

立法會
Legislative Council

LC Paper No. CB(2)2001/14-15
(These minutes have been
seen by the Administration)

Ref : CB2/PL/WS

Panel on Welfare Services

Minutes of meeting
held on Monday, 8 June 2015, at 10:45 am
in Conference Room 3 of the Legislative Council Complex

- Members present** : Hon CHEUNG Kwok-che (Chairman)
Hon Albert HO Chun-yan
Hon TAM Yiu-chung, GBS, JP
Hon Ronny TONG Ka-wah, SC
Dr Hon LEUNG Ka-lau
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Frankie YICK Chi-ming
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon KWOK Ka-ki
Dr Hon Fernando CHEUNG Chiu-hung
Dr Hon Helena WONG Pik-wan
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
- Members absent** : Hon CHAN Yuen-han, SBS, JP (Deputy Chairman)
Hon LEUNG Yiu-chung
Hon Frederick FUNG Kin-kee, SBS, JP
Hon CHAN Han-pan, JP
- Members attending** : Hon Albert CHAN Wai-yip
Hon Michael TIEN Puk-sun, BBS, JP
Dr Hon Elizabeth QUAT, JP

**Public Officers : Item IV
attending**

Mrs Elina CHAN
Principal Assistant Secretary for Labour and Welfare
(Welfare) 3
Labour and Welfare Bureau

Items IV and V

Mr LAM Ka-tai, JP
Deputy Director of Social Welfare (Services)
Social Welfare Department

Items IV and VI

Miss Cecilla LI
Assistant Director of Social Welfare (Elderly)
Social Welfare Department

Item V

Mr Billy WOO
Principal Assistant Secretary for Security D
Security Bureau

Mr Alex WONG
Assistant Director of Social Welfare (Family and Child
Welfare) (Acting)/Chief Social Work Officer
(Family and Child Welfare)1
Social Welfare Department

Item VI

Mr Matthew CHEUNG, GBS, JP
Secretary for Labour and Welfare
Labour and Welfare Bureau

Ms Carol YIP, JP
Director of Social Welfare
Social Welfare Department

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (2) 4

Staff in attendance : Ms Catherina YU
Senior Council Secretary (2) 4

Miss Maggie CHIU
Legislative Assistant (2) 4

Action

I. Information paper(s) issued since the last meeting

[LC Paper Nos. CB(2)1469/14-15(01) and CB(2)1631/14-15(01)]

Members noted that the following papers had been issued since the last meeting –

- (a) the Administration's response to issues relating to expediting construction of nursery centre in Ma On Shan raised at the Legislative Council Members' meeting with Sha Tin District Council members on 29 January 2015 [LC Paper No. CB(2)1469/14-15(01)]; and
- (b) letter dated 3 June 2015 from Dr Hon Fernando CHEUNG requesting the Panel to discuss issues relating to service quality of private residential care homes for the elderly ("RCHEs") [LC Paper No. CB(2)1631/14-15(01)].

II. Items for discussion at the next meeting

[LC Paper Nos. CB(2)1595/14-15(01) to (02)]

2. Dr Fernando CHEUNG said that arising from the recent incident at Taipo Cambridge Nursing Home ("Cambridge NH"), the Panel should discuss issues relating to service quality of private RCHEs as soon as practicable. He suggested that deputations should be invited to attend the meeting. The Chairman suggested that the subject should be discussed at the Panel's regular meeting in July 2015 and the discussion should also cover service quality of private residential care homes for persons with disabilities. Members agreed.

Action

III. Proposal for formation of a Subcommittee on Issues Relating to the Future Development of Elderly Services Schemes

[LC Paper No. CB(2)1627/14-15(01)]

3. The Chairman said that while appreciating that two subcommittees had been formed under the Panel and four subcommittees on policy issues had been placed on the waiting list, he considered that a subcommittee on issues relating to the future development of elderly services schemes ("the Subcommittee") should be formed to signify the Panel's concern about the development of elderly services. The formation of the Subcommittee could also impress upon the Administration to maintain a constant dialogue with members on issues being studied under the Elderly Services Programme Plan. Supporting the Chairman's proposal, Mr Alan LEONG said that there was a pressing need to deal with service quality problems of private RCHEs having regard to the incident at Cambridge NH. He further said that the Civic Party had all along considered that private RCHEs should be replaced by subvented RCHEs in the light of the ageing population. Members agreed to the Chairman's proposal for formation of the Subcommittee which was set out in his letter (LC Paper No. CB(2)1627/14-15(01)).

IV. Pilot Scheme on Community Care Service Voucher for the Elderly

[LC Paper Nos. CB(2)1595/14-15(03) to (04)]

4. At the invitation of the Chairman, Deputy Director of Social Welfare (Services) ("DDSW(S)") briefed members on the progress of implementation of and the mid-term evaluation on the first phase of Pilot Scheme on Community Care Service Voucher for the Elderly ("the Pilot Scheme").

Voucher value and scope of services

5. Mr TANG Ka-piu asked whether the Administration would consider setting up service centres for providing community or day care services for persons suffering from dementia under the Pilot Scheme or Community Care Fund. He said that the voucher value should be substantially increased in the second phase of the Pilot Scheme so that service providers would have more resources to enhance their services and increase the day care service sessions from five days to five and a half days.

6. Dr Fernando CHEUNG said that with the existing voucher value, voucher users could only receive three sessions of day care services at most.

