

立法會
Legislative Council

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

Minutes of the fourth meeting
held on Tuesday, 11 October 2011, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex

Members present : Hon WONG Sing-chi (Chairman)
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon LI Fung-ying, SBS, JP
Hon Ronny TONG Ka-wah, SC
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Hon CHEUNG Kwok-che
Dr Hon PAN Pey-chyou
Hon Alan LEONG Kah-kit, SC

Public Officers attending : Item I

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

Miss Neve LEUNG Man-shan
Assistant Secretary for Labour and Welfare Bureau
(Rehabilitation)

Mrs Cecilia YUEN
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

Ms Elaine NG Pui-kei
Senior Government Counsel
Department of Justice

Attendance by : Item I
invitation

HK Private Hostel for Rehabilitation Association

Mr Joe LI
Chairman

Mr TSANG Kim-kwong
Representative

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

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

Ms Candice LAM
Senior Council Secretary (2) 4

Miss Maggie CHIU
Legislative Assistant (2) 4

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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), CB(2)2500/10-11(01), CB(2)2709/10-11(01) to (04), CB(2)37/11-12(01) and CB(2)71/11-12(01)]

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

Meeting with deputation and the Administration

2. The Subcommittee received representations from the Hong Kong Private Hostel for Rehabilitation Association ("the Association") which are set out in the **Annex**.

3. Members noted the discrepancies between the estimation made by the Social Welfare Department ("SWD") and the Association on the unit operating cost of a place in private residential care homes for persons with disabilities ("RCHDs") after the implementation of the licensing scheme. The Association highlighted to members the increasing difficulties in operating private RCHDs having regard to the rising operating costs resulted from the implementation of statutory minimum wage, soaring rental and inflation.

4. The Administration advised that in the absence of information on the actual operating costs of private RCHDs, it made an estimation with reference to the latest market information, i.e. prevailing wage level collated by Labour Department and the average market rental compiled by Rating and Valuation Department. Other cost components covered food and other charges, of which administrative costs and miscellaneous expenses, etc. had also been taken into account. Mr CHEUNG Kwok-che reckoned that cost estimation by SWD and the Association were based on different considerations.

5. Members noted with concern that the private RCHD sector had indicated that some private RCHDs would have to cease operation because they would not be able to meet the additional costs arising from improvement works to comply with the licensing requirements on fire and building safety. The Administration advised that it would introduce suitable complementary measures, including the pilot Bought Place Scheme ("BPS") for RCHDs and the Financial Assistance Scheme ("FAS"), to encourage private RCHDs to upgrade their service standards and help the market develop more service

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options for persons with disabilities. On the concern about the decanting arrangement for RCHD residents in the event of closure of RCHDs, the Administration assured members that SWD would provide appropriate assistance for individual affected residents where necessary to ensure the well-being of the residents. SWD would continue to closely monitor the market situations and maintain contact with RCHD operators.

6. The Administration stressed that there would be a grace period of 18 months starting from the commencement of the licensing scheme to allow time for individual RCHDs to put in place suitable arrangements for application for a RCHD licence. During the grace period, no sanction would be imposed on the operation of RCHD without a licence or a certificate of exemption.

7. Mr CHEUNG Kwok-che took the view that the Administration should conduct a mid-term review to keep track of implementation progress of the licensing scheme. The Chairman suggested that the issue be referred to the Panel on Welfare Services for follow up. The Administration agreed to report to the Panel on the progress on implementation of the licensing scheme and the related complementary measures, including the pilot BPS for RCHDs and FAS in about six months after the commencement of the licensing scheme.

Admin

8. Ms Cyd HO sought clarification as to whether private RCHD operators could apply for the Small and Medium Enterprises Loan Guarantee Scheme to meet the additional costs arising from improvement works to comply with the building and fire safety requirements for the purpose of the licensing scheme. Ms HO suggested and members agreed that representatives of the Commerce and Economic Development Bureau should be invited to the next Subcommittee meeting to brief members on the loan scheme.

