

嚴正處理投訴 促成雙贏局面  
Complaint Resolution for Win-Win Outcome

投訴工作  
Complaint Investigations



2 投訴工作  
Complaint Investigations

### 最佳執法夥伴 — 律政司及香港警察

律政司及香港警察在檢控觸犯《個人資料(私隱)條例》的罪行方面作出了貢獻。在2011年初，公署與律政司／香港警察開展了正式對話，其後並交流經驗。令公署簡化了涉嫌違法個案的轉介程序及明白如何更有效處理轉介個案。在過去一年，公署共錄得四宗因違反條例被定罪的個案，比以往平均每年少於一宗是一大躍進。

#### Best Enforcement Partners - Department of Justice (DOJ) and Hong Kong Police Force (the Police)

DOJ and the Police have made contributions in the prosecution of offences under the Personal Data (Privacy) Ordinance. The official dialogue between PCPD and DOJ/ the Police, which commenced in early 2011, and the subsequent exchanges culminated in the streamlining of the procedures for referring suspected offences from PCPD to DOJ/ the Police and a better understanding of how the referral cases could be more effectively handled. In the past 12 months, a total of 4 convictions under the Ordinance were recorded, compared with the previous record of less than one conviction per year.

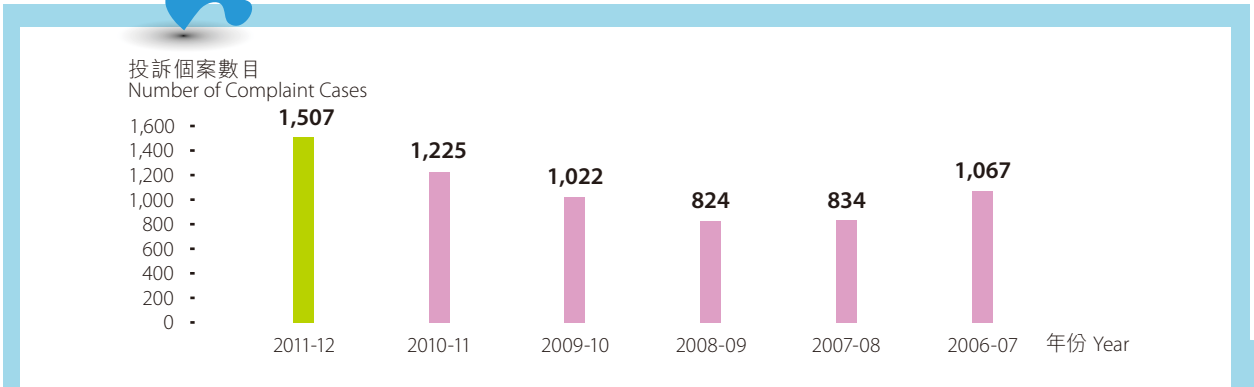


左: 律政司刑事檢控專員薛偉成先生, SC; 中: 警務處助理處長(支援)趙慧賢女士  
Left: Mr. Kevin Paul Zervos, SC, Director of Public Prosecutions; Middle: Ms. Winnie Chiu Wai Yin, Assistant Commissioner of Police, Support

## 在二零一一至一二年度接獲的投訴個案 COMPLAINTS RECEIVED 2011-2012



每年的投訴個案  
ANNUAL COMPLAINT CASELOAD

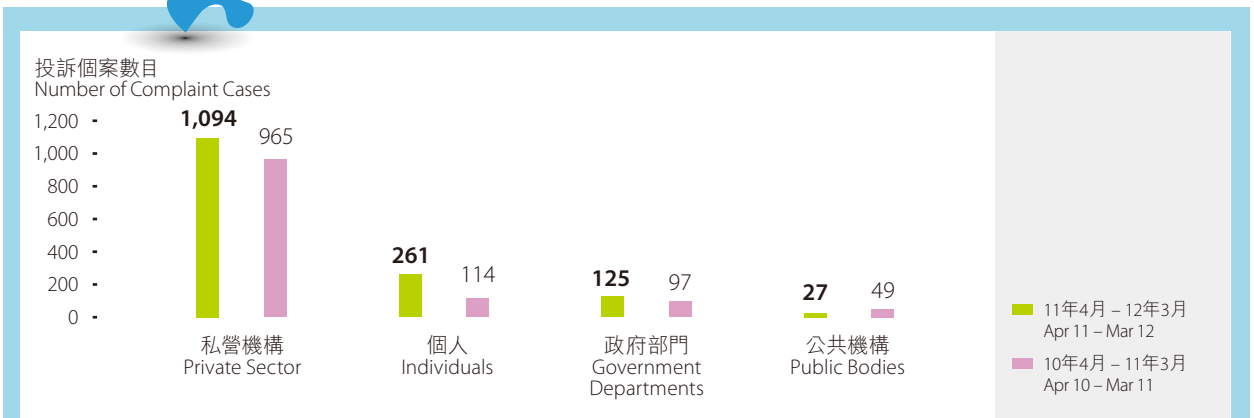


在二零一一至一二年度公署共接獲1,507宗投訴個案 (較去年上升了23%)。

A total of 1,507 complaint cases were received in the reporting period (an increase of 23% on the previous year).



被投訴者的類別  
TYPES OF PARTIES COMPLAINED AGAINST



- 1,094宗(73%)個案投訴私營機構。
- 152宗(10%)個案投訴公營機構 (即政府部門及其他公共機構)。
- 261宗(17%)個案投訴個人。

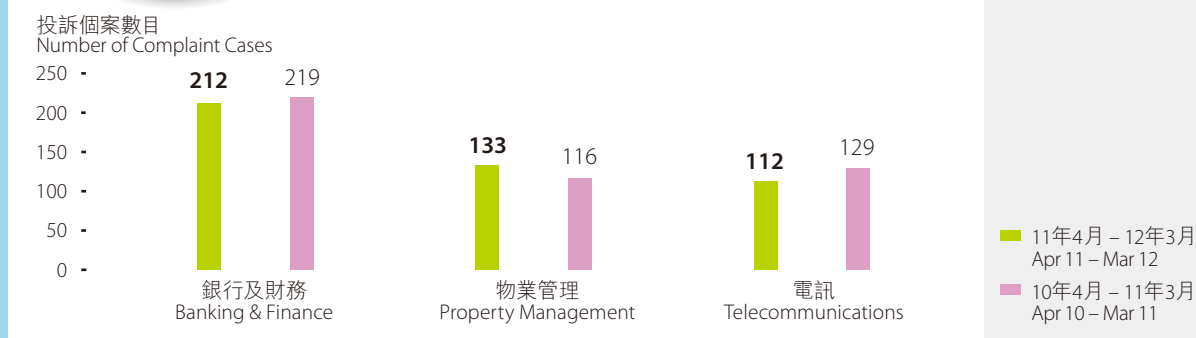
- 1,094 (73%) complaint cases were made against private-sector organisations.
- 152 (10%) complaint cases were made against public-sector organisations (i.e. government departments and other public bodies).
- 261 (17%) complaint cases were made against individuals.

在二零一一至一二年度接獲的投訴個案  
COMPLAINTS RECEIVED 2011-2012



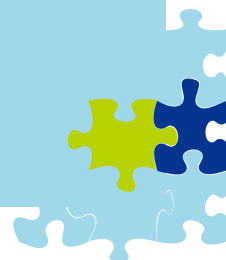
對私營機構的投訴

COMPLAINTS AGAINST PRIVATE-SECTOR ORGANISATIONS



大部分投訴電訊業及財務機構的個案被指非法使用或披露客戶的個人資料。較上年度大幅上升的是沒有依從查閱資料要求(42%)，以及過度或不公平收集個人資料(38%)的個案數目，惟較上年度下降的是使用個人資料作直接促銷(35%)的個案數目。

The majority of complaints made against companies in the telecommunications and financial sectors alleged the unlawful use or disclosure of customers' personal data. There was a considerable increase in the number of allegations of non-compliance with data-access requests (42%), and excessive or unfair collection of personal data (38%), but a decrease in the number of allegations of the use of personal data in direct marketing (35%) compared with the previous year.

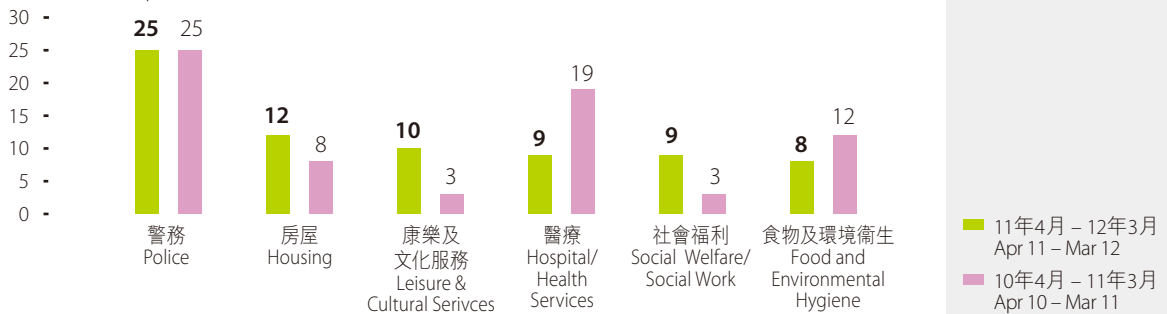


在二零一一至一二年度接獲的投訴個案  
COMPLAINTS RECEIVED 2011-2012

圖表 4  
Figure 4

對公營機構的投訴  
COMPLAINTS AGAINST PUBLIC-SECTOR ORGANISATIONS

投訴個案數目  
Number of Complaint Cases



在投訴公營機構的個案中，大部分涉及：

- 與不符收集目的及未取得當事人同意而使用或披露個人資料(36%)；
- 過度或不公平收集個人資料(30%)；
- 欠缺保障個人資料的保安措施(15%)；及
- 未能遵守查閱資料要求或改正資料要求(13%)。

The majority of complaints made against public-sector organisations involved allegations of:

- the use or disclosure of personal data beyond the scope of the collection purpose and without the consent of the individual (36%);
- the excessive or unfair collection of personal data (30%);
- the lack of security measures to protect personal data (15%); and
- non-compliance with data-access or correction requests (13%).

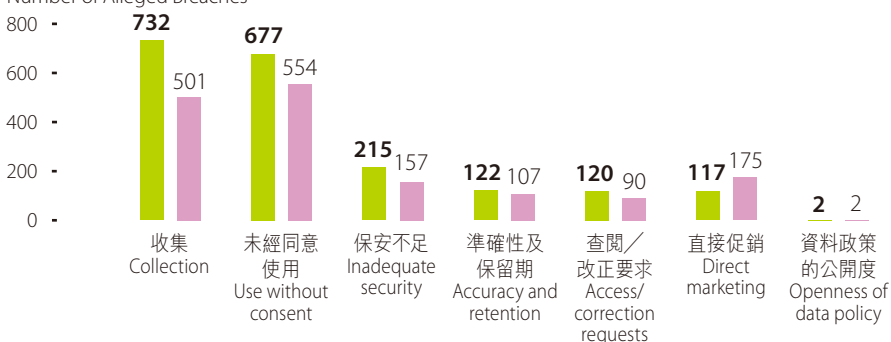


在二零一一至一二年度接獲的投訴個案  
COMPLAINTS RECEIVED 2011-2012



投訴的性質  
NATURE OF COMPLAINTS

被指違規事項的數目  
Number of Alleged Breaches



■ 11年4月 - 12年3月  
Apr 11 - Mar 12  
■ 10年4月 - 11年3月  
Apr 10 - Mar 11

二零一一至一二年度接獲的1,507宗投訴個案共涉及1,985項被指違反條例的規定。在這些事項中，1,748項(88%)被指違反保障資料原則的規定，以及237項(12%)被指違反條例的主體條文。

The 1,507 complaint cases received in 2011-2012 involved a total of 1,985 alleged breaches of the requirements of the Ordinance. Of these, 1,748 (88%) were alleged breaches of the data protection principles and 237 (12%) were alleged contraventions of the provisions in the main body of the Ordinance.

關於投訴性質方面，最多資料當事人投訴有關收集資料的目的及方式(732項)，其次是投訴個人資料遭未經同意而使用(677項)、資料保安(215

With regard to the nature of the complaints, the highest number of complaints related to the purpose and manner of data collection (732 alleged breaches), followed by complaints about the use of personal data without the



在二零一一至一二年 度接獲的投訴個案  
COMPLAINTS RECEIVED 2011-2012

項)、準確性及保留期(122項),及依從查閱資料要求(120項)。各項投訴數字都較二零一零至一一年度上升,反映市民的保障個人資料私隱意識提升了。相反來說,使用個人資料作直接促銷的投訴,則由二零一零至一一年度的175項,減少至二零一一至一二年度的117項,似乎代表在這方面企業已有所改善。

值得注意的是,有關依從查閱資料要求的投訴數字有上升趨勢。公署留意到,在某些個案中,資料當事人會在查閱資料要求中要求資料使用者提供所持有關於他/她的「所有個人資料」的複本。不過,行政上訴委員會認為要求者必須在查閱資料要求中指明他要求的資料。條例並沒有規定資料使用者有責任徹底搜尋所要求的資料,然後擬備一份綜合文件清單,讓資料要求者從中挑選。上訴法庭亦在一宗民事上訴案件中裁定,作出查閱資料要求的人士有責任在查閱資料要求中清楚表明要求甚麼個人資料,並在資料使用者要求下,提供進一步資料澄清。從上述裁定看到,要求者在提出查閱資料要求時,有責任清楚指明他要求甚麼資料。如查閱資料要求以寬鬆字眼提出,資料使用者可按其決定揀選提供的資料。

consent of the data subjects (677 alleged breaches), data security (215 alleged breaches), accuracy and duration of retention (122 alleged breaches), and compliance with data-access requests (120 alleged breaches). The figures for all these items are higher than those in 2010-2011, reflecting a rise in public awareness of personal data privacy protection. On the contrary, the number of cases concerning the use of personal data for direct marketing purposes has decreased from 175 in 2010-2011 to 117 in 2011-2012, which may represent an improvement in the practices of the relevant industry players.

