SOCIAL AFFAIRS SUB-PANEL

Overdale Review (4th Hearing)

FRIDAY, 6th OCTOBER 2006

Panel:
Deputy A.E. Pryke of Trinity (Chairman)
Deputy D.W. Mezbourian of St. Lawrence
Deputy R.G. Le Hérissier of St. Saviour
Deputy S. Power of St. Brelade
Deputy S.C. Ferguson of St. Brelade

Witnesses:
Mrs. C. Blackwood, Registration and Inspection Manager, Health and Social Services
Mr. S. Smith, Assistant Director of Health Protection, Public Health

Present:
Mr. W. Millow (Scrutiny Officer)

(Please note: All witnesses and Panel Members were given the opportunity to comment upon the accuracy of the transcript. Whilst the transcript remains a verbatim account of proceedings, suggested points of clarification may have been included as footnotes to the main text.)

Deputy A.E. Pryke of Trinity:
Good morning, everyone. I would like to welcome you all here this morning to the Scrutiny Panel Hearing on the closure of Overdale. As you know, the Panel is in the process of reviewing the ministerial decision on the closure of 2 continuing care wards up at Overdale and transferring those patients into the private sector. Part of that evidence-gathering is to get information from other sectors. I would like to introduce myself. I am Deputy Anne Pryke of Trinity, and am Chairman of the Sub-Panel.

Deputy R.G. Le Hérissier of St. Saviour:
Roy Le Hérissier of St. Saviour.

Deputy S. Power of St. Brelade:
Sean Power of St. Brelade.

Deputy S.C. Ferguson of St. Brelade:
Sarah Ferguson of St. Brelade No. 1.

Deputy D.W. Mezbourian of St. Lawrence:
Deidre Mezbourian of St. Lawrence.

The Deputy of Trinity:
On my left is William Millow, who is our Scrutiny Officer. Would you just like to introduce yourselves?

Mr. S. Smith (Assistant Director of Health Protection, Public Health):
I am Steve Smith, Assistant Director of Health Protection with overall responsibility for the Registration and Inspection Team for Public Health.

Mrs. C. Blackwood (Registration and Inspection Manager, Health and Social Services):
I am Christine Blackwood. I am the Registration and Inspection Manager for Health and Social Services.

The Deputy of Trinity:
Thank you. There is a certain protocol and I understand that you have both seen it and read it?

Mrs. C. Blackwood:
Yes.

The Deputy of Trinity:
This hearing will be held in public and will be recorded and transcribed. You will receive a copy of it before it is downloaded on the website. Mrs Blackwood, could you give us a brief description of your background?

Mrs. C. Blackwood:
My background: I qualified originally as a nurse and then I worked for a while as a nurse. Then I did a psychology degree and had a break to have my family. I worked for some time doing nursing as a research assistant at what was Leeds Poly at the time, and then I had a job working as a Primary Care Facilitator working with general practice in Harrogate, North Yorkshire. I came to Jersey in 1993 and taught psychology for a while at Highlands on the Access Course, and then I took up this post in 1995.

The Deputy of Trinity:
That post is?

Mrs. C. Blackwood:
It originally was the nurse advisor to the Health and Social Services Committee, with responsibility for

inspecting nursing residential homes. But it has changed over that time, and it is now Registration and Inspection Manager.

Deputy D.W. Mezbourian:
Mrs. Blackwood, you took that post up in 1995; was it a new post?

Mrs. C. Blackwood:
No, it was a part-time post and I took over from the previous holder of the post, who was the first post holder. I think it first started in about 1989 they set the post up, but it was part-time and at that time it was self-employed, but it became a substantive post in about 1996 or 1997.

Deputy S. Power:
Can I just ask a question? Your position as Registration and Inspection Manager: do you operate out of your own office, or do you have an office backup, or do you work from home, or can you just --

Mrs. C. Blackwood:
No, I work from an office in the Le Bas Centre as part of the Public Health function.

Deputy S. Power:
Do you have secretarial backup or an assistant?

Mrs. C. Blackwood:
Yes, we have 2 part-time nurses.

Mr. S. Smith:
It might be useful for me just to outline how Registration and Inspection fits, in terms of Public Health Services. Public Health Services is a directorate of Health and Social Services and is headed by the Medical Officer of Health, who is the medical advisor to the States. Under her ownership, if you like, we have 3 principal areas of Health Protection, Health Promotion, and the areas of Child Health. The Health Protection function is divided down into 3 areas again; 2 of which are historically Environmental Health Department, and the third is the Registration and Inspection team, which covers Christine's area. As such, the administration for Health Protection falls as part of the whole Public Health administration. So, there are shared administrators, as well as a dedicated secretary who works part-time for Christine's team.

Deputy S. Power:
To clarify for my own thinking, the Registration and Inspection Department, you are in charge of it and then you have 2 assistants?

Mrs. C. Blackwood:
I have a part-time Health Protection nurse who works with the inspection side, and there is a part-time Health Protection nurse for immunisation and housing, who does some inspections of Yellow Fever centres; and part-time admin staff; that is all of the team.

Deputy S.C. Ferguson:
So, your accountability is in to Steve?

Mrs. C. Blackwood:
It is to Steve, yes.

Deputy S.C. Ferguson:
Have you got a background in nursing care?

Mr. S. Smith:
No, mine is purely in terms of environmental health.

Mrs. C. Blackwood:
In terms of professional support, then I would get the professional support from the Director of Nursing, if there were professional issues that had to be addressed.

Deputy R.G. Le Hérissier:
We have overlapped into question 2 but can you, Christine, tell us what are your responsibilities as the Registration and Inspection Manager?

Mrs. C. Blackwood:
I oversee the registration of new premises; extensions, changes to premises; new owners, new managers. I also oversee the statutory inspection of facilities, and by law they have got to be inspected twice a year. We also register healthcare professionals as well; nurses, physios, OTs. We inspect facilities, we inspect nursing agencies, and we inspect designated Yellow Fever centres. I do these things as well as overseeing it; I do the inspections. We also investigate complaints; serious incidents. We have done a few critical incidents where things have happened and we have been concerned about the outcome and adult protection issues in the sector. We also run training for care staff and for managers to help them do the job as well as they can; give advice to the public, to managers and staff. That probably about covers it.

Deputy R.G. Le Hérissier:
Can you define very quickly the legislative source of your responsibilities? Where you do not operate under a legislative umbrella, what is the source of your approach to the work?

Mrs. C. Blackwood:

All the homes on the Island are registered under the Nursing and Residential Homes Jersey law, and there are 2 orders under that. There is a Residential Homes order and a Nursing Homes order, and that is the statutory framework from which everything else falls. There is also a Nursing Agencies law. For the Yellow Fever centres, there is International Health regulations, and for the healthcare professionals there is the Healthcare Professionals Registration Jersey law. So, there is a statutory underpinning of all the work that we do. The orders are obviously written in terms of suitable and adequate and capable and sufficient, so we tend to use best practice guidelines, usually from the United Kingdom, covering a variety of things; the basic standards that should be in place. But we also supplement that with guidelines from the Royal Pharmaceutical Society for administration of medicines, best practice guidelines from NICE (National Institute for Clinical Excellence), the Nursing and Midwives Council; their guidelines for medication and record keeping, conduct, a sort of variety; Health and Safety Executive; a whole range, really.

Deputy R.G. Le Hérissier:

So, anyone who was to come into the Island to set up a new operation, for example, you would be able to tell them: "These are the conditions under which you will operate"?

Mrs. C. Blackwood:

Yes. We encourage people who are thinking about setting up to come and talk to us first so that we can go through what the requirements are, both in terms of the premises requirements, the staffing requirements, the standards that we expect.

Deputy R.G. Le Hérissier:

There is a bit of an issue, as you know, with your role: the fact that you are employed by the Department of Health and Social Services. There are 2 things that flow from that, that observers have noted. One is, of course, you do not inspect their facilities.

Mrs. C. Blackwood:

That is right.

Deputy R.G. Le Hérissier:

Secondly, you are the judge, of course, of other people's conditions but yet you are employed by one of the biggest providers, or maybe for the future, one of the biggest enablers. So, how is that position and the inherent conflict dealt with?

Mr. S. Smith:

It is probably best for me to answer that side, if you like. Health Protection has sort of historically grown up as, like, the regulatory side of Public Health Services, and Public Health Services in many ways is a bit arms-length from the hospital. Although we are part of Health and Social Services, and we are under the Ministry for Health and Social Services, to all intents and purposes we operate fairly separately, and where we undertake our regulatory function then we will be guided by, as Christine said, the best practice issues that we come across. I have to say, over the period of time, I have not experienced any overt pressure to change any decision that we have made, in terms of how we have looked at a particular issue. We work on an evidence base of drawing up our decisions and that decision, I have to say, certainly since my managership of the area, has never been something that we have had questioned. So, in saying that, we are kind of arms length and try to ensure our integrity in being separate, really.

