

處理投訴及上訴

Handling of Complaints and Appeals





處理投訴

投訴的整體趨勢

與2020-21年度的3,157宗投訴相比，私隱公署在2021-22年度收到的投訴總數增加了7%至3,368宗，當中包括1,351宗與「起底」相關的個案以及107宗與2019冠狀病毒病有關的投訴。與2019冠狀病毒病相關的投訴主要涉及進入不同場所時的個人資料收集（例如健康相關資料）、餐廳收集客戶個人資料的保安以及僱主收集和披露僱員的健康資訊。

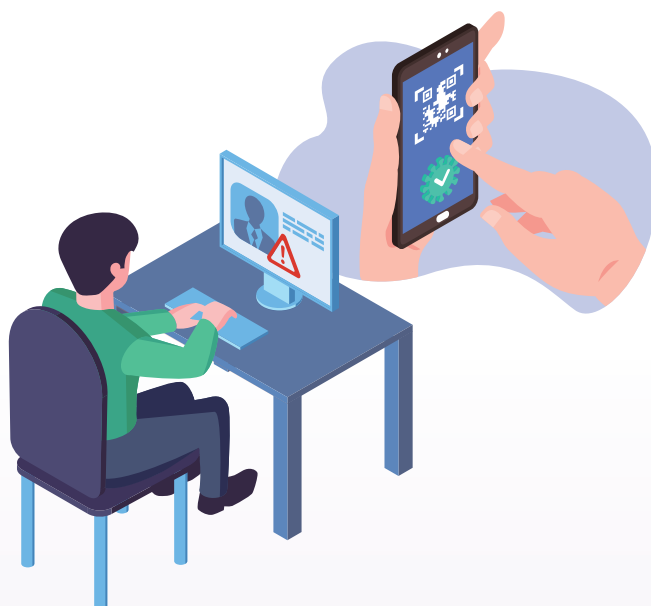
「起底」相關的個案佔投訴總數多於40%，意味着「起底」仍然是侵犯個人資料私隱的主要範疇之一。隨着《修訂條例》的實施，打擊「起底」仍是私隱公署的首要任務。

