

# 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, Hong Kong (the “**Commissioner**”) under the Personal Data (Privacy) Ordinance (the “**Ordinance**”). The Code provides guidance on the appropriate handling of personal identifiers in general, and Hong Kong Identity Card (“**HKID Card**”) number and copy in particular. The Code was approved in December 1997, and revised in April 2016.

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 HKID Card number.

HKID Card numbers are commonly collected and used by an organisation<sup>1</sup> to identify individuals and manage records related to them. Copies of HKID Card are often collected by an organisation for use as evidence of its dealings with the individuals concerned. However, the indiscriminate collection and improper handling of HKID Card numbers and copies may unduly infringe the privacy of the individuals, and create opportunities for fraud.

The purpose of this booklet is to advise you whether a situation you encounter involving your HKID Card number<sup>2</sup> or copy is covered by the Code, and how you can make use of the Code to protect your privacy interests in such situations.

<sup>1</sup> In this booklet, 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.

<sup>2</sup> This includes partial HKID Card number. Depending on the facts and circumstances of the case, if it is practicable for the identity of the individual concerned to be directly or indirectly ascertained from a partial HKID Card number when read together with other personal data, the partial HKID Card number may constitute personal data under the Ordinance.

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Situation

1

## Request to Show Your HKID Card



You should stay vigilant if you are requested to show your HKID Card. If the requestor intends to make a record of the information contained in your HKID Card, you may refer to the Appendix to confirm whether the request falls under the circumstances where the collection of your HKID Card or copy is permitted under the Code.

Situation

2

## Compelling You to Provide Your HKID Card Number or Copy



Except with legal authority, no one can compel you to provide your HKID 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 HKID Card number by an individual in his dealings with the Government. Hence, if you are asked by a public officer under relevant circumstances to provide your HKID Card number, you should provide it.

Situation

3

## Service Conditional upon Provision of HKID Card Number or Copy



An organisation often makes provision of your HKID Card number or copy a condition of providing service to you. In such a situation, there is no compulsion.

The Code cannot generally prohibit an organisation from imposing such a condition of providing services. However, the organisation may do so only if it is seeking to collect your HKID Card number or copy under one of the general circumstances where this is permitted under the Code (see the Appendix for details).

Situation

4

## Request to Record Your HKID Card Number



The Code requires an organisation, before recording a HKID 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 HKID Card number, suggest to the requestor alternatives that are reasonable and acceptable to you. Possible alternatives include providing other forms of guarantee (for instance, 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 without a good explanation.

Situation

5

## Recording Your HKID Card Number



The Code provides for limits on the circumstances under which an organisation is permitted to record a HKID Card number (see the Appendix for details).

**Action you can take:** If you consider that an organisation is not justified in recording your HKID 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 is not justified in recording your HKID Card number.

Situation

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## Collecting Your HKID Card Copy

Compared to a HKID Card number, stricter limits are imposed on the collection of a copy of a HKID Card (see the Appendix for details) because of the greater danger it carries 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 HKID Card.

**Action you can take:** If you consider that an organisation is not justified in collecting a copy of your HKID 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 refuses to accept an alternative without a good explanation.

Situation

7

## Keeping Your HKID Card Copy



The Code generally requires an organisation to mark the copy of a HKID Card it keeps with the word “copy”.

Furthermore, where a copy of your HKID Card is provided by you in person or an organisation makes a copy of your HKID 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 copy is or is to be converted into a form other than paper form.

**Action you can take:** If you provide a copy of your HKID Card in person, request that it is marked “copy” in your presence.

An organisation may be contravening the Code if the HKID Card copy kept by it, without being converted into other form, is not marked “copy”.

Situation

8

## Asking You to Transmit Your HKID Card Copy



Under the Code, an organisation is required to treat HKID Card copies as confidential documents. If it requests that a HKID Card copy be sent or transmitted to it, e.g. by post, fax or email, it is 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 HKID Card to an organisation by post or email, put the copy in a sealed envelope or encrypt the copy in the email, and mark “confidential” thereon 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 HKID Card by fax, email 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 access control and having a dedicated email address or fax in a secure area for receiving confidential documents.

Situation

9



## Displaying Your Name with Your HKID Card Number

Unless otherwise required or permitted by law, an organisation should ensure that a HKID Card number and the name of the holder are not displayed together publicly. It should also ensure that the name and the HKID Card number are not made visible or otherwise accessible together except to persons who need to carry out activities related to the permitted uses of the HKID Card number.

