

Corporations and Corruption

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Vice President,

The Law Society of Hong Kong

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1330-1500



PAST FAMOUS CASES

225座公屋貪污案

225 Public Housing Blocks CASE



探長貪污案

A Police Detective Sergeant
and
the Mystery of his Wealth





Peter
Godber



葛柏

反貪污捉葛柏



Corruption DNA

Corruption case involving Chief
Technical Officer of Highways
Department

Since its establishment, the ICAC has been adopting a “three-pronged” strategy in fighting corruption effectively through law enforcement, prevention and education.

The ICAC derives its charter from the ICAC Ordinance. Its independence is guaranteed in Article 57 of the Basic Law and established by the Commissioner being formally and directly responsible to the Chief Executive. In carrying out its work, the ICAC functions as an independent organ of the public service.

The ICAC comprises the office of the Commissioner and four functional departments - Operations, Corruption Prevention, Community Relations and International Cooperation and Corporate Services. ¹

Overview

The Independent Commission Against Corruption (ICAC) was established on 15 February 1974 with the enactment of the Independent Commission Against Corruption Ordinance (Cap 204).



ICAC Cases 2025

- Hong Kong's anti-corruption agency has arrested 22 individuals, including 18 bank employees who allegedly accepted HK\$2 million (US\$257,372) in bribes from an intermediary to defraud the institutions of referral fees in mortgage loan applications.
- Hong Kong's anti-corruption agency has charged a 49-year-old correctional services officer with fraud after he allegedly deceived a credit union and three financial institutions into granting him 17 loans totalling more than HK\$1.5 million (US\$193,050).

Vision and Mission

Mission: With the community, the ICAC is committed to fighting corruption through law enforcement, education and prevention to keep Hong Kong fair, just, stable and prosperous. We also foster international cooperation among anti-corruption agencies worldwide in the common fight against graft.²



Vision: To become a world-acclaimed exemplar in the graft-fighting arena, entrench the reputation of Hong Kong as a city of probity, and drive global collaboration in anti-corruption efforts.

The Prevention of Bribery Ordinance (Cap. 201):

Specifies the offences of bribery involving prescribed officers, public servants and private sector employees. The ordinance empowers ICAC to:

- unravel and identify transactions / assets concealed in different guises by the corrupt. The powers include:
- Searching bank accounts;
- Holding and examining business and private documents; and
- Requiring the suspects to provide details of their assets, income and expenditure.
- detain travel documents of subjects and restrain disposal of property in order to stop the corrupt from attempting to flee Hong Kong or hiding their ill-gotten gains.
- protect confidentiality of an investigation.

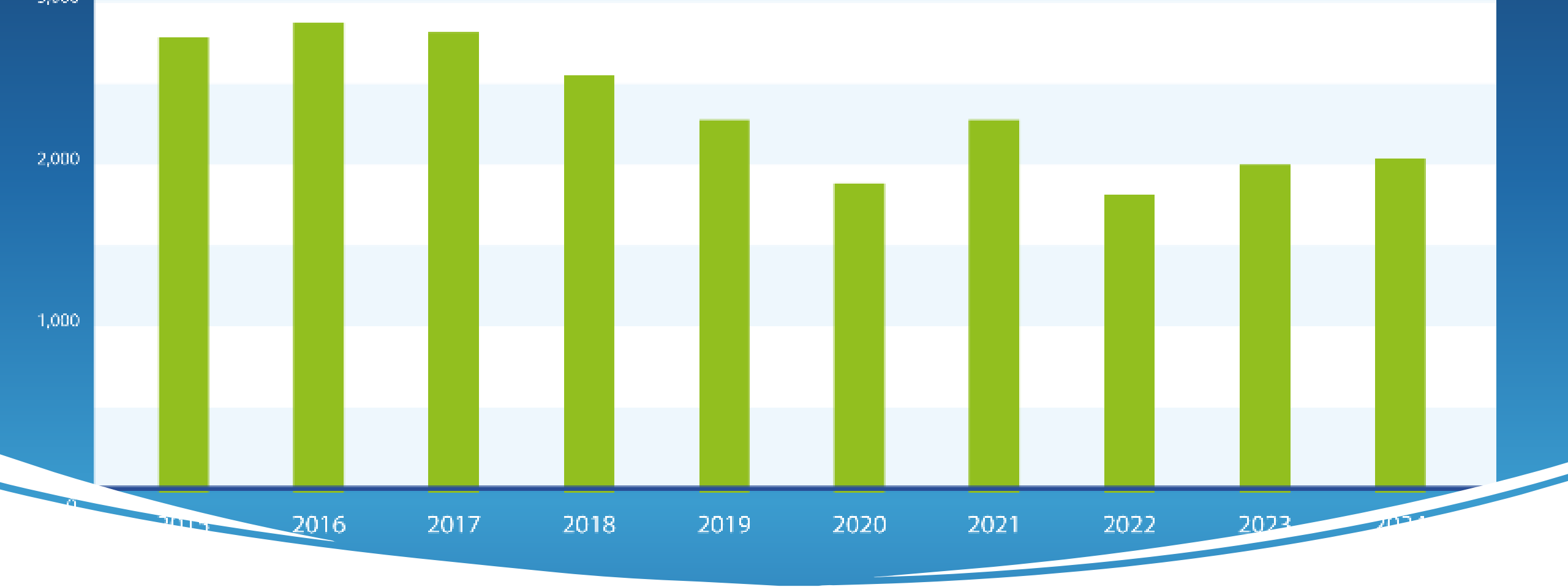
(Full Ordinance: <https://www.elegislation.gov.hk/hk/cap201!en>)

The Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554):

- Ensures that public elections are conducted fairly, openly and honestly and are free from corrupt and illegal conduct.
- Applies to the Chief Executive Election, Legislative Council Election, Election Committee Subsector Elections, District Council Election, Heung Yee Kuk Elections, Rural Committee Elections, Rural Representative Elections and the by-elections of the said elections.
- *(Full Ordinance: <https://www.elegislation.gov.hk/hk/cap554!en>)*

Hong Kong's Probity Situation

- *Corruption Statistics:*
- Corruption in both the public and private sectors of Hong Kong has been kept effectively in check. Our robust anti-corruption regime helps maintain a clean public service, create a level playing field for businesses and nurture an anti-corruption culture in the community that strongly detests corruption.

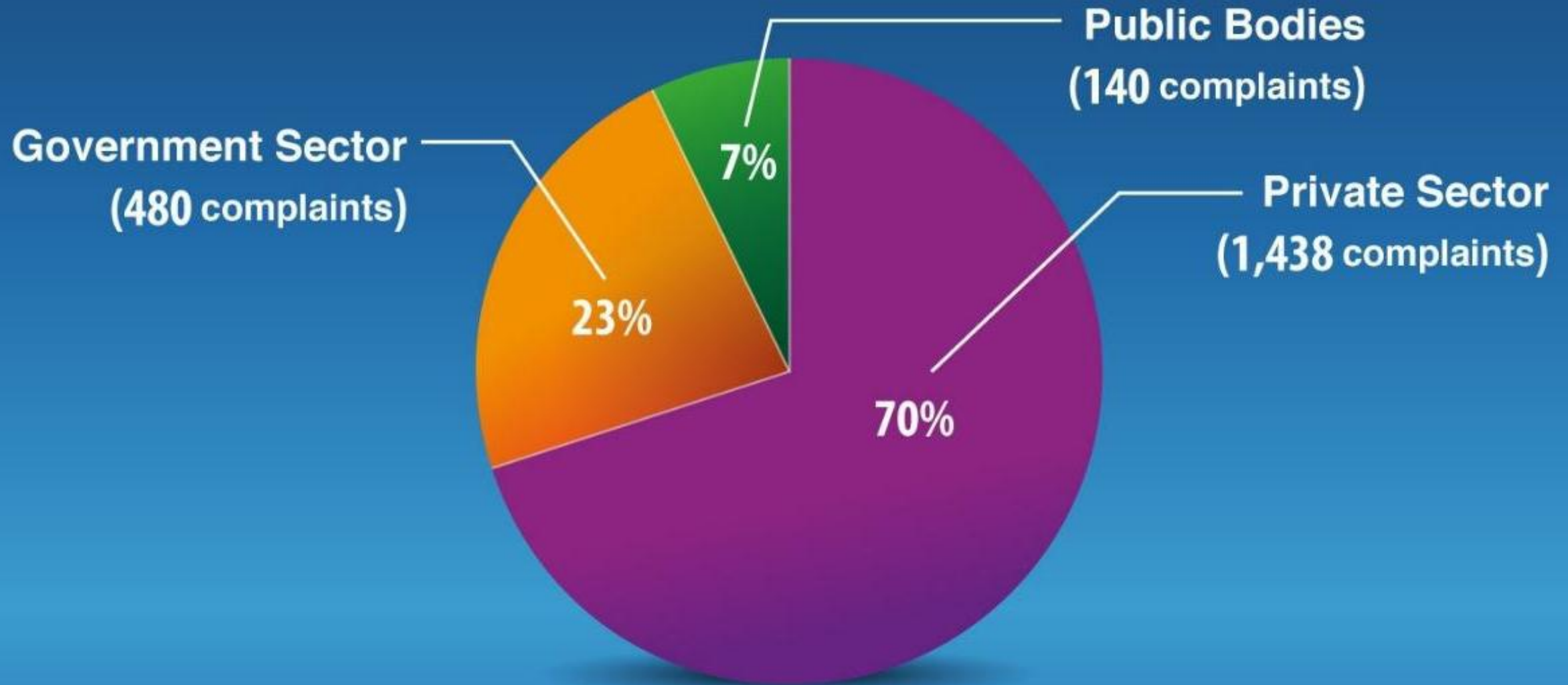


Over the last 10 years, the ICAC received around 2,000 to 3,000 corruption complaints each year. The figures remain steady, reflecting that the corruption situation is well under control. In 2024, 2,058 corruption complaints were received

Hong Kong's Probity Situation

In the early years of the ICAC, corruption reports against government departments substantially outnumbered those concerning the private sector. Starting from the mid-1980s, due to ICAC's successful crackdown on public sector corruption, complaints concerning that sector began to subside and were subsequently surpassed by those on the private sector due to the thriving economy and increased business activities. In recent years, about two-thirds of corruption complaints target at the private sector and one-third at the public sector.⁵

BREAKDOWN OF COMPLAINTS IN 2024 (EXCLUDING ELECTION COMPLAINTS *)





Integrity Culture in Figures:

- Corruption is uncommon in Hong Kong. According to the [ICAC Annual Survey findings](#), 98.9% of the people polled said they had not personally come across corruption in the past 12 months.
- The community is well aware that an integrity environment is paramount to sustainable development of Hong Kong. According to the same survey, 96.7% of respondents held this view.

Global Recognition:

- Hong Kong is internationally renowned for her pioneering role in the fight against corruption.

