

TRANSPARENCY

INDEPENDENT
獨立

透明

誠信
INTEGRITY

廉政公署事宜投訴委員會

ICAC COMPLAINTS COMMITTEE

2017 年年報

ANNUAL REPORT 2017

MONITOR
監察

機制

審核
REVIEW

SYSTEM
PROCEDURE

真相 TRUTH

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FOREWORD BY THE CHAIRMAN

The year 2017 marked the 40th anniversary of the establishment of the Independent Commission Against Corruption (ICAC) Complaints Committee. Over the past four decades, the Committee has been playing the important role of monitoring and reviewing the handling by the ICAC of non-criminal complaints brought against the Commission and its officers. It is my pleasure to share with members of the public an account of our work through the publication of this latest annual report.



At the three meetings held during the year, our Committee carefully considered the investigation findings on the complaints received as well as the alleged faults in the ICAC practices and procedures concerned. We would like to give due recognition to the ICAC for the significant emphasis it places on the conduct of its staff and the continuous efforts it makes to improve itself against the feedback gathered from individual complaints. My fellow Members and I are heartened by the serious attention that the ICAC gave to the recommendations we offered to the Commission.

The ICAC has no doubt earned the wide support of the people of Hong Kong as the driving force behind our culture of probity. Yet public expectation for the Commission to address complaints against itself as well as its officers promptly and properly has also been on the rise. The ICAC Complaints Committee will continue to do its part in ensuring the effectiveness of the complaints handling mechanism of the ICAC. We value your support and welcome your views and suggestions on our work.


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

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- 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 2017 to 31 December 2017)



Hon Jeffrey LAM Kin-fung, GBS, JP
Chairman



Mr Benjamin CHA Yiu-chung
Member



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



Mr CHEUNG Chi-kong, GBS, JP
Member



Mr Paul LAM Ting-kwok, SC
Member



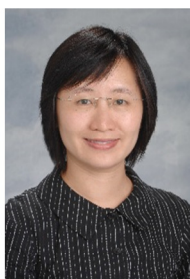
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Member



Hon Alice MAK Mei-kuen, BBS, JP
Member



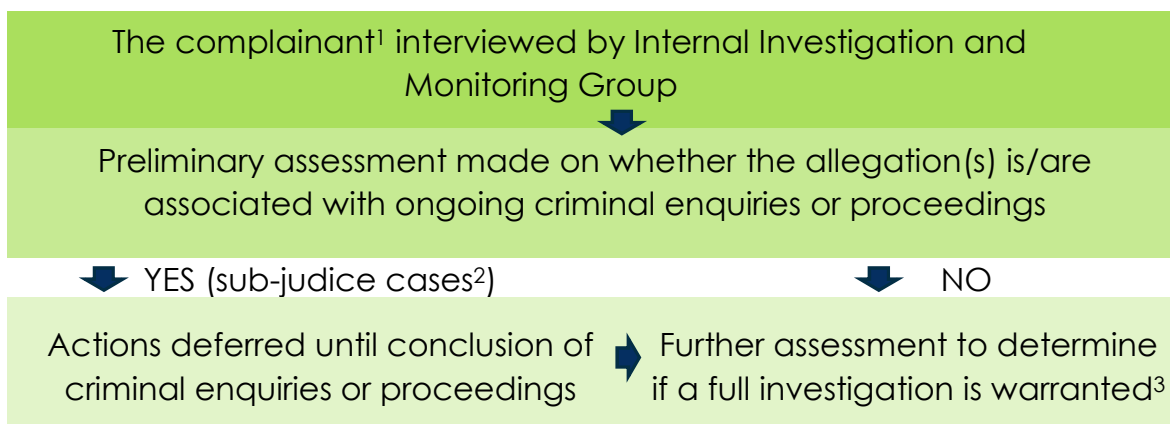
Mr Tony MA
(Representative of The Ombudsman)
Member



