

附錄
Appendices

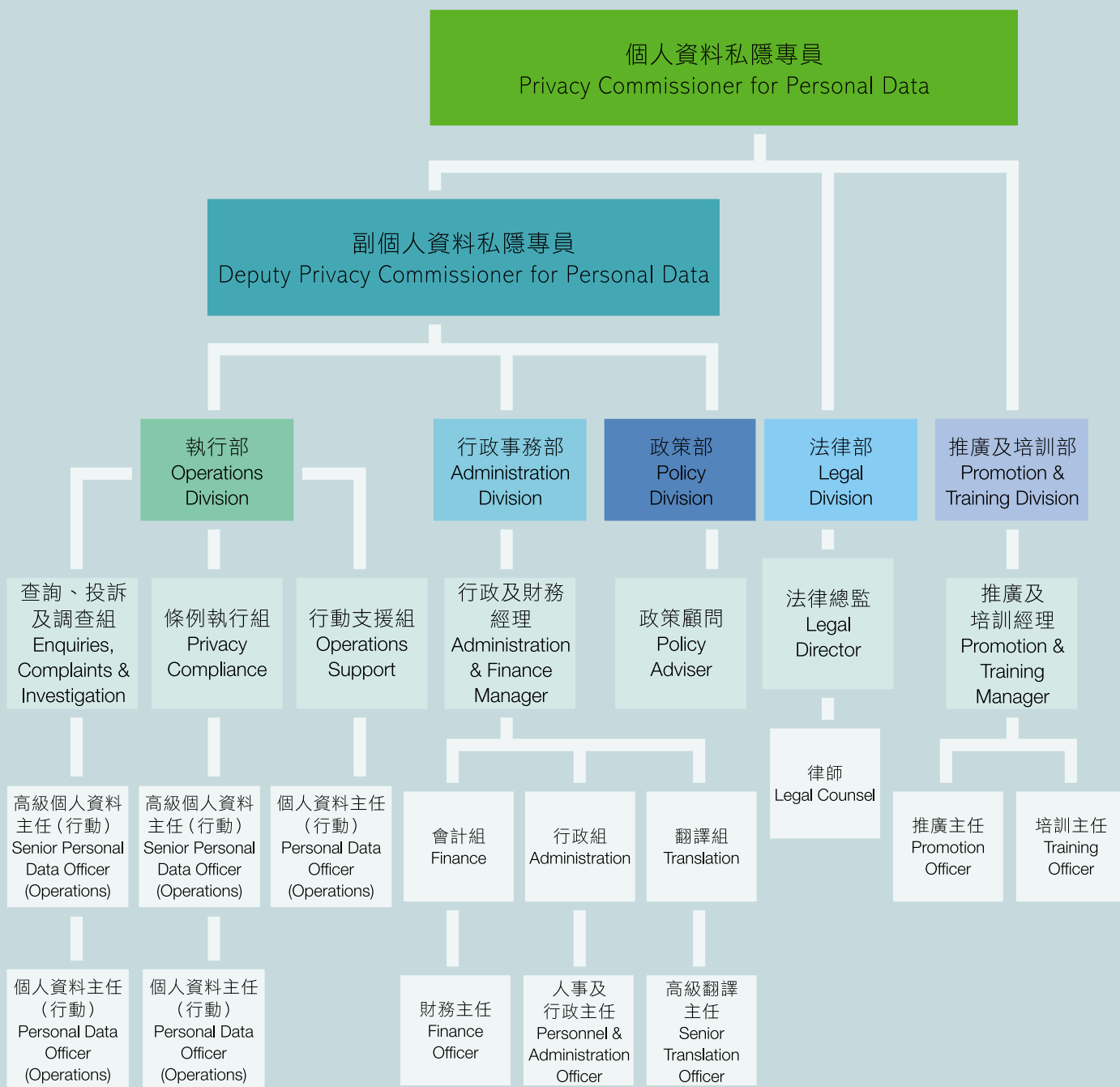


PCO 私
隱專員

公署組織架構 PCO Organizational Chart

附錄一

Appendix I



公署對建議中的法例所作的評論

Comments on Proposed Legislation by the PCO

附錄二 Appendix II

《2001 年銀行業(修訂)條例草案》

本條例草案旨在修訂《銀行業條例》，從而加入新的第72B條，規定認可機構在一段指定期間內須向金融管理專員提供關於任何人成為該機構的經理或不再是該機構的經理，或任何人以該機構的經理的身份，作為該機構在《銀行業條例》附表4指明的某些事務或業務的主要負責人。在此方面，根據新的第72(B)(1)(iii)條，認可機構或須提供「金融管理專員為根據本條例行使其職能而可要求的關於該人的其他詳情。」

在此方面，公署向財經事務局局長建議較理想的做法是建議中的第72(B)(1)條，應明確訂明金融管理專員根據該條可要求提供的哪項或哪類資料，以防金融管理專員收集超越履行其職能所需的個人資料，因而違反保障資料第1(1)(c)原則的規定。舉例來說，公署亦指出認可機構就離任經理所提供的資料，可較就成為認可機構的經理的人的資料為少。

財經事務局局長在回應時指出金融管理專員所收集的任何資料，均受《銀行業條例》第120條的保密規定保障。金融管理專員擬在新的條文生效時發出法定指引，闡述金融管理專員根據新的72B(1)(iii)條在一般情況下所需的資料類別。關於離任經理的資料，財經事務局局長同意所須提供的資料應較成為認可機構的經理的人的資料為少。一般來說，離任經理的資料通常只包括該人的離任日期。

Banking (Amendment) Bill 2001

This Bill sought to amend the provisions of the Banking Ordinance. In particular, it sought to introduce a new section 72B. Section 72B would require an authorized institution to provide to the Hong Kong Monetary Authority within a specified period certain particulars in respect of a person who became or ceased to become a manager of the institution or has, in his capacity as a manager of the institution, become principally responsible for certain affairs or business specified in the Fourteenth Schedule of the Banking Ordinance. In this regard, under the new section 72B (1) (iii), the authorized institution may be required to provide "such other particulars of the person as the Monetary Authority may require for the exercise of his functions under this Ordinance".

