



## 實務守則

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

### 《個人信貸資料實務守則》的修訂

繼二零零一年五月進行公眾諮詢後，私隱專員在二零零二年二月八日核准《個人信貸資料實務守則》的修訂事項，而該等修訂事項亦於同年三月一日起生效。

修訂後的守則對個人的信貸資料提供較佳保障，同時准許放寬某些資料在保留期間及披露方面的規定。此舉所依據的邏輯是任何放寬措施都不能超越確保嚴謹信貸評估所必需的規定。此外，修訂事項亦舒緩了信貸行業所面對的一些運作上的問題。修訂事項主要包括下述方面：

- (a) **放寬資料的保留期間及使用：**信貸資料服務機構獲准將信貸申請資料的保留期間由90日延長至五年，而檔案活動資料的保留期間亦獲准由12個月延長至5年。信貸資料服務機構亦可使用這些記錄資料作信貸評分，但卻只可向信貸提供者發放在五年中的最近兩年所匯集的資料。
- (b) **額外保障措施：**限制信貸提供者只可在批出、檢討或續批個人信貸時查閱個人的信貸資料。至於已解除破產人士的欠帳資料，信貸資料服務機構必須在由解除破產日期起計五年內，將該等欠帳資料自記錄中刪除。此外，公眾記錄中關於某人的破產資料，例如官方記錄中的宣布破產或解除破產資料的保留期間不得超過八年，由有關宣布日期起計。

## Code of Practice

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

### Amendments to the Code of Practice on Consumer Credit Data

Following the consultation exercise conducted in May 2001, the Privacy Commissioner approved revisions to the Code of Practice on Consumer Credit Data on 8 February 2002. The revisions took effect on 1 March 2002.

The revised Code provides better protection to an individual's credit data and allows relaxation on certain data retention and disclosure requirements. The rationale adopted is that any relaxation would not go beyond that which is strictly necessary to promote better credit assessment. The revisions also alleviate certain operational difficulties encountered by the consumer credit industry. The revisions are in the following areas.

- a) **Relaxation on data retention and use.** Extension of the permissible retention period of credit application data by a credit reference agency from 90 days to 5 years, and extension of retention period of file activity data from 12 months to 5 years. Use of these historical data for consumer credit scoring is allowed but release of these data by a credit reference agency to credit providers is limited to data compiled over the most recent two years of the 5-year period.
- b) **Additional safeguards.** Restrict access to an individual's credit data by a credit provider only in situations involving the grant, review or renewal of consumer credit. In relation to default data of a discharged bankrupt, a credit reference agency is required to delete such default data from its records within 5 years of the date of the discharge. Furthermore, public records about an individual's bankruptcy, e.g. any declaration or discharge of bankruptcy appearing on official records, should not be retained for more than 8 years from the relevant declaration.

## 《監察活動及工作期間的個人資料私隱實務守則》草擬本

在二零零二年三月八日，公署發表《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，邀請各公私營機構及市民大眾就守則的草擬條文發表意見。守則的主要目的是要為在工作期間監察及記錄僱員的活動及行為的僱主提供實務性指引。守則的條文設法在保障僱主的業務權益及僱員的私隱權益之間求取平衡。

守則是在對多個因素作出詳細考慮後制訂的。首先，法律改革委員會的私隱問題小組委員會在一九九九年八月發表的《侵犯私隱的民事責任》的諮詢文件中提出這項建議。法律改革委員會支持這項建議，認為有需要在僱員對工作期間的活動的私隱期望與僱主有需要為合法的商業目的監察工作地點及僱員的活動之間取得平衡。

其次，科技發展已將監察系統的成本降低，基本上所有僱主都負擔得來。這個趨勢的自然結果是僱員監察活動在香港已變得愈來愈普遍。有些人認為這情況對工作期間的個人資料私隱的侵犯程度會較大。

第三，公署二零零一年的意見調查顯示在485間受訪機構中，63.6%已安裝最少一類僱員監察設備，三分一的機構則已安裝超過兩項監察設備。調查結果亦顯示只有22.1%受訪機構有制訂僱員監察書面政策，將所採用的監察措施通知僱員。當受訪機構被問及是否支持公署就監察活動制訂實務守則時，77.6%對此建議表示贊同，只有少於10%表示反對。

