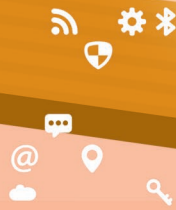
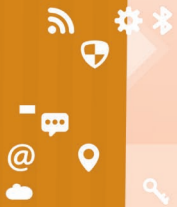


處理投訴及上訴

Handling of Complaints
and Appeals





調查投訴

投訴的整體趨勢

在本報告年度，私隱公署共接獲3,157宗投訴，按年減少71%，主要因為「起底」個案由2019-20年度的4,707宗大幅減少至2020-21年度的957宗。

報告年度「起底」個案大幅減少，反映出私隱公署與警方執法取得成果，以及法庭於2020年的幾個定罪判刑起了阻嚇作用。雖然如此，「起底」個案仍佔投訴總數約30%，可見有關問題依然存在。

打擊「起底」仍然是私隱公署的首要任務。私隱公署歡迎政府修訂《私隱條例》的建議，以更有效打擊「起底」。私隱公署一直積極與政府合作，制訂修訂《私隱條例》的具體建議。

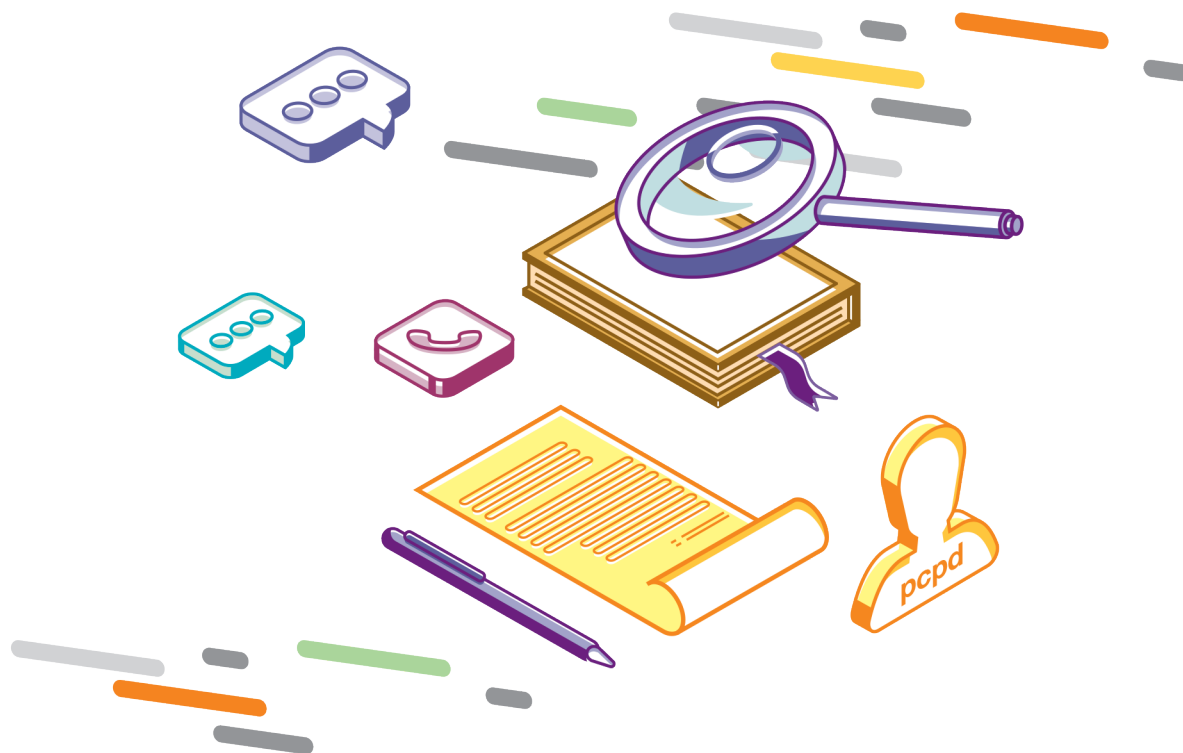
Complaints Investigation

Overall trend of complaints

In the reporting year, the PCPD received 3,157 complaints, a drop of 71% year-on-year. This was primarily attributable to a significant reduction in the number of doxxing-related cases from 4,707 in 2019-20 to 957 in 2020-21.

