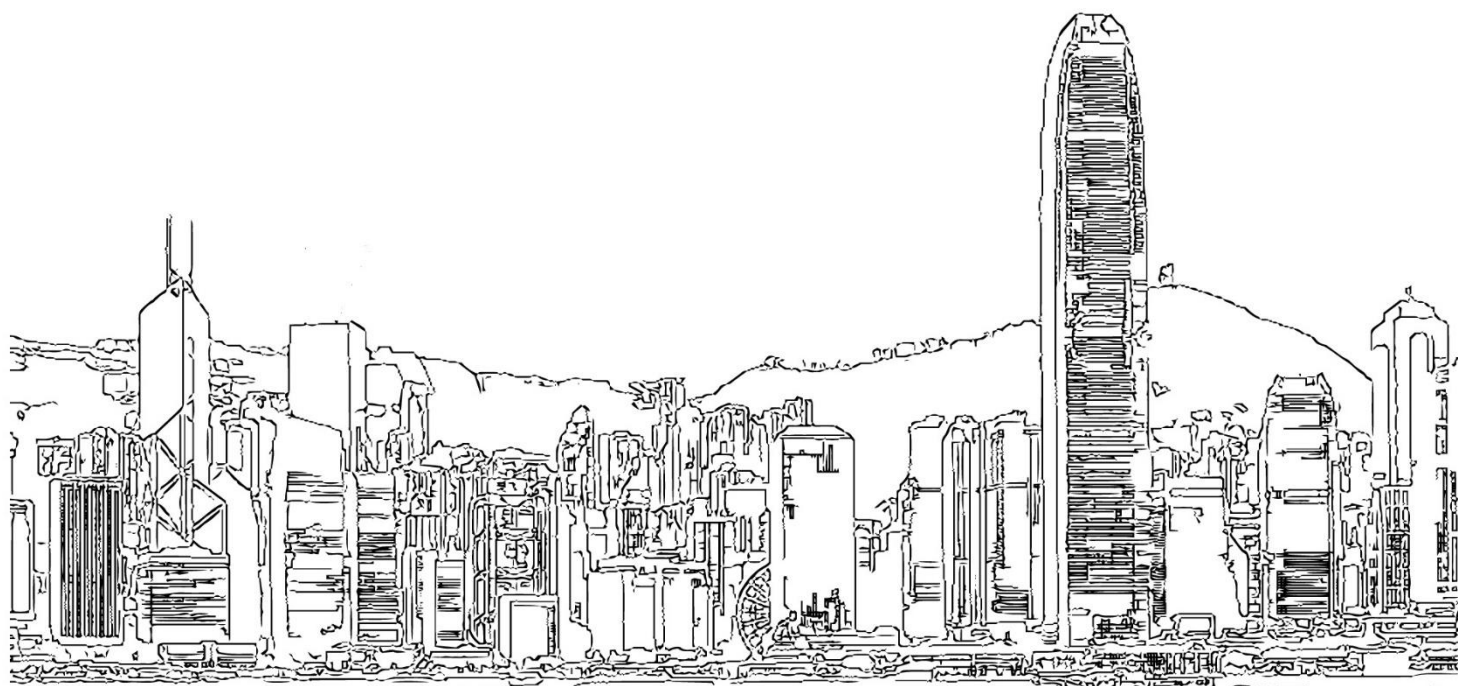


廉政公署事宜投訴委員會

ICAC COMPLAINTS COMMITTEE



REVIEW SYSTEM CONDUCT POLITENESS
FAIRNESS INDEPENDENT PROCEDURE INTEGRITY
IMPARTIALITY HONESTY DISCIPLINE CONTINUOUS TRUTH DILIGENCE
GOVERNANCE IMPROVEMENT ACCOUNTABILITY GOOD FAITH
TRANSPARENCY COURTESY MONITORING SUPERVISION
PUBLIC SUPPORT PROFESSIONALISM

二零二零年年報

ANNUAL REPORT 2020

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FOREWORD BY THE CHAIRMAN



I am pleased to present the annual report of the Independent Commission Against Corruption (ICAC) Complaints Committee for 2020, a challenging year for Hong Kong as well as the rest of the world. While it is the Committee’s standing arrangement to consider in meetings the investigation and assessment reports of complaints received, the local COVID-19 situation made it necessary for us to cancel one of our three meetings scheduled for the year. Thanks to the cooperation of Members and the Secretariat, the agenda items of the cancelled meeting were resolved effectively through the

circulation of papers and reports, and we were able to meet in June and November under the appropriate public health precautionary measures.