Matters arising from the last meeting on 26 August 2011

9. The Chairman said that as agreed at the last meeting, the Legislative Council Secretariat had invited private RCHDs to provide the Subcommittee with information on their respective operating costs. As only two private RCHDs had provided the requisite information so far, it was not viable for the Subcommittee to pursue the matter further.

10. The Chairman then drew members' attention to the letter dated 30

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September 2011 from the Lands Department (LC Paper No. CB(2)2709/10-11(04)) regarding the processing of waiver applications for setting up RCHDs.

Scrutiny of detailed provisions of the subsidiary legislation

11. The Administration took members briefly through the provisions of the Residential Care Homes (Persons with Disabilities) Regulation ("the Regulation").

Part 3 - Registration of health workers

12. Noting from section 4 of the Regulation that health workers were required to attend approved training courses for registration as health workers, Ms LI Fung-ying was of the view that the Administration should ensure that the approved training courses should be launched timely to tie in with the implementation of the licensing scheme. Ms LI and Mr CHEUNG Kwok-che considered that registered health workers in residential care homes for the elderly and relevant working experience in RCHDs should be recognized as meeting certain qualifications for registration as health workers.

13. The Administration explained that a working group had been set up to make preparation for the related matters, including registration of health workers and the launch of related training courses. Existing health workers registered under the Residential Care Homes (Elderly Persons) Regulation ("the RCHE Regulation") would need to attend a bridging course consisting of 12-hour lecture and 4-hour visit to RCHDs in order to be qualified for registration under the Regulation. A complete course of 248 hours of training would be required for new entrants. The Administration further explained that the Director of Social Welfare ("DSW") could exercise his power under section 4 of the Regulation to approve the training courses only after the commencement of the Regulation. Health workers were required to obtain the prerequisite qualifications for registration as a health worker within the 18-month grace period.

14. In response to the observation of the legal adviser to the Subcommittee regarding the drafting of section 5(4)(d), the Administration agreed to amend section 5(4)(d) of the Regulation to allow a person who initiated cancellation of registration under the RCHE Regulation to have a choice to retain his or her registration under the Regulation as a RCHD health worker.

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15. Noting that DSW was empowered under section 8(b) of the Regulation to cancel the registration of a health worker, Ms LI Fung-ying and Dr PAN Pey-chyou considered that the Administration should set out the specific factors to be taken into account by DSW in making a decision to cancel the registration. The Administration explained that any person aggrieved by DSW's decision made under section 6 or section 8 might appeal to the Secretary for Labour and Welfare ("SLW"). A decision that was appealed against would not take effect pending the determination of the appeal by SLW. To alleviate members' concern, the Administration agreed to consider elaborating the factors to be taken into account by DSW in making a decision on cancellation of the registration of a health worker in the Code of Practice for RCHDs to be issued after the commencement of the Regulation.

Part 4 - Duties of Operators

16. Dr PAN and the legal adviser to the Subcommittee enquired about staff deployment and relief arrangement during the temporary absence of various types of staff stipulated in the Regulation. The Administration explained that RCHD operators were required to employ various types of staff in RCHDs in the manner stipulated in section 11 of, and the Schedule to, the Regulation. Planned staff movement and relief arrangement should be reported to SWD regularly while contingent deployment should also be reported as soon as practicable.

Admin

17. At the request of the Chairman, the Administration agreed to provide a sample layout plan of a RCHD for members' reference after the meeting.

(Post-meeting note: The Administration's reply was circulated to members on 14 October 2011 vide LC Paper No. CB(2)71/11-12.)

Part 5 Duties of Home Manager and Part 6 - Location and Design of Residential Care Homes for PWDs

18. Members noted the minimum staffing and spatial requirements under the licensing scheme, and that the specific service standards under the licensing scheme would be detailed in the Code of Practice to be issued by DSW.

19. Some members enquired whether outdoor space could be taken into

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account for the purpose of calculating the spatial requirement. The Administration recognized the importance of providing outdoor activities to RCHD residents, but the inclusion of outdoor space would result in a reduction in the usable area for each resident.

