

投訴及上訴

Complaints and Appeals



處理投訴

投訴的整體趨勢

私隱專員公署在本報告年度收到的投訴及經公署主動網上巡查發現的「起底」個案總數為3,600宗，比2022-23年度的3,644宗下跌了約1.2%。當中，與「起底」相關的投訴個案有433宗，經主動網上巡查發現的「起底」個案有198宗。

經主動網上巡查發現的「起底」個案由2022-23年度的841宗下跌至本報告年度的198宗，反映出私隱專員公署針對「起底」罪行的執法取得成果。雖然網上涉及「起底」的情況大幅減少，打擊「起底」仍然是私隱專員公署的重點工作。

Handling Complaints

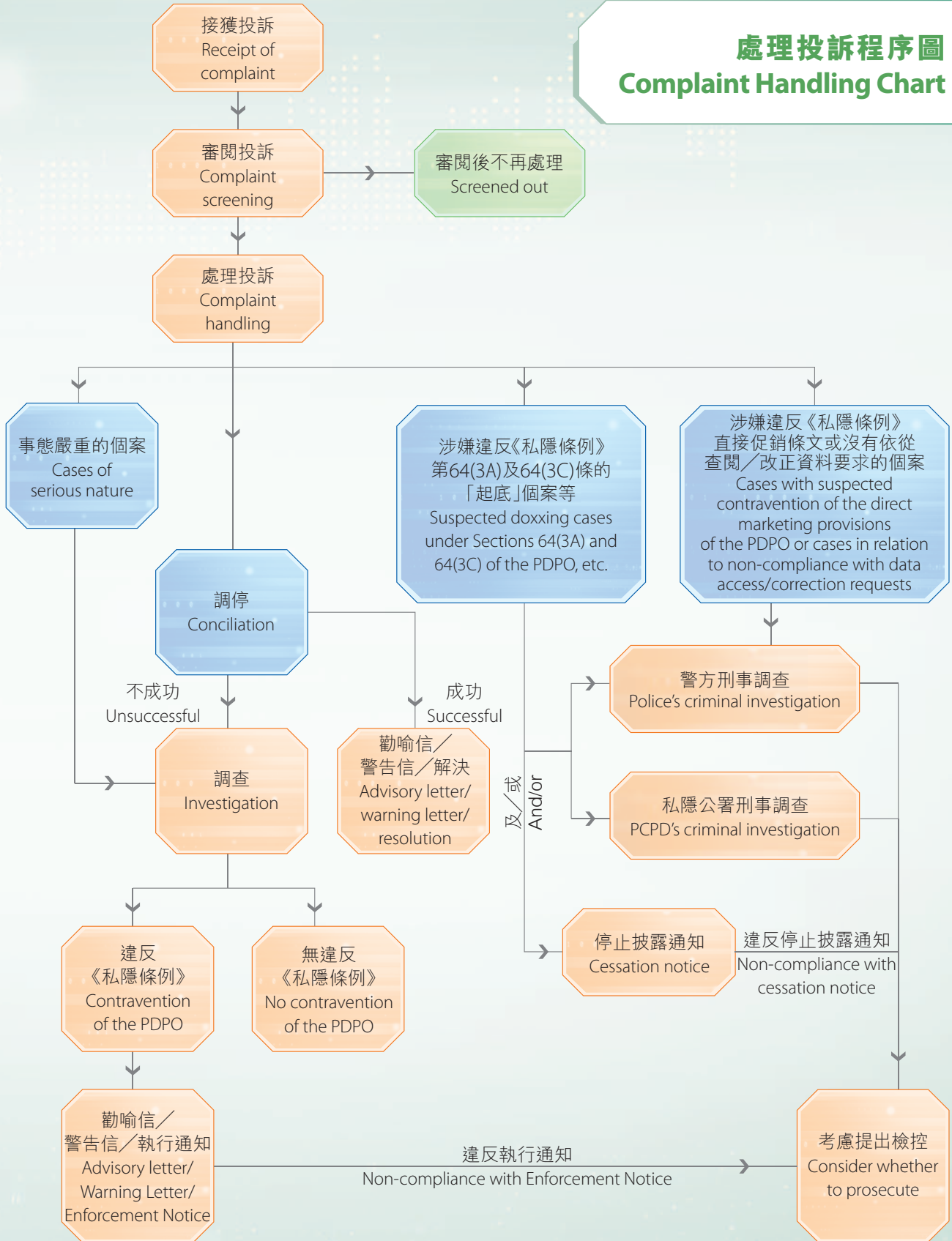
Overall Trend of Complaints

In this reporting year, the total number of complaints received and doxxing cases uncovered by proactive online patrols was 3,600, a decrease of 1.2% from the 3,644 cases in 2022-23. Of all complaints, 433 were doxxing-related complaints and 198 were doxxing cases uncovered by proactive online patrols.