The Organisation for Economic Co-operation and Development (OECD)

- “One of the best known specialised anti-corruption institutions - the Hong Kong's Independent Commission Against Corruption - was established in 1974. The Commission has contributed significantly to Hong Kong's success in reducing corruption. Inspired by this success story, many countries around the world ... decided to establish specialised bodies to prevent and combat corruption.” (*OECD, Executive Summary, Specialised Anti-Corruption Institutions: Review of Models, 2008*)

United Nations Development Programme

- “ ... the successful models of ... Hong Kong's Independent Commission Against Corruption (established in 1974); ... (was) widely considered to be effective in reducing corruption ...” (*United Nations Development Programme, Practitioners' Guide: Capacity Assessment of Anti-Corruption Agencies, October 2011*)

- World Bank

“In 1974 Hong Kong introduced an Independent Commission Against Corruption (ICAC)... It has been remarkably effective: today Hong Kong SAR, China, ranks in the top 20 worldwide of Transparency International's corruption perceptions index”. (*World Bank, World Development Report: Governance and the Law, January 2017*)

“The ICAC takes a comprehensive approach towards corruption that addresses not only misconduct by public officials and bribery by private companies, but also fraud and corruption in the context of purely private transactions ... the Hong Kong Ethics Development Center (HKEDC)*, established under the umbrella of the Independent Commission Against Corruption (ICAC), provides many materials and supports training activities targeting small and medium-size enterprises ... Having a government agency directly involved in the dissemination of business ethics is quite exceptional worldwide and reflects the very strong policy of prevention implemented in Hong Kong.” (*World Bank, Fighting Corruption in East Asia: Solutions from the Private Sector, August 2003*)

- * Renamed as the Hong Kong Business Ethics Development Centre (HKBEDC) in 2015⁶

Hong Kong's International Ranking

Over the years, Hong Kong has consistently remained in the band of the top 20 jurisdictions with very low level of corruption in the world in international surveys.

