

For information by
LegCo Panel on Security
on 11 February 1999

LEGCO PANEL ON SECURITY

Registration Scheme for Drug Treatment and Rehabilitation Centres

PURPOSE

This paper informs Members of the progress of the registration scheme for drug treatment and rehabilitation centres and the way forward.

BACKGROUND

2. At present, the Government adopts a multi-modality approach to drug treatment and rehabilitation services in order to cater for the different needs of drug abusers. The Correctional Services Department (CSD) operates a compulsory placement programme for drug addicts who have been convicted of minor offences; the Department of Health provides voluntary out-patient methadone treatment and maintenance programme for heroin addicts; the Hospital Authority (HA) operates, as part of its hospital establishment, six Substance Abuse Clinics (SACs) providing out-patient service for abusers of psychotropic substances, and the Society for the Aids and Rehabilitation of Drug Abusers (SARDA), a subvented body, provides voluntary medical detoxification and live-in rehabilitation service for detoxified addicts. At the same time, there are a number of other non-governmental organizations (NGOs), including Christian therapeutic agencies, which provide voluntary non-medical residential treatment and rehabilitation service based on the Christian faith. A number of these organisations also receive Government subvention.

POLICY REVIEW

3. In 1997, the Government established an inter-departmental working group to review the existing treatment and rehabilitation policy and the relevant ordinance which provides statutory underpinning for that policy. The

key findings were as follows:-

(a) Obsolescence of the Drug Addicts Treatment and Rehabilitation Ordinance (Cap 326)

Enacted in 1960, Cap 326 “establishes centres for the treatment and rehabilitation of addicts of drugs and of intoxicants and for purposes connected therewith”. The provisions in Cap 326 reflect the drug treatment and rehabilitation philosophy at the time which was based on detention of addicts in treatment centres and restriction of personal freedom of the addicts for up to six months to ensure that they could not get hold of drugs before they were completely cured. So far, two treatment centres of SARDA (one in Shek Kwu Chau and one in Shatin) have been declared as “Addiction Treatment Centres” in the Declaration of Addiction Treatment Centre (Consolidation) Order under Cap 326. Given that SARDA now operates as a “voluntary” treatment and rehabilitation centre, the “detention” requirement has become obsolete and Cap 326 is no longer applicable.

(b) Lack of Uniform Control for Centres Providing Voluntary Residential Treatment and Rehabilitation Services

Under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap 165), the Director of Health requires that an establishment for the sick, injured or infirm or those who need medical treatment is to be registered as a hospital or nursing home. In line with this statutory provision, SARDA’s centres in Shek Kwu Chau, Shatin, Sheung Shui and Yuen Long as well as a Caritas’ centre in Sai Kung (which will be opened in March 1999) need to be registered as nursing homes because of the medical approach they adopt. These centres are subject to statutory controls on accommodation, staffing, equipment used, keeping of patients’ records, inspection by the licensing authority, etc. As regards drug treatment and rehabilitation centres which do not use medical treatment, they are not subject to any registration or regulatory controls. This has been an area of criticism as many of these centres are also receiving Government subsidies such as subvention, land, Comprehensive Social Security Assistance and education allowances for the rehabilitating addicts, etc. Except for those being subvented, there is no requirement to keep records or statistics on the operation of these centres.

(c) Physical Conditions and Conduct of Non-medical Drug Treatment and Rehabilitation Centres

As far as we are aware, there are about eleven non-medical drug treatment and rehabilitation centres operating in Hong Kong. Most of these centres are accommodated in stone or wooden structures in remote areas with minimum building and fire safety installations. Some of them are not fitted with proper electricity and water supplies. They are therefore highly susceptible to building safety, fire safety and environmental health hazards. Besides, the management and operation of such centres vary. Concerns have been expressed about drug patients not having been given proper medical care when they experience withdrawal symptoms during the course of treatment or suffer from other illnesses during the course of the programme.

4. In the light of the above, the Government proposed in a consultation document issued in May 1998 (Annex) that a registration scheme should be introduced for drug treatment and rehabilitation centres, in order to :-

- (a) ensure drug patients undergo treatment and rehabilitation in a properly managed and secure physical environment to safeguard their well-being;
- (b) protect the rights of drug patients who may be subject to psychological stress and physical health problems when undergoing treatment and rehabilitation. The staff working in these centres should, therefore, be competent or relevant in providing the necessary service; and
- (c) enable the Government to keep a register including patients' records of the drug treatment and rehabilitation centres and to impose requirements and standards for their operations as necessary.

