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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

PCPD.org.hk

保障·尊重個人資料
Protect, Respect Personal Data

加強兒童網站及程式的私隱保障 Enhance Privacy Protection Measures on Websites and Mobile Apps Targeting at Children



公署今年抽查45個由本地機構開發，以兒童為對象的網站及手機程式（「程式」），結果顯示有些網站及程式有良好的私隱措施，但當中也有部分的做法不太理想。

今次抽查是響應「全球私隱執法機關網絡」（Global Privacy Enforcement Network）於今年五月舉行的全球聯合行動。公署聯同全球其他28個私隱執法機關抽查1,494個以兒童為對象的網站及程式，以了解它們在私隱保障上的做法。

抽查結果

在香港的抽查結果中，公署發現下列主要問題：

- a. 有36%的網站及程式有收集兒童的身份證號碼；

- b. 有49%的網站及程式在資料收集聲明有提及會把資料轉移給第三者。

與全球的抽查結果對比，在香港的抽查結果中，以下的數字亦值得關注：

- a. 分別有27個網站（60%）及33個網站（73%）有收集兒童的住址及電話。對比全球抽查結果的19%及22%為高；
- b. 有16個網站（36%）向兒童索取第三者（父母或朋友）的資料，對比全球抽查結果的18%為高；
- c. 只有兩個網站（4%）有在網上提供刪除資料的途徑，對比全球29%為低。

私隱專員黃繼兒在記者會上強調：「在某些情況下，從幼童收集第三者的個人資料可能會被視為不公平收集個人資料，違反香港法例第486章《個人資料

（私隱）條例》附表一的第1(2)(b)保障資料原則。」

黃先生續稱：「在尊重他人的個人資料方面，家長及老師應樹立榜樣，在分享朋友及第三者的個人資料之前先諮詢他們。關於分享兒童的資料（例如相片、考試成績及參與體育賽事），家長及老師應以兒童的利益為依歸，包括任何可能會做成的傷害及會否在將來引起尷尬。然而，兒童對私隱的期望及作出決定的能力會隨著個人成長及智力發展而改變，家長及老師應經常與兒童坦誠地討論網上的活動。」[P](#)

抽查報告全文：www.pcpd.org.hk/tc_chi/resources_centre/publications/surveys/files/sweep2015_c.pdf

The PCPD conducted an assessment of 45 local websites and mobile applications (“apps”) targeting at children this year. The results show that some websites and mobile apps contain good privacy practice while others are not satisfactory.

This year's study was part of the Global Privacy Enforcement Network (“GPEN”) Sweep exercise that took place in May this year. The PCPD joined forces with 28 other privacy enforcement authorities around the globe to examine the privacy protection of 1,494 websites and mobile apps targeting at children.

The Study Findings

The following findings are worthy of mention in the case of Hong Kong:

- a. 36% of websites were found to ask for children's Hong Kong Identity Card Numbers;
- b. 49% of websites were found to have indicated in their privacy policies that they might share the collected personal data with third parties.


When comparing with the results of the global examination, the following

figures from the local study are also notable:

- a. 27 websites (60%) sought information on children's home addresses while 33 websites (73%) collected their phone numbers. These figures are much higher than those global figures of 19% and 22% respectively;
- b. 16 websites (36%) sought information from children concerning third parties (parents and friends). Again this figure is higher than the global figure of 18%;
- c. Only two websites (4%) provided accessible means for a child to delete his account, which is much lower than the global figure of 29%.

The Privacy Commissioner for Personal Data, Mr Stephen WONG, stressed at the press conference, “Collection of third party's personal data from young children may in some circumstances amount to unfair collection contrary to Data Protection Principle 1(2)(b) of Schedule 1, Personal Data (Privacy) Ordinance, Cap 486 Laws of Hong Kong.”

Mr Wong added, “On respecting the

personal data privacy of others, parents and teachers should set an example by consulting their friends or third parties before sharing their personal data. In terms of sharing children's information (such as photographs, examination results and participation in sporting events), parents and teachers should invariably take into account the interest of the children, including any harm and potential embarrassment in the future. However, as children's expectations on privacy and ability to make decisions may vary depending on individual maturity and intellectual development, parents and teachers are encouraged to discuss with them frequently and frankly on their online practices.” 

The full report is available at www.pcpd.org.hk/english/resources_centre/publications/surveys/files/sweep2015_e.pdf

以兒童為對象的資料使用者注意事項 Points to Note for Data Users Targeting at Children



公署新出版兩份刊物 提供實用貼士保障兒童私隱 Practical Guides to Strengthen the Protection of Children Privacy



為加強保障兒童私隱，公署出版了兩份刊物：《經互聯網收集及使用個人資料：以兒童為對象的資料使用者注意事項》，以及《兒童網上私隱——給家長及老師的建議》，分別為不同的持份者提供實用的建議和貼士。

《經互聯網收集及使用個人資料：以兒童為對象的資料使用者注意事項》旨在提供實用建議及良好的行事方式。例如：

- 機構應避免使用開放式問題以減少向兒童收集他們及第三者的個人資料；
- 機構應該向兒童提供刪除帳戶及個人資料的途徑；
- 機構在使用個人資料作新用途前，要先得到兒童或家長／監護人的同意；
- 把個人資料加密；及
- 就私隱政策及安排，向兒童及其家長提供方便易明的資訊。

公署曾於2015年5月公佈一份研究探討兒童私隱在香港的情況。報告顯示家長、老師及學校對兒童私隱保障的議題認知不足。公署因此新出版了《兒童網上私隱——給家長及老師的建議》，向他們提出以下建議：

- 積極參與——家長及老師應以身作則，了解網上世界的運作，並積極參與兒童的網上活動；
- 保障兒童私隱基本功——就保安措施、數碼腳印、私隱設定及尊重家人及朋友意願方面作出建議；及
- 樹立好榜樣——家長及老師應該向兒童示範如何保障、尊重自己及他人的個人資料。 P

The PCPD specially released two publications entitled *Collection and Use of Personal Data through the Internet – Points to Note for Data Users Targeting at Children*; and *Children Online Privacy – Practical Tips for Parents and Teachers* to provide suggestions and tips for different stakeholders.

Collection and Use of Personal Data through the Internet – Points to Note for Data Users Targeting at Children aims to provide practical suggestions and good practice. For example:

- One way to avoid and reduce the collection of personal data of children and the third parties is to avoid the use of open-type questions;

- Organisations should offer means for children to remove the accounts and all associated personal data;
- Organisations should obtain the consent of children, their parents or guardians before using the collected personal data for a new purpose;
- One way to safeguard the personal data is to encrypt it; and
- Ways to offer easily-understood, user-friendly and age specific information to children and their parents regarding privacy policy and practice.

In May 2015, the PCPD released an exploratory study which was carried out to identify major privacy concerns and problems faced by children in Hong Kong. The results showed that parents and teachers seem to have insufficient awareness about children's privacy issues. In addressing these issues, the PCPD newly published a *Children Online Privacy – Practical Tips for Parents and Teachers*. Recommendations include:

- Active Participation—Parents and teachers are encouraged to engage with children in the online activities and understand the operation of the online world.
- Basic Steps for Children Privacy – Suggestions are provided on security measures, digital footprints, privacy settings and respecting the privacy of family members and friends.
- Setting a Good Example—Parents and teachers are role models for children. They should set good examples by protecting their own personal data and respecting others' personal data privacy. P

認識更多

Learn More

《經互聯網收集及使用個人資料：以兒童為對象的資料使用者注意事項》

www.pcpd.org.hk/tc_chi/resources_centre/publications/files/guidance_children_c.pdf

Collection and Use of Personal Data through the Internet – Points to Note for Data Users Targeting at Children

www.pcpd.org.hk/english/resources_centre/publications/files/guidance_children_e.pdf


《兒童網上私隱——給家長及老師的建議》


www.pcpd.org.hk/tc_chi/resources_centre/publications/files/leaflet_childrenonlineprivacy_c.pdf

Children Online Privacy – Practical Tips for Parents and Teachers

www.pcpd.org.hk/english/resources_centre/publications/files/leaflet_childrenonlineprivacy_e.pdf

新改革的「兒童私隱」網站 “Children Privacy”— a Newly Revamped Portal

公署亦改革了「兒童私隱」網站，為家長和老師提供「一站式」的保障私隱資訊，當中有不少實用「生活貼士」及教材。 

The PCPD has also revamped its thematic website “Children Privacy”, which is a one-stop portal to provide teachers and parents with practical tips and teaching resources on personal data protection for children. 

詳情 Details:

www.pcpd.org.hk/childrenprivacy



電子健康紀錄互通系統 Electronic Health Record Sharing System



私隱專員應邀到香港醫學會演講

The Commissioner delivered a presentation at the Hong Kong Medical Association

《電子健康紀錄互通系統條例》已於2015年12月2日生效，為透過電子健康紀錄互通系統（「互通系統」）收集、互通、取用和安全儲存病人的健康資料提供法律基礎。私隱專員黃繼兒出席香港醫學會的晚宴，為醫學界講解互通系統與《個人資料（私隱）條例》的關係。

互通系統是一個資訊基建平台，讓獲授權的公私營界別醫護提供者在參與互通系統的病人同意下，取覽和互通病人的健康資料作醫護相關用途。


互通系統內的病人健康紀錄屬個人資料，受到《個人資料（私隱）條例》的保障。醫護提供者及電子健康紀錄專員在處理互通系統的資料時除遵守《電子健康紀錄互通系統條例》的規定外，亦必須依照《個人資料（私隱）條例》的條文行事。

個人資料私隱專員就互通系統中的個人資料，可執行和行使其在《個人資料（私隱）條例》下的職能和權力，包括：

- 處理有關互通系統中涉及違反《個人資料（私隱）條例》的投訴，有需

要時亦可展開主動調查：

- 就互通系統在處理個人資料方面進行視察；
- 就互通系統涉及個人資料私隱的事宜向市民及醫護提供者提供指引；及
- 處理涉及互通系統的資料外洩事故通報。

為配合互通系統於2016年第一季正式啟用，公署將編製涉及互通系統的個人資料私隱單張，分別供市民和醫護提供者參考。你可瀏覽電子健康紀錄統籌處網站 (www.ehealth.gov.hk/tc/home/index.html) 了解互通系統的詳情。 

The Electronic Health Record Sharing System Ordinance came into operation on 2 December 2015. It provides legal basis for the collection, sharing, use and safe keeping of patients' health data under the Electronic Health Record Sharing System ("eHRSS").