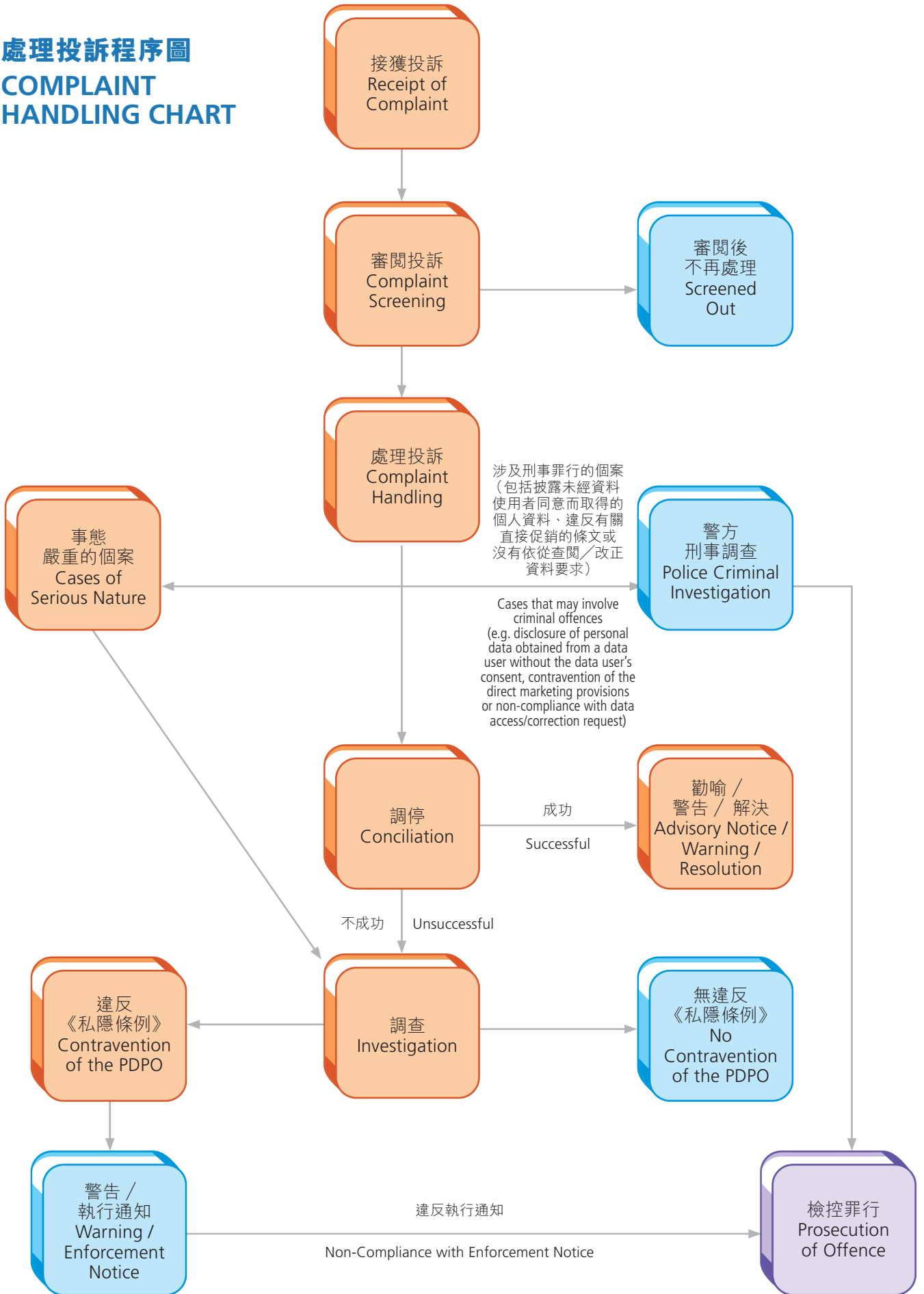
The decrease in the number of doxxing-related cases in the reporting year reflected the enforcement efforts made by the PCPD and the Police, and the deterrent effect brought about by the convictions in a number of court cases in 2020. That said, doxxing-related cases still accounted for about 30% of the total number of complaints. It suggested that doxxing remained a problem.

Combating doxxing continued to be a top priority of the PCPD. The PCPD welcomed the Government's amendment proposals to make the PDPO more effective in combatting doxxing. The PCPD continued to actively work with the Government to formulate the proposals to the amendments.