5. It was also proposed in the document that Cap 326 should be repealed and replaced by a new legislation providing for the registration scheme.

PUBLIC CONSULTATION

6. On the requests of drug treatment and rehabilitation centres, the

public consultation on the registration scheme was extended to six months until 31 October 1998. A total of 24 submissions had been received. Views had also been collected through meetings with the Action Committee Against Narcotics (ACAN) and its Sub-committees, the Drug Liaison Committee comprising representatives of drug treatment and rehabilitation centres, five Provisional District Boards whose constituencies include drug treatment and rehabilitation agencies and ad hoc meetings with the management of drug treatment and rehabilitation centres. The majority of the views expressed were in support of the basic principles of the registration scheme. The key points of concern are as follows:-

- (a) some respondents were worried about the apparent dichotomy of medical and non-medical addiction treatment and rehabilitation centres. Some cast doubt on whether the dichotomy should be upheld, since a drug abuser undergoing detoxification may need both medical and non-medical services. Some considered that there should only be one licensing authority for all drug treatment and rehabilitation centres, and the control should be provided under a single piece of legislation;
- (b) the proposed building and fire services requirements were generally agreed, but the majority of the drug treatment and rehabilitation centres reckoned that some centres would not meet such requirements unless their premises were rebuilt or substantially improved. They considered that the Government should assist by giving the necessary funds and land for the relocation or improvement works;
- (c) the requirement that a licensee should be a "fit" person is too stringent. They considered that drug addicts who have rehabilitated or who have remained "clean" for, say, 10 years prior to registration should be eligible for becoming the licensees;
- (d) a few centres were concerned that the registration scheme may overly control the services they provide and their staffing arrangement. They were of the view that the future registration scheme should ensure that such centres would continue to enjoy autonomy in deciding their own mode of operation and staff employment;
- (e) the majority of the respondents considered the proposed grace period of four years acceptable;

- (f) to ensure a drug-free environment in the centres, the centre management commented that they should be given the statutory powers to restrict unauthorised entry, conduct bodily search on inmates, clothing search, screening of letters, parcels and visitors, etc., similar to those currently conferred under Cap 326; and
- (g) some of them were not clear whether half-way house for rehabilitated drug addicts should be included under the proposed registration scheme.

FOLLOW-UP ACTIONS

7. The Government had collated and analysed all views received and consulted ACAN in December 1998 and the affected agencies again in January 1999. The registration proposal is being finalised along the following lines having regard to the views received:-

- (a) to avoid double standards and to impose uniform controls on the drug treatment and rehabilitation centres providing voluntary residential service, there will be a single licensing authority, i.e. the Director of Social Welfare, for all these centres under the new legislation. Centres which provide medical treatment as part of their services are however required to obtain one more licence under Cap 165, as is presently the case;
- (b) to assist centres with financial difficulties in conducting the upgrading or improvement works as a result of the registration scheme, the Narcotics Division has been liaising with the management of various charitable funds such as the Lotteries Fund, Beat Drugs Fund, etc. and alerted them of the possible demand for financial assistance from these centres. The Division is also liaising with the Lands Department and the Government Property Agency with a view to securing their commitment for assisting centres which will need to relocate their premises as a result of the registration scheme;
- (c) to ensure that the licensee is reasonably credible in providing drug treatment and rehabilitation services, and to provide an opportunity for rehabilitated addicts or ex-drug offenders to contribute to the community, the eligibility criteria of the licensee under the registration scheme will be revised by incorporating a timeframe of 10 years prior to registration during which the applicant must stay

“clean”, i.e. not having undertaken any drug treatment and having no record of offences in the manufacture, trafficking and possession of dangerous drugs in Hong Kong or elsewhere, and/or any other serious crimes;

