

# Understanding the Code of Practice on Human Resource Management

## Frequently Asked Questions About Recruitment Advertisements

The Code of Practice on Human Resource Management (“the Code”) was issued pursuant to section 12 of the Personal Data (Privacy) Ordinance (“the Ordinance”). The Code provides practical guidance to employers and their staff on how to properly handle personal data relating to the employment process.

In relation to recruitment advertisements, the Code requires parties that place recruitment advertisements to identify themselves and state the purpose for which the data is to be used if they directly solicit personal data from job applicants in a recruitment advertisement. This information leaflet examines the particular requirements of the Code in respect of recruitment advertisements.

### ▶▶ Q1 What is a “blind” recruitment advertisement in the context of the Code?

A: Generally speaking, a “blind” recruitment advertisement is one that does not identify either the employer or the employment agency acting on its behalf.

### ▶▶ Q2 Does the Code apply to all recruitment advertisements?

A: No. The Code applies only to recruitment advertisements that directly solicit personal data from job applicants. For example, if the advertisement merely invites job seekers to write in to obtain an application form or contact a representative person, there is no direct solicitation of personal data. However, under the Code, an employer or the employment agency acting on its behalf is not permitted to use a “blind” recruitment advertisement to directly invite job applicants to submit their résumés.

### ▶▶ Q3 Under what circumstances can job applicants be asked in a recruitment advertisement to submit personal data?

A: An employer or recruitment agency who clearly indicates its identity may ask job applicants to submit personal data in a recruitment advertisement, provided that the data is adequate but not excessive in relation to the purpose of recruitment and is to be used lawfully (section 2 of the Code).

#### THE ALPHA CORPORATION COMPANY ASSISTANT

- Form 5 or above
- Knowledge of company secretarial duties

Please send résumé to PO Box 100

Personal data collected will be used for  
recruitment purposes only



## ▶ Q4 Why is an employer required to identify itself in recruitment advertisements that solicit personal data from job applicants?

A: An employer (whether or not through its appointed recruitment agency) who collects personal data from job applicants without identifying itself, might have engaged in an act of unfair collection of personal data contrary to the requirement of Data Protection Principle 1(2) of the Ordinance (“DPP1(2)”). DPP1(2) provides that personal data shall be collected by means which are lawful and fair in the circumstances of the case. It would generally not be fair for persons collecting personal data not to identify themselves when collecting personal information from job applicants since the latter will not know to whom they are providing their personal data when making a job application.

Secondly, personal data collected from job applicants is subject to access and correction by the person concerned. Unless exempted from doing so under the Ordinance, an employer is required to provide a copy of the data no later than 40 days after receiving a data access request. Job applicants would not be able to exercise their data access rights if the identity of the organisation which collected their personal data is not disclosed in the advertisement (clause 2.11 of the Code).

## ▶ Q5 What can an employer do if it wants to conceal its identity in a recruitment advertisement without contravening the Code?

A: If an employer finds it necessary to conceal its identity in a recruitment advertisement, it should not require job applicants to submit their personal data in response to the advertisement. In this circumstance, an employer may provide a telephone number in the advertisement for further enquiries or provide job applicants, upon request, with an application form that bears the employer’s identity. Alternatively, the employer may use a recruitment agency identified in the advertisement to receive the personal data solicited from applicants (clause 2.3.3 of the Code).

### COMPANY ASSISTANT

- Form 5 or above
- Knowledge of company secretarial duties

Interested parties please contact Miss Chan on 2808-xxxx



### COMPANY ASSISTANT

- Form 5 or above
- Knowledge of company secretarial duties

Interested parties please apply to our website at [www.abc.org.hk](http://www.abc.org.hk)



### COMPANY ASSISTANT

- Form 5 or above
- Knowledge of company secretarial duties

Interested parties please write to PO Box 100 to obtain an application form



### OUR CLIENT SEEKS A COMPANY ASSISTANT

- Form 5 or above
- Knowledge of company secretarial duties

Interested parties please contact ABC Recruitment Agency on 2808-xxxx or send résumé to ABC Recruitment Agency at 5/F, 123 Kings Road, H.K.

Personal data collected will be used for recruitment purposes only



**Q6 Can an employer directly solicit personal data from job applicants if it merely uses its company's email address, telephone number or fax number as a means of identifying itself in a recruitment advertisement?**

A: No. A company's email address, telephone number or fax number is generally not considered to be sufficient identification of the employer.

**COMPANY ASSISTANT**

- Form 5 or above
- Knowledge of company secretarial duties

Interested parties please send résumé to  
**abc@abc.org.hk**

Tel: 2808-xxxx Fax: 2818-xxxx

Personal data collected will be used for  
recruitment purposes only



**Q7 Can an employer display its company logo as a means of identifying itself in a recruitment advertisement if it directly solicits personal data from job applicants?**

A: In this case, the requirement of the Code is satisfied only if the full name of the company appears in the logo.

