

Your Identity Card Number And Your Privacy

INTRODUCTION

The Code of Practice on the Identity Card Number and Other Personal Identifiers (“the Code”) has been issued by the Privacy Commissioner for Personal Data under the Personal Data (Privacy) Ordinance (“the Ordinance”). The Code provides guidance on the appropriate handling of personal identifiers in general and Identity Card Numbers (“ID card numbers”) and copies in particular.

A “personal identifier” is usually a series of numbers or letters, such as a passport number or staff card number, that uniquely identifies an individual. By far the most commonly used personal identifier in Hong Kong is the ID card number.

ID card numbers are commonly collected and used by organisations* to identify individuals and manage records relating to them. Copies of ID cards (“ID card copies”) are often collected by organisations for use as evidence of their dealings with the individuals concerned. However, the indiscriminate collection and improper handling of ID card numbers and copies may unduly infringe the privacy of the individual, besides creating opportunities for fraud.

All the requirements of the Code take effect on 19 June 1998, except the requirement not to issue cards bearing the holder’s ID card number (see situation 10 below).

The purpose of this booklet is to tell you whether a situation you encounter involving your ID card number or copy is covered by the Code, and how you can make use of the Code to protect your privacy interests in such situations.

* In this Guide, the term “organisation” is used to mean “data user” as defined under the Ordinance, which in summary is a person (including companies or Government departments) that controls the collection, holding, processing or use of personal data.

SITUATION 1: REQUEST TO SHOW YOUR ID CARD

A request that you show your ID card, without the requester making a record of any information on the card, is not covered by the Code. This follows from the fact that the Ordinance itself is inapplicable to any situation where no personal data (meaning, generally, recorded information relating to a living individual) is involved.

**SITUATION 2: COMPELLING YOU TO PROVIDE YOUR ID CARD
NUMBER OR COPY**

Except with legal authority, no one can compel you to provide your ID card number or copy. As a general matter, public officers e.g. Police and Immigration officers and Post Office staff, are authorised by law to compel provision of ID card numbers by individuals in their dealings with Government. Hence, if you are asked by a public officer in your dealings with Government to provide your ID card number, you should provide it.

**SITUATION 3: SERVICE CONDITIONAL UPON PROVISION OF ID CARD
NUMBER OR COPY**

Organisations often make provision of your ID card number or copy a condition of providing service to you. In such a situation, there is no compulsion.

The Code cannot generally prohibit organisations from imposing such a condition in providing services. However, they should do this only if they are seeking to collect your ID card number or copy under one of the general circumstances where this is permitted under the Code (see below).

SITUATION 4: REQUEST TO RECORD YOUR ID CARD NUMBER

The Code requires organisations, before recording an ID card number, to consider alternatives that are less privacy intrusive.

Action you can take: If you are not happy about a request to provide your ID card number, suggest to the requestor alternatives that are reasonable and acceptable to you. Possible alternatives include the collection of a different number, such as a passport number, or providing a deposit of money, or arranging for identification of yourself by someone else who is already known to the organisation.

An organisation may be contravening the Code if it refuses to accept an alternative such as these without a good explanation.

SITUATION 5: RECORDING YOUR ID CARD NUMBER

The Code provides for limits on the circumstances under which organisations are permitted to record ID card numbers (see the appendix for details).

Action you can take: If you consider that an organisation is not justified in recording your ID card number, ask why it needs to record it and whether it has considered if

the recording is permitted under the Code.

An organisation may be contravening the Code if it cannot provide a good explanation.

SITUATION 6: COLLECTING YOUR ID CARD COPY

Compared to ID card numbers, stricter limits are imposed on the collection of ID card copies (see the appendix for details) because of the greater dangers they carry in relation to possible fraud or other misuse. Generally speaking, this gives you greater justification in querying a request to provide a copy of your ID card.

Action you can take: If you consider that an organisation is not justified in collecting a copy of your ID card, ask why it needs to collect it and whether it has considered if the collection is permitted under the Code.

An organisation may be contravening the Code if it cannot provide a good explanation.

