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Panel on Welfare Services

**Background brief prepared by Legislative Council Secretariat
for the meeting on 12 January 2009**

Licensing of residential care homes for persons with disabilities

Purpose

This paper provides background information and gives an account of the discussions of the Panel on Welfare Services (the Panel) on the proposal to introduce a licensing scheme for residential care homes for persons with disabilities (RCHDs).

Provision of RCHDs

Government subvented residential care services for the disabled

2. According to the Administration, there are 187 subvented RCHDs and 17 self-financed RCHDs operated by non-governmental organisations (NGOs) offering residential care services for physically impaired, mentally impaired, ex-mentally ill and blind persons. As at December 2007, there were 10 700 subsidised residential care places for persons with disabilities (PWDs).

3. In order to identify PWDs with genuine need for residential services and to match them with appropriate types of services, a Standardised Assessment Tool for Residential Services for People with Disabilities was implemented with effect from 1 January 2005. All applicants for subvented residential services for PWDs must be assessed by the Tool to ascertain their residential services needs before they are put on the central waiting list/admitted to their required service units.

Private RCHDs

4. As at 1 April 2008, there were 40 private RCHDs known to the Social Welfare Department (SWD) providing 2 293 residential places with an enrolment rate of 69%. The majority of them are in village houses in the New Territories, while a few are located in Kowloon. These private homes admit a mixture of

disability types including mentally handicapped, mentally ill, physically handicapped and stroke patients with a wide range in age group.

5. With the assistance of the private RCHD operators in providing data on the profile of their residents, SWD obtained the data of 1 354 residents living in 33 private RCHDs. The findings showing the position in December 2007 are as follows –

(a) Proportion of female and male residents

There were 460 (34%) female residents and 894 (66%) male residents.

(b) Distribution of residents of different age range

Thirty-three residents (2%) were aged from 15 to 18; 603 (45%) aged from 19 to 44; and 627 (46%) aged from 45 to 59. Residents aged below 15 constituted 1% (12 persons), while those aged over 60 or above constituted 6% (79 persons) of the total number of residents.

(c) Types of disabilities

50% (677 persons) of the residents were ex-mentally ill; 27% (362 persons) with intellectual disability; 3% (39 persons) with physical disability; 19% (263 persons) suffering from more than one type of disability; 0.2% (3 persons) being visually impaired; and 0.7% (10 persons) falling under the miscellaneous category including some elders.

(d) Comprehensive Social Security Assistance (CSSA) recipients

Of the 1 354 residents, 1 217 were CSSA recipients (90%).

(e) Fees charged

The monthly fees charged by the private RCHDs for each resident ranged from \$2,500 to \$7,000.

Monitoring of RCHDs

6. As there is no licensing scheme for RCHDs, the operation of private RCHDs is not subject to a licensing scheme or monitoring mechanism. However, the Administration has put in place measures to provide advice and guidance for the operation of RCHDs, including private homes, with a view to improving their operation and quality of services.

Code of Practice

7. In 2002, SWD issued a Code of Practice for Residential Care Homes for Persons with Disabilities (the Code of Practice) which serves as a guide to the operators on the minimum standard of service as well as the basis for SWD to provide advice and guidance to RCHDs.

Regular visits

8. District staff of SWD have been paying regular liaison visits to RCHDs to give advice on drug administration, use of physical constraints on residents, meals, hygiene and infection control, compliance with the Code of Practice, etc.

Other support for private homes

9. Apart from regular liaison visits, SWD also provides other forms of support for private RCHDs. This includes financial support from the Lotteries Fund for the installation of cohorting facilities for combating infectious diseases, provision of influenza vaccination for the residents and staff, and provision of staff training places.

Motion passed by the Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs

10. At the meeting on 20 January 2006, the Subcommittee to Study Issues Relating to the Provision of Boarding Places, Senior Secondary Education and Employment Opportunities for Children with Special Educational Needs discussed the transitional arrangements for children with special educational needs in respect of residential services. Expressing grave concern about the operation of and quality of services in the private homes for PWDs, members passed a motion urging the Government to legislate expeditiously on the regulation of these private homes and, in the interim, to make various feasible administrative efforts to curb the provision of unreasonable residential services in private homes for PWDs, and to step up inspections and increase the number of subsidised homes to shorten the waiting time.

