

立法會
Legislative Council

LC Paper No. CB(2)75/10-11
(These minutes have been
seen by the Administration)

Ref : CB2/BC/4/09

Bills Committee on Residential Care Homes (Persons with Disabilities) Bill

**Minutes of the second meeting
held on Monday, 27 September 2010, at 2:30 pm
in the Chamber of the Legislative Council Building**

Members present : Hon WONG Sing-chi (Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon TAM Yiu-chung, GBS, JP
Hon Ronny TONG Ka-wah, SC
Hon Cyd HO Sau-lan
Hon CHEUNG Kwok-che
Hon IP Wai-ming, MH
Dr Hon PAN Pey-chyou
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung

Member absent : Dr Hon Joseph LEE Kok-long, SBS, JP

Public Officers attending : Item I

Mr Roy TANG Yun-kwong, JP
Deputy Secretary for Labour & Welfare (Welfare) 1

Mr Stephen SUI Wai-keung
Commissioner for Rehabilitation

Mr CHEUNG Hing-wah
Deputy Director of Social Welfare (Services)

Mrs Cecilia YUEN
Assistant Director
(Rehabilitation & Medical Social Services)

Ms Lonnie NG Wah-chi
Senior Government Counsel
Department of Justice

**Attendance by
invitation** : Item I

Direction Association for the Handicapped

Mr LAW Wai-cheung
Vice Chairman

Department of Social Work & Social Administration, The
University of Hong Kong

Ms Phyllis WONG King-shui
Fieldwork Supervisor

Concord Mutual-Aid Club Alliance

Mr HUI Wai-chun
Executive Officer

香港區私營院舍聯會

Miss NG Yuet-yee
Vice Chairman

私人院舍社會工作者同盟

Mr PONG Kwok-boon
Board Member

新界東私營復康院舍聯會

Mr TSANG Kim-kwong
Convenor

The Forthright Caucus

Mr Fernando CHEUNG
Chairperson

Labour-welfare Group of Democratic Party

Mr LO Kin-hei
Member

Hong Kong Private Hostel for Rehabilitation Association

Mr Joe LI
Chairman

爭取私營院舍權益大聯盟

Ms WONG Yun-fong
Medical Superintendent

The Hong Kong Joint Council of Parents of the Mentally Handicapped

Mrs YU CHEUNG Pui-lan
Executive Committee Member

The Hong Kong Council of Social Service

Ms Kimmy LAM
Rehabilitation Officer

Civic Party

Dr KWOK Ka-ki
Member

爭取資助院舍聯席

Mr LAM Lai-shing

Clerk in attendance : Miss Betty MA
Chief Council Secretary (2) 4

Staff in attendance : Mr YICK Wing-kin
Assistant Legal Adviser 8

Ms Yvonne YU
Senior Council Secretary (2) 5

Miss Maggie CHIU
Legislative Assistant (2) 4

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I. Meeting with deputations and the Administration

[The Bill, Legislative Council Brief, LC Paper Nos. LS81/09-10, CB(2)2002/09-10(01) to (02), CB(2)2274/09-10(01), CB(2)2289/09-10(01) and CB(2)2321/09-10(01) to (05)]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee received oral presentations from 14 organizations attending the meeting and one written submission from an organization not attended the meeting.

3. Deputations attending the meeting expressed support for the legislative intent of the Bill. Most deputations, representing groups of persons with disabilities ("PWDs"), parents groups and other stakeholders, took the view that the Bill should be enacted as early as practicable so as to safeguard the well-being of residents of residential care homes for persons with disabilities ("RCHDs"). Their major views are summarized below -

- (a) the statutory requirements of provision of social workers in RCHDs should be stipulated in the Code of Practice ("CoP");
- (b) the proposed licensing standards under the existing CoP were a retrograde step as they were lower than those in the existing non-statutory CoP for RCHDs issued in 2002 ("2002 CoP");
- (c) a mechanism for periodic review and revision of the licensing requirements and standards should be provided for in the Bill;
- (d) a complaint mechanism should be put in place under the licensing regime;
- (e) the grace period for individual RCHDs to put in place suitable arrangements to comply with the statutory licensing requirements was unduly long; and
- (f) some private RCHDs would cease operation or reduce the number of beds as a result of the upgraded spatial requirement and service standard after the implementation of the licensing system. To safeguard the welfare of residents of the affected RCHDs, the Administration should make appropriate displacement arrangements for these residents.

