

```
EOF == scanf("%f", &f);  
(ir=i=0; i<SITESMAX-MAXDIM; i++, ir++)  
(k=0; k<dim && scanf("%f", sites+ir+k)!=EOF;  
(k!=dim) break; /  
[DEBEXP(k) DEBEXP(i) ...]  
[SITESMAX-MAXDIM]
```

**行動**  
Operations



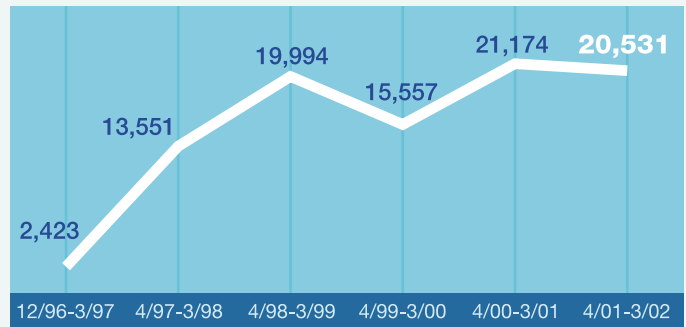
## 二零零一年至二零零二年接獲的查詢

## Enquiries received during 2001-2002

在本年報期間，公署共處理了 20,531 宗查詢個案，即每個工作天平均收到約 75 宗個案。與二零零零年至二零零一年收到的 21,174 宗查詢個案數字相比，微跌了 3%。(圖表1)

In the reporting period, the PCO handled a total of 20,531 enquiry cases. On average, some 75 cases were received per working day. Compared with 21,174 enquiry cases received in 2000-01, this represents a slight drop of 3% in the enquiry caseload. (Figure 1)

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



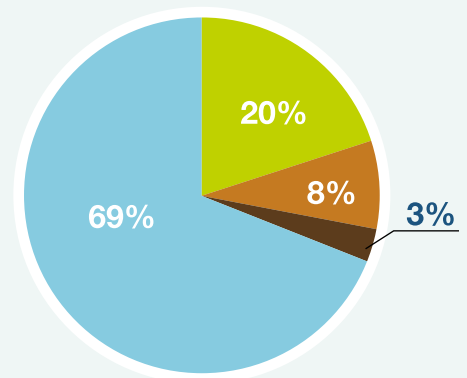
查詢個案數目 Number of Enquiry Cases

在本年報期內處理的 20,531 宗查詢個案中，約 69%(13,923 宗) 與個人在個別情況下的私隱權利有關，20%(4,204 宗) 關乎條例條文的應用，8% 查詢公署出版的刊物及要求取得有關刊物。至於餘下的 3% 查詢，則與公署的職能有關。(圖表2)

Of the 20,531 enquiry cases handled in the period under review, approximately 69% (13,923) were queries related to privacy rights specific to an individual's own situation. A further 20% (4,204) were queries related to the application of the requirements of the PD(P)O. Another 8% related to queries and requests about publications issued by the PCO. The remaining 3% involved queries concerning the functions of the PCO. (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
- 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



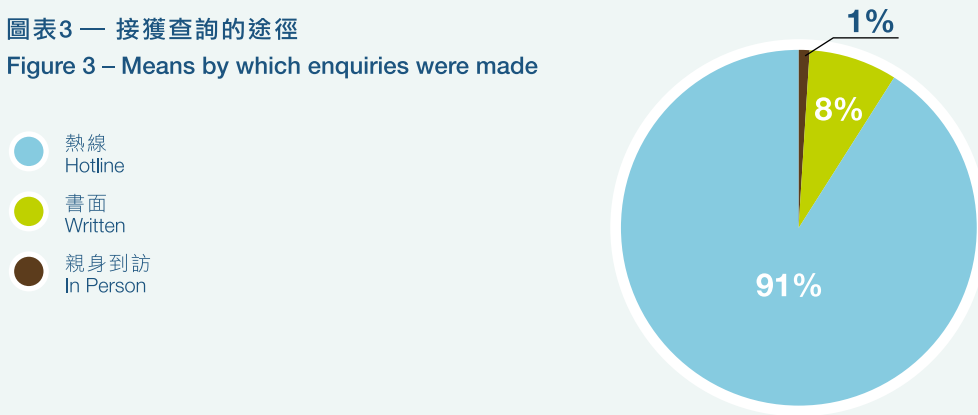
在本年報期內，公署透過熱線電話（電話號碼：2827 2827）共接獲18,708宗查詢，其中99%已由公署的熱線職員即時作出回應或在兩日內回覆。

公署接獲的書面查詢是以信件、傳真或電子郵件提出的。在本年報期內，公署共處理了1,687宗書面查詢，其中91%在28日內已收到公署的實質回覆。（圖表3）

In the reporting year, the PCO handled 18,708 calls on the enquiry hotline (telephone number 2827 2827). Of these, 99% received an immediate response or a callback from PCO enquiry officers within 2 days.

Written enquiries are received by the PCO in the form of letters, faxes or e-mail. In the reporting year, a total of 1,687 written enquiries were handled. Of these, 91% received a substantive reply within 28 days. (Figure 3)

圖表3 — 接獲查詢的途徑  
Figure 3 – Means by which enquiries were made



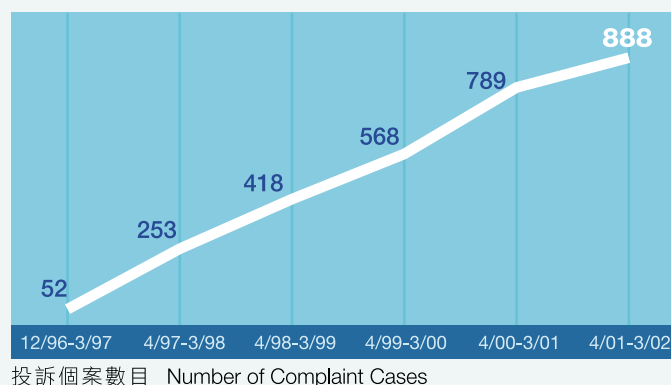
## 二零零一年至二零零二年接獲的投訴

在本年報期內，公署接獲888宗可能違反條例規定的新投訴。與二零零零年至二零零一年度接獲的789宗個案比較，本年度的投訴個案比去年同期上升了12%。（圖表4）

## Complaints received during 2001-02

In the reporting year, the PCO received 888 new complaints of possible breaches of the PD(P)O. Compared with 789 complaints received in 2000-01, this represents a 12% year on year increase in the complaint caseload. (Figure 4)

