

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

Bills Committee on Personal Data (Privacy) (Amendment) Bill 2021

**Minutes of the first meeting
held on Friday, 6 August 2021, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon Alice MAK Mei-kuen, BBS, JP (Chairman)
Hon YUNG Hoi-yan, JP (Deputy Chairman)
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBM, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon MA Fung-kwok, GBS, JP
Hon CHAN Han-pan, BBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Ir Dr Hon LO Wai-kwok, GBS, MH, JP
Hon CHUNG Kwok-pan
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai, JP
Hon LUK Chung-hung, JP
Dr Hon CHENG Chung-tai
- Member attending** : Hon Martin LIAO Cheung-kong, GBS, JP
- Members absent** : Hon Elizabeth QUAT, BBS, JP
Hon CHEUNG Kwok-kwan, JP

Public Officers : Item II
attending

The Administration

Mr Erick TSANG, IDSM, JP
Secretary for Constitutional and Mainland Affairs

Ms Maisie CHAN, JP
Deputy Secretary for Constitutional and Mainland Affairs

Mr Jacky LUM
Principal Assistant Secretary for Constitutional and
Mainland Affairs

Office of the Privacy Commissioner for Personal Data

Ms Ada CHUNG
Privacy Commissioner for Personal Data

Mr Dennis NG
Senior Legal Counsel (Acting)

Ms Amy CHAN
Chief Personal Data Officer

Department of Justice

Mr Henry CHAN
Senior Assistant Law Draftsman

Mr Michael CHOI
Senior Government Counsel (Acting)

Clerk in : Ms Angel WONG
attendance : Chief Council Secretary (4)4

Staff in : Miss Joyce CHAN
attendance : Assistant Legal Adviser 1

Miss Wincy LO
Senior Council Secretary (4)4

Ms Rachel WONG
Council Secretary (4)4

Ms Sandy HAU
Legislative Assistant (4)4

Action

I. Election of Chairman and Deputy Chairman

Election of Chairman

Dr Priscilla LEUNG, member present who had the highest precedence, called for nominations for the chairmanship of the Bills Committee.

2. Mr Christopher CHEUNG nominated Ms Alice MAK and the nomination was seconded by Ir Dr LO Wai-kwok and Mr LUK Chung-hung. Ms Alice MAK accepted the nomination. There being no other nomination, Dr Priscilla LEUNG declared Ms Alice MAK elected as Chairman of the Bills Committee.

Election of Deputy Chairman

3. The Chairman invited nominations for the deputy chairmanship. Dr Priscilla LEUNG nominated Ms YUNG Hoi-yan and the nomination was seconded by Mrs Regina IP. Ms YUNG Hoi-yan accepted the nomination. There being no other nominations, the Chairman declared Ms YUNG Hoi-yan elected as Deputy Chairman of the Bills Committee.

II. Meeting with the Administration

[Legislative Council Brief issued by the Constitutional and Mainland Affairs Bureau on 14 July 2021 (CMAB/CR/7/22/45), LC Paper Nos. CB(3)798/20-21, LS100/20-21, CB(4)1317/20-21(01) to (03)]

4. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Invitation of public views

5. In view of the COVID-19 epidemic situation and the consultation previously held by the Office of the Privacy Commissioner for Personal Data ("PCPD") with the relevant industry on the proposed legislative amendments, members agreed that no public hearing would be held to receive public views on the Personal Data (Privacy) (Amendment) Bill 2021 ("the Bill") and interested parties could submit written submissions on the Bill if they so

Action

wished. The Chairman further asked PCPD to continue its communication with the industry to allay any concerns.

Follow-up actions required of the Administration

6. The Bills Committee requested the Administration to provide:
 - (a) relevant laws in other jurisdictions that the Administration and PCPD had made reference to when drafting the proposed new section 66O of the Personal Data (Privacy) Ordinance (Cap. 486), in particular the proposed defence provision under the proposed section 66O(2);
 - (b) previous court rulings relating to the disclosure of personal data for the purpose of news activity; and
 - (c) overseas/international practices in criminalizing doxxing acts and restricting disclosure of doxxing contents.

(At about 12:38 pm, the Chairman proposed and members agreed to extend the meeting.)

III. Any other business

7. The Chairman said that members would be informed of the arrangement of the next meeting in due course.
8. There being no other business, the meeting ended at 12:52 pm.