It is worth noting that there is a rising trend of complaints relating to compliance with data-access requests. The PCPD noted that in some cases, a data subject may, in the data-access request, ask for copies of “all personal data” relating to him or her held by the data user. However, the Administrative Appeals Board took the view that a requestor must specify in the data access request the data he requested for. The Ordinance does not impose a duty upon the data user to conduct a thorough search for the requested data and prepare a consolidated list for data requestor to pick and choose from. The Court of Appeal also held in a civil appeal case that the person making the data-access request has the duty to make clear what personal data are requested under the data-access request and also to supply further information to clarify this if so requested by the data user. As can be seen from the above decisions, in a data-access request, the requestor bears the responsibility of pointing out clearly what data he requires. If the scope of a data access request is given in wide terms, the data user should be at liberty to rely on its own judgment in selecting the data to be provided.



調查投訴  
COMPLAINT INVESTIGATIONS



二零一一至一二年度處理的投訴摘要  
SUMMARY OF COMPLAINTS HANDLED IN 2011-2012

	2008-09	2009-10	2010-11	2011-2012
上年轉來的投訴 Complaints carried forward	148	173	240	376
接獲的投訴 Complaints received	824	1022	1225	1507
經處理的投訴的總數 Total complaints processed	972	1195	1465	1883
已完結的投訴 Complaints completed	799	955	1089	1502
未完結的投訴 Complaints outstanding	173	240	376	381

在本年報期開始時，公署正處理上年度帶下來的376宗投訴，加上新收到的1,507宗投訴，私隱專員在本年報期內共須處理1,883宗投訴。在這些個案中，1,502宗(80%)在本年報期內已經完結，而餘下的381宗(20%)在二零一二年三月三十一日時仍在處理中(圖表6)。

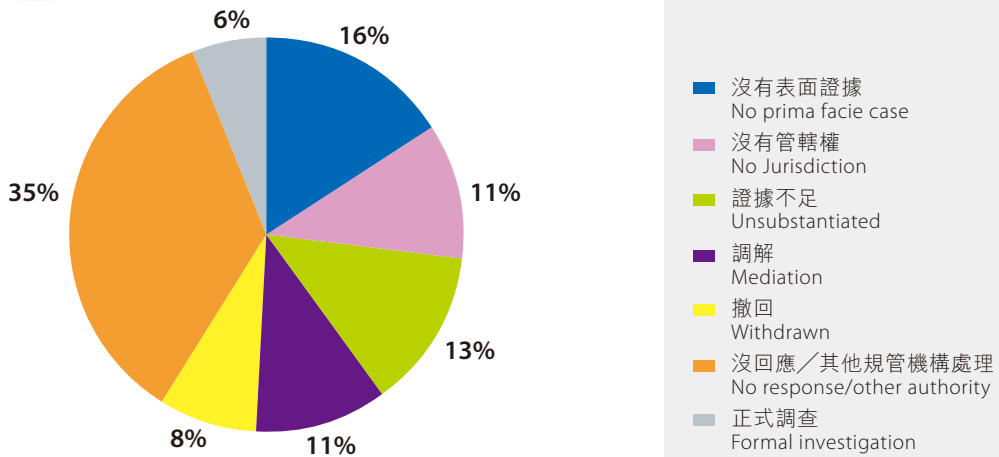
At the beginning of the reporting year, 376 complaints were being processed. With the 1,507 new complaints received, the Commissioner handled a total of 1,883 complaints during the reporting period. Of these, 1,502 (80%) cases were completed during the reporting year and 381 (20%) cases were still being processed as at 31 March 2012 (Figure 6).







投訴結果  
OUTCOME OF INVESTIGATIONS



在本年報期內完結的1,502宗個案：

- 240宗(16%)沒有表面證據；
- 157宗(11%)不在條例的管轄範圍或者是匿名投訴；
- 169宗(11%)在初步查詢期間透過調解得到解決；
- 524宗(35%)投訴個案，大多涉及投訴人不回應私隱專員的查詢，或事件已因向被投訴者轉達投訴人的關注而解決，或個案已由其他規管機構，例如警方跟進；
- 198宗(13%)在向被投訴者查詢後發現證據不足；
- 127宗(8%)在初步查詢期間由投訴人撤回；及
- 餘下的87宗(6%)在進行正式調查後得到解決。

Of the 1,502 cases completed during the reporting period:

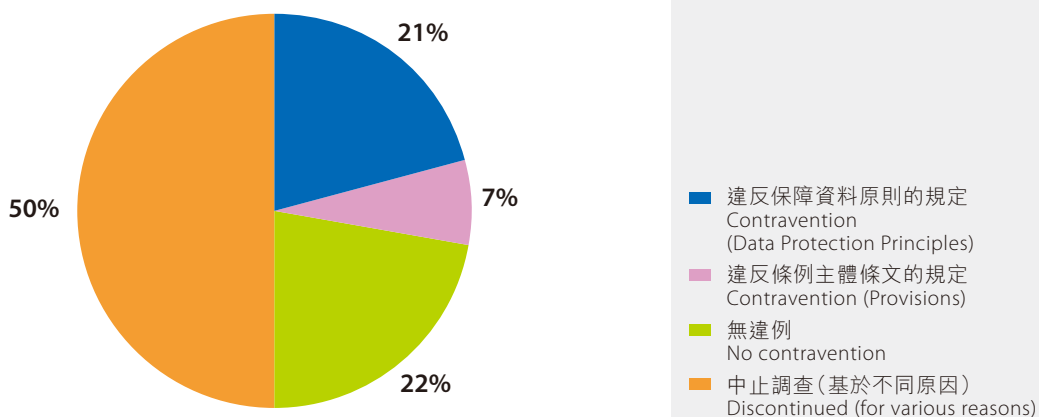
- 240 (16%) cases were found to have no prima facie case of contravention;
- 157 (11%) cases were outside the jurisdiction of the Ordinance or were made anonymously;
- 169 (11%) cases were resolved through mediation during preliminary enquiries;
- 524 (35%) cases involved mostly complaints where the complainants did not respond to the Commissioner's inquiries, or where the matter had been dealt with by relaying the complainants' concern to the parties being complained against, or where the matter had been transferred or reported to other authorities, such as the Hong Kong Police Force;
- 198 (13%) cases were found to be unsubstantiated after enquiries with the parties being complained against;
- 127 (8%) cases were withdrawn by the complainants during preliminary enquiries; and
- the remaining 87 (6%) cases were resolved after formal investigations.



調查投訴  
COMPLAINT INVESTIGATIONS

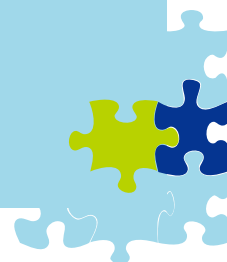


正式調查結果  
RESULTS OF FORMAL INVESTIGATIONS



在本年報期內完成正式調查的87宗個案中，私隱專員發現其中24宗(28%)違反了條例的規定，19宗(22%)並無違例或因缺乏證據而無法證明有違例情況。餘下44宗(50%)則是因投訴人決定不再跟進有關事項而中止調查。

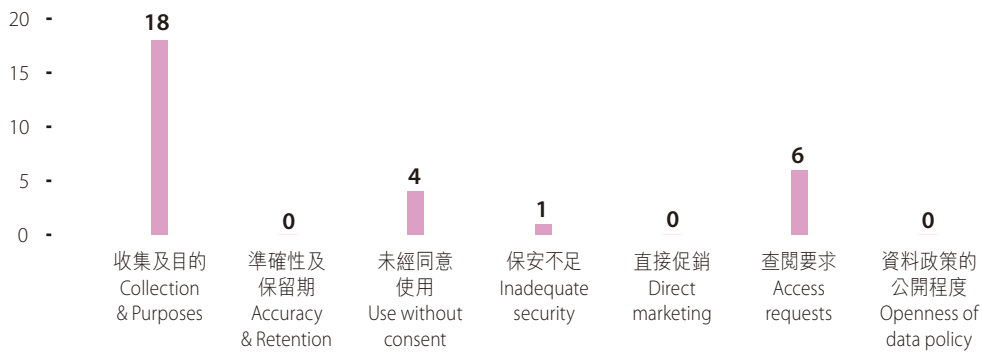
Of the 87 formal investigations completed during the reporting period, the Commissioner found contravention of the requirements under the Ordinance in 24 (28%) cases. In 19 (22%) cases, either no contravention was found or contravention was not established due to insufficient evidence. The remaining 44 (50%) cases were discontinued, as the complainants decided not to pursue the matter further.



圖表 9  
Figure 9

違例事項的性質  
NATURE OF CONTRAVENTION

被指違規事項的數目  
Number of Alleged Breaches



在被確定違反條例規定的24宗個案中，18宗違反一項或以上保障資料原則，其餘6宗違反了條例主體條文的規定，當中所涉及的違例事項與直接促銷及依從查閱資料要求有關。

Of the 24 cases where the requirements under the Ordinance were found to have been contravened, 18 cases involved contravention of one or more of the data protection principles. The remaining six cases involved contravention of the requirements of the main body of the Ordinance relating to direct marketing and compliance with data-access requests.

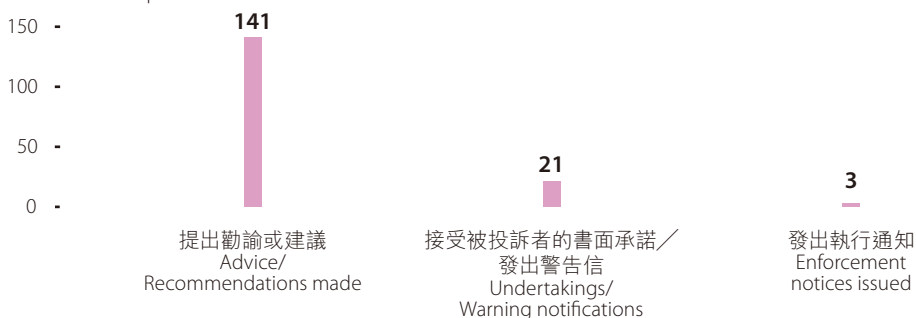


## 調查投訴 COMPLAINT INVESTIGATIONS



### 根據投訴結果採取的行動 ACTION TAKEN AS A RESULT OF COMPLAINTS

投訴個案數目  
Number of Complaint Cases



在169宗於初步查詢期間透過調解得到解決的個案中，私隱專員向141間機構提出勸諭及／或建議，以協助它們在行事方式及程序上遵守保障資料原則及條例的其他規定。

在被確定違反條例規定的24宗個案中，私隱專員就3宗個案向被投訴用者發出執行通知，以防止它們繼續或重複違反規定。

至於餘下的21宗個案，私隱專員在被投訴者採取糾正措施後向他們發出警告信，或要求被投訴者作出書面承諾採取糾正措施。不過，如他們未能將情況糾正至私隱專員滿意的程度，私隱專員仍可向他們發出執行通知。

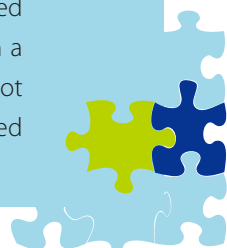
在年報期內，私隱專員亦就一宗於二零一零至一一年度完結的個案向被投訴者送達執行通知，因為私隱專員在限期前沒有收到要求被投訴者簽署的承諾書。

In the 169 cases resolved through mediation during preliminary enquiries, the Privacy Commissioner provided advice and/or recommendations to 141 organisations on their practices and procedures in order to assist them in complying with the data protection principles and other requirements of the Ordinance.

Of the 24 cases in which requirements under the Ordinance were found to have been contravened, the Commissioner issued enforcement notices to the parties complained against in three cases to prevent continuation or recurrence of the contraventions.

In the remaining 21 cases, the Commissioner either issued warning notices to the parties complained against after they had taken measures to remedy the contraventions, or dealt with the contraventions by way of written undertakings given by the parties complained against to implement the remedial measures. However, the Commissioner may still issue an enforcement notice to them if they fail to remedy the contraventions to the satisfaction of the Commissioner.

During the reporting period, the Commissioner also issued an enforcement notice to a party complained against in a case completed in 2010-2011, as the Commissioner did not receive from the party complained against the requested undertaking before the deadline.



## 定罪個案

## CONVICTION CASES

下述個案是本年報期內一些資料使用者違反條例的主體條文，構成犯罪。私隱專員在考慮個案的特定情況後，決定將個案轉介予警方作刑事調查。犯罪人士在被檢控後被定罪。

The following are cases in the reporting year where the data users were found to have contravened the provisions in the main body of the Ordinance, which constitutes an offence. After considering the particular circumstances of the cases, the Commissioner decided to refer them to the Police for criminal investigation. As a result, the offenders were prosecuted and convicted of the offences.

值得注意的是，在本年報期內，出現首宗自條例1996年生效以來僱員因違反條例規定而被判有罪的個案。

It is worth noting that this reporting year saw the first conviction of an employee for contravening the Ordinance since its commencement in 1996.

會籍銷售公司沒有依從客戶的拒絕服務要求

**A membership sales company failed to comply with a customer's opt-out request**

個案  
CASE



#### 投訴內容 THE COMPLAINT

投訴人數年前向會籍銷售公司OnCard Limited(下稱「該公司」)營運的餐飲會購買了餐飲會籍。自此，儘管投訴人已提出拒絕服務要求，該會仍不斷向投訴人發出直接促銷電話。

The Complainant had purchased a dining membership from a club operated by the membership sales company, namely, OnCard Limited, (the "Company") several years previously. Since then, the club made repeated direct-marketing calls to the complainant despite her opt-out requests.

條例第34(1)條規定，資料使用者在收到個人的拒絕服務要求後，須停止聯絡該人。

Under section 34(1) of the Ordinance, a data user should stop contacting an individual who has made an opt-out request.



#### 結果 OUTCOME

該公司於2011年7月被裁定違反條例第34(1)(ii)及64(10)條，被判罰款1,000元。

The Company was convicted of contravening sections 34(1)(ii) and 64(10) of the Ordinance and was fined \$1,000 in July 2011.

