

**For discussion
on 13 June 2011**

**LEGISLATIVE COUNCIL
PANEL ON WELFARE SERVICES**

**Financial Assistance Scheme for
Private Residential Care Homes for Persons with Disabilities**

Purpose

This paper seeks Members' views on the proposed framework of a Financial Assistance Scheme (FAS) for private residential care homes for persons with disabilities (RCHDs).

Background

2. The Government introduced the Residential Care Homes (Persons with Disabilities) Bill (the Bill) into the Legislative Council (LegCo) on 30 June 2010 to implement a statutory licensing scheme for all RCHDs in order to regulate their operation. Subject to LegCo's deliberation, it is anticipated that the Bill would be passed by mid-2011. To allow time for existing RCHD operators to put in place suitable arrangements for application for a licence / certificate of exemption and for the Social Welfare Department (SWD) to process these applications, there will be a grace period of 18 months after the passage of the Bill during which the Bill will be activated except for the penalty clauses, before full implementation of the legislation in 2013.

3. During the public consultation and the legislative process, while stakeholders generally supported the proposal to introduce a statutory licensing scheme to regulate the operation of all RCHDs, the rehabilitation sector and LegCo Members also raised concerns that private RCHDs not meeting the licensing requirements might close down upon the implementation of the licensing scheme. Some of the private RCHDs might increase their home fees to cover the additional costs for meeting the licensing requirements on building and fire safety. Having regard to the fact that over 90% of the residents of private RCHDs are receiving the Comprehensive Social Security Assistance

(CSSA), there may be displacement problems if the residents cannot afford the increased home fees. To address these concerns, we have undertaken to introduce suitable complementary measures in tandem with the legislative proposal, with a view to encouraging private RCHDs to upgrade their service standards and help the market develop more service options for persons with disabilities. To this end, we launched in October 2010 a pilot Bought Place Scheme (BPS)¹ for private RCHDs (please refer to LegCo paper CB(2)845/09-10(03) for background information). In addition, we will also implement a FAS after enactment of the Bill to provide subsidies for private RCHDs to carry out improvement works in compliance with the licensing requirements in building and fire safety.

4. Details of the parameters and framework for the proposed FAS are set out in the ensuing paragraphs.

Proposal

Eligibility Criteria

5. To be eligible for FAS, a private RCHD should meet the following criteria -

- (a) The private RCHD should be known to SWD and in operation at the existing premises prior to the enactment of the Bill;
- (b) The operator of the private RCHD should demonstrate clear intention to improve the homes for meeting the licensing standards and undertake to continue operation for at least two more years after receiving the grant of FAS;
- (c) The premises of the private RCHD must be self-owned properties or secured with a valid tenancy agreement of not less than 12 months at the time of the application. For tenancy that is valid for less than 12 months, there should be an option in the tenancy agreement for a further renewal of tenancy for 24 months; or an undertaking by the landlord for renewal of the agreement;

¹ The 4-year pilot BPS for private RCHDs was launched in October 2010 with the objectives of upgrading the service standards of private RCHDs, increasing the supply of subsidised residential care places and helping the market develop more service options for persons with disabilities. The pilot BPS will purchase a total of 300 places through a two-phase approach.

- (d) The private RCHD should obtain Lands Department's written agreement, indicating no objection to using the subject premises for operating as a RCHD;
- (e) The home fees charged by the private RCHD should be at a rate of not more than the current costs recognised for the pilot BPS [i.e. \$7,840 (Urban) or \$7,243 (New Territories) per resident per month]; and
- (f) The services provided by the private RCHD should be to the satisfaction of the Director of Social Welfare.

Scope of Improvement Works and Level of Support

6. FAS will only be granted for premises-related items within the proposed scope of improvement works relevant to building and fire safety. These include -

- (a) fire service, gas and electrical installations;
- (b) minor works as defined under the Building (Minor Works) Regulation (Cap. 123N);
- (c) improvement works to all fire exits and exit routes;
- (d) installation of non-slippery tiles and railings (if any) to places such as bathrooms, toilets and corridors;
- (e) all rectification works related to fire resisting construction;
- (f) the provision of appropriate facilities for persons with disabilities (e.g. barrier-free facilities); and
- (g) any other improvement works that are considered necessary by the Director of Social Welfare for compliance with the Residential Care Homes (Persons with Disabilities) Regulation and the Code of Practice for RCHDs, which will be promulgated upon enactment of the Bill.

