

私隱專員的話 Privacy Commissioner's Message



吳焯 太平紳士
Mr. Roderick B. Woo, JP
個人資料私隱專員
Privacy Commissioner for Personal Data

“ 在發生連串的病人資料外洩事件後，我在2008年5月果斷地首次行使法定權力，展開視察行動……而這次視察所帶來的宣傳效果，無異於一項保障私隱的社會活動，同樣是值得我們鼓舞。

In the wake of a spate of patients' data leakage incidents I took the bold step in May 2008 of exercising the statutory power of carrying out an inspection for the first time..... What was equally satisfying to me was the impact of the publicity generated by the inspection which served as a privacy awareness event. ”



今年，我選擇以「推廣保障私隱權利的藝術」作為年報的主題。我和其他地方的私隱專員一樣，著重提高市民對保障個人資料私隱權利這條法例的認識。礙於資源所限，我們需要創意性的策劃及執行。

過去，我們曾舉辦不同形式的推廣及教育活動，照顧不同人士及團體的需要，包括公私營機構、公民組織、專業及行業組織、學校及大學、年青人，以及普羅大眾。為了配合這些活動，我們會製作一些紀念品和宣傳品派發給參加者，亦會邀請知名人士協助，吸引市民和傳媒的注意。

在這個年度，我們與亞太區私隱機構的成員合辦第二屆「私隱關注運動」。為了達至在亞太區內推廣個人資料私隱的共同目標，各成員同心協力一起舉辦比賽。我很高興「私隱關注運動」已經開始打造成新的標記，在亞太區內，有越來越多人認識這項活動。而國際資料保障及私隱專員研討會亦正研究訂立世界私隱日或世界私隱周的可行性。如果這項每年一度的區域活動可以擴大成為全球活動，定能更廣泛地推廣保障私隱的意識。

市民或感到《個人資料（私隱）條例》（下稱「條例」）的條文複雜，不易理解，所以我們經常以傳統授課的形式，舉辦定期講座、展覽、研討會及公眾活動，向市民及機構解釋條例規定的權利和責任，這是行之有效的做法。除此之外，我們亦實行「教導導師」的理念。現行的媒介是「保障資料主任聯會」，目前共有三百二十多名會員，主要是保障資料或人力資源方面的行政人員。我們與會員保持緊密聯繫，向他們提供實用指引，讓他們把管理和保護個人資料的訊息傳遞開去。我們現正製作一套供導師使用的教材套，讓機構可以教導其僱員正確處理個人資料的方法。

I have chosen "The Art of Promoting Privacy Rights" as the main theme for this annual report. Not unlike other privacy commissioners elsewhere, I am committed to promoting better awareness of the law which protects the privacy rights of the individuals in relation to personal data. To do this under the constraint of limited resources often requires creative planning and execution.

In the past, my Office has organized an array of promotional and educational activities to cater for diverse audiences and settings – private and public organizations, civil society, professional and industry associations, schools and universities, young people and the not so young as well as the men in the street. We have co-ordinated such events with the production of some aide-memoire and promotional items to give away. Sometimes we invited celebrities to help draw the attention of the crowds and the media.

During the reporting year we organized the second Privacy Awareness Week (PAW) jointly with members of the Asia Pacific Privacy Authority. Concerted efforts were made to organize competitions to achieve the common goal of promoting personal data privacy across the Asia Pacific region. I am glad that PAW has successfully begun to build a brand name about which more and more people have come to know about within this region. The International Conference of Data Protection and Privacy Commissioners is now looking at the feasibility of appointing a World Privacy Day or Week. It would be nice if this annual regional activity can be converted into a global event.

The detailed provisions of the Personal Data (Privacy) Ordinance ("the Ordinance") are not easily understood by the general public. This is why the conventional approach of holding classes to explain to individuals of their rights and organizations of their responsibilities as prescribed under the Ordinance has always been considered useful and necessary. We hold regular seminars, exhibitions, conferences and public events. Apart from that, we also adopt the idea of training the trainers. We have an existing medium in the form of the Data Protection Officers' Club whose 320+ members are mainly data protection/human resources executives. We maintain close contact with our members and offer to them throughout the year practical guidance in the knowledge that they can spread the message of why and how personal data should be managed and protected. We are in the course of preparing a Trainer's Kit to enable organizations to teach their own employees the proper way of handling personal data.

