

## **A. Introduction**

The Audit Commission (Audit) conducted a review to examine the economy, efficiency and effectiveness in the administration of The Society for the Aid and Rehabilitation of Drug Abusers (SARDA). The review focused on the following areas:

- management and control of government subvention;
- corporate governance;
- strategic management;
- staff recruitment;
- financial control and cash management;
- procurement and stores management; and
- performance measurement and reporting.

2. **Hon Ambrose LEE Siu-kwong, Secretary for Security**, made an opening statement at the Committee's public hearing. The full text of his statement is in *Appendix 11*. In gist, he said that:

- to provide a platform for drug treatment agencies to develop complementing strategies in the light of the latest drug abuse situation, and facilitate appropriate allocation of resources and re-engineering of services by the Government, the Security Bureau drew up the Plan on Drug Treatment and Rehabilitation (T&R) Services in Hong Kong every three years. The Plan mapped out the strategies and future direction which T&R services in Hong Kong should take and the formulation of the Plan was in itself a consensus building process among various stakeholders. The next Three-year Plan would cover 2009 to 2011. The Narcotics Division (ND) would continue to take a leading and coordinating role in preparing the Plan and overseeing its implementation;
- the Security Bureau would continue to keep a close watch over the situation to make appropriate allocation of resources, notably through the preparation and implementation of the Three-year Plan to reinvigorate its efforts in the coordination and training of anti-drug personnel. Controlling Officers would also hold discussions with subvented agencies on updating their drug treatment programmes and performance targets as appropriate;

- SARDA, established in 1961, was a pioneer in providing T&R services for drug abusers in the territory, and was also one of the key partners of the Security Bureau. Over the years, SARDA had provided services to tens of thousands of drug abusers by helping them to abstain from drugs, make up with their families, start a new life and re-integrate into society. The contribution of SARDA in the provision of drug T&R services in Hong Kong was beyond doubt;
- although the local drug scene was changing with the number of heroin abusers dropping and the number of psychotropic substance abusers on the rise, there still remained a considerable number of heroin abusers. At present, SARDA provided a range of services which included operating four residential T&R centres, five halfway houses, four social service centres and one out-patient clinic, and providing counselling services to patients of methadone clinics operated by the Department of Health (DH). All these showed that SARDA continued to play a key role in providing T&R services for drug abusers, in particular heroin abusers, in Hong Kong;
- in recent years, SARDA had been actively venturing new services. These included the Jockey Club Anti-Drug Preventive Education Centre project in Shek Kwu Chau, which aimed at raising the awareness of visitors on the drug abuse problem, the harmful effects of drugs and the importance of developing a positive and healthy lifestyle. SARDA had also proposed to establish a Centre for Anti-drug Education and Disciplinary Training (CAEDT). In this connection, the Security Bureau had maintained close liaison with SARDA, and were examining with the DH the latest proposal submitted by SARDA in January 2008 with a view to arriving at an early decision; and
- the Security Bureau had accepted the audit recommendations and would continue to coordinate and promote the efforts of the DH and SARDA in following up these recommendations, with a view to improving the services and the administrative management of SARDA. The DH also aimed at concluding a funding and service agreement (FSA) with SARDA in 2008-2009.

## **B. Management and control of government subvention**

3. According to paragraph 2.8 of the Director of Audit's Report (Audit Report), there had been prolonged discussions and arguments ("disputes") between SARDA and the DH on a number of occasions in the past few years, mainly about the legitimacy of the DH's authority in giving directions to SARDA on administrative matters. One of the major disputes concerned the extension of service of the Executive Director (ED) of SARDA, beyond the retirement age of 60, in late 2006.

4. At the Committee's request, SARDA provided the relevant minutes of its Executive Committee (EC) meetings relating to the extension of service of the ED. The Committee noted from the minutes that at the 276<sup>th</sup> EC meeting held on 23 October 2006, members of the EC decided that "on account of Mr PI's (*i.e. the ED*) very good performance, resourcefulness and initiative, he should be invited to continue in the post of ED for a period of two years...Should Mr PI accept, the decision will be forwarded to DH for endorsement." There was also a post-meeting note indicating that "Mr PI has accepted in writing the offer of a 2-year extension from 1 March 2007 to 28 February 2009". The Committee asked:

- why SARDA did not conduct an open recruitment exercise for the post of ED and had proceeded to offer an extension of service to the ED before seeking endorsement from the DH;
- about the DH's position on and the normal mechanism for the extension of service of the ED beyond retirement age; and
- whether this dispute had been resolved and how recurrence of similar problems could be avoided in future.

5. **Mr Kenneth HO, Chairman of the EC of SARDA and Mr Alfred CHEUNG, Member of the EC of SARDA**, said that:

- the EC was in favour of extending the ED's service beyond the retirement age of 60 as the ED's past service had been highly commendable and that important projects, such as the proposed CAEDT, might be implemented in the coming years. From experience, there was also recruitment difficulty in employing an ED with relevant expertise;
- at the EC meeting held in October 2006, members of the EC had enquired whether there was any statutory requirement or standing instruction requiring the extension of service of the ED to be approved by the Director of Health. The DH representative replied in the negative. A member of the EC (the immediate past Chairman of the EC) also said that according to past practice, endorsement by the DH for renewal of employment contract was granted automatically subject to medical fitness of the staff concerned. Given that there was no written rule or guideline specifying that open recruitment or government approval was required, the EC considered that they had the legitimate right to decide on the extension of the ED's service;
- it was the EC's understanding that if the ED accepted SARDA's invitation for extension of service, the appointment would automatically be endorsed by the DH (*i.e.* approval by the DH was not required);

- since representatives from the DH and the ND were present at the meeting and fully aware of the resolution of the EC, SARDA assumed that if the government representatives had any objection to this arrangement, they would have raised their concerns at the meeting or soon after the meeting. SARDA had also waited for 14 days after the meeting to see if the DH had any other views before following up the EC's resolution to offer a two-year extension of service to the ED. However, after the ED had accepted the offer, the DH raised objection to the extension of service and directed that an open recruitment exercise be conducted. SARDA then faced a dilemma as an employment contract had already been signed with the ED;
- after lengthy discussions at the EC meetings and with the DH, SARDA decided to follow the DH's advice to conduct an open recruitment exercise for the post. The first recruitment exercise was carried out in March 2007 but no suitable candidate was found. The second recruitment exercise was in progress and should be completed soon; and
- with hindsight, this problem was caused by insufficient communication and different understanding between the DH and SARDA. For SARDA, it could have handled the matter better by re-confirming the appropriate arrangement with the Director of Health or the responsible DH staff before proceeding to offer the extension of service to the ED. All the "disputes" between SARDA and the DH were over and resolved. In future, the establishment of an FSA between SARDA and the DH would help avoid potential disputes, and SARDA welcomed such an agreement to be made.

