

## **Chaotic arrangements of Health Bureau and Department of Health in a “restriction-testing declaration” operation Investigation Report**

On 16 July 2022, this Office received a complaint against the Health Bureau (“HHB”) and the Department of Health (“DH”).

### **The Complaint**

2. On 6 February 2022, the building where the complainant lived with her husband and daughter (“the Building”) was cordoned off, and all residents were required to stay in their premises and undergo compulsory testing (referred to as “restriction-testing declaration” or “RTD” operation). The complainant alleged that during the RTD operation, all residents were required to proceed downstairs for testing, but the arrangements were chaotic. On that evening, a staff knocked on the doors of her family and neighbours on the same floor, notifying them to go downstairs. After waiting for the elevator for more than ten minutes to no avail, they walked to another floor to take the elevator. After the testing, they could not return to their own premises immediately. At that time, around 100 residents were waiting for the elevator in the ground floor lobby for nearly an hour. However, the lobby was poorly ventilated because its windows were sealed with plastic tape. The risk of cross infection further increased as frontline staff wearing personal protective equipment (“PPE”) and the complainant used the same elevator.

3. On the morning of 8 February, the complainant received a phone call from a staff, informing her that her daughter preliminarily tested positive for COVID-19, and she and her daughter would be sent to an isolation facility within the same day. The complainant then packed their luggage and waited at home, but no pick-up was arranged in the next two days. On 10 February, a staff from the Fire Services Department (“FSD”) informed the complainant that her daughter would be admitted to the isolation facility on her own, but subsequently said that a child would not be isolated alone. Later that day, a DH staff told her that her daughter would be hospitalised alone. Nevertheless, no department made any arrangements thereafter, nor was the complainant further informed of the isolation and quarantine arrangements for her family.

4. On 11 February, the complainant had fever symptoms. She then called DH to make enquiries, but a staff said that no information and assistance could be offered because she and her daughter did not have a confirmed case number, and suggested her to go to a community testing centre herself for testing. The complainant considered the staff’s suggestion unreasonable and worried that she would violate the isolation requirements if going outside. Hence, she called 999 to seek help. On the same day, she and her daughter were taken by ambulance to a public hospital for testing. After that, they went home by public transport, and stayed home awaiting further information.

5. During home isolation on a voluntary basis, the complainant called the Home

Affairs Departments (“HAD”) on 12 February to seek help, but a staff refused to deliver supplies to her on the grounds that she had not been confirmed as a “close contact” by DH. On 13 February, she called the “StayHomeSafe” hotline (1833 019) to make enquiries. A staff told her to continue waiting for arrangements of departments regarding her daughter’s case. She was also told that since she and her husband were not persons under quarantine, they were suggested to undergo testing at a community testing centre.

6. On 16 February, a hospital nurse called to inform her that she also tested positive, but she was only advised to stay home awaiting further information. On 22 February, DH informed her that rapid antigen test (“RAT”) kits would be distributed to her. She was advised to take a voluntary RAT on 25 February, and isolation could end upon a negative result. Nonetheless, she only received the RAT kits from the department on 28 February.

7. In sum, the complainant was dissatisfied with the RTD operation carried out at the Building, including the chaotic arrangements for conducting tests, and the lack of proper arrangements for the isolation/treatment of her family (**Allegation (1)**); failing to issue isolation/quarantine documents promptly, such that she was not delivered any supplies (**Allegation (2)**); and improperly advising her and her husband (who was a close contact) to go outside for testing (**Allegation (3)**).

## **Process of Investigation**

8. This Office initiated a full investigation against HHB and DH on 2 August 2022, and received their replies on 27 September and 21 October respectively. On 22 December, a draft investigation report was sent to HHB and DH for comments. After receiving their replies on 17 January and 2 February 2023 respectively, we completed this investigation on 14 March 2023.

## **Our Findings**

### ***Relevant Legislation***

9. For prevention and control of COVID-19, the Government exercised the power under the Prevention and Control of Disease (Compulsory Testing for Certain Persons) Regulation to designate “restricted areas” based on risk assessment and carry out RTD operations. People within the specified “restricted area” were required to stay in their premises and undergo compulsory testing according to the Government’s arrangements. The RTD operation was aimed at identifying infected cases as soon as possible to cut the virus transmission chains in the community.

