



About the Office of the

Privacy Commissioner for Personal Data, Hong Kong

香港個人資料私隱專員公署





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Office of the Privacy Commissioner
for Personal Data, Hong Kong

關於我們

個人資料私隱專員公署（下稱「公署」）是一個獨立的法定機構，負責監管《個人資料（私隱）條例》（下稱「條例」）的執行。條例旨在保障個人在個人資料方面的私隱權利。

條例在一九九五年八月三日制定。公署成立於一九九六年八月一日，而條例則於一九九六年十二月二十日正式生效。

Who we are

The Office of the Privacy Commissioner for Personal Data (the "PCPD") is an independent statutory body established to oversee the enforcement of the Personal Data (Privacy) Ordinance (the "Ordinance") to protect the privacy of individual with respect to their personal data.

The Ordinance was enacted on 3 August 1995. The PCPD was established on 1 August 1996 and the Ordinance came into effect on 20 December 1996.

公署的政策綱要

採取合乎經濟效益及有效率的推廣、監察及監管措施，促使各界人士遵從條例，以確保個人資料私隱得到保障。

Mission of the PCPD

To secure the protection of privacy of the individuals with respect to personal data through promotion, monitoring and supervision of compliance with the Ordinance in a cost-effective and efficient manner.



個人資料私隱專員的職責

個人資料私隱專員負責監管和監察條例的施行，並促使各界依從條例的規定。具體而言，個人資料私隱專員的職責計有：對個人資料私隱有關的投訴進行調查、視察機構的個人資料系統、發出實務守則、檢討相關法例、核准核對程序的申請、進行個人資料私隱意見調查，推行保障私隱的推廣活動，以及與海外擔任類似資料保障職能的人士保持聯絡。

副個人資料私隱專員在公署的整體行政及策劃方面協助私隱專員，同時亦負責與個人資料私隱有關的各項政策問題。

公署下分為行政部、法律部、執行部、審查及政策部、資訊科技部及機構傳訊部。



Functions and Duties of the Privacy Commissioner for Personal Data

The Privacy Commissioner for Personal Data is responsible for monitoring and supervising compliance with the provisions of the Ordinance. This can be done through a variety of means including the investigation of complaints, the inspection of personal data systems, the issuing of codes of practice, the review of legislation, the approval of matching procedures, the conducting of personal data privacy surveys, publicity campaigns, and international liaison.

The Deputy Privacy Commissioner for Personal Data assists the Privacy Commissioner in the overall administration and strategic planning of the Commissioner's Office. The Deputy Privacy Commissioner for Personal Data also has the responsibility for policy issues related to personal data privacy.

The PCPD is organized into Administration Division, Legal Division, Operations Division, Compliance & Policy Division, Information Technology Division and Corporate Communications Division.



關於條例

涵蓋範圍

條例涵蓋任何直接或間接與一名在世人士（資料當事人）有關而從中可切實確定有關人士的身份的任何已記錄在文件內的資訊，而此等資訊的存在形式，是可以切實可行地作出查閱及處理的。本條例只適用於任何控制個人資料的收集、持有、處理或使用的人士（資料使用者），包括私營機構、公營機構及政府部門。

條例附表1載列六項符合國際慣例的保障資料原則，計有：

第1原則 - 收集個人資料的目的及方式

第2原則 - 個人資料的準確性及保留期間

第3原則 - 個人資料的使用

第4原則 - 個人資料的保安

第5原則 - 資訊須在一般情況下可提供

第6原則 - 查閱個人資料

Personal Data (Privacy) Ordinance

About the Ordinance

Scope of Coverage

The Ordinance covers any personal data i.e. recorded information relating directly or indirectly to a living individual (data subject); from which it is practical to ascertain the identity of the individual; and in a form in which access to or processing of the data is practicable. It applies to any person (data user, including private sector, public sector and government department) who controls the collection, retention, processing or use of personal data.

Schedule 1 to the Ordinance sets out six data protection principles (DPPs) in line with international practice. They are:

DPP 1 - Purpose and manner of collection

DPP 2 - Accuracy and duration of retention

DPP 3 - Use of personal data

DPP 4 - Security of personal data

DPP 5 - Information to be generally available

DPP 6 - Access to personal data

什麼是個人資料？

個人資料是關於一名可識辨其身份的在世人士的資料，包括意見的表達在內，有關資料必須儲存在記錄內，並且可加以處理或檢索。日常生活中經常使用的個人資料包括個人姓名、電話號碼、地址、性別、年齡、職業、婚姻狀況、薪金及財政狀況、國籍、相片、身份證號碼、醫療記錄及受僱記錄，當中包括工作表現評核等資料。

誰是資料使用者？誰是資料當事人？

根據條例的釋義，資料使用者(data user)是指獨自或聯同其他人或與其他人共同控制個人資料的收集、持有、處理或使用的人。實際上，資料使用者可以是公司、政府部門或其他公營機構。資料當事人(data subject)是指屬該等資料的當事人的個人。

市民在條例下可享有的權利

- 公平及為合法目的收集資料的權利
- 獲告知資料的用途的權利
- 只提供所需資料的權利
- 拒絕同意更改資料用途的權利
- 要求資料準確及採取資料保安措施的權利
- 查閱資料的權利
- 改正資料的權利
- 私隱政策公開的權利



What are Personal Data ?