Tasked to monitor and review the ICAC’s handling of all non-criminal complaints against the Commission and its officers, our Committee addressed not only the alleged faults of the officers brought to our attention by complainants. We also proactively look for rooms to further improve ICAC’s practices and procedures so as to prevent future complaints. The ICAC management has all along been very receptive to our suggestions, always taking prompt follow-up actions to effect the recommended changes in its operation, and enhance the awareness and skills of its officers through suitable training. We are glad that the Commission is clearly committed to maintaining and perfecting its professional standards as one of the best anti-corruption agencies in the world.

We are grateful for your interest in and support for the work of our Committee as part of the system upholding the core value of probity in Hong Kong. Members of the public are most welcome to contact the Committee Secretariat, and share with us their views and ideas on this important function.

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. The annual reports are also tabled in 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



Front Row

(From left to right) Ms Connie LAU Yin-hing; Hon Steven HO Chun-yin; Hon Eunice YUNG Hoi-yan; Hon Jeffrey LAM Kin-fung; Mr Simon PEH Yun-lu (Representative of the ICAC); Dr Anissa CHAN WONG Lai-kuen; Mr Stephen YIU Kin-wah

Back Row

(From left to right) Mr Steven CHAN Hung-fan (Assistant Committee Secretary); Ms Subrina CHOW Shun-yee (Committee Secretary); Dr TIK Chi-yuen; Miss Maggie WONG Pui-kei; Mr CHAK Shui-hang (Representative of the Ombudsman); Mr Ken HO King-yeung and Mr TANG Chi-kong (Representatives of the ICAC)

Membership List (from 1 January 2020 to 31 December 2020)

