

二零零零至二零零一年年報 ANNUAL REPORT 2000-2001



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



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私隱專員簡報

Privacy Commissioner's Overview

引言

這是本人出任私隱專員以來的第五份年報，覆蓋期由二零零零年四月一日至二零零一年三月三十一日。由於本人會於約滿後離開私隱專員公署，故這亦是本人任內的最後一份年報。

在本年報期間，在個人資料私隱方面，公署目睹了多項在本港及國際間的發展，其中一項最大的挑戰來自國際互聯網的應用範圍不斷擴大及電子商業的有關增長。雖然大家對互聯網這個在上一世紀的最大發展交口稱譽，但對那些須為交易或搜集資料而在網上提供個人資料的人士來說，互聯網日益普及所引致的憂慮是與日俱增的。在此方面，香港與美國或歐洲的情況分別不大，我們遲早將會察覺到有些不擇手段的人，利用兒童的天真及某些網上購物及瀏覽者易於受騙的缺點，而在未經有關人士同意的情況下，蓄意利用他們的個人資料作不同用途。



個人資料私隱專員劉嘉敏
Mr. Stephen Lau Ka-men, Privacy Commissioner for Personal Data

Introduction

This will be my fifth report since my appointment as Privacy Commissioner and covers the year from 1 April 2000 to 31 March 2001. It will also be my final report as I will be leaving the PCO at the conclusion of my current contract.

Over the course of the year the PCO witnessed many developments in personal data privacy both within Hong Kong and internationally. One of the greatest challenges comes from the continued expansion of Internet applications and the related growth of E-Business. Although the Internet has been heralded as one of the most significant developments of the past century its sheer popularity has brought with it a marked increase in the anxieties expressed by those who supply personal data online for transaction or information gathering purposes. In this respect Hong Kong is little different from the USA or Europe. It is simply a matter of time before we, in Hong Kong, begin to see the innocence of children and the gullibility of online shoppers and Web browsers being exposed to elements, some unscrupulous, determined to exploit personal data for a variety of purposes for which the consent of the individual has not been sought.

這些挑戰促使公署更積極關注國際互聯網的問題。在我們對電子私隱重視的同時，亦可見到香港及全球某些遭廣泛報導的個案，均與網絡易受黑客干擾，以及敏感性資料未獲授權而被他人使用有關。這些事例處處顯示有必要繼續提高警覺，並且有必要重申，由於電腦世界的迅速發展，對個人資料私隱作出保障實在是刻不容緩。公署繼續教育市民，促使他們處處提高警覺。至於互聯網服務供應商方面，實有必要推行及加強本身的私隱政策、規約及遵守規定程序，以保證所保管的個人資料的完整性。以網上購物作為一個例子，就是由於缺乏保證及全面的保障措施，致令顧客對服務供應商及賣家無信心。香港的多個調查結果顯示，雖然個人電腦已滲入大部分家庭，而且上網亦是一件輕而易舉的事，但網上購物在整體消費開支中仍佔一個很少的比例。這足以證明互聯網使用者對個人資料私隱權利的認識較深，而對向第三者發放個人資料變得愈來愈有介心。

公署的二零零一年意見調查亦發現此情況。當受訪者被問及互聯網廣告商收集他們曾瀏覽的網址的做法所帶來的「利益大於風險」，或是「風險大於利益」時，十個受訪者中有七個認為風險大於利益。這情況的其中一個解釋是受訪者在網上呈交個人資料後，他們對能夠控制該等資料的程度仍然表示關注。只有在消費者對互聯網的運作信任和有信心的情況下，在傳統購物以外的網上人均購物消費才會漸漸有所增加。

在本年報期內，公署曾對兩份分別由衛生福利局及香港金融管理局發表的諮詢文件作出評論。如實施該兩份諮詢文件的建議，便會導致獲授權的第三者可查閱大部分市民的個人資料。公署在意見書內強調讓眾多獲授權的使用者查閱大量高度敏感的個人資料，可能引致個人資料私隱問題。公署會繼續監察有關進展情況，以確保我們向各

It is these challenges that have prompted the PCO to be particularly active on issues relating to the Internet. The importance we have attached to E-Privacy has coincided with some high profile examples in Hong Kong, and around the world, of the vulnerability of networks to hacking and the unauthorised use of sensitive personal data. Incidents such as these make a strong case for continued vigilance and a re-assertion of the view that, given the pace of developments in the cyberworld, the protection of personal data privacy has never assumed greater urgency. We continue to educate the community that caution should be their watchword and that, for service providers, there is a very real need to maintain and upgrade privacy policies, protocols and compliance procedures to guarantee the integrity of personal data entrusted to them. It is the absence of comprehensive measures or guarantees that will continue, in the example of online shopping, to undermine consumer faith in service providers and vendors. Evidence from numerous surveys in Hong Kong indicate that, in spite of the level of household penetration of PC's and Internet access, online shopping amounts to a very small proportion of total consumer expenditure. This is testimony to the view that Internet users are both better informed about their personal data privacy rights and increasingly circumspect about releasing their personal data to third parties.

Our 2001 Opinion Survey is illuminating on this point. When respondents were asked whether the practice of Internet advertisers keeping track of their visits to different websites would bring "benefits greater than risks" or "risks greater than benefits" 7 out of 10 thought the risks would be greater than the benefits. One of the explanations for this finding is that respondents continue to be concerned about the level of control they exercise over their personal data once submitted online. Only when trust and confidence are seen to be the hallmarks of Internet based operations will consumers begin to supplement real world shopping with higher per capita levels of cyber shopping.

Over the course of the year we had the opportunity to comment upon two consultation papers from the Health and Welfare Bureau and the Hong Kong Monetary Authority that put forward proposals that would, if implemented, result in a significant proportion of the community having their personal data accessible to authorised third parties. Our submissions emphasized the personal data privacy issues of having large amounts of highly sensitive

Introduction

公私營機構作出的陳述會提高大家對個人資料私隱的意識。公署的最終目標，是要滲透社會上的每一個階層，將保障個人資料私隱的文化溶入負責保管個人資料的每一間機構。

另一項公署特別感到興趣的發展是入境事務處建議推出智能式身分證。智能咭早已備受國際私隱界關注，而關注程度更可能因智能咭的數目及功能大增而加深。公署建議入境事務處進行私隱影響評估，有系統地評估推出智能式身分證在私隱方面所引致的後果。公署認為這項意見是恰當的，因為入境事務處是第一個考慮如此大規模地發出智能咭的香港政府部門。

在本年報期間，公署其中一項工作重點集中在工作地點的監察活動上，或更適當地說，集中在僱員的監察活動上。美國、英國及澳洲的經驗顯示，由於各種監察科技的費用顯著下降，令致無論規模大小的機構都可購置功能強大的監察軟件，僱員監察活動因而變得日漸普遍。公署在本港進行的研究顯示約有65%的受訪機構最少使用一種監察方法監視僱員的活動，而最令人憂慮的是只有很少的僱主有制訂這方面的政策，並且將有關政策告知僱員，而有些僱員更不察覺到本身已成為被監視對象。

機構固然有需要有效地管理本身的資產，這即意味著每間機構都須處理工作地點的生產力及效率等問題。公署理解此點，故此對管理人員執行管理的權力並無異議。不過，公署的立場是僱員不應只因身在工作地點而須放棄了他們在個人資料私隱的一切權利。公署認為有需要在僱主及僱員的權利之間求取平衡，以公平合理和平衡的手法監察僱員的活動。達致平衡的最佳方法是將合乎比例及透明度的兩項主要原則應用在僱員監察活動方面。年內，公署決定對其他司法區所進行的工作地點監察活動進行比較研究，以制訂一套僱

information available to a large number of authorised users. We will continue to monitor such developments and ensure that our representations to the public and private sector heighten awareness around personal data privacy. Ultimately we want our collective endeavours to permeate all levels of society and engender a privacy culture in those organisations that are repositories of personal data.

Another development of particular interest to the PCO was the proposal put forward by the Immigration Department to introduce a smart identity card. Smart cards have attracted the attention of the privacy community internationally and that is likely to grow as the number of smart cards and their applications multiply. Our suggestion to the Department was that they conduct a Privacy Impact Assessment (PIA) to systematically investigate the privacy consequences of issuing a smart card. We felt this advice to be appropriate because the Immigration Department was the first government department in Hong Kong to contemplate issuing a smart card on such a scale.

One of the major initiatives taken by the PCO during the year focused upon workplace surveillance or, more appropriately, employee monitoring. It is evident from the experience of the USA, the UK and Australia that employee monitoring has become increasingly prevalent as the costs associated with all forms of surveillance technologies have declined significantly, so much so that powerful surveillance software has become affordable irrespective of the size of the employer. Our own research indicates that around 65% of organisations surveyed in Hong Kong engage at least one form of employee surveillance or another. Rather more alarming though are the findings that few employers have formulated and disseminated a policy on the matter to their employees, and that some employees are simply unaware that they are the subject of surveillance.

Clearly there is a need to effectively manage the assets of any organisation and invariably this means addressing the issues of productivity and efficiency in the workplace. The PCO recognises this and does not dispute the legitimacy of the manager's right to manage. However, the position taken by this office is that employees do not forfeit all rights pertaining to personal data privacy simply because they enter the workplace. There is, in our view, a need to strike a balance between the respective rights of

員監察活動實務守則。公署現正擬備這套實務守則的草擬本，稍後會公開徵詢市民的意見。

相信大家都注意到公署一向傳遞的訊息，是個人資料私隱保障應視為機構的一項必然措施，而非強加於機構的措施。對欲採取良好行事方式的各行各業及僱主來說，私隱無疑已成為他們的關注重點。這些機構早已慎重考慮實施私隱政策、程序及提供適當訓練。在這些機構中，私隱已成為基本信念，注入機構的現有文化之中。當市民對本身個人資料的處理方式愈加重視時，種種跡象顯示這方法已收成效。當這些關注反映在人與人之間的交易上，私隱無疑已不再是一個非此即彼的問題。今日，現實或電腦世界的機構是否採取良好的行事方式已不再是問題，而問題的所在是這些機構是否付得起不採取良好行事方式的代價。公署的基本看法是私隱至為重要，這個看法至今仍然維持不變。公署目睹社會各階層對此看法漸加支持，實在感到鼓舞。

employers and employees with a view to implementing fair and equitable practices pertaining to employee monitoring. The best way to strike that balance is to apply the two key principles of proportionality and transparency to employee monitoring. During the year we took the decision to undertake comparative research into workplace surveillance in other jurisdictions with a view to developing a Code of Practice on Employee Monitoring. The draft code is now being developed and will subsequently be subjected to a public consultation exercise.

On a more general note the PCO has been consistent in its message that personal data privacy should be regarded as an organisational imperative rather than an organisational imposition. There is no doubt that privacy has, of necessity, become a focus of attention for businesses and employers that wish to be regarded as best practice organisations. Those that are have given considerable thought to implementing privacy policies, procedures and appropriate training. In these organisations privacy has become a core value within the prevailing culture. The indications are that this approach is paying dividends as the public attaches greater value to the manner in which their personal data is treated. Where that concern reflects in interpersonal transactions there can be no doubt that privacy is no longer an either/or issue. Today, it is not so much a question of whether organisations in the real or cyber world can afford to adopt good privacy practices rather, a question of whether they can afford not to do so. Our fundamental view remains unchanged, which is, that privacy matters. It is encouraging to witness growing support for that view from all quarters of the community.



Introduction

查詢、投訴及調查

公署日常的工作主要包括處理查詢、投訴及進行調查。自本人上次報告這些活動後，由於市民積極行使他們的保障個人資料權利，公署的工作量已大幅上升。年內，公署共收到21,174宗查詢個案，平均每一個工作日收到78宗，即查詢個案每年的增幅達36%。

相比之下，投訴個案的增幅為39%，由去年的568宗上升至本年的789宗。在這些投訴個案中，68%針對私營機構，14%針對公營機構，以及18%投訴個人。大部分的投訴(87%)涉嫌違反保障資料原則的規定，而其餘則涉嫌違反《個人資料(私隱)條例》(下稱「私隱條例」)條文的規定。超過50%的這類投訴涉嫌在未得投訴人同意前，將他們的個人資料使用於原本收集目的以外的目的。

在531宗經審理後獲得進一步處理的投訴個案中，385宗已在本年報期內完結。在這些個案中，38%透過調解得到解決，14%在正式調查後得到解決，26%在作進一步調查後發覺理據不足，以及19%在調查期間由投訴人撤回。至於餘下的3%則不屬私隱條例的管轄範圍。

雖然公署的工作量大增，但本人樂意告訴大家，公署的現有職員在多番努力下已完成了額外的工作量，這顯示公署已切實履行了提高本身生產力及效率的承諾。

Enquiries, Complaints and Investigations

Enquiries, complaints and investigations are at the core of our daily operations at the PCO. Since I last reported on these activities the volume of work has increased significantly as members of the community continue to exercise their rights to protect their personal data. Over the year a total of 21,174 enquiry cases were received, an average of 78 each working day. This amounts to a year-on-year increase of 36% in the caseload.

In comparison, the complaint caseload increased 39%, from 568 cases in the previous year, to 789 in the reporting year. Of those complaints 68% were filed against private sector organisations, 14% against public sector organisations and 18% against third party individuals. The majority of complaints (87%) involved alleged infringements of the data protection principles with the balance alleging infringements of the provisions of the Personal Data (Privacy) Ordinance ("PD(P)O). In excess of 50% of these complaints involved the alleged use of complainant's personal data without their consent for a purpose other than the purpose for which the data were collected.

Of the 531 complaint cases screened-in for handling, 385 were completed during the reporting year. 38% of those cases were resolved by mediation, 14% resolved after formal investigation, 26% were unsubstantiated upon further investigation, 19% were withdrawn by the complainants and 3% were outside the jurisdiction of the (PD(P)O).

In spite of the significant increase in workload I am pleased to report that the higher volume of work was undertaken with existing staffing levels and is indicative of the PCO's commitment to enhanced productivity and efficiency.



實務守則

私隱條例第12條賦權本人在就實務守則的草擬本進行公眾諮詢後核准實務守則。公署年內在這方面的工作繁重，計有：

- 修訂、最終草擬及發出《人力資源管理實務守則》；
- 為修訂《個人信貸資料實務守則》所作的準備工作；及
- 就其他司法區的僱員監察活動作背景研究，藉以闡明公署在僱員監察活動實務守則方面的立場。

公署在完成公眾諮詢後對《人力資源管理實務守則》進行詳細檢討，並根據所收集得的意見，對守則作出明顯的修訂。守則的最終版本在六個月寬限期後，由二零零一年四月一日起生效。早期跡象顯示守則廣為人力資源管理者接受。

《個人信貸資料實務守則》在一九九八年十一月開始生效。自此以後，基於實施守則所取得的經驗，再加上一些足以影響信貸行業的運作的改變，均顯示應對守則作出修訂。公署已完成有關修訂事項，稍後將進行公眾諮詢。

在私隱條例如何適用在僱員監察活動方面，公署的一貫做法是發出清晰指引，並且就良好的處事程序作出明確闡述。僱員監察活動實務守則將公署這個傳統做法加以延續。基於連續兩年的意見調查結果，本人認為現時是公署制訂一套對僱主及僱員雙方都有利的守則的適當時候。這項計劃的首期工作包括對其他司法區的僱員監察活動作詳細的背景研究，藉以帶出在遵守私隱條例規定方面，守則須處理的問題，同時平衡僱主和僱員雙方各自的需要。這是一項較為耗時的工作，公署會在來年，待完成首輪公眾諮詢後報告此計劃的進展情況，這樣會較為恰當。

Codes of Practice

Section 12 of the (PD(P)O) empowers me to approve Codes of Practice provided that the draft version of the code is subject to public consultation. The year was a busy one in terms of Codes of Practice, the highlights being:

- the revision, final drafting and launch of the Code of Practice on Human Resource Management;
- preparatory work for amendments to the Code of Practice on Consumer Credit Data;
- background research into employee monitoring in other jurisdictions with a view to informing the PCO's position on a Code of Practice on Employee Monitoring.

The Code of Practice on Human Resource Management was reviewed in detail after completion of the public consultation exercise, and subject to significant amendments that reflected the views submitted. The final version of the Code was launched with a six month grace period and came into effect on 1 April 2001. The early indications are that the Code has been very favourably received by human resource professionals.

The Code of Practice on Consumer Credit Data first came into practice in November 1998. Since then, experience in enforcing the Code, coupled with changes affecting the operation of the consumer credit industry, have indicated that amendments are desirable. These amendments have been completed and are scheduled to be the subject of a public consultation exercise.

The Code of Practice on Employee Monitoring continues the PCO's tradition of issuing clear guidelines and best practice procedures on the application of the provisions of the (PD(P)O) to employee monitoring. In view of the results obtained in two successive opinion surveys I took the view that it was timely for the PCO to develop a Code that would be beneficial to employers and employees alike. The first phase of this project involved detailed background research into the experience of employee monitoring in other jurisdictions. This exercise generated a series of issues that the Code will address in order for it to comply with the (PD(P)O), and simultaneously balance the respective needs of employers and employees. This is a relatively time consuming project and the PCO will be in a much better position to report on progress next year once the first round of public consultation has been completed.

Introduction

法律事項

公署在年內採取的一項重要法律措施是為資料使用者及法律界人士編製一本手冊，協助他們理解私隱條例的規定及適用範圍。鑑於甚少關於私隱條例條文釋義的法律先例可供援引，本人認為這本手冊有助處理一些在條文的應用方面的法律問題。根據我們在過去多年來處理大批投訴所取得的經驗，公署已有本身的立場，以確保所提供的意見是前後一致的。雖然有關立場並不表示公署對私隱條例所有條文有決定性的詮釋，但一般來說，公署希望藉此為資料使用者和他們的法律顧問，以及法律界人士提供實際指引。

本人的其中一項法定職能是對可能影響個人資料私隱的建議中的條例草案加以審核。在本年報期間，公署在作出周詳考慮後，共對六條條例草案提出法律意見，並且檢討所有在政府憲報發表的條例草案。

公署對諮詢文件的回應

在本年報期間，公署曾對下述四份諮詢文件作出回應：

- 香港金融管理局就成立商業信貸資料庫所作的建議；
- 香港法律改革委員會就規管收債手法發出的諮詢文件；
- 電腦相關罪行跨部門工作小組的報告；及
- 衛生福利局草擬的《醫護改革 -- 你我齊參與健康伴我行》諮詢文件。

香港金融管理局(下稱「金管局」)建議成立商業信貸資料庫的目的，是要讓財務機構可取得更多關於客戶的信貸資料。這項建議的重點是成立一個客戶資料庫，供認可機構查閱。這有助認可機構作出信貸決定及風險管理。雖然公署理解到金融機構在目前經濟氣候下所面對的挑戰，但還是

Legal Agenda

An important legal initiative taken during the year involved the production of a handbook intended to inform and assist data users and the legal profession on the requirements and application of the PD(P)O. Given that there have been few judicial precedents on the interpretation of various clauses of the (PD(P)O), my view is that this document will address some of the legal issues that have arisen in the application of the provisions of the (PD(P)O). Our experience of dealing with a large number of complaint cases over the years has resulted in the PCO developing its own position as a means for ensuring consistency in the advice we provide. Although that position does not amount to a definitive interpretation of all the provisions of the PD(P)O it is intended to provide practical guidance to data users, their legal advisors and the legal profession in general.

One of my statutory duties requires me to examine the provisions of proposed Bills to ascertain whether they will impact upon the personal data privacy of the individual. Over the course of the year the PCO provided a considered legal submission to six Bills as well as reviewing all Bills published in the Government Gazette.

The PCO's Response to Consultation Papers

During the course of the year the PCO had the opportunity to respond to four consultation papers, namely:

- a proposal by the Hong Kong Monetary Authority to establish a Commercial Credit Reference Agency;
- the Law Reform Commission's consultation paper on the Regulation of Debt Collection Practices;
- a report by the inter-departmental working group on Computer Related Crime;
- a consultation document prepared by the Health and Welfare Bureau entitled Life Long Investment in Health.

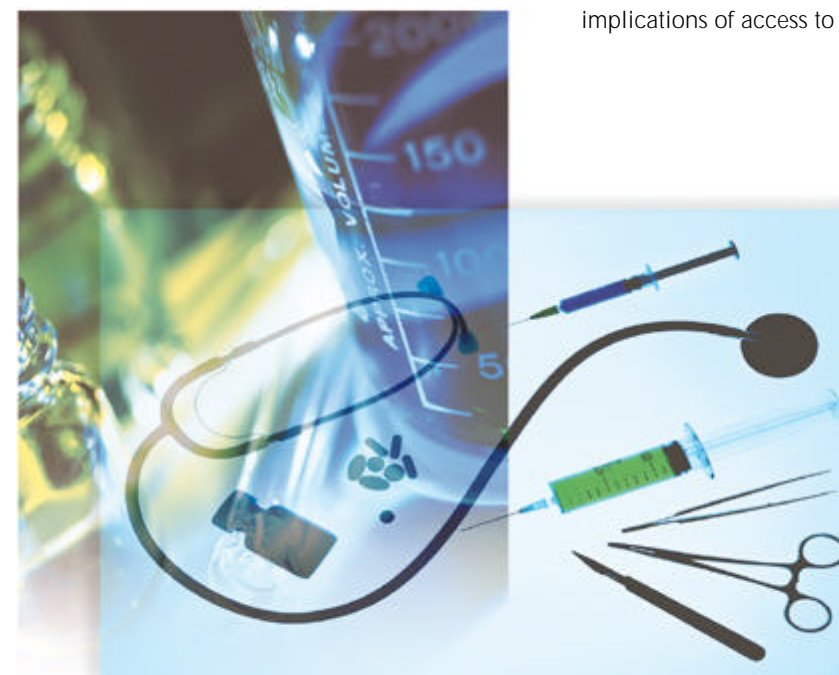
The Hong Kong Monetary Authority's proposal to establish a Commercial Credit Reference Agency is intended to enhance financial institutions' information about their clients' credit exposure. Central to the proposal is the establishment of a client database that could be accessed by authorised

要促使金管局注意設立一個載有高度敏感性資料，其中有些更是個人資料的大型資料庫可能產生的私隱影響。其次，在商業信貸管理方面，尤其是對獨資經營者及合夥經營者來說，則必須設法防止互換個人信貸資料及商業信貸資料。

多份諮詢文件的主題均建議設立一個可儲存大量個人資料的中央資料庫。衛生福利局亦建議設立一個電子醫療資訊系統，初期在公營機構使用，然後逐步擴展至可供所有醫護人員查閱，包括私營醫療機構和福利界營辦的機構的醫護人員。公署對此建議的動機表示讚賞，認為可提供更佳的醫護服務，但卻對眾多醫生及醫療輔助人員均獲授權查閱及使用醫療資料庫會令病人感到憂慮一點表示關注。公署在回應中促使衛生福利局在早期就有關計劃進行私隱影響評估，以評定可查閱終生電子醫療記錄所產生的影響。

institutions (AI). This would assist AI in their decision making and risk management. While appreciating the challenges confronting financial institutions in the current economic climate, the PCO drew the attention of the HKMA to the privacy implications of building a large database containing very sensitive data, some of which are personal data. Secondly, in the case of commercial credit management there is, especially for sole traders and partnerships, the need to prevent the interchange of borrower's consumer credit data and commercial credit data.

A theme that ran through a number of consultation papers was a proposal to establish centralised databases that have the propensity to store vast amounts of personal data. Another illustration of this was provided in a Health and Welfare Bureau proposal to develop a computer-based Health Information Infrastructure. This infrastructure would have its beginnings in the public health sector and extend to allow access to all healthcare providers, including those in the private sector, and ultimately to the welfare sector. The PCO applauds the motive for this suggestion - better healthcare - but is concerned that the number of medical practitioners and ancillary personnel having authorised access to, and use of, the medical database will give rise to expressions of anxiety among patients. In its response the PCO urged the Health and Welfare Bureau to subject the project to a Privacy Impact Assessment (PIA) at an early stage. A PIA would seek to map the implications of access to lifelong electronic health records.



Introduction

關於私隱影響評估方面，公署在年內曾對入境事務處建議以智能式身分證取代現有身分證一事提出意見。公署促請入境事務處注意下述兩個問題：

- 首先，這方面的科技容許大量個人資料集中在一張咭內。如個人的智能咭落入不法之徒手上，則可能出現大量個人資料被披露的情況，立即引起資料保安，以及隨之而來的未經授權而可查閱及使用儲存於咭內及附屬後端資料庫內個人資料的問題。多用途咭的另一真正危險，是儲存於咭內的其中一部分個人資料，可與儲存於咭的其他部分的資料互相對照。

公署認為我們有責任將這些關注事項及智能咭持有人可能無留意的後果告知入境事務處。

- 基於這些理由，以及持有智能咭的人數眾多，公署因而建議入境事務處進行私隱影響評估，以找出智能咭對私隱的影響。我們樂意得悉入境事務處最終接納了這個意見，並且委託顧問公司進行私隱影響評估研究。

On the matter of PIA the PCO had occasion during the year to advise the Immigration Department on the proposal to replace the current Hong Kong identity card with a smart card. Two issues were brought to the Department's notice.

- Firstly, this technology permits a large amount of personal data to be concentrated in one card. In the wrong hands therefore an individual smart card could represent a personal data bonanza. This immediately raises the issue of security and the attendant risks of unauthorised access to, and use of, the personal data stored in the card and associated back-end databases. With multiple application cards another real danger is that personal data stored in one part of the card could be cross referenced with data stored in another part of the card.

We felt that it was our responsibility to inform the Immigration Department of these concerns and the possible unintentional consequences for the smart card holder.

- For this reason, and because the smart card would be so widely held, the PCO suggested that the Immigration Department conduct a PIA to identify the impact of a smart card upon privacy. We were pleased to learn that the Department subsequently accepted this advice and appointed consultants to undertake a PIA study.

二零零一年資料當事人意見調查

公署再次委託香港大學社會科學研究中心進行第五屆一年一度意見調查。今年的資料使用者意見調查作出了重大修改，藉以深入研究某些行業的私隱問題及處事手法。公署挑選該等行業是因為過去的經驗顯示在公署執行部職員所處理的投訴中，有關行業所引致的投訴較多。由於須改動研究設計，故本人現時無法向大家報告有關調查結果，暫時只集中在資料當事人意見調查上。

資料當事人意見調查的目的是：

- 調查市民對個人資料私隱問題的態度及私隱受到侵犯的經驗；
- 研究市民對公署工作的認識和態度；及
- 將這些態度、觀念及經驗與過往的調查結果作出比較，以了解當中的轉變。

總而言之，今年的調查結果與二零零零年的調查結果大致相符，其中一些較重要的結果如下：

- 在各項社會政策的重要性方面，受訪者認為私隱問題是繼就業及空氣污染之後的第三個最重要的問題，比食物衛生、醫療服務、老人護理及性別歧視更為重要。
- 95%受訪者認為公署已成功地提高了市民對個人資料私隱問題的認識。
- 聲稱個人資料在過去12個月曾遭他人濫用的受訪者人數，由二零零零年的30%下降至二零零一年的26%。
- 受訪者對在網上購物仍然非常謹慎，並且對因信用咭資料被截取而招致金錢損失，以及第三者濫用他們在網上發放的個人資料表示關注和感到十分憂慮。
- 受訪者連續第二年表示他們對在工作地點進行的多項監察活動甚為敏感，例如上司截聽他們在工作時間內與朋友的電話談話。在監察活動的侵犯私隱程度方面，有三種手法在十分中取得超過8分。

The 2001 Data Subjects Opinion Survey

The fifth annual opinion survey was again conducted by the Social Sciences Research Centre at the University of Hong Kong. This year substantial revisions were made to the Data Users survey in order to examine in depth the privacy issues and practices of specific sectors of the economy. Those sectors were selected because our experience indicates that they tend to generate the greater number of complaints handled by our operations staff. Because of the changes necessary to the research design it is not possible, at this time, to report on the survey findings. Attention will therefore focus on the Data Subjects survey.

The objectives of the Data Subjects survey are to:

- investigate public attitudes towards personal data privacy, and experiences of its invasion;
- examine public knowledge of, and attitudes towards, the work of the PCO; and
- track changes in attitudes, perceptions and experiences against the results of previous surveys.

In the main the findings of this year's survey are consistent with the findings of the 2000 survey. Some of the more significant findings are as follows.

- In terms of importance as a social policy issue privacy was ranked third by respondents behind employment and air pollution, but ahead of food hygiene, health services, care for the elderly and sex discrimination.
- 95% of respondents felt that the PCO had successfully increased community awareness of personal data privacy issues.
- The number of respondents claiming their personal data had been misused in the preceding twelve months decreased from 30% in 2000 to 26% in 2001.
- Respondents continued to be very cautious regarding purchasing over the Internet and expressed concern that financial loss due to the interception of credit card details, and misuse of personal data divulged online by third parties, were the most worrying aspects of online transactions.
- For the second year running respondents indicated that they were very sensitive towards a number of workplace surveillance practices e.g. the interception by a supervisor of a phone call during working hours with a friend. Three practices in particular scored in excess of 8 out of 10 on a scale of privacy invasiveness.

Introduction

公署舉辦的私隱週的首項活動 — 「新經濟下的電子私隱」研討會。Snapshots taken at the 'E-Privacy in the New Economy Conference', the first event held during the Privacy Week.



推廣及宣傳

一如既往，公署十分重視各項推廣活動，藉以在關乎私隱的問題及發展方面，啟導及影響市民大眾的看法。本人認為這項工作已收成效，不但提高了香港特別行政區市民對個人資料私隱的認識，同時亦加深了他們對足以威脅私隱的事物的理解。我們每年都會進行多項推廣活動，下述兩項活動特別值得一提。

公署去年決定出版一系列電子私隱指南。雖然這系列指南的對象是中層及高層管理人員，但一般讀者亦可能有興趣。公署出版這系列指南的目的，是要促使大家加倍留意在一般情況下隨電子商業出現的私隱問題。公署出版的首本指南名為《建立對電子商業的信任和信心的政策方案》。指南在三月推出，以配合私隱週的各項活動。指南對電子私隱加以探討、闡述建立私隱概念的理據，並且為管理層提供一個實施電子私隱政策的架構。公署正策劃出版系列內的第二本指南，題材為私隱影響評估。

繼在一九九九年九月成功舉辦第二十一屆國際私隱及個人資料保障研討會後，公署決定在二零零一年三月底舉辦私隱週。這項活動是首次在港舉行。第一個項目是為期一日的「新經濟下的電子私隱」研討會，公署邀請了多位國際知名的私隱專家在會上發言。研討會共吸引了 300 名參加者，可說是座無虛席。其後同樣為期一日的亞洲私隱研討會，參加者包括來自區內十個司法區的代表。雖然我們不應因此而自滿，但本人認為香

Promotion and Publicity

We continue to place considerable emphasis upon the value of promotional activities as a means of informing and influencing public opinion about privacy related issues and developments. I think that this emphasis has paid off both in terms of creating awareness of personal data privacy rights in the HKSAR and raising the profile of emergent threats to our privacy. In addition to the broad range of activities that constitute our annual communications strategy two events in particular are worthy of mention.

