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Introduction 引言

私隱專員簡報

Privacy
Commissioner's
Overview

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個人資料私隱專員

Privacy Commissioner for Personal Data



引言

本人在二零零一年十一月獲委任為個人資料私隱專員，有機會在香港和國際間推動保障個人資料私隱權利，實在深感榮幸。

我感到非常幸運的，是前任個人資料私隱專員在香港倡導個人資料私隱的過程中早奠下了穩固的基礎。可以說的是，香港市民不單享有媲美世界其他司法地區的全面性個人資料私隱權益，而且對這些權益有明確的理解。由此可見，《個人資料(私隱)條例》(「條例」)及個人資料私隱專員公署(「公署」)的努力已收成效，令市民了解個人資料私隱的真正價值。更重要的是，這價值已廣為社會所認同。

這是公署的第六份年報，覆蓋期由二零零一年四月一日至二零零二年三月三十一日。在本年報期間，公署須應付不斷上升的工作量，尤其是在查詢及投訴個案方面。自投入服務至二零零二年三月三十一日為止的六年內，公署共處理了超過93,000宗查詢及接近3,000宗投訴個案。這些統計數字告訴了我最少兩件事。第一，公署的工作十分繁重；第二，明顯地香港市民越來越著重他們的個人資料私隱權。這是一件值得高興的事，因為一方面這反映出私隱已成為社會確認的人權，身為一名律師，我很希望能夠見到私隱權利能夠根據法例規定自由及公平地執行。另一方面，投訴個案的數字亦反映出公署應該繼續努力，促使資料使用者，尤其是私營機構及中小型企業，依從法例的規定。

我個人認為，無論是一般私隱或較具體的個人資料私隱，尊重私隱都是後文明及先進社會的指標。我相信我任內的工作範圍之一，是帶領公署成功邁向一個長遠的目標，就是向市民灌輸尊重他人私隱的意識。這即是說，透過公署在個人資料私隱方面的策略及積極措施，希望能夠在提升保障私隱方面取得更大的成果。

Introduction

I was honoured to be appointed Privacy Commissioner for Personal Data in November 2001 and relish the prospect of protecting and advancing personal data privacy rights both in Hong Kong and internationally.

I have been most fortunate in that my predecessor pioneered the cause of personal data privacy in Hong Kong and, in the process, laid a very solid foundation for me to inherit. I think it is fair to say that the citizens of Hong Kong not only enjoy some of the most comprehensive personal data privacy rights of any jurisdiction in the world but that they have a clear awareness of those rights. This suggests to me that the Personal Data (Privacy) Ordinance, and the sustained work of the Privacy Commissioner's Office ("the PCO"), have created a genuine value for personal data privacy. More importantly, that value is widely acknowledged by society.

This is the PCO's sixth annual report and covers the period from 1st April 2001 to 31st March 2002. Over the course of the year the PCO has had to deal with growing volumes of work, notably in the number of enquiries received and complaints processed. As at 31st March 2002 we have dealt with in excess of 93,000 enquiries and nearly 3000 complaints in the six years that the PCO has been in operation. These statistics tell me at least two things. First, the PCO is not short of business! Secondly, it is very evident that the citizens of Hong Kong are increasingly willing to exercise their personal data privacy rights. This is gratifying in one sense because it indicates that privacy is now an established human right and, as a lawyer, I would like to see that right freely exercised and impartially enforced in accordance with the law. In another sense though the complaint figures demonstrate that we need to sustain our efforts and motivate data users to become compliant with the law. This is particularly so in the private sector and among small and medium sized enterprises.

My personal view would be that respect for privacy, both in a generic sense and the more specific sense of personal data privacy, is an index of a postmodern and sophisticated society. I think that one measure of my tenure will be the extent to which the PCO works successfully towards a longer term vision which is that of instilling respect for the privacy of another in a more generic sense. That is, through our strategies and initiatives in the arena of personal data privacy we should be able to leverage our gains and advance privacy per se.

我亦渴望能夠藉此長遠目標來鼓勵公營或私營機構的資料使用者，使他們能夠把私隱的概念融入機構的核心文化內。就此，我亦明白到公署必須摒除一般人對條例的誤解，以為它是強加於資料使用者身上的專橫規定。事實剛好相反，遵守條例的規定其實能夠為機構帶來莫大的好處，特別是私營機構。

本人深信，在競爭劇烈的經濟體系中，例如香港，尊重個人資料私隱有助商業機構加強本身的競爭力。良好的個人資料管理措施能讓顧客分辨出貨品或服務的優劣，這只會對業務帶來好處，因此值得機構認真考慮採用。實際上，美國早已將這樣的論據付諸行動，許多大型機構已聘請總私隱主任，直接向行政總裁負責。對香港來說，這做法可能尚未成氣候，但卻值得大家深思，因這意味著個人資料的管理是必須要勇於承擔和負責任的。這是實行企業管制措施的表現，亦是良好企業管理這個更大概念的一個主要部份。