Discussions by the Panel on Welfare Services

11. Following the passage of the above motion, the Administration briefed the Panel on 21 March 2006 on the proposed measures to strengthen the monitoring of quality of services in private homes for PWDs. The Panel held two further meetings on 11 June 2007 and 8 May 2008 to discuss the progress of introducing a licensing scheme for RCHDs. The Panel also received views from 10 deputations on the matter.

Licensing scheme for RCHDs

12. The Panel has been following up closely on the quality of services in private RCHDs, in particular the maltreatment of residents by unqualified staff in private homes. To enhance the service quality, members strongly urged the Administration to consider introducing legislation and setting up a licensing system to regulate the operation of private homes.

13. The Administration advised that the quality of services in private RCHDs had been an issue of concern to the Government. At the meeting on 21 March 2006, the Administration agreed that a licensing scheme for RCHDs should be introduced in the long run. However, as the licensing scheme would apply to all subvented homes, self-financing homes operated by NGOs as well as private homes, the Administration would need to consider the appropriate licensing requirements, taking into account the special circumstances of these homes. As it took time to prepare for the licensing legislation, the Administration suggested introducing a Voluntary Registration Scheme (VRS) as an interim measure to enhance their service quality (see paragraphs 20 to 23 below).

14. The Panel was briefed on the progress of introduction of the licensing scheme on 11 June 2007 and 8 May 2008. Members were advised that the Registration Office of Private Residential Care Homes for the Disabled (the Registration Office), which was set up in September 2006, had conducted a detailed survey on the conditions of all 244 RCHDs known to SWD. The Administration explained that the aim of the survey was to find out the extent of renovation or improvement works that needed to be carried out in private homes to comply with the latest building and/or fire safety requirements. The inspection would also help identify areas for improvements in both private and subvented RCHDs, and assess the reprovisioning need for some homes. RCHDs not meeting the required standards were advised to carry out improvement works and/or to take other necessary measures in order to satisfy the stipulated requirements.

15. Members were also advised that the Code of Practice would serve as a blueprint for the future licensing scheme. Four consultation sessions for groups of parents of PWDs, NGOs and operators of private RCHDs were held between April and June 2007 to collect views on the Code of Practice and the future licensing standards. A Working Group on RCHDs with representatives from parents' groups of PWDs, PWDs, subvented RCHDs, private RCHDs as well as academia and the Hong Kong Council of Social Service was formed in July 2007 to review the Code of Practice. The Working Group convened six meetings during the period from July 2007 to January 2008, and organized two consultation sessions in December 2007 to gather further views from the rehabilitation sector and stakeholders.

16. Members took the view that a licensing scheme for RCHDs had been long overdue and strongly urged the Administration to speed up the legislative timetable for the licensing regime. They considered that the Administration should set up a steering committee comprising representatives from the relevant stakeholders to foster the preparatory work required for the licensing regime. To speed up the introduction of the licensing regime, there was a suggestion that the Administration should first set out the licensing requirements, and then grant a conditional licence to those homes which were unable to fully comply with the licensing requirements. This would allow time for these homes to upgrade their services and carry out the necessary improvement works for compliance with the licensing requirements as well as shorten the time for consulting the stakeholders on the licensing requirements. Members urged the Administration to make necessary arrangements for those residents who were currently residing in private homes which would discontinue operation for not being able to meet the licensing requirements.

17. The Administration explained that it would not be practical to set out the licensing requirements without first understanding the special situation of RCHDs. Given the many different types of disabilities, time would be required to hammer out the licensing requirements for RCHDs so as to ensure that the licensing regime could meet the needs of different types of PWDs. To speed up the process of legislative work, the Administration was taking parallel action to examine the legal and related issues pertaining to the licensing regime. The Administration stressed that it aimed to introduce a Residential Care Homes (Persons with Disabilities) Bill to the Legislative Council in the 2008-2009 session.

18. Members were subsequently advised in June 2008 that SWD planned to revert to the Panel on the revised Code of Practice upon the commencement of the 2008-2009 session. To foster the preparatory work, SWD would consult the Working Group in the course of finalizing the revised Code of Practice and on issues related to the introduction of the licensing scheme for RCHDs.

