

投訴及上訴

Complaints and Appeals





投訴

投訴的整體趨勢

私隱專員公署在2022-23年度收到的投訴及作出主動巡查個案總數為3,644宗，比2021-22年度的3,368宗增加了約8%。

與「起底」相關的投訴個案有676宗，主動網上巡查個案有841宗，共佔投訴個案總數的42%，意味着「起底」仍然是侵犯個人資料私隱的主要範疇之一。隨着《修訂條例》過去一年多的實施，打擊「起底」將繼續是私隱專員公署的首要任務。

Complaints

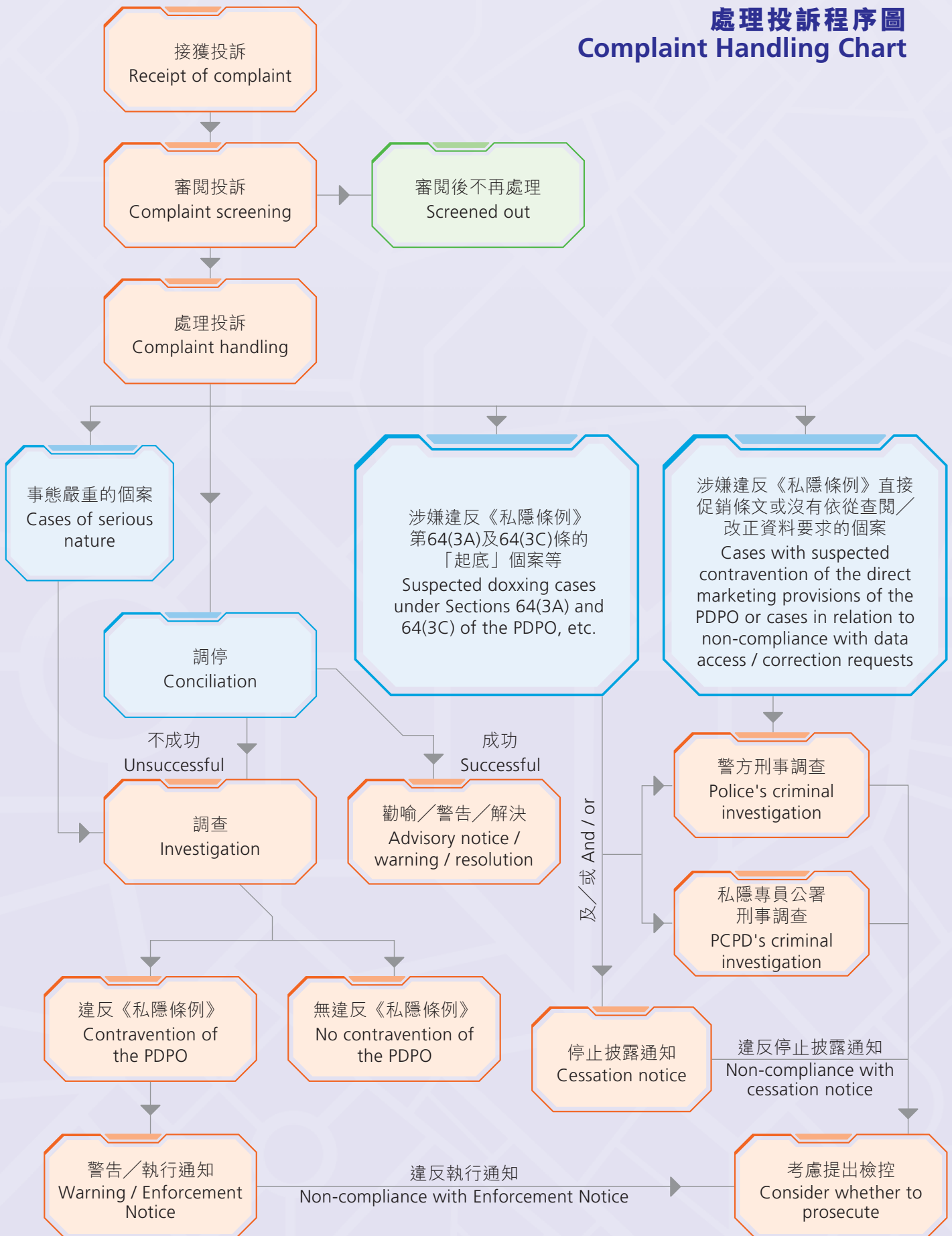
Overall Trend of Complaints

There were a total of 3,644 complaints and self-initiated online patrol cases in 2022-23, indicating an increase of 8% from the 3,368 cases in 2021-2022.

Of the total complaints, 676 were related to doxing complaints and 841 were related to proactive online patrol cases, accounting for 42%. This suggests that doxing remained as one of the major areas of personal data privacy intrusion. With the Amendment Ordinance being implemented for over a year, curbing doxing will continue to be a top priority of the PCPD.



