Future options:
Residential Care Homes for the Elderly in Barnet

Report for Barnet UNISON

May 1999

CENTRE for PUBLIC SERVICES
Research • Strategy • Planning • Evaluation

Barnet UNISON

UNISON Office
The Town Hall
The Burroughs
Hendon
London NW4 4BG

Written by

CENTRE for PUBLIC SERVICES

Research • Strategy • Planning • Evaluation

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, trade unions and community organisations and specialises in research, strategy, planning and training.

Contents

Summary and recommendations

- We have two major reservations concerning the methodology adopted by the consultants. Firstly, the Options Appraisal appears to have been constructed, both in terms of the criteria and weighting, to favour externalisation. Secondly, the methodology and information requested on externalisation from other providers is superficial, biased and fundamentally flawed.

- The comparison between the local authority, voluntary and private sectors costs are false because they do not compare like with like.

- Benchmarking only has any value if the performance indicators and data are sufficiently accurate. The report makes reference to gross weekly costs in several tables, all with different figures. It focuses exclusively on cost, qualitative performance measures are absent from the reports.

- We consider that the analysis of options to be fundamentally flawed both in its scope and methodology making the results invalid. We recommend that the process be re-run by the local authority.

- The council can not claim to have carried out a Best Value review of residential care. We show that the review is lacking in a number of important aspects in terms of a challenging, comparing, consulting and demonstrating competitiveness required under Best Value.

- The council is arguing that raising standards is crucial. The emphasis on registration requirements and physical changes to the homes is a smokescreen. There are no new registration requirements in place. Whatever the future requirements are, will apply equally to the local authority and independent sector.

- The options presented by consultants Rho Delta for the future of residential care put the investment and high standards built up by the council at risk. The justification for the investigation of options for the future of the service has nothing to do with the quality of care and crucial staffing issues are ignored by the consultants.

- The transfer of homes would be a decision based on the spurious financial arguments put forward by Rho Delta. It would result in weakening the council's bargaining strength for placements in the independent sector in the future.

- 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 for staff. If attempts to cheapen the service are made, the council's care practices and residents' rights are bound to suffer.

- The options recommended by Rho Delta would remove any in-house cost comparators for benchmarking purposes. 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 all or part of the service would remove democratic control and accountability from the council. It would also separate it from other services and reinforce the move towards a fragmented, individualised service. Once transferred, the homes could be sold to a new owner, further removing accountability from the council.

- The track record of externalisation of residential homes has been appalling, largely because of the cost reductions and detrimental impact on staff.

- Nine out of ten care staff are female. Women will bear the main brunt of any closures and transfers which involve changes to staffing levels, pay and conditions of service. This must seriously question the council's commitment to implementing its own equal opportunities policies.

- The review of options should be stopped until a comprehensive and accurate analysis of Barnet's care provision for the elderly has been carried out. This needs to look at accurate comparisons in terms of types of care. It will also have to take into account staff 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 lowest standards in the independent sector.

Recommendations

We recommend that:

1. Barnet maintains ownership of its residential homes and continues to directly employ staff engaged in these homes. Any reorganisation and redirection of resources in favour of specialist or domiciliary care should be in the context of in-house provision and joint work with health organisations, rather than transfers to the independent sector.

2. The residential and domiciliary services, including home care, day care and respite care, be subject to a comprehensive Best Value service review which includes a detailed examination of quality and cost.

3. The council works with 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.

Introduction

General observations

We are concerned that the review of residential homes appears to have little reference, apart from day care services, to services for the elderly in Barnet. This would appear to miss an important opportunity to review the whole range of services, to identify best practice, gaps in provision, potential for innovative approaches and so on. This would have a direct bearing on the use and function of the residential homes as part of a comprehensive, integrated, joined-up and modern service to meet the needs of the elderly in the borough. The fact that residential homes have been compartmentalised suggests that externalisation pre-determined the scope and nature of the review. The terms of reference and objectives of the review do not appear either in the consultants report nor Council Committee reports.

We have two major reservations concerning the methodology adopted by the consultants. Firstly, the Options Appraisal appears to have been constructed, both in terms of the criteria and weighting, to favour externalisation. Secondly, the methodology and information requested on externalisation from other providers is superficial, biased and fundamentally flawed.

Claims will no doubt be made about ‘Best Value reviews’ but we have seen no evidence that the review of residential care would constitute a Best value review under the government’s planned legislation.

One fifth of residential care places in Barnet are in council owned homes. The council is now considering whether it should continue to be a direct provider of this service. Private consultants, Rho Delta, reported to the Council in February 1999 that Barnet has:

* a good quality service
* a broad range of services
* high dependency of residents.

