

求職者就

披露刑事紀錄須知

Note for Job Applicants on Disclosure of Criminal Records



PCPD



HK



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

求職者就 披露刑事紀錄須知

Note for Job Applicants on Disclosure of Criminal Records



問

我的未來僱主可以收集我的哪些個人資料？

Q

What sort of personal data can a potential employer collect from me?



答

任何機構作為資料使用者只能收集必需、足夠和不超乎適度的個人資料。

香港法例第 486 章《個人資料（私隱）條例》下的保障資料第 1(1) 原則列明收集的個人資料對收集的目的而言，應是必需的、屬足夠但不超乎適度。

因此，你的未來僱主只應按照每個空缺的個別情況，例如工作性質、職能、職位及可能涉及的具體工作而收集就招聘 / 人力資源管理的目的而言屬必需、足夠但不超乎適度的個人資料。

A Only necessary, adequate and non-excessive personal data should be collected by any organisation as a data user.

Data Protection Principle (DPP) 1(1) under the Personal Data (Privacy) Ordinance (Cap. 486) provides that only personal data that is necessary, adequate but not excessive for the purposes for which the data is to be used should be collected.

Your potential employer should thus only collect the personal data that are necessary, adequate but not excessive for recruitment/human resources management purposes based on the circumstances of each individual case, such as the nature, functions, role and potential tasks of the job involved.



問 我是否有責任去提供被要求的個人資料？還是可以選擇自願提供該些個人資料？

Q Is providing the requested personal data obligatory or voluntary?

答

保障資料第 1(3) 原則要求你的未來僱主應於收集你的個人資料之時或之前，以明確或暗喻方式告訴你 (i) 是否有責任提供該資料，抑或是可自願提供該資料；及 (ii) 如你有責任提供該資料，不提供該資料需承受的後果。

因此，在決定是否向未來僱主提供所要求的個人資料前，你應考慮該資料是否與你正在應徵的工作相關，和不提供該資料需承受的後果。

A As required under DPP 1(3), your potential employer should explicitly or implicitly inform you, on or before collecting your personal data, of (i) whether it is obligatory or voluntary for you to supply the data; and (ii) where it is obligatory for you to supply the data, the consequences for you if you fail to supply the data.

You should therefore consider whether the personal data requested by your potential employer is relevant to the job you are applying for and the consequences of not providing the personal data requested before deciding whether to provide the personal data to your potential employer.



問

我於幾年前曾就一宗性質輕微的刑事案件被定罪。當僱主問及我的刑事紀錄時，我是否必需披露此項紀錄？

Q

I was convicted of a minor criminal offence a few years ago. Must I disclose this to my potential employer when I am asked about my criminal record?



答

你不需披露喪失時效的定罪紀錄。

按照香港法例第 297 章《罪犯自新條例》，你並不需要向他人，包括你的未來僱主，披露喪失時效的定罪紀錄，除非《罪犯自新條例》第 3 及 4 條下列明的例外情況適用，例如當你申請認許為大律師、律師或會計師，或是應徵紀律部隊工作，或應徵成為高級公務員或是司法人員。

A

You do not need to disclose a spent conviction record.

By virtue of the Rehabilitation of Offenders Ordinance (Cap. 297) (ROO), you do not have to disclose any spent conviction records to others, including your potential employer, unless any of the exceptions under sections 3 and 4 of the ROO apply, for example, if you are applying for admission as a barrister, solicitor or an accountant, for a job in the disciplined services or for appointment as a senior civil servant or judicial officer.





問

我正在申請一份幼稚園的工作。我的未來僱主要求我去申請性罪行定罪紀錄查核。這是什麼？我必需要申請的嗎？

Q

I am applying for a job at a kindergarten. My potential employer asked me to apply for a Sexual Conviction Record Check. What is that? Is it compulsory?



答

某類工作或會要求性罪行定罪紀錄查核。

若你申請的工作需要與兒童或精神上無行為能力人士頻繁接觸，你的未來僱主可要求你，作為合資格申請人，去向警方申請查核你沒有任何訂明的性罪行定罪紀錄¹，以保障兒童和精神上無行為能力人士的福祉。