Deputy R.G. Le Hérissier:

But do you think, Steve, that that sort of acquiescence that you see, or that apparent acceptance, might be due to the fact that because you have the power to licence people, then you start regulating them once they are in operation, they are going to be very hesitant about going to somebody and saying: "Well, look, we do not like what is going on here"?

Mr. S. Smith:

I think the industry clearly is regulated, and the legislation does not allow us the powers to regulate Health and Social Services. If you like, we still have here what in the UK would be seen as that Crown Immunity, which has broken down over a number or years. I think, in terms of regulatory aspects, we would be more comfortable outside of Health and Social Services, but there has to be a realisation that in some ways our work is uniquely linked to that department. It would be difficult, in the current setup, for us to be anywhere other than there, at the moment.

Deputy R.G. Le Hérissier:

We are going to look at the appeal process later, so I do not want to get too much into the detail, but - I am actually talking more about private homes - the fact that they come to you for approval licensing and then you are the regulator of those homes once they are set up, you do not think this inhibits people from saying: "Well, look, we do not really like the way we are being handled"?

Mr. S. Smith:

Because we are part of Health and Social Services?

Deputy R.G. Le Hérissier:

Yes, because you are part of Health, and because you perform both those roles?

Mr. S. Smith:
No, I do not think we have really experienced that, in terms of the work that we have done. There is definitely a feeling in the industry that there should be a level playing field, and that Health and Social Services should be regulated in the same way as the private sector and, as officers, we would absolutely agree. We would support that view entirely. It is something that has been discussed and you are probably aware that the Chief Executive has made announcements to the effect that they would look to see Health and Social Services audited by an external body. So, there is generally an acquiescence from all sides that that needs to happen.

The Deputy of Trinity:
You talked about a level playing field with the industry. So, do you meet the industry regularly and talk about the level playing field? Has that come up officially, or was that just on the sort of old grapevine?

Mrs. C. Blackwood:
I have been over to the Care Federation probably about once a year to discuss concerns that might be raised, but we do not have, at the moment, a forum. We did in the past with the Managers Forum that we held jointly with the hospital, but that kind of fell by the wayside. But it is certainly something I think we would be hoping to develop at some time in the future.

The Deputy of Trinity:
So, you feel it is officially an issue?

Mrs. C. Blackwood:
I think it is good practice to have a forum where we meet officially with the sector.

The Deputy of Trinity:
Perhaps I did not make myself clear. The issue that it might not be a level playing field?

Deputy R.G. Le Hérissier:
Has that been raised or not?

Mrs. C. Blackwood:
Yes, it has been raised officially, when we changed our staffing standards. As part of that, there was a consultation process. So, they went to the Care Federation, which is the industry body, for their views and their support, hopefully. Which they did; they gave support for it, but they said that they would expect Health and Social Services to meet the same standards which was, I think, perfectly reasonable.

Deputy S. Power:
You have referred briefly, Mrs Blackwood, to legislation. What guidelines do you use, and what kinds

of guidelines are used to assess standards in care homes in Jersey? What do you use as your kind of benchmarking?

Mrs. C. Blackwood:
We issue registration guidelines to the sector. But, as I said, standards change all the time; new things come out all the time. So, as they come out, we will send out updated standards. So, the Royal Pharmaceutical Society produced some guidelines for the administration of medicines in care homes, so those were sent around to the homes. We, at the beginning of this year, sent around some guidelines about water temperatures, based on the Health and Safety Executive and the UK best practice for safeguarding residents' health. So, it tends to be that there are set things, but it tends to be added as new things come out. Every time NICE produce guidelines that are appropriate to the sector, then we will circulate those. There are ones on infection control in the community that were circulated a couple of years ago.

Deputy S. Power:
You mentioned, or you were talking about there, regulating the temperature of hot water.

Mrs. C. Blackwood:
Yes.

Deputy S. Power:
So, guidelines as such, you look at what is happening in the UK, and you edit it or you change it appropriately. You send on these amended regulations, or these amended guidelines, to the nursing home and residential home operators, and then you go out and inspect.

Mrs. C. Blackwood:
To the sector, yes.

Deputy S. Power:
Do you have your own standard checklist for every 6 months?

Mrs. C. Blackwood:
Yes, there is a sort of pro forma. With the inspection, we inspect the premises, so we have a walk around the premises. We try to do that - part of that - on our own so we can go in and talk to residents to get a view what it feels like to live there. So, we are very aware that we just see a snapshot of one day so, we do not know what the experience is like of living there, so we spend some time talking to residents, asking them how they find the home. If there are any relatives around, we will talk to relatives. We may talk to staff. We also check the staffing levels - the staffing records - to make sure the recruitment procedures are in order. We look at their records and we go through a sort of

dependency questionnaire to find out how many people they have who have got incontinence problems or mobility problems, so we can get some kind of view of what the dependency is like and whether that has changed since the previous inspection.

Deputy S. Power:
So, just for my own clarification, your inspection, say, on a 6-monthly basis, you would actually try and get a profile of each patient's care?

Mrs. C. Blackwood:
No, we get a profile of the home. So, we would ask the question, how many people, for example, would be using a walking frame? And how many people would be in a wheelchair? So, you do not get an individual snapshot. But during that discussion it gives us an opportunity to sort of tease out with the manager any cases that they have got particular problems with; anybody that they have that has particular needs. Then we would follow that through by looking at their care records, so we can get some idea of the standard of care that they are actually delivering. But we cannot go through every single resident, because there are 80 people in some homes. So, it is very much a snapshot, and it is done on a sort of risk-assessment basis really. If we find that things are in order, we keep digging. Then, if things - if 3 or 4 - seem absolutely fine, then we would stop. If we found problems, then we keep going; that tends to happen.

Deputy S. Power:
So, when you arrive, say, in a car park, and you notice something like weeds that should not be where they are, does it start at the car park and then does it go through?

Mrs. C. Blackwood:
It starts from the outside, yes. You start your inspection from when you arrive. So, we would make comments. If the garden was overgrown and the external paint is flaking, we would note that and raise it. Then we would negotiate with the manager or owner at that sort of time, to make some changes.

Deputy S. Power:
So, on your assessment, you rate things on a one to 10 basis, or something like that?

Mrs. C. Blackwood:
No, it is not a scale. It is a descriptive --

Deputy S. Power:
It is a descriptive thing?

Mrs. C. Blackwood:
Yes. It is based on what we see; what we hear; what we smell. So, it is -- as Steve said before, it is a sort of evidence-based thing. So, if there is a problem, there will be a description of that problem, rather than a scale.

Deputy S. Power:
So, if you go up to the first or second floor of a residential home and, say, you got to the top and there was a light bulb missing, you would note that?

Mrs. C. Blackwood:
I would note that, yes.

Deputy R.G. Le Hérissier:
We are going to explore this issue of the exercise of your discretion in some detail as this proceeds, but you did mention, for example, water temperature. The point has been made to me, for example, that I understand homes are now having to fit individual valves on taps. So, to use this as an example, Christine, for example, do you say: "We have got these new guidelines about water temperature. This is what we want to see happen. Resolve it." Or do you say: "The only way it can be resolved is by fitting --" I understand at great cost, particularly of course to the smaller homes where these costs always impact disproportionately -- I understand they are all being faced with fitting these valves?

Mrs. C. Blackwood:
That is because we are following the best practice from the UK. That is why.

Deputy R.G. Le Hérissier:
So, water boilers -- given that most people, for example, in their homes have water boilers, and they put faith in the water from the boiler to the tap staying at a manageable temperature, so to speak, you do not have that faith?

Mrs. C. Blackwood:
We had a serious scalding injury in one of the residential homes last year and it is something that we have raised in the past and said: "You need to have things in place to ensure that residents are safe-guarded against water." But following that serious scalding injury - and it actually went to inquest - then we realised that we really had to put out some very strong guidance about what we expected to see in place.

Mr. S. Smith:
I think if we were to take a step back from that, the first issue, really, is, from our perspective, is the water supply safe? Part of that is around ensuring that we have got facilities provided that are not going

to give rise to things like Legionella, hence the reason for water temperatures being so hot to start with. Having ensured that, so we do not get an infection issue, we are then left with the potential for a scalding issue at the point of delivery. Therefore, one then requires a further action to safeguard it when it is delivered to the patient. Clearly, there are a number of ways that can be done, but invariably, thermostatic controls at the tap are probably the easiest for most homes to be able to maintain.

Deputy R.G. Le Hérissier:
It cannot be done -- I do not want to push this too much because I am obviously not a plumber, Steve. It cannot be done at the water tank, for example?

