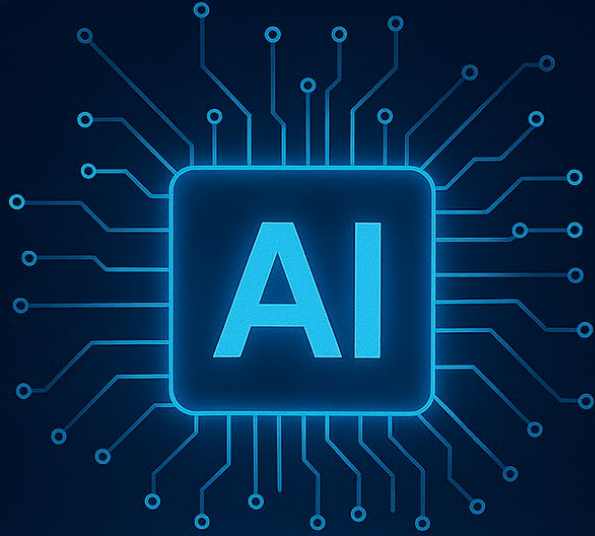




香港個人資料私隱專員公署
Office of the Privacy Commissioner
for Personal Data, Hong Kong

**CROSS STRAIT FOUR REGIONS
YOUNG LAWYERS FORUM**
海峽兩岸暨香港澳門青年律師論壇**2025**



Main Forum – Digital Governance: National Policies Shaping the Legal Landscape of Digitalisation

**Fiona LAI, Acting Assistant Privacy
Commissioner for Personal Data (Legal),
Office of the Privacy Commissioner for
Personal Data**

25 November 2025

AI Generated

Personal Data (Privacy) Ordinance (PDPO)

Hong Kong's personal data protection regime

- Applies to both the private and public sectors
- Technology-neutral and principle-based
- The six DPPs, which cover every item of personal data in the whole data processing cycle from collection, retention, use to destruction, represent the core requirements of the PDPO
- Organisations must comply with the PDPO's requirements and the 6 DPPs when handling personal data, including during the development and use of technologies (e.g. AI)

6 保障資料原則

Data Protection Principles

PCPD.org.hk

1 收集目的及方式 Collection Purpose & Means

資料使用者須以合法和公平的方式，收集他人的個人資料。其目的應直接與其職能或活動有關。
須以切實可行的方法告知資料當事人收集其個人資料的目的，以及資料可能會被轉移給哪類人士。
收集的資料是有實際需要的，而不超乎適度。

Personal data must be collected in a lawful and fair way, for a purpose directly related to a function/activity of the data user.
All practicable steps shall be taken to notify the data subjects of the purpose of data collection, and the classes of persons to whom the data may be transferred.
Data collected should be necessary but not excessive.

2 準確性儲存及保留 Accuracy & Retention

資料使用者須維持持有的個人資料準確無誤。資料的保留時間不應超過達成原來的目的所需的時間。

Personal data is accurate and is not kept for a period longer than is necessary to fulfill the purpose for which it is used.

3 使用 Use

個人資料只限用於收集時述明的目的或直接相關的目的，除非得到資料當事人自願和明確的同意。

Personal data is used for the purpose for which the data is collected or for a directly related purpose, unless voluntary and explicit consent is obtained from the data subject.

4 保安措施 Security

資料使用者須採取切實可行的步驟，保障個人資料不會未經授權或意外地被查閱、處理、刪除、喪失或使用。

A data user needs to take practical steps to safeguard personal data from unauthorised or accidental access, processing, erasure, loss or use.

5 透明度 Openness

資料使用者須公開其處理個人資料的政策和行事方式，交代其持有的個人資料類別和用途。

A data user must make known to the public its personal data policies and practices, types of personal data it holds and how the data is used.