The Council is adopting a narrow view of alternative options for the future of this highly valued service to vulnerable elderly residents in the borough.

Commissioned research

The Centre for Public Services was commissioned by Barnet UNISON to prepare a report on the council’s proposals for residential care homes. This initial briefing is based on analysis and assessment of council reports, the reports prepared by Rho Delta and discussions with UNISON officers and members.

The Centre has extensive experience of the impact of residential care transfers nationally and is advising a number of local authorities and national organisations on the application of Best Value.

1
Critique of council reports and policy proposals

Current service

The Council provides 396 residential beds (19% of the borough's residential care beds) of which 88% are in single rooms. The occupancy rate is high at 95% (although there are discrepancies in these figures - 92% LAFIS and 91% Rho Delta ?) and there is no significant variation in occupancy levels between homes except in those few where there are double rooms. Specialist units have also been developed in some homes to meet the specific needs of elderly, mentally frail people. Dependency levels are high and have increased over the last three users.

The Council also points out that a large proportion of residents in the Borough's own residential homes are receiving some form of nursing care, usually provided by community nursing services of the respective health authority. The demand for specialised care facilities is expected to increase. The demand for domiciliary services in the borough is growing.

Choice

The Council believes that elderly people should be able to exercise freedom of choice in terms of how and where they live. Significant numbers of applicants currently express a preference for the Council's own residential provision and domiciliary services. The elderly and their families in Barnet currently have the choice of public or independent sector care. The transfer of homes out of local authority control would remove or limit choice for future residents and override the choice current residents and their families have made for a local authority home.

Mixed economy model

The Council is committed to a "mixed economy model" of services which includes the independent as well as the public sector.

There will be no mixed economy if the council owned homes are transferred to the independent sector. All the provision will be in private and voluntary sector homes.

Registration standards

Currently there is no legal requirement for local authority homes to meet registration requirements. The Government intends to alter this so that all residential care homes owned by local authorities will be required to register, and will be subject to inspection and enforcement procedures (Modernising Social Services, February 1999).

The Council has highlighted two areas which may involve considerable expenditure in the future - suitability of some buildings and staffing levels to meet increasing dependency and specialist requirements of residents.

However, these are issues facing all councils. It is still unclear exactly what registration standards are likely to alter in the future.

An essential prerequisite for any review of the service is to identify exactly what the problems are with meeting registration standards in the future. Previously there appears to have been no problem with this.

Dual registration

Currently local authority homes are not able to operate ‘dual registration’ allowing a range of care in a single home. The Council point out that there are occasions when elderly residents need to be moved from council homes because of their need for nursing care.

The Government recognises the problems of registering with two authorities - the health authority and the local authority - and is encouraging integrated provision where users have a “home for life”. This flexible approach may be applied to all homes so that it is no more difficult for a provider to register to provide both residential and nursing care, than it is to register one or the other.

Property issues

The Council states that its residential homes *“are with some exceptions, modern, well equipped and reasonably attractive buildings”.* Many homes have been refurbished and divided into smaller units over the last decade. The two areas of concern are the elimination of the double rooms (reducing the number of rooms from 396 to 372) and improving the size of some rooms. Another issue highlighted is the potential demand for en-suite facilities. The Council cites two homes - Vale Farm (27 places) and Beach Lodge (23 places) - where problems meeting registration standards would be encountered.

Upgrading facilities

The council’s building surveyors were commissioned to produce a report on the feasibility of upgrading facilities in each of the borough’s care homes for the elderly (Design and Build Division, London Borough of Barnet, 1999).

The options for capital works were presented under four headings:

1. To meet registration requirements.
2. With en-suite facilities.
3. Major adaptation/extension.
4. New build.

We have taken the first option as the crucial factor in determining essential expenditure but even this may be an over-estimate since the future registration requirements are unknown. The three subsequent options are unrealistic in the short term and do not represent a true picture of the needs of residents or the service. It should also be remembered that these options would not be considered first priorities for the independent sector. In the longer term all the homes will require a rolling programme of capital expenditure.

Table 1.1: **Upgrading to meet registration requirements**

Establishment	Residential Places	Number of places	Total costs after upgrading
Apthorp Lodge	45	38	£506,000
Beach Lodge	23	22	£130,380
Brunswick	31	26	£450,000
Chandos	40	34	£57,375
Lonsdale	52	34	£337,500
Meadowside	52	40	£450,000
Merrivale	56	48	£393,750
Perryfields	44	36	£393,794
Rosa Freedman	20	20	Nil
Sunnymeade	6	5	£39,375
Vale Farm	27	20	£33,750
Total	**396**	**323**	**£2,791,924**

The estimated cost of upgrading what are already good facilities to meet registration requirements, including rooms of $10m^2$, is £2.8m. This compares with annual investment in the borough's residential homes by the council of about £212,000 for the last six years, amounting to £1.27m.