圖表4 — 每年的投訴個案  
Figure 4 – Annual complaint caseload



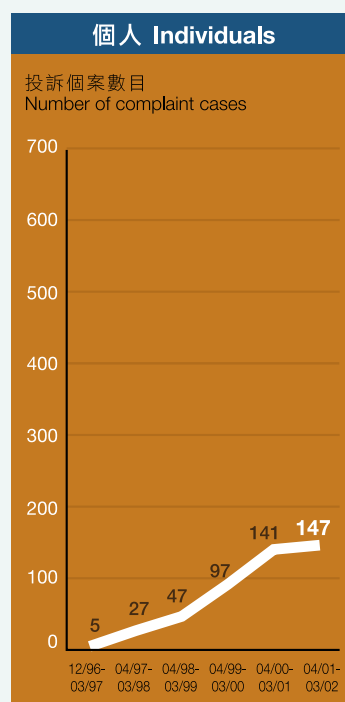
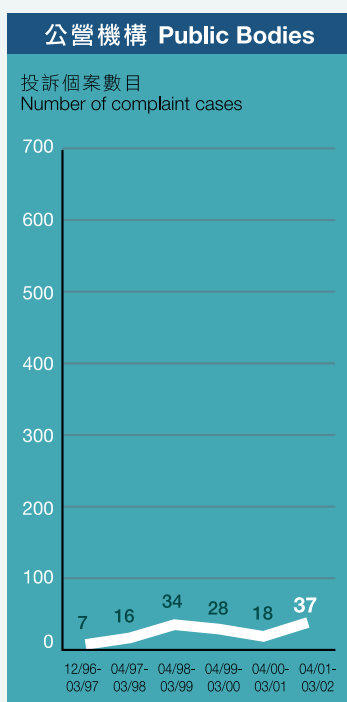
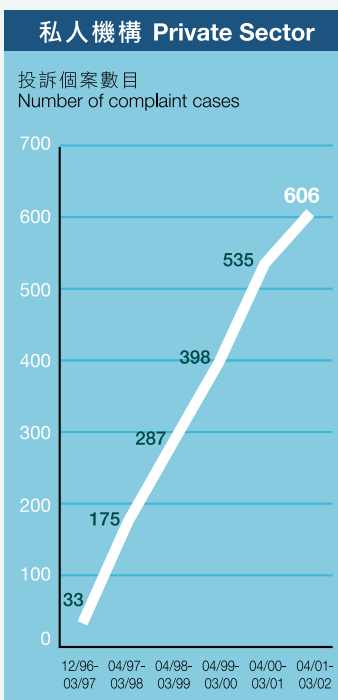
在公署於本年報期內接獲的 888 宗投訴個案中，68% 的個案(606 宗) 投訴私營機構，與二零零零年至二零零一年度接獲的 535 宗比較，這類投訴的升幅為 13%。

另外，15% 的個案(135 宗) 投訴公營機構。至於餘下的 17%(147 宗) 個案則投訴個人。(圖表5)

Of the 888 complaints received in the reporting period, 68% of them (606) were complaints against private sector organizations. Compared with 535 cases received in 2000-01, this represents a 13% increase in this category of complaints.

A further 15% (135) were complaints against public sector organizations. The remaining 17% (147) were complaints lodged against a third party individual. (Figure 5)

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



在投訴私營機構的606宗個案中，26% (157宗) 與財務機構的處事手法有關，其中大部分與財務機構僱用的收數公司在追討欠帳時使用個人資料及個人資料的保安事宜有關。

另外15% (90宗) 是投訴電訊業的，大部分與服務費用及收數行動的糾紛有關。

以下圖表顯示在本年報期間被投訴最多的行業的投訴數字。(圖表6)


Of the 606 complaints against private sector organizations, 26% of them (157) involved allegations relating to the practices of financial institutions. The majority of these complaints related to the use and security of personal data in recovery actions for overdue loan payments by appointed debt collectors of these institutions.

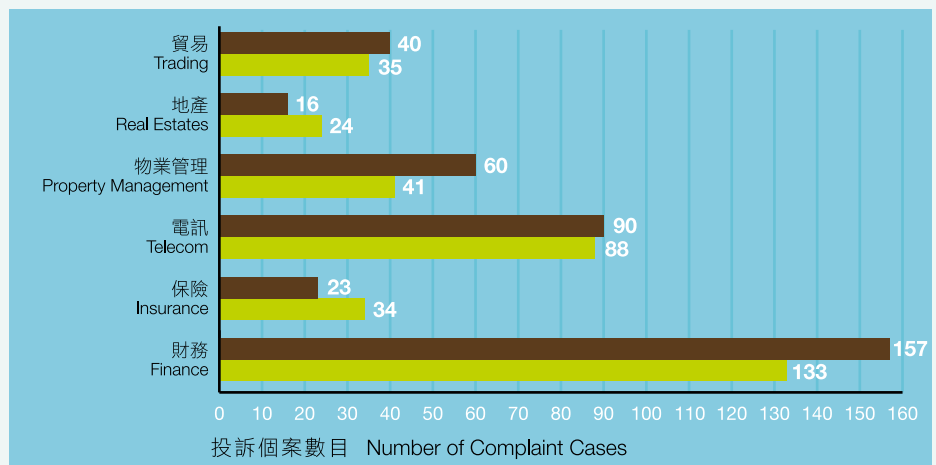
A further 15% (90) were complaints against the telecommunications industry, the majority of which related to disputes over service payment and the activities of those involved in debt recovery actions.

The following figure shows the number of complaints received by the most significant industry sectors in the year under review and the previous year. (Figure 6)

圖表6 — 投訴私營機構的個案分類

Figure 6 – Breakdown of complaints against private sector organizations

-  01年4月 - 02年3月  
Apr 01 - Mar 02
-  00年4月 - 01年3月  
Apr 00 - Mar 01



在投訴公營機構的135宗個案中，73% (98宗) 投訴政府部門及27% (37宗) 投訴非政府部門的公營機構。在這135宗個案中，大部分投訴與涉嫌未經有關人士同意而披露他們的個人資料(36%) 及未能依從查閱資料要求(37%) 有關。