處理投訴程序圖
COMPLAINT HANDLING CHART



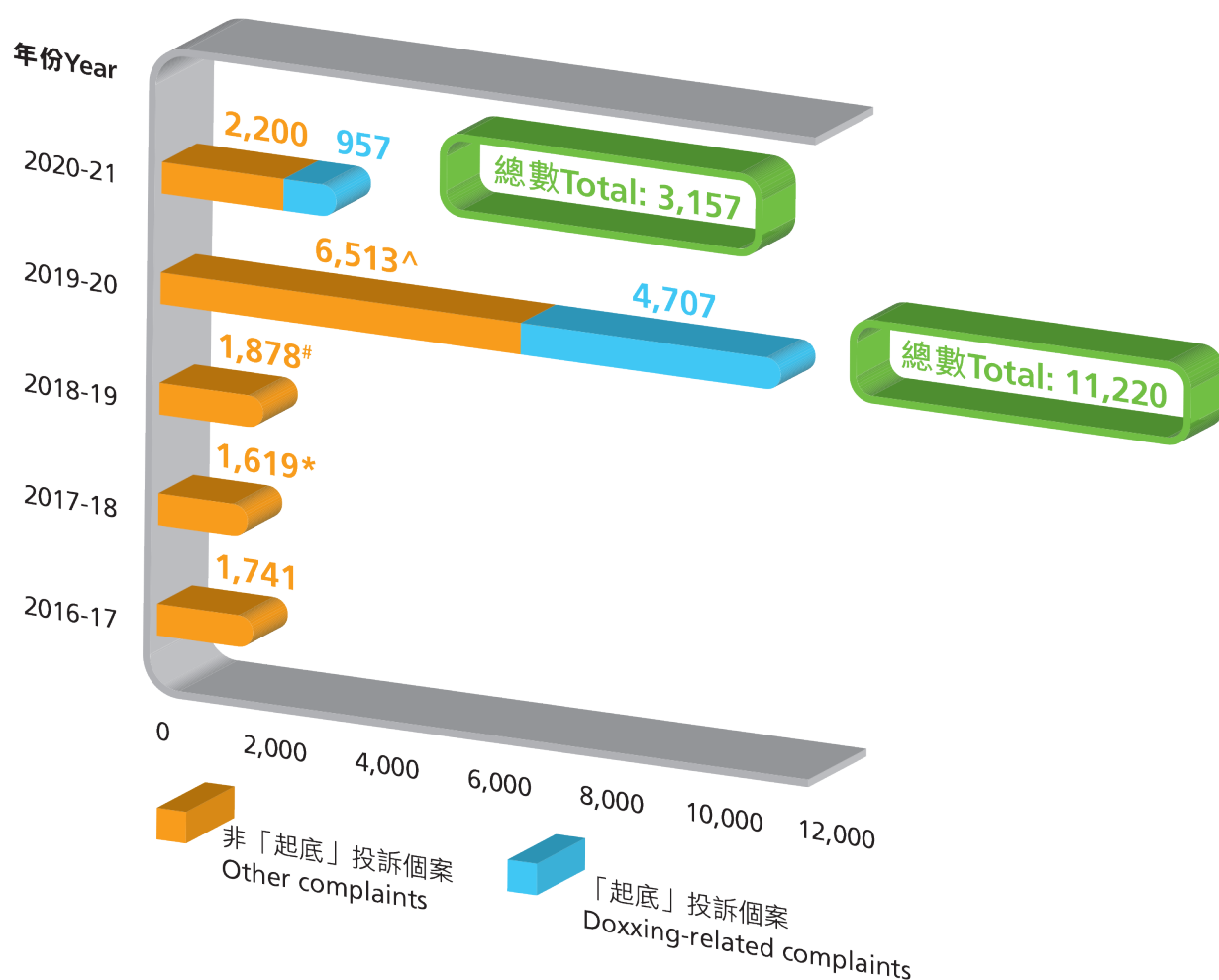
接獲的投訴個案

私隱公署在報告年度共接獲 3,157 宗投訴。撇除「起底」個案，共收到 2,200 宗投訴個案，較上一年度減少 66%，但仍較 2018-19 年度上升了 17%。（圖 2.1）

Number of complaints received

The PCPD received 3,157 complaints in the reporting year. Excluding doxxing-related cases, the PCPD received 2,200 complaints, which is 66% fewer than that in the last reporting year but 17% more than that in 2018-19. (Figure 2.1)

圖 Figure 2.1
接獲的投訴個案數目 Number of complaints received



[^] 當中包括 2,665 宗與兩宗警員於直播時在鏡頭前展示一名記者的香港身份證的事件有關的投訴、669 宗懷疑保安人員盜取住戶信件的投訴，以及 428 宗關乎一名藝人於其社交平台披露一份航空公司機艙服務員名單的投訴。

[#] 當中包括 143 宗有關航空公司外洩客戶個人資料的投訴。

^{*} 為統計目的，私隱公署在該報告年度收到一政府部門遺失載有選民個人資料的手提電腦的 1,944 宗同類投訴，只作一宗投訴計算。

[^] There were 2,665 complaints about two incidents of the Police's displaying a reporter's HKID in live broadcasts or streaming, 669 complaints about suspected theft of residents' letters by a security guard, and 428 complaints about the disclosure of a list of cabin crew by an artiste on her social media platform.

[#] 143 complaints were about an airline's data leakage incident.

^{*} For statistical purpose, 1,944 complaints about the loss of a government department's computer containing the personal data of registered electors were counted as one complaint.



被投訴者類別

撇除「起底」個案，在2,200宗投訴中，被投訴者可分為以下類別：

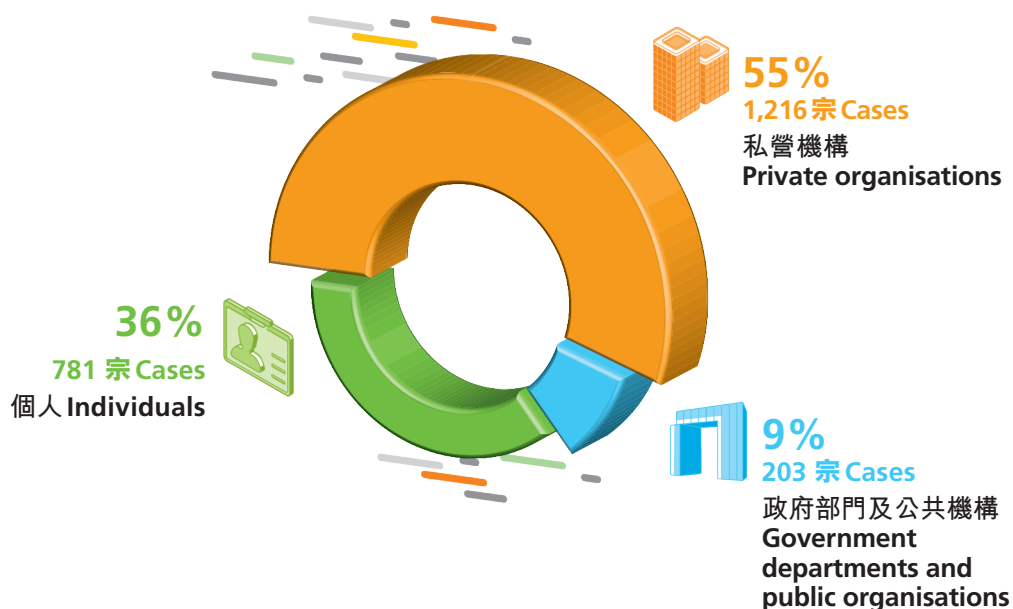
- 私營機構(1,216宗)，主要涉及銀行、財務公司及物業管理公司；
- 個人(781宗)，當中眾多個案與私人事務引起的網絡欺凌，鄰居安裝閉路電視及使用個人資料作選舉用途有關；及
- 政府部門及公共機構(203宗)，主要涉及醫護機構、執法機關及教育機構。(圖2.2)