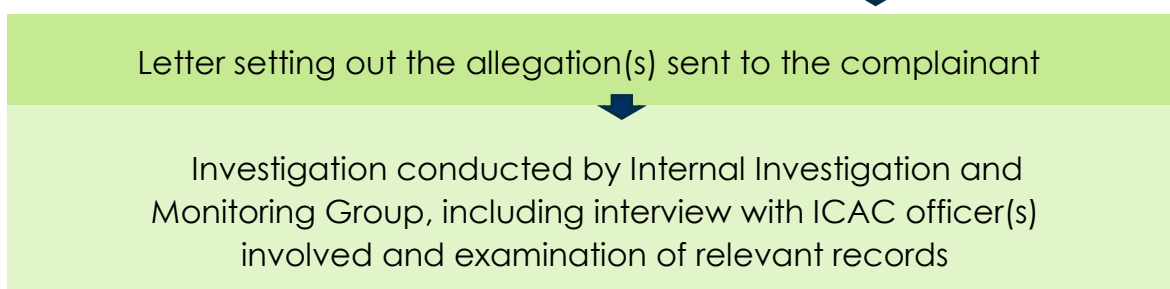
Ms Subrina CHOW Shun-yee
Secretary

HANDLING OF COMPLAINTS

PRELIMINARY ASSESSMENT STAGE



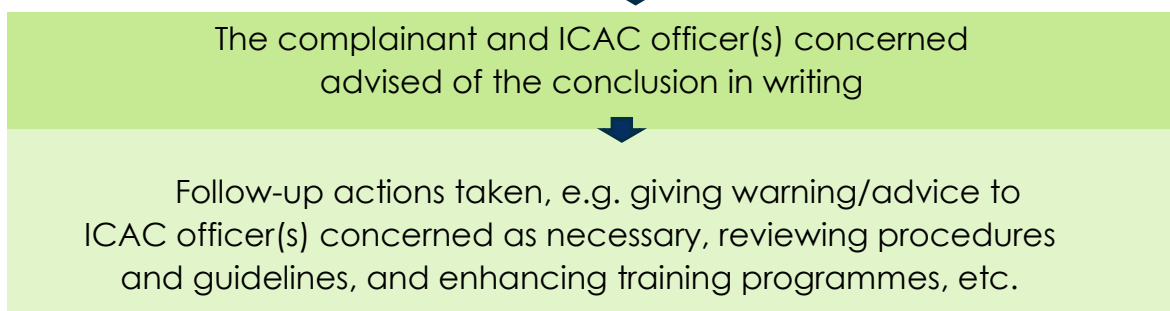
INVESTIGATION STAGE



COMMITTEE DISCUSSION STAGE



FOLLOW-UP ACTION STAGE



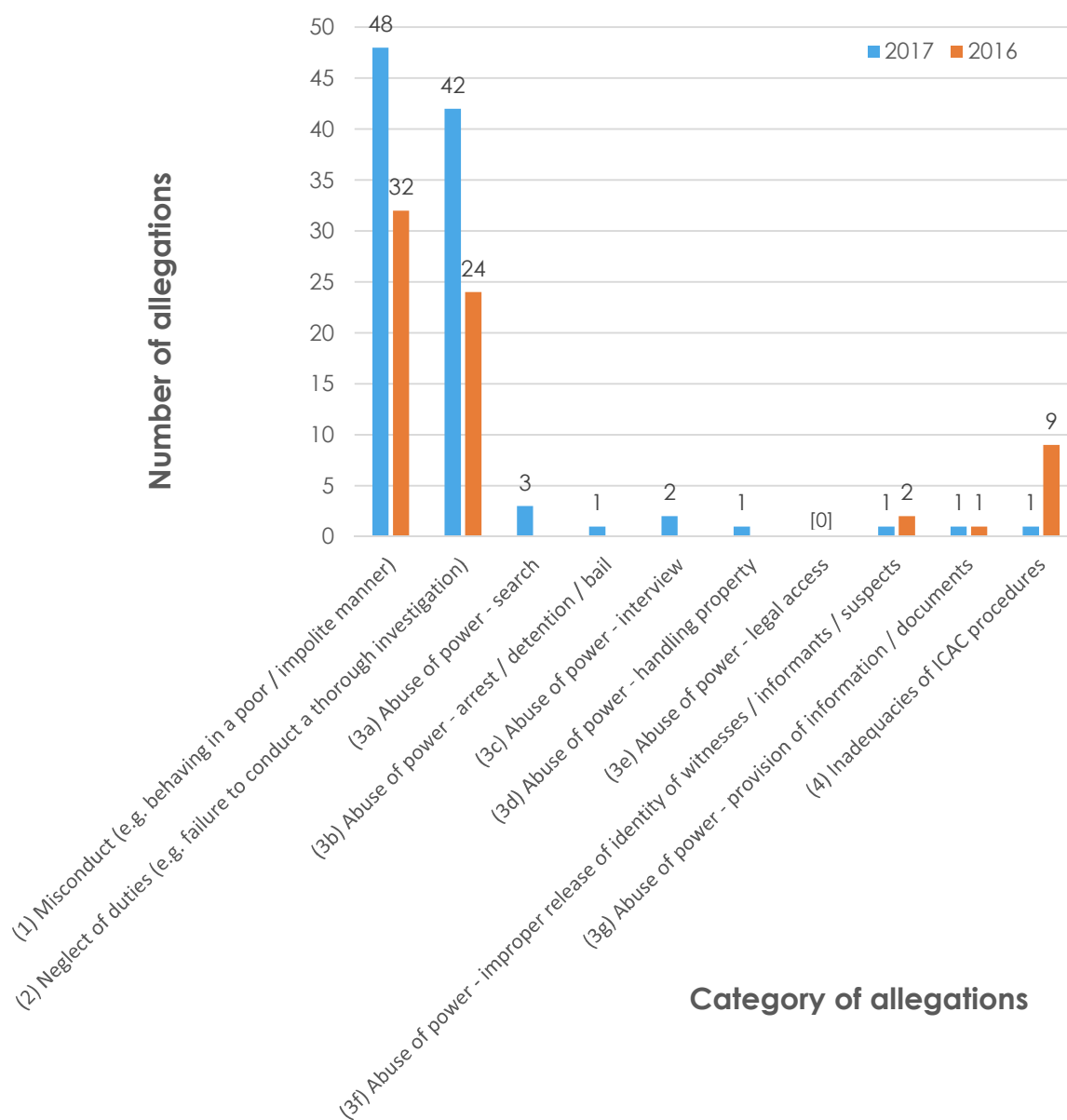
Remarks

1. The Administration Wing of the Chief Secretary for Administration's Office provides secretariat support to the Committee, including maintaining the Committee's website (<http://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 2017, the Committee considered and endorsed nine assessment reports. The complainants were 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 2017, 24 complaints containing a total of 100 allegations against the ICAC or its officers were received, as compared with 27 complaints containing 68 allegations in 2016. One of the complaints registered in 2017 contained a total of 52 allegations by the complainant against various ICAC officers. The allegations received in 2017 were related to misconduct of ICAC officers (48%); neglect of duties (42%); abuse of power (9%) and inadequacies of ICAC procedures (1%).

Number and category of allegations registered in 2016 and 2017



COMPLAINTS CONSIDERED

The Committee held three meetings in March, July and November 2017 respectively. Of the 24 complaints received in 2017, investigations into 17 complaints covering 32 allegations were concluded with the relevant investigation reports considered by the Committee during the year. The other seven complaints covering 68 allegations were still under investigation as at the end of 2017. The Committee also considered six complaints received in 2016 with the related investigations completed in 2017, which covered another 17 allegations. A summary of the allegations considered by the Committee in 2017 is shown in the table below.

