

## **Department of Health, Education Bureau and Social Welfare Department Quarantine and class resumption arrangements for COVID-19 recovered persons when their family members were subsequently tested positive Investigation Report**

On 1 September 2022, the complainant complained to this Office against the Department of Health (“DH”), the Education Bureau (“EDB”) and the Social Welfare Department (“SWD”).

### **The Complaint**

2. The complainant claimed that she lived with her husband, three sons and a domestic helper. Her two younger sons were studying at a primary school (“the School”) and had joined the After School Care Programme (“ASCP”) run by an Integrated Children and Youth Services Centre (“the Centre”) subsidised by SWD. Between 16 and 19 August 2022, her three sons were confirmed one after another to have contracted COVID-19 through Rapid Antigen Test (“RAT”). On 29 August, her two younger sons obtained negative results in two consecutive RATs. Their recovery was reported to the authorities.

3. On 30 August, the complainant’s husband tested positive by RAT. She enquired of the “StayHomeSafe” Scheme telephone hotline (“the Hotline”) of the Home Affairs Department and was told that her husband only needed to report via the “Declaration System for Individuals Tested Positive for COVID-19 Using Rapid Antigen Test” (“Declaration System”) the complainant and the domestic helper as household members. Reporting or quarantine was not required for her three sons, who had already recovered. On 31 August, the complainant telephoned the School, EDB’s Southern District Education Office and the Centre to explain her family’s situation, and asked whether her two younger sons, who were not required to undergo quarantine, could go to school and join ASCP at the Centre as usual.

4. The School, however, stated that her two younger sons were close contacts. They could resume class only after the last confirmed patient in the family had recovered. EDB gave her a largely similar response. The complainant doubted as teachers whose household members were infected with COVID-19 after their recovery were only required to follow the “3+4” arrangement to self-quarantine three days and permitted to resume teaching duty on the fourth day. Likewise, the Centre also considered her two younger sons as close contacts. Not only did they have to wait until the last patient in the family had recovered, they also need to produce negative results of nucleic acid tests (“PCR”) and RATs before they could go back to the Centre for ASCP.

5. Later on, EDB telephoned the complainant again, indicating that according to the updated Handbook for Persons Tested Positive for COVID-19 (“Handbook”) promulgated by DH, infected persons who had recovered could be deemed as recovered persons and resume normal life without having to wait for the recovery of household members. EDB considered this guideline applicable to the case of her two younger sons. They could, therefore, resume normal life. The complainant relayed EDB’s

explanation to the School and the Centre, which subsequently agreed to exercise discretion and allowed her two younger sons to resume class and re-join ASCP.

6. In sum, the complainant was dissatisfied that:

- (1) **DH** had failed to explain to the public and other government departments that if the household members of a recovered person were infected after the latter had reported recovery to the authority, then whether that recovered person was a “close contact”, required to report his case and undergo quarantine. The complainant alleged that DH’s Handbook failed to address these queries, and EDB’s explanation to her was only based on its own interpretation of the Handbook (“**Allegation (1)**”);
- (2) **EDB** had unreasonably formulated different guidelines on the quarantine requirements for recovered students and teachers. The complainant also doubted whether the Bureau had provided clear guidelines to all schools, or whether it just allowed schools to prohibit or permit students to go to schools according to their own understanding of the definition of “close contacts” (“**Allegation (2)**”);
- (3) **SWD** had failed to provide guidelines to subvented organisations, such that the Centre could decide at will whether to provide service to her sons, and even required them to undergo PRC tests initially (“**Allegation (3)**”); and
- (4) the case reflected that **DH, EDB and SWD** had vague and inconsistent definitions of “close contacts” and “recovered persons”, causing confusion to the public (“**Allegation 4**”).

## **Our Investigation**

7. This Office commenced a full investigation against DH, EDB and SWD on 20 September 2022. Having examined all the relevant information, we completed the investigation in April 2023.

## **Our Findings**

### ***Definition of “Close Contacts” and “Recovered Persons”***

8. DH stated that in order to formulate infection prevention and control strategies and measures, it had set up a Scientific Committee comprised of experts for the discussion of related issues and exchange of professional views, including defining the criteria for “close contacts” and “recovered persons” regarding COVID-19 cases. Generally speaking, a “close contact” is a person who has face-to-face contact with a confirmed COVID-19 patient for 15 minutes or longer without wearing a mask during the latter’s communicable period (two days before falling ill or testing positive). Close contacts are mainly the household members of a confirmed patient.