In this connection, the PCO suggested to the Secretary for Financial Services that in order to prevent the collection by the Monetary Authority of personal data in excess of that necessary for the discharge of its functions, contrary to data protection principle 1(1)(c), it would be desirable for the proposed section 72B(1) to prescribe with greater clarity the items or kinds of information which the Monetary Authority may require pursuant thereto. The PCO also pointed out, for example, that the particulars to be required in respect of an outgoing manager might be lesser in scope as compared to those particulars to be required in respect of a person who had become a manager of the institution.

In response, the Secretary for Financial Services advised that any information collected by the Monetary Authority would be protected by the secrecy provision under section 120 of the Banking Ordinance. The intention was that the Monetary Authority would, upon commencement of the new provision, issue a statutory guideline setting out the types of information that the Monetary Authority would normally require under the new section 72B (1)(iii). Regarding the information to be required of an outgoing manager, the Secretary for Financial Services agreed that the information required would be lesser in scope than the information to be required of a person who had become a manager of an authorized institution. The information expected from an outgoing manager would generally be confined to the date when he or she ceases to be a manager.

《中國銀行(香港)有限公司(合併)條例草案》

本條例草案旨在就香港的中銀集團轄下的十間成員銀行合併為一個單一實體訂定條文。本條例草案的其中一條條文處理由合併所引致的個人資料私隱問題。根據該條文，合併中的銀行在將所持有的個人資料移轉予合併後的單一實體時，毋須取得保障資料第3原則下的資料當事人的「訂明同意」。當本條例草案由立法會的財經事務委員會通過時，有關方面曾就此條文徵詢公署的意見。

