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**Panel on Welfare Services**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 8 February 2021**

**Proposal of retaining one supernumerary post of  
Assistant Director of Social Welfare**

**Purpose**

This paper provides background information on the Administration's proposal of retaining one supernumerary post of Assistant Director of Social Welfare ("ADSW"), and summarizes the major views and concerns expressed by members of the Panel on Welfare Services ("the WS Panel") and the Joint Subcommittee on Long-term Care Policy under the WS Panel and the Panel on Health Services ("the Joint Subcommittee") on the relevant matters.

**Background**

2. It was announced in the 2016 Policy Address that the Government would comprehensively strengthen the monitoring of residential care homes for the elderly ("RCHEs") and residential care homes for persons with disabilities ("RCHDs"), with measures including enhancing inspection and supervision, improving the regulatory mechanism and promoting staff training, etc. To take forward these initiatives, the Administration proposed in 2016 to (a) establish a new Licensing and Regulation Branch ("LR Branch") in the Social Welfare Department ("SWD") to be tasked to implement various enhancement strategies and measures to regulate the residential care homes ("RCHs") and centres licensed or registered by SWD; and (b) create one supernumerary post of ADSW, to be designated as Assistant Director (Licensing and Regulation), up to 31 March 2021 upon approval of the Finance Committee ("FC") of the Legislative Council ("LegCo") to head the new LR Branch ("the supernumerary post of ADSW").

3. The above staffing proposal was approved by FC in April 2017. During the consideration of the staffing proposal, the Administration pledged to provide to LegCo an interim review and a final report in two years' and four years' time respectively following the creation of the supernumerary post of ADSW.

### **Deliberations of the WS Panel and the Joint Subcommittee**

4. The WS Panel was consulted on the proposal to create the supernumerary post of ADSW in December 2016. The WS Panel and the Joint Subcommittee received reports from the Administration in April 2019 and June 2020 respectively on measures implemented to strengthen the monitoring of RCHs and enhance their service quality after the creation of the post, and the progress of implementing the proposed amendments to the relevant legislation in relation to the monitoring of RCHEs and RCHDs. The Joint Subcommittee also received views from deputations at the meeting. The deliberations and concerns of members are summarized in the following paragraphs.

#### Strengthening inspection of RCHs

5. Members had long called on the Administration to step up the regulation of RCHs so as to raise their quality of service and prevent abuse of the residents of RCHs. Casting doubt on the effectiveness of the existing inspection system in monitoring RCHs, some members took the view that the Administration should conduct a comprehensive review of the inspection system for and step up the monitoring of RCHs by putting in place a round-the-clock inspection mechanism or conducting inspections at night. While members raised no objection at the WS Panel meeting on 12 December 2016 to the Administration's proposal of creating the supernumerary post of ADSW, a motion was passed at the meeting ("the motion") requesting, among other things, that SWD should, in tandem with the creation of the post, support the setting up of inspection teams comprising different stakeholders in the community to assist in the monitoring work, and take over the management of a care home if the services of the latter were of poor quality.

6. Subsequent to the above meeting, the Administration advised the WS Panel that with the establishment of the new LR Branch in May 2017, a dedicated team had been set up under the Branch to formulate strategies and action plans for monitoring RCHs with serious irregularities or poor track records, and to impose sanctions and take prosecution actions against non-compliance homes. On top of the normal inspection mechanism, the

dedicated team would, having regard to the nature and items of non-compliance of individual RCHs, strategically conduct surprise inspections through a small team approach or by a multi-disciplinary inspectorate team and conduct surprise inspections flexibly at different times during office and non-office hours to closely monitor whether the RCHs concerned had continuously complied with existing regulations and taken timely remedial measures.

7. The Administration further advised that the Service Quality Group ("SQG") Scheme of RCHs had been extended to cover all types of RCHEs, all licensed RCHDs and all RCHDs issued with certificates of exemption<sup>1</sup>. Members of SQG, comprising members of the local community, healthcare personnel or other professionals, representatives of local concern groups, etc., had given suggestions on the facilities and service of the homes through home visits and collect views from the residents, their relatives and staff. SWD had started a new term of SQG Scheme for 2018-2020 from October 2018 to September 2020, with a total of 246 RCHEs and 38 RCHDs joining the Scheme.

8. Question was raised as to how SWD could identify "on-the-run staff" arranged by some RCH operators to impersonate their staff members during inspections. The Administration advised that under the proposed improvement measures, RCHs would be required to submit, at regular intervals, staff records (including relief staff) with clear information on the staffing situation and duty roster to facilitate inspection and checking by SWD.

