉及個人資料的訊息的安全性警覺不足。

Lesson Learnt

Personal data privacy is protected by the law as a fundamental human right of any person. However, this is not an absolute right. The Ordinance affords different levels of personal data privacy protection to different people under different circumstances. For example, in order to promptly and effectively detect crime, seriously improper conduct, dishonesty or malpractice, the personal data privacy right of the offender shall not override the interests of society at large. Part 8 of the Ordinance therefore provides for exemptions for the use of personal data in the prevention and detection of such acts so that offenders and persons who committed seriously improper conduct, dishonesty or malpractice cannot use the Ordinance as a “shield” to fence off investigation or punishment.

That said, the university, being the data user, had an obligation to protect personal data privacy. Although there was a need to identify the persons involved in the incident, the university should not go beyond the reasonable privacy expectation of the data subjects. The university had underestimated the ubiquitous nature of the cyberspace, and lacked the vigilance expected of it in securely sending the personal data through instant messaging application.





個案五：專業團體不當地向其會員披露一名有興趣加入此行業的人士的犯罪紀錄 — 保障資料第3原則

投訴內容

投訴人多年前因不誠實行為而被定罪，有關定罪已失時效。投訴人向某專業團體查詢，在申請有關專業的見習職位時是否需要披露其上述的定罪紀錄詳情。

由於法例禁止此行業的會員在未得該專業團體的批准下，聘用曾因不誠實行為而被定罪的人士，故此該專業團體於其會員通告上向會員披露了投訴人的定罪紀錄詳情，以提醒會員在沒有該專業團體的批准下不得聘用投訴人。

投訴人向公署投訴該專業團體在未徵得他的同意下，向其會員披露他已失時效的定罪紀錄詳情。除此以外，他亦申請了司法覆核，指控該專業團體如此披露他的個人資料違法。

結果

法庭在司法覆核的裁決中指出，投訴人在案中只是查詢他可否加入有關專業此原則性問題，沒有資料顯示投訴人在查詢時已受聘於該專業團體的會員機構。由於投訴人只是在探究有關原則，而不是實際嘗試加入該專業，所以投訴人仍受《罪犯自新條例》的保障。法庭最終裁決該專業團體於其會員通告上披露投訴人曾被定罪資料的決定屬違法。

Case 5: A professional body improperly disclosed to its members the spent conviction of a person who was interested to enter the profession — DPP3

The Complaint

After many years of his conviction of dishonest conduct, the complainant wrote to a professional body to enquire if he needed to disclose the spent conviction in his intended application for traineeship in that profession.

The law prohibits members of the professional body from knowingly employing a person convicted of an offence of dishonesty without the professional body's permission. To warn its members against employing the complainant without its prior permission, the professional body disclosed details of the complainant's conviction in a circular to its members.

The complainant complained to the PCPD against the professional body for contravention of DPP3 in disclosing his spent conviction to its members without his consent. Separately, he applied for a judicial review, alleging that the professional body's decision to publish his spent conviction was unlawful.

Outcome

The Court held in the judicial review that the publication of the circular disclosing the complainant's spent conviction was unlawful. As far as the complainant's case was concerned, he was simply exploring the possibilities of entering the profession by making enquiries on a matter of principle. There was nothing to show that the complainant was at the material time employed by any of the professional body's members. The Court considered that the complainant should be entitled to the protection under the Rehabilitation of Offenders Ordinance until his intention to join the profession goes beyond merely exploring possibilities.



該專業團體依從法庭裁決，在相關的通告上刪除了投訴人的定罪紀錄詳情。此外，該專業團體亦聽取了公署的意見，將來在類似的情況下，在相關的通告上只會刊出有關人士曾因不誠實行為而被刑事定罪一事，有意招聘的會員可聯絡該專業團體，以「需要知道」的原則索取詳情。

借鑑

給予某些曾干犯罪行但已改過自新的人士不被標籤重投社會的機會，是公共政策的大方向。在本案中，對該專業團體而言，其上述做法可能只是一心維護會員的利益，是未有細想後果的無心之失，但投訴人可能因為該團體此舉而斷送了本來可得到的就業機會。假若該專業團體當初處理事件時能顧及有關人士的合理期望，細想其作為可招致的後果，或許便能避免本案的發生。

The professional body complied with the Court decision by deleting the details of the complainant's conviction from the circular. Besides, upon the PCPD's advice on protection of personal data, the professional body, in similar circumstances in future, would only state that the person concerned was once convicted of "a criminal offence involving dishonesty". Any member of the professional body who finds a prospective employee mentioned in the circular may then contact the professional body for details of that person's conviction on a need-to-know basis.

Lesson Learnt

The public policy calls for equal opportunities for rehabilitated ex-offenders to avoid them from being labeled and to help them re-integrate into the community. In this case, the professional body might be keen to protect its members' interests. However, it failed to carefully assess the possible consequences of its actions and consequentially made an unintentional mistake. Such act of the professional body might deprive the complainant of the job opportunities he might deserve. If the professional body had considered upfront the reasonable expectation of the complainant and the possible consequences of its actions, the complaint could probably be avoided.





個案六：機構於一名前僱員離職超過七年後仍保留其工作表現的個人資料 — 保障資料第2(2)原則

投訴內容

投訴人為一名地產代理，他曾因僱主指其工作表現欠佳而離職。於投訴人離職後，該僱主一直保留有關投訴人工作欠佳的紀錄。投訴人在十年後再次受聘於該僱主，而他從同事口中得知他因過往工作表現欠佳，而曾被僱主考慮永不錄用。及後，投訴人再度離職，並向公署投訴該僱主多年來仍保留他首次入職時的個人資料，包括工作表現紀錄。此外，他亦指稱該僱主將考慮永不錄用他的資料向其他同事披露。

結果

該僱主向公署解釋，地產代理行業的僱員於離職後再次入職是慣常現象，因此他們會將僱員的人事資料包括工作表現紀錄永久保存，以備將來前僱員再次申請入職時作考慮。

保障資料第2(2)原則規定，資料使用者須採取所有切實可行的步驟，以確保個人資料的保存時間不超過將其保存以貫徹該資料被使用於或會被使用於的目的（包括任何直接有關的目的）所需的時間。公署制訂的《人力資源管理實務守則》（守則）第4.2.3段訂明，僱主不應保留前僱員的個人資料超過七年，由前僱員離職日期起計，除非：有具體理由規定僱主須保留有關資料一段較長的期間；或前僱員給予訂明同意可將有關資料保留超過七年。

Case 6: Retention of an employee's unsatisfactory employment records by an employer over seven years — DPP2(2)

The Complaint

The complainant was an estate agent. He left his job when his employer, a property agency company (the Company), was dissatisfied with his performance. Since then, the Company had retained records of the complainant's unsatisfactory performance. When the complainant rejoined the Company ten years later, he learnt from his colleagues that the Company had once intended not to employ him again due to his poor performance in the past. The complainant left the Company again and complained to the PCPD against the Company for retaining his personal data related to his first-time employment for too long. He also alleged that the Company revealed to his colleagues its intention of not employing him again.

Outcome

The Company explained to the PCPD that it was common for estate agents to rejoin their companies after departure. It therefore permanently retained former employees' personal data, including job performance records, for consideration of employment in future.

DPP2(2) stipulates that all practical steps must be taken to ensure that personal data is not kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data is or is to be used. As for continued retention of personal data of former employees, paragraph 4.2.3 of the Code of Practice on Human Resource Management (the Code) issued by the PCPD stipulates that the employer should not retain such data for a period longer than seven years from the date the former employee ceases employment with the employer unless there is a subsisting reason that obliges the employer to retain the data for a longer period or the former employee has given prescribed consent for the data to be retained beyond seven years.



經公署介入調查後，該僱主已修訂有關保留前僱員的個人資料的政策，訂明前僱員的人事紀錄一般不得保存超過七年。假如該僱主需要處理與前僱員有關的訴訟或履行合約上的責任，該名前僱員的人事紀錄將被保留至有關個案完結。

此外，該僱主在此案調查期間已依從公署的建議，銷毀了投訴人第一次受僱期間的人事紀錄包括工作表現紀錄。關於投訴人指稱僱主將考慮永不錄用他的資料向其他同事披露，因他提供的舉證資料不足而未能成立。

借鑑

僱員離職，即代表賓主關係結束，僱員的個人資料在其離職後合理時間內應予以銷毀。離職僱員的個人資料保留時間越久，其準確性亦會大大減低，假如僱主仍使用這些資料考慮離職僱員再次入職的申請，便可能對僱員構成不公。僱主作為資料使用者，有責任公平和具道德地處理資料。公署希望各僱主能以此案為鑒，重新審視自己保存前僱員個人資料的政策，以確保符合《私隱條例》及守則的上述規定。

After the PCPD's intervention, the Company revised its retention policy, which now states that the personal data of former employees should generally not be retained for more than seven years. In case the Company needs to handle a court case related to an ex-employee or fulfill its obligations under an employment contract, the personal data concerned would be retained until the purposes are achieved.

During the investigation, the Company destroyed the complainant's employment records (including the performance records) collected in his employment a decade ago. As for the allegation against the Company for disclosure of its decision of blacklisting the complainant, it was found unsubstantiated.

Lesson Learnt

Upon the end of employment relationship following the departure of an employee, the employer should destroy the employee's personal data within a reasonable period of time. The longer the personal data is kept, the less accurate it may become. If employers assess an application for re-employment with reference to the outdated personal data, it would be unfair to the prospective employee. Employers as data users are obliged to handle personal data in a fair and ethical manner. The PCPD calls on employers to review their data retention policy for former employees, so as to comply with the requirements under the Ordinance and the Code.



檢控及定罪個案

在本報告年度有四宗被檢控的個案，除一宗涉及《私隱條例》第50B條「關乎沒有遵從專員的要求等的罪行」外，其餘均涉及使用個人資料作直接促銷。四宗個案均被定罪。



個案 1：一名公司董事沒有遵從私隱專員的合法要求 — 《私隱條例》第50B條

投訴內容

投訴人於2014年委託僱傭中介公司聘請外籍家庭傭工，並提供他的個人資料辦理有關手續。其後投訴人向公署投訴，指該公司在未得他同意下將他的個人資料披露給第三者。

公署在調查過程中，曾多次發信及致電該公司的負責人以了解案情，但一直未獲回覆。私隱專員其後根據《私隱條例》第44(1)條向該公司的唯一董事發出傳票，要求他在傳票所指定的時間及地點接受公署的訊問，及提供傳票註明與個案相關的資料，但該董事無合法辯解而沒有到公署接受訊問和提供資料，公署遂把個案轉介警方作刑事調查。

結果

該董事被控在沒有合法辯解的情況下不遵從私隱專員的傳召到其席前提供資訊，違反了《私隱條例》第50B(1)(b)條。該董事於2017年6月30日承認控罪，被罰款HK\$3,000。

PROSECUTION AND CONVICTION CASES

During the reporting year, four cases had been prosecuted. Among them, one was related to section 50B of the Ordinance (failure to comply with requirements of the Privacy Commissioner) and the rest were related to the use of personal data in direct marketing. All four cases were convicted.

Case 1: A company director convicted of failing to comply with a lawful requirement of the Privacy Commissioner — Section 50B of the Ordinance

The Complaint

A complainant engaged an employment agency to recruit a foreign domestic helper in 2014 and provided his personal data for the employment purpose. The complainant later complained to the PCPD, alleging that the employment agency had transferred his personal data to a third party without his consent.

During the course of investigation, the PCPD had repeatedly requested the relevant person of the employment agency in writing and by telephone to provide the necessary information required for investigation. Upon failing to obtain a reply, the Privacy Commissioner issued a summons to the sole director of the employment agency under section 44(1) of the Ordinance requiring him to attend the office at the specified date and time for examination and to provide relevant information as stated. However, the director failed to attend the office without lawful excuse. The PCPD then referred the case to the Police for criminal investigation.

Outcome

The director was charged with the offence of failing to comply with a summons issued by the Privacy Commissioner to attend before him to provide relevant information without lawful excuse, contrary to section 50B(1)(b) of the Ordinance. The director pleaded guilty to the charge and was fined HK\$3,000 on 30 June 2017.



個案 2：一名理財顧問被裁定在使用投訴人的個人資料作直接促銷前沒有採取指明的行動通知投訴人，以及未有告知該人可拒收直接促銷訊息的權利 — 《私隱條例》第 35C 及 35F 條

投訴內容

投訴人在一間政府有關機構工作，她的姓名和辦公室電話可從政府電話簿內取得。2015 年 10 月，該名理財顧問致電投訴人的辦公室電話，以中文全名稱呼投訴人，向她推銷該顧問任職的理財服務公司的投資產品。投訴人表示她並非該理財服務公司的客戶，亦未曾同意讓該公司使用其個人資料作直銷用途，在電話交談的過程中該顧問亦未有告知投訴人她有權要求該顧問停止如此使用有關資料。

結果

該顧問被控在使用他人的個人資料作直接促銷前，未有採取指明行動通知資料當事人，違反了《私隱條例》第 35C(2) 條，以及在首次使用他人的個人資料作直接促銷時，未有告知該人他有權要求被告在不向其收費的情況下停止使用他的個人資料作促銷用途，違反了《私隱條例》第 35F(1) 條。被告於 2017 年 11 月 17 日承認上述兩項控罪，被判罰每項控罪各 HK\$10,000。

Case 2: A financial consultant of a financial services company convicted of using the complainant's personal data in direct marketing without taking specified actions and failing to notify the complainant of his opt-out right — sections 35C and 35F of the Ordinance

The Complaint

The complainant worked in a government-related organisation. Her personal data, including her name and office phone number, could be obtained from the Government Telephone Directory. In October 2015, the complainant received a call from the defendant on her office phone number, addressing the complainant by her Chinese full name. The call was to promote the investment products of the financial services company. The complainant stated that she was not a customer of the financial services company and had never consented to its use of her personal data in direct marketing. During the phone conversation, the defendant did not notify the complainant of her opt-out right.

Outcome

The consultant was charged with the offence of (1) using the personal data of the complainant in direct marketing without taking specified actions, contrary to section 35C(2) of the Ordinance; and (2) failing to inform the complainant, when using her personal data in direct marketing for the first time, of her right to request not to use her personal data in direct marketing without charge, contrary to section 35F(1) of the Ordinance. The consultant pleaded guilty to both charges and was fined HK\$10,000 for each charge on 17 November 2017.



個案3：一間健身公司被控沒有依從拒收直銷訊息要求 — 《私隱條例》第35G條

投訴內容

投訴人於2011年曾參加一間健身公司的試玩計劃，在登記時提供了他的姓名和手提電話號碼。試玩完畢，投訴人沒有繼續使用該公司的任何服務。及後，該公司於2013年致電投訴人向他作出服務推廣，通話期間投訴人已即時向該公司作出拒收直銷訊息要求，但該公司於2015年12月再次致電他作直銷推廣。

結果

該公司被控沒有依從投訴人的拒收直銷訊息要求，停止使用其個人資料作直接促銷，違反了《私隱條例》第35G(3)條的規定。該公司於2017年12月11日承認控罪，被判罰款HK\$7,000。

Case 3: A fitness company convicted of failing to comply with an opt-out request — section 35G of the Ordinance

The Complaint

The complainant joined a trial service of a fitness company in 2011 and provided his personal data, including his name and mobile phone number, during registration. After the trial, he did not continue to use the service of the company. The complainant later received a direct marketing call from the company in 2013 and he immediately made his opt-out request during the telephone conversation. However, the complainant received a direct marketing call again from the company in December 2015.

Outcome

The company was charged with an offence under section 35G(3) of the Ordinance for failing to comply with the requirement from a data subject to cease to use his personal data in direct marketing. The company pleaded guilty to the charge and was fined HK\$7,000 on 11 December 2017.





個案 4：一間超級市場被控在沒有當事人同意下使用其個人資料作直接促銷 — 《私隱條例》第 35E 條

投訴內容

投訴人是該超級市場購物網站的顧客，並曾向該公司提供其電郵地址等個人資料作登記之用，投訴人從沒向該公司表示願意收取直接促銷的資訊，但該公司於 2016 年 1 月向投訴人寄發一封直接促銷電子郵件。

結果

該公司被控在沒有投訴人同意下使用其個人資料作直接促銷，違反了《私隱條例》第 35E(1) 條的規定。該公司於 2018 年 1 月 2 日承認控罪，被判罰款 HK\$3,000。

Case 4: A supermarket convicted of using the personal data of a data subject in direct marketing without obtaining the data subject's consent — section 35E of the Ordinance

The Complaint

The complainant was a registered customer of the online supermarket of the company and provided his personal data including his email address to the company for registration. The complainant had never indicated to the company that he wished to receive any direct marketing materials. In January 2016, the complainant received a direct marketing email from the company.

Outcome

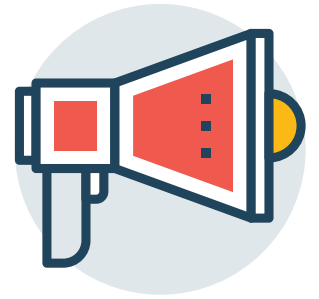
The company was charged with an offence for using the personal data of a data subject in direct marketing without obtaining the data subject's consent, contrary to section 35E(1) of the Ordinance. The company pleaded guilty to the charge and was fined HK\$3,000 on 2 January 2018.



UPHOLDING LEGAL PROTECTION

捍衛法律保障





公平公正

公署檢視任何可能影響個人資料私隱的現行及擬議法例和政府政策，並密切留意海外與公署工作相關的資料保障法律發展情況。公署亦提供法律協助計劃，以及跟進有關私隱專員決定的法庭或行政上訴委員會的聆訊。

FAIRNESS AND EQUITY

The PCPD reviews existing and proposed legislation and government policies that may affect the privacy of individuals with respect to personal data. The office monitors developments in overseas data protection laws that are relevant to the PCPD's work. The PCPD also provides the Legal Assistance Scheme, and follows upon the hearings on Privacy Commissioner's decisions before the courts or the Administrative Appeals Board.



為迎接數碼資料保障作出準備

2016年5月，歐盟通過了《通用數據保障條例》(General Data Protection Regulation 2016)。它取代歐洲議會及理事會第95/46/EC號指令(歐盟指令)訂明的資料保障規例，並於2018年5月25日實施。歐盟新條例加強應對在數碼時代下個人資料私隱的衝擊。

《通用數據保障條例》新增的條文及權利包括：

- 擴大了個人資料保護範圍，明確把IP地址、瀏覽紀錄cookies、位置資訊訂明為個人資料，亦把生物特徵(或基因資料)納入為敏感個人資料，加強對這些資料的保護。
- 明確加入了「問責原則」(accountability)的概念，規定機構須主動採取各項措施證明已符合新法例下的規定，包括在制訂處理資料系統時須採納「貫徹私隱的設計」(Privacy-by-Design)、進行「資料保障影響評估」(Data Protection Impact Assessment)，以及委聘個人資料保障主任(Data Protection Officer)向高級管理層提供與私隱相關的建議。
- 增加了個人對其資料的控制權及知情權，亦提出了針對處理與科技發展及大數據分析最貼題的「刪除資料的權利」或「被遺忘的權利」，讓資料當事人有權要求機構在沒有合理理據保留其資料的情況下刪除該資料。
- 若機構要對個人資料進行自動化處理(automated processing of personal data)，以分析某名個人的行為時，需要：(1)通知相關個人正進行的剖析(profiling)，(2)讓相關人士選擇不被只基於自動剖析而為其帶來法律後果的決定所影響，及(3)就關聯到直銷的剖析結果提出反對。
- 提高了資料當事人就處理其個人資料所給予的「同意」的門檻，有效的「同意」必須要是在資料當事人有足夠資料的情況下毫無疑問地給予。資料當事人亦有權可向資料使用者要求解釋其個人資料的來源及處理，與及提出把其資料轉移的權利(Data Portability)。

PREPARATION TO MEET THE ERA OF DIGITAL DATA PROTECTION

In May 2016, the European Union (EU) adopted the General Data Protection Regulation 2016 (GDPR) with the effective date as 25 May 2018, replacing the data protection rules under the Directive 95/46/EC of the European Parliament and of the Council. The EU new regulation steps up personal data privacy protection to meet with the challenges in this digital age.

The newly added provisions and enhanced rights under GDPR include:

- expanding the scope of personal data protection by explicitly including IP address, cookies, location data as examples of personal information, and incorporating biometric data (or genetic data) as sensitive personal information.
- explicitly incorporating the concept of “accountability principle”, requiring organisations to take measures to demonstrate compliance with the new GDPR requirements, which include the adoption of Privacy-by-Design when devising their data processing systems, and conducting Data Privacy Impact Assessment, as well as appointment of Data Protection Officer to advise senior management on privacy-related matters.
- enhancing an individual’s control and right to be informed in relation to his personal data, and introducing the notion of “right to erasure” or “right to be forgotten” to address issues brought about by technology development and big data analytics, allowing data subjects to request erasure of their personal data by organisations if they no longer have legitimate grounds to retain the same.
- before engaging in automated processing of personal data to evaluate an individual’s behaviours, the requirement for an organisation to take steps to (1) inform the relevant individual about the profiling; (2) allow him not to subject to such automated decision making which may produce legal effect upon him; (3) object to the processing of personal data (including profiling) for direct marketing purposes.
- raising the threshold of obtaining consent from data subjects as the basis for processing personal data. In order to be effective, data subjects must be provided with adequate information to enable them to indicate their consent unambiguously. A data subject is also entitled to request explanations in relation to the sources of his personal data and the processing, as well as to obtain and transmit his personal data to another organisation (Data Portability).



歐盟新法例為世界各地私隱資料保障所帶來的另一衝擊，是把其適用範圍擴展到歐盟之外地區。即使機構不在歐盟境內處理收集到的個人資料，也可能需要遵從歐盟新條例的規定，包括：-

- (一) 在歐盟開設辦事處，而該機關的活動涉及處理個人資料，不論是否在歐盟境內進行；或
- (二) 在歐盟沒有開設辦事處，但卻向歐盟人士提供貨品或服務，或者監察他們的行為。

研究與檢討

香港很多機構或企業的運作已走向全球化及多元化。另外，歐盟作為香港第二大的貿易夥伴，不少的機構在歐盟地區也開設了辦事處，當中可能涉及處理個人資料的活動。為提高香港機構對歐盟新制定的監管框架的認識並了解它可帶來的影響，公署於2018年3月發出《歐洲聯盟〈通用數據保障條例〉2016》小冊子，及就當中部分主要的規定與《私隱條例》作出比較。公署透過這比較研究及小冊子，簡介歐盟新框架的部分要求，並指出歐盟新法例與香港《私隱條例》相似的規定及其分別，令機構能以此作為基礎加強有關對歐盟新條例的認識。

基於比較研究的結果，公署對歐盟的新法例正作深入研究其施行情況，評估對香港的影響，搜集及留意各持份者的意見，與及歐盟以外地區的應對，以作為檢討《私隱條例》及改革的參考。

Another impact brought about by the EU GDPR to the data protection landscape worldwide is its extra-territorial application to organisations established in non-EU jurisdictions. Even if an organisation processes personal data in non-EU jurisdiction, it may need to comply with the GDPR if it:-

- (1) has an establishment in the EU, where personal data is processed in the context of the activities of the establishment, regardless of whether the data is actually processed in the EU; or
- (2) does not have an establishment in the EU, but offers goods or services to or monitors the behaviour of individuals in the EU.

Study and review

Many organisations in Hong Kong have become globalised and diversified in their operations. Besides, EU is Hong Kong's second largest trading partner. A significant number of Hong Kong businesses have established offices in the EU which involve processing of personal data. To raise awareness amongst organisations/businesses in Hong Kong of the new data protection framework under the GDPR, the PCPD published the "European Union General Data Protection Regulation (GDPR) 2016" booklet in March 2018, and compared the major disparities with those under the Ordinance. Through this exercise, the PCPD introduced some new GDPR requirements and pointed out the similarities and differences between the GDPR and the Ordinance to enable organisations to acquire some basic understanding.

Based on the comparative study, the PCPD is conducting an in-depth research on the GDPR and its implementation for the purpose of assessing the possible impacts in Hong Kong, as well as gathering stakeholders' comments and non-EU jurisdictions' responses to the GDPR, with a view to arriving at some observations for reference in the review and reform of the Ordinance.

出版《注意！這是我的個人資料私隱》

繼2016年出版英文書籍“Personal Data (Privacy) Law in Hong Kong – A Practical Guide on Compliance”(《香港個人資料(私隱)法例的符規實務指南》)後，公署再次與香港城市大學出版社聯合出版中文書籍《注意！這是我的個人資料私隱》。

公署出版《注意！這是我的個人資料私隱》，是希望以淺白的語言，並附以具啟發性的個案，向讀者闡述《私隱條例》的主要規定，以提高保障、尊重個人資料私隱的意識；同時鼓勵各類型的機構除了做到合規之外，亦要顧全數據道德，多走一步，做到尊重個人資料私隱。書中除了介紹《私隱條例》下六個保障資料原則的要求及主要豁免條款以外，亦特別精選多個權威及具參考價值的案例，並作出詳細分析，讓讀者可透過真實例子了解如何保障個人資料私隱。本書亦從人力資源管理、物業管理、資訊及通訊科技、直接促銷等角度，解答有關收集及使用個人資料的問題。

本書奪得第二十九屆「香港印製大獎」的「書刊印刷」組別中「單色及雙色調書刊」項目的優異獎。

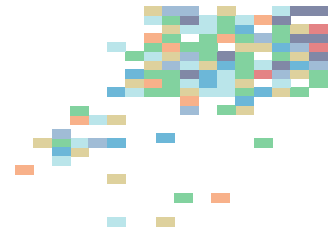
PUBLICATION OF “WATCH OUT! THIS IS MY PERSONAL DATA PRIVACY”

Following the publication of the English book entitled “Personal Data (Privacy) Law in Hong Kong – A Practical Guide on Compliance” in 2016, the PCPD jointly published with the City University of Hong Kong Press a Chinese book titled “Watch out! This is my personal data privacy”.

By the publication of “Watch Out! This is my personal data privacy”, the PCPD aims at illustrating to readers in plain language the main requirements under the Ordinance, and the related cases so as to increase awareness in protecting and respecting personal data privacy. At the same time, organisations are encouraged to focus on data ethics apart from compliance, taking additional steps to respect the individual’s personal data privacy. Other than the requirements under the six data protection principles and the exemptions, a number of landmark cases are analysed in detail enabling readers to fully understand personal data privacy protection. The book also answers questions on collection and use of personal data in the aspects of the human resources management, property management, information technology and telecommunication as well as direct marketing, etc.

This book won the Merit Award of “Mono/Duotone Color Book” Group under “Book Printing” Category of the 29th Hong Kong Print Awards 2017.





公署就公眾諮詢所提交的意見書

《私隱條例》的應用需與時並進，與社會不同利益作出平衡。公署其中一項法定職能是就涉及個人資料私隱議題的法律發展提供意見。本報告年度私隱專員就以下公眾諮詢提交保障個人資料私隱的意見：

SUBMISSIONS MADE IN RESPECT OF PUBLIC CONSULTATIONS

The application of the Ordinance needs to keep up with the times and to balance the different interests of the community. One of the PCPD's statutory functions is to provide advice on the development of laws concerning the privacy of personal data. During the reporting year, the Privacy Commissioner provided advice on personal data privacy protection in response to the following public consultation exercises:

徵詢意見的部門 Consulting Organisation	諮詢文件 Consultation Paper
商務及經濟發展局 Commerce and Economic Development Bureau	加強規管人對人促銷電話的公眾諮詢 Public Consultation on Strengthening the Regulation of Person-to-Person Telemarketing Calls
律政司 Department of Justice	性別承認跨部門工作小組就性別承認發出的諮詢文件 Consultation Paper on Gender Recognition published by Inter-departmental Working Group on Gender Recognition
香港國際仲裁中心 Hong Kong International Arbitration Centre	修訂 2013 年香港國際仲裁中心機構仲裁規則建議的公眾諮詢 Public Consultation on Proposed Amendments to the 2013 HKIAC Administered Arbitration Rules

意見書的詳細內容可瀏覽公署網頁。

For details of the submissions, please refer to the PCPD website.

公署對建議中的法例及行政措施所作的評論

本報告年度私隱專員就以下的立法建議和行政措施建議提出意見：

COMMENTS MADE ON PROPOSED LEGISLATION AND ADMINISTRATIVE MEASURES

During the reporting year, the Privacy Commissioner provided comments on the following proposed legislation and administrative measures:

機構 Organisation	建議的法例／行政措施 Proposed Legislation/Administrative Measures
漁農自然護理署 Agriculture, Fisheries and Conservation Department	《南極海洋生物資源養護》條例草案 Conservation of Antarctic Marine Living Resources Bill
商務及經濟發展局 Commerce and Economic Development Bureau	檢討淫褻及不雅物品管制條例 Review of Control of Obscene and Indecent Articles Ordinance
香港金融發展局 Financial Services Development Council	成立了解客戶程序和非面對面開戶流程 Setting up Know Your Client Utility and non face-to-face account opening process
財經事務及庫務局 Financial Services and the Treasury Bureau	2017 年打擊洗錢及恐怖分子資金籌集（金融機構）（修訂）條例草案 Anti-Money Laundering and Counter-terrorist Financing (Financial Institutions) (Amendment) Bill 2017
食物及衛生局 Food and Health Bureau	私營醫療機構條例草案 Private Healthcare Facilities Bill 推行自願醫保計劃及有關現有保單持有人轉移安排 Introduction of the Voluntary Health Insurance Scheme and its related migration arrangements for existing policyholders
香港科技園公司 Hong Kong Science and Technology Parks Corporation	健康數據連繫研究 Research of Health Data Link



機構 Organisation	建議的法例／行政措施 Proposed Legislation/Administrative Measures
入境事務處 Immigration Department	對新一代智能身份證系統進行系統分析和設計的私隱影響評估 Privacy impact assessment on the system analysis and design of the Next Generation Smart Identity Card System
強制性公積金計劃管理局 Mandatory Provident Fund Schemes Authority	為減少不完整資料的強積金臨時僱員客戶數目的建議措施 Proposed measures to reduce the number of MPF accounts of casual employees with incomplete information
香港鐵路有限公司 MTR Corporation Limited	廣深港高速鐵路實名列車票政策的私隱影響評估 Privacy impact assessment on Real Name Ticket Policy for Guangzhou-Shenzhen-Hong Kong Express Rail Link
保安局 Security Bureau	設立跨境運送大量貨幣和不記名可轉讓票據的申報及披露制度 Establishment of a reporting system on the physical cross-boundary transportation of large quantities of currency and bearer negotiable instruments

於報告年度，法院曾就《私隱條例》的條文作出判決，其中包括第6A部有關直接促銷條文，以及就第66條基於違反《私隱條例》興訟的案件。

高等法院裁判法院上訴案件 (2016年第49號)

During the reporting year, the Courts made decisions on the interpretation of the provisions of the Ordinance, including the direct marketing provisions under Part 6A as well as a claim made pursuant to section 66 for contravention of the requirements of the Ordinance.

HIGH COURT MAGISTRACY APPEAL (HCMA 49/2016)

香港特別行政區(答辯人) 訴梁竣傑 (上訴人)

《私隱條例》第35J條中的「以供該人在直接促銷中使用」- 上訴人清楚知道會以他所提供的資料用作直銷保險及財務策劃服務 - 「要約提供」不局限於合約法下「要約」一詞的定義 - 英文名字和電話號碼足以構成「個人資料」- 資料早已載於卡片和儲存於手提電話，符合了以「文件」的形式記錄 - 在被告人沒有法律代表，選擇作證但沒傳召其他事實證人的情況下，控方無權作出結案陳詞 - 《裁判官條例》19(2)條賦予控辯雙方結案陳詞的權利並無違憲

主審法官：高等法院原訟法庭暫委法官
陳仲衡

判案書日期：2017年6月2日

案件背景

上訴人被控違反《私隱條例》第35J(5)(b)條，即資料使用者在提供資料當事人的個人資料予另一人作直接促銷使用前，未有採取第35J(2)條指明的行動。上訴人經審訊後，被東區裁判法院裁定罪名成立及被罰款5,000元。上訴人沒有法律代表，他選擇作證但沒傳召其他事實證人。上訴人不服定罪，提出上訴。

HKSAR (Respondent) v LEUNG Chun-kit Brandon (Appellant)

Section 35J of the Ordinance: “intends to provide a data subject’s personal data to another person for use by that other person in direct marketing” – Appellant clearly knew that the data he provided would be used to promote insurance and financial planning products – “offering” not restricted to the meaning of “offer” under the contract law – Christian name and telephone number amount to “personal data” – data recorded in a name card and on a mobile phone was recorded in a “document” – prosecution not entitled to make closing submission if an unrepresented defendant elects to testify and does not call other factual witnesses – section 19(2) of Magistrates Ordinance empowering both prosecution and defence to make closing submissions is not unconstitutional

Coram: The Hon Mr Justice Johnny Chan, Deputy Judge of the Court of First Instance of the High Court

Date of Judgment: 2 June 2017

Background

The Appellant was charged with the offence under section 35J(5)(b) of the Ordinance for failure to take the action specified in section 35J(2) before providing a data subject’s personal data to another person for use in direct marketing. The Appellant was convicted after trial by the Eastern Magistrates’ Courts, and was fined \$5,000. At the trial, the Appellant was not legally represented, and he elected to testify but did not call any other factual witnesses. The Appellant appealed against conviction.