Category of allegation		Number of allegations considered	Number of allegations found substantiated / partially substantiated
1.	Misconduct	18	1
2.	Neglect of duties	28	2
3.	Abuse of power		
	(a) search	0	0
	(b) arrest / detention / bail	1	0
	(c) interview	0	0
	(d) handling property	1	0
	(e) legal access	0	0
	(f) improper release of identity of witnesses / informants / suspects	0	0
	(g) provision of information / documents	1	0
4.	Inadequacies of ICAC procedures	0	0
Total:		49	3 (6%)

COMPLAINTS HIGHLIGHT

Of a total of 23 complaints covering 49 allegations considered by the Committee in 2017, three allegations (6%) in three complaints (13%) were found to be substantiated or partially substantiated. The substantiated or partially substantiated allegations concerned a total of four ICAC officers who, as a result, were given advice by their senior officers.

In addition, four ICAC officers in two other complaints were also given advice by their senior officers on issues revealed in the relevant investigations, although the original allegations were found not substantiated. The advice was given as part of ICAC's continuing efforts to keep up the professionalism of its officers. In one case, three officers failed to duly examine and record the items seized during a search operation and to report damages found on a seized item for timely appropriate action to be taken. Whereas in the other case, an officer had failed to get well acquainted with and adhere to the relevant instructions in the security classification of documents and the handling of classified documents.

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 wrote to the ICAC complaining that an Investigator (“Officer A”) might have frequently disclosed worked-related information to his friend through an instant messaging service. The conduct of Officer A was considered short of the standard expected of an ICAC officer.

