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**Panel on Welfare Services and Panel on Health Services**

**Joint Subcommittee on Long-term Care Policy**

**Updated background brief prepared by the Legislative Council Secretariat  
for the meeting on 27 June 2017**

**Service quality of private residential care homes**

**Purpose**

This paper gives a brief account of past discussions of the Council and its committees regarding the quality and monitoring of private residential care homes for the elderly ("RCHEs") and for persons with disabilities ("RCHDs").

**Background**

Regulation of residential care homes for the elderly

2. According to the Administration, the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459) ("the RCHE Ordinance"), in full operation since 1 June 1996, provides for the regulation of RCHEs through a licensing system<sup>1</sup> administered by the Social Welfare Department ("SWD"). 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 Residential Care Homes (Elderly Persons) Ordinance (Cap. 459), residential care homes for the elderly ("RCHEs") are regulated either by licence or certificate of exemption ("CoE"). Nevertheless, the policy of SWD is that CoEs 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 CoE has been renewed afterwards. It is unlikely that in future the Director of Social Welfare will issue a CoE for any RCHE unless there are exceptional grounds which warrant a departure from the policy.

3. Under the RCHE 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 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 RCHE with various statutory requirements as outlined in the RCHE Ordinance, its subsidiary legislation (namely the Residential Care Homes (Elderly Persons) Regulation) and the Code of Practice for Residential Care Homes (Elderly Persons) ("Code of Practice for RCHEs") on staffing, space, location, design, structure, safety precautions and quality of care to residents of RCHEs.

#### Regulation of residential care homes for persons with disabilities

4. In line with the strategic directions enshrined in the Hong Kong Rehabilitation Programme Plan, the Administration has introduced a licensing system under the Residential Care Homes (Persons with Disabilities) Ordinance (Cap. 613) ("the RCHD Ordinance") to regulate the standards and operation of RCHDs. The RCHD Ordinance came into operation on 18 November 2011 (except Part 2 on penalty for non-compliance which took effect on 10 June 2013). The Residential Care Homes (Persons with Disabilities) Regulation under the RCHD Ordinance stipulates the statutory requirements for the operation, management and supervision of RCHDs. Furthermore, by virtue of the powers conferred by the RCHD Ordinance, the Director of Social Welfare issued the Code of Practice for Residential Care Homes (Persons with Disabilities), setting out the principles, procedures, guidelines and standards for the operation, management and other control of RCHDs. An RCHD must fully comply with all the licensing requirements in respect of building safety, fire safety, health care and home management in order to obtain a licence. For RCHDs that existed immediately before the commencement date of the RCHD Ordinance (i.e. 18 November 2011) but are unable to comply fully with the licensing requirements, certificates of exemption ("CoEs") may be issued in order to allow reasonable time for them to carry out improvement works for meeting the licensing requirements and standards. Any person who operates, keeps, manages or in any other way has control of an RCHD without a valid licence or CoE commits an offence.

5. According to the Administration, as a complementary measure, the Government has also launched a four-year pilot Bought Place Scheme ("BPS") for private RCHDs since October 2010 to, inter alia, encourage private RCHDs to upgrade the service standard and help the market develop more service options. The pilot BPS has become a regular service since October 2014.

## **Members' deliberations**

### Quality and monitoring of private residential care homes for the elderly

6. Noting from the sporadic media reports about elder abuse cases in private RCHEs, Members cast doubt on the effectiveness of the inspection and licensing system for monitoring RCHEs. They took the view that the Administration should conduct a comprehensive review of the inspection and licensing system for RCHEs as well as the entire residential care services system. Some Members considered that the Administration should step up the measures for monitoring RCHEs by putting in place a round-the-clock inspection mechanism or conducting inspections at night.

7. According to the Administration, some inspections were carried out outside office hours and conducting inspections at midnight would disturb residents of RCHEs. In 2014-2015 and 2015-2016, the Licensing Office of Residential Care Homes for the Elderly ("LORCHE") of SWD conducted 5 445 and 5 260 surprise inspections to RCHEs respectively. On average, LORCHE conducted seven surprise inspections to each private RCHE per year. These inspections covered aspects such as personal care services, meals and staffing, social care, environmental hygiene, infection control, handling of accidents, drug management, building safety and fire safety, etc. Furthermore, LORCHE's inspectors would also interview residents of RCHEs 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 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 their service performance. In addition to the above inspections conducted by LORCHE's four professional inspectorate teams, supervisory staff conducted audit checks through surprise inspections to RCHEs randomly assigned to them by LORCHE's computer system to ensure the quality of inspections. Besides, SWD had established a new Licensing and Regulation Branch for strengthening the inspection and monitoring of RCHEs and RCHDs. A dedicated multi-disciplinary inspectorate team had been set up under the new branch to formulate strategies and action plans for monitoring residential care homes ("RCHs") with serious irregularities or poor track records. The dedicated team strategically conducted surprise inspections through a small team approach or by a multi-disciplinary inspectorate team.