To assist the medical sector to understand the relationship between the eHRSS and

the Personal Data (Privacy) Ordinance, Privacy Commissioner for Personal Data Mr Stephen WONG delivered a presentation at the dinner of the Hong Kong Medical Association.


The eHRSS provides an information infrastructure platform for healthcare providers in both the public and private sectors. With consent of the patient, healthcare providers can have access to and share the patient's health record in the eHRSS for healthcare-related purposes.

Patients' health record in the eHRSS amounts to personal data, which is protected under the Personal Data (Privacy) Ordinance. Healthcare providers and the Commissioner for Electronic Health Record should act in accordance with the requirements under the Electronic Health Record Sharing System Ordinance as well as the Personal Data (Privacy) Ordinance when handling patients' health record in the eHRSS.

The functions and powers of the Privacy Commissioner for Personal Data under the Personal Data (Privacy) Ordinance in relation to personal data in the eHRSS include:

- handling complaints of suspected breaches of the Personal Data (Privacy) Ordinance and initiating investigation if necessary;
- carrying out an inspection of the eHRSS;
- providing guidance on personal data privacy in relation to the eHRSS to citizens and healthcare providers; and
- handling any data breach notification in relation to the eHRSS.

To prepare for the commencement of operation of the eHRSS in the first quarter of 2016, PCPD will publish information leaflets on personal data privacy in relation to the eHRSS for the reference of both the citizens and the

healthcare providers. In the meantime, you may visit the website of the eHealth Record Office (www.ehealth.gov.hk/en/home/index.html) to understand more about the eHRSS. 



個案摘要 Case in Brief

電訊公司須遵從客戶的拒收直銷訊息要求

Telecommunications Companies Have to Comply with Customers' Opt-out Requests

投訴人是一間電訊服務供應商的流動電話用戶。投訴人表示他曾致電該電訊商作出「拒收直銷訊息」要求，而當時該電訊商的職員亦在對話中確認會執行該要求。


然而，投訴人其後收到該電訊商的電子月結單時發現，隨電郵附上一則酒店的晚餐優惠廣告。投訴人不滿該電訊商在他已作出「拒收直銷訊息」的要求下，仍向他寄發推廣資訊，遂向公署投訴。

該電訊商回應表示，由於他們視隨電郵附上的橫幅訊息為普通資訊（而非正式的促銷資訊），故他們於發出該電郵前，沒有先刪除該廣告。

結果：電訊公司承諾符合條例規定

《個人資料（私隱）條例》第35A條下的「直接促銷」是指藉電子郵件或其他形式的傳訊，向指名特定人士要約提供服務，或為該等服務進行廣告宣傳。由於該廣告是為酒店所提供的晚餐優惠進行宣傳，故公署認為該廣告屬條例第35A條下的促銷資訊。就此，除非該電訊商已遵守條例下有關直接促銷的規定，否

則不可使用投訴人的個人資料傳達該廣告。

經公署介入後，該電訊商已採取措施確保日後不會就已作出「拒收直銷訊息」要求的客戶，在其賬戶月結單電郵附帶任何推廣資訊。 

The Complainant, a customer of a telecommunications service provider, called the company to make an opt-out request, and a staff member confirmed that his request would be complied with.


However, the Complainant later found that an advertisement promoting dinner specials at a hotel was attached to the company's electronic bill. Dissatisfied with the company's non-compliance with his opt-out request, he lodged a complaint with the PCPD.

The company responded that it treated the banner ads attached to its email messages as general information (not official marketing information), so it did not delete the advertisement before

sending the email.

Outcome: The telecommunications company undertook to comply with the requirements under the Ordinance

Under section 35A of the Personal Data (Privacy) Ordinance, "direct marketing" refers to offering or advertising services to specific persons by name via electronic mail or other means of communication. As the advertisement promoted dinner specials of a hotel, the PCPD considered it direct marketing information under section 35A of the Ordinance. Hence, unless the company had complied with the direct marketing requirements under the Ordinance, it could not use the Complainant's personal data for delivery of the advertisement.

After the PCPD's intervention, the company took steps to ensure that no marketing information would be attached to the electronic bills of customers who made opt-out requests. 

個人資料私隱專員黃繼兒履新

Mr Stephen Kai-yi WONG took office as the Privacy Commissioner for Personal Data, Hong Kong



個人資料私隱專員黃繼兒於2015年8月4日履新，接替於2015年8月3日五年任期屆滿的蔣任宏，黃繼兒的任期同為五年。

在加入公署之前，黃繼兒是私人執業大律師及獨立諮詢機構香港法律改革委員會的秘書長。他於1986至2007年在律政司（1997年前稱律政署）任職律師，並曾出任不同的職位包括助理刑事檢控

專員及副法律政策專員。黃繼兒是人權法的專家，他曾參與1991年《香港人權法案條例》的立法程序，其後借調到日內瓦聯合國人權事務委員會，為期一年至1992年。P

Mr Stephen Kai-yi WONG took office on 4 August 2015 as the Privacy Commissioner for Personal Data, for a term of five years. Mr Wong has

succeeded Mr Allan Yam-wang CHIANG who completed his five-year term on 3 August 2015.

Prior to joining the PCPD, Mr Wong was a practising barrister in private practice and the Secretary to the independent advisory body, the Law Reform Commission of Hong Kong (LRC). Before serving at the LRC, Mr Wong had been a legal counsel in the Department of Justice from 1986 to 2007 (the then Attorney General's Chambers before 1997), assuming various posts including Assistant Director of Public Prosecutions and Deputy Solicitor General. Being an expert in human rights law, he was involved in the legislative process of the 1991 Hong Kong Bill of Rights Ordinance, and was subsequently on loan to the United Nations Human Rights Committee in Geneva for one year until 1992. P

個人資料（私隱）諮詢委員會新成員名單公布

New Members of Personal Data (Privacy) Advisory Committee Appointed

政府宣布委任兩名新成員加入個人資料（私隱）諮詢委員會（「諮詢委員會」），以及續任六位現任委員。新一屆諮詢委員會的任期由2015年10月1日起生效，為期兩年。

諮詢委員會乃根據《個人資料（私隱）條例》（條例）設立，就個人資料私隱的保障和有關條例施行的事宜向私隱專員提供意見。

私隱專員黃繼兒先生是諮詢委員會的主席。其他成員如下：

孔慶全先生
孫淑貞女士
郭振華先生
溫卓勳先生
楊長華女士
鍾郝儀女士（新委任成員）
羅燦先生（新委任成員）
政制及內地事務局副秘書長或首席助理秘書長 P

The Government announced the appointment of two new members and re-appointment of six incumbent members to the Personal Data (Privacy) Advisory Committee (“Advisory Committee”) for a term of two years with effect from 1 October 2015.

The Advisory Committee was established under the Personal Data (Privacy) Ordinance to advise the Privacy Commissioner for Personal Data on the protection of personal data privacy and matters relevant to the implementation of the Personal Data (Privacy) Ordinance.

The Commissioner Mr Stephen Kai-yi WONG is the Chairman of the Advisory Committee. Other members are as follows:

Mr Billy Hing-chuen HUNG
Ms Susanna Shuk-ching SHEN

Mr Jimmy Chun-wah KWOK
Mr David Chuck-fan WAN
Ms Winnie Cheung-wah YEUNG
Ms Cordelia CHUNG (new appointee)
Mr Stephen Chan LOH (new appointee)
Deputy Secretary for Constitutional and Mainland Affairs or Principal Assistant Secretary for Constitutional and Mainland Affairs P

私隱專員在國際及本地會議發表演說

The Commissioner Speaks at the International and Local Conferences



私隱專員出席在阿姆斯特丹舉行的研討會
The Commissioner attended the Conference in Amsterdam



私隱專員出席香港律師會舉辦的「青 Teen 講場 – 私隱解碼」
The Commissioner attended the “Teen Talk 2015 – Decoding Privacy” held by the Law Society of Hong Kong

從 2015 年 8 月 4 日履新至 12 月 18 日，私隱專員黃繼兒出席了下列五個國際會議，與不同國家的私隱執法機構和專家交流保障資料事宜：

- 1) 在柏林舉行的「國際電訊業資料保障工作小組」第 58 次會議
- 2) 在倫敦舉行、一年一度的第 14 屆資料保障符規會議
- 3) 在阿姆斯特丹舉行的第 37 屆國際資料保障及私隱專員研討會
- 4) 在莫斯科舉行的第六屆個人資料保障國際會議
- 5) 在澳門舉行的第 44 屆「亞太區私隱機構組織論壇」

此外，私隱專員與公署同事出席了專業團體、商會、私隱倡導者及政府相關機構舉辦的 13 個會議或研討會發表演說，包括：

- 香港律師會 – 兩岸四地青年律師論壇 2015
- 中國銀行 – 亞太征信暨個人數據保護國際研討會（西安）
- 新界崇德社的私隱講座
- 社會企業研究所 – 「良心企業與殘疾人士」就業論壇
- 群策學社舉辦的私隱講座
- 香港律師會 – 「青 Teen 講場 – 私隱解碼」
- 香港醫學會的「電子健康紀錄系統」講座

- 香港美國商會的午餐私隱講座
- 香港中國婦女會的講座
- 香港會計師公會的講座（應梁繼昌立法會議員辦事處邀請）[P](#)

From 4 August to 18 December 2015, the Commissioner Mr Stephen WONG attended the following five international conferences to exchange data protection issues with international privacy enforcement authorities and experts.