10. In each RTD operation, the Government would identify the boundary of “restricted area” pursuant to the legislation, and require persons of specified categories to undergo compulsory testing according to specified requirements and procedures. The Government would also issue a press release to provide the consideration factors

for the RTD operation, detailed arrangements for specified persons to undergo testing, and estimated time of completing the operation.

### ***RTD Operations***

11. The RTD operations carried out between May and September 2022 generally commenced in the late afternoon. After the Government issued a press release on the RTD operation of that day, persons subject to compulsory testing within the “restricted area” would be arranged by batches for specimen collection at designated stations in an orderly manner. This process was usually completed by around 11 pm on the same evening, and all specimens collected would be delivered to the laboratory for testing. In general, laboratory testing could be completed on the next morning after the RTD operation. The authorities would arrange those in the “restricted area” who tested positive and subject to isolation to be admitted to isolation facilities.

12. Barring any exceptional circumstances such as a large number of positive cases, the responsible departments, with the consent of HHB, would usually complete the compulsory testing by 9 am on the next day after the RTD operation. They would then immediately start enforcement action in the “restricted area”. Persons who had undergone testing could leave the “restricted area” via designated exits by presenting the SMS notification of negative result to prove their completion of compulsory testing. After the enforcement process, the Government would announce the formal revocation of the restriction-testing declaration.

### ***Division of Labour for RTD Operation***

13. HHB, formerly the Food and Health Bureau (“FHB”), was responsible for the overall management of RTD operations. The Bureau would consider a basket of factors, including the traces of virus in sewage discharge, condition of relevant infected cases and other environmental factors. Based on the risk assessment, it would select the target buildings for RTD operations, deploy testing contractors, and decide on arrangements for reopening the “restricted area” according to the testing results. Multiple Government departments were involved in each operation. The policy bureau or department in charge of each RTD operation (referred to as the “Responsible Department”) coordinated other departments, including the disciplinary forces, and HHB’s testing contractors to perform duties during the operation. Proper arrangements, such as setting up a hotline, would be in place for affected residents to make enquiries and seek help, while residents with special needs would be assisted as far as possible. On 21 February 2022, the former FHB held a briefing session about RTD operations to facilitate the drawing up of operation details by Responsible Departments. Moreover, a dedicated group was created with communication software in each operation for contacting the Responsible Department and relevant personnel to maintain close communication.

14. DH was mainly responsible for follow-up actions of positive cases, epidemiological investigation, inquiry into the situation of patients diagnosed with

COVID-19, and contact tracing based on each patient’s contact history. Depending on the prevailing anti-epidemic policy, DH would arrange for infected persons and/or close contacts to be hospitalised or admitted to isolation facilities for isolation/quarantine, and issue such documents as isolation/quarantine orders to them.

## **Response from HHB and DH**

### ***Allegation (1): Improper arrangements for RTD operation and failing to arrange isolation/treatment of the complainant’s family***

15. According to HHB’s information, it decided to carry out RTD operation at the Building on 6 February 2022, and issued the restriction-testing declaration and a press release requiring all people present within the “restricted area”, i.e. the Building, for more than two hours between 24 January and 6 February 2022 to undergo polymerase chain reaction-based nucleic acid testing for COVID-19 with specimens collected through combined nasal and throat swabs. The Environmental Protection Department (“EPD”) was the Responsible Department for this RTD operation. After reviewing the testing results on 7 February, HHB decided to extend the RTD operation to 8 February and reassigned the Housing Department to take charge of the extended operation. According to the press release on 8 February 2022, around 4,000 people had undergone testing and 15 preliminarily positive cases were found.

16. The RTD operation at the Building commenced at 8:30 pm on 6 February 2022. The responsible officer went door-to-door from the upper, middle and lower floors, knocking on each door to notify residents of the operation and advising them to proceed downstairs for testing upon a second notification. After about 9 pm, when residents on certain floors went downstairs for testing as instructed, residents on other floors also took the elevator to the ground floor for testing in spite of not having received the second notification, causing a congestion on the elevator system and the ground level. The Responsible Department immediately deployed additional staff to help ease the crowd in the Building, and the situation had improved.

