

# Personal Data Protection Seminar 2019

## Data Protection Policy Roundtable:

### Accountability and Standards in Data Governance and Data Flows

17 July 2019 | Singapore

# Accountability and Ethics in Hong Kong

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Privacy Commissioner for Personal Data, Hong Kong, China

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PCPD



HK



[PCPD.org.hk](http://PCPD.org.hk)

香港個人資料私隱專員公署  
Privacy Commissioner  
for Personal Data, Hong Kong

# Challenges for DPAs in the Digital Age

Minimise  
privacy risks,  
creating  
healthy  
synergy with  
economic  
growth

Seek to  
enlarge  
common  
ground

Facilitate  
innovative  
use of data  
within legal  
and ethical  
frameworks

# Ethics, Laws, & Accountability



Extended obligation to ensure compliance with laws

Legal obligations, usually based on communal values

Communal values shared by the public in general, guiding our daily living

# ***Accountability***

***Responsibility to put in place adequate policies and measures to ensure and demonstrate compliance***

***Rationale: Data users are in the best position to identify, assess and address the privacy risks of their activities***

# Personal Data (Privacy) Ordinance, Chapter 486 of the Laws of Hong Kong (1995)

No general accountability requirement

Some elements of accountability, i.e. “*all practicable steps*” shall be taken to ensure personal data is-

- accurate [DPP 2(1)]
- not retained longer than necessary [DPP 2(2)]
- protected against data security incidents [DPP 4(1)]

# PCPD's Accountability Framework: Privacy Management Programme (PMP)



- **Voluntary accountability framework**
- **First published – February 2014**
- **First revision – August 2018**
- **Pledged organisations:**
  - **All government bureaus and departments**
  - **37 commercial and public organisations**  
(e.g. insurance, telecommunications, transportation, health care, public utilities)

# Accountability framework



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# PMP – Main Components



## 1. Organisational Commitment

1.1  
Buy-in from the  
Top

1.2  
Appointment of  
DPO

1.3  
Establishment of  
Reporting  
Mechanisms



# PMP – Main Components



## 2. Programme Controls

2.1

Personal Data  
Inventory

2.2

Personal Data  
Policies

2.3

Risk Assessment  
Tools

2.4

Training, Education & Promotion

2.5

Handling of Data Breach

2.6

Data Processor Management

2.7

Communications

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# PMP – Main Components



## 3. Ongoing Assessment and Revision

3.1

Development of Oversight &  
Review Plan

3.2

Assessment & Revision of  
Programme Controls

# Data ethics

A **multi-stakeholder** approach in personal data protection...

...with due consideration and **respect** for the **rights and interests** of all stakeholders, including individual data subjects and society as a whole

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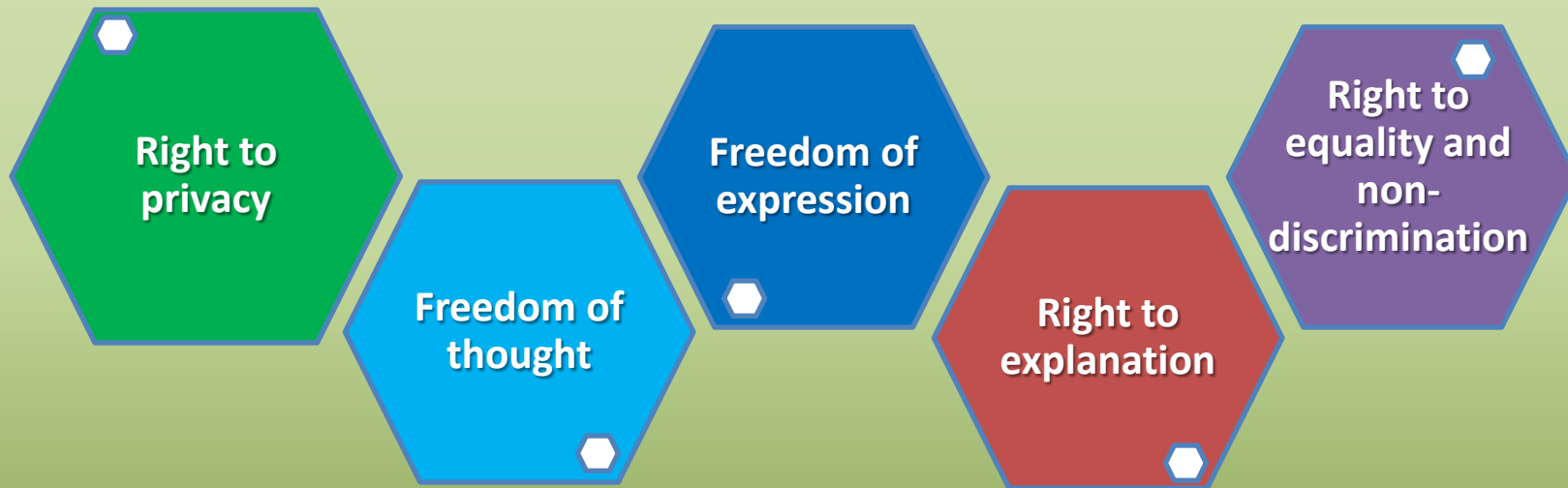
# Data ethics