Last year we took the decision to develop an E-Privacy Handbook series. Although this series is designed to target middle and senior managers it may also be of interest to the lay reader. Our intention with this series is to highlight contemporary privacy issues that emerge from the more general context of E-Business. Our first handbook is titled A Policy Approach to Building Trust and Confidence in E-Business and was launched in March to coincide with Privacy Week. The handbook investigates E-Privacy, builds an argument for embracing the concept, and offers management a framework for implementing an E-Privacy policy. A second title in the series is planned and this will deal with Privacy Impact Assessment.

Following on from the PCO's successful staging of the 21st International Conference on Privacy and Personal Data Protection in September 1999 we took the decision to organise a Privacy Week in late March. This was the first such event of its kind in Hong Kong and began with a one day seminar built around the theme of E-Privacy in the New Economy. Guest speakers were invited from a body of internationally renowned experts in privacy and the event attracted a sell out audience of 300 participants. This was followed by a one day Asian Privacy Forum that was attended by representatives from ten jurisdictions in the region. Without wishing to appear immodest, I think

港已成為區內私隱運動的先鋒，而我們所累積的經驗亦可供區內的保障私隱人士借鏡。私隱週其餘的活動包括講座及巡迴展覽，以娛樂性豐富的形式向青年人傳遞保障私隱的訊息。私隱週的壓軸好戲是電視現場直播的綜合晚會，當晚收看該節目的觀眾高達一百二十多萬人。

that Hong Kong is in the vanguard of the privacy movement in the region and has an accumulated knowledge that is of value to our counterparts in other jurisdictions. The remainder of Privacy Week was occupied with seminars and roadshows where the emphasis was upon entertainment as the medium for conveying the message to a more youthful audience. The week concluded with a live television variety show which attracted in excess of 1.2 million viewers.

結語

本人獲委任為香港的首任個人資料私隱專員，至感榮幸。不過，在出任專員五年後，本人決定離開私隱專員公署，再接受新的挑戰。公署在過去多年來的成就，全賴公署內有使命感及工作效率高的職員的通力合作。本人有機會與他們並肩工作，實在深感高興。本人認為我們已為日後的保障個人資料私隱奠下了穩固的基礎，但我們不應因此而感到自滿，反而更應努力鞏固目前的成果，繼而迎接日後的新挑戰。

本人借此機會歡迎新任個人資料私隱專員，並藉此對專員的工作性質稍作探討。私隱專員公署是一個監管機構，故此對下述三項本質：「信念」、「勇氣」及「務實態度」的要求甚高。如缺乏「信念」，則不能影響市民對個人資料私隱及公署工作的看法。沒有「勇氣」，則很難融和我們這個多元化社會的不同聲音。至於沒有「務實態度」，就很難達致公平和公正的解決方案，以平衡各界的利益。

謹祝新任專員事事順遂，在工作上取得美滿的成果。

Closing Remarks

I regard myself as very fortunate to have been appointed Hong Kong's first Privacy Commissioner. However, after five years in the position I have decided to leave the PCO and take up a new challenge. The successes we have had over the years are, in large part, a tribute to the commitment and productivity of the staff with whom I have had the pleasure to work. I like to think that my colleagues and I have laid a firm foundation for the future but in saying that there are no grounds for complacency. There is much to be done to consolidate the progress made to date, not to mention new challenges to privacy that will arise in the future.

I would like to take this opportunity to welcome the new Commissioner and offer some thoughts on the nature of the job. The PCO is a regulatory body and, as such, makes heavy demands upon three qualities: conviction, courage and pragmatism. Without conviction it is impossible to influence public opinion towards personal data privacy and the work of the PCO. Without courage it is difficult to harmonise the different voices within our pluralist society. Without a pragmatic approach it is difficult to formulate solutions that are responsive to sectoral interests yet fair and impartial.

I wish the new Commissioner every success in developing the work of the PCO.

私隱專員的職責

Duties of the Privacy Commissioner

私隱專員的職責是：

- (一) 監督個人資料私隱專員公署的行政及管理工作；
- (二) 制訂行動方針及程序，以執行《個人資料(私隱)條例》(下稱「私隱條例」)的規定；
- (三) 監察及監管各界遵守私隱條例的規定；
- (四) 行使核准及發出實務守則的權力，為遵守私隱條例的規定提供實務性指引；
- (五) 加強各界對私隱條例的認識和理解，以及促使各界遵守私隱條例的規定；
- (六) 對他認為可能影響個人資料私隱的建議中的任何法例(包括附屬法例)加以審核，以及向建議制定有關法例的人士報告審核結果；
- (七) 視察機構的個人資料系統，包括政府部門及法定法團的系統；
- (八) 在接獲資料當事人的投訴後，或是主動對涉嫌違反私隱條例規定的情況作出調查；
- (九) 就可能對個人資料私隱有不利影響的個人資料處理方法及電腦科技進行研究，以及監察其發展情況；及
- (十) 就互相關注並涉及個人資料私隱的事項，與香港以外任何地方擔任類似資料保障職能的人士保持聯絡及互相合作。

The duties of the Privacy Commissioner are to:-

- (i) oversee the administration and supervision of the PCO;
- (ii) formulate operational policies and procedures to implement the provisions of the Personal Data (Privacy) Ordinance ("the PD(P)O");
- (iii) monitor and supervise compliance with the provisions of the PD(P)O;
- (iv) exercise powers to approve and issue codes of practice providing practical guidance for compliance with the provisions of the PD(P)O;
- (v) promote awareness and understanding of, and compliance with, the provisions of the PD(P)O;
- (vi) examine any proposed legislation (including subsidiary legislation) that the Commissioner considers may affect the privacy of individuals in relation to personal data and report the results of the examination to the persons proposing the legislation;
- (vii) carry out inspections of personal data systems including those of Government departments and statutory corporations;
- (viii) investigate, upon receipt of complaints from data subjects or on his own initiative, suspected breaches of the requirements of the PD(P)O;
- (ix) undertake research into, and monitor developments in, the processing of data and computer technology that may have adverse effects on the privacy of individuals in relation to personal data; and
- (x) liaise and cooperate with persons performing similar data protection functions in any place outside Hong Kong in respect of matters of mutual interest concerning the privacy of individuals in relation to personal data.

政策綱要及主要目標

Mission and Key Goals

政策綱要

公署的政策綱要是：

採取合乎經濟效益及有效率的推廣、監察及監管措施，促使各界人士遵從私隱條例，以確保市民的個人資料私隱得到保障。

主要目標

公署的主要目標是確保：

- 個人認識到作為資料當事人，私隱條例所賦予他們的權利，以及懂得如何行使有關權利；
- 公營機構明白作為資料使用者，它們根據私隱條例須履行的責任，以及懂得如何去履行這些責任；
- 個人及公營機構明白公署所擔當的角色，以及公署如何可以為他們提供協助；
- 以待人有禮及有效率的態度對查詢作出回應，令查詢人士感到滿意；
- 有效地調查及解決投訴，令涉案各方皆感公平；
- 以合乎經濟效益及有效率的方法執行公署的所有其他職能；及
- 所有其他有制定資料保障法例的司法區均認識到香港的保障個人資料私隱法律具有強大的約束力，因而不會干預個人資料自由流入香港。

Mission

The PCO's Mission is:

To secure the protection of privacy of the individual with respect to personal data through promotion, monitoring and supervision of compliance with the PD(P)O in a cost effective and efficient manner.

Key Goals

The PCO's Key Goals are to ensure:

- individuals are aware of their rights as data subjects under the PD(P)O and how to exercise them;
- public and private sector organisations are aware of their obligations as data users under the PD(P)O and how to meet them;
- individuals, as well as public and private sector organisations, are aware of the role of the PCO and how it can assist them;
- enquiries are responded to courteously and efficiently to the satisfaction of the enquirer;
- complaints are investigated and resolved efficiently in a manner that is fair to all parties concerned;
- all other functions of the PCO are carried out cost-effectively and efficiently; and
- all other jurisdictions with data protection laws are aware of the robustness of our law in protecting the privacy of the individual with respect to personal data so as to obviate any interference in the free flow of personal data to Hong Kong.



職員及組織架構

Staff and Organization Structure

公署由私隱專員掌管，負責全面監察和監管私隱條例的施行，並促使各界依從私隱條例的規定，此外，私隱專員亦負責管理公署的整體行政工作。副個人資料私隱專員在公署的整體行政及策劃方面協助私隱專員，同時亦負責與個人資料私隱有關的各項政策問題。

在本年報期完結時，公署的職員編制為34人，分別在下列部門及組別工作：

執行部負責：

- 處理市民及機構就私隱條例提出的查詢；
- 接受市民向私隱專員提出的投訴，並且就投訴採取行動；
- 處理資料使用者提出的自動核對資料程序申請；
- 就可能對個人資料私隱有所影響的事項提供意見；
- 就個人資料系統制定政策及程序，並進行有關視察工作，以及就如何進一步遵守私隱條例規定，向資料使用者提出建議；及
- 就涉嫌違反條例規定的事宜進行調查，並且採取必要的跟進行動，以確保違例者遵守私隱條例的規定。

法律部負責：

- 為公署各方面的工作提供法律意見並處理一切法律事宜；

The PCO is headed by the Privacy Commissioner who has overall responsibility for promoting, monitoring and supervising compliance with the PD(P)O and administering the PCO. The Deputy Privacy Commissioner assists the Privacy Commissioner in the overall administration and strategic planning of the PCO. He also has responsibility for policy issues related to personal data privacy.

The Office had a total establishment of 34 staff at the end of the period under review and was organized into the following divisions:

The Operations Division was responsible for:-

- dealing with general enquiries from members of the public and organizations concerning the provisions of the PD(P)O;
- receiving and taking action on complaints lodged with the Privacy Commissioner;
- handling applications from data users for approval of automated data matching procedures;
- providing advice on matters that may affect the privacy of individuals in relation to personal data;
- developing policies and procedures on and undertaking inspections of personal data systems and making recommendations to the data users concerned for improved compliance with the provisions of the PD(P)O; and
- conducting investigations of suspected breaches of the PD(P)O and taking appropriate follow up action to ensure compliance with its provisions.

The Legal Division was responsible for:

- giving legal advice in respect of all aspects of the work of the PCO and to deal with all legal matters;

- 監察與公署工作有關的海外資料保障法律的發展；
- 檢討可能對個人資料私隱構成影響的現行及建議中的香港法例並作出報告；及
- 代表私隱專員出席法庭及行政上訴委員會的聆訊。

推廣及培訓部負責：

- 策劃及推行推廣及公眾教育活動；
- 為機構舉辦研討會及講座，教育有關機構認識私隱條例的規定；及
- 對新聞界的查詢作出回應並安排記者會。

行政事務部負責：

- 提供行政支援服務，包括財務、人力資源、總務及資訊服務管理等服務；
- 提供翻譯服務；及
- 為個人資料(私隱)諮詢委員會提供秘書支援服務。

政策部負責：

- 就個人資料私隱問題制定政策立場；
- 就私隱專員擬發表意見的問題，進行比較研究及擬備立場書；
- 協助草擬實務守則；

- monitoring developments in overseas data protection laws insofar as they are relevant to the work of the PCO;
- reviewing and reporting on existing and proposed Hong Kong legislation that may affect the privacy of the individual with respect to personal data; and
- representing the Privacy Commissioner in any relevant court or Administrative Appeals Board hearings.

The Promotion and Training Division was responsible for:

- developing and implementing promotion and public education programmes;
- organising seminars and presentations for organisations to educate them about the requirements of the PD(P)O; and
- responding to press enquiries and arranging press briefings.

The Administration Division was responsible for:

- providing administrative support, including financial, human resources, general and information services management;
- providing translation services; and
- providing secretarial support to the Personal Data (Privacy) Advisory Committee.

The Policy Division was responsible for:

- developing policy positions on issues with respect to privacy in relation to personal data;
- undertaking comparative research and drafting position papers on such issues for publication by the Privacy Commissioner; and
- assisting in the preparation of codes of practice.

個人資料(私隱)諮詢委員會及其他委員會 Personal Data (Privacy) Advisory Committee and other Committees

在本年報期間，公署繼續得到個人資料(私隱)諮詢委員會及各個專責小組委員會提供的寶貴意見及協助。個人資料(私隱)諮詢委員會是根據私隱條例的規定成立。至於各個專責小組委員會則由私隱專員根據工作需要而設立。委員會成員在各有關委員會的會議上，以及個別委員在特定的問題上，經常向公署提供意見及給予公署支持。

個人資料(私隱)諮詢委員會

私隱條例第11(1)條訂明須設立個人資料(私隱)諮詢委員會，在個人資料私隱方面或其他與私隱條例的施行有關的事宜，向私隱專員提供意見。個人資料(私隱)諮詢委員會主席一職由私隱專員出任，而委員會的其他成員則由民政事務局長委任。

民政事務局長在二零零零年十月委任下列人士為諮詢委員會成員，任期兩年，由二零零零年十月一日起生效：

陳偉群博士	香港總商會助理總裁	Dr. Chan Wai-kwan	Assistant Director, Hong Kong General Chamber of Commerce
劉進圖先生	明報主筆	Mr. Kevin Lau	Editorial Writer, Ming Pao
林文傑先生	高偉紳律師行律師	Mr. Mark Lin	Solicitor, Clifford Chance
陸觀豪太平紳士	生銀行有限公司 常務董事兼副行政總裁	Mr. Roger Luk, J.P.	Managing Director & Deputy Chief Executive, Hang Seng Bank Limited
徐尉玲太平紳士	香港董事學會行政總裁 富匯業務顧問有限公司 董事總經理	Ms. Carlye Tsui, J.P.	Chief Executive Officer, Hong Kong Institute of Directors and Managing Director, Fansway Business Consultants Limited
韋利文教授	香港大學法律學系教授	Professor Raymond Wacks	Professor of Law and Legal Theory, University of Hong Kong
楊國強太平紳士	易達科技集團有限公司 董事兼行政總監	Mr. Yeung Kwok-keung, J.P.	Managing Director, EC Com Limited
副民政事務局長或民政事務局首席助理局長			Deputy Secretary for Home Affairs or Principal Assistant Secretary for Home Affairs

During the reporting period, the PCO continued to receive invaluable advice and support from the Personal Data (Privacy) Advisory Committee, established under the PD(P)O and from the various task-oriented committees the Privacy Commissioner has set up. Advice and support were rendered by members of various committees both during the meetings of those committees, and on an individual basis, with respect to specific issues that have arisen from time to time.

Personal Data (Privacy) Advisory Committee

Section 11(1) of the PD(P)O provides for the establishment of the Personal Data (Privacy) Advisory Committee to advise the Privacy Commissioner on matters relevant to the privacy of individuals in relation to personal data or otherwise relevant to the operation of the PD(P)O. The Privacy Commissioner is Chairman of the Personal Data (Privacy) Advisory Committee and its other members are appointed by the Secretary for Home Affairs.

In October 2000, the Secretary for Home Affairs appointed the following persons to be members of the Committee for a period of two years with effect from 1 October 2000:



個人資料(私隱)諮詢委員會成員
前排(左起)：徐尉玲太平紳士、劉嘉敬專員、陸觀豪太平紳士
後排(左起)：吳漢華先生(民政事務局首席助理局長)、陳偉群博士、楊國強太平紳士、陳杰齋先生(秘書)
缺席：劉進圖先生、林文傑先生、韋利文教授
Members of the Personal Data (Privacy) Advisory Committee
Front row (from left) : Ms. Carlye Tsui, J.P., Mr. Stephen Lau, the Privacy Commissioner, Mr. Roger Luk, J.P.
Back row (from left) : Mr. Ng Hon-wah (Principal Assistant Secretary for Home Affairs), Dr. Chan Wai-kwan, Mr. Yeung Kwok-keung, J.P., Mr. George Chan (secretary)
Absent : Mr. Kevin Lau, Mr. Mark Lin, Professor Raymond Wacks

個人資料(私隱)諮詢委員會在一九九六年十月三十一日舉行的首次會議上通過的職權範圍詳情如下：

就任何與個人資料私隱有關的事宜，或與私隱條例的施行有關的其他事宜，向私隱專員提供意見，包括就與下述事宜有關的政策提供意見：

- (i) 制訂及核准實務守則，為依從私隱條例的條文提供實務性指引；
- (ii) 舉辦宣傳活動，包括發出指引資料，以加強市民對私隱條例的認識和理解，以及促使各界人士依從條例的規定；
- (iii) 可能對個人資料私隱有影響的建議中的法例；
- (iv) 對個人資料系統進行視察；
- (v) 處理查詢和投訴，以及進行調查；
- (vi) 就涉嫌違反私隱條例規定的事宜行使執法權力，以及進行刑事法律程序；
- (vii) 資料使用者申報表，包括指明須向私隱專員呈交資料使用者申報表的資料使用者類別；
- (viii) 核准核對程序；
- (ix) 訂定收費及表格的規格；
- (x) 可能對個人資料私隱有影響的科技發展；及
- (xi) 將個人資料移轉至香港以外地方，包括訂明哪些司法區對個人資料私隱的保障程度可與香港相比。

The detailed terms of reference adopted by the Committee at its first meeting on 31 October, 1996 are as follows:

To advise the Privacy Commissioner upon any matter relevant to the privacy of the individual in relation to personal data or otherwise relevant to the operation of the PD(P)O, including the giving of advice on policy matters in relation to:

- (i) the preparation and approval of codes of practice that give practical guidance on compliance with the provisions of the PD(P)O;
- (ii) activities to promote awareness and understanding of, and compliance with, the PD(P)O, including the issuing of guidance material;
- (iii) proposed legislation that may affect the privacy of individuals in relation to personal data;
- (iv) the carrying out of inspections of personal data systems;
- (v) the handling of enquiries and complaints, and conduct of investigations;
- (vi) the use of enforcement powers and the instigation of criminal proceedings in relation to alleged breaches of the PD(P)O;
- (vii) data user returns, including specification of classes of data users required to submit returns to the Commissioner;
- (viii) the approval of matching procedures;
- (ix) the setting of fees and specification of forms;
- (x) technological developments that may affect the privacy of the individual; and
- (xi) the transfer of personal data to places outside Hong Kong, including the specification of jurisdictions as having a comparable level of protection for privacy in relation to personal data.

I n t r o d u c t i o n

在本年報期間，個人資料(私隱)諮詢委員會舉行了第十二及十三次會議。

第十二次會議在二零零零年八月十七日舉行。各成員對選擇性資料使用登記計劃、《人力資源管理實務守則》的最終草擬本，以及二零零零年個人資料私隱意見調查的報告進行討論。

在二零零一年一月十五日舉行的第十三次會議上，委員會對在工作地點進行監察活動的實務守則的擬備工作的進展報告、就違例「匿名」招聘廣告進行的抽樣審查報告，以及擬在「二零零一年私隱週」舉行的活動進行討論。公署亦同時在會議上向委員會簡報了執行部和推廣及培訓部近期的工作。

各界人士可要求取得個人資料(私隱)諮詢委員會及私隱專員成立的各個委員會的議程、文件及會議紀錄的複本，但須繳付有關資料的影印費用。

During the period under review, the Committee met for the twelfth and thirteenth time.

At the twelfth meeting of the Committee held on 17 August 2000, members discussed a final report of a Selective Data User Registration Scheme, a final draft Code of Practice on Human Resource Management and a report on the 2000 Opinion Survey.

At the thirteenth meeting of the Committee held on 15 January 2001, members discussed a progress report on the preparation of a Code of Practice on Workplace Surveillance, a report on the sample check exercise conducted in relation to illegal "blind" recruitment advertisements and an information paper on the activities planned for "Privacy Week 2001". The Committee was also briefed on the current work of the Operations Division and the Promotion and Training Division.

Copies of all the agenda, papers and minutes of meetings of the Personal Data (Privacy) Advisory Committee and other committees established by the Privacy Commissioner are available on request and payment of a fee to cover photocopying costs.

科技發展常務委員會

根據私隱條例第(8)(1)(f)條的規定，私隱專員須對資料處理及電腦科技進行研究及監察其發展情況，以顧及該等發展在個人資料方面，對個人私隱可能產生的不良影響。公署已成立一個科技發展常務委員會，以協助私隱專員履行此等職能。常務委員會的成員如下：

林永康先生	副個人資料私隱專員 (主席)	Mr. Tony Lam	Deputy Privacy Commissioner for Personal Data (Chairman)
劉嘉敏先生	個人資料私隱專員	Mr. Stephen Lau	Privacy Commissioner for Personal Data
楊國強太平紳士	易達科技集團有限公司董事兼行政總監	Mr. Yeung Kwok-keung, JP	Managing Director, EC Com Limited
沈運申教授	創新科技署科學顧問	Prof. Vincent Yun Shen	Science Advisor, Innovation and Technology Commission
黃仲翹博士	Managing Partner, 永泰資訊科技有限公司	Dr. C.K. Wong	Managing Partner, iASPEC Technology (HK) Limited
白景崇博士	香港特別行政區政府中央政策組顧問	Dr. J. Bacon-Shone	Member, Central Policy Unit, Hong Kong Government SAR
江偉先生	江卓高集團有限公司主席	Mr. Con Conway	Director, TicketNet Holdings Limited
梁顯義先生	個人資料私隱專員公署高級個人資料主任(秘書)	Mr. Kenneth Leung	Senior Personal Data Officer, PCO (Secretary)

委員會在本年報期間舉行了兩次會議，公署在會議上就政府推出智能式身分證的建議徵詢各委員的意見。預計智能式身分證不單可作識辨個人的身分，同時內置其他增值用途，以加強政府服務的效率，並且有利市民，例如方便使用及易於取覽當中的資料。委員會亦就「監察僱員」實務守則的擬備工作進行討論。此外，公署更就工作地點監察活動所應用的最新科技的發展趨勢，徵詢各成員的意見。

Standing Committee on Technological Developments

By virtue of section 8(1)(f) of the PD(P)O, the Privacy Commissioner is required to undertake research into, and monitor developments in, the processing of data and computer technology in order to take account of any likely adverse effects such developments may have on the privacy of individuals in relation to personal data. To assist the Privacy Commissioner in carrying this function, a Standing Committee on Technological Developments has been established comprising the following members:

During the period under review, two meetings of the Committee were held in which members were consulted on privacy matters concerning the Government's proposal to introduce a smart identity card. The smart identity card is expected to serve not only to identify an individual, but also to have value-added applications built into the card to enhance efficiency of government services as well as to provide benefits, such as convenience and access, to the community. Another matter discussed by the Committee related to the preparation of the Code of Practice on "Employee Monitoring". Members were consulted on the latest trends in technology deployed in the workplace as a means of monitoring employees.

私隱權時全面



活動報告

Report
on Activities



《個人資料(私隱)條例》的關釋的演變過程

假

2000 - 2001 Milestones

05/2000

與香港電台攜手製作《私隱事件簿》劇集，從中探討多項與個人資料私隱有關的問題

Co-produced a series of docu-drama episodes 《私隱事件簿》 with Radio Television Hong Kong to highlight issues related to personal data privacy

2000

06/2000

發出《個人資料私隱：競選活動指引》

保障資料主任聯會舉行第二次會議

Issued the guidance document "Personal Data Privacy: Guidance on Electioneering Activities"

Held the second Data Protection Officers' Club meeting

08/2000

發出《個人資料私隱：流動電話服務供應商指引》

Issued a guidance document on "Personal Data Privacy: Guidance for Mobile Service Operators"

09/2000

發出《人力資源管理實務守則》及《僱主及人力資源管理者指引》

個人資料私隱專員參加在意大利舉行的第二十二屆國際資料保障專員會議

就香港金融管理局所發出的《成立商業信貸資料庫建議》提交意見書

就法律改革委員會發出的《規管收債手法諮詢文件》提交意見書

Issued a Code of Practice on Human Resource Management and a Compliance Guide for Employers and HRM Practitioners

Privacy Commissioner attended the 22nd International Conference of Data Protection Commissioners in Italy

Made a submission in response to the Hong Kong Monetary Authority's "Proposal to Establish a Commercial Credit Reference"

Made a submission in response to the Law Reform Commission's "Consultation Paper on the Regulation of Debt Collection Practices"

10/2000

保障資料主任聯會舉行第三次會議

Held the third Data Protection Officers' Club meeting

12/2000

與香港浸會大學劇社合辦話劇表演，以提高市民對保障個人資料私隱的意識

Co-produced drama shows with members of Hong Kong Baptist University Dramatics Club to raise awareness of personal data privacy protection among members of the public

01/2001

進行第五次一年一度的「公眾對《個人資料(私隱)條例》的態度及條例的實施情況」意見調查

就保安局發出的《電腦相關罪行跨部門工作小組報告書》提交意見書

Conducted the fifth annual opinion survey on the "Personal Data (Privacy) Ordinance: Attitudes and Implementation"

Made a submission in response to the Security Bureau's "Report of the Inter-departmental Working Group on Computer Related Crime"

2001

02/2001

參加「教育及職業博覽2001」

Participated in the "Education & Careers Expo 2001"

03/2001

舉辦「私隱週」，以提高市民對個人資料私隱保障的意識

舉辦「新經濟下的電子私隱」研討會

主辦「亞洲個人資料私隱研討會」

發出《電子私隱：建立對電子商業的信任和信心的政策方案 -- 管理策略指南》

就衛生福利局發出的《醫護改革諮詢文件：你我齊參與 健康伴我行》提交意見書

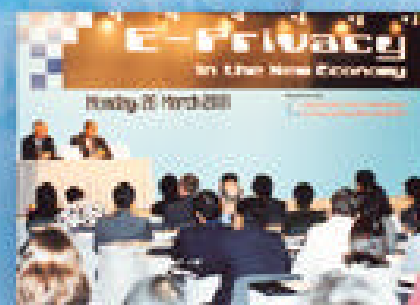
Launched "Privacy Week" to raise awareness of personal data privacy protection in the community

Held the "E-Privacy in the New Economy" Conference

Hosted the Asian Personal Data Privacy Forum

Issued a management handbook on "E-Privacy -- A Policy Approach to Building Trust and Confidence in E-Business"

Made a submission in response to the Health & Welfare Bureau's "Consultation Paper on Healthcare Reform - Life Long Investment in Health"



行動
Operations

二零零零年四月至二零零一年三月接獲的查詢 Enquiries Received Between 4/2000 - 3/2001

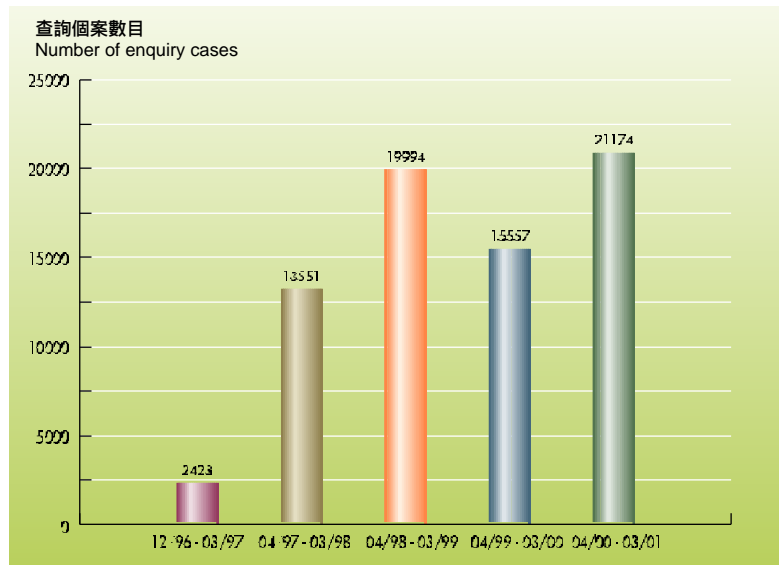
在本年報期間，公署共處理了 21,174 宗查詢個案，每個工作天平均約收到 78 宗個案。與一九九九年至二零零零年收到的 15,557 宗查詢比較，本年度的查詢個案比去年同時上升 36%。

In the reporting period, the PCO handled a total of 21,174 enquiry cases. On average, some 78 cases were received per working day. Compared with 15,557 enquiry cases received in 1999-00, this represents a 36% year on year increase in the enquiry caseload.

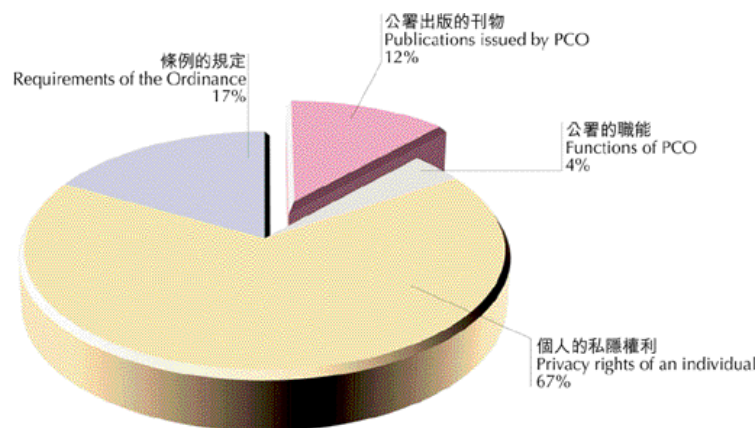
在本年報期內處理的 21,174 宗查詢個案中，約 67% (14,127 宗) 與個人在某種情況下的私隱權利有關，17% (3,691 宗) 關乎私隱條例條文的應用，另 12% 的個案查詢公署出版的刊物及要求取得有關刊物。至於餘下的 4% 查詢，則與公署的職能有關。

Of the 21,174 enquiry cases handled in the period under review, approximately 67% of them (14,127) were queries related to privacy rights specific to an individual's own situation. A further 17% (3,691) were queries related to the application of the requirements of the PD(P)O. Another 12% related to queries and requests about publications issued by the PCO. The remaining 4% involved queries concerning the functions of the PCO.

圖表一 — 每年的查詢個案
Figure 1 - Annual enquiry caseload



圖表二 — 查詢個案的性質
Figure 2 - Nature of enquiry cases



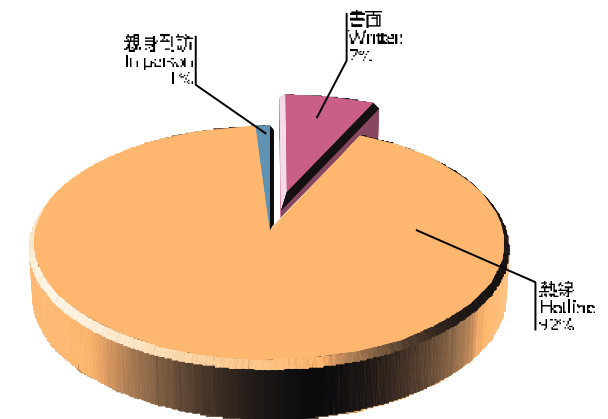
在本年報期內，公署的熱線電話（電話號碼：2827 2827）共處理了 19,389 宗查詢。其中 99% 的熱線查詢已由公署負責處理查詢的人員即時作出回應或在兩日內回覆。

公署接獲的書面查詢是以信件、傳真及電子郵件提出的。在本年報期內，公署共處理了 1,578 宗書面查詢，其中 89% 在 28 日內已收到公署的實質回覆。

In the reporting year, the PCO handled 19,389 calls on the enquiry hotline (telephone number 2827 2827). Of these, 99% received an immediate response or a callback from PCO enquiry officers within 2 days.

