

獨立

Independent

監察

Monitor



獨立監察警方處理投訴委員會
Independent Police Complaints Council



關於**監警會**
的**10**個為什麼

10 Qs on the **IPCC**



為什麼要有監警會？

Why does Hong Kong need the IPCC?

A: 良好法治是香港賴以成功的其中一項重要支柱。監警會的主要角色，是確保所有投訴警務人員的須匯報投訴，均依據既定法律框架獲公平公正的處理，以維護香港警隊的誠信及優良傳統，為市民服務。

監警會於2009年6月1日成為法定機構。隨著《監警會條例》（香港法例第604章）生效，監警會的獨立性獲進一步提高，以履行其監察香港警隊處理投訴的職能。

Good governance is one of the pillars that contribute to Hong Kong's success. The Independent Police Complaints Council (IPCC) is there to ensure that Reportable Complaints against police officers are dealt with in a fair and just manner under a legislative framework. The ultimate aim is to safeguard the integrity of the Police Force and to maintain its high quality services rendered to all citizens of Hong Kong.

The IPCC became a statutory body on 1 June 2009 with the enactment of the IPCC Ordinance (Cap. 604, Laws of Hong Kong), which sets down a clear legislative framework for the IPCC to carry out its statutory duties.

為什麼監警會必須要有一個獨立的法定地位？

Why does the IPCC need to be statutorily independent?

A: 監警會必須要有獨立的法定地位，才能站在不偏不倚的位置，觀察、監察及覆檢投訴警察課須匯報投訴的調查工作。監警會沒有既定立場，審核個案時以證據為依歸、堅持不懈地追尋事實的真相，並以中立持平的態度，用抽絲剝繭的形式，仔細地分析個案的每項細節。惟有獨立，監警會才可以取得警方和市民的信任。

監警會同時致力協助警隊精益求精。我們會就警隊的工作常規或程序不足之處向警方提出意見，促使警隊作出改善。

As an independent statutory body, the IPCC can truly maintain its neutrality and unbiased position to observe, monitor and review the work of the Complaints Against Police Office (CAPO), in particular its investigations into Reportable Complaints. By thoroughly and objectively reviewing every piece of available evidence and fact, the Council is determined to act impartially and justly and as far as practicable disclose the truth. Only with full autonomy can the IPCC be trusted by both the Police and the public.

The IPCC also diligently assists the Police in maintaining a high quality service to the public by advising the Police on any deficiencies in police practices and procedures.

為什麼監警會需要有 來自不同界別的委員？

Why should the IPCC be
comprised of Members from
different sectors?

A: 因為當局希望借助委員多方面的專業知識和社會經驗，以確保監察投訴警察課的調查工作獨立、公正和透徹。

監警會委員全部由行政長官委任，包括一名主席、三名副主席和不少於八名委員。監警會委員分別來自不同界別，包括法律界、醫學界、衛生服務界、教育界、社福界、傳播界、商界和立法會議員等。

By drawing upon the expertise and experience of its Members, the IPCC is capable of ensuring that CAPO will investigate police complaints impartially and thoroughly.

IPCC Members are drawn from a wide spectrum of our society, including legal, medical, health care, educational, social welfare, media and business sectors, as well as Legislative Councillors. The Council comprises a Chairman, three Vice-Chairmen and no less than eight Members, all appointed by the Chief Executive.

監警會委員知多啲

About the IPCC Membership

1. 監警會由以下委員組成：
The Council consists of the following Members:
 - a. 由行政長官委任的主席一名
A Chairman appointed by the Chief Executive
 - b. 由行政長官委任的副主席三名
Three Vice-Chairmen appointed by the Chief Executive
 - c. 由行政長官委任的其他委員八名或以上
No less than eight other Members appointed by the Chief Executive

2. 以下的人不具備獲委任的資格：
The following persons are not eligible for appointment:
 - a. 在政府政策局或部門擔任受薪職位（不論屬長設或臨時性質）的人
A person who holds an office of emolument, whether permanent or temporary, in a Government bureau or department
 - b. 曾屬警隊成員的人
A person who was a member of the Police Force

為什麼監警會需要增加新的職能來處理有關警察的投訴？

Why is there a need to increase the IPCC's functions to handle complaints against the Police?