The number of places would reduce from 396 to 323, a drop of 67 places, to meet registration requirements. The point that current occupancy levels are 92% (LAFIS), and could be increased, is taken up by Rho Delta. In their appendix to Table 14 they state that *"In order to reach registration standards, some residential places would have to be lost. It may be possible to replace these by "using up" empty places."*

Ironically, Beach Lodge and Vale Farm, the two homes recommended by Rho Delta for "phased closing" require minimal investment. In addition, the council surveyor's report highlights the excellent facilities provided by Beach Lodge *"The existing building is a very pleasant place for both the residents and staff to dwell and work.....The existing building complies with minimum space standards set by Barnet in most areas and the building itself is in good condition and contains a number of features that enhance the lives of residents".* The economic viability of the home is questioned but it is not clear why this is a particular problem. Similarly, the 30 bed criteria is used as an argument in the case of Vale Farm, which is currently below registration standards.

The council's document does not indicate the timescale required for such improvements. The capital investment required to meet registration standards is over and above current levels of investment in the borough's homes. However, there may be increased funding for such schemes in the future and the council could look at some partnership funding to enhance the facilities provided. This is not covered by the consultant's reports.

Unit costs

Table shows the unit costs for residential care and income levels for each home. Staffing costs comprise the largest element of costs; this is the case in all care facilities whether in the public or private sector.

The unit costs produced by LAFIS differ from the Rho Delta figures in the final column, although we have no clear explanation for this. The consultants have also removed the dowries paid in two homes from their figures.

Table 1.2: **Unit costs for residential care in Barnet**

Establishment	Employees	Premises	Total exp	Income	Net Expenditure	Net Unit Cost Rho Delta
Apthorp	304		405	-157	248	227
Beach Lodge	414	93	543	-81	483	508
Brunswick	356		457	157	300	270
Chandos	346	50	431	-97	334	346
Lonsdale	284	56	371	-100	272	230
Meadowside	292	49	374	-131	243	230
Merrivale	495	17	544	-486	59	350
Perryfields	378	27	437	-329	108	191
Rosa Freedman	361	33	436	-89	389	346
Sunnymead	723	68	832	-884*	-53	650
Vale Farm	284	56	371	-100	271	312
Average						**264**

Source: LAFIS (Local Authority Information Services). * Merrivale and Sunnymead receive BHA dowries; these were extracted in the Rho Delta report (Table 2, Option 1).

Staffing

The Council states that staffing levels are below Registration and Inspection requirements in a number of homes and none have built in any cover for sickness, holidays or training. Increased staffing resources will be required whoever runs the service.

Options

The Council briefly set out a number of options in terms of future management arrangements.

Externalisation, the option which the Council appears to be pursuing, is presented with a number of advantages.

**** Minimum disruption to residents and staff would be able to do a TUPE transfer.***

This dismisses the evidence presented in Part of this report on the impact on staff and in turn the quality of care.

**** Revenue savings both because of contract price negotiations and a eligibility of new residents for Residential Care Allowance.***

The Government has stated in the White Paper on Social Services that it will redistribute the Residential Care Allowance making it a level playing field.

The funding of residential care places is currently unfair and benefits the private and voluntary sector. The main source of savings in residential care arises from the Residential Care Allowance (currently £65 per week) which applies to new residents eligible for income support placed in independent sector care homes.

The Government has now stated that it will redistribute the Residential Care Allowance making it a level playing field. *"We believe there is a strong case for phasing out the phasing out the payment of the Residential Allowance, and for transferring resources, via a special grant, to local authorities. This would not be a loss to the individuals concerned, and in effect would simply move funding from one part of the system to the other. But is would create a level playing field between public, private and voluntary sector provision'.* (HMSO, 1999)

The Government's Review of Long Term Care has also stated that the resources which underpin the Residential Allowance in Income Support should be transferred to local authorities.

**** If settings are sold then liability for improvements and registration standards issues passes to new provider.***

The council's argument about registration standards is a smokescreen for its proposals since **there are currently no new requirements on local authorities**. Although this may alter in the future all local authorities will be affected and Barnet may in fact be better placed to meet standards than many other in-house residential care services. In addition,

Where would the money come for investment come from if the homes were transferred? Private or 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.

The council argues that independent sector homes are now providing facilities which are better than those provided in the council's own homes.