**Re-emphasise  
conformity to  
ethical,  
communal  
values in the  
whole data  
lifecycle**

# Data ethics

Rights and interests of stakeholders include:



# Data Ethics

2017

## Ethics on AI -

First being discussed at the ICDPPC meeting held in Hong Kong

2018

*“Ethical Accountability Framework for Hong Kong, China”* published by PCPD

*“Declaration on Ethics and Data Protection in Artificial Intelligence”* made by the ICDPPC in Brussels

**ICDPPC Permanent Working Group on Ethics and Data Protection in AI** established (co-chaired by CNIL, EDPS and PCPD/HK)

2019

*“Ethics Guidelines for Trustworthy AI”* issued by the European Commission

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# Ethics on AI first discussed in Hong Kong (2017)



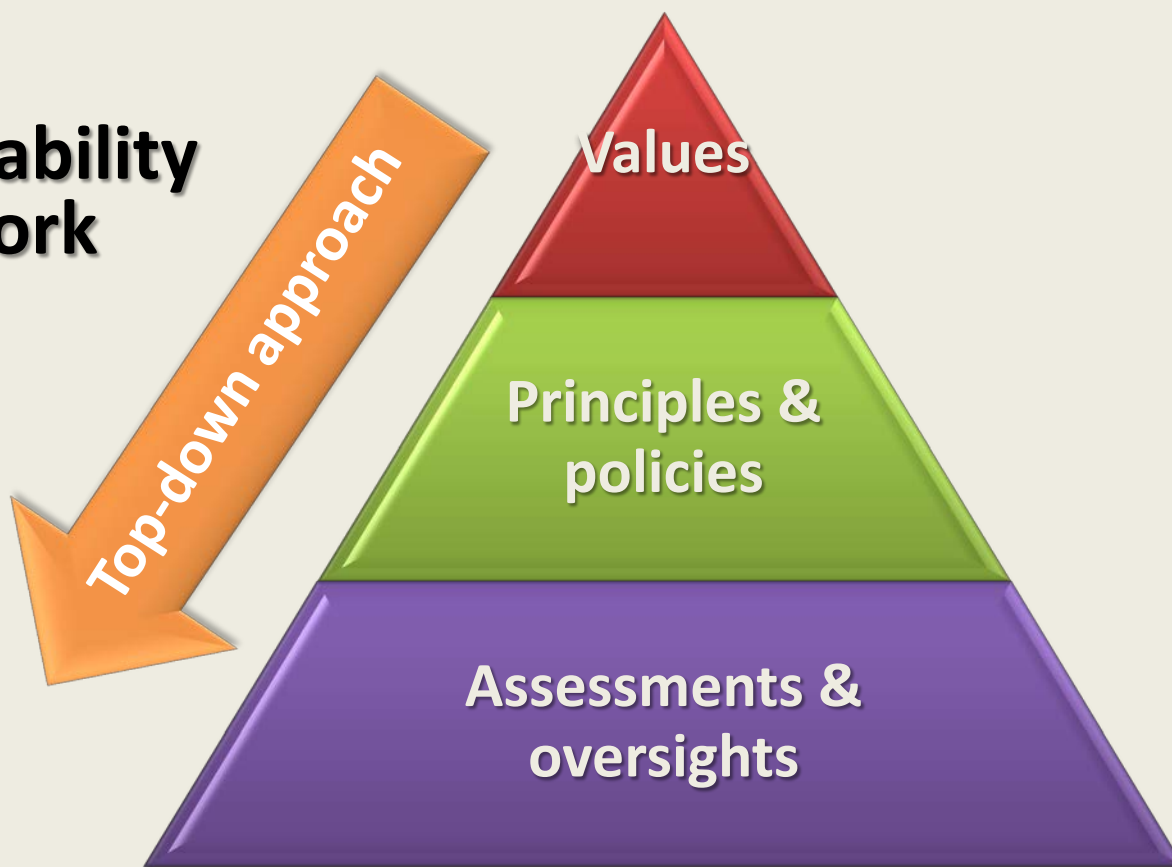
*“Data users need to add value beyond just complying with the regulations. Discussions about **“New Digital Ethics”**, the relevant ethical standard and stewardship have already begun. Surely the deliberations will go on. In the not far away future, we may come up with an **“Equitable Privacy Right”** for all stakeholders.”*

