

**立法會**  
**Legislative Council**

LC Paper No. CB(2)106/11-12  
(These minutes have been  
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 third meeting**  
**held on Friday, 26 August 2011, at 8:30 am**  
**in Conference Room B of the Legislative Council Building**

**Members present** : Hon WONG Sing-chi (Chairman)  
Hon LI Fung-ying, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon CHEUNG Kwok-che  
Dr Hon PAN Pey-chyou  
Hon Alan LEONG Kah-kit, SC

**Members absent** : Hon LEE Cheuk-yan  
Hon LEUNG Yiu-chung  
Hon Cyd HO Sau-lan

**Public Officers attending** : Item I

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 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

Miss Elaine NG Pui-kei  
Government Counsel  
Department of Justice

Miss Sapphire LO Pui-yiu  
Acting District Lands Officer (Tuen Mun)  
Lands Department

Mr Wilson SO Ying-leung  
Assistant Director of Planning (New Territories)

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

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

Miss Karen LAI  
Council Secretary (2) 4

Miss Maggie CHIU  
Legislative Assistant (2) 4

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**I. Meeting with the Administration**

[LC Paper Nos. CB(2)2374/10-11(02), CB(2)2500/10-11(01),  
CB(2)2542/10-11(01) and CB(2)2554/10-11(01) to (03)]

The Subcommittee deliberated (index of proceedings attached at

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**Annex).**

2. Members noted the Administration's responses to following issues raised at the previous meetings [LC Paper No. CB(2)2542/10-11(01)] -

- (a) the estimation on the unit operating costs of private residential care homes for persons with disabilities ("RCHDs");
- (b) information on the number of private RCHDs which had closed down or joined the market between June 2010 and June 2011; and
- (c) assistance provided by the Administration to those RCHD residents who were affected by the closure and removal of RCHDs.

3. Some members considered that the methodology adopted by the Administration in estimating the unit operating costs of private RCHDs were over simplified and therefore could not fully reflect the actual operation situation of the sector. These members remained concerned about the financial viability of the private RCHD sector after the implementation of the licensing scheme.

4. The Administration drew members' attention to the fact that private RCHD operators were not obliged to make available data on their operating costs to the Administration. The cost estimation was therefore worked out with reference to the latest market information on the basis of the licensing requirements after the implementation of the licensing scheme for RCHDs. To obtain firsthand information on the operation of private RCHDs, Mr CHEUNG Kwok-che suggested that the Legislative Council ("LegCo") Secretariat should conduct a survey on the unit operating costs of all private RCHDs.

5. Some members took the view that issues relating to the adequacy of CSSA payments to meet the private RCHD fees should be discussed by the Subcommittee, given that the operators might transfer the compliance costs to the residents. Members also expressed concern about the decanting arrangement for private RCHD residents in the event that some private homes would close down after the implementation of the licensing scheme because of non-compliance with the licensing requirements. The Secretary for Labour and Welfare should be invited to attend a future meeting of the

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Subcommittee and explain to members the policy in place to tie in with the implementation of the licensing scheme for RCHDs.

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6. Having regard to the imminent introduction of the licensing scheme for RCHDs, members envisaged that there would be an influx of applications for RCHD licence and lease modifications. They called on the Lands Department to give priority to processing lease modification applications for the provision of private RCHDs, with a view to expediting the processing of RCHD related applications. The Administration would consider the viability of shortening the processing time in respect of application for RCHD licences and lease modifications and revert in due course. Pointing out that various government departments, including the Lands Department, Planning Department and Home Affairs Department, would be involved in the processing of RCHD related applications, members urged the Administration to make concerted efforts to shorten the lead time for processing these applications and streamline the application procedures. Consideration could be given to providing one-stop services to RCHD applicants by the Licensing Office of the Social Welfare Department. The Subcommittee would also write to these departments concerned conveying the above views.

**II. Any other business**

7. Members agreed that the next meeting would be held on 11 October 2011.

8. To allow more time for discussion, members agreed that the Chairman would give notice to move a motion at the Council meeting of 19 October 2011 to extend the scrutiny period of the two items of subsidiary legislation to 9 November 2011.