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

Members : Dr Anissa CHAN WONG Lai-kuen, SBS, MH, JP

The Hon Steven HO Chun-yin, BBS

Ms Connie LAU Yin-hing, SBS, JP

Dr TIK Chi-yuen, SBS, JP

Miss Maggie WONG Pui-kei, SC

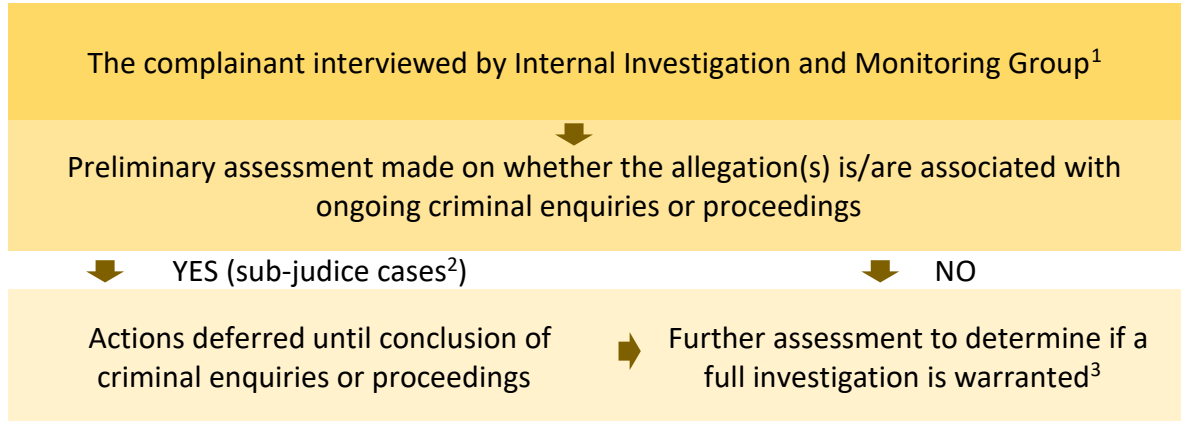
Mr Stephen YIU Kin-wah

The Hon Eunice YUNG Hoi-yan, JP

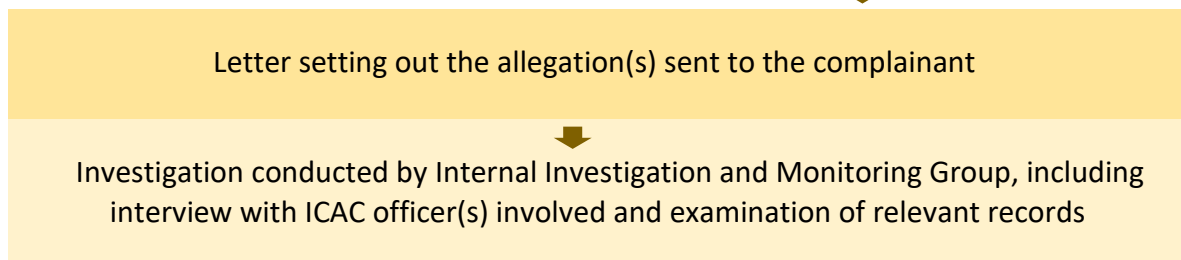
Mr Frederick TONG Kin-sang/Mr CHAK Shui-hang
(*Representative of the Ombudsman*)

