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Personal Data (Privacy) Ordinance (Cap. 486)**

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香港個人資料私隱專員公署
Office of the Privacy Commissioner
for Personal Data, Hong Kong

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Report on the Inspection of the Personal Data System of The Trial Scheme on School Drug Testing in Tai Po District

This report of an inspection carried out by the Commissioner for Personal Data (“**the Commissioner**”) pursuant to section 36 of the Personal Data (Privacy) Ordinance, Cap. 486 (“**the Ordinance**”) in relation to the personal data system under The Trial Scheme on School Drug Testing in Tai Po District 2010/11 (“**the Scheme**”) is published in the exercise of the power conferred on the Commissioner by Part VII of the Ordinance.

Section 36 of the Ordinance provides that:-

“Without prejudice to the generality of section 38, the Commissioner may carry out an inspection of-

- (a) any personal data system used by a data user; or*
- (b) any personal data system used by a data user belonging to a class of data users,*

for the purposes of ascertaining information to assist the Commissioner in making recommendations-

- (i) to-*
 - (A) where paragraph (a) is applicable, the relevant data user;*
 - (B) where paragraph (b) is applicable, the class of data users to which the relevant data user belongs; and*
- (ii) relating to the promotion of compliance with the provisions of this Ordinance, in particular the data protection principles, by the relevant data user, or the class of data users to which the relevant data user belongs, as the case may be.”*

The term “**personal data system**” is defined in **section 2(1)** of the Ordinance to mean “*any system, whether or not automated, which is used, whether in whole or in part, by a data user for the collection, holding, processing or use of personal data, and includes any document and equipment forming part of the system.*”

Section 48 of the Ordinance provides that:-

“(1) Subject to subsection (3), the Commissioner may, after completing an inspection where section 36(b) is applicable, publish a report-

- (a) setting out any recommendations arising from the inspection that the Commissioner thinks fit to make relating to the promotion of compliance with the provisions of this Ordinance, in particular the data protection principles, by the class of data users to which the relevant data user belongs; and*
- (b) in such manner as he thinks fit.”*

“(3) Subject to subsection (4), a report published under subsection (1) or (2) shall be so framed as to prevent the identity of any individual being ascertained from it.”

“(4) Subsection (3) shall not apply to any individual who is-

- (a) the Commissioner or a prescribed officer;*
- (b) the relevant data user.”*

Allan CHIANG
Privacy Commissioner for Personal Data
Hong Kong SAR

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Executive Summary

Introduction

1. The Trial Scheme on School Drug Testing in Tai Po District (“**the Scheme**”) was the first of its kind ever implemented in Hong Kong. The Scheme was a joint initiative of the Government (led by the Narcotics Division (“**ND**”) of the Security Bureau and the Education Bureau (“**EDB**”)) and 23 public sector secondary schools in Tai Po (“**the Participating Schools**”). It was a pilot scheme which would serve as an important precedent and reference for the formulation and implementation of any future school drug testing scheme (“**the Future Scheme**”). The Government as well as the general public had high hopes of its success as a milestone in the battle against the youth drug abuse problem.

2. No doubt personal data involved in any drug testing program are highly sensitive and a secured system ensuring the integrity of the personal data used under the drug testing program is essential. As the regulator for the protection of personal data privacy, the Commissioner considered it appropriate to carry out an inspection (“**the Inspection**”) of the personal data system used under the Scheme pursuant to section 36 of the Personal Data (Privacy) Ordinance (“**the Ordinance**”) for the purpose of making recommendations to the prospective parties (“**the Prospective Parties**”) who would carry out similar school drug testing program in the future.

The Inspection

3. The Inspection covered the personal data handling procedures from soliciting consent for participating in the Scheme to destruction of the personal data at the conclusion of all the screening tests of the Scheme. The inspection involved five major areas of work:-

- (a) Examination of the Scheme’s protocol, policies and procedures relevant to the personal data system of the Scheme;
- (b) Enquiries with the relevant parties;

- (c) Interviews with key staff members of the Participating Schools, Student Drug Testing Team¹ (“SDTT”) and the Project Officers² (“POs”);
- (d) On-site inspection of premises and equipment used for handling personal data used under the Scheme as well as observation of the destruction of the Scheme’s records containing personal data; and
- (e) Carrying out surveys on students’ experience with the Scheme.

Findings & Recommendations

General

4. Despite the vulnerability of the students, sensitivity of their data and the general public concern about the privacy of the students since the conception of the Scheme, the Commissioner notes that no privacy impact assessment has been conducted to systematically assess the privacy risks before the launch of the Scheme. Although such an assessment is not a requirement under the Ordinance, **the Commissioner recommends** that it should be carried out as an integral part of the Future Scheme to avoid or minimize any possible privacy risks.

5. The Scheme was conducted by multiple parties in compliance with the privacy policies of their respective functional areas. The Participating Schools’ data protection policies and guidelines applicable to the Scheme varied in breadth and depth. Overall guidance for implementing the Scheme was provided by a Protocol compiled by the ND and the EDB, which, however, was not comprehensive enough in addressing all the data protection issues involved. To ensure adoption of adequate and consistent approaches of data protection by all parties concerned, **the Commissioner recommends** that the

¹ A Student Drug Testing Team, comprising two nurses, two registered social workers and one information administrator of the Hong Kong Lutheran Social Service Cheer Lutheran Centre, was responsible for carrying out drug testing in the Participating Schools.

² Project Officers were officers from the Home Affairs Department responsible for advising the Participating Schools on data privacy requirements relating to the drug testing, handling complaints and compiling reports to school principals and the Government.

Government should take the initiative to formulate a set of data protection policies and procedural guidelines dedicated to the Future Scheme.

Obtaining consent of students and their parents / guardians to participate in the Scheme

6. After examining the collection of personal data from the form signed by the students and their parents / guardians who consented to join the Scheme and the communication of all necessary information of the Scheme to the students and their parents / guardians, the Commissioner found that compliance with Data Protection Principles (“DPPs”) 1 and 5 were generally in order. **The Commissioner reminds** the Prospective Parties that in the Future Scheme where the students and their parents / guardians who have earlier indicated their intention not to participate in the scheme are approached, extra care should be taken to avoid exerting undue influence on them to change their mind.

7. The Protocol does not specify a retention period for the personal data collected from the Scheme. The Commissioner found that the consent forms collected by Participating Schools were retained until all screening tests were completed and considered this arrangement generally acceptable. However, he considers that the consent forms of those students who did not participate in the Scheme or subsequently withdrew from the Scheme should not be retained in the same manner as no useful purpose could be served. **The Commissioner recommends** that such consent forms should be destroyed immediately after confirmation of the students’ refusal to participate or withdrawal of their consent.

8. The Commissioner found that the practices of the Participating Schools for securing the completed consent forms varied. In some cases, the forms were kept in locked cabinets while in one case at least, they were placed in a cardboard box inside the principal’s office. To ensure that the consent forms are protected from unauthorized or accidental access, **the Commissioner recommends** that standardized security guidelines should be drawn up and complied with.

Handling of the personal data of participating students up to the screening test

9. The Commissioner identified a number of weaknesses in the

security safeguards of the information and communication technology systems and devices as follows:-

- (a) the staff of one sampled school used personally owned computers to process the students' personal data but they were not provided with guidance to safeguard security of the personal data stored;
- (b) a contractor provided a dedicated remote server to randomly select students to take the screening test and to store the test results. However, the merits of engaging the contractor rather than SDTT in providing the facilities itself had not been evaluated. Also, there were no contractual obligations for the contractor to provide security measures to protect the personal data entrusted to it;
- (c) contrary to ND's requirements, SDTT did not adopt the SSL technology to encrypt the data transmitted to and from the remote computer, and the two-factor authentication mechanism to maintain user authentication control; and
- (d) USB Flash Memories were used by SDTT to store the data of the consenting students and those selected to participate in the screening tests. These USB Flash Memories were then passed to the Participating Schools and the POs. Although these devices were protected by passwords, it was noticed in two sampled schools that the devices and records of the passwords were placed together, thus defeating the purpose of using the passwords.

10. In light of the above, **the Commissioner recommends** that the Prospective Parties should take a more proactive role in overseeing the proper use of information technology equipment and the implementation of adequate security measures. Specifically, the need for engaging an external information technology contractor to process students' personal data vis-à-vis SDTT undertaking the work on its own should be carefully evaluated. In both cases, adequate data security safeguards should be implemented. Further, detailed guidance on the use of information technology and communication devices to

ensure security of data should be provided to all parties concerned.

Carrying out of the screening test

11. As indicated in paragraph (6) above, the Commissioner is reasonably satisfied that the students' attention was duly drawn to the purpose of the Scheme and other relevant information before their consent was given. He is pleased to note that the consenting students were reminded by SDTT of these messages immediately before the screening test was conducted. **The Commissioner recommends** the Prospective Parties to follow suit to cater for students who wish to withdraw their consent to participation given at the beginning of the academic year.

Handling of personal data of the participating students after the screening test

12. The Commissioner was reasonably satisfied that practical security measures had been taken to safeguard the personal data contained in the test results. The POs had a specific data protection policy for the Scheme and a dedicated notebook computer was used exclusively for processing personal data under the Scheme and locked away at all other times. However, the setting of this computer suffered from some defects: (i) no user logon authentication was required thus enabling the user to enjoy a de facto administrative right, and (ii) the Wi-Fi connection function was not effectively disabled, thus exposing the computer to the risk of inadvertently installing undesirable software like spyware, malware and other file sharing software. **The Commissioner emphasizes**, further to his recommendations in paragraphs (5), (8) and (10) above, that the Prospective Parties should devise comprehensive information technology policies and procedures for the guidance of all concerned.

Erasure of data

13. While the Commissioner found that the measures taken by SDTT, POs and the Participating Schools to ensure complete destruction or erasure of the personal data of the participating students were on the whole satisfactory, one of the sampled schools was found to have retained in its backup server a list of the participating students which should have been erased. To ensure that the personal data of students would not be retained longer than is necessary,

the Commissioner recommends that the Prospective Parties of the Future Scheme should consider installing a system and devising policies and procedures whereby the destruction or erasure of the personal data would be verified by or confirmed to the parties initiating the Future Scheme.

Delegation

14. While the consent form spelt out the persons who would handle the personal data collected from students (including SDTT and the case manager, the school social worker, the school principal, the class teacher, other designated teachers and POs), the list is not exhaustive. For example, the vice-principal and general clerical staff were very often found to have been involved as well, for practical reasons. **The Commissioner** considers that this is not unacceptable but **advises** that the class of persons who would be delegated the duties of handling the students' personal data should also be made known to the participating students. Clear guidelines and proper training should be provided to all staff involved in handling the personal data.

Conclusion

15. In conclusion, the Commissioner is pleased to find that there is no material deficiency in the personal data system of the Scheme. All the relevant DPPs have generally been complied with and there has not been any data breach incident or complaint about contravention of requirements under the Ordinance.

16. There is no doubt that the Participating Schools, SDTT and the POs had played a crucial role and devoted extensive resources to contribute to the smooth operation of the Scheme. Their experience had also highlighted a number of areas where improvements could be made in the Future Scheme. In this regard, the Commissioner earnestly hopes that the recommendations explained above would be adopted.

- End -

Chapter One

Introduction

Background of the Scheme

1.1 In view of the growing youth drug abuse problem, the Chief Executive in his 2007-2008 Policy Address announced the appointment of the Secretary for Justice to lead a task force to consolidate strategies to combat juvenile drug abuse from a holistic perspective.

1.2 According to a discussion paper³ submitted by Security Bureau and Education Bureau (“**EDB**”) to the Legislative Council Panel on Education, there were calls in the community for expedition of the implementation of the school-based drug testing as recommended by the task force. In June 2009, a working group comprising representatives of, among others, the Association of Secondary School Heads, Tai Po District, Narcotics Division (“**ND**”) and EDB was formed to look into the details of the Scheme. As to why secondary schools in the Tai Po District were invited to participate in the pilot drug testing, the discussion paper stated that was *“because the district has a community-initiated multi-disciplinary support network for drug abusers comprising social workers, private medical practitioners and public hospitals ... Equally important is that school principals in Tai Po are very positive and supportive of the Scheme.”*

1.3 Following a series of meetings with the key stakeholders of Tai Po District in July 2009, ND and EDB came up with an initial framework together with a broad outline of the operational arrangement for the Scheme, which was publicly announced in early August 2009.

1.4 Upon the announcement of the Scheme, the Commissioner wrote to the Secretary for Education on 10 August 2009, expressing his comments and concerns about the Scheme. Among other concerns, the Commissioner considered that the consent given by a parent or guardian of a student to the provision of the student’s urine specimen was of itself not an adequate substitute for the student’s consent.

³ Administration’s paper for the meeting of the Panel on Education on 8 September 2009 entitled “Trial Scheme on School Drug Testing in Tai Po District” [LC Paper No. CB(2)2424/08-09(01)]

1.5 The Commissioner met the representatives of ND, EDB and the Department of Justice on 15 October 2009, in which the Commissioner provided his views and comments on various aspects of the Scheme.

1.6 The Scheme was launched in December 2009 and later extended to the school year 2010/2011.

Reasons for the Inspection

1.7 Data derived from urine specimen or other types of sample obtained from the body of an individual showing that he or she may or may not have drug habit are highly sensitive, and carry long-term labeling effect on the individual. In ordinary circumstances, individuals will not willingly provide such samples from their bodies unless they are well aware of the reasons and consequences for providing them, and that the parties seeking to collect and process the samples are authorized and have in place a secured system to process the data derived from the samples.

1.8 A transparent and secured system is particularly important where the individuals who are required to provide their urine specimens for analysis of any drug habit are teenage secondary school students. These students may still be reliant on their parents / guardians and schools to look after their general well-being, including their privacy relating to personal data. Therefore, parties seeking to collect urine specimen for drug testing are expected to take extra precautions in protecting the personal data of the students.

1.9 The Scheme was the first of its kind ever implemented in Hong Kong. The Government as well as the general public had high hopes of its success as a milestone in the battle against the youth drug abuse problem. As the regulator overseeing the protection of privacy relating to personal data, the Commissioner promptly took the initiative of expressing his concerns as soon as the Scheme was announced in 2009 and has been keeping a close watch on its implementation.

1.10 The Scheme, which was completed in December 2011, serves as an

important precedent and reference for formulation and implementation of a future school drug testing scheme (“**the Future Scheme**”). According to ND, a school-based drug testing scheme for general adoption by the schools in Hong Kong as part of the Healthy School Programme would be refined based on the results of the Scheme. In the circumstances, any recommendations and comments on the implementation of the Scheme relating to the promotion of compliance with the provisions of the Ordinance would be useful reference for the relevant data users taking part in the operation of the Future Scheme.

1.11 In view of the foregoing, the Commissioner considered that it was appropriate for him to carry out an inspection of the personal data system used under the Scheme pursuant to section 36 of the Ordinance (“**the Inspection**”) for the purposes of ascertaining information to assist him in making such recommendations.

Chapter Two

The Inspection

Commencement of the Inspection

2.1 The operation of the Scheme was principally regulated by the Protocol of the Trial Scheme on School Drug Testing in Tai Po District School Year 2010 / 2011 (“**the Protocol**”) issued by ND and EDB (Annex 1).

2.2 The Scheme was not operated by a single data user. According to the Protocol, the Scheme was a joint initiative by the Government (led by ND and EDB) and 23 public sector secondary schools in the Tai Po District (“**the Participating Schools**”). The following parties are involved⁴:-

- (1) Student Drug Testing Team (“**SDTT**”), comprising two nurses, two registered social workers and one information administrator (all were staff of the Hong Kong Lutheran Social Service Cheer Lutheran Centre (“**the Lutheran Centre**”)), responsible for carrying out drug testing in the Participating Schools⁵;
- (2) The case manager, being a registered social worker of the Lutheran Centre assigned to the student upon any positive test result or upon self-referral;
- (3) School social workers of the Participating Schools;
- (4) Principals, class teachers of the students participating in the Scheme and/or the teachers designated by the students to assist the running of the Scheme and to support the participating and identified students, if any; and

⁴ Appendix 1 to the Protocol (Sample Form: Consent to Participation).

⁵ Paragraph 2.9 of the Protocol.

- (5) Project Officer (“**PO**”), an officer from the Home Affairs Department responsible for supervising SDTT’s adherence to the drug testing procedures set out in the Protocol, advising the Participating Schools on data privacy requirements relating to the drug testing, handling complaints and compiling reports to school principals and the Government⁶.

2.3 In accordance with section 41 of the Ordinance, on 9 May 2011 the Commissioner informed ND and EDB in writing of his intention to carry out an inspection of the personal data system of the Scheme with a view to making recommendations to promote compliance with the provisions of the Ordinance.

The Inspection Team

2.4 An inspection team (“**the Team**”) was formed to carry out the Inspection. The Team was led by the Commissioner, who was assisted by the Deputy Commissioner. It was made up of the following officers from the Compliance & Policy Division, and the Information Technology Division of the Office of the Privacy Commissioner for Personal Data (“**PCPD**”):-

- (1) Mr Wilson LEE, Chief Personal Data Officer
- (2) Mr Henry CHANG, Information Technology Advisor
- (3) Mr Patrick LAI, Senior Personal Data Officer
- (4) Ms Ivy SO, Assistant Personal Data Officer
- (5) Ms Kimmy CHENG, Assistant Personal Data Officer (IT)
- (6) Ms Carol CHAN, Assistant Personal Data Officer

Pre-Inspection Meetings

2.5 The Team initiated and attended various meetings with the parties taking part in the operation of the Scheme with a view to explaining to them the nature, purposes and procedure of the Inspection, answering the queries and

⁶ Paragraph 3.4 of the Protocol.

addressing the concerns raised by them, and gaining better understanding of the operation of the Scheme to ensure that the Inspection would be carried out in an efficient and constructive manner. The dates and attendees of these meetings are set out below:-

<u>Date</u>	<u>Attendees</u>
26 April 2011	Representatives of the Lutheran Centre
27 April 2011	PO
6 May 2011	Representatives of ND and EDB
23 May 2011	Representatives of the Association of Secondary School Heads, Tai Po District, the Participating Schools, ND and EDB

Scope of the Inspection

2.6 According to the Protocol, there were three main streams of work in which students' personal data were collected, processed and used:-

- (1) From soliciting the consent of the students and their parents / guardians to the carrying out of the screening test by SDTT (“**the Screening Test**”);
- (2) PO’s compilation of school visit report (“**School Visit Report**”) to the school principals for necessary follow-up⁷; and
- (3) For positive cases after the Screening Test, onward processing of students’ personal data for the following purposes:-
 - (i) The carrying out of confirmatory test by the Government Laboratory⁸;

⁷ Paragraph 4.29 of the Protocol.