6 查閱及更正 Data Access & Correction

資料當事人有權要求查閱其個人資料；若發現有關個人資料不準確，有權要求更正。

A data subject must be given access to his personal data and to make corrections where the data is inaccurate.

Legal Framework for Data Protection in Chinese Mainland

Three Main Pillars

Cybersecurity Law (CSL)

w.e.f. 1 June 2017

Data Security Law (DSL)

w.e.f. 1 September 2021

Personal Information Protection Law (PIPL)

w.e.f. 1 November 2021

Latest updates on CSL

- The 14th NPCSC **approved an amendment to Cybersecurity Law** in October
- Aims to address the **growing need for artificial intelligence (AI) governance** while **promoting its development**
- Taking effect on **1 January 2026**

3

Building Digital China with Emphasis on Security

CCCPC's Recommendations for Formulating the 15th Five-Year Plan

Advancing the Digital China Initiative

“We should **accelerate innovation in digital and intelligent technologies such as AI...**”

“The **AI Plus Initiative** should be advanced across the board.”

“We must also **strengthen governance over AI** and refine relevant **laws, regulations, policies, systems, application standards, and ethical codes.**”

Modernizing National Security System and Capacity

“**Capacity building on national security** should be bolstered in emerging domains, including **cyberspace, data, AI...**”

“We should **enhance comprehensive cybersecurity governance and better protect personal information**”

“AI Plus” Initiative

A global approach that balances development and security of AI



“AI Plus” Initiative

March 2024	The “AI Plus” Initiative was unveiled in the 2024 Central Government Work Report
March 2025	The need to continuously advance the “AI Plus” Initiative to unleash the creativity of the digital economy was specifically highlighted in the Central Government Work Report
August 2025	The State Council released “Guidelines on Deepening the Implementation of the ‘AI Plus’ Initiative” to promote the extensive and in-depth integration of AI in six key areas

During the 20th Collective Study of the Political Bureau of the Central Committee of the Communist Party of China held in April 2025, General Secretary Xi Jinping emphasised:

“To promote the **healthy and orderly development** of AI in the Country in a **beneficial, safe and fair manner**”

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Balancing development and security of AI

Personal data protection is an important aspect of AI governance

Global AI Governance Initiative (2023)

“We should gradually establish and improve relevant laws, regulations and rules, and **ensure personal privacy and data security in the R&D and application of AI. We oppose theft, tampering, leaking, and other illegal collection and use of personal information.**”

Global AI Governance Action Plan (2025)

“We need to drive the development of AI with high-quality data, collaborate to facilitate the lawful, orderly and free flow of data...At the same time, we need to **actively safeguard personal privacy and data security**”

“We need to **strictly enforce data and privacy protection**, actively explore lawful and orderly transactions of training data, jointly promote the opening and utilization of data compliant with rules and regulations “

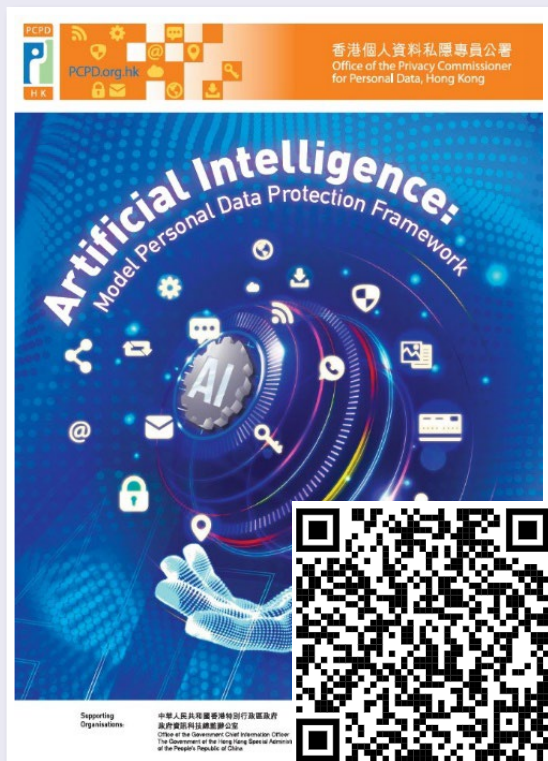
PCPD's Guidance on AI

The PCPD has published different guidance materials in response to AI development

