



廉政公署事宜投訴委員會 ICAC COMPLAINTS COMMITTEE



二零一八年年報
ANNUAL REPORT 2018

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FOREWORD BY THE CHAIRMAN



The Independent Commission Against Corruption (ICAC) Complaints Committee is tasked to monitor and review the ICAC’s handling of all non-criminal complaints against the Commission and its officers. On behalf of the Committee, I have the honour to share our work for the year 2018 as summarised in this annual report.

During the year, our Committee met three times to consider the investigation findings and assessment of complaints received in 2018 and the year before. Besides attending to the allegations against individual officers, we reviewed jointly with the ICAC management the overall trend of complaints handled by the Committee over the past five years. We sought to proactively identify room for improvement in the procedures and practices of the ICAC as well as the need for enhanced training to help officers better communicate with complainants and adeptly tackle particular types of complaints.

Our Committee would take our responsibility as seriously as ever to ensure that the ICAC addresses all relevant complaints in a fair, timely and professional manner. We thank you for your support and interest in our work. If you have any views or suggestions for us, please contact us through the Committee Secretariat.

Hon Jeffrey LAM Kin-fung, GBS, JP

Chairman, ICAC Complaints Committee

ICAC COMPLAINTS COMMITTEE

Established on 1 December 1977, the ICAC Complaints Committee (“the Committee”) is responsible for monitoring and reviewing the handling by the ICAC of non-criminal complaints against the ICAC and its officers. The Committee comprises Executive Council and Legislative Council members as well as eminent members of the community appointed by the Chief Executive. Since 1996, the Committee submits an annual report to the Chief Executive to provide an account of its work in the preceding year. Moreover, the annual reports are tabled at the Legislative Council and made available to the general public as a measure to enhance the transparency and accountability of the Committee.

TERMS OF REFERENCE

To monitor, and where the Committee considers appropriate to review, the handling by the ICAC of non criminal complaints by anyone against the ICAC and officers of the ICAC.

To identify any faults in ICAC procedures which lead or might lead to complaints.

When the Committee considers appropriate, to make recommendations to the Commissioner of the ICAC, or when considered necessary, to the Chief Executive.

MEMBERSHIP (From 1 January 2018 to 31 December 2018)



Front Row 0

(From left to right) Mr Paul LAM Ting-kwok; Dr Hon Priscilla LEUNG Mei-fun; Hon Jeffrey LAM Kin-fung; Mr Simon PEH Yun-lu (Representative of the ICAC); Hon Alice MAK Mei-kuen; Mr CHEUNG Chi-kong

Back Row 0

(From left to right) Mr Steven CHAN Hung-fan (Assistant Committee Secretary); Ms Subrina CHOW Shun-yee (Committee Secretary); Mr Benjamin CHA Yiu-chung; Dr Anissa CHAN WONG Lai-kuen; Mr Frederick TONG Kin-sang (Representative of The Ombudsman); Mr Ricky CHU Man-kin and Mr TANG Chi-kong (Representatives of the ICAC)

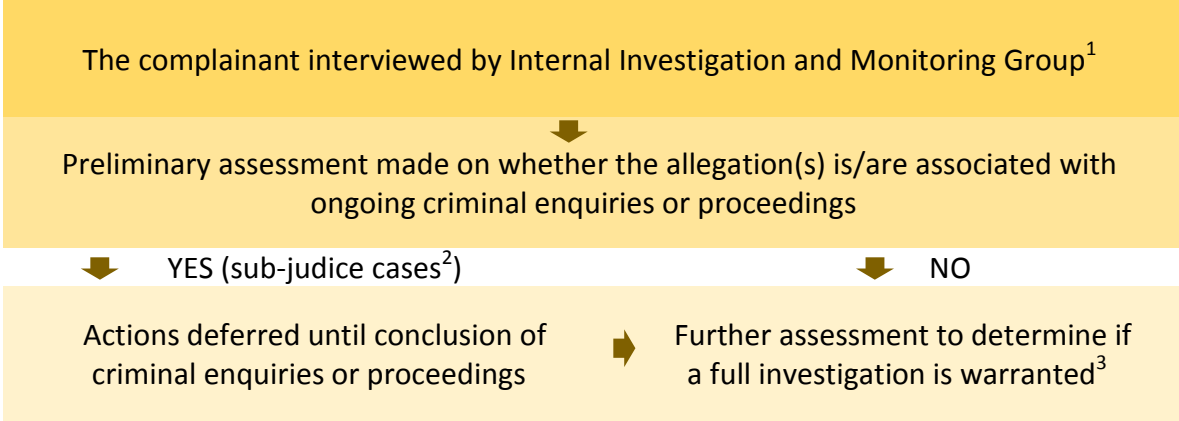
Membership List (from 1 January 2018 to 31 December 2018)

