



Your ref: CB(3)/PAC/R53

Our ref.: PCPD(O)125/115/155 pt.1

By Email and By Hand

15 January 2010

Ms Miranda HON
Clerk to Public Accounts Committee
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Ms HON,

Re: Report No. 53 of the Director of Audit (Chapter 9) relating to the Office of the Privacy Commissioner for Personal Data (PCPD)

In his “value for money” report dated 27 October 2009, the Director of Audit recommended in paragraph 2.8 that the PCPD should consider implementing a structured strategic planning process.


As indicated at the public hearing before the Public Accounts Committee (PAC), I accepted the recommendation and intended to implement same. I now submit, for PAC members’ information, a formal long-term strategic plan and a formal annual business plan (for 2010).

The Director of Audit fully acknowledges the independent status of the Privacy Commissioner in paragraph 1.2 of his report and therefore has not suggested that the plans should be drawn up in consultation with the Personal Data (Privacy) Advisory Committee. It is however my intention to invite Committee members’ comments at the next regular meeting in February.

These plans in their present format would have been finalised sooner but for the difficulties which I had encountered in undertaking the precursory research. My Office had searched for some existing documents of a similar nature among Government departments and bureaux but had not been very successful. Many either do not have such plans or if they had, they were not publicly accessible in details.

As mentioned in my written Submission to the PAC, the long-term projects were to be found in different files and it is indeed neat to house them all in one single document. Needless to say, the projects described in the long-term strategic plans have been in progress for quite sometime.

Yours sincerely,



(Roderick B WOO)

Privacy Commissioner for Personal Data

Encls.

c.c. Secretary for Financial Services and the Treasury

(Attn: Ms Bernadette LINN, JP)

Financial Services and the Treasury Bureau

Secretary for Constitutional and Mainland Affairs

(Attn: Mr Arthur HO, JP)

Constitutional and Mainland Affairs Bureau

Director of Audit

(Attn: Mr Paul LAM)

Audit Commission

Office of the Privacy Commissioner for Personal Data **Strategic Plan (2010-2014)**

This strategic plan sets out the mission, key goals, specific objectives and action strategies of the Office of the Privacy Commissioner for Personal Data (“PCPD”) for the period of 2010 and 2014.

Mission

The mission of the PCPD is to secure the protection of privacy of the individual with respect to personal data through promotion, monitoring and supervision of compliance with the Personal Data (Privacy) Ordinance (“PDPO”).

Key Goals

The key goals of the PCPD are to ensure that:

- (1) individuals are aware of their rights as data subjects under the PDPO and how to exercise them;
- (2) public and private sector organizations are aware of their obligations as data users under the PDPO and how to meet them;
- (3) individuals and public/private sector organizations are aware of the role of the PCPD and how we can assist them;
- (4) enquiries are responded to courteously and efficiently to the satisfaction of the enquirer;
- (5) complaints are investigated and resolved efficiently in a manner that is fair to all parties concerned;
- (6) all other functions of the PCPD are carried out cost-effectively and efficiently; and

- (7) all other jurisdictions with data protection laws are aware of the robustness of our law protecting the privacy of the individual with respect to personal data so as to obviate any interference in the free flow of personal data to Hong Kong.

Functions

The functions of the Privacy Commissioner for Personal Data (“**the Privacy Commissioner**”) are set out in section 8 of the PDPO. They can loosely be divided into four types:-

- | | |
|-----------------------------------|--|
| 1. Promotion and Education | <ul style="list-style-type: none">✧ Promoting public awareness and understanding of the PDPO;
✧ Providing appropriate training to targeted groups of data users
✧ Promoting good practice by providing guidance to data users through the issue of code of practice and other guidance materials. |
| 2. Enforcement | <ul style="list-style-type: none">✧ Conducting inspections of personal data systems.
✧ Initiating investigation.
✧ Investigating complaints.
✧ Issuing enforcement notices.
✧ Working with law enforcement agencies to enforce the law
✧ Data Matching Procedures applications. |

- 3. **Minimizing privacy impact** ✧ Examining proposed legislations and amendments that may impact upon personal data privacy.
- ✧ Monitoring technological developments.
- 4. **International and regional co-operation** ✧ Liaising and co-operating with overseas data protection authorities on the development of personal data protection.