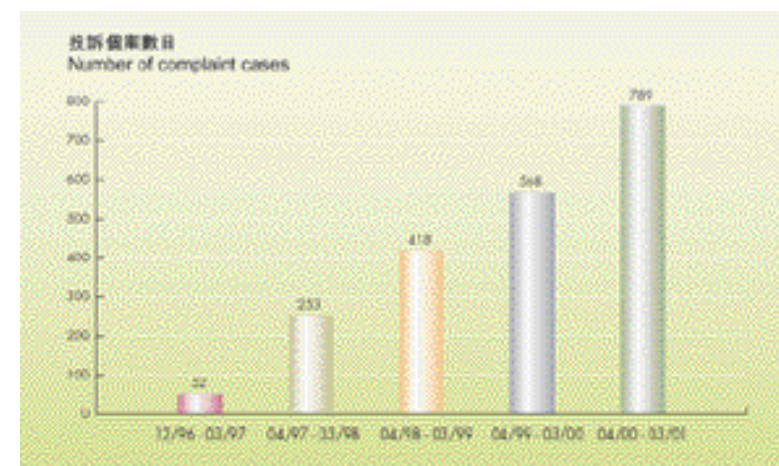
Written enquiries are received by the PCO in the form of letters, faxes or e-mail. In the reporting year, a total of 1,578 written enquiries were handled. Of these, 89% received a substantive reply within 28 days.

圖表三 — 接獲查詢的途徑
Figure 3 - Means by which enquiries were made



二零零零年四月至二零零一年三月接獲的投訴 Complaints Received Between 4/2000 - 3/2001

圖表四 — 每年的投訴個案
Figure 4 - Annual complaint caseload

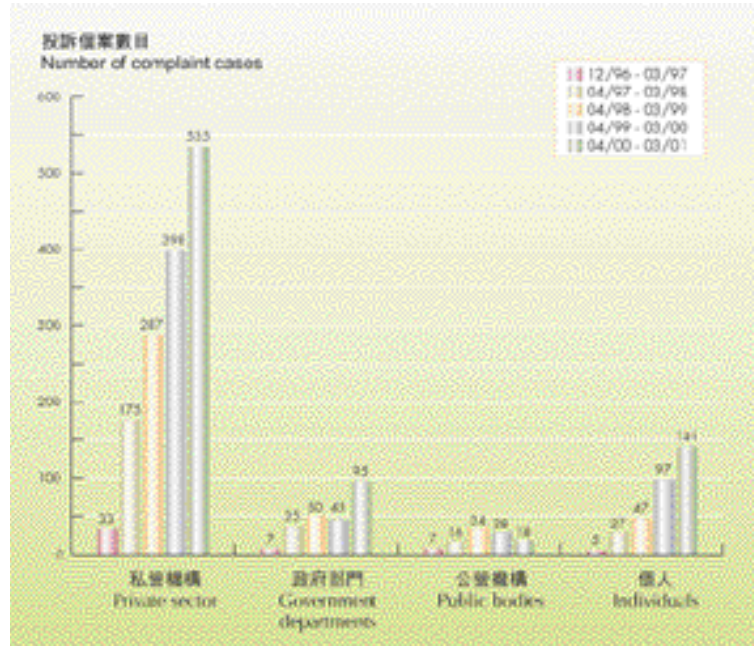


在本年報期內，公署接獲 789 宗可能違反私隱條例規定的新投訴。與一九九九年至零零年度接獲的 568 宗個案比較，本年度的投訴個案比上年同期上升了 39%。

In the reporting year, the PCO received 789 new complaints of possible breaches of the PD(P)O. Compared with 568 complaints received in 1999-00, this represents a 39% year on year increase in the complaint caseload.

Report on Activities

圖表五 — 被投訴者的類別
Figure 5 - Types of party complained against



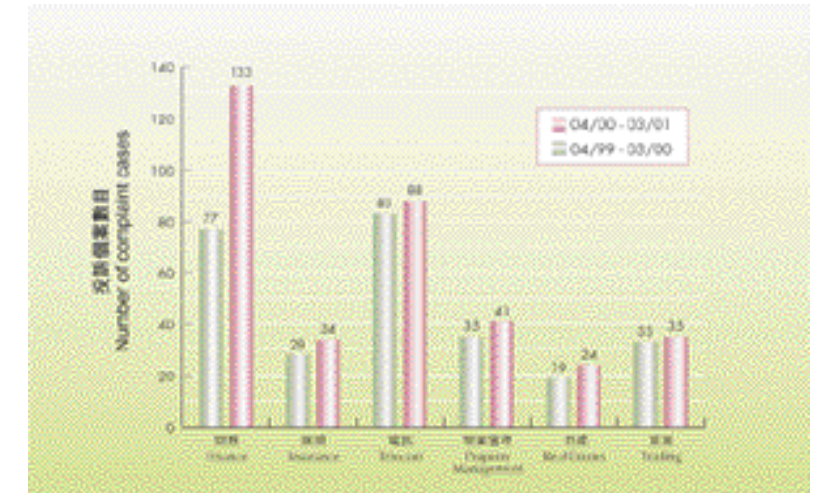
在公署於本年報期內接獲的 789 宗投訴個案中，68% 的個案(535宗)投訴私營機構，與一九九九年至零零年度接獲的 398 宗比較，這類投訴的升幅為 34%。

另外，14% 的個案(113宗)投訴公營機構。至於餘下的 18%(141宗)個案則投訴個人。

Of the 789 complaints received in the reporting period, 68% of them (535) were complaints against private sector organisations. Compared with 398 cases received in 1999-00, this represents a 34% increase in this category of complaints.

A further 14% (113) were complaints against public sector organisations. The remaining 18% (141) were complaints lodged against a third party individual.

圖表六 — 私營機構的投訴的分類
Figure 6 - Breakdown of complaints against private sector organisations



在投訴私營機構的 535 宗個案中，25%(133宗)與財務機構的處事手法有關，與上一年度所接獲的同類投訴個案(77宗)比較，升幅幾達一倍。大部分這類投訴與財務機構所僱用的收數公司在追討欠帳中使用個人資料及有關資料的保安事宜有關。

另外 16%(88宗)是投訴電訊業的，大部分與流動電話公司使用不準確的用戶資料向無辜的第三者採取收數行動，以追收未清繳的服務費用有關。

右圖表顯示在本年報期間及過往一年被投訴最多的行業的投訴數字。

Of the 535 complaints against private sector organisations, 25% of them (133) involved allegations relating to the practices of finance institutions. This was close to double the number of complaints in this category received in the previous reporting year (77). The majority of these complaints related to the use and security of personal data in recovery actions for overdue loan payments by appointed debt collectors of these institutions.

A further 16% (88) were complaints against the telecommunication industry, the majority of which related to inaccurate information about subscribers of mobile phone companies. As a result of inaccurate information, actions to recover unsettled service payment were aimed at innocent third parties.

The above figure shows the number of complaints received by the most significant industry sectors in the year under review and the previous year.

關於違反《個人資料(私隱)條例》的行為或手法的概述

Highlights of acts or practices found in contravention of the PD(P)O

下文列述了八宗公署在二零零零年至二零零一年對投訴進行調查時所發現的一些違反私隱條例規定的行為或手法。公署是基於有關事件的實況作出挑選，旨在述明受私隱條例(包括保障資料原則)管限的各種行為。

Provided below are brief illustrations of 8 cases of the acts or practices that were found to have contravened the requirements of the PD(P)O in our complaint investigations in 2000-01. They are selected on the basis of the subject matter and demonstrate the wide variety of conduct that are subject to the requirements of the PD(P)O, including those of the Data Protection Principles ("DPPs").

投訴個案簡述一/零一

Complaint Case Notes 1/01

監察僱員在工作間的活動 — 保障資料第1(2)原則
Monitoring of employee's activities in the workplace - DPP 1(2)

上司在僱員不知情或未經僱員同意的情況下，暗自在辦公室安裝了一部攝錄機拍攝僱員的活動。上司聲稱只欲利用記錄下來的資料來證實下屬的工作表現欠佳。不過，此舉違反了僱主的內部政策。在該等情況下，收集下屬工作時的記錄資料相等於用不公平的方法收集個人資料，因此違反了保障資料第1(2)原則的規定。

A supervisor was found to have placed a video camera covertly in the office to record his subordinate's activities without the latter's knowledge or consent. The supervisor claimed that the recorded information was intended to be used as evidence to prove that the subordinate was performing poorly in his work. However, this was done contrary to the internal policy of the employer. In these circumstances, the collection of the recorded data of the subordinate's work performance amounts to collection of personal data by means that are unfair, and contrary to the requirements of DPP1(2).

投訴個案簡述二/零一

Complaint Case Notes 2/01

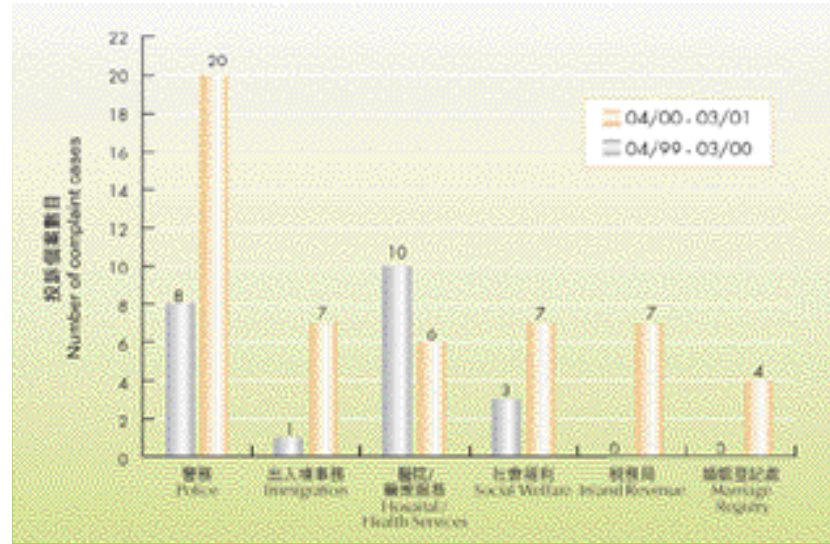
不公平收集客戶的資料 — 保障資料第1(2)原則
Unfair collection of customers' data - DPP1(2)

一名投資顧問受僱於本地一間銀行向客戶推介投資機會。在此情況下，他獲授權查閱銀行的客戶資料庫。他後來辭掉銀行的工作並加入銀行的競爭機構，職位同樣是投資顧問。離開銀行前，他取走了銀行的客戶資料，並利用該等資料聯絡客戶，向他們推介他的新僱主的金融產品。不過，此舉違反了他與之前工作的銀行之間的服務條件。此外，該銀行已制訂非常嚴謹的內部政策，聲明不得將客戶的資料使用於銀行業務以外的任何目的。在此情況下，該投資顧問收集銀行客戶資料的方法，有違保障資料第1(2)原則的規定。

An investment consultant worked for a local bank to promote investment opportunities to its clients. In this capacity he was given the authority to access the bank's customer database. Later he left the bank and joined a rival institution in the same capacity as an investment consultant. Prior to his departure from the bank, he took into his possession records of the bank's customers' details and used the data to approach these clients to market his new employer's finance products. However, this was done contrary to the terms of employment he had with the bank that he had previously worked for. Furthermore, the bank had an internal policy that customers' data should not be used for purposes other than purposes related to its banking business. In these circumstances, the investment consultant had collected personal data of the bank's customers in a manner that was contrary to the requirements of DPP1(2).

Report on Activities

圖表七 — 公營機構的投訴的分類
Figure 7 - Breakdown of complaints against public sector organisations



在投訴公營機構的113宗個案中，84%(95宗)投訴政府部門及16%(18宗)投訴非政府公營機構。在這113宗個案中，大部分投訴涉嫌與未經有關個人同意而披露他們的個人資料(36%)及未能依從查閱資料要求(26%)有關。

Of the 113 complaints brought against public sector organisations, 84% (95) were against government departments and 16% (18) were against non-government public sector organisations. The majority of the 113 complaint cases concerned alleged disclosure of personal data without the consent of the individual (36%) and non-compliance with data access requests (26%).

右圖表顯示在本年報期內及去年被投訴最多的公營機構的投訴數字。

The above figure shows the number of complaints against the most significant public sector organisations in the year under review and the previous year.

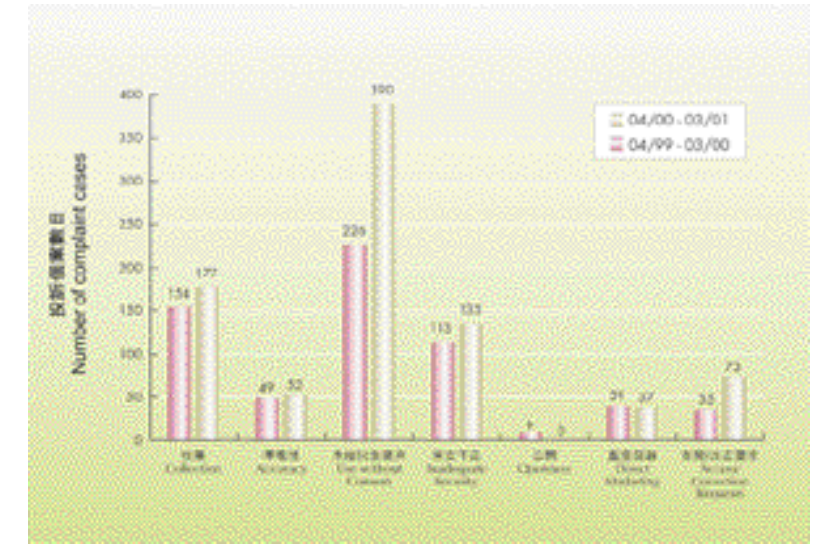
投訴個案簡述三/零一
Complaint Case Notes 3/01

Unauthorized use of customers' data - DPP3
未經授權使用客戶的資料 — 保障資料第3原則

一間收數公司代表多間財務機構向客戶追收欠帳，因而獲提供欠帳人的個人資料，作追收欠帳之用。其後，該收數公司利用欠帳人的資料成立本身的資料庫，並且從事信貸資料業務，向其他財務機構提供信貸報告服務。有關收數公司的作為違反了保資料第3原則的規定，因該公司將原本作追收欠帳用途的欠債人資料，使用於有異於原本的收集目的，即使用有關資料提供信貸報告。

A debt collection agency acted as agent for a number of financial institutions to recover outstanding debts from their customers. It was thus provided with personal data relating to these debtors for the purpose of debt recovery. Subsequently, the agency set up a database of its own with the debtors' information and entered into business as a credit reference agency by providing credit reporting services to other financial institutions. This practice was in contravention of the requirements of DPP3 as it had used the debtors' data provided for the purpose of debt recovery for another purpose, credit reporting, which was not the original purpose for which the data were collected.

圖表八 — 投訴的性質
Figure 8 - Nature of complaints



二零零零年至二零零一年度接獲的789宗投訴個案共涉及864項涉嫌違反私隱條例的規定。在這些違例事項中，754項(87%)涉嫌違反保障資料原則的規定，而其餘110項(13%)則涉嫌違反私隱條例的主要條文。

The 789 complaints received in 2000-01 involved a total of 864 alleged breaches of the requirements of the PD(P)O. Of these, 754 (87%) were alleged breaches of the data protection principles and 110 (13%) were alleged breaches of provisions in the main body of the PD(P)O.

在754宗涉嫌違反保障資料原則的事項中，52%(390項)的個案涉及在未獲投訴人同意前，涉嫌將個人資料用於不同於原有的收集資料目的。在這些個案中，財務機構與非金融服務供應商在「聯合推廣活動」中的手法備受大家關注。在這些投訴中，有關財務機構涉嫌在未獲客戶的同意前，將他們的個人資料移轉給伙伴機構，藉以向客戶提供預先批核的非金融服務，例如保險產品。公署亦接獲針對保險公司的類似投訴。在這些個案中，與保險公司舉辦「聯合推廣活動」的財務機構，在未得客戶同意前，向他們簽發預先批核的信用卡。

Of the 754 alleged breaches of the data protection principles, 52% (390) of them concerned the alleged use of personal data of complainants without their consent for a purpose other than the purpose for which the data were collected. In this category, a matter of growing concern relates to practices of financial institutions that engage in "joint promotion programs" with other non-financial service providers. In these complaints, financial institutions were alleged to have transferred their customers' personal data, without the customers' consent, to a partner organisation for the purpose of offering pre-approved non-financial services such as insurance products. Similar complaints were made against insurance companies where policyholders were issued with pre-approved credit cards, without the customers' request or consent, by partner financial institutions that engaged in "joint promotion programs" with insurance companies.

Report on Activities

另23%(177項)涉嫌違反保障資料原則的個案則用不公平方式收集個人資料及收集過多個人資料的規定，而其中53宗與收集身分證號碼及副本有關。另外18%(135項)的投訴涉嫌與個人資料保安不足有關，其中58宗涉及公開展示個人資料。

在110宗涉嫌違反私隱條例的主要條文的事項中，37宗涉嫌違反私隱條例第34條，即涉及將個人資料作直接促銷用途。至於其餘73宗違例事項則與私隱條例第19及23條，即依從查閱資料要求及改正資料要求有關。

Another 23% (177) of the 754 alleged breaches of the data protection principles concerned allegations of unfair and excessive collection of personal data. Of these, 53 cases related to the collection of identity card numbers and copies of the identity card. A further 18% (135) of these complaints concerned allegations of failure to ensure adequate security in relation to personal data, of which 58 cases related to the public display of personal data.

The 110 cases of alleged breaches of the main body of the PD(P)O included 37 cases alleging non-compliance with section 34 of the PD(P)O on the use of personal data in direct marketing. The remaining 73 cases related to alleged breaches of sections 19 and 23 of the PD(P)O on compliance with data access and correction requests.

圖表九 — 二零零零年至二零零一年處理的投訴摘要
Figure 9 - Summary of complaints processed in 2000-01

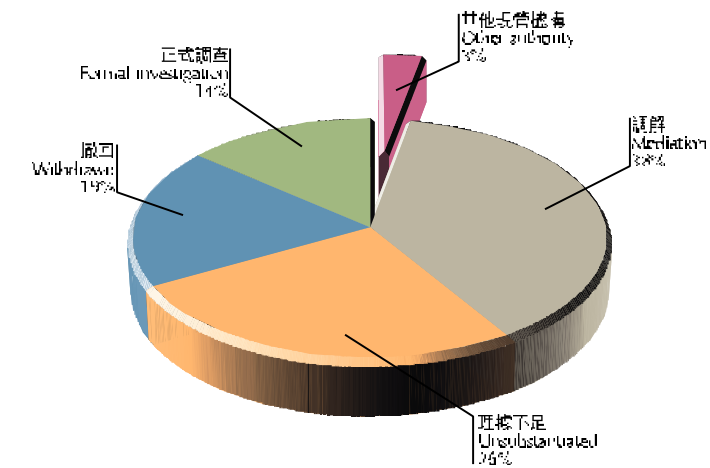
	1996-97	1997-98	1998-99	1999-00	2000-01
上年轉來的投訴 Complaints carried forward	-	19	51	52	94
接獲的投訴 Complaints received	52	253	418	568	789
經處理的投訴的總數 Total complaints processed	52	272	469	620	883
經審閱後不再處理的投訴 Complaints screened-out	7	67	111	223	352
經審閱後繼續處理的投訴 Complaints screened-in	45	205	358	397	531
完結 Completed	26	154	306	303	385
處理中 In process	19	51	52	94	146

在本年報期開始時，公署正處理手上的 94宗投訴，加上新收到的 789宗投訴，公署在本年報期內共處理了 883宗投訴。在這些個案中，352宗(40%)在作出初步考慮後不獲公署繼續受理，理由是其中的 327宗的表面證據並不成立，無法證明有違私隱條例的規定，而另外 25宗不屬私隱專員的權力範圍。餘下的 531宗(60%)經審理後獲進一步處理，其中 385宗(73%)在本年報期內已得到解決，而餘下的 146宗(27%)在二零零一年三月三十一日時仍在處理中。

At the beginning of the reporting year, 94 complaints were being processed. Together with the 789 new complaints received, the PCO handled a total of 883 complaints during the reporting period. Of these, 352 cases (40%) were declined for further action after preliminary consideration on the basis that 327 of them were found to have no *prima facie* case to support allegations of breaches of the PD(P)O. A further 25 cases were outside the Privacy Commissioner's jurisdiction. The remaining 531 cases (60%) were screened-in for further consideration. Of these, 385 cases (73%) were resolved during the reporting year and the remaining 146 cases (27%) were still being handled on 31 March 2001.

二零零零年至二零零一年度完成的投訴調查 Complaint Investigations Completed in 2000-01

圖表十一 已完成的調查的結果
Figure 10 - Outcome of investigations completed



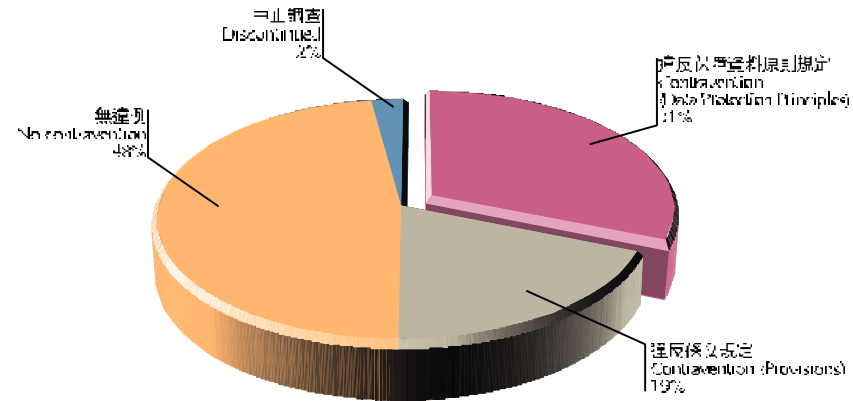
在本年報期內經審閱後獲得處理的 531宗個案中，385宗已在本年報期內完結。在這些個案中，146宗(38%)透過調解得到解決，52宗(14%)在進行正式調查後得到解決，102宗(26%)在進行調查後發覺證據不足，以及 73宗(19%)在調查期間由投訴人撤回。餘下的 12宗(3%)所涉事項不屬私隱條例的管轄範圍，而有關投訴人亦已將個案轉交相關的機構跟進。在這 12宗個案中，其中一宗涉及在申請互聯網服務時行使假文件，可能觸犯《刑事罪行條例》下的罪行。另一個案是一間公司涉嫌長期牽涉在一宗僱傭詐騙事件中，而其餘一宗則涉嫌觸犯刑事罪行，違反了選舉管理委員會的規定。

Out of the 531 complaint cases screened-in for handling during the reporting period, action in respect of 385 was completed during the reporting year. Of these, 146 (38%) cases were resolved through mediation, 52 (14%) cases were resolved after formal investigations, 102 (26%) cases were found to be unsubstantiated as a result of investigation and 73 (19%) cases were withdrawn by the complainants during investigation. The remaining 12 (3%) cases involved allegations outside the ambit of the PD(P)O which complainants had also referred to other authorities to follow up. Of these 12 cases, one case involved the use of forged documents in the application for Internet service that might be an offence under the Crimes Ordinance. One case involved a company that was suspected of perpetuating an employment fraud, and another case related to the suspected commissioning of a criminal offence contrary to the regulations of the Election Affairs Commission.

Report on Activities

圖表十一 — 已完成正式調查的結果

Figure 11 - Results of formal investigations completed

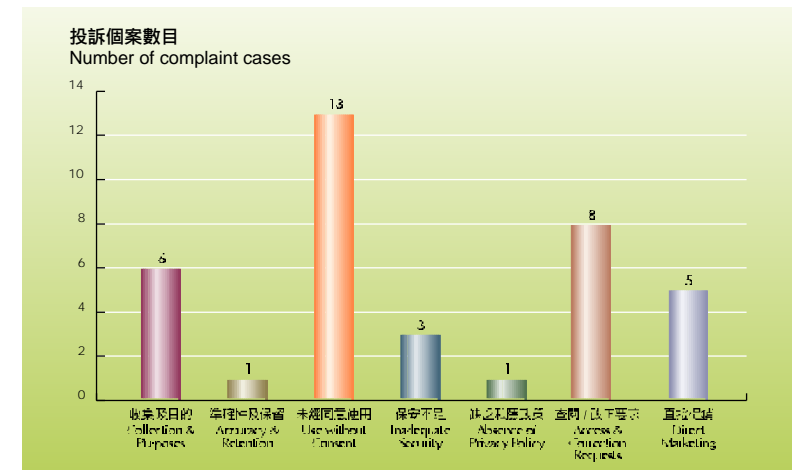


在本年報期內完成正式調查的52宗個案中，公署發現其中26宗(50%)有違反私隱條例的規定，另外25宗(48%)因缺乏充份證據而無法證明有違例情況，而其餘1宗(2%)則因在調查期間無法與投訴人聯絡而中止調查。

Of the 52 formal investigations completed during the reporting period, the PCO found contravention of the requirements of the PD(P)O in 26 (50%) cases. In 25 (48%) cases, there was no contravention found or contravention was not established due to lack of sufficient evidence. One case was discontinued as the complainant could not be traced during the investigation.

圖表十二 — 違例情況

Figure 12 - Issues of contravention



在違反私隱條例規定的26宗個案中，17宗違反一項或以上的保障資料原則，其餘9宗違反了私隱條例的主要條文的規定，當中所述的違例事項與依從查閱資料要求及將個人資料用於直接促銷活動有關。

Of the 26 cases where the requirements of the PD(P)O were found to have been contravened, 17 cases involved contravention of one or more of the data protection principles. The remaining 9 cases involved contravention of the requirements of the main body of the PD(P)O relating to compliance with data access requests and the use of personal data in direct marketing activities.

投訴個案簡述四/零一

Complaint Case Notes 4/01

Unauthorized use of a customer's identity card number - DPP3
未經授權使用客戶的身分證號碼 — 保障資料第3原則

一名流動電話用戶收到供應商的來信，指出已替他開設一個互聯網戶口。令該名用戶感到驚奇的，是流動電話服務供應商使用他的身分證號碼作為登入該互聯網戶口的密碼及電郵地址，而他從未申請該互聯網戶口。該名用戶只為國際直撥長途電話服務向有關流動電話服務供應商提供他的身分證號碼，並無預期有關供應商會將他的身分證號碼用於國際直撥長途電話服務以外的目的。流動電話服務供應商未經客戶同意而作出上述行為，實有違保障資料第3原則的規定。

A subscriber of a mobile service operator received an offer letter from the operator advising that he was allocated an Internet account. To his surprise, the mobile service operator used his identity card number as the account login ID and email address for the Internet account service for which he had not applied. The subscriber had originally provided his identity card number for the purpose of acquiring an IDD service with the mobile service operator. It had never been his expectation that his identity card number would be used for purposes other than for the purpose of the IDD service. In the absence of any consent from the subscriber, the practice of the mobile service operator was in contravention of the requirements of DPP3.

投訴個案簡述五/零一

Complaint Case Notes 5/01

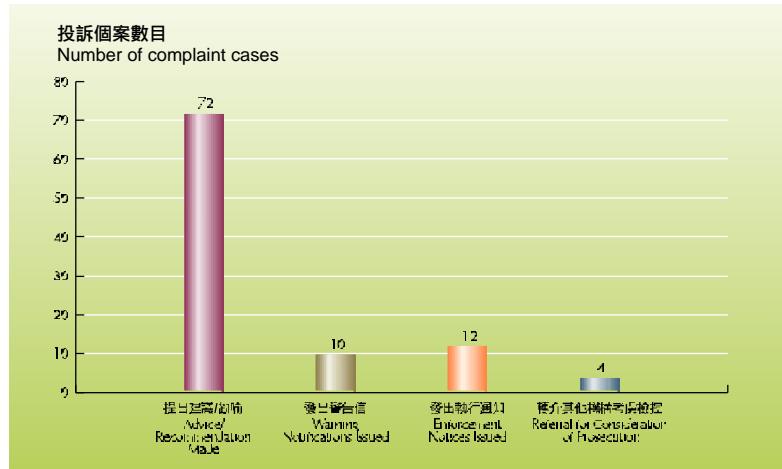
Use of personal data for direct marketing - Section 34
使用個人資料作直接促銷用途 — 第34條

一間物業管理公司替互聯網服務公司向所管理的大廈的住戶進行促銷活動。該管業公司使用住戶的個人資料進行有關活動，將住戶的個人資料印在互聯網服務公司未填有資料的邀請信上，但信中並無對有關的聯合促銷活動作出任何解釋，而只是通知住戶已為他們提供了預先批核的互聯網戶口及電子郵件戶口。此外，有關公司亦無為不欲接受有關服務的住戶提供「拒絕服務」選擇。該管業公司的做法已違反了保障資料第3原則的規定，而根據私隱例第65條，該公司須為此次直接促銷活動負責。

A property management company engaged in a marketing exercise to promote the services of an Internet service company to its residents. In doing so, the property management company used and printed the personal particulars of residents on blank invitation letters provided by the Internet service company. The letter offered no explanation regarding the joint-marketing exercise and was instead a notification letter advising residents of their pre-approved Internet account and e-mail account. No opt-out provision was provided for the residents who chose not to receive such services. The practice of the property management company was in contravention of the requirements of DPP3 and was found liable for instituting the direct marketing activities by virtue of section 65 of the PD(P)O.

Report on Activities

圖表十三 — 根據調查結果採取的執法行動
Figure 13 - Enforcement actions taken as a result of investigation



在146宗透過調解得到解決的個案中，公署曾就 72間機構的行事方式及程序，向該等機構提供意見及建議，以協助它們遵守保障資料原則的規定。

在違反私隱條例規定的26宗個案中，公署共向有關機構發出10封警告信，要求該等機構作出書面承諾，答應採取措施糾正有關違例情況。在大部分這些個案中，有關機構均按照公署的要求作出承諾。鑑於有關機構已作出公署所要求的承諾，公署亦因而毋須採取執法行動，即不須向有關機構發出執行通知。公署向12宗個案的被投訴者發出執行通知，指令他們採取糾正措施，以防繼續或重複違反私隱條例的規定。

在本年報期內，公署將四宗涉嫌違反私隱條例規定的個案轉交警方處理及考慮作出檢控。其中一宗個案與一間科技中心的直接促銷手法有關，該公司涉嫌違反私隱條例第34條的規定。另一宗個案與一所海外大學的本港辦事處的查閱資料要求有關，該辦事處涉嫌違反私隱條例第9條的規定。餘下的兩宗個案與涉嫌不遵守執行通知的規定有關，因而違反了私隱條例第4(7)條的規定。在本年報期結束時，警方仍對其中一宗個案進行調查。警方對其餘三宗個案進行調查後，認為無足夠證據證明當中涉及足以採取檢控行動的刑事成份。

In the 146 cases resolved through mediation, the PCO provided advice and recommendations to 72 organisations on their practices and procedures in order to assist them to comply with the data protection principles.

In the 26 cases in which requirements of the PD(P)O were found to have been contravened, the PCO issued 10 warning notices to the organisations concerned requiring written undertakings to implement measures to remedy the contravention. In most of these cases, the organisations gave the undertakings sought. In view of this enforcement action through the issue of an enforcement notice was not deemed necessary. In 12 cases, enforcement notices were served on the parties complained against to direct them to take remedial action to prevent their continued or repeated contravention of the PD(P)O.

