



行動  
Operations



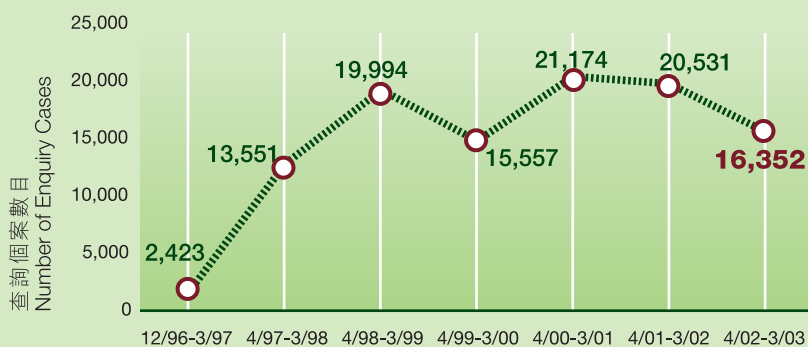
## 查詢及投訴個案

在二零零二至二零零三年度內，公署平均每天收到60宗查詢個案。(圖表1)

## Enquiry and Complaint Caseload

On average, some 60 enquiry cases were received per working day in 2002-03. (Figure 1)

圖表1 — 每年的查詢個案  
Figure 1 – Annual enquiry caseload

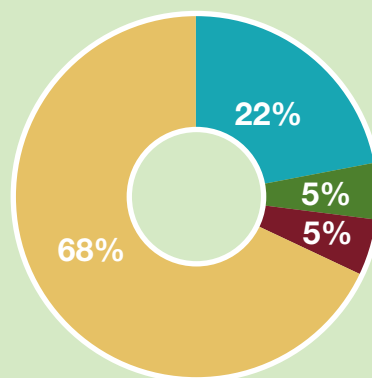


約68%的查詢個案與個人在個別情況下的私隱權利有關。(圖表2)

Approximately 68% of enquiry cases were queries related to privacy rights specific to an individual's own situation. (Figure 2)

圖表2 — 查詢個案的性質  
Figure 2 – Nature of enquiry cases

- 個人的私隱權利  
Privacy rights of an individual
- 私隱條例的規定  
Requirements of the PD(P)O
- 公署出版的刊物  
Publications produced by PCO
- 公署的職能  
Functions of PCO



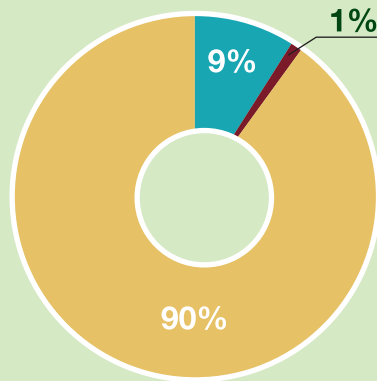
約90%的查詢個案是透過公署的熱線電話(2827 2827)提出的。(圖表3)

Approximately 90% of enquiry cases were calls made to the PCO enquiry hotline (telephone number 2827 2827). (Figure 3)

圖表3 — 接獲查詢的途徑

Figure 3 – Means by which enquiries were made

-  熱線  
Hotline
-  書面  
Written
-  親身查詢  
In Person

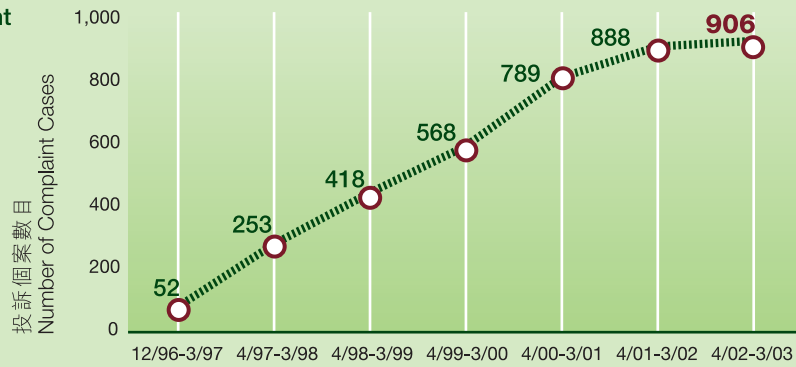


與去年比較，二零零二至二零零三年度的投訴個案輕微上升了2%。(圖表4)

Compared with the previous year, there was a slight increase of 2% in complaint caseload in 2002-03. (Figure 4)

圖表4 — 每年的投訴個案

Figure 4 – Annual complaint caseload



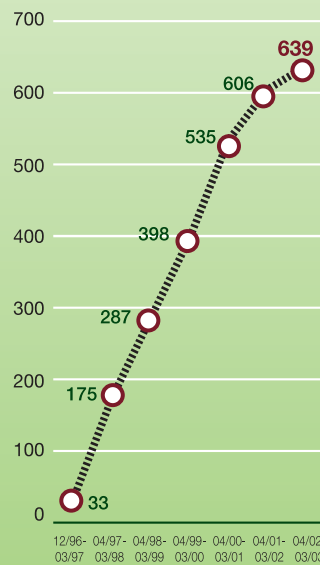
在本年報期內接獲的906宗投訴個案中，70%的個案(639宗)投訴私營機構。另外11%(96宗)投訴公營機構。至於餘下19%(171宗)個案則投訴個人。(圖表5)

Of the 906 complaints received in the reporting period, 70% of them (639) were complaints against private sector organizations. A further 11% (96) were complaints against public sector organizations. The remaining 19% (171) were complaints lodged against third party individuals. (Figure 5)