處理投訴程序圖 Complaint Handling Chart



詳情請參閱私隱專員公署的處理投訴政策：https://www.pcpd.org.hk/tc_chi/complaints/policy/complaint_policy.html
For details, please refer to the PCPD's Complaint Handling Policy: https://www.pcpd.org.hk/english/complaints/policy/complaint_policy.html

接獲的投訴及主動網上巡查個案

私隱專員公署在2022-23年度共有3,644宗投訴及作出主動網上巡查個案，當中包括676宗與「起底」相關的投訴個案及841宗主動網上巡查個案。撇除這兩個類別，私隱專員公署在2022-23年度共接獲2,127宗投訴，較去年增加5.5%（圖3.1）。

Complaints Received and Self-initiated Online Patrol Cases

There were a total of 3,644 complaints and self-initiated online patrol cases in 2022-23. Excluding the 676 doxxing-related complaints and 841 self-initiated online patrols cases, the PCPD received 2,127 complaints, which represents a 5.5% increase from the previous year (Figure 3.1).

接獲的投訴個案及作出主動網上巡查個案數目 Number of Complaints Received and Self-initiated Online Patrol Cases

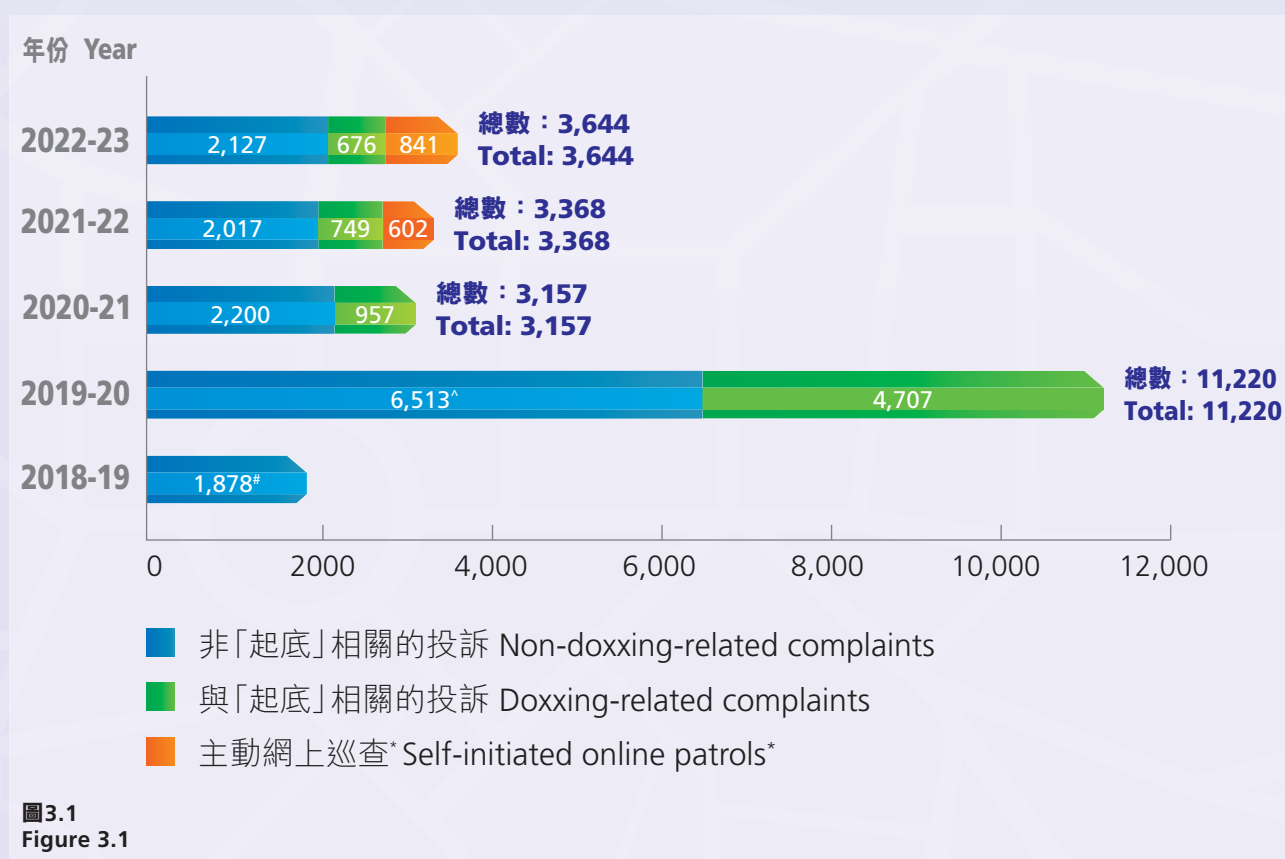


圖3.1
Figure 3.1

* 自《修訂條例》於2021年10月8日正式生效後，私隱專員公署定期作出主動網上巡查，就發現的「起底」訊息，私隱專員會根據《修訂條例》賦予的權力發出停止披露通知。

