

廉政公署事宜投訴委員會

ICAC COMPLAINTS COMMITTEE



2019 年年報

ANNUAL REPORT 2019

TABLE OF CONTENTS

FOREWORD BY THE CHAIRMAN.....	2
ICAC COMPLAINTS COMMITTEE.....	3
TERMS OF REFERENCE	3
MEMBERSHIP	4
HANDLING OF COMPLAINTS	5
COMPLAINTS RECEIVED.....	7
COMPLAINTS CONSIDERED	10
HIGHLIGHTS.....	11
IMPROVEMENTS TO PROCEDURES.....	17
ANNEX – USEFUL ADDRESSES	18

FOREWORD BY THE CHAIRMAN



This is the twenty-fifth annual report published by the Independent Commission Against Corruption (ICAC) Complaints Committee to share with members of the public a summary of our work in the past year. It provides the important facts and figures about how we have sought to fulfil our role as the independent body monitoring and reviewing the handling by the ICAC of the non-criminal complaints lodged against the Commission and its officers.

Our Committee held three meetings in 2019 where we deliberated on the complaint investigation and assessment reports prepared by the ICAC. We did not only handle the complaints against the officers concerned, but also carefully examined the ICAC procedures and practices that require enhancement or updating to guard against similar problems in the future. Together with the ICAC management, we have also looked into areas where ICAC officers need to strengthen themselves through suitable guidance and training, based on the lessons learnt from the complaints considered.

My members and I are committed to ensuring the professional and proper handling of relevant complaints by the ICAC. Members of the public are welcome to offer us their views and suggestions 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 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 (From 1 January 2019 to 31 December 2019)



Hon Jeffrey LAM Kin-fung,
GBS, JP
Chairman



Dr Anissa CHAN WONG
Lai-kuen, BBS, MH, JP
Member



Mr Benjamin CHA
Yiu-chung
Member



Hon Alice MAK Mei-kuen,
BBS, JP
Member



Dr Hon Priscilla LEUNG
Mei-fun, SBS, JP
Member



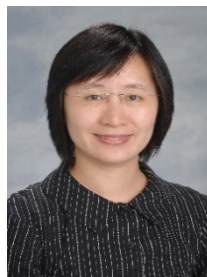
Mr Stephen YIU Kin-wah
Member



Miss Maggie WONG
Pui-kei, SC
Member



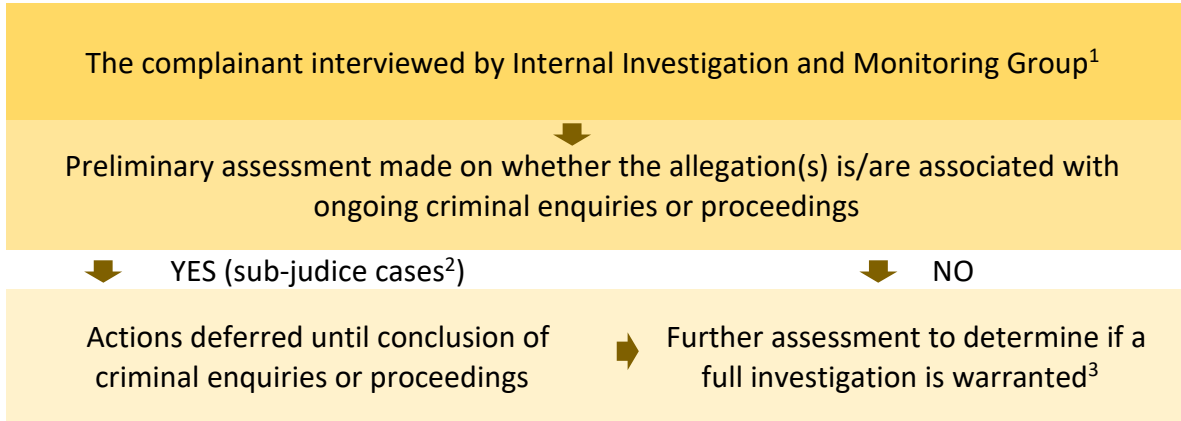
Mr Frederick TONG
Kin-sang
*(Representative of The
Ombudsman)*
Member