The strengths, weaknesses, external opportunities and threats to the operation and the achieving of the objectives of PCPD

PCPD is a statutory body that is 100% funded by Government subvention. Its independent status enables the Privacy Commissioner to discharge his functions and powers without fear or favour. A dedicated team of staff possessing expertise on personal data protection working in a compact organization that is closely knitted constitute operational strengths that enable the PCPD to perform its functions in an efficient and effective manner.

The scope and manner of its operation is however, necessarily limited by the amount of resources provided to the Privacy Commissioner. The mobility rate of the staff and the difficulty to recruit staff of specific expertise also pose considerable problems to its daily operations. There are some inherent operational weaknesses that the PCPD has to face. These include the lack of career advancement and the impossibility to achieve economy of scale in its daily administration.

With the growing concern on the need to build up proper privacy governance, organizational data users, especially Government departments and bureaux, are more ready to approach PCPD for advice or invite PCPD to participate in undertaking Privacy Impact Assessments and Privacy Compliance Audits. These organizational data users welcome and are keen to partner PCPD in privacy promotional activities. Hong Kong's standing as a privacy pioneer jurisdiction in regional and international privacy arenas, such as APEC, Asia Pacific Privacy Authorities forums and the International Conference of Data Protection and Privacy Commissioners are increasingly recognized. These are

external opportunities which are helpful and encouraging to the PCPD in the discharge of the Privacy Commissioner's functions under the PDPO.

However, the Privacy Commissioner has to face serious privacy challenges posed by technological advancements. People are found to be more ready to trade in personal data privacy for the convenience that technology has brought them and the social habits they choose to acquire. This is aggravated by the fact that younger people are growing up in an environment surrounded with technologies that render them less aware of their personal data privacy rights. The fast and borderless flow of personal data to areas with no comparable personal data privacy protection also gives rise for concern. These are threats that may frustrate and make more difficult the attaining of PCPD's objectives and targets.

Having duly conducted the environmental scan mindful of the above relevant factors, the PCPD's strategic planning team comprising its key management staff have assisted the Privacy Commissioner in preparing this Strategic Plan.

PCPD's Priorities

- Continued efforts to improve the turnaround times for complaint investigation casework, whilst maintaining the quality and consistency of our findings
- Review complaint investigation casework levels to ensure the optimum match between resources and capacity
- Find more efficient ways to promote good practice on personal data protection when the greater part of our resources are being directed to improving casework handling
- Publicize personal data protection benefits with targeted programmes of guidance, risk-based enforcement and policy proposals that inspire public confidence
- Continue to improve PCPD's organizational and individual performance, effectiveness and efficiency
- Bring into the operation the Data User Returns and Register of Data Users as provided under Part IV of the PDPO
- Complete our IT re-procurement, enabling us to make better use of IT systems and

- Successfully deploy the necessary resources and capacity to handle additional personal data protection work arising from the e-Health Recording Sharing Programme

Specific Goals

For the period of 2010 and 2014, the PCPD will aim to achieve the following specific goals:-

- To carry out more compliance checks and audits to minimize the risk of personal data privacy breach.
- To further streamline the handling procedure of the Operations Division with available resources with a view to minimizing the processing time of complaints.
- Promotion of data privacy awareness will be focused on groups that have the greatest need.
- To continue with the effort of maintaining transparency and greater interaction with the public using all practicable means, including publishing more investigation reports, case notes and issuing more public announcements.

