

PERSONAL DATA (PRIVACY) ORDINANCE

DATA ACCESS REQUEST FORM

Important Notice

1. Please read this Form and the footnotes carefully before completing this Form.
2. This Form is specified by the Privacy Commissioner for Personal Data (“the Commissioner”) under section 67(1) of the Personal Data (Privacy) Ordinance (“the Ordinance”) with effect from 1 April 2008. According to section 20(3)(e) of the Ordinance, a data access request may be refused if it is not made in this Form.
3. Please complete this Form in the Chinese or English language. A data user may refuse to comply with a data access request under section 20(3)(a) of the Ordinance if the request is not in writing in the Chinese or English language. **The completed Form should be sent directly to the data user to whom this data access request is made**, and not to the Commissioner.
4. Section 18(1) of the Ordinance confers a right on the data subject to access his personal data held by a data user.
5. The requestor shall specify in sufficient details and clarity the personal data requested in order to facilitate location of the requested data by the data user. Failure to supply such information which the data user may reasonably require to locate the requested data may result in the data user refusing to comply with the data access request under section 20(3)(b) of the Ordinance.
6. A data user shall comply with the data access request in accordance with section 19(1) of the Ordinance **within 40 days** after receiving the request. The duty of the data user to comply with a data access request extends only to supplying a copy of the personal data of the data subject, and not to supply a copy of the document in which the data is contained.
7. If the data user is unable to comply or has valid ground to refuse to comply with the request pursuant to section 20 of the Ordinance, it shall in accordance with section 19(2) or 21(1) of the Ordinance give the requestor written notification of such matter and the reasons **within the same 40 days** period.
8. Failure of the data user to comply with the data access request in accordance with the requirements of the Ordinance may constitute an **offence** and an offender is liable on conviction to a fine at level 3 under section 64(10) of the Ordinance.
9. Where this Form contains a summary of the relevant requirements of the Ordinance, the summary is provided for reference purpose only. For the complete and definitive statement of the law, please refer to the Ordinance itself.

Part I: Data User

Particulars of the data user to whom this data access request is made

Name¹ (full name in block letters): _____

(for the attention of ² _____)

Address : _____

Part II: Data Subject

Particulars of the data subject making this data access request

Name in English (full name in block letters, surname first): _____

Name in Chinese: _____

Hong Kong Identity Card Number ³: _____

Personal identifier (e.g. student number, staff number, medical card number, account number, or other reference number) previously assigned by the Data User for identification purpose (if any): _____

Correspondence address: _____

Day time contact phone number: _____

Part III: The Requestor

Name, correspondence details and capacity of the Requestor

[This part should only be completed if the Data Subject is not the Requestor]

Name in English (full name in block letters, surname first): _____

Name in Chinese: _____

Correspondence address: _____

Day time contact phone number: _____

This data access request is made in my capacity as a relevant person⁴ on behalf of the Data Subject, in proof of which I enclose the following⁵:- _____

¹ Please fill in the full name of the Data User to whom the data access request is addressed.

² If you have previously been informed by the Data User of the name or title of the person to whom such a data access request may be made, please fill in here the name and/or title of such person.

³ For data subjects who are Hong Kong Identity Card holders. The identity card number needs not be provided in this Form if you have reasonable grounds to believe that this will not be necessary for the unique identification of the data subject by the data user in the circumstances.

⁴ Under section 2(1) of the Ordinance, a "relevant person", in relation to an individual, means:

- (a) where the individual is a minor, a person who has parental responsibility over the minor;
- (b) where the individual is incapable of managing his own affairs, a person appointed by the court to manage those affairs; or
- (c) in any other case, a person authorized in writing by the individual to make the data access request.

⁵ Please fill in here details of any documentary proof of "relevant person" status, e.g. copy birth certificate, copy court order, written authorization, etc., which you will provide with the Data Access Request Form. Please see also paragraph (b) of Part VIII of the Form.

