

立法會
Legislative Council

LC Paper No. CB(2)2677/10-11
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seen by the Administration)

Ref : CB2/SS/10/10

Subcommittee on Residential Care Homes (Persons with Disabilities)
Regulation and Residential Care Homes (Persons with Disabilities)
Ordinance (Commencement) Notice 2011

Minutes of the second meeting
held on Monday, 15 August 2011, at 2:30 pm
in the Chamber of the Legislative Council Building

Members present : Hon WONG Sing-chi (Chairman)
Hon LEUNG Yiu-chung
Hon Cyd HO Sau-lan
Hon CHEUNG Kwok-che
Dr Hon PAN Pey-chyou
Hon Alan LEONG Kah-kit, SC

Members absent : Hon LEE Cheuk-yan
Hon LI Fung-ying, SBS, JP
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP

Member attending : Hon WONG Kwok-kin, BBS

Public Officers attending : Item I

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

Miss Neve LEUNG Man-shan
Acting Commissioner for Rehabilitation
Labour and Welfare Bureau

Mrs Helen KWOK LI Mung-yee
Acting Assistant Director of Social Welfare
(Rehabilitation and Medical Social Services)

Ms Maggie LEUNG Yee-lee
Senior Social Work Officer (Rehabilitation and
Medical Social Services) 6
Social Welfare Department

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

**Attendance by : Item I
invitation**

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

The Hong Kong Joint Council of Parents of the
Mentally Handicapped

Mr YEUNG Ka-keung
Exco Member

新界東私營復康院舍聯會

Mr TSANG Kim-kwong
Convenor

西九龍復康院舍聯會

Mr FONG Fu-leung
Chairman

HK Private Hostel for Rehabilitation Association

Mr Joe LI
Chairman

Mr NG Ka-yan
家長代表

私營院舍社工聯合小組

Mr CHAN Tze-hau
院長

新界西聯會

張健華先生

爭取私營院舍權益大聯盟

劉謀計先生

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) 4

Miss Maggie CHIU
Legislative Assistant (2) 4

I. Meeting with deputations and the Administration

[Legislative Council Brief, L.N. 111 of 2011, L.N. 112 of 2011, LC Paper Nos. LS86/10-11, CB(2)2374/10-11(02) to (03), CB(2)2493/10-11(01) to (02), CB(2)2500/10-11(01) and CB(2)2507/10-11(01)-(03)]

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

2. The Subcommittee received oral representations from nine deputations on the Residential Care Homes (Persons with Disabilities) Regulation and Residential Care Home (Persons with Disabilities) Ordinance (Commencement) Notice 2011. The major views of the deputations are set out in the **Annex**.

3. Members noted the Administration's responses to the following issues raised at the last meeting held on 22 July 2011 [LC Paper No. CB(2)2493/10-11(01)] -

- (a) details of the Financial Assistance Scheme ("FAS") for private residential care homes for persons with disabilities ("RCHDs"); and
- (b) the viability of including outdoor space for calculating the floor space per resident in a RCHD.

4. Members were concerned about the difficulties and the financial viability of the private RCHD sector in carrying out improvement works in respect of building and fire safety for compliance with the licensing requirements. Specifically, members expressed concern that some private RCHDs would increase fees to cover the additional costs for meeting the licensing requirements on building and fire safety.

5. The Administration advised that it would introduce suitable complementary measures to encourage private RCHDs to upgrade their service standards and help the market develop more service options for persons with disabilities. To this end, it had introduced the pilot Bought Place Scheme for private RCHDs and would implement FAS upon

Action

commencement of the Ordinance to provide subsidies for private RCHDs to carry out improvement works in compliance with the licensing requirements in building and fire safety. Moreover, there would be a grace period of 18 months after the commencement of the Ordinance to allow sufficient time for RCHDs to apply for a licence or a Certificate of Exemption. The Social Welfare Department would liaise with the relevant departments and provide appropriate assistance if required.

Admin

6. The Administration agreed to provide an estimation on the operating costs of private RCHDs based on available market information.

