



PERSONAL DATA
PROTECTION COMMISSION
S I N G A P O R E

PROPOSED ADVISORY GUIDELINES FOR THE SOCIAL SERVICE SECTOR

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PART I: INTRODUCTION

1 Introduction

- 1.1 These Guidelines should be read in conjunction with the document titled “Introduction to the Guidelines”¹ and are subject to the disclaimers set out therein.
- 1.2 Developed in consultation with the National Council of Social Service (“NCSS”), these Guidelines aim to address the unique circumstances faced by the social service sector in complying with the PDPA.
- 1.3 Section 4(1)(c) of the PDPA provides that, among others, the Data Protection Provisions shall not impose any obligation on any public agency, or any organisation² in the course of acting on behalf of a public agency in relation to the collection, use or disclosure of personal data. Public agencies include the Government and specified statutory bodies, including the NCSS. The examples in these Guidelines on the Data Protection Provisions are relevant to voluntary welfare organisations (“VWOs”) that do not fall within the definition of a public agency, or are not in the course of collecting, using or disclosing personal data on behalf of a public agency.

¹ Available at <http://www.pdpc.gov.sg/resources/advisory-guidelines>.

² Organisations that are acting on behalf of a public agency in relation to the collection, use or disclosure of personal data are excluded from the application of the Data Protection Provisions when they are so acting. However, organisations may be subject to obligations under other laws and their contract with the relevant public agency. Such organisations also remain responsible to comply with the Data Protection Provisions in relation to other aspects of their business, for example, in relation to their employees’ personal data or personal data of other clients.

PART II: APPLICATION OF THE DATA PROTECTION PROVISIONS TO THE SOCIAL SERVICE SECTOR

The following sections and examples outline the application of some of the Data Protection Provisions in the PDPA. They address particular aspects of the PDPA, and are not meant to exhaustively address every obligation in the PDPA that would apply in that scenario. In particular, these sections and examples do not illustrate the application of the Do Not Call Provisions, which are addressed later in these Guidelines.

2 The Consent, Purpose Limitation and Notification Obligations

- 2.1 The Commission understands that VWOs may collect, use or disclose a client's personal data including full name, NRIC number, contact details, financial and family situation, medical history, etc. for purposes such as evaluating the client's suitability for social services or administering social services to the clients.
- 2.2 The Data Protection Provisions in Parts III to VI of the PDPA set out the obligations that organisations are required to comply with if they undertake activities relating to the collection, use or disclosure of personal data³. Among other things, organisations are required to obtain valid consent from the individual, for a limited purpose that has been notified to the individual, for the collection, use and disclosure of personal data of the individual, unless exceptions⁴ apply.

Obtaining consent when collecting, using or disclosing personal data

³ Personal data is defined in the PDPA as "data, whether true or not, about an individual who can be identified – a) from that data; or b) from that data and other information to which the organisation has or is likely to have access." While some data may necessarily relate to an individual, other data may not, on its own, relate to an individual. Such data would not constitute personal data unless it is associated with, or made to relate to, a particular individual. Generic information that does not relate to a particular individual may also form part of an individual's personal data when combined with personal data or other information to enable an individual to be identified. Please refer to the Key Concept Guidelines for more information about the term "personal data".

⁴ Please refer to the Second (collection of personal data without consent), Third (use of personal data without consent) and Fourth (disclosure of personal data without consent) Schedules under the PDPA for exceptions which may be applicable.