以下圖表顯示在本年報期內被投訴最多的公營機構的投訴數字。

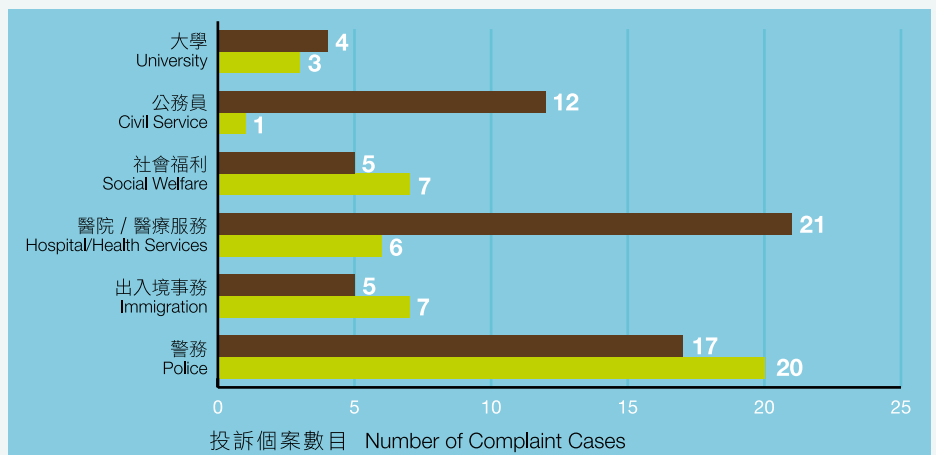
Of the 135 complaints brought against public sector organizations, 73% (98) were complaints against government departments and 27% of them (37) were complaints against non-government public sector organizations. The majority of the 135 complaint cases concerned alleged disclosure of personal data without the consent of the individual (36%) and non-compliance with data access requests (37%).

The following figure shows the number of complaints against the most significant public sector organizations in the year under review and the previous year.

圖表7 — 投訴公營機構的個案分類

Figure 7 – Breakdown of complaints against public sector organizations

-  01年4月 - 02年3月  
Apr 01 - Mar 02
-  00年4月 - 01年3月  
Apr 00 - Mar 01





二零零一年至二零零二年度接獲的888宗投訴個案共涉及933項涉嫌違反條例的規定。在這些違例事項中，762項(82%)涉嫌違反保障資料原則的規定，171項(18%)涉嫌違反條例的主要條文。

在762宗涉嫌違反保障資料原則的事項中，53%(405項)的個案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，大部分投訴與財務機構涉嫌將客戶的個人資料移轉給第三者作追收欠帳用途有關。其他同類投訴個案則涉及私人糾紛，例如其中一方利用另一方的個人資料作為借款申請的諮詢人。

在這762宗涉嫌違反保障資料原則的事項中，另外21%(160項)涉嫌用不公平方式收集個人資料及收集過多個人資料，而其中41宗與收集身份證號碼及副本有關。另外18%(137項)的投訴涉嫌與個人資料保安不足有關，其中70宗涉及公開展示個人資料。

在171宗涉嫌違反條例的主要條文的事項中，39宗涉嫌違反條例第34條，即涉及將個人資料作直接促銷用途。至於其餘132宗違例事項則與條例第19及23條，即依從查閱資料要求及改正資料要求有關。(圖表8)

The 888 complaints received in 2001-02 involved a total of 933 alleged breaches of the requirements of the PD(P)O. Of these, 762 (82%) were alleged breaches of the data protection principles and 171 (18%) were alleged breaches of the main provisions of the PD(P)O.

Of the 762 alleged breaches of the data protection principles, 53% (405) 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, the majority of complaints related to practices of financial institutions who were alleged to have transferred customers' personal data to third parties for debt recovery purposes. Other complaints in this category involved disputes between individuals in which one party was alleged to have used the other party's personal data as referee in loan applications.

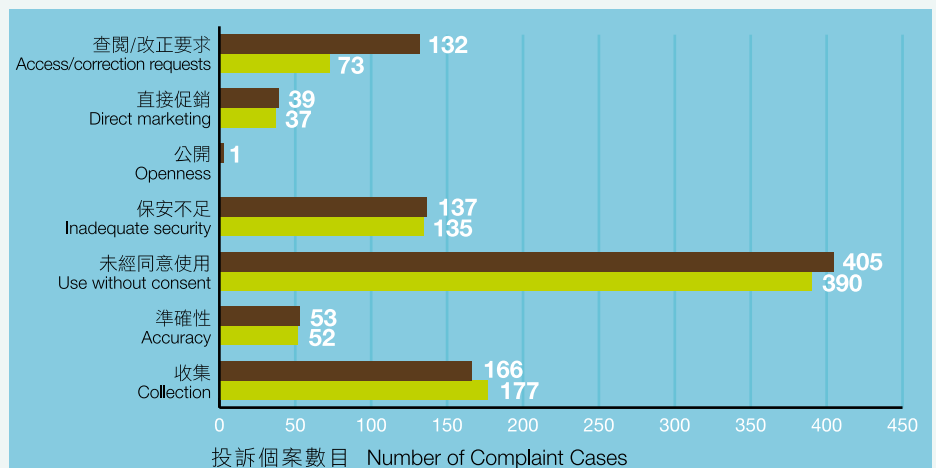
Another 21% (160) of the 762 alleged breaches of the data protection principles concerned allegations of unfair and excessive collection of personal data. Of these, 41 cases related to the collection of identity card numbers and copies of the identity card. A further 18% (137) of these complaints concerned allegations of failures to ensure adequate security in relation to personal data, of which 70 cases related to the public display of personal data.

The 171 cases of alleged breaches of the main body of the PD(P)O included 39 cases alleging non-compliance with section 34 of the PD(P)O on the use of personal data in direct marketing. The remaining 132 cases related to alleged breaches of sections 19 and 23 of the PD(P)O on compliance with data access and correction requests. (Figure 8)

圖表8 — 投訴的性質  
Figure 8 – Nature of complaints

01年4月 - 02年3月  
Apr 01 - Mar 02

00年4月 - 01年3月  
Apr 00 - Mar 01



在本年報初期，公署正處理手上的146宗投訴，加上新收到的888宗投訴，公署在本年報期內共處理了1,034宗投訴。在這些個案中，394宗(38%)在作出初步考慮後不獲公署繼續受理，其中381宗是由於表面證據不成立，無法證明有違條例的規定，而另外13宗則不屬私隱專員的權力範圍。餘下的640宗(62%)經審理後獲進一步處理，其中483宗(75%)在本年報期內已得到解決，而餘下的157宗(25%)在二零零二年三月三十一日時仍在處理中。(圖表9)