Council Business Division 4
Legislative Council Secretariat
2 November 2021

**Proceedings of the first meeting of the
Bills Committee on Personal Data (Privacy) (Amendment) Bill 2021
held on Friday, 6 August 2021, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
<i>Agenda item I - Election of Chairman and Deputy Chairman</i>			
000350-000628	Dr Priscilla LEUNG Mr Christopher CHEUNG Ms Alice MAK Ms YUNG Hoi-yan Mrs Regina IP	Election of Chairman and Deputy Chairman	
<i>Agenda item II - Meeting with the Administration</i>			
000629-001457	Chairman Administration	Briefing by the Administration on the Bill	
001458-002140	Chairman Dr Priscilla LEUNG Administration	Dr LEUNG's support for the Bill Expected effectiveness of the proposed legislative amendments in combating doxxing activities	
002141-002757	Chairman Mr KWOK Wai-keung Administration	Mr KWOK's support for the Bill Concerns of internet service providers on the Bill, and whether operators of social media platforms containing doxxing contents would bear any legal liability	
002758-003634	Chairman Mr LEUNG Che-cheung Administration	Mr LEUNG's support for the Bill Manpower of PCPD to cope with the additional workload arising from the new investigative and prosecution powers conferred on the Privacy Commissioner for Personal Data ("the Commissioner") Expected effectiveness of the Bill in tackling doxxing conducted by persons not in Hong Kong	
003635-004335	Chairman Dr CHENG Chung-tai Administration	Suggestion of providing for the meanings of the terms "harassment", "molestation", "pestering", "threat" or "intimidation" in the definition of "specified harm" in the proposed section 64(6); and clearly defining who "is able to take a cessation action" under the proposed section 66M	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
		The Commissioner's new power to apply for injunctions	
004336-004834	Chairman Mrs Regina IP Administration	<i>Ex parte</i> applications made by the Secretary for Justice, the Commissioner of Police and the Junior Police Officers' Association of the Hong Kong Police Force respectively for injunctions to restrain persons from unlawfully and willfully conducting doxxing activities, and the legal consequence of breaching an injunction order	
004835-005344	Chairman Mr LUK Chung-hung Administration	Mr LUK's support for the Bill Factors determining whether doxxing acts had caused psychological harm to a data subject or his/her family members Whether a person who reposted doxxing contents containing personal data obtained from the public domain on online platforms would commit an offence under the Bill	
005345-010115	Chairman Mr CHAN Han-pan Administration	Division of work and delineation of responsibilities between the Police and PCPD over handling of doxxing acts upon passage of the Bill Whether a person who unlawfully used personal data obtained from the public domain on online platforms would commit an offence under the Bill	
010116-011011	Chairman Administration	Chairman's support for the Bill Possible abuse of the personal data contained in public registers maintained by the Government for doxxing-related purposes Suggestion of amending Cap. 486 in future to require an organization to bear legal liability if its employees disclosed customers' personal data without consent Whether the organization in which a data subject or his/her family members worked would be protected under the Bill	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
011012-011545	Chairman Deputy Chairman Administration	Whether photographs of a person were personal data and were within the ambit of the Bill, and whether the act of reposting doxxing contents containing personal data was an offence under the Bill Meaning of "the date on which the offence is committed" under the proposed section 64B Proposed new offences under the Bill	
011546-012208	Chairman Mr CHUNG Kwok-pan Administration	Expected effectiveness of the Bill in tackling doxxing conducted by persons not present in Hong Kong or conducted under pseudonyms, and in requesting overseas online platforms to remove doxxing contents Whether the disclosure of personal data of a deceased person would be in contravention of any proposed offence(s) under the Bill	
012209-013044	Chairman Mr Paul TSE Administration	Technical feasibility of blocking a website containing doxxing contents from being assessible in Hong Kong Factors for the Commissioner to consider in relation to application for injunctions against doxxing acts Safeguards to ensure the privacy of a person in circumstances where a power to access an electronic device without a warrant was exercised	
013045-013505	Chairman Mr LUK Chung-hung Administration	Manpower of PCPD to cope with the additional workload arising from the new investigative and prosecution powers of the Commissioner Suggestion of strengthening PCPD's public education and publicity upon passage of the Bill	
013506-014435	Chairman Dr CHENG Chung-tai Administration	Suggestion of providing for the meanings of the terms "harassment", "molestation", "pestering", "threat" or "intimidation" in the definition of "specified harm" in the	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
		<p>proposed section 64(6)</p> <p>Possible impact of the Bill on different industries</p>	
014436-014601	Chairman Deputy Chairman Administration	The Administration was requested to provide relevant laws in other jurisdictions that the Administration and PCPD had made reference to when drafting the proposed new section 66O, in particular the proposed defence provision under the proposed section 66(O)(2)	Paragraph 6(a) of the minutes refers
014602-015056	Chairman Mr CHUNG Kwok-pan Administration	<p>Expected effectiveness of the Bill in requesting overseas social media platforms to remove doxxing contents</p> <p>Circumstances under which the Commissioner could access and search an electronic device without a warrant, and capability of PCPD staff members to undertake the work concerned</p>	
015057-015643	Chairman Mr Paul TSE Administration	<p>Safeguards to ensure the privacy of a person in circumstances where a power to access an electronic device (such as a mobile phone) is exercised</p> <p>Suggestion of providing operation protocols by PCPD to safeguard the rights of the public</p>	
015644-015654	Chairman	Extension of meeting	
015655-020219	Chairman Mrs Regina IP Administration	<p>Suggestion of imposing daily fine for failure to comply with a cessation notice</p> <p>Whether a person who forwarded doxxing contents containing personal data would commit an offence under the Bill</p> <p>The Administration was requested to provide court rulings relating to the disclosure of personal data for the purpose of news activity</p>	Paragraph 6(b) of the minutes refers
020220-020326	Chairman	Invitation of public views	

Time marker	Speaker(s)	Subject(s) / Discussion	Action required
020327-020651	Chairman Mr CHUNG Kwok-pan Administration	Application of the proposed section 66G(8) in the situation where a suspect refused to unlock his/her electronic device or applied for an injunction to restrict access to the device	
020652-021117	Chairman Mr Paul TSE Administration	PCPD's consultation with the relevant industry on the proposed legislative amendments The Administration was requested to provide overseas/international practices in criminalizing doxxing acts and restricting disclosure of doxxing contents	Paragraph 6(c) of the minutes refers
<i>Agenda Item III - Any other business</i>			
021118-021153	Chairman	Closing remarks	

Council Business Division 4
Legislative Council Secretariat
2 November 2021