8. Some Members took the view that notwithstanding the long waiting time for residential care services, some elderly persons preferred waiting for subvented RCHE places to admission to private RCHEs because of the substandard quality of some private RCHEs. These Members considered that

in addition to purchasing more places for private RCHEs, the Administration should help upgrade the living environment and service quality of private RCHEs.

9. The Administration advised that RCHEs were required under the Code of Practice for RCHEs to have the necessary resources to attend to the care needs of their residents and provide them with a safe and hygienic living environment. Various measures were also implemented to encourage RCHEs to enhance their service quality. For instance, SWD had introduced the Pilot Scheme on Visiting Pharmacist Services for RCHEs since 2010 to enhance the drug management capabilities of RCHEs and their staff. Training was provided for RCHE staff on a regular basis to enhance their knowledge and skills in elderly care. SWD had also worked closely with the Department of Health and the Hospital Authority ("HA") in devising service guidelines and making case referral. To provide high quality places at private RCHEs, the Administration would buy more EA1 places under the Enhanced Bought Place Scheme ("EBPS").

10. Some Members called on the Administration to consider establishing an official accreditation system for the service quality of RCHEs and introducing a demerit points system for RCHEs. The Administration advised that it had all along been encouraging RCHEs to actively join independent service quality accreditation schemes. At present, the Residential Aged Care Accreditation Scheme launched by the Hong Kong Association of Gerontology, the Quality Elderly Service Scheme launched by the Hong Kong Health Care Federation with the support of the Hong Kong Productivity Council, and the Service Quality Management Certification Scheme – Elderly Service launched by the Hong Kong Quality Assurance Agency provided accreditation services for voluntary participation of RCHEs. In selecting private RCHEs for participation in EBPS, SWD had accorded higher scores for those homes which had participated and been accredited under the relevant service quality accreditation schemes for management and service quality enhancement. The Administration also advised that it had taken note of suggestions from various sectors on how to strengthen the monitoring of RCHEs, such as a demerit point system, and adopted an open mind in examining different options.

#### Quality and monitoring of private residential care homes for persons with disabilities

11. Noting the small number of RCHDs issued with licences since the implementation of the RCHD Ordinance in November 2011, some Members were very concerned about the slow progress of the implementation of the licensing scheme. They took the view that the Administration should, instead of issuing and renewing CoEs, enforce the RCHD Ordinance stringently after

the expiry of the 18-month grace period and set a time limit within which all RCHDs were required to operate under a licence. The Administration advised that it would adopt a prudent approach in considering applications for CoEs, which would only be issued or renewed where there were full justifications for allowing a reasonable time for completion of improvement works for meeting the licensing requirements and standards. These RCHDs were required to meet the licensing requirements by end-2019. RCHDs issued with CoEs must still meet the required standards with respect to service and management quality. These standards were also applicable to licensed RCHDs. At present, 15% of subsidized RCHDs and 31% of private RCHDs had been issued with licences. It was estimated that over 100 RCHDs would be able to meet the licensing requirements in 2018.

12. Members expressed concern about the financial and operational problems, such as high rental and shortage of manpower, faced by private RCHDs in complying with the licensing requirements. These Members urged the Administration to increase the percentage of purchased places under the pilot BPS. Some other Members called on the Administration to take measures to help RCHDs operating with CoEs meet the licensing requirements. According to the Administration, the pilot BPS was regularized in October 2014, with the cap of subsidized places in each home raised from 55% to 70%, and the number of places to be bought increased from 300 to 450. In addition, the Administration had implemented the Financial Assistance Scheme upon commencement of the RCHD Ordinance to provide subsidies for private RCHDs to carry out improvement works on building and fire safety. A maximum grant of up to 60% of the recognized cost of the improvement works would be allocated to each eligible private RCHD. Besides, the Small and Medium Enterprises Loan Guarantee Scheme was available for operators to apply for the loan to meet the remaining compliance costs. Moreover, a special project had been implemented to provide additional technical support for RCHDs having difficulties in taking forward rectification works. RCHDs which were unable to meet the licensing requirements due to structural reasons might need to move to other places. The Administration was discussing the removal plans with the RCHD operators concerned.