- 1) 58th Meeting of the International Working Group on Data Protection in Telecommunications in Berlin
- 2) 14th Annual Data Protection Compliance Conference in London
- 3) 37th International Data Protection and Privacy Commissioners Conference in Amsterdam
- 4) 6th International Conference on Personal Data Protection in Moscow
- 5) 44th Asia Pacific Privacy Authorities Forum in Macao

The Commissioner and his team also gave 13 presentations at conferences and seminars organised by our stakeholders including professional bodies, trade associations, privacy advocates and government related organisations, including:

- The Law Society of Hong Kong – Cross Strait Young Lawyers Forum 2015
- The People’s Bank of China – Symposium on Credit Reporting in Asia Pacific and Personal Data Protection (Xian)
- Zonta Club New Territories – Talk on Personal Data Protection
- Social Enterprise Research Institute – Forum on Employment of Persons with a Disability
- Hong Kong Strategy – Breakfast Talk on Privacy
- The Law Society of Hong Kong – “Teen Talk 2015 – Decoding Privacy”
- The Hong Kong Medical Association – Seminar on eHealth Data Sharing System
- The American Chamber of Commerce in Hong Kong – Luncheon Talk on Privacy
- The Hong Kong Chinese Women’s Club – Talk on Privacy
- The Hong Kong Institute of Certified Public Accountants (arranged by the Office of the Hon Kenneth LEUNG) – Talk on Personal Data Protection [P](#)

公署最新電視宣傳片 — 「慎留數碼腳印 智慧生活態度」 PCPD's New TV API – “Stay Smart. Mind Your Digital Footprint”

公署於 2015 年 11 月下旬發放以「慎留數碼腳印 智慧生活態度」為主題的最新電視宣傳片，呼籲市民上網時要謹慎，保障及尊重他人的個人資料。

公署邀得著名傳媒人方健儀小姐參與拍攝這 30 秒的電視宣傳片。私隱專員黃繼兒表示：「這宣傳片以生活化的方式提醒市民下載手機應用程式時要留意有否被過度收集個人資料；上網分享資訊亦要小心，先取得別人同意才發放其個人資料和圖片等，慎留數碼腳印。」

黃繼兒強調：「個人資料與我們日常生活息息相關。個人資料一經在互聯網上或數碼世界發放，便無法刪除。過去大眾關注的電話騙案、直接促銷及網上欺凌等事件或多或少和我們不經意地留下數碼腳印有關，所以保障個人資料首要自保，上網或下載應用程式時應謹慎『用腦』，考慮清楚風險和後果，方是智慧的生活態度。」

公眾亦可透過以下渠道收看這宣傳片：

1. 公署的網站 (www.pcpd.org.hk)
2. 公署的 YouTube 專頁 (www.youtube.com/user/PCPDHKSAR)

The PCPD launched a new TV Announcements in the Public Interest (“API”) entitled “Stay Smart. Mind Your Digital Footprint” in the end of November 2015, calling on members of the public to go online vigilantly, and protect, respect others’ personal data.

Well-known media figure Ms Akina FONG was invited by the PCPD to take part in this 30-second TV API. Privacy Commissioner Mr Stephen WONG said, “In a brisk lively manner, this API advises members of the public to share information online vigilantly, to obtain others’ consent before uploading their personal data or sharing photos online. Before downloading a mobile application, we should find out if it will collect our personal data excessively. In sum, mind your digital footprint.”

Mr Wong emphasised, “Every part of our daily life is related to personal data. Once personal data is uploaded to the Internet, it can never be deleted. Many incidents concerning telephone

deception, direct marketing and cyber-bullying were notably, one way or another, stemmed from digital footprints left by people unintentionally or inadvertently. Hence we need to assess the risks and consequences when going online or downloading apps. As a starting point in protecting our own personal data, we should use our brains and stay smart.”

The TV API can also be viewed at the links below:

- a. PCPD’s website (www.pcpd.org.hk)
- b. PCPD’s YouTube page (www.youtube.com/user/PCPDHKSAR)



公署就多宗資料外洩事件展開調查 PCPD Initiates Investigations into Data Leakage Incidents

有銀行發出的非接觸式信用卡有可能外洩個人資料（包括卡主姓名），公署於2015年10月中展開調查。公署提醒有關發卡銀行需要注意《個人資料（私隱）條例》（「條例」）下的保障資料原則規定，以保障市民的個人資料。

公署亦於2015年12月1日就偉易達集團 Learning Lodge 網站資料外洩事件展開調查。這次資料外洩事故涉及全球大約共500萬顧客賬戶及相關兒童的個人資料。偉易達集團現時並無透露受影響的香港人的數目。公署決定展開調查，旨在了解偉易達集團在資料外洩事故發生前是否採取了適當的步驟，以保障所持有的個人資料的安全；以及在資料外洩事故發生之後所採取的補救措施，以及如何避免同類事故再次發生。

此外，就 SanrioTown 網站出現資料保安漏洞，公署亦決定展開調查。經營 SanrioTown 網站的香港公司 Sanrio Digital 於2015年12月22日承認保安有漏洞，可能外洩多達330萬的網站會員資料。該公司表示涉及的資料包括姓名、電郵地址、已加密的密碼及出生日期等，惟不包括信用卡資料及付款的資料。

在完成調查後如發現違反保障資料原則，私隱專員可發出執行通知，指示如何糾正該違反事項，及防止該違反再次

發生。違反執行通知屬刑事罪行。一經定罪，最高可處罰款 \$50,000 及監禁兩年。如罪行在定罪後持續，可處每日罰款 \$1,000。P

The PCPD initiated an investigation into the possible personal data leakage involving the contactless credit cards issued by banks in mid-October 2015. The card-issuing banks are reminded to comply with the requirements under the Data Protection Principles (“DPPs”) in the Personal Data (Privacy) Ordinance (“Ordinance”) to ensure the protection of the personal data of the general public.

The PCPD also commenced an investigation into the data leakage incident of VTech Learning Lodge (“VTech”) on 1 December 2015. This data leakage incident appears to have disclosed data of 5 million customers accounts and related children’s profiles worldwide. There is nevertheless no indication on the number of Hong Kong customers affected. The PCPD’s investigation is to ascertain whether VTech had taken appropriate steps to safeguard personal data before the leakage happened; and what kinds of remedial actions are adopted, after the data leakage, to avoid the occurrence of

similar incidents.

The PCPD also initiated an investigation into the security vulnerability of SanrioTown website. SanrioTown website is operated by Sanrio Digital (HK) Limited, a Hong Kong company, that announced to the public on 22 December 2015 that the personal data of up to 3.3 million members of SanrioTown website could have been publicly accessible owing to a security vulnerability. The personal data that might have been accessible includes the name, email address, date of birth and encrypted password. Credit card or other payment information is not included.

If there is a contravention of the Data Protection Principles, the Commissioner may upon completion of an investigation serve an enforcement notice to direct the data user to remedy the contravention and prevent its re-occurrence. Contravention of an enforcement notice is an offence which would attract a maximum fine of HK\$50,000 and imprisonment for two years. If the offence continues after the conviction, the data user is liable to a daily penalty of \$1,000. P

行政上訴委員會駁回 David Webb 先生的上訴 Administrative Appeals Board's Decision on Dismissing David Webb's Appeal Case

行政上訴委員會（「委員會」）於2015年10月27日駁回 David Webb 先生的行政上訴。David Webb 因不滿公署於2014年向他發出執行通知指令他在其網站 Webb-site 刪除三條超連結，而提出上訴。

委員會裁定公署的決定是正確的，即

- i. David Webb 在其網站 Webb-site 內刊載列有投訴人的姓名的超連結，實質是透露了她的身份，違反了《個人資料（私隱）條例》（「條例」）的保障資料第3原則（「資料使用原則」）的規定；
- ii. 而送達執行通知是有理據的。

公署的意見

公署的立場十分清晰，公署並非要求報章或出版人刪除其資料庫內的文章。在本個案中，鑑於司法機構已應投訴人的要求將判決匿名，而這做法也跟香港人權法第10條的規定一致，公署只是指令 David Webb 刪除其網站中的超連結，以避免顯示該三宗婚姻訴訟的匿名判決書中當事人的姓名。由2011年4月起，首席大法官已指令各級法院審理的家庭及婚姻案件，不論是公開或在內庭聆訊，在公開披露其判決前，都應先把有關人士匿名。

在平衡出版與言論自由，及投訴人的個

人資料私隱時，公署認為把投訴人於該三宗已匿名的婚姻訴訟判決中的身份披露，無助提升公司、政府、規管者及股東的運作透明度；亦無助對抗惡行或保障少數股東的利益的目的是。在本個案中，平衡點應傾向保障投訴人在三宗已匿名的判決中的個人資料私隱。

基於委員會已駁回上訴，私隱專員會跟進 David Webb 依從執行通知的事宜。

從公共領域取得的個人資料，很多時被誤解為可在毫不受規管的情況下再次使用或披露。公署在此提醒市民從公共領域取得的個人資料仍受條例的保障資料第3原則所規管。

個案背景

投訴人及她的前丈夫曾是數宗婚姻訴訟案的與訟人，上訴庭就此案曾在 2000、2001 及 2002 年於公開聆訊頒下三宗判決書。

司法機構應投訴人的要求下，於 2010 及 2012 年在其網頁中的司法參考系統，以英文字母替代了在上述三宗判決書中投訴人及她的前丈夫的姓名。

然而，投訴人後來發現在 David Webb 設立的網站 Webb-site 的「Who's Who」內三條列有她的姓名的超連結，可以聯繫到司法機構網站內該三宗已被匿名的判決書。使用者若在「search people」一欄輸入投訴人的姓名，Webb-site 便會將使用者帶進「Who's Who」的版面，而該三宗判決則放在「Articles」的項目內。只要按下「Articles」然後再按該些超連結，使用者便可直達司法參考系統內的三宗匿名判決。