如果可以將這方面的注意力轉移至電子商貿市場上的話，有充份證據顯示(包括公署每年進行的資料當事人意見調查結果)，網上購物消費在整體消費佔一個如此低的百分率，主要是因為缺乏管制所引致。無數的意見調查顯示，本港的消費者想控制自己的個人資料，就如想控制自己的個人消費一樣。特別對網上世界的隱形交易而言，這種意欲尤為強大。這種無形交易，使準消費者害怕他們的個人資料會在未經授權的情況下被他人使用。

個人資料私隱、黑客活動，以及網上騙案等，都是社會關注的問題，這種種疑慮亦成為了拓展電子商貿的絆腳石。

I also want very much to be able to use this vision to encourage data users, in either the private or public sector, to embrace privacy as part of their core culture. In doing so I am conscious of the fact that the PCO needs to dispel any mis-conception that our Ordinance is in some way a bureaucratic imposition foisted upon data users. Quite the contrary, particularly in the private sector, there are considerable benefits from becoming a privacy-compliant organization.

It is my firm belief that in a highly competitive economy, such as Hong Kong's, respect for personal data privacy can bring competitive advantage to business organizations. Good personal data management practices are worthy of serious consideration because they offer the opportunity to differentiate the product or service in a manner that is valued by the consumer, and that can only be good for business. Indeed, the significance of this argument has already been realized in the USA where larger organizations have taken to appointing a Chief Privacy Officer reporting to the CEO. That may be a little premature for Hong Kong but it is a development that should be contemplated because it signifies that responsibility and accountability have been attached to the management of personal data. This is symptomatic of exercising corporate control, which is part of a larger concept of good corporate governance.

If I may shift the focus of this appeal to the E-Business marketplace there is considerable evidence, including findings from the PCO's annual data subjects survey, that it is the absence of controls that explains why consumer expenditure online remains such a very small percentage of total consumer expenditure. Survey after survey reveals that consumers in Hong Kong want to control their personal data just as they want to control their personal expenditure. The desire for control is amplified in the online world where transactions are invisible. It is this invisibility that heightens the fears of prospective consumers in terms of unauthorized use of their personal data.

Personal data privacy, hacking and online fraud concerns add up to a lot of concern, and those collective concerns act as an impediment to the expansion of E-Business.



顯而易見的一點，是消費者要求電子商貿的賣家嚴格管制個人資料的使用。可惜大眾所得到的訊息，是資訊科技界往往利用科技去蒐集他人的個人資料多於保障顧客的身份。結果是顧客的憂慮始終驅之不散，大家對此情況實在不應感到驚訝。釋除這些疑慮的其中一個方法，是本港的網上賣家主動就保障個人資料私隱權益編製及發出電子商貿賣家專業守則。這些專業守則屬自願性質的自我規管措施，簽訂守則各方必須嚴格遵守及互相監管。

見到公署能夠在年內推行的一項主要計劃達致預期的效果，我感到十分高興。公署編製的《人力資源管理實務守則》在二零零一年四月生效。人力資源管理專業人士提出訴求，希望公署能夠指導他們如何能夠把條例的規定應用在招聘、僱傭及遣散等個人資料管理事宜上。公署很樂意地為他們編製守則，將條例的技術性條文轉化為務實性的指引。除了充份反映出公署與商界的緊密合作外，更值得高興的是，公署憑此在二零零一年六月的亞洲人力資源獎頒獎典禮上贏取了人力資源傑出貢獻獎。

年內，公署進行了兩項重大計劃，包括編製《監察活動及工作期間的個人資料私隱實務守則》，以及修訂《個人信貸資料實務守則》。

首項計劃，即《監察活動及工作期間的個人資料私隱實務守則》，是應香港法律改革委員會在一九九九年發表的《侵犯私隱的民事責任諮詢文件》的建議而編製的。該諮詢文件建議公署發表一套「為僱主、僱員及公眾人士提供實用的指引」的實務守則。在考慮過顧問就其他司法區的經驗提交的報告後，公署在二零零二年三月完成上述守則的草擬本，並以諮詢文件的形式發表該守則草擬本。

It is also apparent that consumers want E-Vendors to exercise stringent controls on the use of personal data. Again, rather unfortunately, the message that all too frequently comes across is that those in the IT world are more predisposed towards using technology to track and profile consumers than they are to use technology to protect the identity of the consumer. As a consequence it is not surprising that consumer anxieties continue to persist. One way of allaying those fears might be for .hk vendors to take the initiative by drafting and disseminating E-Vendor Codes of Conduct on the protection of personal data privacy rights. Such codes could amount to voluntary self-regulation and would need to be policed by signatories to the Code.