[^] 當中包括2,665宗與兩次警員於直播時向鏡頭展示一名記者的香港身份證有關的投訴、669宗懷疑保安人員盜取住戶信件的投訴，以及428宗有關一名藝人於其社交媒體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。

* Since the Amendment Ordinance came into force on 8 October 2021, the PCPD has been conducting regular self-initiated online patrols and the Privacy Commissioner would issue cessation notices as empowered under the Amendment Ordinance against doxxing messages found.

[^] There were 2,665 complaints about two incidents involving the alleged wrongful disclosure of a HKID Card in live broadcasts or streaming, 669 complaints about the suspected theft of residents' letters by a security guard, and 428 complaints about the alleged wrongful 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.

被投訴者類別

2,127宗非「起底」相關投訴的被投訴者可分為以下類別(圖3.2)：

- 私營機構(1,127宗)，主要涉及銀行、財務公司、物業管理公司、電訊公司及零售機構；
- 個人(808宗)，當中眾多個案與私人事務引起的糾紛及鄰居安裝閉路電視有關；及
- 政府部門和公共機構(192宗)，主要涉及醫護機構、執法機關及教育機構。

Types of Parties being Complained against

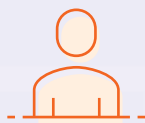
The types of parties being complained against among the 2,127 non-doxxing-related complaints can be categorised as follows (Figure 3.2):

- Private organisations (1,127 cases), with the majority involving banks, financial institutions, property management companies, telecommunication companies and retail business organisations;
- Individuals (808 cases), with many disputes arising from domestic affairs and installation of CCTV by neighbours; and
- Government departments and public organisations (192 cases), with the majority involving healthcare organisations, law enforcement agencies and education institutes.

