

Residents, families, community and
employee report

Alternative option: Care Services for the Elderly

Response to Birmingham City Council's
Consultation Paper

Report commissioned by UNISON for the Residents
Action Group for the Elderly (RAGE), care staff and
community organisations in Birmingham
November 2000

CENTRE for PUBLIC SERVICES

Research • Strategy • Planning • Evaluation

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The Centre for Public Services is an independent, non-profit organisation. It is committed to the provision of good quality public services by democratically accountable public bodies implementing best practice management, employment and equal opportunities policies. The Centre was established in 1973 and operates from a base in Sheffield. It has unrivalled experience of working with local authorities, other public bodies including the Improvement and Development Agency and the Equal Opportunities Commission, trade unions and community organisations and specialises in research, strategy, planning and training.

Summary

Birmingham City Council conducted a review of all care services for the elderly which they claimed constituted Best Value. This was challenged by the Residents Action Group for the Elderly (RAGE) because recommendations on options were proposed prior to any involvement from service users, families and the community. RAGE argued that the City Council's approach failed to meet the Best Value requirements contained in the DETR Guidance 10/99 and the provisions of the Human Rights Act 1998.

The research and findings in this report are a unique contribution to the development of care services for the elderly.

For the first time a review of Care Services for the Elderly has been conducted in parallel with a comprehensive and well organised consultation exercise run by service users, their families, staff and local community organisations. This approach was supported by Birmingham City Council's Scrutiny Committee on 4th July, 2000. The committee recognised RAGE as a legitimate service group; prior to this Social Services had not consulted with families and their representatives.

Report aims

The key purpose of this report is to document the findings and recommendations arising out of the consultation conducted by RAGE during October/November 2000. The context for the work is a critique of Birmingham Social Services Department's interpretation of Best Value which appears to place a high value on financial comparisons and cost reductions and little value on the quality of service provided and the high standards expected by service users and their families over the next decade.

This report should be read alongside the detailed research report on options written by the Centre for Public Services for RAGE in June 2000. It should be noted that the report was written over a very short period in order to meet the deadline for responses to the council's consultation paper and that only partial analysis of the workforce information and wider social and economic impact was possible.

Current service

The City Council currently provides over 900 residential care places in 32 homes, home care to 7,457 elderly people living in their own homes and day care to 1,249 elderly people (see appendix 1). The five options presented by the council, which originated from a report by consultants Deloitte Touche, would have major implications for these key services in Birmingham.

User, families and community survey evidence

A total of 386 users, families and other Birmingham residents responded to a survey sent out by RAGE and the City Council. 333 of the survey returns arrived in time to be included in the analysis below.

* The survey of users, families and local community organisations provides conclusive and indisputable evidence of the views of families, residents and the local community. There is almost unanimous opposition to the City Council transfer proposals.

* **In favour of alternative option:** 94% of the users surveyed rejected the five options presented by the City Council and wish the City Council to pursue an in-house option under Best Value which is developed by residents, staff and the community.

* **No reduction of in-house service:** Over 96% of respondents either disagreed or strongly

disagreed with the proposed reduction of direct City Council provision of care services for the elderly in Birmingham.

* **Needs of elderly ignored:** 97% of respondents considered that the needs of the elderly had **not** been taken into account by the City Council in developing the proposals for the future of care services in Birmingham.

* **Quality of care:** 87% of respondents felt that the quality of care would be adversely affected if any one of the councils five proposed options was pursued.

* **Staff are the key to quality of care:** The survey clearly showed that the five elements related to staffing were considered to be of much greater priority than improvements in facilities and premises in the provision of a high quality service. Continuity of care from staff that residents know (93%), decent pay and conditions for staff (92%), trained staff (85%) and experienced staff (77%) were overwhelmingly considered to be of greater importance than better premises which only featured in 17% of the returns.

* **Limiting choice:** 92% of respondents consider that the transfer of homes out of city council ownership and control will limit choice for current and future elderly residents in Birmingham.

* **Future needs:** The most frequently quoted aspect of need (77%) was the expectation that there will be growing numbers of elderly people requiring a range of care services in Birmingham. A key element of this growing need is the increasing number of elderly people from ethnic minority communities in the city. 65% of respondents specifically wished for involvement of families and residents in decision making and 58% want greater links between health services and social services.

* **Increased funding:** 94% of survey respondents want increased funding for care for the elderly in Birmingham over the next few years. 5% wish for it to remain at the same level and no respondents wished to see any reduction.

* **Integrated care services:** 98% of survey respondents would like to see the integration of care for the elderly with home care and services in day centres in the residents and community option.

Staff survey evidence

A similar survey to that conducted by RAGE was undertaken through UNISON in order to gain the views of staff directly working in the residential care service.

Over 300 survey forms were returned and 301 were analysed for this report. This represented a third of the residential care workforce. The response rate was very high, especially as the timescale to respond was extremely short, the workforce is fragmented and many work shifts making contact with individuals more difficult.

* **Preferred option to be taken forward by the council:** 78% of staff surveyed wish the council to pursue an in-house option under Best Value which is developed by residents, staff and the community. Almost 14% would like to see an option explored which comprises a mixed package of care including some homes retained by the council and others transferred.

* **Needs of the elderly:** Over 96% of respondents considered that the needs of the elderly had **not** been taken into account by the City Council in developing proposals for the future of care services in Birmingham.

* **Quality of care:** 87% of respondents felt that the quality of care would be adversely affected if one of the councils five proposed options was pursued.

* **Elements of a high quality service:** The five elements related to staffing were considered to be of greater priority than improvements in facilities in the provision of a high quality service.

* **Provision by the city council or independent companies in your experience:** Staff considered that the eight elements relating to service quality were better provided by the city council than the private sector or a trust. In all cases the city council was considered to provide a far superior service.

* **Future needs:** The most frequently quoted aspect of need (78%) was the expectation by staff that there will be growing numbers of elderly people requiring a range of care services in Birmingham. 60% of respondents specifically wished for involvement of families and residents in decision making and 73% anticipate increasing numbers with specialist needs.

* **Funding for care:** 96% of surveyed staff wish to see increased funding for care for the elderly in Birmingham over the next few years. Almost 4% wish for it to remain at the same level and no respondents wish to see any reduction.

Care standards under Best Value

Good quality standards of care are highly valued by users, families and the local community. Improvements in buildings and facilities are not central concerns to users and their families. Service users highlighted the importance of continuity of care, the attitudes of staff, staff availability and staff experience. The key criteria for Best Value should be the quality of care linked to cost effectiveness, not whether buildings and facilities are modern, rooms are large enough and unit cost reductions can be made.

Already 84% of council run homes have 2 or 3 stars, compared to only 28% in the independent sector. Reductions in unit costs and any proposals to transfer care homes would inevitably lead to service and care of a lower quality.

It is the view of service users and the community that services of equal quality cannot be provided at a lower cost in the independent sector. This is backed up by mounting evidence nationally.

Employment and equality implications

A total of 3,400 staff (900 residential care staff, 2,215 homecare and 275 day centre staff) employed by Birmingham City Council would be directly affected by the proposals. 87% of residential care staff are female and 32% are from ethnic minority groups. 91% of home care staff are female and 88% are manual workers. 67% of day centre staff are female.

Women, and particularly women from ethnic minority groups, would bear the brunt of any changes to staffing, pay and conditions of service. Transfer of services is therefore potentially discriminatory. This was fully recognised in the exempt document presented to the Social Services Advisory Team Meeting on 21 July 2000 and passed by the Social Services Committee and Cabinet.

Home care

The council's proposal to transfer around 30% of home and day care services to the independent sector would further damage a high quality service. Staff would once again be seriously affected by the transfer and elderly people living in their own homes would have their services reduced in the future.

Cost differences

The consultation paper contains little analysis of how cost differences are arrived at:

- * Residential Care Allowance will not be paid for new residents from April 2000.
- * Management and overhead costs have not been analysed.
- * Quality of care has not been assessed in terms of unit cost comparisons.
- * No consideration of the training costs in the private sector to meet new standards.

* No consideration with the general dissatisfaction amongst independent operators that current fees are low.

* The standard of living for council care staff will be substantially reduced under the options directly affecting the morale of care staff and the quality of care.

Privatisation would lead to casualisation

The advantages of the current services to the elderly would be undermined by the city council's proposed options. They will lead to rapid casualisation of the service, with increased use of untrained, temporary and agency staff. This will have a knock on effect on the quality of employment and continuity of care. Given Birmingham's high level of poverty, transfer would lead to increased labour market discrimination.

Social and economic impact of proposed transfer

Local authorities now have a duty to prepare a community strategy and powers to promote the social, economic and environmental well-being of their areas. The City Council should conduct a full evaluation of the potential impact on the local labour market and the wider social and economic costs and benefits of the options proposed under Best Value.

Innovation and long term planning under Best Value

A critique of the City Council consultation paper shows the restricted approach adopted. There is insufficient analysis of needs over the longer term.

Best Value will require innovation and targeting improvements in standards, both of which are lacking in the consultation paper.

Mainstreaming Equal opportunities

Best Value requires that equity and equalities are addressed through the review process (DETR, Circular 10/99). Birmingham City Council has so far failed to do this in any sense. This report shows that the five options proposed by the council could discriminate against women and ethnic minority staff working in the service. Any transfer will disproportionately affect these groups and the local community.

Instead Best Value should develop the City Council's equalities principles and strengthen the position of women and ethnic minority staff working in the care sector.

Legal obligation to listen to users, the community and staff

The City Council cannot ignore the overwhelming evidence presented in this report to retain the care homes and develop an integrated service.

To ignore the views of service users and the community would be grossly immoral and potentially illegal under the Best Value legislation and the Human Rights Act 1998.

In-house option

The City Council must fully recognise the strong opinion expressed in favour of developing an in-house option with the involvement of users and staff.

Human Rights Act 1998 and Best Value

The evidence in Part 8 of this report demonstrates that:

1. The authority is potentially infringing Convention rights for users in the private, voluntary and independent sectors as a direct result of fee suppression.
2. The authority has sought advice from organisations that advise against informing users and

others of their rights under new legislation.

3. The authority's best value review is fundamentally flawed. This is a direct result of the failure to ensure that Convention rights were at the centre of the best value process.

4. National evidence demonstrates that processes of privatisation have a negative impact on the most needy in society.

5. The quality of care, a fundamental feature of Article 3, is relegated to cost considerations.

6. The authority has set up the process and will make the final decision. This goes against national advice from the Local Government Association and is an infringement of Article 6 in relation to other Convention rights (2,3 8 and 14).

Remedial Action

Users, families and residents have a legal right to challenge the best value review through the courts. It is important that if this occurs, the authority has a legal obligation to make available all evidence so that the hearing is "fair and impartial."

Remedial action also includes best practice advice to the authority for future care needs developments.

Opportunity for integrated service planning

The City Council has a unique opportunity to harness the cooperation and ideas of users (through RAGE) and staff (through UNISON) to develop more integrated and better quality services for the elderly in the city. This should be viewed as an opportunity, not a threat, to plan services over the next decade.

Recommendations

The recommendations are set out in Part 9 of this report and include detailed proposals under the following headings.

Preferred option: Integrated, in-house residential care, day and home care service

Phased programme of service improvements

Joint planning and commissioning

Stronger local authority role and regulatory framework

Independent appraisal of Best Value review

Funding strategy

Staffing strategy

Planning for future needs

Human Rights Act 1998 and Best Value

Scrutiny Committee

Private sector

User, family and community involvement in the establishment of a Care Trust for Birmingham.

Local economic development

Part 1

Introduction and methodology

This report, commissioned for RAGE by UNISON, was written by the Centre for Public Services with the assistance of Mark Oley (Research Officer and RAGE advocate) and Deborah Chay (Senior Lecturer in Constitutional and Human Rights, Brunel University). It presents a comprehensive assessment of the city council's options and the results of a wide ranging consultation exercise undertaken by RAGE.

It follows the publication by the Centre for Public Services in June 2000 which should be read alongside this report. The findings and recommendations have been drawn up with the full involvement of residents, families, community organisations and staff.

Following the Centre's June report and the recommendations of the Scrutiny Committee, the City Council overturned a decision to transfer or close five homes (4th July 2000) and agreed to conduct a Best Value review of the service as a whole.

The Social Services Advisory Committee also decided in July to conduct a consultation exercise on the future development of services to older people, including consideration of a range of options for the future of residential care for older people.

The Centre for Public Services was engaged for RAGE by UNISON to participate in the consultation process, attending the Stakeholder Conference on 18th September and several public meetings. The Centre compiled two major surveys as part of the consultation exercise in order to gain a comprehensive picture of the views and assessment of options by residents, families, local community organisation and staff. The following report arises out of this work and aims to highlight key recommendations which need to be urgently addressed by the City Council.

A summary of the Centre's earlier report is contained in appendix 2. The key recommendations are listed below. The findings of the consultation show that the principles of these recommendations remain key to the future of care services for the elderly in Birmingham.

1. Birmingham maintains ownership of its residential homes and continues to directly employ staff engaged in these homes. Any reorganisation and redirection of resources should be in the context of user needs, in-house provision and joint work with health organisations, rather than transfers to the independent sector.
2. Services to the elderly, including all residential care homes and other integrated services for the elderly such as home care, day care and respite care, be subject to a comprehensive Best Value service review which includes a detailed examination of all options.
3. The council works with users, user organisations, the trade unions and staff to develop the in-house service. As part of this a review of the operation and management of the service should be conducted with the full involvement of the trade unions, users and the wider community in accordance with the Best Value requirements .
4. Alternative funding options and the impact of phased improvement work on the capital programme require further detailed investigation before any decisions are made.
5. The City Council makes representations to the Government to:
 - * Respond to the recommendations of Royal Commission on Long term Care for the Elderly.
 - * Remove the anomalies between the local authority and independent sector created by the Residential Care Allowance.
 - * Publish the final National Care Standards.
 - * Release increased funding to meet the needs of elderly people and improved care provision,

including increased levels of skilled staffing, training, improved standards, capital investment.