At the beginning of the reporting year, 146 complaints were being processed. Together with the 888 new complaints received, the PCO handled a total of 1,034 complaints during the reporting period. Of these, 394 cases (38%) were declined for further action after preliminary consideration on the basis that 381 of them were found to have no *prima facie* case to support allegations of breaches of the PD(P)O. A further 13 cases were outside the Privacy Commissioner's jurisdiction. The remaining 640 cases (62%) were screened-in for further consideration. Of these, 483 cases (75%) were resolved during the reporting year and the remaining 157 cases (25%) continued to be handled on 31 March 2002. (Figure 9)

圖表9 — 二零零一年至二零零二年處理的投訴摘要  
Figure 9 – Summary of complaints processed in 2001-02

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

## 二零零一年至二零零二年度 完成的投訴調查

在本年報期內經審閱後獲得處理的640宗個案中，483宗已在本年報期內完結。在這些個案中，123宗(25%)透過調解得到解決，48宗(10%)在進行正式調查後得到解決，204宗(43%)在進行調查後發現理據不足，102宗(21%)在調查期間由投訴人撤回。至於在餘下的6宗(1%)個案中，投訴人將有關個案轉交其他規管機構跟進。(圖表10)

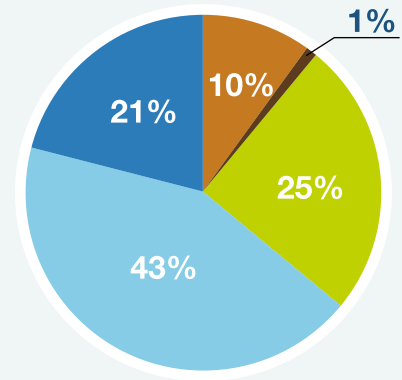
## Complaint investigations completed in 2001-02

Out of the 640 complaint cases screened-in for handling during the reporting period, action in respect of 483 was completed during the reporting year. Of these, 123 (25%) cases were resolved through mediation, 48 (10%) cases were resolved after formal investigations, 204 (43%) cases were found to be unsubstantiated as a result of investigation and 102 (21%) cases were withdrawn by the complainants during investigation. The remaining 6 (1%) cases involved complaints which the complainants had also referred to other authorities to follow up. (Figure 10)

圖表10 — 已完成的調查的結果

Figure 10 – Outcome of Investigations Completed

- 理據不足  
Unsubstantiated
- 調解  
Mediation
- 撤回  
Withdrawn
- 正式調查  
Formal investigation
- 其他規管機構  
Other authority



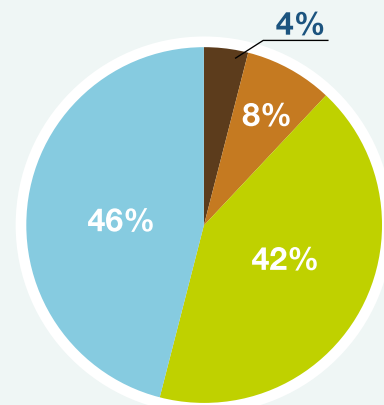
在本年報期內完成正式調查的48宗個案中，公署發現其中26宗(54%)違反了條例的規定，20宗(42%)並無違例或因缺乏充份證據而無法證明有違例情況，餘下兩宗則因在調查期間無法與投訴人聯絡而中止調查。(圖表11)

Of the 48 formal investigations completed during the reporting period, the PCO found contravention of the requirements of the PD(P)O in 26 (54%) cases. In 20 (42%) cases, there was no contravention found or contravention was not established due to lack of sufficient evidence. Two cases were discontinued as the complainant could not be traced during the investigation. (Figure 11)

圖表11 — 已完成正式調查的結果

Figure 11 – Results of formal investigations completed

- 違反保障資料原則規定  
Contravention (Data Protection Principles)
- 無違例  
No contravention
- 違反條文規定  
Contravention (Provisions)
- 中止調查  
Discontinued

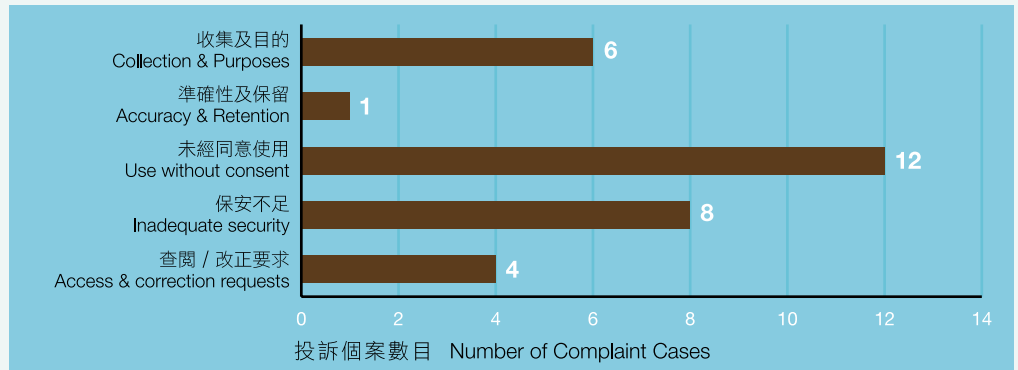




在違反條例規定的26宗個案中，22宗違反一項或以上的保障資料原則，其餘4宗違反了條例的主要條文的規定，當中所涉及的違例事項與依從查閱資料要求有關。(圖表12)

Of the 26 cases where the requirements of the PD(P)O were found to have been contravened, 22 cases involved contravention of one or more of the data protection principles. The remaining 4 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 — 違例情況  
Figure 12 – Issues of contravention



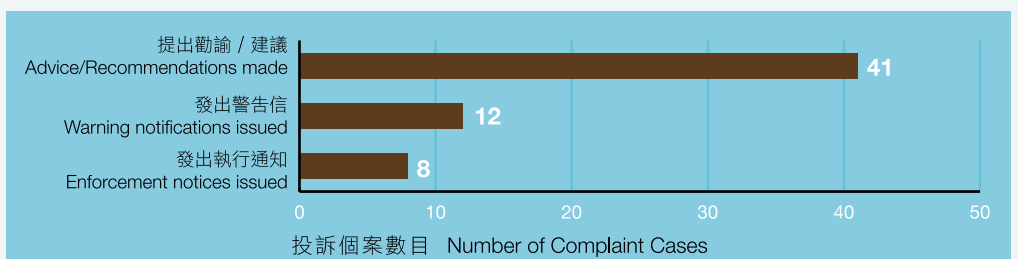
在123宗透過調解得到解決的個案中，公署向41間機構提供意見及建議，以協助它們在行事方式及程序上遵守保障資料原則的規定。(圖表13)

In the 123 cases resolved through mediation, the PCO provided advice and recommendations to 41 organizations on their practices and procedures in order to assist them in complying with the data protection principles. (Figure 13)

在違反條例規定的26宗個案中，公署共向有關機構發出12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。在8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。

In the 26 cases in which requirements of the PD(P)O were found to have been contravened, the PCO issued 12 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. In 8 cases, enforcement notices were served on the parties complained against to direct them to take remedial action to prevent their continued or repeated contravention of the PD(P)O.