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4. Some other deputations, which represented the private RCHD sector, told the Bills Committee that private home fees would inevitably be increased so as to meet the additional costs for carrying out substantial improvement works in RCHDs and/or to compensate for the loss of income arising from the reduction in the number of beds. Given that a vast majority of RCHD residents met the home fees by the monthly Comprehensive Social Security Assistance ("CSSA") payments, these residents and their family members could not afford a rise in home fees. As such, these deputations requested the Administration to consider -

- (a) providing loans to private RCHD operators to finance the costs of improvement works;
- (b) introducing a nursing care subsidy for RCHD operators/residents so as to help relieve the PWD residents' financial burden in meeting the increased home fees, enable them to take part in outdoor activities and receive rehabilitation training and care; and
- (c) pursuing the option of co-payment of home fees, i.e. allowing family members of those RCHD residents who were on CSSA to top up the difference between the higher home fees and CSSA payments.

5. Some deputations also raised the following concerns on the drafting aspect of the Bill -

- (a) the definition of PWDs for the purpose of the Bill was too broad;
- (b) young children with disabilities should be excluded from the definition of RCHDs;
- (c) the rationale for stipulating in clause 21 of the Bill that the Chief Executive was empowered to give directions to the Director of Social Welfare ("DSW") or other public officers with respect to the exercise of their functions under the Bill; and
- (d) the test for offences under clause 22 was too lax.

6. Deputy Secretary for Labour and Welfare (Welfare)1 ("DS(W)1") advised that the Administration was fully aware of the concern that some private RCHDs might close down upon the implementation of the statutory licensing scheme, resulting in displacement of residents. To address the concerns, the Administration would, in tandem with the Bill, introduce a pilot Bought Place Scheme for private RCHDs prior to the implementation of the statutory licensing scheme to encourage private RCHD operators to upgrade their service standards. In addition, it would also implement a Financial Assistance Scheme after enactment of the Bill to provide subsidies to private RCHDs to carry out

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improvement works in compliance with the licensing requirements in building and fire safety. DS(W)1 further advised that to allow time for individual RCHDs to put in place suitable arrangements for application for a new licence or a certificate of exemption and for the Social Welfare Department to process all applications, there would be a grace period of 18 months after the passage of the Bill. DSW was empowered to issue and renew a certificate of exemption for the purpose of the Bill, if justifiable. The validity period of the certificate would be no more than 36 months. It was the Administration's intention to encourage an existing RCHD to strive to meet all the licensing requirements and obtain a licence as early as practicable. Hence, a certificate of exemption would only be issued or renewed where DSW considered that there were full justifications to allow for reasonable time for completion of the rectification work.

7. DS(W)1 added that a Regulation stipulating the requirements on the operation, management and supervision of RCHDs would be made by the Secretary for Labour and Welfare after the passage of the Bill. The Regulation would be subject to the vetting of the Legislative Council.

8. Members were gravely concerned about the impact of the Bill on the continued operation of private RCHDs and the welfare of the RCHD residents. Whilst noting that the Bill sought to provide a statutory framework to regulate RCHDs and that Regulation stipulating the requirements on the operation, management and supervision of RCHDs would be made after the passage of the Bill, members took the view that the Bills Committee should take the opportunity to examine the proposed licensing requirements and standards, as well as the effectiveness of the complementary measures introduced in tandem with the legislation, having regard to the impacts of such requirements on the operation of RCHDs. Mr Ronny TONG said that the Civic Party would not support the Bill if the proposed licensing requirements and standards were lower than those set out in the 2002 CoP.