在此方面，公署的評論是建議中的合併涉及將相當數量的客戶及/或職員的個人資料移轉予合併後的單一實體。《個人資料(私隱)條例》的保障資料第3原則訂明如無有關資料當事人的訂明同意，個人資料不得使用於(亦包括披露)原有收集目的以外目的或非與原有目的直接有關的目的。由於訂明同意必須是自願給予的明示同意，故要合併中的銀行在移轉資料時先取得每一位客戶及職員的訂明同意可能並不實際可行。鑑於合併後的實體的業務主要與合併中的銀行的業務相同，故在合併後很少會或不會改變有關資料的使用目的。至於顧客方面，他們在銀行合併後所取得的服務亦大致與合併前相同。有鑑於此，公署沒有對問題中的條文提出反對。

Bank of China (Hong Kong) Limited (Merger) Bill

This bill sought to provide for the merger of ten member banks of the Bank of China Group in Hong Kong into a single entity. One particular clause of the Bill dealt with issues relating to personal data privacy arising from the merger. That clause dispensed with the need for the merging banks to obtain "prescribed consent" from the data subjects under DPP3 of the PD(P)O when personal data held by the merging banks were transferred to the resultant entity. While the bill was passing through the Financial Services Panel of the Legislative Council, comments were sought from the PCO on the clause.

In this connection, the PCO commented that the proposed merger would involve the transfer of personal data of a substantial number of customers and/or employees to the resultant entity. DPP3 of the PD(P)O provides that personal data shall not, without the prescribed consent of the data subject, be used or disclosed for any purpose other than the original purpose of collection or a purpose directly related thereto. Since prescribed consent must be both express and voluntary, it might not be practicable for the merging banks to obtain the prescribed consent from each of their customers and employees before the transfer of their data. Given that the line of business of the resultant entity would be essentially the same as that of the merging banks, there was likely to be little or no change in the purpose for which the data were to be used as brought about by the merger. Insofar as customers were concerned, the merger would enable them to continue to obtain essentially the same service as before. On the basis of the above, the PCO did not object to the clause in question.

對《升降機及自動梯(安全)條例》所作出的建議修訂

有建議對《升降機及自動梯(安全)條例》作出修訂，規定升降機及自動梯工人必須註冊。在此方面，機電工程署署長就根據該條例的修訂事項設立升降機工人登記冊及自動梯工人登記冊的建議諮詢公署。公署的意見是根據《個人資料(私隱)條例》的規定，公署原則上並不認為成立建議中的登記冊會有任何問題，但除非絕對需要，否則有關登記冊不應讓市民查閱，尤其應考慮公開有關登記冊的目的及其他實際可行的途徑以達致該目的。此外，如讓市民查閱有關登記冊，亦應顧及民政事務局所頒布的公共登記冊指引中的保障個人資料措施(如有的話)。

在本年報期間，此事並無進一步進展。

Proposed Amendments to the Lifts and Escalators (Safety) Ordinance

It was proposed that amendments be made to the Lifts and Escalators (Safety) Ordinance to provide for the registration of lifts and escalators workers. In this connection, the Director of Electrical and Mechanical Services consulted the PCO with regard to the proposed establishment of a Register of Lift Workers and a Register of Escalator Workers under the amendments to the said Ordinance. The PCO advised that, in principle, the PCO did not see any problem under the PD(P)O for the proposed establishment of the said registers, but such registers should not be made available for public inspection unless absolutely necessary. In particular, it should be considered whether there was any objective behind the proposed disclosure of registrants' personal data, which objective could not be practicably achieved through any alternative means. Furthermore, should the said registers be made available for public inspection, regard should be had to the Guidelines on public registers issued by the Home Affairs Bureau, for the protection of personal data to be included in such registers (if any).