Chairman : The Hon Jeffrey LAM Kin-fung, GBS, JP

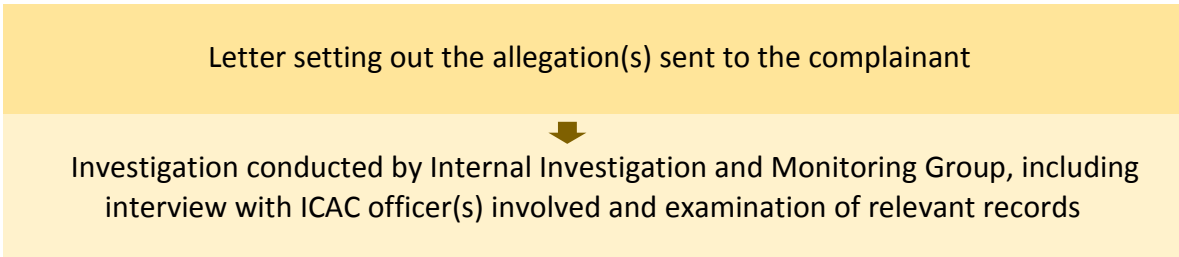
Members : Mr Benjamin CHA Yiu-chung
 Dr Anissa CHAN WONG Lai-kuen, BBS, MH, JP
 Mr CHEUNG Chi-kong, GBS, JP
 Mr Paul LAM Ting-kwok, SC
 Dr the Hon Priscilla LEUNG Mei-fun, SBS, JP
 The Hon Alice MAK Mei-kuen, BBS, JP
 Mr Tony MA Kai-loong / Mr Frederick TONG Kin-sang
(Representative of The Ombudsman)

