

**立法會**  
**Legislative Council**

LC Paper No. CB(2)406/10-11  
(These minutes have been  
seen by the Administration)

Ref : CB2/BC/4/09

**Bills Committee on Residential Care Homes (Persons with Disabilities) Bill**

**Minutes of the third meeting  
held on Monday, 25 October 2010, at 4:30 pm  
in the Chamber of the Legislative Council Building**

**Members present** : Hon WONG Sing-chi (Chairman)  
Hon LEE Cheuk-yan  
Hon TAM Yiu-chung, GBS, JP  
Dr Hon Joseph LEE Kok-long, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon Cyd HO Sau-lan  
Hon CHEUNG Kwok-che  
Hon IP Wai-ming, MH  
Dr Hon PAN Pey-chyou  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung

**Member absent** : Hon LEUNG Yiu-chung

**Public Officers attending** : Item II

Mr Roy TANG Yun-kwong, JP  
Deputy Secretary for Labour and Welfare (Welfare) 1

Mr Stephen SUI Wai-keung  
Commissioner for Rehabilitation  
Labour and Welfare Bureau

Mrs Cecilia YUEN  
Assistant Director of Social Welfare  
(Rehabilitation & Medical Social Services)

Mr Philip TANG  
Senior Social Work Officer  
(Rehabilitation & Medical Social Services) 6  
Social Welfare Department

Ms Lonnie NG Wah-chi  
Senior Government Counsel  
Department of Justice

**Clerk in attendance** : Miss Betty MA  
Chief Council Secretary (2) 4

**Staff in attendance** : Mr YICK Wing-kin  
Assistant Legal Adviser 8

Ms Yvonne YU  
Senior Council Secretary (2) 5

Miss Maggie CHIU  
Legislative Assistant (2) 4

Action

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**I. Confirmation of minutes**  
[LC Paper No. CB(2)75/10-11]

The minutes of the meeting held on 27 September 2010 were confirmed.

**II. Meeting with the Administration**  
[The Bill, Legislative Council Brief, LC Paper Nos. LS81/09-10, CB(2)2002/09-10(01) to (02), CB(2)2274/09-10(01), CB(2)2289/09-10(01) and CB(2)80/10-11(01)]

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).

Action

3. The Administration was requested to provide the following -
  - (a) the progress of the pilot Bought Place Scheme for private residential care homes for persons with disabilities ("RCHDs");
  - (b) details of the assessment results of the likely impact of the Bill on the continued operation of each of the 64 private RCHDs;
  - (c) a comparison of the existing unit operating cost of a subvented RCHD place and a private RCHD place and the estimated unit operating cost of a RCHD place which would meet the minimum licensing requirements, together with a breakdown by various cost components, e.g. rental, staff costs, food and miscellaneous expenses; and
  - (d) a comparison table showing the major differences between the non-statutory Code of Practice ("CoP") issued in 2002 and the latest version of the draft revised CoP, and a marked-up copy of the draft revised CoP showing the amendments to the 2002 CoP.

**III. Any other business**

4. Members agreed that the Bills Committee would hold about two meetings each month. The Chairman said that the schedule of meetings would be issued to members in due course.

*(Post-meeting note: The schedule of meetings from November 2010 to March 2011 was issued to members vide LC Paper No. CB(2)133/10-11 on 26 October 2010).*

5. Members further agreed that the next meeting would be held on 5 November 2010 at 10:45 am.
6. There being no other business, the meeting ended at 6:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
25 November 2010

**Proceedings of the third meeting of the  
Bills Committee on Residential Care Homes (Persons with Disabilities) Bill  
on Monday, 25 October 2010, at 4:30 pm  
in the Chamber of the Legislative Council Building**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Confirmation of minutes</i>			
000000 - 000337	Chairman	Confirmation of minutes of meeting on 27 September 2010 [LC Paper No. CB(2)75/10-11]	
<i>Agenda item II – Meeting with the Administration</i>			
000338 - 001824	Chairman Administration	Briefing by the Administration on its response to issues raised by members at the meeting held on 27 September 2010 [LC Paper No. CB(2)80/10-11(01)]	
001825 - 002711	Chairman Mr IP Wai-ming Administration	<p>Views of Mr IP Wai-ming -</p> <p>(a) the staffing and spatial requirements set out in the latest version of the draft revised Code of Practice ("CoP") for residential care homes for persons with disabilities ("RCHDs") ("2008 CoP") were lower than those in the existing non-statutory CoP for RCHDs issued in 2002 ("2002 CoP"). This was a retrogressive step to legitimize the substandard operation of RCHDs at the expense of the well-being of RCHD residents; and</p> <p>(b) details of the Financial Assistance Scheme ("FAS") and whether the amount would be adequate for private RCHDs to carry out improvement works to meet the licensing standards</p> <p>The Administration's responses -</p> <p>(a) the purpose of the licensing scheme was to ensure the service quality of RCHDs. As part of the statutory licensing system, a CoP would set out the minimum licensing standards for compliance by RCHDs. The standards proposed in the 2008 CoP had been prepared after balancing the different views of the rehabilitation sector and the stakeholders, having regard to the practical situations of RCHDs and the needs of PWDs; and</p> <p>(b) in tandem with the legislative exercise, the Administration would introduce suitable complementary measures to minimise the displacement of residents arising from closure</p>	

