

**Legislative Council Panel on Constitutional Affairs**

**Report on the Work**  
**of the Office of the Privacy Commissioner for Personal Data in 2021**

The Privacy Commissioner for Personal Data (Privacy Commissioner) will brief Members at the meeting of the Legislative Council Panel on Constitutional Affairs on 16 May 2022 on the work of the Office of the Privacy Commissioner for Personal Data (PCPD) in 2021. This paper serves to update Members on the PCPD's work in 2021.

**Overview**

2. In 2021, the PCPD continued to monitor and oversee the implementation of the Personal Data (Privacy) Ordinance (Ordinance), Chapter 486 of the Laws of Hong Kong, though some aspects of its work were affected by the COVID-19 pandemic. The Personal Data (Privacy) (Amendment) Ordinance 2021 (Amendment Ordinance) came into effect on 8 October 2021 to more effectively combat doxxing acts that are intrusive to personal data privacy and to empower the Privacy Commissioner to carry out criminal investigations and institute prosecutions in respect of doxxing-related offences. On 13 December 2021, the PCPD made the first arrest relating to a suspected offence of “disclosing personal data without consent” under the new section 64(3A) introduced by the Amendment Ordinance.

3. To enhance the public's awareness of and compliance with the Amendment Ordinance, the PCPD launched a series of publicity and education campaigns, which included broadcasting short videos, television and radio announcements, distributing promotional leaflets and posters, organising seminars/webinars and promoting the new legislative provisions on social media platforms.

4. During the reporting year, the PCPD continued to respond to or advise on major issues relating to personal data privacy by issuing media statements, answering media enquiries, giving radio, television and newspaper interviews, and publishing articles in newspapers and professional or trade magazines. The issues covered included the Amendment Ordinance, the Personal Information Protection Law of the Mainland, data breach incidents of social media platforms, concerns over personal data protection arising from the COVID-19 pandemic, and inspection arrangements for public registers.

5. While its publicity and education work was affected by the COVID-19 pandemic to a certain extent, the PCPD strived to promote the message of privacy protection via talks or seminars conducted online. Besides, the PCPD continued to, through online video-conferencing, closely liaise and collaborate with privacy regulatory authorities in other territories.

## **Enforcement of the Ordinance**

### **Handling of Complaints**

6. In 2021, the PCPD received 3 151<sup>1</sup> complaints, a drop of 35% when compared to 4 862 cases in 2020. This was mainly attributable to the decrease in the numbers of doxxing-related cases and of complaints arising from a single incident. Of these 3 151 complaint cases, 40% was made against the private sector (1 270 cases), 7% against the public sector/government departments (232 cases) and 53% against individuals (1 649 cases). In regard to the complaints against the private sector, the financial and monetary sector received the highest number of complaints (263 cases), most of which involved the improper use of personal data for debt

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<sup>1</sup> Including 842 doxxing-related complaints.

collection. This was followed by the property management sector (154 cases), and the complaints were primarily about property management practices, such as posting notices that contain personal data of residents.

### Investigation Report on Security Measures Taken by Restaurants to Protect Customers' Registration Data<sup>2</sup>

7. In response to the COVID-19 pandemic, the Government imposed statutory requirements<sup>3</sup> on responsible persons of restaurants that they should ensure customers either scan the venue QR code with the “LeaveHomeSafe” mobile app or register their names, contact numbers and dates and times of their visits before entering the premises (Restaurant Entry Requirement).

8. Since the implementation of the Restaurant Entry Requirement on 18 February 2021, the Privacy Commissioner has launched investigations into 14 complaints about the failure of restaurants to properly handle the registration data of customers. The complaints were mainly about the use of common registration forms or books, lack of a collection box for the forms, failure to cover a collection box at all times, and use of uncut sheets of paper as common forms for different customers.

9. The Privacy Commissioner considered that the above practices might lead to unauthorised or accidental access or use of the registered personal data, and thus contravened Data Protection Principle 4(1) of Schedule 1 to the Ordinance as regards the security of personal data.