Types of parties being complained against

Excluding doxxing-related cases, the types of parties being complained against among the 2,200 complaints were:

- Private organisations (1,216 cases), with the majority being banks, financial institutions, and property management companies;
- Individuals (781 cases), with many of the cases involving cyberbullying arising from domestic affairs, installation of CCTV by neighbours and use of personal data in electioneering activities; and
- Government departments and public organisations (203 cases), with the majority being healthcare organisations, law enforcement agencies, and education institutes. (Figure 2.2)

圖 Figure 2.2
被投訴者類別 Types of parties being complained against



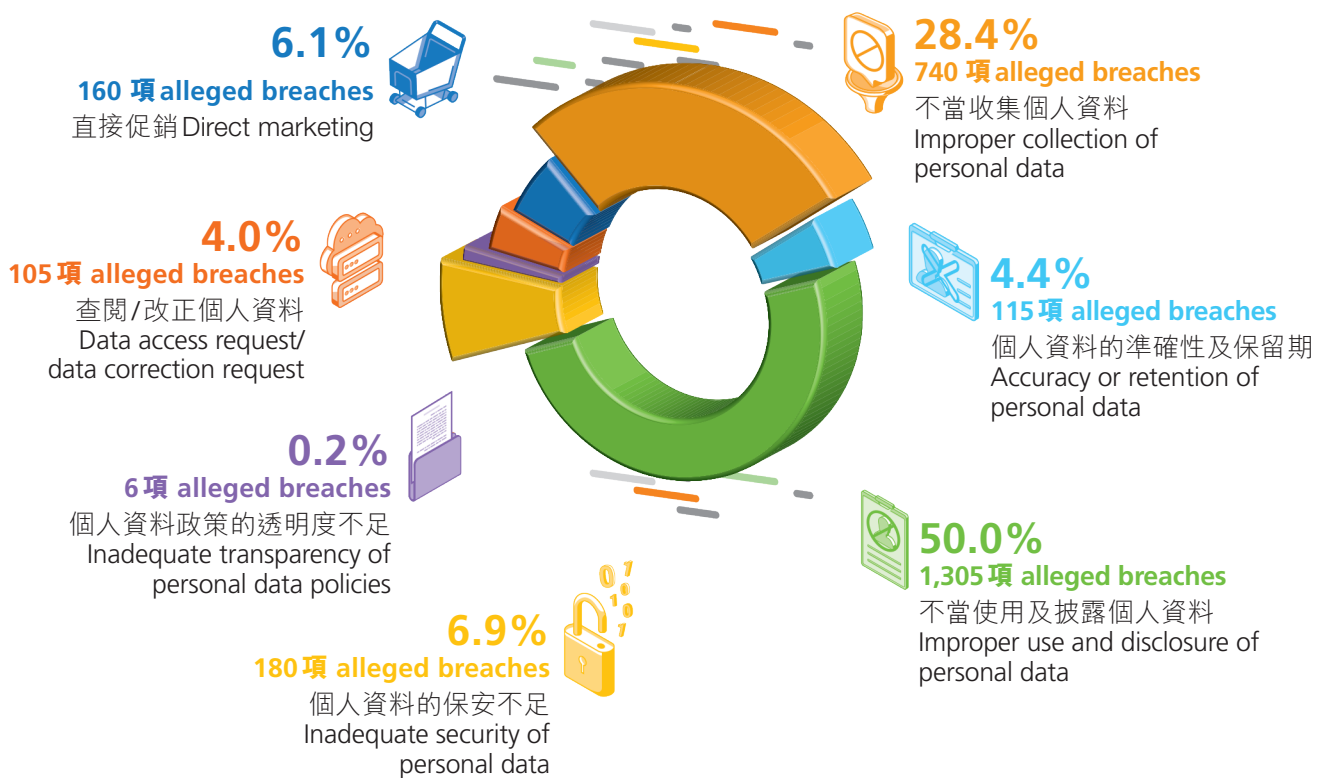
投訴指稱

撇除「起底」個案，2,200宗投訴共涉及2,611項違反《私隱條例》規定的指稱（因同一宗投訴可涉及多於一項指稱）。該些投訴指稱的分類如下：（圖 2.3）

Nature of alleged breaches

Excluding doxxing-related cases, the 2,200 complaints involved a total of 2,611 alleged breaches, as one complaint might involve more than one allegation. The classification of the alleged breaches by nature is as follows: (Figure 2.3)