HANDLING OF COMPLAINTS

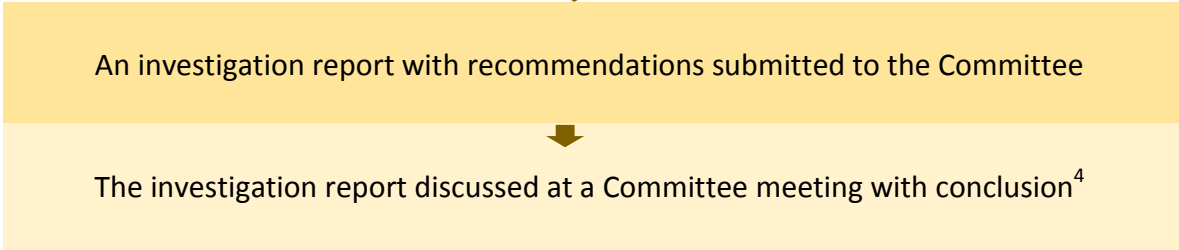
PRELIMINARY ASSESSMENT STAGE 0



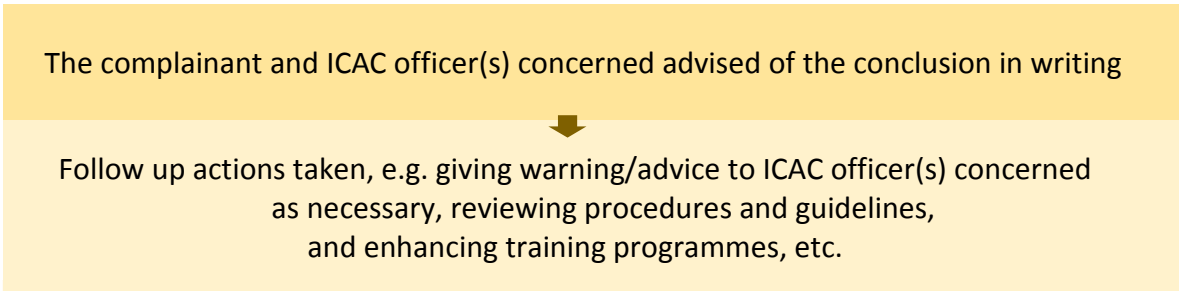
INVESTIGATION STAGE 0



COMMITTEE DISCUSSION STAGE 0



FOLLOW-UP ACTION STAGE 0



Remarks 0

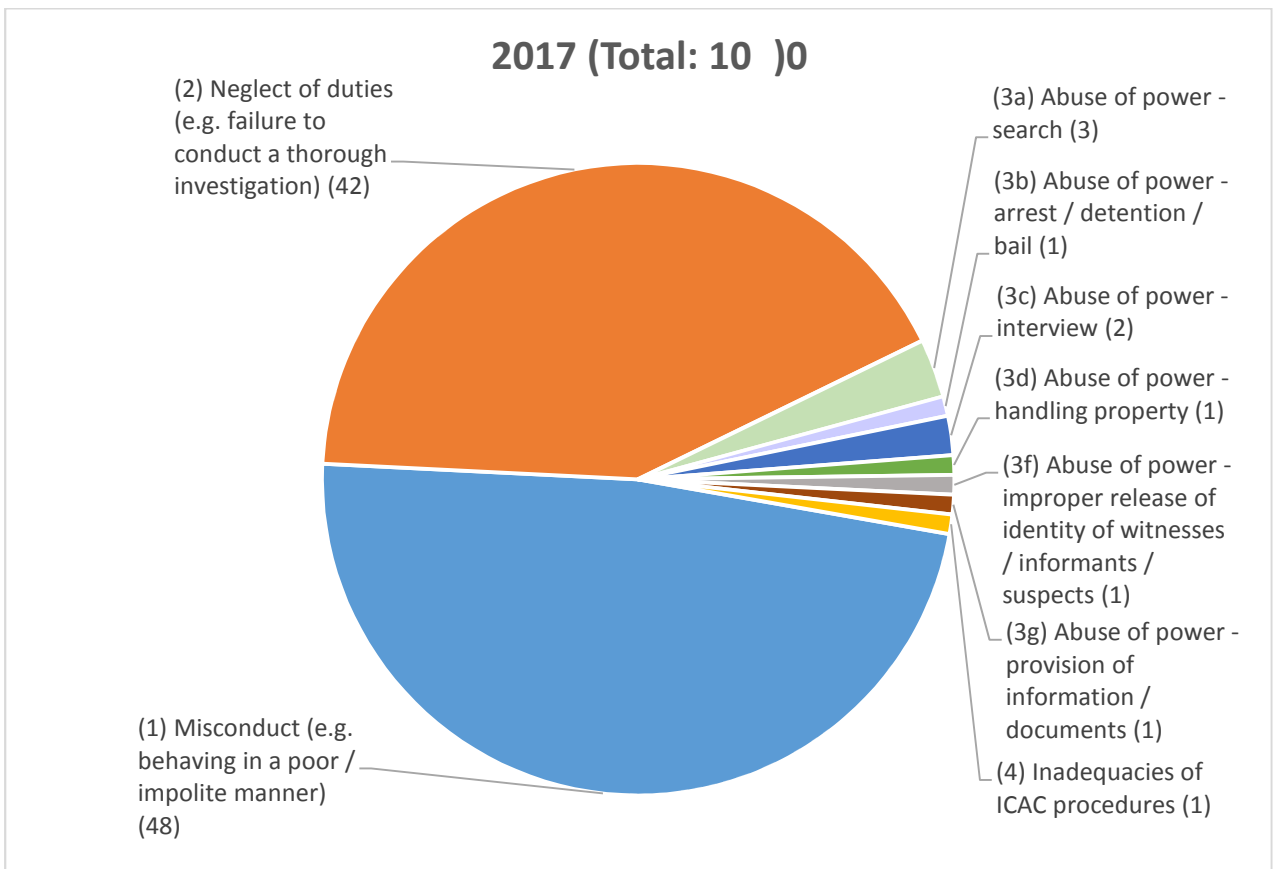
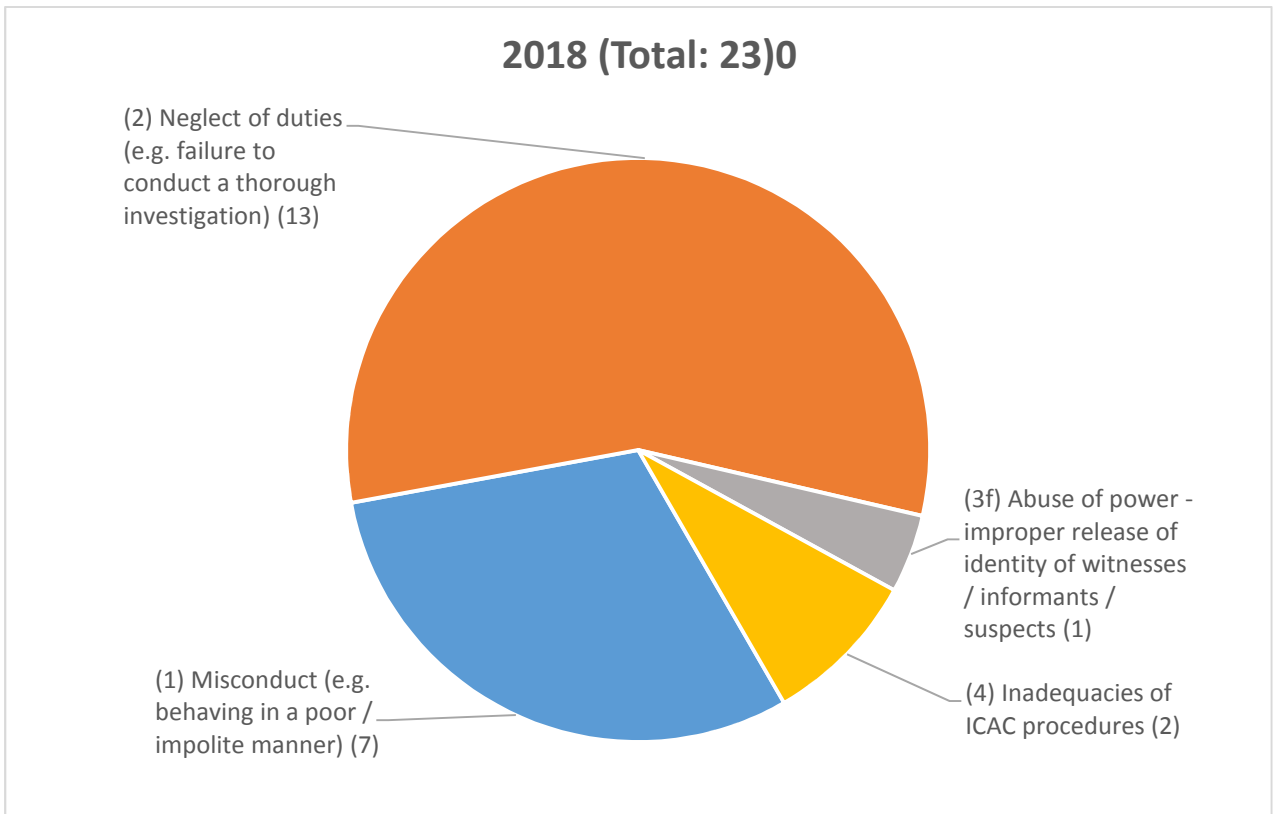
1. The Administration Wing of the Chief Secretary for Administration's Office provides secretariat support for the Committee, including maintaining the Committee's website (<https://www.admwing.gov.hk/eng/links/icac.htm>). If a person wishes to lodge a complaint against the ICAC or its officers, he/she may write to the Committee Secretary ("the Secretary"), or complain to the ICAC at any of its offices in person, by phone or in writing. The addresses of the Secretary and the ICAC offices are at Annex. When the complaint is received by the Secretary, the Committee Secretariat will acknowledge receipt and forward the complaint to the ICAC for follow-up actions. The Internal Investigation and Monitoring Group ("L Group"), which reports directly to Director of Investigation/Private Sector, in the Operations Department of the ICAC is responsible for assessing and investigating the complaint. Where warranted by circumstances, the Commissioner of the ICAC may make ad hoc arrangement to assign a particular complaint to designated officers outside L Group for assessment and investigation.