Specifically, the number of doxxing cases detected through proactive online patrols dropped from 841 in the 2022-23 reporting year to 198 in the current reporting year, demonstrating the successful enforcement efforts made by the PCPD in combating doxxing offences. Although there has been a significant decline in online doxxing activities, curbing doxxing remains a 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

接獲的投訴及經主動網上巡查發現的「起底」個案

私隱專員公署在2023-24年度共收到3,600宗投訴及經主動網上巡查發現的「起底」個案，當中包括433宗與「起底」相關的投訴個案及198宗經主動網上巡查發現的「起底」個案。撇除這兩個類別，私隱專員公署在本報告年度共接獲2,969宗投訴，較去年增加39.6%（圖3.1）。

Complaints Received and Doxing Cases Uncovered by Proactive Online Patrols

There were a total of 3,600 complaints and doxing cases uncovered by proactive online patrols in 2023-24. Excluding the 433 doxing-related complaints and 198 doxing cases uncovered by proactive online patrols, the PCPD received 2,969 complaints, representing a 39.6% increase from the previous reporting year (Figure 3.1).

接獲的投訴個案及作出主動巡查個案數目
Number of Complaints Received and Doxing Cases Uncovered by Proactive Online Patrols

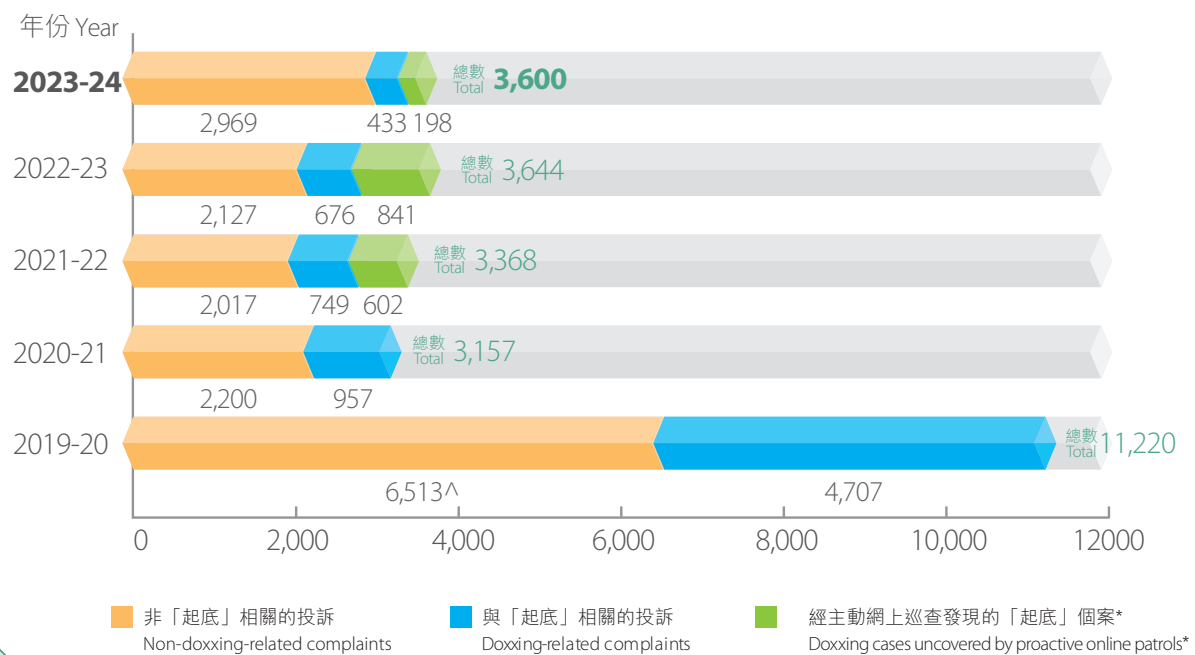


圖3.1
Figure 3.1

* 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。

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

[^] 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平台披露一份航空公司機艙服務員名單的投訴。

[^] 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.

被投訴者類別

2,969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(1,197宗)，主要涉及銀行、金融機構、物業管理公司、電訊公司及零售機構；
- 個人(1,466宗)，當中大部分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(306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 2,969 non-doxxing-related complaints are categorised as follows (Figure 3.2):

- Private organisations (1,197 cases), with the majority involving banks, financial institutions, property management companies, telecommunication companies and retail business organisations;
- Individuals (1,466 cases), with disputes mainly stemming from domestic affairs and installation of CCTV by neighbours; and
- Government departments and public organisations (306 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