圖表5 — 被投訴者的類別  
Figure 5 – Types of party complained against

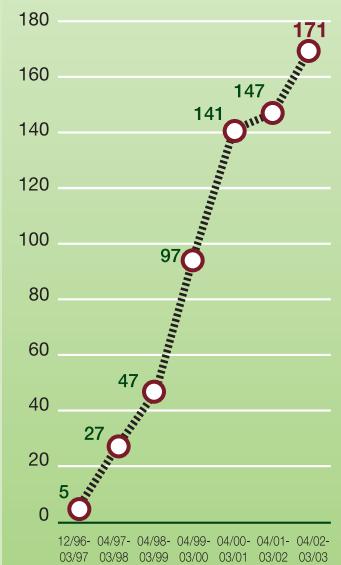
私營機構 Private Sector

投訴個案數目  
Number of complaint cases



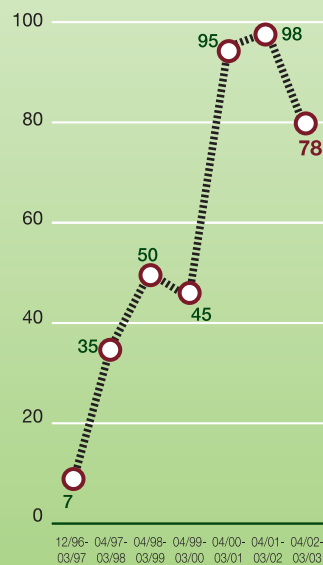
個人 Individuals

投訴個案數目  
Number of complaint cases



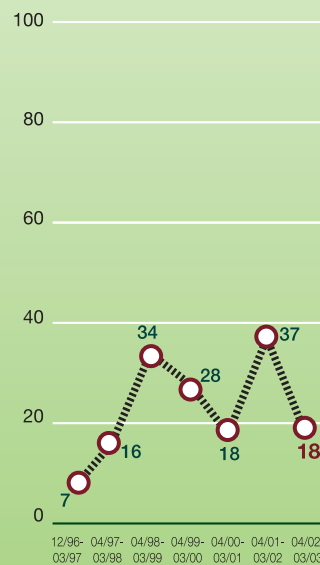
政府部門 Government Dept

投訴個案數目  
Number of complaint cases



公營機構 Public Bodies

投訴個案數目  
Number of complaint cases

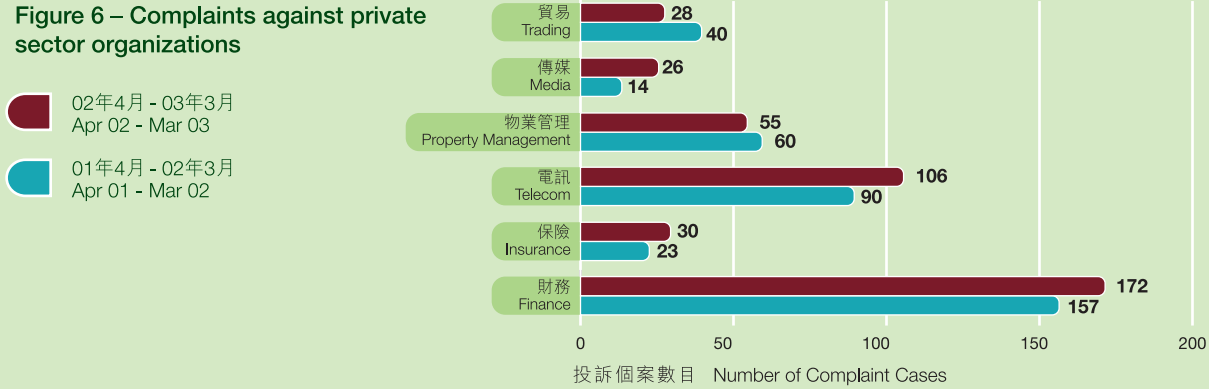


在投訴財務機構的172宗及投訴電訊業的106宗個案中，大部分與在追收欠帳／服務收費時被指使用個人資料有關。(圖表6)

The majority of the 172 complaints against financial institutions and the 106 complaints against telecommunications industry concerned alleged use of personal data in recovery actions for overdue loan/service payments. (Figure 6)

圖表 6 — 對私營機構的投訴

Figure 6 – Complaints against private sector organizations

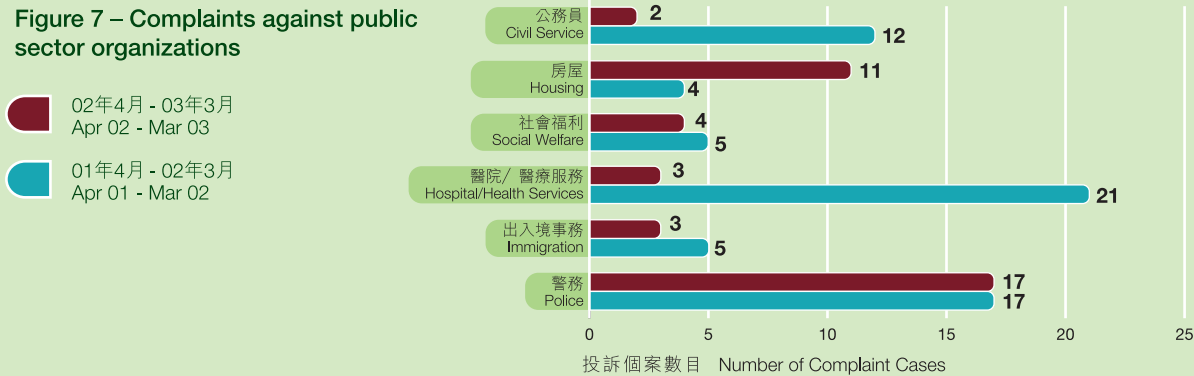


在投訴公營機構的96宗個案中，大部分被指與未取得個人同意而使用個人資料(33%)及未能遵守查閱資料要求(24%)有關。(圖表7)

The majority of the 96 complaints against public sector organizations concerned alleged use of personal data without the consent of the individual (33%) and non-compliance with data access requests (24%). (Figure 7)

圖表 7 — 對公營機構的投訴

Figure 7 – Complaints against public sector organizations







二零零二至二零零三年度接獲的906宗投訴個案共涉及961項被指違反私隱條例的規定。在這些事項中，826項(86%)被指違反保障資料原則的規定，135項(14%)被指違反私隱條例的主要條文。