Handling of Complaints

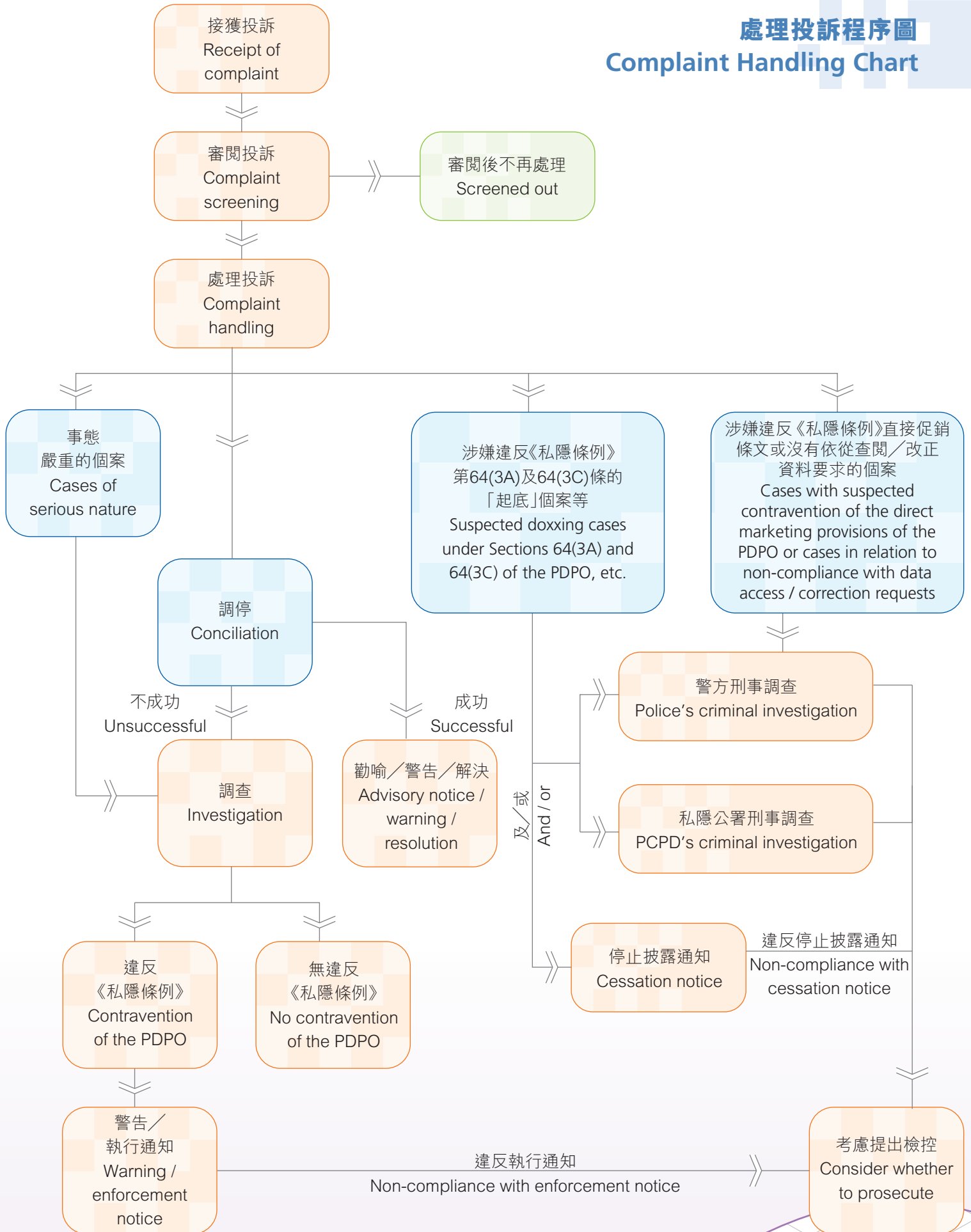
Overall Trend of Complaints

Compared to the 3,157 complaints received by the PCPD in 2020-21, the total number of complaints received in 2021-22 increased by 7% to 3,368, among which 1,351 were doxxing-related and 107 were COVID-19 pandemic-related. The complaints relating to the pandemic mostly concerned the collection of personal data from individuals (e.g. health-related information) at the time of their entry into different premises, the security of customers' personal data collected by restaurants, as well as the collection and disclosure of employees' health data by employers.

The number of doxxing-related cases accounted for more than 40% of total complaints, suggesting that doxxing remained one of the major areas of personal data privacy intrusion. With the implementation of the Amendment Ordinance, curbing doxxing will continue to be a main priority of the PCPD.



處理投訴程序圖
Complaint Handling Chart



詳情請參閱私隱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

接獲的投訴個案

2021-22年度共收到3,368宗投訴，當中包括1,351宗與「起底」相關的個案。撇除「起底」個案，私隱公署在2021-22年度共接獲2,017宗投訴，較去年減少8%。(圖2.1)

Complaints Received

A total of 3,368 complaints were received in 2021-22, including 1,351 doxxing-related cases. Excluding the doxxing cases, the PCPD received 2,017 complaints in 2021-22, representing an 8% decrease from last year. (Figure 2.1)