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

《2001年消防(修訂)條例草案》

本條例草案旨在修訂《消防條例》，建議加入新的第9條，規定為消除火警危險或防止火警危險再度出現，消防處處長可在「訂明的情況下」，安排將某人就上述條例所訂罪行被檢控或被定罪的某些資料在土地註冊處註冊，或安排以「訂明的方法」公布該等資料。在此方面，公署注意到條例草案或《消防條例》中並無提及「訂明的情況下」及「訂明的方法」的定義，因而無法得知將該等資料註冊或公布是否符合條例的規定。故此，公署建議較理想的做法是明確指定可註冊或公布的資料，以及為「訂明的情況下」及「訂明的方法」兩詞下定義。

Fire Services (Amendment) Bill 2001

This Bill sought to amend the provisions of the Fire Services Ordinance. The Bill proposed to introduce a new section 9 to provide that, for the purpose of abating a fire hazard or preventing it from recurring, the Director of Fire Services may under the "prescribed circumstances" cause to be registered in the Lands Registry, or publicized by "prescribed means", certain information relating to the charging or conviction of a person of an offence under the said Ordinance. In this connection, the PCO noted that the terms "prescribed circumstances" and "prescribed means" were not defined in the Bill or in the Fire Services Ordinance. As such, it was not entirely clear whether the said registering or publicizing would be consistent with the requirements of the PD(P)O. The PCO therefore suggested that it would be desirable to specify the precise information to be registered or publicized, and the meaning of "prescribed circumstances" and "prescribed means".

此外，此條例草案亦建議在《消防條例》的第25(1)條中加入行政長官會同行政會議可制訂規例，授權消防處處長可在訂明的情況下取得任何人的個人資料。為防止消防處處長收集超過履行職能所需的個人資料，因而違反保障資料第1(1)原則的規定，公署建議理想的做法是在建議加入的條文中，述明消防處處長可收集哪項或哪類「個人資料」，以及可在哪種「訂明情況下」收集該等個人資料。

保安局局長在回應中解釋，此條例草案是用以更新《消防條例》的整套立法建議的一部分，新的附屬法例亦擬推出。在此方面，保安局局長會按照公署的建議，設法在建議擬訂的新附屬法例列明所需的明確規定。

《2002 年公司(修訂)條例草案》

本條例草案旨在修訂《公司條例》。公署注意到在各項建議修訂事項中有一項規定，要求接管人、經理人、物業的管有承按人、清盤人及臨時清盤人向公司註冊處處長提供其身份證或護照號碼，而有關號碼是可供市民查閱的。在此方面，公署要求財經事務局局長提供規定該等人士提供其身份證或護照號碼及該等號碼可供市民查閱的理據。此外，為與民政事務局發出的公共登記冊指引配合，公署認為目前的立法行動或許是對《公司條例》作出進一步立法修訂的良機，藉以訂明根據《公司條例》保存各項公共登記冊的目的，並且對不當使用登記冊內的個人資料的行為施加制裁。

在本年報期間，此事並無進一步進展。

Furthermore, the Bill also proposed to add to section 25 (1) of the said Ordinance the power of the Chief Executive in Council to make regulation for empowering the Director of Fire Services to obtain personal particulars from any person under the prescribed circumstances. In order to prevent collection by the Director of Fire Services of personal data in excess of that necessary to discharge his functions contrary to the requirements of DPP1(1), the PCO suggested that it would be desirable to spell out in the proposed section the items or kinds of "personal particulars" to be obtained by the Director and the "prescribed circumstances" under which the Director may obtain such personal data.

In response, the Secretary for Security explained that the Bill was part of a package of legislative proposals to update the Fire Services Ordinance. It was intended that new subsidiary legislation would be introduced thereunder. In this connection, the Secretary for Security would seek to provide for the necessary specifications, as suggested by the PCO, in the proposed new subsidiary legislation.

Companies (Amendment) Bill 2002

This Bill sought to amend the provisions of the Companies Ordinance. The PCO noted that, amongst the proposed amendments, there was a requirement for receivers, managers, mortgagees in possession of property, liquidators and provisional liquidators to provide their identity card or passport number to the Registrar of Companies, which number would be made available for public inspection. In this connection, the PCO asked the Secretary for Financial Services about the justification in requiring the parties concerned to provide their identity or passport numbers, and in allowing public access to the said numbers. Also, in line with the Guidelines on public registers issued by the Home Affairs Bureau, the PCO suggested that the current legislative exercise might be a good opportunity to introduce further legislative amendments to the Companies Ordinance to specify the purpose(s) of each public register maintained pursuant to the Companies Ordinance and to impose sanction against improper use of personal data contained in the registers.