6. City Council staff are fully informed of the implications of the Human Rights Act 1998 for the public and private sector and that training is conducted in Risk Assessment Procedures.

The City Council agreed to a period of consultation with 'stakeholders' on the development of services for older people.

National Developments

Since June there have been a number of local and national developments which consolidate these proposals.

* **Proposals for National Care Standards** which will be applied to all service providers -

* **Private sector facing increasing problems nationally.** In Birmingham the Care Homes Association has stated that: *"The financial burdens are becoming intolerable, we have unrealistically low fees, fewer placements, a reduction in privately funded residents and increased dependency in residents being placed, which incurs heavier staff costs"* (Jean Cowley, Chairman).

"If Local Authority homes need to charge £399.00 to care for a resident then this is a very good indication that this is a more realistic figure than the £252.75 which is the top rate paid to the private sector".

* **The Residential Care Allowance** - the discrepancy between public and private funding will be removed.

* **National shortages of care workers** - there is growing evidence that poor pay and conditions of service for residential and home care workers has led to a shortage of care workers in many parts of the country, putting more pressure on the service.

* **Audit Commission** - recognition of the importance of the quality of care staff (see below).

* **Bed Blocking** - there is already intense pressure and increasing demand for in Birmingham's hospitals. Any contraction of residential care in Birmingham will lead to increased bed blocking; this goes against the Government's national plans to alleviate such problems.

* **Organisation of health and care services** - The Royal Commission of Physicians, Royal College of Nursing and the British Geriatrics Society has criticised the organisation of health and care services for care home residents, arguing that it is arbitrary and dominated by an overriding focus on funding.

Their report urges relevant professionals in the sector to become involved in a comprehensive, interdisciplinary approach to effectively meeting the needs of elderly residents.

* **Creation of care trusts**

The Government is planning for all adult care services to be commissioned by care trusts within the next five years. The aim is for trusts to deliver health and social services structured around service users.

Methodology

This report was drawn up using material from a range of key sources including:

1. Relevant reports:

Audit Commission and Social Services Inspectorate, Joint Review of Social Services in Birmingham, 2000.

Birmingham City Council, Public Policy Review into the Implications of an Ageing Population, April 2000.

Birmingham City Council, Development of Services for Older People, Report of Director of Social Services, 21 July 2000.

Birmingham City Council, Consultation Paper: Development of Services for Older People, 8th September 2000.

Birmingham City Council, Report of the Social Services and Health Advisory Team, 13th September 2000.

Birmingham City Council, The Annual Report of the Inspection Unit 1999/2000, October 2000.

Birmingham City Council, Report of the Social Services and Health Advisory Team, 8th November, 2000.

Centre for Public Services, Future options: Residential Care Homes for Older People in Birmingham, June 2000.

2. Survey findings

Analysis of RAGE survey of 372 service users and 301 staff.

3. Research evidence

Findings from the meetings and discussions held with service users, community organisations and staff.

Part 2

Assessment of the City Council's consultation

On 21st July the Social Services Advisory Team met to consider the implications of the Scrutiny report and the full council's decision to reject the closure of five homes. They also considered a report by Deloitte Touche commissioned by Social Services. The report recommended a series of options which would end direct service provision.

Consultation process

RAGE and the Centre for Public Services heavily criticised the city council for its lack of consultation in conducting a review of care services for the elderly (June, 2000).

Eventually the City Council agreed to a period of consultation, following intense pressure from RAGE. The consultation included a Stakeholder Conference held on 18th September and a series of meetings in the care homes. The City Council also distributed some of the RAGE questionnaires.

RAGE has criticised aspects of the consultation process:

- * The City Council has not consulted the community fully. For example, pensioners groups, trade unions, residents associations and the church. These organisations include many of the future users of the service and many have strong views on the future of the service.
- * The timing of meetings held by Social Services was not conducive to fair consultation.
- * Questionnaires and information sheets were not distributed by managers in some homes as requested, and some relatives were given extremely short notice of the meetings being held.
- * Some night carers meetings were cancelled in favour of daytime meetings, with the effect that vital staff opinions were excluded from consultations held during their rest periods.

Consultation Paper

The City Council's consultation paper (8th September 2000) clearly stated that:

- * The Social Services and Health Advisory Team will listen to the views of all the stakeholders.
- * The Advisory Team are prepared to consider other options than those set out if a case can be made to meet the council's aims and statutory duties.

The consultation document is limited in its coverage. There is no local definition of Best Value in terms of care for the elderly in Birmingham.

A Best Value review is being conducted but there is scant detail provided on this in the consultation paper.

The five options presented by the City Council in the consultation paper clearly favour transfer, with all the options containing an element of privatisation. The proposals were largely based on Deloitte Touche's paper which the council treated as an exempt document. The options are set out below along with a brief critique.

Options for Care Homes for the Elderly

Option 1

Establish an independent trust to manage the council's homes for older people.

Option 2

Transfer to an existing trust.

Option 3

Transfer of homes via sale.

Options 1-3 would result in privatisation of the service. This was fully assessed in the report prepared by the Centre for Public Services, June 2000. The key points about transfer in relation to the service are:

- * High costs of transfer
- * Loss of democratic responsibility
- * Staff transferred to new employer resulting in potential loss of earnings and demoralisation affecting the quality of care.

Further facts about the performance of trusts and privatisation of care homes is contained in Part 3 of the Centre's report (June, 2000).

Option 4

In respect of each of the above options an alternative for some of the current homes be i) for capital to be made available for purpose built homes to be developed and run by the council in replacement for existing homes and ii) for any such new homes to be managed by a 'trading organisation' so local conditions of service can be varied from those of the operation in the rest of the City.

The intention here is to replace some of the existing homes with purpose built homes and that in order to meet cost requirements staff terms and conditions would be negotiated separately from the rest of the city.

This option is totally ambiguous because it is not clear how this option could result in care homes under city council control if staff were under different terms and conditions of employment.

Option 5

A 'mixed package' maintaining some homes with specialist functions in the management of the council with others being externalised.

Once again the council states that staff terms and conditions would be re-negotiated.

Home Care and Day Care

Option 1

Transfer a significant proportion (around 30%) of current services to the independent sector under one of the first three options.

Option 2

Significantly reduce the budgets allocated for internal home care and day service provision and purchase services instead from the independent sector.

The two options represent privatisation once again and much will depend on the option chosen for the elderly care homes.

Under each option the council states that the option **would meet Best Value requirements**. However we would challenge this since the views of users of the service have not been taken into account in any of these options.

The council's proposal to transfer around 30% of home and day care services to the independent sector or reduce budgets thus cutting unit costs would further damage a high

quality service to elderly people living in their own homes. Staff would once again be seriously affected by the transfer.

The advantages and disadvantages stated for each option are simplistic and do not represent a full and thorough evaluation.

Needs analysis

The needs analysis contained in the consultation document states that various changes are expected over the next decade, that the demand residential places should remain about stable and that the nature of demand will move towards greater demand for specialist services.

Birmingham City Council's report, Public Policy Review into the Implications of an Ageing Population, April 2000 (also known as the Knowles report) identifies a whole series of changes in demand for services over the next two decades which are underplayed in the consultation document and not taken into account in developing the options.

"Isolating elderly people in their own homes by cutting back on day centre provision can cause depression and suicidal tendencies".

Quality of care

The consultation paper makes a number of important statements about the quality of care and the link to the quality of staff, skills and attitudes. The assessments concluded:

* On 17 out of 25 measures the expectations of residents in council homes had been met at a higher level than for residents in the independent sector.

* Residential homes are graded on a star system relating to staff levels, NVQ training and Quality Assurance systems. 84% of the council's homes have 2 or 3 stars compared to 28% in the independent sector homes.

* A sample of residents were asked questions about their quality of life. No statistical differences were found between the council and independent sector homes.

The council underplays the evidence in its consultation document (para 4.6) but the above clearly shows that the quality of care is considerably higher than that in the independent sector.

In addition surveys of home care show that quality of care provided by the in-house is much higher than that in the independent sector.

The extent of the difference in quality could be even higher. In Appendix D para 2.2 of the Report of the Director of Social Services (21st July 2000) 68% of the local authority homes were given three stars compared to 7% in the independent sector.

Cost differences

The consultation paper repeats the differences in costs between the in-house and independent sector, stating that the difference is mainly due to terms and conditions of employment.

However, there is no detailed analysis of how these differences are arrived at:

* Residential Care Allowance will not be paid for new residents from April 2000.

* Management and overhead costs have not been analysed.

* Quality of care has not been assessed in terms of cost differences.

* No consideration of the training costs in the private sector to meet new standards.

* No consideration with the general dissatisfaction amongst independent operators that current fees are low.

* The standard of living for council care staff will be substantially reduced under the options directly affecting the morale of care staff and the quality of care.

The higher cost of council care is clearly due to:

- * the high skills level and experience of council employees;
- * higher pay and conditions of local authority employees.

It could also be due to:

- * higher management and supervision costs;
- * overhead costs;
- * other costs such as supplies.

Residents and user views

The paper states that:

- * Residents wish the council to retain its care homes.
- * Wider choice would be available if city council retains its care homes.
- * A survey of home care users showed higher satisfaction with council run services than with the independent sector.

However, these views were not taken into account in developing the options.

Capital

The council states that the capital cost required to bring homes up to current standards is in excess of £15m, though there are few details of how this is arrived at. The new national standards will require substantial improvements in the majority of care homes, whether they are run by local authorities or the independent sector. The council has not yet carried out detailed costing analysis of projected costs or attempted to develop a planned programme of refurbishment over the next 7 years.

Whatever the costs, these need to be set against other aspects of the service and needs across the city.

Initial Best Value analysis

Home Care and Extra Care Sheltered Housing: the council states that *“the costs of the internal services is higher than the independent sector but the quality of services currently may well be substantially better”*. This element appears to be forgotten in any development of the options.

Instead the council is more concerned to develop a more effective market for home care *‘Larger more robust providers are needed to develop the market’* and block contracts are suggested. The options do not relate to these points.

Residential care The consultation paper states that to do nothing is not an option as it will not provide the service standards required. However, this is not considered alongside the needs of residents, the quality of care and future improvements. The analysis comes down to cost, yet there is no proof that costs can remain substantially lower in the independent sector.

The changing needs, for example, for greater specialist services and meeting the needs of the black and ethnic minority elders are not sufficiently taken up in the options proposed.

Gaps in the report

No in-house option

An alternative option - to improve in-house services and taken forward in the recommendations set out in the Centre’s report in June has not been developed. The city council has made no attempt whatsoever to consider improvements to the in-house service as part of the options appraisal.

No recognition of lower standards

One key disadvantage of each of the council's options is omitted from the list - lowering of quality standards an essential element of Best Value.

No recognition of potential increase in monitoring and inspection costs

Complaints about the independent sector are rising and the Inspection Unit is already under massive pressure. The annual cost of the unit is currently £620,000. Any further transfer will mean escalating costs and less control over standards.

National Care Standards not yet applicable

The Care Standards Act will come into force in April 2002. Currently there are no definitive published National Standards for Residential Care Homes for the elderly, although statements have been made on standards to which all care homes will be expected to conform, by 2007.

The expected standard for room size is 10 square metres. However, the Department of Health has stated that to ensure flexibility for existing good quality homes that do not meet all the standards, specific criteria will be set to allow some rooms which do not meet them to remain in use. These may include spacious communal areas or en-suite facilities. The net result should be that a total of 14.1 square metres per resident is provided, with some flexibility about how it is employed.

The Government's consultation document "Fit for the Future" clearly aims to target higher standards in new provision. Existing single rooms in existing homes currently exempt from registration, such as local authority homes, will only be required to meet the standard requirements.

Independent sector will struggle to meet standards

Care homes are expected to face investment problems - a recent report stated that the new regulations will phase out a significant numbers of beds over the next few years and new build homes will not be able to meet demand. Most banks and institutions are not currently considering any new or increased facilities for units of 30 beds or lower - the favoured client is 60 beds minimum. It follows that the number of smaller units will drop significantly (Sheffield Telegraph, 20 October 2000).

No recognition of higher employment standards in-house

The Director of Social Services (Advisory Committee, 8/11/00) recently reported on improvements in care services including recruitment of staff from Black and Minority backgrounds and the increase in the proportion of staff achieving NVQ level 2. These employment standards are overlooked in the consultation document.

No recognition of increased dependency

People living in residential homes are becoming increasingly dependent and this trend is likely to continue, with more demands on staff and a requirement for high quality standards.

Needs of elderly people from ethnic minority communities

Knowles report highlighted the particular needs of minority groups but these points have not been taken into account in developing the options.

Joint Review: Audit Commission and Social Services Inspectorate

The Joint Review report draws particular attention to partnership working with the Housing Department, Registered Social Landlords and the Health Authority and the development programme of Extra Care Sheltered Housing. However, there seems to be no attempt to take this forward in the Best Value options.

The Audit Commission and Social Services Inspectorate joint review report was highly critical of the approach adopted by Social Services in many areas. At the same time the department is considered to be a lead department in advancing corporate strategies on tackling health inequalities, dealing with crime and disorder and in supporting families.

The joint review recommended improved long term financial planning. It found little evidence of a longer term budget plan that supports developing service strategies and more sensitive allocations need to be made between services to reflect changing patterns of need and demand.

Key suggestions were made which have important implications for consultation and work around Best Value. These included:

- * The need for more devolved structures and greater trust between managers and frontline staff and between managers and politicians.