Mr. S. Smith:
No, because the difficulties with things like Legionella, for example, are that the problems arise where you get dead legs in the system, where you get parts of the system which are not used for perhaps a week at a time for rooms not used for a week, they have got vacancies. Then you start to have problems, because unless the system is flushed regularly, you run the potential of Legionella.

Deputy D.W. Mezbourian:
When do you expect these guidelines to be implemented after you have issued them?

Mrs. C. Blackwood:
We always give a timeframe and generally we negotiate that with the homes. If, at an inspection, there are a number of things that we pick up, then we will work through the most risky ones and the most important ones that need to be addressed first. But then the rest, we kind of agree a timescale as to when they will be completed. With the water supply, we said that we expected to see something in place, in terms of measuring and monitoring temperature, having a bathing policy in place -- to start to work towards that as soon as they got the letter. We then ask them for it and we ask them then to get a risk assessment of the premises and to fit the valves. There was really about up to a year's compliance time to do that.

Deputy D.W. Mezbourian:
How many homes would you have issued these guidelines to?

Mrs. C. Blackwood:
All of them.

Deputy D.W. Mezbourian:
So, how many is that?

Mrs. C. Blackwood:

There is 34 or 36. It changes.

Deputy D.W. Mezbourian:
Would you have unannounced inspections to ensure that that had been implemented?

Mrs. C. Blackwood:
No. We would pick that up at a routine inspection.

Deputy S.C. Ferguson:
When we are importing regulations, I get the impression that you are just importing the UK regulations willy-nilly. Can you give us an example of one where you have said: "Hang on a moment, this is gold-plating it; we do not need it"?

Mrs. C. Blackwood:
No, I do not think we have. They tend to be on the basis of best practice and patient safety, and the purpose of regulating is to protect the public. It is about protecting their safety.

Deputy S.C. Ferguson:
I appreciate that, but seeing the vast raft of regulations that are floating through, whether it is from the EU (European Union) or whatever - and I understand NICE are not always as reputable as they should be, you know - there are Jersey ways of approaching things.

Mr. S. Smith:
I think, in answer to your question, obviously we look at what is produced and we look at the issues that are happening in Jersey. Clearly, if we do not have an issue with something that comes out of the UK then we would not be looking to necessarily implement that. Much of what Christine has been talking about are things which directly are likely to affect the patients, and for which we have probably already identified some issues in Jersey. The use of UK best practice allows us then to formulate our views on how that should be implemented within a sector. It is not a question of us just saying: "Yes, the UK have produced this. We will take it from the UK and use it." It has to be appropriate for us and it has to be appropriate for Jersey.

Deputy D.W. Mezbourian:
But, seemingly, they are all appropriate because Mrs. Blackwood just said she cannot think of an instance when you have not followed the UK practice.

Mr. S. Smith:

No, a lot of the ones that obviously we have talked about earlier are concerned with infection control, concerned with patient safety and, therefore, both in this sector and in other areas, we would look at those and almost certainly be guided to use those. Because, subsequently, if that best practice guidance is around and we do not use it and there is an issue, then we are failing in our duty.

Deputy S.C. Ferguson:
Yes, but going on, perhaps, returning to Deputy Le Hérissier's hot water, how many homes, as a rough sort of percentage, have people who are so independent that they are running their own baths?

Mrs. C. Blackwood:
There is quite a few. The scalding incident we had was when the lady was left -- this is a matter of public record so I can talk about it. The lady was left in a bath that was filled with water at the correct temperature and she asked to be left to have a soak. She leant forward and turned the hot tap on and sustained quite serious scalds to her legs, which then was a contributory factor to her death. The trouble with the homes is you will have a mix of residents, and you have to protect the most vulnerable out of those. We take the view, and again, it is based on best practice, but if you have someone who has their own ensuite bath, and they are very competent and they are able to make an informed choice, then they can do a risk assessment and that can be documented. So, in homes with younger people, with very independent older people - although they are very few and far between in care homes who are very independent elderly people - then they can do an individual risk assessment because that is for their own risk. But if it is a communal bath - it is a bath that anybody can use - or is accessible to anyone, then we have to protect the most vulnerable. There are lots of cases - we have had one in Jersey, but there are lots of cases - from the UK of people who have been scalded and died as a result of it.

Deputy S. Power:
May I ask if this regulation will apply -- is it enforced at the hospital with water temperature? For patients in the hospital who can have a bath or a shower or a shave?

Mr. S. Smith:
My understanding is that there are thermostatic valves and stuff fitted to a lot of the hospital premises. This is not just the hospital. Hotels, guest houses, are all in the same boat with this and having to try and ensure that they do not have issues from an infection side, and there is the risk of if children happen to come into their rooms, to allow scalding. So, it is a pretty wide requirement really; not just something for this particular sector.

Deputy R.G. Le Hérissier:
I just wanted to go back to a point Sean raised, Christine. This issue of the evidence; you obviously consider a lot of evidence. From your experience, and I know it must be multi-faceted, but from your experience, what is the evidence that gives you the best picture of how a home is being operated?

Mrs. C. Blackwood:
I think you are right; I think it is multi-faceted. So, if we go around and there is just one light bulb not working, then that is not going to give us any concern. But if the building is dilapidated, if the furniture, carpets, furnishings are in poor condition, if the medication is in chaos, if the records are not kept up-to-date, then that would start throwing up huge concerns. We would spend more time and effort in somewhere like that than in somewhere where we do not have any great concerns.

Deputy R.G. Le Hérissier:
What about the more subtle signs? Because one can go into homes that are the absolute height of luxury, for example, and be seduced by the physical environment, but what would you look for in those places?

Mrs. C. Blackwood:
That is why we look at things like record keeping. We talk to residents; we look at the medication. Medication is actually a very good indicator of a home that is not functioning very well. It is the first thing that seems to go, in my experience; I have been doing this for quite a while. Complaints: if we have had complaints from outside. So, you build up a picture; it is piecing together bits of a jigsaw puzzle, really.

The Deputy of Trinity:
Do you have the power to close homes?

Mrs. C. Blackwood:
Ultimately we have, yes. If we are concerned that somebody is at serious and immediate risk, then there is the power for an emergency closure.

The Deputy of Trinity:
Do you exercise that power or does that go further up the line?

Mrs. C. Blackwood:
No, that goes further up the line. I would report my concerns. The Bailiff has to do an emergency closure. It has to go to the Bailiff.

Deputy D.W. Mezbourian:
I may have missed it earlier when you gave a resume of your background, and if I did do then I apologise, but what formal training have you had for this role?

Mrs. C. Blackwood:

Well, I am a registered nurse and I maintain my nurse registration, and I have worked for some time in primary care in the UK, in practice nurses and in general practice. I have been in this post since 1995, so it is nearly 11 years. So, during that period, I have done training; I have been on legal courses in the UK; I have been to other training around inspection and investigation of complaints, witness statements and that sort of thing. So, some of it has been done in-post.

Deputy S.C. Ferguson:
What provisions do your guidelines and regulations make regarding staffing levels required in care homes? Can we have a copy of your … It will be useful.

Mrs. C. Blackwood:
I can give you a copy of the staffing standards, if that is helpful.

Deputy S.C. Ferguson:
Yes, and your general guidelines, if you have got them.

Mrs. C. Blackwood:
Yes, I have got the residential ones and there are also the ones for the nursing homes. But those are just the general ones. There are others we have referred to. The staffing standards, in terms of the numbers of staff on duty, have been in place since before I came into post. They currently are, for nursing homes, one to 5 care staff; a ratio of one care staff to 5 patients, plus a registered nurse for 20 patients by day and one to 10 at night.

The Deputy of Trinity:
So, sorry, what is the trained staff ratio?

Mrs. C. Blackwood:
It is one registered nurse to 20, by day. It is all in the documentation and it sets it out quite clearly. These are minimum standards, so the residential homes, it is one to 10 by day and one to 15 by night. Obviously, depending on the size of the home, there needs to be domestic staff, kitchen staff, social activities co-ordinators, and that sort of thing. There are new guidelines from the UK about calculating staffing standards, but they depend on having an agreed dependency rating. As yet, we have not got that, although we are working towards it. Some of the others may have mentioned a placement tool that we are working on which, hopefully, will be compliant both with our requirements and for ensuring that people are placed and funded at their correct level. That will then give us an opportunity to look at perhaps a more sophisticated way of calculating staffing. Those are the minimum standards. If a home has got higher dependency - and that is where we do this; we go through the dependency levels at each inspection - if the dependency increases, we may ask them in the short term to put additional staff on, because the registered person has a duty to ensure that there are sufficient staff to meet the needs of the

residents.

Deputy S.C. Ferguson:
So, when you go around and when you look at everything, and you have obviously got the guidelines backing it up, what about the qualifications regarding staff?

