Education and Home Affairs Scrutiny Panel

Overdale: The Closure of Leoville and McKinstry Wards

Presented to the States on 10th January 2007

S.R.1/2007

Contents

1. Terms of Reference

To examine and report upon:

1. Plans for the future of Respite and Residential/Nursing Care for the Elderly, currently provided at Overdale, and to assess how those plans fit within overall policy.

2. The staffing, physical location and psychological issues that arise from any relocation and/or revamping of these services.

3. Whether those residents currently with Health and Social Services will retain the current standards of medical and nursing support.

4. The financial implications, for the States, Health and Social Services and families, of transferring elderly residents, currently at Overdale, to the private sector.

5. The implications of possible discounted rates for Health and Social Services residents upon other residents and upon the economics of operating private care facilities.

6. The future impact on the Overdale site of the changes proposed by Health and Social Services.

2. Panel Membership

Please note:

Work on this review was undertaken by the Social Affairs Sub-Panel (Overdale Review), established by the Social Affairs Scrutiny Panel at its meeting on 2nd August 2006. On 21st November 2006, the Social Affairs Panel became the Education and Home Affairs Scrutiny Panel (following the creation of the Health, Social Security and Housing Scrutiny Panel).

In the interests of continuity, it was agreed that the Education and Home Affairs Panel would present this report on behalf of the Overdale Sub-Panel although the review topic did not fall within that Panel's specific remit.

Education and Home Affairs Scrutiny Panel

Deputy F. J. Hill, BEM, Chairman
Deputy D. W. Mezbourian, Vice-Chairman
Deputy A. E. Pryke
Deputy S. Pitman
Deputy J. Gallichan

Social Affairs Sub-Panel (Overdale Review)

Deputy A. E. Pryke, Chairman
Deputy R. G. Le Hérissier, Vice-Chairman
Deputy S. C. Ferguson
Deputy D. W. Mezbourian
Deputy S. Power

Officer Support: Mr. W.J.C. Millow and Mr. C.A. Ahier

3. Chairman's Introduction

Over many years, Overdale Hospital has played an important part in many islanders' lives. During the Occupation of the Island, it provided an isolation unit for those who, suffering from tuberculosis, had to be isolated for a period of six weeks from their families and there, during this difficult period, they received care and support. In more recent years, it has provided recuperation wards, where patients were transferred from busy hospital wards to the more tranquil and less formal setting that Overdale provided.

As the years have passed, the condition of the wards unfortunately has deteriorated and it appears that very little maintenance has been carried out on these once fine buildings. In spite of these difficulties, the medical and nursing staff has provided excellent care to their patients. While it is sad that this team with all their knowledge and expertise will be fragmented as they are deployed to other areas of Health and Social Services, their individual skills will always be of benefit to other patients.

It is a fact that Leoville and McKinstry Wards are now no longer suitable for providing the necessary care for those who require long term nursing care and provision must be made, as a matter of urgency, to fill the gap that Overdale leaves. In the long term, the pressures put on our health service will increase as we are an ageing society and we must be prepared to cope with it.

This is an excellent site, situated as it is with beautiful views over St. Aubin's Bay and providing a very restful and peaceful environment for those who are in need of care.

I would like to thank all those people and organisations who have taken time to write to the Sub-Panel regarding this review. My thanks also to those who have met the Sub-Panel or who have attended the Public Hearings.

Deputy Anne Pryke,
Chairman,
Social Affairs Sub-Panel (Overdale Review)

4. Recommendations

The Sub-Panel recommends that the following actions be undertaken. Reference numbers indicate in which section each recommendation may be found.

1. The Department should ensure that two-way communication with families is constantly maintained until the end of the closure and transfer process. (7.3)

2. Thorough consultation with staff should occur at each stage of the transfer process in order to counter the potential effect of the rumour-mill. (7.4.2)

3. To avoid the minor problems that occurred, in future, issues such as the placement process and available (re)training should be clarified with staff at an early stage. (7.4.5)

4. Guidelines should be developed and agreed for when the Minister makes 'in principle' decisions in order that sufficient audit trails can be established after the event. (8.1)

5. The Department should establish and follow clear structural maintenance plans for its sites to ensure that situations akin to those found on Leoville and McKinstry Wards are avoided in future. (8.2.1)

6. The Minister should clarify the reason for the abandonment of development of the Belle Vue Residential Nursing Home and Day Care Centre and to where the capital funds from this project were allocated. (8.4)

7. The Minister should clarify the use that will be made of Leoville and McKinstry Wards once all patients have been moved to the private sector. A clear, rolling plan should be developed for the wards' short, medium and long-term use. (9.2.1)

8. The land at Overdale should remain within States-ownership for use by the Department. (9.2.2)

9. The decision for the Department to build a new nursing home should be made within the context of the Department's longer-term policy for care of the elderly. When a new home is built, lessons should be learnt from mistakes made during recent constructions (such as the Westmount Assessment and Rehabilitation Centre). (9.2.3)

10. The Department should give high priority to the development of a clear policy for care of the elderly (that takes into account short, medium and long-term aims). (9.2.4)

11. The Department should maintain and enhance its relationship with Jersey Association of Carers Incorporated. (9.2.6)

12. The Department should undertake a skills audit during the first half of 2008 to assess the longer-term impact the closure of Leoville and McKinstry Wards may have had on the skills base amongst its staff to which it has access. (9.2.7)

13. A protocol should be developed and agreed to cover the provision of 'confidential' information by Ministers to Scrutiny Panels to ensure that clear reasons are given for documents to remain confidential and that the decision to define information as confidential does not rest solely with Ministers. In cases of dispute, the Chief Minister and President of the Chairmen's Committee should be invited to arbitrate. (9.3.1)

14. The Sub-Panel feels very strongly that, prior to such major decisions being taken, timely, robust and transparent financial appraisals should be undertaken. (9.3.1)

15. When negotiating contracts with the private sector, the Department should take a formalised and nuanced approach to evaluate the costs of nursing care in a given nursing care home. (9.3.2)

16. The Department should undertake a study, incorporating all parts of the private nursing care sector, to consider how a range of providers can be sustained in order that a situation of market dominance can be avoided.

17. The Department should formally recognise the Jersey Care Federation in order to maintain and enhance its working relationship with the Federation. (9.4)

18. Regulation and inspection guidelines should be carefully monitored to ensure that there is not a disproportionate and excessive impact upon smaller care homes. (9.4)

19. Proposals should be developed by the end of 2007 to allow the Department's nursing care wards to be subject to regulation and inspection. (9.4.1)

20. Proposals should be developed by the end of 2007 to allow for an independent Regulation and Inspection team to be created. (9.4.1)

5. Key Findings

Moving Patients to the Private Sector:

- On a fundamental level, patients were given little choice (prior to the decision to close Leoville and McKinstry Wards) about being moved to the private sector. The Sub-Panel felt the closure of the wards was an inevitability that would require patients to be moved, whether they wished to or not. However, once the decision had been made, some flexibility was possible in accommodating wishes about patients' destinations. (7.2.1)

- The Sub-Panel was pleased that the Department made patient safety its priority during the transfer process. The Sub-Panel believes that the assessment process implemented by the Department was well planned and incorporated standard procedures to ensure that a comprehensive evaluation of each patient was undertaken. (7.2.2)

- The closure of Leoville and McKinstry Wards would impact on all the Department's nursing care wards: patients from either The Limes or Sandybrook could find themselves being moved to the private sector. However, the Sub-Panel supports the Department's policy of keeping higher dependency patients within its own wards although it remains concerned that a situation might arise where a patient who has been identified as low dependency (and therefore moved) might eventually become a high-dependency patient. (7.2.3)

- The Sub-Panel supports the Department's decision to transfer patients gradually from its wards to the private sector. However, as the Department was evidently unable to keep to the timetable it originally established for the closure of the wards, the Sub-Panel believes it was unwise to have set such an early completion date as a target. (7.2.4)

- The Sub-Panel believes the Department made sufficient arrangements for continuity of care during the transfer process. The arrangements were well planned although the Sub-Panel feels the ultimate success of the arrangements will depend on a good relationship between the Department and the managers of the private care homes. The Sub-Panel hopes that the Department will ensure that such good relationships are maintained. (7.2.5)

- The Sub-Panel believes that the Department was well aware of the potential risks involved in moving patients. It found that the Department took appropriate measures to ensure these risks were assessed and addressed during the transfer process. It is confident that the Department will monitor the situation. (7.2.6)

Communication with Families:

- It was clear to the Sub-Panel that a policy for communication with families had been developed by the Department. However, due to the high levels of anxiety inherent in circumstances such as these, minor problems occurred and some people felt that communication from the Department had been unsatisfactory. In addition, the Sub-Panel believes the Department provided insufficient explanation to the general public of why the two wards were closed. (7.3)

The Redeployment of Staff:

- The Sub-Panel was concerned at the suggestion that staff could not have been consulted prior to the decision to close the two wards. It suggests that staff could make a valuable

contribution early on in the decision-making process and believes that it was unacceptable for staff to become aware of the decision through the press. (7.4.1)

- The Sub-Panel believes that, once the decision had been made to close the wards, the Department followed a proper process of communication with staff although there were minor problems. (7.4.2)

- Whilst it appears that the process of redeploying staff did not always run smoothly, the Sub-Panel believes that redeployment was generally appropriately managed and that the Department followed the relevant guidelines. (7.4.5)

Dealing with the Private Sector:

- The Sub-Panel received the impression that the tender document (that invited all registered nursing homes to tender for the Department's beds) was a last-minute arrangement. (7.5.1)

- The Sub-Panel found that the evidence relating to the tender process was contradictory and confusing as the boundary between informal discussions and formal negotiations was not clear. It was understandable, therefore, that, to some eyes, the process became irrelevant as discussions with some homes had occurred prior to the beginning of the formal process. Notwithstanding that the Department is often in contact with private care providers, it was difficult for the Sub-Panel to counter fully the claim that the process had been inequitable. It was possible that pre-negotiation discussions had placed certain homes in a favourable position and was not clear whether all potential partners had been involved in early stage discussions. (7.5.1)

Respite Care:

- The Sub-Panel supports the suggestion that one home should be used by the Department for the provision of its seven respite beds. However, it accepts the pragmatic approach taken by the Department in that two contracts may ultimately be signed, one for four beds and the other for three beds. The Sub-Panel would stress that continuity of care must be ensured for patients in the event that two homes are used. (7.6)

The Decision to close Leoville and McKinstry Wards:

- The Sub-Panel accepts that it would be unfeasible for Ministers to record every 'in principle' decision they make. However, in this case, the Sub-Panel felt that confusion was caused by the term 'in principle' and that the decision made on 30th March 2006 was more formal than this description would imply. (8.1)

- The Sub-Panel believes that the condition of Leoville and McKinstry Wards merited their closure. It accepts that hospital-style wards are no longer appropriate for the provision of nursing care, given the current expectations for better facilities (e.g. *en suite* rooms). The Sub-Panel agrees that it was not appropriate to mix the provision of nursing care and respite care. (8.2)

- From the evidence it considered, the Sub-Panel believes that limited maintenance was carried out on Leoville and McKinstry Wards. The Sub-Panel regrets that it could not receive evidence which could counter this conclusion by indicating that there had been a rolling maintenance plan. (8.2.1)

- The Sub-Panel found that evidence regarding the abandonment of the Belle Vue project was confusing. The Sub-Panel remains unsure as to the reason for the abandonment. It

was also not clear to the Sub-Panel to where the funds from this project had been redirected. (8.4)

- The Sub-Panel feels it was unacceptable that no written record was made of the decision to abandon the Belle Vue project. It is also amazed that this 'political decision' was never considered by the former Health and Social Services Committee. The absence of a documented decision meant that the Sub-Panel was unable to confirm the reason for the abandonment and to consider the context in which the decision was made. (8.4)

- Notwithstanding its concerns regarding the history of the decision to abandon the Belle Vue project, the Sub-Panel recognises that its construction (as a 28-bed nursing care home) would not have solved the problem which the Department faced with Leoville and McKinstry Wards. (8.4)

The Implications for Patient Care:

- The Sub-Panel recognises that the standard of care provided on Leoville and McKinstry Wards was very high. (9.1)

- The Sub-Panel has full confidence in the Registration and Inspection Team. Whilst it understands the concerns (both specific and general) that people have regarding the standard of care in the private sector the Sub-Panel believes an efficient inspection process can be relied upon to ensure that standards in the private sector remain high. (9.1.1)

- The Sub-Panel feels that the fears regarding the victimisation of patients were unjustified. (9.1.1)

- Patients who are moved to the private sector will not be expected to pay more, with the possible exception of GP services. The Sub-Panel believes that, despite the need to pay more, the arrangements for GP services may allow patients greater freedom of choice as well as afford them better continuity of care (in that, upon entering a care home, they may keep the GP with whom they were registered beforehand). (9.1.3)

- The Sub-Panel does not believe that patients who are moved to the private sector will be treated differently to private patients. It is concerned, however, by the suggestion that they may be given smaller rooms than private patients; the Sub-Panel believes rooms should be allocated primarily on a needs basis. (9.1.4)

- The Sub-Panel believes the Department has implemented a system whereby it will be able to monitor effectively the nursing care received by its patients. However, the Sub-Panel is concerned that it may now prove more difficult for the Department to monitor the medical care provided to its patients. (9.1.4)

How does the closure fit in to overall policy?

- It was not clear to the Sub-Panel exactly how the wards will be used following the final transfer of patients. It is concerned that further deterioration of the wards may occur if sufficient action is not taken. (9.2.1)

- The Sub-Panel believes there is a need for a new public nursing care home although it recognises that its construction is not feasible at present. The Sub-Panel would be concerned to see all provision of nursing care placed in the hands of the private sector. (9.2.3)

- The Department appears to be moving towards a policy of 'community care' in terms of care of the elderly. The Sub-Panel remains uncertain of how the closure of Leoville and McKinstry Wards fits into this development. (9.2.3)

- The Sub-Panel agrees that the current funding system (for care of the elderly) is untenable and looks forward to the options and proposals that the Minister will publish in due course. (9.2.4)

- The Sub-Panel recognises the work that is currently being undertaken by the Department in conjunction with the Jersey Association of Carers. However, it is concerned that respite care may become the 'poor relation' of nursing care. (9.2.5)

- It would appear from the evidence considered that the closure of Leoville and McKinstry Wards allowed the Department to address staffing issues it faced in other areas. However, the Sub-Panel believes that this was not the intention behind the closure but merely a fortunate consequence. (9.2.6)

- The Sub-Panel remains concerned that the redeployment of staff from Leoville and McKinstry Wards will ultimately lead to the break-up of a skilled and dedicated team. (9.2.6)

<u>The Financial Implications:</u>

- Whilst the Sub-Panel accepts the need for confidentiality of certain documents, it believes that the Minister was over-cautious in his approach to the contractual information which the Sub-Panel received. The Sub-Panel would have liked to provide a proper assessment of the Department's work in this area in order to clarify matters but feels that it is unable to do so due to its obligations under confidentiality agreements. (9.3.1)

- The Sub-Panel agrees that the method of using present value techniques was appropriate. However, the Sub-Panel believes the financial appraisal undertaken by the Department was adequate but that it reflected an unsophisticated and opaque approach. It was difficult to understand the reasoning behind certain measures (such as why the notional value of the land was considered in the manner which it was). The Sub-Panel feels that cost-benefit analyses should have been done earlier in the decision-making process and that further sensitivity analyses should have been undertaken. (9.3.1)

- The Sub-Panel is unable to discuss publicly the fees agreed by the Department and Four Seasons Health Care although it would find it difficult to judge, on the evidence provided, whether a good deal was struck. (9.3.2)

<u>The Future of the Private Care Sector:</u>

- Notwithstanding the need for the Minister not to be seen favouring one part of the private sector over another, the Sub-Panel is concerned as to how the market could develop. The costs of providing nursing care and meeting regulatory requirements (e.g. larger room sizes) are very high and beyond the reach of smaller operators unless they have a reasonable certainty of regular occupancy. It has been argued that, should the smaller operators be unable to compete, then one or two large operators would dominate the market and in a classic case of market dominance, be able to dictate terms to the 'buyers', i.e. the public sector. Given the limited provision actually operated by the public sector, this could make it very vulnerable. (9.4)

- The Sub-Panel welcomes the Minister's approach to the Jersey Care Federation through the means of a Concordat. It believes that formal recognition of the Care Federation will only help the current situation. (9.4)

Regulation and Inspection:

- The Sub-Panel is concerned about the difficulty facing smaller homes in the current market. It believes that regulation should ensure that the market remains diverse. It also believes that the authority of the Registration and Inspection Manager must be balanced by a swift and transparent appeals process. (9.4)

- The Sub-Panel feels it is unacceptable that the Department's wards are not subject to the same expectations and inspection process as privately-owned wards. This situation is inequitable and should be resolved. (9.4.1)

- The Sub-Panel believes it would be fairer for the Registration and Inspection team to be independent of the Department, especially if provision is made for the inspection of the Department's wards. (9.4.1)

6. Introduction

6.1 Clarification of Terms

Continuing care of the elderly can take a number of forms depending on the individual's needs and circumstances. During this report, the Sub-Panel will refer to 'nursing care', 'respite care' and 'residential care'. In the interests of clarity, it will adhere to the following definitions of these three types of care.

1. Nursing Care: Care provided by or under the supervision of registered nurses.

2. Respite Care: Care provided to an individual during which time that individual's regular carer takes a break (i.e. has some respite) from caring.

3. Residential Care: Care which incorporates the provision of room, board and custodial care (that does not require the supervision of registered nurses).

It should be noted that both nursing care and respite care may be provided in different contexts. For instance, it may be provided either in registered care homes or in the individual patient's own home. Strictly speaking, the Sub-Panel will be considering *residential* nursing care and *residential* respite care. However, to avoid confusion, the Sub-Panel will (unless otherwise stated) take it as read that references to 'nursing care' and 'respite care' relate to care provided in a care home.

6.2 Care of the Elderly in Jersey

In this report, the Sub-Panel will examine and assess the decision to close Leoville and McKinstry Wards (located at Overdale Hospital) and to replace their provision by contracting beds from private care homes. These two wards (maintained by the Department of Health and Social Services, hereafter referred to as 'the Department') contained 47 nursing care beds and 7 respite care beds.

Prior to considering this decision, however, the Sub-Panel will give a brief indication of Jersey's nursing and respite care situation in order to provide a context for the decision.

The Public Nursing Care Sector:

Prior to the decision to close the wards, the Department maintained 141 nursing care beds. 36 of these beds were located at The Limes, 28 beds were at Sandybrook and 47 beds were at Overdale Hospital (31 on Leoville Ward and 16 on McKinstry Ward). In addition, the Department was able to purchase up to 30 beds from the private sector.[1] These purchases dated from early 2002 when the Department had faced a bed management crisis at the General Hospital.[2] The arrangements for these purchases were as follows:

> "*Beds are purchased by H&SS [i.e. the Department] for the length of time of an individual placement, the number fluctuating according to demand. A number of beds*

[1] *Review of Continuing Care and Respite Care Provision*, p. 17
[2] Act A13 of the former Health and Social Services Committee, 6th March 2002

> *are also purchased under contract with H&SS funding the bed, whether occupied or not, for a specified length of time.*"[3]

From this, it can be seen that the decision to contract private beds as a replacement for Leoville and McKinstry Wards would not mark the first time that the Department had procured nursing care beds from private care homes. However, the arrangements made as a result of the closure of Leoville and McKinstry Wards would differ to those made in 2002. In this instance, the Department would establish contracts with individual private care homes for blocks of beds.

It should be noted that the closure of the two wards would not lead to a reduction in the number of nursing care beds provided by the Department.

The Private Nursing Care Sector:

The *Nursing and Residential Homes (Jersey) Law 1994* obliges the Minister for Health and Social Services to maintain a register of all residential and nursing homes in the Island.[4] According to the 2006 register, there were four nursing homes and four homes which were dual registered (in that they were able to provide both residential and nursing care). In total, there were 170 registered nursing care beds.[5]

Taking into account both public and private sectors therefore, there were 311 nursing care beds in Jersey (141 beds maintained by the Department and 170 other registered beds).

Respite Care:

According to statistics gathered by the Department, 15% of people over the age of 15 years in Jersey provide caring support for another person.[6] As has previously been indicated, respite care can take a number of forms, including residential respite, domiciliary care, day care and emergency care.[7]

In terms of residential respite care, the Department had 7 beds on McKinstry Ward. As of October 2005, 50 people were registered as eligible to receive such care.[8] At certain times, when these 7 beds were full, the Department could make emergency payments for respite patients to be placed in private sector beds.

The Sub-Panel understood that private care homes (with one exception) were generally unable to offer planned residential respite in the same way as the Department due to high occupancy rates. However, it would not be beyond the capacity of private residential homes to provide respite care if so required.[9]

Surprisingly, the Sub-Panel noted that there is currently no legislation in Jersey to cover the provision of respite care although such legislation does exist in the United Kingdom. For example, the *Carers (Recognition & Services) Act 1995*, the *Carers & Disabled Children Act 2000* and the *Carers (Equal Opportunities) Act 2004.*[10]

[3] *Review of Continuing Care and Respite Care Provision,* p. 17
[4] *Nursing and Residential Homes (Jersey) Law 1994*, Article 4
[5] Register of Residential and Nursing Care Homes 2006
[6] *Review of Continuing Care and Respite Care Provision*, p. 33
[7] *Report on Respite Services* (February 2006), p. 1
[8] *Review of Continuing Care and Respite Care Provision*, p. 34
[9] Ibid, p. 36
[10] *Review of Respite Services for Carers*, p. 2

Residential Care:

It is worth noting that the Department does not maintain any residential care homes of its own. However, the 2006 register indicated that 'public sector' residential homes were maintained and managed by the Parishes of St. Helier and St. Brelade. In total there were 25 registered residential homes (not including those four homes which were dual registered). There were 811 residential care beds in Jersey.

However, whilst there were no States-maintained residential care homes, financial assistance could be provided to residents of registered residential care homes if their circumstances (i.e. income) merited it. The arrangements for this assistance were as follows:

> "*Residential care is considered to be social care and is normally funded by an individual. The Modern Matron (MM) Older Peoples Services manages a H&SS budget for non native accommodation charges via the non native fund for people assessed and placed by Adult Social Services who are unable to self fund their own placement.*
>
> *Individuals who transfer independently to residential care and are unable to self fund, are funded by the parish of origin if native to the Island or by Employment and Social Security (E&SS) if non native, from the non-native fund.*"[11]

These arrangements would alter with the introduction of Income Support in 2007.

6.3 The Scrutiny Review

6.3.1 The Review Topic

On 12th May 2006, it was reported in the *Jersey Evening Post* (JEP) that the Department would close Leoville and McKinstry Wards at Overdale Hospital and contract beds from the private sector to replace the consequent loss in its provision of nursing and respite care.[12] As a result, contracts and service level agreements would be signed for the purchase of 47 nursing beds and 7 respite beds. Patients would then be transferred from the Department's wards to private sector homes and members of staff who had worked on the two wards would be redeployed.

6.3.2 Formation of the Sub-Panel

This announcement caused a great deal of concern amongst both members of the Public and the States: letters appeared in the JEP and questions were put to Senator S. Syvret, Minister for Health and Social Services (hereafter referred to as 'the Minister'), in the States Assembly. There was concern regarding the need for this measure and uncertainty regarding the longer-term implications of the closure.

[11] *Review of Continuing Care and Respite Care Provision*, p. 19

[12] It should be noted that (as shall be seen) other reports detailing the closure had appeared earlier in the year. However, it shall be seen that Minister only made an in principle decision in March 2006. The article from May 2006 would therefore appear to be the first 'official' report.

A number of Scrutiny members felt that a review of the proposed closure and transfer should be undertaken. Following a series of preliminary meetings, the Social Affairs Scrutiny Panel established a Sub-Panel to undertake such a review. The members of the Sub-Panel were:

Deputy A. E. Pryke, Chairman
Deputy R. G. Le Hérissier, Vice-Chairman
Deputy S. C. Ferguson
Deputy D. W. Mezbourian
Deputy S. Power

The Sub-Panel first met on 7th August 2006, set out its Terms of Reference and began the formal process of gathering evidence.

Terms of Reference

To examine and report upon:

1. Plans for the future of Respite and Residential/Nursing Care for the Elderly, currently provided at Overdale, and to assess how those plans fit within overall policy.

2. The staffing, physical location and psychological issues that arise from any relocation and/or revamping of these services.

3. Whether those residents currently with Health and Social Services will retain the current standards of medical and nursing support.

4. The financial implications, for the States, Health and Social Services and families, of transferring elderly residents, currently at Overdale, to the private sector.

5. The implications of possible discounted rates for Health and Social Services residents upon other residents and upon the economics of operating private care facilities.

