

# Response to Public Consultation Paper on the Proposed Advisory Guidelines on the PDPA for Children's Personal Data

## Organisation detail

Organisation Name	<a href="#">AIA Singapore Private Limited</a>
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## Contact details

Contact Person	<a href="#">June Chen / Leann Tan</a>
Email Address	<a href="mailto:June-SJ.Chen@aia.com">June-SJ.Chen@aia.com</a> / <a href="mailto:Leann.tan@aia.com">Leann.tan@aia.com</a>

## Summary of major points

We agree that children's personal data is more sensitive in nature and organisations/data intermediaries are expected to implement additional measures to protect children's personal data. As minor may not understand the risks and consequences in disclosing their personal data to third party, there should be parental consent when collecting personal data from them.

## AIAS' comments

**Question 1.** What are your views on the proposed scope of application of the Advisory Guidelines:

- to organisations that offer products or services that are likely to be accessed by children, or are in fact accessed by children, even if the products or services are not targeted at children; and
- that the requirements relating to the protection of children's personal data within the Advisory Guidelines will apply to organisations that are data intermediaries?

No comment.

**Question 2.** Section 18 of the PDPA provides that an organisation may collect, use or disclose personal data about an individual only for purposes that a reasonable person would consider appropriate in the circumstances. What are examples of reasonable purposes for organisations to collect, use, or disclose children's personal data?

No comment.

**Question 3.** When communicating with children, organisations must use language that is readily understandable by children, and can use visual and audio aids to support the child’s understanding. What in your view are examples of such communication with children?

No comment.

**Question 4.** How should organisations minimise the collection, use, and disclosure of children’s personal data?

a. If an organisation were to collect personal data in order to ascertain their users’ age, what measures or best practices should an organisation be undertaking?

b. If an organisation were to collect geolocation data, should geolocation be switched off by default so that products and services cannot automatically start collecting geolocation data when they are first used?

No comment.

**Question 5.** What are examples of situations where an organisation should conduct a Data Protection Impact Assessment (DPIA) before releasing products or services likely to be accessed by children? What should an organisation consider when conducting such a DPIA?

No comment.

**Question 6.** The PDPC notes that the age threshold of 13 years appears to be a significant one in relation to the protection of minors, and moving forward is considering to adopt the practical view that a child that is between 13 and 17 years of age will have sufficient understanding to be able to consent on his or her own behalf to the collection, use, or disclosure of his or her personal data, as well as withdraw such consent. What are your views of when a child can give valid consent on his or her own behalf under the PDPA?

Under Insurance Act 1966, Division 2 – Miscellaneous amendments of law, Section 147 (1) Capacity of infant to insure, a person under the age of 16 does not have the capacity to enter into a contract except with the written consent his or her parent guardian.

*147.—(1) Despite any law to the contrary, a person over the age of 10 years does not, by reason only of his or her age, lack the capacity to enter into a contract of insurance; but a person under the age of 16 years does not have the capacity to enter into such a contract except with the written consent of his or her parent or guardian.*

We suggest aligning with the Insurance Act that a child to be 16 years and above to be allowed to give valid consent on his or her own behalf under the PDPA.

**Question 7.** The PDPC has said that children’s personal data is of a more sensitive nature, and that organisations are required to take extra precautions and ensure higher standards of protection under the PDPA with regard to such data. The PDPC is considering making it a best practice for organisations handling children’s personal data, to implement both the Basic and Enhanced Practices listed in the [Guide to Data Protection Practices for ICT systems](#). Are the practices listed in this Guide adequate?

Are there additional measures that organisations should undertake for the protection of children's data?

No comment.

**Question 8.** The PDPC requires an organisation to notify each individual affected by a notifiable data breach in any manner that is reasonable in the circumstances. A notifiable data breach is a data breach that (a) results in, or is likely to result in, significant harm to an affected individual; or (b) is, or is likely to be, of a significant scale.

Where a notifiable data breach occurs, under what circumstances do you think it would be prudent for the organisation to inform the child's parent or guardian of the breach, considering that this would allow the parent or guardian to take steps to mitigate the harm to the child of the breach?

No comment.

**Any other comments** (optional)

Nil.