

**Speech of the Privacy Commissioner for Personal Data,
Mr. Roderick B. Woo at the Public Accounts Committee
of the Legislative Council on 21 December 2009**

Dear Chairman and Councillors,

After consolidating the concern raised by the Councillors on the work of the PCPD, I would like to add the following points:

(i) Corporate governance and strategic planning

As responded to in the Audit Report, I agree to make strategic planning for the long-term work of the PCPD. With the assistance of the group formed by our management staff, strategic planning can be made and long-term strategic plans will be documented so that better governance can be achieved.

In planning, the PCPD's resources and effective performance of the functions of the Commissioner will be considered. Timely consultation will be made to the Personal Data (Privacy) Advisory Committee and professional opinions will be sought. Moreover, as recommended by the Director of Audit, I will strengthen the communication with the Personal Data (Privacy) Advisory Committee and set up formal meeting rules. Opinions about significant policy on the protection of personal data privacy will also be sought from the Committee members. Furthermore, I have just established the Standing Committee on Technological Development, which was formed by external experts. The Commissioner will be given advice relating to technological development and impact on personal data privacy.

In long-term strategy, I will strive for better performance in the aspects of (i) promotion; (ii) education; (iii) guidance; (iv) regulation; (v) enforcement; (vi) legal reform; and (vii) global coordination and cooperation. I will also set objectives and performance indicators in my annual work plan for my staff's follow up.

Future work plans include (i) employment of additional promotion and education staff to carry out more activities on the promotion of personal data privacy; (ii) carrying out privacy impact assessment and privacy compliance audit for the Government's eHealth Record Sharing Programme if resources are available; (iii) continual work for the establishment of register of data users; (iv) increasing inspection of personal data system when resources are available; and (v) assisting the Government to speed up the work of legislative amendment.

(ii) Handling of backlog of complaint cases

Backlog of complaint cases can be minimized by employment of experienced complaint handling staff. I am pleased to learn that the Secretary for Constitutional and Mainland Affairs indicated that he was willing to study the possibility of allocating more resources to temporarily help the PCPD handle the recent increase of complaint cases. Of course, I hope the Government can increase our recurrent funding so that we can increase our establishment posts. This is the long-term solution.

(iii) Staff's work area exceeding government standards

The PCPD agrees to the Audit's recommendation that it will consider the government standards as far as possible when allocating work area. Other consideration factors include the work nature and the sensitivity of documents. Moreover, the actual amount and variety of work will also be taken into consideration, and existing resources may be allocated to employment of temporary staff to cope with ad hoc projects. Therefore, when considering the office accommodation, forward-looking consideration is needed. From past experience, the PCPD had to first employ non-establishment staff to handle the increased workload, and the Bureau would then consider whether there was a need to increase the funding.

In view of the PCPD's active participation in privacy impact assessment and privacy compliance audit for the eHealth Record Sharing Programme and the implementation of register of data users, it is anticipated that the PCPD has to increase its manpower in 2010 and therefore, sufficient work space should be reserved.

(iv) How to increase manpower with existing resources

The approach of the PCPD is to economize in different operating expenses. One of the ways to increase manpower is to employ more staff of lower rank, instead of higher rank, to handle extra work. For instance, although the establishment of the PCPD on 1 July 2009 was 34 excluding administrative staff, the PCPD added 8 non-establishment posts by the above approach, making a total number of 42 excluding administrative staff. I have also made use of the PCPD's reserve to set up a new division, Compliance Division at the end of 2006.

I have to say that the above approach is not the ideal one. It is only an arrangement made according to the situation because experienced staff of higher rank should be more capable to handle complicated cases. Moreover, the PCPD's reserve is capped at a ceiling of 5 million dollars by the Memorandum of Administrative Arrangement signed between the PCPD and the Bureau. I believe the root of the problem should be solved by Government's increasing recurrent funding, raising the maximum limit of the reserve and allowing flexible deployment.

(v) Reasons for not exceeding budget in the past financial years

Over the past five years, the PCPD accumulated a surplus of about 2 million dollars every year. Apart from the PCPD's effort to monitor and control the expenses, the main reason for the surplus is the temporary staff vacancies of posts not yet filled in a financial year.

I would like to stress that the PCPD has not reserved any funds for legal liability in its past budgets. As the operation of the PCPD may involve legal risk, e.g. compensation or litigation costs that may be incurred if a court case is lost. The surplus may not be sufficient to cover the litigation risk for any financial year. If there is insufficient fund to cover legal risk, the PCPD has to request for funds from the Bureau.

Moreover, the annual surplus can only be put into the PCPD's reserve. As the reserve is capped at a ceiling of 5 million dollars by the Memorandum of Administrative Arrangement signed between the PCPD and the Bureau, the excess amount has to be returned to the Bureau.

(vi) Staff turnover

Although staff turnover is also a problem faced by other government departments or public sector organizations, the variety of work, the unpredictable number of complaints, the increasing challenges of technologies posed to personal data privacy and the 45-day requirement have been factors attributed to the high turnover rate.

We all know that there is no perfect solution to deal with staff turnover. To improve the current situation of the PCPD and to minimize the backlog, I think the immediate measure that can be taken is to employ more experienced staff. The existing establishment and manpower should also be reviewed in order to strengthen the corporate governance. I hope the Bureau could understand and give full support to the PCPD in terms of resources so that the PCPD can carry out the mission of protecting the personal data privacy of Hong Kong people more effectively and comprehensively. Thank you.