

PUBLIC CONSULTATION PAPER NO. 1/2018

THE IMPLEMENTATION OF DATA BREACH NOTIFICATION

The Public Consultation Paper (PCP) No. 1/2018 entitled The Implementation of Data Breach Notification is intended to solicit feedback from data users and/or relevant parties pertaining to personal data breach management.

Personal data breach has become a global threat. Therefore, in light of this, the Personal Data Protection Commissioner (Commissioner) is going to implement Data Breach Notification (DBN), which is currently having practised worldwide.

Objectives:

The implementation of DBN is aimed to assist data users in personal data breach management. Basically, it is a mechanism where data users will give notification, informing the authority and the affected/relevant parties where a breach has occurred in an organization.

The DBN serves as proactive steps taken by data users to contain the damage caused by a breach incident. Data users should be able to demonstrate their commitment and accountability when addressing the breach. In addition, the DBN enables the enforcement authorities/regulators to conduct investigation thoroughly, transparently and fairly.

The DBN is expected to be implemented by end of 2018 by way of imposing conditions to the certificate of registration issued by the Commissioner to the data users. In this regard, the Commissioner welcomes the feedback to this paper and suggestions of other criteria (if any) to be set for the implementation of DBN as stated in the consultation paper.

INSTRUCTIONS TO DATA USERS AND RELEVANT PARTIES

Data users and/or relevant parties are required to:

- i. The Consultation Paper can be accessed via **PDP Malaysia website.**
- ii. Fill in the General Information form as per **APPENDIX A**;
- iii. Read the Elements in DBN as per **APPENDIX B**;
- iv. Provide your feedback on the Elements in DBN as per **APPENDIX C**; and
- v. Send your feedback to **pcpdp@pdp.gov.my.**

The deadline for submitting your feedback is on the **21st August 2018 (Tuesday)**. For enquiry regarding the consultation paper, you may email Mrs. Mastura binti Abd Rahim, mastura@pdp.gov.my /Ms. Noreen Iszani binti Yusak, noreen@pdp.gov.my.

ACKNOWLEDGEMENT

The Commissioner acknowledges and thank you for your participation and feedback.

**Personal Data Protection Commissioner
Malaysia**

APPENDIX A

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Should you require additional space, please attach a separate sheet and be sure to include your organization's name on the top of the additional page

PART 1- GENERAL INFORMATION

1. **Category** : ***Data User / **Data Processor / ***Data Subject**
(Please strike out whichever option does not apply to you.)
2. **Sector** : _____
3. **Organization** : _____
(*Data User/**Data Processor)

Respondent

4. **Name** : _____
5. **Email** : _____
6. **Position** : _____
(*Data user/**Data processor)
7. **Telephone Number** : _____
(optional)

TERMINOLOGY	INTERPRETATION
*Data User	A person who either alone or jointly or in common with other processes any personal data or has control over or authorizes the processing of any personal data.
**Data Processor	Any person, other than an employees of the data user, who process the personal data solely on behalf of data user and does not process the personal data for any of his own.
***Data Subject	An individual who is the subject of the personal data.

APPENDIX B

ELEMENTS IN DATA BREACH NOTIFICATION

A DETAILS ABOUT THE DATA BREACH	
1.	Summary of the event and circumstances.
2.	Type and amount of personal data involved in the breach?
3.	The estimated number of affected data subjects?

B CONTAINMENT OR CONTROL MEASURES	
1.	Details of actions / measures taken or will be taken to contain the breach.
2.	What is the potential harm? (Especially to the affected data subjects).

C NOTIFICATION	
1.	Who has been notified about the breach?
2.	Have the other Regulatory bodies/Law enforcement agencies been notified?
3.	How does the organization notify data subjects about the incident?
4.	What advice given to the affected data subjects?
5.	Notification to the Commissioner must be made not later than 72 hours after having become aware of the breach.

D TRAINING AND GUIDANCE IN RELATION TO DATA PROTECTION	
1.	Does the organization provide training / awareness programme to staff members prior to the incident?
2.	Had the staff members involved in this incident received training in the last 24 months?
3.	In relation to the incident you are reporting, does the organization provide any detailed guidance to staff on the handling of personal data?

APPENDIX C

PART 2- FEEDBACK ON THE ELEMENTS IN DATA BREACH NOTIFICATION

SECTION A: DETAILS ABOUT THE DATA BREACH	
1.	Summary of the event and circumstances.
2.	Type and amount of personal data involved in the breach?
3.	The estimated number of affected data subjects?
4.	Additional suggestions for Section A (if any):

SECTION B: CONTAINMENT OR CONTROL MEASURES

1. Details of actions / measures taken or will be taken to contain the breach.

2. What is the potential harm? (Especially to the affected data subjects).

3. Additional suggestions for Section B (if any):

SECTION C: NOTIFICATION	
1.	Who has been notified about the data breach incident?
2.	Have the other Regulatory bodies/Law enforcement agencies been notified?
3.	How does the organization notify data subjects about the incident?
4.	What advice given to the affected data subjects?
5.	Notification to the Commissioner must be made not later than 72 hours after having become aware of the breach.
6.	Additional suggestions for Section C (if any):

SECTION D: TRAINING AND GUIDANCE IN RELATION TO DATA PROTECTION

1. Does the organization provide training / awareness programme to staff members prior to the incident?

2. Had the staff members involved in this incident received training in the last 24 months?

3. In relation to the incident you are reporting, does the organization provide any detailed guidance to staff on the handling of personal data?

4. Additional suggestions for Section D (if any):

SECTION E: OTHER SUGGESTIONS ON THE IMPLEMENTATION OF DATA BREACH NOTIFICATION