Mrs. C. Blackwood:
Again, in these standards, we have said that we would expect at least 50 per cent of the staff to have either an NVQ (National Vocational Qualification) level 2 or to have had significant experience, of 2 years or more actually working in the care sector. Then the others can be trainees, because obviously you have got to bring new people in all the time. Nursing homes have to have a registered nurse in charge; that is a legal requirement.

Deputy S.C. Ferguson:
Which is the main difference between that and a residential?

Mrs. C. Blackwood:
Yes, in the residential homes there is no requirement for any registered nurses to be employed. In fact, we cannot insist on a registered nurse is employed because if they are providing nursing, they have to be registered as a nursing home. You were asking earlier about standards that we would be Jerseyfied. We actually Jerseyfied the law a few years ago because in the UK they have a single category care home. In Jersey we have 2 separate registrations - one for nursing homes and one for residential homes - and that can be very inflexible. You may have 3 or 4 people that need nursing care within a home, but it is quite onerous to have the full requirements for a dual-registered nursing home. So, we actually amended the legislation to enable a conditional nursing home registration; that allows the residential home to register as a nursing home for 5 patients, on condition that they only take their own residents, so they can offer them a home for life. They do not have to have a registered nurse on duty on the premises all the time. They do have to have one on duty for at least one shift a day, and one on call. But it just gives flexibility, because we were mindful that a number of residential homes actually employ nurses, so it was a way of enabling them to keep people whose condition deteriorated but keep them safely and meet their needs.

Deputy S.C. Ferguson:
When you are looking at qualifications and with regards to guidelines and so on, do you actually give any consideration to the linguistic capabilities of the staff?

Mrs. C. Blackwood:

It is one of the standards. We say that a key skill should be that they can communicate effectively in English, both orally and in writing. It is a difficult one. It is very difficult.

Deputy S.C. Ferguson:
Have you had problems with that?

Mrs. C. Blackwood:
Yes. I think it is probably getting better, but there are great difficulties that the sector is having recruiting staff; there are great difficulties recruiting staff.

Deputy S.C. Ferguson:
If you are an old lady calling for help, you really do want to talk to somebody who can understand you.

Mrs. C. Blackwood:
Yes, absolutely. And if you have a cognitive impairment, it is difficult enough to make yourself understood without somebody having a communication problem on top of that. So, I agree.

Deputy S.C. Ferguson:
But apart from requiring people to have a capability to communicate in English, you have not really chased that one up, at the moment?

Mrs. C. Blackwood:
No, but it is one thing you will see as part of the recruitment procedure. We have actually said that people should have … "staff have an interview prior to appointment and an interview schedule or record is made that includes an assessment of basic communication skills". It is something we actually ask for the sector to look at before they retain them.

The Deputy of Trinity:
Going back to the dual residency, how many residential homes have applied for dual residency?

Mrs. C. Blackwood:
2 have had the registration and one has now converted that into a full dual-registration. I think what people will probably do is they will use it as a stepping-stone. So, Lakeside was the first one to have 5 beds registered. It has now gone into full dual registration and we have just registered St. Ewold's, one of the Parish homes, for 5 nursing beds. There are others that have expressed an interest but have not taken it any further.

The Deputy of Trinity:
Do you foresee some problems with the smaller residential homes, with having a trained staff who may

only need to be there for a day, due to the condition of the patient?

Mrs. C. Blackwood:
I think it would be very difficult for a small home - a home with 10 people or whatever - to have 5 of those beds -- have 3 registered nurses, because of the cost of employing registered nurses and the fees that they would need to charge to be able to cover that cost.

The Deputy of Trinity:
So, is there a way around it? So, at the moment, if a patient is needing more care - not necessarily major medical intervention - do they have to move?

Mrs. C. Blackwood:
Yes, if they need nursing care. It is really about ensuring that their nursing needs are properly met and we can demonstrate that they are being properly met. We brought this in and we have looked at this placement document until -- because we have investigated cases in residential homes of people who have deteriorated, have never been reassessed, and have not been placed appropriately, who end up malnourished with pressure sores. They become immobile because the staff there do not have the nursing skills. It is not about one-to-one nursing intervention; it is about the assessment skills that a registered nurse has. Because that is the way you are trained, and you may not do it formally and write it down all the time, but it is something that you do as a registered nurse because it is part of your training. Non-registered nurses, care staff, are not trained in the same sort of way. It is the ongoing assessment and supervision of the staff that is important.

Deputy S.C. Ferguson:
But where would you put the tipping point?

Mrs. C. Blackwood:
That is why we have tried to get this placement document that should assist with that. That is actually a Jersey document that was developed here and it was developed by practitioners. Initially, it had people from the sector, somebody from the hospital, social workers, district nurses, mental health nurses, CPN. What it will do, it has still to be -- it was validated but it has been amended, so it has got to be revalidated to make sure that it is measuring what we think it is measuring. What that does is in the grey areas - because there are always grey areas; you cannot tick a box for everything - there is a process whereby we would expect a multi-disciplinary professional assessment and the consensus of that assessment would be the judgment as to what kind of needs that person had; whether they needed nursing care or residential care.

Deputy S.C. Ferguson:
Where is the family in all this?

Mrs. C. Blackwood:
The family and the residents are involved in the assessment process but the actual ultimate decision about where they will have to go -- because when it is about ensuring people's safety, and because the legislation says that somebody needs nursing care, if you are providing nursing care for someone, they have to be in a nursing home.

The Deputy of Trinity:
To take that a step further - and I am sure I could be one of them, along with Roy here - if we were in a residential home and we could still make a choice but we needed more care, not particularly major intervention-type nursing care, and we wanted to stay exactly where we were, but your so-called multi-disciplinary team suggested that we should, or advised us, that we would need to go into nursing care, what right would I have to say: "Excuse me but I am not moving"?

Mrs. C. Blackwood:
I think the difference is because this is a regulated sector rather than if you were at home. But it is a sort of a third-party involvement. People are being paid to provide a certain level of care, and that gives them a sort of liability to make sure -- they are required to make sure that people's needs are met. That is a legal requirement.

The Deputy of Trinity:
So, I could be made to move, if I was in that situation?

Mrs. C. Blackwood:
It is possible, yes.

The Deputy of Trinity:
Even though I did not want to move?

Mr. S. Smith:
The regulations effectively create, if you like, an offence for the registered home if they keep you at the premises outside of the care that they are actually able to give you. So, it is not then in their interest to maintain you at the property.

Mrs. C. Blackwood:
Because if something goes wrong -- if the home keeps someone whom they cannot -- and we have had this in the past, where people have stayed in a residential home, and the staff are very kind. It is not that they are unkind, but there is a difference between being kind and being competent, and it is that sort of competency that is essential in this, because the investigations we have done, we have discovered people

who have, as I say, got pressure sores, they have stopped eating, so have become malnourished; they become more and more disabled. So, it is …

Mr. S. Smith:
That was part of the background to us going down the line providing this limited nursing registration, which allowed homes then the opportunity, if they had someone who really did not want to move, who otherwise they might have to ask to move, they could go down the line of this limited nursing registration, and then that would allow them to keep the person at the premises.

Deputy S.C. Ferguson:
So, if I was incontinent and not able to get to the loo very easily but I was still -- I just needed help - an arm to lean on going to the loo - and if I needed help with feeding, you would say that that is a question for … into the nursing home?

Mrs. C. Blackwood:
No. It would be more --

Deputy S.C. Ferguson:
Which is why I asked about the tipping point.

Mrs. C. Blackwood:
It is a kind of complexity. It would be based on the complexity of their needs and the predictability and stability of their needs. They have got complex needs, so that is why we have got this sort of grey area. There will be a number of things on their own would be manageable in a residential -- you know, a combination of 2 or 3 of them would be manageable in a residential home, but once you start getting 7, 8, or 9 of those needs mixed together, then the whole is greater than the sum of the parts, and that would be the tipping point. But that would not just be a tick box thing because when you get to those sorts of decisions, it becomes more difficult. The other thing is we would never expect a home to move someone who is in a terminal state of their illness. If they deteriorated very quickly and it was a self-limiting illness, unless they actually could not manage them, and we knew it was going to be a fairly sort of -- soon. An illness that have gone quite soon, then we would not be saying to people: "You need to move this person into a nursing home" because that is demonstrably unfair.

Deputy S.C. Ferguson:
So, you do have a certain degree of discretion?

Mrs. C. Blackwood:
Yes. But it is where people deteriorate on a slow and gradual rate, and they can deteriorate over a long period of time, and continue to deteriorate, that the concerns come in because that is when the major

problems start.

Deputy D.W. Mezbourian:
As you know, we are looking at the Overdale situation and the closure of the Leoville and McKinstry wards. Have you had any consultation at all with Health and Social Services regarding the closure of the wards and the movement of patients into the private sector?