SITUATION 7: KEEPING YOUR ID CARD COPY

The Code generally requires organisations to mark photocopies of ID cards they keep with the word “copy”. This marking should be made across the entire image of the ID card.

Furthermore, where a photocopy of your ID card is provided by you in person or an organisation makes a photocopy of your ID card, the word “copy” should be marked on it in your presence.

The only exception to this marking requirement you are likely to encounter is where the photocopy is going to be converted into some other form, e.g. microfilm.

Action you can take: If you provide a photocopy of your ID card in person, insist that it is marked “copy” in your presence.

An organisation may be contravening the Code if the ID card copy kept by it is not marked “copy” and is not going to be converted into some other form.

SITUATION 8: ASKING YOU TO TRANSMIT YOUR ID CARD COPY

Under the Code, organisations are required to treat ID card copies as confidential

documents. If they request that an ID card copy be transmitted to them, e.g. by post or fax, they are also required to take all reasonably practicable steps to ensure that the copy will be received only by the intended recipient and be kept in a secure manner.

Action you can take: When you send a copy of your ID card to an organisation by post, put the copy in a sealed envelope marked “confidential” for the attention of the individual or the organisational unit that is responsible for the matter concerned.

Action you can take: If you are asked to send a copy of your ID card by fax or other electronic means, you may consider asking about the measures taken to ensure the security of the copy once it has been transmitted. Possible safeguards include fax “padlocks”, “confidential mail boxes”, password control and having a dedicated fax in a secure area for receiving confidential documents.

An organisation may be contravening the Code if it is unable to give you a reasonable answer about its security measures.

SITUATION 9: DISPLAYING YOUR NAME WITH YOUR ID CARD NUMBER

Unless otherwise required or permitted by law, organisations should ensure that an ID card number and the name of the holder are not displayed together publicly. They should also ensure they are not made visible or otherwise accessible together except to persons who need to carry out activities related to permitted uses of the ID card number.

One common situation in which a breach of the above requirement may occur is the publication of notices including individuals’ names and ID card numbers in a newspaper, e.g. notices carrying the result of a lucky draw or a competition. Another is the display of notices containing individuals’ names and ID card numbers on a notice board in places such as a school, an office, or the lobby of a residential building. A further one is the inadvertent disclosure of the names and ID card numbers of visitors to subsequent visitors to a building in a visitors’ log-book.

Action you can take: Where you encounter a situation such as those described above, ask the organisation to stop or else to justify the display or disclosure.

An organisation may be contravening the Code if it cannot provide a good justification.

SITUATION 10: ISSUING YOU A CARD BEARING YOUR ID CARD NUMBER

Under the Code, an organisation should not issue to an individual a card (not being the Hong Kong ID card or driving licence) bearing in a legible form the ID card number of that individual.

This prohibition applies even if the card bears an altered form of the ID card number from which the ID card number may be deduced. It also applies even if the card issued is not required to be worn or publicly shown. This particular requirement of the Code takes effect on 19 December 1998, which is 6 months later than the other requirements.

All staff, student, medical and other cards issued by organisations such as employers, schools, universities and insurance companies are subject to this requirement.

Action you can take: If an organisation has issued, or proposes to issue, a card to you bearing your ID card number, point out to the issuing body that this is contrary to the Code.

ENQUIRIES AND COMPLAINTS

If you think an organisation's practices in relation to ID card numbers or copies do not comply with the requirements of the Code, you should, in the first instance, query this with the organisation concerned in the manner suggested above. If you do not get a reasonable answer, you can approach the Office of the Privacy Commissioner for Personal Data (PCO) for further guidance on the issue or to make a complaint, as appropriate. The PCO hotline is 2827 2827.