Action

If they wished to use home care services, they would have to give up some day care service sessions. He asked whether the Administration would consider increasing the voucher value. He further said that as the Pilot Scheme was of little help to frail elderly persons who required to be attended round-the-clock, it did not achieve the policy objective of "ageing in place". Noting that some 250 voucher holders had not yet used the voucher services, he expressed concern about whether the services provided by the recognized service providers ("RSPs") could meet the needs of elderly persons.

7. DDSW(S) responded that among the 62 RSPs, six of them were providing care services for elderly persons with dementia and the Pilot Scheme would enable the provision of more specialized services for elderly persons with special care needs. The Administration welcomed RSPs to provide more specialized services in the second phase of the Pilot Scheme. He said that the voucher value would be adjusted according to the Composite Consumer Price Index. The voucher value was \$5,800 per month when the Pilot Scheme was first launched in September 2013 and had been increased to \$6,000 per month in 2014-2015 and further increased to \$6,250 per month in 2015-2016. Co-payment levels remained unchanged. Voucher services were delivered in two modes. The single mode comprised part-time day care services (provided on Mondays to Saturdays, from 8 am to 6 pm) and the mixed mode covered home care services and part-time day care services. Mr TANG Ka-piu reiterated that voucher users were unable to join all service sessions with the existing voucher value.

8. Dr Fernando CHEUNG said that according to the findings of the mid-term evaluation study on the first phase of the Pilot Scheme ("mid-term evaluation study") conducted by Sau Po Centre on Ageing ("COA") of the University of Hong Kong, services not meeting users' needs, unattractive service packages and high service fee were major reasons for low participation rate in the first phase of the Pilot Scheme. He enquired about the measures the Administration would adopt to improve the Pilot Scheme.

9. DDSW(S) responded that voucher users could use a maximum of five sessions and seven sessions under the mixed mode and the single mode respectively and each session should not be shorter than four hours. Some RSPs had reflected that some elderly persons required full-time services and COA had also recommended that more service packages should be provided for elderly persons in the second phase of the Pilot Scheme. The Administration would take into account views collected and COA's findings in formulating the second phase of the Pilot Scheme.

10. DDSW(S) further said that under the first phase of the Pilot Scheme,

Action

the current voucher value was set at \$6,250 per month and around 80% of the voucher users were paying \$500 or \$750 a month (i.e. the lowest two levels of co-payment). Voucher users who required extra services could top up the payment. RSPs were required to explain clearly to voucher users the fees for top-up services.

Admin

11. The Chairman said that COA's mid-term evaluation study should cover findings of the effectiveness of different service modes under the Pilot Scheme but such information was not provided in the Administration's paper (LC Paper No. CB(2)1595/14-15(03)). He requested the Administration to provide the Panel with a copy of the report of COA's mid-term evaluation study. DDSW(S) responded that COA was compiling the evaluation report and the Administration would submit the report to the Panel when it was available.

Participation and coverage

12. Given that 288 participants (i.e. around 30%) had withdrawn from the Pilot Scheme because of unavailability of suitable service providers/service packages, Mr LEUNG Che-cheung said that the Administration should substantially increase the number of RSPs in the second phase of the Pilot Scheme. To increase the participation rate and the utilization of services provided by the additional RSPs, more districts should be covered in the second phase of the Pilot Scheme. With a wider coverage of districts and a larger size of participants, the Administration would be able to collect more useful information for the full implementation of the Scheme in future.

13. DDSW(S) responded that the Administration hoped to cover all the 18 districts in the second phase of the Pilot Scheme. COA had recommended that the Administration expand the service providers' pool for enhancing service quality and diversity by encouraging more non-governmental organizations ("NGOs"), social enterprises, self-financing service providers and private organizations to become RSPs.

14. Mr TAM Yiu-chung said that the Administration should review the scope of target beneficiaries of the Pilot Scheme and provide family members of elderly persons with more information on the Pilot Scheme. As many elderly persons would require CCS before receiving institutional care services, the Administration should improve and optimize the Pilot Scheme.

15. DDSW(S) responded that the Administration had conducted a telephone survey to understand in more details the reasons for withdrawal of the 288 participants. According to the survey results, 84% of these

Action

withdrawers hoped that the service duration could be longer. Some of them had indicated that they did not require both day care and home care services but wished to receive home care services only. The survey provided the Administration with useful information for drawing up service packages for the second phase of the Pilot Scheme. He said that the first phase of the Pilot Scheme only covered elderly persons who were on the Central Waiting List for Long-term Care Services and were assessed by the Standardized Care Needs Assessment Mechanism for Elderly Services as moderately impaired. The Administration would explore expanding the second phase of the Pilot Scheme to cover elderly persons who were assessed as severely impaired too. As Responsible Workers ("RWs") played an important role in introducing the Pilot Scheme to elderly persons, the Administration had arranged more than 10 briefings for RWs in the first phase of the Pilot Scheme. The Administration would continue to strengthen the training for RWs.

16. Noting that 952 participants had withdrawn from the Pilot Scheme, Mr POON Siu-ping asked whether the Administration would take forward all the recommendations made by COA and whether it would assess the withdrawal rate in the second phase of the Scheme.

17. DDSW(S) responded that the withdrawal rate would be reduced if the service package in the second phase of the Pilot Scheme could better meet the service needs of elderly persons. The Administration would adjust the service package in the second phase of the Pilot Scheme.