10. While the 14 restaurants had subsequently taken remedial actions, in order to prevent a recurrence of similar contraventions, the Privacy Commissioner issued

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<sup>2</sup> The Investigation Report can be downloaded via the following link:  
[https://www.pcpd.org.hk/english/enforcement/commissioners\\_findings/files/r21\\_2485\\_e.pdf](https://www.pcpd.org.hk/english/enforcement/commissioners_findings/files/r21_2485_e.pdf).

<sup>3</sup> The requirements were imposed under the Prevention and Control of Disease (Requirement and Directions) (Business and Premises) Regulation (Cap. 599F).

Enforcement Notices requesting all of these restaurants to implement appropriate and practicable measures to protect the registration data of customers. The measures included providing written policy and guidance to their staff, as well as circulating the guidance regularly and providing training to raise the staff's awareness of personal data privacy.

### Criminal Investigations

11. With the commencement of the Amendment Ordinance from 8 October 2021, the PCPD has spared no effort to combat doxxing acts that are intrusive to personal data privacy. The scope of the Amendment Ordinance mainly encompasses criminalising doxxing acts; empowering the Privacy Commissioner to carry out criminal investigations and institute prosecutions in respect of doxxing and related offences; and conferring on the Privacy Commissioner statutory powers to demand the cessation of disclosure of doxxing messages.

12. Between 1 January and 31 December 2021, there were a total of 842 doxxing-related cases revealed by the PCPD's investigation or reported to the PCPD. During the period from 8 October 2021 (i.e. the commencement date of the Amendment Ordinance) to 31 December 2021, the PCPD received a total of 161 complaints relating to the new doxxing offences (for complaints of a similar kind, the average monthly figure was nine before the commencement of the Amendment Ordinance). The complaint figures indicate that with the strenuous publicity and education efforts of the PCPD, more and more people understand that doxxing constitutes a criminal offence and take the initiative to seek assistance from the PCPD, and there is an increased awareness about protection of personal data privacy among the public.

13. From 8 October to 31 December 2021, the PCPD exercised the new powers under the Amendment Ordinance<sup>4</sup> and issued 227 cessation notices to 12 online platforms, requesting them to remove 1 111 doxxing messages, and around 80% of such messages were already removed. In 2021, there was one more conviction for doxxing-related offences. On 12 January 2021, a clinic nurse was convicted under the former section 64(2) of the Ordinance for disclosing personal data of a police officer which was obtained from the clinic without the data subject's consent. The nurse was ordered to perform 240 hours of community service.

14. During the period from 8 October to 31 December 2021, the PCPD initiated 25 specified investigations. On 13 December 2021, the PCPD made the first arrest for a suspected doxxing offence. A Chinese male was arrested for suspected contravention of the new section 64(3A) introduced by the Amendment Ordinance relating to "the disclosure of personal data without consent". The arrestee is now on bail pending the PCPD's further investigation. For the same period, the Police received three reported cases on suspected contravention of the new section 64(3C) introduced by the Amendment Ordinance concerning "the disclosure of personal data without consent which causes specified harm to the data subject or any of his/her family members". Two persons were arrested.

### Compliance

15. In 2021, the PCPD received 140 personal data breach notifications, a higher figure as compared to 103 notifications received in 2020. The data breach incidents involved hacking, system misconfiguration, unauthorised access to personal data by internal staff, loss of documents or portable devices, inadvertent disclosure of personal data by fax, email or post, etc. In 2021, the PCPD initiated 377 compliance

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<sup>4</sup> Pursuant to section 66M of the Amendment Ordinance, the Privacy Commissioner may serve a cessation notice on a Hong Kong person and/or a non-Hong Kong service provider directing the person or the provider to take cessation action in respect of a doxxing message.

checks and conducted six compliance investigations, which respectively represented an increase of 10% and 500% when compared to 344 compliance checks and one compliance investigation conducted in 2020. The compliance checks involving private and non-private organisations were 76% and 24% respectively.