I am pleased to report that during the course of the year a major PCO project came to fruition. In April 2001 the Code of Practice on Human Resource Management came into effect. This initiative offers a good illustration of the way in which the PCO works closely with the business community. The Code was a response to a call from HRM professionals to assist them in applying the provisions of the PD(P)O to the management of personal data in the context of recruitment, employment and severance. It was gratifying to be able to assist managers in translating the technical language of the Ordinance into pragmatic guidelines. It was even more gratifying for the PCO to win the Outstanding Contribution to Human Resources at the Asian HR Awards ceremony in June 2001.

Over the course of the year we have become involved in two major projects: The Code of Practice on Monitoring and Personal Data Privacy at Work, and revisions to the Code of Practice on Consumer Credit Data.

The first of these, the Code of Practice on Monitoring and Personal Data Privacy at Work, was a response to a recommendation made by the Law Reform Commission in a 1999 consultation paper titled Civil Liability for Invasion of Privacy. That recommendation suggested that the PCO promulgate a code "for the practical guidance of employers, employees and the general public." After considering the recommendations of consultants engaged to report on the experience of other jurisdictions the PCO completed the draft Code in March for release as a consultation paper.

這是一項十分繁重的工作，公署需要顧及各方面利益，甚具挑戰性。一方面，管理階層有權控制業務上的資產及資源；另一方面，僱員在工作間應該被尊重，其個人資料私隱亦應該受到保障。為求平衡雙方面的權益，實務守則草擬本主要環繞兩項重要原則：透明度和相稱性。

我覺得這項計劃是公署在日常工作中經常面對的挑戰的典型例子，須設法在不妥協的情況下協調不同的利益。條例詳細臚列了公署的職責，而我們的責任就是要以高度專業的手法履行有關職責。我們亦視自己為香港特別行政區的私隱權益先鋒。話雖如此，我們亦深明在私隱事宜上不能只顧及某一方面的利益，而須要設法包容其他權益。只有這樣，我們才能制訂良好的政策。在意義上，實際可行的政策才可稱得上是良好的政策。故此，在制訂政策時，我們必須先達成共識，才能找出實際的解決方案。實際上，這即是說，私隱權益是不應該凌駕其他權益，例如公眾利益。

這觀點帶出了公署在處理另一項主要工作時所採取的處理手法。

自二零零一年下半年起，財經界開始面對越來越嚴峻的困難。這個問題就是持續上升的信用卡及個人貸款欠帳額，以及大幅上升的破產申請數目。雖然困難的主因是經濟不景所導致，但問題的源頭其實頗為複雜。各政府部門 / 機構及財經界代表廣泛討論的結果，是建議放寬《個人信貸資料實務守則》，讓銀行共用他們提供予信貸資料服務機構作信貸報告及評分之用的正面信貸資料。

The project was taxing in that it presented the PCO with the challenge of having to accommodate multiple interests. The first of these pertain to the rights of managers to manage the assets and resources of the business. The second set of interests relates to the rights of employees to be treated with dignity and have their personal data privacy rights respected in the workplace. In trying to strike an equitable balance between these rights the draft code was framed around two important principles, those of transparency and proportionality.

In my view this project is representative of the type of challenge that is a recurrent feature of our work namely, reconciling distinct sets of interests without compromising them. The PCO's responsibilities are well defined in the Personal Data (Privacy) Ordinance and it is our duty to discharge those responsibilities with a high degree of professionalism. We would also regard ourselves as being a leading advocate of privacy rights in the HKSAR. However, having said that, we are conscious of the fact that we need to temper any 'purist' position on privacy-related matters by endeavouring to accommodate other interests. Only by so doing will we be able to generate good policies: by definition good policies are policies that work. Arriving at pragmatic solutions therefore necessitates consensus and it is our aim to utilize this approach to decision making when formulating policy. In effect this means that in any absolute sense privacy rights should not assume supremacy over other rights, for example, the public interest.

This brings me to an illustration of this point and the modus operandi that we have chosen to adopt in relation to a second major project the PCO have become involved with.

In the latter part of 2001 the financial services sector began to face problems that grew more severe as each month passed. The problems are complex in their origin although economic adversity is the commonly ascribed cause. The problem was the level of default on outstanding credit card and loan balances and the burgeoning numbers of those filing for bankruptcy. After extensive discussions between government departments/agencies and representatives of the financial sector the proposal put forward was that there should be a revision of the current provisions of the Code of Practice on Consumer Credit Data. The proposal currently under consideration is that there should be some relaxation of the sharing of positive credit data by the banks to a credit reference agency ("CRA") for the purposes of credit reporting and credit scoring.