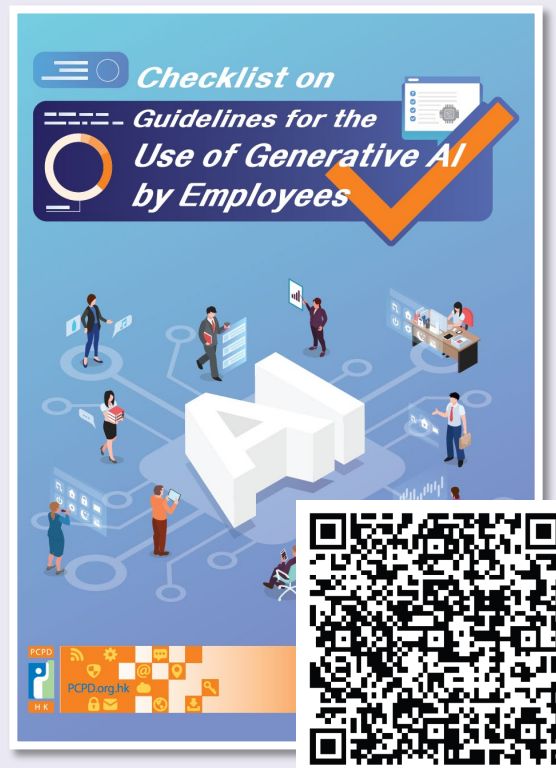
Organisations



Aug 2021



Jun 2024



Mar 2025

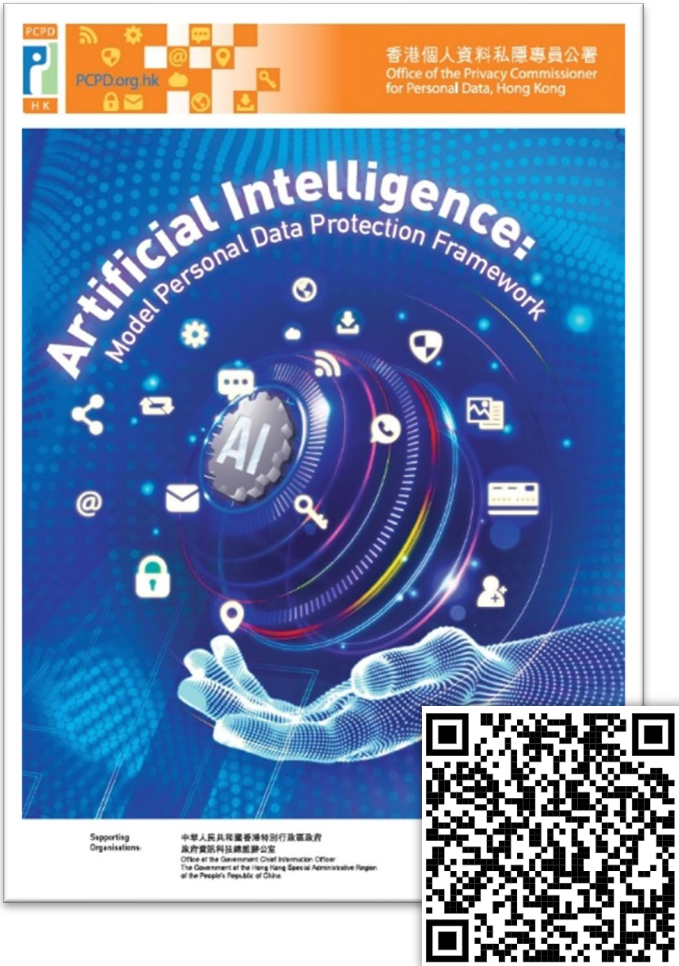
Public



Sep 2023

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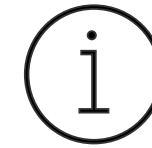
Artificial Intelligence: Model Personal Data Protection Framework (Model Framework)