APPENDIX

Circumstances in which Collection of ID Card Numbers or Copies of ID Cards is Permitted under the Code

ID Card Number

Under paragraph 2.3 of the Code, an organisation may collect an ID card number only under the following circumstances:

- * When using a power under an Ordinance to require an individual to provide his or her ID card number, e.g. public officers have a power to require individuals to do this when dealing with the government.
- * In order to comply with a requirement under an Ordinance requiring the organisation to record an individual's ID card number, e.g. employers are required under the Immigration Ordinance to make a record of their employees' ID card number.
- * For certain public or social interests, including the prevention and detection of crime and seriously improper conduct, the assessment or collection of any duty or tax, safeguarding the security, defence or international relations with respect to Hong Kong.
- * For functions related to the operation of a tribunal or court.
- * For identifying the individual where this is necessary in order to:
 - * advance the interest of the individual;
 - * prevent a party other than the organisation from suffering damage; or
 - * enable the organisation recording the ID card number to safeguard against damage or loss that is more than trivial.

In addition, three more specific circumstances are provided for in paragraph 2.3.4 of the Code under which collection of an ID card number is permitted, as follows:

- * For insertion in a document which establishes or evidences that the holder of the ID card has some form of legal right or interest, e.g. interest in property.
- * Where the holder of the ID card enters premises or is given the use of equipment and the ID card number will be used, if necessary, to identify the individual. This applies only where it is not practicable to monitor the individual while he or she is in the premises or using the equipment.
- * As a condition for given the holder of the ID card control or custody of property, e.g. car rental. This applies only where the value of property is more than trivial in the circumstances.

Copies of ID Cards

Under paragraph 3.2 of the Code, an organisation may collect an ID card copy only under the following circumstances:

- * For certain public or social interests, including the prevention and detection of crime and seriously improper conduct, the assessment or collection of any duty or tax, safeguarding the security, defence or international relations with respect to Hong Kong.
- * Where the collection of the ID card number is permitted under the Code and the ID card copy is needed as well:
 - * to prove that the organisation has complied with a requirement under an Ordinance, e.g. an employer may collect a copy of the ID card of an employee to prove compliance with the requirement on employers in the Immigration Ordinance to inspect employees' ID cards;
 - * to comply with a requirement to collect the copy that has been approved by the Privacy Commissioner and is contained in the code, rules, regulations or guidelines of a regulatory or professional body (as of May 1998, the Privacy Commissioner had endorsed requirements to collect copies of the ID cards of customers of banks, deposit taking companies, insurers, and persons registered with or licensed by the Securities and Futures Commission);
 - * to collect or check the ID card number of an individual but only if the individual has been given the alternative choice of showing his or her ID card in person;
 - * to enable an official travel document to be issued; or
 - * for functions related to the operation of a tribunal or court.

The Immigration Department, as the body responsible for issuing ID cards, is permitted to collect ID card copies for purposes related to its operations.

In addition, two circumstances are specified which by themselves are NOT sufficient to justify collection of an ID card copy. They are as follows:

- * to safeguard only against mistakes in recording the holder's name or ID card number.
- * in anticipation of a possible relationship between an individual and the organisation, e.g. as part of a job application.

FREQUENTLY-ASKED QUESTIONS (FAQs)

- Q:** Can the security staff of a building ask me to enter my ID card number in a visitors' log book at the entrance of a building?
- A:** This depends on whether the monitoring of your activities inside the building is feasible or not. If this is feasible, the security staff should not collect your ID card number. If such monitoring is not feasible, they are allowed to collect your ID card number. However, the security staff should take appropriate security measures to ensure that such entries in a visitors' log book are concealed from subsequent visitors who enter their details. If you are unhappy about providing your ID card number, you may wish to suggest other alternatives. Examples of such alternatives may include identification by another identification document, e.g. a staff card issued to you by your company, or identification by someone known to the security staff, e.g. by a resident in the case of a residential building.
- Q:** Can an equipment rental company ask to record my ID card number if I rent a piece of equipment?
- A:** This depends on the value of the equipment for rental. Generally, if the equipment is of a trivial value, for example, in the case of the rental of a beach umbrella, the company should not record your ID card number. If the equipment in question is of a more than trivial value, e.g. a vehicle, the individual's ID card number can be recorded by an organisation as a condition for allowing the individual to have custody or control of property.
- Q:** Can a police officer ask me to show him/her my ID card?
- A:** A request to show your ID card, without the requester making a record of any information on the card, is not covered by the Code. Generally, however, if a police officer or other public officers, i.e. staff members of government departments, ask to record your ID card number in your dealings with them, you should let them do so, as these officers have statutory powers to require individuals to furnish their ID card numbers in dealings with the Government.
- Q:** Can an organisation ask me to provide my ID card number or copy for a lucky draw?
- A:** Generally speaking, there is no justification under the Code for collecting either the ID card number or copy of the ID card where the individual entering a lucky draw is issued a ticket. This is because the ticket already serves to identify the winner. If the lucky draw is of the sort that no numbered ticket is issued, and the prize is of a value that is more than trivial, collection of the entrants' ID card numbers may be justified in order to ensure that the prizes are given to the true winners. However, generally speaking, the Privacy Commissioner sees no justification for collecting copies of ID cards of entrants to such competitions whether they involve tickets or not.

