

Questions and Answers
in the Experience Sharing Session on the Licensing Scheme
for Drug Dependent Persons Treatment and Rehabilitation Centres
on 13 February 2004

Q.1 What assistance can be offered to a treatment centre having difficulty to employ an Authorized Persons /Registered Structural Engineer (AP/RSE) to prepare the expert opinion for submission within two years after the first issue of the certificate of exemption (CoE)?

A.1 The expert opinion is an interim assessment by an AP/RSE that the state of an existing treatment centre would not pose undue hazards in terms of structural safety and / or fire safety to the occupants of the concerned centre during the CoE grace period. Where such requirement is imposed in respect of some or all of the structures in a centre as specified in the CoE, the Agencies concerned should enlist an AP/RSE who could make reference to the ‘Explanatory Notes on Submission of Expert Opinion’ enclosed with the CoE in preparing his assessment.

Social Welfare Department and Buildings Department are most ready to further discuss, including arranging further individual consultation sessions, with treatment centres and/or their responsible AP/RSE to further clarify and discuss on this issue as necessary.

Q.2 Is the Pre-Submission Enquiry applicable to treatment centres’ proposal for redevelopment or reprovisioning?

A.2 Agencies should enlist an AP/RSE to prepare proposal(s) for re-development or reprovisioning of their existing treatment centres, whether at the original sites or new sites, the proposal(s) of which should be the subject of a formal submission under the Buildings Ordinance (Cap.123) to obtain the necessary

approval of the Building Authority. Settling the design principles involved at an early stage will help the proposal to proceed with confidence and avoid any abortive work later on. To facilitate early clearance of basic design principles, Buildings Department (BD) will upon a written enquiry from the AP/RSE provide a determination on the matters involved. BD will solicit comments on the written enquiry from related departments such as Fire Services Department and Lands Department etc. which will also be conveyed to the AP/RSE. It would be advisable for the Agencies' AP/RSE to make such 'pre-submission enquiry' for complicated cases.

Guidelines to 'Pre-submission Enquiry' can be found in Practice Note for Authorized Persons and Registered Structural Engineers No. 272 ["PNAP 272"] issued by BD.

Q.3 For an existing treatment centre planning for reprovisioning but encountering difficulty in complying with the Emergency Vehicular Access (EVA) requirement due to site constraints, is it possible for the centre to apply for waiving of this requirement?

A.3 Where a site does not abut on a street of not less than 4.5m wide, the intensity of the proposed redevelopment (including its height, coverage and floor areas) would need to be determined by the Building Authority. This determination would take into account comments from related departments such as Fire Services Department (FSD), Planning Department, Lands Department, Highways Department and Transport Department etc. FSD might consider waiving of EVA on a case-by-case basis if the upgrading is of a scale similar to the existing scale of the treatment centre concerned.

Agencies are encouraged to make use of the Pre-submission Enquiry as mentioned in A.2 above to clarify this issue among other basic design principles so that they can proceed the proposals with confidence and avoid

any abortive work later on.

Q.4 Against the background of possible rejection by local residents during or after local consultations against a grant of Short Term Tenancy (STT), how would Lands Department (Lands D) assist treatment centres in reprovisioning?

A.4 To offer assistance to existing treatment centres under the licensing scheme, Lands D is ready to consider non-profit-making NGOs' STT applications for reprovisioning their existing treatment centres. In processing such an application, the relevant District Lands Officer (DLO) will need to consult the policy bureau, i.e. ND, the Government departments concerned including among others SWD as well as the local residents on a proposed grant of STT and the conditions to be observed by the prospective tenant in using the site. The part of local consultation is undertaken by the respective District Office of Home Affairs Department (HAD) and Lands Department will post notices in the areas concerned.

All views reflected by bureaux/departments and local residents will be carefully considered in the District Lands Conference. The Conference will deliberate if the objection raised is reasonable. If the objection is considered as reasonable, parties concerned may still explore the feasibility of mediation. In the event of objection raised after a grant of STT, DLO may, subject to the tenant's view and availability of evidence, reject the objection if proved groundless.

Q.5 For buildings in the New Territories (N.T.) such as New Territories Exempted Houses (NTEHs) which are being governed by the Buildings Ordinance (Application to the New Territories) Ordinance, Cap.121, the appropriate authority should be Lands Department (Lands D), not Buildings Department (BD). As such, is it appropriate for BD to

comment on the building safety of such structures including making the classification of unauthorized building works (UBWs) and imposing the demolition requirement? Furthermore, is there any alternative for the unauthorized structures in N.T. to apply for exemption from Lands D so that such structures can avoid being demolished for licensing ?