18. In response to Dr Fernando CHEUNG's enquiry about the number of withdrawers who were admitted to private RCHEs, DDSW(S) said that 119 withdrawers (i.e. around 30% of the 359 withdrawers) were admitted to private RCHEs. In the light of the low participation rate and the high withdrawal rate, Dr Fernando CHEUNG was of the view that the Pilot Scheme was not welcomed by elderly persons. He cast doubt on whether the Pilot Scheme could provide quality and sufficient services for elderly persons to facilitate them to live in the community. Expressing concern that the Pilot Scheme would thin out the resources for the existing subsidized CCS, he considered that the conventional subvention approach rather than the voucher approach should be adopted for CCS.

19. In response to Mr POON Siu-ping's enquiry about the implementation schedule and the number of RSPs proposed for the second phase of the Pilot Scheme, DDSW(S) said that the Administration planned to launch the second phase in the first half of 2016. In drawing up implementation details of the second phase of the Pilot Scheme, the Administration would discuss

Action

with the sector. The Administration would invite service providers to apply by end-2015 as RSPs for the second phase of the Pilot Scheme. As the close proximity of RSPs to service users was an important factor relevant to voucher usage, COA had recommended that the more RSPs the better. As such, no cap would be imposed on the number of RSPs so as to provide elderly persons with more choices.

20. The Chairman expressed concern that there might be an over-supply of RSPs if the voucher quota remained at 1 200 vouchers. DDSW(S) responded that the number of vouchers would be increased in the second phase of the Pilot Scheme and the actual number of vouchers would be known by end-2015.

21. Dr Fernando CHEUNG and the Chairman were concerned that the 17 RSPs which had received less than 10 vouchers might have difficulties in sustaining their operation. Noting that the RSP of ST1 was providing services to 52 elderly persons, the Chairman asked whether there was a great demand for voucher services in Shatin.

22. DDSW(S) responded that 27 RSPs offered day care services to a few elderly persons because these RSPs could only provide 10 or less places for such services. The 62 RSPs offered a total of 923 day care places and 997 elderly persons were receiving the services. As some elderly persons would use the services at different times, the number of elderly persons receiving the services could exceed the number of service places offered. At the Chairman's request, DDSW(S) undertook to provide information on the number of places offered and the number of vouchers received by each RSP.

Admin

23. Mr LEUNG Kwok-hung said that to enable voucher holders to receive the required services, service providers should complement by allocating sufficient resources to the Pilot Scheme. Given that some service providers were uncertain about the prospect of the Pilot Scheme, they might be reluctant to expand their operation. As a result, the supply of services might fall short of the demand in some districts. He was of the view that the Pilot Scheme could not serve the Administration's objective of "ageing in place".

Supply of care workers

24. Expressing concern about the inadequate supply of care workers for the Pilot Scheme, Mr LEUNG Che-cheung enquired about whether the Social Welfare Department ("SWD") would conduct training programmes for care workers in a large scale. DDSW(S) responded that the "first-hire-then-train" pilot project ("pilot project") had been introduced to

Action

attract young people to join the elderly care services. Under the pilot project, young people were recruited to provide care services at RCHEs and were provided with training on care services. The Administration would provide an additional 1 000 training places in the coming few years.

25. Mr LEUNG Kwok-hung said that notwithstanding the low participation rate of the Pilot Scheme and the inadequate supply of care workers for elderly services, the Administration still planned to launch the second phase of the Pilot Scheme. He enquired about the justifications for implementing the second phase of the Pilot Scheme. He also expressed concern about the turnover rate of care workers and whether they could spare time to attend training programmes given their heavy workload.

26. DDSW(S) responded that in addition to frontline care workers, the elderly care sector also required paramedical staff such as nurses, occupational therapists and physiotherapists. SWD had collaborated with the Hospital Authority 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. More than 80% of the trainees of the enrolled nurse training programme stayed in the welfare sector after completion of training. The Hong Kong Polytechnic University had offered two batches of two-year Master programmes in Occupational Therapy and Physiotherapy, one in 2012 and the other in 2014. Each of these programmes had provided a total of about 60 training places and all the graduates of the programmes from the batch in 2012 had joined the welfare sector.

Allocation of resources to Enhanced Home and Community Care Services

27. Mr TANG Ka-piu said that around 60% of the users of enhanced home and community care services ("EHCCS") continued to use the services although it was their turn to be admitted to subsidized RCHEs. This was because they were satisfied with the services. In view of this, the Administration should increase the quota for and the scope of EHCCS. He sought the reasons why the Pilot Scheme could not provide the same level of services as EHCCS.

28. DDSW(S) responded that some 1 600 additional EHCCS places would have fully commenced service in June 2015 and there were now a total of 7 245 EHCCS places. The Pilot Scheme sought to provide elderly persons with more choices of services and service providers. As both the

Action

single mode and the mixed mode voucher services comprised day care services, the Administration had made reference to the unit cost of both day care centre for the elderly and EHCCS in setting the voucher value. Mr TANG Ka-piu took the view that the Administration should increase the subsidies for both EHCCS and the Pilot Scheme to enable service providers to continue their operation so that some elderly persons would not be pre-maturely institutionalized because of lack of services. Sharing a similar view, Dr Fernando CHEUNG said that more resources should be allocated to EHCCS or integrated home care services.

V. Issues relating to welfare of refugees, torture claimants and asylum seekers

[LC Paper Nos. CB(2)1595/14-15(05) to (06)]

29. At the invitation of the Chairman, Principal Assistant Secretary for Security ("PAS(S)") briefed members on the latest development of the humanitarian assistance programme for non-refoulement claimants.

Level of humanitarian assistance

Food assistance

30. Dr Fernando CHEUNG expressed appreciation for the introduction of food coupons in lieu of the provision of in-kind food assistance in May 2015. However, as reflected by some coupon users, food coupons could not be used to buy infant formulae, yogurts, fruit juice and chocolate in supermarkets. He considered these restrictions unreasonable.

