Personal Data Protection Regime Singapore

8 April 2015

1 **Overview**

In Brief

- **Singapore's Personal Data Protection Act 2012 (PDPA)** was enacted in Nov 2012 and parts relating to the administration of the Act came into operation on 2 Jan 2013.

- **Do Not Call (DNC) provisions and Data Protection (DP) provisions** came into operation on **2 Jan 2014** and **2 Jul 2014** respectively.

- **Personal Data Protection Commission (PDPC)** was formed on 2 Jan 2013 - to administer and enforce the PDPA.

- **Data Protection Advisory Committee (DPAC)** comprising members from a wider segment of society formed on 2 Jan 2013 -to advise the PDPC.
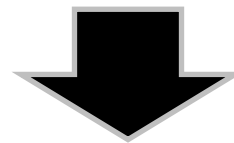
Objectives of the Data Protection Regime

Individual Interest

- Put in safeguards to protect individuals' data from misuse by regulating proper management of personal data
- Give individuals greater control over their personal data

Economic Interest

- Strengthen position as trusted hub and choice location for data hosting and processing activities - enhance Singapore's overall competitiveness
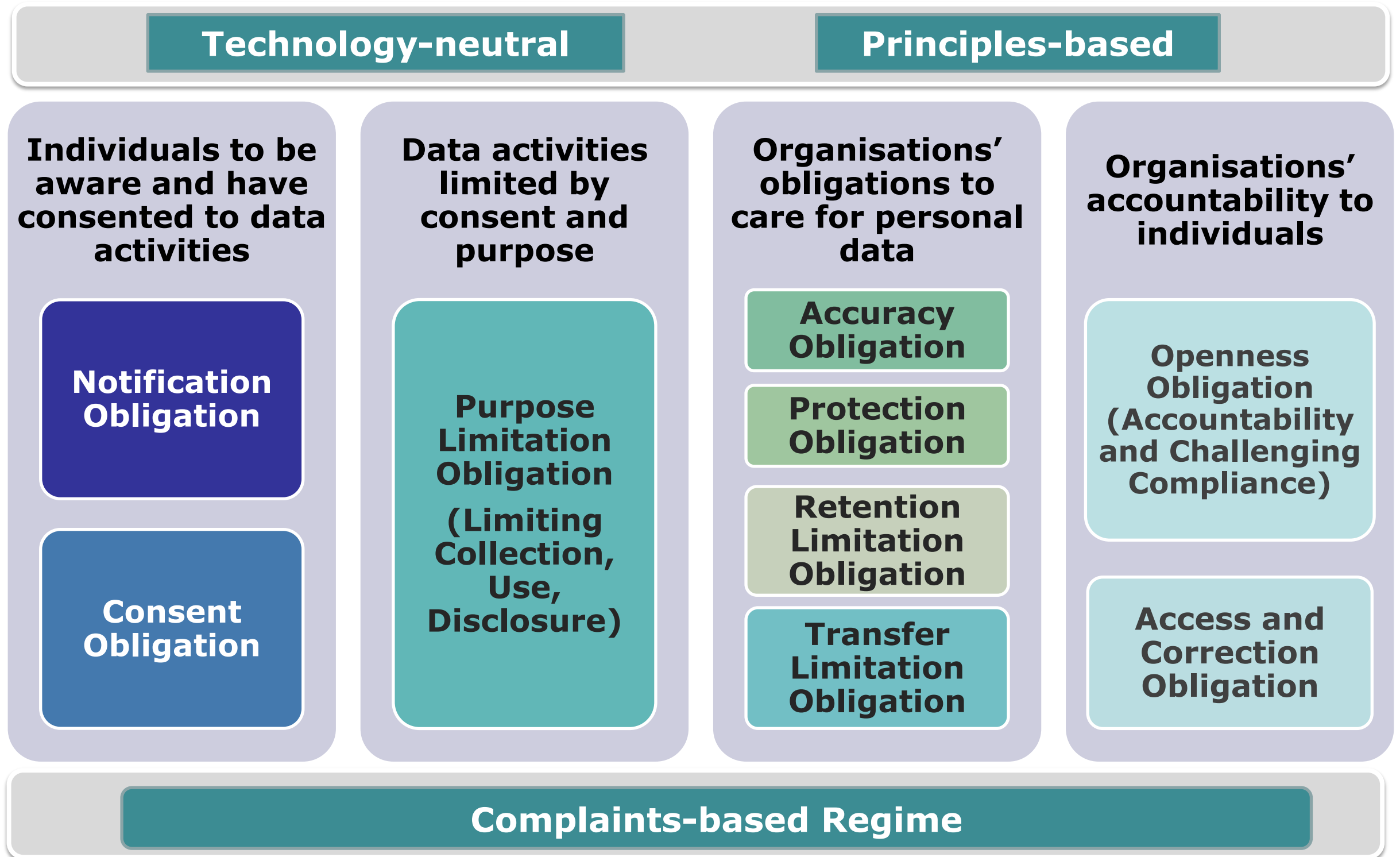- Facilitate cross-border transfer