- * Supervision needs to be linked to performance appraisal, tied to targets and take place on a regular basis.

- * More consistent leadership from senior management - listening closely to what staff say, allowing staff to learn from their mistakes.

- * Creating a clearer vision and changing the culture is related to practice being guided by more effective systems for measuring service quality and a more empowering and learning organisational atmosphere.

- * A more inclusive approach (with users, carers and the voluntary sector) is required if working relationships are to be strengthened and sustained.

- * The department needs to behave in a way that more readily recognises the skills of users and carers to improve service quality and make services more consistent. In other words to behave in a way that is more overtly inclusive.

The report points out that quality and cost are the key issues under Best Value, and suggest a greater mix of care. However, this point was made on partial evidence without a full examination of the quality element and prior to the current consultation exercise.

Financial savings

Reductions in funding have already hit services to the elderly in Birmingham.

Home care charges have increased substantially during 2000. The council has been criticised for lack of consultation in informing service users, informing them of the increase only three weeks prior to its introduction, several months after the decision to increase charges had been made.

Part 3

RAGE consultation: Findings

RAGE has conducted a vast amount of consultation on the proposed options with users and their families during October 2000. This followed the Stakeholder Conference organised by the City Council on 18th September, 2000. The consultation, which aimed to inform users of the service, their families and the local community of the proposed changes to the service, was undertaken in four ways:

1. Public meetings

RAGE organised and held a major public meeting on 3rd October attended by about 50 people. This was followed by four community conferences, including a meeting held with members of the ethnic minority communities.

The key issues raised at the public meetings were mirrored by the replies through the survey detailed below. Many of those attending held strong views about the quality of service. They were concerned that their views and the views of many other families and community representatives were being ignored by the city council. Several wrote individually to councillors and MPs about their particular concerns.

2. Meetings in the care homes

RAGE held meetings to discuss the options in 30 residential care homes to present their views and hear the views of family members, staff and others attending the meetings. They also attended meetings of family members organised by Social Services. Many of the comments concerned the high quality of care provided by the council (see below) and the view that these services should be retained in-house.

In all cases where RAGE asked for a show of hands in support of their alternative option, there was almost unanimous support in favour.

3. Consultation on RAGE report and recommendations

RAGE organised and held five meetings on 18th November to discuss the report drafted by the Centre for Public Services which included the survey results and recommendations. Residents, families and community representatives were invited to attend the meetings in five homes covering five areas of Birmingham - South West, South East, North, East and Central Birmingham. About 180 people attended in all; they were predominantly relatives of elderly residents from a number of care homes.

4. RAGE survey of users, families and the community

A survey (appendix 3) was distributed to about 1,000 individuals and organisations in Birmingham by RAGE. These included:

- * Individual family members who attended RAGE meetings and gave RAGE their private address details.
- * Individual family members who approached RAGE at Social Service's meetings and gave RAGE their private address details.
- * Individual family members who were sent questionnaires by Social Services or through the 30 care homes.
- * A range of community organisations, charities and neighbourhood forums with addresses provided by Social Services.
- * Trade unions including retired members sections.
- * Black and Asian Ethnic Minority community groups.

- * Church groups.
- * RAGE Committee.
- * Pensioners Convention West Midlands.

The survey asked a number of questions based on the council's proposed options and the concerns expressed by residents, their families and the local community in the Stakeholder conference and the numerous meetings organised by RAGE.

The response was far higher than anticipated and the Centre is still receiving completed questionnaires. 386 completed forms were returned to the Centre for Public Services and more are expected. In the short time available, 333 were analysed by the Centre for Public Services and form a key part of this report. A wide range of residents in Birmingham's care homes for the elderly and their families were represented in the survey. Some of the coverage is identified in Appendix 4.

The results were as follows:

Question 1. Which of these options should be taken forward by the council?

The consultation paper presents five main options for the council's care homes for older people:

- Option 1. Establish a new independent organisation outside the City Council.
- Option 2. Transfer to an existing independent organisation outside the City Council.
- Option 3. Transfer of homes via sale to private/independent organisation.
- Option 4. Use capital raised through transfer for new purpose built homes run independently.
- Option 5. Mixed package of care, with some homes retained by the council and others transferred.

There is the possibility of an alternative option:

Option 6. An option developed by residents, staff and the community which develops and improves the existing council service.

Table 3.1: Preferred option to be taken forward by the council

	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6
Number responding	4	3	2	1	9	309
Percentage	1.2%	0.9%	0.6%	0.3%	2.7%	93.6%

Based on 330 returns

94% of the users surveyed rejected the five options presented by the City Council and wish the council to pursue an in-house option under Best Value which is developed by residents, staff and the community. Two further respondents suggested an option 7 where all the homes are retained and run by the council.

"I would like to state that I am totally opposed to the 'selling off' of any or all of the council care homes in Birmingham. Also I am opposed to the privatisation of any of the social services such as day centres. I feel that the council is spending an enormous amount of money on the various 'refurbishing' schemes in certain areas of the city, some of which could surely go to the care of the elderly". (Barbara Edaley, Erdington)

"Super Homes" plans go against Government guidelines which the National Care Standards Commission is endeavouring to implement". (Relative)

"I will not be happy with the Super Home option as I will lost my identity - larger homes are institutions" (Resident, Ruby Rhdderch).

Question 2. Do you agree with a much reduced role in direct council provision?

Table 3.2: Reduced role in direct council provision

	Strongly agree	Agree	Disagree	Strongly disagree
Number responding	5	7	22	291
Percentage	1.5%	2.2%	6.8%	89.5%

Based on 325 returns

Over 96% of respondents either disagreed or strongly disagreed with the notion of reduced city council provision of care services for the elderly in Birmingham.

Question 3. Do you think that the needs of the elderly have been taken into account in the council's proposals?

Table 3.3: Needs of the elderly taken into account

	Strongly agree	Agree	Disagree	Strongly disagree
Number responding	7	4	30	283
Percentage	2.2%	1.2%	9.3%	87.3%

Based on 324 returns

97% of respondents considered that the needs of the elderly had not been taken into account by the City Council in developing proposals for the future of care services in Birmingham.

"My wife Phyllis Hall has been in residential care for nearly three years now. To disrupt her present location, in my opinion, would greatly diminish her life expectancy. She is 87 years of age" (Arthur Hall)

"If the home was closed and relatives had to travel further I will get fewer visits" (Resident, Park Hill)

Question 4. Do you think the proposals contained in the Consultation Document will adversely affect quality of care?

Table 3.4: Quality of care will be adversely affected by council proposals

	Strongly agree	Agree	Disagree	Strongly disagree
Number responding	228	46	7	34
Percentage	72.4%	14.6%	2.2%	10.8%

Based on 315 returns

87% of respondents felt that the quality of care would be adversely affected if one of the councils five proposed options was pursued.

Question 5. What do you consider to be the five most important elements of a high quality service for the elderly in your community?

Survey respondents were asked to identify the five most important elements of a high quality service out of a list of eight.

Table 3.5: Five most important elements of a high quality service

Ranking	Number responding	%of total returns
1. Continuity of care from staff residents know	280	93%
2. Decent pay and conditions for staff	277	92%
3. Trained staff	256	85%
4. Experienced staff	230	77%
5. Range of activities for residents in the home	185	62%
6. High staffing levels	184	61%
7. Improved facilities	164	55%
8. Better premises	50	17%

Based on 300 returns

The findings clearly show that four elements related to staffing were considered to be of much greater priority than improvements in facilities and premises in the provision of a high quality service. Continuity of care from residents staff know (93%), decent pay and conditions for staff (92%), trained staff (85%) and experienced staff (77%) were considered to be of far greater importance than better premises which only featured in 17% of the returns. This has major implications for the criteria adopted by the council in terms of Best Value.

“There are plenty of unused rooms upstairs so any refurbishment could be done with residents in situ” (Staff member, Parkhill).

“The key foundation has to be competent and caring staff who are dedicated to their role and rewarded for being so with this reflected in favourable in pay and working conditions” (Family member).

“Residents are normally very attached to “their home” and although improvements are needed to many homes, residents need minimal disruption to their lives”.

Question 6. Do you agree that the transfer of homes to the independent/private sector will limit choice for current and future residents?

Table 3.6: Transfer will limit choice for service users

	Strongly agree	Agree	Disagree	Strongly disagree
Number responding	258	34	3	21
Percentage	81.6%	10.8%	0.9%	6.6%

Based on 316 returns

92% of respondents consider that the transfer of homes out of city council ownership and control will limit choice for current and future elderly residents in Birmingham.

“I have a husband with disabilities and the location of any ‘super home’ might prejudice my opportunities to visit my mother “. (Relative, George Canning)

Question 7. Do you think that the following elements of care services are better provided by the city council or independent companies in your experience?

Respondents were asked to identify whether the eight elements listed below were better provided by the city council or the private sector or a trust. In all cases the city council was considered to provide a far superior service. Even in areas where the independent sector has a better reputation - buildings and facilities - the city council came out.

Table 3.7: **Assessment of differences in service provision**

Flexible and responsive	97.3%	2.7%
High standards of continuity	99.7%	0.3%
Skilled, committed and experienced staff	99.7%	0.3%
Adequate staffing levels	98.3%	1.7%
Training programme	98.2%	1.8%
Better activities	97.1%	2.6%
0.5%		
Better facilities	94.0%	5.6%
0.4%		
Better premises	86.0%	10.6%
3.4%		

Based on 240 returns

‘My mother was in a private residential home - in Tamworth - the care, if one can call it that, was abysmal. This is the reason I had her living near to me in Birmingham. The care and attention that she gets whilst in respite in Richard Lawn is far superior. I will always recommend council run homes as opposed to the private sector’ (Mrs. Thompson).

‘I worked in a private home for ten years from the age of 18. I received no NVQ training and had to do a City and Guilds course at nights’ (Staff member, Greenlands).

‘I am concerned about the failure to properly regulate private homes and believe that staff in the public sector are likely to receive better training and enjoy better conditions. This leads to a stable and experienced workforce, rather than constant turnover of staff’

‘My father is in a private nursing home and my mother is in Elderfield residential home. Dad is treated well in his home but continuity of care is lacking. Some of the carers are only young girls on low pay and turn round of staff is huge. When I visit Dad there is always a new face, but when I visit Mum the same staff are always there. If feel that if the options other than Option 6 are chosen staff morale will decline and my mother’s care will suffer’ (Mrs. J. Barnsley)

One couple had parents in two different council homes (Heathway). They had visited 32 private homes and considered that you wouldn’t put a dog in some of them.

Question 8. What do you think will be the most important needs of the elderly in your community over the next few years?

It should be noted that some respondents presented one key priority whilst the majority of respondents prioritised several or all five elements and many gave them equal importance.

The most frequently quoted aspect of need (76%) was the expectation that there will be growing numbers of elderly people requiring a range of care services in Birmingham. 68% of respondents specifically wished for involvement of families and residents in decision making and 58% want greater links between health services and social services.

Table 3.8: **Future needs of elderly**

Important needs	No. of respondents	% respondents
Growing numbers of elderly people requiring a range of care services	246	77%
Involvement of families and residents in decision making	209	65%
Greater links between health services and social services	186	58%
Publicly owned and accountable services	175	55%
Increasing numbers with specialist needs	179	56%

Based on 320 returns

One respondent pointed out that homecare is already very restricted and only available to those with the a very high level of dependency.

Another respondent pointed to the increasing numbers of elderly people from ethnic minority communities in Birmingham who will need specialist care in the future.

“The level of demand for residential care up to 2010 has been totally underestimated and the increased demand after 2010 has not been drawn to the attention of current users, relatives and staff. Therefore Social Services consultation is inadequate and misleading”.

“The idea of getting away from buildings based day centres and going back to care in the community will increase isolation and reduce stimulation for those who need day centres. How can Social Services say day centres will not close, how can they say homes will not close if 5 or 6 super homes replace 8 or 9 homes. Why destroy good council homes and home care just to save money?”

Question 9. Do you think that funding for care for the elderly in the city should increase, decrease or remain at the same level?

Table 3.9: Funding for care

	Increase	Remain the same	Decrease
Number responding	307	17	0
Percentage	94.8%	5.2%	0%

Based on 324 returns

95% of survey respondents want increased funding for care for the elderly in Birmingham over the next few years. More than 5% wish for it to remain at the same level and no respondents wish to see any reduction. This clearly presents a case for increased funding of services for the elderly and a recognition that savings should not be made in reorganising the service.

Question 10. Would you like the city council to investigate an option to retain council care homes in the public sector before any decisions are made?

Table 3.10: Percentage in favour of further work on an in-house option

	In favour	Against
Number responding	317	6
Percentage	98.1%	1.8%

Based on 323 returns

The survey confirmed the view of RAGE that exploration of the in-house option should be a critical part of the Best Value review.

Question 11. Given your responses, do you think homecare services and services in day centres should be part of the residents and community option?

Table 3.11: Percentage in favour of homecare and day centre services being part of the residents and community option

	In favour	Against
Number responding	294	13

Based on 307 returns

96% of survey respondents would like to see the integration of care for the elderly with home care and services in day centres in the residents and community option.

This is clearly much more easily done where services are coordinated and provided in-house, rather than fragmented.

“My mother has used a day centre for four years and this has prevented her going into residential care early. Day centres are very important “. (Relative, Heathway).

Personal comments

Some respondents made additional comments which clearly illustrate the thinking behind the responses to the survey:

“My husband and I attended a meeting at Ruby Rhdderch to hear the options given by the councilit was unanimously agreed that the five options were unacceptable and that a 6th option should be added for consideration, that the homes stay under consideration and quality care of Birmingham Council - this option agreed by all present - the Residents and Staff do not want the home to be privatised. It is a superb home, all the residents are very happy and the staff are faultless in their care, and we as relatives want it to stay that way”. (Family of elderly resident).