9. The Administration was requested to provide the following -

- (a) an assessment of the impact of the Bill on the continued operation of private RCHDs, together with the estimated number of RCHD residents who needed decanting arrangement after enactment of the Bill;
- (b) the estimated number of private RCHDs which would need to carry out improvement works to meet the statutory licensing requirements and standards;
- (c) the complementary measures in place to minimise displacement of residents arising from closure of private RCHDs after enactment of the Bill;

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- (d) the estimated unit operation cost of a RCHD place in order to meet the minimum licensing requirements and standards;
- (e) its response to the proposals of providing a nursing care subsidy for private RCHD operators/residents and co-payment of home fees;
- (f) the latest version of the draft CoP; and
- (g) the number of residential care homes for the elderly which had applied for a certificate of exemption after enactment of the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) and the validity period of the certificates issued.

II. Any other business

10. Members agreed that the next meeting would be held on 25 October 2010 at 4:30 pm.
11. There being no other business, the meeting ended at 4:35 pm.

Council Business Division 2
Legislative Council Secretariat
18 October 2010

**Proceedings of the second meeting of the
Bills Committee on Residential Care Homes (Persons with Disabilities) Bill
on Monday, 27 September 2010, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with deputations and the Administration</i>			
000000 - 000819	Chairman Administration	Briefing by the Administration on the object and principles of the Residential Care Homes (Persons with Disabilities) Bill ("the Bill")	
000820 - 001315	Direction Association for the Handicapped	Presentation of views - (a) the Administration should stipulate in the Code of Practice ("CoP") for residential care homes for persons with disabilities ("RCHDs") the statutory requirements of the provision of social workers in RCHDs; (b) the Administration should set up a review mechanism for the licensing standards; and (c) some private RCHDs would cease operation after the implementation of the licensing system. The Administration should consider adopting measures and decanting arrangements to safeguard the well-being of residents of the affected RCHDs	
001316 - 001749	Department of Social Work & Social Administration, The University of Hong Kong	Presentation of views as detailed in the submission [LC Paper No. CB(2)2321/09-10(01)] (a) urging for the enactment of the Bill as soon as practicable; (b) the Administration should set up a mechanism for regular review of CoP; and (c) given that some private RCHDs would cease operation after the implementation of the licensing system, the Administration should adopt concrete measures to safeguard the well-being of residents of the affected RCHDs	
001750 - 002148	Concord Mutual-Aid Club Alliance	Presentation of views - (a) the definition of PWDs for the purpose the Bill was too broad; (b) a mechanism for review and revision of CoP as well as a complaints mechanism should be provided for in the Bill; (c) under the proposal of one licence for one residential care home, some private RCHDs would choose to apply for a licence for residential care homes for the elderly ("RCHE") so as to evade from the more stringent licensing requirements for RCHDs;	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>(d) the rationale for empowering DSW to extend the application for renewal of a certificate of exemption;</p> <p>(e) provision of social workers in RCHDs should be stipulated in CoP; and</p> <p>(f) transitional arrangements should be put in place to safeguard the well-being of RCHD residents while RCHDs were taking actions to comply with the licensing requirements</p>	
002149 - 002602	香港區私營院舍聯會	<p>Presentation of views -</p> <p>(a) in the light of the operational difficulties faced by private RCHDs as a result of rising rental, staff costs and food costs, private RCHDs would likely increase home fees so as to meet the additional costs for carrying out improvement works to meet the licensing requirements. Given that about 95% of private RCHD residents were Comprehensive Social Security Assistance ("CSSA") recipients, they could not afford a rise in home fees. The Administration should consider revising the level of CSSA payments for RCHD residents;</p> <p>(b) the Administration should provide outreaching rehabilitation services including physiotherapy and occupational therapy to PWDs living in private RCHDs; and</p> <p>(c) the Administration should provide a nursing care subsidy of \$1,500 to each resident of private RCHDs for their betterment</p>	
002603 - 002928	私人院舍社會工作者同盟	<p>Presentation of views -</p> <p>(a) while the private RCHD sector supported the introduction of a licensing regime to improve the service quality of RCHDs, the operators were concerned about the cost implications of the licensing requirements;</p> <p>(b) private RCHD operators attached great importance to the welfare of residents in RCHDs and were strived to providing quality services; and</p> <p>(c) the Administration should provide financial assistance to help private RCHD operators to meet the additional costs for improvement works to facilitate RCHDs' continued operation</p>	
002929 - 003337	新界東私營復康院舍聯會	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)2321/09-10(02)]</p> <p>(a) private RCHD operators faced difficulties in recruiting nursing and healthcare staff;</p> <p>(b) the Administration should provide additional resources/loans to private RCHDs to help them meet the additional costs for improvement works to comply with the licensing requirements; and</p>	