被投訴者類別 Types of Parties being Complained against

38.0%
808 宗 Cases

個人
Individuals



9.0%
192 宗 Cases

政府部門及公共機構
Government departments
and public organisations



53.0%
1,127 宗 Cases

私營機構
Private organisations



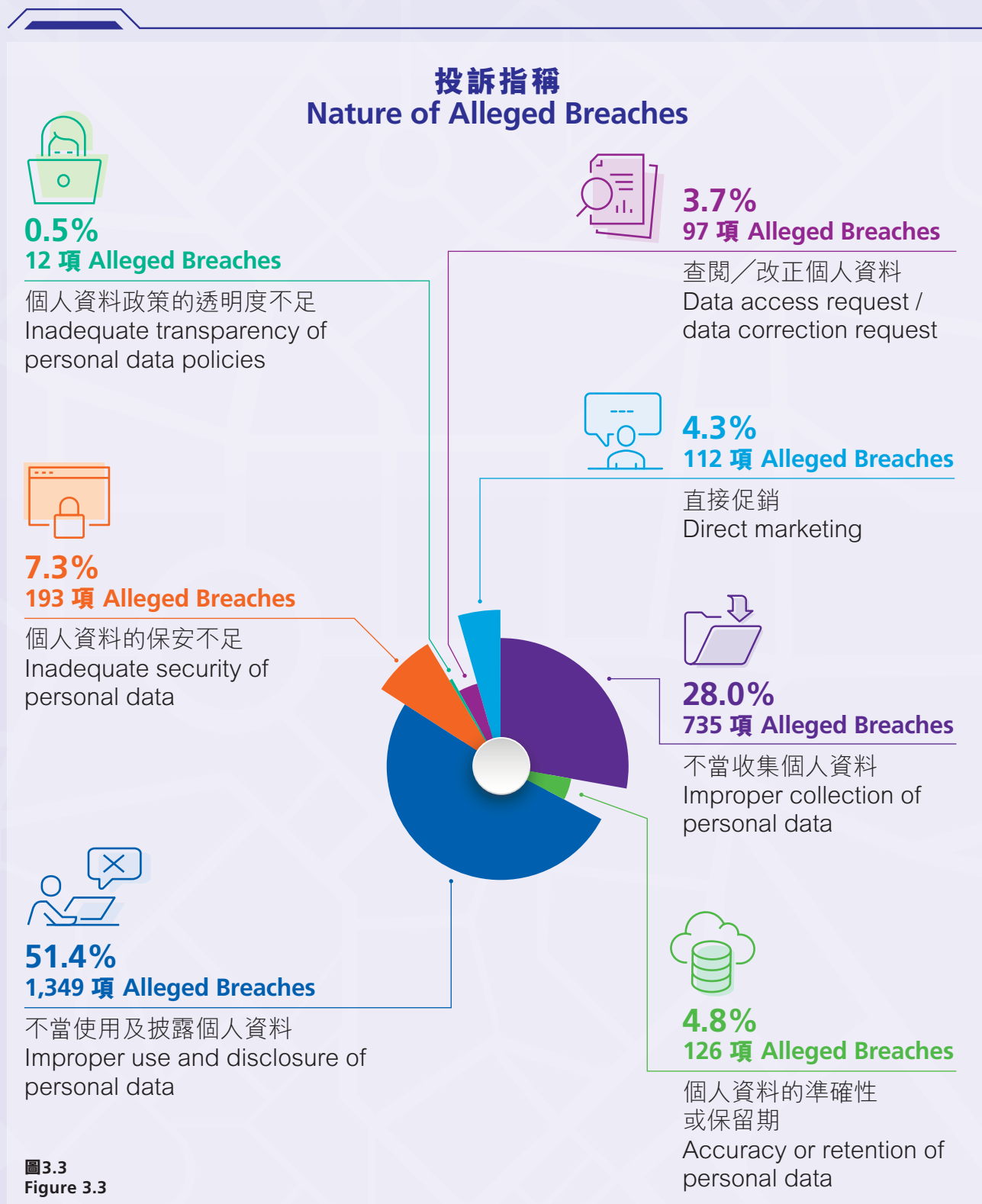
圖3.2
Figure 3.2

投訴指稱

2,127宗非「起底」相關的投訴當中，共涉及2,624項涉嫌違規行為（因同一宗投訴可涉及多於一項指稱），投訴指稱的違規性質如下（圖3.3）：

Nature of Alleged Breaches

The 2,127 non-doxxing-related complaints involved a total of 2,624 alleged breaches (as one complaint might involve more than one allegation). The nature of the alleged breaches is shown as follows (Figure 3.3):



投訴範疇

私隱專員公署在報告年度內收到的非「起底」相關的投訴所涉及的主要範疇分布如下(圖3.4)。

當中可見資訊科技相關的投訴類別依然佔最多，投訴個案數目為2021-22年度的三倍。這個情況是源於市民在即時通訊軟件、社交網絡平台和智能電話應用程式使用個人資料，以及機構透過電子網絡平台收集個人資料的情況日益普遍，無紙化的現象成為世界的大趨勢。

此外，與物業管理有關的投訴增加了28.6%，相信這是因為在2019冠狀病毒病大流行期間，物業管理公司需要處理外賣員的訪客登記、確診住戶呈報資料及派發防疫物資的情況大幅增加所致。

Subject Matters of Complaints

The distribution of major subject matters of non-doxxing-related complaints received by the PCPD in the reporting year is as follows (Figure 3.4).

The number of complaints relating to information technology remains the highest among all, with the number of complaints tripling that in the 2021-22 reporting year. This could be explained by the increasing use of personal data by the general public when accessing instant messaging software, online social networks and smartphone applications, as well as the use of online platforms by corporations to collect personal data, when going paperless is a major trend in the world.

Further, complaints relating to property management increased by 28.6%. This increase could be attributed to the need for property management companies to handle various records during the COVID-19 pandemic, which included the visitor records of delivery workers, information submitted by residents who were tested positive and records of distribution of epidemic prevention packs.