17. To reduce the risks of infection and transmission, all personnel had obtained a negative RAT result before participating in the RTD operation. During the operation, they needed to wear PPE. As their duties required, staff wearing PPE used the elevator system to assist residents to undergo testing as soon as possible and provide individuals with timely assistance.

18. HHB explained that since the complainant’s daughter preliminarily tested positive for COVID-19 on 8 February 2022, DH then sent her specimen to its Public Health Laboratory Centre for further testing. On 10 February, her specimen was confirmed as positive. Generally, DH would coordinate the admission of infected persons to designated isolation facilities for isolation with the Hospital Authority (“HA”) and FSD. On 10 February, FSD notified the complainant that her daughter would be taken to an isolation facility, but the complainant requested to accompany her daughter during the isolation. As the relevant isolation facility did not allow parents

to accompany their isolated children, FSD cancelled the pick-up. Ultimately, DH was unable to arrange the isolation or quarantine of her daughter and family members at designated isolation facilities due to the sudden surge of infected cases.

19. The Government kept a close eye on the epidemic development and adjusted the action plans for RTD operations according to risk assessment. From 12 March 2022 onwards, those already infected on or after a specified date were exempted from testing during RTD operations, thereby reducing the risk of infection for persons subject to testing during the operations. With more experience gained by Responsible Departments, the process of RTD operations gradually improved, and the impact on residents was reduced accordingly. In light of the epidemic development, the Government ceased carrying out RTD operations from mid-September 2022.

***Allegation (2): Failing to issue isolation/quarantine documents promptly and deliver supplies***

20. Since the onset of the epidemic to early February 2022, DH arranged for infected persons and their close contacts to be hospitalised or admitted to isolation facilities for isolation/quarantine, and issued isolation/quarantine orders to them via the isolation facilities or hospitals.

21. On 8 February 2022, DH launched the “StayHomeSafe” Scheme, under which close contacts and their household members, if deemed appropriate after assessment, would undergo home quarantine for 14 days and four days respectively, and quarantine orders would be issued to them. DH engaged the Auxiliary Medical Service to deliver quarantine orders and RAT kits, and the Office of the Government Chief Information Officer (“OGCIO”) was responsible for distributing electronic wristbands.

22. On 20 February 2022, the Government announced further measures. Depending on the health risk, care needs and transmission risk of infected persons and their close contacts, the authorities would arrange treatment and quarantine for them according to multi-tiered triage. Persons pending admission to hospitals or isolation facilities should stay home for isolation or quarantine. DH would distribute electronic wristbands and anti-epidemic supplies to persons pending admission to hospitals or isolation facilities, and distribute anti-epidemic supplies to their close contacts.

Follow-up actions of this case

23. On 8 February 2022, the complainant’s daughter underwent compulsory testing during the RTD operation, and preliminarily tested positive. On 10 February, she was diagnosed with COVID-19 after further testing. The complainant underwent testing at a hospital on 11 February and was diagnosed on 14 February.

24. After receiving the report of infected case regarding the complainant’s daughter, DH referred the case to HA and FSD on 8 and 10 February respectively for her hospitalisation. However, due to the surge of cases at that time and the

circumstances cited in **paragraph 18** above, DH had no manpower to arrange for complainant's daughter and family members to be sent to designated isolation facilities for isolation or quarantine, nor did it issue relevant isolation/quarantine orders to them. In addition, it had no manpower to trace and identify the close contacts of the complainant's daughter. Consequently, no quarantine orders and RAT kits were delivered to the complainant and her husband under the "StayHomeSafe" Scheme, nor was OGCIO notified to distribute the electronic wristbands.

25. In light of the Government's announcement on 20 February 2022, DH engaged contractors to distribute anti-epidemic supplies to people who had been diagnosed on or before 20 February and their close contacts, including the complainant's family. After contacting the complainant on 22 February and learned that they had been diagnosed earlier but had not received the supplies, DH engaged contractors to distribute anti-epidemic supplies to the complainant's family between 22 and 28 February.

26. On 10 March 2022, DH received the complainant's another complaint referred by this Office. It contacted the complainant on 11 March, and issued the isolation and quarantine documents to her family on 16 March.

27. Regarding the complainant's allegation that she had called HAD on 12 and 13 February requesting the delivery of supplies, HHB replied that it could not find any records about her calls after checking HAD's record.