A. 在《監警會條例》通過前，監警會的前身警監會履行的職能主要包括：

- i) 觀察、監察和覆檢警務處處長處理和調查須匯報投訴的工作
- ii) 監察警務處處長已經或將會向與須匯報投訴有關的警務人員採取的行動
- iii) 向警務處處長和/或行政長官提供與須匯報投訴有關的意見和/或建議

上述的法定職能已在《監警會條例》中的第8條1(a)、(b)及(d)得以落實。除了履行以上警監會的職能外，監警會還獲賦予以下兩項新的職能：

- ◆ 第8條1(c)找出警隊工作常規或程序中引致，或可能引致須匯報投訴的缺失或不足之處
- ◆ 第8條1(e)加強公眾對監警會的角色認識

第8條1(c)讓監警會可以在沒有市民投訴的情況下，向警方提出改善建議，從而協助警方預防引起投訴的事宜。第8條1(e)則有助加強大眾對投訴警察制度的信心。

Prior to the implementation of the IPCC Ordinance, the then Independent Police Complaints Council's functions comprised:

- i) To observe, monitor and review the handling and investigation of Reportable Complaints by the Commissioner of Police
- ii) To monitor actions taken or to be taken in respect of any police officer by the Commissioner of Police in connection with Reportable Complaints
- iii) To advise the Commissioner of Police and/or the Chief Executive of its opinion and/or recommendation in connection with Reportable Complaints

The above functions have been implemented by the IPCC Ordinance Section 8(1)(a), (b), and (d). In addition, the existing IPCC has been bestowed with two additional functions, which comprise:

- ◆ Section 8(1)(c) To identify any fault or deficiency in police practices or procedures that has led to or might lead to a Reportable Complaint
- ◆ Section 8(1)(e) To promote public awareness of the role of the Council

Section 8(1)(c) enables the IPCC to proactively provide the Police with suggestions for the prevention of police complaints, even when there are no complaints against the Police. Section 8(1)(e) aims at enhancing the public confidence in the two-tier police complaints system.

為什麼香港的投訴警察制度是一個兩層的架構？

Why does the Hong Kong police complaints system comprise a two-tier structure?

A 香港的投訴警察制度採取兩層架構。在兩層架構之下，所有投訴警察的個案，均交由香港警務處投訴警察課處理及調查。此為香港投訴警察制度的第一層。待投訴警察課完成須匯報投訴的調查後，便會把調查報告提交予監警會審核。此為投訴警察制度的第二層。

兩層架構的優點是確保投訴警察個案可以得到公平公正的處理。監警會作為獨立機構，可以客觀地觀察、監察和覆檢警務處處長對須匯報投訴的處理和調查，並向警務處處長和行政長官提供與須匯報投訴有關的意見和建議。

Hong Kong has adopted a two-tier police complaints system, where all complaints against the Police are referred to CAPO for handling and investigation. This is the first tier of the system. When CAPO has completed the investigation of a Reportable Complaint, the investigation report will be submitted to the IPCC for scrutiny. This is the second tier of the police complaints system.

The advantage of the two-tier system is to ensure that complaints against the Police will be dealt with fairly and justly. As an independent body, the IPCC can objectively observe, monitor and review the handling and investigation of Reportable Complaints by the Commissioner of Police, and put forward opinions and recommendations regarding Reportable Complaints to the Commissioner of Police and the Chief Executive.

香港投訴警察制度的兩層架構

Hong Kong's two-tier police complaints system

1. 投訴警察課調查投訴個案 CAPO investigates complaints

投訴警察課接收須匯報投訴
CAPO receives Reportable Complaints

進行調查
Investigation

投訴警察課提交調查報告
CAPO submits investigation report

2. 監警會審核調查報告 IPCC reviews the report

監警會審核報告
IPCC reviews the report

透過調查結果
Agrees with
investigation results

- 投訴警察課回覆投訴人
CAPO responds to complainant
- 警方方向被投訴人員採取適當行動
Police take appropriate action against complainees
- 監警會就檢討及改善警隊工作常規和程序向警務處處長和/或行政長官提出建議
IPCC may offer recommendations to the Commissioner of Police and/or the Chief Executive on refinement of police practices and procedures