During the reporting period, the PCO referred 4 cases to the Police for their consideration of prosecution proceedings pursuant to a suspected offence under the PD(P)O. One case related to a suspected offence under section 34 of the PD(P)O involving to direct marketing approaches carried out by a technology centre. Another case involved a suspected offence under section 19 of the PD(P)O concerning a data access request by a local office of an overseas university. The remaining two cases related to suspected failure to comply with enforcement notices contrary to section 64(7) of the PD(P)O. As of the close of this reporting period, one case was still under Police investigation. After investigating the remaining 3 cases, the Police advised that they found insufficient evidence to warrant criminal prosecution proceedings.

二零零零年四月至二零零一年三月進行的查察行動 Compliance Checks Carried Out Between 4/2000 - 3/2001

當發現任何機構的行事方式，似乎有違私隱條例規定時，公署隨即會展開查察行動。在該等情況下，公署會用書面知會有關機構，指出似乎與私隱條例規定不符的事宜，並請有關機構採取適當的補救措施。在大多數情況下，有關機構自動承諾立即採取措施，以糾正涉嫌違例事項。至於其他機構，它們通常會就如何採取改進措施，以免重複涉嫌違例事項，向公署尋求意見。

在本年報期間，公署共進行了28次查察行動，以查察資料使用者的行事方式是否符合私隱條例的規定。其中十次查察行動與政府部門/法定機構的行事方式有關，其餘18次則涉及私營機構的行事方式。

A compliance check is undertaken when the PCO identifies a practice of an organisation that appears to be inconsistent with the requirements of the PD(P)O. In such circumstances, the PCO raises the matter in writing with the organisation concerned pointing out the apparent inconsistency and inviting it, where appropriate, to take remedial action. In many cases, the organisation concerned takes the initiative and responds by undertaking immediate action to remedy the suspected breach. In other cases, organisations seek advice from the PCO on the improvement measures that should be taken to avoid repetition of suspected breaches.

During the reporting year, the PCO conducted 28 compliance checks in relation to alleged practices of data users that might be inconsistent with the requirements of the PD(P)O. Of these, 10 compliance checks related to practices in government departments/statutory bodies. The remaining 18 compliance checks related to practices in private sector organisations.

投訴個案簡述六/零一
Complaint Case Notes 6/01

Notification of refusal to comply with data access requests - Section 21
拒絕依從查閱資料要求的通知 — 第21條

多人投訴多間機構在收到他們的查閱資料要求後，沒有向他們提供所查閱的文件的複本。調查顯示有關機構憑藉條例的豁免條文，拒絕依從該等查閱資料要求。雖然調查發現私隱條例的豁免條文適用於此等個案，但有關機構不能因此而可免負上須用書面將拒絕理由通知有關人士的責任。須給予通知的規定載於私隱條例第21(1)條。根據有關條文，有關機構必須在收到查閱資料要求後40日內通知查閱資料者。

A number of individuals complained against various organisations, to which they had lodged their data access requests, for failing to provide them with copies of the documents they requested. The investigation of these cases revealed that the organisation concerned relied on the exemption provisions of the PD(P)O to refuse to comply with the data access requests. Whilst the application of the exemption provisions was found to be valid in these cases, this did not, however, remove their obligation to notify the individuals concerned in writing of the refusal and the reasons for the refusal. The requirement of a refusal notification is provided for under section 21(1) of the PD(P)O and should be dealt with by the organization concerned within 40 days upon receipt of a data access request.

投訴個案簡述七/零一
Complaint Case Notes 7/01

Failure to take practical steps to ensure the accuracy of customer's data - DPP2
沒有採取切實可行的步驟確保客戶資料的準確性 — 保障資料第2原則

一名個人投訴流動電話服務公司錯將客戶的月結單及欠帳通知書郵寄給他。由於他並不是該流動電話服務公司的用戶，故立即知會該公司，指出它可能持有不準確的用戶資料。為證實此言非虛，他同時向警方報案，並將報案編號通知該公司，而此程序是該公司要求他依從的。雖則如此，該公司聘用的收數公司仍向他追收不應由他負責的欠帳。公署發覺該公司在發現資料不準確後，並無採取切實可行的步驟去再證實客戶資料的準確性。在上述情況下，該公司應通知聘用的收數公司停止使用不準確的資料作追數用途，以符合私隱條例的保障資料第2(1)原則的規定。

An individual complained against a mobile phone company that had wrongly sent to him monthly billing statements and demand letters regarding defaulted payments for services rendered. As he had never been a subscriber of the mobile phone company, he immediately notified the company that it might be holding inaccurate data about its subscribers. In support of this, he also made a report to the Police and further advised the company of the Police report number of his case in accordance with the relevant company procedure. In spite of all these efforts, he was still approached by the collection agent appointed by the company to collect outstanding payments for which he was not responsible. The company was found to have failed to take practical steps to re-confirm the accuracy of its customers' data after it became aware of the inaccurate data. In the circumstances, it should have advised its appointed collection agent to cease using the inaccurate data for debt recovery, which is a requirement of DPP2(1) of the PD(P)O.

Report on Activities

圖表十四 — 查察行動所涉及的問題
Figure 14 - Illustrations of issues of compliance checks

問題 Issues	建議採取的改善措施 Improvement Measures Recommended
銀行將客戶的單據傳真至客戶工作地點的公開傳真機。 Bank statements of customers transmitted by open fax to their workplace.	除非事情急需辦理，否則銀行應考慮使用較安全的方法傳送文件，例如利用郵寄方法，並在信封面上註明「私人密件」。為避免不經意地披露了客戶的個人資料，銀行在透過傳真機傳送單據前應採取適當的措施，提示收件人接收傳真。 Unless urgency requires otherwise, the bank should deliver the documents by a more secure means such as by mail using a sealed envelop that carries the words "Personal and Confidential". To avoid inadvertent disclosure of the personal data of the customer, appropriate steps should be taken to alert the recipient of the incoming fax prior to sending the bank statements by fax.
銀行客戶開立新戶口時須披露本人的個人資料例如生活方式等資料。 Applicants for new bank account were required to disclose their profile data such as lifestyle preferences.	銀行應在發給客戶的通知中清楚述明有關個人資料的使用目的。開立戶口申請表應述明客戶可選擇是否披露該等資料。 The notification statement to bank customers should have clear purposes regarding the use of the profile data. The application form should provide for a voluntary provision of such data.
弱能人士咭印上持咭人的詳細出生日期。 Identification cards of persons with disability were printed with their full date of birth on the card.	有關機構無充份理由在咭上印上持咭人的出生日期，因為有需要時亦可查閱身分證以核實該等資料。公署因此建議有關機構在日後印咭時應刪除持咭人的詳細出生日期。 There is no justifiable reason for printing the full date of birth of the cardholder on the card as verification of such information, where necessary, could be made by checking the HK Identity card. The organisation was therefore recommended to delete the full date of birth of the cardholder on future card renewal or printing.
要求醫護調查的受訪者提供可能屬超乎適度的個人資料。 Respondents to a healthcare survey were required to provide personal data that might be excessive.	公署建議有關機構修訂所使用的調查表格，清楚述明收集個人資料的目的，以及說明在對調查作出分析時如何處理該等資料。 The organisation was recommended to revise the survey forms to give clear notification of the purposes of collecting the personal data and how these data will be treated in the analysis of survey results.
新聞記者以電話向警務處新聞室查詢時被錄音，但事前對此舉卻全不知情。 Enquiry calls by news reporters made to the Police newsroom were recorded without prior notice of the recording.	公署建議有關部門對打入新聞室的電話進行錄音的做法作出檢討，並且採取適當步驟，將進行錄音的目的知會致電者，或是停止錄音。 The department was recommended to review the practice of recording calls made to the newsroom and to take appropriate steps to make notification to the caller of the purpose of recording, or to cease the practice of recording.
申請成為中醫的人士須提供病人記錄，以證明他們的臨床經驗。 Applicants who wish to enlist as Chinese medicine practitioners were required to submit patient records in support of their clinical experience.	公署建議有關機構修訂所使用的申請表，提議申請人將所遞交作為臨床經驗證明的病人記錄中任何可識辨有關病人身分的資料遮蓋。 The organisation was recommended to revise the application forms so as to provide notification to applicants advising them to conceal all identifiable particulars of patients in patients' records that were to be submitted as proof of clinical experience.
公務員的工作表現評核報告要求受核人填上他們的詳細出生日期。 Civil service performance appraisal forms required the filling in of the full date of birth of the appraisee.	就工作表現評核的目的而言，是毋須披露受核人的詳細出生日期的。公署建議有關部門在需要有關資料時，可要求受核人填上出生的月份及年份而毋須填上詳細的出生日期。 For the purpose of performance appraisal, the disclosure of the full date of birth of the appraisee may not be necessary. The department was recommended, where such information is required, to ask the appraisee to fill in only the month and year of birth instead of the full date of birth.

內載個人資料的紙張再用作影印紙，並且被分發給無關的人。 Papers containing personal data of individuals were re-used for photocopying and distributed to unrelated parties.	公署建議有關部門制訂指引，提示所有職員避免將載有個人資料的紙張循環再用，除非已採用防禦措施，避免在不經意的情況下披露該等資料。 The department was recommended to implement guidelines to remind all staff to avoid re-using papers that contain personal data of individuals unless appropriate measures are taken to safeguard those data from inadvertent disclosure.
公眾停車場的使用者在離開停車場時須提供他們的香港身分證號碼作為記錄。 Visitors to a public car park were required to provide their HK Identity card number for recording when leaving the car park.	公署建議停車場管理公司考慮採取「雙重許可證制度」，即使用者在離開停車場時須交出他們進入停車場時獲發的離場證。 The car park management was recommended to consider adopting a "double permit system" in which an exit pass given to the driver on entry to the car park is required to be surrendered upon his departure from the car park.
使用會所設施的訪客須將香港身分證留下給會所管理公司。 Visitors using facilities of a club were required to deposit their HK Identity cards with the club management.	根據《人事登記條例》第7A條，保管或藏有他人的香港身分證可能屬於刑事罪行。公署建議會所管理公司停止有關做法。 The custody or possession of other persons' HK Identity card may be an offence under section 7A of the Registration of Persons Ordinance. The club management was recommended to cease such practice.
停車場租戶須提供身分證副本，以便取得停車場新近安裝的數碼鎖的密碼。 Car park tenants were required to provide copies of their HK Identity card for obtaining the password to a newly installed digital lock at the car park.	公署建議停車場管理公司另作安排，將授權通知書寄往租戶的地址，或是如租戶居於同一大廈，可將通知書放進他們的信箱。 The car park management was recommended to adopt an alternative arrangement by sending the authorization notice to the tenants' address, or if the tenants were residents of the building, by depositing the notice in their mail boxes.
報章告示披露了幸運抽獎得獎人的全名及身分證號碼。 A newspaper announcement disclosed the full name and HK Identity card numbers of winners in a lucky draw competition.	公署建議有關機構在日後的得獎告示中，只發表得獎者的姓名或身分證號碼。若要披露上述兩種資料，則應避免發表得獎者的身分證全部號碼。 The organisation was recommended to publish either the name of the winners or the HK Identity card number in its future prize-winning announcements. Where both data are published, it should avoid disclosing the full HK Identity card number of prize-winners.
求職者在面試時須提供香港身分證副本。 Job applicants were required to provide a copy of their HK Identity card when they attended a job interview.	只可在準僱員已接受聘用時才收集他們的香港身分證副本，以證明僱主有遵守《人民入境條例》第17J的規定。公署建議有關公司停止此做法。 Copies of the HK Identity card should only be collected from prospective employees after they have accepted employment, as proof of compliance on the part of the employer with section 17J of the Immigration Ordinance. The company was recommended to cease the practice.

投訴個案簡述八/零一
Complaint Case Notes 8/01

未能依從查閱資料要求 — 第19條
Failure to comply with data access requests - Section 19

一個政府部門的職員提出查閱資料要求，藉以取得他的同事涉嫌投訴他的信件的複本。他在要求中明確述明投訴信的作者。有關部門拒絕他的查閱資料要求，聲稱由於他已得知投訴信作者的身分，故即使該部門將該作者的身分遮蓋，依從查閱資料要求亦會導致披露該作者的身分。但是，該名職員僅得悉該作者的身分，並非拒絕依從查閱資料要求的合理理由。有關部門隱瞞整封信的內容，即是阻止披露該信的全部內容，包括沒有提及作者身分的部分。公署認為此舉違反條例第19條的規定。

A staff member of a government department made a data access request for a copy of a letter of complaint against him written by a colleague. In his request, he made specific reference to the person who was the author of the complaint letter. The department refused the request claiming that since the staff member concerned had knowledge of the identity of the writer, its compliance with the request, even having edited out the writer's identifying particulars, would lead to the disclosure of the identity of the writer. However, the mere knowledge of the staff regarding the writer's identity did not constitute valid grounds for refusing to comply with the data access request. By withholding the entire letter, which the department had done, it had prevented the disclosure of the said letter in its entirety, including those contents that did not contain any identifying particulars of the writer. This was found to be in contravention of section 19 of the PD(P)O.

Report on Activities

二零零零年四月至二零零一年三月批准的核對程序 Matching Procedures Approved Between 4/2000 - 3/2001

在本年報期間，公署共收到12宗新的核對程序申請，以及40宗繼續進行去年已獲批准的核對程序的重新申請。所有新的申請均來自公營機構。在12宗新的申請中，公署審核後發現四宗不屬私隱條例釋義所指的核對程序。在其餘八宗新申請中，七宗在有條件的情況下獲得批准。在本年報期結束時，公署仍在考慮餘下的一宗申請，等待有關部門提供進一步資料。

During the year, the PCO received 12 new applications for consent to carry out matching procedures and 40 requests for re-approval to continue matching procedures approved in previous years. All new applications were requested by public sector organisations. Of the 12 new applications, four applications were for procedures that were found on examination not to be matching procedures as defined under the PD(P)O. Of the remaining 8 new applications, 7 were approved subject to certain conditions. One application was still being considered at the end of the reporting period pending further information from the department concerned.

圖表十五 -- 根據條例第30條獲同意進行的核對程序 (二零零零年四月一日至二零零一年三月三十一日)
Figure 15 - Matching procedures approved under section 30 of the PD(P)O (April 1 2000 to March 31 2001)

提出要求者 Requesting Party	獲批准的有關核對程序 Related Matching Procedures that were Approved
社會福利署 Social Welfare Department	<p>將可能無資格領取社會保障福利金的社會福利申請人 / 受助人的個人資料，與下列機構所持有的個人資料互相比較，以偵查有否向該等人士發放超額的福利金：</p> <p>(a) 醫院管理局--接受醫院服務而同時接受高額傷殘津貼的人士的病人記錄 (b) 房屋委員會--公共房屋單位的租戶 (c) 房屋協會--公共房屋單位的租戶 (d) 僱員再培訓局--接受再培訓津貼的再培訓學員 (e) 運輸署--車主；及 (f) 食物環境衛生署--從擺賣中賺取入息的持牌小販</p> <p>To detect overpayment of social security payments to applicants/recipients who might be ineligible to receive them by comparing their personal data with personal data held by</p> <p>(a) the Hospital Authority's patient records in respect of persons who are in receipt of hospital services and at the same time are recipients of a Higher Disability allowance, (b) the Housing Authority in respect of persons who are tenants of public housing units, (c) the Housing Society in respect of persons who are tenants of public housing units, (d) the Employees Retraining Board in respect of retrainees who are in receipt of retraining allowances, (e) the Transport Department in respect of persons who have ownership of vehicles, and (f) the Environment & Hygiene Department in respect of licensed hawkers who have income derived from hawking.</p>
強制性公積金計劃管理局 Mandatory Provident Fund Authority	<p>將已參加受託人註冊計劃的自僱人士的個人資料與稅務局商業登記處所登記的自僱業務人士的個人資料互相比較，以執行《強制性公積金計劃條例》下的必須參加計劃規定。</p> <p>To enforce the enrolment requirements of the Mandatory Provident Fund Schemes Ordinance in respect of self-employed persons by comparing their personal data enrolled in registered schemes of Trustees with personal data of subjects who have registered self-employed business with the Business Registration Office of the Inland Revenue Department.</p>

推廣及公眾教育

Promotion and Public Education

在本年報期內，公署成功地舉辦了多類活動，包括講座、展覽、研討會和巡迴展覽，藉以加強市民大眾的個人資料私隱意識，以及確保各機構遵守私隱條例的規定。

In the year under review, the PCO successfully staged a wide variety of activities in the area of promotion and public education. These included seminars, exhibitions, conferences and roadshows, which were designed to promote awareness of personal data privacy among members of the general public as well as to ensure that organisations comply with the PD(P)O.

年中的盛事是在二零零一年三月最後一個星期舉行的私隱週。公署在私隱週舉辦了多項以私隱為主題的活動，旨在提高各行各業人士對個人資料私隱的認識。其他的活動包括在電視播放一輯實況劇集、輕鬆惹笑的話劇表演及青少年私隱網頁設計比賽，藉此加深市民大眾對私隱條例的釋義和應用範圍，以及私隱條例所賦予他們的權利的理解。

The highlight of the year was Privacy Week, a one-week long public event held during the last week of March 2001. Privacy Week featured many activities aimed at promoting awareness of personal data privacy amongst people from different walks of life. Other activities included a television docu-drama, a live drama show and a web-site design competition for young people. The purpose was to enable the public to gain a better understanding of the interpretation and application of the PD(P)O and their personal data privacy rights.

私隱週

私隱週是公署舉辦的其中一項宣傳活動。以參加者的人數及舉辦期間來計，私隱週是公署歷來所舉辦的最大型及時間最長的單一宣傳活動。為期一週的私隱週節目豐富，目的是要提高市民大眾對個人資料私隱保障的認識。私隱週的開幕典禮在二零零一年三月二十六日舉行，首項活動是「新經濟下的電子私隱」研討會，共有12位國際

Privacy Week

Privacy Week was a promotional programme hosted by the PCO. In terms of the number of attendees and duration, it was the most significant single programme that the PCO has ever held. The one-week long programme consisted of a wide range of activities designed to enhance public awareness of personal data privacy protection. The programme was launched on 26th March 2001 with a privacy conference entitled "E-Privacy in the New Economy". A distinguished panel of 12 renowned local and



「新經濟下的電子私隱」研討會剪影
Snapshots of the 'E-Privacy in the New Economy' Conference

Report on Activities

公署在私隱週期間於新城市廣場舉辦大型巡迴展覽，吸引了大批市民參觀。
A large scale Privacy Roadshow held at the New Town Plaza during the Privacy Week was well received by large number of public members of the community.



知名的本地及海外專家在會上發言，講題包括消費者與電子私隱、跨境資料傳輸、工作地點的監察活動、電子商貿的法律問題，以及私隱影響評估。研討會全場滿座，共吸引了300名參加者。

international experts spoke on various topics concerning consumers and e-Privacy, trans-border data flow, workplace surveillance, legal issues regarding e-commerce and Privacy Impact Assessment to a full house of 300 attendees.

在私隱週的第二天，來自亞洲十個城市的私隱官員在公署聚首一堂，彼此就保障私隱的共同課題及不同司法區的保障私隱趨勢交流意見及分享經驗。

On the second day, privacy officials from 10 cities throughout the Asian region gathered in Hong Kong to exchange views and share experiences with respect to common privacy protection issues and development of data protection matters in different jurisdictions.



此外，公署亦就《人力資源管理實務守則》舉辦了兩場公開講座，更分別在時代廣場及沙田新城市廣場舉辦了兩場巡迴表演，邀請本地一些知名的歌星藝人即場表演及與觀眾玩遊戲，演出非常成功。

Two highly successful roadshows and public seminars on the Code of Practice on Human Resource Management were also staged. Local celebrities were invited to perform and participate in games with members of our community at roadshows held at Times Square and New Town Plaza.



中學生亦有機會參與私隱週的活動 -- 「青少年私隱網頁設計比賽」。教育署署長張建宗先生及個人資料私隱專員劉嘉敏先生一同公佈比賽的詳情。比賽除強調青少年在保障朋輩間的個人資料的重要之餘，同時亦讓參賽者有機會一展示他們的網頁設計技巧，贏取豐富的電腦產品及其他獎品。



Secondary school students had the chance to participate in the "Privacy Website Design Competition for Youngsters". Jointly launched by the Director for Education and the Privacy Commissioner, the competition offered students the chance to demonstrate their website design skills and win computer products and prizes while highlighting the importance of personal data privacy among their peers.

私隱專員劉嘉敏先生與教育署署長張建宗先生及其他贊助商出席《青少年私隱網頁設計比賽》的記者招待會。
Privacy Commissioner Mr Stephen Lau officiated at the launching ceremony of the "Privacy Website Design Competition for Youngsters" with the Director of Education, Mr Matthew Cheung, and representatives of major



私隱週的壓軸好戲是現場直播的電視綜合晚會，收看的觀眾人數高達一百二十多萬人，是整個私隱週中參與人數最多的節目。

Privacy Week concluded with a live and entertaining television variety show that attracted an audience of 1,208,000, the largest number of people participating the programme throughout the entire week.

私隱週的各個項目的參加人數眾多，深受市民大眾歡迎。私隱週空前成功，公署日後定會舉辦同類型的活動。

Privacy Week enjoyed an outstanding attendance at all of its staged events and was very well received by the public. The success of the event will pave the way for similar large-scale activities to be organised by the PCO in the future.

私隱週的高潮 — 現場直播的綜合晚會《私隱權益全面SHOW》，由歌影視紅星擔綱演出，收視人數高達一百二十萬人。
Privacy Week's highlight, an entertaining television variety show performed by local pop-stars live broadcast to over 1.2 million audiences on 1 April 2001.



Report on Activities

宣傳及傳媒聯絡

實況戲劇

公署與香港電台聯合製作了一輯共四集的實況戲劇，講述私隱條例在日常生活中的各種適用情況。該實況劇集在二零零零年五月，連續四個星期六在本港的電視台播出，所涉及的題材包括消費者、科技及工作地點的個人資料私隱問題。公署作出了特別安排，在每一劇集播出後接聽市民打來的熱線查詢電話。

由公署及香港電台聯合製作的實況劇集《私隱事件簿》的記者招待會。A press conference was held to promote the privacy docu-dramas co-produced by the PCO and RTHK.



Publicity and media liaison

Docu-drama

A series of four docu-dramas depicting various scenarios relating to the application of the PD(P)O were jointly produced by the PCO and Radio Television Hong Kong ("RTHK"). The series was broadcast on four consecutive Saturdays

in May 2000 and dealt with issues of personal data privacy relating to consumer, technology and the workplace. The PCO made special arrangements for its hotline service to offer advice and help answer questions after each



與傳媒聯絡

公署繼續透過傳媒宣傳活動傳遞保障個人資料私隱的訊息。在本年報期間，我們就公署的活動對傳媒的查詢作出了1,040次回應、舉辦了五次新聞簡佈會及發出過九篇新聞稿。此外，私隱專員亦多次接受了傳媒訪問，就關乎個人資料私隱的各項社會問題發表意見。



Media Liaison

The PCO continues to convey the message of the importance of personal data privacy through media publicity. In the reporting year, there were five press briefings and nine press releases issued. In addition, the PCO responded to 1,040 requests from the media for information. The Privacy Commissioner also appeared in numerous media interviews to offer his views and opinions on various social issues concerning personal data privacy.

私隱專員劉嘉敏先生與眾官員出席電視台的時事節目。Privacy Commissioner Mr. Stephen Lau, appeared in a television news programme together with other government officials.

刊物

公署出版了多份新刊物，包括《個人資料私隱：競選活動指引》(二零零零年六月)、《個人資料私隱：流動電話服務供應商指引》(二零零零年八月)、《人力資源管理實務守則》及《僱主及人力資源管理者指引》(二零零零年九月)。

公署在二零零一年三月出版了一本名為《電子私隱：建立對電子商業的信任和信心的政策方案》的管理策略指南，除了和管理方面為從事電子商業人士提供指引外，同時為電子商業提供者提供

Publications

The PCO produced several new publications, including guidance notes on "Personal Data Privacy: Guidance on Electioneering Activities" (June 2000); "Personal Data Privacy: Guidance for Mobile Service Operators" (August 2000); Code of Practice on Human Resource Management and Compliance Guide for Employers and HRM Practitioners (September 2000).

In March 2001, the PCO published a Management Handbook "E-Privacy: A Policy Approach to Building Trust and Confidence in E-Business". This handbook is a management guide for members of the E-business community and offers a framework that enables E-business providers to develop and

了一個架構，藉以發展及制訂電子私隱政策，令本身的業務增值。這是電子私隱指南叢書的第一本指南，就網上的營商手法，特別是向那些透過所設立的網址收集客戶個人資料的網上營商人士，提供參考及指引。公署日後會繼續出版主題關乎保障電子私隱其他方面的指南。

公署亦每季出版一本名為《私潮》的雙語通訊，報導公署的最新消息、活動、查詢、投訴，以及其他與公署工作有關的資料。每期通訊的發行量超過9,000份，免費派給市民參閱。



formulate an E-Privacy Policy that adds value to their business. It is the first of a series of E-Privacy handbooks to provide reference and guidance on online business practices, especially amongst those online business providers operating websites that collect personal data. The PCO will publish handbooks on other aspects of E-Privacy protection in subsequent releases.

The PCO also publishes a quarterly bilingual newsletter, "Private Thoughts", to update the general public with news on different issues, activities, complaints, enquiries and other information relating to the work of the office. More than 9,000 copies of each issue have been distributed to the public free of charge.

《人力資源管理實務守則》的宣傳工作

公署在二零零零年九月二十二日發出《人力資源管理實務守則》。守則在二零零一年四月一日起生效，就私隱條例如何適用在僱傭個人資料私隱方面，為人力資源管理者提供實務性指引。

守則的宣傳活動包括報章廣告及電視和電台宣傳短片。公署所舉辦的五場講座共吸引了超過3,000名僱主及僱員參加，藉以加深對守則的內容、詮釋及適用範圍的了解。



Promotion on the Code of Practice on Human Resource Management

The Code of Practice on Human Resource Management was issued on 22nd September, 2000 and came into effect on 1st April, 2001. The Code provides practical guidance to human resource practitioners on the application of the PD(P)O to employment-related personal data.

Publicity for the Code involved newspaper advertisements as well as television and radio APIs (Announcements of Public Interest). A total of over 3,000 employees and employers attended the five seminars organised by the PCO to obtain an in-depth understanding of the Code, its interpretation and application.

副個人資料私隱專員林永康先生出席公開講座，講解《人力資源管理實務守則》的內容。Deputy Privacy Commissioner Mr. Tony Lam spoke at a public seminar on Code of Practice on Human Resource Management.



Report on Activities

公眾教育

講座、研討會及演講

在本年報期間，私隱專員及公署的職員曾就個人資料私隱及私隱條例的各個課題，為各公私營機構舉辦了178次講座，並且定期為市民舉辦私隱條例簡介講座。此外，公署亦參加了貿易發展局及勞工處合辦的教育及職業博覽2001，以期更深入群眾，加強他們對私隱條例的理解。

公署職員在下述本港會議上發言：

- Asian Securitex 2000 Conference
- Butterworths Professional Conferences
- Pacific Telecommunications Council (PTC) Mid-year Meeting: "Internet & Convergence in Asia: Implications for Cross-border Investments and Regulations?"
- The Economist Conference: "Net Gains: Winning Your Share in the Digital Economy"
- Internet Commerce Expo (ICE) & Conference Hong Kong 2000
- 由中小企業交流協會主辦的"Cyber of Everyman" 講座

公署職員參加在本港以外地方舉辦的研討會：

- 在加拿大舉行的The 10th Conference on Computers, Freedom and Privacy
- 在菲律賓舉行的The Global Information Infrastructure Commission and Ayala Corporation (GIIC) Asian Regional Conference
- 在泰國舉行的Asia-Pacific Economic Co-operation Electronic Commerce Steering Group Workshop on Consumer Protection
- 在國內舉行的世界計算機2000年大會
- 在澳門舉行的保障個人資料私隱研討會
- 在美國舉行的The Global Privacy Summit
- 在意大利舉行的第二十二屆資料保障專員國際研討會
- 在國內舉行的第七屆聯合國國際計算機會議
- 在紐西蘭由Privacy Agencies of New Zealand and Australia (PANZA)舉行的會議
- 在荷蘭舉行的Hague Conference on Privacy International Law

Public education

Seminars, conferences and speaking engagements

In the reporting period, the Privacy Commissioner and his staff gave talks to 178 private and public organisations on various topics relating to personal data privacy and the PD(P)O. The PCO also conducted introductory seminars on a regular basis to provide the general public with opportunities to learn about the PD(P)O. In addition, the PCO participated in the Education and Careers Expo 2001, organised by the Trade Development Council and the Labour Department, to reach out to a large number of members of the community in its effort to promote awareness of the PD(P)O.

Speaking engagements by PCO staff at local conferences

- Asian Securitex 2000 Conference
- Butterworths Professional Conferences
- Pacific Telecommunications Council (PTC) Mid-year Meeting: "Internet & Convergence in Asia: Implications for Cross-border Investments and Regulations?"
- The Economist Conference: "Net Gains: Winning Your Share in the Digital Economy"
- Internet Commerce Expo (ICE) & Conference Hong Kong 2000
- "Cyber of Everyman" Seminar organized by the Hong Kong Association of International Co-operation of Small & Medium Enterprises

Participation of PCO staff in conferences outside Hong Kong:

- The 10th Conference on Computers, Freedom and Privacy, Canada
- The Global Information Infrastructure Commission and Ayala Corporation (GIIC) Asian Regional Conference, The Philippines
- Asia-Pacific Economic Co-operation Electronic Commerce Steering Group Workshop on Consumer Protection, Thailand
- World Computer Congress 2000, China
- Seminar on Protection of Personal Data Privacy, Macau
- The Global Privacy Summit, USA
- 22nd International Conference of Data Protection Commissioners, Italy
- The 7th Joint International Computer Conference, China
- Conference organized by the Privacy Agencies of New Zealand and Australia (PANZA), New Zealand
- Hague Conference on Privacy International Law, The Netherlands



保障資料主任聯會

保障資料主任聯會分別在二零零零年六月及十月舉行了兩次會議。聯會成員在會議上可獲悉個人資料私隱方面的第一手資料，並且與來自其他界別的成員分享遵守私隱條例規定的實際經驗。

浸會大學的話劇表演

公署在二零零零年十二月與香港浸會大學劇社的成員合辦話劇表演，以輕鬆活潑的手法闡述個人資料私隱如何在日常生活中被他人濫用。話劇亦帶出了各種防止個人資料被濫用或錯用的方法。話劇在二零零零年十二月至二零零一年一月期間，在本港各大社區中心巡迴演出了16場，反應熱烈，共吸引了超過2,000名觀眾。



浸會大學劇社同學在一社區會堂內演出處境喜劇，向觀眾帶出保障個人資料私隱的重要性。Lively comedy drama shows performed by members of the Drama Club of the Hong Kong Baptist University at local community centres aimed at raising awareness of personal data privacy among members of the public.

公署網頁展新貌

公署網頁在二零零零年十月換上全新面貌，全面加强關於私隱條例、公署消息及活動詳情的資訊，更方便網民瀏覽。公署網頁早於一九九六年十二月開始啟用，更新後的網頁加添了不少新項目，例如網上預訂服務、方便尋找資訊的更強大搜尋功能，以及專為配合視障人士的特有需要而設的功能等。



PCO web-site re-development

In October 2000, the PCO embarked on a project to re-develop its website, which was launched in December 1996. The purpose was to enhance the facilities, efficiency, user-friendliness and maintainability of the site. The new website will include new features such as an online reservation and subscription service, a more powerful search engine for information searches and other features that will cater for the specific needs of visually impaired people.

