

Amendments to PDPO

Combat Doxxing

Between June 2019 and June 2021, the Office of the Privacy Commissioner for Personal Data handled over **5800** doxxing-related cases

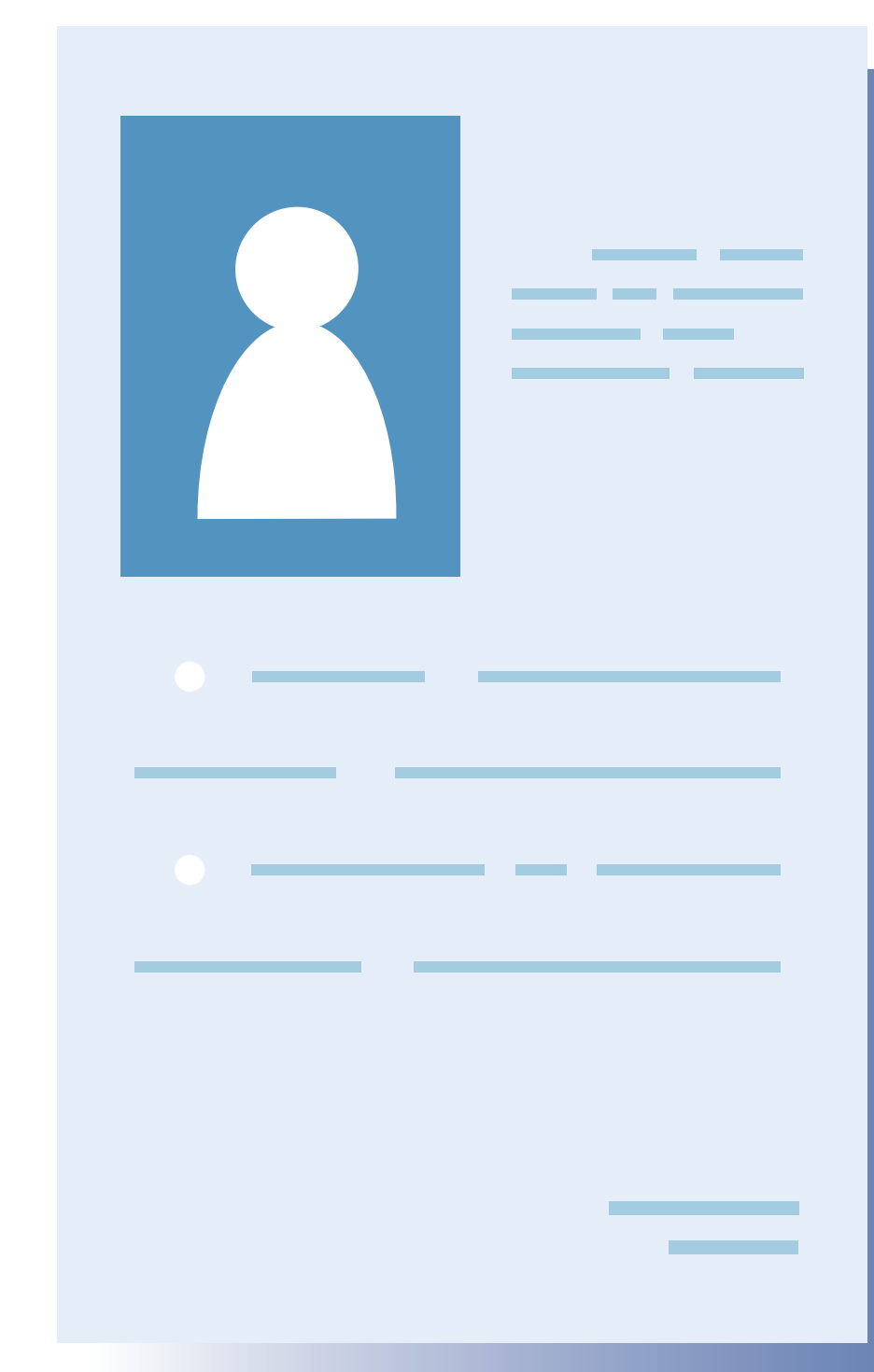
Have you ever thought about being “doxxed”?