6. **Dr LAM Ping-yan, Director of Health**, said at the public hearing and in his letter of 5 May 2008 in *Appendix 12* that:

- the DH understood that SARDA wished to retain the service of the serving ED and it would like to enjoy more autonomy in staffing matters. The DH did not intend to micro-manage SARDA. However, as the Controlling Officer of the government subvention to SARDA, he had to ensure that there was a succession plan for the organisation, and that the recruitment of the most senior staff in a sizable organisation was conducted in an open, fair and transparent manner. The serving ED could also apply for the post in an open recruitment exercise in competition with other candidates. In short, SARDA needed to justify why no other candidates were suitable for the post and why the ED should be offered an extension of service beyond the normal retirement age of 60;
- at the EC meeting held on 23 October 2006 when the issue was discussed under the agenda item of "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 the DH's approval with regard to appointment matters concerning the post of ED, which was the top post in the Society. In the event, the EC decided to invite the ED to continue in the post for a period of two years and, should the ED accept, the decision would be forwarded to the DH for endorsement. Follow-up action therefore lay with SARDA, not the DH;

- after noting the draft minutes of the above meeting issued by SARDA on 8 November 2006, the DH wrote to SARDA two days later to propose amendments to the draft minutes, and enquired why an offer of extension of service had been made to and accepted by the ED before submission of the proposed arrangement to the DH for endorsement;
- in a further letter dated 16 November 2006 signed by the then Deputy Director of Health, the DH specifically requested, inter alia, SARDA to initiate an open recruitment exercise for the post of ED. In the event, SARDA accepted the DH's direction to conduct an open recruitment exercise, and the exercise was initiated in March 2007; and
- in the past, there might be differences in the perceptions and understanding between SARDA and the DH about the role of the DH in the management and control of SARDA's operation. SARDA, as a non-governmental organisation (NGO), desired greater flexibility in its operation whereas the DH had to exercise proper control to perform its role as the Controlling Officer. A clearly defined regulatory framework would facilitate cooperation between the two parties. The DH would therefore discuss with SARDA the change of funding mode to a lump-sum grant basis and, on this basis, establish an FSA with SARDA in 2008-2009.

7. According to paragraphs 2.6 and 2.7 of the Audit Report, under the revised guidelines (Financial Circular No. 9/2004) on management and control of government subvention promulgated by the Financial Services and the Treasury Bureau (FSTB) in September 2004, Controlling Officers were advised to enter into a Memorandum of Administrative Arrangements (MAA) or a similar instrument (such as an FSA) with each organisation receiving recurrent government funding under their purview. However, Audit noted that, as at February 2008, the DH had still not entered into any such arrangement with SARDA, and continued to use the "Notes for Guidance of Medical (Deficiency) Subvented Organisations" (Notes for Guidance) as the subvention guidelines. The Committee asked:

- why no FSA had been established between the DH and SARDA since the FSTB's promulgation of the revised guidelines more than three years ago; and
- the latest progress and the definite timetable for introducing a new funding mode and establishing an FSA with SARDA.

8. The **Chairman of the EC of SARDA** said that in October 2005, the proposal on changing the funding mode to a lump-sum grant arrangement was raised by the Administration and discussed with SARDA. However, as the change would have a great impact on the more than 200 staff in SARDA, especially their remuneration package, SARDA decided to retain the existing funding mode at that time. As to the establishment of an FSA, SARDA welcomed the arrangement as it would help clearly delineate the respective roles and responsibilities of the Administration and SARDA.

9. The **Director of Health** said at the public hearing and in his letter of 15 May 2008 in *Appendix 13* that:

- the DH had been discussing the establishment of an FSA with other subvented NGOs. When the issue was discussed with SARDA in 2005, SARDA had reservations about the change and resolved to retain the deficiency grant mode of subvention. The DH respected the decision of SARDA and continued to adopt the Notes for Guidance as the subvention guidelines; and
- the DH had followed up with SARDA on the possibility of introducing a lump-sum grant (now commonly called “block grant”) funding mode vide its letter of 28 April 2008, and was awaiting SARDA’s response. The DH’s definite timetable for finalising the matters on funding mode and FSA remained to be the end of March 2009.

10. According to paragraph 2.23 of the Audit Report, another dispute between SARDA and the DH related to the deployment of subvented resources to the Supported Employment Service (SES), which was a non-subvented programme. The SES was operated by the Pui Hong Self-Help Association (PHSHA), an NGO independent of SARDA. SARDA deployed four staff (employed by using the DH’s subvention) to work for the SES. Paragraph 2.26 of the Audit Report also revealed that there were inadequacies in SARDA’s handling of the SES case, i.e. no separate accounting records for resources spent on non-subvented activities, improper maintenance of staff movement records and no framework agreement between SARDA and the PHSHA. The Committee asked:

- why SARDA had deployed government subvention to other non-subvented activities without the DH’s approval and without keeping separate accounting records; and
- whether the DH had put in place any mechanism to monitor SARDA’s compliance with the DH’s subvention guidelines.