保障資料主任聯會大會舉行時的情況。
Plenary meeting of the Data Protection Officers' Club.



Data Protection Officers' Club

The Club met twice this year; in June and October 2000. In these Club meetings, members were able to obtain first-hand information on topical personal data privacy issues and share their relevant experiences with members from other business sectors in implementing compliance practices relating to the PD(P)O.

Baptist University Drama Show

In December 2000, the PCO organized a series of drama shows with student members of the drama club of Hong Kong Baptist University. The lively comedy was designed to illustrate how people's personal data privacy may be invaded in everyday situations. The shows also offered insights into various ways to prevent the abuse and misuse of personal data. Sixteen shows were held, between December 2000 and January 2001, at various community centres throughout Hong Kong, and were enthusiastically received by more than 2,000 people.





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報告審核結果。香港政府各個決策局已獲通知在建議立法初期，盡早將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項職能。除對由上述途徑獲悉的建議中的法例作出檢討外，公署的法律部亦審閱在政府憲報發表的所有條例草案，藉以對任何可能對私隱有所影響的條例草案，作出所需的評論。

在本年報期內，公署共對六條建議中法例提出詢問或作出評論。附錄二載有公署在本年報期內對建議中的法例的評論撮要。

檢討《個人資料(私隱)條例》

自私隱條例在一九九六年生效以來，公署在日常運作中間中會遇上實際困難，而這些困難是源自私隱條例某些條文的草擬方式。為能盡量有效地減少這方面的困難，以及達致保障個人資料私隱的目的，公署一直就可否對私隱條例作出修訂一事與民政事務局進行商討。至目前為止，曾作出詳細討論的事項全屬「技術」性質，即並無涉及任何基本概念。公署希望將建議中的修訂草案盡量簡化，方便立法會日後通過。至於屬基本性質的其他可能修訂，則會在日後的適當階段，在對私隱條例作出全面檢討時詳加研究。

草擬指令的草擬本已在本年報期開始前送交律政

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 Commissioner to carry out this function, all Policy Bureaux of the Hong Kong 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 to reviewing proposed legislation notified to the PCO in this way, the Legal Division of the PCO also reviews all Bills published in the Government Gazette for possible personal data privacy implications on which comments may be required.

During the period under review, the PCO raised enquiries or made comments on six items of proposed legislation. Summaries of the PCO's comments on proposed legislation during the reporting period are given in Appendix II.

Review of the Personal Data (Privacy) Ordinance

Since the PD(P)O came into effect in 1996, the PCO has in its daily operations occasionally come across practical difficulties stemming from the way in which particular provisions of the PD(P)O have been drafted. In order that such difficulties be alleviated, and the protection of personal data privacy be achieved as effectively as possible, the PCO has been in discussion with the Home Affairs Bureau regarding possible amendments to the PD(P)O. The amendments being discussed in detail so far, however, are all considered to be of a "technical" nature in that they do not touch on any fundamental concepts. The intention is to keep the proposed amendment bill relatively simple to facilitate its passage through Legislative Council. As for any other possible amendments of a fundamental nature, these will be left for further study in an overall review of the PD(P)O to be conducted at a suitable stage in the future.

司評論。在本年報期間，公署、民政事務局及律政司曾就某些特定問題進行商討。在本年報期間結束時有關當局並未能就建議的修訂事項取得立法時段，但卻希望在完成條例草案草擬本後，盡快取得所需的立法時段。

公署對《個人資料(私隱)條例》釋義摘要

私隱條例在一九九六年生效。至目前仍然甚少關於私隱條例的法庭判例，因而缺乏對私隱條例條文釋義的司法先例可供援引。對法律界及資料使用者來說，這種缺乏先例的情況無助他們明白私隱條例的含義，尤其是私隱條例中一些複雜或不明確的條文，更是難於理解。

另一方面，在過去多年來，公署卻收到大批根據私隱條例提出的投訴及查詢個案。公署在履行職務時，從多年處理該等投訴及查詢個案的過程中，已對私隱條例的相關條文有本身的見解，並盡量將有關見解貫切在所處理的個案中。在此方面，雖然根據私隱條例的規定，私隱專員無權對私隱條例條文作出決定性的詮釋，但從實際的角度觀之，對資料使用者或他們的法律顧問來說，有關意見顯然重要。

故此，為增加公眾對私隱條例的理解，公署計劃以小冊子的形式發出公署對私隱條例的釋義摘要，協助大家了解私隱條例的規定。公署在本年報期間已著手進行初步的研究工作及草擬小冊子，以期在二零零一年年底出版該本小冊子。

Draft drafting instructions have been sent to the Department of Justice for comment before the period under review. During the period under review, further discussions took place between the PCO, the Home Affairs Bureau and the Department of Justice on specific issues. At the end of the period under review, no legislative slot had yet been secured with the Legislative Council, but the intention was to secure the earliest slot possible once the draft bill is ready.

Notes on the PCO's Interpretation of the Personal Data (Privacy) Ordinance

The PD(P)O came into operation in 1996. So far, there have been very few related court cases. Hence, there is a scarcity of judicial precedents on the interpretation of its various provisions. So far as the legal profession and data users are concerned, such scarcity in case law does not assist in their understanding of the PD(P)O, especially in view of the fact that some of the provisions of the PD(P)O, being either complicated or vague, tend to be difficult to understand.

On the other hand, there have been a great number of complaint and enquiry cases under the PD(P)O brought to the PCO. In the discharge of its functions in handling such complaints and enquiries, the PCO has over the years developed its own interpretation of the relevant provisions of the PD(P)O, which it seeks to apply consistently to all cases handled by it. In this connection, although the Commissioner is not empowered under the PD(P)O to give any definitive interpretation to the provisions of the PD(P)O, such views are obviously important from a practical point of view, insofar as data users or their legal advisors are concerned.

To help deepen the public understanding of the PD(P)O, therefore, the PCO plans to issue, in the form of a booklet, notes on its interpretation of the requirements of the PD(P)O. During the period under review, work commenced on initial research and drafting of the booklet, with the aim of publishing it by the end of the calendar year 2001.

Report on Activities

向行政上訴委員會提出的上訴個案的簡述

根據私隱條例的規定，如私隱專員決定行使私隱條例第39條的權力，拒絕對投訴進行或繼續進行調查，則投訴人可就私隱專員的決定向行政上訴委員會提出上訴。此外，如私隱專員在完成調查後，決定不向被投訴的資料使用者發出執行通知，則投訴人亦可就此向行政上訴委員會提出上訴。除此之外，如私隱專員決定根據調查結果向被調查的資料使用者發出執行通知，則該資料使用者亦可就此向行政上訴委員會提出上訴。

由不具體地披露所持有資料的投訴所引致的上訴（一/零一）

投訴人投訴政府其中一個政策局，指稱該局在回應他根據私隱條例第18(1)(a)條提出的查閱資料要求時，就該局所持有他的個人資料，向他提供了一份不完全的文件清單。直至投訴人要求該局重新檢視該清單時，該局才再將若干其他文件加入清單之內。但當時已是該局收到他的查閱資料要求的40日後，超過了私隱條例第19(1)條所規定的依從查閱資料要求的期限。

考慮過投訴人的指稱及展開初步查詢後，公署發覺投訴人的指稱事項真確。不過，詳細審閱私隱條例第18(1)條後，公署認為資料使用者在依從第18(1)(a)條的查閱資料要求時，他的責任只是證實是否持有任何有關的個人資料(或查閱要求所指的個人資料)，資料使用者毋須特別告知提出查閱要求者持有哪項資料(如有的話)，或是提供該等資料的詳細清單。有鑑於此，有關決策局在本個案中向投訴人提供了一份文件清單，實在已超越了私隱條例嚴格來說所訂的法律責任。故此，雖然該份文件清單其後證實並非是一份完全的清單，但有關決策局並無違反私隱條例的規定，公署因而認為毋須作進一步調查。

Notes on Appeal Cases lodged with the Administrative Appeals Board (AAB)

Under the PD(P)O, where the Privacy Commissioner has decided to exercise his power under section 39 to refuse to investigate or to continue to investigate a complaint brought to him, the complainant may appeal to the Administrative Appeals Board against such decision. Furthermore, where the Commissioner had completed an investigation, his decision not to issue an enforcement notice against the data user complained against may be the subject of an appeal to the Board by the complainant. Alternatively, if as a result of an investigation the Commissioner decides to issue an enforcement notice against the data user investigated against, the data user may also appeal to the Board against the enforcement notice so issued.

Appeal arising from complaint about non-disclosure of the specific data held (1/01)

The complainant complained about a Policy Bureau of the Government. He alleged that, in response to his data access request made specifically under section 18(1)(a) of the PD(P)O, the Bureau provided him with a list of documents being held containing his personal data, which list turned out to be incomplete. It was not until the complainant asked the Bureau to review the list that the Bureau added certain other documents to the list. The time at which the Bureau added those other documents to the list, however, was subsequent to the expiry of 40 days from the date of receiving the data access request, such being the deadline for compliance with a data access request as prescribed under section 19(1) of the PD(P)O.

After considering the complainant's allegations and making some preliminary enquiries, the PCO found that the factual allegations of the complainant were true. However, having examined the actual provisions of section 18(1) of the PD(P)O, the PCO took the view that in complying with a data access request under section 18(1)(a), the obligation on the part of a data user is to give an affirmative or negative answer as to whether or not any personal data (or such personal data as specified in the request) are being held. In particular, the data user is not obliged to inform the requestor of the specific items of data held (if any), or to provide a comprehensive list of such data. Given this, the providing of the list of documents by the Bureau to the complainant in the present case in fact went beyond the

投訴人就私隱專員不作進一步調查的決定提出上訴。不過，投訴人在聆訊前放棄上訴。

由展示個人資料收集聲明的投訴所引致的上訴（二/零一）

投訴人與上文第一/零一號上訴個案的投訴人為同一人。他曾多次投訴一個負責管理大型公共設施的檢查站的政府部門。對個案作出調查後，公署發現該部門違反了保障資料第1(3)原則，雖然該部門早已在該設施的某些地點張貼收集個人資料聲明，但此舉不足以促使該設施的使用者留意該收集個人資料聲明。不過，鑑於該公共設施面積龐大、使用者眾多及其他技術考慮因素，公署未能利用執行通知，具體指令該部門應如何及應在何處展示收集個人資料聲明而又不影響其職能。代之而的是，公署取得該部門的承諾，答應成立專責小組研究有關情況，以及在適當時間向公署提交報告及建議，明確列出在該部門所管理的公共設施或其他類似地方在展示收集個人資料聲明時，如何遵守保障資料第1(3)原則的規定。

投訴人對此表示不滿，並就私隱專員不送達執行通知的決定提出上訴。不過，投訴人在行政上訴委員會進行聆訊前放棄上訴。

Bureau's strict legal obligation under the PD(P)O. Hence, the fact that such list later turned out to be incomplete did not give rise to contravention on the part of the Bureau of any of the requirements of the PD(P)O. Accordingly, no further investigation of the case was considered necessary.

The complainant appealed against the Commissioner's decision not to carry out further investigation of the case. However, the complainant abandoned the appeal before the date of hearing.

Appeal arising from the complaint relating to display of personal information collection statement (2/01)

The complainant, being the same one as in Appeal Case Notes 1/01, made various complaints against a government department having a control function at the checkpoints of a huge public facility. After investigation of the case, the PCO found that the department had contravened data protection principle 1(3) in that although it had posted up its personal information collection statement at certain spots in the public facility, this was nevertheless not sufficient to bring such statement to the notice of users of the facility whose personal data are to be collected. However, in view of the size of the public facility, the volume of users and other technical considerations, the PCO was not able to give specific directions, in the form of an enforcement notice, as to precisely where and how the personal information collection statement may be displayed at the public facility without affecting its functions. Instead, the PCO obtained an undertaking from the department to set up a task force to study the situation, and to provide a report and proposal in due course setting out the precise manner of compliance with data protection principle 1(3) in the display of the personal data collection statement in the public facility as well as other similar venues under the control of the department.

Dissatisfied with this, the complainant appealed against the Commissioner's decision not to issue an enforcement notice. However, the complainant abandoned the appeal before the date of hearing before the AAB.

Report on Activities

由沒有因應查閱資料要求發放個人資料的投訴所引致的上訴（三/零一）

本案的投訴人與上文第一／零一及二／零一號上訴個案的投訴人為同一人。他投訴一個專業團體，指稱該團體沒有回應他的查閱資料要求，向他提供該團體所持有他的個人資料的複本。

公署在進行調查後發覺該專業團體有理由基於私隱條例第58條的豁免條文，拒絕依從他的查閱資料要求。該專業團體亦根據私隱條例的規定，將拒絕依從查閱要求及拒絕理由通知投訴人。故此，該專業團體並無違反私隱條例的任何規定，公署因而沒有向該團體發出執行通知。

投訴人就私隱專員的決定提出上訴。不過，在行政上訴委員會進行聆訊前，正如上文上訴個案第一／零一及二／零一號的情況一樣，上訴人放棄進行上訴。其後，公署要求上訴人支付訟費，因為所有上訴均由投訴人在瑣屑無聊或無理取鬧的情況下提出。根據《行政上訴委員會條例》第21條，上訴人被判令須向公署繳付訟費。

由業主向租客的僱主披露租務糾紛的投訴所引致的上訴（四/零一）

投訴人向公署投訴一對夫婦，他們是他的前業主。投訴人受僱於本港一間專上教育學院，曾要求業主就租約期滿前一段期間的租金津貼，向他的僱主提供收據，或是簽署一份聲明，證實已從租金按金中扣除應付的租金，以符合僱主的租金津貼稽核規定。業主不同意投訴人可作上述扣除，並且寫信告知他的僱主，說明他們對租約糾紛的立場。該信是寄給投訴人僱主的最高級及第二高級的行政人員。投訴人在投訴中指出他的業主未經他同意而向他的僱主披露他們之間的租務糾紛，因而違反私隱條例附表1保障資料第3原則的規定。

Appeal arising from complaint about failure to release personal data in response to data access requests (3/01)

The complainant in this case was the same one as in Appeal Case Notes 1/01 and 2/01. He made a complaint against a professional body alleging that it had failed, in response to his data access requests, to provide him with copies of documents held containing his personal data.

After carrying out an investigation, the PCO found that the professional body's refusal to comply with the data access requests was justified by the relevant exemptions under section 58 of the PD(P)O. Such refusal and the reasons therefor had been duly notified to the complainant in accordance with the PD(P)O. Accordingly, the professional body was not in breach of any of the requirements of the PD(P)O, and no enforcement notice was issued against it.

The complainant appealed against the Commissioner's decision. Prior to the hearing before the AAB, however, as in the appeals mentioned in Appeal Case Notes Nos.1/01 and 2/01, the complainant abandoned the appeal. Subsequently, the PCO sought to recover legal costs against the complainant on the grounds that the complainant had conducted all of the said appeals in a frivolous or vexatious manner. Pursuant to section 21 of the AAB Ordinance, an order for costs against the complainant was subsequently granted to the PCO against the complainant.

Appeal arising from complaint about the disclosure by the landlord of matters relating to rental dispute to the tenant's employer (4/01)

The complainant lodged with the PCO a complaint against a couple being his former landlords. The complainant was an employee of a tertiary educational institute in Hong Kong. For the purpose of complying with his employer's rental allowance audit check, he had asked his landlords to furnish to his employer rental receipts for a certain period immediately prior to the termination of the tenancy, or alternatively to sign a statement acknowledging that the rents had been paid by way of set off against the rental deposits. The landlords disagreed that the complainant was entitled to such set off and instead wrote a letter to his employer setting out their position on the rental dispute. The letter was sent to the highest and second highest executives of his employer. In his complaint, the complainant claimed that his landlord had without his consent disclosed matters relating

公署進行調查後通知投訴人他的業主並無違反私隱條例的規定，公署因而不擬在調查後向他的業主發出執行通知。私隱專員作出此決定的理由，是投訴人自己要求業主向他的僱主提供資料作核數用途。不過，在該情況下，投訴人不能合理地規定他的業主在租務糾紛一事上，必須按他的版本提供資料，如他的業主對該事有不同的看法。無論如何，公署認為投訴人的業主亦有權憑藉私隱條例第58(2)條得到豁免，可向專上教育機構的管理層報告有關的嚴重失當行為。

此外，公署認為在舉報公營或私營機構僱員所犯的涉嫌失當行為時，不應禁止舉報人直接寫信給最高層人士。在正常情況下，最高層人士在有需要時會將有關事件轉交合適的下屬跟進。投訴人不滿公署的決定，因而提出上訴。

聆訊有關上訴個後，行政上訴委員會裁定業主在回應投訴人的發放收據要求時，有權公開有關事件。收集及使用資料的目的，是要向投訴人指定業主須給予收據的一方，公開租務糾紛的始末。故此，當中並無涉及任何用途的改變或違反保障資料第3原則的情況。行政上訴委員會亦作出評論，指出私隱專員有權基於雙方確實發生租務糾紛而就個案進行調查，而業主亦因此有權寫信給該專上教育機構，述明他們在該事上立場。至於向管理層的兩名高層人員披露有關文件一點，行政上訴委員會裁定由於該兩人為專上教育機構的管理人員，故業主有權將事件告知他們。行政上訴委員會亦同意私隱專員有權接納業主可憑藉第58(2)條獲得豁免。故此，有關上訴被駁回。

to the rental dispute to his employer, contrary to data protection principle 3 ("DPP3") in Schedule I of the PD(P)O.

After carrying out an investigation, the PCO notified the complainant that the landlords had not contravened the requirements of the PD(P)O and that the PCO did not propose to serve an enforcement notice in consequence of the investigation. The reason for the Commissioner's decision was that the landlords had been asked by the complainant himself to provide information to his employer for the purpose of the audit check. In so doing, however, the complainant could not reasonably have required the landlords to confine themselves to the complainant's version of the events surrounding the rental dispute, if their own belief was otherwise. In any event, the PCO also found that the landlords were entitled to rely on the exemption provided by section 58(2) of the PD(P)O in reporting seriously improper conduct to the management of the tertiary educational institute. Furthermore, the PCO took the view that, in reporting any suspected wrongful acts done by an employee of a public or private body, an informant should not be prohibited from writing directly to the highest person, who would in normal circumstances be expected to refer the case down to the appropriate level for follow-up action, if necessary. Dissatisfied with the PCO's decision, the complainant appealed.

After hearing the appeal, the AAB decided that the landlords were entitled to set out their case in response to the complainant's request for rental receipts. The collection and the use of the data were for the purpose of setting out the dispute between them on the tenancy agreement to a party that the complainant had directed the landlords to provide the receipts. Accordingly, there was no change of use and contravention of DPP3. The AAB also commented that the Commissioner was entitled to proceed upon the basis that there was a real dispute between the parties concerning the tenancy agreement, which justified the landlords in writing to the tertiary educational institute in order to set out their position on the matter. On the point of disclosing the document to two senior persons in the management, the AAB decided that as those two persons were clearly involved in the management of the tertiary educational institution, the landlords were justified in informing them of this matter. The AAB also agreed that the Commissioner was entitled to accept the landlords' reliance on the exemption of section 58(2). Accordingly, the appeal was dismissed.

Report on Activities

由無披露中止僱傭合約的具體理由的投訴所引致的上訴（五/零一）

投訴人為一公營機構的高級職員。她的僱傭合約在屆滿前兩年，在僱主沒有給予詳細理由下被中止。她曾多次向有關公營機構查閱資料，但卻對所獲發放的個人資料感到不滿。她指稱有關公營機構因不發放所要求的資料而違反了私隱條例第19條(即依從查閱資料要求的規定)及保障資料第1至6原則的規定。

調查過有關個案後，私隱專員認為該公營機構已根據私隱條例依從了投訴人的所有查閱資料要求。不過，私隱專員卻發覺該公營機構在有關時候並無制訂任何個人資料私隱書面政策。由於該公營機構其後已制訂了有關的書面政策，故私隱專員認為該機構不會重複違反規定，因而行使酌情權，決定不向該機構發出執行通知。投訴人提出上訴。

行政上訴委員會聆訊上訴後維持私隱專員的決定。關於所指的第一次查閱資料要求，行政上訴委員會裁定那只是投訴人在得悉該公營機構的主席將中止她的僱傭合約的同一日，就中止合約理由提出查問，而不是私隱條例第18條下的查閱資料要求，藉以詢問主席該公營機構是否持有她的個人資料。至於所指稱的第二及第三次查閱資料要求，行政上訴委員會裁定基於個案的實情，私隱專員認為該公營機構已充份依從該兩次查閱要求的意見是正確的。作出指稱的第四次查詢要求的信件，是投訴人根據規管該公營機構的法例所核准的《處理職員投訴及不滿的程序》，寫給該公營機構的召集人。行政上訴委員會決定不視該信為第18條所指的查閱個人資料要求。至於所指稱的第五次查閱資料要求，該公營機構正確地認為那是投訴人根據該機構的有關既定政策，要求該機構考慮她的投訴及不滿。同樣地，行政上訴委員會裁定那不屬第18條下的查閱資料要求。

Appeal arising from complaint about non-disclosure of particularized reasons for determination of employment contract (5/01)

The complainant was a high-ranking officer of a public body. Her contract of employment was terminated two years before the normal expiry date of the contract, without being given detailed reasons. She made several data access requests to the public body but was not satisfied with the personal data released to her. She alleged that the public body had contravened section 19 of the PD(P)O (i.e. compliance with data access requests) in withholding requested personal data and also data protection principles 1 to 6.

After investigating the case, the Commissioner formed the view that the public body concerned had already complied with all of the complainant's data access requests in accordance with the PD(P)O. However, the Commissioner found that the public body had contravened the data protection principle 5 in that it did not have a written policy on personal data privacy at the material times. As the public body had subsequently adopted a written policy, the Commissioner considered that there was unlikely to be a repetition of the contravention and exercised its discretion by not issuing an enforcement notice. The complainant appealed.

Upon hearing the appeal, the AAB upheld the Commissioner's decision. On the question of the alleged first data access request, the AAB decided that it was simply a request for reasons of the termination after the complainant was notified of the termination of her contract by the Chairman of the public body on the same day. It was not a request under section 18 of the PD(P)O in the sense that the Chairman was being asked by the complainant whether the public body was holding her personal data. On the question of the alleged second and third data access requests, the AAB decided that, according to the facts of the case, the Commissioner was right to find the public body had adequately complied with the two data access requests. The letter containing the alleged fourth data access request was written to the Convenor of the public body pursuant to the 'Procedures for Handling Complaints and Grievances from Staff' endorsed under the legislation regulating the public body. The AAB decided that the letter could not be treated as a section 18 request for access to personal data. Regarding the alleged fifth data access request the public body rightly considered the same as a request by the complainant for her complaints and grievances to be considered by the public body in accordance with its established policy for dealing with such matters. Similarly, the AAB decided that it was not a section 18 data access request.

至於私隱專員不發出執行通知的決定，行政上訴委員會的評論是，根據私隱條例的規定，私隱專員有權視當時情況而決定是否發出執行通知，即使確有違反私隱條例規定的情況。行政上訴委員會裁定私隱專員決定不發出執行通知的理由是正確的。有鑑於此，上訴被駁回。

由入閘機的聲光披露持票人的年齡的投訴引致的上訴（六/零一）

投訴人投訴當他使用某鐵路營辦商的「長者優惠票務咭」通過入閘機時，入閘機隨即發出閃光及「必必」聲。投訴人指稱附近的乘客因此知道他已年滿65歲。

考慮過投訴人的指稱及進行初步調查後，公署通知投訴人根據私隱條例第39條，公署不會就有關個案進行調查，理由是投訴並無涉及任何私隱條例所指的個人資料。長者優惠咭並無記錄任何資料，或是鐵路營辦商的資料系統亦沒有任何關於投訴人的記錄，從而可切實可行地直接或間接辨識該人的身分。此外，入閘機所發出的聲光不屬投訴人的個人資料，因為根據私隱條例內「個人資料」的釋義，個人資料必須是記錄下來的資料。

行政上訴委員會進行聆訊後，裁定長者優惠咭或優惠咭在入閘時所觸發的聲光並無披露使用者的個人資料。任何年齡的人均可毋須出示或披露身分證明文件而購買及持有優惠咭。至於所發出的訊號，只用作識別所使用的咭的類別，而非該咭的使用者。無論咭的使用者是30歲或65歲以上，咭所發出的訊號也是一樣的。當值的職員須憑視覺所見來決定是否查詢使用者是否有資格使用優惠咭。故此，行政上訴委員會一致駁回有關上訴。

On the question of the Commissioner's decision not to issue an enforcement notice, the AAB commented that under the PD(P)O the Commissioner was given the discretion to decide whether to issue an enforcement notice even when there was a contravention of the PD(P)O. The AAB decided that the reasons given by the Commissioner in not issuing the enforcement notice were proper. On the basis of the above, the appeal was dismissed.

Appeal arising from complaint about disclosing the age of ticket user by toll gate sound and light (6/01)

The complainant complained that whenever he used his "senior citizen concessionary ticket card" of a railway operator to pass through a ticket gate, an indicating light of the ticket gate flashed and a "beep" sound was produced. The complainant alleged that his age of being over 65 was thereby disclosed to any nearby passengers.

After considering the complainant's allegations and making some preliminary enquiries, the PCO notified the complainant under section 39 of the PD(P)O that there was to be no investigation of the case. The reason was that the complaint involved no personal data within the meaning of the PD(P)O. There was no information recorded in the senior citizen concessionary card or in the information system of the railway operator relating to the complainant, which was reasonably practicable for his identity to be directly, or indirectly ascertained. Furthermore, the sound and light being emitted did not amount to the personal data of the complainant since it was not in a recorded form as required under the definition of "personal data".

After hearing the appeal, the AAB decided that neither the senior citizen concessionary card, nor its activation of the light and sound at the toll gates, disclosed any personal data of the user. A concessionary card itself might be purchased and possessed by anyone of any age. No identification was required or had to be disclosed at the time of purchase. As for the signals, they identified only the type of card being used, not the user using it. The same signals would be activated whether the user was 30 or 65 years of age. It would be up to the visual judgment of the staff on duty whether to ask the user about his eligibility to use the concessionary ticket. Hence, the AAB unanimously dismissed the appeal.

Report on Activities

由拒絕刪除信用咭欠帳資料的投訴所引致的上訴 (七/零一)

投訴人近期獲得解除破產。他投訴雖然如此，並有關欠款已被撇帳，但信貸資料服務機構仍沒有將他以前的欠帳資料自該機構的記錄中刪除。

對有關個案作出初步考慮後，公署發覺該信貸資料服務機構保留投訴人的資料，並無違反私隱專員根據私隱條例第12條發出的《個人信貸資料實務守則》(守則)的規定。故此，公署通知投訴人決定不進一步調查有關投訴。投訴人其後提出上訴。

在對上訴作出準備時，公署留意到守則第2.2條的一些釋義問題。第2.2條對信貸資料服務機構保留戶口欠帳資料一事提供詳細指引。簡單來說，第2.2條訂明戶口欠帳資料應在不遲於由「欠帳金額全數清還」日期起計五年內刪除。不過，該條文對由破產引起的情況，並無作出明確指示，特別是不清楚撇帳、破產令或解除破產是否視為該條文所指的「欠帳金額全數清還」。

不過，根據個案的實情，無論對第2.2條所指的「欠帳金額全數清還」一詞作出甚麼詮釋，最明顯的一點是由投訴日期起計，投訴人獲解除破產少於五年。同樣地，投訴中的債項從有關財務機構的帳目中撇除亦少於五年。故此，信貸資料服務機構保留該等資料並無違反第2.2條的規定。

對上訴作出聆訊後，行政上訴委員會裁定無須考慮撇帳或欠債人獲解除破產，一般是否視作守則第2.2條所指的「欠帳金額全數清還」。無論如何，即使本個案的情況視作投訴人的欠帳額已全數清還，但在作出投訴時，守則所述的五年保留期間仍未失效。基於此點，行政上訴委員會維持私隱專員毋須作出調查的決定。不過，行政上訴委員會視有關問題為守則中的一個「漏洞」，私隱專員在適當時候應加以處理。

Appeal arising from a complaint of refusal to erase credit default data (7/01)

The complainant was a recently discharged bankrupt. He complained that a credit reference agency had failed to delete its record of his previous defaults with financial institutions, despite the fact that the debt had been written off, and the fact that he had been declared bankrupt and then discharged from bankruptcy.

In giving preliminary consideration to the case, the PCO found that the retention of the data by the credit reference agency was consistent with the relevant requirements of the Code of Practice on Consumer Credit Data issued by the Commissioner under section 12 of the PD(P)O ("the Code"). Accordingly, the PCO notified the complainant of its decision not to further investigate the complaint. The complainant appealed.

In preparation for the appeal, an issue came to the attention of the PCO regarding the interpretation of clause 2.2 of the Code. In particular, clause 2.2 gives detailed guidance on the retention of account default data by a credit reference agency. In short, clause 2.2 provides that account default data should be deleted no later than five years from the date of "final settlement" of the amount in default. However the clause does not deal expressly with the situations arising under bankruptcy. In particular, it is not clear whether a write-off, the order of bankruptcy, or the discharge therefrom, amounts to "final settlement" within the meaning of that clause.

On the facts of the case in question, however, whichever way the meaning of the phrase "final settlement" as appearing in clause 2.2 is to be interpreted, it is clear that as at the date of the complaint, the complainant had been discharged from bankruptcy for a period less than 5 years. Similarly, the debt in question had also been written off in the accounts of the financial institution concerned for a period of less than 5 years. Accordingly, the credit reference agency's retention of the data in question would in any event not amount to a contravention of clause 2.2.

After hearing the appeal, the AAB decided that there was no need to decide the issue as to whether the write-off of a debt or the discharge from bankruptcy of the debtor could in general be equated to "final settlement" of a debt within the meaning of clause 2.2 of the Code. In any event, even if



these were considered to have amounted to final settlement of the complainant's debts in the present case, the 5-year period of retention had not yet expired at the time when the complaint was made. On that basis, the AAB upheld the decision of the Commissioner that no investigation was necessary. However, the AAB referred to the issue above as a "lacuna" in the Code, which needed to be addressed by the Commissioner in due course.

Appeal arising from complaint about being secretly videotaped while at work (8/01)

The complainant made a complaint against his supervisor at work alleging that he was videotaped without his prior knowledge or consent. At a hearing conducted by the PCO, the supervisor admitted having used his own videotape recorder to videotape the complainant at work, without his knowledge or consent, in order to record his bad work performance. The Commissioner took the view that, generally speaking, such monitoring must be authorized by the management and the affected employee must have been informed before such monitoring. In the present case, however, it was found that the management had not so authorized.

Although in the PCO's investigation no recorded tape could be found, the Commissioner found on the balance of probabilities that the supervisor did collect the personal data of the complainant by unfair means in contravention of data protection principle 1(2) ("DPP1(2)"). After considering the distress suffered by the complainant and the likelihood of repetition of the contravention, the PCO decided to issue an enforcement notice against him.

The supervisor, however, appealed against the Commissioner's decision on the ground that the Commissioner had failed to give him "the benefit of the doubt" on the point of whether the video-recorder was in fact functioning at the material time. On this issue, however, the Commissioner's position is that, insofar as the proceedings involved in the investigation was civil in nature, the civil standard of "on the balance of probabilities" should be adopted rather than the criminal standard of "beyond reasonable doubt". Before the hearing by the AAB, the supervisor abandoned his appeal.