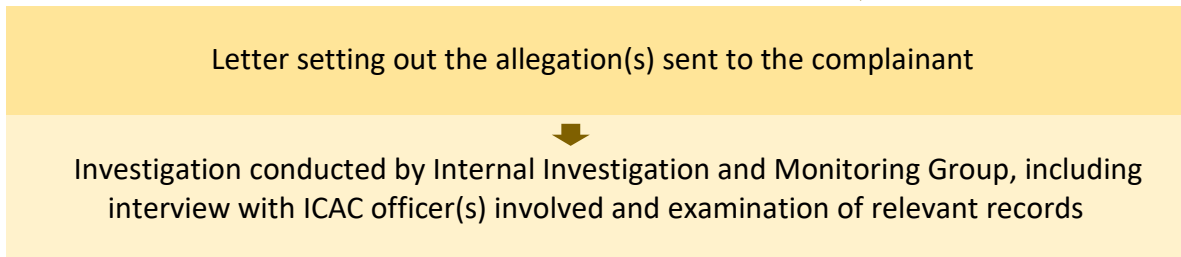
Ms Subrina CHOW
Shun-yee
Secretary

HANDLING OF COMPLAINTS

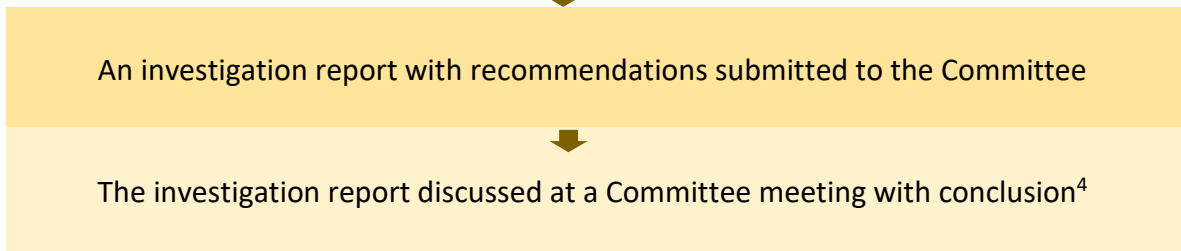
PRELIMINARY ASSESSMENT STAGE



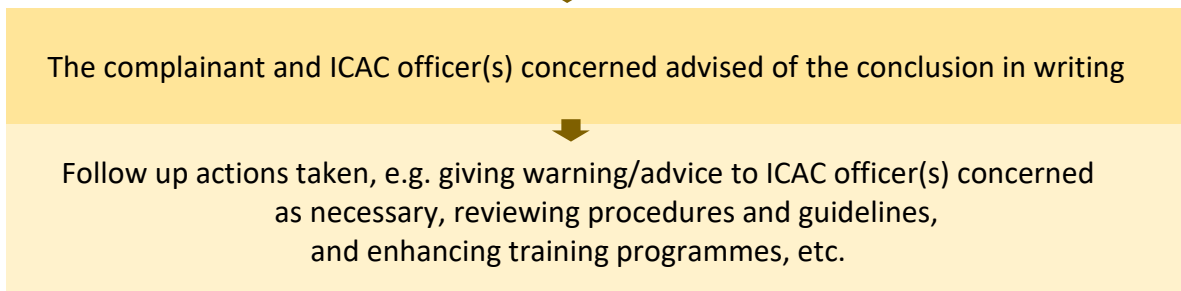
INVESTIGATION STAGE