不同意調查結果
Disagrees with
investigation results

- 向投訴警察課提出質詢、要求澄清或提供更多資料
IPCC seeks clarification or further information from CAPO

不接納報告
Rejects report

- 可要求投訴警察課重新調查
May request CAPO to reinvestigate complaint
- 可會見證人澄清疑點
May interview witnesses to clarify uncertainties
- 提交工作層面或聯席會議討論
May bring up the case during working level meetings or Joint IPCC/CAPO Meetings

為什麼你需要知道監警會的監察程序如何運作？

Why is it important to understand how the IPCC's monitoring procedures work?

A . 因為這是你的公民權利，我們亦想藉此保持監察程序透明公正。

在投訴警察制度的兩層架構下，由保安局局長委任的觀察員，可出席投訴警察課就調查須匯報投訴而進行的會面和證據收集工作。投訴警察課在完成投訴調查後，必須把須匯報投訴的調查報告提交予監警會秘書處審核，秘書處可就調查報告向投訴警察課提出質詢、要求該課澄清或提供更多資料。若秘書處對調查報告沒有質詢，便會將調查報告呈交監警會委員審核。

若監警會和投訴警察課未能就調查結果達成共識，雙方可在工作層面會議或聯席會議上討論。如監警會最後決定不通過某宗投訴個案的調查結果，可向行政長官報告或向公眾披露雙方對調查結果的意見分歧，包括向行政長官或警務處處長表達監警會對警務處處長就須匯報投訴向被投訴的警務人員採取行動的意見。

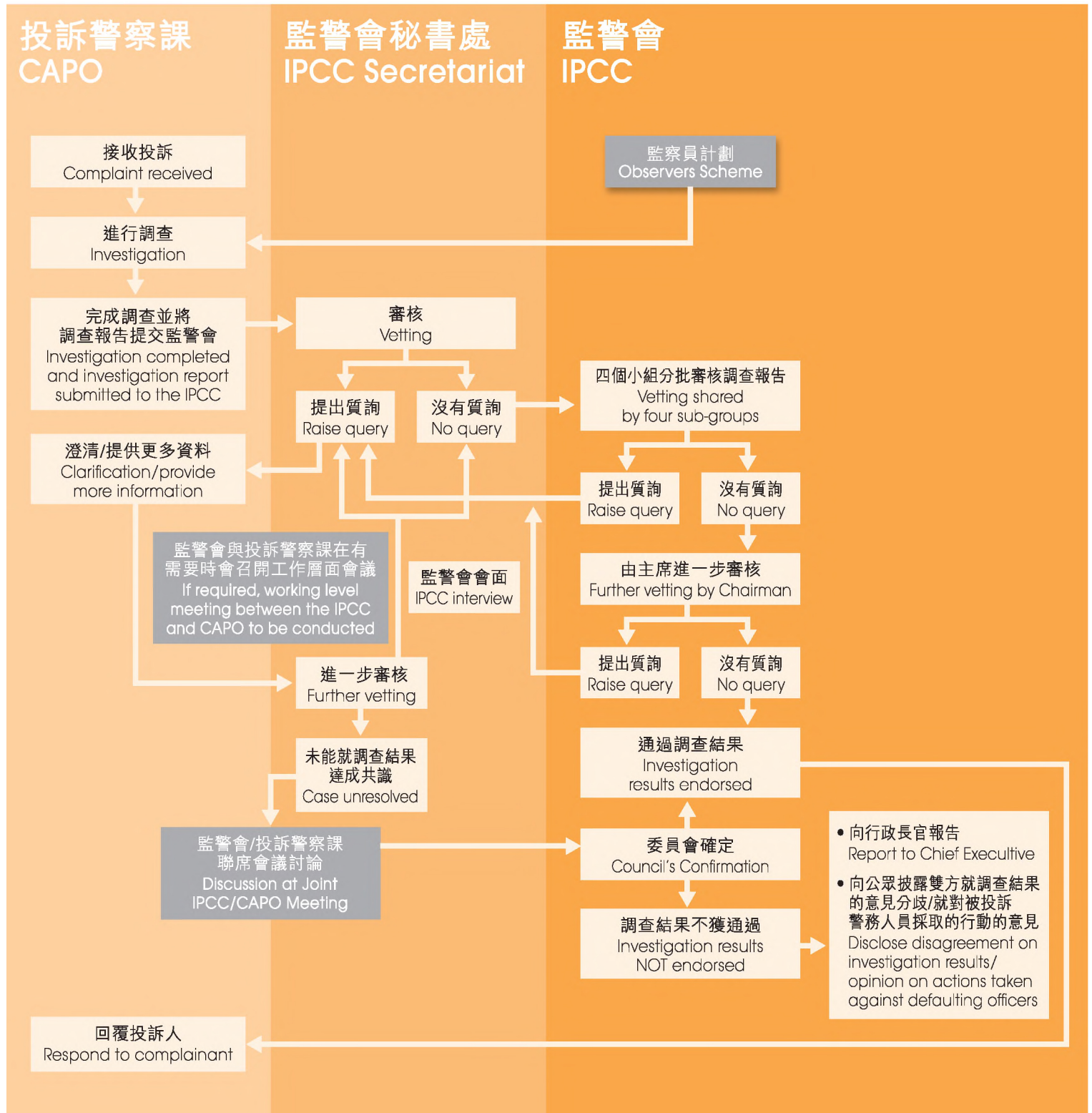
The IPCC aspires to ensure that the whole monitoring process is transparent and fair. An understanding of the process is your civil right.