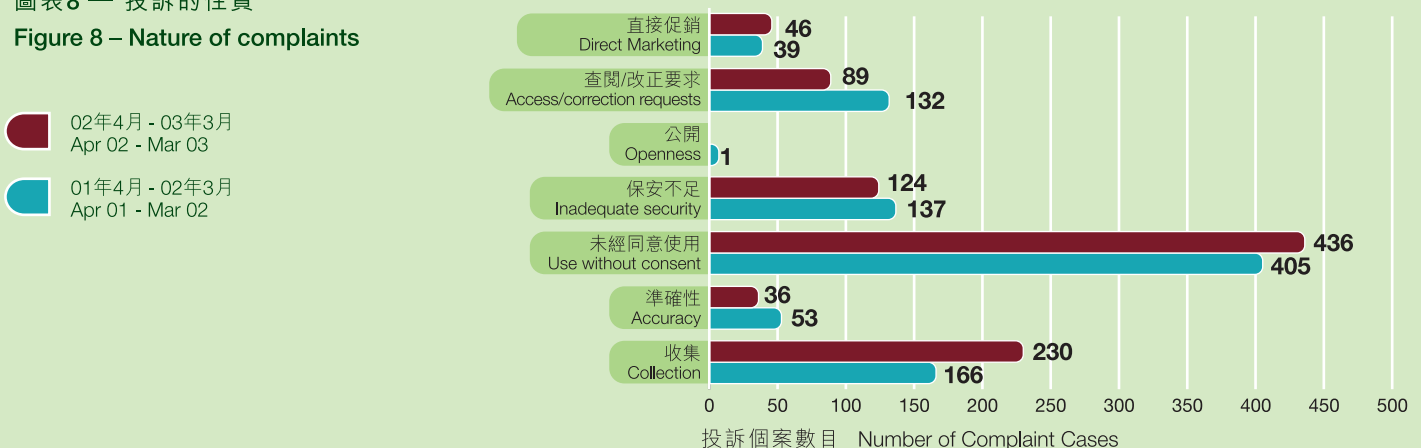
在826宗被指違反保障資料原則的事項中，53%(436項)涉及在未獲投訴人同意前，涉嫌將個人資料使用於原有收集資料目的以外的目的。在這類個案中，25%(110項)涉及財務機構被指將客戶的個人資料，例如聯絡資料及欠帳額，轉交追討欠款公司作追收欠債用途。(圖表8)

The 906 complaints received in 2002-03 involved a total of 961 alleged breaches of the requirements of the PD(P)O. Of these, 826 (86%) were alleged breaches of the data protection principles and 135 (14%) were alleged breaches of the main provisions of the PD(P)O.

Of the 826 alleged breaches of the data protection principles, 53% (436) concerned the alleged use of personal data of complainants without their consent for a purpose other than the purpose for which the data were collected. In this category, 25% (110) were cases involving allegations against financial institutions for passing customers' personal data, such as contact details and amount of indebtedness, to debt collecting agencies for recovery of outstanding debts. (Figure 8)

圖表8 — 投訴的性質

Figure 8 – Nature of complaints



有些投訴人對私隱條例在收數活動方面的適用範圍有所誤解。在一些個案中，投訴人似乎利用向公署作出投訴這個渠道來規避追討欠款者向他們追收欠債。在正常情況下，使用欠債人的個人資料作追討未償還債項用途，與為提供貸款而收集個人資料的原有目的直接有關。只要財務機構只向追討欠款者披露履行此目的所需的資料，並且事先告知債務人有關的披露，則根據私隱條例的規定，移轉有關資料可能不會構成問題。

There has been a misunderstanding on the part of some complainants about the ambit of the PD(P)O when applied to debt collection activities. In some cases, complainants seemed to have used the PCO's complaint channel to stall financial institutions from collecting their debts. In normal circumstances, the use of a debtor's personal data for the purpose of recovering payments on which the debtor defaulted would be a directly related purpose to the provision of the loan for which their personal data were originally collected. Provided that the financial institution confines its disclosure to the debt collector to those data that are sufficient to fulfil the purpose and where there has been prior notification to the debtor about such disclosure, the transfer of the data may not be an issue under the PD(P)O.

## 投訴調查

在本年報期開始時，公署正處理手上的157宗投訴，加上新收到的906宗投訴，公署在本年報期內共處理了1,063宗投訴。在這些個案中，359宗(34%)在作出初步考慮後不獲公署繼續受理，理由是其中的351宗的表面證據並不成立，無法證明有違私隱條例的規定，另外4宗不屬私隱專員的權力範圍，其他4宗則為匿名投訴。餘下的704宗(66%)經審理後獲進一步處理，其中501宗(71%)在本年報期內已得到解決，而餘下的203宗(29%)在二零零三年三月三十一日時仍在處理中。(圖表9)

## Complaint Investigations

At the beginning of the reporting year, 157 complaints were being processed. Together with the 906 new complaints received, the PCO handled a total of 1,063 complaints during the reporting period. Of these, 359 cases (34%) were declined for further action after preliminary consideration on the basis that 351 of them were found to have no *prima facie* case to support allegations of breaches of the PD(P)O. A further 4 cases were outside the Privacy Commissioner's jurisdiction and another 4 cases were anonymous complaints. The remaining 704 cases (66%) were screened-in for further consideration. Of these, 501 cases (71%) were resolved during the reporting year and the remaining 203 cases (29%) continued to be handled on 31 March 2003. (Figure 9)

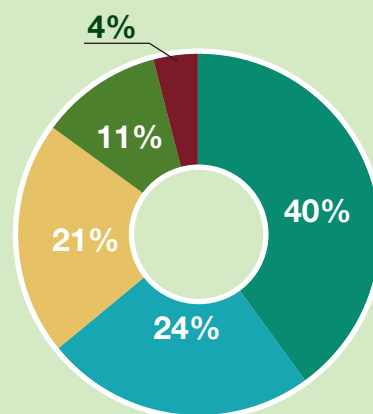
圖表 9 — 二零零二年至二零零三年度處理的投訴摘要  
Figure 9 – Summary of complaints processed in 2002-03

	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03
上年轉來的投訴 Complaints carried forward	—	19	51	52	94	146	157
接獲的投訴 Complaints received	52	253	418	568	789	888	906
經處理的投訴的總數 Total complaints processed	52	272	469	620	883	1,034	1,063
經審閱後不再處理的投訴 Complaints screened-out	7	67	111	223	352	394	359
經審閱後繼續處理的投訴 Complaints screened-in	45	205	358	397	531	640	704
完結 Completed	26	154	306	303	385	483	501
處理中 In process	19	51	52	94	146	157	203

在本年報期內完結的501宗個案中，121宗(24%)透過調解得到解決，52宗(11%)在進行正式調查後得到解決，107宗(21%)在進行初步查詢後發現理據不足，202宗(40%)在初步查詢期間由投訴人撤回。至於餘下的19宗(4%)個案中，投訴人亦將有關個案轉交其他規管機構跟進。(圖表10)