Q: Can a club ask to record my ID card number and to provide a copy of my ID card if I apply to be a member?

A: Generally speaking, collection of ID card numbers of its members by a membership club may be justified under the Code to enable the club management to check membership. However, there appears to be no justification to collect copies of members' ID cards.

Q: Can a courier delivering a parcel to me ask to record my ID card number or collect a copy of my ID card?

A: Generally speaking, a courier delivering a parcel to you is permitted to collect a record of your ID card number to be able to identify you in the future in case the parcel is delivered to you wrongly. This is necessary in order to protect the interest of the intended recipient, and to safeguard the courier company against a more than trivial loss. However, generally, a courier should not collect a copy of your ID card.

Q: Can a prospective employer ask to record my ID card number or collect a copy of my ID card when I attend a job interview?

A: If the prospective employer has a substantial staff force, in order to check whether you have applied for or held a position in the company before, the employer may be justified in collecting a record of your ID card number. However, a copy of your ID card should not be collected unless and until you become an employee.

Q: Can my employer collect a copy of my ID card ?

A: Yes, as a copy of your ID card is evidence of your employer's compliance with the requirements of the Immigration Ordinance to inspect your ID card before employing you. However, organisations are required by the Code to mark the word "copy" across the image of copies of ID cards to reduce the chance for misuse and abuse.

Q: Can banks/insurance companies collect a copy of my ID card when I apply to be their customers?

A: Yes, because they are required to do this under guidelines issued by the relevant regulatory bodies. These requirements have been endorsed by the Privacy Commissioner. However, the word "copy" should be marked across the image of the copies of their customers' ID cards.

- Q: Can companies providing mobile phone services record my ID card number or collect a copy of my ID card if I apply for their service?
- A: These companies operate on the basis of deferred payment. Hence, they require a means of proving the identity of their customers in order to obtain payment. Moreover, they face the problem that the services concerned are not provided to a fixed location. There has been a number of reported cases of individuals fraudulently obtaining such services using someone else's name and address, and of the salespersons opening accounts for fictitious persons to defraud their company. For these reasons, the collection of the ID card number and copies of the ID cards is generally justified under the Code. However, these organisations should mark the word "copy" across the image of the copies.
- Q. Can utility companies that provide services, e.g. electricity or piped gas, to a fixed location collect my ID card number and copy of my ID card when I apply for service?
- A. Generally speaking, because such companies provide services on a deferred payment basis, they may be justified in collecting your ID card number for identification purposes with respect to obtaining payment for services provided. However, because such services are provided to a fixed location, there is little chance of someone fraudulently applying for them in someone else's name. Hence, there does not appear to be any good justification for such companies to collect copies of their customers' ID cards.

The guidance above is given for reference purposes only and without prejudice to the exercise by the Privacy Commissioner for Personal Data of any of his powers and functions under the Personal Data (Privacy) Ordinance. For a definitive statement of the requirements of the Code, reference should be made to the Code itself approved and issued by the Privacy Commissioner for Personal Data on 19 December 1997.

Office of the Privacy Commissioner for Personal Data
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