### ***Allegation (3): Handling enquiries improperly***

28. Regarding the complainant's allegation that DH's hotline staff had not only failed to provide information of her case, but also suggested her to go to a community testing centre herself for testing, DH could not find any records about her call on 11 February 2022 after checking the record. DH explained that in the same situation, its staff would generally provide the diagnosis record and relevant information after verifying the caller's identity. Infected persons would be advised to stay home as far as possible while awaiting transfer and avoid going out. Close contacts who lived under the same roof as the infected person should avoid face-to-face contact as far as possible. If they needed to go outside their home (such as to hospital for medical appointment), they should wear a surgical mask and go directly to the hospital, as well as avoid using public transport or staying in public places.

### ***Our Comments***

#### **Allegation (1)**

29. HHB has explained the arrangements for the RTD operation at the Building and the testing process, and its failing to arrange the isolation and quarantine of the complainant's daughter and household members at designated facilities due to the sudden surge of infected cases (see **paragraphs 15–18**).

30. Between January 2021 and 6 February 2022, the Government carried out 186 RTD operations<sup>1</sup>, with around 190,000 people subject to compulsory testing. According to information provided by the Civil Service Bureau to the Legislative Council in April 2022, between late February and April 2022, more than 40 departments under 11 policy bureaux were involved in RTD operations, and around 150 to 450 Government personnel were mobilised for cordoning off each building. This Office believes that the manpower involved in this case was also within this range. RTD operations not only involved a lot of manpower and resources, but also restricted personal freedom and caused serious disruption to the daily lives of relevant residents, who were required to stay in the restricted areas. However, according to HHB's information, HHB and Responsible Departments had not made any special preparations or prior arrangements for following up the preliminary positive cases found during RTD operations. They only coordinated other departments during the operation (see **paragraph 13**), resulting in failure to take timely and proper follow-up actions. The complainant's daughter could not be admitted to an isolation facility due to the surge of infected cases at that time. When feeling unwell, the complainant and her daughter could only call 999 for help. Their situation was not different from that of other infected persons who were not found during RTD operations. It called into question about the chaotic arrangements of the RTD operations, which cost a lot of manpower and resources and seriously affected the daily life of the residents, had failed to effectively achieve the objective of the prevailing policy of "early identification, early isolation and early treatment".

31. The detailed arrangements for each RTD operation were decided by the Responsible Department, which would coordinate other relevant departments. The RTD operation in this complaint was carried out before the Bureau's briefing session (see **paragraph 13**). The Bureau did not provide any detailed guidelines on RTD operations even after the briefing session. According to HHB's information, all personnel were required to obtain a negative test result before participating in the operation and wear PPE during the operation (see **paragraph 17**). In this operation, the responsible personnel tried to direct residents to undergo testing downstairs in batches, and control the gathering of people by crowd management according to circumstances (see **paragraph 16**). This Office understands the complainant's view that the arrangements were chaotic on that day, but also accepts that the Responsible Department had tried to manage the crowd during the operation. However, with many residents in the Building under RTD operation, it was difficult to arrange all residents to go to the designated area for specimen collection in an orderly manner during the evening and night time. The actual circumstances led to chaos and this Office considers it did not amount to maladministration. However, it casts further doubt on whether the RTD operation had been properly arranged.

32. Based on the above analysis, this Office considers **Allegation (1)** against HHB

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<sup>1</sup> Multiple buildings and 20 public housing estates were involved in the operations. However, the authorities could not provide the exact number of buildings involved because the boundaries of some operations were identified by the streets.

and DH **partially substantiated**.

#### Allegation (2)

33. DH would not make special arrangements for the issuance of isolation/quarantine documents and the dispatch of supplies in the wake of RTD operations and would carry out the relevant work in accordance with the prevailing anti-epidemic policy. According to the policy at that time, DH adopted the procedures in **paragraphs 20 to 21** to handle the case of the complainant's family. However, due to the sudden surge of confirmed cases, DH was unable to arrange their admission to designated isolation facilities, nor did it issue the isolation/quarantine documents to them. Furthermore, the complainant and her husband were not identified as close contacts, such that no RAT kits and electronic wristbands were distributed to them under the "StayHomeSafe" Scheme. When DH subsequently distributed anti-epidemic supplies to the complainant's family, it failed to issue the isolation and quarantine documents to them in parallel. The situation was only redressed after our intervention (see **paragraphs 25 and 26**).