COMMITTEE DISCUSSION STAGE



FOLLOW-UP ACTION STAGE

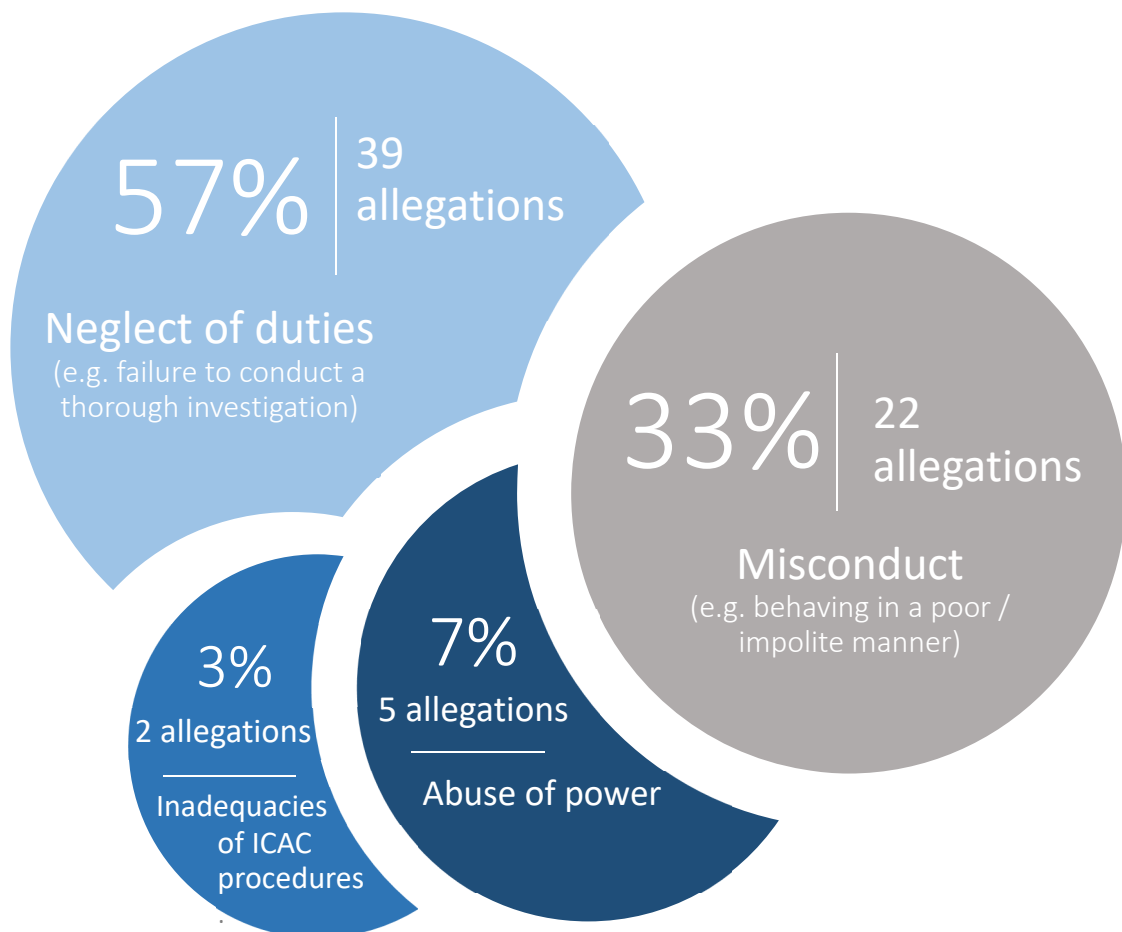


Remarks

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 2019, the Committee considered and endorsed three 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.

