STATES OF JERSEY

Health, Social Security and Housing Panel
Long-Term Care of the Elderly

WEDNESDAY, 30th JULY 2008

Panel:
Deputy A. Breckon of St. Saviour (Chairman)
Deputy R.G. Le Hérissier of St. Saviour
Mr. J. Forder (Adviser)

Witnesses:
Senator B.E. Shenton (The Minister for Health and Social Services)
Mr. S. Smith (Head of Health Protection Service)
Ms. C. Blackwood (Registration Manager for Health and Social Services)
Ms. T. Fullerton (Assistant Director, Corporate Planning)

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

I would like to welcome you to the session. I am sorry we are just a few minutes late. As you know, we are doing this study of long-term carer. For those who have not been involved in the earlier issues around New Directions, our intention was to do New Directions because obviously it was the overarching policy and then we would drill down into other policies of which this was one. Because New Directions is still, I suppose, finding its direction, we decided we had to move ahead and this seemed to be a matter of great interest both to yourselves and to ourselves, so we do thank you for co-operating. So we will introduce ourselves for the tape as much as anything, and then I shall ask you if you could introduce yourself because we have one person who is not familiar with the Jersey scene perhaps, or maybe now. Tell us your job role and anything you feel that is of relevance about your background. We would certainly love to hear it. So, Roy Le Hérissier.

Deputy A. Breckon of St. Saviour (Chairman):

Alan Breckon.

Mr. J. Forder (Adviser):

Julien Forder.

Deputy R.G. Le Hérissier:
Julien is the adviser to the panel.

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

Mr. S. Smith (Head of Health Protection Service):
I am Steve Smith. I head the Health Protection Service and the regulatory aspects of care come within my Service.

Deputy R.G. Le Hérissier:
So you are Christine's line manager?

Mr. S. Smith:
I am Christine's line manager, yes.

Deputy R.G. Le Hérissier:
Okay.

Senator B.E. Shenton (The Minister for Health and Social Services):
Ben Shenton.

Ms. T. Fullerton (Assistant Director, Corporate Planning):
I am Tracey Fullerton, Assistant Director, Corporate Planning.

Deputy R.G. Le Hérissier:
Okay. Since we have a delegation here, some questions will be directed to individuals, for example, obviously, we will ask Christine about regulation but if you feel either we have the wrong person or you feel you have something to add to an answer, obviously jump in and then we will take it from there. Just to set the scene, I suppose, and because this is regulation/governance, it would be useful, both for

Julien's benefit and just, as I said, to set the scene, if Christine, you could tell us what the current regulatory arrangements are and just talk very briefly. We know, for example, we are moving to regulation of health facilities. Talk briefly about developments that are imminent as well.

Ms. C. Blackwood:

Okay. Currently, Jersey's regulation of Health and Social Care facilities is based on the old U.K. 1984 Act which came out in Jersey in 1994, so we have not brought in the equivalent, the Care Standards Act that they have in England or the Regulation Care Law they have in Scotland. It covers long-term care facilities, both nursing and residential homes, acute private hospital facilities, minor surgery, things like dialysis. We used to have a renal dialysis unit, which has since closed up. It is covered by the legislation. It exempts all States facilities so any Health and Social Services facility or any other facility operated by a States department. We also have a Nursing Agencies Law which goes back to 1978 and is very limited in scope. I do not know quite what it is based on. It really only gives us the power to look at how much the agency charges a client and how much they pay their staff, and it does not cover domiciliary care. It only covers nursing agencies, so we have personal care agencies that have popped up in probably the last 8 to 10 years who are not regulated, so they are providing personal care in people's homes without any regulation. The Nursing Agencies Law also exempts any District Nursing Association or any States departments. Under the legislation, there is a requirement to inspect premises twice a year. At the moment, those are both unannounced inspections and there is no facility within the law to enable us to do open inspections, so the reports are not available to the public. I think one of our intentions in any future legislation would be to open those up to let people know what was going on in the homes. I think our hope would be that we would bring in the personal care agencies under the legislation as well and update the Nursing Agencies Law because, as I say, it gives us no power to demand standards in terms of recruitment of staff, quality of staff, training and standards of care. We have been given drafting time by the Council of Ministers in 2006 to draft a new Regulation of Care Law and we have completed stakeholder consultation, and I have just finished writing that report up. It has not gone to the Minister or the Executive yet so it is at that stage.

Deputy R.G. Le Hérissier:

Just building on that, Christine, you say you do unannounced inspections. How often typically would an institution be inspected in a year?