公署明白到，在現代人的生活中，收集個人資料是有必要的，亦是全球化社會中不可分割的一環。雖然在其他司法區，例如美國及英國，早已共用正面信貸資料，但這項建議畢竟涉及敏感的私隱問題。從這些司法區取得的經驗顯示，讓銀行及信貸資料服務機構共用正面信貸資料，對有良好信貸記錄的借款人有好處，包括可專享為他們而設的新產品及服務，以及較優惠的利率等等。故此，我們必須設法找出一個能夠維護公眾利益及推動香港經濟復蘇的方案，在保障私隱權利之餘，亦有助財務機構解決困難。

展望將來，我相信公署會面對更多複雜的問題，例如監察公眾活動的攝影系統、智能咭、生物識辨科技及中央醫療記錄等，全部都需要用以上提及的方案解決問題。此外，本人亦相信在不久將來，香港可能需要慎重考慮如何處理私隱與資訊自由等問題。在一些司法區，專員要身兼私隱專員及資訊專員兩職。對一些人來說，這看似有利益衝突，但就層面較廣的言論自由和資訊自由而言，私隱的定義可能需要重新釐訂。

本人認為，未來五年可說是公署的發展期，在工作上可能需要考慮新的方向，例如擴大條例的管轄範圍，以涵蓋目前不屬條例範圍的私隱問題。雖然任何對公署的基本職能及職權作出的檢討都必須有充份的理據作支持，但這方面的確有明顯的需要，因為好些與私隱有關的問題目前是沒有任何政府部門或法定機構受理的。這即是說，被侵權人士唯有選擇啞忍自己的私隱受到侵犯，或是採取民事訴訟行動。不過，這兩種做法都似乎有欠理想。

The collection of personal data is a necessary fact of modern life; an inextricable aspect of a globalised society, and the PCO freely acknowledges this. The proposal put forward involves sensitive privacy issues although it should be said that positive credit data is shared in other jurisdictions such as the USA and UK. The evidence of those jurisdictions is that where positive credit data is shared between a bank and the CRA there are demonstrated benefits for the borrower with a good record of credit worthiness. These benefits range from exclusive access to new products and services and tiered pricing on interest charges. The challenge therefore is to find a solution that will adequately safeguard privacy interests, assist financial institutions, and in so doing best serve the public interest and Hong Kong's economic recovery.

In looking to the future I believe that the PCO will likely confront complex issues e.g. public surveillance cameras, smart cards, biometrics and centralized medical records databases, which will demand solutions of the nature I have described. I also believe that at some stage in the relatively near future Hong Kong will have to give serious thought as to how it is going to manage privacy and freedom of information issues. In some jurisdictions Commissioners have already been appointed that wear both hats, that of Privacy Commissioner and Information Commissioner. To some this may seem a conflict of interests but it may well signal a redefinition of privacy in the broader context of freedom of expression and freedom of information.

I think that I would best describe the next five years as marking a developmental phase in the evolution of the PCO. This may necessitate considering new options such as broadening the remit of the Personal Data (Privacy) Ordinance to accommodate privacy issues not currently addressed by the provisions. Any such review of the fundamental role and function of the PCO would have to be well grounded. However, it is apparent that there is something of a frustrated demand in that certain privacy-related issues are not currently being addressed by any government department or statutory agency. This means that the only options open to aggrieved individuals are to tolerate invasions of their privacy or to seek redress by taking civil action. Either option seems a less than satisfactory state of affairs.

另一個選擇是重新介定公署所擔當的角色，以納入資訊方面的職能。這種職能合併的新趨勢已在歐洲出現，我們會留意它的發展及對香港的影響。

肯定地說，隨著世界經濟復蘇，跨境傳輸個人資料將會增加，香港必須確保私隱權益受到充份保障。這樣說來，我們須重新研究條例中唯一仍未生效的條文——條例的第33條。第33條與跨境資料傳輸有關，是根據歐洲聯盟（「歐盟」）的嚴格規例而訂。基本上，這些規例訂明任何與歐盟成員國進行貿易的非成員國均須申請「合格」證明，以示其私隱保障法例符合歐盟的資料保障要求。若得不到該「合格」證明的話，非成員國便須制訂私隱保障體制，在原則上符合歐盟綱領在個人資料保障方面的規定。若無法符合歐盟「合格」要求的話，非成員國便會受到制裁。如歐盟國家與非成員國之間的貿易涉及跨境傳輸個人資料的話，有關的制裁或許會妨礙彼此間的貿易。

