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**Panel on Welfare Services**

**Updated background brief prepared by Legislative Council Secretariat  
for the meeting on 24 April 2010**

**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**

2. RCHDs in Hong Kong are run by both the private sector and non-governmental organisations ("NGOs"). There are three types of RCHDs, namely subvented RCHDs, self-financing RCHDs operated by NGOs and private homes.

3. According to the Administration, there are about 11 100 subsidised residential care places for persons with disabilities ("PWDs"). Various kinds of subsidised residential care services are provided to those who cannot live independently or cannot be adequately cared for by their families. These services include –

- (a) Hostel for Severely Mentally Handicapped Persons;
- (b) Hostel for Moderately Mentally Handicapped Persons;
- (c) Supported Hostel;
- (d) Care and Attention Homes for Severely Disabled Persons;
- (e) Hostel for Severely Physically Handicapped Persons;

- (f) Long Stay Care Home;
- (g) Halfway House;
- (h) Care and Attention Home for the Aged Blind;
- (i) Small Group Home for Mildly Mentally Handicapped Children/Integrated Small Group Home;
- (j) Residential Special Child Care Centre; and
- (k) Integrated Vocational Training Centre (Residential Service).

4. As at January 2010, there were about 2 900 reported places (with 70% enrolment rate) in 54 private RCHDs known to the Social Welfare Department ("SWD"). According to the profile of 1 806 residents as gathered from the operators of 48 private RCHDs in a survey conducted in May 2009, 94% of private RCHD residents were persons with mental illness and/or mental handicap (54% were ex-mentally ill persons, 29% were persons with mental handicap, and 11% were persons with mental illness and mental handicap).

### **Monitoring of RCHDs**

5. 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

6. 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

7. 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

8. 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**

9. 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 RCHDs, 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 RCHDs, and to step up inspections and increase the number of subsidised homes to shorten the waiting time.

### **Discussions by the Panel on Welfare Services**

10. 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 RCHDs. The Panel held four further meetings on 11 June 2007, 8 May 2008 and 12 January and 25 February 2009 to discuss the progress of introducing a licensing scheme for RCHDs. The Panel also received views from deputations on the matter.

### Voluntary Registration Scheme

11. At its meeting on 21 March 2006 when the Panel was briefed on the proposed measures to strengthen the monitoring of quality of services in private RCHDs, 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.

12. 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 on the SWD's website the names of the private homes which had made improvements which met the VRS requirements 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.

13. At the Panel meeting on 8 May 2008, the Administration advised that 26 private RCHDs had submitted applications to join VRS. 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; 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.

14. 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.

15. 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.

#### Licensing scheme for RCHDs

16. On the progress of introduction of the licensing scheme, 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.

17. 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 organised two consultation sessions in December 2007 to gather further views from the rehabilitation sector and stakeholders.

18. 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. Members also 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.

19. The Administration advised 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 on RCHDs in the course of finalising the revised Code of Practice and on issues related to the introduction of the licensing scheme for RCHDs. Members were advised that the Administration aimed to introduce a Residential Care Homes (Persons with Disabilities) Bill to the Legislative Council ("LegCo") in the 2008-2009 session.

20. At its meeting on 12 January 2009, the Panel was updated on the progress of the preparatory work for introducing a licensing scheme for RCHDs and briefed on the draft revised Code of Practice for RCHDs which set out all the requirements for compliance by RCHDs. Members were advised that to allow time for individual RCHDs to apply for a new licence upon commencement of the Ordinance and for SWD to process all such applications, there would be a grace period after which any RCHDs operating without a licence would be guilty

of an offence upon conviction. The Code of Practice, once promulgated, would serve as a statutory code on the minimum standard of service to be complied with by all RCHDs.

21. While welcoming the proposal to introducing a licensing regime for RCHDs, members expressed grave concern that some private RCHDs would close down after the implementation of the licensing system due to non-compliance of the requirements or would increase the home fees to meet the costs for improvement works. Given that over 6 000 PWDs were currently on the waiting lists for subsidised RCHD places and only 439 and 515 additional places would be provided in 2008-2009 and 2009-2010 respectively, members were of the view that the Administration should put in place measures to shorten the waiting time for subvented RCHD places in parallel with the introduction of a licensing scheme. Some members made the following suggestions –

- (a) providing one-off subsidy or low interest loans for private RCHDs to carry out improvement works;
- (b) making reference to the Enhanced Bought Place Scheme for residential care homes for the elderly ("RCHEs") and purchasing places from private RCHDs; and
- (c) making corresponding upward adjustment to the monthly CSSA payments to those residents of private RCHDs who were on CSSA to meet the increased home fees.

22. The Administration advised that the proposal of providing one-off subsidy to private RCHDs should be considered carefully in the light of the proper use of public money. It would consider critically the proposal of purchasing places from private RCHDs, bearing in mind that the standards under a Bought Place Scheme would be higher than the minimum requirements as stipulated in the draft Code of Practice. The Administration stressed that it would continue to bid for additional resources to increase the supply of subsidised residential care places and identify suitable sites for RCHDs.