- > Do you want your name, identity card number, telephone number, address or car plate number to be posted on the Internet without your consent?
- > Do you want to be the next victim?
- > Do you want your family, parents and children to be harassed?



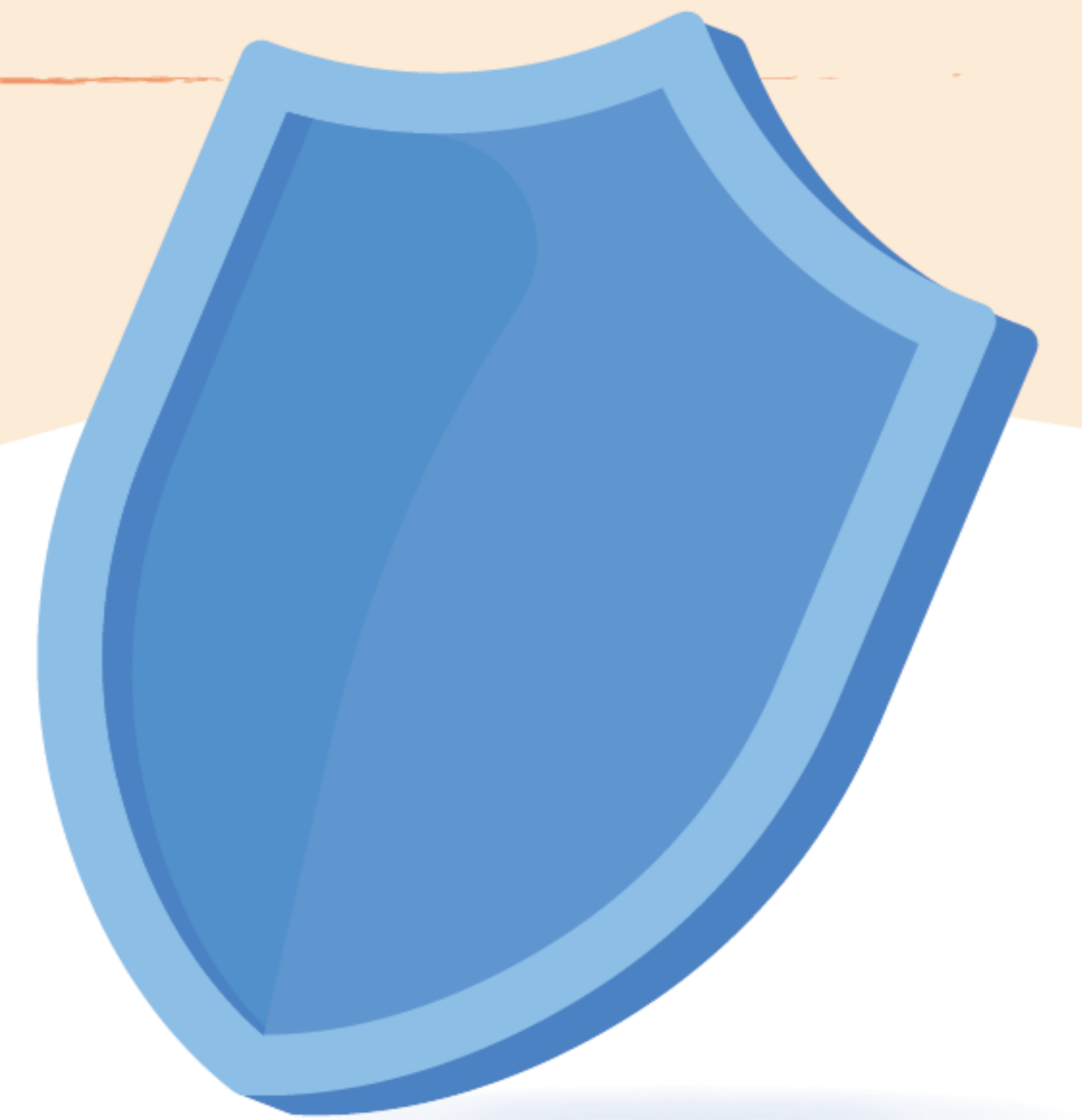
Limitations of the existing legislation

- The existing Personal Data (Privacy) Ordinance (PDPO) which only regulates the disclosure of personal data “without the data user’s consent” is insufficient to combat doxxing. It should be amended to regulate disclosure of personal data “without the data subject’s consent”
- The Commissioner can only advise, but cannot mandate online platforms to remove doxxing contents
- About 30% of doxxing contents have yet to be removed



The Bill follows two main principles

- To protect the privacy of the general public, it is necessary to effectively eradicate doxxing
- To balance the freedom of speech as enshrined in the Basic Law



Major aspects of the Bill

- Criminalise doxxing acts
- Empower the Privacy Commissioner for Personal Data to carry out criminal investigation and institute prosecution
- Confer statutory powers on the Commissioner to remove a doxxing message

A two-tier structure of the doxxing offence

More effective curbing of doxxing,
with clearer threshold for conviction



	Prosecution means	Threshold for conviction	Maximum penalty
First tier	Summary offence	<ul style="list-style-type: none">• Disclosing personal data without the data subject’s consent• With intent to cause specified harm or being reckless as to whether specified harm was caused	Fine of \$100,000 Imprisonment for 2 years
Second tier	Indictable offence	<ul style="list-style-type: none">• Disclosing personal data without the data subject’s consent• With intent to cause specified harm or being reckless as to whether specified harm was caused AND• Specified harm has been caused to the data subject or his or her family member	Fine of \$1,000,000 Imprisonment for 5 years

