

立法會 *Legislative Council*

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Panel on Welfare Services

Background brief prepared by the Legislative Council Secretariat

Residential care services for the elderly

Purpose

This paper provides background information on the provision of residential care services for the elderly, and summarises the main points of the past discussions by the Panel on Welfare Services (the Panel) on the subject since the first Legislative Council (LegCo) term.

Background

Overview

2. As at 30 June 2005, there are 72 199 residential care places for the elderly, of which 64% (45 217) and 36% (26 982) are non-subsidised and subsidised places respectively. Of the 45 217 non-subsidised places, 41 649 are provided by the private sector and 3 568 are provided by non-profit-making self-financing homes run by non-governmental organisations (NGOs). As regards the 26 982 subsidised places, 20 750 are provided by subvented homes run by NGOs and 6 232 are provided by private homes under the Enhanced Bought Place Scheme (EBPS). Subsidised homes range from self-care hostels, homes for the aged, care and attention homes and nursing homes to meet different care needs of elders.

Bought Place Scheme/Enhanced Bought Place Scheme

3. The Bought Place Scheme (BPS) was introduced in 1989 to give private home operators the financial incentive to raise their service quality and to complement the supply of subvented residential care places for the elderly. Following the announcement of “Care for the Elderly” as one of the strategic policy directions in the 1997 Chief Executive Policy Address, EBPS was

introduced in 1998 to replace the BPS under which higher prices are paid for better quality in terms of space and staffing. Once a private home participates in the Scheme, the same standards will apply to the entire home.

Central waiting list for subsidised residential care services for the elderly

4. To actualise the policy initiatives of “ageing in place” and “continuum of care”, and to streamline the application procedures, a central waiting list for subsidised long term care services for the elderly was implemented by the Social Welfare Department (SWD) in November 2000 to facilitate elders' registration of the request for such services at single entry points. Long term care services for the elderly cover both subsidised residential care services as well as home and community care services. Underpinning the central waiting list is an internationally recognised assessment tool to ascertain the care needs of elders and match them with appropriate services.

5. As at 31 July 2005, there are 21 661 applicants on the central waiting list for subsidised residential care services. The average waiting time is about 25 months for homes for the aged, 23 months for care and attention homes, and 35 months for nursing homes.

Regulation of residential care homes for the elderly

6. Residential care homes for the elderly (RCHEs), with the exception of nursing homes which are regulated under the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance (Cap. 165), must be licensed or granted certificate of exemption to legitimise their operation under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459). The Ordinance came into effect on 1 April 1995 and was fully implemented on 1 June 1996.

7. The Ordinance sets out the minimum statutory standards for the service quality of all RCHEs, including space and staffing standards, building and fire safety, location and design, heating, lighting and ventilation, maintenance of residents' records, etc. The Ordinance also empowers the Director of Social Welfare to issue a Code of Practice setting out the principles, procedures, guidelines and standards for the management of RCHEs in the areas of health and care services, nutrition and diet, cleanliness and sanitation, social care, etc. Observance of the Code of Practice is a licensing requirement.

8. It is SWD's policy that all RCHEs which come into existence and which want to commence operation on or after 1 April 1995 should be subject to regulation by the issuance of a licence rather than the issuance of a certificate of exemption. The provision of a certificate of exemption is to allow time for those RCHEs, which are already in operation before 1 April 1995, but which are unable to comply fully with the legislative requirements, to upgrade the

services and carry out the requisite improvement works for compliance with the licensing requirements.

9. The Licensing Office of Residential Care Homes for the Elderly (LORCHE) was set up by SWD in 1995 to enforce the legislative requirements in terms of staffing, space design, structure, safety precautions and quality of care as specified in the Ordinance and its subsidiary Regulations. To monitor the service quality of RCHEs -

- (a) surprise visits are conducted by inspectors of LORCHE to ensure compliance of licensing requirements;
- (b) a telephone hotline is set up at LORCHE to receive public inquiries and complaints relating to services of residential care homes; and
- (c) caseworkers and families of elderly persons are encouraged to report any irregularity or malpractice in the operation of RCHEs.

10. According to a press release issued by SWD on 5 August 2005, SWD has successfully prosecuted 38 cases involving RCHEs breaching the licensing requirements since 1996.