2. Where the allegations in a complaint are directly or closely associated with ongoing criminal enquiries or proceedings ("sub-judice cases"), the investigation will usually be deferred until the conclusion of such criminal enquiries or proceedings. Pursuant to legal advice, the complainant will be informed in writing that the investigation into his/her complaint will be deferred, pending the conclusion of relevant criminal enquiries or proceedings. If the complainant still wishes to seek immediate investigation of his/her complaint but the subject matter of the complaint appears to be closely related to issues on which the court has yet to decide, the Commissioner of the ICAC will seek further legal advice and decide whether or not to maintain the decision to defer the investigation of the complaint. The ICAC provides a summary on sub-judice cases to the Committee for discussion at each Committee meeting.
3. Complaints which after preliminary assessment are considered by the ICAC as not warranting a full investigation will be processed by way of assessment reports. Such cases include complaints which are incoherent or irrational, repeated complaints previously disposed of through the Committee and complaints of which the subject matters have already been decided by the courts. In respect of each case, the ICAC will state the reason(s) for not conducting a full investigation and submit an assessment report for the Committee's consideration. In 2018, the Committee considered and endorsed nine assessment reports. The complainants had been advised in writing that no further investigative actions would be taken on their complaints.
4. Members of the Committee may seek additional information and/or clarifications from the ICAC concerning the handling of the complaints and will consider the recommendations made in the investigation report before reaching the conclusions.