定罪個案  
CONVICTION CASES

地產代理公司及其僱員沒有依從客戶的拒絕服務要求

**A property agency and its employee failed to comply with a customer's opt-out request**

個案  
CASE

## 投訴內容 THE COMPLAINT

投訴人在2007年透過利嘉閣地產代理有限公司(下稱「該公司」)購買一個住宅單位，該公司因而收集了投訴人的姓名、地址及電話號碼等個人資料。自此之後，投訴人不斷接獲該公司的來電，詢問投訴人是否需要出售或購買物業。投訴人不只一次要求該公司不要致電向她推銷物業，但該公司仍繼續向投訴人發出直銷電話。

The Complainant had purchased a flat in 2007 via the property agency, namely, Ricacorp Properties Limited, (the **“Agency”**), and the Agency thus collected the Complainant's personal data, including name, address and telephone number. Since then, the Complainant had received numerous calls from the Agency soliciting the sale or purchase of property. The Complainant had requested the Agency more than once not to call her for property marketing purposes, but the Agency continued to make direct-marketing calls to her.



## 結果 OUTCOME

在調查後，該公司及其地產經紀僱員於2011年11月被裁定違反條例第34(1)(ii)及64(10)條，分別被判罰款2,500元及2,000元。公署已把個案通知地產代理監管局，由該局考慮作出適當跟進行動，例如紀律處分。

After investigation, the Agency and its estate agent employee were convicted of contravening sections 34(1)(ii) and 64(10) of the Ordinance and were fined \$2,500 and \$2,000 respectively in November 2011. The Estate Agents Authority was informed of the case for consideration of appropriate follow-up action, such as disciplinary action.

一間銀行在客戶提出拒絕服務要求後仍不斷寄發促銷郵件而被判罰款

**A bank was fined for sending repeated direct-marketing mail despite a customer's opt-out request**

個案  
CASE

## 投訴內容 THE COMPLAINT

投訴人是中信銀行國際(下稱「該銀行」)的客戶。自2008年起，投訴人不只一次書面要求該銀行不要向她寄發促銷郵件，但該銀行仍繼續向投訴人寄發促銷郵件，投訴人遂向公署作出投訴。

The Complainant was a customer of CITIC Bank International (the **“Bank”**). Since 2008, the Complainant had requested the Bank in writing more than once not to send direct-marketing mail to her, but the Bank continued to do so. The Complainant therefore lodged a complaint with the PCPD.



## 結果 OUTCOME

該銀行於2012年1月被裁定違反條例第34(1)(ii)及64(10)條，被判罰款2,500元。今次是條例自1996年生效以來，第二宗投訴人即使提出了拒收直銷訊息要求，違規者仍向投訴人郵寄促銷資料而違反條例規定最終被判有罪的個案。

The Bank was convicted of breaching sections 34(1)(ii) and 64(10) of the Ordinance and was fined \$2,500 in January 2012. Since the commencement of the Ordinance in 1996, this was the second conviction for contravention of the Ordinance for sending direct-marketing mail despite the Complainant's opt-out requests.



## 處理資料方面的改善

## IMPROVEMENTS IN DATA HANDLING

以下是本年報期內的一些個案，闡明資料使用者在接獲投訴後迅速作出回應，並在私隱專員的指引下，實行改善保障個人資料私隱的措施。

The following cases in the reporting year illustrate how data users responded promptly to complaints and implemented measures under the guidance of the Commissioner to improve personal data privacy protection.

酒家處理僱員的個人資料：須妥善保障有關資料以免外洩

**A restaurant handling employees' personal data must safeguard the data against disclosure**

保障資料第4原則  
DPP4

個案  
CASE



投訴內容 THE COMPLAINT

一名酒家的廚師向公署投訴其受僱酒家將一張菜單印在他的身份證副本的背面，並用該菜單登記客人的點菜要求。

A chef of a restaurant complained to the PCPD that his employer, the restaurant, had photocopied a menu on the back of a copy of his Identity Card and used the menu to record customers' orders.

該酒家表示因影印機出現故障，故當日將投訴人的身份證複印了兩份，並將多出的一份副本放於影印機的入紙匣中，以致其後被用作複印菜單之用。

According to the restaurant, it had photocopied two copies of the Complainant's Identity Card due to a copier malfunction. As the extra copy was put into the tray of the copier, it was subsequently used in the photocopying of the menu.



結果 OUTCOME

私隱專員認為身份證屬敏感性質的個人資料，該酒家在處理投訴人的身份證時必須保障有關資料，避免遭未經准許的披露。該酒家接納專員的建議，就處理僱員的個人資料（特別是身份證副本）方面制定內部指引，並通知有關職員上述政策。

The Commissioner was of the view that the Identity Card was sensitive personal data and that when handling the Complainant's Identity Card, the restaurant must safeguard the data against unauthorised disclosure. The restaurant accepted the Commissioner's recommendations by formulating an internal policy on the handling of employees' personal data (especially Identity Card copies), and ensuring that the relevant staff were informed of the policy.





工會處理求助人的求助個案：不應將求助人的身份披露予第三者

### Trade Unions handling cases of individuals seeking assistance should not disclose the identities of the individuals to third parties

保障資料第3原則  
DPP3

個案  
CASE



#### 投訴內容 THE COMPLAINT

投訴人是某工會(下稱「工會甲」)的前會員，工會甲曾就投訴人與其僱主的勞資糾紛(下稱「該糾紛」)代表投訴人進行商討。投訴人不滿工會甲處理事件的方法，並其後離開工會甲，轉移向另一工會(下稱「工會乙」)就該糾紛求助。然而，投訴人其後得悉工會乙將此事披露予工會甲的理事(下稱「該理事」)。就此，投訴人向本公署投訴工會乙。

工會乙否認曾將投訴人的求助個案披露予工會甲或該理事。工會乙表示在接獲有關個案後，曾接見投訴人，並向他闡明其求助個案會交由工會乙的屬會(下稱「該屬會」)作出跟進。工會乙其後將投訴人的個案交由該屬會作出跟進。

該屬會確認工會乙將投訴人的個案轉交予他們跟進後，負責跟進該個案的職員(下稱「該職員」)曾向該理事了解個案的相關細節，以便能更有效協助投訴人。該屬會解釋，由於該職員與該理事本身相識，故他們溝通時只以朋友及同事的形式，而非以工會幹事的身分聯絡。

該職員表示他曾以朋友的身份致電該理事，並將投訴人向該屬會求助一事告知該理事，以便向該理事取得有關該糾紛的資料以處理投訴人的求助個案。此外，在該職員將投訴人求助一事告知該理事前，該理事早已知悉有關事宜。

The Complainant was an ex-member of a trade union (**“Trade Union A”**). In a labour dispute (**“the Dispute”**) between the Complainant and his employer, Trade Union A had represented the Complainant in the negotiation. As the Complainant was not satisfied with Trade Union A’s handling of the case, the Complainant left Trade Union A and sought assistance from another trade union (**“Trade Union B”**). However, the Complainant later learnt that Trade Union B had disclosed this to a committee member of Trade Union A (**“the Committee Member”**). Thus, the Complainant complained to this Office against Trade Union B.

Trade Union B denied that it had disclosed the Complainant’s case to Trade Union A or to the Committee Member. Trade Union B stated that upon receipt of the Complainant’s case, it had met with the Complainant and informed the Complainant that his case would be passed to an affiliate of Trade Union B (**“the Affiliate”**) for follow-up action. The case was then passed to the Affiliate for further handling.

The Affiliate admitted that when the case had been passed to it, the staff member responsible for the case (**“the Staff Member”**) had discussed the details of the case with the Committee Member in order to assist the Complainant effectively. According to the Affiliate, as the Staff Member and the Committee Member knew each other, they communicated as friends and colleagues, and not in their official capacity.

The Staff Member stated that he had called the Committee Member as a friend and told the Committee Member about the Complainant’s case so as to get more information about the Dispute to help in the case. Moreover, before the Staff Member told the Committee Member about the Complainant’s case, the Committee Member was aware of the case.

## 處理資料方面的改善 IMPROVEMENTS IN DATA HANDLING



### 結果 OUTCOME

私隱專員認為鑑於該職員是代表該屬會處理投訴人的有關個人資料，就此，根據條例第2(1)及2(12)條，該屬會（而非工會乙）才是本案中的「資料使用者」。此外，即使該理事早已知悉投訴人向該屬會求助，但這並不代表該職員可隨意將投訴人求助一事作出披露。雖然該屬會將投訴求助一事告知該理事的目的是為了取得該糾紛的資料以處理投訴人的個案，但考慮到投訴人不會預期亦不希望工會甲知悉他向其他工會求助，故該屬會在本案中未取得投訴人的同意下，將其求助一事披露予第三者並不符合投訴人的合理期望。

在私隱專員的建議下，該屬會已就保障求助人的個人資料方面制定指引，包括規定未取得求助人的許可，不可將求助人所提供的資料披露予第三者。

The Commissioner was of the view that under sections 2(1) and 2(12) of the Ordinance, the Affiliate (not Trade Union B) was the “data user” in this case because the Staff Member handled the Complainant’s personal data on behalf of the Affiliate. Moreover, even if the Committee Member had already known that the Complainant sought assistance from the Affiliate, this did not mean that the Staff Member could casually disclose the Complainant’s case. Though the Affiliate’s purpose in informing the Committee Member of the Complainant’s case was to obtain information about the Dispute for handling the case, the Complainant would not expect or want Trade Union A to know that he had sought assistance from another trade union. Therefore, the disclosure of the Complainant’s case to a third party without the Complainant’s consent fell outside the Complainant’s reasonable expectation.

Following the recommendations of the Commissioner, the Affiliate devised guidelines on the protection of the personal data of individuals who sought assistance from them, including the rule that the information provided by these individuals should not be disclosed to third parties without their consent.



旅行社要求登記成為其會員的人士提供個人資料：不得收集超乎適度的個人資料及須告知當事人收集資料的目的

**A travel agency requesting membership registrants to provide personal data must not collect excessive personal data and data subjects must be informed of the purpose of collection**

保障資料第1(1)及1(3)原則  
DPP1(1) and 1(3)

個案  
CASE



### 投訴內容 THE COMPLAINT

投訴人在一家旅行社的網站登記成為會員，過程中該網站除要求投訴人輸入其身份及聯絡資料外，還要求投訴人提供其職業、教育程度、婚姻狀況、個人及家庭每月收入及家庭成員數目（統稱「**該些資料**」），否則不能完成登記程序。投訴人就此曾詳閱該網站的《收集個人資料聲明》，但當中並無說明該旅行社收集該些資料的目的。

When the Complainant made online registration for membership of a travel agency, in addition to identification and contact information, the Complainant was required to provide information on occupation, education level, marital status, personal and family monthly income, and number of family members (collectively, **“the Data”**); otherwise, the registration process could not be completed. In this regard, the Complainant carefully studied the website’s Personal Information Collection Statement (**“PICS”**), but the travel agency’s purpose of collecting the Data was not stated.

在回應公署的查詢時，該旅行社解釋收集該些資料的目的是作統計用途。

In response to the PCPD’s enquiry, the travel agency explained that the collection of the Data was for statistical purposes.



### 結果 OUTCOME

私隱專員認為申請成為該旅行社的會員的人士有權選擇是否提供只與該旅行社作統計有關的資料，因此不提供該些資料不應影響投訴人登記成為會員。此外，該旅行社亦有責任告知申請人收集該些資料的目的。該旅行社接納專員的建議，在其《收集個人資料聲明》中加入收集該些資料的目的，並改變了會員登記的頁面及程序，以清楚告知登記人可自由選擇是否提供該些資料。

The Commissioner was of the view that registrants for membership of the travel agency had the right to decide whether to provide the data related to the statistical purposes of the travel agency. Hence, non-provision of the Data should not affect the registration for membership of the Complainant. Moreover, it was the duty of the travel agency to inform the registrants about the purpose of collecting the Data. The travel agency accepted the Commissioner’s recommendations and added the purpose of collecting the Data in its PICS, and amended the web page and the procedure for membership registration, thus clarifying that the registrants were free to decide whether to provide the Data or not.

處理資料方面的改善  
IMPROVEMENTS IN DATA HANDLING

議員辦事處撥打宣傳電話：不應將求助市民提供的聯絡資料作選舉宣傳用途

**A councillor's office making publicity calls should not use the contact information of citizens seeking assistance for electioneering purposes**

個案  
CASE

保障資料第3原則  
DPP3



投訴內容 THE COMPLAINT

投訴人曾因其傷殘津貼被削減而向某議員（下稱「該議員」）的地區辦事處（下稱「該辦事處」）求助，並提供了其姓名及電話號碼（下稱「該些資料」）予該辦事處以處理上述事宜。其後，投訴人收到該議員隸屬的政黨來電，請他投票支持其政黨的一名區議會選舉參選人士（亦是該議員的助理）（下稱「該候選人」）。就此，投訴人向公署投訴該候選人在沒有取得投訴人的同意下，使用該些資料作選舉宣傳的用途。

在回應公署的查詢時，該候選人確認其助選義工曾聯絡與該辦事處有關的人士（包括投訴人）作區議會選舉宣傳，並指該辦事處在最初收集投訴人的個人資料時只曾口頭告知投訴人該辦事處會將有關資料作「資訊傳遞」用途。

The Complainant sought assistance from the regional office (**“the Office”**) of a councillor (**“the Councillor”**) concerning a cut in his government disability allowance, and provided his name and telephone number (**“the Data”**) to the Office for handling of the case. Later, the Complainant received a call from the political party to which the Councillor belonged, inviting him to vote for a District Council Election candidate of that political party (who was also an assistant of the Councillor) (**“the Candidate”**). The Complainant filed a complaint with this Office accusing the Candidate of using the Data for electioneering purposes without the Complainant's consent.

In response to this Office' enquiry, the Candidate admitted that his electioneering volunteer had contacted those citizens who had connection with the Office (including the Complainant) for District Council Election publicity purposes, and that the Office had only verbally informed the Complainant that his personal data would be used for “information transmission” purposes when his data were originally collected.