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		(c) concern about the criteria for defining different types of RCHDs for the purpose of the Bill	
003338 - 003806	The Forthright Caucus	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)2321/09-10(03)]</p> <p>(a) the draft CoP should be examined by the Bills Committee in the course of scrutinizing the Bill;</p> <p>(b) private RCHDs should not be allowed to accommodate young children with disabilities;</p> <p>(c) the grace period was unduly too long; and</p> <p>(d) the drafting of clauses 21 and 22 of the Bill should be refined</p>	
003807 - 004246	Labour-welfare Group of Democratic Party	<p>Presentation of views -</p> <p>(a) expressed dissatisfaction at the Administration's reluctance to accede to deputations' repeated requests concerning the licensing standards;</p> <p>(b) the draft CoP should be scrutinized by the Bills Committee prior to the enactment of the Bill, and a periodic review mechanism for CoP should be provided for in the Bill; and</p> <p>(c) the Administration should consider the option of co-payment of home fees and review the levels of CSSA payments</p>	
004247 - 004706	Hong Kong Private Hostel for Rehabilitation Association	<p>Presentation of views -</p> <p>(a) the private RCHD sector supported the introduction of a licensing regime, but was disappointed that the Administration had not addressed the concerns raised by the sector; and</p> <p>(b) the impact of the licensing regime on the sector -</p> <ul style="list-style-type: none"> ● 1/3 of private RCHDs would close down after enactment of the Bill; ● private RCHDs would have to increase home fees or to reduce expenses on other items (e.g. staffing) to cover the additional costs for meeting the licensing requirements; and ● choice of RCHDs was dependent of the affordability of individual RCHD residents 	
004707 - 005131	爭取私營院舍權益大聯盟	<p>Presentation of views -</p> <p>(a) it supported the introduction of a licensing regime to improve the service quality of RCHDs, but some private RCHDs would reduce the number of beds to meet the upgraded licensing requirements. Therefore displacement of residents was required; and</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		(b) the Administration should consider providing financial assistance to private RCHD operators to carry out improvement works or relocate to other premises to continue operation; and providing a nursing care subsidy to residents to help relieve the financial burden posed by an increase in home fees	
005132 - 005336	The Hong Kong Joint Council of Parents of the Mentally Handicapped	<p>Presentation of views -</p> <p>(a) there were practical needs to stipulate in CoP the staffing requirements of social workers in RCHDs so as to take care of PWD residents' welfare needs;</p> <p>(b) the grace period for RCHDs to comply with the licensing standards was too long; and</p> <p>(c) the Administration should step up its efforts to encourage private RCHDs to join the Voluntary Registration Scheme</p>	
005337 - 005732	The Hong Kong Council of Social Service	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)2321/09-10(04)]</p> <p>The Administration should -</p> <p>(a) require RCHDs to increase the staffing for nursing homes and the night shift;</p> <p>(b) introduce complementary measures to help private RCHDs enhance their service quality to meet the licensing requirements;</p> <p>(c) make appropriate decanting arrangement for the affected RCHD residents; and</p> <p>(d) devise a long-term policy and plan for increasing the provision of RCHD places</p>	