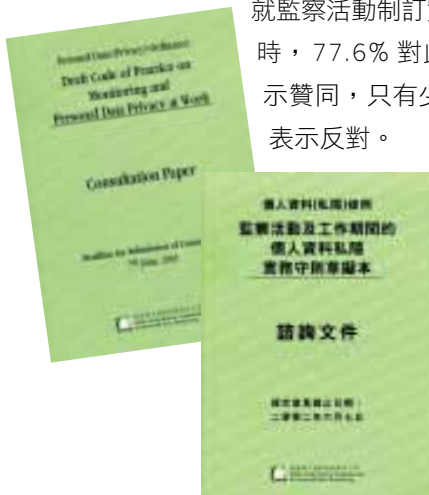
## Draft Code of Practice on Monitoring and Personal Data Privacy at Work

On 8 March 2002, the PCO issued a consultation document relating to a draft Code of Practice on Monitoring and Personal Data Privacy at Work. Organizations from both the public and private sector were invited to submit their comments on the draft provisions of the Code, as were members of the public. The primary purpose of the Code is to provide practical guidance to employers who engage in practices that monitor and record the activities and behaviour of employees at work. The provisions of the Code seek to strike a balance between the business interest of employers and the privacy interest of employees.

The development of the Code was a considered response to several factors. First, it was a recommendation of the Privacy Sub-Committee of the Law Reform Commission (“the LRC”) in its consultation paper entitled “Civil Liability for Invasion of Privacy” published in August 1999. The view adopted by the LRC to support the recommendation is that an employee’s expectation of privacy in his activities in the workplace had to be balanced against the employer’s need to keep the workplace, and his employees’ activities, under surveillance for legitimate business purposes.

Secondly, technological developments and reduced costs, notably of surveillance software, have made monitoring systems affordable to virtually all employers. The natural consequence of this is that employee monitoring has become more pervasive in Hong Kong and, some would argue, more invasive of the privacy of the individual at work.

Thirdly, the findings of the PCO’s 2001 Opinion Survey indicated that 63.6% of the 485 respondent organizations had installed at least one type of employee monitoring device. One in three had installed two or more devices. The findings also indicated that only 22.1% of organizations surveyed had notified employees of their practices by drafting and disseminating a written employee monitoring policy. When respondent organizations were asked if they would support PCO efforts to develop a code of practice on monitoring, 77.6% were in agreement with this suggestion. Less than 10% were opposed to it.





仔細考慮過這些因素後，公署決定頒布守則草擬本，涵蓋在香港最常見的監察活動，包括電子郵件監察、電腦用途(互聯網的使用)監察、電話監察，以及閉路電視 / 攝錄監察。諮詢期直至二零零二年六月七日。

### 《固定及流動電訊服務營辦商保障顧客資料的實務守則》草擬本

在二零零二年一月，公署與消費者委員會、廉政公署及電訊管理局攜手合作為固定及流動電訊服務營辦商草擬實務守則，目的是要為業界制訂一份自願遵守的守則，開列各項保障客戶資料的良好行事方式。預計守則會在向固定及流動電訊服務業進行諮詢後，在二零零二年六月公布。

Having given careful consideration to these factors, the PCO decided to promulgate the draft Code that, at least initially, would cover the most common forms of monitoring found in Hong Kong. These involve practices that relate to E-mail monitoring, computer usage monitoring (including Internet access), telephone monitoring and CCTV/video monitoring. The consultation is expected to run until 7 June 2002.

### Draft Code of Practice on the Protection of Customer Information for Fixed and Mobile Service Operators

In January 2002, the PCO participated in a joint project with the Consumer Council, the Independent Commission Against Corruption and the Office of the Telecommunications Authority to develop a draft code of practice for fixed and mobile service operators. The draft code is intended to be a voluntary code that sets out good practices that relate to the protection of customer information. It is expected that the code will be issued in June 2002 after consultation with the fixed and mobile service industry.

