

**Security Bureau refusing to provide  
daily occupancy statistics of community isolation facilities  
(Related to Code on Access to Information)  
Investigation Report**

On 11 September 2022, the complainant complained to this Office against the Security Bureau (“SB”). On 7 October 2022, this Office commenced a full investigation into the complaint. Having examined the information and explanation provided by SB, we completed this investigation report on 17 March 2023.

**The Complaint**

2. On 22 July 2022, the complainant wrote to the Department of Health (“DoH”) requesting the daily occupancy statistics of all the community isolation facilities (“CIFs”) since they were in use. As the requested information was held by SB, DoH forwarded the complainant’s request to SB with his consent. On 16 August, SB replied to the complainant that there were over 6,500 persons admitted to the three CIFs under its management as at 15 August. The complainant considered that SB’s reply did not correspond with his original request, and wrote to SB on the same day asking for a valid response.

3. On 17 August 2022, SB responded to the complainant that the reply of 16 August was a modified one for his information request due to resources consideration. SB also revealed that his original request could not be acceded to in accordance with paragraph 2.9(d) of the Code on Access to Information (“the Code”) where such information could only be made available by unreasonable diversion of the Bureau’s resources. On the same day, the complainant wrote to SB counter-agruing that the Government has no difficulty reporting the daily occupancy data of multiple facilities for close contacts of persons infected with COVID-19 and querying whether SB was maintaining such daily occupancy data of all the CIFs. On 29 August, SB maintained the same stance without addressing the complainant’s concerns. Dissatisfied, the complainant complained to this Office about SB’s alleged non-compliance with the Code.

## **Our Findings**

### ***The Code***

4. The Code obliges Government departments to make available as much Government-held information as possible for the public to be well informed about the Government and its services. However, such information may be withheld if it falls into the categories under Part 2 of the Code including information which could only be made available by unreasonable diversion of a department's resources (paragraph 2.9(d) of the Code).

5. Paragraph 2.9.7 of the Guidelines on Interpretation and Application ("the Guidelines") of the Code further stipulates that before refusing a request under paragraph 2.9(d) of the Code, departments should first discuss with the applicant the possibility of modifying the request to a mutually acceptable level or identifying the requested information more precisely.

### ***SB's Response***

6. SB raised no dispute on the complainant's account of events.

7. Establishment of the CIFs was one of the contingency measures to fight against the COVID-19 epidemic. Since February 2022, nearly 30 CIFs had been put into operation within two months and 30 standby CIF locations were made available to contain any rapid upsurge of infected cases. The exercise involved extensive preparatory work under a tight timeframe.

8. A CIF Management System ("the System") was put in place to record the information of admitted persons. However, at the early stage of launching the System, persons admitted to the CIFs were required to self-report their admission information in paper forms after assignment of rooms. The admission data captured in the System might be inaccurate due to potential errors in the transcription of information from the paper forms and errors or delays in the self-reporting of admission by admitted persons. SB pointed out that its overriding principle in managing the CIFs was to ensure availability of rooms for accommodating the admitted persons as early as practicable. In other words, SB was most concerned about the number of rooms available in each CIF, rather than the number of persons admitted therein.

9. Given the possible inaccuracies of its admission data in hand (see **para. 8**), SB would have to deploy a huge amount of resources to trace and check with around 110,000 persons who were admitted to the CIFs from the commencement of their operation to 31 August 2022 and to verify their dates of admission one by one in order to fulfil the complainant's request. This would unreasonably divert SB's resources from its core duties, and the information obtained would not be beneficial to its operation. Therefore, SB declined the complainant's request by citing paragraph 2.9(d) of the Code (see **para. 4**).

10. Despite the above, SB has endeavoured to explore the feasibility of modifying the complainant's request to an acceptable level by providing the number of persons admitted to its managed CIFs as at 15 August (see **para. 2**). SB indicated in its reply to the complainant of 17 August that provision of the above information was a modified response to his request due to resources consideration (see **para. 3**). However, since the complainant insisted that SB should accede to his original request, the discussion on the modification of the information request was brought to an end. In this light, SB considered itself to have complied with paragraph 2.9.7 of the Guidelines of the Code (see **para. 5**).

## **Our Comments**

11. We acknowledge that SB was tasked to launch and operate the CIFs expeditiously to cope with the drastic surge of confirmed COVID-19 cases in early 2022. Since the Government's utmost concern was to reduce the risk of transmission and hence maintain public health, it was understandable for SB to focus on the availability of accommodation for admitted persons in the management of the CIFs. SB has also explained why the admission data captured in the System might be inaccurate (see **para. 8**), and why the requested information could only be made available by unreasonable diversion of its resources (see **para. 9**). We find SB's explanation acceptable given the time and resources constraints in preparing for the launch of the CIFs.

12. While there are grounds for SB to consider that the requested information could only be furnished with unreasonable diversion of its resources, it did not completely fulfil the prerequisite requirement under paragraph 2.9.7 of the Guidelines (see **para. 5**) before applying paragraph 2.9(d) of the Code as the reason for refusal.


We note that SB has attempted to modify the information request and replied to the complainant accordingly. However, such modified reply was furnished on SB’s own accord without prior negotiation with the complainant. There was a lack of mutual understanding between the two parties. We reckon that SB should have contacted the complainant to articulate clearly its difficulties in furnishing the requested information and to try to identify a mutually acceptable alternative in terms of the scope and details of the information to be provided. Although a mutually acceptable alternative may not be agreed upon in the end, this does not preclude SB from the need to initiate such negotiation before giving a modified reply and refusing to provide the requested information.

13. On the whole, we take the view that although SB has grounds to decline the complainant’s request for information in accordance with paragraph 2.9(d) of the Code, it has failed to comply with the Guidelines before applying such paragraph of the Code. Hence, we consider this complaint **unsubstantiated but with other inadequacies found**.


14. We hereby urge SB to take reference from this case and strive to avoid recurrence of similar incidents in future.

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

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