由在工作中被偷錄的投訴所引致的上訴 (八/零一)

投訴人投訴他的上司在他不知情及未經他同意下而用錄像機偷拍他的工作情況。在公署的聆訊中，他的上司承認在投訴人不知情或未經他的同意下而用自己的錄像機記錄他的工作情況，藉以記錄他的工作表現欠佳。私隱專員認為一般來說，作出有關監察時必須先獲管理層授權，而受影響的職員亦應事前得知有關監察活動。在本個案中，有關人員的管理層並無授權他進行上述監察。

雖然公署在調查過程中並無發現任何已作記錄的錄像帶，私隱專員在平衡各種可能性後，認為該上司確有用不公的方法收集投訴人的個人資料，因而違反了保障資料第1(2)原則的規定。考慮過投訴人所承受的困擾，以及違反規定的情況有可能重複發生，公署決定向該上司發出執行通知。

不過，該名上司就私隱專員的決定提出上訴，理由是私隱專員沒有就涉案的錄像機在關鍵時刻是否正在操作方面，將疑點利益撥歸給他。在此方面，私隱專員的立場是只要調查所涉及的程序屬民事性質，則應採用「相對可能性的衡量」的民事準則，而非「無合理疑點」的刑事準則。該名上司在行政上訴委員會進行聆訊前放棄上訴。

Report on Activities

由拒絕修改解僱通知的投訴所引致的上訴 (九/零一)

投訴人為一間社會福利機構的僱員，同時亦是一間私營牟利老人院的股東。其後他被解僱。解僱信中所載的被解僱理由是利益衝突、無遵守機構的規則及對他失去信心及互信。投訴人透過改正資料要求，要求前僱主改正解僱通知內的個人資料。他的前僱主拒絕依從，理由是它並不認為通知的內容不準確。投訴人因而向公署提出投訴。

在調查過程中，投訴人的前僱主向私隱專員提供證據，以支持它認為通知內的資料並非不準確的說法。故此，私隱專員得出的意見是根據私隱條例第24(3)(b)條，該前僱主有權拒絕依從投訴人的改正資料要求，理由是它不信納有關個人資料屬不準確。由於該前僱主並無違反私隱條例的規定，故私隱專員決定不向它發出執行通知。投訴人就有關決定提出上訴。

對上訴進行聆訊後，行政上訴委員會維持私隱專員的決定。行政上訴委員會指出解僱通知內涉及僱員工作表現的個人資料，基本上很易引起爭議，被撤職的僱員不大可能同意僱主的意見。適當的做法是透過勞資審裁處而非改正資料要求解決有關分歧。對於涉及事實的爭議，私隱專員的角色只限於考慮資料使用者是否確實不信納有關個人資料屬不準確。

Appeal arising from complaint about refusal to amend notice of termination (9/01)

The complainant was once an employee of a social welfare organisation. He was also a shareholder of a private profit-making elderly home. He was then dismissed from employment, and was given a termination letter which stated, as reasons for his dismissal, conflict of interests, non-compliance with organisation rules and loss of mutual trust and confidence. Through a data correction request, the complainant demanded his ex-employer to correct his personal data as contained in the notice of termination. The former employer refused on the ground that the contents of the said letter were not considered to be inaccurate. The complainant therefore made a complaint to the PCO.

In the investigation, the former employer provided evidence to the Commissioner to support its opinion that the personal data as contained in the notice of termination were not inaccurate. Accordingly, the Commissioner formed the view that the former employer, in accordance with section 24(3)(b) of the PD(P)O, was entitled to refuse the complainant's data correction request on the ground that it was not satisfied that the relevant personal data were inaccurate. As the former employer had not contravened the PD(P)O, the Commissioner decided not to issue an enforcement notice against it. The complainant appealed against that decision.

After hearing the appeal, the AAB upheld the Commissioner's decision. The AAB commented that in a notice of termination, the personal data dealing with the employee's job performance was inherently contentious and it was unlikely that the dismissed employee would share the employer's point of view. The proper avenue to resolve these differences was by way of proceedings in the Labour Tribunal, but not by way of a data correction request. In the face of a dispute on facts, the role of the Commissioner was limited to considering whether the data user was indeed not satisfied that the relevant personal data were inaccurate.

由在屋苑被錄影的投訴所引致的上訴 (十/零一)

投訴人是屋苑業主委員會的其中一名成員。當她在屋苑內替一間志願機構派發宣傳單張時，她的行動被一名男子攝錄下來，而她事前對該攝錄行動是不知情及未給予同意的。其後她得悉該男子為屋苑另一對立業主委員會的成員，專門負責監察屋苑的管理工作。

在公署進行調查時，該男子聲稱他看見投訴人派發宣傳單張，懷疑她的行動違反屋苑的管理規則，因此將她的活動攝錄下來，作為她涉嫌違反規定的證據。其後，在與他所屬委員會的主席核對後，他發覺投訴人已獲准在屋苑內派發單張。故此，他將錄像帶的錄像清除。

公署進行調查後發覺被投訴者因用不公平的方法攝錄投訴人的活動而違反了保障資料第1(2)原則的規定。公署其後取得被投訴者的承諾，答應日後只會面對面作出干預而無效時，才會將涉嫌違反屋苑管理規則的活動攝錄下來。鑑於已取得上述承諾，公署認為有關違反規定情況不會重複發生，因此決定不向被投訴者發出執行通知。不過，投訴人就有關決定提出上訴。

投訴人在上訴中力指根據大廈公契，被投訴者所屬的業主會根本無權參予屋苑的管理工作。此外，投訴人力稱要求被投訴者作出上述條件的承諾，實際上等於公署認同被投訴者可在屋苑內攝錄他人。她進一步指稱在屋苑內經常受到該業主會的滋擾，有關情況可作為被投訴者重複違反保障資料第1(2)原則的證據。

Appeal arising from complaint about being videotaped in a housing estate (10/01)

The Complainant was a member of an owners' committee of a housing estate. When she was distributing promotional leaflets of a voluntary organisation in the housing estate, a man videotaped her activity without her prior knowledge or consent. It subsequently turned out that the man was a member of a rival owners' committee of the housing estate and was tasked with monitoring the management of the housing estate.

In the investigation by the PCO, the man claimed that while he saw the complainant distributing promotional leaflets, he suspected that the complainant was thereby acting in violation of the estate management rules, and therefore videotaped her activities as evidence of the suspected violation. After subsequently checking the matter with the chairman of his committee, however, he found out that the complainant had in fact obtained permission to distribute the leaflets. The videotape was therefore erased.

After investigation, the PCO found that the party complained against had contravened data protection principle 1(2) ("DPP1(2)") in that he had videotaped the complainant's activities by means that were unfair. In consequence, the PCO obtained from the party complained against an undertaking to the effect that in the future, he would for any suspected violation of the estate management rules videotape the suspected activities only after face-to-face intervention with the person concerned had proved unsuccessful. In view of the undertaking thus obtained, the PCO took the view that there was no likelihood of repetitive contravention and therefore decided not to issue an enforcement notice against him. The complainant, however, appealed against that decision.

In her appeal, the complainant argued that under the Deed of Mutual Covenant, the owners' association to which the party complained against belonged had in fact no authority to be involved in the management of the estate. Furthermore, the complainant argued that in asking the party complained against to give an undertaking in the above terms, the PCO in effect endorsed the practice of the party complained against of videotaping persons in the housing estate. She further alleged that she had thus been made the target of constant harassment by the said owners' committee in the estate, which thus constituted evidence of repeated contravention of DPP1(2) by the party complained against.



對上訴進行聆訊後，行政上訴委員會裁定該會不宜對大廈公契事宜作出判決。無論如何，公署要求被投訴者作出承諾，而非向他發出執行通知的決定是恰當的，亦不可視作認同被投訴者違反公契的規定。此外，由於缺乏證據證實她不斷受到滋擾，她指稱被投訴者重覆違反保障資料第 1(2) 原則的說法是無根據的。故此，行政上訴委員會駁回有關上訴。

**由在信中使用個人資料的投訴所引致的上訴
(十一/零一)**

投訴人要求社會服務機構提供協助。在她的個案得到解決後，該機構通知她有關個案已告終結。其後，她收到該機構一封跟進信。投訴人指稱該機構的做法濫用了她的個人資料。她亦指稱多名高級公職人員涉嫌行政失當及貪污。

在進行初步查詢後，公署通知投訴人根據私隱條例第39條，公署不會對投訴進行調查。公署認為由於該福利機構在跟進信中只要求投訴人與他們聯絡，故並無她所指稱的濫用資料。至於所投訴的涉嫌行政失當及貪污，公署認為不屬私隱條例第37條所指的投訴。第37條下的投訴必須是資料使用者的行為或作為可能違反私隱條例的規定。涉及行政失當或貪污的「投訴」不屬私隱條例釋義範圍內的投訴。基於以上各點，公署認為毋須進行調查。投訴人就上述決定提出上訴。不過，她在行政上訴委員會進行聆訊前放棄上訴。

After hearing the appeal, the AAB decided that the Board was not the appropriate forum to adjudicate on matters relating to the Deed of Mutual Covenant. In any event, the PCO's decision to obtain from the party complained against an undertaking rather than to issue an enforcement notice was proper, and could not have in any way amounted to an endorsement of any breach of the Deed by the party complained against. Also, since there was no evidence of her being continually harassed, her allegation that the party complained against had continued to contravene DPP1(2) was seen to be unfounded. The AAB therefore dismissed the appeal.

**Appeal arising from complaint about use of personal data in a letter
(11/01)**

The complainant requested assistance from a social service organisation. After her case was resolved, the organisation notified her that her case had been closed. Some time later, she received a follow-up letter from that organisation. The complainant alleged that her personal data were thereby being abused by that organisation. She also alleged administrative failings and corruption against several high-ranking public servants.

After conducting some preliminary enquiries, the PCO notified the complainant under section 39 of the PD(P)O that there was to be no investigation of the case. The PCO took the view that since the social welfare organisation in follow-up letter merely requested the complainant to contact it, there was no abuse of her personal data as alleged. Regarding other "complaints" relating to alleged administrative failings and corruption, the PCO took the view that they were not complaints within the meaning of section 37 of the PD(P)O. A complaint under section 37 must be referable to an act or practice of a data user that might involve a contravention of the PD(P)O. The "complaints" with regard to administrative failings or corruption therefore were not complaints within the meaning of the PD(P)O. On the basis of the above, the PCO considered that an investigation was not necessary.

The complainant appealed on that decision. However, she abandoned the appeal before the date of the hearing before the AAB.

關於私隱的議題

Privacy-Related Issues

實務守則

根據私隱條例第12(1)條，私隱專員可核准及發出實務守則，就私隱條例的任何規定（包括保障資料原則）提供實務性指引。有關守則可由某一行業或專業或私隱專員制訂。在核准實務守則前，私隱專員須諮詢守則所適用的資料使用者的代表團體，或他認為合適的其他有害關係的人。

《人力資源管理實務守則》

公署在二零零零年九月發出《人力資源管理實務守則》(下稱「守則」)。這是公署繼《個人信貸資料實務守則》及《身分證號碼及其他身分代號實務守則》後發出的第三本實務守則。守則旨在人力資源管理各方面，例如招聘，以及現職及前僱員事宜等，就如何依從保障資料原則提供實務性指引。特別要提的是守則禁止使用「匿名」招聘廣告，即沒有披露刊登廣告者的身分，但卻直接要求求職者遞交個人資料的招聘廣告。此外，守則亦就各類與僱傭有關的個人資料的保留期間提出建議。

Codes of Practice

Under section 12(1) of the PD(P)O, the Privacy Commissioner may, for the purpose of providing practical guidance in respect of any of the requirements of the PD(P)O, including those of the data protection principles, approve and issue codes of practice. The preparation of such a code may be done by a particular sector or profession or by the Privacy Commissioner. Before approving a code of practice the Privacy Commissioner is required to consult such representative bodies of data users to which the code will apply and such other interested persons as he thinks fit.

Code of Practice on Human Resource Management

In September 2000, the PCO published the Code of Practice on Human Resource Management ("the HRM Code"). This was the third code of practice published by the PCO (the previous ones were the Code on Consumer Credit Data and the Code on Identity Card Number and other Personal Identifiers). The HRM Code aims to provide practical guidance on compliance with the data protection principles in all aspects of human resource management activities, dealing with recruitment, current employees' matters and former employees matters. In particular, the Code prohibits the use of some "blind" recruitment advertisements i.e. advertisements that do not reveal the identity of the advertisers and yet directly solicit the submission of personal data from applicants. It also proposes different retention periods for various types of employment-related personal data.

Report on Activities

《僱員監察活動實務守則》

公署在本年報期間計劃出版第四本實務守則，題材與僱員的監察及監視/監聽活動有關。這本守則擬涵蓋的範圍包括閉路電視的使用、網址瀏覽監察、電子郵件監察，以及將僱員的電話談話錄音等。公署擬於二零零一年第四季發出守則的草擬本，徵詢市民的意見。

《個人信貸資料實務守則》的修訂事項

基於實施守則所取得的實際經驗，以及出現了一些足以影響信貸業的運作的改變，公署在本年報期內著手修訂《個人信貸資料實務守則》(下稱「守則」)的某些條文。自守則在一九九八年十一月生效以來，財經規管者及業內人士注意到一些不良的信貸趨勢，情況令人日益關注。舉例來說，這些趨勢包括借款人多次拖欠還款的個案上升、貸款人的資產質素日趨下降，以及破產個案持續上升等等。雖然導致這種情況的原因可能很多，但財經規管者及業內人士均認為這顯示有需要對個人信貸作出較嚴謹的評估。基於這樣的背景，公署建議放寬信貸資料服務機構所持有資料的保留期間的限制，以便對信貸風險作出評估。公署亦借此機會加入與獲解除破產人的資料有關的條文及作出其他雜項修訂。公署將在二零零一年五月就擬作的修訂進行公眾諮詢。

Code of Practice on Employee Monitoring

During the year under review, a fourth code of practice was also planned on issues relating to Employee Monitoring and Surveillance. This code will cover areas such as the use of CCTV, web browsing monitoring, e-mail monitoring and the taping of telephone calls by employers. A draft code will be ready by the last quarter of 2001 for general public consultation.

Amendments to the Code of Practice on Consumer Credit Data

Work was also in progress to amend certain provisions of the Code of Practice on Consumer Credit Data in the light of practical experience in enforcing the Code and in view of certain changes affecting the operation of the consumer credit industry. Since the commencement of operation of the Code in November 1998, financial regulators and industry players had noticed certain undesirable trends in consumer lending, which had become a cause of growing concern. These trends included, for example, increasing cases of multiple delinquencies among borrowers, deteriorating asset quality for lenders, and a steadily increasing number of bankruptcy cases. While there were probably many reasons for these developments, financial regulators and industry players had seen these signs as indication of the need for more vigorous credit assessment in consumer lending. It was against this background that the PCO proposed to relax the retention periods of some existing data held by credit reference agencies so as to assist in credit risk assessment. The opportunity was also taken to introduce amendments that related to data of discharged bankrupts and other miscellaneous revisions. A public consultation on the proposed amendments would be carried out in May 2001.

公署對公眾諮詢文件的回應

香港法律改革委員會的《規管收債手法諮詢文件》

香港法律改革委員會(下稱「法改會」)的私隱問題小組委員會，在二零零零年八月發表了《規管收債手法諮詢文件》徵詢市民的意見。香港的收債公司追收的債項包括商業債務、個人借貸的呆壞帳、信用咭戶口壞帳、流動電話戶口壞帳、以及拖欠地產代理的佣金及其他債項。公署在回應中支持法改會的建議，即訂立一項騷擾債務人的罪行，使收債人如從事訂明的行為，即屬犯罪。此外，公署亦支持收債公司必須領牌的建議，並且將無有效牌照而經營收債公司或替他人進行收債工作訂立為刑事罪行。

成立商業信貸資料庫的建議

在二零零零年九月，公署就香港金融管理局(下稱「金管局」)發出的《有關成立商業信貸資料庫建議的諮詢文件》作出回應。文件建議成立的資料庫類似其他司法區的資料庫。金管局認為成立商業信貸資料庫有助改善認可機構的信貸風險管理，以及提高還款紀律，從而鞏固香港銀行體系的健全和穩定。公署在回應中大致上支持這項建議，但卻促使金管局注意有必要制訂程序，藉以將借貸人的個人信貸資料及商業信貸資料分開，以及防止互換該兩套資料。預計互換該兩套資料的一個明顯的例子涉及獨資經營者，因為在法律上獨資經營與商業是無分別的。公署進一步建議若要共用商業信貸資料庫所持有的資料，則必須嚴格遵守實務守則或類似規例的規定。有關實務守則或類似法例必須在成立商業信貸資料庫時頒布。

Response to Public Consultation Papers

Law Reform Commission's consultation paper on The Regulation of Debt Collection Practices

In August 2000, the Privacy sub-committee of the Hong Kong Law Reform Commission published its report on "the regulation of debt collection practices" for public consultation. The range of debts referred to debt collection agencies in Hong Kong includes commercial debts, defaults on personal loans, credit card accounts, mobile phone accounts, and commission owed to estate agents and others. In its response, the PCO supported the LRC's recommendation that the offence of harassment of debtors be created, such that it would be an offence if a debt collector were to engage in proscribed behaviours. The PCO also supported the recommendation that debt collection agencies should be licensed and that it would be a criminal offence to operate a debt collection agency, or undertake debt collection work for others, without a valid licence.

Proposal to establish a Commercial Credit Reference Agency

In September 2000, the PCO had the opportunity to respond to a consultation paper issued by the Hong Kong Monetary Authority ("HKMA") regarding the establishment of a Commercial Credit Reference Agency ("CCRA") in Hong Kong similar to those that can be found in other jurisdictions. The HKMA felt that the establishment of a CCRA would improve authorized institutions' ("AI") credit risk management, and reinforce borrower discipline, thereby enhancing the soundness and stability of the banking system as a whole. In its response, the PCO generally supported the initiative but drew to the attention of the HKMA that there was a need to develop procedures that would demarcate, or prevent, any interchange of borrower's consumer credit data and commercial credit data. The most obvious interchange of these sets of data that could be envisaged would be the example of the sole trader; there being no legal distinction between the proprietor and the business. The PCO further suggested that the sharing of data held by the CCRA should be made strictly in accordance with the provisions of a code of practice, or similar regulation, that should be promulgated if a CCRA were to be established.

Report on Activities

電腦相關罪行跨部門工作小組

香港政府在二零零零年三月設立此工作小組，研究及檢討用以打擊電腦罪行或互聯網相關罪行的現行立法及其他方面的對策。本港警方處理的電腦罪行舉報數目由一九九六年的21宗，上升至一九九九年的318宗。工作小組在工作期間曾參考歐洲議會的《網上罪案公約》草案。在十月，工作小組發表它的建議，其中一項建議是當局應引入法例，容許執法機構在接受司法審查的情況下獲取加密電腦記錄的解密工具或解密文本。公署在回應中大致上支持有關建議，並提議在司法審查過程及發出司法手令時，應一併考慮受到執法機構或保安機構調查的罪行可能涉及的嚴重程度。另一項頗具爭議的建議，是規定互聯網服務供應商必須保存所有互聯網交易的運作記錄(包括來電號碼)最少六個月，以便在調查電腦罪行時追查用戶戶口。公署在回應中指出個人的互聯網戶口可能有該人的個人資料。故此，公署建議應用符合私隱條例規定的手法來處理個人資料，尤其是須符合保障資料第1(1)原則的規定。有關規定訂明除非是為了與資料使用者的職能或活動直接有關的目的，否則不得收集個人資料。公署指出如互聯網服務供應商只為了執法目的，而非與本身的職能及提供互聯網服務的業務有關的目的收集個人資料，則可能違反保障資料第1(1)原則的規定。這點是必須提高警覺的。

醫護改革 — 你我齊參與 健康伴我行

公署在二零零一年三月，就衛生福利局草擬的醫護改革諮詢文件提交建議書。公署特別關注到諮詢文件建議設立一個電子醫療資訊系統，初期在公營醫療機構使用，然後逐步擴展至私營醫療機構和福利界營辦的機構。如實施這項建議，隨即會出現個人資料私隱問題。公署促使有關方面注意授權查閱電腦醫療記錄的做法會引致兩個問題。第一個問題關乎市民大眾的信任和信心，即有關系統能否有效地處理病人的記錄，避免可能受到未准獲許的或意外的查閱。第二個問題是在

Inter-departmental Working Group on Computer Related Crime

The Working Group was established in March 2000 by the Hong Kong Government to examine and review existing legislative or other regime of measures to tackle computer or Internet related crime. In Hong Kong, the number of computer crime reports handled by the Police increased from 21 cases in 1996 to 318 cases in 1999. In pursuit of its work, the Working Group made reference to the Council of Europe's draft convention on cyber-crime. In October, the Working Group released its recommendations. Amongst others, the Working Group recommended the introduction of legislation to enable law enforcement agencies to be provided with the decryption tool or decrypted text of encoded computer records subject to judicial scrutiny. In its response, the PCO generally supported the recommendation and suggested that the judicial scrutiny process, and the issuing of a judicial warrant, should take into account the potential seriousness of any crime that may be associated with the investigations undertaken by law enforcement and security agencies. A more controversial recommendation was the requirement that ISPs should keep log records for at least 6 months, including the caller numbers, of all Internet transactions to facilitate tracing and tracking of subscriber accounts for the purpose of computer crime investigation. In response to this, the PCO pointed out that in case of information relating to Internet accounts held by individuals, this might well contain an individual's personal data. Accordingly, the PCO recommended that personal data should be handled in a manner compatible with the provisions of the PD(P)O, in particular, the requirements of Data Protection Principle 1(1) ("DPP1(1)"), which provides that personal data should not be collected except for a purpose directly related to a function or activity of the data user. The PCO cautioned against the contravention of DPP1(1) in circumstances where the ISP collected personal data relevant only to law enforcement, but not relevant to its own function and the business of providing Internet services.

Healthcare Reform - Life Long Investment in Health

In March 2001, the PCO made a submission in response to a consultation document on healthcare reform issued by the Health and Welfare Bureau. Of particular interest to the PCO was the proposal to develop a computer-based Health Information Infrastructure. The infrastructure would have its beginning in the public health sector and extend to allow access to all healthcare providers, including those in the private sector, and ultimately to

資料保安方面會有甚麼保證？例如病人的資料在傳送途中被截取，或是中央資料庫受到外來衝擊等等。故此，公署建議衛生福利局在決定實施有關建議前，應考慮進行私隱影響評估，以評估將病人資料電腦化，並將有關資料儲存在中央資料庫的做法對個人私隱所造成的影響。私隱影響評估的結果可有效地促使衛生福利局關注病人的私隱，並且制訂評估有關建議的重要準則。公署進一步建議衛生福利局考慮制訂實務守則，提供運作及網上處理資料庫的指引，藉以處理公開、得悉權利才給予同意、保安、查閱及改正病人資料的權利、敏感性、承責及公眾責任等問題。

就具體私隱問題提供的指引

《流動電話服務供應商指引》

公署在二零零零年七月與香港通訊業聯會及主要的流動電話服務供應商會面，討論與該行業的投訴有關的問題。該等問題包括供應商處理流動電話服務申請的手法、顧客熱線處理客戶資料的方法，以及追收過期未付費用的行動。公署其後出版了《流動電話服務供應商指引》，協助業內從業員遵守私隱條例的規定。

the welfare sector. If this proposal were to be implemented then it would immediately raise questions around personal data privacy. The PCO drew attention to the fact that authorization to access computerized medical records gave rise to two issues. The first of these relates to public perceptions of trust and confidence i.e. does the system deal effectively with the potential of unauthorized and accidental access to patient records? Secondly, what guarantees, if any, can be offered in terms of data security e.g. the interception of patient data in transmission, and external attacks on the central database? Accordingly, the PCO recommended that the Health and Welfare Bureau should consider undertaking a Privacy Impact Assessment ("PIA"), prior to its decision of implementation, to assess the implications of computerizing patient records and placing them on a central database, in terms of their impact upon the privacy of individuals. The findings of the PIA would effectively alert the Health and Welfare Bureau to patient's privacy concerns, and establish important criteria against which the proposal should be assessed. The PCO further suggested that the Health and Welfare Bureau give consideration to the development of a code of practice with guidelines on the operations and online processing of the database to address issues such as openness, informed consent, security, right of access to and correction of patient's data, sensitivity, accountability and public responsibility.

Guidance on Specific Privacy Related Issues

Guidance for Mobile Service Operators

In July 2000, the PCO met with the Telecom Association of Hong Kong and the major mobile service operators to discuss issues relating to complaints about the industry. These issues include practices of the mobile operators in their handling of account applications, the manner in which customer data are handled through customer hotline services and the recovery actions taken by operators in respect of outstanding account payments. To assist the industry in complying with the requirements of the Ordinance, the PCO published a Guidance Note for adoption by mobile operators.

Report on Activities

《競選活動指引》

香港立法會新一屆的選舉在二零零零年九月舉行。公署在選舉日之前發出了一份《競選活動指引》，就收集及使用選民的個人資料作競選活動一事，為候選人提供指引。

智能式身分證

入境事務處對公署的建議作出回應，就建議中的智能式身分證計劃進行首次私隱影響評估，以評估有關計劃對個人私隱可能造成的影響。入境事務處進一步接納公署的建議，制訂全面的資料私隱策略，涵蓋下述事宜：

- (a) 立法方面--確保立法規定所需的保障資料私隱措施，以防止濫用，並且取得市民大眾的信心；
- (b) 行政方面 — 確保制訂保障程序及實務守則；
- (c) 技術方面 — 確保系統內置保安及保障私隱科技；
- (d) 宣傳方面 — 確保市民大眾充份理解可如何使用身分證、在身分證內藏功能方面可作的選擇，以及他們的資料私隱權益。

對公共登記冊的運作的檢討

繼公署呼籲所有政府部門採取協調一致行動檢討公共登記冊的運作後，當局已成立了一個由民政事務局出任主席的跨部門工作小組來處理這個問題。工作小組已提出多項建議，並且在二零零零年十二月向各部門發出通告，提供實施所作建議的實際指引。一般來說，大家均認為首先可採取行政措施而非透過立法來管制公共登記冊的運作。不過，建議指出各部門應在修訂現行法例時，將行政措施立法。當局會在二零零一年中就行政措施的實施進行檢討。

Guidance on Electioneering Activities

The new term of the Hong Kong Legislative Council Election was conducted in September 2000. Prior to the election date, the PCO published a Guidance Note to provide guidance to candidates on the collection and use of personal data of prospective voters for electioneering purposes.

Smart Identity Card

In response to the PCO's recommendation, the Immigration Department conducted its first Privacy Impact Assessment ("PIA") on the proposed smart identity card scheme to assess the likely privacy implications that the scheme might have on individual privacy. The department further accepted the PCO's suggestions to implement a comprehensive data privacy strategy encompassing matters relating to the following areas:

- (a) Legislative aspect - to ensure that the necessary data privacy safeguards are laid down in law so as to deter abuses and gain the confidence of the public;
- (b) Administrative aspect - to ensure that the necessary procedural safeguards and a code of practice are drawn up;
- (c) Technical aspect - to ensure that security and privacy-enhancing technologies are built into the system;
- (d) Publicity aspect - to ensure that the general public fully understand what they can do with their identity cards, the choice, if any, they may exercise with the applications on offer, and their data privacy rights.

Review of Practices relating to the operations of Public Registers

In response to the PCO's call for co-ordinated and coherent action amongst all government departments to review the practices of public registers, an inter-departmental working group was set up under the chairmanship of the Home Affairs Bureau. The working group has since made its recommendations and in December 2000, the Home Affairs Bureau issued a service-wide circular providing practical guidance to the implementation of the proposed recommendations. Generally, it was considered that administrative measures should be adopted in the first instance instead of introducing legislation to regulate the operation of public registers. However, departments were recommended to legislate the administrative measures as and when any amendment was introduced to existing legislation. A review of the implementation of the administrative measures would be undertaken in mid 2001.

二零零一年資料當事人意見調查 2001 Data Subjects Opinion Survey

引言

公署在二零零一年委託香港大學社會科學研究中心，為公署進行第五屆一年一度的資料當事人意見調查。調查的目的是：

- 調查市民對個人資料私隱問題的態度及私隱受到侵犯的經驗；
- 研究市民對公署工作的認識和態度；
- 將這些態度、觀念及經驗與過往的調查結果作出比較，以了解當中的轉變。

調查是向1706個講廣州話的住戶進行電話訪問。

向資料當事人進行調查

一般來說，在態度及走勢方面，二零零一年的調查與前數年的調查結果相似。這顯示受訪者對個人資料私隱的意見無疑是有連貫性的。

市民認為私隱是繼就業及空氣污染之後的第三個最重要的社會問題，比食物衛生，醫療服務、老人護理及性別歧視更為重要(圖表一)。

Introduction

In 2001, the PCO invited the Social Sciences Research Centre of the University of Hong Kong to conduct the fifth annual opinion survey of Data Subjects. The objectives of this survey are to:

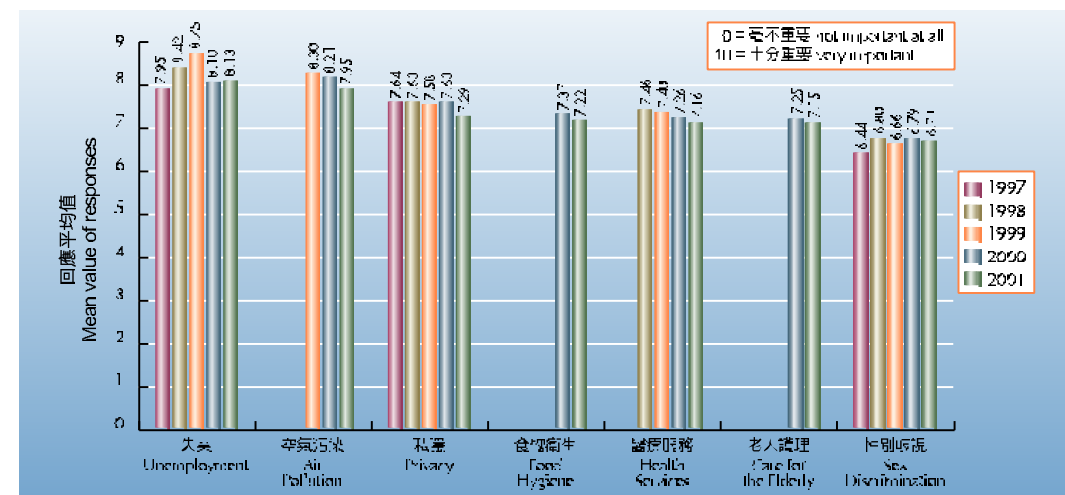
- investigate public attitudes towards personal data privacy and experiences of its invasion;
- examine public knowledge of, and attitudes towards, the work of the PCO;
- track changes in attitudes, perceptions and experiences against the results of previous surveys.

The survey was conducted by telephone among 1706 Cantonese speaking householders.

Survey of Data Subjects

In general the findings of the 2001 survey were consistent with the findings obtained in previous surveys in terms of the attitudes expressed, and the direction of trends. This suggests a certain continuity in the opinions articulated by respondents towards personal data privacy.

