

立法會
Legislative Council

LC Paper No. CB(2)2112/00-01

(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/00

**Bills Committee on Drug Dependent Persons Treatment
and Rehabilitation Centres (Licensing) Bill**

**Minutes of meeting
held on Monday, 22 January 2001 at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members Present** : Hon Cyd HO Sau-lan (Chairman)
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LAW Chi-kwong, JP
Hon Michael MAK Kwok-fung
Dr Hon LO Wing-lok
Hon IP Kwok-him, JP
- Members Absent** : Hon James TO Kun-sun
Hon Andrew WONG Wang-fat, JP
Dr Hon TANG Siu-tong, JP
- Public Officers Attending** : Ms Mimi LEE
Principal Assistant Secretary for Security (Narcotics)
- Miss Christina CHONG
Assistant Secretary for Security (Narcotics)
- Miss Ann HON
Assistant Director of Social Welfare
- Mrs Lily NG
Senior Social Work Officer

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Ms Brenda LAU
Social Work Officer

Ms Fanny IP
Senior Assistant Law Draftsman

Clerk in Attendance : Ms Doris CHAN
Chief Assistant Secretary (2) 4

Staff in Attendance : Mr LEE Yu-sung
Senior Assistant Legal Adviser

Ms Dora WAI
Senior Assistant Secretary (2) 4

I. Matters arising

At the last meeting held on 15 January 2001, members requested the Administration to consider -

- (a) whether prosecution for offences under the Bill could be taken up by the licensing authority, the Social Welfare Department (SWD), as members were concerned about the Police's access to the personal information of residents or rehabilitated persons for investigation of other crimes; and
- (b) a suitable commencement date of the Bill in order to allow sufficient time for drug treatment and rehabilitation centres (centres) to conduct upgrading works to comply with the future licensing requirements.

2. Senior Assistant Legal Adviser (SALA) invited members to note that the licensing schemes under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) and the Child Care Services Ordinance (Cap. 243) were also administered by SWD. Unlike clause 18(5) of the Bill, there was no provision in the two Ordinances which required any book, document or other article removed from a residential care home for the elderly or a child care centre during an inspection for suspected non-compliance with the licensing requirements to be delivered to the Police.

II. Meeting with the Administration

Prosecution authority for offences under the Bill

3. At the invitation of the Chairman, Principal Assistant Secretary for Security (Narcotics) (PAS(N)) gave a verbal response to the views expressed by members at the last meeting. She apologized for not being able to provide a written response as more time was needed for consultation with departments concerned regarding the viability of SWD assuming the role of prosecutor for offences under the Bill. She explained that the investigation and prosecution of offences under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) were both handled by SWD. Before prosecution, SWD would seek legal advice from the Department of Justice (DJ). If DJ considered that prosecution should proceed, an authorized officer of SWD, who would be a different person from those who investigated the case, would act as prosecutor for the case. For offences under the Child Care Services Ordinance (Cap. 243), SWD would conduct the investigation of the case and the prosecution would be taken up by DJ. In both cases, the Police was not involved in the investigation and prosecution processes except when resistance was encountered or anticipated.

4. PAS(N) said that DJ's advice was being sought as to whether the prevailing arrangements under Cap. 459 and Cap. 243 could be applicable to the Bill. In addition, the Administration would need to consider the manpower implications and the training requirement if SWD was to take up investigation and prosecution work. The Administration would advise members of the outcome of its deliberation in writing as soon as the above issues were resolved.

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Estimated costs and funding for upgrading works to be carried out by centres (LC Paper No. CB(2)662/00-01(04))

5. PAS(N) informed members that an initial estimate of the funding required to carry out building and fire safety upgrading works for 13 drug treatment and rehabilitation agencies operating in 40 locations with approximately 180 premises was around \$104 million. The 180 premises included containers and small-scale buildings such as detached bathrooms or washrooms of stone or wooden structures. She also briefed members on the nature, the amount of funding available and the application procedure of the various charitable funds as introduced in the Administration's paper.

6. Mr Michael MAK enquired how the agencies would be assisted in preparing their funding applications in order to increase their chance of success. He also asked whether the Administration would assume a coordination role so that the applications would be submitted evenly to various charitable funds according to the nature and the need of different agencies.

7. PAS(N) said that the Administration considered it more appropriate for agencies to make their own choice on the source of funding. She said that agencies had all along been advised and consulted on the various arrangements proposed under the Bill.

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They were given much assistance in respect of preparation of their funding applications. For example, a list of charitable funds available to provide financial assistance to agencies as well as application forms with relevant guidelines had been given to some 20 agencies in 1998. More detailed information about the licensing and funding requirements would be conveyed to agencies through seminars and telephone enquiry hotlines. Furthermore, a list of authorized persons who were able to give professional advice to agencies on building and fire safety matters would be available at the DrugInfo Centre with a view to facilitating agencies to identify the upgrading works required under the new licensing scheme.

8. PAS(N) said that all applications received by charitable funds such as Lotteries Fund, Beat Drugs Fund, Chinese Permanent Cemeteries Fund, The Hong Kong Jockey Club Charities Trust and so forth had to undergo an official assessment process. The charitable funds would seek the relevant government departments' views on whether the applications were in order and reasonable. She stressed that there was no guarantee that all applications would be approved. However, such applications would be favourably considered provided the proposals submitted were reasonable and viable. She added that special arrangement would be made to exempt some agencies, on grounds of their Christian faith, from making acknowledgement to those charitable funds, the income of which was derived from the betting business.

9. In reply to Mr LAW Chi-kwong, PAS(N) said that the Administration considered the proposal to delay the commencement of penal provisions after the passage of the Bill undesirable. Instead, it inclined to work out a suitable commencement date for the Bill. The commencement order would be a subsidiary legislation subject to the Council's scrutiny. She stressed that the Administration would consider the views of agencies and would take into account various factors like the readiness of centres before finalizing its proposal on the commencement date.

10. The Chairman pointed out members' concern that there might be insufficient funds for all agencies to carry out the required upgrading works within the grace period, particularly those which did not wish to apply for funds acquired from the betting business due to Christian faith.

11. PAS(N) noted the concern of members. She said that the situation was not alarming as there were only 13 agencies and not all the 180 premises would require upgrading work. Assistant Director of Social Welfare said that among the 13 agencies, three of the four subvented by the Government had indicated that they would apply for Lotteries Fund. As regards those agencies not subvented by the Government, only one had indicated that it would not apply for Lotteries Fund, five were still considering the matter while the rest had confirmed that they would apply for it. She added that the agency operating the largest centre, which was required to undertake a lot of upgrading works, would also apply for Lotteries Fund. In view of the current situation, there should be sufficient funds to cover the needs of all agencies.

12. In reply to Mr IP Kwok-him, PAS(N) said that the Administration was not

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aware of any new agency coming on stream before the enactment of the Bill. There might possibly be some which would become interested in providing drug treatment and rehabilitation services if there was a licensing system. Currently, only the Society for the Aid and Rehabilitation of Drug Abusers and Caritas Wong Yiu Nam Centre were operating with a licence under the Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326).

13. The Chairman suggested and members agreed that the two issues of prosecution authority and commencement date of the Bill would be further discussed at the next meeting when the Administration's written responses would be available.

III. Date of next meeting

14. Members agreed to meet again on 5 February 2001 at 4:30 pm.

15. There being no other business. The meeting ended at 11:45 am.

Legislative Council Secretariat
17 July 2001