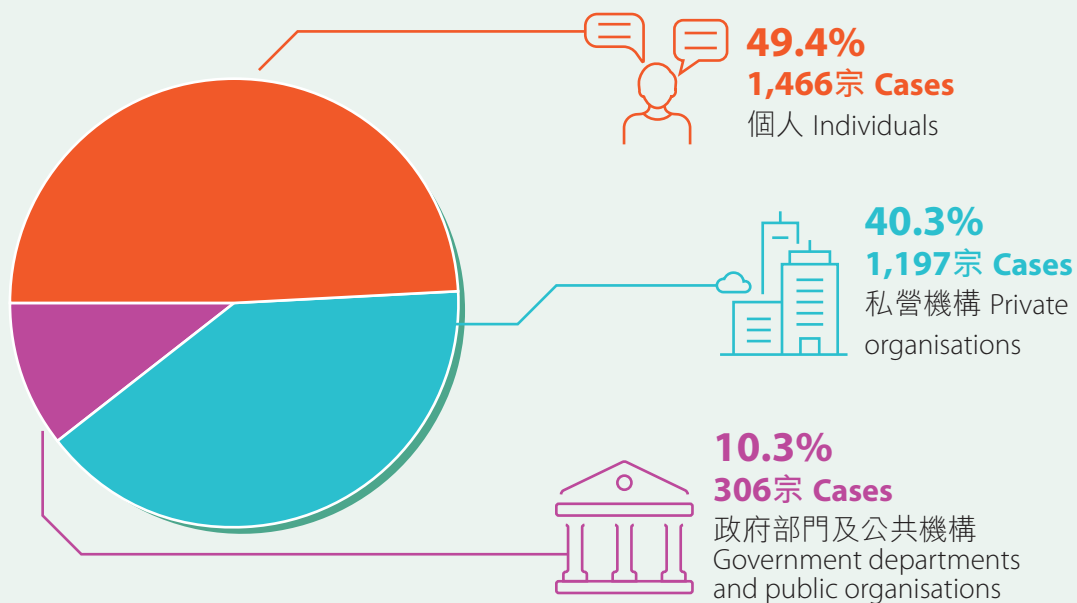


圖3.2
Figure 3.2

投訴指稱

2,969宗非「起底」相關的投訴當中，共涉及3,593項涉嫌違規行為（單一投訴或會牽涉多於一項指稱），投訴指稱的違規性質如下（圖3.3）：

Nature of Alleged Breaches

The 2,969 non-doxxing-related complaints involved a total of 3,593 alleged breaches (as one complaint might involve more than one allegation). The nature of the alleged breaches is shown as follows (Figure 3.3):

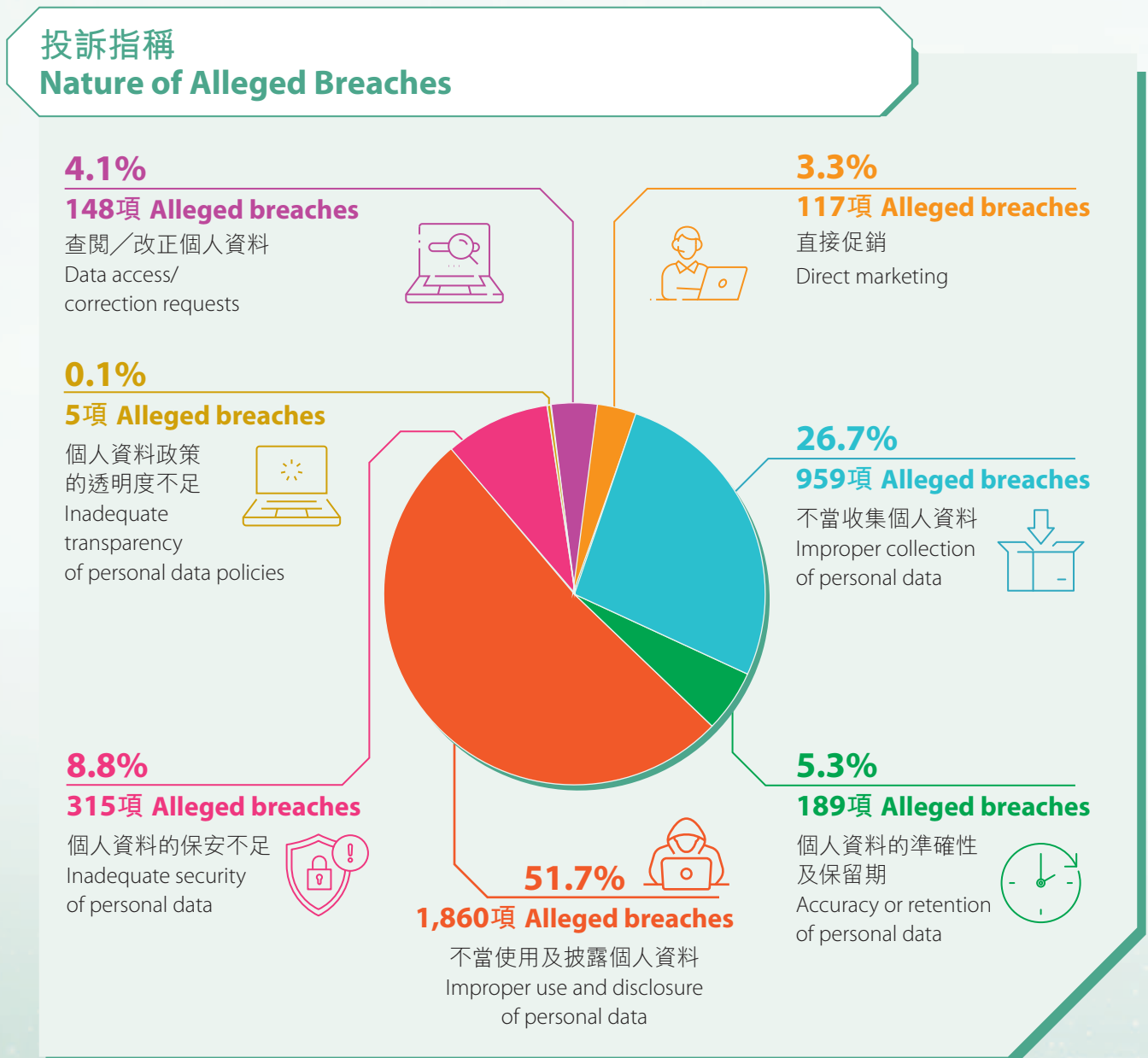


圖3.3
Figure 3.3

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)。

值得注意的是，有關查閱／改正資料要求的投訴由97宗增加至148宗，增幅達53%，有關增幅反映市民對行使他們在《私隱條例》下有關查閱及改正資料要求的權利的意識大大提升，可見私隱專員公署在公眾教育方面的工作取得成效。

另一方面，與資訊科技相關的投訴依然是佔比最高的類別，投訴個案數目為2022-23年度的三倍。這個情況是源於市民及機構在日常溝通及處理業務時經常使用即時通訊軟件、社交網絡平台和智能電話應用程式，而當中亦會涉及收集及使用個人資料的情況。

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).

