

立法會
Legislative Council

LC Paper No. CB(2)664/10-11
(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 fifth meeting
held on Friday, 3 December 2010, at 10:45 am
in Conference Room B 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 II

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

Mr Stephen SUI Wai-keung
Commissioner for Rehabilitation
Labour and Welfare Bureau

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

Mr Philip TANG
Senior Social Work Officer
(Rehabilitation & Medical Social Services) 6
Social Welfare Department

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

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

Action

I. Confirmation of minutes

[LC Paper Nos. CB(2)406/10-11 and CB(2)407/10-11]

The minutes of the meetings held on 25 October and 5 November 2010 were confirmed.

II. Meeting with the Administration

[The Bill, LC Paper Nos. CB(2)2002/09-10(01), CB(2)2274/09-10(01), CB(2)2289/09-10(01), CB(2)186/10-11(01) and CB(2)304/10-11(01)]

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

Action

3. Referring members to the Administration's paper on the estimated unit operating costs of private residential care homes for persons with disabilities ("RCHDs") [LC Paper No. CB(2)304/10-11(01)], the Chairman suggested that deputations of the private RCHD sector, such as the Hong Kong Private Hostel for Rehabilitation Association which had previously given views to the Bills Committee should first be invited to provide a response to the paper. Members agreed to put on hold the discussion pending further views from the private RCHD sector.

4. Members noted that the Administration was compiling the views collected during the eight consultation sessions on the revised draft Code of Practice ("2008 CoP") for RCHDs, and it would revert to the Bills Committee in due course.

Admin

5. The Administration was requested to -

- (a) further elaborate on the application of the majority rule in the classification of RCHDs for the purpose of the Bill and the 2008 CoP, in particular for a mixed home accommodating residents with disabilities who required different levels of care;
- (b) provide a consolidated response on the regulatory mechanism and the respective service standards of the premises/institutions providing residential care services for persons with disabilities which were proposed to be exempted from the application of the Bill; and
- (c) consider the need for refining the Chinese text of "organisms" in the definition of "persons with disabilities".

6. While noting that the Administration would provide a consolidated response on paragraph 5(b) above, the Chairman instructed the Clerk to write to the Education Bureau requesting it to provide information on the provision of barrier free access and facilities for students with disabilities in Chi Yun School and advise whether Chi Yun School was within the meaning of boarding school regulated under the Education Regulations (Cap. 279 sub. leg. A), and if so, the service standards concerned.

7. To facilitate members' better understanding of service standards of RCHDs, members agreed that a visit to Chi Yun School and a couple of private RCHDs should be arranged.

Action

III. Any other business

8. The Chairman said that the next meeting would be held on 16 December 2010 at 10:45 am.

(Post-meeting note: The next two meetings originally scheduled for 16 December 2010 and 6 January 2011 had respectively rescheduled for 17 December 2010 at 10:45 am and 4 January 2011 at 10:45 am.)