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		<p>of private RCHDs. In this regard, after the passage of the Bill, a one-off funding would be sought from the Lotteries Fund for implementing FAS to provide subsidies for private RCHDs to carry out the necessary improvement works in compliance with the licensing requirements in building and fire safety. The Administration had no intention to provide recurrent subsidies for private RCHDs. The Social Welfare Department would consult the sector on the details of the FAS</p>	
002712 - 003957	<p>Dr Joseph LEE Chairman Administration</p>	<p>Views of Dr Joseph LEE -</p> <p>(a) although setting a lower manpower requirement in the 2008 CoP, in particular the nightshift staffing, than that in the 2002 CoP would save operating cost, it would affect adversely the service quality; and</p> <p>(b) it was not appropriate to model on the licensing requirements laid down in the Residential Care Homes (Elderly Persons) Ordinance, which were outdated and due for a review</p> <p>The Administration's response that as a matter of fact, no private RCHD had ever been able to meet the standards set out in the non-statutory 2002 CoP. The 2008 CoP was drawn up after extensive consultation and lengthy discussion by the Working Group on RCHDs, which generally agreed that the 2002 CoP should be simplified by adopting, as far as possible, the standards set out in the CoP for RCHEs while, in parallel, standards that were specific to the situations of RCHDs should be devised.</p>	
003958 - 005016	<p>Mr CHEUNG Kwok-che Chairman Administration</p>	<p>Views of Mr CHEUNG Kwok-che -</p> <p>(a) it was not appropriate to model on the outdated licensing requirements for RCHEs and devise the minimum licensing requirements for RCHDs;</p> <p>(b) the Administration was requested to assess the impact of statutory minimum wage and soaring rental on the operating cost of private RCHDs; and</p> <p>(c) expressed disappointment that the Administration had not accepted the proposal of co-payment of home fees</p>	

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		<p>The Administration was requested to provide the latest progress of the pilot Bought Place Scheme ("BPS") for private RCHDs</p> <p>The Chairman's instruction of re-circulation of the submission of the Hong Kong Private Hostel for Rehabilitation Association to the Panel on Welfare Services in April 2010 [LC Paper No. CB(2)1384/09-10(04)]</p> <p>The Administration's advice on the framework and implementation timetable of the pilot BPS. It had issued in October 2010 letters to private RCHDs to invite them to join the pilot BPS. The closing date was 30 November 2010, and it was expected that private RCHD operators would be notified of the application results by January 2011</p>	<p><b>Admin</b></p> <p><b>Clerk</b></p>
005017 - 010345	Mr Ronny TONG Chairman Administration	<p>Views of Mr Ronny TONG -</p> <p>(a) it was contradictory to the object of the Bill to provide for the control of RCHDs through a licensing system administered by the Director of Social Welfare if the licensing standards for RCHDs were lower than those laid down in the 2002 CoP; and</p> <p>(b) it was Government's responsibility to ensure the service quality of private RCHDs. It should not compromise the service standards of private RCHDs in a bid to facilitate substandard homes to continue operation. The Civic Party would not support the Bill if the proposed licensing requirements and standards were lower than those set out in the 2002 CoP</p> <p>The Administration's responses -</p> <p>(a) as shown from Annex D of the Administration's paper on the likely impact of the Bill on private RCHDs, the Administration anticipated that 52 of the 64 private RCHDs known to SWD would need to carry out improvement works in respect of building and fire safety to meet the future licensing requirements. Another 11 homes had non-rectifiable structural/means of escape problems which might close down if alternative accommodation could not be secured;</p> <p>(b) to date, no single private RCHD could meet the staffing and spatial requirements of the non-statutory 2002 CoP, of which 24 RCHDs</p>	

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		<p>in urban areas would be financially not viable; and</p> <p>(c) the licencing scheme would ensure that RCHDs would meet reasonable service standards. In the absence of the licencing scheme, RCHDs would continue to operate below not only the standards of 2002 CoP, but also those of 2008 CoP</p> <p>The Administration was requested to provide details of the assessment results of the likely impact of the Bill on the continued operation of each of the 64 private RCHDs, in particular the basis on which it drew the conclusion that some private RCHDs would close down</p>	<p><b>Admin</b></p>
010346 - 011030	Mr LEUNG Kwok-hung	Mr LEUNG Kwok-hung's remarks that he would not support the Bill if the proposed licensing requirements and standards were lower than those set out in the 2002 CoP. It was Government's responsibility to consider thoroughly the impact of the Bill on the RCHD sector and residents	
011031 - 011836	Chairman Administration	<p>Views of the Chairman -</p> <p>(a) he was worried that the service standards of private RCHDs would be lowered after the implementation of the licensing system; and</p> <p>(b) instead of introducing a licensing regime, the Administration should consider providing more incentive to private RCHDs to encourage them to join the Voluntary Registration Scheme and the pilot BPS for RCHDs with a view to upgrading their service standards</p> <p>The Administration's advice that the introduction of the Bill was responding to the community call for a licensing regime which sought to set the minimum standards for RCHDs. The introduction of BPS would help enhance the service quality of private RCHDs.</p>	
011837 - 013336	Mr LEE Cheuk-yan Chairman Administration	<p>Views of Mr LEE Cheuk-yan -</p> <p>(a) majority of private RCHD residents were Comprehensive Social Security Assistance ("CSSA") recipients, they could not afford the increased home fees as a result of the upgraded requirements of RCHDs. The Administration should also increase the number of BPS places purchased from private RCHDs so as to cover all CSSA recipients living therein, and the BPS price level should not be lower than the CSSA payments of the residents; and</p>	