圖 Figure 2.3
投訴指稱 Nature of alleged breaches





投訴範疇

撇除「起底」個案，私隱公署於報告年度收到的投訴所涉的主要範疇分佈與上一年度相若。(圖 2.4)

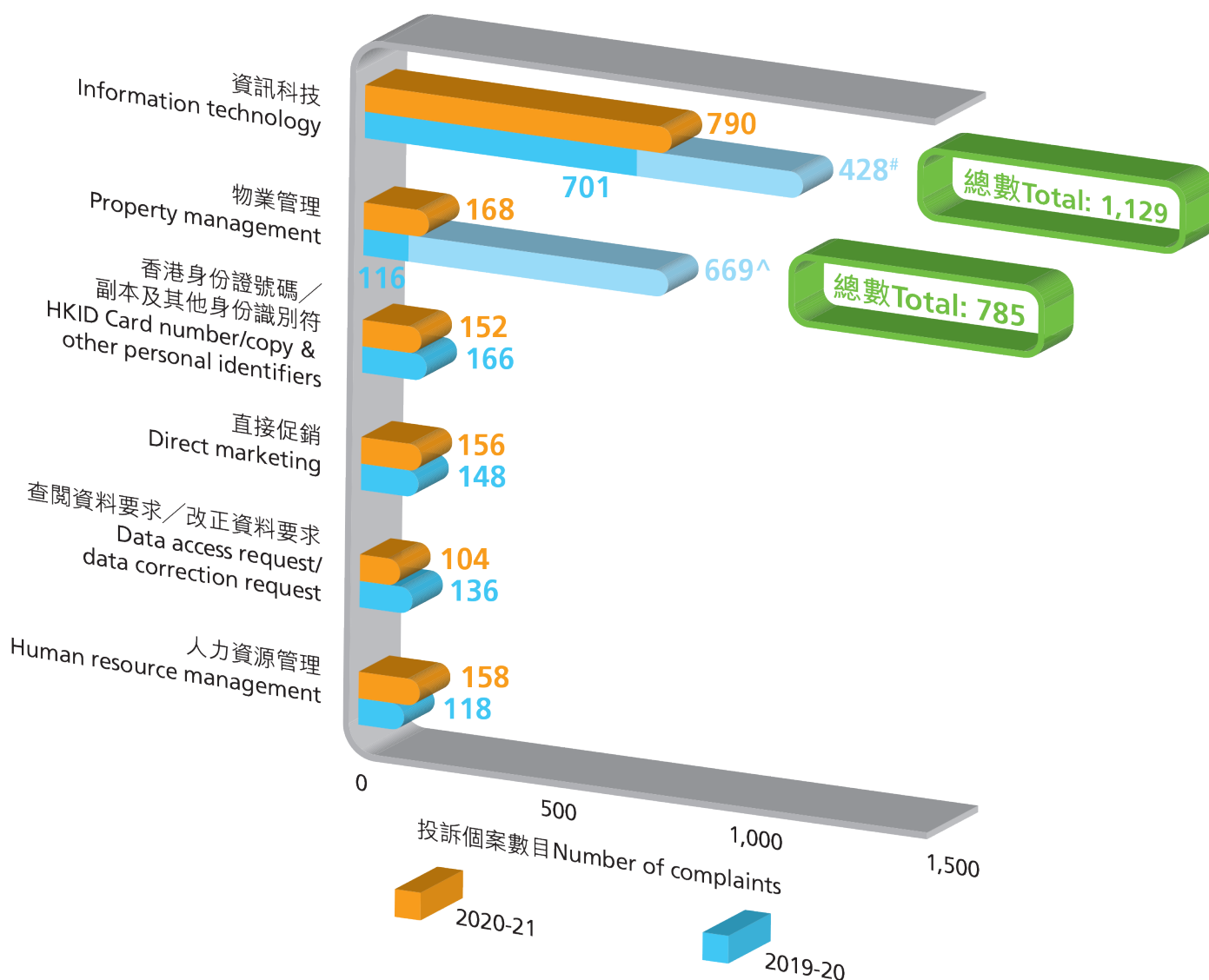
有關資訊科技的投訴屬最多的投訴範疇，當中大部分是關於網上社交網絡及智能手機應用程式，相信與其普及程度及日常應用有關。

Subject matters of complaints

Excluding doxxing-related cases, the distribution of subject matters of complaints received in the reporting year was similar to that of last reporting year. (Figure 2.4)

The highest number of complaints was related to information technology, with the majority about online social networks and smartphone applications. This could be attributed to their popularity and daily use.

圖 Figure 2.4
投訴範疇 Subject matters of complaints



當中 428 宗有關一名藝人於其社交平台披露一份航空公司機艙服務員名單。

^ 當中 669 宗有關懷疑保安人員盜取住戶信件。

These 428 complaints were about the disclosure of a list of cabin crew by an artiste on her social media platform.

^ These 669 complaints were about suspected theft of residents' letters by a security guard.