Under the two-tier police complaints system, Observers appointed by the Secretary for Security may attend interviews and observe the collection of evidence in connection with CAPO's investigation of Reportable Complaints. After CAPO has conducted the investigation of a Reportable Complaint, it will submit the investigation report to the IPCC Secretariat for examination. Based on the report, the Secretariat may pose questions and ask for clarifications or further information. If the Secretariat has no query about the report, the investigation report will be submitted to Council Members for scrutiny.

If the IPCC and CAPO cannot agree on the findings of an investigation, they can discuss the case at a working level meeting or at the Joint IPCC/CAPO Meeting. If the IPCC's final decision is not to endorse the results of the investigation of a particular case, it may express its views to the Chief Executive and the Commissioner of Police on both the classifications of the allegations and the actions to be taken by the Commissioner of Police regarding the police officer against whom the Reportable Complaint has been lodged, as well as any other observations related to the complaint case within the IPCC's purview.

監警會監察程序

IPCC Monitoring Procedures



為什麼「須匯報投訴」和「須知會投訴」要有不同的處理方式？

Why are the processes of handling "Reportable Complaints" and "Notifiable Complaints" different?

A: 因為兩項投訴性質有所不同。
根據《監警會條例》第11條，「須匯報投訴」是指市民就當值的警務人員或表明是警隊成員的休班人員的行為所作出的投訴。這些投訴必須是由受直接影響的人士（或其代表）真誠地作出的，並非瑣屑無聊或無理取鬧的投訴。

「須知會投訴」並不屬於「須匯報投訴」，這類投訴包括由匿名人士作出的投訴、由並非直接受影響人士作出的投訴，又或是屬於瑣屑無聊或無理取鬧的投訴。

就處理「須知會投訴」方面，投訴警察課須根據條例第9條，定期向監警會提交「須知會投訴」的個案撮要供審核，確保其歸類適當。

而「須匯報投訴」方面，任何「須匯報投訴」的調查工作，均必須受到監警會的觀察、監察和覆檢。

The nature of these two categories are different.

According to the IPCC Ordinance Section 11, "Reportable Complaints" refer to complaints lodged by members of the public, which are made in good faith and are not vexatious or frivolous. These issues relate to the conduct of police officers while on duty or police officers who identify themselves as such while off duty. The complaint should be made by or on behalf of a person directly affected by police misconduct.

"Notifiable Complaints" are complaints not categorised as "Reportable Complaints". These include anonymous complaints or complaints lodged by persons who are not directly affected by police misconduct.