II. Any other business

7. Members agreed that the next meeting would be held on 26 August 2011 at 8:30 am.

8. There being no other business, the meeting ended at 4:40 pm.

Council Business Division 2
Legislative Council Secretariat
30 September 2011

**Proceedings of the second meeting of the
Subcommittee on Residential Care Homes (Persons with Disabilities) Regulation
and Residential Care Homes (Persons with Disabilities) Ordinance
(Commencement) Notice 2011
on Monday, 15 August 2011, 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 - 001206	Chairman Administration	Briefing by the Administration on its response to issues raised by members at the meeting held on 22 July 2011 [LC Paper No. CB(2)2493/10-11(01)]	
001207 - 001521	香港區私營院舍聯會 Chairman	Presentation of views - (a) a monthly allowance of \$1,500 should be provided for private RCHD residents to enable them to meet the increased home fees after the implementation of the licensing scheme; (b) a committee comprising RCHD residents, their family members, RCHD operators and staff, professionals and academia should be set up, with a view to improving the service quality of private RCHDs; and (c) the co-ordination and collaboration among relevant departments (such as the Social Welfare Department ("SWD"), Lands Department and Buildings Department) in processing licence applications should be enhanced after the implementation of the licensing scheme.	
001522 - 001813	私人院舍社會工作者同盟 Chairman	Presentation of views - (a) concern about the operating difficulties and financial viability of private RCHDs to comply with the licensing requirements, notwithstanding that the sector supported the introduction of a licensing scheme to ensure the service quality; and (b) proposal to provide an allowance for private RCHD residents to meet the increased home fees after the implementation of the licensing scheme.	
001814 - 001933	The Hong Kong Joint Council of Parents of the	Concern that the statutory spatial requirement for RCHDs was lower than that set out in the	

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	Mentally Handicapped Chairman	Code of Practice issued by SWD in 2002	
001934 - 002430	新界東私營復康院舍聯會 Chairman	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)2507/10-11(01)]</p> <p>(a) concern about the difficulties and constraints faced by private RCHDs in complying with the licensing standards, in particular the spatial requirement and the land lease conditions; and</p> <p>(b) the Administration should step up public education to enhance public understanding and acceptance of private RCHDs.</p>	
002431 - 002753	西九龍復康院舍聯會 Chairman	<p>Presentation of views -</p> <p>(a) concern about the operating difficulties and financial viability of private RCHDs after the implementation of the licensing scheme having regard to the impact of statutory minimum wage, soaring rentals and high inflation on the operating cost of private RCHDs;</p> <p>(b) the spatial requirement of 6.5 m² per resident was the maximum floor area that a private RCHD could comply with having regard to the soaring rentals and the difficulties in securing suitable premises for RCHDs; and</p> <p>(c) proposal for providing an allowance for private RCHD residents to meet the increased home fees after the implementation of the licensing scheme.</p>	
002754 - 003910	HK Private Hostel for Rehabilitation Association Chairman	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)2507/10-11(02)] -</p> <p>(a) the Administration had overestimated the proliferation of the private RCHD market and thereby the capacity of the sector to absorb decanted residents in the event that some private RCHDs would close down after the implementation of the licensing scheme;</p> <p>(b) as the Administration would only provide a subsidy of 60% of the recognised cost of the improvement works under the Financial Assistance Scheme ("FAS"), a</p>	

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		<p>private RCHD operator would still need to incur about \$20 million in meeting the remaining 40% of the cost of the improvement works. The Administration should provide a higher level of subsidies for the sector;</p> <p>(c) under the pilot Bought Place Scheme ("BPS") for private RCHDs, the purchased price was set across the board for private RCHDs located in the New Territories, irrespective of the differential rentals in various districts. The Administration should review the arrangement;</p> <p>(d) private RCHDs could provide persons with disabilities who had residential care needs with more choices of RCHDs that would most suit their specific needs; and</p> <p>(e) the Administration should provide an allowance for private RCHD residents.</p>	
003911 - 004235	私營院舍社工聯合小組 Chairman	<p>Presentation of views -</p> <p>(a) private RCHDs sought to fill the existing service gap of residential care services being available to persons with disabilities; and</p> <p>(b) an allowance should be provided to private RCHD residents.</p>	
004236 - 004754	新界西聯會 Chairman	<p>Presentation of views as detailed in the submission [LC Paper No. CB(2)2507/10-11(03)]</p> <p>(a) highlighting the impact of statutory minimum wage, soaring rentals and inflation on the operating cost of private RCHDs; and</p> <p>(b) the need for providing an allowance for private RCHD residents to meet the increased home fees resulting from the higher staffing and spatial standards under the licensing scheme.</p>	
004755 - 005100	爭取私營院舍權益大聯盟 Chairman	<p>Presentation of views -</p> <p>(a) concern about the operating difficulties and financial viability of private RCHDs after the implementation of the licensing scheme having regard to the impact of statutory minimum wage, soaring rentals</p>	