## 對某些私隱問題的回應

### 警方建議在公眾地方安裝閉路電視系統

在二零零二年初，警方透露計劃在某些公眾地方安裝閉路電視攝影機，以協助管理人群及防止罪行。警方計劃以港島中區蘭桂坊為試點，在二零零二年中在該處安裝閉路電視攝影機。

這項宣布引起了社會各界人士的深切關注，當中大眾尤其關注以閉路電視攝影機的使用明顯缺乏監管、錄像帶記錄的保留及使用，以及市民可自由進出的公眾地方進行攝錄可能侵犯私隱等問題。

## Response to Specific Privacy-related Issues

### Police's proposal to install CCTV systems in public places

In early 2002, the Police revealed a plan to install CCTV cameras in various public places. The purpose of so doing was to assist with crowd control and the prevention of crime. The plan is to introduce, as a pilot scheme, the installation of CCTV cameras in the Lan Kwai Fong area of Central District by mid 2002.

The announcement attracted considerable concern from various sectors of the community. There are particular concerns about the apparent lack of regulation on the use of CCTV cameras, the retention and use of videotaped records and the potential intrusion to privacy in places to which the public have largely free and unrestricted access.

在警方宣布安裝閉路電視的計劃後，公署主動致函警務處處長，要求取得有關計劃的進一步資料。其後，警方指出該計劃是警方的公眾安全及保安管理系統的一部分，目的是要維持香港作為世界上最安全及最穩定的地方之一。警方在蘭桂坊試驗安裝閉路電視系統，目的主要是加強保障公眾安全及方便管理人群。

《個人資料(私隱)條例》其中一個主要環節與「收集」資料原則有關。有關原則規定須為了與資料使用者的職能直接有關的合法目的收集資料，以及資料的收集是必需的，並且須以合法及在有關個案的情況下屬公平的方法收集。關於這項閉路電視監察計劃，公署認為警方須對條例這方面的規定作出適當考慮。

在香港，公眾地方使用閉路電視系統作保安用途的情況頗為普遍。最常見的例子是在交通工具上、停車場及購物商場。為評估市民對在公眾地方安裝攝錄監察系統的態度，公署在二零零二年一月委託一研究中心進行了一項研究，尤其希望得悉市民對為保安或其他良好的目的而在公眾地方安裝攝錄攝影機的認識及接受程度。如市民一般接受在公眾地方安裝監察攝影機所帶來的好處，則研究會調查大家的態度會否因個人影像被記錄及保留而有所改變，例如記錄駛離停車場的駕駛人士，因為當中涉及私隱問題。此外，研究亦涵蓋海外地方在處理公眾地方的攝錄監察系統所涉及的私隱問題的經驗。

## 財經界提出共用正面信貸資料的建議

在過去數年，香港的財經服務業因外圍及本港經濟環境出現變化而受到牽連。銀行、信用卡發咭者及提供信貸的其他持牌機構正面對貸款欠帳及拖欠清還信用卡欠款的比率大幅上升的問題。此外，借款人多重欠帳及破產個案數

Following the announcement of the CCTV installation plan by the Police, the PCO took the initiative to write to the Commissioner of Police seeking further information regarding the plan. Subsequently, the Police advised that the plan was part of a public safety and security management system for the purpose of ensuring Hong Kong remained as one of the world's safest and most stable societies. The deployment of CCTV systems in the pilot scheme at Lan Kwai Fong will serve the primary purpose of enhancing and facilitating public safety and crowd management.

An important aspect of the PD(P)O is the requirement that relates to the "collection" principle. This requires that personal data shall be collected for a lawful purpose directly related to a function of the data user, that the collection of the data is necessary and that the data are collected by means that are lawful and fair in the circumstances of the case. In the context of the CCTV monitoring scheme, the PCO advised the Police to give due consideration to this particular requirement of the PD(P)O.