Of the 501 cases completed during the reporting period, 121 (24%) cases were resolved through mediation, 52 (11%) cases were resolved after formal investigations, 107 (21%) cases were found to be unsubstantiated as a result of preliminary enquiries and 202 (40%) cases were withdrawn by the complainants during preliminary enquiries. The remaining 19 (4%) cases involved complaints which the complainants had also reported to other authorities to follow up. (Figure 10)

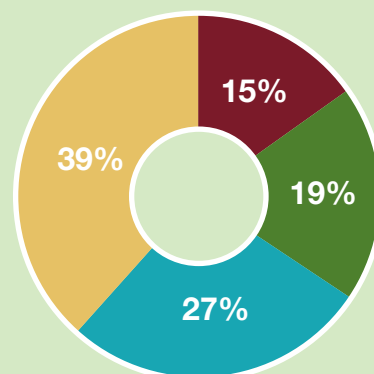
圖表10 — 調查的結果  
Figure 10 – Outcome of investigations



在本年報期內完成正式調查的52宗個案中，公署發現其中30宗(58%)違反了條例的規定，14宗(27%)並無違例或因缺乏充份證據而無法證明有違例情況。在8宗中止調查的個案中，6宗由投訴人撤回。至於餘下兩宗則因在調查期間無法與投訴人聯絡而中止調查。(圖表11)

Of the 52 formal investigations completed during the reporting period, the PCO found contravention of the requirements of the PD(P)O in 30 (58%) cases. In 14 (27%) cases, there was no contravention found or contravention was not established due to lack of sufficient evidence. Eight cases were discontinued, six of which were requested by the complainant and in the remaining two cases the complainants were unable to be traced during the course of the investigation. (Figure 11)

圖表11 — 正式調查的結果  
Figure 11 – Results of formal investigations

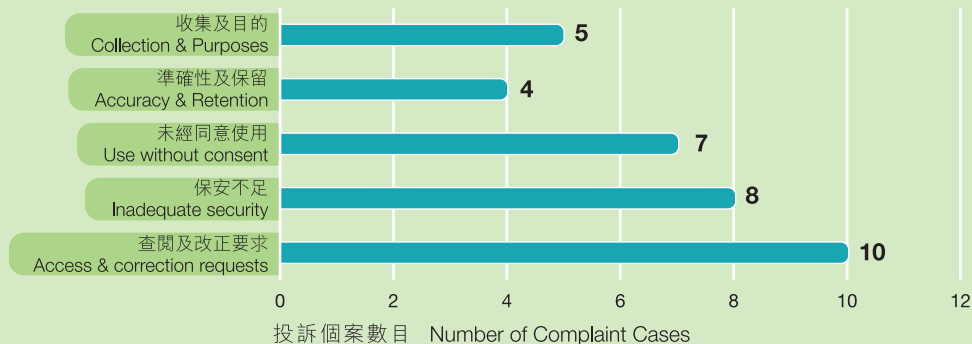




在違反條例規定的30宗個案中，20宗違反一項或以上的保障資料原則，其餘10宗違反了條例的主要條文的規定，當中所涉及的違例事項與依從查閱資料要求有關。  
(圖表12)

Of the 30 cases where the requirements of the PD(P)O were found to have been contravened, 20 cases involved contravention of one or more of the data protection principles. The remaining 10 cases involved contravention of the requirements of the main body of the PD(P)O relating to compliance with data access requests.  
(Figure 12)

圖表12 — 違例事項  
Figure 12 – Issues of contravention



在121宗透過調解得到解決的個案中，公署向37間機構提出勸諭及建議，以協助它們在行事方式及程序上遵守保障資料原則的規定。

In the 121 cases resolved through mediation, the PCO provided advice and recommendations to 37 organizations on their practices and procedures in order to assist them in complying with the data protection principles.

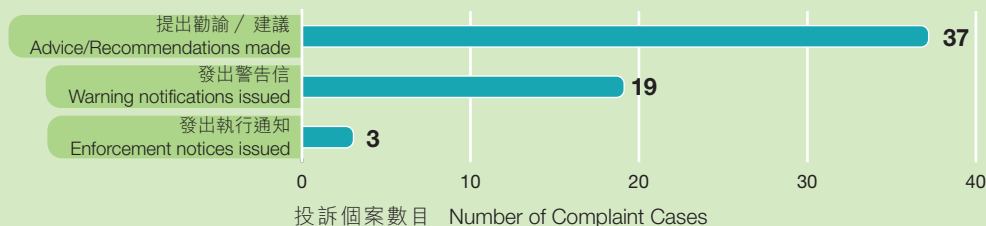
在違反條例規定的30宗個案中，公署共向有關機構發出19封警告信，要求該等機構作出書面承諾，答應採取措施糾正有關違例情況。在大部分個案中，有關機構均按照公署的要求作出承諾，公署因此而毋須採取執法行動，即不須向有關機構發出執行通知。

In the 30 cases in which requirements of the PD(P)O were found to have been contravened, the PCO issued 19 warning notices to the organizations concerned requiring written undertakings to implement measures to remedy the contravention. In most of these cases, the organizations gave the undertakings sought, and given such undertakings, enforcement action through the issue of an enforcement notice was not deemed to be necessary.

在3宗個案中，公署向被投訴者發出執行通知，指令他們採取糾正措施，以防他們繼續或重複違反條例的規定。(圖表13)

In 3 cases, enforcement notices were served on the parties complained against to direct them to take remedial actions to prevent their continued or repeated contravention of the PD(P)O. (Figure 13)

圖表13 — 根據調查結果採取的執法行動  
Figure 13 – Enforcement actions taken as a result of investigation





## 關於違反《個人資料(私隱)條例》的行為或手法的概述

下文簡述公署在二零零二至二零零三年度調查投訴個案時發現的一些違反私隱條例規定的行為或手法。公署是基於有關事件的實況作出挑選，旨在述明受私隱條例(包括保障資料原則)管限的各種行為。

## Highlights of acts or practices found in contravention of the PD(P)O

Provided below are brief illustrations of some of the acts or practices that were found to have contravened the requirements of the PD(P)O in the complaint investigations completed in 2002-03. They are selected on the basis of subject matter and demonstrate the wide variety of conduct that are subject to the requirements of the PD(P)O, including those of the data protection principles (“DPPs”).

