

“良好法治乃香港賴以成功的其中一項重要支柱。就此，監警會擔當重要角色：一方面要協助提升警隊的表現及其服務質素水平；另一方面要確保投訴警察個案得到公正及適時的處理。雖然我的任命僅開展了九個月，但這份經驗既豐實，亦具有挑戰性。

Law and order is one of the most important pillars to guarantee the success of Hong Kong. IPCC has an important role to play to help enhance the performance standards of the Police Force and to ensure that complaints are handled fairly and expeditiously. I have been a Member of IPCC for barely nine months and I find the experience extremely rewarding and challenging. ”

梁繼昌先生

於2011年1月1日獲委任為監警會委員

Mr Kenneth LEUNG Kai-cheong

Appointed as IPCC Member on 1 January 2011

第一章
Chapter 1

關於監警會！ About IPCC

香港的投訴警察制度

Hong Kong Police Complaints System

香港的投訴警察制度是一個兩層的架構。所有投訴警察的個案，不論來源，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。

投訴警察課完成投訴調查後，便會把須匯報投訴的調查報告，連同所有調查的相關檔案、文件及材料，提交獨立監察警方處理投訴委員會（簡稱「監警會」）審核。

監警會在審核調查報告及其他材料時，如察覺有疑點，將會要求投訴警察課澄清或提供更多資料；如發現有不足之處，更會要求該課重新調查投訴。監警會在完全同意投訴個案處理得當後，才會通過調查結果。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公平公正地處理。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. Regardless of their origin, all complaints against the Police are referred to the Complaints Against Police Office (CAPO) of the Hong Kong Police Force for handling and investigation. This is the first tier of the system.

When the CAPO has completed the investigation of a reportable complaint, it will submit the investigation report, together with relevant files, documents and materials, to the Independent Police Complaints Council (IPCC) for scrutiny.

If doubt arises while reviewing the investigation report and other materials, IPCC will ask CAPO for clarification or further information. If IPCC finds the investigation inadequate, it will request that the case be further investigated. Only when IPCC completely agrees that the complaint has been properly handled will it endorse the investigation report. This is the second tier of the police complaints system.

The advantage of the two-tier system is to assure that complaints against the Police will be dealt with fairly and justly. As an independent body, 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



監警會的角色和功能

The Role and Function of IPCC



監警會是根據《獨立監察警方處理投訴委員會條例》（簡稱《監警會條例》）（香港法例第604章）成立的獨立機構，職能是觀察、監察和覆檢警務處處長就須匯報投訴的處理和調查工作。

監警會成員包括一名主席、三名副主席和不少於八名委員。成員全部由行政長官委任，分別來自社會不同界別，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。監警會借助成員多方面的專業知識，獨立、公正、透徹地監察投訴警察課的調查工作。截至2011年3月31日，監警會共有24名成員。

監警會於2009年6月1日成為法定機構。隨著《監警會條例》生效，警方有法定責任遵從監警會根據條例所提出的要求。條例進一步提高監警會的獨立性，以履行其監察職能。

IPCC is an independent body established under the Independent Police Complaints Council Ordinance (IPCCO) (Cap. 604, Laws of Hong Kong) to observe, monitor and review the handling and investigation of reportable complaints against the Police by the Commissioner of Police.

IPCC comprises a Chairman, three Vice-Chairmen and no less than eight Members, all appointed by the Chief Executive. They are drawn from a wide spectrum of society including the legal, medical, health care, education, social welfare, communications and business sectors, and Legislative Council members. This composition enables IPCC to draw upon the diverse expertise of its Members to monitor CAPO's investigation of police complaints in an independent, impartial and thorough manner. As of 31 March 2011, IPCC has 24 Members.

IPCC became a statutory body with the commencement of the IPCC Ordinance on 1 June 2009. The Police have a statutory duty to comply with the Council's requirements. The ordinance has further enhanced the independence of the IPCC to carry out its monitoring functions.