原審時上訴人與另一被告譚雪簡譚女士共同審訊。譚女士被控違反《私隱條例》第35C條，即將個人資料用於直接促銷前未有採取指明行動，譚女士經審訊後被裁定罪名不成立。

案情

上訴人與控方證人一（即資料當事人）是在校友會活動中認識。於2013年12月的一校友會聖誕聚會裡，上訴人與控方證人一互相交換名片。

2014年1月，控方證人一的手提電話收到WhatsApp短訊息，由自稱“AIA Evelyn”的人發出（後知為譚女士），她稱呼控方證人一為“Joseph”，並聲稱是上訴人把這個電話號碼給她。2014年2月7日譚女士兩度致電控方證人一，稱呼他的中文名字。譚女士自稱是“Financial Planner”及上訴人交這個電話號碼給她，她表示曾替上訴人做過“financial planning”，她想約控方證人一見面以幫助他。控方證人一問是否即「賣保險」，譚女士解釋理財策劃的概念後，控方證人一表示沒有興趣，電話通話亦終止。

控方證人一從來沒有收過上訴人任何的通知，表示會提供其名字及電話號碼予譚女士，亦沒同意上訴人該行為。

原審時裁判官的裁斷

- (a) 裁判官裁定控方證人一英文名字“Joseph”及電話號碼結合為個人資料，直接或間接與控方證人一有關，讓人可切實可行地以該資料確定控方證人一的身份。
- (b) 裁判官認為控方證人一和上訴人並不相熟，控方證人一從沒要求上訴人介紹客戶或朋友給他，故裁定上訴人提供控方證人一資料以供譚女士在直接促銷中使用，向控方證人一要約提供保險及財務策劃服務，或為提供該等服務而進行廣告宣傳。

The Appellant was jointly tried with a Miss Evelyn Tam (Miss Tam) who was charged with the offence under section 35C, i.e. failing to take specified action before using personal data in direct marketing. Miss Tam was acquitted after trial.

Facts of the Case

The Appellant got acquainted with Prosecution Witness 1 (PW1) at an alumni event. During an alumni Christmas gathering in December 2013, the Appellant and PW1 exchanged their name cards.

In January 2014, PW1 received a WhatsApp message on his mobile phone from a person who claimed to be “AIA Evelyn” (later known to be Miss Tam). She addressed PW1 as “Joseph”, and said that the Appellant had provided her with PW1’s mobile phone number. On 7 February 2014, Miss Tam called PW1 twice addressing the latter by his Chinese name, and said that she was a “Financial Planner”, and that the Appellant had given PW1’s phone number to her. She said that she previously rendered “financial planning” to the Appellant, and she wanted to make an appointment to meet PW1 to assist him. PW1 asked Miss Tam if she was “selling insurance products”. After Miss Tam explained to him the concept of financial planning, PW1 indicated that he was not interested. The telephone conversation came to an end.

PW1 had never received any notification from the Appellant that the latter would provide PW1’s name and phone number to Miss Tam. Neither had PW1 consented the Appellant to do so.

The Magistrate’s Findings

- (a) The Magistrate ruled that the Christian name “Joseph” and mobile phone number of PW1 together constituted PW1’s personal data. Such data related directly or indirectly to PW1. It was practicable for the identity of PW1 to be ascertained from such data.
- (b) The Magistrate considered that PW1 and the Appellant were not close to each other, and that PW1 had never requested the Appellant to introduce customers or friends to him. Accordingly, the Magistrate ruled that the Appellant provided PW1’s data to Miss Tam for use in direct marketing to offer or advertise the availability of insurance and financial planning service.

- (c) 裁判官裁定上訴人沒有採取《私隱條例》第35J(2)條所指明的每一項行動，而《私隱條例》第52條的豁免條款並不適用於本案，原因是第52條並沒指明它適用於第35J條或《私隱條例》第6A部。

上訴

上訴理由(一)：控方於控辯雙方所有證據完成後，就證據方面(包括上訴人的證據)進行陳詞，侵犯了沒有律師代表的上訴人得到公正審訊的權利。

上訴人援引了香港特別行政區訴曹建成 [2014] 3 HKLRD 721及香港特別行政區訴卓亞營 (CACC 432/2014)，以支持其說法，指控方於裁判法院案件，在被告人沒有法律代表，選擇作證但沒傳召事實證人的情況下，控方無權作出結案陳詞。上訴人指即使《裁判官條例》第19(2)條賦予控辯雙方作出結案陳詞的權利，第19(2)條屬違反憲法，並不合乎《基本法》和《香港人權法案》所保障得到公平審訊的權利。

法官認為第19(2)條的中文和英文條文內容一致，明確表示控辯雙方有權在裁判法院案件作出結案陳詞，條文內容沒有區分被告人是否有法律代表。法官認為上訴人把曹建成和卓亞營兩案根據普通法案例確立的原則凌駕第19(2)條的成文法，並應用於裁判法庭審訊，是沒有基礎和不可行的。

法官隨後考慮法律條文有否違憲，並應用上訴法庭案例SJ v Latker [2009] 2 HKC 100所列出的原則：-

- (1) 法庭需考慮條文是否涉及人權保障，否則憲法挑戰便不能成立。
- (2) 若條文涉及人權保障，則需考慮條文有沒有侵犯人權保障。如沒有則憲法挑戰不能成立。

- (c) The Magistrate ruled that the Appellant has failed to take the action specified in section 35J(2). The exemption of domestic purpose under section 52 did not apply to this case, as its applicability did not include section 35J or Part 6A of the Ordinance.

The Appeal

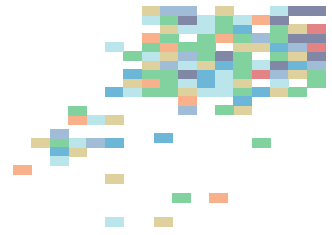
Ground of Appeal (1): The prosecution gave its closing submission on evidence (including that of the Appellant) after both parties had closed their cases. This infringed the right of the unrepresented Appellant to a fair trial.

The Appellant quoted 香港特別行政區訴曹建成 [2014] 3 HKLRD 721 and 香港特別行政區訴卓亞營 (CACC 432/2014) in support of his argument that the prosecution was not entitled to make closing submission if an unrepresented defendant elects to testify and did not call any other factual witnesses. The Appellant argued that even if section 19(2) empowered both the prosecution and the defence to make closing submissions, section 19(2) was unconstitutional as it prejudiced the right to a fair trial guaranteed by the Basic Laws and the Hong Kong Bill of Rights Ordinance.

The Judge opined that both the English and Chinese provisions in section 19(2) were consistent in explicitly granting both the prosecution and the defence the right to make closing submissions in magistrates' courts. The provision did not distinguish the situations where the defendant was legally represented or not. The Judge considered that it was unfounded and impracticable to allow the common law principles in 曹建成 and 卓亞營 to override the statutory provision in section 19(2) and to apply them in magistracy proceedings.

The Judge confirmed that in deciding whether a statutory provision was unconstitutional, the following principles as laid down by the Court of Appeal in SJ v Latker [2009] 2 HKC 100 should be adopted:-

- (1) The court had to consider whether the provision engaged the protection of human rights, and the constitutional challenge must fail if the answer was in the negative;
- (2) If the provision did engage the protection of human rights, the next question was whether it infringed the protection of human rights. If no, the constitutional challenge must fail.



- (3) 若條文侵犯人權保障，法庭需要考慮有關人權保障的侵犯是否有理據。如無理據，條文便構成違憲。

法官認為第19(2)條的條文內容是中性的，一視同仁地賦予控辯雙方作出結案陳詞的權力，不論被告人是否有法律代表和控方是否由律師負責檢控。法官認為因第19(2)條沒有特定針對審訊時控方由律師負責檢控，而被告人沒有法律代表，他選擇作供但並沒有傳召事實證人的情況（即本案出現的情況），故裁定第19(2)條不涉及人權保障的考慮。至於就着裁判法院案件控辯雙方結案陳詞這範疇所涉及的公正審訊的權利和控辯雙方權利平等的保障，法官認為是來自其他成文法和普通法案例的規範。根據Latker一案所確立的原則，上訴人的憲法挑戰理據不能成立。

法官進而考慮，倘若第19(2)條涉及人權保障，它是否侵犯人權保障。法官認為裁判法院刑事審訊，控方於裁判法院案件作出結案陳詞的權力並非毫無制約的，這權力是受到成文法和適用於裁判法院的普通法原則所規範和限制。再者，裁判官最後必然只可以根據案中的證據作認出事實裁定。因此，雖然第19(2)條給予控方作出結案陳詞的權利，但這不等於便侵犯了被告人得到公正審訊或訴訟雙方權利平等的保障。法官繼而裁定第19(2)條沒有侵犯人權保障，因此沒有違憲。

法官裁定上訴理由（一）不成立。

上訴理由（二）：裁判官錯誤理解「直接促銷」的定義，因而錯誤裁定上訴人向譚女士提供有關資料，以供譚女士在直接促銷中使用。

- (3) If the provision did infringe the protection of human rights, the court had to consider if there was any justification in support of the infringement. If there was none, the provision was regarded as unconstitutional.

The Judge considered that the content of section 19(2) was neutral, and granted the prosecution and the defence the equal right of making closing submission, irrespective of whether the defendant or the prosecution was legally represented. The Judge was of the view that section 19(2) did not cater specifically for the situation where the prosecution was represented by a lawyer while the defendant was unrepresented but elected to testify and not to call any factual witnesses, as in the present case. He therefore ruled that section 19(2) did not engage the protection of human rights. As to the protection of right to a fair trial and equality of arms between the prosecution and the defence, the Judge believed that the protection arose from other statutory provisions or case law under common law. According to the principle (1) as laid down in Latker, the constitutional challenge lodged by the Appellant could not be sustained.

For completeness in the discussion of Ground of Appeal (1), the Judge proceeded further to consider: If section 19(2) did engage the protection of human rights, did it infringe the protection of human rights? The Judge took the view that the right given to the prosecution to make closing submission in the magistrates' courts was not unrestricted, but was governed and restrained by statutes and common law principles applicable to the magistrates' courts. Furthermore, a magistrate could come to a findings of fact based only on the evidence of the case. Therefore, although section 19(2) empowered the prosecution to make closing submission, it did not necessarily mean the protection of the right to a fair trial and equality of arms had been infringed. The Judge then ruled that section 19(2) did not infringe the protection of human rights.

In light of the above analysis, the Judge held that Ground of Appeal (1) failed.

Ground of Appeal (2): The Magistrate erred in interpreting the definition of "direct marketing" and therefore came to the wrong finding that the Appellant provided the relevant data to Miss Tam for use in direct marketing.

就著第35J條的犯罪行為(*actus reus*)，上訴人指控方必須在毫無合理疑點下證明有關個人資料會在直接促銷中使用。由於譚女士致電控方證人一的行為並不構成直接促銷的行為，控方無法證明這項犯罪行為。此外，「直接促銷」的定義中所指的「要約提供」(*offering*)，應按合約法中「要約」一詞的詮釋。

至於第35J條的犯罪意圖(*mens rea*)，上訴人指控方必須在毫無合理疑點下證明被告人有「供他人在直銷中使用有關資料」的犯罪意圖。法例條文中「以供」一詞顯示「意圖」(*intention*)的含意。

法官認為第35J(1)條所針對的是資料使用者將資料當事人資料提供予另一人以供該人在直接促銷中使用之前，採取該條第(2)款指明的每一項行動，因此第35J(5)條的構成元素不可能包括在提供資料之後第三方把個人資料用作直接促銷。控方能否證明譚女士確實把控方證人一的个人資料用作直接促銷，根本並非第35J(5)條的犯罪行為。

法官認為第35J(1)條條文中的「以供該人在直接促銷中使用」，已清楚表明第35J(5)條所需的犯罪意圖，控方需要證明資料使用者把個人資料提供予第三方的目的，即讓該第三方於直接促銷中使用。案發時，上訴人知道譚女士從事保險理財策劃的工作，第一份會面記錄顯示，上訴人清楚知道譚女士會以他提供的資料，聯絡控方證人一介紹保險及財務策劃服務，故裁判官是有足夠的證據，裁定上訴人提供控方證人一的个人資料予譚女士用作直接促銷。上訴人不能倚賴案中裁判官就譚女士的無罪裁決，來挑戰上訴人的定罪裁決的穩妥性。

法官認同在香港特別行政區訴香港寬頻網絡有限公司(HCMA 624/2015)一案中，「要約提供」(*offering*)的含意不應局限於合約法下「要約」一詞的意義，而應包括提出會提供這意思。法官進一步指

Regarding the *actus reus* in section 35J, the Appellant argued that it was necessary for the prosecution to prove beyond reasonable doubt that the relevant data was used in direct marketing. As the calls made by Miss Tam to PW1 did not amount to direct marketing, the prosecution had failed to prove the *actus reus* of the offence, i.e. "Miss Tam had used PW1's personal data in direct marketing". Furthermore, the word "offering" as appeared in the statutory definition of "direct marketing", should be given its meaning in contract law.

As to the *mens rea* in section 35J, the Appellant argued that the prosecution had to prove beyond reasonable doubt that the defendant "intends" to provide the relevant data to others for use in direct marketing, which was so worded in the provision.

The Judge considered that section 35J(1) aimed at requiring a data user to take each and every specified action in subsection (2) before providing a data subject's data to another person for use in direct marketing. Accordingly, the elements required for proving the section 35J(5) offence could not possibly include the use of personal data by a third party in direct marketing after provision of the data. In this case, whether or not Miss Tam did use PW1's personal data in direct marketing was not an element of *actus reus* of the section 35J(5) offence that the prosecution was required to prove.

The wording of section 35J(1), i.e. "intends to provide a data subject's personal data to another person for use by that other person in direct marketing" expressly spelt out the *mens rea* of the offence. The Judge opined that the prosecution must prove the data user's purpose of passing the personal data to a third party was to enable the latter to use it in direct marketing. At the time of the offence, the Appellant well knew that Miss Tam was engaged in the work of insurance and financial planning. The first record of interview showed that the Appellant clearly understood Miss Tam would use the data provided by him to contact PW1 for promoting insurance and financial planning service. Accordingly, there was sufficient evidence to support the Magistrate's finding that the Appellant provided the personal data of PW1 to Miss Tam for use in direct marketing. The Appellant could not rely on Miss Tam's acquittal to challenge the Appellant's conviction as being unsafe.

The Judge adopted the decision made in 香港特別行政區訴香港寬頻網絡有限公司(HCMA 624/2015), that "offering" should not be restricted to the meaning of "offer" under contract law, but should include the meaning of offering to provide. The Judge further pointed out that should



出，若根據上訴人對「要約提供」應按合約法中的意思詮釋，很難想像於資料當事人對所涉及的貨品、設施或服務根本不感興趣時，在有關的溝通中可發展至合約法中「要約提供」的地步。換言之，如雙方的溝通未能發展至合約法中「要約提供」的地步前，資料當事人已終止通訊，那便永遠不會出現合約法的「要約提供」。若基於上訴人提出的主張，《私隱條例》根本無法達到其立法目的。

法官裁定這上訴理由(二)不成立。

上訴理由(三)：裁判官未有全面理解「資料」和「個人資料」的定義，因而錯誤裁定上訴人告訴譚女士的資料，是屬於《私隱條例》下的「個人資料」。

雙方不爭議根據《私隱條例》對「資料」的定義，若然從來沒有以任何「文件」的形式記錄「個人資料」，則該些資料並非《私隱條例》下定義的「個人資料」。上訴人指譚女士從上訴人取得資料後，須「抄在紙上及儲存在手提電話內」，才使該些資料構成控方證人一「個人資料」，因此上訴人向譚女士提供資料時，該些資料仍未構成以「文件」形式記錄的「個人資料」。

法官認為裁判官裁定控方證人一的英文名字和電話號碼二者結合後構成他的「個人資料」，是正確、無可批評的決定。法官指出案中證據清楚顯示控方證人一和上訴人在交換名片後，上訴人電話以控方證人一英文名字及姓氏儲存他的電話號碼。上訴人在提供控方證人一英文名字和手提電話予譚女士時，不論上訴人是以書面或影像傳送、或以口述方式向譚女士提供，該些資料早已載於上訴人從控方證人一取得的名片和上訴人的手提電話內儲存，因此屬控罪條文下以「文件」形式記錄的「個人資料」，而非由譚女士取得後，經她「抄在紙上及儲存在手提電話內」才構成「個人資料」。

據此，法官裁定上訴理由(三)不成立。

“offering” be construed only in the context of contract law, it would be difficult to envisage a data subject to allow his communication with the caller or sender of email or text message to proceed to the stage of an “offer”, if he was never interested in the goods, facilities or services involved. In other words, if a data subject decided to end the communication before both parties could proceed to the stage of an “offer” in the context of contract law, such “offer” would never happen. The legislative intent of enacting the provision could never be achieved.

The Judge held that Ground of Appeal (2) failed.

Ground of Appeal (3): The Magistrate failed to apprehend the definition of “data” and “personal data”, and thus erroneously ruled that the data provided by the Appellant to Miss Tam amounted to “personal data” under the Ordinance.

It was not disputed that according to the definition of “data” under the Ordinance, the data had to be recorded in a “document” to amount to “personal data” as defined in the Ordinance. The Appellant argued that PW1’s data became “personal data” only at the moment when Miss Tam jotted down in writing and stored in her mobile phone, but not at the time of the Appellant providing the same to her given such data had not yet been recorded in a “document”.

The Magistrate ruled that the combination of PW1’s Christian name and phone number constituted his “personal data”. The Judge considered such ruling to be accurate and could not be criticised. The evidence of this case clearly showed that after the exchange of name cards between the Appellant and PW1, the Appellant stored in his mobile phone the telephone number of PW1 under the latter’s Christian name and surname. At the time of the Appellant providing PW1’s Christian name and mobile phone number to Miss Tam, irrespective of whether they were transmitted to Miss Tam in the form of words, image or even informed orally, such data was long recorded in the name card obtained by the Appellant from PW1 and stored in the Appellant’s mobile phone. As such, the data was recorded in a “document” and constituted “personal data” as defined in the Ordinance. The data did not become “personal data” only after Miss Tam jotted down in writing and stored in her mobile phone.

The Judge held that Ground of Appeal (3) failed.

上訴理由(四)：控方所提出之案情與控方證人一之證供根本性的不一致，連同其他的疑點，產生重大的潛在疑點令本案的定罪是不穩妥和不適當的。

上訴人稱控方於結案陳詞階段曾指出，控方的案情是上訴人向譚女士提供了控方證人一之英文名字和手提電話號碼兩項資料，但控方證人一作供時卻堅稱譚女士在兩次電話對話中，分別稱呼他的中文全名和姓氏，此外譚女士於WhatsApp短訊裡稱呼他的英文名字和姓氏，上訴方指審訊中並無任何證據指出譚女士有可能透過其他渠道知道控方證人一的中／英文全名，上訴人指控方就案情和控方證人一之證供完全不相容。

法官指出控方陳詞並非證據一部份，上訴方不能以控方陳詞作為攻擊控方證人一證供可信及／或可靠性的依據。法官認為裁判官於考慮控方是否成功證明「個人資料」這罪行元素時，只公正地考慮控方證人一之英文名字和電話號碼。上訴人對控方證人一證供的可靠性的其他批評，均屬瑣碎無聊。

法官故裁定上訴理由(四)不成立。

結論

法官審視了宗卷中所展示的證據，就著案件進行重新聆訊，裁定案中證據足以按無合理疑點的證案標準證實罪行的所有構成元素，故駁回上訴人的定罪上訴。

[註：上訴人不服高等法院的裁決，就上訴理由(一)向終審法院提出上訴。雖然終審法院於2018年7月4日判決上訴理由(一)得直，但鑑於並沒有影響該案中司法程序的公正，故維持定罪判決(終院刑事上訴2018年第2號)。]

由 John C H Suen & Co 轉聘田奇睿大律師代表上訴人

由律政司署理高級檢控官張卓勤代表答辯人

Ground of Appeal (4): The prosecution case was fundamentally inconsistent with PW1's testimony, and coupled with other doubts, gave rise to a lurking doubt which rendered the conviction in this case to be unsafe and unsatisfactory.

The Appellant argued that the prosecution stated in its closing submission that the Appellant provided PW1's Christian name and mobile phone number to Miss Tam, but PW1's testified that during the two telephone calls, Miss Tam addressed him with his full Chinese name and surname. In addition, Miss Tam addressed PW1 with his Christian name and surname in the WhatsApp messages. The Appellant submitted that there was no evidence during the trial suggesting Miss Tam might obtain PW1's full Chinese name and full English name through other channels. The Appellant argued that the prosecution case was entirely inconsistent with the testimony of PW1.

The Judge considered that the closing submission did not form part of the evidence. The Appellant could not use the prosecution's submission to attack the credibility of PW1's testimony. The Magistrate, in considering whether the prosecution could successfully prove the element of personal data of this offence, had fairly taken into account only the Christian name and phone number of PW1. Further, the Judge considered that the Appellant's other criticisms against PW1's credibility were frivolous.

The Judge held that Ground of Appeal (4) failed.

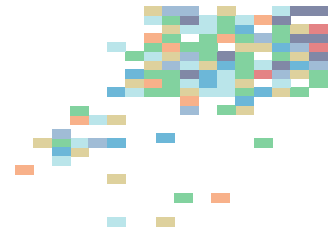
Conclusion

The Judge reheard the case by considering all the evidence contained in the bundle(s), and found that there was sufficient evidence to prove beyond reasonable doubt all the elements of the offence. The Judge therefore dismissed the appeal.

[Note: Dissatisfied with the High Court's decision, the Appellant appealed to the Court of Final Appeal. Despite the Court of Final Appeal allowed Ground of Appeal (1), his conviction was upheld on 4 July 2018 (FACC 2/2018) as it did not affect the fairness of the judicial process as a whole.]

Barrister Mr Tien Kei Rui instructed by Messrs. John C. H. Suen & Co., for the Appellant

Mr Ivan Cheung, Ag. Senior Public Prosecutor of the Department of Justice, for the Respondent



區域法院的裁決 (民事訴訟 2016 年第 3793 號)

DISTRICT COURT DECISION (DCCJ 3793/2016)

X 對 Melissa Mowbray – D' Arbela (第一被告) 與 PathFinders Limited (第二被告)

X v Melissa Mowbray-D'Arbela (1st Defendant) and PathFinders Limited (2nd Defendant)

原告人根據《私隱條例》第 66 條索償 – 兩名被告以濫用法庭程序為由申請剔除申索 – 禁止雙重起訴的必需元素 – 行政上訴委員會聆訊及裁定的性質 – 考慮對被告造成的壓迫

Plaintiff claimed for compensation under section 66 of the Ordinance – Defendants applied for striking out the claims on the ground of abuse of court process – requisite elements of *res judicata* – nature of hearing and decision of Administrative Appeals Board – oppression caused to Defendants considered

主審法官：區域法院暫委法官周敏慧內庭聆訊

Coram: Deputy District Judge C. Chow in Chambers

判案書日期：2018 年 2 月 28 日

Date of Decision: 8 February 2018

案情

Facts of the Case

2015 年 2 月原告人向公署投訴第二被告，指第一被告作為其創辦人及前董事，在協助原告人處理一項刑事信用卡詐騙案時，將獲取的檢控文件冊及她編彙的事序表披露給原告人的父母，第二被告須為第一被告的此等作為負責。原告人稍後於 2015 年 4 月亦向公署就同樣事件投訴第二被告。公署最終決定不對此兩項投訴展開調查。

The Plaintiff filed a complaint with the PCPD against the 2nd Defendant in February 2015. In her complaint, the Plaintiff alleged that the 1st Defendant had disclosed the prosecution bundle and the timeline of events (compiled by her) to the Plaintiff's parents. The 1st Defendant obtained the prosecution bundle in the course of assisting the Plaintiff to deal with a criminal fraud case involving credit card. The 1st Defendant was the co-founder and a former director of the 2nd Defendant, and the Plaintiff claimed that the 2nd Defendant was vicariously liable for the actions of the 1st Defendant. A complaint was later filed against the 1st Defendant by the Plaintiff to the PCPD in respect of the same incident. The PCPD decided not to pursue the two complaints.

原告人向行政上訴委員會(委員會)提出上訴公署就此兩項投訴不作調查的決定。在委員會未作出決定前，原告人於 2016 年 8 月在區域法院根據《私隱條例》第 66 條，就第一及第二被告違反保障資料第 3 及第 4 原則，提出此民事訴訟申索補償。

The Plaintiff appealed against both decisions to the Administrative Appeals Board (AAB). Before any of the decisions of the AAB was handed down, the Plaintiff commenced this action in the District Court in August 2016, seeking compensation under section 66 of the Ordinance against the 1st and 2nd Defendants for contraventions of DPP3 and DPP4.

其後，委員會分別於2016年10月駁回關於第二被告的上訴（行政上訴案件2015年第17號），及於2017年2月駁回關於第一被告的上訴（行政上訴案件2016年第18號）。

被告申請剔除申索

第一及第二被告同時於2017年10月發出傳票，申請剔除原告人於本案的申索，所持理由是有關申索屬瑣屑無聊及／或濫用法庭程序，因原告人在區域法院的申索與其在委員會上訴的事實基礎一樣，與訟各方亦相同，委員會的上訴其實是以重新聆訊來斷定案情的是非曲直，依據禁止雙重起訴(*res judicata*)的普通法原則，原告人就同樣訴訟因由再次起訴屬濫用法庭程序。

區域法院的裁決理由

法官認為禁止雙重起訴的原則適用於本案，因它具備以下所有必需的元素：-

- (1) 委員會對與訟各方及訴訟因由有司法管轄權

委員會雖然不屬於司法機構體制的一部份，但是屬根據《行政上訴委員會條例》而成立的，並獲賦予權力聆聽附表內列明決定的上訴，故委員會對本案爭議的事項及與訟各方均享有司法管轄權，可重新聆訊來斷定案情的是非曲直。

- (2) 與訟各方必須受委員會的決定所約束

根據《行政上訴委員會條例》第2條，「上訴當事人」指上訴人、答辯人及受到遭本上訴所反對的決定所約束的人。第一及第二被告在兩項委員會上訴分別被列為受約束的人，屬上訴當事人及受委員會的決定所約束。

Subsequently, the AAB dismissed the appeal in respect of the 2nd Defendant in October 2016 (AAB No.17/2015), and the appeal in respect of the 1st Defendant in February 2017 (AAB No.18/2016) respectively.

The Defendants' application for striking out the claims

The 1st and 2nd Defendants took out two separate summonses in October 2017 both for striking out the Plaintiff's claims in this action on the grounds that they were frivolous or vexatious and/or an abuse of the process of the court. The Defendants relied on the common law principle of *res judicata*. The Plaintiff's claims in the District Court and the appeal heard by the AAB were based on the same facts between the same parties. The nature of the appeal was a rehearing of the merits by the AAB. It was therefore an abuse of process for the Plaintiff to seek to re-litigate the same subject matter.

Reasons for the District Court's decision

The Judge was satisfied that the principle of *res judicata* was applicable to the present case, given all its requisite elements (as listed below) had been established:-

- (1) The AAB had jurisdiction over the parties and the subject matter

Although the AAB was not part of the Judiciary, it was a body established by the Administrative Appeals Board Ordinance (AABO), and was vested with the authority to hear the appeals of those decisions listed in the Schedule. Hence, the AAB had jurisdiction over the subject matter in dispute and also the parties in this action, and its decision was on the merits by way of rehearing.

- (2) Parties were bound by the decision of the AAB

According to section 2 of the AABO, "parties to the appeal" meant the appellant, the respondent and any other person who was bound by the decision appealed against. The 1st and 2nd Defendants were named as persons bound in the respective AAB appeals. As such, they became parties to the appeal and were therefore bound by the respective decisions of the AAB.



(3) 委員會的決定必須屬司法性質

法官認為禁止雙重起訴的原則不只限於法院的決定，重點是委員會是根據《行政上訴委員會條例》第2條而成立，享有聆聽和裁定有關各方爭議的權力。

此外，委員會進行的聆訊與法院進行的聆訊程序相若，例如委員會有權聽取口供、傳召任何人作證及呈交文件，而聆訊一般而言以公開形式進行，上訴當事人可選擇自行應訊或由律師代表。

(4) 委員會對案情是非曲直的裁定必須是最終的

法官認為委員會處理上訴的性質，是以重新聆訊來斷定案情的是非曲直，這點已在上述庭的案例中被確立。

雖然即使委員會對第一及第二被告作出不利的裁決，原告人仍需另行興訟要求民事索償，禁止雙重起訴的原則仍適用於委員會最終的裁定。倘若委員會裁定第一被告違反保障資料第3原則，而第二被告亦須為此負上責任，那麼第一及第二被告便受委員會最終的裁定所約束，不能再爭議責任的問題，而只能就賠償金額提出抗辯。

法官認為禁止雙重起訴的原意是為了防止與訟各方就已裁定的議題再次興訟。再次興訟無異對本案的第一及第二被告造成壓迫，需大費周章進行抗辯，故法官批准第一及第二被告的申請，下令剔除原告人在本案要求補償的申索。

原告人親自應訊

高李嚴律師行趙君宜律師代表第一被告

泰德威律師事務所彭偉信律師代表第二被告

(3) Decisions of the AAB are judicial in nature

The Judge considered that the principle of *res judicata* was not restricted to decisions of the court. The important point was that the AAB, being established under section 2 of the AABO, was vested with the authority to hear and determine a dispute between the parties.

Besides, the proceedings before the AAB were conducted in a way similar to that before the courts. For instance, the AAB might receive oral evidence, or require any person to attend before it to testify and produce documents. The hearing was usually conducted in public. Any party to the appeal might act in person or choose to be legally represented.

(4) The AAB's decision must be a final determination of an issue on its merits

The Judge considered that the nature of an appeal to the AAB was a rehearing on the merits. This had been confirmed by the Court of Appeal in earlier decisions.

The Plaintiff would have to sue separately for compensation had the AAB decided against the 1st and 2nd Defendants in the previous appeals. However, the *res judicata* principle would then be available to the Plaintiff in terms of the issues that had already been finally determined by the AAB. Thus, had the AAB found that the 1st Defendant was in breach of DPP3 and the 2nd Defendant was vicariously liable for such breach, the 1st and 2nd Defendants would have been able to put in a defence in terms of the amount of compensation payable to the Plaintiff only, but they would have been similarly bound by the findings of the AAB on liability and would not have been able to re-open them.

The original purpose of applying the *res judicata* principle was to avoid the parties to re-litigate on issues which have been determined in previous proceedings. Having balanced the oppression that would be caused to the 1st and 2nd Defendants in being asked to go through another set of proceedings, the Judge allowed the applications of the 1st and 2nd Defendants, and ordered the claims of the Plaintiff in this action be struck out.

The Plaintiff appeared in person

Ms Eunice Chiu of Messrs. Oldham Li & Nie, for the 1st Defendant

Mr Russell Bennett of Messrs. Tanner de Witt, for the 2nd Defendant

向行政上訴委員會提出的上訴

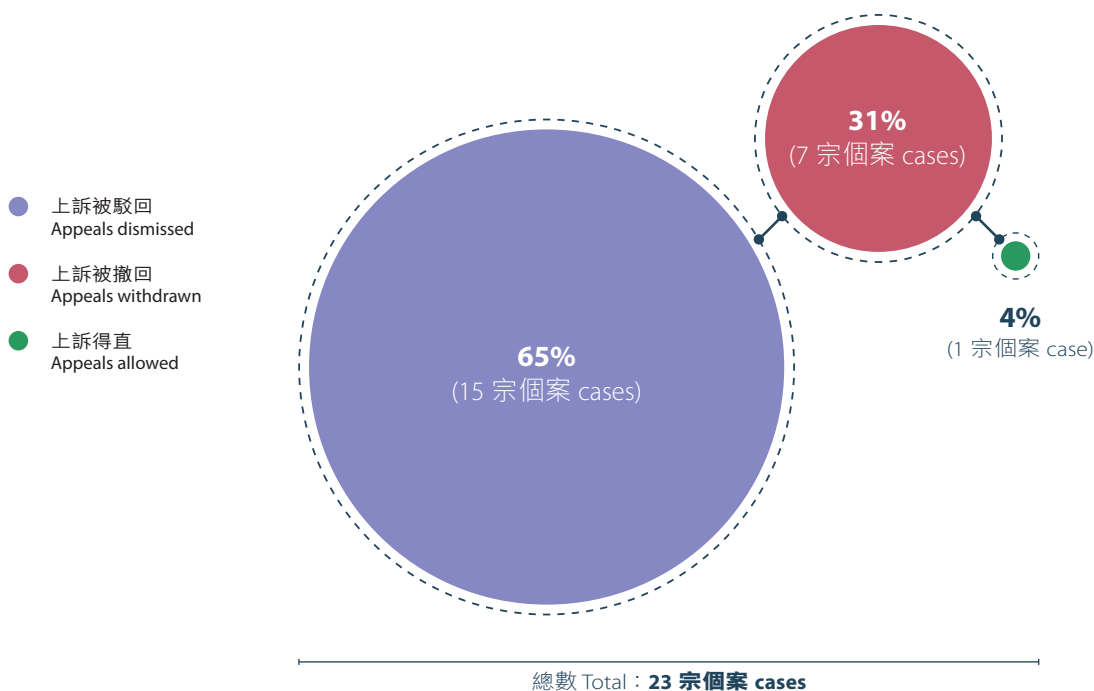
行政上訴委員會是根據《行政上訴委員會條例》(第442章)而設立的法定組織，負責聆訊投訴人或投訴的資料使用者對私隱專員的決定而提出的上訴，並作出裁決。在報告年度內的有關上訴數字及部分選取的個案簡述已列於下文。

在報告年度新接獲的、仍在處理中的及已完結的行政上訴案件的統計資料

本報告年度共接獲21宗上訴個案，另有四宗上訴個案於上一個報告年度接獲並於本報告年度處理。本報告年度共有23宗上訴個案完結。

除一宗上訴案件之外，其餘22宗已完結的上訴案件最終都被委員會駁回或由上訴人自行撤回。(圖6.1)

圖6.1 — 上訴的結果



APPEALS LODGED WITH THE ADMINISTRATIVE APPEALS BOARD

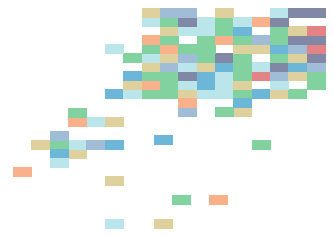
The Administrative Appeals Board (AAB) established under the Administrative Appeals Board Ordinance (Cap 442), is the statutory body that hears and determines appeals against the Privacy Commissioner's decisions by a complainant, or by the relevant data user complained of. The statistics and some notable case notes during the reporting year are found in the ensuing paragraphs.

Statistics of AAB cases newly received/under processing/concluded in the reporting year

A total of 21 appeal cases were received during the reporting year, four appeal cases in the preceding reporting year were carried forward for processing. A total of 23 appeals were concluded during the reporting year.

