

**Drug Dependent Persons Treatment
and Rehabilitation Centres (Licensing) Bill
Administration's Response to Views expressed by Drug
Treatment and Rehabilitation Agencies
at the Bills Committee on 29 November 2000**

At the Bills Committee on the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill (the Bill) on 29 November 2000, a number of views were expressed by drug treatment and rehabilitation agencies on the Bill. The Administration had responded to some of them at the meeting. For the remaining points to which the Administration had not responded due to the lack of time, written comments are appended below.

Multi-modality approach to drug treatment and rehabilitation

2. Some agencies were of the view that the Bill would unify the existing multi-modality approach to drug treatment services. It needs to be emphasized that "multi-modality approach" refers to the various modalities currently offered, including a compulsory placement scheme operated by the Correctional Services Department, methadone maintenance and detoxification programmes provided by the Department of Health, outreach services provided by social services agencies as well as Substance Abuse Clinics provided by the Hospital Authority. The voluntary residential treatment and rehabilitation service proposed to be regulated under the Bill is only one of the various modalities provided. While the Bill aims to enhance the safety standard of accommodation and safeguard the well-being of residents, the autonomy of such agencies will by no means be affected and agencies will still be free to decide their service delivery modes. This has already been fully discussed during the consultation period of the Bill and agreed by various agencies.

Exemption

3. We clarify that after the Bill becomes an ordinance ("the Ordinance"), the Director of Social Welfare ("the Director") will base on the licensing provisions in the Ordinance to issue location-based licences or certificates of exemption to suitable applicants. In other words, if an agency has treatment centres at three different locations, it has to obtain licences or exemption certificates for all these three centres.

Technical support for NGOs to meet licensing requirements

4. The licensing mechanism will formally start to operate after the enactment of the Bill. As the licensing authority, the Social Welfare Department (the Department) will coordinate with other concerned departments such as the Buildings Department (BD) and Fire Services Department (FSD) on all matters relating to applications for licences or certificates of exemption. Upon receiving an application, the Department will, among other things, make referrals to BD and FSD for assessment regarding the building and fire safety requirements, before deciding whether to issue a licence or certificate of exemption. Upon receipt of the referrals, BD and FSD will advise the applicant of the building and fire safety requirements.

5. Non-government organisations may apply for the Lotteries Fund to cover the expenses of upgrading works including fees for Authorized Persons/consultants as situation may warrant. They are advised to consult the Department for information and guidance.

Code of Practice

6. The Code of Practice aims to provide guidance to treatment agencies on certain parts of the Ordinance, and aspects concerning practical issues as requested by agencies but are not covered by the Ordinance (e.g. possible measures to ensure a drug-free environment in the centres). Currently, the Code is still at its drafting stage and the Department has twice consulted the concerned agencies. In the coming few months, the Department will keep in close contact with the agencies to jointly discuss the details of the Code. In respect of the time frame, as one of the objectives of the Code is to explain certain parts of the Ordinance, the Code will only be finalized upon the passage of the Bill and the amendments concerned.

7. Individual agencies have expressed concern on the draft Code in respect of manpower deployment when conducting outdoor activities for residents, and training of staff in first aid, etc. According to the Social Welfare Department, that part of the Code aims to advise agencies to set safety guidelines for organising outdoor activities for residents. When setting such guidelines, due consideration should be given to various factors including manpower. Further, the Code has not stipulated rigid requirements for all staff to be trained in first-aid skills. The Department will duly take into account the views of agencies when revising the draft Code.

8. Apart from the above, the coverage and requirements in the draft Code are not equivalent to the Service Quality Standards required for the Department and subvented service units. In the draft Code, attention is drawn to, apart from building and fire safety requirements, some essential topics of management concern such as admission and discharge procedures, planning of service programmes, protection of clients' rights and proper record keeping, etc.

Appeal mechanism

9. As mentioned in our written response to the Legislative Council on 15 November, one of the major objectives of the Bill is to protect the well-being of the residents. To meet this objective, the Department as the licensing authority would need to respond quickly if interests of these residents or the public are at stake. In view of this, if the appeal mechanism applies to every power given to the Director, undue delay will be resulted for the agencies concerned in carrying out the directions, thus defeating the objective of the Bill. In fact, during actual implementation, if the Department finds that directions are needed for an agency to rectify certain irregularities, it will ensure adequate prior communication with the agency through notice or warning before taking further action.

10. As to whether the power given to the Director under the Bill is excessive, it is considered that the appeal mechanism has provided adequate checks and balances whereas the objectives and scope of the Bill itself have delimited the Director's authority.

