

Diversity Monitoring Survey Checklist - Asia Pacific Region



1. In your jurisdiction, is an employer permitted to request data for the purposes of monitoring diversity?	2. In what form is it permitted to capture the data?	3. What data is permitted to be captured?	4. How should the data be stored and accessed?	5. Are there time limits on retention of data?	6. Are there any other specific rules which apply? eg relating to intra-group cross-border transfers of such data	7. Any other comments
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Australia

Macpherson Kelley

Yes – employees only	<ul style="list-style-type: none"> •By individual's name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees •Potentially others as needed but only with consent and appropriate disclosures. 	Yes. When it is no longer necessary or required for the (lawful) purpose for which it was collected.	There may be an ability to share data across borders, especially amongst entities within a corporate group, but there are a number of restrictions and exemptions (at both State and Federal level) which need to be considered and, if permissible, steps to be taken that will depend on the type of data.	The conduct of diversity surveys should be carefully considered in both its planning and implementation. There needs to be a permissible purpose and collecting, using and holding this type of data does bring risk.
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China

JunHe

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes. Reasonable time for the processing of the information.	Collection and retention must comply with requirements of the Personal Information Protection Law	It is not common for such types of information to be collected. Attempts by an employer may be interpreted as an invasion of privacy and/or queries as to the motives of the employer for collecting the information.
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Cambodia

Tilleke & Gibbins

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual’s name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •All employees •Any party can have access to the data, provided the employee has provided his/her prior informed and written consent to this party having access. 	No	There are no specific restrictions on transferring data out of the jurisdiction, but regard should be had to the requirements of the general data protection framework in Cambodia.	Diversity surveys are not common in Cambodia; however, their use would not contravene Cambodian law.
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Hong Kong

Howse Williams

Yes – applicants and employees

- By individual's name
- Anonymised
- Pseudonymised
- Survey conducted by a third party, employer would see only aggregated data

- Gender
- Sexual orientation
- Ethnic origin
- Religion
- Disability
- Age
- Socioeconomic status
- Social mobility
- Familial/Parental status

Storage

Must be stored separately from other data.

Access to underlying data

- Access is restricted to those classes of people whom the data subject has provided express consent. The data subject may also access his/her own personal data with a data access request.

Yes. Personal data should not be kept longer than is necessary for the fulfillment of the purpose for which the data is used, unless erasure is prohibited by law or is not in the public interest.

Legislation to prohibit the transfer of data outside of Hong Kong (unless certain conditions are met) has been issued but is not yet in force. Nevertheless, businesses are advised to implement policies which reflect its requirements.

Diversity surveys are not common because of the restrictive nature of Hong Kong privacy and anti-discrimination laws.

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India

Kochhar & Co

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised •Pseudonymised 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status •While it is not legally restricted, it is not usual for employers in India to seek data related to sexual orientation and socioeconomic status. 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No. While no specific time limits are mentioned, the applicable regulations provide that sensitive personal information should be retained only for such duration as necessarily required.	There are no specific rules, but appropriate security measures should be implemented to ensure confidentiality of data, and consent is also likely to be required.	In the recent past, the aspect of diversity has gained the attention of employers in India (especially Indian subsidiaries of foreign MNCs) and some entities have initiated surveys to collect data on diversity.
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Japan

Ushijima & Partners

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Age •Socioeconomic status •Familial/Parental status Gender, age, socioeconomic status and familial/parental status do not fall under personal information unless acquiring name as well, and therefore there is no regulation. 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes - data should be deleted as soon as it is no longer required.	Cross-border transfers of such data needs the consent of the data subject, in principle.	Diversity surveys are rare in this jurisdiction.
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Laos

Tilleke & Gibbins

Yes – employees only	<ul style="list-style-type: none"> •Anonymised 	<ul style="list-style-type: none"> •Gender •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes. The data must be kept according to the purpose for which it was collected.	No.	It is rather common; however, the law on electronic data collection remains ambiguous and subject to broad interpretation in this regard. Accordingly, it is important to ensure that consent was given prior to the collection of data.
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Myanmar

Tilleke & Gibbins

Yes – employees only	<ul style="list-style-type: none"> •By individual's name 	<ul style="list-style-type: none"> •Gender •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Familial/Parental status •In addition to the above selections, employee data regarding educational background is generally permitted to be captured by employers. 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No. The ETL does not specify the time limits on retention of data.	Transfer of data requires the data subject's consent.	In Myanmar, diversity surveys are very rare, and issuing them is not a well-developed practice.
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New Zealand