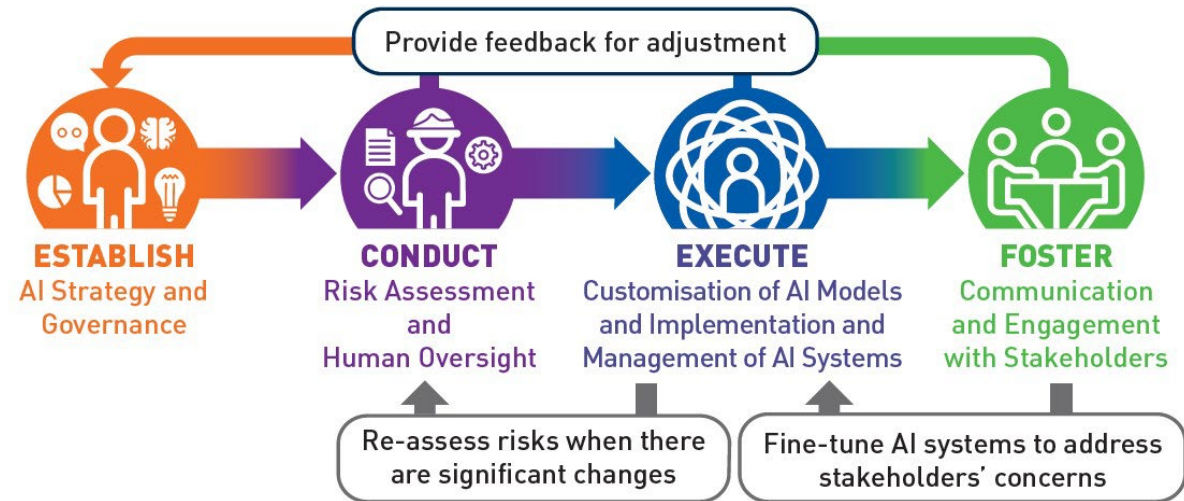
Issued in June 2024



A set of recommendations on AI governance and best practices for organisations procuring, implementing and using any type of AI systems, including generative AI



Assist organisations in complying with the requirements of the PDPO



Artificial Intelligence: Model Personal Data Protection Framework (Model Framework)



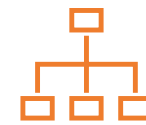
ESTABLISH
AI Strategy and
Governance



AI Strategy



**Governance
Considerations**



**Governance
Structure**



**Training and
Awareness
Raising**

Lower

Risk level of AI system

Higher



Human-out-of-the-loop

AI makes decisions without
human intervention



Human-in-command

Human actors oversee the
operation of AI and intervene
whenever necessary



Human-in-the-loop

Human actors retain
control in the
decision-making process



CONDUCT
Risk Assessment
and
Human Oversight

Joint statement on building trustworthy data governance frameworks to encourage development of innovative and privacy-protective AI