31. DDSW(S) advised that food coupons currently covered 200 food items including 40 items for infants, but did not cover alcohol, cigarettes, medicines, beauty products, snacks and non-food infant products, etc. The list of food items would be reviewed regularly. He added that the International Social Service Hong Kong Branch ("ISS-HK"), which was a NGO collaborating with SWD to provide humanitarian assistance for non-refoulement claimants, was considering setting up an electronic food coupons system, which might, if implemented, expand the coverage of food suppliers to better cater for the special needs of non-refoulement claimants arising from their religious beliefs and culture. As requested by Dr CHEUNG, he undertook to provide members with a list of food items which were not covered by food coupons.

Admin

32. Mr LEUNG Che-cheung considered food assistance inadequate,

Action

thereby forcing non-refoulement claimants to become illegal workers. DDSW(S) explained the in-kind assistance provided by the Administration (paragraph 7 of the Administration's paper referred).

33. Dr KWOK Ka-ki considered that the in-kind food assistance of \$1,200 per person was not adequate for non-refoulement claimants to maintain subsistence living. DDSW(S) responded that according to expert advice obtained from the Department of Health, the nutritional value of food items available under in-kind food assistance was sufficient in general. ISS-HK would consider providing additional food assistance on a case-by-case basis for its service users who were able to show medical certificates of their special needs.

Rent allowance

34. Dr Helena WONG was of the view that the monthly rent allowance of \$1,500 per person under the humanitarian assistance programme was too low. She would like to know which districts non-refoulement claimants lived in. Dr Elizabeth QUAT expressed the same concern. DDSW(S) advised that most of the non-refoulement claimants lived in Kowloon and New Territories. The Administration encouraged non-refoulement claimants to share accommodation so that they could pool the rent allowance of individual claimants together and rent an accommodation more easily. Stressing that the in-kind assistance was not a welfare service, he said that the Administration would keep in view the use of the rent allowance.

35. Dr Elizabeth QUAT asked whether the Administration had kept residential addresses of all non-refoulement claimants. PAS(S) advised that all non-refoulement claimants were required to provide the Immigration Department ("ImmD") with their residential addresses for contact purpose, and those applying for rent allowance had to provide ISS-HK with a copy of the tenancy agreement for consideration. In response to Dr QUAT's question of any cases involving an unreasonable number of non-refoulement claimants using the same residential address, DDSW(S) undertook to provide relevant information after checking with ISS-HK.

Admin

36. Dr Elizabeth QUAT asked whether any non-refoulement claimants had become street-sleepers, and how ISS-HK would follow up with rent allowance recipients who slept on the street. DDSW(S) advised that SWD was not aware of any recipients of rent allowance sleeping on the street. If there was such a case, ISS-HK would liaise with the rent allowance recipient concerned immediately. He added that before granting approval of an application for rent allowance, ISS-HK would assess the living environment of the applicant concerned.

Action

37. Dr Fernando CHEUNG was concerned about the number of rent allowance recipients who had to pay a rental exceeding the monthly rent allowance of \$1,500, and the review mechanism for the rent and food assistance. In response to Dr CHEUNG's suggestion of signing tenancy agreement by ISS-HK on behalf of rent allowance recipients, DDSW(S) advised that the suggestion was practically infeasible given that most of the non-refoulement claimants who applied for rent allowance had already stayed in Hong Kong for a period of time and made tenancy agreements with the landlords concerned. To ensure a proper use of rent allowance, ISS-HK would provide the allowance directly for the flat owners concerned, instead of its service users.

38. Noting that most of the non-refoulement claimants had already signed tenancy agreements before applying for rent allowance, Dr Elizabeth QUAT cast doubt on their genuine need of rent allowance. She asked whether it was feasible to prohibit rent allowance applicants from signing any tenancy agreements before ISS-HK processed their applications. DDSW(S) advised that some of the non-refoulement claimants had rented an accommodation with the support of their relatives and friends since their arrival at Hong Kong. When they were in need of and applied for rent allowance, they could usually provide ISS-HK with a copy of the tenancy agreements. As claimants preferred living close to each other, it would be difficult to request rent allowance recipients to sign a new tenancy agreement. He reiterated that ISS-HK would assess the living environment of the applicant concerned before granting approval of an application for rent allowance.

Service contracts of in-kind assistance

39. Dr KWOK Ka-ki noted that the Administration invited tender for three new service contracts of humanitarian assistance service, each serving one region in Hong Kong (i.e. Hong Kong Island and Islands, Kowloon, and the New Territories), with a view to encouraging more potential NGOs to provide such service. Subsequently, the three service contracts were awarded to ISS-HK, which was previously the sole agent of providing humanitarian assistance service in Hong Kong. While there were disputes on the provision of humanitarian assistance service by ISS-HK, he cast doubt on whether the award of the contracts was appropriate. Dr Fernando CHEUNG added that one of the provisions in the tender documents stipulated that all three service contracts should not be awarded to the same contractor.

40. DDSW(S) advised that a new round of invitation for tender for the new service contracts of humanitarian assistance programme had been

Action

conducted since November 2014. The open tendering exercise was conducted in strict compliance with the requirements and procedures laid down in the Stores and Procurement Regulations. As ISS-HK was the only NGO bidding for the service contracts and whose bid complied with the tender requirements, it had been awarded the service contracts for the three service regions. He further explained that the provision in the tender documents as mentioned by Dr CHEUNG was only applicable when there was more than one conforming tender.