Measures to strengthen regulation of private RCHEs

11. The following measures are implemented by SWD to strengthen regulation of private RCHEs -

- (a) Health Worker Training Courses are organised in collaboration with the Department of Health to train up qualified health workers to meet with the licensing requirement in staffing;
- (b) information on space standard, staffing requirement, service provision and facilities of EBPS homes is made available on SWD's homepage;
- (c) a directory of RCHEs and a booklet containing guidance notes on tips in selecting the suitable RCHEs and ways to adjust to group living in RCHEs are published for consumer knowledge and with a view to promoting quality assurance; and
- (d) Service Quality Standards developed and implemented in subvented service units are applied to all EBPS homes. These Standards set out the principles regarding the provision of information, service management, service to clients and respect for clients' rights.

Operation of RCHEs in premises subject to the Deed of Mutual Covenant

12. As private buildings will remain an important source of premises for private RCHEs, the Lands Department, on the advice of the Elderly Commission, has since February 2001 expressly disallowed prohibition of RCHE in the Deed of Mutual Covenant for new residential developments where commercial uses are normally permitted in the lowest three floors.

Past discussions

Regulation of private RCHEs

13. The Administration updated the Panel on 9 April 2001 on the regulation of private RCHEs and briefed members on further initiatives to improve service standards of these homes.

14. A member asked about the action(s) which would be taken by the Administration to ensure that all BPS/EBPS homes would adhere to the eight working hours per staff requirement.

15. The Administration advised that not all BPS/EBPS homes were able to adhere to the eight working hours per staff requirement because of operational needs. The Administration assured members that SWD would step up actions to ensure that such a requirement would be complied with by BPS/EBPS homes, particularly the new ones. For instance, when inviting private RCHEs to participate in the running of new homes to be introduced through competitive bidding, applicants would be required to submit information on how they could meet the eight working hours per staff requirement in the light of the service standards they planned to deliver. The Administration further advised that the eight working hours per staff requirement could not be imposed on those private RCHEs which were not under the BPS/EBPS.

16. Another member asked whether consideration would be given to applying the Service Quality Standards implemented in subvented welfare services to those private RCHEs not under the BPS/EBPS.

17. The Administration advised that as all private RCHEs were licensed, its plan was to align Service Quality Standards with licensing standards in terms of management, health and care provision and where possible, to further enhance service quality. Moreover, SWD would consider, in consultation with legal experts, ways and means to step up prosecution actions against non-compliant homes, in order to deter any malpractices that were detrimental to the welfare of the elders. The Administration pointed out that as the operation of RCHEs was labour-intensive and on a 24-hour basis, it would

entail huge resources if they were to be closely monitored. A better approach was to provide more information on all licensed RCHEs, such as a brief on their services, to the elders and their families to facilitate their choice of RCHE. Consumer choice and market force were far more effective tools to make RCHEs, particularly the private ones, ensure their service quality.

18. A member enquired whether the names of those RCHEs which had received warning letters for failing to comply with the licensing requirements could be publicised. The Administration advised that SWD would consider doing so if this was not in violation of natural justice.

Accreditation system for RCHEs in Hong Kong

19. At the same meeting, a member suggested that an accreditation system for RCHEs should be expeditiously introduced in Hong Kong, so that elders and their families could have more information to facilitate their choice of RCHEs. The Administration advised that this would take some time to realise as the system was considered more appropriate to be undertaken by an independent non-government body to ensure impartiality.

20. The Administration subsequently commissioned the Hong Kong Association of Gerontology in mid-2002 to undertake a two-year pilot to develop a local accreditation system for RCHEs.

21. The Panel was advised by the Administration on 19 July 2004 that it generally supported the accreditation system initially based on voluntary participation by RCHEs, and the proposal of using a non statutory independent body to serve as the accreditation body.