《監警會條例》賦予監警會的主要職能如下：

The main functions of IPCC as provided for under IPCCO are:

1	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 To observe, monitor and review the handling and investigation of reportable complaints by the Commissioner of Police
2	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 To monitor actions taken or to be taken in respect of any police officer by the Commissioner of Police in connection with reportable complaints
3	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 To identify any fault or deficiency in police practices or procedures that has led to or might lead to a reportable complaint
4	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 To advise the Commissioner of Police and/or the Chief Executive of its opinion and/or recommendation in connection with reportable complaints
5	加強公眾對監警會的角色認識 To promote public awareness of the role of the Council

監警會的監察程序

Monitoring Procedures of IPCC

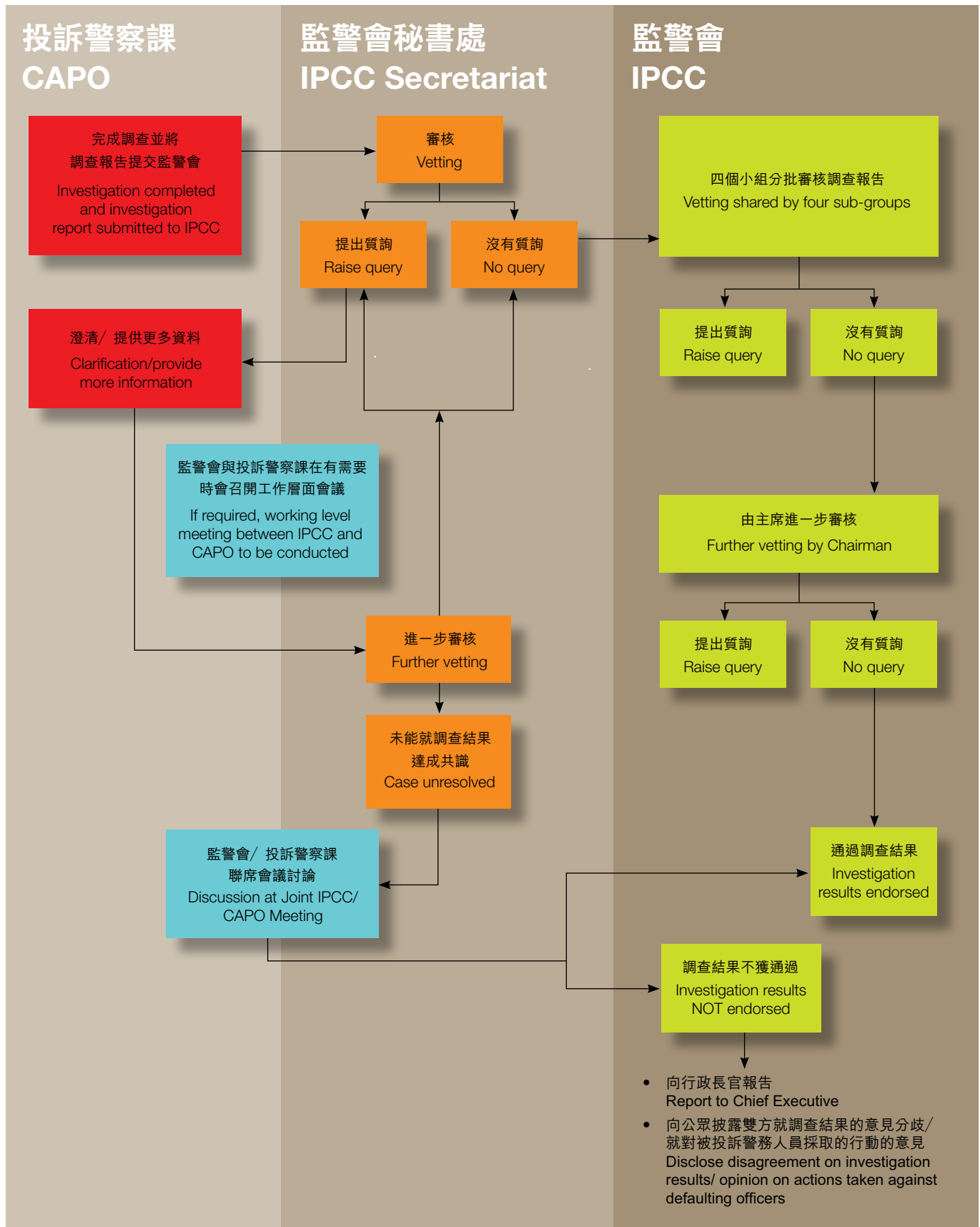
在投訴警察制度的兩層架構下，投訴警察課在完成投訴調查後，便會把須匯報投訴的調查報告提交予監警會秘書處審核，秘書處會就調查報告向投訴警察課提出質詢、要求該課澄清或提供更多資料。若秘書處對調查報告沒有質詢，便會將調查報告提交予監警會成員審核。