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- 2.3 The PDPC does not prescribe the manner in which consent is obtained by an organisation under the Data Protection Provisions. VWOs may decide on the most suitable way to obtain consent in accordance with the PDPA, and may refer to Chapter 12 of the Key Concepts Guidelines⁵ for more information on considerations and good practices when obtaining consent from an individual.
- 2.4 Prior to collecting, using or disclosing personal data about an individual, a VWO should consider:
- a) Whether the individual (or a person who has the legal authority to validly⁶ act on behalf of the individual) had been notified of the purposes for the collection, use or disclosure of his personal data and had given consent to such collection, use or disclosure;
 - b) If consent had not actually been given, whether consent can be deemed to have been given by the individual (or a person validly acting on behalf of the individual) for the collection, use or disclosure of his personal data for the purpose; and
 - c) Whether the collection, use or disclosure without the consent of the individual is required or authorised under the PDPA or any other written law, in particular, assessing whether the circumstances fall within any of the exceptions from the Consent Obligation in the Second, Third or Fourth Schedules to the PDPA.
- 2.5 The Commission is aware that, depending on the nature of their services and demographics of the client or beneficiary, some VWOs may collect, use or disclose the personal data of minors and would accordingly have to obtain consent under the PDPA. Please refer to the Advisory Guidelines on Selected Topics for more information relating to persons who may exercise rights or powers under the PDPA, and considerations when obtaining consent from minors.

⁵ Available at [http://www.pdpc.gov.sg/docs/default-source/advisory-guidelines/the-consent-obligation-\(chapter-12\).pdf?sfvrsn=0](http://www.pdpc.gov.sg/docs/default-source/advisory-guidelines/the-consent-obligation-(chapter-12).pdf?sfvrsn=0).

⁶ When a person may validly act on behalf of an individual in certain circumstances is set out in existing law (e.g. common law or the Mental Capacity Act). Apart from certain Regulations in relation to the rights or powers of deceased individuals, the PDPA generally does not affect such existing treatment. Instead, the PDPA merely provides that references to consent given, or deemed to have been given, by an individual for the collection, use or disclosure of personal data about the individual shall include consent given, or deemed to have been given, by any person validly acting on behalf of that individual for the collection, use or disclosure of such personal data.

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Deemed consent

- 2.6 An individual is deemed to consent to the collection, use and disclosure of his personal data for a purpose if the individual voluntarily provides the personal data to the organisation for that purpose and it is reasonable that the individual would do so.
- 2.7 In a situation where an individual gives, or is deemed to have given, consent to the disclosure of personal data about the individual by one organisation to another organisation for a particular purpose, the individual is deemed to consent to the collection, use or disclosure of the personal data for that particular purpose by that other organisation.
- 2.8 Although organisations may rely on deemed consent instead of obtaining actual consent from the individual, it is good practice for an organisation to review its business processes to determine the situations where it should obtain actual consent instead of relying on deemed consent.
- 2.9 When it is unclear whether consent may be deemed, organisations should obtain consent from the individual to collect, use or disclose his personal data (as the case may be) for the relevant purposes in order to avoid any dispute over whether consent was given.
- 2.10 The following examples illustrate situations involving consent under the PDPA. Please refer to Chapter 12 of the Key Concepts Guidelines on the “Consent Obligation” for more information.