Competitive bidding of new elderly residential units

22. The Administration briefed the Panel on 5 March 2001 about its plan to open up new elderly services, from home care to residential care, for competitive bidding by both NGOs and the private sector on the basis of quality and cost-effectiveness. The majority of members and all deputations (which were mostly NGOs) attending the meeting expressed strong opposition to the tendering of new elderly residential units being opened up to both NGOs and the private sector. Their views are summarised as follows -

- (a) as the prime objective of the private firms was to make profits, the only way they could win a bid to operate a RCHE (which placed a 20% weighting on price) and make a profit in the end was to exploit their staff by offering them low salaries and making them worked long hours. Given that residential care service for the elderly was a labour-intensive and personalised service, it was difficult to see how the quality of such service

would not suffer;

- (b) there was no need to include the private sector in the bidding of new elderly residential units in order to have open and fair competition, as NGOs could compete among themselves on the same basis;
- (c) many overseas jurisdictions which practised competitive bidding of welfare services had found that the demerits of implementing such an approach outweighed the merits;
- (d) there was no reason to open up the bidding of new elderly residential units to the private sector unless there was evidence that such service run by the NGOs was not cost-effective and of unsatisfactory quality; and
- (e) a review should be conducted on the operation of private RCHEs under the BPS and EBPS before deciding whether competitive bidding in elderly residential care service should be introduced.

23. The Administration responded that it was unfair to say that private firms would exploit their staff and deliver an inferior service, having regard to the fact that Hong Kong had all along prided itself on an enterprising private sector and that the overwhelming majority of services in Hong Kong were provided by the private sector. The flexibility and responsiveness of the private sector in coping with and reacting to the rapid changing needs of the community could never be equalled by the public sector. Given that resources were finite, it was incumbent upon the Administration to implement competitive bidding in welfare services in order to maximise the number of people being provided with the services.

24. The Administration further advised that the reason why it considered competitive bidding for RCHEs viable even though some RCHEs operated by NGOs on a self-financing basis were encountering financial difficulties was that the existing staffing and organisation structure had made it very difficult for the NGOs to come up with a competitive price to attract people to use their service. This was illustrated by the current significant cost differential between a quality place under the EBPS and a NGO home.

25. Members disagreed with the Administration. A motion proposed by Dr Hon YEUNG Sum opposing the participation of profit-making organisations in the provision of elderly subsidised care services was passed by the majority of members present at the meeting.

26. Since 2001, new Government-supplied purpose-built RCHEs at nominal rent have been opened up for competitive bidding by both NGOs and

the private sector.

27. At the special meeting of the Panel on 2 June 2005, a motion was again passed by the Panel requesting the Administration to review competitive bidding of new elderly services, among others.

Scheme to encourage private developers to incorporate RCHEs in their new private developments

28. The Administration briefed the Panel on 11 March 2002 about the proposal to encourage private developers to incorporate RCHEs in their new private developments. Under the scheme, eligible RCHE premises would be exempted from payment of premium under various types of land transactions, such as lease modification, land exchange and private treaty grant, on the condition that the developers were willing to accept incorporation of certain lease conditions to ensure the delivery of the RCHE premises. In return, the developer would have to pay the full cost of constructing the RCHE premises with the basic provisions, such as fire installation, suitable for use as a RCHE. These premises, once built, would become the properties of the developers but would remain for the exclusive use of RCHEs only. The developers would be allowed to lease, sell or operate these premises themselves or through agents so long as they remained as RCHEs. The developers/operators were also free to set their own fees.

29. Some members expressed the view that as private developers would be given gross floor area and premium concessions for operating RCHEs in their new private developments, they should be required to turn over some of their RCHE places for allocation by SWD. Moreover, there was a possibility that the private developers might leave the premises vacant if their RCHEs turned out to be losing money.

30. The Administration assured members that adequate safeguards would be built in to ensure the premises built would be used solely for RCHE purposes. The Administration also considered that the chance of private developers leaving the premises vacant was remote, as no developer would join the proposed scheme unless the developer was confident that the RCHE business was commercially viable.

31. A Scheme to encourage private developers to incorporate RCHEs in their new private developments was subsequently implemented by SWD in July 2003.

Subsidy arrangements for residential care services for frail elders

32. The Administration sought the Panel's initial views on 12 May 2003 on its proposal to develop a Fee Assistance Scheme for residential care services

for frail elders, to ensure that public money was targetted towards elders most in need for residential care services. Under the proposed Scheme, the Government would directly subsidise eligible elders who have care and financial needs to enable them to receive residential care services at homes of their choice.

33. Panel members generally supported the concept of "money following the user" under the proposed Fee Assistance Scheme. However, members were concerned how those elders who had little or no family support would be able to make an informed decision on the choice of homes.