9. There being no other business, the meeting ended at 10:49 am.

**Proceedings of the third meeting of the  
Subcommittee on Residential Care Homes (Persons with Disabilities) Regulation  
and Residential Care Homes (Persons with Disabilities) Ordinance  
(Commencement) Notice 2011  
on Friday, 26 August 2011, at 8:30 am  
in Conference Room B of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with the Administration</i>			
000000 - 000916	Chairman Administration	The Administration's response to issues raised by members at the meeting on 22 July 2011 [LC Paper No. CB(2)2542/10-11(01)].	
000917 - 001924	Chairman Administration	<p>The Chairman's concern about the basis and reliability of the Administration's estimation on the operating costs of private RCHDs. To his knowledge, the actual monthly operating cost of private RCHDs was higher than the estimation made by the Administration, i.e. \$4,394 and \$3,802 for a RCHD place in urban area and the New Territories respectively.</p> <p>The Administration's advice that the estimation was computed with reference to the latest market information (such as the prevailing wage level collated by the Labour Department and the average market rental compiled by the Rating and Valuation Department) on the basis of the licensing requirements after the implementation of the licensing scheme.</p> <p>Views of the Chairman that the methodology adopted by the Administration could not reflect the operation of private RCHDs. He appealed to the Administration to consider adopting a case study approach to study the likely impact of the licensing scheme on the private RCHD sector.</p> <p>The Administration's advice that in the absence of information on the actual operating cost of private RCHDs, the estimation was made with reference to the latest market information.</p>	
001925 - 002710	Prof Patrick LAU Chairman Administration	<p>Prof Patrick LAU declared that he was engaged by some non-governmental organizations to carry out improvement works for RCHDs.</p> <p>Concern raised by Prof Patrick LAU -</p> <p>(a) the commencement date of the Residential Care Homes (Persons with Disabilities)</p>	

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		<p>Ordinance ("the Ordinance");</p> <p>(b) the difficulties faced by the RCHD sector to comply with the Regulation; and</p> <p>(c) the cost implication of the compliance works on the private RCHD operators and what assistance would be provided to the operators.</p> <p>The Administration's advice that -</p> <p>(a) the Regulation would come into operation on 18 November 2011. 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 ("COE"). During the grace period, no sanction would be imposed on the operation of RCHD without a licence/COE;</p> <p>(b) most of the existing 74 private RCHDs known to SWD would need to carry out improvement works in respect of fire and building safety to meet the future licensing requirements, of which 11 had non-rectifiable structural/means of escape problems and might close down if alternative accommodation could not be secured; and</p> <p>(c) the Financial Assistance Scheme would be implemented after the enactment of the Ordinance to provide subsidies up to 60% of the recognised cost for the improvement works for private RCHDs to comply with the licensing requirements.</p>	
002711 - 003458	Dr PAN Pey-chyou Chairman Administration	<p>Dr PAN Pey-chyou's concern that private RCHDs could barely make a profit given that the home fees of private RCHDs were set on par with the Comprehensive Social Security Assistance ("CSSA") payments as most residents of private homes were CSSA recipients.</p> <p>The Administration's advice that apart from standard payment rates and rent allowance, CSSA recipients with disabilities were payable with a wide range of special grants and supplements to meet their specific medical needs. The monthly CSSA payments for individual disabled recipients ranged from</p>	