COMPLAINTS RECEIVED

In 2018, 11 complaints against the ICAC or its officers were received, a noticeable drop as compared with 24 complaints received in 2017. The 11 complaints contained a total of 22 allegations registered during the year. Apart from these, an additional allegation was registered in 2018 in respect of a complaint received in 2017. Hence, a total of 23 allegations were registered in 2018 as compared with 100 allegations (including 52 allegations made by a complainant against various ICAC officers) registered in 2017. The allegations registered in 2018 were related to misconduct of ICAC officers (30%); neglect of duties (57%); abuse of power (4%) and inadequacies of ICAC procedures (9%).

0

Number and category of allegations registered in 2017 and 2018 0



COMPLAINTS CONSIDERED

The Committee held three meetings in March, June and November 2018 respectively. Of the 11 complaints received in 2018, investigations into 10 complaints covering 19 allegations were concluded with the relevant investigation reports considered by the Committee during the year. The remaining complaint covering 3 allegations was still under investigation as at the end of 2018. The Committee also considered seven complaints received in 2017, the related investigations for which were completed in 2018, covering another 69 allegations (including 52 allegations in one complaint). A summary of the allegations considered by the Committee in 2018 is shown in the table below:

Category of allegation		Number of allegations considered	Number of allegations found substantiated / partially substantiated
1.	Misconduct	46	3
2.	Neglect of duties	31	2
3.	Abuse of power		
	(a) search	3	0
	(b) arrest / detention / bail	0	0
	(c) interview	2	0
	(d) handling property	0	0
	(e) legal access	0	0
	(f) improper release of identity of witnesses / informants / suspects	2	0
	(g) provision of information / documents	1	0
4.	Inadequacies of ICAC procedures	3	0
Total:		88	5 (6%)

COMPLAINTS HIGHLIGHT

Of the 17 complaints covering 88 allegations considered by the Committee in 2018, five allegations (6%) in four complaints (24%) were found to be substantiated or partially substantiated. The substantiated or partially substantiated allegations concerned a total of five ICAC officers, two and three of whom were as a result given verbal warning and advice respectively by their senior officers.

In addition, an officer of the ICAC Report Centre in another complaint was given advice by her senior officer, although the original allegation was found not substantiated. In keeping with the professionalism of the ICAC, the officer was advised to properly respond to public enquiries so as to avoid any misunderstanding and the impression of being evasive.

The investigation reports of several complaints are summarised below to illustrate how the complaints were handled, particularly the investigative work conducted by the ICAC and overseen by the Committee.

Case 1

Case background

The complainant was interviewed by an Investigator (“Officer A”) and an Assistant Investigator (“Officer B”) in respect of his corruption report. Towards the end of the interview, it was agreed that a witness statement would be drafted for the complainant’s perusal in a subsequent interview. However, the complainant did not hear from Officer A or Officer B until after about three months when he received a telephone call from Officer A who informed him of the outcome of the investigation. The complainant was dissatisfied that the investigation was concluded without his witness statement. He complained against Officer A and Officer B as he considered that the two officers had failed to properly follow up the corruption report.