It is unclear how many homes have superior facilities. The emphasis in terms of physical standards does not reflect the full picture. Whilst buildings and facilities are important, the type of service provided is more important. Experienced, committed and well trained staff in council residential homes are more likely to provide a consistent and high quality of care.

The lower cost of the independent sector is predominantly related to staff costs, an area which the council recognises needs to increase to achieve improved staffing levels.

**** Capital receipt available either by way of sale or long lease.***

Any savings from home closures or transfer of homes to the independent sector are unlikely to have a significant impact on the council's overall financial situation. The price obtained is likely to be below the real value of the service.

**** Price certainty for period of contract.***

This is not guaranteed in any sense. The costs of externalisation have not been taken into account. Monitoring and evaluation costs will be high, particularly as service improvements are expected under Best Value.

New care standards

The Government is proposing new Standards of Care (Modernising Social Services, 1999). The system of regulation will create Commissions for Care Standards - independent regional authorities responsible for regulation of care services. These will regulate existing residential care homes for the elderly and develop codes of practice for domiciliary services. There will also be guidance on complaints procedures, promotion of community involvement and enforceable standards of conduct and practice for the whole workforce. This will cover staff recruitment, training, management and supervision, and prevention of abuse procedures. All providers, whether public or private will have to meet the standards with major implications for staff training and qualifications.

The emphasis on the quality of staff, recruitment issues and future improvement in training and management have been totally disregarded by Rho Delta and the council in their predictions for the future. The council should await further details from the Government before ploughing on with developing options the service.

The Centre for Policy on Aging was commissioned by the Government to produce national Baseline Standards for residential care homes covering all aspects of care provision. This draft document, due to go out for consultation, will provide national standards which can be adapted locally. In addition, the Government has commissioned an audit of care homes which will inform the changes proposed in the White Paper.

2.
Assessment of consultant's analysis and options

Research and methodology

We noted in the introduction to this report a number of major reservations concerning the methodology adopted by the consultants.

The comparison between the local authority, voluntary and private sectors costs are fundamentally flawed because they do not compare like with like:

* Independent and private sectors will face increased costs to implement the minimum wage - there is substantial evidence from national surveys which show the widespread pattern of low wages in the residential care sector.

* Independent and private sector homes will also have to meet the cost of registration but there is no indication of this.

* The same sectors will also have to meet requirements to provide adequate staffing and cover. Again, the private sector in particular, often operates with minimum staffing levels.

* No account is taken regarding differences in the quality of care, particularly the range of activities provided for residents, between the different sectors.

This suggests that Rho Delta's sweeping statement that £2.5m could be 'saved' by closing all the homes and spot purchasing is founded on poor analysis and their figures should be treated accordingly. This is not even an option, nor is it viable according to their own evidence, so we question why this point is given prominence in the executive summary.

The survey of staff costs with regard to externalisation sent to nine care home operators, six of whom are Rho Delta clients, is a very narrow perspective in terms of all the issues raised by externalisation. It totally avoids any mention of quality of service and staffing levels which are a key determinant of quality. The survey is conclusive evidence, as far as staff are concerned, that externalisation is solely about changing the employer in order to cut wages, reduce conditions of service and abolish pensions. We regard this survey as wholly inadequate and urge the Council to treat any results produced by the consultants from the survey with due regard to the narrow, simplistic and biased methodology used to obtain them.

The use of Community Care magazine for a literature review to research the experience of other local authorities is wholly unsatisfactory. The magazine does report on transfers but most often in short and superficial news items. There are many other sources of information which could have been used.

Analysis of the private sector is very superficial. Major assumptions are consistently made about the quality of care in the private sector with no data or information to support the argument.

Benchmarking

Benchmarking only has any value if the performance indicators and data are sufficiently accurate. The report makes reference to gross weekly costs in several tables, all with different figures.

	Average £ weekly gross cost
Gross cost of existing services (Table 2)	416
Gross residential prices for local authority homes (Table 9)	468
Gross residential prices for local authority homes (Table 9)	359
Current residential budget, total expenditure (Table 12)	379
Latest LAFIS data	425

In the short time available we have not had an opportunity to assess these figures in greater detail but there is such a wide margin in the range of costs which raises questions about differences in their compilation and use. Further work is needed to determine an agreed set of accurate gross current costs which should form the basis of the benchmarking and option appraisal.

Options appraisal

The first report refers to 4 options (page 65), 10 scenarios (page 73) and 6 options (page 75). The description and level of understanding of the different externalisation options is weak and superficial and confined to a very brief legal description. Given that the report appears to have been prepared to justify externalisation and upon which the marking of the options is very clearly centred, then the council could have expected a much more comprehensive analysis of the effects of different options.