投訴範疇 Subject Matters of Complaints

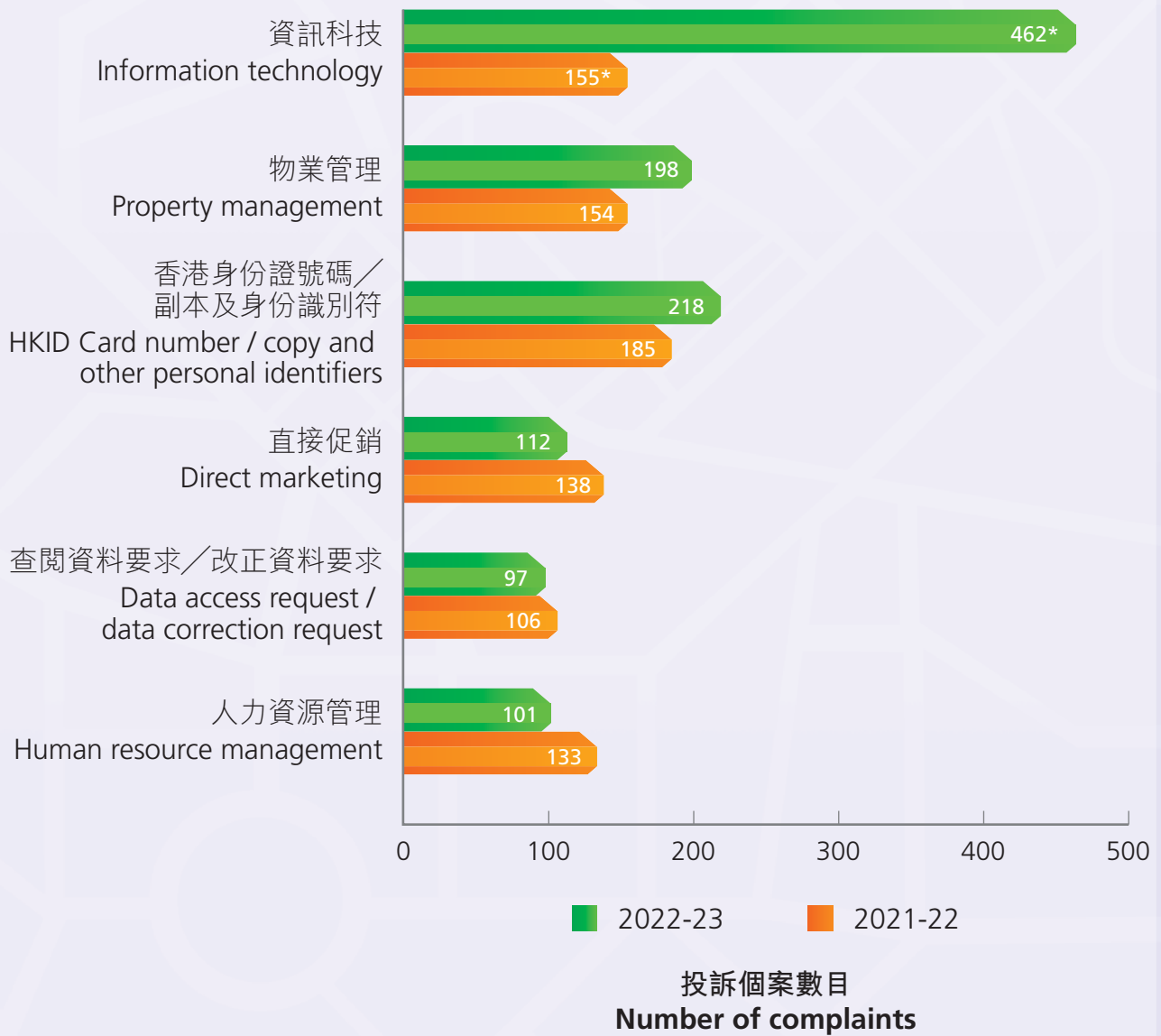


圖3.4
Figure 3.4

* 撇除主動網上巡查的個案

* Self-initiated online patrol cases were not included

年度投訴摘要

在2022-23年度，私隱專員公署共處理了5,119宗投訴，包括新接獲的3,644宗投訴（當中包括676宗與「起底」相關的投訴及841宗網上巡查個案），以及1,475宗承接上一報告年度的投訴。

私隱專員公署在2022-23年度內完成了4,287宗投訴（83.7%），而另外832宗（16.3%）則仍在處理中（截至2023年3月31日）。

撇除與「起底」相關的投訴及網上巡查的案件，私隱專員公署在2022-23年度完成處理2,198宗投訴，其中1,036宗經私隱專員公署初步評估後結案，另外1,162宗則獲受理作進一步處理。

在這1,162宗投訴當中，私隱專員公署以調停方式成功解決1,046宗（90%）。另外11宗涉及刑事成份的投訴（其中大部分與直接促銷有關），私隱專員公署在確立涉嫌違反《私隱條例》相關規定的初步證據後，將案件轉交警方作進一步調查及考慮檢控。至於餘下的105宗投訴，私隱專員公署在其中40宗投訴中發現違反《私隱條例》的規定，因此分別向被投訴者發出八張執行通知和32個警告，指示或要求被投訴者採取補救行動或採取適當和切實可行的措施，以防止違規行為再次發生。

Summary of Complaints Handled

In 2022-23, the PCPD handled a total of 5,119 complaints, of which 3,644 were new complaints (including 676 doxxing-related complaints and 841 online patrols cases) and 1,475 were carried over from the previous reporting year.

During the 2022-23 reporting year, the PCPD completed the handling of 4,287 complaints (83.7%), while the remaining 832 complaints (16.3%) were still in progress as at 31 March 2023.

Excluding the doxxing-related complaints and online patrol cases, the PCPD completed the handling of 2,198 complaints in 2022-23, of which 1,036 complaints were concluded after our preliminary assessment, while the other 1,162 complaints were accepted for further handling.

Among these 1,162 complaints, the PCPD successfully resolved 1,046 complaints (90%) through conciliation. For the other 11 complaints which involved possible criminal offences (mostly related to direct marketing), the PCPD, after obtaining *prima facie* evidence of the suspected contravention of the PDPO, referred them to the Police for further investigation and consideration for prosecution. Among the remaining 105 complaints, the PCPD found 40 cases to be in contravention of the requirements of the PDPO. The PCPD therefore issued eight Enforcement Notices and 32 warnings, directing or requesting the parties being complained against to take remedial actions or implement appropriate and practicable measures to prevent recurrence of the contravention.