Except for one appeal case, the remaining 22 appeal cases were eventually dismissed by the AAB or withdrawn by the appellants. (Figure 6.1)

Figure 6.1 — Results of appeal cases



在本報告年度新接獲的 21 宗上訴及四宗於上一個報告年度接獲並於本報告年度處理的個案當中，13 宗是上訴私隱專員不進行或終止調查的決定。私隱專員作出該等決定是基於 (i) 投訴的主要事項與個人資料私隱無關；(ii) 沒有表面證據支持指稱的違反行為及／或 (iii) 被投訴者已採取補救行動糾正所指稱的違反行為。

Of the 21 appeal cases received in the reporting year and the four appeal cases carried forward from the preceding reporting year, 13 appealed against the Privacy Commissioner’s decision not to carry out or terminate an investigation. The Privacy Commissioner made these decisions on the grounds that: (i) the primary subject matter of the complaint was considered not to be related to personal data privacy; (ii) there was no *prima facie* evidence to support the alleged contravention; and/or (iii) the party complained against had taken remedial action to rectify the alleged contraventions.

九宗是上訴私隱專員在作出調查後不送達執行通知的決定。

Nine appeals were against the Privacy Commissioner’s decision not to serve an enforcement notice after investigation.

兩宗是上訴私隱專員在作出調查後送達執行通知的決定。

Two appeals were against the Privacy Commissioner’s decision to serve an enforcement notice after investigation.

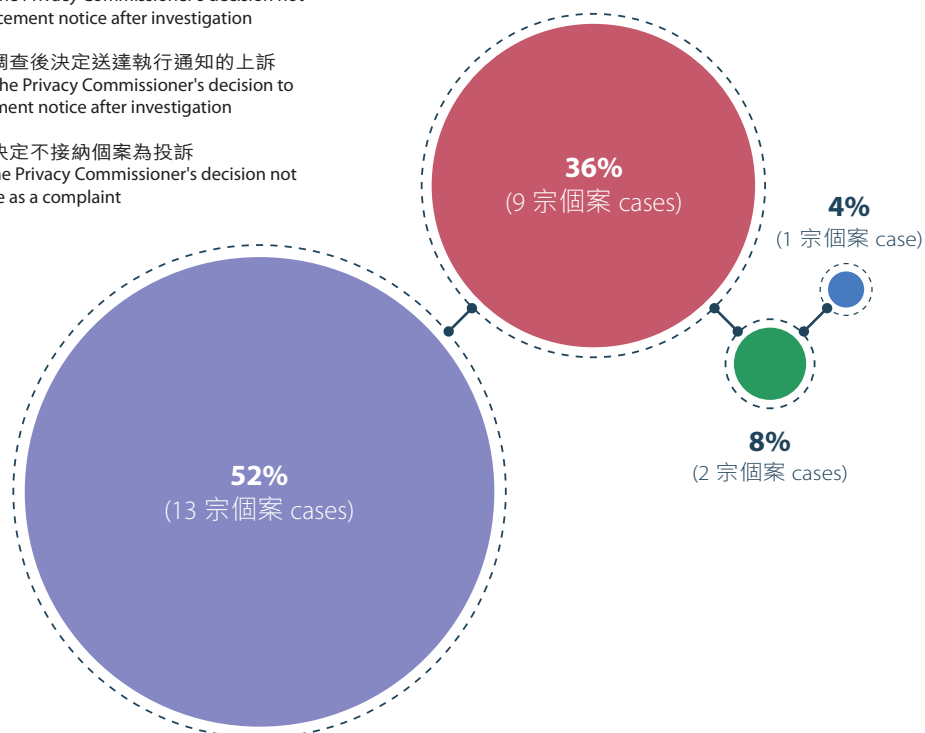
而餘下的一宗是關於私隱專員不接納相關個案為《私隱條例》第 37 條下的投訴的決定。(圖 6.2)

The remaining one appeal was against the Privacy Commissioner’s decision not to accept the relevant case as a “complaint” under section 37 of the Ordinance. (Figure 6.2)

圖 6.2 — 上訴所涉的性質

Figure 6.2 — Nature of the appeals

- 針對私隱專員決定不進行調查的上訴
Appeals against the Privacy Commissioner’s decision not to carry out an investigation
- 針對私隱專員調查後決定不送達執行通知的上訴
Appeals against the Privacy Commissioner’s decision not to serve an enforcement notice after investigation
- 針對私隱專員調查後決定送達執行通知的上訴
Appeals against the Privacy Commissioner’s decision to serve an enforcement notice after investigation
- 針對私隱專員決定不接納個案為投訴
Appeal against the Privacy Commissioner’s decision not to accept the case as a complaint

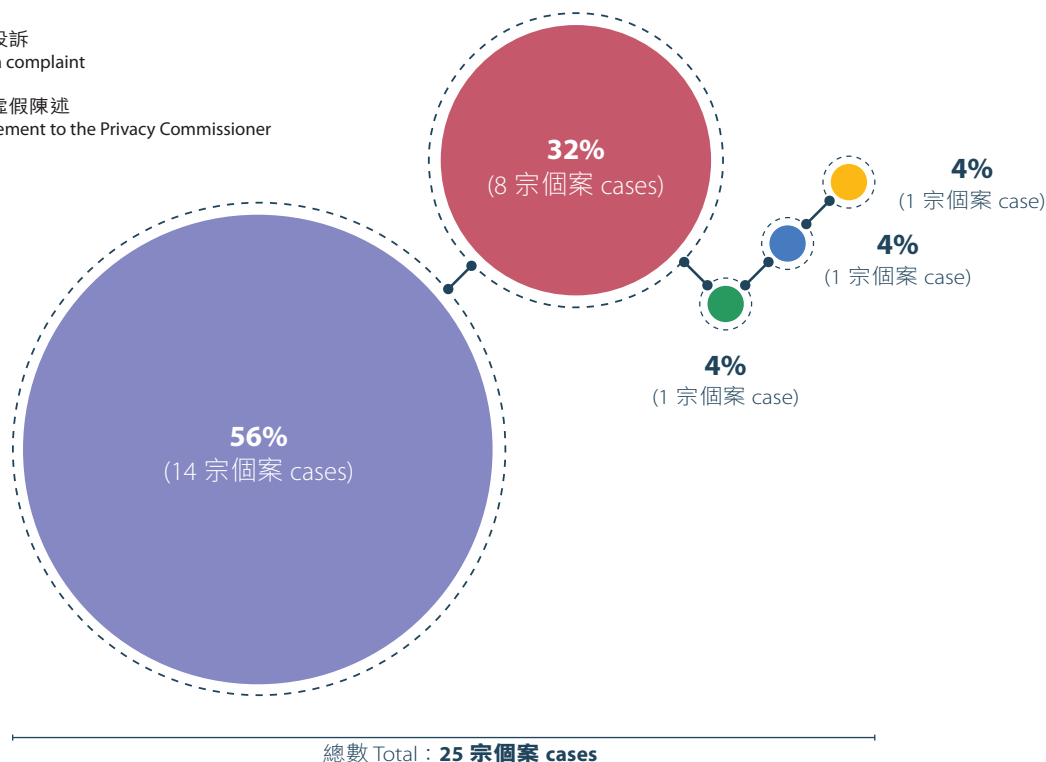


總數 Total : 25 宗個案 cases

而在上述25宗仍在處理的上訴個案當中，14宗涉及指稱違反《私隱條例》的保障資料原則。八宗涉及指稱不依從查閱資料要求及／或改正資料要求，一宗關於《個人信貸資料實務守則》，一宗關於私隱專員不接納個案為投訴，而其餘一宗則關於投訴人指稱被投訴者向私隱專員作出虛假陳述。(圖6.3)

圖6.3 — 上訴所涉的《私隱條例》的規定

- 違反資料保障原則
Contraventions of DPPs
- 不遵從查閱資料要求及／或改正資料要求
Non-compliance with data access request and/or data correction request
- 不遵從《個人信貸資料實務守則》
Non-compliance with "Code of Practice on Consumer Credit Data"
- 不接納個案為投訴
Not accepted as a complaint
- 向私隱專員作虛假陳述
Making false statement to the Privacy Commissioner



Of these 25 appeal cases which were still under processing, 14 cases involved alleged contraventions of the DPPs of the Ordinance, eight cases involved alleged non-compliance with data access request and/or data correction request, one case was about the "Code of Practice on Consumer Credit Data", one case was about non-acceptance of the case as a complaint by the Privacy Commissioner and the remaining one was about making false statement to the Privacy Commissioner. (Figure 6.3)

Figure 6.3 — The provisions of the Ordinance involved in the appeals

有關指稱違反保障資料原則的14宗上訴中，四宗涉及超乎適度及／或不公平收集個人資料，八宗涉及未經資料當事人同意下使用及／或披露其個人資料及兩宗涉及個人資料的保安。

Of those 14 appeal cases involving the alleged contraventions of DPPs, four cases involved excessive and/or unfair collection of personal data; eight cases involved the use and/or disclosure of personal data without the data subject's prior consent and two cases involved security of personal data.



以下為報告年度內完結的 23 宗上訴個案中，其中兩宗選取的個案簡述。

The followings are the two notable case notes out of the 23 completed AAB cases during the reporting year.



上訴個案簡述一 (行政上訴委員會上訴案件第 12/2017 號)

Appeal Case Note One (AAB Appeal No.12/2017)

舉報人身份在同事之間流傳 – 對受訪者及部門主管口頭要求保密 – 保障資料第 4(1) 原則 – 未有採取切實可行的步驟保障舉報人的身份 – 事後採取相應的補救措施 – 是否合法及合理地行使私隱專員酌情權不作調查

Identity of whistleblower circulated among colleagues – interviewees and division heads were required to observe confidentiality – DPP4(1) – failed to take all practicable steps to safeguard identity of whistleblower – remedial actions taken – whether the Privacy Commissioner had exercised his discretion lawfully and reasonably in deciding not to investigate

聆訊委員會成員：沈士文先生 (副主席)
葉豪盛教授 (委員)
嚴嘉洵女士 (委員)

Coram : Mr Erik Ignatius SHUM Sze-man (Presiding Chairman)
Professor Horace IP Ho-shing (Member)
Miss Catherine YEN Kai-shun (Member)

裁決理由書日期：2017 年 11 月 27 日

Date of Decision : 27 November 2017

投訴內容

The Complaint

上訴人任職電力公司的高級技術員。上訴人向公司內部審計部舉報「同事一」處事不公，涉嫌包庇未達標準表現的工程承辦商。

The Appellant was a senior technician working in an electricity company. The Appellant complained to the company's internal audit department that Colleague 1 showed favouritism towards an underperforming contractor.

上訴人從同事口中得知有關他作出舉報一事在同事之間流傳。「同事三」表示他是從深圳操作及維修組的另一位女同事知悉，而女同事則是從其上司「同事二」口中知悉此事。

The Appellant realised the fact that he was the whistleblower had been circulated among the colleagues. Colleague 3 told the Appellant that he learned about this from another female colleague in the operation and maintenance team located in Shenzhen, whom in turn was informed by her supervisor Colleague 2.

上訴人向公司投訴內部審計部外洩他舉報的資料，獨立調查小組完成調查，認為沒有證據顯示該部門有犯錯的地方。上訴人不滿調查結果，向私隱專員投訴公司未有妥善保障他舉報的資料，導致他的同事知悉他舉報同事一此事。

The Appellant lodged his complaint with the company claiming the internal audit department had leaked the information. An independent team was formed to investigate the complaint and came to the conclusion that no evidence of wrongdoing was discovered on the part of the internal audit department. Dissatisfied with the result, the Appellant lodged his complaint with the Privacy Commissioner against the company for failing to safeguard the security of information provided by him, and as a result revealed his identity as a whistleblower in the complaint against Colleague 1.

私隱專員的決定

私隱專員決定不繼續處理上訴人的投訴，所持理由如下：-

- (1) 女同事及同事二對事件的陳述有矛盾的地方，同事二指他是在調查小組邀請他會面後，才知悉上訴人舉報一事，他沒有印象曾告知女同事此事，私隱專員無法從有關資料中斷定案件發生的情況，亦不能排除有其他職員在接受內部審計部人員調查期間，推測上訴人是舉報人。
- (2) 公司對其他受訪者及相關部門主管，只是口頭上要求／提醒他們須保密，看來未有採取保障資料第4(1)原則所規定的切實可行的步驟去保障舉報人的身份。
- (3) 考慮公司已採取以下相應的補救措施，私隱專員認為此投訴事項已得到解決，即使就本案繼續調查亦不能合理地預計可帶來更滿意的結果：
 - (a) 內部審計部於2016年2月起，在調查報告內刪去舉報人姓名，以及在報告的開首加上警誡字句，提醒收件人保密的重要性；及
 - (b) 於2017年4月起，要求所有受訪者及因調查需要得悉舉報人身份的部門主管簽署「面談保密協議」，當中述明電力公司會根據《紀律政策》處分違反有關協議的員工。
- (4) 私隱專員已發信予公司，要求他們確保舉報人的身份受到保障，以符合保障資料第4(1)原則的規定。

上訴人不滿私隱專員的決定，故向委員會提出上訴。

The Privacy Commissioner's Decision

The Privacy Commissioner decided not to proceed with the Appellant's complaint on the following grounds:-

- (1) The Privacy Commissioner found the statements given by the female colleague and Colleague 2 to be contradictory. Colleague 2 claimed that he only learned of the Appellant as the whistleblower after being interviewed by the investigation team. He had no recollection of so informing the female colleague. The Privacy Commissioner was unable to conclude from the evidence the circumstances leading to the leakage. Nor could the Privacy Commissioner rule out the possibility that in the course of investigation, the person(s) interviewed by the internal audit department might deduce from the circumstances that the Appellant was the whistleblower.
- (2) Given that the company had only orally requested or reminded the interviewee(s) and the division heads to maintain confidentiality, it appeared that the company had failed to take all practicable steps prescribed by DPP4(1) to protect the identity of the whistleblower.
- (3) In light of the following remedial measures taken by the company, the Privacy Commissioner considered that the matter complained of had been resolved. In other words, further investigation of the case could not reasonably be expected to bring about a more satisfactory result:-
 - (a) With effect from February 2016, the internal audit department had deleted the name of the whistleblower from its investigation report, and added in its opening a warning note reminding the recipient(s) to keep the report confidential; and
 - (b) With effect from April 2017, the internal audit department had requested each interviewee and the division head of the whistleblower to sign a confidentiality agreement, which warned that breach of the agreement might lead to disciplinary proceedings.
- (4) The Privacy Commissioner issued a letter to the company reminding it to comply with DPP4(1) by safeguarding the identity of the whistleblower.

Dissatisfied with the Privacy Commissioner's decision not to proceed with his complaint, the Complainant appealed to the AAB.



上訴

委員會認為本案的關鍵議題，是私隱專員在考慮到公司於已就過往不足的做法／政策採取相應的補救措施，是否合法及合理地行使其酌情權去決定不就本案進行進一步調查。

委員會認為在本案中私隱專員如繼續進行全面調查，最終可採取的行動將會是限於《私隱條例》第50(1)條發出執行通知。但因各方並不爭議公司已經採取適當及足夠的補救措施，上述的執行通知將會是過時，甚至已不需要的。私隱專員作出的決定是合法及在《私隱條例》賦予的酌情權的範圍之內，而且是在所有相關情況下合理的。委員會故認同私隱專員繼續處理上訴人的個案，亦不能合理地預計可帶來更滿意的結果，沒有實際的成效。

雖然以上的討論已足以處理及駁回本上訴，但委員會明白公司有否違反保障資料第4(1)原則，對於上訴人而言是非常重要的。在本案中，經考慮有關資料及保障資料第4(1)原則的用字（尤其是「切實可行」一詞）後，委員會觀察到公司的過往政策／做法，即沒有要求受訪者及相關部門主管簽署保密聲明以承諾將調查內容保密，至少是不可取及表面上是違反保障資料第4(1)原則。

上訴人親身應訊

陳淑音律師代表答辯人（私隱專員）

陳樂信資深大律師及李澤恩大律師代表受到遭上訴反對的決定所約束的人（公司）

The Appeal

The AAB took the view that the key issue of this appeal was whether the Privacy Commissioner had lawfully and reasonably exercised his discretion not to investigate, in light of the measures taken by the company to remedy the inadequacy arising from its existing practice or policy.

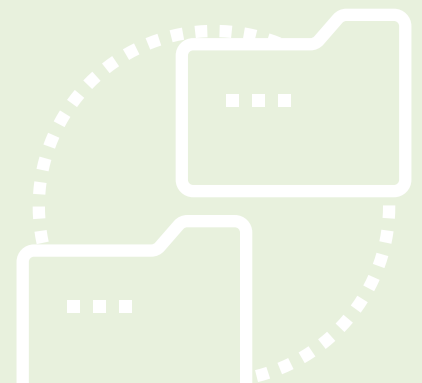
The AAB considered that the end result of carrying an investigation in this case was to issue an enforcement notice under section 50(1) of the Ordinance. It was not disputed among the parties that the company had already adopted appropriate and adequate measures to remedy the situation. Any enforcement notice subsequently issued would by then be obsolete or even superfluous. The Privacy Commissioner had lawfully and reasonably exercised his discretion in light of all the relevant circumstances of the case. Hence, the AAB affirmed the Privacy Commissioner's decision not to proceed with the Appellant's complaint as this could not reasonably be expected to bring about a more satisfactory result and had no practical effect at all.

The above discussion should be sufficient to dispose of and dismiss this appeal. However, the AAB appreciated that whether the company had contravened DPP4(1) meant a lot to the Appellant. Having considered the wording of DPP4(1) (in particular the word "practicable"), the AAB opined that the previous practice/policy of the company (i.e. not requiring the interviewee(s) and relevant division head to sign a confidentiality agreement) was undesirable and constituted a *prima facie* contravention of DPP4(1).

The Appellant acting in person

Miss Cindy Chan, Legal Counsel, for the Respondent (Privacy Commissioner)

Mr Abraham Chan, S.C. leading junior Mr Jason Lee, for the Person Bound by the decision appealed against (Company)





上訴個案簡述二（行政上訴委員會上訴案件第 22/2017 號）

在個人信貸報告中載有上訴人過往的地址及電話號碼紀錄 – 信貸機構的資料庫內持有上訴人的個人信貸資料 – 有關收集、保留及使用並不違反《個人信貸資料實務守則》及《私隱條例》的規定

聆訊委員會成員：沈士文先生（副主席）
鄭偉雄先生（委員）
關蕙女士（委員）

裁決理由書日期：2018 年 4 月 6 日

投訴內容

上訴人不滿從信貸資料機構所取得的信貸報告中，載有其過往的地址及電話號碼紀錄，某些更因年代久遠已被上訴人遺忘了。上訴人認為信貸機構過度收集、保留及使用他的個人資料。

私隱專員的決定

私隱專員認為信貸機構可根據《個人信貸資料實務守則》（守則）第 3.1.1A 條收集上訴人的一般個人資料。另外，只要信貸機構的資料庫內仍有與上訴人有關的其他個人信貸資料，則信貸機構可根據守則第 3.6.7 條把上訴人的一般個人資料一直保留在其資料庫內。信貸機構向信貸資料機構提供個人信貸資料服務時，是可以把上訴人的一般個人資料載於有關的信貸報告內。既然信貸機構並沒有違反《私隱條例》及守則的任何規定，故私隱專員根據《私隱條例》第 39(2)(d) 條及其處理投訴政策第 8(e) 段，行使酌情權決定不對該投訴作進一步調查。

Appeal Case Note Two (AAB Appeal No.22/2017)

An individual's credit report contained his address history and contact number history – the appellant's credit data held by a credit reference agency – collection, retention and use do not contravene the Code of Practice on Consumer Credit Data and the requirements of Ordinance

Coram : Mr Erik Ignatius SHUM Sze-man (Deputy Chairman)
Mr Nelson CHENG Wai-hung (Member)
Miss Angelina Agnes KWAN (Member)

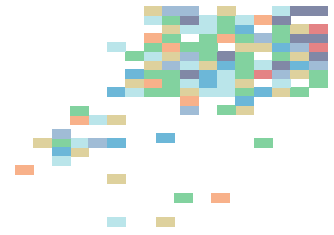
Date of Decision : 6 April 2018

The Complaint

The Appellant was dissatisfied with the credit report obtained from the credit reference agency which contained his address history and contact number history, some of which were so old that he could not even remember. The Appellant considered that the credit reference agency had excessively collected, retained and used his personal data.

The Privacy Commissioner's Decision

The Privacy Commissioner took the view that the credit reference agency was permitted to collect general particulars of the Appellant under clause 3.1.1A of the Code of Practice on Consumer Credit Data (Code). Further, as long as there were other consumer credit data related to the Appellant held by the credit reference agency, the credit reference agency was permitted to retain the Appellant's general particulars in its database under clause 3.6.7 of the Code. When a credit reference agency provided credit reference service to the credit providers, the Appellant's general particulars could be included in his credit report. Given that there was no *prima facie* evidence of any contravention by the credit reference agency, the Privacy Commissioner exercised his discretion under section 39(2)(d) of the Ordinance and paragraph 8(e) of the Complaint Handling Policy not to further investigate the Appellant's complaint.



上訴

委員會認同私隱專員對守則的詮釋，信貸機構可根據守則收集包括過往的地址及電話號碼紀錄的個人資料，而信貸機構在收集這些個人資料時亦須遵從守則第3.1.1A條及保障資料第1原則合法及公平地收集，而收集目的亦須與資料使用者的職能或活動有關。

至於如何判斷收集的資料是否與資料使用者的職能或活動相關，委員會指出應考慮該些資料是否可協助辨識個別人士的身份。在考慮本案的情況下，委員會認為紀錄有關個別人士過往的地址及電話號碼的做法，有助提升辨認個別人士身份的準確程度，故此這些資料是相關的。

就守則的應用性而言，委員會認為守則是經過長時間的草擬、廣泛的諮詢及平衡各持份者（包括資料使用者、資料當事人及信貸資料機構）的利益，故此只要守則的相關規定是在合理及有邏輯的基礎下訂定，守則的地位應獲得肯定，而委員會的職能並不包括審視及修訂守則。

另外，委員會認同私隱專員就守則第3.6.7條的詮釋，即只要信貸機構的資料庫內仍有與上訴人有關的個人信貸資料，則信貸機構是有合法理據繼續持有上訴人的個人資料作辨識其身份之用，故此信貸機構拒絕遵從上訴人提出把其過往的地址及電話號碼紀錄刪除的要求，並不違反守則及《私隱條例》的任何規定。

行政上訴委員會的決定

委員會駁回上訴。

上訴人親身應訊

程潔美律師代表答辯人（私隱專員）

The Appeal

The AAB agreed with the Respondent's interpretation of the Code whereby the credit reference agency was permitted to collect an individual's personal data including, *inter alia*, his address history and contact number history as long as the credit reference agency complied with clause 3.1.1A of the Code and DPP1 regarding collection of personal data in a lawful and fair manner relating to the function or activity of the data user.

To determine whether the act of collection was relevant to the function or activity of the data user, the AAB considered that the proper way to look at the matter was whether the data might be relevant in the context of identification of the person. Having regard to the circumstances of the case, the AAB considered that the accuracy of the identification process would be enhanced if an individual's address history and contact number history were included in the credit report, and that was enough to show that such data was relevant.

Regarding the applicability of the Code, the AAB opined that the Code was a product of prolonged processes of drafting, consultation and balancing of the interests of various stakeholders (including data users, data subjects and the credit reference agency). The AAB came to the view that so long as the relevant regulations under the Code had a reasonable and rational underlying objective, it was to be duly recognised. It would be beyond the functions of the AAB to scrutinise and amend the Code.

In addition, the AAB agreed with the Privacy Commissioner's interpretation of clause 3.6.7 of the Code such that as long as the credit reference agency's database retained the Appellant's consumer credit data, it had reasonable grounds to retain the Appellant's general particulars for identification purpose. The credit reference agency was entitled to refuse from complying with the Appellant's request for deletion of his address history and contact number history, and there was no contravention of the Code and the requirements of the Ordinance.

The AAB's Decision

The AAB dismissed the appeal.

The Appellant appeared in person

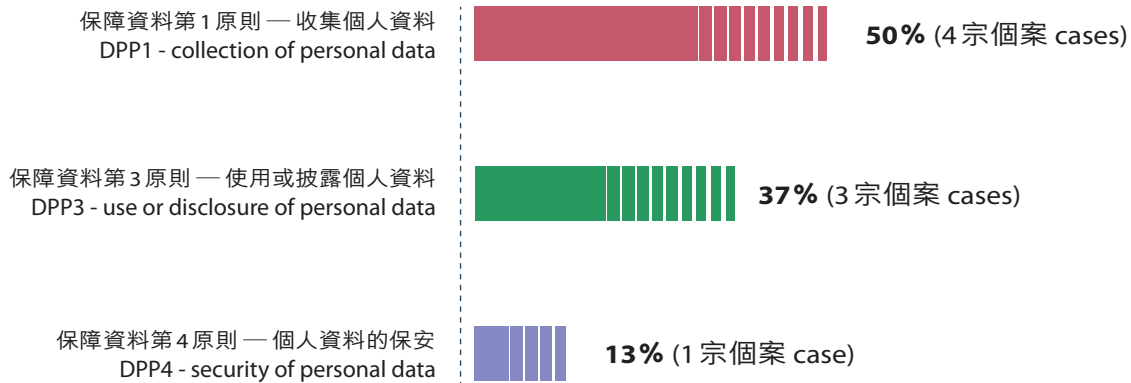
Miss Catherine Ching, Legal Counsel, for the Respondent (Privacy Commissioner)

法律協助計劃

法律協助計劃於2013年4月1日開始。公署可向因資料使用者違反《私隱條例》規定而蒙受損害，並有意提出法律程序以尋求補償的個人，提供協助。本報告年度內，公署接獲六宗法律協助申請，其中93%（即五宗）曾於事前向公署作出投訴。

這些申請涉及下述違規指稱：(i) 收集個人資料；(ii) 使用或披露個人資料；及(iii) 個人資料的保安。

違規指控的性質



註：同一宗個案可牽涉多於一項保障資料原則。

LEGAL ASSISTANCE SCHEME

The Legal Assistance Scheme commenced on 1 April 2013. Under the scheme, the PCPD may provide assistance to a person who has suffered damage by reason of a contravention under the Ordinance and intends to institute proceedings to seek compensation from the data user at fault. In the reporting year, the PCPD received 6 legal assistance applications, of which 93% (i.e. five cases) were preceded by a complaint lodged with the PCPD.

These applications involved contraventions of the Ordinance in respect of: (i) collection of personal data; (ii) the use or disclosure of personal data and (iii) security of personal data.

Nature of alleged contraventions

N.B.: One case may involve a contravention of more than one DPP.



本報告年度內公署處理了八宗申請(包括上一個報告年度未完成的兩宗)。在這些申請中，已完成的申請有五宗，其餘三宗申請在年結時仍在考慮中。

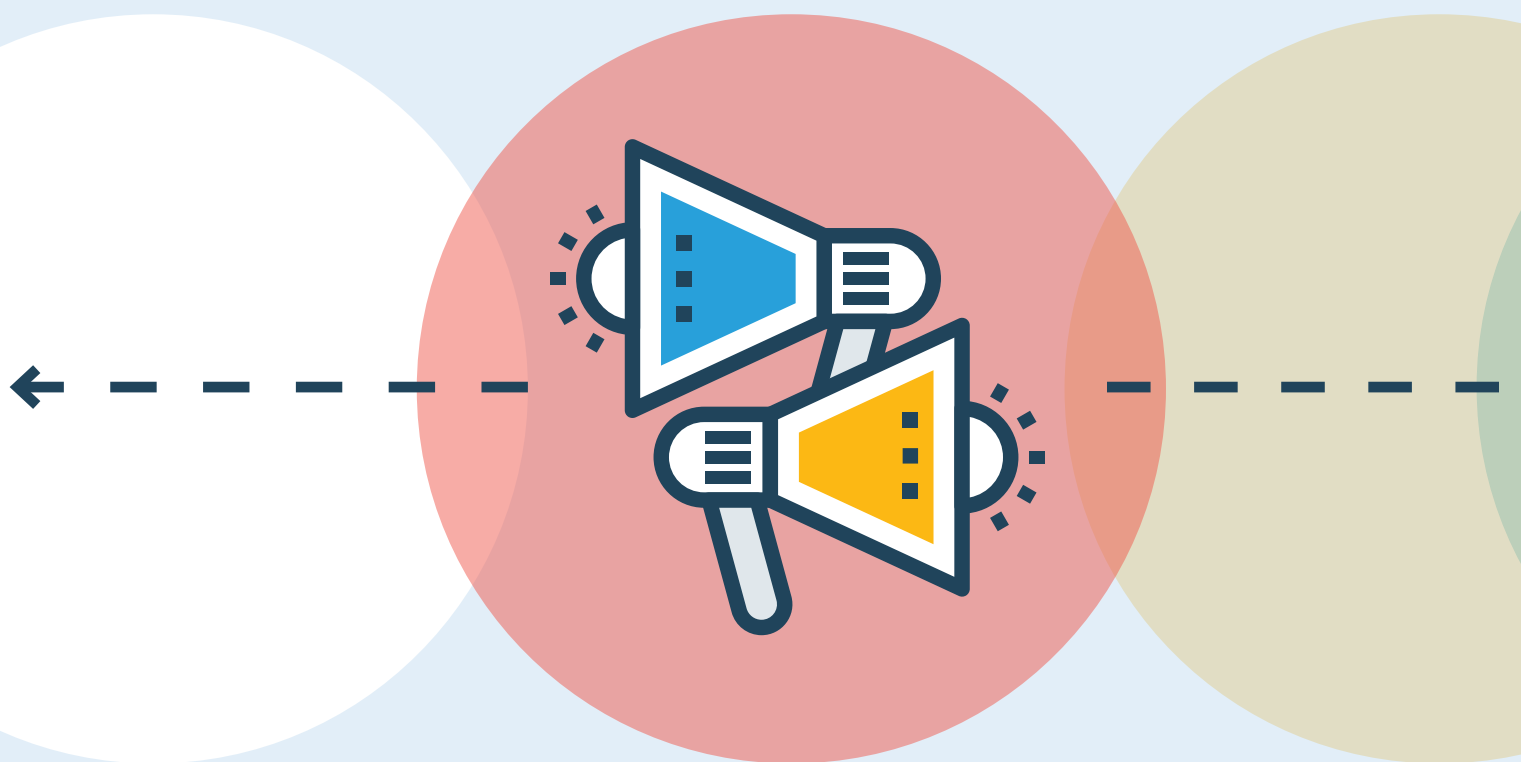
在已完成的五宗審批個案中，兩宗由申請人撤回、三宗被拒。申請被拒的主要因為未能舉出證據證明蒙受損害。另外，公署去年接獲兩個覆核拒絕給予法律協助決定的要求，公署已完成覆檢並維持該決定。

During the reporting year, the PCPD handled eight applications (including two brought from last reporting year). Of these applications, five applications were completed and three applications were still under consideration as at the end of the reporting period.

Of the five cases completed, two were withdrawn by the applicants and three were refused. The main reason for refusing applications was the applicant's failure to provide evidence to substantiate any damage suffered. Two requests for review of refusal were received during the reporting year. Upon review, the PCPD decided to maintain the decision to refuse the applications.

PROMOTING DATA PROTECTION AND RESPECT

推廣資料保障和尊重





教育及參與

公署透過傳媒、互聯網、印刷刊物及公眾教育活動推廣私隱及資料保障和尊重，舉辦培訓以促進機構及個人認識《私隱條例》的規定，並與持份者建立工作關係。

EDUCATION AND ENGAGEMENT

The PCPD promotes privacy and data protection and respect through the media, Internet, publications and public education programmes; organises and conducts training for organisations and individuals on the requirements under the Ordinance; and manages work relationship with stakeholders.



透過傳媒加強訊息傳播

傳媒

公署走入社羣，致力培育「保障、尊重個人資料」文化。我們透過不同的媒體，帶出對各項私隱議題的關注，藉以提升公眾對個人資料私隱權利的認知。

本報告年度公署共發布了33篇新聞稿（詳見附錄2），回應了209個與《私隱條例》和個人資料私隱時事議題相關的傳媒查詢。公署透過回應傳媒查詢及發出新聞稿，把握社會當下對某些事件或議題的關注，發表與個人資料保障有關的資訊及意見，令社會各界對《私隱條例》的規定有更深入的了解。



AMPLIFYING MESSAGES THROUGH THE MEDIA

Media

The PCPD is committed to extending the office's reach into all sectors of the community to nurture the "protect, respect personal data" culture. We use the media to highlight issues concerned and make members of the public more aware of their personal data privacy rights.

During the reporting year, the PCPD issued 33 media statements (please refer to Appendix 2), and responded to 209 media enquiries about topical issues on personal data privacy. In responding to media enquiries and issuing media statements in relation to incidents or topical issues of social concern, the PCPD disseminated information and views on personal data protection at opportune times, and thereby deepening understanding of the provisions of the Ordinance by various sectors of society.



而私隱專員及其團隊亦先後接受 68 次傳媒訪問。透過互聯網、報章、雜誌以至電視及電台廣播，年內共錄得 2,284 則與公署相關的報道。

私隱專員亦主動回應本地以至海外私隱相關的議題，年內曾就以下的事件表達關注及作出跟進：

與選舉活動有關的議題

2017 年 4 月期間，公署曾先後兩次發出新聞稿，就 3 月下旬選舉事務處遺失兩部載有選民個人資料的手提電腦事件交代跟進工作。

及後於 2017 年 6 月 12 日，私隱專員發表有關事件的調查報告，指出處方對個人資料私隱保障認知不足，亦未有採取切實可行的步驟，確保選民的個人資料受保障。私隱專員向處方作出多項改善建議。

而臨近 2018 立法會補選提名期時，公署於 2017 年底發出修訂的《給候選人、政府部門、民意調查組織及公眾人士的選舉活動指引》，提醒各選舉活動相關的持份者，在不同階段的選舉活動中處理選民的個人資料時，必須遵從《私隱條例》的規定，減低資料外洩事故發生的機會。私隱專員同時亦向市民提供保障個人資料的提示。

閉路電視及航拍機的使用

就 2017 年 9 月初香港教育大學(教大)閉路電視片段截圖外洩事件，公署在完成循規審查後，考慮到公眾對事件的關注和期望，遂於 2017 年 9 月 20 日發出新聞稿作出回應。審查資料顯示教大沒有採取切實可行保安措施去保障該兩名涉嫌人士的個人資料，因而違反了《私隱條例》下的資料保安原則的規定，但同時亦強調須確保不會窒礙使用閉路電視以搜證、防止、或懲處嚴重不當行為的做法。

The Privacy Commissioner and his staff gave 68 media interviews. 2,284 news stories covering the PCPD's messages were published online, on newspapers and magazines, or broadcast on television and radio.