Stephen Kai-yi Wong  
Opening speech at 39<sup>th</sup> ICDPPC (2017)

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# Ethical Accountability Framework



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# Ethical Accountability Framework

## Values

### 1. Respectful

- Be transparent
- Provide individuals with control

### 2. Beneficial

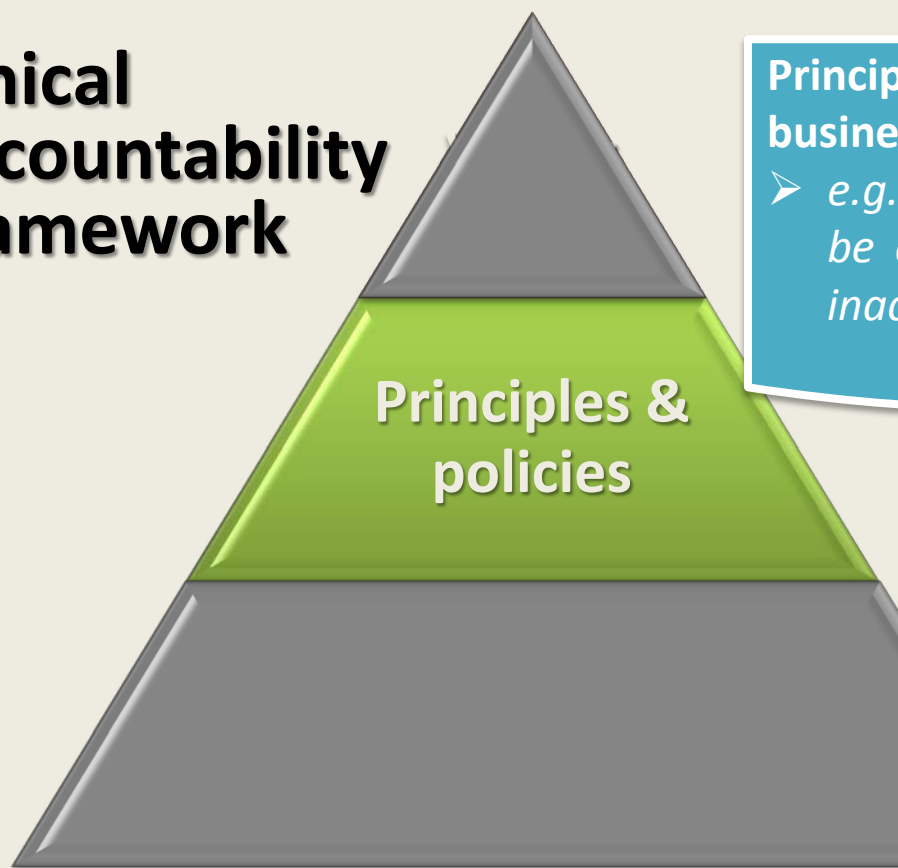
- Identify and assess risks and benefits to all stakeholders
- Mitigate risks