Part IV: The Requested Data

This data access request is made under section 18(1) of the Ordinance for the following personal data of the Data Subject, except those specifically excluded under Part V of this Form:-

Description of the Requested Data⁶: _____

Date around which or period within which the Requested Data were collected (if known):

The name of the branch or staff member of the Data User that collected the Requested Data (if known):

Part V: Exclusions

For the avoidance of doubt, the Requested Data access to which is sought **do not include** any personal data⁷:

- contained in documents previously provided to the Data User by the Data Subject (e.g. letters to the Data User from the Data Subject)
- contained in documents already provided to the Data Subject by the Data User (e.g. letters to the Data Subject from the Data User or documents provided pursuant to a previous request)
- in the public domain (e.g. newspaper clippings or entries in public registers concerning the Data Subject)
- (other excluded personal data): _____

(Please tick and complete where appropriate)

Part VI: The Request

I hereby request you:-

- (a) pursuant to section 18(1)(a) of the Ordinance, to inform me whether you hold the Requested Data⁸
- (b) pursuant to section 18(1)(b) of the Ordinance, if you hold any of the Requested Data, to supply me with a copy of such Data that you hold⁹
- both (a) and (b)

(Please tick where appropriate)

⁶ Please specify clearly and in details the personal data requested (e.g. personal data contained in appraisal reports, medical records, credit reports) including further information, if any, such as the particular incident in association with it, the circumstances under which the personal data were collected and held, etc. to facilitate location of the Requested Data. Too general a description of the Requested Data, such as "all of my personal data", may render the request being refused by the data user pursuant to section 20(3)(b) of the Ordinance in that the data user is not supplied with such information as it may reasonably require to locate the personal data in which the request relates.

⁷ Please tick to exclude, as far as possible, any personal data that you do not wish to include within the scope of the Requested Data. This may help to avoid any unnecessary delay or charge in complying with the data access request.

⁸ By ticking this box, the Requestor has indicated that he or she is requesting only for a confirmation of "Yes" or "No" as to whether the Data User holds the Requested Data and is not requesting for a copy of the Requested Data.

⁹ By ticking this box, the Requestor has indicated that he or she is requesting only for a copy of the Requested Data. Where the Data User does not hold the Requested Data, the Data User is not obliged to notify the Requestor. It is therefore advisable to tick the box "both (a) and (b)" if the Requestor wishes to receive notification from the Data User.

Part VII: Preferred Manner of Compliance

In your complying with this data access request, I would prefer that you¹⁰:

- give me an indication, before processing my data access request, of any fee that may be charged for compliance with my request¹¹
- notify me when a copy of the Requested Data is ready for collection
- send by registered mail a copy of the Requested Data to me at my address given in this Form
- send by ordinary mail a copy of the Requested Data to me at my address given in this Form
- supply to me a copy of the Requested Data in the _____ language
- supply to me a copy of the Requested Data in the form of _____ (e.g. computer disk, microfilm, etc.)

(Please tick and complete where appropriate)

Part VIII: Further Information and Payment

I understand that before complying with my request, you may require me to provide¹²:

- (a) proof of my identity;
- (b) where I am making this request as a relevant person, proof of the identity of the Data Subject and further proof (if any) of my status as a relevant person;
- (c) such further information as may be reasonably required for you to locate the Requested Data;
- (d) payment of a fee charged under section 28 of the Ordinance.

Part IX: Use of Personal Data

Except with the prescribed consent of the individual concerned, the personal data provided in this Form will be used for the purpose of processing this data access request and for directly related purposes only.

Date

Signature of the Data Subject/ Requestor*

(* Delete where appropriate)

Form OPS003 (revised 1/2008)

¹⁰ Please tick and fill in according to preference. However, compliance with the data access request may not be in the preferred manner where this is not reasonably practicable.

¹¹ Sections 28(2) and (3) of the Ordinance provide that a fee may be charged for compliance with a data access request under section 18(1)(a) or (b), which fee shall not be excessive. According to section 28(5) of the Ordinance, compliance with a data access request may be refused unless and until any such fee has been paid.

¹² Failure to provide the additional information as required may result in the data access request being refused, or not being complied with to the desired extent.