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cc

Subject Response to consultation document

This is my personal view on the review document and I am happy for all my statement to be placed in the public domain.

My background is that I spent more than 3 years as a Member of the Central Policy Unit, on secondment from HKU, so I have never been directly employed by the HKSARG, but I have worked within the Civil Service at directorate level.

I wish to highlight my concerns relating to privacy and transparency as follows:

My focus is on the following statement:

2.04 "Its decision-making and implementation process must be as transparent as possible within the legal framework."

I believe that the current process does not live up to this statement, partly because of a misunderstanding of the data protection law, expressed in:

2.12 "An individual's personal data privacy is protected by the Personal Data (Privacy) Ordinance. Under the Ordinance, personal data including an individual's employment details could only be disclosed under certain circumstances."

While this statement is technically correct, it is misleading.

I quote from the PCPD website summary of the ordinance:

Principle 3 -- Use of personal data This provides that unless the data subject gives consent otherwise personal data should be used for the purposes for which they were collected or a directly related purpose.

There are exemptions from the subject access and use limitation requirements of the Ordinance where their application is likely to prejudice certain competing public or social interests, including prevention or detection of crime

I would argue that public disclosure of the details of post-service employment requests is clearly related to the purpose of collecting potential employment data of senior civil servants in order to make fair decisions, especially if such disclosure was made clear to all applicants.

The current situation stated in 3.45 - 3.49 is clearly not very transparent and leaves wide (and inappropriate) discretion to CSB to decide what the public should know and what is an appropriate response to public concern. As it stands now, the register does not appear to be online, so the level of transparency is practically very low.

I also believe that the public register misses the point. The time for public input is *before* approval, not after. If public input involved placing all requests online for an agreed review period, this would allow public input which could then be included in the decision making process together with the CSB input. As seen by the recent discussion, the process currently relies too heavily on CSB input.

Greater transparency would also allow greater flexibility, so that civil service expertise need not necessarily be excluded from good utilisation when there is potentially large benefit. For example, in the case of Fanny Law's undoubted expertise on education, I believe most members of the public would want to see that being put to good use.

I see the key issue as transparency, not fear of public opinion.

I would be happy elaborate further on these views, if it would assist in any way.

Thanks

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