005733 - 010139	Civic Party	<p>Presentation of views -</p> <p>(a) opposed to setting licensing requirements on space and staffing lower than those in the non-statutory CoP implemented in 2002;</p> <p>(b) the Administration should take care of the specific rehabilitation needs of ex-mentally ill persons who resided in private RCHDs when drawing up the requirements on staffing and space for private RCHDs, having regard to the fact that most of the residents were ex-mentally ill persons; and</p> <p>(c) the Administration should formulate an overall mental health policy without further delay</p>	
010140 - 010622	爭取資助院舍聯席	<p>Presentation of views -</p> <p>(a) comparing the spatial and staffing requirements stipulated in the existing non-statutory CoP for RCHDs issued in 2002 with those in the draft CoP, it was concerned that the latter was a retrograde step;</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<ul style="list-style-type: none"> (b) there was practical needs to stipulate in CoP the staffing requirements of social workers, occupational therapists, physiotherapists in RCHDs to take care of PWD residents; (c) dedicated RCHDs should be provided to PWDs according to their types of disabilities; (d) the Administration should establish a mechanism to enhance communications between RCHD operators and family members of PWD residents; (e) the validity period of the certificate of exemption should not be more than 18 months; and (f) the Administration should devise a long-term policy and plan to alleviate the waitlisting situation of the subsidized residential care places for PWDs 	
010623 - 011802	Chairman Administration	<p>The Administration's response to the concerns raised by deputations -</p> <ul style="list-style-type: none"> (a) the Administration would introduce a pilot Bought Place Scheme for private RCHDs ("BPS") prior to the implementation of the statutory licensing scheme, and implement a Financial Assistance Scheme after enactment of the Bill to provide subsidies to private RCHDs to carry out improvement works in compliance with the licensing requirements in building and fire safety; (b) to allow time for individual RCHDs to put in place suitable arrangements to meet the requirements for a licence or a Certificate of Exemption upon commencement of the proposed legislation and for SWD to process all such applications, there would be a grace period of 18 months after the passage of the Bill. DSW was empowered to issue and renew a certificate of exemption up to 36 months, if justifiable. It was the Administration's intention to encourage an existing RCHD to strive to meet all the licensing requirements and obtain a licence as early as practicable. Hence, a certificate of exemption would only be issued or renewed where DSW considered that there were full justifications to allow for reasonable time for completion of the rectification work; (c) in accordance with the 2007 Rehabilitation Programme Plan, the Government had been adopting a three-pronged approach to encourage participation from different sectors in providing diversified residential care services for PWDs; and (d) to alleviate the shortage of nurses in the welfare sector, SWD, in collaboration with the Hospital Authority, had since 2006 funded and launched six batches of the Enrolled Nurse (General)/Enrolled Nurse (Psychiatric) Training Programme for the Welfare Sector (the Training Programme). The 	