6. The future impact on the Overdale site of the changes proposed by Health and Social Services.

6.3.3 A Waste of Time?

During the course of the review, the Sub-Panel was criticised for essentially wasting time and trying to stall the Department's work. For example, the Minister was quoted in the press as saying the Sub-Panel was trying to intervene 'at the 59th minute of the 11th hour', suggesting that the decision which had been taken was a 'straightforward management issue'.[13] Other people questioned the point of undertaking a review given that the Sub-Panel was unable to stop the closure of Leoville and McKinstry Wards.[14]

The Sub-Panel asked the Minister to delay signing any contract with a private care provider to allow it time to undertake its review. However, this request was not granted and on 11th September 2006, the Minister informed the Sub-Panel that the first contract with a private care provider had been signed that very day.[15]

[13] *Care: Union is angry at scrutiny sidestepping*, Jersey Evening Post, 2nd September 2006
[14] Notes of Meeting with Mr. J. Corbet, 20th September 2006
[15] Notes from Site Visits of 11th September 2006

Notwithstanding the above, the Sub-Panel believes it was justified to undertake a review of this subject for a variety of reasons. It was clear from concerns expressed in the local media (and ultimately in submissions received by the Sub-Panel) that this matter touched a raw nerve with the public and Overdale staff. These concerns ranged from anxiety over the effect the closure would have upon patients to concern that the move presaged the sale of the Overdale site. There were also worries that this move would open the door to the privatisation of services.

In addition, the Sub-Panel was aware of its responsibilities under *Standing Orders of the States of Jersey*. Article 136 states that the terms of reference for Scrutiny Panels include:

> "*to hold reviews into such issues and matters of public importance as it, after consultation with the chairmen's committee, may decide.*"[16]

The Sub-Panel felt this matter was indeed of such importance and, therefore, merited review.

Finally, the Sub-Panel felt that the review reflected the principles of good scrutiny. For example, *The Good Scrutiny Guide* (as produced by The Centre for Public Scrutiny[17]) suggests that good public scrutiny:

> "*1. provides 'critical friend' challenge to executive policy-makers and decision-makers*
>
> *2. enables the voice and concerns of the public*"[18]

6.4 Methodology

The Sub-Panel used the following methods to gather evidence to help it reach its conclusions:

- Research of written sources including relevant legislation, former Committee acts and departmental papers and policies
- Requesting advice and information from the Department
- Call for Evidence from the Public (placed in the *JEP*)
- Written requests for information from potential stakeholders
- Meetings with interested parties
- Public Hearings
- Site visits
- Request for specialist accounting advice from Alex Picot Limited.

Appendix 2 provides a full list of the sources considered by the Sub-Panel.

[16] *Standing Orders of the States of Jersey*, Article 136
[17] The Centre for Public Scrutiny was established to "promote the value of scrutiny in modern and effective government and support non-executives in their scrutiny role." Further information may be found at www.cfps.org.uk
[18] *The Good Scrutiny Guide: a pocket guide for public scrutineers*, p. 4

6.5 Report Structure

Following consideration of the evidence gathered the Sub-Panel produced this report to present its findings and make its recommendations. It will present its findings in the manner described below in the hope that this will allow the reader to understand clearly the issues that have been considered and assessed.

- Firstly, the Sub-Panel will explore the manner in which the Department handled the arrangements for closing two of its wards and transferring patients to private care homes.

- Secondly, the Sub-Panel will consider why it became necessary to close the two wards in the first place. At this juncture, the Sub-Panel will also explore the other options that the Minister considered before making his decision.

- Finally, the Sub-Panel will attempt to assess the longer-term implications of the Minister's decision.

It should be noted that the transfer of patients had not been completed by the time of this report's presentation to the States. The first patients began to move to the private sector on 18th September 2006. For those patients who had not been moved, nursing and respite care was still being delivered on McKinstry Ward.

The Department had originally anticipated that the wards would be closed by this time. In early April 2006, for example, it was anticipated that the transfer of patients would begin on 1st June 2006 and subsequently take three months (therefore meaning that it was due to be completed by the beginning of September 2006).[19] However, the process was delayed. Given that the Sub-Panel was accused of trying to stall progress of the closure and transfer process, it would like to highlight that no delays were caused by its review into the matter.

[19] Minutes of the Steering Group, 5th April 2006

7. How did the Department manage the closure of the wards and transfer of patients?

7.1 Introduction

On 30th March 2006, the Minister agreed 'in principle' to the closure of Leoville and McKinstry Wards and the consequent transfer of patients to the private sector.[20]

Once the Minister had given his agreement, the Department established the 'Steering Group Re Leoville and McKinstry' (hereafter referred to as the 'Steering Group') to oversee the necessary arrangements. As such, the Steering Group would consider the following:

- How to manage the transfer of patients to private sector care homes
- How to keep families informed
- How to organise the redeployment of staff
- How to approach private sector care homes and negotiate contracts for 47 nursing care beds and 7 respite care beds

The Steering Group met for the first time on 5th April 2006 and subsequently held meetings every fortnight.

In a later section of this report, the Sub-Panel will explore in greater detail the reasons behind the decision to close the wards. In this section, the Sub-Panel will consider how the Department managed the closure and transfer process and how the Steering Group therefore dealt with the issues that confronted it. The Sub-Panel will present its findings from the perspectives of the different groups which the Steering Group had to consider when undertaking its work:

- The Department's Patients
- The Families of Patients
- The Staff of Leoville and McKinstry Wards
- The Private Nursing Care Sector
- Provision of Respite Care

[20] Ministerial Decision of 11th September 2006

7.2 The Patients

7.2.1 Care and Welfare of Patients

During its review, the Sub-Panel considered, above all else, the impact the closure of Leoville and McKinstry Wards would have on those patients directly affected. As such it considered all aspects relating to the patients' welfare and care.

In the first instance, it wished to know what choice patients had been given in relation to their transfer to private care homes.

In this regard, the Sub-Panel was advised by the Minister at a Public Hearing on 13th October 2006 that the decision to close the two wards had been made with the approval of patients:

> "*Had things looked profoundly difficult at that point, if clients had not wanted it, staff did not want it, that may have put a different complexion on the decision to proceed.*"[21]

The first patients began to be moved on 18th September 2006 to Silver Springs Care Home. On 4th October 2006, the Sub-Panel held a Public Hearing with the Home Manager, Mrs. S. Gartshore. She advised the Sub-Panel that the Home would not have taken any patients who did not wish to move:

> "*I would not be prepared to take any client at Silver Springs -- if I go and assess somebody and they say: "I do not want to come. I do not want to go to your home." I do not want to make someone feel that they have got to come, so that is something we have agreed on. If I go and assess somebody and they say to me: "No, I do not want to come", they do not come.*"[22]

Given that patients had already begun to be moved by the time Mrs. Gartshore made this statement, the implication was that patients had been happy to be moved to Silver Springs Care Home.

The Sub-Panel was advised that there had been some objections to the transfer of patients to the private sector. At a Public Hearing on 14th September 2006, Ms. M. Hutt (Senior Nurse - Services for Older People) stated that the families of two patients had been unwilling to see their relatives moved to the private sector:

> "*I have had only two families that have said that they would prefer their relative to stay in H&SS (Health and Social Services) and they are staying in H&SS. They cannot stay on at Leoville because we are closing it but they can stay within H&SS.*"[23]

On a fundamental level, patients were given little choice (prior to the decision to close Leoville and McKinstry Wards) about being moved to the private sector. The Sub-Panel felt the closure of the wards was an inevitability that would require patients to be moved, whether they wished to or not. However, once the decision had been made, some flexibility was possible in accommodating wishes about patients' destinations.

[21] Transcript of Public Hearing 9, 13th October 2006, p. 55
[22] Transcript of Public Hearing 3, 4th October 2006, p. 24
[23] Transcript of Public Hearing 1, 14th September 2006, p. 4

7.2.2 Patient Assessment

In terms of the transfer of patients from the Department's wards, it is apparent that, from the outset, the Steering Group placed great importance on the patients' safety. At its first meeting, it agreed that:

> "*the safety of the patients should be the priority.*"[24]

At the following meeting on 19th April 2006, the Steering Group noted that consideration of patient safety would:

> "*determine the rate this project [would] progress*."[25]

The first step taken to ensure patient safety was to implement an assessment process involving each patient receiving nursing care on Leoville and McKinstry Wards. The Steering Group agreed to this at its second meeting on 19th April 2006.[26] Details of the assessment process were provided to the Sub-Panel by Ms. M. Hutt at the Public Hearing on 14th September 2006:

> "*At the very beginning, throughout caring for these older people, we use a system called MDS which is a shortened version of Minimum Dataset. That is a comprehensive assessment that looks at people's physical, nursing, medical, psycho-social, a whole range of their needs and gives us a base line*."[27]

The Sub-Panel was subsequently provided with a copy of the MDS assessment form. In addition to information gleaned from the MDS assessment, however, the Department also took into account the patients' complexity, stability, and behaviour as well as their social needs. Further explanation on these points was provided by Ms. Hutt, again at the Public Hearing on 14th September 2006:

> <u>Complexity:</u>
>
> "*Complexity in relation to, are there lots of underlying pathological reasons, diseases, illnesses and what have you, chronic situations, that mean that somebody needs the services of different professionals on a very regular basis."*
>
> <u>Stability:</u>
>
> *"Stability; has somebody got an underlying illness that is not stable? Is there an epileptic that is having fits on a very regular basis that are not controlled? Is there a diabetic whose diabetes is uncontrolled and having hypos and hypers all the time? So stability in those kind of respects."*
>
> <u>Behaviour:</u>
>
> *"Behaviour-wise; a very large proportion of our patients suffer from dementia to some degree or another. Dementia does not preclude some of them being cared for in the private sector but there are some behaviours associated with dementia that would preclude. So if somebody wanders a lot, if they are very noisy at night, if they hit out when they are being attended to in an aggressive sort of way."*

[24] Minutes of the Steering Group, 5th April 2006
[25] Minutes of the Steering Group, 19th April 2006
[26] Minutes of the Steering Group, 19th April 2006
[27] Transcript of Public Hearing 1, 14th September 2006, p. 6

Social Needs:

"*We also considered the people with obvious social needs for staying with us as being excluded immediately. We knew, for instance, that there was one lady whose husband lived opposite The Limes. We would never consider moving her no matter what her condition. There was another lady whose husband lived in Gorey and came on the bus everyday. Well, he could never go anywhere else but The Limes because the bus routes would not allow it. So if there were obvious social needs they were excluded for those reasons as well. They were the main exclusions.*"

Ms. Hutt also advised the Sub-Panel that the assessment process had involved nurses, medical staff, social workers and, where appropriate, speech and language therapists, physiotherapists and the mental health team.[28]

The Sub-Panel was pleased that the Department made patient safety its priority during the transfer process. The Sub-Panel believes that the assessment process implemented by the Department was well planned and incorporated standard procedures to ensure that a comprehensive evaluation of each patient was undertaken.

7.2.3 Higher Dependency Patients

The assessment process described above had already begun by the Steering Group's meeting on 19th April 2006.[29] Progress reports were given at its following meetings. By 14th June 2006, the initial assessments of patients on Leoville and McKinstry Wards had been completed.[30]

The process also involved reassessments due to the nature of the patients involved (and also, perhaps, as the wards could not be closed as quickly as had been hoped). As Ms. M. Hutt explained at the Hearing on 14th September 2006:

"*Because we assessed someone as being suitable 3 or 4 months ago does not mean to say they are still suitable today. We are dealing with old, dependent patients. We have to take another look at everybody, we have to make sure that the assessment we did then is still valid. We also have to have them have a medical examination because there was no point having a medical examination 4 months ago, that has to be current and done the week before they move.*"[31]

The above statement indicated that a patient could have been identified as 'unsuitable' for transfer to a private care home. The question that therefore arose was to where such a patient would be moved. The answer may be found in the minutes of the Steering Group meeting on 19th April 2006:

"*All patients are going to have to be assessed and beds on Sandybrook and Limes have to be identified for some patients that cannot go to the private sector from Leoville*

[28] Ibid.
[29] Minutes of the Steering Group, 19th April 2006
[30] Minutes of the Steering Group, 14th June 2006
[31] Transcript of Public Hearing 1, 14th September 2006, p. 5

> *and McKinstry. This means that some patients on Sandybrook and Limes will have to move to the private sector also.*"[32]

It was clear that the closure of the two wards did not mean that their 47 nursing care patients would fill the 47 nursing beds contracted from the private sector; some patients from The Limes or Sandybrook might be better suited to the move and so they too were assessed. Thus, on 28th June 2006, when the Steering Group was given a figure of the number of patients who were suitable to move from Leoville and McKinstry Wards to the private sector, this figure did not equate to 47.[33]

Those who were suitable to move were lower dependency patients. Ms. M. Hutt indicted as much to the Sub-Panel on 14th September 2006 when describing the assessment process:

> "*Dementia does not preclude some of them being cared for in the private sector but there are some behaviours associated with dementia that would preclude. So if somebody wanders a lot, if they are very noisy at night, if they hit out when they are being attended to in an aggressive sort of way, that would preclude them leaving our care. It was those issues that were the main criteria around whether someone needs to stay with us.*"[34]

The closure of Leoville and McKinstry Wards would therefore impact on all the Department's nursing care wards: patients from either The Limes or Sandybrook could find themselves being moved to the private sector. However, the Sub-Panel supports the Department's policy of keeping higher dependency patients within its own wards although it remains concerned that a situation might arise where a patient who has been identified as low dependency (and therefore moved) might eventually become a high-dependency patient.

7.2.4 A Gradual Transfer Process

It was the intention of the Steering Group that patients would be moved gradually to private care homes. In other words, patients would not be moved *en masse*. Thus, at its second meeting, the Steering Group was advised:

> "*From June 1st 2006 18 patients will be moved, 9 from McKinstry and 9 from Leoville, to different homes (presuming it is Lakeside and Silversprings (sic)) with appropriate staff to support them. No more than 3 patients will go to one home each week.*"[35]

The first contract with a private sector care home was not signed until 11th September 2006 and patients did not begin to be moved to the private sector until 18th September 2006. However, despite the delay, it would appear the Steering Group did not sway from the decision that patients would be moved gradually:

> "*25 patients would be moved in total starting the week 18th September. The first week 6 patients will move, with 3 a week moving in the following weeks.* "[36]

[32] Minutes of the Steering Group, 19th April 2006
[33] Minutes of the Steering Group, 28th June 2006
[34] Transcript of Public Hearing 1, 14th September 2006, p. 6
[35] Minutes of the Steering Group, 19th April 2006
[36] Minutes of the Steering Group, 6th September 2006

The Steering Group appear to have adhered to its decision of 19th April 2006 that the safety of patients would determine the rate of transfer.

When the Sub-Panel received Mrs. S. Gartshore (Home Manager, Silver Springs Care Home) at a Public Hearing on 4th October 2006, it was given confirmation that transfers had occurred in accordance with these plans for a gradual approach (with one exception):

> "*They [the transfers] have been spread out. One day we took 2 ladies together, I would never have done that before but these 2 ladies were friends and wanted to come together. When I went to do their assessment both families had said to me: "They are really close, they want to come together." They had been in a bay together in Leoville. They are very close and one was more anxious about coming than the other. The other one was really looking forward to it. Then when I said to her, she said: "Can I go the same day as my friend?" and I said yes because it was just easier for them and they were happier to come together*."[37]

The Sub-Panel supports the Department's decision to transfer patients gradually from its wards to the private sector. However, as the Department was evidently unable to keep to the timetable it originally established for the closure of the wards, the Sub-Panel believes it was unwise to have set such an early completion date as a target.

7.2.5 Continuity of Staff

At the Public Hearing with the Minister on 14th September 2006, the Sub-Panel asked what arrangements had been made for the staff on Leoville and McKinstry Wards. This matter will be considered in more depth in a later section of this report. However, at this juncture, it is worth noting that, at the Hearing, Ms. M. Hutt advised the Sub-Panel that:

> "*We are going to use 2 of the posts that are there - the 2 sisters, one from Leoville and one from McKinstry are going to work as liaison sisters; and we are also using half a post to employ half a social worker to work with them.*"[38]

Further information on this point may be found in *Outline Requirements for the Tender for Provision of Nursing Beds*. This document was sent to all registered nursing homes inviting them to tender for beds. It advised them that:

> *"It is the intention of Health and Social Services to appoint two senior nurses known as Community Liaison Sisters. They, plus a Social Worker, will be the primary liaison in support of provision arising from this tender process. Throughout this document referral to nominated Health and Social Services staff refers primarily to the Community Liaison Sister/s but will also refer to other staff such as Social Worker or Occupational Therapy staff as appropriate to the situation."*[39]

The document contained references to the Community Liaison Sisters' responsibilities. For instance, they would work on patients' continuous assessments in conjunction with those private care homes who were awarded a tender.

The Community Liaison Sisters were appointed to ensure that there was a degree of continuity when patients were moved to the private sector and to ensure good

[37] Transcript of Public Hearing 3, 4th October 2006, p. 21
[38] Transcript of Public Hearing 1, 14th September 2006, p. 28
[39] *Outline of Requirements for Tender for Provision of Nursing Beds*, Item 2.3

communication between the Department and private care homes. Ms. M. Hutt explained as much to families when she wrote to them on 4th July 2006:

> "*We will appoint two Ward Sisters to work as community based nurses, plus a social worker. Their role will be to have regular and frequent contact with the patients in the private sector and the staff of the homes. They'll be available to families as they are now on the in-patient wards.*"[40]

Mrs. S. Gartshore (Home Manager, Silver Springs Care Home) appeared to confirm that they had fulfilled this role when she attended a Public Hearing on 4th October 2006. Silver Springs Care Home had begun to receive patients from the Department on 18th September 2006. Mrs. Gartshore explained at the Hearing that one patient had taken time to settle into her new home. When asked what had been agreed with the Department in such cases, Mrs. Gartshore advised:

> "*We have reviews every week with the sisters who are in charge of the liaison between the community and the private sector. They are coming everyday so they would have been well aware of that situation prior to that.*"[41]

The Sub-Panel believes the Department made sufficient arrangements for continuity of care during the transfer process. The arrangements were well planned although the Sub-Panel feels the ultimate success of the arrangements will depend on a good relationship between the Department and the managers of the private care homes. The Sub-Panel hopes that the Department will ensure that such good relationships are maintained.

7.2.6 The Potential Risks to Patient Safety

The potential risks involved in moving elderly patients became clear to the Sub-Panel when it began its research. In one document supplied by the Department, the Sub-Panel was concerned to read the following statement:

> "*The result of relocation is a cause of great distress and anxiety to both patients and their relatives and is linked to increased mortality rates*."[42]

The Sub-Panel endeavoured to increase its understanding of this issue and asked for comments from a number of witnesses whom it met at Public Hearings. For example, Dr. M. Richardson (Consultant Physician – Care of the Elderly) advised the Sub-Panel that:

> "*As far as I understand it, the research is often conflicting on this, partly because the kind of patients that we are dealing [with] die on a fairly regular basis anyway.*"
>
> "*There does appear to be a link with death and movement but no one can really be quite sure why.*"[43]

At a Public Hearing with representatives of the Jersey Nursing Association (JNA) and Royal College of Nursing - Jersey Branch (RCN), Ms. A. Bisson, Secretary to the RCN, stated that:

> "*Potentially, we do see a greater death rate when perhaps it was not expected but, again, nobody can say that that would not have happened anyway.*"

[40] Correspondence from Ms. M. Hutt, dated 4th July 2006
[41] Transcript of Public Hearing 3, 4th October 2006, p. 25
[42] *Review of Continuing Care and Respite Care Provision,* p. 20
[43] Transcript of Public Hearing 5, 4th October 2006, p.22

> "*I think the greatest thing that can be seen - and there is a lot of evidence to support it - is with those clients who have elements of dementia who get very used to their surroundings, to their staff and where they are, and the move does upset them incredibly. In terms of the general elderly, there is no evidence to support that at all.*"[44]

The matter was also discussed at both Public Hearings the Sub-Panel held with the Minister. At the second of these Hearings, the Sub-Panel was advised by the Minister that the research might not be applicable to the closure of Leoville and McKinstry Wards:

> "*It is worth pointing out that much of the evidence from the United Kingdom about mortality rates has sometimes involved things like homes being suddenly shut down unexpectedly, for all kind of reasons, and patients having to be moved suddenly with very little warning. Of course, that is a wholly unsatisfactory state of affairs and that is not the approach we are taking*."[45]

Notwithstanding the Minister's statement, it is clear that the Steering Group was aware of this potential rise in mortality rates from the outset. It was advised at its first meeting that:

> "*some research showed a mortality rate of 20% when closing a home/ward and moving patients*."[46]

The process of assessing patients and moving them gradually appears to have been followed by the Department in order to address this problem. Comments made by Mr. M. Pollard (Chief Executive Officer – Department of Health and Social Services) at the Public Hearing on 14th September 2006 suggest, for instance, that a gradual approach was taken specifically to counter this potential problem:

> "*In the 1990s what used to happen in the National Health Service is that wards of this nature transferred wholesale, and there was anything up to a 10 per cent attrition rate - that is the euphemism for death - 10 per cent attrition rate by crude transfers. So doing the transfer subtly, informed by the individual needs of patients, is the best practice and is the best thing*."[47]

The arrangements for continuity of staff provide another example of how the Department dealt with this issue. Dr. Richardson explained as much at a Public Hearing on 4th October 2006:

> "*Trying to follow through the move with some continuity of staff so that the patients would have familiar faces in a sort of transitory phase when they had moved. So, things like that to try to minimise any problems.*"[48]

The Sub-Panel believes that the Department was well aware of the potential risks involved in moving patients. It found that the Department took appropriate measures to ensure these risks were assessed and addressed during the transfer process. It is confident that the Department will monitor the situation.

[44] Transcript of Public Hearing 7, 5th October 2006, p. 25
[45] Transcript of Public Hearing 9, 13th October 2006, p. 38
[46] Minutes of the Steering Group, 5th April 2006
[47] Transcript of Public Hearing 1, 14th September 2006, p. 3
[48] Transcript of Public Hearing 5, 4th October 2006, p. 22

7.3 The Families

When the Minister made the 'in principle' decision on 30th March 2006, it was subject to the following condition:

> "*Full consultation with the patients and their families as to the reasons for the decision and assurance of full support of the Department in undertaking any future transfers*."[49]

The Sub-Panel has examined the Department's approach to its patients. It also wished to assess the 'full consultation' that had been undertaken with families. It therefore asked questions on this matter at the Public Hearing on 14th September 2006. It was advised by Ms. M. Hutt that:

> "*Mark [Littler, Directorate Manager of Medicine] and I invited to meetings families of every patient in our care leaving McKinstry site and from The Limes and explained what our proposals were and took their views. I also wrote to the families of all the patients that we thought would stay within Health and Social Services to allay their fears from the very outset, and I also met personally with the families of everybody that we thought would be suitable for the private sector.*"[50]

The minutes of the Steering Group appear to confirm that such meetings did indeed occur. By 3rd May 2006, for example, four meetings with relatives of patients on all of the Department's wards (i.e. including The Limes and Sandybrook) had been held.[51]

Statements made in written submissions to the Sub-Panel also confirm that meetings were held (although the dates of these meetings were not indicated):

> "*Around two months ago [in approximately June 2006], as you know, there were meetings with the families of the patients concerning the closure of Overdale and the proposed moves of these family members to their certain destinations.*"[52]

> "*There was a general meeting to which all concerned relatives were invited.*"[53]

In some submissions made to the Sub-Panel, however, there were suggestions that the level of consultation with families may have been less than satisfactory. For instance, as has been seen, the decision to close the wards was subject to "*full consultation […] as to the reasons for the decision*." However, one person commented:

> "*The policy behind the closure of Leoville and McKinstry, the plans for the land at Overdale and the ongoing strategy for the care of the elderly, has yet to be articulated by Senator Syvret and appears to be a disjointed and uncoordinated approach.*"[54]

In addition, the Sub-Panel was advised by one relative that:

> "*communication between the Department of Health and Social Services and her family had not always been clear: information was not always forthcoming from the Department and it had been necessary on occasion to 'push' for information*."[55]

A third individual advised of his family's perception that:

[49] Ministerial Decision of 11th September 2006
[50] Transcript of Public Hearing 1, 14th September 2006, page 15
[51] Minutes of the Steering Group, 3rd May 2006
[52] Written submission from Mr. R. Le Plongeon, 29th August 2006
[53] Written submission from Ms. B. Perchard, 31st August 2006
[54] Written submission from the Greene family, 6th September 2006
[55] Notes of Meeting with Miss. A., 29th August 2006

"*they are not 'in the loop'*."[56]

It is also worth noting that the reasons behind the closure of Leoville and McKinstry Wards were seemingly not understood by the public in general. A number of written submissions indicated to the Sub-Panel that people had not understood and could not see how the closure fitted into the Department's overall plan for nursing and respite care. For example, when he met the Sub-Panel on 20th September 2006, Mr. J. Corbet highlighted that little supporting evidence for the decision to close Leoville and McKinstry Wards had been placed in the public domain. As a consequence, it appeared that the decision had not been given due consideration.[57]

There appeared to be a conflict in the evidence before the Sub-Panel regarding the standard of communication from the Department. It highlighted this apparent conflict with Senator Syvret at the Public Hearing on 14th September 2006. In response to the assertion that some people may have been dissatisfied with the consultation, the Minister stated:

> "*I have to say that the evidence simply cannot support that allegation because the consultation with the stakeholders throughout this whole process, both this particular move and the introduction of the relevant strategies that are informed prior to moves, has been absolutely comprehensive; and the evidence is absolutely plain to that effect.*"[58]

The evidence to which the Minister referred may be that found in the minutes of the Steering Group's meetings. For example, on 31st May, the Steering Group was advised that:

> "*all relatives that [had] wanted to attend a meeting [had] done so and others that could not attend [had] spoken with MH [Mair Hutt] on the telephone and [had] all been given the details regarding the move."*[59]

The minutes also suggest that there had been no dissatisfaction with the communication with families. For instance, on 28th June 2006, the Steering Group was advised:

> "*that [Mair Hutt had] either met with or written to all relatives from Leoville and McKinstry and no families have disagreed with the process so far.*"[60]

It was clear to the Sub-Panel that a policy for communication with families had been developed by the Department. However, due to the high levels of anxiety inherent in circumstances such as these, minor problems occurred and some people felt that communication from the Department had been unsatisfactory. In addition, the Sub-Panel believes the Department provided insufficient explanation to the general public of why the two wards were closed.