7. As private RCHDs are commercially operated, to ensure the proper use of public money, the maximum grant allocated to each private RCHD will be 60% of the recognised cost of the improvement works within the above-mentioned scope. We consider that under such arrangement, operators are required to shoulder a certain proportion of the cost, and thus will be sufficiently motivated to continue with the operation for a reasonable period.

Payment Arrangement and Monitoring Measures

8. Since the proposed FAS will be funded by the Lotteries Fund (LF), private RCHDs applying for the FAS will follow the payment arrangements in the LF Manual, whereby payment will be made on a reimbursement basis.

9. To align with the standing payment practice as stipulated under the LF Manual and to safeguard proper use of public resources, 90% of the approved grant may be released upon completion of the improvement works, while the remaining 10% be released upon SWD's approval of the final accounts and after a licence has been obtained by the private RCHD.

10. Operators of private RCHDs are required to observe the conditions of grant and to ensure that the grant is spent in accordance with the approved scope and required standard of works. SWD will carry out periodic inspections to monitor the progress of the improvement works and to ensure compliance with the required standards.

Financial Implication

11. As at 31 March 2011, there were 70 private RCHDs known to SWD, providing about 3 700 places, with an average occupancy rate of 62%. It is expected that more private RCHDs will be coming on stream prior to the enactment of the Bill. Except for homes which have non-rectifiable structural / means of escape problems, the majority of the existing private RCHDs will be eligible to apply for the FAS. Based on the assessment of the Registration Office of Private Residential Care Homes for Persons with Disabilities of SWD, the estimated total expenditure of the proposed FAS will be around \$29 million, subject to adjustment nearer the time of implementation. SWD will review the cost estimates and devise the detailed procedural guidelines before seeking funding approval from the Lotteries Fund Advisory Committee (LFAC) for the implementation of the FAS.

Consultation

12. SWD consulted the private RCHD sector and the Rehabilitation Advisory Committee (RAC) in March and May 2011 respectively on the proposed parameters and framework of FAS. The views collected and SWD's response are summarised at Annex I and Annex II. Taking into account the views of the LegCo Panel on Welfare Services, SWD plans to seek funding approval from the LFAC after the passage of the Bill.

Advice Sought

13. Members are invited to comment on the parameters and framework of FAS set out in paragraph 5 to 11 above.

Social Welfare Department
June 2011

**Summary of Views Collected through Consultation with
the Operators of Private RCHDs and SWD's Response**

SWD consulted the private RCHD sector in March 2011 on the proposed parameters and framework of FAS. The operators are generally in support of the proposal. Specific views collected and SWD's response are summarised below –

	Operators' Views	SWD's Response
1	In view of the increasing operating costs and difficulties in operating private RCHDs, the Government should provide financial support in full instead of a partial subsidy level of 60% of the recognised cost.	The Government needs to ensure proper use of public money especially when it involves subsidy for private businesses. Under the principle of shared responsibilities, the partial subsidy provides an incentive for private RCHD operators to invest in the business while an operator may demonstrate his/her commitment to continued operation of the RCHD for a reasonable period by sharing part of the cost.
2	The grant should be released in advance before commencement of the improvement works instead of payment on a reimbursement basis.	The standing practice of reimbursement of grant is applicable to all organisations receiving LF. Since FAS is funded by LF, private RCHDs joining the FAS must observe the rules under the LF Manual in respect of the payment arrangements, whereby the grant will be paid on a reimbursement basis.
3	In seeking the Lands Department's written agreement for the use of the subject premises for residential care home purpose, a RCHD operator may require considerable time to resolve the related issues during the application process. SWD should allow flexibility in handling matters in this respect.	It is the responsibility for private RCHD operators to ensure that the premises being used for the operation of the RCHD comply with the conditions of land lease. Also, the operation of RCHD is subject to enforcement action by the Lands Department for any breach of land lease condition.
4	The Government should consider topping up the difference in case the actual cost of improvement works is higher than the approved grant.	The approved amount admissible by LF on the improvement works for private RCHDs will be estimated according to the prevailing price level, which is in line with the existing