In terms of its importance as a social issue privacy ranked third, behind employment and air pollution, but ahead of food hygiene, health services, care for the elderly and sex discrimination. (Figure 1)



圖表一
- 各項社會政策的重要性
Figure 1
- Importance of social policy issues

Report on Activities

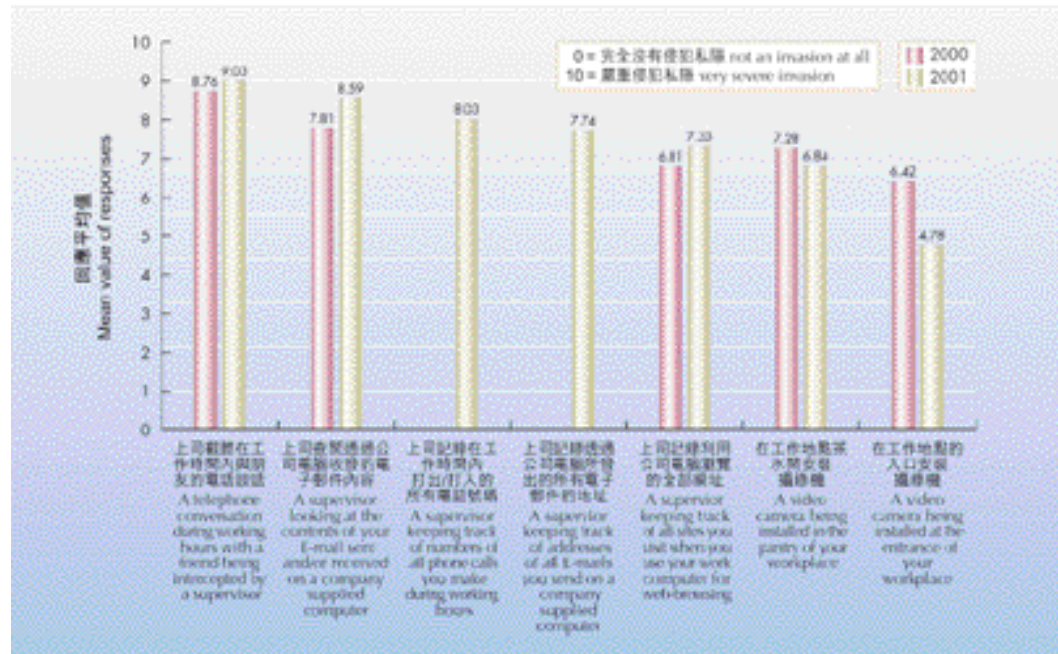
受訪者表示他們對在工作地點進行的多項監察活動敏感。調查結果顯示僱員認為下述監察活動尤其侵犯僱員的私隱(圖表二)：

- 上司截聽在工作時間內與朋友的電話談話；及
- 上司查閱透過公司電腦發放及接收的電子郵件內容。

Respondents indicated that they were sensitive towards a variety of activities concerned with workplace surveillance. The findings indicate that the practices of:

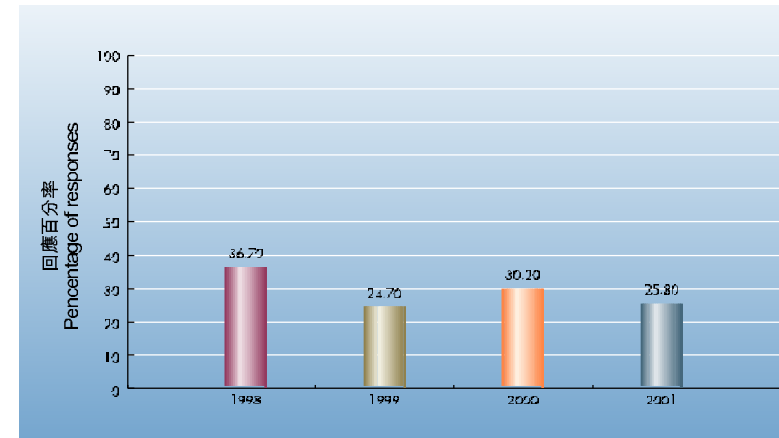
- a telephone conversation during working hours with a friend being intercepted by a supervisor, and
- a supervisor looking at the contents of E-mail sent or received on a company supplied computer to be particularly invasive of employees privacy. (Figure 2)

圖表二 — 侵犯私隱的程度
Figure 2 - Invasion of privacy



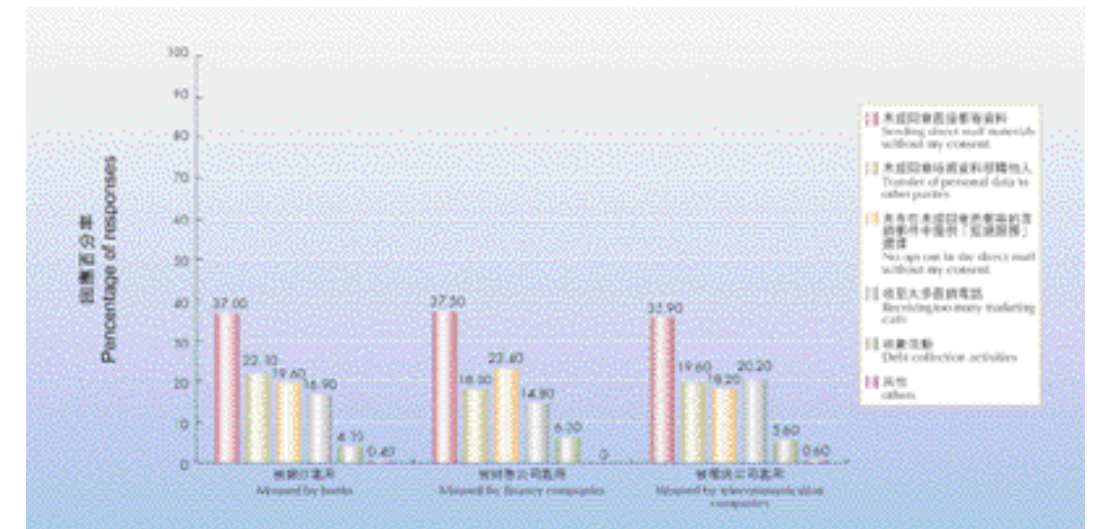
調查發現聲稱個人資料在過去12個月曾遭他人濫用的人數有所下降(圖表三)。這可能與公署所採取的溝通策略有關。公署藉著有關策略促使各界人士注意個人資料私隱權利。至於個人資料遭他人濫用的受訪者，濫用者大部分為三個行業的人士，而最常見的涉嫌濫用情況是在未經個人同意前向他們直接郵寄資料(圖表四)。

There was a decrease in the number of those claiming that their personal data had been misused over the past 12 months (Figure 3). This finding seems to be related to the investment made by the PCO in its communications strategy which has alerted all sections of the community to the personal data rights of the individual. Where misuse was experienced by respondents it appears to have been largely restricted to three sectors of the economy. The most common type of alleged misuse was the sending of direct mail materials without the consent of the individual. (Figure 4)



圖表三 — 個人資料受到濫用
Figure 3 - Personal experience of misuse of personal data

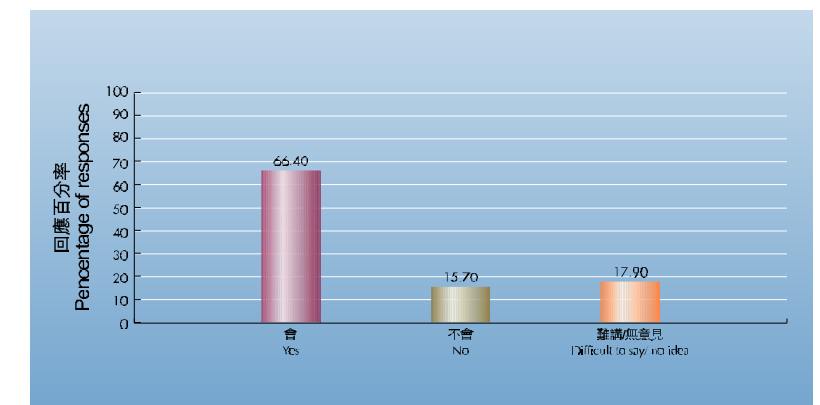
圖表四 — 銀行、財務及電訊公司涉嫌濫用個人資料的各種行為
Figure 4 - Different kinds of alleged misuse of personal data by banks, finance and telecommunication companies



此外，公署的推廣活動亦有助加強市民對個人資料私隱權利的認識。66%受訪者指出若他們認為個人資料被濫用，他們肯定會提出投訴(圖表五)。

Promotional activities also appear to have paid dividends in terms of the public's knowledge of their personal data privacy rights. 66% reported that they would certainly lodge a complaint if they thought their personal data had been misused. (Figure 5)

圖表五 — 如果認為個人資料被濫用，你會投訴嗎？
Figure 5 - Would you make a complaint if you thought your personal data had been misused?



Report on Activities

此外，公署的調查結果進一步顯示出香港市民在過去多次調查中對網上購物的私隱問題的關注。最受關注的事項包括：

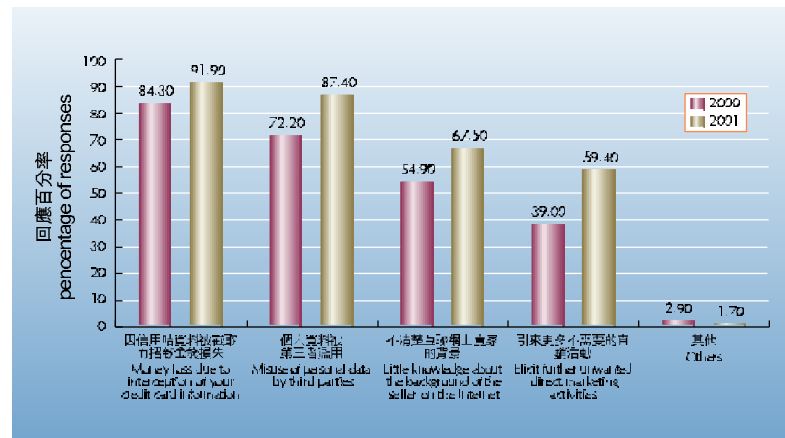
- 因信用咭資料被截取而招致金錢損失；及
- 個人資料被第三者濫用(圖表六)

95%的受訪者同意或十分同意公署在年內的工作，確已提高了市民對個人資料私隱問題的認識(圖表七)。

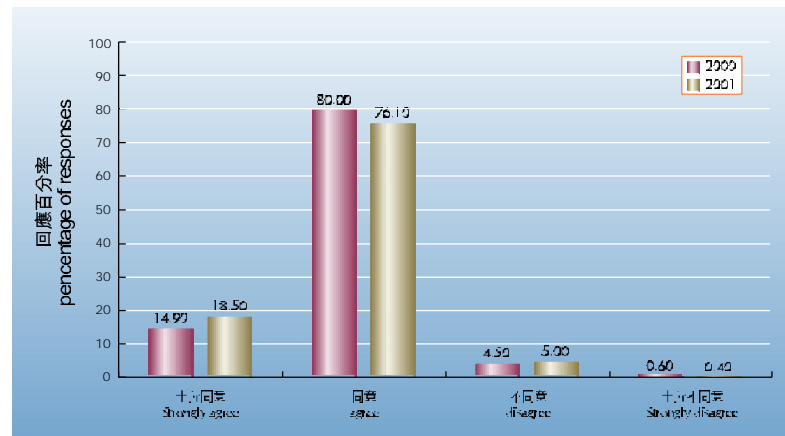
The survey lent further weight to findings of numerous surveys conducted among Hong Kong residents regarding concerns over their online privacy when purchasing on the Internet. The most commonly reported areas of concern were:

- money loss due to the interception of credit card details, and
- misuse of personal data by third parties. (Figure 6)

95% of respondents either agreed or strongly agreed that the PCO had increased community awareness of personal data privacy issues during the course of the year. (Figure 7)



圖表六 — 網上購物關注的私隱事項
Figure 6 - Areas of privacy concern when purchasing on the Internet



圖表七 — 公署提高了市民對個人資料私隱問題的認識
Figure 7 - The PCO has increased community awareness of personal data privacy issues

國際聯絡

International Liaison

根據《個人資料(私隱)條例》的規定，私隱專員的其中一項主要職能是：

- 「與——
- 在香港以外任何地方執行專員認為與其在本條例下的任何職能相似(不論全部或部分相似)的職能的人，進行聯絡及合作；及
 - 該等人士在某些相互關注的並涉及在個人資料方面的個人私隱的事項方面進行聯絡及合作。」

自成立以來，公署在過去多年來不斷與各國的資料保障當局及資料私隱倡議者建立聯絡網，就互相關注的事項進行聯絡及交換相關的資料。公署將香港在私隱保障方面的最新活動告知有關機構，並就相關的課題尋求他們的意見，包括跨境資料傳送、與私隱有關的僱傭資料、工作地點的監察活動及電腦罪行等等。

公署的職員多次應海外資料保障當局及政府的邀請，在本年報期間曾出訪澳洲、加拿大、中國、意大利、澳門特別行政區、新西蘭、菲律賓、泰國及美國，在個別會議上發言，以及報告香港所推行的保障私隱措施及活動，並且在有關場合派發有關報告及公署出版的相關刊物。有關報告及刊物深受大眾歡迎及重視。

公署在二零零一年三月底首次在香港舉辦私隱週，其中一項主要活動是舉辦「亞洲個人資料私隱研討會」，參加者包括來自十個亞洲國家/地區(香港、印尼、日本、澳門特別行政區、馬來西亞、新西蘭、菲律賓、星加坡、台北及泰國)的代表，就區內的保障個人資料情況進行討論，以及找出區內可攜手合作的範疇及活動，以促進各方的利益。大家一致認為公署的工作及經驗，特別值得現正制訂保障個人資料規管架構的一些亞洲國家及地區借鏡，以滿足當地社會的期望，並且在國際貿易上有助資料可不受限制地跨境傳送。

One of the major functions of the Privacy Commissioner, as stipulated in the Personal Data (Privacy) Ordinance, is to:

- "liaise and co-operate with any person in any place outside Hong Kong-
- performing in that place any functions which, in the opinion of the Commissioner, are similar (whether in whole or in part) to any of the Commissioner's functions under this Ordinance; and
 - in respect of matters of mutual interest concerning the privacy of individuals in relation to personal data."

The PCO, over the years since its establishment, has established and maintained a network of data protection authorities in various countries and data privacy advocates with which it interacts and exchanges relevant information for mutual benefit. The PCO has kept these organisations up-to-date on our activities in Hong Kong, and has sought advice from these contacts on topical issues, including transborder data flow, privacy related to employment data, workplace surveillance and computer crimes.

With the many invitations the PCO has received from overseas data protection authorities and governments, officers of the PCO have, during the reporting year, given presentations and reports on our initiatives and activities in selected conferences and meetings in Australia, Canada, China, Italy, Macau SAR, New Zealand, Philippines, Thailand and USA. These reports, as well as the relevant PCO publications distributed at these events, were received with enthusiasm and appreciation.

In the first "Privacy Week" ever held in Hong Kong in late March 2001, one of the major activities was the Asian Data Privacy Forum, where representatives from 10 Asian countries / territories (Hong Kong, Indonesia, Japan, Macau SAR, Malaysia, New Zealand, Philippines, Singapore, Taipei and Thailand) met to discuss the status of personal data protection in these jurisdictions and identify areas and activities where regional joint efforts would be of mutual benefits. It is generally recognised that the work and experience of the PCO are of particular value to a number of Asian countries/ territories where a regulatory framework to protect personal data is under development to meet societal expectations and allow for unimpeded transborder data flow in international trade.

帳目報告

S t a t e m e n t o f
A c c o u n t s



核數師報告 Auditors' 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)

本核數師已完成審核第七十八至八十六頁的帳目，該等帳目是按照香港普遍採納的會計原則編製。

個人資料私隱專員和核數師各自的責任

個人資料私隱專員的責任是編製真實兼公平之帳目。在編製該等真實兼公平之帳目時，個人資料私隱專員必須採用適當的會計政策，並且貫徹應用該等會計政策。

本核數師的責任是根據審核的結果，對該等帳目作出獨立意見，並向個人資料私隱專員提交報告。

意見的基礎

本核數師已按照香港會計師公會所頒佈的核數準則進行審核工作。審核範圍包括以抽查方式查核與帳目所載數額及披露事項有關的憑證，亦包括評審個人資料私隱專員在編製帳目時所作的重大估計和判斷，所採用的會計政策是否適合私隱專員公署的具體情況，及有否貫徹應用並足夠披露該等會計政策。

本核數師在策劃和進行審核工作時，均以取得所有本核數師認為必需的資料及解釋為目標，以便獲得充分憑證，就該等帳目是否存在重大錯誤陳述，作出合理的確定。在作出意見時，本核數師亦已評估該等帳目所載的資料在整體上是否足夠。本核數師相信我們的審核工作已為下列意見提供合理的基礎。

意見

本核數師認為，上述之帳目足以真實兼公平地顯示個人資料私隱專員公署在二零零一年三月三十一日的財務狀況及截至該日止年度的盈餘。

羅兵咸永道會計師事務所
香港執業會計師
香港，二零零一年八月十三日

AUDITORS' REPORT TO THE PRIVACY COMMISSIONER FOR PERSONAL DATA

(a corporation sole in Hong Kong established under the Personal Data (Privacy) Ordinance)

We have audited the accounts on pages 78 to 86 which have been prepared in accordance with accounting principles generally accepted in Hong Kong.

Respective responsibilities of Privacy Commissioner and auditors

The Privacy Commissioner is responsible for the preparation of accounts which give a true and fair view. In preparing accounts which give a true and fair view it is fundamental that appropriate accounting policies are selected and applied consistently.

It is our responsibility to form an independent opinion, based on our audit, on those accounts and to report our opinion to you.

Basis of opinion

We conducted our audit in accordance with Statements of Auditing Standards issued by the Hong Kong Society of Accountants. An audit includes examination, on a test basis, of evidence relevant to the amounts and disclosures in the accounts. It also includes an assessment of the significant estimates and judgments made by the Privacy Commissioner in the preparation of the accounts, and of whether the accounting policies are appropriate to the organisation's circumstances, consistently applied and adequately disclosed.

We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance as to whether the accounts are free from material misstatement. In forming our opinion we also evaluated the overall adequacy of the presentation of information in the accounts. We believe that our audit provides a reasonable basis for our opinion.

Opinion

In our opinion, the accounts give a true and fair view of the state of the affairs of the organisation as at 31st March 2001 and of its surplus for the year then ended.

PricewaterhouseCoopers
Certified Public Accountants
Hong Kong, 13th August 2001

Statement of Accounts

收支結算表

截至二零零一年三月三十一日止年度

INCOME AND EXPENDITURE ACCOUNT
FOR THE YEAR ENDED 31ST MARCH 2001

資產負債表

於二零零一年三月三十一日

BALANCE SHEET
AS AT 31ST MARCH 2001

	附註 Note	2001 港元 HK\$	2000 港元 HK\$
收入 Income	3	36,209,000	39,970,000
其他收入 Other income	3	975,486	434,402
行政費用 Administrative expenses		(861,743)	(710,923)
其他運作費用 Other operating expenses		(33,698,853)	(39,230,776)
年內盈餘 Surplus for the year	4	2,623,890	462,703
撥入約滿酬金儲備 Transferred to gratuity reserve fund	7	(2,180,761)	-
年內保留盈餘 Surplus for the year retained		443,129	462,703
上期轉入盈餘 Surplus brought forward		462,703	11,996
退還補助金盈餘 Surplus subvention paid back		905,832 (462,703)	474,699 (11,996)
轉下年度盈餘 Surplus carried forward		443,129	462,703

	附註 Note	2001 港元 HK\$	2000 港元 HK\$
固定資產 Fixed assets	5	5	5
無形資產 Intangible assets		1	1
流動資產 Current assets			
存貨 Inventories		204,095	-
預付款項、按金及應收帳項 Prepayments, deposits and receivables		544,017	415,823
銀行結餘及現金 Bank balances and cash		10,078,849	5,739,800
流動負債 Current liabilities		10,826,961	6,155,623
債權人及應付帳項 Creditors and accruals		1,678,824	804,049
流動資產淨值 Net current assets		9,148,137	5,351,574
資金來源： Financed by:		9,148,143	5,351,580
資本補助金 Capital subvention fund	6	6,524,253	4,888,877
約滿酬金儲備 Gratuity reserve fund	7	2,180,761	-
收支結算表 Income and expenditure account		443,129	462,703
		9,148,143	5,351,580

署理個人資料私隱專員劉嘉敏
Stephen Lau Ka-men
Acting Privacy Commissioner for Personal Data

Statement of Accounts

已確認損益報表
截至二零零一年三月三十一日止年度

STATEMENT OF RECOGNISED GAINS AND LOSSES
FOR THE YEAR ENDED 31ST MARCH 2001

	附註 Note	2001 港元HK\$	2000 港元HK\$
資本補助金			
Capital subvention fund			
非經常性政府補助金	6	3,100,000	1,200,000
Non-recurrent Government Subvention			
支出	6	(1,243,574)	(2,368,220)
Expenditure			
退還補助金盈餘	6	(221,050)	(125,295)
Surplus subvention paid back			
約滿酬金儲備			
Gratuity reserve fund			
由收支結算表撥入	7	2,180,761	-
Transferred from income and expenditure account			
未在收支結算表確認的收益/(虧損)淨額		3,816,137	(1,293,515)
Net gains/(losses) not recognised in the income and expenditure account			
年內盈餘		443,129	462,703
Surplus for the year retained			
退還補助金盈餘		(462,703)	(11,996)
Surplus subvention paid back			
已確認的收益/(虧損)總額		3,796,563	(842,808)
Total recognised gains/(losses)			

除年內盈餘443,129港元(2000年: 462,703港元)及退還補助金盈餘462,703港元(2000年: 11,996港元)外, 上述各收支項目已直接在附註6的資本補助金及附註7的約滿酬金儲備內確認。

Apart from the surplus for the year of HK\$443,129 (2000: HK\$462,703) and the surplus subvention paid back of HK\$462,703 (2000: HK\$11,996), the above items represent income and expenditure which are recognised directly in the Capital subvention fund and gratuity reserve fund as disclosed in notes 6 and 7 respectively.

帳項附註
NOTES TO THE ACCOUNTS

1. 個人資料私隱專員

The Privacy Commissioner for Personal Data

個人資料私隱專員公署是根據一九九五年八月三日制定的《個人資料(私隱)條例》而設立的單一法團, 目的是要在個人資料方面保障個人的私隱, 並就附帶事宜及相關事宜訂定條文。

The Privacy Commissioner for Personal Data is a corporation sole established under the Personal Data (Privacy) Ordinance 1995 enacted on 3rd 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.

2. 主要會計政策

Principal accounting policies

(a) 編製帳目的依據

Basis of preparation

帳目乃依據歷史成本常規法及按照香港普遍採納的會計原則編製, 並且符合香港會計師公會所頒佈的會計準則。

The accounts have been prepared under the historical cost convention and in accordance with accounting principles generally accepted in Hong Kong and comply with accounting standards issued by the Hong Kong Society of Accountants.

(b) 收入的確認

Income recognition

(i) 政府補助金收入按應計制確認;

Income from government subvention is recognised on an accruals basis.

(ii) 銀行利息收入以時間比例按結存金額和適用利率計算;

Bank interest income is recognised on a time proportion basis, taking into account the principal amounts outstanding and the interest rates applicable.

(iii) 演講收費收入按應計制確認;

Seminar fee income is recognised on an accruals basis.

(iv) 錄影帶及刊物銷售收入在該等貨品擁有權的風險和回報轉移至買方時確認, 這通常亦為錄影帶及刊物交予客戶及轉讓貨品所有權之同一時間。

Income from the sales of video tapes and publications is recognised on the transfer of risks and rewards of ownership, which generally coincides with the time when the video tapes and publications are delivered to customers and the title has passed.

Statement of Accounts

(c) 固定資產

Fixed assets

固定資產包括汽車、電腦及軟件、辦公室設備、家具及固定裝置、及租賃物業裝修，全部已於購入年度的收支帳內撇除或由資本補助金(附註6)提供款項。各固定資產以象徵式港幣1元在各有關項目下入帳以確認其存在。

Fixed assets comprise motor vehicles, computers and software, office equipment, furniture and fixtures and leasehold improvements and are either written off to the income and expenditure account in the year of acquisition or are financed by the Capital Subvention Fund (note 6). A nominal amount of HK\$1 is stated in each category to give recognition to the existence of these fixed assets.

(d) 無形資產

Intangible assets

無形資產代表宣傳運動計劃的支出。該計劃由非經常性政府資本補助金支付，並以象徵式港幣1元入帳以確認其存在。

Intangible assets represent expenditure incurred for a publicity campaign project funded by non-recurrent government capital subvention. A nominal amount of HK\$1 is stated to give recognition to the existence of this project.

(e) 營業租約

Operating leases

資產擁有權之全部風險及得益實質地由出租公司保留之租約，皆作為營業租約入帳。根據營業租約繳付的款額，在扣除自出租公司收取的任何獎勵後，均按租約期在收支帳中以直線方式支銷。

Leases where substantially all the risks and rewards of ownership of assets remain with the leasing company are accounted for as operating leases. Payments made under operating leases net of any incentives received from the leasing company are charged to the income and expenditure account on a straight line basis over the lease period.

(f) 存貨

Inventories

存貨指製成品，以成本值和可變現淨值之較低者入賬。成本值以先進先出法計算。

可變現淨值乃按預計銷售收益扣除估計銷售開支計算。

Inventories comprise finished goods and are stated at the lower of cost and net realisable value. Cost is calculated on the first-in first-out basis.

Net realisable value is determined on the basis of anticipated sales proceeds less estimated selling expenses.

(g) 約滿酬金儲備

Gratuity reserve fund

約滿酬金儲備為來自香港特別行政區政府民政事務局而未被應用的約滿酬金補助金。有關款項預留作支付完成合約的職員的約滿酬金之用。

The gratuity reserve fund is to set aside the unutilized gratuity subvention already received from the Home Affairs Bureau of The Hong Kong Government of the Hong Kong Special Administrative Region for future payments at the completion of the employees' contracts.

3. 收入

Income

下列項目為年內確認的收入：
Income recognised during the year is as follows:

	2001 港元HK\$	2000 港元HK\$
收入 Income		
政府補助金 Government subvention	36,209,000	39,970,000
其他收入 Other income		
銀行利息 Bank interest	454,573	395,181
演講收費 Seminar fees	361,300	34,550
錄影帶及刊物銷售 Video tapes and publication sales	159,613	4,671
	<u>975,486</u>	<u>434,402</u>
收入總數 Total income	<u>37,184,486</u>	<u>40,404,402</u>

4. 年內盈餘

Surplus for the year

	2001 港元HK\$	2000 港元HK\$
年內盈餘已計入及扣除下列項目： Surplus for the year is stated after crediting and charging the following:		

年內盈餘已計入及扣除下列項目：
Surplus for the year is stated after crediting and charging the following:

已計入項目 Crediting		
出售固定資產收益 Gain on disposal of fixed assets	4,540	-
已扣除項目 Charging		
營業租約租金 — 土地及樓宇 Operating lease rentals on land and buildings	2,269,728	3,489,352
員工支出 Staff costs	23,747,440	29,449,356
顧問服務 Consultancy services	1,379,820	2,027,269
推廣 Promotion	3,168,000	1,500,385
折舊 Depreciation	1,165,806	983,227
核數師酬金 Auditors' remuneration	20,500	19,500
出售錄影帶及刊物成本 Cost of sales of video tapes and publications	<u>111,935</u>	<u>-</u>

Statement of Accounts

5. 固定資產 Fixed assets	汽車	電腦 及軟件	辦公室 設備	家具及 固定裝置	租賃物業 裝修	總計
	Motor vehicles 港元HK\$	Computers and software 港元HK\$	Office equipment 港元HK\$	Furniture and fixtures 港元HK\$	Leasehold improvements 港元HK\$	Total 港元HK\$
成本 Cost						
於2000年4月1日 At 1st April 2000	371,721	2,359,061	492,275	527,034	3,790,888	7,540,979
增加 Additions	-	517,027	250,987	34,050	363,742	1,165,806
出售 Disposals	-	-	(67,421)	(32,176)	-	(99,597)
於2001年3月31日 At 31st March 2001	371,721	2,876,088	675,841	528,908	4,154,630	8,607,188
折舊 Depreciation						
於2000年4月1日 At 1st April 2000	371,720	2,359,060	492,274	527,033	3,790,887	7,540,974
在收支帳撇銷 Written off to income and expenditure account	-	517,027	250,987	34,050	363,742	1,165,806
出售 Disposals	-	-	(67,421)	(32,176)	-	(99,597)
於2001年3月31日 At 31st March 2001	371,720	2,876,087	675,840	528,907	4,154,629	8,607,183
帳面淨值 Net book value						
於2001年3月31日 At 31st March 2001	1	1	1	1	1	5
於2000年3月31日 At 31st March 2000	1	1	1	1	1	5

6. 資本補助金 Capital subvention fund	2001 港元HK\$	2000 港元HK\$
	上期轉入 Balance brought forward	4,888,877
非經常性政府補助金： Non-recurrent Government Subvention:		
- 私隱研討會 Privacy Conference	-	600,000
- 實況劇集計劃 Drama Series Project	600,000	600,000
- 電視綜合節目計劃 TV Variety Show Project	1,600,000	-
- 更新網址內容計劃 Web-site Revamp Project	900,000	-
	3,100,000	1,200,000
資本支出： Expenditure:		
- 私隱研討會 Privacy Conference	-	1,338,950
- 實況劇集計劃 Drama Series Project	600,000	600,000
- 安裝電腦計劃 Computer Installation Project	105,080	429,270
- 電視綜合節目計劃 TV Variety Show Project	98,000	-
- 更新網址內容計劃 Web-site Revamp Project	393,000	-
- 法律參考資料 Legal Reference	47,494	-
	1,243,574	2,368,220
退還補助金盈餘 Surplus subvention paid back	221,050	125,295
結存轉下年度 Balance carried forward	6,524,253	4,888,877

資本補助金為已收取但未應用的非經常性政府資本補助金的餘額。
The capital subvention fund represents the unutilised balance of non-recurrent government capital subvention received.

Statement of Accounts

7. 約滿酬金儲備
Gratuity reserve fund

	2001 港元HK\$	2000 港元HK\$
上期轉入 Balance brought forward	-	-
由收支結算表撥入 Transferred from income and expenditure account	2,180,761	-
結存轉下年度 Balance carried forward	<u>2,180,761</u>	<u>-</u>

8. 或有負債
Contingent liabilities

	2001 港元HK\$	2000 港元HK\$
應支付予完成合約職員的約滿酬金 Gratuity payments due at completion of employees' contracts	<u>2,246,274</u>	<u>2,795,181</u>

約滿酬金為將會付予由受聘日起計已完成三年合約的職員的酬金。由二零零零年四月一日起設立的約滿酬金儲備為來自香港特別行政區政府民政事務局而未被應用的約滿酬金補助金。有關款項預留作支付完成合約的職員的約滿酬金之用。
Gratuity payments will be payable to those employees who complete three year contracts commencing from the date of their employment. The gratuity reserve fund has been created with effect from 1st April 2000 to set aside the unutilized gratuity subvention already received from the Home Affairs Bureau of The Government of the Hong Kong Special Administrative Region for future payments at the completion of the employees' contracts.

