

**立法會**  
**Legislative Council**

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**Panel on Welfare Services**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 8 June 2015**

**Inspection and licensing system for monitoring  
residential care homes for the elderly**

**Purpose**

This paper gives a brief account of past discussions of the Council and its committees in relation to the inspection and licensing system for monitoring residential care homes for the elderly ("RCHEs").

**Background**

2. According to the Administration, the Residential Care Homes (Elderly Persons) Ordinance ("Ordinance"), in full operation since 1 June 1996, provides for the regulation of RCHEs<sup>1</sup> through a licensing system<sup>2</sup> administered by the Director of Social Welfare. The purpose of the legislation is to ensure that residents in these homes receive services of acceptable standards that are beneficial to them physically, emotionally and socially.

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<sup>1</sup> Under the Ordinance, an RCHE is defined as any premises at which more than five persons who have attained the age of 60 are habitually received for the purposes of care while resident therein. The Ordinance does not apply to any residential care home maintained and controlled by the Government or the Housing Authority, or any residential care homes used or intended for use solely for the purpose of the medical treatment of persons requiring medical treatment.

<sup>2</sup> Under the Ordinance, RCHEs are regulated either by licence or certificate of exemption. Nevertheless, the policy of the Social Welfare Department is that certificates of exemption are to be granted to RCHEs which are already in operation before 1 April 1995 but unable to comply fully with the legislative requirements. All the pre-existing RCHEs have fully met licensing requirements in July 2002 and no more certificate of exemption has been renewed afterwards. It is unlikely that in future the Director of Social Welfare will issue a certificate of exemption for any RCHE unless there are exceptional grounds which warrant a departure from the policy.

3. Under the Ordinance, any person who on any occasion operates, keeps, manages or otherwise has control of an RCHE is required to possess a licence which is subject to renewal. Conditions in relation to the operation, keeping management or other control of the RCHE may be imposed upon the issue or renewal of a licence. The validity period of a licence may vary according to the degree of compliance of the RCHE with various statutory requirements as outlined in the Ordinance, its subsidiary legislation (namely the Residential Care Homes (Elderly Persons) Regulation) and the Code of Practice of Residential Care Homes (Elderly Persons) on staffing, space, location, design, structure, safety precautions and quality of care to residents of RCHEs.

4. Following the implementation of the licensing system, the Social Welfare Department ("SWD") established the Licensing Office of Residential Care Homes for the Elderly ("LORCHE") in April 1995. Its duties include handling applications for licences/renewal of licences for RCHEs, monitoring the operation of RCHEs on an ongoing basis and providing guidance and advice to operators of RCHEs to ensure that all RCHEs continuously comply with the licensing requirements, handling complaints against RCHEs and taking prosecution actions against non-compliant RCHEs, etc. LORCHE comprises four professional inspectorate teams, which are responsible for conducting inspection in health and care, social work, building safety and fire safety. This apart, LORCHE also enhances the monitoring and upgrading of service quality of RCHEs through various means. The scope of service of LORCHE is in **Appendix I**.

### **Deliberations by Members**

#### Handling complaints relating to elder abuse in RCHEs

5. Noting that there were sporadic media reports about elder abuse cases in private RCHEs, some Members expressed grave concern about service standards of private RCHEs.

6. According to the Administration, it attached great importance to the proper care of elderly persons residing in RCHEs and would handle any suspected elderly abuse incidents in RCHEs seriously. Apart from referring the cases concerned to the Police for criminal investigation, SWD would collaborate with different disciplines of professionals to investigate and handle the cases in accordance with the "Procedural Guidelines for Handling

Elder Abuse Cases" as well as to provide suitable support services for the elderly persons concerned. Depending on the nature and seriousness of the cases involved, LORCHE would issue advice, warnings or directives to the RCHEs concerned and require the RCHEs concerned to implement the remedial measures. LORCHE would also conduct more frequent inspections of the RCHEs concerned and monitor whether the RCHEs concerned had met the requirement.

#### Handling non-compliance of licensing requirements

7. Members noted with concern that some RCHEs arranged "on-the-run staff" to impersonate their staff members in order to meet the staffing requirements as stipulated in the Residential Care Homes (Elderly Persons) Regulation. Some Members wondered how the Administration followed up such cases.

8. The Administration advised that during the inspections of RCHEs, the LORCHE's inspectors would not only count the number of staff members on duty and verify their identity cards, but also check their employment contracts, shift rosters, attendance records and outside work records, etc. The inspectors would also interview individual staff members. For staff members who were on casual leave, vacation leave or sick leave, RCHEs were required to arrange other staff members to temporarily undertake their duties so as to ensure compliance with the minimum staffing requirements as stipulated in Schedule 1 of the Residential Care Homes (Elderly Persons) Regulation at all times. The RCHE operators were required to keep all the relevant documentary evidence for inspection. Given the stringent procedures in verifying staff identity during inspections, the Administration considered that it was unlikely that RCHEs could arrange "on-the-run staff" to impersonate their staff members.

9. The Administration further advised that if RCHEs were found to have insufficient staff during inspections, the LORCHE's inspectors would, depending on the nature and severity of non-compliance, issue advice or warning to the RCHEs concerned and closely follow up the cases so as to ensure that the RCHEs would make improvements accordingly. Should serious non-compliances persist, SWD would consider taking prosecution action.