- **World Bank: Worldwide Governance Indicators, 2024 updates**
 - Asia No.2 and World No.15 for control of corruption
 - Asia No.3 and World No.14 for regulatory quality
 - Asia No.3 and World No.16 for government effectiveness
 - Asia No.3 for rule of law

Hong Kong's International Ranking

Over the years, Hong Kong has consistently remained in the band of the top 20 jurisdictions with very low level of corruption in the world in international surveys.

2024 World Justice Project Rule of Law Index

- World No.9 and Asia No.3 for order and security
- World No.10 and Asia No.2 for absence of corruption

- **Transparency International: Corruption Perceptions Index 2024**

- Asia-Pacific No.2 and World No.17 least corrupt place among 180 countries/territories

Hong Kong's International Ranking

Over the years, Hong Kong has consistently remained in the band of the top 20 jurisdictions with very low level of corruption in the world in international surveys.

- **2024 Worldwide Governance Indicators, World Bank**
 - remained within the top 20 under the dimensions of Control of Corruption in the past five years
 - No.15 out of the 213 countries and territories, the second highest in Asia, under the dimension of Control of Corruption

Success Factors

(1) Strong Rule of Law

Hong Kong is long famous for a **strong rule of law**, which is the cornerstone of the city's success. A law-abiding government and citizenry, fair and robust enforcement and judicial and prosecutorial independence are the fundamental pillars of our integrity system.

In a society where the rule of law prevails, the functioning of the independent powers of the ICAC in investigation, the Department of Justice in prosecution and the Judiciary in adjudication has served to keep corruption under effective control.

Leading the fight against corruption under a holistic anti-corruption strategy through law enforcement, prevention and education, the ICAC plays a crucial role in upholding the rule of law in Hong Kong.

Owing to the relentless efforts of the ICAC, the staunch support of the community and the determination of the Government, Hong Kong has been successfully transformed from a corrupt economy into a clean metropolis



(2) ICAC's Institutional Strength

Independence of ICAC

- Since its establishment in February 1974, the ICAC has been fighting corruption independently without fear or favour. Its independent status is derived from the ICAC Ordinance (Cap. 204) which stipulates the statutory mandate of the ICAC in combatting corruption through investigation, prevention and education.
- The independence of the ICAC is also enshrined in Article 57 of the Basic Law of HKSAR which provides constitutional guarantee against any interference in our work.
- The ICAC impartially and rigorously enforces the law at all times, making corruption a high risk crime in Hong Kong. The corrupt will be pursued relentlessly irrespective of their background, status and position.

Checks and Balances

- The ICAC discharges its duties in strict accordance with the law. To give effect to this foundational principle, a robust [checks and balances system](#) is in place to make sure that the ICAC can meet the stringent requirements under the law and measure up to the high expectations of the public.



(2) ICAC's Institutional Strength- Cont'd

Holistic Anti-Corruption Strategy

- As a pioneer of a world-renowned three-pronged strategy to fight corruption through robust law enforcement, systemic prevention and comprehensive community education, the ICAC addresses both the symptoms and the root cause of corruption.
- Alongside law enforcement, the ICAC puts equal emphasis on system prevention and public education to sustain an integrity culture in the society so as to deprive corruption of its breeding ground. Through an “Ethics for All” approach in which partnerships are formed with the public and private sectors, the ICAC helps strengthen their corruption prevention capacity and spreads anti-corruption messages to every corner of the community.

An abstract composition of various geometric shapes. In the top left, a green triangle points towards the right. To its right is a purple circle. Below the triangle is a purple ring. In the center, a large orange semi-circle is oriented with its flat side to the right. To the right of the semi-circle is a blue dashed line consisting of three segments. In the bottom left, there is a large orange circle. In the bottom right, a green square is partially visible, showing its bottom and right sides.

The success of the anti-corruption mission of the ICAC rests on the dedication and professionalism of our officers. Different generations of graft busters have all shared the common goal of stamping out corruption and building up a clean society. This anti-corruption passion among our officers is reinforced by the high standards of conduct the Commission expects of its staff members as reflected in the Code of Ethics.