在作出結論前，本人想再強調早提到的一點。明顯地，香港市民非常重視他們的私隱權利。即使在紐約及華盛頓發生的九一一事件後，亦無法動搖香港人維護及保障私隱權的決心。由此，我認為私隱權已普遍被香港人接受，認知程度亦越來越高。而政府和社會在此事上沒有作出輕率的反應，值得嘉許。

總括來說，香港若要維持已建立在保障及尊重個人資料私隱權利方面的良好聲譽，將需要解決許多重大的問題。事實上，大家必須經常保持警覺，因為私隱並不是一個靜止的概念，而是與時俱進的。在公署邁向另一發展階段之際，本人幸好有一群盡心盡力的同事從旁襄助。在群策群力下，本人相信我們定能繼續維護香港的私隱權益，並且繼續得到世界上與我們有良好工作關係的司法區的尊重。

Alternatively, the role of the PCO may have to be redefined to accommodate an information portfolio. This combination of functions seems to be an emergent trend in Europe. We will have to wait and see how that trend develops and what the implications are for Hong Kong.

Certainly, as the trans-border flow of personal data increases with the resurgence of world economies Hong Kong will have to ensure that privacy interests are adequately protected. This means that Section 33 of the Ordinance, which is the only section that has yet to come into effect, will have to be revisited. Section 33 deals with trans-border data flows that are subject to strict European Union regulations. In essence those regulations stipulate that to trade with any European Union member State a non-member State will have to apply for 'adequacy' of its privacy legislation vis-a-vis EU directives. Alternatively, a non-member State will have to have in place some sort of privacy regimen that in principle meets EU directives on the protection of personal data. Non-compliance on the part of a non-member State to meet the EU's 'adequacy' requirements could mean the imposition of sanctions. Those sanctions may impede trade between the EU and non-member States where that trade necessitates the transfer of personal data across borders.

Before concluding I would like to re-emphasize a point made earlier. It is abundantly clear that the citizens of Hong Kong value their privacy rights. Not even the events of the 11 September in New York and Washington have diminished the determination to preserve and protect this aspect of human rights in Hong Kong. My interpretation of that position is that privacy rights are robust and that there has been a measured response to sustaining that resilience. This is both laudable and a credit to the community and the Administration in that they have resisted any knee jerk reaction.

In conclusion there are many weighty issues to be resolved in the medium term if Hong Kong is to retain its worldwide reputation as a place where personal data privacy rights are protected and respected. Indeed, there is a need for constant vigilance because privacy is a moving target rather than a finite entity. However, I am fortunate in being able to lead a dedicated team as we embark upon the next phase of the PCO's development. I believe we have the collective experience and commitment to ensure that privacy rights in Hong Kong continue to be upheld and command the respect of other jurisdictions around the world that we have good working relationships with.



私隱專員的職責

私隱專員的職責是：

- (一) 監督個人資料私隱專員公署的行政及管理工作；
- (二) 制訂行動方針及程序，以執行《個人資料(私隱)條例》(「條例」)的規定；
- (三) 監察及監管各界遵守條例的規定；
- (四) 行使核准及發出實務守則的權力，為遵守條例的規定提供實務性指引；
- (五) 加強各界對條例的認識和理解，以及促使各界遵守條例的規定；
- (六) 對他認為可能影響個人資料私隱的建議中的任何法例(包括附屬法例)加以審核，以及向建議制定有關法例的人士報告審核結果；
- (七) 視察機構的個人資料系統，包括政府部門及法定法團的系統；
- (八) 在接獲資料當事人的投訴後，或是主動對涉嫌違反條例規定的情況作出調查；
- (九) 就可能對個人資料私隱有不利影響的個人資料處理方法及電腦科技進行研究，以及監察其發展情況；及
- (十) 就互相關注並涉及個人資料私隱的事項，與香港以外任何地方擔任類似資料保障職能的人士保持聯絡及互相合作。

Duties of the Privacy Commissioner

The duties of the Privacy Commissioner are to:

- (i) oversee the administration and supervision of the PCO;
- (ii) formulate operational policies and procedures to implement the provisions of the Personal Data (Privacy) Ordinance ("the PD(P)O");
- (iii) monitor and supervise compliance with the provisions of the PD(P)O;
- (iv) exercise powers to approve and issue codes of practice providing practical guidance for compliance with the provisions of the PD(P)O;
- (v) promote awareness and understanding of, and compliance with, the provisions of the PD(P)O;
- (vi) examine any proposed legislation (including subsidiary legislation) that the Commissioner considers may affect the privacy of individuals in relation to personal data and report the results of the examination to the persons proposing the legislation;
- (vii) carry out inspections of personal data systems including those of Government departments and statutory corporations;
- (viii) investigate, upon receipt of complaints from data subjects or on his own initiative, suspected breaches of requirements of the PD(P)O;
- (xi) undertake research into, and monitor developments in, the processing of data and computer technology that may have adverse effects on the privacy of individuals in relation to personal data; and
- (x) liaise and cooperate with persons performing similar data protection functions in any place outside Hong Kong in respect of matters of mutual interest concerning the privacy of individuals in relation to personal data.