2.11	<p>Example: Disclosure of personal data for a case conference</p> <p>Mdm. Koh, a client with multiple social and medical needs, has been receiving social services from both VWO ABC and VWO XYZ.</p> <p>While interviewing Mdm. Koh during the application process, Peter, a social worker at VWO ABC, found out from Mdm. Koh that she is also receiving social services from VWO XYZ.</p> <p>Peter believes there could be better coordination between the two VWOs in order to provide timely services to Mdm. Koh. Peter proceeds to call Paula from VWO XYZ (whose name was shared by Mdm. Koh as the social worker handling her case) to invite Paula to a case conference and to discuss possible options to render assistance to Mdm. Koh.</p> <p>The case conference is likely to involve the disclosure of Mdm. Koh's</p>
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	<p>personal data such as her medical history, family conditions, services that Mdm. Koh is currently receiving, or has received in the past, by both VWO ABC and VWO XYZ, as represented by Peter and Paula.</p> <p><u>Treatment</u></p> <p>VWO ABC and VWO XYZ are required to notify Mdm. Koh of the purpose for the collection, use and disclosure of her personal data for the case conference and obtain her consent for such collection, use and disclosure, unless an exception applies. For example, an exception applies where the collection, use or disclosure (as the case may be) is necessary for any purpose that is clearly in the interest of the individual, if consent for the collection, use or disclosure cannot be obtained in a timely way⁷. VWO ABC might also require consent from Mdm. Koh to disclose her personal data to another VWO for certain purposes (e.g. to co-ordinate the provision of services), if it is reasonably required for VWO ABC to provide its service to Mdm. Koh.</p> <p>Mdm. Koh may also be deemed to have consented to the collection, use or disclosure of her personal data by VWO ABC or VWO XYZ for the purposes of co-ordinating the provision of social services to her, when she voluntarily provides her personal data to the respective VWOs for this purpose.</p> <p>VWO ABC and VWO XYZ have the flexibility to decide on the most suitable way to obtain consent from Mdm. Koh. For example, they may decide that one of them will notify and obtain consent from Mdm. Koh on behalf of both VWOs. If they choose to do so, they would (among other things) have to ensure that the consent given by Mdm. Koh is for the collection, use and disclosure of her personal data by both VWO ABC and VWO XYZ.</p>
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2.12	<p>Example: Collection, and use of personal data for client surveys</p> <p>VWO ABC intends to conduct a survey on the impact of its services on individual clients, which involves the collection, and use of personal data (including clients' names, contact details and income levels). VWO ABC intends to publish the results of the survey in their annual report and on their website. After assessing the feasibility of publishing anonymised results,</p>
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⁷ Paragraph 1(a) of the Second Schedule (collection of personal data without consent), Paragraph 1(a) of the Third Schedule (use of personal data without consent) and Paragraph 1(a) of the Fourth Schedule (disclosure of personal data without consent).

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	<p>VWO ABC determines that the results will be published in a form that identifies the individual clients⁸.</p> <p><u>Treatment</u></p> <p>VWO ABC must obtain consent from the individual clients to collect, use and disclose their personal data for such purposes, unless an exception applies.</p> <p>If VWO ABC intends to use or disclose personal data that had previously been collected for other purposes for this survey, VWO ABC may wish to consider whether the exception for use or disclosure of personal data without consent for research in paragraph 1(i)⁹ of the Third Schedule or paragraph 1(q)¹⁰ of the Fourth Schedule respectively) would apply.</p>
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2.13	<p>Example: Posting photographs of clients on social media</p> <p>John, a volunteer at VWO ABC, is assisting VWO ABC to organise a gathering for its clients, donors and volunteers at its centre. As John is an avid photographer, VWO ABC requests John to take photographs of the event, so that VWO ABC can post them on its official website and official social media profile page.</p>
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⁸ The data could be anonymised in various ways before publication, such as through removing personal identifiers or aggregating data points so that individual clients can no longer be identified. Chapter 3 of the Advisory Guidelines on Selected Topics relating to Anonymisation provides more information on anonymisation and re-identification risks.

⁹ An organisation may use personal data about an individual without consent of the individual if, subject to conditions, the personal data is used for a research purpose, including historical or statistic research. The conditions are - (a) the research purpose cannot reasonably be accomplished unless the personal data is provided in an individually identifiable form; (b) it is impracticable for the organisation to seek the consent of the individual for the use; (c) the personal data will not be used to contact persons to ask them to participate in the research; and (d) linkage of the personal data to other information is not harmful to the individuals identified by the personal data and the benefits to be derived from the linkage are clearly in the public interest.

¹⁰ An organisation may disclose personal data about an individual without consent of the individual subject to the same conditions (a) to (d) listed in footnote 8 above, and (e) the organisation to which the personal data is to be disclosed has signed an agreement to comply with —(i) the PDPA;(ii) the policies and procedures relating to the confidentiality of personal data of the organisation that collected the personal data; (iii) security and confidentiality conditions of the organisation disclosing the personal data; (iv) a requirement to remove or destroy individual identifiers at the earliest reasonable opportunity; and (v) a requirement not to use the personal data for any other purpose or to disclose the personal data in individually identifiable form without the express authorisation of the organisation that disclosed the personal data.

