

立法會
Legislative Council

LC Paper No. CB(2)1906/14-15(03)

Ref : CB2/PL/WS

Panel on Welfare Services

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 23 July 2015**

**Quality and monitoring of private residential care homes for the elderly
and for persons with disabilities**

Purpose

This paper gives a brief account of past discussions of the Council and its committees regarding the quality and monitoring of private residential care homes for the elderly ("RCHEs") and for persons with disabilities ("RCHDs").

Background

Regulation of RCHEs

2. According to the Administration, the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) ("the RCHE Ordinance"), in full operation since 1 June 1996, provides for the regulation of RCHEs through a licensing system¹ administered by the Social Welfare Department ("SWD"). The purpose of the legislation is to ensure that residents in these homes receive services of acceptable standards that are beneficial to them physically, emotionally and socially.

3. Under the RCHE Ordinance, any person who on any occasion operates, keeps, manages or otherwise has control of an RCHE is required to possess a

¹ Under the RCHE Ordinance, RCHEs are regulated either by licence or certificate of exemption ("CoE"). Nevertheless, the policy of SWD is that CoEs are to be granted to RCHEs which are already in operation before 1 April 1995 but unable to comply fully with the legislative requirements. All the pre-existing RCHEs have fully met licensing requirements in July 2002 and no more CoE has been renewed afterwards. It is unlikely that in future the Director of Social Welfare will issue a CoE for any RCHE unless there are exceptional grounds which warrant a departure from the policy.

licence which is subject to renewal. Conditions in relation to the operation, keeping, management or other control of the RCHE may be imposed upon the issue or renewal of a licence. The validity period of a licence may vary according to the degree of compliance of the RCHE with various statutory requirements as outlined in the RCHE Ordinance, its subsidiary legislation (namely the Residential Care Homes (Elderly Persons) Regulation) and the Code of Practice of Residential Care Homes (Elderly Persons) ("Code of Practice") on staffing, space, location, design, structure, safety precautions and quality of care to residents of RCHEs.

Regulation of RCHDs

4. In line with the strategic directions enshrined in the Hong Kong Rehabilitation Programme Plan, the Administration has introduced a licensing system under the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) ("the RCHD Ordinance") to regulate the standards and operation of RCHDs. The RCHD Ordinance came into operation on 18 November 2011 (except Part 2 on penalty for non-compliance which took effect on 10 June 2013). The Residential Care Homes (Persons with Disabilities) Regulation under the RCHD Ordinance stipulates the statutory requirements for the operation, management and supervision of RCHDs. Furthermore, by virtue of the powers conferred by the RCHD Ordinance, the Director of Social Welfare 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. An RCHD must fully comply with all the licensing requirements in respect of building safety, fire safety, health care and home management in order to obtain a licence. For RCHDs that existed immediately before the commencement date of the RCHD Ordinance (i.e. 18 November 2011) but are unable to comply fully with the licensing requirements, certificates of exemption ("CoEs") may be issued in order to allow reasonable time for them to carry out improvement works for meeting the licensing requirements and standards. Any person who operates, keeps, manages or in any other way has control of an RCHD without a valid licence or CoE commits an offence.

5. According to the Administration, as a complementary measure, the Government has also launched a four-year pilot Bought Place Scheme ("BPS") for private RCHDs since October 2010 to, inter alia, encourage private RCHDs to upgrade the service standard and help the market develop more service options.

Members' deliberations

Quality and monitoring of private RCHEs

6. Noting from the sporadic media reports about elder abuse cases in Private RCHEs and the recent incident at Tai Po Cambridge Nursing Home, Members cast doubt on the effectiveness of the inspection and licensing system for monitoring RCHEs. They took the view that the Administration should conduct a comprehensive review of the inspection and licensing system for RCHEs as well as the entire residential care services system. Some Members considered that the Administration should step up the measures for monitoring RCHEs by putting in place a round-the-clock inspection mechanism or conducting inspections at night.