### 拒絕依從查閱資料要求 – 第18至20條

### Refusal to comply with a data access request - sections 18 to 20

投訴人根據私隱條例委託律師行為他的「有關人士」，代向一間投資公司查閱他的個人資料。該公司拒絕依從他的要求，理由是授權書有未妥善之處，有關律師行因而未獲適當授權，故他的要求有缺陷，由最初開始即屬無效。

根據私隱條例的規定，代表一名個人提出查閱資料要求的「有關人士」可以是一名「人士」，包括一組人、法團或非法團。故此，有關律師行可代表投訴人要求提供有關資料。私隱條例第20(1)(a)條述明資料使用者可基於不能確實提出要求者的身份而拒絕提供所要求的資料。不過，資料使用者無權因此而斷然拒絕提供有關資料，而只可在資料使用者合理地要求提出要求者提供資料被拒後才可引用。第20(3)(b)條亦載有類似條文，述明資料使用者如不獲提供他為找出所要求的資料而合理地需要的資訊，則可拒絕依從查閱資料要求。如出現提出要求者的身份成疑或所要求的資料不明確的情況，則可合理地要求提供進一步資料。有鑑於此，查閱資料要求有錯誤或不妥之處，並不會令有關要求無效，而只會令提出要求者須合理地

(續下頁)

The complainant instructed a law firm to act as his “relevant person” under the PD(P)O to make a data access request to an investment company seeking access to his personal data. The company refused to comply with the request on grounds that the law firm was not properly authorized due to irregularities in the authorization letter and the request was defective and a nullity *ab initio*.

Under the PD(P)O, a “relevant person” making a data access request on behalf an individual can be a “person” including any body of persons, corporate or unincorporate. Accordingly, the law firm can act as the requestor for the data on behalf of the complainant. Section 20(1)(a) of the PD(P)O provides for a data user to refuse to supply the requested data when it is not sure about the identity of the requestor. However, it does not entitle the data user to refuse outright to supply the data. It can only be invoked when the data user’s reasonable request for information has not been complied with by the requestor. Similar provisions are contained in section 20(3)(b) where a data user may refuse to comply with a data access request if it is not supplied with such information as it may reasonably require to locate the requested data. Where question of identity of the requestor or specification of the requested data arises, further information as may be reasonably required can be sought. Accordingly, an error or irregularity in a data access request could not render the request a nullity. It merely makes the requestor liable to the supply of further information as may be reasonably required of him.

(to be continued on next page)

提供進一步資料。資料使用者有責任先要求提出要求者提供進一步資料，如有關要求被拒，則資料使用者有權拒絕依從查閱資料要求。

A data user has the obligation to first seek further information from the requestor and if the request for such information is declined then the data user may exercise the right to refuse to comply with the data access request.

## 關乎政府部門所持有的「檔案錄事」的查閱資料要求 – 第18及19條

### Data access request involving “file minutes” held by a government department - sections 18 and 19

投訴人為一前公務員。他曾在某一政府部門服務超過10年，其後轉往另一部門擔任另一職位，試用期為兩年。不過，有關部門認為他在試用期間的表現有欠理想，他因此而被撤職。他向有關部門提出查閱資料要求，擬查閱該部門所持有關於他的個人檔案。該部門在依從投訴人的查閱資料要求時，向他提供了超過400頁的文件，但當中有些資料卻被刪掉，理由是被刪掉的資料為部門的政策資料，因而不屬投訴人的個人資料。

私隱條例第20(2)(b)條訂明資料使用者可在依從查閱資料要求時，藉著略去姓名或其他能識辨身份的詳情，從所要求的資料中刪除第三者的資料。不過，在更仔細審閱投訴人獲提供的資料後，證實有關資料為討論投訴人的退休金福利資格的「檔案錄事」。這些討論屬適用於投訴人被終止服務的特定政策資料。有鑑於此，「檔案錄事」的內容載有投訴人的個人資料，資料使用者在依從投訴人的查閱資料要求時應向投訴人披露該等資料。

The complainant was a former civil servant. He had served in a government department for more than 10 years and was then transferred to another department on a different post on probation terms for two years. However his performance during the probation period was considered unsatisfactory and his service was subsequently terminated. He made a data access request to the department seeking access to his personnel file held by the department. In complying with the request, the department provided over 400 pages of documents to the complainant with certain information edited out from the copies of the documents on grounds that the edited data were matters of departmental policy that should not amount to personal data of the complainant.

Section 20(2)(b) of the PD(P)O provides that a data user may, in complying with a data access request, edit out data of third party individuals from the requested data either by the omission of names or other identifying particulars. However, on closer examination of the documents provided to the complainant, it was ascertained that they were “file minutes” relating to discussions regarding the complainant’s eligibility for pension benefits. These discussions were specific matters of policy applicable to the complainant’s case, i.e. termination of service. In these circumstances, the contents of the “file minutes” contained personal data of the complainant and should have been disclosed to the complainant in complying with his data access request.

## 退還現金時收集客戶的身份證副本 – 保障資料第1(1)原則

### Collection of customer's identity card copy upon cash refund - DPP1(1)

投訴人向旅行社要求退回團費及相關費用。旅行社在處理有關手續時要求投訴人簽署收據及提供他的香港身份證副本。旅行社的理據是身份證副本可證實確已向正確的人士退還現金。公署在調查後發覺旅行社並無理由在有關情況下收集身份證副本。首先，投訴人親身要求退款，旅行社只須要求他出示身份證，將身份證上的資料與本身所持有的旅行團資料核對，便可證實投訴人的身份。其次，即使投訴人未能出示旅行團的收據正本，旅行社亦可用支票退款，支票的抬頭人為其記錄中訂購旅行團的人士。在此個案的情況下，收集投訴人的身份證副本屬收集超乎適度的個人資料，有違保障資料第1(1)原則的規定。

The complainant requested a refund of tour fee and charges from a travel service agent. In processing the request, the agent required the complainant to sign a receipt acknowledgement form and provide a photocopy of his Hong Kong identity card. The agent argued that the identity card copy was necessary as evidence to prove that the cash refund was given to the right person. Upon investigation, it was revealed that the collection of the identity card copy by the agent was not justified in the circumstances of the case. First, the complainant appeared in person to request the refund. It would only be necessary for the agent to verify the complainant's identity by inspecting his identity card data and comparing it with its own sales record regarding the tour. Secondly, even if the complainant failed to produce the original tour receipt, the agent could have issued a cheque for the refund by addressing it to the person who, according to the sales record, was the purchaser of the tour. The collection of the complainant's identity card copy, in the circumstances of the case, was an excessive collection of personal data contrary to the requirements of DPP1(1).