In Hong Kong, surveillance cameras have been widely deployed in public places for many years. Common examples would be transportation facilities, car parks and shopping malls. In order to investigate Hong Kong citizens' attitudes towards the operation of video surveillance cameras in public places, the PCO commissioned a research study in January 2002. In particular the PCO are interested in the extent to which there is awareness and acceptance of video cameras in public places for security and other bona fide purposes. If there is general acceptance of the benefits of surveillance cameras in public places then the research will investigate whether recording and retaining the image of people, e.g. motorists exiting a car park, in any way modifies the attitudes expressed because of the privacy-related issues involved. The study will also research overseas experiences regarding the handling of privacy issues when operating video surveillance in public places.

## The Financial Industry's Proposal on the sharing of Consumer Positive Credit Data

Over the past few years, changes in the domestic and external economic environment have adversely impacted upon the financial services sector of the Hong Kong economy. The situation facing banks, credit card issuers and other licensed bodies providing lines of credit is that the default rate on loans and credit card spending has risen



目亦持續上升。雖然這種情況的成因頗多，但財經規管者及業界均認為這種趨勢顯示有必要對個人借貸採取更嚴謹的信貸評估方法。

在二零零二年一月，政府宣布召開高層圓桌會議，討論應付個人欠債及破產問題的方法，出席者包括業界的代表及政府官員。大家在會議上提出一套擴大信貸提供者共用正面信貸資料的建議。業界所提出的理據是讓信貸提供者查閱及使用借款人的正面信貸資料，可令信貸提供者對它們客戶的整體信貸風險有較深入的理解。這類資料亦有助信貸提供者可根據獲悉的資料，對目前或將來的信貸作出較佳決定。

信貸客戶及市民大眾均對此建議大表關注。他們擔心他們的個人資料可能在未經許可的情況下，為了與信貸評估無關的目的而向其他人士披露，例如一般承保商、地產代理，甚至他們的僱主。此外，亦有人對個人資料可能得不到保障表示關注。大部分對本身個人事務妥加管理的負責任信貸使用者，認為有關建議不合理，因為他們須為一少部分不負責任的信貸使用者的不當行為而提供更多私人資料。

如實施業界的建議，則等同放寬目前的《個人信貸資料實務守則》的規定，准許透過信貸資料服務機構擴大共用正面信貸資料的範圍。如要放寬目前守則的任何規定，任何改變均須在提供所需保障措施的基础上進行，藉以對信貸提供者在正面信貸資料的收集、使用及保安方面作出明確限制。在此方面，公署已決定及正就與建議有關的私隱問題編製諮詢文件。

significantly. There has also been an increase both in the number of cases of multiple delinquencies among borrowers and the number of bankruptcy cases. While there are probably many reasons for these developments, financial regulators and the financial industry have interpreted these trends as signaling a need for more vigorous credit assessment methodologies in consumer lending.

In January 2002, the Government convened a high-level Roundtable Discussion among industry representatives and government officials to discuss measures necessary to tackle the issues of consumer debt and bankruptcy. These discussions have resulted in a set of proposals seeking to extend the scope of consumer credit data to be shared by credit providers. The arguments advanced by the industry are that access to, and the use of, positive credit data of borrowers would enable credit providers to better understand the total credit exposure of their clients. This information would also assist credit providers in making more informed decisions about current and future lending.

Consumer advocates and the public expressed great concern over the proposal. They are concerned with the potential risk of unauthorized disclosure of their personal information to others for purposes unrelated to credit assessment, such as general insurers, real estate agents or even their employers. Others are concerned with the potential loss of protection of their personal information. The majority of credit users, who are responsible in managing their personal affairs, view the proposal as illogical in that it requires them to release more private information to compensate for the malpractice of a minority of irresponsible credit users.

The industry's proposal, if implemented, amounts to a relaxation of the provisions of the current Code of Practice on Consumer Credit Data to allow for a greater sharing of positive credit data via the credit reference agency. If there were to be any relaxation of the provisions of the current Code then any changes could only be made under the protection of safeguards which place explicit constraints on the collection, use and security of positive credit data by credit providers and the credit reference agency. In this respect, the PCO has decided and is in the course of developing a consultation document on the privacy issues related to the proposal.