It is noteworthy that the number of complaints relating to data access/correction requests has seen a 53% increase, rising from 97 to 148 cases. This trend shows that the PCPD's public education campaigns are effective as citizens are becoming more aware of their data access and correction rights under the PDPO.

On the other hand, the number of complaints relating to information technology remains the highest among all categories, with the number of complaints tripling that in the 2022-23 reporting year. This surge could be explained by the widespread use of instant messaging software, online social networks, and smartphone applications by members of the public and organisations in their daily communication and business transactions, which may also involve the collection and use of personal data.

投訴範疇 Subject Matters of Complaints

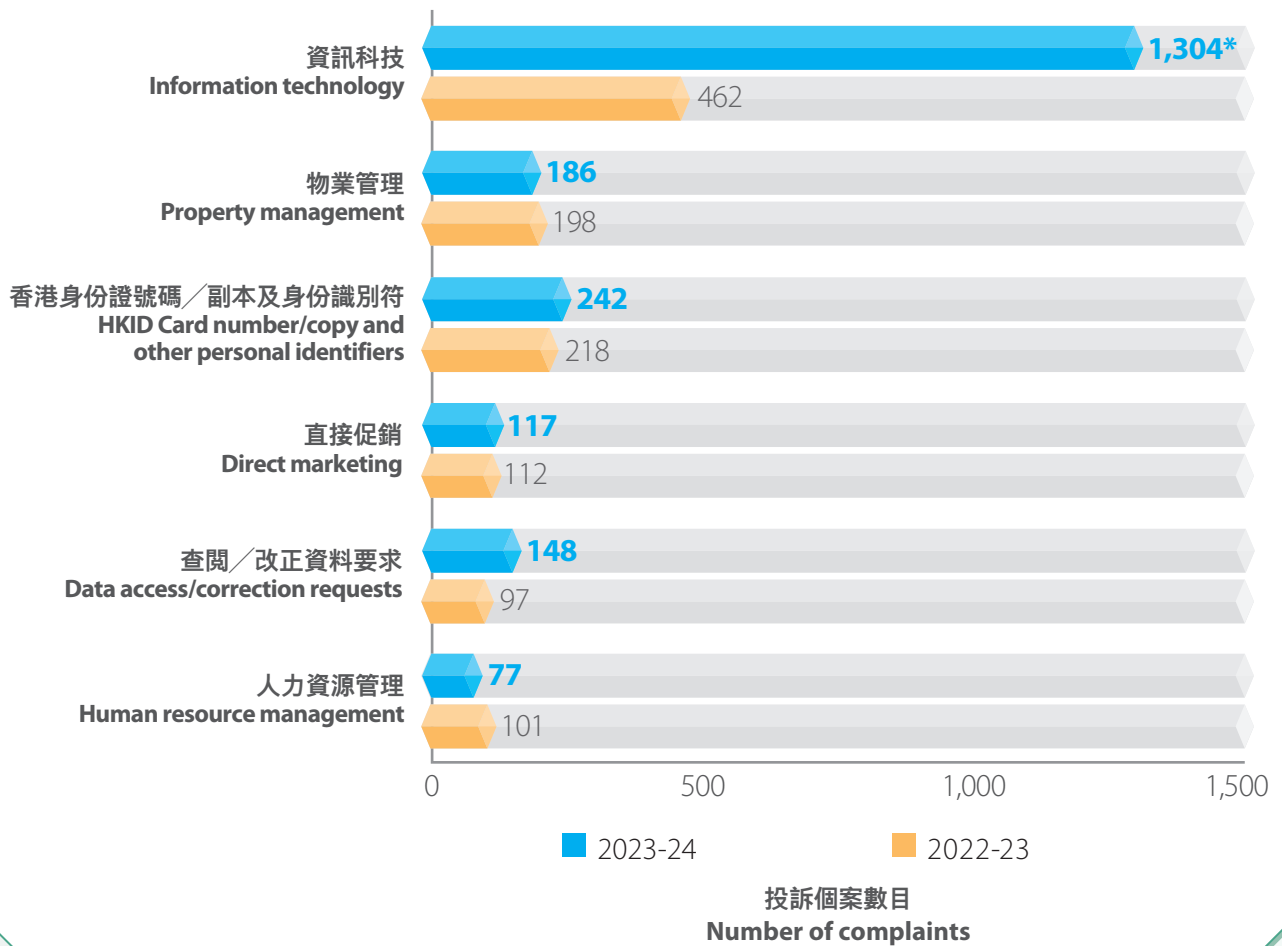


圖3.4
Figure 3.4

* 超過500宗與資訊科技有關的投訴源自於同一位投訴人。

* There are more than 500 complaints related to information technology lodged by the same complainant.