投訴調查

私隱專員於報告年度內根據《私隱條例》第38(a)條就六宗投訴展開調查並發表以下兩份調查報告。

關於物業管理公司收集、保留及使用業戶及訪客個人資料的調查報告

過去五年，私隱專員公署平均每年收到逾百宗有關物業管理界別的投訴。為提升物業管理業界別對保障業戶及訪客的個人資料私隱的意識，私隱專員就四宗有關物業管理公司的投訴發表調查報告。該四間物業管理公司分別被指：

- 在公共告示板張貼載有業主全名及地址的追收款項通告；
- 在派發口罩活動中，沒有遮蓋寫有已領取口罩業戶的姓名和地址的共用簽收表格；
- 擅自將某業戶的電話號碼披露予另一業戶；及
- 強制要求外賣人員出示香港身份證作訪客登記。

Complaint Investigations

During the reporting period, the Privacy Commissioner initiated investigations under section 38(a) of the PDPO into six complaints and published two reports on those investigations. Details of these reports are as follows.

Investigation Report on the Improper Collection, Retention and Use of Personal Data of Residents and Visitors by Property Management Companies

Over the past five years, the PCPD received more than 100 complaints per year against property management companies. To raise awareness of the need to protect the personal data privacy of residents and visitors, the Privacy Commissioner investigated four complaints against property management companies. The four companies were accused of the following:

- Displaying the full names and addresses of property owners on a public notice board in a payment overdue notice;
- Failing to cover a common form containing the names and addresses of residents who had collected face masks in a mask distribution activity;
- Disclosing the phone number of a resident to another resident without consent; and
- Requiring delivery workers to show their Hong Kong Identity Cards for the purpose of registration as visitors.

在四宗個案中，私隱專員調查後發現涉案的物業管理公司分別違反了《私隱條例》下保障資料原則有關個人資料的收集、保留、使用和保安的規定。私隱專員向四間物業管理公司發出執行通知，指示該些公司糾正其違規事項，以及防止類似的違規行為再發生。私隱專員亦就如何保障個人資料私隱向物業管理界別作出建議，並同步更新《保障個人資料私隱 — 物業管理界別指引》。

The Privacy Commissioner found that the four property management companies had contravened the relevant requirements of the Data Protection Principles (DPP) of the PDPO regarding the collection, retention, use, and security of personal data. Enforcement Notices were served on the four property management companies, directing them to remedy their contraventions and prevent recurrence of similar contraventions in future. The Privacy Commissioner also issued an updated “Protection of Personal Data Privacy – Guidance for Property Management Sector” guidance note, which included recommendations on how to safeguard personal data privacy.

關於一個醫療集團透過內部統一系統互用旗下品牌客戶個人資料的調查報告

Investigation Report on a Medical Group’s Sharing of Clients’ Personal Data among its Various Brands through an Integrated System

在完成調查一個醫療集團(該醫療集團)透過內部統一系統互用旗下品牌客戶個人資料的情況後，私隱專員發表另一份調查報告。調查源於兩宗私隱專員公署收到的投訴，涉及該醫療集團營運的四個品牌。

The Privacy Commissioner published an investigation report regarding a medical group’s sharing of clients’ personal data among its various brands through an integrated system. The investigation began after the PCPD received two complaint cases involving four brands operated by the medical group.



私隱專員經調查發現當事人本來只向該醫療集團個別品牌提供的個人資料，在他們不知情的情況下，被披露及轉移予其他使用該醫療集團內部統一系統的品牌的職員。基於上述情況，私隱專員認為該醫療集團違反了《私隱條例》下保障資料第3原則有關使用（包括披露或轉移）個人資料的規定。私隱專員同樣亦發出執行通知，指示該醫療集團糾正其違規事項，以及防止類似的違規行為再發生。

透過以上報告，私隱專員亦對其他營運多元品牌的機構作出建議，提醒有關機構向客戶提供清晰易明的收集個人資料聲明，讓他們了解機構收集其個人資料的目的及其個人資料可能轉移予哪些類別的人士；使用（包括披露或轉移）客戶的個人資料於新目的前須先取得客戶的同意；以及按照業務的範疇及職員的職權，適當設定職員查閱或存取客戶個人資料的權限。

The Privacy Commissioner discovered that personal data originally provided by complainants to a single brand had been disclosed and transferred to staff members of other brands without the complainants' knowledge nor consent through an internal integrated system. Based on these circumstances, the Privacy Commissioner concluded that the medical group had violated DPP 3 of the PDPO on the use (including disclosure and transfer) of personal data. An Enforcement Notice was issued to the medical group, requiring it to remedy and prevent the recurrence of the violations in question.