9. There being no other business, the meeting ended at 12:48 pm.

Council Business Division 2
Legislative Council Secretariat
29 December 2010

**Proceedings of the fifth meeting of the
Bills Committee on Residential Care Homes (Persons with Disabilities) Bill
on Friday, 3 December 2010, at 10:45 am
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Confirmation of minutes</i>			
000000 - 000651	Chairman	Confirmation of minutes of meetings on 25 October and 5 November 2010 [LC Paper Nos. CB(2)406/10-11 and CB(2)407/10-11]	
<i>Agenda item II – Meeting with the Administration</i>			
000652 - 000937	Chairman Administration	<p>The Chairman's suggestion to invite views from deputations of the private residential care home for persons with disabilities ("RCHD") sector, such as the Hong Kong Private Hostel for Rehabilitation Association on the Administration's estimated unit operating costs of a private RCHD based on the standards under the revised draft Code of Practice ("2008 CoP") for RCHDs [LC Paper No. CB(2)304/10-11(01)]</p> <p>The Chairman's enquiry about the progress in compiling the views collected during the eight consultation sessions on the 2008 CoP by the Administration</p>	<p>Clerk</p> <p>Admin</p>
000938 - 001853	Ms Cyd HO Chairman Administration Mr CHEUNG Kwok-che	<p>Ms Cyd HO's concern about the provision of barrier free access and facilities for students with disabilities in Chi Yun School, which was a boarding school, and whether the latter would be regulated under the Residential Care Homes (Persons with Disabilities) Ordinance (when enacted)</p> <p>The Administration's advice that the Bill did not apply to Chi Yun School as it was a boarding school within the meaning of the Education Regulations (Cap. 279 sub. leg. A)</p> <p>Mr CHEUNG Kwok-che's enquiry as to whether the scope of the Bill should be expanded to cover boarding schools for students with disabilities</p> <p>Ms Cyd HO's enquiry as to whether the 2008 CoP was applicable to boarding schools for students with disabilities</p> <p>The Administration was requested to revert to the Bills Committee on the above concerns raised by members</p>	<p>Admin</p>

Time marker	Speaker(s)	Subject(s)	Action required
		<p>The Chairman's suggestion for the Bills Committee to seek information from the Education Bureau ("EDB") on the provision of barrier free access and facilities for students with disabilities in Chi Yun School and the relevant service standards</p>	<p>Clerk</p>
001854 - 002026	<p>Chairman Administration</p>	<p>Briefing by the Administration on the comparison table showing the major differences between the non-statutory CoP issued in 2002 ("2002 CoP") and the 2008 CoP [Annex A of LC Paper No. CB(2)186/10-11(01)]</p>	
002027 - 003122	<p>Chairman Administration Ms Cyd HO ALA8</p>	<p>Discussion on the difference in the meaning of RCHDs under the 2002 CoP and 2008 CoP</p> <p>The Chairman's enquiry on whether educational institutions were exempted from the Bill</p> <p>The legal adviser to the Bills Committee's advice that clause 3(1) of the Bill provided for types of premises/institutions that were exempted from the application of the Bill. Under clause 3(1)(c), the Ordinance would not apply to boarding school within the meaning of the Education Regulations (Cap. 279 sub. leg. A)</p> <p>Ms Cyd HO's concern about the need to make consequential amendments to the Education Regulations so as to ensure that the service standards of special schools providing residential services were on a par with the 2008 CoP requirements</p> <p>The Administration was requested to consider whether the Education Regulations should be amended accordingly</p>	
003123 - 004731	<p>Chairman Administration Ms Cyd HO Dr PAN Pey-chyou Mr CHEUNG Kwok-che Mr LEUNG Yiu-chung</p>	<p>Discussion on the difference in the definitions of persons with disabilities ("PWDs") in the 2002 CoP and 2008 CoP</p> <p>The Administration was requested to consider the need for refining the Chinese text of "organisms" in the definition of PWDs which was modelled on the definition of "disability" under the Disability Discrimination Ordinance ("DDO") (Cap. 487)</p> <p>Mr CHEUNG Kwok-che's concern whether children with autism and hyperactivity disorder were within the meaning of PWDs</p> <p>Views of Dr PAN Pey-chyou's that children with autism and hyperactivity disorder would be within the meaning of PWDs in DDO and the Bill</p>	<p>Admin</p>