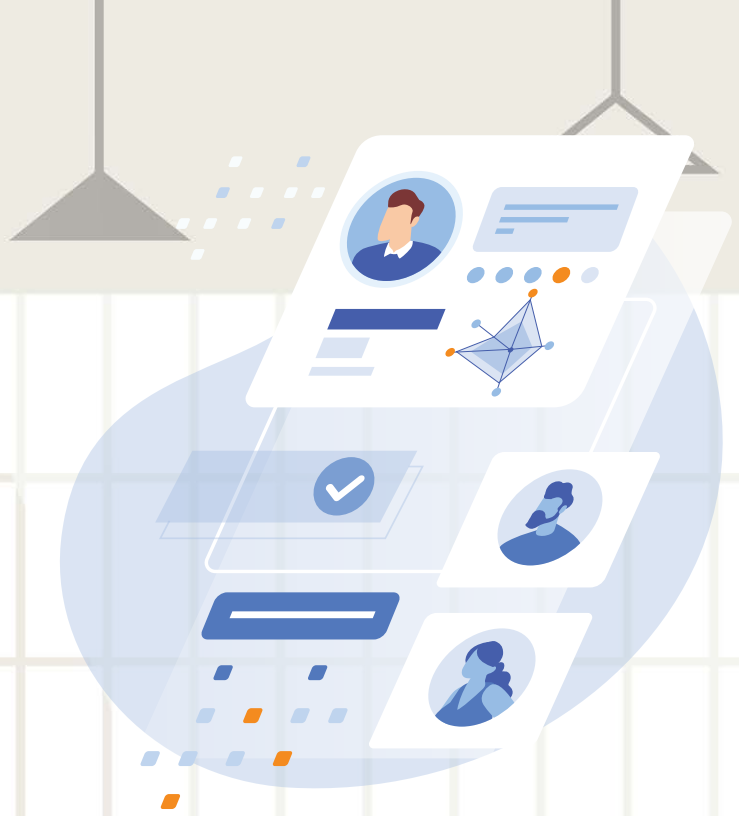
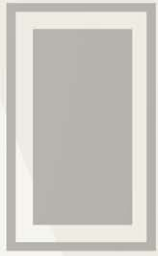
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Certain jobs may ask for a Sexual Conviction Record Check.

If you are applying for a job that requires frequent contact with children or mentally incapacitated persons (MIPs), your potential employer could request that you, as an eligible applicant, apply to the police for a check on your criminal conviction record (if any) in respect of any specified sexual offences² to safeguard the well-being of children and MIPs.

1 詳情請參閱「性罪行定罪紀錄查核」機制計劃守則(2023年5月版)於 https://www.police.gov.hk/info/doc/scrc/SCRC_Protocol_tc.pdf

2 Please refer to the Sexual Conviction Record Check Scheme Protocol (May 2023) for details at https://www.police.gov.hk/info/doc/scrc/SCRC_Protocol_en.pdf



問
Q

什麼是喪失時效的定罪紀錄？

What is a spent conviction record?



答

一般而言，根據《罪犯自新條例》第 2(1) 條，如果你在香港首次被定罪，而未因此被判處監禁超過三個月或罰款超過港幣一萬元，及經過三年時間並未在香港再被定罪，你的首次定罪紀錄將於三年後喪失時效，而你會被視為沒有定罪紀錄。

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As a general rule, under section 2(1) of the ROO, if you have been convicted for the first time in Hong Kong of an offence and you were not sentenced to imprisonment exceeding three months or to a fine exceeding HKD\$10,000 for such conviction, and a period of three years has elapsed without you being convicted of any other offence in Hong Kong, your first conviction will become spent after the three years' period and you will be deemed to have no conviction record.



問

性罪行定罪紀錄查核是一項強制查核嗎？

Q

Is the sexual conviction record check a compulsory check?



答

性罪行定罪紀錄查核機制是一項自願參與的計劃，換言之你可自行決定是否作出查核申請和讓你的未來僱主獲取查核結果。詳情請參閱香港警務處網站有關性罪行定罪紀錄查核機制的資訊版面³。

A

The Sexual Conviction Record Check Scheme (SCRC Scheme) is a voluntary scheme, meaning that it is up to you whether to apply for a check and enable your potential employer to obtain the result. For more details, please refer to the information page of the SCRC Scheme on the Hong Kong Police Force website⁴.

³ https://www.police.gov.hk/ppp_tc/11_useful_info/scrc.html

⁴ https://www.police.gov.hk/ppp_en/11_useful_info/scrc.html

如果你有與求職申請中披露刑事紀錄相關的問題，請聯絡個人資料私隱專員公署
(熱線電話：2827 2827 或 電郵：communications@pcpd.org.hk)，或考慮尋求法律意見。

Please contact the PCPD (Tel: 2827 2827 or email: communications@pcpd.org.hk)
or consider seeking legal advice if you have any questions about the disclosure of
your criminal record incidental to your job application.



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