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	<p><u>Treatment</u></p> <p>To the extent that the photographs show identifiable individuals, VWO ABC would need the consent of the individuals and will need to comply with the PDPA. Please refer to Chapter 12 of the Key Concepts Guidelines on the “Consent Obligation” for more information.</p> <p>Generally, if VWO ABC intends to publish photographs of individuals, it must obtain the individuals’ consent before doing so, unless an exception applies (e.g. if the personal data is publicly available¹¹).</p> <p>Consent (if required) may also be deemed to have been given in some instances. For example, consent may be deemed to have been given if:</p> <ul style="list-style-type: none"> (a) In its invitations, VWO ABC clearly states that photographs of attendees will be taken at the function for publicity purposes; or (b) VWO ABC puts up an obvious notice at the reception or entrance of its centre to inform attendees that photographs will be taken at the event for publicity purposes.
2.14	<p>John intends to use some of the unpublished photographs from VWO ABC’s event to create a montage and post it on his personal social media profile page.</p> <p><u>Treatment</u></p> <p>Depending on the circumstances, John may be regarded as an employee (which would include a volunteer) or an individual acting in his personal capacity. Under the PDPA, employees (and this includes volunteers) who are acting in the course of their employment with an organisation, are excluded from the application of the Data Protection Provisions. Similarly, individuals who are acting in a personal capacity are not required to comply with the Data Protection Provisions.</p> <p>If John was acting in a personal capacity when taking the photographs, then publishing it on the social media profile page would not be a breach of the Data Protection Provisions and VWO ABC would not be responsible for</p>

¹¹ The term “publicly available” is defined in section 2(1) of the PDPA and refers to personal data (about an individual) that is generally available to the public, including personal data which can be observed by reasonably expected means at a location or an event at which the individual appears and that is open to the public.

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	<p>John's conduct.</p> <p>If John was acting as an employee within the meaning of the PDPA when taking the photographs or the unpublished photographs belong to VWO ABC, then VWO ABC may be liable for his conduct under the PDPA, even if John himself is not liable. In this case, John's actions may potentially cause VWO ABC to breach the PDPA, for example, in relation to VWO ABC's compliance with the Protection Obligation¹².</p> <p>VWO ABC should take reasonable actions to safeguard itself against such risks. For example, VWO ABC may implement policies and procedures (that include disciplinary measures in the event of breaches) for employees/volunteers to ensure protection of the personal data in its possession or under its control including photographs taken of the VWO's clients, and/or conduct training for employees/volunteers to impart good practices on handling personal data. Please refer to the chapter on the Protection Obligation in the Key Concepts Guidelines and the section below for more information.</p>
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2.15	<p>Example: Disclosure of clients' personal data to a third party</p> <p>VWO ZYX receives a letter from a neighbourhood grassroots club requesting for a list of VWO ZYX's needy clients and their addresses in order for the grassroots club to deliver some food rations to these clients.</p> <p><u>Treatment</u></p> <p>The Data Protection Provisions will generally apply to VWO ZYX's disclosure of its clients' personal data to the grassroots club.</p> <p>Among other things, consent would be required for such disclosure unless any exceptions apply, such as when the disclosure is necessary for any purpose which is clearly in the interests of the individual, if consent for its disclosure cannot be obtained in a timely way. Please refer to Chapter 12 of the Key Concepts Guidelines on the "Consent Obligation" for more information.</p>
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Exceptions for collection, use or disclosure of personal data without consent

¹² The Protection Obligation sets out that an organisation must protect personal data in its possession or under its control by making reasonable security arrangements to prevent unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks.

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- 2.16 The PDPA permits the collection, use and disclosure of personal data without consent (and in the case of collection, from a source other than the individual) in circumstances provided in the Second (collection of personal data without consent), Third (use of personal data without consent) and Fourth Schedules (disclosure of personal data without consent) to the PDPA respectively.
- 2.17 Such exceptions include where the collection, use or disclosure of personal data is necessary for evaluative purposes (such as in relation to the grant of financial or social assistance, or the delivery of appropriate health services, under any scheme administered by a public agency)¹³. However, these exceptions to the Consent Obligation do not affect rights or obligations by or under other law. For example, even if an exception applies under the PDPA, organisations are required to comply with any legal obligations of confidentiality that they may have