In addition, the Privacy Commissioner made recommendations to other organisations that operate multiple brands. These recommendations included providing clients with clear and concise Personal Information Collection Statements to help them understand the purpose of data collection and the classes of transferees to whom the data may be transferred; obtaining consents from customers before using (including disclosing and transferring) their personal data for a new purpose; and appropriately assigning staff members' rights of access to and retrieval of clients' personal data, taking into account the scope of business and staff members' authorities.



向行政上訴委員會提出的上訴

行政上訴委員會(委員會)是根據《行政上訴委員會條例》(第442章)而設立的法定組織，負責進行對私隱專員在《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

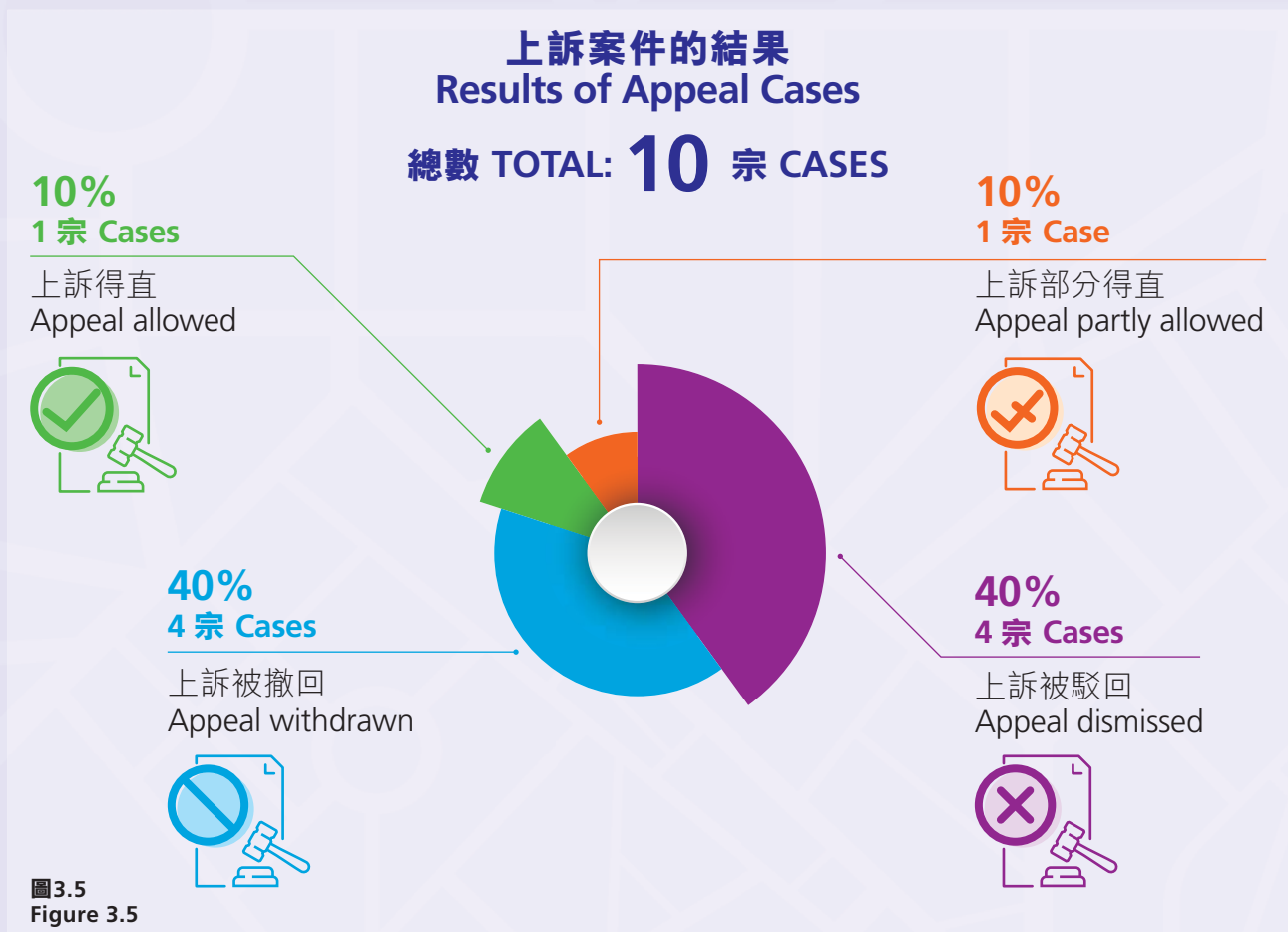
於報告年度內，委員會合共頒布六宗裁決(包括於過往年度提出的上訴)，當中四宗被駁回、一宗被裁定得直(即發還私隱專員公署作進一步處理)及一宗被裁定部分得直。在同一報告年度內，有四宗上訴由上訴人自行撤回(圖3.5)。

Appeals Lodged with the Administrative Appeals Board

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

Statistics of AAB cases

During the reporting year, the AAB handed down a total of six decisions (which included appeals lodged in previous years), in which four appeals were dismissed, one appeal was allowed (i.e. remitted to the PCPD for further investigation) and one appeal was partly allowed. In the same reporting year, four appeals were lodged and subsequently withdrawn by the appellants (Figure 3.5).



