

**BREAKOUT SESSION 2
DATA SUBJECTS
AND
PERSONAL DATA PROTECTION**

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Outline – Rights of Data Subjects

- ❑ What the PDPA Says
- ❑ What Data Subject Needs To Do
- ❑ What Data User Must Do
- ❑ Some Challenges

Right of Access-Sections 30-33

□ What Are The Rights

- To be informed whether his data being processed
- To be provided with a copy of information comprising the data

□ What Data Subject Must Do

- Request in writing (oral is insufficient)
- Pay fee (if any)

□ What Data User Must Do

- To comply within 21 days
- If unable – inform the requestor plus reasons
- 14 days extension
- Standard access request form can be developed and used (not mandatory, any written request is sufficient)
- To supply a “copy” in an “intelligible form”

□ Data User May Refuse Access Request

- No information supplied to prove the identity of the requestor
- No information supplied to locate the personal data
- Burden or expenses of providing access is disproportionate to the risks to the data subject's privacy
- Complying with the request will disclose other individuals data

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- Providing access would constitute a violation
 - Providing access would disclose confidential information
 - Such access is regulated by another law

Right to Correct Personal Data - Sections 34-37

□ What the PDPA Says

- The power to decide whether any correction is to be made and the actual correction are vested in the data user
- Data subject will have to satisfy the data user

□ What Data User Must Do

- Make the necessary correction within 21 days
- Supply the requestor with the personal data as corrected
- If unable to do correction within 21 days, inform the requestor plus reasons
- 14 days extension

□ Data User May Refuse to Make Correction

- No information supplied to prove the identity of the requestor
- No information supplied to prove the inaccuracy of the personal data
- The data user is not satisfied the personal data inaccurate

Right to Prevent Processing Likely to Cause Damage or Distress – Section 42

□ What the PDPA says

- Notice in writing
- To cease or not to begin processing
- That cause or likely to cause substantial damage or distress to the data subject or to another
- The damage or distress is or would be unwarranted

□ What Data Subject Must Do

- Forward notice in writing
- Specify why the processing is or will cause damage or distress
- The notice may specify the purpose or manner of processing is objectionable

□ What Data User Must Do

- Data user must respond within 21 days
- The response must specify:
 - A statement that the data user has complied or intend to comply, or
 - A statement that the data user regards the data subject notice as unjustified

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- Exemptions – The right does not apply
 - Data subject has given his consent;
or
 - The processing is necessary for the performance of a contract concerning the data subject

Right to Prevent Processing for Purposes of Direct Marketing – Section 43

- What the PDPA says
 - A data subject may at any time
 - By notice or in writing
 - Require the data user to cease or not to begin the processing of personal data for direct marketing purposes

□ What is Direct Marketing?

- Communications by whatever means
- Any advertising or marketing material
- Directed to particular individuals

□ What Data User Must Do

- No option
- Will have to comply
- To cease
- Not to begin

Right to Withdraw Consent – Section 38

- A data subject may by notice in writing withdraws his consent to the processing of personal data

Some Challenges

- Responding to a subject access request may involve providing information that relates both to the requestor and to another individual. What must data user do?
- Providing access may be extensive or time consuming (disproportionate effort). UK PDPA – “disproportionate effort” qualification only applies in respect of “supplying” a copy of the information in permanent form.

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- ❑ What about repeated or unreasonable requests or access?
 - ❑ What if the inaccurate information/ data was received from the requestor or from the third party?
 - ❑ What is meant by damage or distress?
 - ❑ When an individual sends a notice (in relation to direct marketing), should the data user delete the details? Or should the data user suppress the personal data?

THANK YOU

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