年度投訴摘要

在2023-24報告年度，私隱專員公署共處理了4,432宗投訴，包括新接獲的3,600宗投訴（當中包括433宗與「起底」相關的投訴及198宗經主動網上巡查發現的「起底」個案），以及832宗承接上一報告年度的投訴。其中3,604宗投訴（81.3%）已在本報告年度完成，而另外828宗（18.7%）則仍在處理中（截至2024年3月31日）。

撇除與「起底」相關的投訴及經網上巡查發現的「起底」個案，私隱專員公署在本報告年度完成處理2,906宗投訴，其中2,039宗經公署初步評估後結案，另外867宗則獲受理作進一步處理。

在這867宗投訴當中，私隱專員公署以調停方式成功解決744宗（86%）。另外20宗涉及刑事成份的投訴（其中大部分與直接促銷有關），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。公署就餘下的103宗投訴進行調查，並發現其中54宗違反《私隱條例》的規定，因此分別向被投訴者發出執行通知、警告信或勸諭信，指示或要求被投訴者採取補救行動或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 the 2023-24 reporting year, the PCPD handled a total of 4,432 complaints, which consisted of 3,600 newly received complaints (including 433 doxxing-related complaints and 198 doxxing cases uncovered by proactive online patrols) and 832 complaints carried forward from the previous reporting year. Of these, 3,604 complaints (81.3%) were dealt with during the reporting year, while the remaining 828 complaints (18.7%) were still in progress as at 31 March 2024.

Excluding the doxxing-related complaints and doxxing cases uncovered by proactive online patrols, the PCPD completed the handling of 2,906 complaints in this reporting year, of which 2,039 complaints were concluded after conducting preliminary assessment, while the other 867 complaints were accepted for further handling.

Among these 867 complaints, the PCPD successfully resolved 744 complaints (86%) through conciliation. For the other 20 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 investigations and consideration of prosecutions. The PCPD carried out investigations into the remaining 103 complaints and found 54 cases to be in contravention of the requirements of the PDPO. Therefore, the PCPD issued Enforcement Notices, warning letters or advisory letters, directing or requesting the parties being complained against to take remedial actions or implement appropriate and practicable measures to prevent a 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)條展開五項調查並分別發表以下兩份調查報告。

關於未經授權查閱信貸資料庫的信貸資料的調查報告

私隱專員就一宗有關未經授權查閱一個信貸資料庫(該資料庫)的信貸資料的投訴發表一份調查報告。調查源於一名投訴人發現他在該資料庫內的信貸資料在他不知情及未經他的同意下，被八間他不認識的財務公司多次查閱，投訴人遂向私隱專員公署投訴該資料庫的營運商沒有採取足夠保安措施保障他的個人資料。

根據調查所得，該資料庫由一間科技公司(該公司)營運，查閱該資料庫的財務公司共有約680間，涉及約18萬名借款人的信貸資料。私隱專員認為該公司在保障個人資料所採取的保安措施及保留信貸資料的時限方面存在以下三項不足：

- 未有採取適當的措施防止個人信貸資料受到不當查閱、處理或使用；
- 薄弱的密碼管理；及
- 逾期保留已完成還款超過五年的信貸紀錄，數目達五萬多宗。

Complaint Investigations

During the reporting period, the Privacy Commissioner published two reports on five investigations conducted under section 38(a) of the PDPO, respectively. Details of the reports are as follows.

Investigation Report on Unauthorised Access to Credit Data in a Credit Reference System

The Privacy Commissioner published an investigation report on unauthorised access to credit data in a credit reference system (the System). The investigation arose from a complaint lodged by a complainant reporting that his credit data in the System was accessed a number of times by eight money lending companies unknown to him without his knowledge or consent. The complainant was of the view that the operator of the System did not put in place adequate security measures to protect his personal data, thus he lodged a complaint to the PCPD.

As a result of the investigation, it was found that the System was operated by a technology company (the Company). Around 680 money lending companies used the System, which contained the credit data of about 180,000 borrowers. The Privacy Commissioner identified three areas of deficiencies in terms of the security measures taken by the Company to protect personal data and the retention period of credit data:

- Failure to take practicable steps to protect the credit data from unauthorised access, processing or use;
- Weak password management; and
- Prolonged retention of over 50,000 credit records of borrowers who had completed their repayments more than five years ago.

基於上述情況，私隱專員認為該公司未有採取所有切實可行的步驟，保障該資料庫內的個人資料不受未獲准許的或意外的查閱、處理或使用所影響，違反了《私隱條例》保障資料第4(1)原則有關個人資料保安的規定。該公司亦未有採取所有切實可行的步驟，以確保個人資料的保存時間不超過所需的時間，違反保障資料第2(2)原則的規定。私隱專員遂向該公司送達執行通知，指示該公司糾正其違反事項，以及防止同類違反的行為再度發生。

In the circumstances, the Privacy Commissioner considered that the Company had failed to take all practicable steps to protect the personal data in the System against unauthorised or accidental access, processing, or use, thereby contravening Data Protection Principle (DPP) 4(1) under the PDPO relating to the security of personal data. The Company also failed to take all practicable steps to ensure that the personal data concerned was not kept longer than was necessary, thus contravening DPP 2(2). Consequently, the Privacy Commissioner served an Enforcement Notice on the Company, directing it to remedy the contraventions and prevent recurrence of similar contraventions.