9. 承付款項
Commitments(a) 根據營業租約承付的款項
Commitments under operating leases

個人資料私隱專員已承諾於二零零一年三月三十一日往後十二個月繳付營業租約的土地及樓宇款項，依據租約屆滿年度作出的分析如下：

As at 31st March 2001 the Privacy Commissioner for Personal Data had commitments to make payments in the next twelve months under operating leases in respect of land and buildings which expire as follows:

	2001 港元HK\$	2000 港元HK\$
一年之內 Within one year	-	-
於第二年至第五年(包括首尾兩年在內) In the second to fifth year inclusive	<u>2,165,328</u>	<u>2,165,328</u>

(b) 其他承付款項
Other commitments

截至二零零一年三月三十一日，個人資料私隱專員已承諾支付錄影帶製作費用如下：

As at 31st March 2001, the Privacy Commissioner for Personal Data had commitments to make payments in respect of production of a video as follows:

	2001 港元HK\$	2000 港元HK\$
已訂合約但未作撥備 Contracted but not provided for	<u>209,440</u>	<u>-</u>

10. 帳目的核准
Approval of accounts

帳目已於二零零一年八月十三日獲個人資料私隱專員核准。

The accounts were approved by the Privacy Commissioner for Personal Data on 13th August 2001.

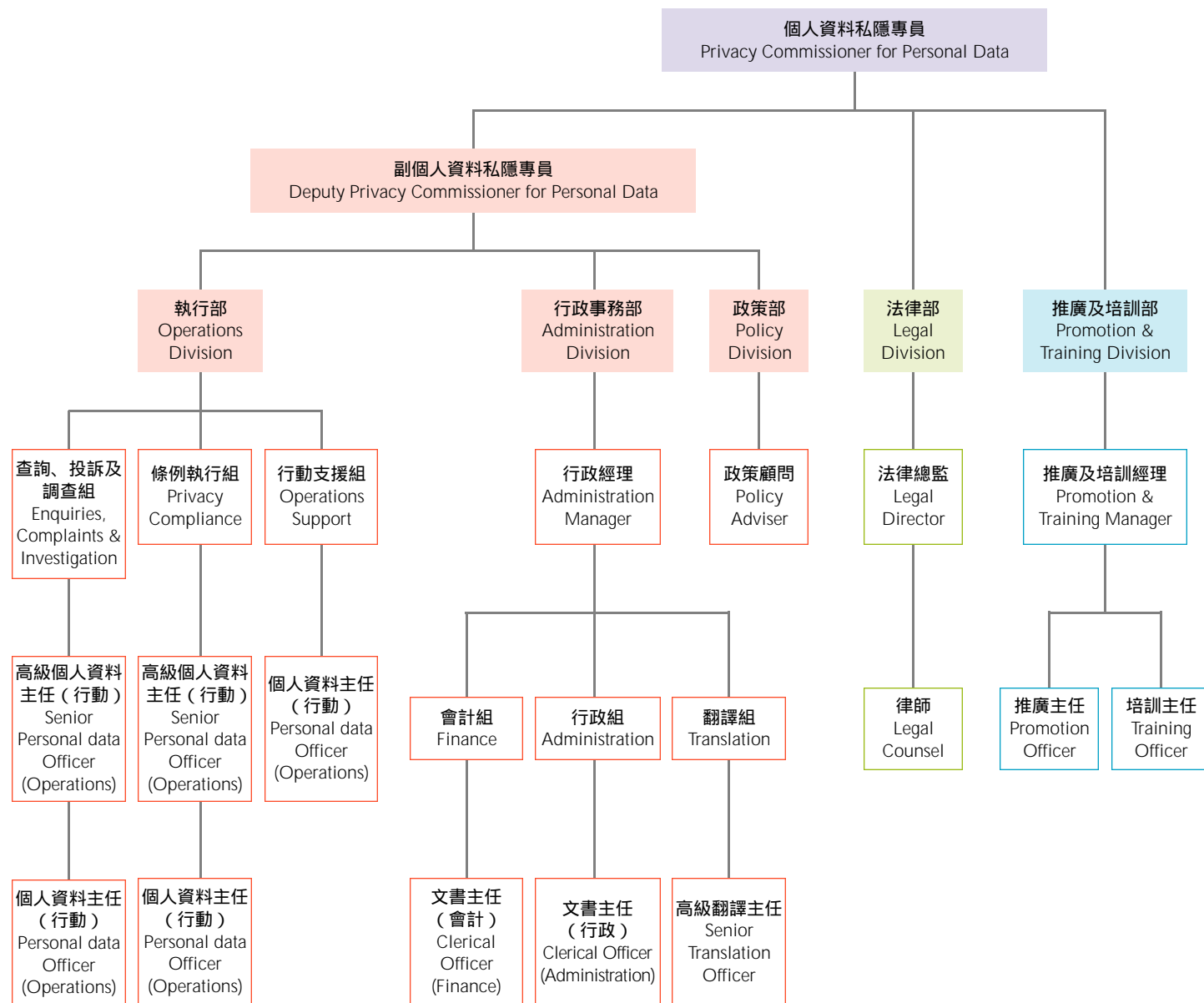
附錄

Appendices



公署組織架構
PCO Organization Chart

公署對建議中的法例的評論
Comments on Proposed Legislation by the PCO



《廣播條例草案》

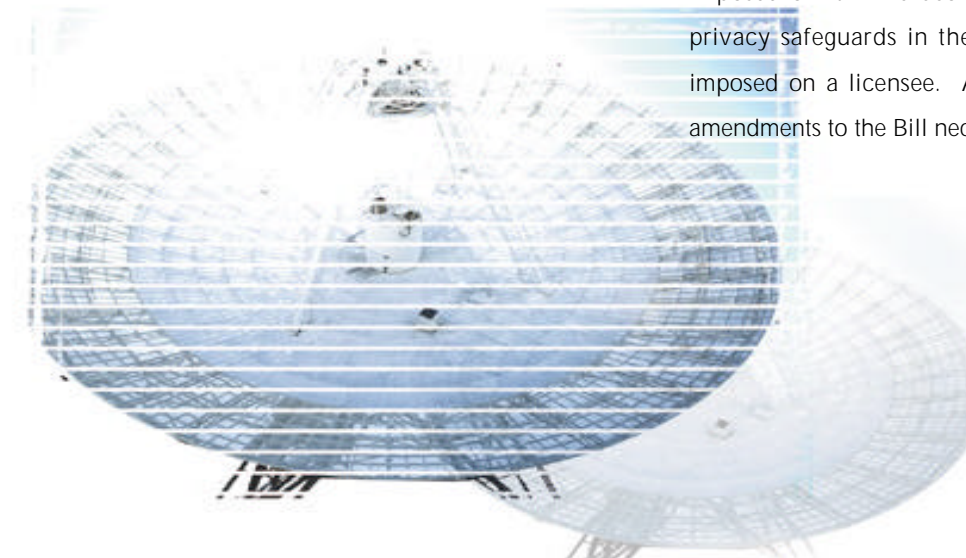
此條例草案其中一項建議是賦權電視節目牌照持有人進行調查。根據所獲賦予的權力，該持牌人可透過書面通知，要求任何人提供關於該人或身為該人的表決控權人的資料。公署指出建議中的權力有點不尋常，即本身為一個商業單位的持牌人獲授權可根據法定權力進行調查，特別是我們不清楚根據上述權力收集個人資料的目的，是否與持牌人的業務或職能有任何直接關係。該關係是至關重要的，因為保障資料第1(1)原則規定，除非是為了與資料使用者的職能或權力直接有關的目的，否則不得收集個人資料。

資訊科技及廣播局局長在回應時解釋根據條例草案的條文，持牌人必須依從所有法定規定，尤其是必須每年呈交法定聲明，證實是否有任何不合資格的人控制牌照。在此方面，局長認為有需要作出建議中的授權，以便持牌人依從所需的法定規定。局長繼而解釋條例草案中已載有保障私隱的條文，例如規定持牌人必須將資料保密。有鑑於此，局長並不認為須就建議中的權力，對條例草案作出修訂。

Broadcasting Bill

This Bill proposes, *inter alia*, to confer on a holder of a television programme licence the power of investigation. Pursuant to such power, such licensee may by notice in writing require a person to furnish information relating to that person or any other person being a voting controller of such person. The PCO pointed out that the proposed power was somewhat unusual in that a licensee, being a commercial entity, was empowered to carry out investigation pursuant to statutory power. In particular, it was not clear whether there was in fact any direct relationship between, on the one hand, the purpose of the collection of personal data under the said power and, on the other hand, the business activity or function of the licensee. Such relationship is relevant because, under data protection principle 1(1), personal data shall not be collected by a data user except for a purpose directly related to its function or authority.

In response, the Secretary for Information Technology explained that under the provisions of the Bill, a licensee was required to ensure that all statutory requirements were complied with. In particular, a licensee was required to submit an annual statutory declaration showing whether or not a disqualified person had exercised any control in the licensee. In this connection, the Secretary considered that the proposed power was necessary to enable the licensee to comply with the statutory requirements imposed on it. The Secretary further explained that there were built-in privacy safeguards in the Bill such as a requirement of confidentiality imposed on a licensee. Accordingly, the Secretary did not consider any amendments to the Bill necessary with regard to the proposed power.



A p p e n d i x I I

《土地註冊(修訂)條例草案》

此條例草案旨在修訂《土地註冊條例》。條例草案建議廢除《土地註冊規例》第12(1)(g)條，不再在註冊摘要日誌列示物業交易各方的姓名或名稱，供人查閱。廢除有關條文的目的是要防止商業單位從註冊摘要日誌中收集個人資料。

公署在給土地註冊處的評論中，指出只廢除《土地註冊規例》第12(1)(g)條，或許未能對私隱問題提供充份保障，尤其是有關人士仍可從土地的任何註冊文件中收集其他個人資料。故此，我們建議在《土地註冊規例》中加入新條文，明確禁止將從土地註冊處的註冊文件中取得的個人資料，使用於不是與所註冊的文件中的土地權益直接有關的目的。此外，為與民政事務局在上述條例草案推出後不久所發出的公共登記冊指引的規定配合，我們亦建議對《土地註冊條例》作進一步修訂，以便在條例草案中加入與土地註冊處所保存的公共登記冊有關的修訂。

土地註冊處處長在回應中解釋已制訂行政措施，藉以加強保障土地註冊處所持有的個人資料私隱。至於作出進一步立法修改，由於須就此事徵詢其他相關政府部門及政策局的意見，以及立法需時關係，有關問題未能在目前的條例草案中作出適當處理。

《藥物依賴者治療康復中心發牌條例草案》

公署早前已就此條例草案作出評論(詳情請參閱公署的一九九九至二零零零年年報)。我們在本年報期間再就此條例草案向立法會法案委員會提出進一步評論。

根據此條例草案的第6(6)及8(5)條，社會福利署署長獲授權可要求開辦治療中心的牌照申請人或

Land Registration (Amendment) Bill

This Bill sought to make amendments to the Land Registration Ordinance. The Bill proposed, *inter alia*, to repeal Regulation 12(1) (g) of the Land Registration Regulations so that the names of the parties of a property transaction would no longer appear in the Memorial Day Book for inspection. The purpose of the repeal was to prevent compilation of personal data from the Memorial Day Book for sale by commercial entities.

The PCO pointed out to the Land Registry that the privacy concerns might not be adequately addressed solely by the repeal of Regulation 12(1)(g). In particular, other personal data could still be compiled from data shown on any registered document concerning land. The PCO therefore suggested the introduction of an express prohibition in the Land Registration Regulations to guard against the use of personal data obtained from a document registered at the Land Registry for any purpose other than one directly related to the interests in land affected by the document so registered. Also, in line with the Guidelines on public registers issued by the Home Affairs Bureau shortly after the introduction of the Bill, the PCO suggested further amendments to the Land Registration Ordinance to be included in the Bill regarding the public register kept by the Land Registry.

In response, the Land Registrar explained that administrative measures had already been taken to enhance privacy protection of personal data kept by the Land Registry. So far as further legislative changes were concerned, however, in view of the need to consult other related government departments and policy bureaux and the tight legislative time frame, these could not be practicably dealt with under the current Bill.

Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill

The PCO has commented on this Bill on a previous occasion (see Annual Report 1999-2000). Further comments on the Bill were made to the LegCo Bills Committee by the PCO during the period under review.

Pursuant to clause 6(6) and 8(5) of the Bill, the Director of Social Welfare was empowered to require an applicant for a license to operate a treatment

要求發出豁免證明書的申請人，提供他認為考慮是否發牌或發出豁免證明書所需的資料。由於條例草案並無指明須提供甚麼資料，公署向立法會法案委員會明確指出，我們對社會福利署署長有可能收集超乎適度的個人資料表示關注。

在本年報期間，此事並無進一步進展。

《教育(修訂)條例草案》

此條例草案旨在修訂《教育條例》的條文，特別是加入新的第81B條，賦權教育署署長或學校督學在根據《教育條例》第81(b)或81A(1)或(3)條進入任何房產時，可要求在該房產內的任何人，向他交出該人的身分證明文件供他查閱，或要求該人提供他的住址及聯絡電話號碼。在此方面，公署注意到根據第81B條收集該等資料的目的，與教育署署長或學校督學的職能或活動如何直接有關一點並不明確，而根據保障資料第1原則的規定，兩者必須直接有關。

在回覆我們的評論時，教育署署長指出該項政策的目的，是要授權學校督學在有合理理由懷疑校內人士沒有遵守《教育條例》的規定時，可要求有關人士出示身分證明及提供個人資料。該項授權方便有關當局作出進一步調查或檢控。不過，考慮過公署的意見後，教育署署長同意修訂第81B條的草擬條文，只在學校督學有合理理由懷疑有關人士沒有遵守《教育條例》或其附屬規例時，才可要求他們出示身分證明文件及提供個人資料。

centre, or applicant for a certificate of exemption, to furnish him with such information relevant for his consideration of the application. Since it was not specified in the Bill what particulars might be required, the PCO expressed to the Bills Committee of the Legislative Council its concern about the possible collection of excessive personal data by the Director.

There was no further development in the matter during the period under review.

Education (Amendment) Bill

This Bill sought to amend the provisions of the Education Ordinance. In particular, it sought to introduce a new section 81B. The new section 81B would empower the Director of Education or Inspector of Schools who enters any premises under section 81(b) or 81A(1) or (3) of the Education Ordinance to require any person found in the premises to furnish to him for his inspection the person's proof of identity and to provide his residential address and contact telephone number. In this connection, the PCO noted that it was not clear how the collection of such personal data under section 81B would be relevant to a purpose directly related to the function or activity of the Director or Inspector, as required under data protection principle 1.

In response, the Director of Education advised that the policy intention was to empower school inspectors to require individuals found in school premises to produce proof of identity and personal particulars when the inspectors had reasonable suspicion that the Education Ordinance was not being complied with by the individuals. The power would facilitate further investigation or prosecution by the authorities. After considering the point raised, the Director of Education agreed to revise the drafting of section 81B so that only people reasonably suspected of not complying with the Education Ordinance or its subsidiary regulations may be required by the school inspectors to produce proof of identity and personal particulars.

《消防安全(建築物)條例草案》

此條例草案規定獲授權人員在執行或履行條例草案所授予或委予的職能時，必須應要求出示他的身分證，供他人查閱。鑑於身分證上的資料的敏感性，而有關人員在所有關鍵時刻均是以公職人員的身分行事，故公署建議有關方面考慮以較不侵犯私隱的身分證明文件代替身分證，例如職員證。

自公署向保安局局長提出上述建議後，此事在本年報期間並無進一步進展。

Fire Safety (Buildings) Bill

This Bill provided, *inter alia*, that an authorized officer must produce his identity card for inspection if so required when exercising or performing a function provided for in the Bill. Bearing in mind the sensitivity of the data contained in the identity card and the fact that the officer concerned would be acting in his official capacity at all material times, the PCO suggested that a less privacy intrusive identification document like a staff card should be considered in place of an identity card.

After raising the above matter with the Secretary for Security, there were no further developments during the period under review.

《證券及期貨條例草案》

此條例草案旨在作出必需的最近修訂，以配合證券及期貨市場近年來發展。條例草案對代表的發牌作出規定。為取得該牌照，申請人必須符合若干規定，包括申請人必須為「適當人選」。在此方面，條例草案開列了多項發牌條件。對機構申請人來說，有關條件適用於「法團的任何人員」。鑑於此語句的適用範圍甚廣，公署關注到這可能導致收集超乎適度的個人資料，因而違反保障資料第1(1)(c)原則。故此，我們建議修訂有關條文，訂明有關發牌條件只適用於對法團被認為是否本條例草案所指的「適當人選」有實際影響的法團人員。

證券及期貨事務監察委員會在給公署的回覆中，指出條例草案的規定是要對投資者提供適當的保障。公署的建議修訂因而未被接納。

Securities and Futures Bill

This Bill aimed to introduce necessary updates to cater for developments in the securities and futures markets over the years. The Bill provided, *inter alia*, for the licensing of representatives. In order to obtain a license, the applicant must satisfy certain requirements, which included the requirement of being "fit and proper". In this regard, the Bill set out a list of criteria which, in the case of a corporate applicant, would apply to "any officer of the corporation". In view of the very wide scope of that phrase, the PCO expressed concerns that this might result in the collection of excessive personal data contrary to data protection principle 1(1)(c). The PCO therefore suggested that the relevant provision be amended so that the criteria would only apply to those officers of a corporation whose satisfaction or otherwise of the said criteria was expected to have a real impact on the corporation being fit and proper person for the purposes of the Bill.

In its reply, the Securities and Futures Commission took the view that the provision in the Bill was necessary to ensure proper investor protection. Our proposed amendment was therefore not accepted.

公署曾參與的講座的主辦機構
Joint Seminars with the PCO

1.4.2000 - 31.3.2001

雅麗氏何妙齡那打素護養院	Alice Ho Miu Ling Nethersole Nursing Home
萬國宣道浸信會 元洲 浸信會老人中心	Association of Baptists for World Evangelism, Inc., Un Chau Estate Baptist Church Elderly Centre
香港澳洲商會	Australia Chamber of Commerce
基督教巴拿巴愛心服務團有限公司	Barnabas Charitable Service Association Ltd.
佛教李嘉誠護理安老院	Buddhist Li Ka Shing Care and Attention Home for the Elderly
九龍明愛社區中心	Caritas Community Centre - Kowloon
牛頭角明愛社區中心	Caritas Community Centre - Ngau Tau Kok
梨木樹明愛安老服務	Caritas Social Centre for the Elderly - Lei Muk Shue
公務員事務局	Civil Service Bureau
教育署	Education Department
地產代理監管局	Estate Agents Authority
—	Filipino Leaders Forum, The Philippine Consulate General
循理會白普理忠心堂老人中心	Free Methodist Church Bradbury Chung Sum Social Centre for the Elderly
循理會白普理德田老人中心	Free Methodist Church Bradbury Tak Tin Social Centre for the Elderly
香港各界婦女聯合協進會	Hong Kong Federation of Women
香港房屋委員會	Hong Kong Housing Authority
香港專業教育學院(青衣分校)	Hong Kong Institute of Vocational Education (Tsing Yi)
香港工業關係協會	Hong Kong Industrial Relations Association
香港人力資源管理學會	Hong Kong Institute of Human Resource Management
大埔紅卍字會大埔慈中學	Hong Kong Red Swastika Society Tai Po Secondary School
香港保安業協會	Hong Kong Security Association
香港跆拳道協會	Hong Kong Taekwondo Association
醫院管理局	Hospital Authority
—	Hotel Controllers Association, Hong Kong Annual General Meeting
國際四方福音會建生堂耆年中心	International Church of the Foursquare Gospel, Kin Sang Church Elderly Centre
香港互勵會曹舒菊英老人中心	Jane Shu Tsao Social Centre for the Elderly HKMEA
九龍城浸信會樂富耆英中心	Kowloon City Baptist Church Lok Fu Social Centre for the Elderly
循道衛理觀塘社會服務處	Kuwn Tong Methodist Social Service
勞工處 — 人事經理會	Labour Department - Personnel Managers Club

A p p e n d i x I I I

勞工處勞資協商促進組	Labour Department Personnel Workplace Consultation Promotion Unit	香港公司秘書公會	The Hong Kong Institute of Company Secretaries
勞工處職公會登記局	Labour Department Registry of Trade Unions	香港董事學會	The Hong Kong Institute of Directors
勞工處展能就業科	Labour Department Selective Placement Division	香港理工大學	The Hong Kong Polytechnic University
宣道會藍田堂老人中心	Lam Tin Alliance Church Social Centre for the Elderly	香港耆康老人福利會何善衡夫人敬老院	The Hong Kong Society for the Aged Madam Ho Sin Hang Home for the Elderly
立法會秘書處	Legislative Council Secretariat	香港耆康老人福利會任白善慈基金老人日間護理中心	The Hong Kong Society for the Aged Yam Pak Charitable Foundation Day Care Centre for the Elderly
強制性公積金計劃管理局	Mandatory Provident Fund Schemes Authority	九龍巴士(一九三三)有限公司	The Kowloon Motor Bus Co. (1933) Ltd.
香港心理衛生會艾齡樓	Mental Health Association of Hong Kong	香港律師會	The Law Society of Hong Kong
香港地下鐵路公司	Mass Transit Railway Corporation	旺角街坊會九龍總商會耆英中心	The Mongkok Kai-Fong Association Kowloon Chamber of Commerce Centre for the Elderly
單仲偕議員辦事處	Office of The Hon Sin Chung Kai	旺角街坊會陳慶社會服務中心	The Mongkok Kai-Fong Association Ltd. Chan Hing Social Service Centre
竹園區神召會彩雲老人康樂中心	Pentecostal Church of Hong Kong Limited Choi Wan Elderly Centre	鄰社輔導會白田康齡中心	The Neighbourhood Advice-Action Council Pak Tin Social Centre for the Elderly
竹園區神召會牛頭角老人康樂中心	Pentecostal Church of Hong Kong Limited Ngau Tau Kok Elderly Centre	愛滋寧養服務協會	The Society for AIDS Care
保良局莊啟程老人中心	Po Leung Kuk Vicwood K.T. Chong Social Centre for the Elderly	東華三院方王煥娣安老院	TWGHs Fong Wong Woon Tei Home for the Elderly
博愛醫院荔灣美孚老人康樂中心	POH Lai Wan Mei Foo Social Centre for the Elderly	東華三院何東安老院	TWGHs Ho Tung Home for the Elderly
博愛醫院陳歐陽麗嬋紀念日間老人護理中心	Pok Oi Hospital Chan Au Yeung Lai Sim Memorial Day Care Centre for the Elderly	東華三院羅文壩老人宿舍	TWGHs Lo Man Huen Hostel for the Elderly
博愛醫院王東源夫人老人社區服務中心	Pok Oi Hospital Mrs. Wong Tung Yuen Multi-Service Centre for the Elderly	東華三院呂氏(兄弟)安老院	TWGHs Lui's Brothers Home for the Elderly
博愛醫院王木豐紀念老人康樂中心	Pok Oi Hospital Wong Muk Fung Memorial Social Centre for Elderly	東華三院馬鄭淑英安老院	TWGHs Ma Cheng Shuk Ying Home for the Elderly
懷愛會兒童之家	Project Care, Small Group Home	東華三院莫黃鳳儀安老院	TWGHs Mok Wong Fung Yee Home for the Elderly
—	Rotary Club of Bayview Sunshine HK	東華三院王少青老人中心	TWGHs Wong Shiu Ching Social Centre for the Elderly
聖公會主誕堂明華老人中心	S.K.H. Holy Nativity Church Ming Wah Social Centre for the Elderly	香港西區婦女福利會松鶴老人中心	Women's Welfare Club Western District H.K. Chung Hok Social Centre for the Elderly
香港耆康福利會啟業老人中心	SAGE Kai Yip Social Centre for the Elderly	香港西區婦女福利會	Women's Welfare Club Western District
香港耆康福利會翠林老人聯誼中心	SAGE Tsui Lam Social Centre for the Elderly	關啟明紀念松鶴老人中心	H.K. Kwan Kai Ming Memorial Chung Hok Elderly Centre
深水埔街坊福利會陳昆棟老人康樂中心	Shamshuipo Kai-Fong Welfare Advancement Association, Chan Kwan Tung Social Centre for the Elderly	仁濟醫院香港半島獅子會老人宿舍	YCH H.K. Peninsula Lions Club Hostel for the Elderly
—	Shatin Human Resources Manager Club	元朗大會堂陳應祥紀念老人中心	Yuen Long Town Hall Mr. Chan Ying Tseung Memorial Social Centre for the Elderly
順利天主教中學	Shun Lee Catholic Secondary School		
社會福利署小組工作部長發社區中心	Group Work Unit, Social Welfare Department, Cheung Fat Estate Community Centre		
社會福利署小組工作部西區社區中心	Group Work Unit, Social Welfare Department, Western District Community Centre		
聖文德書院	St. Bonaventure College		
香港神託會沙角青少年中心	Stewards Limited Sha Kok Youth & Children's Centre		
香港神託會耀安工場	Stewards Limited Yiu On Workshop		
尖沙咀街坊福利會松柏活動中心	T.S.T. District Kaifong Welfare Association Activities Centre for the Elderly		
香港基督教播道會聯會康福堂老人中心	The Association of Evangelical Free Churches of H.K., Hong Fok Tong Social Centre for the Elderly		
香港中華廠商聯合會	The Chinese Manufacturers' Association of Hong Kong		

公署出版之刊物 (截至2001年3月31日)

Publications Produced by the PCO (as of 31 March 2001)

刊物：

- 《資料使用者指引第1號 — 條例簡介》
- 《資料使用者指引第2號 — 處理查閱資料要求及改正資料要求》
- 《資料使用者指引第3號 — 遵守保障資料原則的行動計劃摘要》
- 《資料概覽第1號 — 將個人資料移轉至香港以外地方：常問問題》
- 《資料概覽第2號 — 人力資源管理：常問問題》
- 《資料概覽第3號 — 個人資料私隱：電話促銷活動指引》
- 《個人資料私隱：競選活動指引》
- 《個人資料私隱：流動電話服務供應商指引》
- 《個人資料私隱與互聯網 — 資料使用者指引》
- 《保障網上私隱須知 — 互聯網個人用戶指引》
- 《擬備網上收集個人資料聲明及私隱政策聲明》
- 《電子私隱：建立對電子商業的信任和信心的政策方案 — 管理人員指南》
- 《私潮》 — 公署通訊
- 《核對程序：常問問題》
- 《處理投訴政策》單張
- 《個人資料：你的私隱權利簡介》

Publications:

- "A Guide for Data Users -- No. 1 -- A General Introduction to the Ordinance"
- "A Guide for Data Users -- No. 2 -- Compliance with Data Access and Correction Requests"
- "A Guide for Data Users -- No. 3 -- Outline Action Plan for Complying with the Data Protection Principles"
- "Fact Sheet No. 1 - Transfer of Personal Data Outside Hong Kong : Some Common Questions"
- "Fact Sheet No. 2 - Human Resources Management : Some Common Questions"
- "Fact Sheet No. 3 - Personal Data Privacy : Guidelines on Cold-Calling"
- "Personal Data Privacy : Guidance on Electioneering Activities"
- "Personal Data Privacy : Guidance for Mobile Service Operators"
- "Personal Data Privacy and the Internet - A Guide for Data Users"
- "Internet Surfing with Privacy in Mind - A Guide for Individual Net Users"
- "Preparing On-line Personal Information Collection Statements and Privacy Policy Statements"
- "E-Privacy : A Policy Approach to Building Trust and Confidence in E-Business - A Management Handbook"
- "Private Thoughts" - Newsletter of the PCO
- "Matching Procedure : Some Common Questions"
- "Complaint Handling Policy" leaflet
- "Personal Information : Your Privacy Rights Explained"

• 《身分證號碼及其他身分代號實務守則》

• 《身分證號碼及其他身分代號實務守則 — 資料使用者指引》

• 《身分證號碼與你的私隱》

• 《個人信貸資料實務守則》

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• 《人力資源管理實務守則 — 僱主及人力資源管理者指引》

• 《如何行使你的查閱個人資料權利》及查閱資料要求表格 (OPS 003)

• 《一九九九年意見調查：公眾對《個人資料(私隱)條例》的態度及條例的實施情況 — 主要調查結果》

• "Code of Practice on the Identity Card Number and other Personal Identifiers"

• "Code of Practice on the Identity Card Number and other Personal Identifiers -Compliance Guide for Data Users"

• "Your Identity Card Number and Your Privacy"

• "Code of Practice on Consumer Credit Data"

• "Code of Practice on Consumer Credit Data: What Does it Mean For You?"

• "Code of Practice on Human Resource Management - "Compliance Guide for Employers and HRM Practitioners"

• "Exercising Your Data Access Rights" and Data Access Request Form (OPS 003)

• "1999 Opinion Survey: Personal Data (Privacy) Ordinance: Attitudes and Implementation - Key Findings"

• Conference Proceedings of the 21st International Conference on Privacy and Personal Data Protection

錄影帶：

- 供資料使用者作培訓之用的錄影帶：《個人資料私隱：基本概念》
- 介紹市民權利之錄影帶：《認識你的個人資料私隱權利》

Videos:

- Training video for data users: "Personal Data Privacy: Basic Concepts"
- Video for the general public: "Get to Know Your Privacy Rights in Relation to Personal Data"

電腦光碟：

- 《遵守個人資料(私隱)條例規定自我評估資料套》互動光碟

CD-ROM:

- Interactive CD-ROM contained in the "Self-Assessment Form for Evaluating Compliance with the Personal Data (Privacy) Ordinance" (Privacy.SAFE)

對《個人資料(私隱)條例》作出的修訂 *Changes to the Personal Data (Privacy) Ordinance*

《人類生殖科技條例》(2000年第47號條例)在本年報期內制定，訂明在《個人資料(私隱)條例》中加入下述第63A條：

「63A 人類胚胎等

(1) 包含顯示某名身分可被辨別的個人或可能經由《人類生殖科技條例》(2000年第47號)所指的生殖科技程序而誕生的資訊的個人資料，獲豁免而不受第6保障資料原則及第18(1)(b)條的條文所管限，但如根據該等條文而按照該條例第33條披露該等資料，則屬例外。

(2) 凡查閱資料要求是關乎憑藉第(1)款獲豁免而不受第18(1)(b)條所管限的個人資料的，或是關乎假如存在便會獲該項豁免的個人資料的，則在披露該等資料的存在或不存在相當可能會損害受該項豁免保障的利益的情況下，該等資料亦獲豁免而不受第18(1)(a)條所管限。」

上述新加入條文在本年報期結束時仍未生效。

During the period under review, the Human Reproductive Technology Ordinance (No.47 of 2000) was enacted, which provided for adding to the PD(P)O the following section 63A:

"63A Human embryos, etc.

(1) Personal data which consist of information showing that an identifiable individual was, or may have been, born in consequence of a reproductive technology procedure within the meaning of the Human Reproductive Technology Ordinance (47 of 2000) are exempt from the provisions of data protection principle 6 and section 18(1)(b) except so far as their disclosure under those provisions is made in accordance with section 33 of that Ordinance.

(2) Where a data access request relates to personal data which are or, if the data existed, would be exempt from section 18(1)(b) by virtue of subsection (1), then the data are also exempt from section 18(1)(a) if the interest protected by that exemption would be likely to be prejudiced by the disclosure of the existence or non-existence of the data."

The above addition had not yet come into effect at the end of the period under review.

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年 報 *A n n u a l R e p o r t*

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