Specific Objectives and Action Strategies

1. Review of the PDPO

To assist the Government in the ongoing review of the PDPO, the PCPD will provide its views and other assistance to the Government timely and as the available resources permit.

The Government released the Consultation Document on Review of the PDPO in August 2009. The review was initiated by the PCPD in June 2006 when an internal Ordinance Review Working Group was formed to assess the adequacy of protection of personal data privacy. After a year

and a half's work, the Working Group completed its review and presented to the Government in December 2007 more than 50 amendment proposals. The Government has taken on board most of the proposals made by the PCPD. In order to facilitate the public to obtain all relevant information relating to PCPD's proposals, the PCPD issued a paper titled "*PCPD's Information Paper on Review of the Personal Data (Privacy) Ordinance*" on 9 September 2009. In response to the consultation, PCPD provided its submission to the Government on various amendment proposals made in the Consultation Document before the close of the consultation in November 2009. The PCPD shall continue its efforts to assist the Government to expedite the legislative amendment process.

2. Data Users Returns

The PCPD will give priority to the preparation works to bring into operation the Data User Returns ("**DURS**") and Register of Data Users as provided under Part IV of the PDPO.

Data users are required under the DURS to submit the types of personal data they hold and the purposes for which they are held. The requirement of registering with the PCPD would force organizations to be more open and transparent. When investigating a complaint, the PCPD officers would be able to refer to the registration information to find out if the data is being used for reasons other than that provided on the registration form. Making such information available on a central public register will bring benefits to society as a whole.

Section 14(2) of the PDPO provides that the Privacy Commissioner shall, before specifying a class of data users to comply with the section, consult with them and then require these data users to furnish prescribed information to the Privacy Commissioner in a specified format, which will then be recorded in the Data Users Register.

A decision will be made by the Privacy Commissioner as to whether the DURS shall initially apply to the public sector. An implementation by phases is desirable. The setting up of a basic framework with targeted data users to be included by phases is the preferred approach in allowing for gradual integration into the system.

3. **eHealth Record Sharing Programme**

The PCPD will help in the privacy impact assessment (“**PIA**”) in respect of the Government’s eHealth Record Sharing Programme.

The Food and Health Bureau on behalf of the Government has invited the PCPD to conduct a PIA that will proceed in tandem with the development of the eHR sharing system, and a Privacy Compliance Audit (“**PCA**”) upon individual components of the eHR sharing infrastructure commencing operation.

The PIA and PCA will cover a wide range of issues affecting data privacy including data sources, collection, storage, deletion, access control, disclosure and use, authentication, consent issues, records sharing, security safeguards, privacy risk management, etc.

The Project will be implemented by phases over 5 to 10 years. Legislation will be in place as and when required to complement the operational needs. Subject to appropriate funding arrangement to provide for resources to PCPD to undertake the Project, a sustainable data privacy team is essential to the continuity of such a long-term project.

4. **Regional and Global Data Protection Activities**

The PCPD aims to continue its participation in the work of the APEC’s Data Privacy Subgroup (“**Subgroup**”) and will follow closely the implementation of the APEC Privacy Framework. The PCPD will also look for opportunities in participating in more regional and global data protection activities.

For the purpose of fostering the development of compatible approaches to data privacy in the APEC region, the Electronic Commerce Steering Group (“**ECSG**”) of the APEC established in the Subgroup in February 2003 to develop a set of privacy principles and implementation mechanisms. The PCPD was invited by the then Commerce, Industry and Technology Bureau to participate in the work of the Subgroup in 2003. The Subgroup developed the APEC Privacy Framework, the full

version of which was endorsed in November 2005. Since then, the Subgroup has been working towards the practical aspects of promotion and education as well as domestic and international implementation of the Framework. In 2007, the APEC Ministers endorsed the APEC Data Privacy Pathfinder. Member economies agree to work together to create implementation frameworks by pursuing nine projects that work towards achieving an overarching set of objectives and accountable cross-border information flows. In November 2009, the APEC Ministers endorsed the APEC Cooperation Arrangement for Cross-Border Privacy Enforcement, which is one of the products of the Data Privacy Pathfinder. The work plan of the Subgroup is to complete the other Pathfinder projects by the end of 2010.