Mrs. C. Blackwood:
I have been to, I think, 2 meetings. We try to keep the regulatory side separate from the placement side because, back to what you were saying about the funding and the regulation, I think there is a potential conflict of interest. But I did attend a meeting to set -- I suppose it was about setting the ground rules as to whether these people were needing nursing care, residential care and that sort of thing, and to give some idea of what the sector has to offer in terms of its facilities. But I have not actually been involved in deciding who is going where and that sort of thing. I do not think that is appropriate.

Deputy D.W. Mezbourian:
What additional pressures can you see on your role with the movement of these people into the private sector?

Mrs. C. Blackwood:
It is more the additional pressures would be there but -- because there is a new home opened up and that was opening up, as far as I was aware, before there was any talk of people moving out of Overdale. Because we started negotiating with Four Seasons over a year ago; 2 years or 18 months ago. So, it has been on the go for some time.

Deputy D.W. Mezbourian:
To go back to the inspections that you carry out on homes, which you alluded to earlier, I know you have spoken briefly about Deputy Power asking you when does the inspection start? Is it when you arrive at the front door? But would you give us the procedure that you normally follow for inspecting a home? When do you decide, from decision to final?

Mrs. C. Blackwood:
All homes have to be inspected twice a year, so usually in January and again in July, we will sit down and work out the dates that we are planning to go, and we will split them up between myself and my colleague. They are both unannounced inspections, so they do not know when we are coming. We also have a pharmacy inspection that takes place. One of the senior pharmacists from the hospital does at least one inspection a year to give some professional advice on the sort of medication systems. So, we will inform her of when we are going. Now, sometimes we do not stick to that schedule because other things come in, but we tend to have a schedule that will go into our diary. Then, the day before, we will

go through the paperwork, previous inspection reports, we will get the papers together and then we go in the next day. As I say, it starts when we drive up into the car park, knock at the door and ask to talk to whoever is in charge. I suppose, because I have been doing this job a long time, people tend to know who I am so usually know why I am there. Then I kind of negotiate with them. I say: "Do you want me to go through the paperwork first with you? Did you want me to go around the home and talk to the residents? What is your current routine at the moment and what would suit?" Unless we had a concern. If there is a concern, then I would go to that first but generally we sort of negotiate round. So, it depends, really. It depends whether the manager may have a meeting in the afternoon or have something else and say: "Well, can we go through the paperwork now?" and I will go through the dependency needs and whatever, and the records. Then I will do the building. Otherwise, I usually try and do the building first because that gives me a better feel; talk to the residents.

Deputy R.G. Le Hérissier:
It was on a different issue. Sorry, I will let Christine finish her cycle.

Mrs. C. Blackwood:
Okay, as I said before, we walk around the building and go into rooms. Obviously, we do not go into every single room. It is back to what I said before, if we go into 10 rooms and they look fine and the residents are happy, then that would probably -- we would not go into every single one. If we went to 10 rooms and there were problems then we would go into more and more. Sometimes, it can take one day; sometimes it can take 2 days. It just depends on what we find, really. Then come back, look at the medication; we will have a look at the kitchen, although the environmental health officer also does an annual inspection. If we have got a concern, we will call an environmental health officer in to have a look again. We go through the records; go through the care needs; discuss what we have found; agree a plan as to what has to be put right and when it will be put right. Then we go back and write a report, which sets all that out, and send it back. They have an opportunity on the back of that to say whether there are any factual inaccuracies. The reports and our inspections are based on evidence. We cannot do it on: "Well, this feels nice" because that is intangible. And that is difficult because there are some homes you go into and it does have a nice feel but what we have got to try and do is tease out why that has a nice feel, and do it as an evidence-based, rather than just making judgments. So, that tends to be the way we do that.

Deputy D.W. Mezbourian:
We spoke earlier about the possible conflict that you may come across being employed by Environmental Health, which is part of Health and Social Services. What pressure do you think would be on you, if you were to find problems at a home that had residents in it that had been transferred from Overdale?

Mrs. C. Blackwood:

It would not be any different if there were residents from Overdale or residents from a private home.

Deputy D.W. Mezbourian:
As opposed to a nursing home or a residential home that had no patients there from Health and Social Services?

Mrs. C. Blackwood:
Well, Health and Social Services already have people placed in nursing homes, and have done for some years. I do not know who the Health and Social Services patients and residents are because I do not ask that. I ask how many people are on assisted fees and how many are privately funded and what the fees are and whatever, but I would not know when I go into a room whether somebody is privately funded or supported by Health and Social Services or the Parish. That is not relevant to my role, because my role is about the whole home and everybody in it.

Deputy D.W. Mezbourian:
I am thinking in terms really that if Health and Social Services had no beds themselves in which to take back patients from a home that perhaps you thought should be moved, what the position then would be? This is where I wondered whether there would be a conflict, from your point of view, because what do Health and Social Services do then if they have got nowhere themselves other than trying to move these people to somewhere else in the private sector?

Mrs. C. Blackwood:
No, I do not think that is any different to a privately funded person. If there is a problem in the home then that problem has to be resolved, whether the person is from Health and Social Services or otherwise.

Deputy D.W. Mezbourian:
I would agree.

Mr. S. Smith:
Let me just say if we were to go into premises and clearly the place is so bad that we would be looking to do a closure, and we were aware that Health and Social Services had patients placed there, then clearly we would talk to Health and Social Services and say: "There is a major issue here. You have people placed. You should be removing them." It is no different to some of the aspects that I used to deal with in the UK around houses in multiple occupation, where the local authorities would place homeless people in another borough. You would do an inspection, find that the place was unfit and you would ring the local authority and say: "This place is unfit and you should not have people here" and they would remove them. I mean, because we are part of the organisation my Chief Executive Officer would expect me to be notifying the organisation if there was a risk to the organisation. I mean, the fact

that Health and Social Services might have people placed at a particular home will not make any difference to the way we look at the home in terms of our inspection and what we would require.

The Deputy of Trinity:
With any new home that is just opening, do you go in before the home is opened?

Mrs. C. Blackwood:
Yes. Ideally we like to get in at the planning stage to make sure that they meet the physical standards, so we encourage anybody who is thinking about setting up a home to contact us beforehand. Planning send us the plans for any extensions or new premises to make sure that they actually do meet the required standards for room sizes, corridor widths, bathing provision, communal areas, and that sort of thing.

The Deputy of Trinity:
So, for instance, like Silver Springs, you in theory put a stamp on to say: "Right, everything's in place. You can open."

Mrs. C. Blackwood:
We did an inspection before it opened.

The Deputy of Trinity:
Yes.

Mrs. C. Blackwood:
We delay openings if they have not got things, you know, and we delay openings to extensions. I mean, there was one extension that went up and there was no call bell system. The call bell system had not been -- it was all in place but it had not been connected up, so we delayed that opening until we actually had the call bell system in place.

The Deputy of Trinity:
When did you give Barchester the seal of approval?

Mrs. C. Blackwood:
Barchester?

The Deputy of Trinity:
I am sorry, Silver Springs.

Mrs. C. Blackwood:

Silver Springs? I do not actually have those dates with me, but in fact it was my colleague that did it, which I oversaw. What we did is we did a final inspection to make sure everything was in place, and the process is that there is then a report that sets out all the fitness things that we have checked, and then once we are satisfied as the inspecting team that things are in place, it then goes to Steve to sign off. So, that report would not have been signed off until we were ready to actually say that it was ready to open.

The Deputy of Trinity:
Was that a couple of months ago or last week or …?

Mrs. C. Blackwood:
No, no, it was about July -- end of June/July. June perhaps. I am sorry, I can give you the exact dates; I can go back and let you know what it is. We will have the date that it was registered from, but I cannot remember off the top of my head.

Deputy D.W. Mezbourian:
You mentioned your unannounced inspections, and also that obviously you have had

to look at Silver Springs in order to licence it. Knowing that they are taking a number of new patients into the home, albeit that they are from Health and Social Services, would it be your policy to make very early unannounced inspections following the intake of a large number of new residents?

Mrs. C. Blackwood:
Following the opening of a new home there will be an inspection. There is an inspection due -- well, there is an inspection due.

Deputy D.W. Mezbourian:
Yes. Okay, I think that answers that question, thank you. **[Laughter]**

Mrs. C. Blackwood:
I think the other thing that we also did with new premises like Silver Springs, and because of the number of people that would be moving in at one time, we worked with them just to make sure that they had the staff in place; that they were well inducted. So, they were not bringing in new staff at the same time as they were bringing in new residents, and that they were not taking 20 residents at once. It was a sort of phased sort of process. So, to my knowledge that is what they have done.

The Deputy of Trinity:
Were they going to do that anyhow at Silver Springs without you --

Mrs. C. Blackwood:
Yes, yes.

The Deputy of Trinity:
They had already planned that before?

