

立法會
Legislative Council

LC Paper No. CB(2)350/16-17(06)

Ref : CB2/PL/WS

Panel on Welfare Services

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 12 December 2016**

**Quality and monitoring of
private residential care homes 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 persons with disabilities ("RCHDs").

Background

2. 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 Ordinance") to regulate the standards and operation of RCHDs. The 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 ("the Regulation") under the Ordinance stipulates the statutory requirements for the operation, management and supervision of RCHDs. Furthermore, by virtue of the powers conferred by the Ordinance, the Director of Social Welfare issued the Code of Practice for Residential Care Homes (Persons with Disabilities) ("the Code of Practice"), 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 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.

3. According to the Administration, as a complementary measure, the Administration 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. The pilot BPS has become a regular service since October 2014.

Members' deliberations

Implementation of licensing scheme

4. Regarding the implementation of the statutory licensing scheme for RCHDs, the Administration advised that as at 1 October 2016, all RCHDs (including, inter alia, 69 private RCHDs) in the territory had been issued with licences or CoEs. Of the 69 private RCHDs, 21 were issued with licences and the other 48 with CoEs. The lists of RCHDs issued with licences or CoEs were available on the website of the Social Welfare Department ("SWD") for public information.

5. Noting the small number of RCHDs issued with licences since the implementation of the 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 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 reasonable time for completion of improvement works. It was expected that the RCHDs concerned would be able to carry out improvement works for meeting the licensing requirements and standards.

6. Some 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. These Members urged the Administration to increase the percentage of purchased places under the pilot BPS. Some other Members called on the Administration to take

measures to help RCHDs operating with CoEs meet the licensing requirements. According to the Administration, the pilot BPS was regularized 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. In addition, the Administration had implemented the Financial Assistance Scheme upon commencement of the 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. Besides, the Small and Medium Enterprises Loan Guarantee Scheme was available for operators to apply for the loan to meet the remaining compliance costs.

Monitoring mechanism

7. In light of the incidents in which staff of RCHDs had allegedly abused RCHD residents, some Members urged the Administration to step up the regulation of RCHDs, so as to raise their quality of service and prevent the occurrence of similar incidents of abuse of RCHD residents. The Administration advised that the Licensing Office of Residential Care Homes for Persons with Disabilities ("LORCHD") of SWD, which comprised four multi-professional inspectorate teams, was responsible for conducting surprise inspections at RCHDs to check building safety, fire safety, health care and home management, so as to ensure compliance with the statutory requirements on staffing, space and layout, building structure, safety measures and quality of care, etc.¹ In addition to routine inspections to RCHDs, LORCHD would adjust the frequency of inspections and increase the number of inspections to some RCHDs having regard to the service performance and the risk levels of individual RCHDs. Inspectors would monitor the service quality of RCHDs through various means, including the collection of views of residents and their family members during inspections.

8. The Administration further advised that to enhance the monitoring and upgrade the service quality of RCHDs, SWD had established a notification mechanism with the Department of Health ("DH") and the Hospital Authority ("HA") for early identification of and follow-up on problem areas of RCHDs, organizing or promoting various training programmes for the staff of RCHDs, issuing guidelines to RCHDs as necessary for assisting them in improving their management of operation and services, and handling complaints with guidance and advice being rendered to RCHDs as and when required. In 2016-2017,

¹ According to the Administration, since the full implementation of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) on 10 June 2013, the Licensing Office of Residential Care Homes for Persons with Disabilities has, up to end-January 2016, conducted 5 430 surprise inspections and issued over 1 160 advisory letters and two warning letters.

SWD would comprehensively strengthen the monitoring of RCHDs by taking enhancement measures, which included strengthening inspection and supervision, improving the regulatory mechanism and promoting staff training.²

9. Noting that the Administration had set up a Service Quality Group ("SQG") comprising community members and residents' parents to conduct unannounced visits to residential care homes and offer feedback on their service, some Members called on the Administration to appoint representatives from concern groups to SQG. In addition, these Members considered that residential care homes should be required to sign the "Quality Service Charter". The Administration advised that starting from April 2016, the SQG Scheme had been extended to the whole territory to cover, inter alia, all licensed RCHDs. Family members of residents of residential care homes were welcomed to join the SQG Scheme to monitor these homes. The Administration would try to engage more local leaders, service users and their family members in the SQG Scheme.

Staff training and manpower supply

10. Considering that RCHD staff should comply with specified work ethics and their services should meet a specified quality, some Members called on the Administration to require RCHDs to provide recognized training courses and introduce a registration system for their staff of various ranks. In addition, these Members requested the Administration to improve the grade structure for RCHD staff in order to provide an advancement ladder to retain talents.