11. **Mr Peter PI, ED of SARDA**, stated that:

- the PHSHA was an organisation providing self-help and mutual support for former drug abusers, most of whom had been discharged from SARDA's T&R centres and halfway houses. SARDA considered the services provided by the PHSHA part of SARDA's aftercare and counselling services. Since the PHSHA's establishment in 1967, SARDA had been providing some administrative and accounting support to the PHSHA, and no separate accounting records had been kept; and
- this practice was not identified as a problem in any of the reviews conducted by Audit in 1975 and 1991, and the regular audits conducted by the DH on SARDA. SARDA had therefore continued with such long-established practice, without keeping separate accounting records for the PHSHA's activities.

12. The **Chairman of the EC of SARDA** added that there was sufficient monitoring on SARDA's use of public funds and no question of misusing resources. In fact, one of the SARDA staff deployed to the PHSHA was to assist the PHSHA in performing annual audit. Although no separate accounting records were kept for the PHSHA, SARDA's accounts, which included the PHSHA's accounts, had been audited and monitored by the Administration.

13. On the mechanism to monitor compliance with subvention guidelines, the **Director of Health** said at the public hearing and in his letter of 15 May 2008 that:

- the annual external audit and Audit's review basically provided sufficient monitoring on the subvention to SARDA. The DH had requested to inspect the accounting books and records relating to the PHSHA. However, as the SES no longer existed, no further follow-up action had been taken in this respect; and
- to take forward Audit's recommendation in paragraph 2.30(b) of the Audit Report, he had, vide his letter of 28 April 2008, asked SARDA to set out in full its current arrangements with the PHSHA, in order to formulate clear guidelines for SARDA on the arrangements to enter into major collaboration with other organisations, especially if redeployment of subvented resources was involved. SARDA had provided the requisite information and he had given covering approval for the use of subvented staff in SARDA for the PHSHA activities (see letters attached to *Appendix 13*).

## **C. Corporate governance**

### Voting rights of the government representatives on the EC

14. The Committee noted from paragraph 3.4(d) of the Audit Report that the three government representatives (from the ND, the DH and the Social Welfare Department (SWD)) were classified as persons without voting rights on the EC of SARDA. The Committee queried whether they could effectively perform their roles and responsibilities if they did not have voting rights.

15. The **Chairman of the EC of SARDA** said that although the Constitution of SARDA did not clearly stipulate so, the government representatives in fact had voting rights, notwithstanding the information provided in paragraph 3.4(d) of the Audit Report. Due to his oversight, he had not identified this mistake and requested Audit to revise this part when he read through Audit's draft report. The issue of voting rights had not arisen in the past because most cases could be resolved in the EC without the need to vote.

16. **Mr Benjamin TANG, Director of Audit**, said that Audit had provided the draft report to both SARDA and the DH for comments, but none of them had informed Audit that the relevant information was inaccurate.

17. The Committee then asked the Director of Health whether the DH representative on the EC of SARDA had voting rights. The **Director of Health** said that:

- the DH had been participating in the EC of SARDA since 1993. Although he had not read the Constitution of SARDA, the actual practice of the EC meetings established over the years clearly indicated that the government representatives had no voting rights. For example, when votes were taken at the EC meetings, the government representatives were excluded. Neither were they given nomination and voting forms at the Annual General Meetings (AGMs); and
- it was not necessary for the DH representative to have voting rights in order to perform his duties. Even if the DH representative had voting rights, he would ask his representative to abstain from voting in some situations in order to reserve the DH's position on certain matters, e.g. the budget of SARDA.

18. As it appeared to the Committee that both SARDA and the Administration were unclear whether or not the government representatives had voting rights, the Committee asked about:

- the basis of SARDA’s claim that the government representatives had voting rights on the EC;
- the roles and responsibilities of the DH representative on the EC; and
- the DH’s position, after reviewing the Constitution of SARDA, on whether the government representatives had voting rights. If the government representatives did not have such rights, how the Director of Health performed his role as the Controlling Officer of the subvention to SARDA. If the government representatives had such rights, whether and how the DH representative would exercise the voting rights.

19. The **ED of SARDA** responded in his letter of 2 May 2008 in *Appendix 14* that:

- the subject of voting rights was stipulated in Article 18 of the Constitution of SARDA (see *Appendix A to Appendix 14*), which said that “*Questions arising shall be decided by a majority of votes of those present. In the event of any equality of votes, the Presiding Member shall be entitled to a casting vote.*”;
- paragraph 8 of the Notes for Guidance stated that “*The Director has the right to be formally represented on executive committees (also known as medical committees) of the subvented organizations ...*”;
- the composition of the EC of SARDA, defined in Article 14(a) of the Constitution, was that “*There shall be an Executive Committee consisting of the Officers (other than the Trustees) and not more than sixteen other members of the Society excluding official Government representatives, ex-officio members and co-opted members.*”;
- it was clear from the above that the government representatives were full members on the EC with full speaking and voting rights. To avoid any future dispute, SARDA suggested that the issue of voting rights be clearly stated in the FSA to be worked out between SARDA and the DH.

20. The **Director of Health** replied in his letter of 5 May 2008 that:

- the government representatives sat on the EC as observers. The DH representative advised SARDA on matters relating to the T&R of drug addicts and on general administration of SARDA. He also kept himself abreast of developments in SARDA, which would assist the DH in exercising its Controlling Officer role;

- the Chairman of SARDA was of the view that the government representatives were full EC members with voting rights by virtue of:
  - (a) Article 18 of its Constitution that those present at an EC meeting might vote;
  - (b) the provision in paragraph 8 of the Notes for Guidance; and
  - (c) the composition of the EC as defined in Article 14(a) of its Constitution;
- Articles 18 and 14(a) of the Constitution of SARDA mentioned above were open to interpretation. Furthermore, the Chairman of SARDA had ignored the very important fact that SARDA had never in practice regarded the government representatives as full EC members with voting rights, as illustrated below:
  - (a) while the government representatives were invited to attend the EC meeting held immediately after an AGM, they were not provided with nomination forms nor voting forms for electing Officers under Articles 11 and 12(a). As the election of Officers was an annual exercise, it was clear that SARDA had never regarded the government representatives as full EC members with voting rights;
  - (b) the normal rules for recording voting results were to spell out the number of votes for a motion, the number against and the number abstained. In paragraph 14 of the minutes of the 276<sup>th</sup> EC meeting held on 23 October 2006, 14 votes (six votes for, seven against and the Chairman abstained) were recorded<sup>1</sup>. It was manifestly clear that SARDA did not consider the government representatives 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 the DH. This was a clear indication that the ED did not consider the government representatives 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 the DH received through the post from an unidentifiable source was the “true” version. Despite the 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 was that neither the ED, the EC nor the Chairman regarded the government representatives as full EC members with voting rights;

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<sup>1</sup> The government representatives did not cast any votes.