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		\$3,945 to \$6,050 subject to the level of disabilities.	
003459 - 004743	Mr CHEUNG Kwok-che Chairman Administration Clerk	<p>Mr CHEUNG Kwok-che's view that the Administration should take into account the following in making an estimation on the operating costs of private RCHDs -</p> <ul style="list-style-type: none"> <li>(a) the average rental failed to reflect the difference in rental expenses in various districts;</li> <li>(b) the number of residents in most private RCHDs was below 40 residents, and thereby could not enjoy the economy of scale of operation;</li> <li>(c) the impact of rising inflation was omitted in the cost estimation; and</li> <li>(d) a lack of breakdown of the food and miscellaneous costs.</li> </ul> <p>Mr CHEUNG's further view that the revenue of private RCHDs would have decreased because of the need to reduce the number of beds to meet the spatial requirement. To facilitate further deliberation, Mr CHEUNG suggested that the Legislative Council ("LegCo") Secretariat should conduct a survey on the unit operating costs of all private RCHDs.</p> <p>The Chairman's concern that the rental cost per private RCHD resident in urban area as cited by the Administration in the paper was higher than the rent allowance of \$1,260 under the CSSA Scheme. This revealed that the CSSA payments were not adequate to cover the operating costs of private RCHDs.</p> <p>The Administration's advice the cost estimation for private RCHDs after the enactment of the Ordinance was worked out with reference to the latest market information, including the average rental in various districts.</p> <p>The Chairman's advice that the subject of rent allowance under the CSSA Scheme could be followed up by the Panel on Welfare Services ("the Panel").</p>	
004744 - 010041	Ms LI Fung-ying Chairman Administration	Ms LI Fung-ying's concern that some private RCHDs which had non-rectifiable structural problem would close down after the enactment of the Ordinance. The Administration should	

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		<p>provide appropriate assistance to private RCHDs to carry out the necessary improvement works in compliance with the licensing requirements, and ensure that proper decanting arrangements would be made for the affected residents in need.</p> <p>Response of the Administration that -</p> <p>(a) it had put in place suitable complementary measures to address the concerns of the private RCHD sector. As there would be a grace period of 18 months after the enactment of the Ordinance, the Administration could fine tune the operational details of the complementary measures, if such needs arose;</p> <p>(b) it was envisaged that some 243 residents residing in the 11 private RCHDs with non-rectifiable structural problems might need to be decanted. To its knowledge, the private RCHD market had the capacity to absorb decanted residents, if any, resulting from closure of private RCHDs. The Social Welfare Department ("SWD") would provide assistance to the affected residents in need, if necessary; and</p> <p>(c) SWD conducted at least four visits to private RCHDs annually to keep in view of their operation.</p>	
010042 - 010952	Mr Ronny TONG Chairman Ms LI Fung-ying Clerk	<p>Mr Ronny TONG's concern that private RCHDs would increase home fees immediately after the enactment of the Ordinance in a bid to cover the additional cost for improvement works to comply with the licensing requirements. Therefore, issues relating to the adequacy of CSSA payments to meet the private RCHD fees should be dealt with by the Subcommittee.</p> <p>Suggestion of the Chairman to extend the scrutiny period of the two items of subsidiary legislation to allow more time for discussion.</p>	
010953 - 011553	Mr CHEUNG Kwok-che Chairman Administration	<p>Mr CHEUNG Kwok-che's concern that private RCHD operators would transfer the additional cost arising from the compliance works to the existing residents, given that they had to shoulder 40% of the improvement works under FAS.</p> <p>The Administration's advice that the actual expenses on improvement works varied</p>	

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		<p>amongst RCHDs having regard to individual circumstances of each home.</p> <p>Views of the Chairman that the Administration should offer appropriate assistance to private RCHDs for compliance with the licensing requirements and to safeguard the interest of the affected residents.</p>	
011554 - 013512	Administration Chairman	<p>With reference to the submissions from private RCHD operators tabled at the meeting [LC Paper Nos CB(2)2554/10-11(01)-(03)], the Chairman expressed concern about the difficulties encountered by the sector in meeting the land lease and town planning requirements for setting up private RCHDs.</p> <p>The Administration's advice -</p> <ul style="list-style-type: none"> <li>(a) the provision of RCHDs must conform with the requirements under land lease as well as the land use zoning specified in the statutory outline zoning plan ("OZP") for the site concerned;</li> <li>(b) upon receipt of an application for modification of lease conditions for the provision of RCHDs, the District Lands Office concerned would consult the relevant bureaux/departments;</li> <li>(c) the applicant may submit more than one choice for modification of lease conditions, for example, residential care homes for the elderly ("RCHEs") and/or RCHDs;</li> <li>(d) in case lease modifications for use other than the purpose stated in the application was subsequently required, the applicant should submit fresh application for lease modifications to the Lands Department ("LandsD") as the latter had to consult the relevant bureaux/departments including the District Office concerned who would advise and decide if district consultation would be necessary; and</li> <li>(e) if the developer planned to set up RCHDs in the Comprehensive Development Area, Residential (Group B) and Residential (Group C) specified in OZP, the developer should seek approval for modification of land use from the Town Planning Board.</li> </ul>	