## 結果 OUTCOME

一般來說，如求助人向議員辦事處提供其個人資料以便議員辦事處處理與其申訴或求助相關的事宜，則資料使用範圍理應不涵蓋至議員辦事處的職員作競選宣傳活動之用，故該候選人在本案中使用了求助市民提供的聯絡資料作選舉宣傳用途已超乎該些資料的原本收集目的。

在私隱專員的建議下，該候選人承諾在該辦事處收集市民的個人資料時，會就有關資料的用途向求助市民提供一份書面《收集個人資料聲明》，亦會督導該辦事處的義工，以確保他們在未取得求助市民訂明同意的情况下，不會將他們的個人資料使用於與上述聲明內所指明的目的無關的用途上。

Generally speaking, when people seeking assistance from a councillor's office provide their personal data for handling their complaints or requests, the data should not be used for election publicity programmes conducted by the office staff. Hence, the use of the Data for election publicity purposes by the Candidate was beyond the original purpose of collection of the same.

Following the recommendations of the Commissioner, the Candidate undertook that when collecting citizens' personal data, the Office would provide them with a PICS stating the use of the data and would supervise its volunteers to ensure that they would not use the personal data for purposes unrelated to those stated in the PICS without the prescribed consent of the citizens.



處理資料方面的改善  
IMPROVEMENTS IN DATA HANDLING

醫療機構發電郵予病人：須確保電郵內容不含其他人士的個人資料

**A medical institution sending email to patients must ensure that the email does not contain other people's personal data**個案  
CASE保障資料第4原則  
DPP4

## 投訴內容 THE COMPLAINT

一間醫療機構向包括投訴人在內的病人發出一封電子郵件(下稱「該電郵」)中，附有一個載有多名病人(包括投訴人)的姓名、職業、住址、緊急聯絡人的姓名及電話號碼等資料的檔案(下稱「該檔案」)，投訴人遂向公署投訴該醫療機構。

該醫療機構解釋事件是由於他們的職員在使用該檔案的資料發放電郵聖誕卡給病人時，同時誤傳與電子聖誕卡放於同一電腦桌面的該檔案所致。

In an email (**“the Email”**) sent to patients (including the Complainant) by a medical institution, a file containing the name, occupation, address, name and telephone number of an emergency contact person of many patients (including the Complainant) (**“the File”**) was attached. Therefore, the Complainant filed a complaint with this Office against the medical institution.

The medical institution explained that when sending electronic Christmas cards to patients using the data in the File, its staff had mistakenly sent the File which was placed together with the electronic Christmas cards on the desktop.



## 結果 OUTCOME

明顯地，該醫療機構錯誤地向病人發放該檔案的作為已令病人(包括投訴人)的個人資料外洩予無關的第三者。在私隱專員的建議下，該醫療機構已發電郵要求相關收件人銷毀該電郵，並已檢討相關的內部指引，包括採用電腦軟件就所有載有病人的個人資料的檔案加設密碼，以及訂立了內部的複檢程序以確定所需發送的資料，並指明倘若員工不遵守有關指引的罰則。

Apparently, by mistakenly sending the file, the medical institution disclosed patients' personal data to unrelated third parties. Following the recommendations of the Commissioner, the medical institution took several steps: (1) requesting through email that the relevant recipients destroy the Email; (2) reviewing the relevant internal guidelines, including using software to set passwords to all files containing patients' personal data; (3) setting up an internal review procedure to ascertain whether the data need to be sent; and (4) applying specified penalties for non-compliance with the guidelines by its staff.

從投訴中學習

## LESSONS LEARNT FROM COMPLAINTS

直銷公司向上線及推薦人提供新直銷商的申請表格副本，當中載有新直銷商的多項個人資料：披露對資料承讓人而言並非屬必要的個人資料

**A direct-marketing company provided an upline marketer and a referrer with copies of the application form of a new direct marketer, which contained many items of personal data of the new direct marketer: disclosure of personal data not necessary to the data transferees**

個案  
CASE

保障資料第3原則  
DPP3



### 投訴內容 THE COMPLAINT

投訴人填寫申請表格（下稱「**該表格**」）以成為一間直銷公司（下稱「**該公司**」）的直銷商，她在該表格上提供了她的姓名、性別、出生日期、身份證號碼、手提電話號碼、地址、銀行賬戶資料及婚姻狀況。投訴人向本公署投訴該公司向她的「上線直銷商」（下稱「**上線**」）及「推薦人」（下統稱「**該些人士**」）提供了載有她的上述資料的該表格副本。

私隱專員的調查確定該公司曾向該些人士提供該表格的副本。該公司表示向該些人士披露投訴人的姓名的目的是為確認投訴人的身份、性別是為稱呼投訴人、出生日期是以便該些人士為投訴人慶祝生日及按投訴人的背景提供適當的培訓與支援、聯絡地址及電話號碼是以便該些人士聯絡投訴人。該公司沒有向私隱專員說明向該些人士披露投訴人的身份證號碼、銀行賬戶資料及婚姻狀況的目的。

The Complainant filled in an application form ("**the Form**") to enroll as a direct marketer of a direct-marketing company ("**the Company**"). She provided her name, gender, date of birth, Identity Card number, mobile phone number, address, bank account information and marital status. In the complaint she filed with the PCPD, she stated that the Company had supplied copies of the Form containing her personal data, as mentioned above, to her "upline direct marketer" ("**the Upline**") and "referrer" (the two collectively referred to as "**those Parties**").

The Commissioner's investigation confirmed that the Company had provided copies of the Form to those Parties. According to the Company, disclosure of the Complainant's name to those Parties was for confirmation of the Complainant's identity; gender for addressing the Complainant; date of birth for birthday celebrations, and the provision of proper training and support by those Parties; and correspondence address and telephone number for contacting the Complainant. The Company did not inform the Commissioner of the purposes of disclosing the Complainant's Identity Card number, bank account information and marital status to those Parties.

## 從投訴中學習

## LESSONS LEARNT FROM COMPLAINTS



## 結果 OUTCOME



在調查後，私隱專員認為在合作營銷計劃下，該公司向該些人士提供直銷商的最基本資料即姓名及性別，此做法與其當初收集該些資料的目的之一致，故不涉及違反保障資料第3原則的規定。

至於出生日期方面，私隱專員認為出生日期就營運銷售工作方面並非必要的資料，該公司應讓直銷商自由選擇是否披露其出生月份及日期作慶祝用途，至於提供培訓及支援方面，私隱專員認為披露直銷商的年齡範圍已屬足夠。

而就聯絡地址及電話號碼方面，根據該公司提供的資料，一般而言推薦人與直銷商是認識的，因此推薦人如有需要的話可直接向直銷商索取其聯絡資料，並由直銷商自行決定是否提供，及提供哪些資料，因此根本毋須由該公司提供。

該公司沒有向本公署說明披露直銷商的身份證號碼、銀行賬戶資料及婚姻狀況的目的，私隱專員亦看不到任何該公司必須向該些人士披露有關資料的目的。

私隱專員總結認為該公司在案中向該些人士披露投訴人的出生日期、身份證號碼、手提電話號碼、地址、銀行賬戶資料及婚姻狀況，違反了保障資料第3原則的規定。

Upon investigation, the Commissioner was of the view that under a joint marketing scheme, the Company's provision of the basic data of the direct marketer to those Parties was consistent with the original purpose of collection of the data. Hence, there was no contravention of DPP3.

With regard to the date of birth, the Commissioner opined that it was not necessary for operations and marketing work. The Company should let the direct marketer decide whether to disclose her date or month of birth for celebration purposes. As regards the provision of training and support, the Commissioner believed that disclosure of the age range of the direct marketer was enough.

Regarding correspondence address and telephone number, as according to the information provided by the Company, referrers and direct marketers generally know one another, the referrer could obtain the contact information directly from the direct marketer when necessary, and the direct marketer can decide whether to provide it or not and if so, to decide what data will be provided. Therefore, it was not necessary for the Company to provide such data.

The Company had not informed the Commissioner of the purposes of disclosing the direct marketer's Identity Card number, bank account information and marital status, and the Commissioner did not see any purpose for which the Company must disclose such data to those Parties.

The Commissioner concluded that the Company's provision of the Complainant's date of birth, Identity Card number, mobile phone number, address, bank account information and marital status had contravened DPP3.



從投訴中學習  
LESSONS LEARNT FROM COMPLAINTS

在本案調查期間，該公司已停止向上線及推薦人分發新直銷商的申請表格副本。該公司並修訂了其向上線及推薦人披露新直銷商的個人資料的做法，除直銷商編號及姓名外，上線及推薦人只會在得到新直銷商的訂明同意下，才有權查閱其性別、出生月份及日子、電郵地址、電話號碼及地址。至於向上線及推薦人披露新直銷商的身份證號碼、出生年份、銀行賬戶資料及婚姻狀況的做法則已全面停止。

In the course of investigation, the Company had stopped distributing new direct marketer application form copies to the upline marketers and referrers. The Company also revised the practice of disclosing new direct marketers' personal data to the upline marketers and referrers. In addition to the direct marketer's number and name, the upline marketer and referrer can access only the new direct marketer's gender, date and month of birth, email address, telephone number and address with the prescribed consent of the new direct marketer. The practice of disclosing new direct marketer's Identity Card number, year of birth, bank account information and marital status was completely stopped.



## 從投訴中學習

## LESSONS LEARNT FROM COMPLAINTS

## 投訴人代其兒子向學校提出查閱資料要求

## Data Access Request made by a complainant on behalf of his son to a primary school

個案  
CASE第19(1)及20(2)(b)條  
section 19(1) and 20 (2)(b)

## 投訴內容 THE COMPLAINT

投訴人代其兒子向一間小學提出查閱資料要求，以求索取其兒子於連續兩個學年申請入讀該小學的所有資料複本。

The Complainant on behalf of his son made a data access request (the “DAR”) to a primary school requesting copies of all the information pertaining to his son’s application for admission to the primary school for two consecutive school years.

該小學回覆投訴人，它只可以提供有關其兒子於最近學年的申請入學資料。關於前一個學年的有關文件，他們已按學校的慣常做法予以銷毀。投訴人懷疑該小學保留他有權索取的文件，因此向本公署作出投訴。

The primary school replied to the Complainant that it could provide the information relating to his son’s application for only the current school year. As for the documents for the last school year, they had been destroyed in accordance with the school’s usual practice. The Complainant suspected that the primary school had withheld the documents to which he was entitled, so he lodged a complaint with the PCPD.

私隱專員的調查顯示，該小學在收到該查閱資料要求時已將前一個學年的所有有關文件銷毀。調查發現該小學將投訴人兒子在最近學年的總分記錄在總分表中。不過，該小

The Commissioner’s investigation revealed that the primary school had destroyed all documents for the last school year at the time of receiving the DAR. It was discovered that the primary school had in its possession the total scores of the Complainant’s son for the



學沒有向投訴人提供其兒子在最近學年的總分。該小學解釋，它沒有向投訴人提供總分表的複本，是因為總分表包含所有申請人的姓名和分數。

current year recorded in a Master Score Record (the **“Record”**). However, the primary school failed to provide the Complainant with the total scores of his son for the current school year. The primary school explained that it did not provide the Complainant with a copy of the Record because the Record also contained the names and scores of all applicants, not just the Complainant’s son.



### 結果 OUTCOME

私隱專員認為該小學沒有提供總分表內的要求資料，違反了條例第19(1)條，因為根據條例第20(2)(b)條，該小學有責任在刪去其他申請人的個人資料後向投訴人提供總分表內的要求資料。

The Commissioner was of the view that the primary school had contravened section 19(1) of the Ordinance by failing to provide the requested data contained in the Record on the ground that the primary school was obliged to provide the requested data contained in the Record to the Complainant by omitting other applicants’ personal data under section 20(2)(b) of the Ordinance.

然而，在私隱專員向該小學解釋條例第20(2)(b)條的規定後，該小學已向投訴人提供總分表的複本，內裏已刪除其他申請人的個人資料。

Nevertheless, after the Commissioner had explained the requirements under 20(2)(b) of the Ordinance to the primary school, it provided the Complainant with a copy of the Record with the personal data of other applicants edited out.

鑑於該小學已採取補救行動，私隱專員認為違規情況已停止，沒有重複發生的可能。在這情況下，私隱專員決定對該小學作出警告，但沒有送達執行通知。

In view of the remedial action taken by the primary school, the Commissioner considered that the contravention had ceased and there was no likelihood of its repetition. In the circumstances, the Commissioner decided to put the primary school on warning, but not to serve an enforcement notice on the primary school in consequence of the investigation.



## 從投訴中學習

## LESSONS LEARNT FROM COMPLAINTS

銀行沒有慎重考慮條例第58(1)(d)及(2)條的豁免情況是否適用，便在沒有得到資料當事人的訂明同意下，將資料當事人的銀行戶口資料向警方披露

**A bank disclosed a data subject's bank account information to the Police without the data subject's prescribed consent and without carefully considering whether the exemptions of sections 58(1)(d) and (2) were applicable**

個案  
CASE

保障資料第3原則  
DPP3



### 投訴內容 THE COMPLAINT

投訴人為一名警員。警務署就一宗刑事恐嚇案件，搜查一間財務公司時，意外地搜到一些與投訴人借貸有關的資料。雖然該宗刑事恐嚇案經調查後，最終證實不涉及任何刑事成份，但警務處繼而對投訴人進行內部調查，並為此目的向一間銀行索取投訴人在該銀行戶口的往來交易紀錄（下稱「**該些資料**」）。投訴人不滿該銀行在未有事先獲得他同意的情况下，向警務處披露該些資料，於是向本公署作出投訴。

該銀行表示是收到警務處的信件，要求它提供投訴人的該些資料，以對投訴人的財務狀況進行紀律調查。警務處在信中表示有關的要求受條例第58(1)(d)及(2)條豁免。該銀行認為執法機構可基於法例賦予的權力索取客戶的資料而無須向他們詳細解釋，並根據條例第58(1)(d)及(2)條的規定豁免他們的責任。該銀行亦認為警務處在信中引用條例第58(1)(d)及(2)條的豁免，即代表警務處已清楚表示投訴人的個人資料是用作防止、排除或糾正（包括懲處）任何人所作的非法或嚴重不當的行為、或不誠實的行為或舞弊行為，而警務處亦應有合理理由相信如不這樣使用投訴人的個人資料便相當可能會損害條例第58(1)(d)條所述的情況。因此，該銀行在沒有向警務處了解所涉的調查的詳情的情况下，將投訴人的該些資料提供予警務處。

The Complainant was a Police Officer. When the Police searched a financial institution in a criminal intimidation case, it accidentally found some loan information related to the Complainant. Though it was proved that the criminal intimidation case did not involve any criminal elements upon investigation, the Police started an internal investigation on the Complainant and obtained the Complainant's transaction records ("**the Data**") from a Bank. The Complainant was dissatisfied that the Bank had disclosed the Data to the Police without his prior consent and thus lodged a complaint with the PCPD.