### Inspections

16. In August 2021, the PCPD released an inspection report on the customers' personal data systems of two public utility companies, namely CLP Power Hong Kong Limited (CLP) and The Hongkong Electric Company, Limited (HKE). The findings revealed that both CLP and HKE had implemented a Personal Data Privacy Management Programme and adopted good practices. The security measures adopted by the two companies for their customers' personal data systems conformed with international standards and were found to be satisfactory. The Privacy Commissioner considered that in respect of the protection of their customers' personal data, the two companies had complied with the requirements of Data Protection Principle 4 of Schedule 1 to the Ordinance as regards the security of personal data.

### Enquiries

17. In 2021, the PCPD received a total of 17 651 enquiries, a drop of 14% when compared to 20 531 enquiries in 2020. Most of the enquiries related to the collection and use of personal data (26%), employment issues (8%) and the PCPD's complaint handling policy (8%).

### Appeals lodged with the Administrative Appeals Board

18. A total of 13 appeal cases were received in 2021, all of which were made against the Privacy Commissioner's decisions of terminating or not carrying out

investigations into complaints lodged with the PCPD. During the year, the Administrative Appeals Board handed down a total of 28 decisions (including decisions on the appeals lodged in the previous years), in which 26 cases were dismissed, one case was partly allowed, and one case (concerning an appeal against the Privacy Commissioner's decision to serve an Enforcement Notice) was remitted to the PCPD for further handling.

### **Promotion, Publicity and Public Education**

#### Disseminating the message of protecting personal data privacy

19. In 2021, as public education activities in physical form were affected by the COVID-19 pandemic from time to time, the PCPD expended efforts to conduct online seminars and professional workshops on various topics for stakeholders. During the year, the PCPD organised a total of 396 seminars/webinars and professional workshops, which were attended by over 39 000 persons.

20. In 2021, the PCPD continued to give advice on issues relating to personal data privacy. The PCPD issued 36 media statements, responded to 178 media enquiries, gave 78 radio, television and newspaper interviews, and published 19 articles in newspapers and professional or trade magazines. The issues covered included the Amendment Ordinance, the Personal Information Protection Law of the Mainland, data breach incidents of social media platforms, concerns over personal data privacy arising from the COVID-19 pandemic, and inspection arrangements for public registers. Two media briefings were held in January and August 2021. The PCPD also issued 326 posts on different social media platforms to provide the latest news and developments pertinent to privacy protection.

21. On another front, the PCPD produced publications on various topics for organisations and the public to enhance their understanding of personal data privacy.

In 2021, the publications issued by the PCPD mainly included “Guidance on Protecting Personal Data Privacy in the Use of Social Media and Instant Messaging Apps”, “Guidance on the Ethical Development and Use of Artificial Intelligence”, *Introduction to the Personal Information Protection Law of the Mainland* (《內地〈個人信息保護法〉簡介》) and *Personal Data (Privacy) Law in Hong Kong – A Practical Guide on Compliance* (Second Edition).

### Combatting Doxxing Acts More Effectively through Education

22. With the passage of the Amendment Ordinance, the PCPD launched a series of publicity and education campaigns to enhance the public’s awareness of and compliance with the Amendment Ordinance. These included broadcasting short videos and television and radio announcements, distributing promotional leaflets and posters, organising seminars/webinars and promoting the new provisions on social media platforms. As of 31 December 2021, the Privacy Commissioner and the PCPD personnel conducted 13 webinars/seminars on the Amendment Ordinance, with the number of participants totalling 2 428. In addition, the PCPD issued the “Personal Data (Privacy) (Amendment) Ordinance 2021 Implementation Guideline”<sup>5</sup> to enhance the public’s understanding of the Amendment Ordinance, including the new doxxing offences.

### Celebratory Events for PCPD’s 25th Anniversary

23. The year 2021 marked the 25th anniversary of the PCPD. The highlight of the celebratory events was the inaugural Privacy-Friendly Awards Presentation Ceremony in March 2021, which was officiated by Mr Erick TSANG Kwok-wai, Secretary for Constitutional and Mainland Affairs. Throughout the year, a series of

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<sup>5</sup> [https://www.pcpd.org.hk/english/doxxing/files/GN\\_PDPAO\\_e.pdf](https://www.pcpd.org.hk/english/doxxing/files/GN_PDPAO_e.pdf)



webinars covering different topics were also organised as celebratory events for the PCPD's 25th anniversary.

