

5 February 2013

Factsheet

FOR PUBLIC CONSULTATION DOCUMENTS ISSUED BY THE PERSONAL DATA PROTECTION COMMISSION:

- 1. PROPOSED REGULATIONS ON PERSONAL DATA PROTECTION IN SINGAPORE**
- 2. PROPOSED ADVISORY GUIDELINES ON KEY CONCEPTS IN THE PERSONAL DATA PROTECTION ACT**
- 3. PROPOSED ADVISORY GUIDELINES ON SELECTED TOPICS**

Background

The consultation papers launched today seek views from the public on the positions proposed for regulations and advisory guidelines to be made under the Personal Data Protection Act 2012 (PDPA). The PDPA establishes a new data protection law in Singapore which governs the collection, use and disclosure of individuals' personal data by organisations. The Personal Data Protection Commission (PDPC) is established under the PDPA with the key roles, amongst others, of promoting awareness of data protection in Singapore and administering and enforcing the PDPA.

1) SUMMARY OF PROPOSED POSITIONS FOR REGULATIONS ON PERSONAL DATA PROTECTION

The PDPA provides that the Minister (Minister, MCI) has the power to make Regulations which elaborate on specific requirements in the PDPA. Organisations which do not comply with the Regulations will be in breach of the PDPA. The consultation today raises three areas for which Regulations are proposed to be made:

Access and Correction Requests

1. Organisations should respond to the requests as accurately and completely as possible.
2. Organisations should respond within 30 days or inform the individual of the reasonably soonest time they will respond.
3. Organisations may charge a minimal fee to recover the incremental costs directly related to the request.

Requirements when transferring personal data out of Singapore

1. Organisations must not transfer personal data to a country or territory outside Singapore except in accordance with the requirements prescribed under the PDPA.
2. Organisations can ensure compliance through contracts or binding corporate rules containing main data protection obligations.

Classes of persons who may act for others

1. Minors may act for themselves if they are:
 - a. At least 14 years old and understand the nature of the rights conferred; or
 - b. 18 yrs or older.
2. Deceased may be represented by a personal representative they had previously appointed (for example, in a will), or be represented by the nearest relative.

2) SUMMARY OF PROPOSED ADVISORY GUIDELINES ON KEY CONCEPTS

Advisory guidelines are issued to provide greater clarity on the PDPA obligations by clarifying the interpretation of specific provisions in the PDPA and illustrating how they apply to certain common scenarios which organisations and consumers alike may face. The key points raised and some illustrations of the guidelines are as follows:

Interpretation of Key Terms

- 1) **'Personal Data'** covers all types of data from which an individual can be identified, regardless of whether it is true or false. Examples include an individual's NRIC number, mobile number, personal email address or his image.

- 2) **'Organisations'** are required to comply with the PDPA. 'Organisations' cover individuals, companies, associations, whether or not they are formed or are resident in Singapore. However, individuals acting in a personal or domestic capacity do not need to comply with the PDPA obligations.

Explanation of Key Obligations

1. **Consent, Purpose Limitation and Notification Obligation:**
 - a. Organisations must notify individuals clearly of the purposes for which their personal data would be collected, used or disclosed and obtain consent.
 - b. Consent is only valid if given for purposes which are reasonable.
 - c. Consent can be deemed in certain circumstances.

Example:

Sarah makes a purchase at a store. A member of staff hands out a form to each customer who makes a purchase at its store to obtain their personal data. The form states clearly that the retailer wishes to use the customer's personal data for marketing purposes and contains a box for customers who consent to the purpose to tick. Sarah fills out the form and ticks the box. In this example, the store would have fulfilled the Consent, Purpose Limitation and Notification Obligation.

Sarah leaves the store and calls a taxi operator's hotline to book a taxi. The customer service officer asks for her name and number in order to inform her of the taxi number,

which Sarah provides voluntarily. Sarah is deemed to have consented to the taxi company using her name and number to call or text her when her taxi arrives.

2. **Access and Correction Obligation:**

Upon request, organisations must:

- a. Inform the individual how much personal data (of the individual) the organisation holds;
- b. Inform the individual about how the personal data has been used or disclosed in the past 1 year; and
- c. Correct any errors or omissions in the personal data.

Organisations need not comply if exceptions in the Fifth Schedule apply, e.g. if the amount of effort and resources needed to provide access would be unreasonable to the organisation or disproportionate to the individual's interest.