⁸ Paragraph 4.30 of the Protocol.

- (ii) Provision of counseling services to the students by SDTT, school social workers, teachers or case manager from the Lutheran Centre⁹;
- (iii) School principals' notifications to the parents / guardians and teachers¹⁰; and
- (iv) Provision of support programme to students in confirmed cases after the confirmatory test¹¹.

2.7 According to the Evaluation Research Report on the Trial Scheme on School Drug Testing in Tai Po District (School Year 2009/10) issued in November 2010 by Policy 21 Limited, the research consultant commissioned by ND, more than 12,400 students joined the Scheme, and 1,975 out of the 2,495 students randomly selected did take the Screening Test. No positive case was found after the Screening Test¹².

2.8 Given that there was no positive case after the Screening Test, the matters summarized in paragraph 2.6(3) above were not included in the scope of the Inspection. The scope of the Inspection was therefore confined to privacy issues relating to students' personal data arising from the matters summarized in paragraph 2.6(1) and (2) above only and they were considered in the light of the six Data Protection Principles ("DPPs") set out in Schedule 1 to the Ordinance (reproduced in Annex 2).

Limitations

2.9 The findings of the Team were based on the documentation obtained and representations from ND, EDB, SDTT, POs and the Participating Schools, and the Team's observations at the time of the site inspection, which covered

⁹ Paragraphs 4.27(a), (d) and (f) of the Protocol.

¹⁰ Paragraph 4.27(c) of the Protocol.

¹¹ Chapter 5 of the Protocol.

¹² The result for the school year 2010-2011 is similar. According to the Trial Scheme on School Drug Testing in Tai Po District (School Year 2010/11) Evaluation Research Report issued by Policy 21 Limited in December 2011, 10,200 students participated in the Scheme. Of the 2,668 students randomly selected for the Screening Test, 1,977 did take the test, and there was no confirmed positive case.

only nine of 23 Participating Schools (see paragraph 2.21 below), POs and SDTT. Hence what the Team has identified and found in the Inspection should not be regarded as the result of a comprehensive review of the operation of the Scheme on its level of compliance with the requirements under the Ordinance.

2.10 Another limitation specific to the Inspection is that the Team was unable to observe the process of collection of the urine specimen and was not able to meet with the students participating in the Scheme to obtain their views on the operation of the Scheme.

2.11 In response to the Team's proposal to be present to observe the drug testing process and to approach the students after the Screening Test, ND, EDB and the school principals expressed their grave concern that, since the Team's involvement was not anticipated under the Protocol and could not have been expected by the students, it might adversely affect the trust of the students in the Future Scheme.

2.12 The Team considered that the concern was not unfounded. The Team accepted that, in agreeing to join the Scheme and to supply urine specimen to SDTT, the students would have expected the highest degree of confidentiality, and any intervention by a party unexpected by the students in the course of the drug testing could result in long-term impact on the students. In view of the foregoing, the Team considered that the reasonable expectation of the students should be respected and they should not be approached for the Inspection.

Methodology

2.13 As the implementation of the Scheme was a joint effort of different parties, each had a specific role in the processing of students' personal data, the Team had to carry out separate inspections on them. Given that the school year was approaching its end when the Inspection commenced, and that the SDTT and POs would be disbanded shortly, the Team had to complete the

necessary inspection work on a tight schedule. This could not have been achieved without the cooperation of ND, EDB, the Lutheran Centre, POs, the Participating Schools and the Association of Secondary School Heads, Tai Po District.

2.14 In order to obtain as much information as possible to assist the Commissioner in making recommendations under section 36 of the Ordinance, the Team has carried out 6 major types of inspection work:-

Enquiry

2.15 Making enquiries with the parties taking part in the operation of a personal data system is an interactive tool that is particularly useful to ascertain information that may not have been spelt out or apparent from any documents or records. Information obtained through enquiries with the parties concerned greatly assisted the Team in understanding the operation of the Scheme, reconciling the documentary evidence obtained in the Inspection and identifying any cause for concern. On the other hand, parties enquired may take this opportunity to clarify or to supplement the evidence in question, so that any misunderstanding or misinterpretations could be avoided.

2.16 Before and throughout the Inspection, the Team made series of written and verbal enquiries with ND, EDB, SDTT, PO, the Participating Schools and the Association of Secondary School Heads, Tai Po District.

Policy review

2.17 A comprehensive policy on the proper execution of a personal data system is an important guide from which individuals responsible for handling personal data may know the standard they are required to meet and how they can meet it. Generally speaking, it may be contained in a single document or in several documents in a hierarchical order whereby the principal document containing the general policies is at the top, followed by guidelines and procedural manuals on execution of the policies further down the line.

2.18 For a system such as the Scheme in which, for the same objective, each party from different background played a part in processing the sensitive data of students, a detailed policy on how to properly handle students' personal data is essential for ensuring good and uniform practice.

2.19 In the Inspection, the Team closely examined the Protocol, which all the parties involved in the Scheme were required to follow, and such other policies and materials to which these parties made reference in handling students' personal data under the Scheme.

Site inspections

2.20 A visit to the premises in which students' personal data were processed was an indispensable part of the Inspection, whereby the Team had the benefit of personally inspecting the places and equipment used for collection, processing and keeping of the personal data, and identifying any issues that were not apparent from documents or other representations.

2.21 The Team inspected the premises used by POs and SDTT for the Scheme. Given the resource constraint and that the school year was approaching its end when the Inspection commenced, it was not practicable for the Team to visit all 23 Participating Schools. In the circumstances, the Team conducted site inspections of nine secondary schools (representing about 40% of the Participating Schools) randomly selected ("**the Sampled Schools**") from the 23 Participating Schools. To ensure consistency of the observations, all visits to the nine Sampled Schools were conducted by the same principal members of the Team.

Interviews

2.22 Officers and staff taking part in a personal data system play a crucial role in protecting the personal data. Those who fail to diligently follow the guidelines and manuals prescribed by the data users, those without proper training, not alert to apparent risk of data breach, or are unable to exercise good

judgment when the need arises, may render the most comprehensive personal data system vulnerable.

2.23 Since the account given by the responsible personnel on how they implemented the Scheme was directly relevant to how the Scheme was executed, the Team has conducted face-to-face interviews with the following personnel:-

Sampled Schools

- (1) 11 principals / vice-principals
- (2) 3 teaching staff
- (3) 11 support staff
- (4) 1 school social worker

POs

- (1) 2 POs

SDTT

- (1) The information administrator
- (2) 2 social workers

On-the-spot demonstration

2.24 The Team also took advantage of the site inspections to observe demonstrations by the relevant personnel of how they handled students' personal data. These demonstrations enabled the Team to observe the facilities used to process the personal data and to gain a better understanding of the practicalities involved.

2.25 The Team was walked through the route from the classroom to the testing site, where urine specimen were taken, and saw a demonstration of the use of the designated notebook computer in the POs' office, SDTT's selection of students to take the Screening Test, and erasure of students' personal data upon completion of the Scheme.

Survey

2.26 To ascertain the extent to which students taking the Screening Test were informed of various matters required under DPP1(3) (e.g. the purpose of collection and classes of possible transferees of the data), comments of these students were obtained. However, for reasons set out in paragraph 2.12 above, the Team was unable to approach the students directly.

2.27 To avoid approaching the students directly, questionnaires prepared by the Team seeking the students' comments on the communication of the matters prescribed under DPP1(3) were distributed to and collected from the students through the assistance of POs during the course of the Screening Test.

2.28 The survey was conducted on an anonymous basis and a total of 66 completed questionnaires were received. The questionnaire and the results of the survey are at Annexes 3 and 4.

Chapter Three

Personal Data System and Data Flow of the Scheme

The personal data system

3.1 The personal data system under the Scheme was unique in that it was based on the concerted effort of Government departments, a non-government organization and the Participating Schools, in which each played an integral part in the processing of students' personal data at different stages of implementing the Scheme.

3.2 To ensure a comprehensive view of the operation of the Scheme so that pertinent recommendations to data users participating in the Future Scheme could be made, the handling of the students' personal data both within, and among the participating institutions was regarded as part and parcel of the personal data system of the Scheme for examination.

3.3 The operation of the personal data system under the Scheme was divided into four stages for the purposes of the Inspection, namely:-

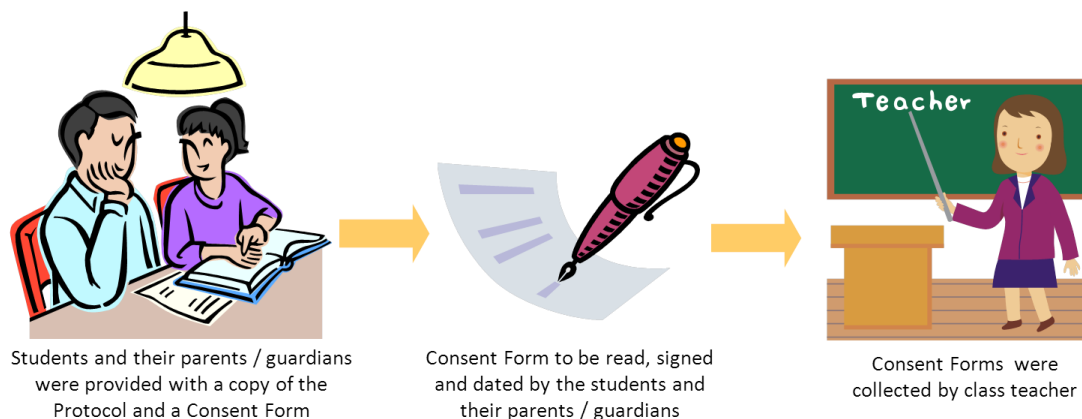
- First stage: Obtaining consent of the students and their parents / guardians to the participation in the Scheme;
- Second stage: Handling of personal data of the participating students up to the Screening Test
- Third stage: Carrying out of the Screening Test; and
- Fourth stage: Follow up and handling of personal data of the participating students - after the Screening Test.

3.4 The remaining part of this Chapter briefly describes how students' personal data were collected, processed and used in these four stages of the Scheme, to show the data flow in the personal data system. A more detailed account of the actual operation, on which the Team's observations were based is provided in Chapter 4.

Data flow in the four stages of the Scheme

First stage – Obtaining consent of the students and their parents / guardians to the participation in the Scheme

Consent Form



3.5 Students in the Participating Schools were required to complete a consent form prescribed under the Protocol (“**the Consent Form**”)¹³ by providing the following information:-

- (1) Name of the teacher (other than the class teacher) to whom the student and his parent / guardian agreed to disclose their personal data for the purpose of the Scheme;
- (2) A confirmation of the student and his or her parent / guardian on whether they agreed or disagreed to participate in the Scheme;
- (3) Name and signature of the student, and the date of the student’s signature;
- (4) Name and signature of the student’s parent / guardian, and the date of the parent’s / guardian’s signature; and

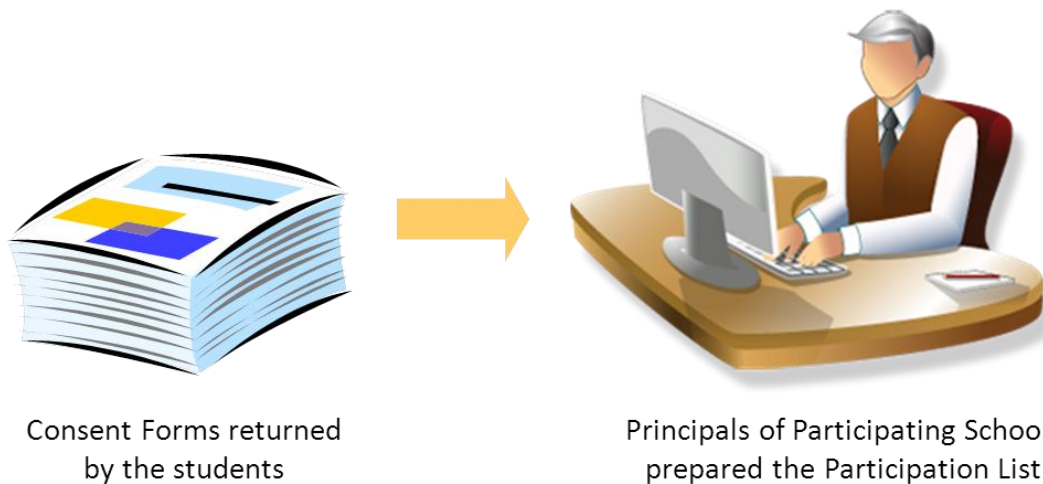
¹³ Paragraphs 4.5 and 4.6 of the Protocol.

(5) Contact telephone number of the student's parent / guardian.

3.6 The completed Consent Form, addressed to the school principal, was to be returned to the class teachers¹⁴.

Second stage - Handling of personal data of the participating students up to the Screening Test

Participation List

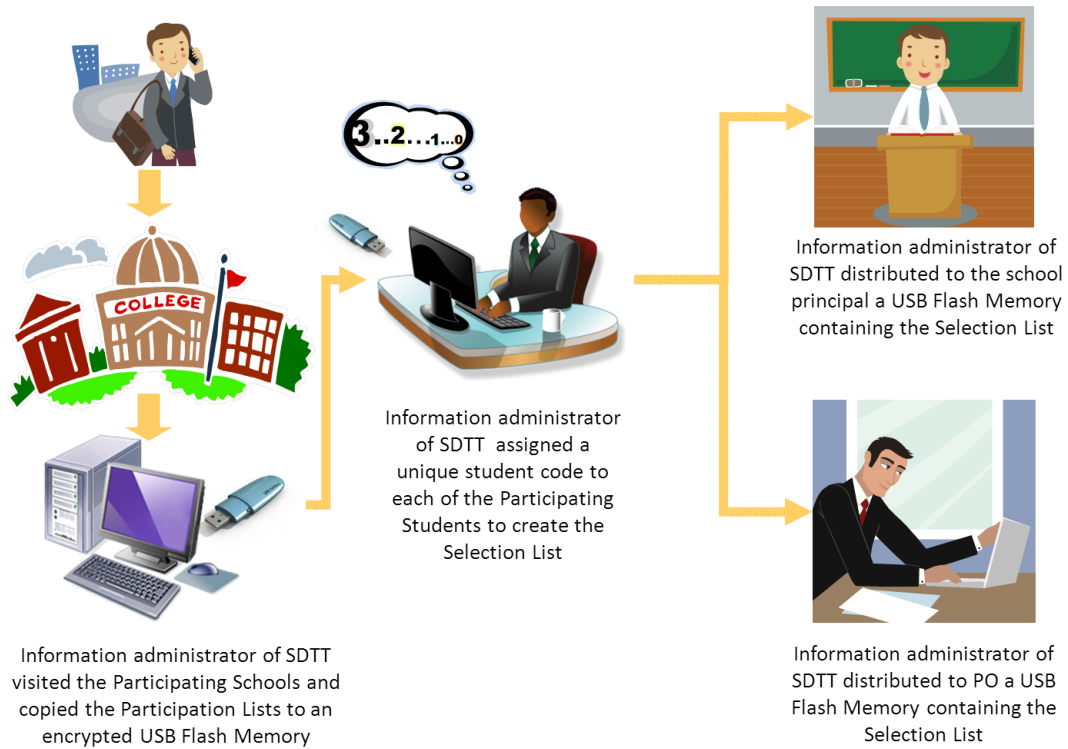


3.7 For those students who signified their consent and also their parents' / guardians' consent to participate in the Scheme ("**the Participating Students**"), the school principals were required to compile a list of the Participating Students ("**the Participation List**") detailing their name, class and gender¹⁵.

¹⁴ Paragraph 4.7 of the Protocol.

¹⁵ Paragraph 4.12 of the Protocol.