- (d) the registration scheme does not set out to impose an overly stringent control on the services currently provided by drug treatment and rehabilitation centres. The Director of Social Welfare, i.e. the future licensing authority, will ensure that the centres will continue to enjoy the autonomy of staff employment within the limits of current guidelines applicable to them, though for the purpose of registration, they must demonstrate to the licensing authority that the staff they employ are capable of or suitable for discharging the functions and services of the centres. The Director of Social Welfare will also provide the centres with general guidelines and a code of practice covering areas such as the building and fire safety requirements under the scheme, and other operational aspects e.g. seeking clients’ consent to abide by house rules before admission, etc. Under the registration scheme, there will not be any stringent requirements for centres to employ professionals such as psychologists, social workers or medical practitioners. When a centre comes forth for registration, the licensing authority will solicit the relevant information and statistics (e.g. details with regard to patient intake, service utilization, addicts’ demography, types of drugs abused, etc) for the purpose of keeping a central registry and effective monitoring;
- (e) since some centres may need to be substantially upgraded to meet the registration requirements, sufficient time must be allowed for such works to be carried out. Implementation of the registration scheme will take a two-phase approach (i.e. first phase catering for centres which are under Government subvention, and the second phase, centres which are not under current subvention) with a grace period of four years in the first phase, having regard to the time required to secure funding and in some cases, sites for relocation and consultation with locals;
- (f) with regard to the statutory powers (i.e. the power to refuse visitors and telephone calls, to censor letters and parcels, to confiscate any articles not authorised by the centre superintendent and to prohibit entry to the centre’s premises), it is noted that at present, all drug treatment and rehabilitation centres except SARDA do not have such powers as they have not been gazetted under Cap 326. The

Secretary for Justice has advised that many of such powers, especially those relating to censorship of letters and parcels, might be challenged under the International Covenant on Civil and Political Rights and the Basic Law. Thus, instead of conferring statutory powers to the centres in the new legislation, the licensing authority will issue guidelines to centres advising them of possible approaches in this regard; and

- (g) as half-way houses for rehabilitated addicts offer residential and, in most cases, counseling services similar to those offered in drug addiction treatment and rehabilitation centres, they will be required to be registered.

WAY FORWARD

8. The Narcotics Division had further consulted the drug treatment and rehabilitation centres on the above directions for fine-tuning the registration scheme and the centres agreed to such modifications. The Administration is now finalising the registration proposals, and will proceed with the drafting of the legislation, with a view to introducing it to the Legislative Council in the next session. Meanwhile, the Director of Social Welfare will be drafting the guidelines and code of practice mentioned in paragraphs 7 (d) and 7 (f). The drug treatment and rehabilitation centres will be consulted on such guidelines and code of practice in due course.

Narcotics Division
Security Bureau

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February 1999

**Consultation Paper
on a Registration Scheme for
Drug Treatment and Rehabilitation Centres**

Narcotics Division
Security Bureau
May 1998

INTRODUCTION

The Drug Addicts Treatment and Rehabilitation Ordinance, enacted in 1960, provides for the detention of drug addicts in the drug treatment and rehabilitation centres for their voluntary treatment. The Administration has decided that the Ordinance should be repealed as most of its provisions are outdated and do not reflect the current services provided by such centres. Arising from this decision, the Administration has also examined whether regulatory controls should be introduced for these centres to impose necessary requirements and standards for their operation. This consultation paper outlines the Administration's proposal for introducing a registration system for these centres, and seeks public views on it.

Existing Controls on Drug Treatment and Rehabilitation Centres

2. Under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap.165), an establishment for the sick, injured or infirm or those who require medical treatment needs to be registered as a hospital or nursing home. In line with this statutory provision, existing drug treatment and rehabilitation centres which provide medical detoxification (medical drug treatment and rehabilitation centres) are registered as nursing homes by the Department of Health under Cap.165. As regards centres which adopt a non-medical approach (non-medical drug treatment and rehabilitation centres) in the treatment and rehabilitation of drug abusers, they are not subject to any registration controls.

3. Briefly, the regulatory controls imposed on medical drug treatment and rehabilitation centres as nursing homes under Cap.165 are, in the main, as follows :

- The Director of Health is authorised to register an applicant if she is satisfied that the accommodation, staffing and equipment used or intended to be used are fit for the purpose. She may refuse to register an applicant if the applicant fails to meet the registration requirements.
- The certificate of registration, which is valid for a year, should be displayed at a conspicuous place. Application for re-registration needs to be made if the centre wants to continue to be registered for subsequent years.

- The conditions for cancellation of registration and the time period for appeal to the Chief Executive in Council in case of refusal of application for registration or cancellation of registration by the Director of Health are set out in Cap.165.
- The Director of Health is empowered to make regulations to require the centres to keep records of patients received by them and to give notification of any death occurring.
- Inspections may be made by officers from the Department of Health under Cap.165.
- Failure to meet the requirements of Cap.165 may result in imposition of a fine of \$1,000 and/or imprisonment for 3 months.

Existing Operation of Non-medical Drug Treatment and Rehabilitation Centres

4. As far as the Administration is aware, there are about eleven non-medical drug treatment and rehabilitation centres operating in Hong Kong. With regard to their service operation, they share some of the following features :

(i) Accommodation

5. Most of the non-medical drug treatment and rehabilitation centres are accommodated in stone or wooden huts in remote areas. The building and fire safety measures of these centres, such as emergency exits and fire services installations, are of bare minimum. Some of them are not fitted with proper electricity and water supplies. Thus, they would be subject to building safety, fire safety or environmental health risks should accidents happen.