II. Any other business

20. Members agreed that a further meeting would be scheduled to continue scrutiny of the Regulation, and representatives of the Commerce and Economic Development Bureau should be invited to brief members on the Small and Medium Enterprises Loan Guarantee Scheme. The Chairman said that members would be notified of the meeting date in due course.

21. There being no other business, the meeting ended at 4:32 pm.

Council Business Division 2
Legislative Council Secretariat
16 November 2011

**Proceedings of the fourth meeting of the
Subcommittee on Residential Care Homes (Persons with Disabilities) Regulation
and Residential Care Homes (Persons with Disabilities) Ordinance
(Commencement) Notice 2011
on Tuesday, 11 October 2011, at 2:30 pm
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with deputations and the Administration</i>			
000226 - 000537	Chairman	Invitation of representatives of the Hong Kong Private Hostel for Rehabilitation Association ("the Association") to present their views.	
000538 - 001759	HK Private Hostel for Rehabilitation Association Chairman	<p>Presentation of views -</p> <ul style="list-style-type: none"> (a) operators would have difficulty to meet the licensing requirements due to higher operating cost; (b) there was variation in cost estimation between the Social Welfare Department ("SWD") and the Association, notably - <ul style="list-style-type: none"> (i) it was impossible to have 100% enrolment rate as assumed by SWD, whereas the average enrolment rate of private residential care homes for persons with disabilities ("RCHDs") was 85%; and (ii) the minimum staff requirement of a 40-person medium-care-level home should be no less than 6.5 staff, instead of four as cited by SWD; (c) higher staff cost was implied by the minimum wage requirement; (d) rental in new town area was higher than remote areas in the New Territories, and therefore rental of RCHDs should be categorized according to their location, i.e. urban area, new town and the New Territories; (e) subsidies for improvement works under the proposed Financial Assistance Scheme ("FAS") should be increased; (f) subsidy for nursing and care should be provided to private RCHD residents; and (g) the contract price for a RCHD place under 	

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		<p>the pilot Bought Place Scheme ("BPS") for RCHDs should be set at a higher level as SWD had underestimated the actual operating costs of private RCHDs.</p>	
001800 - 002457	Administration Chairman	<p>The Administration's elaboration on the methodology for cost estimation of a private RCHD place, the rationale for providing a maximum grant of 60% under FAS, the level of Comprehensive Social Security Assistance ("CSSA") payments payable to private RCHD residents, and the assistance to residents being affected by closure of private RCHDs.</p> <p>The Administration's advice that there would be a grace period of 18 months upon commencement of Residential Care Homes (Persons with Disabilities) Regulation ("the Regulation") for individual RCHDs to put in place suitable arrangements. Details of service standards required under the licensing scheme, including the manpower requirements would be set out in the Code of Practice for RCHDs.</p> <p>The Administration was requested to closely monitor the implementation of the licensing scheme.</p>	
002458 - 003206	Mr CHEUNG Kwok-che Chairman	<p>Views of Mr CHEUNG Kwok-che that cost estimations by SWD and the Association were based on different considerations. Timetable for the review of the licensing scheme and a contingency plan in case of closure of private RCHDs upon the commencement of the Regulation should be in place.</p>	
003207 - 003434	Mr LEUNG Yiu-chung Chairman	<p>Views of Mr LEUNG Yiu-chung that the rental variance between districts should be recognized. The adequacy of CSSA payments of private RCHD residents to meet home fees should be reviewed, and other forms of assistance should be provided where necessary.</p>	
003435 - 004113	Administration Chairman	<p>The Administration's advice that it would conduct a mid-term review to keep track of the progress of the pilot BPS for RCHDs.</p>	
004114 - 004655	Ms LI Fung-ying Chairman Administration Ms Cyd HO	<p>Enquiries about whether and what financial assistance would be provided for private RCHD operators to meet the compliance costs.</p> <p>The Administration's elaboration on the eligibility for FAS and one-stop services for licence applications.</p>	