Investigation

L Group interviewed Officer A who stated that he used to share with the friend his work routines via an instant messaging service, including the progress of a court trial when the trial was still ongoing, but had never divulged any confidential information. L Group also examined the relevant instant messages provided by the complainant between Officer A and his friend. On occasions when Officer A was attending a court trial as required by duty, he sent instant messages during breaks of the hearing sessions to tell his friend about some details of the trial, such as what had happened in open court and his observations about the performance of the prosecuting counsel.

Assessment

Although neither any confidential information nor any specific case-related details were found to have been disclosed, the allegation was substantiated as it was undesirable for Officer A to so communicate instantaneous information of a then ongoing court trial to his friend. Officer A was advised by a senior officer as to the importance of maintaining necessary confidentiality with respect to the information that came into his possession by virtue of his official capacity as an ICAC officer. The Committee endorsed the relevant assessment.

Case 2

Case background

The complainant rang the ICAC Report Centre with a view to lodging a complaint against a case officer for failing to thoroughly investigate a corruption report earlier made by her. The call was answered by an Assistant Duty Officer (“Officer B”) but the complainant was dissatisfied with his performance in taking down details of her complaint. The complainant requested to talk to the Duty Officer (“Officer C”) to express her dissatisfaction towards the case officer and Officer B. Yet the complainant alleged that Officer C had unreasonably declined her request to personally record her complaints against the case officer and Officer B. The complainant thus lodged a further complaint against Officer C.

Investigation

L Group had interviewed the three officers concerned and examined the records of the corruption investigation and the Report Centre. Essentially, L Group found that there had been a thorough investigation into the corruption report of the complainant. Officer B explained that he did seek clarifications from the complainant over the phone at intervals because the complainant had provided a lot of information. He admitted to having made some casual remarks mainly to guide the complainant to provide direct and useful information. On the other hand, Officer C explained that she was fully engaged in other duties as the Duty Officer at the incident time. She therefore intended only to obtain a gist of the complaints from the complainant and then assign another Assistant Duty Officer to record the full details.

Assessment

The allegations against the case officer and Officer B respectively were not substantiated. However, it was considered that Officer B should be more tactful when communicating with members of the public to avoid possible misunderstanding. Officer B was reminded by a senior officer in this regard. Moreover, the allegation against Officer C was found partially substantiated as she, in spite of other engagement, should have recorded the complaints herself so that the complainant needed not repeat the relevant details to another officer. Officer C was given advice by a senior officer accordingly. The Committee endorsed the relevant assessment.

Case 3

Case background

The complainant lodged a corruption report alleging that the proprietor of a removal company might have offered advantages to get a furniture removal job, which was assigned to a Senior Investigator (“Officer D”) to investigate. Subsequent investigation revealed no evidence of corruption and the Operations Review Committee (Sub-Committee) endorsed Officer D’s recommendation that no further action be taken by the ICAC. The complainant was dissatisfied with the outcome and complained that Officer D had neglected her duties by not properly conducting the investigation.

Among the information provided to substantiate the complaint, the complainant highlighted a number of aspects whereby Officer D might have acted in an unprofessional and perfunctory manner to take forward the investigation. For one of such aspects, she noted that the removal company

might be in operation without business registration but Officer D had not pursued the issue.

Investigation

After interviewing Officer D and examining the relevant investigation records, L Group was satisfied that the corruption allegation by the complainant had been properly investigated. However, while both Officer D and her supervising Chief Investigator (“Officer E”) became aware that the removal company had been operating without a business registration in the course of the corruption investigation, they had not duly followed up the matter.

Assessment

The allegation was found partially substantiated as the non-registration of the removal company might constitute an offence and should be referred to the relevant government department(s) for follow-up action as appropriate. Officer D and Officer E were each given advice by a senior officer. The Committee endorsed the relevant assessment.

IMPROVEMENTS TO PROCEDURES

An important and positive outcome of investigation into complaints by the ICAC and the Committee is the improvements made as a result to ICAC internal procedures, guidelines and practices.

Through careful examination of issues as identified in the investigation reports considered during 2017, the ICAC had organised more briefing sessions and strengthened the training programmes to frontline officers to enhance their vigilance and knowledge in the use of information technology for duty purposes, security classification of documents and their handling, dealing with difficult requests of complainants, making appropriate case referrals and handling of items seized during search operations. Furthermore, the ICAC had reviewed the practices of handling confidential correspondences and promulgated some updated internal instructions in this regard. Pursuant to the statutory requirements, ICAC had also initiated a review on the Personal Information Collection Statement currently in use.

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@cso.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	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

[#] This Regional Office has been relocated to the current address since 25 September 2017.