

PART VI: COMMON ISSUES RELATING TO THE COMMISSION'S DECISIONS AND DIRECTIONS

26. Commission's power to publish decisions and directions

26.1 Regulations 17, 18 and 19 of the Enforcement Regulations provides that the Commission may, where it has made a decision or issued a direction under section 28(2) or 29(1) or (2) or 31(4)(b) of the PDPA, publish:

26.1.1 the decision or direction (collectively, the "Decision"); or

26.1.2 a summary of the Decision (a "Summary").

26.2 The Commission's Decisions will typically set out the following:

26.2.1 the Commission's findings and the relevant evidence obtained by the Commission on which the findings are based;

26.2.2 the reasons for the Commission's decision, based on the application of the relevant legal principles to the facts of the case; and

26.2.3 where the Commission finds an organisation in contravention of any of the Data Protection Provisions, the direction or other action taken by the Commission.

26.3 Prior to publication of a Decision or a Summary, the Commission will give notice of the Decision to the respondent and complainant (if any). In addition, the Commission will not publish a Decision or a Summary until the time for making an appeal or applying to the Commission to reconsider its decision has lapsed.

26.4 In considering whether to publish a Decision or a Summary (at the appropriate time as described in the previous paragraph), the Commission will adopt the following approach:

26.4.1 The Commission will generally publish a Decision relating to an organisation that is found to have contravened the Data Protection Provisions. Amongst other reasons, this is for reasons of transparency, and so that other organisations may take note of the manner in which the Commission has applied the PDPA in specific cases and take preventive measures to avoid similar occurrences.

26.4.2 The Commission will generally not publish a Decision under section 28(2) of the PDPA as such Decisions do not always amount to a finding that an organisation has contravened the Data Protection Provisions. Nevertheless, the Commission may publish such a Decision or a Summary thereof if it includes matters which, in the Commission's view, would be of general interest to the public or which would provide guidance to individuals and organisations in relation to their respective rights and obligations under the PDPA.

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- 26.4.3 Depending on the particular fact situation, the Commission may publish the name of the organisation involved in the breach, after removing confidential information from the report.
- 26.5 Where a Decision contains personal data or information that is treated as confidential under the PDPA,⁴⁶ the Commission will either redact such data and information from the published Decision or publish a Summary that excludes such data and information.
- 26.6 A Decision or Summary may be published on the Commission's website or in such other manner as the Commission may direct.
- 26.7 For the avoidance of doubt, non-publication of a Decision or Summary by the Commission does not affect the legal validity or effect of a Decision.

27. Enforcement of the Commission's directions

- 27.1 Section 30 of the PDPA provides that the Commission may register a direction under section 28(2) or 29 of the PDPA in the District Court. A registered direction has the same force and effect for the purposes of enforcement as if it is an order obtained in the District Court. Legal proceedings may thus be taken on the registered direction to enforce the direction.

⁴⁶ See PDPA, section 59.