HANDLING OF COMPLAINTS

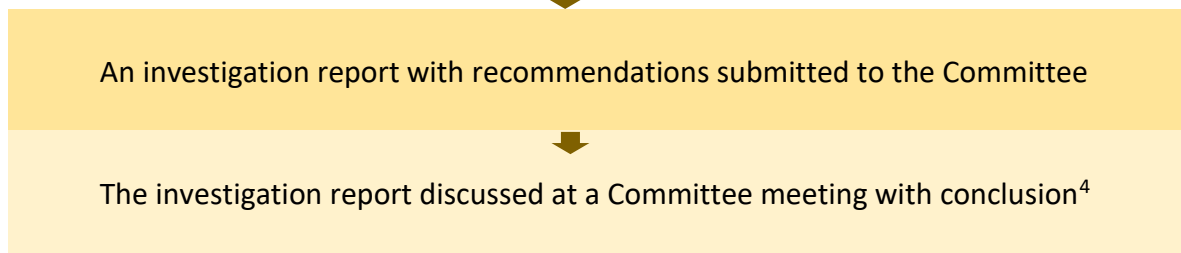
PRELIMINARY ASSESSMENT STAGE



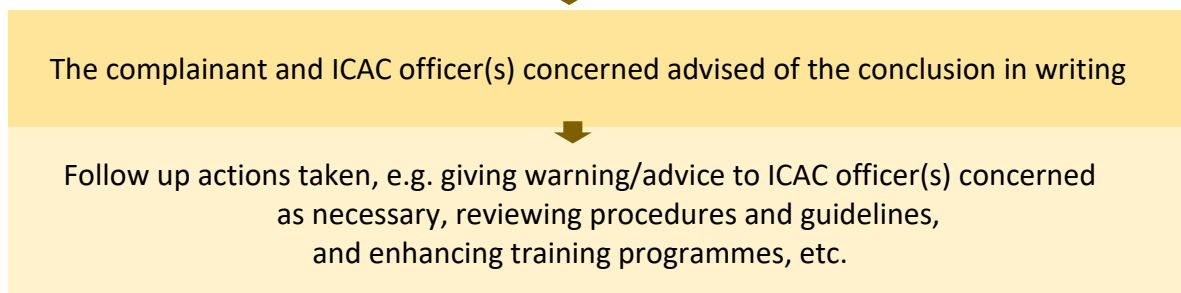
INVESTIGATION STAGE



COMMITTEE DISCUSSION STAGE



FOLLOW-UP ACTION STAGE

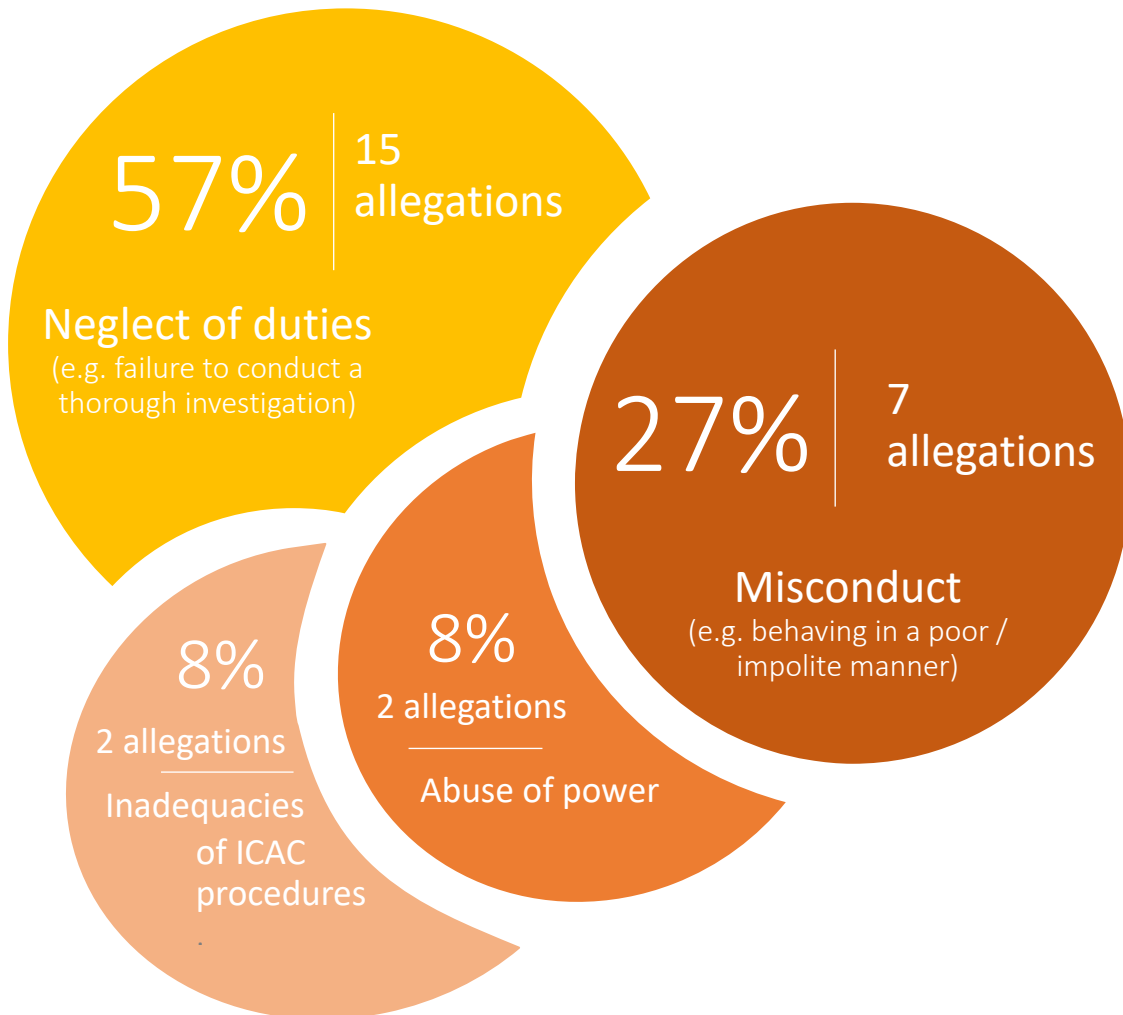


Remarks

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”), under the direct command of 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 2020, the Committee considered and endorsed one assessment report. The complainant had been advised in writing that no further investigative actions would be taken on his complaint.
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.