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		<p>The Chairman called upon LandsD to expedite the processing of lease modification applications for setting up RCHDs in the light of the huge demand.</p>	
013513 - 014357	Prof Patrick LAU Chairman Administration	<p>Enquiries of Prof Patrick LAU on whether RCHDs were allowed to set up in industrial zones specified in OZP; the processing time taken by LandsD in respect of an application for modification of lease condition; and the terms of land premium in case the lease modifications conferred an increase in land value.</p> <p>The Administration's advice that -</p> <ul style="list-style-type: none"> <li>(a) RCHDs were not allowed to set up in industrial zones specified in OZP due to fire safety and environmental reasons;</li> <li>(b) the processing time for application for a permanent change of lease conditions would normally be 22 weeks from a valid application to a reply of decision on the application. As for a temporary variation of the use of a building, the time for processing applications for temporary waivers would be three to six months for straightforward cases; and</li> <li>(c) the land premium payable for a permanent lease modification would be equal to the difference between the value of land under the previous conditions and its value under the modified conditions. Waiver fee for a temporary variation of the use of a building would be equal to the difference in annual rental value of the property before and after the issue of the waiver letter and where there was an obvious difference in value but this could not be assessed, the waiver fee was to be calculated as 10% of the existing annual rental value of the property.</li> </ul>	
014358 - 015423	Mr CHEUNG Kwok-che Chairman Administration	<p>Mr CHEUNG Kwok-che's concern about the processing time for an application on lease modifications. He held the view that priority should be given to processing applications for the provision of private RCHDs in the light of the imminent introduction of the licensing scheme.</p> <p>The Administration's advice that the processing time taken varied having regard to the complexity of individual cases and the lead time</p>	<b>Admin to consider</b>

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		<p>taken by relevant departments.</p> <p>The Chairman's reiteration that the Administration should make necessary preparation to cope with an anticipated influx of applications for lease modifications from RCHD operators having regard to the imminent introduction of the licensing scheme.</p>	
015424 - 020631	Chairman Administration	<p>The Chairman's enquiry on whether RCHDs would be allowed to set up in commercial buildings located in industrial zones specified in OZP.</p> <p>The Administration's advice that residential use would not be allowed in industrial zones mainly due to environmental and fire safety considerations, while other land uses might be considered in the periphery of the industrial zones. RCHDs which provided residential services were not allowed to operate in industrial zones.</p> <p>Extension of the meeting by 15 minutes.</p>	
020632 - 021459	Prof Patrick LAU Administration Mr CHEUNG Kwok-che Chairman	<p>Prof Patrick LAU's view that in processing application for RCHD licences, the Administration should consider giving priority to RCHD licence applications by, say, modelling on the experience of the Buildings Department in according priority status to application for building schools.</p> <p>The Administration's advice that a Licensing Office comprising a Building Surveyor from the Buildings Department would be set up to provide one-stop service to licence applicants.</p> <p>The Chairman's view that the processing of RCHD related applications straddled the purview of various departments including SWD, Buildings Department, LandsD, Planning Department and Home Affairs Department. In view of the imminent introduction of the licensing scheme for RCHDs, the Labour and Welfare Bureau and SWD should spearhead the collaboration of the departments concerned to cope with the influx of licence applications from RCHDs. To this end, the Administration should shorten the lead time for processing these applications and streamline the application procedures. The Subcommittee would also write to the departments concerned conveying the above views.</p>	<p><b>Admin to consider</b></p> <p><b>LegCo Secretariat</b></p>

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda item II – Any other business</i>			
021500 - 021610	Chairman	Date of next meeting.	

Council Business Division 2  
Legislative Council Secretariat  
19 October 2011