10

Cross-border Transfer of Personal Data from Hong Kong

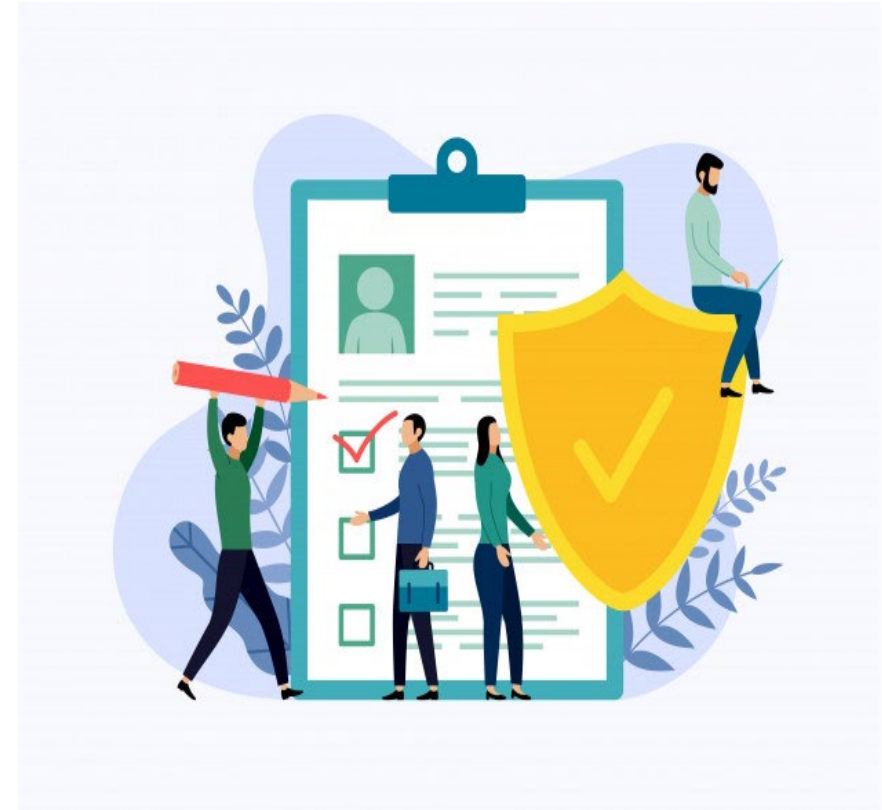
Requirements under the PDPO

DPP1 (Purpose and Manner of Collection of Personal Data)

- All practicable steps shall be taken to ensure, *inter alia*, that the data subject is explicitly informed of the **purpose** for which the data is to be used and the **potential transferees** of the personal data concerned

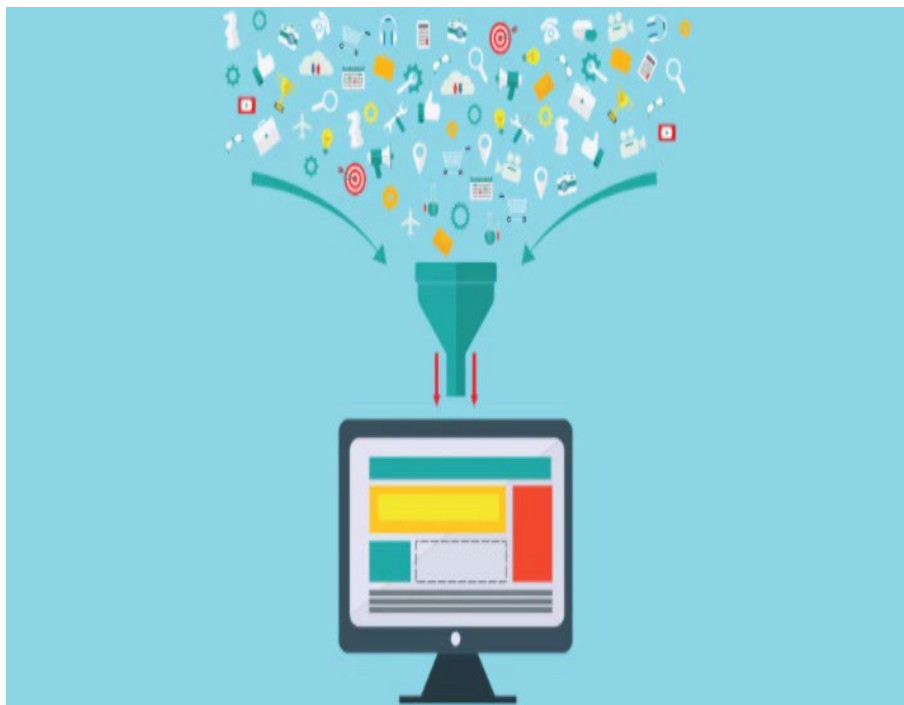
DPP3 (Use of Personal Data)