Penalty

11. We do not consider the penalties set out in the Bill heavier than those in similar ordinances. It is proposed in the Bill that operating a drug treatment and rehabilitation centre without licence will be liable to a maximum penalty of a fine of \$100,000 and imprisonment for 6 months. On subsequent conviction, offenders are liable to a maximum penalty of a fine of \$100,000 and imprisonment for one year. Similar offences under the Residential Care Homes (Elderly Persons) Ordinance (Cap 459) and the Child Care Services Ordinance (Cap 243) are liable to a maximum penalty of a fine of \$100,000 and imprisonment for 2 years. The Bill also proposes that the maximum penalty for a person who takes part in the management of an unlicensed treatment and rehabilitation centre is a fine of \$10,000, whereas similar offences under Residential Care Homes (Elderly Persons) Ordinance and Child Care Services Ordinance are liable to a maximum penalty of a fine of \$100,000 and imprisonment for two years.

Staff training

12. It is considered not appropriate for the Bill to regulate staff training although we encourage agencies to arrange staff to receive training. Currently, the Social Welfare Department provides in-service training for frontline workers while the Beat Drugs Fund offers financial support to staff training programmes. The Drug Liaison Committee, chaired by the Commissioner for Narcotics and represented by 20 agencies in the treatment and rehabilitation field, meets periodically to discuss issues concerning drug prevention and treatment as well as the latest trend in drug abuse and countermeasures. Furthermore, the Government Laboratory has recently strengthened its communication with frontline workers in the anti-drug field and enhances their knowledge about drugs by issuing periodically data analysis on seized drugs.

Should drug treatment centres be designated as “restricted areas”?

13. Trespassing on a private area renders the trespasser liable for civil liability under the law of Hong Kong. In view of this, we do not consider it necessary to subject a trespasser on a drug treatment centre to criminal liability. Moreover, it has been Government policy to encourage drug dependent persons or rehabilitated addicts to reintegrate into the society, to break the gap between the centre and the outside world in order to enhance social acceptance of these persons. To designate a treatment centre as a “restricted area” through legislation is both unnecessary and in contradiction to the intent to demystify treatment centres.

Objectives of the Bill and whether it contravenes other ordinances

14. Some agencies suggested that the Bill could not increase the “success rate” of drug treatment. We wish to reiterate that increasing the success rate of drug treatment is not a direct objective of the Bill. The three direct objectives of the Bill are as follows:

- (a) to raise the standard of the premises of the treatment centres and their services;
- (b) to ensure that the patients will receive services in a properly managed and safe environment, so that their well-being will be protected; and
- (c) to enable the Government to keep a register on all voluntary residential treatment and rehabilitation centres.

15. We do not consider that the Bill is inconsistent with other ordinances related to drug treatment and rehabilitation, such as the Drug Addiction Treatment

Centres Ordinance (Cap. 244) and the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), as they vary in objectives, targets and scope of regulation. The Bill, once enacted, will replace the existing but obsolete Drug Addicts Treatment and Rehabilitation Ordinance (Cap. 326). Thus, neither will it be inconsistent with the latter.

Assistance given by Government to Christian Zheng Sheng Association

16. The Christian Zheng Sheng Association (Zheng Sheng) claimed that it had requested the Government for resources to improve the environment of its centre several years ago but to no avail. We consider this claim inaccurate and misleading.

17. Since 1996, Zheng Sheng asked Government to assist in several aspects, including identifying a site for establishing a half-way house for drug patients, building a pier, providing toilets and refuse collection point etc. The Government had rendered assistance and met all the above requests in 1996 and 1997. In 1996, Zheng Sheng also verbally asked for a site to relocate its treatment centre in Kam Tin. The departments concerned have followed up the case but some identified sites were objected by local residents. In 1997, we understood that the lease of the site used by the treatment centre in Kam Tin had been renewed, and Zheng Sheng had not sought further assistance from Government for relocation.

18. The withdrawal of financial support of \$1.15 million granted by the Beat Drugs Fund to Zheng Sheng in October 1996 was due to Zheng Sheng's failure to commence its pledged project after the grant was approved, despite the fact that the Fund's rule stipulates that approved project should commence in nine months after the grant, and that the Fund had approved Zheng Sheng's application for deferment once. As a result, the Beat Drugs Fund Association withdrew the grant in accordance with its regulation in order that the fund would be reallocated to other needy agencies. The Fund had explained to Zheng Sheng that it might apply for the Fund again at a suitable juncture when it had resolved the various issues of its proposed project.

Security Bureau
12 December 2000