Ms. C. Blackwood:

They should be inspected twice a year. We have some facilities that we do not have the expertise in Jersey to inspect so we bring over an inspector from the Commission for Social Care Inspection who comes as a locum to do those facilities, particularly the drug and alcohol type facility.

Deputy R.G. Le Hérissier:

You did mention that at present they are not open but it is your plan to make them open. Who sees the reports at the moment?

Ms. C. Blackwood:

We have a copy in our department and the home manager and the owner of the home will get copies of the report because that will set out any breach in the regulations and give a compliance time to put those right so that is …

Deputy A. Breckon:

They are not public documents?

Ms. C. Blackwood:

They are not public documents, no. They would be in the U.K.

Deputy A. Breckon:

Is there any provision to include that in a proposal?

Ms. C. Blackwood:

That is one of the things that we would hope to do, yes.;

Deputy R.G. Le Hérissier:

You are, so to speak, the chief regulator. Do you have other people who work with you?

Ms. C. Blackwood:

I have a full-time inspector who is a social worker by background and has worked in learning disabilities in a provider unit in the U.K. and I have a quarter-time nurse who assists but, as well as doing nursing and residential homes, we also hold the Health Care Registration register so we register all health care professionals on the Island. We also designate Yellow Fever centres in General Practice. We have 10 of those and those are inspected once a year. We also hold the roll for dental hygienists so it is a bit different to perhaps other regulators in the U.K. because there are economies of scale really.

Deputy R.G. Le Hérissier:

In terms of your budget, what is your budget, Christine, do you know?

Ms. C. Blackwood:

I am a grade 12. Both my inspectors are grade 9s and we have 2 part-time assistant administration officers which makes 1.1 whole-time equivalent. One is a grade 5 and one is a grade 6.

Deputy R.G. Le Hérissier:

Obviously it does not necessarily indicate the complexity but numerically, how many institutions or homes are you regulating at the moment?

Ms. C. Blackwood:

We have 37 care homes and we have an additional 4 that we are in the process of registering for learning disabilities. We are in the process of registering a shelter and St. James Street units, so that might take us up to about 42 but those vary. We have elderly care facilities, we have learning disability facilities, we have mental health residential homes, we have drug and alcohol units, we have nursing homes, and we have a hospice, so it is quite a variety of provision.

Deputy R.G. Le Hérissier:

Okay, thank you. Just bringing you to our immediate concern which is long-term care of the elderly. Can you tell us how you fit in and how you contribute to the

development of policy and the application of policy around long-term care of the elderly?

Ms. C. Blackwood:

I do not think we are involved in policy development, as it were. We try and maintain independence in terms of regulation, so although we have Health and Social Services within the Public Health Department to prevent conflicts of interest that might be around commissioning and that sort of thing, we tend not to have a lot of cross-over. Having said that, we have worked on a placement tool for older people which started off as a regulatory tool. I do not know whether you have a copy of that but I can certainly give you a copy. The intention was to be a regulatory tool several years ago. When the commissioners were looking at how we were going to fund long-term elderly care and what sort of process and tool we should use, they decided on this because a lot of the work had been done and it was validated locally. We used that as a basis. I was involved in that because it had to be very much regulatory-compliant as well as being appropriate for funding, because if you are funding somebody for residential care but they need nursing care, that is a lot less money but if you put them in a residential home, that would be a risk to that individual so we wanted to make it regulatory-compliant. There was a bit more work done on it and then there was an inter-rater reliability study done on it, so Social Security are now using it to make decisions about funding. So that is one example that we worked on together.

Deputy R.G. Le Hérissier:

I suppose there is, as you say, this need for regulation to stand independently but there is the possibility that regulation, if applied perhaps zealously, for example, could well have an impact on smaller operators who often feel disproportionately treated by the impact of regulation because they have to upgrade homes. We have heard this argument several times so can you comment on how you deal with the smaller homes to ensure that difficult balance of keeping them in business because often they provide that very precious indefinable quality called “a family atmosphere”, but perhaps, in terms of physical conditions, they may not be quite up to speed.