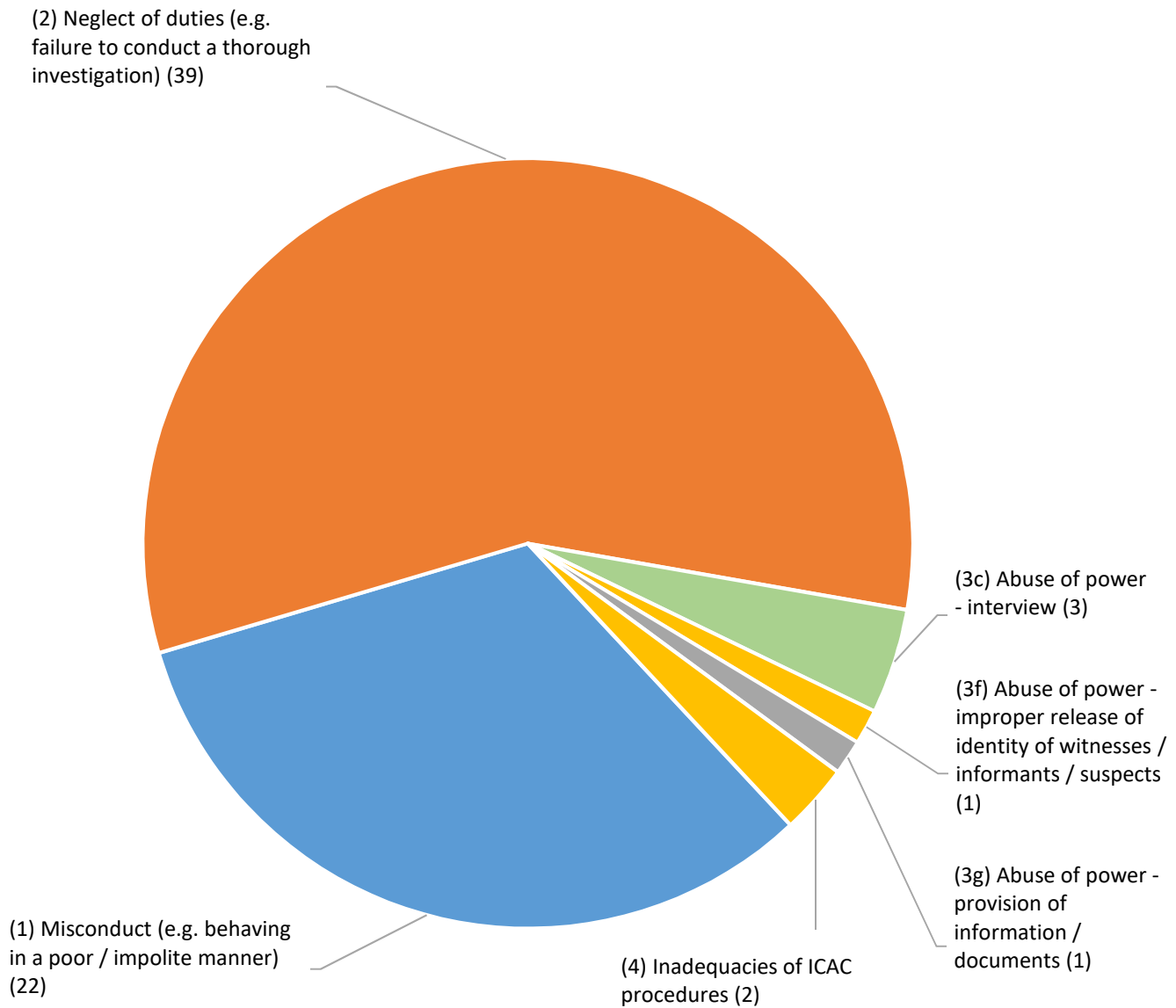
COMPLAINTS RECEIVED

In 2019, 14 complaints containing a total of 68 allegations, including one complaint with 29 allegations, against the ICAC or its officers were received, as compared with 24 complaints (containing a total of 100 allegations) and 11 complaints (containing a total of 23 allegations) received in 2017 and 2018 respectively. The allegations registered in 2019 were related to neglect of duties by ICAC officers (57%); misconduct (33%); abuse of power (7%) and inadequacies of ICAC procedures (3%).



