

SUBMISSION OF COMMENTARY ON TOPIC:

**PUBLIC CONSULTATION FOR PROPOSED ADVISORY
GUIDELINES ON THE PERSONAL DATA PROTECTION
ACT FOR CHILDREN'S PERSONAL DATA** (ISSUED 19TH JULY 2023
BY PERSONAL DATA PROTECTION COMMISSION SINGAPORE)

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SUMMARY OF MAJOR POINTS

At the best of interests of children especially to those that going through different stage of adolescence in transition to adulthood, it is important that they continue to receive best support and encouragement from various parties including policymaker and regulator on getting engage with world of digital and online in safer manner.

In my view the topic about protection of children's personal data requires broader involvement from different multi-disciplinary teams which possibly encompass experts, practitioner, researcher or even educator on area of child development, social and family development, and family health care. I believe their participation would generate greater insight on balancing protection of a child while giving them freedom to engage activities in digital and online world. These group may provide views and ideas that we the policymaker, regulator or associated agency, advocate, and practitioner from legal, data privacy and protection, information security, human rights and technology background may not come across yet.

Below is list of other salient points from me for PDPC considerations.

- 'Reasonable Purposes' for organisations to collect, use, or disclose children's personal data should remain as per explanation under Section 13.4 of Advisory Guidelines on Key Concepts in PDPA, with consideration that the individual group (children) is subject to high level of vulnerability from aspect of cognitive, emotional, and own disposition, and PDPC to provide set of examples (from digital and non-digital facing products and services).
- Geolocation be switched off by default. Child's parent or guardian will receive notification if it is switch-on by the individual (children).
- A child can give valid consent on his or her own behalf under the PDPA at mid stage of adolescence (age of 15 to 17).
- In implementation of both Basic and Enhanced Practices listed in the Guide to Data Protection Practices for ICT systems, children's data (for child below 15) should be classified as sensitive data to receive heighten control in protecting.
- Re-define definition of 'significant scale' in association of data breach involving children's personal data as involvement of children personal data of 100 or more individuals and extend definition of 'significant harm' in association of data breach involving children's personal data to include child cognitive and disposition.

RESPONSE TO SPECIFIC QUESTIONS

Question 1	<p>What are your views on the proposed scope of application of the Advisory Guidelines:</p> <p>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; and</p> <p>b. 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>
Response for Q1(a)	I would like to suggest that set of examples should be included to further relate to reader, what does it mean by ‘offer products or services that are likely to be accessed by children’ and ‘even if the products or services are not targeted are children’.
Response for Q1(b)	I strongly agree.

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?
Response	<p>I would like to suggest that this should remain as per explanation under Section 13.4 of Advisory Guidelines on Key Concepts in PDPA, with:</p> <ul style="list-style-type: none"> - consideration that the individual group (children) is subject to high level of vulnerability from aspect of cognitive, emotional, and own disposition, and - set of examples (from digital and non-digital facing products and services).

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?
Response	I strongly suggest PDPC to reach out existing local and Asia region multi-disciplinary teams who are specialist in area of child development. A robust view and / or ideas can be possibly gathered from child development advocacy on best approach and means to interact with children.

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Question 4	<p>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 to ascertain their users’ age, what measures or best practices should an organisation be undertaking?</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>
Response for Q4(a)	Please refer to my response for Question 3.
Response for Q4(b)	<p>Yes, we should have ‘geolocation’ be switched off by default. Also, to avoid possibility of adverse impact on individual (children) where such default switched off will cause or likely to cause the digital product or services not able to works in expected manner / deliver the intended purpose of an individual (children) engages with the product or services:</p> <ul style="list-style-type: none"> - an auto-prompt messages be sent to inform the individual (children) that the ‘geolocation’ be switched off by default, - suggestion to switch-on the ‘geolocation’ with description of purpose of the location collection, and - child’s parent or guardian will receive notification on switched-on of geo-location related to product or services engaged by the individual (children).

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?
Response	Please refer to my response for Question 3.

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?
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Response	As a parent cum privacy professional in corporate world, my view is a child that between 15 to 17 will have sufficient understanding to be able to consent on his or her own behalf. Having said that, a mechanism to keep child's parent or guarding inform of such consent provided by the child is equally important. Again, this is also an area PDPC should seek view from multi-disciplinary teams on area of child development.
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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?
Response	The implementation of both Basic and Enhanced Practices listed in the Guide to Data Protection Practices for ICT systems should apply across handling of all individual (including children) personal data. In addition Children's data (for child below 15) should be classified as sensitive data to receive heighten control in protecting.

Question 8	<p>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>
Response	<p>I would like to suggest PDPC to consider:</p> <ul style="list-style-type: none"> - re-define definition of 'significant scale' in association of data breach involving children's personal data. The term 'significant scale' should be defined as involvement of children personal data of 100 or more individuals (currently it is defined as 500 or more individuals), and - extend the definition of 'significant harm' in association of data breach involving children's personal data to also include the child level of cognitive and disposition as well as acute and long-standing effect on the child if organisation does not inform.

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