Ms. C. Blackwood:

The experience we have had is that they tend to be compliant on the basic requirements, so the minimum standard in terms of environment. There are some issues around access for some homes. We have one home in particular where there is no lift access to the upper floor and we have said that we really cannot put people who are unable to walk downstairs on that floor because they would be effectively trapped on the first floor. There are also difficulties around staffing. A staffing standard for residential care is one to 10 by day and one to 7 for high dependency but if you have a small home that only has 5 people, you may have a resident there who needs 2 people, to assist so they will need to have 2 people on duty in order to make sure that that person's needs are properly met. So there can be some difficulties around those sorts of areas that are not funded to the level that you can afford to employ extra staff because there are no economies of scale. Having said that, I like small homes. I think it is nice to go into somewhere that feels like a family home rather than a big institution and I think certainly, as a regulator, we would want to see a variety of provision but want to make sure that they are regulatory-compliant and safe.

Mr. S. Smith:

If I could just come in there because the safety issue is important. I do not know if you recall when you were on the Health Committee prior to ministerial government, that we raised this issue about the older homes and the problems of fire precautions and concerns which arose. I think in about 2004 or 2005 in the U.K., we had a couple of homes where there was significant loss of life because of the difficulties of providing adequate fire precautions in older premises which did not have particularly good fire separation because of the standard of construction, with timber premises rather than concrete constructed premises. That again is an important aspect to bear in mind, particularly in Jersey with the number of older properties. It is something that the Fire Service in the past have raised with us because we raised it with the committee at the time, so that is an important aspect that we feel as well.

Deputy A. Breckon:

I want to raise a point on staffing. Are police checks taken and can it happen for people of non-U.K. origin?

Ms. C. Blackwood:

We do have a problem. That is another thing that we would be certainly putting into any new legislation and I think Deputy Le Hérissier knows about this because he raised the question in the States about it. Under the current situation, because of the interpretation of the Rehabilitation of Offenders Law, people working in non-States Social Care services are not exempt. In fact, following those questions, we have written to the Attorney General to ask for his view on this because, at the moment, staff working in the independent residential and nursing homes cannot be police checked.

Deputy A. Breckon:

They cannot?

Ms. C. Blackwood:

No. We put in our last set of standards that we issued about 5 years ago to do police checks. We cannot require it by law because it is not in the law but we did it as a matter of good practice, but they were told by the police that they could not do them because they were not covered by the other legislation. We would hope that would be an explicit requirement of any new legislation as it is in the U.K. law. In the interim, we have asked the Attorney General for a view, and the other thing we could do is to ask for a minor amendment to be made to the Rehabilitation of Offenders legislation.

Deputy R.G. Le Hérissier:

This is a slight technical point, Christine. You know about this as well. There is also the issue, is there not, that when a person is dismissed or there are serious issues raised about their behaviour, do you have an automatic system where you inform their registration or professional body which is usually the U.K.?

Ms. C. Blackwood:

There are 2 processes really. We have a local Health Care Registration legislation so if we had concerns about someone's professional practice or their professional conduct, if they are a registered health professional in Jersey, then we have mechanisms that we could go to court with. If they are registered in Jersey, we require people to be first registered in the U.K. with a U.K. statutory body because they have the infrastructure to support hearing misconduct cases, tribunals and

whatever, so our automatic response would be to refer them to the U.K. regulatory body, but there is a problem with health care workers, with non-professional workers, care assistants and support workers because they are not regulated at the moment in the U.K. There is an intention to do that but they do not seem to have come up with a timeframe and they are not sure whether they are going to be regulated under the General Social Care Council or under the Nursing and Midwifery Council, so that is a decision that has yet to be made. I would hope that when it comes into the U.K., we will just add their name to our list of registered professionals in Jersey and that would give us that sort of power but at the moment we do not. Because it is a small Island, there tends to be an informal network that we do not get involved in but I think between home owners and home managers because we have the Care Federation and they meet regularly so I think there is an informal …

Deputy A. Breckon:

You mentioned earlier that some of the agencies that have sprung up are not regulated. Would you see it as a requirement that they would also register with you?

Ms. C. Blackwood:

Absolutely, yes. I think new legislation would intend to have those regulated to a similar standard in terms of recruitment, in terms of standards of care that we would expect in a residential and a nursing home, so we would be looking to have proper training and qualifications in place.

Deputy A. Breckon:

Could they get around that by saying it was providing home care as opposed to any specialisms?

Ms. C. Blackwood:

If they are providing domiciliary care then you can regulate domiciliary care as an agency. The difficulty would come if an individual person in their own home advertised for a care worker who is not supplied by an agency, and regulating those sorts of people would be very difficult. I think the only way we could do that would be through this Health Care Registration and registering and regulating individual care workers.