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(3) *Comprehensive Anti- Corruption Laws and Effective Enforcement*

- Comprehensive and effective anti-corruption laws are in place in Hong Kong to ensure that the public and private sectors as well as the electoral process of public elections are clean, fair and free from graft.
- The Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) serves to ensure the integrity and fairness of public elections in Hong Kong.
- The ICAC Ordinance (Cap. 204) ensures the independence of the ICAC and vests the ICAC with law enforcement powers, e.g. power of arrest, detention and granting bail; power of search and seizure; and power of handling any other offence disclosed during the corruption investigation process.
- **Misconduct in Public Office** is an offence under the Common Law. It prevents and sanctions any abuse of authority or conflict of interest of a serious nature on the part of public officials.
- The anti-corruption laws are administered by dedicated and professional graft-fighters with proven track records in cracking down the crime, without fear or favour.



(4) High Vigilance and Strong Support of the Community

- Hong Kong's community embraces a zero tolerance attitude towards corruption of any kind and is ready to report it whenever they encounter the crime. This forthright attitude is reflected in the views of the respondents of ICAC Annual Survey conducted by independent consultancy firms.
 - Hong Kong's community also demonstrates a high level of willingness to report corruption as shown in the ICAC Annual Survey.
- 




International Training and Collaboration

United Nations Convention against Corruption

Corruption has become increasingly cross-boundary in nature. International cooperation is hence of paramount importance in graft fighting. In addition to making relentless efforts to sustain our work, the ICAC has leveraged its anti-corruption experience and wide international network to contribute to the global anti-corruption community.

- The Central People's Government has designated the ICAC as the authority to assist other signatories to the United Nations Convention against Corruption in building up their capacity in combating corruption. In fulfilling the obligation, the ICAC has strengthened collaboration with and offered capacity building programmes to anti-corruption agencies in other jurisdictions under the framework of the Convention



Over the years, ICAC has actively offered training programmes for anti-corruption agencies (ACAs) in different continents to share experiences in fighting and preventing corruption.

- In order to step up its efforts in organising structured professional training programmes with overseas counterparts, ICAC established the Hong Kong International Academy Against Corruption (HKIAAC) in 2024.



International Training



THE HONG KONG COURT OF FINAL APPEAL
HKSAR v. Lam Cheuk Ting (林卓廷)
FACC No 8 of 2024 on appeal from HCMA No 34 of
2023. [\[2025\] HKCFA 7](#)

- **APPELLANT:** HKSAR
- **JUDGES:** Chief Justice Cheung, Mr Justice Ribeiro PJ, Mr Justice Fok PJ, Mr Justice Lam PJ and Mr Justice Allsop NPJ
- **COURTS BELOW:** Eastern Magistrates' Court (Magistrate Jacky Ip Kai-leung); Court of First Instance (DHCJ Douglas Yau)
- **DECISION:** Appeal allowed by a majority
- **JUDGMENT:** Mr. Justice Ribeiro PJ delivered a judgment. Chief Justice Cheung and Mr. Justice Allsop NPJ each delivered a judgment agreeing with Mr Justice Ribeiro PJ. Mr. Justice Fok PJ delivered a dissenting judgment. Mr Justice Lam PJ delivered a judgment agreeing with Mr Justice Fok PJ.
- **DATE OF HEARING:** 12 February 2025
- **DATE OF JUDGMENT:** 1 April 2025

Disposition. --By a majority of 3:2, the Court allowed the appeal, set aside the deputy judge's order, and restored the respondent's conviction and sentence.

THE HONG KONG COURT OF FINAL APPEAL

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SUMMARY:

Background

1. The Respondent, was charged with three counts of disclosing the identity of a person under investigation by the Independent Commission Against Corruption (“**ICAC**”) contrary to section 30(1)(b) of the Prevention of Bribery Ordinance (“**POBO**”). The Respondent was convicted by the Magistrate, but his conviction was quashed on appeal by the Court of First Instance.
2. This appeal concerned the construction of section 30(1)(b) of the POBO, in particular, the content of the disclosure required to constitute the offence.
3. The Respondent, having been present at the events which occurred on 21 July 2019 in Yuen Long MTR station involving assaults by white-clad assailants on black-clad protestors, was invited to assist the ICAC as a witness. During the interview, the ICAC informed the Respondent that they were investigating Superintendent Yau Nai Keung for the offences of “bribery” (a Part II POBO offence) and “misconduct in public office” (a non-Part II POBO offence). The Respondent was reminded of the prohibition against disclosure under the POBO.