“We strongly disagree with the council’s intention to sell off all care homes to the private sector. We would like to see even more homes provided by the community”.

“The City Council has announced plans to sell off its entire housing stock, old People’s Homes and cut the budget for transport etc. to cope with a deficit of £13m. At the same time the leader of the City Council is trying to attract £3 bn of private investment to ‘regenerate’ the city centre with shops, offices and housing”.

“If as is being said, the private sector cannot manage, how can the council in all their wisdom consider selling to the private sector? Already it is being said the elderly will be without care so hospitalisation would have to be a stop gap. Hospitals cannot cope now without a sudden influx of people. Where is the council coming from in their thinking? No way should they be taken over - these are specialist homes which need the close scrutiny of a body like the council, where we as relatives can go and they be accountable” (Family of elderly resident).

“The user option should include more control by lower management of service purchasers making them accountable to the homes. This should include a list of local service providers (food, plumbers) therefore revenue would be returning into the local community.

There should be less managers, these being replaced by senior carers to reduce running costs.

Expertise on dementia could be sold to the private sector to raise revenue and standards. Lobby Department of Health. If more dementia cases are referred there will have to be more staff and less bathrooms will be required”

“ Transfer of homes will lead to their removal from democratic accountability. There is a need to invest and improve the fabric of homes but this should be done by government freeing up government expenditure and allowing local councils to borrow to invest”.

“ I am totally opposed to introducing an element of profit into the care of the elderly. Money should not be creamed off to shareholders but fully invested in care”

“ With an elderly mother and father who will not be able to cope much longer - the time is

rapidly approaching when my mother will need long-term residential care. As I have a young family and transport is difficult, I would prefer a home nearby. Mimworth Grange is the only home which would fit the bill. It has been facing closure for 4 years, not attempt has been made to replace this home locally. The local population is getting quite elderly. I am not happy with the council's lack of foresight" (Mr. K. Tarpsey)

The letters from S.J. Cheshire, John and Barbara Webb and W.E. Faulkner which include many relevant comments are attached in Appendix 5.

Part 4

Staff consultation: Findings

UNISON Staff survey

A similar survey (appendix 6) to that conducted by RAGE was undertaken through UNISON in order to gain the views of staff directly working in the residential care service. This approach is in the spirit of Best Value which encourages the involvement of front-line staff in service development (DETR, 10/99).

Over 300 survey forms were returned and 301 were analysed for this report. This represented a third of the residential care workforce and was very high considering that the timescale to respond was extremely short, the workforce is fragmented and many work shifts making contact with individuals more difficult.

There was insufficient time to conduct a full analysis of the characteristics of the workforce, including pay levels, length of service and training levels. It will be necessary to conduct detailed research in order to fully examine the social and economic impact of any proposed changes.

The results were as follows. We have included a selection of the many written comments received from staff in addition to the survey responses.

Question 1. Which of these options should be taken forward by the council?

The consultation paper presents five main options for the council's care homes for older people:

Option 1. Establish a new independent organisation outside the City Council.

Option 2. Transfer to an existing independent organisation outside the City Council.

Option 3. Transfer of homes via sale to private/independent organisation.

Option 4. Use capital raised through transfer for new purpose built homes run independently.

Option 5. Mixed package of care, with some homes retained by the council and others transferred.

There is the possibility of an alternative option:

Option 6. An option developed by residents, staff and the community which develops and improves the existing council service.

Table 4.1: Preferred option to be taken forward by the council

	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Option 5/6
Number responding	3	2	1	4	40	231	10
Percentage	1.0%	0.7%	0.3%	1.4%	13.5%	78.0%	3.4%

Based on 296 returns

78% of staff surveyed wish the council to pursue an in-house option under Best Value which is developed by residents, staff and the community. Almost 14% would like the City Council to explore Option 5 which comprises a mixed package of care including some homes retained by the council and others transferred. 3% of respondents wish to see both options 5 and 6 pursued. Five further respondents suggested an option 7 where all the homes remain as they are and are retained and run by the council.

"I think the council should look at their motto for Best Value and look at care provision and not at cost as they have a false sense of value. How can you put a price on a smile, which is real

value for money. Private options may be cheaper but in the long term will they survive the competition and only meet basic care requirements?”(Assistant Manager)

“These people are in their last days and deserve and need the quality of care - they have given their lives in many ways, so don’t take theirs away. Human rights are something you cannot buy” (Kitchen Assistant, Victor Yates).

Question 2. Do you think that the needs of the elderly have been taken into account in the council’s proposals?

Table 4.2: Needs of the elderly taken into account

	Strongly agree	Agree	Disagree	Strongly disagree
Number responding	11	19	48	210
Percentage	3.8%	6.6%	16.7%	72.9%

Based on 288 returns

Over 96% of respondents considered that the needs of the elderly had not been taken into account by the City Council in developing proposals for the future of care services in Birmingham.

“These people are human beings - let them enjoy their last years with dignity and happiness” (Domestic, West Heath House).

“Social services have a moral obligation to provide decent care and accomodation to the old of Birmingham. You cannot put a price tag on people’s needs, but the private sector will do this by cutting costs. The vulnerable deserve better than this” (Night Care Assistant, Guestholme).

“Elderly people do not cope with change - moving premises, staff changing, new faces - they like to feel safe and well cared for and treated by staff they know” (Night Care Assistant, Heathway).

Question 3. Do you think the proposals contained in the Consultation Document will adversely affect quality of care?

Table 4.3: Quality of care will be adversely affected by council proposals

	Strongly agree	Agree	Disagree	Strongly disagree
Number responding	191	60	16	23
Percentage	65.9%	20.7%	5.5%	7.9%

Based on 290 returns

87% of respondents felt that the quality of care would be adversely affected if one of the councils five proposed options was pursued.

“In my past experience moving of clients to other homes has led to large numbers of clients passing away either in the follow up to the move or shortly after.” (Care Assistant, George Canning House).

“The frail elderly people of Birmingham have earned the right to be able to choose good quality care. The transfer or sale of local authority homes will remove or limit their choice” (Night Care Assistant, Bushmere House).

“These residents have paid their dues and should not have to go through this and it should never have got this far”.(Night Care Assistant, Bushmere House)

Question 4. What do you consider to be the five most important elements of a high quality service for the elderly in your community?

Survey respondents were asked to identify the five most important elements of a high quality service out of a list of eight.

Table 4.4: Five most important elements of a high quality service

Ranking	Number responding	%of total returns
1. Decent pay and conditions for staff	230	82%
2. High staffing levels	221	79%
3. Continuity of care from staff residents know	204	73%
4. Experienced staff	203	73%
5. Trained staff	197	70%
6. Improved facilities	150	54%
7. Range of activities for residents in the home	131	47%
8. Better premises	48	17%

Based on 280 returns

The five elements related to staffing were considered to be of greater priority than improvements in facilities in the provision of a high quality service. However, it is interesting to note that staff gave greater priority to improvements in facilities than the respondents to the user survey.(93%), Decent pay and conditions for staff (82%), high staffing levels (79%), continuity of care from residents staff know (73%) and experienced staff (73%) were considered to be of far greater importance than better premises which featured in only 17% of the returns.

“Plenty of tender loving care, common sense, observation and keeping families informed” (Care Assistant).

Question 6. Do you think that the following elements of care services are better provided by the city council or independent companies in your experience?

Staff were asked to identify whether, in their experience, the eight elements listed below were better provided by the city council or the private sector or a trust. In all cases the city council was considered to provide a far superior service.

Table 4.5: Assessment of differences in service provision

Flexible and responsive	99.6%	0.4%
High standards of continuity	98.6%	1.4%
Skilled, committed and experienced staff	98.9%	1.1%
Adequate staffing levels	97.9%	2.1%
Training programme	98.1%	1.9%
Better range of activities	97.1%	2.9%
Better facilities	94.4%	5.6%
Better premises	91.3%	8.6%

Based on 240 returns

“Residents, staff and families need to be listened to. I’ve worked for a trust and their care is well below standard and they want all staff to be working for 24 hours a day” (Care Assistant).

“The increasing standards are forcing private homes to close or increase their charges. Council homes are meeting these standards in spite of cut backs. Better investment could make this easier” (Care Assistant, George Canning House).

“From my experience of working in the private sector, council care services are 100% better with choice of meals, activities, outings, entertainments, personal hygiene” (Care Assistant, Florence Hammond).

Question 7. What do you think will be the most important needs of the elderly in your community over the next few years?

It should be noted that some staff presented one key priority whilst the majority of respondents prioritised several or all five elements and many gave them equal importance.

As in the user survey, the most frequently quoted aspect of need (78%) was the expectation by staff that there will be growing numbers of elderly people requiring a range of care services in Birmingham. 73% anticipate increasing numbers with specialist needs and 60% of respondents specifically wished for involvement of families and residents in decision making.

Table 4.6: Future needs of elderly

Important needs	No. of respondents	% respondents
Growing numbers of elderly people requiring a range of care services	218	78%
Involvement of families and residents in decision making	167	60%
Greater links between health services and social services	133	48%
Publicly owned and accountable services	107	38%
Increasing numbers with specialist needs	205	73%

Based on 280 returns

“Listen to residents, staff and residents relatives - we all need continuity of care and a stress free environment”. (Manager, West Heath House)

“Many Chinese old people cannot speak the English language and so they need Chinese speaking carers” (Care Assistant, Chinese Day Centre)

Question 8. Do you think that funding for care for the elderly in the city should increase, decrease or remain at the same level?

Table 4.7: Funding for care

	Increase	Remain the same	Decrease
Number responding	267	10	0
Percentage	96.4%	3.6%	0%

Based on 324 returns

96% of survey respondents want increased funding for care for the elderly in Birmingham over the next few years. Almost 4% wish for it to remain at the same level and no respondents wish to see any reduction.

“I think that elderly services are being dramatically reduced to the cost of elderly people and home care services are also being affected, so what level care and service are the elderly of the future going to receive?” (Clerical Worker, Wallace Lawler).

Finally, the great majority of staff surveyed also want homecare services and services in day centres to be part of the residents and community option.

Part 5

Transfer proposals

The Centre for Public Services report (June 2000) presented comprehensive evidence of the potential impact of transferring care homes for the elderly to the independent sector. The evidence held by the City Council itself on the quality of care in the local private residential and home care sector and the implications for staff are detailed below.

Several points can be added:

The private sector crisis continues

The chairman of Birmingham Care Homes Association, Jean Cowley, recently warned that the care homes industry was facing “meltdown” due to low levels of income from social services. Nine care homes have recently closed and eight more may close in Birmingham after Christmas.

This picture is repeated nationally. In Sheffield, a trust established by the city council to run its care homes for the elderly claims that it cannot continue to pay staff the same rates as they had while working for Sheffield City Council. It wants a third of its 500 workers still on the higher rate to accept cuts of £90 a week for carers working nights and up to £7,500 for senior managers.

Political impact

Appendix 7 lists the wards affected by potential transfer or closure of facilities and the councillor responsible for the ward.

Savings in unit costs will affect the quality of care

South Birmingham Community Health Council’s response to the City Council questionnaire circulated at the Best Value Stakeholder Day in September repeated many of the concerns of users and staff revealed through the survey.

“Any change tends to be a shock for the elderly.

The savings in unit costs by increasing numbers of residents would radically change the atmosphere and individuality of smaller homes.

The savings in costs by reducing staff costs would lower morale for both staff and residents.”

Quality of care - Inspection Report

Birmingham City Council’s own Annual Report of the Inspection Unit 1999/2000 concludes that both the local authority and independently run care homes have faced financial constraints. Local authority problems include to some staffing shortages largely relating to sickness and lack of funding for maintenance and improvements.

By contrast, the quality of care varied considerably in the independent sector and the statements quoted below from the report reveal the extent of the lower quality of provision amongst many homes.

Large private and voluntary homes: In some of the large private and voluntary homes *“financial constraints on fee levels coupled with rising costs may have resulted in corner-cutting in some homes to an extent that is unacceptable for the interests of residents”*.

In terms of staffing and recruitment the report states: *“The great competition for staff in the area has a marked effect and most homes have had difficulty in replacing staff who leave. Despite this, some employers have been found to pay less than the minimum wage, by employing people without training and in difficult personal circumstances. Such employment is unlikely to last and the staff turnover has a detrimental effect on the welfare of residents.”*

The report cites numerous staffing issues which impact on residents and the quality of care: *“Inspections have identified staff who are under-age to provide personal care, staff without entitlement to work, staff who are employed in the most challenging homes without training. Recruitment practice varies widely and accounts for many inspection requirements, for instance where references are not taken up, applications are incomplete, there is no induction or training”.*

Cases of abuse have also been taken up: *“The Unit has investigated a number of allegations involving adult protection issuesin several cases, lack of training was found to be the cause of extremely poor and abusive practice”.*

In terms of activities for elderly residents some larger independent homes are also failing: *“Homes are responsible for providing suitable recreation and education for residents but in some homes the emphasis on domestic tasks outweighs regular arrangements for social care, or group activities are arranged regardless of individual needs or wishes”.*

Small homes: There is a greater turnover of homes registered with the City Council which inevitably impacts on residents and their families. In 1999/2000 26 homes closed and 18 new homes registered. This follows a trend over the last five years, when 70 homes have closed and about the same number re-opened, about 50% of the total registered.

The level of serious complaints is high amongst these homes: *“Some complaints identified extremely poor standards of practice and or premises.. A minority of homes chose to close rather than meet the required standards.. It has been necessary to involve Environmental or Housing Services enforcement teams in some situations where physical or hygiene standards were especially poor.”*

Complaints and investigations

Domiciliary Care: 38 complaints received in the year related to 10 privately owned organisations and came from a variety of sources including service users, relatives and friend or from social care workers. The complaints covered a range of issues including care staff failing to arrive or arriving at the wrong time, poor management practices, calibre of staff including their skills and attitudes.