Deputy R.G. Le Hérissier:

It may sound strange, given that we are discussing the basics of regulation and given that we all put a lot of emphasis, I suppose, on what might be termed "urban myths" like the fact that you are alleged to be inspecting sell-by dates on jams and marmalades and so forth, but is there a view that perhaps we should change the focus of regulation and we should look at what, for want of a better term, you might call the softer, more qualitative aspects that apply in a home?

Ms. C. Blackwood:

Yes. If we were following what is happening elsewhere, we would be looking at much more an outcomes-based approach, what it is like for the individual. The difficulty with that is getting good indicative measures that would stand up in court because regulation is not like governance and it is not like peer review. It is a statutory function and in order to prove that someone has breached the regulations, we have to prove beyond reasonable doubt in a court of law that that is the case. That is easy with sell-by dates and that is easy with an environment because you can go and take photographs. It is much more difficult with a softer care side but I certainly think we need to have a much greater service user focus. We do spend quite a lot of time in inspections talking to residents and asking them open questions about how they find the home, how they find the staff, and if they have any concerns who they would go to. I have been doing this job for a long time and, by and large, people tend not to complain. It is very difficult. Even in places that we have had serious concerns about, residents will not raise concerns.

Deputy R.G. Le Hérissier:

It is a very interesting issue and I think we probably have to explore this further because obviously it is conceivable that you could have a home that technically is being run strictly according to the book but, for various reasons, you discern that it is a very unhappy place, and yet we need a mechanism for somehow feeding that into the system, not that so we can argue it in a court of law, but so we can bring about improvements. Is there a way we can marry those 2 kinds of regulations?

Ms. C. Blackwood:

I think it is very much about trying to find indicators. If you go into somewhere and you feel there is just something not right, there are things around that you can pick up on -- and I suppose it comes back to what you were saying earlier about small homes and the minutiae of sell-by dates and whatever -- I think our view would be that we would look at and pick up things that might just be a small thing in one home, if there were lots and lots of those small things, then that would give a picture that something is not quite right. There are things and attitudes but again that is a subjective judgment so you have to look for observable features that you could write down because it is very much a case of interpretation. If you put the reports in the public domain, they will be challenged, so we have to be fairly clear about what we are saying and why we are saying it and we have to be equitable. A regulator has to be equitable across different providers and try to get that sort of balance.

Deputy A. Breckon:

How do we regulate the public sector?

Ms. C. Blackwood:

We do not at the moment.

Deputy A. Breckon:

How could we do that? Why should the public sector be exempt?

Ms. C. Blackwood:

I think it is historical that it has been exempt. I know certainly in the U.K., they are currently combining 2 independent Regulatory Commissions into one, and the N.H.S. (National Health Service) will be regulated by that independent commission, so that is one model, I suppose.

Deputy A. Breckon:

We begin a fear for anything to stand alone as it were.

Ms. C. Blackwood:

I think we would have to bring in external expertise. To set up a tribunal system for every health care professional on the Island would be huge so we tend to tap into the

U.K. for that. I think that any independent regulatory body would have to bring in expertise from outside because I do not think it would be sensible for Jersey to do that.

Deputy A. Breckon:

What benchmark do we have, then, for public sector services? If you can go in somewhere private and say: "You should be doing this, that and the other", who does that in the public sector?

Ms. C. Blackwood:

It does not happen in the public sector.

Mr. S. Smith:

It does not happen at this present moment in time, no. That is the concern that has come back very strongly from the regulated private sector. It is the argument that is consistently thrown up with our inspections by home managers and by home owners.

Deputy A. Breckon:

So in that respect, it is not dissimilar really to school nurseries, is it? If a school has a nursery which is attached to the school and not apart from it, it is not subject to the same as a private nursery would be, kerb heights and so on.

Senator B.E. Shenton:

It is something that we are looking to change quite quickly. In fact, we were in Guernsey yesterday and just had an open discussion about whether maybe Guernsey could inspect our public sectors and vice versa because when I first entered politics I got caught up in the nursery debate and I thought it was highly unfair that the public sector nurseries were run on a different basis from the private sector. Of course, when I became Health Minister and found out that we do the same, it was a case of making sure that it was changed.

Deputy A. Breckon:

I had the same experience where, if you like, as a government, we were inspecting private nurseries and saying: "You must do this, that and the other" and then nobody

was doing that to our own provision, not in the same way, and the same standards were not applied. I just wondered if there was anything there that we could learn from that because I think somebody is going to ask the question if they are not asking it already.