Processing time of non-refoulement claims

41. Dr Fernando CHEUNG was concerned about people who were facing a genuine and personal risk of being subjected to torture or persecution at other countries/places. Some of them entered Hong Kong as visitors, and then lodged non-refoulement claims, which were usually processed by the Administration after the claimants became overstayers. In this case, the Administration should not label such persons as "illegal immigrants".

42. PAS(S) advised that visitors who remained illegally after their period of stay allowed by ImmD had expired or who were refused entry by ImmD upon arrival at Hong Kong and for foreigners who smuggled themselves into Hong Kong were "illegal immigrants" who were liable to removal from Hong Kong under the law. Clarification of their immigration status from a legal perspective was not meant to cause any alleged "labeling effect". He further advised that on average, non-refoulement claimants had already illegally remained in Hong Kong for over 13 months before lodging a non-refoulement claim for the first time.

43. Mr POON Siu-ping asked about the general processing time for non-refoulement claims and duration of the longest stay of non-refoulement claimants in Hong Kong.

44. Considering that the in-kind assistance for non-refoulement claimants was far from adequate, Mr LEUNG Kwok-hung called on the Administration to expedite the screening procedures of non-refoulement claims to shorten their duration of stay in Hong Kong.

45. PAS(S) advised that the existing screening procedures for non-refoulement claims were formulated following a number of court rulings. ImmD could usually determine a non-refoulement claim in about six months after commencement of the screening procedures. However, processing time would be lengthened if the claimant was not co-operative in providing the relevant information. The Administration was reviewing the

Action

existing screening procedures and proposing enhancements to the screening procedures; the Hong Kong Bar Association, the Law Society of Hong Kong, the Duty Lawyer Service and other stakeholders had been consulted to this end. Amongst the 9 700 non-refoulement claims pending assessment, the claimants concerned had remained in Hong Kong for two to three years on average. In extreme cases, a few claimants had remained in Hong Kong for eight to 10 years.

46. Mr Albert HO was shocked that some non-refoulement claimants who were pending assessment had already stayed in Hong Kong for up to 10 years. He asked whether there were any non-refoulement claimants who were subsequently refused entry by another country. If there were such cases, he called on the Administration to determine the non-refoulement claims concerned quickly.

47. PAS(S) clarified that the reason for some non-refoulement claimants remaining in Hong Kong for many years was not refused entry by a third country. He said that pursuant to several court rulings since 2004, the Administration had reviewed the screening procedures of non-refoulement claims, and implemented a series of measures, such as providing claimants with publicly-funded legal assistance during the screening process, in order to meet the high standards of fairness required. Upon the implementation of the enhanced administrative mechanism in 2009 and USM in 2014, non-refoulement claimants whose claims had been hitherto refused had requested for their claims to be re-assessed under the new screening mechanism. Due to the legal requirement to re-assess claims, an exceptionally long processing time was required in some individual cases.

48. Dr Helena WONG called on the Administration to strengthen the manpower of ImmD to shorten the processing time of non-refoulement claims, and make pledges to determine claims within two years of the arrival of claimants at Hong Kong. Dr KWOK Ka-ki shared the same view. PAS(S) advised that ImmD had strengthened its manpower in response to the implementation of USM in March 2014. After commencement of USM to end March 2015, ImmD had determined about 1 500 non-refoulement claims. With the experience garnered, the Administration expected that the number of non-refoulement claims determined would increase to at least 2 000 in 2015-2016. He further advised that a non-refoulement claimant could request ImmD to accord priority to his/her claim when necessary.

49. Mr Albert HO asked whether there were non-refoulement claimants who came from the Mainland. PAS(S) advised that the existing 9 700 non-refoulement claimants who were pending assessment were foreigners.

Action

Illegal employment

50. Expressing concern about the inadequacy of humanitarian assistance for non-refoulement claimants who had to stay in Hong Kong for a considerably long time, Mr Albert HO, Dr Helena WONG and Mr LEUNG Kwok-hung called on the Administration to permit them to take up employment under certain conditions during their stay in Hong Kong.

51. PAS(S) advised that under the law, persons not having the right to enter and remain in Hong Kong, including non-refoulement claimants, were prohibited to take up employment. Notwithstanding this, the Director of Immigration might exercise his discretion exceptionally and on a case-by-case basis to consider an application for permission to take up employment from a substantiated claimant. He added that allowing non-refoulement claimants who were pending assessment to work would impact the labour market and create a magnet effect attracting an influx of illegal immigrants, thereby imposing a serious risk on immigration control.

52. Mr POON Siu-ping said that it was reported that some non-refoulement claimants took up employment during their stay in Hong Kong. He asked about the kind of jobs they engaged in and the districts they worked in. PAS(S) advised that according to ImmD, most of the illegal employment activities of non-refoulement claimants took place in remote areas such as recycling yards and construction sites, etc.

53. Mr LEUNG Che-cheung said that according to his understanding, most of the non-refoulement claimants who were illegal workers took up employment in Yuen Long district. He wondered how the Administration handled illegal workers under arrest and ensured that non-refoulement claimants would not pose any problem to Hong Kong's law and order. PAS(S) advised that any person in Hong Kong, including non-refoulement claimants, should abide by the laws of Hong Kong. If a non-refoulement claimant was sentenced to imprisonment for a substantial period, the screening of his/her non-refoulement claim would be accorded a lower priority when he/she was serving his/her sentence. For obvious reasons, there was no need to provide humanitarian assistance to an imprisoned claimant.