Residential homes: The annual report of the Inspection Unit states that many of the complaints were complex, requiring lengthy periods of investigation and time.

Investigation of complaints in the independent sector represents a major element of the work carried out in the Unit. The level of complaints is also rising, *“1998/99 witnessed a marked increase in the number of complaints received in comparison to previous years and this trend has repeated itself in 1999/2000, with the highest number recorded since annual reports began in 1991/92.*

Investigation of 130 complaints involving homes in the independent sector required over 700 hours of inspectors' time. The vast majority of complaints related to homes in the private sector, of which 90% were large registered homes.

16 homes were the subject of more than one complaint and required a series of visits by inspectors. As a result three large homes decided to voluntarily close and formal legal action was taken to close another. Care practices featured as the most frequent cause for complaint.

Staffing implications

The options presented by the City Council all assume that there will be changes in terms and conditions of employment for staff.

This would contradict the views of users (see Part 3) and would directly affect the quality of service.

A recent Audit Commission report (2000) on staffing which has arisen out of the Joint Reviews of Social Services argues that most councils could improve their services by applying human resource principles more effectively.

The report states that good people management is the key to quality services and four key areas for securing improvement in people management and, therefore, in services for users are highlighted:

1. Becoming a learning organisation that delivers results.
2. Planning longer term to attract the right people.
3. Using qualifications and training to retain good people.
4. Implementing good practice consistently to drive up quality.

Characteristics of councils that are doing well show that they exist to meet the needs of the users they serve and need to be organised to lead and support staff at the frontline who are delivering the service.

The Audit Commission states that there are a number of attributes which successful councils are doing, including:

- * They involve service users and their carers in decisions about their lives and in shaping local services.
- * They support and develop their staff through good communication, training and supervision.
- * They are committed to learning from users and frontline staff about what works in practice.

The Audit Commission's analysis of the workforce concludes that: *"Recruitment will become more difficult, requiring employers to review service provision and the skill mix of staff".*

The report states that councils need to plan over the longer-term by taking an overview of the workforce requirements for social care in their area:

- * *Strategic workforce requirements must be related to longer-term community needs, service objectives and local economic development strategies.*
- * *Strategic staff development plan should be derived from the workforce projections.*
- * *Strategic networks for workforce planning are essential to deliver and sustain planning at this level.*

Qualifications and training for staff are considered essential.

The Audit Commission recommends:

- * Implementing and reviewing the competence framework for all posts to support management and develop staff.
- * Using Investors in People framework to support practice.
- * Promoting equality of opportunity and encouraging diversity.

The transfer option would clearly work directly against good practice.

Private sector practice

The report points to the high level of turnover in independent sector residential and nursing homes (26%) and recruitment difficulties in almost 40% of homes.

Part 6

Equity and equality implications: gender, race, disability

A total of 3,400 staff are employed in Birmingham's care services for the elderly. There are almost 900 staff employed in residential care homes, 2,215 staff employed in home care and a further 275 care staff in Day Centres.

Of the residential care staff 775 (87%) are female and 321(32%) are from ethnic minority groups. There are 2,008 female home care staff representing 91% of the total and the vast majority are manual workers. 67% of day centre staff are female.

Cutting costs and privatisation would have a potentially discriminatory effect, particularly amongst low paid women workers and ethnic minority groups.

Table 6.1 shows the gender breakdown by ethnic minority group.

Table 6.1: Gender and ethnic minority breakdown of employees in Birmingham's residential care homes

Ethnic minority group	Male	Female	Total	% of total
Bangladeshi	1	1	2	0.2
Black Afro-Caribbean	21	183	204	22.8
Chinese	14	1	15	1.7
Indian	3.2	6	23	2.9
Pakistani	2	15	17	1.9
Other	4	50	54	6.0
White	70	502	572	64.1
Total	118	775	893	100.0

Source: Birmingham City Council

A transfer out of local authority ownership and control would have a specific impact on ethnic minority staff and especially those from the Black Afro-Caribbean, Indian and Pakistani community. Social Services has built up a workforce which now has a relatively high proportion of staff from different ethnic communities, reflecting the local population and often meeting the specific needs of elderly people from ethnic minority communities in the city.

The same breakdown is shown by home in appendix 8. This reveals high concentrations of ethnic minority staff at particular elderly people's homes.

We cannot compare city council employment directly with independent sector employment in Birmingham. Whilst the council holds considerable information on the residential care homes, it does not collect details about the workforce in terms of pay, ethnicity and gender. The Local Government Act 1988 prevents local authorities asking such details from contractors, though this is about to be altered under the Fair Employment Provisions of the Local Government Act 2000.

The following table shows the breakdown by grade, gender and ethnic origin. The vast bulk of staff are care workers with an annual salary of under £10,000 for a full-time job. Part-time staff will earn considerably below this level. This represents an hourly rate of £5-£6, which is at least

£1 an hour more than private sector rates.

Table 6.2: **Residential care workers by grade and gender, Birmingham**

Grade	Male	Female	% Male	%Female	%Ethnic Minority	Total
R7	7	19	0.8	2.1	54	26
R6	3	3	0.3	0.3	17	6
R4		1		0.1		1
R3	13	71	1.6	7.9	38	84
G6	13	63	1.5	7	45	76
G5	3	31	0.3	3.5	29	34
G4	60	562	6.7	62.7	36	622
G3	19	3	2.1	0.3	18	22
Scale 2	2	24	0.2	2.7	19	26

Source: Birmingham City Council

Note:

Grade R7 Salary £23,295-26,781

Grade R6 Salary £22,194-25,419

Grade R4 Salary £19,101-22,194

Grade G6 Salary £10,209

Grade G5 Salary £9,897

Grade G4 Salary £9,897

Grade G3 Salary £9,273

Scale 2 Salary £11,439-£11,991

It is recommended that further analysis of the workforce is conducted using information held by the City Council and data collected through the staff survey on gender, ethnic origin, pay rates, hours, length of service, training and private sector experience.

Part 7

Social and economic impact of transfer

The five options presented by the City Council would have wider social and economic effects on the city and the region.

The existing inequalities in employment in Birmingham's labour market would be exacerbated by any transfer out of city council ownership and control.

Job losses

The potential transfer of residential and home care services out of city council ownership will result in over 1,000 jobs transferred to the independent sector. Much of the impact will be immediately felt in local communities since most care workers live very near to their workplaces.

Reduced pay and conditions of employment

If transferred many staff are likely to suffer reduced terms and conditions of employment. This number will grow as a result of staff turnover and the recruitment of new staff on inferior terms and conditions of employment. The City Council have acknowledged this in their presentation of options.

Mainly women's part-time jobs

Analysis of the gender impact (see Part 6) of potential job losses reveals a gender division with women suffering the bulk of job losses. A very high proportion of the jobs are part-time.

Additional jobs loss to the local economy

A transfer of city council jobs will have a direct knock-on effect on jobs in the local economy because of reduced spending power. The Centre estimates that for the loss of every five part-time care jobs from the council another job will be lost in the local economy.

New staff employed on reduced pay and conditions will also impact on the local economy.

Regional

West Midlands Low Pay Unit has highlighted some of the key characteristics of employment in the region which need to be taken into account when assessing the longer term impact of transfers:

- * Whilst unemployment in the region has been falling, there are significant inequalities in employment opportunities.
- * Levels of economic activity are lower in the region than the rest of the UK, reflecting higher levels of disadvantage.
- * Unemployment tends to be higher than the national average, especially at times of economic downturn.
- * Men in the region tend to experience longer spells of unemployment than nationally.
- * There are significantly higher levels of unemployment among ethnic minority groups in the UK and this is reflected in Birmingham.
- * Youth unemployment is a bigger problem in the region than nationally.

- * The region continues to depend on manufacturing, though there have been big increases in service employment.
- * Nearly one in five part-time workers in the region do not receive any paid holidays.
- * Job insecurity continues to be a problem in the labour market, with knock-on effects on spending power, health and education, and social exclusion.
- * There are wide variations and inequalities in average earnings for different types and groups of employees with a 50% gap in average earnings between manual and non-manual employees.
- * Women in the region are twice as likely to be low paid as men. Over 50% of women employees earn less than £4.50 an hour.
- * Half of all part-time workers in the region earn less than £4.50 an hour.

Part 8

User rights: Human Rights Act 1998 and Best Value

Along with other legislation, both active and proposed, local authority best value reviews originating from the Local Government Act 1999 (extended through the 2000 Act as well), must meet the terms of the **European Convention on Human Rights**. This was formally introduced into UK law through the **Human Rights Act** on October 2, 2000.

Local authorities, explicitly defined as a 'public authority' under the Act, have an **express duty** to promote the *philosophy* as well as the principles of the Convention rights (Klug, 2000, p.169; Local Government Association, 2000, p.14). The philosophy underpinning the Act is of paramount concern. Public authorities are a central pivot as vehicle of the 'cultural change' expected by the national Government. Helena Kennedy QC claims that

"once human rights are reduced to the finely argued interpretations of words or cases, or time-consuming meritless arguments in the courts, the huge, embracing possibilities for change will be lost. **If human rights are about anything they are about a set of values, whose spirit and philosophy should inform everything from government policy to personal relationships.**" (Klug, 2000, p.xiii, emphasis added)

This section is concerned with the legal application of the 'best value review' process implemented by Birmingham City Council in respect of meeting the requirements of the Human Rights Act. The section is structured thus: -

- 1. Background to the Human Rights Act**
- 2. The responsibilities on public authorities in meeting the legislative framework of the Act**
- 3. Cultural change principles of the Act arising from its status as a 'living instrument'**
- 4. The context of implementation of the Act in respect of older people, their public services and 'best value'**
- 5. The failure of Birmingham City Council and the Social Services Directorate in meeting their commitment to the Act in respect of (2), (3) and (4) above**
- 6. Possible avenues of remedial action open to residents, their families and the wider Birmingham community as a recourse to the potential infringement of their Convention rights**

Background to the incorporation of the European Convention on Human Rights into UK law

The introduction of European convention on Human Rights into UK law through the Human Rights Act 1998 is one of the most significant legislative and constitutional changes to be enacted in the UK. In the absence of a written constitution, it establishes a number of *fundamental freedoms* in UK law.

Its most *immediate* effect will be to allow individuals the right to claim their Convention rights in UK court and tribunals instead of through referral to the European Court of Human Rights in Strasbourg. The broad purpose of the Convention was to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. The UK ratified the Convention in 1951, and allowed individuals rights of petition in 1966. But, until the Human Rights Act, no legal steps had been taken to incorporate the Convention rights into British law.

The Act achieves this in two ways: -

a. By requiring that all legislation, where possible, is interpreted compatibly with the Convention rights;

b. By requiring that all public authorities act compatibly with the Convention rights (unless prevented from doing so by primary legislation).

The Convention rights that are applicable in the context of the Birmingham City Council best value review in relation to older people and the wider Birmingham communities are, though not exclusively:-

Article 2 - Right to life

Article 3 - Right to non-degrading or inhuman treatment

Article 6 - Right to a fair hearing

Article 8 - Right to respect for private and family life

Article 14 - Prohibition from discrimination

The responsibilities on public authorities in meeting the legislative framework of the Act

The legislation is clear in stating that individuals can seek redress for infringements or *potential* infringements of their Convention rights if they believe that those rights have been or *may be* breached by a public authority (Home Office, 2000, 5; Klug, 2000, 169). The Act covers other organisations that provide a public service, for example, private sector hospitals, private nursing homes and private residential care units (Department of Health, 2000; Home Office, 2000, 5). As Klug states, the Act

"brings private parties into the net of responsibilities under the European Convention on Human Rights in a range of circumstances. This approach is given a boost by the Human Rights Act, which includes 'failure to act' on the part of a public authority as a *potential violation of Convention rights*." (2000, p.169. Emphasis added)

Given the insecure market environment for residential care in Birmingham, and the proposals of Social Services for the potential to restructure present public service provision, the City Council must ensure that the whole process meets the legal requirements of the Act. Given the added legal requirements on public authorities, it is essential that they need to both (1) positively promote the rights of users and (2) to ensure that there will be no possibility of a potential breach or infringement of users Convention rights. In order to meet this legal requirement the best value review process should have had built into its procedural framework from the very outset provision to meet this challenge.

Cultural change principles of the Act and the 'living instrument' test

This is a fundamental part of the 'philosophy' of the Act. It makes reference to, and promotes, the fact that the Act, through Strasbourg rulings, has come to embody the social and cultural values of society as it changes. The Act is seen through this process as a 'living instrument.' In other words, that decisions emanating from Strasbourg rulings are applicable to the values of contemporary society. Francesca Klug suggests that one key part of the cultural change that the Act will bring about is the work of public authorities in positively promoting the values of the Act:

-

"If the Human Rights Act works as intended, then governments, public bodies and even private bodies where they carry out 'public functions' will have positive obligations to secure peoples' rights in a range of circumstances. **Public officials of all kinds will no longer be bound only by the letter of the law, nor will they be prohibited just from infringing fundamental rights. There will be pressure on them to respect the rights of the people in the everyday decisions they make as they go about their work.**" (Klug, 2000, 48. Emphasis added)

The R.A.G.E. resident, family and community survey demonstrated that users and the wider community wish to see and positively advocate both greater public resourcing of local authority care services and the pressing desire to develop the council's services so as to meet the needs of the changing and diverse demographic population in the city (question's 8 & 9, pp.22/23).