9. Regarding the definition of “recovered persons”, on or before 8 December 2022, an infected person who had received at least two doses of COVID-19 vaccine and obtained negative RAT results for two consecutive days on Days 6 and 7 after having tested positive would be considered to have recovered and could resume normal life. If the RAT result was positive, then he/she must continue isolation and undergo RAT every day until negative RAT results were obtained for two consecutive days before he/she would be considered to have recovered.

***Quarantine Requirements for Recovered Persons***

10. DH pointed out that a “recovered person” who has been tested positive within three months and completed isolation would not be considered a confirmed patient generally even if he obtains a positive PCR or RAT result again. Neither would he be considered a “close contact” if a household member is infected. Reporting or isolation/quarantine is therefore not required.

***Sequence of Events***

11. According to the information provided by DH, EDB, SWD, and the complainant, the sequence of events is as tabulated below:

	<b>Date</b>	<b>Event</b>
(1)	19 Aug 2022	The Complainant’s two younger sons tested positive by RAT. She submitted their positive results to DH via the Declaration System of the Centre for Health Protection (“CHP”).
(2)	28 and 29 Aug	The Complainant’s two younger sons obtained negative RAT results consecutively on Days 9 and 10 after having tested positive. She reported to the authorities accordingly.
(3)	30 Aug	The Complainant’s husband obtained positive RAT result and submitted the result to CHP via the Declaration System. That day, she enquired of the Hotline and was told that her three sons, who had recovered, need not report or undergo quarantine again.
(4)	31 Aug	The Complainant called the School to enquire whether her two younger sons could go to school, but was told that both of them were “close contacts” and therefore, could only resume class upon recovery of the last patient in the family.  The Centre learnt that the complainant’s two younger sons had been suspended from school, ASCP service would resume for them only after they had resumed class. In order that they could re-join ASCP before class resumption, the Centre exercised discretion and asked the complainant to arrange PCR tests for her two younger sons as a compromise solution.  That day, the complainant called EDB to enquire about the above. Since the case involved a special circumstance where

		a household member of an infected person was confirmed of contracting COVID-19 after the infected person had recovered, the Bureau needed time to examine the relevant guideline. EDB told her that it would follow up on the case and reply to her later.
(5)	1 September	The Complainant emailed the Chief Executive's Office and SWD to enquire about the above matter.
(6)	2 September	EDB telephoned the complainant, indicating that according to the Handbook, her two younger sons could be considered "recovered persons" and resume normal life. With the complainant's consent, EDB contacted the School to provide the above information. The Complainant then contacted the School regarding arrangements for her two sons to resume class.  That day, SWD enquired of CHP concerning the case of the complainant's two sons and was told the quarantine arrangement for "recovered persons" as mentioned in <b>paragraph 10</b> . SWD also called the complainant and learned that she had already contacted the Centre, which would arrange resumption of ASCP service to her two sons.

### *Allegation (1)*

#### DH's Response

12. DH pointed out that the Government responded to the dynamic epidemic situation and revise, update and enhance the related anti-epidemic measures so as to safeguard public health and address public needs. Therefore, the amount of related information increased rapidly. DH had been keeping in touch with various stakeholders via email, inter-departmental working groups and other experience sharing meetings, and would issue guidelines and circulars to other shareholders (including other government departments) to provide updates on the latest epidemic situation and prevention measures. DH would also tender advice to departments in case they had queries about the relevant guidelines.

13. Regarding the definition of "close contacts" and "recovered persons" and the quarantine requirement for "recovered persons" (see **paragraphs 8 to 10**), DH said that relevant information had been uploaded to the COVID-19 Thematic Website and incorporated into the Handbook, and promulgated via other channels (such as social media). The Department further pointed out that the complainant's husband, being an infected person, had been given the Handbook, and hence was informed of the above information. When the complainant called the Hotline regarding her family's situation (see **paragraph 11(3)**), she was given timely and accurate information. Besides, the section about household contacts in the Declaration System had also explained that household members did not include confirmed patients and preliminary confirmed cases. To make the message even clearer, the Declaration System had been updated in early September 2022 to state clearly that "household members do not include the

persons who have tested preliminarily positive at present or tested positive within the past 90 days”. DH considered that it had been disseminating information about the quarantine requirements for “close contacts” and “recovered persons” through different channels.