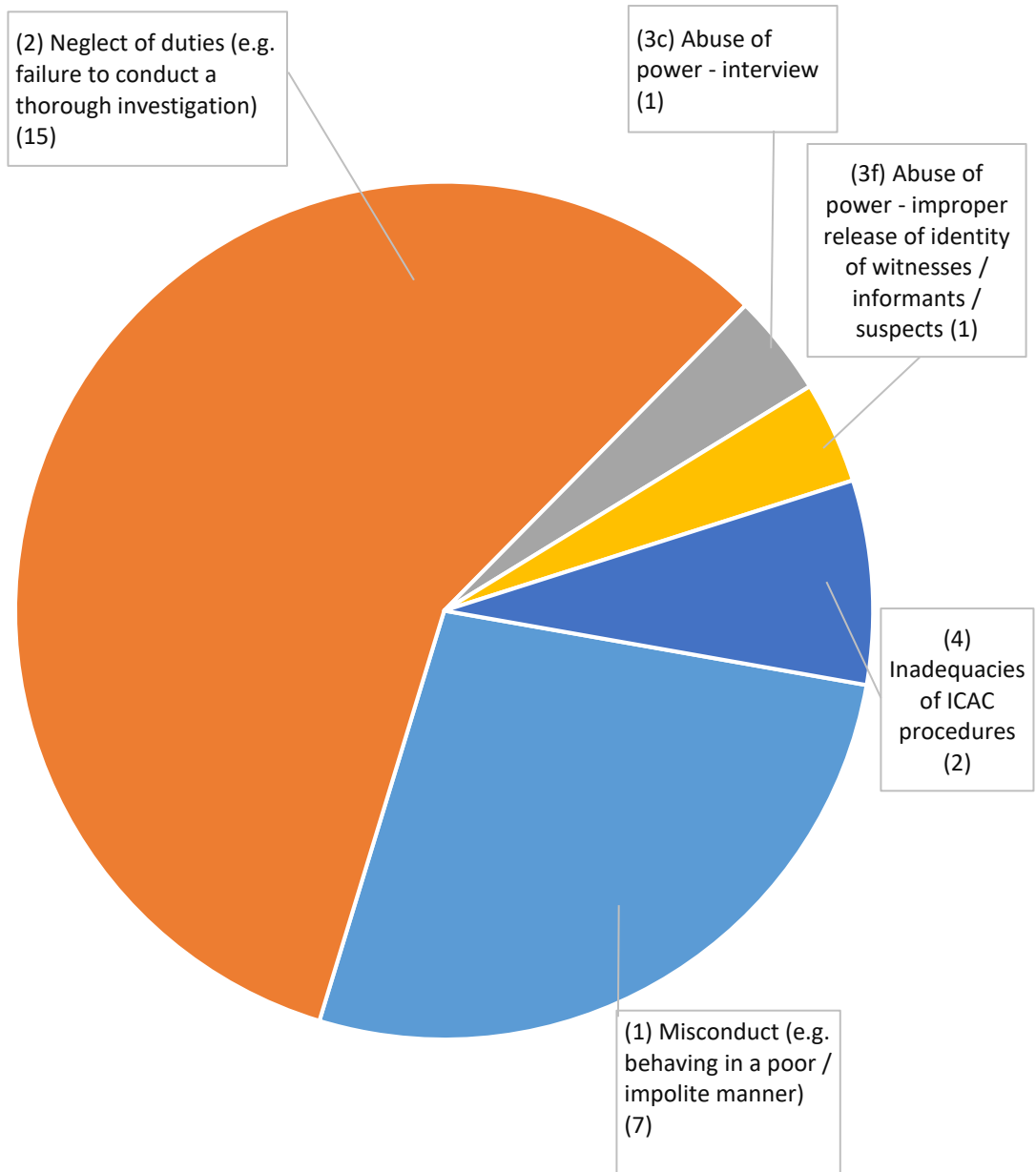
COMPLAINTS RECEIVED

In 2020, 12 complaints containing a total of 26 allegations against the ICAC or its officers were received, as compared with 11 complaints (containing a total of 23 allegations) and 14 complaints (containing a total of 68 allegations) received in 2018 and 2019 respectively. The allegations registered in 2020 were related to neglect of duties by ICAC officers (57%); misconduct (27%); abuse of power (8%) and inadequacies of ICAC procedures (8%).