The Context of the implementation of the Act in respect of older people, their public services and 'best value'

Birmingham City Council proposals for the future development of elderly care services originated in a report presented to the Social Services Advisory Team Meeting on 21 July 2000 (Report of the Director of Social Services, Social Services and Health Advisory Team, 2000). The report, passed by both the Social Services Committee and the Cabinet, was kept from the general public by an 'exemption order' under the 1972 Local Government Act.

The recommendations for service change were part of a service review of the council's service by Deloitte Touche. The report, its terms of reference and the proposals advocated, had been subject to no consultation with service users, their immediate families, staff and the wider community. This disregarded the authority's *statutory* duty to consult users, staff and the community in the development of corporate strategies at the earliest possible stage (Department of Transport, Environment and Regions, 1999). This was another example of the approach taken by the Social Services Department over the future of the homes. These criticisms, and the failure to follow legal guidelines, have already been noted (Centre for Public Services, 2000; Residents Action Group for the Elderly, 2000). Added to this were recommendations in the 'exempt' report to **actively** discriminate against women and Black and Asian employees who work in the councils homes (Birmingham City Council, 2000).

In this context, consultation with users, families and the community is of significant importance. The 'Knowles' Report provided an important background to the context of present and future care needs. It also demonstrated the importance of developing services for older people in Birmingham (Birmingham City Council 2000). The report correctly highlights the

- **changing demography of older people**
- **change and diversity needs commissioning for meeting the requirements of**
- **the city's minority ethnic communities**
- **the fragmented nature of current care provision**
- **the economic status of many older people, often geographically located within**
- **the inner city areas and living in poverty**
- **the lack of hard data to develop services, most significantly the lack of data for individuals with Dementia and Alzheimer's**
- **the isolation that many older people face**

Though containing extremely important guidance and data for future care needs planning and commissioning, the report failed to consider the market depression in the private, independent and voluntary sectors as a direct result of local authority control and suppression of fee payments. This is more critical given that the local authority policy of fee suppression in the private, independent and voluntary sectors has led to a financial crisis resulting in home closures and potential sector contraction.

The Department of Health wrote to all Directors of Social Service's in July 2000. The circular gave notice that all Social Service's departments and public sector health care managers were required to

- **ensure that all staff including contractors and independent or private providers of their public services were made aware of the duty placed on public authorities**

by the Act;

- **ensure that local policies, operational procedures and practices continue to be compatible with the European Convention on Human Rights.**

In seeking a best value review of services providing residential, homecare and day centres in Birmingham, the onus is squarely on the local authority in ensuring that all private contractors, external competitors and the authority itself meets the requirements of the Human Rights Act. The authority must act positively in relation to both best value and the Convention rights for meeting the needs of older people in the development and commissioning of care services.

The failure of Birmingham City Council and the Social Services Directorate in meeting their commitment to the Human Rights Act

Within the best value review, the authority held responsibility for

- * **legally consulting the users, staff and wider communities in the development of strategic policies that meet present and future older people's needs and requirements;**
- * **ensuring that the best value review comparison process had the Human Rights Act and the Convention rights 'built' into its overall assessment procedure;**
- * **ensuring that the best value criteria and process met all existing equalities protocols, including the authority's own equal opportunities policy and the work of the authority's own Lawrence Inquiry review committee;**
- * **ensuring that its funding practices did not infringe or potentially infringe user Convention rights in both public and private care sectors;**
- * **ensuring that the private, independent and voluntary sector were informed of the changes required of them in meeting the Human Rights Act;**
- * **ensuring that training and risk assessment procedures for staff and managers in both public and private sectors were in place and that they met the standards of the Act in not infringing individuals Convention rights;**
- * **ensuring that strategic policy development for measuring the council's practices in relation to Convention rights had been submitted to the general public, service users and staff for consultation as defined in national government guidance.**

The evidence powerfully demonstrates that the authority has met none of these benchmarks in relation to the 'best value' review of its Adult Services Division.

Narrowing of scope of Convention rights

The report of the Director of Social Services is clear when it states that:

"Consultation papers must be explicit about what exactly is being consulted about and the weight to be placed on responses"

"Explicit consideration must be given to the impact of proposals on the Articles of Rights in the Act and, if there is likely to be any detriment, how this can be dealt with or why the proposals are necessary." (Birmingham City Council, 2000, p.16)

Infringements of users Convention rights will be potentially infringed as: -

1. **Proper user consultation has not taken place.** Users, staff and the wider community (as

future potential users of services), were not engaged prior to the process of strategic service design. Instead, the authority's proposals were written by Deloitte Touche who did not consult service users. Second, the R.A.G.E. user, family and community consultation process uncovered great unhappiness and anger at the manner in which Social Services conducted their own consultative process. Of key concern were

- **The meeting timetable of Social Services which discriminated against family members with jobs**
- **The fact that many families did not receive the consultation document that emerged from the Deloitte Touche report until they arrived at the meeting**
- **That Social Services did not give a context or history to the reasons why the options were presented**
- **That the timetable to discuss what would be major changes to care provision for all Birmingham's older communities, now and in the future, was only for a period of just over one month**
- **That Social Services managers were unable or unwilling to answer key questions**
- **That the process itself was ill-thought out and rushed and that this had a negative effect on elderly residents who were upset by the manner in which it was taken forward.**

2. **That the Consultation paper that emerged from the Deloitte Touche report stated that the authority had given only "initial consideration" to the Human Rights Act.** The paper only made reference to Articles 2, 3 and 8 (Birmingham City Council, 2000, p.1). This has narrowed the scope and impact of the Act. It also reverses and ignores the advice given to the Department. For example, given the awareness of the users, families, staff and community to the needs of older people, there is the very real possibility that through the failure to undertake extensive analysis of Birmingham's wider population, the authority may invoke service changes that discriminate against older people. This may result in an infringement of a Convention right onto which would be added **Article 14** (prohibition from discrimination on the basis of age as 'any other status'). The authority has also given absolutely no consideration to the impact of **Article 6, Right to a Fair Hearing**. As the consultation paper makes clear

"The Advisory Team will to be bound to accept any particular view **but will come to a judgment based on their assessment** of how Best Value ... can be obtained, and of the views presented." (Birmingham City Council, 2000, p.1)

While not placing Article 6 under any framework (itself a potential infringement of a users Convention right in seeking redress to violations or potential violations of other Convention rights), the authority has ignored advice from its national body, the Local Government Association. They state that Article 6 is one of the most important Articles to bear in mind in conducting human rights audits. Further,

- **Local authorities should aim to ensure that their decision-making procedures can withstand an Article 6 challenge in the courts;**
- **To avoid legal challenges in the future, it is important that local authorities and their officers scrutinise their practices now;**

- **Scrutiny must look at how policies actually work and not simply how they are expressed;**
- **Article 6 requirements mean that observance of procedural guarantees applies in relation to the determination of all civil rights and obligations;**
- **Article 6 is concerned with guaranteeing an enforceable right to procedural fairness, transparency and accountability in the determination of civil rights and obligations;**
- **Article 6 requires a hearing before an independent and impartial tribunal;**
- **Article 6 will require that the conduct and processes engaged by the local authority have always been fair;**
- **Evidence and supporting information will need to be given to ‘victims’ or potential victims of an infringement so that evidence can be cross-examined;**
- **Timescales must be ‘reasonable’ and take account of the needs and requirements of others party to the case;**
- **Article 6 will give the courts greater scrutiny over the procedures of the authority;**
- **Article 6 gives the right to an independent and impartial appeal mechanism;**

Reasons for decisions and the evidence supporting such decisions must be made available for appeal purposes .(Local Government Association, 2000).

The decision to engage Deloitte Touche was a decision emanating from Social Services who had background information to the report and its construction. Likewise, the decision to undertake a consultative exercise based on their recommendations was taken by Social Services. Third, the decision over the future of the three elements of the care services for older people will be made by the same body. This places the authority in conflict with both Article 6 and the national guidance of its national association.

Infringement of Articles 2, 3 and 8

Evidence from private contractors demonstrates that the contraction of the residential care market in Birmingham may potentially infringe Convention rights of their individual residents. The authority has failed on four counts to resolve this situation: -

1. Suppression of Fees to private sector.

The authority supports 75% of all private, voluntary and independent sector care homes in the city. Essentially, there are ‘two’ public sector markets in Birmingham. The authority is actively seeking through its proposals to reduce the cost of care provision in 28% of market supply and demand. The Chairman of the Private Sector Residential Care Association, Jean Cowley, has already warned of an impending crisis.

The authority was legally informed by the Department of Health to inform private contractors of

their responsibilities under the Act and the Convention rights on July 20 2000. Equally, responsibility also lay with the authority to maintain service contracts and ensure that individual Convention rights were not infringed.

As of October 26 2000, the authority had failed to inform the sector of its responsibilities (Social Services Contracting Department, 2000, p.1). The private sector is therefore completely unaware of its real responsibilities under the Act. This was highlighted in the R.A.G.E. submission to Social Services and Health Scrutiny Committee in April 2000. However, given that the authority is the largest stakeholder in the city, it is potentially infringing the Convention rights of residents in the multitude of homes that receive public funding.

The crisis that is emerging through the long-term suppression of fee payments is undermining both the care needed and the Convention rights of individuals and their families who are unaware of those rights and how they can determine them fully.

2. Best Value Comparison and transfer of services

Given that the authority has not yet administered its legal responsibility from July, this raises a critical question over how a best value review comparison can take place. Given that the authority is the primary source of funding for both sectors, its failure to follow its legal responsibilities profoundly demonstrates that its own best value comparison is legally, morally and ethically flawed. The Human Rights Act and the Convention rights should have been at the centre of the review, given that the Act became law during the consultation process. Moreover, the fact that the authority is seeking to transfer part of its overall service provision to a trust or series/number of private bodies operating in the private sector at reduced costs, holds the very real potential that greater reduced costs across the sector as a whole will result in home closures and overall service contraction.

Given that Birmingham's older population requires greater diversity and care needs, this potential action will infringe

Article 2, Right to Life: National evidence suggests that forced home closures have a negative impact on the duration of life of residents. Acting, or potentially acting, in a way contrary to the Convention rights will violate the right to life of residents.

Article 3, Right not to receive degrading or inhuman treatment: National evidence, most recently Four Seasons in Wandsworth and Tameside, Manchester, indicate that cutbacks in service funding has a detrimental effect on the care residents receive. It has been reported that Four seasons (who manage the homes for the authority), are proposing to reduce the number of incontinence pads for clients. The degrading effect of this action on users will potentially be an infringement of Article 3;

Article 8, Right to Respect for Family life: Many family members have expressed real and great concern over the failure of the authority to consult with them and to receive adequate information in reaching personal decisions over their family members in the homes. The potential remains for a violation of Article 8 in respect of the life that families now share with their relatives in the homes under council control.

3. Private Sector Regulation in line with the Convention rights

The Human Rights Act has implications for staff, as well as the wider community and family members. The best value review process was unable to determine from the private sector the numbers of ethnic minority employees who work in private care homes. There was very little information on how care in the private sector could be objectively compared to the public sector homes. R.A.G.E. have argued that any best value review should, as one example, take into consideration labour market turnover in relation to the care offered in private homes. R.A.G.E. are of the firm opinion, overwhelmingly supported by evidence from families, users and the wider community (question 7, p.21, this report), that continuity of care provided by a stable staff cohort is of supreme importance.

Information that is available from the private, voluntary and independent sector point to staff

annual turnover figures at approximately 25%. This compares to 4% for the public sector homes. Recent evidence from the North East Citizens Advice Bureau (2000) also points to the greatest abuses of minimum wage legislation within private residential and nursing homes. The sector is notorious for its failure to recognise basic trade union rights. Many staff who work in the sector are also untrained and unskilled and, given the lack of resources, there is the very real danger that human rights violations will occur at some point in time. In direct relation, the recent Social Services Inspectorate Report pointed to an 188% increase in complaints against the private sector since 1997.

4. Evidence from Marchaven Consultants

Following the initial 'stakeholders' conference that initiated the consultation process over the Deloitte Touche proposals, the Council commissioned a review of the event from a Management Consultant. Their response was sent out incorrectly to all individuals and groups who attended the event.

Given the status of the consultants (who had been invited to chair the proceedings and map out possible future developments), this initial advice is of concern. The advice is also contrary to Human Rights and best value legislation.

The organisation "has extensive experience of carrying out option appraisals for the future of local authority care services and of project managing the transfers of local authority care homes"

They advise that a bona fide user advocacy group recognised by the full council are "a serious obstacle to implementing options for the future of the services"

This includes the fact that R.A.G.E. are bringing home to residents and their families their legal rights under both best value and the Human Rights Act

The group could be a "source of a legal challenge to any proposed externalisation of services" (Birmingham City Council, 2000) Following a complaint by R.A.G.E., the Consultants organisation issued a new document that removed the earlier possible infringements of the Convention rights and that undermined the Act's philosophy.

The role of the Consultants in this process is instructive. It again offers ample evidence of the manner in which the Council was prepared to build active discrimination into the process in relation to the work of the recognised residential care homes user organisation.

Possible Avenues for Remedial Action in relation to the infringement of Users Convention rights

Possible Infringement of Convention rights

The evidence cited demonstrates that

1. The authority is potentially infringing Convention rights for users in the private, voluntary and independent sectors as a direct result of fee suppression.
2. The authority has sought advice from organisations that advise against informing users and others of their rights under new legislation.
3. The authority's best value review is fundamentally flawed. This is a direct result of the failure to ensure that Convention rights were at the centre of the best value process.
4. National evidence demonstrates that processes of privatisation have a negative impact on the most needy in society.
5. The quality of care, a fundamental feature of Article 3, is relegated to cost considerations.

6. The authority has set up the process and will make the final decision. This goes against national advice from the Local Government Association and is an infringement of Article 6 in relation to other Convention rights (2,3 8 and 14).