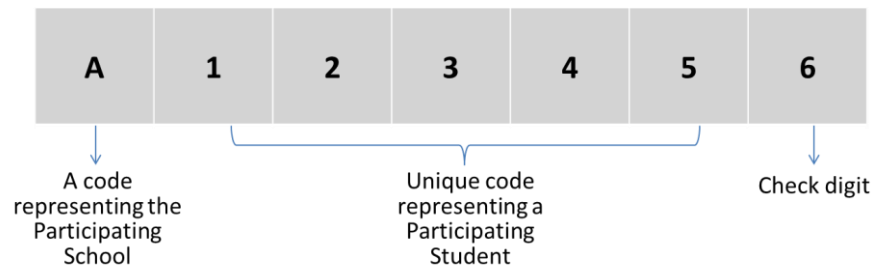
Selection List



3.8 According to the information administrator of SDTT:-

- (1) The information administrator copied the Participation List from the school's computer to a USB flash memory ("USB Flash Memory") equipped with data encryption technology;
- (2) Based on the Participation List, the information administrator assigned a unique code for each Participating Student ("Assigned Student Code") and compiled a list of selected students to take the Screening Test ("the Selection List"). The format of the Assigned Student Code and the information contained in the Selection List are shown below:-

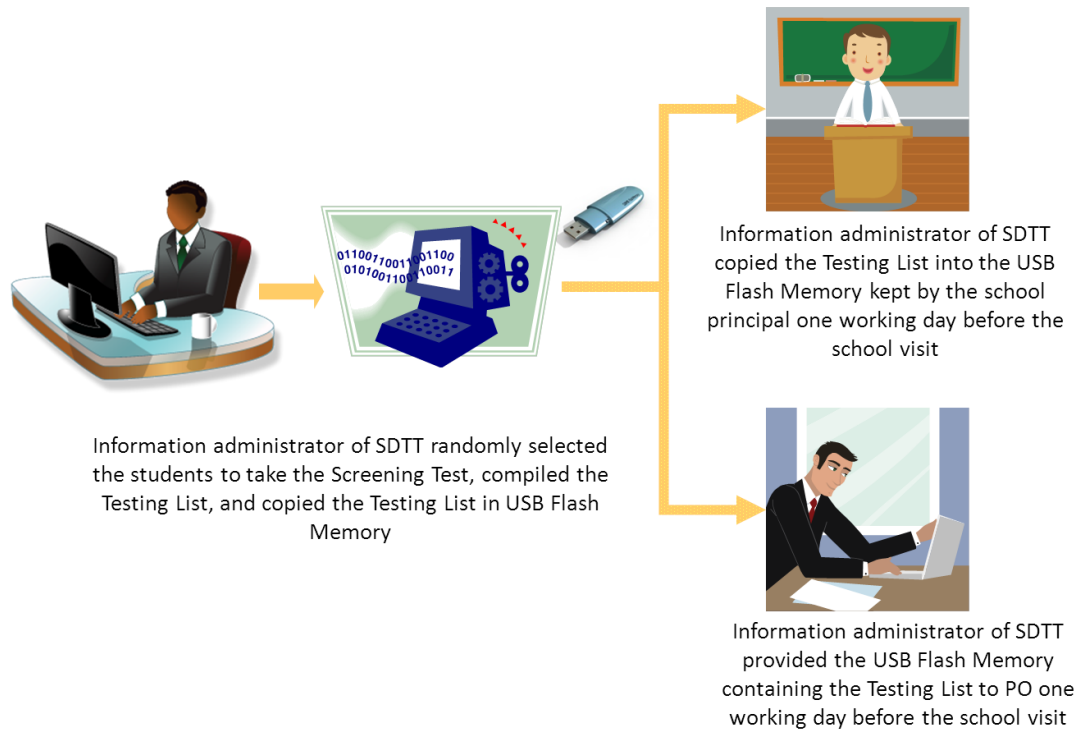
(i) Assigned Student Code



(ii) Information contained in the Selection List, all related to the Participating Students

- (a) Assigned Student Code
 - (b) English and Chinese name
 - (c) Class
 - (d) Class number
 - (e) Gender
- (3) The information administrator distributed to each Participating School a USB Flash Memory containing the Selection List of that Participating School. Another USB Flash Memory containing the Selection Lists of all the Participating Schools was distributed to POs. These USB Flash Memories would be kept by the Participating Schools and the POs until completion of all the Screening Tests for the school year.

Testing List



3.9 Not all Participating Students were required to take the Screening Test. The information administrator of SDTT randomly selected from the Participating Students those students for taking the Screening Test. According to the information administrator of SDTT, the selection process was done by a system built for the purpose of processing the participating students' data under the Scheme. The system was run in a dedicated remote server hosted by a third-party service provider. The selection process was as follows:-

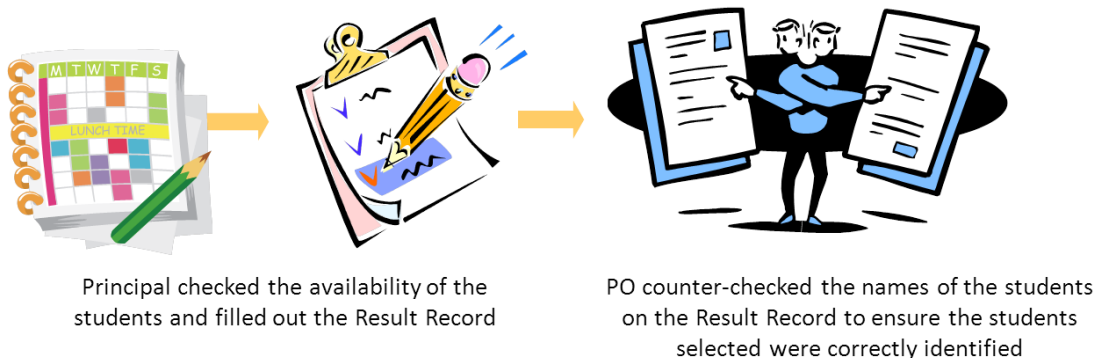
- (1) The information administrator would input in the system in the dedicated server via his / her notebook computer the code of the Participating School, the target number of male and female students taking the Screening Test, and the date of the Screening Test;
- (2) The system in the dedicated remote server generated a list of students randomly selected to take the Screening Test (“**the Testing List**”) and stored it in USB Flash Memories;
- (3) On the working day before the Screening Test, the information

administrator visited the selected Participating School, bringing along his/her notebook computer and the USB Flash Memory to the principal of the Participating School and the POs¹⁶; and

- (4) At the meeting with the principal, the information administrator used the notebook computer as a vehicle to transfer the Testing List from his / her USB Flash Memory to the USB Flash Memory kept by the principal. At the meeting with the POs, a USB Flash Memory containing the Testing List would be given to the POs.

3.10 The Testing List listed the Assigned Student Code and gender of a student, and indication whether the student selected had taken a Screening Test before, and whether the student was designated as “back up” in case a selected student was not available.

Result Record



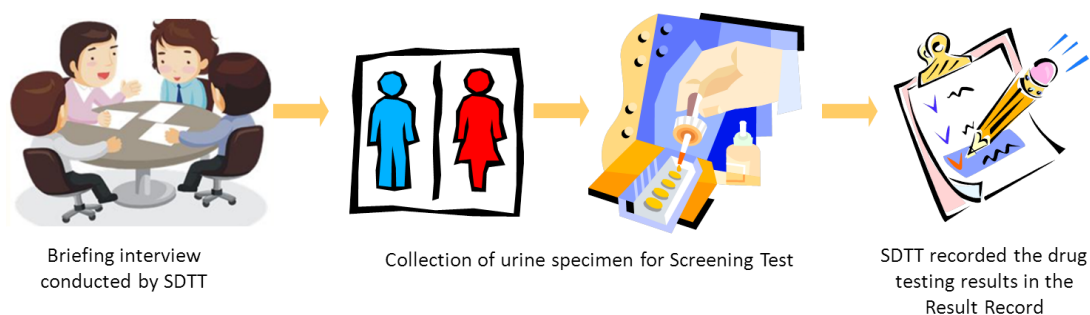
3.11 Upon receipt of the Testing List, the school principal checked whether the students who appeared in the Testing List would be available to take the Screening Test scheduled for the following day. The principal matched the Assigned Student Code shown in the Testing List with that which appeared in the Selection List to identify the students selected by the SDTT.

3.12 The principal then filled out the “Record of Test Result” (“**Result Record**”) setting out the order and time slot in which the selected students may be called upon to take the Screening Test.

¹⁶ Paragraph 4.15 of the Protocol.

3.13 When SDTT and POs arrived at the Participating School on the day of the Screening Test, the principal provided the Result Record to them¹⁷. The POs counter-checked the students' names which appeared on the Result Record to ensure the students were correctly identified.

Third stage - Carrying out of the Screening Test



3.14 If SDTT found that the student selected to take the Screening Test was unfit for the Screening Test (e.g. on medication, sick, unable to provide a specimen, etc.), such reasons would be recorded by SDTT in the Result Record.

3.15 At the Screening Test, students were required to provide their urine specimen¹⁸ to the nurse of SDTT for testing. In the presence of the student and a PO¹⁹, the nurse applied some of the specimen to a testing kit for a Screening Test.

3.16 For positive results, i.e. indication of the presence of illicit drugs, a second Screening Test on the same specimen would be carried out²⁰. If the second Screening Test also returned a positive result, a confirmatory test by the Government Laboratory would be carried out subsequently²¹.

3.17 SDTT recorded the result of the Screening Test in the Result Record and informed the student of his or her Screening Test result on the spot.

¹⁷ Paragraph 4.16 of the Protocol.

¹⁸ Paragraph 4.22 of the Protocol.

¹⁹ Paragraph 7 of Appendix 3 of the Protocol.

²⁰ Paragraph 4.23 and paragraph 8 of Appendix 3 of the Protocol.

²¹ Paragraph 4.30 of the Protocol.

Fourth stage – Follow up and handling of personal data of the Participating Students - after the Screening Test

3.18 Upon completion of the Screening Test in a Participating School, various steps on the handling of personal data of the students who had taken the Screening Test were taken.

3.19 The POs:-

- (1) Would immediately inform the school principal of a positive case²²;
- (2) Compiled a School Visit Report to inform the relevant school principal of the Screening Test results, as well as other information such as any irregularities detected in the testing procedures and complaints received²³; and
- (3) Compiled and provided to ND, EDB and the Participating Schools monthly compliance reports and final compliance report containing the aggregate statistics of the total number of students selected for Screening Test, negative cases (i.e. absence of illicit drug metabolic from the urine specimen), those who were unfit for the Screening Test and unable to provide urine specimen cases²⁴.

3.20 The SDTT:-

- (1) Recorded the Screening Test results in the Result Record and the system in the dedicated remote server;
- (2) Immediately destroyed all specimens in negative cases²⁵;
- (3) For positive cases, would provide on-the-spot counseling to the

²² Paragraph 4.27(b) of the Protocol.

²³ Paragraphs 3.4(d)(i), 4.25 and 4.29 of the Protocol.

²⁴ Paragraph 3.4(d)(ii) of the Protocol.

²⁵ Paragraph 4.26(a) of the Protocol.

students²⁶ and immediately arrange for counseling services and support to the students and their parents / guardians²⁷; and

- (4) Compiled and submitted to ND and POs monthly statistical reports, setting out names of the Participating Schools, date of testing, number of students selected to take the Screening Test and number of negative cases.

3.21 The school principal:-

- (1) Informed the relevant parents / guardians of the Screening Test result of the students²⁸; and
- (2) For positive cases, would invite the parents / guardians to a meeting on the day and notify the designated teachers for assistance and counseling at school²⁹.

3.22 A social worker designated by the Lutheran Centre, the school social worker, school principal and / or class teacher would, for positive cases, discuss with the parents / guardians the immediate welfare of the students and suggest appropriate support programme³⁰.

²⁶ Paragraph 4.27(a) of the Protocol.

²⁷ Paragraph 4.27(d) of the Protocol.

²⁸ Paragraphs 4.26(c) and 4.27(c) of the Protocol.

²⁹ Paragraph 4.27(c) of the Protocol.

³⁰ Paragraph 4.27(f) of the Protocol.

Chapter Four

Findings and Recommendations

Preliminaries

4.1 Findings and recommendations made in the Inspection were based on the information provided by ND, EDB, the Participating Schools, SDTT and POs, and the Team's own observations at the scene at the material time, with a view to assisting the parties handling the students' personal data in the Future Scheme ("**Prospective Parties**") to comply with the requirements under the Ordinance. These findings and recommendations should not be regarded as the Commissioner's findings of a contravention of the requirements under the Ordinance.

4.2 This Chapter is divided into seven parts. The first being discussion of the issues relating to the Scheme as a whole, the following four parts are dedicated to each of the four different stages (as stated in paragraph 3.3 of this report) of the Scheme, and the two last parts cover erasure of the students' personal data and the delegation of duties under the Scheme. Within each part, relevant factual information and evidence are set out first, followed by the Team's findings and the Commissioner's comments and recommendations in view of the Team's findings.

4.3 The recommendations were made not only to the parties taking part in the operation of the Scheme, but also to the Prospective Parties to the Future Scheme.

4.4 Since the requirements under a DPP were discussed in different parts / stages of the Scheme (e.g. DPP1 requirements on the collection of personal data were discussed in the first and third stages), such requirements were only briefly stated in this Chapter to avoid repetition. Readers may refer to Annex 2 for details of the DPPs.

1. The Scheme as a whole

Privacy Impact Assessment

4.5 Privacy impact assessment (“PIA”) is a systemic process that evaluates a proposal in terms of its impact upon personal data privacy with a view to avoiding or minimizing adverse impact. It helps data users to identify and detect any privacy problems associated with the proposal before it is implemented. PIA is also useful in providing a credible source of information to allay any privacy concerns from the public and the stakeholders³¹.

4.6 When the Scheme was announced in early August 2009, PCPD expressed to the EDB and the public its concern whether any PIA had been carried out in limiting the scope and circumstances of the collection and the use of the students’ personal data³².

4.7 In the Inspection, ND and EDB advised the Team that they had sought advice from PCPD and other departments including the Department of Justice in relation to compliance with the Ordinance. However, no PIA has been conducted by ND and EDB as of the compilation of this report.

The Team’s Findings

4.8 The data subjects concerned in the Scheme were secondary school students in Tai Po. If selected, they were requested to provide urine specimen for drug testing. Given the vulnerability of the class of the data subjects, sensitivity of their data, the possible embarrassment associated with their testing data, and the general public concern about the privacy of the students since the conception of the Scheme, the need for conducting a PIA was compelling.

4.9 While the youth drug problem should be tackled without delay, thorough consideration must be given to the impact on students’ data privacy, as a school-based drug testing scheme could potentially affect all students of

³¹ See the information leaflet on PIA issued by PCPD in July 2010 (http://www.pcpd.org.hk/english/publications/files/PIAleaflet_e.pdf)

³² See the media statement issued by PCPD on 10 August 2009 (http://www.pcpd.org.hk/english/infocentre/press_20090810.html)

the Participating Schools. Given the history of the Scheme, the Team considered that there should have been enough time to complete a PIA had it been commenced immediately after the conception of the Scheme. However, no PIA on the Scheme or the Future Scheme has been conducted.

Commissioner’s comments and recommendations

4.10 While a PIA is not mandated under the Ordinance, a responsible data user should conduct this to ensure the alternatives to the collection of the personal data have been duly considered, and appropriate actions taken to avoid or minimize the privacy risks.

4.11 Implementation of the Scheme required a balance between the interests of fighting against the youth drug problem and of students’ personal data privacy. The Commissioner has no doubt that the former had been taken care of, but the absence of any PIA since the conception of the Scheme may suggest insufficient attention paid to the students’ personal data privacy.

4.12 The Commissioner is pleased to note that there has not been any known data breach incident relating to the operation of the Scheme, nor has he received any complaint about the data privacy of the Participating Students. This, however, should not be a reason for dispensing with the need to conduct a PIA on the ongoing scheme and the Future Scheme.

Recommendation

- (1) To ensure that any data privacy concerns are fully addressed in advance, ND, EDB, or other parties initiating the existing school drug testing scheme and the Future Scheme should, before the implementation of the Future Scheme or effecting a change to the existing scheme, carry out or cause to be carried out a PIA of the scheme.

Policies

4.13 The Protocol was the only single document stipulating the roles and responsibilities of SDTT, POs and the Participating Schools under the Scheme. It was issued by ND and EDB.

4.14 The purposes and imperatives of the Scheme are stated in the Protocol as follows³³:-

“(a) for prevention - it will enhance the resolve of those students who have not taken any drugs to continue to stay away from drugs. They will be in a better position to say “no” to their peers when they are tempted to try drugs and this will help prevent the spread of drugs in schools; and

(b) for rendering assistance to students - the Scheme will trigger the motivation of those students abusing drugs to quit drugs and seek help, especially those who are trying drugs at an early stage. The Scheme will also provide appropriate support services to those students who wish to pull themselves out of the drug trap.”

4.15 The Protocol does not contain a statement of its purpose. From its contents it would appear that:-

- (1) It was an open document for dissemination to all concerned and for public access³⁴;
- (2) a copy of the Protocol would be provided to students and their parents / guardians of the Participating Schools on being invited to participate in the Scheme³⁵; and

³³ Paragraph 1.3 of the Protocol.

³⁴ Paragraph 10.7 of the Protocol.

³⁵ Paragraph 4.4 of the Protocol.

- (3) POs would refer to it in considering whether the SDTT has adhered to the drug testing procedures set out in the Protocol³⁶.

4.16 There are provisions in the Protocol stipulating the major responsibilities of SDTT, POs and the Participating Schools under the Scheme, but the Protocol itself is not detailed enough to provide a comprehensive guide to the personnel responsible for handling students' personal data under the Scheme. The answers to following questions, for example, are not apparent from the Protocol alone:-

(1) For the Participating Schools

(i) In relation to the Consent Forms received:-

- (a) How to ensure they are securely kept?
- (b) What to do with a Consent Form given by a student who has since changed to another school?

(ii) In relation to withdrawal of consent:-

- (a) How to ensure the notices of withdrawal are securely kept?
- (b) When and how should the notices of withdrawal be disposed of?

(iii) In relation to the preparation of the Participation Lists and Testing Lists:-

- (a) What were the system and security requirements of the computers used to prepare these lists?
- (b) How are the Participation Lists provided to SDTT?
- (c) How are the Participation Lists disposed of?
- (d) When and how are the Testing Lists disposed of?

(iv) In relation to the Selection Lists and School Visit Reports received:-

³⁶ Paragraph 4.29(b) of the Protocol.

- (a) How to ensure they are securely kept?
 - (b) When and how are they disposed of?
- (v) On the day of the Screening Test, how would a student be asked to leave the classroom and led to the premises where a Screening Test would be carried out?
- (2) For SDTT
- (i) In relation to the Participation Lists and Testing Lists received:-
 - (a) How to ensure they are securely kept?
 - (b) How are they disposed of?
 - (c) When should the Testing Lists be disposed of?
 - (ii) In relation to the preparation of the Selection Lists:-
 - (a) What were the system and security requirements of the computers used to prepare the Selection Lists?
 - (b) How are the Selection Lists provided to the Participating Schools and POs?
 - (c) When and how are the Selection Lists disposed of?
- (3) For POs
- (i) In relation to the Selection Lists and Testing Lists received:-
 - (a) How to ensure they are securely kept?
 - (b) When and how are they disposed of?

4.17 Given that students' personal data were handled by various parties at different stages of the Scheme, it could be the case that the Protocol itself did not contain all the procedures of how such personal data should be handled. The Team therefore proceeded to ascertain whether there were other policies, guidelines and manuals relating to the operation of the Scheme.

4.18 On the official website of ND relating to the Scheme, two letters from the Chief Executive, a PowerPoint presentation, leaflet, poster, list of “Frequently Asked Questions”, news, video and evaluation research were available for viewing. The Team found that none of these materials provided specific guidance on the handling of students’ personal data under the Scheme.