7. According to the Administration, some inspections were carried out outside office hours and conducting inspections at midnight would disturb residents of RCHEs. In 2013-2014 and 2014-2015 (as at end-January 2015), the Licensing Office of Residential Care Homes for the Elderly ("LORCHE") of SWD conducted 5 254 and 4 509 surprise inspections to RCHEs respectively. On average, LORCHE conducted seven surprise inspections to each private RCHE per year. These inspections covered aspects such as personal care services, meals and staffing, social care, environmental hygiene, infection control, handling of accidents, drug management, building safety and fire safety, etc. Furthermore, the LORCHE's inspectors would also interview residents of RCHEs and their relatives in order to directly collect their feedback on the services provided by RCHEs. Upon receipt of complaints relating to suspected elder abuse in RCHEs, LORCHE would immediately inspect the RCHEs concerned without prior announcement to conduct targeted investigation. For RCHEs that had violated the regulations before, or had poor track records, LORCHE would step up its inspection efforts to closely monitor their service performance. In addition to the above inspections conducted by LORCHE's four professional inspectorate teams, six officers of the Social Work Officer Grade conducted audit checks through surprise inspections to the RCHEs randomly assigned to them by LORCHE's computer system to ensure the quality of inspections.

8. Some Members took the view that notwithstanding the long waiting time for residential care services, some elderly persons preferred waiting for subvented RCHE places to admission to private RCHEs because of the substandard quality of some private RCHEs. These Members considered that in addition to purchasing more places for private RCHEs, the Administration should help upgrade the living environment and service quality of private RCHEs.

9. The Administration advised that RCHEs were required under the Code of Practice to have the necessary resources to attend to the care needs of their residents and provide them with a safe and hygienic living environment. Various measures were also implemented to encourage RCHEs to enhance their service quality. For instance, SWD had introduced the Pilot Scheme on Visiting Pharmacist Services for RCHEs since 2010 to enhance the drug management capabilities of RCHEs and their staff. Training was provided for RCHE staff on a regular basis to enhance their knowledge and skills in elderly care. SWD had also worked closely with the Department of Health and the Hospital Authority in devising service guidelines and making case referral. To provide high quality places at private RCHEs, the Administration would buy more EA1 places under the Enhanced Bought Place Scheme ("EBPS"). As at end-March 2015, there were 141 private RCHEs participating in EBPS, providing a total of 7 834 subsidized places which included 4 406 EA1 places.

10. Some Members called on the Administration to consider establishing an official accreditation system for the service quality of RCHEs and introducing a demerit points system for RCHEs. The Administration advised that it had all along been encouraging RCHEs to actively join independent service quality accreditation schemes. At present, the Residential Aged Care Accreditation Scheme launched by the Hong Kong Association of Gerontology, the Quality Elderly Service Scheme launched by the Hong Kong Health Care Federation with the support of the Hong Kong Productivity Council, and the Service Quality Management Certification Scheme – Elderly Service launched by the Hong Kong Quality Assurance Agency provided accreditation services for voluntary participation of RCHEs. In selecting private RCHEs for participation in EBPS, SWD had accorded higher scores for those homes which had participated and been accredited under the relevant service quality accreditation schemes for management and service quality enhancement. The Administration also advised that it had taken note of suggestions from various sectors on how to strengthen the monitoring of RCHEs, such as a demerit point system, and adopted an open mind in examining different options.

Review of the RCHE Ordinance and Code of Practice

11. At its meeting on 8 June 2015, the Panel on Welfare Services took the view that as no major amendments had been made to the RCHE Ordinance since its enactment in 1996, some of its provisions (e.g. staffing ratio, average per capita space, service needs based on impairment levels of the elderly persons, methods for regulating inspections and penalties) were outdated. The Panel passed a motion urging the Government to immediately review the relevant specific requirements, and strictly enforce the RCHE Ordinance and the Code of Practice to ensure that the service quality of both private and subvented RCHEs could reach a reasonable level.

12. The Administration advised that it would conduct a holistic review of elderly care services and would also review the RCHE Ordinance. Meanwhile, short, medium and long-term measures would be adopted to improve the monitoring system within the existing legislative framework.

Quality and monitoring of private RCHDs

13. Regarding implementation of the statutory licensing scheme for RCHDs, the Administration advised that as at July 2013, all RCHDs (including, inter alia, 68 private RCHDs) in the territory had been issued with licences or CoEs. Of the 68 private RCHDs, nine were issued with licences and the other 59 with CoEs. In general, the validity period of CoEs issued by SWD was between nine and 18 months, depending on the service performance and the progress of improvements for individual RCHDs. The lists of RCHDs issued with licences or CoEs were available on the website of SWD for public information.