- it was manifestly clear from the above analysis that the government representatives were not full EC members with voting rights. The government representatives attended EC meetings as observers in accordance with Article 27(a) of the Constitution of SARDA;
- the lack of voting rights did not hamper in any way the DH's efforts in exercising its Controlling Officer role. An example of how the DH exercised the Controlling Officer role could be found in the case of extension of service of the ED of SARDA (see paragraph 6 above for details); and
- if the government representatives were full EC members with voting rights, the manner which the DH would exercise voting rights would depend on the nature of the matters under consideration. In the case of the extension of service of the ED, the DH representative would vote against the motion. On the other hand, the DH would reserve its position and abstain from voting on the proposed budget of SARDA. This was because as Controlling Officer, the DH had to carefully scrutinise SARDA's submission. Furthermore, the DH could not pre-empt the outcome of the Government Resource Allocation system.

21. As to the other two government representatives from the ND and the SWD, the Committee asked:

- about the roles and responsibilities of the ND representative on the EC, and the ND's views on whether its representative had voting rights according to the Constitution of SARDA; and
- why the SWD, as mentioned in paragraph 3.21(a) of the Audit Report, only considered its representative an observer at the EC meetings.

22. **Ms Sally WONG Pik-ye, Commissioner for Narcotics**, said in her letter of 6 May 2008 in *Appendix 15* that:

- the ND representative had all along sat on the EC of SARDA as an observer, and provided advice to SARDA on anti-drug policy matters in relation to its operation. Attendance of an observer was provided for in Article 27(a) of the Constitution of SARDA, which said that "*The Executive Committee may invite any person to attend any meeting of the Executive Committee or any General Meeting of the Society in an advisory capacity or in the capacity of an observer.*";
- regarding whether the ND representative had voting rights, Articles 11, 14(a) and 18 of the Constitution of SARDA were relevant. Most issues discussed at the EC were resolved without the need to vote. On the several occasions

when voting was necessary, the government representatives attending the EC meetings were not expected to vote and did not vote. Supporting examples had been given in the Director of Health's letter of 5 May 2008; and

- the ND noted the latest position taken by SARDA in its letter of 2 May 2008, and agreed with SARDA that this issue should be clearly stated in the FSA to be concluded between the DH and SARDA. The ND would be pleased to work with the DH, the SWD and SARDA on the appropriate government representation in SARDA in future, taking into account the respective roles of different government parties.

23. **Mr Stephen Fisher, Director of Social Welfare**, stated in his letter of 6 May 2008 in *Appendix 16* that:

- the role of the SWD representative was an observer at the EC meetings, in accordance with Article 27(a) of the Constitution of SARDA regarding the power and duties of the EC;
- it was stated in the minutes of both the 45<sup>th</sup> and 46<sup>th</sup> AGMs held in December of 2006 and 2007 that “The Chairman thanked the following Government officials (i.e. ND, DH and SWD) on the Executive Committee and said that although they were not subject to election, the Society thanked their contribution and would like to continue to have their service and advice in 2007 (2008).” This showed that the SWD representative was not elected but was invited to attend the EC on an annual basis. Furthermore, the SWD representative had not been provided with nomination and voting forms for the election of Officers (which presumably full EC members received); and
- it had been a long-standing convention for an SWD representative to sit in at the EC meetings of some subvented NGOs (such as SARDA) as observer for liaison purpose. The SWD's concern in the EC of SARDA was primarily on the very limited scope of the four subvented units totalling \$2.5 million or 3% of SARDA's recurrent income, and these subvented units had been performing up to the SWD's performance requirements and well monitored under the Service Performance Monitoring System (SPMS). An “observer” role was therefore considered appropriate for the SWD's purpose.

#### Quorum of and attendance at committee meetings

24. Paragraph 3.8 of the Audit Report revealed that according to the Constitution of SARDA, any six members of the EC formed a quorum. For the Management Committee (MC) and the Research Committee (RC), they did not have a quorum of meetings. The Committee asked why the quorum of the EC meeting appeared to be on the low side and there was no quorum requirement for the MC and RC meetings.

25. The **Chairman of the EC of SARDA** said that the issue of quorum of meetings had never been a concern of SARDA since most of the meetings were attended by over half of the members, who were zealous volunteers and active participants. However, to enhance transparency, SARDA agreed that it would be desirable to increase the quorum for its EC meetings and set an appropriate quorum for its MC or RC meetings. In fact, SARDA had set up an Ad Hoc Monitoring Committee to closely monitor the implementation of various audit recommendations.

26. Paragraphs 3.14 and 3.15 of the Audit Report revealed that from 2002-2003 to 2006-2007, the average attendance rate of the RC meetings (i.e. 48%) was relatively low, and the attendance of some voting members in 2006-2007 was particularly low. For example, four voting members were absent from all the three RC meetings in 2006-2007. Three of them had been continuously absent from all meetings for the last couple of years (i.e. since December 2002, August 2004 and October 2004). The Committee enquired about the reasons for the low attendance at the RC meetings, and the measures that would be taken by SARDA to improve members' attendance.