During the reporting year, the Privacy Commissioner responded proactively to local and global privacy-related issues, including the following:

Electioneering-related incidents

In April 2017, the Privacy Commissioner issued two media statements in regards to the follow-up actions by the PCPD on the loss of the Registration and Electoral Office (REO)'s two notebook computers containing personal data of registered voters.

An investigation report was published on 12 June 2017. It stated that the REO lacked the requisite awareness of personal data protection. REO also failed to take all practicable steps to ensure that the electors' personal data was protected. The Privacy Commissioner made a number of recommendations to REO for improvement.

In the run-up to the 2018 Legislative Council By-election, the Privacy Commissioner issued the revised Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public at the end of 2017. The purpose was to remind stakeholders involved in election activities to comply with the requirements under the Ordinance in handling personal data at different stages of election activities so as to avoid data leakage. The Privacy Commissioner also provided advice on personal data protection to members of the public.

Usage of CCTV and drones

The PCPD completed a compliance check on the data leakage incident in early September 2017 regarding the screenshots of CCTV footage of the Education University of Hong Kong (EdUHK). Having considered the concern and expectation of the public, the Privacy Commissioner issued a media statement on 20 September 2017 to provide a response to the incident. The compliance check revealed that the EdUHK failed to take practicable steps to safeguard the two suspects' personal data, thereby contravening the data security principle of the Ordinance. On the other hand, the Privacy Commissioner emphasised the importance of ensuring that the use of CCTV for the collection of evidence, or the prevention or punishment of seriously improper conduct would not be unduly compromised.

在2017年12月初，公署留意到傳媒就使用航拍機引起私隱關注的報道，同時亦收到市民查詢及投訴，部分區議員也有作出查詢和建議。就該議題引起普遍關注，私隱專員於2017年12月4日發出新聞稿發表其意見：航拍機的技術或產品如涉及收集個人資料，便須遵從《私隱條例》的規定和相關的保障資料原則。若航拍機拍攝地點屬私人空間，如被拍攝者的家居，可能屬侵犯被拍攝者的私隱。

其他資料保安事故

踏入2018年接連發生數宗有關旅行社的電腦系統遭入侵的資料保安事故，私隱專員表示關注，並提醒旅行社作為資料使用者，在網絡保安方面，須採取切實可行的保安措施，保障客戶的個人資料安全。公署聯絡相關旅行社並就資料外洩展開循規審查。

而於2018年3月下旬就有傳媒報道指社交媒體平台Facebook用戶個人資料疑被濫用一事，私隱專員亦發出新聞稿，表示已就事件展開循規審查，並會按照《私隱條例》的規定及既定程序跟進事件。

加強規管人對人促銷電話

就2018年3月下旬商務及經濟發展局向立法會資訊及廣播事務委員會所提交的「有關加強規管人對人促銷電話的公眾諮詢報告」中，建議設立法定拒收訊息登記冊加強規管人對人促銷電話，私隱專員認為此方式長遠來說是有效及利便消費者的規管方式，藉以減低人對人促銷電話對市民的滋擾。

In early December 2017, the PCPD noted media reports on the issues of personal data privacy arising from the use of drones. Enquiries, complaints and suggestions from members of the public and District Council members had been received. Given the general concern about the issue, the Privacy Commissioner issued a statement on 4 December 2017 to provide comments: If collection of personal data is involved in technology and products for drone application, the requirements of the Ordinance as well as the Data Protection Principles must be complied with. If the filming place is private premises, such as the home of the affected person, it may be intruding privacy of the affected person.

Other data security incidents

On entering 2018, a number of data security incidents happened due to the hacking of computer systems of travel agents. The Privacy Commissioner expressed his concern, and reminded the travel agents as data users to take practicable security measures to protect customers' personal data. The PCPD approached relevant travel agents and initiated compliance checks in the event of data breaches.

In response to media reports on the suspected misuse of Facebook users' personal data in late March 2018, the Privacy Commissioner issued a media statement: the PCPD had commenced a compliance check on the incident, and would follow up on the matter in accordance with the Ordinance and the established procedures.

Strengthening regulation of person-to-person telemarketing calls

In the "Public Consultation Report on Strengthening Regulatory Person-to-Person Telemarketing Calls" submitted by the Commerce and Economic Development Bureau to the Legislative Council's Panel on Information and Broadcasting in late March 2018, it was proposed to set up a statutory do-not-call register to enhance regulation of person-to-person telemarketing calls. The Privacy Commissioner considered this an effective and convenient regulatory approach for consumers in the long run, reducing the nuisance caused by person-to-person telemarketing calls to the public.



網站及社交媒體

社交媒體日趨普及，公署開發以下的網站及資訊分享平台以接觸不同的持份者。

PCPD.org.hk

作為公署的一站式入門網站，向公眾提供有關個人資料保障的最新資訊和資源，其中較多人瀏覽的內容包括「新聞稿」、「專員最新動向」和「個案簡述」。公眾亦可透過此網站進入公署其他專題網站和社交媒體平台。

年內此網站共錄得 1,065,629 瀏覽人次，比去年的 744,135 人次上升 43%。新增專頁包括「歐盟《通用數據保障條例》」及「回應傳媒查詢或報道」。

Websites & social media

With the growing popularity of social media, the PCPD has developed the following websites and information sharing platforms to reach out to our stakeholders:

PCPD.org.hk

Our main website, PCPD.org.hk, continues to be a one-stop portal for the members of the public to get the most up-to-date information and resources related to personal data protection. The most popular sections include “Media Statements”, “What’s On” and “Case Notes”. People can also get access to PCPD’s thematic websites and social media platforms via this information portal.

During the reporting year, we had 1,065,629 visits to the website, representing an increase of 43% compared to 744,135 visits the year before. New sections were introduced, including the “EU General Data Protection Regulation” and the “Responses to Media Enquiry or Report”.



網上私隱要自保

此專題網站連同其 Facebook 專頁為公眾提供最新的網上私隱趨勢和實用貼士，以助公眾保障其智能裝置和互聯網上的個人資料，從而減低網上私隱受侵犯的風險。

鑑於長者的個人資料私隱被侵犯的事件不時發生，公署於主網站增建「老友記天地」小型網站，載有公署為長者提供的實用小貼士，避免購物、處理財務帳單、使用智能電話及在社交網站分享資訊時其個人資料被侵犯。

此專題網站的改進項目於2017年9月在「國際資料保障及私隱專員研討會」所主辦的「私隱和資料保障國際獎項」之「使用網上工具」組別中獲得冠軍。

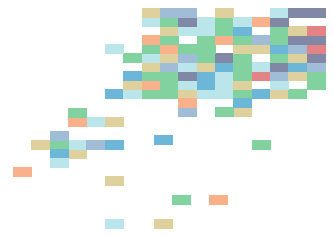
Be SMART Online

This thematic website together with its Facebook page serve as resourceful platform to provide latest trends and practical tips for members of the public to protect personal data on their smart devices and the Internet so as to reduce the risks of online privacy breach.

Given the occurrences of invasion of the elderly's privacy, the PCPD has launched a mini-site "Elderly Corner" offering useful tips for the elderly on keeping away from privacy invasion in shopping, handling financial bills, using smart phones and sharing information on social networks.

The "Be SMART Online Thematic Website Enhancement" project, won the "Use of Online Tools" category award of the Global Privacy and Data Protection Awards organised by International Conference of Data Protection and Privacy Commissioners in September 2017.





兒童私隱

此專題網站為兒童提供一站式有關保障及尊重個人資料私隱的資訊，老師及家長可運用當中的建議和資源協助教導其學生和子女如何保障個人資料。公署亦透過「保障私隱學生大使計劃」Facebook專頁，向學生及老師推介和分享最新的計劃活動外，並提供與私隱相關的最新資訊。

Children privacy

This thematic website is a one-stop portal for children to learn and understand personal data privacy. It also provides useful tips and resources for teachers and parents to help those under their care to protect their personal data. Its Facebook page “Student Ambassador for Privacy Protection Programme” is a social media platform for the students and teachers to get the latest programme updates as well as privacy-related news.



YouTube 網上平台

透過此電子資訊媒體，公署上載其機構簡介短片、教育短片以及電視劇集等供公眾下載或分享。

YouTube channel

The PCPD shares all its corporate videos, education videos and TV drama programmes in this digital information sharing media.





出版刊物

私隱專員於本報告年度共刊發或修訂了三份指引資料、一份小冊子、一份資料單張、一本書籍及兩份圖鑑，為各持份者提供各類的實用指引及合規建議。

為提高各香港機構／企業認識歐洲聯盟《通用數據保障條例》2016下新制定的資料保障監管框架，以至對它們可能帶來的影響，私隱專員刊發了《歐洲聯盟《通用數據保障條例》2016》小冊子，就當中部分主要的規定與本港《私隱條例》作出比較。

公署亦為中小企業特備全新的指引資料，提供具體例子及實用建議，協助中小企了解如何依從《私隱條例》的規定。私隱專員另刊發全新的資料單張，指出通過電子裝置進行實體追蹤及監察可能構成的個人資料私隱風險。

年內公署與香港城市大學出版社聯合出版《注意！這是我的個人資料私隱》一書。新書推介會於2017香港書展期間舉行，私隱專員於推介會致辭時引用書中的例子解說日常生活中的各種個人資料私隱問題。

Publications

During the reporting year, the Privacy Commissioner issued or revised a wide range of useful guidance and advice on compliance with the Ordinance for our stakeholders. These included three guidance notes, one booklet, one information leaflet, one book and two infographics.

The Privacy Commissioner published the “European Union General Data Protection Regulation 2016 booklet”, to raise the awareness amongst organisations/businesses in Hong Kong of the possible impact of the new regulatory framework for data protection in the GDPR and compare some of the major requirements with those set out in the Ordinance.

A new guidance note tailored for the small and medium enterprises (SMEs) was issued. It provides specific examples and practical advice to help SMEs understand and comply with the requirements of the Ordinance. The Privacy Commissioner also issued a new information leaflet that highlights the possible risks of personal data privacy associated with physical tracking or monitoring through electronic devices.

The PCPD and the City University of Hong Kong Press jointly published a book in Chinese titled “Watch out! This is my personal data privacy”. A Book Launch event was held during the Book Fair 2017. The Privacy Commissioner spoke at the event and quoted some cases from the book to address various privacy issues in daily life.



一系列的刊物可於公署網站 www.PCPD.org.hk 下載。

All publications are available on our website at www.PCPD.org.hk.

報告年度內私隱專員共刊發或修訂以下刊物：

Publications that were newly issued or revised during the reporting year are as follows:

指引資料 **Guidance Notes**

資料使用者如何妥善處理改正資料要求 (2017年5月 第一修訂版) **Guidance on the Proper Handling of Data Correction Request by Data Users (May 2017, First Revision)**

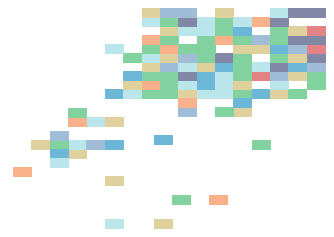
資料保障 · 利便營商 – 給中小企的綱領提示 (2017年12月) **Data Protection & Business Facilitation – Guiding Principles for Small and Medium Enterprises (December 2017)**

給候選人、政府部門、民意調查組織及公眾人士的選舉活動指引 (2017年12月 第六修訂版) **Guidance on Election Activities for Candidates, Government Departments, Public Opinion Research Organisations and Members of the Public (December 2017, Sixth Revision)**

小冊子 **Booklet**

歐洲聯盟《通用數據保障條例》2016 (於2018年5月25日生效) (2018年3月) **European Union General Data Protection Regulation 2016 (Effective 25 May 2018) (March 2018)**





資料單張

Information Leaflet

通過電子裝置進行實體追蹤及監察
(2017年5月)

Physical Tracking and Monitoring Through Electronic Devices
(May 2017)

書籍

Book

注意！這是我的個人資料私隱
(2017年7月)

Watch out! This is my personal data privacy
(July 2017)

圖鑑

Infographics

圖鑑：保障實體追蹤及監察所收集的個人資料——給電子裝置製造商的建議
(2017年5月)

Infographic: Protect the Data Collected by Physical Tracking or Monitoring: Recommendations for Device Manufacturers
(May 2017)

圖鑑：競選活動指引
(2017年12月)

Infographic: Electioneering Activities Guidance
(December 2017)



推動機構保障資料

演講

為推動機構建立尊重私隱的文化，公署高級職員在本年度向不同的持份者，特別是高層行政人員，發表了75次演講，鼓勵機構制訂全面的保障私隱策略。公署相信，若機構奉行數據道德，並使之成為其策略，會有助機構做到真正以客為本，業務持續成功。

ENGAGING ORGANISATIONS IN DATA PROTECTION

Speaking engagements

To foster the inculcation of a privacy-respectful culture in organisations, the senior management staff of the PCPD delivered 75 speeches during the year, engaging a broad range of stakeholders, in particular senior executives, to encourage them to incorporate a corporate-wide privacy strategy in their organisations. The PCPD believes that data ethics is strategically important for organisations, helping them to be truly customer-centric, and to achieve an enduring and higher level of business success.

07.04.2017 為中華基督教會香港區會主講「尊重、保障個人資料」講座
Presentation on "Respect, Protect Personal Data" organised by Hong Kong Council of the Church of Christ in China



08.04.2017 為香港城市大學的法律博士課程的學生發表「香港的個人資料保障」客席演講
Guest lecture on "Personal Data Protection in Hong Kong" organised by Juris Doctor Programme of The City University of Hong Kong



26.04.2017 在公署舉辦的「大數據、人工智能與私隱」研討會發表演講
Presentation at the "Big Data, Artificial Intelligence and Privacy" Seminar organised by PCPD

27.04.2017 為國家互聯網資訊辦公室及政府資訊科技總監辦公室主講「介紹香港個人資料私隱專員公署及認識《個人資料(私隱)條例》」及參與「個人信息和重要數據出境安全評估辦法(徵求意見稿)」的討論
Presentation on "Introduction on the PCPD and the Personal Data (Privacy) Ordinance" to Cyberspace Administration of China and Office of the Government Chief Information Officer and discussion on "Measures for Security Assessment of Cross-Border Transfer of Personal Information and Important Data (Draft for Comment)"



- 18.05.2017 在香港品質保證局舉辦的2017專題研討會-可持續發展的策略視野：管治、風險與合規管理發表「緊貼私隱管理的國際與本地趨勢」演講
Presentation on “Stay Ahead of the Privacy Management Trends: Local and International Perspectives” at Symposium 2017 – Governance, Risk and Compliance Management in the Era of Sustainability organised by Hong Kong Quality Assurance Agency
- 23.05.2017 為香港總商會發表「亞洲區資料私隱保障新動態」
Presentation on “A New Era for Data Protection in Asia” organised by Hong Kong General Chamber of Commerce
- 02.06.2017 在香港特許秘書公會舉辦的第18屆公司規管最新發展研討會發表「保障個人資料及資料管理：高級管理人員須注意事項」演講
Presentation on “Personal Data Protection and Data Governance: Points to Note for Senior Management” at 18th Annual Corporate and Regulatory Update 2017 organised by Hong Kong Institute of Chartered Secretaries
- 
- 08.06.2017 為香港人力資源中介協會主講「僱傭中介公司如何保障個人資料」
Presentation on “How Employment Agencies for Domestic Helpers Protect Personal Data” organised by Association of Hong Kong Manpower Agencies
- 09.06.2017 為社會福利署簡介《個人資料(私隱)條例》
Briefing on “Introduction to the Personal Data (Privacy) Ordinance” organised by Social Welfare Department
- 30.06.2017 在香港會計師公會發表「處理僱員的個人資料」講座
Presentation on “Handling Employees’ Personal Data” at Hong Kong Institute of Certified Public Accountants
- 03.07.2017 為「友•導向」師友天地計劃致歡迎辭
Welcome remarks for Life Buddies Programme
- 14.07.2018 為法律教育基金有限公司主講「保障、注意個人資料」講座
Presentation on “Protect, be aware of Personal Data” at Legal Education Trust Fund Limited
- 23.07.2017 在東區文藝協進會有限公司舉辦的「東區金曲賀回歸20周年演唱會」致訓勉詞
Speech at “A Walk Through the Last 20 Years – Concert in Celebration of the 20th Anniversary of the Establishment of the HKSAR” organised by Eastern District Arts Council Limited
- 31.07.2017 為食物及衛生局轄下的電子健康紀錄統籌處舉辦的「醫健通：網絡安全、私隱保障及保安事故管理研討會」中主講「如何妥善保障個人資料及處理資料外洩事故」講座
Presentation on “How to Protect Personal Data and Handle Data Breach Properly” at Seminar on Cyber Security, Data Privacy and IT Security Incident Management in the eHRSS organised by eHR Office, Food and Health Bureau
- 02.08.2017 為香港投資基金公會主講「香港及內地個人資料私隱保障的最新發展」講座
Presentation on “Recent Development in the Data Protection Landscapes in Hong Kong and Mainland of China” organised by Hong Kong Investment Funds Association

08.08.2017 為香港航空企業領袖論壇主講「保障私隱是企業成功的關鍵」講座
Presentation on “Privacy Protection as Key to Business Success” at Business Leader Forum organised by Hong Kong Airlines

15.08.2017 為電腦保安事故協調中心在資訊保安高峰會 2017 的開幕禮發表「數據分析對私隱的啟示」開幕演講

Opening Address on “Privacy Implications for the Use of Data Analytics” at Information Security Summit 2017 organised by Hong Kong Computer Emergency Response Team Coordination Centre



08.09.2017 為香港樹仁大學主講「人工智能時代的資料保障」講座
Presentation on “Data Protection in Your Hand in this Artificial Intelligence Age” organised by Shue Yan University

11.09.2017 and 20.10.2017 為保安局及政府資訊科技總監辦公室舉辦的 2017 政府資訊安全研討會主講「個人資料私隱的有效管治」講座
Presentation on “Effective Governance to Personal Data Privacy” at 2017 Government Information Security Seminar organised by Security Bureau and Office of the Government Chief Information Officer

25.09.2017 在聯合國、數字亞洲研究所和歐洲數據保護主管於第 39 屆「國際資料保障及私隱專員研討會」舉辦的本地化思考，全球化行動：探索世界各地保護私隱的共同價值觀會外活動中發表「探索全球私隱的趨勢以確定當前私隱的地位」演講
Presentation on “Exploring trends in privacy across the world to determine the current status of privacy” at side event organised by United Nations, Digital Asia Hub and European Data Protection Supervisor – Thinking Local, Acting Global: Exploring Common Values that Underpin Privacy Around the World in 39th International Conference of Data Protection and Privacy Commissioners

25.09.2017 參與由資訊政策領導中心於第 39 屆「國際資料保障及私隱專員研討會」中舉辦的資料保障機構如何在責任增加和有限的資源下提升最大的效率、參與和領導小組討論
Panel Discussion on “How Can DPAs Maximise Effectiveness, Engagement and Leadership within the Context of Increased Responsibilities and Limited Resources?” at side event organised by Centre for Information Policy Leadership in 39th International Conference of Data Protection and Privacy Commissioners

26.09.2017 在第 39 屆「國際資料保障及私隱專員研討會」的閉門會議致歡迎詞
Welcome remarks for Closed Session at 39th International Conference of Data Protection and Privacy Commissioners

27.09.2017 在第 39 屆「國際資料保障及私隱專員研討會」的閉門會議致閉幕詞
Closing remarks for Closed Session at 39th International Conference of Data Protection and Privacy Commissioners

27.09.2017 在聯合國教科文組織於第 39 屆「國際資料保障及私隱專員研討會」舉辦的教科文組織項目定義的互聯網指標的持份者諮詢會會外活動中發表「互聯網發展願景；對互聯網普遍性指標的評論 – “人權”指標」演講
Presentation on “Vision on Internet development; comments on Internet Universality Indicators – “Human Rights” Indicators” at side event organised by UNESCO - Multi-stakeholder Consultation on UNESCO Project Defining Internet Indicators in 39th International Conference of Data Protection and Privacy Commissioners



- 27.09.2017 在 Facebook 晚餐聚會上發表演講
Speech at Facebook Night Dinner
- 28.09.2017 在第 39 屆「國際資料保障及私隱專員研討會」的公開會議致開幕詞及參與「東西薈萃」小組討論
Open remarks for Open Session and Panel discussion on “West Meets East” in 39th International Conference of Data Protection and Privacy Commissioners
- 28.09.2017 在微軟的午餐聚會中發表演說
Speech at Microsoft’s Lunch
- 29.09.2017 在國際私隱專業人員協會的午餐聚會中發表演說
Speech at International Association of Privacy Professionals’ Lunch
- 29.09.2017 在第 39 屆「國際資料保障及私隱專員研討會」的公開會議致閉幕詞
Closing remarks for Open Session at 39th International Conference of Data Protection and Privacy Commissioners
- 30.09.2017 為荷蘭葛洛寧恩大學的聯合國私隱、安全、科技及電子私隱研究小組人權問題特別報告員、馬耳他大學信息政策與管治系、資料配對項目(私隱管理, 財產和互聯網管治的替代方案)、數字亞洲研究所及香港大學主講「私隱、訊息特性及流動 – 私隱作為全球人權的亞洲視角」講座
Presentation on “Privacy, Personality and Flows of Information – Asian Perspectives for Privacy as a Global Human Right” organised by United Nations Special Rapporteur on the Right to Privacy, the Security, Technology & e-Privacy Research Group (SteP) of the University of Groningen in the Netherlands, the Department of Information Policy and Governance of the University of Malta, and the MAPPING Project (Managing Alternatives for Privacy, Property and Internet Governance), Digital Asia Hub and The University of Hong Kong
- 17.10.2017 在強制性公積金計劃管理局舉辦的強積金受託人管治文化工作坊發表「數據私隱與強積金受託人管治文化」演講
Speech on “Data Privacy and Governance of MPF Trustees” at Workshop on Governance of MPF Trustee organised by Mandatory Provident Fund Schemes Authority
- 24.10.2017 為香港海關發表「香港的個人資料保障 – 法律和制度」演講
Presentation on “Personal Data Protection in Hong Kong – Law and System” organised by Hong Kong Customs and Excise Department
- 26.10.2017 為的近律師行於 2017 企業法律顧問論壇主講「法律應如何配合科技發展 – 與網絡有關的最新法律事宜」講座
Presentation on “How the Law is keeping up with Technology – Latest legal issues in Cyberspace” at In-House Corporate Counsel Forum 2017 organised by Deacons



26.10.2017 在蘇黎世大學資訊科技、社會及法律中心與香港大學法律及科技中心合辦的私隱的未來公開研討會發表「從香港角度看 2018 年實施的 GDPR」的演講(此為蘇黎世與香港的約會：兩個城市一場盛宴活動之一)
Presentation on “Observations on the GDPR 2018 from Hong Kong’s Perspective” at a public symposium on “The Future of Privacy” jointly organised by Center for Information Technology, Society, and Law of the University of Zurich and the Law and Technology Centre of The University of Hong Kong under the “Zurich Meets Hong Kong – A Festival Of Two Cities” Events

26.10.2017 於香港中華廠商聯合會會董晚宴上發表「香港作為『一帶一路』和『大灣區』信息(數據)中心的機遇」演講
Presentation on “Opportunities for Hong Kong as the Data Centre for the Belt and Road Initiative and the Greater Bay Area” at General Committee Members’ dinner of Chinese Manufacturers’ Association of Hong Kong



06.11.2017 在香港互聯網協會舉辦的網上私隱研習班系列發表「歐盟《通用數據保障條例》- 香港該如何遵從」演講
Presentation on “The EU GDPR: Hong Kong’s Road to Compliance” to the Online Privacy Workshop Series organised by Internet Society The Hong Kong Chapter

08.11.2017 在 FinanceAsia 舉辦的第六屆亞洲合規論壇中發表「打造更穩建的機構」演講
Presentation on “Building a More Robust Organisation” at 6th Compliance Summit Asia organised by FinanceAsia

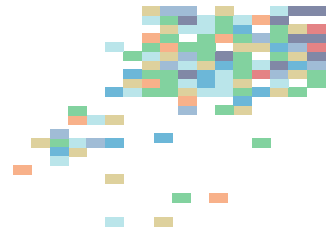
15.11.2017 在 Asia Legal Business 及湯森路透舉辦的 ALB 香港資料保障論壇 2017 發表「歐盟 2018 通用數據保障條例對香港資料保障領域、通知及同意模式的挑戰及電子經濟的智慧管治的影響」演講
Presentation on “The Influence of EUGDPR 2018 on Hong Kong Data Privacy Landscape, Challenges of Notice & Consent Model & Smart Regulation in Digital Economy” at ALB Hong Kong Data Protection Forum 2017 organised by Asian Legal Business and Thomson Reuters

20.11.2017 在香港中文大學舉辦的 2017-18 高級管理人員工商管理碩士課程論壇上發表「私隱與業務發展」演講
Presentation on “Privacy and Business Development” at EMBA Forum 2017-18 organised by The Chinese University of Hong Kong

23.11.2017 在高偉紳律師行舉辦的「《通用數據保障條例》將如何影響你的僱員及在人力資源管理方面的措施」講座中發表「《個人資料(私隱)條例》與《通用數據保障條例》的比較研究」演講
Presentation on “Comparison between Personal Data (Privacy) Ordinance and General Data Protection Regulation” at “How Will Your Employees and HR Practices Be Impacted by the General Data Protection Regulation?” Seminar organised by Clifford Chance

30.11.2017 為明愛向晴軒主講「個人私隱與債務處理」
Presentation on “Personal Data Privacy and Handling of Loans” to Caritas Family Crisis Support Centre

01.12.2017 在香港生產力促進局舉辦的醫療及保健系統網絡安全研討會中發表「保障私隱與醫療物聯網的資料管理」及參與小組討論
Presentation on “Privacy Protection and Data Governance in the Internet of Medical Things” and panel discussion at Symposium on Cyber Security on Medical and Healthcare System organised by Hong Kong Productivity Council



- 06.12.2017, 10.01.2018, 31.01.2018 and 14.03.2018 為香港警務處發表「警務人員對《個人資料(私隱)條例》及相關事宜的常見問題」演講
Presentation on “Frequently Asked Questions on the Personal Data (Privacy) Ordinance by the Police Officers” organised by Hong Kong Police Force
- 11.12.2017 為香港總商會的數碼、資訊及電訊委員會發表「內地與歐盟私隱法規的最新發展」演講
Presentation on “Recent Developments of Privacy Laws in the Mainland of China and EU” to the Digital, Information and Telecommunications Committee of Hong Kong General Chamber of Commerce
- 22.12.2017 與香港警務處商業罪案調查科人員分享經驗
Experience sharing with officers of Commercial Crime Bureau, Hong Kong Police Force
- 11.01.2018 為香港美國商會舉辦的閉門午餐會主講
Speech at closed-door roundtable luncheon organised by American Chamber of Commerce in Hong Kong
- 17.01.2018 為保險業監管局發表「保障個人資料及資料管治」演講
Presentation on “Personal Data Protection and Data Governance” organised by Insurance Authority
- 27.01.2018 在香港浸會大學舉辦的雙性人跨領域研討會發表「香港雙性者的人權(資料私隱)」演講
Presentation on “Human (Data Privacy) Right for Intersexuality in Hong Kong” at the “Is it a boy or a girl?” The Limit of the Male-Female Binary: Hong Kong First Interdisciplinary Symposium on Intersexuality organised by Hong Kong Baptist University
- 29.01.2018 為香港旅遊業議會發表「旅遊業界如何保障個人資料私隱」演講
Presentation on “Protecting Personal Data Privacy from Travel Industry’s Perspective” organised by Travel Industry Council
- 29.01.2018 為香港會計專業協會發表「大數據及人工智能時代的資料私隱及企業管治」演講
Presentation on “Data Privacy and Corporate Governance in the Era of Big Data and Artificial Intelligence” organised by Association of Hong Kong Accountants
- 02.02.2018 在香港人力資源管理協會舉辦的香港法例更新：2017回顧及2018展望講座中發表「環球私隱領域的最新發展及人力資源管理在保障個人資料方面的角色」演講
Presentation on “PCPD updates on global privacy landscape and HR’s Role to Protect Personal Data” at the Looking back 2017, Looking Forward 2018 – Legal and Compliance Updates Seminar organised by Hong Kong Institute of Human Resource Management



03.02.2018	在《鳳凰盃》香港國際女子棒球錦標賽 2018 開幕典禮中致辭 Speech at the Opening Ceremony of “Phoenix Cup” Hong Kong International Women’s Baseball Tournament 2018
07.02.2018	參與亞洲商業法律研究所舉辦的數據私隱論壇中的亞洲法律體系如何能在私隱、執法、商業創新和國際貿易之間取得平衡小組討論 Panel discussion on “How Asian legal systems can strike the balance between privacy, law enforcement, business innovation and international trade” at Data Privacy Forum organised by Asian Business Law Institute
08.03.2018	在國際科技法學會舉辦的 2018 國際亞太會議發表「剖析網絡攻擊」演講 Presentation on “Anatomy of a Cyber Attack” at 2018 International Asia-Pacific Conference organised by International Technology Law Association
10.03.2018	為 WebOrganic 的「安全互聯網日智能短片大賽」頒獎典禮致開幕詞 Opening speech for WebOrganic Award Ceremony for the Smart Video Contest for Safe Internet Day
14.03.2018	為香港總商會中小型企業委員會發表「資料私隱保障的最新發展 – 給中小型企業的資訊」演講 Presentation on “Data Privacy Updates for SME” to the SME Committee of Hong Kong General Chamber of Commerce



為個別機構提供講座

公署為 90 間機構提供了 120 場度身訂造的培訓講座，講解《私隱條例》的要求。（有關詳情請參考附錄三）

「大數據、人工智能與私隱」研討會

大數據、人工智能和機器學習（統稱為 BDAIML）的出現提升了效率並創造了商機，同時也對個人資料私隱的保障帶來挑戰。公署於 2017 年 4 月 26 日舉辦「大數據、人工智能及私隱」研討會，吸引了來自不同行業和專業的 300 多位參加者。為期半天的研討會為政府資訊科技總監辦公室統籌的「國際資訊科技節 2017」的其中一項活動。

其他講座

為提高公眾人士對《私隱條例》的認識和理解，公署共舉辦了 28 場簡介講座。包括其中一場為香港社會服務聯會的人力資源經理會舉辦的《私隱條例》及人力資源管理的資料保障。

In-house seminars

The PCPD conducted 120 tailor-made training sessions for 90 organisations to explain the requirements of the Ordinance. (See Appendix 3 for details)

“Big Data, Artificial Intelligence and Privacy” seminar

The emergence of big data, artificial intelligence and machine learning (collectively, BDAIML) has promoted efficiency and created business opportunities, but has posed challenges to personal data privacy at the same time. The PCPD hosted a seminar on “Big Data, Artificial Intelligence and Privacy” on 26 April 2017, attracting more than 300 participants from various industries and professions. The half-day seminar was one of the events of the “International IT Fest 2017” organised by the Office of the Government Chief Information Officer.

Other seminars

The PCPD organised 28 seminars to raise public awareness and their understanding of the Ordinance. One of them was organised for the HR Managers’ Club of the Hong Kong Social Services Council.



保障個人資料專業研習班

公署在本報告年度舉辦了32個工作坊，有1,184名人士參加。工作坊得到27個專業機構及行業協會支持，涵蓋下列主題：

資料保障法律研習班	Legal Workshop on Data Protection
資料保障與查閱資料要求	Data Protection and Data Access Requests
銀行／金融服務的資料保障	Data Protection in Banking/Financial Services
直接促銷活動的資料保障	Data Protection in Direct Marketing Activities
人力資源管理的資料保障	Data Protection in Human Resource Management
保險業的資料保障	Data Protection in Insurance
私隱管理系統	Privacy Management Programme

與持份者會面

為了解持份者對個人資料私隱保障的關注，公署與不同政府部門、機構、團體進行會面。

亞太區私隱機構組織 科技工作小組	Asia Pacific Privacy Authorities – Technology Working Group
亞洲國際法律研究院	Asian Academy of International Law
亞太區經濟合作組織 – 電子商貿督導小組資料私隱分組	Asia-Pacific Economic Cooperation – Electronic Commerce Steering Group Data Privacy Subgroup
布魯金斯學會	Brookings Institution
國泰航空	Cathay Pacific Airways
香港特別行政區中央政策組	Central Policy Unit, HKSAR
政務司司長辦公室	Chief Secretary for Administration's Office
香港中華廠商聯合會	Chinese Manufacturers' Association of Hong Kong
亞太雲端科技博覽	Cloud Expo Asia
商務及經濟發展局	Commerce and Economic Development Bureau
法國資料保障機構	Commission Nationale de l'Informatique et des Libertés
政制及內地事務局	Constitutional and Mainland Affairs Bureau
消費者委員會	Consumer Council
國務院參事室	Counsellor's Office of the State Council
Cullen International	Cullen International
歐華律師事務所	DLA Piper
亞洲藍龍有限公司	Dmitri Hubbard of Blue Dragon Asia Limited

Professional workshops

During the reporting year, we held 32 workshops with 1,184 participants. The workshops, which were supported by 27 professional organisations and trade associations, covered the following topics:

Meeting with stakeholders

In order to understand stakeholders' concerns about personal data protection, the PCPD held meetings with various government departments, organisations and groups.