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

下文簡述公署在二零零一年至二零零二年調查投訴個案時發現的一些違反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 undertaken in 2001-02. 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").

### 不依從執行通知的規定 — 第 64(7)條

#### Non-compliance with an enforcement notice — section 64(7)

在二零零一年五月，公署將一宗個案轉介警方考慮進行檢控。這宗個案的涉案者沒有依從執行通知的規定，違反了條例第64(7)條。此個案的被告人為酒店的一名前電話促銷員，負責促銷酒店的會籍。被告人在促銷會籍時取得投訴人的個人資料。投訴人在參加有關推廣計劃後，發覺該計劃的條款與被告人所承諾的截然不同，因此向酒店投訴。酒店其後接到多項針對被告人的類似投訴，因此將他解僱。被告人感到受屈，於是將酒店的顧客記錄據為己有，並且使用該等資料，不斷向有關顧客傳真信件，指責他們令他失去工作。被告人的行為違反了酒店的僱傭規定。此外，酒店的內部政策亦規定僱員不得將顧客的個人資料使用於會籍服務以外的目的。

經調查後，公署發覺被告人收集酒店顧客個人資料的手法違反了條例的保障資料第1(2)原則，於是向他發出執行通知，指令他將顧客的資料交回酒店。不過，他並無依從有關指令。公署遂將個案轉介警方考慮根據條例第64(7)條提出檢控。第64(7)條訂明獲送達執行通知的資料使用者如違反當中的規定，即屬犯罪，一經定罪，可被判處罰款五萬元及監禁兩年。如屬持續罪行，則可被判處每日罰款1,000元。

(續下頁)

In May 2001, the PCO referred a case to the Police for possible prosecution proceedings as a result of the failure by a person to comply with an enforcement notice pursuant to section 64(7) of the PD(P)O. The case originated with a complaint by a hotel's customer against the defendant who was a former hotel telesales staff responsible for promoting the hotel's membership campaign. The defendant obtained the complainant's personal data during the marketing campaign. After enrolment, the complainant discovered that the terms of the scheme were totally different to that promised by the defendant. She complained to the hotel about the matter. Upon receiving further complaints against the defendant the hotel dismissed him. Feeling aggrieved, the defendant took into his possession records of the hotel's customers' details and used the data to send out numerous fax letters to these customers accusing them of causing him to lose the job. This was done contrary to the terms of employment he had with the hotel. Furthermore, the hotel had an internal policy that customers' data should not be used for purposes other than purposes related to its membership services.

After investigation, the PCO found that the defendant had collected personal data of the hotel's customers in a manner that was contrary to the requirements of DPP1(2). An enforcement notice was served on him directing him to return the customers' information to the hotel. He failed to comply with the directive. The case was then referred to the police for possible prosecution proceedings pursuant to section 64(7) of the PD(P)O. Section 64(7) provides that a data user who contravenes an enforcement notice served on him commits an offence and is liable, on conviction, to a fine of \$50,000 and to imprisonment for two years and, in the case of a continuing offence, to a daily penalty of \$1,000. (to be continued on next page)

被告人否認收到執行通知，但當時負責送達執行通知的公署職員在認人手續中肯定地認出被告人。被告人因此被檢控，並在自辯後被定罪及被判罰款。這宗成功被定罪的個案向市民大眾發出了一個清晰的訊息，就是絕不可對條例的規定掉以輕心。

The defendant denied having received the enforcement notice but during an identification parade he was positively identified by the PCO officer who served the enforcement notice on him at the material time. The defendant was accordingly charged and convicted on his own plea. He received a fine. This successful conviction has sent a clear message to the public that the requirements of the PD(P)O are not to be taken lightly.

### 在「聯合推廣活動」中使用客戶的資料 — 保障資料第3原則 Use of customers' data in "Joint Promotion Programme" — DPP3

一間保險公司在聯合推廣活動中促銷附屬公司的信用咭服務，將保險公司客戶的保單資料移轉給其附屬公司。有關資料包括客戶的姓名、地址、電話號碼、性別及香港身份證號碼。雖然保險公司在客戶申請保單時，已告知客戶可能會將他們的個人資料用作促銷用途，但使用程度並不符合保障資料第3原則的規定。就促銷目的而言，客戶的所在地或聯絡資料，例如客戶的姓名、地址及電話號碼已屬足夠，但卻無理由移轉客戶的香港身份證號碼，因為有關號碼是為管理客戶的保單及帳戶而收集的。身份證號碼並不是所在地或聯絡資料，因而不應在聯合推廣活動中使用或移轉。

An insurance company engaged in a joint promotion programme to market the credit card services of its affiliated company. In doing so, the insurance company transferred the policyholders' data to its affiliated company. The data included customers' information such as their name, address, telephone number, gender and their Hong Kong Identity Card Number. Although the insurance company had, at the time when customers applied for insurance policies, informed them about the use of their data for direct marketing purposes, the extent of data used for marketing purposes was found to be inconsistent with the requirements of DPP3. For marketing purposes, location or contact data such as the customer's name, address and telephone number would be adequate. There was no justification to transfer the customer's Hong Kong Identity Card Number because it was collected for the purpose of managing the customer's insurance policy and account. Not being location or contact data, it should not have been used or transferred in the joint promotion programme.

### 申請流動電話服務時遺失資料 — 保障資料第4原則 Loss of documents when subscribing to a mobile phone service — DPP4

投訴人向流動電話服務供應商的分銷商的店舖遞交了流動電話服務申請表、自動過帳授權書及信用咭副本申請流動電話服務。分銷商告知他有關文件會送交供應商處理。其後，當他向供應商查核時，發覺供應商並無收到有關文件。調查後發現文件的流程是由分銷商將文件送交經銷商，再由經銷商送交供應商。不過，  
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In subscribing to a mobile phone service, the complainant submitted his mobile service application, an auto-payment authorization form and a copy of his credit card at a sub-dealer shop of a mobile service operator. He was told that the documents would be delivered to the operator for processing. Later, when he checked with the operator, he was told that they had never received the documents. Upon investigation, it was found that the document flow involved the delivery of the documents from the sub-dealer shop to the dealer shop, which would then forward the documents to the operator. However, in the process,  
(to be continued on next page)

整個流程並無任何妥善的核實措施，以確保供應商所收到的文件數目必須與所送交的文件數目脛合。根據條例第65(2)條，由於供應商並無制訂適當的文件管制程序，供應商須就經銷商所作出的行為負責。

there was no proper verification to ensure that the number of documents dispatched matched the number of documents received by the operator. In the absence of adequate document control procedures imposed on its dealer, the operator was found liable for the act done by its dealer by virtue of section 65(2) of the PD(P)O.