接獲的投訴個案數目 Number of Complaints Received

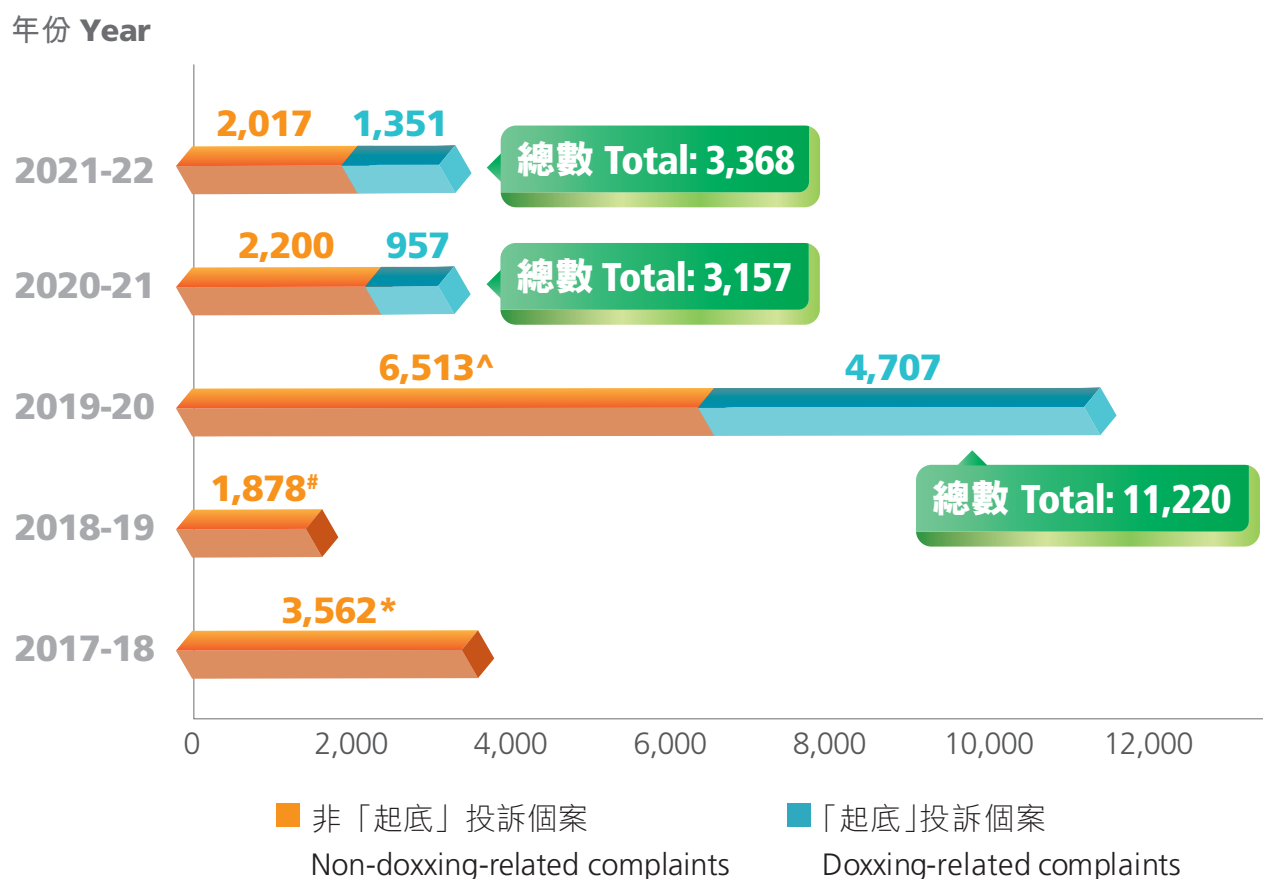


圖 Figure 2.1

[^] 當中包括2,665宗投訴屬指控警員兩次于直播時向鏡頭不當展示一張香港身份證、669宗懷疑一名保安人員盜取住戶信件的投訴，以及428宗有關指控一名藝人於其社交平台不當披露一份航空公司機艙服務員名單的投訴。
2,665 complaints were 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.

[#] 當中包括143宗有關航空公司外洩客戶個人資料的投訴。
143 complaints were about an airline's data leakage incident.

^{*} 當中包括1,944宗有關一政府部門遺失載有選民個人資料的手提電腦的投訴。
1,944 complaints were about the loss of a government department's computer containing the personal data of registered electors.

被投訴者類別

在2,017宗與「起底」無關的投訴中，被投訴者可分為以下類別：（圖2.2）

- 私營機構（1,254宗），主要涉及銀行、財務公司及物業管理公司；
- 個人（519宗），當中眾多個案與私人事務引起的網絡欺凌，鄰居安裝閉路電視及使用個人資料作選舉用途有關；及
- 政府部門和公共機構（244宗），主要涉及醫護機構、執法機關及教育機構。

Types of Parties being Complained against

Excluding the doxing cases, the types of parties being complained against among the 2,017 complaints were: (Figure 2.2)

- Private organisations (1,254 cases), with the majority being banks, financial institutions and property management companies;
- Individuals (519 cases), with many of the cases involving cyberbullying arising from domestic affairs, installation of CCTV by neighbours and use of personal data in electioneering activities; and
- Government departments and public organisations (244 cases), with the majority being healthcare organisations, law enforcement agencies and education institutes.