SUB-PANEL RECOMMENDATION:

The Department should ensure that two-way communication with families is constantly maintained until the end of the closure and transfer process.

[56] Written submission from Mr. S. Le Breton, 6th September 2006
[57] Notes of meeting with Mr. J. Corbet, 20th September 2006
[58] Transcript of Public Hearing 1, 14th September 2006, p. 18
[59] Minutes of the Steering Group, 31st May 2006
[60] Minutes of the Steering Group, 28th June 2006

7.4 The Staff

The Sub-Panel has already described some of the arrangements made with regard to staff who had worked on Leoville and McKinstry Wards. Staffing levels on the two wards (prior to closure) were somewhat difficult for the Sub-Panel to establish during its review. Advice received from the Department indicated that staffing at any given time would reflect the levels of dependency of the patients on the wards.[61] Despite this fact, it is apparent that the closure of the two wards would ultimately affect at least 56 members of staff.[62] At its first meeting on 5th April 2006, the Steering Group considered that one of its key responsibilities would be to:

> "*Monitor re-deployment of staff, including co-ordination of corporate approach and relocation and recruitment in other areas of H&SS.*" [63]

Following the announcement that the wards were to close, the Minister gave assurances that no members of staff would lose their job as a result of the closure. He promised as much in the States Assembly on 20th June 2006,[64] a promise he reiterated to the Sub-Panel at the Public Hearing on 14th September 2006:

> "*The proposed arrangements are the staff have been guaranteed jobs and no loss of terms or conditions of employment*."[65]

Notwithstanding these assurances, the Sub-Panel considered staffing issues during its review as specified in its second Term of Reference.

7.4.1 The Wishes of Staff

As with the patients, it would appear that the closure of Leoville and McKinstry Wards would not have occurred if the staff had been drastically opposed to the idea. It may be worth repeating the statement to this effect by the Minister at the Public Hearing on 13th October 2006:

> "*Had things looked profoundly difficult at that point, if clients had not wanted it, staff did not want it, that may have put a different complexion on the decision to proceed, but the fact is that negotiation - that discussion with them - took place as soon as we decided to carry exploring the idea forward.*"[66]

It would appear, however, that members of staff were not consulted prior to the Minister's 'in principle' approval on 30th March 2006. At the Hearing on 13th October 2006, when asked whether suggestions had been sought from staff for alternative solutions (besides closure and moving the patients), Ms. M. Hutt stated:

> "*I did not ask them for their suggestions in that sense. I was the manager of that area. It is my responsibility to manage the situation and it is my responsibility to communicate with the staff that I manage myself.*"[67]

However, subsequently at the Hearing, Mr. M. Littler advised the Sub-Panel:

[61] Advice received from the Department, 23rd November 2006
[62] Transcript of Public Hearing 9, 13th October 2006, p. 51
[63] Minutes of the Steering Group, 5th April 2006
[64] Official Record of the States Assembly, 20th June 2006
[65] Transcript of Public Hearing 1, 14th September 2006, p. 28
[66] Transcript of Public Hearing 9, 13th October 2006, p. 55
[67] Ibid.

> "*We had the clear impression that they [the staff] knew the reason for change, they supported it and they supported our plan.*[68]"

However, the impression given at the Public Hearing on 5th October 2006 with representatives of the JNA and RCN was that staff may well have appreciated consultation prior to the decision. At this Hearing, Mr. K. McNeil of the RCN stated:

> "*With regards to consultation, again, I would have to say I do not believe that we were involved in any point of consultation. The decisions had already been made and any meetings which we have been involved in since have purely been to update us on what is happening. There has not been really a request to participate in this process.* "[69]

Mr. N. Corbel, representing the JNA, appeared to concur:

> "*Just in terms of the consultation, we did raise concerns at the lack of consultation at the last meeting which was arranged, in which, I think, again we did meet with Mair Hutt. I was not present at that meeting, but it was very much a fait accompli. There was no room to discuss options for the future. This was at the time that we were told that £25 million was being withdrawn from Health to be used by Waste, and that the new build would not take place. So, that was when we raised these concerns.*"[70]

The Sub-Panel subsequently asked Mr. McNeil whether this matter could have been handled differently. In reply, he stated:

> "*The first actual consultation I had was with the JEP (Jersey Evening Post), when I sort of picked up the JEP and read an article in it and thought, "I have not had any contact with any members of staff concerned about this" but it was just a point to keep my interest. Then we did get an invite and unfortunately I was away and Amanda attended on my behalf. Up until that time, the first point of contact was when it had leaked into the public domain anyway. It would have been, I think, helpful if we had been able to talk at the very beginning.*"[71]

The Sub-Panel was concerned at the suggestion that staff could not have been consulted prior to the decision to close the two wards. It suggests that staff could make a valuable contribution early on in the decision-making process and believes that it was unacceptable for staff to become aware of the decision through the press.

7.4.2 Meetings with Staff

Regular updates regarding the staffing situation were provided to the Steering Group. These updates indicated that meetings were held with staff members (and unions). For example, on 18th April 2006, the Steering Group was told that two of its members:

> "*are going to be meeting with all staff next week to discuss their options with them and MH will be meeting all the matrons and Rose to discuss staff transferring to other departments*."[72]

[68] Ibid, p. 57
[69] Transcript of Public Hearing 7, 5th October 2006, p. 6
[70] Ibid, p. 8
[71] Ibid, p. 17
[72] Minutes of the Steering Group, 19th April 2006

By 3rd May 2006, meetings had commenced with staff on an individual basis. At these meetings, members of staff were to be provided with a form on which they could list their preferences for redeployment as well as describe their most recent training.[73]

At a Public Hearing on 5th October 2006, the Sub-Panel was advised that there had been some concerns from staff regarding the consultation. Ms. A. Bisson of the RCN told the Sub-Panel that:

> "*One or two other members have said that, despite management's argument that they had consulted with them regularly, they would say different. They feel they have not been consulted with as regularly as management would lead us to believe*."[74]

At the same Public Hearing, the Sub-Panel was advised by Mr. N. Corbel, representing the JNA, that:

> "*In terms of consultation with the employer, I think apart from the meeting on 24th April and a further meeting recently, which I do not have the date for, which I could not attend as I was out of the Island, and my deputy attended in my place, I believe there has been very little in the way of consultation.*"[75]

There also appeared to be a different view regarding whether staff members had been consulted individually. The Steering Group's minutes appeared to suggest that this had occurred. However, at the Public Hearing on 5th October 2006, Mr. K. McNeil of the RCN made the following statement:

> "*I am not aware of them having individual consultation with the manager, albeit I accept that Mrs. Hutt has stated on a number of occasions that she has an open door policy to any member of staff who wishes to go and discuss any concerns with her. There was no planned intervention to meet individual members of staff. Staff have been informed as a group.*"[76]

The Sub-Panel asked the Minister to comment on the issue of consultation with staff at the Public Hearing on 13th October 2006. The Sub-Panel was subsequently advised that 64 separate meetings had been held with members of staff (to that date) and provided with a set of dates on which the meetings had been held. This information indicated that individual meetings had been held with 46 people between 25th April and 15th May 2006. It also contained the following extract from a meeting held on 8th June 2006:

> "*MH and a member of HR have met with all staff and MH has also met with staff side representatives.*"[77]

The Steering Group was aware of the potential risks involved in attempting to deal with the staffing situation. For example, the following was noted on 9th August 2006:

> *"Union Issues - MH feared that staff that were not successful in securing a post within Elderly Services are becoming discontented. MH has offered to meet with all these staff but most have not accepted her offer and those that have remain discontented.*"[78]

[73] Minutes of the Steering Group, 3rd May 2006
[74] Transcript of Public Hearing 7, 5th October 2006, p. 9
[75] Ibid, p. 6
[76] Ibid, p. 16
[77] Advice received from the Department, 23rd October 2006
[78] Minutes of the Steering Group, 9th August 2006

The Sub-Panel believes that, once the decision had been made to close the wards, the Department followed a proper process of communication with staff although there were minor problems.

SUB-PANEL RECOMMENDATION:

Thorough consultation with staff should occur at each stage of the transfer process in order to counter the potential effect of the rumour mill.

7.4.3 Redeployment Guidelines

The Steering Group gave structure to the redeployment process by following set guidelines. For example, at its meeting on 3rd May 2006, the Steering Group was advised that one of its members:

> "*has drafted some redeployment guidelines.*"[79]

At the Public Hearing on 13th October 2006, Ms. M. Hutt advised that the Steering Group had, in fact, followed States-wide guidelines throughout the redeployment process:

> "*We [the Department] followed the States' redeployment policy but improved on it. We improved on it in the sense that there is an endpoint in the States' redeployment policy and we have not given our staff an endpoint. If they go to a redeployment post and they do not like it, they can come back to us and we will find them another one. That is not necessarily always the case with the redeployment policy of the States.*"[80]

The policy in question was Section A7 of the *Human Resources Policy Manual*. To give an example of how the Department adhered to the guidelines, it was earlier seen that meetings were held with members of staff: the guidelines indicate that this should occur.

7.4.4 The Redeployment Process

The Sub-Panel understood that staff could be redeployed to other areas within the Department. At the Public Hearing on 13th October 2006, Ms. M. Hutt indicted where some people had moved:

> "*I will be releasing more staff down to the General Hospital, St. Saviour's [Hospital] and learning difficulties within the next three to four weeks.*"[81]

In some instances, this would require interviews to be held:

> "*The situation is on-going as planned; staff are attending interviews for vacancies in other areas. Interviews for the surgical division are taking place this week and for the medical division and elderly care next week*."[82]

[79] Minutes of the Steering Group, 3rd May 2006
[80] Transcript of Public Hearing 9, 13th October 2006, p. 52
[81] Ibid
[82] Minutes of the Steering Group, 28th June 2006

Evidence received from representatives of the JNA confirmed that interviews were indeed held on occasion (in this instance to determine which Care Assistants would remain within Elderly Services):

> "*They went through the interview process and managers took from that the staff that they wished to place back within the elderly care.*"[83]

At the same Public Hearing, the Sub-Panel was given an indication by Ms. A. Bisson, representing the RCN, of the direct support that had been given to staff. This had included training where appropriate:

> "*They [the staff] have been absolutely delighted with their move and feel that they have been given the full support of Health and Social Services. They have been on several new courses, learned several new skills, and they are very, very happy with where they have gone to*."[84]

Training was necessary in certain cases as some members of staff on the wards had developed specialist skills in care of the elderly. The Sub-Panel shall explore in a later section the implications of moving seemingly specialist staff to other areas within the Department.

7.4.5 Varied Success in Redeployment

The minutes of the Steering Group indicate that it considered three distinct staffing groups: Nurses, Care Assistants and Manual Workers. The minutes show that arrangements for the redeployment of these groups progressed at different rates. For example, at its meeting on 31st May 2006, the Steering Group was advised that:

> "*It is thought that all Staff Nurses will be easily redeployed into other positions. However there are currently only 5 Health Care Assistant vacancies available, excepting Special Needs. It is thought that there should be some more vacancies in the near future*."
>
> "*MH reported there are more Manual Worker posts available than we need for redeployment*." [85]

The Steering Group faced most difficulty with regard to the redeployment of Care Assistants. By 23rd August 2006, there were still twelve Care Assistants who had not been redeployed although all Staff Nurses had secured jobs by this time.[86]

Evidence given by representatives of the JNA and RCN seemed to reflect the fact that it had been easier to redeploy some positions than others. For instance, at the Public Hearing with these representatives, Ms. F. Stein of the JNA attested that:

> "*on the perspective of more on the Care Assistants side, to date I think there are still a couple of Care Assistants who unfortunately as yet have not been told which areas they will be redeployed to.*"[87]

[83] Transcript of Public Hearing 7, 5th October 2006, p. 15
[84] Ibid, p. 7
[85] Minutes of the Steering Group, 31st May 2006
[86] Minutes of the Steering Group, 23rd August 2006
[87] Transcript of Public Hearing 7, 5th October 2006, p. 7

However, at the same Hearing, Ms. A. Bisson of the RCN appeared to give a somewhat more positive picture from the RCN's perspective:

> "*It appears - and, again, only from an RCN perspective - those who are members of the Royal College of Nursing at this present moment in time do not have any specific concerns or complaints.*"[88]

The difference in testimony may be explained by the different membership of the two associations: the JNA comprises more Health Care Assistants whilst the RCN has more Nurses as members. In terms of the management's view of the situation, Mr. M. Littler advised the Sub-Panel (at the Public Hearing on 13th October 2006) that there had been no formal complaints from staff about the process that had been followed.[89]

The minutes of the Steering Group indicate it was aware of the anxiety caused by the difficulty in securing posts for some people. At the meeting on 12th July 2006, the Steering Group was advised that:

> "*MH [Mair Hutt] has met with the staff collectively and individually throughout and the feeling is now one of frustration that they have no release dates. Those who have not got a post are becoming anxious. MH will increase the up-date meetings to reassure staff*."[90]

Two weeks later, the following was noted:

> "*It is felt that some staff may go to the union regarding this however it was all done correctly and the recruitment process was followed. MH has offered any unsuccessful applicants the opportunity to come and speak with her if they wish to.*"[91]

Ultimately, the Steering Group had to consider that the closure of the two wards would not occur as soon as had first been hoped. In response to this situation, it was decided that those who had yet to be redeployed would be able to stay on Leoville and McKinstry Wards:

> "*The Staff Nurses have all been given the option either to take up their redeployment or stay within Rehab and Elderly until both Leoville and McKinstry have been closed down.*
>
> *All Health Care Assistants that have been given redeployment jobs are still being moved. The HCA's that are left will remain on the ward and continue to look for redeployment*."[92]

Whilst it appears that the process of redeploying staff did not always run smoothly, the Sub-Panel believes that redeployment was generally appropriately managed and that the Department followed the relevant guidelines.

SUB-PANEL RECOMMENDATION:

To avoid the minor problems that occurred, in future, issues such as the placement process and available (re)training should be clarified with staff at an early stage.

[88] Ibid
[89] Transcript of Public Hearing 9, 13th October 2006, p. 58
[90] Minutes of the Steering Group, 12th July 2006
[91] Minutes of the Steering Group, 26th July 2006
[92] Minutes of the Steering Group, 6th September 2006

7.5 The Private Sector

7.5.1 The Tender Document

Although the Department had first purchased nursing beds from the private sector in 2002, different arrangements would be put into place for the beds contracted following the closure of Leoville and McKinstry Wards.

At its first meeting, the Steering Group noted that:

> "*tenders would go out to all homes with registered nursing beds.*"[93]

A tender document was prepared and sent to all such homes on 31st May 2006. The deadline for applications to be received was given as 20th June 2006. The document set out the scope of bids the Department would be prepared to accept. It also described the Department's requirements, the conditions of provision and the arrangements for the management of any eventual contract.[94]

The minutes of the Steering Group's meetings indicate that the document was altered during its preparation. For example, at its meeting on 3rd May 2006, the Steering Group was asked to consider a draft version of the document; at the subsequent meeting, the Steering Group was advised of the changes that had been made as a result of this consideration.[95]

The minutes of the Steering Group's meetings also indicate that three nursing homes ultimately tendered for the contract for nursing beds (although one of these homes would appear to have made a late application).[96]

The Sub-Panel received the impression that the tender document (that invited all registered nursing homes to tender for the Department's beds) was a last-minute arrangement.

7.5.2 A Level Playing Field?

During its review, the Sub-Panel received submissions from sections of the private sector suggesting that there had been some dissatisfaction with the tender process. For instance, the written submission from the Jersey Care Federation included the following comment that had been made by some of its members:

> "*Preferential treatment appears to have been given to the newer and larger service providers with no reference to the already established ones. These Homes have provided an excellent service in the past but have now been overlooked when they should have been given constructive support to remain viable."*[97]

[93] Minutes of the Steering Group, 5th April 2006
[94] *Outline Requirements for Tender for Provision of Nursing Beds*
[95] Minutes of the Steering Group, 3rd May and 31st May 2006
[96] Minutes of the Steering Group, 28th June and 12th July 2006
[97] Written submission from the Jersey Care Federation, 13th September 2006

The Sub-Panel raised this issue with Mrs. E. Crabb, Chairman of the Jersey Care Federation, at a Public Hearing on 4th October 2006. Mrs. Crabb advised of her understanding that:

> "*consultation had begun with [certain homes] prior to the tendering process being advertised.*"[98]

The Sub-Panel also received a written submission from Mr. K. Harrison[99] in which he made the following comment:

> "*It is clear that H&SS invited only one or two UK organisations to enter into such discussions some time ago. This along with more recent publicity clearly demonstrated favouritism towards the larger organisations. The small businesses, who have supported the island for many years and who currently provide a high standard of care for H&SS residents did not get a mention.*"[100]

The implication of such statements was that the tender process had been flawed. The Sub-Panel therefore attempted to ascertain whether there was any substance in the statements.

It is worth noting at this juncture that take up of nursing beds is high in Jersey: the Sub-Panel was advised that occupancy rates in the private sector were as high as 98%.[101] Given this fact, it may be asked how the Department was able to find 47 nursing beds in the private sector to replace the provision on Leoville and McKinstry Wards.

During the course of 2006, Jersey's nursing care market expanded: Silver Springs Care Home opened with 33 nursing care beds whilst it was anticipated that Lakeside Care Home would increase its own provision. It is clear that the Steering Group was aware of this fact from the outset of its work. At its first meeting, it was advised that:

> "*On May 17th Silversprings (sic) will open – with approximately 33 nursing beds; Lakeside are planning to have 20 nursing beds but the opening date for them is not yet confirmed but the home manager anticipates it will be approximately June 30th*."[102]

Indeed, it would appear that knowledge of this expansion influenced the decision to close Leoville and McKinstry Wards and transfer patients. This could be seen in comments made by Ms. M. Hutt in a press article in May 2006:

> "*We have an opportunity this year because the private sector is expanding and there are more nursing beds becoming available. We are taking this opportunity to go into partnership with the private sector.*"[103]

However, the Minister emphasised that no preferential treatment had been given to any home:

> *"They [Silver Springs Care Home] might well and probably were hoping that that would be the case, but that would be the basis of their business decision and their investment gamble. The fact is absolutely no form of promise, guarantee or anything of that description either verbal or written was given to them. It was a straight tender basis*

[98] Transcript of Public Hearing 2, 4th October 2006, p. 14
[99] At the time of making his submission, Mr. Harrison was Home Manager of The Clifton Nursing Home. However, by the time of this report's presentation, he no longer held that position. The statements reproduced in this report therefore reflect his personal views and should not be taken as representing the official view of The Clifton Nursing Home.
[100] Written Submission from Mr. K. Harrison, 11th October 2006
[101] Transcript of Public Hearing 9, 13th October 2006, p. 44
[102] Minutes of the Steering Group, 5th April 2006
[103] '*Overdale patients "will be cared for"*', Jersey Evening Post, 12th May 2006

> *and if they had not competed, if there had been a better product and a better cost effectiveness, we would have gone for that."*[104]

Again, the Sub-Panel was faced with somewhat conflicting views from the evidence it considered. As it is, the Steering Group appears to have been aware of the issue itself, noting the following at its second meeting:

> "*ML opened the meeting by discussing the principles that were agreed at the last Steering Group meeting. He firstly confirmed that it was agreed at the last meeting that there will be an opening tendering process for nursing and respite beds from the private sector – it was not going to be assumed that we would automatically use Silversprings (sic) or Lakeside however these are the only 2 homes that have significant capacity.*"[105]

However, given that an open tender process had been chosen by the Steering Group, the Sub-Panel was somewhat puzzled to find statements such as the following:

> "*MH went on to explain to the group that ML and herself were meeting with a director of Four Seasons tomorrow and they are at the stage that they wish to know what people will be in what rooms etc. Silversprings (sic) are proposing that they will identify what rooms they are going to sell to the private sector and the remainder of the rooms will be for H&SS.*"[106]

> "*MH has had some family members asking to go and visit Silversprings (sic), however not all 47 patients can be placed there and if one family is allowed to go and look then all families will have to be given the chance to visit.*"*[107]*

The Sub-Panel consequently highlighted its puzzlement at the Public Hearing with the Minister on 13th October 2006: the Sub-Panel wished to establish whether the Steering Group had begun negotiations before the open tender process had been completed. During the course of the ensuing discussions, the Sub-Panel was advised that:

> "*Discussing does not mean negotiating. Having conversations with does not mean negotiating.*"[108]

It was implied to the Sub-Panel that, whilst the Steering Group may have believed that only two homes could accommodate the Department's patients and may therefore have made preliminary enquiries, it did not begin formal contractual negotiations until the open tender process had been completed.

Information provided by Four Seasons Health Care (the parent company of Silver Springs Care Home) would appear to confirm that negotiations did not begin before the end of the tender process. Whilst the Sub-Panel does not dispute the veracity of the testimony of either the Minister or Four Seasons Health Care, it would like to highlight that written evidence on this matter does confuse matters.

For example, at a meeting of the Council of Ministers on 26th January 2006, the Council received the following advice. The highlighting is the Sub-Panel's own.

> "*The Health and Social Services Department was involved in* ***negotiations*** *with private sector providers and it was anticipated that up to 53 new nursing beds would be made available from which additional respite care could be commissioned*."[109]

[104] Transcript of Public Hearing 9, 13th October 2006, p. 28
[105] Minutes of the Steering Group, 19th April 2006
[106] Ibid
[107] Minutes of the Steering Group, 14th June 2006
[108] Transcript of Public Hearing 9, 13th October 2006, p. 21
[109] Act A11 of the Council of Ministers, 26th January 2006

It may be worth noting that Ms. M. Hutt was present at this meeting of the Council of Ministers.

Similar indications were given in a JEP article that appeared on 16th February 2006 in which the Minister was quoted as follows:

> "*Units are going to be available at the Silver Springs and Lakeside developments, which have seen some good investment. Health will cover the cost of people staying at the homes, which will be more cost-effective than replacing the wards. The two units being used at the moment are hospital wards, which is not suitable for the people we are caring for.*"[110]

Whilst the Sub-Panel appreciates that this article in no way proves that negotiations had already begun, it would suggest that the existence of such articles has not made its work easier in establishing the details of the negotiation period. Indeed the above article from 16th February 2006 also indicated that:

> "*The States are to buy 50 bed spaces at private care homes to replace outdated parts of Overdale Hospital.*"[111]

This statement appeared before the Minister made his in principle decision on 31st March 2006.