### 在報章報導中展示身份證號碼 — 保障資料第3原則

#### Display of Identity Card Number in a newspaper article — DPP3

投訴人是一宗刑事調查案件中的一名警方臥底。一份報章在其網址的一篇報導中刊登了投訴人的證人供詞，當中清楚展示投訴人的身份證號碼、警務人員編號及中文全名。投訴人並無同意有關報章在該篇報導中公開展示他的身份識辨資料，而在有關個案的情況下，展示投訴人的身份識辨資料並不涉及任何公眾利益。該報章的督印人因此違反了保障資料第3原則的規定，須按照指示將有關資料自該報導中刪除。

The complainant was a police undercover agent engaged on a criminal investigation case. In an article published by a newspaper on its web-site, the newspaper disclosed a copy of the complainant's witness statement in which his Hong Kong Identity Card Number, Police UI Number and full Chinese Name were clearly shown. The complainant had not consented to the public display of his identifying particulars in the article. Neither would the display of the complainant's full identifiable particulars serve any public interest in the circumstances of the case. The publication by the newspaper of the personal data was found to be in breach of DPP3. The publisher was directed to delete the data from the article.

### 錯誤傳真客戶的個人資料 — 保障資料第4原則

#### Wrongful transmission of subscribers' personal data by fax — DPP4

投訴人收到大量傳真文件，全部為一間流動電話服務供應商的客戶的個人資料，包括服務申請表、香港身份證副本及信用卡副本。這些資料來自一間流動電話服務供應商的分銷店。依正常程序，分銷店的職員會採用預先編入程序的傳真號碼傳遞該等文件。在此個案中，有關分銷店的職員用人手撥傳真號碼，因為錯誤而將全部文件傳真至錯誤的傳真號碼。該分銷店並無制訂程序，規定職員必須作出檢查，以確保傳真文件時不會出錯。公署認為有關服務供應商違反保障資料第4原則的規定，故指令該供應商採取糾正措施，以免事件重演。適當的程序是檢查印出來的傳真記錄，以確保將文件傳真至正確的收集地點。

The complainant received by fax a large quantity of documents consisting of service applications, copies of Hong Kong Identity Cards and copies of credit cards that were personal data of customers of a mobile service operator. These documents originated from a retail outlet of the operator. The normal process was that the staff at the outlet would transmit the documents using a pre-programmed fax number. On this occasion, a staff at the outlet manually dialed the fax number. Due to a manual error, the documents were sent to the wrong fax number. No procedures had been implemented at the outlet that required staff to check and ensure that the transmission of documents was correctly carried out. The operator was found to be in breach of DPP4 and was directed to implement remedial measures to prevent any recurrence. The appropriate procedure would be to check the fax journal printout to ensure outgoing faxed documents had been transmitted to the right destination.

## 職業介紹所收集香港身份證副本 — 保障資料第 1(1)原則

### Collection of Hong Kong Identity Card copy by an employment agent — DPP1(1)

投訴人透過職業介紹所找尋兼職補習工作。合約訂明，投訴人經此受僱的話，僱主便須支付佣金給介紹所。在推介投訴人給僱主前，介紹所要求投訴人提供她的香港身份證副本，作為如僱主不支付佣金，則投訴人會支付有關費用的保證。在本個案的情況下，介紹所收集身份證副本的做法，屬於過量收集投訴人的個人資料，有違保障資料第 1(1) 原則的規定，介紹所可在與投訴人簽訂的合約中制訂清晰的僱用條款，因此無理由要求投訴人留下她的身份證副本。這樣，它的利益便已得到最佳的保障。

The complainant was seeking a part-time tutorial job through an employment agent. The agreement was that if she were successfully employed, the employer would pay a commission fee to the agent. Prior to referring the complainant to the employer, the agent required the complainant to deposit a copy of her Hong Kong Identity card as a guarantee that if the employer failed to pay the commission, she would pay the fee instead. The act of the agent was contrary to DPP1(1) in that the collection of the ID card copy amounted to an excessive collection of the complainant's personal data in the circumstances of the case. There was no justification to require the deposit of a copy of the ID card as the agent's interests would best be protected by including clear provisions in the agreement with the complainant about the terms of the engagement.

## 二零零一年至二零零二年進行的循規查察行動

當發現任何機構的行事方式，似乎有違條例規定時，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 41 次循規查察行動，對資料使用者涉嫌違反條例規定的行事方式進行查察。其中五次查察行動與政府部門/法定機構的行事方式有關，其餘 36 次則涉及私營機構的行事方式。

## Compliance Checks carried out in 2001-02

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 41 compliance checks in relation to alleged practices of data users that might be inconsistent with the requirements of the PD(P)O. Of these, 5 compliance checks related to practices in government departments/statutory bodies. The remaining 36 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 issues of compliance checks

問題 Issues	建議採取的改善措施 Improvement Measures Recommended
<p>部門網絡公開展示一份詳列退休人員的出生日期的通告。 A circular accessible via the departmental network disclosed the full date of birth of retiring officers.</p>	<p>沒有理由披露已退休人員的出生日期。刊登個人資料時，必須加倍小心處理對可能公開披露的資料的敏感性。只有符合展示目的的資料才可公開展示出來。 There is no justifiable reason for the disclosure of the full date of birth of staff members who have retired. When personal data are published, special care should be taken in respect of the sensitivity of the type of data that might be disclosed. Only limited data necessary for the purpose of the display should be openly published.</p>
<p>載有申索人個人資料的申請表在無人看管情況下隨意丟棄於廁所內。 Application forms containing personal data of claimants were found unattended in the toilet.</p>	<p>棄置載有個人資料的舊文件時必須小心行事，以免不經意地披露了該等資料。正確的做法是將有關文件用碎紙機切碎。 When disposing of old documents that contain personal data, care should be taken to avoid inadvertent disclosure of the data. A proper procedure would be to have the documents shredded.</p>
<p>在互聯網公布得獎者名單時披露了得獎者的全名及香港身份證號碼。 A prize-winning announcement made on an Internet web-site disclosed the full name and HK Identity card number of prizewinners.</p>	<p>建議有關機構日後刊登得獎者名單時，只刊登得獎者的姓名或香港身份證號碼。如須同時刊登這兩類資料的話，則應避免刊登得獎者身份證的全部號碼。 The organization was recommended to publish either the name of winners or the HK Identity card number in its future prize-winning announcements. Where both data are published, it should avoid disclosing the full HK Identity card number of prizewinners.</p>

**問題**  
**Issues**

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

求職者求職面試時須提供他們的香港身份證副本  
Job applicants were required to provide a copy of their HK Identity card when they attended a job interview.