年度投訴處理摘要

在2020-21年度，私隱公署共處理了4,627宗投訴，包括新接獲的3,157宗投訴及1,470宗承接上年度的投訴。其中3,402宗(73.5%)已經完結，1,225宗(26.5%)至2021年3月31日仍在處理中。

已完結的投訴個案分類

在已經完結的3,402宗投訴個案中，524宗有關「起底」。其中，59宗涉及懷疑違反《私隱條例》第64條的投訴已轉介警方進行刑事調查及考慮檢控。另外15宗涉及懷疑違反相關法庭禁制令的投訴已轉介律政司跟進。私隱公署亦已為餘下的450宗「起底」個案去信網上平台及網站營運商，要求刪除有關網絡連結。

餘下的2,878宗非「起底」投訴當中，1,909宗經私隱公署初步審研後結案，969宗則獲私隱公署接納作進一步處理。

在進一步處理的個案當中，私隱公署以調停方式成功解決887宗(92%)如下：

- 被投訴者就投訴事項採取相應的糾正措施；
- 私隱公署向投訴人提供進一步資料和解釋後，投訴人不再追究；或
- 私隱公署應投訴人要求向被投訴者表達關注後，被投訴者作出跟進。

私隱公署發現12宗投訴或涉及刑事罪行。在確立違反《私隱條例》的相關規定的表面證據成立後，私隱公署已轉介有關個案予警方進一步調查及考慮檢控。

私隱公署對餘下70宗的投訴展開調查，並向部份被投訴者發出警告或要求其採取相應糾正措施。在嚴重性較低的個案中，私隱公署向被投訴者提供有關建立保障個人資料的良好行事方式的指引及建議。

Summary of complaints handled

In 2020-21, the PCPD handled a total of 4,627 complaints, consisting of 3,157 newly received complaints and 1,470 complaints carried forward from the last reporting year. Of these, 3,402 (73.5%) were completed and 1,225 (26.5%) were in progress as at 31 March 2021.

Categorisation of completed complaints

Among the 3,402 completed cases, 524 were doxxing-related, in which 59 complaints were suspected contravention of section 64 of the PDPO and were referred to the Police for criminal investigation and consideration of prosecution. 15 complaints involved suspected violations of relevant court injunction orders and were referred to the Department of Justice. In the remaining 450 doxxing-related cases, the PCPD wrote to the operators of the online platforms and websites concerned and urged them to delete the relevant web links.

In the 2,878 non-doxxing cases, 1,909 were concluded after preliminary assessment and 969 were accepted for further handling.

Among the cases accepted for further handling, 887 of them (92%) were successfully resolved by the PCPD by conciliation, and:

- Corresponding remedial actions were taken by parties being complained against;
- Complaints were withdrawn after the PCPD had given further information or explanation to the complainants; or
- Follow-up actions were taken by parties being complained against to address the complainants' concerns conveyed by the PCPD.

In 12 complaints, possible commission of criminal offences were identified. After obtaining *prima facie* evidence of the contravention of the relevant requirements under the PDPO, the PCPD referred the cases to the Police for further investigation and consideration of prosecution.

In the remaining 70 complaints, the PCPD carried out investigations. Warning letters were issued to some of the parties being complained against. The PCPD also urged them to take remedial actions as appropriate. In the less serious cases, the PCPD provided advice or recommendations to parties being complained against on good practice in the protection of personal data.



向行政上訴委員會提出的上訴

行政上訴委員會是根據《行政上訴委員會條例》(香港法例第442章)而設立的法定組織，負責聆訊對私隱專員在《私隱條例》下的決定而提出的上訴，並作出裁決。

行政上訴案件統計資料

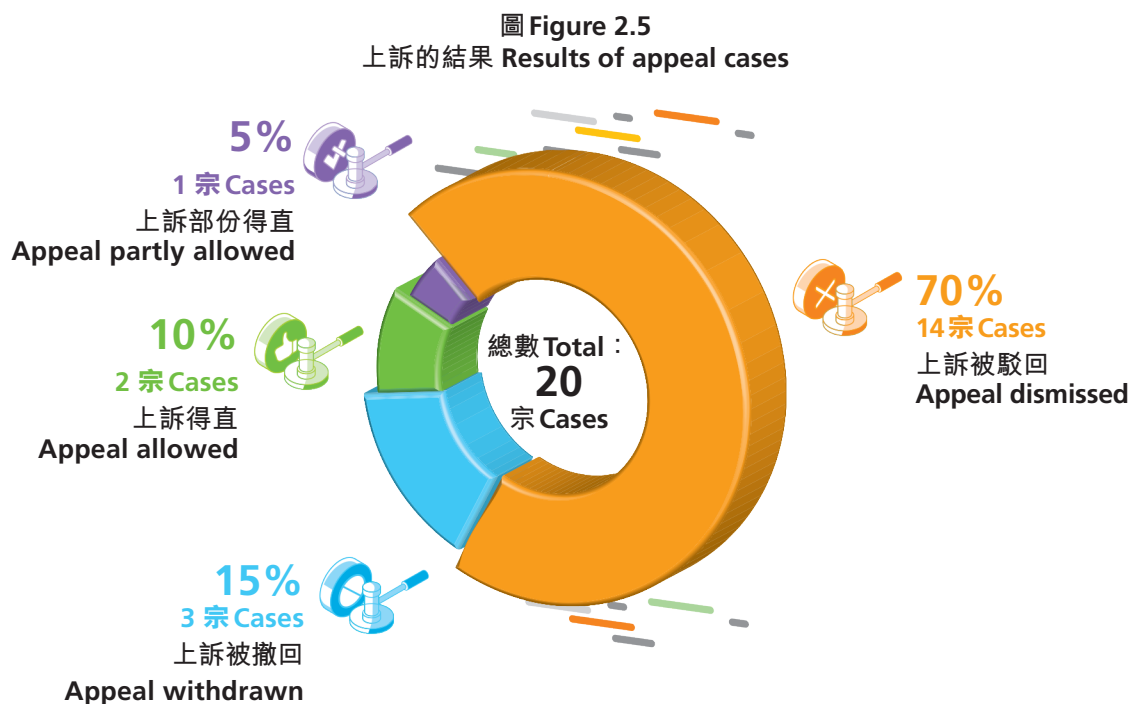
報告年度共有20宗上訴個案完結，當中17宗被委員會駁回或由上訴人自行撤回、兩宗被委員會裁定得直及一宗被委員會裁定部份得直。(圖2.5)