電子健康紀錄統籌處	Electronic Health Record Office
平等機會委員會	Equal Opportunities Commission
Facebook	Facebook
美國聯邦貿易委員會	Federal Trade Commission, USA
財經事務及庫務局	Financial Services and the Treasury Bureau
食物及衛生局	Food and Health Bureau
Google	Google
新互動媒體	New iMedia
GSMA	GSMA
香港銀行公會	Hong Kong Association of Banks
香港保險業聯會	Hong Kong Federation of Insurers
香港銀行學會	Hong Kong Institute of Bankers
香港金融管理局	Hong Kong Monetary Authority
香港警務處技術服務部	Hong Kong Police Force – Technical Services Division
香港科技園公司	Hong Kong Science and Technology Parks Corporation
香港貿易發展局	Hong Kong Trade Development Council
香港科技大學工商管理學院高級管理人員課程部	Hong Kong University of Science and Technology Business School Executive Education Office
醫院管理局	Hospital Authority
國際私隱專業人員協會	International Association of Privacy Professionals
國際資料保障及私隱專員研討會執行委員會	International Conference of Data Protection and Privacy Commissioner Executive Committee
投資推廣署及香港科研製藥聯會	Invest Hong Kong and Hong Kong Association of the Pharmaceutical Industry
銀聯通寶有限公司	Joint Electronic Teller Services Limited
韓國開發研究院	Korea Development Institute
韓國訊息安全局	Korean Internet & Security Agency
立法會	Legislative Council
立法會議員許智峯(香港島)	Legislative Council Member Hon HUI Chi-fung (Hong Kong Island)
立法會議員葉建源(教育界)、立法會議員姚松炎博士及教育局	Legislative Council Member Hon IP Kin-yuen (Education), Legislative Council Member Dr Hon YIU Chung-yim and Education Bureau
立法會議員易志明(航運交通界)	Legislative Council Member Hon Frankie YICK Chi-ming (Transportation)
香港物流及供應鏈多元技術研發中心	Logistics and Supply Chain MultiTech R&D Centre
強制性公積金計劃管理局	Mandatory Provident Fund Schemes Authority
微軟	Microsoft



大韓民國企劃財政部	Ministry of Strategy and Finance of Republic of Korea
尼爾森	Nielsen Company (US), LLC.
政府資訊科技總監辦公室	Office of the Government Chief Information Officer
團結香港基金	Our Hong Kong Foundation
渣打銀行香港	Standard Chartered Bank Hong Kong
湯森路透	Thomson Reuters
印尼巴查查蘭大學	University of Padjadjaran, Indonesia
美國眾議院外交事務委員會	US Congressional Staff on the House Foreign Affairs Committee
VISA 香港	VISA Hong Kong

保障資料主任聯會

公署於2000年創立保障資料主任聯會，為機構的保障資料人員提供一個交流經驗和培訓的平台，促進知識的增長和符規的實踐。截至2018年3月底，聯會有577名會員（包括個人及機構會員），會員來自公私營機構；他們來自多方背景，包括循規、法律事務、規管、執法和客戶服務。

公署於本報告年度為保障資料主任聯會的會員舉辦了四場簡報會和講座，主題包括明智使用便攜式裝置及處理資料外洩事故、以及以個案為重點以講解《私隱條例》。另外，公署舉辦了兩場講座，以協助聯會會員了解歐洲聯盟《通用數據保障條例》的規定。

Data Protection Officers' Club (DPOC)

The PCPD established the DPOC in 2000 to provide practising data protection officers with a platform for advancing their knowledge and practice of data privacy compliance through experience sharing and training. DPOC membership stood at 577 by the end of March 2018. The individual and organisational members come from a wide range of background, including compliance, legal affairs, regulatory affairs, law enforcement and customer relations, in both the public and private sectors.

During the reporting year, the PCPD held four briefing sessions and talks for DPOC members, on smart use of portable storage devices and data breach handling, and the Ordinance with special emphasis on case studies. The PCPD organised two seminars for DPOC members to guide them through the new requirements in the European Union General Data Protection Regulation.



私隱專員在保障資料主任聯會迎新會上致辭。

The Privacy Commissioner gave opening remarks at the welcome reception for DPOC.



公署高級律師及嘉賓講者為保障資料主任聯會會員講解《通用數據保障條例》的規定。

PCPD Senior Legal Counsel and guest speaker shared with DPOC members on the GDPR requirements.

行業保障私隱活動

科技的進步為營商環境帶來翻天覆地的變化，亦為中小型企業帶來更大的發展空間和機遇。頻繁的商業活動大大增加了中小型企業處理客戶和員工個人資料的機會。但礙於資源有限，一般中小型企業對遵從《私隱條例》的規定往往力不從心，事倍功半。有見及此，公署投放更多資源協助中小型企業，加強保障個人資料，並藉以培養「尊重」個人資料私隱的企業文化，增強客戶信任。

為加強與中小型企業的溝通與合作，公署舉辦「中小企保障私隱運動」。公署於2018年1月發出《資料保障·利便營商－給中小企的綱領提示》指引資料，因應中小企業的不同業務功能提供具體例子及實用建議，以協助中小企了解如何遵從《私隱條例》的規定。

此外，公署推出專為中小型企業而設的諮詢熱線和電郵，為中小型企業提供更便捷的渠道，以就如何遵從《私隱條例》的規定作出查詢。

中小型企業的專屬諮詢熱線號碼為2110 1155，由專責的公署職員在公署的辦公時間內接聽（星期一至五上午8時45分至下午12時45分及下午1時50分至下午5時40分，公眾假期除外）。此外，中小型企業亦可透過專用的電郵地址（sme@pcpd.org.hk）作出查詢。

Industry-specific Privacy Campaign

Technological advancement has brought about drastic changes in the business environment and opened up new opportunities for small and medium enterprises (SMEs). Frequent business activities have made the handling of personal data of customers and staff members a daily routine of SMEs. However, with limited resources, SMEs in general find it difficult to comply with the Ordinance. In view of this, the PCPD has allocated more resources to assist especially SMEs in strengthening personal data protection, so as to nurture an organisational culture of “respecting” personal data privacy and gaining customers’ trust.

To strengthen communication and cooperation with SMEs, the PCPD organised the SME Privacy Protection Campaign. The PCPD issued the “Data Protection & Business Facilitation – Guiding Principles for Small and Medium Enterprises” Guidance Note in January 2018 to help SMEs understand and comply with the requirements of the Ordinance by providing specific examples and practical advice according to their different business functions.

In addition, the PCPD launched a dedicated hotline and email service providing SMEs with a readily available channel to make enquiries about how to ensure compliance with the Ordinance.

The SME Hotline 2110 1155 operates during the PCPD office hours (Monday to Friday from 8:45am to 12:45pm and 1:50pm to 5:40pm, except public holiday). SMEs can also make email enquiries to sme@pcpd.org.hk.





走進社區

關注私隱運動

公署與亞太區私隱機構在區內合作繼續推廣對私隱的關注，於2017年5月8日至14日舉辦「關注私隱運動2017」，主題是「分享資料前請三思」，提醒公眾在決定分享自己或他人的個人資料前，應三思而後行。

「關注私隱運動2017」共獲得132間夥伴中學及逾400名來自各行各業的保障資料主任聯會會員的支持。公署透過舉辦連串推廣和教育活動，務求將主題訊息帶到校園和社區，吸引逾50,000名人士參與。

今年公署特意設計四款海報，以生動的漫畫角色推廣在各方面保障網上私隱：流動應用程式、管理網上帳戶密碼，網絡攝錄機及社交網絡。



四款由公署所設計的「關注私隱運動2017」海報。
Four posters designed by the PCPD for the PAW 2017.

PROMOTING AWARENESS IN THE COMMUNITY

Privacy Awareness Week

The PCPD continued to promote privacy awareness in the region, together with Asia Pacific Privacy Authorities members, by organising Privacy Awareness Week 2017 (PAW 2017) between 8 and 14 May 2017 with the theme “Share Personal Data with Care”. Members of the public were reminded to be vigilant and think twice before sharing their own and others’ personal data.

The PAW 2017 was supported by 132 partnering secondary schools and over 400 members of the Data Protection Officers’ Club from various trades. A series of promotion and public education activities were organised during the week at schools and in the community, having engaged over 50,000 people.

To put across this year’s theme, the PCPD specially designed four posters with topics on mobile apps, managing online accounts and passwords, webcams and social media, featuring lively comic characters to promote online privacy protection.

保障個人資料教育展覽

公署亦於金鐘港鐵站舉行公眾展覽，分別就流動應用程式、管理網上帳戶及密碼、網絡攝錄機和社交網絡四個範疇，帶出相關的保障私隱實務知識。



Public education exhibition on personal data protection

An exhibition was held at the Admiralty MTR station during the week to provide passers-by with practical tips on four aspects, including mobile apps, managing online accounts and passwords, webcams and social media.

保障資料主任聯會迎新會暨講座

私隱專員於迎新會上歡迎保障資料主任聯會會員，而公署職員亦從保障資料的角度與會員分享精明使用便攜式儲存裝置及處理資料外洩事故時須注意的事項。



DPOC welcoming reception cum lunch talk

The Privacy Commissioner welcomed DPOC members at the reception. A talk was held to share with members the smart use of portable storage devices from data protection perspective and how a data breach should be handled.

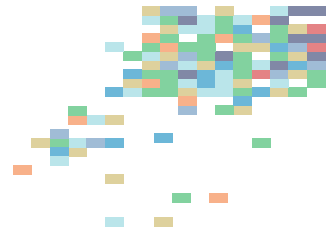


學校夥伴嘉許計劃及中學生「保障、尊重個人資料」短片大賽頒獎典禮

在保障私隱學生大使計劃下，公署舉辦了學校夥伴嘉許計劃及全港中學生「保障、尊重個人資料」短片大賽。公署特以頒獎典禮作為「關注私隱運動2017」的壓軸活動，並邀請夥伴中學及短片大賽入圍隊伍出席頒獎典禮。

Award Presentation Ceremony for Student Ambassador for Privacy Protection Programme 2017

A recognition scheme on promoting privacy protection and a short video competition were held under the Student Ambassador for Privacy Protection Programme 2017. Partnering schools and finalists of the competition were invited to the award presentation ceremony as the finale of the PAW 2017.



向長者推廣保障私隱教育講座

為協助長者認識潛在的資料私隱風險，以免成為罪案受害者和蒙受金錢損失，公署與多個社會福利機構合辦了15個講座，與長者分享日常生活中保障個人資料的錦囊，吸引超過一千名長者參與。

Educational talks to senior citizens

To help senior citizens recognise potential data privacy risks and prevent them from falling victim to crime and financial exploitation, 15 educational talks in collaboration with various social services organisations were held. Speakers shared tips with the elderly on how to protect their personal data in daily life. Over 1,000 senior citizens have attended the talks.

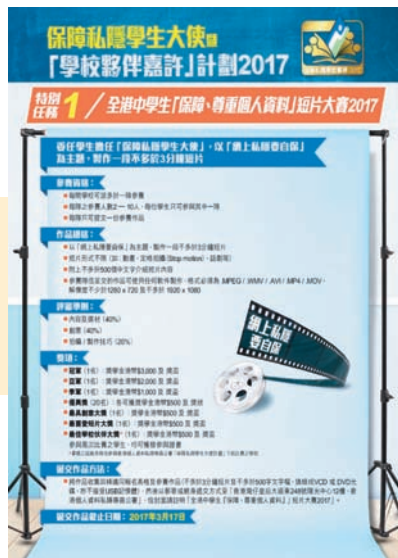


保障私隱學生大使計劃

公署連續第七年舉辦保障私隱學生大使計劃。透過這個計劃，公署希望鼓勵中學生於校內舉辦與保障個人資料私隱相關的推廣活動及參與比賽，了解保障個人資料私隱的重要性，並在友儕間傳揚此訊息。

Student Ambassador for Privacy Protection Programme

The PCPD has run the Student Ambassador for Privacy Protection Programme for seven consecutive years. Under the Programme, secondary school students are encouraged to learn the importance of protecting personal data privacy and to share the knowledge with peers through organising interactive inter-school competitions and on-campus promotion.



本年的保障私隱學生大使計劃內容包括學校夥伴嘉許計劃、校際短片製作比賽，以及流動展覽車校園巡迴展覽。學校夥伴嘉許計劃設金、銀、銅獎，以表揚及公開嘉許實踐推廣保障個人資料私隱的中學。年內，共132間中學參與這項計劃（詳見附錄四）。

至於短片大賽，共吸引約500名來自49間中學的同學參加。學校夥伴嘉許計劃及短片大賽的頒獎典禮於2017年5月13日舉行。

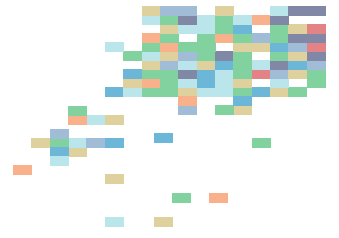
The Programme for 2017 consisted of a Partnering Schools Recognition Scheme, an inter-school short video competition and a school roadshow. The Partnering Schools Recognition Scheme offered gold, silver and bronze awards to commend and publicly recognise the achievements of secondary schools that demonstrate good practice in promoting personal data privacy protection on campuses. In total, 132 secondary schools took part in the Scheme (see Appendix 4).

About 500 students from 49 secondary schools took part in the short video competition. The award presentation ceremony for the Partnering Schools Recognition Scheme and short video competition was held on 13 May 2017.



公署安排流動展覽車駛到中學校園，為同學及老師提供保障個人資料貼士。

The PCPD arranged an exhibition truck visiting secondary schools to disseminate the message of protecting personal data to students and teachers.



另外，公署安排流動展覽車在四月及五月駛至共43間中學校園，透過在展覽車內的展板、派發公署出版的刊物，以及播放教育短片，向同學及老師提供在日常生活中保障個人資料的實用貼士。

A 4-week school roadshow was held in April and May 2017 with an exhibition truck shuttling among 43 partnering schools during the period. Practical tips were provided through the display panels inside the truck to show teachers and students how to protect personal data in daily life. Latest publications were distributed and educational videos were shown in the truck.



STRENGTHENING EXTERNAL CONNECTIONS

加強對外聯繫



回應跨法域區的議題

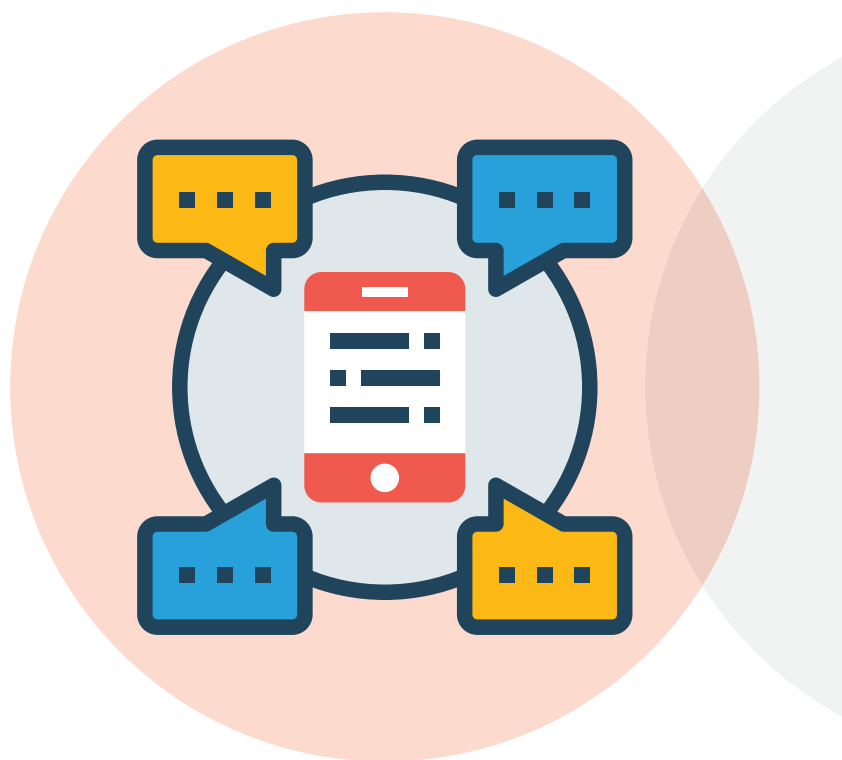
因應最新的本地及國際發展，公署就有關個人資料保障的政策及議題進行研究及提供意見。

保障私隱跨越不同法域區，需要國際社會共同作出回應。公署與各地資料保障機構和私隱專家保持聯繫和工作關係，洞悉全球私隱保障的發展和趨勢。

RESPONDING TO CROSS-JURISDICTION ISSUES

The PCPD conducts research and provides advice on policy issues relating to personal data protection in the light of latest local and international developments.

Privacy protection has become a cross-jurisdiction issue and thus calls for an international response. The PCPD liaises and works with data protection authorities and privacy experts around the world to keep abreast of global development and trends in privacy protection.



亞太區經濟合作組織 — 電子商貿督導小組資料私隱分組

公署於2018年2月27日派代表出席在巴布亞新幾內亞莫爾茲比港舉行的第37屆亞太區經濟合作組織(亞太經合組織)電子商貿督導小組資料私隱分組會議。

會議其中一個重點議題是推廣「跨境私隱規則機制」。該機制在2011年獲亞太經合組織領袖核准，以自願性問責制為基礎，幫助亞太經合組織經濟區內的商業機構進行跨境資料傳輸，同時確保個人資料獲得足夠的保障。截至2018年3月31日，有六個經濟體參與了該機制。部分經濟體如菲律賓、中華台北及澳洲亦表示有興趣加入該機制或正考慮加入。「跨境私隱規則機制」聯合監督小組主席表示現正更新該機制的網頁，以加強商界與消費者對該機制的關注。

會議亦討論由資料私隱分組轄下的資料可攜權研究小組提交的文件。該文件的目的是藉著提供背景資料，引發對歐盟《通用數據保障條例》下新增的個人資料保障權利-即資料可攜權-的討論。文件闡述資料可攜權的利弊以及在跨法域區的互通性情況。

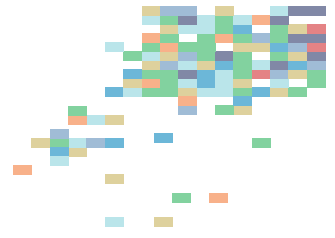
ASIA-PACIFIC ECONOMIC COOPERATION (APEC) ELECTRONIC COMMERCE STEERING GROUP DATA PRIVACY SUBGROUP

The PCPD was represented at the 37th meeting of the APEC Electronic Commerce Steering Group Data Privacy Subgroup, which was held in Port Moresby, Papua New Guinea on 27 February 2018.

One of the key focuses of the meeting was the promotion of the Cross-Border Privacy Rules (CBPR) System. Endorsed by APEC Leaders in 2011, the CBPR System is a voluntary accountability-based system to facilitate transfer of personal data among businesses of the APEC economies, while at the same time ensure adequate protection of personal data. As at 31 March 2018, there were six participating economies in the CBPR System. Some other economies such as the Philippines, Chinese Taipei and Australia have also indicated their interest or were considering to participate in the CBPR System. The Chair of the Joint Oversight Panel of the CBPR System reported that enhancement of the CBPR website, with the aim to raise consumers' and businesses' awareness of the CBPR System, was underway.

The meeting also discussed a paper prepared by the Data Portability Study Group of the Data Privacy Subgroup. The purpose of the paper was to present background information to stimulate discussion on data portability, a new data protection right of individuals under the EU GDPR. The paper presented the potential benefits and drawbacks of data portability, and the interoperability of data portability across jurisdictions.





亞太區私隱機構

亞太區私隱機構成立於 1992 年，是亞太區內私隱與資料保障執法機構的主要平台組織，目前有 20 名成員。公署是其管治委員會的成員。管治委員會與秘書處一同支援亞太區私隱機構的運作。公署也是科技工作小組的召集人，帶領小組就科技相關的問題進行研究並提供建議。

亞太區私隱機構每年舉辦兩次論壇，讓成員就如何有效執行監管工作交換意見及實際經驗。私隱專員於 2017 年出席了第 47 及 48 屆亞太區私隱機構論壇。

第 47 屆亞太區私隱機構論壇 (2017 年 7 月 10 至 11 日，澳洲)

第 47 屆亞太區私隱機構論壇以「互操作性」(interoperability) 為主題，旨在鼓勵資料保障機構之間的夥伴和協作關係，並尋找在國內外的監管指導和執法工作的協同效益。

私隱比較統計工作小組 (Comparative Privacy Statistics Working Group) 已重新啟動，旨在提供可靠的統計數據，以協助資料保障機構有效履行其監管工作。

布朗大學兼職教授 Deborah Hurley 在論壇會議中發表的一篇關於去識別化的論文，討論了去識別化這種新興技術的相對優點。

論壇討論的其他主題包括實踐問責制的工具、《歐盟通用數據保障條例》的更新以及與大數據、人工智能和機器學習等相關的資料保障議題。

私隱專員在論壇期間亦參加了題為「尋找國內外的協同效益」的小組討論。私隱專員指出國際間互相合作的重要性，令個人資料私隱在科技急速發展的過程中於不同的法域區得以保障。

ASIA PACIFIC PRIVACY AUTHORITIES (APPA)

APPA is the principal forum for privacy and data protection authorities in the Asia Pacific region. Formed in 1992, it currently has 20 members. The PCPD is a member of its Governance Committee, which works closely with the Secretariat to support the operation of APPA. The PCPD is also the Convener of APPA's Technology Working Group, steering members to exploring technology-related issues.

APPA members meet twice a year at the APPA Forum to exchange ideas and practical experience in carrying out their regulatory functions. The Privacy Commissioner attended the 47th and 48th APPA Forums in 2017.

The 47th APPA Forum (10-11 July 2017, Australia)

With the theme of "interoperability", the objectives of the 47th APPA Forum were to encourage partnership and collaboration among data protection authorities, and to identify global and domestic synergies for regulatory guidance and enforcement activities in the Asia Pacific region.

The Comparative Privacy Statistics Working Group had been reactivated, aiming at producing reliable statistical information to assist data protection authorities in performing their regulatory functions effectively.

A paper on de-identification was presented by Deborah Hurley, Adjunct Professor at Brown University, during the Forum. The paper explored the relative merits of these emerging techniques.

Other topics discussed included accountability tools, updates on the EU GDPR, and data protection issues in relation to big data, artificial intelligence and machine learning.

The Privacy Commissioner participated in a panel discussion titled, "Identifying global and domestic synergies" during the Forum. He pointed out the importance of international cooperation, which enabled the protection of personal data privacy across border amidst rapid technological development.

第 48 屆亞太區私隱機構論壇 (2017 年 11 月 15 至 17 日, 加拿大)

第 48 屆亞太區私隱機構論壇由展示加拿大資料保障機構資助的研究計劃的成果揭開序幕。當日的活動旨在突顯獨立研究為私隱保障工作帶來的益處。

論壇期間，四間全球最大的科技公司—蘋果、Facebook、Google 和微軟—獲邀參加小組討論，並分享他們如何在技術開發過程中融入私隱的元素，以及機構內部如何促進在全球各地的營運中達至私隱合規及提升消費者的信任。私隱專員參加了另一個小組討論，分享如何與中小型企業攜手合作保障私隱。

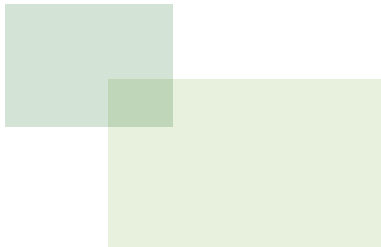
作為科技工作小組的召集人，私隱專員向亞太區私隱機構成員提交了一份關於去識別化的研究報告，建議採用風險為本的方法對個人資料進行去識別化。

The 48th APPA Forum (15-17 November 2017, Canada)

The 48th APPA Forum kicked off by showcasing the results of researches funded by the Canadian data protection authority, highlighting the benefits of independent research in privacy protection.

Four of the world's largest technology companies – Apple, Facebook, Google and Microsoft – were invited to a panel discussion during the Forum, sharing their experience of integrating privacy in technological development, and how their internal mechanisms facilitated global privacy compliance and enhancement of consumer trust. The Privacy Commissioner participated on another panel, sharing the experience of engaging small-and-medium-sized enterprises in privacy protection.

As the Convener of the Technological Working Group, the Privacy Commissioner presented to APPA members a research paper of the Working Group on de-identification, suggesting a risk-based approach for de-identifying personal data.





全球私隱執法機關網絡

全球私隱執法機關網絡於 2010 年成立，宗旨是促進私隱執法機關之間的跨境合作。截至 2017 年年底，全球私隱執法機關網絡的成員包括來自 48 個法域區的 65 個私隱執法機關。

全球私隱執法機關網絡主要透過下述方式加強合作：

1. 就相關議題、趨勢及經驗交換資訊；
2. 鼓勵培訓和分享執法的知識、專門技術及良好行事方式；
3. 促進私隱執法機關的溝通；及
4. 創設、維持及支援對雙邊或多邊合作有用的程序或機制。

公署於 2014 年加入全球私隱執法機關網絡為成員。於 2016 年，公署成為全球私隱執法機關網絡的五個執行委員會成員之一（其他成員是加拿大、以色列、英國及美國的私隱執法機關），協力領導網絡的工作。

全球私隱執法機關網絡每年其中一個主要工作項目是私隱抽查行動，成員會聯合查察特定界別的機構在私隱方面的實務，評估其對個人資料私隱的尊重程度及個人資料保障法例的符規情況。

GLOBAL PRIVACY ENFORCEMENT NETWORK (GPEN)

GPEN was established in 2010 to foster cross-border cooperation among privacy enforcement authorities. As at the end of 2017, its membership comprised 65 privacy enforcement authorities from 48 jurisdictions around the world.

GPEN primarily seeks to promote cooperation by:

1. Exchanging information on relevant issues, trends, and experience;
2. Encouraging training opportunities and sharing of enforcement know-how, expertise, and good practices;
3. Promoting dialogue among privacy enforcement authorities; and
4. Creating, maintaining, and supporting processes or mechanisms useful for bilateral or multilateral cooperation.

The PCPD joined GPEN as a member in 2014. In 2016, the PCPD joined the five-member Executive Committee of GPEN (the other members were the privacy enforcement authorities of Canada, Israel, the United Kingdom and the United States) which provided leadership for the network.

One of the major annual projects of GPEN is the Privacy Sweep, in which its members join forces to examine the privacy practices of organisations in selected sectors and to evaluate their level of respect for personal data privacy and level of compliance with data protection laws.

於 2017 年 5 月，公署聯同 23 個私隱執法機關進行私隱抽查行動以了解個人對其個人資料的掌控程度。抽查結果及相關建議詳列於本年報「**監督符規，擁抱挑戰**」部份。

於 2017 年 6 月，全球私隱執法機關網絡和英國信息專員辦公室在英國曼徹斯特合辦了一個執法人員研討會，匯集了來自私隱、消費者保障和非應邀通信的監管機構的調查人員，分享和學習在執法方面的實踐經驗、技術和策略。

於 2017 年 8 月，全球私隱執法機關網絡獲國際消費者保障執法網絡批准成為觀察員，使兩個網絡的成員可建立更緊密合作。

於報告年度內，公署亦參與了全球私隱執法機關網絡的定期電話會議，與各成員就有關個人資料私隱的熱門議題交換意見，包括差異化私隱 (differential privacy)、被遺忘權、貫徹私隱的設計、區塊鏈及物聯網等。

In May 2017, the PCPD joined 23 privacy enforcement authorities to examine the level of control by individuals over their own personal data. Findings and recommendations arising from this Privacy Sweep can be found in the **“Monitoring Compliance, Embracing Challenges”** section of this report.

In June 2017, an Enforcement Practitioners' Workshop was jointly held by GPEN and the Information Commissioner's Office of the United Kingdom in Manchester. The workshop brought together investigators from privacy, consumer protection and unsolicited communications regulatory bodies to share and learn practical experience, technical skills and strategies.

In August 2017, GPEN was granted an observer status by the International Consumer Protection Enforcement Network (ICPEN). This allowed GPEN and its member authorities to build on existing cooperation with ICPEN.

During the reporting year, the PCPD attended regular telephone conferences with other GPEN members to exchange views on topical issues relating to personal data privacy, including differential privacy, right to be forgotten, privacy by design, blockchain, Internet of Things, etc.





與海外及內地資料保障機構及私隱專家的交流

EXCHANGES WITH OVERSEAS AND MAINLAND DATA PROTECTION AUTHORITIES AND PRIVACY EXPERTS

在報告年度內，私隱專員及其團隊與海外及內地資料保障機構、業界人員及學者曾作以下交流：

During the reporting year, the Privacy Commissioner and his team were engaged in the following exchanges with overseas and mainland data protection authorities, practitioners and academia:

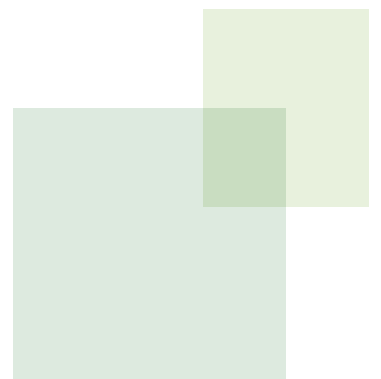
20.04.2017	<p>參與在美國華盛頓舉辦的2017國際私隱專業人員協會全球私隱高峰會議的「中西薈萃：私隱法規、社會規範與文化」小組討論</p> <p>Panel discussion on “Privacy Law, Social Norms and Culture: East Meets West” at IAPP Global Privacy Summit 2017 in Washington DC, the United States</p>	
04.05.2017	<p>參與在美國紐約市舉行的聯合國全球脈動計劃及國際私隱專業人員協會主辦的聯合國全球脈動計劃專家會議的「建立有效的私隱及數據道德準則計劃：從理論到實踐」小組討論</p> <p>Panel discussion on “Privacy and Data Protection Frameworks: The Regulatory and Policy-making Perspective” at United Nations Global Pulse Expert Meeting organised by United Nations Global Pulse and International Association of Privacy Professionals in New York City, the United States</p>	
15.05.2017	<p>在德國柏林舉行的第七屆歐洲資料保障日發表「從香港角度看2018年實施GDPR的初步主要觀察 – 這是檢討香港保障資料私隱法例的適當時機」演講及參與「GDPR實施倒數一年 – 國際資料保障的最新發展」小組討論</p> <p>Presentation on “Observations on the GDPR 2018 from Hong Kong’s Perspective – A Timely Opportunity for Hong Kong to Review the Data Privacy Protection Law” and panel discussion on “The Latest Developments in International Data Protection – One Year Before the GDPR will Apply” at 7th European Data Protection Days in Berlin, Germany</p>	
27.06.2017	<p>在南韓Barun 資訊及通訊科技研究中心舉辦的2017亞洲私隱橋樑研討會發表「資料外洩事故通報及跨境執法合作」講座</p> <p>Presentation on “Data Breach Notification and Cross-Border Enforcement Cooperation” at Asia Privacy Bridge Forum 2017 organised by Barun ICT Research Centre in South Korea</p>	
12.07.2017	<p>參與在澳洲悉尼舉行的亞太區個人資料與私隱會議的「辨識全球與本地執法行動的協同增效作用」小組討論</p> <p>Panel discussion on “Identifying Global and Local Synergies for Regulatory Enforcement Activities” at Data + Privacy Asia Pacific Conference in Sydney, Australia</p>	

21.08.2017	<p>在越南胡志明市舉行的亞太區經濟合作組織 – 電子商貿督導小組資料私隱分組會議中主講「私隱專員就《個人資料(私隱)條例》進行比較研究 – 歐盟通用數據保障條例」講座</p> <p>Presentation on “Privacy Commissioner’s Comparative Study on Personal Data (Privacy) Ordinance – General Data Protection Regulation” at Asia-Pacific Economic Cooperation (APEC) Electronic Commerce Steering Group – Data Privacy Sub-group Meeting in Ho Chi Minh City, Vietnam</p>
14.09.2017	<p>在澳門舉行、由中國法學會舉辦的第九屆內地與港澳法律研討會發表「香港作為一帶一路和大灣區數據中心的機遇」演講</p> <p>Presentation on “Opportunities Arising from Hong Kong as Data Centre of the Belt and Road Initiative and the Bay Area” at 9th Mainland, Hong Kong and Macao Legal Seminar, organised by China Law Society, Hong Kong Law Forum and Direcção dos Serviços de Assuntos de Justiça in Macao</p>
23.09.2017	<p>在泰國曼谷舉行的亞太區電訊業、環球論壇、國際電訊業聯盟及物聯網亞洲峰會發表「保安標準及私隱框架 – 為物聯網建立信任及信心」演講</p> <p>Presentation on “Security Standards and Privacy Frameworks – Paving the Way for Trust and Confidence in IoT” at Asia Pacific Telecommunity, Forum Global and ITU, The Internet of Things Asia Summit 2017 in Bangkok, Thailand</p>
15.10.2017	<p>在廈門舉行的2017內地 – 香港網絡安全論壇發表「香港數據安全保護政策法律」演講</p> <p>Speech on “Data Security Protection Policies and Laws in Hong Kong” at Second HK-Mainland Cyber Security Forum in Xiamen</p>
21.10.2017	<p>在深圳中聯辦研討會發表「香港個人資料保障法律和制度」演講</p> <p>Presentation on “The Law and the System of Personal Data Protection in Hong Kong” in seminar organised by Liaison Office of Central People’s Government in Shenzhen</p>
08.11.2017	<p>在南韓Barun 資訊及通訊科技研究中心及韓國網絡安全局舉辦的2017亞洲私隱橋樑研討會暨Barun 資訊及通訊科技研究會議：「跨境貫徹私隱的設計」上發表「處理資料外洩事故及提昇私隱法規效率的方法」</p> <p>Presentation on “Handling of Data Breaches and Ways to Improve Effectiveness of the Privacy Law” at Barun ICT Research Conference 2017: 4th Asia Privacy Bridge “Privacy by Design across Borders” organised by Barun ICT Research Centre and Korea Internet & Security Agency in South Korea</p>
14.11.2017	<p>在加拿大舉行的第48屆亞太區私隱機構論壇中的會外活動中發表「業務發展及鼓勵問責」演講</p> <p>Presentation on “Demonstrating and Incentivising Accountability” at side event of 48th Asia Pacific Privacy Authorities Forum in Canada</p>





16.11.2017	<p>在加拿大舉行的第48屆亞太區私隱機構論壇中發表「在私隱領域上以創新方法與中小企進行溝通」演講</p> <p>Presentation on “Innovative Ways to Communicate with SMEs on Privacy” at 48th Asia Pacific Privacy Authorities Forum in Canada</p>
27.02.2018	<p>在西班牙巴塞隆那舉行的2018 GSMA 世界移動大會 (Mobile World Congress) 的部長級會議上發表主題演講</p> <p>Delivery of keynote speech at Ministerial Programme of the GSMA Mobile World Congress 2018 in Barcelona, Spain</p> 
28.03.2018	<p>參與在美國華盛頓舉行，由國際私隱專業人員協會舉辦的2018全球私隱高峰會中「規範全球數據流：來自三大洲的觀點」的小組討論</p> <p>Panel discussion on “Regulating Global Data Flows: The View from Three Continents” at IAPP Global Summit 2018 organised by International Association of Privacy Professionals in Washington DC, the United States</p> 



接待海外及內地訪客

在報告年度內，公署曾接待以下代表團：

18.05.2017

接待韓國訊息安全局訪問團

Received a delegation from Korean Internet & Security Agency



RECEPTION OF OVERSEAS AND MAINLAND DELEGATIONS

During the reporting year, the PCPD received the following delegations:

14.07.2017

接待中國政法大學、浙江大學、上海對外經貿大學及南京大學法律學生

Received a delegation of law students from China University of Political Science and Law, Zhejiang University, Shanghai University of International Business and Economics and Nanjing University

23.10.2017

為香港城市大學司法教育與研究中心籌辦的第十一屆中國高級法官研修班發表「個人資料的保障」演講

Presentation on "Personal Data Protection" at Hong Kong City University's 11th Advanced Programme for Chinese Senior Judges



30.11.2017

為青海省中港司法行政經濟事務培訓班主講「個人資料的保障」

Presentation on "Introduction on the PCPD and the Personal Data (Privacy) Ordinance" for the training course on China – Hong Kong Judicial Administration Economic Affairs for officials from Qinghai Province



08.12.2017

接待大韓民國企劃財政部訪問團

Received a delegation from Korea Ministry of Strategy and Finance



21.12.2017

接待美國國會外交委員會訪問團

Received a delegation of U.S. Congressional Staff on House Foreign Affairs Committee

21.03.2018

為北京師範大學主講「數據保障」講座

Presentation on "Data Protection" organised by Beijing Normal University



第 39 屆「國際資料保障及私隱專員研討會」

The 39th International Conference of Data Protection and Privacy Commissioners

WE Connecting West with East in Protecting and Respecting Data Privacy



公署於 2017 年 9 月 25 至 29 日期間成功舉辦了第 39 屆「國際資料保障及私隱專員研討會」，是次研討會的主題為「連繫西方與東方 保障、尊重資料私隱」，超過 750 名來自逾 60 個國家或地區的資料保障機構的代表、決策人員、政府及商業領袖、資訊科技專業人士，以及學者和私隱倡議人士，就新興的資料保障議題進行深入討論，並交換創新策略和想法以應對未來的挑戰。

The Privacy Commissioner successfully hosted The 39th International Conference of Data Protection and Privacy Commissioners ("ICDPPC") from 25 to 29 September 2017 in Hong Kong. Themed on "Connecting West with East in Protecting and Respecting Data Privacy", the Conference has brought together more than 750 representatives from Data Protection Authorities, policymakers, government and business leaders, information and communications technology professionals as well as academia and privacy advocates from over 60 countries or regions for in-depth discussions on emerging issues on data protection, exchanging innovative strategies and ideas as well as addressing future challenges.