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		<p>(b) the staffing requirement under BPS and CoP should be worked out based on eight-hour work per shift</p> <p>(c) why the Administration considered the CSSA payments of private RCHD residents were adequate to cover the home fees after the enactment of the Bill</p> <p>The Administration's responses -</p> <p>(a) the BPS price was estimated having regard to the rents and rates, staff costs, meal and miscellaneous expenses incurred by private RCHDs. As regards staff costs, it was computed based on eight-hour work per shift. The price information was set out in the letter to private RCHD operators inviting them to join the pilot BPS for RCHDs;</p> <p>(b) residents of private RCHDs would remain on the waiting list for subsidised residential care places if they so preferred; and</p> <p>(c) the CSSA Scheme had already taken into account the special needs of PWDs, and provided higher standard rates, special grants and supplements to them</p>	
013337 - 014257	Ms Cyd HO Administration Chairman	<p>Views of Ms Cyd HO -</p> <p>(a) supported the introduction of a licensing system to regulate RCHDs;</p> <p>(b) the impact of the upgraded service standards on operating costs and profit of private RCHDs should be studied in greater detail;</p> <p>(c) it was Government's responsibility to provide adequate subsidised residential care places for PWDs. The Administration should identify and earmark suitable sites for setting up RCHDs at the development stage. It should also enhance public understanding of rehabilitation facilities with a view to soliciting local support for the proposed projects</p> <p>The Administration's advice -</p> <p>(a) private RCHD operators were not obliged to provide any information on their operating costs to the Administration. The impact assessment of the Bill on private RCHDs was made on the basis of available market information only; and</p>	



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		<p>(b) public resources would be focused on increasing the provision of subvented RCHD places, and not providing recurrent subsidy to private RCHDs</p> <p>The Administration was requested to provide a comparison of the existing unit operating cost of a subvented RCHD place and a private RCHD place, and the respective estimated unit operating cost of a RCHD place which meet the minimum licensing requirements</p>	<b>Admin</b>
014258 - 015252	Mr CHEUNG Kwok-che Administration Chairman	<p>Views of Mr CHEUNG Kwok-che -</p> <p>(a) given that majority of residents living in private RCHDs were CSSA recipients, they could not afford the increased home fees resulted from the improvement works without the provision of a nursing care subsidy or co-payment of home fees by their family members. It would not be financially viable for private RCHDs to continue operation after the implementation of the licensing system; and</p> <p>(b) the Administration should not make an estimation on the operation cost of a private RCHD place simply by pitching it with the CSSA payments of a private RCHD resident</p> <p>The Administration's observation that according to the information provided by the Hong Kong Private Hostel for Rehabilitation Association to the Panel on Welfare Services in April 2010, the existing operating costs of private RCHDs had exceeded the CSSA payments of RCHD residents who met their home fees by the payments, and wondered how it would be financially viable for private RCHDs to continue operation. As a matter of fact, the CSSA Scheme had already taken into account the special needs of PWDs, and provided higher standard rates, special grants and supplements to them</p>	
015253 - 015555	Mr TAM Yiu-chung Chairman	<p>Views of Mr TAM Yiu-chung -</p> <p>(a) the Administration might have underestimated the operating difficulties of private RCHDs, notably an increase in rental and meal expenses; and</p> <p>(b) it was not necessary to adhere strictly to the experience of RCHDs to devise the licensing regime for RCHDs having regard to the fact that the latter faced more difficulties in operation</p>	

<b>Time marker</b>	<b>Speaker(s)</b>	<b>Subject(s)</b>	<b>Action required</b>
015556 - 015901	Chairman Ms Cyd HO Dr Joseph LEE	Ms Cyd HO's request for a marked-up copy of the amendments to the 2002 CoP  Dr Joseph LEE's request for a comparison table setting out the major differences between the 2002 CoP and the 2008 CoP	<b>Admin</b>  <b>Admin</b>
015902 - 020020	Chairman	Schedule of future meetings  Date of next meeting	

Council Business Division 2  
Legislative Council Secretariat  
25 November 2010