Admin

54. At Dr Elizabeth QUAT's request, PAS(S) undertook to check after the meeting whether the number of non-refoulement claimants who took up illegal employment in Hong Kong before they made a non-refoulement claim would be available.

Action

Admin

55. Expressing concern about the treatment of illegal immigrants in police detention, Dr Helena WONG asked about the duration of detention before an illegal immigrant could obtain a recognizance. PAS(S) advised that ImmD and the Police would keep an illegal immigrant in custody only if his/her removal from Hong Kong could be executed within a reasonable period or there were other justifiable grounds. Without reasonable ground(s) for further detention, the illegal immigrant concerned would be released on recognizance. Currently, over 99% of non-refoulement claimants who were pending assessment were released on recognizance. Dr WONG requested the Administration to provide information on the time required for an illegal immigrant in detention to obtain a recognizance, and the treatment of illegal immigrants in detention, such as conditions of their living environment and meal arrangement, etc.

VI. Inspection and licensing system for monitoring residential care homes for the elderly

[LC Paper Nos. CB(2)1570/14-15(01) to (02)], CB(2)1595/14-15(07) to (08) and CB(2)1664/14-15(01)]

56. At the invitation of the Chairman, Director of Social Welfare ("DSW") briefed members on the inspection and licensing system for monitoring RCHEs.

Inadequate provision of residential care services ("RCS") for the elderly

57. Mr Michael TIEN said that the major challenges faced by the Administration in the provision of RCS for the elderly were lack of suitable sites for the construction of RCHEs and manpower shortage for the elderly care sector. To increase the provision of RCHEs, the Administration should set up RCHEs in public rental housing premises and make the provision of RCHEs a land sale condition. The Administration should also leverage on the resources in private RCHEs to replenish the supply of subsidized RCS places for the elderly. The "money-following-users" funding mode was a major and positive change for RCS as it would provide elderly persons with more choices of service and help enhance the quality of private RCHEs. In his view, importation of labour was only a short-term solution to the manpower shortage problem. In the long run, the Administration should take steps to attract more young people to join the sector. He suggested that a fourth level should be added to the qualifications framework for the elderly care service industry. Care workers who had obtained the fourth level qualification should be allowed to perform some duties of paramedical staff to facilitate them to pursue further studies in the paramedical field. It would

Action

provide them with an opportunity to obtain paramedical-related qualifications, thereby facilitating their upward mobility. The service quality of RCHEs could also be enhanced.

58. Given that private RCHEs accounted for around 70% of the total number of RCHEs, Dr Helena WONG expressed concern about the imbalance provision of private and subvented RCHEs. She considered that the proportion of subvented RCHEs should be increased to 50%.

59. Dr Elizabeth QUAT expressed concern that the Administration was not aware of the incident at Cambridge NH until it was reported by the media. It had reflected that the existing monitoring system was ineffective and the lack of a round-the-clock inspection mechanism would not be accepted by members of the public. Notwithstanding a great demand for RCS for the elderly, the vacancy rate of RCS places in private RCHEs was high. The Administration should consider increasing the supply of subvented RCS places by establishing a new mechanism under which private RCHEs were required to provide services that would meet the needs of elderly persons. A mechanism should also be put in place to ensure family members of residents of RCHEs could lodge complaints with a peace of mind. A comprehensive review of the inspection and licensing system for RCHEs as well as the entire RCS system should be reviewed. The Administration should provide a report of the review for the public to give views as soon as practicable.

60. Dr Elizabeth QUAT further said that in the light of growing demand for RCS because of ageing population, the Administration should address the manpower shortage problems in the elderly care sector by nurturing care workers locally and reviewing the quota for imported labour for private RCHEs.

61. Secretary for Labour and Welfare ("SLW") responded that there were a total of 3 224 imported labour and 1 652 of them (i.e. 51.3%) were working as frontline care workers in private RCHEs. The number of elderly persons admitted to RCHEs represented 7% of the total elderly population. Such a high percentage was attributed to the inadequacy of community and home care services, resulting in pre-mature institutionalization of many elderly persons. The Administration would review elderly services comprehensively which included strengthening community and home care services.

62. SLW further said that the Administration would continue to increase elderly service places. Approval of the Finance Committee had been

Action

obtained in February 2014 for the transfer of funds of \$10 billion to the Lotteries Fund to implement feasible projects under the Special Scheme on Privately Owned Sites for Welfare Uses ("Special Scheme"). Under the Special Scheme, the Administration was processing 63 preliminary proposals submitted by 43 non-governmental welfare organizations. 9 000 elderly services places, including 7 000 RCS places, were expected to be provided under the Special Scheme if all projects proceeded as proposed. The Administration had also earmarked 11 sites in development projects for the construction of new contract RCHEs in the coming few years. To provide high quality places at private RCHEs, more EA1 places would be bought under the Enhanced Bought Place Scheme. The Pilot Scheme on RCS Voucher for the Elderly, the feasibility of which was being studied by the Elderly Commission, sought to provide elderly persons with more choices of RCS and stimulate private RCHEs to improve service standards. With these measures, the Administration hoped to optimize the resources for the provision of subvented RCS.

Inspections to RCHEs

63. Mr TANG Ka-piu said that according to the Public Accounts Committee Report No. 63, inspection targets set by SWD to ensure compliance with the licensing requirements for RCHEs had not always been met and follow-up inspections to some RCHEs assessed with higher risk were not conducted within the target timeframe. Follow-up inspections to around 70% of the 34 RCHEs which were assessed with higher risk were conducted one to three months after the target timeframe. He enquired about whether Cambridge NH was one of these high-risk RCHEs and whether inspection at Cambridge NH was conducted within the target timeframe. He also sought information on the RCHEs which were assessed with higher risk and how the Administration would step up inspections and monitoring of RCHEs.