THE HONG KONG COURT OF FINAL APPEAL

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4. The Respondent subsequently gave three press conferences, and disclosed, on each occasion, that Superintendent Yau was under investigation by the ICAC for the offence of “misconduct in public office”. As a result, the Respondent was charged with disclosing the identity of a subject person contrary to section 30(1)(b) of the POBO.

Disclosure need not reference Part II offence (the second construction)

5. Ribeiro PJ delivered the majority judgment. Chief Justice Cheung and Allsop NPJ each delivered concurring judgments.

6. Ribeiro PJ distinguished between two possible constructions of section 30(1). The first construction, which adopted a literal approach, mandated the disclosure of an investigation for a Part II offence. The second construction, which adopted a contextual and purposive approach, required nothing more than the disclosure of the existence of an investigation that is underway.

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7. Ribeiro PJ preferred the second construction as it better reflected the statutory intent to preserve the efficacy or integrity of ICAC investigations into corruption offences and to protect the reputation of subject persons.
8. Ribeiro PJ noted that the prohibited disclosure in paragraphs (a) and (b) distinguished between the fact of the investigation (“the fact that [the subject person] is subject to the investigation”) and the details of such investigation (“any details of such investigation”). As such, on the statutory language, it was sufficient to attract liability by disclosing the mere existence of the investigation without details.

THE HONG KONG COURT OF FINAL APPEAL

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9. The second construction was preferable as either the disclosure of fact or details may prejudice the investigation. Unlike the *mens rea* requirement which, in requiring knowledge of a current Part II offence investigation, was concerned with establishing the defendant's culpable state of mind, the *actus reus* elements were objective and aimed at protecting the integrity of ongoing investigations. Further, the second construction accounted for situations where disclosures may be indirectly communicated without indicating the character of the offence being investigated.

THE HONG KONG COURT OF FINAL APPEAL

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10. Chief Justice Cheung, in his concurring judgment, held that the language of the provision did not preclude the adoption of the second construction. The phrase “the fact that he/the subject person is so subject” in sections 30(1)(a) and (b) covered two distinct facts: (1) a person is the subject of an investigation and (2) the investigation concerns a Part II offence. A prohibited disclosure only needs to reveal fact (1). This view is reinforced by the Chinese text of section 30(1)(b) which, when directly translated, reads as “the fact that the subject person is under investigation”.

11. Allsop NPJ delivered a concurring judgment and rejected the first construction. Allsop NPJ held that there was no discernible difference in the scope of prohibited disclosure between the first and second limbs in paragraph (b), as well as with the first limb of paragraph (a). The 1996 amendment narrowed the section by introducing a necessary mental element whereby the disclosures are only criminalized if the defendant knows or suspects an investigation for an offence under Part II is taking place. It does not, however, intend to narrow the reach of the prohibited disclosures.

- *Disclosure must reference Part II offence (the first construction)*

12. Fok PJ delivered a dissenting judgment. Fok PJ noted that there are three distinct types of prohibited disclosure under section 30(1)(b). Although each was intended to cover separate conduct, there was scope for an overlap between them. Moreover, each type of prohibited disclosure included or encompassed the term “the subject person”, which must refer specifically to a person which was the subject of an investigation “in respect of an offence alleged or suspected to have been committed under Part II”.

13. Accordingly, a prohibited disclosure concerning the “identity of the subject person” required disclosing the identity of the person as the subject of a Part II investigation specifically. Similarly, disclosure that “the fact that [the subject person] is so subject” required disclosing the specific existence of a Part II investigation. This may occur where, for example, the disclosure occurred when it was known that the person was subject to an ICAC investigation but not a Part II investigation specifically.

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14. Consequently, there was no choice in construction. However, even if there were, the first construction is to be preferred when applying a purposive approach. A plain reading of the pre-1996 version shows, in comparison with the current version, a narrowing of the scope of the prohibition. The purpose of the current section 30(1) was the protection of the integrity of “an investigation in respect of an offence alleged or suspected to have been committed under Part II”, rather than an ICAC investigation in general.
15. Lam PJ delivered a judgment agreeing with Fok PJ. Lam PJ held that the language of section 30(1)(a) or (b) prohibited disclosures which objectively brought about a disclosure of a Part II investigation. The language specifically referenced “the” investigation, meaning a Part II investigation, and not simply “an” investigation, meaning any investigation. Consequently, the first construction was, on the language, the only possible construction.

