

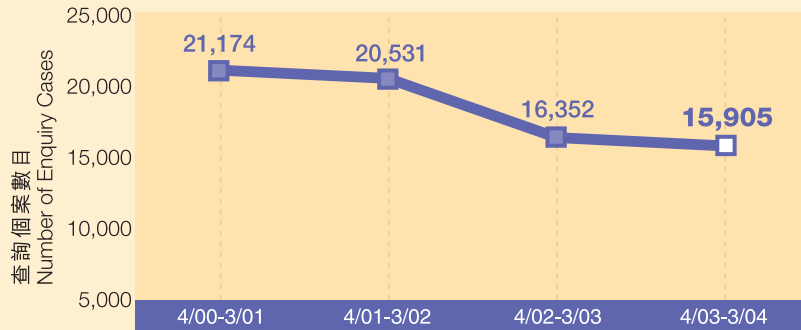


監管工作
Supervising Compliance

在二零零三至零四年度接獲的查詢個案

Enquiries received during 2003-04

圖表1 — 每年的查詢個案
Figure 1 – Annual enquiry caseload

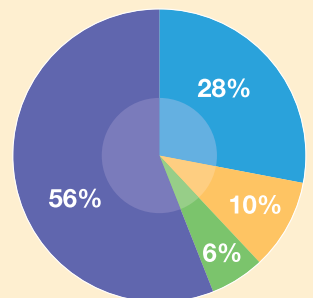


- 本年度公署共接獲15,905宗查詢個案（較上年度輕微下跌了2.7%）。
- 平均每天接獲60宗查詢個案。

- A total number of 15,905 enquiry cases were handled in 2003-04 (a slight decrease of 2.7% in comparison with the previous year).
- On average, about 60 enquiry cases were handled per working day.

圖表2 — 查詢個案的性質
Figure 2 – Nature of enquiry cases

- 個人的私隱權利
Privacy rights of an individual
- 私隱條例的規定
Requirements of the PD(P)O
- 關於公署的資料
About PCO
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Publications produced by PCO

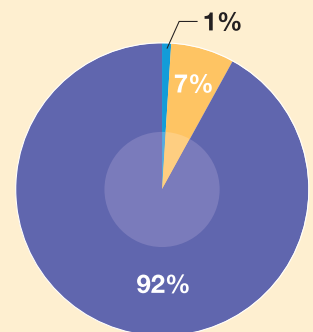


- 超過半數的查詢個案（約56%）與個人在個別情況下的私隱權利有關。

- More than half of the enquiry cases (about 56%) were related to privacy rights specific to an individual's own situation.

圖表3 — 提出查詢的途徑
Figure 3 – Means by which enquiries were made

- 熱線
Hotline
- 親身查詢
In person
- 書面
Written



- 大部份的查詢個案（約92%）是透過公署的查詢熱線電話（2827 2827）提出的。

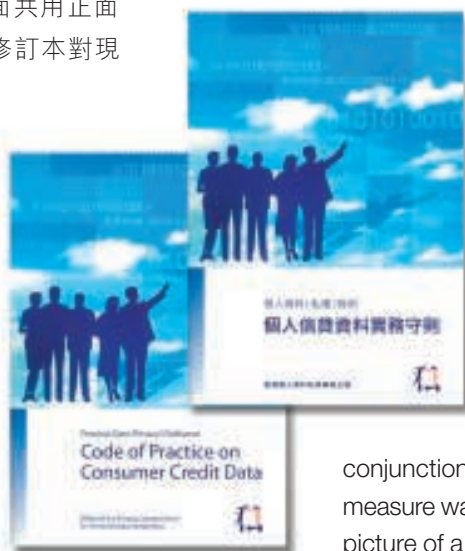
- The majority of the enquiry cases (about 92%) were made to the PCO enquiry hotline.

實務守則

《個人信貸資料實務守則》修訂本

《個人信貸資料實務守則》(下稱「守則」)修訂本由二零零三年六月二日起生效。守則修訂本對信貸提供者透過信貸資料服務機構的中央資料庫共用「正面」及「負面」信貸資料制訂了一套新的規管措施。

守則的修訂本載有嚴格的資料保障措施，以確保在擴大共用信貸資料的範圍的同時，個人資料亦得到相應程度的保障。公署定下了一個24個月的過渡期，令信貸提供者要待至二零零五年六月才可全面共用正面信貸資料，以顧及實施守則修訂本對現有信貸消費者的影響。在過渡期間，信貸提供者只限在某些情況下(例如處理新的信貸申請)，才可使用新的正面資料。這項措施可確保在這24個月期間取得的新資料，在使用於與提供個人信貸有關的其他用途前，可有效地反映出借款人的信用可靠程度。



Code of Practice

Revised Code of Practice on Consumer Credit Data

The revised Code of Practice on Consumer Credit Data ("the Code") took effect on 2 June 2003. The revision sets a new regulatory regime in respect of the sharing of "positive" and "negative" credit data amongst credit providers through the use of a central credit database operated by a credit reference agency.