2.18	<p>Example: Disclosure of personal data without consent in an emergency situation</p> <p>Maggie works at a day care centre for senior citizens. One day, an elderly client at the centre, Mr. Tan, falls ill after his meal and has to be admitted to the hospital.</p> <p>Maggie provides the hospital staff with Mr. Tan’s personal data such as his full name, NRIC number, and medical allergies.</p> <p><u>Treatment</u></p> <p>Maggie may disclose Mr. Tan’s personal data without consent, as there is an applicable exception under the paragraph 1(b) of the Fourth Schedule to the PDPA which relates to the disclosure of an individual’s personal data,</p>
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¹³ For completeness, “evaluative purpose” is defined under the PDPA to mean –

- (a) for the purpose of determining the suitability, eligibility or qualifications of the individual to whom the data relates – (i) for employment or for appointment to office; (ii) for promotion in employment or office or for continuance in employment or office; (iii) for removal from employment or office; (iv) for admission to an education institution; (v) for the awarding of contracts, awards, bursaries, scholarships, honours or other similar benefits; (vi) for selection for an athletic or artistic purposes; or (vii) for grant of financial or social assistance, or the delivery of appropriate health services, under any scheme administered by a public agency;
- (b) for the purpose of determining whether any contract, award, bursary, scholarship, honour or other similar benefit should be continued, modified or cancelled;
- (c) for the purpose of deciding whether to insure any individual or property or to continue or renew the insurance of any individual or property; or
- (d) for such other similar purposes as may be prescribed by the Minister.
No other such purposes have been prescribed to date.

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	without consent, that is necessary to respond to an emergency that threatened, among other things, his health.
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2.19	<p>Example: Exception to the Consent Obligation for evaluative purposes</p> <p>Don is an employee of VWO DEF that provides social and recreational activities and food rations to low-income households.</p> <p>He receives a call from Audrey, a social worker with VWO 123. Audrey enquires on the services that one of VWO DEF’s clients, Mr. Ong, had been receiving, and to understand Mr. Ong’s financial situation. Audrey explains that Mr. Ong had approached VWO 123 recently to apply for their pilot social assistance scheme administered by a public agency.</p> <p><u>Treatment</u></p> <p>In this case, consent is not required for VWO 123 to collect and use Mr. Ong’s personal data if such collection or use (as the case may be) is necessary for an evaluative purpose¹⁴ (for example, to determine Mr. Ong’s suitability or eligibility for grant of social assistance under the scheme administered by the public agency). Similarly, consent is not required for VWO DEF to disclose Mr. Ong’s personal data to VWO 123 if the disclosure is necessary for an evaluative purpose¹⁵.</p>
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Obtaining consent from source(s) other than the individual

- 2.20 The Commission is aware that in some circumstances, an organisation may obtain personal data about an individual with the consent of the individual, but from a source other than an individual (“third party”). These may include:
- a) Where the third party source can validly give consent to the collection, use and disclosure of the individual’s personal data; or
 - b) Where the individual has consented, or is deemed to have consented to the disclosure of his or her personal data by the third party source.

¹⁴ See definition of “evaluative purpose” under the PDPA in footnote 13, and paragraph 1(f) of the Second and Third Schedules to the PDPA.

¹⁵ See paragraph 1(h) of the Fourth Schedule to the PDPA.

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2.21 VWOs may wish to consider how best to obtain consent from clients who are individuals that may not have the capacity to give consent for themselves, such as a client who is mentally unwell, or is a minor¹⁶. In this regard, the Data Protection Provisions do not affect any authority, right, obligation or limitation under other laws and VWOs should accordingly ensure compliance with other laws such as the Mental Capacity Act.

¹⁶ Please refer to the Personal Data Protection Regulations 2014 and Advisory Guidelines on Selected Topics relating to persons who may exercise rights or powers under the PDPA, and considerations when obtaining consent from minors.