11. The Administration advised that to enhance the skills of RCHD staff in taking care of persons with disabilities, SWD invited various training institutes (including the Employees Retraining Board) to organize a series of health worker training courses ("HWTCs"), which were suitable for RCHDs in accordance with relevant requirements. As at end-January 2016, over 2 500 health workers completed HWTCs and registered under the Regulation. In addition, SWD, in collaboration with DH and relevant professionals, had been organizing training programmes for RCHD staff on a regular basis, covering subjects such as infection control, management of psychotropic drugs and understanding of the behavioural problems of persons with disabilities. About 800 RCHD staff participated in these training programmes annually. To encourage staff working in rehabilitation services, including the staff of RCHDs, to enhance their skills and knowledge with a view to providing higher quality services for persons with disabilities, SWD commissioned the School of

² The Administration will brief the Panel on Welfare Services on its proposal to create a supernumerary post of Assistant Director of Social Welfare to strengthen the inspection and monitoring of residential care homes for the elderly and residential care homes for persons with disabilities at the Panel meeting on 12 December 2016.

Continuing and Professional Education of the City University of Hong Kong to run six classes of in-service Certificate Training Course for Rehabilitation Personnel Working for Persons with Intellectual Disability and in-service Diploma Training Course for Rehabilitation Personnel Working for Persons with Intellectual Disability in 2011-2015. Around 230 staff attended these training courses. SWD was planning to organize similar courses in 2016-2017.

12. Some Members urged the Administration to address the crux of the problem, i.e. manpower shortage and insufficient resources faced by many private residential care homes, and adopt a multi-pronged strategy for enhancing the service quality of these homes. The Administration advised that it had launched the "first-hire-then-train" pilot project and the Navigation Scheme for Young Persons in Care Services to encourage young people to join the care service sector. In addition, the implementation of the Master programmes in Occupational Therapy and Physiotherapy would continue. SWD had also collaborated with HA in offering the enrolled nurse training programme since 2006. SWD fully subsidized the tuition fees for the whole programme, provided that trainees of the programme met the requirement of working in the welfare sector for a continuous period of no less than two years after satisfactory completion of training.

Review of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) and the Code of Practice for Residential Care Homes (Persons with Disabilities)

13. At its meeting on 23 July 2015, the Panel on Welfare Services ("the Panel") passed a motion urging the Administration to, inter alia, immediately amend the Ordinance and the Code of Practice, which could not keep abreast of the times, so as to enhance the service quality of RCHDs. Some Members said that in 2012, the Ombudsman had suggested reviewing, inter alia, the Ordinance in a timely manner and on a regular basis to enhance the minimum legal protection of the service users concerned. They requested the Administration to review the Ordinance as soon as possible and to draw up a timetable for the review (say, completion in three years' time). The Administration advised that it would seek initial legal advice and consult different stakeholders in order to lay the initial groundwork for future legislative amendments.

Special meeting of the Panel on Welfare Services on 1 November 2016

14. Arising from a recent incident, in which the former head of a private RCHD was accused of sexually assaulting some female residents with mental disabilities (commonly known as the "Bridge of Rehabilitation Company" incident), the Panel held a special meeting on 1 November 2016 to discuss with

the Administration the quality problem of private RCHDs, and also received views from 54 deputations/individuals. At that special meeting, the Panel passed the following motion:

"That, the occurrence of a number of sexual assaults and a chain of suspicious deaths of residents involving the Bridge of Rehabilitation Company in recent years has revealed the problem of poor quality of private residential care homes for persons with disabilities, this Panel urges the Government to immediately set up an inter-departmental committee which includes users, so as to comprehensively revamp the entire system of residential care homes for the elderly and persons with disabilities, and within three years, amend the relevant ordinances, increase the staffing ratio of care homes, improve their quality of environment and care, impose heavier penalties, strengthen the requirements on operators, and empower the Social Welfare Department to take over the management of care homes. Moreover, the Government should enhance its monitoring, eradicate private care homes of poor quality, and on the basis of the Convention on the Rights of Persons with Disabilities, make afresh planning on long-term care services, develop diversified home-liked care homes and substantially increase community and home-based services, make every endeavour to enable persons with disabilities and frail elderly to live independently in the community with dignity."

15. The Panel agreed to further discuss with the Administration the quality problem of private RCHDs at its regular meeting on 12 December 2016. According to the Administration, it would brief the Panel on the measures taken and being planned to strengthen the monitoring of the service quality of private RCHDs.

Relevant papers

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

Appendix

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

Committee	Date of meeting	Papers
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)
Finance Committee	3 April 2014	Administration's replies to members' written questions in examining the Estimates of Expenditure 2014-2015 Pages 53-54
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

Committee	Date of meeting	Papers
Panel on Welfare Services	23 July 2015 (Item III)	Agenda Minutes
Legislative Council	17 February 2016	Official Record of Proceedings Pages 45-50
Panel on Welfare Services	9 May 2016 (Item III)	Agenda Minutes
Establishment Subcommittee	4 July 2016 (EC(2016-17)16)	Agenda Minutes
Panel on Welfare Services	1 November 2016 (Item I)	Agenda LC Paper No. CB(2)55/16-17(01)

Council Business Division 2
Legislative Council Secretariat
8 December 2016