Example:

Sarah makes an access request for all CCTV footage of her recorded at a shopping centre over the past year. In this scenario, even if the shopping centre is able to remove images of other individuals captured in the CCTV footage, reviewing all CCTV footage from the past year to find records of her would require considerable time and effort. The burden of providing access would be unreasonable to the shopping centre and likely disproportionate to Sarah's interest. Hence the shopping centre need not provide Sarah the requested personal data (if available) under the Access and Correction Obligation.

3. **Accuracy Obligation:** Organisations should take reasonable steps to verify that the personal data they hold is accurate.

Example:

Sarah applies for a home loan. The bank asks Sarah to provide relevant details such as her name, address, current employment status and income, which constitute personal data, in order to assess whether to provide the loan to her. The bank asks Sarah to provide

supporting documents including an identity document and her most recent payslip. In this scenario, the bank has made a reasonable effort to ensure that the personal data collected from Sarah is accurate and complete.

4. **The Protection Obligation:** Organisations 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.
5. **The Retention Limitation Obligation:** Organisations must cease to retain personal data as soon as the purpose for which it was collected is no longer served by the retention, and retention is no longer necessary for legal or business purposes.
6. **The Transfer Limitation Obligation:** Organisations must not transfer personal data to a country or territory outside Singapore except in accordance with the requirements prescribed under the PDPA.
7. **The Openness Obligation:** Organisations must implement the necessary policies and procedures in order to meet its obligations under the PDPA and shall make information about such policies and procedures publicly available.

Other rights, obligations and uses

Organisations can continue to use personal data collected before the appointed day for **reasonable existing uses** without obtaining fresh consent, unless the individual has withdrawn consent.

Example:

Organisation ABC has been using the personal data of their customers to send them desktop calendars once every year. This is considered a reasonable existing use. So long as their customers have not indicated that they no longer wish to receive these calendars, ABC can continue to do so without obtaining fresh consent.

Do Not Call Provisions

Organisations that wish to send specified messages to Singapore telephone numbers after the appointed day must either:

- a. Check the Do Not Call (DNC) registry first to ensure that the numbers have not been registered; or
- b. Obtain clear and unambiguous consent do so from the individuals using the Singapore telephone numbers.

Most marketing messages of a commercial nature would fall within the definition of a specified message.

Example:

Sarah signs up for a spa membership over the Internet. She is directed to the terms and conditions page. There is a check box on the first page next to a line which says “click here if you wish to receive information about our products and services, including special offers we may have from time to time, by SMS”. Sarah checks the box. Sarah has given clear and unambiguous consent to receive such messages by SMS.

3) SUMMARY OF PROPOSED ADVISORY GUIDELINES ON SELECTED TOPICS

This set of guidelines provides greater clarity on particular issues which may be of specific concern to businesses and members of the public, and should be read alongside the Advisory Guidelines on Key Concepts.

Analytics and Research

1. Organisations can obtain consent for research as a separate purpose; or
2. As part of the original purpose for which consent was given.

Anonymisation

1. The PDPA does not apply to anonymised data.
2. Data would only be considered anonymised if the re-identification risk is trivial.

Employment

1. Employers need not seek consent to collect, use or disclose personal data that is publicly available, or for evaluative purposes, e.g. reference checks.
2. Employers should notify employees when using personal data for the purpose of managing the employment relationship.

NRIC Numbers

1. NRIC numbers are personal data and organisations should comply with the PDPA when collecting, using or disclosing them.
2. As best practice, organisations should avoid over-collecting personal data and consider suitable alternatives for their requirements (e.g. using an individual's unique membership number and date of birth instead of NRIC number to verify his identity).

Online Activities

1. IP addresses will be considered personal data if an individual can be identified from it.
2. Consent is required to collect personal data using cookies. Individuals could be deemed to have consented to the collection, use or disclosure of personal data when they engage in an online activity for which cookies are required, e.g. e-payments.
3. Browser settings of individuals are relevant but not conclusive as to whether consent has been given for the collection of personal data using cookies.



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

For media queries, please contact:

Ms Jeanne Tan

Manager, Media Relations

Personal Data Protection Commission

C/O Info-Communications Development Authority of Singapore (IDA)

Tel: 6211 1796

Email: jeanne_tan@ida.gov.sg