Tompkins Wake

Yes – employees only	<ul style="list-style-type: none"> •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored. Data must be stored securely.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	No	Cross-border transfers are permitted provided the receiving country has comparable legal safeguards for data.	Data should not be collected for any purpose that could be considered discriminatory. Diversity surveys are not commonplace in New Zealand but are sometimes utilised in the public sector and in larger privately owned workplaces.
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Philippines

SyCip Salazar Hernandez & Gatmaitan

No	N/A	N/A	<p><i>Storage</i></p> <p>N/A</p> <p><i>Access to underlying data</i></p> <p>N/A</p>	N/A	N/A	Collecting diversity information should be undertaken with great care in the Philippines. While there has been some acceptance of minority sectors, there are still sections within Philippine society that may have generally negative views towards certain minority sectors. For examples, the Philippines is a largely Catholic country, and there remain to be some prejudices against the LGBTQIA+ which may make them hesitate in responding truthfully to diversity surveys.
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Singapore

Quahe Woo and Palmer

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual's name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status •Any other data that is appropriate in the circumstances and purposes for which the survey is being conducted, and to which the person providing the data has consented. 	<p><i>Storage</i></p> <p>Must be stored separately from other data.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees •Individuals who have provided their personal data must also have access to their own personal data. 	Yes. The time limit is determined by reasonableness. The data cannot be retained longer than what is reasonably necessary for the purpose that such data was collected.	Data can be transferred outside Singapore, but the same data protection requirements must still apply to the data.	<p>Although personal data may be collected with consent of the employee or applicant, the Tripartite Guidelines on Fair Employment Practices recommends removing fields on age, gender, race, religion, marital status, family responsibilities, disability and mental health status in job application forms. If information that may be viewed as discriminatory is required, reasons for collecting such information should be clearly stated.</p> <p>The Ministry of Manpower regularly conducts diversity monitoring and has provided a Diversity Management Assessment for free-use, though this does not require the disclosure of any specific personal data of employees. Regardless, there is no available information on the frequency of diversity surveys conducted in Singapore.</p>
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Thailand

Tilleke & Gibbins

Yes – applicants and employees	<ul style="list-style-type: none"> •By individual’s name •Anonymised •Pseudonymised •Survey conducted by a third party, employer would see only aggregated data 	<ul style="list-style-type: none"> •Gender •Sexual orientation •Ethnic origin •Religion •Disability •Age •Socioeconomic status •Social mobility •Familial/Parental status 	<p><i>Storage</i></p> <p>No restrictions on where data are stored.</p> <p><i>Access to underlying data</i></p> <ul style="list-style-type: none"> •Only designated employees 	Yes, since 1 June 2022 - data can only be retained for so long as it remains necessary to do so.	Data transfer is freely permitted where the destination country has “adequate personal data protection standards” in place. Transfers to other countries that do not have adequate personal data protection standards may still be permitted in certain circumstances (for example, transfers within group companies or affiliates that have an intra-group policy specifically approved by the Office of the PDPC).	Diversity surveys are not common in Thailand, except for organisations that have head offices, affiliates, or branches outside Thailand.
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Vietnam

Tilleke & Gibbins

Yes – applicants and employees

- By individual's name
- Anonymised
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- Survey conducted by a third party, employer would see only aggregated data

- Gender
- Sexual orientation
- Ethnic origin
- Religion
- Disability
- Age
- Socioeconomic status
- Social mobility
- Familial/Parental status
- Any data can be captured provided the employer obtains the employee's prior informed written consent.

Storage

No restrictions on where data are stored.

Access to underlying data

- All employees
- Any party can have access to the data, provided the employee has provided his/her prior informed and written consent to this party having access.

No

Currently, no restrictions provided the employee provides consent to intra-group cross-border data. However, there is a Draft Decree on Personal Data Protection which will impose significant restrictions if passed.

Diversity surveys are rare because of the concerns that data may be used improperly/ for discriminatory purposes.

Disclaimer:

The information in the Multilaw Checklist for Monitoring Staff Data provides a general overview at the time of publication and is not intended to be a comprehensive review of all legal developments nor should it be taken as opinion or legal advice on the matters covered. It is for general information purposes only and readers should take legal advice from a Multilaw member firm.