3 The Protection and Retention Limitation Obligation

The Protection Obligation

- 3.1 The PDPA requires an organisation to make reasonable security arrangements to protect personal data in its possession or under its control.
- 3.2 There is no 'one size fits all' solution for organisations to comply with the Protection Obligation. Generally, VWOs should consider factors such as the nature of the personal data in their possession or under their control (as the case may be), and the adverse impact to individuals if an unauthorised person obtained, modified or disposed of the personal data, to determine the security arrangements that are reasonable and appropriate in the circumstances.

3.3 Example: Protecting personal data that has been collected

VWO XYZ operates a day activity centre for senior citizens. As part of its security procedures, VWO XYZ requires all visitors to the centre to sign up for a visitor pass at the reception. Visitors are requested to provide their name, NRIC numbers, and contact number in order to be issued a visitor pass. VWO XYZ records such information in a log book at the reception.

Treatment

VWO XYZ is required to comply with the Protection Obligation in respect of the personal data recorded in the log book. Examples of measures that it may take to safeguard the personal data include having the reception staff record the personal data in the log book rather than the visitor, and keeping the log book locked in a cabinet or drawer when not in use.

Retention of personal data

- 3.4 The Retention Limitation Obligation requires an organisation to cease to retain its documents containing personal data, or remove the means by which the personal data can be associated with particular individuals, as soon as it is reasonable to assume that the purpose for which that personal data was collected is no longer being served by retention of the personal data, and the retention is no longer necessary for legal or business purposes. The PDPA does not prescribe a specific retention period for personal data.

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- 3.5 VWOs should review the personal data they hold on a regular basis to determine if that personal data is still needed for the purposes of collection or other legal or business purposes and must not keep it for longer than permitted.

4 Organisations and Data Intermediaries or Employees

Organisations and data intermediaries

- 4.1 Generally, organisations¹⁷ that VWOs typically work with (such as sponsors, donors or service providers) will also be subject to the Data Protection Obligations, unless they fall within a category of organisations that is expressly excluded. For example, organisations which are data intermediaries are partially excluded from the application of the Data Protection Provisions, as explained further below.
- 4.2 A data intermediary is an organisation that processes personal data on behalf of another organisation, but excludes an employee of that other organisation. In some situations, VWOs may engage data intermediaries to process personal data. The PDPA provides that a data intermediary¹⁸ that processes personal data on behalf of and for the purposes of another organisation pursuant to a contract which is evidenced or made in writing will only be subject to the Protection Obligation and Retention Limitation Obligation and not any of the other Data Protection Provisions.
- 4.3 A data intermediary remains responsible for complying with all Data Protection Provisions in respect of other activities that do not constitute processing of personal data on behalf of and for the purposes of another organisation that is pursuant to a contract evidenced or made in writing.
- 4.4 In any case, under section 4(3) of the PDPA, the organisation that engages the data intermediary would still have the same obligations under the PDPA in respect of personal data processed on its behalf as if the personal data were processed by the organisation itself.
- 4.5 VWOs should note that whether an organisation charges a VWO for its services generally does not affect whether that organisation is a data intermediary of the VWO. Please refer to the Key Concepts Guidelines for more information on the criteria for and obligations of data intermediaries.

¹⁷ The PDPA defines an organisation as “any individual, company, association or body of persons, corporate or unincorporated whether or not formed or recognised under the law of Singapore; or resident, or having an office or a place of business, in Singapore”.

¹⁸ PDPA defines data intermediary as an organisation which processes personal data on behalf of another organisation but does not include an employee of that other organisation.