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		<p>and inflation on the operating cost of private RCHDs;</p> <p>(b) proposal for providing monthly allowance of \$1,500 for private RCHD residents to enable them to meet the increased home fees after the implementation of the licensing scheme; and</p> <p>(c) as most private RCHD residents relied on the Comprehensive Social Security Assistance ("CSSA") payments to pay for the home fees and that the operating cost of a quality RCHD place was higher than the monthly CSSA payments, the Administration should actively consider the option of co-payment of home fees such that family members of RCHD residents could top up the difference between the home fees and the CSSA payments.</p>	
005101 - 010006	Administration Chairman	<p>The Administration's response to deputations' views -</p> <p>(a) under the pilot BPS for private RCHDs, SWD would purchase about 300 RCHD places in two phases, with an initial purchase of around 100 places in the first phase and accumulated to 300 places in the second phase. The pilot scheme aimed to encourage private RCHDs to upgrade their service standard, increase the supply of subsidised RCHD places and help the market develop more service options for persons with disabilities;</p> <p>(b) on the proposal of providing a monthly allowance to RCHD residents, to ensure the proper use of public money, it would not be appropriate for the Government to provide fee subsidies as private RCHDs were commercially operated and were not obliged to disclose their financial position and operating costs;</p> <p>(c) as at 30 June 2011, there were 74 private RCHDs known to SWD, providing about 3 800 places, with an average enrolment rate of 65%. By comparing the figures of the same period in 2009 and 2010, there was a trend of steady increase both in the number and capacity of private RCHDs. The Administration anticipated that the private market remained active and had the</p>	

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		<p>capacity to absorb decanted residents, if any, resulting from closure of private RCHDs owing to different reasons;</p> <p>(d) higher standard CSSA payment rates were payable to recipients with disabilities. The question of whether CSSA payments were adequate for meeting the RCHD fees was beyond the scope of the legislative proposal under discussion. The impact of the licensing scheme on the RCHD sector would be reviewed during the 18-month grace period after the coming into force of the legislative proposal;</p> <p>(e) with reference to the operational experience of the licensing scheme for residential care homes for the elderly, SWD would provide appropriate assistance for private RCHDs to obtain the Lands Department's agreement for operating a RCHD on the premises under application;</p> <p>(f) as private RCHDs were commercially operated, to ensure the proper use of public money, the maximum grant allocated to each private RCHD under FAS would be 60% of the recognised cost of the improvement works. The private RCHD operators were required to shoulder a certain portion of the cost to demonstrate their clear intention to continue with the operation of their private homes for a reasonable period by sharing part of the cost;</p> <p>(g) the purchased price for a BPS place would be reviewed in the light of operational experience of the pilot scheme. Should the response from private RCHDs be lukewarm and found to be caused by the relatively low purchased price, the Administration would consider adjustment of purchased price;</p> <p>(h) the Rehabilitation Advisory Committee, which comprised representatives of the persons with disabilities and their parents, served as the platform for the Administration to collect views of service users and their parents; and</p> <p>(i) in the light of the read-across implications of the co-payment arrangement on the</p>	