Investigation

L Group had separately interviewed Officer A and Officer B. Officer A admitted that he did not further approach the complainant on the witness statement as he had confused the complainant’s case with a different case and inadvertently mistaken the complainant having refused to provide a witness statement. Officer B, on the other hand, did not follow up on the matter as he learnt from Officer A after the interview that the complainant had refused to provide a witness statement. Examination of the relevant investigation records revealed that Officer A had recorded all the information provided by the complainant in a file note. Given that the information provided by the complainant had been duly considered and that no evidence of corruption was found from the subsequent investigation, Officer A’s supervisors agreed with his recommendation to curtail the investigation.

Assessment

The allegation was found substantiated against Officer A but unsubstantiated against Officer B. Although the information provided by the complainant was properly recorded in the investigation file and whether the complainant’s witness statement was available would not have affected the investigation outcome, it was unprofessional for Officer A to confuse the complainant’s stance with another complainant in a different case. The Committee endorsed the relevant assessment and the recommendation to give Officer A a verbal warning for being imprudent in handling the corruption report.

Case 2

Case background

The complainant was previously a subject of an ICAC investigation in which she was convicted of an offence and sentenced to imprisonment some years ago. In recent past, the complainant lodged a report with the ICAC about suspected corruption activities which she had come across in her current employment. The complainant was interviewed by an Investigator (“Officer C”) and an Assistant Investigator (“Officer D”) for the corruption report. During the interview, Officer C allegedly spoke rudely to the complainant and made comments that accused the complainant of not being honest in the corruption report. The complainant hence complained that Officer C was impolite to her, discriminating and treating her as a suspect during the interview.

Investigation

When interviewed by L Group, Officer C denied the allegation. According to his explanation, he assessed that the complainant should be able to provide more information to support the corruption report, and it was his duty to ascertain the truthfulness of the information provided by the complainant. However, Officer D, in her interview with L Group, corroborated by and large the version of the complainant’s account of what happened on the said occasion.

Assessment

The allegation against Officer C was found substantiated. The utterance of Officer C during the interview was considered unkind, offensive and unprofessional. Officer C had failed to observe the internal code of ethics of the ICAC, which required officers to treat members of the public with courtesy and respect and avoid abusive or deriding attitude or behaviour. The Committee endorsed the relevant assessment and the recommendation to give a verbal warning to Officer C to highlight the professionalism expected of ICAC officers and the need to adhere to the internal code of ethics when interacting with members of the public.

Case 3

Case background

Over a period of four years, the complainant had made a total of 52 allegations against 32 officers of the ICAC (relating to allegedly improper investigative actions, misleading representations, mannerism and negligence). Among these allegations, he complained that (a) an Investigator (“Officer E”)

had unreasonably refused to provide him with a copy of the search warrant and delayed to provide him with a copy of the records of all the items seized; and (b) an Assistant Investigator (“Officer F”) had treated him unprofessionally at the reception counter of the ICAC Headquarters.

Investigation

In respect of allegation (a), L Group investigation revealed that the complainant was arrested by Officer E for a suspected corruption offence and his residence was searched under warrant. During his detention, the complainant asked Officer E for a copy of the search warrant and a copy of all the seizures seized at his residence. Officer E treated his request for a copy of the search warrant as a general enquiry and took no further action after replying to him that in general the copy would not be provided to the subject person unless there was a good reason. As regards the records of seizures, Officer E agreed to provide a copy to him when the complainant next reported bail, but Officer E failed to follow through the matter.

Regarding allegation (b), on an occasion when the complainant visited the ICAC Headquarters and requested to meet an investigating officer, he was received by Officer F. According to the internal investigation of L Group, the complainant asked Officer F to inform the investigating officer of his arrival but Officer F failed to do so immediately as she was made anxious and felt pressurised by the threatening tone and manner of the complainant.

Assessment

All the allegations made by the complainant were not substantiated except allegations (a) and (b), which were found substantiated and partially substantiated respectively. It was considered that Officer E had the

responsibility to follow up the requests for copy of search warrant and record of seizures made by the complainant. It was recommended that he be given advice by a senior officer as to the proper way of handling a subject person's requests for copy of search warrant and record of seizures in accordance with the relevant internal guidelines. As for Officer F, while she remained courteous when she was conversing with the complainant, she had failed to contact the officer concerned whom the complainant requested to meet. It was recommended that Officer F be given advice and appropriate training by senior officers as to the proper way of handling the requests made by a member of the public when he/she visited the ICAC Headquarters. The Committee endorsed the relevant assessments and recommendations.