4.19 POs issued a written personal data policy specifically for the Scheme. This policy required that students’ personal data should be kept in locked file cabinets, and should be encrypted when kept in electronic storage devices. Copying and bringing out of office files and portable devices containing students’ personal data were prohibited. The policy also provided that students’ personal data would not be kept longer than is required, but the duration of the retention was not specified or ascertainable.

4.20 SDTT advised the Team that in handling students’ personal data under the Scheme, they would also observe the personal data policy of the Lutheran Centre. The Team noticed, however, that the policy of the Lutheran Centre did not contain any part specifically on students’ personal data under the Scheme.

4.21 Among the nine Sampled Schools, five had their own personal data policies, two had their own policies on the use of information technology facilities. Three Sampled Schools had in place specific work procedure for the Scheme, but only one of these was sufficiently comprehensive.

The Team’s Findings

4.22 The Protocol was the backbone of the Scheme setting out the functions and activities in relation to students’ personal data of the institutions which participated in the Scheme. As pointed out in paragraph 4.16 above, the Protocol did not specify how students’ personal data should be handled in each institution. The Protocol itself, therefore, was not sufficient to ensure consistent and good practice in protecting students’ personal data.

4.23 In the Inspection, the Team found no other instrument issued by the Government that gave further details and standards required on the conduct of SDTT, POs and the Participating Schools in relation to students’ personal data.

While POs had sensibly formulated their own guidelines for the Scheme, SDTT and the Participating Schools had no such written guidelines to follow and had to rely on the good judgment and prudent practices of the personnel involved to protect the students' personal data.

4.24 The absence of any written policy, guidelines and manuals addressing the matters highlighted in paragraph 4.16 above is unsatisfactory.

Commissioner's comments and recommendations

4.25 ND, EDB, POs, the Lutheran Centre and the Participating Schools each had its own functions to perform. They may already have their own personal data policies in place, but it should not be taken for granted that these pre-existing policies would be applicable to the same extent and would afford adequate protection of students' personal data collected under the Scheme. Under the Scheme, the Participating Schools were not handling students' academic records, nor was the Lutheran Centre handling personal data of individuals seeking its services (e.g. counseling). Students' personal data used for drug testing under the Scheme required a dedicated set of policies, guidelines and manuals to ensure their proper handling and protection.

4.26 Unlike a business venture with profits to justify the costs in maintaining a good personal data system, the costs of the parties taking part in the operation of the Scheme for the public good might not be fully compensated. The burden on the Participating Schools, in particular, must have been significant and their contributions deserving of respect. However, the substantial costs in formulating and enforcing a comprehensive personal data policies may deter Participating Schools from participating in the Future Scheme.

4.27 The relationship between the Participating Schools and their students is immediate and built upon trust and confidence. The role of the Participating Schools in the Scheme was crucial in that they interfaced with their students and parents / guardians in, among other things, seeking their consent, sending out students' personal data to SDTT and arranging for the Screening Test in their premises. Adequate support should be given to the Participating Schools and other parties taking part in the operation of the

Scheme to ensure that their practices in handling students' personal data under the Scheme are aligned and of a satisfactory standard.

4.28 The Commissioner is pleased to note that there has not been any data breach incident relating to the Scheme, which must have been attributable to the prudence and good practice of POs, SDTT and the Participating Schools. However, they should not have been left to their own devices in formulating their own practices on matters as obvious as those listed in paragraph 4.16 above. The Commissioner is of the opinion that the Government, being the leader of the fight against youth drug problems, should formulate or provide detailed guidance in formulating personal data policies and procedural manuals for the Prospective Parties in the Future Scheme.

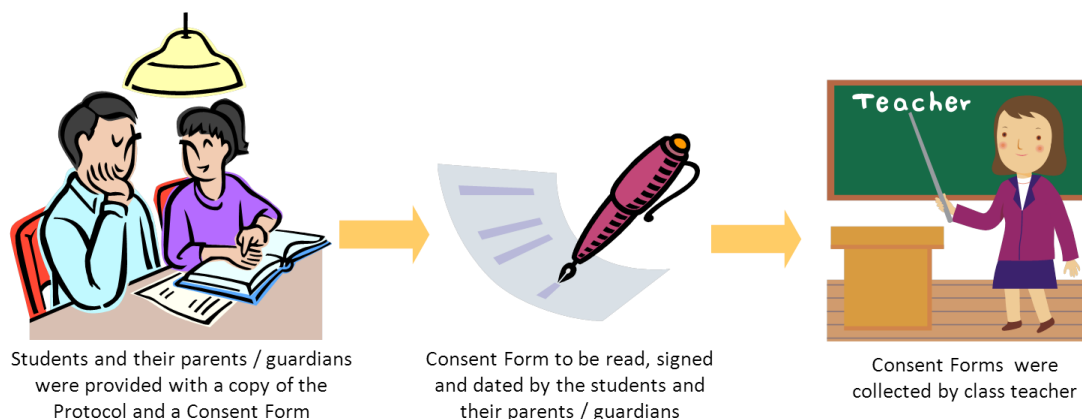
Recommendation

(2) To ensure that the practices of the Prospective Parties in the handling of students' personal data are consistent and up to the required standard in the Future Scheme, the party initiating the Future Scheme (the Government) is expected to:-

- (i) formulate more detailed personal data policies, guidelines and procedural manuals for the Prospective Parties; and/or
- (ii) provide guidelines to the Prospective Parties to formulate more detailed personal data policies, guidelines and procedural manuals; and / or
- (iii) vet the personal data policies, guidelines and procedural manuals submitted by the Prospective Parties;

with particular reference to the matters highlighted in paragraph 4.16 above.

2. First stage – Obtaining consent of the students and their parents / guardians to the participation in the Scheme



4.29 In the first stage of the Scheme, students of the Participating Schools and their parents / guardians were required to sign the Consent Form in which various data of the students and their parents / guardians were collected. Of note in this stage are the collection of the personal data contained in the Consent Form (DPP1), the proper retention period of the Consent Forms (DPP2), security of the Consent Forms while they were in the possession of the Participating Schools (DPP4) and adequacy of information available to a person, in particular to the students and their parents / guardians, about the handling of personal data collected under the Scheme (DPP5).

DPP1 – Collection of personal data in the Consent Form

DPP5 – Information available to students and their parents / guardians

Personal Data

4.30 According to the sample Consent Form included in the Protocol, the following personal data of a student and parent / guardian were required:-

- (1) Confirmation of the student and his or her parent / guardian on whether or not they agreed to participate in the Scheme;
- (2) Names and signatures of the student and parent / guardian, and the dates of the signatures; and

- (3) Contact telephone number of the parent / guardian.

4.31 In practice, the Consent Form used by the Participating Schools was different in that the parent's / guardian's contact telephone number was not required, but the class and student number of the student were required.

Consent

4.32 In response to the announcement of the Scheme in early August 2009, PCPD openly expressed its view that parents' / guardians' consent could not be relied upon as a substitution for the students' own consent to the participation in the Scheme. When the Scheme was implemented, consent from both the student and his parent / guardian was sought.

4.33 For reasons set out in paragraph 2.12 in Chapter 2 of this report, the Team did not approach any of the Participating Students to ascertain the circumstances under which they gave their consent. PCPD has not received any complaint or information concerning the genuineness of students' consent given under the Scheme.

4.34 The Team found that, of the nine Sampled Schools, three required the class teachers to contact the parents / guardians not participating in the Scheme to "*reconfirm their decisions*" and "*to make sure that they were aware of the advantages of the Scheme.*"

Information provided to students and parents / guardians

4.35 According to the Protocol, in the beginning of the school year 2010 / 2011, briefing sessions would be arranged to introduce and promote the Scheme to students and their parents / guardians³⁷, who would also be provided with a copy of the Protocol, including the sample Consent Form, before they were asked to provide their personal data³⁸. The Protocol was also available on the official website of ND³⁹.

4.36 The Team was unable to attend any of the briefing sessions because

³⁷ Paragraph 4.1 of the Protocol.

³⁸ Paragraph 4.4 of the Protocol.

³⁹ http://www.nd.gov.hk/en/school_drug_test_tp.htm

they had been held some time before commencement of the Inspection. The school principals of all of the nine Sampled Schools confirmed to the Team that they did hold such briefing sessions. Moreover, the Association of Secondary School Heads, Tai Po District also held two similar briefing sessions in October 2010 for the students and their parents / guardians.

The Team's Findings

4.37 There is no doubt that the purposes of the Scheme as stated in paragraph 1.3 of the Protocol and recited in paragraph 4.14 above are entirely lawful. Collection of the personal data specified in the Consent Form was necessary or directly related to those purposes, and was not excessive, or by unlawful or unfair means. The Team therefore considered that DPP1(1) and (2) were duly complied with.

4.38 The Protocol and the Consent Form clearly stated the purposes of the Scheme, the parties to whom the personal data collected would be transferred, the person to whom a data access or correction request should be made and that participation in the Scheme was voluntary. Given further that such information was also available in ND's official website and would have been covered in the briefing sessions, the Team found that the Participating Students and their parents / guardians had been adequately informed in accordance with DPP1(3).

4.39 Furthermore, the Team found that the policies and practices relating to the Scheme were generally available, and information such as the kind of personal data collected and held, and the main purposes of use of such data was clearly stated. Compliance with DPP5 was therefore satisfactory.

Commissioner's comments and recommendations

4.40 Collection of personal data of an individual from his body specimen for a sensitive purpose such as drug testing requires a high level of sensitivity to the privacy impact on the individual and robust action to address any issues that may arise from the collection. Restraint in limiting the scope of collection and effective communication with the concerned individuals are the

keys to the success of the Future Scheme.

4.41 The Commissioner welcomed the prudence and restraint of ND and EDB in the first stage in limiting the collection to only those personal data that were necessary for the Scheme, and in establishing timely and effective channels to communicate all the necessary information about the Scheme to the students and parents / guardians well before the collection through the Consent Form.

4.42 Schools participating in the Future Scheme should be reminded to take extra care in seeking students' consent to the participation. While reconfirming with and providing further information about the scheme to parents / guardians not participating in the scheme are themselves not objectionable, they might be perceived as unduly influencing the students to give their consent, in particular where the approach is made only to the parents / guardians.

Recommendation

- (3) While acknowledging that no irregularities were identified during the Inspection, the Prospective Parties should, in obtaining consent from students and their parents / guardians for the Future Scheme:-
- (i) Collect no more personal data than required under the Consent Form used for the Scheme, unless collection of such other personal data is justifiable in the circumstances;
 - (ii) Ensure that the information required to be communicated to the students and parents / guardians under DPP1(3) are clearly communicated, preferably in writing, before obtaining the consent;
 - (iii) Where practicable to do so, conduct briefing sessions for students and their parents / guardians to ensure that their queries and concern, if any, would be addressed before requesting them to give their consent; and
 - (iv) When re-approaching the students and their parents / guardians

who have stated their intention not to participate in the Future Scheme, avoid exerting any undue influence on the students and their parents / guardians to change their mind.

DPP2 – Proper retention period of the completed Consent Forms

4.43 Paragraph 10.4 of the Protocol provided that “*Following completion of the Scheme, or withdrawal of Consent to Participation, all personal data will be erased as soon as they are no longer required for the purposes of the Scheme.*”

4.44 All nine Sampled Schools advised the Team that they kept the completed Consent Forms of the Participating Students until completion of all Screening Tests in the school year.

4.45 According to POs, they had verbally advised the principals of the Participating Schools in December 2010 that the completed Consent Forms of those non-participating students should be destroyed as soon as possible and not be kept until completion of all Screening Tests. However, the Team found that six of the nine Sampled Schools still kept the Consent Forms of these students.

The Team’s Findings

4.46 The Protocol did not specify, nor did it provide for more specific guidelines on the proper retention period of personal data collected under the Scheme.

4.47 As students’ consent to participate in the Scheme was valid within the academic year, the Team found that retention of the completed Consent Forms of the Participating Students until all Screening Tests were completed in the academic year was justified. However, keeping the Consent Forms of those students who did not participate or subsequently withdrew from the Scheme until the completion of all Screening Tests does not appear to serve any useful purpose and is therefore not justified.

Commissioner's comments and recommendations

4.48 Retention of the Consent Forms of students who did not agree to participate in the Scheme and those who have subsequently withdrawn their consent did not serve any useful purpose for the Scheme. It increased the risks and cost of safeguarding the personal data. It is therefore only sensible for the Participating Schools to destroy such Consent Forms immediately after confirmation of the students' refusal to participate and withdrawal of their consent.

Recommendation

- (4) The Prospective Parties of the Future Scheme should, upon receiving a valid notice of refusal to participate or notice of withdrawal from participating in the Future Scheme, completely erase or destroy the personal data of the students they hold for the Future Scheme.

DPP4 – Safe keeping of the completed Consent Forms

4.49 Under DPP4, data users are required to take all reasonably practicable steps to ensure that personal data they kept are protected against unauthorized or accidental access, processing or other use. In ascertaining the appropriate steps to take, the data users have to consider, among other things, the kind of data and the harm that could result. Keeping personal information strictly confidential was also one of the four guiding principles of the Scheme⁴⁰.

4.50 Unlike the usual extra-curricular activities organized by secondary schools, one of the guiding principles of the Scheme was voluntary participation by students. However, it is possible that some members of the public may perceive a student's decision to participate or not to indicate one way or the other as his having drug problems. In view of the possible impact of such perception, it would be necessary to ensure a higher level of security to

⁴⁰ Clause 1.2(c) of the Protocol.

protect the completed Consent Forms in the possession of the Participating Schools.

4.51 As mentioned in paragraph 4.21 above, only three of the nine Sampled Schools had their own specific guidelines related to the Scheme. In any case, these guidelines do not give for any guidance on the safe keeping of the completed Consent Form.

4.52 During the site inspection of the nine Sampled Schools, the Team was shown the storage facilities used to keep the completed Consent Forms. Among these schools, eight kept the completed Consent Forms in locked cabinets that could be unlocked only by the school principals and / or their authorized staff, and the other Sampled School kept them in the school principal's office to which the key was kept by the principal.

4.53 The Team also found that the practice of the Sampled Schools in safe-keeping the Consent Forms varied. In one case, a Sampled School kept the Consent Form in different envelopes, which were put in a cardboard box. As the Team was given to understand that these Consent Forms were sometimes referred to by the Participating Schools after collection, e.g. for preparing the Testing Lists, precautions should be taken to minimize the risk of them being misplaced.

4.54 The Team was advised by these nine Sampled Schools that there had not been any complaint about unauthorized or accidental access to the personal data contained in the completed Consent Forms.

The Team's Findings

4.55 The practices of the nine Sampled Schools in securing the completed Consent Forms varied to a certain degree. Some Sampled Schools kept the locked cabinets in the principals' offices, some placed the locked cabinets in the former principal's office, meeting room and security control room. In one case, the completed Consent Forms were put in a cardboard box inside the principal's room. Although the principal's room could be locked, a safer step should be to keep the completed Consent Forms in locked cabinet to prevent them from unauthorized or accidental access by visitors to the principal's

office.

Commissioner's comments and recommendations

4.56 As distinct from students' personal particulars maintained by the Participating Schools in their ordinary course of business, personal data that may indicate students' involvement in drugs have to be dealt with separately and with particular care.

4.57 All the Participating Schools should provide the same level of security for the personal data contained in the Consent Forms. To this end, the Participating Schools should be provided with clear guidance on security measures while they were in possession of the Consent Forms.

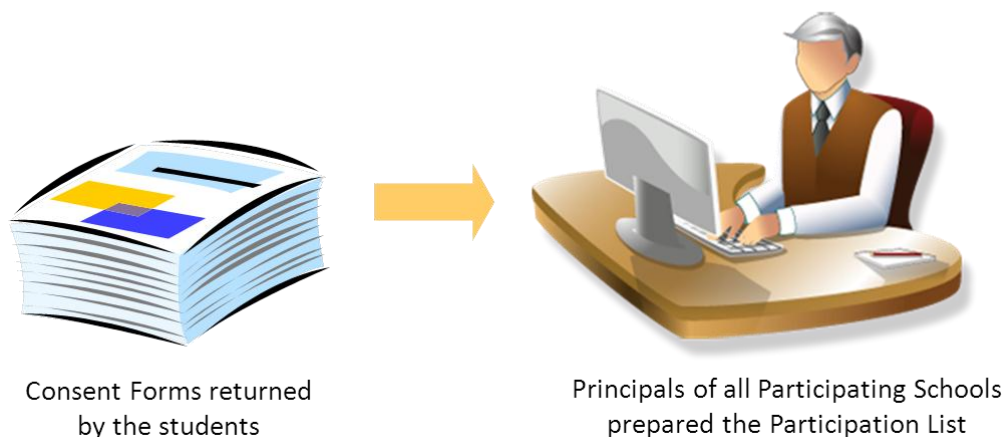
Recommendation

(5) For the Future Scheme:-

- (i) Any written consent forms of the students and their parents / guardians should be kept securely (e.g. securely attached and kept in locked cabinets, etc) to avoid being misplaced and to ensure that only the persons duly authorized under the Future Scheme may have access to the contents of the consent forms; and
- (ii) Parties initiating the Future Scheme should compile specific guidelines on the requirements to ensure safe custody of the written consent forms for the Prospective Parties, in particular, the schools.

3. Second stage - Handling of personal data of the Participating Students up to the Screening Test

Participation List



4.58 Upon receipt of the completed Consent Forms, the Participating Schools prepared the Participation Lists of students who stated in the Consent Form their agreement to participate in the Scheme. There is no specific requirement under the Protocol as to the computer equipment the Participating Schools should use in processing students' personal data. The Participating Schools had different practices in preparing the Participation Lists.

DPP4 – Security of IT equipment and its use

4.59 Eight Sampled Schools used their existing computers of the designated staff to prepare their Participation List. For one Sampled School, each class teacher first used his / her personally owned computer to compile a list of participating students in the class and submitted it to the discipline master through the school's Intranet. The discipline master then downloaded all the lists to his personally owned computer to compile the Participation List.

4.60 The Sampled School advised the Team that security software had been installed in the school's server to enhance the Intranet's security, but it had no control over the teachers' personally owned computers, nor had it inspected these computers to ensure that they were safe for use in terms of data security. The Sampled School explained that the lists prepared by the teachers did not contain any information showing that the listed students had agreed to

participate in the Scheme, and the teachers had been verbally requested to erase the lists in their own computers. However, no verification of the requested erasure had been conducted.