「國際資料保障及私隱專員研討會」自 1979 年首次召開，至今已成為全球資料保障機構的年度重要論壇。今屆亦是此國際私隱研討會相隔 18 年之後重返香港和亞洲舉行，並納入為慶祝香港特別行政區成立 20 周年的活動之一。

The ICDPPC was first convened in 1979 and is the premier forum in the privacy world. The Conference made its return to Hong Kong and Asia after 18 years, and was included as one of the celebration events of the 20th anniversary of the establishment of the Hong Kong Special Administrative Region.



政制及內地事務局局長聶德權擔任資料保障機構晚宴的主禮嘉賓，並於晚宴中致辭。

Guest of Honour of The ICDPPC's Data Protection Authorities' Dinner, Mr Patrick Nip Tak-kuen, Secretary for Constitutional and Mainland Affairs, delivered his speech.



公署的「網上私隱要自保」專題網站改進項目在「使用網上工具」組別中獲得冠軍。私隱專員從「國際資料保障及私隱專員研討會」主席 Mr John Edwards 手中接過獎項。

The PCPD's "Be SMART Online Thematic Website Enhancement" project won the "Use of online tools" category award. The Privacy Commissioner received the award from the ICDPPC Chair Mr John Edwards.

在研討會舉行期間，私隱專員於9月26日舉辦資料保障機構晚宴，藉此歡迎來自各地的資料保障機構代表，並承蒙政制及內地事務局局長聶德權擔任晚宴的主禮嘉賓。

At the 39th ICDPPC, the Privacy Commissioner hosted a Data Protection Authorities' Dinner on 26 September to welcome representatives from the Data Protection Authorities around the world. The Dinner was graced by Mr Patrick Nip Tak-kuen, Secretary for Constitutional and Mainland Affairs as the Guest of Honour.

晚宴上，由「國際資料保障及私隱專員研討會」所主辦的私隱和資料保障國際獎項亦頒發予各個得獎機構。首屆獎項共收到90份來自全球不同資料保障和私隱機構所遞交的參賽項目。其中公署的「網上私隱要自保」專題網站改進項目在「使用網上工具」組別中榮獲冠軍。

Winners of the ICDPPC Global Privacy and Data Protection Awards were announced during the dinner. The inaugural awards attracted 90 entries from data protection and privacy authorities worldwide. The PCPD was honoured to have won the "Use of online tools" category award with "Be SMART Online Thematic Website Enhancement" project.



來自全球各地的資料保障機構的代表出席研討會的閉門會議。

Representatives from the Data Protection Authorities around the world attended the Closed Session of the 39th ICDPPC in Hong Kong.

為期五天的研討會共分為兩個主要部份，其中閉門會議出席人士包括研討會會員（即各地的資料保障機構代表）和觀察員；而公開會議則由資料保障界專業人士參加。約有160名研討會會員和觀察員出席閉門會議，就「政府資訊分享」議題作深入討論。

The five-day Conference consisted of a closed session for the ICDPPC accredited members and observers, and an open session attended by professionals from the data protection community. The closed session was attended by around 160 delegates. Invited academics, experts and specialists held in-depth discussions on issues related to government information sharing.

第 39 屆「國際資料保障及私隱專員研討會」

The 39th International Conference of Data Protection and Privacy Commissioners

「國際資料保障及私隱專員研討會」主席 Mr John Edwards 在第 39 屆研討會的開幕典禮中致辭。

Mr John Edwards, Chair of the ICDPPC, delivered the welcoming speech at the Opening Ceremony of the 39th ICDPPC.

在公開會議中，約 60 名國際知名的講者、主持人及討論成員就以下四個主題作出討論：

During the open session, the following four main themes were presented by an international panel of about 60 world renowned speakers, panellists and moderators:

- 1) **亞洲區的資料保障** – 多名來自亞洲執法機關的著名講者和私隱規管者重點介紹其管轄區內的私隱文化和資料保障制度的特點，亦討論了東西方私隱文化的差異、公眾對私隱看法的轉變、西方的資料保障模式是否適用及如何應用於亞洲以至全球其他地區。

Data Protection in Asia – prominent speakers and privacy regulators from a number of Asian authorities highlighted the features of privacy culture and the data protection regimes in their own jurisdictions. Differences in privacy culture between the West and the East, changes in public views on privacy, and whether western models of data protection are applicable, and being applied, in Asia and other parts of the world were discussed.

- 2) **通知和同意** – 分組會議涵蓋的討論議題包括「印度和日本的通知和同意」、「建立橋樑」、「在同意不足的情況下以問責為管治基礎」和「拉丁美洲當同意失效時的應對管治方式」；而緊接的全體會議則匯集了在分組會議期間提出的所有想法。

Notice and Consent – Break-out sessions covering topics on “Notice and consent from India to Japan”, “Bridge building”, “Accountability as the basis for governance when consent is not enough” and “Latin America’s way to deal with the governance when consent is not effective” were held, followed by a plenary session that has brought together all the ideas raised during the break-out sessions.

- 3) **跨境資料轉移** – 個人資料保障和跨境資料轉移之間的相互作用，尤其集中於亞洲與全球其他地區之間的資料轉移；另外亦以香港作為個案研究，闡釋能成為環球數據中心的重要元素。

Cross-border Data Transfer – Interplay between personal data protection and cross-border / boundaries data transfer, focusing especially on data transfers to and from Asia and other regions of the globe were discussed. A case study of Hong Kong to explain the essentials of a global data hub has also been covered.

- 4) **嶄新科技的挑戰** – 涵蓋的主題包括人工智能、數碼經濟、網絡安全、數碼身份管理、私隱與加密以及人權維權者。

Challenges of New Technology – Topics including AI, digital economy, cybersecurity, digital identity management, privacy and encryption and human rights defenders were covered.



私隱專員在第 39 屆研討會的開幕典禮中致歡迎辭。

The Privacy Commissioner delivered the opening remarks at the Opening Ceremony of the 39th ICDPPC.



小學生在第39屆研討會的開幕典禮中表演中國鼓。
Chinese Drum performance presented by primary school students at the Opening Ceremony of the 39th ICDPPC.

研討會期間，約30間來自不同社會界別的企業和機構舉辦了26場會外活動，涵蓋廣泛的環球私隱和資料保障議題。

During the Conference, 26 side events were organised by some 30 corporations and organisations in the privacy community, offering participants platform for sharing the latest development on data protection subjects and exchanging views on strategies for the way forward.



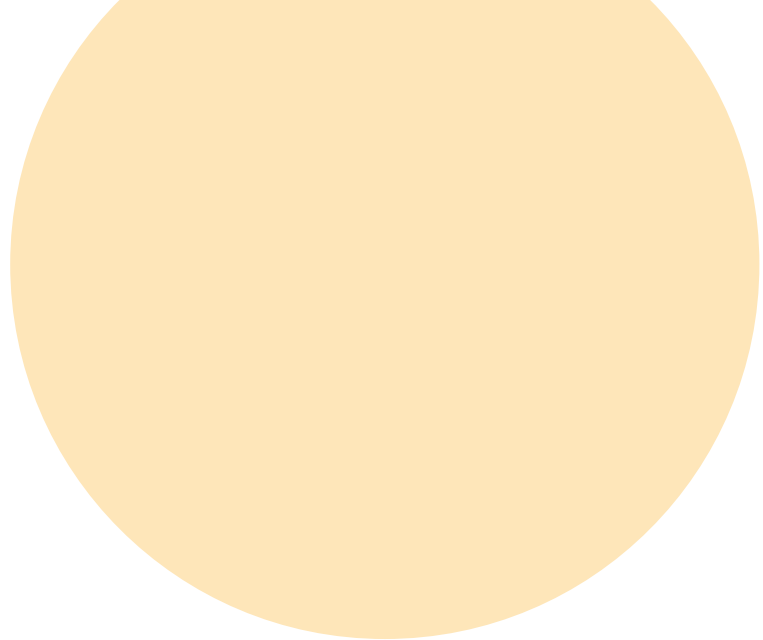
研討會座無虛設。
A full house of participants.



BUILDING A HIGH QUALITY PROFESSIONAL TEAM

建立高質素專業團隊





忠誠、效率及成本效益

公署一直透過不同措施提升士氣和效率，提供相關培訓，對員工的努力作出嘉許，同時致力精簡程序，以建立團隊最高水平的忠誠和歸屬感，並加強工作成本效益。

LOYALTY, EFFICIENCY AND COST-EFFECTIVENESS

The PCPD makes a continuous effort to enhance staff morale and productivity, provide relevant training, promote staff recognition, and at the same time streamline work procedures. We aim to build the highest standards of honesty, integrity and sense of belonging, and meanwhile enhance cost-effectiveness.



員工晉升及培訓

公署致力透過晉升及培訓，扶植員工的事業發展。在報告年度內，公署共有五名員工獲得晉升。

公署繼續提供不同類型的內部培訓課程，裝備不同職級的人員應付新挑戰及轉變所需要的專業技能。培訓課程包括：

- 入職培訓
- 普通話培訓
- 強積金講座
- 網絡安全講座
- 行政上訴委員會近期個案分享會
- 電腦應用程式實用功能分享會



招聘

公署在報告年度內為不同職級進行公開招聘，以應付公眾對我們的專業及優質服務的需求。年內共有九名新員工加入公署各部門。

STAFF PROMOTION AND TRAINING

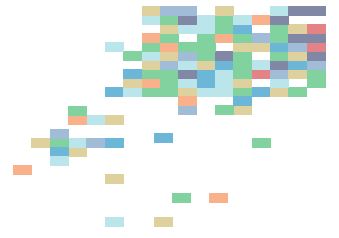
The PCPD is dedicated to fostering the career development of all staff through training and promotion. During the reporting year, five staff members were promoted.

To equip staff at different levels with the necessary knowledge and skills to meet new challenges and changing needs, the PCPD continued to organise a wide range of in-house training programmes, including:

- Induction programme for new recruits
- Putonghua workshops
- MPF seminar
- Talk on cybersecurity
- Sharing session on Administrative Appeals Board recent cases
- Sharing session on useful features of computer applications

RECRUITMENT

To cope with the demand for professional and high-quality services, we conducted open-recruitment exercises for various ranks during the reporting year. As a result, nine new colleagues joined the PCPD in various divisions.



長期服務員工獎

我們每年舉辦長期服務員工嘉許禮，以表揚同事多年來的忠誠服務。在報告年度內，共有八名員工獲得十年長期服務獎及三名員工獲得二十年長期服務獎。

LONG SERVICE AWARDS

A Long Service Award presentation is held annually to recognise staff members for their loyalty and commitment. During the reporting year, eight and three staff members received the 10-year and the 20-year service awards respectively.



公署榮獲的獎項

公署一直貼心照顧員工所需，更將對員工的關懷延伸至他們的家人。公署員工的表現亦獲其他機構嘉許。

公署尊重及支持員工選擇餵哺母乳，自2016年起推行母乳餵哺友善工作間，設置私隱度高、配套合適的集乳室，讓員工產後復工時，能在舒適的環境繼續餵哺母乳，令母乳餵哺與工作得以兼容。公署的有關工作獲得認同，於香港母乳育嬰協會主辦的「2017我最喜愛的集乳室選舉」中榮獲「最關懷媽媽企業」獎項。



AWARDS WON BY THE PCPD

The PCPD has always cared about staff well-being and the caring spirit is extended to their family members. Our staff's performance is also well recognised by other organisations.

The PCPD respects and supports staff members' choices to breastfeeding. Since 2016, it has established a breastfeeding-friendly workplace by setting up a lactation room to provide friendly suitably equipped and private environment for breastfeeding employees. The PCPD was awarded the "Most Breastfeed-caring Corporate Award" in the "2017 My Favourite Lactation Room Contest" organised by the Hong Kong Breastfeeding Mothers' Association in recognition of our work on encouraging breastfeeding.

兩名公署員工榮獲「2017年申訴專員嘉許獎」公職人員獎，以表揚他們在處理查詢和投訴的卓越及專業表現。

Two staff members received Individual Awards for Officers of Public Organisations in "The Ombudsman Awards 2017" for their exemplary performance and professionalism in handling enquiries and complaints.





嘉許

在報告年度內，公署接獲 23 次來自公眾及不同機構的嘉許，感謝和讚賞公署員工的工作。

員工活動

公署在本報告年度為員工舉辦了不同的活動，以促進同事間建立和諧的工作關係和團隊精神，例如公益月餅、公益行善「折」食日及公益便服日。

為提高員工的歸屬感，由各部門員工組成的私隱休閒區工作小組不時舉辦各類員工活動。小組亦於午膳時間在私隱休閒區舉辦興趣班。

COMMENDATIONS

During the reporting year, 23 commendations were received from members of the public and organisations for the outstanding performance of our staff.

STAFF ACTIVITIES

To foster harmonious working relationship and team spirit among staff members, various activities were organised throughout the reporting year, e.g. Mooncakes for Charity, Skip Lunch Day and Dress Casual Day.

To enhance a sense of belonging among our staff, the Privacy Lounge Working Group comprising staff members from different divisions has organised various staff activities. Interest classes were also held at the Privacy Lounge during lunch hours.



內部循規審查

公署致力提高企業管治水平，自 2011 年起每年進行內部循規審查以：

- (a) 確定會計、財務、採購及行政方面的既定管控程序是否獲得妥善依循；
- (b) 識別異常及違規情況；及
- (c) 就改善內部的管控作出建議。

2017 年，來自不同部門的三名員工獲委任為查核人員，就 2016-17 年度的紀錄進行循規審查，並向私隱專員匯報結果。是次審查發現些微異常情況，公署已作出改善及跟進行動，並將結果呈交個人資料(私隱)諮詢委員會。

INTERNAL COMPLIANCE CHECK

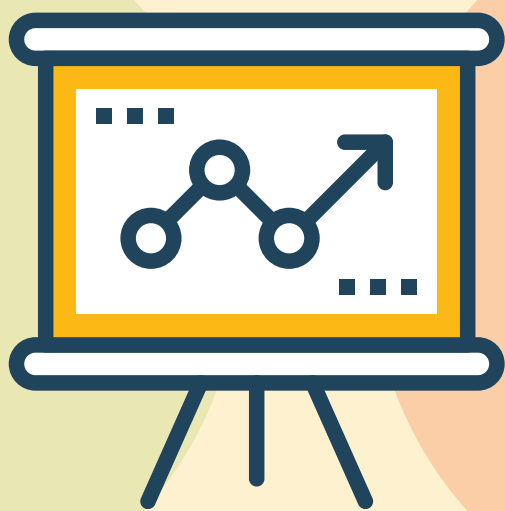
As part of our measures to enhance corporate governance, the PCPD set up an Internal Compliance Check mechanism in 2011. Annual checking is conducted to:

- (a) confirm whether established control procedures for accounting, finance, procurement and administrative functions have been properly followed;
- (b) identify irregularities or cases of non-compliance; and
- (c) make recommendations to improve internal controls.

In 2017, three officers from different divisions were appointed to conduct compliance checks for the 2016-17 records and report their findings to the Privacy Commissioner. Some minor irregularities were identified and appropriate remedial and follow-up actions were taken thereafter. The findings were presented to the Personal Data (Privacy) Advisory Committee.

FINANCIAL STATEMENTS

財務報表



問責及透明度

公署以問責及具透明度的原則理財。我們保持高水平的企業管治，善用資源，以符合經濟、效率及效益。

ACCOUNTABILITY AND TRANSPARENCY

Accountability and transparency are the foundation of the PCPD's financial management. We maintain high standards of corporate governance and maximise the utilisation of resources to achieve economy, efficiency and effectiveness.



獨立核數師報告 INDEPENDENT AUDITOR'S REPORT

致：個人資料私隱專員

(依據《個人資料(私隱)條例》在香港成立的單一法團)

意見

本核數師(以下簡稱「我們」)已審核列載於第153至170頁個人資料私隱專員的財務報表，此財務報表包括於2018年3月31日的財務狀況表與截至該日止年度的全面收益表、資金變動表及現金流量表，以及財務報表附註(包括重要會計政策概要)。

我們認為，該等財務報表已根據香港會計師公會發出的《香港財務報告準則》真實而公平地反映個人資料私隱專員於2018年3月31日的財務狀況及截至該日止年度的財務表現及現金流量。

意見基準

我們已根據香港會計師公會頒佈的《香港核數準則》進行審核。我們於該等準則下的責任已於本報告的「核數師就審核財務報表須承擔的責任」一節進一步闡述。我們根據香港會計師公會制定的《專業會計師職業道德守則》(「守則」)獨立於個人資料私隱專員，我們亦已根據守則達致我們的其他道德責任。我們認為我們所獲得的審核憑證屬充足及適當以為我們的意見提供基準。

財務報表及其核數師報告以外的資料

個人資料私隱專員負責編製其他資料。其他資料包括年報所載的資料，但不包括財務報表及我們就此的核數師報告。

我們有關財務報表的意見並不涵蓋其他資料，我們並不會就此發表任何形式的核證結論。

就我們對財務報表的審核而言，我們的責任是閱讀其他資料，從而考慮其他資料是否與財務報表或我們在審核過程中獲悉的資料存在重大不符，或存在重大錯誤陳述。如我們基於已完成的工作認為其他資料出現重大錯誤陳述，我們須報告此一事實。我們就此並無報告事項。

TO THE PRIVACY COMMISSIONER FOR PERSONAL DATA

(A CORPORATION SOLE IN HONG KONG ESTABLISHED UNDER THE PERSONAL DATA (PRIVACY) ORDINANCE)

OPINION

We have audited the financial statements of The Privacy Commissioner for Personal Data (the "PCPD") set out on pages 153 to 170, which comprise the statement of financial position as at 31 March 2018, the statement of comprehensive income, statement of changes in funds and statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the financial statements give a true and fair view of the financial position of the PCPD as at 31 March 2018, and of its financial performance and its cash flows for the year then ended in accordance with Hong Kong Financial Reporting Standards ("HKFRSs") issued by the Hong Kong Institute of Certified Public Accountants ("HKICPA").

BASIS FOR OPINION

We conducted our audit in accordance with Hong Kong Standards on Auditing ("HKSA") issued by the HKICPA. Our responsibilities under those standards are further described in the auditor's responsibilities for the audit of the financial statements section of our report. We are independent of the PCPD in accordance with the HKICPA's Code of Ethics for Professional Accountants (the "Code"), and we have fulfilled our other ethical responsibilities in accordance with the Code. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

INFORMATION OTHER THAN THE FINANCIAL STATEMENTS AND AUDITOR'S REPORT THEREON

The Privacy Commissioner is responsible for the other information. The other information comprises the information included in the annual report, but does not include the financial statements and our auditor's report thereon.

Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

獨立核數師報告 INDEPENDENT AUDITOR'S REPORT

個人資料私隱專員及管治層就財務報表須承擔的責任

個人資料私隱專員須負責根據香港會計師公會頒佈的《香港財務報告準則》編製真實而公平的財務報表，及落實其認為編製財務報表所必要的內部控制，以使財務報表不存在由於欺詐或錯誤而導致的重大錯誤陳述。

在編製財務報表時，個人資料私隱專員須負責評估其持續經營的能力，並披露與持續經營有關的事項（如適用）。除非個人資料私隱專員有意清盤，或停止營運，或除此之外並無其他實際可行的辦法，否則個人資料私隱專員須採用以持續經營為基礎的會計法。

管治層須負責監督個人資料私隱專員的財務報告流程。

核數師就審核財務報表須承擔的責任

我們的目標，是對整體財務報表是否不存在由於欺詐或錯誤而導致的重大錯誤陳述取得合理保證，並作出包括我們意見的核數師報告。本報告是根據協定的委聘條款僅向個人資料私隱專員作出，除此之外別無其他目的。我們不會就本報告的內容向任何其他人士負上或承擔任何責任。合理保證是高水平的保證，但不能保證按照《香港核數準則》進行的審核在某一重大錯誤陳述存在時總能發現。錯誤陳述可以由欺詐或錯誤引起，如合理預期它們個別或匯總起來可能影響財務報表的使用者所作出的經濟決定，則有關的錯誤陳述可被視作重大。

我們根據《香港核數準則》進行審核的工作之一，是運用專業判斷，在整個審核過程中保持職業懷疑態度。我們亦：

- 識別和評估由於欺詐或錯誤而導致財務報表存在重大錯誤陳述的風險，設計及執行審核程序以應對該等風險，以及取得充足和適當的審核憑證，作為我們意見的基礎。由於欺詐可能涉及串謀、偽造、蓄意遺漏、虛假陳述，或凌駕於內部控制之上，因此未能發現因欺詐而導致的重大錯誤陳述的風險高於因錯誤而導致的重大錯誤陳述的風險。

RESPONSIBILITIES OF THE PRIVACY COMMISSIONER AND THOSE CHARGED WITH GOVERNANCE FOR THE FINANCIAL STATEMENTS

The Privacy Commissioner is responsible for the preparation of the financial statements that give a true and fair view in accordance with HKFRSs issued by the HKICPA, and for such internal control as the Privacy Commissioner determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the Privacy Commissioner is responsible for assessing the PCPD's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the Privacy Commissioner either intends to liquidate the PCPD or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the PCPD's financial reporting process.

AUDITOR'S RESPONSIBILITIES FOR THE AUDIT OF THE FINANCIAL STATEMENTS

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. This report is made solely to you, as a body, in accordance with the agreed terms of engagement, and for no other purposes. We do not assume responsibility towards or accept liability to any other person for the contents of this report. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with HKSAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with HKSAs, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.

獨立核數師報告 INDEPENDENT AUDITOR'S REPORT

- 了解與審核相關的內部控制，以設計適當的審核程序，但目的並非對個人資料私隱專員內部控制的效能發表意見。
- 評價個人資料私隱專員所採用會計政策的恰當性及所作出會計估計和相關披露資料的合理性。
- 對個人資料私隱專員採用持續經營會計基礎的恰當性作出結論。根據所得的審核憑證，決定是否存在與事件或情況有關的重大不確定性，而可能對個人資料私隱專員持續經營的能力構成重大疑慮。如我們認為存在重大不確定性，則有必要在核數師報告中提請使用者對財務報表中的相關披露資料的關注。如有關的披露資料不足，則修訂我們的意見。我們的結論是基於截至核數師報告日期所取得的審核憑證。然而，未來事件或情況可能導致個人資料私隱專員不能繼續持續經營。
- 評價財務報表(包括披露資料)的整體列報方式、結構及內容，以及財務報表是否公允反映有關交易和事項。
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the PCPD's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Privacy Commissioner.
- Conclude on the appropriateness of the Privacy Commissioner's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the PCPD's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the PCPD to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

我們與管治層就不同事項進行溝通，當中包括計劃的審核範圍、時間安排、重大審核發現，包括我們在審核期間識別出內部控制的任何重大缺陷。

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

黃龍德會計師事務所有限公司

執業會計師

曾卓鋒
FCPA (Practising), MSCA
香港執業會計師

執業證書號碼: P06369

香港，2018年8月8日

PATRICK WONG C.P.A. LIMITED

Certified Public Accountants

TSANG CHEUK FUNG ANDY
FCPA (Practising), MSCA
Certified Public Accountant (Practising), Hong Kong

Practising Certificate Number: P06369

Hong Kong, 8 August 2018

全面收益表 STATEMENT OF COMPREHENSIVE INCOME

截至2018年3月31日止年度 Year ended 31 March 2018

	附註 Notes	2018 \$	2017 \$
收入	Income		
政府補助金	Government subventions 5	77,544,214	76,497,975
顧問費收入	Consultancy fee income 13	–	336,000
有關電子健康紀錄 互通系統執法工作的 政府資助金	Government funding for enforcement work related to the Electronic Health Record Sharing System	3,255,000	3,255,000
銀行利息	Bank interest	272,814	167,547
講座收費	Seminar fees	1,286,670	991,480
會員費	Membership fees	118,550	110,700
光碟及刊物銷售	Sales of compact discs and publications	4,960	100
會議收入	Conference income	5,855,831	–
處置物業、機器及 設備的收益	Gain on disposal of property, plant and equipment	–	1,000
雜項收入	Miscellaneous income	89,697	184,802
		88,427,736	81,544,604
支出	Expenditure		
核數師酬金	Auditor's remuneration	58,000	58,000
行政費用	Administrative expenses	1,363,469	1,745,645
會議支出	Conference expenses	6,397,830	140,177
顧問服務	Consultancy services	–	440,000
物業、機器及 設備的折舊	Depreciation of property, plant and equipment		
– 由資本補助金支付	– financed by capital subvention fund 9	118,169	177,594
– 由其他資金來源支付	– financed by other sources of funds 9	592,490	458,429
僱員薪俸	Staff emoluments 6	60,912,185	62,626,572
辦公室的營運 租賃租金	Operating lease rentals in respect of office premises	8,090,636	8,082,576
海外訪問 / 會議支出	Overseas visit/conference	654,697	496,328
宣傳推廣及教育支出	Promotion and education expenses	2,142,367	3,482,939
法律協助計劃	Legal assistance scheme	34,103	65,742
其他營運費用	Other operating expenses	3,157,615	2,865,894
		83,521,561	80,639,896
年內盈餘及 全面收益總額	Surplus and total comprehensive income for the year	4,906,175	904,708

第157至170頁的附註屬本財務報表的組成部分。

The notes on pages 157 to 170 are an integral part of these financial statements.

財務狀況表 STATEMENT OF FINANCIAL POSITION

於2018年3月31日 At 31 March 2018

	附註 Notes	2018 \$	2017 \$
非流動資產	Non-current asset		
物業、機器及設備	Property, plant and equipment 9	2,757,162	1,185,145
流動資產	Current assets		
應收款項、按金及預付款項	Accounts receivable, deposits and prepayments	526,856	1,468,460
銀行結存及現金	Bank balances and cash 10	33,173,308	25,992,922
		33,700,164	27,461,382
流動負債	Current liabilities		
應付款項及應計費用	Accounts payable and accruals	401,159	744,896
職員約滿酬金撥備	Provision for staff gratuity 11	2,299,964	3,864,513
未放取年假撥備	Provision for unutilised annual leave	1,568,783	1,261,531
預收政府補助金	Government subvention received in advance 12	4,400,000	1,897,680
預收政府費用	Government fee received in advance 13	2,016,000	2,016,000
		10,685,906	9,784,620
流動資產淨值	Net current assets	23,014,258	17,676,762
資產總額減流動負債	Total assets less current liabilities	25,771,420	18,861,907
非流動負債	Non-current liabilities		
政府的約滿酬金補助款	Government subvention for gratuity 14	3,352,510	3,111,875
職員的約滿酬金撥備	Provision for staff gratuity 11	3,202,097	1,788,225
資本補助金	Capital subvention fund 15	569,493	220,662
		7,124,100	5,120,762
資產淨值	Net assets	18,647,320	13,741,145
資金	Funds		
一般儲備	General reserve 16	18,647,320	13,741,145

本財務報表已於2018年8月8日獲私隱專員批准及授權刊發。

Approved and authorised for issue by the Privacy Commissioner on 8 August 2018

黃繼兒

香港個人資料私隱專員

Stephen Kai-yi WONG

Privacy Commissioner for Personal Data, Hong Kong

第157至170頁的附註屬本財務報表的組成部分。

The notes on pages 157 to 170 are an integral part of these financial statements.

資金變動表 STATEMENT OF CHANGES IN FUNDS

截至 2018 年 3 月 31 日止年度 Year ended 31 March 2018

		全面收益表 Statement of comprehensive income \$	一般儲備 General reserve \$	總計 Total \$
於 2016 年 4 月 1 日的結餘	Balance at 1 April 2016	–	12,836,437	12,836,437
年內盈餘及全面	Surplus and total comprehensive			
收益總額	income for the year	904,708	–	904,708
調撥	Transfer	(904,708)	904,708	–
於 2017 年 3 月 31 日及 2017 年 4 月 1 日的結餘	Balance at 31 March 2017 and at 1 April 2017	–	13,741,145	13,741,145
年內盈餘及全面	Surplus and total comprehensive			
收益總額	income for the year	4,906,175	–	4,906,175
調撥	Transfer	(4,906,175)	4,906,175	–
於 2018 年 3 月 31 日的結餘	Balance at 31 March 2018	–	18,647,320	18,647,320

第 157 至 170 頁的附註屬本財務報表的組成部分。

The notes on pages 157 to 170 are an integral part of these financial statements.

現金流量表 STATEMENT OF CASH FLOWS

截至2018年3月31日止年度 Year ended 31 March 2018

	附註 Note	2018 \$	2017 \$
營運活動	Operating activities		
年內盈餘	Surplus for the year	4,906,175	904,708
調整：	Adjustments for:-		
- 折舊支出	- Depreciation expense	710,659	636,023
- 處置物業、機器及設備的收益	- Gain on disposal of property, plant and equipment	-	(1,000)
- 利息收入	- Interest income	(272,814)	(167,547)
營運資本變動前的營運盈餘	Operating surplus before working capital changes	5,344,020	1,372,184
- 存貨減少	- Decrease in inventory	-	15,800
- 應收款項、按金及預付款項減少 / (增加)	- Decrease/(increase) in accounts receivable, deposits and prepayments	924,443	(1,048,256)
- 應付款項及應計費用減少	- Decrease in accounts payable and accruals	(343,737)	(165,029)
- 職員約滿酬金撥備(減少)/增加	- (Decrease)/increase in provision for staff gratuity	(150,677)	2,326,280
- 未放取年假撥備增加	- Increase in provision for unutilised annual leave	307,252	270,382
- 預收政府補助金增加 / (減少)	- Increase/(decrease) in government subvention received in advance	2,502,320	(72,320)
- 預收政府費用減少	- Decrease in government fee received in advance	-	(336,000)
- 政府的約滿酬金補助款增加 / (減少)	- Increase/(decrease) in government subvention for gratuity	240,635	(236,061)
- 資本補助金增加	- Increase in capital subvention fund	348,831	23,406
營運活動所得現金淨額	Net cash generated from operating activities	9,173,087	2,150,386
投資活動	Investing activities		
收取利息	Interest received	289,975	159,847
三個月以上之短期銀行存款增加	Increase in short-term bank deposits with maturity more than three months	(107,663)	(84,448)
購置物業、機器及設備的付款	Payments for property, plant and equipment	(2,282,676)	(857,970)
處置物業、機器及設備的得益	Proceed from disposal of property, plant and equipment	-	1,000
投資活動所用現金淨額	Net cash used in investing activities	(2,100,364)	(781,571)
現金及現金等值的增加淨額	Net increase in cash and cash equivalents	7,072,723	1,368,815
年初的現金及現金等值	Cash and cash equivalents at the beginning of the year	16,654,410	15,285,595
年底的現金及現金等值	Cash and cash equivalents at the end of the year	23,727,133	16,654,410
現金及現金等值結存分析	Analysis of balances of cash and cash equivalents		
銀行結存及現金	Bank balances and cash	10 33,173,308	25,992,922
三個月以上之短期銀行存款	Short-term bank deposits with maturity more than three months	(9,446,175)	(9,338,512)
年底的現金及現金等值	Cash and cash equivalents at the end of the year	23,727,133	16,654,410

第157至170頁的附註屬本財務報表的組成部分。

The notes on pages 157 to 170 are an integral part of these financial statements.

