

53rd Asia Pacific Privacy Authorities Forum
Agenda #5 – Jurisdiction Reports - Law Reform/
Legislative Developments

Review of Hong Kong's Personal Data (Privacy) Ordinance

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Six major directions for PDPO amendment proposed by Hong Kong SAR Government in Jan-2020

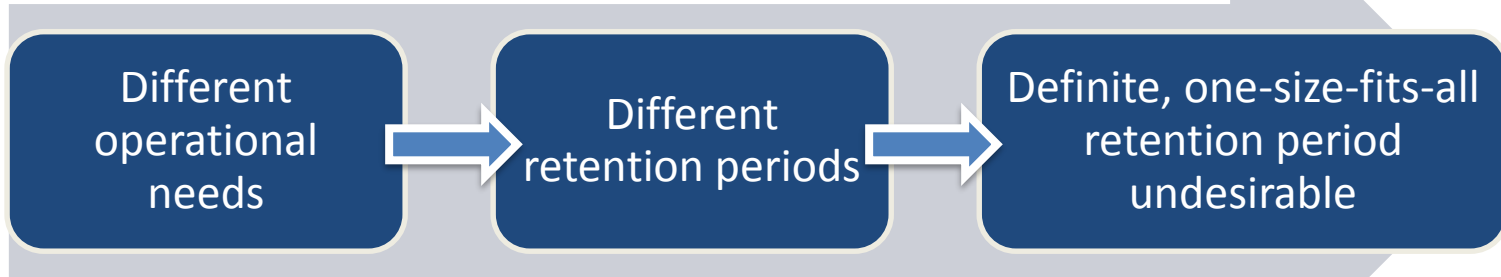
1. Clarifying the definition of 'personal data'
2. Mandatory data breach notification
3. Direct regulation of data processors
4. Power to impose administrative fines by PCPD
- 5. Retention period of personal data**
- 6. Doxxing**



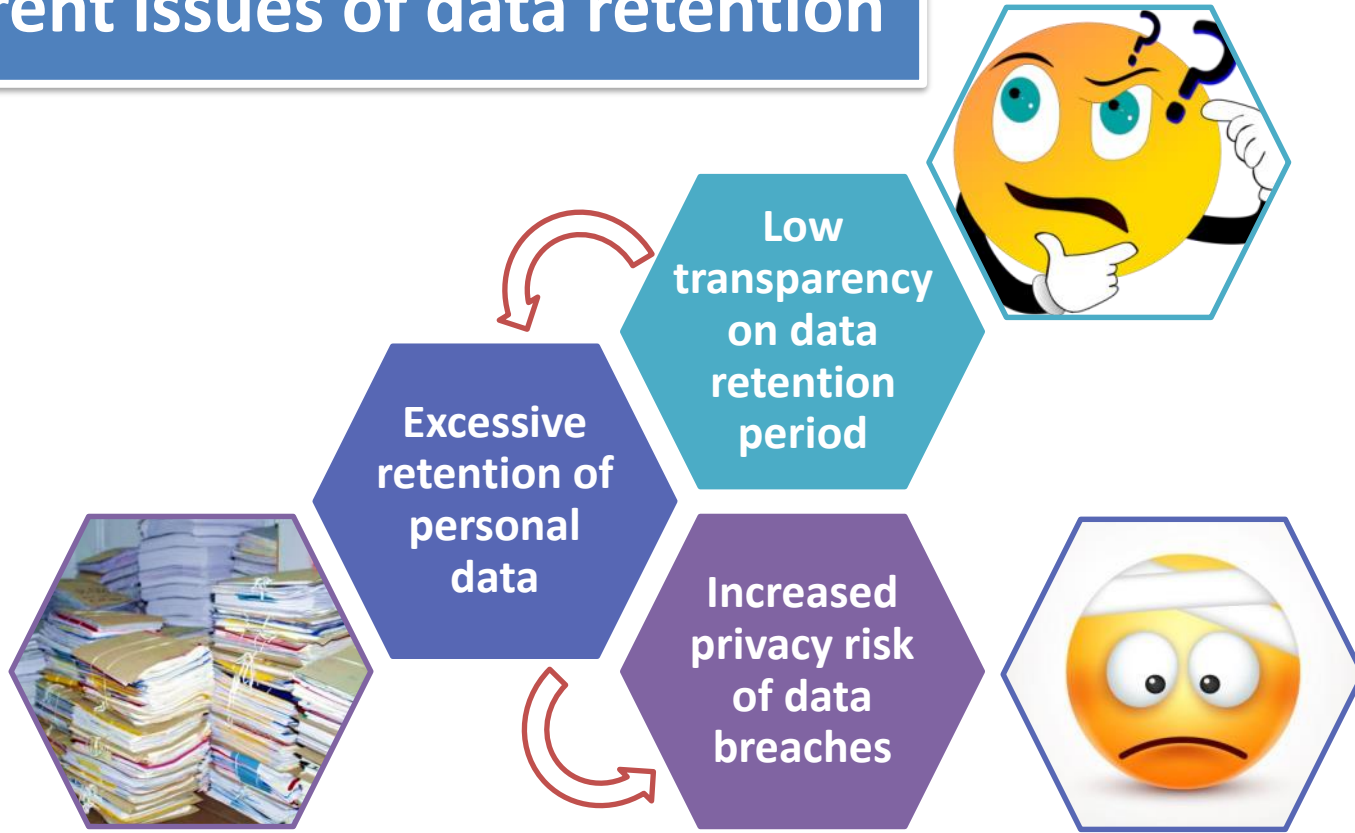
Particular to circumstances of Hong Kong