- The data subject's **prescribed consent** would be required if the transfer is **for a new purpose**, unless it falls within the exemptions under Part 8 of the PDPO



Cross-border Transfer of Personal Data from Hong Kong

Requirements under the PDPO



Engagement of data processors to process personal data outside Hong Kong

- Data user must adopt **contractual or other means** to:
 - ✓ prevent any personal data transferred to the data processor from being kept longer than is necessary for the processing of the data (**DPP2(3)**)
 - ✓ prevent unauthorised or accidental access, processing, erasure, loss or use of the data transferred to the data processor for processing (**DPP4(2)**)

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Cross-border Transfer of Personal Information from Chinese Mainland

Requirements under the Personal Information Protection Law (PIPL)

PIPL – Article 38

1. Passing the **security assessment** organized by the national cyberspace department in accordance with Article 40 of the PIPL;
2. obtaining **personal information protection certification** from the relevant specialized institution according to the provisions issued by the national cyberspace department;
3. concluding a contract stipulating both parties' rights and obligations with the overseas recipient in accordance with the **standard contract** formulated by the national cyberspace department;
4. meeting other conditions set forth by laws and administrative regulations and by the national cyberspace department

Other Necessary Conditions set out in the PIPL

- Notification (Article 39)
- Separate consent (Article 39)
- Personal information protection impact assessment (Article 55(4))
- Ensuring that the personal information processing activities of the overseas recipient meet the personal information protection standards set forth in the PIPL (Article 38)

Standard Contract for Cross-boundary Flow of Personal Information Within the Guangdong–Hong Kong–Macao Greater Bay Area (Chinese Mainland, Hong Kong) (“GBA SC”)

The GBA SC applies to **cross-boundary personal data information transfers**:

Cross-boundary transfers of personal information **from the Chinese Mainland cities within the GBA to Hong Kong**
(Southbound)



Cross-boundary transfers of personal data **from Hong Kong to the Chinese Mainland cities within the GBA**
(Northbound)

Aligning with the Relevant Laws and Regulations of the Chinese Mainland

- The GBA SC adopts the concept of “**respective jurisdiction**”
- Ensuring that personal information processors and recipients can transfer personal information across boundaries in accordance with the relevant legal requirements of their respective jurisdictions



The PCPD encourages organisations to adopt the GBA SC for cross-boundary transfers of personal information within the Greater Bay Area

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Relaxation of Requirements as a Facilitation Measure

As a facilitation measure, the GBA SC has relaxed some of the requirements set out in the Chinese Mainland's Measures on the Standard Contract for Cross-border Transfers of Personal Information out of the Chinese Mainland

The restriction concerning the amount and sensitivity of the personal information that may be transferred across borders was removed

The parties to the GBA SC are not required to conduct relevant assessments of the personal information protection policies and regulations in the region where the recipient is located

The scope of the personal information protection impact assessment to be conducted by personal information processors is greatly reduced

There is no specific requirement regarding sensitive personal information or automated decision-making mechanisms

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Key Requirements of the GBA SC

Personal information processors and recipients have to comply with the requirements set out in the GBA SC.
For instance:

- The personal information processor shall conduct a **personal information protection impact assessment**
- The parties have to **file the GBA SC**
- The recipient **shall not provide personal information** received under the GBA SC to individuals or organisations **outside the GBA**