Personal data are recorded information, including expressions of opinion, relating to an identifiable living individual, which are organized in such a way that they can be processed or retrieved. Examples are name, telephone number, address, sex, age, occupation, marital status, salary, financial status, nationality, photo, identity card number, medical and employment records, including assessments of employment performance.

Who is a Data User and a Data Subject?

In the Ordinance, a data user means a person who, either alone or jointly or in common with other persons, controls the collection, holding, processing or use of the data. In practice, a data user could be a company, government department or other public body. Data subject means the individual who is the subject of the data.

Rights to be enjoyed under the Ordinance

- right to fair collection for lawful purpose
- right to be informed about intended use
- right to give only necessary data
- right to withhold consent to change of use
- right to accuracy and security
- right of access
- right of correction
- right to openness



如何作出投訴？

投訴人可用中文或英文，以書面向公署提出投訴。投訴內須列出投訴人的姓名及聯絡方法，被投訴者的身份資料，以及個案的詳情。為方便起見，投訴人可使用公署的投訴表格。



如何提出查閱資料要求？

根據條例的規定，個人有權要求資料使用者，例如某政府部門或某公司證實是否持有他或她的個人資料，以及要求它們提供一份該等資料的複本，這就是查閱資料要求。

How to Lodge a Complaint ?

An individual who wants to lodge a complaint can put it in writing in either Chinese or English, giving his or her name and contact details, identity of the party complained against, and full particulars of the case to the PCPD. For convenience, this can be done by using the complaint form obtainable from the PCPD.

How to make a Data Access Request?

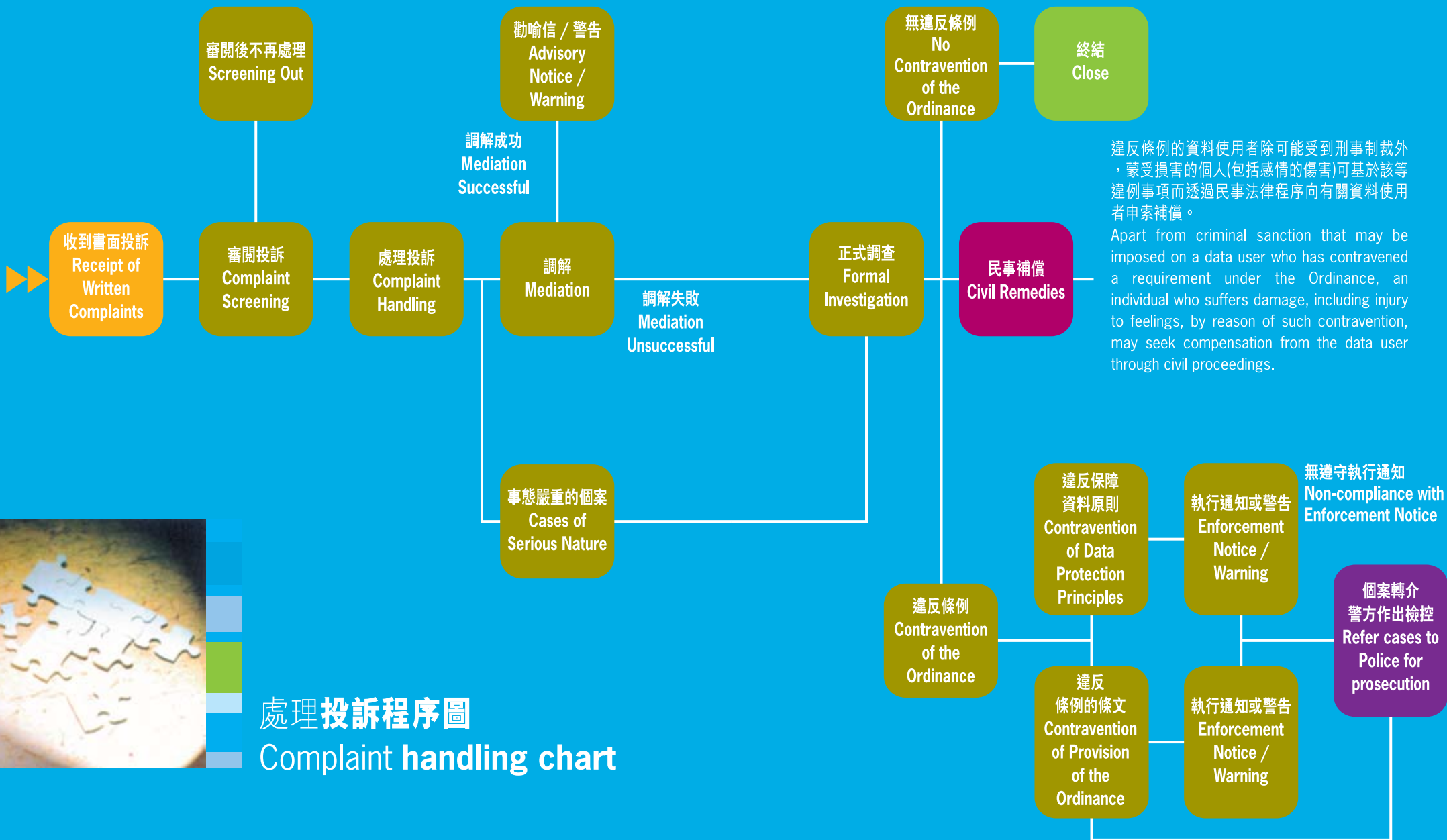
Under the Ordinance, every individual has the right to request a data user, e.g. government department or a company, to confirm whether it holds his or her personal data and to request a copy of any such data. Such a request is called a data access request.