14. Noting the small number of RCHDs issued with licences since the implementation of the RCHD Ordinance in November 2011, some Members were very concerned about the slow progress of the implementation of the licensing scheme. They took the view that the Administration should, instead of issuing and renewing CoEs, enforce the RCHD Ordinance stringently after the expiry of the 18-month grace period and set a time limit within which all RCHDs were required to operate under a licence. The Administration advised that it would adopt a prudent approach in considering applications for CoEs, which would only be issued or renewed where there were full justifications for allowing a reasonable time for completion of improvement works. It was expected that RCHDs concerned would be able to carry out improvement works for meeting the licensing requirements and standards.

15. Members expressed concern about the financial and operational problems, such as high rental and shortage of manpower, faced by private RCHDs in complying with the licensing requirements. Members urged the Administration to increase the percentage of purchased places under the pilot BPS. The Administration advised that it had implemented the Financial Assistance Scheme upon commencement of the RCHD Ordinance to provide subsidies for private RCHDs to carry out improvement works on building and fire safety. A maximum grant of up to 60% of the recognized cost of the improvement works would be allocated to each eligible private RCHD. In addition, the Small and Medium Enterprises Loan Guarantee Scheme was available for operators to apply for the loan to meet the remaining compliance costs. Regarding the pilot BPS, the Administration advised that 365 places had been purchased from seven private RCHDs as at May 2014. The Administration had regularized the pilot BPS for private RCHDs in October 2014, with the cap of subsidized places in each home raised from 55% to 70%

and the number of places to be bought increased from 300 to 450.

16. Noting that the staff to resident ratio in RCHDs which had participated in the pilot BPS was 1:8, some Members expressed grave concern about the standard and service quality of RCHDs. According to the Administration, it had solicited views from different stakeholders in drawing up BPS, with a view to encouraging private RCHDs to upgrade their service standards, increasing the supply of subsidized residential care places and helping the market develop more service options. The service standard set for RCHDs participating in BPS had exceeded the licensing requirements and these RCHDs were required to provide residents occupying non-BPS places with the same level of service as BPS residents so as to benefit more persons with disabilities. To monitor RCHDs, a Service Quality Group was set up comprising community members and residents' parents, who would conduct unannounced visits to RCHDs and offer feedback on their service.

Relevant papers

17. A list of relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
17 July 2015

Relevant papers on quality and monitoring of private residential care homes for the elderly and for persons with disabilities

| Committee | Date of meeting | Papers |
|---|-------------------------------|--|
| Panel on Welfare Services | 14 December 2009 (Item IV) | Agenda Minutes |
| Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly | - | Report (LC Paper No. CB(2)2046/10-11) |
| Panel on Welfare Services | 14 March 2011 (Item V) | Agenda Minutes |
| | 14 January 2013 (Item IV) | Agenda Minutes Supplementary information provided by the Administration in July 2013 LC Paper No. CB(2)1534/12-13(01) |
| | 16 April 2013 (Item V) | Agenda Minutes Supplementary information provided by the Administration in July 2013 LC Paper No. CB(2)1534/12-13(01) |
| Joint Subcommittee on Long-term Care Policy | 2 July 2013 (Item I) | Agenda Minutes |
| Finance Committee | 3 April 2014 | Administration's replies to members' written questions in |

| Committee | Date of meeting | Papers |
|---|-----------------------------|--|
| | | examining the Estimates of Expenditure 2014-2015 Pages 53-54 |
| Panel on Welfare Services | 14 April 2014 (Item III) | Agenda Minutes |
| Panel on Welfare Services | 12 May 2014 (Item V) | Agenda Minutes |
| Joint Subcommittee on Long-term Care Policy | 26 May 2014 (Item I) | Agenda Minutes |
| Panel on Welfare Services | 8 June 2015 (Item VI) | Agenda |
| Legislative Council | 17 June 2015 | Written question (No. 19) on "Residential care services for the elderly" |

Council Business Division 2
Legislative Council Secretariat
17 July 2015