私隱專員藉此報告建議該公司及其他個人信貸資料庫的營運商：

Through the report, the Privacy Commissioner recommended the Company and other operators of credit reference databases to:

- 實施個人資料私隱管理系統；

➤ Implement a Personal Data Privacy Management Programme;
- 委任保障資料主任，監察《私隱條例》的遵從；

➤ Appoint data protection officer(s) to monitor compliance with the PDPO;
- 聘用獨立循規審核人士，定期就信貸資料機構提供個人信貸資料服務的機制及方法進行循規審核；及

➤ Appoint an independent compliance auditor to conduct regular compliance audits on the mechanism and means of providing credit reference services; and
- 增加違規情況的罰則，減少財務公司再次發生違規的情況。

➤ Increase penalties for contraventions to deter the recurrence of violations by money lenders.

關於僱主不當保留及使用僱員／前僱員個人資料的調查報告

私隱專員公署在過去五年平均每年收到過百宗有關人力資源管理方面的投訴。為促進僱主及人力資源管理人員認識他們在保障個人資料私隱方面的責任和相關的法律規定，私隱專員就接獲的四宗有關人力資源管理的投訴發表調查報告。該四宗投訴分別涉及四間機構，當中兩間機構的員工在即時通訊軟件群組中不當披露個人資料，另外兩間機構分別被指在前僱員離職後仍繼續使用其個人資料作公司網上銀行帳戶的使用者及使用前僱員的舊住址填寫及郵寄報稅表。

私隱專員調查後發現三間涉案的機構違反了保障資料第3(1)原則有關使用(包括披露)個人資料的規定，另外一間機構則違反了保障資料第2(1)原則有關個人資料的準確性及保障資料第4(1)原則有關個人資料保安的規定。私隱專員因而向四間涉案機構送達執行通知，指示其糾正違規事項，以及防止類似的違規行為再度發生。私隱專員亦就如何保障個人資料私隱向僱主作出建議，並同步更新《人力資源管理：常問問題》資料單張。

Investigation Report on Improper Retention and Use of Personal Data of Employees/Former Employees by Employers

Over the past five years, the PCPD received on average over a hundred complaints relating to human resource management per annum. To raise the awareness amongst employers and human resource managers of their duties in protecting personal data privacy and in complying with the relevant statutory requirements, the Privacy Commissioner published an investigation report in respect of four complaints received by the PCPD concerning human resource management. The four complaints were respectively lodged against four organisations, the staff of two of which were alleged to have improperly disclosed personal data in instant messaging application chat groups, while the other two organisations were alleged to have continued using a former employee's personal data as the user of a corporate bank account after he had left employment and used the old address of a former employee for filing and mailing a tax return respectively.

Upon investigation, the Privacy Commissioner found that three organisations had contravened DPP 3(1) regarding the use (including the disclosure) of personal data, and one organisation had contravened DPP 2(1) regarding the accuracy of personal data and DPP 4(1) regarding the security of personal data. The Privacy Commissioner therefore served Enforcement Notices on the four organisations, directing them to remedy their respective contraventions and prevent recurrence of similar contraventions in future. The Privacy Commissioner also provided recommendations to employers in general on how to safeguard personal data privacy, and issued an updated information leaflet on "Human Resource Management: Common Questions" in parallel.

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》(香港法例第442章)而設立的法定組織，負責處理對私隱專員在《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，委員會合共頒布七宗裁決(包括於過往年度提出的上訴)，當中五宗被駁回、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，有三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), established under the Administrative Appeals Board Ordinance (Chapter 442 of the Laws of Hong Kong), is the statutory body 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 seven decisions (which included appeals lodged in previous years), in which five 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, three appeals were lodged and subsequently withdrawn by the appellants (Figure 3.5).

上訴案件的結果 Results of Appeal Cases

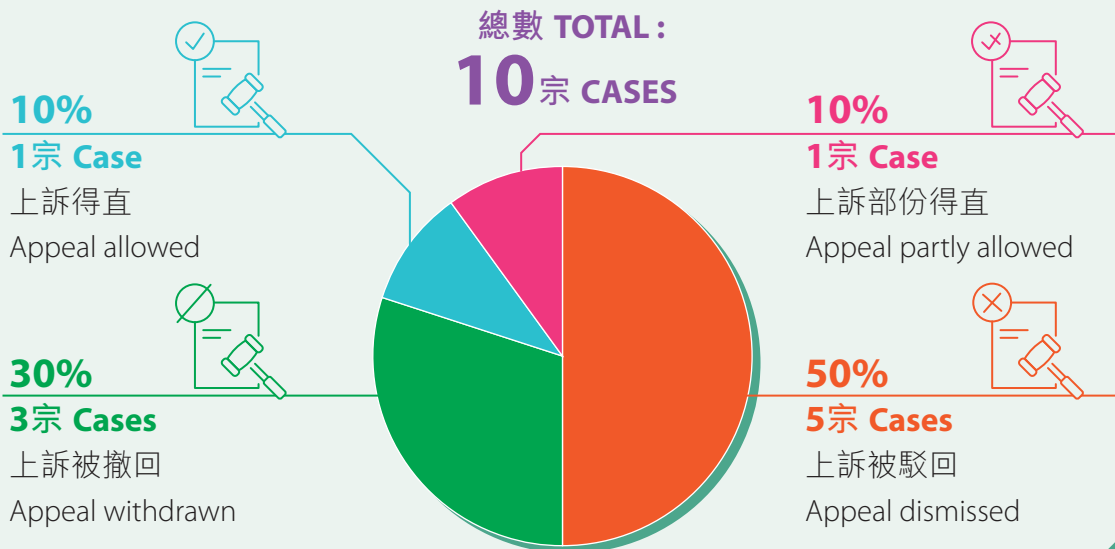


圖3.5
Figure 3.5

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32宗上訴個案。其中：

- 15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》，在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而行使上述酌情權；
- 八宗涉及私隱專員在作出調查後不送達執行通知的決定；
- 另外八宗涉及私隱專員不接納相關個案為《私隱條例》第37條下的「投訴」的決定；及
- 餘下的一宗上訴個案涉及私隱專員在完成刑事調查後作出結案的決定。