根據 Webb-site 所指，其宗旨是「就香港的公司管治、商業、財經、投資和受規管的事務，提供獨立的評論。」投訴人感到委屈，因而向公署投訴 David Webb。

公署完成調查後，認為 David Webb 在其網站內刊登了該列有投訴人的姓名的該三條超連結，實質是透露了她在三宗判決中本已被匿名的身份，違反了條例的保障資料第 3 原則的規定，並向 David Webb 發出執行通知指令他從 Webb-site 刪除該三條超連結。三宗判決只涉及關乎投訴人的私生活的婚姻訴訟，與她的公職並無相關。David Webb 隨後向委員會就公署的決定及所發出的執行通知提出上訴。委員會於今年 7 月 13 日審理此上訴個案。

委員會的決定

委員會確定公署所作出的決定，而所發出的執行通知亦為正確，並作出以下的裁定：

保障資料第 3 原則是針對不當地使用個人資料，無論有關資料曾在其他地方被公開或來自公共領域。David Webb 是受條例所規管的資料使用者。

委員會認為保障資料第 3 原則第 4 段所指「在收集該資料時擬將該資料用於的目的」，是指當初收集該資料時的目的。

在本個案中，最先是司法機構向投訴人收集該資料，而司法機構在本案收集投訴人的個人資料是為了讓他們的判決可用於「作為法律觀點、法庭實務和程序的法律先例，以及公眾利益」的用途上。委員會認為 David Webb 使用投訴人的個人資料的用途（即一般報告及發佈用途）並不符合司法機構發佈該三宗判決的目的，故委員會認為 David Webb 將有關資料用於「新目的」，違反保障資料第 3 原則。

委員會亦認為，公署就言論自由及個人資料私隱的保障所作出平衡並非屬不合理。

委員會不接納 David Webb 所指他可基於普通法的公開公義原則，而引用條例第 60B(a) 條的條文，而獲豁免遵守保障資料第 3 原則的規定。原因是 David Webb 並非根據任何法律規定而公開投訴人的個人資料。P

行政上訴委員會的裁決

www.pcpd.org.hk/english/files/casenotes/AAB_54_2014.pdf

On 27 October 2015, the Administrative Appeals Board (“AAB”) dismissed the appeal from Mr David Webb against the PCPD’s Enforcement Notice directing him to remove from his Webb-site in 2014 the three hyperlinks which effectively disclosed the Complainant’s identity in three anonymised judgments.

The AAB confirms:

- i. the PCPD’s decision that Mr Webb had contravened Data Protection Principle 3 (“DPP3” – Data Use Principle) of the Personal Data (Privacy) Ordinance (“Ordinance”) by publishing the three hyperlinks on Webb-site; and
- ii. the justification for the issuance of the Enforcement Notice.

The PCPD’s Comments

It is not the PCPD’s stance to ask for removal of articles from the archives of newspapers and publishers. In this case, the PCPD only directed Mr Webb to remove the hyperlinks which showed the parties’ names in the three anonymised judgments on the Judiciary’s website, bearing in mind that the anonymisation is made pursuant to the request of

the Complainant and is consistent with Article 10 of the Hong Kong Bill of Rights. As directed by the Chief Justice, with effect from April 2011, all judgments in family and matrimonial cases at every level of courts, whether in open court or in chambers, should be anonymised before release.

In weighing the freedom of press and expression against the personal data privacy of the Complainant, the PCPD was of the view that the disclosure of the Complainant’s identity in the three anonymised matrimonial judgments did not serve to promote the transparency of operations of companies, governments, regulators and controlling shareholders; nor was it able to achieve the purpose of condemning public vices or protecting the minority shareholders’ interest. In the circumstances, the balance should be tipped in favour of protecting the Complainant’s personal data in the three anonymised judgments.

As the AAB has dismissed the appeal, the Commissioner will follow up with Mr Webb on his compliance with the Enforcement Notice.

It is a misconception that publicly accessible personal data can be further used or disclosed for any purpose whatsoever without any regulation. Personal data obtained from the public domain is still subject to the protection under DPP 3 of the Ordinance.

Case Background

The Complainant and her ex-husband were parties to several matrimonial proceedings, of which three judgments were handed down by the Court of Appeal in 2000, 2001 and 2002 in open court. At the request of the Complainant, the Judiciary in 2010 and 2012 replaced the names of the Complainant and her ex-husband by alphabets in those three judgments in the Legal Reference System of the Judiciary’s website.

However, the Complainant subsequently found her name revealed on three hyperlinks on “Who’s Who” of a website named “Webb-site” established by Mr

Webb. If a user entered the Complainant's name in the "search people" box, Webb-site would bring the user to the "Who's Who" page, and the three hyperlinks were embedded under the item "Articles". By clicking on "Articles" and then on the hyperlinks, the user would be taken to the three anonymised judgments in the Legal Reference System of the Judiciary's website.

According to Webb-site, its objective was "to provide independent commentary on corporate and economic governance, business, finance, investment and regulatory affairs in Hong Kong." The Complainant was aggrieved and hence lodged a complaint with the PCPD against Mr Webb.

The PCPD decided that Mr Webb had contravened DPP 3 of the Ordinance by publishing those three hyperlinks with the Complainant's name revealed on Webb-site, which effectively disclosed her identity in the three anonymised judgments, and served upon Mr Webb an Enforcement Notice directing him to remove those three hyperlinks from the Webb-site. The three judgments are matrimonial proceedings touching on her private life but not public duty. Mr Webb

subsequently lodged an appeal against PCPD's decision and the service of the Enforcement Notice, and the appeal was heard before the AAB on 13 July this year.

The AAB's Decision

The AAB upheld the PCPD's decision and the issuance of the Enforcement Notice and made the following findings:

The AAB held that DPP 3 is directed against the misuse of personal data, regardless of whether the relevant personal data has been published elsewhere or in the public domain and that Mr Webb was a data user governed by the Ordinance.

The AAB also held that on a proper construction of subsection (4) of DPP 3, "the purpose for which the data was to be used at the time of the collection of the data" referred to the purpose for which the data was originally collected. In this case, the Judiciary was the person who first collected the Complainant's data, and its purposes in collecting the Complainant's personal data were to enable its judgments to be utilised

as "legal precedents on points of law, practice and procedure of the courts and of public interests". The AAB was of the view that Mr Webb's purpose of using the Complainant's personal data (i.e. reporting and publication for general use) in Webb-site was not consistent with the Judiciary's purposes of publishing the three judgments, and it therefore concluded that Mr Webb did use the Complainant's personal data for a "new purpose" in contravention of DPP 3.

The AAB also took the view that the balance between freedom of expression and personal data privacy protection struck by the Commissioner was not unreasonable.

The AAB rejected Mr Webb's argument that the common law principle of open justice would exempt him from any breach of DPP 3 under section 60B(a) of the Ordinance, as Mr Webb was not required by any principle of law to publish the personal data of the Complainant on Webb-site. [P](#)

Decision of the AAB

www.pcpd.org.hk/english/files/casenotes/AAB_54_2014.pdf

三間公司被控違反直接促銷新條文而罪名成立

Three Companies Convicted of Offences under the New Direct Marketing Regulatory Regime



《2012年個人資料(私隱)(修訂)條例》中加強規管直接促銷的條文於2013年4月1日實施後，至今共有三間公司被定罪，被判罰港幣一萬至三萬元不等。


其中兩宗個案，都是被控沒有依從當事人拒收直銷訊息的要求。另一個案則是一間儲存服務供應商被控在使用客戶個人資料進行直銷前，未有採取指明的行動通知客戶及先獲得客戶的同意。

根據條例第35G(3)條，服務供應商如收到顧客有關停止使用其個人資料作直接促銷的要求，須在不向該當事人收費的情況下，依從該項要求。同時應尊重顧客的個人資料，不可濫用。而為確保符合規定，該服務供應商應備存一份拒收直銷訊息的顧客名單，並停止使用顧

客的個人資料作直銷用途。違反條例的規定，即屬犯罪。

私隱專員黃繼兒表示：「所有公司或機構，不論規模大小，都應遵從法律規定，切勿鋌而走險。我相信尊重私隱的機構會得到消費者的信任和支持，締造一個對消費者和機構均有利的雙贏局面。」

至於消費者，若不再想收到直銷訊息，應該提出拒收要求，最好以書面提出，並保留複本。如果作出拒收要求後，仍然收到直銷訊息，應作出記錄，及盡量掌握有關直銷的詳情作為證據，以便可成功向公署作出投訴。

黃繼兒並提醒消費者：「機構使用你的個人資料，或把你的個人資料交予第三者作直銷用途前，應事先通知你及取得你的同意。即使你已同意機構使用你的個人資料作直銷，機構在首次使用你的個人資料時，仍須告知你有拒絕接收直銷訊息的權利。你亦可隨時要求機構停止使用你的資料。」 

Since the penalty level of the offence was raised under the new direct marketing regulatory regime which took effect on 1 April 2013 under the Personal Data (Privacy) (Amendment) Ordinance 2012, there had been three convicted cases; and the companies involved were fined from HK\$10,000 - \$30,000.


Of the three convicted cases, two were convicted on the same charges – failure to comply with the requirement from its client to cease to use his personal data in direct marketing. The remaining case involved a storage service provider who was charged with the offence of using the personal data of a customer in direct marketing without taking specified actions and obtain the customer’s consent in advance.