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

公署曾參與的講座的主辦機構
(1.4.2001 – 31.3.2002)

**Organizations Which Had Held
Seminars with PCO Participation**
(1.4.2001 – 31.3.2002)

附錄三
Appendix III

機構名稱	Name of Organizations
佛教傳黃合老人中心	Buddhist Foo Wong Hop Social Centre for the Elderly
基督教宣道會海濱花園耆康中心	C & MA Riviera Gardens Social Centre for the Elderly
香港仔明愛安老服務	Caritas Social Centre for the Elderly – Aberdeen
堅道明愛安老服務	Caritas Social Centre for the Elderly – Caine Road
道教香港青松觀 青松侯寶垣老人服務中心	Ching Chung Taoist Association of Hong Kong Limited Rev. Hau Po Woon Social Centre for the Elderly
鐘聲慈善社顏劉崑珠老人中心	Chung Sing Benevolent Society Gan Low Khoon Choo Social Centre for the Elderly
鐘聲慈善社胡陳金枝敬老中心	Chung Sing Benevolent Society Mrs. Aw Boon Haw Social Centre for the Elderly
懲教署職員訓練院	Correctional Services Department Staff Training Institute
基督教香港信義會山景邨耆年中心	E.L.C.H.K. Shan King Estate Social Centre for the Elderly
—	Garment Personnel Club
靈實尚德老人中心	Haven of Hope Sheung Tak Social Centre for the Elderly
齋色園主辦可平耆英康樂中心	Ho Ping Social Center for Senior Citizens (Sponsored by Sik Sik Yuen)
黃大仙民政事務署 慈雲山分處	Home Affairs Department Wong Tai Sin District Office Tze Wan Shan Sub-Office
匡智大埔(南)中心	Hong Chi Tai Po (South) Centre
香港浸會大學	Hong Kong Baptist University
香港基督教培道聯愛會高超道 仁愛敬老中心	Hong Kong Christian Mutual Improvement Society Ko Chiu Road Centre of Christ Love for the Aged
香港房屋委員會	Hong Kong Housing Authority
香港專業教育學院(柴灣分校)	Hong Kong Institute of Vocational Education (Chai Wan)
香港專業教育學院(沙田分校)	Hong Kong Institute of Vocational Education (Shatin)
香港專業教育學院(青衣分校)	Hong Kong Institute of Vocational Education (Tsing Yi)
香港路德會社會服務處 路德會新翠耆年中心	Hong Kong Lutheran Social Service Sun Chui Lutheran Centre for the Elderly

機構名稱	Name of Organizations
香港聖公會護養院	Hong Kong Sheng Kung Hui Nursing Home
香港跆拳道協會	Hong Kong Taekondo Association
中華基督教會合一堂耆年中心	Hop Yat Church, The Church of Christ in China, Social Centre for the Elderly
—	Insurance Human Resources Club
國際四方福音堂隆亨堂耆年中心	International Church of the Foursquare Gospel Lung Hang Church Elderly Centre
伊斯蘭脫維善紀念中學	Islamic Kasim Tuet Memorial College
葵涌醫院	Kwai Chung Hospital
勞工處	Labour Department
瑪利諾修院學校	Maryknoll Convent School (Secondary Section)
新界婦孺福利會社會服務部	N.T. Women & Juveniles Welfare Association Social Services Division
新生精神康復會	New Life Psychiatric Rehabilitation Association
竹園區神召會牛頭角老人康樂中心	Pentecostal Church of Hong Kong Ngau Tau Kok Elderly Centre
竹園區神召會慈鳳老人康樂中心	Pentecostal Church of Hong Kong Tze Fung Elderly Centre
保良局盧邱玉霜老人中心	Po Leung Kuk Lo Yau Yuk Sheung Social Centre for the Elderly
博愛醫院陳平紀念長者活動中心	Pok Oi Hospital Chan Ping Memorial Social Centre for the Elderly
差餉物業估價署	Rating & Valuation Department
基督復臨安息日會 恆安老人中心	Seventh-Day Adventist Church Heng On Social Centre for the Elderly
聖公會聖馬太堂康年會	Sheng Kung Hui St. Matthew's Church Senior Citizens' Club
聖公會鄧肇堅中學	Sheng Kung Hui Tang Shiu Kin Secondary School