Time marker	Speaker(s)	Subject(s)	Action required
		Employees Retraining Board also provided training courses on Health Care Services for health care staff working in the welfare sector	
011803 - 012219	Mr LEUNG Kwok-hung	Expressed dissatisfaction at the Administration's shirking of responsibility to provide adequate subsidized RCHD places and safeguard the well-being of private RCHD residents	
012220 - 012842	Mr LEE Cheuk-yan Administration Chairman	<p>Views of Mr LEE Cheuk-yan -</p> <p>(a) objected to lowering the licensing requirements and standards to facilitate the continued operation of private RCHDs and the unduly long grace period for RCHDs to make necessary preparations for meeting the licensing requirements;</p> <p>(b) BPS was ineffective in enhancing service quality of private RCHDs because of the limited places available under the scheme; and</p> <p>(c) if the operation cost of a RCHD place that met the licensing standards was higher than the monthly CSSA payments receivable by RCHD residents, it was financially not viable for private RCHDs to continue operation</p> <p>The Administration's response that the proposed licensing standards provided only the minimum requirements to ensure compliance by all existing RCHDs and that RCHDs with bought places in future would need to comply with higher standards. The estimated contract price for a BPS place would be over \$7,000</p>	
012843 - 013307	Mr TAM Yiu-chung Chairman	<p>Views of Mr TAM Yiu-chung -</p> <p>(a) given that majority of PWDs living in private RCHDs were on CSSA and that the CSSA payments were too low for private RCHD operators to provide quality service;</p> <p>(b) apart from providing resources for BPS, the effectiveness of scheme would also depend on the supply of quality RCHD places in the market that met the higher standards ; and</p> <p>(c) the suggestion of co-payment of home fees and introducing a nursing care subsidy warranted further consideration</p>	
013308 - 014150	Mr Ronny TONG The Hong Kong Joint Council of Parents of the Mentally Handicapped The Fortright Caucus Chairman Administration	<p>Views of Mr Ronny TONG -</p> <p>(a) the Civic Party would not support the Bill if the proposed licensing standards for RCHDs were too low; and</p> <p>(b) the draft CoP should be scrutinized by the Bills Committee prior to the enactment of the Bill</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>The Hong Kong Joint Council of Parents of the Mentally Handicapped's stance that the draft CoP was unacceptable because the proposed licensing standards were lower than those set out in the existing non-statutory CoP</p> <p>The Fortright Caucus's reiteration that the Bills Committee should examine the draft CoP</p> <p>The Administration's explanation of the mechanism for making a Regulation stipulating the various requirements on the operation, management and supervision of RCHDs was provided for in the Bill</p>	
014151 - 014800	Mr CHEUNG Kwok-che Administration Chairman	<p>Mr CHEUNG Kwok-che's request of the following information from the Administration -</p> <ul style="list-style-type: none"> (a) the latest version of draft CoP; (b) the estimated number of RCHD residents who would need to relocate to other homes after enactment of the Bill; (c) the estimated number of RCHEs which had applied for a certificate of exemption after enactment of the Residential Care Home (Elderly Persons) Ordinance (Cap. 459) and the validity period of the certificates issued; (d) the estimated unit operation cost of a RCHD place in order to meet the minimum licensing standards; and (e) its views on the proposals of co-payment of home fees and introducing a nursing care subsidy <p>Views of Mr CHEUNG Kwok-che that the Bills Committee should take the opportunity to examine the draft CoP</p> <p>The Administration's advice that numerous consultation with the stakeholders including Panel on Welfare Services on the draft CoP had been conducted, and the consultation was on-going</p>	Admin
014801 - 015325	Ms Cyd HO Chairman	<p>Views of Ms Cyd HO the draft CoP should be examined by the Bills Committee prior to the enactment of the Bill</p> <p>Ms HO's request for the Administration to provide information on the estimated number of private RCHDs that would have to carry out improvement works to meet the statutory licensing requirements and standards and its plan in place to assist private RCHDs to meet the requirements and standards</p>	Admin
015326 - 020026	Mr LEUNG Yiu-chung Administration Chairman	Mr LEUNG Yiu-chung shared the views that the Bills Committee should examine the draft CoP prior to enactment of the Bill	

Time marker	Speaker(s)	Subject(s)	Action required
020027 - 020503	Mr IP Wai-ming Chairman Administration	Views of Mr IP Wai-ming - (a) the Bills Committee should examine the draft CoP prior to the enactment of the Bill given that CoP was not subject to approval of LegCo, nor being amendable by LegCo; (b) the grace period for RCHDs to make preparation to comply with the licensing requirements was too long; and (c) the Administration should provide members with the unit operation cost of a RCHD place in order to meet the minimum licensing standards	
020504 - 020549	Chairman	Date of next meeting	
020550 - 020656	Hong Kong Private Hostel for Rehabilitation Association Chairman	Re-circulation of the submission of the Hong Kong Private Hostel for Rehabilitation Association to the Panel on Welfare Services in April 2010 [LC Paper No. CB(2)1384/09-10(04)], which contained information on unit operation cost of private RCHD place	
<i>Agenda item II – Any other business</i>			
020657 - 020733	Chairman	Date of next meeting	