Appeals Lodged with the Administrative Appeals Board

The Administrative Appeals Board (AAB), established under the Administrative Appeals Board Ordinance (Chapter 442 of the Laws of Hong Kong), is the statutory body that hears and determines appeals against the Privacy Commissioner's decisions under the PDPO.

Statistics of AAB cases

A total of 20 appeal cases were concluded during the reporting year: 17 were dismissed by the AAB or withdrawn by the appellants, 2 were allowed, and 1 was partly allowed. (Figure 2.5)



接獲的行政上訴案件的性質及涉及《私隱條例》的規定

在報告年度新接獲的20宗上訴的個案當中，所有個案都是上訴私隱專員根據《私隱條例》第39(2)條不進行或終止正式調查的決定。私隱專員作出該等決定可基於

- (i) 沒有表面證據支持指稱的違反行為；
- (ii) 被投訴者已採取補救行動糾正所指稱的違反行為；
- (iii) 投訴的主要事項與個人資料私隱無關；
- (iv) 投訴人投訴的動機與私隱及資料的保障無關；及/或
- (v) 投訴人及被投訴者可以或應該可以自行解決彼此之間的爭端而毋須私隱專員作出干預。

在接獲的20宗上訴個案當中，11宗涉及指稱違反保障資料原則，七宗涉及指稱不遵從查閱資料要求，而餘下兩宗則涉及同時指稱不遵從查閱資料要求、改正資料要求及其他保障資料原則。(圖2.6)

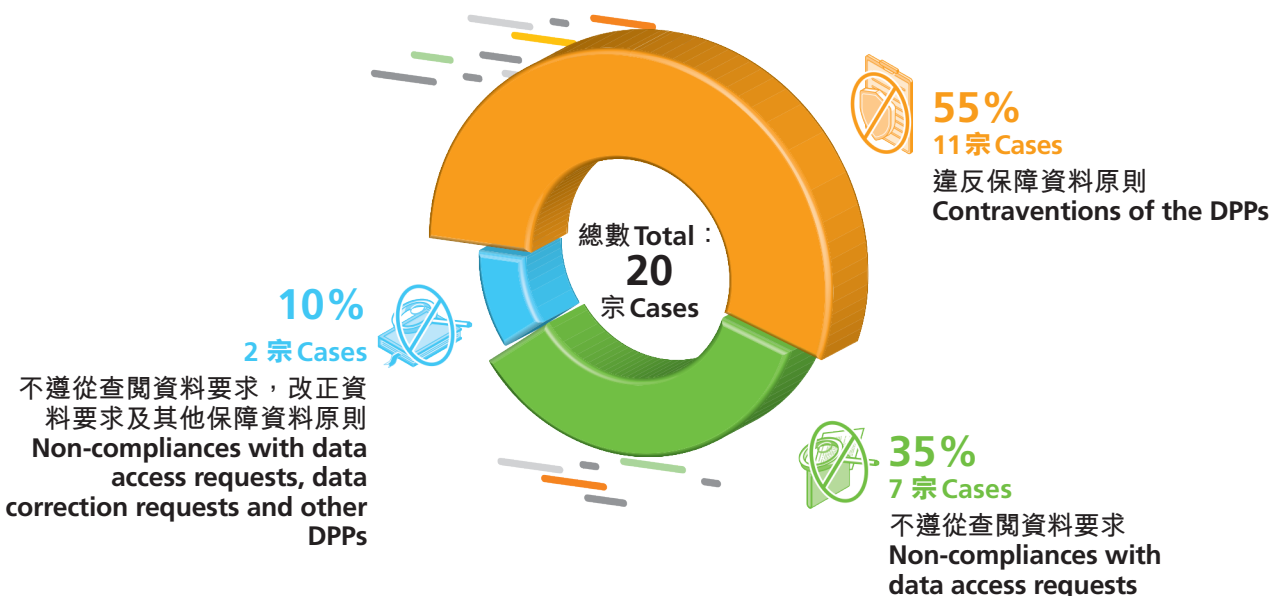
Nature of AAB Cases Received and Provisions of the PDPO Involved