Baseline Data Protection Requirements

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Approach for the Data Protection Regime

- **Protect individuals' personal data**, while ensuring national interest, govt functions & public service delivery not unduly impeded

- **Help businesses gain consumer confidence** through proper handling of personal data

- **Keep compliance costs manageable**, sufficient to address economic objectives

- **Take into account international standards**, to enhance Singapore's status as trusted hub for data mgmt & processing activities

Overview of Data Protection Regime

Technology-neutral		Principles-based	
Individuals to be aware and have consented to data activities	**Data activities limited by consent and purpose**	**Organisations' obligations to care for personal data**	**Organisations' accountability to individuals**
Notification Obligation	**Purpose Limitation Obligation** **(Limiting Collection, Use, Disclosure)**	**Accuracy Obligation**	**Openness Obligation (Accountability and Challenging Compliance)**
		Protection Obligation	
Consent Obligation		**Retention Limitation Obligation**	**Access and Correction Obligation**
		Transfer Limitation Obligation	

Complaints-based Regime

Overview of Organisations Covered

Organisations

| Organisations engaged in data activities within Singapore | Data Intermediaries (Only Protection and Retention Limitation Obligations) | Public agencies and agents | Individuals acting in personal or domestic capacity or as an employee |

Applicable Frameworks

← Relevant Sectoral Legislation → | Internal Govt Rules

← **Personal Data Protection Act** → | Other Relevant Legislation

← Common Law →

2 Key Features of the PDPA

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Scope of Application – Personal Data

Definition
"**Personal data**" refers to data about an individual who can be identified from that data; or from that data & other info that the organisation has or is likely to have access.

Covers **electronic** & **non-electronic** data;

Focuses on protection of personal data, regardless of whether data is **true or false**

Personal Data of Deceased Individuals

- Only <u>disclosure & safeguarding</u> rules apply
- Protection for <u>up to 10 years</u> after death

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Organisation

Definition
"**organisation**" is defined in the PDPA as including "any individual, company, association or body of persons, corporate or incorporated, whether or not —
(a) formed or recognised under the law of Singapore; or
(b) resident, or having an office or a place of business, in Singapore;"

The PDPA does not cover:
(a) Any individual acting in a personal or domestic capacity
(b) Any employee acting in the course of his employment with an organisation
(c) Any public agency or an organisation in the course of acting on behalf of a public agency in relation to the collection, use or disclosure of the personal data.

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Data Intermediary (DI)

Definition

"**data intermediary**" is defined in the PDPA as "an organisation which processes personal data on behalf of another organisation but does not include an employee of that other organisation".

Processing is the carrying out of any operation or set of operations in relation to the personal data, such as:
- recording
- holding
- organisation
- adaptation or alteration
- Retrieval
- Combination
- Transmission
- erasure
- destruction

Data Intermediary (DI)

Only the <u>Protection Obligation</u> and <u>Retention Limitation Obligation</u> apply in relation to the processing of personal data by a DI –
• on behalf and for the purposes of another organisation,
• pursuant to a contract which is evidenced or made in writing.

The other organisation has the same obligations under the PDPA in respect of personal data that is processed on its behalf and for its purposes by a DI as if the personal data were processed by the organisation itself.

DNC Registry

Included in scope of DNC ← →

Not included in scope ← →

Covered:
- B2C marketing messages, e.g.
  - offer to supply, advertise or promote (suppliers of) goods or services;
  - supply/advertise/promote land, interests in land, business/investment opportunities, etc.