The Sub-Panel found other references to correspondence between the Department and private care providers. For example, the former Health and Social Services Committee considered plans for the former Mermaid Hotel in St. Peter (i.e. Lakeside Care Home) when attempting to resolve the bed-blocking crisis at the General Hospital in 2002:

> "*The Committee was advised that bed occupancy rates within the private sector were currently very high. However, fortuitously, the owners of the Mermaid Hotel, St. Peter had recently been given permission for a change of use of the hotel to a residential home which would comprise 34 beds. It was hoped that they would welcome an immediate contract with the Health and Social Services Department for a guaranteed number of beds.*"[112]

It is also apparent from the Committee's minutes that Four Seasons Heath Care was also taken into consideration in March 2004:

> "*The Committee was apprised of a meeting which had taken place in October 2003, between the management team for Rehabilitation and Services for Older people and the Chief Executive and Managing Director of Four Seasons Health Care (FSHC), the largest provider of long term healthcare services in the United Kingdom (UK), in which potential private and public development opportunities had been discussed. Following the meeting, with reference to correspondence dated the 16th December 2003, the Managing Director of FSHC had expressed an interest in the construction and operation of a nursing home on the said site*."[113]

It must be said that neither of the above extracts refer directly to plans for Leoville and McKinstry Wards. However, the Sub-Panel would suggest that evidence such as this is likely to cause confusion and perhaps explains the comments it received from certain areas of the private sector. It was advised that the Department often undertakes correspondence with

[110] *'…as hospital beds plan shows that change is on the way'*, Jersey Evening Post, 16th February 2006
[111] Ibid.
[112] Act A13 of the former Health and Social Services Committee, 6th February 2002
[113] Act A11 of the former Health and Social Services Committee, 3rd March 2004

private care providers (both existing and potential). The Sub-Panel was advised by Mr. R. Jouault (Director of Corporate Planning, Health and Social Services) at the Public Hearing on 13th October 2006:

> "*Mair [Hutt] and myself and Mark [Littler] are in constant dialogue with local home owners and with UK providers on a range of different issues, but that is about maintaining a market intelligence and an understanding about what local providers are doing and what their plans are for the future. So it is not a case of formal negotiations starting and stopping.*"[114]

Indications to this effect were also given by Mrs. C. Blackwood (Registration and Inspection Manager) at the Public Hearing on 6th October 2006. At this Hearing, Mrs. Blackwood advised the Sub-Panel that she had undertaken a 'pre-visit' to Silver Springs Care Home to advise Four Seasons Health Care of the development that the fabric of the building required. In response to the question of whether it was usual to give such early advice, Mr. S. Smith (Assistant Director of Health Protection, Public Health) stated:

> "*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.*"[115]

The Sub-Panel found that the evidence relating to the tender process was contradictory and confusing as the boundary between informal discussions and formal negotiations was not clear. It was understandable, therefore, that to some eyes, the process became irrelevant as discussions with some homes had occurred prior to the beginning of the formal process. Notwithstanding that the Department is often in contact with private care providers, it was difficult for the Sub-Panel to counter fully the claim that the process had been inequitable. It was possible that pre-negotiation discussions had placed certain homes in a favourable position and was not clear whether all potential partners had been involved in early stage discussions.

[114] Transcript of Public Hearing 9, 13th October 2006, p. 19
[115] Transcript of Public Hearing 8, 6th October 2006, p. 45

7.6 Respite Care

The majority of information so far considered by the Sub-Panel has related to nursing care and the 47 nursing beds that would be contracted from the private sector. Many submissions made to the Sub-Panel either did not distinguish between the two types of care or focussed solely on nursing care. However, it must not be forgotten that the closure of McKinstry Ward would require the Department to find seven respite beds in the private sector.

It is worth noting that the take-up of respite care had fallen in recent years. Information gathered by the Department would appear to indicate that the occupancy rate of its beds fell from 87.44% in 2004 to 63.22% in 2005.[116]

To increase its understanding of respite care, the Sub-Panel spoke to Dr. M. Bayes, Chairman of Jersey Association of Carers Incorporated (JACI), at a Public Hearing on 5th October 2006. The Sub-Panel asked Dr. Bayes for her opinion on what arrangements should be made for the seven respite beds maintained by the Department. She stated that she would like to see respite patients:

> "*All together with staff that are dealing with respite patients that come backwards and forwards and they meet the same members of staff when they come back the next time, and they feel much more relaxed and happy in that situation*."[117]

It would appear that the Steering Group was well aware of the wishes of carers. For example, at the meeting of 12th July 2006, the Steering Group noted:

> "*Respite clients would like to have one identified area for respite and would prefer this not to be in a traditional nursing care environment.*"[118]

Similarly, Ms. M. Hutt confirmed at a Public Hearing on 13th October 2006 that consideration had been given to the wishes of carers in the arrangements the Department would seek to make.

> "*We have taken on board the comments from the users before we started thinking about what we ought to provide in the private sector and the points you make really clearly came out. They want somewhere discreet, completely separate from continual care. They want to be able to go to the same place so that they can form relationships. So we are talking with nursing home and residential home owners. But when we come to selection, it will be one residential home and one nursing home so we can provide that continuity.*"[119]

As can be seen in the comments above, the Steering Group came to consider that two contracts would be necessary to provide the 7 respite beds it wished to have maintained. Discussions on this matter occurred at the Steering Group meeting of 19th April 2006, at which the Steering Group considered whether the use of one home would make the respite situation easier to manage or whether the use of two locations would facilitate geographical access.[120]

[116] *Review of Continuing Care and Respite Care Provision*, p. 35
[117] Transcript of Public Hearing 6, 5th October 2006, p. 12
[118] Minutes of the Steering Group, 12th July 2006
[119] Transcript of Public Hearing 9, 13th October 2006, p. 74
[120] Minutes of the Steering Group, 19th April 2006

Ultimately, the Tender Document distributed to homes on 31st May 2006 indicated that :

> "*bids will be considered for either:*
> *a. The provision of seven beds.*
> *b. The provision of three beds.*
> *c. The provision of four beds.*"[121]

At the Public Hearing on 13th October 2006, the Sub-Panel was advised Mr. M. Littler that contracts had not yet been signed for the provision of respite care:

> "*We [the Department] are in discussions with a number of providers within the private sector about delivering respite to our specification, dedicated respite. We are talking with them now.*"[122]

The Sub-Panel supports the suggestion that one home should be used by the Department for the provision of its seven respite beds. However, it accepts the pragmatic approach taken by the Department in that two contracts may ultimately be signed, one for four beds and the other for three beds. The Sub-Panel would stress that continuity of care must be ensured for patients in the event that two homes are used.

[121] *Outline Requirements for tender for provision of nursing care beds*, Item 3.4
[122] Transcript of Public Hearing 9, 13th October 2006, p. 73

8. Why did the Minister decide to close Leoville and McKinstry Wards?

8.1 The In-Principle Decision

Some members of the Public who wrote or spoke to the Sub-Panel not only asked questions regarding the management of the closure of Leoville and McKinstry Wards; they also questioned why it had been *necessary* to close the two wards. Similarly, the Sub-Panel wished to know why the closure had occurred and therefore sought to understand the history behind the decision.

As has been seen, the Minister made an 'in principle' decision on 30th March 2006 regarding the closure of the wards and the subsequent transfer of patients.

It may be worth noting that no formal written record was made of this 'in principle' decision of 30th March 2006. At the first Public Hearing with the Minister on 14th September 2006, the Minister indicated that a record had been made:

> "***Deputy R.G. Le Hérissier:***
> *Regarding the official ministerial decision, was that recording made in March or was it made 2 weeks ago?*
>
> ***Senator S. Syvret:***
> *Both. Both are recorded decisions.*
>
> ***Deputy R.G. Le Hérissier:***
> *Both are available?*
>
> ***Senator S. Syvret:***
> *Yes.*"[123]

However, it subsequently became apparent that the 'in principle' decision had not been formally recorded. When questioned on this matter at the Public Hearing on 13th October 2006, the Minister commented:

> "*I am not sure that there necessarily would have been a record made, because it is not the kind of a decision that puts a particular agreement or policy in place.*"[124]

In the previous section, the Sub-Panel considered the apparent difficulty in establishing when the Department had begun discussions with certain private care providers. During the course of this consideration, it was apparent that news of the decision to close Leoville and McKinstry Wards was known prior to March 2006. For example, as was shown before, the JEP report of 16th February 2006 included the following statement:

> "*The States are to buy 50 bed spaces at private care homes to replace outdated parts of Overdale Hospital.*"[125]

[123] Transcript of Public Hearing 1, 14th September 2006, p. 8
[124] Transcript of Public Hearing 9, 13th October 2006, p. 37
[125] *'…as hospital beds plan shows that change is on the way'*, Jersey Evening Post, 16th February 2006

In addition, Ms. A. Bisson of the RCN indicated at the Public Hearing on 5th October 2006 that members of staff were aware of the development prior to March 2006:

> "*It was March when the actual meeting was held, but I was informed in February.*"[126]

It is worth repeating at this point that the 'in principle' decision would seemingly not have been implemented without the support of patients, their families and staff. The Minister stated as much to the Sub-Panel at the Public Hearing on 13th October 2006:

> "*Had things looked profoundly difficult at that point, if clients had not wanted it, staff did not want it, that may have put a different complexion on the decision to proceed, but the fact is that negotiation - that discussion with them - took place as soon as we decided to carry exploring the idea forward.*"[127]

The Sub-Panel accepts that it would be unfeasible for Ministers to record every 'in principle' decision they make. However, in this case, the Sub-Panel felt that confusion was caused by the term 'in principle' and that the decision made on 30th March 2006 was more formal than this description would imply.

SUB-PANEL RECOMMENDATION:

Guidelines should be developed and agreed for when the Minister makes 'in principle' decisions in order that sufficient audit trails can be established after the event.

8.2 Why did Leoville and McKinstry Wards have to close?

At a Public Hearing on 14th September 2006, the Minister indicated why it had become necessary to close the two wards:

> "*Is it appropriate for us to continue having for some years people living in the ratty, rather unsatisfactory hospital ward environment, Overdale, when we could - given that we could not provide the capital programme ourself - buy high quality beds for them in the private sector?*"[128]

Similar justification for the closure was offered in the JEP article of 12th May 2006:

> *"The moves were necessary because of the unacceptable conditions on [the] two wards at Overdale."*[129]

On 11th September 2006, the Sub-Panel visited Leoville and McKinstry Wards and was therefore able to see the conditions for itself. For example, it noted that on Leoville Ward, patients' clothes were kept in wardrobes that were located in the corridor. In addition, the Sub-Panel was shown evidence of damp in one storeroom; a problem that could not be rectified, according to advice given during the visit. It was also able to see the lack of facilities for patients, such as a dedicated visiting area.[130] On the same date, the Sub-Panel

[126] Transcript of Public Hearing 7, 5th October 2006, p. 5
[127] Transcript of Public Hearing 9, 13th October 2006, p. 55
[128] Transcript of Public Hearing 1, 14th September 2006, p. 2
[129] '*Overdale Patients "will be cared for"*', Jersey Evening Post, 12th May 2006
[130] Notes of Site Visits, 11th September 2006

also visited Sandybrook whilst, on 18th August 2006, it had visited the Westmount Assessment and Rehabilitation Centre. The Sub-Panel was therefore in a position to compare Leoville and McKinstry Wards with more recent constructions, a comparison that confirmed to the Sub-Panel that the two wards were in poor condition.

One of the corridors on Leoville and McKinstry Wards

Similar views on the condition of the wards were expressed in written and oral submissions made to the Sub-Panel:

> "*Leoville Ward is a depressing place, with no privacy for the residents, sleeping 4 to a space is undignified for people who have lived very private lives.*"[131]

> "*Conditions in this Ward were "Dickensian" and there was a lack of privacy for patients".*[132]

The Sub-Panel also sought the opinions of other witnesses in order to establish whether the conditions indeed merited closure. For example, Ms. F. Stein of the JNA indicated that multi-occupancy wards had indeed become unsuitable for the provision of nursing care:

> "*Although the buildings are not really suitable in the fact that they were still 4-bedded wards and privacy was a factor, and things do move on in nursing, you do want more privacy and dignity for your clients, I feel that if investment had have been put in in the first place, Overdale is a beautiful spot.*"[133]

At the same Hearing, Ms. A. Bisson of the RCN also acknowledged that the wards were in a poor state of repair.[134]

It may be worth noting that Mrs. C. Blackwood (Registration and Inspection Manager) was unable to pass comment on the state of the wards when asked at a Public Hearing on 6th

[131] Written submission from Ms. S. Du Feu, 13th September 2006
[132] Notes of Meeting with Miss. D. Simon and Mrs. J. Dingle, 20th September 2006
[133] Transcript of Public Hearing 7, 5th October 2006, p. 19
[134] Ibid

October 2006. As Registration and Inspection Manager, Mrs Blackwood monitors the standards of private care homes. However, legislation does not allow for the inspection of the Department's wards. Mrs Blackwood made the following comment on the matter:

> "*I was asked to go up and measure it [Leoville and McKinstry Wards] 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*."[135]

It would appear that the Department would not have expected the two wards to pass an inspection by Mrs. Blackwood. Advice to this end was given to the Sub-Panel during its visit to the two wards on 11th September 2006.[136]

In terms of respite provision, Dr Bayes stated (at the Hearing on 5th October 2006) that a hospital-style ward was inappropriate whilst adding that mixing respite and nursing beds in one ward was undesirable:

> "*There were quite a lot of people [amongst the Jersey Association of Carers] who felt that a hospital ward was not a suitable place to put their cared-for person for a holiday break while they went on holiday or had a break; that it was too much of a hospital ward, and it was mixed with long-stay patients who were living there, and the mixture does not work. You have much better facilities if you just have your respite beds in a separate unit.*"[137]

A multi-occupancy ward on Leoville and McKinstry Wards

The Department was aware that carers had this opinion of the wards. In 2005, work began on a review of continuing care and respite care provision. For this review, a survey of carers was conducted and found the following:

[135] Transcript of Public Hearing 8, 6th October 2006, p. 39
[136] Notes of Site Visits, 11th September 2006
[137] Transcript of Public Hearing 6, 5th October 2006, p. 10

> *"90% of relatives consider that Respite Care within a Nursing Home should not be provided within a Continuing Care or Acute facility unless managed in a separate unit with separate staff."*[138]

During its work, the Department also discovered that occupancy rates for the respite beds had fallen from 87.44% in 2004 to 63.22% in 2005. This was put down to dissatisfaction with the conditions rather than an overall decrease in demand for residential respite.[139]

Whilst the Sub-Panel did not receive submissions suggesting that the conditions of the wards were acceptable, it did receive submissions suggesting that the high standard of care available on the wards counterbalanced the poor fabric of the buildings. For example, on 20th September 2006, the Sub-Panel met Mr. J. Corbet:

> "*Mr. Corbet acknowledged that the conditions on Leoville and McKinstry Wards were unsuitable. However, he indicated that there was a high standard of care on the wards and that the level of care was more important than the physical environment. Mr. Corbet asked whether the same standard of care would be available in the private sector. He highlighted that private care homes might not wish to accept high dependency patients.*"[140]

A similar view was expressed in another written submission made to the Sub-Panel:

> "*We agree that the facilities at Leoville and McInstry (sic.) wards may be old fashioned and outdated but that is more than compensated by the level of care*."[141]

This led the Sub-Panel to consider whether an argument could be made for keeping the wards open, if the standard of care was high. In order to inform its thinking on this issue, the Sub-Panel questioned Dr. M. Richardson on the balance to be struck between the physical environment and the level of care:

> "*Well, they are often two sides of a coin really, are they not? For a lot of people, I think it boils down to the kind of person you are. Certainly when I talk to older people it is not difficult to put them in the: "I like my own company" category, or: "I am really lonely and I like company." You could get someone who is living at home on their own and could be adequately supported in their own home but they are just lonely and sad and they would prefer company. For that person being in a residential home might be the best option for them but there may be somebody else who prefers their own company and these people would not enjoy being in a home. So, if you are in a home you need to be able to have your privacy, your dignity, your solitude if you want, which nowadays is usually managed within a single room environment, so you have your own personal space but you have communal space that you can use if you choose to. That has to be managed on an individual basis really. You really have to be able to give people these opportunities. They can choose to stay in their own room or they can choose to socialise.*"[142]

At the Public Hearing on 4th October 2006, the Sub-Panel asked Mrs. E. Crabb, Chairman of the Jersey Care Federation, for a view on the matter:

[138] *Review of Continuing Care and Respite Care* Provision, p. 41
[139] *Review of Respite Services for Carers*, p. 35
[140] Notes of Meeting with Mr. J. Corbet, 20th September 2006
[141] Written submission from the Greene family, 31st August 2006
[142] Transcript of Public Hearing 5, 4th October 2006, p. 23

"*It is a difficult one, really. The resident or the patient is priority here, and it has been drummed into us about rights and choices, so I think it is quite important that they are given a choice and that they have got rights.*"[143]

The Sub-Panel believes that the condition of Leoville and McKinstry Wards merited their closure. It accepts that hospital-style wards are no longer appropriate for the provision of nursing care, given the current expectations for better facilities (e.g. *en suite* rooms). The Sub-Panel agrees that it was not appropriate to mix the provision of nursing care and respite care.

8.2.1 Why were the wards in such a condition?

Notwithstanding the multi-occupancy nature of the wards, the Sub-Panel sought to understand how they had come to be in such apparent poor condition. From the written submissions it received, the Sub-Panel was concerned to read suggestions that the wards had been subject to 'calculated neglect.' Comments such as the following were made to the Sub-Panel:

"*Why have standards fallen so low that it is necessary to look for alternative accommodation? […] We have now reached the inevitable. The Overdale development has been on the back burner for so long it cannot provide an acceptable accommodation.*"[144]

"*It is not 'past its sell by date' it's just evidence of bad or non-existent maintenance*."

"*Why can't this money be used on the Overdale site which is and always has been the most appropriate place to either refurbish or rebuild, there are so many empty buildings on the site not all are used for storage, left to deteriorate, why has this happened?*"[145]

"*In an environment where the elderly population is ever-increasing, improving, maintaining and adding facilities for the care of the elderly should surely be of primary importance*."[146]

"*Overdale did not get in its present state overnight, which suggests that in recent years the Public Health Committee of its day or its Administrators made a conscious decision not to improve, update or build new accommodation for the type of patients in these wards*."[147]

The Sub-Panel is aware that such comments do not prove that the wards were allowed to deteriorate. However, they would appear to be evidence of concern that this situation could have been avoided. Similar concerns were expressed at Public Hearings held by the Sub-Panel. For instance, on 4th October 2006, the Sub-Panel heard the following comments from Mrs. G. Le Lièvre (who spoke in a personal capacity):

[143] Transcript of Public Hearing 2, 4th October 2006, p. 23
[144] Written submission from Ms. M. Le Marquand, 23rd August 2006
[145] Written submission from Ms. A. Regan, 5th September 2006
[146] Written submission from the Greene family, 6th September 2006
[147] Written submission from Mr. S. Le Breton, 6th September 2006

> "*I personally believe […] that it had gone too far because the maintenance should have been done years ago. In my own opinion, the money was being invested in new buildings, and it is like any home or building if you do not maintain it*."[148]

Similar concerns were expressed by both Ms. F. Stein and Ms. A. Bisson at the Public Hearing on 5th October 2006 with representatives of the JNA and RCN:

> Ms. Stein:
>
> "*Unfortunately, I feel, and some of the [JNA] members feel, that these buildings have been left to become dilapidated. There is no investment being put into these buildings. I think there was a shortcut on the maintenance side, and it was always very difficult to try and get any maintenance done on these buildings*."[150]
>
> Ms. Bisson:
>
> "*I think I have to say what Fred has said that I do feel the States of Jersey, or Health and Social Services, have let those buildings fall into the poor state of repair that they are*."[151]

Given the concerns that had been expressed, the Sub-Panel raised the issue of maintenance of the building's structure with the Minister at both Public Hearings it held with him. At the first Hearing on 14th September 2006, the Minister was invited to respond to the charge that there had been 'calculated neglect':

> "*I think that is completely incorrect. The fact is these buildings were partially built in the 1930s and partially then built in the early 1960s. They have been maintained but there comes a point where - with those kinds of buildings which were never substantial buildings at the best of times, were not really built to last - you are simply throwing good money after bad. Moreover, it simply is not a case of the wards not looking nice and being pristinely refurbished. The fact is even if you were to invest very substantial amounts of money in having done that to those wards, you would still be left with what are basically hospital ward kind of environments for people's long-term homes. Fundamentally, root and branch the design of those buildings is not satisfactory for people to be living in as their long-term homes*."[152]

Following this line of enquiry further, the Sub-Panel believed it would be appropriate to assess whether sufficient funds had been invested in the maintenance of the two wards. It therefore asked the Department how much had been spent on maintenance of the wards since 1996. Unfortunately, the Department was unable to provide such information from before May 2003. According to advice received from the Department, it was not possible to provide information prior to that time as the JD Edwards States Finance System had not yet been brought on line.[153] The Sub-Panel was therefore unable to see what changes had occurred in maintenance spending (as well as in the size of the maintenance and engineering staff) over the ten years before the closure of the wards.

[148] Transcript of Public Hearing 2, 4th October 2006, p. 25
[150] Transcript of Public Hearing 7, 5th October 2006, p. 19
[151] Ibid
[152] Transcript of Public Hearing 1, 14th September 2006, p. 31
[153] Advice received from the Department, 6th November 2006

From the evidence it considered, the Sub-Panel believes that limited maintenance was carried out on Leoville and McKinstry Wards. The Sub-Panel regrets that it could not receive evidence which could counter this conclusion by indicating that there had been a rolling maintenance plan.

SUB-PANEL RECOMMENDATION:

The Department should establish and follow clear structural maintenance plans for its sites to ensure that situations akin to those found on Leoville and McKinstry Wards are avoided in future.

8.3 What options were considered to address the problem?

The problem that had faced the Department was therefore two old wards which, due to their multi-occupancy nature, were seemingly no longer fit for purpose. The question remains of whether the best solution to this problem was chosen.

At the Public Hearing on 13th October 2006, the Minister described the information he had considered in order to make the 'in principle' decision to close the wards. He explained that he had seen:

> *"the continuing care proposals […] and the business case and, of course, the other background material which we have already explored in terms of the non-availability of States' capital funding, and so on."*[154]

The business case he considered highlighted five possible options in response to the problem presented by the wards:

1. Retain the status quo and keep beds open in current accommodation on McKinstry and Leoville Wards
2. Maintain beds on McKinstry and Leoville with upgrade to the fabric of the building
3. Purchase of 54 beds from the private sector
4. New build
5. Purchase an existing property such as an hotel and convert for use as a H&SS nursing home[155]

The Sub-Panel has already effectively addressed Options 1 and 2. Option 3 provided the overall focus for this report.

Options 4 and 5 would both have required the Department to use its capital funds. During the review, the Sub-Panel addressed this issue by attempting to understand why the Department had not built a new nursing care home of its own.

[154] Transcript of Public Hearing 9, 13th October 2006, p. 36
[155] *Full Business Case Regarding the Future of Leoville and McKinstry Wards* (September 2006) M. Hutt, p. 2

8.4 Why did the Department not build a new home?

At the Public Hearing on 14th September 2006, the Minister advised the Sub-Panel:

> "*I suppose the build-up to this decision goes back probably as far as 1993 when originally the Department first started to look at the possibility of a capital bid which was going to be the Belle Vue site to replace the Leoville Ward facilities*."[156]

This comment confirmed that at one time the Department actively considered that the solution to the 'problem' was to build a new nursing home of its own, in this case at Belle Vue.

Immediately following the comments quoted above, the Minister indicated why development of the Belle Vue Residential Nursing Home and Day Care Centre had not proceeded:

> "*I think the capital programme of the States had to get radically re-aligned in order to accommodate the need to find the money to build the Bellozanne incinerator. So it was at that stage our plans to build the Belle Vue Centre fell off the States' capital programme.*"[157]

Following the Public Hearing on 14th September 2006, the Sub-Panel undertook research to further its understanding of the Belle Vue issue.

The Belle Vue development formed part of the capital programme included in *States Resource Plan 2004 – 2008* (P.118/2003). Funds for the project were allocated in two phases: £3,819 million would be given for Phase 1 whilst £2,804 million was allotted for Phase 2. In the Resource Plan, the proposed development was described as:

> "*a new 28 bed residential nursing home with a day care centre attached […]. The residential home is part of the Health and Social Services Committee's strategic plan to decentralise the services provided at Overdale into modern, smaller purpose built units, situated around the Island on sites closer to the population served.*"[158]

By the time the States came to debate *States Business Plan 2006 – 2010* (P.151/2005) on 13th September 2005, the Belle Vue development had dropped off the list of capital developments. In the Business Plan, it was noted that:

> "*The Health and Social Services Committee has recently undertaken a fundamental review of its requirements for capital works, which has resulted in the deletion of the Belle Vue Residential Home and Day Care Centre (funded before 2006), as well as the deferral of new developments at Rosewood House and Clinique Pinel beyond 2010. The deletion of the Belle Vue project allows for the sum of £5 million to be used to fund other Health and Social Services Committee projects in 2006.*"[159]

There was no reference to the incinerator in the Business Plan. During the two Public Hearings held with the Minister, Mr. M. Pollard indicated that those other projects that had benefited from the deletion of the Belle Vue project were the new Day Surgery Centre (located at the General Hospital) and the Central Sterile Services Department at Five Oaks.[160]

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[156] Transcript of Public Hearing 1, 14th September 2006, p. 2
[157] Ibid
[158] *States Resources Plan 2004 – 2008* (P.118/2003), p. 41
[159] *States Business Plan 2006 - 2010* (P.151/2005), p. 32
[160] Transcript of Public Hearing 9, 13th October 2006, p. 3

As was previously identified, the Minister stated that the Belle Vue development was cancelled in order that funds could be found for a new incinerator to be built. Certainly, this appears to have been the understanding of other parties. For instance, at the Public Hearing on 5th October 2006 with representatives of the JNA, Mr. N. Corbel referred to the meeting at which the JNA were told of the decision:

> "*This was at the time that we were told that £25 million was being withdrawn from Health to be used by Waste, and that the new build would not take place.*"[161]

In addition, at a meeting with the Sub-Panel on 11th October 2006, Mrs. I. Le Feuvre indicated her understanding that the Department had had to relinquish capital funds (that had been allocated to it) in order that a new incinerator could be afforded.[162]

The Sub-Panel found that evidence regarding the abandonment of the Belle Vue project was confusing. The Sub-Panel remains unsure as to the reason for the abandonment. It was also not clear to the Sub-Panel to where the funds from this project had been redirected.