Mr. J. Forder:

It links a bit to this issue about regulating public providers as well as private providers because I was thinking about the issue. The question of private sector providers who reach the standards that you have and that you work with and then those in a public provider organisations, because you would imagine that that would be a slightly different situation. You can, for example, ultimately make a private nursing home enforce certain regulations. Would the same apply if you were regulating a public organisation? Because this is directly managed, it would seem as though you would not need to get to that stage. So if you could just clarify what your powers are in relation to private homes, that would be …

Ms. C. Blackwood:

If there is non-compliance, what would happen at an inspection is we would go and do the inspection, identify the breaches of the regulations and good practice. We would do the report and set up the requirements and give people an opportunity to put them right. If it persisted with non-compliance, then we have the power under the law to serve notice. We have to set out what the breach has been, what action has to be taken and the timeframe in which it has to be done and it has to be done within a maximum of 3 months. At the end of that period, if there is still non-compliance, it is referred to the Attorney General for prosecution. We also have the power to do an emergency closure if there is an imminent danger to health. We have a power to cancel a registration for a number of grounds if people are unsuitable or if they employ unsuitable staff. If there has been a successful prosecution for non-compliance of the order, we put the notice so that would be the sort of process we have. For non-compliance with a notice, there is a system of fines.

Senator B.E. Shenton:

I think also one thing that politically we are waiting on is the fact that with private nursing homes, the inspector's report becomes part of the public domain, so to speak,

so that if someone is looking for a nursing home or residential care for a loved one, they can then have a look at the inspection reports and make sure that they are going to the very best that is available. Now, obviously, in the public sector, if those inspection reports were also in the public domain, a failing public sector nursing home would be under tremendous scrutiny, not only from the people who may be thinking about putting people into care, but also, one assumes, from the parents and the loved ones of the people who already have relations there. Also you would think that if it did get out into the media, then the public of the Island would be down on the relevant politician like a ton of bricks to find out what on earth was going on. So I think it is very important that the public domain aspect of the inspection reports goes through because it provides the public with a degree of regulation themselves.

Mr. J. Forder:

You are providing information about the quality of services to people so they can make choices, and certainly what has happened in the U.K. is publication of those inspection reports on the internet and paper copies so that people can look at the quality rating of the home by reading the inspection reports and then form a good view. It is like any choices you would make about a service that you wanted. You have to know basic information like the quality of that service. The related point really is in relation to the legal basis for your regulatory process not being related to the Care Standards Act in the U.K. 2001 so on what basis do you regulate, what are the key areas on which you focus?

Ms. C. Blackwood:

When we do an inspection?

Mr. J. Forder:

Yes.

Ms. C. Blackwood:

We look at the premises, so we do a check of the environment. We go through a care needs analysis on the number of clients and the level of dependency to make sure that people are in the proper place and the proper sort of regular registered home. We look at staffing levels, we look at staff qualifications and training and we look at

records. We look at care records, policies, procedures, and financial records, staff personnel records and that sort of thing so an inspection would probably take about 2 days.

Mr. J. Forder:
Is the intention with the current reforms that you are considering to move towards a framework like the national minimum standards?

Ms. C. Blackwood:
Yes, I think we do not have standards as such, we have guidelines. The nursing home ones were based on the old NAHAT guidelines and the residential homes ones were based on the U.K. 1984 Acts as a guide, but, yes. The idea is that we would have proper standards that you could benchmark much more accurately and the inspection report would reflect that.

Mr. J. Forder:
Ultimately, would you produce an overall quality rating as now?

Ms. C. Blackwood:
I know they have brought that into England and they are bringing it into Scotland. It is interesting. I talked to some of the U.K. providers and my own view on that is that that is a good way to go but I think we have to be a bit more discriminatory and perhaps rate different parts of the service, rather than just giving one star. There is the premises, the staff, the care, the records, the food and all those sorts of things. I know there is a lot of pressure on inspectors because one thing might not be correct and you lose a star and that becomes very difficult. If you have different ratings for different parts of the service, then it gives a much more accurate view, I think, so that would be my preferred sort of way of doing it. You score people differently for different parts of their service.

Mr. J. Forder:
Yes, this is where homes effectively get a star rating like a hotel. Because it covers a whole range of factors in a home, it is necessarily a summary and, one might argue, too much to summarise that amount of information.

Mr. S. Smith:

They are doing a very similar thing in the U.K. with regard to food hygiene in premises and trying to put scores on the doors, and that has become quite contentious. It is very difficult to get a consensus over local authorities and the National Advisory groups are at loggerheads in terms of trying to get that, as you rightly say, very focused fine summary.