In handling "Notifiable Complaints", CAPO must comply with the IPCC Ordinance Section 9 to regularly submit a summary of "Notifiable Complaints" for the IPCC's examination for the purpose of ensuring the "Notifiable Complaints" categorisation is proper.

As for handling "Reportable Complaints", any investigation of such complaints carried out by CAPO must be observed, monitored and reviewed by the IPCC.

為什麼需要觀察員？

Why is there a need for an Observer ?

A: 觀察員計劃是協助監警會觀察投訴警察課處理和調查須匯報投訴的方式。由保安局局長委任的觀察員，可出席投訴警察課就調查須匯報投訴而進行的會面和證據收集工作。監警會委員同樣可進行觀察。

除了預先安排的會面和證據收集工作外，觀察員亦可在突擊的情況下，出席和觀察警方這些活動。

在觀察會面及證據收集行動期間，觀察員不會作出任何干預或發表個人意見，以防影響會面或證據收集的進行。

觀察完畢後，觀察員須向監警會報告會面或證據收集是否公平公正地進行，以及有否察覺任何不當之處。若觀察員匯報有任何不當之處，監警會便會和投訴警察課跟進。

所有就須匯報投訴與投訴警察課會面的人士，均可要求觀察員出席有關會面。倘監警會接到這些要求，定當盡力安排。

The Observers Scheme enables the IPCC to strengthen its monitoring function on CAPO's investigation into Reportable Complaints. Appointed by the Secretary for Security, Observers may attend interviews and observe the collection of evidence in connection with CAPO's investigation of Reportable Complaints. IPCC Members can likewise conduct such observations.

Apart from prearranged observations, Observers can attend and observe investigations on a surprise basis.

The Observer will remain impartial without interfering or offering any personal opinions while observing the conduct of interviews or collection of evidence.

After each observation, the Observer will submit to the IPCC a report stating whether the interview or collection of evidence was conducted in a fair and impartial manner, and if any irregularities were detected. Should any irregularities be reported, the IPCC will follow up with CAPO.

All persons who are to be interviewed by CAPO in connection with a Reportable Complaint can request an Observer to be present during the interview. Upon receipt of such a request, the IPCC will make an effort to arrange the observation accordingly.

聯席會議知多啲

About the Joint IPCC/CAPO Meetings

監警會和投訴警察課一直保持緊密聯繫，除了工作層面會議外，監警會和投訴警察課會定期舉行聯席會議，討論投訴警察的相關事宜。

為了讓公眾更了解監警會的工作，會議設有公開部份讓市民及傳媒旁聽。聯席會議的日期和議程會在開會前於監警會的網頁公佈，公開部份會議的會議紀錄亦會上載至監警會網頁 www.ipcc.gov.hk。

The IPCC and CAPO have maintained close contact. Apart from working level meetings, the IPCC and CAPO conduct joint meetings on a regular basis to discuss matters relating to police complaints.

To enable the public to better understand the work of the IPCC, part of the joint meetings is open to the public and the media. The dates and agendas of the joint meetings will be published on the IPCC's website before the meetings. Minutes of the open part of the meetings will also be uploaded to the IPCC's website: www.ipcc.gov.hk.

為甚麼設立監警會會面？

Why is there an IPCC Interview?

A: 因為監警會在審核調查報告時，認為有需要和個案相關人士會面，以澄清事項。會見計劃於1994年開始推行，在這計劃下，監警會在考慮投訴警察課調查報告的過程中，可會見任何能夠就該報告提供有關資料或協助的人士。

如監警會認為有需要直接會見某些人士，便會邀請他們出席會面。這些人士可以是投訴人、被投訴人、證人或其他獨立人士。監警會會面由不少於兩位監警會委員組成的小組主持，而秘書處則負責有關的安排及協助。

In addition to reviewing the investigation report, the IPCC may ask for interviews with persons related to the case to clarify matters. The IPCC interview was introduced in 1994, under which the IPCC may, for the purpose of considering CAPO's investigation report, interview any person who may provide relevant information or assistance.

If the IPCC deems it necessary to meet with certain individuals, it will invite them to interviews. These individuals may comprise complainants, complainees, witnesses, or other independent persons. The interviews will be conducted by a panel of no less than two Council Members. The IPCC Secretariat is responsible for providing necessary arrangements and assistance.