5. **Promotional and Educational Activities**

(i) Regional and Global Data Protection Activities

The PCPD aims to continue with its regional and global data protection activities.

Asia Pacific Privacy Authorities (“**APPA**”) is the principal forum for privacy authorities in the Asia Pacific Region to form partnerships and exchange ideas about privacy regulation, new technologies and the management of privacy enquiries and complaints. Participants of APPA currently include the Privacy Commissioners of Australia (including the Commissioners of the States of New South Wales, Victoria and the Northern Territory), New Zealand, Canada (including the Province of British Columbia), the Korean Information Security Authority, and Hong Kong.

At its two bi-annual meetings, reports from members’ jurisdictions on privacy developments will be received and a wide range of topical personal data privacy issues will also be discussed. The PCPD will continue to participate actively in APPA activities.

(ii) Educational Activities

The PCPD aims to organize 2 to 3 industry-specific educational

activities in the next five years. Moreover, the PCPD will recruit an additional officer who will be mainly responsible for conducting seminars to the general public.

(iii) *Promoting Privacy Rights Among the General Public*

Free Public Introductory Seminars

To raise public's awareness and understanding of the PDPO, the PCPD will continue to organize free public introductory seminars on the requirements of the PDPO regularly.

Moreover, the PCPD will recruit an additional officer who will be mainly responsible for conducting seminar to the general public.

Privacy Awareness Week

Privacy Awareness Week (“PAW”) was first launched in 2007 by APPA member jurisdictions. It is an annual promotion for both public and private organizations covered by privacy legislation in APPA member jurisdictions to promote privacy awareness to their staff, customers and to the wider community. During each PAW members jointly organize an APPA-wide promotion. The PCPD will continue to join hands with APPA member organizations to organize different kinds of promotional activities in PAW to promote the awareness of personal data privacy protection.

Participation in relevant exhibitions

In order to reach out target audience, the PCPD expects to participate in relevant large-scale expositions, e.g. Education & Careers Expo, to disseminate the message of personal data privacy protection to the audience.

Promotional and educational activities to targeted data subjects

The PCPD will identify specific data subjects (e.g. senior citizens or young people) and organize relevant promotional and educational

activities to them.

Mass Media and Website

To widely publicize the importance of data privacy, the PCPD will produce Announcement of Public Interest (“**API**”) for broadcasting on television and other public forums.

The PCPD will continue to disseminate privacy protection messages to different segments of the community via its website (www.pcpd.org.hk). More interactive elements will be integrated into its website.

(iv) Promoting Compliance Among Data Users

Data Protection Officers’ Club (“**DPOC**”)

DPOC has been established for over 10 years and will continue to play the role as a communication platform between PCPD and data protection officers.

In 2010-2014, various kinds of activities will be organized for DPOC members to enhance their knowledge of data protection.

Industry-specific educational activities

The PCPD expects to organize 2 to 3 industry-specific educational activities in the next five years.

In-house seminars

To strengthen data users’ understanding of the requirements of the PDPO, and remind them of the importance of privacy protection in relation to personal data, the PCPD will continue to conduct seminars to employees of private and public organizations.

Publications and educational tools

The PCPD will produce a wide collection of comprehensive publications, including trainer's kit, newsletters, annual reports, introductory/explanatory booklets and leaflets, to assist data users to have a better understanding on the requirements of the PDPO.

6. Section 33 of the PDPO

The PCPD has commenced preparatory works for the implementation of section 33 of the PDPO and will make extra effort in working with the Administration with a view to putting it into operation as soon as possible.