Case 4

Case background

The complainant submitted an application for a post with the ICAC and received a call from an Assistant Clerical Officer of the Personnel Section ("Officer G") asking him to provide some supporting documents. After the complainant had mailed the supporting documents to the ICAC, he received a further call from a Clerical Officer of the Personnel Section ("Officer H") seeking his confirmation that he did not possess other proofs as the additional documents he already provided could not serve the purpose. When the complainant later rang to enquire if he had been shortlisted to attend any written test or selection interview, Officer H answered his call and explained to him that he should presume his application unsuccessful if he had not received any invitation letter. The complainant was dissatisfied with Officer

H's reply and requested Officer H to provide her and Officer G's full names and staff card numbers. In response, Officer H allegedly only provided her and Officer G's surnames and their post titles. The complainant then complained that the manner of Officer H and Officer G was improper when having telephone conversations with him.

Investigation

According to the internal investigation of L Group, there was no evidence to support the allegation that the manner of Officer H and Officer G was improper during their telephone conversations with the complainant. Nevertheless, the internal guidelines of the ICAC stipulated that when an officer was asked by a caller/visitor for his/her full name, rank and/or post title, he/she should provide such information as requested. In this regard, Officer H admitted to L Group that she had only provided the complainant with her surname and rank title, though she had politely explained to the complainant that he could easily identify her as there was only one staff member with her surname in the Personnel Section of the ICAC.

Assessment

The allegation was found partially substantiated against Officer H but unsubstantiated against Officer G. While there was no evidence that the manner of Officer H was improper, Officer H should have provided her full name and rank and/or post title when she was so requested by a member of the public. It was recommended that Officer H should be given advice by a senior officer to remind her to adhere to the relevant internal guidelines. The Committee endorsed the relevant assessment and recommendation.

IMPROVEMENTS TO PROCEDURES

An important and positive outcome of the investigation into complaints by the ICAC and the review by the Committee is the consequential improvements made to ICAC internal procedures, guidelines and practices, as well as training for ICAC officers.

After careful examination of issues identified in the investigation reports considered during 2018, the ICAC had organised a number of briefing sessions and strengthened the training programmes for frontline officers to enhance their vigilance, techniques and knowledge in answering public enquiries, dealing with requests from complainants and suspects, and handling of items seized during search operations. Commencing in 2018, additional modules focusing on emotion management and effective interpersonal communication skills have also been included in the induction/preparatory courses for new recruits and officers who newly take up duties in the ICAC Report Centre.

ANNEX – USEFUL ADDRESSES

The address of the Secretary of the ICAC Complaints Committee - 0

Administration Wing of the Chief Secretary for Administration's Office,
25/F, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong
(Tel: 3655 5503; Fax: 2524 7103; E-mail: icc@csso.gov.hk)

The address of the ICAC Offices - 0

Office 0	Address and Telephone Number 0
ICAC Report Centre (24-hour service)	G/F, 303 Java Road, North Point Tel: 2526 6366 Fax: 2868 4344 E-mail: ops@icac.org.hk
ICAC Regional Office – Hong Kong West/Islands	G/F, Harbour Commercial Building, 124 Connaught Road Central Central Tel: 2543 0000
ICAC Regional Office – Hong Kong East	G/F, Tung Wah Mansion, 201 Hennessy Road, Wanchai Tel: 2519 6555
ICAC Regional Office – Kowloon East/Sai Kung	Shop No.9, G/F, Chevalier Commercial Centre, 8 Wang Hoi Road, Kowloon Bay Tel: 2756 3300
ICAC Regional Office – Kowloon West	G/F, Nathan Commercial Building, 434-436 Nathan Road, Yaumatei Tel: 2780 8080
ICAC Regional Office – New Territories South West	Shop B1, G/F, Tsuen Kam Centre, 300-350 Castle Peak Road, Tsuen Wan Tel: 2493 7733
ICAC Regional Office – New Territories North West	G/F, Fu Hing Building, 230 Castle Peak Road, Yuen Long Tel: 2459 0459
ICAC Regional Office – New Territories East	G06 - G13, G/F, Shatin Government Offices, 1 Sheung Wo Che Road, Shatin Tel: 2606 1144