接獲的行政上訴案件的性質及涉及《私隱條例》的規定

私隱專員公署於報告年度內共接獲七宗上訴個案，四宗個案為不服私隱專員根據《私隱條例》第39(2)條拒絕進行或決定終止由投訴引發的調查之決定而作出的上訴。私隱專員參照由公署發出的《處理投訴政策》，當中列出有關公署進行初步查詢後發現並無違反《私隱條例》任何規定的表面證據為理由行使上述酌情權。至於餘下的三宗上訴個案，一宗涉及私隱專員在作出調查後不送達執行通知的決定，另外兩宗則涉及私隱專員在作出調查後送達執行通知的決定。

此七宗上訴個案具體涉及以下指稱(圖3.6)：

- 違反保障資料原則：五宗
- 不遵從查閱資料要求：一宗
- 是否涉及個人資料：一宗

Nature of AAB Cases Received and Provisions of the PDPO Involved

A total of seven appeals were received during the reporting year. Four of these were related to appeals against the Privacy Commissioner's decisions to refuse to carry out or terminate investigations initiated by a complaint under section 39(2) of the PDPO. The Privacy Commissioner exercised the aforesaid discretionary power as outlined in the Complaint Handling Policy issued by the PCPD, on the ground that there was no prima facie evidence of any contraventions of the requirements under the PDPO after a preliminary enquiry by the PCPD. Regarding the remaining three cases, one appeal was against the Privacy Commissioner's decision not to serve an Enforcement Notice after investigation, while the other two appeals were against the Privacy Commissioner's decision to serve an Enforcement Notice after investigation.

The particulars of the seven appeal cases involved the following allegations (Figure 3.6):

- Contraventions of DPPs: five cases
- Non-compliances with data access requests: one case
- Concerning whether or not personal data was involved: one case

上訴涉及《私隱條例》的規定 The Provisions of the PDPO Involved in the Appeals

總數 TOTAL: 7 宗 CASES

14.3%

1 宗 Case



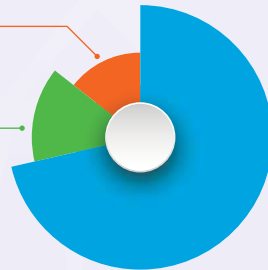
是否涉及個人資料
Whether or not personal data
was involved

14.3%

1 宗 Cases



不遵從查閱資料要求
Non-compliances with data access requests



71.4%

5 宗 Case



違反保障資料原則
Contraventions of DPPs

圖3.6
Figure 3.6

而七宗接獲的上訴個案當中，牽涉的保障資料原則的分類如下(一宗個案可牽涉多於一項保障資料原則)(圖3.7)：

Out of the seven appeal cases received, the distribution of DPPs concerned is as follows (one appeal might involve more than one DPP) (Figure 3.7):

- 第1原則(收集資料原則)：兩宗
- 第3原則(使用資料原則)：四宗
- 第4原則(資料保安原則)：一宗
- 第6原則(資料查閱及改正原則)：一宗
- DPP 1 (Data Collection Principle): two cases
- DPP 3 (Data Use Principle): four cases
- DPP 4 (Data Security Principle): one case
- DPP 6 (Data Access & Correction Principle): one case

上訴涉及保障資料原則的分類 The Distribution of the DPPs Involved in the Appeals

總數 TOTAL: 7 宗 CASES*

12.5%

1 宗 Case



第6原則 (資料查閱及改正原則)
DPP 6 (Data Access & Correction
Principle)

12.5%

1 宗 Cases



第4原則 (資料保安原則)
DPP 4 (Data Security Principle)

25%

2 宗 Case



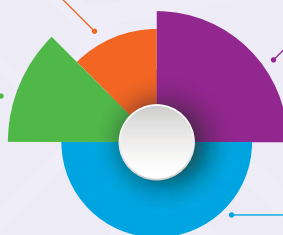
第1原則 (收集資料原則)
DPP 1 (Data Collection Principle)

50%

4 宗 Case



第3原則 (使用資料原則)
DPP 3 (Data Use Principle)



* 一宗個案可牽涉多於一項保障資料原則

* One appeal might involve more than one DPP

圖3.7
Figure 3.7