Section 33 prohibits the transfer of personal data to places outside Hong Kong unless one of a number of conditions is met. One of these conditions is that the data user has taken all reasonable precautions and exercised all due diligence to ensure that the personal data concerned are given equivalent protection to that provided for by the PDPO. The Commissioner, though being ready to do so, has not yet specified under section 33(3) a "white list" of the overseas countries or regions that afford comparable personal data privacy protection as Hong Kong. The difficulty is manifested by the increasing trend of data users out-sourcing personal data processing to servicing agents outside Hong Kong. The realities are that many of these places do not have any privacy legislation in place for protection of personal data privacy. To comply with section 33, an alternative is for data users to impose contractual obligations on the transferees for proper handling of personal data. For the purpose of providing practical guidance on data users, the PCPD has issued a Fact Sheet and a Model Contract. Comparing with the environment when the PDPO was enacted 13 years ago, privacy protection is now seen by businesses as an enhancement rather than a burden and it is not uncommon for businesses to enter contractual terms with data processing agents on the proper handling of personal data. The PCPD does not see it objectionable for businesses to take extra steps to enhance privacy protection which in turn is beneficial to them in boosting corporate image and reputation.

7. Administration and Management

The PCPD has many functions to perform but its workforce is small. Our staff are specialists and keen to improve their skills and the manner in which they perform their duties.

A high priority is to improve the quality of our senior leadership and management, ensuring that the organisation is well led and managed and our human, financial and organisational resources are used efficiently and effectively.

The essential requirements

(i) Senior Leadership

We will aim to ensure that all senior officers are encouraged, and equipped with the skills to communicate effectively with and inspire their subordinates.

(ii) Business Planning

We will ensure that our annual business plans clearly link with this strategic plan. They should contain challenging but realistic targets. Sufficient flexibility has to be built in to accommodate emerging demands.

(iii) Performance management

We will aim to improve the documentation of policies and procedures and risk management.

(iv) Information services

We will devise an information services strategy to provide our staff with a solid IT platform and core applications that meet the needs of the PCPD in a cost-effective manner.

Staff's remuneration and incentives

We will give high priority to pay and reward issues, aiming to provide our staff with the right incentives.

Modernising Human Resources

Circumstances permitting, we will try to give our staff good training, job-satisfaction, diversity of work and fair treatment.

We will:

- (a) ensure that we offer the right levels of information. We will listen to feedback and give timely responses with targeted information. We will continue to develop our intranet and help our staff to get the information and advice they need.
- (b) Developing a culture of communications -
We will continue to develop internal communications and encourage the greater involvement of the staff. We will ensure that the PCPD values remain an intrinsic part of how we work.

Financial management and internal controls

We will ensure that the public funds entrusted to us shall be used in a proper and efficient manner in accordance with the law and audit requirements. We will endeavour to make the most efficient use of all PCPD accommodation.

**The Office of the Privacy Commissioner for Personal Data
January 2010**

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2010 Business Plan for the Office of the Privacy Commissioner for Personal Data (“PCPD”)

Preamble

The Privacy Commissioner shall carry out his functions and activities in accordance with section 8 of the Personal Data (Privacy) Ordinance, Cap 486 (“PDPO”). Besides the day to day operation of the PCPD, the following are specific work goals set for the 2010 Business Plan.

Work Goals

1. To monitor and supervise compliance with the provisions of the PDPO

1.1 The conduct of Privacy Compliance Audit on the SMART Identity Card data of the Immigration Department

The SMARTICS (i.e. SMART ID Card System) was launched by the Immigration Department in 2003 by issuing electronic card containing personal particulars of individuals stipulated under the Registration of Persons Ordinance. After years of implementation, it was timely that a review of the personal data system of SMARTICS be conducted to ensure compliance with the PDPO. With this objective in mind, the Immigration Department entered into a Memorandum of Understanding with PCPD in 2009 to carry out a privacy compliance audit of the SMART ID Card data, which project is expected to be completed in the early part of 2010.