According to the Bank, it received a letter from the Police requesting that it provide the Data of the Complainant for disciplinary investigation of the Complainant's financial status. The Police stated in the letter that the request was exempt from the provisions of sections 58(1)(d) and (2) of the Ordinance. The Bank believed that enforcement authorities were empowered to obtain customer information from them without giving them any detailed explanation, and their liabilities were exempted under sections 58(1)(d) and (2) of the Ordinance. The Bank also believed that by quoting exemptions 58(1)(d) and (2) of the Ordinance in the letter, the Police had clearly indicated that the Complainant's personal data were used for the purpose of prevention, preclusion or remedy (including punishment) of unlawful or seriously improper conduct, or dishonesty or malpractice by persons, and the Police should have reasonably believed that if the Complainant's personal data were not used in such way, it would be likely to prejudice the matters referred to in section 58(1)(d) of the Ordinance. Thus, the Bank supplied the Data of the Complainant to the Police without trying to ask for details of the investigation from the Police.



## 結果 OUTCOME



雖然警務處在信中表示受條例第58(1)(d)及(2)條的豁免，但該銀行必須明白條例第58(1)(d)及(2)條所豁免的是關於個人資料的使用的保障資料第3原則，是由持有有關個人資料的資料使用者（即該銀行），在考慮如此使用個人資料時是否適合引用該豁免。亦即是說，在本案的情況下，若所引用的豁免並不適用，最終須負責的是該銀行，而並非是警務處。而且，條例第58(1)(d)及(2)條為豁免條款，讓資料使用者在符合相關條文的情況下，可不受條例保障資料第3原則所限，而非規定資料使用者必須不遵從條例保障資料第3原則。因此，該銀行不能單憑因警務處表示條例第58(1)(d)及(2)條適用，便認定是具法律約束力的規定而必須向警方提供該些資料。

私隱專員認為該銀行應明白該些資料為客戶的敏感個人資料，該銀行有責任將該些資料保密，此責任不應輕易被忽視或推翻，而向警務處提供有關資料並不符合客戶的合理私隱期望。該銀行不應單憑該信函所指，應該對事件作詳細了解及客觀分析，並對警務處作出查詢以決定有關情況是否合乎條例第58(1)(d)條所述的情況。另一方面，條例第58(2)(b)條訂明有關豁免只適用於如遵守保障資料第3原則便會相當可能損害條例第58(1)條所述的情況。該銀行應在有合理理由相信，倘若不披露該資料便相當可能會損害第58(1)(d)條的目的。在此案中，即使該銀行在詳細了解警務處對投訴人的調查的情況後，該銀行仍須從客觀事實分析，以了解如保障資料第3原則適用是否會相當可能損害或阻礙有關第58(1)(d)條的目的。

Though the Police stated in the letter that the request was exempt from sections 58(1)(d) and (2) of the Ordinance, the Bank must have known that the exemptions of sections 58(1)(d) and (2) were related to DPP3, which was about the use of personal data. It was up to the data user holding the personal data (i.e. the Bank) to consider whether it was appropriate to rely on the exemption when the personal data were used in such way. In other words, under the circumstances of the case, if the exemption was not applicable, the liability was vested in the Bank, not the Police. Moreover, sections 58(1)(d) and (2) of the Ordinance are exemption provisions which allow data users to be exempted from DPP3 when the conditions in relevant provisions are satisfied. The sections do not require that the data users must not comply with DPP3. Therefore, the Bank could not simply take the Police's statement that sections 58(1)(d) and (2) of the Ordinance were applicable as legally binding requirements and believe that it must supply the Data to the Police.

In the Commissioner's view, the Bank should have known that the Data were its customer's sensitive personal data and that it had the duty to keep the Data confidential. Such duty should not be ignored and the provision of the Data to the Police was not within its customer's reasonable privacy expectation. The Bank should try to understand the details of the case and analyze objectively, and make enquiries with the Police to decide if the circumstances satisfied the requirements of section 58(1)(d) of the Ordinance. On the other hand, section 58(2)(b) of the Ordinance stipulates that the exemption is applicable in a case in which compliance with DPP3 would be likely to prejudice the matters referred to in section 58(1) of the Ordinance. The Bank should have reasonable ground to believe that non-disclosure of the Data would be likely to prejudice the purpose of section 58(1)(d). In this case, even if the Bank had learnt about the details of the Police's investigation of the Complainant, the Bank had to analyze the facts objectively to see whether it would be likely to prejudice or hinder the purpose of section 58(1)(d) if DPP3 was applicable.

## 從投訴中學習

## LESSONS LEARNT FROM COMPLAINTS

在本案的情況，私隱專員認為該銀行不能單憑警務處的信件，便可信納向警務處所指提供該些資料屬條例第58(1)(d)條的情況，並有理由相信如保障資料第3原則適用，便相當可能會損害警方所指的目的，因而可引用條例第58(2)條的豁免。因此，私隱專員認為該銀行向警務處提供該些資料的做法有違保障資料第3原則的規定。

該銀行其後接受本公署的意見，制定措施以在遇到警務處同類的要求時，該銀行的職員會向警務處作詳細了解及查詢後，才會作出是否向警務處提供資料的決定。

In this case, the Commissioner was of the view that the Bank could not believe that provision of the Data to the Police complied with section 58(1)(d) by simply relying on the letter of the Police, and could not reasonably believe that it would be likely to prejudice the purpose referred by the Police if DPP3 was applicable so that the exemption of section 58(2) of the Ordinance could be relied on. Hence, the Commissioner opined that the Bank's act of providing the Data to the Police had contravened DPP3.

The Bank subsequently accepted the PCPD's advice and formulated policies requiring the staff of the bank, when encountering similar requests from the Police, to make enquiries with the Police to learn more about the details of the case before deciding whether to provide the data to the Police or not.



根據《個人資料(私隱)條例》第48(2)條發表的報告

## REPORT PUBLISHED UNDER SECTION 48(2) OF THE PERSONAL DATA (PRIVACY) ORDINANCE

條例第48(2)條訂明，私隱專員在完成一項調查後，如認為如此行事是符合公眾利益的，可發表報告(下稱「報告」)，列明該項調查的結果及由該項調查引致的、私隱專員認為適合作出的任何建議或其他評論。在本年報期內，私隱專員發表了十二份報告。

自2011年6月起，私隱專員採取在調查報告中披露違規機構資料使用者的名稱的政策，目的是提升公眾監察之功能，以促進遵守條例的行為，並可提醒遇到同樣或近似問題的資料使用者，避免作出類似的違規行為。

Under section 48(2) of the Ordinance, the Commissioner may, after completing an investigation, and if he opines that it is in the public interest to do so, publish a report (“Report”) setting out the investigation results, and any recommendations or comments arising from the investigation, as he sees fit. During the reporting year, the Commissioner published twelve Reports.

Since June 2011, the Commissioner adopted the policy of naming in a published investigation report the corporate data user which has contravened the legal requirements. The practice serves to invoke the sanction and discipline of public scrutiny and in turn encourages compliant behaviour by both the data user being the subject of investigation and other data users facing similar investigation issues.

### 雜誌社以不公平方式收集藝人的個人資料

### Unfair Collection of Personal Data of Artistes by Magazine Publishers

2012年3月28日，私隱專員發表兩份調查報告，有關兩間雜誌社以不公平的方法收集三名藝人的個人資料，違反了條例保障資料第1(2)原則的規定。

#### 背景

兩份報告中的三名投訴人均為電視藝人(下稱「藝人甲」、「藝人乙」及「藝人丙」)。所涉及的兩間雜誌社以長焦距鏡及放大器等攝影器材分別偷拍投訴人在家中的私人活動，並公開刊登該些照片於有關的雜誌內。所涉的照片包括藝人甲在家中全身赤裸的照片，及藝人乙和藝人丙在家中的親密照片。

On 28 March 2012, the Commissioner published two investigation reports against two magazine publishers, namely, Sudden Weekly Limited (“**Sudden Weekly**”) and FACE Magazine Limited (“**Face Magazine**”) for collection of the personal data of three artistes by unfair means, which contravened the requirements of DPP1(2) under the Ordinance.

#### Background

The three complainants in these two Reports are TV artistes (“**Artiste A**”, “**Artiste B**”, and “**Artiste C**”). The two publishers involved through using photographic equipment such as long-focus lens and magnifier, took photographs clandestinely of their private activities at home and published the photographs in their magazines. Most of the photographs published of Artiste A showed his naked body. Photographs published of Artiste B and Artiste C depicted their daily life and intimate acts at their home premises.

根據《個人資料(私隱)條例》第48(2)條發表的報告  
REPORT PUBLISHED UNDER SECTION 48(2) OF THE PERSONAL DATA (PRIVACY) ORDINANCE

## 調查

私隱專員傳召決定刊登有關照片的兩間雜誌社代表到公署接受訊問，以獲取口供及有關照片的複本。在調查過程中，公署分別向藝人甲、藝人乙及藝人丙取得書面供詞及實地視察各藝人的居所以及其周邊環境。

兩間雜誌社的代表均承認有關照片是由他們聘請的攝影記者在距離藝人甲、藝人乙及藝人丙的居所很遠的地點拍攝的。藝人甲的居所在一幢大廈的高層。藝人乙與藝人丙的居所面向公眾一般不會到訪的山丘。有關照片是攝記經過多日有計劃地監察藝人的活動而拍攝到的。其中一間雜誌社的代表聲稱拍攝及刊登有關照片是為了證明藝人甲與另一名女藝人同居，而另一雜誌社則聲稱其目的是要證明藝人乙與藝人丙同居。兩間雜誌社聲稱藝人甲、藝人乙及藝人丙曾在不同場合公開否認他們分別的同居狀況。因此，兩間雜誌社拍攝有關照片，以證明他們說謊。

## 私隱專員的調查結果

私隱專員認為一個人不論其社會地位和職業為何，其私生活均應獲得保護，而不得在沒有充分理由下受到侵擾。故不應僅因案中的投訴人是藝人，而被剝奪其私生活受保護的權利。

## The Investigation

The Commissioner summoned the representatives of the two publishers who made the editorial decision on the publication of the photographs to this Office for examination, so as to obtain their verbal statements and copies of the photographs. In the course of investigation, written statements were taken from Artiste A, Artiste B and Artiste C respectively and site inspections were carried out at their homes and in the vicinity.

The representatives of the two publishers both admitted that the photographs were taken by their employed photographers from a far distance from the homes of Artistes A, Artistes B and Artiste C. Artiste A's home was on high floor of a building. The home of Artiste B and C faced a hillside not normally accessible to the public. The photo-taking was carried out over several days through systematic surveillance of the artistes' activities. The representative of Sudden Weekly claimed that the purpose of taking and publishing the photographs was to prove that Artiste A was cohabiting with another female artist, whilst Face Magazine claimed that its purpose was to prove that Artiste B and Artiste C were cohabittees. Both publishers claimed that Artiste A, Artiste B and Artiste C had on different occasions denied in public that they were not in cohabitation with others. As such, the two publishers took the photographs as proof that they were not telling the truth.

## The Commissioner's Findings

The Commissioner was of the view that an individual should be protected from unwarranted intrusion to his/her private life, irrespective of his/her social status and occupation. The complainants in question should not be deprived of this privacy right just because they were TV artistes.



根據《個人資料(私隱)條例》第48(2)條發表的報告  
REPORT PUBLISHED UNDER SECTION 48(2) OF THE PERSONAL DATA (PRIVACY) ORDINANCE

雖然保障資料第1(2)原則沒有要求雜誌社需要得到藝人的同意方可收集他們的個人資料，但是，在收集個人資料前必須顧及他們在私隱方面的合理期望。在這兩宗個案中，由於這些藝人身處於景觀開揚的家中，因此合理地對私隱有較高的期望。藝人甲的單位屬高層單位，窗外遠處才有建築物。因此，他不會合理預期有人從遠處使用特別的攝影裝置，例如長焦距鏡及放大器等攝影器材，拍攝其赤裸的照片。同樣地，藝人乙和丙的單位面向平常沒有人到訪的山邊，他們不會合理預期在家中的親密舉動會被偷拍。

在這兩宗個案中，有關照片是通過有計劃地監察藝人的活動而偷拍到的，有關攝記在幾天時間內日以繼夜進行拍攝工作。私隱專員認為除非有充分理據，否則這種行為嚴重侵犯了藝人的私隱，不能視為公平地收集個人資料。

兩間雜誌社辯稱，刊登有關照片及文章是涉及公眾利益，因為這些照片及文章顯示藝人甲的同居狀況、藝人乙及藝人丙是同居伴侶關係，與他們早前向傳媒的說法不同。私隱專員並不接受這些論點，作為他們所聲稱的公眾利益的理據。

Although DPP1(2) does not require magazine publishers to obtain the artistes' consent before collecting their personal data, they must take into account the artistes' reasonable expectation of privacy before doing so. In the circumstances of the present cases, the artistes had a legitimately high expectation of their privacy as they were staying in their homes which had an open view. Artiste A's home was on a high floor of a building which was not exposed to public view within normal viewing distance. He would not reasonably expect that photos showing him in the nude would be taken by someone from a far distance using special photographic equipment such as long-focus lens and magnifier. Likewise, the flat where artistes B and C stayed faced a hillside not normally accessible to the public. They would not reasonably expect that photos of their intimate acts at home would be taken clandestinely.