我們在2006年開始嘗試為特定行業舉辦保障私隱活動。我們很高興可以夥拍香港酒店業協會，為每年處理數以百萬計旅客個人資料的酒店從業員舉辦活動，提高他們保障私隱的意識。活動空前成功，有超過40間大型酒店參加。今年，我們在地產代理監管局的鼎力支持下，為地產代理從業員舉辦同樣的活動。我們特地為這兩項活動設計「自學」教材，分別是酒店從業員的「網上自學課程」，及地產代理人員的「實務手冊」。活動完結後，這些教育工具可以繼續為這些行業的從業員提供有用的私隱資訊。

作為私隱條例監管者，我們需要時刻留意任何對個人資料私隱可構成威脅的情況，並採取適當的行動。例如在發生連串的病人資料外洩事件後，我在2008年5月果斷地首次行使法定權力，展開視察行動，目標是醫院管理局（下稱「醫管局」）的病人醫療資料系統。我有幸得到四位來自私隱、法律、醫療及資訊科技界別的專家協助，義務擔任顧問，他們是白景崇教授、陳爵先生、何仲平醫生及譚偉豪博士。完成視察後，我發表了一份報告，向醫管局提出37項建議，協助該局從保障資料角度改善病人資料系統。我很高興醫管局同意落實有關建議。而這次視

In 2006 we started to experiment with the idea of mounting an industry-specific privacy awareness campaign. We were fortunate in having the Hong Kong Hotels Association as our partner in organizing activities to enhance the privacy awareness of hoteliers who handle the personal data of millions of travelers each year. With more than 40 large hotels participating, the Hotel Privacy Campaign was a roaring success. This year we directed our efforts to doing the same for estate agents with the strong support from the Estate Agents Authority. For both of these Campaigns we designed specific "self-learning" materials: an online self training module for hoteliers and a handbook for real estate agents. These educational tools continue to give useful privacy information to the practitioners of the specific industries long after the privacy awareness campaigns were finished.

As privacy watch-dogs we need to be on the constant look-out for emerging threats to personal data privacy and ready to respond with appropriate actions. In the wake of a spate of patients' data leakage incidents I took the bold step in May 2008 of exercising the statutory power of carrying out an inspection for the first time. The target was the Hospital Authority's ("HA") patients' medical data system. I was fortunate in securing the kind and generous help of four eminent experts who acted voluntarily as consultants. The inspection concluded with a published report which offered the HA with 37 recommendations to help improve its existing patients' data system from the perspective of data protection. I was gratified by HA's agreement to implement the recommendations. What was equally satisfying to me was the impact



察所帶來的宣傳效果，無異於一項保障私隱的社會活動，這點同樣是值得我們鼓舞的。

回望這次的視察行動，其實已經超越了我們能力的限度，在某個階段我需要動用公署超過一半人手來參與。不過，將來如有需要，尤其是涉及重大公眾利益的情況下，我會無懼地進行另一次視察的。但由於視察需要極多的人手，所以在資源的配合上總會帶來挑戰。

為了避免人們在個別情況下對條例的詮釋產生混淆，我經常要站出來糾正一些誤解的情況。在2008年8月及11月，我致函香港律師會，澄清我早前認可律師收集客戶身份證副本的限度。此事在公署的網站公開後，得到不少人的注意，南華早報的社論亦給予正面評價。律師行業現在清楚知道，在常規上，除非出現洗黑錢的風險，否則無需收集及保留客戶的身份證副本。這是一個公眾無需出席講座也可以了解私隱權利的好例子。

為了讓市民和機構了解他們在法律下的私隱權利及法律責任，我盡量公開公署所完成調查的結果、個案簡述及法庭裁決等資訊。這

of the publicity generated by the inspection which served as a privacy awareness event.

In retrospect, I might have taken on more than I could cope noting that at one time during the inspection I had to deploy more than half of my officers. However I will not shy away from the carrying out of another inspection if circumstances warrant and especially if a significant public interest is involved. Resources constraints will always present a challenge because an inspection is highly labour intensive.

To avoid confusion over the interpretation of the Ordinance in specific circumstances, I often had to step in to put right what might have been misunderstood. In August and November 2008 I wrote to the Law Society of Hong Kong to clarify the extent of an endorsement which I had given earlier to the collection by solicitors of a copy of their clients' Hong Kong identity cards. After I had made known this matter on my official website, it attracted some considerable notice and received positive comments in an editorial of the South China Morning Post. Solicitors are now left in no doubt that they do not, as a rule, have to take and retain a copy of their clients' identity cards but only in cases where there is a risk of money laundering. This is just an example where the public can learn about privacy rights without going to a seminar.