只可在準僱員接受聘用後才可收集他們的身份證副本，以證實僱主已遵守《入境條例》第17J條的規定。公署建議有關公司停止有關做法。  
Copies of the HK Identity card should only be collected from prospective employees after they have accepted employment, as proof of compliance on the part of the employer with section 17J of the Immigration Ordinance. The company was recommended to cease the practice.

把流動電話用戶的服務申請表用作草稿紙，並分派給無關連人士。  
Application forms of mobile service subscribers were re-used as draft papers and distributed to unrelated parties.

除非已採取適當措施，公署建議有關公司制訂指引，提醒所有職員避免再用載有個人資料的紙張，以防不經意地披露該等資料。  
The company was recommended to implement guidelines to remind all staff to avoid re-using papers that contain the personal data of individuals unless appropriate measures are taken to safeguard those data from inadvertent disclosure.

屋苑停車場的訪客須在離開停車場時提供他們的香港身份證號碼作記錄用途。  
Visitors to a building estate car park were required to provide their HK Identity card number for recording when leaving the car park.

公署建議停車場的管理公司採用「雙許可證制度」，即泊車人士在駛入停車場時獲發的許可證必須在駛離停車場時交回。  
The car park management was recommended to consider adopting a “double permit system” in which an exit pass given to the driver on entry to the car park must be surrendered upon departure from the car park.

新入伙的私人屋苑業主在取回臨時水錶按金時須提供他們的香港身份證副本。  
Owners of a newly occupied private estate were required to provide copies of their HK Identity card for the refund of temporary water meter deposits.

公署建議有關管理公司停止有關做法，因業主可憑水務監督發出的水錶按金收據申請發還按金。  
The property management company was recommended to cease the practice, as the water meter deposit receipts from the Water Authority should be adequate to serve the purpose of the refund applications.

向登記用戶發出的維修公用地方水喉通知書中列示其他人士的姓名及郵寄地址。  
Notices issued to registered consumers responsible for repair of building communal pipeworks listed the names and mailing addresses of other parties.

公署建議有關部門修訂有關維修通知書，避免列示其他須負責的人士的姓名及郵寄地址。如登記用戶的郵寄地址與有關樓宇的地址不同，則應向有關用戶寄出個人通知。  
The department was recommended to revise the repair notice so as to avoid the listing of the names and mailing addresses of other responsible parties. When the mailing address of a registered consumer differs from the address of the concerned premises, a personal copy of the notice should be sent instead.

公用事業機構的過期維修單在無人看管情況下遺留在停車場。  
Outdated service orders of a utility company were left unattended in a car park.

公署建議有關機構規定受聘的承辦商就收發機密文件的運作程序作出檢討。  
The company was recommended to require its appointed contractor to review its operational procedures regarding the collection and disposal of confidential documents.



## 抽樣查核「匿名」招聘廣告

公署在二零零零年九月二十二日發出《人力資源管理實務守則》(下稱「守則」)。守則於二零零一年四月一日起生效，禁止刊登直接要求求職者提供個人資料，卻沒有述明刊登廣告者身份的「匿名」招聘廣告，例如要求求職者將履歷寄往郵政信箱，但卻沒有披露僱主身份的招聘廣告，便違反了守則的規定。

公署在守則實施前已查閱超過6,000份刊登在本港主要報章的招聘廣告。其中約有25%直接要求求職者提供個人資料的「匿名」廣告。公署就此發出了超過1,500封勸籲信，提醒有關人士注意守則的規定。

自守則在二零零一年四月一日生效以來，公署每日均查閱本港各主要報章及招聘副刊的招聘廣告，以查核當中的「匿名」廣告，以及那些直接要求求職者提供個人資料，但又不披露身份的廣告刊登者。公署向這些人士寄出勸籲信、守則及《僱主及人力資源管理者指引》小冊子，提示他們注意守則的規定。

由二零零一年四月至二零零二年六月底的一段期間，公署共抽樣查閱了215,755則招聘廣告，發現其中12.3%(26,542則)並無依從規定。有關廣告刊登者在這些招聘廣告中直接要求求職者提供個人資料，卻沒有披露自己的身份。公署共向這些廣告刊登者發出13,734封警告通知，並發現其中兩個個案的廣告刊登者重複違反規定；公署在向有關人士發出超過10封警告通知而對方仍無改善後，決定對此兩宗個案進行正式調查。(圖表15)

## Sample checks on "Blind" recruitment advertisements

The Code of Practice on Human Resource Management ("the Code") was issued on 22 September 2000. It came into effect on 1 April 2001. Under the Code, "blind" recruitment advertisements that directly solicit personal data from job applicants, and do not identify the parties that have placed them, are not permitted. For example, a recruitment advertisement that asks job applicants to submit their résumés to a PO box number without revealing the identity of the employer would be in breach of the Code.

Prior to the commencement of the Code, the PCO examined over 6,000 recruitment advertisements in leading local newspapers. Of these, about 25% were "blind" advertisements that directly solicited personal data from job applicants. Over 1,500 reminder letters were sent to them alerting them of the requirements of the Code.