The revised Code contains stringent data protection safeguards to ensure that the greater sharing of credit data is subject to commensurate levels of protection of the individual's personal data. In anticipation of the impact

the implementation of the revised Code would have upon existing credit consumers, a twenty-four month transitional period was imposed prior to credit providers being able to make full use of the shared positive credit data in June 2005. During the transition period, new positive data may only be used in restricted circumstances e.g. in

conjunction with new credit applications. This measure was designed to ensure that a reliable picture of a borrowers' creditworthiness could be derived from the new data, made available during the twenty-four month period, prior to their being used for other purposes in relation to the provision of consumer credit.

守則修訂本另一項重要的保障措施，是規定信貸資料服務機構每年須聘用獨立審核人，對其運作方式及相關系統進行循規審核。審核集中研究信貸資料服務機構提供個人信貸資料服務的手法。更具體地說，審核會特別審查信貸資料服務機構資料庫內的信貸資料的保安措施，以及所採取的保安措施是否足夠及有效，以符合守則修訂本的規定。首份針對資料處理系統的循規審核報告已於二零零四年初完成，並已呈交公署審閱。其後，私隱專員在二零零四年四月核准有關報告。



私隱專員鄧爾邦先生接受傳媒訪問，解釋《個人信貸資料實務守則》修訂本的詳情。

Privacy Commissioner Mr. Raymond Tang met the press to explain details of the revised Code of Practice on Consumer Credit Data.

自推出守則修訂本以來，公署一直收集市民在這方面的查詢數字。截至二零零四年三月，公署共收到約800宗對守則各方面提出的查詢。查詢者最關注的兩項問題是在甚麼情況下他們可查閱本身的信貸報告，以及信貸提供者須符合甚麼條件才可查閱信貸資料服務機構的資料庫。

Another important safeguard is the provision requiring the credit reference agency to submit its operating practices and related systems to an independent privacy compliance audit, to be conducted on an annual basis. The audit will focus on the way in which the credit reference agency provides consumer credit reference services. More specifically, it will scrutinize the security of consumer credit data held by the consumer credit agency in its database, and the adequacy and efficiency of the measures taken by it to comply with the requirements of the revised Code. The first compliance audit addressing, in particular, the adequacy of the data handling system, was completed in early 2004. The audit report has since been submitted to the PCO and was subsequently approved by the Privacy Commissioner in April 2004.

Since the launch of the revised Code the PCO has been compiling statistics on enquiries received from the public. By March, the PCO has received approximately 800 enquiries from the public on different aspects of the Code. The two most important issues on the minds of enquirers relate to the circumstances under which they may obtain access to their credit report and the conditions under which credit providers may make access to the database operated by the credit reference agency.

監察活動及工作期間的個人資料私隱指引

在二零零三年十二月，公署發表了《監察活動及工作期間的個人資料私隱實務守則草案》的公眾諮詢報告。報告顯示市民一般對公署擬就僱主可在何種情況下使用監察設施，在工作間收集僱員的個人資料發出實務性指引一事表示歡迎。



公署在二零零三年十二月十八日舉行新聞簡報會，發表《監察活動及工作期間的個人資料私隱實務守則草案》的公眾諮詢報告。

The PCO held a press briefing on 18 December 2003 to release the report on the public consultation exercise undertaken in conjunction with the Draft Code of Practice on Monitoring and Personal Data Privacy at Work.

為配合市民在諮詢期間所表達的意見，公署的結論是在目前階段必須對監察活動及工作期間的個人資料私隱問題作出審慎回應。經週詳考慮後，公署決定制訂一套「最佳行事方式」指引，作為鼓勵僱主遵守規定的初步措施。這項決定是考慮過以下因素而作出的：

- 指引可提供一個最佳方案，以平衡僱主的合法權益及僱員的個人資料私隱權益。
- 在監察僱員的濫用資源情況或調查工作間(包括家居)的錯失時，指引可給予僱主較大彈性及酌情權。
- 在勞資關係中，指引容許僱主採用自行規管措施，以符合規定。
- 指引容許僱主同時遵守其他規管措施，從而減低出現與有關規管措施不符或有所衝突的情況。

公署現正草擬這套指引，希望藉此對工作間的監察活動提供一致及連貫性的指引，以及促使僱主在僱員監察活動方面制訂明確的政策。僱員在得知僱主會按照指引保障他們的個人資料私隱權益時會較有安全感。指引能否收到成效，最終須視乎僱主是否願意作出承擔及合作。為保障僱傭雙方的權益，公署相信所有負責任的僱主都會對指引作出正面的回應。

Guidelines on Monitoring and Personal Data Privacy at Work

In December 2003 the PCO released the report on the public consultation exercise undertaken in conjunction with the Draft Code of Practice on Monitoring and Personal Data Privacy at Work. As the report indicates there was, in general, a good measure of support for this initiative that sought to offer practical guidelines in circumstances where employers use monitoring devices to collect the personal data of their employees in the workplace.