Mrs. C. Blackwood:
They had already planned to do that, yes.

Deputy S. Power:
I was going to ask you, Mrs. Blackwood, and I suppose, Steve, what provision, or what discussion have you had with the department and with the newer entrants with increased mortality rates because of the increased anxiety?

Mrs. C. Blackwood:
There is good research that when you move people, they die. I mean, there is research that shows that. It is the same when homes close. So, there is the likelihood that there will be some mortality rates with anybody moving from one place to another. But what you cannot say and what you never know is whether that person would have died anyway because at the end they can be very frail.

Deputy S. Power:
But you have had to address it and make an estimate?

Mrs. C. Blackwood:
Well, we have not estimated, but I know from past experience when we have had home closures we have had deaths when people have to move homes.

Deputy R.G. Le Hérissier:
Just jumping to a broader question, Christine, which related to your explanation of how you carry out inspections, obviously we have had several times put to us the assertion that - which I am sure you have had time after time - that over-regulation is essentially going to kill off the small home sector. There are 2 arguments: either you are over-regulating, or the economics when you factor in things like all the staffing costs you mentioned, are ultimately not on the side of the residential homes, and neither is the tendency to keep people in their own homes with family nursing support until they are essentially ready for nursing rather than residential care. So, is it your view that factoring in all these particular things that the small home sector is ultimately doomed?

Mrs. C. Blackwood:

I would hope not, because I think there should be a variety of provision but I think there are pressures in terms of economies of scale. Unfortunately, the frailer people get the more -- I mean, the biggest financial burden on homes, apart from the premises and the property costs, are the staffing levels and staffing costs.

Deputy R.G. Le Hérissier:
Yes.

Mrs. C. Blackwood:
But, you know, if you have got very frail people you need enough staff to look after them. I mean, personally, I like small homes because I think it is like a home from home, but I think there are difficulties in terms of the funding.

Deputy R.G. Le Hérissier:
Is there anything in your view -- I mean, I know your job is regulation, and you are not there to sort of make judgments about economics and so forth, you know. You have just got to let that side of the system work itself out for good or for bad, but if you were able to do something, given you are one of the people most intimately involved with this system, what do you think could make their future more viable?

Mrs. C. Blackwood:
That is very difficult. I think it does come down to funding in the end and how that is funded. I went a few years ago to Guernsey and they have set up an insurance scheme.

Deputy R.G. Le Hérissier:
Yes.

Mrs. C. Blackwood:
In fact, I was in Guernsey last year at an inter-Island conference and I was talking to one of the managers there from their nursing homes and they are very happy with it. They know that their income is assured. They know what they are getting and they can work within that. So, that might be something that Jersey could look to in terms of securing long-term funding.

Deputy R.G. Le Hérissier:
Yes.

Mrs. C. Blackwood:
But I mean it is not my area of knowledge or expertise really.

Mr. S. Smith:
I mean, there is a degree of difficulty with the smaller premises because with places like Silver Springs coming on board which are huge and have enormous amounts of investment and are very new, clearly as an individual if you have got a choice between somewhere like that and somewhere where it is not best suited for the purpose - it is an old rambling building - I mean, as well there has not been the investment really in terms of the structures in the past. Of course, what we are seeing now is new providers coming to the Island who will better what is already here and do not attempt to --

Deputy R.G. Le Hérissier:
Sorry, it is slightly going off the point, Steve, but that is a very good point you make. The issue is, of course, what people are obviously implying, and this is, you know, in a sense seen as the hidden threat behind the Overdale move is they can offer these -- as you quite rightly say, these fantastic facilities at a price. They can deal with the regulatory side much better because they have head office expertise to feed into this. They operate with, you know, clear standards which are coming from within their organisation, let alone from the regulatory body. Then, of course, they can move into a dominant market position carrying a lot of public sector residents as well as private residents. Once they have got this dominant market position, of course, they make it even more untenable for the small operator. Steve, would you agree with that sort of line of reasoning?

Mr. S. Smith:
Unfortunately, that is a fact of commercial life. I mean, the same situation has occurred with regard to food premises, if you look at the supermarket, the hypermarket, and the impact that has had on the small shop in the high street. I mean, that scenario is the same scenario we are now seeing played out in this arena I think.

Deputy R.G. Le Hérissier:
Yes.

Mr. S. Smith:
I mean, it is very difficult. Down the line I mean if you look at what has happened in the food scenario, the big players have now started to create smaller shops and they are back in the high streets because they have been told they are killing high streets.

Deputy R.G. Le Hérissier:
Yes.

Mr. S. Smith:
I mean, now the smaller shop keeper is getting a second hit because not only did they go first go off to the big hypermarket, now they have come back, if they have managed to survive, they have got to

compete with somebody who can buy at a much better rate than the local shopkeeper. I suppose in some ways it is what you are seeing in this particular sector as well.

Deputy R.G. Le Hérissier:
Thank you.

The Deputy of Trinity:
Would you encourage the bigger players to come into Jersey?

Mr. S. Smith:
It is not for us to encourage that kind of thing. I mean, at the end of the day we are there to ensure good standards and to ensure the safety of the people in the homes. How that is achieved, whether that is by improving the current situation or by new providers coming in, is outside of our remit. We are there to ensure that the standards are good for everybody in that sector.

The Deputy of Trinity:
I do not know if this is within your remit, but if just say for argument's sake 2 or 3 more providers wanted to come into the Island, is it within your remit to say: "The Island is saturated"?

Mrs. C. Blackwood:
No, if they meet the standard then we are required to register them because if we refuse they have a right of appeal. I would imagine that would be something that regulation undertakings might be able to look at, but it is not something that we could -- as long as they meet the standards there is nothing within the legislation that says that we can control the market.

Deputy S.C. Ferguson:
If the market has a choice is there a case of perhaps grading homes a bit like hotels, where you say: "Okay, this is 2 stars, and this is 4 stars" and therefore keeping the element of choice. This one has got good basic standards; this one has got more frills and bells and whistles attached. Would there not be a case for that?

Mrs. C. Blackwood:
I suppose there could be. I mean, we would not be expecting all homes to meet the new, everything is fantastic sort of --

Deputy S.C. Ferguson:
Piped oxygen in every room, yes --

Mrs. C. Blackwood:

Yes, we would not expect that. You know, as long as they meet the basic minimum standards then that is all they are required to do and as long as the standard of care is good. So, it is that difference of whether you go into a bed and breakfast and you still get warm clean sheets, good food and being looked after, or you go to a very expensive hotel. We need a variety, because different people have different tastes. Not everybody would be comfortable in large, very grand, premises. So, in terms of our function as long as they meet the minimum standards in terms of cleanliness, reasonable décor and good care, then it does not have to be in a sort of a whiz-bang, fantastic, new building.

Deputy D.W. Mezbourian:
What discretion do you apply?

Mrs. C. Blackwood:
In what way?

Deputy D.W. Mezbourian:
When you are looking at homes. Because you work to guide lines.

Mrs. C. Blackwood:
We do, yes.

Deputy D.W. Mezbourian:
Are you able to apply any discretion?

Mrs. C. Blackwood:
What sort of example -- have you got something in mind, have you? Nothing comes to mind, no.

Deputy D.W. Mezbourian:
No, I do not have an example, but I wondered whether you had?

Deputy R.G. Le Hérissier:
What about the kind of food supplied? I mean, cheap and cheerful versus sort of a more gourmet style food offering?

Mrs. C. Blackwood:
Yes, I mean if --

The Deputy of Trinity:
Or room service?

Deputy R.G. Le Hérissier:
Yes.

Mrs. C. Blackwood:
Yes, absolutely. I mean, but we would not be asking for a waitress service in a small home. We would not be asking for waitress service in a large home. That is sort of supplemental to the basic standards. So, as long as the food is nutritious, well-prepared and has variety, then whether it is piped on the plates and sort of set out beautifully, or if it is just served up like you would have at home but, you know, we do not --

Deputy D.W. Mezbourian:
To go back to the water that we were talking about earlier, you said that the lady regretfully lent on the tap.

Mrs. C. Blackwood:
Turned it on.

Deputy D.W. Mezbourian:
That was because she had been left on her own at her request?

Mrs. C. Blackwood:
At her request, yes. I mean, that is a judgment that the home staff have to make, and at the time it was verified by the GP that this woman at that time was fit to make that decision.

Deputy D.W. Mezbourian:
But would you have had discretion to say that homes did not need to fit these valves if they guaranteed that no one would be left on their own in the bath?