被投訴者類別

Types of Parties being Complained against

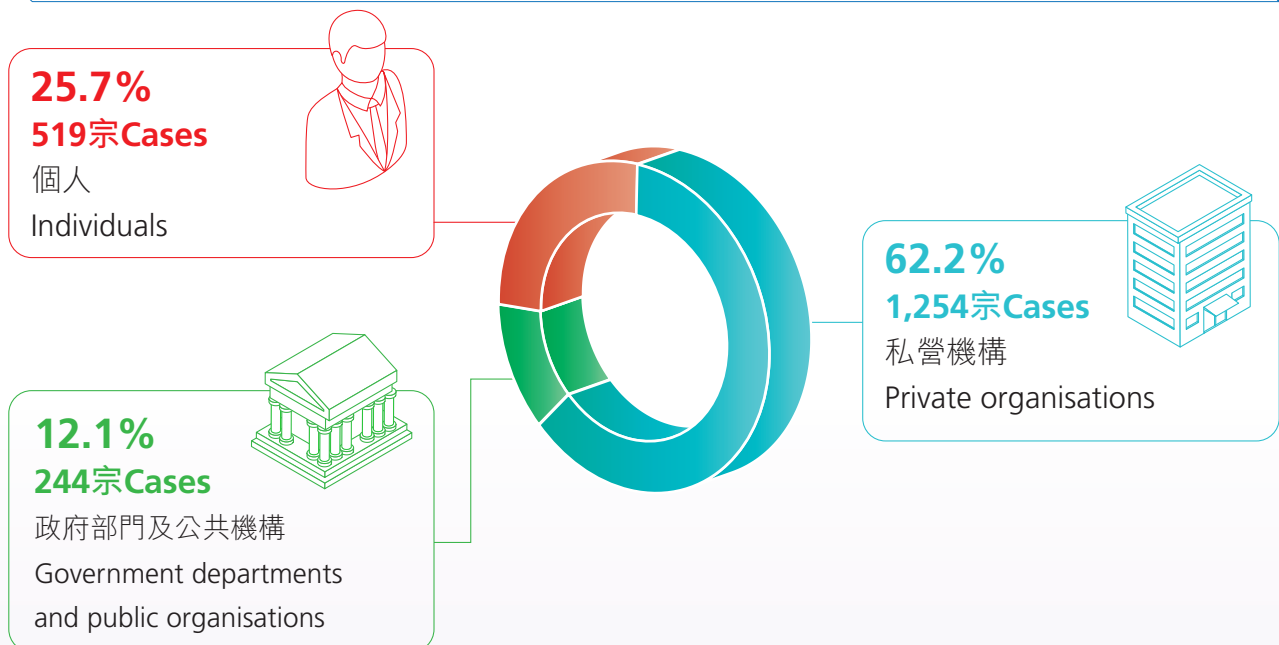


圖 Figure 2.2

投訴指稱

除了與「起底」相關的個案外，2,017宗投訴共涉及2,168項涉嫌違規行為（因同一宗投訴可涉及多於一項指稱）。涉嫌違規行為的性質如下：（圖2.3）

Nature of Alleged Breaches

Other than doxxing-related cases, the 2,017 complaints involved a total of 2,168 alleged breaches (as one complaint might have involved more than one allegation). The nature of the alleged breaches is shown as follows: (Figure 2.3)

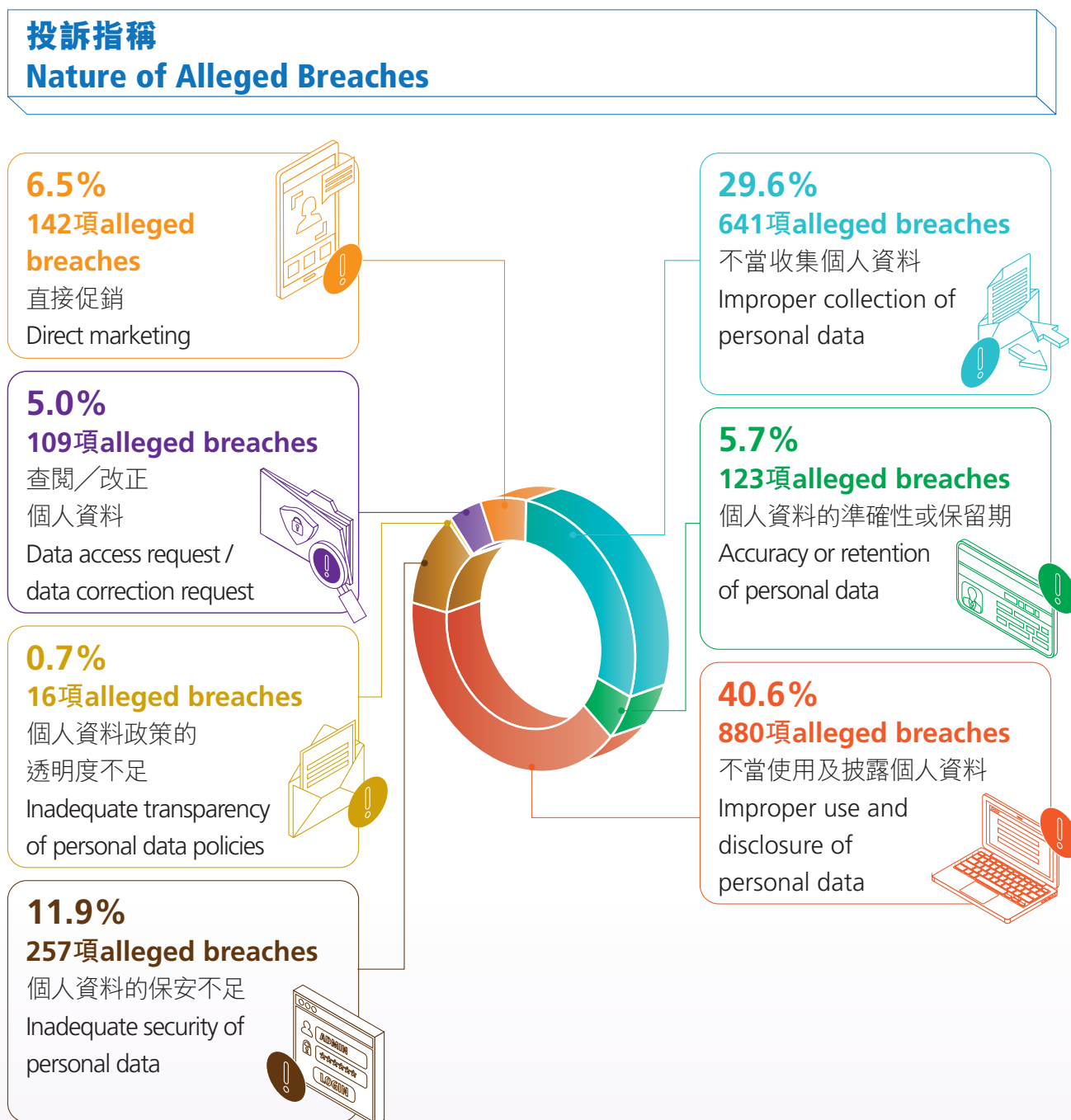


圖 Figure 2.3

投訴範疇

撇除「起底」個案，私隱公署在報告年度收到投訴所涉的主要範疇分布與上年度相若。(圖2.4)