Under section 35G(3) of the Ordinance, a service provider who receives a request for cessation of using the customer’s personal data in direct marketing must, without charge to the data subject, comply with the request and respect the consumers’ personal data to avoid misuse. To ensure compliance, service providers have to maintain an “Opt-Out List” of all customers and cease to use their personal data for direct marketing. Failure to comply with the requirements is an offence.

The Commissioner Mr Stephen WONG said, “All companies or organisations, large or small, must comply with the legal requirements and refrain from taking risks of non-compliance. I believe privacy-respectful organisations will enjoy enhanced customers’ trust

and loyalty, thus creating a win-win situation for both the customers and the organisations.”

As for the consumers, if consumers no longer wish to receive direct marketing messages, they should make a clear opt-out request, preferably in writing, and keep a copy of it. If they still receive direct marketing messages after making an opt-out request, they should record the details of the direct marketing messages and file a complaint with the PCPD.

Mr Wong also reminded consumers that, “Organisations are required to notify you and obtain your consent before using your personal data or transferring the data to another person for use in direct marketing activities. Despite the fact that you may have consented to the use of your personal data in direct marketing, organisations must notify you of your opt-out right when using your personal data in this manner for the first time. You may also require them to cease to so use the data at any time.” 

認識更多

Learn More

有關依從法律規定的指引，機構可參閱公署的《直接促銷指引》：

www.pcpd.org.hk/tc_chi/resources_centre/publications/files/GN_DM_c.pdf

For guidance on legal compliance, organisations should refer to PCPD’s “Guidance on Direct Marketing” available at

www.pcpd.org.hk/english/resources_centre/publications/files/GN_DM_e.pdf

公署最近亦修訂了《根據個人資料（私隱）條例行使你同意及拒絕直接促銷活動的權利》資料單張。

www.pcpd.org.hk/tc_chi/resources_centre/publications/files/opt_out2015_c.pdf

The PCPD also revised an Information Leaflet entitled “Exercising Your Right of Consent to and Opt-out from Direct Marketing Activities under the Personal Data (Privacy) Ordinance”. www.pcpd.org.hk/english/resources_centre/publications/files/opt_out2015_e.pdf

另有簡單易明的圖鑑《接受直銷有權話事》給市民參閱：


www.pcpd.org.hk/tc_chi/resources_centre/publications/posters_Infographics/files/DM_infographic_1231_c.pdf

An easy-to-understand infographic “It is Your Choice to Accept or Refuse Direct Marketing” for member of the public is also available at

www.pcpd.org.hk/english/resources_centre/publications/posters_Infographics/files/DM_infographic_1231_e.pdf

大學保障私隱活動 2015/16 University Privacy Campaign 2015/16


公署自 2011 年起每年舉辦大學保障私隱活動。今年於 10 月至 11 月期間巡迴了十間大學，透過互動攤位遊戲，提醒大學生「網上私隱要自保」，了解使用互聯網及智能電話的私隱陷阱。

此外，公署將於 2016 年 1 月 20 日為大學教職員舉行講座，講解在《個人資料（私隱）條例》下，他們作為資料使用者，在行政及資訊管理使用個人資料時負有的責任。講座反應熱烈，在報名截止前已告額滿。 

更多活動詳情可瀏覽網址：
www.pcpd.org.hk/university

The University Privacy Campaign has taken place once a year since 2011. This year, our interactive game booth toured campuses of 10 universities in October and November. The game highlighted some privacy traps associated with the Internet and the use of smartphones to remind students to “Think Privacy! Be Smart Online”.


In addition, the PCPD will organise seminars on 20 January 2016 to explain to university staff their obligations as a data user under the Personal Data (Privacy) Ordinance in the areas of administration and IT management. The

seminars received enthusiastic support and has been full before the deadline for enrolment. 


More details of the campaign are available at www.pcpd.org.hk/university.



保障資料主任聯會動態 Data Protection Officers' Club (“DPOC”) Activities

保障資料主任聯會為機構的保障資料人員提供一個交流經驗和培訓的平台，促進知識增長和實踐符規。聯會會員於 2015 年 11 月 3 日在一午餐會上，與私隱專員黃繼兒會面，席間私隱專員與會員分享了他對資料保障的遠景及看法。此外，公署的資訊科技顧問亦向會員重點講解機構使用雲端服務時，須留意的私隱風險及保障。 

DPOC provides practising data protection officers with a platform for advancing their knowledge and practice of data privacy compliance through experience sharing and training. On 3 November 2015, Privacy Commissioner for Personal Data, Mr Stephen WONG, shared his views and insights into data privacy protection with the members at


a luncheon. Our Information Technology Advisor also highlighted privacy concerns and protection on cloud computing. 



私隱專員與公署資訊科技顧問解答會員的問題
The Commissioner and Information Technology Advisor of the PCPD addressed members' questions



為了讓會員定期得悉公署的最新動態，公署自 2015 年 7 月起推出了每月兩期的電子會員通訊。 www.pcpd.org.hk/misc/dpoc/newsletter.html 

In order to keep members abreast of PCPD news on a regularly basis, PCPD has launched a bi-weekly e-Newsletter since July 2015. www.pcpd.org.hk/misc/dpoc/newsletter.html 

過度及不公平收集僱員的指紋資料

Excessive and Unfair Collection of Employees' Fingerprint Data



公署於 2015 年 7 月 21 日發表一份調查報告，指時裝貿易公司坤麗（亞洲）有限公司（「該公司」）以保安及監察員工考勤為由收集僱員的指紋資料，公署認為其資料收集屬超乎適度和不公平。

公署的調查結果和決定

- i. 基於指紋資料具獨特和不變的特性，必須加以保障，免致個人身份被盜用，故此必須要有充分的理據方可收集及使用指紋資料。
- ii. 該公司已安裝多項保安措施以保障公司財物，當中包括閉路電視鏡頭、數碼門鎖、一般門鎖及鏈鎖，故此安裝指紋識別裝置作為夜間保安措施，實屬多此一舉。
- iii. 該公司曾發生多次日間失竊事件，犯案者均是其員工和顧客。因此即使安裝了指紋識別裝置以防止外人擅自進入，亦無助防止盜竊案件發生；反之透過已安裝的閉路電視錄影的影像去追查這些失竊事件，並從中成功認出犯案者，更能發揮保安功能。
- iv. 該公司只有 20 名僱員，要監察僱員考勤，使用較少干犯僱員私隱的方法來取代指紋識別裝置亦相對容易，如利用密碼或智能卡等，均無須額外收集或儲存個人資料。

根據上述觀察，公署認為該公司超乎適度地收集僱員的指紋資料，違反了《個人資料（私隱）條例》（「條例」）的

保障資料第 1(1) 原則。

此外，公署發現該公司收集僱員指紋資料的方式屬不公平，因為該公司並沒有讓僱員選擇其他替代方法以迎合保安及考勤紀錄的要求，亦沒有告知僱員提供其指紋資料所涉及的私隱風險，以及該公司有甚麼措施防止不當收集或使用這些資料，此舉違反了條例的保障資料第 1(2) 原則。

執法行動

前任私隱專員已向該公司送達執行通知，指令其銷毀所有已收集屬於現職及離職僱員的指紋資料，並停止收集僱員的指紋資料。

公署發出《收集及使用生物辨識資料指引》(www.pcpd.org.hk/tc_chi/resources_centre/publications/files/GN_biometric_c.pdf)，當中提供更多有關收集及使用指紋資料的行政措施及技術的詳情。該指引亦適用於其他用作身份識辨的生物特徵資料，如 DNA、視網膜、面部圖像、掌紋圖像及筆跡。P

調查報告: www.pcpd.org.hk/tc_chi/enforcement/commissioners_findings/investigation_reports/files/R15_2308_c.pdf

On 21 July 2015, the PCPD published an investigation report on the collection of employees' fingerprint data by Queenix (Asia) Limited, a fashion trading company ("Company"), for safeguarding office security and monitoring staff attendance. PCPD considered such data collection excessive and unfair.

PCPD's Findings and Determination

- i. Given the uniqueness and immutability of fingerprint data it must be protected against identity theft or misappropriation. Hence it should be collected and used only when justified.
- ii. The Company had already installed several security devices to safeguard its property, including CCTV cameras, digital locks, ordinary door locks and a chain lock. These all

render the fingerprint recognition devices redundant as a night-time security device.

- iii. The Company had experienced several day-time theft incidents which were all committed by its staff and customers. As such, the installation of the fingerprint recognition devices to prevent unauthorised entry would not help prevent these thefts. The existing CCTV cameras, which detected the thefts and identified the culprits, appear to be a more effective security means.
- iv. The Company had only 20 employees. Hence it would be relatively easy to monitor staff attendance using less privacy intrusive means instead of the use of a fingerprint recognition device. These alternative means, such as a password or a smartcard, could well involve no additional collection or retention of personal data.


Based on these findings, the PCPD finds the collection of employees' fingerprint data by the Company was excessive, thereby contravening Data Protection Principle ("DPP")1(1) of the Personal Data (Privacy) Ordinance.

The former Commissioner also finds the data collection unfair in the circumstances of the case, as the employees were neither provided with the choice to opt for other alternatives to fulfil the purposes of safeguarding office security and monitoring staff attendance, nor informed of the privacy risks involved and the measures to prevent wrongful collection and misuse. This is tantamount to a contravention of DPP1(2).

Enforcement Action

An Enforcement Notice was served on the Company directing it to destroy all fingerprint data collected from the Company's present and past employees, and to cease collecting its employees' fingerprint data.

Further details on the procedural and technological safeguards for the collection and use of fingerprint data are found in the “Guidance on Collection and Use of Biometric Data” (www.pcpd.org.hk/english/resources_centre/publications/files/GN_biometric_e.pdf)

published by the PCPD. The guidance provided also applies to other biometric data used for recognition purposes including DNA, retinal scans, facial image, palm vein image, and handwriting pattern. 