Option No 1. - “Do nothing ie. continue with the homes as they are” is recognised by the consultants as not being a viable option (para 6.2.1) so it seems pointless using this a baseline. It is neither relevant in policy, financial terms or Best Value. The real baseline should be Option 2 of “continuing managing the existing homes but take remedial action to resolve known problems”.

We have major concerns about the criteria developed to assess the options. Firstly, the “Can meet future Registration Requirements” is “looking forward some five to ten years and the aspirations of users. Therefore in the future, all residents will be offered single rooms and there will be an increasing requirements for en-suite”. There is no objective basis for this criteria. It is a big assumption that only single rooms will be offered, so much for user choice. It is interesting to note that all the externalisation options get 2 marks, except the local authority company option which generally gets 1. The in-house option scores 0.

Secondly, the criteria “Maintains present quality” - every home and every option scores 2. This is a major assumption which is made without any supporting evidence. Even closing the homes and relocating residents to other providers maintains present quality. This is a nonsense. There are well documented wide differences in the quality of care between homes and to make such sweeping assumptions on such an important part of care brings into question the approach adopted to assessing the other criteria. Given the totally uniform marking for this criteria it has no bearing on the options although it clearly should.

Thirdly, the criteria “Improves quality” is based on the consultants assumption “that by a competitive tender, with a redrafted specification, service quality may be improved.” Again, it is interesting to note that every home under all the externalisation option scores 1 point. The in-house scores 0. There is nothing to prevent the in-house service working to the same specification. Even the home closure option scores 1 point!

Fourthly, the criteria “Stability of the staff group” assumes that it “is more stable if the present arrangements continue, reasonably stable if transferred and of course, ‘unstable’ if homes are closed. Yet the in-house service gets 2 marks along with three out of the four externalisation options. The consultants evidently have little understanding of the impact of transfer upon staff and the track record of transfers todate.

Fifthly, the criteria “Uniqueness of the service” is intended to “mirror views about the retention of ethnic minorities schemes. The independent sector is able to manage such services, but it would be very disruptive to close homes and spot purchase.” It applies to only two homes with the in-house option scoring 2 and the externalisation options 1. In this case the consultants are clearly distinguishing between continued direct provision and transfer. But there seems to be no other reference to the independent sector closing these homes, should this not be part of the option appraisal?

Finally, the criteria ‘Produces a revenue saving’ assumes that transfer to a new independent voluntary agency, or to an existing not-for-profit or private sector organisation will automatically produce revenue savings. Closing all the homes is claimed to maximise savings. Setting up a local authority company and continuing with direct provision are not credited with any revenue saving. Given the current changes, such as the registration, quality and minimum wage requirements being imposed on the voluntary and private sector home operators, the assumption of revenue savings is both premature and unsubstantiated.

Taking account of all these criticisms of the criteria completely changes the results, in most cases giving the continuing with direct provision option the same marks as transfer to a non-profit organisation and higher marks than the other externalisation options. We consider that the analysis of options to be fundamentally flawed both in its scope and methodology making the results invalid. We recommend that the process be re-run by the local authority.

3. Evidence of other externalisations

Impact on social services and other council departments

Service coordination and integration will be much more difficult if residential care service are either reduced or transferred to an independent operator.

The transfer of several hundred staff will have a knock-on effect on other council departments, particularly those supplying support services. National research by the Centre for Public Services on transfers shows that loss of work will mean a reduction in workload for payroll, finance, accountancy services, legal and other services, with a knock on effect on jobs.

Democratic accountability

Any transfer would limit the ability of the council to carry out its policies and programmes in terms of a comprehensive community care service. Democratic control and accountability would be limited.

Contracting

The lessons of CCT show that the level of influence is limited under contract. The service will be more fragmented and it will be much more difficult to retain an integrated community care service.

Transfer of part of the service is unlikely to be the last and if all the homes were eventually transferred there would be serious implications. The authority would lose its ability to compare in-house costs against the independent sector. The council's bargaining strength with the independent sector would be eroded as external operators gained more ground in terms of running the service.

Not-for-profit organisations and partnerships

1. The majority of transfers of residential care homes have been to trusts / not-for-profit organisations. Many of these these have faced major financial problems and have sought to reduce staffing costs (Tameside Community Care Group, which has been running the council's care homes since 1992 is a prime example of this. It is a charitable non-profit making trust, but has treated its staff like any other private company).

2. Not-for-profit organisations operate at a distance from local authority and are in effect another form of externalisation / privatisation.

3. Trusts are run by a board of appointed and elected members over which there is little local authority control and little potential for user or staff involvement.

4. Partnerships involve complex financial and legal arrangements through contracts which can weaken the position of the local authority in terms of ensuring service quality, monitoring and evaluation of the contract.