Time marker	Speaker(s)	Subject(s)	Action required
004656 - 005126	Ms Cyd HO Chairman Administration	Enquiries about whether private RCHD operators could apply for the Small and Medium Enterprises Loan Guarantee Scheme to meet the additional cost of the improvement works. Members agreed to invite the Commerce and Economic Development Bureau to attend the next meeting to explain to members the eligibility criteria for the Scheme.	
005127 - 005503	HK Private Hostel for Rehabilitation Association Chairman	Calling on more support for private RCHDs operators.	
005504 - 005638	Chairman	Submissions from two private RCHDs on their financial analysis responding to the Subcommittee's invitation for information on operating cost. Letter dated 30 September 2011 from the Lands Department regarding processing of waiver applications for setting up RCHDs.	
005639 - 010150	Mr CHEUNG Kwok-che Chairman	The Administration agreed to report to the Panel on Welfare Services on the progress on implementing the licensing scheme and the related complementary measures, including the pilot BPS for RCHDs and FAS in about six months after the commencement of the licensing scheme.	Admin
010151 - 010600	Ms LI Fung-ying Chairman Administration	Scrutiny of the detailed provisions of the Regulation Part 1 and Part 2 - sections 1 to 3 Members raised no questions on sections 1 to 3.	
010601 - 011823	Ms LI Fung-ying Mr CHEUNG Kwok-che Chairman Administration	Part 3 - Registration of health workers Concern about the timing for launching the approved training courses for health workers. The Administration's explanation on the preparation for the registration of health workers, the launch of related training courses as well as the prerequisite qualifications for registered health workers.	
011824 - 012421	Mr LEUNG Yiu-chung Chairman HK Private Hostel for Rehabilitation Association Administration	Competitiveness of the private RCHD market in staff recruitment and retention.	
012422 - 012758	ALA8	Members agreed to the Administration's	Admin

Time marker	Speaker(s)	Subject(s)	Action required
	Chairman Administration	proposed amendment to section 5(4)(d) of the Regulation to allow a person who initiated a cancellation of registration under the Residential Care Homes (Elderly Persons) Regulation to have a choice to retain his or her registration as a RCHD health worker.	
012759 - 012927	Chairman Administration	Members raised no questions on sections 6, 7 and 9.	
012928 - 014243	Ms LI Fung-ying Chairman Administration Dr PAN Pey-chyou	Section 8 - Cancellation of registration Section 10 - Appeals to Secretary for Labour and Welfare Enquiries about the specific factors to be taken into account by the Director of Social Welfare ("DSW") in making a decision to cancel a health worker's registration. The Administration's advice that any person aggrieved by DSW's decision might appeal to the Secretary for Labour and Welfare ("SLW"). The decision that was appealed against was not to have effect pending the determination of the appeal by SLW. To alleviate members' concern, the Administration would consider elaborating the consideration factors for the RCHD sector's reference in the Code of Practice.	
014244 - 014910	ALA8 Chairman Administration Dr PAN Pey-chyou	Part 4 - Duties of Operators Part 5 - Duties of Home Managers Enquiries about the staff deployment and replacement arrangement during the temporary absence of various types of staff in RCHDs as stipulated in the Regulation. The Administration was requested to provide a copy of sample layout plan of a RCHD as referred to in section 13.	Admin
015451 - 020244	ALA8 Chairman Administration Dr PAN Pey-chyou	Sections 20 to 23 under Part 6 - Location and Design of Residential Care Homes for PWDs Members noted the calculation of floor area and outdoor space for the purpose of the licensing scheme.	
<i>Agenda item II – Any other business</i>			
020245 - 020324	Chairman	Date of next meeting.	

Time marker	Speaker(s)	Subject(s)	Action required
		Invitation of representatives of the Commerce and Economic Development Bureau to give an account of the Small and Medium Enterprises Loan Guarantee Scheme.	

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