Read the Investigation Report: (www.pcpd.org.hk/english/enforcement/commissioners_findings/investigation_reports/files/R15_2308_e.pdf)

公署制裁 42 名刊登匿名招聘廣告的僱主 42 Employers Sanctioned for Placing Blind Recruitment Advertisements

42 名僱主由於刊登共 46 則匿名招聘廣告（「匿名廣告」），即在沒有披露其身份的情況下，收集求職者的個人資料，被公署裁定違反了公平收集資料原則，即《個人資料（私隱）條例》（「條例」）的保障資料第 1(2) 原則。

調查

匿名廣告的問題持續。公署在去年審視了刊登於七個主要招聘媒體（即 Career Times、JobsDB、青雲路、Recruit、Classified Post、招職及求職廣場）的 9,016 則招聘廣告，當中發現有 311 則匿名廣告（佔總數的 3.45%）。專員隨機選了當中 71 則廣告展開調查，結果向 69 名僱主發出了執行通知。而七個招聘媒體中，有六個向公署承諾會做好把關工作，採取措施制止匿名廣告。

今年，公署繼續進行類似的循規調查，發現情況明顯有所改善。在 2015 年 5 月 3 日至 9 日期間，公署審閱了上述七個媒體刊登的 12,849 則招聘廣告，從中只找到 59 則匿名廣告（佔總數的 0.46%）並進行調查。整體而言，匿名廣告的比例從去年的 3.45% 大幅回落至今年的 0.46%。


公署的調查結果及決定

截至 2015 年 7 月 6 日，公署完成 46 宗調查。一些僱主試圖以下列理由對犯錯作出辯解：

- 不知道法律規定
- 歸咎招聘媒體沒有告知、或提醒其匿名廣告有不當之處
- 廣告內提供的回覆電郵地址，已包含公司的專用域名，這足以辨識公司的身份
- 廣告沒有明文收集應徵者的個人資料

公署不接納上述的辯解。

執法行動

前任私隱專員已向涉事的 42 名僱主發出執行通知，指令他們刪除已收集的個人資料，及制定刊登招聘廣告的政策，以符合條例的規定。 

調查報告全文：www.pcpd.org.hk/tc_chi/enforcement/commissioners_findings/investigation_reports/files/R15_8107_c.pdf

42 employers were sanctioned for placing 46 job advertisements to solicit job applicants' personal data without disclosing their identities. These blind recruitment advertisements (“Blind Ads”) breached the fairness principle for personal data collection, that is, Data Protection Principle (“DPP”) 1(2) of the Personal Data (Privacy) Ordinance (the “Ordinance”).

The Investigations

Blind Ads have been a perennial problem. Last year, the PCPD reviewed 9,016 recruitment advertisements on seven major recruitment media: namely *Career Times*, *JobsDB*, *JobFinder*, *Recruit*, *Classified Post*, *Jiu Jik*, and *JobMarket*. 311 Blind Ads (3.45% of the total) were identified. Of these, 71 Blind Ads were investigated and as a result, all 69 employers concerned were sanctioned. Further, six of the seven recruitment media responded to the PCPD's appeal and made a pledge to take actions to deter Blind Ads.

This year, the PCPD continued with similar investigations and found that the Blind Ads situation has improved. From 3 to 9 May 2015, 12,849 advertisements

placed in the same seven recruitment media were examined and only 59 Blind Ads (0.46% of total) which warranted investigation were identified. Overall, the proportion of Blind Ads has dropped from 3.45% (last year) to 0.46% (this year).


The PCPD's Findings and Determination

Up to 6 July 2015, investigations into 46 Blind Ads had been completed. Some employers tried to exculpate themselves from the mistake as follows:

- ignorance of the legal requirements
- blaming the recruitment media for not advising them or reminding them of the impropriety of their Blind Ads
- incorporating the company's domain name in the return email address was sufficient
- no express solicitation of personal data in the advertisements.

These defences were all rejected by the PCPD.

Enforcement Action

The former Commissioner served enforcement notices on the 42 employers concerned directing them to delete the personal data collected and to formulate a company policy of placing recruitment advertisement which complies with the Ordinance. 

Read the Investigation Report: www.pcpd.org.hk/english/enforcement/commissioners_findings/investigation_reports/files/R15_8107_e.pdf

大數據年代 公署促請政府加強監控公共登記冊

Government Urged to Tighten Control of Public Registers in Era of Big Data



公署於2015年7月28日發表一份檢視10個常用公共登記冊的報告，包括：破產登記冊、出生登記冊、商業登記冊、公司登記冊、土地登記冊、婚姻登記冊、擬結婚通知書登記冊、證監會持牌人紀錄冊、車輛登記冊及選民登記冊。公署是參考政府於2000年發出的有關個人資料保障指引（「指引」）來檢視這10個登記冊內的個人資料是否得到合適保障。

公共登記冊載有個人資料讓公眾人士查閱。這些個人資料都受到《個人資料（私隱）條例》（「條例」）的保障，尤其是條例的保障資料第3原則。明確來說，從公共登記冊所收集的個人資料，除非獲得資料當事人明確和自願的同意，否則，只可用於與設立公共登記冊時述明或直接相關的目的。

這檢視報告發現該10個登記冊在不少情況下未能符合指引的規定，情況不甚理想。當中值得商榷的事項包括：

- 在2001年1月1日至2014年3月31日制訂或修訂而載有與公共登記冊有關條文的合共82條條例中，只有32條說明刊登個人資料的目的，及該資料可被使用的範圍；
- 只有五條條文明確訂明防止個人資料被濫用的措施；
- 10個公共登記冊中，只有四個在相關條文中寫明登記冊的目的；
- 10個公共登記冊中，只有一個列明法例的保障，防止資料被濫用；餘下九個僅有一個登記冊提供行政措施的保障；
- 在防止資料被濫用上，缺乏立法或行

政措施的保障是令人擔憂的，原因是大多數的公共登記冊都沒有酌情權，不能拒絕任何查閱資料的要求；

- 少數的公共登記冊，其營運者有酌情權，在接獲查閱個人資料要求後，決定提供資料的種類，或是否提供整份有關文件；然而它們沒有具體及清晰地訂明如何行使酌情權的政策；
- 10個公共登記冊均有向資料當事人表明登記冊的目的，但可以再作改善，提供更清晰和充足的通知；
- 破產登記冊、商業登記冊及婚姻登記冊均沒有清晰訂明會向公眾披露資料；
- 就擬結婚通知書登記冊而言，使用在婚姻登記處現場的電腦查閱擬結婚通知書的過程當中，並沒有向公眾人士提述查閱該登記冊的目的；
- 至於網上查閱公共登記冊方面，該指引只要求營運者在其網頁上加入有關登記冊的特定目的及使用限制，因而未能確保查閱人士是否經已閱讀及明白網頁上的訊息。

公署已把這份檢視報告送交給有關政府決策局及部門，在報告內並提出一些建議以符合指引規定。 [P](#)

檢視報告

www.pcpd.org.hk/english/resources_centre/publications/surveys/files/survey_public_registers.pdf

報告摘要

www.pcpd.org.hk/tc_chi/resources_centre/publications/surveys/files/survey_public_registers_summary_c.pdf


On 28 July 2015, the PCPD released the report on a survey of the administration of 10 commonly-used public registers maintained by the Government, namely, Bankruptcy register, Births register, Business register, Companies register, Land registers, Marriage register, Register of notice of intended marriage, SFC register of licensed persons, Register of vehicles and Registers of electors. The protection of personal data contained in these registers was examined with reference to the guidelines formulated by the Government in 2000 (the "Guidelines").

Public registers contain personal data which can be made available for public access. They are subject to protection under the Personal Data (Privacy) Ordinance (the "Ordinance"), in particular, Data Protection Principle 3. Specifically, the personal data collected from a public register can be used only for purposes in line with or directly related to the purpose of setting up the public register, unless the explicit and voluntary consent of the data subject is obtained.

The survey concluded that compliance with the Guidelines in a number of areas was not satisfactory, with the following issues identified:-

- Only 32 of the 82 public register-related legislations newly enacted or amended from 1 January 2001 to 31 March 2014 spell out the purposes of the publication of the data and/or the permissible use or secondary use of such data;
- Only 5 of these legislations contain explicit provisions introducing measures to safeguard against possible misuse of the personal data;
- Only 4 out of the 10 registers have the purposes of the registers specified in the respective legislations;
- Only 1 out of the 10 registers have legislative safeguards against misuse of data and only 1 out of the remaining 9 registers provides for administrative safeguards;
- The lack of legislative or administrative safeguards against data misuse is particularly worrying as most registers have no discretion to reject a request for data access;
- For those registers which have discretionary power to decide on the provision of specific kinds of personal data or full copy of the relevant document upon request, there are no explicit policies laid down governing the exercise of the discretion;
- While data subjects are informed by all 10 registers of the purposes of the registers, the clarity and adequacy of the notification could be improved;

- h. For the Bankruptcy register, the Business register and the Marriage registers, there is no specific mentioning that the data can be made available to the public;
- i. For the Register of notice of intended marriage, no reference is made to the purpose of inspection of the notices throughout the process of inspection which takes place in the Marriages Registries by reviewing the webpages of onsite computers;
- j. For online access to a public register, the Guidelines only require the home page to include the specified purposes of the register and the use limitations, thus falling short of ensuring the requestor does read and understand this home page message.

The PCPD has forwarded the report to the relevant Government bureaux and departments, with recommendations on compliance with the Guidelines. 