5. Transfer to a not-for-profit organisation sounds better but the issues are the same for the staff and service.

4.
Key arguments against transfer - impact on the service and staff

Staff cost differentials are cited as a key difference between public and private provision. Recent research by the Centre for Public Services for the Fawcett Society and a survey by UNISON confirmed that there are substantial differences with most independent operators paying well over a £1 an hour less to employees than the local authority. In addition the research found poor working conditions in most cases, with less holiday, no company sick pay scheme and no pension scheme.

The independent sector will find it increasingly difficult to compete with local authorities. A report by William Laing,*"A fair price for care?"* showed that if care assistants wage rates are £3.50 an hour, the fee required to give operators a reasonable return for good quality nursing home stock is £355.00 per week and if wages went up to £4.00 an hour fees would have to rise to £368.00 per week. The return includes £2.75 profit per bed per day, representing a 6% return. The service is highly labour intensive and labour costs are the main source of savings.

The vast bulk of caring by the local authority is carried out by women working for hourly rates above the recommended rate for the National Minimum Wage.

Employment practices in the independent sector

The independent care sector pays low wages and employs staff on poor conditions of service. These operators often employ staff with minimal experience and qualifications and have a low commitment to training. In addition, there is widespread use of casual and temporary part-time labour.

Industrial relations

Many of the transfer cases have involved acrimonious disputes between staff and the company or not-for-profit organisation.

TUPE protection limited

The evidence from residential care transfers, is that independent employers have generally exploited TUPE regulations to achieve savings. Whilst existing pay and conditions of service would transfer to a new employer on day one, there is great uncertainty about the length of time TUPE would apply. Most independent operators believe that they are legally entitled to harmonise terms and conditions of employment within months of a contract starting.

Once a transfer takes place, the new employer, not the council has complete responsibility for jobs, pay and conditions. New employers usually seek to cut costs by reducing pay and conditions of service soon after transfer.

Abolish vacant/temporary posts: A new employer is likely to abolish most vacant or temporary posts.

All new staff on reduced terms and conditions: Independent sector operators will seek to create a two tier pay structure from day one. New staff or existing staff transferred from other parts of the organisation are not covered by TUPE.

Reduce and /or eliminate payments for weekend and unsocial hours: These payments are likely to be the main target of a new employer.

Reduction in working hours: Care assistants and other staff working over 20 hours per week or less could have their hours reduced and/or pay cuts in order to avoid the employer paying National Insurance contributions. The 1999 Lower Earnings Threshold for National Insurance is £83.00 per week. For staff paid £4.60 an hour this is 18 hours per week before the earnings threshold is reached. This practice reduces the employers wages bill as a result of the reduced hours and/or lower pay rates but also reduces the employer’s National Insurance contribution.

This practice has major implications for care staff. Although staff earning below the Lower Earnings Threshold do not have to pay the employees National Insurance contribution, they are excluded from contributory state benefits such as statutory sick pay, maternity pay, unemployment benefit and state pensions.

Sick Pay: Sick pay entitlements are likely to be reduced as part of changes to terms and conditions of employment.

Pensions: The TUPE regulations require a ‘broadly comparable’ pension to be provided by the new employer. Employers often require staff to be employed for a minimum period before they can join and often exclude part-time staff by imposing a minimum number of hours requirement.

Women most affected: Any closure or transfer will disproportionately affect women, who in most care homes form around 90% of employees. The gender impact of any changes to staffing levels and conditions of service must be challenged under the council’s own equal opportunities policies.

Local labour market impact: Closures or transfer will result in the loss of council setting a standard in the local labour market. The transfer will have a knock-on effect of driving down terms and conditions in this sector for all care workers in the Barnet area. Hence the transfer is likely to be supported by private sector homes.

This means that transferred staff will be an increasingly small and isolated group in the labour market which will only intensify the eagerness of employers to reduce the size of this group. It will also provide a pressure on annual pay awards because percentage increases for this group will always be more expensive than for a comparable group of new staff on lower rates. It is also likely to increase casualisation further undermining job security for women.

Effect on the local economy: Reduced earnings will have a knock-on effect in the local economy. We have carried out a number of social and economic audits which have assessed the impact on cuts and reduced earnings on spending in the private sector. This has shown that for every four jobs lost in the local authority one additional job is lost in the retail and service sector.

Whose saving?: Whilst the Council may be able to show a ‘saving’ in its budget, this will not be the case in the public sector as a whole. Central government expenditure will be affected by:

* increased expenditure as more families are able to claim Family Credit because cuts in earnings and/or hours worked make them eligible for low pay income support.