4.61 In one of the nine Sampled Schools, the Participation List was kept in the principal's personally owned external hard-disk without any password protection.

The Team's Findings

4.62 Computers personally owned by teaching staff may be used by the staff and any other persons whom the staff authorized. Users of these computers may use them in different places, to visit suspicious websites, to install software from unreliable sources, and to share files with strangers inadvertently. Use of these computers to process student's personal data will no doubt increase the risk of accidental or unauthorized disclosure of students' personal data and should therefore be avoided.

Commissioner's comments and recommendations

4.63 Although the Participation List itself does not contain any indication that the students appearing on the list were the Participating Students, use of personally owned computers to process the students' personal data without first verifying their security level was too obvious a risk that the Participating Schools should reasonably have avoided.

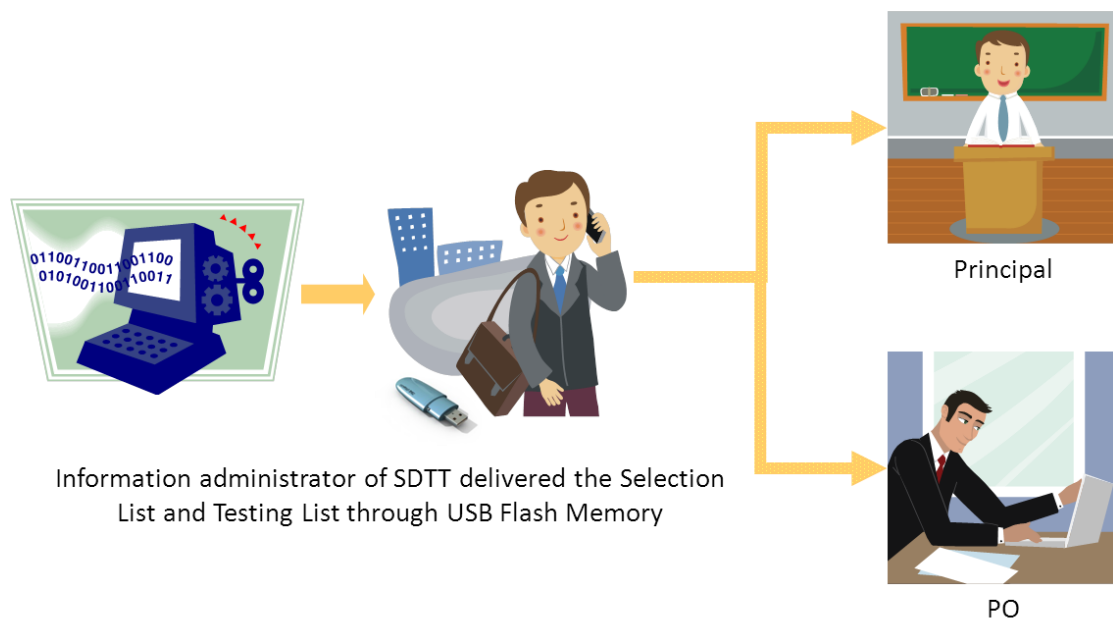
4.64 The Commissioner is aware that the Participating Schools may not have sufficient resources to acquire additional equipment dedicated to the Scheme, or may not have the benefit of practical guidance on the use of their existing equipment to process the personal data of the Participating Students.

Recommendation

- (6) Parties initiating the Future Scheme and the Prospective Parties should devise detailed guidance on the use of computer equipment in

processing students' personal data, with particular regard to the required security features (e.g. data security software, password and encryption) of the equipment. If use of personally owned equipment is allowed, the security level of such equipment must first be approved, and the erasure of the data from such equipment must be verified by the persons authorized by the relevant Prospective Parties.

Selection List and Testing List



4.65 After obtaining the Participation Lists from the Participating Schools, SDTT prepared two lists, namely the Selection List and the Testing List, with the use of its computer system, and provided them to the Participating Schools and the POs. The collection of the Participation Lists and provision of the Selection Lists and Testing Lists by SDTT were carried out through the use of the USB Flash Memories personally handled by the information administrator.

DPP4 – Security of IT equipment and its use

4.66 SDTT commissioned an external information technology contractor to build and maintain the computer system in a dedicated remote server

specifically for the Scheme. The computer system was accessible via the Internet from the notebook computer solely used for the Scheme, and was used for random selection of students to take the Screening Tests and for the storage of the Screening Test results. The documents relating to the appointment of the contractor did not contain any requirements for the contractor to formulate security measures to protect the data kept in the server.

4.67 Prior to site inspection, the Team was informed by ND that the data transmitted to and from the computer system via the Internet was encrypted by the SSL technology, a common encryption standard used for online transaction including e-banking, and that user authentication control was strengthened by implementation of a two-factor authentication (e.g. a password and a changing number displayed on a token) mechanism. However, when the Team carried out inspection in SDTT's office, it was found that neither SSL nor the two-factor authentication mechanism was implemented. As such, data transmission to and from the computer system was not encrypted and the information administrator of SDTT was only required to enter login name and password to log onto the computer system without undergoing the two-factor authentication process.

4.68 Members of SDTT advised that it had never used a remote server to process personal data of drug abusers in their daily work in the Lutheran Centre. SDTT believed that the use of the remote server hosted in a secure data centre could offer a higher level of physical security and protection against data loss due to unforeseen circumstances. SDTT confirmed that following the engagement of the contractor, it had consulted ND, which provided high level advice such as the use of the SSL, two-factor authentication, installation of anti-virus software, encrypting the data stored in removable device, etc. SDTT decided not to use the SSL and two-factor authentication measurements as they considered that the data processed and stored by the system contained no information which could directly identify a person.

4.69 SDTT confirmed that the Selection Lists and Testing Lists and the backup data in digital form were kept in the USB Flash Memories and encrypted external hard-disk, which were all protected by different complex passwords only known to the information administrator. These electronic storage devices were kept in locked cabinet in SDTT's office.

4.70 As regards the use of USB Flash Memories, the Team was advised by the information administrator of SDTT that they were protected by strong encryption and complex passwords. The Team noticed however that in two Sampled Schools, the USB Flash Memories were placed together with notes containing the relevant passwords.

The Team's Findings

4.71 As SDTT did not need remote access to information contained in the server, the development and maintenance of the remote server was unnecessary. SDTT, on reflection, agreed that it should be able to maintain better control over the security of the data if they had been kept within its office.

4.72 SDTT confirmed to the Team that the only identifier of the students stored in and transmitted to and from the remote server was the Assigned Student Code, with which only the relevant Participating Schools, SDTT and POs may ascertain the identities of the students. Names of the students and the Participating Schools were not kept and processed by the server. On this understanding, the Team considered that the risk of the Participating Students being identified in case of data leakage from the server is small.

4.73 However, the Team noticed with concern that ND, being the leader of the Scheme and which gave technical advice to SDTT as mentioned in paragraph 4.68 above, did not take steps to verify whether SDTT had taken ND's advice. The Team was also concerned about the handling of the USB Flash Memories by some of the Participating Schools as revealed in the Inspection. Placing the passwords together with the USB Flash Memories would only render the security installed in the USB Flash Memories useless. Coupled with the findings in paragraph 4.62 above, the Team considered that of the Scheme lacked a competent authority or party to oversee the use of the information technology equipment deployed in the Scheme.

Commissioner's comments and recommendations

4.74 The Commissioner fully appreciates that, in engaging the contractor to develop and maintain the system in the remote server, SDTT only intended

to provide additional security for the data it processed under the Scheme. This intention should not be undermined by the findings of the Inspection. SDTT and the Prospective Parties should be reminded that data users are liable for the act or practice of their employees and agents pursuant to section 65⁴¹ of the Ordinance.

4.75 Going forward, Prospective Parties of the Future Scheme should be reminded to evaluate the need before engaging a professional contractor to process data on their behalf.

4.76 A contractor should be selected carefully based on, among other things, the quality of services, expertise and the level of data protection the contractor can provide. A formal written agreement should be entered into with express contractual obligations on the part of the contractor to provide adequate protection of and to keep confidential the personal data entrusted to it.

4.77 Subcontracting the task to a qualified contractor would not derogate from the responsibility of the Prospective Parties to closely monitor the implementation of the data security measures in the Future Scheme. If information technology equipment is used in the Future Scheme to process and keep personal data, the Prospective Parties should oversee or engage a professional in information technology security to oversee or advise the proper use of the information technology equipment and the implementation of security measures to ensure that the personal data are adequately protected.

Recommendations

(7) For the Future Scheme:-

(i) Prospective Parties who wish to engage a professional contractor

⁴¹ Section 65 of the Ordinance provides that:

“(1) Any act done or practice engaged in by a person in the course of his employment shall be treated for the purposes of this Ordinance as done or engaged in by his employer as well as by him, whether or not it was done or engaged in with the employer's knowledge or approval.

“(2) Any act done or practice engaged in by a person as agent for another person with the authority (whether express or implied, and whether precedent or subsequent) of that other person shall be treated for the purposes of this Ordinance as done or engaged in by that other person as well as by him.”

to process students' personal data on their behalf should carefully evaluate the need for the engagement and select the appropriate contractor based on its competency in providing adequate security to the personal data;

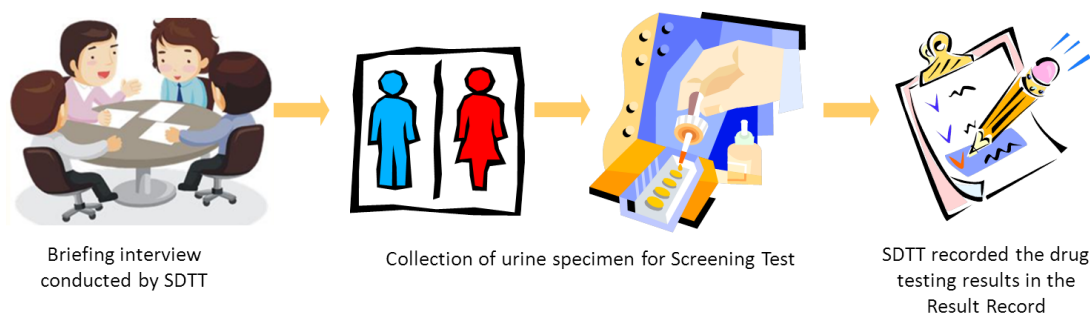
- (ii) Prospective Parties who decide to engage a professional contractor to process students' personal data on their behalf should enter into a formal agreement with the contractor with specific contractual obligations on data security and duty of confidentiality on the part of the contractor; and
- (iii) Where necessary, formal risk assessment of data security should be carried out to ensure the corresponding security measures are properly specified in the formal agreement with the contractor and implemented.

(8) Where portable storage devices are allowed to be used to store students' personal data in the Future Scheme, the parties initiating the Future Scheme and / or the Prospective Parties allowing such use should devise detailed guidance on the proper use and handling of the devices with particular regard to the findings in paragraphs 4.73 above.

(9) If information technology equipment is used in the Future Scheme to process and store personal data, the Prospective Parties should oversee or engage a professional with relevant expertise to oversee or advise the proper use of information technology equipment and the implementation of security measures to ensure the personal data are adequately protected.

4. Third stage - Carrying out of the Screening Test

Screening Test



4.78 Collection of students' personal data took place again on the date of the Screening Test. The Team was given to understand that the student selected to take the Screening Test was accompanied by a school representative from his or her classroom to the testing site where his or her urine specimen was to be collected.

DPP1(3) – Adequacy of notification given to students selected to carry out the Screening Test

DPP2(1) – Accuracy of students' personal data

4.79 When the student arrived at the testing site, POs enquired with the student his or her name, class and class number, to ensure that the identity of the student was correct, hence the accuracy of the data to be obtained from the urine specimen.

4.80 Before collecting the student's urine specimen, the social worker of SDTT would conduct a screening interview with the student, in which the student would be reminded that participation in the Scheme was voluntary, the purpose of collecting his or her urine specimen, and the possible transferees of the personal data and the Screening Test results.

4.81 To ascertain whether, as required under DPP1(3), the students had been adequately informed of the purpose of collecting their urine specimens and the possible transferees of their personal data and the testing results before they provided their urine specimens, the Team conducted a survey of students

who had taken the Screening Tests during the period of 27 May to 31 May 2011.

4.82 For reasons set out in paragraph 2.12 of this report, the survey was conducted through POs, who delivered a questionnaire to each student and collected the student's response immediately after taking the Screening Test. Given the young age of the students and that the Screening Test had to be completed within 15 minutes⁴², the questions put to the students were intentionally short and simple.

4.83 Questionnaires were delivered to 68 students, of which 66 responded. All 66 students (100%) confirmed that SDTT had conducted an interview with them prior to collection of their urine specimen. 64 students (97%) confirmed that they had been informed of the purpose of collection and 62 students (94%) confirmed that they had been informed of the potential transferees of their personal data and test results.

4.84 Two students responded that they had not been informed of the purpose of collection or the potential transferees of their personal data. The Team was unable to inquire with the two students details of the screening interview, hence unable to offer SDTT an opportunity to reply.

The Team's Findings

4.85 To ensure that the personal data to be obtained from the urine specimens were accurate, POs had verified with the students their identities, and a second Screening Test would be conducted if the first one returned a positive result. The Team was of the view that POs had taken all reasonably practicable steps to ensure the accuracy of students' personal data obtained from their urine specimens.

4.86 Although two students who responded to the survey claimed that they had not been informed of the matters set out in DPP1(3) (i.e. the purpose of collection and potential transferees of the personal data obtained from their urine specimens), the Team considered it unsafe and unfair to conclude

⁴² Paragraph 4.20 of the Protocol.

therefrom that there were irregularities in the practice of SDTT based solely on the two (out of 68) students' negative response.

Commissioner's comments and recommendations

4.87 The Participating Students gave consent to participation in the Scheme at an early stage of an academic year. Although they had already been provided with detailed information (e.g. purpose of collection, the data they would be required to provide, the potential transferees of their personal data, etc.) some time before the Screening Test, they could have changed their minds over time, when their parents / guardians were not around, or when the Screening Test became imminent. Conducting screening interview would offer a second opportunity to the students in case they changed their minds and is indeed good practice to be continued in the Future Scheme.

4.88 The negative response from two students in the survey could lead to unfavourable conclusions being drawn on SDTT's practice. Given the possible adverse impact on SDTT, the responding students should in the normal course of event be required to provide further information to substantiate their claims, and SDTT should be given an opportunity to reply, before the Commissioner can reach a conclusion on SDTT's practice at the screening interview. Since the Team was unable to do so given the sensitivity of the Scheme, and bearing in mind that the two students in question should have been informed of the purpose of collection and potential transferees of their personal data anyway at the early stage of the academic year, the Commissioner considered that it was not appropriate to make adverse inference on SDTT's practice solely based on their assertion. In any case, these students have recourse to PCPD if they considered their data privacy rights protected under the Ordinance had been infringed.

Recommendation

(10) For the Future Scheme, with reference to the good practices

established from the Scheme, Prospective Parties responsible for collection of body specimen from students for drug testing should, immediately before collection, inform the students of the matters set out in DPP1(3), notwithstanding that the students may have already been informed of such matters when they consented to the participation in the Future Scheme.

5. Fourth stage - Handling of personal data of the Participating Students after the Screening Test

POs' Practice

4.89 After carrying out the Screening Tests, POs would compile and provide to the Participating School the relevant School Visit Report, setting out the Screening Test results and any irregularities observed or complaints received in the Screening Test process. In addition to School Visit Report, POs would also compile monthly compliance reports to ND, EDB and the Participating Schools. The report contained the aggregate statistics of the total number of students (i) selected for Screening Test, (ii) tested negative (i.e. absence of illicit drug metabolic in the urine specimen), (iii) assessed as being unfit for Screening Test and (iv) unable to provide urine specimen.

4.90 POs had in place a written personal data privacy policy for the Scheme. Their deployment was solely for the purpose of the Scheme and, according to the POs, their office premises and all the equipment were exclusively used for the Scheme.

4.91 POs mainly used a standalone notebook computer and the USB Flash Memories provided by SDTT to process electronic data relating to the Scheme. When the notebook computer and the USB Flash Memories were not in use, they would be kept in a locked steel cabinet together with paper documents such as School Visit Reports.

4.92 In the site inspection of POs' office, the Team noticed that no user logon authentication was required to operate the notebook computer, and the user had a de facto administrative right.

The Team's Findings

4.93 The Team found that the security provided for the paper documents while they were in POs' possession satisfactory. The Team was however concerned about the setting of the notebook computer POs used in the light of the obligation to provide adequate security for the personal data as required under DPP4.

4.94 Granting an administrative right to a user means the user can modify any security control in the notebook computer including installation of any software. Although the notebook computer was not connected to the Internet, the Wi-Fi connection function was not effectively disabled. As a result, a user could turn on the Wi-Fi function of the computer and connect to the Internet when there was any Wi-Fi signal available. Once the computer was connected to the Internet, undesirable software like spyware, malware or other file sharing software might be installed inadvertently and thereby threaten the security of the data stored in the notebook computer, whether encrypted or not.

4.95 POs explained that the notebook computer was locked away at all times and was used only for a number of defined operations including reading the Selection Lists and the Testing Lists contained in the USB Flash Memories. These operations did not require connection to the Internet and therefore the risks identified by the Team would unlikely be materialized. Throughout the site inspection, the Team noticed that POs never connected the notebook computer to the Internet.

4.96 In any case, after the site inspection the Team was informed by POs that they had since set up an enforced user authentication process (i.e. a dedicated account with login name and password was set up without administrative right) in the notebook computer to address the Team's concern.

SDTT's Practice

4.97 SDTT recorded the results of the Screening Test in the Result Record and the computer system in the dedicated remote server. The Result Records were kept in a locked cabinet in SDTT's office. All specimens in negative cases were immediately destroyed.

4.98 SDTT also prepared monthly statistical reports to ND and POs, but these reports did not contain students' personal data.

Use of the result of the Screening Tests

4.99 The result of the Screening Tests would be notified to the students, their parents / guardians, and the Participating Schools, and would be used for provision of counseling services, if required.