27. The **Chairman of the EC of SARDA** responded that:

- for the EC and MC meetings, the average attendance of voting members was about 60%. As for the RC meetings, some members, mostly professors and medical doctors, did not attend meetings because they had other commitments, or there was no important research going on in SARDA at that time. Despite this, they offered useful advice to SARDA when necessary. Some other members also assisted in fund-raising and participated in other important tasks of SARDA; and
- SARDA agreed with Audit's recommendations and would issue reminders to members whose attendance rate at committee meetings was low. SARDA would also take into account the attendance record of committee members when considering their re-appointment in future.

28. The Committee noted from paragraph 3.17 of the Audit Report that the average attendance of ex-officio members at EC meetings in 2006-2007 was only 40%. In particular, one ex-officio member (Superintendent of a SARDA centre) was absent from all six EC meetings in 2006-2007. The Committee asked:

- why the attendance of ex-officio members in 2006-2007 was relatively low as compared with that in previous years; and
- about the identity of the ex-officio member who was absent from all EC meetings in 2006-2007, and the reasons for his absence.

29. The **ED of SARDA** replied that most of the EC meetings in 2006-2007 involved deliberation relating to his own extension of service. In view of the sensitivity of the issues, staff members were asked not to attend the meetings.

30. **Mrs Josephine NG, Assistant Director of Audit**, said that according to Audit's records, the staff member who did not attend any of the EC meetings in 2006-2007 was the Superintendent (Administration) of the Shek Kwu Chau Treatment and Rehabilitation Centre (SKC Centre). Before 2006-2007, his attendance at the EC meetings was quite satisfactory.

31. **Mr MAK Wai-keung, Superintendent (Administration) of the SKC Centre, SARDA**, said that as far as he could recall, he had attended some of the meetings. However, there were occasions on which he was asked not to attend when issues concerning the ED were discussed.

32. In view of the above responses, the Committee requested SARDA to check whether all the EC meetings in 2006-2007 involved discussion on the extension of service of the ED, and whether the Superintendent (Administration) of the SKC Centre had been instructed to be excused from all parts of these meetings.

33. In his letter of 2 May 2008, the **ED of SARDA** stated that:

- the reasons for the absence of the Superintendent (Administration) of the SKC Centre at the EC meetings in 2006-2007 were as follows:

<b>Date of meeting</b>	<b>Reasons for absence</b>
4 December 2006	This was the first EC meeting held immediately after the AGM. The main purpose of the meeting was to elect the Officer-bearers. Attendance not essential.
11 December 2006	Special meeting with the DH to discuss mainly the case of extension of service of the ED. Did not inform him to attend.
26 February 2007	Absence authorised to avoid discussion of sensitive issues concerning the extension of service of the ED.
30 April 2007 and 18 June 2007	Absence authorised to avoid discussion of sensitive issues concerning the ED's disputes with the DH.
29 October 2007	Could not attend due to an emergency in the SKC Centre.

- with the benefit of hindsight, he accepted that the ex-officio member could have attended at least part of the above meetings and be excused only when sensitive issues were discussed. SARDA would take note of this for future meetings.

34. According to paragraphs 3.19 and 3.20 of the Audit Report, the attendance of the SWD representative at the EC meetings was exceptionally low. The SWD representative did not attend any EC meeting in 2003-2004 and 2004-2005. The Committee also noted from paragraph 3.23 of the Audit Report that the SWD would review the role played by its representative as observer at the EC meetings and, pending the review results, ensure that the SWD representative attend EC meetings as far as possible. The Committee enquired about:

- the reasons for the low attendance of the SWD representative;
- the progress of the review of the role played by the SWD representative; and
- the action that had been taken by the SWD to ensure attendance at the EC meetings.

35. The **Director of Social Welfare** said in his letter of 6 May 2008 that:

- the SWD recognised the low attendance rate of its representative at the EC meetings of SARDA;
- it had been a long-established practice for an SWD representative to sit in the EC meetings of some subvented NGOs such as SARDA as observer for liaison purpose;
- communication was always two-fold and open channels were available to all subvented NGOs. The NGOs were used to bringing any significant welfare matters to the SWD's attention instead of merely relying on brief discussions at their EC meetings. For the delivery of strategic or policy directives, the SWD as the executive department usually issued notification letters and conducted briefing sessions to all relevant NGOs, or held meetings with individual agencies to set the way for implementation;
- the monitoring mechanism of subvented units under the SWD's purview was based on the SPMS implemented since 1999-2000. The well-established SPMS comprised the key components of FSAs signed between the SWD and the subvented NGOs, self-assessment by the subvented NGOs, external assessment by the SWD, and implementation of the Service Quality Standards;

- to enhance the corporate governance of the subvented NGOs, the SWD had conducted tailor-made training programmes and delivered resource kits to their EC members, board of directors, as well as senior management staff;
- in the past four years, the agenda items of the EC meetings of SARDA were predominantly concerned with staff appointments, office administration issues and other matters outside the purview of the SWD. Since the four half-way houses subvented and monitored by the SWD had been performing up to the required standards under the SPMS, the SWD was only playing a secondary observer role at the meetings;
- the result of the review of the role played by the SWD representative was not yet available. Pending the review result, the SWD would make sure that its representative attended the EC meetings as far as possible. So far, the SWD representative had attended all the subsequent EC meetings held on 25 February 2008 and 28 April 2008 respectively. At both meetings, the agenda items and deliberations were predominantly related to items/issues outside the purview of the SWD; and
- apart from the EC meetings, open channels such as collateral contacts by phone or by papers/emails or scheduled discussion sessions, etc. were available to all subvented NGOs to facilitate their communication with the SWD. Under the SPMS, it was a mutual recognition of the SWD and the NGOs that it was the NGOs' role to exercise proper corporate governance on their own organisations.

#### Approval of budgets

36. As revealed in paragraphs 3.31 and 3.32 of the Audit Report, despite the requirements in the Notes for Guidance that SARDA's annual budget must be presented to the Director of Health through the EC, none of the annual budgets for the years between 2002-2003 and 2006-2007 was approved by the EC or MC before submission to the DH. All of the annual budgets were submitted to the DH direct through the ED/Administrative Secretary of SARDA. The Committee asked why approval had not been obtained from the EC as required, and whether there was adequate budget monitoring by the EC.