Nature of AAB Cases Received and Provisions of the PDPO Involved

A total of 32 appeals were received during the reporting year.

- 15 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 in accordance with the Complaint Handling Policy issued by the PCPD, on the grounds that there was no *prima facie* evidence of any contraventions of the requirements under the PDPO following a preliminary enquiry by the PCPD;
- Eight appeals were against the Privacy Commissioner's decisions not to serve Enforcement Notices after investigation;
- Another eight appeals were against the Privacy Commissioner's decisions not to accept the relevant case as a "complaint" under section 37 of the PDPO; and
- The remaining appeal involved the termination of investigation after having completed a criminal investigation by the Privacy Commissioner.

上述32宗上訴個案中，具體涉及以下指稱(圖3.6)：

The particulars of the 32 appeal cases involved the following allegations (Figure 3.6):

- 違反保障資料原則：13宗
- 不接納個案為投訴：八宗
- 不遵從查閱資料要求：六宗
- 在未獲同意下披露個人資料的罪行：三宗
- 是否涉及個人資料：兩宗
- Contraventions of DPPs: 13 cases
- Not accepted as a complaint: eight cases
- Non-compliance with data access requests: six cases
- Offences for disclosing personal data without consent: three cases
- 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

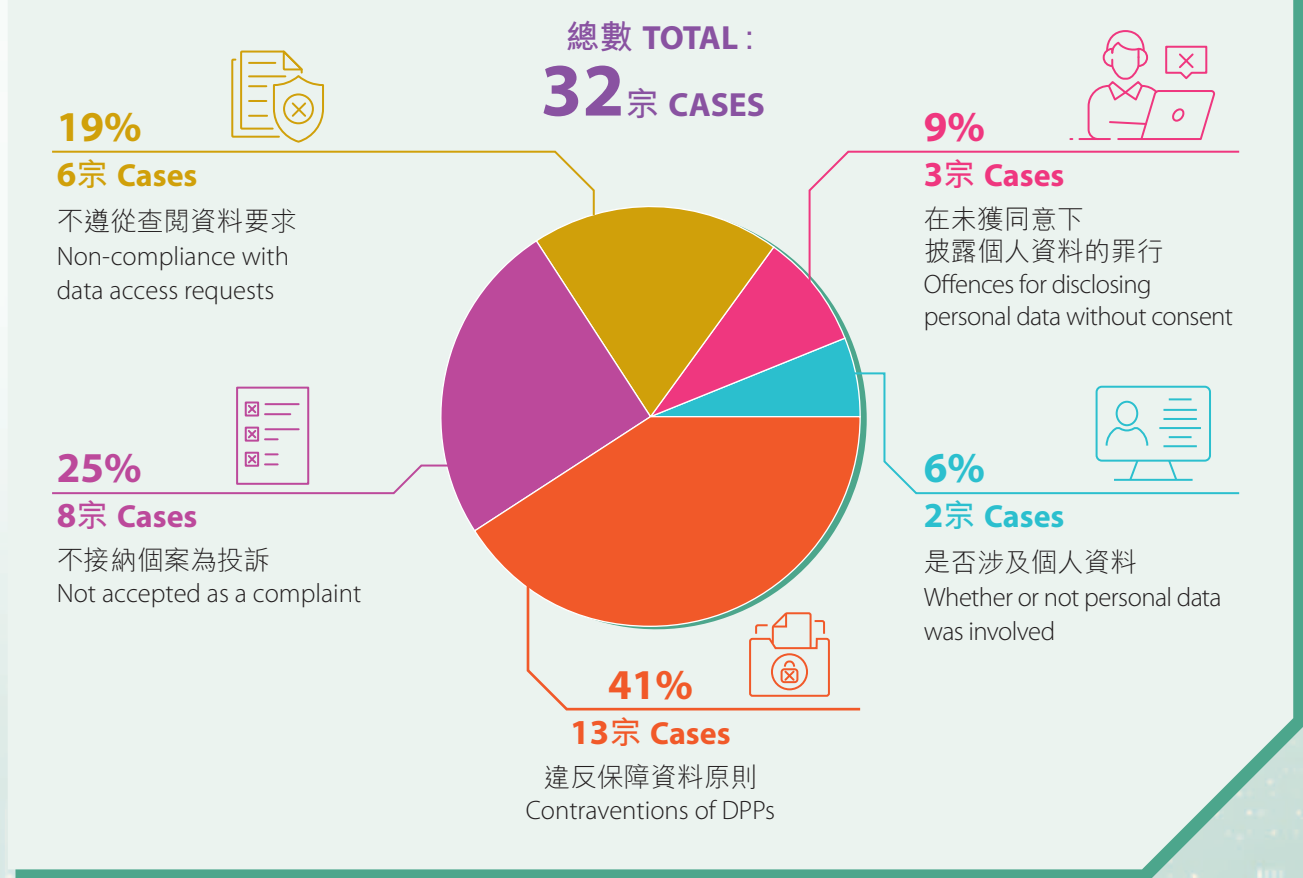


圖3.6
Figure 3.6

而32宗接獲的上訴個案中，19宗上訴個案涉及違反保障資料原則的指稱，當中牽涉的保障資料原則的分類如下(單一個案或會牽涉多於一項保障資料原則)(圖3.7)：

Of the 32 appeal cases received, 19 appeal cases involved alleged contraventions of the DPPs and 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)：六宗 | ➤ DPP 1 (Data Collection Principle): six cases |
| ➤ 第2原則(資料準確及保留原則)：兩宗 | ➤ DPP 2 (Data Accuracy and Retention Principle): two cases |
| ➤ 第3原則(使用資料原則)：九宗 | ➤ DPP 3 (Data Use Principle): nine cases |
| ➤ 第4原則(資料保安原則)：五宗 | ➤ DPP 4 (Data Security Principle): five cases |
| ➤ 第6原則(資料查閱及改正原則)：六宗 | ➤ DPP 6 (Data Access and Correction Principle): six cases |

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

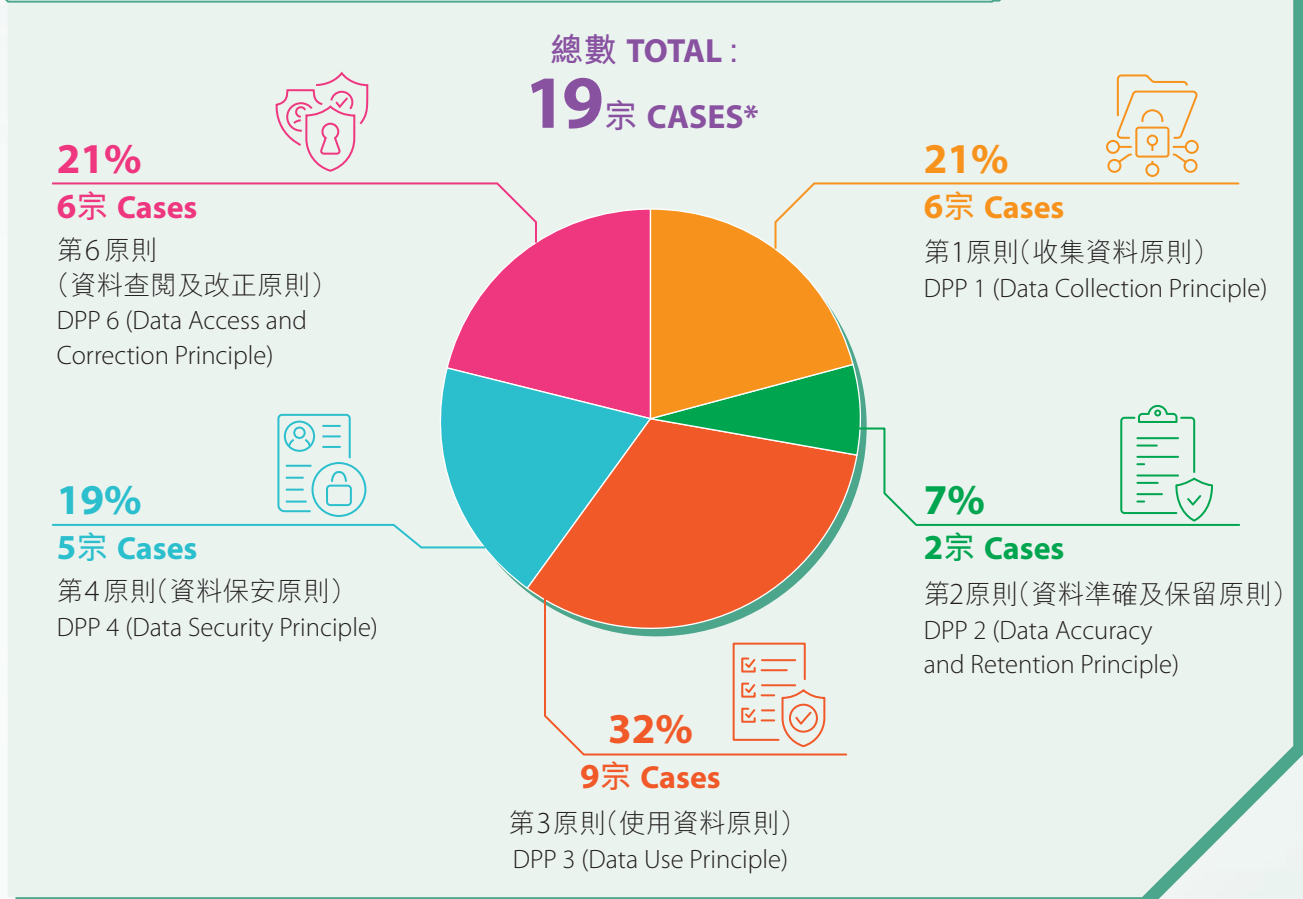


圖3.7
Figure 3.7

* 單一個案或會牽涉多於一項保障資料原則。 * One appeal might involve more than one DPP.