## *Allegation (2)*

### EDB’s Response

14. EDB stated that it had been working closely with the relevant government departments (including CHP) in order to listen to experts’ advice. It had also been communicating with the school sector for formulating various anti-epidemic measures. Furthermore, it had issued the “Health Protection Measures for Schools” (“Measures for Schools”) and CHP’s “Health Advice to Schools for the Prevention of COVID-19” to schools for their information and strict compliance with the various anti-epidemic measures stipulated therein. The definition of “close contacts”<sup>1</sup>, and the resumption of duty and class arrangements<sup>2</sup> for teaching and administrative staff/students were already included in the Measures for Schools, which would be updated in consultation with the relevant departments as per the latest development of the epidemic. The Measures for Schools also reminded schools that suggestions and guidelines would be provided by the CHP with respect to individual special cases where necessary.

15. EDB clarified that it had not formulated different quarantine guidelines for students and teachers. The “3+4” arrangement relevant to teachers was an isolation/quarantine measure tailored for new arrivals in Hong Kong during that period and unrelated to the complainant’s enquiry. Upon receipt of the complainant’s enquiry, EDB staff had followed the Handbook and explained to her the arrangements for confirmed patients when their household members became infected after they had recovered. It had also clarified with the School. For better understanding by schools and parents of the arrangements, the relevant content had been duly incorporated into the Measures for Schools.

16. EDB stressed that this was a special case in that, as opposed to other enquiries about the Measures for Schools, enquiries made to EDB about class/duty resumption arrangements for recovered students/teachers when their family members became infected were rather uncommon. EDB indicated that every case had its own special circumstances. In actual operation, especially at a time when the epidemic situation and anti-epidemic measures kept evolving, no guidelines could cover every possible scenario. If unforeseen case arises, EDB would seek CHP’s expert judgement and advice, as well as collate case details, experience, and precautionary methods. Relevant contents had to be sorted out before they could be incorporated clearly and accurately into the Measures for Schools. EDB opined that it had given practical and

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<sup>1</sup> According to the Measures for Schools, “close contacts” are household members living with a confirmed patient. If adequate prevention measures have been taken, teachers and students who have had contacts with a confirmed patient within the campus are normally not considered close contacts.”

<sup>2</sup> According to the Measures for Schools, teachers and students confirmed of COVID-19 infection who have received at least two doses of COVID-19 vaccine and obtained negative RAT results for two consecutive days on Days 6 and 7 after having tested positive can resume class/duty.

prompt response in this case.

### *Allegation (3)*

#### SWD's Response

17. SWD stated that it had been issuing circulars to organisations participating in the Fee-waiving Subsidy Scheme under ASCP to remind them to heed the information and health notices about the COVID-19 epidemic issued by the CHP from time to time, including the quarantine arrangement for service users, and that they should fully comply with the various health protection measures. Besides, SWD would, in response to the latest development of the epidemic, notify the various ASCP centres to adjust the face-to-face instruction mode in accordance with EDB's class suspension or resumption arrangements, and inform the parents/guardians of service users accordingly. SWD pointed out that between January 2020 and April 2022, it had issued in total 15 epidemic-related circulars to all organisations participating in the ASCP.

18. SWD had telephoned the Centre regarding the complainant's case. The Centre explained that according to the service arrangements during the epidemic, if a service user was suspended from class, face-to-face instruction for him under ASCP would also be suspended until he could resume classes at the day school. With respect to the case of the complainant's two sons, since they were being suspended from classes, the Centre could only provide ASCP service to them after they had resumed classes. Nevertheless, upon considering their need for face-to-face ASCP service and the risk of infection to the other users, the Centre suggested that her sons undergo PCR tests for it to exercise discretion and resume ASCP face-to-face instruction for them before they resumed face-to-face day classes at school.

19. SWD's investigation found that the Centre had not observed the CHP's instruction in suggesting that the complainant to provide the PCR test results of her sons before resuming ASCP face-to-face instruction for them. Neither had the Centre sought DH's advice. SWD had instructed the Centre to strictly comply with the various anti-epidemic requirements and measures promulgated by the CHP with respect to the provision of ASCP service.

