

**Public Consultation on the Proposed Advisory
Guidelines on the PDPA for Selected
Topics - Photography**

4th June 2014

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1. Introduction

This is a response to the proposed Advisory Guidelines on the Personal Data Protection Act (“PDPA”) for selected topics - Photography.

2. Responses to Scenarios

2.1 The Personal Data Protection Act (Act 26 of 2012) **section 13 ‘Consent required’** states that “An organization shall not, on or after the appointed day, collect, use or disclose personal data about an individual unless: (a) the individual gives, or is deemed to have given, his consent under this Act to the collection, use or disclosure, as the case may be; or (b) the collection, use or disclosure, as the case may be, without the consent of the individual is required or authorized under this Act or any other written law.”

The envisaged scenarios published in the proposed advisory guidelines [1] are generally valid.

In Scenario 2.4, if Diana wanted to post the photograph she took with Dawn in a corporate website or display it in a corporate board, then Diana needs to seek consent from Dawn first.

In Scenario 2.5, even if Organisation XYZ has seek consent from the individuals thus allowing Eric to take photographs of said individuals, Eric may not keep copies of the photographs for himself because that would exceeds the purpose of the photograph taking.

While Scenario 2.10 is valid under the PDPA, if any individual do not wish to have photograph taken of him, it would be helpful if PDPC give some additional guidance on how to opt-out.

For Scenario 2.11, what if the photographer choose not to inform Kevin of the intended purpose (ie. “for publication in Organisation ABC’s internal newsletter”) and simply take his photograph – pose or without pose? Would Scenario 2.10 simply overwrites Scenario 2.11? If yes, then Scenario 2.11 is redundant.

For Scenario 2.16, for the avoidance of doubt, Abel webpage include both personal and corporate, i.e. even if Abel publish the photograph in any social media platform, he would be in violation of PDPA.

For Scenario 2.23, the published annual report in the Organisation ABC should be revised. If the published annual report is in a third party website, Organisation ABC should inform the third party website to update the annual report with an updated version where Mr. Y photograph is removed.

On the surface, Scenario 2.24 seems to be valid. However, will Scenario 2.10 overwrites Scenario 2.24, i.e. can Organization XYZ refuse Jessie's request on the basis that it had put up "an obvious notice at the reception or entrance of the function venue to inform attendees that photographs will be taken at the event for publication in its internal newsletter": assuming that

- Case 1. Jessie is not an attendee, and she merely stopped by briefly at the entrance of the event, and
- Case 2. Jessie is an attendee of the event.

3. Conclusion

I thank the PDPC for conducting this public consultation and hope that the inputs are constructive.

Reference

[1] PDPC. (2014). Proposed Advisory Guidelines on the Personal Data Protection Act for Selected Topics - Photography.