



5 May 2008

Our ref. 本署檔號 : ( 15 ) in DH CR/4-35/2C Pt 3  
Your ref. 來函檔號 : CB(3)/PAC/R50

Ms Miranda HON,  
Clerk, Public Accounts Committee,  
Legislative Council Building,  
8 Jackson Road,  
Central, Hong Kong

Dear Ms Hon,

**The Director of Audit's Report on the  
Results of value for money audits (Report No. 50)**

**Chapter 5: The Society for the Aid and Rehabilitation  
of Drug Abusers (SARDA)**

Thank you for your letter of 30 April 2008. I would respond to your requests for information under three headings: (a) Role and responsibilities of Government representatives (GR) on the Executive Committee of SARDA (EC); (b) Department of Health (DH) exercising its Controlling Officer role; and (c) Voting rights of GR in the EC.

Role and responsibilities of GR on the EC

2. GR sit on the EC as observers. My representative advises SARDA on matters relating to the treatment and rehabilitation of drug addicts and on general administration of SARDA. He keeps himself abreast of developments in SARDA which would assist DH in exercising its Controlling Officer role.

3. As explained in paras 6-8 below, GR are not full EC members with voting rights. The lack of voting rights does not hamper in any way our efforts in exercising our Controlling Officer role as illustrated in paras 4-5 below.

**Department of Health**  
Wu Chung House, 21st Floor,  
213 Queen's Road East,  
Wan Chai, Hong Kong.  
Telephone: 2961 8888  
Fax: 2836 0071

**衛生署**  
香港灣仔皇后大道東 213 號胡忠大廈 21 樓  
電話 : 2961 8888  
圖文傳真 : 2836 0071

#### DH exercising its Controlling Officer role

4. An example of how we exercise the Controlling Officer role may be found in the case of extension of service of the Executive Director of SARDA (ED). The major sequence of events is set out below:

- 23.10.2006 The “extension of service” issue was discussed at the 276<sup>th</sup> EC meeting under “Any Other Business”. The DH representative specifically advised the EC that as Controlling Officer of the subvention to SARDA and from good governance point of view, it was not unreasonable to require SARDA to seek DH’s approval with regard to appointment matters concerning the ED post, which was the top post in the Society. In the event, the EC decided to invite Mr Pi to continue in the post for a period of two years ..... Should Mr Pi accept, the decision would be forwarded to DH for endorsement. Follow-up action therefore lied with SARDA, not DH.
- 8.11.2006 SARDA issued draft minutes of meeting.
- 10.11.2006 In the covering letter proposing amendments to the draft minutes (copy attached as requested), DH enquired about why an offer of extension of service had been made to and accepted by Mr Pi before submission of the proposed arrangement to DH for endorsement.
- 16.11.2006 In a further letter signed by the then Deputy Director, DH specifically requested, inter alia, SARDA to initiate an open recruitment exercise for the ED post.

5. In the event, SARDA accepted DH’s direction to conduct an open recruitment exercise for the ED post. The exercise was initiated in March 2007.

#### Voting rights of GR in the EC

6. The Chairman of SARDA is now of the view that GR are full EC members with voting rights by virtue of (a) article 18 of its Constitution that those present at an EC meeting may vote, (b) the provision in the Notes for Guidance (paragraph 8) that “*the Director has the right to be formally represented on executive committees (also known as medical committees) of subvented organizations .....*”, and (c) the composition of the EC as defined in article 14(a) of its Constitution as follows:

*"There shall be an EC consisting of the Officers (other than the Trustees) and not more than 16 other members of the Society excluding official Government representatives, ex-officio members and co-opted members."*

7. We submit that the two articles quoted in para 6 above are open to interpretation. Furthermore, the Chairman of SARDA has ignored the very important fact that SARDA has never in practice regarded GR as full EC members with voting rights as illustrated below :