### 3. Fair

- Avoid bias, discrimination and other inappropriate actions

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# Ethical Accountability Framework



**Principle:** An expression of Values in business context

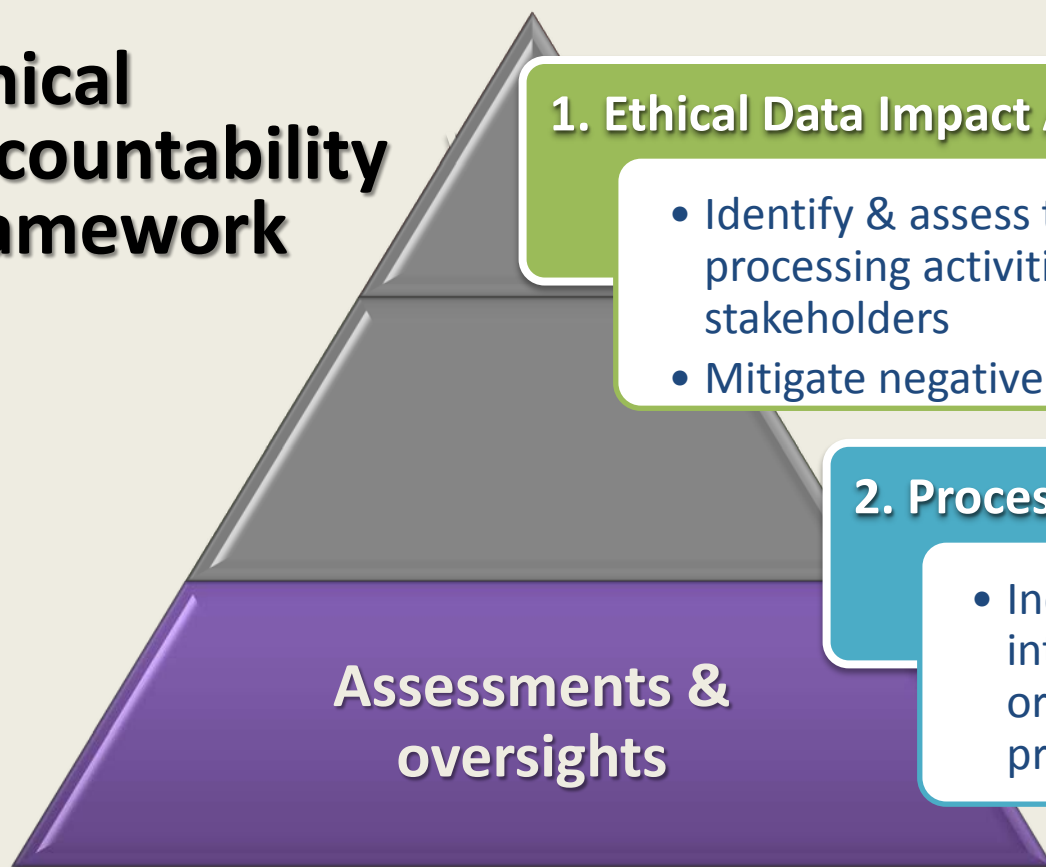
- *e.g. Fair principle: No customer should be excluded from banking services by inaccurate profiling and KYC*

**Policy:** Translation from Values into enforceable procedures

- *e.g. Fair policy: Automated decisions are subject to human review if they produce negative impact on customers*

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# Ethical Accountability Framework



## 1. Ethical Data Impact Assessment

- Identify & assess the impact of data processing activities on all stakeholders
- Mitigate negative impacts