Not covered:
- B2B marketing
- Personal calls & SMSes
- Market research / surveys
- Messages by public agencies for non-commercial programmes

DNC Registry

Included in scope of DNC | **Not included in scope**

Voice calls	SMS / MMS / Texts	Faxes

Sent to Singapore Phone Numbers:
• Business number registration allowed

Organisations' key obligations:

• check against DNC registry within 30 days before doing marketing unless they have **clear and unambiguous consent in evidential form**;

• display their ID, contact info and (for phone calls) originating number.

Messages that can be sent **without use of phone numbers** e.g. cell-broadcast

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DNC Operational Rules (For Individuals)

Individual registers phone number with DNC Registry	→	Number is added to DNC Register(s)	→	Number remains in DNC register(s) unless Individual deregisters or terminates service

- Free of charge

- Access to device

- Register via
  - Online via DNC Registry website
  - SMS
  - IVRS

- Three separate registers:
  - Voice calls
  - Text messages
  - Fax messages

- 30 days before it is effective

- Registration does not expire

- DNC Registry purges terminated phone numbers

DNC Operational Rules (For Organisations)

Org apply for an account	→	Orgs must submit their lists of numbers to DNC	→	DNC Registry checks through the lists

Org apply for an account
- Need to apply for a main account at DNC Registry website
- Can apply for sub accounts
- Main account gets free credits annually
- Pay a fee for each account

Orgs must submit their lists of numbers to DNC
- Responsibility lies with the org which sends the message, causes the message to be sent and authorises the sending of the message
- Tiered fees payable
- 2 functions
  - Small Number Lookup (Up to 10 numbers)
  - Bulk Filtering (As many numbers as required)

DNC Registry checks through the lists
- Clear & unambiguous consent by individual overrides registration with DNC Registry
- Small Number Lookup results returned immediately online
- Bulk Filtering results will be returned within 24 hrs

Exemption from requirement to check Registers

Organisations **only exempt from duty to check the relevant DNC Register** (Section 43(1)) where:

- **Current <u>ongoing relationship</u>** with recipient
  - Past relationships or one-off transactions not included

- **Message <u>relates to subject of ongoing relationship</u>**
  - Unrelated messages not exempted

- <u>**Text or Fax** message</u> only
  - **Does not apply to voice calls**

Other conditions:
- **Opt out facility** provided in the message
  - Same mode as message (i.e. by SMS or fax), no additional charges
  - Once opt out, NO further exempt message may be sent to the same number within 30 days
- **Consent to telemarketing not previously withdrawn**

Ongoing relationship – what it is or not

- Ongoing relationship – examples:
  - Membership
  - Subscription

- Not ongoing relationship:
  - Individual calls salesperson to enquire about a property
  - Individual visits a showflat
  - Individual bought an item from a store and left telephone number for delivery
  - Individual made an appointment/reservation and left his number
  - Individual provided telephone number in lucky draw coupon

Message related to subject of ongoing relationship – examples

- Telco reminds you to top up pre-paid card, and informs you of special plans (e.g. plan with cheaper IDD to certain countries, etc)

- Credit card company informing you if you use your credit card at a department store, you can enjoy additional discounts.

- The credit card company <u>CANNOT</u> rely on this exemption to notify you of a launch of property development (this is unrelated to the service they provide you).