	Operators' Views	SWD's Response
		<p>practice of processing LF applications for subvented RCHDs operated by non-governmental organisations. Private RCHD operators have to ensure that the grant is utilised cost-effectively and the improvement works are carried out at a reasonable price.</p>

**Summary of Views Collected through Consultation with
the Rehabilitation Advisory Committee (RAC) and SWD's Response**

SWD consulted RAC in May 2011 on the proposed parameters and framework of FAS. Members of RAC supported the scheme. Views of RAC members and SWD's response are summarised below –

	Members' view	SWD's Response
1.	<p>Given that the FAS can benefit persons with disabilities, why should the level of Government subsidy be capped at 60% of the recognised cost?</p> <p>Besides, will the Government consider imposing sanctions in order to prevent private RCHDs receiving the financial assistance from closing down within a short period of time?</p>	<p>FAS is a measure to assist the existing private RCHDs in meeting the licensing requirements in respect of building and fire safety. As private RCHDs are commercial entities, the Government needs to ensure proper use of public money. Based on the principle of shared responsibilities, the scheme provides an incentive to motivate private RCHD operator to invest in this business.</p> <p>Besides, taking into account the administrative procedures and the costs involved, the Government will not impose sanctions. The operators will be requested to undertake that their private RCHDs will continue to operate for a reasonable period. In fact, the proposed scheme requires the private RCHD operators to shoulder a certain proportion of the costs. By sharing part of the costs, private RCHD operators may demonstrate their clear intention to continue with the operation of their private RCHDs for a reasonable period.</p>
2.	<p>Some existing premises of the private RCHDs may have structural problems and may not be able to be upgraded to the required licensing standards in respect of building and fire safety. How will the Government handle</p>	<p>The Government notes that some of the existing premises of the private RCHD may have difficulties in complying with the licensing requirements in building and fire</p>

	Members' view	SWD's Response
	<p>these cases to minimise the problem of displacement arising from closure of existing private RCHDs which fail to meet the licensing requirements?</p>	<p>safety through improvement works (e.g. non-rectifiable structural problems / means of escape problems). These operators may consider identifying other premises for continued operation.</p> <p>The Government also notes that there has been a significant increase in the number of private RCHDs over the past few years while the average occupancy of existing private RCHDs is about 60%. It is believed that the private market is still able to absorb the decanted residents.</p> <p>SWD will monitor the operation of the private market operation closely and make appropriate arrangements, such as providing assistance to the affected residents if required, including arranging for alternative placement.</p>
3.	<p>Will the Government provide subsidies to private RCHDs for providing additional facilities (such as computer or fax machines, etc), so as to enhance their services and meet the needs of persons with different types of disabilities?</p>	<p>The purpose of FAS is to provide subsidies for private RCHDs to carry out improvement works in respect of building and fire safety for compliance with the licensing requirements. Private RCHDs should consider making use of other sources to fund the facilities or improvement items that are beyond the scope of FAS.</p>
4.	<p>Considerable time may be required in seeking the Lands Department's written agreement for the use of the subject premises for RCHD purpose.</p>	<p>There will be a grace period of 18 months after the passage of the Bill, to allow sufficient time for RCHDs to apply for a licence or a certificate of exemption. SWD will liaise with the relevant departments and provide appropriate assistance if required.</p>

	Members' view	SWD's Response
5.	In view of the rising operating costs of RCHDs (e.g. rent, cost of works, etc.), will the SWD update and review the estimated budget of FAS?	SWD will review the estimate of project costs to reflect the prevailing price level before seeking funding approval from the LFAC.