1.2 If situation warrants, the publication of 5 investigation reports

Section 48 of the PDPO provides that the Privacy Commissioner may after completion of an investigation and if he finds it to be in public interest to do so, to publish a report setting out the result of the investigation and the recommendations arising from the investigation. This is found to be an effective means of making

known to the public the regulatory stance of the Privacy Commissioner to facilitate better compliance with the requirements of the PDPO. It is the work objective that more investigation reports be published in 2010.

1.3 The review of the Complaint Handling Policy

The Complaint Handling Policy sets out the policy of the ways in which the Privacy Commissioner normally exercises his powers and discretion under Part VII of the PDPO. It is in the interest of transparency that this policy be made available to the public so that complainants and parties complained against can handle and respond to the complaint with clearer understanding and appreciation of their own position. The grounds / reasons under which the Privacy Commissioner may refuse to carry out or continue with an investigation shall be reviewed for more efficient and effective exercise of the Privacy Commissioner's powers under the PDPO. A review of the Complaint Handling Policy will be conducted in 2010.

1.4 To make substantive preparation for the implementation of Data Users Registration Scheme ("DURS") under Part IV of the PDPO : first phase – setting up a basic framework for the scheme

Data users are required under the DURS to submit prescribed information including the types of personal data they hold and the purposes for which they are held annually to PCPD. The registration system renders data users to be more open and transparent as such information will be made available on a central public register open for public inspection.

Section 14(2) of the Ordinance empowers the Privacy Commissioner to specify a class of data users to comply with the section after consultation. A decision has to be made as to whether the DURS shall initially be applied to the public sector. The first phase of implementation will involve the setting up of the basic framework in 2010.

2. To promote and assist data users to prepare codes of practice under section 12 of the PDPO

2.1 The approval of the Code of Practice of the Immigration Department in relation to SMARTIS data

Upon completion of the privacy compliance audit of the SMARTICS of the Immigration Department, the recommendations / observations made by the PCPD will be taken into account by the Immigration Department in promulgating the Code of Practice. Such Code of Practice, shall be submitted to the Privacy Commissioner for approval under section 12 of the PDPO.

2.2 To consider whether amendments to the Code of Practice on Consumers' Credit Data ("CCD Code") are desirable in the public interest and to take consequential action if consultation is deemed appropriate

The CCD Code which was last revised in June 2003 was due for revision in light of the regulatory experience gained over the years on the application of the same, the relevant Administrative Appeals Board decisions and the stakeholders' concerns on addressing specific matters of application. Views from stakeholders will be collected in preparation for the amendment exercise.

3. To promote awareness and understanding of and compliance with the PDPO

3.1 To participate in the Privacy Impact Assessment of the eHealth Records ("eHR") Sharing Programme

eHR Sharing Programme is a significant step forward in health care system involving the building up and the sharing of electronic health records of patients by health care providers which may further be extended to other classes of users. Health records are generally taken to be of a sensitive nature, any mishandling will have grave privacy impact on individuals. The PCPD has been participating

in the Working Party for the Programme with the objective of highlighting the requirements of the PDPO for compliance.

The Food and Health Bureau on behalf of the Government has invited the PCPD to conduct a Privacy Impact Assessment (“PIA”) that will proceed in tandem with the development of the eHR sharing system, and a Privacy Compliance Audit (“PCA”) upon individual components of the eHR sharing infrastructure commencing operation. The Programme will be implemented in phases over a period of 5 to 10 years.

Subject to funding arrangement, PCPD will participate in the PIA and PCA. It is anticipated that the works on the PIA will commence in 2010.

3.2 The issuance of the Guidance Notes on Data Breach Notification

In the wake of the series of data leakage incidents caused through online share file software and the use of removable electronic devices and the gravity of harm (such as identity theft) that may cause the data subjects if massive amount of or sensitive personal data are being leaked, data users shall be mindful of the proper remedial actions to be taken to mitigate or reduce the damages caused. For the purpose of giving data users guidance to handle a data leakage incident, a Guidance Notes on Data Breach Notification will be issued.