A.5 Pursuant to Cap.121, or its previous editions that were enacted since June 1960 and were repealed in 1987 by the extant Cap.121, buildings in N.T. may be exempt from certain provisions of the Buildings Ordinance (Cap.123) – such as approval and consent by the Building Authority; and Cap.121 is administered by Lands D. Buildings that are covered by Cap.121 are commonly called NTEH, and they shall comply with the restrictions of not more than 8.23m in height and not more than 65.03 sq. m in roofed-over area and shall obtain certificate of exemption issued by Lands D.

In processing CoE/licence applications of treatment centres, the licensing authority, i.e. SWD, will rely on BD to provide comments on the building safety of treatment centres in accordance with the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance, Cap.566. For structures of treatment centres located in N.T., BD will check its own records as well as consult Lands D to assess whether the concerned structures are legal in the context of Cap.123 or Cap.121. In case there is no record of approval given to such structures under Cap.123 and there is no clear indication as to whether such structures are covered by Cap.121, BD would advise SWD that there are no records of approval given to such structures and would object to using such structures as treatment centres upon expiry of the CoE grace period, unless the specified operators concerned can substantiate the legality of such structures.

Treatment centres are welcome to approach Lands D, SWD and/or BD as necessary for further clarification and discussion on the legality of their

building structures.

Q.6 Would the grace period be extended for a treatment centre which encounters difficulty in meeting the licensing standard upon expiry of the grace period?

A.6 Existing treatment centres are advised to expedite their efforts including carefully plan their time tables to ensure all necessary upgrading works and improvement measures are completed as soon as possible, and not later than the grace period, that is 4 and 8 years for existing subvented and non-subvented centres respectively.

For individual centre whose operator had demonstrated strenuous effort to comply with the licensing requirement, but is unable to complete the required upgrading works due to factors not under its control, SWD may, in consultation with ND and Government departments concerned, consider extension of grace period on a case-by-case basis.

Q.7 What transitional arrangement can a treatment centre make to displace its residents to facilitate the conduction of upgrading works in the centre premises? Can the centre make use of containers and/or prefabricated houses to continue its operation temporarily during the upgrading process?

A.7 The centre should make prior planning to ensure proper care to the residents during the conduction of upgrading works. The centre should prepare a good transitional care plan of the residents and discuss with the AP the appropriate method to minimize disturbance to the operation of the centre, e.g. upgrading by phases. Where necessary and appropriate, the centre could consider freezing or reducing admission before the works commence.

According to Cap.566, all treatment centres which commence operation on or after 1 April 2002 shall obtain licences prior to operation. Temporary use of other places without valid licences or any erection and use of unauthorized buildings works for treatment centre purpose are not acceptable under the Ordinance.

Containers and prefabricated houses are buildings in the context of the Buildings Ordinance (Cap.123). Their installation also require prior approval and consent of the Building Authority which would be the same as that for other form of 'permanent' buildings. Installation of containers and prefabricated houses without going through the approval and consent procedures would be regarded as unauthorized structures/building works.

Q.8 Is there any requirement for provisions of access and facilities for persons with a disability in new treatment centres under the licensing scheme?

A.8 There is no requirement for provisions of access and facilities for persons with a disability in existing and new treatment centres under the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap.566).

For sub-standard provision or non-provision of access and facilities for persons with a disability in connection with new buildings proposals, submission with justifications should be made for consideration and endorsement by the Advisory Committee for Barrier Free Access.

Q.9 Having regard to drug dependent persons' weak self-control and strong psychological craving for drug during the detoxification stage, it will be necessary for treatment centres to resort to the use of locks to prevent them from leaving the centres without the knowledge of staff. Making

reference to mental hospitals or prisons, can treatment centres use locks to help the drug dependent persons in going through detoxification ?

A.9 Whilst understanding Agencies' concern on the need to keep the residents in the centre due to the latter's weak self-control and inclination to leave the centre prematurely, the requirement for all exit doors to be openable from the inside at all times without the use of keys is to secure and ensure that occupants / residents inside the centres would have free and unfettered exit in case of emergency; such requirement is in accordance with the Code of Practice for the Provision of Means of Escape in Case of Fire 1996 issued by the Buildings Department (BD) and also spelt out in Code of Practice for Drug Dependent Persons Treatment and Rehabilitation Centres. This emergency need is considered of paramount importance and prevails over the treatment and/or rehabilitation need to keep them in the treatment centres whose residents seek treatment on a voluntary basis.

On the other hand, Agencies are encouraged to enhance the security of the treatment centres by strengthening the management of the centre and/or adopting means of locking devices acceptable under the aforesaid Codes of Practice.