### Engaging Youngsters

24. In 2021, to strengthen the protection of children's personal data privacy, the PCPD produced a variety of publications and animated videos, and launched a brand-new thematic website on "Children Privacy" that serves as a one-stop online resource platform for teachers, parents and children. The PCPD also organised an event entitled "Student Ambassador for Privacy Protection Programme - Partnering Schools Recognition Scheme 2021" for secondary school students and distributed two leaflets on "Protect Personal Data, Starts with Me" and "Respect Others' Privacy, I Can Do It" to primary schools to heighten students' awareness of protecting personal data privacy. Besides, the Privacy Commissioner attended several seminars/webinars organised for students, including undergraduates, to elucidate issues about privacy.

25. Highlights and figures of the PCPD's promotion, publicity and public education work in 2021 are detailed in **Annex**.

### International and Mainland Connections

26. In view of the possible impacts on the protection of personal data privacy exerted by rapid technological developments, data protection authorities around the globe have been collaborating on various fronts to strengthen the protection of personal data privacy. The PCPD believes that actively participating in international community events on privacy protection and fully leveraging the expertise acquired through exchanges are the key to keeping the PCPD abreast of the latest international trends in the protection of personal data privacy.

27. In 2021, the PCPD remained active in various international and regional forums of data protection authorities, including the 55th and 56th Asia Pacific Privacy Authorities (APPA) Forums<sup>6</sup> held in June and December 2021 respectively. The PCPD also participated in the 43rd conference of the Global Privacy Assembly<sup>7</sup> (GPA), and took the lead in a survey, which sought to collect information from more than 30 jurisdictions about data privacy and protection issues arising from the measures against COVID-19. With this endeavour, the PCPD was able to better grasp the good practices and gather the relevant experience.

28. In view of the Privacy Commissioner's new powers under the Amendment Ordinance, particularly the power to serve cessation notices on non-Hong Kong service providers (i.e. the Privacy Commissioner may serve cessation notices on non-Hong Kong service providers such as operators of overseas social media platforms requesting them to remove doxxing contents), the PCPD considered it necessary to foster collaboration with data protection authorities of other jurisdictions on cross-border privacy protection. Hence, the PCPD co-chaired the International Enforcement Working Group of the GPA, so as to draw on the invaluable experience of other countries in enforcing privacy regulations and facilitate exchanges and co-operation with other data protection authorities.

## **Strategic Focus 2022**

### **Enhanced Enforcement**

29. Since the Amendment Ordinance came into effect on 8 October 2021, the PCPD has spared no effort in enforcing the relevant provisions to combat doxxing acts that are intrusive to personal data privacy.

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<sup>6</sup> The APPA consists of 19 data protection authorities in the Asia Pacific region.

<sup>7</sup> The GPA, formerly known as the International Conference of Data Protection and Privacy Commissioners, provides an international forum platform for over 130 data protection authorities around the globe to discuss and exchange views on privacy protection issues and the latest international developments.

30. A Criminal Investigation Division, which comprises former members of the Hong Kong Police Force and staff redeployed from other divisions of the PCPD, has been set up. The Division is supported by the Complaints Division and the Legal Division in its investigation work. Also, a Memorandum of Understanding was signed between the Police and the PCPD to foster mutual co-operation and collaboration in combatting doxxing offences. A priority task for 2022 is to further strengthen the PCPD's capability in criminal investigation and prosecution, with a view to combatting doxxing acts more effectively.

31. The PCPD will continue to proactively monitor doxxing activities online and take enforcement actions, which include serving cessation notices on operators of social media platforms and websites requesting them to promptly remove doxxing messages.

