

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

23 November 2021

CONFIDENTIAL

(By Email: simonwang@hkbu.edu.hk)

Dear Mr Wang,

We refer to your emails dated 1 and 3 November 2021 stating that “... [the Office of the Privacy Commissioner for Personal Data (PCPD)] should be more forthcoming in sharing information or at least offer us more suggestions on what can be done to better protect the privacy of these groups of people...”.

2. The Personal Data (Privacy) Ordinance (PDPO) is technology-neutral and principle-based, and does not prohibit any individuals or organisations from installing and using CCTV systems. Generally speaking, 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 and the six Data Protection Principles (DPPs) contained in Schedule 1 of the PDPO, in particular:-

- DPP1 provides that (a) personal data must be collected for a lawful purpose directly related to a function or activity of the data user; (b) the means of collection must be lawful and fair; and (c) the data is necessary, adequate but not excessive in relation to the purpose of collection. All practicable steps shall be taken by the data user to notify the data subjects of the purpose of data collection (e.g. for security or to monitor any illegal act(s)) and the classes of persons to whom the data may be transferred, etc. In the context of CCTV systems, data users should also assess whether there is a pressing need to install CCTV and determine whether it is a proportionate measure to meet the purpose(s) intended to be achieved. Data users are generally encouraged to explore whether a less-privacy intrusive measure could achieve the same purpose;

- DPP2 provides that data users should take all practicable steps to ensure that the personal data is not kept longer than is necessary for the fulfilment of the purpose for which the data is used (e.g. in the case of CCTV systems, the recorded images captured by the CCTV installed for security purpose should be deleted regularly if no incident of security concern is discovered or reported);
- DPP3 provides that personal data collected shall only be used (including the disclosure and transfer of relevant data) for a purpose which is the same as or directly related to the original purpose(s) of collection. Except where voluntary and explicit consent is obtained from the data subjects, or when the data users can rely on applicable exemptions under the PDPO (e.g. the use of the data is for prevention or detection of crime), personal data shall not be used for a new purpose;
- DPP4 provides that data users need to take practicable steps to safeguard personal data from unauthorised or accidental access, processing, erasure, loss or use. Hence, to comply with DPP4, when a CCTV is installed, security measures must be put in place to prevent unauthorised access to the CCTV system, including putting in place proper access control defining who can access the recorded images and under what circumstances;
- DPP5 requires data users to make available their privacy policy and practice. To meet this requirement, in the context of CCTVs, data users should devise CCTV monitoring mechanisms and/or procedures to ensure that matters such as the kinds of personal data held, the main purposes for which the data collected is to be used and the retention policies are clearly set out and communicated internally and to the data subjects; and
- DPP6 provides that data subjects have the right to request access to their own personal data. In other words, a data subject has the right to request a data user to confirm whether it holds his/her personal data, and to be supplied with a copy of the requested data. Such a request is called a data access request. DPP6 covers the manner and timeframe for compliance with data access requests.

3. The PCPD has issued the “Guidance on CCTV Surveillance and Use of Drones”, which offers advice to data users in determining whether CCTV should be used and how to use CCTV responsibly. You may click the following link to view the Guidance: https://www.pcpd.org.hk/english/resources_centre/publications/files/GN_CCTV_Drones_e.pdf.

4. 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