In keeping with the general sentiment expressed in submissions made in response to the consultation exercise the PCO has concluded that, at this stage, it would be prudent to take a measured response to the issues pertaining to monitoring and personal data privacy at work. After careful reflection it was decided to formulate “best practice” guidelines as the preferred initial approach towards promoting compliance among employers. This decision was influenced by a number of factors.

- Guidelines would offer an optimal solution in terms of balancing the legitimate interests of employers and the personal data privacy rights of employees.
- Guidelines would offer employers greater flexibility and discretion in the monitoring of any abuses committed by employees, or in investigating any wrongdoing in the workplace, including the domestic household.
- Guidelines permit employers to take a self-regulatory approach towards compliance issues when managing workplace relationships with their employees.
- Guidelines enable employers to comply with other regulatory demands made upon them, thereby reducing the prospect of any inconsistency or conflict with those demands.

The guidelines are currently being drafted and it is intended that the guidelines would offer some consistency and continuity to workplace monitoring practices and hold employers accountable for developing unambiguous policies. To that extent employees should feel more secure in the knowledge that their employers have used the guidelines as a benchmark to protect their personal data privacy rights. The success of these guidelines will ultimately depend upon the commitment and co-operation of employers. The PCO believes that all responsible employers will react positively to the interests the guidelines seek to promote.

檢討建議中的法例

根據私隱條例第8(1)(d)條的規定，私隱專員如認為建議中的任何法例可能對個人資料私隱有所影響，則須審核該等法例，並向建議制定有關法例的人士報告審核結果。香港特別行政區政府各個政策局已獲通知，應盡早在建議立法初期將當中可能對個人資料私隱有影響的事宜知會公署，以便私隱專員執行此職能。此外，公署的法律部亦審閱在政府憲報刊登的所有條例草案，就當中可能對個人資料私隱有影響的條文提出意見。

在本年報期內，公署共對十九條建議中法例（詳見附錄二甲部）提出詢問或意見。附錄二乙部載有公署對部份建議中的法例所提供的意見的撮要。

檢討《個人資料(私隱)條例》

在本年報期內，雖然私隱專員期望《個人資料(私隱)修訂條例草案》能於立法年度內得到通過，但有關當局未能就草案在立法會取得立法時段。草案的目的，旨在修訂條款，幫助公署解決在應用私隱條例的某些條文時所遇到的實際困難，藉以提升效率。該草案主要觸及私隱條例的「技術」層面，而更實質的修訂將會歸入日後的修訂議程。

公署對《個人資料(私隱)條例》的釋義摘要

私隱專員在履行規管職務時經常引用私隱條例的主要條文。出版這本刊物的目的是要就這些主要條文的適用性提供實務性指引。雖然私隱專員無權對私隱條例的條文作出最終詮釋，但仍希望藉着本刊物，與讀者分享公署與時並進及日趨成熟的規管理念及運作立場。

公署在本年報期內正積極擬備這本暫名為「《個人資料(私隱)條例》—主要條文闡析」的刊物。

Review of Proposed Legislation

By virtue of section 8(1)(d) of the PD(P)O, the Privacy Commissioner is required to examine any proposed legislation that he considers may affect the privacy of individuals in relation to personal data, and to report the results of his examination to the person proposing the legislation. To enable the Privacy Commissioner to carry out this function, all Policy Bureaux of the Hong Kong SAR Government have been asked to ensure that legislative proposals that may affect privacy in relation to personal data are notified to the PCO at an early stage. In addition, the Legal Division of the PCO will review all Bills published in the Government Gazette for possible data privacy implications on which comments may be required.

During the reporting period, the PCO raised enquiries or made comments on 19 pieces of proposed legislation as listed in Part A of Appendix II. Summaries of the PCO's comments on some of the proposed legislation are given in Part B of Appendix II.

Review of the Personal Data (Privacy) Ordinance

During the reporting period, no legislative slot could be secured with the Legislative Council regarding the Personal Data (Privacy) Amendment Bill though the Privacy Commissioner has every intention to have the Amendment Bill passed as soon as practicable. The aim of the Amendment Bill is to address some of the practical difficulties encountered by the PCO in the application of certain provisions of the PD(P)O with a view to enhancing its overall effectiveness. The Amendment Bill touches more on the "technical" side of the PD(P)O while more substantial amendments are agenda for further possible amendments.

Notes on the PCO's Interpretation of the PD(P)O

The aim for publishing the booklet is to give practical guidance on the major provisions of the PD(P)O as consistently applied by the Privacy Commissioner in discharge of his regulatory functions. Although the Privacy Commissioner is not empowered to give any definitive interpretation to the provisions of the PD(P)O, the booklet will contain the regulatory philosophy and operational stance of the PCO developed and matured over time.

The preparation work for the booklet "An Analysis of the Core Provisions of the Personal Data (Privacy) Ordinance" was in progress during the reporting period.