The Team's Findings

4.100 The Team was satisfied that reasonably practicable security measures had been taken to safeguard the personal data contained in the Result Records, and that there was no change of use of the personal data obtained from the urine specimen. As such, the Team found that there was no sign of contravention of DPP3 and 4 in the fourth stage of the Scheme.

Commissioner's comments and recommendations

4.101 For better security of sensitive personal data such as those of the students participating in a school drug testing scheme, the Commissioner could not emphasize more the importance of a set of comprehensive policies on every procedure by which students' personal data are processed. These policies should encourage the use of equipment and facilities dedicated to the scheme, to ensure that the data contained and processed by these equipment and

facilities would not inadvertently be mixed up with other data unrelated to the scheme, with the result that students' personal data might be accessed accidentally or without authorization.

4.102 The fact that POs had a specific data protection policy for the Scheme and they used the computer exclusively for the Scheme was a good practice which should have been adopted by other parties which were required to handle students' personal data under the Scheme. This good practice no doubt requires significant additional resources which the Participating Schools might not be able to afford without the assistance of the parties which initiated the Scheme.

4.103 While the Commissioner appreciated the prompt action taken by POs to address the issues raised by the Team on the setting of the notebook computer they used, the lack of security control in the initial setting of the notebook computer should have been avoided. The Commissioner was particularly concerned about the absence of any guidance on the information technology security measures throughout the operation of the Scheme.

Recommendation

- (11) Parties initiating the Future Scheme or the Prospective Parties should devise comprehensive information technology policies for the Future Scheme with particular regard to the following matters:-
- (i) Use of equipment and facilities dedicated to the Future Scheme;
 - (ii) Segregation of student's personal data collected for the Future Scheme from those collected for other purposes; and
 - (iii) Employment of technical expert in information technology for provision of technical assistance and supervision of compliance with the information technology policies.

6. Erasure

4.104 Paragraph 10.4 of the Protocol provided that “*Following completion of the Scheme, or withdrawal of Consent to Participation, all personal data will be erased as soon as they are no longer required for the purposes of the Scheme*”. This requirement is not inconsistent with section 26(1) of the Ordinance, which provides that “*A data user shall erase personal data held by the data user where the data are no longer required for the purpose (including any directly related purpose) for which the data were used...*”

4.105 In the Inspection, the Team enquired with SDTT, POs and the nine Sampled Schools about the manner in which students’ personal data were destroyed or erased. Where practicable, the Team did observe the process of the destruction or erasure.

Data kept by the Participating Schools

4.106 Completed Consent Forms and School Visit Reports were shredded by the Participating Schools after conclusion of all the Screening Tests in the school year. Depending on the availability of the POs, the shredding exercise may be conducted in the presence of the POs. The Team noticed that, while the POs counted the School Visit Reports (which were to be destroyed on the same occasion) before shredding, the Consent Forms were not counted. Representatives of the Sampled Schools explained that it was not necessary to do so because the Consent Forms had all along been kept in the same place. The Team also noticed that in one case, School Visit Reports of the previous school year were still kept by the Sampled School.

4.107 Erasure of personal data of the Participating Students kept in the information technology system of the Participating Schools was carried out by the Participating Schools themselves. The personal data kept in the USB Flash Memories in the possession of the Participating Schools were erased by the information administrator of SDTT in the presence of the school representative(s). Both the SDTT and the Participating Schools signed a

confirmation to confirm complete erasure of the data kept in the USB Flash Memories.

4.108 The Team found that one Sampled School had remained in its backup server a copy of the Participation List which should have been erased. The Sampled School explained that, owing to the settings of its computer system, the Participation List was automatically backed up every day together with other data. The Sampled School supplemented that the backup data (including the Participating List) would be completely erased when it conducted the annual data erasure exercise towards the end of each school year.

Data kept by POs

4.109 As advised by POs, the School Visit Reports and the Result Records in physical form were destroyed by them with the use of a shredding machine in June 2011. The Selection Lists and the Testing Lists kept in their notebook computer were first erased by the delete function of the operating system, and erased again by a staff member of the Information Technology Management Unit of Home Affairs Department with a special data erasure software. POs also erased the data contained in the USB Flash Memories before returning them to the information administrator of SDTT.

Data kept by SDTT

4.110 According to SDTT, the Result Records were destroyed every month after the results of the Screening Tests were updated in the system of the dedicated remote server. Data contained in all 31 USB Flash Memories used for the Scheme (23 used by the Participating Schools, 3 by POs and 5 by SDTT) and the external hard-disk were irreversibly erased by different erasure software. SDTT advised the Team that such erasure was completed at the end of June 2011.

4.111 Data contained in the dedicated remote server, which, as also confirmed by ND, were statistical data for evaluation research, were kept until 7 October 2011 as instructed by ND. According to SDTT, the data in the

dedicated remote server were erased on 6 and 7 October 2011 with data erasure software.

The Team's Findings

4.112 The Team is aware that counting the completed Consent Forms immediately before destruction is time-consuming and may not help the Participating Schools to locate any missing Consent Forms, but if counting was required before shredding, the personnel handling the Consent Forms might exercise greater care in handling and maintaining the full record of the completed Consent Forms.

4.113 The Team found that the measures taken by SDTT, POs and the Participating Schools to ensure complete destruction or erasure of the personal data of the Participating Students were on the whole satisfactory.

4.114 Although the Participation List backed up in the server of a Sampled School would be erased every year anyway, retaining the Participation List together with other data in the backup server might unnecessarily expose the Participation List to accidental access in the event that personnel not authorized to access the Participation List needs to retrieve other data in the backup server.

Commissioner's comments and recommendations

4.115 Complete destruction of the completed Consent Forms is an essential step the Participating Schools must take. The process would be efficient and inexpensive if they had been properly maintained during the time they were in the possession of the Participating Schools. While counting them before destruction would indirectly encourage safe keeping of the Consent Forms, giving proper guidance on their security when they were kept in the Participating Schools should be more helpful. This has been dealt with in paragraphs 4.55 to 4.57 above.

4.116 Although the Participation List itself did not indicate that the students listed were participants of the Scheme, the Participating School should not treat it as other data it processed in the ordinary course of their business. Schools participating in a drug testing scheme must know where in their information technology system the students' personal data collected for the scheme (including their backup copy) were kept, and ensure that all these data are destroyed or erased as soon as the purposes of the scheme were fulfilled.

4.117 The Commissioner had no doubt that the parties who had collected and processed the personal data of the Participating Students and their parents / guardians would endeavour to completely destroy or erase the data upon completion of the Scheme. This notwithstanding, additional safeguards should be installed to ensure that students' personal data would not be retained longer than is necessary for the Future Scheme.

Recommendation

(12) To ensure that personal data of students and their parents / guardians collected under the Future Scheme would not be retained longer than is necessary, parties initiating or Prospective Parties of the Future Scheme should consider installing a system and devising a policy and procedure whereby the destruction or erasure of the personal data would be verified by or confirmed to the parties initiating the Future Scheme.

7. Delegation

4.118 The Consent Form was specific as to the identities of the persons to whom the personal data of the Participation Student may be disclosed. These persons were:-

- (1) SDTT and the case manager;

- (2) the school social worker;
- (3) the school principal, the class teacher, and any other teacher suggested by the student; and
- (4) POs.

4.119 As far as the Sampled Schools were concerned, personnel other than the school principals and the class teachers had access to the personal data of the Participating Students:-

- (1) the Participation Lists of all nine Sampled Schools were compiled by general clerical staff, teaching staff or the vice-principals;
- (2) in the case of five Sampled Schools, the sequence of the Participating Students selected to take the Screening Test was filled out in the Result Records by general clerical staff, teaching staff or the vice-principals;
- (3) eight Sampled Schools delegated to their workmen, administrative assistants or general clerical staff the task of escorting students from their classrooms to the testing site; and
- (4) two Sampled Schools delegated to their general clerical staff the task of notifying the parents / guardians the results of Screening Test.

4.120 The Sampled Schools explained to the Team that delegation to staff not listed in the Consent Form was inevitable given that the principals and teachers were already fully occupied by their teaching and administrative duties. The Sampled Schools reassured the Team that all the staff concerned had signed an undertaking to keep confidential all information in connection with the students' personal data under the Scheme (including information gathered by observation).

The Team's Findings

4.121 Since the persons delegated miscellaneous duties in connection with the Scheme by the Participating Schools as specified in paragraph 4.119 above were not any persons listed in the Consent Form, it may be arguable that the Participating Students, in giving their consent to the participation in the Scheme, were not aware that their personal data would be disclosed to any persons not listed in the Consent Form.

4.122 On the other hand, the Team appreciated that the school principals and teachers could not have been expected to perform all the duties personally throughout the operation of the Scheme. In the circumstances, the Team accepted that delegation by the school principals of the Participating Schools should have been within the reasonable expectation of the Participating Students and, therefore, should not be inconsistent with DPP3. However, the Team is of the view that due consideration including competence and experience of the staff members should be given in deciding who and what should be delegated. In this regard, the Protocol is silent and it appeared to the Team that no guidance was given to the school principals.

Commissioner’s comments and recommendations

4.123 While the Commissioner accepted that delegation was inevitable in implementing the Scheme, as a matter of good practice, the classes of delegates who may have access to the personal data of the Scheme should have been stated in the Protocol and the Consent Form to avoid unnecessary dispute.

4.124 Moreover, since different levels of staff may be delegated to perform the different kinds of duties under a drug testing scheme, clear guidelines and proper training should be provided to the staff concerned to ensure that they are competent in handling the students’ personal data under the Scheme.

Recommendations

- (13) As a matter of good practice, the parties initiating and the Prospective Parties of the Future Scheme who wish to delegate their duties under the Future Scheme to their staff should state the classes of delegates in their policies and the personal information collection statement.
- (14) To provide better security for the students' personal data obtained in the Future Scheme in compliance with DPP4, the parties initiating and the Prospective Parties of the Future Scheme should compile clear guidelines on the proper handling of students' personal data, and setting out the consequences of breach by the handling staff, which may include notifying PCPD and disciplinary action, etc.
- (15) The parties initiating and the Prospective Parties of the Future Scheme should provide proper training to their staff who are delegated duties under the Future Scheme.

Chapter Five

Conclusion

5.1 Youth drug problem has been troubling the society for a long time, and the call from the public on the Government to take more robust action to tackle the problem has been overwhelming. It was against this background that the Scheme was launched and, not surprisingly, was met with general public support.

5.2 While PCPD has no doubt about the good intentions of the Scheme, given the sensitivity of the personal data and the young age of the students, it has taken the initiative to examine the implementation of the Scheme and raise data privacy concerns as appropriate.

5.3 At the commencement of the Inspection, parties involved in the Scheme repeatedly expressed their concern that the Inspection was intended to find fault on their part, and, as a result, schools and non-government organizations would be less willing to participate in the Future Scheme for the public good.

5.4 As the Team had explained at the outset of the Inspection at various meetings with the parties, the Inspection was intended to obtain more information for the Commissioner to make recommendations to them or the Prospective Parties of the Future Scheme in the areas of privacy and data protection. In fact, the Inspection did provide an effective channel through which the Commissioner and the Team were able to hear the practical concerns and difficulties of the parties involved, in particular the Participating Schools, and these had been instrumental in formulating the Commissioner's recommendations.

5.5 During the course of the Inspection, the Team gained the impression that the parties participating in the Scheme only considered themselves to play a passive role even though it was obvious that the part each of them played was essential to the operation of the Scheme. The Commissioner considered that this approach is not conducive to the establishment of an accountable personal data system. Having said that, the Commissioner acknowledged that the

parties had rendered timely and appropriate assistance to the Team throughout the Inspection, and was indeed impressed by the fact that, as a result of the effort each of the parties made, there had not been since the conception of the Scheme any data breach incident or complaint about a contravention of a requirement under the Ordinance.

5.6 The Commissioner has the greatest respect for the Participating Schools, which played a crucial role and devoted extensive time and resources at the frontline to ensure the smooth operation of the Scheme. As revealed in the Inspection, there is still room for improvement should they continue to participate in the Future Scheme. On the other hand, the Commissioner fully appreciated that they had resource constraints and were short of professional guidance, whether on the formulation of data protection policies or information technology. In this regard, more support from the parties initiating the Future Scheme is called for, and, assuming that the Government would continue to take the lead in the Future Scheme, the Commissioner sincerely hoped that the Government would provide more assistance to the participating schools in the Future Scheme.

5.7 Lastly, the Commissioner takes this opportunity to thank ND, EDB, POs, the Lutheran Centre, the Participating Schools and the Association of Secondary School Heads, Tai Po District for their cooperation in this Inspection.

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Annex 1 - Protocol of the Trial Scheme on School Drug Testing in Tai Po District School Year 2010 / 2011

大埔區校園驗毒試行計劃
Trial Scheme on School
Drug Testing in Tai Po District

計劃守則
Protocol

(二〇一〇至一一學年)
(School Year 2010/11)

保安局禁毒處
Narcotics Division, Security Bureau

教育局
Education Bureau

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CHAPTER 1 PURPOSES AND GUIDING PRINCIPLES

- 1.1 The Trial Scheme on School Drug Testing in Tai Po District (Scheme) is a joint initiative by the Government (led by the Narcotics Division, Security Bureau (SB) and Education Bureau (EDB)) and 23 public sector secondary schools in the Tai Po District, supported by parties in the social welfare, healthcare and other sectors.
- 1.2 Development of the Scheme is guided by the following principles –
 - (a) helping students in their best interest;
 - (b) voluntary participation;
 - (c) keeping personal information strictly confidential; and
 - (d) professional testing and support services for students.
- 1.3 The purposes and imperatives of the Scheme are –
 - (a) for prevention – it will enhance the resolve of those students who have not taken any drugs to continue to stay away from drugs. They will be in a better position to say “no” to their peers when they are tempted to try drugs and this will help prevent the spread of drugs in schools; and
 - (b) for rendering assistance to students – the Scheme will trigger the motivation of those students abusing drugs to quit drugs and seek help, especially those who are trying drugs at an early stage. The Scheme will also provide appropriate support services to those students who wish to pull themselves out of the drug trap.
- 1.4 The Scheme could also shed light on the effectiveness of cross-sector and multi-disciplinary downstream support service for student drug abusers.
- 1.5 Experience gained and feedback collected in the implementation of the Scheme would provide useful input to the planning of anti-drug activities.
- 1.6 In line with the objectives of the Scheme, students found to have abused drugs under the Scheme will –
 - (a) not be prosecuted for drug consumption; and
 - (b) not be expelled from school.

- 1.7 Apart from participating in the Scheme, a student and his/her parent/guardian can also directly approach any counselling centre for psychotropic substance abusers (CCPSA) for professional assistance. The whole process is kept confidential. To complement their counselling services, CCPSAs will provide elementary medical support including voluntary drug testing services.

CHAPTER 2 DEFINITIONS¹

2.1 Scheme

The Trial Scheme on School Drug Testing in Tai Po District (School Year 2010/11) includes drug testing and support programmes. Drug testing will run from November 2010 to May 2011. Support programmes (see paragraph 2.18) for identified students may last until the end of December 2011, i.e. the completion of the Scheme.

2.2 Participating School

A secondary school in the Tai Po District which joins the Scheme on a voluntary basis in the school year 2010/11.

2.3 Consent to Participation

A written consent to participation in the Scheme, given by a student and his parent/guardian in a standard form to the school principal (see paragraph 4.3 to 4.11). A sample form is at Appendix 1.

2.4 Participating Student

A student who has consented to participate, and whose parent/guardian has also given consent for the student to participate, in the Scheme.

2.5 Selected Student

A student who is randomly selected for a screening test (see paragraph 2.14).

2.6 Identified Student

A student who is identified as a screened positive case (see paragraph 4.27) or a confirmed case (see paragraph 2.16).

2.7 Concerned Parties

The parties specified in the Consent to Participation, who will have access to personal data collected under the Scheme (see paragraph 4.6) and will have a specific role to play in the Scheme (see Chapter 3).

2.8 Designated CCPSA

The CCPSA serving Tai Po and North District, that is the Hong Kong Lutheran Social Service Cheer Lutheran Centre.

¹ In this Protocol, unless expressly stated otherwise or the context otherwise suggests, "he" refers both genders.

2.9 Student Drug Testing (SDT) Team

A multi-disciplinary team comprising two nurses, two registered social workers and one information administrator, who are staff of the designated CCPSA. The team will visit each of the participating schools in turns over the 2010/11 school year and carry out drug testing.

2.10 Case Manager

A registered social worker of the designated CCPSA, who specialises in drug counselling and is assigned to handle an identified student.

2.11 Designated Teachers

The class teacher of the participating student, and another school teacher suggested by a participating student in the Consent to Participation.

2.12 Project Officer

An officer from the Home Affairs Department (HAD) who will perform the duties of project officer as set out in this Protocol.

2.13 Illicit Drug or Drug

Any drug or substance which is subjected to control under the Dangerous Drugs Ordinance (Cap 134, Laws of Hong Kong) (DDO).

2.14 Screening Test

A drug test to be conducted by the SDT team. A urine test kit will be used to test for the presence of illicit drugs (or their metabolites) in a person's urine specimen. It covers common types of psychotropic substances abused by adolescent drug abusers in Hong Kong. As illustration, they may include:

- (a) Ketamine;
- (b) Ecstasy;
- (c) Methylamphetamine;
- (d) Cannabis; and
- (e) Cocaine.

As the trend of taking illicit drugs may change rapidly, the types of drugs to be tested may be changed during the course of the Scheme.

2.15 Confirmatory Test

A test conducted by the Government Laboratory using sophisticated instruments, namely Gas chromatography – mass spectrometry (GC-MS) or Liquid chromatography – mass spectrometry (LC-MS), to identify the presence of illicit drugs in order to ensure reliability and accuracy.

2.16 Confirmed Case

A case of drug abuse which is supported by confirmatory test result demonstrating the presence of illicit drugs in the relevant urine specimen. It also refers to a self-referral case (see Chapter 6).

2.17 False-positive Case

A positive screening test result refuted by a negative confirmatory test result, or refuted upon medical review (see Chapter 9).

2.18 Support Programme

A support programme of counselling, treatment, rehabilitation and referral services for an identified student (see Chapter 5).