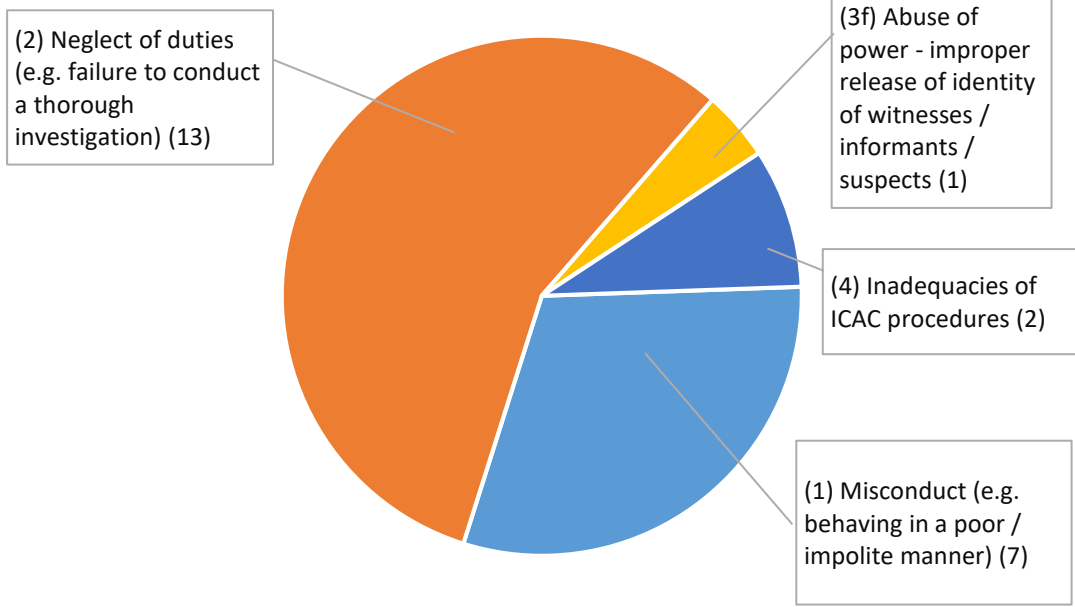
Number and category of allegations registered in 2018, 2019 and 2020

2020 (Total: 26 allegations)