Deputy R.G. Le Hérissier:

It strikes me that regulation bodies do find themselves in this eternal dilemma of whether to be enforcement agencies, albeit in a nice sort of fashion, or whether to be facilitative agencies in order to raise standards through education, training and that particular repertoire. So you have outlined partly because the legislation requires you to operate in the more traditional mode, but did you come to a point where, having inspected all these homes, you have clearly come to some conclusions about the level of care and the general mix of care available in Jersey and do you feed all this information into the system at some point?

Ms. C. Blackwood:

We feed it back to the managers and the owners and we do try to work with providers rather than being heavy-handed in enforcement. I would see enforcement as the last resort and we would look to try and encourage people and assist them. One of the things our department does is training for staff. We have an annual training programme that is a partnership with the sector and Health and Social Services so we have social workers, we have care home managers and our department organises a monthly training update for staff.

Mr. S. Smith:

Health Protection Services as a whole has a policy with regard to how we deal with the regulatory aspects of the service and it is called *Inspecting for Improvement* and we have this scenario of discussion, education and improvement. Enforcement of any aspect really is a last resort. We are looking to engage very strongly with businesses to ensure that they understand what it is that they have to do, that we assist them in trying to get where they need to be and to make sure that that happens. Clearly, if that

falls down throughout that dialogue, it gives us an understanding of some of the issues and where and when we need to make that decision about whether enforcement needs to happen earlier or later.

Deputy R.G. Le Hérissier:

Back to my earlier point, is it still seen as compromising your role, for example, the States Commissions care, as we know. Are you invited to comment on the people whom it is approaching to provide that care or do you keep out of that loop?

Mr. S. Smith:

No, we very deliberately try to avoid being tied up in any way with the commissioning aspect because we see that as a conflict with our impartial view of the premises. One of the clear problems that we have is that if we, as a regulator under the banner of the Health and Social Services Department, have concerns about a premises, then how do we, as Commissioner for Health and Social Services feel about putting people into those premises with a knowledge that there may be a problem. That is something that we do not have an answer to but we have written to the Attorney General asking for legal guidance on this because, clearly, if the premises do have a serious issue and a client of Health and Social Services in that home subsequently suffers ill health or wellbeing, then Health and Social Services may be liable and there is that conflict. It creates a big difficulty for us even though we have this very particular stance of trying to remain very independent from the rest of …

Deputy R.G. Le Hérissier:

It just strikes me - and maybe I am pushing the boundaries too much - but you clearly pick up a lot of knowledge about these places and you are probably the department most intimately involved --

Ms. C. Blackwood:

I think that is why it is important to put inspection reports into the public domain so that we can …

Deputy R.G. Le Hérissier:

One of the things we have been told on a more general policy level is Jersey is probably carrying a high proportion of people in residential care, that is the norm. That may be because of gaps in service in the community provision or because we have a richer cohort of people who can move into residential care so when you go into your homes, and you say: "Well, in terms of ambulatory skills and all that, these people really do not need to be in a home, there is a mismatch here", does that issue come up?

Ms. C. Blackwood:

Not as part of the regulatory process; it would if it was at the other end of the scale, if someone was in residential care and needed nursing care or had a serious mental health problem or whatever and their needs were not being met, then we would take a view on that because clearly that puts that individual at risk. It has been historical here because I think you are probably aware of the Strettle report that was done in 1997 and they identified then that Jersey had more residential beds per head of population than any U.K. authority. It has been a long-standing issue but I think it is happening less and less. As I say, I have been doing this job for quite a long time and I have noticed a change in the types of people who are going into care homes compared to 12 or 13 years ago that they do tend to be much older, they do tend to be frailer. The people who drive their own cars and have a part-time job and live in an old people's home -- those days, I think, are gone but that was the case 12 years ago.

Deputy A. Breckon:

I wonder if you could comment. It has been suggested to us that perhaps some staff working in care situations have a lack of knowledge or understanding of some of the dementia issues. Have you found any evidence of that in your inspections?

Ms. C. Blackwood:

Under the legislation, we can register homes under the category of dementia care, our residential homes, and we have 2 currently registered to provide that service and one about to apply to register. For those homes, we would expect as a minimum that their manager has some qualification and experience of working with people with dementia and that the staff undertake additional training. The Community Mental Health Services, Elderly Services, provide a training course 3 or 4 times a year that is

supplemented by the Alzheimer Society called *Yesterday, Today, Tomorrow*. It is a 10-week course and at the end of it, staff do an exam and it gets sent off to the U.K. so it has some external validation. We would expect staff to do that as core training. Lots of the other homes will also send staff on that sort of course.