A breach of the above requirement may commonly occur in the publication of notices displaying an individual's name and his HKID Card number in a newspaper, e.g. a notice carrying the result of a lucky draw or a competition, notices on a notice board in places such as a school, an office, or the lobby of a residential building etc. A further such situation is the inadvertent disclosure of the names and HKID Card numbers of visitors to subsequent visitors to a building in a visitors' log book.

**Action you can take:** Where you encounter the above situations, ask the organisation to justify or stop 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 HKID Card Number

Under the Code, an organisation should not issue to an individual a card (not being the HKID Card or driving licence) bearing in a legible form his HKID Card number.

This restriction applies when the card bears an altered form of the HKID Card number from which it may be reasonably practicable for the HKID Card number to be deduced. It also applies when the card issued is not required to be worn or publicly shown.

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

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

## Appendix

Circumstances in which collection of a HKID Card number or a copy of HKID Card is permitted under the Code

### HKID Card Number

Under paragraph 2.3 of the Code, an organisation may collect a HKID Card number only under the following circumstances:

- When empowered under the law to require an individual to provide his HKID Card number, e.g. a public officer has a power to require an individual to do this when dealing with the Government.
- To comply with a requirement under the law which requires the organisation to record an individual's HKID Card number, e.g. an employer is required under the Immigration Ordinance to make a record of his employees' HKID Card numbers.
- For certain public or social interests, including the prevention and detection of crime, the apprehension, prosecution or detention of offenders, the assessment or collection of any duty or tax, safeguarding the security, defence or international relations with respect to Hong Kong.
- For the exercise of a judicial or quasi-judicial function by the organisation.
- For identifying an individual in order to:
  - advance the interest of the individual;
  - prevent a party other than the organisation from suffering damage; or
  - safeguard against damage or loss that is more than trivial.

Three specific circumstances in paragraph 2.3.4 of the Code permit collection of a HKID Card number, without prejudice to the generality of paragraph 2.3.3, as follows:

- For insertion in a document which establishes or evidences that the holder of the HKID Card has some form of legal right, liability or interest, e.g. a legal interest in property.
- If the person is allowed access to premises or use of equipment which he was not otherwise entitled to, in circumstances where the monitoring of the activities of the person after gaining such access or use is not practicable, then if such person did not choose to use another personal identifier, nor could the person be identified by someone known to the organisation, the organisation can then collect the HKID Card number of the person as the means of future identification.
- As a condition for giving the holder of the HKID Card control or custody of property belonging to another person, e.g. car rental. This applies only where the value of property is more than trivial in the circumstances.

### Copy of HKID Card

Under paragraph 3.2 of the Code, an organisation may collect a HKID Card copy only under the following circumstances:

- For certain public or social interests, including the prevention and detection of crime, the apprehension, prosecution or detention of offenders, 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 a HKID Card number is permitted under the Code, and a HKID Card copy is needed furthermore:
  - to prove that the organisation has complied with a requirement under the law, e.g. an employer may collect a copy of the HKID Card of an employee to prove compliance with the requirement of the employer to inspect an employee's HKID Card before the employment under the Immigration Ordinance;
  - to comply with a requirement to collect the copy that has been approved by the Commissioner and is contained in the codes, rules, regulations or guidelines of a regulatory or professional body;
  - to collect or check the HKID Card number of an individual but only if the individual has been given an alternative choice of showing his HKID Card in person;
  - to enable an official travel document to be issued; or
  - for the exercise of a judicial or quasi-judicial function by the organisation.

The Immigration Department, as the body responsible for issuing HKID Cards, is permitted to collect HKID Card copies for purposes related to its operations.

The following two circumstances are specified NOT to be sufficient to justify the collection of a HKID Card copy:

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





## Frequently Asked Questions

- Q1:** Can the security staff of a building ask me to enter my HKID Card number in a visitors' log book at the entrance of a building?
- Q2:** Can an equipment rental company ask to record my HKID Card number if I rent a piece of equipment?
- Q3:** Can a police officer ask me to show him my HKID Card?
- Q4:** Can an organisation ask me to provide my HKID Card number or copy for a lucky draw?
- Q5:** Can a club ask to record my HKID Card number and to provide a copy of my HKID Card if I apply to be a member?
- Q6:** Can a prospective employer ask to record my HKID Card number or collect a copy of my HKID Card when I attend a job interview?
- Q7:** Can my employer collect a copy of my HKID Card?
- Q8:** Can banks, insurance companies or estate agents collect a copy of my HKID Card before I engage their services?