* increased expenditure because there are likely to be more claimants for housing and council tax benefits.

* a loss of income as a result of lower earnings leading to lower PAYE and National Insurance payments and less VAT and indirect taxation because lower earnings results in lower consumer expenditure.

A full analysis of the costs and benefits will show that it is false for the council to claim a saving when other parts of the public sector incur increased expenditure and/or a loss of income.

Equal Opportunities: Equal opportunities policies linked to good employment practices promoted in local government are not generally applied in the independent sector. Poor quality employment conditions usually results in a higher turnover of staff affecting the quality of care.

Examples

Many disputes have arisen as a result of transfers and the impact on staff has been disastrous in many cases. The majority of transfers of local authority homes have been to not-for-profit organisations, most of whom have suffered from major financial difficulties.

Gloucestershire: Coverage Care, a non-profit making company which took over 23 council homes, faces financial pressures and has sought to reduce costs by introducing a three year pay freeze for staff. This follows the end of a six year rent amnesty in Gloucestershire. To meet the rent costs, managers proposed a package of measures including loss of sick pay and night premium and a reduction in holiday.

Cheshire: The staff in homes transferred to CLS were forced to accept wage cuts, following financial problems. In addition, new staff were paid at substantially lower rates.

Cornwall: A dispute arose in 1996 when Cornwall County Council transferred 18 residential care homes, involving 700 council workers, to Cornwall Care. Six months after the transfer, the company terminated contracts of employment and rewrote them with reduced terms and conditions of employment. This included cuts in overtime rates and holiday pay with some staff losing up to £50 per week. An employment appeal tribunal ruled that staff had been unfairly dismissed and were entitled to their original terms and conditions of employment. Two years later, in July 1998, the company and unions agreed compensation payments for the staff.

Manchester: The council transferred its 18 homes to Manchester Care. A financial crisis in 1998 led to cuts in terms and conditions of employment and closure of two homes.

Tameside: The council transferred its 12 homes to Tameside Enterprises in 1992 and subsequently to Tameside Community Care Group. Following serious mismanagement and financial problems, staff wages were first cut in 1993. Further cuts in sick pay and maternity leave were made in 1996. Staff contracts were terminated in May 1998 and new terms offered with cuts in pay, reduced holiday and an end to paid sick leave. Following industrial action, 200 staff were dismissed in May 1998. The majority of staff employed by the Care Group are now paid the minimum wage rate £3.60 an hour, well over £1 an hour less than if they worked for the local authority.

Wigan: 14 residential care homes were transferred to Borough Care Services, a council owned arms length company, and then to CLS who reduced terms and conditions of employment, and abolished enhanced payments leaving staff £30-£40 a week worse off. As a result there have been 300 industrial tribunal claims against the company.

Stockport: In 1992 eight homes were transferred to Borough Care. The company imposed pay cuts and reduced sick pay from 26 to 13 weeks. In addition, there are no enhanced rates of pay for new starters.

In-house service maintained

Scottish Borders: Scottish Borders Council agreed in November 1998 to retain its residential care services in-house, following proposals to outsource the service.

St. Helens: The residential care homes stayed in-house following a major community campaign. The Council carried through a tendering process, inviting seven organisations to tender and receiving two bids from CLS Care Services (the transferred Cheshire County Council homes trust) and English Churches Housing Group/Heritage Care. Their bids were rejected because they “have not demonstrated satisfactory performance in all areas of the specification with regard to the quality of the services they currently provide.” The Centre for Public Services produced two key reports for UNISON making a detailed case against transfer and profiling the bidding companies.

5.
Options for the in-house service

Funding of improvement work

None of the reports place the need for capital funding for the residential homes in the context of the council's capital programme. Nor is there any indication of the possibility and consequences of phasing this work. This should be done as a matter of urgency.

We also recommend that the council investigates the possibility of obtaining European Investment Bank (EIB) funding for the improvement work. The June 1997 European Council meeting in Amsterdam agreed for the EIB and the European Investment Fund to finance investment in health, education, urban environment and environmental protection (New Dimensions to European Finance, LGIU, 1998). Whilst Britain and the Netherlands are the only countries which still count borrowing from the EIB and EIF against the Public Sector Borrowing Requirement or General Government Financial Deficit (GGFD), this is likely to change as Britain moves closer to adopting European practice. The adoption of the GGFD may also provide new opportunities for local authorities to operate income generating services such as residential care and council housing within the public sector.

Comprehensive review of all services for the elderly

The Council should not take any decisions until it has carried out a comprehensive review of all the services for the elderly including day care, home care, residential care and other related services. This should be carried out as a Best Value review - the current review has many shortcomings, outlined in the next section of this report, and does not constitute a Best Value review.