(ii) Conduct of the centres

6. The management and operation of such centres vary. There may also be differences about the suitability of the staff employed. Concerns have further been expressed that the drug patients in these centres should be given proper medical care if they experience withdrawal symptoms during treatment or suffer from other illnesses when they are undergoing the programme.

The Registration Proposal

7. In the light of the above observations, the Government proposes that a registration scheme should be introduced for non-medical drug treatment and rehabilitation centres, in order to :

- (i) ensure drug patients undergo treatment and rehabilitation in a properly managed and secure environment to safeguard their well-being;
- (ii) protect the rights and welfare of drug patients who, like other drug patients in medical drug treatment and rehabilitation centres, are subject to psychological stress and physical health problems when undergoing treatment and rehabilitation. The staff and treatment/rehabilitation approaches adopted by these centres should, therefore, be competent/relevant in providing services to them; and
- (iii) enable the Government to keep a register of the non-medical drug treatment and rehabilitation centres and to impose requirements and standards for their operations as necessary.

(a) Scope of Registration

8. To ensure broadly the same registration standards be applied to all drug treatment and rehabilitation centres, the proposed registration requirements to be introduced for non-medical drug treatment and rehabilitation centres will be similar to those provisions of Cap.165 which currently apply to medical drug treatment and rehabilitation centres. The registration scheme may include the following :

- (i) a person/organisation will need to apply to an authority for registration in respect of a drug treatment and rehabilitation centre providing residential care, treatment and rehabilitation service for drug abusers;
- (ii) registration of an applicant is subject to the condition that the drug treatment and rehabilitation centre under application complies with fire safety and building safety requirements as prescribed by the Director of Fire Services and the Director of Buildings respectively (the preliminary requirements are set out at Annex A). In the case of New Territories Exempted House held under a lease or licence, the relevant Certificates of Exemption under the Buildings

Ordinance (Application to the N.T.) Cap.121, Certificate of Compliance or Letter of “No Objection to Occupy” as appropriate should have been obtained from the N.T. District Lands Officer.

- (iii) the registration authority may refuse to register an applicant if :
- the applicant is not a fit person in carrying on a drug treatment and rehabilitation centre (proposed criteria for “fit” applicants are set out at Annex B); and
 - the premises, for reasons connected with the construction, accommodation, staffing or equipment used or intended to be used, are not fit for the purpose of a drug treatment and rehabilitation centre;
- (iv) the registration certificate has to be displayed at a conspicuous place in the centre. The registration certificate is valid for a year and the applicant needs to apply for re-registration on an annual basis;
- (v) the staffing and equipment used or intended to be used are appropriate for the purpose of providing care for drug abusers;
- (vi) the registration authority will be empowered to cancel registration of a centre if the centre is found to be not complying with the registration conditions;
- (vii) the registration authority will give a not less than 14 days notice to an applicant or a person registered if it decides to refuse an application or cancel any registration. The applicant or the person so registered will be given 14 days to lodge an appeal with the registration authority. If the applicant or the person so registered is aggrieved by the final decision of the registration authority for refusing an application for registration or cancelling a registration, he may within 14 days of receiving the decision of the authority appeal by way of petition to the Administrative Appeals Board;
- (viii) the registration authority will be empowered to make inspection visits to drug treatment and rehabilitation centres. Proper records on patients received by a drug treatment and rehabilitation centre will need to be kept;

- (ix) failure to comply with the registration requirements or operating a drug treatment and rehabilitation centre without a registration certificate will be liable to a fine of \$1,000 and/or imprisonment for 3 months; and
- (x) registration as a non-medical drug treatment and rehabilitation centre is not required if its capacity for drug patients served is less than four. Otherwise, a family or household with four or less drug abusers might then be regarded as a drug treatment centre.

(b) Priority in Implementation

9. Since most of the non-medical drug treatment and rehabilitation centres may need substantial upgrading to meet the registration requirements in respect of accommodation and fire safety, it will be impracticable to require all of them to be registered at once. It is therefore proposed that the registration exercise for the non-medical drug treatment and rehabilitation centres should be implemented by phases. In this respect, the Administration notes that all non-profit making centres, no matter subvented or non-subvented, may apply to the Lotteries Fund for upgrading of their facilities/accommodation in meeting the necessary requirements. In the first phase, those non-medical drug treatment and rehabilitation centres which receive subvention from the Social Welfare Department will be covered by the registration scheme. Other non-medical drug treatment and rehabilitation centres will be covered in a subsequent phase because some of them, which may not wish to apply to the Lotteries Fund for upgrading, may need a longer period of time to seek funding support from other sources in meeting the registration requirements.