All 20 appeal cases received in the reporting year appealed against the Privacy Commissioner's decision not to carry out or terminate an investigation under section 39(2) of the PDPO. The Privacy Commissioner made the decisions on the grounds that:

- (i) there was no *prima facie* evidence to support the alleged contravention;
- (ii) the party being complained against had taken remedial action to rectify the alleged contravention;
- (iii) the primary subject matter of the complaint was not related to personal data privacy;
- (iv) the ulterior motive of the complaint did not concern privacy and data protection; and/or
- (v) the complainant and party being complained against were able or should be able to resolve the dispute between them without intervention by the Privacy Commissioner.

Of the 20 appeal cases received, 11 cases involved alleged contraventions of the DPPs, seven cases involved alleged non-compliances with data access requests, and the remaining two cases involved alleged non-compliances with data access requests, data correction requests and other DPPs. (Figure 2.6)

圖 Figure 2.6
上訴涉及《私隱條例》的規定 The provisions of the PDPO involved in the appeals





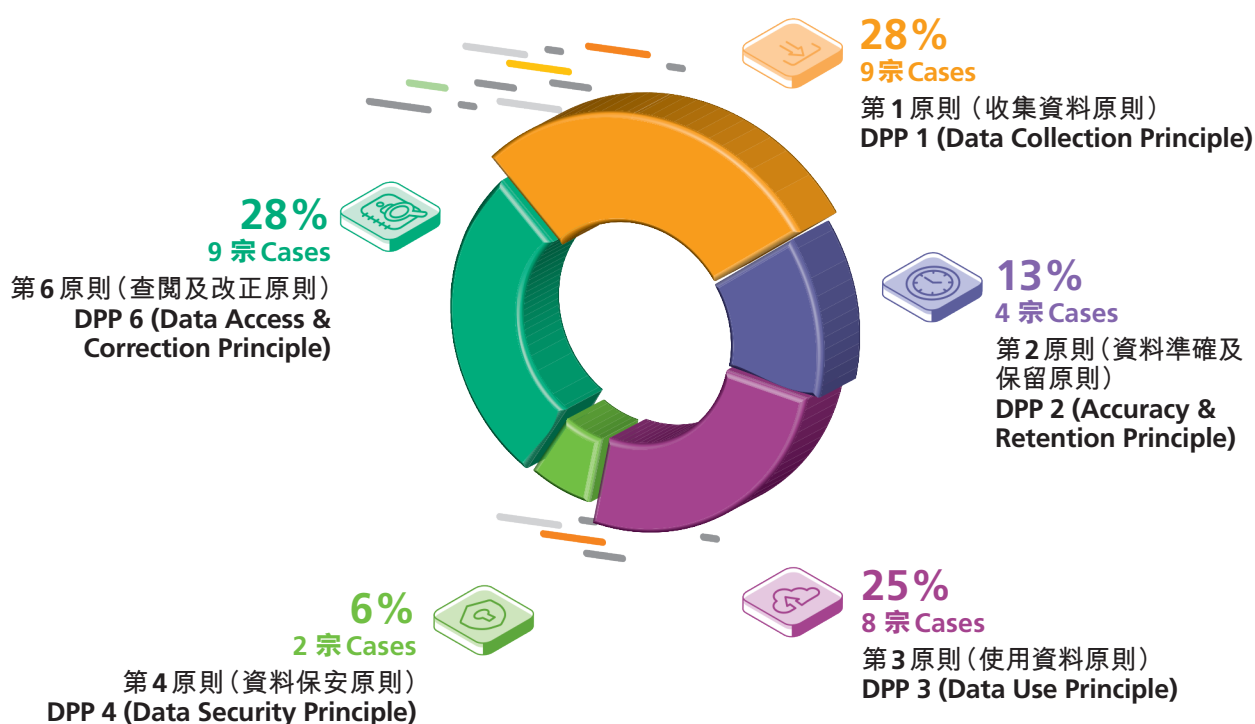
指稱違反保障資料原則的 11 個上訴個案中，牽涉的保障資料原則的分類如下（一宗個案可涉及多於一項保障資料原則）：

- 第 1 原則（收集資料原則）：九宗
- 第 2 原則（資料準確及保留原則）：四宗
- 第 3 原則（使用資料原則）：八宗
- 第 4 原則（資料保安原則）：兩宗
- 第 6 原則（查閱及改正原則）：九宗

Of the 11 appeal cases which involved alleged contraventions of the DPPs, the distribution of the DPPs concerned is as follows (one appeal might concern more than one DPP):

- DPP 1 (Data Collection Principle) : nine cases
- DPP 2 (Accuracy & Retention Principle) : four cases
- DPP 3 (Data Use Principle) : eight cases
- DPP 4 (Data Security Principle) : two cases
- DPP 6 (Data Access & Correction Principle) : nine cases

圖 Figure 2.7
上訴涉及保障資料原則的分類 The distribution of the DPPs involved in the appeals



註：一宗個案可涉及多於一項保障資料原則。

Note: one appeal might concern more than one DPP.