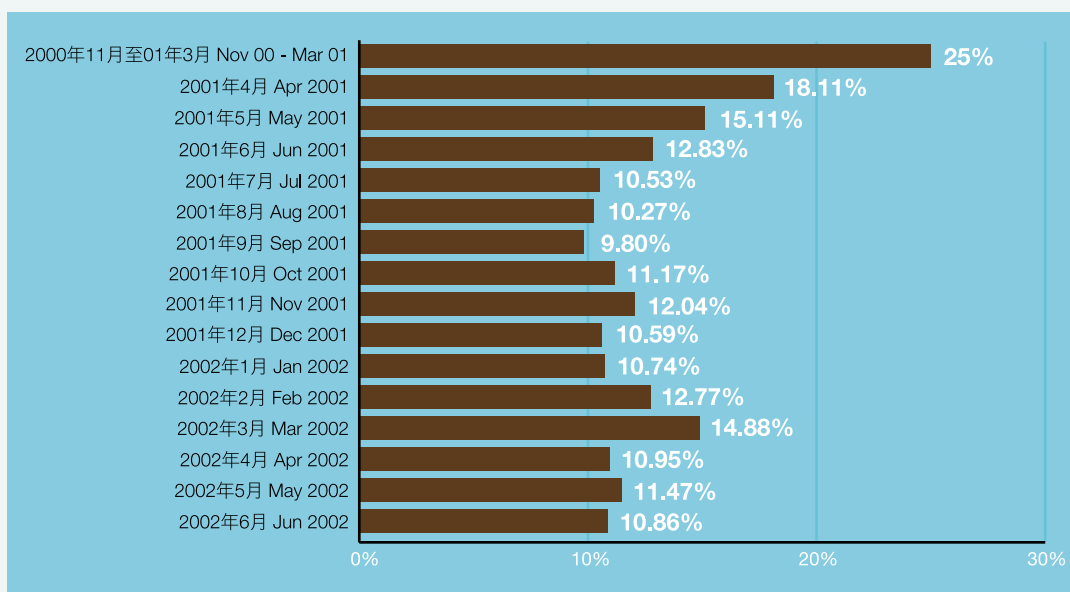
After the Code came into effect on 1 April 2001, the PCO continued to examine leading local newspapers and recruitment supplements on a daily basis to identify "blind" recruitment advertisements. Advertisers who directly solicited the submission of personal data from job applicants but did not reveal their identity were selected. Advisory letters and copies of the Code and the Compliance Guide for Employers and HRM Practitioners were sent to them reminding them of the requirements of the Code.

During the period from April 2001 to end June 2002, over 215,755 recruitment advertisements were randomly checked. Of these, 12.3% (26,542) were non-compliant recruitment advertisements in which advertisers were found to have directly solicited personal data from job applicants without revealing their identity to applicants. A total of 13,734 warning notices were issued to these advertisers. Formal investigations were carried out in two cases in which the advertisers were found to be repeated offenders and were issued with more than 10 warning notices. (Figure 15)



圖表15 — 違規「匿名」廣告的百分率

Figure 15 – Percentage of non-compliant “blind” advertisements



## 二零零一年至二零零二年批准的核對程序

在本年報期間，公署共收到11宗新的核對程序申請，以及37宗繼續進行去年已獲准的核對程序的重新申請。在11宗新的申請中，9宗來自公營機構，而其餘兩宗則來自財務機構。公署審閱後發現財務機構提出的兩宗申請不屬條例釋義所指的核對程序。至於其他9宗新申請，其中一宗已撤銷，其餘8宗則在有條件的情況下獲得批准。

## Matching procedures approved in 2001-02

During the year, the PCO received 11 new applications for consent to carry out matching procedures and 37 requests for re-approval to continue matching procedures approved in previous years. Of these 11 new applications, 9 were requested by public sector organizations and the remaining two applications were made by financial institutions. Upon examination, the two applications made by financial institutions were found not to be matching procedures as defined under the PD(P)O. In respect of the other 9 applications, one was withdrawn and the remaining 8 were approved subject to certain conditions.

圖表十六 — 根據條例第30條獲同意進行的核對程序

Figure 16 – Matching procedures approved under section 30 of the PD(P)O

提出要求者 Requesting party	獲批准的有關核對程序 Related matching procedures that were approved
社會福利署 Social Welfare Department	將綜合社會保障援助(下稱「綜緩」)領款人的個人資料與香港房屋委員會及香港房屋協會所持有的資料互相比較，以找出沒有呈報租住公共房屋單位的綜緩領款人。 To identify recipients of Comprehensive Social Security Assistance who failed to report their tenancies in public housing units by comparing their data held by the Hong Kong Housing Authority and the Hong Kong Housing Society.
學生資助辦事處 Student Financial Assistance Agency	將接受資助的學生 / 其受供養的父母的個人資料，與社會福利署所持有的資料互相比較，以防向這些人士發放過多經濟援助，因為如這些人正領取社會福利署的綜緩，則可能無資格接受學生資助辦事處的經濟援助。 To prevent overpayment of financial assistance to students / their dependent parents who might be ineligible to receive the assistance if they are receiving Comprehensive Social Security Assistance from the Social Welfare Department by comparing their personal data held by the Social Welfare Department.
香港房屋委員會 Hong Kong Housing Authority	將「長者租金津貼計劃」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內的資料作出比較，以免為該計劃下的申請人提供雙重福利。 To prevent double benefits from being granted to applicants under the "Rental Allowance for Elderly Scheme" by comparing their personal data held in the Integrated System for Housing Management ("ISHM") in respect of other public housing benefits.

<p><b>提出要求者</b> Requesting party</p>	<p><b>獲批准的有關核對程序</b> Related matching procedures that were approved</p>
<p>香港房屋委員會 Hong Kong Housing Authority</p>	<p>將「長者安居樂計劃」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內的資料作出比較，以找出沒有呈報租住公共房屋單位的申請人。</p> <p>To identify applicants under the “Senior Citizen Residence Scheme” who failed to report their tenancies in public housing units by comparing their personal data held in ISHM in respect of other public housing benefits.</p>
<p>食物環境衛生署 Food and Environmental Hygiene Department</p>	<p>將食物環境衛生署人事記錄中的職員個人資料與小販牌照記錄系統中的資料互相比較，以執行《小販規例》第38條的規定及找出因現職職員為固定小販攤位牌照持牌人而可能引致的利益衝突情況。</p> <p>To enforce the requirements of section 38 of the Hawker Regulations and to identify potential cases of conflict of interest of serving staff who might be holders of a fixed-pitch hawker licence by comparing personal data of staff personnel records with data held in the hawker licence records system.</p>
<p>審計署 Audit Commission</p>	<p>將香港房屋委員會轄下公共屋邨住客的個人資料，以及醫院管理局療養院及受社會福利署資助的老人院的入住者的個人資料互相比較，以偵查不當的情況及找出同一時間接受超過一種政府資助居所福利的個別人士。</p> <p>To detect irregularities and identify individuals who might be granted more than one Government subsidized residence benefit at the same time by comparing personal data of public housing estates residents of the Housing Authority, patients of the infirmaries of the Hospital Authority and residents of the Social Welfare Department’s subvented residential care homes for the elderly.</p>