#### Making public the conviction and warning records of RCHs

9. Another request set out in the motion was the opening up of the monitoring system of RCHs. Members noted that the conviction records of non-compliant RCHEs and RCHDs had long been uploaded onto the SWD's website and would be kept therein for 24 months. They considered that the warning records of non-compliant RCHs should also be made public to further enhance the transparency of the monitoring system. The Administration subsequently informed the WS Panel that SWD had begun uploading warning records of non-compliant homes onto its website as well as the newly launched SWD Elderly Information Website ([www.elderlyinfo.swd.gov.hk](http://www.elderlyinfo.swd.gov.hk)) and SWD Information Website for RCHDs ([www.rchdinfo.swd.gov.hk](http://www.rchdinfo.swd.gov.hk)) since 1 April 2018. The records, which covered warning notices or directions for remedial measures

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<sup>1</sup> For RCHDs that existed immediately before the commencement date of the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) (i.e. 18 November 2011) but are unable to comply fully with the licensing requirements, certificates of exemption may be issued in order to allow reasonable time for them to carry out improvement works for meeting the licensing requirements and standards.

issued by SWD on or after the aforementioned date, would be kept on the websites concerned for 12 months.

10. There was a view that SWD should keep the conviction and warning records of RCHs in the websites for five years. The Administration advised that according to legal advice, it would be unfair to the RCHs concerned which had rectified their problems if these records were kept in SWD's website for too long. It would also affect the reputation and operation of the RCHs concerned. The Administration would review the duration of keeping these records as appropriate.

#### Review of the relevant legislation and codes

11. SWD was requested under the motion to, inter alia, set up a committee to reform the relevant legislation and codes, so as to enhance service quality of RCHs within three years. When reporting to the WS Panel and the Joint Subcommittee on the relevant work progress in April 2019 and June 2020 respectively, the Administration advised that SWD had set up the Working Group on the Review of Ordinances and Codes of Practice for Residential Care Homes ("the Working Group"), which was chaired by the Director of Social Welfare, in June 2017 after FC's approval for the creation of the supernumerary post of ADSW. The Working Group had put forward in May 2019 a number of recommendations in different aspects of the monitoring of RCHEs and RCHDs.<sup>2</sup> For those recommendations which involved revision of the Code of Practice for Residential Care Homes (Elderly Persons) and the Code of Practice for Residential Care Homes (Persons with Disabilities), the revised version of the two Codes of Practice had taken effect since January 2019. As regards the 14 recommendations which involved amendments to the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) and its Regulation, as well as the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) and its Regulation, the Administration would proceed with the drafting of the amendment bill and commence the legislative process as early as possible.

#### Duration of the supernumerary post of ADSW

12. Members noted that the new LR Branch would have five sections that were relevant to the quality of RCHEs and RCHDs, namely, the Licensing Office of Residential Care Home for the Elderly ("LORCHE"), the Licensing Office of Residential Care Home for Persons with Disabilities ("LORCHD"),

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<sup>2</sup> The report of the Working Group (Chinese version only) can be accessed at SWD's website at: [https://www.swd.gov.hk/storage/asset/section/2970/en/Report\\_of\\_the\\_Ordinances\\_and\\_COP\\_for\\_Residential\\_Care\\_Homes.pdf](https://www.swd.gov.hk/storage/asset/section/2970/en/Report_of_the_Ordinances_and_COP_for_Residential_Care_Homes.pdf).

the Quality Service Section, the Target Monitoring and Prosecution Section, and the Risk Management and Complaints Section, with an establishment of 121 posts.<sup>3</sup> In addition to the supernumerary post of ADSW, 39 non-directorate posts which were time-limited up to 31 March 2021 would be created. These posts were to be filled by staff of the Social Work Officer grade, Social Work Assistant grade, Registered Nurse grade, professional and technical grades seconded from the Buildings Department and the Fire Services Department as well as clerical and supporting general grades. On the reason why these posts were to be created on a time-limited basis, the Administration advised that SWD would consolidate the experience and review the effectiveness of the new organization structure in due course, with a view to ascertaining its suitability as a long-term arrangement. Before the expiration of the terms of office of the supernumerary post of ADSW and the 39 time-limited non-directorate posts, SWD would review the long-term manpower requirements having regard to the progress of work of the newly established LR Branch.

### **Latest developments**

13. It was announced in the Chief Executive's 2020 Policy Address that given Members' concern over the Government's requests to create directorate posts under the current situation, all the staff establishment proposals awaiting scrutiny would be withdrawn for individual review. If any of the posts was confirmed to be absolutely necessary, the Administration would only seek to create time-limited supernumerary posts first to handle the related duties.

14. The Administration will seek the support of the WS Panel on its proposal of retaining the supernumerary post of ADSW on 8 February 2021.

### **Relevant papers**

15. A list of relevant papers on the LegCo website is in the **Appendix**.

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<sup>3</sup> Upon the establishment of the LR Branch, the Licensing Office which consisted of LORCHE, the Licensing Office of Drug Dependents Treatment Centres and the Child Care Centres Advisory Inspectorate, and LORCHD would be transferred from the Elderly Branch and the Rehabilitation and Medical Social Services Branch respectively to the new LR Branch. The establishment of the Licensing Office and LORCHD at the time was 81 posts.

## Appendix

### Relevant papers on the proposal of retaining one supernumerary post of Assistant Director of Social Welfare

Committee	Date of meeting	Papers
Panel on Welfare Services	12 December 2016 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	15 April 2019 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Joint Subcommittee on Long-term Care Policy	23 June 2020 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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