政策綱要及主要目標

公署的政策綱要是：

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《個人資料(私隱)條例》(「條例」)，以確保個人資料私隱得到保障。

公署的主要目標是確保：

- 個人認識到作為資料當事人，條例所賦予他們的權利，以及懂得如何行使有關權利；
- 公私營機構明白作為資料使用者，它們根據條例須履行的責任，以及懂得如何去履行這些責任；
- 個人及公私營機構明白公署所擔當的角色，以及公署如何可為他們提供協助；
- 以待人有禮及有效率的態度對查詢作出回應，令查詢人士感到滿意；
- 有效地調查及解決投訴，令涉案各方皆感公平；
- 以合乎經濟效益及有效率的方法執行公署的所有其他職能；及
- 所有其他有制定資料保障法例的司法區均認識到香港的保障個人資料私隱法律具有強大的約束力，因而不會干預個人資料自由流入香港。

Mission and Key Goals

The PCO's Mission is:

To secure the protection of privacy of the individual with respect to personal data through promotion, monitoring and supervision of compliance with the Personal Data (Privacy) Ordinance ("the PD(P)O") in a cost effective and efficient manner.

The PCO's Key Goals are to ensure:

- individuals are aware of their rights as data subjects under the PD(P)O and how to exercise them;
- public and private sector organizations are aware of their obligations as data users under the PD(P)O and how to meet them;
- individuals, as well as public and private sector organizations, are aware of the role of the PCO and how it can assist them;
- enquiries are responded to courteously and efficiently to the satisfaction of the enquirer;
- complaints are investigated and resolved efficiently in a manner that is fair to all parties concerned;
- all other functions of the PCO are carried out cost-effectively and efficiently; and
- all other jurisdictions with data protection laws are aware of the robustness of our law in protecting the privacy of the individual with respect to personal data so as to obviate any interference in the free flow of personal data to Hong Kong.



職員及組織架構

公署由私隱專員掌管，負責全面監察和監管條例的施行，並促使各界依從條例的規定。此外，私隱專員亦負責管理公署的整體行政工作。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。

在本年報期完結時，公署的職員編制為34人，分別在下列部門工作：

執行部負責：

- 處理市民及機構就條例提出的一般查詢；
- 接受市民向專員提出的投訴，並且就投訴採取行動；
- 處理資料使用者提出的自動核對資料程序申請；
- 就可能對個人資料私隱有所影響的事宜提供意見；
- 就個人資料系統制定政策及程序，並進行有關視察工作，以及就如何進一步遵守條例規定，向資料使用者提出建議；及
- 就涉嫌違反條例規定的事宜進行調查，並且採取必要的跟進行動，以確保違例者遵守條例的規定。

Staff and Organizational Structure

The PCO is headed by the Privacy Commissioner who has overall responsibility for promoting, monitoring and supervising compliance with the PD(P)O and administering the PCO. A Deputy Privacy Commissioner assists the Privacy Commissioner in the overall administration and strategic planning of the PCO. He also has responsibility for policy issues related to personal data privacy.

The Office had a total establishment of 34 staff at the end of the period under review and was organized into the following divisions:

The Operations Division was responsible for:

- dealing with general enquiries from members of the public and organizations concerning the provisions of the PD(P)O;
- receiving and taking action on complaints lodged with the Privacy Commissioner;
- handling applications from data users for approval of automated data matching procedures;
- providing advice on matters that may affect the privacy of individuals in relation to personal data;
- developing policies and procedures on, and undertaking inspections of, personal data systems and making recommendations to the data users concerned for improved compliance with the provisions of the PD(P)O; and
- conducting investigations of suspected breaches of the PD(P)O and taking appropriate follow up action to ensure compliance with its provisions.