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。

Under the two-tier police complaints system, 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 clarification or further information. If the Secretariat has no query about the report, the investigation report will be submitted to Council Members for scrutiny.

If IPCC and CAPO cannot agree on the findings of an investigation, they can discuss the case at working level meeting or at the Joint IPCC/CAPO Meeting. If IPCC's final decision is not to endorse the results of the investigation of a particular case, it may disclose the disagreement of both parties on the findings of the investigation to the Chief Executive or the public, including expressing its views to the Chief Executive and the Commissioner of Police on the action to be taken by the Commissioner of Police regarding the police officer against whom the reportable complaint has been lodged.

監警會監察程序 IPCC MONITORING PROCEDURES



監警會的會面

IPCC Interview

除了審核調查報告外，監警會亦可要求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，監警會為考慮投訴警察課的調查報告，可以會見任何能夠就調查報告向監警會提供資料或其他協助的人士。

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，而秘書長則負責有關的安排及協助。

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

If IPCC deems it necessary to meet with certain individuals, it will invite them for interviews. These individuals may be complainants, complainees, witnesses, or other independent persons. The interviews will be conducted by a panel of not less than two Council Members. The Secretary-General is responsible for providing necessary arrangements and assistance.



觀察員計劃

Observers Scheme



觀察員計劃於1996年開始推行，旨在加強監警會的監察職能，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。在這計劃下，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。監警會成員同樣可進行觀察。

投訴警察課會盡量在會面或證據收集行動前至少48小時通知監警會。收到通知後，監警會秘書處便會知會觀察員有關安排。觀察員可觀察任何警方為了調查投訴而與投訴人、被投訴人或證人進行的會面，以及證據收集工作。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。

觀察員的角色是觀察和匯報，基於公平公正的原則，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。

在觀察完畢後，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。

截至2011年3月31日，監警會共有110名觀察員。

The Observers Scheme was introduced in 1996 to strengthen IPCC's monitoring function. Under the Scheme, 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. IPCC Members can likewise conduct such observations.

Insofar as practicable, CAPO will notify IPCC at least 48 hours in advance of any impending interview or collection of evidence. The IPCC Secretariat will then inform Observers of the appointments. Observers can observe any interviews with complainants, complainees, or witnesses, or any collection of evidence conducted in the course of a complaint investigation. Apart from prearranged observations, Observers can attend and observe investigations on a surprise basis.

The role of an Observer is primarily to observe and report. The Observer will remain impartial without offering personal opinions or interference while observing the conduct of interviews or collection of evidence.

After each observation, the Observer will submit a report to IPCC 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, IPCC will follow up with CAPO.

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

As of 31 March 2011, there were a total of 110 IPCC Observers.

監警會和投訴警察課的聯席會議

Joint Meetings by IPCC and CAPO

監警會和投訴警察課一直保持緊密聯繫，除了工作層面的會議外，監警會和投訴警察課每季會舉行一次聯席會議，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，會議設有公開部分讓市民及傳媒旁聽。會議的日期和議程會在開會前於監警會的網頁公布，公開部分會議的會議紀錄亦會上載至監警會網頁 www.ipcc.gov.hk。

IPCC and CAPO maintain close contact. Apart from working level meetings, IPCC and CAPO conduct a joint meeting every quarter to discuss matters relating to police complaints.