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4.6	<p>Example: Engaging a data intermediary to manage payroll</p> <p>Company 789, which is owned by one of VWO GHI's Board Members, provides pro-bono services to process the payroll for all employees working in VWO GHI's various centres in Singapore. Company 789 will hold records of VWO GHI's employees such as their full names, NRIC numbers, duration of employment, salary and bank account details. Company 789 is processing the personal data solely for the purposes of payroll administration pursuant to a written agreement with VWO GHI.</p> <p><u>Treatment</u></p> <p>In this case, Company 789 is considered a data intermediary processing personal data on behalf of and for the purposes of VWO GHI pursuant to a contract evidenced or made in writing. The fact that Company 789 does not charge VWO GHI for its services does not affect Company 789's status. Company 789 will be subject only to the Protection Obligation and Retention Limitation Obligation in respect of such processing, while VWO GHI will have the same obligations under the PDPA in respect of the personal data of VWO GHI's employees processed on its behalf by Company 789, as if the personal data were processed by VWO GHI itself.</p>
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Organisations and employees (including volunteers)

- 4.7 Employees acting in the course of their employment with an organisation are excluded from the application of the Data Protection Provisions. The definition of 'employee' in the PDPA includes a volunteer, who could be an individual who undertakes work without an expectation of payment of salary. VWOs would be responsible for the actions of their employees (including volunteers) which result in a contravention of the Data Protection Provisions, provided the employees/volunteers are acting in the course of their employment.
- 4.8 As explained earlier, there are several obligations within the Data Protection Provisions which require organisations to develop and implement policies and practices that are necessary for the organisation to meet its obligations under the PDPA. Organisations are required to make the information about their data protection policies available to their employees (including volunteers).
- 4.9 For more information, please refer to the Key Concepts Guidelines and the Advisory Guidelines on the PDPA for Selected Topics.

5 Rights and obligations, etc under other laws

- 5.1 Section 4(6) of the PDPA states that unless otherwise provided in the PDPA, nothing in Parts III to VI of the PDPA shall affect any authority, right, privilege or immunity conferred, or obligation or limitation imposed, by or under the law, including legal privilege, except that the performance of a contractual obligation shall not be an excuse for contravening the PDPA, and the provisions of other written law shall prevail to the extent that any provision of Parts III to VI is inconsistent with the provisions of that other written law.
- 5.2 Similarly, section 13(b) of the PDPA provides that an organisation shall not, on or after the appointed day, collect, use or disclose personal data about an individual without the consent of the individual unless the collection, use or disclosure, as the case may be, without the consent of the individual is required or authorised under the PDPA or any other written law.
- 5.3 Section 19 of the PDPA provides that notwithstanding the other provisions of Part IV of the PDPA, an organisation may use personal data collected before the appointed day for the purposes for which the personal data was collected, unless consent for such use is withdrawn or the individual has indicated to the organisation that he does not consent to the use of the personal data. Such 'use' could include disclosure that is necessarily part of the organisation's use of such personal data. For avoidance of doubt, the Do Not Call Provisions will apply to the sending of specified messages to Singapore telephone numbers, even if the Singapore telephone numbers are collected before the appointed day.

PART III: APPLICATION OF THE DO NOT CALL PROVISIONS TO THE SOCIAL SERVICE SECTOR

The following sections and examples set out the application of the Do Not Call Provisions and the Personal Data Protection (Exemption from Section 43) Order (S 817/2013) (“Exemption Order”) to scenarios faced in the social service sector. They are not meant to exhaustively address every obligation in the PDPA that would apply in that scenario. In particular, they do not illustrate the application of the Data Protection Provisions, which were addressed earlier in these Guidelines.

6 The Do Not Call Provisions

- 6.1 Messages with a purpose to offer to supply, advertise or promote goods or services, land or an interest in land, or a business or investment opportunity, or a supplier of such goods, services, land or opportunity are specified messages and the Do Not Call Provisions will apply to such messages.
- 6.2 Messages which do not have any of the purposes listed above will not be considered specified messages.
- 6.3 The Eighth Schedule to the PDPA sets out exclusions from the meaning of “specified message” that relate to, among others, any message sent by a public agency under, or to promote, any programme carried out by any public agency, which is not for commercial purpose, any message the sole purpose of which is to conduct market research or market survey, any “business-to-business” marketing message and other types of information specified in the Eighth Schedule.
- 6.4 The Do Not Call Provisions apply to a specified message (in the form of voice calls, text messages or faxes) addressed to a Singapore telephone number, if the sender of the specified message is present in Singapore when the specified message is sent or the recipient of the specified message is present in Singapore when the specified message is accessed.