Time marker	Speaker(s)	Subject(s)	Action required
004732 - 010327	Chairman Administration Ms Cyd HO Mr LEUNG Yiu-chung Mr CHEUNG Kwok-che	<p>Discussion on the types of premises/institutions exempted from the application of the 2002 CoP and 2008 CoP</p> <p>The Administration's advice that subsequent to the issue of the draft 2008 CoP for consultation, the Administration proposed to include treatment centres within the meaning of the Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Ordinance (Cap. 566) to the types of premises/institutions to be exempted from the Bill. The Administration also proposed to exclude skills centres within the meaning of Vocational Training Council Ordinance (Cap. 1130) from the list of exempted premises/institutions under the Bill. While there was only one skills centre with residential care service, its service standards had not been specifically spelt out in the related legislation or CoP. Furthermore, there was no need to include the registered child care centres within the meaning of Child Care Services Ordinance (Cap. 243) in the list of exempted premises/institutions. These centres would only provide residential care services to children with disabilities aged 2 to 6 and would not be caught by the Bill which would apply to PWDs aged 6 or above. Consequential amendments would be made to the 2008 CoP after the enactment of the Bill</p> <p>Mr CHEUNG Kwok-che's concern about the service standards of those establishments which were exempted from the application of the Bill and the 2008 CoP. Views of Mr CHEUNG Kwok-che and Mr LEUNG Yiu-chung that the requirements under the 2008 CoP were the minimum acceptable standards for establishments providing residential care services for PWDs, although they were regulated under other legislation</p> <p>The Administration to provide a consolidated response on the regulatory mechanism and the respective service standards of premises/institutions providing residential care services to PWDs which were proposed to be exempted from the application of the Bill</p>	<p>Admin</p>
010328 - 010542	Chairman Administration	The Administration's elaboration on the new item on "advertising requirement" added to the 2008 CoP, which aimed to facilitate users' selection of the appropriate homes among RCHDs and residential care homes for the elderly ("RCHes")	

Time marker	Speaker(s)	Subject(s)	Action required
010543 - 010722	Ms Cyd HO Chairman Administration	Discussion on the "one licence for one residential care home" principle	
010723 - 011502	Mr LEUNG Yiu-chung Administration Chairman	Mr LEUNG Yiu-chung's concern about the confusion in the classification of residential care homes for elderly with disabilities under the one licence for one residential home principle	
011503 - 012241	Ms Cyd HO Chairman Administration	Ms Cyd HO's concern about the implementation of standardised care need assessment mechanisms for the elderly and PWDs	
012242 - 012841	Mr CHEUNG Kwok-che Chairman Administration	<p>Mr CHEUNG Kwok-che's enquiry about the major differences between the CoP for RCHEs and CoP for RCHDs and whether RCHD residents would need to move to RCHEs when they reached the age of 60</p> <p>The Administration's advice that as agreed by the Working Group on RCHDs, the Bill and draft CoP for RCHDs were modelled on the licensing system for RCHEs while standards that were specific to the situations of RCHDs should be devised, e.g. more stringent nightshift staff requirement in RCHDs</p>	
012842 - 013549	Mr LEUNG Yiu-chung Administration Chairman Dr PAN Pey-chyou	Discussion on the enforcement of the compliance by the licensees with the spatial and staffing requirements for different types of RCHDs in the light of the majority rule	
013550 - 014622	Mr LEUNG Kwok-hung Administration Chairman	Mr LEUNG kwok-hung's concern about the appeal mechanism for the pre-admission assessment results	
014623 - 020035	Mr IP Wai-ming Chairman Administration Mr LEUNG Kwok-hung Mr CHEUNG Kwok-che	<p>Concerns about the classification of different types of RCHDs and the application of the majority rule</p> <p>The Administration's advice that the classification of different types of RCHDs was modelled on the arrangements for RCHEs and its observation on the operation of private RCHDs</p> <p>The Administration was requested to further elaborate on the application of the majority rule in the classification of different types of RCHDs, in particular for a mixed home accommodating residents with disabilities who required different levels of care</p>	Admin
020036 - 020218	Ms Cyd HO Chairman Administration	Views of Ms Cyd HO that the classification of RCHDs should be simple and flexible	

Time marker	Speaker(s)	Subject(s)	Action required
020219 - 020423	Chairman Ms Cyd HO Mr LEUNG Kwok-hung Mr IP Wai-ming	Proposal to arrange a visit to private RCHDs and Chi Yun School	Admin

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