Survey Report: www.pcpd.org.hk/english/resources_centre/publications/surveys/files/survey_public_registers.pdf

Read the Executive Summary: www.pcpd.org.hk/english/resources_centre/publications/surveys/files/survey_public_registers_summary_e.pdf

調查顯示公眾對私隱權利的意識越見提高 Survey Reveals Heightened Public Awareness of Privacy Rights

公署在 2015 年 7 月 28 日公布公眾對個人資料私隱的態度的調查結果，調查顯示個人對私隱權利的意識及公眾對公署的信任普遍為高。

是次調查成功以電話訪問了 1,222 名成年人及四個聚焦小組的 36 名與會者，調查結果不但對公署的工作非常有用，亦應令社會上大部分人士受惠。

對私隱權利的意識

受訪者普遍能在不同情況中權衡私隱權利。對於使用公共登記冊上的個人資料，13 至 15% 的受訪者表示沒有關注，但有 18% 對婚姻登記處及土地註冊處的公開資料表示非常關注。對於公司董事的身份證號碼及住址，28 至 35% 的受訪者表示非常關注，證明這些資料被視為敏感。67% 的受訪者非常關注當申請積分優惠卡時要提供他們或他們的朋友/親戚的姓名及地址，只有 1 至 2% 的受訪者對此沒有關注，顯示公眾普遍認為這是侵犯私隱。

近半數的受訪者在過去 12 個月曾經歷其個人資料被濫用，最常發生問題的是銀行（57%），其次是電訊公司（32%），健身/美容中心（26%）及財務公司（17%）。個人資料曾被濫用的受訪者中，接近 11% 有作出投訴，而受訪者解釋沒有投訴的主要原因是提供資料的是其朋友（35%），其次是受訪者（25%）不願意及該公司的職員。

另一方面，調查顯示公眾也常為了方便而犧牲私隱。只有少數受訪者表示介意提供手提電話號碼（即使它容許接收促銷電話）、職業或完整出生日期（儘管它經常被用作核實身份）。

當資料外洩事故發生時，公眾普遍支持機構應即時通知資料當事人、公署及傳媒。這顯示公眾愈來愈期望機構會提升和展示保障私隱及資料的決心。

公署的工作效益

調查顯示絕大部分的受訪者（86%）同意或非常同意公署自 2010 年八達通事件發生後，提升了社會對個人資料私隱的認知。

普遍認同公署在調查報告中公開點名違規的機構是有效的，因為因此提升了公眾對個人資料保障的意識。大多受訪者表示對被公署報違違反《個人資料（私隱）條例》的公司降低信任。

調查亦評估了受訪者對六個法定機構在處理投訴方面的公信力，顯示公署是第二最受信賴的機構，僅次於廉政公署。

期望較大的執法權力


總括而言，很少數受訪者認為現行的規管架構足夠保障公眾，他們擔心目前市民被逼提供個人資料及大量個人資料可於公共領域被找到。大多數受訪者支持公署應有較大的執法權力去規管流動應用程式、直銷活動、資料外洩事故等。

數碼化發展持續帶來挑戰

當被問及是否願意每月支付 \$20 購買承諾沒有廣告的電子郵件服務時，只有 6% 的受訪者表示願意，顯示大多數人都不願意付出費用來保障私隱。

與公署 2013 年就 Facebook 用戶的私隱意識進行的調查結果相比，市民現時

普遍對社交網絡上須保障私隱有更高意識，並可以採取措施來保障自己。大部分受訪的 Facebook 用戶（77%）知道有私隱設定，其中絕大部分（90%）曾更改其私隱設定。

絕大部分的受訪者（87%）使用智能手機，其中 95% 有安裝即時通訊應用程式。而這些受訪者中，72% 是知道程式會查閱他們智能手機上所有聯絡人的資料，而有不少受訪者（33%）也認為法例應該禁止這個做法。 

調查摘要：www.pcpd.org.hk/tc_chi/resources_centre/publications/surveys/files/baselinesurvey2014_summary_c.pdf

報告全文（只備英文版）：www.pcpd.org.hk/english/resources_centre/publications/surveys/files/baselinesurvey2014.pdf

On 28 July 2015, the PCPD published a survey of public attitudes on personal data privacy (the "Survey"). The Survey revealed that awareness of privacy rights of individuals and public trust in the PCPD were generally high.

The survey results, based on telephone interviews with 1,222 adults and focus group interviews with 36 participants from a diverse background, should benefit not just the PCPD but the community at large.

Awareness of Privacy Rights

There is good awareness of the need to balance privacy rights differently in

various situations. For the use of personal data made public by public registries, 13-15% of respondents had no concern and 18% had serious concern about the marriage and lands registry. For the ID card number and residential address of a company director, 28-35% had serious concern, supporting that this information is seen as sensitive. 67% of respondents had serious concern and only 1-2% of respondents had no concern as regards provision of their or their friends/relatives names and addresses when applying for a loyalty card, suggesting that this is widely seen as invasion of privacy.

Nearly half of respondents had experienced misuse of their personal data in the last 12 months and the most common source of the problem was banks (57%), followed by telecom companies (32%), fitness/beauty centres (26%) and money lenders (17%). Almost 11% of those who experienced misuse had made a complaint, while those who had not complained explained that the major reasons were that friends had provided the information (35%), or they were unwilling to involve the company staff (25%) responsible for the misuse.

The Survey revealed that the public could often sacrifice privacy for the sake of convenience. Few respondents were very concerned about providing mobile phone number (even though it allows receiving advertising calls), occupation or full date of birth (even though it is often used for validation).

For the notification of data leakage, there is support that the data subjects and the

PCPD as well as the media should be notified immediately. This suggests a growing expectation for organisations to measure up and demonstrate to the public their commitment to ensuring privacy and data protection.

Effectiveness of the PCPD

The Survey revealed that an overwhelming majority of respondents (86%) agreed or strongly agreed that the PCPD has increased community awareness of personal data privacy issues after the Octopus Incident in 2010.

It was generally agreed that naming the organisation at fault in the PCPD's investigation reports was effective because it raised public awareness. Most interviewees reported that their trust had decreased towards those companies against which the PCPD had reported contraventions of the Personal Data (Privacy) Ordinance.

The Survey assessed the perceived trustworthiness of six statutory agencies in handling complaints and identified the PCPD as the second most trusted agency, after the Independent Commission Against Corruption.

Expectations for Greater Enforcement Power

In general, very few interviewees thought the current regulatory framework was sufficient to protect the public. They were concerned about people being forced to provide personal data and a lot of personal data could be found in

the public domain. Most respondents support the PCPD should have greater enforcement powers to regulate mobile apps, direct marketing activities, data breach incidents, etc.

Continuous Challenges from Further Advances in Digitisation

When asked whether they were willing to pay HK\$20 per month for email services without advertising, only 6% of respondents gave a positive answer, implying that most people are reluctant to pay for privacy protection.

Compared to the findings of a privacy awareness survey on Facebook users conducted by the PCPD two years ago, people are now generally more aware of the need for privacy protection on social networks and can act to protect themselves. A strong majority (77%) of Facebook account users interviewed were aware of the privacy setting, of whom nearly all (90%) have changed the settings.

An overwhelming majority (87%) of respondents used a smartphone of whom 95% had an instant messaging app installed. 72% of these respondents were aware that the app accesses all contact information on their smartphones and a significant proportion (33%) thought the law should prohibit this. [P](#)

Read the full survey report (with executive summary): www.pcpd.org.hk/english/resources_centre/publications/surveys/files/baselinesurvey2014.pdf

私隱及資料保障法律獎學金 Scholarship for Study on Privacy and Data Protection Law



公署由 2012 年起與香港大學法律學院合辦為期三年的獎學金，鼓勵法律系學生關注個人資料私隱這個課題。今年，香港大學法學專業證書學生戴俊賢憑「以濫用個人資料及洩漏機密為獨特的訴訟因由」為題的論文，脫穎而出獲獎。 [P](#)

The PCPD and the Faculty of Law, The University of Hong Kong ("HKU") jointly set up a Privacy Commissioner Prize

in Privacy and Data Protection Law scholarship for three years since 2012 to encourage law students to study data privacy issues. Terrence Chun-yin TAI, a HKU Postgraduate Certificate in Laws student, won the Prize with his research paper "Misuse of Private Information and Breach of Confidence as Distinct Causes of Action". [P](#)

公署網站榮獲獎項 PCPD's Website Won Recognition

公署網站榮獲美國Web Marketing Association頒發的2015年「Government Standard of Excellence」獎項。

今期乃公署最後一期的通訊(印刷版)。今後如欲了解更多公署的最新消息及資訊，歡迎繼續瀏覽我們公署的網站：www.pcpd.org.hk。

The PCPD's website won the

“Government Standard of Excellence” in 2015 WebAwards, held by the Web Marketing Association in the United States.

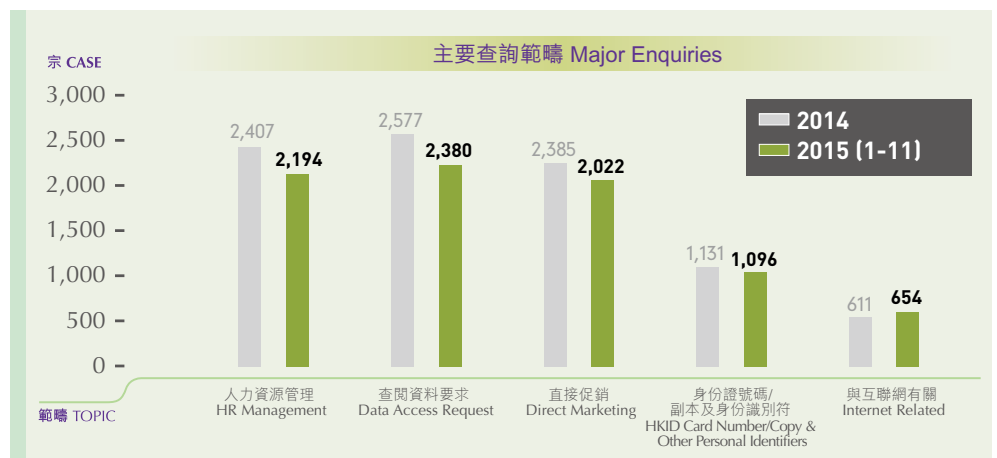
This Issue is the last issue of the PCPD News in a printed format. You are welcome to visit our website at www.pcpd.org.hk to know more about our latest news and information.