Obligation to check the Do Not Call Registers

- 6.5 One significant obligation under the Do Not Call Provisions is that the organisation sending the specified message will have to check the Do Not Call Registers as described above, unless:

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- a) the user or subscriber of the Singapore telephone number has given clear and unambiguous consent in written or other accessible form to the sending of the specified message to that number; or
- b) the organisation is exempted from complying with its obligation under the Exemption Order.

6.6 Under the Exemption Order, a sender that is sending a specified fax message or a specified text message to a Singapore telephone number related to the subject of an ongoing relationship between the sender and a recipient is exempted from the requirement to check the relevant Do Not Call Registers, if certain conditions are met. An “ongoing relationship” under the Exemption Order means a relationship which is on an ongoing basis, between a sender and a subscriber or user of a Singapore telephone number, arising from the carrying on or conduct of a business or activity (commercial or otherwise) by the sender. Please refer to Chapter 4 of the Advisory Guidelines on the Do Not Call Provisions for further elaboration.

6.7 In determining what constitutes an ongoing relationship, the Commission considers one-off interactions or transactions in themselves to be insufficient to be an ongoing relationship. For example, the fact that the individual volunteered or donated once, in themselves, would be insufficient to establish an ongoing relationship between the individual and the sender.

6.8	<p>Examples: Whether messages are specified messages</p> <p>VWO ABC runs a caregiver support group for families taking care of the elderly and will be conducting a seminar to impart skills in caring for the elderly.</p> <ul style="list-style-type: none">a) VWO ABC sends an SMS to various individuals who are clients and volunteers to publicise the event. The message is likely to be a specified message to the extent that it is an offer to provide a service.b) VWO ABC calls VWO XYZ’s office line to inform VWO XYZ about the seminar and ascertain whether VWO XYZ would like to promote the upcoming seminar to VWO XYZ’s clients and volunteers. Such a call is <u>not</u> a specified message as under the Eighth Schedule, a message sent to an organisation (other than an individual acting in a personal or domestic capacity) for any business purposes of the receiving organisation is excluded from the meaning of specified message.c) Should VWO XYZ market VWO ABC’s seminar to individuals listed in
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	<p>VWO XYZ's own database of clients and volunteers by sending messages to their telephone numbers, VWO XYZ will be sending a specified message to those individuals.</p> <p>d) VWO ABC sends an SMS to its clients and volunteers, who had signed up for the seminar, informing of a postponement in the seminar. VWO ABC is <u>not</u> sending a specified message to the extent that the message does not offer to supply a good or service or have any of the other purposes listed in the definition of a specified message.</p>
6.9	<p>VWO MNO is organising an annual charity fund-raiser.</p> <p>a) VWO MNO sends an SMS to its donors and volunteers to donate money during the annual fund-raiser. To the extent that the SMS does not offer to supply a good or service or have any of the other purposes listed in the definition of a specified message, such a message would not be a specified message.</p> <p>b) VWO MNO sends an SMS to its clients, donors and volunteers informing that it has partnered Company ABC to sell ABC's limited edition products at the annual fund-raiser. In this case, as VWO MNO is offering to supply or promoting Company ABC's products, it is considered to be sending a specified message.</p> <p>c) VWO MNO calls its donors and volunteers to thank them for the donations/assistance rendered at the charity fund-raiser. VWO MNO is not sending a specified message as the message does not offer to supply a good or service or have any of the other purposes listed in the definition of a specified message.</p>

6.10 The following examples illustrate the application of the Exemption Order, the details of which have been summarised in the preceding paragraphs.

6.11	<p>Examples: Application of the Exemption Order</p> <p>a) Tony participated in a seminar organised by VWO ABC last year. In this case, VWO ABC <u>cannot</u> rely on the Exemption Order to send a specified message to Tony as his participation in last year's seminar was a one-off interaction.</p> <p>b) Debbie is a member of a volunteer club established by VWO DEF. VWO</p>
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	DEF may rely on the Exemption Order to send Debbie text or fax messages promoting its upcoming volunteer training programmes.
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