#### Effectiveness of inspections conducted by LORCHE

10. Noting that elder abuse cases in RCHEs had occurred from time to time, some Members cast doubt on the effectiveness of inspections

conducted by LORCHE. They also called on the Administration to review the regulatory system for RCHEs and adopt improvement measures to strengthen the monitoring of RCHEs.

11. The Administration advised that in 2013-2014 and 2014-2015 (as at end-January 2015), LORCHE conducted 5 254 and 4 509 surprise inspections on RCHEs respectively. On average, LORCHE conducted seven surprise inspections on each private RCHE per year. These inspections were very comprehensive, covering aspects such as personal care services, staffing, social care, environmental hygiene, infection control, handling of accidents, drug management, building safety and fire safety, etc. Furthermore, the LORCHE's inspectors would also interview elderly residents and their relatives in order to directly collect their feedback on the services provided by RCHEs. Upon receipt of complaints relating to suspected elder abuse in RCHEs, LORCHE would immediately inspect the RCHEs concerned without prior announcement to conduct targeted investigation. For RCHEs that had violated the regulations before, or had poor track records, LORCHE would step up its inspection efforts to closely monitor the service performance of the RCHEs concerned. In 2015-2016, LORCHE would assign a multi-disciplinary team of 38 staff to conduct surprise inspections to licensed RCHEs to ensure service quality and compliance of licensing requirements.

### **Relevant papers**

12. A list of relevant papers on the Legislative Council website is in **Appendix II**.

Council Business Division 2  
Legislative Council Secretariat  
3 June 2015

## Licensing Office of Residential Care Homes for the Elderly Scope of Service

1. The Residential Care Homes (Elderly Persons) Ordinance (hereunder named as the Ordinance), in full operation since 1 June 1996, provides for the regulation of residential care homes established for the care of elderly persons through a licensing scheme administered by the Director of Social Welfare. The purpose of the legislation is to ensure that the services received by residents in these homes are of standards that are beneficial to them physically, emotionally and socially.
2. Following the implementation of the licensing scheme, the Social Welfare Department established the Licensing Office of Residential Care Homes for the Elderly (hereunder named as LORCHE) in April 1995. Its duties include handling applications for licences/ renewal of licences for residential care homes for the elderly (hereunder named as RCHes), monitoring the operation of RCHes on an ongoing basis and providing guidance and advice to the operators of RCHes to ensure that all RCHes continuously comply with the licensing requirements stipulated in the Ordinance, its subsidiary legislation (namely the Residential Care Homes (Elderly Persons) Regulation) and the Code of Practice for Residential Care Homes (Elderly Persons) issued under the Ordinance. LORCHE comprises four professional inspectorate teams, responsible for conducting inspection in building safety, fire safety, health and care and social work.
3. LORCHE is also responsible for handling matters relating to health workers, which include:
  - vetting applications for organising health worker training courses submitted by training organizations;
  - establishing and enforcing a registration scheme for health workers under the Residential Care Homes (Elderly Persons) Regulation; and
  - monitoring the performance of health workers.
4. Apart from conducting routine inspection, LORCHE also enhances the monitoring and upgrading of service quality of RCHes through various means, which include:
  - implementing the Enhanced Bought Place Scheme (EBPS) – through the purchase of places from private RCHes to encourage private RCHes to upgrade their service quality. The standards in space, staffing and health care services under EBPS are higher than those of the licensing requirements;
  - setting up notification mechanism with the Department of Health, the Hospital Authority and other relevant government departments for early identification and following up of problems of the RCHes;
  - organising or promoting various training for the staff of RCHes;
  - reviewing and updating the Code of Practice for Residential Care Homes (Elderly Persons) regularly;
  - issuing guidelines to RCHes from time to time according to actual needs with a view to assisting RCHes to improve their operational management and risk handling capability;
  - disseminating information on RCHes to the public;
  - collecting views from the residents of RCHes and their family members to identify room for improvement;
  - handling complaints against RCHes and providing guidance and advice to RCHes according to circumstances; and
  - taking prosecution actions against non-compliant RCHes.
5. For enquiry or complaint on the service of RCHes, please contact LORCHE.  
Office Hours: 8:45am to 6:00pm from Monday and Friday (except public holidays)  
Address: Room 2354, 23/F, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong  
Telephone no.: 2961 7211 or 2834 7414 Fax. No.: 2574 4176  
Email Address: lorcheenq@swd.gov.hk

**Relevant papers on  
inspection and licensing system for monitoring  
residential care homes for the elderly**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Welfare Services	22 October 2009 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	6 January 2010	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 75 - 78</a>
Legislative Council	5 May 2010	<a href="#">Official Record of Proceedings</a> <a href="#">Pages 72 - 74</a>
Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly	-	<a href="#">Report (LC Paper No. CB(2)2046/10-11)</a>
Panel on Welfare Services	10 July 2012 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Finance Committee	2 April 2015	<a href="#">Administration's replies to members' written question in examining the Estimates of Expenditure 2015-2016 Pages 423 - 424</a>
Panel on Welfare Services	11 May 2015 (Item III)	<a href="#">Agenda</a>