## 2. Process Oversight

- Independent assessment on the integrity and effectiveness of an organisation's data stewardship programme

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# Data Ethics - Implementation

Privacy  
by  
Design



Ethics  
by  
Design

**Step 1: Analyse the business objective and purpose of the data processing activity**

**Step 2: Assess the nature, source, accuracy and governance of the data**

**Step 3: Conduct impact assessment, i.e. risks and benefits to the individuals, the society and the organisation itself**

**Step 4: Balance between expected benefits and the mitigated risks to all stakeholders**

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# Process Oversight – Questions to Consider

Are the **accountability and responsibility** of data stewardship clearly defined?

Are the core values translated into **principles, policies and processes**?

Does the organisation adopt “**ethics by design**”?

Are **Ethical Data Impact Assessments** properly conducted?

Are **internal reviews** conducted periodically?

Are there any **feedback and appeal mechanisms** for the individuals impacted ?

Is there any mechanism to ensure the **transparency** of the data processing activities?

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# HKMA's circular on 3 May 2019

- To all authorised institutions
- Encourages adoption and implementation of PCPD's Ethical Accountability Framework in the development of fintech products and services

<https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20190503e1.pdf>



Hong Kong  
Monetary  
Authority



# ICDPPC Declaration on Ethics and Data Protection in Artificial Intelligence (October 2018): Six Core Principles



Reducing  
biases or  
discriminations

Empowerment  
of every  
individual



Fairness  
principle

Continued  
attention  
and vigilance

Systems  
transparency  
and  
intelligibility

Ethics by design

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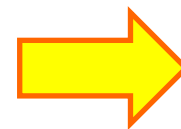
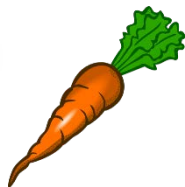
# PCPD's Roles – Enforcer + Educator + Facilitator