64. DSW responded that a timeframe would be set for inspections to RCHEs with higher risk. In the case of Cambridge NH, more than 50 inspections were conducted in the past five years and the frequency of inspections had exceeded the target. As it was impossible to conduct inspections to RCHEs round-the-clock, some problems might not be discovered. That said, the Administration would review the existing inspection mechanism with a view to improving the effectiveness of inspections.

65. Mr TANG Ka-piu expressed concern that the Administration was unable to discover the problems in Cambridge NH even with such a high

Action

Admin

frequency of inspections. Members of the public would be worried about the service standards of high-risk RCHEs. He requested the Administration to provide information on the name, location, number of places and residents of the high-risk RCHEs.

(Post-meeting note: The Administration's response was issued to members vide LC Paper No. CB(2)1955/14-15(01) on 22 July 2015.)

66. DSW responded that information on high-risk RCHEs would be kept in the computer system of the Licensing Office of Residential Care Homes for the Elderly ("LORCHE") to ensure close monitoring of these RCHEs. The validity period of the licenses of these RCHEs would be shortened to strengthen their monitoring. Assistant Director of Social Welfare (Elderly)("ADSW(Elderly)") supplemented that SWD had conducted follow-up inspections to high-risk RCHEs, although inspections were not conducted within the target timeframe in some cases. The Administration would closely monitor the rectification of irregularities by these RCHEs. The frequency of inspections would be adjusted according to the risk levels and more inspections would be made to RCHEs with higher risk.

67. Mr CHAN Chi-chuen said that the incident at Cambridge NH was just the tip of the iceberg. He said that his mother lived in an RCHE and was beaten up by other inmates at night. To his understanding, the number of staff on night shift in many RCHEs did not meet the staffing requirements. The Administration should address the problem of understaffed RCHEs at night.

68. Mr CHAN Chi-chuen further said that some members of the public attending duty roster meetings of the Public Complaints Office had said that some RCHEs were informed of the surprise inspections one day in advance. RCHEs which were understaffed would arrange "on-the-run staff" to impersonate their staff members on the inspection day in order to meet the staffing requirements. He enquired about how the Administration would keep the schedules of surprise inspections in strict confidence and whether there were unsuccessful surprise inspections because the relevant schedules had been disclosed to the RCHEs concerned.

69. DSW responded that assaulting people was a serious offence and was strictly prohibited in RCHEs. Assault cases should be reported to the Police without delay. She said that the Administration kept records of the staffing establishment, personal particulars of staff of RCHEs and their working hours for inspections. The elderly care sector was facing the problem of manpower shortage and the Administration was looking into the matter. She

Action

said that there were accusations that many RCHEs were informed of inspections at their premises beforehand and had engaged people to pretend to be their staff during surprise inspections. These accusations were unfair to SWD's staff and the Administration had requested for concrete information for follow-up but had not received any response so far in this regard. She stressed that no RCHEs would be informed of any surprise inspections in advance.

70. Given the large number of RCHEs and inspections, Mr POON Siu-ping expressed concern that there might not be sufficient manpower to carry out the inspections. DSW responded that in considering improvement measures for the inspection and licensing system for monitoring RCHEs, the Administration would assess whether additional manpower would be required for implementing the measures more effectively.

71. In response to Mr POON Siu-ping's enquiry about the number of audit checks to be conducted in a year, ADSW(Elderly) said that a percentage of surprise inspections to RCHEs would be assigned for audit checks. DSW supplemented that in addition to surprise inspections, audit checks through surprise inspections would be randomly assigned by LORCHE's computer system for supervisory staff to conduct audit checks.

Review of the inspection and licensing system

72. Taking the view that the existing inspection system was ineffective, Dr Helena WONG asked whether a comprehensive review of the monitoring and licensing system would be conducted. She said that a demerit points system should be introduced and a 24-hour hotline should be set up to receive complaints about services of RCHEs. She sought information on the actions taken by the Administration on non-compliance identified during inspections to RCHEs and the number of prosecutions instituted against these RCHEs in the past three years.

73. SLW responded that SWD had already set up a hotline service and welcomed feedbacks on services of RCHEs. The Administration was open-minded towards the suggestions of adopting a marking scheme, soliciting members of the public or community groups to monitor service quality of RCHEs, conducting audit visits to RCHEs for monitoring service quality, etc. In 2010-2011 to 2014-2015, 31 private RCHEs were successfully prosecuted, involving 44 offences.

Action

74. Mr Albert CHAN said that the level of subvention for RCHEs was insufficient for the provision of quality service and the requirements for the location and design of RCHEs under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) ("RCHE Ordinance") had enabled many RCHEs to meet the statutory requirements even with poor quality. He further said that residents of some private RCHEs were voters for the rich and the powerful, and some of these RCHEs were operated by key persons of political parties. He expressed concern that SWD's inspectorate teams might not conduct inspections to the RCHEs concerned impartially. He called on the Administration to revamp the existing policies and enhance the monitoring and complaint-handling systems. Apart from the inspection system, the Administration should review the licensing requirements for and resources allocated to RCHEs.