In both cases, the photographs were taken clandestinely through systematic surveillance of the artistes' activities. The photographers spent several days, night and day to carry out their job. The Commissioner is of the view that this amounted to a serious intrusion on the artistes' privacy and could not be accepted as fair unless there were legitimate justifications.

Both publishers argued that the photographs and the accompanying articles published in their magazines served a public interest as they showed that Artiste A, Artiste B and Artiste C were all in the state of cohabitation, contrary to their earlier denial to the media. The Commissioner did not accept these arguments as ground for supporting their claim of public interest.

根據《個人資料(私隱)條例》第48(2)條發表的報告  
 REPORT PUBLISHED UNDER SECTION 48(2) OF THE PERSONAL DATA (PRIVACY) ORDINANCE

首先，一個人是否與其伴侶同居，屬個人敏感的資料，並無責任向他人透露。此外，案中沒有證據顯示這些藝人曾主動或高調地談及同居行為，他們只是在記者追問時才回應同居一事，並不是藉此增加其知名度。他們向記者的回應只是為保護他們個人私隱的自然反應。這些是花邊新聞，但不可說是涉及公眾利益的事宜。同居與結婚不同，同居的定義因人而異。即使照片能證明伴侶於拍攝日期當天是同居伴侶關係，但亦無法證明他們於拍攝日期之前或後是否屬同居伴侶關係。換句話說，兩雜誌社試圖證明這些藝人早前否認其同居的說法是謊言，注定是徒勞無功的。此外，有很多方法可以證明同居伴侶關係。但兩雜誌社選擇使用多張「出位」的照片及渲染性的描述，這令人非常懷疑刊登的真正目的是為滿足讀者對藝人私生活的好奇心，而非公眾利益。

私隱專員強調公眾利益並不同於滿足公眾興趣及好奇心。公眾利益必須涉及真正值得公眾關注的事項，私隱專員認為報導事實引起公眾利益的討論，與對公眾人物的私生活作出庸俗的描述是截然不同的。

考慮到兩宗個案的所有情況，私隱專員裁定兩間雜誌社的偷拍行為嚴重侵犯私隱，當中並不涉及公眾利益，此舉構成以不公平的方式收集個人資料，違反了條例保障資料第1(2)原則的規定。

私隱專員向兩間雜誌社發出執行通知，指示它們採取措施，以糾正違反情況及導致該違反的事宜。兩間雜誌社已分別向行政上訴委員會提出了上訴，反對該通知。

Firstly, the state of cohabitation or otherwise is an individual's sensitive personal data which he or she is under no obligation to divulge to others. There was no evidence that the artistes had talked about cohabitation of their own volition or in a high profile manner. They had responded to "gossip gathering" questions from the press instead of actively touted publicity. Their responses could be taken as a natural response to protect their privacy. They were gossip news rather than matters of public interest. Unlike marriage, cohabitation is an ill-defined term subject to different interpretations. Even if photos taken of a couple staying together at home may show their cohabitation at the time of shooting, they provide no clue as to whether such a relationship existed in the past. In other words, any attempt by the two magazines to prove the falsity of the artistes' earlier denial of cohabitation is doomed to be futile. Furthermore, there were many ways to show a couple's cohabitation relationship. The disproportionate use of lurid and sensational photos by the two magazines casts grave doubt on their contention that they had acted in the public interest rather than to satisfy readers' curiosity of the private lives of the artistes concerned.

The Commissioner stressed that interest or curiosity value to the public was not necessarily in the public interest. Public interest must involve a matter of legitimate public concern. There is a distinction to be drawn between reporting facts capable of contributing to a debate of general public interest and making tawdry descriptions about a public figure's private life.

Having considered all the circumstances of the two cases, the Commissioner concluded that the clandestine photo-taking by the two magazines were highly privacy intrusive and not supported by public interest considerations. It constituted unfair collection of personal data and a contravention of DPP1(2) under the Ordinance.

Enforcement notices were served on both publishers directing them to take steps to remedy the contravention and the matters occasioning it. In response, the two publishers respectively lodged appeals against the enforcement notices with the Administrative Appeals Board.

根據《個人資料(私隱)條例》第48(2)條發表的報告  
REPORT PUBLISHED UNDER SECTION 48(2) OF THE PERSONAL DATA (PRIVACY) ORDINANCE

### 調查引致的建議

私隱專員曾向香港記者協會查詢，得悉他在這兩宗調查作出的裁決，與傳媒業界所確立的專業標準一致，並無抵觸。

這兩宗個案帶出一個重要課題—如何平衡「言論自由」及「私隱權」。私隱專員十分尊重言論自由及新聞自由，它們都是《基本法》及《香港人權法案條例》之下市民享有的基本權利。傳媒行使這權利，旨為公眾監察的崇高的目的，諸如揭露重要的社會現象或問題，及報道涉及重大公眾利益的事件。然而，言論自由與新聞自由的權利，必須與私隱權取得平衡，後者亦是《基本法》及《香港人權法案條例》之下市民享有而同等重要的基本權利。言論自由與新聞自由不應被傳媒機構視作特別權利，使它們可以在沒有足夠理據的情況下，利用他人的私生活資料去謀取商業利益。除非有足夠理據(例如有凌駕性的公眾利益)，傳媒尤其不能利用侵犯私隱的手法獲取其他人欲保密的個人資料。

私隱專員進一步強調，新聞自由及私隱兩者都不是絕對的權利，它們在文明社會中的價值同等重要，無分高低。正因如此，我們需要找到方法平衡這些權利。為此，法律改革委員會在1999年發表了《傳播媒介的侵犯私隱行為》的諮詢文件，並在2004年發表諮詢報告。私隱專員希望政府能儘快推動公眾討論有關議題，尋求各方的意見，以制定平衡個人私隱及新聞自由這兩種權利的合適法規。

### Recommendations Arising from the Investigation

The Commissioner had enquired with the Hong Kong Journalists Association and found that his determination on the two cases was consistent with the established professional standard of the media industry.

The present cases pose the important question of balancing the “freedom of expression” with the “right to privacy”. The Commissioner very much respects the freedom of speech and of the press. This is a fundamental right preserved by the Basic Law and the Hong Kong Bill of Rights. The exercise of this right by the media serves the noble purpose of public scrutiny by unveiling important social phenomena or problems, and reporting incidents involving significant public interest. However, the right to freedom of speech and of the press has to be balanced with the equally important fundamental right of privacy, which is also protected by the Basic Law and the Hong Kong Bill of Rights. It should not be exploited by media organisations as a privilege, without legitimate grounds, to make use of information of other people’s private lives for attaining commercial gains. In particular, it does not entitle the press to use privacy intrusive means to acquire personal data which others wish to keep private, unless there are legitimate justifications such as an overriding public interest.

The Commissioner further emphasized that neither the freedom of the press nor the right to privacy is absolute. They are of equal value in a civil society and none has pre-eminence over the other. It is therefore necessary to find a way of balancing the exercise of these rights. In this regard, the Law Reform Commission issued a consultation document ‘Privacy and Media Intrusion’ in 1999 and released its consultation report in December 2004. The Commissioner hopes the Government will follow up and lead public discussion on this issue to gather the opinion of different stakeholders, with a view to introducing appropriate legislation to balance the two rights.

根據《個人資料(私隱)條例》第48(2)條發表的報告  
REPORT PUBLISHED UNDER SECTION 48(2) OF THE PERSONAL DATA (PRIVACY) ORDINANCE

停車場管理公司從「車輛登記冊」收集車主的個人資料作直接促銷用途

**A Car Park Management Company Collected Vehicle Owners' Personal Data from Register of Vehicles for Direct Marketing**

2012年2月14日，私隱專員發表一份調查報告，有關一間停車場管理公司（下稱「該公司」），透過運輸署的「車輛登記冊」收集車主的個人資料作直接促銷用途。

On 14 February 2012, the Commissioner published a Report concerning the collection by a car park management company, namely, Imperial Parking (HK) Limited (**"Imperial"**), of vehicle owners' personal data from the Register of Vehicles for direct marketing.

### 背景

投訴人收到該公司寄給他推廣月租泊車優惠的信件，信件中印有他的姓名、地址及車牌號碼。為了解資料來源，投訴人致電該公司，獲告知他的個人資料是從運輸署收集得來的。投訴人不滿該公司如此收集他的個人資料作直接促銷用途，遂向私隱專員作出投訴。

### Background

The Complainant received a letter from Imperial promoting monthly parking privileges. The letter contained his name, address and vehicle license plate number. The Complainant then inquired with Imperial about the source from which it obtained his personal data. He was informed that his personal data had been obtained from the Transport Department. The Complainant was dissatisfied that Imperial had collected his personal data from the Transport Department for direct marketing purposes and thus lodged a complaint with the Commissioner.

### 調查

私隱專員經調查後，發現該公司當初委派職員到運輸署在「申請發給車輛登記細節證明書」（下稱「申請書」）上填寫收集投訴人資料的理由是為了「進行法律程序」，但事實卻是為了推廣該停車場的泊車優惠。

### The Investigation

The Commissioner found that Imperial had sent its employee to the Transport Department to collect the data of the Complainant, and the employee had stated in the Application Form for a Certificate of Particulars of Motor Vehicle (**"the Application Form"**) that the purpose for the application was for "legal proceedings", but the real purpose was to promote preferential parking rate at the Company's car park.

然而，運輸署在申請書上亦列明「車輛登記冊」內的個人資料應使用於交通及運輸事宜有關的用途。

However, the Transport Department has also stated in the Application Form that the personal data in the Register of Vehicles should be used for the purposes of traffic and transport matters.

根據《個人資料(私隱)條例》第48(2)條發表的報告  
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### 私隱專員的調查結果

運輸署在申請書中已提醒申請人填報申請書的資料須確實，否則可能觸犯《道路交通條例》第111(3)條。因此，私隱專員認為該公司的虛假陳述，明顯違反保障資料第1(2)原則的規定，即資料使用者必須是以合法及在案中的所有情況下屬公平的方法收集個人資料。

此外，該公司將車主個人資料用作推廣業務並不符合這些既定目的，亦超越了當事人的合理期望。當事人原本提供個人資料作為車輛登記及申請牌照之用，而從不知悉這些資料其後會使用於商業推廣用途。因此，該公司在沒有取得當事人的明確及自願同意下，使用當事人的個人資料作推廣月租泊車優惠，是違反了保障資料第3原則的規定。

因應公署的調查，該公司已銷毀了該等從運輸署收集得的車主資料，及書面承諾日後不會為推廣其服務而向運輸署查閱車主的個人資料，並已向員工發出相關的內部指引。

### 調查引致的建議

使用公共登記冊內的個人資料，受登記冊營運者所訂的條款或設立這些公共登記冊的相關條例所規管。如資料使用者濫用取自公共登記冊的個人資料作直接促銷，資料使用者可因而負上嚴重的後果。就資料使用者收集及使用個人資料作直接促銷活動，可參考公署發出的《收集及使用個人資料作直接促銷指引》。

### The Commissioner's Findings

The Transport Department had reminded applicants to provide true and complete information on the Application Form; otherwise they could be in breach of Section 111(3) of Road Traffic Ordinance. Therefore, the Commissioner was of the view that the representation of Imperial, obviously false, contravened DPP1(2), which requires data users to collect personal data by means which are lawful and fair in the circumstances of the case.

Besides, the Complainant originally provided his personal data for registration and licensing of his vehicle and did not know that his personal data would later be used for commercial promotion purpose. As Imperial's act of using the personal data of car owners for business promotion was unrelated to the purposes of the Road Traffic Ordinance, it fell outside the reasonable expectation of the Complainant. Therefore, without the explicit consent voluntarily given by its customers, the use of customers' personal data for the promotion of preferential parking rate offered by Imperial's car park has contravened the requirement under DPP3.

In response to PCPD's investigation, Imperial had destroyed the vehicle owners' data collected from the Transport Department, undertaken that it would not obtain such data from the Transport Department for the purposes of promoting its services and issued relevant internal guidelines to its staff.

### Recommendation Arising from the Investigation

The use of the personal data kept in public registers is governed by the terms prescribed by the operators of the registers or the relevant ordinance establishing such registers. If data users indiscriminately use personal data extracted from public registers for direct marketing, they do so at their own peril. Regarding the collection and use of personal data in direct marketing, data users should make reference to the Guidance on the Collection and Use of Personal Data in Direct Marketing issued by PCPD.

根據《個人資料(私隱)條例》第48(2)條發表的報告  
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物業管理公司以隱蔽式攝錄機收集僱員的個人資料

**A Property Management Company Collected Employees' Personal Data by Covert Recording Device**

2012年2月14日，私隱專員發表一份調查報告，有關一間物業管理公司(下稱「該公司」)以隱蔽式攝錄機收集僱員的個人資料。

On 14 February 2012, the Commissioner published a Report concerning the collection of employees' personal data by covert recording by a property management company, namely, Hong Yip Service Company Limited (**"Hong Yip"**).

### 背景

兩名投訴人為該公司的前僱員，曾派駐由該公司負責管理的一個私人屋苑(下稱「該屋苑」)負責保安工作。

### Background

The two Complainants in this case are ex-employees of Hong Yip. Their duties related to the security of a private residential estate (**"the Estate"**) managed by Hong Yip.

投訴人被該公司以擅離職守理由解僱，原因是該公司從隱蔽攝錄機拍攝得的影像中，得知投訴人在當值期間，各自多次在位於該屋苑的職員更衣室內長時間逗留。

The Complainants were summarily dismissed by Hong Yip on the ground of unauthorised absences from duty because Hong Yip learnt from the images captured by a covert recording device it installed that the Complainants were respectively found to have lingered for a long time in the staff changing room of the Estate while on duty.

投訴人不滿該公司在沒有知會他們的情況下，透過隱蔽攝錄機收集他們的個人資料，因而覺得私隱被侵犯，遂向私隱專員投訴。

The Complainants were dissatisfied that Hong Yip had invaded their privacy by collecting their personal data through the covert recording device without their knowledge and hence lodged a complaint with the Commissioner.