雖然與資訊科技相關的投訴由790宗下降了10%至708宗，但這一類別的投訴仍然超過其他範疇的投訴，其中大部分是關於網上社交網絡和智能電話應用程式。這種情況是源於網上社交網絡的流行，為大眾提供了溝通渠道和多功能通訊平台。

值得注意的是，有關香港身份證號碼／副本及其他身份代號的投訴增加了22%，而部份投訴涉及在進入不同處所時收集從事送貨服務的人員的香港身份證號碼，相信這可以歸因於2019冠狀病毒病大流行期間使用餐飲和貨物運送服務的普及。

Subject Matter of Complaints

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

The number of complaints relating to information technology decreased 10% from 790 to 708. Nonetheless, this category still outnumbered all other subject matters, with the majority of complaints being about online social networks and smartphone apps. The situation could be explained by the popularity of online social networks, which served as channels and multi-functional platforms for communication.

It is noteworthy that the number of complaints relating to HKID Card number / copy and other personal identifiers increased by 22%, with some complaints relating to the collection of the HKID Card numbers of delivery workers upon their entry into different premises. This could be attributed to the increased popularity of catering and goods delivery services during the pandemic.



投訴範疇 Subject Matter of Complaints

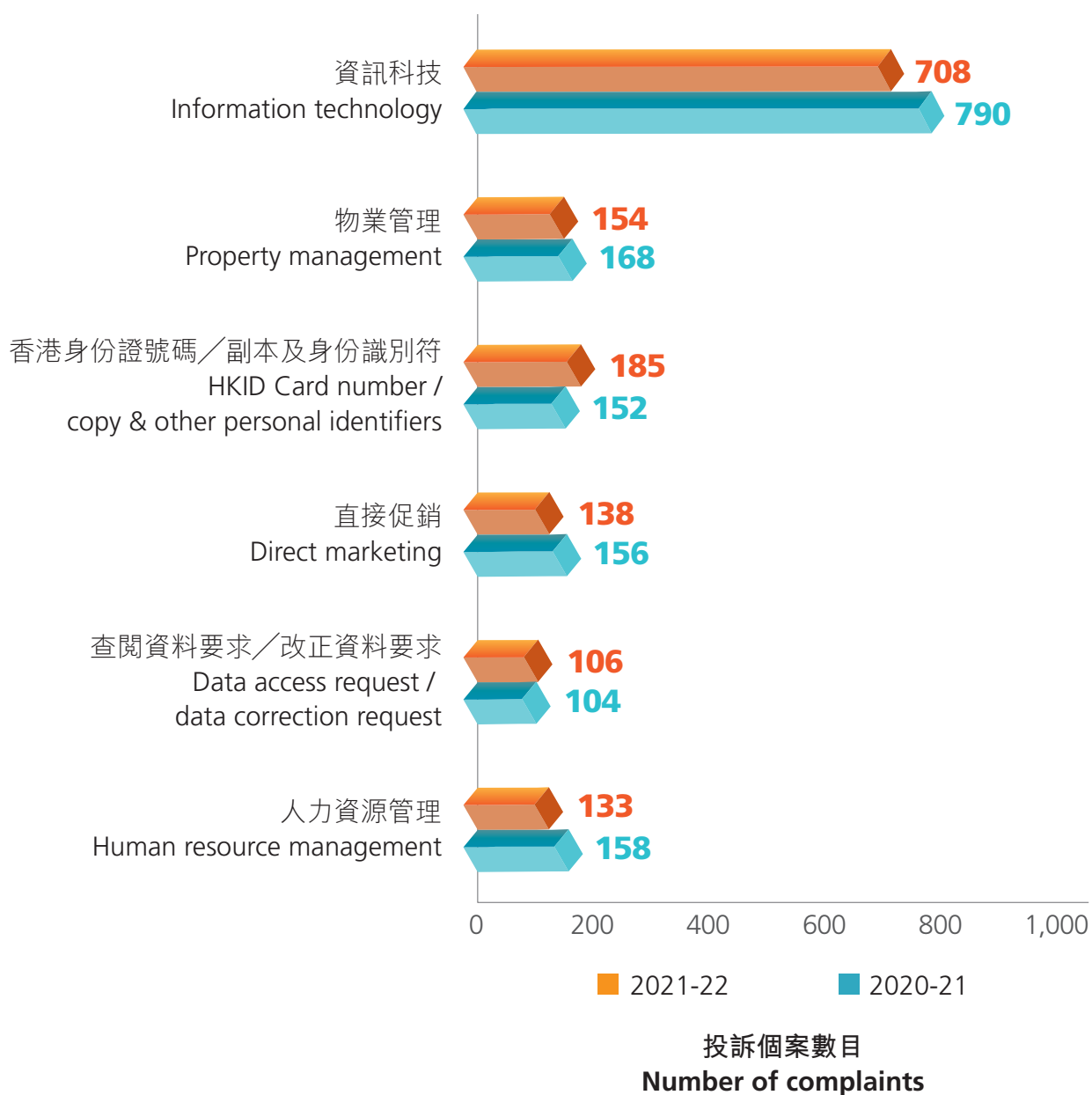


圖 Figure 2.4

年度投訴摘要

在2021-22年度，私隱公署共處理了4,593宗投訴，包括新接獲的3,368宗投訴（當中1,351宗屬於「起底」有關的個案），以及1,225宗承接上年度的投訴。其中3,118宗（67.9%）已在本報告年度內完成，而另外1,475宗（32.1%）則仍在處理中（截至2022年3月31日）。

撇除與「起底」相關的個案，私隱公署在2021-22年度完成處理1,929宗投訴，其中1,155宗經私隱公署初步評估後結案，774宗則獲受理作進一步處理。在這774宗投訴當中，私隱公署以調停方式成功解決688宗（88.9%）及發現20宗涉及刑事成份（其中大部分與直接促銷有關）。在確立涉嫌違反《私隱條例》相關規定的初步證據後，私隱公署將案件轉交警方作進一步調查及考慮檢控。

私隱公署就餘下66宗投訴進行調查，並在38宗投訴中發現違反《私隱條例》的規定。私隱公署向被投訴者發出17張執行通知和21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 2021-22, the PCPD handled a total of 4,593 complaints, which consisted of 3,368 newly received complaints (including 1,351 doxxing-related complaints) and 1,225 complaints carried forward from the previous reporting year. Of these, 3,118 complaints (67.9%) were completed during the reporting year while 1,475 complaints (32.1%) were still in progress as at 31 March 2022.