## 使用從公共登記冊取得的個人資料 – 保障資料第3原則

### Use of personal data obtained from a public register - DPP3

一間服務公司與政府部門簽訂合約，獲有關部門提供公共登記冊內與物業交易有關的資料。合約的其中一項規定是資料只供有關公司使用，不得用作發展新產品或服務等商業用途。不過，有關公司使用所收集的資料建立本身的資料庫，藉「姓名搜尋」的方法讓它的客戶檢索個別人士曾作過的物業交易的資料，藉此向客戶提供服務。簡而言之，這方法可披露有關個人所擁有的全部物業數目及詳情。

查閱該公共登記冊資料的市民，只限於利用物業的資料，例如地點或地段號碼來提供物業的交易資料。這方法可讓有關人士得知某一物業的業權。雖然有關資料已在「公眾可查閱的範圍內」，但保障資料第3原則仍適用於該等資料的用途，即除非私隱條例中有相關的豁免條文或有關個人已給予訂明同意，否則有關資料只可使用於該等資料的原本收集目的。在決定該等資料的收集目的時，公署認為必須考慮該公司所簽訂的合約條款。有關公司違反了所簽合約的規定，將該等資料使用於與有關政府部門提供該等資料的目的無關的目的。鑑於有關個人不可能就該等用途給予同意，有關公司的行為違反了保障資料第3原則的規定。

A service company contracted with a government department under certain subscription agreements for the provision of data contained in a public register relating to property transactions. A condition of the subscription agreements was that the data were provided for the use of the subscribers only and would not be used for developing new products or services for commercial exploitation. However, the company used the data collected to build up its own database designed to provide a service to client subscribers that would allow a “name search” to retrieve information about an individual’s previous involvement in property transactions. In essence, the feature would enable the disclosure of the number and particulars of all properties that an individual owned.

Access to the public register by the general public is limited to the provision of property transaction data via the use of property particulars such as location or lot number. By this means, one can determine the ownership of a particular property. Although the data are already “in the public domain”, DPP3 remains applicable in respect of the use of the data in that, unless there are relevant exemption provisions in the PD(P)O or prescribed consent given by the individuals concerned, the data should only be used for the purpose for which the data are to be used at the time of their collection. In determining the collection purpose of the data by the service company, the PCO regarded it highly relevant to take into account the terms of the subscription agreements. Contrary to the terms of the subscription agreements, the company used the data for a purpose unrelated to the purpose for which such data were to be used at the time of their being provided by the government department. In the absence of any likelihood that the individuals concerned had given their consent for such use, the company was found to have been acting in contravention of the requirements of DPP3.

## 將投訴信張貼在報告板上－保障資料第3原則

### Posting of a complaint letter on a notice board - DPP3

僱員向受僱公司的管理層遞交投訴信，就輪值表的安排投訴他的上司。管理層將投訴信的副本轉交該上司，讓他親自作出回應。管理層其後向該名上司發出便箋，列述管理層就投訴找出的結果。有關投訴信及便箋均載有該僱員的個人資料。該名上司將投訴信及便箋張貼在職員休息室的報告板，讓投訴人的同事得悉投訴的內容及結果。

雖然投訴信及便箋最初並不是應該名上司的要求而向他提供，但其後他將投訴信及便箋貼在報告板上，已令自己成為該名僱員的個人資料的資料使用者。該名上司在收到有關資料時，應明白該等資料是用來調查該名僱員所提出的投訴。縱使他要求該名僱員給予同意，相信該僱員亦不會同意公開展示他的資料。故此，將有關信件及便箋張貼在報告板上，從而向與投訴無關的第三者展示該名僱員的個人資料，此舉有違保障資料第3原則的規定。

An employee wrote a complaint letter to the management of his employer complaining against his supervisor about staff duty roster arrangements. The management gave a copy of the complaint letter to the supervisor so that he could respond to the complaint in person. Later, the management sent a copy of a memo to the supervisor that set out the management's findings in respect of the complaint. The letter and the memo contained information relating to the employee. The supervisor posted copies of the complaint letter and the memo on a notice board inside the staff rest room for the information of colleagues about the complaint and related findings.

Although copies of the letter and the memo were supplied to the supervisor without his solicitation in the first place, by subsequently posting the letter and the memo on the notice board, the supervisor had made himself a data user in respect of the employee's data. The supervisor, in receiving the data, ought to have known that the data were to be used for investigating the complaint made by the employee. Even if the employee were to be invited to give his consent, it was unlikely that he would have given consent to the public display of those data. The posting of copies of the letter and the memo on the notice board causing display of the employee's personal data to parties unrelated to the complaint was an act contrary to the requirements of DPP3.

## 透過第三者轉交文件－保障資料第4原則

### Sending documents through a third party - DPP4

一名業主在小額錢債審裁處控告他的租客欠租，並須向有關租客送達某些文件。他將該等文件放入信封內送交該名租客的主管經理，信封面上的收件人為該名租客的主管經理。信封內隨附的信件要求該經理將有關文件轉交該名租客。不過，有關文件並非放在另一信封內。當傳送載有個人資料的文件時，有關人士必須採取應有措施，以防意外地向無關方面披露當中的資料。在此個案中，該名業主應將文件放進另一信封內並加以密封。鑑於該名業主並無採取防止意外披露資料的任何措施，他的行為違反了保障資料第4原則的規定。

A landlord sued a tenant in the Small Claims Tribunal for rent arrears and was required to serve certain documents on the tenant. He sent the documents to the tenant's employer in an envelope addressed to the tenant's supervising manager. The envelope contained a covering letter asking the manager to pass the documents on to the tenant. However, the documents were not put in a separate envelope. When transmitting documents containing personal data, steps should have been taken to prevent accidental disclosure of the data to unrelated parties. In this case, the landlord should have sealed the documents in a separate envelope. By failing to take any measures to safeguard the data from accidental disclosure the landlord had acted contrary to the requirements of DPP4.