SUB-PANEL RECOMMENDATION:

The Minister should clarify the reason for the abandonment of development of the Belle Vue Residential Nursing Home and Day Care Centre and to where the capital funds from this project were allocated.

Given the advice it had received from the Minister, the Sub-Panel was somewhat surprised to find no written record of this decision. According to advice received from the Department, the decision was made on 18th April 2005 at a meeting between officers of the Departments of Health and Social Services and Finance and Economics (as was). The Sub-Panel is aware of anecdotal evidence that these discussions formed part of the Fundamental Spending Review (FSR) process.

The Sub-Panel was provided with minutes of the P.70 Capital Projects meetings held in relation to the Belle Vue development. This group was responsible for overseeing the development of plans for the Belle Vue project. The last meeting was held on 17th February 2005 at which it was proposed not to hold another meeting:

> "*until such time that the Health and Social Services Committee has decided whether and when to continue with Belle Vue.*"[163]

There is no reference to the incinerator in these minutes although reference is made to a decision to delay the Belle Vue project:

> "*A decision has been made to delay the Belle Vue project for two years, that is a direct result of a meeting of Presidents of Committees at which it was decided to save the revenue consequences of this project for two years.*"[164]

The Sub-Panel was unable to find a reference to the abandonment of the Belle Vue project in the minutes of the former Health and Social Services Committee. This was surprising

[161] Transcript of Public Hearing 7, 5th October 2006, p. 8
[162] Notes of Meeting with Mrs. I. Le Feuvre, 11th October 2006
[163] Minutes of P.70 Capital Projects, 17th February 2005
[164] Ibid

considering the evidence given by Dr. M. Richardson to the Sub-Panel at the Public Hearing on 4th October 2006:

> "*It was a political decision [to close Leoville and McKinstry Wards]. The politicians decided by cancelling the capital programme.*"[165]

The Sub-Panel feels it was unacceptable that no written record was made of the decision to abandon the Belle Vue project. It is also amazed that this 'political decision' was never considered by the former Health and Social Services Committee. The absence of a documented decision meant that the Sub-Panel was unable to confirm the reason for the abandonment and to consider the context in which the decision was made.

At the first Public Hearing with the Minister, the Sub-Panel was advised by Mr. M. Pollard that the Belle Vue development would only have been a solution to the problem presented by Leoville Ward whereas the Department needed to address the situation on McKinstry Ward as well:

> "*I think it is fair to say, also, that Belle Vue was a solution simply for Leoville and, of course, here we are talking about McKinstry and Leoville, and that is something which was an important change since those very, very early days in 1993. This is a bigger solution to a bigger problem.*"[166]

The plan was for the Belle Vue development to have 28 beds. However, the Sub-Panel learnt that, on 5th May 2004, the former Health and Social Services Committee:

> "*viewed revised drawings which showed a 28 bed nursing home which, as a result of the particular design, could be extended in the future to provide a 48 bed nursing home*."[167]

The Sub-Panel asked about this at the Public Hearing on 13th October 2006. It was advised that consideration of extending the unit had essentially been a theoretical exercise. On this matter the Minister stated:

> "*Can I say that there was no prospect for the foreseeable future for probably many years of getting the money to make the extension to expand the unit. As we know, we were not able to get the money effectively to do the basic unit, let alone an expanded version. It is worth bearing in mind - and Roy will remember this - the fact that I was under political attack at the time of driving forward the Belle Vue proposals with people in the States saying: "Why are you doing this? This is a waste of States' capital monies. Why do you not just use the private sector?*"[168]

The 'political attack' to which the Minister referred would seem to have come from the Connétable of St. Helier, Mr. A. S. Crowcroft. In September 2003, the Connétable lodged an amendment to the Resource Plan 2004 – 2008 asking the States to remove the Belle Vue development from the capital projects list. This amendment was defeated but in November 2003 the Connétable lodged a proposition asking the States to request the Health and Social Services Committee to prepare a full business case for the Belle Vue development. This proposition was never debated and was subsequently withdrawn.

[165] Transcript of Public Hearing 5, 4th October 2006, p. 4
[166] Transcript of Public Hearing 1, 14th September 2006, p. 3
[167] Act A9 of the former Health and Social Services Committee, 5th May 2004
[168] Transcript of Public Hearing 9, 13th October 2006, p. 11

It is worth noting that the Department entered discussions with Four Seasons Health Care in relation to the Belle Vue development. At the P.70 meeting on 29th April 2004, the capital projects group was advised that:

> "*meetings were held with Four Seasons, a private Company who showed interest in developing Belle Vue. Issues raised: -*
>
> *a) Private sector would not usually build a 28 bed home, usually 40 beds or more*
> *b) Interest for providing facility from the private sector but timescales would not allow us to ascertain bid from Four Seasons or to go out to tender.*"[169]

These meetings are also reported in the minutes of the former Health and Social Services Committee (and have already been discussed by the Sub-Panel).

Notwithstanding its concerns regarding the history of the decision to abandon the Belle Vue project, the Sub-Panel recognises that its construction (as a 28-bed nursing care home) would not have solved the problem which the Department faced with Leoville and McKinstry Wards.

[169] Minutes of P.70 Capital Projects, 29th April 2004

9. What are the implications of the decision to close Leoville and McKinstry Wards?

Many comments from the Public made to the Sub-Panel highlighted concern at the implications for the future of the closure of Leoville and McKinstry Wards; people questioned what the closure of the wards and purchase of 54 beds from the private sector meant in the long run.

In this section, the Sub-Panel will attempt to address this question by considering the longer-term implications of the closure. To do this, it will explore the question from four different perspectives (in the following order):

- It will explore the implications for the Department's patients, examining what impact the closure will have on the standard of care they receive
- It will assess the implications for the Department, taking into account the future of the wards themselves and giving consideration to how this decision fits into the Department's long-term policies
- It will subsequently concentrate on the financial implications of contracting beds from the private sector
- It will consider the implications this move may have for the private nursing care sector

9.1 The Patients

It was not clear to the Sub-Panel how long the Department ultimately intended to contract beds from the private sector as a replacement for Leoville and McKinstry Wards. The initial contract signed by the Department would suggest that it will last for at least a few years. However, some people from whom the Sub-Panel received evidence believed that the closure and purchase of private beds was a short-term measure. For example, Dr. Bayes told the Sub-Panel:

> "*I think I personally see this move of patients into the private sector as a short-term measure. I do not know how long it will go on for but it is hopefully an improvement on what is available at the moment.*"[170]

It is likely therefore that the closure of Leoville and McKinstry Wards will ultimately affect more than the first 47 nursing patients to be moved and those respite patients who had received care on McKinstry Ward.

Several submissions made to the Sub-Panel expressed concern that patients who were moved to the private sector would not receive the same level of care as they had at Overdale Hospital. The standard of care received by patients was a primary concern of the Sub-Panel: it had agreed to consider this issue in its third Term of Reference.

9.1.1 The High Standard of Care at Overdale

Before considering the standard of care available in the private sector, however, the Sub-Panel would like to acknowledge that the standard of care on Leoville and McKinstry Wards was widely praised in the submissions it received. The Sub-Panel was pleased to read comments such as the following:

> "*I know that she receives excellent care at Mckinstry.*"[171]

> "*During the last 2½ years in Leoville ward [the patient] has received very good care, by that I mean she is closely monitored both in the medical sense and as importantly in her day to day well being […] the staff are unfailingly kind, conscientious and cheerful in the face of some very difficult circumstances, (and old ladies). The staff are also very helpful to relatives of residents – any concerns are taken seriously and dealt with immediately.*"[172]

> "*Without exception the staff looking after [the patient] are caring, professional and devoted to their work, but they also must at times be in despair. With spartan facilities and uncertainties about their own future they still give their best to their patients.*"[173]

The Sub-Panel recognises that the standard of care provided on Leoville and McKinstry Wards was very high.

[170] Transcript of Public Hearing 6, 5th October 2006, p. 7
[171] Written submission from Ms. Y. Whitley, 18th September 2006
[172] Written submission from Ms. S. du Feu, 13th September 2006
[173] Written submission from Mr. S. Le Breton, 6th September 2006

9.1.2 Will patients receive the same level of care in the private sector?

Given that there was such a good opinion of the care available, it was perhaps not surprising that people asked whether the same level of care would be found in the private sector. Written submissions to the Sub-Panel contained comments such as the following:

> "*I worry that [a patient] will not receive the same level of care in a private nursing home [as at Overdale].*"[174]

> "*I worry that if residents are farmed out to care homes they will not receive the standard of care and compassion they deserve and would certainly receive at Overdale.*"[175]

In its own written submission to the Sub-Panel, Age Concern Jersey stated that:

> "*There is doubt that the standard of care given by the Elderly Services of the Department of Health can be matched or afforded by many in the private sector.*"[176]

At a Public Hearing on 5th October 2006, Ms. A. Bisson of the RCN told the Sub-Panel that patients with complex needs required staff with the appropriate skills. She added:

> "*There does not appear to be any available literature or supporting statements to state that those homes [i.e. in the private sector] are training their staff to the level of standards that we would expect within Health and Social Services.*"[177]

Some written submissions contained specific concerns. For instance, one person suggested there were often language barriers in the private sector between patients and staff.[178] Another person made the following comment, suggesting that staff in the private sector might not be able to concentrate sufficiently on the care given to patients:

> "*If people with these illnesses are sent to the private sector will the service provided be adequate? I have a friend who has worked as a care assistant in private homes and she has told me that requiring staff to do domestive chores as well as look after patients is fairly usual.*"[179]

The Sub-Panel raised some of the specific concerns with Mrs. S. Gartshore (Home Manager of Silver Springs Care Home). For example, at the Public Hearing on 4th October 2006, the Sub-Panel asked Mrs. Gartshore about the language issue. She advised the Sub-Panel that:

> "*All my staff are fluent in English. I have three Care Assistants whose written English is passable, but they do not record any notes because of that. Everyone else's written English is excellent and their spoken English.*"[180]

The issue before the Sub-Panel, however, was broader than that of the care provided in one care home. Given that the Department could in theory have signed a contract with any registered nursing home, the Sub-Panel explored the issue of whether the Department (and therefore the Public) could have confidence in the nursing care provided by the private sector.

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[174] Written submission from Ms. Y. Whitley, 18th September 2006
[175] Written submission from Ms. S. Samson, 29th August 2006
[176] Written submission from Age Concern Jersey, 14th September 2006
[177] Transcript of Public Hearing 7, 5th October 2006, p. 11
[178] Written submission from Mr. D. Cotillard, 30th August 2006
[179] Written submission from Mrs. S. Jackson, 23rd August 2006
[180] Transcript of Public Hearing 3, 4th October 2006, p. 8

Under Article 19 of *Nursing and Residential Homes (Jersey) Law 1994*, all private care homes are subject to regular inspection. This work is undertaken by the Registration and Inspection Manager, the current occupant of which, Mrs. C. Blackwood, appeared at a Public Hearing on 6th October 2006. At this Hearing, Mrs. Blackwood described her responsibilities to the Sub-Panel:

> "*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 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.*"[181]

In terms of nursing care homes, Mrs. Blackwood explained that she was responsible for assessing the environmental, staffing and care standards of private care homes (the Department's homes are exempt from inspection).

The Sub-Panel has full confidence in the Registration and Inspection Team. Whilst it understands the concerns (both specific and general) that people have regarding the standard of care in the private sector the Sub-Panel believes an efficient inspection process can be relied upon to ensure that standards in the private sector remain high.

The Sub-Panel was aware that many people who made comments such as the above often felt they were taking a risk in doing so. Certainly, the relatives of patients in the Department's ward felt that their words might result in victimisation of the patient. This explained why some people did not wish to be identified when making a submission to the Sub-Panel.

The Sub-Panel feels that the fears regarding the victimisation of patients were unjustified.

9.1.3 Will patients have to pay more if they move to the private sector?

As part of its fourth Term of Reference, the Sub-Panel decided to examine the financial implications for patients of being moved from one of the Department's wards to a private care home.

At the Public Hearing on 14th September 2006, the Sub-Panel was advised of the financial arrangements for patients before the move occurred:

> "*The charge is £394 a week to every patient, whether the patient pays it or not depends on their own particular circumstances.*"[182]

Ms. M. Hutt further advised the Sub-Panel that the charge was due to increase on 1st October 2006.

[181] Transcript of Public Hearing 8, 6th October 2006, p. 5
[182] Transcript of Public Hearing 1, 14th September 2006, p. 26

In terms of those patients who would be moved to the private sector, Ms. Hutt advised that the following arrangements would apply:

> "*the patients that are in the private sector beds that we buy, the 30 that we already buy, the 25 that we have accepted contracts for, if they are not financially assisted by us then they pay - and I would have to look at the figures - but it is something like £370 a week. That is because Social Security Department makes some adjustment and do not pay attendance allowance. Essentially it works out the same but the cash is coming from different places. So they pay very slightly less but they cannot pay attendance allowance.*"[183]

It can be seen that the above arrangements already applied to those patients of the Department who occupied a bed in the private sector.

It appeared therefore, that overall there would not be an increase in charges to patients who moved to the private sector. The Sub-Panel learnt that the transfer of patients would lead to alternative arrangements regarding GP services that would potentially lead to patients paying more.

The patients on Leoville and McKinstry Wards were ultimately under the care of Dr. Richardson as Consultant Physician, Care of the Elderly. He explained this situation to the Sub-Panel at the Public Hearing on 4th October 2006:

> "*Well, the current system is that the patients are within the hospital service. They are therefore officially under my care. They are managed by GPs who are contracted to the hospital. So, these are hospital patients.*"[184]

The Department had a contract with The Laurels GP practice for the provision of medical cover (on all its wards). This meant that a person entering Leoville or McKinstry Wards to receive nursing care could no longer be visited by their own GP but had to register instead with The Laurels practice.

For those patients due to be moved to the private sector following the closure, this arrangement would cease (although the contract with The Laurels would continue for patients at The Limes and Sandybrook). Thus, when Ms. M. Hutt wrote to families on 4th July 2006 regarding the progress of the closure, she advised them that:

> "*By December [2006] all patients in the private sector will need to be registered with a private GP. Our staff will assist with this process if necessary.*
>
> *Patients who are not assisted to pay their accommodation charge by Health and Social Services or their Parish will, once registered with a GP, need to pay themselves for GP visits and prescriptions.*"[185]

For those in the circumstances described by Ms. Hutt, the move to a private nursing care home would therefore potentially lead to an increase in GP charges for some patients.

Patients who are moved to the private sector will not be expected to pay more, with the possible exception of GP services. The Sub-Panel believes that, despite the need to pay more, the arrangements for GP services may allow patients greater freedom of choice as well as afford them better continuity of care (in that, upon entering a care home, they may keep the GP with whom they were registered beforehand).

[183] Ibid, p. 27
[184] Ibid, p. 10
[185] Correspondence (dated 4th July 2006) from Ms. M. Hutt

9.1.4 Will public patients be treated differently to private patients?

Some written submissions suggested that problems might be caused by a situation whereby public and private patients would receive the same level of care for effectively paying different amounts (on the assumption that the Department would pay less for its patients than private patients would pay). For example, one written submission made the following comment:

> "*Will there be a 2-tier society in Silver Springs? Is it possible that the staff might treat the ex-Overdale patients differently because they are not paying private fees?*"[186]

The Sub-Panel had been concerned from the start of its work that this situation might arise and therefore agreed to examine the issue in its fifth Term of Reference.

The Sub-Panel discussed this issue with the Mrs. Crabb of the Jersey Care Federation at the Public Hearing of 4th October 2006. It was advised that:

> "*Again, obviously we know that the residents and patients that have come out of Overdale have come from Health and Social Services, so people would know that straight away. But if somebody came into Pinewood nobody would know Mrs. X was being supported with parish or private fees, nobody would know that, only myself and administration. So there would be no difference whatsoever in the service and the care provided. Perhaps they would be in maybe a smaller room or something like that, but otherwise everything is the same.*"[187]

Mrs. Crabb indicated that the level of care provided to patients would not generally differ according to the amount that individual patients had paid for their care.

The Sub-Panel also discussed this with Mrs. Blackwood. When asked whether patients in residential homes received different levels of care depending on whether they were self-funded or funded by the States / Parishes, Mrs. Blackwood replied:

> "*My impression is that people are treated equitably once they go into the home; […] actually, no, I will take that back. They may not have as nice a room.*"[188]

The Sub-Panel does not believe that patients who are moved to the private sector will be treated differently to private patients. It is concerned, however, by the suggestion that they may be given smaller rooms than private patients; the Sub-Panel believes rooms should be allocated primarily on a needs basis.

9.1.5 How will the Department monitor the care received by its patients?

Notwithstanding the level of care available in the private sector, it stood to reason that the transfer of patients from the Department's wards would mean that departmental staff would have less daily contact with their patients. This raised the issue of how the Department would monitor the care received by its patients.

[186] Written submission from Ms. S. du Feu, 13th September 2006
[187] Transcript of Public Hearing 2, 4th October 2006, p. 22
[188] Transcript of Public Hearing 8, 6th October 2006, p. 42

Monitoring was raised as a potential problem by Dr. M. Richardson at the Public Hearing on 4th October 2006. He suggested that it would possibly be difficult for the Department to keep up to speed:

> "*What we do not have is a system of monitoring within that private environment, we will rely on the GP or the home to flag up any issues.*"[189]

The agreement between the Department and Silver Springs Care Home made provision for monitoring arrangements: section D of the Service Level Agreement indicated that scheduled reporting would occur, including MDS assessments of patients and indications of mortality rates.[190]

As the Sub-Panel highlighted in an earlier section of this report, Item 4.6 of *Outline Requirements for Tender for Provision of Nursing Beds* stated that:

> "*the Community Liaison Sisters and any other appropriate Health and Social Services staff, will, in conjunction with the home review the care of each patient six weeks after placement, three months after placement and six months after placement. Thereafter reviews will be conducted annually*."[191]

This arrangement was confirmed in the Service Level Agreement that the Department made with Four Seasons Health Care in relation to the care provided at Silver Springs Care Home.[192]

The Sub-Panel wished to know whether this review process was satisfactory. It therefore questioned Dr. Richardson on the matter and was advised that:

> "*So, maybe if you were being absolutely scrupulous about it you might want to assess an individual's needs in terms of their placement, maybe 2 or 3 times a year.*"[193]

When asked for his opinion on the decision that reviews would be conducted as per the arrangements stated in the tender document, Dr. Richardson stated:

> "*Yes. That sounds fair. I would not disagree with it.*"[194]

Prior to the closure of the wards, Dr. Richardson was ultimately responsible for the medical care of patients on Leoville and McKinstry Wards whilst GPs from The Laurels practice provided cover. Once they had been moved to the private sector and had found a GP of their own, this would no longer be the case. Dr. Richardson explained as much at the Public Hearing:

> "*These patients are being transferred to the private sector, they will therefore have GPs of their own and they will be lost to me as patients. So, I will not have an increased role, I will, if anything, have a very slightly diminished role. But I will obviously still be available if I am required to make any decisions or assessments on these patients*."[195]

The Sub-Panel found that these arrangements would ensure continuity of care from the perspective of patients (in that they could keep the GP with whom they had been registered prior to entering nursing care). However, this arrangement would appear to have

[189] Transcript of Public Hearing 5, 4th October 2006, p. 16
[190] Service Level Agreement relating to the Provision of Nursing Care at Silver Springs Home p. 11
[191] *Outline Requirements for Tender for Provision of Nursing Beds*, Item 4.6
[192] Service Level Agreement relating to the Provision of Nursing Care at Silver Springs Home p. 9
[193] Transcript of Public Hearing 5, 4th October 2006, p. 26
[194] Ibid, p. 27
[195] Ibid, p. 10

implications for the manner in which the Department would be able to monitor the medical care received by its patients who were transferred to the private sector.

The Sub-Panel believes the Department has implemented a system whereby it will be able to monitor effectively the nursing care received by its patients. However, the Sub-Panel is concerned that it may now prove more difficult for the Department to monitor the medical care provided to its patients.

9.2 The Department

9.2.1 What will happen to the Wards?

At the time of this report's presentation, Leoville and McKinstry Wards had not closed completely. It was originally intended, however, that all patients would have been moved by this time. By July 2006, the Steering Group was aware that contingency plans would need to be made in the event that contracts for all 54 beds were not forthcoming. Thus, on 14th July 2006 for example, the Steering Group noted:

> "*The redeployment process will need to be modified and release dates negotiated with other departments.*"[196]

On 6th September 2006, the Steering Group was told that, once patients had moved to Silver Springs Care Home, Leoville Ward would close and the remaining 22 patients would move downstairs to McKinstry Ward.[197] At the time of the Public Hearing on 13th October 2006, Leoville Ward was still open although the Department hoped to be able to close it within a month. It was still the intention that those patients who had not moved to the private sector would remain on McKinstry Ward.[198] By 22nd December 2006, Leoville Ward had closed but nursing care and respite care were still being provided on McKinstry Ward and would continue to be until the final contracts had been signed with private care providers.[199]

Ultimately the wards will close. The question therefore remains of what will happen to them once all the patients have moved. The Sub-Panel put this question to the Minister at its first Public Hearing on 14th September 2006 and received the following response:

> "*They will be used for whatever kind of general purposes we need: storage, administration, possibly training, uses of that nature. We are not just going to lock them up and let them decay. We will be able to find some use for them of one kind or another.*"[200]

It was not clear to the Sub-Panel exactly how the wards will be used following the final transfer of patients. It is concerned that further deterioration of the wards may occur if sufficient action is not taken.

<u>SUB-PANEL RECOMMENDATION:</u>

The Minister should clarify the use that will be made of Leoville and McKinstry Wards once all patients have been moved to the private sector. A clear, rolling plan should be developed for the wards' short, medium and long-term use.

9.2.2 Will the wards be sold off?

[196] Minutes of the Steering Group, 12th July 2006
[197] Minutes of the Steering Group, 6th September 2006
[198] Transcript of Public Hearing 9, 13th October 2006, p. 52
[199] Advice received from the Department, 22nd December 2006
[200] Transcript of Public Hearing 1, 14th September 2006, p. 32

In several written submissions the Sub-Panel received, concern was expressed that the land occupied by the two wards would be sold off. There was certainly a good deal of suspicion regarding this matter and comments such as the following were made:

> "*We have to stop using every large area to build more houses which I feel that Overdale has been considered for this.*"[201]

> "*But 'Jersey' should keep these buildings for 'Jersey' and not sell the land to Developers or outside Companies!*"[202]

> *"So what will happen to the empty buildings when the patients now in them are dispersed……?*
>
> *A lovely building site for "luxury homes"……beautiful views……*"[203]

Rumours that the land would be sold off appear to have been fairly rife. In its own written submission, the JNA referred to the rumours that developers had taken an interest in the site. At the Public Hearing with representatives of the JNA, the Sub-Panel asked Mr. N. Corbel where such rumours had come from. In response, he stated:

> "*We have no idea [where the rumour came from]. That is the nature of the rumour mill, which is why I did say they are rumours. I mean, there are some well known developers in the Island and they always seem to get targeted with these rumours. We have no idea how valid these rumours are and whether there is any sound substance in these rumours.*"[204]

The Minister made his own views on these rumours quite clear. On 20th June 2006, he was asked in the States Assembly to give an assurance that there were no plans to sell off the Overdale Hospital site. In reply, he stated:

> "*Yes, Sir, I am happy to give that assurance absolutely and categorically. I have no idea where the rumour started that the Overdale site was going to be sold. There is not a grain of truth in it. Indeed, Health and Social Services have made very substantial investments of taxpayers' money, running into some millions of pounds, on new buildings on the overall site at Overdale. So, there is no question other than it is going to be in the ownership of the States for providing health, social care and other facilities for the public into the future.*"[205]

The Minister gave similar assurances to the Sub-Panel at both Public Hearings he attended stating, for instance:

> "*It is virtually impossible to imagine that site being sold. Certainly, I would absolutely not favour selling it, as it is of strategic importance for Health and Social Care to retain that kind of property for potential uses in the future.*"[206]

At the Public Hearing on 14th September 2006, the Sub-Panel was informed that the Overdale site would be subject to a review by the Property Holdings Department in 2007. Mr. M. Pollard explained why this review would occur:

[201] Written submission from Ms. D. Molloy, 25th September 2006
[202] Written submission from Ms. M. Baker, 19th September 2006
[203] Written submission from Ms. A. Hall, 13th September 2006
[204] Transcript of Public Hearing 7, 5th October 2006, p. 22
[205] Official Record of the States Assembly, 20th June 2006
[206] Transcript of Public Hearing 1, 14th September 2006, p. 30

> "*Well, the Chief Minister has announced that as part of the property holdings and property strategy of the Island some property of the States has been designated as for disposal; some to be secured; and others to be reviewed.* "[207]

The Property Holdings Department was established as part of the move to ministerial government. Its work was described in *Strategic Plan 2006 – 2011* and *Annual Business Plan 2007*. One of its responsibilities will be to review States-owned properties in order to identify whether they are being used effectively. Each year, following such reviews, the Department will identify sites which could potentially be sold or leased. The list of these properties will be debated by the States as part of the Annual Business Plan process. From this, it follows that if any States Member had concerns regarding a particular site, they would be able to lodge an amendment asking for the site to be removed from the list.