If the council continues to review services for the elderly on a piecemeal basis, it is imperative that no action is taken until all the separate reviews have been brought together and examined as a whole.

There is a very real danger that services for the elderly become fragmented at the very time when there are new opportunities to improve the integration and coordination of services.

Quality of care

The quality of the in-house service is being undervalued. The focus on meeting registration standards has overshadowed the good quality care which is being provided, evident from the high occupancy levels in the homes. The review should focus on the care plans and quality systems in place and examine how they may be improved and further developed. The other implication, is that staff are also being undervalued and the externalisation agenda creates insecurity for staff and residents. The criteria “Allow for refocus of the service” although in the analysis of options has not really fully been assessed.

Joint work with health organisations

There are increasing opportunities for joint funding and collaborative work with health organisations. We find no evidence that this has been explored.

6.
Best Value critique

The council is committed to a full scale review of residential care for older people incorporating Best Value principles. However, we have assessed both the council and Rho Delta's reports in terms of the requirements to carry fundamental reviews. We find that the council can not claim to have carried out a Best Value review of residential care.

Whilst some aspects of the review contained an element of the 4Cs, challenge, compare, consult and demonstrating competitiveness, there were major gaps and omissions.

* The challenge component was particularly weak but this is not surprising since the review seems to have begun from a premise of externalisation and was thus unlikely to present a case as why the local authority currently provides the service.

* Staff have not been formally involved or consulted in carrying out the review. The consultation with users refers to existing users and their relatives but there is no indication that future users and the public have been consulted.

* Equalities is only referred to in terms of current residents and existing arrangements.

* Benchmarking only on cost - there is no reference to quality of care, equalities or other qualitative performance indicators, thus the council has not fully demonstrated competitiveness.

* The consultants report stated that the "standard of provision appears to be high" but the review makes no attempt to set out how the quality of care can be maintained, what improvements are necessary nor to identify the problems of transfer. Whilst meeting registration standards is important, a Best Value review would be expected to examine the service in some detail identifying specific areas of provision, future needs, scope for improvement and setting performance targets.

* Funding options are not fully examined, for example, there is no reference to other authorities having used the Private Finance Initiative (there are major problems with this programme) which could be reasonably expected of consultants carrying out a review of residential care.

* There is no justification as why the review examines residential care in isolation from home care and other local services for the elderly in Barnet. The review takes account of day care only to the extent to which it is provided within

the homes.

* The proof of failure would be exposed if the council were to prepare a Local Performance Plan because it would not be able to satisfy the requirements set out in the draft Local Government Bill.

User Views

A consultation exercise undertaken by the council with users and relatives which highlighted a number of important issues. This was not used in either of the Rho Delta reports. Important areas of concern have not been tackled by the consultants and there is no evidence of any further user/community/staff/trade union consultation having been carried out.

* Ideally, nobody would want any change

* Need to maintain high quality of service by current staff

* Possibilities for dual registered homes

* Maintenance of specialist units

* Closure of homes opposed.

* In homes which meet the current standards, it was felt there was no need to externalise?

* Concern about price rises.

* Importance of retaining current staff and ensure current conditions of service and pay are maintained for them beyond what TUPE provides for.

* Ensure good level of training continues.

* Problems of ensuring current quality standards through contract monitoring and review processes.

References

Centre for Public Services, *" Best Value Implementation Handbook""*1999.

Department of Health, "*A New Approach to Social Services Performance" ,* 1999.

Fawcett Society, *"Undervalued work, underpaid women: women's employment in care homes",* 1997.

HMSO, *"Modernising Social Services"* Cm 4169, November 1998.

Laing, William,*"A fair price for care? "* Joseph Rowntree Foundation, 1998

Local Government Information Unit, *New Dimensions to European Finance,* London, 1998.

London Borough of Barnet, *"Review of Residential Care for Older People"* Report to Council-In-Committee, 19th November 1998.

London Borough of Barnet, *"Comprehensive Review of Residential Care for Older People"* Report to Social Affairs Policy Development Committee, 23 March 1999.

London Borough of Barnet, *Comprehensive Review of Residential Care for Older People"* Report to Social Affairs Policy Development Committee, 22 April 1999.

Office of Fair Trading, *"Older People as Consumers in Care Homes"* 1998.

Rho Delta *"Comprehensive review of residential care services for older people"* Draft final report to London Borough of Barnet, February 1999.

Rho Delta *"A Comprehensive Review of Residential Care Services for Older People - Stage 11"* Work in Progress Report and revised Options Appraisal to London Borough of Barnet, April 1999.

Royal Commission on Long Term Care *"With respect to old age"* 1999.