



SMEs Benefit from PDPA Legal Advice Scheme

When Ibis Hotel was embarking on its journey towards compliance with the Personal Data Protection Act (PDPA), it wanted to leave no stone unturned. "We were keen to ensure that the hotel's existing policies and processes, and any new ones that we were to put in place, would be sufficient in safeguarding our customers' personal data," said Manager Mr Steven Ding.

However, like many other small and medium enterprises (SMEs), the hotel needed some guidance in taking on the challenges. "We had trouble understanding how some aspects of the PDPA applied to our business, and the ambiguity was slowing down the process of our compliance with the PDPA," said Mr Ding.

This is where the PDPA Legal Advice Scheme came into the picture. It provided Ibis Hotel with the legal advice it needed to better understand the obligations of the PDPA in relation to its business.

PDPA Legal Advice Scheme

Introduced in June 2015, the PDPA Legal Advice Scheme was developed by the Law Society of Singapore in consultation with the Personal Data Protection Commission (PDPC).

"The main objective of the PDPA is to balance the commercial need of organisations to use individuals' personal data legitimately with the right of individuals to protect their personal data," explained Ms Lisa Sam, Managing Partner of Lisa Sam and Company. The law firm was appointed by the Law Society to undertake the consultation for Ibis Hotel. "However, even after the Act came into force in 2014, many SMEs were still not familiar with it. The PDPA Legal Advice Scheme was thus developed to provide SMEs with the opportunity to have basic legal advice on PDPA compliance," Ms Sam added.

Under the scheme, the Law Society assists SMEs in completing the Personal Data Protection Checklist for Organisations prior to the one-hour consultation with an assigned lawyer, all for a fixed fee of S\$500. During the consultation, SMEs are provided with advice on whether they are in compliance with the PDPA provisions, and the follow-up actions to adopt if there are gaps. The introduction of the scheme was timely. In a survey conducted by the PDPC earlier this year, 43% of the 1,523 organisations polled indicated that they needed legal advice in helping them comply with the PDPA.

Filling Out the Self-Assessment Checklist

In filling out the Personal Data Protection Checklist for Organisations, some SMEs may have difficulty understanding how certain questions apply to their businesses. The self-assessment checklist is designed to help businesses review their policies and to consider ways in which they can protect the personal data in their custody. It is structured along the nine main obligations underlying the PDPA, namely consent, purpose limitation, notification, access and correction, accuracy, protection, retention limitation, transfer limitation and openness in relation to the collection, use and disclosure of personal data.

The Law Society value adds by explaining the questions in the checklist to the SMEs, going through the checklist after it is completed, identifying information gaps and asking further questions in order to obtain more detailed answers from the SMEs, prior to their consultation with the assigned lawyer.

For example, one common mistake that SMEs make when filling up the checklist is to provide a simple “yes” or “no” answer which is too vague for review, noted Ms Sam.

A More Fruitful Consultation

Capturing sufficient details on the checklist will enable the SMEs to have a more productive session with the assigned lawyer. During the one-hour consultation, the lawyer will review the information that has been provided, ask

further questions and make an initial assessment of whether the SMEs are in compliance with the PDPA. The SMEs will then be provided with preliminary advice on the gaps if any, and guidance on the next steps to take.

Ibis Hotel Executive Assistant Manager Mr Mark found the consultation useful for the hotel, and believes that such sessions will benefit other SMEs as well. “The lawyer will be able to help organisations with queries that are unique to their own industry or business, especially those that are not covered in the PDPC advisory guidelines,” he said. “With the growing importance of data protection globally, how businesses protect personal data is being scrutinised. This scheme helps us focus on key areas to ensure we correctly implement data protection processes where it matters.”

Common Compliance Gaps

One common compliance gap that Ms Sam has observed among SMEs is inadequate knowledge of the full extent and scope of their data collection. This relates to the different purposes they may be using the personal data for, such as back-end use, data analysis and management reporting. Data protection policies for online portals, especially websites such as e-commerce which collect personal data through the use of cookies and account registration to, among others, analyse customer preferences, are also weak. For those who have obtained prior consent for the collection and use of personal data, many failed to implement an opt-in and opt-out system for customers.

“Most data protection policies are also very general,” noted Ms Sam. “Companies should think about generating an internal data protection policy for their staff, and a different set for the staff’s reference as part of their KYC (know your customer) procedures. Generally, the two policies should be separate but in sync. Most companies just do an external data protection policy to get by.”