Penalty and Enforcement Regime

Personal Data Protection Commission

DP

DNC

Powers to investigate, issue directions etc

- **Financial penalty per contravention up to $1m**

- **Individuals can separately seek redress via civil proceedings**

- **Provision for reconsideration request before appeal**

- **Independent Appeal Committee to hear appeals; further appeals to the courts**
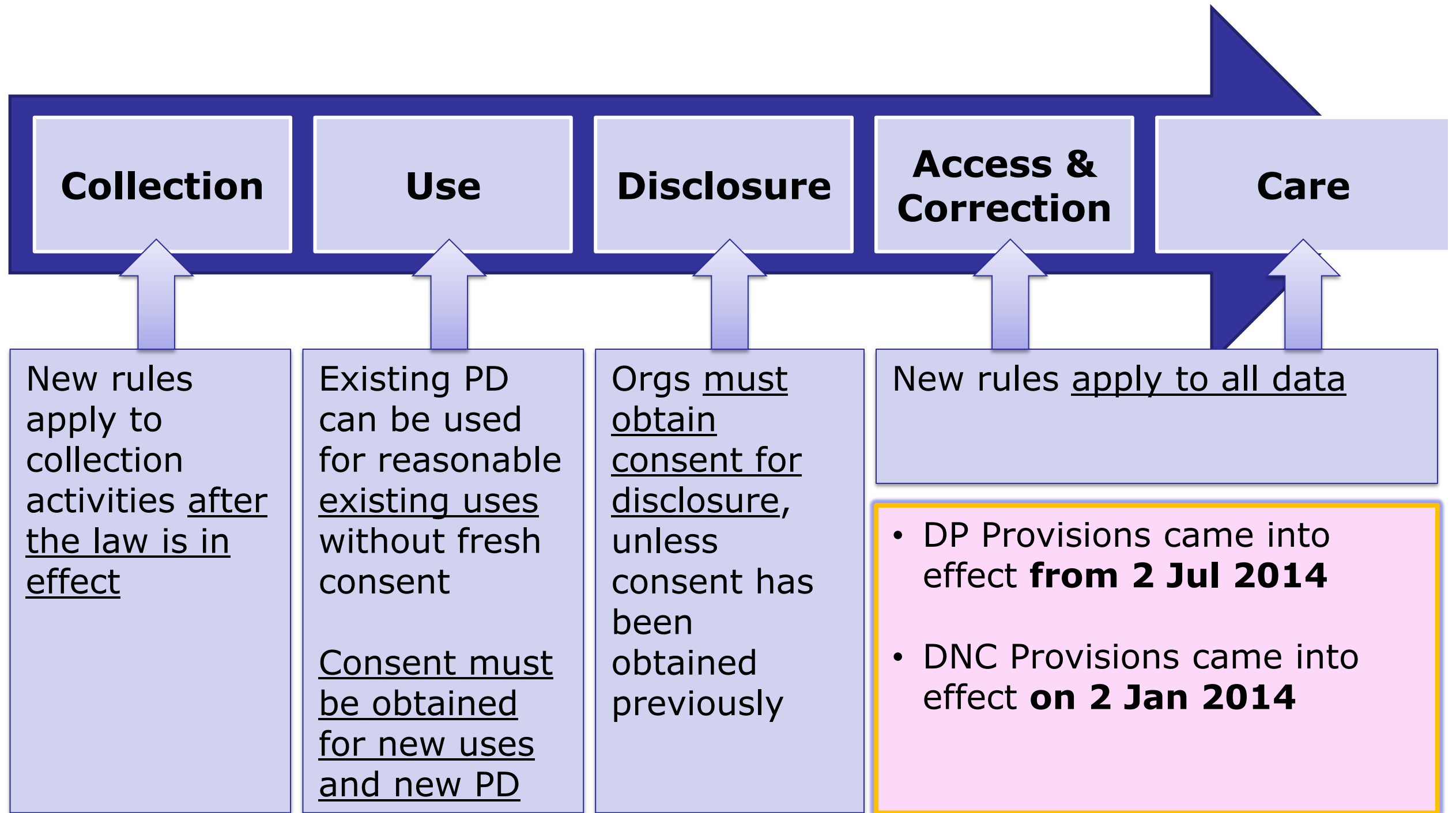
- **Fine per contravention capped at $10,000**

- **Composition: capped at $1,000**

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3 **Considerations for your Organisation**

Treatment for Existing Data

Collection	Use	Disclosure	Access & Correction	Care

New rules apply to collection activities <u>after the law is in effect</u>	Existing PD can be used for reasonable <u>existing uses</u> without fresh consent <u>Consent must be obtained for new uses and new PD</u>	Orgs <u>must obtain consent for disclosure</u>, unless consent has been obtained previously	New rules <u>apply to all data</u>	

- DP Provisions came into effect **from 2 Jul 2014**

- DNC Provisions came into effect **on 2 Jan 2014**

Getting Started

Organisation are required to develop and implement policies and practices that are necessary for the organisation to meet its obligations under the PDPA and to make information about their data protection policies and practices available.