This information would appear to suggest that the States could decide to sell off the Overdale site, even if the incumbent Minister for Health and Social Services were against the idea. The Sub-Panel put this eventuality to the Minister at the Public Hearing on 13th October 2006 and received the following response:

> "*That is an interesting question of law, but I think you will find that it would be most unlikely that the States would want to try and sell off any Health and Social Services facility or property if the professional view of the department, clinicians, nurses and management was that it needed to remain in Health and Social Care for strategic purposes. So it is a far-fetched scenario, I think. I do not see any Minister of Health and Social Services ever deciding: "Let us just sell off half the Overdale site." You just cannot do it. It is just ridiculous for a variety of strategic reasons. We need to retain that site in public ownership.*"[208]

SUB-PANEL RECOMMENDATION:

The land at Overdale should remain within States-ownership for use by the Department.

9.2.3 Will the Department build a new home?

It has already been seen that the Department did not proceed with its plan to construct a new nursing home at Belle Vue. It would appear that the Department will not be in a position to build a new home for some years:

> "*The issue, as far as the old 1930s buildings are concerned, is that the States of Jersey simply does not have in its capital programme at the present time the money to demolish and rebuild them now. But we might do in five years' time. We do not know. We will have to see how the money is going.*"[209]

There are therefore no concrete plans for a new home to be built. The Minister acknowledged, however, that there was a need for his Department to maintain its provision of nursing care beds:

[207] Ibid, p. 29
[208] Transcript of Public Hearing 9, 13th October 2006, p. 75
[209] Official Record of the States Assembly, 20th June 2006

> "*But the reason why it is more than possible - perhaps even probable in the longer term - is because with certain cohorts of patients you have very complex needs and lots of instability in their conditions. You get to a stage where the private sector becomes reluctant to deal with those kinds of patients because of the cost involved in caring for them and the complexities of their needs and the risks involved in caring for patients with that degree of complexity. So, that particular cohort of patients are not especially attractive to the private sector. So the probability is that some form of State provision will always have to exist.*"[210]

During its research, the Sub-Panel was interested to read the following extract in the minutes of the P.70 Capital Projects Group (the Group that oversaw the Belle Vue Project):

> "*Partnership to be considered for a 60 bed home at Overdale in the future.*"[211]

The Sub-Panel consequently asked the Minister about this partnership. The Minister explained:

> "*It was explored. It was one of the options that was explored, as we explained last time we were here.*"[212]

When the Sub-Panel asked whether any talks with prospective partners had occurred as a result of this consideration, Mr. M. Pollard answered:

> "*No. The Treasury would advise us that the finance laws currently and the way that the States of Jersey operate, it is not able, as yet, to enter into the kind of Public Private Funding Partnerships that perhaps that are available on the mainland. So we must be very cautious about that. There is a lot to be done if the States is to go down that road or a much more general road.*"[213]

At this point, it could be asked how the Department was able to afford to contract beds from the private sector when it seemingly was (and continues to be) unable to afford to build a new nursing care home of its own. Certainly, people suggested in written submissions to the Sub-Panel that money would be better spent refurbishing or rebuilding the wards than using it to 'buy' private care beds. For example, one person commented:

> "*Where will we put these people and at what cost? At the moment private care costs between £800 - £1,400 per person, per week (add to that the cost of living rises for staff etc) and there are approximately 40 patients on the two wards, quite a few million! Why can't this money be used on the Overdale site which is and always has been the most appropriate place to either refurbish or rebuild?*"[214]

The answer to this question lies in the difference between 'capital' funds and 'revenue' funds. To put it briefly, the two equate to two separate pots of money. For the Department to build a new nursing home (or even to refurbish the wards), it would need to use capital funds. As the Sub-Panel explained in a previous section, the Department was indeed allotted capital funds for the Belle Vue development. However, these were ultimately used elsewhere and the Department was therefore left (for the purposes of this report) with an empty capital 'pot'.

To contract beds from the private sector, the Department would use revenue funds. The funds from this 'pot' could not merely be diverted and used for capital projects. Given the

[210] Transcript of Public Hearing 1, 14th September 2006, p. 29
[211] Minutes of P.70 Capital Projects, 29th April 2004
[212] Transcript of Public Hearing 9, 13th October 2006, p. 32
[213] Ibid, 33
[214] Written submission from Ms. A. Regan, 5th September 2006

comments of the Minister that were cited above, it would appear the Department will not have sufficient funds in the capital 'pot' for some years.

The Sub-Panel believes there is a need for a new public nursing care home although it recognises that its construction is not feasible at present. The Sub-Panel would be concerned to see all provision of nursing care placed in the hands of the private sector.

SUB-PANEL RECOMMENDATION:

The decision for the Department to build a new nursing home should be made within the context of the Department's longer-term policy for care of the elderly. When a new home is built, lessons should be learnt from mistakes made during recent constructions (such as the Westmount Assessment and Rehabilitation Centre).

9.2.4 Where does this move fit into the Department's overall strategy for care of the elderly?

From the previous section, it can be seen that, for the next few years at least, more than 50% of the Department's patients will receive their care in the private sector (given that 77 of the Department's 141 nursing beds will be located in private homes).

From some of the submissions received by the Sub-Panel, it was clear that some people found this situation wholly undesirable. Hence the expressions of concern that the Sub-Panel has already highlighted in earlier sections of this report (i.e. concern that standards of care were lower in the private sector). Certainly, the JNA made its opinion clear in its own written submission, asking whether there was a hidden agenda for the privatisation of public sector health care.[215]

The Minister made clear his response to such views at the Public Hearings he attended:

> "*Well, if we are going to make sensible political decisions about all of that kind of public service provision that the States delivers for this community, we cannot be driven by ideological considerations. There are some States Members and, indeed, members of the public and others who are, as you say, wedded to the notion of public services always being provided. There are other States Members and other people in the community who quite clearly ideologically regard public sector provision as some kind of enigma and that pretty much everything should be privatised. I do not believe it is appropriate, or sensible, or wise, to come into these kinds of situations with either of those kinds of ideological positions. What we have to look at is: what is the best, most sensible solution in each case, on a case-by-case basis, at the time*."[216]

Nevertheless, the Sub-Panel sought to understand how the Minister's decision to close Leoville and McKinstry Wards fitted into his Department's long-term strategy for continuing care of the elderly.

[215] Written submission from the Transport and General Workers Union (on behalf of the Jersey Nursing Association), 25th September 2006
[216] Transcript of Public Hearing 9, 13th October 2006, p. 35

The need for such a strategy is clear from the demographic situation that currently faces the Island, a situation of which the Department is aware. For example, the Sub-Panel considered figures which indicated that Jersey's elderly population (i.e. those over 65) would increase by 17% between 2001 and 2031: the increase in the Island's population overall during the same period would be 0.4%.[217]

Work on a long-term strategy for continuing care forms part of the Department's work on the 'New Directions' strategy, in itself a strategic plan that will look:

> "*To redesign the health and social care system to deliver improved health and social well being for the Island community.*"[218]

At the Public Hearing on 14th September 2006, Mr. M. Pollard indicated to the Sub-Panel that the Department's work on long-term care would feed into the 'New Directions' strategy.

The Department's initial work on long-term care led to a draft report entitled *Review of Continuing Care and Respite Care Provision*, a copy of which was supplied to the Sub-Panel. In this report, there was an indication that the Department's longer-term aim for continuing care was:

> "*The development of alternative community Continuing Care and Respite Care model in partnership with other stakeholders for example; FNHC and other independent/ voluntary agencies.*"[219]

The Sub-Panel raised this matter on 14th September 2006. Mr. M. Pollard appeared to confirm that this was the area which was being examined although work was still ongoing:

> "*At the risk of prejudging New Directions [the] issues are our community care packages with family nursing and other partnerships, that is where we will be putting our money, so to speak.*"[220]

Further information on this matter would appear to be forthcoming in *Review of Continuing Care and Respite Care Provision*, in which it is stated:

> "*Public preference and best practice is for Continuing Care provision to be managed within the home environment wherever possible. To implement a model of long term community care for older people, all associated services would be required to adopt alternative methods of care delivery. Redesign of nursing services within the community would prevent the need for many residential placements from which a significant number of existing Continuing Care patients are directly or indirectly referred.*"[221]

As the indications were that the Department would be working in partnership with certain parties, the Sub-Panel raised the matter with other witnesses to whom it spoke. For example, on 4th October 2006, it questioned Mrs. C. Vibert (Divisional Manager for Clinical Services, Family Nursing and Home Care) on the consultation that had occurred. She indicated that Family Nursing and Home Care (FN&HC) had not yet been consulted with regard to continuing care but that it had made a contribution in relation to respite care.[222] On the same day, the Sub-Panel met Mrs. E. Crabb of the Jersey Care Federation. When asked what consultation had occurred regarding the Department's long-term strategy, Mrs. Crabb responded:

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[217] *Review of Continuing Care and Respite Care Provision*, p. 15
[218] *Health and Social Services Business Plan 2006,* p. 6
[219] *Review of Continuing Care and Respite Care Provision*, p. 10
[220] Transcript of Public Hearing 1, 14th September 2006, p. 12
[221] *Review of Continuing Care and Respite Care Provision*, p. 5
[222] Transcript of Public Hearing 4, 4th October 2006, p. 20

"*Nothing really.*"[223]

It would seem that the Department's work on a long-term strategy is very much 'in progress.' Notwithstanding this fact, the Sub-Panel attempted to ascertain how the decision to close Leoville and McKinstry Wards might fit into a long-term strategy. It therefore raised this issue on 14th September 2006, to which it received the following response from Mr. M. Pollard:

"*No, I think we are confusing two things, with due respect, Deputy. The long term care strategy is an important feed document into the new direction which I talked about when I described these three important elements. When we undertook that piece of work it was really around that, that is the strategic issue. We also knew we had a pressing issue at McKinstry and Leoville, so what you might describe in that report is the carving out or the adding into that. How do we deal with this highly specific and important, but urgent, matter as well? The options you have described are the right strategic options for Jersey in the future. But what I might, with due respect, say is that you are confusing those options with the highly specific and technical 5 options I mentioned earlier about what happens to McKinstry and Leoville. At the risk of prejudging new directions those issues are our community care packages with family nursing and other partnerships, that is where we will be putting our money, so to speak. Two things but intrinsically limiting; one strategic, one immediately in operation.*"[224]

The Department appears to be moving towards a policy of 'community care' in terms of care of the elderly. The Sub-Panel remains uncertain of how the closure of Leoville and McKinstry Wards fits into this development.

SUB-PANEL RECOMMENDATION:

The Department should give high priority to the development of a clear policy for care of the elderly (that takes into account short, medium and long-term aims).

9.2.5 The Funding Situation

Work on the 'New Directions' strategy would include an examination of the funding structure for long-term care: at the Public Hearing on 14th September 2006, the Minister explained that the Department would explore the possibility of introducing an insurance scheme to pay for long-term care:

"*What we are going to be looking at putting in place through the new direction strategy will be something akin to, not necessarily exactly the same, but akin to the system they have in Guernsey whereby there is a compulsory contributory social insurance scheme which generates a source of income to pay for long term care that people need.*"[225]

The question of funding lay slightly outside the remit of the Sub-Panel during this review. However, it received evidence to suggest that the current funding system was not only

[223] Transcript of Public Hearing 2, 4th October 2006, p. 26
[224] Transcript of Public Hearing 1, 14th September 2006, p. 12
[225] Transcript of Public Hearing 1, 14th September 2006, p. 25

undesirable but also untenable. It feels that this issue is of such importance that some mention should be made of it.

For example, at a Public Hearing on 4th October 2006, Dr. Richardson stated that the current funding system required replacement:

> "*There is a group dealing with this [funding arrangements] but the current arrangements are chaotic, absolutely chaotic. In fact, the current provision means you have no law in place that permits you to ask anyone to pay for their care, or at least pay an appropriate amount towards their care. So, you are now in the iniquitous position of having people in residential homes paying a fair amount of money who, because they cannot now afford the official nursing home rate, are going to be paying half what they are paying in residential care for you to provide them with nursing care.*"[226]

The Minister made his own view of the funding arrangements known to the Sub-Panel at the Public Hearing on 14th September 2006:

> "*In the medium to long term we are looking at completely remodelling how these things are funded and paid for and so on, because the current system has evolved piecemeal over decades and it would not be an exaggeration to describe it as a chaotic mess.*"[227]

The Sub-Panel agrees that the current funding system (for care of the elderly) is untenable and looks forward to the options and proposals that the Minister will publish in due course.

9.2.6 Respite Care

In conjunction with the work described above, the Department has also worked on the provision of respite care in the Island. In some senses, work on this subject would appear to have progressed further. In December 2005, at the suggestion of the Jersey Association of Carers, a review of respite provision was begun. In September 2006, this review led to a draft report being produced which the Sub-Panel was able to consider during its review.

On 5th October 2006, the Sub-Panel received evidence from Dr. M. Bayes, Chairman of the Jersey Association of Carers. At this Public Hearing, Dr. Bayes advised the Sub-Panel of the work that was being undertaken:

> "*In our report we looked at all aspects of respite, not just beds at Overdale, because it does consist of quite a lot of elements, including the domiciliary respite which is care in the home, and not necessarily just the sitting service but maybe also a care break for the carer where a more expert person can come in and take over their duties but the cared-for person does not have to be moved out of their own home. We have been seeking to set that up for quite a long time, similar to a system in England called Crossroads, which everybody finds quite useful over there. Day respite consists of things like day centres, schools, workplaces, all kinds of things like that, where people go for the day and the States of Jersey do have quite a provision of day centres for people. Residential beds with nursing care were provided at Edith Secker and then*

[226] Transcript of Public Hearing 5, 4th October 2006, p. 28
[227] Transcript of Public Hearing 1, 14th September 2006, p. 24

> *McKinstry Ward. Emergency respite we have seen as a problem. When I first started work here as a GP if we sent somebody in who was caring for somebody we had to send into hospital the person who was being cared for as well to take up another hospital bed, because there was nowhere to put them if family or friends could not cope. So we need a provision for emergency beds for respite.*"[228]

It would seem from these comments that this work was linked to the general policy direction described above of "*alternative community care*".

The report in question has not yet been published but the recommendations contained within the draft point to a desire to a more co-ordinated approach which involves carers themselves in the process of developing an overarching strategy. It is anticipated that this work will occur during 2007 and 2008.

The Sub-Panel recognises the work that is currently being undertaken by the Department in conjunction with the Jersey Association of Carers. However, it is concerned that respite care may become the 'poor relation' of nursing care.

SUB-PANEL RECOMMENDATION:

The Department should maintain and enhance its relationship with Jersey Association of Carers Incorporated.

9.2.7 The Impact on the Department's Staffing Situation

It is worth noting that the Department may be facing a problem in terms of recruiting staff. Indications to this effect were given to the Sub-Panel by a number of witnesses. For instance, at the Public Hearing on 4th October 2006, Dr. M. Richardson stated that:

> *"*We struggle to staff our hospital, never mind anything else. We have a hospital full of agency nurses and nurses from all over the world because we cannot recruit enough staff and that is the same throughout the UK.*"*[229]

At a Public Hearing on 4th October 2006, Mrs. C. Vibert of Family Nursing and Home Care also alluded to the difficulties in recruiting staff:

> "W*e also have a great difficulty now, far more difficulty, with the number of trained staff we have got on the Island. You have to have the staff there to employ and in the last 10 years the number of people that apply for a job that I am advertising now compared to -- I used to be able to pick and choose 10 years ago, but now I am lucky if I get 2 or 3 because there is not so many trained staff around and they are all getting old, or older anyway.*"[230]

The matter was also addressed by Ms. A. Bisson at a Public Hearing on 5th October 2006:

> "*In terms of the recruitment of staff, it is a huge, huge issue. The Health and Social Services at the moment are in absolute dire straits in terms of staffing needs. We are*

[228] Transcript of Public Hearing 6, 5th October 2006, p. 3
[229] Transcript of Public Hearing 5, 4th October 2006, p. 29
[230] Transcript of Public Hearing 4, 4th October 2006, p. 16

> *just about holding it together. A lot of us are working huge amounts of overtime to cover the gap. That cannot continue.*"[231]

The question may be asked whether the Department was able to use the closure of Leoville and McKinstry Wards as a means of addressing this problem (at least in part). Certainly, it is clear that the Steering Group was aware of the problem when it considered arrangements for the redeployment of staff:

> "*Within H&SS there is a shortage of trained nurses and there are a lot of wards with vacancies. MH has been trying to get some agency nurses but this seems to be difficult. MH added that the sooner the project can be pushed along then the more vacancies will be filled.*"[232]

It would appear from the evidence considered that the closure of Leoville and McKinstry Wards allowed the Department to address staffing issues it faced in other areas. However, the Sub-Panel believes that this was not the intention behind the closure but merely a fortunate consequence.

The Sub-Panel has already explored the redeployment process followed by the Department with regard to staff; it has shown that members of staff who had worked on either Leoville or McKinstry Ward would potentially move from elderly services to a different area within the Department. During its review, the Sub-Panel considered whether the closure and resulting redeployment of staff would effectively lead to the break-up of a pool of expertise.

The Sub-Panel put this question to representatives of the JNA and RCN on 5th October 2006. In relation to this matter, Ms. A. Bisson advised the Sub-Panel:

> "*Nurses cannot be expert at all things but we are expecting experts in certain things. So, many nurses are diversifying now and going down the route of specialising in certain areas. One of those that has had a great deal of publicity and support over the years is elderly care. Now, I understand there are nurses at Overdale who have gone down that route and undertaken specialised training in care of the elderly, which is a very, very specialised group.*"[233]

The implication of this statement would appear to be that nurses with specialist skills may have been expected to move to an area of the Department where these skills may not be required.

The Sub-Panel remains concerned that the redeployment of staff from Leoville and McKinstry Wards will ultimately lead to the break-up of a skilled and dedicated team.

<u>SUB-PANEL RECOMMENDATION:</u>

The Department should undertake a skills audit during the first half of 2008 to assess the longer-term impact the closure of Leoville and McKinstry Wards may have had on the skills base amongst its staff to which it has access.

[231] Transcript of Public Hearing 7, 5th October 2006, p. 24
[232] Minutes of the Steering Group, 9th August 2006
[233] Transcript of Public Hearing 7, 5th October 2006, p. 11

9.3 The Financial Implications

The Minister made it clear that his decision to close Leoville and McKinstry Wards was not a cost-cutting move. For example, in answer to a question in the States Assembly on 4th July 2006, he stated:

> "*I have always said that there may be a slight additional cost. We possibly expect the exercise to be about a breakeven exercise. It has never been a cost-cutting exercise. It has never been a budgetary-driven exercise. It is about improving the quality of the environment in which these people live, given the absence of available States capital funding for new States build at the present time.*"[234]

By the time he gave this answer, the Minister had given his 'in principle' approval to the closure of the two wards.

The potential costs of closing the wards and contracting beds from the private sector was highlighted in a number of submissions made to the Sub-Panel. One individual, for example, commented:

> "*I'm not brilliant at maths but I don't think you have to be to realise the enormous costs of putting our elderly people into the private sector.*"[235]

Concerns about the cost also formed a significant part of Mr. J. Corbet's submission. Mr. Corbet met the Sub-Panel on 20th September 2006 at which time he questioned whether the Department had sufficient funds to pay the fees necessary for the placement of patients in the private sector.[236] In his written submission, he calculated that the cost of placing 50 to 60 patients in private nursing care would be between £3.25 million and £3.9 million per annum (based on information he received from Silver Springs Care Home). Counter to this, he estimated that it would cost £2,421,900 to build a new nursing home, concluding that:

> "*To provide a new purpose made building to replace the old would be less expenditure than one year's use of private nursing homes.*"[237]

The Sub-Panel has already examined why the Department did not build a new nursing home of its own. However, Mr. Corbet's comments indicated more general concern regarding the ultimate cost of contracting beds from the private sector.

This concern was shared by some individuals who themselves worked in the private sector. For instance, in his written submission, Mr. K. Harrison expressed concern at the fees which the Department might agree upon in its contracts (although his comments stemmed from concern at the potential impact on the nursing care market rather than general concern at the sum of money to be used). In his submission, he stated:

> "*We were also informed by H&SS prior to tendering for beds that we, along with other establishments within the private sector would be kept informed of developments / fee structures in order to ensure a level playing field. This has not happened. […] Surely it is in the public domain to know the fee structure.*"
>
> "*In order to maintain viability and reduce discrimination and avoid a monopoly (potentially increasing costs and reducing care) within the private sector all nursing*

[234] Official Record of the States Assembly, 4th July 2006
[235] Written submission from Ms. A. Regan, 29th August 2006
[236] Notes of meeting with Mr. J. Corbet, 20th September 2006
[237] Written submission from Mr. J. Corbet, 20th September 2006

> *homes should receive the same amount for each of its H&SS residents according to the dependency of the patient.*"[238]

The Sub-Panel agreed in its fourth Term of Reference to consider the financial implications for the Department (and thus, by implication, the States) of transferring patients from its wards to the private sector. During its review, it therefore sought to understand how the Department had assessed the financial implications of this development as well as to consider the fees agreed by the Department in its contracts.

9.3.1 How did the Department assess the financial implications?

It should be noted that the Minister made a direct response to Mr. Corbet's submission and the comments contained within. In response to the assertion that it would cost the Department approximately £3.5 million to contract beds from the private sector, the Minister responded:

> "*This is incorrect. Without an understanding of the number of self funding placements, the number of places required or the fee levels, this figure is a gross exaggeration. The actual costs are outlined in the Full Business Case presented to Scrutiny.*"[239]

The Full Business Case to which the Minister referred was considered by him when making the formal Ministerial Decision (i.e. one for which there was a written record) to sign a contract with Four Seasons Health Care. This Ministerial Decision was made on 11th September 2006. One purpose of the full business case was:

> "*to outline the financial implications and consequences of closing McKinstry, Secker House and Leoville wards based at Overdale and moving patients and services to private nursing homes in the community. It will also identify which option provides the best value for money over a 30 year lifespan and affordability for the States of Jersey*."[240]

As has been seen, on 30th March 2006, the Minister made an 'in principle' decision that the wards would close and patients moved. At the Public Hearing on 13th October 2006, the Minister told the Sub-Panel that he had considered an outline business case before making this 'in principle' decision.

Both the Outline and Full business cases presented to the Minister the alternative courses of action that could be taken in response to the problem of Leoville and McKinstry Wards. These options have already been explored in earlier sections of this report. However, it would appear that the outline business case did not contain the full examination of the costs involved in contracting private care beds. There was therefore no cost benefit analysis undertaken before the 'in principle' decision was made. This was subsequently included in the full business case, in which a financial appraisal was presented, not only of contracting private care beds, but also of the other options which had been considered (e.g. maintaining the status quo, converting an old hotel etc). The Sub-Panel understood that negotiations with private care providers (which had already begun by this time) were used to formulate the figures contained in the financial appraisal.

The Sub-Panel was provided with a copy of the Full Business Case. It was also given a copy of the contract which the Department made with Four Seasons Health Care. However, both documents were given to the Sub-Panel on a confidential basis (under Item 3.2.1(a)(x) of the

[238] Written submission from Mr. K. Harrison, 11th October 2006
[239] Written submission from the Minister for Health and Social Services, 24th October 2006
[240] *Full Business Case Regarding the Future of Leoville and McKinstry Wards*, p. 10

Code of Practice on Public Access to Official Information.) Documents remain confidential under this item if the release of the information contained within would:

> "*prejudice the financial interests of an authority by giving an unreasonable advantage to a third party in relation to a contract or commercial transaction which the third party is seeking to enter into with the authority.*"[241]

The Sub-Panel was obliged to respect the confidentiality of these documents and was therefore unable to consider the specific details of both the financial appraisal and the contract.

Whilst the Sub-Panel accepts the need for confidentiality of certain documents, it believes that the Minister was over-cautious in his approach to the contractual information which the Sub-Panel received. The Sub-Panel would have liked to provide a proper assessment of the Department's work in this area in order to clarify matters but feels that it is unable to do so due to its obligations under confidentiality agreements.