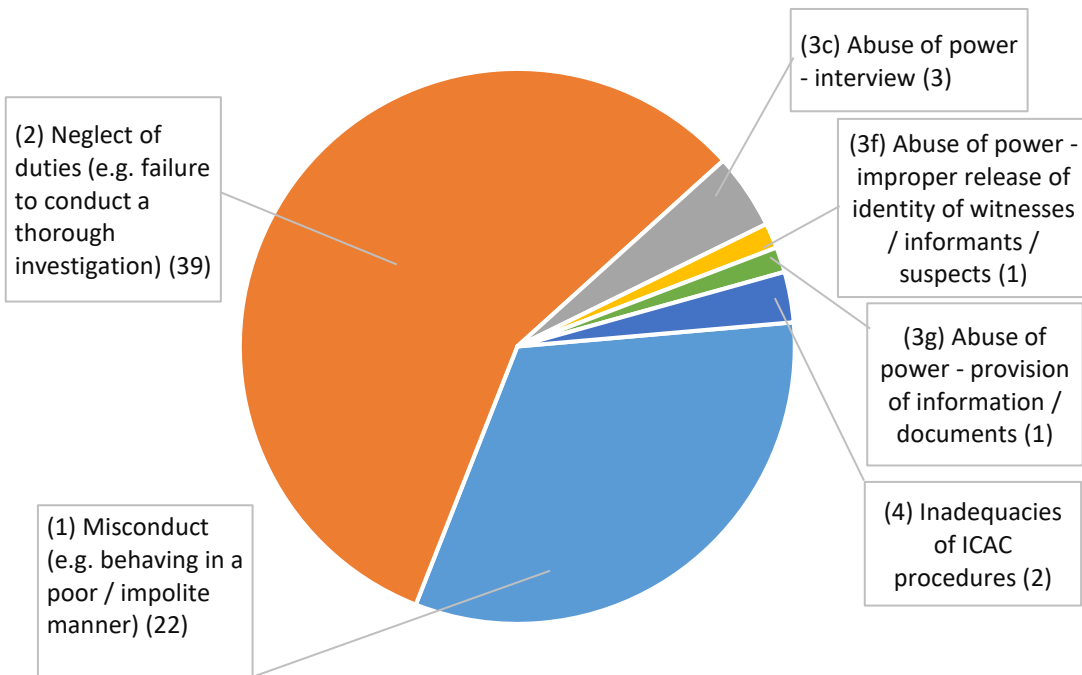


Note: The full breakdown of allegations by category is set out in the statistical table on page 10.

2018 (Total: 23 allegations)



2019 (Total: 68 allegations)



Note: The full breakdown of allegations by category is set out in the statistical table on page 10.

COMPLAINTS CONSIDERED

The Committee had scheduled three meetings in 2020. Yet due to the local COVID-19 pandemic situation, the Committee only met in person in June and November while the agenda items for the meeting in April were resolved by circulation of papers / reports. Of the 12 complaints received in 2020, investigations into 8 complaints covering 15 allegations were concluded with the relevant investigation reports considered by the Committee during the year. The remaining four complaints covering 11 allegations were still under investigation as at the end of 2020. The Committee also considered three complaints received in 2019, the related investigations for which were completed in 2020, covering another 6 allegations. A summary of the allegations considered by the Committee in 2020 is shown in the table below:

<i>Category of allegation</i>	<i>Number of allegations considered</i>	<i>Number of allegations found substantiated / partially substantiated</i>
1. <i>Misconduct</i>	4	1
2. <i>Neglect of duties</i>	14	2
3. <i>Abuse of power</i>		
(a) <i>search</i>	0	0
(b) <i>arrest / detention / bail</i>	0	0
(c) <i>interview</i>	1	0
(d) <i>handling property</i>	0	0
(e) <i>legal access</i>	0	0
(f) <i>improper release of identity of witnesses / informants / suspects</i>	0	0
(g) <i>provision of information / documents</i>	0	0
4. <i>Inadequacies of ICAC procedures</i>	2	0
Total:	21	3 (14%)

COMPLAINTS HIGHLIGHT

Of the 11 complaints covering 21 allegations considered by the Committee in 2020, three allegations (14%) in three complaints (27%) were found to be substantiated. The substantiated allegations concerned a total of four ICAC officers who were as a result given written warning (one officer), verbal warning (two officers) or advice (one officer) by senior officers respectively.

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 lodged a corruption report which was assigned to a Senior Investigator (“Officer A”) for investigation. Subsequent investigation revealed no evidence of corruption or other offences, and the Operations Review Committee (Sub-Committee) (“ORC”) endorsed that no further investigative action was to be taken by the ICAC on the case. About a week after the endorsement by ORC, the complainant telephoned Officer A to enquire about the case progress and was then informed of the investigation outcome. The complainant was dissatisfied with the outcome and alleged that Officer A had failed to conduct a thorough investigation and unreasonably told him that there was insufficient evidence against the subject persons of the corruption report. The complainant also alleged that Officer A had not given him a written notification or taken the initiative to inform him of the outcome.

Investigation

Having interviewed Officer A and examined the relevant investigation records, L Group was satisfied that the case had been thoroughly investigated with no evidence of corruption or other offences revealed. According to the explanation of Officer A, he was fully engaged in other investigative commitments and therefore unable to inform the complainant of the outcome in the following few days after the advice of ORC was received. Officer A added that the complainant had never requested a written notification of the investigation outcome, otherwise he would have been prepared to provide it to the complainant subject to the approval of his supervisor(s).

Assessment

The allegations against Officer A were found unsubstantiated except for his failure in taking the initiative to timely inform the complainant of the investigation outcome. It was considered that Officer A should contact the complainant as soon as practicable and in the present case, at an earlier opportunity after the endorsement given by ORC. The Committee endorsed the relevant assessment and recommendation. Officer A was given advice accordingly by a senior officer.