34. In response to the complainant's allegation that DH had failed to issue the isolation/quarantine documents in a timely manner, resulting in no distribution of supplies to her, DH explained that it could not distribute the supplies to her earlier because of its failure to take timely follow-up actions for her case, not because of its failure to issue the isolation/quarantine documents.

35. This Office understands that the severity of the epidemic and the rapid changes in its development at that time put heavy pressure on DH in respect of manpower and resource deployment. But ensuring the isolation of confirmed patients and their close contacts was one of the core parts of the epidemic prevention and control work, and the delay was extremely unsatisfactory. Even DH was unable to provide practical assistance to the complainant's family at that time, the isolation and quarantine orders were legally binding documents after all. If DH had notified the complainant of the arrangements as soon as possible, it would have alleviated her anxiety. This Office considers **Allegation (2)** against DH **substantiated**.

#### Allegation (3)

36. DH's explanation about its general approach to the complainant's alleged enquiries is given in **paragraph 28**. However, in the absence of corroborating evidence such as audio records, this Office is unable to ascertain whether DH staff had received the complainant's call and responded to her enquiries as described by DH. Therefore, **Allegation (3)** is **inconclusive**.

#### **Conclusion**

37. Based on DH's data, a daily average of 260.6 confirmed cases were reported between 1 and 7 February, 1,289.9 between 8 and 14 February, 5,044.6 between 15 and



21 February, and 20,462.3 between 22 and 28 February 2022. In other words, there was indeed a surge in confirmed cases and a rapid change in the epidemic during the period when the cases occurred. Nevertheless, the Government had announced as early as 4 January 2020 the Preparedness and Response Plan for Novel Infectious Disease of Public Health Significance, and activated the Serious Response Level in parallel. The Plan specified that at the Serious Response Level, DH would work with the hospitals to conduct epidemiological investigation and contact tracing of staff/patients meeting the agreed surveillance case definition; put close contacts of confirmed cases of the novel infection under medical surveillance and/or quarantine; and put other contacts under medical surveillance. In other words, by the time this case occurred in February 2022, the epidemiological investigation and the tracing of patients/contacts had been carried out for more than two years. In addition, as the epidemic in Hong Kong and worldwide had all along been volatile, the public would expect relevant departments to keep reviewing and improving the procedures over those two years. Regrettably, this case shows that the Government was not entirely effective in responding to the situation at that time, which is disappointing to the public.



38. The Government adopted a risk-oriented approach for testing to achieve the objective of “early identification, early isolation and early treatment” through RTD operations, compulsory testing and voluntary testing. RTD operations were an integral part of the Government’s anti-epidemic measures. Staff members from a number of policy bureaux and departments were mobilised in each operation, and a lot of collaboration and coordination were involved. Missing any part of the process could easily lead to mistakes. Meanwhile, RTD operations caused restriction to personal freedom and serious disruption to the daily lives of relevant residents. Consequently, the public had legitimate expectations that the authorities would launch RTD operations with proper and effective procedures, after thorough coordination of the duties performed by various departments and sufficient preparations. During the operation, the authorities were also expected to have the ability to promptly follow up all confirmed cases found, and release timely and clear information to the affected residents. The Government had carried out the first RTD operation in January 2021, and a year had lapsed by the time of this case. The public would expect the Government to have accumulated experience and be well prepared. This case shows that there was room for improvement on the part of HHB in the overall management and planning of RTD operations, and DH also failed to handle the case of the complainant’s family according to the prevailing anti-epidemic measures. Overall, this Office considers her complaint against HHB and DH **partially substantiated**.

39. In light of the epidemic development, HHB ceased carrying out RTD operation from mid-September 2022 (see **paragraph 19**). Nevertheless, as the Chief Executive pointed out at a media session before the Executive Council meeting on 31 January 2023, various Government departments would continue to sum up experience according to the epidemic development, transform effective contingency plans into regular and permanent measures by incorporating into their guidelines, continue to optimise and update the guidelines, and optimise their adaptability in the most pragmatic and effective way to cope with new changes. This Office urges HHB and DH to learn the lesson

from this case, continue to improve measures and ensure that departments have the adaptability to rise to any new changes and threats in future.

**Office of The Ombudsman**  
**March 2023**

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