SUB-PANEL RECOMMENDATION:

A protocol should be developed and agreed to cover the provision of 'confidential' information by Ministers to Scrutiny Panels to ensure that clear reasons are given for documents to remain confidential and that the decision to define information as confidential does not rest solely with Ministers**. In cases of dispute, the Chief Minister and President of the Chairmen's Committee should be invited to arbitrate.**

Notwithstanding the confidentiality issue, the Sub-Panel did undertake work on both the full business case and contract in order to assess the financial implications of the Minister's decision.

The Sub-Panel held Public Hearings with the Minister on 14th September and 13th October 2006. Both Hearings were followed by an *in camera* session during which the Sub-Panel questioned the Minister on the detail of the financial appraisal. The Sub-Panel also requested and received advice from the Department on the methods used. Whilst it cannot go into details, the Sub-Panel is able to describe in general terms the financial appraisal.

It was apparent from the testimony during the *in camera* sessions and the advice received that the financial appraisal had been undertaken in communication with officers of the Department of Treasury and Resources. Each option considered by the Minister was assessed using a Discounted Cash Flow (DCF) approach to ascertain which option provided the best value of money. Sensitivity analyses were carried out in which consideration was given to the potential impact of higher rates of inflation over the 30 years considered in the appraisal.

Following the DCF approach, each option was subsequently considered in terms of affordability (both revenue and capital). The revenue costs for the option ultimately chosen (closure and transfer of patients to the private sector) were identified; a sensitivity analysis was conducted on this option to assess the impact of different daily bed prices charged in the private sector.

[241] *Code of Practice on Public Access to Official Information*

The upshot of this work was that each option was ranked in terms of value for money, revenue affordability and capital affordability.[242] Mr. M. Pollard indicated the findings of this ranking system to the Sub-Panel at the Public Hearing on 13th October 2006:

> "*The beauty of this [situation] is that the option with the highest quality came in with the best value for money. That is very rare because you often have to trade between those. But this is unequivocal.*"[243]

The Sub-Panel undertook some independent research on this matter, coming across a report entitled *Calculating the Costs of Efficient Care Homes* which had been produced following research undertaken by health and community care analysts Laing & Buisson. It would appear that this work became somewhat of a standard reference in this field. It was also clear to the Sub-Panel that the Department was aware, and had taken account, of the findings of this research (not only in connection to the decision to close Leoville and McKinstry Wards). Following consideration of this research, the Sub-Panel was somewhat concerned that the rates of inflation used in the appraisal might not have made account for all the pressures on nursing care costs. It appeared to the Sub-Panel that negotiations could be driven as much by external pressures as by local conditions. For instance, the Sub-Panel was aware that rates for nursing homes in the United Kingdom were estimated to be rising by 8% per annum.[244] The Sub-Panel addressed their concerns to the Minister during the *in camera* Hearing sessions.

As well as the rates of inflation, the Sub-Panel was somewhat puzzled by the notional value of the sale of the land at Overdale that had been taken into account in the financial appraisal. It was not clear what use to the overall calculation there was of merely incorporating a value for the footprint of the two buildings. This issue was also raised during the *in camera* sessions with the Minister.

Ultimately, the Sub-Panel sought specialist accounting advice from Alex Picot Limited for guidance on the validity of the methods used by the Department. Essentially, the Sub-Panel wished to know whether the financial appraisal had been undertaken properly although it also asked specific questions relating to the following issues:

1. The financial risks that had been considered in the appraisal
2. Information that was missing but which should have been considered
3. Figures used for the notional value of the land

In its response, Alex Picot indicated that the Department could feasibly have undertaken further sensitivity analyses in its appraisal whilst it also raised questions regarding the inclusion of notional sales values in the options considered. However, it advised that, overall, it was difficult to see which other methods could have been used to undertake the appraisal.[245]

The Sub-Panel agrees that the method of using present value techniques was appropriate. However, the Sub-Panel believes the financial appraisal undertaken by the Department was adequate but that it reflected an unsophisticated and opaque approach. It was difficult to understand the reasoning behind certain measures (such as why the notional value of the land was considered in the manner which it was). The Sub-Panel feels that cost-benefit analyses should have been done earlier in the decision-making process and that further sensitivity analyses should have been undertaken.

[242] *Full Business Case Regarding the Future of Leoville and McKinstry Wards*, Appendix 1
[243] Transcript of Public Hearing 9, 13th October 2006, p. 33
[244] *Some £500,000 went on care fees*, Daily Telegraph, 27th September 2006
[245] Written submission from Alex Picot Limited, 16th November 2006

SUB-PANEL RECOMMENDATION:

The Sub-Panel feels very strongly that, prior to such major decisions being taken, timely, robust and transparent financial appraisals should be undertaken.

9.3.2 The Cost of Closure and Transfer?

Ultimately, the Minister chose the option to close Leoville and McKinstry Wards and transfer patients to the private sector. This move would require the Department to sign contracts with private care providers in which fees would be agreed. Once contracts had been signed for all 47 nursing care beds and 7 respite care beds, it would be feasible to establish the exact cost of this decision.

However, at the time of this report's publication, only one contract had been signed and it was not therefore possible to ascertain a true picture of the overall cost. That contract was made with Four Seasons Health Care, parent company of Silver Springs Care Home, on 11th September 2006. The Sub-Panel was advised during the *in camera* sessions with the Minister that the Department felt it had negotiated a satisfactory fee. The Sub-Panel was also apprised of the work undertaken by the Department in preparation for its negotiations. The Sub-Panel was therefore in a position to assess the efforts made by the Department to ensure a 'good deal' and whether it had in fact achieved this.

The Sub-Panel is unable to discuss publicly the fees agreed by the Department and Four Seasons Health Care although it would find it difficult to judge, on the evidence provided, whether a good deal was struck.

SUB-PANEL RECOMMENDATION:

When negotiating contracts with the private sector, the Department should take a formalised and nuanced approach to evaluate the costs of nursing care in a given nursing care home.

9.4 The Private Sector

In an earlier section of this report, the Sub-Panel highlighted that there were concerns regarding a perceived lack of equity in the Department's dealings with the private sector: there was a feeling in some quarters that the Department had favoured larger operators at the expense of smaller providers.

The Sub-Panel has already considered concerns regarding the tender process. At the time of this report's publication, only one contract had been signed (for the provision of 25 nursing beds). It was not therefore possible for the Sub-Panel to conclude definitively whether the Department's actions will (even unwittingly) favour one section of the private sector to another as its actions had not been completed.

Notwithstanding this fact, the Sub-Panel explored this issue attempting to ascertain, for instance, the possible future in store for smaller private care homes.

It would appear that some homes are very concerned about the future. Mrs. E. Crabb, Chairman of the Jersey Care Federation indicated as much at a Public Hearing on 4th October 2006. When referring to smaller care homes, she stated:

> **"***I think at this moment in time it is quite shaky, to be quite honest. They are very, very concerned, because it is important that the smaller business remains viable, because these are the people that have provided the care without any recognition in the past, and sadly -- I know it is good for the economics that the big providers have appeared but everything seems to be going their way.***"**[246]

In his written submission to the Sub-Panel, Mr. K. Harrison also made comments to this effect:

> "*Finally, we have recently received planning permission to build another 4 rooms onto Clifton. Our dilemma in the current climate is whether to go ahead or not given the 'threat' of larger UK companies taking over the private sector and the smaller businesses no longer being able to compete. This last concern is common amongst the smaller businesses.*"[247]

Notwithstanding the need for the Minister not to be seen favouring one part of the private sector over another, the Sub-Panel is concerned as to how the market could develop. The costs of providing nursing care and meeting regulatory requirements (e.g. larger room sizes) are very high and beyond the reach of smaller operators unless they have a reasonable certainty of regular occupancy. It has been argued that, should the smaller operators be unable to compete, then one or two large operators would dominate the market and in a classic case of market dominance, be able to dictate terms to the 'buyers', i.e. the public sector. Given the limited provision actually operated by the public sector, this could make it very vulnerable.

SUB-PANEL RECOMMENDATION:

The Department should undertake a study, incorporating all parts of the private nursing care sector, to consider how a range of providers can be sustained in order that a situation of market dominance can be avoided.

At the Public Hearing on 6th October 2006, the Sub-Panel sought the opinion of Mrs. C. Blackwood and Mr. S. Smith on this matter. Mr. Smith advised the Sub-Panel that:

> "*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.*"[248]

[246] Transcript of Public Hearing 2, 4th October 2006, p. 13
[247] Written submission from Mr. K. Harrison, 9th October 2006
[248] Transcript of Public Hearing 8, 6th October 2006, p. 31

The Sub-Panel raised this matter with the Minister on 13th October 2006 when it asked for his opinion on the future for smaller operators:

> "*I think people that run good homes that are well run, that meet decent standards, will always find a marketplace. I do not accept that they [smaller homes] will be forced out.*"[249]

The Sub-Panel continued with this theme and was subsequently advised by the Minister that the Department has an interest in ensuring that there is a healthy private sector in the Island although there were limits to the assistance it could offer care homes:

> "We *want there to be a broad and successful private sector provision in Jersey. It is important for a variety of reasons. But against that, we do have a responsibility to make sure that taxpayers' money is being used on a cost effective basis. We understand, certainly, the particular issues that the smaller homes will have, economies of scale and so on, not the backup of large organisations in the United Kingdom. We will try to take that into consideration but ultimately I think it would be unwise and possibly even non-compliant with the States of Jersey Finance Law if we were to enter into some kind of long-term binding agreement with the smaller homes saying: "We guarantee that we will send you X percentage of our patients." I do not think that would actually be legal. We have a duty to always test the market and to make cost effective use of the taxpayers' money.*"[250]

It should be noted that *Strategic Plan 2006 – 2011* (P.40/2006) obliged the Department to consider its relationship with the private sector. Objective 2.1.5 of the Plan comprised the undertaking that the Department would:

> "*Develop a concordat between the private, voluntary, charitable, and public sectors by 2008 as a means of building capacity for the care of older people who require residential accommodation.*"[251]

On 14th September 2006, the Sub-Panel was advised by Mr. M. Pollard that the Minister had already signed this 'concordat' with the Jersey Care Federation.[252] However, on 4th October 2006, Mrs. E. Crabb advised the Sub-Panel that this was not correct.[253] The Sub-Panel therefore raised the issue at the Public Hearing with the Minister on 13th October 2006. Mr. M. Pollard confirmed that the concordat had not yet been signed. However, he indicated what such an agreement would entail:

> "*It is really kind of a working relationship, a way of describing a partnership arrangement between ourselves and the Jersey Care Federation. As I said earlier, the Jersey Care Federation looked for a meeting with myself and the then President, now Minister of course, really concerned about what was happening in the market. Was there the prospect of - and it was put as crudely as this – that Health and Social Services were going to enter into a favourable deal with some institutions over than others. We had that meeting - forgive me if I have not got the date just to hand - a meeting which I thought would be a tension ridden meeting, as soon as the Minister said that there would be a level playing field all the tension disappeared immediately and, if you like, love broke out, as you might say. The concordat is the development of this relationship. Perhaps we will have to revisit the terms. It is about the relationship with the non-State sector, which of course involves ourselves in more than simply the*

[249] Transcript of Public Hearing 9, 13th October 2006, p. 22
[250] Ibid
[251] *Strategic Plan 2006 – 2011* (P.40/2006), p. 18
[252] Transcript of *In Camera* session, 14th September 2006, p. 4
[253] Transcript of Public Hearing 2, 4th October 2006, p. 11

private sector. It involves us with the parishes that I mentioned earlier. The idea of that is to have a continuous dialogue on a number of matters. The first is what is the market looking like? Quite reasonably, the Federation, as one of our stakeholders, will be briefing in great detail about the New Directions when that starts to unfold a little bit later this year. As we have said all the way through this meeting, that is a very key issue about where the market is going and people have livings to make on the back of it and investments to make on the back of that. The second is to look for ways in which we can help people with their training. There is a very good, honourable record whereas our nursing training function offers opportunities to the hospice, to the parishes and indeed to other sectors for joint training. Thirdly, to work with them to always look at any problems that occur. I mentioned earlier that individual homes have been to us and there is a dialogue that we have heard about. Also looking at how we raise the standards because it is becoming very clear to me certainly - and many of my colleagues have known this a long time - that the expectations of clients are increasing exponentially. En-suite single rooms is going to be the core standard, I think, in 5 years in Jersey. That is my feeling. That is a very good standard and clearly there has to be dialogue with all of the sectors to make sure that we are all ready for that as it comes towards us."[254]

The Sub-Panel welcomes the Minister's approach to the Jersey Care Federation through the means of a Concordat. It believes that formal recognition of the Care Federation will only help the current situation.

SUB-PANEL RECOMMENDATION:

The Department should formally recognise the Jersey Care Federation in order to maintain and enhance its working relationship with the Federation.

Notwithstanding the efforts of the Department to establish a relationship with the private sector, the Sub-Panel considered whether the inspection process had an impact on the viability of smaller homes. It wished to establish whether it was possible over-regulation, as such, had a detrimental effect on the private sector.

It was apparent to the Sub-Panel that the pressure on homes to maintain standards had been known for some time. In 1997 a review of residential care provision was undertaken for the Department by Strettle Associates. The resultant report, *Review of Residential Care Provision for Older People in Jersey* indicated that:

"*The advantages for attracting custom appear to lay therefore with newer purpose built homes which offered single rooms and other purpose built facilities e.g. lifts and purpose built bathrooms. The pressure on homes to provide higher standards of accommodation and facilities has led to a reduction in the number of places available in some homes with a consequent pressure on the level of income*."[255]

Whilst this report referred to residential care homes, the Sub-Panel believed that a similar pressure would apply to nursing care homes.

On 6th October 2006, the Sub-Panel met Mrs. C. Blackwood, Registration and Inspection Manager, at a Public Hearing. Given the apparent concerns regarding the future of smaller operators and her responsibility for ensuring high standards, the Sub-Panel questioned Mrs.

[254] Transcript of Public Hearing 9, 13th October 2006, p. 64
[255] *Review of Residential Care Provision for Older People in Jersey* (October 1997), prepared by T.W. Strettle Associates, p. 15

Blackwood on the potential impact regulation had on such operators. When asked if she felt that smaller care homes were doomed, Mrs. Blackwood stated:

> "*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.*"[256]

The Sub-Panel asked Mrs. Blackwood for her opinion on what could be done to ensure that the future of such homes was more viable. Mrs. Blackwood advised that the funding issue was a major difficulty and that the introduction of an insurance scheme to fund continuing care might be a solution.[257] The Sub-Panel has already highlighted that such an insurance scheme will be considered by the Minister.

The Sub-Panel is concerned about the difficulty facing smaller homes in the current market. It believes that regulation should ensure that the market remains diverse. It also believes that the authority of the Registration and Inspection Manager must be balanced by a fast and transparent appeals process.

SUB-PANEL RECOMMENDATION:

Regulation and inspection guidelines should be carefully monitored to ensure that there is not a disproportionate and excessive impact upon smaller care homes.

9.4.1 Regulation and Inspection

As has already been mentioned, there is some disparity in terms of regulation between the public and private sectors. The Department's wards are not subject to the same inspection process as private sector homes as legislation does not allow for the Department's wards to be so inspected. This explained why Mrs. Blackwood was unable to offer a particular opinion on the condition of Leoville and McKinstry Wards.

The Sub-Panel was made aware that this inequity caused some concern amongst the private sector. For example, at the Public Hearing on 6th October 2006, Mr. S. Smith advised the Sub-Panel:

> "*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.*"[258]

The Sub-Panel also received one written submission which commented on this issue. Mrs. R. Goulding, formerly manager of Lakeside Care Home, stated:

[256] Transcript of Public Hearing 8, 6th October 2006, p. 30
[257] Ibid, p. 31
[258] Ibid, p. 7

> "*I perceive that, the lack of independent external inspection and regulation within H&SS remains unresolved and this is an area which needs consideration*."[259]

There appeared to be two issues involved in this matter. Firstly, should the Department's wards be subject to inspection? Secondly, if they were subject to inspection, should the Registration and Inspection Manager remain under the auspices of the Department?

It should be noted that the relevant legislation is due to be amended. On 30th March 2006, the Minister made a formal Ministerial Decision that a bid would be made for *Regulation of Care (Jersey) Law 200-* to be included in the 2007 law drafting programme. The report which accompanied this Ministerial Decision explained:

> "*The current legislation regulating health and social care provision is no longer fit for purpose and does not provide an adequate level of protection required by the most vulnerable sections of the population. It is proposed to combine and amend two existing Laws, the Nursing and Residential Homes (Jersey) Law 1995 and the Nursing Agencies (Jersey) Law 1978 to ensure Jersey enjoys high quality health and social care services.*"[260]

Mrs. C. Blackwood referred to this legislative work at the Public Hearing on 6th October 2006.

> "*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 currently regulated at all, and bring it up to date.*"[261]

The legislation was included in the proposed legislation list for 2007 included in *Annual Business Plan 2007 – 2011* that was approved by the States on 26th September 2006.[262] However, it would appear that the planned amendments to the legislation do not include provision for the Department's wards to be subject to inspection.

The Sub-Panel feels it is unacceptable that the Department's wards are not subject to the same expectations and inspection process as privately-owned wards. This situation is inequitable and should be resolved.

SUB-PANEL RECOMMENDATION:

Proposals should be developed by the end of 2007 to allow the Department's nursing care wards to be subject to regulation and inspection.

As part of the Department, if the Registration and Inspection Manager were required to inspect the Department's wards, this would effectively lead to a situation whereby the Department would regulate its own provision. This would appear to be equally as inequitable as the current situation. Mr. S. Smith acknowledged that the current situation was undesirable to a certain extent when he spoke at the Public Hearing on 6th October 2006:

> "*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*

[259] Written submission from Mrs. R. Goulding, 26th October 2006
[260] *Law Drafting Programme 2007: Bids for Inclusion* (MD-HSS-2006-0026, 30th March 2006)
[261] Transcript of Public Hearing 8, 6th October 2006, p. 48
[262] *Annex to Annual Business Plan 2007 – 2011* (P.92/2006), p. 223

> *uniquely linked to that department. It would be difficult, in the current setup, for us to be anywhere other than there, at the moment.*"[263]

The Minister has made it clear that he would generally welcome independent regulation of the work undertaken by his Department. To that end, one objective contained within the Strategic Plan was for the Healthcare Commission to undertake a review of the Department:

> "*2.3.1 The performance of the Health and Social Services Department in meeting "Standards for Better Health" will be independently inspected by the Healthcare Commission in April 2007 and the results of that inspection will be published (HSS).*"[264]

Since the publication of the Strategic Plan, it would appear that the Healthcare Commission would not be able to undertake this work.

The Sub-Panel believes it would be fairer for the Registration and Inspection team to be independent of the Department, especially if provision is made for the inspection of the Department's wards to occur.

SUB-PANEL RECOMMENDATION:

Proposals should be developed by the end of 2007 to allow for an independent Regulation and Inspection team to be created.

[263] Transcript of Public Hearing 8, 6th October 2006, p. 7
[264] *Strategic Plan 2006 – 2011* (P.40/2006), p. 19

10. Conclusion

The Sub-Panel has sought to understand how the closure of Leoville and McKinstry Wards and transfer of patients to the private sector was managed and what the implications were for the future. Whilst it agreed that the wards were in poor condition, it had a number of questions it wished to answer. These questions (and the Terms of Reference it drew up) were reflected in the submissions it subsequently received. As the Sub-Panel has shown, there was concern amongst members of the public (including relatives of patients) about the welfare of patients, the future of Overdale Hospital and the future of care of the elderly in general.

In relation to the closure and transfer process itself, the Sub-Panel was impressed by the care and attention given to all parties, most importantly the patients and their families. It saw that the Department had developed plans that addressed the assessment of patients; communication with families; and the redeployment of staff. As with any plan of this nature, there were glitches. As a result, whilst the Department may have been satisfied with the manner in which it enacted its plans, this feeling was not shared by all concerned. There are lessons to be learnt. It is to be hoped that the Department will in future consult staff, residents and their families to ensure that lessons are indeed learnt.

Similarly, the Sub-Panel saw that the Department had implemented its plan for an open tender process to procure the beds it needed. Again, however, there was dissatisfaction in some quarters and it certainly appeared from the written evidence considered by the Sub-Panel that the sequence of events in this area was not overly clear. There was a similar lack of clarity when the Sub-Panel examined the history behind the decision to close the wards; questions remained to be answered regarding the abandonment of the Belle Vue project. A clear, documented record of how decisions were made would have helped the Sub-Panel to clarify its understanding.

It was very clear to the Sub-Panel, however, that public concern stretched beyond the particular circumstances of the closure and transfer. It attempted to address these concerns in some way during its review.

Broader issues were raised, such as the vexed questions of how States departments handled ongoing maintenance and how capital programmes were planned. The Sub-Panel has explored these issues. It hopes that the system of ministerial government will ensure that improvements will occur in these areas where there were evidently shortcomings in the past.

There was also a real concern that the use of the private sector might, inadvertently or otherwise, weaken the public sector and lead to a permanent loss of beds. It might also trigger off market consolidation within the private sector itself with unforeseen consequences for smaller operators.

It seems that the Department is looking to address these matters as part of the ‘New Directions’ strategic work. It is intended that the consequent report will lay out the way ahead in key areas for the Department. The Sub-Panel looks forward to the publication of this report and hopes that it will address the concerns that have been raised and examined in the Sub-Panel’s report. The Sub-Panel feels that it is absolutely vital that (given the expected vast increase in numbers of elderly people) care of the elderly takes top priority (both in the short and long term).

Appendix 1: Methodology and List of Evidence considered

BACKGROUND PAPERS:

The Sub-Panel undertook research of the background documentation to this issue. Some of this documentation was presented to the Sub-Panel by the Department itself whilst others arose from the Sub-Panel's independent research.

Legislation:

Nursing and Residential Homes (Jersey) Law 1994

Nursing Homes and Mental Nursing Homes (General Provisions) (Jersey) Order 1995

Residential Homes (General Provisions) (Jersey) Order 1995

Nursing Agencies (Jersey) Law 1978

Nursing Agencies (General Provisions) (Jersey) Order 1978

Minutes of the States Assembly:

Oral question from the Connétable of St. Helier to the President of the Health and Social Services Committee, 21st October 2003

Oral question from Senator P.V.F. Le Claire to the President of the Health and Social Services Committee, 13th September 2005

Question without notice to the Chief Minister, 17th January 2006

Oral questions without notice to the Minister for Health and Social Services, 25th April 2006

Oral question from Deputy R.G. Le Hérissier to the Minister for Health and Social Services, 20th June 2006

Oral questions from Deputy A.E. Pryke and S. Power to the Minister for Health and Social Services, 4th July 2006

Question without notice to the Minister for Health and Social Services, 18th July 2006

Other States Documents:

States Resources Plan 2004 – 2008 (P.118/2003)

States Resource Plan 2004 – 2008 (P.118/2003): Second Amendments (lodged on 2nd September 2003 by the Connétable of St. Helier)

Belle Vue Residential Nursing Home and Day Care Centre, St. Brelade: Business Case (P.163/2003) lodged on 18th November 2003 by the Connétable of St. Helier

Annual Business Plan 2007 – 2011 (P.92/2006)

States Redeployment Policy, Section A7 of *Human Resource Policy Manual*

Committee Acts:

Acts of the former Health and Social Services Committee

A6 – 9th January 2002
A13 – 6th February 2002
A13 – 6th March 2002
A7 – 1st May 2002
A13 – 3rd September 2003
A4 – 1st October 2003
A6 and A8 – 10th December 2003
A7 and A11 – 14th January 2004
A7 – 19th February 2004
A11 – 3rd March 2004
A17 – 7th April 2004
A9 and A24 – 5th May 2004
A18 – 1st September 2004
A18 – 3rd December 2004
A8 – 7th January 2005
A13 – 4th March 2005
A – 3rd June 2005
A10 – 4th July 2005

Acts of the former Finance and Economics Committee

B3 – 5th March 2001
B3 – 27th May 2004

Act B2 of the former Planning and Environment Committee – 5th March 2002

Act A11 of the Council of Ministers – 26th January 2006

Ministerial Decisions:

Law Drafting Programme 2007: Bids for Inclusion (MD-HSS-2006-0026, 30th March 2006)

Delegation of Functions (MD-HSS-2006-0027, 30th March 2006)

Contract and Service Level Agreement between the Minister for Health and Social Services and Four Seasons Healthcare Ltd (MD, 11th September 2006) [**CONFIDENTIAL**]

Papers provided by the Department of Health and Social Services:

Review of Residential Care Provision for Older People in Jersey (October 1997), prepared by T.W. Strettle Associates

Minutes of P.70 meetings relating to the Belle Vue High Dependency Nursing Home and Day Care unit (8th June 1999 to 17th February 2005)

The Registration and Inspection of Residential Homes – Guidelines on Registration Standards (April 2001)

Report: Purchase of private nursing care placements (28th January 2002), Mr. A. Skinner

Review of Health Services for Older People (July 2002), Health & Social Services Audit Committee

Response to William Laing Analysis of calculating operating costs for Care Homes presented by Tim Dunningham, Chairman of the Audit Commission at the Belle Vue Meeting held in the Treasury, Cyril Le Marquand House (4th December 2003)

Policy and Protocol for the Management of Corporate Policies, Procedures and Guidelines (November 2004)

Review of Continuing Care and Respite Care Provision – Older Peoples Services (November 2005) Draft version

Residential and Nursing Care, Issues Paper

New Directions – Long Term Care Provision – Project Plan (13th December 2005), Mr. R. Jouault

Correspondence (dated 24th January 2006) from Ms. M. Baudains (Directorate Manager, Social Services) to Mrs. E. Smith (Jersey Parkinson's Disease Society) regarding the Department's review of respite services for carers

Report on Respite Services (8th February 2006), Ms. M. Baudains

Minutes of the Steering Group re Leoville and McKinstry (5th April 2006 to 6th September 2006)

Outline Requirements for Tender for Provision of Nursing Beds (31st May 2006)

Correspondence (Dated 4th July 2006) from Ms. M. Hutt to families of patients receiving care on Leoville or McKinstry Wards

Review of Respite Services for Carers (September 2006) Draft version

Contract for the Provision of Continuing Care Nursing Beds [**CONFIDENTIAL**]

Service Level Agreement relating to the provision of nursing care at Silver Springs Home [**CONFIDENTIAL**]

Parent Company Guarantee [**CONFIDENTIAL**]

2006 register of residential care homes, nursing homes and dual registered homes

Procedure for Action in event of a Residential or Nursing Home closing

Site plans of the Overdale Hospital site

Supplementary Registration Standards for Staffing in Nursing and Residential Homes

UK Minimum Data Set (MDS) for Home Resident Assessment and Care Screening – Basic Assessment Tracking Form

In addition, advice relating to various matters was provided to the Sub-Panel on the following dates:

13th September 2006
9th October 2006
19th October 2006
23rd October 2006
6th November 2006
23rd November 2006
11th December 2006
22nd Decemeber 2006

Advice from other Departments:

The Sub-Panel considered advice that had been given to the Social Affairs Scrutiny Panel by the Department of Social Security relating to the potential impact of a goods and services tax (GST) on nursing homes and medical services

Advice was received from the Department of Property Services on 20th October 2006. It also provided a copy of the following document:

Overdale Hospital, St. Helier, Jersey - Full Survey for Asbestos containing materials (October 1998), undertaken by S.P. Shutler Associates Ltd.