#### Privacy Protection Amidst Technological Development and COVID-19

32. The rapid technological development has presented unprecedented challenges to the protection of personal data privacy. The increasing use of data digitisation, remote access and other new technologies has posed greater risks to data security. As such, another strategic focus of the PCPD is to enhance public awareness of the importance of data security and provide advice or guidance on practicable data security measures to facilitate public compliance with the relevant requirements under the Ordinance.

33. To prepare for the new norm brought about by COVID-19 and facilitate the reopening of borders and economic recovery, the PCPD will explore privacy issues that may arise from the relevant reactivation measures, and offer advice and guidance. Before that, the PCPD will continue with its efforts to provide pertinent

advice to the public and relevant authorities on contact tracing measures, vaccine pass, cash payouts etc., so as to support society in riding out the storm.

### Review of the Ordinance

34. The PCPD will continue to work with the Government closely to further review the Ordinance and formulate concrete legislative amendment proposals this year. The proposed amendments to the Ordinance will cover the establishment of a mandatory data breach notification mechanism, the requirement of specifying a data retention period, and empowering the Privacy Commissioner to impose an administrative fine and regulate data processors, etc.

35. The PCPD will make reference to the relevant laws of other jurisdictions and take account of the actual situation in Hong Kong so as to put forward practicable legislative amendment proposals that would strengthen the protection of personal data privacy. The PCPD will work closely with the Government in this regard.

### Promotion, Publicity and Public Education

36. In 2022, the PCPD will continue to, through public education, enhance the public's awareness of and compliance with the Amendment Ordinance for the purpose of combatting doxxing acts. Also, the PCPD will organise thematic promotional activities in collaboration with different stakeholders. Publicity initiatives will be rolled out to encourage organisations to adopt a Personal Data Privacy Management Programme, including the appointment of data protection officers, in a bid to strengthen the protection of personal data privacy.

37. The PCPD will continue to organise various activities to promote the protection of children's personal data privacy, which include a short video competition on "Protection of Privacy, Starts with Me" for primary school students.

## International and Mainland Connections

38. On the international front, the PCPD will continue to, as a member of the GPA, the APPA and the Global Privacy Enforcement Network<sup>8</sup>, participate in international and regional forums of data protection authorities with a view to establishing a closer working relationship with its counterparts in other jurisdictions.

39. It is the PCPD's honour to be appointed as the host of the 57th APPA Forum scheduled for July 2022, at which representatives of data protection authorities in the Asia Pacific region will conduct in-depth discussions and exchange views on privacy and regulatory issues. The PCPD will take this opportunity to promote its work and foster collaboration with other regulatory authorities.

40. With the implementation of the Personal Information Protection Law and other new regulations on data security in the Mainland, the PCPD will strengthen its collaboration with the relevant organisations and professionals in the Mainland, so that it could render the necessary support to the Government and relevant stakeholders in developing Hong Kong as a technology and data hub in the Greater Bay Area, which is in line with the overall development needs of the Guangdong-Hong Kong-Macao Greater Bay Area.

## Conclusion

41. Members are invited to note the content of this paper.

**Office of the Privacy Commissioner for Personal Data, Hong Kong**

**May 2022**

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<sup>8</sup> The Global Privacy Enforcement Network comprises over 70 law enforcement agencies around the globe that have enforcement powers on personal data and privacy protection.

**Highlights and Figures of the PCPD's Promotion, Publicity and Public  
Education Work in 2021**

1. Publications and Education Materials Compiled for Organisations and the Public
  - *Personal Data (Privacy) Law in Hong Kong – A Practical Guide on Compliance* (Second Edition) (Book)
  - *Introduction to the Personal Information Protection Law of the Mainland* (《內地〈個人信息保護法〉簡介》) (Book)
  - “Guidance on Protecting Personal Data Privacy in the Use of Social Media and Instant Messaging Apps” (Guidance Note)
  - “Guidance on the Ethical Development and Use of Artificial Intelligence” (Guidance Note and Pamphlet)
  - “Personal Data (Privacy) (Amendment) Ordinance 2021 Implementation Guideline” (Implementation Guideline)
  - “Introduction to the European Commission’s New Standard Contractual Clauses for International Data Transfers” (Explanatory Note)
  - “Understanding the European Commission’s New Standard Contractual Clauses for Transfer of Personal Data from EU to Non-EU Regions” (Frequently Asked Questions and Answers)
  - “Respect Others’ Privacy, I Can Do It” (Information Leaflet)
  - “Protect Personal Data, Starts With Me” (Information Leaflet)
  - “Doxxing is a Criminal Offence Don’t Break the Law” (Information Leaflet)
  - “Information Security Guide - Stop Cyber-bullying” (Information Leaflet)

