

LegCo Panel on Constitutional Affairs
Monday, 15 December 2008
(3:50 pm – 4:25 pm)

Presentation by the Privacy Commissioner for Personal Data

Chairman and Honorable Members,

I would like to thank members of the Legislative Council for expressing their support on 4 July 2008 in my application to the Government for additional resources. On 5 December 2008, the Government indicated that it would give my Office an additional \$2.4M for 2008-09. For this, I thank the Secretary for Constitutional & Mainland Affairs. My paper submitted to Panel members last week was to show how the additional provision in 2008-09 was deployed, increasing the permanent establishment to 44. The additional funding was a timely shot in the arm because there had been no increase in the number of our permanent established posts during the last five years (i.e. since 2003-04), and the workload and complexity of data protection issues that my Office has to handle during this period have posed serious staff constraints.

The year 2008-09 has been a particularly busy year for my Office. For the first eight months of this financial year, we have handled 9,340 enquiries, 721 complaints, carried out 81 compliance checks, 18 formal investigations, 547 informal investigations with only a workforce of 21 staff focusing on investigation and enquiry work. We have also been engaged in two major projects.

- (i) The internal Ordinance Review Working Party made over 50 recommendations to update the Ordinance. In normal circumstances,

such a mammoth task is undertaken by the Law Reform Commission. The Government is now considering and discussing with my Office the various details. I expect that during 2008-09, a lot of my resources will be diverted to working with related Government departments and bureaux, such as the Constitutional & Mainland Affairs Bureau and the Department of Justice, as well as other stakeholders in the public and the private sectors in preparation for the introduction of the legislative amendments.

- (ii) From May to July this year, I carried out an inspection of the Hospital Authority's patients' data system. This was a daunting task and unbudgeted for, but the alarming incidents of loss of patients' data and the grave concern of the public gave me no alternative. Without resources, I had to call on friends and allies for help. I was thankful that four eminent experts agreed to volunteer their services. A sizeable team of my staff was mobilized and worked intensively for more than two months. One female officer became sick and has not yet fully recovered. The report which was published in July offered 37 recommendations which the Hospital Authority totally accepted and agreed to their implementation. However, my Office has to follow up the case, especially to help the public hospitals in Hong Kong promote the protection of patients' data privacy.

These two important tasks had been undertaken notwithstanding my limited resources and they unavoidably affected other areas of our work. I expect more and more enforcement works need to be done in the days ahead. There are and will be many incidents where no complaints are received but public interest demands that they be looked into. This I am sure members of the Legislative Council, the Government, and the public will understand. But in the long run, it is impossible to allocate over half of our manpower to carry out one inspection.

In this Internet age, personal data leakages are irreversible. It is therefore very important to take preventive measures. Many of such measures I hope to implement are temporarily stalled.

Education is also a key to the protection of personal data privacy. Many organizations have requested us to organize seminars on the requirements of the Ordinance. As there is only one trainer in my Office, many of the requests had to be turned down. In recent years, we have focused our promotion and education on specific industries, e.g. hotel industry and real estate business. If more manpower and resources are available, such educational activities can be extended to other industries.

Members may well ask whether it is appropriate to ask the government for more resources during the present economic downturn, especially when the Government has already granted additional fund to PCPD? As Privacy Commissioner, I am duty-bound to protect the personal data privacy of the people of Hong Kong. My request for more resources from the Government is not intended to increase my Office's expenses or the salaries of myself or my colleagues. The funding is considered necessary to perform my functions properly and to better protect the personal data privacy of the people of Hong Kong.

Currently my Office is discussing with the Constitutional & Mainland Affairs Bureau regarding the subvention for 2009-10. They are attentive to our needs and evidently share our goals. However, in the current economic environment, I fully understand that the Government must assess the importance of protecting personal data privacy in the grand scale of things and in the process set priorities in its allocation of funds in order to strike a balance which satisfies the needs of the public.

In closing, I promise that I will make the most of whatever resources that may be provided to me and ensure that the quality of the services rendered by my Office will not be compromised.