### 調查

該公司解釋安裝隱蔽攝錄機的目的是為保安原因，其中特別為調查業戶投訴有人在停車場未經准許派發傳單。不過，私隱專員在調查後，認為該公司安裝隱蔽攝錄機的真正目的是監察僱員當值時的情況。

### The Investigation

Hong Yip explained that the installation of the covert recording device was for security purpose, in particular for investigation into the owners' complaints about distribution of promotional materials in the car park. However, upon investigation, the Commissioner found that Hong Yip's real purpose of installing the covert recording device was to monitor the performance of its employees while on duty.

根據《個人資料(私隱)條例》第48(2)條發表的報告  
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即使該公司安裝隱蔽攝錄機是為了調查上述投訴，但當該公司從攝錄的影像識別出投訴人，然後保留顯示投訴人活動的攝錄影像，再就投訴人的擅離職守行為作出記錄，作為合法解僱的證據時，該公司的做法已構成「收集」投訴人的個人資料，因為該公司的行為符合上訴法庭個案*Eastweek Publisher Ltd and Another v Privacy Commissioner for Personal Data* [2000] 2HKLRD83 中的收集個人資料準則，即「在編製一名已被確定身分的人士，或資料使用者設法確定其身分的人士的資料」及「資料使用者視收集得的資料為該名人士之重要情報」。

### 私隱專員的調查結果

私隱專員認為這個隱蔽監察的行為違反了保障資料第1(2)原則的規定，即必須是以合法及在本案的所有情況下屬公平的方法收集投訴人的個人資料。在作出此決定前，私隱專員考慮到擅離職守的嚴重性不足以支持該公司進行嚴重侵犯私隱的隱蔽式監察。該公司可選擇其他較不侵犯私隱的方法對投訴人進行監察，例如進行突擊巡查。私隱專員亦考慮到該公司沒有在監察員工方面制定私隱政策，所以僱員未被知會僱主會作出此類安排。

### 調查引致的建議

私隱專員強調本案的決定並非鼓勵僱員以私隱作為後盾而疏忽職守，而在本案中的投訴人是否有疏忽職守亦非私隱專員的調查及管轄範圍。

Even if Hong Yip had installed the covert recording device for investigating the aforesaid complaints, the acts of identifying the Complainants from the recorded images, and then retaining the recorded images showing the Complainants' activities and making records in respect of the Complainants' unauthorised absences from duty as evidence for lawful dismissal constituted "collection" of the Complainants' personal data. This is because the acts satisfied the criteria of personal data collection in the Court of Appeal case of *Eastweek Publisher Ltd and Another v Privacy Commissioner for Personal Data* [2000] 2HKLRD83, namely, "compiling information about an identified person or about a person whom the data user intends to or seeks to identify" and "the data collected are regarded as an important item of information of the individual by the data user".

### The Commissioner's Findings

The Commissioner was of the view that such act of covert surveillance contravened the requirements under DPP1(2), which required that the Complainants' personal data must be collected by means which were lawful and fair in the circumstances of the case. The Commissioner did not consider that the seriousness of unauthorised absences from duty justified Hong Yip to conduct covert monitoring, which was highly privacy intrusive. In the circumstances of the case, Hong Yip could have chosen other less privacy intrusive alternatives to monitor the Complainants, e.g. by conducting a surprise check. The Commissioner also found that the Company had not developed a privacy policy on employee monitoring, and that its employees had not been informed of such arrangement.

### Recommendations Arising from the Investigation

The Commissioner stressed that the decision of this case should not be construed as encouraging employees to use privacy as an excuse for neglect of duty, although whether the Complainants had neglected their duties in this case was beyond the Commissioner's investigation and jurisdiction.

根據《個人資料(私隱)條例》第48(2)條發表的報告  
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為了達致有效的人力資源管理，僱主對僱員的日常工作進行監察，實屬無可厚非。不過，僱主採用隱蔽監察一般被視為高度侵犯私隱。因此，僱主必須在別無他法，並且絕對有必要的情況下，才可進行隱蔽式監察，例如：(a)有合理原因懷疑將會、現正或已經發生非法活動，(b)因應當時情況，絕對有必要透過隱蔽式監察偵查非法活動或搜集有關證據，及(c)公開監察相當可能會損害非法活動的偵查或證據的搜集。

僱主應制定私隱政策，清晰地向僱員解釋進行監察的理由、情況及方式，並妥善管理由此得來的資料的準確性、保存及查閱。在制定及解釋監察政策時，僱主應與僱員保持積極溝通，令政策具透明度，從而使僱主與僱員的互信得以提升。

To achieve effective human resources management, it is widely accepted that employers would monitor employees' daily work performance. Nevertheless, covert monitoring by employers is generally regarded as highly privacy intrusive. Hence, covert monitoring should only be used when employers have no other alternative and if it is absolutely necessary to do so, e.g. (a) there is a reasonable suspicion that an unlawful activity is about to be committed, is being committed or has been committed; (b) the need to resort to covert monitoring to detect or to collect evidence of that unlawful activity is absolutely necessary given the circumstances; and (c) the use of overt monitoring would likely prejudice the detection or the successful gathering of evidence of that unlawful activity.

Employers should formulate privacy policy related to employee monitoring to clearly explain to their employees the purpose of monitoring, possible cases and ways of monitoring, and they should properly manage the accuracy, retention and access of the data obtained. When formulating and expounding on monitoring policy, they should maintain active communication with employees to enhance transparency of the policy and to promote mutual trust between employers and employees.

### 五間銀行轉移客戶個人資料予無關連的第三者作直接促銷用途

### Transfer of Customers' Personal Data by Five Banks to Unconnected Third Parties for Direct Marketing Purposes

#### 背景

2010年發生的「八達通事件」引起公眾極度關注機構未經客戶同意出售客戶的個人資料。在「八達通事件」發生前後，私隱專員對五間銀行的做法展開調查。所有調查已於年報期內完成。2011年6月20日，私隱專員發表四宗投訴個案的報告。2011年12月15日，私隱專員發表同系列的最後一份報告。

#### Background

In 2010, the Octopus incident raised grave public concern over the sale of customers' personal data by organisations without customers' consent. Around that time, the Commissioner commenced investigation into the practices of five banks. All the investigations were completed during the reporting year. On 20 June 2011, the Commissioner published the Reports on four complaint-based cases concerning Citibank, Fubon Bank, ICBC and Wing Hang Bank respectively. On 15 December 2011, the Commissioner published the last Report in the same series on an investigation initiated by PCPD concerning CITIC Bank International Limited.



根據《個人資料(私隱)條例》第48(2)條發表的報告  
REPORT PUBLISHED UNDER SECTION 48(2) OF THE PERSONAL DATA (PRIVACY) ORDINANCE

## 私隱專員的調查結果

綜合來說，五間銀行在收集及使用客戶的個人資料作直接促銷用途的問題如下：

### (a) 收集個人資料方面 (違反保障資料第1原則)

銀行以寬鬆及模糊的字眼描述資料承轉人的類別，令客戶無法合理地確定誰可使用其個人資料。《收集個人資料聲明》內的字體過份細小，令客戶難以細讀。

### (b) 使用個人資料方面 (違反保障資料第3原則)

將所收集的客戶個人資料披露予第三者作促銷用途，並換取金錢得益，卻沒有取得客戶的明確及自願同意，超越客戶對其個人資料使用的合理期望。

在全部五宗個案中，客戶只獲提供一個位置來簽署服務申請表。因此，他／她須選擇(i)放棄申請服務，或(ii)同意銀行將其個人資料轉移至無關係的第三者作促銷用途，以換取金錢得益，雖然他／她其實是反對有關的用途。有關「綑綁式同意」不可視為條例所要求的明確及自願同意。

### (c) 未有依從拒收直銷訊息要求 (違反條例第34(1)條)

其中一間銀行未能恰當地處理客戶以書面要求停止使用其個人資料作直接促銷用途。該銀行處理客戶拒收直銷訊息要求的處理系統，有明顯不足之處，有關職員的處事手法亦非常粗疏。該客戶向銀行提出要求後，在八個月內向銀行多次投訴仍收到直銷電話，才被妥善處理其要求。

## The Commissioner's Findings

In summary, the five banks' contraventions in the collection and use of customers' personal data for direct marketing were as follows:

### (a) Collection of personal data (Contravention of DPP1)

The banks used vague and loose terms to inform customers of the classes of persons to whom the data might be transferred and hence customers could not ascertain with a reasonable degree of certainty the persons who could use their personal data. The font size of the Personal Information Collection Statement ("**PICS**") was too small to be easily legible.

### (b) Use of personal data (Contravention of DPP3)

Customers' personal data were disclosed without their express and voluntary consent to third parties for marketing purpose and monetary gain. Such use of customers' personal data was not within their reasonable expectation.

In all five cases, the customer was only provided with one space to sign on the service application form. Hence he/she had to choose between (i) giving up the application for the service and (ii) agreeing to the transfer of his/her personal data to unrelated third parties for direct marketing purposes and monetary gains when in fact he/she might find such use objectionable. Such "bundled consent" could not be regarded as an express and voluntary consent as required under the Ordinance.

### (c) Non-compliance with opt-out requests (Contravention of Section 34(1) of the Ordinance)

In the case of ICBC, a customer's written request for ceasing to use her personal data for direct marketing was poorly handled. It is clear that the bank's operational system for handling customers' opt-out requests was deficient and the handling staff had been grossly negligent. Even though the customer had lodged an opt-out request with the bank, she had to complain several times about continued telemarketing calls in a period of 8 months before the request was finally acceded to.

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因應公署的調查，銀行已停止向無關連公司披露現有客戶的個人資料進行促銷，除非已取得客戶的訂明同意；以及採取適當的補救措施，包括改善《收集個人資料聲明》的設計及字眼。被發現違反第34(1)條的銀行亦承諾制定書面政策／指引，以確保遵從客戶拒絕直接促銷服務的要求，及採取所有合理地切實可行的步驟(例如適當的培訓、指引及紀律行動)，以確保職員遵從政策／指引。

In response to PCPD's investigations, the banks ceased disclosing their existing customers' personal data to unconnected companies for marketing purposes unless prescribed consent had been obtained from customers, and took appropriate remedial actions such as improving the design and wordings of its PICS. ICBC also undertook to formulate a written policy/guideline to ensure compliance with customers' direct marketing opt-out requests, and to take all reasonably practicable steps (such as appropriate training, guidance and disciplinary actions) to ensure that its staff adhered to the policy/guideline.

#### 調查引致的建議

2010年發生的侵犯私隱事件顯示很多企業(包括銀行)曾轉移客戶的個人資料予第三者作直接促銷用途，而沒有明確具體地通知客戶轉移資料的目的及資料承轉人的身份，也沒有在需要訂明同意的情況中徵求客戶的明確同意。在多宗個案中，該些企業轉移資料而得到金錢收益，這等同未獲授權售賣個人資料。

上述事件引起社會各界廣泛關注。政府已建議對條例作出多項修訂，以提供更嚴謹的規管及嚴厲的刑罰。根據新條文，如機構擬(a)在直接促銷中使用客戶的個人資料或提供客戶的個人資料予他人用於直接促銷，或(b)售賣客戶的個人資料，該機構只可在下述情況下這樣做，否則會有干犯罪行的風險：(i)已收到客戶的書面回應，及(ii)在回應中表示不反對「拒絕服務」。

#### Recommendation Arising from the Investigations

Privacy intrusion incidents in 2010 have revealed that many enterprises, including banks, were involved in the transfer of customers' personal data to third parties for direct marketing purposes without explicitly and specifically informing the customers of the purpose of the transfer and the identity of the transferees, and, where prescribed consent was required, without first seeking the customer's express consent. In many cases, the enterprises made the data transfer in return for monetary gains. Such act was tantamount to an unauthorised sale of personal data.

The above incidents gave rise to widespread community concerns which have been addressed by the Government in the form of amendments to the Ordinance to provide for tighter regulation and stiffer penalties. Under the new provisions, if an organisation intends to (a) use or provide a customer's personal data to others for use in direct marketing, or (b) sell a customer's personal data, he can only do so if (i) he has received a written response from the customer and (ii) no objection is indicated in the response ("**opt-out**"); otherwise it risks committing an offence.

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私隱專員希望這些修訂建議可以早日落實，以加強對收集、使用及售賣個人資料作直接促銷的規管。與此同時，公署強烈建議涉及收集、使用及售賣個人資料作直接促銷活動的銀行及機構應遵從現時的法律規定及公署於2010年10月發出的《收集及使用個人資料作直接促銷指引》中所建議的良好行事方式。他們必須主動採取以客為本及尊重私隱的推廣策略和營運程序，從而取得客戶更多的信任與支持，以達致雙贏局面。

The Commissioner hoped that these amendments could be implemented at an early date in order to strengthen regulation over the collection, use and sale of personal data for direct marketing. Meanwhile, banks and organisations involved in the collection, use and sale of personal data for direct marketing activities were strongly advised to follow the existing legal requirements and good practice recommendations as explained in the Guidance on the Collection and Use of Personal Data in Direct Marketing issued by PCPD in October 2010. It is imperative that they take a more proactive customer-centric and privacy-friendly approach in their marketing strategies and business processes. In return, they will enjoy enhanced customer trust and loyalty, thus creating a win-win for both the customers and themselves.

### 一間銀行向儲蓄戶口申請人收集個人資料

### Collection of Personal Data from Savings Account Applicants by a Bank

2011年12月15日，私隱專員發表一份調查報告，有關一間銀行向儲蓄戶口申請人收集某些個人資料(「教育程度」及「婚姻狀況」)，但沒有註明這些資料其實屬非必須資料。

On 15 December 2011, the Commissioner published a Report concerning Hang Seng Bank's collection of certain personal data ("education level" and "marital status") from applicants for savings account without stating that these data items were in fact optional.