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		<p>existing policy of making CSSA application on a household basis, the proposal must be considered more thoroughly.</p>	
010007 - 010529	<p>Mr CHEUNG Kwok-che Chairman Administration</p>	<p>Mr CHEUNG Kwok-che expressed support for the concept of providing monthly allowance for those private RCHD residents on CSSA in order to enable the latter to top up the difference in home fees and CSSA payments. The exact amount of the allowance could be worked out later.</p> <p>The Administration's reiteration that a higher standard rate of CSSA was payable to disabled recipients. The Administration had also introduced complementary measures to facilitate RCHD operators to comply with the licensing requirements after the commencement of the licensing scheme.</p>	
010530 - 011648	<p>Mr LEUNG Yiu-chung Chairman Administration</p>	<p>Mr LEUNG Yiu-chung's concern about the operating difficulties and financial viability of private RCHDs after the implementation of the licensing scheme and worry about the capacity of the RCHD sector to absorb all the decanted residents, if any, resulting from closure of private RCHDs.</p> <p>The Administration's advice that it had put in place suitable complementary measures to address the concerns of the private RCHD sector, such as the pilot BPS for private RCHDs and FAS to enhance the service quality of RCHDs. The Director of Social Welfare was also empowered to issue a Certificate of Exemption ("COE") to individual operators to allow the existing RCHDs to stay in operation and to rectify non-compliance with the licensing requirements. This also provided leeway for the Administration to fine tune the operational details of the complementary measures, if so warranted.</p>	
011649 - 015107	<p>Ms Cyd HO Chairman Administration</p>	<p>Issues raised by Ms Cyd HO -</p> <ul style="list-style-type: none"> (a) the private RCHD operators would transfer the cost of the improvement works to the residents by increasing the home fees; and (b) assistance to RCHD operators to seek the agreement of relevant departments for a licence, e.g. the agreement of the Lands Department to use the premises for 	

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		<p>operation as a RCHD, the setting up of RCHDs in industrial buildings.</p> <p>The Chairman's enquiry about the number of places to be purchased under the pilot BPS for private RCHDs, the scope of improvement works, level of support and eligibility criteria under the proposed FAS, and the viability of providing an allowance for private RCHD residents.</p> <p>The Administration's advice that -</p> <ul style="list-style-type: none"> (a) the implementation of the proposed FAS sought to provide one-off subsidies for private RCHDs to carry out improvement works in compliance with the licensing requirements on building and fire safety. The parameters and framework of FAS were set out in the Administration's paper; (b) there would be a grace period of 18 months after the commencement of the Ordinance to allow sufficient time for RCHDs to apply for a licence or a COE. SWD would liaise with the relevant departments and provide appropriate assistance if required; and (c) notwithstanding the imminent introduction of a licensing scheme for RCHDs, the number of private RCHDs known to SWD had been increasing. The Administration considered that the private market remained active and had the capacity to absorb decanted residents, if any, resulting from closure of private RCHDs owing to different reasons. Nonetheless, SWD would provide suitable assistance to affected residents in need to safeguard their well-being. <p>The Administration would provide an estimation on the operating costs of private RCHDs based on the available market information.</p>	Admin
015108 - 015711	Dr PAN Pey-chyou Chairman Administration	Concern raised by Dr PAN Pey-chyou that most residents of private RCHDs who relied on CSSA and Disability Allowance payments for a living could not afford the increased home fees resulting from rising inflation. The Administration should closely monitor the adequacy of CSSA payments for these private RCHD residents.	

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015712 - 020309	Mr CHEUNG Kwok-che Chairman Administration	Given that the maximum grant allocated to each private RCHD would be 60% of the recognised cost of the improvement works under FAS, Mr CHEUNG Kwok-che expressed concern that the private RCHD operators would be unable to shoulder the remainder 40% if the actual cost of the improvement works was enormous. Mr CHEUNG Kwok-che suggested that the Administration should consider making recommendation to the Small and Medium Enterprises Loan Guarantee Scheme to accept loan applications from private RCHDs for carrying out improvement works in respect of building and fire safety for compliance with the licensing requirements.	Admin
020310 - 020905	HK Private Hostel for Rehabilitation Association Chairman Administration	<p>HK Private Hostel for Rehabilitation Association highlighted the difficulties faced by the private RCHD operators in meeting the eligibility criteria for FAS, such as the requirement of securing a specified period tenancy agreement.</p> <p>The Chairman's invitation of further written views from deputations on the proposed FAS, if any.</p> <p>The Administration's advice that the RCHD operators were required to demonstrate their clear intention to continue with the operation of their private homes for a reasonable period by sharing part of the cost. SWD had consulted the private RCHD sector on the proposed parameters and framework of FAS.</p> <p>The Chairman's request for the Administration to take heed of the concerns raised by the private RCHD sector to carry out improvement works in respect of building and fire safety for compliance with the licensing requirements.</p>	Admin
<i>Agenda item II – Any other business</i>			
020906 - 020953	Chairman Ms Cyd HO	Date of the next meeting	