Remedial Action

Users, families and residents have a legal right to challenge the best value review through the courts. It is important that if this occurs, the authority has a legal obligation to make available all evidence so that the hearing is "fair and impartial."

Remedial action also includes best practice advice to the authority for future care needs developments.

Part 9

Residents, families, community and staff option and recommendations for the service

Preferred option: Integrated, in-house residential care, day and home care service

1. Birmingham City Council should maintain ownership of its residential homes, its home care and day care services and continue to directly employ staff engaged in these services.
2. Residents, families, community organisations and staff should be centrally involved in drawing up sustainable improvement plans for the in-house service, based on the views gained through the consultation exercise reported above.
3. Future service planning should be in the context of user needs, integrated and co-ordinated provision and joint work with health organisations including the Health Authority, Primary Care Groups, Community Health Councils and other local health and care bodies.
4. The City Council should conduct a comprehensive quality assessment of the in-house service and develop innovative proposals for targeting and redirecting existing and future resources within a five year planned improvement programme. Systems should also be developed to improve quality and user satisfaction in council funded care provided by the independent sector.
5. Services to the elderly, including all residential care homes and other integrated services for the elderly such as home care, day care and respite care, should be subject to a comprehensive examination. This should focus on the operational, management costs and potential options for re-directing resources.
6. The council should work with users, user organisations, the trade unions and staff on developing a Best Value Action Plan for the in-house service. This should be conducted with the full involvement of the trade unions, users and the wider community in accordance with the Best Value requirements.
7. Alternative funding options and the impact of phased improvement work on the capital programme should be fully investigated.
8. The City Council should make strong representations to the Government to release increased funding to meet the needs of elderly people and improved care provision, including increased levels of skilled staffing, training, improved standards, and capital investment.
9. City Council staff should be fully informed of the implications of the Human Rights Act 1998 for the public and private sector and training should be conducted in Risk Assessment Procedures.
10. The Best Value Action Plan should take into account the findings and recommendations of the Knowles Report including more responsive social care, investment and joined up approach, capacity building for black and ethnic minority led services and greater participation of older people.
11. The Best Value Action Plan should take into account the findings of the Joint Review for a more inclusive agenda.

Home Care

Programme of service improvement based on user needs
For example, multi-disciplinary teams to meet a range of needs

Phased programme of service improvements

The City Council should develop a phased programme of service improvements including investment in the homes. This should be needs led and planned with the full involvement of residents, families, staff and community representatives. Staffing issues should be a key part of the improvement plan.

Joint planning and commissioning

The City Council is aware of the need to improve its commissioning framework. Democratic accountability should be built into the commissioning framework which may include joint work between the Health Authority, Primary Care Groups and City Council.

It is the view of RAGE, and many families consulted about the recommendations, that the City Council should maintain a key role in the commissioning framework and that a distinction should be maintained between services - residential care, home care, day care, respite care, intermediate care and other specialist care. This will be necessary to identify responsibility and resources to meet the different needs of the elderly in the city.

There should be agreed terms of reference for user, family and carer involvement in commissioning and planning services.

Stronger local authority role and regulatory framework

Until such time as a needs led commissioning framework is in place, the authority should maintain control of its 28% market share and builds a stronger regulatory framework into the private sector for the monitoring of quality of care, employment, equalities and the Human Rights framework.

Best Value review

The best value review undertaken should be subject to independent appraisal in order to gain information for the overall commissioning framework.

Funding strategy

The council needs to conduct a comprehensive cost analysis in the context of Best Value and investigate alternative sources of finance. There are other options for funding service improvements.

1. In the first place, strong lobbying of central Government for defined funding of services to the elderly.
2. Investigation alternative sources of funding such as the re-direction of council resources, increased council tax charges to specifically meet additional costs of refurbishing homes.
3. The council should explore funding options and alternative sources of finance for an integrated community care service which includes in-house provision of residential care, home care, respite care and other specialist provision. Councils will be freer to borrow for capital investment once European accounting conventions are adopted and planned changes to the regulations governing capital spending.

Staffing strategy

Full recognition of the importance of care staff in the quality of care. This will require attaching a clear value to the work of residential and home care staff, improved training, high quality and experience. It is recommended that further analysis of the workforce is conducted using

information held by the City Council and data collected through the staff survey on gender, ethnic origin, pay rates, hours, length of service, training and private sector experience.

Planning for future needs

The City Council should take into account the following points raised through the consultation in planning service improvements:

- * Increasing numbers over the age of 85 years.
- * Increasing numbers requiring specialist home care.
- * Increasing numbers of ethnic minority elderly with specific needs.
- * Longer term plan for the development of smaller homes which are less institutional in their provision.
- * Recognise the growing need for residential care.
- * Recognise that new-build solutions will not necessarily improve the quality of care.
- * Reflect what residents value - homely, safe, warm environment, with high standards and quality of staff, to ensure the best quality of life possible.
- * Provide a range of services which are responsive to the stated preferences of users and their families.
- * Involve community organisations including different ethnic minorities to be involved along with local charities.
- * Adapt and refurbish existing care homes.

Human Rights Act 1998 and Best Value

The authority should build the Human Rights Act into all its care management and procurement practices.

The authority should build a stronger regulatory framework into the private sector for the monitoring of human rights training, risk assessments and overall care management.

The authority should call on the Government to introduce as soon as possible Protocol 12 into UK law and begin the development of a Human Rights Commission for the UK which can work with care standards regulators at a national level in respect of elderly care provision.

Scrutiny Committee

Any decisions taken in respect of Adult Services (Residential Care, Day Centres and Home Care Services), should be subject to appraisal by a specially constituted Scrutiny Committee. This should include, as well as Councillors, health care practitioners, social workers, Community Health Councils and residents representatives.

The council should make available all evidence, including background reports, to the committee in their deliberations.

Private sector

The local authority through an independent scrutiny committee investigation should as part of overall care commissioning, conduct an independent review of the private, voluntary and independent residential care sector.

The authority, working with staff unions, should work towards agreeing union bargaining facilities and systems with the Birmingham Care Homes Association.

The authority should produce a detailed Human Rights training scheme and Risk Assessment Audit for the private sector in meeting the demands of the Convention rights.

The authority should start a data collection exercise with all private contractors so as to build a profile of employee equalities and employment policies. The authority to submit these to its own Equalities Division for advice and future employment and training contract specification.

User, family and community involvement in the establishment of a Care Trust for Birmingham.

The Government is proposing that Care Trusts should be established in the future. The City Council, along with other local organisations, should work to ensure that this is a democratic body which includes families, community groups and trade unions.

Local economic development

The City Council should undertake to ensure that decisions on the future of care services in Birmingham are assessed in the light of:

- * Employment impact on locality of any changes to services.
- * Local purchasing arrangements.
- * Community based spending agreements.

Appendix 1

Current service

Residential and Nursing Home Care

Local authority places - 911 (20%)
Independent sector places - 3664 (80%)

Total 4,575

Home care

In-house service - 7,457 (81%)
Independent sector places - 1,792 (19%)

Total 9,249

Day care

In-house service - 1,249 (42%)
Independent sector - 1,703 (58%)

Total 2,952

Appendix 2

Future options: Residential Care Homes for Older People in Birmingham

Summary of report, June 2000

Best Value

- The council has conducted a Best Value pilot review of residential care and produced a set of targets, which include plans to reduce in-house unit costs. However, this excluded the five homes initially scheduled for closure - Guestholme, Florence Hammond, Palmers Croft, Minworth Grange, Lyttleton House. The proposed trust option is not part of a review being conducted currently. The pilot review process was heavily criticised by users, their families and the trade unions. A comprehensive Best Value review which includes **assessment of options** should be conducted with the full involvement of service users and families, staff and trade unions prior to any decisions being made for a preferred option.
- User rights under the Best Value guidance and Local Government Act 1999 will be broken if proposals for the homes, including the trust option, are made without full consultation with residents and their families. It was recognised by the Scrutiny Committee Report that the Social Services Department did not consult residents and families satisfactorily on the proposed home closures. In addition, users and staff may have cause to use the provisions of the Human Rights Act 1998 if consultation is not conducted fully and views of users and staff not taken into account in making a decision.
- Consideration of the trust option should be stopped until a comprehensive and accurate analysis of Birmingham's full range of care provision for the elderly and its costs has been carried out. This

needs to look at accurate comparisons in terms of types of care and identify inputs to the service, not only 'price'. This will also have to take into account staffing requirements, skills levels and user needs. The Government has clearly stated that users should be centrally involved in local authority services and that Best Value is concerned with valuing staff, not mirroring the lower standards in the independent sector.

Trust option

- The closure option for five homes initially considered by the council, has been rejected in favour of the trust option involving all homes. The Scrutiny Committee recommends that the majority of all 31 residential homes are transferred to a trust. This report identifies many of the issues experienced in transfers to independent trusts - a form of externalisation. A full understanding of these issues is essential before any consideration of the trust option is taken any further.
- The independent sector acts commercially, adopting business values and practices. Trusts are responsible to trustees and not service users. Trusts and other not-for-profit organisations are economically vulnerable and their activities including the treatment of staff very much mirror private providers.
- One of the purposes of a trust would be to raise capital funds for improvements to homes and reduce costs. In the longer term these arguments are economically unsustainable and do not represent value for money. The option of retaining the majority of homes and achieving an improved and more cost effective and flexible service under council control, and within the Best Value framework, has been overlooked.
- The council is arguing that raising standards is crucial. Currently 60% of the city council's homes are quality assured, whilst only 13% of homes in the independent sector are. The emphasis on registration requirements and physical changes to the homes is important but will not be solved by trust status. Whatever the future requirements for improved standards are, they will apply equally to the local authority and independent sector.
- The transfer of homes to a trust would result in less coordination of services to the elderly. It would also weaken the council's bargaining strength for placements in the independent sector in the future. In the longer term independent operators could raise fee levels and leave the council in a very weak position when purchasing residential care places.
- Transfer of homes to the independent sector would remove choice for future residents and undermines the decision taken by existing residents and families who have already chosen council homes.
- The quality of care for residents is directly linked to quality of employment and training for staff. If attempts are made to cheapen the service, the council's care practices and residents' rights are bound to suffer. This research shows that in the majority of cases of transfers to a trust, staff have faced major reductions in pay and conditions of services. In addition, the independent sector lags way behind local authorities in terms of training and development programmes for staff.
- Transfer of all or part of the service would remove democratic control and accountability from the council. It would also result in the loss of integrated services and separate residential care from other services to the elderly. It would reinforce the move towards a fragmented, individualised service.
- The care sector is in disarray following two decades of growth among private companies. Occupancy levels in some areas have been falling and many independent operators are critical of the Government and local authorities over the level of fees. Many are facing severe financial problems. In addition, independent providers have expressed concern that profit margins will be

squeezed further.

- The private sector is putting pressure on the Government and local authorities to meet the costs of the proposed new National Standards, additional training and staffing costs.

Financial options

- Where would the money for investment come from if the homes were transferred? Non-profit operators are not going to invest unless they have a return on their investment which could in turn mean higher fees and less money spent on staff, training and development.
- Capital provided by the independent sector will not be “free money” and repayments will be reflected in the weekly operational costs of care.
- Transfer to a trust would result in weakening the council’s bargaining strength for placements in the independent sector in the future.
- The council should explore funding options and alternative sources of finance for an integrated community care service which includes in-house provision of residential care, home care, respite care and other specialist provision. This is in the context of Government plans for long term care and pressure to increase public spending, particularly on health and care services. Councils will be freer to borrow for capital investment once European accounting conventions are adopted and planned changes to the regulations governing capital spending.

There are three main strands to financing capital works:

1. Increased funding from the council’s capital programme .
2. Access to capital including loans from the Public Works Loans Board and alternative funding through the European Investment Bank which has large assets and is looking to invest in health and social services following a broadening of its remit after the European Union Amsterdam Summit in 1997.
3. Future Government spending programmes and initiatives in health and community care.

The future funding of residential care is also expected to change which could reduce pressure on council budgets and in-house provision:

* The Government intends to create a level playing field through the redistribution of the Residential Care Allowance.

* The cost of purchasing residential places in the independent sector will increase as new Care Standards are imposed on all providers and the impact of the National Minimum Wage and European Working Time Directive take effect.

The costs of the independent sector will increase at a much faster rate than those of the local authority, thus closing the current gap between the local authority and independent sectors.

New standards and regulations

- Raising standards will be crucial for all residential care homes. Whatever the future requirements are, they will apply equally to the local authority and independent sector, and will require a phased programme of investment.
- The council needs to adopt a longer term perspective which fits more clearly with the approach adopted by the Government for a high quality and responsive service which meets the specific needs of the elderly in Birmingham.

The importance of the in-house service

- The care of elderly people in Birmingham is a crucial public service. This report argues that the option that support and care should continue to be provided by the local authority should be fully explored. The trust option presented for the future of residential care put the commitment, investment and high standards built up by the council at risk and obscure the Best Value

process.

- The justification for the trust option has little to do with the quality of care. Its prime focus is to reduce costs, achieve savings and raise capital. Any savings made will come from reducing the wages and conditions of staff who currently deliver the service for the council.

Integrated and joined-up services

- The Government is placing increasing importance on the coordination and integration of services for the elderly. 'Joined-up government' means widening the range of services provided to meet the different needs of the elderly, improving the management of services, and ensuring that frontline services are linked. Transfer of the homes will jeopardise this approach and result in fragmented services.