法律部負責：

- 為公署各方面的工作提供法律意見及處理一切法律事宜；
- 監察與公署工作有關的海外資料保障法律的發展；
- 檢討可能對個人資料私隱構成影響的現行及建議中的香港法例並作出報告；及
- 代表私隱專員出席法庭及行政上訴委員會的聆訊。

推廣及培訓部負責：

- 策劃及推行推廣及公眾教育活動；
- 為機構舉辦研討會及講座，教育有關機構認識條例的規定；及
- 對新聞界的查詢作出回應並安排記者會。

行政事務部負責：

- 提供行政支援服務，包括財務、人力資源、總務及資訊服務管理等服務；
- 提供翻譯服務；及
- 為個人資料(私隱)諮詢委員會提供秘書支援服務。

政策部負責：

- 就個人資料私隱問題制定政策立場；
- 就私隱專員擬發表意見的問題，進行比較研究及擬備立場書；及
- 協助草擬實務守則。

The Legal Division was responsible for:

- giving legal advice in respect of all aspects of the work of the PCO and to deal with all legal matters;
- monitoring developments in overseas data protection laws insofar as they are relevant to the work of the PCO;
- reviewing and reporting on existing and proposed Hong Kong legislation that may affect the privacy of the individual with respect to personal data; and
- representing the Privacy Commissioner in any relevant court or Administrative Appeals Board hearings.

The Promotion and Training Division was responsible for:

- developing and implementing promotion and public education programmes;
- organizing seminars and presentations for organizations to educate them on the requirements of the PD(P)O; and
- responding to press enquiries and arranging press briefings.

The Administration Division was responsible for:

- providing administrative support, including financial, human resources, general and information services management;
- providing translation services; and
- providing secretarial support to the Personal Data (Privacy) Advisory Committee.

The Policy Division was responsible for:

- developing policy positions on issues with respect to privacy in relation to personal data;
- undertaking comparative research and drafting position papers on such issues for publication by the Privacy Commissioner; and
- assisting in the preparation of codes of practice.



個人資料(私隱)諮詢委員會及其他委員會

在本年報期間，公署繼續得到個人資料(私隱)諮詢委員會及各個專責小組委員會提供寶貴意見及協助。個人資料(私隱)諮詢委員會是根據條例的規定成立。至於各個專責小組委員會則由私隱專員根據工作需要而設立。委員會成員在各有關委員會的會議上，以及個別委員在特定的問題上，經常向公署提供意見及給予公署支持。

個人資料(私隱)諮詢委員會

條例第11(1)條訂明須設立個人資料(私隱)諮詢委員會，在個人資料私隱方面或其他與條例的施行有關的事宜，向私隱專員提供意見。個人資料(私隱)諮詢委員會主席一職由私隱專員出任，而委員會的其他成員則由民政事務局局長委任。

Personal Data (Privacy) Advisory Committee and other Committees

During the reporting period, the PCO continued to receive invaluable advice and support from the Personal Data (Privacy) Advisory Committee, established under the PD(P)O, and from various task-orientated committees the Privacy Commissioner has set up. Advice and support was rendered by members of the various committees both at meetings of the committees concerned, and on an individual basis, with respect to specific issues that have arisen from time to time.

Personal Data (Privacy) Advisory Committee

Section 11(1) of the PD(P)O provides for the establishment of the Personal Data (Privacy) Advisory Committee to advise the Privacy Commissioner on matters relevant to the privacy of individuals in relation to personal data or otherwise relevant to the operation of the PD(P)O. The Privacy Commissioner is Chairman of the Personal Data (Privacy) Advisory Committee and its other members are appointed by the Secretary for Home Affairs.

民政事務局局長在二零零零年十月委任下列人士為諮詢委員會成員，任期兩年，由二零零零年十月一日起生效：

陳偉群博士
香港總商會助理總裁

劉進圖先生
明報主筆

林文傑先生
路偉律師行律師

陸觀豪太平紳士
恒生銀行有限公司
常務董事兼副行政總裁

徐尉玲太平紳士
香港董事學會行政總裁
江利企業有限公司董事總經理

韋利文教授
香港大學法律學系教授

楊國強太平紳士
易達科技集團有限公司董事兼行政總監

民政事務局副秘書長或首席助理秘書長

In October 2000, the Secretary for Home Affairs appointed the following persons to be members of the Committee for a period of two years with effect from 1 October 2000:

Dr. Chan Wai-kwan
Assistant Director, Hong Kong General Chamber of Commerce

Mr. Kevin Lau
Editorial Writer, Ming Pao

Mr. Mark Lin
Solicitor, Lovells

Mr. Roger Luk, J.P.
Managing Director & Deputy Chief Executive,
Hang Seng Bank Limited

Ms. Carlye Tsui, J.P.
Chief Executive Officer, Hong Kong Institute of Directors and
Managing Director, Omnilink Enterprises Limited

Professor Raymond Wacks
Professor of Law and Legal Theory,
University of Hong Kong

Mr. Yeung Kwok-keung, J.P.
Managing Director, EC Com Limited

Deputy Secretary for Home Affairs or
Principal Assistant Secretary for Home Affairs