34. The Administration pointed out that elders receiving Comprehensive Social Security Assistance (CSSA) and staying in private homes faced the same problem under the existing arrangement. To address the issue, the Administration had re-engineered and enhanced community support services for elders and kept them well informed of the choices of different services available to them. Similar assistance would be provided to elders under the proposed Scheme and some form of guardianship arrangements would be in place to help those mentally incapacitated to exercise their consumer rights.

35. Noting that a means-test might be introduced under the Scheme, some members expressed concern that some elders might not pass the test if all the income of the family members was to be included in the means test. Members shared the view that the asset and income limits had to be carefully set in view of the impact on elders and their families. A member suggested that a progressive scale should be adopted for the fee assistance levels under the Scheme and the fee assistance levels should be adjusted in accordance with any changes in the financial situation of the children of the elders. Such an arrangement would help relieve the burden on their children who were willing to shoulder some of the responsibilities in taking care of their parents.

36. To prevent double subsidies for elders under the proposed Scheme and CSSA, a member suggested to remove all elderly cases from the CSSA Scheme and to establish a separate financial assistance scheme for elders. The Panel requested the Administration to consider the suggestions and views made by members and revert to the Panel with more details of the proposed Scheme once they were available for further discussion.

37. The Administration subsequently advised that it plans to revert to the Panel on issues raised at the meeting in the fourth quarter of 2005.

Relevant Council questions and papers

38. A list of the relevant documents and a list of the relevant questions raised by Members at Council meetings are in **Appendices I and II**

respectively. Members are invited to access the Council's website at <http://www.legco.gov.hk/english/index.htm> for details.

Council Business Division 2
Legislative Council Secretariat
2 September 2005

Appendix I

Relevant documents of the Panel on Welfare Services on residential care services for the elderly since the first LegCo term

<u>Meeting Date</u>	<u>Documents</u>
5 March 2001	Administration's paper entitled "Social welfare subvention reform : allocation of new welfare service units" (LC Paper No. CB(2)975/00-01(07)) Submission from the Hong Kong Council of Social Service (LC Paper No. CB(2)975/00-01(01)) Submission from Dr Fernando CHEUNG (LC Paper No. CB(2)975/00-01(05)) Minutes of special meeting (LC Paper No. CB(2)2107/00-01)
9 April 2001	Administration's paper entitled "Regulation of private residential care homes for the elderly" (LC Paper No. CB(2)1228/00-01(04)) Minutes of meeting (LC Paper No. CB(2)1461/00-01)
11 March 2002	Administration's paper entitled "Provision of residential care services for elders" (LC Paper No. CB(2)1265/01-02(04)) Minutes of meeting (LC Paper No. CB(2)1490/01-02)

<u>Meeting Date</u>	<u>Documents</u>
12 May 2003	Administration's paper entitled "Subsidy arrangements for residential care services for frail elders" (LC Paper No. CB(2)2015/02-03(03)) Minutes of meeting (LC Paper No. CB(2)2335/02-03)
19 July 2004	Administration's paper entitled "The pilot project on accreditation system for residential care services for elders in Hong Kong" (LC Paper No. CB(2)3078/03-04(02)) Minutes of meeting (LC Paper No. CB(2)3257/03-04)

Appendix II

Relevant questions on residential care services for the elderly raised by Members at Council meetings since the first LegCo term

<u>Meeting Date</u>	<u>Council Questions</u>
20 December 2000	Oral question on “Monitor the service quality of private residential care homes for the elderly” raised by Mr IP Kwok-him
27 June 2001	Oral question on “Fire safety in residential care homes for the elderly and school dormitories” raised by Mr Michael MAK
4 July 2001	Oral question on “Quality of services of private care and attention homes for the elderly” raised by Hon LEE Cheuk-yan
7 November 2001	Written question on “Provision of infirmary services in residential homes for the elderly” raised by Dr LAW Chi-kwong
18 June 2003	Written question on “Homes for the elderly operating in commercial/residential buildings” raised by Hon Audrey EU
24 March 2004	Written question on “Reduction of subsidies for residential care homes for the elderly under the Enhanced Bought Place Scheme” raised by Mr Michael MAK
21 April 2004	Written question on “Central waiting list for subsidised long term care services for the elderly” raised by Dr LAW Chi-kwong
26 January 2005	Written question on “Bidding for the provision of social services” raised by Dr Hon YEUNG Sum
29 June 2005	Oral question on “Employees of Bought Place Scheme for private residential care homes for the elderly” raised by Hon LEUNG Yiu-chung