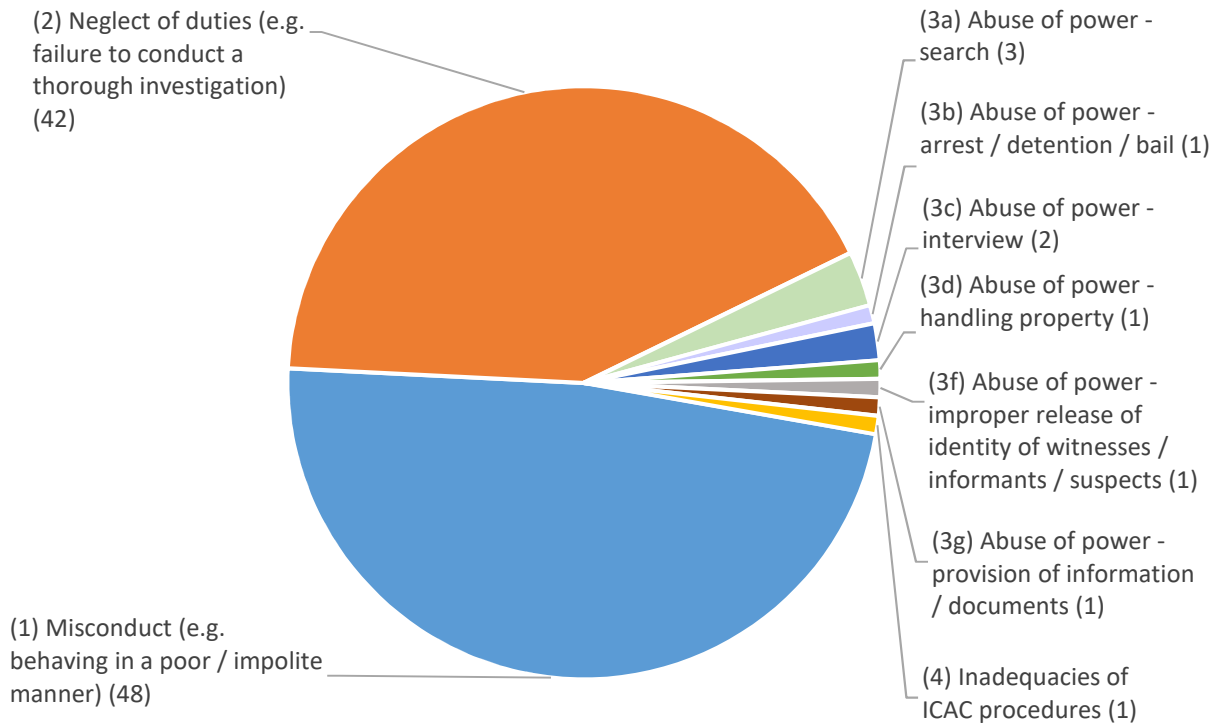
Number and category of allegations registered in 2017, 2018 and 2019

2019 (Total: 68)