19. As regards the licensing requirements, members noted that the proposed statutory requirement for the minimum area of floor space for each resident would be 6.5 square metres. However, some members considered that the average floor area per resident of RCHDs should not be lower than the standards stipulated in the existing Code of Practice. The Administration responded that extensive consultation had been conducted on the review of the existing Code of Practice and requirements of the future licensing scheme. The proposed average floor area per residents was generally accepted by the parties consulted. In addition, some members suggested that consideration should be given to separating residents aged between six and 15 from those aged 15 or above in RCHDs having regard to their specific needs.

Voluntary Registration Scheme

20. Members were advised that the implementation of VRS would encourage the operators to enhance the quality of their services pending the introduction of the licensing scheme. Funding support would be considered, on a case by case basis, for individual private RCHDs to carry out improvement works. The Administration would list the names of the private homes which had made improvements up to the VRS requirements on the SWD's website so that the public could identify suitable private homes for their disabled family members. SWD had also set up a dedicated VRS Hotline. Private RCHDs which had been put on the VRS list but were later found to provide unsatisfactory services would be removed from the list.

21. At the Panel meeting on 8 May 2008, the Administration advised that 26 private RCHDs had submitted applications to join VRS. Out of these 26 private RCHDs, six had successfully joined VRS after carrying out improvements works; 10 were carrying out or considering to carry out improvement works in accordance with the advice of the Registration Office; and 10 had withdrawn their applications due to difficulties in complying with the requirements. The remaining 14 private RCHDs had not applied to join the scheme for such reasons as not being able to meet the requirements or expiry of land lease.

22. Members considered the implementation of VRS unsatisfactory. Noting that over 2 000 PWDs were currently living in private RCHDs which could not meet the requirements of VRS, members held the view that the Administration should provide assistance for private homes to comply with the service standards prior to the introduction of the licensing scheme for RCHDs. Consideration could also be given to providing Government loans to these private RCHDs.

23. The Administration advised that private RCHDs would be advised to take necessary measures to satisfy the stipulated requirements under the Code of Practice prior to the introduction of the licensing scheme, and a grace period would be provided for them after the statutory requirements came into force. In parallel with the implementation of VRS, SWD had taken measures to assist all private RCHDs, including those which had not joined VRS, to enhance their quality of services. For example, training workshops had been organised for staff of all private RCHDs on health care, use of physical restraints and effective drug management. SWD had also invited frontline staff of private homes to join the training courses organised by SWD for staff of subvented NGOs with a view to better equipping them with the essential knowledge and skills in serving PWDs.

Visits to RCHDs

24. Members noted that to further enhance the monitoring of private RCHDs prior to the implementation of the licensing scheme, SWD would increase the frequency of regular liaison visits to these homes from twice to four times a year. However, members considered that increasing the frequency of regular liaison

visits was far from effective to deter the private homes from maltreating their residents, as most of these residents were unable to make their plight known to others. Some members suggested that the regular visits should be interspersed with unscheduled ones. Furthermore, a mechanism should be established to facilitate the lodging of complaints from family members of residents on matters relating to the operation and services of private homes.

25. The Administration advised that the Registration Office would conduct unscheduled quarterly visits to the private homes registered under VRS to monitor their compliance with the requirements of the scheme. The Registration Office would also arrange quarterly visits to the private RCHDs not on VRS and all self-financed RCHDs to keep in view their operation and provide appropriate support. In addition, ad hoc and unscheduled visits would be conducted as and when necessary, for instance, in response to complaints. The Registration Office would conduct follow-up visits on the irregularities found and refer cases involving non-compliance with building and fire safety requirements to the relevant departments for follow up. The Administration was also considering setting up a hotline for the public and family members of service users to lodge complaints against the operation of RCHDs.

Latest development

26. The Administration will update the Panel on the progress of the preparatory work for introducing a licensing scheme to regulate the operation of RCHDs at its meeting on 12 January 2009. According to the Legislative Programme 2008-2009 provided by the Administration, it plans to introduce the Residential Care Homes (Persons with Disabilities) Bill in the second half of the current legislative session to regulate the operation of all RCHDs in the territory.

Relevant papers

27. Members are invited to access the LegCo website at <http://www.legco.gov.hk> to view the Administration's papers for the meetings of the Panel on Welfare Services on 21 March 2006, 11 June and 12 November 2007, and 8 May 2008 as well as the relevant minutes of the meetings.