13. Some Members expressed concern that some intellectually disabled residents of RCHDs might not be able to tell that they had been sexually assaulted or did not know how to seek help. They asked whether the Administration would assign a team to station in RCHDs to assist intellectually disabled residents when necessary. The Administration advised that a surprise inspection would be conducted upon receipt of a complaint about an RCHD. During the inspection, the inspectorate team would check whether there were residents who required special care. Feedback from family members of residents and RCHD staff would also be obtained. Subject to the Guidance on

Closed-circuit Televisions ("CCTV") Surveillance and Use of Drones issued by the Office of Privacy Commissioner for Personal Data being observed, SWD would advise RCHDs to install CCTV systems in public areas designated for residents' daily activities, interview/meeting rooms, etc. so that the management staff could step up supervision of the daily operation of RCHDs. To enhance the quality and skills of home managers, SWD was proactively planning and exploring ways to introduce professional qualification requirements (e.g. registered social workers, nurses, doctors, therapists, etc.) for newly recruited home managers of RCHDs. SWD was closely liaising with relevant Qualification Framework industry committees to expedite the introduction of designated training programme on home management courses.

#### Review of relevant legislation and Codes of Practice

14. At its meeting on 12 December 2016, the Panel on Welfare Services took the view that the incidents at RCHes and RCHDs had revealed the problem of poor quality of RCHs in Hong Kong, which required an overhaul of the entire system. The Panel passed a motion urging the Administration to immediately set up a committee to reform the relevant legislation and Codes of Practice so as to enhance the service quality within three years, open up the monitoring system for care homes, and take over the management of a care home if its services were of poor quality.

15. The Administration advised that it would, taking into account the findings of the report of the Elderly Services programme Plan ("ESPP") which was estimated to be completed in the second quarter of 2017, start working on a review of the relevant legislation. The Administration was willing to commence the preparatory work for legislative amendments before the completion of ESPP. The Codes of Practice would be thoroughly reviewed. The Administration had conducted some analysis internally and begun to collect the sector's views on amendments to the relevant legislation and the Codes of Practice. Besides, community members would be invited to pay regular unannounced visits to RCHs participating in the Service Quality Group Scheme and give feedback for RCH operators on their service delivery. While there were practical difficulties in taking over the management of RCHs with poor quality, the Administration would explore ways to strengthen the support for RCHs concerned.

#### Enhancing transparency of the monitoring system on residential care homes

16. In response to Members' enquiry about making public the warning records of non-compliant RCHs, the Administration advised that the criteria and arrangements for issuing warnings to RCHs would be revamped with a view to making the entire monitoring mechanism open and binding. The

Administration proposed to make public the warning records of non-compliant RCHs where practicable to enhance the transparency of the monitoring system and the deterrent effect against non-compliant RCHs. Given that making public warning records of non-compliant RCHs would have an impact on the reputation of the homes concerned, a mechanism would be established to allow RCHs which had received warnings to make representations. The Administration would strive to finalize the implementation details of the proposal and upload the warning records onto the website as soon as practicable. Currently, records of RCHs which had been successfully prosecuted were published on SWD's website and such information would be uploaded onto the new website on RCHs. In the light of tight staffing resources in SWD, the new website on RCHs would be developed after the expected launch of the new website on RCHs by February 2017. Legal advice and views of the sector would be sought on the implementation of this new arrangement, and warnings issued before the implementation of the proposal would not be made public.

#### Manpower supply for the care service sector

17. Some Members urged the Administration to address the problem of manpower shortage and insufficient resources faced by many private RCHs, and adopt a multi-pronged strategy for enhancing the service quality of these homes. The Administration advised that it had launched the "first-hire-then-train" pilot project and the Navigation Scheme for Young Persons in Care Services to encourage young people to join the care service sector. In addition, the implementation of the Master programmes in Occupational Therapy and Physiotherapy would continue. SWD had also collaborated with HA 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.

#### **Relevant papers**

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

## Appendix

### Relevant papers on service quality of private residential care homes

Committee	Date of meeting	Papers
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	14 March 2011 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	14 January 2013 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">Supplementary information provided by the Administration in July 2013</a> <a href="#">LC Paper No. CB(2)1534/12-13(01)</a>
	16 April 2013 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">Supplementary information provided by the Administration in July 2013</a> <a href="#">LC Paper No. CB(2)1534/12-13(01)</a>
Joint Subcommittee on Long-term Care Policy	2 July 2013 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	26 May 2014 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Welfare Services	8 June 2015 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Legislative Council	17 June 2015	<a href="#">Written question (No. 19) on "Residential care services for the elderly"</a>



<b>Committee</b>	<b>Date of meeting</b>	<b>Papers</b>
Panel on Welfare Services	23 July 2015 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	9 May 2016 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a> <a href="#">Supplementary information provided by the Administration in June 2016</a> <a href="#">LC Paper No. CB(2)1654/15-16(01)</a>
	1 November 2016 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	12 December 2016 (Item IV and V)	<a href="#">Agenda</a> <a href="#">Minutes</a>

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