What is specified harm?

The definition of specified harm is clear and has taken reference from overseas laws as well as the scope of the Court's injunction orders:

- **harassment, molestation, pestering, threat or intimidation to the person;**
- **bodily harm or psychological harm to the person;**
- **harm causing the person reasonably to be concerned for the person's safety or well-being; or**
- **damage to the property of the person.**





Confer greater statutory powers
on the Privacy Commissioner



Investigation powers and prosecution powers

- The Commissioner will be empowered to carry out criminal investigation on doxxing acts and institute prosecution in the Magistrates' Courts
- More serious cases will be referred to the Police for follow up or the Department of Justice for prosecution.
- A person who does not comply with the request for the collection of evidence and investigation by the Commissioner without reasonable excuse is liable to a fine of **\$200,000** and to imprisonment for **1 year**.



Confer greater statutory powers on the Privacy Commissioner

Removal of doxxing content upon demand



- The Commissioner can serve a cessation notice where there is a disclosure, with specified intent or recklessness, of personal data without the data subject's consent, and the data subject is a Hong Kong resident or is present in Hong Kong when the disclosure is made, to request the removal of the doxxing content (Similar practices are adopted in Australia, New Zealand and Singapore)
- Given the boundless nature of the Internet, the Amendment will contain provision which has an extraterritorial effect
- An individual in Hong Kong/an internet service provider having a place of business in Hong Kong/a service provider outside Hong Kong, as long as he/she is able to remove the doxxing content, may be served a cessation notice