統計 Statistics

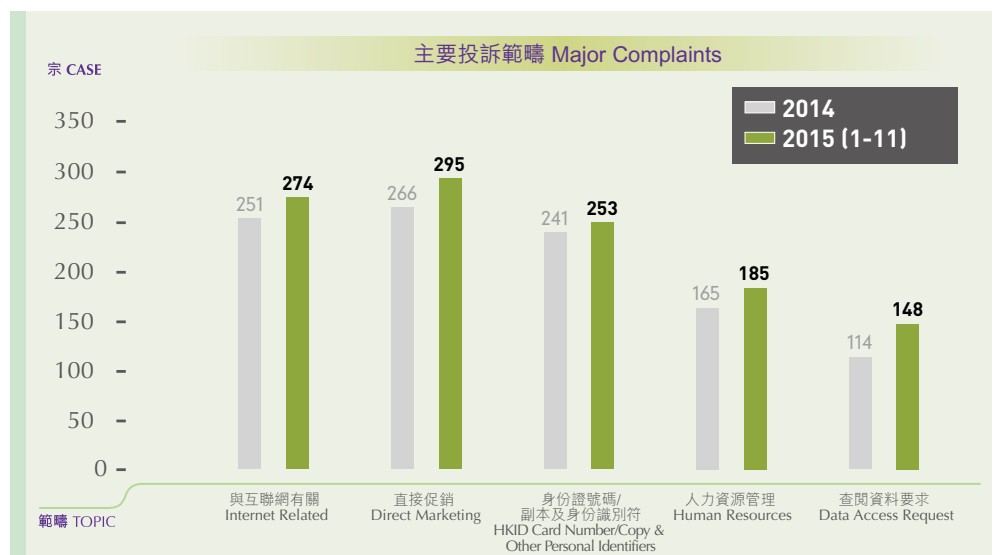
接獲查詢個案 (2015年1月至11月)

Number of enquiry cases received
(January - November 2015):
共 **16,898** 宗 cases



接獲投訴個案 (2015年1月至11月)

Number of complaint cases received
(January - November 2015):
共 **1,792** 宗 cases



收集個人資料聲明 Personal Information Collection Statement (“PICS”)

《收集個人資料聲明》(「聲明」)是指資料使用者為依從《個人資料(私隱)條例》(「條例」)第1(3)原則規定而作出的聲明。


雖然條例沒有規定要作出書面通知，但為了提高透明度及避免雙方可能產生誤會，良好的行事方式是以書面向資料當事人提供必要的資訊。

《收集個人資料聲明》應包括：

- a. 個人資料被收集後會用於甚麼目的；
- b. 資料當事人是否有責任或可自願提供其個人資料，以及若不提供資料的後果；
- c. 所收集資料有可能會向甚麼類別的人轉移或披露；
- d. 資料當事人要求查閱及改正資料使用者所持有其個人資料的權利，以及；
- e. 負責處理查閱及改正資料要求的人的姓名(或職銜)及其聯絡資料。

無論在現實環境或在網上收集個人資料，資料使用者均需要向資料當事人提供簡潔易明的聲明。收集目的聲明不應過於含糊及範圍太廣；就特定的收集目的應使用特定的《收集個人資料聲明》；以及包括保安措施聲明，亦即資料使用者應交代其處理個人資料所採取的保安措施，尤其在網上收集個人資料，如信用卡號碼，應列明在網上交易過程中所採用的特定保安措施。

公署曾出版一份《擬備收集個人資料聲明及私隱政策聲明指引》，詳細解釋如何撰寫個人資料聲明及私隱政策聲明，詳情可參閱

www.pcpd.org.hk/tc_chi/resources_centre/publications/files/GN_picspps_c.pdf 

A PICS is a statement given by a data user for the purpose of complying with the notification requirements under Data Protection Principle 1(3) of the Personal Data (Privacy) Ordinance (“Ordinance”).


While the Ordinance does not require the notification to be given in writing, it is good practice for the requisite information to be provided to the data

subjects in writing in the interests of transparency and to avoid possible misunderstanding between the parties.

A PICS should include:

- a. Purposes for which personal data will be used following collection;
- b. Whether it is obligatory or voluntary for a data subject to supply his personal data and consequences of failure to supply the data;
- c. Classes of persons to whom personal data collected from the data subjects may be transferred or disclosed;
- d. Data subjects’ right to request access to and correction of his personal data held by the data users; and
- e. Name (or job title) and contact details of the individual who is responsible for handling any data access and data correction requests.

The need for an easily readable and understandable PICS applies to the collection of information in both the physical world and the online environment. The purpose statement should not be too vague and too wide in scope. A specific PICS should be used for a specific collection purpose. A PICS may include a notice about the security measures adopted by the data user in the handling of personal data, in particular if the personal data is collected online, the specific security measures that are applied to online transactions such as collection of credit card numbers.

PCPD has issued a guidance note entitled “Guidance on Preparing Personal Information Collection Statement and Privacy Policy Statement” to serve as a general reference for preparing PICS and Privacy Policy Statement. For details, please visit PCPD’s website at www.pcpd.org.hk/english/resources_centre/publications/files/GN_picspps_e.pdf. 



實務守則 / 指引

Codes of Practice/ Guidelines

- 1 認識《個人信貸資料實務守則》—— 共用按揭資料作信貸評估的常問問題
Understanding the Code of Practice on Consumer Credit Data – Frequently Asked Questions on the Sharing of Mortgage Data for Credit Assessment Purpose
- 2 保障個人資料私隱指引：僱主監察僱員工作活動須知
Privacy Guidelines: Monitoring and Personal Data Privacy at Work
- 3 僱主監察僱員工作活動須知：家傭僱主應注意的事項
Monitoring and Personal Data Privacy at Work: Points to Note for Employers of Domestic Helpers

指引資料 Guidance Note

- 4 資料外洩事故的處理及通報指引
Guidance on Data Breach Handling and the Giving of Breach Notifications
- 5 競選活動指引
Guidance on Electioneering Activities

- 6 經互聯網收集及使用個人資料：以兒童為對象的資料使用者注意事項
Collection and Use of Personal Data through the Internet – Points to Note for Data Users Targeting at Children

- 7 開發流動應用程式最佳行事方式指引
Best Practice Guide for Mobile App Development

資料單張 Information Leaflets

- 8 私隱影響評估
Privacy Impact Assessments
- 9 雲端運算
Cloud Computing
- 10 核對程序：常問問題
Matching Procedure : Some Common Questions

單張 / 小冊子 Leaflets/ Booklets

- 11 根據《個人資料(私隱)條例》行使你同意及拒絕直接促銷活動的權利
Exercising Your Right of Consent to and Opt-out from Direct Marketing Activities under the Personal Data (Privacy) Ordinance

- 12 個人資料好重要 保障私隱不可少—— 求職篇
Personal Data is Essential - Protect Your Privacy - Job Seeking

- 13 兒童網上私隱 —— 給家長及老師的建議
Children Online Privacy - Practical Tips for Parents and Teachers

- 14 在網絡世界保障私隱 —— 精明使用社交網
Protecting Online Privacy – Be Smart on Social Networks

- 15 保障私隱 —— 明智使用智能電話
Protect Privacy by Smart Use of Smartphones

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

有關刊物可在網站下載
Related publications are available at www.pcpd.org.hk/publications/resources_by_topics

開發流動應用程式保障私隱活動

Privacy Campaign for Mobile App Development

2016.04.21	研發流動應用程式 顧及私隱和保安論壇 Mobile App Development Forum – Privacy and Security
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www.pcpd.org.hk/mobileapps

保障私隱學生大使暨「學校夥伴嘉許」計劃 2016
Student Ambassador for Privacy Protection cum School Partners Recognition Schemes 2016 (2015.12 – 2016.05)

www.pcpd.org.hk/childrenprivacy



大學保障私隱活動 2015/16
University Privacy Campaign 2015/16

2016.01.20	講座：大學行政與私隱保障及資訊科技管理的資料保障 Seminars on Protecting Personal Data Privacy in University Administration and Data Protection in IT Management
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www.pcpd.org.hk/university

公眾教育巡迴展覽 2015/16
Public Education Roadshow 2015/16

2015.12.13, 12.20	2015/2016 年秋冬上環假日行人坊 2015/16 Fall/Winter Sheung Wan Promenade	攤位遊戲 Booth Games
2015.12.27 – 2016.01.09	流動展覽車巡迴港九新界各地 Roadshow across the city	展覽 Exhibition

www.pcpd.org.hk/roadshow



其他教育及培訓項目
Other Education & Training Programmes

網上培訓平台
Online Training Platform

Workshop	內部資訊科技管理的資料保障 Data Protection in Internal IT Management 最新的資訊及通訊科技與資料保障 Latest Information and Communication Technology (ICT) and Data Protection
Seminar	研發流動應用程式講座 Seminar on “Developing Mobile Apps with Privacy Protection in Mind”

保障個人資料專業研習班
Professional Workshops on Data Protection
www.pcpd.org.hk/education_training/workshops

《個人資料(私隱)條例》簡介講座 (每兩星期舉行)
Introductory Seminar on the Personal Data (Privacy) Ordinance (to be held bi-weekly)
www.pcpd.org.hk/education_training/public_seminars

詳情 Details : pcpd.org.hk

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Join NOW!