### 律師行送達審訊文件 — 保障資料第4原則

#### Service of trial bundle by a solicitors' firm - DPP4

律師行須就一宗婚姻訟案向訴訟人送達審訊文件。該批文件包括載有訴訟人的敏感性資料的文件。律師行的職員在送交該批文件時，將有關文件放於訴訟人住所的前門及鐵閘之間的空隙處。該批文件並非放在密封的信封內，很易被路過或無關的人取得。其後，該批文件被巡樓的保安員取去。根據私隱條例第65(1)條，律師行為該名僱員的僱主，故須對該僱員的作為負責。該律師行並無制訂指引，要求職員在送交文件時須依從私隱條例的保障資料第4原則的規定。適當的做法是將該批文件放進不透明的信封內並加以密封，或是安排訴訟人親自收取有關文件。

A law firm had to serve a trial bundle on a litigant to a matrimonial case. The bundle comprised documents that contained sensitive data about the litigant. When delivering the documents the staff of the firm left the bundle in a gap between the front door and metal gate of the litigant's residence. The bundle was not sealed in an envelope and was easily accessible to passers-by or unrelated parties. The bundle was later picked up by a security guard on patrol. The law firm, being the employer of the staff concerned, was found liable for the act done by its staff pursuant to section 65(1) of the PD(P)O. The firm had no written guidelines advising its staff about compliance with the requirements of DPP4 on the manner of service of documents. An appropriate procedure would have been to put the documents to be served inside a sealed opaque envelope or to make arrangement with the litigant to collect the documents.

### 以身份證號碼為設定密碼 — 保障資料第4原則

#### Identity card number as default password - DPP4

一間流動電話服務公司透過其網址向僱客提供網上帳單服務。顧客在登入該公司的系統時必須輸入他的流動電話號碼及密碼，才可查閱他的帳戶資料，包括其詳細通話記錄。不過，密碼被預設定為有關客戶的身份證號碼的首六個數目字。一名顧客投訴收數公司透過網上帳單服務查閱他的通話記錄，對他及他的朋友作出滋擾。

A mobile phone service company provided an Internet billing service to its customers through its website. A customer has to log into the system by entering his mobile phone number and password to gain access to his account information, which also include detailed call records made by the customer. However, the password was defaulted to the first six digits of the customer's identity card number. A customer complained that a debt collector accessed to his call records through the Internet billing service and caused nuisance to him and his friends.

使用顧客的身份證號碼作設定密碼時必須倍加小心，因為個人的身份證號碼可能基於不同的原因而被他人得悉。鑑於有關資料的敏感性質及濫用該等資料可能引致風險，使用顧客的身份證號碼為設定密碼的服務供應商，必須採取額外的資料保安措施，包括詳細告知所有顧客有關安排，同時提示顧客須將設定密碼轉換為自己揀選的密碼，以防他人未經許可查閱他們的帳戶。

The use of a customer's identity card number as the default password should be handled with special caution since an individual's identity card number may, for various reasons, be disclosed and known to others. Given the sensitive nature of the data and the potential risk arising from any misuse of the data, a service provider who chooses to set its customers' access password by using their identity card numbers should take additional steps to safeguard the security of the data. Such steps may include ensuring that all customers are fully aware of the default password arrangement and at the same time remind them of the importance of changing the password to a number of their choice to prevent unauthorized access to customers' accounts.

## 循規查察行動

當發現任何機構的行事方式，似乎有違私隱條例規定時，公署便會展開循規查察行動。在該等情況下，公署會以書面知會有關機構，指出顯然與條例規定不符的事宜，並請有關機構採取適當的補救措施。在大多數情況下，有關機構會自動作出承諾，答應採取措施糾正涉嫌違例事項。在其他情況下，有關機構會就如何採取改善措施，以免重複涉嫌違例事項，向公署尋求意見。

在本年報期間，公署共進行了28次循規查察行動，對資料使用者被指可能違反條例規定的行事方式進行查察。其中八次查察行動與政府部門／法定機構的行事方式有關，其餘20次則涉及私營機構的行事方式。

## Compliance Checks

A compliance check is undertaken when the PCO identifies a practice in an organization that appears to be inconsistent with the requirements of the PD(P)O. In such circumstances, the PCO raises the matter in writing with the organization concerned pointing out the apparent inconsistency and inviting it, where appropriate, to take remedial action. In many cases, the organization concerned takes the initiative and responds by undertaking immediate action to remedy the suspected breach. In other cases, organizations seek advice from the PCO on the improvement measures that should be taken to avoid repetition of suspected breaches.

During the reporting year, the PCO conducted 28 compliance checks in relation to alleged practices of data users that might be inconsistent with the requirements of the PD(P)O. Of these, 8 compliance checks related to practices in government departments/statutory bodies. The remaining 20 compliance checks related to practices in private sector organizations.

圖表14 — 循規查察行動所涉及的問題

Figure 14 – Illustrations of compliance check issues

問題 Issues	建議採取的改善措施 Improvement Measures Recommended
向選舉「最佳運動員」投票人派發的資料披露了被提名人的個人資料，包括他們的香港身份證號碼。 Information materials circulated to voters of a “best performer” election disclosed personal data of nominees that included their HK identity card number.	傳閱載有個別人士的個人資料的文件時必須特別小心。公署建議主辦機構避免披露就有關目的而言不需要的任何個人資料。 Special care should be taken when circulating documents that contain personal data of individuals. The organizer was recommended to avoid disclosure of any personal data that were not necessary for the purpose concerned.
一個專業團體的網址展示了會員的姓名、地址及專業資格等資料。 The website of a professional body posted the names, addresses and qualifications of its members.	公署建議該專業團體在會員註冊時通知他們會將註冊所收集的個人資料在網上展示，讓公眾人士查閱。 The professional body was advised to make notification to its members, at the time when they register, that personal data compiled about their registration would be posted on its website for public access.

