

## 20 The Openness Obligation

20.1 The Data Protection Provisions contain a number of obligations in various sections which require organisations to develop and implement policies and practices that are necessary for the organisation to meet its obligations under the PDPA (“data protection policies and practices”) and to make information about their data protection policies and practices available. These obligations are collectively referred to in these Guidelines as the Openness Obligation.

### Designating an individual responsible for an organisation’s compliance with the PDPA

20.2 Section 11 of the PDPA sets out the general obligation of an organisation to designate an individual responsible for ensuring its compliance with the PDPA. In particular, section 11(3) provides that an organisation shall designate one or more individuals to be responsible for ensuring that the organisation complies with the PDPA. Section 11(4) further provides that an individual so designated by an organisation may delegate the responsibility conferred by that delegation to another individual. These provisions require organisations to designate the appropriate individuals, who may in turn delegate certain responsibilities to other officers, to ensure that the organisation complies with the PDPA. For the avoidance of doubt, the individual(s) designated by an organisation need not be an employee of the organisation.

20.3 For the purpose of responding to access and correction requests in writing, at least one of the business contact information of this designated individual should be a mailing address (for example the office address) or an electronic mailing (email) address.

20.4 Section 11(6) clarifies that the designation of an individual by an organisation does not relieve the organisation of any of its obligations under the PDPA. That is, legal responsibility for complying with the PDPA remains with the organisation and does not “pass” to the individual designated by the organisation.

20.5 Section 11(5) requires an organisation to make available the business contact information of at least one individual designated by the organisation under section 11(3) while section 20(1)(c) and (4)(b) require an organisation to make available the business contact information of a person who is able to answer questions on behalf of the organisation relating to the collection, use or disclosure of personal data. These individuals and persons may be the same individual or the organisation may have different persons undertake such roles.

20.6 As good practice, the business contact information of the relevant person should be readily accessible from Singapore, operational during Singapore business hours and in the case of telephone numbers, be Singapore telephone numbers. This is

especially important if the relevant person is not physically based in Singapore. This would facilitate the organisation's ability to respond promptly to any complaint or query on its data protection policies and practices.

### Accountability

- 20.7 An important point to note in respect of the Data Protection Provisions is that organisations are accountable for their compliance with the Data Protection Obligations in a number of ways:
- a) individuals may request for access to their personal data in the possession or under the control of an organisation, which enables them to find out which of their personal data may be held by an organisation and how it has been used;
  - b) individuals may submit a complaint to the Commission and the Commission may review or investigate an organisation's conduct and compliance with the PDPA<sup>38</sup>;
  - c) the Commission may, if satisfied that an organisation has contravened the Data Protection Provisions, give directions to the organisation to ensure compliance including (amongst others) imposing a financial penalty of up to \$1 million; and
  - d) individuals who suffer loss or damage directly as a result of a contravention of Parts IV, V or VI of the PDPA by an organisation may commence civil proceedings against the organisation<sup>39</sup>.

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<sup>38</sup> Sections 28 and 29 of the PDPA specify what the PDPA may do upon a review or investigation respectively.

<sup>39</sup> Parts IV, V and VI of the PDPA relate respectively to (a) collection, use and disclosure of personal data; (b) access to and correction of personal data; and (c) care of personal data (containing provisions relating accuracy, protection, retention and transfer of personal data).