(c) Registration Procedures

10. All operators of non-medical drug treatment and rehabilitation centres would be required to notify the registration authority of their operation within three months after commencement of the enabling legislation. They would be granted exemption certificates which would provisionally exempt them from registration until such certificates are revoked. The advantage of this arrangement is that the legislation can be brought into force to regulate new centres to be set up while exemption can be granted to enable existing centres to continue their operations.

11. For those non-medical drug treatment and rehabilitation centres covered in the first phase, their exemption certificates would be revoked 48 months after the end of the notification period. During this grace period, they are

encouraged to apply for a registration certificate any time from the registration authority. If they failed to obtain a registration certificate at the end of the period, they would have to cease operation. As regards those non-medical drug treatment and rehabilitation centres set up upon or after the commencement of the enabling legislation, the operator would need to apply for registration before starting to provide such services.

12. Non-medical drug treatment and rehabilitation centres not covered in the first phase would also be granted exemption certificates. The timing of implementation of the registration scheme for them would be decided in the light of experience gained as these centres have their unique circumstances.

Registration Legislation and Authority

13. Under the existing legislation, the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap.165) provides for registration of medical drug treatment and rehabilitation centres as nursing homes by the Department of Health. For non-medical drug treatment and rehabilitation centres, we propose to introduce a new piece of legislation to provide for their registration by the Social Welfare Department.

14. This arrangement will fit well with the different ambits of work of the two departments. It is also noted that separate registration arrangement is practised in England to the effect that registration for medical and non-medical drug treatment and rehabilitation centres is administered by the health authorities and the social services authorities respectively.

15. A suggestion has been made that a single piece of registration legislation be enacted to establish a single registration authority for both medical and non-medical drug treatment and rehabilitation centres. Yet, this approach will lead to double registration for medical drug treatment and rehabilitation centres because, given the fact they are providing medical detoxification, they are operating within the legislative scope of Cap.165 and are required to be registered under Cap.165 as well.

CONSULTATION

16. The Narcotics Division welcomes any comments on the proposed registration scheme (paragraphs 7-12) and the proposals for the registration legislation and authority (paragraphs 13-15) in this paper. Please write in to the

Narcotics Division, 23rd floor, High Block, Queensway Government Offices, 66 Queensway, Hong Kong, before 31 October 1998.

17. For enquiries relating to the registration scheme, please contact Mr K T Lam at 2867 2749.

Narcotics Division
Security Bureau
May 1998

**Building and Fire Safety Requirements
for Drug Treatment and Rehabilitation Centres**

Building Safety Requirement

- Each case shall be considered on its own merits after full consideration of the circumstances by the Director of Buildings. In general, all drug treatment and rehabilitation centres shall comply with the relevant provisions of the Buildings Ordinance, Cap.123 and its subsidiary regulations as well as any requirement made by the Building Authority relating to safety and health standards for private buildings.

Fire Safety Requirements

- The fire services requirements are prescribed by the Director of Fire Services, having regard to the conditions of the existing centres. As broad indicators, essential fire safety requirements include, amongst others, clear fire exits, adequate fire services installations, provision of extinguishers and fire blankets within the premises and access by emergency vehicles. Where the centres cannot be accessed by emergency vehicles, enhanced safety measures will be required.
- As for new drug treatment and rehabilitation centres set up upon or after the commencement of the registration legislation, the provision of fire service installations and equipment shall be in accordance with current requirements. Where standard emergency vehicle access cannot be satisfactorily provided, enhanced safety requirements may be formulated. In this connexion, the Director of Fire Services should be consulted during the design stage.

Proposed Criteria for “Fit” Applicants

- The applicant who is registered in respect of a drug treatment and rehabilitation centre must not have any record of criminal convictions of serious drug trafficking offences including -
 - (a) trafficking in dangerous drugs;
 - (b) manufacture of dangerous drugs; and
 - (c) possession of dangerous drugs (indictable offence),regardless of whether the offences are committed in Hong Kong or elsewhere.

- The applicant must not have been sentenced to an addiction treatment centre under the Drug Addiction Treatment Centres Ordinance (Cap. 244) for compulsory treatment of drug addiction.