## PCPD's Strategic Focus

Fair Enforcement

Engaging

Incentivising

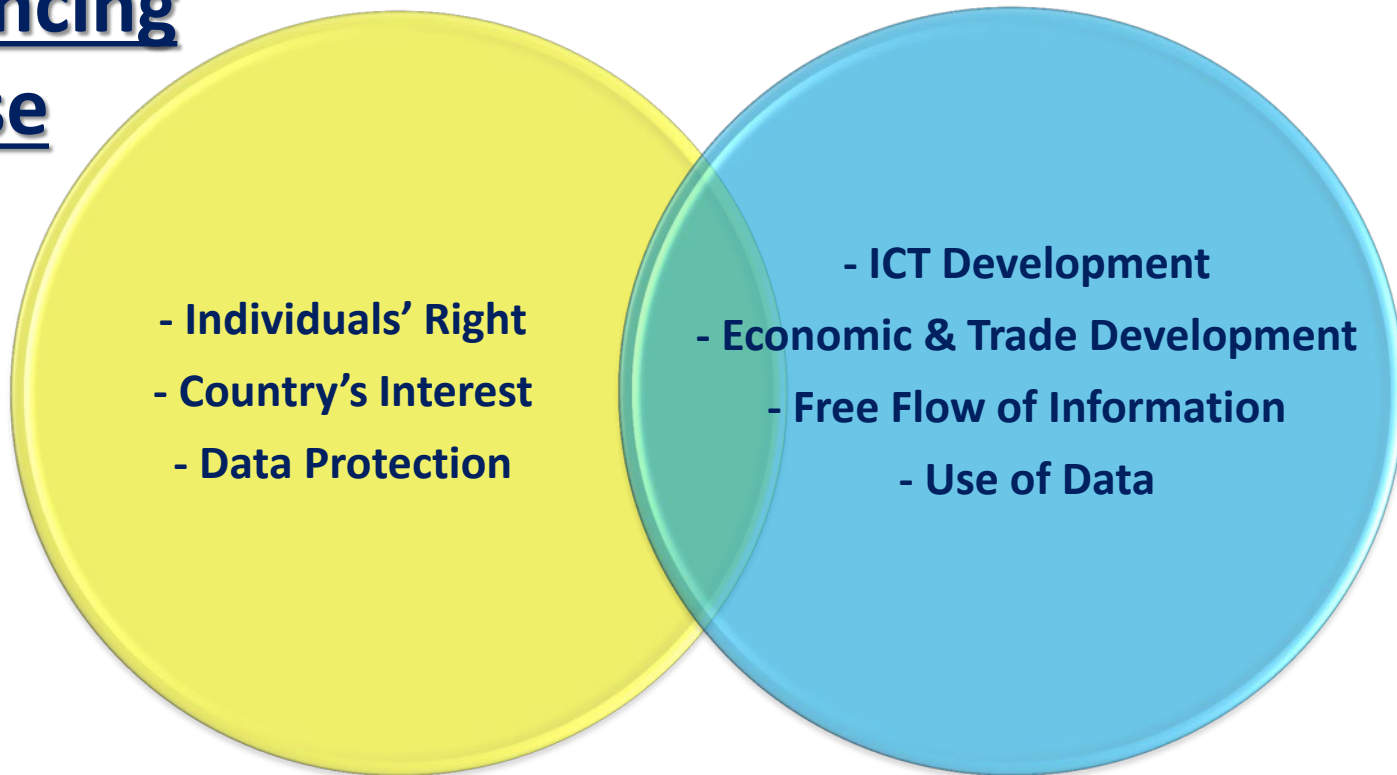


**Privacy-friendly Culture**

# Incentivising & Engaging



# A Balancing Exercise



# Takeaways

Trust is essential for a healthy and sustainable digital ecosystem

Legal compliance is a basic obligation

Accountability and ethics are necessary for trust-building, and hence business success in digital age

Regulators should incentivise accountability and ethics by sticks and carrots

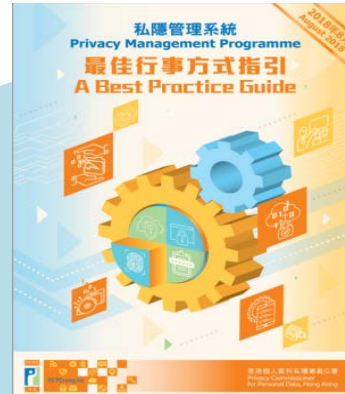
# Download our publications



## Ethical Accountability Framework for Hong Kong, China

A Report prepared for the Office of the Privacy Commissioner for Personal Data

*Analysis and Model Assessment Framework*





# Contact Us

The screenshot shows the PCPD website interface. At the top, there is a navigation bar with links for 'About PCPD', 'Data Privacy Law', 'News & Events', 'Compliance & Enforcement', 'Complaints', 'Legal Assistance', 'Education & Training', 'Resources Centre', and 'Enquiry'. Below this is a search bar with 'Hot Search', 'Advanced Search', and 'Keyword Search' options. The main content area features a 'What's New' section with several news items, including 'Reduce Cyberbullying by Nurturing Culture of "Protect, Respect Personal Data"', 'Privacy Commissioner Prize in Privacy and Data Protection Law 2017/18 to Recognise Student's Outstanding Performance in Study of Personal Data Privacy Protection', 'Respect Customers' Rights of Personal Data Self-determination Follow Their Opt-out Requests in Direct Marketing', 'Privacy Commissioner Completed Compliance Check on Facebook and Cambridge Analytics Incident', 'Privacy Commissioner Issues Best Practice Guide on Privacy Management Programme and Encourages Organisations to Embrace Personal Data Protection as Part of Corporate Governance Responsibilities', 'Unleashing Potential in Innovation and Technology - Promoting Data Privacy Protection Award Presentation Ceremony of Student Ambassador for Privacy Protection Programme', and 'Privacy Commissioner Expresses Concerns Over Typeform's Data Breach Incident (Chinese Version Only)'. There are also links for 'For Individuals' and 'For Organisations'. The 'A Quick Guide' section is highlighted with a blue arrow.

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