財務報表附註 NOTES TO THE FINANCIAL STATEMENTS

2018年3月31日 31 March 2018

1. 一般資料

個人資料私隱專員是根據1995年8月3日制定的《個人資料(私隱)條例》而於香港設立的單一法團，目的是要在個人資料方面保障個人的私隱，並就附帶及相關事宜訂定條文。註冊辦事處地址為香港灣仔皇后大道東248號陽光中心12樓。

2. 遵從《香港財務報告準則》的聲明

個人資料私隱專員的財務報表是按照香港會計師公會頒佈的所有適用的《香港財務報告準則》(包含所有適用的個別《香港財務報告準則》、《香港會計準則》和詮釋)以及香港公認會計原則的規定編製。重要會計政策概要載列於附註3。

在2018年，個人資料私隱專員首次應用香港會計師公會頒佈於2017年4月1日或之後開始的會計期間首次生效的新訂及修訂的《香港財務報告準則》。採納這些《香港財務報告準則》對個人資料私隱專員的財務表現及狀況並無重大影響。

3. 重要會計政策概要

- (a) 財務報表的編製基準
除下文所載的會計政策另有說明外，編製本財務報表時是以歷史成本作為計量基礎。
- (b) 物業、機器及設備
物業、機器及設備於財務狀況表按成本扣除累積折舊和其後的減值虧損(如有)列帳。

折舊是以直線法在以下估計可使用年期內沖銷其成本(已扣除剩餘價值)而予以確認：

- 汽車	3年
- 電腦及軟件	3年
- 辦公室設備	5年
- 家具及固定裝置	5年
- 租賃物業裝修工程	3年

1. GENERAL INFORMATION

The Privacy Commissioner for Personal Data (the "PCPD") is a corporation sole established in Hong Kong under the Personal Data (Privacy) Ordinance 1995 enacted on 3 August 1995 for the purpose of protecting the privacy of individuals in relation to personal data and to provide for matters incidental thereto or connected therewith. The address of its registered office is 12/F, Sunlight Tower, 248 Queen's Road East, Wanchai, Hong Kong.

2. STATEMENT OF COMPLIANCE WITH HONG KONG FINANCIAL REPORTING STANDARDS

The PCPD's financial statements have been prepared in accordance with all applicable Hong Kong Financial Reporting Standards ("HKFRSs"), which includes all applicable individual Hong Kong Financial Reporting Standards, Hong Kong Accounting Standards ("HKASs") and Interpretations issued by the Hong Kong Institute of Certified Public Accountants ("HKICPA") and accounting principles generally accepted in Hong Kong. A summary of significant accounting policies is set out in note 3.

In 2018, the PCPD has initially applied the new and revised HKFRSs issued by the HKICPA that are first effective for accounting periods beginning on or after 1 April 2017. The application of these HKFRSs has no material effects on the PCPD's financial performance and positions.

3. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

- (a) Basis of preparation of the financial statements
The measurement basis used in preparing the financial statement is historical cost except as otherwise stated in the accounting policies set out below.
- (b) Property, plant and equipment
Property, plant and equipment are stated in the statement of financial position at cost less accumulated depreciation and subsequent impairment losses, if any.

Depreciation is recognised so as to write off the cost of assets less their residual values over their estimated useful lives, using the straight-line method, as follows:-

- Motor vehicle	3 years
- Computers and software	3 years
- Office equipment	5 years
- Furniture and fixtures	5 years
- Leasehold improvements	3 years

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3. 重要會計政策概要(續)

- (b) 物業、機器及設備(續)
估計可使用年期、估計剩餘價值及折舊方法於各報告期末進行檢討，而任何估計變動的影響以預期基準列帳。

物業、機器及設備項目於出售或當預期持續使用該資產不再帶來未來經濟利益時終止確認。出售或廢棄物業、機器及設備項目產生之任何收益或虧損按出售所得款項與資產帳面值間之差額計算，並於全面收益表內確認。

- (c) 租賃
租賃是出租人讓承租人在商定的時期內有權使用某資產以換取一次或多次付款的一項協議。決定一個安排是否，或包含，租賃是取決於該安排的本質，及當履行該安排時，是否取決於特定資產的使用和資產使用權的轉移。

租賃被列為融資租賃時，租賃實質上是把所有權的風險和報酬轉移給承租人。所有其他租賃歸類為營運租賃。

營運租賃
營運租賃的付款於質期內以直線法在收益表內列為開支。

- (d) 應收款項、按金及預付款項
應收款項、按金及預付款項按公允價值初始確認，其後按攤銷成本減去呆帳減值撥備後所得的金額入帳，但如折現影響並不重大則除外。在此情況下，應收款項會按成本減去呆帳減值撥備後所得的金額入帳。
- (e) 現金及現金等值
現金包括銀行及手頭現金。現金等值是短期及高流動性的投資，這些投資可以隨時轉換為已知數額的現金，價值變動的風險不大。
- (f) 應付款項
應付款項均於初期按公平值確認，其後按攤銷成本列帳，但若短期應付款的折現影響並不重大，則按成本列帳。

3. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

- (b) Property, plant and equipment (continued)
The estimated useful lives, residual values and depreciation method are reviewed at the end of each reporting period, with the effect of any changes in estimate accounted for on a prospective basis.

An item of property, plant and equipment is derecognised upon disposal or when no future economic benefits are expected to arise from the continued use of the asset. Any gain or loss arising on the disposal or retirement of an item of property, plant and equipment is determined as the difference between the sales proceeds and the carrying amount of the asset and is recognised in the statement of comprehensive income.

- (c) Leases
A lease is an agreement whereby the lessor conveys to the lessee in return for a payment or series of payments the right to use an asset for an agreed period of time. Determining whether an arrangement is, or contains, a lease is based on the substance of the arrangement and requires an assessment of whether fulfilment of the arrangement is dependent on the use of a specific asset or assets and the arrangement conveys a right to use the asset.

Leases are classified as finance leases when the terms of leases transfer substantially all the risks and rewards of ownership to the lessee. All other leases are classified as operating leases.

Operating leases
Lease payments under an operating lease are recognised as an expense on a straight-line basis over the lease term.

- (d) Accounts receivable, deposits and prepayments
Accounts receivable, deposits and prepayments are initially recognised at fair value and thereafter stated at amortised cost less allowance for impairment of doubtful debts, except where the effect of discounting would be immaterial. In such cases, the receivables are stated at cost less allowance for impairment of doubtful debts.
- (e) Cash and cash equivalents
Cash comprises cash on hand and at bank. Cash equivalents are short-term, highly liquid investments that are readily convertible to known amounts of cash and which are subject to an insignificant risk of changes in value.
- (f) Accounts payable
Accounts payable are initially measured at fair value and, after initial recognition, at amortised cost, except for short-term payables with no stated interest rate and the effect of discounting being immaterial, that are measured at their original invoice amount.

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3. 重要會計政策概要 (續)**(g) 撥備及或然負債**

如果個人資料私隱專員須就已發生的事件承擔法律或推定責任，因而預期很可能會導致經濟利益流出，在有關金額能夠可靠地估計時，個人資料私隱專員便會對該時間或金額不確定的負債計提撥備。如果貨幣時間價值重大，則按預計履行責任所需費用的現值計提撥備。

如果經濟利益流出的可能性較低，或是無法對有關金額作出可靠的估計，便會將該責任披露為或然負債，但經濟利益流出的可能性極低則除外。如果個人資料私隱專員的責任須視乎某項或多項未來事件是否發生才能確定是否存在，該責任亦會被披露為或然負債，但假如這類經濟利益流出的可能性極低則除外。

(h) 收入確認

收入是按已收或應收代價的公平值計算。如果經濟利益很可能會流入個人資料私隱專員而收入和成本(如適用)又能夠可靠地計量時，下列各項收入便會在全面收益表中確認：

(i) 政府補助金

如有合理保證可取得政府補助，而且個人資料私隱專員可以符合所有附帶條件，則會按補助金額的公平值確認政府補助。

與指定計劃方案有關的政府補助金包括在資本補助金內，並且延遲至須與擬補償的成本產生時，才在全面收益表內確認。

與購置物業、機器及設備有關的政府補助金包括在資本補助金內，並按有關資產的預計年限，以直線法記入全面收益表內。

用於彌補個人資料私隱專員已產生支出的政府補助金，會在支出產生的期間有系統地在全面收益表確認為收入。

3. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)**(g) Provisions and contingent liabilities**

Provisions are recognised for liabilities of uncertain timing or amount when the PCPD has a legal or constructive obligation arising as a result of a past event, it is probable that an outflow of economic benefits will be required to settle the obligation and a reliable estimate can be made. Where the time value of money is material, provisions are stated at the present value of the expenditure expected to settle the obligation.

Where it is not probable that an outflow of economic benefits will be required, or the amount cannot be estimated reliably, the obligation is disclosed as a contingent liability, unless the probability of outflow of economic benefits is remote. Possible obligations, whose existence will only be confirmed by the occurrence or non-occurrence of one or more future events are also disclosed as contingent liabilities unless the probability of outflow of economic benefits is remote.

(h) Income recognition

Income is measured at the fair value of the consideration received or receivable. Provided that it is probable that the economic benefits associated with the income transaction will flow to the PCPD and the income and the costs, if any, in respect of the transaction can be measured reliably, income is recognised as follows:

(i) Government subventions

Government subventions are recognised at their fair value where there is a reasonable assurance that the grant will be received and the PCPD will comply with all attached conditions.

Government subventions relating to specific projects are included in the capital subvention fund and are deferred and recognised in the statement of comprehensive income over the period necessary to match them with the costs that they are intended to compensate.

Government subventions relating to the purchase of property, plant and equipment are included in the capital subvention fund and are credited to the statement of comprehensive income on a straight-line basis over the expected lives of the related assets.

Government subventions that compensate the PCPD for expenses incurred are recognised as income in the statement of comprehensive income on a systematic basis in the same periods in which the expenses are incurred.

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3. 重要會計政策概要(續)

- (h) 收入確認(續)
- (ii) 銀行利息收入
銀行利息收入以實際利率方式計算。
- (iii) 講座和會議收費及會員費收入
講座和會議收費及會員費收入按應計制確認。
- (iv) 光碟及刊物銷售
光碟及刊物銷售收入在該等貨品交付予買方，而買方接受貨品，以及有關應收款項可合理地確定收到時確認。
- (v) 顧問費收入及有關電子健康紀錄互通系統執法工作的政府資助金
顧問費收入是在提供服務的期間在全面收益表確認。

有關電子健康紀錄互通系統執法工作的政府資助金是在須與擬補償的成本產生時，在全面收益表確認。

- (i) 僱員薪俸
- (i) 僱員可享有的假期及約滿酬金
僱員可享用的年假及約滿酬金在該等假期累計予僱員時確認。個人資料私隱專員已為僱員在計至年結日止所提供的服務而在年假及約滿酬金方面預計引致的責任作出撥備。
- 僱員可享用的病假及分娩假或待產假不作確認，直至僱員放取該等假期時才予以確認。
- (ii) 退休福利成本
個人資料私隱專員已經加入《強制性公積金條例》下成立的強制性公積金計劃(「強積金計劃」)。僱主的供款額為僱員有關入息的5%至強制性供款上限。該計劃的資產與個人資料私隱專員的資產分開持有，並由信託人以基金託管。

向強積金計劃支付的供款於到期日列作支出。

3. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

- (h) Income recognition (continued)
- (ii) Bank interest income
Bank interest income is recognised using the effective interest method.
- (iii) Seminar, conference and membership fees income
Seminar, conference and membership fees income are recognised on an accrual basis.
- (iv) Sales of compact discs and publications
Income from the sales of compact discs and publications is recognised when the PCPD has delivered products to the customer, the customer has accepted the products and collectability of the related receivables is reasonably assured.
- (v) Consultancy fee income and Government funding for enforcement work related to the Electronic Health Record Sharing System ("EHRSS")
Consultancy fee income is recognised in the statement of comprehensive income in the same periods in which the services are provided.

Government funding for enforcement work related to the EHRSS is recognised in the statement of comprehensive income over the period necessary to match them with the costs that they are intended to compensate.

- (i) Staff emoluments
- (i) Employee leave and gratuity entitlements
Employee entitlements to annual leave and gratuities are recognised when they accrue to employees. A provision is made for the estimated liability for annual leave and gratuities as a result of services rendered by employees up to the year-end date.
- Employee entitlements to sick leave and maternity or paternity leave are not recognised until the time of leave.
- (ii) Retirement benefit costs
The PCPD has joined the Mandatory Provident Fund Scheme (the MPF Scheme) established under the Mandatory Provident Fund Ordinance for its employees. The PCPD contributes 5% of the relevant income of staff members up to the maximum mandatory contributions under the MPF Scheme. The assets of the Scheme are held separately from those of the PCPD, in funds under the control of trustee.

Payments to the MPF Scheme are charged as an expense as they fall due.

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3. 重要會計政策概要 (續)

- (j) 資產減值
在報告期末，個人資料私隱專員會檢討具有有限可使用年期的資產的帳面值，以判斷該資產是否出現減值虧損。當顯示可能出現減值虧損時，該資產的可收回值會被評估以計算其虧損幅度。如該資產的可收回值並不可能被評估，個人資料私隱專員會評估該資產所屬的現金產生單位可收回值。當確定了一個合理及一致的分類基礎時，企業資產會被分類為獨立現金產生單位或現金產生單位的最小組別。
- (k) 關聯方
- a) 一名人士或其近親被視為個人資料私隱專員的關聯方，如果該人士：
- (i) 能控制或共同控制個人資料私隱專員；
 - (ii) 能對個人資料私隱專員構成重大影響力；或
 - (iii) 為個人資料私隱專員的關鍵管理人員。
- b) 一個實體可視為個人資料私隱專員的關聯方，如果該實體符合以下任何情況：
- (i) 一個實體是為個人資料私隱專員或個人資料私隱專員關聯方的僱員福利而設的離職後福利計劃。
 - (ii) 一個實體由(a)中描述的人士控制或共同控制。
 - (iii) (a)(i)中描述的一名人士對一個實體構成重大影響，或為一個實體的關鍵管理人員。

4. 重要會計推算及判斷

按照《香港財務報告準則》編制財務報表時，個人資料私隱專員管理層會為影響到資產、負債、收入及開支的會計政策的應用作出判斷、估計及假設。這些判斷、估計及假設是以過往經驗及多項其他於有關情況下視作合理的因素為基準。儘管管理層對這些判斷、估計及假設作出持續檢討，實際結果可能有別於此等估計。

3. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

- (j) Impairment assets
At the end of reporting period, the PCPD reviews the carrying amounts of its assets with finite useful lives to determine whether there is any indication that those assets have suffered an impairment loss. If any such indication exists, the recoverable amount of the asset is estimated in order to determine the extent of the impairment loss, if any. When it is not possible to estimate the recoverable amount of an individual asset, the PCPD estimates the recoverable amount of the cash-generating unit to which the asset belongs. When a reasonable and consistent basis of allocation can be identified, corporate assets are also allocated to individual cash-generating units, or otherwise they are allocated to the smallest group of cash-generating units for which a reasonable and consistent allocation basis can be identified.
- (k) Related parties
- a) A person or a close member of that person's family is related to the PCPD if that person:
- (i) has control or joint control over the PCPD;
 - (ii) has significant influence over the PCPD; or
 - (iii) is a member of the key management personnel of the PCPD.
- b) An entity is related to the PCPD if any of the following conditions applies:
- (i) The entity is a post-employment benefit plan for the benefit of employees of either the PCPD or an entity related to the PCPD.
 - (ii) The entity is controlled or jointly controlled by a person identified in (a).
 - (iii) A person identified in (a)(i) has significant influence over the entity or is a member of the key management personnel of the entity.

4. CRITICAL ACCOUNTING ESTIMATES AND JUDGEMENT

The PCPD's management makes assumptions, estimates and judgements in the process of applying the PCPD's accounting policies that affect the assets, liabilities, income and expenses in the financial statements prepared in accordance with HKFRSs. The assumptions, estimates and judgements are based on historical experience and other factors that are believed to be reasonable under the circumstances. While the management reviews their judgements, estimates and assumptions continuously, the actual results will seldom equal to the estimates.

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4. 重要會計推算及判斷(續)

有關財務風險管理的某些主要假設及風險因素載列於附註18。對於本財務報表所作出的估計及假設，預期不會構成重大風險，導致下一財政年度資產及負債的帳面值需作大幅修訂。

5. 政府補助金

4. CRITICAL ACCOUNTING ESTIMATES AND JUDGEMENT (CONTINUED)

Certain key assumptions and risk factors in respect of the financial risk management are set out in note 18. There are no other key sources of estimation uncertainty that have a significant risk of causing a material adjustment to the carrying amounts of asset and liabilities within the next financial year.

5. GOVERNMENT SUBVENTIONS

		2018 \$	2017 \$
經常性及非經常性	Recurrent and non-recurrent	75,726,045	76,320,381
資本補助金(附註15)	Capital subvention fund (Note 15)	118,169	177,594
資助一個會議的補助金	Subvention for a conference	1,700,000	-
		77,544,214	76,497,975

6. 僱員薪俸

6. STAFF EMOLUMENTS

		2018 \$	2017 \$
薪酬	Salaries	49,885,273	51,971,695
約滿酬金及其他津貼	Gratuities and other allowances	9,495,348	9,082,888
強積金計劃供款	Contributions to MPF Scheme	1,224,312	1,301,607
未放取年假撥備	Provision for unutilised annual leave	307,252	270,382
		60,912,185	62,626,572

7. 主要管理人員的報酬

7. KEY MANAGEMENT COMPENSATION

		2018 \$	2017 \$
短期僱員薪俸	Short-term staff emoluments	12,092,014	14,514,231
約滿酬金及強積金計劃供款	Gratuities and contributions to MPF Scheme	1,624,034	1,735,016
		13,716,048	16,249,247

8. 稅項

8. TAXATION

根據《個人資料(私隱)條例》附表2第6條的規定，個人資料私隱專員獲豁免課稅，因此個人資料私隱專員無須在本財務報表計提香港利得稅撥備。

No provision for Hong Kong Profits Tax has been made in the financial statements as the PCPD is exempted from taxation in respect of the Inland Revenue Ordinance by virtue of Schedule 2 Section 6 of the Personal Data (Privacy) Ordinance.

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9. 物業、機器及設備

9. PROPERTY, PLANT AND EQUIPMENT

		汽車 Motor vehicle \$	電腦及軟件 Computers and software \$	辦公室設備 Office equipment \$	家具及 固定裝置 Furniture and fixtures \$	租賃資產 改善工程 Leasehold improvements \$	總計 Total \$
成本	Cost						
於2017年4月1日	At 1 April 2017	468,900	4,999,212	1,483,035	1,271,391	3,900,421	12,122,959
增加	Additions	-	54,173	600,300	81,570	1,546,633	2,282,676
處置	Disposals	-	(344,074)	(1,119,244)	(918,108)	(316,350)	(2,697,756)
於2018年3月31日	At 31 March 2018	468,900	4,709,311	964,111	434,853	5,130,704	11,707,879
累積折舊	Accumulated depreciation						
於2017年4月1日	At 1 April 2017	429,825	4,592,856	1,335,929	1,148,460	3,430,744	10,937,814
年內折舊	Charge for the year	39,075	183,140	63,124	51,930	373,390	710,659
處置核銷	Write back on disposals	-	(344,074)	(1,119,224)	(918,108)	(316,350)	(2,697,756)
於2018年3月31日	At 31 March 2018	468,900	4,431,922	279,829	282,282	3,487,784	8,950,717
帳面淨值	Net book value						
於2018年3月31日	At 31 March 2018	-	277,389	684,282	152,571	1,642,920	2,757,162
成本	Cost						
於2016年4月1日	At 1 April 2016	468,900	4,666,435	1,482,662	1,203,671	3,524,871	11,346,539
增加	Additions	-	334,327	80,373	67,720	375,550	857,970
處置	Disposals	-	(1,550)	(80,000)	-	-	(81,550)
於2017年3月31日	At 31 March 2017	468,900	4,999,212	1,483,035	1,271,391	3,900,421	12,122,959
累積折舊	Accumulated depreciation						
於2016年4月1日	At 1 April 2016	273,525	4,368,543	1,344,414	1,084,175	3,312,684	10,383,341
年內折舊	Charge for the year	156,300	225,863	71,515	64,285	118,060	636,023
處置核銷	Write back on disposals	-	(1,550)	(80,000)	-	-	(81,550)
於2017年3月31日	At 31 March 2017	429,825	4,592,856	1,335,929	1,148,460	3,430,744	10,937,814
帳面淨值	Net book value						
於2017年3月31日	At 31 March 2017	39,075	406,356	147,106	122,931	469,677	1,185,145

10. 銀行結存及現金

10. BANK BALANCES AND CASH

		2018 \$	2017 \$
銀行及手頭現金	Cash at banks and on hand	5,717,821	4,485,079
短期銀行存款	Short-term bank deposits	27,455,487	21,507,843
財務狀況表及 現金流量表的 銀行結存及現金	Bank balances and cash in the statement of financial position and the statement of cash flows	33,173,308	25,992,922

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11. 職員約滿酬金撥備

11. PROVISION FOR STAFF GRATUITY

		2018 \$	2017 \$
於4月1日的結餘	Balance as at 1 April	5,652,738	3,326,458
已作出的撥備	Provision made	6,312,323	5,971,269
未動用款項撥回	Unused amounts reversed	(52,958)	(85,208)
年內支付的數額	Amount paid during the year	(6,410,042)	(3,559,781)
於3月31日的結餘	Balance as at 31 March	5,502,061	5,652,738
減：流動部分	Less: current portion	(2,299,964)	(3,864,513)
非流動部分	Non-current portion	3,202,097	1,788,225

約滿酬金撥備是為了支付由受聘日起計已完
成合約的職員的約滿酬金而設立的。

Provision for staff gratuity is established for gratuity payments which become payable to those employees of the PCPD who complete their contracts commencing from the date of their employment.

12. 預收政府補助金

12. GOVERNMENT SUBVENTION RECEIVED IN ADVANCE

		2018 \$	2017 \$
於4月1日的結餘	Balance as at 1 April	1,897,680	1,970,000
已收補助金	Subvention received	3,000,000	1,400,000
年內確認為收入的數額	Recognised as income in the year	(497,680)	(1,472,320)
於3月31日的結餘	Balance as at 31 March	4,400,000	1,897,680

預收政府補助金是關於年結日後才提供的各
項服務而收取的補助金，會遞延入帳及在支
出產生的期間有系統地在全面收益表確認為
收入。

Government subvention received in advance represents subvention received in connection with various services to be provided after year end and is deferred and recognised as income in the statement of comprehensive income on a systematic basis in the same periods in which the expenses are incurred.

13. 預收政府費用

13. GOVERNMENT FEE RECEIVED IN ADVANCE

		2018 \$	2017 \$
於4月1日的結餘	Balance as at 1 April	2,016,000	2,352,000
年內確認為收入的數額	Recognised as income in the year	-	(336,000)
於3月31日的結餘	Balance as at 31 March	2,016,000	2,016,000

預收政府費用指將於年結後向政府提供私隱
管理系統的顧問服務而收取的費用，會遞延
入帳及在提供服務的同一時期在全面收益表
中確認為收入。

Government fee received in advance represents fee received in connection with the provision of consultancy on Privacy Management Programme to the Government to be provided after year end and is deferred and recognised as income in the statement of comprehensive income in the same periods in which the services are provided.

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14. 政府的約滿酬金補助款

14. GOVERNMENT SUBVENTION FOR GRATUITY

		2018 \$	2017 \$
於4月1日的結餘	Balance as at 1 April	3,111,875	3,347,936
年內確認的補助金	Subventions recognised for the year	(6,312,323)	(5,971,269)
沒收款	Forfeiture	52,958	85,208
已收政府的 約滿酬金補助款	Gratuity subvention received from Government	6,500,000	5,650,000
於3月31日的結餘	Balance as at 31 March	3,352,510	3,111,875

這代表就個人資料私隱專員的職員約滿酬金從政府收取的款項。

This represents funds received from the Government in respect of gratuity payments to staff of the PCPD.

15. 資本補助金

15. CAPITAL SUBVENTION FUND

		汽車 Motor vehicle \$	會計系統 Accounting system \$	裝修工程 Fitting-out works \$	提升 電腦系統 Upgrading of computer system \$	更換 電話系統 Replacement of telephone system \$	總計 Total \$
於2016年4月1日 政府資本補助金	At 1 April 2016 Government capital subvention	152,300	1,007	43,949	-	-	197,256
撥入全面收益表 為收入， 以配對： - 折舊支出	Transfer to the statement of comprehensive income as income to match with: - Depreciation expense	-	-	-	201,000	-	201,000
於2017年3月31日 及2017年4月1日 政府資本補助金	At 31 March 2017 and 1 April 2017 Government capital subvention	(121,840)	(1,007)	(31,023)	(23,724)	-	(177,594)
於2017年3月31日 及2017年4月1日 政府資本補助金	At 31 March 2017 and 1 April 2017 Government capital subvention	30,460	-	12,926	177,276	-	220,662
撥入全面收益表 為收入， 以配對： - 折舊支出	Transfer to the statement of comprehensive income as income to match with: - Depreciation expense	-	-	-	-	467,000	467,000
於2018年3月31日	At 31 March 2018	(30,460)	-	(12,926)	(67,000)	(7,783)	(118,169)
於2018年3月31日	At 31 March 2018	-	-	-	110,276	459,217	569,493

資本補助金為就特定計劃方案已收取但未應用的非經常性政府資本補助金的餘額。有關款項撥入全面收益表為收入，以配對相關費用。

The capital subvention fund represents the unutilised balance of non-recurrent capital subvention from Government received for special projects. The funds are released to the statement of comprehensive income as income to match with the related costs.

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16. 一般儲備

16. GENERAL RESERVE

		2018 \$	2017 \$
於4月1日	At 1 April	13,741,145	12,836,437
由全面收益表撥入	Transfer from statement of comprehensive income	4,906,175	904,708
於3月31日	At 31 March	18,647,320	13,741,145

設立一般儲備的目的是用來應付營運上的突發事項。一般儲備由全面收益表撥入，最高限額為個人資料私隱專員年度經常補助金的百分之二十。一般儲備是用作一般用途，個人資料私隱專員有權自行運用。盈餘如超逾儲備的協定上限，超額之數應退還政府（扣減下年度的補助金以抵銷）。

The general reserve is established to meet operational contingencies and is transferred from the statement of comprehensive income with a ceiling at 20% of the PCPD's annual recurrent subvention. The general reserve is available for general use and can be spent at the discretion of the PCPD. Any surplus in excess of the agreed reserve ceiling should be returned to the Government by way of offsetting from next year's subvention.

17. 承擔

17. COMMITMENTS

於2018年3月31日，根據不可取消的營運租賃在日後應付的物業最低租賃付款總額如下：

At 31 March 2018, the total future minimum lease payments under non-cancellable operating leases in respect of office premises are payable as follows:-

		2018 \$	2017 \$
一年內	Within 1 year	7,692,936	6,689,000
一年後但五年內	After 1 year but within 5 years	14,103,716	-
		21,796,652	6,689,000

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18. 金融工具

個人資料私隱專員將其金融資產分為以下類別：

		貸款及應收款項 Loans and receivables	
		2018	2017
		\$	\$
應收款項及按金	Accounts receivable and deposits	476,193	123,790
銀行結存及現金	Bank balances and cash	33,173,308	25,992,922
		33,649,501	26,116,712

個人資料私隱專員將其金融負債分為以下類別：

		按攤銷成本量度的金融負債 Financial liabilities measured at amortised cost	
		2018	2017
		\$	\$
應付款項及應計費用	Accounts payable and accruals	401,159	743,846
政府的約滿酬金補助款	Government subvention for gratuity	3,352,510	3,111,875
		3,753,669	3,855,721

所有金融工具的帳面值相對2017年及2018年3月31日時的公平值均沒有重大差別。

All financial instruments are carried at amounts not materially different from their fair values as at 31 March 2018 and 2017.

個人資料私隱專員透過以下政策管理信貸風險、流動資金風險及市場風險，以減低該等風險對個人資料私隱專員的財務表現及狀況的潛在不利影響。

The PCPD's risk management objectives, policies and processes mainly focus on minimising the potential adverse effects of credit risk, liquidity risk and market risk on its financial performance and position by closely monitoring the individual exposure.

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18. 金融工具(續)

- (a) 信貸風險
個人資料私隱專員並無信貸風險相當集中的情況，而最高風險相等於金融資產所載有關帳面值。銀行存款的信貸風險是有限，因接受存款的銀行均為受香港《銀行業條例》規管的財務機構。
- (b) 流動資金風險
個人資料私隱專員的流動資金風險是金融負債。個人資料私隱專員對資金作出謹慎管理，維持充裕的現金及現金等值，以滿足連續運作的需要。

18. FINANCIAL INSTRUMENTS (CONTINUED)

- (a) Credit risk
The PCPD has no significant concentration of credit risk. The maximum exposure to credit risk is represented by the carrying amount of the financial assets. The credit risk on bank deposits is limited because the counterparties are authorised financial institutions regulated under the Hong Kong Banking Ordinance.
- (b) Liquidity risk
The PCPD is exposed to liquidity risk on financial liabilities. It manages its funds conservatively by maintaining a comfortable level of cash and cash equivalents in order to meet continuous operational need. The PCPD ensures that it maintains sufficient cash which is available to meet its liquidity.

	帳面值 Carrying amount \$	合約的未折現 現金流量總額 Total contractual undiscounted cash flow \$	一年內或 於要求時 Within 1 year or on demand \$	一年以上 但五年以下 More than 1 year but less than 5 years \$
2018	2018			
應付款項 及應計費用	Accounts payable and accruals	401,159	401,159	-
政府的約滿酬金 補助款	Government subvention for gratuity	3,352,510	-	3,352,510
		3,753,669	401,159	3,352,510
2017	2017			
應付款項 及應計費用	Accounts payable and accruals	743,846	743,846	-
政府的約滿酬金 補助款	Government subvention for gratuity	3,111,875	-	3,111,875
		3,855,721	743,846	3,111,875

- (c) 市場風險
利率風險
個人資料私隱專員的利率風險主要來自銀行存款。個人資料私隱專員沒有對所產生的利率風險作敏感性分析，因為管理層評估此風險對個人資料私隱專員的財務狀況不會產生重大影響。
- (d) 以公平值計量的金融工具
在報告期末，個人資料私隱專員並沒有金融工具以公平值列帳。

- (c) Market risk
Interest rate risk
The PCPD's exposure on interest rate risk mainly arises from its cash deposits with bank. No sensitivity analysis for the PCPD's exposure to interest rate risk arising from deposits with bank is prepared since based on the management's assessment the exposure is considered not significant.
- (d) Financial instrument at fair value
At the end of reporting period, there were no financial instruments stated at fair value.

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19. 比較數字

若干比較數字已重新列示，以符合目前截至2018年3月31日止年度的呈報方式。

20. 已頒佈但於年內尚未生效的《香港財務報告準則》

以下是已頒佈但於年內尚未生效的《香港財務報告準則》，這些準則或與個人資料私隱專員的營運及財務報表有關：

19. COMPARATIVE FIGURES

Certain comparative figures have been restated to conform with current presentation for the year ended 31 March 2018.

20. HONG KONG FINANCIAL REPORTING STANDARDS ISSUED BUT NOT YET EFFECTIVE FOR THE YEAR

HKFRSs that have been issued but are not yet effective for the year include the following HKFRSs which may be relevant to the PCPD's operations and financial statements:

	於以下年度開始或 以後生效 Effective for annual periods beginning on or after
《香港財務報告準則》第9號：金融工具 HKFRS 9, <i>Financial Instruments</i>	2018年1月1日 1 January 2018
《香港財務報告準則》第15號：客戶合約收益及相關修訂 HKFRS 15, <i>Revenue from Contracts with Customers and the related Amendments</i>	2018年1月1日 1 January 2018
《香港財務報告準則》第16號：租賃 HKFRS 16, <i>Leases</i>	2019年1月1日 1 January 2019
香港（國際財務報告詮釋委員會）– 詮釋第22號：外幣交易及預付代價 HK(IFRIC) – Int 22, <i>Foreign Currency Transactions and Advance Consideration</i>	2018年1月1日 1 January 2018
香港（國際財務報告詮釋委員會）– 詮釋第23號：所得稅處理的不確定性 HK(IFRIC) – Int 23, <i>Uncertainty over Income Tax Treatments</i>	2019年1月1日 1 January 2019
《香港財務報告準則》第2號（修訂本）：以股份為基礎的付款交易的分類及計量 Amendments to HKFRS 2, <i>Classification and Measurement of Share-based Payment Transactions</i>	2018年1月1日 1 January 2018
《香港財務報告準則》第4號（修訂本）：與《香港財務報告準則》 第4號保險合約一併應用《香港財務報告準則》第9號金融工具 Amendments to HKFRS 4, <i>Applying HKFRS 9 Financial Instruments with HKFRS 4 Insurance Contracts</i>	2018年1月1日 1 January 2018
《香港財務報告準則》第9號（修訂本）：具有負補償的提前還款特性 Amendments to HKFRS 9, <i>Prepayment Features with Negative Compensation</i>	2019年1月1日 1 January 2019
《香港財務報告準則》第10號及《香港會計準則》第28號（修訂本）： 投資者與其聯營企業或合資企業之間的資產出售或投入 Amendments to HKFRS 10 and HKAS 28, <i>Sales or Contribution of Assets between an Investor and its Associate or Joint Venture</i>	尚未釐定 To be determined
《香港會計準則》第40號（修訂本）：轉移投資物業 Amendments to HKAS 40, <i>Transfers of Investment Property</i>	2018年1月1日 1 January 2018
《香港財務報告準則》（修訂本）：《香港財務報告準則》2014年至2016年周期的年度改進 Amendments to HKFRSs, <i>Annual Improvements to HKFRSs 2014-2016</i>	2018年1月1日， 如適用 1 January 2018, as appropriate

個人資料私隱專員在本年內並未採納該等《香港財務報告準則》。除下文所述者外，個人資料私隱專員預期應用所有其他新訂《香港財務報告準則》及《香港財務報告準則》的修訂本及詮釋於可見將來不會對其財務報表造成重大影響。

These HKFRSs have not yet been adopted in this year. Except as described below, the PCPD anticipates that the application of all other new and amendments to HKFRSs and interpretations will have no material impact on the financial statements of the PCPD in the foreseeable future.