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

觀察員的委任

(監警會條例第33條)

監警會觀察員是由保安局局長委任。為確保觀察員的中立角色，以下人士均不會被委任為觀察員：

1. 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)的人士
2. 秘書長、法律顧問或監警會任何其他僱員
3. 曾屬警隊成員的人士



Appointment of Observers

(Section 33 of IPCCO)

IPCC Observers are appointed by the Secretary for Security. To ensure their impartiality, the following persons are not eligible for appointment as Observers:

1. A person who holds an office of emolument, whether permanent or temporary, in a Government bureau or department
2. The Secretary-General, the Legal Adviser or any other employee of the Council
3. A person who was a member of the Police Force

須匯報投訴和須知會投訴

Reportable Complaints and Notifiable Complaints

須匯報投訴

「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。這些投訴必須由直接受影響的人士（或其代表）真誠地作出，而且並非瑣屑無聊或無理取鬧的投訴。不過，下列投訴個案的調查報告和資料則毋須提交監警會：

- 純粹關乎發出傳票或施加定額罰款通知書是否有效而引致的投訴
- 投訴人以自己作為警務人員的身份作出的投訴
- 屬於其他法定機構調查範圍內的投訴

投訴警察課必須按條例規定，提交須匯報投訴的調查報告予監警會審核。



Reportable Complaints

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

CAPO must submit investigation reports to the IPCC for scrutiny as stated in the Ordinance. However, investigation reports and information on the following complaints need not be submitted to the IPCC:

- Complaints arising from the issue of a summons or imposition of a fixed penalty which solely relates to the validity of the issue
- Complaints lodged by a person in his official capacity as a member of the Police Force
- Complaints that fall under the scope of investigation of other statutory bodies

須知會投訴

「須知會投訴」是指既不屬須匯報投訴，亦非前文所述毋須提交監警會的投訴，一律歸類為「須知會投訴」。例如：由匿名人士作出的投訴，或由並非直接受影響的人士作出的投訴。

投訴警察課需定期提交「須知會投訴」的個案撮要予監警會審核。若監警會認為某宗投訴應歸類為「須匯報投訴」，可向投訴警察課作出相應的建議，投訴警察課便須重新考慮該宗投訴的歸類。此外，監警會可要求投訴警察課提供支持將某宗投訴歸類的解釋及資料。

Notifiable Complaints

"Notifiable Complaints" are complaints not categorised as "Reportable Complaints" or complaints that need not be submitted to the IPCC as listed above. These include anonymous complaints or complaints lodged by persons who are not directly affected by the police misconduct.

CAPO must regularly submit a summary of "Notifiable Complaints" to IPCC. If the IPCC considers any of these cases to be "Reportable Complaints", IPCC may suggest CAPO to reconsider the categorisation of the complaint. Moreover, IPCC may request CAPO to submit further supporting information and explanation regarding any particular complaint.



調查結果分類

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，會根據調查結果歸入下列六項分類之一：

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

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」。

2 未經舉報但證明屬實

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」。

3 無法完全證明屬實

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

4 無法證實

如投訴人的指控沒有充分的證據支持，指控會被列為「無法證實」。

5 並無過錯

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。

6 虛假不確

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，抑或不含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。

Substantiated

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

Substantiated Other Than Reported

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.

Not Fully Substantiated

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.

Unsubstantiated

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

No Fault

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.

False

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

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

「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。

即使投訴人撤回投訴，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。

2 無法追查

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。

3 終止調查

「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。

4 透過簡便方式解決

「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。

Withdrawn

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, IPCC will ensure that no undue influence has been exerted on the complainant, and that the Police can learn from the complaint. 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”. 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.

Not Pursuable

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 the lack of cooperation from the complainant, it may be reactivated later when the complainant comes forward to provide the necessary information.

Curtailed

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.

Informally Resolved

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.