Other Reports:

Will I be able to afford residential care when the time comes? (25th April 2006)

Calculating the costs of efficient care homes (executive summary) (2002), Laing & Buisson

Information from Silver Springs Care Home:

Welcome to Silver Springs Care Home, introductory sheet for patients

Four Seasons Health Care Full Care Staff Induction Programme

Four Seasons Health Care Nursing Staff Induction Programme

Four Seasons Health Care Assessment of Administration of Medicines by Registered Nurses

Four Seasons Health Care Assessment of Administration of Medicines by Senior Care Staff

Silver Springs Care Home brochure

Four Seasons Health Care Induction Standards for New Care Workers

Information from the Jersey Care Federation:

Jersey Care Federation – Purpose Statement and Constitution

Jersey Care Federation – Members Code of Practice

Media Articles and Excerpts:

Jersey Evening Post:

Dangerous conditions cause ward evacuation, 8th December 2004
Nursing home fees stay high despite vacancies, 20th April 2005
Care of the elderly: Health to pay private sector, 24th August 2005
Overdale facilities for the elderly under fire, 25th January 2006
…as hospital beds plan shows that change is on the way, 16th February 2006
Overdale patients 'will be cared for', 12th May 2006
Overdale will not be sold, says minister, 23rd June 2006
Elderly care cost plans for States debate next year, 30th June 2006

Overdale move is late, admit Health, 8th July 2006
Overdale closure under review, 22nd August 2006
A worthy task for Scrutiny, 23rd August 2006
Care: Union is angry at scrutiny sidestepping, 2nd September 2006

Dedicated staff at Overdale, Correspondence from Ms. J. Veitch, 10th February 2006
McKinstry Ward staff are just wonderful, Mrs. B. Pasqua, 18th February 2006
Is the public aware of these plans for Overdale?, Correspondence from Mr. P. Knight, 8th May 2006
Give us the facts about Overdale, Correspondence from Mr. J. Corbet, 10th June 2006
Overdale answers needed, Correspondence from Ms. F. Gray, 19th June 2006
Overdale should stay as a centre of care, Correspondence from Mrs. J. Medlock, 7th July 2006
What's going on at Health?, Correspondence from Mr. E. Black, 6th September 2006

Daily Record:

279 complaints over care home firm, 28th August 2006

Daily Telegraph:

Some £500,000 went on care fees, 27th September 2006

WRITTEN SUBMISSIONS:

The Sub-Panel placed a call for evidence in the JEP on 25th August and 1st September 2006 asking for members of the Public to make written submissions. The written submissions listed below were unsolicited by the Sub-Panel and were seemingly made therefore in response to this call for evidence.

1. Mrs. B. M. Lawrence	23rd August 2006
2. Mrs. S. Jackson	29th August 2006
3. Mr. R. Le Plongeon	29th August 2006
4. Ms. B. Bolla	29th August 2006
5. Ms. M. Derrien	29th August 2006
6. M. S. Samson	29th August 2006
7. Mr. S. Le Breton	29th August 2006
8. Mrs. A. Lowe	31st August 2006
9. Ms. B. Perchard	31st August 2006
10. Mr. D. Cotillard	31st August 2006
11. Ms. H. Havies	31st August 2006
12. Mrs. J. Walker	31st August 2006
13. Mr. P. Haynes	31st August 2006
14. Mr. D. Guy	1st September 2006 and 26th October 2006
15. Ms. A. Holst	1st September 2006
16. Mr. J. Guyer	1st September 2006
17. Ms. A. Regan	5th September 2006
18. Mrs Greene	6th September 2006
19. Ms. E. Noel	13th September 2006
20. Ms. P. Drelaud	13th September 2006
21. Ms. S. Du Feu	13th September 2006
22. M. A. Hall	13th September 2006
23. Ms. J. Frigot	14th September 2006
24. M. M. Baker	19th September 2006

25. Mrs. J. Medlock	20th September 2006 and 3rd October 2006
26. Ms. Y. Whitley	18th September 2006
27. Mr. J. Corbet	20th September 2006 *
28. Ms. D. Molloy	25th September 2006
29. Mr. K. Harrison	11th October 2006
30. Ms. P. Cabot	11th October 2006
31. Ms. M. Vautier	11th October 2006

* In response to Mr. Corbet's written submission, the Minister for H&SS made a written submission of his own on 24th October 2006

WRITTEN REQUESTS TO STAKEHOLDERS:

In addition to a general call for evidence, the Sub-Panel wrote to a number of parties which it had identified in the belief that they would have a particular interest in the review and would therefore be able to provide pertinent evidence. The following parties responded to the Sub-Panel's requests:

1. Jersey Care Federation	13th September 2006
2. Age Concern Jersey	14th September 2006
3. Jersey Association of Carers	18th September 2006
4. Family Nursing & Home Care	19th September 2006
5. Jersey Nursing Association	25th September 2006
6. Four Seasons Health Care	12th October 2006
7. Mrs. R. Goulding (on behalf of Lakeside Care Home)	26th October 2006 and 6th November 2006
8. The Laurels GP Surgery	27th October 2006

MEETINGS WITH INTERESTED PARTIES:

The Sub-Panel met with certain people who wished to address the Sub-Panel. Two individuals wished to remain anonymous:

1. Miss A	29th August 2006
2. Mr. J. Corbet	20th September 2006
3. Miss D. Simon and Mrs. J. Dingle	20th September 2006
4. Mr B	20th September 2006
5. Mrs. I. Le Feuvre	11th October 2006

SITE VISITS:

The Sub-Panel undertook visits on the following dates:

1. 18th August 2006 – Overdale Hospital
2. 11th September 2006 – Overdale Hospital, Sandybrook and Silver Springs Care Home

PUBLIC HEARINGS:

14th September 2006:

Public Hearing 1 Senator S. Syvret (Minister for Health and Social Services)

	Mr. M. Pollard (Chief Executive, Department of Health and Social Services) Mr. M. Littler (Directorate Manager of Medicine) Ms. M. Hutt (Senior Nurse, Services for Older People)
4th October 2006:	
Public Hearing 2	Mrs. E. Crabb (Chairperson, Jersey Care Federation) Mrs. G. Le Lièvre
Public Hearing 3	Mrs. S. Gartshore (Home Manager, Silver Springs Care Home)
Public Hearing 4	Mrs. C. Vibert (Divisional Manager for Clinical Services, Family Nursing and Homecare)
Public Hearing 5	Dr. M. Richardson (Consultant Physician, Care of the Elderly)
5th October 2006:	
Public Hearing 6	Dr. M. Bayes (Chairman, Jersey Association of Carers)
Public Hearing 7	Mr. K. McNeil (Royal College of Nursing, Jersey Branch) Ms. A. Bisson (Royal College of Nursing, Jersey Branch) Mr. N. Corbel (Jersey Nursing Association) Ms. F. Stein (Jersey Nursing Association)
6th October 2006:	
Public Hearing 8	Mrs. C. Blackwood (Registration and Inspection Manager, Health and Social Services) Mr. S. Smith (Assistant Director of Health Protection, Public Health)
13th October 2006:	
Public Hearing 9	Senator S. Syvret (Minister for Health and Social Services) Mr. M. Pollard (Chief Executive, Department of Health and Social Services) Mr. M. Littler (Directorate Manager of Medicine) Mr. R. Jouault (Director of Corporate Planning, Health and Social Services) Ms. M. Hutt (Senior Nurse, Services for Older People)

SPECIALIST ADVICE:

It is common practice for Scrutiny Panels to seek specialist external advice when undertaking a review. During this review, the Sub-Panel identified a need for specialist accounting expertise to assist its assessment of the Department's financial appraisal. It therefore requested advice from Alex Picot Limited, a firm that was contracted (in November 2006) to provide specialist accounting advice to the Scrutiny function. The advice from Alex Picot Limited was received by the Sub-Panel on 17th November 2006

Appendix 2: Written Submissions – Appraisal

As can be seen from above, the Sub-Panel received a large number of written submissions to consider. During the course of its work, it requested that a brief appraisal of these submissions be undertaken. The Sub-Panel believes it would benefit the reader to see the results of that appraisal.

- Of the 31 individuals whom made an unsolicited submission to the Sub-Panel:
    - 9 people identified themselves as the relative of a person who had received care on the wards in question
    - 1 person identified him/herself as having received care on the wards in question
    - 2 people identified themselves as the relative of a person receiving care elsewhere
    - 3 people identified themselves as having been employees at Overdale Hospital
- At least 12 submissions referred (directly or indirectly) to the deterioration of Leoville and McKinstry Wards.
- At least 10 submissions referred to the Overdale Hospital site as being well situated for care of the elderly.
- At least 8 submissions suggested that the wards should be repaired/refurbished (or rebuilt).
- At least 8 submissions actively expressed concern at the conditions on the two wards, particularly with regard to the lack of privacy available to patients. 3 of these 7 submissions expressed concern at the impact the Scrutiny review would have on the timetable for the transfer of patients.
- At least 6 submissions actively praised the standard of care received on the two wards in question. At least 6 submissions (five of which were different submissions to the previous 6) raised the issue of whether the same standard of care would be available in the private sector.
- At least 5 submissions raised the issue of whether (parts of) Overdale Hospital would be sold to developers.
- At least 3 submissions suggested there had been an issue regarding the information / communication from the Department.
- At least 3 submissions referred to the need for continuity in care of the elderly.
- At least 3 submissions questioned what impact the closure and transfer would have on staff.

Appendix 3: Overdale – Timeline

In addition to an appraisal of the written submissions, the Sub-Panel also requested that a timeline be drafted in order to aid its understanding of the sequence of events. It has reproduced this timeline in this report in the hope that it will also facilitate matters for the reader.

9th January 2002	The former Health and Social Services (H&SS) Committee considered re-opening (old) McKinstry Ward with 16 continuing care beds. The opening of additional beds on Samarès Ward was also considered.[265]
6th February 2002	Work on re-opening (old) McKinstry Ward had stopped. "It was proposed to contract eight beds from the private sector initially, while keeping open the eight emergency beds on Samarès Ward." The Department hoped to be able to enter an agreement with (what would become) Lakeside.[266]
6th March 2002	The former H&SS Committee noted that 26 continuing care beds would be purchased from the private sector and that McKinstry Ward would be re-opened to provide 16 continuing care beds. Eight beds would also be converted within Samarès Ward for "additional rehabilitation/'step down' beds".[267]
17th April 2002	The States approved the transfer of administration from the former Planning and Environment Committee to the former H&SS Committee of the land at Belle Vue.[268]
4th April 2003	Planning permission for the Belle Vue development was given.[269]
3rd September 2003	The former H&SS Committee "agreed to oppose the amendment [to the Resource Plan lodged by Connétable Crowcroft in respect of the Belle Vue] development, which was part of its strategy of removing the frail elderly from acute wards in the General Hospital to more appropriate accommodation." Plans for the Belle Vue Residential Home and Day Care Centre were approved. This facility was to replace existing facilities at Overdale although "it was likely that an extension to the McKinstry Ward would be necessary in the longer term."[270]
18th September 2003	The States rejected Connétable Crowcroft's amendment to the Resource Plan relating to Belle Vue by forty-one votes to six.[271]
October 2003	A meeting occurred "between the management team for Rehabilitation and Services for Older people and the Chief Executive and Managing Director of Four Seasons Healthcare."[272]
November	Discussions between the Department and Four Seasons Health Care

[265] Act A6 of the former Health and Social Services Committee, 9th January 2002
[266] Act A13 of the former Health and Social Services Committee, 6th February 2002
[267] Act A13 of the former Health and Social Services Committee, 6th March 2002
[268] Minutes of the States Assembly, 17th April 2002
[269] Act A4 of the former Health and Social Services Committee, 1st October 2003
[270] Act A13 of the former Health and Social Services Committee, 3rd September 2003
[271] Minutes of the States Assembly, 18th September 2003
[272] Act A11 of the former Health and Social Services Committee, 3rd March 2004

2003	occurred.[273]
16th December 2003	The Managing Director of Four Seasons Health Care sent correspondence which "expressed an interest in the construction and operation of a nursing home" on the Belle Vue site.[274]
3rd March 2004	The former H&SS Committee considered the idea of a partnership with Four Seasons Health Care in relation to the Belle Vue development. It was noted that a request for the following was to be made: "(a) a detailed submission of FSHC outline and plans; (b) an estimate of building costs based upon an agreed specification; (c) satisfactory references from similar partnerships for both residential care and day services from Trust and Local Authorities with the UK; and (d) a visit to FSHC facilities in the UK" It was noted that FSHC "had committed to undertak[e] to meet the end of 2005 target for the completion of all work at the Belle Vue site."[275]
7th April 2004	The former H&SS Committee agreed to "proceed with its original plans for the Belle Vue development, but further agreed to explore alterations to the design in order to provide flexibility so as to increase the number of beds in the future with a view to achieving improved economies of scale. The Committee further decided to maintain dialogue with private sector providers with regard to future capital developments."[276]
5th May 2004	The former H&SS Committee "viewed revised drawings which showed a 28 bed nursing home [at Belle Vue] which, as a result of the particular design, could be extended in the future to provide a 48 bed nursing home."[277]
27th May 2004	The former Finance and Economics Committee "recognised that the involvement in the [Belle Vue] project of the private sector had come at too late a stage."[278]
July 2004	Samarès Ward was "vacated" and the patients moved to the new rehabilitation centre.[279]
23rd November 2004	Connétable Crowcroft withdrew his proposition relating to the need for a full Business Case for the Belle Vue development.[280]
December 2004	It became necessary to close McKinstry Ward and Edith Secker Ward due to problems with the pipework underneath the wards as well as the presence of asbestos. It was anticipated that patients would move to either Samarès Ward or the Westmount Assessment and Rehabilitation Centre. At this time, there were a total of 26 patients in the two wards. It would appear that the majority (if not all) of these

[273] Act A17 of the former Health and Social Services Committee, 7th April 2004
[274] Act A11 of the former Health and Social Services Committee, 3rd March 2004
[275] Ibid.
[276] Act A17 of the former Health and Social Services Committee, 7th April 2004
[277] Act A9 of the former Health and Social Services Committee, 5th May 2004
[278] Act B3 of the former Finance and Economic Committee, 27th May 2004
[279] *Dangerous conditions cause ward evacuation,* Jersey Evening Post, 8th December 2004
[280] Minutes of the States Assembly, 23rd November 2004

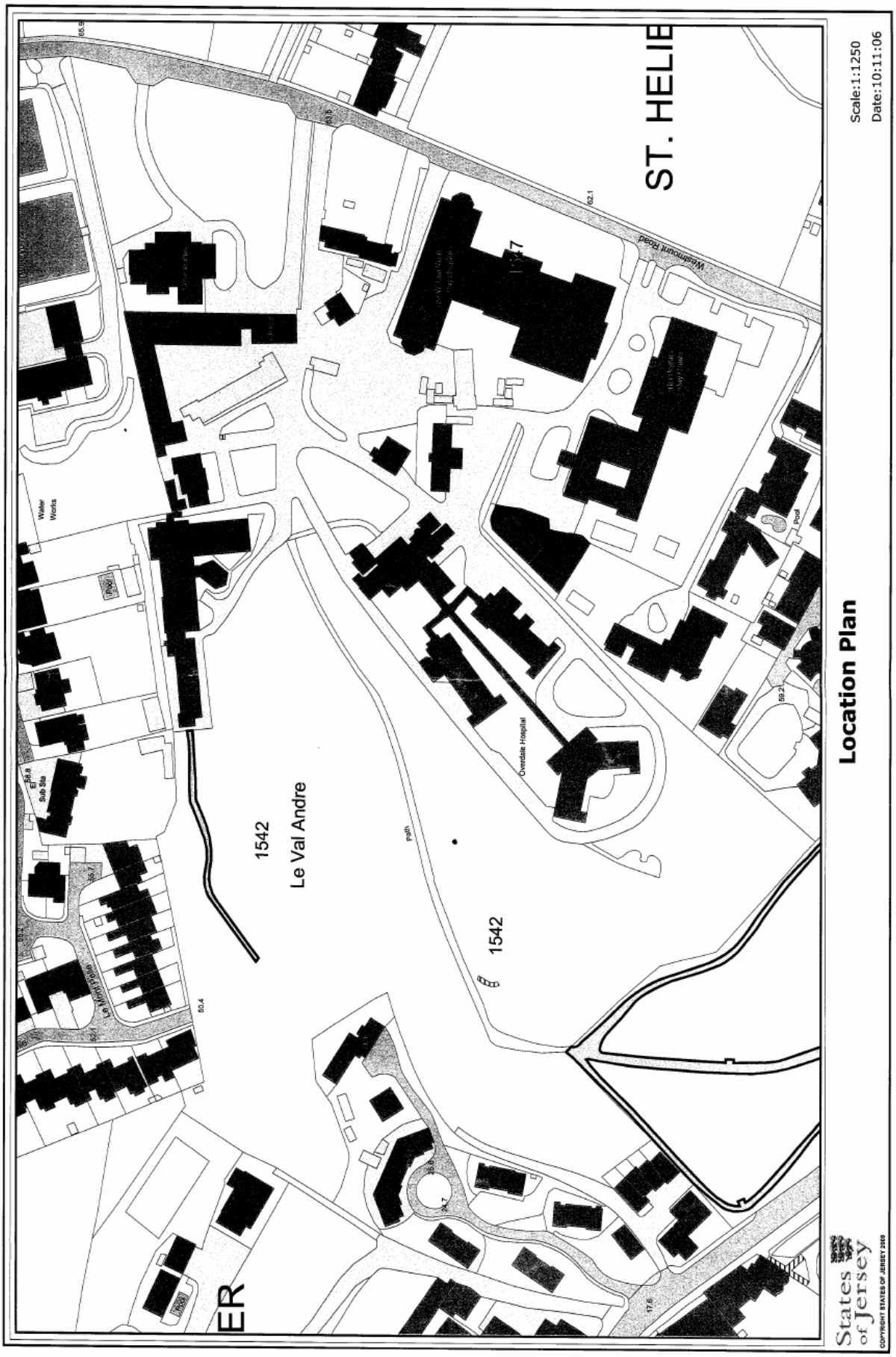
	patients were moved to the old Samarès Ward.[281]
18th April 2005	"The proposal not to proceed with the Belle Vue project was agreed by Health and Treasury."[282]
24th August 2005	It was announced that the Department would be looking into establishing agreements with the private sector.[283]
January 2006	The Department initiated a review of respite care. It was anticipated the review would lead to a report in June 2006.[284]
26th January 2006	Mrs Goulding of Lakeside Care Home wrote to the Department to offer respite service provision.[285]
	The Council of Ministers was advised that "the Health and Social Services Department was involved in negotiations with private sector providers and it was anticipated that up to 53 new nursing beds would be made available from which additional respite care could be commissioned."[286]
February 2006	Royal College of Nursing – Jersey Branch was informed of the impending closure.[287]
30th March 2006	The Minister approved "'in principle' […] to transfer patients from Leoville and McKinstry Wards to more appropriate high quality nursing care in the private sector."[288]
5th April 2006	First meeting of Steering Group Re Leoville and McKinstry. [289]
24th April 2006	Jersey Nursing Association informed of the impending closure.[290]
25th April 2006	In answer to a question from Connétable M.K. Jackson, the Minister indicated "a decision ha[d] not been taken yet on the [Overdale] site, and I imagine that when it is, it will be part of the overarching States of Jersey property policy that is going to be developed."[291]
12th May 2006	The Department announced that it proposed to close McKinstry and Leoville Wards and purchase 54 beds in the private sector (47 continuing care beds and 7 respite beds).[292]
31st May 2006	Mr. M. Littler wrote to nursing homes regarding the transfer, enclosing a copy of *Outline Requirements for Tender for Provision of Nursing Beds*.[293]

[281] *Dangerous conditions cause ward evacution*, Jersey Evening Post, 8th December 2004
[282] Advice received from the Department, 9th October 2006
[283] *Care of the elderly: Health to pay private sector*, Jersey Evening Post, 24th August 2005
[284] Correspondence (dated 24th January 2006) from Ms. M. Baudains (Directorate Manager, Social Services) regarding the Department's review of respite services for carers
[285] Written Submission from Mrs. R. Goulding, 26th October 2006
[286] Act A11 of the Council of Ministers, 26th January 2006
[287] Transcript of Public Hearing 7, 5th October 2006, p. 4
[288] Ministerial Decision of 11th September 2006
[289] Minutes of the Steering Group, 5th April 2006
[290] Transcript of Public Hearing 7, 5th October 2006, p. 5
[291] Official Record of the States Assembly, 25th April 2006
[292] *Overdale patients 'will be cared for'*, Jersey Evening Post, 12th May 2006

June 2006	Meetings began with the families of patients in Leoville and McKinstry Wards regarding the proposed closure.[294] At some juncture, a general meeting was called "to which all concerned relatives were invited."[295]
20th June 2006	Deadline for the submission of tenders.[296]
28th June 2006	By this time, negotiations had begun between the Department and Four Seasons Health Care.[297]
4th July 2006	It was recognised that the arrangements for transferring patients had not been in place by the end of June 2006 (as foreseen).[298] Ms. M. Hutt wrote to families of patients in H&SS wards regarding the transfer. By this time, all but three of the assessments at Leoville and McKinstry Wards had been completed. Assessments at The Limes and Sandybrook were ongoing.[299]
24th August 2006	Second negotiation meeting between Four Seasons Health Care and the Department.[300]
11th September 2006	Contract signed between Department and Four Seasons Health Care for the purchase of 25 nursing care beds at Silver Springs Care Home.[301]
18th September 2006	Patients began to transfer from Overdale Hospital to Silver Springs Care Home.[302]

[293] *Outline Requirements for Tender for Provision of Nursing Beds*
[294] Written Submission from Mr. R. Le Plongeon, 23rd August 2006
[295] Written Submission from Mrs. B. Perchard, 25th August 2006
[296] *Outline Requirements for Tender for Provision of Nursing Beds*
[297] Minutes of the Steering Group, 28th June 2006
[298] Official Record of the States Assembly, 4th July 2006
[299] Correspondence (Dated 4th July 2006) from Ms. M. Hutt
[300] Minutes of the Steering Group, 23rd August 2006
[301] Ministerial Decision of 11th September 2006
[302] Transcript of Public Hearing 1, 14th September 2006

Appendix 4: Site Map of Overdale Hospital



Appendix 5: Aerial Photograph of Overdale Hospital