Data retention – Current requirements

Personal data is **not kept longer than is necessary** for fulfilment of purpose for which the data is or is to be used. (DPP2)



Current issues of data retention

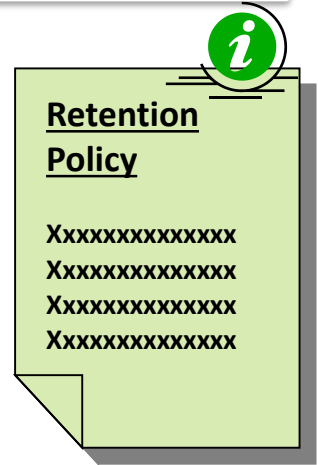


Government proposal

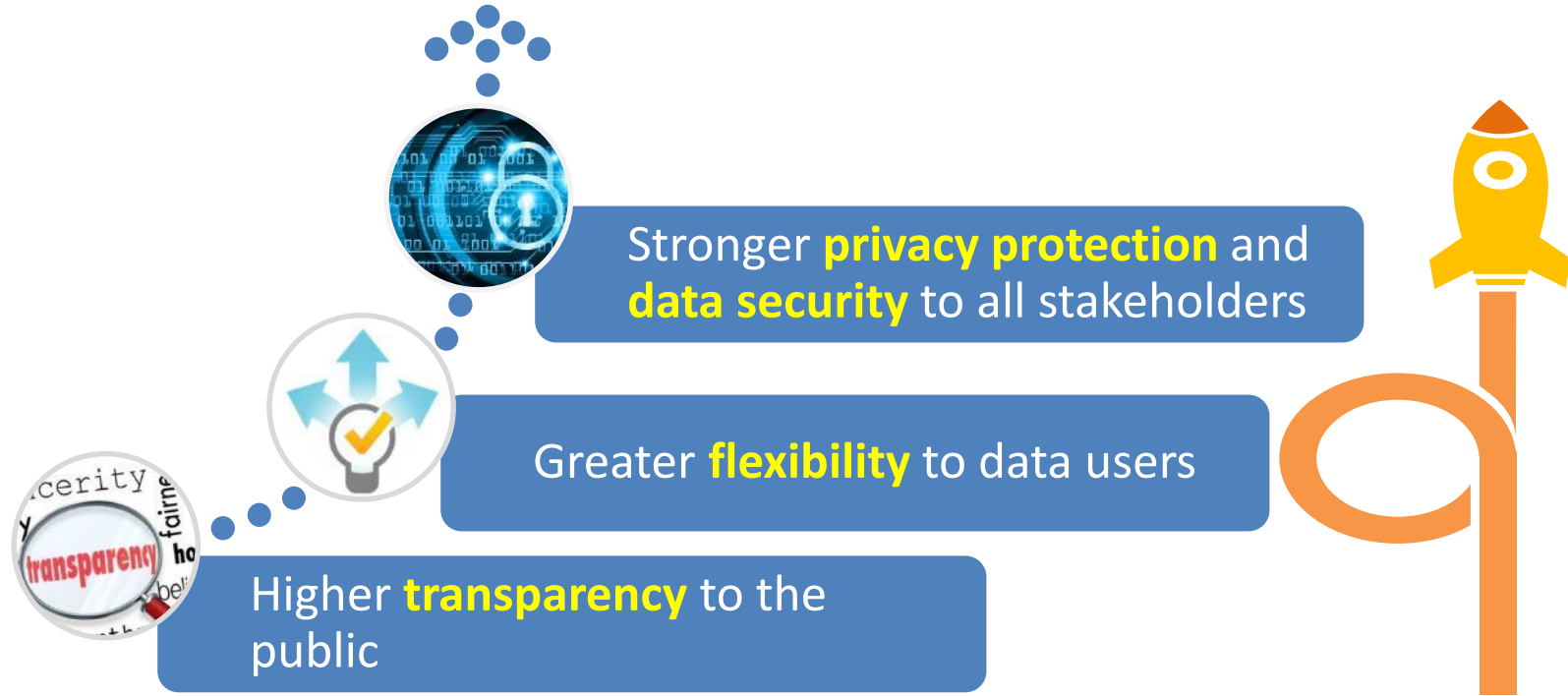
Require data users to formulate **data retention policies** to be **disclosed** to the general public

A **retention policy** may cover:

- The **maximum retention periods** for different categories of personal data
- **Legal requirements** which may affect the retention periods (e.g. tax law)
- **How the retention period is counted** (e.g. upon collection of personal data, cessation of customer relationship)



Data retention policy – A well-balanced direction



Doxxing

- Almost **5,000 doxxing cases**, since June 2019
- Current law: Criminalises the disclosure of personal data obtained from a data user without the data user's consent, if such disclosure causes psychological harm to the data subject (Section 64(2))



DOXXING

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The difficulties encountered by the PCPD in handling doxxing



No criminal investigation and prosecution powers



Difficult to trace the identities of doxxers



Difficult to prove the doxxing materials are obtained from a data user without the data user's consent



Most of the doxxing posts are hosted by overseas social media platforms

Regulation in other jurisdictions

Major jurisdictions usually do not have specific provision for doxxing in data protection laws

Network Enforcement Act of Germany provides administrative measures to compel social media platforms to remove improper online materials

Harmful Digital Communications Act of New Zealand allows victims of cyberbullying to apply for court order against social media platforms to take down unlawful materials

Singapore amended the *Protection from Harassment Act* in 2019 to prohibit disclosure of identity information with an intent to cause alarm or distress to the target persons or related persons

Government proposal

New powers to PCPD



Request social media platforms to remove doxxing contents



Carry out criminal investigations and prosecutions of doxxing



Delete



Doxxing

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