20. SWD added that in view of the development of the epidemic, it had not only reminded ASCP organisations to heed the information and health notices relating to COVID-19 issued by the CHP, but also designated staff to liaise with the various ASCP centres so as to answer their day-to-day queries concerning those circulars. As far as it understood, ASCP centres in general knew very well the channels to obtain the latest anti-epidemic information. Regarding this case, SWD considered that it was just an oversight of the Centre, which subsequently quickly implemented improvement measures. Apart from this case, SWD had not received similar complaints in the past three years. SWD opined that its current mode of information dissemination and communication with ASCP Centres had been effective throughout the epidemic. It would take reference from our recommendations and improve with respect to the issuance of anti-epidemic guidelines to ASCP centres having considered the actual situation and feasibility of doing so.

## *Allegation (4)*

### Response from DH, EDB and SWD

21. As mentioned in **paragraphs 8, 9 and 13**, DH had set up the Scientific Committee, laid down the definitions of “close contacts” and “recovered persons” and spelt them out in the Handbook and other epidemic-related information. In the Measures for Schools issued by EDB, the definitions of “close contacts” and “recovered persons” were largely the same as those provided by DH (see **Notes 1 and 2**). SWD also adopted the CHP arrangements and guidelines relating to anti-epidemic measures, and required ASCP centres to comply.

### *Our Comments*

#### Allegation (1)

22. As DH explained, it had disseminated information about the COVID-19 epidemic and isolation/quarantine arrangements (including the definition of “close contacts” and “recovered persons” as well as information about isolation/ quarantine arrangements) through different channels. For this case, both EDB and SWD had clarified and replied to the complainant’s queries in accordance with DH’s Handbook and advice. It can be seen that DH did provide anti-epidemic information and assistance to the relevant departments. However, EDB, SWD, the School and the Centre had failed to fully grasp the above anti-epidemic measures and arrangements.

23. In fact, the Government issued a press release on 6 March 2022 to elaborate whether “recovered persons” were required to undergo isolation or quarantine when their household members were confirmed of infection. Yet, this case happened at the end of August. In replying to the complainant on 31 August, the EDB staff noted that her case was rather special and it took time to find out more information (see **paragraph 11(4)**); SWD indicated that it had to seek the CHP’s advice first (see **paragraph 11(6)**) before replying to the complainant. Their response reflected the fact that even the Government had been explaining the above arrangement for almost half a year, government departments, the general public, schools and organisations still could not fully understand the relevant requirements. While DH stressed that it had been disseminating anti-epidemic information via various channels, the above situation cast doubts as to whether the information had been effectively and clearly relayed to the public, or even to the relevant government staff.

24. We understand that the epidemic situation had been changing over the past three years and the relevant measures had to be adjusted accordingly, resulting in a huge amount of information, which was constantly being updated. The Government, however, should also understand that members of the public, already preoccupied with combating the disease in their daily life, might have difficulty following closely every piece of anti-epidemic information, differentiating which was the latest, or digesting more complicated information. DH, as the frontline department in combating the epidemic, should help the general public in combing through the anti-epidemic measures

and key anti-epidemic information that are closely related to their daily lives, and disseminate the information in a direct and simple way. In fact, the complainant's situation was not uncommon during the epidemic. This Office opines that DH should learn from this epidemic and examine how to effectively disseminate information to the general public so that it can be easily received and understood by them to avoid confusion.

25. In light of the above, The Ombudsman considers **Allegation (1) unsubstantiated** but there was room for improvement in DH's dissemination of anti-epidemic information to the public (see **paragraph 24**).

