

PDPC Public Consultation for Proposed Advisory Guidelines on the Personal Data Protection Act for Children’s Personal Data

Organisation	Charles Monat Associates Pte. Ltd.
Respondent Details	Raphael Wong Group Data Privacy & Information Security Officer raphael.wong@monat.com
	Jane Soh Head of Compliance Jane.soh@monat.com
Remarks	We kindly request that our response be kept anonymous.

Responses

<p>Question 1: What are your views on the proposed scope of application of the Advisory Guidelines:</p> <ul style="list-style-type: none">a. 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; andb. that the requirements relating to the protection of children’s personal data within the Advisory Guidelines will apply to organisations that are data intermediaries?	<p>Regarding the proposed scope of application of the Advisory Guidelines, we appreciate PDPC’s efforts to address the protection of children’s personal data. However, we would like to seek clarification on certain aspects, particularly concerning financial advisory firms.</p> <p><u>Scope of Application for Financial Advisory Firms</u></p> <p>We understand that the proposed scope would cover organisations that offer products or services likely to be accessed by children, even if not specifically targeted at them.</p> <p>In the case of financial advisory firms, it is crucial to consider the context in which children’s personal data is being processed. More often than not, financial advisory firms handle life insurance plans purchased by parents for their minor children, with the children listed as beneficiaries or insured individuals.</p> <p>In these situations, the minor children are not likely to access the life policies themselves as they are not the policyholders. Therefore, it raises the question of whether the personal data of these minor beneficiaries or insured individuals falls within the scope of the proposed Advisory Guidelines.</p> <p><u>Data Intermediaries</u></p> <p>Additionally, there may be instances where financial advisory firms receive referrals from external parties who wish to purchase life policies with minor children listed as the beneficiaries or individuals.</p> <p>During this process, personal data of minors may be shared with the financial advisory firms. Subsequently, separate consent is obtained by the financial advisory firm before proceeding further.</p> <p>In these cases, we would like to clarify whether the financial advisory firm would be considered as a data intermediary under the proposed Advisory Guidelines.</p>
<p>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</p>	<p>It is important to note that determining reasonable purposes may vary based on the context. Nevertheless, the overarching principles guiding the collection, use, and disclosure of personal data should revolve around necessity and compliance with applicable laws and regulations.</p>

<p>to collect, use, or disclose children’s personal data?</p>	
<p>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?</p>	<p>We are of the view that tailoring communication to be readily understandable by children requires careful consideration of the industry, products and services.</p> <p>In industries like retail, where products and services may be more straightforward, using language that is readily understandable by children, accompanied by visual and audio aids, can be effective.</p> <p>However, when it comes to the financial services sector, the nature of the industry and the complexity of products and services involved can present challenges in communicating with children effectively. The concepts and terminology may be intricate, making it difficult to simplify the communication without sacrificing essential details.</p> <p>The MAS has made commendable efforts in making product literature as simple as possible over the years. Still, achieving further simplification would require a concerted industry-wide effort, involving MAS and relevant industry associations. A collaborative approach would ensure consistency across the financial services sector and facilitate improved communication with children or young audiences.</p> <p>Therefore, it is essential to strike a balance between simplifying information for young audiences and meeting legal and regulatory requirements. Before a minor signs any documents, it is customary to explain the content thoroughly to ensure they fully comprehend the implications of their actions.</p> <p>Overall, while industries such as retail may find it relatively easier to adapt communication for children, the financial services sector faces unique challenges that demand thoughtful consideration and collaboration.</p>
<p>Question 4: How should organisations minimise the collection, use, and disclosure of children’s personal data?</p> <p>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?</p>	<p>None</p>

<p>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?</p>	
<p>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?</p>	<p>None</p>
<p>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?</p>	<p>As a member of the financial services sector in Singapore, we are of the view that having a standardised age threshold for determining when an individual is considered a minor would be beneficial for the industry and consumers alike.</p> <p>A clear and consistent age threshold would ensure a uniform approach across financial institutions, allowing for the appropriate application of safeguards and data protection measures. Currently, the disparity in age thresholds used by different insurers to classify minors and juveniles can create confusion and challenges in implementing safeguards. This situation becomes more complex when the organisation is a member of a group of companies and has presence in different jurisdictions, each of which is governed by distinct legal frameworks and regulatory requirements.</p> <p>To achieve a harmonised approach, it is essential for the MAS and relevant industry associations to collaborate and engage in discussions. By coming together, we can establish a standard age threshold that is suitable for the financial services sector, keeping in mind the complexities of the industry and the need to protect minors' personal data.</p> <p>We would also like to seek clarification in instances where firms have obtained parents or guardians' consent previously without the minor's consent, what is PDPC's expectation when the minor attains the age of maturity.</p>

<p>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?</p>	<p>Regarding the adequacy of the practices listed in the Guide to Data Protection Practice for ICT Systems, there are some practices which may not be directly relevant for the protection of minors’ data. For example, the use of ‘just-in-time’ notifications or ‘layered notices’ may not be effective approaches for minors who may not fully comprehend complex privacy policies. Similarly, the self-management facility to allow users to manage their personal data might not be appropriate for young children, who may require additional protection and guidance from parents or guardians.</p> <p>Separately, we would like to also seek clarification on the differences between sensitive data, special category personal data (which is defined under the GDPR), and generic personal data, along with the corresponding PDPC’s expectations on the safeguards to be afforded. Presently, there seems to be very limited guidance concerning sensitive data, leading to potential variations in its classification by different organisations.</p>
<p>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.</p> <p>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?</p>	<p>Presently, breach notification obligations are limited to the affected individuals and/or the PDPC where it is notifiable. However, the proposal of extending the notification process to include parents and guardians in case of a breach introduces additional complexities for organisations, particularly because they may lack the relevant details and contacts of parents or guardians. In the process of notifying the affected minors, organisations may consider including a reminder for them to seek guidance from their parents/guardians.</p> <p>Therefore, it becomes essential to prioritise the assessment of an individual’s capacity to provide consent from the outset. As emphasised in our earlier comments, establishing a consistent industry-specific age thresholds would be beneficial. Such an approach would contribute to a more cohesive and effective approach in protecting children’s personal data.</p>

Conclusion

In conclusion, while we recognise the significance of protecting children’s personal data, we request further clarification from PDPC on the specific application of the Advisory Guidelines to financial advisory firms or financial services sector. Clear guidance will enable financial advisory firms / financial services sector to comply with the proposed Advisory Guidelines effectively.