調查結果分類知多啲

About the Classification of Investigation Results

一宗投訴可涉及一項或多於一項的指控。指控經投訴警察課全面調查後，會根據調查結果分類為下列六項之一：

A complaint may consist of one or more allegations. After an allegation has been thoroughly investigated by CAPO, it is classified as one of the following six types according to the findings:

1. 獲證明屬實 Substantiated

如投訴人提出的指控有足夠的可靠證據支持，指控會被列為「獲證明屬實」。

An allegation is classified as "Substantiated" where there is sufficient reliable evidence to support the allegation made by the complainant.

2. 未經舉報但證明屬實 Substantiated Other Than Reported

如在投訴人提出的原有指控以外，發現其他與投訴本身有密切關係和對調查有重要影響的事宜，並且證明屬實，則該事宜會被列為「未經舉報但證明屬實」。

An allegation is classified as "Substantiated Other Than Reported" where matters other than the original allegations raised by the complainant, which are closely associated with the complaint and have a major impact on the investigation, have been discovered and are found to be substantiated.

3. 無法完全證明屬實 Not Fully Substantiated

如投訴人的指控有若干可靠的證據支持，但這些證據未能充份證明投訴屬實，指控會被列為「無法完全證明屬實」。

An allegation is classified as "Not Fully Substantiated" where there is some reliable evidence to support the allegation made by the complainant, but it is insufficient to fully substantiate the complaint.

4. 無法證實 Unsubstantiated

如投訴人的指控沒有充份的證據支持，指控會被列為「無法證實」。

An allegation is classified as "Unsubstantiated" where there is insufficient evidence to support the allegation made by the complainant.

5. 並無過錯 No Fault

在下述兩種情況下，投訴通常會被列為「並無過錯」：第一，投訴人可能對事實有所誤解；第二，被投訴人是按照其上司的合法指示或警方的既定做法行事。

Two common reasons for classifying a complaint as "No Fault" are first, the complainant may have misunderstood the facts; and second, the complainee was acting under the lawful instructions of his superior officer or in accordance with established police practice.

6. 虛假不確 False

如有足夠的可靠證據顯示投訴人的指控並不真確，不論這些指控是懷有惡意的投訴，抑或不合惡意但亦非基於真確理由而提出的，指控會被列為「虛假不確」。

當一宗投訴被列為「虛假不確」時，投訴警察課會視乎情況，徵詢律政司的意見，考慮控告投訴人誤導警務人員。

An allegation is classified as "False" where there is sufficient reliable evidence to indicate that the allegation made by the complainant is untrue, be it a complaint with clear malicious intent or a complaint which is not based upon genuine conviction or sincere belief but with no element of malice.

When a complaint is classified as "False", CAPO will consider, in consultation with the Department of Justice as necessary, prosecuting the complainant for misleading a police officer.

其他投訴分類知多啲

About Other Complaint Classifications

有些投訴是透過其他方法處理，無需進行全面調查。這些投訴的分類為：

Some complaints are handled by other means so that no full investigation is necessary. These complaints can be classified as:

1. 投訴撤回 Withdrawn

「投訴撤回」是指投訴人不打算追究。

即使投訴人撤回投訴，監警會仍會審視個案，確保投訴人沒有受到任何不恰當的影響而撤回投訴，以及警方能從合適的個案中汲取教訓，並確保投訴警察課採取相應的補救行動。

此外，如投訴人撤回投訴，其個案亦不一定被列為「投訴撤回」。監警會及投訴警察課會審閱所得證據，決定是否需要進行全面調查，並根據所得資料，考慮任何一項指控是否屬實。

A complaint is classified as "Withdrawn" where the complainant does not wish to pursue the complaint made. Even when a complainant initiates the withdrawal of a complaint, the IPCC will ensure that no undue influence has been exerted on the complainant, and that the Police can learn from the complaint. The IPCC will also ensure that CAPO will take corresponding remedial action.

A complainant's withdrawal does not necessarily result in the case being classified as "Withdrawn". The IPCC and CAPO will examine the available evidence to ascertain whether a full investigation is warranted despite the withdrawal and/or whether any of the allegations are substantiated on the basis of information available.