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**Q8 Does a person who wants to hire a driver, gardener or domestic helper, in a personal capacity, have to identify him/herself in a recruitment advertisement if he/she directly solicits personal data from job applicants?**

A: Yes. All employers, whether individuals or organisations, are required to comply with the provisions of the Code. In this respect, employers must also identify themselves if they directly solicit personal data from job applicants in recruitment advertisements. If they do not wish to disclose their identity in the job advertisement, a telephone number may be provided in the advertisement for further enquiries before any personal data is collected.

**FAMILY DRIVER**

- 10 years' driving experience

Interested parties please send personal details to  
**5/F, 123 Kings Road, H.K.**

Personal data collected will be used for  
recruitment purposes only



**FAMILY DRIVER**

- 10 years' driving experience

Interested parties please call 2808-xxxx



➤ **Q9 Some employers provide their fax number, postal address or email address in a recruitment advertisement without explicitly asking job applicants to submit their personal data. Is this practice acceptable under the Code?**

A: No. The practice of employers providing a fax number, postal address or email address in a recruitment advertisement is perceived as a way of inviting job applicants to submit their personal data and is not permissible under the provisions of the Code.

**COMPANY ASSISTANT**

- Form 5 or above
- Knowledge of company secretarial duties

Tel: 2808-xxxx      Email: abc@abc.org.hk

**Personal data collected will be used for recruitment purposes only**



➤ **Q10 If an employer engages a recruitment agency to undertake recruitment on its behalf, whose identity has to be revealed in the recruitment advertisement?**

A: In the case where an employer engages a recruitment agency to undertake recruitment, only the agency needs to be identified in the advertisement (clauses 2.2 and 2.3.3 of the Code).

**OUR CLIENT SEEKS A COMPANY ASSISTANT**

- Form 5 or above
- Knowledge of company secretarial duties

**Please send résumé to ABC Recruitment Agency at 5/F, 123 Kings Road, H.K.**

**Personal data collected will be used for recruitment purposes only**



➤ **Q11 Can a subsidiary company place a recruitment advertisement under the name of the holding company?**

A: No. Unless it is made known in the advertisement that the holding company acts as an agent in administering the recruitment process for the subsidiary company, otherwise the subsidiary company must disclose its identity in a recruitment advertisement.

➤ **Q12 Should an employer provide a notification statement regarding the purpose of use of the personal data submitted by job applicants in a recruitment advertisement?**

A: Yes. The Code requires an employer to take all practicable steps to ensure that job applicants are informed of certain matters in accordance with the notification requirements of Data Protection Principle 1(3) of the Ordinance. Generally, the notification can be made in the form of a Personal Information Collection Statement (“PICS”) on or before personal data is collected. In the case of a recruitment advertisement that directly solicits personal data from job applicants for recruitment purposes, a statement such as – “Personal data collected will be used for recruitment purposes only” should be included as an integral part of the advertisement.

### ▶ Q13 What can an employer do if it does not wish to include a PICS in a recruitment advertisement?

A: An employer may state in the recruitment advertisement the telephone number and contact person from whom a copy of the PICS pertaining to recruitment may be obtained or provide the address of its website on which the PICS is made available. Alternatively, employers may invite job applicants to respond by completing a job application form that details the PICS issued by the employer.

### ▶ Q14 Would an employer be exempted from disclosing its identity by providing a PICS if it wants to directly solicit personal data from job applicants in a recruitment advertisement?

A: No. If an employer wants to solicit personal data directly from job applicants in a recruitment advertisement, it must identify itself in the first place. However, if an employer merely asks job applicants to contact the company by telephone or request an application form by mail, a PICS would not be required at this stage.

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**Tel: 2808-xxxx    Fax: 2818-xxxx**

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### ▶ Q15 Can an employer invite job applicants in a recruitment advertisement to submit a job application online at the employer's website?

A: An employer may do so but must comply with the requirements of the Code since an application invited online amounts to the collection of personal data from applicants. When an employer requires job applicants to submit personal data in an online format on the company website, the identity of the employer should be disclosed, and the PICS notification requirements must be fulfilled. In this case, the PICS can be displayed as a hyperlink to the online form or as a “pop-up” screen when a “confirm” button is clicked prior to the transmission of the online form (clause 2.2.6 of the Code).

### ▶ Q16 Can an employer or a recruitment agency, in the absence of any actual vacancy, place a recruitment advertisement to solicit job applicants' personal data?

A: Obtaining personal data by misrepresenting the purpose of collection may amount to an act of collection by means that are unfair in the circumstances (clause 2.3.4. of the Code). In particular, a recruitment advertisement should not be placed for testing the job market situation or for putting pressure on existing staff.

## ▶ Q17 Would the recruitment media (i.e. magazines, publications and websites) be liable for the “blind” recruitment advertisements they publish or post on their sites that directly solicit personal data?

A: “Blind” recruitment advertisements, as illustrated by the above examples, are not difficult to detect. As recommended best practice, the recruitment media may assist their customers (i.e. the employers who placed the advertisements) to observe the legal requirements by implementing screening mechanism to filter out advertisements which may lead to a possible breach of the Ordinance. Such practice not only assists the employers, but also helps to build the good reputation of the recruitment media in protecting personal data privacy and gain the confidence of job applicants.

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### Office of the Privacy Commissioner for Personal Data, Hong Kong

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