Quality of care at risk

- The justification for the investigation of the trust option has little to do with the quality of care. The Department of Health's emphasis on the quality of staff, recruitment issues and improvements in training and management will have to be incorporated by the council in their predictions for the future.
- There is no evidence to suggest that the independent sector can provide a better service than the local authority. A higher proportion of local authority homes have 2 and 3 star ratings, whilst most of the independent sector homes only achieve 1 star. In addition, staff turnover in council homes is only 4% per annum, by contrast with the private sector rate of 13%. The 1997 joint annual report of the Department of Health's Social Services Inspectorate and the Audit Commission stated that local authority homes provide quality services and value for money.
- The trust option would involve major disruption to the continuity of care; residents will be the first to recognise reductions in care, dissatisfied staff, and reduced activities in the homes because of high staff turnover and casualisation.

Equal opportunities implications

- Over 90% of residential care staff are female, making the investigation of options an important gender issue. Women will bear the main brunt of any changes to staffing levels, pay and conditions of service. This must seriously question the council's commitment to implementing its own equal opportunities policies. CCT was found to be discriminatory in terms of the treatment of some groups of women workers, with several councils involved in long legal cases and high compensation payments. There is evidence that care staff who are transferred to the independent sector suffer similar changes. Before embarking on any suggestions for transfer of staff, the council should examine new guidelines for testing the impact of Government policy making in terms of equal treatment (Women's Unit, 1999) and the Centre for Public Services Code for Quality Employment (1998) and await the specific guidance on Fair Employment expected as part of the Government's guidance on Best Value.

Appendix 3

Survey by Residents Action Group for the Elderly (RAGE) Future of Elderly Care in Birmingham

Options

The consultation paper presents five main options for the council's care homes for older people:

- Option 1. Establish a new independent organisation outside the City Council.
- Option 2. Transfer to an existing independent organisation outside the City Council.
- Option 3. Transfer of homes via sale to private/independent organisation.
- Option 4. Use capital raised through transfer for new purpose built homes run independently.
- Option 5. Mixed package of care, with some homes retained by the council and others transferred.

There is the possibility of an alternative option:

Option 6. An option developed by residents, staff and the community which develops and improves the existing council service.

1. Which of these options should be taken forward by the council?

Option 1 2 3 4 5 6

2. The City Council proposals would result in all residential and an increasing amount of home care services and day centres being transferred to the independent and private sector. Do you agree with a much reduced role in direct council provision?

Tick the box which most closely indicates your views on the proposals:

Strongly agree Agree Disagree Strongly disagree

3. Do you think that the needs of the elderly have been taken into account in the council's proposals?

Strongly agree Agree Disagree Strongly disagree

Quality of care

4. Do you think the proposals contained in the Consultation Document will adversely affect quality of care?

Strongly agree Agree Disagree Strongly disagree

5. What do you consider to be the five most important elements of a high quality service for the elderly in your community?

- High staffing levels
- Trained staff
- Experienced staff
- Continuity of care from staff residents know
- Decent pay and conditions for staff
- Range of activities for residents in the home
- Improved facilities
- Better premises

Choice

6. Do you agree that the transfer of homes to the independent/private sector will limit choice for current and future residents?

Strongly agree Agree Disagree Strongly disagree

7. Do you think that the following elements of care services are better provided by the city council or independent companies in your experience?

City council

Private or Trust

- Flexible and responsive
- High standards and continuity of care
- Skilled, committed and experienced staff
- Adequate staffing levels
- Training programme
- Better range of activities
- Better facilities
- Better premises

Future needs and priorities

8. What do you think will be the most important needs of the elderly in your community over the next few years?

Growing numbers of elderly people requiring a range of care services
Increasing numbers with specialist needs
Greater links between health services and social services
Publicly owned and accountable services
Involvement of families and residents in decision making

9. Do you think that funding for care for the elderly in the city should increase, decrease or remain at the same level?

Increase Remain the same Decrease

10. Would you like the city council to investigate an option to retain council care homes in the public sector before any decisions are made?

Yes No

11. Given your responses, do you think homecare services and services in day centres should be part of the residents and community option?

Yes No

12. Other personal comments (please attach as a separate sheet).

Appendix 4

Residents and families in elderly care homes represented in the RAGE survey

Care home	Number of completed returns
Florence Hammond	19
Lyttleton House	19
Norton Grange	18
Heathway	15
Victor Yates	18
Greenlands	13
Ruby Rhydderch	10
Wallace Lawler	10
Normanhurst	6
Druids Meadow	6
Barncroft	6
Richard Lawn	5
Oaklands	5
Edwin Arrowsmith	5
Elderfield	5
Woodside	4
Guestholme	4
Briarscroft	2
Bushmere House	2
Parkhill	3
Palmers Croft	3
Clifton House	3
West Heath	2
Bequest Hall Day Centre	1
George Canning House	1
Four Oaks	1
Grange Road	1
Annie Wood	1
William Rathbone	1
Woodlands	1
Yardley Grange Day Centre	1
The Roundabout	

Other organisations replying

Age Concern

Also residents receiving

Private sector home care provision

Private sector day centre provision

Appendix 5

Letters from families



Appendix 6

Future of Elderly Care in Birmingham

UNISON Staff Survey

For completion by staff working in residential, home care services and day centres

All details will be kept confidential

Name or initials Street name Post code

Place of work Job title

Female Male Ethnic Origin

Length of service for Birmingham City Council: years

Level of pay per hour: Under £5.00

£5-£6

£6-£8

£8-£10

£10 and over

Annual salary Average weekly hours

What training opportunities have you had with the City Council?

Please list any NVQ Qualifications Have you ever worked in the private/voluntary care sector?

Yes No

If so, how would you rate satisfaction with your job in the independent care sector?

Very good Good Moderate Poor Very poor

Options

The consultation paper presents five main options for the council's care homes for older people:

Option 1. Establish a new independent organisation outside the City Council.

Option 2. Transfer to an existing independent organisation outside the City Council.

Option 3. Transfer of homes via sale to private/independent organisation.

Option 4. Use capital raised through transfer for new purpose built homes run independently.

Option 5. Mixed package of care, with some homes retained by the council and others transferred.

There is the possibility of an alternative option:

Option 6. An option developed by residents, staff and the community which develops and improves the existing council service.

1. Which of these options should be taken forward by the council?

Option 1 2 3 4 5 6

2. Do you think that the needs of the elderly have been taken into account in the council's proposals?

Strongly agree Agree Disagree Strongly disagree

Quality of care

3. Do you think the proposals contained in the Consultation Document will adversely affect quality of care?

Strongly agree Agree Disagree Strongly disagree

4. What do you consider to be the five most important elements of a high quality service for the elderly people you work with?

Improved facilities Better premises

--	--	--	--	--	--	--

Range of activities for residents in the home
 Continuity of care from staff residents know
 Experienced staff High staffing levels
 Trained staff Decent pay and conditions for staff

6. Do you think that the following elements of care services are better provided by the city council or independent companies in your experience

City council Private or Trust

- Flexible and responsive
- High standards and continuity of care
- Skilled, committed and experienced staff
- Adequate staffing levels
- Training programme
- Better range of activities

7. What do you think will be the most important needs of the elderly in Birmingham over the next few years?

Growing numbers of elderly people requiring a range of care services
 Increasing numbers with specialist needs
 Greater links between health services and social services
 Publicly owned and accountable services
 Involvement of families and residents in decision making

8. Do you think homecare services and services in day centres should be part of the residents, community and staff option?

Yes No

9. Other personal comments (Please attach a separate sheet if necessary).

Appendix 7

Ward breakdown of care services for the elderly

Ward	Facility		Councillor
Aston	Residential care home Annie Wood	Day centre Annie Wood	Muhammad Afzal Tony Kennedy Qayum Jahangir
	Bartley Green Vivienne Barton	Wallace Lawler	Jane James John Lines
	Billesley Sandra Jenkinson	Guestholme	Maypole Grove Len Gregory Theresa Stewart
	Brandwood Teresa Davies	Druids Meadow	 Mark Hill Roy Pinney

Erdington Jilly Bermingham	Normanhurst	Normanhurst Suzanna McCorry Renee Spector
Fox Hollies Frank Coyne	Bushmere	Nicola Henry Roger Harmer
Harborne John Alden	Oaklands	Weatherdale Peter Hollingworth Mike Whitby
Hodge Hill Denis Oakley Ruby Rydderch	Palmers Croft	Anita Ward
Kingsbury Stan Austin	Minworth Grange	George Bamford
Kings Norton Paul Pyke Norton Grange	Goodrest Weatheroak	Sahara Asian Stewart Stacey Geoffrey Sutton
Kingstanding Brenda Clarke	Barncroft	Barncroft George Harper Hugh Mc Callion
Ladywood Albert Bore	Richard Lawn	Evergreen Bert Carless
Longbridge Steven Bedser	Lyttleton House	Gerard Coyne Gordon Green
Moseley Andres Howell	Chamberlain House	Afro Caribbean David Jepson Bryan Nott
Northfield Reginal Corns West Heath House	The Roundabout	Callowbrook Les Lawrence Margaret Scrimshaw
Quinton Richard Bashford	William Rathbone	Bequest Hall John Chapman Len Clark
Sandwell	Park Hill	Park Hill

Selly Oak Alton Burnett	Woodside	Andrew Coulson David Williams
Shard End Marje Brindle	Briarscroft	Briarscroft Margaret Byrne Ian Ward
Sheldon Sue Anderson	Elderfield	Paul Tilsley Mike Ward
Small Heath Allah Ditta	Grange Road	Baker Street Shaukat Ali Kahn Mohammed Saeed
Soho Lal Charman Edwin Arrowsmith	Victor Yates Isis St. Stephens	Chenng Ching Sybil Spence Dorothy Wallace
Sparkbrook Andrew Nicholls	Clifton House Shakti Asian Elders	Magnolia House Mick Rice
Stockland Green Margaret Langley	Marsh Lane	Asian Elders John Robinson Margaret Wells
Sutton Four Oaks Reg Hales	Greenlands	Peter Howard Anne Underwood
Sutton New Hall John Beadman	Heathway	June Fuller Dennis Birbeck
Washwood Heath Les Byron George Canning	Florence Hammond George Canning	Milan Asian Elders Manmood Khalid
Yardley Neil Eustace	Yardley Grange	Calabash David Luscombe Barbara Jackson

Appendix 8

Table: Gender and ethnic minority breakdown of employees by residential care home

Residential Care Home	Number		% ethnic minority		Total
	Male	Female	Male	Female	
Annie Wood House	3	29	100	83	32
Barncroft	3	33	33	39	36
Briarscroft	6	25	33	81	31
Bushmere House	2	29	0	41	31
Clifton House	16	16	94	50	32
Druids Meadow	6	28	0	11	34
Edwin Arrowsmith	2	32	100	87	34
Elderfield	3	27	33	26	31
Florence Hammond	6	26	100	34	32
George Canning	3	31	0	39	34
Goodrest	2	28	0	7	30
Grange Road	4	26	50	85	30
Greenlands	5	20	0	5	25
Guestholme	3	30	66	23	33
Lyttleton House	4	20	0	15	24
Mimworth Grange	2	28	50	32	30
Normanhurst	4	29	50	34	33
Palmers Croft	4	26	50	27	30
Park Hill	1	20	100	60	21
Richard Lawn	5	32	40	68	37
Ruby Rhydderch	4	29	25	45	33
Tamworth House	0	6	-	100	6
The Heathway	1	23	0	13	24
The Oaklands	4	23	25	35	27
The Roundabout	2	27	0	30	29
Victor Yates	5	15	40	53	20
Wallace Lawlor	6	23	17	4	29
Weatherdale Unit	1	9	0	22	10
West Heath House	3	22	0	4	25
William Rathbone	2	20	50	45	22
Woodside	2	27	0	19	29

Source: Birmingham City Council.

References

Audit Commission, *People need People: Realising the potential of people working in Social Services*, 2000.

Audit Commission and Social Services Inspectorate, *Joint Review of Social Services in Birmingham*, 2000.

Birmingham City Council, *Public Policy Review into the Implications of an Ageing Population*, April 2000.

Birmingham City Council, *Exempt Report of Director of Social Services to Social Services and Health Scrutiny Committee, Development of Services for Older People*, July 21, 2000.

Birmingham City Council, *Consultation Paper: Development of Services for Older People*, 8th September 2000.

Birmingham City Council, *Report of the Social Services and Health Advisory Team*, 13th September 2000.

Birmingham City Council, *The Annual Report of the Inspection Unit 1999/2000*, October 2000.

Birmingham City Council, *Report of the Social Services and Health Advisory Team*, 8th November, 2000.

Birmingham Social Services, (2000), *Request for Information on Independent Sector*, Personal Correspondence from Julie Fowler, Contracts Department.

Centre for Public Services, *Future options: Residential Care Homes for Older People in Birmingham*, June 2000.

Department of Health, *Fit for the Future*, July 2000.

Department of Health Local Authority Circular (2000), *Legislation - Human Rights Act*, LAC (2000) 17, July 20.

Department of Transport, Environment and the Regions, (1999), *Local Government Act 1999: Part 1 Best Value*, Circular 10/99

Equal Opportunities Commission, *Gender Impact of CCT*, 1995.

Health Service Journal, *In the know*, by Cathy Malone and Rona Mackenzie, 7th September 2000.

Home Office, *Study Guide. Human Rights Act 1998*, 2000.

Klug, F. *Values for a Godless Age*, Penguin; London, 2000.

Local Government Association/Justice, *Deciding Rights: applying the Human Rights Act to good practice in local authority decision making*, 2000.

North East Citizens Advice Bureau, *Winners and Losers*, 2000.

Residents Action Group for the Elderly, *New Homes for Old: Best Value for Whom?*, 2000.

Royal College of Physicians, *The Health and Care of Older People*, 2000.

Sheffield Telegraph, 20th October 2000.

South Birmingham Community Health Council, Response to Best Value Stakeholder Questionnaire, October 2000.

UNISON, Black Women's Employment and Pay, 1997.

West Midlands Low Pay Unit, People, Employment and Earnings in the West Midlands, 2000.