Excluding the doxxing-related cases, the PCPD completed the handling of 1,929 complaints in 2021-22, of which 1,155 were concluded after our preliminary assessments and 774 were accepted for further handling. Among these 774 complaints, the PCPD successfully resolved 688 complaints (88.9%) by conciliation, and 20 complaints were identified as possible criminal offences (most of them relating to direct marketing). The PCPD, after obtaining *prima facie* evidence of the suspected contraventions of the relevant requirements under the PDPO, referred the cases to the Police for further investigation and consideration for prosecution.

The PCPD carried out investigations into the remaining 66 complaints and found contraventions of the requirements of the PDPO in 38 cases. The PCPD directed or requested the parties being complained against to take remedial action or implement appropriate and practicable measures to prevent a recurrence of the contraventions by issuing 17 enforcement notices and 21 warnings.

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。

Appeals Lodged with the Administrative Appeals Board

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

行政上訴案件統計資料

於報告年度內，委員會合共頒布24宗裁決(包括於過往年度提出的上訴)，當中21宗被駁回、兩宗被裁定得直(即發還私隱公署作進一步處理)及一宗被裁定部份得直。在同一報告年度內，有兩宗上訴由上訴人自行撤回。(圖2.5)

Statistics of AAB cases

During the reporting year, the AAB handed down a total of 24 decisions (which included appeals lodged in previous years) in which 21 appeals were dismissed, two appeals were allowed (i.e. remitted to the PCPD for further investigation) and one appeal was partly allowed. In the same reporting year, two appeals were lodged and subsequently withdrawn by the appellants. (Figure 2.5)