2.19 Mentoring Scheme

HAD will put in place a mentoring scheme in Tai Po to support identified students. The mentor is a volunteer who may share his life experience and help the student to cope with and overcome difficulties under a mentoring scheme in Tai Po.

CHAPTER 3 ROLES OF CONCERNED PARTIES

- 3.1 Designated CCPSA
- (a) SDT team. They are responsible for performing the drug tests and carrying out the ancillary arrangement, receiving testing results, and providing on-the-spot counselling services for students tested positive.
 - (b) Case manager. He is responsible for assessing the identified student's needs, and for the provision or coordination of suitable counselling, treatment and rehabilitation services, including the conduct of a multi-disciplinary case conference to formulate an effective support programme for the identified student.
- 3.2 School social worker. He is responsible for providing timely counselling to participating students, identified students and their parents/guardians.
- 3.3 School
- (a) School principal. He is responsible for supervising the running of the Scheme at school and providing the school's support for the participating and identified students.
 - (b) Designated teachers. They are responsible for providing assistance to the running of the Scheme at school and supporting the participating and identified students.
- 3.4 Project officer. He is responsible for –
- (a) observing the SDT team on school visits and offering comments on whether the SDT team has adhered to the drug testing procedures as set out in this Protocol;
 - (b) advising participating schools on the data privacy requirements relating to drug testing as set out in this Protocol, and relaying concerns identified to relevant authorities;
 - (c) handling complaints relating to drug testing from participating students, their parents/guardians, or other relevant parties; and
 - (d) compiling the following reports –
 - (i) school visit reports to school principals (see paragraph 4.29); and
 - (ii) monthly compliance reports and a final one to school principals and the Government.

CHAPTER 4 DRUG TESTING

Preparation

- 4.1 In the beginning of the school year 2010/11, anti-drug education and briefing sessions will be arranged to introduce and promote the Scheme to school teachers, parents/guardians, students and other relevant parties, and to invite participation in the Scheme.
- 4.2 In parallel, participating schools will review and enhance the healthy school policy in the school year 2010/11 with a view to creating a safe, caring, healthy and drug-free learning environment, and building up positive values and attitudes among students for whole-person development from an early stage, thereby enhancing their ability to resist taking drugs.

Consent Form and Participation in the Scheme

- 4.3 Participation in the Scheme is entirely voluntary.
- 4.4 The participating schools will provide students and their parents/guardians with a copy of this Protocol and a standard form of Consent to Participation to indicate whether they agree to participate and to give the necessary consent and undertaking.
- 4.5 To participate in the Scheme, a student and his parent/guardian will need to give the following consent and undertaking –
 - (a) Drug testing. Consent and undertaking to provide a urine specimen of the student to be tested for the presence of illicit drugs, if so requested under the Scheme.
 - (b) Support Programme. Consent and undertaking to join the support programme under the Scheme, if the above drug testing returns a positive result, or if the student refers himself to the support programme.
- 4.6 The form for Consent to Participation will inform parents/guardians and students that their personal data will be collected by and/or released to the following concerned parties on a confidential basis and only for the purposes of the Scheme –
 - (a) relevant staff of Hong Kong Lutheran Social Service Cheer Lutheran Centre, that is, the SDT team and the case manager assigned to the student upon any positive test result or upon self-referral;
 - (b) school social worker of the participating school;

- (c) relevant staff of the participating school, that is, the school principal, the class teacher of the student and any other teacher if so suggested by the student; and
 - (d) project officer.
- 4.7 The form for Consent to Participation must be read, signed, and dated by the student and his parent/guardian. It should be returned to the student's class teacher on/before 3 November 2010.
- 4.8 Consent to Participation is valid for the duration of the Scheme (see paragraph 2.1).
- 4.9 For a participating student who changes school (within Tai Po) during the school year 2010/11, the student and his parent/guardian are required to submit a new Consent to Participation to the new school in order to continue participating in the Scheme.
- 4.10 Any parent/guardian and student who have not returned the form of Consent to Participation on or before 3 November 2010 are nonetheless still welcome to join the Scheme anytime during the school year 2010/11.
- 4.11 Students who are currently subjected to supervision under the law, such as probation order, community service order, supervision order or a suspended sentence shall not participate in the Scheme.

List of Students

- 4.12 Before any testing begins, school principals of all participating schools will each prepare a list which includes the name, class and gender of the participating students in their respective schools.
- 4.13 Before a visit to any participating schools, the SDT team will provide one-week advance notice to the school principal, school social worker and the project officer. Test dates and frequencies will not be made known to the students.
- 4.14 The school principal will inform the SDT team any changes to the list of participating students at least three working days prior to the school visit via secure communication.
- 4.15 The SDT team will inform the school principal and project officer of the list of randomly selected student for drug testing one working day before the school visit. The selected students will only be informed as they proceed to receive the screening test.
- 4.16 At the beginning of the school visit, the school principal will provide an updated list of randomly selected students to the SDT team and the project officer, which shows the availability and sequence of the selected students to undergo drug testing. The project officer will countercheck the names of the students on the list to ensure the list of selected students is in order.

Random Selection

- 4.17 Each month, approximately 3% to 5% of participating students from a school will be randomly selected and tested by the SDT team. Generally speaking, each school may be visited once or twice a month and some 24 to 40 students (out of 800 participating students, for example) may be randomly selected and tested. The SDT team will not visit the participating schools on regular schedule, so that students will not be able to tell the date of testing.
- 4.18 Except for those identified students who have already enrolled in support programmes under the Scheme, a student selected for a screening test will remain in the total population subject to future random selection.

Urine Specimen Collection and Screening Test

- 4.19 In conducting the urine specimen collection procedure, the SDT team will make their best endeavours to put the selected students at ease and to dispel undue concerns or misunderstandings about drug tests and the Scheme.
- 4.20 The process may take about 10 to 15 minutes, which includes –
- (a) screening interview in an interview room;
 - (b) collection of urine specimen in a rest room;
 - (c) screening test in an interview room; and
 - (d) debriefing in an interview room.
- 4.21 During the screening test, the SDT team will brief selected students individually and answer any relevant questions. A set of guidelines for the screening interview is provided at Appendix 2.
- 4.22 Selected students will be required to provide urine specimen in a clean rest room that allows for individual privacy. The urine specimen collection procedure is provided in Appendix 3. See Chapter 7 for the procedures for following up on-the-spot refusals.
- 4.23 If a screening test returns a positive result, the SDT team will conduct another screening test on the same urine specimen using a urine test kit of a different brand. If the second test result is negative, the student will be treated as a negative case.
- 4.24 If the results of the two screening tests are positive, the student will be treated as a screened positive case.
- 4.25 The project officer will be present at all screening drug test sessions. The project officer will observe that the screening drug tests conducted by the SDT team are in accordance with this Protocol. He will also record information required for the school visit report (see paragraph 4.29).

Result Notification (Screening Test)

4.26 Negative Case

- (a) Specimens will be immediately disposed of by the SDT team after the screening test.
- (b) Negative cases will be reported in the school visit report prepared by the project officer.
- (c) The school principal will inform the selected student's parent/guardian of the screening test done and the negative result.

4.27 Positive Case

- (a) The SDT team will provide on-the-spot counselling to the identified student.
- (b) The project officer will immediately inform the school principal of the positive case.
- (c) The school principal will notify the identified student's parent/guardian and invite them to a meeting on the day. The school principal will also notify the designated teachers for assistance and counselling at school.
- (d) The SDT team will make immediate arrangements for the attendance of a school social worker and a case manager from the designated CCPSA. They may provide counselling services and necessary support to the identified student and his parents/guardians if attending.
- (e) Meanwhile, if appropriate, the identified student may return to class after immediate counselling.
- (f) The case manager, school social worker, school principal and/or designated teachers will discuss with the attending parent/guardian the immediate welfare of the identified student, and make preliminary suggestion on an appropriate support programme.

4.28 Other cases

A selected student may also, on the spot –

- (a) refer himself to a support programme without testing (see Chapter 6);
- (b) refuse drug testing (see Chapter 7); or
- (c) withdraw Consent to Participation (see Chapter 8).

4.29 School Visit Report

- (a) At the end of the school visit, the project officer will compile a school visit report to the school principal for necessary follow-up.
- (b) The school visit report will state whether the SDT team has adhered to drug testing procedures set out in this Protocol when conducting the drug tests as observed by the project officer, and cover any on-the-spot complaints received by the project officer. It will also contain the names of the students who –
 - (i) were screened negative;
 - (ii) were screened positive;
 - (iii) self-referred to a support programme without testing;
 - (iv) refused drug testing; and
 - (v) withdrew Consent to Participation.

Confirmatory Test

- 4.30 For a screened positive case, the SDT team and the project officer will sign a request for confirmatory testing to the Government Laboratory.
- 4.31 The SDT team will deliver the same urine specimen to the Government Laboratory for a confirmatory test. No personal identifier will be attached to the specimen in order to ensure confidentiality and privacy. Proper procedures will be followed to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen at the Government Laboratory.
- 4.32 The confirmatory test will normally take about five working days and the test results will be available for collection at the Government Laboratory by authorized staff of the SDT team and via secure communication to the project officer.
- 4.33 Specimens sent for confirmatory testing will be discarded by the Government Laboratory personnel on expiry of five working days after completion of analysis.
- 4.34 If the identified student and/or his parent/guardian insist on obtaining a second test (using sophisticated instruments, namely GC-MS or LC-MS) by another competent laboratory to refute the positive screening test result, they may do so at their own expense and should inform the school principal within three working days from the screening test. The school principal will inform the project officer and the SDT team. The SDT team will notify the Government Laboratory through a signed request to prepare the urine specimen for collection. Upon receipt of the notification, the Government Laboratory will make ready the urine specimen

remaining after the Government Laboratory has conducted the confirmatory test or has retained a sufficient part for the confirmatory test, under seal for collection at the Government Laboratory by authorized staff of the SDT team. The Government Laboratory will discard the remaining urine specimens if they are not collected within five days from the date of the notification.

- 4.35 If the result of the urine test conducted by the other laboratory is negative, then for the purposes of the Scheme, the student will be treated as a false-positive case irrespective of the positive result of the confirmatory test.

Result Notification (Confirmatory Test)

- 4.36 The project officer will inform the school principal about the confirmatory test results via secure communication.

4.37 False-positive Cases

- (a) The SDT team will notify the case manager if a given case is confirmed negative upon confirmatory test. The case manager will abort the support services started.
- (b) The school principal will inform the concerned student and his parent/guardian.
- (c) If the student and/or parent/guardian show emotional distress, the case manager will provide necessary counselling services. The school social worker will provide necessary backup, if required.

4.38 Confirmed Cases

- (a) The SDT team will notify the case manager.
- (b) The case manager will notify the identified student and his parent/guardian and continue to coordinate the support services.
- (c) The school principal will release the confirmed positive test result via secure communication to the designated teachers and school social worker.
- (d) The identified student and/or his parent/guardian may request a medical review (see Chapter 9).

CHAPTER 5 SUPPORT PROGRAMME

Case Conference

- 5.1 Within 10 working days after notification of a confirmed case, the case manager will convene and chair a multi-disciplinary case conference, to formulate a support programme (or commonly known as a welfare plan) to continue with assistance to the identified student. Before the case conference, where appropriate, the student and parent/guardian may be requested to further consent to the participation of other parties to the case conference, and to the disclosure of information relating to the student's drug use, treatment and rehabilitation to them. The case manager will discuss with the student and his parent/guardian on details of the support programme for agreement before implementation.

Support Programmes for Identified Students

- 5.2 Depending on the case assessment, a support programme for an identified student may be wide ranging, including possible measures such as the following (non-exhaustive, for illustrative purposes) –
- (a) For experimental abusers or non-dependent regular abusers
 - (i) The parent/guardian should pay more attention to the student, and may also arrange medical and counselling services through their own means;
 - (ii) The student may continue normal schooling as far as possible, and at the same time receive counselling and assistance from school social workers and designated teachers at school;
 - (iii) Community-based support services outside school, such as counselling sessions in the designated CCPSA, thematic therapeutic groups, community service programmes, family/interpersonal relationship training, psychiatric/psychological intervention, etc;
 - (iv) Subject to the agreement of the identified student and/or his parent/guardian and the case manager's assessment, the student concerned will participate in the mentoring scheme and he will be matched with a mentor. The intention is that the mentor will share his life experience with the identified student and join hand with the case manager to help the student to resist and abstain from drug abuse;
 - (v) Basic medical support (e.g. further drug testing, body check up, motivational interviews and drug-related consultation) from general practitioners in the local community network, or medical doctors and healthcare professionals engaged by the designated CCPSA;

- (vi) Cases with psychiatric and other medical complications may be referred to the Psychological Medicine Clinic of Alice Ho Miu Ling Nethersole Hospital or Substance Abuse Clinic at Prince of Wales Hospital for specialist medical treatment;
- (b) For addicted (dependent) abusers
 - (i) Addicted abusers requiring voluntary residential programmes may be admitted to the 40 drug treatment and rehabilitation centres in the territories run by 17 non-governmental organisations (NGOs); and
 - (ii) After completing a residential programme, the rehabilitated student may return to schooling in a mainstream or other school following a review by the concerned parties and others in a case conference as and when necessary. EDB will ensure such social reintegration through the existing placement assistance mechanism.
- 5.3 The support programme will also make full use of the “Your Health, Our Concern” community network.
- 5.4 The case manager may review the support programme every three months and may share the case progress and relevant issues with the student, his parent/guardian, and other concerned parties. Case conferences may be convened to discuss progress and unresolved issues, if needed.
- 5.5 The support programme under the Scheme may last for up to six months generally, and will not go beyond 31 December 2011 upon completion of the Scheme. However, after completion of the support programme, an identified student may, if necessary, continue to receive support services outside the Scheme from the designated CCPSA, school social workers, designated teachers, mentoring scheme and others in the normal course of their work and subject to the usual confidentiality, voluntary participation and professional arrangements.
- 5.6 Parents/guardians of participating and identified students may also benefit from counselling and other services of the concerned parties, apart from general community services such as those available at integrated family service centres operated by Social Welfare Department (SWD) or NGOs subvented by SWD, which deliver “one-stop” services to individuals and families to meet their multifarious needs.

Programmes for Non-drug Users and Other Students

- 5.7 The school, school social worker, designated CCPSA and other parties may arrange promotion, education and prevention programmes for non-drug users and other students in the light of the general drug situation as revealed by the Scheme.

CHAPTER 6 SELF-REFERRAL

- 6.1 At anytime during the drug testing process, selected students may admit abuse of drugs.
- 6.2 Participating students not selected for drug testing may admit abuse of drug to any school personnel at anytime. The school personnel will refer the student to the SDT team and inform the project officer.
- 6.3 The need for drug testing may be obviated by such voluntary admission of drug abuse.
- 6.4 Such students having admitted drug abuse will be treated as confirmed cases and will be followed up as such.
- 6.5 Students with drug problems may also approach the designated CCPSA direct to benefit from the support programme (see Chapter 5).

CHAPTER 7 REFUSAL

- 7.1 If a selected student refuses to take the screening test, the school principal may ask a designated teacher to address any concern that the selected student may have but it must always be borne in mind that participation is entirely voluntary.
- 7.2 If a selected student tampers with the testing process, the school principal may ask a designated teacher to follow up with the selected student.
- 7.3 If the selected student is in emotional distress, he may be referred to the school social worker for voluntary counselling.
- 7.4 The school principal or the designated teacher will notify the selected student's parent/guardian who has given Consent to Participation, if a selected student refuses to take the screening test and/or tampers with the testing process.

CHAPTER 8 WITHDRAWAL OF CONSENT

- 8.1 Participating students and parents/guardians may jointly withdraw Consent to Participation at any time during the Scheme by written notice given to the school principal.
- 8.2 Where a withdrawal notification is given by the participating student only, the school principal or the designated teacher will inform the parent/guardian who gave the Consent to Participation.
- 8.3 Bearing in mind that participation in the Scheme is entirely voluntary, no adverse consequence will arise from any withdrawal.
- 8.4 Upon receiving the notice of withdrawal, the school principal will inform the SDT team, the project officer, and the other concerned parties, who (including the school principal) will erase the relevant personal data (including any drug testing records) in their respective possession as soon as the data are no longer required for the purposes of the Scheme.

CHAPTER 9 REVIEW

- 9.1 If the identified student and/or his parent/guardian maintain that the existence of the positive confirmatory test result of the urine specimen is not attributable to unlawful use (e.g. it was caused by the use of drugs prescribed by medical doctors), they should inform the school principal. The school principal will inform the SDT team and the project officer. The SDT team will invite a medical doctor to review the situation in the light of the said assertion. The concerned parties will abide by the medical doctor's review result.
- 9.2 However, if the identified student and/or his parent/guardian insist on obtaining a second opinion from another competent medical practitioner to prove that the existence of the positive confirmatory test result of the urine specimen is not attributable to unlawful use, they may do so at their own expenses.
- 9.3 If the second opinion obtained by the identified student and/or his parent/guardian substantiates the assertion, then irrespective of the review result in paragraph 9.1, the identified student will be treated as a false-positive case for the purposes of the Scheme.

CHAPTER 10 CONFIDENTIALITY AND PERSONAL DATA PRIVACY

- 10.1 Personal data obtained under the Scheme are protected under the Personal Data (Privacy) Ordinance (Cap. 486, Laws of Hong Kong) (PD(P)O). Records of confidential information kept by reporting agencies and Central Registry of Drug Abuse (CRDA) is also protected by Part VIIA (sections 49A - 49I) of the DDO. All concerned parties must familiarize themselves and strictly comply with the provisions of these Ordinances. For ease of reference, a brief summary of the data protection principles (DPP) 1 – 6 of the PD(P)O is attached at Appendix 4.
- 10.2 The project officer will advise participating schools on the requirements for the protection of confidential information and personal data as set out in this Protocol.

