

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

**Administration's Response to the Submissions by
the Hong Kong Council of Social Service and the DACARS, Limited**

Both the Hong Kong Council of Social Service (HKCSS) and the DACARS, Limited (DACARS) wrote to the Clerk to the Bills Committee on 13 February 2001 to make further comments on the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill (the Bill) and the Administration's response to views expressed by drug treatment and rehabilitation agencies. As the two letters are similar in content and the Administration has already responded to many of the views on various occasions (including the Bills Committee meeting held on 29 November 2000 and subsequent written responses), the Administration shall address the issues raised in both submission by HKCSS and DACARS in this paper.

Interpretation of the Bill

2. The Bill specifies that any place used or intended to be used for the treatment for drug dependence, or for the rehabilitation of four or more drug dependent persons undergoing such treatment or rehabilitation on a voluntary basis and for providing residential accommodation for such persons undergoing treatment for drug dependence, and undergoing rehabilitation, at that place must apply to the licensing authority for a licence or certificate of exemption. Hotels or guesthouses, will not be affected as they only provide accommodation but not treatment services. By the same token, landlords of leased premises used for accommodation purpose but do not provide treatment service will not be required to apply for licences. However, if both accommodation and drug treatment and rehabilitation services are provided for four or more drug dependent persons in the premises, the provider of such services must apply for a licence.

3. As for "drug dependent person", section 2 of the Bill clearly stipulates that such person refers to one who:

“(a) is suffering from the psychophysical state in which the usual or increasing doses of a dangerous drug (as defined in the Dangerous Drugs Ordinance (Cap. 134)) or a specified substance are required to prevent the onset of withdrawal symptoms; or

(b) has completed treatment for drug dependence and is undergoing rehabilitation at a treatment centre”

These dangerous drugs and specified substances referred to under the definition are substances which may very likely be abused or proven to have been abused. As such, the Administration does not think that the coverage of the definition will be so wide as to cover an ordinary renovation worker, chemical worker or petrol filling station worker. As patients who need to take drugs on a long-term basis are doing that for treating a particular disease and not for preventing the onset of withdrawal symptoms, they will not be considered as drug dependent persons.

Exemption of the Hospital Authority

4. The Administration already responded in writing to this comment on 15 November 2000. As the treatment centres managed and controlled by the Hospital Authority are already regulated, the Bill is not applicable to those centres. However, all other centres that fall within the definition of “treatment centre” of the Bill will be governed by the Bill. The Administration considers that this serves to avoid unnecessary overlap of regulatory control.

Multi-modality approach to drug treatment and rehabilitation

5. The Administration has always emphasized the need to provide multi-modal drug treatment and rehabilitation services to cater for people of varying backgrounds. It also recognizes the importance of voluntary residential treatment and rehabilitation services. It is certain that the Bill will not change the policy of providing a multi-modality of services to drug dependent persons, but rather enhance the public acceptability of voluntary residential treatment and rehabilitation services.

Code of Practice

6. As the Administration pointed out a number of times, the Social Welfare Department is drafting the Code of Practice after having consulted the affected agencies through various channels. The revised Code of Practice will be finalized upon further consultation with the agencies.

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

7. The Administration has responded to these views many times. HKCSS proposed that the Bill should retain the powers given to a drug treatment centre

under the Drug Addicts Treatment and Rehabilitation Regulations (the Regulations), including a superintendent's power to refuse any visit to a patient, refuse/permit a patient to receive phone calls, censor a patient's letters, confiscate any unauthorized articles found in the possession of a patient and prohibit anybody without lawful authority or excuse from entering the centre. As explained to HKCSS on many occasions, such a proposal is not appropriate. First, the Regulations are only applicable to the drug treatment centres declared under the Declaration of Addiction Treatment Centre (Consolidation) Order. The Regulations were made on the basis that the declared centres operate on the basis of detention. As drug dependent persons now undergo treatment voluntarily, there is no need for the centres to retain such powers. In addition, a much larger number of centres which are not declared under the Regulations have been operating smoothly without these statutory powers. Furthermore, some of these powers may contravene the Basic Law and the International Covenant on Civil and Political Rights by today's standards. It is therefore inappropriate to give such powers to the centres under the Bill.

8. Trespassing on a private area renders the trespasser liable for civil liability under the laws of Hong Kong. In view of this, the Administration does not consider it necessary to subject a trespasser on a drug treatment centre to criminal liability. Moreover, it has been the Government policy to encourage drug dependent persons or rehabilitated addicts to reintegrate into the society, and to break down the barrier separating the centres 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 unnecessary and defeats the purpose of unveiling the mystery of treatment centres.

9. Nonetheless, we fully appreciate the concern of the agencies, which were expressed during the consultation on the proposed Bill. We agree that for effective management, a centre needs to ensure that its premises are free from illicit drugs and any other undesirable external influences on the inmates. In view of this, the Social Welfare Department will stipulate feasible guidelines in the Code of Practice to be issued under clause 25 of the Bill, to enable centres to lay down practicable and reasonable rules in order to achieve the same purpose. If an inmate's rights may be affected by the rules, the centre should explain to the inmate and obtain his consent before implementation.

Appeal mechanism

10. We have to reiterate that the main objective of the Bill is to protect the interests of the inmates. The Director of Social Welfare as the licensing authority must be able to respond promptly whenever the interests of the inmates or the public are affected. If the Director's powers are subject to an appeal

mechanism under the Bill, implementation of the directions by the agencies concerned will be delayed, thus directly affecting the interests of the inmates and defeating the purpose of the Bill. In actual implementation, if the Department finds that directions are needed for an agency to rectify deficiencies, it will ensure that there is adequate communication with the agency concerned by issuing notice or warning before further action is taken.

Confidentiality of information

11. The Administration has responded to this point on many occasions. The Administration reiterates that the Bill has afforded adequate protection for inmates' personal data. The Administration has also agreed to delete the clause requiring the Social Welfare Department to deliver the information obtained from treatment centres to the Police, thus offering greater protection for inmates' personal data.

Conclusion

12. The Administration has conducted many consultations on the proposals of the Bill, including a six-month public consultation exercise (more than 20 submissions were received during the period), discussion at more than ten meetings of the Action Committee Against Narcotics (ACAN) and its Subcommittee on Treatment and Rehabilitation as well as the Drug Liaison Committee, meetings with relevant agencies and groups and consultation with the Legislative Council Panel on Security and District Boards. Since the time of the public consultation, the entire proposal has taken almost two years to deliberate before it was introduced in the Legislative Council in the form of a Bill in 2000. The consultation exercise is therefore extensive, and the Administration has been keeping an open mind throughout its discussions with the agencies concerned.

Security Bureau
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