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9. The second construction was preferable as either the disclosure of fact or details may prejudice the investigation. Unlike the *mens rea* requirement which, in requiring knowledge of a current Part II offence investigation, was concerned with establishing the defendant's culpable state of mind, the *actus reus* elements were objective and aimed at protecting the integrity of ongoing investigations. Further, the second construction accounted for situations where disclosures may be indirectly communicated without indicating the character of the offence being investigated.

Chief Justice Cheung:

I do not consider the language of section 30(1) of the [Prevention of Bribery Ordinance \(Cap 201\)](#) to preclude the adoption of a broader construction (i.e., the second construction referred to in Mr Justice Ribeiro’s judgment). The provision reads

- “Any person who knowing or suspecting that an investigation in respect of an offence alleged or suspected to have been committed under Part II is taking place, without lawful authority or reasonable excuse, discloses to—
- (a) the person who is the subject of the investigation (the subject person) the fact that he is so subject or any details of such investigation; or
 - (b) the public, a section of the public or any particular person the identity of the subject person or the fact that the subject person is so subject or any details of such investigation,
 - (c) shall be guilty of an offence and shall be liable on conviction to a fine at level 4 and to imprisonment for 1 year.”

Chief Justice Cheung:

3. The crux of the present debate lies in the meaning of the phrase “the fact that he/the subject person is so subject”, which appears in both section 30(1)(a) and (b). (“Subject person” simply refers to “the person who is the subject of the investigation”, that is, the investigation in respect of a Part II (corruption) offence. It is neutral regarding the content of the offending disclosure.)

Chief Justice Cheung:

4. Relevantly, section 30(1) covers two distinct and separable facts: (1) a person is the subject of an investigation; and (2) the investigation concerns a Part II offence. Linguistically, disclosure of “the fact that he/the subject person is so subject” is capable of meaning that the disclosure need only reveal fact (1), without disclosing fact (2). In other words, it may involve disclosing that a particular person is the subject of an investigation – without specifying that the investigation pertains to a Part II offence, even though that is the case.

Chief Justice Cheung:

5. I do not consider this interpretation to be so strained that, when understood in light of the provision's context and statutory purpose, it is one that the language cannot bear. In fact, the equivalent phrase appears in the Chinese text of section 30(1)(b) as “該受調查人正受調查的事實” .[\[1\]](#)When translated into English, it means “the fact that the subject person is under investigation”. If nothing else, this demonstrates that the broader construction is a permissible reading of the language used.

Chief Justice Cheung:

6. Since language is not an obstacle to adopting the broader construction, for the reasons given in Mr Justice Ribeiro's judgment, this interpretation clearly better serves the statutory purpose of the section 30 offence in its known context. Under it, the *actus reus* ensures the secrecy necessary for the investigation of a Part II offence, whereas the specific *mens rea* requirement – knowledge or suspicion of an investigation of a Part II offence – establishes the offence's culpability. While, generally speaking, a penal consequence may indicate that the narrower of two possible constructions is to be preferred, “[t]here is, however, no hard and fast rule in this respect.”^[2] After all, canons of construction are merely tools to assist the court in arriving at an interpretation that best fits the statutory context and serves the legislative purpose of the provision in question, as may be gleaned from the statute itself and all relevant admissible materials and circumstances.

EXAMPLES OF USES CASES AND ADVICE BY ICAC

Unauthorised commission in custody of another person

- Nelson was a branch manager of an overseas bank and was responsible for the day-to-day management including the granting of credit facilities to individual and corporate customers. Leo, a client of Nelson, was a director of a trading company. They maintained close ties and Leo always spent considerable sums of money entertaining Nelson by way of lunches, dinners and visits to ballrooms. On top of that, Nelson and his family were enjoying free accommodation in a flat owned by Leo's company.

Unauthorised commission in custody of another person

- In recent years, Leo's company had been facing difficulties in obtaining credit facilities due to the economic downturn. One day, Leo called Nelson for dinner and disclosed that he was applying for some Letters of Credit (L/Cs) in Nelson's bank. In a hope to secure his applications, Leo told that Nelson's assistance would be of great help. In return, Leo agreed to offer Nelson commission and deposit it into the account of Nelson's wife. Leo also invited Nelson and his family to spend the Chinese New Year holiday on a golf trip to Malaysia at his expense. Nelson thanked Leo and accepted the offer.