Mrs. C. Blackwood:
But then you cannot do that because some people will say: "I want to be left alone. I want some privacy; I want just to have a soak." So, you are then taking away the resident's choice to have some private time.
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Mr. S. Smith:
It comes back to the question of risk assessment really. As part of their risk assessment do they know that the people using that bathroom will only ever be supervised? If that is the case, then it may be they can go down the line of not having some form of control. If there is just one person who is likely to use that then the risk assessment will flag that up to say: "There is an inherent risk." Therefore to address

that risk the home has got to do something. If they want to safeguard the individual's choice, then the only way around that is to actually provide some form of --

Deputy D.W. Mezbourian:
I think what you have just said implied to me that there is some form of discretion.

Mrs. C. Blackwood:
As I said before if it is an en-suite bathroom that is only used for one individual person, and only they have access to it and they are competent to do it and can agree to a risk assessment, then that is different to a sort of communal one. But the trouble with that is that that is only for as long as that person is in that room, because people move and you get people coming in all the time.

Deputy D.W. Mezbourian:
So, Anne, I was going to ask your question, and I think that follows on really.

Deputy S.C. Ferguson:
Can I have a quick one then?

The Deputy of Trinity:
Yes.

Deputy S.C. Ferguson:
Would you not have said that in fact rather than standing back and saying: "Okay, everybody's got to have these taps installed" which, yes, I agree is probably a very good thing, that if the lady felt she needed to put more water in the bath, then she had perhaps been left too long?

Mrs. C. Blackwood:
Well, that was the question that came up at the inquest. The view was that it was the sort of -- the care assistant had come back in to check she was all right. She had actually been in the room for part of the time. She had gone in to say to her: "Do you want to come out now?" She said: "No, leave me another couple of minutes." "Are you okay?" "Yes, I'm fine." She then went to answer a bell, came back within about 3 minutes, and at that time she had lent over and -- people are unpredictable. They do not always tell you what it is that they want, and they want to be independent. It is difficult, because you want to give them -- I mean, our whole ethos is to give people as much choice as possible. So, if you actually have somebody standing over you all the time, then that is …

Deputy S.C. Ferguson:
Yes, but it is almost a question of perhaps suggesting they look a bit like a wrinkled prune; is it not time they got out. You know, there is an approach --

Mrs. C. Blackwood:
Yes. I do not think she had been in long enough to do that. I mean, what was said, and what was said at the inquest, was that she got her clothes -- she had been helped in to the bath, which was at the right temperature when she went in. She tidied up her room. She was talking to her actually in the bath because it was an en-suite bath. She got her clothes ready, went and said: "Are you ready to come out now?" She said, "No, leave me." You know, this was a woman who apparently really enjoyed having a bath; that was sort of well documented. She said: "No, leave me a few more minutes" and she did. She left the room and when she came back, you know, the tap had been turned on. I think the other thing is, as I said before, you are likely to have people in residential homes that have cognitive impairment who forget; that is part of their problem.

Deputy D.W. Mezbourian:
So, did you say earlier that all homes have had to install these valves for the water?

Mrs. C. Blackwood:
They had to install them; where there is total body immersion in showers and baths that are used for common use, yes.

Deputy D.W. Mezbourian:
Taking that as an example, if any of those homes - and we are back to economics - felt that they were unable to do that because of economics and did not want to do it, what appeal process is in place for them?

Mrs. C. Blackwood:
If we went down the enforcement route and we used what we call the Attorney General's advice on enforcement, so we would do the negotiation. We would try and agree it. If they needed a bit more time and as long as they had some provision in place -- I mean, some of the homes in the interim have taken the hot tap off so that people cannot actually go and turn it on, and the staff go in and turn it on at the time. But that is fine as an interim, but it really is not a long-term sort of solution. But we might extend that a bit longer until they have got time to do it. But if at the end of the day they say, you know: "No, we're not going to do it" and we decide to actually serve a notice, an improvement notice, it would then go to court and the court would decide.

Deputy D.W. Mezbourian:
What if they were to argue - and I know we are using this as the example - you just said it was not a long-term solution. What if they were to argue that taking the top of the tap off was a long-term solution for them?

Mrs. C. Blackwood:
Well, then, what you are doing then is preventing independence to your residents. So, your residents cannot just go and turn the tap on and have a bath if they feel like it and go into the shower and have a shower when they feel like it. So, it is taking away that sort of independence. It is fine as a short-term solution, but longer term it is about trying to enable people to do as much for themselves as they can. So, that would not be an appropriate way of managing that risk long term.

Deputy D.W. Mezbourian:
Has anyone ever appealed against your decisions?

Mrs. C. Blackwood:
Has anyone ever appealed? No, because we tend to try and negotiate it really. We try and resolve that at the actual inspection and sort of say: "Well, you know, these are the things that need to be done and what can we agree is a fair timescale in which to do it?" I mean, we have taken one home to court and cancelled their registration a good number of years ago now. That was around -- he had unsafe radiators; hot surface radiators.

The Deputy of Trinity:
Sorry, could I just stop you? If you speak a bit closer to the --

Mrs. C. Blackwood:
Sorry. The radiator surfaces were unsafe. The stair lifts were not functioning and men were having to go up and down on their bottoms. The electrics were unsafe. We served a notice. There were issues around he did not keep records of personal allowance -- moneys. So, we served a notice. He did not comply. It went to the Attorney General. He actually pleaded guilty, so it was an offence, and we then cancelled the registration. But that was after a long and protracted period of trying to get compliance. I mean, we would not serve notice straight away. We would try and work with them. When we did the staffing standards, which I must give you back, we actually got some money from TEP to fund some training for managers in terms of doing recruitment policies, procedures, disciplinary procedures, and how to do appraisals and training plans. So, we actually try and work with the sector and provide support where we can to enable them to meet the requirements.

Deputy R.G. Le Hérissier:
Yes, the issue you referred to at the beginning, Christine, your inability legislatively to regulate Health and Social Services own facilities, but notwithstanding that, were you invited to inspect and to regulate the conditions on Leoville or McKinstry Ward?

Mrs. C. Blackwood:

No. I was asked to go up and measure it up to see whether it met our sort of standards, and it did not seem sensible that I do that. I could give them what the standards are in terms of space sizes, because it was a benchmarking exercise; they could do it themselves. I was not asked to go and comment on the facilities, the care, or any of those sorts of things.

Deputy R.G. Le Hérissier:
Did you ever receive any complaints from relatives or persons residing there as to the conditions?

Mrs. C. Blackwood:
No, not that I am aware of, no, because we do not regulate it. It does not come under our remit. I mean, I suppose if somebody had complained I would have had to refer them to Health and Social Services, but we only regulate the private and voluntary sector.

Deputy R.G. Le Hérissier:
Yes.

Deputy S.C. Ferguson:
Did you ever make an informal visit up there?

Mrs. C. Blackwood:
No. I do not have any rights of access.

The Deputy of Trinity:
So, you have no comment on what the -- I am putting words into your mouth here now. Do you have any comments on the conditions at …?

Mrs. C. Blackwood:
No, I have not been up there, so I could not comment. **[Laughter]**

Deputy R.G. Le Hérissier:
Okay.

The Deputy of Trinity:
Just going back, you said that you had some limited discussion with Health and Social Services about the closure of those 2 wards? What was your input in this? Did you recommend anything or --

Mrs. C. Blackwood:
My recollection, it was really around making sure that -- my understanding was that Health and Social Services was going to follow the closure policy that we have for homes that close in the private sector.

That sets out that everybody should have a multidisciplinary assessment. They should try to be found accommodation of their choice, and it is often very limited. But there is actually a set process. Families and the resident are kept informed all the way through and there is an assigned key worker, either a social worker, a CPN, or whatever. My understanding was - because that was discussed at that meeting - that they would be following that same procedure that we have in place for closures in the private sector. We talked about this placement tool as well, that we were hoping to get in place that will help with funding and ensuring people are in homes that are designed to meet their needs; their specific needs.

Deputy D.W. Mezbourian:
May we have a copy of those procedures?

Mrs. C. Blackwood:
The closure policy?

Deputy D.W. Mezbourian:
Yes.

Mrs. C. Blackwood:
Yes, I can find you a copy of that.

The Deputy of Trinity:
With income support coming in, or the change into Income Support Scheme next year, are you concerned about the funding point of view for some of the patients that are in residential homes?

Mrs. C. Blackwood:
Well, again, I mean I keep this sort of funding bit separate, so I do not get involved in placement and funding. I would be concerned if it was not funded sufficiently that the homes could not meet the standards. I would be very concerned if that was the case. I think it has to be sufficient in order to keep the standards up.

Deputy D.W. Mezbourian:
Have you had any consultation from Social Security?

Mrs. C. Blackwood:
No.

Deputy R.G. Le Hérissier:
Have you found any evidence as you have gone around, Christine, of where, for example, a Parish may

have driven a hard bargain with a home itself, and the home is really struggling and essentially using the private residents to cross-subsidise the public residents, and struggling to meet your standards?