- (a) while GR are invited to attend the EC meeting held immediately after an AGM, they are not provided nomination forms nor voting forms for electing Officers under articles 11 and 12 (a). As the election of Officers is an annual exercise, it is clear that SARDA has never regarded GR as full EC members with voting rights;
- (b) the normal rules for recording voting results is to spell out the number of votes for a motion, the number against and the number abstained. In para 14 of the minutes of the 276<sup>th</sup> EC meeting held on 23 October 2006, 14 votes (6 votes for, 7 against and one abstained) were recorded. In this respect, I would refer you to para 4 of the Chairman's letter dated 21 April 2008 (see Appendix B attached to SARDA's letter of 2 May 2008 to PAC). It is manifestly clear that SARDA did not consider GR as full EC members with voting rights; and
- (c) on 18 December 2006, the ED submitted a paper to the Chairman and all EC members of SARDA, at the request of the Chairman. He did not give a copy of the paper to DH. This is a clear indication that the ED did not consider GR full EC members with voting rights. Then, at the 279<sup>th</sup> EC meeting held on 26 February 2007, some EC members queried whether the copy of paper which DH received through the post from an unidentifiable source was the "true" version. Despite DH's request at the meeting, and also separately after the meeting, for a copy of the paper, the Chairman of SARDA refused to provide the same. The inference is that neither the ED, the EC nor the Chairman regards GR as full EC members with voting rights.

8. It is manifestly clear from the above analysis that GR are not full EC members with voting rights. GR attend EC meetings as observers in accordance with article 27(a) of the Constitution of SARDA.

9. Finally, I would take the opportunity to clarify the position of DH if GR were full EC member with voting rights. The manner which DH would exercise voting rights would depend on the nature of matters under consideration. In the example quoted in para 4 above, we would vote against the motion to extend the service of the ED. On the other hand, we would reserve our position and abstain from voting on the proposed budget of SARDA. This is because as Controlling Officer, DH has to carefully scrutinise SARDA's submission. Furthermore, we could not pre-empt the outcome of the Government Resource Allocation system.

Yours sincerely



( Dr PY LAM )  
Director of Health

cc Secretary for Security  
Commissioner for Narcotics  
Executive Director of SARDA  
Director of Social Welfare  
Secretary for Financial Services and the Treasury  
Director of Audit

香港特別行政區政府  
衛生署  
香港灣仔皇后大道東213號  
胡忠大廈17及21樓



THE GOVERNMENT OF THE HONG KONG  
SPECIAL ADMINISTRATIVE REGION  
DEPARTMENT OF HEALTH,  
WU CHUNG HOUSE, 17TH & 21ST FLOORS,  
213 QUEEN'S ROAD EAST, WAN CHAI,  
HONG KONG.

本署檔號 OUR REF.: DHHQ/1060/3/22 Pt.10  
來函檔號 YOUR REF.: ADM 055/17 IV  
電 話 TEL.: 2961 8688  
圖文傳真 FAX.: 2838 0744

10 November 2006

Mrs Shirley Leung  
Secretary, Executive Committee  
The Society for the Aid and  
Rehabilitation of Drug Abusers  
(Fax no.: 2865 2056)

Dear Mrs Leung,


#### Minutes of Executive Committee

Thank you for your letter of 8 November 2006 enclosing the copy of the minutes of the 276<sup>th</sup> meeting of SARDA's Executive Committee held on 23 October 2006, which would have to be confirmed at the next meeting scheduled for 4 December 2006.

I refer to paragraph 13 and 14 of the minutes of the meeting on the Executive Director's post. To properly reflect the deliberations in the meeting, I attach my proposed amendments to paragraph 13 for your necessary action.

The meeting explicitly noted that the proposed extension of service of Mr Pi as Executive Director required the approval/endorsement of DH. SARDA has yet to put a case for DH's consideration on why no other candidates are suitable. I should be grateful for your explanation on why an offer of a 2-year extension from 1 March 2007 to 28 February 2009 has already been made to Mr Pi and accepted by him in writing before submission of the proposed arrangement to DH.

*\*Note by Clerk, PAC: Proposed amendments to paragraph 13 of the minutes of meeting not attached.*

Yours sincerely,  
  
(Ms Jersey YUEN)  
for Director of Health

c.c. Commissioner for Narcotics (Attn: Ms Joanne Wong)  
– fax : 2810 1773

*We are committed to providing quality client-oriented service*