



PUBLIC CONSULTATION

ISSUED BY THE PERSONAL DATA PROTECTION COMMISSION

FOR THE

**PROPOSED ADVISORY GUIDELINES FOR THE EDUCATION SECTOR
PROPOSED ADVISORY GUIDELINES FOR THE HEALTHCARE SECTOR
PROPOSED ADVISORY GUIDELINES FOR THE SOCIAL SERVICE
SECTOR**

**PROPOSED ADVISORY GUIDELINES ON THE PERSONAL DATA
PROTECTION ACT FOR SELECTED TOPICS – PHOTOGRAPHY**

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PART I: INTRODUCTION

1 Introduction

- 1.1 The Personal Data Protection Act 2012 (the “PDPA”) establishes a new general data protection law in Singapore which governs the collection, use and disclosure of individuals’ personal data by organisations. The Personal Data Protection Commission (the “Commission”) is established under the PDPA with the key functions, amongst others, of promoting awareness of data protection in Singapore and administering and enforcing the PDPA.
- 1.2 The PDPA’s data protection obligations are set out in Parts III to VI of the PDPA (the “Data Protection Provisions”). Broadly speaking, the Data Protection Provisions contain nine main obligations which organisations are required to comply with if they undertake activities relating to the collection, use or disclosure of personal data. The PDPA’s Do Not Call Registry provisions (the “Do Not Call Provisions”) are set out in Part IX of the PDPA. These deal with the establishment of Singapore’s national Do Not Call Registry (the “Do Not Call Registry”) and the obligations of organisations relating to the sending of certain marketing messages to Singapore telephone numbers.
- 1.3 Section 49(1) of the PDPA provides for the Commission to issue advisory guidelines to provide guidance on the manner in which the Commission will interpret provisions of the PDPA. In September 2013, the Commission issued Advisory Guidelines on Key Concepts in the PDPA, which explained in greater detail the obligations which organisations have to comply with under the PDPA, and Advisory Guidelines on Selected Topics, which explained certain topics in detail. In December 2013, the Commission had also issued Advisory Guidelines on the Do Not Call Provisions, which explained in detail the application of the Do Not Call Provisions.
- 1.4 While these advisory guidelines have addressed the general application of the provisions of the PDPA, the Commission recognises that industry sectors may have unique sector-specific issues. The Commission has therefore developed sector-specific advisory guidelines (including those for the telecommunication and real estate agency sectors) to address such issues. These advisory guidelines were developed based on queries and feedback that the Commission receives from time to time from and relating to members of the respective industries, and in close collaboration with the relevant sector regulators.

- 1.5 The Commission has launched this public consultation to solicit views and comments on proposed advisory guidelines, and whether there are additional issues or common scenarios that these proposed advisory guidelines should address. The proposed advisory guidelines should be read in conjunction with the document titled “Introduction to the Guidelines”, including the disclaimers set out therein.¹

¹ Available at <http://www.pdpc.gov.sg/resources/advisory-guidelines>.

PART II: OVERVIEW OF PROPOSED ADVISORY GUIDELINES

2 Overview of proposed advisory guidelines for the education sector (“education guidelines”)

2.1 The education guidelines address issues and scenarios such as:

- a) How education institutions may collect, use or disclose personal data of students in accordance with the PDPA for various purposes, e.g. buddy programmes;
- b) When exceptions to the Consent Obligation may apply, e.g. when collecting personal data to evaluate a student’s suitability for admission to an education institution;
- c) How educational institutions should respond to access and correction requests, e.g. when a former student requests for his examination transcripts;
- d) Whether messages sent in relation to school activities would be considered marketing messages; and
- e) When educational institutions may rely on the Personal Data Protection (Exemption from Section 43) Order (S 817/2013) (“Exemption Order”) to send marketing messages.

3 Overview of proposed advisory guidelines for the healthcare sector (“healthcare guidelines”)

3.1 The healthcare guidelines address issues and scenarios such as:

- a) How healthcare institutions may notify individuals and obtain consent in common healthcare scenarios, e.g. when an individual seeks medical care;
- b) When exceptions to the Consent Obligation may apply, e.g. in a medical emergency;
- c) How a healthcare institution should respond to a patient requesting access to his personal data;
- d) Whether messages sent to follow up with a patient on certain matters (e.g. to check that he has completed his medication) after a visit would be considered marketing messages;
- e) Whether the Exemption Order would apply to a message informing patients about a new drug; and

f) How the PDPA interacts with other written law (e.g. the Infectious Diseases Act).

4 Overview of proposed advisory guidelines for the social service sector (“social service guidelines”)

4.1 The social service guidelines address issues and scenarios such as:

a) Whether voluntary welfare organisations (“VWOs”) should obtain consent from clients or beneficiaries to collect, use or disclose their personal data in common scenarios e.g. for case conferences or client surveys;

b) When exceptions to the requirement to obtain consent may apply, e.g. to evaluate the suitability of an applicant to receive assistance through a government-administered scheme;

c) Whether messages sent in relation to activities conducted by VWOs (e.g. a fund-raiser or a seminar on elderly care) would be considered marketing messages; and

d) Whether the Exemption Order will apply to messages sent by VWOs in relation to certain matters, e.g. message sent to a volunteer club.

5 Overview of proposed advisory guidelines on photography (“photography guidelines”)

5.1 The photography guidelines address issues and scenarios such as:

a) Whether a photographer needs to obtain an individual’s consent to take a photograph of the individual in a public place;

b) How an individual’s consent may be obtained for photo-taking at a private event/space; and

c) Whether individuals can withdraw consent for the publication of photographs, or request organisations to take down photographs that have been published.

PART III: SUBMISSION OF COMMENTS

6 Administrative details

- 6.1 Parties that submit comments on these proposed advisory guidelines should organise their submissions as follows:
- a) Cover page (including particulars of the organisation and contact person);
 - b) Summary of major points;
 - c) Comments, with reference to specific sections if appropriate; and
 - d) Conclusion.
- 6.2 Supporting material may be placed in an Annex. All submissions should be clearly and concisely written, and should provide a reasoned explanation for any comments on the proposed advisory guidelines. Where feasible, parties should identify the specific section on which they are commenting and explain the basis for their proposals.
- 6.3 All submissions should reach the Commission by 06 June 2014 (12 noon).
- 6.4 Comments should be submitted:
- a) in soft copy (in Microsoft Word format);
 - b) to the following e-mail address: pdpc_consultation@pdpc.gov.sg
 - c) with one of the following email headers, depending on which consultation document a party is responding to:
 - i. "Public Consultation on proposed Education Sector guidelines";
 - ii. "Public Consultation on proposed Healthcare Sector guidelines";
 - iii. "Public Consultation on proposed Social Service Sector guidelines"; or
 - iv. "Public Consultation on proposed Photography guidelines"
- 6.5 If a party is responding to more than one consultation document, it should accordingly state the respective consultation documents the response addresses in the email header.

- 6.6 The Commission reserves the right to make public all or parts of any written submission and to disclose the identity of the source. Commenting parties may request confidential treatment for any part of the submission that the commenting party believes to be proprietary, confidential or commercially sensitive. Any such information should be clearly marked and placed in a separate annex. If the Commission grants confidential treatment it will consider, but will not publicly disclose, the information. If the Commission rejects the request for confidential treatment, it will return the information to the party that submitted it and will not consider this information as part of its review. As far as possible, parties should limit any request for confidential treatment of information submitted. The Commission will not accept any submission that requests confidential treatment of all, or a substantial part, of the submission.

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