

Legislative Council Panel on Constitutional Affairs
Financial Provisions for the
Office of the Privacy Commissioner for Personal Data in 2008-09

Purpose

This paper updates Members on the financial provision for the Office of the Privacy Commissioner for Personal Data (“PCPD”) in 2008-09. Members are invited to note the contents of this paper are from the perspective of the PCPD.

Background Information on the PCPD

2. As at 1 December 2008, the actual working strength of the PCPD is 51. The subvention from the Government was intended to maintain a permanent establishment of 42.

3. As mentioned by CMAB in its paper, the PCPD has a small income generated from membership fees of the Data Protection Officers’ Club which are chargeable at the nominal rate of \$300 per year per member based on a non-profit basis. For year 2007-08, PCPD’s income totaled \$60,000 and the projected 2008-09 income would be approximately the same.

Financial Provisions for the PCPD in 2008-09

4. The Government continued its financial support to the PCPD in

the effective enforcement of the Personal Data (Privacy) Ordinance (“PD(P)O”) in 2008-09.

5. While the financial provision for 2008-09, as compared to 2007-08, represents an increase of \$2.8M (or about 7.7%), it should be borne in mind that there had been no increase in the number of permanent established posts for the PCPD during the last five years (i.e. since 2003-04).

6. Of the afore-mentioned \$2.8M, only \$1.8M is a recurrent additional subvention (for strengthening the enforcement team of the PCPD). This money has been used for the creation of three posts, viz. one Personal Data Officer at EOI grade, one Assistant Personal Data Officer and one Assistant IT Officer at EOII grade. The first mentioned two officers are to be deployed in undertaking self-initiated compliance checks into suspected breaches of the PD(P)O whereas the last mentioned officer is required to provide information technology support.

7. The remaining \$1M is being allocated for projects to step up the education and training work to promote greater awareness of the protection of privacy rights in relation to personal data. However, we are concerned that this is a one-off allocation and the Government has given no indication that similar financial support would be given after 2008-09 for the same purpose.

8. In 2006-07, the PCPD recognized the dire need for two senior experienced officers (one Chief Privacy Compliance Officer at CEO grade and one Senior Personal Data Officer at SEO grade) to handle self-initiated compliance investigations. In the absence of financial

provision from the Administration and on the suggestion of the HAB, the two officers were recruited and their salaries paid out of PCPD's Reserve Fund. This had resulted in a continuous drain on the PCPD Reserve Fund. The Government informed the PCPD on 5 December 2008 that it would be allocated an additional sum of \$2.4M to enable it to maintain some financial flexibility by keeping a relatively healthy Reserve Fund. Notionally, the \$2.4M are to enable the PCPD to create two new permanent posts under the establishment but in reality, the same two officers (referred to in the last paragraph) have been physically working in the PCPD since 2006-07.

9. The total sum of \$6.62M referred to in paragraph 8 of CMAB's paper included \$1.42M which went to pay the salary increases of the general staff in line with the Civil Service Pay Adjustment. PCPD's deployment of the additional funding are shown below :-

<u>Purposes</u>	<u>Amounts</u> <u>(\$)</u>	<u>Notes</u>
(a) One-off allocation for promotion purposes	1.00M	see para. 7
(b) To pay for the increase in salaries of the general staff	1.42M	see above
(c) To pay the existing two senior officers	2.40M	see para. 8
(d) To create three additional posts, viz. one Personal Data Officer at EOI grade, one Assistant Personal Data Officer and one Assistant IT Officer at EOII grade	1.80M	see para. 6
	6.62M	

10. At the Meeting of the Panel on Home Affairs on 4 July 2008, members “expressed grave concern that there was an acute manpower shortage within PCPD hindering its investigation work” (Mr. CHEUNG Man-kwong) and that “PCPD had not been given adequate resources for handling its heavy caseload” (Dr. Fernando CHEUNG and Ms. Emily LAU). Since then, the Government has, on 5 December 2008, agreed to allocate to the PCPD an additional \$2.4M but due to the circumstances mentioned in paragraph 8 of this paper, the PCPD cannot utilize that money to recruit any extra employee for the time being.

11. To sum up, when the \$2.4M are allocated to the PCPD, the actual working strength of the PCPD will remain the same as of 4 July 2008 but the permanent establishment will be increased to 44.

Office of the Privacy Commissioner for Personal Data, Hong Kong
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