

For discussion on  
16 April 2013

LC Paper No. CB(2)937/12-13(07)

**LEGISLATIVE COUNCIL  
PANEL ON WELFARE SERVICES**

**Latest Progress of the Implementation of the Licensing Scheme  
for Residential Care Homes for Persons with Disabilities**

**Purpose**

This paper reports on the latest progress of the implementation of the licensing scheme for residential care homes for persons with disabilities (RCHDs) by the Social Welfare Department (SWD).

**Background**

2. The Residential Care Homes (Persons with Disabilities) Ordinance (the Ordinance) (Cap. 613) has come into operation since 18 November 2011, except Part 2 on sanctions for operating a residential care home without a licence/certificate of exemption (CoE). The Ordinance provides for the control of RCHDs through a licensing system administered by the Director of Social Welfare (DSW) to ensure that RCHDs reach an acceptable service standard. In tandem, the Secretary for Labour and Welfare (SLW) has made the Residential Care Homes (Persons with Disabilities) Regulation (the Regulation) under section 24 of the Ordinance, stipulating the statutory requirements for the operation, management and supervision of RCHDs. Moreover, by virtue of the powers conferred by the Ordinance, DSW has issued the Code of Practice for Residential Care Homes (Persons with Disabilities), setting out the principles, procedures, guidelines and standards for the operation, management and other control of RCHDs. The Ordinance and the Regulation have been scrutinised by the Subcommittee on Residential Care Homes (Persons with Disabilities) Regulation and Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2011 under the House Committee of the Legislative Council (LegCo). For background information on the Ordinance and the Regulation, please refer to the LegCo Briefs issued on 15 June 2010 and 28 June 2011 respectively (File Ref. LWB 9/3939/97 (CR) and LWB 9/3939/97).

3. To allow sufficient time for individual RCHDs to put in place suitable arrangements for application for a licence/CoE, there is a grace period of 18 months starting from the commencement of the Ordinance during which SWD would process the applications for licences/CoEs. For RCHDs that existed immediately before the commencement date of the Ordinance (i.e. 18 November 2011) but are unable to comply fully with the licensing requirements, CoEs may be issued in order to allow reasonable time for these RCHDs to carry out improvement works for meeting the licensing requirements and standards. RCHDs which are established and commence operation on or after that date are required to hold a valid licence to ensure that the services of RCHDs comply with the statutory standards.

### **Commencement Notice**

4. The grace period is going to expire soon. To tie in with the full implementation of the licensing scheme, SLW has made the Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2013 (Commencement Notice) pursuant to section 1(2) of the Ordinance to appoint 10 June 2013 as the day on which Part 2 of the Ordinance shall come into operation. By then, any person who operates, keeps, manages or in any other way has control of an RCHD without a valid licence/CoE commits an offence. SWD will take appropriate enforcement actions, including prosecuting the home operator and/or home manager. The maximum penalty on conviction is a fine at level 6 (\$100,000 at present) and imprisonment for two years; and in the case of a continuing offence, a further fine of \$10,000 for each day can be imposed. The Administration has published the Commencement Notice in the Gazette on 12 April 2013 and will table it at LegCo on 17 April 2013 for scrutiny.

### **Progress of the Licensing Scheme**

5. As at 1 April 2013, there were 316 RCHDs in the territory, including 78 private RCHDs, 217 subvented RCHDs and 21 self-financing RCHDs operated by non-governmental organisations. SWD has received applications in respect of 310 RCHDs<sup>1</sup>, of which 276 RCHDs have been issued with licences or CoEs (including 14 RCHDs issued with licences and 262 RCHDs issued with CoEs). SWD is processing the remaining applications and anticipates that all eligible RCHDs will be issued with licences or CoEs before the end of the grace period.

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<sup>1</sup> The applications include those in respect of two homes which are split from an existing private RCHD, and two subvented cum self-financing RCHDs which will come into operation soon.

## **Measures Complementary to the Licensing Scheme**

6. As complementary measures of the licensing scheme, SWD has launched a four-year pilot Bought Place Scheme (BPS) for Private RCHDs in October 2010. Up to the present, SWD has purchased 245 BPS places from six private RCHDs, and all of these RCHDs have successfully obtained a licence. SWD has recently conducted a mid-term review of the pilot BPS by examining the services provided by the participating homes and collecting feedback through an opinion survey, in order to keep track of its implementation progress and refine its operational arrangements as appropriate. Having regard to the positive feedback from the stakeholders, SWD will continue to monitor the service performance of the BPS homes, take forward the pilot scheme along the current direction, steadily increase the number of bought places, and conduct an overall review of the BPS before the expiry of the pilot scheme. Besides, SWD has implemented a Financial Assistance Scheme for Private RCHDs to provide funding support for eligible private RCHDs to carry out improvement works for compliance with the licensing requirements for building and fire safety.

7. SWD has also organised a series of briefing and sharing sessions in order to enable operators of RCHDs to have a clear understanding of the operational details of the licensing system and the procedures of applying for licences/CoEs. A booklet, namely “Tips for Selecting a Suitable RCHD”, was published in March 2012 to provide basic information and guidelines for reference by persons with disabilities requiring residential service and their family members. For background information, please refer to the discussion paper for the meeting of the Panel on Welfare Services held on 14 January 2013.

8. On manpower support, the Regulation stipulates the staffing requirements for various types of RCHDs, including health workers whose registration is approved by DSW under the Regulation. Any person who intends to register as a health worker must complete a training course approved by DSW. In tandem with the implementation of the licensing scheme, SWD has invited training institutes to organise a series of health worker training courses applicable to RCHDs in accordance with relevant requirements, including the Health Worker Training Course for RCHDs, Bridging Courses for Health Workers of RCHDs, and the Combined Health Worker Training Course which is applicable to both RCHDs and residential care homes for the elderly. Persons who are interested to work in RCHDs may enrol in these training courses. At present, more than 600 graduates who have completed the health worker training courses have been registered as health workers under the Regulation and they are working in RCHDs.

9. SWD has been closely monitoring the operation of private RCHDs and maintaining communication with the home operators in the course of implementing the licensing scheme. For a few RCHDs which have not yet submitted applications for licenses/CoEs under the Ordinance or have indicated their intention to cease operation, some have already been vacant or only have a small number of residents remaining. We have requested the responsible persons of the RCHDs concerned to provide detailed displacement plans for the residents, and liaised with the social workers and casework service units concerned having regard to the information collected from these RCHDs. SWD will continue to closely keep in view the situation of individual RCHDs, step up inspections prior to the expiry of the grace period, and collaborate with the casework service units concerned to provide assistance when necessary.

### **Advice Sought**

10. Members are invited to note and comment on the latest progress of the implementation of the licensing scheme for RCHDs.

Social Welfare Department  
April 2013