Article 1 Definition

Article 2 Obligations and Responsibilities of Personal Information Processors

Article 3 Obligations and Responsibilities of Recipients

Article 4 Rights of Personal Information Subjects

Article 5 Remedies

Article 6 Termination of Contract

Article 7 Liabilities for Breach of Contract

Article 8 Miscellaneous

Appendix I Description of Cross-boundary Transfer of Personal Information

Appendix II Other Terms Agreed by Both Parties (If Necessary)

PCPD's Guidance on Cross-boundary Data Transfer: Standard Contract for Cross-boundary Flow of Personal Information Within the Guangdong-Hong Kong-Macao Greater Bay Area (Chinese Mainland, Hong Kong)



Guidance on Cross-boundary Data Transfer: Standard Contract for Cross-boundary Flow of Personal Information Within the Guangdong – Hong Kong – Macao Greater Bay Area (Mainland, Hong Kong)

Part 1: Introduction

Given the close integration of cities within the Guangdong–Hong Kong–Macao Greater Bay Area (GBA), and that data flows between Hong Kong and other cities within the GBA are becoming increasingly frequent, the Cyberspace Administration of China (CAC) and the Innovation, Technology and Industry Bureau of the Government of the Hong Kong Special Administrative Region (ITIB) signed the Memorandum of Understanding on Facilitating Cross-boundary Data Flow Within the Guangdong–Hong Kong–Macao Greater Bay Area (MoU) on 29 June 2023 to jointly promote cross-boundary data flows in the GBA.

The Standard Contract for Cross-boundary Flow of Personal Information Within the Guangdong–Hong Kong–Macao Greater Bay Area (Mainland, Hong Kong) (GBA SC) (see Appendix) is a facilitation measure under the MoU to foster the cross-boundary flows of personal information¹ within the GBA. It was formulated by the CAC, ITIB, and Office of the Privacy Commissioner for Personal Data, Hong Kong (PCPD).

Through this Guidance, the PCPD aims to help organisations in Hong Kong understand the applicability of the GBA SC and the relationship between the GBA SC and other Recommended Model Contractual Clauses for Cross-border Transfer of Personal Data (RMCCs) issued by the PCPD.

Requirements under the Personal Data (Privacy) Ordinance

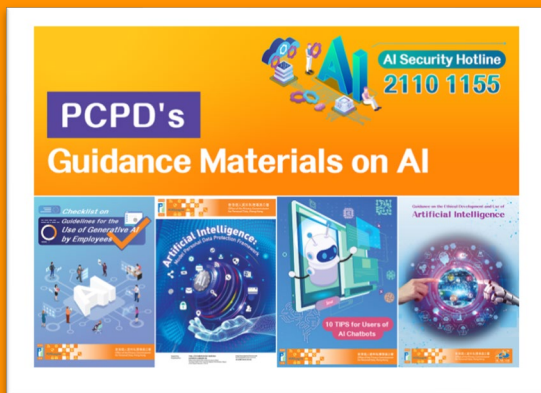
Where a data user transfers personal data to places outside Hong Kong, it is required to comply with the relevant requirements under the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO), including the Data Protection Principles (DPPs) in Schedule 1 of the PDPO.

DPP1 of the PDPO stipulates the requirements relating to the purpose and manner of the collection of personal data. If a data user collects personal data directly from a data subject, the data user should take all practicable steps to ensure that the data subject is explicitly informed of the purpose for which the data is to be used and the classes of persons to whom the data may be transferred. Therefore, when a data user conducts cross-boundary data transfers to places outside Hong Kong, it should inform the data subject or her personal data will be transferred to recipients outside Hong Kong and the purpose for which the data is to be used.



¹ According to the GBA SC, personal information processed by personal information processors in the Mainland cities of the People's Republic of China shall be determined in accordance with the Personal Information Protection Law of the People's Republic of China; personal information processed by personal information processors in the Hong Kong Special Administrative Region shall be determined in accordance with the Personal Data (Privacy) Ordinance of the Hong Kong Special Administrative Region.

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