37. In response, the **ED of SARDA** said that the budget prepared each year was more or less the same as those of previous years. Besides, the budget was prepared in August every year when the EC and MC were in summer recess. Hence, after the budget had been discussed and prepared at the working level, it would be submitted to the DH for approval. SARDA noted the requirements in the Notes for Guidance and accepted the audit recommendations. SARDA would present the proposed budget to the EC for approval, by circulation if necessary, before submission to the DH.

38. The **Chairman of the EC of SARDA** supplemented that apart from formal committee meetings, he held breakfast meetings every Saturday with the ED and two to three Officers of the EC. The ED briefed him on matters relating to SARDA's operation and administration, including the budget. SARDA also communicated with the DH from time to time regarding the proposed budget, and the DH had always closely monitored SARDA's budget. In short, although the budget was not presented to the EC before submission to the DH, he as the Chairman had full knowledge in this regard.

#### **D. Strategic management**

39. Paragraphs 4.4 and 4.5 of the Audit Report revealed that SARDA only formulated a five-year strategic plan in 1998 (for the period 1999-2000 to 2003-2004). Since then, SARDA had neither updated this strategic plan, nor formulated a new one, taking into account significant changes since 1998. Strategic initiatives were only discussed by the EC on a piecemeal basis. The Committee questioned:

- why SARDA had not formulated any strategic plan after the expiry of the five-year plan upon 2003-2004; and
- why the Administration had not requested SARDA to formulate a strategic plan.

40. The **ED of SARDA** replied that:

- the SWD mentioned in 1999 that the time span covered under a five-year plan was too long and the plan might not be able to cope with the changing needs of society. According to his understanding, the Administration had not encouraged the formulation of a five-year plan since then. Although SARDA had not formulated any such plan upon expiry of the 1998 strategic plan in 2003-2004, he did present a plan to the EC every year in the past few years. For example, plans on the establishment of a CAEDT at Shek Kwu Chau, future development of the SKC Centre and development of counselling services provided to methadone patients had been presented to the EC for discussion; and
- SARDA had accepted the audit recommendations, and would draw up a strategic plan in 2008-2009.

41. The **Director of Health** said that although SARDA had not formulated any strategic plan after the one in 1998, the DH had been exchanging views with SARDA on how it could enhance and re-engineer its services having regard to the shift in the trends of drug abuse. For example, in reviewing SARDA's services, it was noted that there was surplus manpower in SARDA which could be used for assisting in providing counselling

services to patients of methadone clinics operated by the DH. To consider further re-engineering SARDA's services, the DH had to take into account the strategies put forward by the high level inter-departmental task force led by the Secretary for Justice to combat the problem of youth drug abuse.

42. According to paragraphs 4.11 to 4.13 of the Audit Report, there had been a shift from the use of heroin to psychotropic substances during the period 1997 to 2007. The decline in the number of heroin abusers had had a great impact on the demand for SARDA's services, which were basically geared to the provision of T&R services for heroin drug abusers. This was evident in the drop in bed occupancy rate of the SKC Centre from 71% in 2004 to 64% in 2007. In view of the above change, the Committee enquired about:

- details of the under-utilisation of the SKC Centre;
- how SARDA could better utilise the resources and facilities in the SKC Centre in the face of these challenges; and
- whether the Administration had considered re-allocating the existing resources used in T&R services for heroin abusers to psychotropic substance abusers.

43. The **ED of SARDA** and the **Chairman of the EC of SARDA** said that:

- the total number of reported heroin abusers had decreased considerably by 60% from over 17,000 in 1994 to around 7,300 in 2007, resulting in a drop in enrolment at the SKC Centre. On the other hand, the average age of the patients admitted to the SKC Centre had increased from 37 in 1998 to 43 in 2008;
- the Administration had been closely monitoring the use of resources at the SKC Centre. With the reduction in posts, the headcounts of the Centre had reduced from 73 in 1990 to 54 in 2008. All the existing posts were essential ones and could not be further reduced;
- studies of western developed countries indicated that it was common for psychotropic substance abusers to become poly-drug users and addicted to heroin later on. The number of heroin abusers in these countries had started to show an increase again in recent years. In view of such western experience, it was necessary to reserve some room for expansion at the SKC Centre; and

- SARDA recognised the need to address the issue of under-utilisation of the SKC Centre and had submitted a proposal to the ND to establish a CAEDT at Shek Kwu Chau. The proposal aimed to provide outward-bound style of training to the youth with a theme that emphasised the prevention of drug abuse (including psychotropic substance abuse). In preparing the proposal, SARDA had made reference to overseas experience, conducted extensive research and survey, and solicited views from local school principals and parents, who had indicated support to this proposal.

44. The **Secretary for Security** said at the public hearing and in his letter of 15 May 2008 in *Appendix 17* that:

- the under-utilisation of the SKC Centre did not necessarily justify the establishment and operation of the CAEDT. There was no question of automatic transfer of underused subvention from, say, the SKC Centre to another new project like the CAEDT. Each new and publicly funded project had to be considered carefully against its own merits. Any savings arising from the under-utilisation of the SKC Centre under the existing scope of subvention should be fully accounted for; and
- although the number of psychotropic substance abusers had increased significantly in the past 10 years, there were still thousands of heroin abusers who required treatment and aftercare. SARDA continued to play a key role in this respect and the resources spent on it were necessary and effective. On the other hand, the Government was very concerned about the problems of juvenile drug abuse and psychotropic substance abuse. The Chief Executive had appointed the Secretary for Justice to lead a high level inter-departmental task force to tackle these emerging trends in drug abuse, and the Government planned to allocate an additional \$50 million in 2008-2009 to combat the problem of psychotropic substance abuse.