#### 背景

投訴人在該銀行的一間分行申請開立儲蓄戶口。該分行要求他提供其個人資料，當中包括「教育程度」及「婚姻狀況」。投訴人認為該銀行就開立儲蓄戶口而言收集他的「教育程度」及「婚姻狀況」屬超乎適度，遂向私隱專員作出投訴。

#### Background

The complainant applied to open a savings account at a branch of Hang Seng Bank. He was required to provide his personal data, including "education level" and "marital status". The complainant considered that for the purpose of opening a savings account, the collection of his "education level" and "marital status" was excessive and therefore lodged a complaint with the Commissioner.

#### 調查

該銀行澄清，收集「教育程度」及「婚姻狀況」這兩項資料，是為了向客戶推廣其產品及服務，這兩個項目並不屬於必須填寫的資料。申請人不提供此兩項資料，仍可成功開立儲蓄戶口。然而，該銀行確認在投訴人要求開立儲蓄戶口時，申請表內的「教育程度」及「婚姻狀況」兩項欄位並無任何附註以告知申請人可自願提供有關資料。

#### The Investigation

Hang Seng Bank clarified that "education level" and "marital status" were collected for promoting its products and services to the customer and such items were not compulsory. Applicants could still open a savings account without providing these two items. However, the Bank confirmed that at the time when the complainant applied for a savings account, there was no remark to indicate that the items "education level" and "marital status" in the account application form were optional.

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在調查過程中，該銀行修訂了它的儲蓄戶口申請表，註明「教育程度」及「婚姻狀況」兩項資料屬非必須資料，及提示前綫職員正確地收集客戶個人資料。

In the course of the investigation, Hang Seng Bank revised its account application form to indicate that the “educational level” and “marital status” were optional information, and briefed its frontline staff to handle collection of personal data from customers accordingly.

### 私隱專員的調查結果

根據保障資料第1(3)(a)(i)原則的規定，該銀行須採取所有切實可行的步驟，以確保在收集儲蓄戶口申請人的「教育程度」及「婚姻狀況」之時或之前，清楚告知申請人他是可自願提供有關資料的。私隱專員認為該銀行在修訂其開戶申請表之前，沒有採取所有切實可行的步驟，以確保儲蓄戶口申請人(包括投訴人)獲明確或暗喻方式告知他純粹就開立儲蓄戶口而言，是可自願提供「教育程度」及「婚姻狀況」這兩項資料，因而違反了保障資料第1(3)(a)(i)原則的規定。

### The Commissioner's Findings

Under DPP1(3)(a)(i), all practicable steps should be taken by the bank to ensure that on or before collecting the savings account applicants' information on “education level” and “marital status”, the applicants are clearly informed that the provision of such data is voluntary. The Commissioner took the view that before revision of its account application form, the bank had not taken all practicable steps to ensure that the savings account applicants (including the complainant) were explicitly or implicitly informed that it was voluntary for them to supply information on “education level” and “marital status” for the sole purpose of opening savings accounts, thus DPP1(3)(a)(i) was contravened.

### 調查引致的建議

商業機構應審視其服務申請表，以確保所收集的個人資料是必需及不超乎適度。若機構打算收集客戶姓名及聯絡資料以外的個人資料作直接促銷，應通知客戶他們可選擇不提供該些資料。

### Recommendation Arising from the Investigation

Business organisations should examine their service application forms to ensure that the personal data collected are necessary and not excessive. Those which seek to collect customers' personal data other than their names and contact particulars for direct marketing should inform the customers of their right to choose whether or not to provide such data.

## 一間銀行保留客戶的破產資料過長

## Prolonged Retention of Bankruptcy Data by a Bank

2011年12月15日，私隱專員發表一份調查報告，有關恒生銀行保留其客戶的破產資料過長。

On 15 December 2011, the Commissioner published a report concerning Hang Seng Bank's prolonged retention its customers' bankruptcy data.

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## 背景

在一宗由投訴引發的主動調查過程中，公署揭示恒生銀行在沒有合理理由下，保留其客戶的破產資料達99年。

私隱專員認為，由於破產人通常在宣布破產開始起計的4至8年後獲解除破產，該等破產資料不應被保留超過8年。因此，恒生銀行保留該等破產資料時間過長，因而違反了條例第26(1)條及保障資料第2(2)原則的規定。

恒生銀行其後修改了其政策，停止保留該等破產資料超過8年(由宣布破產日起計)的做法。在這情況下，私隱專員認為再發生該違反行為的可能不大，因此沒有向恒生銀行送達執行通知。

## 調查引致的建議

資料使用者(包括銀行)必須小心考慮他們收集個人資料的目的，以謹慎決定適當的個人資料保留時期。保留資料超過所需的時間最低限度會增加未經許可的查閱或其他使用的風險，因而損害資料當事人利益，及加重保障個人資料的成本。

一般來說，資料使用者要慎重管理由收集、保留到銷毀個人資料的整個流程，這需要管理層的主動及決心，實施有效的私隱及風險管理措施，以及不要對個人資料的保障採取放任政策。

## Background

During the course of a self-initiated investigation prompted by a complaint, it was revealed that Hang Seng had been engaged in the practice of retaining its customers' bankruptcy data for 99 years without justification.

The Commissioner is of the view that bankruptcy data should not be kept any longer than 8 years for the reason that a bankrupt will normally be discharged upon expiry of a period between 4 and 8 years from the declaration of bankruptcy. For that reason, Hang Seng's retention of the bankruptcy data was longer than necessary, thus contravening section 26(1) and DPP2(2) of the Ordinance.

Hang Seng has since revised its policy not to retain customers' bankruptcy data for more than 8 years from the declaration of bankruptcy. In the circumstances, the Commissioner considered that recurrence of the contravention was unlikely, and hence no enforcement notice was served on Hang Seng.

## Recommendation Arising from the Investigation

Data users, including banks, must exercise good judgment and care in determining the appropriate retention period having regard to the purpose of collection of the personal data. To say the least, keeping personal data longer than necessary would aggravate the risk of unauthorised access or other uses which jeopardize the interests of the data subjects, and increase the cost of safeguarding the personal data.

In general, it is important that data users carefully manage personal data throughout its entire life cycle, from data collection to data retention to data destruction. This demands a proactive approach and commitment to a robust privacy and risk management regime on the part of senior leadership. A laissez-faire approach to the protection of personal data is not an option.

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稅務局沒有採取所有合理地切實可行的步驟  
確保納稅人的地址準確

**Inland Revenue Department Failed to Take All Reasonably  
Practicable Steps to Ensure the Accuracy of a Tax Payer's Address**

2011年6月20日，私隱專員發表一份調查報告，有關香港稅務局(下稱「稅局」)沒有確保一名納稅人的地址準確。

On 20 June 2011, the Commissioner published a Report in respect of an investigation into a complaint against the Inland Revenue Department (“**IRD**”) for failing to ensure the accuracy of the address of a tax payer.

### 背景

投訴人為一名納稅人。由於投訴人未收到「評稅及繳納稅款通知書」(下稱「**稅單**」)，於是向稅局作出多次查詢，但獲悉稅局人員不慎地將她在稅局記錄中的地址更改為另一納稅人的地址(下稱「**地址X**」)。投訴人的稅單因而被寄至地址X，最後被退回稅局。其後，稅局人員試圖糾正錯誤，將投訴人的住址記錄更改回原本的地址。可惜，稅局人員在更改時錯誤地輸入投訴人的單位號碼。這次錯誤導致投訴人的稅單被寄往另一名第三者的地址(下稱「**地址Y**」)。稅局在收到投訴人的查詢後，沒有查明問題所在，只再次把其稅單副本寄往地址Y。投訴人向公署投訴稅局多次錯誤地更新其通訊地址，並保留錯誤的地址記錄。

### Background

The Complainant was a tax-payer. As she had not received her annual “Notice of Assessment and Demand for Tax” (“**Tax Demand**”), she made certain enquiries with IRD and was informed that IRD had inadvertently replaced her address with another taxpayer’s address (“**Address X**”). As a result, the Complainant’s Tax Demand Notice was sent to Address X and subsequently returned undelivered to IRD. IRD officer attempted to rectify the problem by changing the record back to the Complainant’s address. Unfortunately, the flat number of the Complainant’s address was wrongly input and thus the Complainant’s Tax Demand Notice was sent to yet another third party’s address (“**Address Y**”). Upon receiving the Complainant’s enquiries, IRD re-sent duplicates of the Complainant’s Tax Demand Notice to Address Y without identifying the cause of the problem. The Complainant complained to this Office that IRD had mistakenly updated her address for several times and retained an incorrect record of her address.

### 調查

私隱專員從稅局取得的相關文件揭示，個案經稅局四個不同單位不少於四名職員處理，仍未能糾正錯誤，直至要該納稅人前後共六次以電郵、電話及親身會見稅局職員，鏗而不捨地投訴，稅局最後才準確地更正有關資料。

### The Investigation

The Commissioner obtained relevant documents from IRD which revealed that the case had been handled by no fewer than four staff members from four different units of IRD but they all failed to correct the tax payer’s address. Only after she had made six complaints by email, telephone and meeting the IRD staff in person did IRD finally correct the data.

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稅局表示該局有既定步驟及指引處理納稅人更改地址的要求，稅局職員在處理更改納稅人的地址時，必須格外小心核實納稅人的身份。稅局會定期在職員會議及通過定時傳閱有關通告，提醒員工在處理納稅人更改地址或資料的要求時，必須小心謹慎。督導人員亦會進行抽樣檢查。

稅局認為這投訴是由於處理人員粗心大意或錯誤所引致的個別事件。稅局收到這投訴後，已採取補救措施，避免類似事件再次發生。稅局亦採用了新的電腦系統，隨機查核更改地址項目的準確性。

### 私隱專員的調查結果

在這個案中，私隱專員發現稅局在處理投訴人的資料的過程中連環出現人為錯誤，反映不只是個別職員對保持資料準確的意識不足，而是涉及多個不同單位的職員。私隱專員裁定稅局違反了保障資料第2(1)原則的規定，因為它沒有採取所有合理地切實可行的步驟，確保其準確持有及使用的投訴人的地址。不過，私隱專員確認稅局已採納他的意見及建議，並採取補救及改善措施，以處理問題及防止事件重複發生，包括提交承諾書，確認已採取下述補救行動：

- (i) 稅局曾派稅務督察追尋寄往地址Y的投訴人的稅單下落，但沒有結果。
- (ii) 稅局已修訂報稅表，把附件的更改地址一欄納入主表格中，避免要求更改地址的附件錯配。

IRD stated that with regard to the amendment of address, IRD had in place procedural guidelines and required its staff to verify the identity of the tax payer and to exercise special care when amending a tax payer's address. Staff were regularly reminded to exercise due care when updating tax payers' information and addresses during staff briefings and by re-circulation of relevant circulars. Random checks were conducted by supervisors.

IRD considered that the complaint was an isolated incident that arose through the carelessness, oversight or error of the handling staff. In response to the complaint, IRD had taken remedial measures to prevent the recurrence of similar incident in future. A new computer system was also implemented to randomly check the accuracy of the transactions for address amendments.

### The Commissioner's Findings

In this incident, the Commissioner finds that IRD had allowed multiple human errors in the processing of the complainant's information. This incident reflects the lack of data protection awareness not only on the part of a single staff member but also across different units of IRD. The Commissioner found that IRD had contravened the requirements of DPP2(1) for failing to take all reasonably practicable steps to ensure the accuracy of the Complainant's address held and used by it. Nevertheless, the Commissioner recognises that IRD has followed his advice and recommendations, and implemented remedial and improvement measures to address the problems identified and to prevent their recurrence. IRD also furnished a written undertaking confirming that the following remedial actions had been taken:

- (i) IRD had sent its Tax Inspector to trace the whereabouts of the Complainant's Tax Demand sent to Address Y but to no avail.
- (ii) IRD's Tax Return form was revised by incorporating the change of address section in the Appendix into the main form so as to eliminate the possibility of mismatching between the Appendix and the main form where a request for address change was made.

根據《個人資料(私隱)條例》第48(2)條發表的報告

REPORT PUBLISHED UNDER SECTION 48(2) OF THE PERSONAL DATA (PRIVACY) ORDINANCE

(iii) 稅局承諾每日對資料庫中最少百分之十的人手更改地址項目進行監督查核，並落實措施，確保職員遵守稅局就保持納稅人個人資料的準確性而制定的程序、指引及／或清單，從而確保／保持納稅人資料的準確性。

(iii) IRD had undertaken to conduct daily supervisory check on at least 10% of the address amendments made manually to the IRD's database and to implement measures to ensure compliance by its staff with the procedures, guidelines and/or checklists issued by IRD to ensure/maintain accuracy of tax payers' information.

因此，私隱專員沒有向稅局發出執行通知。

In the circumstances, no enforcement notice was served on IRD.

### 調查引致的建議

私隱專員留意到稅局堅稱在事件發生前已有既定的指引及監督查核程序，並稱他們一直努力確保各級職員全面了解其資料保障政策。不過，在本調查中發現的失當之處，當中涉及稅局多個不同單位的職員的連環錯誤，已說明了一切。以職員數目而言，稅局屬一個大的政府部門。由涉案職員所犯的失誤可見，稅局職員的工作態度輕率，欠缺以客為本和資料保障的意識。私隱專員希望本報告能推動稅局(及其他處理大量個人資料的政府部門)，主動積極地建立以客為本及尊重資料保障的企業文化。在此事上，管理層責無旁貸，他們必須通過有效溝通方法及適當的強化措施，向職員反復灌輸此等價值，以免流於因循。

### Recommendations Arising from the Investigation

The Commissioner notes IRD is adamant that guidelines and supervisory check procedures were in place well before this incident and that it had made efforts to ensure that staff at all levels fully understood the data protection policies. However, the irregularities identified in this investigation, which involved multiple mistakes committed by different staff across a number of work units, speak for themselves. IRD is a large department with a large number of staff. Judging from the indifference of the staff concerned in this case, it does not appear that the work norms at IRD emphasized enough user-centricity and data protection. The Commissioner hopes that this report will provide impetus to IRD (and other government departments which handle vast amounts of personal data) to proactively build a corporate culture which embraces user-centricity and data protection. It is incumbent upon top management to inculcate the staff with these values through effective communication and due reinforcement, instead of sliding into complacency.