Deputy A. Breckon:
You have seen evidence of that, that other homes …

Ms. C. Blackwood:
Yes, we co-ordinate the training so I know how many staff go through that. We would give priority to the homes that are specialising in dementia care because it can only take about 15 or 16 participants so we would give priority to staff from homes that are specialising in dementia care.

Deputy A. Breckon:
But you would not know if that extended to the public sector?

Ms. C. Blackwood:
I do not think that is in the public sector, no.

Mr. J. Forder:
Just coming back to the issue about lighter touch regulation, to use that term, and inspection holidays and that sort of process. Moving away from the 2 statutory inspections a year to maybe giving inspections as a good provider. Is that something you were considering?

Ms. C. Blackwood:
Yes, I think we would look at doing a risk-based inspection process but I think we would probably have to do a similar sort of evolution to the U.K. We would need a few years of bringing in the new standards and getting people up to a certain level, so that they are compliant and then make the decisions. I think it was about 5 years that they took to get to that stage, so I would envisage a similar sort of process here. Then we would be looking to getting people to do a bit more audit, more self-evaluation. I am conscious though that because we do have contact, I do bring an inspector across

from the U.K., and I used to bring a theatre inspector across from the Health Care Commission because we used to have an operating theatre on the Island. I am conscious for us not to become overly bureaucratic because I know the inspectors in the U.K. spend a lot of time doing desktop exercises, going through sheets and sheets of paper, and I am not sure how beneficial that is. Certainly talking to the inspectors, they are not convinced themselves that it gives a true picture so I think we would have to balance that.

Mr. J. Forder:

The other thing I wanted to ask is in relation to this idea of extending regulation to non-residential care providers and, for example, where family nursing would fit into that, whether there would be a future role for that organisation to be regulated.

Ms. C. Blackwood:

It is one of the exemptions, so if we were removing all exemptions I think we would need to look to remove exemption from that as well because effectively it is a domiciliary and nursing agency so it would be the same principle, I think.

Deputy A. Breckon:

You mentioned that there were 2 special units from residential care and dementia and another one on the way. Is that a growth industry, is it?

Ms. C. Blackwood:

I think yes ,because we have another home that are thinking about developing. We have one that we know is coming through and it has changed through evolution really. We have had more and more people with dementia and they are now bringing in people with dementia so the client group has changed over time. Their staff have all gone through the training, the manager has done some additional training so we are now at the stage that we are ready to register this premises for that sort of care. We also know of another provider that is thinking about setting up dementia care on the Island, so it is an area that people …

Deputy A. Breckon:

With planning, if somebody was thinking of converting a hotel, would they come to you as part of the process? Does this happen? Do you see any problems, do you get concerns about that?

Ms. C. Blackwood:

Yes, we would like to get involved as early as possible in any planning process so that we are not presented with a building at the end with a lot of changes and refurbishment that is not compliant. We would urge any sort of provider to get in contact with us and that was certainly the case with somewhere like Silver Springs. We were involved right at the beginning and worked with the architect and the manager in that process.

Senator B.E. Shenton:

There was a time when I first became the Minister for Health that there were complaints of a political angle, that Planning were going off and doing planning games and all sorts of things without necessarily checking with the department first that certain facilities were needed. We raised our objections to that and certainly we have now been involved with a development in St. Brelade's whereby Planning need letters from us confirming that there is a requirement rather than just taking it from the developer that there was a need.

Mr. S. Smith:

Can I just add something in there which I think is important? One of the difficulties that we have been seeing in terms of new developments coming on stream is that of developers coming forward without a provider. We have speculative developments on residential and nursing homes where they are going to do a turnkey of bringing in a development which may not fit what the provider who takes it on may need or want at the end of the day. That has created some problems for us. We have had 2 now. We had significant difficulties with the first one and because of that experience, we put our foot down quite firmly on the second one and said: "No, we are not going to go down the line unless you supply the name of the provider to talk to about what they are going to use the home for." That has been a significant issue for us, just to flag that with you.

Deputy A. Breckon:

Do you think that your role could extend to something like sheltered housing where all over 55s are tethered in a field somewhere?