45. The **Director of Health** responded at the public hearing and in his letter of 15 May 2008 that:

- heroin abuse was still a serious problem in Hong Kong. A high bed occupancy rate for a T&R centre was not desirable as there would be no room to accommodate a sudden increase of demand for services by heroin addicts, say, if there was a surge in the price of heroin. The DH considered a bed occupancy rate at around 80% optimal; and
- in response to the drop in enrolment at the SKC Centre to around 64% of its approved capacity, the DH was examining the issue of adjustment of resources with SARDA so as to enhance its services. To facilitate SARDA's re-engineering, training might also be provided to its staff to meet the changing needs.

46. In respect of the proposal put forward by SARDA to the ND in June 2004 to establish a CAEDT at Shek Kwu Chau, Audit pointed out in paragraph 4.16 of the Audit Report that as at February 2008, the proposal was still under examination by the ND and the DH. Noting that the Secretary for Security had mentioned in his opening statement that an early decision would be made, and no definite timetable was provided, the Committee asked:

- whether the provision of outward-bound style of training to the youth could help address the problem of juvenile drug abuse (especially psychotropic substance abuse);
- why the CAEDT proposal was still being considered by the Administration, almost four years after it was first raised; and
- about the current progress and the expected time-frame for making a decision on the matter.

47. The **Director of Health** said that the DH was open to SARDA's proposal. However, the strengths of SARDA lay in the provision of T&R services for heroin abusers but not psychotropic substance abusers. It would be difficult for SARDA to transform its services within a short period of time. A number of issues had to be thought through before a decision was made, e.g. whether SARDA would be the most suitable organisation to provide services for psychotropic substance abusers, the effectiveness of the proposal in drug prevention and treatment as well as its sustainability, etc., given that the amount of investment for this project was quite substantial.

48. The **Chairman of the EC of SARDA** said that:

- the CAEDT proposal adopted the approach of preventive education as a means to tackle the problem of drug abuse among the youth. The establishment of the Centre would be an extension of the existing T&R services to cover psychotropic substance abusers. Hence, this proposal was related to SARDA's mandate and within the scope of its subvention. However, SARDA also appreciated that the DH, as the Controlling Officer, needed to cautiously examine the proposal in view of the significant amount of resources involved; and
- although SARDA's core programmes were to provide T&R services for heroin drug abusers, its RC consisted of a number of renowned professionals and scholars specialising in drug prevention and treatment of various types. Should SARDA be tasked to provide T&R services in psychotropic substance abuse, there should be sufficient expertise to support the transformation.

49. The **Commissioner for Narcotics** and the **Secretary for Security** said at the public hearing and in the latter's letter of 15 May 2008 that:

- the Security Bureau welcomed any programme that provided a disciplined in-camp training and encouraged a healthy lifestyle to the youth. It held a positive and open attitude towards the proposal. However, it was uncertain whether the number of young drug abusers would drop if a CAEDT which provided such type of training was established, and the proposal might be outside the ambit of the DH's subvention to SARDA;
- the proposal submitted by SARDA in 2004 was rather general and preliminary. Since then, the ND and the DH had closely liaised with SARDA to refine the proposal so that it would become more specific;
- SARDA submitted a revised proposal in January 2008. The Security Bureau had been assessing the merits of this proposal, and would take account of the specific terms about the intended CAEDT operation set out in the revised proposal and consider, inter alia:
  - (a) an objective benchmark for gauging the effectiveness of the proposed CAEDT programme;
  - (b) the specific expertise and resources required as distinct from that of a traditional opiate treatment programme;
  - (c) the cost-effectiveness of the proposal having regard to the significant capital costs for setting up the CAEDT (\$117 million) and the likely recurrent requirements; and
  - (d) the long-term financial sustainability of the proposal; and
- the Security Bureau would consult the relevant policy bureaux and departments, with a view to arriving at a considered response to SARDA in 2008-2009.

## **E. Conclusions and recommendations**

50. The Committee:

### Management and control of government subvention

- expresses concern that:
  - (a) in the past few years, there had been prolonged discussions and arguments ("disputes") between The Society for the Aid and

Rehabilitation of Drug Abusers (SARDA) and the Department of Health (DH) about the legitimacy of the DH's authority in giving directions to SARDA on administrative matters. As revealed by the Audit Commission (Audit)'s questionnaire survey, the majority of the respondents considered that the disputes had adversely affected the efficiency and effectiveness of SARDA and the DH in performing their duties;

- (b) under Financial Circular No. 9/2004, Controlling Officers were advised to enter into a Memorandum of Administrative Arrangements (MAA) or a similar instrument (such as a funding and service agreement (FSA)) with each organisation receiving recurrent government funding under their purview. However, as at May 2008, the DH had still not entered into an MAA or FSA with SARDA;
  - (c) from 2003 to 2007, the DH did not conduct any inspection of SARDA's activities to monitor compliance with the DH's subvention guidelines;
  - (d) there were inadequacies in the handling of the case of Supported Employment Service by SARDA, i.e. no separate accounting records for resources spent on non-subvented activities, improper maintenance of staff movement records and no framework agreement between SARDA and the Pui Hong Self-Help Association (PHSHA); and
  - (e) SARDA did not seek the DH's formal advice before entering into collaboration with the PHSHA which involved redeployment of subvented resources to programmes the DH might not wish to subvent;
- expresses serious concern and has reservations about SARDA's not conducting an open recruitment exercise for the post of Executive Director (ED) before offering the ED an extension of service, beyond the retirement age of 60, for two years in late 2006;
  - notes that:
    - (a) SARDA has accepted the audit recommendations in paragraph 2.29 of the Director of Audit's Report (Audit Report);
    - (b) the Director of Health is discussing with SARDA the possibility of introducing a block grant funding mode and the establishment of an FSA, and will finalise these two matters by the end of March 2009;
    - (c) SARDA has accepted the DH's direction to conduct an open recruitment exercise for the post of ED and the exercise was initiated in March 2007; and

- (d) the Director of Health has agreed with the audit recommendations in paragraph 2.30 of the Audit Report, and will advise SARDA on how to improve its internal control system;
- urges the DH and SARDA to:
  - (a) expeditiously conclude the new funding mode and establish an FSA without further delay; and
  - (b) strive to foster a harmonious working relationship and cooperative partnership necessary for the provision of quality services for the treatment and rehabilitation of drug abusers;