個人資料(私隱)諮詢委員會
Personal Data (Privacy) Advisory Committee

主席 Chairman



鄧爾邦先生
Mr. Raymond Tang
個人資料私隱專員
Privacy Commissioner for Personal Data

委員 Members



陳偉群博士
Dr. Chan Wai-kwan
香港總商會助理總裁
Assistant Director,
Hong Kong General
Chamber of Commerce



劉進圖先生
Mr. Kevin Lau
明報主筆
Editorial Writer,
Ming Pao



林文傑先生
Mr. Mark Lin
路偉律師行律師
Solicitor, Lovells



陸觀豪太平紳士
Mr. Roger Luk, J.P.
恒生銀行有限公司
常務董事兼副行政總裁
Managing Director &
Deputy Chief Executive,
Hang Seng Bank
Limited



徐尉玲太平紳士
Ms. Carlye Tsui, J.P.
香港董事學會行政總裁
江利企業有限公司
董事總經理
Chief Executive Officer,
Hong Kong Institute of
Directors and Managing
Director, Omnalink
Enterprises Limited



韋利文教授
Professor Raymond
Wacks
香港大學法律學系教授
Professor of Law and
Legal Theory,
University of Hong Kong



楊國強太平紳士
Mr. Yeung Kwok-
keung, J.P.
易達科技集團有限公司
董事兼行政總監
Managing Director,
EC Com Limited



許鄺芸芸女士
Mrs. Nancy Hui
民政事務局
首席助理秘書長
Principal Assistant
Secretary for Home
Affairs



楊卓廣先生(秘書)
Mr. Joseph Young
(Secretary)
個人資料私隱專員公署
行政及財務經理
Admin & Finance
Manager, PCO

在本年報期間，個人資料(私隱)諮詢委員會舉行了第十四及十五次會議。

第十四次會議在二零零一年九月二十日舉行。在會議上，公署向各成員報告《監察活動及工作期間的個人資料私隱實務守則》草擬本及《私隱影響評估電子私隱手冊》的進展情況。此外，公署亦向各成員匯報「匿名」招聘廣告循規審查的結果、一份關於公共登記冊的報告及《個人信貸資料實務守則》的擬作修訂事項。

在二零零一年十二月十八日舉行的第十五次會議上，公署徵詢各成員對《監察活動及工作期間的個人資料私隱實務守則》草擬本諮詢文件的意見。此外，委員會亦討論了建議修訂《個人資料(私隱)條例》的條例草案的最新進展。

各界人士可要求取得個人資料(私隱)諮詢委員會及私隱專員成立的各個委員會的議程、文件及會議記錄的複本，但須繳付有關資料的影印費用。

During the period under review, the Committee met for the fourteenth and fifteenth time.

At the fourteenth meeting of the Committee held on 20 September 2001, members were advised of the development of the Draft Code of Practice on Monitoring and Personal Data Privacy at Work; and the preparation of the E-Privacy Handbook on Privacy Impact Assessments. Members were also presented with the results of a compliance check exercise on "Blind" Recruitment Advertisements, a report on Public Registers and proposed amendments to the Code of Practice on Consumer Credit Data.

At the fifteenth meeting of the Committee held on 18 December 2001, members' opinions were sought on the consultation document in relation to the Draft Code of Practice on Monitoring and Personal Data Privacy at Work. Other matters discussed by the Committee included a progress update on the proposed Amendment Bill to the Personal Data (Privacy) Ordinance.

Copies of all agenda, papers and minutes of meetings of the Personal Data (Privacy) Advisory Committee and the committees established by the Privacy Commissioner are available on request and payment of a minimal fee to cover photocopying costs.



科技發展常務委員會

根據條例第(8)(l)(f)條的規定，私隱專員須對資料處理及電腦科技進行研究及監察其發展情況，以顧及該等發展對個人資料私隱可能產生的不良影響。公署成立了一個科技發展常務委員會，以協助私隱專員履行此等職能。

在本年報期間，委員會在二零零一年九月十三日舉行了一次會議，公署在會議上徵詢了委員對《監察活動及工作期間的個人資料私隱實務守則》草擬本的擬備情況的意見。此外，委員會亦討論了《私隱影響評估電子私隱手冊》的擬備工作情況。

Standing Committee on Technological Developments

By virtue of section 8(1)(f) of the PD(P)O, the Privacy Commissioner is required to undertake research into, and monitor developments in, the processing of data and computer technology in order to take account of any likely adverse effects such developments may have on the privacy of individuals in relation to personal data. To assist the Privacy Commissioner to carry out this function, a Standing Committee on Technological Developments has been established.

During the period under review, one meeting of the Committee was held on 13 September 2001 in which members were consulted on the preparation of the Draft Code of Practice on Monitoring and Personal Data Privacy at Work. Another matter discussed by the Committee was the preparation of the E-Privacy Handbook on Privacy Impact Assessment.