Case 2

Case background

An Assistant Investigator (“Officer B”) visited the headquarters building of a government department to perform an official duty. When Officer B finished his task and was about to leave, he was approached by the complainant who was a staff member of the department concerned. The complainant inquired about Officer B’s reason for staying inside the building and then accompanied him to the exit of the building. At the exit, Officer B behaved impolitely to the complainant by making an offensive gesture before leaving. The complainant was offended and subsequently lodged a complaint against Officer B.

Investigation

L Group interviewed Officer B who admitted that he had been impolite to the complainant on the said occasion. Officer B explained that at that juncture, he was irritated by the complainant who urged him to leave the building promptly and insisted on accompanying him to the exit of the building. Officer B was remorseful for his impulsive act.

Assessment

The allegation was found substantiated. Officer B's impulsive act has fallen short of the high standards of conduct expected of ICAC officers, who should treat members of the public and counterparts in the government with courtesy and respect, avoiding abusive or deriding attitude or behaviour. The Committee endorsed the relevant assessment and the recommendation that disciplinary action be taken against Officer B. Officer B was subsequently given a written warning.

Case 3

Case background

The complainant, one of the subjects of a corruption investigation, was arrested by an Investigator ("Officer C") and an Assistant Investigator ("Officer D") in an operation. During the searches of the complainant's residence and office, some Renminbi ("RMB") banknotes were seized among other properties. The banknotes were counted by Officer D under the supervision of Officer C before they were put in a tamper-proof bag and the value of the banknotes was recorded on the tamper-proof bag and in the seizure list. The complainant was eventually charged with corruption offences but was acquitted after trial. Later on, the complainant contacted a Senior Investigator in charge of the case ("Officer E") and requested the return of all his properties seized by the ICAC. When Officer E arranged for the complainant to collect some of the seizures, it was found that the value of the RMB banknotes in the tamper-proof bag was different from that recorded on the tamper-proof bag and in the seizure list. The complainant alleged that Officer C and Officer D were negligent when

handling the RMB banknotes seized from him. Furthermore, the complainant also alleged that Officer E had acted unprofessionally by declining to return the remaining seizures to him.

Investigation

Apart from interviewing the three officers concerned separately, L Group had also examined the relevant records and the RMB banknotes seized from the complainant. Essentially, Officer D believed that he had mistaken the seven RMB fifty-cent banknotes as RMB five-dollar banknotes in the counting process and hence recorded an incorrect sum on the tamper-proof bag and in the seizure list while Officer C was not aware of the mistake. On the other hand, it was revealed that Officer E had properly explained to the complainant the reason for retaining some of the seizures which were relevant to the case against another subject of the corruption investigation.

Assessment

The allegation against Officer C and Officer D was found substantiated while that against Officer E was not. The Committee endorsed the relevant assessment and the recommendation to give a verbal warning to Officer C and Officer D respectively for inadequate supervision and negligence in handling/recording seizures.

IMPROVEMENTS TO PROCEDURES

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

After a careful examination of the issues identified in the investigation reports considered during 2020, the ICAC had organised a number of briefing sessions and strengthened the training programmes for frontline officers to enhance their professionalism and vigilance in delivering their duties. ICAC officers were advised to inform complainants of the investigation outcomes of their reports as soon as practicable, treat members of the public and government counterparts with courtesy and respect, and handle properties seized during search operations with great care. Furthermore, arising from the Committee's concern over certain investigation practices, the ICAC had reminded frontline officers to be more prudent in picking the appropriate time of the day to make contact with complainants regarding their reports and explain clearly to witnesses invited for interviews their roles in relevant investigations in order to avoid any possible misunderstanding.

ANNEX – USEFUL ADDRESSES

The address of the Secretary of the ICAC Complaints Committee -

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 ICAC Offices -

Office	Address and Telephone Number
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	Unit 3, G/F, East Town Building, 16 Fenwick Street, 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