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20. 已頒佈但於年內尚未生效的《香港財務報告準則》(續)

《香港財務報告準則》第16號租賃
《香港財務報告準則》第16號引入一個綜合模式以供識別租賃安排及承租人的會計處理。《香港財務報告準則》第16號生效時，會取代《香港會計準則》第17號「租賃」及相關的詮釋。

《香港財務報告準則》第16號以識別資產是否由客戶控制之基準區分租賃及服務合約。除短期租賃及低價值資產租賃外，就承租人會計處理而言，經營租賃及融資租賃的區分已被移除，並由一種承租人須確認所有租賃使用權資產及相應負債的模式取代。

使用權資產初步按成本計量，而其後則按成本(若干例外情況除外)減累計折舊及減值虧損計量，並就租賃負債任何重新計量而作出調整。租賃負債初步按並非於該日支付之租賃付款現值計量。其後，租賃負債會就利息及租賃付款以及(其中包括)租賃修訂的影響而作出調整。對於現金流量分類，個人資料私隱專員目前將經營租賃付款項呈列作經營現金流量。在應用《香港財務報告準則》第16號後，個人資料私隱專員將會把有關租賃負債之租賃付款分配至本金及利息部分，並以融資現金流量呈列。

此外，《香港財務報告準則》第16號要求廣泛披露。

於2018年3月31日，誠如附註17所披露，個人資料私隱專員有21,796,652元的不可撤銷經營租賃承擔。初步評估顯示此等安排將符合租賃之定義。在應用《香港財務報告準則》第16號後，個人資料私隱專員將確認所有此等租賃的使用權資產和相應負債，惟屬於低價值或短期租賃除外。

此外，應用新規定可能導致上述的計量、呈列和披露有所變化。

21. 批准財務報表

本財務報表已於2018年8月8日獲個人資料私隱專員授權刊發。

20. HONG KONG FINANCIAL REPORTING STANDARDS ISSUED BUT NOT YET EFFECTIVE FOR THE YEAR (CONTINUED)

HKFRS 16 Leases
HKFRS 16 introduces a comprehensive model for the identification of lease arrangements and accounting treatments for lessees. HKFRS 16 will supersede HKAS 17 "Leases" and the related interpretations when it becomes effective.

HKFRS 16 distinguishes lease and service contracts on the basis of whether an identified asset is controlled by a customer. Distinctions of operating leases and finance leases are removed for lessee accounting, and is replaced by a model where a right-of-use asset and a corresponding liability have to be recognised for all leases by lessees, except for short-term leases and leases of low value assets.

The right-of-use asset is initially measured at cost and subsequently measured at cost (subject to certain exceptions) less accumulated depreciation and impairment losses, adjusted for any remeasurement of the lease liability. The lease liability is initially measured at the present value of the lease payments that are not paid at that date. Subsequently, the lease liability is adjusted for interest and lease payments, as well as the impact of lease modifications, amongst others. For the classification of cash flows, the PCPD currently presents operating lease payments as operating cash flows. Upon application of HKFRS 16, lease payments in relation to lease liability will be allocated into a principal and interest portion which will be both presented as financing cash flows by the PCPD.

Furthermore, extensive disclosures are required by HKFRS 16.

As at 31 March 2018, the PCPD has non-cancellable operating lease commitments of \$21,796,652 as disclosed in note 17. A preliminary assessment indicates that these arrangements will meet the definition of a lease. Upon application of HKFRS 16, the PCPD will recognise a right-of-use asset and a corresponding liability in respect of all these leases unless they qualify for low value or short-term leases.

Furthermore, the application of new requirements may result in changes in measurement, presentation and disclosures as indicated above.

21. APPROVAL OF FINANCIAL STATEMENTS

These financial statements were authorised for issue by the PCPD on 8 August 2018.

附錄一 APPENDIX 1

保障資料原則 DATA PROTECTION PRINCIPLES

收集
Collection

使用
(包括披露和轉移)
Use
(including disclosure and transfer)



保存
Retention



銷毀
Deletion

《私隱條例》旨在保障我們（作為資料當事人）在個人資料方面的私隱權。所有使用個人資料的人士（資料使用者）須依從《私隱條例》核心的**六項保障資料原則**，該六項原則涵蓋了每項個人資料由收集、保存、使用以至銷毀的整個生命週期。

The objective of the Personal Data (Privacy) Ordinance is to protect the privacy rights of a person in relation to his personal data (Data Subject). A person who collects, holds, processes or uses the data (Data User) has to follow the **six Data Protection Principles (DPPs)**. The DPPs represent the normative core of the Ordinance and cover the entire life cycle of a piece of personal data.

個人資料

(1) 是關乎一名在世人士，並可識別該人士身份的資料；(2) 資料存在的形式令資料可讓人切實可行地查閱或處理。個人的姓名、電話號碼、地址、身份證號碼、相片、病歷和受僱紀錄等都是《私隱條例》保護的個人資料。

PERSONAL DATA

(1) is the information which relates to a living person and can be used to identify that person, (2) exists in a form in which access to or processing is practicable. Examples of personal data protected by the Ordinance include names, phone numbers, addresses, identity card numbers, photos, medical records and employment records.

資料使用者

是獨自或聯同其他人操控個人資料的收集、持有、處理或使用的人士。即使個人資料處理程序外判，資料使用者亦須為承辦商的錯失負上法律責任。

DATA USER

is a person who, either alone or jointly or in common with other persons, controls the collection, holding, processing or use of the data. The data user is liable as the principal for the wrongful act of its authorised data processor.

第 1 原則 - 收集資料原則**DPP 1 - DATA COLLECTION PRINCIPLE**

- 資料使用者須以合法和公平的方式，收集他人的個人資料，其目的應直接與其職能或活動有關。
- 須以切實可行的方法告知資料當事人收集其個人資料的目的，以及資料可能會被轉移給哪類人士。
- 收集的資料是有實際需要的，而不超乎適度。
- Personal data must be collected in a lawful and fair way, for a purpose directly related to a function/activity of the data user.
- All practicable steps shall be taken to notify the data subjects of the purpose of data collection, and the classes of persons to whom the data may be transferred.
- Data collected should be necessary but not excessive.

第 2 原則 - 資料準確及保留原則**DPP 2 - ACCURACY & RETENTION PRINCIPLE**

- 資料使用者須確保持有的個人資料準確無誤，資料的保留時間不應超過達致原來目的的实际所需。
- Personal data is accurate and is not kept for a period longer than is necessary to fulfill the purpose for which it is used.

第 3 原則 - 使用資料原則**DPP 3 - DATA USE PRINCIPLE**

- 個人資料只限用於收集時述明的目的或直接相關的目的，除非得到資料當事人自願和明確的同意。
- Personal data is used for the purpose for which the data is collected or for a directly related purpose, unless voluntary and explicit consent is obtained from the data subject.

第 4 原則 - 資料保安原則**DPP 4 - DATA SECURITY PRINCIPLE**

- 資料使用者須採取切實可行的步驟，保障個人資料不會未經授權或意外地被查閱、處理、刪除、喪失或使用。
- A data user needs to take practical steps to safeguard personal data from unauthorised or accidental access, processing, erasure, loss or use.

第 5 原則 - 公開政策原則**DPP 5 - OPENNESS PRINCIPLE**

- 資料使用者須公開其處理個人資料的政策和行事方式，交代其持有的個人資料類別和用途。
- A data user must make known to the public its personal data policies and practices, types of personal data it holds and how the data is used.

第 6 原則 - 查閱及改正原則**DPP 6 - DATA ACCESS & CORRECTION PRINCIPLE**

- 資料當事人有權要求查閱其個人資料；若發現有關個人資料不準確，有權要求更正。
- A data subject must be given access to his personal data and to make corrections where the data is inaccurate.

附錄二 APPENDIX 2

公署發出的新聞稿

MEDIA STATEMENTS ISSUED BY THE PCPD

- 01.04.2017** 就有關跟進選舉事務處遺失兩部載有選民個人資料的手提電腦事件的傳媒查詢
PCPD's Response to Media Enquiries on the Follow-up Actions on the Suspected Theft of Registration and Electoral Office Computers that Contain Personal Data of Registered Electors
- 11.04.2017** 公署就有關選舉事務處遺失兩部載有選民個人資料的手提電腦事件的跟進工作
Follow-up Actions by PCPD on the Reported Loss of Registration and Electoral Office's Two Notebook Computers Containing Personal Data of Registered Voters
- 05.05.2017** 私隱專員出席於美國紐約市舉行的聯合國全球脈動計劃專家會議
Privacy Commissioner Attends the United Nations Global Pulse Expert Meeting in New York City, United States
- 08.05.2017** 分享資料前請三思 – 公署聯同亞太區私隱執法機關成員舉辦「關注私隱運動2017」
"Share Personal Data with Care" – PCPD Joins Hands with Members of the Asia Pacific Privacy Authorities to Host the "Privacy Awareness Week 2017"
- 11.05.2017** 私隱專員發出《通過電子裝置進行實體追蹤及監察》資料單張
Privacy Commissioner Issues "Physical Tracking and Monitoring through Electronic Devices" Information Leaflet
- 17.05.2017** 「這是檢討香港保障資料私隱法例的適當時機」私隱專員於德國柏林舉行的第七屆歐洲資料保障日作主題演講
"It is a timely opportunity for Hong Kong to review the data privacy protection law" Privacy Commissioner Delivers Keynote Address at the 7th European Data Protection Days in Berlin, Germany
- 23.05.2017** 公署參與全球抽查行動 探討消費者對「顧客獎賞計劃」所收集其個人資料的可控程度
PCPD Joins Global Sweep Exercise to Examine Consumers' Control over Their Personal Data Collected by Customer Loyalty and Reward Programmes
- 12.06.2017** 私隱專員發表選舉事務處載有選委、選民個人資料的手提電腦遺失事件調查報告
Privacy Commissioner Publishes Investigation Report on the Loss of Registration and Electoral Office's Notebook Computers Containing Personal Data of Election Committee Members and Electors
- 30.06.2017** 機構及個人必須遵從私隱專員的合法要求 – 一名公司董事未有遵從成首宗被定罪個案
Organisations and Individuals Should Comply with Lawful Requirement of the Privacy Commissioner – A Company Director Became the First Offender Convicted of this Offence
- 14.07.2017** 私隱專員歡迎《道歉條例草案》獲通過
Privacy Commissioner Welcomes the Enactment of the Apology Ordinance
- 20.07.2017** 私隱專員公署出版新書《注意！這是我的個人資料私隱》– 齊來做個真正私隱「話事人」！
PCPD Publishes a New Book Entitled "Watch out! This is my personal data privacy" – Have a Say on Your Own Privacy!

續 (continued)

- 30.07.2017** 私隱專員公署榮獲「最關懷媽媽企業」獎
PCPD Wins the “Most Breastfeed-caring Corporate” Award
- 20.09.2017** 私隱不是侵犯合法權益者的擋箭牌；教大仍須按法例確保所涉個人資料的保安
Privacy is Not a Shield for those Infringing Legitimate Interests; Education University is Still Required by Law to Ensure Personal Data Security
- 28.09.2017** 連繫西方與東方 – 保障、尊重資料私隱 倡議衡平互信的資料私隱權
Connecting West with East in Protecting and Respecting Data Privacy Equitable Data Privacy Right Advocated
- 28.09.2017** 緊貼國際發展趨勢 促進夥伴間之合作 公署在香港舉辦國際資料保障會議
Keep Abreast of International Developments and Foster Cooperation
PCPD to Host International Data Protection Conference in Hong Kong
- 11.10.2017** 私隱專員公署兩名員工榮獲「2017年申訴專員嘉許獎」公職人員獎
Two PCPD Staff Members Receive Individual Awards in The Ombudsman’s Awards 2017
- 17.11.2017** 從公共領域取得的個人資料仍受《私隱條例》保障
Personal Data Obtained from Public Domains is Protected under the Privacy Ordinance
- 23.11.2017** 私隱專員出席於加拿大溫哥華舉行的第四十八屆亞太區私隱機構論壇
The Privacy Commissioner Attended the 48th APPA Forum in Vancouver, Canada
- 04.12.2017** 私隱專員重申使用航拍機必須尊重私隱 積極研究提出規管建議
Privacy Commissioner Reiterates Respect of Privacy in Using Drones
Suggestions on Regulating Drones under Study
- 11.12.2017** 依從拒收直銷訊息要求 尊重消費者個人資料
Comply with Opt-out Requests of Direct Marketing Respect Consumers’ Personal Data
- 18.12.2017** 私隱專員發表兩份報告 鼓勵機構建立「保障與尊重個人資料私隱」文化
Privacy Commissioner Releases Two Reports and Encourages Organisations to Nurture the Culture of “Protect and Respect Personal Data Privacy”
- 02.01.2018** 私隱專員發出《資料保障·利便營商 – 給中小企的綱領提示》指引資料
Privacy Commissioner Issues “Data Protection & Business Facilitation – Guiding Principles for Small and Medium Enterprises” Guidance Note
- 02.01.2018** 直接促銷 使用資料須得客戶同意
Direct Marketing: Customers’ Consent for Data
- 04.01.2018** 私隱專員關注旅行社資料保安事故頻生 重申多項保安措施建議
Privacy Commissioner Raised Concern over the Frequent Occurrence of Data Security Incidents at Travel Agents
Measures on Enhancing Data Security Reiterated

續 (continued)

- 10.01.2018** 私隱專員關注網上流傳酒店房間內私密影片及相片 強調使用拍攝裝置及披露資料必須避免侵犯私隱
Privacy Commissioner Concerned about Online Circulation of Video Clips and Photos of Private Activities in Hotel Rooms, Emphasising the Use of Recording Devices and Disclosure of Data Should Avoid Intrusion into the Privacy of Individuals
- 11.01.2018** 私隱專員修訂《選舉活動指引》提醒候選人、政府部門及民意調查組織須遵從《私隱條例》規定
Privacy Commissioner Issues the Revised Guidance on Election Activities and Reminds Candidates, Government Departments and Public Opinion Research Organisations to Comply with the Privacy Ordinance
- 14.02.2018** 去年接獲機構外洩個人資料事故的通報上升近兩成
公署將致力協助企業做好私隱管理工作 準備面對境外新規例所帶來的挑戰
Data Breach Notifications Soared Nearly 20 Percent in 2017
PCPD Endeavours to Assist Corporations on Privacy Management in View of New Overseas Regulatory Challenges Ahead
- 07.03.2018** 「為數碼經濟構建更美好的未來 – 信任、尊重與道德在數據管理中不可或缺」
私隱專員於西班牙巴塞隆那舉行的世界移動大會發表主題演講
“Trust, Respect and Ethics in Managing Data are Crucial in Building a Better Future for Digital Economy”
Privacy Commissioner Delivers Keynote Speech at the GSMA Mobile World Congress in Barcelona, Spain
- 12.03.2018** 聘任助理個人資料私隱專員
Appointment of Assistant Privacy Commissioner for Personal Data
- 19.03.2018** 私隱專員就有關的士安裝攝錄系統的評論作出回應
Privacy Commissioner’s Response to Comments on Installation of Camera Systems in Taxis
- 26.03.2018** 私隱專員公署全方位協助中小企業 為中小企業專設諮詢熱線及專用電郵
PCPD Offers All-round Support for SME Dedicated Hotline and Email Set Up for SME
- 28.03.2018** 私隱專員展開循規審查 Facebook
Privacy Commissioner Initiates Compliance Check on Facebook
- 30.03.2018** 私隱專員歡迎政府建議設法定拒收訊息登記冊加強規管人對人促銷電話
Privacy Commissioner Welcomes Government’s Proposal on Setting Up Statutory Do-not-call Register to Enhance Regulation of Person-to-Person Telemarketing Calls

附錄三 APPENDIX 3

公署曾提供講座的機構*

ORGANISATIONS* TO WHICH THE PCPD DELIVERED TALKS

政府及公營機構 Government and Public Bodies

機構	Organisation	日期 Date
1 香港機場管理局	Airport Authority Hong Kong	13.12.2017
2 建造業議會	Construction Industry Council	07.12.2017
3 懲教署	Correctional Services Department	23.11.2017 01.03.2018 13.03.2018
4 香港海關	Customs and Excise Department	19.07.2017 28.08.2017 29.12.2017
5 衛生署	Department of Health	18.10.2017
6 教育局	Education Bureau	10.04.2017 17.01.2018
7 僱員再培訓局	Employees Retraining Board	26.02.2018
8 地產代理監管局	Estate Agents Authority	20.06.2017 11.09.2017
9 醫院管理局港島東聯網	Hong Kong East Cluster, Hospital Authority	13.11.2017 07.03.2018
10 香港房屋協會	Hong Kong Housing Society	12.01.2018 07.02.2018 09.02.2018 27.03.2018
11 香港金融管理局	Hong Kong Monetary Authority	23.03.2018
12 香港生產力促進局	Hong Kong Productivity Council	10.10.2017
13 房屋署	Housing Department	26.01.2018
14 香港司法機構	Judiciary	01.11.2017
15 九龍東聯網 – 醫院管理局	Kowloon East Cluster, Hospital Authority	08.12.2017
16 勞工處	Labour Department	15.11.2017
17 地政總署	Lands Department	11.12.2017 12.12.2017
18 保安局禁毒處	Narcotic Division, Security Bureau	19.10.2017
19 香港電燈有限公司	Hongkong Electric Company Limited	01.08.2017
20 庫務署	Treasury	17.07.2017
21 市區重建局	Urban Renewal Authority	14.12.2017

* 機構按英文名稱順序排列
Organisations listed in alphabetical order

私營機構 Private Sector Organisations

機構	Organisation	日期 Date
1 快易通有限公司	Autotoll Limited	17.01.2018
2 碧瑤綠色集團有限公司	Baguio Green Group	16.11.2017
3 銀聯信託有限公司	Bank Consortium Trust Company Limited (Session 1)	22.11.2017 29.11.2017
4 拜耳醫療保健有限公司	Bayer HealthCare Limited	24.04.2017
5 華人永遠墳場管理委員會	Board of Management of the Chinese Permanent Cemeteries	27.02.2018
6 中銀國際控股有限公司	BOC International Holdings Limited	11.12.2017
7 大家樂集團有限公司	Café de Coral Holdings Limited	13.07.2017 14.07.2017
8 中信銀行(國際)有限公司	China CITIC Bank International Limited	19.12.2017
9 中國光大銀行股份有限公司	China Everbright Bank Hong Kong Branch	24.08.2017 30.08.2017
10 招商證券國際有限公司	China Merchants Securities International Company Limited	13.11.2017
11 中國太平保險(香港)有限公司	China Taiping Life Insurance (Hong Kong) Company Limited	16.08.2017 17.08.2017
12 富通保險香港	FT Life Insurance Company Limited	19.10.2017
13 雲頂香港	Genting Hong Kong Limited	20.04.2017 22.05.2017
14 恒隆地產有限公司	Hang Lung Properties Limited	21.04.2017
15 日立金融(香港)有限公司	Hitachi Capital (HK) Limited	09.01.2018 16.01.2018
16 香港交易所	Hong Kong Exchanges and Clearing Limited	21.08.2017
17 華泰金融控股(香港)有限公司	Huatai Financial Holdings (Hong Kong) Limited	16.05.2017
18 興業銀行股份有限公司	Industrial Bank Company Limited	06.11.2017
19 啟勝管理服務有限公司	Kai Shing Management Services Limited	25.07.2017 05.12.2017
20 萊坊	Knight Frank	17.10.2017
21 柯尼卡美能達商用科技製造(香港)有限公司	Konica Minolta Business Technologies Manufacturing (HK) Limited	05.03.2018
22 領展房地產投資信託基金	Link REIT	12.10.2017 16.10.2017
23 李錦記健康產品集團有限公司	LKK Health Products Group Limited	05.09.2017
24 馬哥孛羅香港酒店	Marco Polo Hotels - Hong Kong	20.12.2017 15.03.2018
25 明德國際醫院	Matilda International Hospital	31.08.2017
26 METRO Sourcing International Limited	METRO Sourcing International Limited	21.03.2018
27 南豐集團	Nan Fung Group	30.11.2017

續 (continued)

機構	Organisation	日期 Date
28 新傳媒集團有限公司	New Media Group Limited	22.01.2018 29.01.2018
29 諾華誠信有限公司	Nova Credit Limited	23.02.2018
30 香港海洋公園	Ocean Park	28.04.2017
31 八達通控股有限公司	Octopus Holdings Limited	23.06.2017 27.07.2017
32 上海商業銀行有限公司	Shanghai Commercial Bank Limited	28.06.2017
33 信和置業有限公司	Sino Land Company Limited	15.06.2017
34 仁安醫院	Union Hospital	23.02.2018
35 衛盈智信(香港)有限公司	WeLend Limited	02.06.2017
36 宏高證券有限公司	Wocom Securities Limited	06.03.2018
37 World First Asia Limited	World First Asia Limited	20.07.2017 28.07.2017
38 蘇黎世保險(香港)	Zurich Insurance (Hong Kong)	24.11.2017

社團 Community Groups

機構	Organisation	日期 Date
1 香港職業介紹所印尼協會有限公司	Asosiasi PPTKI HONG KONG LIMITED	08.01.2018
2 香港明愛社會工作服務部	Caritas Social Work Services Division	26.10.2017
3 香港美容業總會	Federation of Beauty Industry	01.12.2017
4 扶康會	Fu Hong Society	28.12.2017
5 香港社會服務聯會	Hong Kong Council of Social Service	12.03.2018
6 香港牙醫學會有限公司	Hong Kong Dental Association Limited	12.02.2018
7 香港足球總會	Hong Kong Football Association Limited	16.06.2017
8 香港綠色建築議會有限公司	Hong Kong Green Building Council Limited	02.02.2018
9 香港教育專業人員協會	Hong Kong Professional Teachers' Union	24.06.2017
10 香港證券及投資學會	Hong Kong Securities and Investment Institute	22.03.2018
11 香港耆康老人福利會	Hong Kong Society for the Aged (SAGE)	17.11.2017
12 香港盲人輔導會	Hong Kong Society for the Blind	10.08.2017
13 香港保護兒童會	Hong Kong Society for the Protection of Children	17.07.2017
14 香港國際社會服務社	International Social Service Hong Kong Branch	15.01.2018
15 樂施會	Oxfam Hong Kong	19.05.2017
16 香港基督教青年會	YMCA of Hong Kong	10.01.2018

教育教構 Educational Organisations

機構	Organisation	日期 Date
1 明愛社區書院	Caritas Institute of Community Education	14.08.2017
2 香港中文大學	Chinese University of Hong Kong	05.02.2018
3 香港教育大學	Education University of Hong Kong	10.07.2017 19.01.2018
4 恒生管理學院	Hang Seng Management College	22.06.2017
5 香港大學專業進修學院	HKU SPACE	09.11.2017
6 香港演藝學院	Hong Kong Academy for Performing Arts	15.12.2017
7 香港浸會大學	Hong Kong Baptist University	03.04.2017 07.04.2017 20.03.2018
8 專業教育學院(青衣)	Hong Kong Institute of Vocational Education (Tsing Yi)	06.11.2017
9 香港理工大學	Hong Kong Polytechnic University	11.04.2017 03.01.2018 27.03.2018
10 香港鄧鏡波書院	Hong Kong Tang King Po College	13.12.2017
11 嶺南大學	Lingnan University	04.08.2017 23.10.2017
12 東華學院	Tung Wah College	13.09.2017
13 英國新特蘭大學香港分校	University of Sunderland in Hong Kong	18.12.2017
14 職業訓練局	Vocational Training Council	12.06.2017 27.02.2018
15 職業訓練局青年學院(葵芳)	Vocational Training Council - Youth College (Kwai Fong)	31.10.2017

附錄四 APPENDIX 4

學校夥伴嘉許名單 PARTNERING SCHOOLS OF THE RECOGNITION SCHEME*

學校名稱	Name of School
1 博愛醫院歷屆總理聯誼會梁省德中學	AD&FD POHL Leung Sing Tak College
2 香港仔工業學校	Aberdeen Technical School
3 伯特利中學	Bethel High School
4 佛教孔仙洲紀念中學	Buddhist Hung Sean Chau Memorial College
5 佛教善德英文中學	Buddhist Sin Tak College
6 佛教沈香林紀念中學	Buddhist Sum Heung Lam Memorial College
7 佛教黃允畋中學	Buddhist Wong Wan Tin College
8 明愛馬鞍山中學	Caritas Ma On Shan Secondary School
9 明愛元朗陳震夏中學	Caritas Yuen Long Chan Chun Ha Secondary School
10 迦密唐賓南紀念中學	Carmel Bunnan Tong Memorial Secondary School
11 迦密主恩中學	Carmel Divine Grace Foundation Secondary School
12 中華基督教會全完中學	CCC Chuen Yuen College
13 中華基督教會方潤華中學	CCC Fong Yun Wah Secondary School
14 中華基督教會基新中學	CCC Kei San Secondary School
15 中華基督教會公理高中書院	CCC Kung Lee College
16 中華基督教會銘基書院	CCC Ming Kei College
17 中華基督教會銘賢書院	CCC Ming Yin College
18 長洲官立中學	Cheung Chau Government Secondary School
19 中華聖潔會靈風中學	China Holiness Church Living Spirit College
20 青松侯寶垣中學	Ching Chung Hau Po Woon Secondary School
21 趙聿修紀念中學	Chiu Lut Sau Memorial Secondary School
22 張振興伉儷書院	Chong Gene Hang College
23 宣道會鄭榮之中學	Christian Alliance Cheng Wing Gee College
24 鐘聲慈善社胡陳金枝中學	Chung Sing Benevolent Society Mrs Aw Boon Haw Secondary School
25 中華傳道會安柱中學	CNEC Christian College
26 中華傳道會李賢堯紀念中學	CNEC Lee I Yao Memorial Secondary School
27 文理書院(香港)	Cognitio College (Hong Kong)
28 孔聖堂中學	Confucius Hall Secondary School
29 棉紡會中學	Cotton Spinners Association Secondary School
30 香港中文大學校友會聯會陳震夏中學	CUHKFAA Chan Chun Ha Secondary School
31 香港中文大學校友會聯會張煊昌中學	CUHKFAA Thomas Cheung Secondary School

* 學校按英文名稱順序排列
Schools listed in alphabetical order

續 (continued)

學校名稱	Name of School
32 金巴崙長老會耀道中學	Cumberland Presbyterian Church Yao Dao Secondary School
33 天主教母佑會蕭明中學	Daughters Of Mary Help Of Christians Siu Ming Catholic Secondary School
34 基督教香港信義會宏信書院	ELCHK Lutheran Academy
35 五邑司徒浩中學	FDBWA Szeto Ho Secondary School
36 路德會西門英才中學	Gertrude Simon Lutheran College
37 德望學校	Good Hope School
38 梁文燕紀念中學(沙田)	Helen Liang Memorial Secondary School (Sha Tin)
39 香島中學	Heung To Middle School
40 將軍澳香島中學	Heung To Secondary School (Tseung Kwan O)
41 香海正覺蓮社佛教梁植偉中學	HHCKLA Buddhist Leung Chik Wai College
42 香港教育工作者聯會黃楚標中學	HKFEW Wong Cho Bau Secondary School
43 香港管理專業協會羅桂祥中學	HKMA K S Lo College
44 香港四邑商工總會黃棣珊紀念中學	HKSYC & IA Wong Tai Shan Memorial College
45 香港道教聯合會青松中學	HKTA Ching Chung Secondary School
46 嗇色園主辦可譽中學暨可譽小學	Ho Yu College And Primary School (Sponsored By Sik Sik Yuen)
47 港九潮州公會中學	Hong Kong and Kowloon Chiu Chow Public Association Secondary School
48 何東中學	Hotung Secondary School
49 聖母無玷聖心書院	Immaculate Heart of Mary College
50 裘錦秋中學(葵涌)	Ju Ching Chu Secondary School (Kwai Chung)
51 葵涌蘇浙公學	Kiangsu-Chekiang College (Kwai Chung)
52 英皇書院	King's College
53 九龍塘學校(中學部)	Kowloon Tong School (Secondary Section)
54 觀塘瑪利諾書院	Kwun Tong Maryknoll College
55 荔景天主教中學	Lai King Catholic Secondary School
56 嶺南衡怡紀念中學	Lingnan Hang Yee Memorial Secondary School
57 嶺南中學	Lingnan Secondary School
58 樂善堂梁植偉紀念中學	Lok Sin Tong Leung Chik Wai Memorial School
59 路德會呂祥光中學	Lui Cheung Kwong Lutheran College
60 龍翔官立中學	Lung Cheung Government Secondary School
61 馬鞍山聖若瑟中學	Ma On Shan St. Joseph's Secondary School

續 (continued)

學校名稱	Name of School
62 馬鞍山崇真中學	Ma On Shan Tsung Tsin Secondary School
63 閩僑中學	Man Kiu College
64 循道中學	Methodist College
65 慕光英文書院	Mu Kuang English School
66 民生書院	Munsang College
67 寧波第二中學	Ning Po No.2 College
68 新界鄉議局大埔區中學	NT Heung Yee Kuk Tai Po District Secondary School
69 新界鄉議局元朗區中學	NT Heung Yee Kuk Yuen Long District Secondary School
70 聖母玫瑰書院	Our Lady Of The Rosary College
71 聖母書院	Our Lady's College
72 五旬節中學	Pentecostal School
73 保良局何蔭棠中學	PLK Celine Ho Yam Tong College
74 保良局甲子何玉清中學	PLK Ho Yuk Ching (1984) College
75 保良局羅氏基金中學	PLK Laws Foundation College
76 保良局李城璧中學	PLK Lee Shing Pik College
77 保良局莊啟程預科書院	PLK Vicwood KT Chong Sixth Form College
78 保良局姚連生中學	PLK Yao Ling Sun College
79 博愛醫院陳楷紀念中學	POH Chan Kai Memorial College
80 保祿六世書院	Pope Paul VI College
81 天主教培聖中學	Pui Shing Catholic Secondary School
82 伊利沙伯中學	Queen Elizabeth School
83 高主教書院	Raimondi College
84 新會商會中學	San Wui Commercial Society Secondary School
85 深培中學	Semple Memorial Secondary School
86 沙田循道衛理中學	Sha Tin Methodist College
87 石籬天主教中學	Shek Lei Catholic Secondary School
88 順德聯誼總會李兆基中學	Shun Tak Fraternal Association Lee Shau Kee College
89 順德聯誼總會翁祐中學	Shun Tak Fraternal Association Yung Yau College
90 聖言中學	Sing Yin Secondary School
91 聖公會諸聖中學	SKH All Saints' Middle School
92 聖公會白約翰會督中學	SKH Bishop Baker Secondary School
93 聖公會基孝中學	SKH Kei Hau Secondary School

續 (continued)

學校名稱	Name of School
94 聖公會梁季彝中學	SKH Leung Kwai Yee Secondary School
95 聖公會李福慶中學	SKH Li Fook Hing Secondary School
96 聖公會曾肇添中學	SKH Tsang Shiu Tim Secondary School
97 聖芳濟各書院	St Francis Of Assisi's College
98 荃灣聖芳濟中學	St Francis Xavier's School Tsuen Wan
99 藍田聖保祿中學	St. Paul's School (Lam Tin)
100 聖士提反書院	St. Stephen's College
101 順德聯誼總會鄭裕彤中學	STFA Cheng Yu Tung Secondary School
102 順德聯誼總會胡兆熾中學	STFA Seaward Woo College
103 德雅中學	Tak Nga Secondary School
104 香港華人基督教聯會真道書院	The Hong Kong Chinese Christian Churches Union Logos Academy
105 循道衛理聯合教會李惠利中學	The Methodist Lee Wai Lee College
106 基督教聖約教會堅樂中學	The Mission Covenant Church Holm Glad College
107 香港扶幼會許仲繩紀念學校	The Society Of Boys' Centres Hui Chung Sing Memorial School
108 台山商會中學	Toi Shan Association College
109 真光女書院	True Light Girls' College
110 曾壁山中學	Tsang Pik Shan Secondary School
111 荃灣官立中學	Tsuen Wan Government Secondary School
112 屯門官立中學	Tuen Mun Government Secondary School
113 東華三院馬振玉紀念中學	TWGHs C.Y. Ma Memorial College
114 東華三院陳兆民中學	TWGHs Chen Zao Men College
115 東華三院郭一葦中學	TWGHs Kwok Yat Wai College
116 東華三院李嘉誠中學	TWGHs Li Ka Shing College
117 東華三院盧幹庭紀念中學	TWGHs Lo Kon Ting Memorial College
118 東華三院呂潤財紀念中學	TWGHs Lui Yun Choy Memorial College
119 東華三院鄺錫坤伉儷中學	TWGHs Mr & Mrs Kwong Sik Kwan College
120 東華三院馮黃鳳亭中學	TWGHs Mrs Fung Wong Fung Ting College
121 東華三院吳祥川紀念中學	TWGHs S C Gaw Memorial College
122 東華三院辛亥年總理中學	TWGHs Sun Hoi Directors' College
123 東華三院黃笏南中學	TWGHs Wong Fut Nam College
124 華英中學	Wa Ying College
125 九龍華仁書院	Wah Yan College Kowloon

續 (continued)

學校名稱	Name of School
126 王肇枝中學	Wong Shiu Chi Secondary School
127 仁濟醫院靚次伯紀念中學	Yan Chai Hospital Lan Chi Pat Memorial Secondary School
128 仁濟醫院羅陳楚思中學	Yan Chai Hospital Law Chan Chor Si College
129 仁濟醫院林百欣中學	Yan Chai Hospital Lim Por Yen Secondary School
130 仁濟醫院王華湘中學	Yan Chai Hospital Wong Wha San Secondary School
131 余振強紀念中學	Yu Chun Keung Memorial College
132 元朗天主教中學	Yuen Long Catholic Secondary School



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