3.3 The publication of the second edition of the “Data Protection Principles in the Personal Data (Privacy) Ordinance – from the Privacy Commissioner’s Perspective”

This is the only publication available which contains views of the Privacy Commissioner on the application of the data protection principles. It was first published in 2006 and in light of the developments that have taken place as a result of decisions from the Court, the Administrative Appeals Board and the regulatory views of the Privacy Commissioner, it is timely that a second edition of the publication with updated information be published.

3.4 The issuance of a Trainer’s Kit to facilitate organizations to conduct their own training on data protection

A self-initiative approach of data users to seek compliance with the PDPO is always desirable. To assist data users to achieve this goal, PCPD will issue a Trainer’s kit to be made available to the organizations which provides the basic training materials for data protection to be conducted by the data users in house.

3.5 The issuance of PCPD video to provide general public with an overview of the functions of the PCPD and the provisions of the PDPO

The PCPD video is a useful promotional tool in giving visual presentation of the works of the PCPD as well as illustrating the applications of the essential provisions of the PDPO, which can be more easily understood and accepted by the general public.

3.6 The broadcasting of two Announcements of Public Interest (“API”) to publicize the importance of data privacy

The broadcasting of APIs through public media is an effective way of promoting public awareness of the importance to protect personal data privacy. Two APIs, one focusing on the rights of the data subjects and the other focusing on the obligations of data users will be produced for broadcasting in 2010.

3.7 The launch of Privacy Awareness Week

This is an annual event, first introduced in 2007 which is a one-week “theme based” event with different activities being held to promote awareness of personal data privacy. Such activities may include public seminars and forums, short video competition, writing competition, online video, etc. This year’s theme is targeted at protection of personal data of senior citizens.

3.8 The conduct of an industry wide privacy campaign

Since 2006, PCPD has been holding industry specific privacy campaigns which were all well received to be an effective and direct means of addressing specific personal data privacy concerns of selected industries. Hotel industry, estate agency trade and the Hospital Authority had been chosen industries in these campaigns. Specific training materials or publications relevant to the trade will be developed for its purposes and uses. PCPD will assess and select an industry for launching the campaign in 2010.

4. To examine proposed legislation that may affect privacy of individuals

4.1 To continue with the Ordinance Review exercise of the PDPO and provide such assistance as may be required by the Constitutional and Mainland Affairs Bureau in its consultation exercise with a view to expediting legislative amendments

On 28 August 2009, the Government released the Consultation Document on Review of the Personal Data (Privacy) Ordinance. The review was initiated by the PCPD in June 2006. An internal Ordinance Review Working Group was formed to assess the adequacy of protection of personal data privacy. After a year and a half's work, the Working Group completed its review and presented to the Government in December 2007 more than 50 amendment proposals. The Government has taken on board most of the proposals made by the PCPD. In order to facilitate the public to obtain all relevant information relating to PCPD's proposals, the PCPD issued a paper titled "PCPD's Information Paper on Review of the Personal Data (Privacy) Ordinance" on 9 September 2009. In response to the consultation, PCPD provided its submission to the Government on various amendment proposals made in the Consultation Document before the close of the consultation in November 2009.

The PCPD will continue to provide assistance to the Government with a view to expediting the legislative amendment process.

4.2 To continue examination of legislation that may impact on personal data privacy, in particular, the proposed legislation for eHR Sharing Programme

The PCPD reviews all the Bills published in the Government Gazette for possible personal data privacy implications on which comments may be required. The PCPD also provides comments and responses to those Government departments and Bureaux that notify the PCPD at early stage of any proposed legislation that may affect personal data privacy.