機構名稱	Name of Organizations
聖公會屯門社會服務中心	Sheng Kung Hui Tuen Mun Social Service Centre
聖公會聖路加福羣會老人中心	St. Luke's Settlement Social Centre for the Elderly
香港中華廠商聯合會	The Chinese Manufacturers' Association of Hong Kong
中華基督教禮賢會香港區會 禾輦耆年中心	The Chinese Rhenish Church Hong Kong Synod Wo Che Social Centre for the Elderly
香港社會服務聯會職業輔導社 再培訓及就業中心	The Hong Kong Council of Social Service, Employment Service, Retraining and Employment Centre
香港教育學院	The Hong Kong Institute of Education
香港理工大學	The Hong Kong Polytechnic University
九龍巴士(一九三三)有限公司	The Kowloon Motor Bus Company (1933) Limited
香港基督教循道衛理聯合教會 循道愛華村服務中心愛華耆樂中心	The Methodist Church, Hong Kong Methodist Epworth Village Community Centre Social Service Centre for the Elderly
基督教聖約教會耀安堂老人中心	The Mission Covenant Church Yiu On Tong Social Centre for the Elderly
旺角街坊會 陳慶社會服務中心	The Mongkok Kai-Fong Association Ltd. Chan Hing Social Service Centre
鄰舍輔導會利東康齡中心	The Neighbourhood Advice-Action Council Lei Tung Social Centre for the Elderly
香港大學心理學系	Department of Psychology, The University of Hong Kong
東華三院馬李永聘安老院	TWGHs Lee See Ping Home for the Elderly
職業訓練局工商資訊學院	VTC School of Business & Information Systems

公署曾出版之刊物 (截至 2002 年 3 月 31 日)

PCO Publications List (as of 31 March 2002)

附錄四

Appendix IV

刊物：

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

Publications:

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

- 《身分證號碼及其他身分代號實務守則 — 資料使用者指引》
- 《身分證號碼與你的私隱》
- 《個人信貸資料實務守則》
- 《個人信貸資料實務守則對你有甚麼保障?》
- 《人力資源管理實務守則》
- 《人力資源管理實務守則 — 僱主及人力資源管理者指引》
- 《監察活動及工作期間的個人資料私隱實務守則草擬本》諮詢文件
- 《如何行使你的查閱個人資料權利》及查閱資料要求表格 (OPS 003)
- 《二零零一年意見調查：公眾對《個人資料(私隱)條例》的態度及條例的實施情況 — 主要調查結果》
- “Code of Practice on the Identity Card Number and other Personal Identifiers -Compliance Guide for Data Users
- “Your Identity Card Number and Your Privacy”
- “Code of Practice on Consumer Credit Data”
- “Code of Practice on Consumer Credit Data: What Does it Mean For You?”
- “Code of Practice on Human Resource Management”
- “Code of Practice on Human Resource Management – Compliance Guide for Employers and HRM Practitioners”
- “Draft Code of Practice on Monitoring and Personal Data Privacy at Work”
- “Exercising Your Data Access Rights” and Data Access Request Form(OPS 003)
- “2001 Opinion Survey: Personal Data (Privacy) Ordinance: Attitudes and Implementation – Key Findings”

錄影帶：

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

電腦光碟：

- 《遵守個人資料(私隱)條例規定自我評估資料套》互動光碟

Videos:

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

CD-ROM:

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