Take Stock

- Take stock of your organisation's personal data inventory

Review policies and processes

- Appoint a Data Protection Officer (DPO)
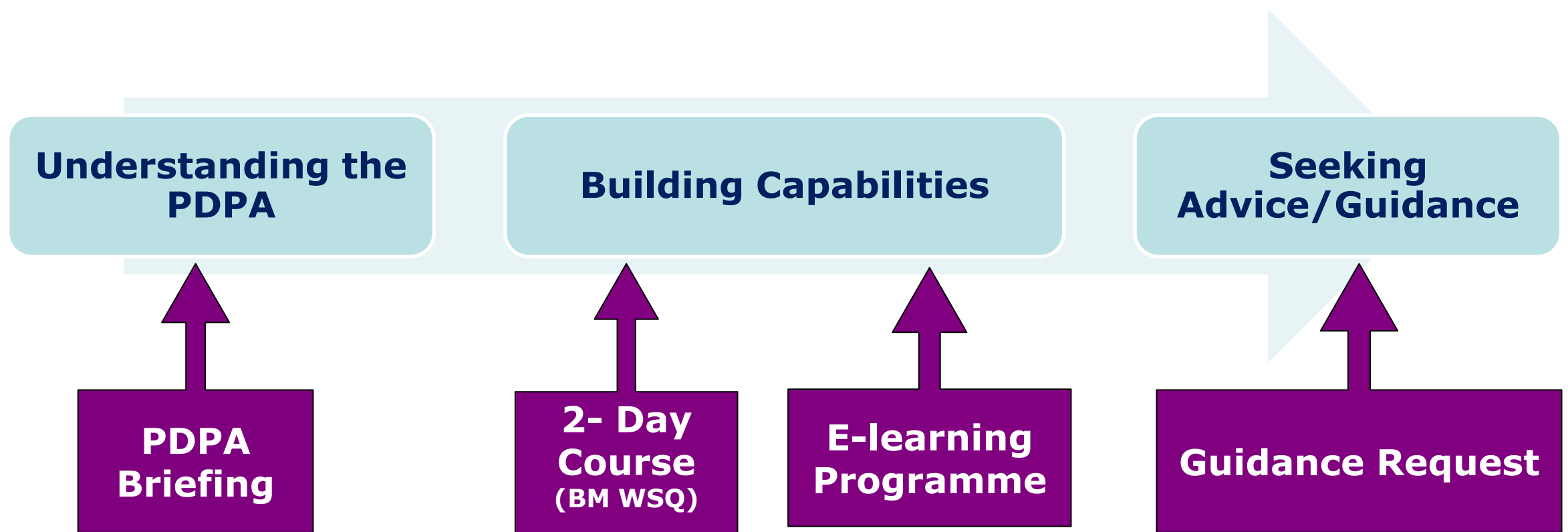- Implement Data Protection Policies

Roles of DPOs

Some of the roles could include the following:

- Develop and implement its data protection policies and practices;

- Develop a process to receive and respond to complaints that may arise with respect to the application of the PDPA;

- Communicate to its staff information about its data protection policies and practices; and

- Make information available on request about its data protection policies and practices and its process to receive and respond to complaints.

Help for Organisations

Understanding the PDPA

Building Capabilities

Seeking Advice/Guidance

PDPA Briefing

2- Day Course (BM WSQ)

E-learning Programme

Guidance Request

Resources on www.pdpc.gov.sg :

Overview of the Act

Help for DPO Page

FAQs

Business Checklist

Advisory Guidelines

Videos

Help for Organisations

1. **PDPA Briefing**

   1-2 hour briefing which will includes a presentation and Q&A session to provide organisations an overview of the PDPA.

2. **An Introduction to the Fundamentals of the Personal Data Protection Act (PDPA) for Non-Legal Personnel**

   - *2-day course* to develop capabilities in data protection officers and officers in similar roles by stepping them through key concepts under the PDPA

   - WSQ Course will be conducted by WDA Approved Training Organisations

   - Participants who successfully complete the course and assessment will also be awarded with a Business Management Workforce Skills Qualifications (BM WSQ) Statement of Attainment issued by Singapore Workforce Development Agency (WDA)

   - WDA Funding:

     – Organisations may receive up to 70 per cent (for non-SMEs) or up to 90 per cent (for SMEs) course fee funding.

     – Absentee payroll funding at 80 per cent of attendee's basic hourly salary, capped at $4.50 per hour (for non-SMEs) and $7.50 per hour (for SMEs)'

Help for Organisations

3. E-learning Programme

- Provides a convenient platform for organisations to learn about their obligations under the PDPA

  - E.g. for personnel who are unable to attend workshops on data protection an avenue to acquire basic knowledge and capabilities in data protection

- An interactive online platform with modules comprising of lessons and activities, such as multiple choice quizzes and interactive animations to increase learning and recall

- Available for free at the PDPC website

PDPC Website : **www.pdpc.gov.sg**

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4 **Q&A Session**

Thank You

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