The eHR Sharing Programme involves proposing new legislation. In exercise of the Privacy Commissioner's power to examine any proposed legislation that may affect personal data privacy of individuals, the Privacy Commissioner will examine and respond to the proposed legislation once put forward by the Food and Health Bureau.

5. To carry out inspections of personal data systems of data users

5.1 To carry out one, or if resources permit, two inspections of personal data systems under Section 36

The Privacy Commissioner is empowered under section 36 of the PDPO to carry out inspection of the personal data system used by a data user or a class of data users for the purpose of making recommendations relating to the promotion of compliance with the provisions of the PDPO. The Privacy Commissioner had exercised this power in 2008 to inspect the patients' data security system of the Hospital Authority, which has proven to be effective in providing advice and guidance to the Hospital Authority to review its patients data security system.

The PCPD will continue its effort to conduct at least one, and if resources permit, two inspections on the personal data system of selected data user(s) to give recommendations for promoting compliance with the PDPO.

6. Undertake research into and monitor developments in the processing of data and computer technology that may have adverse effects on personal data

6.1 The formation of the Standing Committee on Technological Developments

The Privacy Commissioner has invited four experts from different fields to sit as members of the Standing Committee. They are Professor John Bacon-Shone, The Hon. Dr. Tam Wai Ho, Samson, Dr. Ho Chung Ping and Dr K P Chow. The Standing Committee shall meet and discuss issues of personal data privacy concerns generated or related to technological developments. Their advice and input will assist the Privacy Commissioner to effectively exercise his powers having regard to the developments in technologies that may have significant impact on personal data privacy. One of the topics that was brought for discussion was on biometrics. Regular meetings will be held in 2010 with members.

7. Liase and cooperate with persons outside Hong Kong performing functions similar to those of the Privacy Commissioner under the PDPO

7.1 To continue participation in the Pathfinder projects of the Data Privacy Subgroup of the Electronic Commerce Steering Group of APEC for finalizing the project documents and to follow closely the implementation of the APEC Cooperation Arrangement for Cross-Border Privacy Enforcement

The PCPD was invited by the then Commerce, Industry and Technology Bureau to participate in the work of the Subgroup in

2003. The Subgroup developed the APEC Privacy Framework in November 2005. Since then, the Subgroup has been working towards the practical aspects of promotion and education as well as domestic and international implementation of the Framework. In November 2009, the APEC Ministers endorsed the APEC Cooperation Arrangement for Cross-Border Privacy Enforcement, which is one of the products of the Data Privacy Pathfinder. The work plan of the Subgroup is to complete the other Pathfinder projects by the end of 2010 and PCPD will continue to participate in the projects.

7.2 To continue liaising and working with Asia Pacific Privacy Authorities (“APPA”) on issues of common concern

PCPD will continue to participate in the two bi-annual meetings of APPA to receive jurisdictional reports from members on privacy developments and to engage in discussion of a wide range of topical personal data privacy issues. The PCPD will continue to join hands with APPA members to organize different kinds of promotional activities in Privacy Awareness Week for APPA-wide privacy awareness promotion.

8. Other administrative issues

8.1 Assessment of office space needs

The lease of the office premises of PCPD is due to expire in January 2011. Active work plan shall be engaged to assess the accommodation needs of the PCPD having regard to the recommendations given by the Audit Commission in its “value-for-money” audit report, the resources available and the prevailing market condition to explore for options of renewing or sourcing for suitable accommodation for PCPD.

8.2 To provide such training to the staff as may be deemed practicable and necessary

In light of the increased demand from the public sector for PCPD to participate or give advice on projects with privacy-related issues and which have significant public interest, the Privacy Commissioner finds it important that training be provided to the officers and for this purpose. Local and overseas privacy experts will be invited to give seminar and training to the staff on the methodology and standards of conducting privacy impact assessment.

**The Office of the Privacy Commissioner for Personal Data
January 2010**

-- END --