75. Mr LEUNG Che-cheung said that he trusted that the Administration would enforce the RCHE Ordinance in an equitable manner and considered it inappropriate to politicize the operation of private RCHEs. Noting that 12 582 places in RCHEs were unoccupied, he said that it might be a result of insufficient care workers or substandard services of some RCHEs. He expressed concern that the Administration might not be able to make rehousing arrangement for the residents of the private RCHEs which had to cease operation because of non-compliance with the licensing requirements. He sought information on the actions the Administration would take to rehouse elderly persons who were affected by the closure of these RCHEs.

76. SLW responded that the Administration would conduct a holistic review of elderly care services and adopt short, medium and long-term measures to improve the system within the existing legislative framework. The Administration would not withhold enforcement actions in order to avoid making rehousing arrangements for affected residents of RCHEs. The Administration's refusal of Cambridge NH's application for renewal of licence was a case in point. He said that the 12 582 vacant places were non-subvented RCS places and all subvented RCS places had already been taken up. Some of the residents of Cambridge NH were not rehoused to subvented RCHEs because they were either not eligible for subvented RCS or were on the waiting list for subvented RCHEs.

77. Dr Fernando CHEUNG said that the recent incident at Cambridge NH had revealed the problems of the existing monitoring system. According to the Administration, it had conducted 58 inspections and issued 12 warning letters to Cambridge NH in the past five years but no prosecution had been instituted against it. The elder abuse case in Cambridge NH was not mentioned in any of the 12 warning letters. He did not see why inspections

Action

to RCHEs during night time were not feasible. In his view, the existing inspection system was a total failure and must be improved. He requested the Administration to disclose to the public the warning letters issued by SWD to RCHEs and the information on the highest and lowest fees charged by private RCHEs. He also asked whether the Administration would amend the RCHE Ordinance and Code of Practice for Residential Care Homes (Elderly Persons) ("Code of Practice").

78. DSW responded that some inspections were carried out outside office hours and conducting inspections at midnight would disturb residents of RCHEs. In addition to improving the current regulating mechanism, the Administration considered that care workers should have a caring and respectful attitude towards elderly persons. Training for care workers should be strengthened so as to upgrade the service level of the sector. Participation of family members of residents of RCHEs and the community in monitoring RCHEs would not only be beneficial to the monitoring work but also increase the attention paid to the well-being of elderly persons. The Administration would carefully study the suggestions received on the inspection and licensing system for monitoring RCHEs and put forward improvement measures.

(At 1:23 pm, the Chairman extended the meeting for 15 minutes beyond the appointed ending time to allow sufficient time for discussion.)

79. Mr LEUNG Kwok-hung said that the recent incident at Cambridge NH had provided an opportunity for the Administration to revamp the system for monitoring private RCHEs. The Administration should capitalize on the resources in the market to increase the supply of RCS places for the elderly if it was unable to secure suitable sites for RCHEs. The Administration should stipulate in the Code of Practice that it would buy out private RCHEs the licences of which were revoked. The Administration should take over the services provided by these RCHEs until a reliable service provider was identified. He urged the Administration to enforce the RCHE Ordinance strictly.

80. The Chairman said that the Panel would discuss issues relating to service quality and monitoring of private residential care homes at the regular meeting in July 2015. He hoped that the Administration would include in the relevant discussion paper improvement measures for the inspection and licensing system for monitoring RCHEs and enhancements of transparency for information relating to RCHEs.

Motion

81. Dr Fernando CHEUNG moved the following motion –

"有見大埔劍橋護老院事件的發生，亦知道《安老院條例》立法20年沒有重要修訂，部分條例內容已經與時脫節，例如包括人手比例、人均面積和按長者身體缺損程度劃分的服務需要，實是需要作出檢討。本事務委員會促請政府立即檢討《安老院條例》及《安老院實務守則》，並在過渡期中，社會福利署實需嚴格執行《條例》及《實務守則》，確保私營及津助安老院舍的服務質素可達合理水平。"

82. Mr TANG Ka-piu proposed to add "以及監管巡查的方法和罰則等" before the phrase "實是需要作出檢討". The Chairman put the following motion as amended by Mr TANG Ka-piu to vote –

"有見大埔劍橋護老院事件的發生，亦知道《安老院條例》立法20年沒有重要修訂，部分條例內容已經與時脫節，例如包括人手比例、人均面積和按長者身體缺損程度劃分的服務需要，以及監管巡查的方法和罰則等，實是需要作出檢討。本事務委員會促請政府立即檢討《安老院條例》及《安老院實務守則》，並在過渡期中，社會福利署實需嚴格執行《條例》及《實務守則》，確保私營及津助安老院舍的服務質素可達合理水平。"

(Translation)

"That in view of the occurrence of the incident at Tai Po Cambridge Nursing Home, and knowing that no major amendments have been made to the Residential Care Homes (Elderly Persons) Ordinance since its enactment 20 years ago, resulting in some provisions of the Ordinance, such as staffing ratio, average per capita space, service needs according to impairment levels of the elderly persons, methods for regulating inspections, penalties, etc. being outdated and indeed necessitating a review of them, this Panel urges the Government to immediately review the Residential Care Homes (Elderly Persons) Ordinance and the Code of Practice for Residential Care Homes (Elderly Persons), and that during the transitional period the Social Welfare Department should strictly enforce the Ordinance and the Code of Practice to ensure that the service quality of both private and subvented residential care homes for the elderly can reach a reasonable level."

Action

83. All members present voted for the motion. The Chairman declared that the motion was carried.

VII. Any other business

84. There being no other business, the meeting ended at 1:41pm.

Council Business Division 2
Legislative Council Secretariat
12 August 2015