上訴案件的結果 Results of Appeal Cases

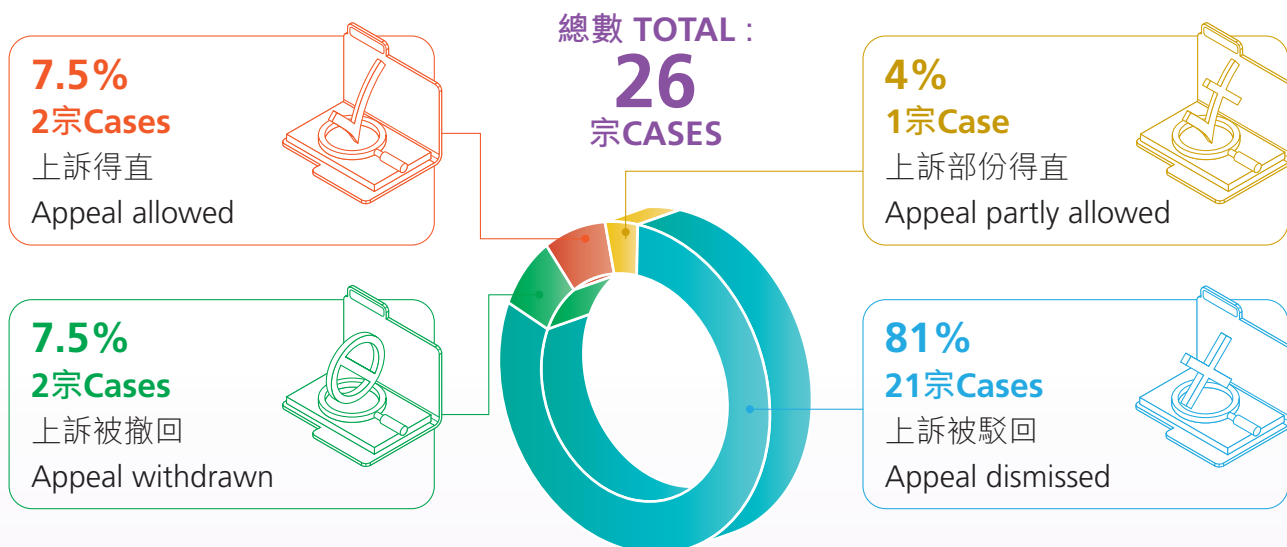


圖 Figure 2.5

接獲的行政上訴案件的性質及涉及《私隱條例》的規定

私隱公署於報告年度內共接獲九宗上訴個案；所有個案均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。私隱專員參照私隱公署發出的《處理投訴政策》中列出的以下理由行使上述酌情權：

- (1) 私隱公署進行初步查詢後發現無違反《私隱條例》任何規定的表面證據；
- (2) 私隱公署已就有關個案進行調停，或被投訴者已採取糾正措施，或基於其他實際情況的考慮，致令私隱公署認為就個案進行調查或繼續進行調查，亦不能合理地預計可帶來更滿意的結果；
- (3) 投訴人別有用心，其投訴動機與個人資料私隱及資料的保障無關；及／或
- (4) 不認為投訴的主要事項與個人資料私隱有關，例如投訴實質上是源於有關消費、僱傭、或合約糾紛。

Nature of AAB Cases Received and Provisions of the PDPO Involved

A total of nine appeals were received in the reporting year. All cases were related to appeals against the Privacy Commissioner's decisions in refusing to carry out or deciding to terminate an investigation initiated by a complaint under section 39(2) of the PDPO. The Privacy Commissioner exercised the aforesaid discretionary power with reference to the following grounds outlined in the Complaint Handling Policy issued by the PCPD:

- (1) After a preliminary enquiry by the PCPD, there is no *prima facie* evidence of any contraventions of the requirements under the PDPO;
- (2) Given the conciliation by the PCPD, remedial actions taken by the party being complained against or other practical circumstances, the investigation or further investigation of the case cannot reasonably be expected to bring about a more satisfactory result;
- (3) The ulterior motive of the complaint in question is not concerned with personal data privacy and data protection; and / or
- (4) The primary subject matter of the complaint is considered not to be related to personal data privacy (e.g. the complaint stems essentially from consumer, employment or contractual disputes).

在九宗上訴個案中，具體涉及以下指稱：(圖 2.6)

The particulars of the nine appeal cases involved the following allegations: (Figure 2.6)

- | | |
|---|---|
| <ul style="list-style-type: none"> • 違反保障資料原則：三宗 • 不遵從查閱資料要求：三宗 • 不遵從查閱資料要求及其他保障資料原則：一宗 • 是否涉及個人資料：兩宗 | <ul style="list-style-type: none"> • Contraventions of DPPs: three cases • Non-compliances with data access requests: three cases • Non-compliances with data access requests and other DPPs: one case • Whether or not personal data was involved: two cases |
|---|---|