Ms. C. Blackwood:

I think the difficulty comes with premises where people own the property or lease the property because effectively you are going into their building. If you have an overarching agency that is responsible, then you can go and regulate the agency. It is harder to regulate individual premises, I think, but in those sorts of circumstances, we would expect that if they are receiving domiciliary care, we would be regulating the domiciliary care that would be going in to support the sort of sheltered homes there. Planning send us plans of any proposed developments and although we do not regulate sheltered housing, we would always point them in the direction of best practice. Something came out from the Department of the Deputy Prime Minister in the U.K. that has guidelines for close care facilities. I certainly say to Planning that if we were regulating them, we would expect them to be built to those sorts of standards.

Deputy A. Breckon:

Do you receive any complaints about what they are paying and what they are getting?

Ms. C. Blackwood:

We do not. There is no requirement within the law to have a contract, which I think is again something we would probably want to put in any new legislation. Certainly for a long time, I have been suggesting it is good practice for care homes to have a contract that specifies what the fee is and what people can expect for the fee, and most places have it but not all and we cannot enforce that. In terms of what homes charge, that is entirely up to them. If they want to charge £2,000 a week, then there is nothing that the regulator can do about that and their charges do vary, they vary quite considerably. I think it gets difficult if we, as a regulator, would be setting how much people should pay. I am not sure how that would work.

Deputy A. Breckon:

Where you find a contract, that is usually because the operator has a U.K. bank.

Ms. C. Blackwood:

No, no, before the U.K. operators came into Jersey, quite a few of the homes had contracts. There were specimen contracts that Council and Care developed several years ago in the mid-90s, and I circulated those as templates so quite a few of the homes already had contracts in place before the U.K. providers came in.

Deputy A. Breckon:

As part of your role, do you regularly visit the U.K. to look at what is happening there and …

Ms. C. Blackwood:

No, not really. I occasionally go to conferences and meet up with other inspectors but my link, I suppose, is through the locum inspector that we bring across. He tends to be the person who …

Deputy A. Breckon:

He would have a handle on the U.K. situation?

Ms. C. Blackwood:

Yes, but we do not have any formalised links and that might be something that we really should be looking at, I think, for our own governance. I think it would be a useful thing for us to do.

Deputy A. Breckon:

Who regulates the regulator?

Ms. C. Blackwood:

Yes.

Deputy R.G. Le Hérissier:

Okay, well, thank you, Alan, and thank you, Julien. I think we will put a line under it but I will ask you if you have any final comments? Does anybody wish to say anything finally?

Senator B.E. Shenton:

I will mention something that you have raised which is the funding of regulation. My background, obviously, is in finance and in finance, we are an investment company and we pay the Jersey Financial Services Commission a certain amount of money and they are a regulator and they do risk-based assessments as we are moving to. At the moment, I believe we just charge a flat fee so you pay a flat fee whether you are a 4-bed nursing home or whether you are a multi-national. I think, certainly politically, we have to look at the whole funding aspect of regulation to see whether the industry should, in fact, pay to be regulated because, at the moment, it is coming out of the taxpayers' budget.

Deputy A. Breckon:

There is a phrase that has been associated with that like "user pays" if somebody uses a service. You could not use a monopoly position to exploit your position but, at the same time, if it costs something to do that, then they should pay for it.

Senator B.E. Shenton:

You would also assume that it takes slightly longer to inspect a 40-bed residential home than one that has 3 beds in it.

Deputy R.G. Le Hérissier:

Now, that is a good point, Ben. It is all tied up though, of course, with the costs to the public of using that sector and then, as you know very well from last night, it then goes back to how the public are paying. There is strong public feeling, for example, about giving up houses and I tend to sense politically that until we resolve that issue, other issues will get stalled. That just tends to be my view, but that said, thank you for that contribution.

Mr. J. Forder:

Can I just mention that we did some work for the Commission for Social Care Inspection a while ago in England looking exactly at the cost of regulation and a basis of payment so I am happy to let you have a copy of that work.

Deputy R.G. Le Hérissier:

Okay, it strikes me from the discussion that obviously we kept very much on the inspection. We did try to get into other policy areas but we were pulled back so, at some point, it may be necessary to talk to the person who is in overall charge in the Health Department of Care of the Elderly policy. Who is that person and who is the person who has the handle on the overall policy?

Senator B.E. Shenton:

It overlaps so many areas that there is not one ultimate figure.

Deputy R.G. Le Hérissier:

I think it used to be Mike Tomkinson, did it not, before he left the department, who earlier this morning spoke to us about Alzheimer's. Anyway, thank you very much indeed. I think it has been a very illuminating discussion and obviously regulations are the very interesting crossroads, so to speak, and I thank you very much for coming. If there is anything you have forgotten or that you want to add, we are always open.