23. Members maintained the concern about the impact of the proposed licensing regime on the operation of RCHDs and the well-being of RCHD residents. They strongly urged the Administration to conduct an overall assessment of the impact of the proposal on the operation of existing RCHDs and residents of RCHDs, in particular the impact on the waiting time for admission to subsidised residential care places, fees of private RCHDs and service quality of RCHDs.

24. At the special meeting on 25 February 2009, the Panel received views from 19 deputations on the proposed licensing system. Noting that the minimum area of floor space per resident and the staffing requirements in

RCHDs as set out in the draft Code of Practice were lower than those in the existing Code, members expressed concern that the minimum standards set out in the draft Code of Practice would be too low for quality residential care service standards.

25. The Administration advised that the purpose of the licensing scheme was to enhance the service quality of RCHDs. The draft Code of Practice was prepared by simplifying the existing Code and adopting, as far as possible, the standards set out in the Code of Practice for RCHEs, and at the same time devising standards that were specific to the situations of PWDs. The Administration stressed that the requirements in the draft Code of Practice were set out having balanced the different views of the rehabilitation sector and stakeholders. It would serve as a statutory code on the minimum standards of services to be complied with by all RCHDs. To this end, the Working Group on RCHDs had convened meetings and organised a number of consultation sessions to gauge the views of the rehabilitation sector, private RCHD operators and stakeholders in the course of reviewing the existing Code of Practice.

26. While welcoming the proposal of introducing a licensing scheme to regulate the operation of RCHDs, members were gravely concerned about the well-being of the residents in private RCHDs in the event that the RCHDs could not meet the licensing standards and had to cease operation. Members took a strong view that the Administration should draw up decanting arrangement for the affected residents.

27. The Administration advised that it would assist the affected residents of private RCHDs to move to other subvented, self-financing or private RCHDs as far as practicable if individual private RCHDs ceased to operate.

28. In the light of the possible impact of the licensing scheme on the private RCHD operators and the residents living therein, members urged the Administration to provide resources and introduce complementary measures to facilitate private RCHDs to meet with the standards when the licensing scheme was introduced. Members also requested the Administration to report progress to the Panel.

29. The Panel was subsequently advised that the Administration would postpone the introduction of the Bill to LegCo to the 2009-2010 session given that the Bill would comprise a large number of provisions and entail consequential amendments to other ordinances, and would necessitate the deliberation of related policy issues.

30. As a complementary measure prior to the implementation of a statutory licensing system, the Administration planned to introduce a four-year pilot Bought Place Scheme for private RCHDs in 2010-2011. At its meetings on 8 February and 13 March 2010, the Panel discussed the framework on the pilot

Scheme. Members were advised that the pilot Scheme served to encourage operators to upgrade the service standard of these homes through enhanced requirements in staffing and space standard, help the market develop more service options for PWDs, and increase the supply of subsidised residential care places. Members were also advised that the Administration intended to seek funding allocation from the Lotteries Fund in May 2010 for implementing the Scheme.

### The Residential Care Homes (Persons with Disabilities) Bill

31. At its meeting on 12 April 2010, the Panel was briefed on the key legislative proposals in the Residential Care Homes (Persons with Disabilities) Bill. According to the Administration, it planned to introduce the Bill into LegCo within the 2009-2010 session. The Panel noted that the Bill, which was modelled on the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459), aimed to provide for the control of RCHDs through a licensing system administered by the Director of Social Welfare. As part of the statutory licensing mechanism, a Code of Practice would set out the minimum licensing standards for compliance by RCHDs.

32. While raising no objection to the policy direction of regulating the operation of RCHDs, most members generally considered that the licensing standards set out in the draft Code of Practice were lower than the standards set out in the existing Code of Practice and the VRS requirements. The proposed licensing standards were too low for quality residential care service standards.

33. Noting that most private RCHD residents were recipients of Comprehensive Social Security Assistance, members were concerned that these residents could not afford fee rise as a result of upgrading facilities of RCHDs for compliance with the licensing standards. Given some private RCHD operators had indicated that they would cease to operate for being unable to meet the additional costs for upgrading facilities and the fact that only six RCHDs had joined VRS, members were gravely concerned about the impact of the licensing system on the operation of RCHDs and the well-being of RCHD residents.

34. The Administration reiterated that the requirements in the draft Code of Practice were set out having balanced the different views of the rehabilitation sector and stakeholders. It would serve as a statutory code on the minimum standards of services to be complied with by all RCHDs.

35. The Panel will receive views from deputations on the legislative proposals at the special meeting to be held on 24 April 2010.



### **Relevant papers**

36. 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, 8 May 2008, 12 January and 25 February 2009, and 12 April 2010 as well as the relevant minutes of the meetings.

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