



Case No.:

For Official Use

Complaint Form

Complainant [data subject] (i.e. the individual to whom the personal data in question is related)

Name: (*Mr/Ms/Miss) _____
(As recorded on the identification document)
(Please either produce the original of the identification document in person for verification or provide copy of the identification document with this Form)

Address: _____

Telephone: _____ , _____

Party complained against [data user] (i.e. the party by whom the act or practice in question was done or engaged in)

Name: _____

Address: _____

Contact person (if known): _____

Telephone: _____ , _____

Complaint (State clearly how, when, by whom and which of the complainant's personal data was collected, processed, used, retained or handled) (see note 6)

(Please provide supporting documents if available and use a separate sheet if the space provided is insufficient)

(_____ page(s) of separate sheet is/are attached)

Do you consent to the disclosure of your identity to the party complained against?

(Please tick one of the following boxes)

Yes No

Signature of complainant: _____

Date: _____

Relevant person (if appropriate) (see note 3)

Name: (*Mr/Ms/Miss) _____
(As recorded on the identification document)

Address: _____

Telephone: _____ , _____

(*Please delete as appropriate)

Please be advised that it is voluntary for you to supply to us your personal data. All personal data submitted will only be used for purposes which are directly related to this complaint. The personal data submitted may be transferred to parties who will be contacted by us during the handling of this case including the party being complained against or other parties concerned. The information provided may also be disclosed to agencies who are authorised to receive information relating to law enforcement, prosecution or review of the Commissioner's decisions.

You have the right to request access to and correction of your personal data held by us. Request for access or correction should be made in writing to the Data Protection Officer at the address shown in note 5. Please note that we shall or may refuse to comply with a data access request in the circumstances specified in section 20 of the Personal Data (Privacy) Ordinance, for example, where the requested data relates to information obtained in the course of handling a complaint by us the disclosure of which would constitute a contravention of the requirements under the secrecy provision of section 46(1) of the Personal Data (Privacy) Ordinance.

Information Notes

1) How can the Privacy Commissioner for Personal Data help you?

The Privacy Commissioner for Personal Data (“the Commissioner”) is charged with the statutory duty to receive and, if appropriate, investigate any complaint from the public relating to suspected breaches of the requirements under the Personal Data (Privacy) Ordinance (“the Ordinance”).

2) Who can complain?

An individual, or a relevant person on behalf of an individual, may make a complaint to the Commissioner about an act or practice that may be a contravention of a requirement under the Ordinance.

3) Who is a relevant person?

A relevant person may make a complaint on behalf of an individual, if :-

- a) that individual is a minor and the relevant person is his parent or legal guardian;
- b) that individual cannot manage his own affairs and the relevant person has been appointed by a court to manage those affairs;
- c) that individual is mentally incapacitated within the meaning of section 2 of the Mental Health Ordinance (Cap. 136) and :-
 - (i) the relevant person has been appointed under section 44A, 59O or 59Q of that Ordinance to be his guardian; or
 - (ii) the relevant person is the Director of Social Welfare or any other person in whom the guardianship of that individual has been vested or who has to perform the functions of the appointed guardian under section 44B(2A) or (2B) or 59T(1) or (2) of that Ordinance.

4) How is a complaint made?

A complaint should be made in writing in the Chinese or English language. The complainant may use this Complaint Form (OPS001) to provide full particulars of the complaint. If assistance is required, the complainant may visit or telephone the PCPD. All complaints will be treated in the **strictest confidence**, and in accordance with the Ordinance and the Complaint Handling Policy, which is available at www.pcpd.org.hk/english/complaints/policy/complaint_policy.html.

For the purpose of verifying the identity of the complainant so as to process the complaint, the complainant is required to provide the PCPD with his proof of identity. In this regard, the complainant may attend the Commissioner’s Office to produce his identification document or send a copy of it to the PCPD when making the complaint. The Commissioner will not process the complaint if the complainant cannot be identified.

5) Where is the PCPD?

The address of the PCPD is 12/F, Sunlight Tower, 248 Queen’s Road East, Wanchai, Hong Kong, and the office hours are: Monday - Friday 8:45 a.m.- 5:40 p.m., Saturday, Sunday and Public Holidays: closed.
(Hotline: 2827 2827 Fax: 2877 7026 Website: www.pcpd.org.hk)

6) What information must be provided to the Commissioner for making a complaint?

In order to enable the Commissioner to process the complaint, the complainant must provide details of the **personal data** concerned and the **act or practice** that is complained of, e.g. how and when was the complainant’s personal data collected, processed, used, retained or handled.

The complainant must also state by whom the act was done or the practice was engaged in, i.e. the **data user**, and provide the details as prescribed in this Form. Please note that it is essential to specify and provide adequate information for identifying and locating the data user. Otherwise, the Commissioner may not be able to process the complaint.

7) What happens after a complaint is lodged with the Commissioner?

Upon receiving from the complainant all necessary information, we shall consider if the pre-requisites of a “complaint” under section 37(1) of the Ordinance are satisfied. They are:-

- (a) whether the matter relates to personal data of which the complainant is the data subject;
- (b) whether the matter is in respect of an act or practice of a data user specified in the complaint; and
- (c) whether the act or practice may be a contravention of a requirement under the Ordinance.

If any one of the above conditions is not satisfied, the case will not be treated as a complaint under section 37 of the Ordinance. Accordingly, no investigation will be carried out and the complainant will be notified in writing.

If all of the above conditions are satisfied, the Commissioner will notify the complainant in writing and make enquiries with the complainant and, if necessary, the other relevant parties in order to determine whether there exists a *prima facie* case showing that a contravention of the provisions of the Ordinance has occurred.

If, having considered the available information and evidence, the Commissioner is of the opinion that no *prima facie* case exists or there are other lawful reasons under section 39(2) for which he may refuse to carry out or decide to terminate an investigation, the Commissioner shall notify the complainant in writing in accordance with section 39(3) and 39(3A).

If there is a *prima facie* case, the Commissioner may, where appropriate, try to resolve the dispute through conciliation. If the dispute cannot be resolved in this way and subject to section 39(2), the Commissioner may carry out an investigation under section 38 of the Ordinance. If at the end of the investigation, the Commissioner finds that the data user is contravening or has contravened a requirement under the Ordinance and having regard to the damage or distress caused or is likely to be caused to the data subject, he may decide whether or not to serve an enforcement notice on the data user directing it to take such steps as specified in the enforcement notice (including ceasing any act or practice) to remedy and, if appropriate, prevent any recurrence of the contravention.