Unauthorised commission in custody of another person

- Nelson and Leo breached Section 9 of the Prevention of Bribery Ordinance (POBO) as Nelson accepted advantages from Leo in the form of commission and free travel for providing assistance in approving Leo's L/C applications without the permission of the bank. It is also a violation of Section 124 of the Banking Ordinance for Nelson to accept the advantages. Nelson commits a corruption offence despite that Leo deposited the commissions into the account of Nelson's wife. Under the POBO, a person is considered to have accepted an advantage, even though another person acting on his behalf receives the advantage.

Unauthorised commission in custody of another person

- Nelson also could not excuse himself by explaining that the acceptance of the Chinese New Year trip is a customary practice as custom is not a defence according to the POBO. Nelson might further contravene the Code of Conduct^[1] of his bank for accepting personal benefits from a customer doing business with the bank.

Unauthorised commission in custody of another person

- Nelson's acceptance of entertainment and free accommodation without doing anything at the early stage might not contravene Section 9 of the POBO at the outset. Nevertheless, Nelson should avoid accepting excessive levels of entertainment or advantages as it might affect his objectivity in dealing with Leo.

An offence committed notwithstanding an incomplete corrupt deal

- According to HKMA's Supervisory Policy Manual CG-3, each authorized institute (bank) should develop its own Code of Conduct containing certain minimum conduct requirements which include "no member of staff should solicit, accept and retain personal benefits from any customer of the authorized institute (bank) or any individual or organisation doing or seeking to do business with it."

An offence committed notwithstanding an incomplete corrupt deal

- According to HKMA's Supervisory Policy Manual CG-3, each authorized institute (bank) should develop its own Code of Conduct containing certain minimum conduct requirements which include "no member of staff should solicit, accept and retain personal benefits from any customer of the authorized institute (bank) or any individual or organisation doing or seeking to do business with it."

An offence committed notwithstanding an incomplete corrupt deal

- Terry had been a senior bank manager for five years. He had bought a flat at its peak value but unfortunately, the value of the flat had dropped by nearly \$3 million during the economic downturn. Meanwhile, he had to pay exceptionally high monthly installments on the mortgage loan

An offence committed notwithstanding an incomplete corrupt deal

- Mark was Terry's customer and planned to apply for overdraft facilities of \$3 million from Terry's bank. According to the bank's policy, a branch manager was authorised to approve unsecured overdraft facilities of up to \$3 million to a customer. While Terry was dealing with the overdraft application, Mark requested him to expedite the process and favourably recommend his application.

An offence committed notwithstanding an incomplete corrupt deal

- Taking into consideration his own upcoming mortgage repayment, Terry suggested Mark to place \$100,000 into his personal bank account in return for his assistance in expediting Mark's application. Mark acceded to the suggestion and Terry approved the application on the next day. Nevertheless, prior to the bank's final processing of the application, the abnormal swift approval by Terry was brought to light by the bank's compliance department and the case was eventually reported to the ICAC. Terry's authority to deal with all banking matters including Mark's application was immediately suspended pending investigation.

An offence committed notwithstanding an incomplete corrupt deal

- Terry breached Section 9 of the Prevention of Bribery Ordinance (POBO) as he abused his official position as a bank manager by expeditiously approving an application of overdraft facilities and solicited and accepted an advantage in return without permission from his employer. Likewise, Mark breached the POBO by offering an unlawful advantage to Terry. In this case, Terry also violated Section 124 of the Banking Ordinance.

An offence committed notwithstanding an incomplete corrupt deal

- Although the "under-the-table" deal had not been completed, Terry and Mark still committed an offence. Under the POBO, a person will be found guilty even though the purpose of bribery has not been achieved. Terry might also violate the Code of Conduct^[1] of the bank by soliciting and accepting personal benefits from a customer

An offence committed notwithstanding an incomplete corrupt deal

According to HKMA's Supervisory Policy Manual CG-3, each authorized institute (bank) should develop its own Code of Conduct containing certain minimum conduct requirements which include "no member of staff should solicit, accept and retain personal benefits from any customer of the authorized institute (bank) or any individual or organisation doing or seeking to do business with it."

THANK YOU