The situation of mental hospitals and prisons are not similar nor applicable to treatment centres. Whilst admission into such institutions, which are gazetted, is compulsory, admission into treatment centres is voluntary. Moreover, there are special management measures put in place in such institutions, say reinforced manpower strength and regular patrol/supervision requirement, to ensure safety of the residents in such institutions.

Q.10 **While SWD has been helpful in explaining the procedures relevant to the statistics requirement and SWD and Narcotics Division have been helpful in explaining the reasons for such requirement, it does entail increase in**

workload of treatment centres. (Written enquiry)

A.10 Statistical information under the licensing scheme are set out in paragraph 4.7.3 of the Code of Practice for Drug Dependent Persons Treatment and Rehabilitation Centres, and a quarterly statistics form has been designed by the Licensing Office to facilitate treatment centres' compilation and submission of these statistics.

This requirement, similar to other management requirements specified in the Code of Practice, is one of the important tools to facilitate proper management in treatment centres. SWD understands the licensing scheme will entail heavier work demand on the centres. In this regards, licensing requirements on the management and operation aspect, among others as set out in the CoE Schedules, are only the essential and indispensable ones. Those not specified in the CoE Schedules, say "Advisory Conditions for Rectifications/Improvements" in the Appendix and other management records and/or practices specified in the Code of Practice, whilst good practices advisable to be followed, are not pre-requisite for obtaining licences.

Q.11 The implementation of the licensing scheme has and will bring about changes in the treatment modes. How treatment centres can maintain their individual treatment modes while complying with the management requirements of the licensing scheme ? (Written enquiry)

A.11 SWD respects individual centre's treatment and rehabilitation mode and will continue to encourage treatment centres' autonomy in the choice of suitable approaches for the treatment and rehabilitation of the drug dependent persons. As a matter of fact, centres are free to pursue the approaches they used to adopt or prefer, and some common examples are the religious therapeutic

approach and the therapeutic community approach.

Management requirements of the licensing scheme are devised in accordance with Cap.566 and the Code of Practice for Drug Dependent Persons Treatment and Rehabilitation Centres to ensure proper management of treatment centres. Examples are establishment of records on admission/residents/staff and guidelines on residents' taking of medicine. SWD appreciates that changes in management practices, major or minor, are inevitable in the process of achieving such compliance, and this may pose challenges to NGOs in the implementation process. We hope and trust that under NGOs' good hands, challenges (if any) will be resolved and improvements will be achieved. Furthermore, SWD is most ready to further discuss with centres concerned for clarification and discussion as necessary.

Q.12 For an NGO with difficulty in upgrading its existing treatment centre to the licensing standard due to the rental status and in need of new premises for reprovisioning, how long would it take for the NGO to obtain grant of Short Term Tenancy (STT) of new premises by Lands Department (Lands D) ? *(Written enquiry)*

A.12 For details of the procedures involved in processing an application for STT by Lands D, please refer to the powerpoint presentation of Lands D.

To expedite processing of the STT application by the relevant District Lands Office (DLO), it is important that the applicant should ensure that the use of the proposed premises as a treatment centre is in compliance with the provision of the relevant outline zoning plan and the permitted user condition of the land as appropriate. It is also important that the applicant should substantiate its proposal with all relevant information to facilitate the Administration's consideration of whether the proposal serves the value-for-money principle as the Administration is accountable to the public

in the allocation of public resources such as land. Subject to the STT application proposal including all information required for processing, the relevant DLO will normally provide a reply to the applicant in around 6 months depending on complexity of the case.

Apart from searching for government premises, Agency may also try the best effort to seek other types of premises which, though not fully in compliance with the licensing standard in its present conditions, can be renovated/upgraded (including being allowed to be so upgraded) to meet the full requirements of the licensing scheme.

Q.13 For new premises granted by the government to an NGO for reprovisioning its existing treatment centre, what licensing requirements should be complied with and can the grace period start to count again after such reprovisioning ? (*Written enquiry*)

A.13 All new treatment centres (including existing centres to be reprovisioned to new sites), which come into existence and are intended to start operation on or after the commencement of Cap.566 on 1 April 2002, must comply with the licensing requirements as stipulated in Cap.566 and the Code of Practice for Drug Dependent Persons Treatment and Rehabilitation Centres and obtain licences prior to starting operation.

Grace periods are 4 years for existing subvented centres and 8 years for existing non-subvented centres. Such grace periods are applicable to treatment centres issued with CoEs but not new treatment centres. According to Cap.566, CoEs are only applicable to treatment centres which have already been in operation before the commencement of Cap.566 on 1 April 2002 and have submitted the applications by 30 June 2002. CoEs are place bound and non-transferable.