2. 無法追查 Not Pursuable

在下述情況下，指控會被列為「無法追查」：

- 不能確定被投訴的警務人員的身份
- 資料不足而未能繼續調查
- 未能取得投訴人的合作，以致無法繼續追查

上述定義並不表示若果投訴人未能確定被投訴人的身份，投訴警察課便不會採取進一步行動。投訴警察課會根據所得資料，盡量追查被投訴人的身份；只有追查不果時，才會作出未能確定被投訴人身份的結論。

假如投訴人拒絕合作以致投訴被列為「無法追查」，警方可在投訴人願意提供所需資料時，重新展開調查。

An allegation is classified as "Not Pursuable" when:

- The identity of the officer(s) in the complaint cannot be ascertained
- There is insufficient information to proceed with the investigation
- The cooperation of the complainant cannot be obtained to proceed with the investigation

The above definition does not mean that no further action will be taken when the complainant cannot identify the complainee. CAPO will make an effort to identify the complainee(s) on the basis of the information available. Only after such an effort has been made to no avail will the conclusion be reached that the identity of the complainee cannot be ascertained.

If a complaint has been classified as "Not Pursuable" due to lack of cooperation from the complainant, it may be reactivated later when the complainant comes forward to provide the necessary information.

3. 終止調查 Curtailed

「終止調查」是指有關投訴已由投訴警察課備案，但鑑於特殊情況（例如證實投訴人精神有問題）而獲投訴及內部調查科總警司授權終止調查。

A complaint is classified as "Curtailed" where it has been registered with CAPO but on the authorisation of the Chief Superintendent (Complaints and Internal Investigations Branch), is curtailed, i.e. not to be investigated further, owing to special circumstances such as known mental condition of the complainant.

4. 透過簡便方式解決 Informally Resolved

「透過簡便方式解決投訴」旨在迅速解決一些性質輕微的投訴，例如態度欠佳或粗言穢語的指控。

適宜透過簡便方式解決的輕微投訴，不會有全面調查。投訴會由一名總督察或以上職級的人員處理，並擔任調解人員。調解人員會分別向投訴人及被投訴人了解實情。如果他認為事件適宜透過簡便方式解決而又得到投訴人同意，有關投訴便可循此途徑解決。

The Informal Resolution Scheme aims at a speedy resolution of minor complaints, such as allegations of impoliteness or use of offensive language, the nature of which is considered relatively minor.

A minor complaint suitable for Informal Resolution will not be subject to a full investigation. Instead, a senior officer, at least at the rank of Chief Inspector of Police, will act as the Conciliating Officer. He will make enquiry into the facts of a complaint with the complainant and the complainee separately. If he is satisfied that the matter is suitable for Informal Resolution, and with the agreement of the complainant, the complaint will be informally resolved.

為甚麼監警會 不能直接處理市民 對警務人員的投訴？

Why is the IPCC unable to directly handle police complaints made by the public?

A: 香港的投訴警察制度採取兩層架構，在兩層架構之下所有投訴警察的個案，均交由香港警務處投訴警察課處理及調查。所以市民如欲投訴警務人員，必須先向香港警務處投訴警察課提出，監警會如收到有關投訴，均須轉介該課調查及處理。

監警會在兩層架構投訴警察制度中，主要是負責獨立審核投訴警察課提交的須匯報投訴調查報告，如察覺有疑點或不足，會要求投訴警察課澄清或重新調查，直至完全同意投訴個案處理得當，始通過調查結果。

Hong Kong has adopted a two-tier police complaints system, where all complaints against the Police are referred to CAPO for handling and investigation. As such, members of the public should lodge complaints against the Police with CAPO, and any complaints of the same nature received by the IPCC would be referred to CAPO for handling and investigation.

In the two-tier police complaints system, the primary duty of the IPCC is to independently review the investigation reports of Reportable Complaints. If discrepancies or questionable points are detected during the process, the Council will request clarification from CAPO or for the case to be reinvestigated. Only when the IPCC completely agrees that the complaint has been properly handled will it endorse the investigation report.

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