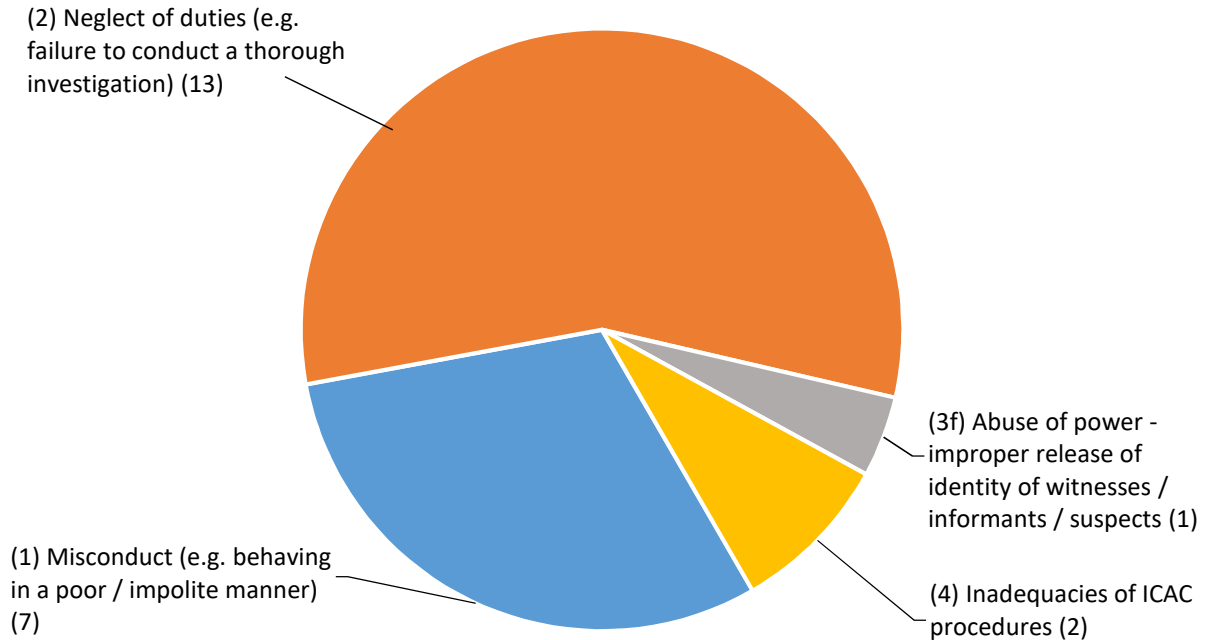


Note: The full breakdown of allegations by category is set out in the statistical table on page 10.

2017 (Total: 100)



2018 (Total: 23)



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

COMPLAINTS CONSIDERED

The Committee held three meetings in 2019 in April, July and November respectively. Of the 14 complaints received in 2019, investigations into 11 complaints covering 62 allegations were concluded with the relevant investigation reports considered by the Committee during the year. The remaining three complaints covering 6 allegations were still under investigation as at the end of 2019. The Committee also considered one complaint received in 2016 (the investigation of which had been held in abeyance until conclusion of all related court proceedings in 2019) and another complaint received in late 2018, for which the related investigations covering another 6 allegations were completed in 2019. A summary of the allegations considered by the Committee in 2019 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>	23	1
2.	<i>Neglect of duties</i>	38	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>	3	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>	1	0
	(g) <i>provision of information / documents</i>	1	0
4.	<i>Inadequacies of ICAC procedures</i>	2	0
Total:		68	3 (4%)

HIGHLIGHTS

Of the 13 complaints covering 68 allegations considered by the Committee in 2019, three allegations (4%) in two complaints (15%) were found to be substantiated or partially substantiated. The substantiated or partially substantiated allegations concerned a total of three ICAC officers who were as a result given advice respectively by their senior officers.

In addition, three officers of the ICAC Community Relations Department in another complaint were given advice by a senior officer, although the original allegation was found not substantiated. The three officers were advised to heighten their professional sensitivity when dealing with election-related matters.

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 arrested for suspected corruption offences at his residence, which was then searched pursuant to a search warrant. The search was led by a Senior Investigator (“Officer A”), with the assistance of an Investigator (“Officer B”) and an Assistant Investigator (“Officer C”). Subsequently, the complainant complained that Officer B and Officer C had not produced their warrant cards to identify themselves as ICAC officers upon entering his residence or during the search.

Investigation

Officer B and Officer C were separately interviewed by L Group. Officer C denied the allegation and stated that both Officer A and she had identified themselves by showing their warrant cards upon entry into the residence of the complainant. As for Officer B, he pointed out that he was instructed to join Officer A and Officer C for the search operation after the two officers had gained entry into the residence of the complainant. When he entered the premises, Officer A was explaining the content of the search warrant to the complainant. Afterwards, he was required to commence the search and did not find an opportunity to identify himself to the complainant who appeared to have no question about his identity. The accounts given by Officer B and Officer C about the events on the incident day were corroborated by Officer A when the latter was separately interviewed by L Group.

Assessment

According to the internal guidelines of the ICAC, all officers of a search operation must identify themselves by producing their warrant cards to the person whose premises is the subject of a search warrant prior to commencing the search. As admitted by Officer B, he had not produced his warrant card for the purpose of identifying himself to the complainant before he took part in the search. Hence, the allegation was substantiated against Officer B but unsubstantiated against Officer C. It was recommended that Officer B should be given advice by a senior officer to remind him to adhere to the relevant requirement for a search operation. The Committee endorsed the relevant assessment and recommendation.