●

● **To achieve a balance between**

● **protection of privacy**

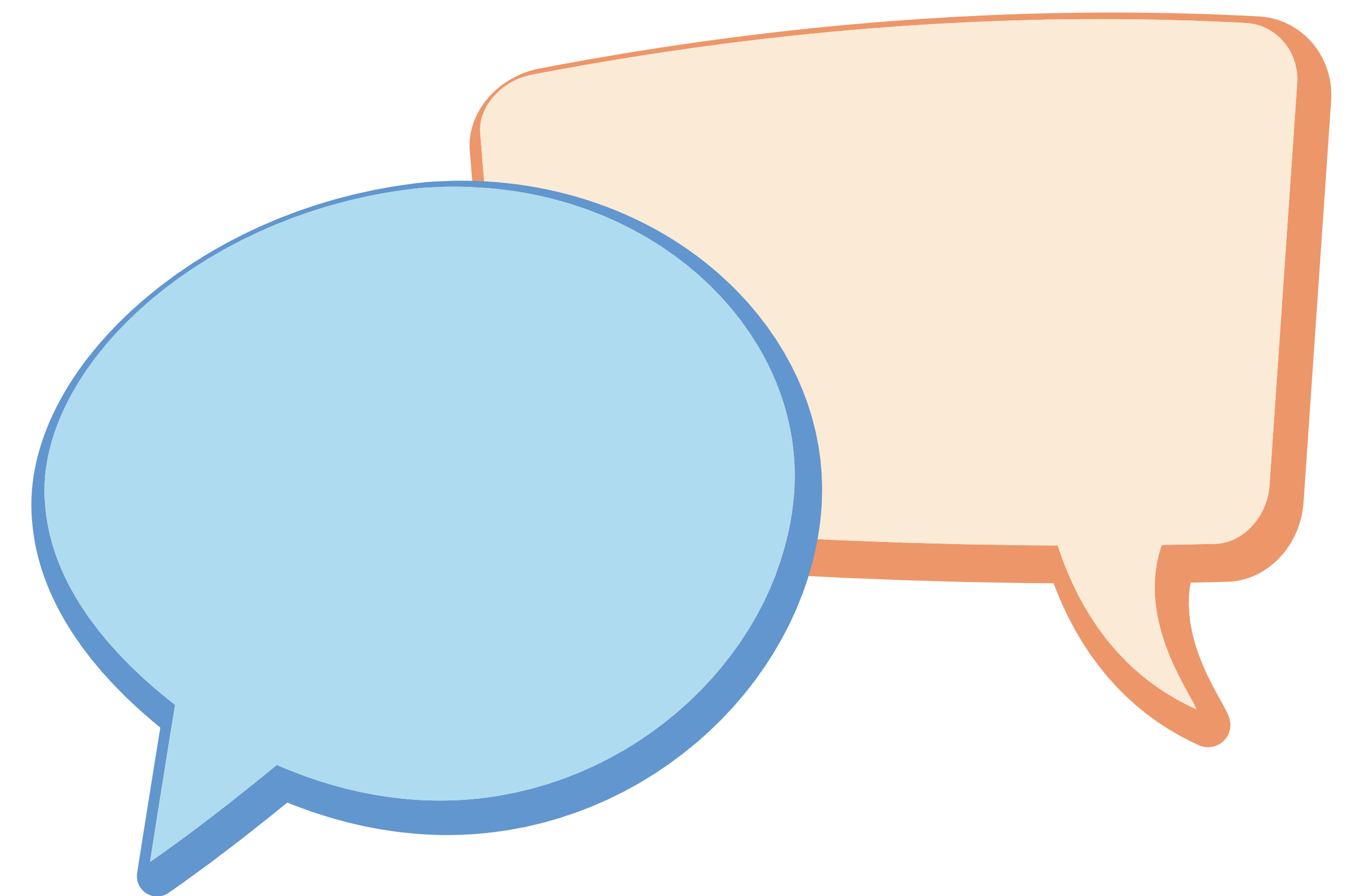
● **and**

● **freedom of speech**

● **The removal regime is subject**

● **to check and balance, with**

● **an appeal mechanism built in.**



● **The defence for news activities**

● **in the existing PDPO will remain**

● **intact.**