#### Corporate governance

- is surprised that SARDA and the Administration were unclear whether or not the three government representatives (from the Narcotics Division (ND), the DH and the Social Welfare Department) on the Executive Committee (EC) of SARDA were full members with voting rights;
- expresses serious concern that the attendance of some members at committee meetings was low. In particular, an ex-officio member of the EC, i.e. the Superintendent (Administration) of the Shek Kwu Chau Treatment and Rehabilitation Centre (SKC Centre), was absent from all the six meetings of the EC held in 2006-2007. Although his absence was authorised for some meetings, the ED of SARDA should have directed him to attend other parts of such meetings at which non-sensitive issues were discussed;
- expresses concern that:
  - (a) committee members with low attendance records were still re-elected or re-appointed to serve on the committees;
  - (b) none of the SARDA's budgets from 2002-2003 to 2006-2007 was approved by the EC before submission to the DH; and
  - (c) as up-to-date information on SARDA's financial position was not reported regularly to the EC, the EC might not be able to exercise proper expenditure control;
- notes that SARDA has accepted the audit recommendations in paragraphs 3.11, 3.22, 3.29, 3.34 and 3.39 of the Audit Report;
- recommends that the DH and SARDA should clarify whether the government representatives on the EC of SARDA are full members with voting rights, taking into account the respective roles of different government parties, and clearly stipulate such in the FSA to be concluded between the DH and SARDA;

Strategic management

- expresses concern that:
  - (a) SARDA had not established a formal strategic planning process;
  - (b) the strategic plan formulated by SARDA in 1998 had not taken into account subsequent changes and developments which posed great challenges to SARDA; and
  - (c) there had been under-utilisation of the SKC Centre in recent years due to the shift from the use of heroin to psychotropic substances among drug abusers and the resulting drop in demand for SARDA's services;
- expresses serious concern that the proposal put forward by SARDA in June 2004 to the ND of the Security Bureau to establish a Centre for Anti-drug Education and Disciplinary Training (CAEDT) at Shek Kwu Chau to provide training to the youth that emphasised the prevention of drug (including psychotropic substance) abuse was still under examination by the ND and the DH as at May 2008;
- notes that:
  - (a) SARDA has accepted the audit recommendations in paragraphs 4.9 and 4.18 of the Audit Report;
  - (b) the Director of Health is examining the issue of adjustment of resources in response to the drop in enrolment at the SKC Centre to around 64% of its approved capacity; and
  - (c) the Secretary for Security will consult the relevant bureaux and departments regarding SARDA's proposal to establish a CAEDT at Shek Kwu Chau, with a view to arriving at a considered response to SARDA in 2008-2009;
- recommends that the Secretary for Security should make an early decision on SARDA's proposal to establish a CAEDT at Shek Kwu Chau without delay;

Staff recruitment

- expresses concern that:
  - (a) SARDA did not maintain proper records of its recruitment exercises;
  - (b) the time taken by both SARDA and the DH to process applications for incremental credit for experience (ICE) for new recruits of SARDA was

rather long. An average of 2.6 months was taken before an ICE was granted to a new recruit; and

(c) there was no justification recorded on file for the different treatments in cases where a new recruit with fewer years of post-qualification experience was granted more incremental salary points than another one with more experience;

- notes that:

(a) SARDA has accepted the audit recommendations in paragraphs 5.6 and 5.19 of the Audit Report; and

(b) the Director of Health has accepted the audit recommendation in paragraph 5.20 of the Audit Report;

#### Financial control and cash management

- expresses concern that:

(a) SARDA did not regularly review its Standing Financial Instructions to take into account the developments and changes in financial and accounting matters;

(b) past attempts of SARDA to develop a set of financial and accounting regulations to govern its internal control system had been futile;

(c) SARDA placed all fixed deposits with the same bank in 2006-2007 and 2007-2008 (up to November 2007) without obtaining quotes for interest rates from other banks, and had not laid down its policies and procedures on the management of surplus funds; and

(d) Audit examination revealed various inadequacies in petty cash management;

- notes that SARDA has accepted the audit recommendations in paragraphs 6.10, 6.16 and 6.21 of the Audit Report;

#### Procurement and stores management

- expresses concern that:

(a) there were areas where improvements could be made in SARDA's stores procurement procedures (e.g. purchases made before approval was obtained, or without obtaining the required number of quotations); and

- (b) there were areas where improvements could be made in SARDA's management of inventory and consumable stores (e.g. some donated assets were not recorded on the inventory list);
- notes that SARDA has accepted the audit recommendations in paragraphs 7.13 and 7.25 of the Audit Report;

#### Performance measurement and reporting

- expresses concern that:
  - (a) although SARDA compiled many different performance indicators for submission to the DH, only three had been included in SARDA Annual Report;
  - (b) the abstinence rate achieved by SARDA programmes in recent years showed a steady decline;
  - (c) the questionnaire surveys of patients did not cover those patients who left the treatment and rehabilitation centres without completing the detoxification and rehabilitation programmes; and
  - (d) other than the completion rates for detoxification and rehabilitation programmes, the DH did not publish other outcome indicators for SARDA (e.g. customer satisfaction rate and abstinence rate);
- notes that:
  - (a) SARDA has accepted the audit recommendations in paragraphs 8.8 and 8.20 of the Audit Report; and
  - (b) the Director of Health has agreed with the audit recommendation in paragraph 8.9 of the Audit Report; and

#### Follow-up action

- wishes to be kept informed of:
  - (a) the progress made by the DH and SARDA in concluding the new funding mode and in establishing an FSA;
  - (b) the result of the review by the DH and SARDA on whether the government representatives on the EC of SARDA are full members with voting rights;

- (c) the Administration's decision regarding SARDA's proposal to establish a CAEDT at Shek Kwu Chau; and
- (d) any other progress made in implementing the various audit recommendations.