2. Public Education

- 396 professional workshops, talks, seminars and meetings with stakeholders, with 36 596 participants from over 410 organisations and involving a total of 73 831 training hours
- 20 publicity and education programmes attended by 1 851 344 persons
- Privacy Awareness Week with the theme of “Protecting Privacy in the Internet Era”

3. Activities on Privacy Protection Organised for Property Management Sector and Social Service Organisations

- A professional workshop, a seminar and online materials on data protection in property management practices
- A seminar co-organised with the Hong Kong Council of Social Service for social service organisations

4. Social Media

- 326 posts on 91 topics

5. Publicity Activities for the Personal Data (Privacy) (Amendment) Ordinance 2021 (Amendment Ordinance)

- Launch of a thematic website on “Doxxing Offences”
- Broadcast of television and radio announcements
- Launch of short videos on social media platforms
- Distribution of educational leaflets and posters to non-governmental organisations, professional bodies and secondary schools
- Publication of the “Personal Data (Privacy) (Amendment) Ordinance 2021 Implementation Guideline”
- Publication of articles about the provisions of the Amendment Ordinance in the journal *Hong Kong Lawyer* and eight local newspapers

- Issuance of media statements and social media posts relating to the Amendment Ordinance
  - Organisation of 13 webinars/seminars for the public, students, trade associations, professional bodies and other stakeholders
6. Inaugural Privacy-Friendly Awards
- The Awards Presentation Ceremony was held on 4 March 2021 and officiated by Mr Erick TSANG Kwok-wai, Secretary for Constitutional and Mainland Affairs, the Privacy Commissioner, and Mr Stephen LOH Chan, member of the judging panel
  - A total of 100 organisations were presented with the awards, with 69 receiving Gold Certificates and 31 Silver Certificates. Among these awardees, five organisations with exemplary performance in various areas were recognised as outstanding Gold Certificate awardees
7. Webinars on Topical Issues about Personal Data Privacy
- Webinar on “The Personal Information Protection Law of the Mainland”
  - Webinar on “The New Standard Contractual Clauses of the EU for Transfer of Personal Data from EU to Third Countries”
  - Webinar on “Guidance on the Ethical Development and Use of Artificial Intelligence”
  - Webinar on “Data Protection in the Age of Big Data”
  - Webinar on “Social Media and You”
  - Webinar on “The Protection of Personal Data Privacy in the Use of Information and Communications Technology”
  - Webinar on “Protecting Personal Data under Work-from-home Arrangements”
  - Webinar on “Schools’ Collection and Use of Personal Data during COVID-19 Pandemic”



8. Publicity Activities on Children Privacy

- Launch of the “Student Ambassador for Privacy Protection Programme - Partnering Schools Recognition Scheme 2021”
- Launch of the “Student Ambassador for Privacy Protection Programme - Mobile Game Apps Design Competition for Secondary School Students”
- Launch of the Primary School Talks Programme on “Stay Vigilant Online; Say No to Cyberbullying” in the 2021/22 school year
- Production of three educational animations entitled “Ask Before Sharing Photos Online”, “Stay Vigilant and Disciplined Online to Protect Your Personal Data” and “Data Protection in Your Hands, Yeah!”
- Distribution of two educational leaflets entitled “Respect Others’ Privacy, I Can Do It” and “Protect Personal Data, Starts With Me” to primary schools and social service organisations
- Launch of a brand-new thematic website on “Children Privacy”

9. City-wide Publicity Campaign

- Advertisements on the exterior of buses
- Advertisements on the exterior of trams