Case 2

Case background

The ICAC Community Relations Department coordinated the design and production of several promotional videos to enlist public support to uphold a clean Rural Representative Election held in early 2019, with the assistance of an outsourced production company. A Senior Community Relations Officer (“Officer D”) was assigned as the project officer responsible for the relevant coordination work under the supervision of a Regional Officer (“Officer E”) and a Deputy Regional Officer (“Officer F”). Apart from uploading to the ICAC online platform, the promotional videos were also broadcast on various media channels during the Voter Registration Period and the Nomination cum Election Period of the Rural Representative Election. As the vests of the actor and actress posing as election canvassers in the videos were similar in design and

colour to the one worn by the supporters of a local political party, the ICAC received a complaint alleging that the ICAC might have tried to interfere with the election results through the promotional videos.

Investigation

L Group investigation revealed that the costumes of the characters in the videos were suggested by the outsourced production company and chosen together by Officers D, E and F. The three officers concerned had also reviewed the rough cut of these promotional videos before confirming the final versions for broadcasting. When separately interviewed by L Group, all three officers denied the allegation. According to Officer D, the vests of the actor and actress posing as election canvassers were chosen merely out of aesthetic reason although she was aware that the relevant design and colour were similar to the one worn by the supporters of a local political party. When the rough cut videos were reviewed, Officer F had once raised the concern that the selected vest might look similar to those used by the local political party. Nevertheless, Officer D and Officer F decided not to pursue the matter as they considered that the involvement of political parties was very limited in the Rural Representative Election. All three officers admitted to L Group that they should have been more sensitive during the course of video production to avoid any misconceptions by members of the public.

Assessment

The allegation of interfering with the election results was found unsubstantiated in the absence of any supporting evidence. However, it was noted that the design and colour of the vests of the actor and actress posing as election canvassers in the videos were actually quite similar to the one worn by

the supporters of the local political party. During the production of the promotional videos, remedial action could have been taken to avoid any potential public misperception. It was hence recommended that Officers D, E and F should be given advice by a senior officer to heighten their professional sensitivity when dealing with election-related matters. The Committee endorsed the relevant assessment and recommendation.

Case 3

Case background

The complainant made a total of 29 allegations against six ICAC officers with whom he had contact in relation to a number of corruption reports lodged by him over time. The allegations were related to the interviews with him, the preparation of his witness statements, the further information which he provided, the investigative actions of the officers, etc. Among these allegations, he complained that (a) an Assistant Investigator (“Officer G”) had not performed diligently when preparing a seizure list to record the documents provided by him during an interview with him, and had failed to prepare suitable equipment and sufficient number of seizure lists for the occasion; and (b) a Chief Investigator (“Officer H”) had failed to acknowledge receipt of the email he sent to the ICAC to provide further information about one of his corruption reports.

Investigation

L Group had separately interviewed the officers concerned and examined the relevant records. In respect of allegation (a), Officer G confirmed that he had brought a reasonable number of seizure lists and had made additional copies

using the office photocopier during the interview with the complainant. However, he admitted that he had inadvertently recorded an incorrect ICAC reference number for an item in the seizure list on the occasion, although the description of the item recorded was accurate. As regards allegation (b), Officer H explained that upon receiving the email from the complainant, she had spent some time to study the matters raised therein and hence overlooked the requirement stipulated in the internal guidelines of the ICAC of making an interim reply within ten working days when a substantive reply could not be made.

Assessment

All the allegations made by the complainant were not substantiated except allegations (a) and (b), which were found partially substantiated and substantiated respectively. It was recommended that Officer G be advised by a senior officer as to the importance of performing diligently when preparing investigation-related documents. It was also recommended that Officer H should be given advice by a senior officer as to the requirement of handling incoming correspondence in a timely manner and sending an interim reply as and when necessary in accordance with the relevant internal guidelines. The Committee endorsed the relevant assessments and recommendations.

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 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 2019, the ICAC had organised a number of briefing sessions and strengthened the training programmes for frontline officers to enhance their vigilance in conducting search operations, maintaining records of seizures and handling of incoming correspondences. Briefings were also given to all officers to heighten their professional sensitivity when dealing with election-related matters. Furthermore, the ICAC had initiated a review on the format of the standard form used for recording the statement made by a complainant or a witness particularly to ensure that the personal data collected from the complainant/witness are necessary and adequate but not excessive.

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 the 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

[#] This Regional Office has been relocated to the current address since 28 October 2019.