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

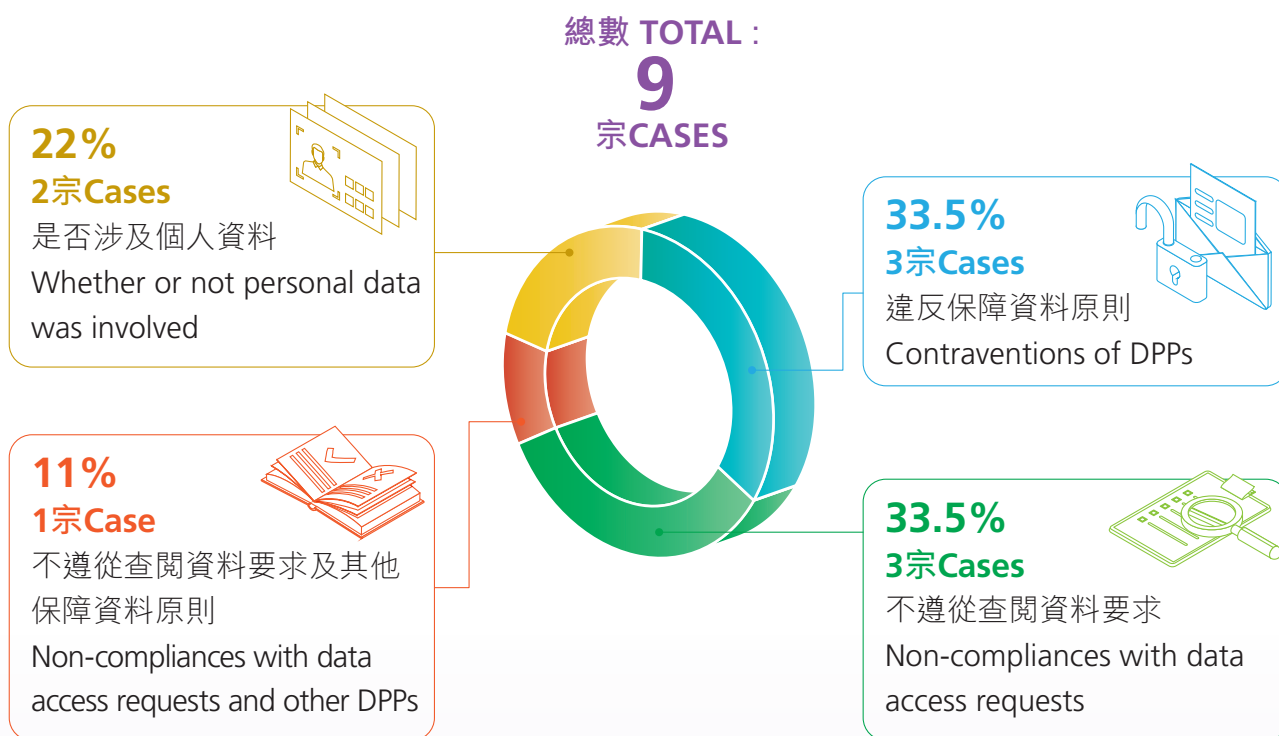


圖 Figure 2.6

而九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 2.7)

Of the nine appeal cases received, the distribution of DPPs concerned is as follows (one appeal might involve more than one DPP): (Figure 2.7)

- 第 1 原則 (收集資料原則) : 兩宗
- 第 3 原則 (使用資料原則) : 三宗
- 第 6 原則 (資料查閱及改正原則) : 四宗
- DPP 1 (Data Collection Principle): two cases
- DPP 3 (Data Use Principle): three cases
- DPP 6 (Data Access & Correction Principle): four cases

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

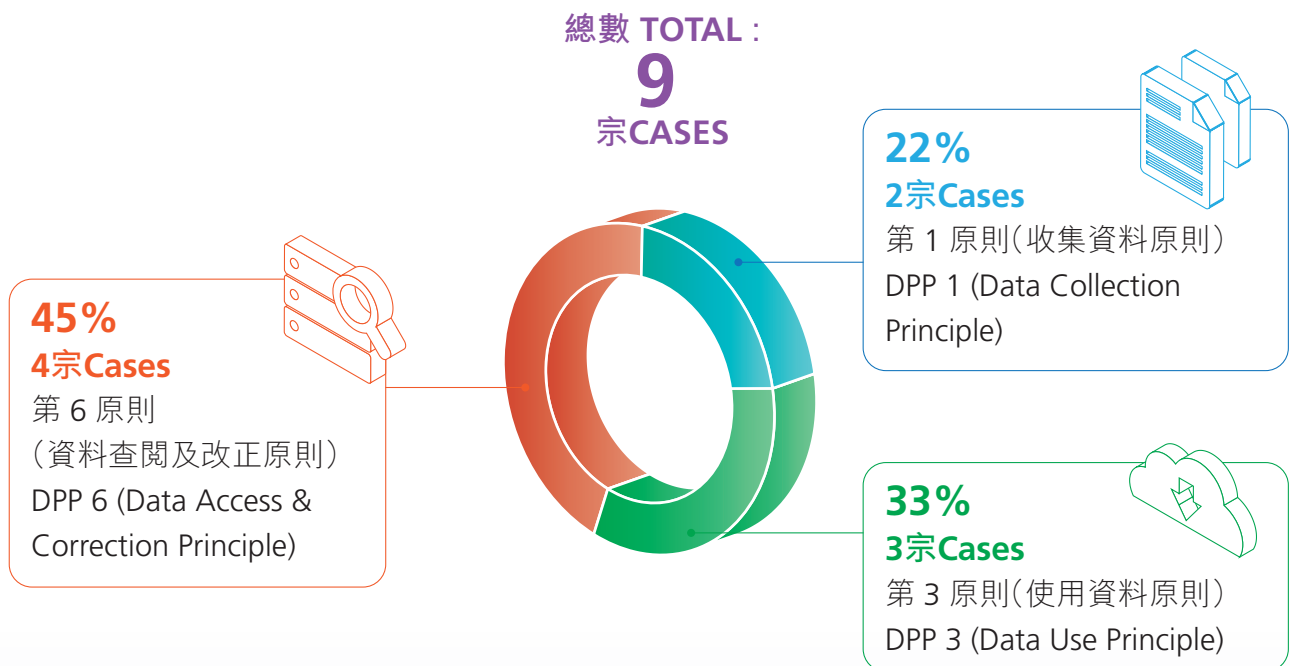


圖 Figure 2.7