Mrs. C. Blackwood:
By and large most of the homes do comply. I have to say, I have been in the post as I say 11 years and I have seen the homes improve quite a bit. I do not think that is down to me. I think that is down to the fact that they have had new managers, more enlightened, over the last 12 years, who actually want to provide a good service. By and large it has not been reported to me that they are struggling to meet it because the Parish rate is not high enough. I suppose that is the …

Deputy R.G. Le Hérissier:
When you assess, which must be very difficult, but when you do get beyond like a seductive physical environment, and you assess the psychological and social ambience of a home, do you find that there is an issue between the 2 groups; those that are there under the public auspices, and those that are there under private auspices?

Mrs. C. Blackwood:
No, I do not. I mean, a lot of the staff does not know who is privately funded and publicly funded. It is not relevant. I mean, I do not pick up that it is a relevant sort of factor. They do tend to be treated equitably. My impression is that people are treated equitably once they go into the home; that they do not make a -- unless I mean, I suppose -- actually, no, I will take that back. They may not have as nice a room.

Deputy R.G. Le Hérissier:
Yes.

Mrs. C. Blackwood:
We still have some that have shared rooms, so they may have a shared room, or they may have a smaller room. But in terms of the care that they are provided with and the food and the social side of things, I have not picked up any distinction between the public and private sector.

Deputy R.G. Le Hérissier:
Thank you.

The Deputy of Trinity:
You mentioned when Four Seasons came over to speak to you before they were coming over here, do you know when that was? A couple of years ago? Maybe 3?

Mrs. C. Blackwood:

About Silver Springs? I cannot remember actually to be honest.

Mr. S. Smith:
I have got a feeling it might have been the end of 2004. It was a fair time ago.

Mrs. C. Blackwood:
Yes.

Deputy D.W. Mezbourian:
What consideration would you have given to the fact that Silver Springs in Scotland had some bad publicity regarding some of their homes, or a particular home?

Mrs. C. Blackwood:
I think it is down to the individual manager. I mean, a home very often is only as good as the person in charge and running it. I mean, I can only comment on the Four Seasons home --

Deputy D.W. Mezbourian:
Sorry, I said Silver Springs, but of course it is Four Seasons.

Mrs. C. Blackwood:
Yes, the Four Seasons home, because they had La Haule and that to all intents and purposes was well managed. They complied with any requirements and we did not have any concerns. So, you know, in terms of my experience of their provision on the Island was that there was not a problem.

Deputy S. Power:
Just related to Anne's question about the commencement period, the lead-in time, on Four Seasons, it is perfectly acceptable that you cannot remember the exact date. You cannot remember everything when you come in to a meeting like this, but would it be fair to say that over the period of say something between 15 months and 21 months, or 24 months or whatever it was, that they did liaise and talk to you fairly definitively about what the expectations were, and what the standards are --

Mrs. C. Blackwood:
Yes, and we did a pre-visit before they bought the premises --

Deputy S. Power:
Oh, right.

Mrs. C. Blackwood:
-- to make sure that -- I mean, we set out what they had to do, and it was really up to them to make the

decision as to whether they could make the building do that. So, you know, there was a requirement to put 2 lifts in, to ramp things, increase corridor widths, increase door widths, knock toilets together, and put in overhead tracking in some rooms. So, all of that, there was discussions and we actually worked with the architect and the person who was going to be the manager of the home through the building process. So, I think we did about 2 site visits while it was in progress just to make sure that they were --

Deputy S. Power:
Yes. They were obviously -- as a group then Four Seasons were keen enough to get your input even before they bought the place, which is significant.

Mrs. C. Blackwood:
Yes, yes. I mean, well, to make sure that we would register it. Again, I come back to what you were saying before, that if it meets the standards then we have to register it, because they would have a legal right of appeal otherwise.

Deputy S. Power:
Can I ask just one final question? Did the same type of consultation take place with Barchester, I think it was, who bought the Lakeside? Did you have the same kind of consultation with them?

Mrs. C. Blackwood:
Well, it was not bought by Barchester originally.

Deputy S. Power:
Yes.

Mrs. C. Blackwood:
Yes, and they are still working to some of the requirements that we put in at the time. So, there are requirements to widen corridors and put in extra lounges and my understanding is --

Deputy S. Power:
That is still going on?

Mrs. C. Blackwood:
That is still going on.

Deputy S. Power:
But they did contact you quite a while before it was finalised?

Mrs. C. Blackwood:

Yes, before it was all -- well, Barchester itself bought an existing home. But, yes, we have been in discussions with Barchester as well about their -- because they have already started some of their conversions for nursing care because it was a residential home before. They have already started some of their conversions for the -- done some of the conversion for nursing beds, and that has been done in consultation with us.

Deputy S. Power:
Right.

Mrs. C. Blackwood:
There were en-suite bathrooms, but they were too small for nursing care, so they have taken the bath out and put in disabled toilets and put in proper adapted baths. They were raising baths in a room of sufficient size to be able to manoeuvre very disabled people in.

Deputy D.W. Mezbourian:
Is it usual to give that early advice?

Mr. S. Smith:
Wherever we can do we do that, absolutely. In fact over here in the past we have written to all the architects to contact us and talk to us about requirements, not only in care homes, but in any aspect of the premises as well, long before they get to the planning stage, because otherwise by the time they get to the planning stage, if there are issues, then we have got a problem, because what we say can often fail something. So, I mean, we would rather talk to people well in advance about their plans and make sure that they factor in any issues that we have got, so that when you get to the planning stage from our perspective, our consultation process is really a rubber stamp.

The Deputy of Trinity:
Can I just ask one about clarification? In the law it says that a nursing agency means business, and a business carried out by a district nurse association is exempt. Is that how I read it?

Mrs. C. Blackwood:
Yes, the Nursing Agencies Law is extremely old. We only register private agencies.

The Deputy of Trinity:
So, that is where the law fits in that you do not register the hospital as such?

Mrs. C. Blackwood:
No, that is the Nursing Agencies Law. It is the Nursing and Residential Homes law that says -- the

exemption is under that is: “Any hospital maintained or controlled by the States, any school, any other establishment or premises maintained or controlled by a Committee of the States is exempt from the Nursing and Residential Homes Law.”

The Deputy of Trinity:
Because it also mentions parochial authority here.

Mrs. C. Blackwood:
That is --

The Deputy of Trinity:
In Nursing Agencies Law 1978.

Mrs. C. Blackwood:
Yes, that is not for the care homes. That is for the -- sorry, so --

The Deputy of Trinity:
It just says: “All administration thereof, a parochial authority. It does not include any agency carried out in connection with any hospital maintained or controlled by the States, or any administration thereof, a parochial authority, or such authority or body as may be described.”

Mrs. C. Blackwood:
Yes. We only register private agencies, because the charitable ones are exempt, and the hospital services are exempt.

Deputy S.C. Ferguson:
But you do St. (…inaudible) but at (…overspeaking) is a parochial authority.

Mrs. C. Blackwood:
No, but that is not a -- yes, and that was clarified. Can I just kind of separate out the nursing agencies, because that is different legislation to the care homes. Nursing agencies is for agencies providing care into people’s own homes. So, it is like the District Nursing Service. The Nursing and Residential Homes Law, Jersey Law is for care homes. They are 2 separate pieces of legislation for different functions.

Deputy S.C. Ferguson:
I see.

Mrs. C. Blackwood:
Yes, the parish homes and I mean the law came into force before I came into post, but it was queried by the parishes at the time that it was registered. My understanding is that the legal opinion was that they are not run by a States Committee or part of the States' function, and therefore were not exempt.

Deputy D.W. Mezbourian:
So, although you do not regulate Leoville and McKinstry and Health and Social Services, by regulating such homes as Silver Springs, which will have patients there from Health and Social Services, you are in fact regulating the care offered by Health and Social Services to those patients?

Mrs. C. Blackwood:
To an extent, yes. As we have been regulating the care paid for by the Parishes in residential homes, and Health and Social Services' contracted beds that have been in the private sector for a few years. Yes, I suppose indirectly.

Deputy S.C. Ferguson:
With your nursing agency hat on, are you now requiring the same sort of standards for staffing?

Mrs. C. Blackwood:
Well, the Nursing Agency Law gives us very little power. We have actually got ministerial approval this year to draft a new Regulation of Care Law that will swoop up the nursing agencies, and the personal care agencies, because the personal care agencies are not company regulated at all, and bring it up to date. So, that then, yes, we would be able to put the same requirements into looking at staffing. We do it around good practice stuff for the nursing agencies. We will say this is what we would advise, but actually the law gives us very little power under the Agencies Law.

The Deputy of Trinity:
Thank you very much indeed.

Mrs. C. Blackwood:
Thank you.

The Deputy of Trinity:
You will be getting a copy of the transcript before we publish it.

Mrs. C. Blackwood:
Thank you.