Data Protection Principles (DPP) 1 – 6 of the Personal Data (Privacy) Ordinance

- 10.3 The consent form, this Protocol and the process of obtaining consent have been carefully designed to set out the necessary information in order to meet the requirements of DPP 1. All concerned parties involved in the Scheme should restrict themselves to obtaining and disclosing personal data of a student which are strictly necessary for the purposes of the Scheme.
- 10.4 In accordance with DPP 2, due process has been put in place to ensure accuracy of the test results (see arrangements for screening tests and confirmatory tests in Chapter 4 and for review in Chapter 9). Following completion of the Scheme, or withdrawal of Consent to Participation, all personal data will be erased as soon as they are no longer required for the purposes of the Scheme.
- 10.5 In accordance with DPP 3, personal data collected under the Scheme shall not without the prescribed consent of the data subject, be used for any purpose other than the purposes of the Scheme or a purpose directly related to the Scheme.
- 10.6 In accordance with DPP 4, all data users must establish and maintain appropriate security measures to protect the personal data. Policies and practices in relation to personal data must be formulated to ensure only authorized persons could access such personal data. Personal data, especially drug testing records and the school visit report, will be kept confidential and all practicable measures will be employed to avoid any stigma or labelling effect. The SDT team will include a dedicated information administrator to ensure security. Staff in schools and NGOs concerned who have access to such data or may gain knowledge to confidential information relating to drug tests e.g. those escorting students to screening tests, should be required to sign an undertaking to maintain confidentiality. Communication of personal data over the Internet must be secure. The use of mobile device for storing such personal data must be restrictive and encrypted.
- 10.7 In accordance with DPP 5, this Protocol is an open document for dissemination to all concerned and for public access. All data users must also put in place and make available their personal data policies and practices.

- 10.8 In accordance with DPP 6, all data subjects (students and parents/guardians) have rights to access to and correction of their personal data.

Protection under the Dangerous Drugs Ordinance (DDO)

- 10.9 All concerned parties should note that under section 49D(1) of the DDO, there is a general prohibition with criminal sanctions against disclosure of any records of confidential information² which is kept by CRDA or a reporting agency, supply to any person information obtained from such record, or permitting access to any such record. Any person seeking to do any act mentioned in section 49D(1) shall ensure that the act is covered by consent under section 49F, or is otherwise lawful. The designated CCPSA and all the NGOs providing school social work services in the 23 participating schools are reporting agencies.
- 10.10 For the purposes of the Scheme, and without prejudice to other situations, the designated CCPSA may report to CRDA the drug abuse situation of the student if the student and his parent/guardian so consent.
- 10.11 All information supplied to CRDA is handled in strict confidence and is accessible only to people who are directly involved in the operation of CRDA and are required to observe the rule of confidentiality.

² "Confidential information" means information which is recorded by the CRDA or a reporting agency in respect of any person and which relates to any one or more of the following –

- (a) the use, or alleged use, by that person of a dangerous drug;
- (b) the conviction of that person for an offence under the DDO; and
- (c) the care, treatment or rehabilitation of that person by reason of his use of a dangerous drug.

CHAPTER 11 LAW ENFORCEMENT

Police

- 11.1 Police and other law enforcement agencies will not be informed of the personal data of any individual student obtained under the Scheme.
- 11.2 Police may be provided with aggregate, non-identifying statistics of the test results to understand the drug situation of a school for better focusing efforts to combat the drug problem.

Prosecution Policy

- 11.3 A positive drug test or an admission of drug abuse will generally evidence that an offence of consumption of a dangerous drug has taken place. However, the Scheme is an innovative initiative which is primarily designed to enhance the resolve of those students who have not taken any drugs to continue to stay away from drugs, and trigger the motivation of those students abusing drugs to quit drugs and seek help. Accordingly, as has been confirmed with the prosecution authorities, a participating student who has been tested positive or who admits drug abuse pursuant to the Scheme will not be prosecuted for consumption of drugs contrary to section 8 of the DDO.
- 11.4 Any other situation outside the Scheme, that is, other than where a participating student has tested positive or admits drug abuse pursuant to the Scheme, will be governed by existing practice and laws of Hong Kong. The Scheme does not exempt police investigation and/or prosecution of a student and/or a participant of the Scheme who is found to be in possession of a dangerous drug or is found to be consuming a dangerous drug whether inside or outside the school campus. In every other respect, the prevailing edition of the Statement of Prosecution Policy and Practice applies.

APPENDIX 1 SAMPLE FORM: CONSENT TO PARTICIPATION

CONSENT TO PARTICIPATION

Participation in Trial Scheme on School Drug Testing in Tai Po District (Scheme)

To: Principal, [Name] Secondary School

We, the undersigned student (the student) and parent/guardian, acknowledge receipt of a copy of the Protocol of the Scheme. We have read and understood the Protocol and the contents of this consent form.

Drug Testing

We hereby consent and undertake to provide a urine specimen of the student to be collected and tested for the presence of illicit drugs, if so requested under the Scheme during the school year 2010/11.

Support Programme

We hereby consent and undertake to join the support programme under the Scheme, if the above drug testing returns a positive result, or if the student refers himself/herself to the support programme.

Collection, Use and Release of Personal Data

We understand that our personal data (including drug testing results of the student) will be collected by and/or released to the following concerned parties mentioned in Chapter 3 of the Protocol on a confidential basis and only for the purposes of the Scheme –

1. relevant staff of Hong Kong Lutheran Social Service Cheer Lutheran Centre, that is the Student Drug Testing team and the case manager assigned to the student upon any positive test result or upon self-referral;
2. school social worker of the participating school;
3. relevant staff of [Name] Secondary School, that is, the school principal, the class teacher of the student, and _____ (that is, any other teacher if so suggested by the student); and
4. project officer.

We understand we may request access to and correction of our personal data under the Personal Data (Privacy) Ordinance (Cap. 486, Laws of Hong Kong), and that any such request to you may be made at the address and telephone number provided in the note below.

We also understand that (a) we may withdraw the above consent and undertaking at any time by written notice to you, and (b) the parent/guardian will be informed if the student gives a notice of withdrawal, refuses to provide a specimen of urine for drug test under the Scheme, or otherwise refuses to continue participation in the Scheme.

We hereby agree to give the above consent and undertaking to participate in the Scheme on a voluntary basis.

We do not wish to participate in the Scheme.

{Please select and tick ONE of the two boxes above.}

Parent's/Guardian's* Name Signature Date
(Block Capitals)

Student's Name (Block Capitals) Signature Date

Contact telephone number of Parent/Guardian*: _____

**Delete as appropriate*

Notes:

1. Exclusion – students who are currently subjected to supervision under the law, such as probation order, community service order, supervision order or a suspended sentence shall not participate in the Scheme.
2. Contact information of [Name of School Principal] is ... (include school address and telephone number)

APPENDIX 2 GUIDELINES FOR SCREENING INTERVIEW

Screening Interview

A screening interview will be conducted by the social worker of the SDT team before the drug test is administered. The following areas will be explored –

1. The guiding principles and objectives of the Scheme;
2. The procedures of the drug test (collection of urine specimen and how the screening test will be conducted);
3. The rights and obligations of the students; and
4. Drug abuse history of the student, if any.

Assessment of Student's Drug Abuse Status

If a student is identified as a drug abuser, social workers may quickly investigate the following 10 domains (Tarter, 1990) by briefly asking the student, his parents/guardians, teachers, and school social workers –

Are you aware of/have you noticed any problems on your... ?

1. Drug use/abuse (e.g. signs of drug use, patterns of use, reasons for use);
2. Behaviour patterns (e.g. deviant behaviour);
3. Health status (e.g. major illness, recent physical health problems);
4. Emotional and psychological state (e.g. depression, suicidal ideation or attempts);
5. Family system (e.g. family substance use, family chaos);
6. School adjustment (e.g. falling school grade, truancy);
7. Work (e.g. idle, frequent absence from work without reason);
8. Social skills (e.g. poor communication skills, withdrawn);
9. Peer relationship (e.g. substance using peers);
10. Leisure/recreation (e.g. rave parties, karaoke, game centres, cyber cafes).

Categorization of Drug Abusers (Working Party of the Royal College of Psychiatrists and the Royal College of Physicians, 2000)

After the initial screening interview and the assessment, students may be identified as follows –

1. **The never exposed** – They have never been offered or abused drugs, and are unlikely ever to be offered. Yet, they may take note in the general public information programmes of drugs used/abused in the society.

2. **The exposed never-used** – They may, on a small number of occasions, have been presented with the opportunity to use drugs, but chose not to do so. It is presumed that they, at some future date, may again be posed to a situation where there is the opportunity to use drugs. Decisions of use or not to use will depend on personal and social factors.
3. **The experimental abuser** – They are exploring both the drug effect and the place of this drug use within their own lives. At this stage their future engagement with, or disengagement from further drug use has not yet been firmly determined.
4. **The non-dependent regular abuser** – Dependence has not yet occurred. For such users, it is likely that prevention messages may be suitable to steer them away from drug use. Their perceptions of the adverse consequences of detection/arrest may influence the extent to which they become more heavily involved in their drug use.
5. **The addicted (dependent) abuser** – Drug use has become the most important aspect of their life. The extent to which they are influenced by public opinions and policies is determined by the extent to which they consider themselves to be part of the society.
6. **The vulnerable ex-user** – Former drug users who have become drug-free are likely to have a greater vulnerability to unexpected opportunity to use their previous drug.

Reference

Tartar RE. (1990). Evaluation and treatment of adolescent substance abuser: a decision tree method. *Am J Drug Alcohol Abuser* 16 (1-2): p.1 - 46.

Working Party of the Royal College of Psychiatrists and the Royal College of Physicians (2000). *Drugs: dilemmas and choices*. Gaskell, London.

APPENDIX 3 URINE SPECIMEN COLLECTION PROCEDURES

Pre-test Arrangement

1. The school principal designates a collection site (interview room and rest room) which is secure, and dedicated solely to urine collection.

Procedures for Specimen Collection

2. The school principal informs selected students and facilitates their attendance to the collection site.
3. The collector shall conduct a screening interview and brief the student on the purpose of urine collection.
4. The collector provides a clean specimen collection container to the student.
5. The student is allowed to provide his specimen in a rest room that allows for individual privacy.
6. Upon receiving the specimen from the student, the collector shall determine the volume (not less than 30mL) and temperature (not outside the range of 32°C – 38°C) of the specimen. The collector shall also inspect the specimen to determine if there is any sign indicating that the specimen may be invalid.

Screening Test

7. The collector shall perform the screening test in front of the student and the project officer. The collector shall use a new dropper to extract an appropriate amount of specimen for screening test kit.
8. If the screening test returns a positive result, another screening test on the same urine specimen using a urine test kit of a different brand will be conducted.
9. If both screening tests return positive results, the collector will then affix security seal to the remaining specimen for confirmatory testing and initial a specimen delivery record for the purpose of certifying that it is the specimen collected from the concerned student. A specimen code will be attached to the specimen container. No personal identifier will be attached to the specimen in order to ensure confidentiality and privacy. The specimen will be sent to the Government Laboratory by the collector.
10. Nonessential specimens will be disposed of into the sewer properly and immediately.

APPENDIX 4 BRIEF ON PERSONAL DATA (PRIVACY) ORDINANCE

Objectives

The purpose of the Ordinance is to protect the privacy interests of living individuals in relation to personal data. It also contributes to Hong Kong's continued economic well being by safeguarding the free flow of personal data to Hong Kong from restrictions by countries that already have data protection laws.

Scope of Coverage

The Ordinance covers any data relating directly or indirectly to a living individual (data subject), from which it is practicable to ascertain the identity of the individual and which are in a form in which access or processing is practicable. It applies to any person (data user) that controls the collection, holding, processing or use of personal data.

Data Protection Principles (DPP)

Principle 1 (DPP 1) – **Purpose and manner of collection.** This provides for the lawful and fair collection of personal data and sets out the information a data user must give to a data subject when collecting personal data from that subject.

Principle 2 (DPP 2) – **Accuracy and duration of retention.** This provides that personal data should be accurate, up-to-date and kept no longer than necessary.

Principle 3 (DPP 3) – **Use of personal data.** This provides that unless the data subject gives consent otherwise personal data should be used for the purposes for which they were collected or a directly related purpose.

Principle 4 (DPP 4) – **Security of personal data.** This requires appropriate security measures to be applied to personal data (including data in a form in which access to or processing of the data is not practicable).

Principle 5 (DPP 5) – **Information to be generally available.** This provides for openness by data users about the kinds of personal data they hold and the main purposes for which personal data are used.

Principle 6 (DPP 6) – **Access to personal data.** This provides for data subjects to have rights of access to and correction of their personal data.

The Ordinance (full text) can be downloaded from website of “The Office of the Privacy Commissioner for Personal Data” at

<http://www.pcpd.org.hk/english/ordinance/ordfull.html>.

二〇一〇年十月
October 2010

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Annex 2 - Data Protection Principles

Data Protection Principles

Principle 1 – Purpose and manner of collection of personal data

- (1) Personal data shall not be collected unless-
 - (a) the data are collected for a lawful purpose directly related to a function or activity of the data user who is to use the data;
 - (b) subject to paragraph (c), the collection of the data is necessary for or directly related to that purpose; and
 - (c) the data are adequate but not excessive in relation to that purpose.

- (2) Personal data shall be collected by means which are -
 - (a) lawful; and
 - (b) fair in the circumstances of the case.

- (3) Where the person from whom personal data are or are to be collected is the data subject, all practicable steps shall be taken to ensure that -
 - (a) he is explicitly or implicitly informed, on or before collecting the data, of-
 - (i) whether it is obligatory or voluntary for him to supply the data; and
 - (ii) where it is obligatory for him to supply the data, the consequences for him if he fails to supply the data; and
 - (b) he is explicitly informed-
 - (i) on or before collecting the data, of-

- (A) the purpose (in general or specific terms) for which the data are to be used; and
 - (B) the classes of persons to whom the data may be transferred; and
- (ii) on or before first use of the data for the purpose for which they were collected, of-
- (A) his rights to request access to and to request the correction of the data; and
 - (B) the name and address of the individual to whom any such request may be made,

unless to comply with the provisions of this subsection would be likely to prejudice the purpose for which the data were collected and that purpose is specified in Part VIII of this Ordinance as a purpose in relation to which personal data are exempt from the provisions of data protection principle 6.

Principle 2 – Accuracy and duration of retention of personal data

- (1) All practicable steps shall be taken to ensure that-
- (a) Personal data are accurate having regard to the purpose (including any directly related purpose) for which the personal data are or are to be used;
 - (b) where there are reasonable grounds for believing that personal data are inaccurate having regard to the purpose (including any directly related purpose) for which the data are or are to be used-
 - (i) the data are not used for that purpose unless and until those grounds cease to be applicable to the data, whether by the rectification of the data or otherwise; or
 - (ii) the data are erased;

- (c) where it is practicable in all the circumstances of the case to know that-
 - (i) personal data disclosed on or after the appointed day to a third party are materially inaccurate having regard to the purpose (including any directly related purpose) for which the data are or are to be used by the third party; and
 - (ii) that data were inaccurate at the time of such disclosure, that the third party-
 - (A) is informed that the data are inaccurate; and
 - (B) is provided with such particulars as will enable the third party to rectify the data having regard to that purpose.
- (2) Personal data shall not be kept longer than is necessary for the fulfillment of the purpose (including any directly related purpose) for which the data are or are to be used.

Principle 3 - Use of personal data

Personal data shall not, without the prescribed consent of the data subject, be used for any purpose other than-

- (a) the purpose for which the data were to be used at the time of the collection of the data; or
- (b) a purpose directly related to the purpose referred to in paragraph (a).

Principle 4 – Security of personal data

All practicable steps shall be taken to ensure that personal data (including data in a form in which access to or processing of the data is not practicable) held by a data user are protected against unauthorized or accidental access, processing,

erasure or other use having particular regard to-

- (a) the kind of data and the harm that could result if any of those things should occur;
- (b) the physical location where the data are stored;
- (c) any security measures incorporated (whether by automated means or otherwise) into any requirement in which the data are stored;
- (d) any measures taken for ensuring the integrity, prudence and competence of persons having access to the data; and
- (e) any measures taken for ensuring the secure transmission of the data.

Principle 5 - Information to be generally available

All practicable steps shall be taken to ensure that a person can-

- (a) ascertain a data user's policies and practices in relation to personal data;
- (b) be informed of the kind of personal data held by a data user;
- (c) be informed of the main purposes for which personal data held by a data user are or are to be used.

Principle 6 – Access to personal data

A data subject shall be entitled to-

- (a) ascertain whether a data user holds personal data of which he is the data subject;
- (b) request access to personal data-
 - (i) within a reasonable time;
 - (ii) at a fee, if any, that is not excessive;

- (iii) in a reasonable manner; and
- (iv) in a form that is intelligible;
- (c) be given reasons if a request referred to in paragraph (b) is refused;
- (d) object to a refusal referred to in paragraph (c);
- (e) request the correction of personal data;
- (f) be given reasons if a request referred to in paragraph (e) is refused; and
- (g) object to a refusal referred to in paragraph (f).

Annex 3 - Questionnaire

Privacy Commissioner for Personal Data Survey on the Inspection of the Personal Data System of The Trial Scheme on School Drug Testing in Tai Po District

This questionnaire is issued by The Office of the Privacy Commissioner for Personal Data for the purpose of gauging information relating to the personal data collection process of The Trial Scheme on School Drug Testing in Tai Po District. The survey is carried out on voluntary basis and the information obtained will remain anonymous. The responses collected will be kept confidential and used for aggregate analysis only.

Please return the completed questionnaire to the Project Officer.

1. Did the members of the drug testing team conduct an interview with you before collection of your urine specimen?

- 1. Yes
- 2. No

2. Did the interview cover the following information:

(a) Purposes of collecting urine specimen

- 1. Yes
- 2. No

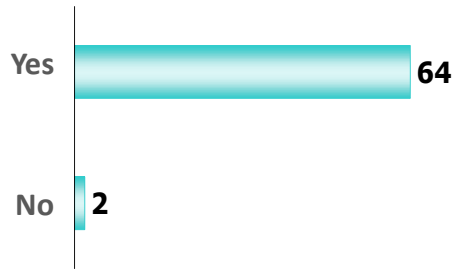
(b) Persons to whom your personal data and drug testing result may be transferred

- 1. Yes
- 2. No

~ Questionnaire completed ~

Annex 4 - Results of the survey

Informed of the purpose of collecting urine specimen



Informed of the classes of personal data transferees



Base : All respondents

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