



# Legal Updates on Personal Data

## Summary of the Guideline on the Appointment of Data Protection Officer

### Introduction

The long-anticipated amendments to the Personal Data Protection Act 2010 (“**PDPA 2010**”) that were gazetted in October last year, introduced the requirement for data controllers and data processors to appoint 1 or more data protection officers (“**DPO**”) under section 12A of the PDPA 2010 (amongst other amendments). These amendments came into force on 1 January 2025.

Following the gazette, the Personal Data Protection Department (“**JPDP**”) announced in November 2024 that the Personal Data Protection Commissioner (“**Commissioner**”) would release guidelines and a standard by early 2025 on compliance with the new requirements introduced by the amendments.

The Commissioner has now on 25 February 2025, issued a circular (“**Circular No. 1/2025**”) as well as a guideline on the appointment of DPO (“**DPO Guideline**”), and we hope to provide a meaningful and concise summary below.

### Defined Terms

Throughout this summary, we will be using certain defined terms from the PDPA 2010 which are explained below for your ease of reference.

- “**data controller**” : means anyone other than a data processor, who processes personal data, or controls or authorises the processing of personal data.
- “**data processor**” : means anyone who processes personal data only on behalf of a data controller and does not process the personal data for their own purposes. An employee of a data controller is not considered a data processor.
- “**data subject**” : means the individual who is the subject of the personal data;
- “**personal data**” : means any data from which a person can be identified;
- “**sensitive personal data**” : means personal data containing information on a data subject’s physical or mental health, political opinions, religious beliefs, commission of offences or alleged commission of offences and biometric data.

## Requirement to Appoint a DPO

Data controllers and data processors are required to appoint 1 or more DPOs if their processing of personal data involves:

- the personal data of more than 20,000 data subjects;
- the sensitive personal data of more than 10,000 data subjects; or
- activities that require regular and systematic monitoring of personal data.

Some examples of regular and systematic monitoring include:

- online tracking and profiling for behavioural advertising;
- operating of telecommunications networks;
- monitoring of wellness, fitness and health data through wearable devices;
- operating of CCTV;
- connected devices such as smart cars and home automation systems.

## Requirement to Notify Appointment of DPO and Register DPO

Within 21 days from the date of appointment, the data controller or data processor must register their appointed DPO and submit their contact information to the Commissioner through the Personal Data Protection System (*Sistem Perlindungan Data Peribadi*) through <https://daftar.pdp.gov.my>. Any change of the DPO or their contact information must be promptly updated within 14 days from the effective date of such change.

The data controller or data processor must maintain and retain records of the appointed DPO to demonstrate compliance.

## Requirement to Publish DPO Contact Details

The DPO must have a dedicated official business e-mail address, which account must be actively monitored and maintained. This email address should be distinct and separate from personal email and official business work e-mail addresses.

The contact information of the DPO should be published on the official website and other official media (e.g., social media platforms, telephone directories, etc.), in the privacy notices and in the security policies and guidelines of the data controller or data processor.

## Expertise and Qualifications of DPO

Currently, there are no minimum professional qualifications required for DPOs. However, data controllers and data processors must ensure that the DPO is able to adequately carry out their tasks. This would include determining appropriate qualifications, skills and expertise required for the processing being carried out, the complexity, scale and sensitivity of the data processed, and the security required for the data processed.

DPOs should also be able to demonstrate a sound level of the following:

- knowledge of the PDPA and requirements of data protection laws of Malaysia as well as other countries, if relevant;
- understanding of the data controller or data processor's business operations and the data processing operations being carried out;
- understanding of information technology and data security;
- personal qualities such as integrity, understanding of corporate governance and high professional ethics; and
- ability to promote data protection culture within the organisation.

DPOs may also be required to undergo courses or training programmes by the Commissioner and if so required, data controllers and data processors must ensure that their DPOs attend such courses and programmes.

DPOs are required to be resident in Malaysia or otherwise easily contactable and should be proficient in the national language and English.

### **Appointment of Employee as DPO**

A new employee may be hired as DPO, or an existing employee may be appointed as DPO in a dual role. However, if a DPO executes other official duties and responsibilities or performs additional tasks as part of their job scope, the data controller or data processor must ensure that these other tasks and functions do not cause a conflict of interest.

As an example, a company's Head of Marketing may not be suitable to play a dual role as the company's DPO as their objective to maximise sales, which may entail marketing activities that require the processing of personal data, may conflict with the DPO's role of safeguarding personal data.

Depending on the data controller or data processor's function, structure and size, the position of DPO may be a part-time or full-time position. The DPO should have direct report access to senior management of the data controller or data processor.

If the position of DPO becomes vacant, the data controller or data processor should appoint an interim officer as soon as possible to monitor the official email account. The data controller or data processor must also appoint or hire a replacement within a reasonable time frame.

### **Outsourcing of DPO**

If a DPO is appointed through outsourced services, it is recommended that the service contract is for a minimum term of 2 years. The service contract should also comprehensively describe the duties and obligations of the DPO.

The data controller or data processor must ensure that there is a designated person-in-charge that they may liaise with, and such lead contact should be specified in the service contract.

## Roles and Responsibilities of DPO

Data controllers and data processors should ensure the timely involvement of the DPO in all matters related to personal data protection, starting from policy formulation to collection, storage, deletion and destruction of personal data. To facilitate the timely involvement of the DPO, data controllers and data processors may develop guidelines outlining the scenarios in which DPO involvement is required and these guidelines should be disseminated throughout the organisation.

DPOs have the following core responsibilities:

### *To the data controller or data processor*

- informing and advising the data controller or data processor on the processing of personal data;
- supporting the data controller or data processor in complying with the PDPA 2010 and other related data protection laws, including staying informed of data processing risks affecting the data controller or data processor;
- monitoring the data controller or data processor's compliance with personal data protection requirements; and
- ensuring proper data breach and security incident management;

### *To data subjects*

- acting as facilitator and point of contact between data subjects and the data controller or data processor regarding the processing of the data subjects' personal data and their rights; and

### *To the Commissioner*

- acting as the liaison officer and main point of reference between the data controller or data processor and the Commissioner.

The full Circular 1/2025 and the DPO Guideline are available on the official website of the JPDP [here](#).

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