#### Allegation (2)

26. EDB had clarified that it had not formulated different quarantine measures for students and teachers. It had also provided schools with the definition of "close contacts" and arrangements for class/duty resumption for students and teachers/staff via the Measures for Schools. Nevertheless, we notice that the Measures for Schools promulgated at that time had failed to explain the class/duty resumption arrangements for recovered students/teachers/staff members when their household members were tested positive, and this was exactly the complainant's query. We are of the view that the above situation (i.e. household members fell ill and recovered on different dates within a short period) was not uncommon during the epidemic, and a lot of parents might have encountered the same problem. As mentioned above, the Government had already issued a press release in March 2022 on the relevant arrangements. Doing so, it must have foreseen that the public might encounter such a situation. As such, we do not agree that the circumstances of this case were exceptional, EDB was of the view that this case was exceptional because it seldom received enquiries about the class/duty resumption arrangements for recovered students/teachers/staff members when their household members became confirmed patients. The Bureau might have omitted the fact that at the peak of the fifth wave of the epidemic (when a lot of people had encountered the situation where their household members fell ill and recovered on different dates), all classes in primary and secondary schools had been suspended, and students and teachers need not worry about class/duty resumption arrangements. EDB had failed to foresee parents' queries in this respect, clarify relevant information and provide schools with the information. This was unsatisfactory.

27. We believe that if EDB had acted earlier to include the relevant content of the Government's press release of 6 March 2022 into the Measures for Schools, it would have helped the School to understand the relevant criteria and arrangements, and this case could have been avoided. Fortunately, upon the launch of our investigation, EDB had incorporated the relevant parts of the press release into the Measures for Schools. We consider that EDB should learn from this case and revise its guidelines in a timely manner (such as incorporating those parts in the information promulgated by DH relevant to school operation into the guidelines) should similar situations arise again.

28. The Ombudsman, therefore, considers **Allegation (2) partially substantiated**.



### Allegation (3)

29. We understand that the Centre requested the complainant's sons to undergo PCR tests so that it could resume ASCP service for them as soon as possible. This requirement, however, was not among the prevailing anti-epidemic measures. The Centre had also failed to seek DH's advice beforehand. SWD had already instructed the Centre to improve.

30. Although SWD stressed that it had liaised with the various ASCP centres by way of circulars and through designated staff, the Centre in this case had failed to follow SWD's requirement or seek the advice of DH or SWD. We also notice that the many SWD circulars issued to ASCP centres only asked the latter in very general terms to heed and refer to the relevant information and guidelines provided by the CHP. As mentioned above, anti-epidemic information was voluminous and constantly changing. The various ASCP centres, already busy with the provision of day-to-day services during the epidemic, might have difficulty sparing the time and effort to sift through the information and pick out those parts relevant to their operation. SWD's circulars were barely effective in helping those centres to understand the latest anti-epidemic information relevant to their services (e.g. service resumption arrangement for "recovered persons" in this case).

31. We note that SWD might just consider this as a case involving oversight on the part of the Centre. Regardless of whether this was the case, our view is that SWD, as the lead department responsible for the Fee-waiving Subsidy Scheme under ASCP, had to play a more proactive role in assisting ASCP centres to implement anti-epidemic measures. In addition to issuing circulars reminding ASCP centres to refer to relevant guidelines issued by CHP, SWD should provide specific anti-epidemic guideline to ASCP centres, or in its circulars to ASCP centres summarise and list out specifically the updates or key points of the anti-epidemic measures relevant to ASCP services (such as the above arrangements relevant to the resumption of ASCP services for "close contacts" and "recovered persons"), in order to provide these organisations with clearer and more easily enforceable guidelines so as to minimise the chance of misunderstanding. SWD should learn from this case and formulate specific guidelines to relevant organisations in a timely manner.

32. The Ombudsman, therefore, considers **Allegation (3) partially substantiated**.

### Allegation (4)

33. On the definition of "close contacts" and "recovered persons", both EDB and SWD had adopted DH's standard and followed its guidelines, and required schools/ASCP centres to apply the same. With regard to this case, both EDB and SWD had invoked DH's criteria when responding to the complainant's queries. We found no evidence that the three departments were uncertain of the definitions or inconsistent in applying the criteria.

34. The Ombudsman, therefore, considers **Allegation (4) unsubstantiated**.

## Conclusion

35. Overall, The Ombudsman considers the **allegations against DH unsubstantiated; while those against EDB and SWD, partially substantiated.**

## Comments of DH, EDB and SWD

36. DH, EDB and SWD had given their views on the content of and comments made in the draft investigation report. We have incorporated some of their views upon due consideration.

## Concluding Remarks

37. Having considered the views of the various departments involved, The Ombudsman decided to uphold the comments and conclusion as set out in **paragraphs 22 to 34** above.

Office of The Ombudsman  
April 2023

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