To inform people of their privacy rights and to remind organizations of their responsibilities under the law, I make sure that ever more of the investigation results, case notes and court judgments are accessible.

私隱專員、顧問及視察小組於2008年5月23日對醫管局進行視察。

(前排左起) 香港工程師學會2007/08年度資訊科技委員會主席譚偉豪博士、高等法院司法常務官(已退休)陳爵先生、個人資料私隱專員吳斌先生、香港大學社會科學研究中心主任及法律改革委員會私隱問題小組委員會前主席白景崇教授、香港醫學會資訊科技委員會主席何仲平醫生。

(後排左起) 公署首席個人資料主任陳建田先生、副個人資料私隱專員關綺蘿女士、公署律師趙世芳女士、公署高級個人資料主任黎智敏女士、公署署理個人資料主任鄭梓基先生。

The Commissioner, the consultants and the Inspection Team carried out Inspection against Hospital Authority on 23 May 2008.

(From left, first row) Ir. Dr. Samson Tam Wai-ho, Chairman, Information Technology Division, Session 2007/08 Hong Kong Institute of Engineers; Mr. Christopher Chan Cheuk, Registrar, High Court (Retired); Mr. Roderick Woo, the Privacy Commissioner for Personal Data; Professor John Bacon-Shone, Director, Social Sciences Research Centre, University of Hong Kong and Former Chairman, Law Reform Commission Privacy Subcommittee; Dr. Ho Chung-ping, Chairman, Information Technology Committee, Hong Kong Medical Association

(From left, second row) Mr. KT Chan, Chief Personal Data Officer of the PCPD; Mrs. Bonnie Smith, Deputy Privacy Commissioner for Personal Data; Ms. Margaret Chiu, Legal Counsel of the PCPD, Ms. Joyce Lai, Senior Personal Data Officer of the PCPD; Mr. Gabriel Cheng, Acting Personal Data Officer of the PCPD.

些公開通告通常都會吸引公眾的注意。當原訟法庭在2008年8月裁定國泰航空有限公司可合法地收集機艙服務員的醫療資料後，我立即召開記者會，表達我的意見：有關裁決不適用於所有僱傭情況；即使僱傭合約規定僱員有責任披露其個人（包括醫療）資料，條例的保障資料原則仍然適用。

基於同樣理由，我時常公開對一些可能影響個人資料私隱的時事議題表示關注，並解釋我的觀點。例如，的士業建議在的士車廂安裝閉路電視以打擊及防止罪行，引起公眾關注。我立即公開表明我不支持建議，並促請業界首先考慮其他侵犯私隱程度較低的方案。這個做法能夠幫助市民思考這件與他們私隱有關的時事議題。

嚴格來說，純粹主義者可能永遠不會視推廣私隱權利為藝術，但經驗告訴我們，面對人手和培訓及教育經費短缺，我必須竭盡所能，務求以低成本高效益的溝通方法，來爭取在這個大都會裏忙碌的市民的注意。

最後，我想多謝所有同事的忠誠支持。過去一年，他們盡心盡力地工作，在這個不斷追求效率的社會裏，依然能夠維持良好的服務質素。

吳斌

香港個人資料私隱專員

Public announcement often catch the attention of the news-reading public. When the Court of First Instance ruled that the Cathay Pacific Airways Limited could legitimately ask for the medical data of its cabin crew members in September 2008, I promptly held a press conference to express my view that the ruling does not apply to all employment situations and that the Data Protection Principles in the Ordinance still apply even if the contract of employment creates an obligation on the part of the employee to disclose his personal data including his medical data.

For the same reason I often publicly expressed my concerns and tried to explain my views on topical issues that might adversely affect the privacy of individuals. For instance, when the public was concerned with the taxi industry's proposal to install CCTV cameras in taxis to combat and prevent crimes, I lost no time in coming out to say that I did not support the proposal and that the industry should consider less privacy intrusive alternatives in the first place. This had the desired effect of helping people to think about this topical issue in relation to their privacy.

Strictly speaking, the promotion of privacy rights may never be regarded by the purist as an art, but experience has shown that with a small task force and a low budget on training and education, the Privacy Commissioner has to design and create cost-effective means of communication to vie for the attention of the citizens in this busy metropolis.

In closing, I wish to thank all members of the staff for their loyalty and support. They had worked with dedication throughout the year and continued to maintain a high standard in the quality of their services to the public amid ever higher expectations.

Roderick B. Woo

Privacy Commissioner for Personal Data, Hong Kong