**Q1: Can the security staff of a building ask me to enter my HKID 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 HKID Card number. If such monitoring is not feasible, they are allowed to collect your HKID Card number after giving you the option to choose any less privacy-intrusive alternatives wherever practicable. 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 HKID 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 number of a public utility company, or identification by someone known to the security staff, e.g. by a resident in the case of a residential building.



**Q2: Can an equipment rental company ask to record my HKID 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 HKID Card number. If the equipment in question is of a more than trivial value, e.g. a vehicle, the company may, after giving you the option to choose any less privacy-intrusive alternatives wherever practicable, record your HKID Card number as a condition for allowing you to have custody or control of the property.



**Q3: Can a police officer ask me to show him my HKID Card?**

**A:** A request to show your HKID Card, without the requestor making a record of any information on the Card, is not covered by the Code. Generally, however, if a police officer or other public officer, i.e. staff members of Government departments, ask to record your HKID Card number in your dealings with them, you should let them do so, as these officers have statutory powers to require an individual to furnish his HKID Card number in dealings with the Government.



**Q4: Can an organisation ask me to provide my HKID Card number or copy for a lucky draw?**

**A:** Generally speaking, there is no justification under the Code for collecting either your HKID Card number or a copy of your HKID Card when you enter into a lucky draw, and are issued a numbered ticket. This is because this numbered 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 an entrant's HKID Card number may be justified after giving you the option to choose any less privacy-intrusive alternatives wherever practicable in order to ensure that the prize is given to the true winner. However, generally speaking, the organisation should not collect a copy of the HKID Card of an entrant as opposed to his HKID Card number, to any lucky draws, irrespective of whether there are any tickets issued.



**Q5: Can a club ask to record my HKID Card number and to provide a copy of my HKID Card if I apply to be a member?**

**A:** Generally speaking, collection of a HKID Card number of a member 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' HKID Cards.



**Q6: Can a prospective employer ask to record my HKID Card number or collect a copy of my HKID Card when I attend a job interview?**

**A:** In order to check whether you have applied for or held a position in the company before, the employer of a sizable company may be justified in collecting a record of your HKID Card number. However, a copy of your HKID Card should not be collected unless and until you have accepted an offer of employment.

**Q7: Can my employer collect a copy of my HKID Card?**

**A:** Yes, as a copy of your HKID Card is evidence of your employer having inspected it before you are employed, as required under the Immigration Ordinance. However, your employer is required by the Code to mark the word “copy” on the copy of your HKID Card to reduce the chance for misuse and abuse.

**Q8: Can banks, insurance companies or estate agencies collect a copy of my HKID Card before I engage their service?**

**A:** Yes, banks, insurance companies and Designated Non-Financial Businesses and Professions, including but not limited to accounting professionals, estate agencies, legal professionals, trust and company service providers, and category B precious metal & stone registrants, are required to collect a copy of your HKID Card as proof that they have carried out the customer due diligence measures as stipulated under sections 2 and 3 of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance. However, the word “copy” should be marked on the copy of your HKID Card.





## Enquiries and Complaints

If you think that an organisation's practices in relation to HKID Card numbers or copies do not comply with the requirements of the Code, you should, in the first instance, raise this with the organisation in the manner suggested in this publication. If you do not get a reasonable answer, you can approach the Office of the Privacy Commissioner for Personal Data, Hong Kong for further guidance on the issue or to make a complaint, as appropriate.

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*The publication is given for reference purposes only and without prejudice to the exercise by the Commissioner of any of his powers and functions under the Ordinance. For a definitive statement of the requirements of the Code, reference should be made to the Code itself approved and revised by the Commissioner in April 2016.*

**Tel : 2827 2827**

**Fax : 2877 7026**

**Address : Unit 1303, 13/F, Dah Sing Financial Centre,  
248 Queen's Road East, Wanchai, Hong Kong**

**E-mail : [communications@pcpd.org.hk](mailto:communications@pcpd.org.hk)**



**PCPD Website:**  
[pcpd.org.hk](http://pcpd.org.hk)



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