

Our Ref.: (25) in PCPD/CR(A)7/155/5

1 November 2021

**CONFIDENTIAL**

(By Email: 19226004@life.hkbu.edu.hk)

Dear Zou Xiang Wei,

Subsequent to our reply dated 15 October 2021 in response to your email of 2 October 2021, we received your further email dated 19 October 2021 addressed to the Privacy Commissioner for Personal Data (Privacy Commissioner) requesting for further information under the Code on Access to Information.

2. Our response in respect of the information requested by you is set out below:

| Information requested   | Our response  |
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| “1. What is the procedure of prisoners’ complaints about their privacy issues in prison?”   | Section 37 of the Personal Data (Privacy) Ordinance (PDPO) states that an individual (regardless of whether a person is in custody or not) may lodge a complaint to the Privacy Commissioner about an act that relates to the personal data of which the individual is the data subject and that may be a contravention of a requirement under the PDPO. The complaint may be lodged with the Office of the Privacy Commissioner for Personal Data (PCPD) in writing with supporting evidence by post, email, fax or in person. |
| “2. Refer to the reply from you, you mentioned that the Correctional Service Department had consulted the Smart Prison privacy issue. Could you summarize what it has consulted and what point has been discussed, and your recommendation about those issues, especially the video analytic system issue?” | As stated in our reply to you dated 15 October 2021, paragraph 2.10(b) of the Code on Access to Information states that a department may refuse to disclose information whereby the disclosure of which would inhibit the frankness and candour of discussion within the Government, and advice given to the Government.<br><br>Since the information you requested relates to the PCPD’s discussion with and advice given  |

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|   | <p>to the Correctional Services Department, we regret to inform you that we are unable to accede to your request pursuant to paragraph 2.10(b) of the Code on Access to Information.</p>  |
| <p><i>“3. Also, refer to your reply, could you clarify that it is legal to set cameras in the prisoners’ washroom? If yes, what consideration is based on?”</i></p> | <p>The PCPD is an independent statutory body set up to monitor, supervise, promote and enforce compliance with the provisions of the PDPO. Given our regulatory role of overseeing and enforcing the compliance with the PDPO, we are not in a position to render specific advice on individual cases.</p> <p>Generally speaking, you may wish to note that if a CCTV system does not have recording function, its use will normally not involve collection of personal data as defined under the PDPO, and therefore falls outside the regulatory ambit of the PDPO.</p> <p>On the other hand, if the purpose of the installation of a CCTV system with recording function is to collect or compile information about identified persons, it would be regulated by the PDPO. In such situation, the data user is required to comply with the requirements of the PDPO, including the six Data Protection Principles contained in Schedule 1 of the PDPO.</p> <p>Generally speaking, there is a reasonable expectation of privacy in places such as toilets and shower rooms. Hence, it would be for a data user to assess whether there is a pressing need to install CCTV in these places and determine whether it is a proportionate measure to meet the purpose(s) intended to be achieved. The data user is generally encouraged to explore whether a less-privacy intrusive measure could achieve the same purpose.</p> <p>For details, please refer to the “Guidance on CCTV Surveillance and Use of Drones”<sup>1</sup> issued by the PCPD.</p> |

<sup>1</sup> [https://www.pcpd.org.hk/english/resources\\_centre/publications/files/GN\\_CCTV\\_Drones\\_e.pdf](https://www.pcpd.org.hk/english/resources_centre/publications/files/GN_CCTV_Drones_e.pdf)

3. Should you have any queries, please contact the undersigned at 3423 6609.

Yours sincerely,



(Natalie POON)

Access to Information Officer  
for Privacy Commissioner for Personal Data, Hong Kong