處理投訴的程序

在接獲投訴並核實投訴人的身份後，私隱專員首先會與投訴人及(若有需要的話)被投訴者接觸，以斷定投訴的表面證據是否成立。如表面證據成立，私隱專員會在投訴人與被投訴者之間進行調解，試圖解決爭端。如爭端無法透過調解去解決，私隱專員可作出正式調查。如涉嫌違反投訴個案的性質嚴重的話，私隱專員亦可進行正式調查。假如調查證實資料使用者確有違反條例的規定，私隱專員可向資料使用者發出執行通知(若違反行為持續或重複出現是相當可能的話)，指令他採取補救措施，及/或採取起訴行動。違反執行通知即屬違法，可被判處罰款及監禁。

Complaint Handling

After receiving a complaint and verifying the identity of the complainant, the Privacy Commissioner will first liaise with the complainant and, if necessary, the party complained against to determine whether a *prima facie* case can be established. If there is a *prima facie* case, the Privacy Commissioner will try to resolve the dispute through mediation. If the dispute cannot be resolved in this way, the Privacy Commissioner may carry out a formal investigation. The Privacy Commissioner may also immediately proceed to undertake a formal investigation if the suspected contravention in the complaint case is of a serious nature. If an investigation confirms that the data user has contravened a requirement under the Ordinance, the Privacy Commissioner may (if it is likely that the contravention will continue or be repeated) serve an enforcement notice on the data user concerned to direct it to take the necessary steps to remedy the contravention and/or instigate prosecution action. Contravention of an enforcement notice is an offence which could result in a fine and imprisonment.



處理投訴程序圖
Complaint handling chart



違反條例的資料使用者除可能受到刑事制裁外，蒙受損害的個人(包括感情的傷害)可基於該等違例事項而透過民事法律程序向有關資料使用者申索補償。
Apart from criminal sanction that may be imposed on a data user who has contravened a requirement under the Ordinance, an individual who suffers damage, including injury to feelings, by reason of such contravention, may seek compensation from the data user through civil proceedings.

推廣及培訓

公署致力透過以下途徑推廣保障個人資料私隱的訊息：

- 發展及執行推廣及公眾教育活動
- 為市民及機構舉辦講座及研討會，教育大眾有關條例的要求
- 製作刊物及培訓教材，以推廣條例
- 接受傳媒查詢及安排新聞發佈會
- 設立公署的中英文雙語網站，為市民提供有關條例及公署動向資訊，以及網上服務

Promotion and Public Education

The PCPD is committed to raise public's awareness of personal data privacy through:

- Developing and implementing promotion and public education programmes
- Organizing seminars and presentations for both individuals and organizations to educate them about the requirements of the Ordinance
- Producing publications and training materials to promote the Ordinance
- Responding to media enquiries and arrange press briefings
- Maintaining a bilingual website, in Chinese and English, to provide comprehensive information about the Ordinance, PCPD news and activities and on-line services



保障資料主任聯會

任何負責協調及推動遵守條例的人士，均歡迎加入保障資料主任聯會。聯會定期舉辦聚會，會員除可得悉個人資料私隱的最新資訊外，亦可與來自不同行業的人士交流資料保障的心得。(需繳交會費)

Data Protection Officers' Club

Members of the public who are engaged in implementing compliance practices relating to the Ordinance in their daily work are welcome to join the Club. Regular meetings are held for members to obtain first-hand information on topical personal data privacy issues and share their experiences with members from other business sectors. (An annual fee is applied.)

聯絡我們

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備註：
如欲得知條例的詳情，請參閱公署出版的其他小冊子。

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資料出自本小冊子者除外。



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Remarks:
For further information about the Ordinance, please refer to other PCPD publications.

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