<p><b>問題</b> <b>Issues</b></p>	<p><b>建議採取的改善措施</b> <b>Improvement Measures Recommended</b></p>
<p>僱主在傳送載有僱員的整個出生日期的工作評核報告時沒有將有關報告放進信封內。 Staff appraisal forms with full date of birth of staff were dispatched without envelopes.</p>	<p>僱主無合理理由在工作評核報告的首頁列印僱員的整個出生日期。公署建議有關僱主考慮在傳送評核報告前，將報告放進信封內。 There is no justifiable reason to print the full date of birth of staff on the front page of the appraisal form and the employer was recommended to consider inserting the form in an envelope prior to dispatch.</p>
<p>僱主在派發糧單的過程中遺失了僱員的糧單。 Loss of staff's payroll slips during the distribution process.</p>	<p>僱主有責任確保載於糧單中的僱員個人資料，不會在未經許可或意外的情況下被他人查閱。公署建議有關公司要求僱員簽收糧單。 It is the obligation of the employer to ensure personal data in staff's payroll slips are protected against unauthorized or accidental access. The company was recommended to obtain acknowledgement of receipt of payroll slips from staff.</p>
<p>求職者被要求在職位申請表上填報父母的姓名及職業詳情。 Job applicants were asked to provide the name and occupation details of their parents in application forms.</p>	<p>準僱主無合理理由強制求職者提供該等資料。公署建議有關公司修訂它的規定。 There is no justifiable reason for making the required information mandatory. The company was advised to revise its requirements accordingly.</p>
<p>某屋苑發給住客的宣傳通告中，載有曾使用有關屋苑的服務的一些住客的個人資料。 Advertising circular to residents of a housing estate carried personal data of several residents with whom the data user had previously provided services.</p>	<p>除非取得顧客的同意，否則不得在宣傳活動中使用顧客的個人資料。公署建議有關資料使用者採取適當措施，避免在廣告資訊中披露顧客的資料，除非已取得有關顧客的同意。 Customer's personal data should not be used in advertising activities unless with the customer's consent. The data user was recommended to take proper measures not to disclose customers' data in advertising materials unless the customers had consented to such use.</p>
<p>招聘網址要求求職者提供個人資料，但卻沒有披露僱主的身份。 A recruitment website solicited job applicants' personal data without disclosing the identity of employers.</p>	<p>要求求職者提供個人資料的招聘廣告應披露僱主的身份。公署建議該網址日後須披露僱主的身份。 A recruitment advertisement that solicits personal data from applicants should reveal the identity of the employer. The website was recommended to identify the employer in future.</p>
<p>健康食品產品的會員申請人須提供身份證號碼。 Applicants who subscribed as members of health food products were required to provide their HK identity card numbers.</p>	<p>申請人應可選擇提供其他資料以代替身份證號碼。公署建議有關公司停止有關做法或讓申請人選擇自願提供身份證號碼。 Alternatives in lieu of providing identity card numbers should be offered to applicants. The company was recommended to cease the practice or to make the provision of identity card numbers voluntary.</p>

## 問題 Issues

工人進入公司管理的地方須提供香港身份證號碼。  
Workers entering into areas managed by the company were required to provide their HK identity card details.

泊車證續期表格要求泊車位業主及租戶在同一表格內填報個人資料。  
Parking license renewal forms required both car park owners and tenants to fill in personal data on the same form.

以舊機換新機的流動電話顧客須提供香港身份證副本。  
Customers wanting to trade in their mobile phones were required to provide HK identity card copies.

## 建議採取的改善措施 Improvement Measures Recommended

公署建議有關公司考慮以「工作證」代替。  
The company was advised to consider accepting “work permits” as an alternative.

公署建議車位管理公司向車位業主及租戶發出不同的泊車證續期表格，以免有關人士的個人資料被披露予另一方。  
The car park management company was recommended to issue separate forms to owners and tenants for parking license renewals in order to avoid disclosure of personal data to the other party.

公署指出只可在某些指定情況下收集身份證副本，並建議有關公司停止收集顧客的香港身份證副本。  
Collection of identity card copy is allowable only in certain defined situations. The company was advised to cease the practice of collecting HK identity card copies from their customers.

## 核對程序

在本年報期間，公署共收到9宗新的核對程序申請，以及49宗對繼續進行去年已獲准的核對程序的重新申請。在這9宗新的申請中，7宗來自公營機構，而其餘2宗則來自一間服務公司。公署審閱後發現服務公司提出的2宗申請不屬私隱條例釋義所指的核對程序。至於其他7宗申請，其中2宗已撤銷，另外2宗申請毋須得到批准，而其餘3宗則在有條件的情況下獲得批准。

## Matching Procedures

During the reporting year, the PCO received 9 new applications for approval to carry out matching procedures and 49 requests for re-approval to continue matching procedures approved in previous years. Of these 9 new applications, 7 were requested by public sector organizations and the remaining 2 applications were made by a service company. Upon examination, the two applications made by the service company were found not to be matching procedures as defined under the PD(P)O. In respect of the other 7 applications, two were withdrawn and approval was not required in another two applications. The remaining three applications were approved subject to certain conditions.

圖表15 — 根據私隱條例第30條獲准進行的核對程序

Figure 15 – Matching procedures approved under section 30 of the PD(P)O

<b>提出要求者</b> <b>Requesting party</b>	<b>獲准的有關核對程序</b> <b>Related matching procedures that were approved</b>
學生資助辦事處 Student Financial Assistance Agency	將根據持續進修基金申請資助的人士的個人資料與專上學生資助計劃及本地學生資助計劃所收集的資料互相比較，以防持續進修基金的申請人享用雙重福利。 To prevent double benefits from being granted to applicants for financial assistance under the Continuing Education Fund by comparing their personal data with data collected under the Financial Assistance Scheme for Post-secondary Students and the Local Student Finance Scheme.
香港房屋委員會 Hong Kong Housing Authority	將置業資助貸款計劃申請人的個人資料與其他公共房屋福利的房屋管理綜合系統的資料庫作出比較，以防該計劃的申請人享用雙重福利。 To prevent double housing benefits from being granted to applicants under the Home Assistance Loan Scheme by comparing their personal data with the Integrated System for Housing Management database in respect of other public housing benefits.
強制性公積金計劃管理局 Mandatory Provident Fund Schemes Authority	將申請成為註冊強制性公積金中介人或已註冊為中介人的人士的個人資料與香港金融管理局根據《銀行業條例》第20條備存的有關人士紀錄冊內的資料互相比較，以確定及監管該等人士是否適宜擔任中介人。 To confirm and monitor the fitness and propriety of applicants/registrants of registered mandatory provident fund intermediaries by comparing their personal data with data contained in the Hong Kong Monetary Authority's register of relevant individuals maintained under section 20 of the Banking Ordinance.